



UNION COUNTY IMPROVEMENT AUTHORITY

1499 US Highway One, North, 3rd Floor
Rahway, New Jersey, 07065
www.ucimprovementauthority.org
(732) 382-9400 (732) 382-5862 fax

Resolution No. 21-2019

Date: March 6, 2019

**RESOLUTION OF THE UNION COUNTY IMPROVEMENT AUTHORITY
AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A
MEMORANDUM OF UNDERSTANDING BETWEEN THE UNION COUNTY
IMPROVEMENT AUTHORITY AND THE COUNTY OF UNION FOR THE
PROCUREMENT OF PROPOSALS FOR THE LEASE OR PURCHASE OF THE
UNION COUNTY JUVENILE DETENTION CENTER**

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

	PRESENT	ABSENT	AYE	NAY	ABSTAIN	MOTION	SECOND
<i>Barnett</i>	✓		✓				
<i>D'Elia</i>		✓					
<i>Gunderman</i>	✓		✓			✓	
<i>Hockaday</i>		✓					
<i>Huff, Treasurer</i>	✓		✓				✓
<i>Lattimore</i>	✓		✓				
<i>Salerno, Secretary</i>		✓					
<i>Bornstad, Vice Chair</i>	✓		✓				
<i>Rountree, Chairwoman</i>		✓					

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WHEREAS, the County of Union (the "County") is responsible for the provision of services for those juveniles needing temporary placement following a juvenile and/or family crisis, including youths with behavioral problems or those whose family behavior may threaten their safety or well-being; and

WHEREAS, prior to the development of the current Union County Juvenile Detention Center (the "Facility") located at 1075 Edward Street, Linden, New Jersey 07036 (the "Property"), juveniles requiring such services were placed in the County's Juvenile Detention Center located in Elizabeth, New Jersey; and

WHEREAS, the County created the Union County Improvement Authority (the "UCIA") pursuant to the county improvement authorities' law, constituting Chapter 183 of the Pamphlet Laws of New Jersey of 1960 and the acts amendatory thereof and supplemental thereto, for the express purpose of, among other things, facilitating the development and financing of public facilities and development projects within the County (the "Act"); and

WHEREAS, pursuant to Resolution No. 2120.03 dated December 4, 2003 of the Union County Board of Chosen Freeholders, the County and the UCIA entered into that certain Interlocal Services Agreement for the transfer of responsibility of site selection, development and financing of the Facility from the County to the UCIA; and

WHEREAS, pursuant to that certain Deed dated March 5, 2004, the UCIA purchased the Property for the singular purpose of developing the Facility thereon; and

WHEREAS, pursuant to that certain "Lease Purchase Agreement (Juvenile Detention Center Facility Project)" (the "Lease Purchase Agreement"), the UCIA leased the Facility to the County with an option to purchase; and

WHEREAS, title to the Facility remains with the UCIA during the term of the Lease Purchase Agreement, and immediately prior to the expiration of the term of the Lease Purchase Agreement, the County will acquire all of the UCIA's right, title and interest in and to the Facility; and

WHEREAS, the Facility is currently scheduled to permanently cease operations within the first quarter of 2019, and there are no plans to reopen the Facility thereafter; and

WHEREAS, in anticipation of the permanent closure of the Facility, the County desires to sell or lease the Facility to an entity that has the qualifications and financial capability to acquire the Facility and provide such uses that are most desirable to the County and are in alignment with the County's goals, objectives and vision; and

WHEREAS, the County wishes to authorize the UCIA to solicit proposals on behalf of the County from qualified entities for the lease or purchase of the Facility (hereinafter, the "Procurement"); and

WHEREAS, the County and UCIA wish to enter into the Memorandum of Understanding appended hereto as Attachment "A" to set forth each party's respective obligations with respect to the Procurement; and

WHEREAS, the execution of the Memorandum of Understanding has already been duly authorized by the Union County Board of Chosen Freeholders.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE UNION COUNTY IMPROVEMENT AS FOLLOWS:

1. The UCIA hereby approves and authorizes the Executive Director to execute the Memorandum of Understanding appended hereto as Attachment "A".
2. Such approval and execution by the Executive Director shall be deemed approval by the UCIA and no further action or approval shall be required.
3. This resolution shall take effect immediately.

MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN
UNION COUNTY IMPROVEMENT AUTHORITY
AND
COUNTY OF UNION, STATE OF NEW JERSEY

This **MEMORANDUM OF UNDERSTANDING** (the "MOU") is made on _____, 2019 (the "Effective Date") by and between the **UNION COUNTY IMPROVEMENT AUTHORITY**, a body corporate and politic of the State of New Jersey, having offices at 1499 Route 1 and 9, Rahway, New Jersey 07065 (hereinafter, referred to as the "UCIA") and the **COUNTY OF UNION**, a body corporate and politic of the State of New Jersey, having offices at Union County Administration Building, 10 Elizabethtown Plaza, Elizabeth, New Jersey 07207 (hereinafter, the "County"). The UCIA and the County are individually referred to as the "Party", and collectively, as the "Parties."

WITNESSETH:

WHEREAS, the County is responsible for the provision of services for those juveniles needing temporary placement following a juvenile and/or family crisis, including youths with behavioral problems or those whose family behavior may threaten their safety or well-being; and

WHEREAS, prior to the development of the current Union County Juvenile Detention Center (the "Facility") located at 1075 Edward Street, Linden, New Jersey 07036 (the "Property"), juveniles requiring such services were placed in the County's Juvenile Detention Center located in Elizabeth, New Jersey; and

WHEREAS, the County created the UCIA pursuant to the county improvement authorities' law, constituting Chapter 183 of the Pamphlet Laws of New Jersey of 1960 and the acts amendatory thereof and supplemental thereto, for the express purpose of, among other things, facilitating the development and financing of public facilities and development projects in within the County (the "Act"); and

WHEREAS, pursuant to Resolution No. 2120.03 dated December 4, 2003 of the County Board of Chosen Freeholders (the "Board"), the County and the UCIA entered into that certain Interlocal Services Agreement for the transfer of responsibility of site selection, development and financing of the Facility from the County to the UCIA; and

WHEREAS, pursuant to that certain Deed dated March 5, 2004, the UCIA purchased the Property for the singular purpose of developing the Facility thereon; and

WHEREAS, pursuant to that certain "Lease Purchase Agreement (Juvenile Detention Center Facility Project)" (the "Lease Purchase Agreement"), the UCIA leased the Facility to the County with an option to purchase; and

WHEREAS, title to the Facility remains with the UCIA during the term of the Lease Purchase Agreement, and immediately prior to the expiration of the term of the Lease Purchase Agreement, the County will acquire all of the UCIA's right, title and interest in and to the Facility; and

WHEREAS, the Facility is currently scheduled to permanently cease operations within the first quarter of 2019, and there are no plans to reopen the Facility thereafter; and

WHEREAS, in anticipation of the permanent closure of the Facility, the County desires to sell or lease the Facility to an entity that has the qualifications and financial capability to acquire the Facility and provide such uses that are most desirable to the County and are in alignment with the County's goals, objectives and vision; and

WHEREAS, the County wishes to authorize the UCIA to solicit proposals on behalf of the County from qualified entities for the lease or purchase of the Facility (hereinafter, the "Procurement"); and

WHEREAS, the Parties desire to enter into this MOU to set forth the respective roles and responsibilities of each Party.

NOW, THEREFORE, in consideration of the mutual promises and obligations set forth herein, the Parties hereby agree as follows:

1. Incorporation of Recitals. The recitals set forth above are incorporated into this MOU as if set forth at length herein.

2. Responsibilities of the County.

- The County will provide the UCIA, as soon as practicable, with any and all plans, designs, reports, studies, drawings, schematics and any other relevant documentation and correspondence, including any environmental documentation, concerning the Facility;
- The County will, at all times, cooperate fully with the UCIA and expeditiously respond to all UCIA requests pertaining to the Procurement; and
- The County will adopt a resolution authorizing the execution of this MOU.
- Pursuant to Section 509 of the Lease Purchase Agreement, the County hereby directs the UCIA to deliver an Amended Exhibit A to the Lease Purchase Agreement amending the Project to include "professional and other services (including federal tax analysis of permitted uses of the Facility which would maintain the federal tax exemption of the UCIA's County of Union General Obligation Lease Revenue Refunding Bonds, Series 2015A (Juvenile Detention Center Facility Project)(the "Bonds") and related work in

connection with the undertaking of an analysis and the solicitation and review of proposals to determine the future use or disposition of the Project”.

3. Responsibilities of the UCIA.

- The UCIA will, on behalf of the County, undertake the Procurement for the Facility which shall include the following:
 - Issuing of a request for proposals (“RFP”) after review and approval of the proposed RFP by the County;
 - Receiving and establishing a Review Committee for the proposals, which shall include the County Manager and the County Counsel or their designees;
 - Evaluating all proposals received and providing a recommendation to the County for the selection of a purchaser or lessee whose proposal meets the goals and vision of the County for the Facility, and with which to negotiate for a contract of sale or lease of the Facility; and
 - Negotiating an agreement for the sale or lease of the Facility, with the participation of the County, if the County desires the UCIA to undertake such negotiation with the participation of the County.
- The UCIA will adopt a resolution authorizing the execution of this MOU.
- Pursuant to Section 509 of the Lease Purchase Agreement, at the direction of the County, the UCIA shall deliver an amended Exhibit A to the Lease Purchase Agreement amending the Project to include “professional and other services (including federal tax analysis of permitted uses of the Facility which would maintain the federal tax exemption of the Bonds) and related work in connection with the undertaking of an analysis and the solicitation and review of proposals to determine the future use or disposition of the Project.”

4. Effective Date. Following the adoption of resolutions authorizing the executive of this MOU, this MOU shall be become effective on the date indicated in the Preamble.

5. Term. The term of this MOU shall be for a period of twelve (12) months or until the Procurement is complete.

6. Termination. This MOU may be terminated, with or without cause, by either party upon thirty (30) days’ written notice.

7. Funding for the MOU. Funding for the costs of implementing this MOU shall be provided exclusively from unexpended bond proceeds in the Construction Fund, including investment earnings thereon, held by UCIA. As of February 15, 2019, such unexpended proceeds

equal \$1,131,923.94 and the UCIA covenants and represents that such moneys may be made available to pay the costs of implementing the MOU under the terms of the financing documents for the Bonds and applicable law. Payments will be made pursuant to this MOU under the terms of the financing documents for the Bonds and applicable law. Payments made pursuant to this MOU shall not exceed \$325,000. The balance of the \$1,131,923.94 bond proceeds shall be used for any necessary modifications at the Facility; and notice of all expenditures from said balance shall be provided to the County Manager and the Director of the Department of Finance within thirty (30) days of such expenditures. In addition, the UCIA shall provide monthly reports of the funds expended pursuant to this MOU to the County Manager and the Director of the Department of Finance.

8. Status Meetings or Conference Calls. Within two weeks of the effective date of this MOU, the parties shall set a schedule of status meetings or conference calls throughout the term of this MOU to occur no less frequently than monthly.

9. Indemnification by the County. To the extent permitted by law, the County will protect, indemnify, defend and hold the UCIA, and its officers, members, employees, agents, successors and assigns, free and harmless from and against any and all claims, debts, liabilities, obligations, losses, fines, penalties, judgements, assessments, damages, costs and expenses (including without limitation, reasonable attorneys' fees and expenses), liens and encumbrances (collectively, the "Claims") arising out of the breach in the performance of any term, condition, covenant, and/or obligation under this MOU, or any other acts or omissions by the County that result in any Claims against the UCIA.

10. Indemnification by the UCIA. To the extent permitted by law, the UCIA will protect, indemnify, defend and hold the County, and its officers, members, employees, agents, successors and assigns, free and harmless from and against any and all claims, debts, liabilities, obligations, losses, fines, penalties, judgements, assessments, damages, costs and expenses (including without limitation, reasonable attorneys' fees and expenses), liens and encumbrances (collectively, the "Claims") arising out of the breach in the performance of any term, condition, covenant, and/or obligation under this MOU, or any other acts or omissions by the UCIA that result in any Claims against the County.

11. Limitation of Liabilities. In addition to the other rights and remedies of the parties herein, and to the fullest extent permitted by law, each Party agrees to be responsible and to assume liability for its own wrongful or negligent acts or omissions, or those of its officers, officials, employees or agents arising from the execution, performance and existence of this MOU. Such obligation of both Parties as set forth in this section shall survive the expiration or termination of this MOU. The Parties shall be liable to each other for their own actions to the extent and pursuant to the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq. and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq.

12. Compliance with Applicable Laws. Each Party is responsible for compliance with any and all statutes, rules and regulations as may be applicable during the term of this MOU.

13. Counterparts. This MOU may be executed in counterpart, the integration of all signature pages constituting the final agreement.

14. Entire Agreement. This MOU, including any exhibits or documents incorporated by reference, contains the entire agreement between the Parties and supersedes any prior agreements of the Parties with respect to its subject matter. This MOU may only be altered by a written amendment signed by both Parties and approved by resolutions duly adopted by the governing bodies of each of Party.

15. Modification. Modifications, waivers or amendments of this Agreement shall be effective only if set forth in a writing signed by each Party after the appropriate resolutions by each Parties' governing bodies have been adopted approving all such modifications, waivers and amendments.

16. Provisions of Law. All provisions of law which are not enumerated in this MOU but which are required to be made a part hereof are hereby deemed incorporated herein.

17. Severability. If any term or condition of this Agreement or application thereof shall be determined to be contrary to the laws of the State of New Jersey of the United States, then such term or condition or applicable shall not be deemed valid except to the extent permitted by law, but all other terms and conditions or applications shall continue in full force and effect.

18. Assignment. Neither Party shall subcontract, assign, or otherwise transfer its interests in this MOU without the prior written consent of the other Party, except that the County acknowledges and recognizes that the UCIA shall, in certain instances, undertake the Procurement and related services required herein through the use of its professionals and consultants.

19. Notices. Any notice or other communication which is required to be given hereunder shall be in writing and shall be deemed to have been validly given if faxed to the telephone number set forth below, delivered in person or mailed by certified mail or registered mails, addressed as follows:

If to UCIA: Daniel P. Sullivan, Executive Director
Union County Improvement Authority
1499 Routes 1 and 9
Rahway, New Jersey 07065
Telephone No.: (732) 382-9400
Email: dsullivan@ucia-nj.org

with a copy to: David Minchello, Esq.
Rainone Coughlin Minchello
555 Route One South, Suite 440
Iselin, New Jersey 08830
Telephone No.: (732) 709-4182
Email: dminchello@njrcmlaw.com

If to County: Edward T. Oatman, County Manager
Union County Administration Building
10 Elizabethtown Plaza
Elizabeth, New Jersey 07207
Telephone No. (908) 527-4200
Email: eoatman@ucnj.org

with a copy to: Robert E Barry, Esq.
County Counsel
Union County Administration Building
10 Elizabethtown Plaza
Elizabeth, New Jersey 07207
Telephone No. (908) 527-4250
Email: rbarry@ucnj.org

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have, through the appropriate officials thereof, executed and affixed the appropriate seal(s) on this day of , 2019.

ATTEST:

UNION COUNTY IMPROVEMENT AUTHORITY

By: _____

By: _____
Daniel P. Sullivan, Executive Director

ATTEST:

COUNTY OF UNION

By: _____

By: _____
Edward T. Oatman, County Manager

APPROVED AS TO FORM

COUNTY COUNSEL