

**San Luis Regional Detention & Support Center
Operation and Management Agreement**

Start December 5, 2016

(Date of Court Order)

90 Days of Notice to Terminate

Expiration April 1, 2022

Automatic Renewal for 5 years

and

April 1, 2027

Automatic Renewal for 5 years

EXECUTION VERSION

REVISED

**AMENDED AND RESTATED
FACILITY OPERATION AND MANAGEMENT AGREEMENT**

INTRODUCTION

WHEREAS, this REVISED Amended and Restated Facility Operation and Management Agreement (hereinafter, the “**Agreement**”) is entered into by and between SAN LUIS FACILITY DEVELOPMENT CORPORATION, an Arizona nonprofit corporation (hereinafter “**MPC**”) and EMERALD CORRECTIONAL MANAGEMENT, L.L.C., a limited liability company organized under the laws of the state of Louisiana (hereinafter called “**Operator**”) to become effective on the Effective Date as that term is defined herein.

WHEREAS, MPC is the owner or equitable owner of the 869-bed San Luis Detention Facility, located within the City of San Luis, Arizona (hereinafter “**Facility**”); and

WHEREAS, MPC has issued its Senior Lien Taxable Refunding Revenue Bonds (San Luis Regional Detention Center Project) Series 2014 issued as of April 1, 2014 in the original aggregate principal amount of \$26,090,000 and the Senior Lien Taxable Refunding Revenue Bonds (San Luis Regional Detention Center Project) Series 2014-A issued as of July 1, 2014 in the original aggregate principal amount of \$20,835,000 (collectively, the “**Bonds**”) to finance and refund certain prior bonds issued for the funding of the Facility, to pay the costs of issuance, and to provide other funds for the benefit of the Facility and the owners of the Bonds; and

WHEREAS, MPC engaged the Operator to operate, manage and maintain the Facility under the terms of that certain Facility Operation and Management Agreement, dated as of August 7, 2009 (the “**Initial Agreement**”); and

WHEREAS, the Initial Agreement was amended and restated on or about March 11, 2011 by agreement of the Operator and MPC upon the execution of the Amended and Restated Operations and Management Agreement (the “**Restated Agreement**”); and

WHEREAS, the Restated Agreement is to expire on its own terms on April 3, 2017 if Operator or MPC (on or before January 3, 2017) notifies the other party and the Trustee that they have elected not to renew the Restated Agreement for an additional five (5) year term; and

WHEREAS, the Operator has advised MPC that the Operator has incurred substantial losses in the operation of the Facility in 2015 and 2016, and that unless changes and modifications are made to the Restated Agreement and to the Bond Documents that will reduce the risk of future losses to the Operator, the Operator will elect not to renew the Restated Agreement; and

WHEREAS, the parties hereto, subject to the terms and provisions hereof, desire to enter into this Agreement for the continued operation and management of the Facility; and

WHEREAS, the entering into this Agreement is found to be in the best interests of MPC and the Operator, the efficient and safe operation of the Facility, and the public as it will serve the public purpose of providing space for incarceration of law violators and will provide economic development and economic benefits to the local economy; and

WHEREAS, MPC has entered into a Trust Indenture (as amended from time to time, the “**Indenture**”), originally dated as of October 1, 2005, with U.S. Bank National Association, as trustee (solely in such capacity, “**Trustee**”), in order (among other things) to issue the Bonds to finance the Facility. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Indenture or in the Interim Forbearance Agreement (as defined below), as the case may be; and

WHEREAS, contemporaneously herewith, the Trustee, the Operator and MPC have entered into an Interim Agreement Regarding Forbearance, Operation of Project and Project Revenues of even date herewith (the “**Interim Forbearance Agreement**”) that is subject to various conditions.

NOW, THEREFORE, in consideration of the mutual rights, benefits and obligations herein exchanged, the parties do covenant, agree and bind themselves as follows:

I. PURPOSES

- 1.01 Operator agrees to operate, manage and supervise the Facility for MPC, pursuant to the terms of this Agreement, and to receive, detain and care for all properly classified prisoners for which the Facility is approved that may be assigned to the Facility from:
- (a) The Chief of Police of the City of San Luis (the “**City**”), such person who is in charge of the management of the Police Department, or such other person or persons as may be designated by the City Manager of the City (collectively the “**Police Chief**”);
 - (b) The United States Government or any agency thereof, pursuant to an agreement between MPC and the United States or any agency thereof, subject to any limitations of the Indenture;
 - (c) The Arizona Department of Corrections, pursuant to an agreement between ADOC and MPC;
 - (d) The Bureau of Indian Affairs; or
 - (e) Any other state, local, county, or federal jurisdiction.

All of whom may be referred to hereinafter as “**Users**” or “**User Agencies**”.

- 1.02 Operator agrees that operation and management of the Facility must be in accordance with the applicable standards of the American Correctional Association and the requirements set forth in agreements with entities contracting with MPC or Operator to house prisoners at the Facility (“**Sending Jurisdictions**”).

- 1.03 Operator is an independent operator engaged for the public purpose of operating a detention center on behalf of MPC. No property interest or right in the Facility or grounds is granted to the Operator by this Agreement.
- 1.04 The Operator shall operate the Facility in compliance with this Agreement and in a manner that fulfills the duties of MPC under the Indenture and this Agreement, as amended or restated from time to time. The Operator shall provide or cause to be provided all insurance, maintenance, certifications and other matters required under this Agreement or required of, or made the obligation of, MPC under the Indenture. This includes, without limitation, preparation of all reports or disclosures required thereunder.
- 1.05 Each of the statements contained in the Introduction section of this Agreement are contractual provisions and stipulations that are binding upon the parties, and are not mere recitals.

II. TERM

- 2.01 Without limitation of the conditions precedent hereto, MPC hereby retains Operator exclusively and Operator hereby accepts this engagement for the operation, management, and maintenance of the Facility pursuant to the terms hereof. The term of this Agreement shall begin on the date on which all of the conditions precedent under Sections 2.03 and 2.04 have been satisfied or are waived (the “**Effective Date**”) and shall continue in full force and effect until 1:00 PM Arizona time on April 1, 2022, unless earlier terminated as provided in this Agreement, including Section 14.02 and Article XX hereof. Without limitation of the foregoing, the parties hereby agree that the term of this Agreement shall terminate contemporaneously with the termination of the Interim Forbearance Agreement, unless the parties otherwise agree in writing.
- 2.02 This Agreement, if otherwise in effect on April 1, 2022 and 2027 respectively, shall automatically renew for not more than two (2) independent and successive, five (5) year terms (hereinafter, the “**Renewal Terms**”), unless either Party notifies, pursuant to the terms of Section XVI of this Agreement, the other Party of its election to cancel the forthcoming Renewal Term, not less than ninety (90) days prior to the then existing term’s natural expiration.
- 2.03 The Operator and MPC hereby acknowledge that the Trustee intends to seek a trust instruction order from Minnesota State Court authorizing the Trustee to enter into and implement the Interim Forbearance Agreement (the “**TIP Order**”) and this Agreement. Accordingly, the parties hereby acknowledge and agree that the effectiveness and enforceability of this Agreement is expressly conditioned upon the Trustee’s ability to obtain a final TIP Order (not subject to appeal) issued by Minnesota State Court authorizing and instructing the Trustee to enter into and perform upon the Interim Forbearance Agreement in form and substance acceptable to the Trustee and its legal counsel, and acceptable to Operator and MPC and their legal counsel, all of which is a condition precedent to the effectiveness and enforceability of this Agreement.

2.04 This Agreement is further conditioned upon the occurrence of the following:

- (a) MPC has executed this Agreement pursuant to the authority of a duly passed and adopted resolution of MPC, authorizing the execution of this Agreement on behalf of MPC; and
- (b) The Operator has executed this Agreement pursuant to the authority of a duly passed and adopted resolution of the Operator, authorizing the execution of this Agreement by a manager or co-manager of Operator
- (c) The Trustee has obtained a final TIP Order as described in Section 2.03 above; and
- (d) The Effective Date of the Interim Forbearance Agreement has occurred.

III. OPERATOR'S COMPENSATION

3.01 Management Fees.

- (a) During the term of this Agreement and solely from Project Revenues, MPC agrees to pay Operator compensation as set forth herein for the goods and services provided hereunder to the extent that Project Revenues are made available for that purpose under the Indenture and under the Interim Forbearance Agreement in the form of the Operator's share of the Management Fee. As used in this Agreement, the term "**Management Fee**" shall mean collectively the Revised O&M (as defined in the Interim Forbearance Agreement) and the Incentive Fee. For the avoidance of doubt, Project Revenues generated from the Operator's operation of the Facility during any of the Operations Months (as defined in the Interim Forbearance Agreement), even if such Project Revenues are not actually received by the Trustee until after the termination of the Interim Forbearance Agreement and this Agreement, will be applied in accordance with the priorities set forth in the Interim Forbearance Agreement and this Agreement. MPC is only obligated to pay the Operator's share of the Management Fees to Operator to the extent that funds are available in the Operating Account (maintained by the Trustee pursuant to the Indenture and the Interim Forbearance Agreement) for such purposes. No funds of MPC that are generated by other projects, and no funds of the City, that are held in the general fund of the City, and no tax revenue of the City, shall be obligated to pay the Operator's share of the Management Fee. MPC shall instruct the Trustee to pay the Operator's share of the Management Fees to Operator when funds are available to the Trustee to pay such Management Fees.
- (b) The Operator's compensation under this Article III shall be payable solely from Project Revenues available therefor in the Operating Account established under the Indenture (and, during the Interim Restructuring Period, the Interim Forbearance Agreement). The MPC hereby irrevocably instructs the Trustee to pay the Operator the Operator's share of the Management Fees, within three (3)

business days after the date upon which there is sufficient money accumulated in the Operating Account to pay such amounts, subject to the terms and conditions in the Interim Forbearance Agreement, including the ascertainment of the amount owed in accordance therewith. If the Operator is not paid its full share of the Management Fee as set forth in this Section for any calendar month, the deficiency in such payment shall be carried over to the following months and added to the Operator's compensation due in following months during the term of this Agreement, subject to the terms and conditions set forth herein and in the Interim Forbearance Agreement.

- (c) During the Interim Restructuring Period, the Operator's share of the Management Fees shall refer to the Project Revenues that the Operator is entitled to receive from the Operating Account subject to the terms and conditions of the Interim Forbearance Agreement and this Agreement. The Operator acknowledges that Project Revenues during the Interim Restructuring Period may not be adequate to reimburse the Operator for all Operation and Maintenance Costs advanced by the Operator.
- (d) Pursuant to the terms of the Interim Forbearance Agreement, and subject to the occurrence of the Effective Date of this Agreement, the first Management Fee payable to the Operator hereunder shall be for the goods and services provided by the Operator during the month of September 2016, and the Operator hereby waives any unpaid Management Fees or any other unpaid management or operating fees and expenses incurred by the Operator in connection with its operation of the Facility for any prior periods. For the avoidance of doubt, the first Management Fee payable to the Operator under the terms of this Agreement shall be from Project Revenues attributable to the operation of the Facility for the month of September 2016.
- (e) No Management Fees due and owing to Operator pursuant to this Agreement shall remain due and owing after 120 calendar days has have elapsed following the termination of this Agreement by its own terms or otherwise. Operator shall only be paid its share of the Management Fees due hereunder from Project Revenues generated by the services provided by Operator in the operation, management and maintenance of the Facility. Project Revenues generated by any other operator of the Facility shall not be utilized to pay the Management Fees of Operator due and owing hereunder.
- (f) Intentionally blank.
- (g) More specifically, and subject to the priorities set forth in Interim Forbearance Agreement, during the Interim Restructuring Period, the Management Fees shall be calculated and paid upon a monthly basis, in each of the following amounts:
 - (i) From Project Revenues available to the Trustee in the Operating Account for such purposes, MPC shall direct the Trustee to pay to Operator all of the unreimbursed Operator Direct Expenses (as defined below) incurred

by the Operator, including any unreimbursed Operator Direct Expenses from prior months during the Interim Restructuring Period, to the extent required by Subsection 5.06(c) of the Indenture, for the month to which such Project Revenues relate ("**Operations Month**"); and

- (ii) From any remaining Project Revenues available to the Trustee in the Operating Account, or the General Account, MPC shall direct the Trustee to pay to MPC on behalf of the City the sum of \$17,000.00 (the "**Detention Facility Business License Fee**") for each month during the Interim Restructuring Period; and
- (iii) From any remaining Project Revenues available to the Trustee in the Operating Account, MPC shall direct the Trustee to pay to Operator a sum equal to Six Percent (6%) of all of the Operator Direct Expenses incurred by Operator during such month;

But in each case, nothing in this Section 3.01 shall be construed in a manner inconsistent with the Interim Forbearance Agreement and no Incentive Fee (as defined below) shall be payable with respect to any period after the Interim Forbearance Agreement is terminated. In the event of any inconsistency between this Agreement and the Interim Forbearance Agreement, the latter shall control.

- (h) During the Interim Restructuring Period, to the extent any Project Revenues are transferred to the Surplus Account pursuant to the terms of the Interim Forbearance Agreement, the Operator shall be entitled to an additional fee (the "**Incentive Fee**") equal to 80% of Project Revenues deposited into the Surplus Fund, provided, however, that the Operator agrees that 25% of any Incentive Fee payable to the Operator pursuant to this section shall be paid by the Trustee directly to MPC on behalf of the City.
- (i) As used herein, the term "**Operator Direct Expenses**" means any and all reasonable costs, fees, outlays, expenditures, disbursement and expenses actually incurred by Operator, arising directly from the performance or fulfillment of Operator's obligations or duties under this Agreement, including but not limited to: all salaries, benefits and other costs of employees (but only for such employees who are directly assigned to the operation of the Facility), as well as all the out of pocket costs of utilities, procurement, training, maintenance, repairs, replacements, equipment rental costs, food and beverage, detainee health care, detainee clothing and toiletries, detainee transport and other transportation, detainee educational and recreational programs, insurance premiums attributable to the Facility, taxes incurred in complying with the terms of this Agreement (such as sales taxes imposed for goods purchased specifically for use at the Facility), the costs, fees and expenses incurred for audits or inspections of the Facility or its operations demanded or required by this Agreement, City, MPC, Trustee, Bondholders, or third parties (such as Sending Jurisdictions), to the extent incurred and paid in the relevant Operations Month. This is not an exhaustive, exclusive or limiting list of all the Operator Direct Expenses, but is

descriptive of some of such costs, and is provided for illustrative purposes only. However, the term Operator Direct Expenses does not include any fee to the Operator, profit of the Operator, or any general administrative overhead charge or cost of the Operator, or any other compensation due and owing to Operator pursuant to this Agreement. Also, the term "Operator Direct Expenses" does not include any fee or payment to the City or MPC, nor does it include any expense not actually paid by Operator in the relevant Operations Month, including depreciation or amortization expense, or any interest on any debt or other obligation or debt service payment on the Bonds or payments by the MPC to replenish advances from the Reserve Fund, or any amounts paid by the Operator to MPC.

- (j) Following the collection by the Trustee of the Project Revenues attributable to each Operations Month in the Interim Restructuring Period, the Trustee and the Operator will in accordance with the Interim Forbearance Agreement determine the extent to which, if any, the amount under clauses 3.01(g)(i) and 3.01(g)(iii) for such Operations Month were not covered and reimbursed by the Trustee's deposits of Project Revenues (or other funds) to the Operating Account and paid to Operator with respect to such Operating Month, and such amount shall be referred to as the "**Operating Shortfall**" for such Operations Month.

3.02 Source of Funds. Notwithstanding anything herein to the contrary, all amounts due and payable by MPC to Operator shall be a current obligation payable solely from the amounts held or transferred to the Operating Account established under the Indenture and the Interim Forbearance Agreement. At no time shall the Trustee, the City or MPC be liable for payment of these sums save and except from the source of funds identified hereinabove.

3.03 Detention Facility Business License Fee. The Operator hereby agrees that if the Detention Facility Business License Fee is not paid directly to MPC on behalf of the City pursuant to Section 3.01(g)(ii) above and is paid to the Operator, the Operator shall promptly turn over such payment to MPC on behalf of the City and such payment shall constitute the Detention Facility Business License Fee payable to MPC. City and MPC hereby release any claim for unpaid or suspended Detention Facility Business License Fee for any period prior to the Effective Date.

3.04 Documentation for Distributions by Trustee. The Operator shall, each month during the term of this Agreement, promptly forward to the Trustee, such documentation as may be reasonably required to facilitate the payment of the Management Fees (including the Detention Facility Business License Fee) and the Incentive Fee, pursuant to this Agreement and the Interim Forbearance Agreement including, without limitation, the certifications required pursuant to Section 2 of the Interim Forbearance Agreement. Such documentation shall include, but is not limited to, the monthly invoice prepared by Operator and forwarded to each User Agency assigning Inmates to the Facility, the monthly calculation of the amount due and owing to Operator, and such other matters as may be reasonably and prudently required by Trustee to document the payment of Management Fees hereunder. Operator shall prepare and submit to the City a monthly

statement setting forth the calculation of any and all amounts due and owing by Operator to the City as the Detention Facility Business License Fee, pursuant to Section 3.03 above, and such other amounts as may be due and owing between the City and Operator pursuant to the terms of this Agreement.

3.05 Intentionally Blank.

3.06 Intentionally Blank.

3.07 Project Revenue. The term “**Project Revenue**” Shall have the meaning set forth in the Indenture.

3.08 MPC acknowledges that the Operator shall be entitled to seek reimbursement from the User Agencies or Sending Jurisdictions for extraordinary costs associated with the housing agreements with such User Agencies or Sending Jurisdictions. Said extraordinary expenses may include, but are not limited to, outside hospital coverage, transportation, extraordinary medical expenses, pharmaceuticals, and facility enhancements. Said reimbursement for such costs shall not be from Project Revenues and shall not be the burden of MPC but only that of the User Agencies or Sending Jurisdictions, and shall be separate from the Operator’s compensation payable under this Agreement.

3.09 In the event of a shortage of space in the City’s jail, the City, at the request of the respective Police Chief, may house at the Facility, up to five (5) prisoners at no cost to the City, for a time period of not more than seventy-two (72) hours. Should the need to exceed five (5) prisoners arise for more than seventy-two (72) hours at any given time, both parties agree to negotiate, in good faith, a rate per prisoner per day acceptable to both parties applicable to each such occurrence. Said rate shall only be applicable to those instances where more than five (5) prisoners are housed at Facility for more than seventy-two (72) hours for any given inmate is required; The City may not contract with other jurisdictions for the beds identified in this section.

3.10 For the purposes of this Agreement, a “day” shall mean a twenty-four (24) hour time period beginning with twelve (12) o’clock midnight and ending twenty-four (24) hours later and a “month” shall mean a calendar month. The Operator shall provide to MPC a daily midnight census count of all inmates confined at the Facility during the calendar month. This census will be provided not later than ten (10) calendar days after the end of the month and will be the basis for all compensation actions.

IV. DUTIES OF OPERATOR

4.01 Operator shall manage, operate and provide at its sole cost and expense:

- (a) Replacement of all necessary furniture, fixtures and equipment required at the Facility, including, but not limited to, computers, fax and copy equipment, radios, televisions, uniforms and linens and basic office furniture and administrative phone systems, which are necessary or prudent for operation and management of the Facility and the housing of prisoners.

- (b) Intake facilities and prisoner accounting which shall encompass booking, record keeping, billing, system of controls, identification systems and records, computerized communication interface with law enforcement agencies, and such statistical records as may be required by law, Sending Jurisdictions, or as generally accepted prisoner-locator practices;
- (c) Attendants to control ingress and egress at the Facility, in addition to attendants necessary for the requisite level of security internally within the Facility and those required to monitor the activities of prisoners confined within the Facility. The Operator shall provide to MPC a complete staffing plan. This plan will include a suitable relief factor which takes into account training, vacation and other matters required to staff a correctional facility of this size and mission. The Operator will make every effort to maintain staffing at a level equal to ninety percent (90%) of the staffing plan;
- (d) Food and beverage services;
- (e) Clothing and uniforms;
- (f) Engineering and maintenance;
- (g) Procurement and purchasing;
- (h) Recreational, vocational, counseling, education and exercise programs, and other program requirements required by law or prisoner housing contracts;
- (i) Bookkeeping and financial accounting;
- (j) Basic medical care, over-the-counter medications, and miscellaneous medical supplies as required by Sending Jurisdictions;
- (k) Training of jailers to be employed at the Facility;
- (l) Repair, upkeep and maintenance for the Facility. This will include (without limitation) establishment of a periodic maintenance program with applicable equipment maintenance records;
- (m) Necessary utilities and refuse services; and
- (n) All other services necessary or proper for the efficient and safe operation of the Facility, and secure custody, care and housing of inmates, in compliance with all applicable federal, state and local laws and regulations and in compliance with all signed housing agreements.

In regard to 4.01(l) above, the MPC agrees to assign to Operator, when necessary and appropriate, any warranties or guarantees it might have or be entitled to with regard to the Facility, Furniture, Fixtures, and Equipment (FF&E) in order to effect repairs on the Facility, and FF&E, or to give Operator the right to pursue the manufacturer, builder, or

other supplier who gave such warranties or guaranties, to seek reimbursement for monies expended by Operator to meet its repair, upkeep and maintenance obligations under this Agreement to the extent that those expenditures relate specifically to work covered by the subject warranty or guaranty. With respect to any warranties, MPC agrees to cooperate and use its best efforts to assist Operator to recover under such warranties. Extraordinary repairs shall generally be paid or reimbursed out of the Operating Reserve Repair Contingency Fund established under the Indenture where funds are available in that account therefor, unless such is due to the negligence or intentional acts of Operator's employees, or by inmates or is covered by insurance or warranty. Operator's responsibility for extraordinary repairs, where funds are not available in a sufficient amount in the Operating Reserve Repair Contingency Fund to pay for the same, is limited to the proceeds of applicable insurance, unless the need for such repairs was created by the negligence or intentional act of its employees, or by inmates.

- 4.02** Operator shall prepare and furnish such reports as may be required by law to be submitted to the City and the Police Chief with respect to the operation of the Facility or the prisoners detained therein and, in addition, such other reports as may be required by an Arizona state agency or any agency of the United States Government, or by any state or political subdivision thereof from which prisoners have been assigned to the Facility.
- 4.03** Operator shall obtain, and thereafter maintain, the proper certification(s) necessary for the Facility to incarcerate federal, state and local prisoners, and shall maintain such certification(s) at all times. After such certifications have been obtained, if required by the laws of the State of Arizona, the Operator shall provide copies to MPC.
- 4.04** Operator will properly incarcerate all prisoners assigned to the Facility for whom there is space available at the Facility within the statutory and regulatory limits of the Sending Jurisdiction and in accordance with all federal, state, and local laws, ordinances, regulations, and other legal requirements.
- 4.05** Notwithstanding anything contained herein to the contrary, MPC and/or the Trustee shall have no liability whatsoever for any employees of Operator. Operator hereby agrees to indemnify, defend and hold MPC and the Trustee harmless from all costs, claims, expenses, and liabilities (including attorneys' fees) whatsoever which may be incurred by MPC or the Trustee arising from any and all acts done or omitted to be done by Operator, or the employees, agents and assigns of Operator, in connection with services performed or to be performed under this Agreement.
- 4.06** The interviewing, hiring, training, assignment, control, management, compensation, promotion and termination of all members of the Facility's administration and staff shall be the responsibility and obligation of Operator. Operator will use its best efforts to hire and train local personnel and will report on the status of local hiring on a quarterly basis.
- 4.07** Operator shall use its best efforts to purchase goods and services locally when economically feasible. Prior to the initial purchase of any goods (including, without

limitation, FF&E), Operator will conduct a local vendor fair. The intent of this fair is to provide local vendors with a listing of facility purchase needs. Special emphasis shall be given to food, office supplies and maintenance products.

- 4.08 Operator shall make available to its employees' health care benefits that are comparable to those provided by the City to its employees.
- 4.09 Operator shall provide all balance sheets, income statements, inmate rolls, accounting records or reports, audits and other such matters required of MPC and/or the Trustee under the Indenture and this signed Agreement for the Facility, and all Facility operation information necessary to carry out MPC and/or the Trustee's continuing disclosure obligations under the Trust Indenture and this Agreement.
- 4.10 The Operator will provide to the Trustee, the Underwriters, and each holder of at least \$1,000,000 in principal amount of Bonds Outstanding who has given notice to the MPC and the Trustee of its interest in receiving the same, within 60 days after the end of each fiscal quarter of each Fiscal Year of MPC, an unaudited statement of income and expenditures with respect to the operation of the Facility for such fiscal quarter, and average prisoner census information for each calendar month in each such fiscal quarter.
- 4.11 After the Effective Date, and so long as the Interim Forbearance Agreement is in effect, the Operator shall continue to provide the US Marshal, Immigrations & Customs Enforcement, and the Bureau of Indian Affairs transportation and programming services in the same manner that such services were being provided to such agencies before the Effective Date. MPC specifically agrees that the costs incurred by the Operator in providing transportation and programming services to the Sending Jurisdictions (that are not otherwise reimbursed to the Operator by those Sending Jurisdictions) constitute Operator Direct Expenses.

V. MEDICAL CARE

- 5.01 The Operator shall provide access to medical, optical, and emergency health care in accordance with those standards of Sending Jurisdictions. Operator shall provide on-site nurses and medical technicians to handle sick call and medical assessment and care that does not require a physician or specialist. The Operator shall also contract with a medical doctor to serve as medical consultant for the Facility.
- 5.02 It is the understanding of MPC that all healthcare needs in excess of basic triage are to be performed off-site of the Facility. In addition, it is the understanding of MPC that all costs associated with care in excess of basic triage will be borne by the agency having jurisdiction over the inmates or detainees. MPC shall have no obligation for such costs and such costs shall not be payable from Project Revenues.

VI. COMPLIANCE WITH STANDARDS

- 6.01 Operator shall prepare and adopt a Procedures Manual for the operation of the Facility so as to assure that the Facility is operated fully in accordance with applicable correctional practices and in accordance with the requirements of the contracting jurisdictions.
- 6.02 Operator shall assure that all employees at the Facility are adequately trained to perform at standards required by law.
- 6.03 Operator shall comply with all standards and requirements of the prisoner housing contracts entered into with each Sending Jurisdiction by MPC and provide all services to be provided by MPC under such contracts and pursuant to the terms of such contracts.
- 6.04 The Operator shall conform to all regulations and requirements, as well as seek any necessary accreditations set forth in specific housing agreements for the Facility.
- 6.05 The Operator shall satisfy the requirements of the American Correctional Association.

VII. DUTIES OF THE CITY

- 7.01 The City and the Police Chief will cooperate with Operator in all matters of law enforcement, security and communications. To that end, Operator will immediately inform the City as to the possibility of any escape or missing inmate. In addition, the City will be informed as to any unusual/extraordinary event/occurrence within the Facility, which might create a public concern or be of potential embarrassment to the City.
- 7.02 The City and the Police Chief may assist Operator in the training, at Operator's expense, of Operator employees to operate the Facility.
- 7.03 The City and the Police Chief shall assist and cooperate with Operator in providing information needed by Operator in the screening of candidates for employment, but the decision to employ shall be the Operator's solely.
- 7.04 All jailers must be certified by appropriate State of Arizona Standards or the Sending Jurisdiction's requirements prior to undertaking permanent jailer duties.

VIII. DUTIES OF MPC

- 8.01 MPC and the Operator agree it shall be to their mutual benefit and interest that the Facility be fully utilized by maintaining the maximum prisoner population within statutory or regulatory limits. To this end, and throughout the term of this Agreement, MPC and the Operator agree to cooperate in efforts to obtain maximum prisoner population from the sources set forth in Section 1.01 of this Agreement (e.g., MPC will enter into reasonable and advisable prisoner housing contracts or related agreements; Operator will actively seek to identify potential prisoner sources, etc.). It shall be the

responsibility of Operator to assist MPC in seeking out sources of prisoners for incarceration at the Facility, and to assist in negotiation and presentation for acceptance by MPC contracts for the incarceration of prisoners from sources listed in Section 1.01 of this Agreement.

IX. LIABILITY AND INDEMNITY

- 9.01** Operator hereby agrees to defend, hold harmless and indemnify MPC and the Trustee, their officers, directors, employees, agents, and representatives, from and against any and all claims, damages, demands, losses, costs and expenses, including attorney's fees, incurred or suffered by MPC or the Trustee, their officers, directors, employees, agents, or representatives, arising out of or resulting from any acts done or omitted to be done by Operator or the employees, agents or assigns of Operator pursuant to the provisions of this Agreement.

X. INSURANCE

- 10.01** Operator shall obtain and maintain in force, at its sole cost, risk and expense during the term of this Agreement, a policy or policies of liability insurance in an amount of no less than Five Million Dollars (\$5,000,000.00) in coverage per occurrence, and Five Million Dollars (\$5,000,000) aggregate. Such insurance shall insure against all claims, including claims based on violations of civil rights up to a maximum of One Million Dollars (\$1,000,000.00), arising from services performed by Operator pursuant to this Agreement.
- 10.02** Said policy or policies of insurance shall name the MPC and the Trustee as "additional named insureds".
- 10.03** Operator shall provide and continue in force property insurance coverage in the name of MPC, and the Trustee as loss payees in amounts equal to the cost of replacement of all of the Facility, and shall maintain and continue fire, boiler and machinery coverage on the Facility. Operator agrees that its negotiated per diem, per prisoner fee with each Sending Jurisdiction has taken this operational expense into account.
- 10.04** Operator shall provide to MPC insurance certificates as proof of the insurance policies obtained in accordance with this Article X. All policies shall provide that coverage shall not be cancelled without thirty (30) days prior written notice to the certificate holder and all additional named insureds and loss payees. Operator shall obtain, as soon as possible (and before cancellation) and at its sole cost, replacement insurance policies.
- 10.05** Operator shall provide workers compensation insurance for its employees at the Facility, which provides the statutorily required coverage, except that employer's liability coverage shall not be in an amount of less than \$1,000,000.
- 10.06** Operator shall carry auto liability insurance coverage in the amount of at least \$1,000,000 per single limit for bodily injury and property damage, with umbrella

coverage in an amount not less than \$3,000,000, covering any vehicles used in its operations.

- 10.07 Notwithstanding anything to the contrary in the foregoing sections, Operator shall provide all insurance required of MPC under the Indenture or this Agreement in the form and naming the insureds and loss payees as required in the Indenture. Operator agrees that the negotiated per diem, per prisoner fee with each Sending Jurisdiction has taken this operational expense into account. This includes business interruption insurance in accordance with Section 6.16 of the Indenture. Section 6.16 of the Indenture provides as follows:

Property Insurance. As Operation and Maintenance Costs, from and after the Completion Date, MPC shall procure and maintain continuously in effect with respect to the Project, to the extent of the amount of Bonds Outstanding, all-risk insurance, including coverage for riots, subject only to the standard exclusions contained against the loss of Project Revenues sufficient to pay the average Operation and Maintenance Costs and annual debt service payments due hereunder for a period of one year. The proceeds of such business interruption insurance shall be paid to the Project Fund and applied as provided herein if and to the extent that other moneys (other than moneys held in the Reserve Fund) are not available to pay Operation and Maintenance Costs and make the annual debt service payment. All policies (or endorsements or riders) evidencing insurance required by this Section 6.16 shall be carried in the names of MPC and Trustee as their respective interests may appear and shall name Trustee as mortgagee and loss payee. The Net Proceeds of insurance required by this Section 6.16 shall be applied as in Section 6.24 hereof.

XI. APPROVAL AND MONITORING BY CITY POLICE CHIEF

- 11.01 The Police Chief shall periodically monitor the operation of the Facility, and, to this end, the Police Chief or his designated representative shall conduct a thorough on-site inspection of the Facility no less than once each month throughout the term of this Agreement. Such monitoring shall not create any liability to the City or the Police Chief, and shall not be a basis for release or defense to Liability of the Operator.

XII. MAINTENANCE, UPKEEP AND REPAIR

- 12.01 All ordinary maintenance, upkeep and repair costs for the Facility shall be paid by Operator pursuant to subsection 4.01 of this Agreement except as otherwise provided therein. Operator agrees that the negotiated per diem, per prisoner fee with each Sending Jurisdiction has taken this operational expense into account.

XIII. TAXES AND GOVERNMENTAL CHARGES

- 13.01 Operator shall be responsible for any taxes or governmental charges of any kind assessed or incurred after the effective date of this Agreement which are levied or imposed on the Facility and related property. To the extent that such taxes are

chargeable against the Facility and found by a final non-appealable judgment of a court of competent jurisdiction to be due and owing, they shall be paid out of the Operating Account or any reserve accounts available for payment thereof as amounts due or payable under the Indenture or this Agreement. Such amounts are not a responsibility or debt of MPC. This Facility is intended to be, and under current law, should be exempt from property taxation. MPC is the owner of taxable title to the Facility based on current interpretations and decisions.

XIV. ADDITIONAL PROVISIONS

- 14.01** Notwithstanding anything to the contrary contained herein, in the event any bankruptcy, reorganization debt arrangement, moratorium, proceeding under any bankruptcy or insolvency law or dissolution or liquidation proceeding is instituted by Operator, or if instituted against Operator, is consented to or acquiesced in by Operator and is not canceled, MPC shall immediately assume responsibility for the operation, management and supervision of the Facility.
- 14.02** If either party is found in material breach of this Agreement, said party shall have ninety (90) days, from notification of said breach, to correct or rectify said matter, unless a shorter cure period is provided elsewhere in this Agreement, and then such shorter time period shall prevail. In the event breaching party makes a good faith effort to correct or rectify said matter, however, more time is required due to unforeseen or uncontrollable circumstances, both parties shall negotiate in good faith as to an appropriate time frame to correct or rectify said matter. If material breach is not corrected or rectified in accordance with above, said contract shall terminate in thirty (30) days, provided however, the Operator may not terminate this Agreement without the prior written consent of the Trustee unless the conditions set forth in Section 20.01 below have occurred or the Trustee has failed after ten business days' notice to: (i) deposit funds into Operating Account in accordance with the Interim Forbearance Agreement, or (ii) pay to Operator's share of the Management Fees or Incentive Fees due and owing to Operator in accordance with the Interim Forbearance Agreement and this Agreement.
- 14.03** If a dispute arises out of or relates to this Agreement, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try to settle the dispute through mediation before resorting to arbitration, litigation or some other dispute resolution procedure. In the event that the parties cannot agree upon the selection of a mediator within seven (7) days, either party may request the presiding judge of the Superior Court of Yuma County to assign a mediator from a list of mediators maintained by the Arizona Municipal Risk Retention Pool, an Arizona nonprofit corporation. Mediation, arbitration or other form of dispute resolution proceeding must be commenced within the time for bringing claims against the City as permitted by A.R.S. § 12-821 and Operator shall file a notice of claim against the City within 180 days after the claim accrues. The failure to commence such mediation, arbitration or other form of dispute resolution proceeding shall not bar the accrual of any such claim. However, if mediation, arbitration or other form of dispute resolution proceeding is commenced prior to the expiration of the 180 day period provided for in

A.R.S. § 821.01, then such 180 day period shall abate during the pendency of such mediation, arbitration or other form of dispute resolution proceeding.

- 14.04** Commissary services procurement shall be made utilizing sound and acceptable business and accounting practices. Commissary proceeds will be controlled by the Operator, and to be used only for inmate welfare purposes or costs associated with the operation of the Commissary at the Facility.
- 14.05** This City is a third party beneficiary of the Operator's obligations under Section 3.03 of this Agreement.

XV. APPLICABLE LAW AND VENUE; LEGAL CONSTRUCTION; MISCELLANEOUS

- 15.01** Applicable Law and Venue. This Agreement shall be construed under and in accordance with the laws of the State of Arizona, and all obligations of the parties created hereunder are performable in San Luis, Arizona. Any legal action relating to this Agreement shall be brought in either the Yuma County Superior Court or in the United States District Court for the District of Arizona at the election of the plaintiff in such legal action, provided, however, that nothing in this Section 15.01 will be deemed to have authorized the bringing of any legal action in a court which does not otherwise have jurisdiction to adjudicate the legal action. This Agreement is subject to termination pursuant to A.R.S. § 38-511.
- 15.02** Severability. Every provision of this Agreement is, and will be construed to be, a separate and independent covenant. If any provision of this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, then the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable, will not be affected by that invalidity or unenforceability, and each provision of this Agreement will be valid and will be enforced to the extent permitted by the law, and the parties will negotiate in good faith for such amendments of this Agreement which may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.
- 15.03** Assignment. Except as specifically permitted herein, this Agreement is not assignable unless both parties mutually consent otherwise in writing. The requirements of this Agreement are binding upon the heirs, executors, administrators, successors and assigns of all parties. Notwithstanding the foregoing the Operator acknowledges that the Project Revenues generated by this Agreement have been pledged to the Trustee to secure the payment of the Bonds and certain rights and remedies of the MPC may be enforced by the Trustee to the extent contemplated by the Indenture. Notwithstanding the foregoing, Operator may assign this Agreement to a wholly owned subsidiary of Operator, upon notice to MPC and the Trustee, provided that the Operator shall unconditionally guarantee the obligations of such subsidiary hereunder.

- 15.04** Void/Voidable. If for any reason this Agreement shall be held void or voidable, or otherwise be held unlawful, this Agreement shall immediately terminate, and Operator shall have no claim or right of action against MPC, its officials, its employees, its agents or its attorneys for any such termination or alleged act of omission related to the same.
- 15.05** Employment Eligibility. Operator hereby warrants, and shall require its subcontractors to warrant, that it is in compliance with all federal immigration laws and regulations that relate to its employees and with A.R.S. §23-214 relating to verification of employment. A breach of this warranty shall be deemed a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement. The City and MPC retain the legal right to inspect the papers of Operator or any subcontractor employee who works to service the obligations of Operator to ensure that Operator or its subcontractors are complying with this warranty.
- 15.06** Sudan/Iran Investments and Business Operations. By entering into this Agreement, Operator certifies that it does not have scrutinized business operations in Iran or Sudan as those terms are defined in A.R.S. §35-391 et seq.
- 15.07** Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signature of all parties may be physically attached to a single document. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or e-mail in .pdf format shall be effective as delivery of a manually executed counterpart of this Agreement.
- 15.08** Headings. The descriptive headings of the Sections of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.
- 15.09** Further Acts. Each of the parties hereto shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement.
- 15.10** Time is of the essence of this Agreement. Time is of the essence of this Agreement.
- 15.11** No Partnership and Third Parties. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other similar arrangement between the City, MPC or Operator. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.
- 15.12** No Personal Liability. No member, official or employee of the City or MPC shall be personally liable to Operator, or any successor or assignee, (a) in the event of any default or breach by MPC or the City, (b) for any amount which may become due to the

Operator or its successor or assign, or (c) pursuant any obligation of MPC or the City under the terms of this Agreement.

XVI. NOTICES

16.01 Notices required to be given hereunder by any party to the other shall be in writing and shall be valid if actually received by the party to whom such notice is given or if deposited in the United States Mail, postage prepaid and addressed to the party as herein below specified. The effective date for noticing shall be the date actually received by the party to whom notice is being given. Notices to the MPC shall be delivered or sent as follows:

MPC Address and Contact: SAN LUIS FACILITY DEVELOPMENT CORPORATION
 1090 E. Union Street
 P.O. Box 1170
 San Luis, Arizona 85349
 Attn: City Manager

Notices to Operator shall be EMERALD CORRECTIONAL MANAGEMENT, L.L.C.
delivered or sent as follows: ATTN: CEO
 315 South College, Suite 205
 Lafayette, LA 70503

With a copy to: Hull Youngblood
 10001 Reunion Place, Suite 640
 San Antonio, Texas 782165

Notices to the Trustee shall be U.S. BANK NATIONAL ASSOCIATION
delivered or sent as follows: 633 W. Fifth Street, 24th Floor
 Los Angeles, CA 90071
 Attention: Keith R. Marshall

XVII. EXECUTION AUTHORITY

17.01 By his or her signature below, each signatory individual certifies that he or she is the properly authorized agent or officer of the applicable party hereto, and has the necessary authority to execute this Agreement on behalf of such party, and each party hereby certifies to the other that any resolutions necessary to create such authority have been duly passed and are now in full force and effect.

XVIII. AMENDMENT

- 18.01 This Agreement may be amended only by a written instrument specifically purporting to amend this Agreement and executed by all parties hereto, and with the prior consent of the Trustee.

XIX. ENTIRE AGREEMENT

- 19.01 This Agreement supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

XX. ADDITIONAL TERMINATION PROVISIONS

- 20.01 In addition to any other rights herein to terminate this Agreement, the Operator may terminate this Agreement upon ninety (90) days' written notice to MPC and the Trustee if a "**Terminating Condition**" occurs and is declared by the Operator. Starting with the seventh Operations Month after the Effective Date and continuing thereafter, a "Terminating Condition" shall be deemed to have occurred if, and only if, during the preceding six (6) consecutive Operations Months, not counting the month of calculation, Operating Shortfalls (less the amount of any Inventive Fees or payments received by the Operator under Section 3.01(g)(iii) of this Agreement) shall in the aggregate equal or exceed the sum of \$250,000.00.
- 20.02 In addition to any other rights herein to terminate this Agreement, after the third anniversary of the date that the Trustee acknowledges this Agreement (as is conclusively determined by the signature page below), the Trustee may, upon 90 days' written notice to MPC and Operator, terminate this Agreement, if, and only if, there have been insufficient Project Revenues attributable to the prior twelve (12) Operations Months to result in the deposit of at least \$1,000,000 of Project Revenues to the Bond Fund under Subsection 5.06(b)(ii) of the Indenture for such months after applying the priorities as set forth in the Interim Forbearance Agreement.
- 20.03 This Agreement shall automatically terminate on the date that termination of the Interim Restructuring Period is effective under the Interim Forbearance Agreement.

XXI DEFINITIONS

- 20.01 All capitalized terms not otherwise defined herein, shall have the meanings given to those capitalized terms in the Indenture or in the Interim Forbearance Agreement. In addition to the definitions of capitalized terms contained elsewhere in this Agreement, the follow capitalized terms shall have the meanings set forth below:

Bond Documents. The term "Bond Documents" as used herein means the documentation creating, authorizing, and issuing the Bonds and the utilization of

the proceeds from the Bonds, including but not limited to the Trust Indenture, as such documents may have been, and may later be, amended and supplemented.

City. The term “City” means the City of San Luis, Arizona.

Party. The term “Party” means Trustee, MPC or Operator separately.

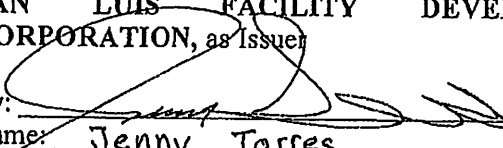
Parties. The term “Parties” means Trustee, MPC and Operator collectively

[Signatures on Next Page]

EXECUTION VERSION

SIGNED by each of the Parties on the dates set forth below:

SAN LUIS FACILITY DEVELOPMENT CORPORATION, as Issuer

By: 
Name: Jenny Torres
Its: President
Date: October 19, 2016

ATTEST: 
Corporate Secretary

EMERALD CORRECTIONAL MANAGEMENT, LLC, as Operator

By: _____
Name: _____
Its: _____
Date: _____

Acknowledged by:

U.S. BANK NATIONAL ASSOCIATION,
not individually but solely in its capacity as Trustee

By: _____
Name: _____
Its: _____
Date: _____

EXECUTION VERSION

SIGNED by each of the Parties on the dates set forth below:

SAN LUIS FACILITY DEVELOPMENT CORPORATION, as Issuer

By: _____
Name: _____
Its: _____
Date: _____

ATTEST: _____
Corporate Secretary

EMERALD CORRECTIONAL MANAGEMENT, LLC, as Operator

By: Steve Afeman
Name: STEVE AFEMAN
Its: CEO
Date: 10-20-2016

Acknowledged by:

U.S. BANK NATIONAL ASSOCIATION,
not individually but solely in its capacity as Trustee

By: _____
Name: _____
Its: _____
Date: _____

EXECUTION VERSION

SIGNED by each of the Parties on the dates set forth below:

SAN LUIS FACILITY DEVELOPMENT CORPORATION, as Issuer

By: _____
Name: _____
Its: _____
Date: _____

ATTEST: _____
Corporate Secretary

EMERALD CORRECTIONAL MANAGEMENT, LLC, as Operator

By: _____
Name: _____
Its: _____
Date: _____

Acknowledged by:

**U.S. BANK NATIONAL ASSOCIATION,
not individually but solely in its capacity as Trustee**

By: Keith R. Marshall
Name: KEITH R. MARSHALL
Its: VICE PRESIDENT
Date: 10-20-16