



# UNION COUNTY IMPROVEMENT AUTHORITY

1499 US Highway One, North, 3<sup>rd</sup> Floor  
Rahway, New Jersey, 07065

www.ucimprovementauthority.org  
(732) 382-9400 (732) 382-5862 fax

Resolution No. 29-2016

Date: March 2, 2016

**RESOLUTION OF THE UNION COUNTY IMPROVEMENT AUTHORITY  
AUTHORIZING THE EXECUTIVE DIRECTOR THE AUTHORITY  
TO APPROVE THE ESCROW AGREEMENT IN CONNECTION WITH  
THE ROSELLE MIND AND BODY CENTER PROJECT**

APPROVED AS TO FORM:

Lisa M. da Silva, RMC  
Clerk of the Authority

APPROVED AS TO SUFFICIENCY OF FUNDS

YES  NO  NONE REQUIRED  
UNION COUNTY IMPROVEMENT AUTHORITY

*Lisa M. da Silva*

*[Signature]*

	PRESENT	ABSENT	AYE	NAY	ABSTAIN	MOTION	SECOND
<i>Bornstad</i>	✓		✓			✓	
<i>D'Elia</i>	✓		✓				✓
<i>Hockaday</i>	✓		✓				
<i>Salerno</i>	✓		✓				
<i>Tomko</i>	✓		✓				
<i>Vollero</i>		✓					
<i>Rountree, Vice Chairwoman</i>	✓		✓				
<i>Scutari, Chairman</i>	✓		✓				
<i>*Vacancy*</i>							

**RESOLUTION OF THE UNION COUNTY IMPROVEMENT AUTHORITY  
AUTHORIZING THE EXECUTIVE DIRECTOR THE AUTHORITY  
TO APPROVE THE ESCROW AGREEMENT IN CONNECTION WITH  
THE ROSELLE MIND AND BODY CENTER PROJECT**

**WHEREAS**, the Union County Improvement Authority (the “Authority”) has been duly created by an ordinance of the Board of Chosen Freeholders (the “Board of Freeholders”) of the County of Union, New Jersey (the “County”), as public body corporate and politic of the State of New Jersey (the “State”) pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, as amended and supplemented from time to time (the “Act”); and

**WHEREAS**, pursuant to a resolution dated October 11, 2007, the Borough of Roselle designated certain property owned by the BOE commonly referred to as Block 1105, Lot 10 (the “Project Site”) as an area in need of rehabilitation in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1; and

**WHEREAS**, in April of 2014 the Borough of Roselle (the “Borough”), the Roselle Board of Education (the “BOE”) and the Authority entered into a Shared Services Agreement, which, among other things authorized the Authority to procure a private entity to rehabilitate the Project Site; and

**WHEREAS**, pursuant to a resolution dated August 19, 2015, the Borough designated the Authority to act on the Borough’s behalf as the designated redevelopment entity for the Project Site; and

**WHEREAS**, the project intended to be constructed on the Project Site is known as the Roselle Mind and Body Center, which would consist of the BOE’s Early Childhood Learning Center, the Roselle Public Library and a Community Center (the “Project”); and

**WHEREAS**, the Authority, acting on behalf of the Borough and the BOE issued a *Request for Qualifications for Redeveloper Services for the Redevelopment of the Mind and Bondy Center Housing the Roselle Board of Education’s Early Childhood Learning Center, the Roselle Public Library and a Community Center*, dated December 9, 2015 (the “RFQ”); and

**WHEREAS**, the Authority formed an evaluation team to review the submissions received in response to the RFQ (the “Evaluation Team”); and

**WHEREAS**, the Evaluation Team prepared an Evaluation Memorandum, dated January 29, 2016, recommending that AST Roselle, LLC, be designated as the redeveloper of the Project Site for the Project; and

**WHEREAS**, on February 3, 2016, the Authority’s Board of Commissioners, via resolution, adopted the recommendations contained in the Evaluation Memorandum and directed the Authority’s Executive Director to provide same to the Borough and request that the Borough

also formally adopt the Evaluation Report and designate AST Roselle, LLC as the redeveloper of for the Project; and

**WHEREAS**, on February 17, 2016, the Borough adopted a resolution designating AST Roselle, LLC as Redeveloper for the Project Site; and

**WHEREAS**, the Authority and Redeveloper are negotiating a redevelopment agreement which will, among other things, set forth the terms and conditions with respect to the redevelopment of the Project Site, conveyance of the Project Site to the Redeveloper, the construction of the improvements and the payment of certain costs in connection therewith (hereinafter referred to as the "Redevelopment Agreement"); and

**WHEREAS**, the Authority requires the payment of certain fees by the Redeveloper for the Project; and

**WHEREAS**, the Authority has and will incur certain costs including outside professional consultants such as attorneys, planners, financial advisors and engineers and any other costs which the Authority deems are related to the Project (the "Administrative and Professional Costs") in connection with the negotiation of a Redevelopment Agreement, implementation of the Redevelopment Agreement, project financing, amendments to the Redevelopment Plan and other related costs incurred by the Authority; and

**WHEREAS**, the Redeveloper is required to pay for the Authority's Administrative and Professional Costs through the deposit of \$150,000.00 in an escrow fund to be administered by the Authority (the "Escrowed Funds"); and

**WHEREAS**, the Authority and Redeveloper desire to enter into an escrow agreement substantially similar to the escrow agreement attached hereto as Exhibit A.

**NOW, THEREFORE, BE IT RESOLVED** by the Union County Improvement Authority as follows:

1. The Authority hereby authorizes the Executive Director to execute an escrow agreement substantially in the form attached hereto as Exhibit A.
2. This resolution shall take effect immediately.

**EXHIBIT A**

## ESCROW AGREEMENT

This **ESCROW AGREEMENT** made this \_\_\_ day of \_\_\_\_\_, 2016, by and among the **UNION COUNTY IMPROVEMENT AUTHORITY**, a body corporate and politic of the State of New Jersey with offices at 1499 Routes 1 & 9, Rahway, New Jersey 07065 (the “Authority”) and **AST ROSELLE, LLC**, a New Jersey Limited Liability Company with offices at 111 Magee Avenue, Lavallette, New Jersey, 08735 (hereinafter referred to as the “Redeveloper”).

### W I T N E S S E T H

**WHEREAS**, via resolution dated October 11, 2007, the Borough of Roselle designated certain property owned by the BOE commonly referred to as Block 1105, Lot 10 (the “Project Site”) as an area in need of rehabilitation in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1; and

**WHEREAS**, in April of 2014 the Borough of Roselle (the “Borough”), the Roselle Board of Education (the “BOE”) and the Authority entered into a Shared Services Agreement, which, among other things authorized the Authority to procure a private entity to rehabilitate the Project Site; and

**WHEREAS**, via a resolution dated August 19, 2015, the Borough designated the Authority to act on the Borough’s behalf as the designated redevelopment entity for the Project Site; and

**WHEREAS**, the project intended to be constructed on the Project Site is known as the Roselle Mind and Body Center, which would consist of the BOE’s Early Childhood Learning Center, the Roselle Public Library and a Community Center (the “Project”); and

**WHEREAS**, the Authority, acting on behalf of the Borough and the BOE issued a *Request for Qualifications for Redeveloper Services for the Redevelopment of the Mind and Bondy Center Housing the Roselle Board of Education’s Early Childhood Learning Center, the Roselle Public Library and a Community Center*, dated December 9, 2015 (the “RFQ”); and

**WHEREAS**, the Authority formed an evaluation team to review the submissions received in response to the RFQ (the “Evaluation Team”); and

**WHEREAS**, the Evaluation Team prepared an Evaluation Memorandum, dated January 29, 2016, recommending that AST Roselle, LLC, be designated as the redeveloper of the Project Site for the Project; and

**WHEREAS**, on February 3, 2016, the Authority’s Board of Commissioners, via resolution, adopted the recommendations contained in the Evaluation Memorandum and directed the Authority’s Executive Director to provide same to the Borough and request that the Borough also formally adopt the Evaluation Report and designate AST Roselle, LLC as the redeveloper of for the Project; and

**WHEREAS**, on February 17, 2016, the Borough adopted a resolution, a copy of which is attached hereto as **Exhibit A** (the “Resolution”), designating AST Roselle, LLC as Redeveloper for the Project Site; and

**WHEREAS**, the Authority and Redeveloper are negotiating a redevelopment agreement which will, among other things, set forth the terms and conditions with respect to the redevelopment of the Project Site, conveyance of the Project Site to the Redeveloper, the construction of the improvements and the payment of certain costs in connection therewith (hereinafter referred to as the “Redevelopment Agreement”); and

**WHEREAS**, the Authority requires the payment of certain fees by the Redeveloper for the Project; and

**WHEREAS**, the Authority has and will incur certain costs including outside professional consultants such as attorneys, planners, financial advisors and engineers and any other costs which the Authority deems are related to the Project (the “Administrative and Professional Costs”) in connection with the negotiation of a Redevelopment Agreement, implementation of the Redevelopment Agreement, project financing, amendments to the Redevelopment Plan and other related costs incurred by the Authority; and

**WHEREAS**, the Redeveloper is required to pay for the Authority’s Administrative and Professional Costs through the deposit of \$150,000.00 in an escrow fund to be administered by the Authority (the “Escrowed Funds”); and

**NOW, THEREFORE**, in consideration of the mutual promises and covenants, and other good and valuable consideration, the parties hereto agree as follows:

1. The Authority agrees to serve as Escrow Agent as set forth in this Escrow Agreement.
2. Escrow Agent shall deposit the Escrowed Funds in a separate interest-bearing account maintained by Escrow Agent. Interest earned shall accrue to the party entitled to the Escrowed Funds. The custodian of the account shall be the Chief Financial Officer/Treasurer. When charges for Administrative and Professional Costs are received by the custodian of the Escrowed Funds, the amounts shall be transferred to the general fund of the Authority for approval and disbursements. Use of the Escrowed Funds shall be subject to the same standards set forth in *N.J.S.A. 40:55D-53.2* with respect to escrows under the Municipal Land Use Law.
3. The Authority shall notify the Redeveloper in writing when the Escrowed Funds have been depleted to \$25,000. Within fifteen (15) days of receiving such notice from the Authority, the Redeveloper shall replenish the Escrowed Funds one time by depositing an additional \$25,000. The parties acknowledge that any additional Administrative and Professional cost incurred by the Authority in excess of the maximum amount of Escrowed Funds (i.e., \$175,000 (the initial \$150,000 and the \$25,000 replenishment)) shall be reimbursed to the Authority at the time of a financial closing associated with the Project. The Authority shall provide the Redeveloper with an accounting of the Escrowed Funds on a monthly basis.

4. The Parties acknowledge that of the Authority shall reimburse the Borough and the BOE from the Escrowed Funds \$10,000 each for a portion of the funds provided by the Borough and the BOE to the Authority pursuant to and in accordance with the terms and conditions of the Shared Services Agreement between said parties.

5. The Administrative and Professional Costs shall be charged in accordance with any professional service contracts authorized and approved by the Authority. All payments for Administrative and Professional Costs shall be pursuant to charges from any professionals which state the hours spent, the hourly rate and the expenses incurred.

6. Upon execution of the Redevelopment Agreement, the Escrow Agent shall render a written final accounting to the Redeveloper on the uses of the Escrowed Funds. In the event the Redeveloper desires an accounting of the expenses or fees paid for Administrative and Professional Costs prior to such time, it may request such in writing to Escrow Agent.

7. Upon termination of this Escrow Agreement, any Escrowed Funds not expended shall be returned to the Redeveloper by the Escrow Agent.

8. Escrow Agent shall not be liable for any action taken by it in good faith and believed by it to be authorized or within the rights or powers conferred upon it by this Escrow Agreement.

9. This Escrow Agreement shall be governed by and construed in accordance with the local substantive and procedural laws of the State of New Jersey. The parties agree that any action instituted regarding this Escrow Agreement shall be filed in Union County, New Jersey. Each party hereby consents to the jurisdiction and venue of any such court selected by the Escrow Agent for an interpleader action or for other purposes. The parties hereto irrevocably consent to the service of any and all process in any such action or proceeding by the mailing of copies of such process to it at its address specified in this Escrow Agreement. The parties hereto agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. The parties hereto waive any objection to venue in such state and any objection to an action or proceeding in such state on the basis of forum non conveniens.

10. This Escrow Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective heirs, successors and assigns. This Escrow Agreement may be amended, modified, superseded, waived or cancelled only by a written instrument executed by all the parties hereto.

11. The failure of a party to insist upon strict adherence to any term of this Escrow Agreement on any occasion shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term or any other term of this Escrow Agreement. Any waiver must be in writing signed by the party to be charged.

12. This Escrow Agreement may be executed in one or more counterparts, including facsimile counterparts, each of which, when taken together, shall be deemed one and the same instrument.

13. Any notices, demands and communications between the Authority and the Redeveloper shall be deemed given if dispatched to the address set forth below by registered or certified mail, postage prepaid, return receipt requested, or by a commercial overnight delivery service with packaging tracking capability and for which proof of deliver is available. In this case such notice is deemed effective upon delivery. Such written notices, demands and communications may be sent in the same manner to such other addresses as any party may from time to time designate by written notice.

Copies of all notices, demands and communications shall be sent as follows:

**ESCROW AGENT**

Daniel Sullivan  
Executive Director  
Union County Improvement Authority  
1499 Routes 1 & 9  
Rahway, NJ 07065  
Fax: (732) 382-5862

**REDEVELOPER:**

Robert J. D'Anton, President  
AST ROSELLE, LLC,  
111 Magee Avenue  
Lavallette, New Jersey, 08735

14. Nothing contained in this Agreement shall prohibit the Authority or the Redeveloper from seeking funds to reimburse the Redeveloper for payment of any services paid for under this Agreement. Such sources of funding may include, but are not limited to grants or public financing.

15. This Agreement may be terminated by either party upon ten (10) days written notice. At the time of termination, the Authority shall provide the Redeveloper with a complete accounting of the Escrowed Funds and shall return to the Redeveloper any unspent portion of the remaining Escrow Funds.



**IN WITNESS WHEREOF** the parties have hereunto executed this Agreement as of the day and year first above written.

**REDEVELOPER:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

**ATTEST**

By: \_\_\_\_\_

Name: \_\_\_\_\_

**UNION COUNTY IMPROVEMENT AUTHORITY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

**EXHIBIT A**  
**RESOLUTION**

**EXHIBIT B**

**AUTHORITY PROFESSIONALS**

**[TBD]**