

1 ALACHUA COUNTY
2 BOARD OF COUNTY COMMISSIONERS

3 **ORDINANCE NO. 2024-**

4 AN ORDINANCE OF THE BOARD OF COUNTY
5 COMMISSIONERS OF ALACHUA COUNTY
6 AUTHORIZING CREATION OF THE ALACHUA
7 COUNTY LOCAL PROVIDER PARTICIPATION FUND
8 UNDER THE AUTHORITY OF ARTICLE VIII, SECTION
9 1(G) OF THE CONSTITUTION OF THE STATE OF
10 FLORIDA AND THE ALACHUA COUNTY HOME RULE
11 CHARTER AND SPECIFYING THE METHOD OF
12 SETTING AND COMPUTING ANNUAL NON-AD
13 VALOREM SPECIAL ASSESSMENTS TO BE
14 DEPOSITED INTO THE FUND AND SPECIFYING
15 AUTHORIZED USES FOR THE FUND PROCEEDS

16
17 **WHEREAS**, the hospitals in Alachua County’s jurisdiction (the “Hospitals”) annually
18 provide millions of dollars of uncompensated care to uninsured persons; and

19 **WHEREAS**, the hospitals in Alachua County’s jurisdiction (the “Hospitals”) annually
20 provide millions of dollars of uncompensated care to those who qualify for Medicaid because
21 Medicaid, on average, historically covers only 60% of the costs of the health care services
22 actually provided by Hospitals to Medicaid-eligible persons, leaving hospitals with significant
23 uncompensated costs; and

24 **WHEREAS**, the State of Florida (the “State”) operates several supplemental payment
25 programs designed to provide reimbursement to cover the reimbursement shortfall and to provide
26 resources to support charity care; and

27 **WHEREAS**, non-public Hospitals have asked Alachua County (the “County”) to impose
28 an assessment upon certain real property upon which Hospitals operate to help finance the non-
29 federal share of the State’s Medicaid program; and

30 **WHEREAS**, the only properties to be assessed are the real property sites of such
31 Hospitals; and

32 **WHEREAS**, the funding raised by the County assessment will, through
33 intergovernmental transfers (“IGTs”) provided consistent with federal guidelines, support
34 additional funding for Medicaid payments to Hospitals; and

35 **WHEREAS**, the County acknowledges that the Hospital properties assessed can benefit
36 directly and especially from the assessment as a result of the above-described additional funding;
37 and

38 **WHEREAS**, the County has determined that a logical relationship exists between the
39 services provided and the special and particular benefit to the real property upon which the
40 Hospitals operate; and

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

43 **WHEREAS**, leveraging additional federal support through the above-described IGTs to
44 fund Medicaid payments to the Hospitals for health care services directly and specifically
45 benefits the properties upon which Hospitals operate and supports their continued ability to
46 provide those services; and

47 **WHEREAS**, imposing an assessment limited to properties upon which Hospitals operate
48 to help fund the provision of these services and the achievement of certain quality standards by
49 the Hospitals to residents of the County is a valid public purpose that benefits the health, safety,
50 and welfare of the citizens of the County; and

51 **WHEREAS**, the assessment supports the financial stability and viability of the Hospitals
52 providing such services; and

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

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

60 **WHEREAS**, the County is proposing a properly apportioned assessment by which all
61 Hospitals will be assessed a uniform amount that is compliant with 42 C.F.R. § 433.68(d); and

62 **WHEREAS**, the County adopts this Ordinance enabling the County to levy a uniform
63 non-ad valorem special assessment, which is fairly and reasonably apportioned among the
64 properties upon which Hospitals operate within the County's jurisdictional limits, to establish
65 and maintain a system of funding for IGTs to support the non-federal share of Medicaid
66 payments, thus directly and specially benefitting properties upon which Hospitals operate.

67 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
68 **COMMISSIONERS OF ALACHUA COUNTY, FLORIDA:**

69 Chapter 3 of the Alachua County Code, is hereby amended, by adding a new Chapter 39.16
70 “Local Provider Participation Fund,” as follows:

71 **CHAPTER 39.16 LOCAL PROVIDER PARTICIPATION FUND**

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73 **ARTICLE I. - INTRODUCTION**

74 **Sec. 39.16.01. - Definitions.**

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

77 *Assessed Property* means the real property in the County to which an Institutional Health
78 Care Provider holds a right of possession and right of use through an ownership or leasehold
79 interest, thus making the property subject to the Assessment.

80 *Assessment* means a non-ad valorem special assessment imposed by the County on
81 Assessed Property to fund the non-federal share of Medicaid and Medicaid managed care
82 payments that will benefit hospitals providing Local Services.

83 *Assessment Coordinator* means the person appointed to administer the Assessment
84 imposed pursuant to this Article, or such person’s designee.

85 *Assessment Resolution* means the resolution described in Section 39.16.09. hereof.

86 *Board* means the Board of County Commissioners of Alachua County, Florida.

87 *Charter* means the home rule charter of Alachua County, Florida.

88 *Comptroller* means the Alachua County Comptroller, ex officio Clerk to the Board, or
89 other such person as may be duly authorized to act on such person's behalf.

90 *County* means Alachua County, Florida.

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

94 *Institutional Health Care Provider* means a private for-profit or not-for-profit hospital
95 that provides inpatient hospital services.

96 *Local Services* means the provision of health care services to Medicaid, indigent, and
97 uninsured members of the Alachua County community.

98 *Non-Ad Valorem Assessment Roll* means the special assessment roll prepared by the
99 County.

100 *Ordinance* means the Alachua County Local Provider Participation Fund Ordinance.

101 *Tax Collector* means the Alachua County Tax Collector.

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105 **Sec. 39.16.02. - Interpretation.**

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

109 **Sec. 39.16.03. - General Findings Authority.**

110 (1) Pursuant to Article VIII, section 1, Florida Constitution, and sections 125.01 and 125.66,
111 Florida Statutes, the board has all powers of local self-government to perform county
112 functions and to render county services in a manner not inconsistent with law, and such
113 power may be exercised by the enactment of county ordinances.

114 (2) In addition to its powers of self-government, the board derives authority to levy special
115 assessments within a county from the home rule power of counties in Article VIII,
116 section 1(g), Florida Constitution, section 125.01, Florida Statutes, and specifically
117 section 125.01(1)(r), Florida Statutes.

118 (3) This chapter authorizes the imposition of a special assessment against private for-profit
119 and not-for-profit hospitals located within the County to fund the non-federal share of
120 Medicaid payments associated with Local Services.

121 (4) The purpose of this Chapter is to (1) provide procedures and standards for the imposition
122 of hospital assessments under the general home rule powers of a county to impose special
123 assessments; (2) authorize a procedure for the funding of the non-federal share of
124 Medicaid payments associated with Local Services; and (3) legislatively determine the
125 special benefit provided to assessed property from the county’s local provider
126 participation fund program.

127 **Sec. 39.16.04. - Legislative Determinations of Special Benefit.**

128 It is hereby ascertained and declared that the levy of a local provider participation fund special
129 assessment provides a special benefit to property because the existence of this fund possesses a
130 logical relationship to the use and enjoyment of hospital property by enhancing Medicaid
131 payments—that is, increasing the potential income from federal matching dollars for certain

132 services. Properties eligible for the increased federal match are more valuable than their
133 nonqualifying counterparts in neighboring districts without access to federal matching dollars.
134 The new reimbursement fulfills a critical funding need and frees up revenue streams that can be
135 repurposed for, among other things, physical plant improvements and upgraded patient services.

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138 **ARTICLE II. – LOCAL PROVIDER PARTICIPATION FUND ASSESSMENT**

139 **Sec. 39.16.05. – General Authority.**

140 Pursuant to § 125.01, Fla. Stat., the Board is hereby authorized to create a non-ad valorem
141 special assessment that shall be imposed, levied, collected, and enforced against Assessed
142 Property to fund the non-federal share of Medicaid payments benefitting Assessed Properties
143 providing Local Services in the County. Funds generated as a result of the Assessment shall be
144 held in an account called the local provider participation fund and shall be available to be used
145 only to (1) provide to the Florida Agency for Health Care Administration the non-federal share
146 for Medicaid payments to be made directly or indirectly in support of hospitals serving Medicaid
147 and low income patients and (2) reimburse the County for administrative costs associated with
148 the implementation of the Assessment authorized by this Ordinance, as further specified in the
149 Assessment Resolution.

150 When imposed, the Assessment shall constitute a lien upon the Assessed Properties equal in rank
151 and dignity with the liens of all state, county, district, or municipal taxes and other non-ad
152 valorem assessments. Failure to pay may cause foreclosure proceedings, which could result in
153 loss of title, to commence. The Assessment shall be computed and assessed only in the manner
154 provided in this Ordinance.

Sec. 39.16.06. - 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
assessment 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 County, shall be liberally construed to effect the purposes
hereof.

Sec. 39.16.07. - Scope of Assessment.

The Assessment must be broad based, and the amount of the Assessment must be uniformly
imposed on each Assessed Property. The Assessment may not hold harmless any Institutional
Health Care Provider, as required under 42 U.S.C. § 1396b(w). As set forth in Section 39.16.05,
the Assessment shall constitute a lien upon the Assessed Properties equal in rank and dignity
with the liens of all state, county, 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 Assessment 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.

Creation and implementation of the Assessment will not result in any additional pecuniary obligation on the County, Board, or County residents. The Assessment shall be imposed, levied, collected, and enforced against only Assessed Properties, and the Assessment Resolution shall provide that the County's administrative costs shall be reimbursed from the collected amounts. The County's administrative costs shall not exceed \$150,000. Any reasonable expenses the County incurs to collect delinquent assessments, including any attorney's fees incurred as a result of contracting with an attorney to represent the county in seeking and enforcing the collection of delinquent assessments, are not subject to the limitation on administrative costs.

Sec. 39.16.08. - Computation of Assessment.

The annual Assessment shall be specified for each Assessed Property. The Board shall set the Assessment in amounts that in the aggregate will generate sufficient revenue to fund the non-federal share of Medicaid payments associated with Local Services to be funded by the Assessment.

The amount of the Assessment 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 County 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. 39.16.09. - Assessment Resolution.

The Assessment Resolution shall describe (a) the Medicaid payments proposed for funding from proceeds of the Assessment; (b) the benefits to the Assessment Properties associated with the Assessment; (c) the methodology for computing the assessed amounts; and (d) the method of collection, including how and when the Assessment is to be paid.

Sec. 39.16.10. - 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 rate and amount of the Assessment 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 Assessment for each Assessed Property can be determined by use of a computer terminal available to the public.

Sec. 39.16.11. - Notice by Publication.

The Assessment Coordinator shall publish once in a newspaper of general circulation within the County a notice stating that the Board, 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 aforementioned Assessment. Such notice shall include:

- a) The Assessment rate;
- b) The procedure for objecting to the Assessment rate;
- c) The method by which the Assessment 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. 39.16.12. - Notice by Mail.

In addition to the published notice required by Section 39.16.11., but only for the first fiscal year in which an Assessment is imposed by the Board against Assessed Properties, the Assessment Coordinator shall provide notice of the proposed Assessment by first class mail to the Assessed Properties. Such notice shall include:

- a) The purpose of the Assessment;
- b) The Assessment rate to be levied against each Assessed Property;
- c) The unit of measurement used to determine the Assessment;
- d) The total revenue to be collected by the County from the Assessment;
- e) A statement that failure to pay the Assessment 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 Board 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 Assessment imposed by the Board pursuant to this Article.

Sec. 39.16.13. - Adoption of Assessment Resolution and Non-Ad Valorem Assessment Roll.

At the time named in the notice, the Board shall receive and consider any written objections of interested persons. All 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 Board may adopt the Assessment Resolution and Non-Ad Valorem Assessment Roll which shall:

- a) Set the rate of the Assessment 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.

Sec. 39.16.14. - Revisions to the Assessment Roll.

The Board may revise the Non-Ad Valorem Assessment Roll one or more times during the Fiscal Year to modify the Assessment rate through the adoption of an additional Assessment Resolution, following the procedures described in Sections 39.16.05. through 39.16.13.

Sec. 39.16.15. - 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 Assessment, the Assessment rate, the initial rate 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 Board action on the Assessment Resolution. The Non-Ad Valorem Assessment Roll shall be delivered to the Tax Collector or such other official as the Board by resolution shall designate.

Sec. 39.16.16. - Method of Collection.

The amount of the Assessment is to be collected pursuant to the Alternative Method, as specified in the Assessment Resolution.

Sec. 39.16.17. - Refunds.

If, at the end of the Fiscal Year, additional amounts remain in the local provider participation fund, the Board is hereby authorized to make refund to Assessed Properties in proportion to amounts paid in during the Fiscal Year for all or a portion of the unutilized local provider participation fund.

Sec. 39.16.18. - Responsibility for Enforcement.

The County and its agent, if any, shall maintain the duty to enforce the prompt collection of the Assessment 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. 39.16.19. - 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. 39.16.20. - Procedural Irregularities.

Any informality or irregularity in the proceedings in connection with the levy of any local provider participation fund assessment under the provisions of this Chapter shall not affect the validity of the same after the approval thereof, and any local provider participation fund assessment as finally approved shall be competent and sufficient evidence that such assessment was duly levied, that the fire protection assessment was duly made and adopted, and that all other proceedings appropriate to such assessment were duly had, taken, and performed as required by this Chapter; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby.

Sec. 39.16.21. - Correction of Errors and Omissions.

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

ARTICLE III. GENERAL PROVISIONS

Sec. 39.16.22. - Applicability.

It is hereby intended that this Ordinance shall constitute a uniform law applicable in all unincorporated areas of Alachua County, Florida, and to all incorporated areas of Alachua County where there is no existing conflict of law or municipal ordinance.

Sec. 39.16.23. - 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.

Sec. 39.16.24. – 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. All ordinances, resolutions, or parts thereof, in conflict with the provisions of this Ordinance are hereby repealed.

Sec. 39.16.25. - Codification.

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

Sec. 39.16.26. – Filing of Ordinance.

In accordance with the provisions of § 125.66, Fla. Stat., a certified copy of this Ordinance shall be filed with the Florida Department of State.

Sec. 39.16.27. – Effective Date.

The clerk shall file a certified copy of the ordinance from which this Chapter derives with the Department of State within ten days of its adoption. This chapter shall take effect immediately upon the filing of the ordinance from which this Chapter derives with the Department of State.

DULY ENACTED this ____ day of _____, 2023.

BOARD OF COUNTY COMMISSIONERS
OF ALACHUA COUNTY, FLORIDA

By: _____
Chair/Vice Chair

ATTEST:
ALACHUA COUNTY CLERK OF THE BOARD

By: _____
Clerk/ Deputy Clerk of the Board

As authorized for execution at the Board of
County Commissioners meeting of:

Ordinance #