

RESOLUTION NO. 167

AUTHORIZING A LEASE AGREEMENT WITH ACRNC, LLC AS LESSEE AND UPSTATE SERVICES GROUP, LLC, WITH FRS HEALTHCARE CONSULTANTS, INC. AS GUARANTOR REGARDING THE OPERATION OF THE ALBANY COUNTY NURSING HOME

Introduced: 5/13/13

By Mr. Cotrofeld:

WHEREAS, The County Executive has requested to lease the Albany County Nursing Home to a for-profit organization to operate the facility on behalf of the County, and

WHEREAS, The County Executive has recommended that this Honorable Body authorize a lease agreement with ACRNC, LLC (ACRNC) as Lessee, and Upstate Services Group, LLC (USG) with FRS Healthcare Consultants, Inc. (FRS) as Guarantor to operate the Albany County Nursing Home, and

WHEREAS, The terms of the lease shall begin and be effective as of the date that is set forth on the commencement date and shall expire on the day prior to the ten (10) year anniversary of the commencement date, and

WHEREAS, Pursuant to the terms of the proposed lease agreement, the County will terminate all Albany County employees working at the Nursing Home prior to the commencement date, and

WHEREAS, The terms of the lease requires the County, either directly or through a yet to be established LDC, to pay the lessee Eight Million Nine Hundred Thousand Dollars (\$8,900,000) so that the lessee will operate the facility to benefit the indigent and severely infirmed residents of the County and to maintain a safety net for the least able and sickest residents of Albany County, and

WHEREAS, The terms of the lease requires the County to pay Two Million Dollars (\$2,000,000) to the lessee so lessee can undertake and use commercially reasonable efforts to complete unidentified capital improvements and repairs with respect to the facility as identified by lessee and provided to the County in writing, and

WHEREAS, The terms of the proposed lease agreement require ACRNC to pay the County in equal monthly installments with respect to the fixed annual base rent of \$400,000; provided that for any calendar year in the term when the annual Medicaid reimbursable amount is more than fifteen percent less than the annual base rent, it will be reduced to the Medicaid reimbursable rate, and

WHEREAS, In accordance with Resolution No. 61 for 2013, this Honorable Body directed the County Attorney to determine the fair market value of all the equipment used for the operation of the nursing home as verified by the County Comptroller and include the proceeds of the sale of said equipment at fair market value as part of the lease agreement, and

WHEREAS, ACRNC has guaranteed as the operator that the historical mission of the Albany County Nursing Home as a safety net facility will be maintained to benefit the indigent and severely infirmed in their admission standards and that ACRNC will accept those Albany County residents that because of their unique disabilities are hard to place, now, therefore be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to enter into an agreement with ACRNC as lessee and USG with FRS as guarantor regarding the operation of the Albany County Nursing Home for a ten year term in accordance with the terms and contingencies set forth herein, the terms within the lease document as filed with the Clerk, and, be it further

RESOLVED, That the authority to enter into the lease agreement is contingent upon full compliance of Resolution No. 61 for 2013, including the additional amount lessee will be paying for the Nursing Home equipment, subject to the approval of the Legislature, prior to the commencement of the lease, and, be it further

RESOLVED, That the authority to enter into the lease agreement is further contingent upon the Legislature being provided all the information that is currently missing within the lease document as filed with the Clerk, prior to the commencement of the lease, and, be it further

RESOLVED, That the County Attorney is authorized to approve said agreement as to form and content, and, be it further

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

Referred to Special Committee on Elder Care. 5/13/13