

Recording requested by  
and return to:

COUNTY OF SAN MATEO  
c/o Orrick, Herrington & Sutcliffe LLP  
The Orrick Building  
405 Howard Street  
San Francisco, California 94105-2669

Attention: Mary A. Collins, Esq.

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**SITE LEASE**

by and between the

**COUNTY OF SAN MATEO**

and the

**SAN MATEO COUNTY JOINT POWERS FINANCING AUTHORITY**

Related to  
\$[215,000,000]  
San Mateo County Joint Powers Financing Authority  
Lease Revenue Bonds (Capital Projects),

2014 Series A  
(Maple Street Correctional Center)

Dated as of April 1, 2014

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## SITE LEASE

This Site Lease, dated as of April 1, 2014 (this "Site Lease"), by and between the COUNTY OF SAN MATEO, a political subdivision organized and existing under and by virtue of the laws of the State of California (the "County"), as lessor, and the SAN MATEO COUNTY JOINT POWERS FINANCING AUTHORITY, a public entity and agency, duly organized and existing pursuant to an Agreement entitled "Joint Exercise of Powers Agreement" by and between the County of San Mateo and the Community Development Commission of the County of San Mateo (the "Authority"), as lessee;

### W I T N E S S E T H:

WHEREAS, the County has determined that it is in its best interests to finance certain capital improvements for the County;

WHEREAS, the Authority has agreed to issue \$[215,000,000] principal amount of its Lease Revenue Bonds (Capital Projects), 2014 Series A (Maple Street Correctional Center) (the "2014 Series A Bonds"), pursuant to a Trust Agreement, dated as of April 1, 2014 (as amended from time to time, the "Trust Agreement") by and between the Authority and U.S. Bank National Association, as trustee (together with any successor thereto, the "Trustee"), for the purpose of financing certain capital improvements for the County (the "Capital Projects");

WHEREAS, the County, pursuant hereto, will lease certain real property of the County to the Authority and the Authority will use the proceeds of the 2014 Series A Bonds to finance the construction of the Capital Projects, consisting of the Maple Street Correctional Center (the "2014 Project") and to make deposits to the Reserve Fund, the Interest Fund and the Project Fund (as such terms are defined in the Trust Agreement);

WHEREAS, the Authority will lease back the Facilities, consisting of such real property and the 2014 Project to be constructed thereon, to the County pursuant to the Facilities Lease, dated as of April 1, 2014 (the "Facilities Lease"), between the Authority, as lessor, and the County, as lessee; and

WHEREAS, under the Facilities Lease, the County will be obligated to make base rental payments to the Authority for the lease of the Facilities and the Authority will pledge such base rental payments to the Trustee for payments of the Bonds, which shall include all bonds issued to refinance the 2014 Series A Bonds (capitalized terms used herein and not otherwise defined herein have the meanings assigned thereto in the Facilities Lease or the Trust Agreement, as applicable);

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED as follows:

SECTION 1. Lease of Facilities

The County hereby leases to the Authority and the Authority hereby hires from the County, on the terms and conditions hereinafter set forth, the real property situated in the County of San Mateo, State of California, together with the improvements thereon, as described in Exhibit A attached hereto and made a part hereof, and any additional real property added thereto by any supplement or amendment hereto, or any real property substituted for all or any portion of such property in accordance with this Site Lease and the Trust Agreement (the "Demised Premises"); subject, however, to any conditions, reservations, and easements of record or known to the County. No merger shall be effected by the County's lease of the Demised Premises to the Authority under this Site Lease, and the Authority's sublease of the Facilities back to the County under the Facilities Lease.

SECTION 2. Term

The term of this Site Lease shall commence on the date of recordation of this Site Lease in the office of the County Recorder of the County of San Mateo, State of California, or on June 15, 2014 whichever is earlier, and shall end on the date identified in Exhibit B hereto, unless such term is extended or sooner terminated as hereinafter provided. If on such date the Base Rental Payments and all other amounts then due under the Facilities Lease shall not be fully paid, or if the rental or other amounts payable under the Facilities Lease with respect to the Facilities shall have been abated at any time and for any reason, then the term of this Site Lease with respect to such Facilities shall be extended until ten (10) days after the Base Rental Payments attributable to the Facilities and all other amounts then due under the Facilities Lease, shall be fully paid, except that the term of this Site Lease shall in no event be extended beyond ten (10) years after the date identified in Exhibit B hereto. If prior to such date the Base Rental Payments necessary to retire the Bonds related to such Base Rental Payments and all other amounts then due under the Facilities Lease, shall be fully paid, the term of this Site Lease shall end ten (10) days thereafter or upon written notice by the County to the Authority, whichever is earlier.

SECTION 3. Rental

The Authority shall pay to the County from the proceeds of the 2014 Series A Bonds as and for rental hereunder an amount, not less than \$[16,322,140.83], which amount the County finds and determines is full and fair rental for the Demised Premises on the date hereof and which amount the County further agrees will be used to retire the note of the County issued for the purchase price of the real property, as set forth in the Trust Agreement and applied along with other proceeds of the 2014 Series A Bonds to finance the Capital Projects.

SECTION 4. Purpose

The Authority shall use the Demised Premises as the real property upon which to construct the 2014 Project and following completion shall use the Facilities solely for the purpose of leasing the Facilities to the County pursuant to the Facilities Lease and for such

purposes as may be incidental thereto; provided, that in the event of default by the County under the Facilities Lease, the Authority may exercise the remedies provided in the Facilities Lease.

#### SECTION 5. Environmental Law and Regulations

(a) Definitions used in this Section 5 and in Section 6.

“Asbestos Containing Materials” shall mean material in friable form containing more than one percent (1%) of the asbestiform varieties of (a) chrysotile (serpentine); (b) crocidolite (riebeckite); (c) amosite (cummington-itegrinerite); (d) anthophyllite; (e) tremolite; and (f) antinolite.

“Asbestos Operations and Maintenance Plan” shall mean that written plan for the Facilities relating to monitoring and maintaining all Asbestos Containing Materials used or located on the Facilities.

“Environmental Regulations” shall mean all Laws and Regulations, now or hereafter in effect, with respect to Hazardous Materials, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. Section 9601, et seq.) (together with the regulations promulgated thereunder, “CERCLA”), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, et seq.) (together with the regulations promulgated thereunder, “RCRA”), the Emergency Planning and Community Right-to-Know Act, as amended (42 U.S.C. Section 11001, et seq.) (together with the regulations promulgated thereunder, “Title III”), the Clean Water Act, as amended (33 U.S.C. Section 1251, et seq.) (together with the regulations promulgated thereunder, “CWA”), the Clean Air Act, as amended (42 U.S.C. Section 7401, et seq.) (together with the regulations promulgated thereunder, “CAA”), the Toxic Substances Control Act, as amended (15 U.S.C. Section 2601, et seq.) (together with the regulations promulgated thereunder, “TSCA”), the Occupational Safety and Health Act, as amended (29 U.S.C. Section 651 et seq.) (together with regulations promulgated thereunder, “OSHA”) and any similar federal, state or local laws and regulations and any so-called local, state or federal “superfund” or “superlien” law.

“Hazardous Materials” shall mean any material amount of flammable explosives, polychlorinated biphenyl compounds, heavy metals, chlorinated solvents, cyanide, radon, petroleum products, asbestos or any Asbestos Containing Materials, methane, radioactive materials, pollutants, hazardous materials, hazardous wastes, hazardous, toxic, or regulated substances or related materials, as characterized, regulated or defined in CERCLA, RCRA, CWA, CAA, TSCA, OSHA and Title III, and the regulations promulgated pursuant thereto, and in any other Environmental Regulations applicable to the County, any of the Facilities or the business operations conducted by the County therein.

“Laws and Regulations” shall mean any applicable law, regulation, code, order, rule, judgment or consent agreement, including, without limitation, those relating to zoning, building, use and occupancy, fire safety, health, sanitation, air pollution, ecological matters, environmental protection, hazardous or toxic materials, substances or wastes, conservation,

parking, architectural barriers to the handicapped, or restrictive covenants or other agreements affecting title to the Facilities.

(b) No portion of the Facilities is located in an area of high potential incidence of radon which has an unventilated basement or subsurface portion which is occupied or used for any purpose other than the foundation or support of the improvements to such Facilities.

(c) The County has not received any notice from any insurance company which has issued a policy with respect to the Facilities or from the applicable state or local government agency responsible for insurance standards (or any other body exercising similar functions) requiring the performance of any repairs, alterations or other work, which repairs, alterations or other work have not been completed at the Facilities. The County has not received any notice of default or breach which has not been cured under any covenant, condition, restriction, right-of-way, reciprocal easement agreement or other easement affecting the Facilities which is to be performed or complied with by it.

#### SECTION 6. Environmental Compliance

(a) Neither the County nor the Authority shall use or permit the Facilities or any part thereof to be used to generate, manufacture, refine, treat, store, handle, transport or dispose of, transfer, produce or process Hazardous Materials, except, and only to the extent, if necessary to maintain the Facilities and then, only in compliance with all Environmental Regulations, nor shall it permit, as a result of any intentional or unintentional act or omission on its part or by any tenant, subtenant, licensee, guest, invitee, contractor, employee and agent, the storage, transportation, disposal or use of Hazardous Materials or the pumping, spilling, leaking, disposing of, emptying, discharging or releasing (hereinafter collectively referred to as "Release") or threat of Release of Hazardous Materials on, from or beneath the Facilities or onto any other real property excluding, however, those Hazardous Materials in those amounts ordinarily found in the inventory of an office building, the use, storage, treatment, transportation and disposal of which shall be in compliance with all Environmental Regulations. Upon the occurrence of any Release or threat of Release, or presence, of Hazardous Materials, the County shall promptly commence and perform, or cause to be commenced and performed promptly, without cost to the Trustee or the Authority, all investigations, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials so Released or present, on, from or beneath the Facilities, in compliance with all Environmental Regulations. Notwithstanding anything to the contrary contained herein, underground storage tanks shall only be permitted subject to compliance with subsection (d) and only to the extent necessary to maintain the Facilities.

(b) The County and the Authority shall comply with, and shall cause its tenants, subtenants, licensees, guests, invitees, contractors, employees and agents to comply with, all Environmental Regulations, and shall keep the Facilities free and clear of any liens imposed pursuant thereto (provided, however, that any such liens, if not discharged, may be bonded). The County and the Authority shall cause each tenant, and use its best efforts to cause all of such tenant's subtenants, agents, licensees, employees, contractors, guests and invitees and the guests and invitees of all of the foregoing to comply with all Environmental Regulations with respect to the Facilities; provided, however, that notwithstanding that a portion of this covenant

is limited to the County and the Authority's use of its best efforts, the Authority and the County shall remain solely responsible for ensuring such compliance and such limitation shall not diminish or affect in any way the County and the Authority's obligations contained in subsection (c) hereof as provided in subsection (c) hereof. Upon receipt of any notice from any individual or Person with regard to the presence of, or Release of Hazardous Materials on, from or beneath the Facilities, the County and the Authority shall give prompt written notice thereof to the Trustee (and, in any event, prior to the expiration of any period in which to respond to such notice under any Environmental Regulation).

(c) Irrespective of whether any representation or warranty contained in Section 5 is not true or correct, the County and the Authority shall, to the extent permitted by law, defend, indemnify and hold harmless the Bondholders and the Trustee, its partners, depositors and each of its and their employees, agents, officers, directors, trustees, successors and assigns, from and against any claims, demands, penalties, fines, attorneys' fees (including, without limitation, attorneys' fees incurred to enforce the indemnification contained in this Section 6), consultants' fees, investigation and laboratory fees, liabilities, settlements (five (5) Business Days' prior notice of which the Authority or the Trustee, as appropriate, shall have delivered to the County and the Authority), court costs, damages, losses, costs or expenses of whatever kind or nature, known or unknown, contingent or otherwise, occurring in whole or in part, arising out of, or in any way related to, (i) the presence, disposal, Release, threat of Release, removal, discharge, storage or transportation of any Hazardous Materials on, from or beneath the Facilities, (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials, (iii) any lawsuit brought or threatened, settlement reached (five (5) Business Days' prior notice of which the Authority or the Trustee, as appropriate, shall have delivered to the County and the Authority), or governmental order relating to Hazardous Materials on, from or beneath any of the Facilities, (iv) any violation of Environmental Regulations or subsection (a) or (b) hereof by it or any of its agents, tenants, employees, contractors, licensees, guests, subtenants or invitees, and (v) the imposition of any governmental lien for the recovery of environmental cleanup or removal costs. To the extent that the Authority or the County is strictly liable under any Environmental Regulation, its obligation to the Trustee and the Bondholders and the other indemnitees under the foregoing indemnification shall likewise be without regard to fault on its part with respect to the violation of any Environmental Regulation which results in liability to any indemnitee. Its obligations and liabilities under this Section 6(c) shall survive any termination of the Facilities Lease or exercise of any remedies thereunder, and the satisfaction of all Bonds.

(d) The County and the Authority shall conform to and carry out a reasonable program of maintenance and inspection of all underground storage tanks, and shall maintain, repair, and replace such tanks only in accordance with Laws and Regulations, including but not limited to Environmental Regulations.

#### SECTION 7. Owner in Fee

The County covenants that it is the owner in fee of the Facilities. The County further covenants and agrees that if for any reason this covenant proves to be incorrect, the County will either institute eminent domain proceedings to condemn the property or institute a quiet title action to clarify the County's title, and will diligently pursue such action to

completion. The County further covenants and agrees that it will hold the Authority and the Bondowners harmless from any loss, cost or damages resulting from any breach by the County of the covenants contained in this Section.

#### SECTION 8. Assignments and Subleases

Unless the County shall be in default under the Facilities Lease, the Authority may not assign its rights under this Site Lease or sublet the Facilities, except pursuant to the Facilities Lease, without the written consent of the County, which consent may be withheld in the County's sole and absolute discretion. Upon the occurrence of a default by the County under the Facilities Lease, the Authority may assign or sell its rights under this Site Lease or sublet the Facilities, without the consent of the County.

#### SECTION 9. Right of Entry; Easements

The County reserves the right for any of its duly authorized representatives to enter upon the Facilities at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

The County agrees, upon written request from the Authority, to grant to the Authority a nonexclusive easement of ingress and egress for persons, vehicles and utilities, twenty (20) feet wide, from each parcel of the Facilities not having access to a public street, and appurtenant to such parcel, over property owned by the County to a public street. The County may, at any time, satisfy its obligation contained in the preceding sentence as to any such parcel of the Facilities by granting to the Authority an easement complying with the requirements of the preceding sentence from such parcel of the Facilities to a public street.

#### SECTION 10. Termination

The Authority agrees, upon the termination of this Site Lease or any substitution pursuant to Section 2.03 of the Facility Lease, to quit and surrender the Demised Premises and further agrees that the Facilities and any other permanent improvements and structures existing upon the Facilities at the time of the termination of this Site Lease or substitution of properties hereunder shall remain thereon and title thereto shall vest in the County.

Upon the exercise of the option to purchase set forth in Section 7.03 of the Facilities Lease and upon payment of the option price required by said section, the term of this Site Lease shall terminate as to the portion of the Facilities being so purchased, including the real property upon which portion is situated.

#### SECTION 11. Default

In the event the Authority shall be in default in the performance of any obligation on its part to be performed under the terms of this Site Lease, which default continues for one hundred and eighty (180) days following notice and demand for correction thereof to the Authority and the Trustee, the County may exercise any and all remedies granted by law, except that no merger of this Site Lease and of the Facilities Lease shall be deemed to occur as a result thereof; provided, however, that the County shall have no power to terminate this Site Lease by



reason of any default on the part of the Authority if such termination would affect or impair any assignment of the Facilities Lease of all or any part of the Facilities then in effect between the Authority and any assignee or subtenant of the Authority (other than the County under the Facilities Lease) or the rights of the Trustee with respect thereto. So long as any such assignee or subtenant of the Authority (or the Trustee) shall duly perform the terms and conditions of this Site Lease, such assignee or subtenant (or the Trustee) shall be deemed to be and shall become the tenant of the County hereunder and shall be entitled to all of the rights and privileges granted under any such assignment or subrogation; provided, further, that so long as any Bonds are outstanding and unpaid in accordance with the terms thereof, the rentals or any part thereof payable to the Authority or Trustee shall continue to be paid to the Trustee on behalf of the Bondowners.

#### SECTION 12. Quiet Enjoyment

The Authority at all times during the term of this Site Lease, shall peaceably and quietly have, hold and enjoy all of the Facilities then leased hereunder.

#### SECTION 13. Waiver of Personal Liability

All liabilities under this Site Lease on the part of the Authority shall be solely liabilities of the Authority, as a public entity and agency, and the County hereby releases each and every member, director, officer, agent or employee of the Authority of and from any personal or individual liability under this Site Lease. No member, director, officer, agent or employee of the Authority shall at any time or under any circumstances be individually or personally liable under this Site Lease to the County or to any other party whomsoever for anything done or omitted to be done by the Authority hereunder.

The Authority and its members, directors, officers, agents, employees and assignees shall not be liable to the County or to any other party whomsoever for any death, injury or damage that may result to any person or property by or from any cause whatsoever in, on or about the Facilities. The County, to the extent permitted by law, shall indemnify and hold the Authority and its members, directors, officers, agents, employees and assignees, harmless from, and defend each of them against, any and all claims, liens and judgments arising from the operation of the Facilities or the Project, including, without limitation, death of or injury to any person or damage to property whatsoever occurring in, on or about the Facilities or the Project regardless of responsibility for negligence, but excepting the active negligence of the person or entity seeking indemnity.

#### SECTION 14. Taxes

The County covenants and agrees to pay any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Facilities.

#### SECTION 15. Eminent Domain

In the event the whole or any part of the Facilities is taken by eminent domain proceedings, the interest of the Authority shall be recognized and is hereby determined to be the

amount of the then unpaid or outstanding Bonds and all other amounts due under the Trust Agreement and the Facilities Lease attributable to such part of the Facilities and shall be paid to the Trustee, and the balance of the award, if any, shall be paid to the County.

#### SECTION 16. Partial Invalidity

If any one or more of the terms, provisions, covenants or conditions of this Site Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease shall be affected thereby, and each provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

#### SECTION 17. Notices

All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed by United States registered or certified mail, return receipt requested, postage prepaid, and, if to the County, addressed to the County in care of the County of San Mateo, County Manager's Office, 400 County Center, 1st Floor, Redwood City, California 94063-1663, or if to the Authority, addressed to the County in care of the County Clerk, County Manager's Office, 400 County Center, 1st Floor, Redwood City, California 94063-1663, in all cases with a copy to the Trustee at the address specified in the Trust Agreement, or to such other addresses as the respective parties may from time to time designate by notice in writing.

#### SECTION 18. Section Headings

All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Site Lease.

#### SECTION 19. Amendment

The Authority and the County may at any time agree to the amendment of this Site Lease; provided, however, that the Authority and the County agree and recognize that this Site Lease is entered into as contemplated by the terms of the Trust Agreement, and accordingly, that any such amendment shall only be made or effected in accordance with and subject to the terms of the Trust Agreement.

#### SECTION 20. Definitions

Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Facilities Lease or, if not defined therein, the Trust Agreement.

#### SECTION 21. Execution

This Site Lease may be executed in any number of counterparts, each of which shall be deemed to be an original, but all together shall constitute but one and the same Lease. It

is also agreed that separate counterparts of this Site Lease may separately be executed by the County and the Authority, all with the same force and effect as though the same counterpart had been executed by both the County and the Authority.

IN WITNESS WHEREOF, the County and the Authority have caused this Site Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

COUNTY OF SAN MATEO,  
as Lessor

By \_\_\_\_\_  
Jim Saco  
Budget Director

Approved as to Form:

By \_\_\_\_\_  
County Counsel  
County of San Mateo

SAN MATEO COUNTY JOINT POWERS  
FINANCING AUTHORITY,  
as Lessee

By \_\_\_\_\_  
[Name]  
[Title]

**EXHIBIT A**

**Description of Demised Premises**

[Real Property upon which Maple Street Correctional Center to be constructed]

The Facilities shall consist of the real property described above and the 2014 Series A Project to be constructed thereon.

**EXHIBIT B**

**Lease Term**

<u>Facility</u>	<u>Term</u>	<u>Maximum Extension</u>
Demised Premises for 2014 Project	[ _____ 1, 20__ ]	_____ 1, 2054