

## ORDINANCE NO. 4045

**AN ORDINANCE OF THE CITY OF BRADENTON ESTABLISHING A LOCAL PROVIDER PARTICIPATION FUND; AUTHORIZING IMPOSITION OF ANNUAL NON-AD VALOREM SPECIAL ASSESSMENTS TO BE LEVIED, COLLECTED, AND ENFORCED AGAINST REAL PROPERTY OWNED OR LEASED BY PRIVATE FOR-PROFIT AND NOT-FOR-PROFIT HOSPITALS TO FUND THE NON-FEDERAL SHARE OF MEDICAID AND MEDICAID MANAGED CARE PAYMENTS BENEFITTING HOSPITALS PROVIDING HEALTHCARE SERVICES TO MEDICAID, INDIGENT, AND UNINSURED MEMBERS OF THE CITY OF BRADENTON COMMUNITY; SPECIFYING THE PROCEDURE FOR ADOPTING THE ANNUAL NON-AD VALOREM SPECIAL ASSESSMENTS TO BE DEPOSITED INTO THE LOCAL PROVIDER PARTICIPATION FUND; SPECIFYING AUTHORIZED USES FOR THE FUND PROCEEDS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, private for-profit and not-for-profit hospitals in the City of Bradenton's jurisdiction (the "Hospitals") annually provide millions of dollars of uncompensated care to uninsured persons and those who qualify for Medicaid because Medicaid, on average, covers only sixty percent (60%) of the costs of the health care services actually provided by Hospitals to Medicaid-eligible persons, leaving Hospitals with significant uncompensated costs; and

**WHEREAS**, the State of Florida (the "State") received federal authority to establish Medicaid programs, including but not limited to a Medicaid Managed Care hospital directed payment program, to offset Hospitals' charity care costs and uncompensated Medicaid costs and improve quality of care provided to Florida's Medicaid population; and

**WHEREAS**, impacted Hospitals have asked the City of Bradenton (the "City") to impose special assessments upon certain real property owned or leased by the Hospitals (the "Hospital Properties") to help finance the non-federal share of the State's Medicaid program; and

**WHEREAS**, the funding raised by the City assessments will, through intergovernmental transfers ("IGTs") provided consistent with federal guidelines, support additional funding for Medicaid and Medicaid managed care payments to Hospitals; and

**WHEREAS**, based upon the representations of participating Hospitals, the City Council (the "Council") has determined that (i) the Hospital Properties to be assessed will benefit directly and especially from the assessments as a result of the above-described additional Medicaid funding provided for said Hospitals, (ii) a logical relationship exists between the services provided and the special and particular benefit to Hospital Properties, (iii) leveraging additional federal support through the above-described IGTs to fund Medicaid payments to the Hospitals for health care services directly and specifically adds value to the Hospital Properties and supports the Hospitals' continued ability to provide those services, and (iv) the assessments will ensure the financial stability and viability of the Hospitals providing such services; and

**WHEREAS**, the City has an interest in promoting access to health care for its low-income and uninsured residents; and

**WHEREAS**, imposing assessments limited to the Hospital Properties to help fund the provision of healthcare services and the achievement of certain quality standards by the Hospitals to residents of the City is a valid public purpose that benefits the health, safety, and welfare of the citizens of the City; and

**WHEREAS**, the Hospitals are important contributors to the City's overall economy, and the financial benefit to the Hospitals directly and specifically supports their mission, as well as their ability to grow, expand, and maintain their facilities in concert with the population growth in the jurisdiction of the City; and

**WHEREAS**, the Council finds the assessments will enhance the Hospitals' ability to grow, expand, maintain, improve, and increase the value of their properties and facilities under all present circumstances and those of the foreseeable future; and

**WHEREAS**, the City is proposing properly apportioned assessments by which all Hospital Properties will be assessed a uniform amount that is compliant with 42 C.F.R. § 433.68(d); and

**WHEREAS**, only Hospital Properties shall be subject to the special assessments imposed hereunder; and

**WHEREAS**, the Council desires to enact this Ordinance to authorize the City to levy uniform non-ad valorem special assessments pursuant to the procedure described herein, which assessments shall be fairly and reasonably apportioned among the Hospital Properties within the City's jurisdictional limits,

to establish and maintain a system of funding for IGTs to support the non-federal share of Medicaid payments, thus directly and specially benefitting such Hospital Properties; and

**WHEREAS,** such action is in the best interest of the City and serves both a City and a public purpose.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA:**

**DIVISION 1.** Chapter 66 of the City of Bradenton, Florida Code of Ordinances, is hereby amended, by adding a new Article VI, as follows:

Sec. 66-207. - Title.

This Article VI shall be known and may be cited as the "City of Bradenton Local Provider Participation Fund Ordinance."

Sec. 66-208. - Authority.

This Ordinance is enacted pursuant to Article VIII, Section 2(b) of the Constitution of the State of Florida, Chapter 166, Florida Statutes, the Municipal Charter of the City, 42 C.F.R. § 433.68, and other applicable provisions of law. The Council is hereby authorized to impose annual special assessments against Assessed Properties to fund the non-federal share of Medicaid managed care and other Medicaid payments associated with Local Services.

Sec. 66-209. - Purpose.

The Assessments authorized by this Ordinance shall be imposed, levied, collected, and enforced against Assessed Properties. Proceeds from the Assessments shall be used to benefit Assessed Properties through enhanced Medicaid managed care and other Medicaid payments for Local Services. When imposed, the Assessments shall constitute a lien upon the Assessed Properties equal in rank and dignity with the liens of all state, City, district, or municipal taxes and other non-ad valorem assessments. Failure to pay the Assessments may result in foreclosure proceedings and loss of title. The Assessments shall be computed and assessed only in the manner provided in this Ordinance.

Sec. 66-210. - Alternative Method.

This Ordinance shall be deemed to provide an additional and alternative method, as specified in § 197.3631, Fla. Stat., for the assessment and collection of the non-ad valorem special assessments described herein. The Ordinance shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as in derogation of any powers now existing, or which may exist in the future. This Ordinance, being necessary for the health, safety, and welfare of the inhabitants of the City, shall be liberally construed to effect the purposes hereof.

Sec. 66-211. - Definitions.

When used in this Ordinance, the following terms shall have the following meanings, unless the context clearly requires otherwise:

*Assessed Property* means the real property in the City to which a Hospital holds a right of possession and right of use through an ownership or leasehold interest, thus making the property subject to the Assessments.

*Assessments* means non-ad valorem special assessments imposed by the City against Assessed Property to fund the non-federal share of supplemental payments that will benefit hospitals providing Local Services.

*Assessment Coordinator* means the City Administrator as the person appointed to administer the Assessments imposed pursuant to this Article, or such person's designee.

*Assessment Resolution* means the resolution described in Section 66-215 hereof.

*City* means the City of Bradenton, Florida.

*Council* means the City Council of the City of Bradenton, Florida.

*Fiscal Year* means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the City.

*Hospital* means a private for-profit or not-for-profit hospital that provides inpatient hospital services.

*Local Provider Participation Fund* means the Bradenton Local Provider Participation Fund created under Section 66-213 of this Ordinance.

*Local Services* means the provision of health care services to Medicaid, indigent, and uninsured members of the City of Bradenton community and surrounding area.

*Non-Ad Valorem Assessment Roll or Assessment Roll* means the special assessment roll prepared by the City for the Assessments imposed hereunder.

*Ordinance* means this Ordinance, the City of Bradenton Local Provider Participation Fund Ordinance.

*Tax Collector* means the City of Bradenton, Florida Tax Collector.

Sec. 66-212. - Interpretation.

Unless the context indicates otherwise, the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Article. The term "hereafter" means after, and the term "heretofore" means before the effective date of the Ordinance.

Sec. 66-213. - Scope of Assessment.

Pursuant to § 166.021, Fla. Stat., the Council is hereby authorized to create non-ad valorem special assessments that shall be imposed, levied, collected, and enforced against Assessed Property to fund the non-federal share of supplemental payments benefitting Assessed Properties providing Local Services in the City. There is hereby created a separate, earmarked fund called the "Bradenton Local Provider Participation Fund." Funds generated as a result of the Assessments shall be held in such fund and shall be available to be used only to (1) provide to the Florida Agency for Health Care Administration the non-federal share for supplemental payments to be made directly or indirectly in support of Hospitals serving Medicaid, low income, and uninsured patients and (2) reimburse the City for administrative costs associated with the development, implementation and administration of the Assessments authorized by this Ordinance, as further specified in the Assessment Resolution.

The Assessments shall be broad based, and the amount of the Assessments must be uniformly imposed on each Assessed Property. In accordance with 42 U.S.C. §1396b(w), the Assessments may not hold harmless any Hospital. As set forth in Section 66-209, the Assessments shall constitute a lien upon the Assessed Properties equal in rank and dignity with the liens of all state, county,

city, district, or municipal taxes and other non-ad valorem assessments. In addition to other remedies available at law or equity, the enforcement of the aforesaid Assessments shall be at the same time and in like manner as ad valorem taxes and subject to all ad valorem tax enforcement procedures afforded to the official annual real property tax notice.

The Assessments shall be imposed, levied, collected, and enforced against only Assessed Properties, and the Assessment Resolution shall provide that the City's administrative costs incurred in developing, implementing, administering and collecting the Assessments shall be reimbursed from the collected amounts. Such administrative costs shall not exceed \$150,000 or as otherwise provided in the Assessment Resolution. Any reasonable expenses the City incurs with respect to the Assessments, including any attorney's fees incurred as a result of contracting with an attorney to represent the City in defending any challenges to the Assessments or this Ordinance or seeking and enforcing the collection of delinquent Assessments, are not subject to the limitation on administrative costs.

The releases contemplated by Section 66-227 shall include an acknowledgement by the Hospitals that are the subject of this Ordinance that the Assessments will not result in any additional pecuniary obligation on the City, the City Council or City residents, and that, notwithstanding Section 66-213 hereof, administrative fees collected by the City through the Assessments, including, if necessary, amounts in excess of the otherwise applicable limit contained in Section 66-213, may be used to cover the costs of administering the Assessments, including for expenses incurred in any original proceedings, appeals, or any proceeding before any administrative body or tribunal, and any and all costs and attorneys or expert fees associated with the defense of such claims, that arise in the event that the objectives and procedures of this Article are challenged by any person, entity, or government agency. The City may utilize any balance of funds in the Bradenton Local Provider Participation Fund, including funds which have rolled over from the prior Fiscal Year pursuant to Section 66-223 hereof, to cover such expenses.

Sec. 66-214. - Computation of Assessment.

The annual Assessments shall be specified for each Assessed Property in the Assessment Resolution contemplated by Section 66-215 hereof. The Council shall set the Assessments in amounts that in the aggregate will generate

sufficient revenue to fund the non-federal share of supplemental payments associated with Local Services to be funded by the Assessments.

The amount of the Assessments required of each Assessed Property may not exceed an amount that, when added to the amount of other hospital assessments levied by the state or local government, exceeds the maximum percent of the aggregate net patient revenue of all Assessed Hospitals in the City permitted by 42 C.F.R. § 433.68(f)(3)(i)(A). Assessments for each Assessed Property will be derived from data contained in hospital cost reports and/or the Florida Hospital Uniform Reporting System, as available from the Florida Agency for Health Care Administration.

Sec. 66-215. - Assessment Resolution.

The Council may adopt an Assessment Resolution for each Fiscal Year during which Assessments are to be imposed and collected. The Assessment Resolution may be adopted following the procedures described in Sections 66-215 through 66-219 hereof.

Prior to adoption of an Assessment Resolution for the first time levy of the Assessments against Assessed Property, the Assessment Coordinator shall have received the releases and indemnity required by Section 66-227 hereof.

The Assessment Resolution shall describe (a) the supplemental payments proposed for funding from proceeds of the Assessments; (b) the benefits to the Assessment Properties associated with the Assessments; (c) the methodology for computing the assessed amounts; (d) the annual amount assessed for each Assessed Property, and (e) the method of collection, including how and when the Assessments are to be paid.

Sec. 66-216. - Non-Ad Valorem Assessment Roll.

The Assessment Coordinator shall prepare, or direct the preparation of, the Non-Ad Valorem Assessment Roll, which shall contain the following:

- a) The names and addresses of the Assessed Properties; and
- b) The Assessment rates and amount of the Assessments to be imposed against each Assessed Property based on the Assessment Resolution.

The Non-Ad Valorem Assessment Roll shall be retained by the Assessment Coordinator and shall be open to public inspection. The foregoing shall not be

construed to require that the Assessment Roll be in printed form if the amount of the Assessments for Assessed Property can be determined by use of a computer terminal available to the public.

Sec. 66-217. - Notice by Publication.

The Assessment Coordinator shall publish once in a newspaper of general circulation within the City a notice stating that the Council, at a regular, adjourned, or special meeting on a certain day and hour, not earlier than 20 calendar days from such publication, will hear objections of all interested persons to approve the Assessments. Such notice shall include:

- a) The Assessment rates;
- b) The procedure for objecting to the Assessment rates;
- c) The method by which the Assessments will be collected; and
- d) A statement that the Non-Ad Valorem Special Assessment Roll is available for inspection at the Office of the Assessment Coordinator.

Sec. 66-218. - Notice by Mail.

In addition to the published notice required by Section 66-217, but only for the first fiscal year in which an Assessment is imposed by the Council against Assessed Properties, the Assessment Coordinator shall provide notice of the proposed Assessments by first class mail to the Assessed Properties. Such notice shall include:

- a) The purpose of the Assessments;
- b) The Assessment rates to be levied against each Assessed Property;
- c) The unit of measurement used to determine the Assessments;
- d) The total revenue to be collected by the City from the Assessments;
- e) A statement that failure to pay the Assessments will cause a tax certificate to be issued against the property or foreclosure proceedings, either of which may result in a loss of title to the property;
- f) A statement that all affected and/or interested parties have a right to appear at the hearing and to file written objections with the Council within 20 days of the notice; and



g) The date, time, and place of the hearing.

Notice shall be mailed at least 20 calendar days prior to the hearing to each Assessed Property at such address as is shown on the Assessment Roll. Notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. The Assessment Coordinator may provide proof of such notice by affidavit. Failure of the Assessed Property to receive such notice, because of mistake or inadvertence, shall not affect the validity of the Assessment Roll or release or discharge any obligation for payment of the Assessments imposed by the Council pursuant to this Article.

Sec. 66-219. - Adoption of Assessment Resolution and Non-Ad Valorem Assessment Roll.

At the time named in the notice, the Council shall receive and consider public comment and any written objections from the Hospitals subject to the Assessment. All such objections to the Assessment Resolution and Non-Ad Valorem Assessment Roll shall be made in writing and filed with the Assessment Coordinator at or before the time or adjourned time of such hearing. At the date and time named in the notice, the Council may adopt the Assessment Resolution and Non-Ad Valorem Assessment Roll which shall:

- a) Set the rates of the Assessments to be imposed;
- b) Approve the Non-Ad Valorem Assessment Roll, with such amendments as it deems just and right; and
- c) Affirm the method of collection and direct the Assessment Coordinator to facilitate collection of the Assessment.

Federal regulations currently require the assessment of all Hospitals in the City as a condition for eligibility for federal matching funds. Notwithstanding anything herein to the contrary, in the event that one or more Hospitals object to imposition of the Assessments for the forthcoming Fiscal Year, then the Council may determine, in its sole discretion, not to adopt an Assessment Resolution for such year in which case no Assessments shall be levied, imposed or collected for such year.

Sec. 66-220. - Revisions to the Assessment Roll.

The Council may revise the Non-Ad Valorem Assessment Roll one or more times during the Fiscal Year to modify the Assessment rates through the

adoption of an additional Assessment Resolution, following the procedures described in Sections 66-215 through 66-219.

Sec. 66-221. - Effect of the Assessment Resolution.

The adoption of an Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the method of apportionment and Assessments, the Assessment rates, the initial rates of Assessment, the Non-Ad Valorem Assessment Roll, and the levy and lien of the Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of Council action on the Assessment Resolution.

Sec. 66-222. - Method of Collection.

Unless determined otherwise by the Council in the Assessment Resolution, the Assessments shall be collected by direct billing the owners of Assessed Property as follows:

- a) The Assessment Coordinator shall provide Assessment bills by first class mail to each Hospital. The bill or accompanying explanatory material shall include (1) a brief explanation of the Assessments, (2) a description of the calculation method used to determine the amount of the Assessments, (3) the total amounts of the parcel's Assessments for the appropriate period, (4) the location at which payment will be accepted, (5) the date on which the Assessments are due, and (6) a statement that the Assessments constitute a lien against assessed property equal in rank and dignity with the liens of all state, City, district or municipal taxes and other non-ad valorem assessments.
- b) The City shall have the right to appoint or retain an agent to foreclose and collect all delinquent Assessments in the manner provided by law. An Assessment shall become delinquent if it is not paid within thirty (30) calendar days from the due date. The City or its agent shall notify any Hospital which is delinquent in payment of an Assessment within sixty (60) calendar days from the date such Assessment was due. Such notice shall state in effect that the City or its agent will initiate a foreclosure action and cause the foreclosure of such property subject to a delinquent Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real estate, or otherwise as provided by law.

- c) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the City may be the purchaser to the same extent as an individual person or corporation. The City may join in one foreclosure action the collection of Assessments against any or all property assessed in accordance with the provisions hereof. All delinquent Hospitals whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City and its agents, including reasonable attorney fees, in collection of such delinquent Assessments and any other costs incurred by the City as a result of such delinquent Assessments including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to, the costs of the action.
- d) In lieu of foreclosure, any delinquent Assessment and the costs, fees and expenses attributable thereto, may be collected by any method authorized by law including but not limited to the Uniform Assessment Collection Act; provided however, that in the event the Uniform Assessment Collection Act is used, (1) notice shall be provided to the owner in the manner required by law and this Ordinance, and (2) any existing lien of record on the affected parcel for the delinquent Assessment is supplanted by the lien resulting from certification of the Assessment Roll to the Tax Collector.

Sec. 66-223. – Roll Over of Funds.

If, at the end of the Fiscal Year, additional amounts remain in the Bradenton Local Provider Participation Fund, such amounts shall roll over in the account for use in the next Fiscal Year by the City for authorized purposes, including payment of the City’s administrative expenses, as provided in Section 66-213 hereof.

Sec. 66-224. - Responsibility for Enforcement.

The City and its agent, if any, shall maintain the duty to enforce the prompt collection of the Assessments by the means provided herein. The duties related to collection of assessments may be enforced at the suit of any holder

of obligations in a court of competent jurisdiction by mandamus or other appropriate proceedings or actions.

Sec. 66-225. - Correction of Errors and Omissions.

No act of error or omission on the part of the Property Appraiser, Tax Collector, Assessment Coordinator, Council, or their deputies or employees shall operate to release or discharge any obligation for payment of the Assessments imposed by the Council under the provision of this Article.

Sec. 66-226. - Limitations on Surcharges.

Payments made by Assessed Properties under this article may not be passed along to patients of the Assessed Property as a surcharge or as any other form of additional patient charge.

Sec. 66-227. - Release and Indemnification.

The Hospitals whose Assessed Properties are subject to the Assessments imposed pursuant to this Ordinance have requested or expressed support for adoption of this Ordinance and have given assurances to the City that the objectives and procedures addressed in this Ordinance are proper and lawful. Accordingly, each such Hospital shall, as a prerequisite for the City imposing Assessments hereunder, forever release the City and its officers, employees, agents and instrumentalities from any and all liability relating to the Assessments.

As an additional prerequisite for the City imposing Assessments hereunder, Hospitals liable for at least fifty-one (51%) of the total Assessment amount for the forthcoming Fiscal Year, or such other percentage as may be determined by the Council in an annual Assessment Resolution, shall indemnify and hold harmless the City and its officers, employees, agents and instrumentalities from any and all liability, losses, disallowances, or damages, including attorneys' fees and costs of defense, which the City or its officers, employees, agents or instrumentalities may incur as a result of any claims, demands, suits, causes of actions or administrative proceedings of any kind or nature arising out of or relating to the Assessments; provided, however, the entirety of any such liability, losses, disallowances or damages shall be prorated amongst all the Hospitals which provided the indemnification according to their respective share of the total amount of the Assessment applicable to such Hospitals.

To the extent that a Hospital is a public instrumentality entitled to the protections afforded by Section 768.28, Florida Statutes, the release and indemnification shall not be construed as a waiver of sovereign immunity beyond the waiver provided in such release and indemnification. The release and indemnification shall be in a form approved by the Assessment Coordinator and submitted to the Assessment Coordinator within the timeframe set forth in Section 66-215 of this Ordinance.

**DIVISION 2. APPLICABILITY.**

It is hereby intended that this Ordinance shall constitute a uniform law applicable in all areas of City of Bradenton where there is no existing conflict of law or municipal ordinance.

**DIVISION 3. SEVERABILITY.**

If any portion of this Ordinance is held invalid or declared to be unconstitutional, inoperative, or void by any court of competent jurisdiction, such holdings shall not affect the validity of the remainder of this Ordinance.

**DIVISION 4. RESOLUTION OF CONFLICT OF LAWS.**

In all instances where Florida law, as evidenced by the Florida Administrative Code, Florida Statutes, applicable case law or otherwise, mandates standards or requirements that are stricter than the provisions of this Ordinance, or where a matter is addressed by Florida law that is not addressed by this Ordinance, then said law shall govern. In situations where this Ordinance addresses a matter in a manner that is stricter than that of Florida law, the provisions of this Ordinance shall control.

**DIVISION 5. INCLUSION IN THE CITY OF BRADENTON CODE OF ORDINANCES.**

The provisions of this Ordinance shall be included and incorporated in the City of Bradenton Code of Ordinances, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the City of Bradenton Code of Ordinances, once established.

**DIVISION 6. EFFECTIVE DATE.**

This Ordinance shall become effective upon adoption.

**PASSED AND DULY ADOPTED BY THE CITY COUNCIL FOR THE CITY OF BRADENTON, FLORIDA, WITH A QUORUM PRESENT AND VOTING ON THIS 22<sup>nd</sup> DAY OF MAY, 2024.**

**THE CITY OF BRADENTON, BY AND THROUGH THE CITY COUNCIL OF THE CITY OF BRADENTON**

ATTEST:

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Tamara Melton  
CITY CLERK

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Gene Brown  
MAYOR

APPROVED AS TO FORM:

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Scott Rudacille  
CITY ATTORNEY

1 <sup>st</sup> Reading	May 8, 2024
Advertising	May 10, 2024
2 <sup>nd</sup> Reading and Public Hearing	May 22, 2024