



EXECUTIVE ORDER  
**LIVING WAGE AIR CARRIER**

EO No.

EO 1-64

Effective Date:

Upon Approval

**1. AUTHORITY**

Article VI, Section 7a, of the City Charter of the City of Houston

**2. PREFACE**

- 2.1. The City of Houston ("City") awards contracts to air carriers and concessionaires at City aviation air facilities, including George Bush Intercontinental Airport, William P. Hobby, Airport and Ellington Airport.
- 2.2. The City seeks to use its best efforts to promote the provision of a living wage for working individuals at City aviation facilities because the City has an interest in retaining a qualified experienced workforce at City aviation facilities and quality working conditions are necessary to keep the City thriving with a strong workforce and sustainable quality of life.

**3. SCOPE**

- 3.1. This Executive Order applies only to contracts involving any City aviation facility between (1) the City and air carriers or (2) the City and concessionaires, and also applies to the air carriers' or concessionaires' subcontractors to its City Contract and the air carrier's concessionaires at City aviation facilities.

**4. DEFINITIONS**

"City Contract" means any contract, including any renewal of any existing such contract, between the City and an air carrier or a concessionaire involving any City aviation facility, including George Bush Intercontinental Airport, William P. Hobby Airport and Ellington Airport. The term also includes any subcontract or concession agreement entered into by any carrier or any concessionaire involving any City aviation facility.

"Employee" means any person (excluding City employees) employed in connection with a City Contract at a City aviation facility by a party to a City Contract or the party's subcontractor or concessionaire.

"Living Wage" means minimum wage rate for an individual that an air carrier or concessionaire who is a party to a City Contract or the party's subcontractor or concessionaire must pay an employee or tipped employee, exclusive of fringe benefits or cash offsets to benefits, as set forth in Sections 5.1.1 and 5.1.2.

"Tip Credit" means a credit that an employer is permitted to take toward its Living Wage obligation for tipped employees, which is the then current tip credit an employer is allowed to claim under the Fair Labor Standards Act. For illustrative purposes only, the maximum tip credit as of August 1, 2019, is \$5.12 per hour.

"Wage" means compensation owed by an employer to an employee for labor or services rendered by the employee to the employer, whether computed on a time, task, piece, commission or other basis, but shall exclude any deduction authorized by section 61.018, Texas Labor Code.

Approved:

Handwritten signature of Sylvia Turner.

Date Approved:

02/15/2022

Page 1 of 3

## 5. POLICY

5.1. It is the policy of the City of Houston to negotiate in its City Contracts with air carriers or concessionaires provisions that include the air carrier or concessionaire paying the Living Wage set forth in this Executive Order to its employees at any City aviation facility and that such provisions flow down or are included in the air carrier's or concessionaire's contract with its subcontractor and concessionaire at any City aviation facility.

5.1.1. For any City Contract, the Living Wage shall be paid as follows, beginning on the first day of the first full pay period after the date listed below (i.e. April 1, 2022, October 1, 2022, etc.):

<b>Contract Year</b>	<b>Minimum Hourly Rate</b>
2021	\$12.00
April 1, 2022	\$13.00
October 1, 2022	\$14.00
October 1, 2023	\$15.00
2024	As determined by applicable wage rate increase.

5.1.2. When applying the Tip Credit to the Wage of an employee who is also a tipped employee as defined under the Fair Labor Standards Act (29 U.S.C. § 203(t)), the air carrier or concessionaire or its subcontractor or concessionaire shall pay the employee to ensure the resulting Wage is no less than Living Wage required by Section 5.1.1. minus the then-current tip credit an employer may claim under Section 3(m) of the Fair Labor Standards Act. If the Wage plus tips of an employee who is also a tipped employee does not equal at least the number of hours worked times the Living Wage required by Section 5.1.1, the air carrier or concessionaire or its subcontractor or concessionaire must make up the difference and pay the difference to the tipped employee.

5.2. No later than thirty (30) days after the effective date of this Executive Order, the City's Chief Procurement Officer and departments with delegated authority shall:

5.2.1. Incorporate the requirements of this Executive Order into all relevant formal competitive procurements and City Contracts issued after the effective date of this Executive Order and resulting contracts for which contract negotiations begin after the effective date of this Executive Order using the language approved by the Legal Department.

5.3. No later than thirty (30) days after the effective date of this Executive Order, applicable City Departments shall:

5.3.1. Incorporate the requirements of this Executive Order into all applicable City Contracts for which contract negotiations begin after the effective date of this Executive Order by using the language approved by the Legal Department, which language unless otherwise revised by the City Attorney or his designee shall read as follows (subject to conforming defined terms, as applicable, in such contract): To the extent this Contract constitutes a City Contract under the requirements and terms of the City of Houston's Policy on Ensuring Payment of Living Wage by Air Carriers and Concessionaires and Their Subcontractors and Concessionaires, as set forth in Executive Order 1-64 (the "Living Wage Executive Order"), the Contractor agrees to comply with such Living Wage Executive Order and the requirement and terms of such Living Wage Executive Order are incorporated into this Contract for all purposes, except as may be

preempted by state or federal law. Contractor shall use commercially reasonable efforts to notify the City's Chief Procurement Officer, City Attorney, and the Director within 7 days after the officer of the Corporation responsible for City Contract actually becomes aware of any violation of the Contractor or its subcontractors providing labor, materials, software, services or goods (each as applicable) under this Contract or purchase order, if any or that such violations may have occurred or are reasonably likely to occur; provided, however, that a failure by Contractor to so notify the City's Chief Procurement Officer, City Attorney or Director shall not, in and of itself, constitute an event of default under or otherwise a breach of this Contract.

5.4. Contractor shall:

- 5.4.1. Comply with this Executive Order with respect to all City Contracts entered into after the effective date of the Executive Order.
- 5.4.2. Use commercially reasonable efforts to notify the City's Chief Procurement Officer, City Attorney, and the Director responsible for the City Contract as required by the language set forth in Section 5.3.1 above.

**6. CONFLICT**

- 6.1. This Order supersedes Executive Order 1-64, Living Wage Air Carrier, signed on August 24, 2021, which shall be of no further force or effect.
- 6.2. In the event of a conflict between this Executive Order and any federal or state law, statute, or regulation, the federal or state law, statute or regulation supersedes this Executive Order.
- 6.3. This Executive Order does not interfere with or in any way diminish the right of employees to bargain collectively with their employer through representatives chosen by the employees to establish a Wage that exceed the applicable Living Wage under this Executive Order, the Texas Minimum Wage Act (Tex. Gov't Code, Chapter 62), or the Fair Labor Standards Act (United States Code, Title 29, Chapter 8). This Executive Order also does not interfere with the right of an air carrier or a concessionaire, or one of their subcontractors to enter into or adhere to an agreement with a collective bargaining organization relating to a City Contract.

**7. RELATED AUTHORITY**

- Texas Labor Code, Title 2, Chapter 62