

RESOLUTION NO. 105

APPROVING STEPS NECESSARY TO CREATE A LOCAL DEVELOPMENT CORPORATION REFERRED TO AS “THE ALBANY COUNTY HEALTH FACILITIES CORPORATION” AND MOVE FORWARD WITH THE TRANSFER OF THE MANAGEMENT AND OPERATION OF THE ALBANY COUNTY NURSING HOME TO SAID NEWLY CREATED CORPORATION

Introduced: 3/10/14

By Special Committee on Elder Care, Messrs. Beston, Bullock, Ms. Chapman, Messrs. Clay, Clenahan, Commisso, Corcoran, Cotrofeld, Ethier, Feeney, Higgins, Jacobson, Ms. Kinsch, Mr. Mackey, Mayo, Mss. McLean Lane, McKnight, Messrs. Nichols, O'Brien, Simpson, Ward and Joyce:

WHEREAS, By Resolution No. 243-a (2013), adopted on February 10, 2014, this Honorable Body authorized the formation of a local development corporation regarding the ongoing operation of the Albany County Nursing Home and further appointed seven members of the Board of Directors, and

WHEREAS, After significant research and analysis, it has been determined that Albany County may cause the incorporation of a local development corporation (the “Corporation”) formed under the Section 1411 of the New York State Not For Profit Corporation Law (“Act”) for purposes that include lessening the burdens of government and acting in the public interest by fostering the creation, retention and expansion of jobs and economic opportunities for the benefit of Albany County (the “County”), New York State and local economies, and assisting the County with the management and operation of underperforming assets, including but not limited to the Facility, and

WHEREAS, The Act further authorizes the Albany County Legislature, by resolution, to determine that certain real property of the County not required for use by the County may be sold or leased to such a local development corporation so formed by the County on such terms as may be agreed by the County, without appraisal or public bidding, and

WHEREAS, In furtherance of the public purposes set forth above, the Albany County Legislature proposes that the County authorize (A) the incorporation of the Corporation under the Act, (B) transfer a leasehold interest in the Facility to said Corporation (the “Transfer”), such leasehold interest to be memorialized within a lease agreement between the County and the Corporation and other documents related to said Transfer (the “Transfer Documents”) providing, among other things, that (1) the County would continue operation of the Facility following such Transfer until such time as the Corporation obtains state approval to operate the Facility (the “Operational Date”), (2) the term of the leasehold interest shall be subject to early termination by the Corporation, (3) the rent obligation of the Corporation under the Transfer Documents will be nominal and (4) subsequent to the

Operational Date, an agreement between the County and the Corporation, whereby the County would continue to furnish employees to the Corporation with respect to the Facility, now, therefore be it

RESOLVED, That the Albany County Legislature authorizes the formation of the local development corporation to be named “the Albany County Health Facilities Corporation” in accordance with the Act, the seven members of which Corporation having been appointed by Resolution No. 243-a (2013), and, be it further

RESOLVED, That this County Legislature approves the form and substance of the certificate of incorporation and by-laws as filed with the Clerk of the Legislature, all in substantially the form thereof presented to the Legislature at this meeting, and, be it further

RESOLVED, That the Corporation is hereby designated as an “on behalf of” issuer of the County pursuant to the Internal Revenue Code of 1986, as amended (the “Code”) for purposes of issuing bonds, notes and other obligations (collectively, the “Obligations”) on behalf of the County in furtherance of its purposes, provided however that any such Obligations incurred by the Corporation shall never be a debt of the State of New York, the County or any political subdivision thereof (other than the Corporation), and neither the State of New York, the County nor any political subdivision thereof (other than the Corporation) shall be liable thereon, and, be it further

RESOLVED, That this County Legislature further determines that the Facility, as an underperforming asset, is not required for use by the County, and hereby authorizes a public hearing to be held with respect to the proposed Transfer, as required by the Act, and, be it further

RESOLVED, That this County Legislature further determines that the foregoing transactions, including the proposed Transfer, collectively constitute a “Type II action” as said term is defined in the State Environmental Quality Review Act (“SEQRA”), and that no further action with respect to same is required under SEQRA, and, be it further

RESOLVED, That the Albany County Attorney is authorized to approve the Transfer Documents along with any other agreements, forms, certificates or applications necessary or convenient to effectuate the foregoing transactions (collectively, the “Transaction Documents”) as to form and content, and, be it further

RESOLVED, That the Clerk of the Albany County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

Adopted by voice vote. 3/10/14