

Court Order on Forbearance of Bonds

December 5, 2016

Accepting

Interim Agreement Regarding Forbearance, Operation of Project and Project Revenues

Waterfall:

(See Summary in Order, Page 5, Paragraph 9)

1. Trustee fees
2. Bond Interest
3. Operations (Included Operations and City's License Fee, Flat \$17,000 per month)
4. Bond Principal
5. Operating Reserve (Reserve for paying bonds under contingencies that may arise and for repair of building)
6. Surplus
 - a. 80% to operator (LaSalle)
 - b. 25% of that 80% to the City's License Fee in addition to the flat \$17,000

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

In the Matter of Trusteeship created by San Luis Facility Development Corporation Pursuant to the Trust Indenture Dated as of October 1, 2005, as Amended, Relating to the Issuance of San Luis Facility Development Corporation Senior Lien Taxable Refunding Revenue Bonds (San Luis Regional Detention Center Project) Series 2014 and Series 2014-A

Case Type: Other
File No. 62-TR-CV-16-46

**FINDINGS OF FACT, CONCLUSIONS OF LAW, DIRECTIONS
AND ORDER FOR JUDGMENT**

The above matter was heard by the Court on December 5, 2016, on the petition (the "Petition") of U.S. Bank National Association ("U.S. Bank" or "Petitioner") in its capacity as trustee (in such capacity, the "Trustee") for the above-captioned trust (the "Trust") created pursuant to the Trust Indenture dated as of October 1, 2005, between San Luis Facility Development Corporation, as issuer (the "Issuer"), and the Trustee, as supplemented by that certain First Supplemental Indenture dated as of February 1, 2011, Second Supplemental Indenture dated as of March 27, 2014, Third Supplemental Indenture dated as of April 1, 2014, and Fourth Supplemental Indenture dated as of July 1, 2014 (as further amended or supplemented from time to time, the "Indenture"). As indicated in the Petition, pursuant to the Indenture the Issuer issued certain taxable refunding revenue bonds that are secured by a deed of trust and a pledge of revenues generated from a privately-operated secure detention facility (the "Project" or "Facility") located near the City of San Luis, Arizona, on the U.S.-Mexico border.

The Trustee filed the Petition to obtain authority to, among other things, enter into and perform under a forbearance agreement with the Issuer and the Project operator, Emerald

Correctional Management LLC ("Emerald" or the "Operator"), to prevent the closure of the Facility in April of 2017, all as more particularly described in the Petition. James F. Killian and Ana Chilingarishvili of Maslon LLP appeared on behalf of the Trustee in support of the Petition. Keith R. Marshall, a Vice President in the Global Corporate Trust Services group of U.S. Bank, testified in support of the relief requested in the Petition.

This Court, being fully advised as to the facts and issues involved herein, and due and timely notice having been given to the Trust's beneficiaries, makes the following Findings of Fact, Conclusions of Law, Directions and Order for Judgment:

FINDINGS OF FACT

Issuance of the Bonds and Existing Management Agreement

1. Pursuant to the Indenture, specifically the Third Supplemental Trust Indenture dated as of April 1, 2014, the Issuer issued its Senior Lien Taxable Refunding Revenue Bonds (San Luis Regional Detention Center Project) Series 2014 in the original aggregate principal amount of \$26,090,000 (the "Series 2014 Bonds"). Subsequently, pursuant to the Fourth Supplemental Trust Indenture dated as of July 1, 2014, the Issuer issued its Senior Lien Taxable Refunding Revenue Bonds (San Luis Regional Detention Center Project) Series 2014-A in the original aggregate principal amount of \$20,835,000 (the "Series 2014-A Bonds" and together with the Series 2014 Bonds, the "Bonds"). As of the date of the Petition, the aggregate principal amount of the Bonds outstanding was \$43,285,000, of which \$24,590,000 were Series 2014 Bonds, and \$18,695,000 were Series 2014-A Bonds.

2. Proceeds of the Bonds were used primarily to refund all of the tax-exempt bonds that had been previously issued under the Indenture in connection with the Issuer's acquisition and construction of the Project. The indebtedness evidenced by the Bonds is

non-recourse indebtedness that is secured by the Issuer's pledge of Project Revenues (as defined in the Indenture) generated through the operation of the Facility and a deed of trust and a lien on all real and personal property comprising the Project. A true and correct copy of the Indenture, including all supplemental indentures, was admitted into evidence as Exhibit 1.

3. Since 2010, the Facility has been operated by Emerald under an Amended and Restated Facility Operation and Management Agreement, executed by Emerald and the Issuer (the "Existing Management Agreement"). Under the terms of Existing Management Agreement, the Operator is required to operate and manage the Facility in accordance with specified industry standards until the agreed upon termination date, which is currently April 3, 2017. The Existing Management Agreement provides that it automatically renews for two additional, successive five-year terms, unless either Emerald or the Issuer notifies the other party of its election to cancel the forthcoming renewal term not less than 60 days prior to the existing term's expiration, i.e., in this case, February 1, 2017.

4. Under the terms of the Indenture, all Project Revenues generated from the operation of the Facility are pledged to the Trustee and are delivered directly to the Trustee each month for payment of the Bonds and certain other charges, including payments or reimbursements to the Operator for operating costs and expenses, subject to the priorities set forth in the Indenture. In the Existing Management Agreement, the Operator agreed to advance the costs of operating and managing the Facility and to be reimbursed and paid solely from the Project Revenues that the Trustee has remaining each month after making deposits to cover principal and interest payments on the Bonds (and certain other prior transfers, such as replenishment of the Reserve Funds) under the Indenture. As indicated in

the Petition, in light of this financing structure, Emerald claims that in 2015 and the first part of 2016, Emerald incurred substantial operating losses.

Event of Default under the Indenture and Operator's Request for Relief

5. An Event of Default occurred under Section 7.01(d) of the Indenture in April 2016 due to the failure of the Issuer to provide, or to cause the Operator to provide (after notice and an opportunity to cure), certain Project financial and census information in accordance with the Indenture. On April 25, 2016, the Trustee notified all Bondholders of the occurrence of an Event of Default and invited them to a telephonic meeting to discuss the status of the Project and the next steps in the administration of the Trust. A true and correct copy of the Trustee's April 25, 2016 notice to Bondholders was admitted into evidence as Exhibit 2. As of the date of hearing on the Petition, this Event of Default was continuing and, as a result, the Trustee continues to be subject to the prudent person standard of care set forth in Section 8.01 of the Indenture.

6. In the early summer of 2016, the Issuer informed the Trustee that it expected the Operator not to renew the Existing Management Agreement beyond the April 3, 2017 termination date, unless the risks of Operator non-payment and non-reimbursement were addressed. The Issuer also indicated concern about the Operator's failure to pay certain fees owing to the Issuer under the Existing Management Agreement as a result of the Operator not receiving sufficient Project Revenues.

7. In response to these concerns, in June 2016, the Trustee and its legal counsel met with the representatives of the Operator and the Issuer to discuss the Operator's grievances and potential ways to induce the Operator to extend the term of the Existing Management Agreement so as to prevent closure of the Facility. At this meeting, the

Operator presented information supporting its view that the low inmate populations were not the result of operational problems or a failure to market the Facility appropriately. At the meeting, the Trustee requested additional information from the Operator regarding its proposed solution. Following numerous exchanges with the Operator and the Issuer, and after an evaluation of available options, the Trustee began to negotiate with the Issuer and the Operator for an interim solution that would prevent shutdown of the Facility in the short term while preserving the ability of the Trustee and Bondholders to address longer term strategies for the maximization of Bondholder recovery.

Interim Forbearance Agreement and Renewed Management Agreement

8. After several months of discussions and negotiations, on October 20, 2016, the Trustee, the Issuer and the Operator entered into an Interim Agreement Regarding Forbearance, Operation of Project and Project Revenues (the "Forbearance Agreement"), a copy of which was admitted into evidence as Exhibit 3. Contemporaneously with the execution of the Forbearance Agreement, the Issuer and the Operator entered into a Revised Amended and Restated Facility Operation and Management Agreement (the "Revised Management Agreement"), which was acknowledged by the Trustee by its signature. A copy of the Revised Management Agreement was admitted into evidence as Exhibit 4.

9. The Forbearance Agreement generally provides that during an "Interim Restructuring Period," which is defined as the period beginning on September 1, 2016 and continuing until the termination of the Forbearance Agreement, any Project Revenues generated by the Operator's operation of the Facility that are actually received by the Trustee (usually, two months later) are to be applied using a new priority which is designed to give greater protection to the Operator. Under the terms of the Forbearance Agreement, each calendar month in the Interim Restructuring Period is referred to as the "Operations Month."

Specifically, the Forbearance Agreement provides that rather than using the Project Revenues to first set aside installments of Bond principal and interest amounts next coming due, as required by Section 5.06(b) of the Indenture, Project Revenues attributable to each Operations Month will instead be used, after first paying any outstanding Trustee's fees and expenses (as currently permitted by the Indenture) and after setting aside moneys for payment of interest on the Bonds (as currently permitted by the Indenture), to make deposits to the Operating Account in order to (a) pay or reimburse the Operator for the costs of operating the Facility for that Operations Month and, to the extent there are any unpaid operating costs attributable to any prior Operations Months, to make up such deficiencies, (b) pay \$17,000 monthly fee to the Issuer (the "Issuer Fee") and, to the extent there are any unpaid Issuer Fees attributable to prior Operations Months, to make up such deficiencies, and (c) pay a fee to the Operator equal to 6% of the operating costs incurred for such Operations Month (such amount, the "Monthly Operator G&A") and, to the extent there are any prior unpaid Monthly Operator G&A attributable to prior Operations Months, to make up such deficiencies. Only after these amounts under (a) through (c) are first covered in each Operations Month, to the extent there are any remaining Project Revenues, the Trustee will then use such remaining Project Revenues attributable to that Operations Month to set aside moneys for payment of principal on the Bonds under Section 5.06(b) of the Indenture. In consideration, the Operator has agreed to waive all unpaid fees and expenses and rights to reimbursement for all periods prior to September 1, 2016. If the inmate populations soar during the Interim Restructuring Period and the Facility performs at a level that is higher than needed to keep all deposits for Bond interest and principal current, the Forbearance

Agreement contains additional provisions for an incentive fee payable from certain excess Project Revenues to be shared by the Operator and the Issuer.

10. To summarize, the Forbearance Agreement provides for a compromised allocation of Project Revenues generated by the Operator during each of the Operations Months in the Interim Restructuring Period. The Interim Restructuring Period is subject to termination upon the occurrence of a number of events including, but not limited to, a direction by the holders of over 66 2/3% of the principal amount of Bonds to the Trustee, a restructuring of the Bond indebtedness, termination of the Revised Management Agreement, or, subject to Trustee's discretion, December 1, 2018. This Interim Restructuring Period is designed to provide the Bondholders and the Trustee with sufficient time and opportunity to evaluate all available options and develop a permanent solution without the April 2017 Facility closure risk looming.

11. Concurrently with the execution of the Forbearance Agreement, the Issuer and the Operator entered into, and the Trustee acknowledged, the Revised Management Agreement. Under the terms of the Revised Management Agreement, the Operator would be committed to continue to operate and manage the Facility during the Interim Restructuring Period, but has an early termination right if aggregate operating losses incurred by the Operator in the Interim Restructuring Period, i.e., operating fees and expenses of the Operator that are not paid or reimbursed from Project Revenues even with the compromised priorities set forth in the Forbearance Agreement, exceed \$250,000, all as more particularly described in the Revised Management Agreement.

Bondholder Meeting and Trustee's Notice

12. Prior to the filing of the Petition, on October 6, 2016, the Trustee provided all Bondholders with a notice (the "October 2016 Notice") to inform them that the Trustee was negotiating with the Issuer and the Operator regarding the terms of the Forbearance Agreement. A true and correct copy of the October 2016 Notice was admitted into evidence as Exhibit 5. The Indenture provides that after the occurrence of an Event of Default, holders of not less than 66 2/3% in aggregate principal amount of outstanding Bonds may direct the Trustee's actions, including enforcement of remedies. In the October 2016 Notice, the Trustee provided all Bondholders with a general description of the terms of the Forbearance Agreement and specifically reminded all Bondholders of their right to direct the Trustee's actions under the Indenture. In the October 2016 Notice, the Trustee invited Bondholders to a telephonic meeting to address any related questions or concerns.

13. On October 19, 2016, the Trustee held a telephonic meeting, which was attended by various Bondholders. At that meeting, the Trustee and its legal counsel provided additional background regarding events leading up to the Forbearance Agreement and answered Bondholder questions relating to forbearance terms. Bondholders who attended the call indicated that they were generally in agreement with the proposed terms of the Forbearance Agreement. None of the participating Bondholders expressed objections.

CONCLUSIONS OF LAW

1. This Court has *in rem* jurisdiction over the Petition pursuant to Minn. Stat. § 501C.0202(24) in that the Trustee, located in the State of Minnesota, is seeking an instruction from the Court instructing the Trustee regarding administration of the Trust and discharge of the Trustee's duties under the Indenture.

2. This petition is properly venued in this Court pursuant to Minn. Stat. § 501C.0207(a)(2)(i) because the Petitioner, as Trustee, has a corporate trust office in St. Paul, Minnesota.

3. The Trustee has fully complied with all of the notice and publication requirements set forth in Minn. Stat. § 501C.0203 subd. 1. (See Exhibits 6 and 7 admitted into evidence).

4. Pursuant to Minn. Stat. § 501C.0204 subd. 1, this Order is final as to all matters determined by it and binding *in rem* upon the Trustee, the Trust, and upon the interests of all beneficiaries of the Trust, vested or contingent, even though unascertained or not in being, including, but not limited to, all Bondholders and their successors-in-interest and assigns, and other parties-in-interest, if any.

5. The Trustee's execution of the Forbearance Agreement and consent to and acknowledgement of the Revised Management Agreement, and any and all actions taken by the Trustee thereunder or in connection therewith, are prudent and reasonable and satisfy any and all duties of the Trustee under the Indenture and any other Trust documents, and the Trustee shall not be liable to any holders of the Bonds or other party for complying with this Court's Order.

DIRECTIONS AND ORDER FOR JUDGMENT

1. The Petition of U.S. Bank National Association, as Trustee, for Instructions in the Administration of Trust Pursuant to Minn. Stat. § 501C.0202, is hereby granted.

2. The Court further specifically hereby orders as follows:

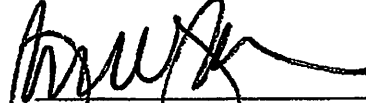
- i. The Trustee's execution of and performance under the terms of the Forbearance Agreement including, without limitation, allocation of Project Revenues pursuant to the terms thereof, are hereby approved and authorized;

- ii. The Trustee's consent to and acknowledgement of the Revised Management Agreement are hereby approved and authorized;
- iii. The Trustee is authorized to take such further or additional actions as may be necessary or appropriate in connection with the Forbearance Agreement and the Revised Management Agreement;
- iv. The Trustee's execution of the Forbearance Agreement and consent to and acknowledgement of the Revised Management Agreement, and any and all actions taken by the Trustee thereunder or in connection therewith, are prudent and reasonable and satisfy any and all duties of the Trustee under the Indenture and any other Trust documents, and the Trustee shall not be liable to any holders of the Bonds or other party for complying with this Court's Order;
- v. This Order is binding upon the Trustee, the Trust, and upon the interests of all beneficiaries of the Trust, vested or contingent, even though unascertained or not in being, including, but not limited to, all Bondholders and their successors-in-interest and assigns, and other parties-in-interest, if any;
- vi. On and after the date hereof, the Trust shall be terminated from this Court's jurisdiction and the Trust and the Trustee shall not be subject to the continuing supervision of the Court for the purposes of Minn. Stat. §§ 501C.0201 (c)(2), 501C.0205 or General Rule of Practice 417.02.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: 12.5, 2016

BY THE COURT:



The Honorable Jennifer L. Frisch
Judge of the District Court

**INTERIM AGREEMENT REGARDING FORBEARANCE, OPERATION OF
PROJECT AND PROJECT REVENUES**

This Interim Agreement Regarding Forbearance, Operation of Project and Project Revenues (this "Agreement") is entered into on this 20th day of October 2016, by and among **U.S. Bank National Association**, solely in its capacity as trustee (in such capacity, the "Trustee") under that certain Trust Indenture dated as of October 1, 2005 (as amended from time to time, the "Indenture"), **San Luis Facility Development Corporation** (the "Issuer") as the issuer of the 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"), and **Emerald Correctional Management L.L.C.**, a limited liability company organized under the laws of the state of Louisiana, as the operator (the "Operator") of the San Luis Detention Facility (the "Project") under the terms of that certain Amended and Restated Facility Operation and Management Agreement entered into by the Operator and the Issuer in 2010 (as amended from time to time prior to the date hereof, the "Management Agreement"). Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Indenture or in the Management Agreement.

WHEREAS, the Project consists of a 869-bed secure detention facility located in San Luis, Arizona, and certain related property rights, and is currently being managed and operated by the Operator under the terms of the Management Agreement;

WHEREAS, all Project Revenues from the Project are pledged to the Trustee as security for payment of the Bonds and are required to be delivered directly to the Trustee for application pursuant to the terms of the Indenture;

WHEREAS, under the terms of the Indenture, including Section 5.06 thereof, Project Revenues are to be used first to make provision for the payment of Bond interest and principal (and certain other charges, including all Trustee fees and expenses) and, thereafter, to the extent there are remaining available Project Revenues, to pay or reimburse, as applicable, the Operation and Maintenance Costs and Operator Fees payable to the Operator pursuant to the Management Agreement;

WHEREAS, in light of the foregoing priority provisions under the Indenture, as a result of insufficient Project Revenues, the Operator has suffered substantial losses during the term of the Management Agreement and the Issuer has not received Detention Facility Business License Fees;

WHEREAS, because of the significant losses incurred to date by the Operator, and in an effort to support the continued viability of the Project, the Issuer on behalf of the City of

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San Luis (the "City") has voluntarily suspended its Detention Facility Business License Fee under the terms of the Management Agreement.

WHEREAS, the Trustee has been informed by the Operator that the Operator will not renew the Management Agreement upon its expiration in April 2017 without certain assurances that it will be protected from losses associated with the insufficiency of Project Revenues to pay Operation and Maintenance Costs on an ongoing basis;

WHEREAS, Events of Default under the Indenture have occurred and are continuing at this time, and the Trustee desires to prevent the loss of the Operator and the related risk of discontinued operation of the Project after April 2017, which could result in a cessation of Project Revenues, which is the primary source of payment for the Bonds;

WHEREAS, subject to the terms and conditions herein, the parties have agreed during a limited forbearance period defined herein as the Interim Restructuring Period, to dedicate Project Revenues generated by the Operator's operation of the Project to the payment of Operation and Maintenance Costs and specified related obligations prior to setting aside funds for the payment of principal on the Bonds in consideration of the Operator's agreement to extend the term of the Management Agreement under revised terms;

WHEREAS, economic relief to the Operator during the Interim Restructuring Period may be required in order to keep the going concern value of the Project intact while the Issuer seeks Bondholder consent and satisfaction of the other conditions precedent to a full restructuring of the Bond indebtedness and entry into a formal supplemental indenture to effect the same; and

WHEREAS, the Trustee's actions hereunder are being taken pursuant to its powers to protect the interests of Bondholders under Article VII of the Indenture and are subject, among other things, to court approval after notice and opportunity for all Bondholders to be heard.

NOW, THEREFORE, the parties for the consideration set forth herein, the sufficiency and delivery of which is acknowledged, hereby agree as follows:

1) Payment of Revised Operation and Maintenance Costs during Interim Restructuring Period. The parties hereby agree that during the period beginning on the Effective Date of this Agreement and ending on the Termination Date, each such term as defined below (such period, the "Interim Restructuring Period"), all Project Revenues generated from the operation of the Project by the Operator and actually received by the Trustee (even if such Project Revenues are received after the end of the Interim Restructuring Period) and attributable to any calendar month in the Interim Restructuring Period (each such month, the "Operations Month"), shall be applied, for each Operations Month during the Interim Restructuring Period, as follows:

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- a) First, to pay any outstanding Trustee's fees and expenses (including, without limitation, reasonable attorneys' fees), which fees and expenses shall continue to be a first charge on Project Revenues as provided in the Indenture;
- b) Second, to make transfers to the Bond Fund as required by Subsection 5.06(b)(i) of the Indenture (and related payments) for payment of interest on the Bonds (including deposits needed to cover any shortfalls in the deposits of interest in prior Operations Months), and such amounts shall be applied in accordance with the Indenture. For the avoidance of doubt, transfers to the Bond Fund pursuant to this Section 1(b) shall be made prior to Project Revenues being deposited to the Operating Account for payment of Revised O&M pursuant to Section 1(c) below;
- c) Third, to make transfers to the Operating Account in the amount equal to (i) the Operation and Maintenance Costs incurred by the Operator for such Operations Month, as certified pursuant to Section 2 below, together with any unpaid Operation and Maintenance Costs for any prior Operations Months that were not previously paid due to insufficient Project Revenues, plus (ii) to the extent there are any remaining Project Revenues in the General Account for such Operations Month after payment of the amounts under Sections 1(a), (b) and (c)(i) of this Agreement, \$17,000, which (if paid to the Operator) the Operator agrees to pass through to the Issuer on behalf of the City as the Detention Facility Business License Fee (the "Issuer Fee"), together with any unpaid Issuer Fees for any prior Operations Months that were not previously paid due to insufficient Project Revenues, plus (iii) to the extent there are any remaining Project Revenues in the General Account for such Operations Month after payment of the amounts under Sections 1(a), (b) and (c)(i) and (c)(ii), an amount equal to 6% of the amount paid under Section (c)(i) above with respect to the Operation and Maintenance Costs for that Operations Month only (such amount, the "Monthly Operator G&A"), together with any unpaid Monthly Operator G&A for any prior Operations Months that were not previously paid due to insufficient Project Revenues (amounts under the foregoing clauses (i), (ii) and (iii) are collectively referred to herein as the "Revised O&M"); at the direction of the Issuer, the Trustee shall make payments under clause (ii) above directly to the Issuer on behalf of the City;
- d) Fourth, to make transfers to the Bond Fund as required by Subsection 5.06(b)(ii) of the Indenture for payment of principal on the Bonds (including deposits needed to cover any shortfalls in the deposits of principal in prior Operations Months) and such amounts shall be applied in accordance with the Indenture. For the avoidance of doubt, transfers to the Bond Fund pursuant to this Section 1(d) shall occur to the extent of available Project Revenues immediately after any required funding of the Revised O&M with respect to that Operations Month pursuant to Section 1(c) above;

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- e) Fifth, to the extent that there are sufficient available Project Revenues after satisfaction of the above priorities for that Operations Month and all prior Operations Months (including, without limitation, any required deposits to the Reserve Funds to replenish any deficiencies therein), deposits shall be made to the Operating Reserve/Repair/Contingency Account up to \$15,000 per Operations Month;
- f) Sixth, to the extent that there are sufficient available Project Revenues after satisfaction of the above priorities for that Operations Month and all prior Operations Months (including, without limitation, any required deposits to the Reserve Funds to replenish any deficiencies therein) and Project Revenues attributable to such period would be sufficient under the existing terms of Section 5.06 of the Indenture to make a deposit into the Surplus Account, then 80% of the amount of such Project Revenues that would have been deposited into the Surplus Account will instead be paid to the Operator as an additional monthly fee (the "Incentive Fee"), of which 25% of the Incentive Fee amount shall be paid directly to the Issuer on behalf of the City (i.e., 25% of the 80%). During the Interim Restructuring Period, the Issuer, the City and Operator shall not be entitled to any other fee or payment from Project Revenues not set forth in this Agreement.

The above priorities for the deposit and application of Project Revenues by the Trustee shall apply only for the Operations Months occurring during the Interim Restructuring Period, and the provisions of the Indenture with respect thereto shall apply fully to all calendar months before and after the Operations Months occurring during the Interim Restructuring Period. By way of clarification, to the extent that the Reserve Funds fall below the specified Reserve Requirement during the Interim Restructuring Period by reason of the payment of the Trustee's fees and expenses, interest on the Bonds or principal on the Bonds, the Trustee shall transfer Project Revenues to replenish such deficiencies in the Reserve Funds at the same priority as the payment for which the funds resulting in that deficiency were used. As an example, if a deficiency results in the Reserve Funds due to the payment of interest on the Bonds, Project Revenues shall be transferred to the Reserve Fund to replenish such deficiency using the priority under section 1(b) above. Nothing herein shall obligate the Trustee to apply moneys held in the Reserve Funds to the payment of Operation and Maintenance Costs or the Revised O&M.

2) Certification of Monthly Operation and Maintenance Costs. The Operator hereby agrees that during the Interim Restructuring Period, it shall submit to the Trustee and, if requested, to the Issuer, a monthly summary of all Revised O&M costs and expenses incurred in each Operations Month (the "Monthly O&M Summary"), beginning with September 2016, which shall be the first Operations Month. Each Monthly O&M Summary shall include a certification by the Operator certifying that all amounts listed therein represent the actual costs and expenses incurred in the operation of the Project during the relevant Operations Month. Monthly O&M Summary for each Operations

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Month shall be provided to the Trustee no later than the last business day of the calendar month immediately following such Operations Month. The Operator hereby agrees that if requested by the Trustee or the Issuer, the Operator shall provide copies of all invoices and other commercially reasonable documentation with respect to the costs and expenses included in each Monthly O&M Summary.

3) Acknowledgement of Events of Default and Forbearance of Remedies. The Parties agree that Events of Default exist under the Indenture and are continuing at this time and that the Trustee has all of the rights and remedies set forth in the Indenture, the Deed of Trust, and other Bond documents with respect to the Project and Project Revenues, including the right of foreclosure and the appointment of a receiver. The parties acknowledge and agree that the principal amount of the indebtedness evidenced by the Bonds as of the date hereof is \$43,285,000, and that interest is accruing in accordance with the terms of the Bonds and the Indenture, each without any defense or right of set off, but subject to limited recourse to the Project Revenues and other assets held in trust as set forth in the Indenture and the Deed of Trust. In consideration of this Agreement and subject to the terms and conditions thereof, during the Interim Restructuring Period the Trustee agrees not to accelerate the indebtedness evidenced by the Bonds or to seek the appointment of a receiver or to exercise its rights of foreclosure with respect to the Project based upon any Events of Default in existence on the date hereof or that result solely by reason of the application of Project Revenues during the Interim Restructuring Period in accordance herewith (together, the "Permitted Events of Default"). For the avoidance of doubt, nothing herein shall constitute a waiver of any right or remedy of the Trustee or any Bondholder or of any present or future Event of Default, or a modification of the duties and obligations of the Issuer under the Indenture.

4) Revised Management Agreement. Contemporaneously with the execution of this Agreement, the Operator and the Issuer have entered into a Revised Amended and Restated Management and Operating Agreement of even date herewith in the form of Exhibit A attached hereto (the "Revised Management Agreement"). The Issuer hereby acknowledges that all of the Issuer's rights to payment of Project Revenues under the Revised Management Agreement, except for the Issuer Fee and 25% of the Incentive Fee, have been assigned to the Trustee to secure the Bonds and the Issuer's obligations under the Indenture, and that it is enforceable by the Trustee as a third party beneficiary. The Operator agrees, without limitation, to comply with the provisions of the Revised Management Agreement during the Interim Restructuring Period, and acknowledges that the Revised Management Agreement may not be modified without the consent of the Trustee. The effectiveness and enforceability of the Revised Management Agreement, is specifically made subject to the issuance of a TIP Order (as defined in Section 8 below) upon terms acceptable to the Trustee, Issuer and Operator. For avoidance of doubt, the Parties hereto agree that until a TIP Order, acceptable to the Trustee, the Operator and Issuer is issued (as anticipated by Section 8 below) neither the Issuer, Operator or Trustee has any rights, responsibilities or obligations, of any nature pursuant to this Agreement or the Revised Management

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Agreement. Subject to the occurrence of the Effective Date, the Operator acknowledges that it has waived any claim for payment or reimbursement of any fees or expenses including, without limitation, any unpaid Operation and Maintenance Costs or Operator Fees, from Project Revenues or otherwise for any period prior to September 2016. Subject to the occurrence of the Effective Date, the Operator and the Issuer acknowledge that there will be no operation or management fees payable from Project Revenues or otherwise for the Interim Restructuring Period, except as set forth herein and in the Revised Management Agreement.

5) The Interim Restructuring Period. As indicated above, the Interim Restructuring Period commences on the Effective Date of this Agreement and terminates on the Termination Date. The effectiveness of this Agreement is subject to the satisfaction or waiver of each of the conditions set forth in Section 8 hereof, and if such conditions are satisfied or waived, then the Agreement's Effective Date shall be as of September 1, 2016 (the "Effective Date"), and the first Operations Month in the Interim Restructuring Period shall be deemed to be September 2016. The parties acknowledge that the Project Revenues attributable to September 2016 are not anticipated to be received by the Trustee until November of 2016. The parties further acknowledge and agree that nothing in this Agreement is intended to apply to Project Revenues attributable to the time period prior to September 1, 2016, even if such Project Revenues are received by the Trustee during the Interim Restructuring Period (for example, if the Project Revenues attributable to the month of August 2016 are received by the Trustee after September 1, 2016, such Project Revenues shall be applied by the Trustee pursuant to Section 5.06 of the Indenture without regard to this Agreement).

6) The Termination Date. The "Termination Date" shall be a date that is the earlier of (i) December 1, 2018, if the Trustee provides a written notice of termination to the Operator and Issuer at least 90 days prior to such date; (ii) the scheduled expiration of the term of the Revised Management Agreement, (iii) the effective date of any Supplemental Indenture covering the subject matter of this Agreement or any other agreement to restructure the Bond indebtedness, (iv) the suspension or cessation of operations at the Project by the Operator, or (v) the last day of the third calendar month following delivery of a notice by the Trustee to the Operator and the Issuer terminating Interim Restructuring Period on the basis of (a) an Event of Default other than a Permitted Event of Default by the Issuer under the Indenture or the Operator under the Revised Management Agreement, (b) a direction under the Indenture by the holders of at least 66 2/3% of the outstanding principal amount of the Bonds directing the Trustee to terminate this Agreement and the Interim Restructuring Period; or (c) any receipt by the Trustee or the Issuer of any notice of termination of the Revised Management Agreement by Issuer or Operator.

7) Existing Funds and Obligations Unaffected. All funds held by the Trustee as of the Effective Date of this Agreement, and all Project Revenues or other funds received by the Trustee and attributable to the period prior to the Interim Restructuring Period, shall be

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applied in accordance with the terms of the Indenture without regard to this Agreement. All funds in the Bond Fund and the Reserve Funds shall be applied in accordance with the Indenture. Nothing in this Agreement shall be construed to modify or amend any of the terms of the Indenture, the Deed of Trust, the Revised Management Agreement, or any of the other Bond Documents, all of which shall remain in full force and effect, subject to the rights of the parties hereunder. The parties hereby acknowledge that nothing herein is intended to or shall be construed as modifying or limiting the Issuer's legal obligation to pay all principal and interest as and when due on the Bonds from Project Revenues in accordance with the terms of the Indenture, provided, however, that the failure to pay Bond Interest or principal by reason of the priorities set forth herein shall be a Permitted Event of Default within the meaning of Section 3.

8) Court Approval Required-Condition Precedent. The Operator and the Issuer hereby acknowledge that the Trustee intends to seek a trust instruction order from Minnesota State Court authorizing it to enter into and implement this Agreement (the "TIP Order"). Accordingly, the parties hereby acknowledge and agree that the effectiveness and enforceability of this Agreement and the Revised Management Agreement is expressly conditioned upon the Trustee's ability to obtain a final TIP Order (not subject to appeal) issued by a Minnesota State Court authorizing and instructing the Trustee to enter into and perform upon this Agreement in form and substance acceptable to the Trustee and its legal counsel, all of which is a condition precedent to the enforceability of this Agreement. The Trustee agrees to seek such court approval, but reserves the right to evaluate its duties under the Indenture in light of any objections. The Trustee hereby acknowledges that the Issuer and Operator have agreed that the issuance of the TIP Order (as described above) upon terms that are acceptable to the Trustee, the Issuer and the Operator, is a condition precedent to the effectiveness and enforceability of the Revised Management Agreement.

9) Miscellaneous.

- (a) The captions or headings contained herein are for convenience only and in no way define, limit or describe the scope or intent of any provision or section of this Agreement.
- (b) This Agreement is intended to provide benefits to the parties hereto, and shall not be deemed to give, grant or bestow any right, defense or benefit upon any third party, except that the holders of the Bonds shall have the rights of the Trustee to the extent contemplated by the Indenture.
- (c) No waiver of any breach of any of the terms or conditions of this Agreement shall be held to be a waiver of any other or subsequent breach, nor shall any waiver be valid or binding unless the same shall be in writing and signed by the party alleged to have granted the waiver.

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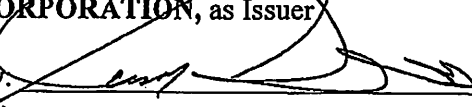
- (d) This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument. Facsimile signatures and signature pages provided in the form of a “.pdf” or similar imaged document transmitted by electronic mail shall be deemed original signatures for all purposes hereunder.
- (e) This Agreement may only be amended in writing, and such amendment shall only become effective upon the execution by all parties to this Agreement.
- (f) 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 requisite authority necessary 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.

(Signature page to follow)

EXECUTION VERSION

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of _____, 2016

SAN LUIS FACILITY DEVELOPMENT CORPORATION, as Issuer

By: 
Its: _____

EMERALD CORRECTIONAL MANAGEMENT, LLC, as Operator

By: _____
Its: _____

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

By: _____
Its: _____

EXECUTION VERSION

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of _____, 2016

SAN LUIS FACILITY DEVELOPMENT CORPORATION, as Issuer

By: _____
Its: _____

EMERALD CORRECTIONAL MANAGEMENT, LLC, as Operator

By: Steve Johnson
Its: CEO

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

By: _____
Its: _____

EXECUTION VERSION

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of 10-20-16, 2016

SAN LUIS FACILITY DEVELOPMENT CORPORATION, as Issuer

By: _____
Its: _____

EMERALD CORRECTIONAL MANAGEMENT, LLC, as Operator

By: _____
Its: _____

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

By: Keith R. Marshall
Its: VICE PRESIDENT