

AN INITIAL ASSESSMENT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA, AUTHORIZING AND ADOPTING A NON-AD VALOREM ASSESSMENT WITHIN THE CITY LIMITS FOR THE PURPOSE OF SUPPORTING THE PROVISION OF CHARITY HEALTH CARE BY THE CITY'S HOSPITALS TO INDIGENT MEMBERS OF THE CENTRAL FLORIDA COMMUNITY AND THE VIABILITY OF THOSE HOSPITALS AS IMPORTANT CONTRIBUTORS TO THE CITY'S ECONOMY; FINDING AND DETERMINING THAT CERTAIN REAL PROPERTY IS SPECIALLY BENEFITED BY THE INCREASED CHARITY CARE; MAKING CERTAIN OTHER FINDINGS IN RELATION THERETO; ESTABLISHING THE METHOD OF ASSESSING AND COLLECTING THE ASSESSMENT AGAINST THE REAL PROPERTY; ESTABLISHING A PUBLIC HEARING TO CONSIDER IMPOSITION OF THE PROPOSED ASSESSMENT AND THE METHOD OF ITS COLLECTION; AUTHORIZING AND DIRECTING THE PUBLICATION AND MAILING OF NOTICES IN CONNECTION THEREWITH, IF NECESSARY; PROVIDING FOR CERTAIN OTHER AUTHORIZATIONS AND DELEGATIONS OF AUTHORITY IN RELATION THERETO; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, each year, hospitals in Orlando provide millions of dollars of uncompensated charity health care to indigent members of the Central Florida community; and

WHEREAS, the State of Florida (the "State") created a Low-Income Pool program (the "LIP Program") through its federal Medicaid waiver to help support the uncompensated costs of providing charity care to uninsured and low-income patients; and

WHEREAS, the State has been unable to provide the full allowable LIP Program support to certain eligible hospitals due to an inability to fund the mandatory non-federal share of the LIP payments; and

WHEREAS, the impacted hospitals (the "Hospitals") have requested that the City of Orlando, Florida (the "City") impose an assessment upon certain real property owned by the Hospitals to help finance that non-federal share of the State's LIP Program; and

WHEREAS, the funding from the City assessment will be transferred to the State to enable the State to draw down a federal match equal to approximately 150% of the assessed funds, thereby allowing the State to pay certain eligible Hospitals a much higher percentage of their uncompensated charity care costs to maintain and even expand their charity care programs; and

WHEREAS, the City, like many local governments, has an interest in promoting access to healthcare to its uninsured and low-income residents, as well as the broader community; and

WHEREAS leveraging federal support for certain eligible hospitals to continue to provide that care benefits all providers in the City who would otherwise take on a greater share of that burden; and

WHEREAS, imposing an assessment to help fund the provision of charity health care by the Hospitals to indigent and uninsured members of the Central Florida community is a valid public purpose that benefits the health, safety and welfare of the citizens of Orlando; and

WHEREAS ensuring the financial stability and viability of the hospitals providing such charity health care supports important contributors to Orlando's economy; and

WHEREAS, on January 22, 1996, the City Council of the City of Orlando, Florida (the "City Council") enacted its Home Rule Special Assessment Ordinance, as amended on April 26, 1999, enabling the City to levy non-ad valorem assessments on properties within the jurisdictional limits of the City that are specially benefited by certain local improvements or local services; and

WHEREAS, the City wishes to hereby levy and collect a non-ad valorem assessment against certain real property in Downtown Orlando within the City limits, specifically the Hospital Property located at 601 E. Rollins St., Orlando Florida, 32803 [Parcel ID 13-22-29-2780-01-000], 1400 S. Orange Ave., Orlando Florida 32806 [Parcel ID 35-22-29-6389-01-000] and 12535 Nemours Pkwy., Orlando Florida 32827 [Parcel ID 25-24-30-6052-01-000] (the "Assessment Area"); and

WHEREAS, after providing the required notice by mail and by publication of the levy of the non-ad valorem assessment, unless such notice requirement is expressly waived by all of the Owners of the assessed real property, the City Council will hold a public hearing to hear testimony and receive evidence in considering the adoption of a Final Assessment Resolution and a Non-Ad Valorem Assessment Roll; and

WHEREAS, Section 197.3631, Florida Statutes, provides alternative methods of collection, which shall not require the tax collector or property appraiser to perform services described in the uniform method of collection and its notice requirements.

WHEREAS, the City anticipates using the alternative method for collection of the non-ad valorem assessment as described in Section 52.21 of the Ordinance (the "Alternative Method").

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA, THAT:

Section 1. Definitions. As used in this Resolution, the following capitalized terms, not otherwise defined herein or in the Ordinance, shall have the following meanings, unless the context hereof otherwise requires.

"Assessment" means the assessment on providers of outpatient hospitals services within Orlando City limits, as defined herein.

“Delinquent” means not paid within thirty (30) days of the due date.

“Designated City Official” means the Chief Financial Officer, or such other official as shall be designated by the Mayor or Mayor Pro Tem to act as such hereunder, or such person’s designee.

“Local Service” means the provision of charity health care by the Hospitals to indigent and uninsured members of the Central Florida community.

“Ordinance” means the Home Rule Special Assessment Ordinance enacted by City Council on January 22, 1996, and amended on April 26, 1999 (codified as Chapter 52 of the Orlando City Code), enabling the City to levy non-ad valorem assessments on properties within the jurisdictional limits of the City that are specially benefited by certain local improvements or local services.

“Owner,” “Owner(s),” or “Owners” means any one or more of the owners of the real property within the Assessment Area determined by the City Council to be subject to the Assessment based on the selected methodology defined herein.

Section 2. Interpretation. Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder” and similar terms refer to this Resolution; and the term “hereafter” means after, and the term “heretofore” means before, the effective date of this Resolution. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

Section 3. Authority. This Resolution is adopted pursuant to Section 2(b), Article VIII of the Constitution of the State of Florida, Parts I and III of Chapter 166, Florida Statutes, and the Ordinance (collectively the "Act").

Section 4. Findings. It is hereby ascertained, found, determined and declared by the City Council that:

(A) Article VIII of the Florida Constitution, and Sections 166.021 and 166.041, Florida Statutes, grant to a city all powers of local self-government to perform city functions and to render services for city purposes in a manner not inconsistent with general law, or with special law approved by vote of the electors, and such power may be exercised by enactment of ordinances and resolutions.

(B) The Ordinance was enacted to provide for the creation of special assessment areas and authorizes the imposition of assessments to provide for Local Services.

(C) The City’s support for hospital charity care through leveraging local funding and Medicaid federal matching funds constitutes Local Services, as defined in the Ordinance.

(D) The City’s decision to leverage available funding to support the provision of hospital charity care programs through LIP funding serves a public purpose by supporting the provision of health care to indigent members of the Central Florida community, supporting the other providers who would otherwise take on such charity care, and supporting the viability of certain LIP eligible hospitals as important institutions to the City economy, and, therefore, the assessment is in the best interest of the health, safety and welfare of the citizens of Orlando.

(E) The Assessment to be imposed in accordance with this Resolution provides an equitable method of funding increased charity care.

(F) A reasonable methodology has been applied in determining the basis and rate of the assessment and which hospitals are subject to the assessment within the jurisdictional limits of the City (the Assessed Hospitals).

Section 5. Special Assessment. There is hereby authorized and imposed a non-ad valorem assessment the amount of which shall be computed in accordance with Section 8 herein. The Assessments shall be imposed, levied, collected and enforced against certain providers of outpatient hospital services located within Orlando City limits to fund the non-federal share of LIP payments to certain eligible Hospitals for uncompensated costs of charity care. When imposed by this Resolution, the Assessment shall constitute a lien upon the Assessed Hospitals equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments, and failure to pay may cause foreclosure proceedings to be instituted which could result in loss of title. The Assessment will be billed and collected as provided in Section 10 hereof and in the Ordinance. In addition to other remedies available at law or equity, the collection and enforcement of the aforesaid Assessment when utilizing the Orange County Real Property Tax Bill (the “Tax Bill”) pursuant to the Alternative Method shall be by the Orange County Tax Collector and shall be at the same time and in like manner as ad valorem taxes and subject to all ad valorem tax collection and enforcement procedures afforded to use of the official annual real property tax notice.

Section 6. Duration of Assessment. It is the intent of the City Council that the lien created through imposition of the Assessment shall be for a duration of one-year.

Section 7. Assessment Scope, Basis and Use.

(A) The Assessment pursuant to this resolution shall be imposed on all providers of outpatient hospital services with the City limits, which is limited to Florida Hospital, Orlando Health and Nemours. The City will assess gross outpatient hospital service revenues, minus gross Medicaid outpatient hospital revenues.

(B) The amounts collected from the Assessment may only be used for the following purposes:

(1) to transfer funds to the Agency for Health Care Administration (“AHCA”) for the purposes of providing local funding for the non-federal share of LIP payments to eligible Hospitals in “Tier III” of the SFY 2017-18 LIP Model Summary as posted to AHCA’s web site; or

(2) to refund to Assessed Hospitals any overpayment or amounts otherwise collected in error with respect to the Assessment.

(C) In the event that all or a portion of the LIP payments are recouped by the federal government and the associated non-federal share funded by the Assessment is returned to the City, the City will refund such amounts to the Assessed Hospitals.

Section 8. Computation of Assessment.

(A) The annual installment of the Assessment shall equal 1.54 percent of gross outpatient hospital service revenue (after subtracting gross Medicaid outpatient hospital revenue), for each hospital subject to the Assessment.

(B) Gross outpatient hospital services revenue data for each hospital will be derived from the 2016 Florida Hospital Uniform Reporting System, as available from AHCA.

(C) The full amount of the annual assessment is payable by June 12, 2018.

Section 9. Preliminary Non-Ad Valorem Assessment Roll; Notice. The City Council does hereby authorize and direct the appropriate City official to (a) prepare a final estimate of the amount of non-federal share funding required to finance the available LIP payments to eligible Orlando Hospitals, subject to federal limits on provider assessment rates (b) prepare a Preliminary Non-Ad Valorem Assessment Roll in accordance with Sec. 52.09 of the Ordinance, (c) maintain a copy of the estimated Preliminary Non-Ad Valorem Assessment Roll on file in his or her office open to public inspection and (d) publish in a newspaper of general circulation and, unless waived, send by first class United States mail to the Owners, in accordance with Section 197.3632, Florida Statutes, notice of the levy of the Assessment and of the date, time and place of the City Council meeting at which the Final Assessment Resolution and the Non-Ad Valorem Assessment Roll will be considered for adoption.

The foregoing shall not be construed to require that the Preliminary Non-Ad Valorem Assessment Roll be in printed form if the amount of the Assessment for each Tax Parcel can be determined by use of a computer terminal available to the public.

Section 10. Timing and Method of Collection.

(A) The amount of the assessment is to be collected pursuant to the Alternative Method.

(B) The City shall provide Assessment bills by first class mail to the owner of each affected hospital, other than Government Property. The bill or accompanying explanatory material shall include (1) a brief explanation of the Assessment, (2) a description of the methodology used to determine the amount of the Assessment, (3) the total amount of the hospital's Assessment for the appropriate period, (4) the location at which payment will be accepted, (5) the date on which the Assessment is due, and (6) a statement that the Assessment constitutes a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments.

(C) A general notice of the lien resulting from imposition of the Assessment shall be recorded in the Official Records of Orange County, Florida. Nothing herein shall be construed to require that individual liens or releases be filed in the Official Records.

(D) The Hospitals shall pay to the City the full assessment as soon as practicable upon the passing of this Resolution, but in no event later than the date set forth in section 8(C) above.

Section 11. Public Hearing. A public hearing will be conducted by the City Council on June 11, 2018 at 2:00 p.m. or as soon thereafter as the matter may be heard, in Council Chambers at City Hall, 400 South Orange Avenue, Orlando, Florida 32801, to consider adoption of a Final Assessment Resolution for the imposition and collection of the Assessment.

Section 12. Notice by Publication. Upon completion of the materials required by Section 10, the appropriate City official, at the time and in the manner provided in Section 52.10 of the Ordinance, shall publish a notice of the public hearing authorized by Section 16 herein.

Section 13. Notice by Mail. Upon completion of the materials required by Section 10, the appropriate City official, at the time and in the manner specified in Section 52.11 of the Ordinance, shall, unless expressly waived by the Owner(s), provide first class mailed notice of the public hearing authorized by Section 11 herein to each Owner proposed to be assessed at their last known address indicated on the Orange County Tax Roll.

Section 14. Direction to Mail Copies. The City Council does hereby authorize and direct the appropriate City officials to send a copy of this Resolution by United States Mail to the Orange County Property Appraiser, the Orange County Tax Collector, and to the State of Florida Department of Revenue.

Section 15. Release of Lien Authorization. The City Council does hereby authorize the Mayor, Mayor Pro Tem or the Chief Financial Officer to execute, along with the signature of the City Clerk or Deputy City Clerk and the City Seal, any satisfaction of lien or release of lien to be issued with respect to the Benefited Properties. Notwithstanding the foregoing, nothing herein shall be construed to require that individual liens or releases be filed in the Official Records.

Section 16. Other Authorizations. The proper City officials and employees are hereby authorized to (a) do all things necessary to carry out the terms and conditions of this Resolution, consistent with the intent of the City Council, including, if necessary, contracting with the Orange County Property Appraiser and the Orange County Tax Collector to administer the levy and collection of the Assessment, provided that any such proposed agreements or contracts shall be presented to the City Council for its consideration, and (b) record a copy of this Resolution and any other necessary notice in the Public Records of Orange County, Florida, to preserve the status of the lien created hereby on all properties in the Assessment Area against all the world, including any subsequent purchasers of the affected properties.

Section 17. Severability. If any clause, section or provision of this Resolution shall be declared unconstitutional or invalid for any reason or cause, the remaining portion hereof shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

Section 18. Effective Date. This Resolution to be effective immediately upon adoption.

This Resolution duly adopted this ____ day of May, 2018.

CITY OF ORLANDO

Attest:

Mayor/Mayor Pro Tem

Denise Aldridge, City Clerk

(SEAL)

APPROVED AS TO FORM AND LEGALITY
for the use and reliance of the City of Orlando,
Florida only.

_____, 2018.

City Attorney
Orlando, Florida