

FORWARD DELIVERY BOND PURCHASE AGREEMENT

relating to

[\$[A-1 Par]

San Mateo County Joint Powers Financing Authority
Lease Revenue Bonds (Refunding and Capital Projects), 2021 Series A-1

and

[\$[A-2 Par]

San Mateo County Joint Powers Financing Authority
Lease Revenue Bonds (Refunding and Capital Projects), 2021 Series A-2 [(Federally Taxable)]

[Sale Date]

Board of Supervisors
County of San Mateo

Governing Board
San Mateo County Joint Powers Financing Authority

Ladies and Gentlemen:

The undersigned, Morgan Stanley & Co. LLC, as purchaser (the “**Purchaser**”), hereby offers to enter into this Forward Delivery Bond Purchase Agreement (this “**Agreement**”) with the San Mateo County Joint Powers Financing Authority (the “**Issuer**”) and the County of San Mateo, California (the “**County**”), which, upon the Issuer’s and the County’s written acceptance, will be binding upon the Issuer, the County and the Purchaser. This offer is made subject to the Issuer’s and the County’s written acceptance hereof on or before 4:00 p.m. (Eastern time) on the date hereof (the “**Sale Date**”), and, if not so accepted, will be subject to withdrawal by the Purchaser upon written notice delivered to the Issuer at any time prior to such acceptance. Terms not otherwise defined in this Agreement shall have the same meanings set forth in the First Supplemental Trust Agreement (defined below).

1. Purchase and Sale.

(a) Subject to the terms and conditions and in reliance upon the representations, warranties and agreements set forth herein, the Purchaser hereby agrees to purchase from the Issuer, and the Issuer hereby agrees to sell and deliver to the Purchaser, all (but not less than all) of the Issuer’s Lease Revenue Bonds (Refunding and Capital Projects), 2021 Series A-1 and Lease Revenue Bonds (Refunding and Capital Projects), 2021 Series A-2 [(Federally Taxable)] (the “**2021 Bonds**”). The aggregate purchase price for the 2021 Bonds shall be \$[Purchase Price] (equal to the principal amount of the 2021 Bonds, plus [net] issuance premium equal to \$[Premium]) (the “**Purchase Price**”). The Issuer agrees to pay the Purchaser a commitment fee

equal to \$[Commitment Fee] (the “**Commitment Fee**”), which shall be paid in the manner set forth in subsection (d) of this Section 1.¹

(b) The 2021 Bonds shall be issued under, pursuant to and in full compliance with the Constitution and statutes of the State of California (the “State”), including the Joint Exercise of Powers Act (being Chapter 5 of Division 7 of Title 1 of the California Government Code, as amended) and all laws amendatory thereof or supplemental thereto (collectively, the “**Act**”), and under and pursuant to the First Supplemental Trust Agreement, dated as of June 1, 2021 (the “**Authorizing Document**”), between the Issuer and U.S. Bank National Association, as trustee (the “**Trustee**”). The 2021 Bonds shall be dated the Settlement Date (defined below) and shall bear interest and mature as set forth on Exhibit A attached hereto. The 2021 Bonds shall be equally and ratably secured under the Authorizing Document with any other Bonds² (as defined in the Authorizing Document) of the Issuer heretofore or hereafter issued or incurred by the Issuer.

Proceeds of the 2021 Bonds will be used for the purpose of currently refunding \$[Refunded Par] of the Issuer’s Lease Revenue Bonds (Capital Projects), 2014 Series A (Maple Street Correctional Center), as set forth in Exhibit A (the “**Refunded Bonds**”), \$[Outstanding Par] of which currently are outstanding.

(c) At 10:00 a.m. (Eastern time) on [Closing Date], or at such other time or on such other date as the Issuer, the County and the Purchaser mutually agree upon (the “**Closing Date**”), the Issuer shall cause to be delivered to the Purchaser, at the offices of Orrick, Herrington & Sutcliffe LLP, as bond counsel (“**Bond Counsel**”), or at such other place as shall have been mutually agreed upon by the Issuer and the Purchaser, the documents described in Section 4(b) hereof (such delivery being referred to herein as the “**Closing**”).

(d) If the Closing is completed in accordance with the provisions of this Agreement, then at 10:00 a.m. (Eastern time), on [Settlement Date], or at such other time or on such other date as the Issuer, the County and the Purchaser mutually agree upon (the “**Settlement Date**”), the Issuer shall, subject to the terms and conditions hereof, deliver the 2021 Bonds to the Purchaser, through the facilities of The Depository Trust Company, New York, New York (“**DTC**”) in definitive form, duly executed, and at the offices of Bond Counsel, or at such other place as shall have been mutually agreed upon by the Issuer and the Purchaser, the documents described in Section 5 hereof. The Purchaser shall accept such delivery and pay the Purchase Price of the 2021 Bonds, less an amount equal to the Commitment Fee² by wire transfer (such delivery and payment being referred to herein as the “**Settlement**”).

(e) The Purchaser shall have the right at no cost to the Issuer to accelerate the Settlement to a date not earlier than ten (10) Business Days before the originally scheduled Settlement Date, or to delay the Settlement and reschedule the Settlement Date to a date not later than ten (10) Business Days after the originally scheduled Settlement Date, if, subsequent to the date hereof and at any time prior to the Settlement Date, a material disruption in securities settlement, payment or clearance services affecting the 2021 Bonds shall have occurred. The

¹ Use if commitment fee is paid at Settlement, which should be approved by the Purchaser. Delete if commitment fee is paid at Closing, which is standard.

² Check Authorizing Document to see if “Bonds” are defined.

Settlement Date shall be rescheduled to a date mutually agreed upon by the Issuer and the Purchaser once the material disruption has been alleviated.

2. Representations and Covenants of the Issuer. The Issuer hereby represents to and covenants with the Purchaser that:

(a) as of the date hereof, (i) the Issuer has been duly organized and is validly existing as a joint exercise of powers agency under and by virtue of the Constitution and laws of the State, and has full legal right, power and authority (A) to adopt Resolution No. [____], adopted by the Issuer on May 26, 2021 (the “**Resolution**”), approve and execute the Authorizing Document³, (B) to enter into and perform its obligations under this Agreement, the Authorizing Document, the First Amendment to Site Lease, dated as of June 1, 2021, between the Issuer and the County (the “**Site Lease**”), the First Amendment to Facility Lease, dated as of June 1, 2021, between the Issuer and the County (the “**Facility Lease**”), a Continuing Disclosure Agreement, to be dated as of the Closing Date and in the form attached as Exhibit B hereto (the “**Continuing Disclosure Agreement**”), an Escrow Agreement, dated as of June 1, 2021, between the Issuer and U.S. Bank National Association, as escrow agent (the “**Escrow Agreement**”), and any other instrument or agreement to which it is a party and which has been or will be executed in connection with the transactions contemplated by this Agreement in order to accomplish the foregoing actions (all documents described in this Section 2(a)(i), other than this Agreement, collectively, are referred to herein as the “**Financing Documents**”), (C) to issue, offer, sell and deliver the 2021 Bonds to the Purchaser as provided herein and to carry out the transactions contemplated by this Agreement and the Financing Documents, and (ii) the Resolution has been duly adopted, is in full force and effect and has not been amended, modified or repealed;

(b) as to the 2021 Bonds, the Issuer has complied, and will at the Closing Date and the Settlement Date be in compliance, in all respects, with the Act and the Authorizing Document, and the Issuer, as of the Closing Date, will have taken all action required in order to authorize the issuance and sale of the 2021 Bonds upon the terms set forth herein, in the Act and in the Authorizing Document, including without limitation, the filing and receipt of any validation or approval in accordance with the Act;

(c) as of the Closing Date, the Issuer will have duly authorized all necessary action to be taken by it for (i) the adoption of the Resolution, and (ii) the execution, delivery and performance by it of this Agreement, the Financing Documents and any and all such other agreements and documents as may be required to be executed and delivered or acted upon by the Issuer in order to carry out, give effect to, and consummate the transactions contemplated hereby;

(d) the 2021 Bonds, when issued, authenticated and delivered in accordance with the Act, the Authorizing Document and this Agreement, will be validly issued, and will be valid and binding limited revenue obligations of the Issuer payable solely from the Revenues (as defined in the Authorizing Document) enforceable in accordance with their terms, except as enforcement thereof may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors’ rights generally and by the application of equitable principles if equitable remedies are sought;

³ Modify if Authorizing Document is the Resolution.

(e) as of the date hereof, there is no legislation, action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, regulatory agency, governmental or public board or body pending or, to the knowledge of the Issuer, threatened against or affecting the Issuer or affecting the existence of the Issuer or the titles of its officers to their respective offices or seeking to prohibit, restrain or enjoin the sale, issuance or delivery of the 2021 Bonds or in any way contesting or affecting the validity or enforceability of the 2021 Bonds, the Financing Documents or this Agreement, or contesting the power or authority of the Issuer to adopt the Resolution and execute and deliver any of the Financing Documents or this Agreement or to issue the 2021 Bonds, nor, to the knowledge of the Issuer, is there any meritorious basis therefor, wherein an unfavorable decision, ruling or finding would adversely affect (i) the transactions contemplated by this Agreement or the validity or enforceability of the 2021 Bonds, any of the Financing Documents, this Agreement or any agreement or instrument to which the Issuer is a party and which is used or contemplated for use in the consummation of the transactions contemplated by this Agreement, or (ii) the exclusion from gross income of the interest on the 2021 Bonds for federal and State income tax purposes;

(f) the adoption of the Resolution, and the execution and delivery by the Issuer of this Agreement, the 2021 Bonds, the Financing Documents and the other documents contemplated hereby and compliance by the Issuer with the provisions of the foregoing (i) do not and will not conflict with or constitute on the part of the Issuer (A) a violation or breach of or a default under the Act, the Issuer's articles of incorporation or charter, if any, or bylaws, or (B) any law, administrative rule or regulation, judgment, administrative decree or order of any court or any public or governmental agency or authority, any ordinance, indenture, mortgage, lease, sublease, loan agreement, note, resolution, agreement or other instrument to which the Issuer is a party or by which it or any of its properties may be bound, and (ii) will not result in any violation of the laws of the State relating to the establishment or the existence of the Issuer or its affairs or any applicable regulation of any federal or State regulatory agency or other governmental body having jurisdiction over the Issuer;

(g) on and as of the Closing Date all authorizations, consents and approvals of, notices to, registrations or filings with, or actions in respect of any governmental body, agency or other instrumentality or court required to be obtained, given or taken on behalf of the Issuer in connection with the execution, delivery and performance by the Issuer of the Financing Documents will have been obtained, given or taken and will be in full force and effect through the Settlement Date and the Issuer will use all reasonable efforts to obtain any authorizations, consents and approvals or provide any notices to or make any registrations or filings with any governmental body, agency or other instrumentality or court as may become necessary between the date hereof and the Settlement Date, and under existing laws, rules and regulations, no further action on the part of the Issuer needs or, other than as specified herein, will need to be taken to effect the issuance and delivery of the 2021 Bonds to the Purchaser on the Settlement Date as contemplated hereunder;

(h) on and as of the Settlement Date, the 2021 Bonds, together with any Outstanding Bonds (each as defined in the Authorizing Document), will be secured by a pledge of the Revenues (as defined in the Authorizing Document) and by the monies and other funds of the Issuer provided in the Authorizing Document;

(i) as of the date hereof, the Issuer has never been and is not now in default in the payment of principal of, redemption premium, if any, or interest on, and otherwise has not been and is not now in default with respect to, any bonds, notes or other obligations that it has issued, assumed or guaranteed as to payment of principal, redemption premium, if any, or interest;

(j) as of the date hereof, the Issuer is not in violation of or in default (or with the lapse of time and/or receipt of appropriate notice would be in default) under any existing applicable law, court or administrative regulation, judgment, decree, order, agreement, indenture, mortgage, lease or sublease to which the Issuer or any of its properties is a party or is otherwise bound that would have a material and adverse effect upon the operations or the financial condition of the Issuer or the transactions contemplated by this Agreement;

(k) the Issuer will furnish such information, will execute and deliver such instruments and documents and will take such other action in cooperation with the Purchaser as the Purchaser may reasonably request, including but not limited to obtaining additional ratings, if requested, to permit the Purchaser to sell the 2021 Bonds in accordance with market practice and securities, tax and other applicable laws at such time;⁴

(l) assuming the due authorization, execution and delivery of this Agreement by the Purchaser, this Agreement will constitute a legal, valid and binding obligation of the Issuer and the County enforceable against the same in accordance with the terms hereof, except to the extent that enforcement hereof may be limited by bankruptcy, insolvency or other laws or equitable principles affecting the enforcement of creditors' rights generally;

(m) the Issuer (i) will, on or prior to the Closing Date, enter into the Continuing Disclosure Agreement and (ii) except as otherwise disclosed to the Purchaser, has complied with its prior continuing disclosure undertakings in accordance with such undertakings or agreements for the five year period prior to the date hereof;

(n) the issuance and sale of the 2021 Bonds are not subject to any presently existing transfer or other documentary stamp taxes of the State or any political subdivision thereof;

(o) the Issuer is not entitled to claim immunity on the grounds of sovereignty or other similar grounds with respect to itself or its revenues or assets (irrespective of their use or intended use) from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) or (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be made subject in any suit, action or proceedings relating to this Agreement in the courts of any jurisdiction and no such immunity (whether or not claimed) may be attributed to the Issuer or its revenues or assets;

(p) for the period beginning on the Sale Date and ending on the Settlement Date, the Issuer will promptly notify the Purchaser as soon as the Issuer becomes aware of any fact that, in its reasonable judgment, may cast doubt on or question the ability of the Issuer to (i) enforce the Financing Documents (assuming for this purpose the due execution and delivery by the parties thereto of any draft Financing Documents), (ii) refund the Refunded Bonds as herein contemplated,

⁴ Use if including right to request additional ratings and, if not provided, an interest rate increase in Exhibit A.

(iii) issue, sell and deliver the 2021 Bonds as provided for by this Agreement, or (iv) perform any of its other obligations in a timely manner pursuant to this Agreement;

(q) the audited statement of net position, statement of financial position and statement of revenues, expenses and changes in net position and the related financial statements of the County for the fiscal year ended June 30, 2020, and all other information posted on the Electronic Municipal Market Access database (“**EMMA**”) present fairly the County’s financial condition as of the dates indicated and the County has no reason to believe that such financial statements have not been prepared in accordance with generally accepted accounting principles consistently applied;

(r) since June 30, 2020, there have been no material adverse changes to the financial position or condition or operations of the County;

(s) prior to the Settlement Date, the Issuer and the County will not take any action within or under its control that will cause any material adverse change in the financial position, results of operations or condition, financial or otherwise, of the County reflected in the audit referred to above;

(t) except for the Issuer’s Outstanding Bonds, there is no indebtedness of the Issuer with a lien or pledge on the Revenues that is prior to or on a parity with the lien or pledge under the Authorizing Document securing the 2021 Bonds;

(u) after the Closing Date, the Issuer will not amend or consent to the amendment of any of the Financing Documents without the prior written consent of the Purchaser;

(v) prior to the Settlement Date, the Issuer will promptly notify the Purchaser of the adoption of or any change to any applicable law or regulation or a decision rendered by a court, the effect of which would make it unlawful for the Issuer to issue the 2021 Bonds or perform its obligations under this Agreement or any of the Financing Documents;

(w) prior to the termination of this Agreement, the Issuer will refrain from any action to refund or defease the Refunded Bonds;

(x) the Issuer shall not appoint any underwriters or placement agents with respect to the 2021 Bonds; and

(y) the Issuer shall provide evidence of the ratings of the 2021 Bonds by S&P Global Ratings, a division of Standard & Poor’s Financial Services LLC (“**S&P**”), and Moody’s Investors Service (“**Moody’s**”) by [DATE] provided that, if the Issuer fails to provide the ratings by such date, the Issuer shall pay the Purchaser a fee equal to [1.5]% of the principal amount of the 2021 Bonds, calculated on the basis of a 365-day year and payable semiannually on July 15 and January 15, until such required rating or ratings are obtained.⁵

⁵ Use if including a fee for not providing required ratings by a date after the Closing Date.

3. Representations of the Purchaser. By execution and delivery of this Agreement, the Purchaser represents that, as of the date hereof:

(a) the Purchaser has been duly authorized to execute this Agreement;

(b) the payment for, acceptance of, and delivery and execution of any receipt for the 2021 Bonds shall be made solely by the Purchaser, shall be valid and sufficient for all purposes and shall be binding upon the Purchaser; and

(c) this Agreement has been duly authorized, executed and delivered by the Purchaser and, assuming the due authorization, execution and delivery of the same by the Issuer and the County, will constitute a legal, valid and binding obligation of the Purchaser enforceable against the same in accordance with the terms hereof, except to the extent that enforcement may be limited by bankruptcy, insolvency or other laws or equitable principles affecting the enforcement of creditors' rights generally.

4. Closing Conditions. The Purchaser has entered into this Agreement in reliance upon the representations and covenants of the Issuer and the County contained herein, and in reliance upon the representations and covenants to be contained in the documents and instruments to be delivered at the Closing and at the Settlement and upon the performance by each of the Issuer and the County of its obligations on and as of the date hereof, the Closing Date and the Settlement Date. Accordingly, the Purchaser's obligations under this Agreement shall be subject, at the option of the Purchaser, to the accuracy in all material respects of the representations and covenants of the Issuer and the County contained herein as of the date hereof, as of the Closing Date and as of the Settlement Date, to the accuracy in all material respects of the statements of the officers and other officials of the Issuer and the County made in any certificate or other document furnished pursuant to the provisions hereof, and to the performance by the Issuer and the County, as of the Closing Date or the Settlement Date, as applicable, of their obligations to be performed hereunder, and also shall be subject to the following additional conditions:

(a) At the Closing Date, there shall not have occurred any change or any development involving a prospective change in the financial position, results of operations or condition, financial or otherwise, of the Issuer that results in the rating of the Refunded Bonds falling below "BBB-" by S&P or "Baa3" by Moody's⁶.

(b) At or prior to the Closing Date, the Purchaser shall have received copies of each of the following documents:

(i) proof of any filing/publication or approval for the Issuer to issue the 2021 Bonds and the incurrence by the Issuer of the indebtedness evidenced thereby under State or local laws and under the Authorizing Document;

(ii) certified copy of the Resolution, which shall have been duly adopted and be in full force and effect as of the Closing Date and shall not have been amended, modified or supplemented except as may have been agreed to by the Purchaser;

⁶ Confirm with Purchaser whether to use bracketed text.

(iii) (A) a letter of Bond Counsel dated the Closing Date and addressed to the Purchaser, in substantially the form attached hereto as Exhibit C-1 or otherwise acceptable to the Purchaser, relating to an approving opinion of Bond Counsel to be dated the Settlement Date and addressed to the Purchaser (or with a reliance letter addressed to the Purchaser), in substantially the form attached hereto as Exhibit C-1-1 or otherwise acceptable to the Purchaser⁷, and (B) a letter of Bond Counsel dated the Closing Date and addressed to the Purchaser, in substantially the form attached hereto as Exhibit C-2 or otherwise acceptable to the Purchaser, relating to a supplemental opinion of Bond Counsel to be dated the Settlement Date and addressed to the Purchaser, in substantially the form attached hereto as Exhibit C-2-1 or otherwise acceptable to the Purchaser⁸;

(iv) (A) an opinion of counsel to the Issuer dated the Closing Date and addressed to the Purchaser, in substantially the form attached hereto as Exhibit D-1 or otherwise acceptable to the Purchaser and (B) a letter of counsel to the Issuer dated the Closing Date and addressed to the Purchaser, in substantially the form attached hereto as Exhibit D-2 or otherwise acceptable to the Purchaser, relating to an opinion of counsel to the Issuer to be dated the Settlement Date and addressed to the Purchaser, in substantially the form attached hereto as Exhibit D-2-1 or otherwise acceptable to the Purchaser;

(v) a certificate, dated the Closing Date, signed by an authorized officer of the Issuer, to the effect that:

(1) since June 30, 2020, no material and adverse change has occurred in the financial position or results of operation of the Issuer which has not been disclosed on EMMA;

(2) since June 30, 2020, the Issuer has not incurred any material liabilities other than in the ordinary course of business which has not been disclosed on EMMA;

(3) no litigation or proceeding against the Issuer is pending or, to its knowledge, threatened in any court or administrative body nor is there a basis for litigation that would (A) contest the right of the members or officials of the Issuer to hold and exercise their respective positions, (B) contest the due organization and valid existence of the Issuer, (C) contest the validity, due authorization and execution of the 2021 Bonds, this Agreement or the Financing Documents or (D) attempt to limit, enjoin or otherwise restrict or prevent the Issuer from functioning and collecting revenues, including amounts that would be sufficient to pay debt service on the 2021 Bonds when issued pursuant to the Authorizing Document;

(4) the representations made by the Issuer in this Agreement and in the Authorizing Document are true, correct and complete as of the Closing Date, provided that, as to the representations contained in this Agreement, references to “the date hereof” shall be deemed to be the Closing Date; and

⁷ Must address due authorization of and issuance and validity of the Bonds and include the form of tax opinion to be delivered at Settlement.

⁸ Must cover certain matters under federal and, if applicable, State securities laws.

(5) the Issuer has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied hereunder at or prior to the Closing Date; and

(vi) the Continuing Disclosure Agreement, executed and delivered by the respective parties thereto, and copies of such agreement as shall be reasonably requested by the Purchaser;

(vii) a draft of each of the Financing Documents in final form to be executed and delivered at the Settlement;

(viii) a certificate, dated the Closing Date, signed by a duly authorized official of the Trustee, satisfactory in form and substance to the Purchaser, to the effect that (A) the Trustee is a national banking association duly organized and existing under and by virtue of the laws of the United States of America, having the full power and being qualified to enter into and perform its duties under the Financing Documents; and (B) the execution and delivery of the Financing Documents and compliance with the provisions on the Trustee's part contained therein, will not conflict with or constitute a breach of or default under any law, administrative, regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Trustee is a party or is otherwise subject; and

(ix) such additional legal opinions, certificates, instruments and other documents as Bond Counsel, the Purchaser or counsel to the Purchaser may reasonably request.

(c) All steps to be taken and all instruments and other documents to be executed and all other legal matters in connection with the transactions contemplated by this Agreement shall be reasonably satisfactory in legal form and effect to the Purchaser. All of the opinions, letters, certificates, instruments and other documents mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof if, but only if, they are in form and substance acceptable to the Purchaser.

(d) At or prior to the Closing, the Purchaser shall have received payment of a commitment fee of \$[_____] in immediately available funds by check, draft or wire transfer.⁹

5. Settlement Conditions.

(a) The Purchaser's obligations under this Agreement to purchase, to accept delivery of and to pay for the 2021 Bonds at the Settlement shall be conditioned, at the option of the Purchaser, to the accuracy in all material respects of the representations and covenants of the Issuer contained herein as of the Settlement Date as if made on the Settlement Date, to the accuracy in all material respects of the statements of the officers and other officials of the Issuer made in any certificate or other document furnished pursuant to the provisions hereof, to the performance by

⁹ Use if commitment fee is paid at Closing.

the Issuer, as of the Settlement Date, of its obligations to be performed hereunder, and to delivery to the Purchaser of each of the following at or prior to the Settlement Date:

(i) the 2021 Bonds, duly authenticated by the Trustee, with terms that are consistent with Exhibit A hereto and the Authorizing Document;

(ii) proof of any additional filing/publication required on or prior to the Settlement Date for the Issuer to issue the 2021 Bonds and the incurrence by the Issuer of the indebtedness evidenced thereby under State or local laws and under the Authorizing Document;

(iii) certified copy of the Resolution, which shall have been duly adopted and be in full force and effect as of the Settlement Date and shall not have been amended, modified or supplemented except as may have been agreed to by the Purchaser;

(iv) (A) an approving opinion of Bond Counsel dated the Settlement Date and addressed to the Purchaser (or with a reliance letter addressed to the Purchaser), in substantially the form attached hereto as Exhibit C-1-1 or otherwise acceptable to the Purchaser, and (B) a supplemental opinion of Bond Counsel dated the Settlement Date and addressed to the Purchaser, in substantially the form attached hereto as Exhibit C-2-1 or otherwise acceptable to the Purchaser;

(v) an opinion of counsel to the Issuer dated the Settlement Date and addressed to the Purchaser, in substantially the form attached hereto as Exhibit D-2-1 or otherwise acceptable to the Purchaser;

(vi) a certificate, dated the Settlement Date, signed by an authorized officer of the Issuer, to the effect that:

(1) since June 30, 2020, no material and adverse change has occurred in the financial position or results of operation of the Issuer which has not been disclosed on EMMA;

(2) since June 30, 2020, the Issuer has not incurred any material liabilities other than in the ordinary course of business which has not been disclosed on EMMA;

(3) no litigation or proceeding against the Issuer is pending or, to its knowledge, threatened in any court or administrative body nor is there a basis for litigation that would (A) contest the right of the members or officials of the Issuer to hold and exercise their respective positions, (B) contest the due organization and valid existence of the Issuer, (C) contest the validity, due authorization and execution of the 2021 Bonds, this Agreement or the Financing Documents or (D) attempt to limit, enjoin or otherwise restrict or prevent the Issuer from functioning and collecting revenues, including amounts that would be sufficient to pay debt service on the 2021 Bonds when issued pursuant to the Authorizing Document;

(4) the representations made by the Issuer in this Agreement and in the Authorizing Document are true, correct and complete as of the Settlement Date, provided that, as to the representations contained in this Agreement, references to “the date hereof” shall be deemed to be the Settlement Date;

(5) the Issuer has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied hereunder at or prior to the Settlement Date; and

(6) all required notices and actions to be taken to redeem the Refunded Bonds on the Redemption Date have been taken;

(vii) the Authorizing Document, duly executed by the respective parties thereto, in the form approved on the Closing Date, except for any modification approved by the Purchaser;

(viii) the Escrow Agreement, duly executed by the respective parties thereto, in the form approved on the Closing Date, except for any modification approved by the Purchaser;

(ix) a certificate, dated the Settlement Date, signed by a duly authorized official of the Trustee, satisfactory in form and substance to the Purchaser, to the effect that (A) the Trustee is a national banking association duly organized and existing under and by virtue of the laws of the United States of America, having the full power and being qualified to enter into and perform its duties under the Financing Documents; and (B) the execution and delivery of the Financing Documents and compliance with the provisions on the Trustee’s part contained therein, will not conflict with or constitute a breach of or default under any law, administrative, regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Trustee is a party or is otherwise subject;

(xi) a verification report relating to the Refunded Bonds, issued by [Verification Agent], in form satisfactory to the Purchaser and Bond Counsel;

(xii) a tax certificate and agreement in form and substance satisfactory to Bond Counsel;

(xiii) a copy of the completed Form 8038-G of the Internal Revenue Service, executed by the Issuer;

(xiv) evidence of the ratings of the 2021 Bonds by S&P and Moody’s;

(xv) any other certificate or opinion required by the Authorizing Document for the issuance thereunder of the 2021 Bonds; and

(xvi) such additional legal opinions, certificates, proceedings, instruments and other documents as Bond Counsel, the Purchaser or counsel to the Purchaser may reasonably request to evidence compliance by the Issuer with legal requirements, the truth,

correctness and completeness, as of the Settlement Date, of the representations contained herein and the due performance or satisfaction by the Issuer at or prior to the Settlement Date of all agreements then to be performed and all conditions then to be satisfied.

(b) Notwithstanding anything herein to the contrary, if a Termination Funding Event pursuant to Section 6(a)(vii) or a Termination Event pursuant to Section 6(b)(i) or Section 6(b)(iv) occurs, the 2021 Bonds, at the option of the Purchaser, shall be delivered by the Issuer and the County and purchased by the Purchaser in accordance with the terms hereof for taxable 2021 Bonds set forth in Exhibit A and all requirements herein with respect to the exclusion from gross income of the interest on the 2021 Bonds for federal and State income tax purposes shall be of no further effect.¹⁰

(c) All of the opinions, letters, certificates, instruments and other documents mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof if, but only if, they are in form and substance set forth herein or otherwise acceptable to the Purchaser.

6. Termination Funding Events and Termination Events.

(a) The Purchaser shall have the right to terminate its obligation to purchase the 2021 Bonds without liability therefor by written notification to the Issuer if at any time between the Sale Date and the Settlement Date (the following events being referred to herein as “**Termination Funding Events**”):

(i) an event constituting or which, but for the passage of time, would constitute an event of default pursuant to any outstanding debt instruments or hedge agreements of the Issuer shall have occurred and be continuing on the Settlement Date, unless the Purchaser shall have agreed in writing that the same shall not constitute a Termination Funding Event;

(ii) the Issuer shall, in writing, deny or repudiate its obligations under or initiate any legal proceedings to seek an adjudication that any of the provisions of this Agreement or any Financing Document are not valid or binding on the Issuer;

(iii) the Issuer: (A) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (B) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (C) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (D) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (1) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding up or liquidation or (2) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; (E) has a resolution passed for its winding up, official management

¹⁰ Use if including a pricing adjustment for taxable bonds, which is not standard.

or liquidation (other than pursuant to a consolidation, amalgamation or merger); (F)(1) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets or (2)(y) there shall be appointed or designated with respect to it, an entity such as an organization, board, commission, authority, agency or body to monitor, review, oversee, recommend or declare a financial emergency or similar state of financial distress with respect to it or (z) there shall be declared or introduced or proposed for consideration by it or by any executive, legislative or regulatory body with competent jurisdiction over it, the existence of a state of financial emergency or similar state of financial distress in respect of it; (G) has a secured party take possession of all or substantially all of its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; (H) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (A) to (G) (inclusive); or (I) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in any of the foregoing acts;

(iv) any representation made by the Issuer in this Agreement or in a certificate or other document delivered to the Purchaser in connection with this Agreement concerning the Issuer's authority to issue the 2021 Bonds, the Issuer's authority to collect revenues in amounts sufficient to pay debt service on the 2021 Bonds, or the exclusion from gross income of the interest on the 2021 Bonds for federal and State income tax purposes shall have been discovered to be inaccurate or incomplete in any material respect when made or deemed to have been made;

(v) (A) any rating of the Refunded Bonds falls below "BBB-" by S&P, below "Baa3" or by Moody's or (B) any rating of the Refunded Bonds previously issued by S&P, or Moody's is placed on credit watch, which in the Purchaser's reasonable discretion may be indicative of such rating falling below "BBB-" by S&P, or below "Baa3" by Moody's, or has been withdrawn;

(vi) (A) on or before the Settlement Date, the Issuer shall notify the Purchaser in writing, which notice shall be irrevocable, that the Issuer has determined that the 2021 Bonds shall not be issued or (B) the 2021 Bonds are not issued on the Settlement Date in the form and on the terms contemplated herein for reasons other than those described in Section 6(b) hereof;

(vii) on or before the Settlement Date, the Issuer takes any action or omits to take any action that would make it impossible for Bond Counsel to deliver the opinions required by Section 5(a)(iv) hereof;

(viii) the Issuer consolidates or amalgamates with or merges with or into or transfers all or substantially all its assets to another entity (or, without limiting the foregoing, an entity such as an organization, board, commission, authority, agency, or body succeeds to the principal functions of or powers and duties granted to the Issuer) and, at

the time of such consolidation, amalgamation, merger, transfer or succession, (A) the resulting, surviving, transferee, or successor entity fails to assume all the obligations of the Issuer under this Agreement by operation of law or pursuant to an agreement reasonably satisfactory to the Purchaser or (B) in the reasonable judgment of the Purchaser, the creditworthiness of the resulting, surviving transferee or successor entity is materially weaker than that of the Issuer immediately prior to such action; or

(ix) on or before the Settlement Date, the Issuer shall not have satisfied the conditions of the obligation of the Purchaser to purchase the 2021 Bonds as set forth in Section 5 hereof for reasons other than those described in Section 6(b) hereof.

(b) The Purchaser shall have the right to terminate its obligation to purchase the 2021 Bonds if, between the Sale Date and the Settlement Date, any one of the following events shall have occurred (such events being referred to herein as “**Termination Events**”):

(i) legislation shall be enacted by or introduced in the Congress of the United States or recommended to the Congress for passage by the President of the United States, or the Treasury Department of the United States or the Internal Revenue Service or any member of the Congress or the State legislature or favorably reported for passage to either House of the Congress by any committee of such House to which such legislation has been referred for consideration, a decision by a court of the United States or of the State or the United States Tax Court shall be rendered, or an order, ruling, regulation (final, temporary or proposed), press release, statement or other form of notice by or on behalf of the Treasury Department of the United States, the Internal Revenue Service or other governmental agency shall be made or proposed, the effect of any or all of which would be to impose, directly or indirectly, federal or State income taxation upon interest received on obligations of the general character of the 2021 Bonds, or other action or events shall have transpired which may have the purpose or effect, directly or indirectly, of changing the federal or State income tax consequences of any of the transactions contemplated herein;

(ii) legislation introduced in or enacted (or resolution passed) by the Congress or an order, decree, or injunction issued by any court of competent jurisdiction, or an order, ruling, regulation (final, temporary, or proposed), press release or other form of notice issued or made by or on behalf of the Securities and Exchange Commission (the “**SEC**”), or any other governmental agency having jurisdiction of the subject matter, to the effect that obligations of the general character of the 2021 Bonds, including any or all underlying arrangements, are not exempt from registration under or other requirements of the Securities Act of 1933, or that the Authorizing Document is not exempt from qualification under or other requirements of the Trust Indenture Act of 1939, or that the issuance, offering, purchase or sale of obligations of the general character of the 2021 Bonds, including any or all underlying arrangements, as contemplated hereby or otherwise, is or would be in violation of the federal securities law as amended and then in effect;

(iii) the issuance of, the purchase of or the payment for the 2021 Bonds by the Purchaser, on the terms and conditions herein provided shall be prohibited by any applicable law, governmental authority, board, agency or commission;

(iv) any amendment to the federal or State constitution or action by any federal or State court, legislative body, regulatory body, or other authority materially adversely affecting the tax status of the Issuer, its property, or income;

(v) (A) the United States shall have become engaged in hostilities which have resulted in a declaration of war or a national emergency, or (B) there shall have occurred any other outbreak or escalation of hostilities or a national or international calamity or crisis, financial or otherwise, which, in the reasonable judgment of the Purchaser, materially impacts the value of the 2021 Bonds; provided that, for purposes of subsection (A) of this paragraph, the declaration on March 13, 2020 of the national emergency relating to COVID-19 and related measures shall not be considered;

(vi) the New York Stock Exchange or other national securities exchange or any governmental authority, shall impose, as to the 2021 Bonds or as to obligations of the general character of the 2021 Bonds, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the change to the net capital requirements of, the Purchaser;

(vii) trading in the Issuer's outstanding securities shall have been suspended or a general suspension of trading in securities generally on any national securities exchange, the establishment of minimum prices on any such exchange, the establishment of material restrictions upon trading securities generally by any governmental authority or any national securities exchange, or a general banking moratorium shall have been declared by federal, State of New York, or other officials authorized to do so;

(viii) a material disruption in securities settlement, payment or clearance services shall have occurred; and

(ix) any new restriction on transactions in securities having a materially adverse effect on the market for securities (including the imposition of any limitation on interest rates) or the extension of credit by, or a change to the net capital requirements of, the Purchaser shall have been established by any federal or State agency or the Congress of the United States, or by Executive Order.

(c) If at any time between the Sale Date and the Settlement Date a Termination Funding Event occurs, the Purchaser may terminate this Agreement, in which case:

(i) the Purchaser shall have no further obligation hereunder;

(ii) the Issuer will pay the fees and expenses of counsel, including reasonable fees and expenses of counsel to the Purchaser and Bond Counsel, and other fees and expenses incurred by the Purchaser in connection with the execution of this Agreement and the transactions contemplated hereunder, including the preparation of the 2021 Bonds and their issuance and sale and all related costs incurred by the Purchaser prior to the termination date (the "**Termination Expenses**");

(iii) the Issuer will pay the Purchaser, on demand, a "**Make-Whole Termination Payment**" (collectively with the Termination Expenses, the "**Termination**

Payments”) that will equal the difference, if positive, between (A) the sum of the present values of the principal and interest to have been paid on such 2021 Bonds, from and including the Settlement Date to the earlier of the stated maturity date(s) and the Redemption Date of the 2021 Bonds on a semiannual basis, to the Settlement Date at a discount rate equal to the Applicable Tax-Exempt Municipal Bond Rate (defined below) plus [_____] % and (B) the Purchase Price of the 2021 Bonds.

“Applicable Tax-Exempt Municipal Bond Rate” means, the “Comparable AAA General Obligations” yield curve rate for the stated maturity dates of such 2021 Bonds to be redeemed as published by Municipal Market Data (“MMD”) one Business Day after the date of the Termination Funding Event. If no such yield curve rate is established for stated maturity dates, the “Comparable AAA General Obligations” yield curve rate for the two published maturities most corresponding to the applicable stated maturity date will be determined, and the “Applicable Tax-Exempt Municipal Bond Rate” will be interpolated or extrapolated from those yield curve rates on a straight-line basis. This rate is made available daily by Municipal Market Data and is available to its subscribers through its internet address: www.tm3.com.

In calculating the Applicable Tax-Exempt Municipal Bond Rate, should MMD no longer publish the “Comparable AAA General Obligations” yield curve rate, then the Applicable Tax-Exempt Municipal Bond Rate will equal the Consensus Scale yield curve rate for the applicable year. The Consensus Scale yield curve rate is made available daily by Municipal Market Advisors and is available to its subscribers through its internet address: www.mma-research.com.

In the further event Municipal Market Advisors no longer publishes the Consensus Scale, the Applicable Tax-Exempt Municipal Bond Rate will be determined by the Purchaser based upon the rate per annum equal to the semiannual equivalent yield to maturity of those tax-exempt general obligation bonds if rated in the highest rating category by S&P and Moody’s, with maturity dates equal to the stated maturity dates of the 2021 Bonds, having characteristics (other than the ratings) most comparable to the 2021 Bonds, in the reasonable judgment of the Purchaser. The Purchaser’s determination of the Applicable Tax-Exempt Municipal Bond Rate is final and binding in the absence of manifest error.

The Termination Payments shall be payable on day that notice of the amount payable is received by the Issuer or on such other date as the Issuer and the Purchaser mutually agree upon¹¹. If the Termination Payments are not paid when due, the amount of such payments shall bear interest payable on demand at the default rate equal to the lesser of (i) 15% and (ii) the maximum interest rate allowed by law. After payment in full of the Termination Payments, the Issuer shall have no further obligation hereunder.

¹¹ Confirm with Purchaser whether to use bracketed text.

(d) The parties agree that the Termination Payments are a reasonable pre-estimate of loss and not a penalty. Such amount is payable for the loss of bargain and the loss of protection against future risks.

(e) If a Termination Event occurs and the Purchaser terminates this Agreement, none of the Issuer, the County or the Purchaser shall be under any further obligation hereunder, except that the Issuer shall be obligated to reimburse the Purchaser for all out-of-pocket expenses (including, to the extent applicable, those set forth in Section 7 below) reasonably incurred by the Purchaser in connection with this Agreement or the purchase contemplated hereunder.

7. Expenses. The Issuer shall pay, and the Purchaser shall be under no obligation to pay, any expenses incident to the performance of the Issuer's obligations hereunder, including, but not limited to (i) the cost of preparation and printing of the 2021 Bonds, (ii) the costs of preparing and printing all documents relating to the issuance of the 2021 Bonds and related costs of redeeming the Refunded Bonds, (iii) the fees and disbursements of Bond Counsel, counsel to the Issuer, and counsel to the Purchaser¹², (iv) the fees and disbursements of the financial advisors to the Issuer, (v) the fees and disbursements of the Trustee and any other engineers, accountants, and other experts, consultants or advisers retained by the Issuer, and (vi) the fees for ratings of the 2021 Bonds; provided that the Purchaser shall pay any CUSIP Service Bureau fees. The Issuer shall pay for expenses incurred on behalf of the Issuer's employees, directors or agents, which expenses are incidental to this Agreement including but not limited to meals and lodging of such persons or entities. The Purchaser shall pay the fees and disbursements of counsel to the Purchaser.¹³

8. Failure of Purchaser to Perform. In the event that the Issuer has satisfied the conditions set forth in Section 5 of this Agreement but the Purchaser fails to purchase the 2021 Bonds on the Settlement Date as contemplated hereunder, so long as no Termination Funding Event or Termination Event shall have occurred, the Purchaser shall pay to the Issuer, on demand, a fixed payment equal to \$[PV Savings], together with reasonable fees and expenses, including without limitation reasonable fees and expenses of counsel to the Issuer, counsel to the Purchaser¹⁶ and Bond Counsel, incurred by the Issuer in connection with the execution of this Agreement and the transactions contemplated hereunder, including the preparation of the 2021 Bonds and their issuance and sale and all related costs incurred by the Issuer in connection with the issuance and sale of the 2021 Bonds.

9. Indemnification. The Issuer and the County agree to indemnify the Purchaser against any losses, claims, damages, expenses or liabilities, incurred or threatened, arising out of any untrue statement of a material fact in any of the information supplied to the Purchaser, including attorneys' fees and other expenses of defending or investigating the same. The Issuer and County will, on demand, indemnify and hold harmless the Purchaser for and against all reasonable out-of-pocket expenses, including legal fees, incurred by the Purchaser by reason of the enforcement and protection of its rights under this Agreement or by reason of the early termination of this Agreement, including, but not limited to, costs of collection.

¹² Use if Issuer is paying Purchaser's Counsel fees, which is standard.

¹³ Use if Purchaser is paying Purchaser's Counsel fees, which should be approved by the Purchaser.

10. Establishment of Issue Price. The Purchaser agrees to execute and deliver to the Issuer and the County upon execution of this Agreement an issue price certificate, substantially in the form of Exhibit E attached hereto.

11. Notices. Any notice or other communication to be given to the Issuer and the County under this Agreement may be given by mailing a copy of such notice, first-class postage prepaid, or by electronic mail to the attention of:

San Mateo County Joint Powers Financing Authority
c/o County Manager's Office
Hall of Justice and Records
County Government Center
400 County Center
Redwood City, California 94603
Attention: Assistant County Manager

County of San Mateo
c/o County Manager's Office
Hall of Justice and Records
County Government Center
400 County Center
Redwood City, California 94603
Attention: Assistant County Manager

and any notice or other communication to be given to the Purchaser under this Agreement may be given by mailing a copy of such notice, first-class postage prepaid, or by electronic mail to the same in writing to:

Morgan Stanley & Co. LLC
1585 Broadway, 2nd Floor
New York, NY 10036
Attention: Anthony Luongo
Phone: (212) 761-1569
Email: anthony.luongo@morganstanley.com

12. Entire Agreement. This Agreement constitutes the entire agreement between the Purchaser, the County and the Issuer, superseding all prior agreements between such parties, and is made solely for the benefit of the Issuer, the County and the Purchaser (including its successors). No other person shall acquire or have any right hereunder or by virtue hereof.

13. Amendments. With the exception of any waiver executed pursuant to Section 23 hereof, this Agreement shall not be amended, nor shall any provision hereof be waived by any party hereto, without the prior written consent of the Issuer, the County and the Purchaser.

14. Assignment. The rights and obligations of the Issuer and the Purchaser hereunder may not be assigned.

15. Effectiveness. This Agreement shall become effective upon the execution and acceptance hereof by a duly authorized officer of the Issuer and shall be valid and enforceable at the time of such acceptance.

16. Choice of Law.

(a) This Agreement shall be governed by and construed in accordance with the law of the State.

(b) With respect to any suit, action or proceedings relating to this Agreement (“**Proceedings**”), each party irrevocably:

(i) submits to the non-exclusive jurisdiction of the courts of the State of California; and

(ii) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over such party.

Nothing in this Agreement precludes either party from bringing Proceedings in any other jurisdiction nor will the bringing of Proceedings in any one or more jurisdictions preclude the bringing of Proceedings in any other jurisdiction.

(c) Each party irrevocably waives, to the fullest extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment), and (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any such immunity in any Proceedings.

17. Severability. If any provision of this Agreement shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all jurisdictions because it conflicts with any provisions of any constitution, statute, rule of public policy, or any other reason, such circumstances shall not have the effect of rendering the provision in question invalid, inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions of this Agreement invalid, inoperative or unenforceable to any extent whatever.

18. Business Day. For purposes of this Agreement, “Business Day” means any day on which the New York Stock Exchange is open for trading.

19. Section Headings. Section headings have been inserted in this Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Agreement and will not be used in the interpretation of any provisions of this Agreement.

20. No Personal Recourse Against Issuer Officials. No personal recourse shall be had for any claim based on this Agreement or the 2021 Bonds against any member of the governing body of the Issuer or the County or officer or employee, past, present or future, of the Issuer or the County, or any successor body as such, either directly or through the Issuer or the County or any such successor body, under any constitutional provision, statute, or rule of law or by the enforcement of any assessment or penalty or otherwise.

21. Remedies Cumulative. Except as provided in this Agreement, the rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law.

22. No Waiver of Rights. A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise of that right, power or privilege or the exercise of any other right, power or privilege.

23. Waiver of Obligations. The Purchaser shall have the right to waive all or any part of any one or more of the terms and conditions specified herein. Any such waiver must be in writing and delivered by the Purchaser to the Issuer and the County prior to the earlier of the Settlement Date or the date by which such term or condition otherwise would be required to be satisfied or complied with. No such waiver of any particular part of or the entirety of any particular one or more of such terms and conditions of the Issuer or the County shall serve to waive any other term or condition hereof or part thereof, but only the term or terms, condition or conditions or part or parts thereof specifically waived in such waiver, nor shall acceptance of delivery of the 2021 Bonds and payment therefor by the Purchaser serve as such waiver, provided the foregoing shall not be construed under any circumstances so as to negate or undo any transaction after the Settlement Date.

24. Relationship between Parties.

(a) Each of the Issuer and the County acknowledges and agrees that:

(i) the purchase and sale of the 2021 Bonds pursuant to this Agreement is an arm's-length commercial transaction among the Issuer, the County and the Purchaser and the Purchaser is not purchasing the 2021 Bonds as part of an underwriting;

(ii) in connection therewith and with the discussions, undertakings, and procedures leading up to the consummation of this transaction, the Purchaser is and has been acting solely as a principal and is not acting as the agent or fiduciary of the Issuer or the County;

(iii) the Purchaser is not serving as an underwriter and has not assumed an advisory or fiduciary responsibility to the Issuer or the County with respect to this Agreement, the sale contemplated hereby or the discussions, undertakings, and procedures leading thereto (regardless of whether the Purchaser has provided other services or is currently providing other services to the Issuer or the County on other matters), and the Purchaser has no obligation to the Issuer or the County with respect to the sale contemplated hereby except the obligations expressly set forth in this Agreement;

(iv) the only contractual obligations the Purchaser has to the Issuer and the County with respect to the transactions contemplated in this Agreement are those set forth in this Agreement;

(v) the Purchaser has financial and other interests that differ from those of the Issuer and the County; and

(vi) the Issuer and the County have consulted their own legal, accounting, tax, financial, and other advisors to the extent they has deemed appropriate in connection with their undertakings set forth in this Agreement.

(b) Each party represents to the other party that:

(i) It is acting for its own account, and it has made its own independent decisions to enter into this Agreement and as to whether this Agreement is appropriate or proper for it, based upon its own judgment and upon advice from such advisors as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into this Agreement, and it understands that information and explanations related to the terms and conditions of this Agreement shall not be considered investment advice or a recommendation to enter into this Agreement. It has not received from the other party any assurance or guarantee as to the expected results of this Agreement.

(ii) It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), understands and accepts the terms, conditions and risks of this Agreement. It is also capable of assuming and assumes the risks of this Agreement.

25. Counterparts. This Agreement may be executed in several counterparts each of which shall be regarded as an original (with the same effect as if the signatures thereto and hereto were upon the same document) and all of which shall constitute one and the same document.

(Remainder of Page Intentionally Left Blank)

If you agree with the foregoing, please sign the enclosed counterpart of this Agreement and return it to the Purchaser. This Agreement shall become a binding agreement between you and the Purchaser when the counterpart of this Agreement shall have been signed by or on behalf of each of the parties hereto on the first date set forth above.

Respectfully submitted,

MORGAN STANLEY & CO. LLC

By: _____

Name: _____

Title: _____

ACCEPTED:

SAN MATEO COUNTY JOINT POWERS
FINANCING AUTHORITY

By: _____

Name: _____

Title: _____

COUNTY OF SAN MATEO

By: _____

Name: _____

Title: _____

[Forward Delivery Bond Purchase Agreement]

Exhibit A

Terms of the 2021 Bonds

- A. Dated: Settlement Date
- B. Interest on which is excludable from gross income to the beneficial owners thereof under the Code and under the laws of the State.
- C. Maturity dates, principal amounts and interest rates per annum payable on the 2021 Bonds are more particularly set forth below:

Maturity Date (July 15)	Principal Amount	Interest Rate
----------------------------	------------------	---------------

In the event that the Issuer fails to provide the rating or ratings required pursuant to Section [2(y)]¹⁴ [5(a)(xiv)]¹⁵ of the Agreement, and the Purchaser, in its sole discretion, determines not to exercise its right to terminate its obligation to purchase the 2021 Bonds, the Issuer shall pay the Purchaser a fee equal to 1.5% of the principal amount of the 2021 Bonds, calculated on the basis of a 365-day year and payable on each date on which interest on the 2021 Bonds shall be payable, until such required rating or ratings are obtained. Such fee shall be consideration for the Issuer's failure to comply with the conditions set forth in Section [2(y)]¹⁷ [5(a)(xiv)]¹⁸ and shall not be additional interest on the 2021 Bonds.

- D. *[Optional redemption provisions to be added.]*
- E. *[Mandatory redemption provisions to be added.]*

¹⁴ Use if including a fee for not providing required ratings by a date after the Closing Date per 2(y).

¹⁵ Use if requiring ratings by Settlement or a date after the Settlement.

F. The 2021 Bonds shall be in denominations of \$[100,000] and any integral multiple of \$5,000 in excess thereof.

G. Discount Spread for Make-Whole Termination Payments

<u>Date</u>	<u>Discount Spread</u>
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Refunded Bonds

Lease Revenue Bonds (Capital Projects),
2014 Series A (Maple Street Correctional Center)

Maturity Date (June 15)	Principal Amount to be Redeemed	Interest Rate	CUSIP Number (79904N)
2025	\$8,570,000	5.000%	EC0
2026	8,205,000	5.000	ED8
2027	7,795,000	5.000	EE6
2028	7,345,000	5.000	EF3
2029	1,170,000	4.000	ER7
2029	5,675,000	5.000	EG1
2030	6,280,000	5.000	EH9
2031	5,675,000	5.000	EJ5
2035 [†]	15,145,000	4.000	ET3
2037 [†]	2,025,000	4.000	ES5

[†] Term Bonds

Exhibit B

Form of Continuing Disclosure Agreement to be Delivered at Closing

[to be attached]

Exhibit C-1

Form of Letter of Bond Counsel to be Delivered at Closing

[to be attached]

Exhibit C-1-1

Proposed Form of Bond Counsel Opinion to be Delivered at Settlement

[to be attached]

Exhibit C-2

Form of Letter of Bond Counsel to be Delivered at Closing

[Closing Date]

San Mateo County Joint Powers Financing Authority
400 County Center, 1st Floor
Redwood City, California 94063

Morgan Stanley & Co. LLC
1585 Broadway, 2nd Floor
New York, New York 10036

[\$A-1 Par]

San Mateo County Joint Powers Financing Authority
Lease Revenue Bonds (Refunding and Capital Projects), 2021 Series A-1

and

[\$A-2 Par]

San Mateo County Joint Powers Financing Authority
Lease Revenue Bonds (Refunding and Capital Projects), 2021 Series A-2 [(Federally Taxable)]

Ladies and Gentlemen:

We have furnished you with the attached form of our proposed supplemental opinion as bond counsel with respect to \$[A-1 Par] aggregate principal amount of San Mateo County Joint Powers Financing Authority Lease Revenue Bonds (Refunding and Capital Projects), 2021 Series A-1 and \$[A-2 Par] aggregate principal amount of San Mateo County Joint Powers Financing Authority Lease Revenue Bonds (Refunding and Capital Projects), 2021 Series A-2 [(Federally Taxable)] (the “2021 Bonds”). Under the law existing on the date hereof, if the 2021 Bonds are properly executed and authenticated and if they are issued and delivered on the Settlement Date, as contemplated in the Forward Delivery Bond Purchase Agreement, dated [Sale Date], among the San Mateo County Joint Powers Financing Authority (the “Issuer”), the County of San Mateo, California, and Morgan Stanley & Co. LLC, with respect to the 2021 Bonds, we will be able to render the attached opinion.

Respectfully yours,

Exhibit C-2-1

Proposed Form of Supplemental Opinion to be Delivered at Settlement

[to be attached]

Exhibit D-1

Form of Opinion of Issuer Counsel to be Delivered at Closing

[Closing Date]

Morgan Stanley & Co. LLC
1585 Broadway, 2nd Floor
New York, New York 10036

§[A-1 Par]
San Mateo County Joint Powers Financing Authority
Lease Revenue Bonds (Refunding and Capital Projects), 2021 Series A-1

and

§[A-2 Par]
San Mateo County Joint Powers Financing Authority
Lease Revenue Bonds (Refunding and Capital Projects), 2021 Series A-2 [(Federally Taxable)]

Ladies and Gentlemen:

I have acted as counsel to the San Mateo County Joint Powers Financing Authority (the “Issuer”) in connection with the Forward Delivery Bond Purchase Agreement, dated [Sale Date] (the “Agreement”), among the Issuer, the County of San Mateo, California (the “County”), and Morgan Stanley & Co. LLC (the “Purchaser”), with respect to the above-captioned bonds (the “2021 Bonds”). Pursuant to the Agreement, the Issuer authorized the issuance of the 2021 Bonds on May 26, 2021, and will be obligated to issue and deliver the 2021 Bonds to the Purchaser on the Settlement Date specified in the Agreement. At such time, the proceeds of the 2021 Bonds will be applied to the current refunding of §[Refunded Par] aggregate principal amount of the Issuer’s then-outstanding Lease Revenue Bonds (Capital Projects), 2014 Series A (Maple Street Correctional Center) (the “Refunded Bonds”). All capitalized terms not otherwise defined shall have the meaning given them in the Agreement.

In connection with the delivery of this opinion, I have examined the Agreement and the resolution (the “Resolution”) approving, among other things, the issuance and delivery of the 2021 Bonds and the execution of the Agreement, the First Supplemental Trust Agreement, dated as of June 1, 2021, between the Issuer and U.S. Bank National Association, as trustee (the “Authorizing Document”), the First Amendment to Site Lease, dated as of June 1, 2021, between the Issuer and the County (the “Site Lease”), the First Amendment to Facility Lease, dated as of June 1, 2021, between the Issuer and the County (the “Facility Lease”), the Continuing Disclosure Agreement dated as of the date hereof (the “Continuing Disclosure Agreement”), and the Escrow Agreement, dated as of June 1, 2021 (the “Escrow Agreement” and, together with the Resolution, the Authorizing Document, the Site Lease, the Facility Lease and the Continuing Disclosure Agreement, the “Financing Documents”) and such other documents and information as I have deemed necessary or appropriate for purposes of the opinions set forth herein.

On the basis of the foregoing I am of the opinion that:

1. The Issuer is a joint exercise of powers agency established pursuant to the laws of the State of California.

2. The Resolution has been duly adopted, is in full force and effect and has not been modified or rescinded since its adoption. The Issuer has duly authorized, executed and delivered the Agreement and the Continuing Disclosure Agreement, and the Agreement and the Continuing Disclosure Agreements are valid, binding and enforceable obligations of the Issuer. The Issuer has duly authorized the Authorizing Document and the Escrow Agreement, and, upon execution and delivery of the Authorizing Document and the Escrow Agreement on the Settlement Date, the Authorizing Document and the Escrow Agreement will constitute valid, binding and enforceable obligations of the Issuer.

3. There is no action, suit, claim, proceeding, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, governmental or public board or body, pending or, to my knowledge, threatened against, or, in any way affecting the Issuer, or any of its property, or the titles of its officers to their respective offices, or seeking to restrain or to enjoin the issuance, sale or delivery of the 2021 Bonds, the application of the proceeds thereof in accordance with the Resolution and the Authorizing Document, the collection or application of the amounts to pay the principal of and interest on the 2021 Bonds, or in any way contesting or affecting the validity or enforceability of the Agreement, the Financing Documents, or the 2021 Bonds or any action of the Issuer contemplated by the Agreement, the Financing Documents, or the 2021 Bonds, or the Issuer's authority with respect to the Agreement, the Financing Documents, or the 2021 Bonds.

4. The adoption of the Resolution, the execution and delivery by the Issuer of the Agreement and, on the Settlement Date, the Financing Documents and the performance by the Issuer of its obligations thereunder do not and will not conflict with, violate, constitute or result in a breach of or default under the Act or any agreement or other instrument to which the Issuer is a party, or any court order or consent decree to which the Issuer is subject.

5. All authorizations, consents and approvals of governmental bodies or regulatory authorities required for the Issuer's execution or performance of the Agreement have been obtained or effected. The Issuer has complied with all applicable laws required to consummate the transactions contemplated by the Agreement, and no further action on the part of the Issuer is required to be taken to effect the issuance and delivery of the 2021 Bonds to the Purchaser on the Settlement Date.

6. The Issuer has not committed any act or omitted to take any action which would constitute a default under the terms of the Resolution or the Authorizing Document.

7. The Issuer is not entitled to claim immunity on the grounds of sovereignty or other similar grounds with respect to itself or its revenues or assets (irrespective of their use or intended use) from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment), or (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be made subject to in any suit, action or proceedings relating to this Agreement

in the courts of any jurisdiction and no such immunity (whether or not claimed) may be attributed to such party or its revenues or assets.

This opinion is being rendered to you solely for your benefit and may not be relied on by anyone else other than your successors without my prior written consent.

Very truly yours,

Exhibit D-2

Form of Letter of Issuer Counsel to be Delivered at Closing

[Closing Date]

Morgan Stanley & Co. LLC
1585 Broadway, 2nd Floor
New York, New York 10036

[\$A-1 Par]
San Mateo County Joint Powers Financing Authority
Lease Revenue Bonds (Refunding and Capital Projects), 2021 Series A-1

and

[\$A-2 Par]
San Mateo County Joint Powers Financing Authority
Lease Revenue Bonds (Refunding and Capital Projects), 2021 Series A-2 [(Federally Taxable)]

Ladies and Gentlemen:

We have furnished you with the attached form of our proposed opinion as counsel to San Mateo County Joint Powers Financing Authority (the “Issuer”) with respect to \$[A-1 Par] aggregate principal amount of San Mateo County Joint Powers Financing Authority Lease Revenue Bonds (Refunding and Capital Projects), 2021 Series A-1 and \$[A-2 Par] aggregate principal amount of San Mateo County Joint Powers Financing Authority Lease Revenue Bonds (Refunding and Capital Projects), 2021 Series A-2 [(Federally Taxable)] (the “2021 Bonds”). Under the law existing on the date hereof, if the 2021 Bonds are properly executed and authenticated and if they are issued and delivered on the Settlement Date, as contemplated in the Forward Delivery Bond Purchase Agreement, dated [Sale Date], among the Issuer, the County of San Mateo, California, and Morgan Stanley & Co. LLC, with respect to the 2021 Bonds, we will be able to render the attached opinion.

Very truly yours,

Exhibit D-2-1

Proposed Form of Opinion of Issuer Counsel to be Delivered at Settlement

[Settlement Date]

Morgan Stanley & Co. LLC
1585 Broadway, 2nd Floor
New York, New York 10036

[\$A-1 Par]
San Mateo County Joint Powers Financing Authority
Lease Revenue Bonds (Refunding and Capital Projects), 2021 Series A-1

and

[\$A-2 Par]
San Mateo County Joint Powers Financing Authority
Lease Revenue Bonds (Refunding and Capital Projects), 2021 Series A-2 [(Federally Taxable)]

Ladies and Gentlemen:

I have acted as counsel to the San Mateo County Joint Powers Financing Authority (the “Issuer”) in connection with the Forward Delivery Bond Purchase Agreement, dated [Sale Date] (the “Agreement”), among the Issuer, the County of San Mateo, California (the “County”), and Morgan Stanley & Co. LLC (the “Purchaser”), with respect to the above-captioned bonds (the “2021 Bonds”). Pursuant to the Agreement, the Issuer authorized the issuance of the 2021 Bonds on May 26, 2021, and will be obligated to issue and deliver the 2021 Bonds to the Purchaser on the Settlement Date specified in the Agreement. At such time, the proceeds of the 2021 Bonds will be applied to the current refunding of \$[Refunded Par] aggregate principal amount of the Issuer’s then-outstanding Lease Revenue Bonds (Capital Projects), 2014 Series A (Maple Street Correctional Center) (the “Refunded Bonds”). All capitalized terms not otherwise defined shall have the meaning given them in the Agreement.

In connection with the delivery of this opinion, I have examined the Agreement and the resolution (the “Resolution”) approving, among other things, the issuance and delivery of the 2021 Bonds and the execution of the Agreement, the First Supplemental Trust Agreement, dated as of June 1, 2021, between the Issuer and U.S. Bank National Association, as trustee (the “Authorizing Document”), the First Amendment to Site Lease, dated as of June 1, 2021, between the Issuer and the County (the “Site Lease”), the First Amendment to Facility Lease, dated as of June 1, 2021, between the Issuer and the County (the “Facility Lease”), the Continuing Disclosure Agreement dated as of the date hereof (the “Continuing Disclosure Agreement”), and the Escrow Agreement, dated as of June 1, 2021 (the “Escrow Agreement” and, together with the Resolution, the Authorizing Document, the Site Lease, the Facility Lease and the Continuing Disclosure

Agreement, the “Financing Documents”) and such other documents and information as I have deemed necessary or appropriate for purposes of the opinions set forth herein.

On the basis of the foregoing I am of the opinion that:

1. The Issuer is a joint exercise of powers agency established pursuant to the laws of the State of California.

2. The Resolution has been duly adopted, is in full force and effect and has not been modified or rescinded since its adoption. The Issuer has duly authorized, executed and delivered the Agreement, and the Agreement is a valid, binding and enforceable obligation of the Issuer. The Issuer has duly authorized, executed and delivered the Financing Documents, and the Financing Documents constitute valid, binding and enforceable obligations of the Issuer.

3. There is no action, suit, claim, proceeding, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, governmental or public board or body, pending or, to my knowledge, threatened against, or, in any way affecting the Issuer, or any of its property, or the titles of its officers to their respective offices, or seeking to restrain or to enjoin the issuance, sale or delivery of the 2021 Bonds, the application of the proceeds thereof in accordance with the Resolution and the Authorizing Document, the collection or application of the amounts to pay the principal of and interest on the 2021 Bonds, or in any way contesting or affecting the validity or enforceability of the Agreement, the Financing Documents, or the 2021 Bonds or any action of the Issuer contemplated by the Agreement, the Financing Documents, or the 2021 Bonds, or the Issuer’s authority with respect to the Agreement, the Financing Documents, or the 2021 Bonds.

4. The adoption of the Resolution, the execution and delivery by the Issuer of the Agreement and, on the Settlement Date, the Financing Documents and the performance by the Issuer of its obligations thereunder do not and will not conflict with, violate, constitute or result in a breach of or default under the Act or any agreement or other instrument to which the Issuer is a party, or any court order or consent decree to which the Issuer is subject.

5. All authorizations, consents and approvals of governmental bodies or regulatory authorities required for the Issuer’s execution or performance of the Agreement have been obtained or effected. The Issuer has complied with all applicable laws required to consummate the transactions contemplated by the Agreement, and no further action on the part of the Issuer is required to be taken to effect the issuance and delivery of the 2021 Bonds to the Purchaser on the Settlement Date.

6. The Issuer has not committed any act or omitted to take any action which would constitute a default under the terms of the Resolution or the Authorizing Document.

7. The Issuer is not entitled to claim immunity on the grounds of sovereignty or other similar grounds with respect to itself or its revenues or assets (irrespective of their use or intended use) from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment), or (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be made subject to in any suit, action or proceedings relating to this Agreement

in the courts of any jurisdiction and no such immunity (whether or not claimed) may be attributed to such party or its revenues or assets.

This opinion is being rendered to you solely for your benefit and may not be relied on by anyone else other than your successors without my prior written consent.

Very truly yours,

Exhibit E

Form of Purchaser Certificate

 \$[A-1 Par]
 San Mateo County Joint Powers Financing Authority
Lease Revenue Bonds (Refunding and Capital Projects), 2021 Series A-1

and

 \$[A-2 Par]
 San Mateo County Joint Powers Financing Authority
Lease Revenue Bonds (Refunding and Capital Projects), 2021 Series A-2 [(Federally Taxable)]

CERTIFICATE OF THE PURCHASER

[Sale Date]

As of [Sale Date] (the “Sale Date”), the undersigned, on behalf of Morgan Stanley & Co. LLC (the “Purchaser”), hereby certifies as set forth below with respect to the purchase of the above-captioned obligations (the “2021 Bonds”).

1. *Purchase of the 2021 Bonds.* On the Sale Date, the Purchaser agreed to purchase the 2021 Bonds for the amount of \$[Purchase Price] (consisting of the aggregate par amount of the 2021 Bonds (\$[Aggregate Par]) and premium on the 2021 Bonds (\$[Premium])). The Purchaser is not acting as an Underwriter (defined below) with respect to the 2021 Bonds. The Purchaser has no present intention to sell, reoffer, or otherwise dispose of the 2021 Bonds (or any portion of the 2021 Bonds or any interest in the 2021 Bonds); provided that the Purchaser may sell or transfer the 2021 Bonds to one or more affiliates of, parties related to, the Purchaser. The Purchaser has not contracted with any person pursuant to a written agreement to have such person participate in the initial sale of the 2021 Bonds and the Purchaser has not agreed with the San Mateo County Joint Powers Financing Authority (the “Issuer”) pursuant to a written agreement to sell the 2021 Bonds to persons other than the Purchaser or a related party to the Purchaser.

2. *Defined Terms.*

(a) Public means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party. The term “related party” for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(b) Underwriter means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the 2021 Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the 2021 Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the 2021 Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Purchaser's interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the tax certificate for the 2021 Bonds and with respect to compliance with the federal income tax rules affecting the 2021 Bonds, and by Orrick, Herrington & Sutcliffe LLP, bond counsel, in connection with rendering its opinion that the interest on the 2021 Bonds is excluded from gross income for federal income tax purposes, the preparation of Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the Issuer from time to time relating to the 2021 Bonds.

Dated as of the first date set forth above.

MORGAN STANLEY & CO. LLC

By: _____
Name: _____
Title: _____