

ORDINANCE NO. 2024-023

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING SECTIONS 2-148 AND 2-149 OF THE LIVING WAGE ORDINANCE (CHAPTER 2, ARTICLE IV, DIVISION 3 OF THE PALM BEACH COUNTY CODE); PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CAPTIONS; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Board of County Commissioners of Palm Beach County, Florida (“Board”) adopted the “Palm Beach County Living Wage Ordinance” (the “Living Wage Ordinance”) on February 25, 2003, Ordinance No. 03-004; and

WHEREAS, the Board adopted Ordinance No. 04-002 on January 13, 2004, Ordinance No. 2011-004 on March 15, 2011 and Ordinance No. 2014-018 on May 20, 2014 amending the Living Wage Ordinance; and

WHEREAS, the Board has deemed it necessary to amend the Living Wage Ordinance again to revise Section 2-148 (Definitions) to update the definition of “Paratransit contract” due to recent changes to the County’s Purchasing Code; and

WHEREAS, the Board has deemed it necessary to further amend the Living Wage Ordinance to revise Section 2-149 (Living Wage) to provide that the Living Wage Ordinance shall not apply to any construction contracts entered into on or after July 1, 2024, due to recent changes to section 255.0992, Florida Statutes; and

WHEREAS, the Board has deemed it necessary to further amend the Living Wage Ordinance to revise Section 2-149 (Living Wage) to provide that the Living Wage Ordinance shall not apply to any paratransit contracts or other contracts entered into on or after September 30, 2026, due to recent changes to section 218.077, Florida Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA that:

ARTICLE 1. Section 2-148 of the Palm Beach County Code is hereby amended

as follows:

Sec. 2-148 Definitions.

For purposes of this division, the following definitions shall apply:

Construction means the actual process of building, altering, improving, demolishing, or major repairing or renovating of any county road or county building. "Construction" does not include routine road maintenance or routine building maintenance.

Construction contract means a deliberate verbal or written agreement between two (2) or more competent parties to perform or not perform a specific act or acts or any type of agreement, regardless of what it is called, for the procurement of construction that is solicited and purchased by the county, that has a total contract value exceeding one hundred thousand dollars (\$100,000.00), and that is not subject to the Davis-Bacon Act or any related act or acts, as amended, that require the payment of Davis-Bacon Act wage rates.

Construction department means the county department that solicits and procures construction-related services from a non-county employer pursuant to a construction contract.

Construction-related services means any service, other than a professional service as defined by the county purchasing ordinance, consisting of work or labor performed directly upon the site of work and directly related to construction.

County means the Board of County Commissioners of the county or any of its authorized representatives pursuant to ordinance, resolution, or administrative code.

County building means any county-owned structure or building that encloses space used for sheltering any occupancy, as determined by the director of the purchasing department.

County employee means any person employed by the county as a regular full-time or regular part-time employee, who is under the county pay plan and drawing a salary or wages from the county.

County road means any street, road, highway, or other way dedicated to public use and open to travel by the public generally, that is listed in the county road maintenance inventory as compiled and updated by the right-of-way acquisition section of the county engineering department.

Covered services are any services that are subject to the requirements of this division. "Covered services" means:

- (1) Construction-related services performed by non-county employees.
- (2) Paratransit transportation services performed by non-county employees.
- (3) Any services performed by county employees within the scope of their county employment.

General contractor means any non-county employer that enters into a construction contract directly with the county.

Living wage means, as of October 1, 2024, a minimum wage of fifteen dollars and forty cents (\$15.40) per hour. The living wage shall be adjusted annually as provided for in this division.

Non-county employee means all persons employed by a non-county employer, either full-time or part-time, in the performance of a paratransit contract or to provide construction-related services to the county.

Non-county employer means any for-profit individual, business entity, corporation, partnership, limited liability company, joint venture, or similar business, that:

- (1) Provides paratransit transportation services or construction-related services directly for the benefit of the county pursuant to a contract or subcontract entered into through a competitive bid process, informal bids, requests for

proposals, some form of solicitation, negotiation, or agreement, or any other decision to enter into a contract; and

(2) Is paid directly or indirectly, in whole or in part, from the county's general fund or one (1) or more of the county's capital project funds, special revenue funds, or any other funds.

Paratransit contract means a deliberate verbal or written agreement between two (2) or more competent parties to perform or not perform a specific act or acts or any type of agreement, regardless of what it is called, for the provision of paratransit transportation services that is solicited and purchased by the county, that has a total contract value exceeding one hundred fifty thousand dollars (\$150,000.00), and that is not subject to any Federal law that requires the payment of federally established wage rates.

Paratransit transportation services means shared ride, door-to-door transportation services provided to individuals with disabilities who are unable, as the result of their disability, to access the county's fixed route public transit system and who are qualified to receive paratransit services under the county's American with Disabilities Act (ADA) Program. The term also includes, for the purposes of the county's provision of paratransit services, shared ride, door to door transportation services provided to eligible individuals under the county's Division of Senior Services (DOSS) Program and shared ride, door to door transportation services provided by the county, as the designated community transportation coordinator, to individuals eligible for services under the Transportation Disadvantaged Program.

Prime contractor means the legal entity, be it a general contractor or contractor providing paratransit transportation services, which enters into a direct contract with the county for paratransit transportation services or construction-related services.

Purchasing department means the Palm Beach County Purchasing Department.

Routine building maintenance means minor tasks and associated repairs to county buildings necessary to maintain safe and efficient structures. "Routine building maintenance" includes but is not limited to: custodial services; cleaning and minor repairs

113 of any interior or exterior component; and other similar activities as determined by the
114 director of the purchasing department.

115 *Routine road maintenance* means minor tasks and associated repairs to county roads
116 necessary to maintain a safe and efficient transportation system. "Routine road
117 maintenance" includes but is not limited to: pavement patching; shoulder repair; cleaning
118 and repair of drainage ditches, traffic signs and traffic signals; mowing; pavement
119 striping; litter cleanup; and other similar activities as determined by the director of the
120 purchasing department.

121 *Subcontractor* means any non-county employer that enters into a paratransit contract
122 or construction contract with an entity other than the county.

123 **ARTICLE 2. Section 2-149 of the Palm Beach County Code is hereby amended**
124 **as follows:**

125 **Sec. 2-149. Living wage.**

126 (a) *Living wage paid.* The county shall pay the living wage to all county employees
127 providing any services within the scope of their county employment. Non-county
128 employers shall pay the living wage to all non-county employees.

129 (b) *Annual living wage adjustment.* The county shall adjust the living wage annually as
130 follows:

131 (1) The county shall adjust the living wage for county employees by using the same
132 procedure used for the county's annual across-the-board wage adjustment. If a
133 collective bargaining agreement with the county specifies an annual across-the-
134 board wage adjustment procedure, the county shall use that procedure to adjust
135 the living wage for those county employees covered by the collective bargaining
136 agreement.

137 (2) The county shall adjust the living wage for non-county employees by using the
138 U.S. City Average Consumer Price Index for Urban Wage Earners and Clerical
139 Workers (CPI-W) which is calculated and published monthly by the Bureau of

Labor Statistics of the U.S. Department of Labor. Each annual living wage adjustment shall take effect on the first day of October. Inflation shall be calculated as the difference, expressed as a percentage, between the average monthly CPI-W for the current period, defined as the previous twelve-month calendar year ending December 31, and the average monthly CPI-W for the prior period, defined as the twelve-month calendar year preceding the current period. The difference shall be converted to a percentage of the average monthly CPI-W for the prior period, and this percentage shall be applied to the living wage to arrive at the living wage adjustment.

(c) *Certification required* Before entering into any paratransit contract or construction contract, the prospective non-county employer must provide a certificate to the purchasing department, if the contractor is providing paratransit transportation services, or to the construction department if the non-county employer is a general contractor, or to the prime contractor if the non-county employer is a subcontractor, stating that if the prospective non-county employer is awarded the contract it will pay each non-county employee no less than the living wage. A copy of the certificate must be made available to the public upon request. The certificate must include the following:

- (1) The name, address, and phone number of the prospective non-county employer, a local contact person, and the specific project for which the paratransit contract or construction contract is sought;
- (2) The amount of the paratransit contract or construction contract;
- (3) A brief description of the project or service provided under the paratransit contract or construction contract;
- (4) A statement of the wage levels for prospective non-county employees; and
- (5) A commitment to pay each non-county employee a living wage if the prospective non-county employer is awarded the contract.

(d) *Observance of other laws.* County and non-county employees shall be paid at least every two (2) weeks, and without subsequent deduction or rebate on any account (except as such payroll deductions as are directed or permitted by law or by a collective bargaining agreement).

(e) *Notice and posting.* Non-county employers shall post a copy of the following statement at the work site in a prominent place where it can easily be seen by the employees:

"NOTICE TO EMPLOYEES: If you are employed to provide certain services to Palm Beach County, your employer may be required by Palm Beach County law to pay you at least [insert the living wage hourly pay rate, as adjusted] per hour. If you are not paid this hourly rate, contact your supervisor or Palm Beach County."

The preceding statement shall be printed in English, Spanish, and Creole, and shall be printed with black lettering on letter-size, white paper using a Times New Roman fourteen-point font, Courier New fourteen-point font, or Arial fourteen-point font. Posting requirements will not be required if the non-county employer attaches a copy of the preceding statement to the employee's first paycheck, and to subsequent paychecks at least every six (6) months thereafter. Non-county employers shall supply a copy of the preceding statement to any employee upon request within a reasonable time. Non-county employers shall forward a copy of the requirements of this division to any person or business submitting a bid for a subcontract on any contract covered by this division.

(f) *Collective bargaining.* Nothing in this division shall be read to require or authorize any employer to reduce wages set by a collective bargaining agreement or as required under any prevailing wage law.

(g) *Construction contracts entered into on or after July 1, 2024.* The provisions of the Palm Beach County Living Wage Ordinance shall not apply to any construction contracts entered into on or after July 1, 2024.

(h) *Paratransit contracts or other contracts entered into on or after September 30, 2026.*
The provisions of the Palm Beach County Living Wage Ordinance shall not apply to any paratransit contracts or other contracts entered into on or after September 30, 2026.

ARTICLE 3. REPEAL OF LAWS AND ORDINANCES IN CONFLICT:

All local laws and ordinances in conflict with any provision of this Living Wage Ordinance are hereby repealed to the extent of any such conflict.

ARTICLE 4. SEVERABILITY:

If any provision, article, paragraph, sentence, clause, phrase, or word of this Living Wage Ordinance is for any reason held by a court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Living Wage Ordinance.

ARTICLE 5. CAPTIONS:

The captions, section headings, and section designations used in this Living Wage Ordinance are for convenience only and shall have no effect on the interpretation of the provisions of this Living Wage Ordinance.

ARTICLE 6. SAVINGS CLAUSE:

Notwithstanding anything to the contrary, all provisions of Ordinance No. 03-004, Living Wage Ordinance, as amended by Ordinance No.s 04-002, 2011-004, and 2014-018, which are codified in Sections 2-147 through 2-150.1 of the Palm Beach County Code, are specifically preserved and remain in full force and effect for the limited purpose of enforcing any alleged violations of said Code which occurred prior to its amendment.

ARTICLE 7. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:

The provisions of this Living Wage Ordinance shall become and be made a part of the Code of Laws and Ordinances of Palm Beach County, Florida. The articles and sections of this Living Wage Ordinance may be renumbered or

221 relettered to accomplish such, and the word “Ordinance” may be changed to
222 “Section”, “Article”, or other appropriate word.

223 **ARTICLE 8.** **EFFECTIVE DATE:**

224 The provisions of this Living Wage Ordinance shall become effective
225 upon filing with the Department of State.

226 APPROVED and ADOPTED by the Board of County Commissioners of
227 Palm Beach County, Florida, on this the 22 day of October, 2024.

228

229 JOSEPH ABRUZZO

PALM BEACH COUNTY, FLORIDA, BY ITS

230 CLERK & COMPTROLLER

BOARD OF COUNTY COMMISSIONERS

231

232 By: 
233 Deputy Clerk

By: 
Maria Sachs, Mayor

234

235 APPROVED AS TO

236 LEGAL SUFFICIENCY

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238 By: 
239 Assistant County Attorney

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241 EFFECTIVE DATE: Filed with the Department of State on the 25 day of
242

243 October, 2024.