



NOTICE OF SPECIAL COUNCIL MEETING

In accordance with section 38-431.01 of the Arizona Revised Statutes of the State of Arizona, notice is hereby given to the Members of City Council and to the general public that the Mayor and Council of the City of San Luis, Arizona, will hold a Special City Council meeting at 7:30 p.m., Wednesday, October 19, 2016. The meeting will take place at the City Council Chambers, located at 1090 E. Union Street, San Luis, Arizona, 85349. Everyone from the public is invited to attend the open meeting.

In accordance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, the City of San Luis does not discriminate on the basis of disability in the admission of or access to, or treatment of employment in its programs, activities, or services. For information regarding rights and provisions of the ADA or Section 504, or to request reasonable accommodations for participation in City programs, activities or services contact: ADA/Section 504 Coordinator, City of San Luis Human Resources Department, 1090 E. Union Street, San Luis, Arizona, 85349; (928) 341-8520.

Notice is hereby given that pursuant to A.R.S. §1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the City Council are audio and/or video recorded, and, as a result, proceedings in which children are present may be subject to such recording. Parents in order to exercise their rights may either file written consent with the City Clerk to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the City will assume that the rights afforded parents pursuant to A.R.S. §1-602.A.9 have been waived.

THIS NOTICE IS GIVEN BY:

/s/ Sonia Cornelio, City Clerk

AVISO DE JUNTA ESPECIAL

De acuerdo con los Estatutos del Estado de Arizona A.R.S. §38-431.01, se le informa a los miembros del Cabildo y al público en general que el Alcalde y el Cabildo, tendrán una Junta Especial a las 7:30 p.m. el día Miercoles 19 de Octubre del 2016. La junta se llevará a cabo en la Sala del Cabildo, ubicada en el 1090 E. Union Street, San Luis, Arizona, 85349. El público está cordialmente invitado a la junta.

De acuerdo con el Acta de Americanos con Discapacidades y la Sección 504 del Acta de Rehabilitación del 1973, la Ciudad de San Luis, Arizona no discrimina por causa de discapacidad la admisión y acceso a sus programas, actividades, servicios o en el trato en cuanto a empleo. Para más información referente a derechos y provisiones del Acta de Americanos con Discapacidades o Sección 504, o para solicitar adaptaciones que sean razonables para la participación en programas, actividades o servicios de la Ciudad, contactar al: Coordinador del Acta de Americanos con Discapacidades/Sección 504, Departamento de Recursos Humanos de la Ciudad de San Luis, Arizona, ubicado en el 1090 E. Union Street, San Luis, Arizona, 85349; (928) 341-8520.

Por medio de este aviso y de acuerdo con los Estatutos del Estado de Arizona A.R.S §1-602.A.9, sujeto a ciertas excepciones reglamentarias, los padres de familia tienen el derecho de dar el consentimiento ante el Estado o cualquiera de sus subdivisiones políticas para hacer una grabación de audio o video de su hijo menor de edad. Las juntas del Cabildo se graban en audio y/o video y como resultado, el hecho de que haya menores presentes puede ser sujeto a que sean grabados. Para que los padres de familia puedan ejercer sus derechos pueden dar el consentimiento por escrito con la Secretaria de la Ciudad a tal grabación, o tomar acción personal para asegurarse que su hijo menor no esté presente cuando la grabación se lleve a cabo. Si un menor de edad está presente en el momento de la grabación, la Ciudad asumirá que los padres de familia están cediendo los derechos sobre una posible grabación de acuerdo con los Estatutos del Estado de Arizona A.R.S. §1-602.A.9.

ESTE AVISO ES DADO POR:

/f/ Sonia Cornelio, Actuaría de la Ciudad



AGENDA
Special Meeting
San Luis City Council
San Luis Council
Chambers
1090 E. Union Street
San Luis, AZ 85349
October 19, 2016
7:30 p.m.

MEMBERS OF THE CITY COUNCIL WILL ATTEND EITHER IN PERSON, TELEPHONE, OR VIDEO CONFERENCE COMMUNICATION

- 1. CALL TO ORDER/ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. DISCUSSION AND POSSIBLE ACTION ITEM:**
 - 3. A.** Discussion and possible action on any and all matters regarding settlement of all pending litigation and claims. Discussions to include but not limited to:
 - litigation regarding United States District Court for the District of Arizona case, San Luis Facility Development Corporation v. CEC and CiviGenics No. CV14002633 PHX DMF,
 - litigation regarding Arizona Superior Court for Yuma County case, San Luis Facility Development Corporation v. CEC and CiviGenics Case No. S1400CV2010-586,
 - litigation regarding Arizona Superior Court for Yuma County case, Houston Casualty Company v. CEC, Emerald, SLFDC Case No. S1400 CV 2016-00456. **(Kay Marion Macuil, City Attorney)**
- 4. ADJOURNMENT**



AGENDA ITEM REVIEW FORM

Special City Council Meeting

3. A.

Meeting Date: 10/19/2016

Department Head: Kay Macuil, City Attorney, Attorney's Office

Submitted By: Kay Macuil, City Attorney, Attorney's Office

Action Requested: Motion

ITEM:

Discussion and possible action on any and all matters regarding settlement of all pending litigation and claims. Discussions to include but not limited to:

- litigation regarding United States District Court for the District of Arizona case, San Luis Facility Development Corporation v. CEC and CiviGenics No. CV14002633 PHX DMF,
- litigation regarding Arizona Superior Court for Yuma County case, San Luis Facility Development Corporation v. CEC and CiviGenics Case No. S1400CV2010-586,
- litigation regarding Arizona Superior Court for Yuma County case, Houston Casualty Company v. CEC, Emerald, SLFDC Case No. S1400 CV 2016-00456. **(Kay Marion Macuil, City Attorney)**

SUMMARY:

There is a proposed settlement agreement as to all litigation and claims regarding the San Luis Regional Detention Center which is attached to this Agenda Item Review form. Staff recommends this settlement agreement.

RECOMMENDATION / SUGGESTED MOTION:

I MOVE TO APPROVE THE SETTLEMENT OF THE CASES FILED IN THE ARIZONA SUPERIOR COURT FOR YUMA COUNTY NO. S1400CV2010-586 AND NO. S1400 CV 2016-00456 AND THE CASE FILED IN UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA NO. CV14002633 PHX DMF AND RELATED CLAIMS AS PRESENTED IN THE ATTACHED WRITTEN SETTLEMENT. I FURTHER MOVE TO AUTHORIZE EXECUTION OF THE SETTLEMENT AGREEMENT AS PRESENTED AND THE TAKING OF SUCH ACTIONS AS MAY BE NECESSARY TO EFFECTUATE THE SAME.

Supporting information not attached to the Agenda Item Review Form:

N/A

Document to be Recorded?: Yes

City Clerk's Office

Fiscal Impact

IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:	Yes
CITY/STATE/FEDERAL FUNDS:	City
TOTAL:	N/A
BUDGETED:	N/A
AVAILABLE TO TRANSFER:	N/A

GL ACCT # & NAME/REMAINING BALANCE BEFORE PURCHASE: N/A

FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):

The City would incur costs of litigation in order to continue litigation. With this settlement these costs will not be incurred and the San Luis Facility Development Litigation Attorneys fees will be paid by the other parties.

Attachments

Detention Ctr Litigation Settlement

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the “Agreement”) is entered into by and between San Luis Facility Development Corporation, The City of San Luis, Arizona, Community Education Centers, Inc., CiviGenics, Inc., CiviGenics-Texas, Inc., Emerald Correctional Management, LLC, Emerald Companies, U.S. Bank National Association and Houston Casualty Company (collectively, the “Parties” or, individually, “Party”) to be effective on the date that this Agreement has been executed by all Parties in accordance with the terms and conditions stated below:

Definitions

It is agreed to by the Parties that the following terms shall have the following meanings for the purposes of the Agreement:

A. The “Effective Date” of this Agreement shall be the date on which the Agreement is fully executed by the last of the Parties to execute it.

B. “SLFDC” means San Luis Facility Development Corporation and any and all of its present, former and future parents, divisions, subsidiaries and affiliates and its present and former beneficiaries, representatives, directors, commissioners, administrators, managers, partners, principals, officers, employees, agents, trustees, attorneys, insurers, reinsurers, predecessors or successors, partnerships or corporations, and all persons acting by or on its behalf, including any heirs, executors, administrators, successors and assigns.

C. The “City” means the City of San Luis, Arizona a municipal corporation under the laws of the State of Arizona, and any and all of its present, former and future parents, divisions, subsidiaries and affiliates and its present and former beneficiaries, representatives, directors, commissioners, administrators, managers, partners, principals, officers, employees, agents, trustees, attorneys, insurers, reinsurers, predecessors or successors, partnerships or corporations, and all persons acting by or on its behalf, including any all elected officials, and any heirs, executors, administrators, successors and assigns.

D. “CEC” means Community Education Centers, Inc., CiviGenics, Inc., and CiviGenics-Texas, Inc., and any and all of their present, former and future parents, divisions, subsidiaries and affiliates and their present, former and future representatives, shareholders, directors, partners, principals, officers, executives, employees, agents, trustees, attorneys, insurers, reinsurers, predecessors, successors and assigns, and all persons acting by or on their behalf, including any heirs, executors, administrators, successors and assigns.

E. “Emerald” means Emerald Companies and Emerald Correctional Management, LLC and any and all of its present, former and future parents, divisions, subsidiaries and affiliates and their present, former and future representatives, shareholders, directors, partners, principals, officers, executives, employees, agents, trustees, attorneys, insurers, reinsurers, predecessors, successors and assigns, third party administrators, and all persons acting by or on its behalf, including any heirs, executors, administrators, successors and assigns.

F. “U.S. Bank” means U.S. Bank National Association and any and all of its present, former and future parents, divisions, subsidiaries and affiliates and their present, former and future representatives, shareholders, directors, partners, principals, officers, executives, employees, agents, trustees, attorneys, insurers, reinsurers, predecessors, successors and assigns, and all persons acting by or on their behalf, including any heirs, executors, administrators, successors and assigns.

G. “HCC” means Houston Casualty Company and any and all of its present, former and future parents, divisions, subsidiaries, affiliates, and their present, former or future directors, agents, partners, principals, officers, executives, employees, trustees, attorneys, insurers and reinsurers, predecessors, successors and assigns, third party administrators, and all persons acting by or on their behalf, including any heirs, executors, administrators, successors and assigns.

Recitals

WHEREAS, on May 4, 2010, the City and SLFDC filed a lawsuit captioned *San Luis Facility Development Corporation v. Civigenics, et al.* Case No. S-1400-CV-201000586, in the Superior Court of the State of Arizona for Yuma County (the “SLFDC State Lawsuit”) seeking return of monies paid to CEC under a Facility Operation and Management Agreement (the “Facility Agreement”) with respect to the San Luis Regional Detention Center;

WHEREAS, on June 7, 2010, CEC filed a counterclaim against SLFDC and the City in the SLFDC State Lawsuit seeking monies allegedly owed for services rendered to SLFDC by CEC under the Facility Agreement with respect to the San Luis Regional Detention Center;

WHEREAS, on July 30, 2014, CEC filed a lawsuit captioned *Community Education Centers, Inc., et al. v. Emerald Companies, et al.*, Case No. S1400-CV2014-00862, in the Superior Court of the State of Arizona for Yuma County (the “CEC State Lawsuit”) against Emerald and U.S. Bank seeking damages for monies allegedly owed for services rendered to SLFDC by CEC under the Facility Agreement;

WHEREAS, on December 4, 2014, SLFDC filed a lawsuit captioned *San Luis Facility Development Corporation v. Community Education Centers, Inc.*, Case No. 2:14-cv-02633, in the United States District Court for the District of Arizona (the “Federal Lawsuit”) for alleged breaches of the Facility Agreement by CEC in connection with an Internal Revenue Service audit regarding bonds issued to finance the construction of the San Luis Regional Detention Center;

WHEREAS, on August 7, 2015, CEC filed a third-party complaint in the Federal Lawsuit against Emerald for indemnification and other claims relating to the Federal Lawsuit;

WHEREAS, HCC issued Criminal Justice System Operating Liability policies to Emerald for the periods of June 30, 2009 to June 30, 2010 (Policy No. H5-08-50126), June 30, 2010 to June 30, 2011 (Policy No. H5-10-50347), June 30, 2011 to June 30, 2012 (Policy No. H5-11-50530) and June 30, 2012 to June 30, 2013 (Policy No. H5-12-50726). In addition, HCC

also issued “following form” excess policies to Emerald for the policy periods of June 30, 2009 to June 30, 2010 (H5-08-70003), June 30, 2010 to June 30, 2011 (H5-10-70007), June 30, 2011 to June 30, 2012 (H5-11-700011) and June 30, 2012 to June 30, 2013 (H5-12-70017) (the Criminal Justice System Operating Liability primary policies and the following form excess policies are collectively referred to as the “Emerald Policies”);

WHEREAS, HCC issued Criminal Justice System Operating Liability policies to CEC for the periods of November 1, 2008 to November 1, 2009 (Policy No. H5-08-50004), November 1, 2009 to November 1, 2010 (Policy No. H5-08-50213), November 1, 2011 to November 1, 2012 (H5-11-50617) and November 1, 2012 to November 1, 2013 (H5-12-50820) (collectively, the “CEC Policies”);

WHEREAS, U.S. Bank serves as indenture trustee under that certain trust indenture agreements, by and between it, as trustee and SLFDC pursuant to which Series 2005 bonds and Series 2011 bonds were issued for the San Luis Regional Detention Center;

WHEREAS, on July 5, 2016, HCC filed a lawsuit captioned *Houston Casualty Company v. Community Education Centers, Inc., et al.*, Case No. S-1400-CV2016-00457, against CEC and Emerald in the Superior Court of the State of Arizona for Yuma County seeking a ruling that it does not owe coverage for the claims asserted in the CEC State Lawsuit and a lawsuit captioned *Houston Casualty Company v. Community Education Centers, Inc., et al.*, Case No. S-1400-CV2016-00456, against CEC and Emerald in the Superior Court of the State of Arizona for Yuma County seeking a ruling that it does not owe coverage for the claims asserted in the Federal Lawsuit (collectively, the “Coverage Lawsuits”); and

WHEREAS, CEC has filed notice of claims against the City related to its prior and current dealings with the City.

Agreements

NOW THEREFORE, in consideration of the mutual promises, agreements and covenants contained herein, and other good and valuable consideration, the Parties hereto, intending to be legally bound, agree as follows:

1. PAYMENTS BY HCC

(a) On or before October 21, 2016, HCC shall pay to SLFDC the sum of (i) \$600,000 via check, payable to Fennemore Craig in trust for SLFDC (the “SLFDC Settlement Payment”). provided that HCC has received, at least one day prior to the date such payment is due, a fully executed copy of this Agreement, payee instructions, a W-9 with tax identification number and an address for physical delivery of a check with a contact person and phone number; and (ii) on or before October 21, 2016, HCC shall pay to CEC the sum of \$800,000 via check (the “CEC Settlement Payment”) provided that HCC has received, at least one day prior to the date such payment is due, a fully executed copy of this Agreement, payee instructions, a W-9 with tax

identification number and an address for physical delivery of a check with a contact person and phone number.

(b) For purposes of issuing the SLFDC Settlement Payment and CEC Settlement Payment, CEC, Emerald and HCC agree that the remaining Policy Aggregate Limit of Liability of HCC Criminal Justice System Operating Liability Policy No. H5-08-50126 (issued to Emerald) shall be reduced by \$950,000 and the remaining Policy Aggregate Limit of Liability HCC Criminal Justice System Operating Liability Policy No. H5-08-50004 (issued to CEC) shall be reduced by \$450,000.

(c) In addition to the SLFDC Settlement Payment and CEC Settlement Payment, HCC will also pay the: (i) reasonable and necessary post-tender (September 22, 2015) defense fees incurred in connection with the Federal Lawsuit and CEC State Lawsuit by Emerald by or through Bickerstaff Heath Delgado Acosta, LLP, The Cavanagh Law Firm and Torok Law Office P.L.L.C. through the Effective Date of this Agreement (the "HCC Emerald Defense Payment"); and (ii) reasonable and necessary post-tender defense fees incurred by Schneider & Onofry, P.C. in connection with the Federal Lawsuit for CEC through the Effective Date of this Agreement (the "HCC CEC Defense Payment"). Notwithstanding the foregoing, Emerald agrees to bear at its own uninsured expense in the form of \$50,000 of the reasonable and necessary post-tender defense fees incurred by Bickerstaff Heath Delgado Acosta, LLP, The Cavanagh Law Firm and Torok Law Office P.L.L.C. in connection with the Federal Lawsuit and CEC State Lawsuit. Additionally, Emerald further agrees that it will not seek coverage from HCC for pre-tender defense fees incurred by Bickerstaff Heath Delgado Acosta, LLP, The Cavanagh Law Firm and Torok Law Office P.L.L.C. or any other law firm or vendor in connection with the Federal Lawsuit and CEC State Lawsuit. Emerald estimates its pre-tender defense fees to be approximately \$200,000. Emerald has paid all of its obligations to HCC pursuant to the Emerald Policies related to the Federal Lawsuit, the SLFDC State Lawsuit, the CEC State Lawsuit, the Coverage Lawsuits or this Section 1(c).

2. RELEASES

In consideration of HCC's payment of the SLFDC Settlement Payment and the performance of all of the covenants listed in this Agreement, SLFDC and the City hereby release, acquit and forever discharge HCC and covenant not to sue HCC of and from any and all claims, liabilities, damages, attorneys' fees, costs, charges, disbursements, and/or expenses, causes of action, and demands, known or unknown, contractual or extra-contractual, of any kind or character whatsoever, including without limitation, any claim for compensatory, punitive, extra-contractual, or other damages or relief, and any claim alleging "bad faith," breach of the duty of good faith and fair dealing, unfair claims handling, unfair trade practices, unfair insurance practices, breach of fiduciary duty, any duty to investigate, defend, indemnify or settle, or any other alleged wrongdoing or breach of duty that SLFDC and the City now have, or claim to have, or to have had, resulting from, relating to, in consequence of, or in any way involving the CEC State Lawsuit, SLFDC State Lawsuit, Federal Lawsuit or the Coverage Lawsuits.

In consideration of HCC's payment of the SLFDC Settlement Payment, CEC Settlement Payment and HCC Emerald Defense Payment, Emerald, hereby releases, acquits and forever

discharges HCC and covenants not to sue HCC of and from any and all claims, liabilities, damages, attorneys' fees, costs, costs, charges, disbursements, and/or expenses, causes of action, and demands, known or unknown, contractual or extra-contractual, of any kind or character whatsoever, including without limitation, any claim for compensatory, punitive, extra-contractual, or other damages or relief, and any claim alleging "bad faith," breach of the duty of good faith and fair dealing, unfair claims handling, unfair trade practices, unfair insurance practices, breach of fiduciary duty, any duty to investigate, defend, indemnify or settle, or any other alleged wrongdoing or breach of duty that Emerald now has, or claims to have, or to have had, resulting from, relating to, in consequence of, or in any way involving the CEC State Lawsuit, Federal Lawsuit, SLFDC State Lawsuit or the Coverage Lawsuits.

In consideration of HCC's payment of the SLFDC Settlement Payment, CEC Settlement Payment and HCC CEC Defense Payment, CEC hereby releases, acquits and forever discharges HCC and covenants not to sue HCC of and from any and all claims, liabilities, damages, attorneys' fees, costs, costs, charges, disbursements, and/or expenses, causes of action, and demands, known or unknown, contractual or extra-contractual, of any kind or character whatsoever, including without limitation, any claim for compensatory, punitive, extra-contractual, or other damages or relief, and any claim alleging "bad faith," breach of the duty of good faith and fair dealing, unfair claims handling, unfair trade practices, unfair insurance practices, breach of fiduciary duty, any duty to investigate, defend, indemnify or settle, or any other alleged wrongdoing or breach of duty that CEC now has, or claims to have, or to have had, resulting from, relating to, in consequence of, or in any way involving the CEC State Lawsuit, Federal Lawsuit, SLFDC State Lawsuit or the Coverage Lawsuits.

Upon the Effective Date of this Agreement, U.S. Bank hereby releases, acquits and forever discharges HCC and covenants not to sue HCC of and from any and all claims, liabilities, damages, attorneys' fees, costs, costs, charges, disbursements, and/or expenses, causes of action, and demands, known or unknown, contractual or extra-contractual, of any kind or character whatsoever, including without limitation, any claim for compensatory, punitive, extra-contractual, or other damages or relief, and any claim alleging "bad faith," breach of the duty of good faith and fair dealing, unfair claims handling, unfair trade practices, unfair insurance practices, breach of fiduciary duty, any duty to investigate, defend, indemnify or settle, or any other alleged wrongdoing or breach of duty that U.S. Bank now has, or claims to have, or have had, resulting from, relating to, in consequence of, or in any way involving the CEC State Lawsuit, Federal Lawsuit, SLFDC State Lawsuit or the Coverage Lawsuits.

Upon the Effective Date of this Agreement, HCC releases, acquits, and forever discharges SLFDC, the City, CEC, Emerald, and U.S. Bank from any and all past, present or future claims, causes of action, suits, debts, accounts, contracts, demands, agreements, controversies, judgments, obligations, damages, costs, expenses, fees and liabilities of any nature whatsoever, whether or not now known, suspected, or claimed, which HCC had, now has, or hereafter may have, or claim to have, against SLFDC, the City, CEC, Emerald or U.S. Bank by reason of any act, transaction, practice, conduct, or omission of any matter, cause, effect, or thing of any kind whatsoever arising out of, relating to, or based upon, in whole or in part, the CEC State Lawsuit Federal Lawsuit, SLFDC State Lawsuit or the Coverage Lawsuits.

Upon receipt by SLFDC of the SLFDC Settlement Payment, SLFDC and the City, release, acquit and forever discharge CEC, Emerald and U.S. Bank from any and all past, present or future claims, causes of action, suits, debts, accounts, contracts, demands, agreements, controversies, judgments, obligations, damages, costs, expenses, fees and liabilities of any nature whatsoever, whether or not now known, suspected, or claimed, which SLFDC or the City had, now have, or hereafter may have, or claim to have, against CEC, Emerald or U.S. Bank by reason of any act, transaction, practice, conduct, or omission of any matter, cause, effect, or thing of any kind whatsoever arising out of, relating to, or based upon, in whole or in part, the subject matter of the CEC State Lawsuit, Federal Lawsuit, SLFDC State Lawsuit or the Coverage Lawsuits. This release shall not apply to or be construed as a release of any claims that Emerald, SLFC and the City may have against each other concerning the current operation of the San Luis Regional Detention Center that are the subject matter of the SLFDC State Lawsuit, the CEC State Lawsuit, the Federal Lawsuit, or the Coverage Lawsuits. Without waiving the foregoing, SLFDC and the City each releases, acquits and forever discharges Emerald from any and all claim related to or arising from any of the facts made the basis of the Federal Lawsuit.

Upon receipt by CEC of the CEC Settlement Payment, CEC releases, acquits and forever discharges Emerald, SLFDC, the City, and U.S. Bank from any and all past, present or future claims, causes of action, suits, debts, accounts, contracts, demands, agreements, controversies, judgments, obligations, damages, costs, expenses, fees and liabilities of any nature whatsoever, whether or not now known, suspected, or claimed, which CEC had, now has, or hereafter may have, or claim to have, against SLFDC, the City, Emerald or U.S. Bank by reason of any act, transaction, practice, conduct, or omission of any matter, cause, effect, or thing of any kind whatsoever arising out of, relating to, or based upon, in whole or in part, the subject matter of the CEC State Lawsuit, Federal Lawsuit, SLFDC State Lawsuit and the Coverage Lawsuits.

Upon the Effective Date of this Agreement, Emerald releases, acquits and forever discharges CEC, SLFDC, the City, and U.S. Bank from any and all past, present or future claims, causes of action, suits, debts, accounts, contracts, demands, agreements, controversies, judgments, obligations, damages, costs, expenses, fees and liabilities of any nature whatsoever, whether or not now known, suspected, or claimed, which Emerald had, now has, or hereafter may have, or claim to have, against SLFDC, the City, CEC or U.S. Bank by reason of any act, transaction, practice, conduct, or omission of any matter, cause, effect, or thing of any kind whatsoever arising out of, relating to, or based upon, in whole or in part, the subject matter of the CEC State Lawsuit, Federal Lawsuit, SLFDC State Lawsuit or the Coverage Lawsuits. This release shall not apply to or be construed as a settlement or release of any claims that Emerald, SLFDC and the City may have against each other concerning the current operation of the San Luis Regional Detention Center that are not the subject of the subject matter of the CEC State Lawsuit, Federal Lawsuit, SLFDC State Lawsuit and the Coverage Lawsuits.

Upon the Effective Date of this Agreement, U.S. Bank releases, acquits and forever discharges CEC, SLFDC, the City and Emerald from any and all past, present or future claims, causes of action, suits, debts, accounts, contracts, demands, agreements, controversies, judgments, obligations, damages, costs, expenses, fees and liabilities of any nature whatsoever, whether or not now known, suspected, or claimed, which U.S. Bank had, now has, or hereafter may have, or claim to have, against SLFDC, the City, CEC or Emerald by reason of any act,

transaction, practice, conduct, or omission of any matter, cause, effect, or thing of any kind whatsoever arising out of, relating to, or based upon, in whole or in part, the subject matter of the CEC State Lawsuit, Federal Lawsuit, SLFDC State Lawsuit and the Coverage Lawsuits. This release shall not apply to or be construed as a settlement or release of any claims that U.S. Bank may have against any party concerning the current operation of the San Luis Regional Detention Center that are not the subject matter of the SLFDC State Lawsuit, the CEC State Lawsuit, the Federal Lawsuit, or the Coverage Lawsuits.

The Parties intend that the execution and performance of this Agreement shall be effective as a full and final settlement of, and as a bar to, the claims released above. The Parties covenant and agree that if they hereafter discover facts different from or in addition to the facts that they now know or believe to be true with respect to the subject matter of this Agreement, it is nevertheless their intention hereby to settle and release fully and finally the claims released above. The foregoing releases shall be and will remain in effect as releases notwithstanding the discovery of any such different or additional facts. It is expressly understood and agreed by the Parties that the claims released above may and shall be deemed to encompass claims or matters, with the scope of the claims released the nature of which has not yet been discovered.

The Parties understand, acknowledge and agree that this Agreement may be plead as a full and complete defense to, and used as a basis for an injunction against any action, suit or other proceeding that may be instituted, prosecuted or attempted in breach of this Agreement.

3. DISMISSAL OF THE LAWSUITS

Within fourteen (14) days after the SLFDC Settlement Payment, CEC Settlement Payment, HCC Emerald Defense Payment and HCC CEC Defense Payment have been paid pursuant to Section 1 of this Agreement, the Parties will cause their attorneys to enter dismissals with prejudice in the CEC State Lawsuit, SLFDC State Lawsuit, Federal Lawsuit and Coverage Lawsuits for all claims asserted therein or that may have been asserted with all Parties to bear their own fees and costs.

4. NO ADMISSION OF LIABILITY

This Agreement and any actions and statements made by the Parties in connection with this Agreement are without prejudice or precedential value and are not intended to be, nor shall they be construed as, an admission of any liability whatsoever by the Parties, and they shall not be used as evidence or in any other manner in any court or dispute resolution proceeding to create or establish any liability beyond the scope of this Agreement. This Agreement is entered into solely for the benefit of the Parties and is not intended to, and does not, give or create any rights to or in any person or entity other than the Parties.

The Parties agree that they have entered into this Agreement for the purpose of resolving certain disputes between them and this Agreement and any actions or statements made by the Parties in connection with this Agreement are without prejudice or precedential value and are not intended to be, nor shall they be used to prove or interpret, any obligations of HCC or any

affiliated or related entity under the CEC Policies or Emerald Policies or any other policy of insurance.

5. NON-DISPARAGEMENT

The Parties agree and covenant that they will not at any time make, publish or communicate to any person or entity or in any public forum any defamatory or disparaging remarks, comments or statements concerning the CEC State Lawsuit, SLFDC State Lawsuit, Federal Lawsuit, Coverage Lawsuits or this Agreement. The Parties agree and covenant that the CEC State Lawsuit, the SLFDC State Lawsuit, the Federal Lawsuit, and the Coverage Lawsuits were settled “on mutually agreeable terms.”

6. WARRANTIES

Each Party represents and warrants that it has not sold, assigned, transferred, conveyed or otherwise disposed of any claim, demand, cause of action, obligation, damage or liability covered by this Agreement. Emerald and CEC represent, warrant and agree that they have not, as of the effective date of this Agreement, and that they will not, without the written consent of HCC, effect, permit or attempt to effect: (1) any assignment of rights to any person relating to the Emerald Policies or CEC Policies or this Agreement, irrespective of the effect such assignment or attempted assignment may have upon the risk or obligations assumed by HCC; or (2) any assignment of rights to any person to conduct litigation against HCC concerning any of the claims or matters released herein.

7. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the Parties with respect to the subject matter herein and supersedes all prior understandings, negotiations and agreements in connection therewith. The Parties acknowledge that, in entering into this Agreement, they have not relied on any representation, information, statement, communication or anything else not specifically set forth in this Agreement. This Agreement shall not be altered or amended in any manner, except in writing and signed by each of the Parties.

8. INTERPRETATION

The Parties hereto acknowledge and agree that this Agreement is the jointly drafted product of arm’s length negotiations between them and that each has been given the opportunity to review independently this Agreement with legal counsel and agree to the particular language of the provisions hereof. In the event of an ambiguity in or dispute regarding the interpretation of same, interpretation of this Agreement shall not be resolved by any rule of interpretation providing for interpretation against the Party who causes the uncertainty or against the draftsman and all Parties hereto expressly agree that in the event of an ambiguity or dispute regarding the interpretation of this Agreement, the Agreement will be interpreted as if each Party hereto participated in the drafting.

9. AUTHORITY

The undersigned individuals executing this Agreement on behalf of their respective Parties or entities represent and warrant that said individuals or entities are authorized to enter into and execute this Agreement on behalf of such Parties, the appropriate corporate resolutions or other consents have been passed and/or obtained, and that this Agreement shall be binding on the Parties on whose behalf they are executing this Agreement.

10. DEFINITIONS AND RECITALS

The Definitions and Recitals are an integral part of this Agreement and specifically are incorporated by reference herein.

11. GOVERNING LAW AND FORUM SELECTION

This Agreement shall be governed by and construed and enforced in accordance with Arizona law. Any dispute concerning this meaning of this Agreement shall be brought in a court of competent jurisdiction in Arizona.

12. WAIVER

No breach of any provision hereof can be waived unless done in writing. Waiver of any one breach shall not be deemed a waiver of any other breach of the same or other provisions hereof. This Agreement may be amended only by written agreement executed by all Parties.

13. COUNTERPART SIGNATURES

This Agreement may be executed in one or more counterparts and the parties may provide each other with facsimile or .pdf copies of all signature pages of this Agreement, together which shall be considered one instrument and shall be considered duplicate originals.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

WE, THE UNDERSIGNED, HEREBY CERTIFY THAT WE HAVE READ THIS ENTIRE AGREEMENT AND HAVE HAD THE TERMS USED HEREIN AND THE CONSEQUENCES HEREOF EXPLAINED BY OUR RESPECTIVE ATTORNEYS. WE FULLY UNDERSTAND ALL THE TERMS AND CONSEQUENCES OF THIS AGREEMENT AND BASED UPON SUCH, EXECUTE IT.

Houston Casualty Company

By: _____

Title: _____

Date: _____

San Luis Facility Development Corp.

By: _____

Title: _____

Date: _____

**Community Education Centers, Inc.,
CiviGenics, Inc. and CiviGenics-Texas, Inc.**

By: _____

Title: _____

Date: _____

Emerald Correctional Management, LLC

By: _____

Title: _____

Date: _____

U.S. Bank National Association

By: _____

Title: _____

Date: _____

The City of San Luis, Arizona

By: _____

Title: _____

Date: _____