

ORDINANCE NO.16- \_\_\_\_\_

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, CREATING ARTICLE III OF THE ALACHUA COUNTY PURCHASING CODE, ESTABLISHING A LOCAL MINIMUM WAGE REQUIREMENT FOR CERTAIN CONTRACTORS AND SUBCONTRACTORS PROVIDING SELECTED SERVICES TO ALACHUA COUNTY GOVERNMENT; PROVIDING DEFINITIONS; PROVIDING ENFORCEMENT; ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the County has set an example by paying its employees a wage above that required by federal and state law, while considering its budget, pay plan and the bargaining unit, and

WHEREAS, the County desires to improve the quality of services to the County and the public through the payment of an adequate wage that promotes stability and quality in the work force and does not perpetuate underemployment, while at the same time not creating unemployment; and

WHEREAS, the Board of County Commissioners of Alachua County, Florida, shall further these goals by requiring that contractors and subcontractors that provide certain covered services to Alachua County government also pay a local minimum wage that exceeds that required by federal and state law.

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

SECTION 1. The following Article III of Chapter 22 of the Alachua County Code is added:

**ARTICLE III. Local Minimum Wage**

**Sec. 22.45 Definitions**

*County* means the Alachua County Board of County Commission, its departments and divisions.

*Cooperative purchasing agreement* means services purchased under the terms and conditions of another local, state, federal, or other public agency's bid or cooperative bids put together by agencies.

*Covered employee* is a person paid by a contractor or subcontractor directly involved in providing covered services pursuant to the contractor or subcontractor's contract with the County, during the period of time he or she is providing the services. Covered employee does not include a seasonal employee, an inmate, a student enrolled in a degree program who is employed under the auspices of the educational institution, a person who is employed through an ongoing

1 written job training program, a worker with a disability as defined in 29 CFR 525.3, or  
2 employees hired or leased for temporary assignments of less than one year such as short-term  
3 projects, as a substitute for an absent employee, or as a substitute while a vacant position is being  
4 filled.

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6 *Covered services*

7 a) are defined as the following services purchased by the County under a single contract that  
8 is over the current bid threshold as defined in sec. 22.09(a) of this Code, and are any of  
9 the following:

- 10 1) agriculture and forestry
- 11 2) clerical or other non-supervisory office work, including secretarial, typing, data  
12 entry, filing, transcription, specialized billing, sorting or completing forms, and  
13 word, data, and information processing.
- 14 3) construction
- 15 4) food preparation and distribution
- 16 5) janitorial and custodial
- 17 6) landscaping and grounds maintenance
- 18 7) facilities maintenance
- 19 8) refuse removal and recycling
- 20 9) printing and reproduction
- 21 10) security

22  
23 b) However, covered services are excluded from the Article when:

- 24 1) funded, in whole or in part, by federal or state government,
- 25 2) provided under a cooperative purchasing agreement,
- 26 3) purchased in accordance with emergency procedures of section 22.13, or
- 27 4) exempt from bidding under section 22.11 of this Code.

28  
29 *Health benefits* are any plan, fund, or program established or maintained by the service  
30 contractor or subcontractor for the purpose of providing for its participants or beneficiaries,  
31 through the purchase of insurance or otherwise, medical, surgical, or hospital care or benefits.

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33 *Health benefit wage* is equivalent to the wage of the lowest paid classified employee of the  
34 County.

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36 *Non-health benefit wage* is the health benefit wage plus the average premium under the  
37 Affordable Care Act (Gold Plan) for Alachua County based on a non-smoking individual 40  
38 years of age with allowed subsidies.

39  
40 *Inmate* is a person who is providing services while under the supervision of State or County  
41 probation or corrections.

42  
43 *Payroll records* are the name, address, employee classification, rate of pay, daily and weekly  
44 number of hours worked, deductions made and actual wages paid and, if applicable, those  
45 records necessary to determine whether health benefits, as described herein, are being provided  
46 or offered to covered employees.

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2 *Service contractor or subcontractor* is an individual, business entity, corporation, partnership,  
3 limited liability company, joint venture, or similar business, providing a covered service to the  
4 County, but not including employees of any subsidiaries, affiliates or parent businesses. The  
5 calculation of number of employees is made as of the date of execution of the contract for  
6 covered services.

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8 **Sec. 22.46 Local Minimum Wage**  
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10 a) A contractor or subcontractor of the County providing a covered service to the  
11 County shall pay to all of its covered employees a local minimum wage of either the health  
12 benefit wage and provide health benefits or pay a non-health benefit wage.

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14 b) If the health benefit program of a contractor or subcontractor requires an  
15 eligibility period of employment for a new employee to be eligible for health benefits, then  
16 such contractor or subcontractor, in order to comply, may pay the non-health benefit wage  
17 until such time as the new employee is offered or provided health benefits.

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19 c) The health benefit wage and non-health benefit wage shall be recalculated on  
20 October 1<sup>st</sup> of each year.

21  
22 d) The contractor shall certify to the County that it will pay each of its covered  
23 employees the local minimum wage, and ensure that it will require that of its  
24 subcontractors. Upon execution, the certification shall become an obligation under the  
25 contract. The certification must also include, at a minimum, the following:

- 26  
27 i) The name, address, and phone number of the service contractor or  
28 subcontractor and a local contact person;  
29 ii) The specific project for which the service contract is sought;  
30 iii) An agreement to comply with the terms of this article as part of its  
31 contractual obligations.

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33 e) A copy of the local minimum wage rate shall be posted by the contractor in a  
34 prominent place where it can easily be seen by the covered employees and shall be supplied  
35 to any covered employee upon request. In addition, it is the responsibility of the contractor  
36 to make any person submitting a bid for a subcontract providing covered services aware of  
37 the requirements of this article.

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39 **Sec. 22.47 Application and enforcement**  
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41 a) The local minimum wage shall be a requirement in all solicitations of covered  
42 services.

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44 b) If such solicitation results in no responsive bids, the Purchasing Manager may solicit  
45 the covered services a second time without requiring compliance with the local minimum  
46 wage requirement.

1  
2 c) The requirements of this Article shall apply to contracts for covered services that are  
3 amended or solicited after the effective date of this ordinance. However, regarding  
4 amendments, contracts that have been awarded via a request for proposals shall be adjusted  
5 after negotiation, and contracts that have been awarded by bid will not be adjusted until  
6 after they are rebid.

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8 d) The County shall include in its contracts for covered services the requirements that:

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10 (1) The contractor comply with the provisions of Alachua County's local minimum  
11 wage requirements, and that failure to do so shall be deemed a breach of contract  
12 and shall authorize the county to withhold payment of funds in accordance with  
13 Chapter 218, FS.

14  
15 (2) The contractor will include necessary provisions in each of its subcontracts for  
16 covered services to ensure compliance with this Article. However, the County  
17 shall not be deemed a necessary or indispensable party in any litigation between  
18 the contractor and a subcontractor.

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20 e) A person who claims that he or she is a covered employee and that the employer is  
21 not complying with the requirements of this Article may file a written complaint with the  
22 Alachua County Equal Opportunity Office. A covered employer may be required to  
23 produce payroll and other records deemed relevant to the investigation of a complaint. This  
24 remedy is not exclusive or in any way meant to prohibit any relief afforded by a court of  
25 law, or otherwise prohibit the County from terminating a contract or taking other action as  
26 allowed by law.

27  
28 f) A contractor or subcontractor shall not discharge, reduce the compensation of, or  
29 otherwise discriminate against any covered employee for filing a written complaint or  
30 otherwise asserting his or her rights under this ordinance, participating in any of its  
31 proceedings or using any available remedies to enforce his or her rights under the  
32 ordinance. A person who claims that he or she has been a victim of a violation of this  
33 subsection may file a written complaint with the Alachua County Equal Opportunity Office  
34

35 SECTION 2. Severability. If any section, phrase, sentence or portion of this ordinance  
36 is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such  
37 portion shall be deemed a separate, distinct, and independent provision, and such holding shall  
38 not affect the validity of the remaining portions hereof.

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40 SECTION 3. Inclusion in the Code, Scrivener's Error. It is the intention of the Board of  
41 County Commissioners of Alachua County, Florida, and it is hereby provided that the provisions  
42 of this ordinance shall become and be made a part of the Code of Laws and Ordinances of  
43 Alachua County, Florida; that the sections of this ordinance may be renumbered or relettered to  
44 accomplish such intention; and that the word "ordinance" may be changed to "section," "article,"  
45 or other appropriate designation. The correction of typographical errors which do not affect the

1 intent of the ordinance may be authorized by the County Manager or designee without public  
2 hearing, by filing a corrected or recodified copy of the same with the Clerk of the Circuit Court.

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4 SECTION 4. Effective Date. A certified copy of this ordinance shall be filed with the  
5 Department of State by the Clerk of the Board of County Commissioners within ten (10) days  
6 after enactment by the Board of County Commissioners, and the ordinance shall take effect upon  
7 filing with the Department of State.

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9 DULY ADOPTED in regular session, this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2016.

10  
11 BOARD OF COUNTY COMMISSIONERS OF  
12 ALACHUA COUNTY, FLORIDA

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14  
15 By: \_\_\_\_\_  
16 Robert Hutchinson, Chair

17 ATTEST:

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19  
20 \_\_\_\_\_  
21 J.K. Irby, Clerk  
22 (SEAL)

APPROVED AS TO FORM

23 \_\_\_\_\_  
24 Alachua County Attorney

25 APPROVED FOR CORRECTNESS

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27 \_\_\_\_\_  
28 Director, Office of Management and  
29 Budget  
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