PUBLIC NOTICE – ADOPTION OF ORDINANCE

The Ordinance published herewith has been finally adopted after a PUBLIC HEARING held on March 18, 2021 at 12:00 P.M., at the Camden County Courthouse, 520 Market Street, 16th Floor Conference Room, Camden, New Jersey. A First Reading was introduced and approved on February 18, 2021, by the Camden County Board of Commissioners in the City of Camden, County of Camden, New Jersey and the 20-day period of limitation within which a suit, action or proceeding questioning the validity of such Ordinance can be commenced, as provided by applicable law, has begun to run from the date of the first publication of this statement

AN ORDINANCE OF THE COUNTY OF CAMDEN AUTHORIZING AND ADOPTING AN ASSESSMENT ON CERTAIN SERVICES FURNISHED BY HOSPITALS LOCATED WITHIN THE COUNTY'S BORDERS FOR THE PURPOSE OF INCREASING FUNDING TO SUPPORT THE PROVISION OF NECESSARY SERVICES BY SUCH HOSPITALS TO LOW-INCOME CITIZENS AND PROVIDE NEW FISCAL RESOURCES TO THE COUNTY OF CAMDEN.

WHEREAS, hospitals in Camden County (the "County") provide essential services and serve a critical role in promoting the health of the County's citizens and expanding access to care throughout the community; and

WHEREAS, each year, hospitals in the County provide millions of dollars of uncompensated health care to Medicaid and uninsured patients; and

WHEREAS, on November 1, 2018, the State of New Jersey (the "State") Legislature enacted the County Option Hospital Fee Pilot Program (the "County Option Program") to help support local hospitals in designated counties and ensure the provision of necessary services to low-income patients (P.L.2018, c. 136); and

WHEREAS, pursuant to P.L.2018, c. 136, the County is eligible to participate in the County Option Program and is thereby authorized to impose an Assessment on hospitals located within the County's borders; and

WHEREAS, the funding from the County Assessment will be transferred to the Division of Medical Assistance and Health Services ("DMAHS") to enable the State to draw down federal matching funds to support a rate increase in payments to hospitals in the County for certain services furnished to Medicaid/NJ FamilyCare beneficiaries; and

WHEREAS, the County, through its contracted attorneys, has developed a model to participate in the County Option Program, based on a comprehensive process of consulting and gathering feedback from all Assessed Hospitals; and

WHEREAS, the consultation process consisted of educating all Assessed Hospitals on the intent and goals of the Program and associated requirements, supporting hospital submission of required data forms, presenting available options to all Assessed Hospitals and hosting multiple hospital-wide discussions and follow-up discussions as requested, and soliciting written feedback from all Assessed Hospitals to inform the County's Assessment selection; and

WHEREAS, on December 16, 2020, the County submitted the required Fee & Expenditure Report to DMAHS describing its proposed model and on January 29, 2021, DMAHS approved the proposal; and

WHEREAS, the County has an interest in supporting access to health care to its low-income residents, as well as the broader community through support of necessary care provided by local hospitals; and

WHEREAS, imposing an assessment to help fund the provision of necessary care by local hospitals to low-income patients in the County is a valid public purpose that benefits the health, safety and welfare of its citizens; and

WHEREAS, ensuring the financial stability and viability of local hospitals providing such necessary health care supports important contributors to the County's economy; and

WHEREAS, the County desires to participate in the County Option Program through the model described in the approved Fee and Expenditure Report including by levying and collecting an Assessment on certain services furnished by hospitals located within the County's borders more specifically described herein.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of the County of Camden, that:

Section 1. <u>Recitals</u>. The Recitals set forth above are hereby incorporated by reference.

Section 2. <u>Definitions</u>. As used in this Ordinance, the following capitalized terms, not otherwise defined herein, shall have the following meanings, unless the context hereof otherwise requires.

"Assessment" means the assessment imposed and levied upon the Assessed Hospitals as defined herein.

"Assessment Notice" means the notice distributed to each Assessed Hospital at the beginning of each Program Year specifying the annual Assessment owed and the quarterly Assessment amounts owed by each Assessed Hospital, and any additional elements specified herein.

“Assessed Revenues” means, with respect to each Assessed Hospital, the total amount of net inpatient hospital service revenues reported on the most recent “Data Form for County Option Hospital Fee Pilot Program” prepared by the Assessed Hospital and submitted to the State prior to the effective date of this Ordinance. Such net inpatient hospital service revenues are determined by subtracting Lines 2, 3, and 5 of Column A from the total net inpatient revenues reported in Line 1 of Column A of such data form.

“Assessed Hospitals” means the hospital facilities located within County’s borders that provide inpatient hospital services.

“Directed Payments” means the Medicaid managed care rate increase payments distributed by DMAHS through the Managed Care Organizations to hospitals as authorized under the County Option Program.

“Implementation Date” means July 1, 2021 provided that the County Option Program has received all necessary federal approvals, but in no case shall the Assessment be implemented if the County has not entered into an Intergovernmental Agreement consistent with Section 11.

"Intergovernmental Agreement” means the agreement between the County and DMAHS governing the transfer of the Assessment funds collected from the Assessed Hospitals.

"Managed Care Organizations” means the health plans under contract with DMAHS to provide covered services to Medicaid beneficiaries through the Medicaid/NJ FamilyCare program and that will be directed to distribute Medicaid managed care rate increase payments to hospitals under the County Option Program.

“Program Year” means each 12-month period of the County Option Program, beginning with July 1, 2021 through June 30, 2022.

“Quarterly Assessment Invoice” means the notice distributed to each Assessed Hospital prior to each quarterly Assessment due date specifying the quarterly Assessment amount due, any interest incurred, and any additional elements specified herein.

Section 3. <u>Authority</u>. This Ordinance is adopted pursuant to P.L.2018, c. 136.

Section 4. <u>Assessment Scope, Basis and Use</u>.

(A) There is hereby imposed on all Assessed Hospitals an Assessment calculated as set forth in Section 5, to take effect on the Implementation Date.

(B) The County shall use the amounts collected from the Assessment only as follows:

(1) The County shall transfer 91% of total collected funds to DMAHS to be used as outlined in the Intergovernmental Agreement, described in Section 11.

(2) The County shall retain 9% of total collected funds to be allocated as directed by the Board of County Commissioners.

(C) In the event that DMAHS returns all or a portion of the transferred Assessment funds to the County, the County shall refund to each Assessed Hospital within 15 days of receipt the pro rata portion of such funds.

(D) In the event that an individual Assessed Hospital is determined to have overpaid their Assessment or otherwise paid in error, the County shall refund the overpayment or the amount paid in error to the Assessed Hospital within 15 days of the later of:
(1) Discovering the overpayment or error, if the funds have not been transferred to DMAHS, or
(2) Receipt of a refund of the overpayment or amount paid in error if the funds have been transferred to DMAHS.

(E) Assessed Hospitals shall not pass on the cost of the fee to any patient, insurer, self-insured employer program, or other responsible party, nor list it separately on any invoice or statement sent to a patient, insurer, self-insured employer program, or other responsible party.

Section 5. Computation of Assessment.

(A) The annual Assessment for each Assessed Hospital shall equal 4.16% of Assessed Revenues.

(B) The annual Assessment amounts for each Assessed Hospital, calculated pursuant to (A), equal the following:
(1) Cooper Hospital University Medical Center, $20,923,233
(2) Virtua West Jersey - Voorhees, $12,451,662
(3) Virtua – Our Lady of Lourdes, $8,575,853
(4) Jefferson University Hospitals, $9,041,383
(5) Northbrook Behavioral Health Hospital, $1,626,130

(C) The annual Assessment shall be payable in four quarterly installments, each to equal 25% of the annual Assessment amount.

Section 6. Assessment Notice.

(A) At least 30 days prior to the due date of the first Assessment of each Program Year, the County shall provide an Assessment Notice by first class mail and/or electronic mail to the owner of each Assessed Hospital.

(B) The Assessment Notice shall include (1) a brief explanation of the Assessment, (2) a description of the methodology used to determine the Assessment amount, (3) the annual Assessment amount owed by the Assessed Hospital for the upcoming Program Year, (4)

the quarterly Assessment amounts owed by the Assessed Hospital for the Program Year; (5) the acceptable methods of payment, (6) the dates on which each quarterly Assessment is due, (7) the interest rate that will be charged for late payments; and (8) a statement of the Assessed Hospital's appeal right and the timing and requirements of such appeal.

Section 7. Assessment Invoice.

(A) At least 20 days prior to each quarterly Assessment due date, the County shall provide an Assessment Invoice by first class mail and/or electronic mail to the owner of each Assessed Hospital.

(B) The Assessment Invoice shall include (1) the Assessment amount due for the relevant quarter, including any accrued interest from prior quarters, (2) the acceptable methods of payment, and (3) the due date of such payment.

Section 8. Interest. Should an Assessed Hospital fail to remit the quarterly Assessment amount by the date specified in the Assessment Invoice, the County may require the Assessed Hospital to pay interest in the amount of 1.5% of the outstanding payment amount per month, to be added to the following quarter's Assessment Invoice.

Section 9. Appeals.

(A) Upon receipt of the County's Assessment Notice at the beginning of each Program Year, Assessed Hospitals shall have 15 days to file an appeal of the Assessment amount stated in the Assessment Notice with the County's Appeal Tribunal.

(B) All appeals shall be in writing and shall indicate the specific basis for the appeal and shall include all documentation in support thereof. The appeals shall be made to the County's Appeal Tribunal which shall consist of the County Administrator, County Treasurer, and County Counsel. The Appeal Tribunal shall review the appeal submission and shall provide the appealing party with an opportunity to make an oral presentation if so desired. The Appeal Tribunal shall render a written decision within 15 days in any case where an oral presentation is made or within 15 days of receipt of the written appeal materials where no oral presentation is requested. The decision of the Appeal Tribunal shall be final, binding, and no further appeal may be taken.

Section 10. Requirement to Submit Necessary Documentation. Assessed Hospitals shall submit any data forms related to the County Option Program requested by the County by the due date specified by the County.

Section 11. Intergovernmental Agreement. The County is authorized to enter into an Intergovernmental Agreement with DMAHS governing the transfer of Assessment funds from the County to the State. The agreement shall include the following:

(A) Timing requirements for the transfer of Assessment funds from the County to DMAHS, from DMAHS to the Managed Care Organizations, and from the Managed Care Organizations to the hospitals.

(B) A requirement that DMAHS use 90% of the Assessment amount to fund the non-federal share of Directed Payments under the County's County Option Program, except that DMAHS may permit the Managed Care Organizations that make the Directed Payments to retain up to 5% of the total amount paid to them exclusively to cover their incremental cost of any state insurance premium tax.

(C) Assurances that the County will not be liable for any unpaid Assessment amounts and will only be responsible for transferring Assessed funds to the extent received by the Assessed Hospitals.

(D) A requirement that DMAHS return to the County the non-federal share of any Directed Payment funds recouped by DMAHS from Assessed Hospitals.

(E) A statement that any resulting Medicaid/NJ Family Care payments distributed under the County Option Program shall not supplant or otherwise offset payments made to hospitals from other State or federal funding mechanisms or pools, except that payments may be otherwise limited to the hospital's hospital-specific disproportionate share limit as provided in Section 1923(g) of the Social Security Act (42 U.S.C. § 1394r-4).

(F) Assurances that funds generated by the Assessment shall not supplant or offset any current or future State funds allocated to the County.

Section 12. <u>Termination</u>. The Assessment shall terminate upon expiration of the County Option Program under state law, unless any of the following conditions occur earlier:

(A) DMAHS notifies the County that the Assessment funds do not qualify as the State share of Medicaid program expenditures eligible for federal financial participation.

(B) The Assessment is otherwise finally determined to be unlawful under County, State, or Federal law by an agency or court competent to make such a final determination; or

(C) The County Option Program is terminated or fails to obtain required approval or reapproval by the federal Centers for Medicare and Medicaid Services; or

(D) The Intergovernmental Agreement described in Section 11 is terminated or no longer meets the conditions described in such section.

Section 13. Impact of Termination. In the event that the Assessment terminates early pursuant to Section 12 (A)-(D), the County shall refund to each Assessed Hospital within 15 days of the effective date of such termination the pro rata portion of:

(A) Any funds that have not been transferred to DMAHS or that DMAHS returns to the County; and

(B) Any of the portion allocated for the County's use pursuant to Section 4(B)(2) that has not already been spent or irrevocably allocated for its designated purposes.

Section 14. Public Hearing. A public hearing for the purpose of hearing persons interested in or affected by this proposed Ordinance authorizing the Assessment shall be held on March 18, 2021 at 12 noon at the Camden County Courthouse, 520 Market Street, Camden, New Jersey. Due to the current State of Emergency and Public Health Emergency declared by Governor Phil Murphy pursuant to Executive Order and in an effort to prevent the further spread of COVID-19, the general public will be excluded from attending the Public Hearing in person. The meeting will be streamed live via https://www.camdencounty.com/live where members of the public can view and participate via the live feed.

Section 15. Severability. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be judged invalid such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so judged, and the remainder of the Ordinance shall be deemed valid and effective.

Section 16. Effective Date. This Ordinance shall take effect 20 days following final adoption and publication in accordance with applicable law; provided, however, that in no event shall this Ordinance become effective until such date as the Local Finance Board shall render findings in connection with the matters set forth herein, in satisfaction of the provisions of N.J.S.A. 40A:5A-7.