

**RESOLUTION NO. # 2022 - 149**

**AN ASSESSMENT RESOLUTION OF THE BOARD OF COUNTY  
COMMISSIONERS OF COLLIER COUNTY, FLORIDA,  
AUTHORIZING AND ADOPTING A NON-AD VALOREM  
SPECIAL ASSESSMENT WITHIN THE COUNTY LIMITS FOR  
THE PURPOSE OF BENEFITING ASSESSED PROPERTIES  
THROUGH ENHANCED MEDICAID PAYMENTS FOR LOCAL  
SERVICES; FINDING AND DETERMINING THAT CERTAIN  
REAL PROPERTY IS SPECIALLY BENEFITED BY THE  
ASSESSMENT; 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 OF  
NOTICES IN CONNECTION THEREWITH; PROVIDING FOR  
CERTAIN OTHER AUTHORIZATIONS AND DELEGATIONS  
OF AUTHORITY AS NECESSARY; AND PROVIDING AN  
EFFECTIVE DATE.**

**WHEREAS**, hospitals in Collier County'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 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**, Hospitals in Collier County (the "County") support a non-ad valorem special assessment upon certain real property interests held by the Hospitals to help finance the non-federal share of the State's Medicaid program; and

**WHEREAS**, the only real properties interests that will be subject to the non-ad valorem assessments authorized herein are those belonging to the Hospitals; and

**WHEREAS**, the County recognizes that one or more of the Hospitals within the County's boundaries may be located upon real property leased from governmental entities and that such Hospitals may be assessed because courts do not make distinctions on the application of special assessments based on "property interests" but rather on the distinction of the classifications of real property being assessed; and

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

**WHEREAS**, the County acknowledges that the Hospital properties assessed will have increased income potential directly and especially from the assessment as a result of the above-described additional funding provided to said Hospitals; and

**WHEREAS**, the County has determined that a logical relationship exists between the services provided by the Hospitals, which will be supported by the assessment, and the special and particular benefit to the real property of the Hospitals; and

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

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

**WHEREAS**, the assessment ensures the financial stability and viability of the Hospitals providing such services; and

**WHEREAS**, the Hospitals are important contributors to the County's economy, and the financial benefit to these 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 County; and

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

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

**WHEREAS**, on June 22, 2021, the Board of County Commissioners adopted Ordinance 2021-23, enabling the County to levy a uniform non-ad valorem special assessment, which is fairly and reasonably apportioned among the Hospitals' property interests within the County'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 Hospital properties.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA:**

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

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

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

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

*Board* means the Board of County Commissioners of Collier County, Florida.

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

*County* means Collier County, 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 County.

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

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

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

*Ordinance* means the Collier County Local Provider Participation Fund Ordinance codified in Chapter 126 of the Collier County Code of Ordinances.

*Tax Collector* means the Collier County Tax Collector.

**Section 2. Authority.** Pursuant to Article VIII, Section 1(f) of the Constitution of the State of Florida, Chapter 125 of the Florida Statutes, and the Collier County Local Provider Participation Fund Ordinance, the Board is hereby authorized to impose a special assessment against private for-profit and not-for-profit hospitals located within the County to fund the non-federal share of Medicaid payments associated with Local Services.

**Section 3. Special Assessment.** The non-ad valorem special assessment discussed herein shall be imposed, levied, collected, and enforced against Assessed Properties located within the County. Proceeds from the Assessment shall be used to benefit Assessed Properties through enhanced Medicaid payments from programs, including the hospital directed payment program and graduate medical education program, that will benefit the Assessed Properties for Local Services.

When imposed, the Assessment shall constitute a lien upon the Assessed Properties owned by Hospitals and/or a lien upon improvements on the Property made by Hospital leaseholders equal in rank and dignity with the liens of all state, county, district, or municipal taxes and other non-ad valorem assessments. Payments made by Assessed Properties may not be passed along to patients of the Assessed Property as a surcharge or as any other form of additional patient charge. Failure to pay may cause foreclosure proceedings, which could result in loss of title, to commence.

**Section 4. Assessment Scope, Basis, and Use.** Funds generated from the Assessment shall be used only to:

1. Provide to the Florida Agency for Health Care Administration the non-federal share for Medicaid payments, including the hospital directed payment program and graduate medical education program, to be made directly or indirectly in support of hospitals serving Medicaid beneficiaries; and
2. Reimburse the County for administrative costs associated with the implementation of the Assessment authorized by the Ordinance.

If, at the end of the Fiscal Year, additional amounts remain in the local provider participation fund, the Board is hereby authorized either (a) to refund to Assessed Properties, in proportion to amounts paid in during the Fiscal Year, all or a portion of the unutilized local provider participation fund, or (b) to retain such amounts in the fund to transfer to the Agency in the next fiscal year for use as the non-federal share of Medicaid hospital payments.

If, after the Assessment funds are transferred to the Agency, the Agency returns some or all of the transferred funding to the County (including, but not limited to, a return of the non-federal share after a disallowance of matching federal funds), the Board is hereby authorized to refund to Assessed Properties, in proportion to amounts paid in during the Fiscal Year, the amount of such returned funds.

**Section 5. Computation of Assessment.** The Assessment shall equal 0.69% of net patient revenue for each Assessed Property specified in the attached Non-Ad Valorem Assessment Roll. 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 cost reports and/or in the Florida Hospital Uniform Reporting System, as available from the Florida Agency for Health Care Administration.

**Section 6. Timing and Method of Collection.** The amount of the assessment is to be collected pursuant to the Alternative Method outlined in §197.3631, Fla. Stat.

The County shall provide Assessment bills by first class mail to the owner of each affected Hospital. The bill or accompanying explanatory material shall include: (1) a reference to this Resolution, (2) the total amount of the hospital's Assessment for the appropriate period, (3) the location at which payment will be accepted, (4) the date on which the Assessment is due, and (5) a

statement that the Assessment constitutes a lien against assessed property and/or improvements equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments.

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 Ordinance and this resolution.

**Section 7. Public Hearing.** Per the notice provided on September 7, 2022, the Board has heard and considered objections of all interested persons prior to rendering a decision on the Assessment and attached Non-Ad Valorem Assessment Roll.

**Section 8. 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.

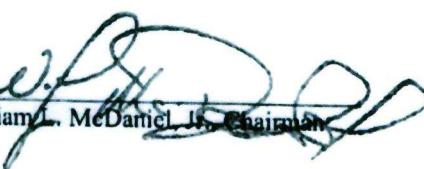
**Section 9. Severability.** If any clause, section, or provision of this resolution is declared unconstitutional or invalid for any reason or cause, the remaining portion hereof shall be in full force and effect and shall be valid as if such invalid portion thereof had not been incorporated herein.

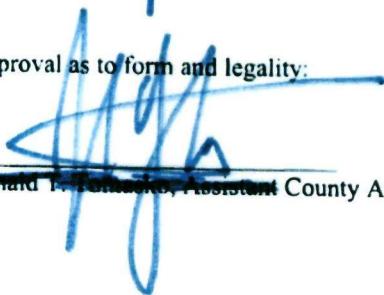
**Section 10. Effective Date.** This Resolution to be effective immediately upon adoption. This Resolution duly adopted this 27<sup>th</sup> day of September, 2022.

BOARD OF COUNTY COMMISSIONERS  
COLLIER COUNTY, FLORIDA

ATTEST  
CRYSTAL K. KINZEL, CLERK

BY: 

By:   
William L. McDaniel, Jr., Chairman

Approval as to form and legality: 

Richard T. Madsen, Assistant County Attorney

RG  
09/21/2022  
CAB

## Directed Payment Program Letter of Agreement

THIS LETTER OF AGREEMENT (LOA) is made and entered into in duplicate on the 27<sup>th</sup> day of September 2022, by and between Collier County (the "IGT Provider") on behalf of Region 8, and the State of Florida, Agency for Health Care Administration (the "Agency"), for good and valuable consideration, the receipt and sufficiency of which is acknowledged.

### DEFINITIONS

"Intergovernmental Transfers (IGTs)" means transfers of funds from a non-Medicaid governmental entity (e.g., counties, hospital taxing districts, providers operated by state or local government) to the Medicaid agency. IGTs must be compliant with 42 CFR Part 433 Subpart B.

"Medicaid" means the medical assistance program authorized by Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., and regulations thereunder, as administered in Florida by the Agency.

"Directed Payment Program (DPP)," pursuant to the General Appropriation Act, Laws of Florida 2021-156, is the program that provides direct supplemental payments to eligible public and private entities that provide inpatient and outpatient services to Medicaid managed care recipients.

### A. GENERAL PROVISIONS

1. Per House Bill 5001, the General Appropriations Act of State Fiscal Year 2022-2023, passed by the 2022 Florida Legislature, the IGT Provider and the Agency agree that the IGT Provider will remit IGT funds to the Agency in an amount not to exceed the total of \$7,231,349.00. The IGT Provider and the Agency have agreed that these IGT funds will only be used for the DPP program.
2. The IGT Provider will return the signed LOA to the Agency.
3. The IGT Provider will pay IGT funds to the Agency in an amount not to exceed the total of \$7,231,349.00. The IGT Provider will transfer payments to the Agency in the following manner:
  - a. Per Florida Statute 409.908, annual payments for the months of July 2022 through June 2023 are due to the Agency no later than October 31, 2022, unless an alternative plan is specifically approved by the agency.
  - b. The Agency will bill the IGT Provider when payment is due.
4. The IGT Provider and the Agency agree that the Agency will maintain necessary records and supporting documentation applicable to health services covered by this LOA in accordance with public records laws and established retention schedules.
  - a. AUDITS AND RECORDS
    - i. IGT Provider agrees to maintain books, records, and documents (including

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electronic storage media) pertinent to performance under this LOA in accordance with generally accepted accounting procedures and practices, which sufficiently and properly reflect all revenues and expenditures of funds provided.

- ii. IGT Provider agrees to assure that these records shall be subject at all reasonable times to inspection, review, or audit by state personnel and other personnel duly authorized by the Agency, as well as by federal personnel.
- iii. IGT Provider agrees to comply with public record laws as outlined in section 119.0701, Florida Statutes.

b. RETENTION OF RECORDS

- i. The IGT Provider agrees to retain all financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to performance under this LOA for a period of six (6) years after termination of this LOA, or if an audit has been initiated and audit findings have not been resolved at the end of six (6) years, the records shall be retained until resolution of the audit findings.
- ii. Persons duly authorized by the Agency and federal auditors shall have full access to and the right to examine any of said records and documents.
- iii. The rights of access in this section must not be limited to the required retention period but shall last as long as the records are retained.

c. MONITORING

- i. IGT Provider agrees to permit persons duly authorized by the Agency to inspect any records, papers, and documents of the IGT Provider which are relevant to this LOA.

d. ASSIGNMENT AND SUBCONTRACTS

- i. The IGT Provider agrees to neither assign the responsibility of this LOA to another party nor subcontract for any of the work contemplated under this LOA without prior written approval of the Agency. No such approval by the Agency of any assignment or subcontract shall be deemed in any event or in any manner to provide for the incurrence of any obligation of the Agency in addition to the total dollar amount agreed upon in this LOA. All such assignments or subcontracts shall be subject to the conditions of this LOA and to any conditions of approval that the Agency shall deem necessary.
5. This LOA may only be amended upon written agreement signed by both parties. The IGT Provider and the Agency agree that any modifications to this LOA shall be in the same form, namely the exchange of signed copies of a revised LOA.
6. IGT Provider confirms that there are no pre-arranged agreements (contractual or otherwise) between the respective counties, taxing districts, and/or the providers to redirect any portion of these aforementioned supplemental payments in order to satisfy non-Medicaid, non-uninsured, and non-underinsured activities.

7. IGT Provider agrees the following provision shall be included in any agreements between IGT Provider and local providers where IGT funding is provided pursuant to this LOA. Funding provided in this agreement shall be prioritized so that designated IGT funding shall first be used to fund the Medicaid program and used secondarily for other purposes.
8. This LOA covers the period of July 1, 2022 through June 30, 2023 and shall be terminated September 30, 2023, which includes the states certified forward period.
9. This LOA may be executed in multiple counterparts, each of which shall constitute an original, and each of which shall be fully binding on any party signing at least one counterpart.

DPP Local Intergovernmental Transfers	
Program / Amount	State Fiscal Year 2022-2023
Estimated IGTs	\$7,231,349.00
<b>Total Funding Not to Exceed</b>	<b>\$7,231,349.00</b>

IN WITNESS WHEREOF, the parties have caused this page Letter of Agreement to be executed by their undersigned officials as duly authorized.

BCC:   
SIGNED BY: \_\_\_\_\_  
NAME: William L. McDaniel, Jr., Chairman  
TITLE: Chairman  
DATE: 9/27/2022

STATE OF FLORIDA, AGENCY FOR  
HEALTH CARE ADMINISTRATION

SIGNED BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_

ATTEST  
CRYSTAL K. KINZEL, CLERK  
BY: 

Approved as to form and legality

Jeffrey A. Klatzkow, County Attorney