

## NOTICE OF MEETING OF THE SAN LUIS FACILITY DEVELOPMENT CORPORATION

In accordance with section 38-431.01 of the Arizona Revised Statutes of the State of Arizona, notice is hereby given to the Members of San Luis Facility Development Corporation and to the general public that the Board Members of the San Luis Facility Development Corporation will hold a **Special Meeting Tuesday, July 23, 2019 at 5:30 p.m.** The meeting will take place at City Hall in **Council Chambers**, located at 1090 E. Union Street, San Luis, Arizona, 85349. Everyone from the public is invited to attend the open meeting.

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

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

**THIS NOTICE IS APPROVED BY:**

/s/ Kay M. Macuil, Attorney for the San Luis Facility Development Corporation

### AVISO DE JUNTA DE LA CORPORACIÓN

De acuerdo con los Estatutos del Estado de Arizona "A.R.S § 38-431.01", se le informa a los miembros de la Corporación San Luis Facility Development Corporation y al público en general que los miembros de la Corporación San Luis Facility Development Corporation, tendrán una **Junta Especial el día Martes 23, 2019 a las 5:30 p.m.** La junta se llevará a cabo en el **Salón Del Cabildo** ubicada en el 1090 E. Union Street, San Luis, Arizona 85349. El público está cordialmente invitado a la junta.

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

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

**ESTE AVISO ES APROBADO POR:**

/f/ Kay M. Macuil, Abogada de la San Luis Facility Development Corporation

**AGENDA**  
**SAN LUIS FACILITY DEVELOPMENT CORPORATION**  
**San Luis Council Chambers**  
**1090 E. Union Street**  
**San Luis, Arizona 85349**  
**JULY 23, 2019**  
**5:30 p.m.**

PLEASE TAKE NOTICE THAT BOARD MEMBERS MAY ATTEND THE MEETING BY TELEPHONIC COMMUNICATION

PLEASE TAKE NOTICE: *The Chair or Acting Chair may change the order of the items.*

PLEASE TAKE NOTICE: *If authorized by law and by a majority vote of a present quorum of the Board of Directors, an executive session will be held immediately following the vote in accordance with A.R.S. §38-431.03(A) and the meeting will be temporarily recessed while the Board retires to executive session which will not be open to the public.*

**1. CALL TO ORDER/ROLL CALL**

**2. CONSENT AGENDA**

All matters are considered to be routine by the Commission and will be enacted by one motion. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

**2. A. MINUTES OF:**

Meeting held May 29, 2019

**3. DISCUSSION AND POSSIBLE ACTION ITEMS:**

**3. A. EXECUTIVE SESSION**

Vote to hold an Executive Session pursuant to A.R.S. §38-431.03(A) (3)(4) and (7)

Discussion and possible action to hold an executive session pursuant to A.R.S. §38-431.03(A) (3), (4) and (7) on any and all matters regarding contracts and proposals related to the San Luis Regional Detention and Support Center for discussion or consultation for legal advice with the Corporation's attorneys, in order to consider and instruct the Corporation's attorneys regarding the Corporation's position regarding contracts and the sole bid by LaSalle Corrections on the above-mentioned property. **(Kay Marion Macuil, General Counsel and Bill Sims Outside Counsel)**

**3. B.** Discussion and possible action on any and all matters regarding the sole bid by LaSalle Corrections on the Request for Proposals approved by the Board in April of 2019. **(Kay Marion Macuil, SLFDC General Council)**

**4. MOTION TO GO BACK INTO REGULAR SESSION**

**5. DISCUSSION ITEMS:**

**5. A.** Discussion and possible directions to staff on any and all matters regarding scheduling an August 2019 meeting. **(Kay Marion Macuil, General Council)**

**5. B. SUMMARY OF CURRENT EVENTS**

The Board Members may present a brief summary of current events for discussion only pursuant to A.R.S. §38-431.02(K).

**6. ADJOURNMENT**

*Suggested adjournment by President: "Since we have come to the end of the items on the agenda and there is no further business, the meeting is adjourned."*

**San Luis Facility Development Corporation**

**2.A.**

Meeting Date: 07/23/2019

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Summary

**MINUTES OF:**

Meeting held May 29, 2019

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**Attachments**

2019-05-29 Minutes

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**MINUTES**  
**SAN LUIS FACILITY DEVELOPMENT CORPORATION**  
**San Luis Council Chambers**  
**1090 E. Union Street**  
**San Luis, Arizona 85349**  
**May 29, 2019**  
**5:30 p.m.**

PLEASE TAKE NOTICE

- Board Members will attend either in person, telephone, or video conference communication.
- The President or Acting President may change the order of the items.

If authorized by law and by a majority vote of a present quorum of the Board of Directors, an executive session will be held immediately following the vote in accordance with A.R.S. §38-431.03(a) and the meeting will be temporarily recessed while the board retires to executive session which will not be open to the public.

PLEASE TAKE NOTICE: *The Chair or Acting Chair may change the order of the items.*

1. **CALL TO ORDER/ROLL CALL** President Jenny Torres called the meeting to order at approximately 5:34 PM.

**THOSE PRESENT:**

Director Maria Gonzalez  
Vice President John Starkey  
President Jenny Torres

**OTHERS PRESENT:**

Kay Marion Macuil, City Attorney, Attorney for the Corporation  
Janet Taylor, Legal Secretary, Clerk of the Board  
Jorge Mungaray, IT Technician  
Israel Delgado, IT Intern

**THOSE NOT PRESENT:**

Director Joe Harper  
Director Marco Pinzon

**2. CONSENT AGENDA**

All matters are considered to be routine by the Commission and will be enacted by one motion. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

**2. A. MINUTES OF**

Minutes of the Annual Meeting held April 9, 2019.

**MOTION:** Vice President John Starkey and Director Maria Gonzalez to approve the consent agenda. **Motion passed unanimously.**

**The vote was as follows:**

President Jenny Torres	Aye
Vice President John Starkey	Aye
Director Maria Gonzalez	Aye

**3. DISCUSSION AND POSSIBLE ACTION ITEMS:**

**3.A. EXECUTIVE SESSION**

Vote to hold an Executive Session pursuant to A.R.S.§38-431.03(A) subsections (3) and (4). Discussion and possible action on any and all matters regarding action to hold an executive session pursuant to A.R.S.§§38-431.03(A) subsections (3) and (4) for discussion or consultation for legal advice with the Board's Attorneys in order to consider the Board Members' position and instruct the Attorneys regarding ICE's proposed agreement. **(Kay Marion Macuil, Corporation's Attorney and Outside Counsel, Bill Sims)**

**MOTION:** Vice President John Starkey and Director Maria Gonzalez approve to enter into Executive Session. **Motion passed unanimously.**

**The vote was as follows:**

President Jenny Torres	Aye
Vice President John Starkey	Aye
Director Maria Gonzalez	Aye

**4. MOTION TO GO BACK INTO REGULAR SESSION**

President Jenny Torres and Vice President John Starkey approve going back into Regular Session. **Motion passed unanimously.**

**The vote was as follows:**

President Jenny Torres	Aye
Vice President John Starkey	Aye
Director Maria Gonzalez	Aye

**5.** Discussion and possible action on any all matters regarding the proposed inter-governmental service agreement (IGSA) by the U.S. Immigration and Customs Enforcement (ICE) to pay to reserve several beds at the San Luis Regional Detention and Support Center. **(Kay Marion Macuil, Corporation Attorney)**

Attorney for the Corporation Kay Macuil indicated that the reason she worded the motion specifying today's date was because, at the time of the writing of the agenda, the final version was not attached she wanted to be sure that it was the final version the board is approving, not what may have been attached.

**MOTION:** Vice President John Starkey and Director Maria Gonzalez to approve the Intergovernmental Service Agreement with ICE as presented on May 29, 2019.

**Motion passed unanimously.**

**The vote went as follows:**

President Jenny Torres	Aye
Vice President John Starkey	Aye
Director Maria Gonzalez	Aye

6. Discussion and possible action on any and all matters regarding Resolution No. 2019-01. A Resolution of the San Luis Facility Development Corporation Board of Directors adopting and approving the entering into an amendment to the Facility Operation and Management Agreement with LaSalle Corrections, L.L.C. to add duties described in an Inter-Governmental Service Agreement with Immigration Customs Enforcement. **(Kay Marion Macuil, Attorney for the Corporation)**

Ms. Macuil explained that the new Intergovernmental Service Agreement with ICE requires that subcontracts state specifically that the subcontractor does not hire undocumented employees. That is the substance of this amendment.

President Torres stated that she did not see any issues and asked if there was any discussion on the item. Members of the board stated they did not have any discussion on that item.

**MOTION:** President Jenny Torres and Vice President John Starkey to approve Resolution 2019-01. **Motion passed unanimously.**

**The vote went as follows:**

President Jenny Torres	Aye
Vice President John Starkey	Aye
Director Maria Gonzalez	Aye

**7. DISCUSSION ITEMS:**

- 7.A.** Discussion and possible directions to staff on any and all matters regarding the progress on the Request for Proposals for Operations. **(Kay Marion Macuil, Corporation Attorney)**

Ms. Macuil indicated that she contacted all conceivable vendor/providers. She reached out to Civicore, GEO, MTC, and LaSalle. Ms. Macuil also stated that there is a new one

that has just started, the Immigration Center of America; and that Mr. Gimbut Assistant City Attorney provided her with a contact in Nevada, Jackie Crawford of the Molasky group who might be a provider. Ms. Macuil stated that she even reached out to Hull Youngblood (formerly of Emerald Corrections) to see if he might know anybody, but he did not provide any additional companies. Ms. Macuil continued with; the RFP was sent to them by FedEx. The advertisement was done in the Arizona Republic as well as the Yuma Sun and Baja El Sol. Ms. Macuil stated that she was contacted by a company that informs companies of RFPs, and the only communication she received was from MTC. MTC requested all of the prior operating agreements. She stated that we would see what happens July 1<sup>st</sup>.

President Torres asked if there were any questions, and Director Maria Gonzalez asked if this was done because the contract with LaSalle was going to be due. Ms. Macuil responded, yes it expires November 30<sup>th</sup>. Ms. Gonzalez stated that we had established that was what we were going to do.

President Torres replied that what we are going to do is wait for the proposals to come in and review them. Whatever decision we make as a board, we will decide. If we go out and hire someone who isn't LaSalle, we will have to work on a contract. If we continue with LaSalle, we will work on a new contract as well. So either way, we are going to work on a contract. The contract is due in November. We will start working on a contract either with the existing operator or a new operator depending on what the board decides, starting in July.

Ms. Macuil stated that if you recall the RFP is wide open.

They can propose to purchase, lease, do as we are doing now, whatever they want to come up with. President Torres stated that it would be interesting to see the proposals.

Ms. Gonzalez replied, yes.

## **8. ADJOURNMENT**

*Suggested adjournment by President: "Since we have come to the end of the items on the agenda and there is no further business, the meeting is adjourned."*

*Meeting adjourned at approximately 6:05 PM.*

**San Luis Facility Development Corporation**

**3.A.**

**Meeting Date:** 07/23/2019

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

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

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**ITEM:**

**EXECUTIVE SESSION**

Vote to hold an Executive Session pursuant to A.R.S. §38-431.03(A) (3)(4) and (7)

Discussion and possible action to hold an executive session pursuant to A.R.S. §38-431.03(A) (3), (4) and (7) on any and all matters regarding contracts and proposals related to the San Luis Regional Detention and Support Center for discussion or consultation for legal advice with the Corporation's attorneys, in order to consider and instruct the Corporation's attorneys regarding the Corporation's position regarding contracts and the sole bid by LaSalle Corrections on the above-mentioned property. **(Kay Marion Macuil, General Counsel and Bill Sims Outside Counsel)**

**SUMMARY:**

The San Luis Facility Development Corporation Board can be properly be advised on the above-described agenda item in executive session.

**RECOMMENDATION / SUGGESTED MOTION:**

**I MOVE TO HOLD AN EXECUTIVE SESSION AS DESCRIBED IN THIS AGENDA ITEM.**

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**San Luis Facility Development Corporation**

**3.B.**

**Meeting Date:** 07/23/2019

**Department Head:** Janet Taylor, Legal Secretary, Attorney's Office

**Submitted By:** Janet Taylor, Legal Secretary, Attorney's Office

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**ITEM:**

Discussion and possible action on any and all matters regarding the sole bid by LaSalle Corrections on the Request for Proposals approved by the Board in April of 2019. **(Kay Marion Macuil, SLFDC General Council)**

**SUMMARY:**

The Board approved a Request for Proposals/Qualifications in April and staff properly noticed it as reported at the last meeting. The sealed bid opening was noticed for July 1, 2019, at 5:00 p.m. There was only one bid, the current operator, LaSalle Corrections. (The bid is attached). The bid has been sent to the Trustees at U.S. Bank for their comment. At the time of the writing of this Agenda Item, Trustee Keith Marshall had acknowledged receipt but had not yet made comments.

The current operating agreement expires on November 30, 2019.

**RECOMMENDATION / SUGGESTED MOTION:**

**I MOVE TO DIRECT STAFF TO NEGOTIATE WITH LA SALLE CORRECTIONS.  
(or an alternative suggested motion)  
I MOVE TO ACCEPT THE BID SUBMITTED BY LA SALLE CORRECTIONS.**

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**Attachments**

LaSalle Bid  
Current Operating Agreement  
O&M Amendment for ICE IGSA

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**REQUEST FOR PROPOSAL**

**San Luis Facility Development Corporation**



**PROPOSAL SPECIFICATIONS:  
FACILITY OPERATION AND MANAGEMENT**

The San Luis Facility Development Corporation of City of San Luis, Arizona (“Corporation”) invites proposals for the operation and management of the San Luis Regional Detention Center, a detention facility designed for up to 870 beds and built to American Correctional Association Standards (“Detention Center”). The Corporation intends to select a single vendor (“Vendor”) to operate and manage the Detention Center. The facility is located at 406 North Ave. D, San Luis, Arizona

Responses are to be delivered no later than Monday, July 1, 2019, at 5:00 p.m. It is the responsibility of the Vendor to ensure that delivery is made at the specified time and place. Responses received after the specified time and place may be rejected.

**Ms. Jenny Torres  
President  
San Luis Facility Development Corporation  
c/o Office of City Clerk of the City of San Luis  
P.O. Box 1170  
1090 E. Union Street  
San Luis, Arizona, 85349  
928-341-8520**

Tim Kurpiewski, CPA  
Chief Financial Officer  
26228 Ranch Road 12,  
Dripping Springs, TX 78620  
512-858-7202 fax: 512-858-7212  
[timkswc@aol.com](mailto:timkswc@aol.com)

Submitted to:

**Ms. Jenny Torres  
President  
San Luis Facility Development Corporation  
c/o Office of City Clerk of the City of San Luis**

LaSalle Corrections (Lasalle) is pleased to submit the attached response to the RFP – for the Operation and Management of the San Luis Facility Detention Center. The required information for this RFP is organized in the requested format of one (1) unbound original (suitable for photocopying) with eight (3) additional bound copies. The information in each packet also strictly adheres to RFP- Proposal Submission.

LaSalle understands the Operation and Management of the San Luis Regional Detention Center will be required to be in conformance with the rules and regulations of the A.R.S. §§9-402 and §§9-403, and other provisions of state law, the Operation and Management Agreement between the successful respondent and the Development Corporation, the rules of jurisdictions housing prisoners at the Facility to the extent made applicable by the terms of the prisoner housing contracts with those jurisdictions. LaSalle understands it will be responsible for negotiating and obtaining contracts for the placement of inmates/detainees within the Detention Center.

United States Department of Labor

LaSalle understands The United States Department of Labor will consider the Operation and Management for the 870 bed San Luis Regional Detention Center to be subject to the Service Contract Act; therefore, the selected operator will be required to pay its employees' wages that meet or exceed those provided under the applicable Wage Determination schedule for the applicable region, as amended and updated

I would like to thank the San Luis Facility Development Corporation and the City of San Luis for accepting and considering our proposal. We hope that our proposal is a step towards a continued partnership between San Luis Facility Development Corporation and the City of San Luis and LaSalle Corrections.

If you or anyone else in your organization require further information regarding our submission to this RFP, please do not hesitate to contact me.

Tim Kurpiewski, CPA  
Chief Financial Officer  
26228 Ranch Road 12,  
Dripping Springs, TX 78620  
512-858-7202 fax: 512-858-7212  
timkswc@aol.com

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## **Our Management Philosophy**

At LaSalle, we value those entrusted to our care. Our overriding management philosophy is to treat every inmate with the utmost respect and dignity.

Responsible. Proactive. Influential.

At LaSalle, we offer a long list of services. LaSalle offers a variety of programs and services to securely process, house, treat, and transport service for Inmates/Detainees. In addition to offering typical activities like outside recreation, telephone communications, and commissary services in our facilities, there are opportunities to pursue continuing education, participate in rehabilitative programs. The present standard services being provided to operate, manage and maintain facilities.

- Inmate Housing
- Food Service
- Laundry
- Transportation
- Commissary
- Telephone
- Mail
- Recreation
- Medical Service
- Visitation
- Job Assignments

It is the policy of the LaSalle Corrections to provide high quality correctional services in a safe, humane environment for the inmates housed therein.

### **Philosophy**

LaSalle Corrections, within available resources, offers the widest practical range of correctional options, including institutionalization, community programs, and other similar sanctions, that will best serve the needs of society and the individual inmate, enhancing the offender's ability to return to the community and live in a law-abiding manner. LaSalle Corrections will administer its programs in an equitable manner in the least restrictive environment consistent with public safety.

LaSalle Corrections operates under the principle that all administrative and management decisions either directly or indirectly affect the security and treatment goals of the facility. In that connection, facility staff can serve as important and productive role models for inmates, conveying mainstream societal values to the inmate population. Throughout the course of a day, opportunities for interaction between staff and inmates can provide a means to teach or reinforce appropriate inmate behavior, and employees are expected to interact with inmates in a manner consistent with the objectives of the facility.

LaSalle will provide daily operation and management services and will operate, maintain, and manage the facility in compliance with all applicable federal and state constitutional requirements, laws, court orders, and U.S Marshals Service and ICE PBNDS 2000 standards, and all applicable ACA Standards and requirements whether now in effect or hereafter effected or implemented, and in accordance with the operational plan, the terms and conditions contained in the Contract, and any documents referenced therein.

LaSalle will, at all times, provide a sufficient number of trained personnel to provide for and maintain the security, control, custody, and supervision of inmates in the Facility in compliance with all applicable court orders, Arizona State Standards and each Agency's required staffing.

**Maintenance:** LaSalle will maintain the physical structure of the facility and all tangible personal property contained therein, including leased furnishings and equipment, in accordance with the Contract including all maintenance related to structural conditions or defects as well as ordinary routine maintenance adhering to the manufacturer's recommended preventative maintenance schedule. LaSalle will maintain, preserve and keep the facility and leased furnishings and equipment in good repair, working order and condition, subject to normal wear and tear. LaSalle will promptly make or cause to be made all necessary and proper repairs, including those identified by self-monitoring, and inspections. All such replacements and renewals shall thereupon become part of the facility. LaSalle will develop and implement a preventive and routine maintenance plan and will keep maintenance records. Copies of inspection reports, maintenance records and maintenance plans during the term of the Contract.

Maintenance of the facility shall be the sole responsibility of LaSalle. The maintenance plan shall include the following:

- a. Plant equipment
- b. Maintenance
- c. Vehicle preventive maintenance programs.

**Vehicles:** LaSalle will purchase and provide all vehicles required for the operation and maintenance of the facility. LaSalle agrees to have all vehicles properly insured for comprehensive, collision, property, medical, personal injury, theft and replacement damages. All maintenance plans and records, preventative maintenance, repair records, etc.

**PREA Standards:** All our facilities comply with PREA Standards. We have policies in place for the prevention of prison rape and processes to report an incident if one feels threatened. LaSalle has established a zero-tolerance policy towards all forms of Sexual Abuse and Sexual Harassment in all its facilities. When a LaSalle operational subsidiary, business or program falls within the scope of the Prison Rape Elimination (PREA) and the DOJ National Standards To Prevent, Detect, and Respond To Prison Rape (Final Rule, dated, June 2012) or Subpart A of the Department of Homeland Security Standards to Prevent, Detect and Respond to Sexual Abuse and Assault in Confinement Facilities (79 Fed. Reg. 13100 dated March 7, 2014), LaSalle will comply with these

regulations as required.

Every LaSalle employee is to immediately report any information passed through them by inmate, staff, third party, or anonymously regarding sexual abuse and assault whether the allegation is against staff, another inmate, a volunteer, contractor, etc. This will include any verbal or written reports of retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, as well as staff neglect or violation of responsibilities that may have contributed to such incidents. LaSalle staff will promptly document any verbal reports of sexual harassment, touching, or other sexual act, even if the allegation may have occurred at another facility. Aside from reporting this information to a designated supervisor or official, LaSalle staff does not share information related to a sexual abuse report other than to the extent necessary, as specified in agency policy, for treatment, investigation or security and management positions.

When an allegation of inmate-on-inmate or staff-on-inmate sexual abuse or sexual harassment is made, the LaSalle Corrections Prison Rape Elimination Act (PREA) coordinator or assistant PREA coordinator shall be contacted via email. LaSalle will ensure an administrative or criminal investigation for all allegations of sexual abuse and sexual harassment will be addressed immediately upon notification. Sexual assault or abuse of inmates/detainees by other inmates/detainees or by employees, contractors, or volunteers is prohibited and subject to administrative, disciplinary, and criminal sanctions.

**Policy:** LaSalle Corrections shall maintain a drug free workplace through the implementation of the provisions within this directive. All unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace and corrective action shall be taken against employees for violations of such prohibitions. In addition, to ensure the safety and security of institutions, employees, and the public, LaSalle shall administer drug and alcohol testing programs in accordance with U.S.M.S and ICE provisions of this directive.

**Inmate Mail and Telephone:** LaSalle will provide for mail and telephone systems and services in compliance any State or inmate agency standards.

**Use of Force:** LaSalle will administer use of force in compliance with U.S.M.S and ICE policy and procedures.

**Sanitation & Hygiene:** LaSalle will provide an environmentally clean, healthy, and safe facility for both employees and inmates as follows: At a minimum, sanitation and hygiene will be maintained at a level equivalent to the level maintained at all LaSalle facilities. All floors, including concrete shall be waxed and buffed. All areas of the Facility shall be maintained free of cobwebs, dirt, or dust build-up, including ceiling and wall grills. The grounds will be free of all trash. All kitchen equipment and utensils shall be free of grease build-up.

- LaSalle will inspect all areas of the facility daily for cleanliness and such inspections shall be documented.

- Lighting, ventilation and heating equipment will be functional at all times.
- No fire, safety or health hazards will exist.
- All plumbing equipment, including toilets, sinks, and showers will be operational at all times.
- All hazardous chemicals will be inventoried, stored and maintained in accordance with OSHA's policy and procedures.
- Food service areas shall be clean and in compliance with applicable state health regulations.
- Copies of all inspection reports, including internal and reports from governing agencies, will be submitted to the Compliance Monitor.

## **SANITATION AND PEST CONTROL PLAN**

LaSalle shall provide a safe, clean, pest-free environment for its staff and inmates and shall ensure those conditions are maintained on a continuous basis. Staff shall provide all inmates housed in LaSalle facilities with the resources and facilities to maintain their persons in a clean hygienic manner and shall comply with applicable standards regarding sanitation including cleaning, laundry, and maintenance of facilities. LaSalle shall provide inmates in its facilities with clean, well-fitting clothing appropriate for the season as well as clean bedding and linen.

**Sanitation:** All inmates will be required to maintain a high level of personal cleanliness and will be provided the means to do so.

**Clothing:** Institutional clothing will be issued to all new commitments who are processed into the unit in accordance with policy. Items of permissible personal clothing will be enumerated in procedures for the admission process. Inmates will not be permitted to retain or wear clothing specific to the opposite gender. Inmates will be issued receipts for personal clothing that may not be retained by the inmates in the facility. If such clothing is not picked up within 48 hours by a relative or other approved party, it will be cleaned and stored in a secure area pending removal; no long-term storage over 30 days will be permitted. Civilian clothing may be brought in for court appearances only by relatives, attorneys, or friends, with appropriate search and receipt procedures.

**Laundry Services:** Laundry services will be provided for all inmates on an established schedule. Personal clothing items retained may be laundered in accordance with local procedures developed for that purpose. Dry cleaning services will not be available.

**Personal Hygiene:** The following personal hygiene items will be issued to inmates upon intake:

- Toothbrush
- Dentifrice
- Soap

- Comb
- Shaving implements
- Feminine hygiene item

Hygienic items will be available from housing unit staff to replenish supplies, as will toilet paper and drinking cups. The housing officer will assure that there are sufficient quantities of such items in the unit for normal use patterns.

**Showers:** Showers will be available and required on admission. In the housing areas, showers will be open to inmates each day on an established schedule.

**Bedding:** Bedding and linens will be provided to inmates during the admission process, as appropriate to the climate and season.

Exchange of linens and towels will be on an established schedule not less than once a week. Mattresses and pillows will remain in housing units and will be sanitized between uses.

### **SANITARY LIVING ENVIRONMENT**

The Safety Officer is responsible for developing, implementing, and overseeing procedures that ensure the facility sanitation plan is carried out. Ensuring high standards of housekeeping and sanitary practices are, however, the responsibility of each department head.

**Housekeeping Plan:** A written housekeeping plan will be available for each area of the institution. These plans will be prepared as directed by the Chief of Security, the Safety Officer, and the head of each department, and will include the following:

- A cleaning schedule for the area
- Specific jobs for inmates and staff assigned to sanitary duties
- A time schedule for duty completion
- Specific instructions for the cleaning and/or maintenance of cells, day rooms and other common areas such as floors and doors, storage areas, other departments and program areas, walls and windows, toilet and shower facilities, and equipment.

Waste disposal procedures will be included in the sanitation plan, providing for proper collection, storage and disposal of all liquid and solid waste accumulations in the area. Instructions will be provided for the acquisition, utilization, and storage of cleaning supplies and equipment.

Housekeeping plans for all areas will be forwarded to the Safety Officer for review and approval. Copies of all approved plans will be distributed and maintained in the following areas:

- Office of the Department Head Responsible for the Area
- Office of the Shift Supervisor
- Office of the Safety Officer
- Office of the Chief of Security

**Inmate Sanitation Responsibilities:** Each inmate is required to maintain sanitary living area conditions and will be responsible for the cleanliness of their cell or living area, including walls, floors, sink, toilet, windows, and other property within the cell, room, or living area. Cleaning materials and articles for cleaning will be issued by the officer to each inmate. The inmate is responsible for the proper use and care of these articles. Before departing the living area each day, every inmate will sweep and mop the floor of their personal living area and deposit any trash in the appropriate trash container. Inmate personal property limits will be enforced in the process of all inspections.

No curtains, screen, paper, cellophane, cardboard, etc., will be hung in the cell or on cell doors or bars because of fire hazards and supervision obstacles that such materials present.

**Unit Sanitation:** At 7:00 a.m. each day the following items will be issued from unit storage areas according the daily unit cleaning plan:

- Mops, buckets, and brooms
- Plastic container with commercial cleaner for use in cleaning toilets and showers
- Scrub brushes and cleaning rags

Cleaning items will be secured each day by 10:00 a.m. before and after issue. All cleaning equipment will be inspected by the unit officer and the shift supervisor for safety, cleanliness, and damage. Cleaning implements will be kept in a janitorial closet to provide for proper ventilation and drying. The mops will be placed on a rack that will ensure drying.

**Locked Unit Sanitation:** Locked unit cells will be cleaned daily and as inmates are transferred or released. This cleaning will include cleaning the bed, toilet areas and mopping the floor. Cleaning of locked unit common areas will be done by an assigned inmate under staff supervision. When a cell has been vacated, if not clean, the assigned orderly will clean the cell after it has been searched by staff.

**Common Area Sanitation:** The Chief of Security will identify staff that will be responsible for cleaning corridors and other common areas of the facility. The corridors will be cleaned by inmates assigned to the job. Waxing of corridors and unit floors will be done as needed during the week. All floors will be kept clean, dry, and free of hazardous substances. The shift supervisor will inspect common areas for compliance with all sanitation standards.

**Inspection Program:** There will be daily inspections of sanitation levels in all areas of the facility by pre-assigned staff members who will file records of those inspections with the Safety Officer. These will be in addition to the security inspections conducted under policy. Post orders will reflect the areas of sanitation and inspection responsibility for each staff member.

The Quarter's Officer will inspect cells and living areas daily and report any infraction of these regulations to the immediate supervisor. The unit officer will notify inmates of unsatisfactory cell conditions by immediately recalling them from work or programs; in cases of continued

noncompliance staff will issue an incident report.

Each department head will personally inspect their department or area of responsibility at least once a week; that inspection will be logged or otherwise recorded with the Safety Officer. There will be monthly inspections of sanitation levels in all areas of the facility by the Safety Officer who will maintain a record of those inspections in the safety office. There will be annual inspections of the entire sanitation program by a qualified sanitation official, and a record of those inspections will be kept on file by the Safety Officer. No inmate will inspect sanitation levels, check temperatures, or maintain the records of those inspections or check.

The Facility complies with all applicable laws and regulations of the governing jurisdiction, and documentation is provided by an independent, outside source noting any past deficiencies in annual inspections have been corrected.

Kitchen cleaning equipment will be kept separate from the other cleaning equipment. The facility's water supply will be certified by an independent auditor who will be in compliance with all applicable local laws and regulations. Water and sewage systems will be approved by local and State health departments and will be operated in continual compliance with local regulations.

**Maintenance Issues:** The unit will have an established system for reporting, responding to, and accounting for materials and labor relating to all facility repairs as described in policy. Major maintenance of toilets, wash basins, sinks, and other equipment in the facility will be the responsibility of the maintenance department; minor maintenance may be performed by facility personnel and inmates, as appropriate.

## **WASTE DISPOSAL AND PEST CONTROL**

The control of liquid, solid, and toxic waste products generated in the process of normal institutional operations and of pests and vermin are critical life safety issues in a correctional setting. Liquid, solid, and toxic wastes from institutional operations will be collected, stored, and disposed of in a manner that protects the health and safety of inmates, staff, and visitors and is in compliance with all applicable regulations and statutes. Pests will be controlled through an aggressive program of regular inspection and extermination.

**Garbage Disposal:** Garbage and other waste disposal services are provided by contract with the city sanitary department or a local private contractor. Garbage and other refuse include all garbage, rubbish, and other decomposable and non-decomposable solid waste except the liquid waste normally discharged into sewers from the facility buildings, residences, and grounds. Institutional methods of handling and dispensing of refuse will be in compliance with the requirements of all local and Federal agencies. Trash and rubbish shall be deposited in a water tight container with tight fitting lids and will be collected and removed in such a manner as to avoid creating a menace to health and as often as is necessary to maintain good sanitary conditions. These collections will meet the following minimum schedule:

- Housing units will deliver all trash refuse and garbage to the designated area on an

established schedule.

- Food service and industrial or shop waste will be delivered to the compactor or other established collection area on established schedules, but not less than three times each week.
- The refuse contractor will empty the compactor or other refuse container on a pre-agreed schedule that ensures that odors and excess accumulation of trash will be prevented.

**Sewage Products:** Treatment of waste and sewage will be managed by the local municipality in compliance with the applicable requirements of the state agency regulating water pollution control and the Federal Environmental Protection Agency. Water and sewage systems not a part of a city system and food preparation areas shall be inspected at least annually by health authorities.

**Pests:** Pests are any destructive insect, animal, or vermin that causes annoyance, discomfort, or disease. The pest control program will be managed by the Safety Officer. Each facility will have a contract with a licensed pest control firm or individual who will be readily available to provide major vermin and pest control services. Minor pest control action such as spraying will be conducted monthly throughout the facility as determined necessary by the Safety Officer. Inspection of the facility under the pest control program will be conducted monthly by the Safety Officer. Reports of those inspections will be filed with the Chief of Security. Employees will be required to report any observation of insects, rodents, or vermin throughout the facility. The Safety Officer will implement corrective action.

## **INMATE CLOTHING, BEDDING AND LINEN SUPPLIES**

All inmates will be supplied with bedding and linens sufficient to provide comfortable, sanitary, and environmentally suitable conditions during confinement and access to clean replacements or laundry facilities. The Laundry Manager is responsible for the overall operation of the clothing issue and laundry operations.

Care of all clothing and bedding supplies issued to an inmate will be that inmate's responsibility and he/she will be held accountable for its use; the facility will not be responsible for any personal clothing that inmates are permitted to retain. A supply of clothing, linen, and bedding will be maintained at a level that exceeds the amount needed to supply the facility's maximum inmate population. Facilities will be available to provide for the thorough cleaning, disinfecting, and storage of inmate personal clothing not permitted in the facility as indicated in the intake processing policy. The Laundry Manager is responsible for directing all other aspects of the exchange program.

**Standard Clothing Issue:** Suitable clothing of the proper size, durable, presentable and appropriate to the climate and season will be provided to all inmates during the admission process. This standard issue includes established quantities of the items listed in the policy and other seasonal or occupational required items such as safety shoes. Each facility will develop a uniform

method for identifying clothing items issued that belong to each inmate using a numerical, bin, or other system.

**Bedding Issue:** The unit provides for the issue of suitable, clean bedding and linens. Standard bedding issue for all inmates will include at a minimum one mattress (on bed), two (2) blankets (seasonal), two (2) sheets, one (1) pillow, one (1) pillowcase, and (1) towel.

**Laundry:** Clean clothing and linen will be available to all inmates at least once a week; the system will be designed to provide at least three complete sets of clothing per week. Each facility will establish a location or method for laundering these items that ensures all inmates have the means available to obtain clean clothing and linen. Inmates in locked units will be subject to separate procedures to be established locally. All laundry exchange will be on a one-for-one basis: no exchange will be made without turning in an item. Blankets will be cleaned every three months. The responsibility for all items issued will rest with each inmate. The clothing officer will maintain a clothing card for each inmate that includes the following information:

- A listing of all items issued to the inmate
- A receipt signed by the inmate for all issued items
- Date of issue of each item
- Cost of each item
- Any correspondence regarding the issued items

Replacement will be made by the clothing officer when an item has equaled or exceeded normal life expectancy, or a lost or stolen item is authorized for replacement in writing by the Laundry Manager. The inmate will reimburse the facility for the lost or stolen item.

Prior to inmate release or transfer, all items issued will be returned to the laundry exchange area to be inventoried and have their condition verified by the clothing officer. Possession of the property of another inmate or property which has been improperly altered is a violation of institutional rules and will be reported in accordance with inmate discipline procedures.

**Protective Clothing:** Appropriate protective clothing will be issued to inmates assigned to food service, hospital, farm, garage, physical plant, maintenance shops, or other work details, and may be exchanged as often as necessary for the assigned work. Clothing provided will be suitable to the climate and season and will be properly fitted and presentable, as well as durable. Protective clothing will be issued when authorized in writing by the job supervisor and approved by the department head. In the case of some jobs (e.g., food service), issue of certain items will be automatic with assignment to that detail. These special clothing articles may include but not limited to the following:

- Uniforms for food service and hospital workers
- Cloth apron
- Rubber aprons

- Safety shoes with steel toes
- Parkas and/or overcoats for inmates assigned outside jobs in inclement weather
- Overshoes or boots as required
- Face Masks
- Hair Nets
- Gloves

**Other:** No civilian clothing or staff uniforms will be laundered or stored in a manner that allows inmates to come in contact with those items; storage of these items will be outside the secure perimeter of the facility. Storage areas for all inmate clothing, bedding, and linens will be provided in a secure area that will prevent pilferage.

All mattresses shall be swept, aired, and sprayed with a nontoxic disinfectant prior to storage.

**Food Services:** LaSalle will provide a food service program in compliance with the State and Federal Standards. LaSalle is responsible for providing a variety of services including diet. LaSalle will provide all food, staffing and supervision of preparation for the total delivery of food service at the facility.

#### **1. Master Menu**

- a. LaSalle agrees to develop a four-week cycle Master Menu that includes all nutritional information and shall be reviewed. The Master Menu will be followed by LaSalle to ensure inmates housed in the Facility receive the same caloric and dietary requirements. LaSalle agrees to serve three (3) meals per day in accordance with State and Federal Standards, with the exception of sack lunches or other special diets, as directed by medical staff, or the Warden in the case of an emergency,
- b. LaSalle agrees to make provisions for providing sack lunches for inmate work crews in compliance with the applicable standards.

#### **2. Delivery of Food:**

- a. **General Population:** This will include blind feeding where the inmate serving the food is not able to see the inmate receiving the tray.
- b. **Confinement/Infirmary:** Inmates who are housed in confinement or infirmaries shall be fed in the confinement units or infirmary, whichever is appropriate.
- c. **Medical Diets:** LaSalle will prepare all medical diets in accordance with the policies.

# **Management and Operation Agreement**

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

## I. PURPOSES

- 1.01 Operator agrees to operate, manage and supervise the Facility for the MPC, and to receive, detain and care for all properly classified inmates for which the Facility is approved that may be assigned to the Facility from:
- (a) the City of San Luis, Arizona ("City") through its Chief of Police, or through its Acting Chief of Police, or through such other person or persons as may be designated by its City Manager, or its Chief or Acting Chief of Police (collectively the "Police Chief");
  - (b) the United States Government or any of its agency, under an agreement between the MPC and the United States or any of its agencies;
  - (c) any Indian Tribe as defined under 25 USC §101 subject to the jurisdiction of the United States and recognized as possessing powers of self-government;
  - (d) the Arizona Department of Corrections ("ADOC"), under an agreement between ADOC and the MPC; and
  - (e) any other federal, state, county, city or local jurisdictions.

The above entities may be referred to as "Users" or "User Agencies."

- 1.02 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 the MPC to house inmates at the Facility ("Sending Jurisdictions").
- 1.03 The Operator is an independent operator engaged for the public purpose of operating a Detention Center on behalf of the MPC. No property interest or right in the Facility or grounds is granted to the Operator by this Operating Agreement.
- 1.04 The Operator shall operate the Facility in compliance with the Indenture and this signed Operating Agreement. The Operator shall provide or cause to be provided all insurance, maintenance, certifications and other matters required of or made the obligation of the MPC under the Indenture and this Operating Agreement. This obligation includes, without limitation, preparation of all reports or disclosures required under the Indenture and this Operating Agreement.
- 1.05 Each statement contained in the introduction section of this Operating Agreement are contractual provisions and stipulations binding upon the Parties and are not mere recitals.

## II. TERM

- 2.01 The MPC retains Operator exclusively, and Operator accepts this engagement for the operation, management, and maintenance of the Facility of this Operating Agreement. The term of this Operating Agreement shall begin on the Effective Date, **December 1**,

**DRAFT**  
**FACILITY OPERATION AND MANAGEMENT AGREEMENT**

This Facility and Operation and Management Agreement (“Operating Agreement”) is entered into by and between the SAN LUIS FACILITY DEVELOPMENT CORPORATION, a nonprofit corporation organized under the laws of the State of Arizona (“MPC”) and LaSALLE CORRECTIONS WEST, L.L.C., a Limited Liability Company organized under the law of the State of Louisiana (“Operator”). The MPC and the Operator may be referred to singularly as the “Party” and collectively as the “Parties.” This Operating Agreement is effective December 1, 2019 (“Effective Date”) for the operation and management of the San Luis Regional Detention and Support Center at 406 North Avenue D, San Luis, Arizona 85349 (“Facility”).

**RECITAL**

**WHEREAS, Background:** This Operating Agreement is entered into as a response to “Request for Proposals for San Luis Regional Detention Facility” to be effective December 1, 2019.

**WHEREAS** The existing Facility Operation and Management Agreement with an effective date December 1, 2018 terminating on November 30, 2019 will have expired on its own terms.

**WHEREAS**, the MPC is the owner of the Facility, with a capacity of eight hundred seventy (870) inmate beds for secure detention; and

**WHEREAS**, the MPC (also sometimes referred to in this Operating Agreement as the “Issuer”) has issued bonds to finance building the Facility and other improvements to support the operation of the Facility; and

**WHEREAS**, the Parties desire to enter into an agreement for the operation and management of the Facility; and

**WHEREAS**, the MPC and Operator find this Operating Agreement to be in the best interests of the Parties and the efficient and safe operation of the Facility.

**WHEREAS**, the Parties find this Operating Agreement to be in the best interests of the public because it serves the public purposes of providing space for incarcerating law violators and economic benefits to the local economy; and

**WHEREAS**, the workforce for the Facility as represented by the International Guards Union of America Local 158 is content with the Operator (LaSalle), and it wants no abrupt change of operators as it has experienced; and

**WHEREAS**, the MPC has entered into a Trust Indenture (“Indenture”), dated October 1, 2005, and supplemented on February 1, 2011, March 27, 2014, and April 2014, with the Trustee. Capitalized terms not otherwise defined shall have the meaning ascribed to such terms in the Indenture.

**2019, and shall end on November 30, 2024** ("Primary Term") with the option of two (2) five-year renewal terms which can be exercised by the mutual agreement of the MPC and the Operator. The first Renewal Term shall be from **December 01, 2024 to November 30, 2029.**

2.02 The MPC or the Operator may terminate this Operating Agreement with or without cause at the end of each (2) two-year anniversary date with a 90-day written notice to the other party of its intent to terminate the Agreement.

2.03 The MPC may terminate with cause if Operator's continued default occurs under the terms of this Operating Agreement existing more than ninety (90) days after Operator's receipt of the MPC's notice that Operator has failed to perform any of its obligations under this Operating Agreement. If Operator does not, within ninety (90) days of receiving from the MPC written notice that Operator has failed to perform any of its obligations in this Operating Agreement, cure such failure (or if such failure cannot be cured within such ninety (90) day period, Operator does not commence such cure within the ninety (90) day period and thereafter diligently proceed with all actions necessary to cure such failure when reasonably possible), then the MPC, may upon written notice to Operator, terminate the Operating Agreement.

### **III. OPERATOR'S COMPENSATION**

#### **3.01 Operator Fee.**

##### **(a) Operator Fee.**

**Indenture.** During the term of this Operating Agreement and solely from Project Revenue, MPC agrees to pay Operator compensation as set forth herein for the goods and services provided hereunder to the extent that Project Revenue are made available for that purpose under the Indenture.

**Definition of Operator Fee.** As used in this Operating Agreement, the term "Operator Fee" shall mean collectively the fees earned under this Operating Agreement. For the avoidance of doubt, Project Revenue generated from the Operator's operation of the Facility during any of the operation's months, including the Interim Forbearance Period, even if such Project Revenue are not actually received by the Trustee until after the termination of the 2016 Agreement, the Forbearance Agreement and this Operating Agreement, will be applied in accordance with the priorities set forth in this Operating Agreement.

**Source of Funds.** The MPC is only obligated to pay the Operator's share of the Operator Fees to Operator to the extent that funds are available in the Operating Account, Operator Fee Account and the Surplus Account (maintained by the Trustee pursuant to the Indenture) for such purposes. No funds of the MPC that are generated by other projects

or any other funds of the MPC, and no funds of the City, including but not limited to those that are held in the general fund of the City, and no tax, fee, enterprise or any other revenue of the City, shall be obligated to pay the Operator Fee or any fees under this Operating Agreement. MPC shall instruct the Trustee to pay the Operator's share of the Operator Fees to Operator when funds are available to the Trustee to pay such fees. The Operator shall instruct the Trustee to pay the City's fees under this Operating Agreement, when funds are available to the Trustee to pay such fees.

- (b) Operator Fee Payments and Order of Priority Once the Trustee has transferred Project Revenue to the Bond Fund and Reserve Fund under Indenture Sections 5.06(a) and (b), and made all required Principal and Interest payments on the Bonds according to the Indenture including deposits needed to cover any shortfalls of Interest and Principal due and owing from prior months, MPC shall then direct the Trustee to calculate and pay any available Project Revenue as an Operator Fee payable on a monthly basis in this order:
- (i) "Operation and Maintenance Costs" From Project Revenue 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 and Maintenance Costs" as defined by the Indenture incurred by the Operator, including any unreimbursed "Operator Direct Expenses" from prior months. If there is not sufficient net revenue to pay these expenses, any unpaid amounts will be carried forward to the next month; and
  - (ii) "General and Administrative Expenses" and City's fees. After paying the above Operating and Maintenance Costs and carryforwards, if there is sufficient net Project Revenue in the Operator Fee Account, the MPC shall direct the Trustee to pay the Operator for its General and Administrative Expenses based on 6% of actual Operation and Maintenance Costs and the Trustee shall pay the City a fixed monthly City Business License Fee of \$50,000.00 ("City Business License Fee"), and will also include any unreimbursed "Detention Facility City Business License Fees" and the Operator's General and Administrative Expenses from prior months earned and unpaid prior to this Agreement. The amounts will be paid in a pro-rata share between the Operator and the City if there is not sufficient net Project Revenue to pay both the General Administrative Expenses and the City's fees (the City Business License Fee and the Detention Facility Business License Fee) the City and the Operator shall be paid to the extent of available net Project Revenue, and any unpaid amounts will be carried forward to the next month; and
  - (iii) "Variable Incentive Fee and City Variable Business License Fee" After paying the above costs and fees in subsection (i) and (ii), if there is sufficient net Project Revenue in the Operator Fee Account, the MPC shall direct the Trustee to pay from the Operator Fee Account a Variable Fee when the average Inmate Days for a month is 638 or above. The Operator shall be paid an amount equal to \$20 per inmate per day in that month, and the City shall be paid a Variable Business License Fee equal to \$5 per inmate per day in that month. The amounts will be paid in a pro-rata share between the Operator and the City; provided, however, if there is not sufficient net Project Revenue to pay both variable fees, the Operator and the City shall only be paid to the extent of available net Project Revenue and any unpaid amounts will be carried forward to the next month. See section 3.10 below for the calculation of those Inmate Days; and
  - (iv) "Operating Reserve/Repair/Contingency Account" To the extent that there are

sufficient available Project Revenue after satisfaction of the above priorities deposits shall be made to the Operating Reserve/Repair/Contingency Account up to \$10,000 per month, in accordance with Section 5.06(e) of the indenture, not to exceed an account balance of \$300,000; and

- (v) **“Additional Variable Incentive Fee”** After paying the above costs and fees in the subsection above if there is sufficient net Project Revenue in the Operator Fee Account, the MPC shall direct the Trustee to pay from the Operator Fee Account an Additional Variable Fee when the average Inmate Days for a month exceed 850 or above. The Operator shall be paid an amount equal to \$10 per inmate per day in that month, and the City shall be paid a Variable Business License Fee equal to \$2.5 per inmate per day in that month. The amounts will be paid in a pro-rata share between the Operator and the City; provided, however, if there is not sufficient net Project Revenue to pay both variable fees, the Operator and the City shall only be paid to the extent of available net Project Revenue and
  - (vi) **“Surplus Fund Amounts”** Any funds remaining after paying the Variable Incentive Fee and the Variable Business License Fee including any carryover shall follow the requirements for the excess of the Operator Fee Account under the Indenture as it relates to Operating Reserve/Repair/Contingency and Surplus Account defined in Section 5.06 (f) of the Indenture. In each case, nothing in this Section 3.01 of this Operating Agreement shall be construed in a manner inconsistent with the Indenture.
- (c) **(d) Termination of Operator Fee.** No Operator Fee due and owing to the Operator under this Operating Agreement shall remain due and owing after 120 calendar days have elapsed following the termination of this Operating Agreement by its own terms or otherwise. The Operator shall only be paid its share of the Operator Fee due under this Operating Agreement from Project Revenue generated by the services provided by the Operator in the operation, management and maintenance of the Facility. Project Revenue generated by any other operator of the Facility shall not be utilized to pay the Operator Fee of the Operator due and owing under this Operating Agreement.
- (e) **Operator Acknowledgement of Risk.** The Operator acknowledges that Project Revenue during the term of the Operating Agreement may not be adequate to reimburse the Operator for all Operation and Maintenance Costs advanced by the Operation.

**3.02 Source of Funds.** Regardless of anything to the contrary in this Operating Agreement, all amounts due and payable by the MPC to Operator shall be a current obligation payable solely from the amounts held within accounts established under the Indenture (the Operating Account, the Operator Fee Account and the Surplus Account). Never shall the City or the MPC be liable for payment of these sums except from the Operating Account, Operator Fee Account, and the Surplus Account established under the Indenture. The Surplus Account shall be used for the limited purpose of paying the Incentive Fee and City percentage accrued under the 2016 Agreement.

**3.03 Payment of Business License Fee and Variable Business License Fee.** The obligation to pay the Business License Fee and Variable Business License Fee to the City shall be the responsibility of the Operator. The Operator shall direct the Trustee to make the Business License Fee and Variable Business License Fee payments directly to the City. The MPC and Operator agree to cooperate with each other to establish with the Trustee such procedures as needed or necessary for the City to be paid the Business License Fee and Variable Business

License Fee directly by the Trustee from Project Revenue in the Operator Fee Account. The Business License Fee and the Variable Business License Fee (upon a monthly basis) to be paid to the City shall be as described in Section 3.01.

- 3.04 Documentation for Payment by the Trustee. The Operator shall, each month, promptly forward to the Trustee, such documentation as may be reasonably required to facilitate the payment of the Operator Fee and the Variable Business License Fee anticipated by Section 3.01 and 3.03 of this Operating 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 the Trustee to document the payment of Operator Fees under this Operating Agreement including but not limited to the certified actual monthly Operation and Maintenance Costs which are to be reported to the MPC in addition to the Trustee. The Operator shall prepare and submit to the City a monthly statement setting forth any amounts due and owing by Operator to the City as the City Business License Fee and the Variable Business License Fee.
- 3.05 Adjustment to Operator Fees. The amount described as the Operator Fee to be paid to Operator, set forth in Section 3.01 above, is subject to renegotiation and adjustment at the option of the Parties when the scope of services required to be provided by Operator has materially changed, so Operator is over-compensated or under-compensated for the goods and services provided.
- 3.07 Project Revenue. The term "Project Revenue" shall have the meaning set forth in the Indenture.
- 3.08 Extraordinary Costs. The Operator shall be entitled to seek reimbursement for extraordinary costs associated with the housing agreements with 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 the burden of the MPC, but only that of the User Agencies or Sending Jurisdictions, and shall be in addition to the Operator's compensation payable under this Operating Agreement.
- 3.09 City as Sending Jurisdiction. If a shortage of space in the City's jail occurs, the City, at the request of the Police Chief may house at the Facility, up to five (5) inmates at no cost to the City, for not more than seventy-two (72) consecutive hours. Should the need to exceed five (5) inmates arise for more than seventy-two (72) consecutive hours, both Parties agree to negotiate, in good faith, a rate per inmate per day acceptable to both Parties applicable to each such occurrence. Said rate shall only apply to those instances where more than five (5) inmates are housed at Facility for more than seventy-two (72) consecutive hours for any inmate. The City may not contract with other jurisdictions for the beds identified in this section. The Operator's Warden for the Facility or his designee shall contact the Police Chief and the MPC's Attorney to negotiate compensation under this Section 3.09.
- 3.10 Inmate Day. For this Operating Agreement, the term "Inmate Day" shall mean each calendar day or part thereof, during which an inmate is assigned to the Facility, which, for each calendar day, shall be determined by the Midnight Count Report. The term "Midnight Count Report" shall mean the official numerical count of the number of inmates present at the Facility at the end of

each day, which for this Operating Agreement shall be determinative of the number of inmates present at the Facility for the day just ended. If an inmate is processed into and out of the Facility in less than twenty-four (24) hours and is not in the Facility at midnight, such inmate's presence shall be made part of the official numerical count for the day such inmate arrived at the Facility. Neither the Variable Incentive Fee nor the Variable Business License Fee shall be due and owing in any month where the average monthly occupancy of the Facility is 637 or fewer.

#### **IV. DUTIES OF OPERATOR**

- 4.01 Effective December 1, 2019, 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 housing inmates;
  - (b) intake facilities and inmate 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 inmate-locator practices;
  - (c) the Operator shall have a staffing plan that shall include 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 inmates confined within the Facility;
  - (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 inmate 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 shall include (without limitation) establishment of a periodic maintenance program with applicable equipment maintenance records and extraordinary repairs;
- (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 including but not limited to payment of costs in Section 5.06(e) of the Indenture.

Regarding 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 regarding the Facility, Furniture, Fixtures, and Equipment ("FF&E") 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 guarantees, to seek reimbursement for monies expended by the Operator to meet its repair, upkeep and maintenance obligations under this Operating Agreement to the extent that those expenditures relate specifically to work covered by the warranty or guarantee. Regarding any warranties, the 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 Account or the Operating Reserve Repair Contingency Fund established under the Indenture where funds are available in any of those accounts. Therefore, unless extraordinary repair is due to the negligence or intentional acts of Operator's employees, or by an inmate or 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 Operator Account, the Operator Fee Account or Operating Reserve Repair Contingency Fund to pay for the same, is limited to the proceeds of applicable insurance or the funds available in the Operating Account the Operating Reserve Repair Contingency Fund (Sections 5.06(c) and (e) of the Indenture), unless the need for such repairs was created by the negligence or intentional act of its employees, or by an inmate or inmates, in which case the Operator shall pay for such repairs from its independent funds.

- 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 regarding the operation of the Facility or the inmates detained 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 inmates 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 inmates, and shall maintain such certification(s) at all times. Not limited to but included among the Operator's duties is to require that all jailers are certified by the appropriate State of Arizona Standards or the Sending Jurisdiction's requirements prior to undertaking permanent jailer duties. After such certifications have been obtained, if required by the laws of the State of Arizona, the Operator shall provide copies to the MPC.
- 4.04 Operator shall properly incarcerate all inmates assigned to the Facility for whom space is available at the Facility within the statutory and regulatory limits of the Sending Jurisdiction and under all federal, state, and local laws, ordinances, regulations, and other legal requirements.

- 4.05 Regardless of anything to the contrary in this Operating Agreement, the MPC and/or the City and/or the Trustee shall have no liability for any employees of Operator. Operator agrees to indemnify, defend and hold the MPC and/or the City and/or the Trustee harmless from all costs, claims, expenses, and liabilities (including attorneys' fees) whatsoever which may be incurred by the MPC and/or the City and/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 Operating Agreement. All representations and warranties of Operator, Operator's indemnity, hold harmless and defense obligations shall survive the expiration or earlier termination of this Operating 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 the Operator. The Operator shall use its best efforts to hire and train residents of San Luis, Arizona, and shall report on the status of hiring San Luis, Arizona residents upon request of the MPC.
- 4.07 Operator shall use its best efforts to purchase goods and services locally when economically feasible.
- 4.08 Operator shall provide all balance sheets, income statements, inmate rolls, accounting records or reports, audits and other such matters required of the MPC and/or the Trustee under the Indenture and this signed Operating Agreement for the Facility, and all Project operation information necessary to carry out the MPC's and/or the Trustee's continuing disclosure obligations under the Indenture and this Operating Agreement.
- 4.09 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 Issuer 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 the Issuer, an unaudited statement of income and expenditures regarding the operation of the project for such fiscal quarter, and average inmate census information for each calendar month in each such fiscal quarter.

## **V. MEDICAL CARE OF INMATES**

- 5.01 The Operator shall provide inmates access to medical, optical, and emergency health care under those standards of the Sending Jurisdictions. The Operator shall provide on-site nurses and medical technicians to handle sick calls and medical assessments and care that does not require a physician or specialist. The Operator shall also contract with a medical doctor to serve as a medical consultant for the Facility.
- 5.02 Health care needs in excess of basic triage shall be performed off-site of the Facility. The agency having jurisdiction over the inmates bears the costs associated with care in excess of basic triage. The MPC and the City shall have no obligation for the medical care of inmates.

## **VI. COMPLIANCE WITH STANDARDS**

- 6.01 Operator shall prepare and adopt a Procedures Manual for operating the Facility to assure that the Facility is operated fully under applicable correctional practices and under the requirements of the User Agencies.

- 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 inmate housing contracts entered into with each Sending Jurisdiction by the MPC and provide all services to be provided by the MPC under such contracts and under such contracts.
- 6.04 The Operator shall conform to all regulations and requirements, and seek any necessary accreditations set forth in specific housing agreements for the Facility.

## **VII. DUTIES OF THE CITY**

[Intentionally blank, these terms are in a separate agreement between the Operator and the City]

## **VIII. DUTIES OF THE MPC**

- 8.01 The MPC and the Operator agree it shall be to their mutual benefit and interest that the Facility be fully utilized by maintaining the maximum inmate population within statutory or regulatory limits. To this end, and throughout the term of this Operating Agreement, the MPC and the Operator agree to cooperate in efforts to obtain maximum inmate population from the sources set forth in Section 1.01 of this Operating Agreement (such as the Operator actively seeking potential additional inmate sources and the MPC entering into additional inmate housing contracts, etc.). It shall be the responsibility of Operator to assist the MPC in seeking sources of inmates for incarceration at the Facility and to assist in negotiation and presentation for acceptance by the MPC contracts for the incarceration of inmates from sources listed in Section 1.01 of this Operating Agreement.

## **IX. LIABILITY AND INDEMNITY**

- 9.01 Operator agrees to defend, hold harmless and indemnify the MPC and/or the City representatives including but not limited to the MPC's Board of Directors and the City's Mayor and Council, from and against any and all claims, damages, demands, losses, costs and expenses, including attorney's fees, incurred or suffered by the MPC and/or the Trustee, their officials, 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 under this Operating Agreement. All representations and warranties of Operator, Operator's indemnity, hold harmless and defense obligations shall survive the expiration or earlier termination of this Operating Agreement.

## **X. INSURANCE**

- 10.01 Operator shall obtain and maintain in force, at its sole cost, risk and expense during the term of this Operating 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 (\$5,000,000.00) aggregate. Such insurance shall insure against all claims inclusive of defense, including but not limited to claims based on violations of civil rights arising from services performed by Operator under this Operating Agreement.
- 10.02 Said policy or policies of insurance shall name the MPC, the City and the Trustee as "additional named insureds."

- 10.03 Operator shall provide and continue in force property insurance coverage in the name of the 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 inmate fee with each Sending Jurisdiction and has taken this operational expense into account.
- 10.04 Operator shall provide to the MPC insurance certificates as proof of the insurance policies obtained under this Article X. All policies shall provide that coverage shall not be canceled without thirty (30) days prior written notice to the certificate holder and all additional named insureds and loss payees. The 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 for 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 Regardless of anything to the contrary in this Operating Agreement, Operator shall provide all insurance required of the MPC under the Indenture or this Operating Agreement in the form and naming the insureds and loss payees as required in the Indenture. Operator agrees that the negotiated per diem, per inmate fee with each Sending Jurisdiction has taken this operational expense into account. This includes business interruption insurance under Section 6.16 of the Indenture. Section 6.16 of the Indenture provides:

**"Property Insurance.** As the Operation and Maintenance Costs, from and after the Completion Date, the Issuer 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 in the policy. Issuer also shall obtain business interruption insurance protecting Issuer against the loss of Project Revenue 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 monies (other than monies 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 the Issuer and the Trustee as their respective interests may appear and shall name the 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 THE CITY POLICE CHIEF**

[Intentionally blank, these terms are in a separate agreement between the Operator and the City]

## **XII. MAINTENANCE, UPKEEP AND REPAIR**

- 12.01 All ordinary and extraordinary maintenance, upkeep and repair costs for the Facility shall be paid by Operator under subsection 4.01(l) of this Operating Agreement except as

otherwise provided. Operator agrees that the negotiated per diem, per inmate fee with each Sending Jurisdiction has taken this operational expense into account.

### **XIII TAXES AND GOVERNMENTAL CHARGES**

13.01 The Operator shall be responsible for any taxes or governmental charges of any kind assessed or incurred after the Effective Date of this Operating Agreement which are levied or imposed on the Facility and related property. If 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, the Operator shall pay them and seek reimbursement to the extent funds are available from the Operating Account or any reserve accounts available for payment thereof as amounts due or payable under the Indenture of this Operating Agreement. Such amounts are not a responsibility or debt of the MPC or the City. This Facility is, and under current law, should be exempt from property taxation based on current interpretations and decisions.

### **XIV ADDITIONAL PROVISIONS**

14.01 Regardless of anything to the contrary in this Operating Agreement, if 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 dismissed within sixty (60) days, this Operating Agreement shall be immediately terminated and canceled, and the 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 Operating Agreement, said Party shall have ninety (90) days, from notification of the breach, to correct or rectify said matter. If the breaching Party makes a good faith effort to correct said breach and more time is required due to unforeseen or uncontrollable circumstances, then both Parties shall negotiate in good faith on an appropriate time frame to correct the breach. If the material breach is not corrected with this section, then this Operating Agreement shall terminate in thirty (30) days.

14.03 If a dispute arises out of or relates to this Operating 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. If 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 another form of dispute resolution proceeding must be commenced within the time for bringing claims against public entities as permitted by A.R.S. § 12-821 and the Operator shall file a notice of claim against the MPC within 180 days after the claim accrues. Failing to commence such mediation, arbitration or another form of dispute resolution proceeding shall not bar the accrual of any such claim. However, if mediation, arbitration or another form of dispute resolution proceeding is commenced before the expiration of the 180 day period provided for in A.R.S. § 12-821.01, then such 180 day period shall abate during the pendency of such mediation, arbitration or another form of dispute resolution proceeding.

14.04 The Operator shall use sound and acceptable business and accounting practices to procure commissary and inmate phone services. The Operator controls commissary and inmate phone services proceeds. The Operator shall use said proceeds only for inmate

welfare or costs associated with operating the commissary and inmate phone services at the Facility if the law or a contract or contracts require it.

- 14.05 The City is a third-party beneficiary of the Operator's obligations under Section 3.01 Section 3.02, Section 3.03, Section 3.09, Section 4.05, Section 5.02, Section 9.01 and Section 10.02 of this Operating Agreement.

#### **XV. APPLICABLE LAW AND VENUE; LEGAL CONSTRUCTION; MISCELLANEOUS**

- 15.01 Applicable Law and Venue. This Operating Agreement shall be construed under and under the laws of the State of Arizona, and all obligations of the Parties created in this Operating Agreement are performable in San Luis, Arizona. Any legal action relating to this Operating 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 shall 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 Operating Agreement is subject to termination under A.R.S. § 38 - 511.
- 15.02 Severability. Every provision of this Operating Agreement is and shall be construed to be a separate and independent covenant. If any provision of this Operating Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, then the remainder of this Operating 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 Operating Agreement will be valid and shall be enforced to the extent permitted by the law, and the Parties shall negotiate in good faith for such amendments of this Operating Agreement which may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.
- 15.03 Assignment. This Operating Agreement is not assignable unless both Parties mutually consent to assignment in writing. The Operator shall not assign the benefits of this Operating Agreement nor delegate the obligations arising under this Operating Agreement to any person or entity without the consent of the MPC. The requirements of this Operating Agreement are binding upon the heirs, executors, administrators, successors and assigns of all Parties.
- 15.04 Void/Voidable. If this Operating Agreement shall be held void or voidable, or otherwise be held unlawful, this Operating Agreement shall immediately terminate, and the Operator shall have no claim or right of action against the MPC, its officials, its employees, its agents or its attorneys for any such termination or alleged act or omission related to the same.
- 15.05 Employment Eligibility. The Operator warrants and shall require its subcontractors to warrant, that all comply 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 Operating Agreement and is subject to penalties up to and including termination of this Operating Agreement. The City and the MPC retain the legal right to inspect the papers of the Operator or any subcontractor employee who works to service the obligations of the Operator to ensure that the Operator or its subcontractors are complying with this warranty.

- 15.06 Boycott. The Operator certifies by executing this Operating Agreement that it does not participate in and agrees not to participate in during the term of this Operating Agreement a boycott under A.R.S. § 35-93.01.
- 15.07 Counterparts. This Operating 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.
- 15.08 Headings. The descriptive headings of the Sections of this Operating Agreement are inserted for convenience only and shall not control or affect the meaning or construction of the provisions.
- 15.09 Further Acts. Each of the Parties 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 Operating Agreement.
- 15.10 Time is of the essence of this Operating Agreement. Time is of the essence of this Operating Agreement.
- 15.11 No Partnership and Third Parties. It is not intended by this Operating Agreement to, and nothing in this Operating Agreement shall create any partnership, joint venture or other similar arrangement between the City, the MPC or the Operator. No term or provision of this Operating Agreement is intended to, or shall, be for the benefit of any person, firm, organization or corporation, not a Party to this Operating Agreement and no such other person, firm, organization or corporation shall have any right or cause of action under this Agreement. Except as stipulated in Section 14.05 of this Operating Agreement, the City is a third party beneficiary of the Operator's obligations under Section 3.01, Section 3.02, Section 3.03, Section 3.09, Section 4.05, Section 5.02, Section 9.01 and Section 10.02 of this Operating Agreement.
- 15.12 No Personal Liability. No member, official or employee of the City including but not limited to the Mayor and City Council or the MPC including but not limited to the MPC's Board of Directors shall be personally liable to Operator, or any successor or assignee, (a) if any default occurs 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 the MPC or the City under the terms of this Operating Agreement.
- 15.13 Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the Parties of the breach of any provision of this Operating Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or of any other provision of this Operating Agreement.
- 15.14 Attorneys' Fees and Costs. If any Party finds it necessary to bring any action at law or other proceeding, including arbitration, against the other Party to enforce any of the terms, covenants or conditions under this Operating Agreement, or for any breach or default, the Party prevailing in any such action or other proceeding shall be paid all reasonable costs and reasonable attorney's fees by the other Party, and if the prevailing Party secures any judgment, all such costs and attorney's fees shall be included and set by the court and not by jury.

15.15 Survival. All representations and warranties of Operator, Operator's indemnity, hold harmless and defense obligations shall survive the expiration or earlier termination of this Operating Agreement.

15.16 Force Majeure. If the Operator or the MPC are prevented or materially restricted from performing any of their obligations under this Operating Agreement by an event of force majeure, then the obligations of each Party shall be suspended or reduced to the extent made necessary by the event. As used in this section, "Force Majeure" means any act or cause not reasonably within the control of the Party whose ability to perform is impaired and which that Party could not have prevented by exercising reasonable diligence. This includes, but is not limited to, acts of God, fire, flood, earthquakes, explosions, strikes or labor disputes over which the affected Party has no control, riots over which the affected Party has no control, sabotage, civil commotion, acts of civil or military authority, wars or material changes in applicable business laws or regulations.

## **XVI. NOTICES**

16.01 Notices required to be given by any Party to the other shall be in writing and shall be valid if actually received or refused 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 or refused by the Party to whom notice is being given.

Notices to the MPC shall be delivered or sent to:

San Luis Facility Development Corporation  
1090 E. Union Street (Delivery)  
P.O. Box 1170 (By U.S. Postal Service)  
San Luis, Arizona 85349  
Attention: Board President Jenny Torres

Copy to: Board Attorney Kay Marion Macuil  
Copy to: Board Finance Adviser Monica Castro

Notices to the Operator shall be delivered or sent to:

LaSalle Corrections, L.L.C.  
192 Bastille Lane, Suite 200  
Ruston, Louisiana 71270  
Attention: William K. "Billy" McConnell (Managing Director)

Copy to: Tim Kurpiewski, Chief Financial Officer  
LaSalle Corrections  
26228 Ranch Road 12  
Dripping Springs, TX 78620

Notice to the Trustee Shall be delivered or sent to:

U. S. BANK NATIONAL ASSOCIATION  
633 West Fifth Street, 24<sup>th</sup> Floor  
Los Angeles, California 90071  
Attention: Keith R. Marshall, Vice President

## **XVII. EXECUTION AUTHORITY**

17.01 By his or her signature below, each signatory individual certifies that he or she is the duly authorized agent or officer of the applicable Party and has the authority to execute this Operating Agreement on behalf of such Party, and each Party 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 Operating Agreement may be amended only by a written instrument specifically purporting to amend this Operating Agreement and executed by all Parties.

#### **XIX. ENTIRE AGREEMENT**

19.01 This Operating Agreement supersedes any prior understandings or written or oral agreements between the Parties, provided that to the extent that either the MPC and/or the Operator already have any existing rights and/or obligations pursuant the 2016 Operating Agreement, then such Parties shall respectively maintain those rights and be responsible for those obligations. This Operating Agreement is not intended to revoke, sever or terminate the rights existing under the 2016 Agreement, but is intended to initiate new rights and obligations of the Parties as of the Effective Date.

#### **XX. ADDITIONAL TERMINATION PROVISIONS**

[Intentionally left blank.]

#### **XXI. DEFINITIONS**

21.01 All capitalized terms not otherwise defined, shall have the meanings given to those capitalized terms in the Indenture

**“ADOC”** has the meaning ascribed to it in Section 1.01(c).

**“Bond Fund”** has the meaning ascribed to it in the *Indenture*.

**“City”** has the meaning ascribed to it in Section 1.01(a).

**“City Business License Fee”** has the meaning ascribed to it in Section 3.01(b)(ii)

**“day”** has the meaning ascribed to it in Section 3.10.

**“Effective Date”** has the meaning ascribed to it in the opening paragraph.

**“Emerald”** has the meaning ascribed to it in the first (1<sup>st</sup>) whereas clause titled “Background.”

**“Facility”** has the meaning ascribed to it in the opening paragraph.

**“FF&E”** has the usual meaning Furniture Fixtures and Equipment as noted in the last paragraph of Section 4.01.

**“Force Majeure”** has the meaning ascribed to it in Section 15.16.

**“General and Administrative Expenses”** has the meaning ascribed to it in Section 3.01(b)(ii).

**“Incentive Fee”** has the meaning ascribed to it the under Section 1(f) and the **2016 Agreement**.

**“Indenture”** has the meaning ascribed to it in the ninth (9<sup>th</sup>) whereas clause.

**“inmate or inmates** have their common meaning which includes detainee(s), jailee(s), and prisoner(s). The words prisoner or prisoners are the terms sometimes used in the **Indenture** to mean the same as inmate or inmates as used in this Operating Agreement.

**“Inmate Day”** has the meaning ascribed to it in Section 3.10.

**“Issuer”** and **“MPC”** are the same. **“Issuer”** has the meaning ascribed to it in the third “whereas” clause.

**“Midnight Count Report”** has the meaning ascribed to it in Section 3.10.

**“month”** has the meaning ascribed to it in Section 3.10.

**“MPC”** has the meaning ascribed to it in the opening paragraph.

**“Open Accounts Receivable Detail”** has the meaning ascribed to it in Section 3.10.

**“Operating Agreement”** has the meaning ascribed to it in the opening paragraph.

**“Operating Account”** has the meaning ascribed to it in the **Indenture**.

**“Operating Reserve/Repair/Contingency Account”** has the meaning ascribed to it in the **Indenture**.

**“Operation and Maintenance Costs”** has the meaning ascribed to it in Section 3.01(b)(i) and the **Indenture**.

**“Operator”** has the meaning ascribed to it in the opening paragraph.

**“Operator Direct Expenses”** has the meaning ascribed to it in Section 3.01(b)(i) and Section 3.01 of the **2016 Agreement**.

**“Operator Fee”** has the meaning ascribed to it in Section 3.01(a) and is the collective term for the fees paid to the **Operator** consisting of the **Operation and Maintenance Costs**, the **General Administrative Expenses** the **Variable Incentive Fee** and the Operator’s fees accrued and unpaid under the **2016 Agreement**.

**“Operator Fee Account”** has the meaning ascribed to it in the **Indenture**.

**“Parties”** has the meaning ascribed to it in the opening paragraph.

**“Party”** has the meaning ascribed to it in the opening paragraph.

**“Police Chief”** has the meaning ascribed to it in Section 1.01(a).

**“Project Revenue”** has the meaning ascribed to it in the **Indenture**.

**“Reserve Fund”** has the meaning ascribed to it in the **Indenture**.

**“Sending Jurisdiction”** has the meaning ascribed to it in Section 1.02.

**“Surplus Account”** has the meaning ascribed to it in the **Indenture**.

**“Trustee”** has the meaning ascribed to it in the first (1<sup>st</sup>) whereas clause titled “Background.”

**“Users”** has the meeting ascribed to it in Section 1.01, the last sentence.

**“User Agencies”** has the meeting ascribed to it in Section 1.01, the last sentence.

**“Variable Business License Fee”** has the meaning ascribed to it in Section 3.01(b)(iii).

This Operating Agreement shall inure to the benefit of and bind the heirs, legal representatives, assignees, and successors of the respective Parties.

**“Variable Incentive Fee”** has the meaning ascribed to it in Section 3.01(b)(v).

**San Luis Facility Development Corporation**

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

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

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST:**

**APPROVED AS TO FORM:**

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Olivia Jenkins, Secretary

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Kay Marion Macuil, Attorney for Corporation

**LaSalle Corrections West, L.L.C**

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

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

Its : \_\_\_\_\_

Date: \_\_\_\_\_

Acknowledged by:

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

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

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

Its : \_\_\_\_\_

Date: \_\_\_\_\_

## **Other Requirements**

## **Vendor Information**

Tim Kurpiewski, Chief Financial Officers, is the LaSalle designated contact person with authority to answer questions regarding this Proposal. Tim can be reached at: Phone, 512-858-7202; Email [timkswc@aol.com](mailto:timkswc@aol.com).

Cell 512-694-5259

## **Summary of Experience**

LaSalle Corrections is an established developer and operator of correctional centers throughout the States of Louisiana, Texas, Georgia, Arizona and New Mexico. Since 1997, LaSalle has been providing correction industry solutions to law enforcement agencies. Our range of facility solutions include design, construction, and operations management as well as inmate services covering security, education, rehabilitation, and healthcare. LaSalle is qualified in all custody levels of inmates, from minimum to maximum custody of convicted felons from ICE detainees to county jail inmates awaiting conviction, and the U.S. Marshalls. It is that pool of relevant, similar experience from within its own system that makes LaSalle uniquely qualified to handle the Operation and Management Transportation needs for the San Luis Regional Detention Center.

Managing a correctional facility requires a dynamic mix of special skills and experience. Our operations integrate qualified personnel and the critical resources necessary to provide the services our partners and the public expect. From facilities management, office administration, food service, commissary, laundry, transportation and logistical support, to inmate security and healthcare, we ensure professional and proper stewardship of our responsibilities.

LaSalle is committed to meeting your expectations. Our staff is dedicated to working with the San Luis Facility Development Corporation of City of San Luis, Arizona, the San Luis Regional Detention Center and any other Interlocal Cooperation Contracts in order to ensure the entire operation runs smoothly and all parties are satisfied.

The management expertise of LaSalle was greatly expanded in 2009 when three retirees from the Texas Department of Criminal Justice (TDCJ) joined LaSalle. These individuals brought nearly 90 years of collective corrections experience to the corporation. Christopher Bell, Rodney Cooper and Nathaniel Quarterman. Jay Eason joined the company in 2016 and brings the management experience and correctional expertise of TDCJ, the 2<sup>nd</sup> largest correctional institution in the United States with over 156,000 offenders and 112 facilities.

## **Facility References**

LaSalle currently manages and/or owns 22 facilities with a total inmate/detainee capacity of over 23,500 in its care. Our experienced management and distinguished security team provides professional and dedicated services to all our partners. Our team currently consists of over 2,750 employees serving at all our locations. Our Texas-based affiliate operates under the name LaSalle Southwest. We invite you to browse our website ([www.lasallecorrections.com](http://www.lasallecorrections.com)) to learn more.

State	Facility Name	City	Capacity
Arizona	San Luis Detention Center	San Luis	870
Georgia	Irwin County Detention Center	Ocilla	1137
Louisiana	Catahoula Correctional Center	Harrisonburg	830
Louisiana	Jackson Parish Correctional	Jonesboro	1252
Louisiana	LaSalle Correctional Center	Olla	755
Louisiana	Madison Correctional Center	Tallulah	1666
Louisiana	Richwood Correctional Center	Richwood	1127
Louisiana	River Correctional Center	Ferriday	602
Louisiana	Winn Correctional Center	Winnfield	1615
New Mexico	Lincoln County Detention Center	Carrizozo	144
Texas	Bowie County Correctional	Texarkana	921
Texas	City of Fort Worth Jail - Intake	Fort Worth	N/A
Texas	Fannin County Jail	Bonham	550
Texas	Jack Harwell Detention Center	Waco	816
Texas	Jefferson County Downtown Jail	Beaumont	501
Texas	Johnson County Jail	Cleburne	1101
Texas	Limestone County Detention Center	Groesbeck	315
Texas	Parker County Jail	Weatherford	457
Texas	Prairieland Detention Center	Alvarado	764
Texas	Rolling Plains Detention Center	Haskell	555
Texas	West Texas Detention Center	Sierra Blanca	1398
Texas	Willacy State Jail	Raymondville	1069

## **Our Qualifications**

LaSalle is very proud of its personnel's depth of corrections experience. Security operations are supervised by senior management and Jail Administrators /Wardens each of whom most often have decades worth of direct and distinguished experience managing correctional facilities for local, state, and federal law enforcement agencies in the United States. Many of our employees have also been accredited trainers of a variety of security and safety functions. At each facility, our staff undergoes training to equip them with the knowledge and skill to properly maintain a secure inmate/detainee environment. Additionally, the facilities utilize security measures such as razor fencing and video surveillance to complement security personnel. Qualified staff directly supervises inmates/detainees and the facilities through diligent monitoring of housing units, count checks, inmate transfers, substance abuse testing, and incident reporting.

### **National Detention Standards (NDS) 2000**

The San Luis Facility currently complies with NDS established consistent conditions of confinement, program operations and management expectations within the ICE agency's detention system.

### **Family Visitation:**

We strongly support family visitation. We offer visitation five days a week. All our facilities meet state and federal Standards.

### **PREA Standards:**

All our facilities comply with the PREA Standards. We have policies in place for the prevention of prison rape and to report an incident if one feels threatened.

### **Transportation Standards:**

At LaSalle, we currently transport inmates and/or detainees for local sheriffs, states and multiple federal agencies. We comply with the appropriate Transport Standards for interstate/intrastate transportation of prisoners and fugitives from justice.

**References:**

<b>BOWIE COUNTY CORRECTIONAL CENTER</b>	
Jail Admin/Warden	James McCormick; <a href="mailto:jmccormick@lasallemcorrections.com">jmccormick@lasallemcorrections.com</a> ; 903-798-3505
Address, City, State	499 Old Columbia Road, Harrisonburg, Louisiana, 71340
Capacity	921
Contract Period <i>(contract start to end)</i>	Contract Start March 1, 2003 - Present
County Contact(s)	Judge James Carlow, (903) 628-6718 Sheriff, James Prince; <a href="mailto:meredith@txkusa.org">meredith@txkusa.org</a> ; (903) 798-3149
Contracted Services	<b>Service:</b> Operations including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation. <b>Includes:</b> Louisiana DOC and County Males
<b>CATAHOULA CORRECTIONAL CENTER</b>	
Jail Admin/Warden	Sherman Ford, <a href="mailto:shermanford@lasallemcorrections.com">shermanford@lasallemcorrections.com</a> ; 318-744-2121
Address, City, State	499 Old Columbia Road, Harrisonburg, Louisiana, 71340
Capacity	830
Contract Period <i>(contract start to end)</i>	Contract Start March 1, 2003 - Present
Contact(s)	Sheriff: Toney Edwards, (318) 744-5411; Fax: 318-744-5568
Address	301 Bushley Street; Harrisonburg, LA 71340
Contracted Services	<b>Service:</b> Operations including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation. <b>Includes:</b> Louisiana DOC and County Males
<b>CITY OF FORT WORTH JAIL – INTAKE DIVISION</b>	
Jail Admin/Warden	Judith Bennett; <a href="mailto:judith@lasallemcorrections.com">judith@lasallemcorrections.com</a> ; (254) 817-392-4055
Address, City, State	350 Belknap Street, Fort Worth, Texas 76102
Capacity	N/A - Processing Center
Contract Period <i>(contract start to end)</i>	October 1, 2018 - Present; Primary term 3 years; annual thereafter
Contact Person	Chief of Police Ed Krause <a href="mailto:ed.krause@fortworthtexas.gov">ed.krause@fortworthtexas.gov</a> , (817) 392-4200
Contracted Services	Booking Intake Services

<b>FANNIN COUNTY JAIL</b>	
Jail Admin/Warden	Jody Wilson; <a href="mailto:joseph.wilson@lasallecorrections.com">joseph.wilson@lasallecorrections.com</a> ; 903-640-4171
Address, City, State	2389 Silo Rd., Bonham, Texas 75418
Capacity	550
Contract Period (contract start to end)	September 1, 2018 - Sept 2019; up to two (2), 5-year renewal periods
Contact(s)	Judge Randy Moore; <a href="mailto:countyjudge@fanninco.net">countyjudge@fanninco.net</a> ; (903) 583-7455 Sheriff Mark Johnson; <a href="mailto:mjohnson@fanninco.net">mjohnson@fanninco.net</a> ; (903) 583-2143
Contracted Services	<b>Service:</b> Operations including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation. <b>Includes:</b> County and United States Marshal; Adult Males and Females.
<b>IRWIN COUNTY DETENTION CENTER</b>	
Jail Admin/Warden	David Paulk; <a href="mailto:paulk@irwincdc.com">paulk@irwincdc.com</a> ; 229-468-4121
Address, City, State	132 Cotton Drive, Ocilla, Georgia, 31774
Capacity	1137
Contract Period (contract start to end)	Contract Started December 11, 2013 - Present
Contact(s)	Sheriff Donnie Youghn, <a href="mailto:irwinsheriff@windstream.net">irwinsheriff@windstream.net</a> 229-468-7459
Contracted Services	<b>Service:</b> Operations including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation. <b>Includes:</b> County, United States Marshal, Immigration and Customs Enforcement; Adult Male and Females.
<b>JACK HARWELL DETENTION CENTER</b>	
Jail Admin/Warden	Richard Alford; <a href="mailto:ralford@lasallecorrections.com">ralford@lasallecorrections.com</a> ; 254-759-5900
Address, City, State	3101 Marlin Hwy, Waco Texas, 76705
Capacity	816
Contract Period (contract start to end)	June 27, 2013 – Present, 3 Year Contract with 1-year automatic renewal's
Contact(s)	Judge Scott Felton, <a href="mailto:smfelton@co.mclennan.tx.us">smfelton@co.mclennan.tx.us</a> 254-757-5000
Contracted Services	<b>Service:</b> Operations including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation. <b>Includes:</b> County, United States Marshal; Adult Male and Females.

<b>JACKSON PARISH CORRECTIONAL CENTER</b>	
Jail Admin/Warden	Tim Ducote; <a href="mailto:tducote@lasallecorrections.com">tducote@lasallecorrections.com</a> ; 318-259-4309
Address, City, State	327 Industrial Drive, Jonesboro, Louisiana, 71251
Capacity	1252
Contract Period <i>(contract start to end)</i>	Contract Started November 2005 – Present
Contact(s)	Sheriff Andy Brown; <a href="mailto:abrown@jacksonparishsheriff.com">abrown@jacksonparishsheriff.com</a> ; 318-259-9021
Contracted Services	<b>Service:</b> Operations including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation. <b>Includes:</b> Louisiana DOC, County; Adult Male and Females.
<b>JEFFERSON COUNTY DOWNTOWN JAIL</b>	
Jail Admin/Warden	Detrah Lacy; <a href="mailto:dlacy@lasallecorrections.com">dlacy@lasallecorrections.com</a> ; 409-434-4653
Address, City, State	1001 Pearl Street, Beaumont, Texas 77701
Capacity	501
Contact(s)	Sheriff Zena Stephens; <a href="mailto:zstephens@co.jefferson.tx.us">zstephens@co.jefferson.tx.us</a> ; 409-835-8411
Contract Period <i>(contract start to end date)</i>	Contract started June 27, 2011 – Present
Contracted Services	<b>Service:</b> Operations including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation <b>Includes:</b> County, United States Marshal; Adult Male Females
<b>JOHNSON COUNTY JAIL</b>	
Jail Admin/Warden	Bryan Gordy; <a href="mailto:bryan.gordy@lasallecorrections.com">bryan.gordy@lasallecorrections.com</a> ; 817-645-2918
Address, City, State	1800 Ridgemar Drive, Cleburne, Texas 76031
Capacity	1101
Contact(s)	Judge Roger Harmon, <a href="mailto:countyjudge@johnsoncountytexas.org">countyjudge@johnsoncountytexas.org</a> ; 817-556-6360; Sheriff Adam King, <a href="mailto:sheriff@johnsoncountytexas.org">sheriff@johnsoncountytexas.org</a> ; 817-556-6508
Contract Period <i>(contract start to end)</i>	Contract Started June 10, 2010 - Present
Contracted Services	<b>Service:</b> Including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation <b>Includes:</b> County, USMS, Immigration and Customs Enforcement; Adult Male and Females
<b>LASALLE CORRECTIONAL CENTER</b>	
Jail Admin/Warden	Chris Frederick; <a href="mailto:cfrederic@lasallecorrections.com">cfrederic@lasallecorrections.com</a> ; 318-495-6200
Address, City, State	15976 Highway165, Olla, Louisiana, 71480
Capacity	755
Contact(s)	Scott Franklin; 318-927-2011
Contract Period <i>(contract start to end)</i>	Contract Started April 1, 1999 – Present
Contracted Services	<b>Service:</b> Operations including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation. <b>Includes:</b> Louisiana DOC

<b>LIMESTONE COUNTY DETENTION CENTER</b>	
Jail Admin/Warden	Charles Vondra; <a href="mailto:cvondra@lasallemcorrections.com">cvondra@lasallemcorrections.com</a> ; 254-729-2674
Address, City, State	901 N. Tyus Street, Groesbeck, Texas 76642
Capacity	315
Contact(s)	Sheriff Dennis Wilson; <a href="mailto:dwilson@co.limestone.tx.us">dwilson@co.limestone.tx.us</a> ; 254-7293278
Contract Period <i>(contract start to end)</i>	Contract started February 2017
Contracted Services	<b>Service:</b> Operations including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation. <b>Includes:</b> County Adult Male and Females.
<b>LINCOLN COUNTY DETENTION CENTER</b>	
Jail Admin/Warden	Arthur Anderson; <a href="mailto:arthur.anderson@lasallemcorrections.com">arthur.anderson@lasallemcorrections.com</a> ; 575-648-6510
Address, City, State	511 Hangar Rd., Carrizozo, NM 88301
Capacity	144
Contact(s)	County Mgr: Nita Taylor, <a href="mailto:ntaylor@lincolncountynm.gov">ntaylor@lincolncountynm.gov</a> ; 575-648-2385,
Contract Period <i>(contract start to end)</i>	Contract Started April 2017- Present
Contracted Services	<b>Service:</b> Operations including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation. <b>Includes:</b> County, USMS; Adult Male/ Females
<b>PARKER COUNTY JAIL</b>	
Jail Admin/Warden	Ron King; <a href="mailto:rking@lasallemcorrections.com">rking@lasallemcorrections.com</a> ; 817-594-4208
Address, City, State	612 Jameson St., Weatherford, Texas, 76086
Capacity	457
Contact(s)	Judge Pat Deen; <a href="mailto:pat.deen@parkercountytexas.com">pat.deen@parkercountytexas.com</a> ; (817)598-6148 Sheriff Larry Fowler; <a href="mailto:admin@parkercountysheriff.net">admin@parkercountysheriff.net</a> ; (817) 594-8845
Contract Period <i>(contract start to end)</i>	Contract Started October 1, 2015 – Present
Contracted Services	<b>Service:</b> Operations including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation. <b>Includes:</b> County, USMS; Adult Male and Females

<b>PRAIRIELAND DETENTION CENTER</b>	
Jail Admin/Warden	Jimmy Johnson; <a href="mailto:jjohnson@lasallecorrections.com">jjohnson@lasallecorrections.com</a> ; 817-409-3995
Address	1209 Sunflower Lane, Alvarado, Texas, 76009
Capacity	764
Contact(s)	Tom Durlington, <a href="mailto:mayor@cityofalvarado.org">mayor@cityofalvarado.org</a> 817-790-3351
Contract Period (contract start to end)	Contract Started April 1, 2017 0 – Present
Contracted Services	<b>Service:</b> Including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation. <b>Includes:</b> ICE, Male and Female Detainees.
<b>RICHWOOD CORRECTIONAL CENTER</b>	
Jail Admin/Warden	Ray Hanson; <a href="mailto:ray@lasallecorrections.com">ray@lasallecorrections.com</a> ; 318-325-8409
Address, City, State	180 Pine Bayou Circle, Richwood, Louisiana, 71202
Capacity	1127
Contact(s)	Mayor Gerald Brown; <a href="mailto:Brown@townofrichwood.com">Brown@townofrichwood.com</a> ; 318-322-2104
Contract (contract start to end)	Contract Started October 1, 2000 – Present
Contracted Services	<b>Service:</b> Operations including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation. <b>Includes:</b> Louisiana DOC and County Males
<b>RIVER CORRECTIONAL CENTER</b>	
Jail Admin/Warden	Billy Tigner; <a href="mailto:Billy.tigner@lasallecorrections.com">Billy.tigner@lasallecorrections.com</a> ; 318-757-0622
Address, City, State	26362 Hwy 15, Ferriday, Louisiana, 71334
Capacity	602
Contact(s)	Sheriff Kenneth Hedrick; <a href="mailto:khedrick@concordiasheriff.org">khedrick@concordiasheriff.org</a> 318-336-5231
Contract (contract start to end)	Contract Started January 2001 – Present
Contracted Services	<b>Service:</b> Operations including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation. <b>Includes:</b> Louisiana DOC

<b>ROLLING PLAINS DETENTION CENTER</b>	
Jail Admin/Warden	Marcello Villegas; <a href="mailto:marcello.villegas@lasallearrections.com">marcello.villegas@lasallearrections.com</a> ; 318-757-0622
Address, City, State	118 Co Rd 206, Haskell, TX 79521
Capacity	555
Contact(s)	Winston Stephens, 940-864-2345; <a href="mailto:hascoso@wtxs.net">hascoso@wtxs.net</a>
Contract (contract start to end)	Contract Started: October 1, 2017 to Present
Contracted Services	<b>Service:</b> Operations including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation. <b>Includes:</b> County, USMS and ICE; Adult Males / Females
<b>SAN LUIS REGIONAL DETENTION CENTER AND SUPPORT CENTER</b>	
Jail Admin/Warden	David Rivas; <a href="mailto:david.rivas@lasallearrections.com">david.rivas@lasallearrections.com</a> ; 928.627.2101
Address	406 Avenue D, San Luis, Arizona, 85349
Capacity	870
Contact(s)	Jenny Torres, Dir. Of Economic Development; <a href="mailto:jtorres@cityofsanluis.org">jtorres@cityofsanluis.org</a> ; 928-341-8584
Contract (contract start to end)	Contract Started April 1, 2017 - Present
Contracted Services	<b>Service:</b> Including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation. <b>Includes:</b> The facility houses inmates in partnership with the City of San Luis, the USMS, ICE, U.S. Border Patrol, Customs and Border Patrol, Bureau of Indian Affairs, Cocopah Indian Tribe and the Colorado River Indian Tribal; Security Level: Min-Max
<b>WEST TEXAS DETENTION FACILITY</b>	
Jail Admin/Warden	Mike Sheppard; <a href="mailto:Mike.sheppard@lasallearrections.com">Mike.sheppard@lasallearrections.com</a> ; 915-369-2922
Address	401 South Vaquero Ave., Sierra Blanca, Texas 79851
Capacity	1398
Contact(s)	Sheriff Arvin West; <a href="mailto:awest@hudspethsheriff.org">awest@hudspethsheriff.org</a> ; (915) 369-2161 Judge Mike Doyal; <a href="mailto:doyal_mike@yahoo.com">doyal_mike@yahoo.com</a> ; (915) 369-2321
Contract (contract start to end)	Contract Started April 1, 2017 - Present
Contracted Services	<b>Service:</b> Including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation. <b>Includes:</b> The facility houses inmates in partnership with the United States Marshal Service and Immigration and Customs Enforcement.

<b>WILLACY STATE JAIL-TDCJ</b>	
Jail Admin/Warden	Aurelio Ambriz; <a href="mailto:aurelio.ambriz@lasallecorrections.com">aurelio.ambriz@lasallecorrections.com</a> ; 956-689-4900
Address	1695 South Buffalo Drive, Raymondville, Texas 78580
Capacity	1069
Contact(s)	Dir. Of Private Facility Contract Monitoring/Oversight Division; Cody Ginsel, <a href="mailto:Cody.ginsel@tdcj.state.tx.us">Cody.ginsel@tdcj.state.tx.us</a> ; 936-437-2811
Contract (contract start to end)	Contracted Started September 1, 2017 - Present
Contracted Services	<b>Service:</b> Operations including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation <b>Includes:</b> TDCJ Males
<b>WINN CORRECTIONAL CENTER</b>	
Jail Admin/Warden	Keith Deville; <a href="mailto:kdeville@lasallecorrections.com">kdeville@lasallecorrections.com</a> ; 318.628.3971
Address	560 Gum Springs Rd., Winnfield, Louisiana, 71483
Capacity	1615
Contact(s)	Sheriff Cranford Jordan; <a href="mailto:wpljordan@winncorrectional.org">wpljordan@winncorrectional.org</a> ; 318-628-4611
Contract (contract start to end)	Contracted Started October 1, 2015 – Present
Contracted Services	<b>Service:</b> Operations including but not limited to inmate housing, booking, food service, medical pharmacy, laundry, programs, recreation <b>Includes:</b> Louisiana DOC Min-Max Males

## **Founding Officers**

### **William K. McConnell, Managing Partner**

Mr. McConnell founded LaSalle Management Company in 1997 and LaSalle in 2007. He oversees all aspects of LaSalle's operations but focuses primarily on the strategic direction and growth of LaSalle, Southwestern, and affiliated companies. Mr. McConnell's diverse and successful corporate and entrepreneurial career has spanned over four decades in the energy, construction, real estate, healthcare, logistics, and corrections industries. Mr. McConnell currently serves in various executive management and ownership roles in LaSalle Management Company, Southwestern Correctional, BAS Construction, M&T Property, Red River Corporation and many others. Mr. McConnell began his career as an engineer for Exxon where he spent 15 years. After rising to Manager, he supervised a staff of 40 engineers and was responsible for distribution of chemical products for North and South America. Mr. McConnell earned a B.S. in Chemical Engineering from Louisiana Tech University and J.D. from the University of Houston Bates, College of Law. He is an active member of the American Correctional Association and has a passion for effective reentry programs that change the lives of inmates.

### **Patrick H. Temple, Managing Partner**

Mr. Temple founded LaSalle Management Company in 1997 and LaSalle in 2007. Mr. Temple passed away in early 2019. During his career, he oversaw all aspects of LaSalle's operations but focused primarily on the strategic direction and growth of LaSalle, Southwestern, and affiliated companies. Mr. Temple's diverse and successful entrepreneurial career spanned over four decades in the construction, real estate, healthcare, logistics, and corrections industries. Mr. Temple also served in various executive management and ownership roles in LaSalle Management Company, Southwestern Correctional, BAS Construction, M&T Property, Red River Corporation and many others. Mr. Temple began his career in sales for a large global pharmaceutical company. He earned a B.S. in Microbiology from Louisiana Tech University and was a licensed Commercial and General Contractor with the State of Louisiana.

## Corporate Resumes



**Years of Experience** 22

**Contact:**

LaSalle Corrections HQ  
192 Bastille Lane, Ste 200  
Ruston, LA 71270  
318-232-1500

### **WILLIAM K. MCCONNELL**

#### **Managing Partner**

LaSalle Southwest Corrections and LaSalle Management Company

#### **Education**

B.S. in Chemical Engineering from Louisiana Tech University

J.D. from the University of Houston Bates College of Law.

#### **Summary**

Mr. McConnell founded LaSalle Management Company in 1997 and LaSalle Southwest Corrections in 2007. He oversees all aspects of LaSalle's and LaSalle Southwest's operations, but focuses primarily on the strategic direction and growth of LaSalle, LaSalle Southwest, and affiliated companies. Mr. McConnell currently serves in various executive management and ownership roles in LaSalle Management Company, LaSalle Southwest Corrections, BAS Construction, M&T Property, Red River Corporation, and many others.

#### **Experience**

Mr. McConnell's diverse and successful corporate and entrepreneurial career has spanned over four decades in the energy, construction, real estate, healthcare, logistics, and corrections industries. Mr. McConnell began his career as an engineer for Exxon where he spent 15 years.

After rising to Manager, he supervised a staff of 40 engineers and was responsible for distribution of chemical products for North and South America. He is an active member of the American Correctional Association and has a passion for effective reentry programs that change the lives of inmates.



**Years of Experience 33**

**Contact:**

LaSalle Corrections TX  
26228 Ranch Road 12  
Dripping Springs, TX  
78620

512-858-7202

**TIM KURPIEWSKI**  
**Chief Financial Officer**

**Education**

B. A. in Business Administration from Loyola  
Marymount University

**Summary**

Mr. Kurpiewski joined LaSalle Southwest in 2007. He is responsible for overseeing all finance and accounting functions for the Texas operations and was a key member of the initial team that expanded LaSalle's reach into the state of Texas.

**Experience**

Mr. Kurpiewski has over 30 years of financial auditing and business reporting experience ranging from small companies to Fortune 500 clients. He has developed an industrial expertise in correctional budget management and operational streamlining. After receiving his CPA certification from the public accounting firm of Kenneth Leventhal & Company, a firm specializing in real estate development and construction, he worked for a real estate venture division of GE Capital before moving to Austin, TX. Using his auditing and construction experience, he joined the BRG correctional management company in late 1996 serving as the CFO.

He has over 20 years of corrections experience and has been practicing accounting for 30 years. He is a Certified Public Accountant in the states of California and Texas. Mr. Kurpiewski has worked with juvenile and adult inmate populations for new and expanding facilities handling all aspects of corrections: financing, construction, government reporting & compliance, contracts, budgeting, and offender logistics. In addition, he serves on multiple city and regional county boards.



**RODNEY COOPER**  
**Executive Director**

**Education**

B.S. in Criminology and Corrections at Sam Houston University

**Summary**

Mr. Cooper joined LaSalle in 2009. He primarily focuses on facility operations and development, but also monitors general operations at all of the Texas and Georgia facilities.

**Experience**

Mr. Cooper retired from the Texas Department of Criminal Justice (TDCJ) after a distinguished career of almost 30 years. He began his career with the TDCJ in 1978 as a correctional officer and advanced through the ranks to Warden, Regional Director and Deputy Director for Prison and Jail Management within TDCJ's Correctional Institutions Division.

In his position as the Division's Deputy Director, Mr. Cooper was responsible for all state correctional facilities, the TDCJ Regional Directors, facility operations and security, and policy and regulation enforcement. He had oversight of approximately 152,000 inmates housed in the State's 112 facilities. Mr. Cooper served as president of the Texas Corrections Association in 2009 and is also a member of the American Corrections Association. He has been a part of the LaSalle team for four years.

**Years of Experience 41**

**Contact:**

LaSalle Corrections HQ  
192 Bastille Lane, Ste  
200  
Ruston, LA 71270  
318-232-1500



**Years of Experience 30**

**Contact:**

LaSalle Corrections TX  
26228 Ranch Road 12  
Dripping Springs, TX 78620  
512-858-7202

**ROBERT "JAY" EASON**  
**Director of Operations – Texas and Georgia**

**Education**

B.S. in Criminal Justice Administration  
Columbia Southern University

**Summary**

Mr. Eason joined LaSalle in 2016. His primary focus is on facility operations and development, but he also monitors general operations of all Texas and Georgia facilities.

**Experience**

Mr. Eason retired from the Texas Department of Criminal Justice (TDCJ) after a distinguished career. Prior to LaSalle, Mr. Eason was a correctional officer with TDCJ in 1989 and spent 27 years with TDCJ, advancing through the ranks to Deputy Director for Prisons/Jails for the Correctional Institutions Division. As Deputy Director and 3 years prior to his retirement, Mr. Eason was responsible for the oversight of approximately 143,000 offenders in 95 state operated facilities as well as the TDCJ Regional Directors, facility operations and security, policy and regulation enforcement.

Mr. Eason obtained his B.S. in Criminal Justice Administration from Columbia Southern University in 2005. While at TDCJ, Mr. Eason attended several leadership seminars, to include: Governor's Leadership Program for Correctional Management in 2012 and the National Institute of Corrections' Executive Excellence in 2014.

Mr. Eason is a member of the Sheriff's Association of Texas, the American Correctional Association and the Texas Corrections Association. He was the TDCJ nominee to the North American Association of Wardens and Superintendents (NAAWS) in 2009 and named the Texas Corrections Association Outstanding Adult Corrections Administrator in 2009.



**Years of Experience 32**

**Contact:**

LaSalle Corrections TX  
26228 Ranch Road 12  
Dripping Springs, TX 78620  
512-858-7202

**NATHANIEL QUARTERMAN**  
**Director of Business Development**

**Education**

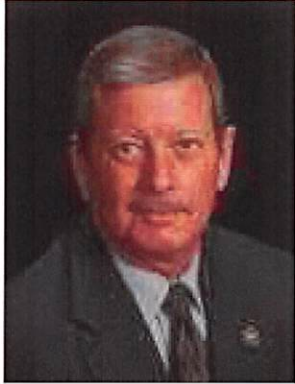
B.S. in Criminal Justice, Mountain State University  
M.S. in Strategic Leadership, Mountain State University

**Summary**

Mr. Quarterman joined LaSalle Southwest in 2009. He is directly responsible for the identification and development of new business activities, and he also assists in the management of the Texas and Georgia operations.

**Experience**

Prior to joining Southwestern, Mr. Quarterman served 26 years with the Texas Department of Criminal Justice (TDCJ), retiring as the Division Director of the largest division in the Agency. He began his career with TDCJ as a correctional officer and advanced through the correctional ranks to Warden, Deputy Director and Division Director. In his role as Division Director of the Correctional Institutions Division, Mr. Quarterman directed the daily operations of the second largest correctional agency in the United States with over 156,000 offenders and 112 facilities. He has received extensive training through his distinguished career, and in 2006, the Texas Correctional Association named him the Outstanding Adult Corrections Administrator.



**Years of Experience 33**

**Contact:**

LaSalle Corrections TX  
26228 Ranch Road 12  
Dripping Springs, TX 78620

512-858-7202

**GARY BROWN**

**Government Liaison  
LaSalle Southwest Corrections**

**Education**

Graduate University of Texas of the Permian Basin  
Licensed as a Master Police Officer.

**Summary**

Mr. Brown joined LaSalle Southwest Corrections in 2011 and is responsible for governmental affairs.

**Experience**

Mr. Brown served in state and federal law enforcement for over thirty-four years. This includes 25 years with the United States Marshals Service where he retired as the United States Marshal for the Eastern District of Texas. His experience includes coordinating IGA's (Intergovernmental Agreements) with local governments for correctional facilities as well as prisoner movement and management solutions.



**Years of Experience 39**

**Contact:**

LaSalle Corrections TX  
26228 Ranch Road 12  
Dripping Springs, TX 78620  
512-858-7202

**CHRISTOPHER BELL**  
**Regional Warden**

**Education**

B.S. in Law Enforcement and Police Science, Sam Houston University

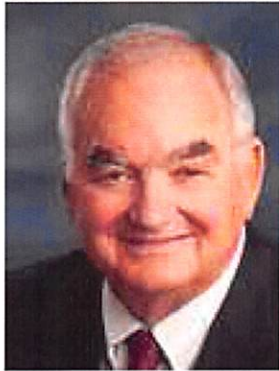
**Summary**

Mr. Bell joined LaSalle Southwest in 2009. As Regional Warden, he is responsible for all operations at the Georgia and Texas facilities, including security and staffing.

**Experience**

Mr. Bell retired from the Texas Department of Criminal Justice (TDCJ) in 2008, after 27 years of distinguished service. His final position with TDCJ was Senior Warden of the Wynne Unit, a 2,600-bed maximum security facility. At the Wynne Unit he was responsible for overall operations of the facility which included the Computer Recovery Facility, License Plate Plant, Mattress Factory, Sign and Plastics Facility, Graphics Facility, Mechanical Diesel Shop, Tire/Wrecker Operation, Food Service Warehouse, Freight Terminal, and Agriculture Operations. The Wynne Unit was accredited in 2008 with the American Correctional Association (ACA).

Mr. Bell began his career at TDCJ in 1980 as a correctional officer at the Ferguson Unit and promoted through the correctional ranks before a becoming a Warden in 2000. Mr. Bell was the TDCJ Warden of the Year in 2006 and was nominated by TDCJ in 2008 for the North America Association Wardens and Superintendents' (NAAWS) Warden of the Year. Mr. Bell is a 1980 graduate of Sam Houston State University with a B.S. in Law Enforcement and Police Science. Mr. Bell is a member of the ACA and the Texas State Jail Association.



**Years of Experience 39**

**Contact:**

LaSalle Corrections TX  
26228 Ranch Road 12  
Dripping Springs, TX 78620  
512-858-7202

**BOB PRINCE**

**Director of Governmental Affairs**

**Education**

Attended Texas Christian University

**Summary**

Mr. Prince joined LaSalle Southwest in 2010. He is responsible for business development and governmental affairs.

**Experience**

Prior to joining LaSalle Corrections, Mr. Prince worked for a private jail management company in business development and government relations.

Mr. Prince attended Texas Christian University on a football scholarship where he was a three-year letterman. After graduation, he spent six years coaching football and teaching school. Mr. Prince then entered the law enforcement field in the Texas Department of Public Safety as a State Trooper and Texas Ranger. He was honored as Officer of the Year for the Fort Worth area.

As a Texas Ranger, he was a Forensic Hypnotist, Hostage Negotiator and rose to the rank of Captain. Mr. Prince served as the president of the Texas Ranger Association, a member of the Board of Directors for the Texas Jail Association and currently serves on the Board of Directors for the Texas Ranger Museum and Hall of Fame.

**Financial Statements**

Available upon request

**Proposers Representative**

LaSalle Corrections' Texas office is located at 26228 Ranch Road 12, Dripping Springs, Texas and operates under **Federal Tax Identification Number 20-8837181**. The proposer's representative is Tim Kurpiewski, CPA, Chief Financial Officer. He can be contacted at the Dripping Springs office in Texas.

# RESOLUTION

No. 2018-02


A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN LUIS FACILITY DEVELOPMENT CORPORATION BOARD ADOPTING AND APPROVING THE FACILITY OPERATION AND MANAGEMENT AGREEMENT EFFECTIVE DECEMBER 1, 2018 THROUGH NOVEMBER 30, 2019 WITH LaSALLE CORRECTIONS, L.L.C. FOR THE OPERATION AND MANAGEMENT OF THE SAN LUIS REGIONAL DETENTION AND SUPPORT CENTER

**BE IT RESOLVED** by the San Luis Facility Development Corporation Board of Directors, as follows:

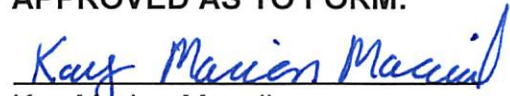
**Section 1.** it is deemed in the best interest of the continued stability of the operations of the San Luis Regional Detention and Support Center that the San Luis Facility Development Corporation enter into a Facility Operation and Management Agreement to be effective December 1, 2018; and

**Section 2.** that a true copy of said Agreement is incorporated herein as though fully set forth again in full;

**PASSED, ADOPTED and APPROVED** by the Board of Directors of the San Luis Facility Development Corporation this 27 day of November 2018

  
\_\_\_\_\_  
Jenny Torres, President

**ATTEST:**  
  
\_\_\_\_\_  
Olivia Jenkins, Secretary-Treasurer

**APPROVED AS TO FORM:**  
  
\_\_\_\_\_  
Kay Marion Macuil  
Corporation Attorney

## **FACILITY OPERATION AND MANAGEMENT AGREEMENT**

**December 1, 2018, through November 30, 2019  
LaSalle Corrections, L.L.C.**

This Facility and Operation and Management Agreement ("Operating Agreement") is entered into by and between the SAN LUIS FACILITY DEVELOPMENT CORPORATION, a nonprofit corporation organized under the laws of the State of Arizona ("MPC") and LaSALLE CORRECTIONS, L.L.C., a Limited Liability Company organized under the law of the State of Louisiana ("Operator"). The MPC and the Operator may be referred to singularly as the "Party" and collectively as the "Parties." This Operating Agreement is effective December 1, 2018 ("Effective Date") for the operation and management of the San Luis Regional Detention and Support Center at 406 North Avenue D, San Luis, Arizona 85349 ("Facility").

### **RECITAL**

**WHEREAS, Background:** This Operating Agreement replaces the Revised Amended and Restated Facility Operation and Management Agreement effective December 5, 2016 ("2016 Agreement"). The Second Judicial District Court of Ramsey County, Minnesota approved the 2016 Agreement with an Interim Agreement Regarding Forbearance, Operation of Project and Project Revenue effective December 5, 2016 ("Forbearance Agreement"). U.S. Bank National Association as trustee ("Trustee"), the MPC and the former operator, Emerald Corrections, L.L.C. ("Emerald") entered into the Forbearance Agreement. Emerald assigned and the Operator, LaSalle Corrections, L.L.C., assumed the obligations and the rights of the 2016 Agreement on April 7, 2017, by an agreement which the MPC consented to by Resolution No. 2017-01-A. The 2016 Agreement terminates on December 1, 2018, by operation of the Forbearance Agreement, the 2016 Agreement and a 90-day notice to terminate the Forbearance Agreement the Trustee issued on August 28, 2018. The interim forbearance period is from December 5, 2016 through November 30, 2018 ("Interim Forbearance Period"). This Operating Agreement follows the organization of the 2016 Agreement.

**WHEREAS,** the MPC is the owner of the Facility, with a capacity of eight hundred seventy (870) inmate beds for secure detention; and

**WHEREAS,** the MPC (also sometimes referred to in this Operating Agreement as the "Issuer") has issued bonds to finance building the Facility and other improvements to support the operation of the Facility; and

**WHEREAS,** the Parties desire to enter into an agreement for the operation and management of the Facility; and

**WHEREAS,** the MPC and Operator find this Operating Agreement to be in the best interests of the Parties and the efficient and safe operation of the Facility.

**WHEREAS**, the Parties find this Operating Agreement to be in the best interests of the public because it serves the public purposes of providing space for incarcerating law violators and economic benefits to the local economy; and

**WHEREAS**, the workforce for the Facility as represented by the International Guards Union of America Local 158 has expressed concerns about the Trustee's August 28, 2018, 90-day notice which terminates the 2016 Agreement. The workforce is content with the Operator (LaSalle), and it wants no abrupt change of operators as it has experienced; and

**WHEREAS**, continuing with the Operator without solicitation of bids is justified given (1) the short 90-day window before termination of the 2016 Agreement, (2) there being only four (4) known operators in the market (including Operator, LaSalle), and (3) the interests of a stable work-force without disruption because the main consideration for entering into the Project was to provide jobs to the residents of San Luis, Arizona; and

**WHEREAS**, the MPC has entered into a Trust Indenture ("Indenture"), dated October 1, 2005, and supplemented on February 1, 2011, March 27, 2014, and April 2014, with the Trustee. Capitalized terms not otherwise defined shall have the meaning ascribed to such terms in the Indenture.

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

## **I. PURPOSES**

1.01 Operator agrees to operate, manage and supervise the Facility for the MPC, and to receive, detain and care for all properly classified inmates for which the Facility is approved that may be assigned to the Facility from:

- (a) the City of San Luis, Arizona ("City") through its Chief of Police, or through its Acting Chief of Police, or through such other person or persons as may be designated by its City Manager, or its Chief or Acting Chief of Police (collectively the "Police Chief");
- (b) the United States Government or any of its agency, under an agreement between the MPC and the United States or any of its agencies;
- (c) any Indian Tribe as defined under 25 USC §101 subject to the jurisdiction of the United States and recognized as possessing powers of self-government;
- (d) the Arizona Department of Corrections ("ADOC"), under an agreement between ADOC and the MPC; and
- (e) any other federal, state, county, city or local jurisdictions.

The above entities may be referred to as "Users" or "User Agencies."

1.02 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 the MPC to house inmates at the Facility ("Sending Jurisdictions").

- 1.03 The Operator is an independent operator engaged for the public purpose of operating a Detention Center on behalf of the MPC. No property interest or right in the Facility or grounds is granted to the Operator by this Operating Agreement.
- 1.04 The Operator shall operate the Facility in compliance with the Indenture and this signed Operating Agreement. The Operator shall provide or cause to be provided all insurance, maintenance, certifications and other matters required of or made the obligation of the MPC under the Indenture and this Operating Agreement. This obligation includes, without limitation, preparation of all reports or disclosures required under the Indenture and this Operating Agreement.
- 1.05 Each statement contained in the introduction section of this Operating Agreement are contractual provisions and stipulations binding upon the Parties and are not mere recitals.

## **II. TERM**

- 2.01 The MPC retains Operator exclusively, and Operator accepts this engagement for the operation, management, and maintenance of the Facility of this Operating Agreement. The term of this Operating Agreement shall begin on the Effective Date, December 1, 2018, and shall end on November 30, 2019.
- 2.02 The MPC may terminate this Operating Agreement if Operator's continued default occurs under the terms of this Operating Agreement existing more than ninety (90) days after Operator's receipt of the MPC's notice that Operator has failed to perform any of its obligations under this Operating Agreement. If Operator does not, within ninety (90) days of receiving from the MPC written notice that Operator has failed to perform any of its obligations in this Operating Agreement, cure such failure (or if such failure cannot be cured within such ninety (90) day period, Operator does not commence such cure within the ninety (90) day period and thereafter diligently proceed with all actions necessary to cure such failure when reasonably possible), then the MPC, may upon written notice to Operator, terminate the Operating Agreement.

## **III. OPERATOR'S COMPENSATION**

### **3.01 Operator Fee.**

#### **(a) Operator Fee.**

Indenture and Forbearance Agreement. During the term of this Operating Agreement and solely from Project Revenue, MPC agrees to pay Operator compensation as set forth herein for the goods and services provided hereunder to the extent that Project Revenue are made available for that purpose under the Indenture. Section 1 of the Forbearance Agreement provides that Project Revenue accrued during the period before the end of the Interim Forbearance Period shall be paid as set forth in the Forbearance Agreement even after the end of the Interim Forbearance Period.

Accordingly, the Parties agree that the Operator Fee shall include fees accrued but unpaid under the Forbearance Agreement.

**Definition of Operator Fee.** As used in this Operating Agreement, the term "Operator Fee" shall mean collectively the fees earned under this Operating Agreement and those accrued and unpaid fees under the Forbearance Agreement. For the avoidance of doubt, Project Revenue generated from the Operator's operation of the Facility during any of the operation's months, including the Interim Forbearance Period, even if such Project Revenue are not actually received by the Trustee until after the termination of the 2016 Agreement, the Forbearance Agreement and this Operating Agreement, will be applied in accordance with the priorities set forth in this Operating Agreement.

**Source of Funds.** The MPC is only obligated to pay the Operator's share of the Operator Fees to Operator to the extent that funds are available in the Operating Account, Operator Fee Account and the Surplus Account (maintained by the Trustee pursuant to the Indenture and the Forbearance Agreement) for such purposes. No funds of the MPC that are generated by other projects or any other funds of the MPC, and no funds of the City, including but not limited to those that are held in the general fund of the City, and no tax, fee, enterprise or any other revenue of the City, shall be obligated to pay the Operator Fee or any fees under this Operating Agreement. MPC shall instruct the Trustee to pay the Operator's share of the Operator Fees to Operator when funds are available to the Trustee to pay such fees. The Operator shall instruct the Trustee to pay the City's fees under this Operating Agreement, when funds are available to the Trustee to pay such fees.

- (b) **Operator Fee Payments and Order of Priority.** Once the Trustee has transferred Project Revenue to the Bond Fund and Reserve Fund under Indenture Sections 5.06(a) and (b), and made all required principal and interest payments on the Bonds according to the Indenture including deposits needed to cover any shortfalls of interest and principal due and owing from prior months during the Interim Forbearance Period, MPC shall then direct the Trustee to calculate and pay any available Project Revenue as an Operator Fee payable on a monthly basis in this order:
- (i) **"Operation and Maintenance Costs."** From Project Revenue available to the Trustee in the Operating Account for such purposes, MPC shall direct the Trustee to pay to Operator all of the unreimbursed "Operation and Maintenance Costs" as defined by the Indenture incurred by the Operator, including any unreimbursed "Operator Direct Expenses" as defined in the 2016 Agreement from prior months during the Interim Forbearance Period. If there is not sufficient net revenue to pay these expenses, any unpaid amounts will be carried forward to the next month; and
  - (ii) **"General and Administrative Expenses" and City's fees.** After paying the above Operation and Maintenance Costs and carryforwards, if there is sufficient net Project Revenue in the Operator Fee Account, the MPC shall direct the Trustee to pay the Operator for its General and Administrative Expenses based on 6% of actual Operation and Maintenance Costs and the Trustee shall pay the City a fixed monthly City Business License Fee of \$35,000.00 ("City Business License Fee"), and will also include any unreimbursed "Detention Facility City Business License

Fees” (as defined under the 2016 Agreement) and the Operator’s General and Administrative Expenses from prior months earned and unpaid during the Interim Forbearance Period. The amounts will be paid in a pro-rata share between the Operator and the City if there is not sufficient net Project Revenue to pay both the General Administrative Expenses and the City’s fees (the City Business License Fee and the Detention Facility Business License Fee)the City and the Operator shall be paid to the extent of available net Project Revenue, and any unpaid amounts will be carried forward to the next month; and

- (iii) “Variable Incentive Fee” and “Variable Business License Fee.” After paying the above costs and fees in subsection (i) and (ii), if there is sufficient net Project Revenue in the Operator Fee Account, the MPC shall direct the Trustee to pay from the Operator Fee Account a Variable Fee when the average Inmate Days for December 2018 or any subsequent months is 638 or above. The Operator shall be paid an amount equal to \$20 per inmate per day in that month, and the City shall be paid a Variable Business License Fee equal to \$5 per inmate per day in that month. The amounts will be paid in a pro-rata share between the Operator and the City; provided, however, if there is not sufficient net Project Revenue to pay both variable fees, the Operator and the City shall only be paid to the extent of available net Project Revenue, and any unpaid amounts will be carried forward to the next month. See section 3.10 below for the calculation of those Inmate Days; and
  - (iv) “Operating Reserve/Repair/Contingency Account.” To the extent that there are sufficient available Project Revenue after satisfaction of the above priorities deposits shall be made to the Operating Reserve/Repair/Contingency Account up to \$10,000 per month, in accordance with Section 5.06(e) of the indenture, plus any accrued unpaid deposits from the Interim Forbearance Period; and
  - (v) “Accrued and Unpaid Incentive Interim Forbearance Period Amounts.” Any funds remaining after paying the Variable Incentive Fee and the Variable Business License Fee including any carryover shall follow the requirements for the excess of the Operator Fee Account under the Indenture and Forbearance Agreement as it relates to Operating Reserve/Repair/Contingency and Surplus Account as defined in section 1 (e) and (f) of the Forbearance Agreement. Section 1(f) of the Forbearance Agreement defines the Operator’s “Incentive Fee” as 80% of the surplus 25% of the 80% goes to the City. In each case, nothing in this Section 3.01 of this Operating Agreement shall be construed in a manner inconsistent with the Indenture.
- (c) Final Interim Forbearance Period Accounting. Before December 31, 2018, the Operator will submit to the Trustee and MPC what shall be called an “Open Accounts Receivable Detail” showing what payments from Project Revenue accrued before December 1, 2018, and are still outstanding under the 2016 Agreement. The Trustee and MPC reserve the right to verify the accuracy of the Open Accounts Receivable Detail. The MPC shall direct the Trustee to pay any outstanding amounts to the Operator from Project Revenue accrued for the period prior to December 1, 2018 under the priorities set forth in Section 3.01(b) above. The Operator shall direct the Trustee to pay any outstanding amounts to the City from Project Revenue accrued for the period prior to December 1, 2018 under the priorities set forth in Section 3.01(b) above.
  - (d) Termination of Operator Fee. No Operator Fee due and owing to the Operator under this Operating Agreement shall remain due and owing after 120 calendar days have elapsed following the termination of this Operating Agreement by its own terms or otherwise.

The Operator shall only be paid its share of the Operator Fee due under this Operating Agreement from Project Revenue generated by the services provided by the Operator in the operation, management and maintenance of the Facility. Project Revenue generated by any other operator of the Facility shall not be utilized to pay the Operator Fee of the Operator due and owing under this Operating Agreement.

- (e) Operator Acknowledgement of Risk. The Operator acknowledges that Project Revenue during the term of the Operating Agreement may not be adequate to reimburse the Operator for all Operation and Maintenance Costs advanced by the Operation.

3.02 Source of Funds. Regardless of anything to the contrary in this Operating Agreement, all amounts due and payable by the MPC to Operator shall be a current obligation payable solely from the amounts held within accounts established under the Indenture (the Operating Account, the Operator Fee Account and the Surplus Account). Never shall the City or the MPC be liable for payment of these sums except from the Operating Account, Operator Fee Account, and the Surplus Account established under the Indenture. The Surplus Account shall be used for the limited purpose of paying the Incentive Fee and City percentage accrued under the 2016 Agreement and the Forbearance Agreement. Otherwise, the Surplus Account shall be used as provided for in the Indenture.

3.03 Payment of Business License Fee and Variable Business License Fee. The obligation to pay the Business License Fee and Variable Business License Fee to the City shall be the responsibility of the Operator. The Operator shall direct the Trustee to make the Business License Fee and Variable Business License Fee payments directly to the City. The MPC and Operator agree to cooperate with each other to establish with the Trustee such procedures as needed or necessary for the City to be paid the Business License Fee and Variable Business License Fee directly by the Trustee from Project Revenue in the Operator Fee Account. The Business License Fee and the Variable Business License Fee (upon a monthly basis) to be paid to the City shall be as described in Section 3.01.

3.04 Documentation for Payment by the Trustee. The Operator shall, each month, promptly forward to the Trustee, such documentation as may be reasonably required to facilitate the payment of the Operator Fee and the Variable Business License Fee anticipated by Section 3.01 and 3.03 of this Operating 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 the Trustee to document the payment of Operator Fees under this Operating Agreement including but not limited to the certified actual monthly Operation and Maintenance Costs which are to be reported to the MPC in addition to the Trustee. The Operator shall prepare and submit to the City a monthly statement setting forth any amounts due and owing by Operator to the City as the City Business License Fee and the Variable Business License Fee.

3.05 Adjustment to Operator Fees. The amount described as the Operator Fee to be paid to Operator, set forth in Section 3.01 above, is subject to renegotiation and adjustment at the option of the Parties when the scope of services required to be provided by Operator has materially changed, so Operator is over-compensated or under-compensated for the goods and services provided.

3.07 Project Revenue. The term "Project Revenue" shall have the meaning set forth in the

Indenture.

- 3.08 Extraordinary Costs. The Operator shall be entitled to seek reimbursement for extraordinary costs associated with the housing agreements with 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 the burden of the MPC, but only that of the User Agencies or Sending Jurisdictions, and shall be in addition to the Operator's compensation payable under this Operating Agreement.
- 3.09 City as Sending Jurisdiction. If a shortage of space in the City's jail occurs, the City, at the request of the Police Chief may house at the Facility, up to five (5) inmates at no cost to the City, for not more than seventy-two (72) consecutive hours. Should the need to exceed five (5) inmates arise for more than seventy-two (72) consecutive hours, both Parties agree to negotiate, in good faith, a rate per inmate per day acceptable to both Parties applicable to each such occurrence. Said rate shall only apply to those instances where more than five (5) inmates are housed at Facility for more than seventy-two (72) consecutive hours for any inmate. The City may not contract with other jurisdictions for the beds identified in this section. The Operator's Warden for the Facility or his designee shall contact the Police Chief and the MPC's Attorney to negotiate compensation under this Section 3.09.
- 3.10 Inmate Day. For this Operating Agreement, the term "Inmate Day" shall mean each calendar day or part thereof, during which an inmate is assigned to the Facility, which, for each calendar day, shall be determined by the Midnight Count Report. The term "Midnight Count Report" shall mean the official numerical count of the number of inmates present at the Facility at the end of each day, which for this Operating Agreement shall be determinative of the number of inmates present at the Facility for the day just ended. If an inmate is processed into and out of the Facility in less than twenty-four (24) hours and is not in the Facility at midnight, such inmate's presence shall be made part of the official numerical count for the day such inmate arrived at the Facility. Neither the Variable Incentive Fee nor the Variable Business License Fee shall be due and owing in any month where the average monthly occupancy of the Facility is 637 or fewer.

#### **IV. DUTIES OF OPERATOR**

- 4.01 Effective December 1, 2018, 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 housing inmates;
  - (b) intake facilities and inmate 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 inmate-locator practices;

- (c) the Operator shall have a staffing plan that shall include 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 inmates confined within the Facility;
- (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 inmate 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 shall include (without limitation) establishment of a periodic maintenance program with applicable equipment maintenance records and extraordinary repairs;
- (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 including but not limited to payment of costs in Section 5.06(e) of the Indenture.

Regarding 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 regarding the Facility, Furniture, Fixtures, and Equipment ("FF&E") 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 guarantees, to seek reimbursement for monies expended by the Operator to meet its repair, upkeep and maintenance obligations under this Operating Agreement to the extent that those expenditures relate specifically to work covered by the warranty or guarantee. Regarding any warranties, the 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 Account or the Operating Reserve Repair Contingency Fund established under the Indenture where funds are available in any of those accounts. Therefore, unless extraordinary repair is due to the negligence or intentional acts of Operator's employees, or by an inmate or 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 Operator Account, the Operator Fee Account or Operating Reserve Repair Contingency

Fund to pay for the same, is limited to the proceeds of applicable insurance or the funds available in the Operating Account the Operating Reserve Repair Contingency Fund (Sections 5.06(c) and (e) of the Indenture), unless the need for such repairs was created by the negligence or intentional act of its employees, or by an inmate or inmates, in which case the Operator shall pay for such repairs from its independent funds.

- 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 regarding the operation of the Facility or the inmates detained 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 inmates 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 inmates, and shall maintain such certification(s) at all times. Not limited to but included among the Operator's duties is to require that all jailers are certified by the appropriate State of Arizona Standards or the Sending Jurisdiction's requirements prior to undertaking permanent jailer duties. After such certifications have been obtained, if required by the laws of the State of Arizona, the Operator shall provide copies to the MPC.
- 4.04 Operator shall properly incarcerate all inmates assigned to the Facility for whom space is available at the Facility within the statutory and regulatory limits of the Sending Jurisdiction and under all federal, state, and local laws, ordinances, regulations, and other legal requirements.
- 4.05 Regardless of anything to the contrary in this Operating Agreement, the MPC and/or the City and/or the Trustee shall have no liability for any employees of Operator. Operator agrees to indemnify, defend and hold the MPC and/or the City and/or the Trustee harmless from all costs, claims, expenses, and liabilities (including attorneys' fees) whatsoever which may be incurred by the MPC and/or the City and/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 Operating Agreement. All representations and warranties of Operator, Operator's indemnity, hold harmless and defense obligations shall survive the expiration or earlier termination of this Operating 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 the Operator. The Operator shall use its best efforts to hire and train residents of San Luis, Arizona, and shall report on the status of hiring San Luis, Arizona residents upon request of the MPC.
- 4.07 Operator shall use its best efforts to purchase goods and services locally when economically feasible.
- 4.08 Operator shall provide all balance sheets, income statements, inmate rolls, accounting records or reports, audits and other such matters required of the MPC and/or the Trustee under the Indenture and this signed Operating Agreement for the Facility, and all Project operation information necessary to carry out the MPC's and/or the Trustee's continuing disclosure obligations under the Indenture and this Operating Agreement.
- 4.09 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 Issuer

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 the Issuer, an unaudited statement of income and expenditures regarding the operation of the project for such fiscal quarter, and average inmate census information for each calendar month in each such fiscal quarter.

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## **V. MEDICAL CARE OF INMATES**

- 5.01 The Operator shall provide inmates access to medical, optical, and emergency health care under those standards of the Sending Jurisdictions. The Operator shall provide on-site nurses and medical technicians to handle sick calls and medical assessments and care that does not require a physician or specialist. The Operator shall also contract with a medical doctor to serve as a medical consultant for the Facility.
- 5.02 Health care needs in excess of basic triage shall be performed off-site of the Facility. The agency having jurisdiction over the inmates bears the costs associated with care in excess of basic triage. The MPC and the City shall have no obligation for the medical care of inmates.

## **VI. COMPLIANCE WITH STANDARDS**

- 6.01 Operator shall prepare and adopt a Procedures Manual for operating the Facility to assure that the Facility is operated fully under applicable correctional practices and under the requirements of the User Agencies.
- 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 inmate housing contracts entered into with each Sending Jurisdiction by the MPC and provide all services to be provided by the MPC under such contracts and under such contracts.
- 6.04 The Operator shall conform to all regulations and requirements, and seek any necessary accreditations set forth in specific housing agreements for the Facility.

## **VII. DUTIES OF THE CITY**

[Intentionally blank, these terms are in a separate agreement between the Operator and the City]

## **VIII. DUTIES OF THE MPC**

- 8.01 The MPC and the Operator agree it shall be to their mutual benefit and interest that the Facility be fully utilized by maintaining the maximum inmate population within statutory or regulatory limits. To this end, and throughout the term of this Operating Agreement, the MPC and the Operator agree to cooperate in efforts to obtain maximum inmate population from the sources set forth in Section 1.01 of this Operating Agreement (such as the Operator actively seeking potential additional inmate sources and the MPC entering into additional inmate housing contracts, etc.). It shall be the responsibility of Operator to assist the MPC in seeking sources of inmates for incarceration at the Facility and to assist in negotiation and presentation for acceptance by the MPC contracts for

the incarceration of inmates from sources listed in Section 1.01 of this Operating Agreement.

## **IX. LIABILITY AND INDEMNITY**

9.01 Operator agrees to defend, hold harmless and indemnify the MPC and/or the City representatives including but not limited to the MPC's Board of Directors and the City's Mayor and Council, from and against any and all claims, damages, demands, losses, costs and expenses, including attorney's fees, incurred or suffered by the MPC and/or the Trustee, their officials, 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 under this Operating Agreement. All representations and warranties of Operator, Operator's indemnity, hold harmless and defense obligations shall survive the expiration or earlier termination of this Operating Agreement.

## **X. INSURANCE**

- 10.01 Operator shall obtain and maintain in force, at its sole cost, risk and expense during the term of this Operating 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 (\$5,000,000.00) aggregate. Such insurance shall insure against all claims inclusive of defense, including but not limited to claims based on violations of civil rights arising from services performed by Operator under this Operating Agreement.
- 10.02 Said policy or policies of insurance shall name the MPC, the City and the Trustee as "additional named insureds."
- 10.03 Operator shall provide and continue in force property insurance coverage in the name of the 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 inmate fee with each Sending Jurisdiction and has taken this operational expense into account.
- 10.04 Operator shall provide to the MPC insurance certificates as proof of the insurance policies obtained under this Article X. All policies shall provide that coverage shall not be canceled without thirty (30) days prior written notice to the certificate holder and all additional named insureds and loss payees. The 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 for 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 Regardless of anything to the contrary in this Operating Agreement, Operator shall provide all insurance required of the MPC under the Indenture or this Operating Agreement in the form and naming the insureds and loss payees as required in the Indenture. Operator agrees that the negotiated per diem, per inmate fee with each

Sending Jurisdiction has taken this operational expense into account. This includes business interruption insurance under Section 6.16 of the Indenture. Section 6.16 of the Indenture provides:

**"Property Insurance.** As the Operation and Maintenance Costs, from and after the Completion Date, the Issuer 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 in the policy. Issuer also shall obtain business interruption insurance protecting Issuer against the loss of Project Revenue 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 monies (other than monies 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 the Issuer and the Trustee as their respective interests may appear and shall name the 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 THE CITY POLICE CHIEF**

[Intentionally blank, these terms are in a separate agreement between the Operator and the City]

#### **XII. MAINTENANCE, UPKEEP AND REPAIR**

12.01 All ordinary and extraordinary maintenance, upkeep and repair costs for the Facility shall be paid by Operator under subsection 4.01(i) of this Operating Agreement except as otherwise provided. Operator agrees that the negotiated per diem, per inmate fee with each Sending Jurisdiction has taken this operational expense into account.

#### **XIII TAXES AND GOVERNMENTAL CHARGES**

13.01 The Operator shall be responsible for any taxes or governmental charges of any kind assessed or incurred after the Effective Date of this Operating Agreement which are levied or imposed on the Facility and related property. If 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, the Operator shall pay them and seek reimbursement to the extent funds are available from the Operating Account or any reserve accounts available for payment thereof as amounts due or payable under the Indenture of this Operating Agreement. Such amounts are not a responsibility or debt of the MPC or the City. This Facility is, and under current law, should be exempt from property taxation based on current interpretations and decisions.

#### **XIV ADDITIONAL PROVISIONS**

14.01 Regardless of anything to the contrary in this Operating Agreement, if 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 dismissed within sixty (60) days, this Operating Agreement shall be immediately

terminated and canceled, and the 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 Operating Agreement, said Party shall have ninety (90) days, from notification of the breach, to correct or rectify said matter. If the breaching Party makes a good faith effort to correct said breach and more time is required due to unforeseen or uncontrollable circumstances, then both Parties shall negotiate in good faith on an appropriate time frame to correct the breach. If the material breach is not corrected with this section, then this Operating Agreement shall terminate in thirty (30) days.
- 14.03 If a dispute arises out of or relates to this Operating 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. If 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 another form of dispute resolution proceeding must be commenced within the time for bringing claims against public entities as permitted by A.R.S. § 12-821 and the Operator shall file a notice of claim against the MPC within 180 days after the claim accrues. Failing to commence such mediation, arbitration or another form of dispute resolution proceeding shall not bar the accrual of any such claim. However, if mediation, arbitration or another form of dispute resolution proceeding is commenced before the expiration of the 180 day period provided for in A.R.S. § 12-821.01, then such 180 day period shall abate during the pendency of such mediation, arbitration or another form of dispute resolution proceeding.
- 14.04 The Operator shall use sound and acceptable business and accounting practices to procure commissary and inmate phone services. The Operator controls commissary and inmate phone services proceeds. The Operator shall use said proceeds only for inmate welfare or costs associated with operating the commissary and inmate phone services at the Facility if the law or a contract or contracts require it.
- 14.05 The City is a third party beneficiary of the Operator's obligations under Section 3.01 Section 3.02, Section 3.03, Section 3.09, Section 4.05, Section 5.02, Section 9.01 and Section 10.02 of this Operating Agreement.

## **XV. APPLICABLE LAW AND VENUE; LEGAL CONSTRUCTION; MISCELLANEOUS**

- 15.01 Applicable Law and Venue. This Operating Agreement shall be construed under and under the laws of the State of Arizona, and all obligations of the Parties created in this Operating Agreement are performable in San Luis, Arizona. Any legal action relating to this Operating 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 shall 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 Operating Agreement is subject to termination under A.R.S. § 38 - 511.
- 15.02 Severability. Every provision of this Operating Agreement is and shall be construed to be a separate and independent covenant. If any provision of this Operating Agreement

or the application of the same is, to any extent, found to be invalid or unenforceable, then the remainder of this Operating 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 Operating Agreement will be valid and shall be enforced to the extent permitted by the law, and the Parties shall negotiate in good faith for such amendments of this Operating Agreement which may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

- 15.03 Assignment. This Operating Agreement is not assignable unless both Parties mutually consent to assignment in writing. The Operator shall not assign the benefits of this Operating Agreement nor delegate the obligations arising under this Operating Agreement to any person or entity without the consent of the MPC. The requirements of this Operating Agreement are binding upon the heirs, executors, administrators, successors and assigns of all Parties.
- 15.04 Void/Voidable. If this Operating Agreement shall be held void or voidable, or otherwise be held unlawful, this Operating Agreement shall immediately terminate, and the Operator shall have no claim or right of action against the MPC, its officials, its employees, its agents or its attorneys for any such termination or alleged act or omission related to the same.
- 15.05 Employment Eligibility. The Operator warrants and shall require its subcontractors to warrant, that all comply 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 Operating Agreement and is subject to penalties up to and including termination of this Operating Agreement. The City and the MPC retain the legal right to inspect the papers of the Operator or any subcontractor employee who works to service the obligations of the Operator to ensure that the Operator or its subcontractors are complying with this warranty.
- 15.06 Boycott. The Operator certifies by executing this Operating Agreement that it does not participate in and agrees not to participate in during the term of this Operating Agreement a boycott under A.R.S. § 35-93.01.
- 15.07 Counterparts. This Operating 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.
- 15.08 Headings. The descriptive headings of the Sections of this Operating Agreement are inserted for convenience only and shall not control or affect the meaning or construction of the provisions.
- 15.09 Further Acts. Each of the Parties 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 Operating Agreement.
- 15.10 Time is of the essence of this Operating Agreement. Time is of the essence of this Operating Agreement.

- 15.11 No Partnership and Third Parties. It is not intended by this Operating Agreement to, and nothing in this Operating Agreement shall create any partnership, joint venture or other similar arrangement between the City, the MPC or the Operator. No term or provision of this Operating Agreement is intended to, or shall, be for the benefit of any person, firm, organization or corporation, not a Party to this Operating Agreement and no such other person, firm, organization or corporation shall have any right or cause of action under this Agreement. Except as stipulated in Section 14.05 of this Operating Agreement, the City is a third party beneficiary of the Operator's obligations under Section 3.01, Section 3.02, Section 3.03, Section 3.09, Section 4.05, Section 5.02, Section 9.01 and Section 10.02 of this Operating Agreement.
- 15.12 No Personal Liability. No member, official or employee of the City including but not limited to the Mayor and City Council or the MPC including but not limited to the MPC's Board of Directors shall be personally liable to Operator, or any successor or assignee, (a) if any default occurs 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 the MPC or the City under the terms of this Operating Agreement.
- 15.13 Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the Parties of the breach of any provision of this Operating Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or of any other provision of this Operating Agreement.
- 15.14 Attorneys' Fees and Costs. If any Party finds it necessary to bring any action at law or other proceeding, including arbitration, against the other Party to enforce any of the terms, covenants or conditions under this Operating Agreement, or for any breach or default, the Party prevailing in any such action or other proceeding shall be paid all reasonable costs and reasonable attorney's fees by the other Party, and if the prevailing Party secures any judgment, all such costs and attorney's fees shall be included and set by the court and not by jury.
- 15.15 Survival. All representations and warranties of Operator, Operator's indemnity, hold harmless and defense obligations shall survive the expiration or earlier termination of this Operating Agreement.
- 15.16 Force Majeure. If the Operator or the MPC are prevented or materially restricted from performing any of their obligations under this Operating Agreement by an event of force majeure, then the obligations of each Party shall be suspended or reduced to the extent made necessary by the event. As used in this section, "Force Majeure" means any act or cause not reasonably within the control of the Party whose ability to perform is impaired and which that Party could not have prevented by exercising reasonable diligence. This includes, but is not limited to, acts of God, fire, flood, earthquakes, explosions, strikes or labor disputes over which the affected Party has no control, riots over which the affected Party has no control, sabotage, civil commotion, acts of civil or military authority, wars or material changes in applicable business laws or regulations.

## **XVI. NOTICES**

- 16.01 Notices required to be given by any Party to the other shall be in writing and shall be valid if actually received or refused 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 or refused by the Party to whom notice is being given.

Notices to the MPC shall be delivered or sent to:

San Luis Facility Development Corporation  
1090 E. Union Street (Delivery)  
P.O. Box 1170 (By U.S. Postal Service)  
San Luis, Arizona 85349  
Attention: Board President Jenny Torres

Copy to: Board Attorney Kay Marion Macuil  
Copy to: Board Finance Adviser Monica Castro

Notices to the Operator shall be delivered or sent to:

LaSalle Corrections, L.L.C.  
192 Bastille Lane, Suite 200  
Ruston, Louisiana 71270  
Attention: William K. "Billy" McConnell (Managing Director)

Copy to: Tim Kurpiewski, Director of Finance  
LaSalle Corrections  
26228 Ranch Road 12  
Dripping Springs, TX 78620

Notice to the Trustee Shall be delivered or sent to:

U. S. BANK NATIONAL ASSOCIATION  
633 West Fifth Street, 24<sup>th</sup> Floor  
Los Angeles, California 90071  
Attention: Keith R. Marshall, Vice President

## **XVII. EXECUTION AUTHORITY**

17.01 By his or her signature below, each signatory individual certifies that he or she is the duly authorized agent or officer of the applicable Party and has the authority to execute this Operating Agreement on behalf of such Party, and each Party 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 Operating Agreement may be amended only by a written instrument specifically purporting to amend this Operating Agreement and executed by all Parties.

## **XIX. ENTIRE AGREEMENT**

19.01 This Operating Agreement supersedes any prior understandings or written or oral agreements between the Parties, provided that to the extent that either the MPC and/or the Operator already have any existing rights and/or obligations pursuant the 2016 Operating Agreement, then such Parties shall respectively maintain those rights and be responsible for those obligations. This Operating Agreement is not intended to revoke, sever or terminate the rights existing under the 2016 Agreement, but is intended to initiate new rights and obligations of the Parties as of the Effective Date.

## XX. ADDITIONAL TERMINATION PROVISIONS

[Intentionally left blank.]

## XXI. DEFINITIONS

21.01 All capitalized terms not otherwise defined, shall have the meanings given to those capitalized terms in the Indenture

**"2016 Agreement"** has the meaning ascribed to it in the first (1<sup>st</sup>) whereas clause titled "Background."

**"Accrued and Unpaid Incentive Interim Forbearance Period Amounts"** has the meaning ascribed to it in Section 3.01(b)(v)

**"ADOC"** has the meaning ascribed to it in Section 1.01(d).

**"Bond Fund"** has the meaning ascribed to it in the *Indenture*.

**"City"** has the meaning ascribed to it in Section 1.01(a).

**"City Business License Fee"** has the meaning ascribed to it in Section 3.01(b)(ii).

**"Detention Facility Business License Fee"** has the meaning ascribed to it in Section 3.01 of the *2016 Agreement* and is first referred to in Section 3.01(b)(ii) of this Operating Agreement.

**"Effective Date"** has the meaning ascribed to it in the opening paragraph.

**"Emerald"** has the meaning ascribed to it in the first (1<sup>st</sup>) whereas clause titled "Background."

**"Facility"** has the meaning ascribed to it in the opening paragraph.

**"FF&E"** has the usual meaning Furniture Fixtures and Equipment as noted in the last paragraph of Section 4.01.

**"Forbearance Agreement"** has the meaning ascribed to it in the first (1<sup>st</sup>) whereas clause titled "Background."

**"Force Majeure"** has the meaning ascribed to it in Section 15.16.

**"General and Administrative Expenses"** has the meaning ascribed to it in Section 3.01(b)(ii).

**"Incentive Fee"** has the meaning ascribed to it the **Forbearance Agreement** under Section 1(f) and the **2016 Agreement**.

**"Indenture"** has the meaning ascribed to it in the ninth (9<sup>th</sup>) and last whereas clause.

**"inmate or inmates"** have their common meaning which includes detainee(s), jailee(s), and prisoner(s). The words prisoner or prisoners are the terms sometimes used in the **Indenture** to mean the same as inmate or inmates as used in this Operating Agreement.

**"Inmate Day"** has the meaning ascribed to it in Section 3.10.

**"Interim Forbearance Period"** has the meaning ascribed to it in the first (1<sup>st</sup>) whereas clause titled "Background."

**"Issuer"** and **"MPC"** are the same. **"Issuer"** has the meaning ascribed to it in the third (3<sup>rd</sup>) "whereas" clause.

**"Midnight Count Report"** has the meaning ascribed to it in Section 3.10.

**"MPC"** has the meaning ascribed to it in the opening paragraph.

**"Open Accounts Receivable Detail"** has the meaning ascribed to it in Section 3.01(c).

**"Operating Agreement"** has the meaning ascribed to it in the opening paragraph.

**"Operating Account"** has the meaning ascribed to it in the **Indenture**.

**"Operating Reserve/Repair/Contingency Account"** has the meaning ascribed to it in the **Indenture**.

**"Operation and Maintenance Costs"** has the meaning ascribed to it in Section 3.01(b)(i) and the **Indenture**.

**"Operator"** has the meaning ascribed to it in the opening paragraph.

**"Operator Direct Expenses"** has the meaning ascribed to it in Section 3.01(b)(i) and Section 3.01 of the **2016 Agreement**.

**"Operator Fee"** has the meaning ascribed to it in Section 3.01(a) and is the collective term for the fees paid to the **Operator** consisting of the **Operation and Maintenance Costs**, the **General Administrative Expenses** the **Variable Incentive Fee** and the **Operator's** fees accrued and unpaid under the **2016 Agreement** and the **Forbearance Agreement**.

**"Operator Fee Account"** has the meaning ascribed to it in the **Indenture**.

**"Parties"** has the meaning ascribed to it in the opening paragraph.

**“Party”** has the meaning ascribed to it in the opening paragraph.

**“Police Chief”** has the meaning ascribed to it in Section 1.01(a).

**“Project Revenue”** has the meaning ascribed to it in the *Indenture*.

**“Reserve Fund”** has the meaning ascribed to it in the *Indenture*.

**“Sending Jurisdiction”** has the meaning ascribed to it in Section 1.02.

**“Surplus Account”** has the meaning ascribed to it in the *Indenture*.

**“Trustee”** has the meaning ascribed to it in the first (1<sup>st</sup>) whereas clause titled “Background.”

**“Users”** has the meaning ascribed to it in Section 1.01, the last sentence.

**“User Agencies”** has the meaning ascribed to it in Section 1.01, the last sentence.

**“Variable Business License Fee”** has the meaning ascribed to it in Section 3.01(b)(iii).

**“Variable Incentive Fee”** has the meaning ascribed to it in Section 3.01(b)(iii).

**[Intentionally left blank, signature page follows]**

This Operating Agreement shall inure to the benefit of and bind the legal representatives, assignees, and successors of the respective Parties.

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

San Luis Facility Development Corporation

By: [Signature]  
Signature

Name: Jenny Torres

Its: President

Date: November 27, 2018

ATTEST:

[Signature]  
Olivia Jenkins, Secretary

APPROVED AS TO FORM:

[Signature]  
Kay Marion Macuil, Attorney for Corporation

LaSalle Corrections, L.L.C

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

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

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Acknowledged by:

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

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

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

Its: \_\_\_\_\_

Date: \_\_\_\_\_

This Operating Agreement shall inure to the benefit of and bind the legal representatives, assignees, and successors of the respective Parties.


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

**San Luis Facility Development Corporation**

By:   
Signature

Name: Jenny Torres  
Its: President  
Date: November 27, 2018

ATTEST:   
Olivia Jenkins, Secretary

APPROVED AS TO FORM:  
  
Kay Marion Macuil, Attorney for Corporation

**LaSalle Corrections, L.L.C**

By:   
Signature

Name: Tim Kurpiewski  
Its: CFO  
Date: 11-28-18

Acknowledged by:

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

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

Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

This Operating Agreement shall inure to the benefit of and bind the legal representatives, assignees, and successors of the respective Parties.

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

San Luis Facility Development Corporation

By:   
Signature

Name: Jenny Torres  
Its: President  
Date: November 27, 2018

ATTEST:

  
Olivia Jenkins, Secretary

APPROVED AS TO FORM:

  
Kay Marion Macuil, Attorney for Corporation


LaSalle Corrections, L.L.C

By:   
Signature

Name: Tim Kurpiewski  
Its: CFO  
Date: 11-28-18

Acknowledged by:

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

By:   
Signature

Name: KEITH R. MARSHALL  
Its: VICE PRESIDENT  
Date: 11-29-18

# RESOLUTION

No. 2019-01

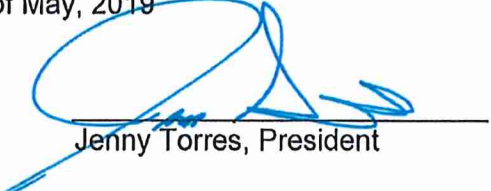
A RESOLUTION OF THE SAN LUIS FACILITY DEVELOPMENT CORPORATION BOARD OF DIRECTORS ADOPTING AND APPROVING THE ENTERING INTO AN AMENDMENT TO THE FACILITY OPERATION AND MANAGEMENT AGREEMENT WITH LaSALLE CORRECTIONS, L.L.C. TO ADD DUTIES DESCRIBED IN THE INTER-GOVERNMENTAL SERVICE AGREEMENT WITH IMMIGRATION CUSTOMS ENFORCEMENT.

BE IT RESOLVED by the San Luis Facility Development Corporation Board of Directors, as follows:

**Section 1.** It is deemed in the best interest of the San Luis Regional Detention and Support Center economic development project to enter into an Inter-Governmental Service Agreement (IGSA) with Immigration Customs Enforcement (ICE) separate from the IGSA with the U.S. Marshalls Service due to the pay structure ICE is offering for the ICE detainees.

**Section 2.** that a true copy of the IGSA with ICE is incorporated herein as though set forth here in full.

PASSED, ADOPTED and APPROVED by the Board of Directors of the San Luis Facility Development Corporation this 29 day of May, 2019

  
\_\_\_\_\_  
Jenny Torres, President

ATTEST:

  
\_\_\_\_\_  
Maria Gonzalez, Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Kay Marion Macuil  
General Counsel

- E. Employment Eligibility.** The Operator agrees that each employee working on the IGSA 2019 will have a Social Security Card issued and approved by the Social Security Administration. The Operator shall be responsible to the Federal Government for acts and omissions of its own employees and for any Subcontractor(s) and their employees.

Subject to existing law, regulations and/ or other provisions of the IGSA 2019, illegal or undocumented aliens will not be employed by the Operator, or with the IGSA 2019. The MPC and the Operator will ensure this provision is expressly incorporated into any and all Operating Agreements with the Operator. The Operator will ensure that this provision is expressly incorporated into any and all subordinate agreements issued in support of this IGSA.

- F. 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 the signature of all Parties may be physically attached to a single document.
- G. Signed copies.** For purposes of this Agreement, a signed original of this Agreement may be scanned and delivered by facsimile, by email or by other electronic or digital means and may be printed from that scanned original and shall be treated by the Parties as an original of this Agreement and shall be given the same force and effect.

**[Intentionally left blank, signature page follows]**

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

San Luis Facility Development Corporation

By: [Signature]  
Signature

Name: Jenny Torres

Its: President

Date: May 29, 2019

ATTEST:

[Signature]  
Maria Gonzalez, Secretary

APPROVED AS TO FORM:

[Signature]  
Kay Marion Macuil, General Counsel for the Corporation

LaSalle Corrections, L.L.C

By: [Signature]  
Signature

Name: Tim Kurpouski

Its: CEO

Date: May 30, 2019

Acknowledged by:

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

By: [Signature]  
Signature

Name: KEITH R. MARSHALL

Its: VICE PRESIDENT

Date: MAY 30, 2019

**San Luis Facility Development Corporation**

**5.A.**

**Meeting Date:** 07/23/2019

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

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

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**ITEM:**

Discussion and possible directions to staff on any and all matters regarding scheduling an August 2019 meeting. **(Kay Marion Macuil, General Council)**

**SUMMARY:**

Staff will not be ready for a follow-up meeting until August 20, 2019, at the earliest. Staff would prefer to have a meeting before September because negotiations with LaSalle if any should start in in September so that we can complete negotiations by November of this year.

**RECOMMENDATION / SUGGESTED MOTION:**

Discussion and possible directions to staff, no action.

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**San Luis Facility Development Corporation**

**5.B.**

**Meeting Date:** 07/23/2019

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

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

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**ITEM:**

**SUMMARY OF CURRENT EVENTS**

The Board Members may present a brief summary of current events for discussion only pursuant to A.R.S. §38-431.02(K).

**SUMMARY:**

Board Members may comment on current events relevant to the San Luis Regional Detention and Support Center:

-a recent tour of the detention center,

- Marshals' per diem rate effective August 3, 2019, is \$92.48 and Guard/Transporation Hourly Rate \$33.30,

-status of the IGSA with ICE, and

-other events of interest to the Board.

**RECOMMENDATION / SUGGESTED MOTION:**

Discussion item only, no action.

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**Attachments**

ARS 38-431-02

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[See Page 4, for relevant highlighted subsection K]

[Arizona Revised Statutes Annotated](#)

[Title 38. Public Officers and Employees \(Refs & Annos\)](#)

[Chapter 3. Conduct of Office](#)

[Article 3.1. Public Meetings and Proceedings \(Refs & Annos\)](#)

A.R.S. § 38-431.02

§ 38-431.02. Notice of meetings

Effective: July 29, 2010

[Currentness](#)

A. Public notice of all meetings of public bodies shall be given as follows:

1. The public bodies of this state, including governing bodies of charter schools, shall:

(a) Conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

(b) Post all public meeting notices on their website and give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

2. The public bodies of the counties and school districts shall:

(a) Conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

(b) Post all public meeting notices on their website and give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

3. Special districts that are formed pursuant to title 48:<sup>1</sup>

(a) May conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

(b) May post all public meeting notices on their website and shall give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

(c) If a statement or notice is not posted pursuant to subdivision (a) or (b) of this paragraph, shall file a statement with the clerk of the board of supervisors stating where all public notices of their meetings will be posted and shall give additional public notice as is reasonable and practicable as to all meetings.

4. The public bodies of the cities and towns shall:

(a) Conspicuously post a statement on their website or on a website of an association of cities and towns stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

(b) Post all public meeting notices on their website or on a website of an association of cities and towns and give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

**B.** If an executive session is scheduled, a notice of the executive session shall state the provision of law authorizing the executive session, and the notice shall be provided to the:

1. Members of the public body.

2. General public.

**C.** Except as provided in subsections D and E of this section, meetings shall not be held without at least twenty-four hours<sup>2</sup>

notice to the members of the public body and to the general public. The twenty-four hour period includes Saturdays if the public has access to the physical posted location in addition to any website posting, but excludes Sundays and other holidays prescribed in § 1-301.

**D.** In case of an actual emergency, a meeting, including an executive session, may be held on such notice as is appropriate to the circumstances. If this subsection is utilized for conduct of an emergency session or the consideration of an emergency measure at a previously scheduled meeting the public body must post a public notice within twenty-four hours declaring that an emergency session has been held and setting forth the information required in subsections H and I of this section.

**E.** A meeting may be recessed and resumed with less than twenty-four hours' notice if public notice of the initial session of the meeting is given as required in subsection A of this section, and if, before recessing, notice is publicly given as to the time and place of the resumption of the meeting or the method by which notice shall be publicly given.

**F.** A public body that intends to meet for a specified calendar period, on a regular day, date or event during the calendar period, and at a regular place and time, may post public notice of the meetings at the beginning of the period. The notice shall specify the period for which notice is applicable.

**G.** Notice required under this section shall include an agenda of the matters to be discussed or decided at the meeting or information on how the public may obtain a copy of such an agenda. The agenda must be available to the public at least twenty-four hours before the meeting, except in the case of an actual emergency under subsection D of this section. The twenty-four hour period includes Saturdays if the public has access to the physical posted location in addition to any website posting, but excludes Sundays and other holidays prescribed in § 1-301.

**H.** Agendas required under this section shall list the specific matters to be discussed, considered or decided at the meeting. The public body may discuss, consider or make decisions only on matters listed on the agenda and other matters related thereto.

**I.** Notwithstanding the other provisions of this section, notice of executive sessions shall be required to include only a general description of the matters to be considered. The agenda shall provide more than just a recital of the statutory provisions authorizing the executive session, but need not contain information that would defeat the purpose of the executive session, compromise the legitimate privacy interests of a public officer, appointee or employee or compromise the attorney-client privilege.

**J.** Notwithstanding subsections H and I of this section, in the case of an actual emergency a matter may be discussed and considered and, at public meetings, decided, if the matter was not listed on the agenda and a statement setting forth the reasons necessitating the discussion, consideration or decision is placed in the minutes of the meeting and is publicly announced at the public meeting. In the case of an executive session, the reason for consideration of the emergency measure shall be announced publicly immediately before the executive session.

**K.** Notwithstanding subsection H of this section, the chief administrator, presiding officer or a member of a public body may present a brief summary of current events without listing in the agenda the specific matters to be summarized, if:

1. The summary is listed on the agenda.

2. The public body does not propose, discuss, deliberate or take legal action at that meeting on any matter in the summary unless the specific matter is properly noticed for legal action.

#### Credits

Added by Laws 1974, Ch. 196, § 4, eff. May 22, 1974. Amended by Laws 1978, Ch. 86, § 3; Laws 1982, Ch. 278, § 3; Laws 2000, Ch. 358, § 3; Laws 2002, Ch. 247, § 1; Laws 2006, Ch. 294, § 2; Laws 2009, Ch. 27, § 2; Laws 2010, Ch. 88, § 2.

#### Notes of Decisions (25)

#### Footnotes

<sup>1</sup> Section 48-101 et seq.

A. R. S. § 38-431.02, AZ ST § 38-431.02

Current through legislation effective June 7, 2019 of the First Regular Session of the Fifty-Fourth Legislature (2019).

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End of Document

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Notes Of Decisions (25)

### Construction and application

Notice requirement of statutory open meeting law was not in conflict with notice requirement of constitutional open meeting clause and thus did not create implied prohibition on applying statutory open meeting law to the Independent Redistricting Commission (IRC) in absence of express law-making authority over Independent Redistricting Commission (IRC) on part of state, where constitution's explicit requirement was more restrictive than statutory requirement. [State ex rel. Montgomery v. Mathis \(App. Div.1 2012\) 231 Ariz. 103, 290 P.3d 1226 . States 27\(1\)](#)

Memorandum suggesting guidelines for state agencies to follow in giving notice of public meetings under the Open Meeting Act, § 38-431 et seq. follows Op.Atty.Gen. No. 75-7, p. 44, 1975-76.

### Necessity for notice

Board of education was not required under Open Meeting Law, § 38-431 et seq., to give prior notice to probationary teacher before discussions concerning renewal of her contract could be held in executive session. [Cooner v. Board of Educ. \(App. Div.1 1982\) 136 Ariz. 11, 663 P.2d 1002 . Education 593\(2\); Public Employment 455](#)

School district board is required to give twenty-four hours notice of a meeting, including an executive session. Op.Atty.Gen. No. 180-118, [1980 WL 88503 .](#)

### Requisites of notice

Town's executive sessions were improperly noticed in violation of this section of Open Meeting Law where there was no general statement made as to their subject matter. [City of Prescott v. Town of Chino Valley \(App. Div.1 1989\) 163 Ariz. 608, 790 P.2d 263 , review granted in part, affirmed in part and vacated in part 166 Ariz. 480, 803 P.2d 891 . Municipal Corporations 89](#)

The definition of "meeting" under [A.R.S. § 38-431](#) includes the gathering of a quorum of a public body through technological devices and would encompass serial communications of a quorum of the public body through the Internet or other online medium. Measures must be taken, however, to provide clear notice to the public about when the Board will be deliberating in its online meeting and to facilitate the public's access to the meeting. Op.Atty.Gen. No. 108-008, [2008 WL 4509818 .](#)

Notice of school district board meeting shall include the specific provision of the statute authorizing the executive session. Op.Atty.Gen. No. 180-118, [1980 WL 88503 .](#)

Although written notice to the employee is not required as to a school board executive session in which evaluations or other information relating to the employment, assignment, appointment, promotion, demotion, disciplining, or resignation of a school employee is to be discussed or considered by the school board, the notice must describe the matters concerning the employee to be considered by the board, and the description must be sufficient to enable the employee to make the initial decision as to whether he desires to have the matters discussed in a public session. Op.Atty.Gen. No. 179-49, [1979 WL 23118 .](#)

Notice to be given school district employee by school board of an executive session of the board at which evaluations or other information relating to the employment, assignment, appointment, promotion, demotion, disciplining, or resignation of the employee are to be discussed or considered by the board must be given sufficiently in advance of the proposed meeting to enable the employee to make a determination as to whether he desires a public hearing and to prepare an appropriate request of a public hearing. Op.Atty.Gen. No. 179-49, [1979 WL 23118](#).

### **Sufficiency of notice**

Generally, whenever a statute requires that notice be given and does not specify manner in which the notice is to be given, personal notice is required. [Carefree Imp. Ass'n v. City of Scottsdale \(App. Div.1 1982\) 133 Ariz. 106, 649 P.2d 985](#) .  
[Notice 9](#)

When "jurisdictional notice" is mandated in a certain manner, any means of notice other than that prescribed is ineffective, and failure to comply with mandated notice will render any action void. [Carefree Imp. Ass'n v. City of Scottsdale \(App. Div.1 1982\) 133 Ariz. 106, 649 P.2d 985](#) . [Notice 9](#)

Even though notices of special city council meeting to be held Monday at 7 o'clock a.m. were posted at places required by this section on the preceding Saturday, they were not effective "public notices" because of public's lack of access to them and thus failed to satisfy requirement of open meeting law, § 38-431 et seq. [Carefree Imp. Ass'n v. City of Scottsdale \(App. Div.1 1982\) 133 Ariz. 106, 649 P.2d 985](#) . [Municipal Corporations 92](#)

Defendant mayor's conduct of releasing minutes of an executive session of city council to news media was not chargeable under Public Meetings and Proceedings Law, § 38-431.01 et seq., where no notice of executive session was given other than an announcement by vice mayor, in that the "executive session" did not conform to statutory requirements for holding of an executive session under the open meeting law. [State v. Murphy \(App. Div.2 1982\) 131 Ariz. 354, 641 P.2d 268](#) . [Municipal Corporations 174](#); [Public Employment 1063](#)

Notice of an executive session of school board which informed all teachers, including certified probationary teachers, that their contracts would be discussed constituted reasonable notice. [McCown v. Patagonia Union High School Dist. \(App. Div.2 1981\) 129 Ariz. 127, 629 P.2d 94](#) . [Education 93](#)

School board's announcement that meeting would be reconvened "if necessary" did not give sufficient public notice as to time and place of reconvening so as to comply with Open Meeting Law, § 38-431 et seq. [Ahnert v. Sunnyside Unified School Dist. No. 12 \(App. Div.2 1980\) 126 Ariz. 473, 616 P.2d 933](#) . [Education 93](#)

This section requires posting of notice, at designated place of public notice, of time and place of continuation of recessed meeting, and where no notice of particular meeting was ever posted at place designated and only public announcement of intention of board to reconvene was verbal announcement by chairman of board to persons present, there was not giving of notice as required by statute, either for separate meeting or for continuation of recessed meeting. [Cooper v. Arizona Western College Dist. Governing Bd. \(App. Div.1 1980\) 125 Ariz. 463, 610 P.2d 465](#) . [Administrative Law And Procedure 1070](#)

Meeting wherein school board reinstated its dismissal of teacher was not violative of open meeting law because superintendent, though unable to state when he had posted notice of meeting, was sure that he had met requirement of not less than 24 hours' notice. [Hokanson v. High School Dist. No. Eight \(8\) of Pima County \(App. Div.2 1978\) 121 Ariz. 264, 589 P.2d 907](#) . [Education 93](#)

### **Failure to give notice**

Even if board of education was required by open meeting law to give personal notice to probationary teacher of executive session at which nonrenewal of her contract was discussed, failure to give such notice did not invalidate action taken at subsequent public meeting where public meeting was properly noticed, action taken refusing to renew teacher's contract satisfied requirements of teacher tenure law, and teacher was offered opportunity at the meeting to be heard. [Cooner v. Board of Educ. \(App. Div.1 1982\) 136 Ariz. 11, 663 P.2d 1002](#) . [Education 593\(2\)](#); [Public Employment 455](#)

When a public body violates the open meeting law (OML) by discussing, proposing, or taking legal action on a matter not properly noticed on the agenda, that violation does not nullify all other legal action taken at the meeting when the violation has no demonstrated prejudicial effect on the complaining parties. Op.Atty.Gen. No. I08-001, [2008 WL 733185](#) .

School district board's failure to give notice to the public that it would hold executive session at its regularly scheduled meeting, failure to give notice to public of the statutory section authorizing the executive session, and failure to take minutes of the executive session would render all business transacted at any subsequent public meeting concerning matters discussed in executive session null and void. Op.Atty.Gen. No. I79-45, [1979 WL 23114](#) .

### **Posted agenda**

City's adoption of annexation ordinance violated agenda requirement set forth in subd. H of this section and ordinance was void; although city made two of three annexation proposals available for inspection 24 hours before city council meeting, as required by the law, city did not make third annexation proposal, which was adopted at meeting, available for inspection, and information provided to public on two proposals which were available failed to indicate that additional tract included in third proposal would be annexed. [Thurston v. City of Phoenix \(App. Div.1 1988\) 157 Ariz. 343, 757 P.2d 619](#) . [Municipal Corporations 92](#)

In regard to meetings of school district governing board, it is illegal to discuss employees or matters which have not been specifically listed on legal agenda for the meeting, except in case of actual emergencies. Op.Atty.Gen. No. I90-019, [1990 WL 484053](#) .

Unless an actual emergency requires addition of an agenda item, any action on a subject not contained in the posted agenda must be delayed to allow a minimum of 24 hours public notice. Op.Atty.Gen. No. I79-192, [1979 WL 23259](#) .

### **Actual emergency**

Circumstances surrounding city council's decision to hold special meeting to consider annexation ordinance could not be fairly characterized as an "actual emergency" within meaning of this section. [Carefree Imp. Ass'n v. City of Scottsdale \(App. Div.1 1982\) 133 Ariz. 106, 649 P.2d 985](#) . [Municipal Corporations 92](#)

### **Discussion notwithstanding agenda**

Annexation proposal, which was not made available for inspection 24 hours before city council meeting as required by agenda requirement set forth in this section, did not qualify as relating to other agenda items so that it might have been properly considered without prior availability pursuant to subd. J of this section allowing a public body to discuss, consider or decide matters listed on the agenda and related matters. [Thurston v. City of Phoenix \(App. Div.1 1988\) 157 Ariz. 343, 757 P.2d 619](#) . [Municipal Corporations 92](#)

**Editor's and Revisor's Notes (2)**

**HISTORICAL AND STATUTORY NOTES**

Former § 38-431.02, added by Laws 1962, Ch. 138, § 2, and relating to nonapplicability of article to executive sessions, was repealed by Laws 1974, Ch. 196, § 3.

**Reviser's Notes:**

In subsection D (now E) "subsection" was substituted for "paragraph" pursuant to authority of § 41-1304.02.

**Context and Analysis (9)**

**Cross References (3)**

Military family relief fund, advisory committee meetings, see [§ 41-608.04](#).  
Post-9/11 veteran education relief fund, see [§ 41-612](#).  
Public hearing notices, city or town limits, extension by annexation, see [§ 9-471](#).

**Administrative Code References (4)**

Commission orders, see [A.A.C. R12-4-609 et seq.](#)  
Execution of a charter, see [A.A.C. R7-5-204](#).  
Internal organization and control of the board, see [A.A.C. R13-4-102 et seq.](#)  
Meetings, see [A.A.C. R4-23-102](#).

**ALR Library (1)**

[33 American Law Reports 5th 731](#), Emergency Exception Under State Law Making Proceedings by Public Bodies Open to the Public.

**Encyclopedias (1)**

[147 Am. Jur. Proof of Facts 3d 115](#), Proof of Notice or Lack of Notice in Zoning or Land Use Proceedings.