



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

April 22, 2016

Honorable J. K. "Buddy" Irby
Clerk of the Circuit Court
Alachua County
201 East University Avenue
Post Office Box 939
Gainesville, Florida 32602

Attention: Bob Decker, Deputy Clerk

Dear Mr. Irby:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Alachua County Ordinance No. 16-05, which was filed in this office on April 22, 2016.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

ORDINANCE NO.16- 05

1
2
3 AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS
4 OF ALACHUA COUNTY, FLORIDA, CREATING ARTICLE III OF
5 THE ALACHUA COUNTY PURCHASING CODE, ESTABLISHING
6 AN ALACHUA COUNTY GOVERNMENT MINIMUM WAGE
7 REQUIREMENT FOR CERTAIN CONTRACTORS AND
8 SUBCONTRACTORS PROVIDING SELECTED SERVICES TO
9 ALACHUA COUNTY GOVERNMENT; PROVIDING DEFINITIONS;
10 PROVIDING ENFORCEMENT; ESTABLISHING AN EFFECTIVE
11 DATE.

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13
14 WHEREAS, the County has set an example by paying its employees a wage above that
15 required by federal and state law, while considering its budget, pay plan and the bargaining unit,
16 and

17
18 WHEREAS, the County desires to improve the quality of services to the County and the
19 public through the payment of an adequate wage that promotes stability and quality in the work
20 force and does not perpetuate underemployment, while at the same time not creating
21 unemployment; and

22
23 WHEREAS, the Board of County Commissioners of Alachua County, Florida, shall
24 further these goals by requiring that contractors and subcontractors that provide certain covered
25 services to Alachua County government also pay a local minimum wage that exceeds that
26 required by federal and state law; and

27
28 WHEREAS, Article X, Section 24 of the Florida Constitution provides: "All working
29 Floridians are entitled to be paid a minimum wage that is sufficient to provide a decent and
30 healthy life for them and their families, that protects their employers from unfair low-wage
31 competition, and that does not force them to rely on taxpayer-funded public services in order to
32 avoid economic hardship"; and

33
34 WHEREAS, Florida's minimum wage, currently set at only \$8.05 an hour, means that a
35 full-time, full-year minimum-wage employee earns only \$322 per week and \$16,744 per year.
36 This wage is insufficient for a single adult without taxpayer-funded public services to survive in
37 the County; and

38
39 WHEREAS, the current minimum wage established by the state legislature does not
40 effectuate the constitutional mandate that all working Floridians are entitled to be paid a
41 minimum wage that is sufficient to provide a decent and healthy life for them without reliance on
42 taxpayer-funded public services; and

43
44 WHEREAS, the County has an interest in protecting the public health, safety and welfare
45 of its residents by establishing certain compensation requirements for its own employees and for
46 the employees of firms that enter into certain service contracts with the County; and

1
2 WHEREAS, the County awards contracts to provide services for the public and these
3 expenditures of public funds creates jobs, expands the County's economic base, and promotes
4 economic security for its residents; and

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6 WHEREAS, paying an Alachua County Government Minimum wage to employees who
7 perform work for the County provides dignity to these persons, reduces burdens on our taxpayer-
8 funded public services, improves the quality of our public infrastructure and services, and
9 promotes our local economy; and

10
11 WHEREAS, as an employer, the County can serve as a positive example by adopting
12 this wage policy for its own workforce, resulting in lower turnover, better morale, and higher
13 productivity for County employees that are providing their services to the County; and

14
15 WHEREAS, Article X, Section 24(f) of the Florida Constitution preserves the County's
16 authority to establish a minimum wage that is greater than the state minimum.

17
18 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA
19 COUNTY, FLORIDA:

20
21 SECTION 1. The following Article III of Chapter 22 of the Alachua County Code is added:

22
23 **ARTICLE III. Alachua County Government Minimum Wage**

24
25 **Sec. 22.45 Definitions**

26
27 *County* means the Alachua County Board of County Commission, its departments and divisions.

28
29 *Cooperative purchasing agreement* means services purchased under the terms and conditions of
30 another local, state, federal, or other public agency's bid or cooperative bids put together by
31 agencies.

32
33 *Covered employee* is a person paid by a contractor or subcontractor directly involved in
34 providing covered services pursuant to the contractor or subcontractor's contract with the
35 County, during the period of time he or she is providing the services. Covered employee does not
36 include an inmate, a student enrolled in a degree program who is employed under the auspices of
37 the educational institution, a person who is employed through an ongoing written job training
38 program, or a worker with a disability as defined in 29 CFR 525.3.

39
40 *Covered services*

- 41 a) are defined as the following services purchased by the County under a single
42 contract that is over the current bid threshold as defined in sec. 22.09(a) of this Code,
43 and are any of the following:
44 1) agriculture and forestry

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

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

- 13 1) The funds used to pay for the services do not allow for increased cost due to
- 14 local procurement requirements.
- 15 2) Non-profit Organizations established under a 501(c) offering services to the
- 16 community and citizens., or
- 17 3) Exempt from bidding under section 22.11 (2), (3), (4), (5), (15) of this Code.

18
19
20 *Health benefits* are any plan, fund, or program established or maintained by the service
21 contractor or subcontractor for the purpose of providing for its participants or beneficiaries,
22 through the purchase of insurance or otherwise, medical, surgical, or hospital care or benefits.

23
24 *Health benefit wage* is equivalent to the wage of the lowest paid classified employee of the
25 County.

26
27 *Non-health benefit wage* is the health benefit wage plus the average premium under the
28 Affordable Care Act (Gold Plan) for Alachua County based on a non-smoking individual 40
29 years of age with allowed subsidies.

30
31 *Inmate* is a person who is providing services while under the supervision of State or County
32 probation or corrections.

33
34 *Payroll records* are the name, address, employee classification, rate of pay, daily and weekly
35 number of hours worked, deductions made and actual wages paid and, if applicable, those
36 records necessary to determine whether health benefits, as described herein, are being provided
37 or offered to covered employees.

38
39 *Service contractor or subcontractor* is an individual, business entity, corporation, partnership,
40 limited liability company, joint venture, or similar business, providing a covered service to the
41 County, but not including employees of any subsidiaries, affiliates or parent businesses. The
42 calculation of number of employees is made as of the date of execution of the contract for
43 covered services.

44
45 **Sec. 22.46 Alachua County Government Minimum Wage**

- 1 a) A contractor or subcontractor of the County providing a covered service to the
2 County shall pay to all of its covered employees an Alachua County Government
3 Minimum Wage of either the health benefit wage and provide health benefits or pay a
4 non-health benefit wage.
5
6 b) If the health benefit program of a contractor or subcontractor requires an eligibility
7 period of employment for a new employee to be eligible for health benefits, then such
8 contractor or subcontractor, in order to comply, may pay the non-health benefit wage
9 until such time as the new employee is offered or provided health benefits.
10
11 c) The health benefit wage and non-health benefit wage shall be recalculated on October
12 1st of each year.
13
14 d) The contractor shall certify to the County that it will pay each of its covered
15 employees the Alachua County Government Minimum Wage, and ensure that it will
16 require that of its subcontractors. Upon execution, the certification shall become an
17 obligation under the contract. The certification must also include, at a minimum, the
18 following:
19
20 i) The name, address, and phone number of the service contractor or
21 subcontractor and a local contact person;
22 ii) The specific project for which the service contract is sought;
23 iii) An agreement to comply with the terms of this article as part of its
24 contractual obligations.
25
26 e) A copy of the Alachua County Government Minimum Wage rate shall be posted by
27 the contractor in a prominent place where it can easily be seen by the covered
28 employees and shall be supplied to any covered employee upon request. In addition,
29 it is the responsibility of the contractor to make any person submitting a bid for a
30 subcontract providing covered services aware of the requirements of this article.
31

32 **Sec. 22.47 Application and enforcement**

- 33
34 a) The Alachua County Government Minimum Wage shall be a requirement in all
35 solicitations of covered services.
36
37 b) If such solicitation results in no responsive bids, the Purchasing Manager may solicit
38 the covered services after notification is provided to the County Manager and the
39 Board a second time without requiring compliance with the Alachua County
40 Government Minimum Wage requirement.
41
42 c) The requirements of this Article shall apply to contracts for covered services that are
43 amended or solicited after the effective date of this ordinance. However, regarding
44 amendments, contracts that have been awarded via a request for proposals shall be
45 adjusted after negotiation, and contracts that have been awarded by bid will not be
46 adjusted until after they are rebid.

- 1
2 d) The County shall include in its contracts for covered services the requirements that:
3
4 (1) The contractor comply with the provisions of the Alachua County Government
5 Minimum Wage requirements, and that failure to do so shall be deemed a breach
6 of contract and shall authorize the county to withhold payment of funds in
7 accordance with Chapter 218, FS.
8
9 (2) The contractor will include necessary provisions in each of its subcontracts for
10 covered services to ensure compliance with this Article. However, the County
11 shall not be deemed a necessary or indispensable party in any litigation between
12 the contractor and a subcontractor.
13
14 e) A person who claims that he or she is a covered employee and that the employer is
15 not complying with the requirements of this Article may file a written complaint with
16 the Alachua County Equal Opportunity Office. A covered employer may be required
17 to produce payroll and other records deemed relevant to the investigation of a
18 complaint. This remedy is not exclusive or in any way meant to prohibit any relief
19 afforded by a court of law, or otherwise prohibit the County from terminating a
20 contract or taking other action as allowed by law.
21
22 f) A contractor or subcontractor shall not discharge, reduce the compensation of, or
23 otherwise discriminate against any covered employee for filing a written complaint or
24 otherwise asserting his or her rights under this ordinance, participating in any of its
25 proceedings or using any available remedies to enforce his or her rights under the
26 ordinance. A person who claims that he or she has been a victim of a violation of this
27 subsection may file a written complaint with the Alachua County Equal Opportunity
28 Office
29

30 SECTION 2. Severability. If any section, phrase, sentence or portion of this ordinance
31 is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such
32 portion shall be deemed a separate, distinct, and independent provision, and such holding shall
33 not affect the validity of the remaining portions hereof.
34

35 SECTION 3. Inclusion in the Code, Scrivener's Error. It is the intention of the Board of
36 County Commissioners of Alachua County, Florida, and it is hereby provided that the provisions
37 of this ordinance shall become and be made a part of the Code of Laws and Ordinances of
38 Alachua County, Florida; that the sections of this ordinance may be renumbered or re-lettered to
39 accomplish such intention; and that the word "ordinance" may be changed to "section," "article,"
40 or other appropriate designation. The correction of typographical errors which do not affect the
41 intent of the ordinance may be authorized by the County Manager or designee without public
42 hearing, by filing a corrected or recodifies copy of the same with the Clerk of the Circuit Court.
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44 SECTION 4. Effective Date. A certified copy of this ordinance shall be filed with the
45 Department of State by the Clerk of the Board of County Commissioners within ten (10) days


1 after enactment by the Board of County Commissioners, and the ordinance shall take effect upon
2 filing with the Department of State.

3
4 DULY ADOPTED in regular session, this 12th day of April, A.D., 2016.

5
6 BOARD OF COUNTY COMMISSIONERS OF
7 ALACHUA COUNTY, FLORIDA

8
9
10 By: 
11 Robert Hutchinson, Chair

12 ATTEST:

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14
15 
16 for J.K. Abby, Clerk
17 (SEAL)

18 APPROVED AS TO FORM

19 
20 Alachua County Attorney

21 APPROVED FOR CORRECTNESS

22
23 
24 Assistant County Manager, Budget
25 and Fiscal Services