

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

YASIN ABDULKADIR, NOOR ABIYOW,
ABDIKADIR GURE, ISMAEL ABDIRASHED
MOHAMED, AWEYS MUHUDIN,

Plaintiffs,

v.

CASE NO. 2:19-cv-00120-SPC-MRM

DAVID HARDIN, Sheriff, Glades County;
KEITH HENSON, Chief Deputy, Glades
County; JOHN BOOHER SR., Chaplain, Glades
County; MICHELLE SUMMERS, Food Service
Administrator, Glades County; GLADES
CORRECTIONAL DEVELOPMENT
CORPORATION; GLADES COUNTY,
FLORIDA; RONALD D. VITIELLO, Acting
Director, U.S. Immigration and Customs
Enforcement; JIM MARTIN, Field Office
Director, Miami Field Office, U.S. Immigration
and Customs Enforcement; JUAN ACOSTA,
Assistant Field Office Director, Miami Field
Office, U.S. Immigration and Customs
Enforcement; JORGE L. DOMINGUEZ,
Deportation Officer, U.S. Immigration and
Customs Enforcement; JOSEPH J. BROWN,
Deportation Officer, U.S. Immigration and
Customs Enforcement; U.S. IMMIGRATION
AND CUSTOMS ENFORCEMENT,

Defendants.

**PLAINTIFFS' OPPOSITION TO DEFENDANT GLADES COUNTY'S
MOTION TO DISMISS**

INTRODUCTION

Plaintiffs are former immigration detainees held in Glades County, Florida and denied the ability to practice their religion. For more than a year, they endured arbitrary restrictions on their religious exercise at the Glades County Detention Center (“GCDC”),¹ a facility built with Glades County approval for the purpose of housing detainees for U.S. Immigration and Customs Enforcement (“ICE”). Plaintiffs’ Complaint alleges that the County is responsible for their mistreatment. In particular, Plaintiffs state that the County signed an Intergovernmental Service Agreement (“Intergovernmental Agreement” or “Agreement”) with ICE to hold federal immigration detainees according to certain minimum standards, which they then violated. As demonstrated by this Agreement and by Florida law, Plaintiffs’ detention was conducted by County representatives and directly implicates Defendant’s powers as a County. The County tolerated an unlawful pattern of rights violations and failed to uphold the minimum standards to which it agreed or to provide sufficient oversight of its detention facility.

In their Complaint, Plaintiffs point to well-documented, specific, and repeated acts by the officers and staff at GCDC. Plaintiffs succinctly describe how these actions prevented them from practicing the most basic tenets of their religion, including by preventing access to Qur’ans, to group and Friday prayer, and to a religiously compliant diet. As a

¹ As defined in the Complaint and in this Motion, “GCDC” refers only to the facility Glades County Detention Center, and does not refer to the Glades Correctional Development Corporation or to the Glades Correctional Development Council.

result, Plaintiffs have alleged sufficient facts that, individually and collectively, amount to a policy or custom in Glades County of preventing Muslim immigration detainees from practicing their religion, in violation of the First and Fourteenth Amendments, the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), and the Florida Religious Freedom Restoration Act (“FRFRA”).

This Court should therefore deny in full Defendant Glades County’s Motion to Dismiss.

LEGAL STANDARD

In ruling on a motion to dismiss, the Court must accept the factual allegations set forth in the complaint as true, [Ashcroft v. Iqbal](#), 556 U.S. 662, 678 (2009), and construe the “pleadings . . . broadly” in the “light most favorable to the Plaintiff,” [Watts v. Fla. Int’l Univ.](#), 495 F.3d 1289, 1295 (11th Cir. 2007). The complaint should “give the defendant fair notice of what the . . . claim is and the grounds upon which it rests,” but need not allege “[s]pecific facts.” [Erickson v. Pardus](#), 551 U.S. 89, 93 (2007) (per curiam) (quoting [Bell Atl. Corp. v. Twombly](#), 550 U.S. 544, 555 (2007)). The complaint need only allege facts that state a claim to relief that is plausible on its face, meaning the court could “draw the reasonable inference that the defendant is liable for the misconduct alleged.” [Iqbal](#), 556 U.S. at 678 (citing [Twombly](#), 550 U.S. at 556). Courts consider the complaint in its entirety, as well as other sources ordinarily examined on 12(b)(6) motions, including documents incorporated into the complaint by reference, and matters of which a court may take judicial notice, such as documents publicly available on

government websites. [*Tellabs, Inc. v. Makor Issues & Rights, Ltd.*](#), 551 U.S. 308, 322 (2007); [*Watson v. Bally Mfg. Corp.*](#), 844 F. Supp. 1533, 1535 n.1 (S.D. Fla. 1993) (stating the court can examine matters of public record (quoting 5A Charles A. Wright and Arthur R. Miller, *Federal Practice and Procedure* § 1357 (1990))), *aff'd*, 84 F.3d 438 (11th Cir. 1996); [*Randles v. Singletary*](#), No. 98-cv-1214, 2001 WL 1736881, at *1 (M.D. Fla. Aug. 10, 2001) (“[W]hen the plaintiff refers to certain documents in the complaint and those documents are central to the plaintiff’s claim, the Court may consider the documents part of the pleadings . . .”).

ARGUMENT

I. Plaintiffs Allege Repeated Free Exercise Violations at GCDC that Are Explicitly Linked to Defendant’s Powers as a County.

In their Complaint, Plaintiffs delineate systematic and widespread actions by officers and staff at GCDC that resulted in a “pattern” of First Amendment rights violations in Glades County. [*Compl.*](#), ECF No. 1, at 29-30 ¶¶ 102-107. Plaintiffs also describe how this same pattern has substantially burdened the religious free exercise of Muslim detainees, in violation of RLUIPA and FRFRA. [*Id.*](#) at 26-29 ¶¶ 87-101. In describing these events, Plaintiffs make allegations and incorporate documents—including contracts and reports—to support the conclusion that Defendant Glades County is responsible for the alleged violations. Plaintiffs have thus set forth viable claims for relief as to Defendant Glades County.

a. Plaintiffs Properly Allege All Elements Necessary for a Monell Claim.

To establish 42 U.S.C. § 1983 municipal liability for a policy or custom under *Monell*, 436 U.S. 658, 663 n.7 (1978), a plaintiff must show that the alleged constitutional violation occurred either (1) pursuant to an official County policy, or (2) as the result of a policy decision by a final County decision maker, or (3) as a result of a custom so ingrained in County operations as to acquire the force of official County policy. *Libmen v. City of Avondale Estates*, 190 F. App'x 774, 777-78 (11th Cir. 2006); *Denno v. School Bd. of Volusia County, Fla.*, 218 F.3d 1267, 1276 (11th Cir. 2000). Plaintiffs allege facts sufficient to establish County liability under the two latter theories: the violations that occurred resulted from policy decisions made by a final County decision maker, and resulted from a custom so ingrained in County operations that it acquired the force of an official County policy.

i. Plaintiffs Allege County Authority Over Their Detention Sufficient to Hold the County Responsible for Detention Policies and Decisions Made on the County's Behalf.

Plaintiffs adequately allege facts sufficient to state a *Monell* claim that the constitutional violations at GCDC are due to the decisions of the County's final policymakers. Under the "final policymaker" theory of liability, the question is who is the final policymaker in the relevant area. *Grech v. Clayton Cty., Ga.*, 335 F.3d 1326, 1331 (11th Cir. 2003) ("in examining control, we must consider the particular area or function for which the government official was alleged to be the final policymaker). More than

one official or body may be a final policymaker, and “authority may be shared.” [McMillian v. Johnson](#), 88 F.3d 1573, 1578 (11th Cir. 1996) (citing [City of St. Louis v. Praprotnik](#), 485 U.S. 112, 126 (1988)). In this case, the “final policymaker” is the Sheriff acting as a County representative.

As an initial matter, Plaintiffs cite in their complaint the Intergovernmental Agreement between ICE and Glades County to detain immigration detainees at GCDC. That agreement clearly shows that the Sheriff is acting as a representative of the County in detaining immigrants for ICE. The agreement is signed by the Sheriff² as a “duly authorized officer[] . . . on behalf of the Glades County.” Ex. A, Intergovernmental Service Agreement Between ICE and Glades County at 16 (May 30, 2007) (emphasis added). *See also* [Compl.](#) at 9 ¶ 24; 20 n.10 (incorporating by reference the Intergovernmental Agreement). On the basis of this Agreement, it is evident that the Defendant sets policy or exerts control with regard to the particular function of housing federal immigration detainees. Thus, the Complaint alleges that the County has sufficient responsibility and control over the presence and condition of ICE detainees to subject it to liability under *Monell*.

This conclusion is consonant with Florida law for three reasons. First, the powers and duties of county government include the ability to “[e]nter into agreements with other governmental agencies within or outside the boundaries of the county.” [Fla. Stat. §](#)

² Plaintiffs cited the Agreement in their complaint and obtained an unredacted copy of the Agreement through a request under the Florida Sunshine Law. [Fla. Stat. § 119.01 et seq.](#) The full Agreement is attached hereto as Exhibit B.

[125.01\(1\)\(p\)](#); see [Compl.](#) at 9 ¶ 24; 20 n.10 (incorporating by reference the Intergovernmental Agreement). Defendant’s County policymaking powers are necessarily in play when it comes to detainees held under agreement with another government agency (such as the federal government).

Second, the County can “[a]pprove or disapprove the issuance of industrial development bonds authorized by law for entities within its geographic jurisdiction.” [Fla. Stat. § 125.01\(1\)\(z\)](#). Plaintiffs’ Complaint references a report from the Vera Institute of Justice, Jacob Kang-Brown & Jack Norton, *More than a Jail*, Vera Inst. of Justice (July 5, 2018), <https://www.vera.org/in-our-backyards-stories/glades-county-more-than-a-jail> (“Vera Report”), which explains how Glades County used these powers to charter a “nonprofit,” the Glades Correctional Development Corporation, to issue tax-exempt revenue bonds to finance the construction and operation of GCDC. [Compl.](#) at 8 n.2. Public records in turn confirm that the Board of County Commissioners exerts significant control over the Glades Correctional Development Corporation. Ex. B, Articles of Incorporation of Glades Correctional Development Corporation, arts. III, IV, VI (stating that the Corporation is “acting as an instrumentality of Glades County, Florida . . . in furtherance of the policies of the County” to “operate” detention centers; further stating that Corporate Board members “may be added” by the Board of Commissioners of the County and that members of the Corporation’s Board of Directors can be removed by the County for “neglect of duty or misconduct in office.”); [Minutes of the Glades County Board of County Commissioners Regular Meeting](#) at 7 (Nov. 28, 2016),

<http://www.gladesclerk.com/Resources/documents/B11282016.pdf> (in which Commissioners “acknowledged and approved” appointment of former County Commissioner Echols to the Corporation’s board).

Third, as a general matter, the County has expansive powers to carry out its projects. For example, the governing body of the County can “[m]ake investigations of county affairs.” [Fla. Stat. § 125.01\(1\)\(s\)](#). The Florida Legislature is clear that the enumeration of County powers is not “exclusive or restrictive” but is “deemed to incorporate all implied powers necessary or incident to carrying out such powers enumerated.” [Fla. Stat. § 125.01\(3\)\(a\)](#). County powers are to be “liberally construed.” [Fla. Stat. § 125.01\(3\)\(b\)](#). And despite Florida Sheriffs’ independence in some areas, they must nevertheless “[e]xecute all orders of the boards of county commissioners of their counties.” [Fla. Stat. § 30.15\(1\)\(d\)](#). Florida law and Defendant’s Agreement with ICE demonstrate that the County is a final policymaker delegating authority to the Sheriff with respect to immigration detention at GCDC.

ii. To the Extent the Sheriff Makes Policy with Regard to Federal Immigration Detainees Held Under the County’s Agreement, He Does So Pursuant to County, Not State, Power.

Contrary to Defendant’s contention, the Sheriff is acting on behalf of the County, not the state, with respect to immigration detention at GCDC. [Def.’s Mot. Dismiss](#), ECF No. 62, at 4. In its motion, Defendant argues that the Sheriff is an agent of the state, not the County. *Id.* But the single case Defendant cites does not support that conclusion. *See id.* (citing [Troupe v. Sarasota Cty., Fla.](#), No. 8:02-cv-53-T-24MAP, 2004 WL 5572030, at

*13 (M.D. Fla. Jan. 22, 2004), *aff'd*, 419 F.3d 1160 (11th Cir. 2005)). In that case, the court found that Sheriffs in Florida act as agents for the state *when they are enforcing the laws of the state*. But the court went on to acknowledge that “[A]n official simultaneously may exercise county authority over some matters and state authority over others.” *Id.* at *12; *see also* [McMillian v. Johnson](#), 88 F.3d 1573, 1578 (11th Cir. 1996). Defendant’s Agreement with ICE explicitly states that the Sheriff is acting on behalf of the County with regard to ICE detainees. *See supra* at 5-6. In this context, therefore, the Sheriff is clearly acting on behalf of the County, not the State. Ex. A at 16.

The overall context further confirms this point. The Sheriff cannot be acting as an independent arm of the state in this case. Plaintiffs, who are federal civil detainees, are not being held at GCDC for violations of state law. And the County cites no authority for the proposition that Sheriffs act as independent agents of the state in holding ICE detainees. The State of Florida Department of Corrections itself does not contract with ICE to hold immigration detainees.³ Instead, as discussed in the Vera Report, the County, using its home rule powers, allowed the construction of a 440-bed detention center far surpassing local criminal detention needs for the purpose of detaining immigrants for ICE as a profit-making venture. [Vera Report](#); *see also* [Compl.](#) at 8 n.2 (citing [Vera Report](#)). The County contracted with ICE to house immigration detainees. And as set forth below,

³ [ICE ERO Detention Facilities: Authorized Over 72-Hour Facility List](#) (Excel Spreadsheet), U.S. Immigration and Customs Enforcement (2019), *available at* <https://www.ice.gov/sites/default/files/documents/Document/2019/Over72HourFacilities.xlsx> (listing only county-run or ICE-run facilities and revealing no Florida Department of Corrections facility).

infra Part I(a)(iii), the County knew about denial of detainees' religious exercise rights at the facility and failed to act to remedy those violations.

Moreover, the County can expressly delegate to the Sheriff the operation of the County jail. Florida law expressly authorizes a county to delegate jail operations to the Sheriff under [Fla. Stat. § 951.061\(1\)](#). And as one district court noted, "by delegating the jail operations to a sheriff as chief correctional officer, the county is delegating final policymaking authority to that sheriff, thereby subjecting the county to § 1983 liability." [Morrill v. Holmes Cty.](#), No. 5:15-cv-324-WTH-GRJ, 2017 WL 6330631, at *11 (N.D. Fla. Mar. 10, 2017) ("Florida law suggests that a sheriff acts for the county with respect to the daily operations of the county jail"), *report and recommendation adopted*, No. 5:15-cv-324-WTH-GRJ, 2017 WL 6329951 (N.D. Fla. Dec. 11, 2017). The County therefore cannot escape liability under § 1983 for violations of detainees' rights at GCDC.

iii. Plaintiffs Allege an Ingrained County Custom.

The County is additionally liable because the violations that occurred at GCDC occurred because of a policy or "custom" of which the County must have been aware. *See Compl.* at 30 ¶ 105. Municipal liability is possible for constitutional deprivations due to governmental "custom" even when the custom "has not received formal approval through the [municipality's] official decision making channels." [Church v. City of Huntsville](#), 30 F.3d 1332, 1342-43 (11th Cir. 1994) (quoting [Monell](#), 436 U.S. at 690-91). Thus, it is not necessary to allege that the problematic custom has been explicitly ratified by a County

official, as the Defendant suggests. [Def.'s Mot. Dismiss](#) at 4-5. A municipality “can also be liable when a “series of decisions” by subordinate officials “demonstrate a ‘custom or usage’ of which the supervisor must have been aware.” [City of Hunstville](#), 30 F.3d at 1342 (quoting [City of St. Louis v. Praprotnik](#), 485 U.S. 112, 130 (1988)). It is enough for the municipality to acquiesce to an unlawful practice of its delegated officer. *See* [Praprotnik](#), 485 U.S. at 127 (“most deliberate municipal evasions of the Constitution will be sharply limited”).

The factual allegations in the Complaint meet the standard for pleading a widespread custom. Plaintiffs allege that the County “ha[s] a *pattern* of delaying the delivery of Qur’ans, denying access to the Qur’an in languages other than English, obstructing group and Friday prayer, providing cold or rotten food to detainees who were fasting, denying halal food, and not providing religious articles that are important for worship.” [Compl.](#) at 30 ¶ 105 (emphasis added). Plaintiffs have also incorporated by reference documents showing that the County is responsible for conditions at the facility. *Id.* at 8 n.2 (citing [Vera Report](#)); [Compl.](#) at 9 ¶ 24; 20 n.10 (citing Intergovernmental Agreement). Glades County public records, of which the Court should take judicial notice, further show that County officials tolerated, ratified, or were deliberately indifferent to the alleged pattern of abuse. [Horne v. Potter](#), 392 F. App’x 800, 802 (11th Cir. 2010) (holding the district court properly took judicial notice of public records not subject to reasonable dispute); [Hall v. Virginia](#), 385 F.3d 421, 424 n.3 (4th Cir. 2004) (taking into consideration documents publicly available on the official website of a Virginia agency). Glades

County Commissioners regularly discussed issues relating to ICE detainees in their meetings, as well as the profitability and operation of GCDC, but failed to take any action to remedy specific concerns that were raised about religious observance. *See generally* [Board of County Commissioners Meeting Minutes Archive](#), Glades County Clerk of Court and Comptroller, http://www.gladesclerk.com/bcc_minutes.html (last visited Apr. 23, 2019).

For example, in one meeting a month after Plaintiffs' arrival at GCDC, the Vice Chairman of the Board of County Commissioners noted complaints "that the Somali inmates were not being fed the proper foods based on their religion." [Minutes of the Glades County Board of County Commissioners Regular Meeting](#) at 5 (Jan. 9, 2018), http://www.gladesclerk.com/Resources/documents/B01092018Regular_000.pdf. He asked if this was a requirement for the facility. *Id.* The Sheriff's representative who was present admitted it was a requirement "in some cases" but highlighted for the Commissioners "the differences in costs for these meals." *Id.* The Chairman of the Board of County Commissioners stated he "stopped in [at the facility] about once a week, and [the facility staff] were doing a great job." *Id.*

In light of the County's Intergovernmental Agreement with ICE, [Compl.](#) at 9 ¶ 24; 20 n.10 (citing Intergovernmental Agreement wherein Sheriff is acting as a "duly authorized officer . . . on behalf of the Glades County"), reports on the County's involvement in the creation of GCDC, [Compl.](#) at 8 n.2, and public records showing Commissioners'

involvement in facility operations, Plaintiffs have stated a clear basis for County responsibility for free exercise rights violations at GCDC.

b. Plaintiffs Properly Allege All Elements Necessary to FRFRA and RLUIPA Claims.

Defendants next imply that Plaintiffs' RLUIPA and FRFRA claims must be dismissed, because Plaintiffs do not allege that the County or its employees participated in the underlying misconduct. [Def's Mot. Dismiss](#) at 4-5. But as discussed *supra* and *infra*, the Complaint sufficiently alleges that the County and its representatives with final policymaking authority for the County did participate in that misconduct. Thus, for the same reasons Plaintiffs have sufficiently pleaded *Monell* violations as to the County, they have also stated a claim that the County is responsible for government action that has substantially burdened Muslim immigration detainees' religious exercise rights. *See [Wilkinson v. Sec'y, Florida Dep't of Corr.](#)*, 622 F. App'x 805, 809-812 (11th Cir. 2015) (allowing both RLUIPA and § 1983 claims to proceed together where a policy or custom allegedly substantially burdened religious practice). Plaintiffs have also clearly alleged factual matter sufficient to meet the other elements of RLUIPA and FRFRA, including the sincerity of Plaintiffs' religious belief. [Compl.](#) at 5-6 ¶¶ 14-18 (describing Plaintiffs' faith); 11, 12 ¶¶ 36, 39 (outlining the importance of Qur'ans, prayer rugs, head covers, and prayer beads); 15 ¶¶ 48-49 (describing the importance of group and Friday prayers); 17 ¶ 55 (describing halal meal requirements). Accordingly, Plaintiffs have alleged sufficient facts to state viable RLUIPA and FRFRA violations.

II. Defendant's Argument About Employment Is Not Dispositive.

The pertinent inquiry on a motion to dismiss a *Monell* claim is whether Plaintiffs allege events that would allow an inference that immigration detention decisions and functions relating to free exercise fall, at least partially, within County prerogatives, under one or more of the theories outlined in the preceding section. Yet Defendants argue only about issues of County budget and employment *vis-à-vis* the Sheriff's *state* law enforcement and peacekeeping duties. [Def's Mot. Dismiss](#) at 4. But to the extent the Sheriff or Sheriff's Office employees determine detainee conditions—at a facility built by the County for that purpose—Plaintiffs have alleged that they do so “on behalf of the Glades County.” Ex. A at 16; [Compl.](#) at 9 ¶ 24; 20 n.10 (incorporating the Intergovernmental Service Agreement).

Even if employment formalities were dispositive or relevant here, any factual ambiguity can and should be resolved in Plaintiffs' favor, and the factual allegations of the complaint must be taken as true. [Ferguson v. CHC VII, Ltd.](#), 69 F. Supp. 3d 1292, 1294 (M.D. Fla. 2014); [Omar ex. rel. Cannon v. Lindsey](#), 334 F.3d 1246, 1247 (11th Cir. 2003) (per curiam) (all reasonable inferences should be drawn in favor of the plaintiff). Defendant's factual assertion that “none of the individual defendants are County employees,” [Def's Mot. Dismiss](#) at 2, is not a matter of public record and cannot be accepted at this stage. *See, e.g.,* [Wilson v. Birnberg](#), 667 F.3d 591, 600 (5th Cir. 2012) cert. denied, 133 S. Ct. 32 (2012) (at motion to dismiss stage, court must accept plaintiff's allegation that he was eligible candidate for office even in face of defendant's

contradictory affidavit). At least three of the local Defendants⁴ at all relevant times appear to have been employed by the County or by an entity subject to County influence or control.⁵ This Court should therefore deny the County's motion to dismiss in full.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court deny Defendant Glades County's Motion to Dismiss.

⁴ The employment status of Defendant Chief Deputy Henson (who was only elevated to Chief Deputy during Plaintiffs' confinement), Defendant Chaplain Booher, and Defendant Food Service Administrator Summers is not a matter of public record.

⁵ Public records also reveal that the Board of County Commissioners has a say in certain employment decisions at GCDC. See [Minutes of the Glades County Board of County Commission Budget Workshop](http://www.gladesclerk.com/Resources/documents/BW07102018.pdf), at 1-2 (Jul. 10, 2018), <http://www.gladesclerk.com/Resources/documents/BW07102018.pdf> (in which Commissioners debate a GCDC pay increase and whether the County or the Corporation should absorb the expense of this increase); [Fla. Stat. § 30.53](#) (noting that notwithstanding the Sheriff's constitutional powers over Sheriff's Office employees, the County can create civil service systems and boards).

Dated: April 24, 2019

Respectfully submitted,

/s/ Joseph Saei

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 24, 2019, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send notification of electronic filing to all counsel of record.

/s/ Joseph Saei
Joseph Saei

Exhibit A

DROIGSA070017 / HSCEOP07FIG00032

INTER-GOVERNMENTAL SERVICE AGREEMENT
BETWEEN THE
UNITED STATES DEPARTMENT OF HOMELAND SECURITY
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
OFFICE OF DETENTION AND REMOVAL
AND
GLADES COUNTY, MOORE HAVEN, FL

This Inter-Governmental Service Agreement ("Agreement") is entered into between United States Department of Homeland Security Immigration and Customs Enforcement ("ICE"), and Glades County Detention Center, Moore Haven, FL ("Service Provider") for the detention and care of aliens ("detainees"). The term "Parties" is used in this Agreement to refer jointly to ICE and the Service Provider.

FACILITY LOCATION:

The Service Provider shall provide detention services for detainees at the following institution(s):

Glades County Detention Center
1995 SR 78 NW
Moore Haven, FL 33471

Article I. Purpose

- A. **Purpose:** The purpose of this Intergovernmental Service Agreement (IGSA) is to establish an Agreement between ICE and the Service Provider for the detention, and care of persons detained under the authority of Immigration and Nationality Act, as amended. All persons in the custody of ICE are "Administrative Detainees". This term recognizes that ICE detainees are not charged with criminal violations and are only held in custody to assure their presence throughout the administrative hearing process and to assure their presence for removal from the United States pursuant to a lawful final order by the Immigration Court, the Board of Immigration Appeals or other Federal judicial body.
- B. **Responsibilities:** This Agreement sets forth the responsibilities of ICE and the Service Provider. The Agreement states the services the Service Provider shall perform satisfactorily to receive payment from ICE at the rate prescribed in Article I, C.
- C. **Guidance:** This is a fixed rate agreement, not a cost reimbursable agreement, with respect to the detainee day rate. The detainee day rate is \$80.64. ICE shall be responsible for reviewing and approving the costs associated with this Agreement and subsequent modifications utilizing all applicable federal procurement laws, regulations and standards in arriving at the detainee day rate.

DROIGSA070017 / HSCEOP07FIG00032

Article II. General

- A. Funding: The obligation of ICE to make payments to the Service Provider is contingent upon the availability of Federal funds. ICE will neither present detainees to the Service Provider nor direct performance of any other services until ICE has the appropriate funding. Orders will be placed under this Agreement when specific requirements have been identified and funding obtained. Performance under this Agreement is not authorized until the Contracting Officer issues an order, in writing. The effective date of the Agreement will be negotiated and specified in a delivery order to this Agreement that is supported by the ICE Contracting Officer. This Agreement is neither binding nor effective unless signed by the ICE Contracting Officer. Payments at the approved rate will be paid upon the return of the signed Agreement by the authorized Local Government official to ICE.
- B. Subcontractors: The Service Provider shall notify and obtain approval from the ICE Contracting Officer's Technical Representative (COTR) or designated ICE official if it intends to house ICE detainees in a facility other than the Glades County Detention Center. If either that facility, or any future facility is operated by an entity other than the Service Provider, ICE shall treat the entity as a subcontractor to the Service Provider. The Service Provider shall obtain the Contracting Officer's approval before subcontracting the detention and care of detainees to another entity. The Contracting Officer has the right to deny, withhold, or withdraw approval of the proposed subcontractor. Upon approval by the Contracting Officer, the Service Provider shall ensure that any subcontract includes all provisions of this Agreement, and shall provide ICE with copies of all subcontracts. All payments will be made to the Service Provider. ICE will not accept invoices from, or make payments to a subcontractor.
- C. Consistent with Law: This is a firm fixed rate agreement, not cost reimbursable agreement. This Agreement is permitted under applicable statutes, regulation, policies or judicial mandates. Any provision of this Agreement contrary to applicable statutes, regulation, policies or judicial mandates is null and void and shall not necessarily affect the balance of the Agreement.

Article III. Covered Services

- A. Bedspace: The Service Provider shall provide male/female beds on a space available basis. The Service Provider shall house all detainees as determined within the Service Provider's classification system. ICE will be financially liable only for the actual detainee days as defined in Paragraph C of Article III.
- B. Basic Needs: The Service Provider shall provide ICE detainees with safekeeping, housing, subsistence, medical and other services in accordance with this Agreement. In providing these services, the Service Provider shall ensure compliance with all applicable laws, regulations, fire and safety codes, policies and procedures. If the Service Provider determines that ICE has delivered a person for custody who is under the age of eighteen (18), the Service Provider shall not house that

DROIGSA070017 / HSCEOP07FIG00032

person with adult detainees and shall immediately notify the ICE COTR or designated ICE official. The types and levels of services shall be consistent with those the Service Provider routinely affords other inmates.

- C. Unit of Service and Financial Liability: The unit of service is called a "detainee day" and is defined as one person per day. The detainee day begins on the date of arrival. The Service Provider may bill ICE for the date of arrival but not the date of departure. The Service Provider shall not charge for costs, which are not directly related to the housing and detention of detainees. Such costs include but are not limited to:
- 1) Salaries of elected officials
 - 2) Salaries of employees not directly engaged in the housing and detention of detainees
 - 3) Indirect costs in which a percentage of all local government costs are pro-rated and applied to individual departments unless, those cost are allocated under an approved Cost Allocation Plan
 - 4) Detainee services which are not provided to, or cannot be used by Federal detainees
 - 5) Operating costs of facilities not utilized by Federal detainees
 - 6) Interest on borrowing (however represented), bond discounts, costs of financing/refinancing, except as prescribed by OMB Circular A-87.
 - 7) Legal or professional fees (specifically legal expenses for prosecution of claims against the Federal Government, legal expenses of individual detainees or inmates)
 - 8) Contingencies
- D. Interpretive Services: The Service Provider shall make special provisions for non-English speaking, handicapped or illiterate detainees. ICE will reimburse the Service Provider for the actual costs associated with providing commercial written or telephone language interpretive services. Upon request, ICE will assist the Service Provider in obtaining translation services. The Service Provider shall provide all instructions verbally either in English or the detainees' language, as appropriate, to detainees who cannot read. The Service Provider shall include the actual costs that the Service Provider paid for such services on its monthly invoice. Except in emergency situations, the Service Provider shall not use detainees for translation services. If the Service Provider uses a detainee for translation service, it shall notify ICE within twenty-four (24) hours of the translation service.
- E. Escort and Transportation Services: The Service Provider will provide, upon request and as scheduled by ICE, necessary escort and transportation services for ICE detainees to and from designated locations. Escort services will be required for escorting detainees to court hearings; escorting witnesses to the courtroom and staged with the ICE Judge during administrative proceedings. Transportation Services shall be performed by at least two (2) qualified sworn law enforcement or correctional officer personnel employed by the Service Provider under their policies, procedures and authorities. See Article XVI.

DROIGSA070017 / HSCEOP07FIG00032

Article IV. Receiving and Discharging Detainees

- A. Required Activity: The Service Provider shall receive and discharge detainees only to and from properly identified ICE personnel or other properly identified Federal law enforcement officials with prior authorization from DHS/ICE. Presentation of U.S. Government identification shall constitute "proper identification." The Service Provider shall furnish receiving and discharging services twenty-four (24) hours per day, seven (7) days per week. ICE shall furnish the Service Provider with reasonable notice of receiving and discharging detainees. The Service Provider shall ensure positive identification and recording of detainees and ICE officers. The Service Provider shall not permit medical or emergency discharges except through coordination with on-duty ICE officers.
- B. Emergency Situations: ICE detainees shall not be released from the facility into the custody of other Federal, state, or local officials for any reason, except for medical or emergency situations, without express authorization of ICE.
- C. Restricted Release of Detainees: The Service Provider shall not release ICE detainees from its physical custody to any persons other than those described in Paragraph A of Article IV for any reason, except for either medical, other emergency situations, or in response to a federal writ of habeas corpus. If an ICE detainee is sought for federal, state, or local proceedings, only ICE may authorize release of the detainee for such purposes. The Service Provider shall contact the ICE COTR or designated ICE official immediately regarding any such requests.
- D. Service Provider Right of Refusal: The Service Provider retains the right to refuse acceptance or request removal of any detainee exhibiting violent or disruptive behavior, or of any detainee found to have a medical condition that requires medical care beyond the scope of the Service Provider's health care provider. In the case of a detainee already in custody, the Service Provider shall notify ICE and request such removal of the detainee from the Facility. The Service Provider shall allow ICE reasonable time to make alternative arrangements for the detainee.
- E. Emergency Evacuation: In the event of an emergency requiring evacuation of the Facility, the Service Provider shall evacuate ICE detainees in the same manner, and with the same safeguards, as it employs for persons detained under the Service Provider's authority. The Service Provider shall notify the ICE COTR or designated ICE official within two (2) hours of evacuation.

Article V. DHS/ICE Detention Standards

SATISFACTORY PERFORMANCE:

The Service Provider is required to house detainees and perform related detention services in accordance with the most current edition of **ICE National Detention Standards** (<http://www.ice.gov/partners/dro/opsmanual/index.htm>). ICE Inspectors will conduct periodic inspections of the facility to assure compliance with the ICE National Detention Standards.

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Article VI. Medical Services

- A. Auspices of Health Authority: The Service Provider shall provide ICE detainees with on-site health care services under the control of a local government designated Health Authority. The Service Provider shall ensure equipment, supplies, and materials, as required by the Health Authority, are furnished to deliver health care on-site.
- B. Level of Professionalism: The Service Provider shall ensure that all health care service providers utilized for ICE detainees hold current licenses, certifications, and/or registrations with the State and/or City where they are practicing. The Service Provider shall retain a registered nurse to provide health care and sick call coverage unless expressly stated otherwise in this Agreement. In the absence of a health care professional, non-health care personnel may refer detainees to health care resources based upon protocols developed by United States Public Health Service (USPHS) Division of Immigration Health Services (DIHS).
- C. Access to Health Care: The Service Provider shall ensure that on-site medical and health care coverage as defined below is available for all ICE detainees at the facility for at least eight (8) hours per day, seven (7) days per week. The Service Provider shall ensure that its employees solicit each detainee for health complaints and deliver the complaints in writing to the medical and health care staff. The Service Provider shall furnish the detainees instructions in his or her native language for gaining access to health care services as prescribed in Article III, Paragraph D.
- D. On-Site Health Care: The Service Provider shall furnish on-site health care under this Agreement. **The Service Provider shall not charge any ICE detainee an additional fee or Co-payment for medical services or treatment provided at the Service Provider's facility.** The Service Provider shall ensure that ICE detainees receive no lower level of on-site medical care and services than those it provides to local inmates. On-site health care services shall include arrival screening within twenty-four (24) hours of arrival at the Facility, sick call coverage, provision of over-the-counter medications, treatment of minor injuries (e.g. lacerations, sprains, and contusions), treatment of special needs and mental health assessments. Detainees with chronic conditions shall receive prescribed treatment and follow-up care.
- E. Arrival Screening: Arrival screening shall include at a minimum TB symptom screening, planting of the Tuberculin Skin Test (PPD), and recording the history of past and present illnesses (mental and physical). The health care service provider or trained health care personnel may perform the arrival screening.
- F. Acceptance of Detainees with Extreme Health Conditions: If the Service Provider determines that an ICE detainee has a medical condition which renders that person unacceptable for detention under this Agreement, (for example, contagious disease, condition needing life support, uncontrollable violence), the Service Provider shall notify the ICE COTR or the designated ICE

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official. Upon such notification the Service Provider shall allow ICE reasonable time to make the proper arrangements for further disposition of that detainee.

- G. DIHS Pre-Approval for Non-Emergency Off-Site Care: The Service Provider shall obtain DIHS approval for any non-emergency, off-site healthcare for any detainee. DIHS acts as the agent and final health authority for ICE on all off-site detainee medical and health related matters. The relationship of the DIHS to the detainee equals that of physician to patient. The Service Provider shall release any and all medical information for ICE detainees to the DIHS representatives upon request. The Service Provider shall solicit DIHS approval before proceeding with non-emergency, off-site medical care (e.g. off site lab testing, eyeglasses, cosmetic dental prosthetics, dental care for cosmetic purposes). The Service Provider shall submit supporting documentation for non-routine, off-site medical health services to DIHS. For medical care provided outside the facility, DIHS may determine that an alternative medical provider or institution is more cost-effective or more aptly meets the needs of ICE and the detainee. ICE may refuse to reimburse the Service Provider for non-emergency medical costs incurred that were not pre-approved by the DIHS. The Service Provider shall send all requests for pre-approval for non-emergent off-site care to:

Phone: (888) 718-8947
FAX: (866) 475-9349
Via website: www.inshealth.org

The Service Provider is to notify all medical providers approved to furnish off-site health care of detainees to submit their bills in accordance with instructions provided to:

United States Public Health Services
Division of Immigration Health Services
1220 L Street, NW PMB 468
Washington, DC 20005-4018
(Phone): (888)-718-8947
(FAX): (866)-475-9349
Via website: www.inshealth.org

- H. Emergency Medical Care: The Service Provider shall furnish twenty-four (24) hour emergency medical care and emergency evacuation procedures. In an emergency, the Service Provider shall obtain the medical treatment required to preserve the detainee's health. The Service Provider shall have access to an off-site emergency medical provider at all times. The Health Authority of the Service Provider shall notify the DIHS Managed Care Coordinator by calling the telephone number listed in paragraph G above as soon as possible, and in no case more than seventy-two (72) hours after detainee receipt of such care. The Health Authority will obtain pre-authorization from the DIHS Managed Care Coordinator for service(s) beyond the initial emergency situation.
- I. Off-Site Guards: The Service Provider shall provide guards at all times detainees are admitted to an outside medical facility.

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- J. DIHS Visits: The Service Provider shall allow DIHS Managed Care Coordinators reasonable access to its facility for the purpose of liaison activities with the Health Authority and associated Service Provider departments.

Article VII. No Employment of Unauthorized Aliens

Subject to existing laws, regulations, Executive Orders, and addenda to this Agreement, the Service Provider shall not employ aliens unauthorized to work in the United States. Except for maintaining personal living areas, ICE detainees shall not be required to perform manual labor.

Article VIII. Period of Performance

- A. This Agreement shall become effective upon the date of final signature by the ICE Contracting Officer and the authorized signatory of the Service Provider and will remain in effect indefinitely unless terminated in writing, by either party. Either party must provide written notice of intentions to terminate the agreement, 60 days in advance of the effective date of formal termination, or the Parties may agree to a shorter period under the procedures prescribed in Article X.

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- B. Basis for Price Adjustment: A firm fixed price with economic adjustment provides for upward and downward revision of the stated Per Diem based upon cost indexes of labor and operating expenses, or based upon the Service Provider's actual cost experience in providing the service.

Article IX. Inspection

- A. Jail Agreement Inspection Report: The Jail Agreement Inspection Report stipulates minimum requirements for fire/safety code compliance, supervision, segregation, sleeping utensils, meals, medical care, confidential communication, telephone access, legal counsel, legal library, visitation, and recreation. The Service Provider shall allow ICE to conduct inspections of the facility, as required, to ensure an acceptable level of services and acceptable conditions of confinement as determined by ICE. No notice to the Service Provider is required prior to an inspection. ICE will conduct such inspections in accordance with the Jail Agreement Inspection Report. ICE will share findings of the inspection with the Service Provider's facility administrator. The Inspection Report will state any improvements to facility operation, conditions of confinement, and level of service that will be required by the Service Provider.
- B. Possible Termination: If the Service Provider fails to remedy deficient service identified through an ICE inspection, ICE may terminate this Agreement without regard to the provisions of Articles VIII and X.
- C. Share Findings: The Service Provider shall provide ICE copies of facility inspections, reviews, examinations, and surveys performed by accreditation sources.
- D. Access to Detainee Records: The Service Provider shall, upon request, grant ICE access to any record in its possession, regardless of whether the Service Provider created the record, concerning any detainee held pursuant to this Agreement. This right of access shall include, but is not limited to, incident reports, records relating to suicide attempts, and behavioral assessments and other records relating to the detainee's behavior while in the Service Provider's custody. Furthermore, the Service Provider shall retain all records where this right of access applies for a period of two (2) years from the date of the detainee's discharge from the Service Provider's custody.

Article X. Modifications and Disputes

- A. Modifications: Actions other than those designated in this Agreement will not bind or incur liability on behalf of either Party. Either Party may request a modification to this Agreement by submitting a written request to the other Party. A modification will become a part of this Agreement only after the ICE Contracting Officer and the authorized signatory of the Service Provider have approved the modification in writing.

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- B. Disputes: The ICE Contracting Officer and the authorized signatory of the Service Provider will settle disputes, questions and concerns arising from this Agreement. Settlement of disputes shall be memorialized in a written modification between the ICE Contracting Officer and authorized signatory of the Service Provider. In the event a dispute is not able to be resolved between the Service Provider and the ICE Contracting Officer, the ICE Contracting Officer will make the final decision. If the Service Provider does not agree with the final decision, the matter may be appealed to the ICE Head of the Contracting Activity (HCA) for resolution. The ICE HCA may employ all methods available to resolve the dispute including alternative dispute resolution techniques. The Service Provider shall proceed diligently with performance of this Agreement pending final resolution of any dispute.

Article XI. Adjusting the Detainee Day Rate

ICE shall reimburse the Service Provider at the fixed detainee day rate shown on the cover page of the document, Article I. (C). The Parties may adjust the rate twelve (12) months after the effective date of the agreement and every twelve (12) months thereafter as mutually agreed upon. The Parties shall base the cost portion of the rate adjustment on the principles of allowability and allocability as set forth in OMB Circular A-87, federal procurement laws, regulations, and standards in arriving at the detainee day rate. The request for adjustment shall be submitted on an ICE Jail Services Cost Statement. If ICE does not receive an official request for a detainee day rate adjustment that is supported by an ICE Jail Services Cost Statement, the fixed detainee day rate as stated in this Agreement will be in place indefinitely. See Article X A.

ICE reserves the right to audit the actual and/or prospective costs upon which the rate adjustment is based. All rate adjustments are prospective. As this is a fixed rate agreement, there are **no** retroactive adjustment(s), however the detainee day rate may be adjusted up or down depending on the outcome of the audit of the Jail Services Cost Statement.

Article XII. Enrollment, Invoicing, and Payment

- A. Enrollment in Electronic Funds Transfer: The Service Provider shall provide ICE with the information needed to make payments by electronic funds transfer (EFT). Since January 1, 1999, ICE makes all payments only by EFT. The Service Provider shall identify their financial institution and related information on Standard Form 3881, Automated Clearing House (ACH) Vendor Miscellaneous Payment Enrollment Form. The Service Provider shall submit a completed SF 3881 to ICE payment office prior to submitting its initial request for payment under this Agreement. If the EFT data changes, the Service Provider shall be responsible for providing updated information to the ICE payment office.
- B. Invoicing: The Service Provider shall submit an original itemized invoice containing the following information: the name and address of the facility; the name of each ICE detainee; detainee's A-number; specific dates of detention for each detainee; the total number of detainee days; the daily

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rate; the total detainee days multiplied by the daily rate; an itemized listing of all other charges; and the name, title, address, and phone number of the local official responsible for invoice preparation. The Service Provider shall submit monthly invoices within the first ten (10) working days of the month following the calendar month when it provided the services, to:

Department of Homeland Security
ATTN: Immigration and Customs Enforcement
Deportation Unit Miami Field Office, Miami FL
3900 North Powerline Road
Pompano Beach, FL 33073
Phone: 954-545-6037
Fax: 954-973-3325

- C. Payment: ICE will transfer funds electronically through either an Automated Clearing House subject to the banking laws of the United States, or the Federal Reserve Wire Transfer System. The Prompt Payment Act applies to this Agreement. The Prompt Payment Act requires ICE to make payments under this Agreement the thirtieth (30th) calendar day after the ICE Deportation office receives a complete invoice. Either the date on the Government's check, or the date it executes an electronic transfer of funds, shall constitute the payment date. The Prompt Payment Act requires ICE to pay interest on overdue payments to the Service Provider. ICE will determine any interest due in accordance with the Prompt Payment Act.

Article XIII. Government Furnished Property

- A. Federal Property Furnished to the Service Provider: ICE may furnish Federal Government property and equipment to the Service Provider. Accountable property remains titled to ICE and shall be returned to the custody of ICE upon termination of the Agreement. The suspension of use of bed space made available to ICE is agreed to be grounds for the recall and return of any or all government furnished property.
- B. Service Provider Responsibility: The Service Provider shall not remove ICE property from the facility without the prior written approval of ICE. The Service Provider shall report any loss or destruction of any Federal Government property immediately to ICE.

Article XIV. Hold Harmless and Indemnification Provisions

- A. Service Provider Held Harmless: ICE shall, subject to the availability of funds, save and hold the Service Provider harmless and indemnify the Service Provider against any and all liability claims and costs of whatever kind and nature, for injury to or death of any person(s), or loss or damage to any property, which occurs in connection with or is incident to performance of work under the

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terms of this Agreement, and which results from negligent acts or omissions of ICE officers or employees, to the extent that ICE would be liable for such negligent acts or omissions under the Federal Tort Claims Act, 28 USC 2691 *et seq.*

- B. Federal Government Held Harmless: The Service Provider shall save and hold harmless and indemnify federal government agencies to the extent allowed by law against any and all liability claims, and costs of whatsoever kind and nature for injury to or death of any person or persons and for loss or damage to any property occurring in connection with, or in any way incident to or arising out of the occupancy, use, service, operation or performance of work under the tenets of this Agreement, resulting from the negligent acts or omissions of the Service Provider, or any employee, or agent of the Service Provider. In so agreeing, the Service Provider does not waive any defenses, immunities or limits of liability available to it under state or federal law.

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- C. Defense of Suit: In the event a detainee files suit against the Service Provider contesting the legality of the detainee's incarceration and/or immigration/citizenship status, ICE shall request that the U.S. Attorney's Office, as appropriate, move either to have the Service Provider dismissed from such suit, to have ICE substituted as the proper party defendant; or to have the case removed to a court of proper jurisdiction. Regardless of the decision on any such motion, ICE shall request that the U.S. Attorney's Office be responsible for the defense of any suit on these grounds.
- D. ICE Recovery Right: The Service Provider shall do nothing to prejudice ICE's right to recover against third parties for any loss, destruction of, or damage to U.S. Government property. Upon request of the Contracting Officer, the Service Provider shall, at ICE's expense, furnish to ICE all reasonable assistance and cooperation, including assistance in the prosecution of suit and execution of the instruments of assignment in favor of ICE in obtaining recovery.

Article XV. Financial Records

- A. Retention of Records: All financial records, supporting documents, statistical records, and other records pertinent to contracts or subordinate agreements under this Agreement shall be retained by the Service Provider for three (3) years for purposes of federal examinations and audit. The three (3) year retention period begins at the end of the first year of completion of service under the Agreement. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three (3) year period, the records must be retained until completion of the action and resolution of all issues which arise from it or until the end of the regular three (3) year period, whichever is later.
- B. Access to Records: ICE and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers or other records of the Service Provider or its sub-contractors, which are pertinent to the award, in order to make audits, examinations, excerpts, and transcripts. The rights of access must not be limited to the required retention period, but shall last as long as the records are retained.
- C. Delinquent Debt Collection: ICE will hold the Service Provider accountable for any overpayment, or any breach of this Agreement that results in a debt owed to the Federal Government. ICE shall apply interest, penalties, and administrative costs to a delinquent debt owed to the Federal Government by the Service Provider pursuant to the Debt Collection Improvement Act of 1982, as amended.

Article XVI. Guard/Transportation Services

- A. Transport Services Rate: The Service Provider agrees, upon request of the Federal Government in whose custody an ICE detainee is held, to provide all such air/ground transportation services as

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may be required to transport detainees securely, in a timely manner, to locations as directed by the ICE COTR or designated ICE official. Transportation between the facility and ICE offices, plus related mileage is included in the daily per diem rate. Other ICE directed transportation will be reimbursed at the rate of \$21.00 per hour. Transportation mileage shall be reimbursed at the mileage rate established pursuant to the current General Services Administration (GSA)/federal travel allowance rates. At least two (2) qualified law enforcement or correctional officer personnel employed by the Service Provider under their policies, procedures and practices will perform transport services.

- B. Medical Transportation: Transportation and/or escort/stationary guard services for ICE detainees housed at the Service Provider's facility to and from a medical facility for outpatient care, and transportation and/or escort guard services for ICE detainees housed at the Service Provider's facility admitted to a medical facility; and to detainees attending off-site court proceedings. An officer or officers, shall keep the detainee under constant supervision twenty-four (24) hours per day until the detainee is ordered released from the hospital, or at the order of the COTR. The Service Providers agrees to augment such practices as may be requested by ICE to enhance specific requirements for security, detainee monitoring, visitation and contraband control.
- C. Indemnities: Furthermore, the Service Provider agrees to hold harmless and indemnify DHS/ICE and its officials in their official and individual capacities from any liability, including third-party liability or worker's compensation, arising from the conduct of the Service Provider and its employees during the course of transporting ICE detainees.
- D. Personal Vehicles: The Service Provider shall not allow employees to use their personal vehicles to transport detainees. The Service Provider shall furnish vehicles equipped with interior security features including physical separation of detainees from guards. The Service Provider shall provide interior security specifications of the vehicles to ICE for review and approval prior to installation.
- E. Training and Compliance: The Service Provider shall comply with ICE transportation standards (<http://www.ice.gov/partners/dro/opsmanual/index.htm>) related to the number of hours the Provider's employee may operate a vehicle. The transportation shall be accomplished in the most economical manner. The Service Provider personnel provided for the above services shall be of the same qualifications, receive training, complete the same security clearances, and wear the same uniforms as those personnel provided for in other areas of this agreement.
- F. Same Sex Transport: During all transportation activities, at least one (1) officer shall be the same sex as the detainee. Questions concerning guard assignments shall be directed to the COTR for final determination.
- G. Miscellaneous Transportation: The COTR may direct the Service Provider to transport detainees to unspecified, miscellaneous locations.
- H. Billing Procedures: The itemized monthly invoice for such stationary guard services shall state the number of hours being billed, the duration of the billing (times and dates) and the name of the

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detainee(s) that was guarded.

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IN WITNESS WHEREOF, the undersigned, duly authorized officers, have subscribed their names on behalf of the Glades County and Department of Homeland Security, U.S. Immigration and Customs Enforcement.

ACCEPTED:

U.S. Immigration and Customs Enforcement

Susan Erickson
Contracting Officer

By: *Susan D. Erickson*

Date: 5/30/07

ACCEPTED:

Glades County Detention Center

Stuart K. Whiddon
Sheriff, Glades County

By: *[Signature]*

Date: 5-29-07

The Intergovernmental Service Agreement Number is DROIGSA070017 / HSCEOP07FIG00032

Exhibit B

NO2000003586

FILED
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

STEVEN A. RAMUNNI, P.A.
Attorney At Law
(also member Texas Bar)

02 MAY -6 AM 8:43

steve@sramunni.com

Heritage Square
1422 Hendry Street, Suite 302
Fort Myers, Florida 33901
Telephone 941-791-3900
Facsimile 941-791-3903

90 Howe Avenue
P.O. Box 1118
LaBelle, Florida 33975
Telephone 863-675-4646
Facsimile 863-675-4174

May 2, 2002

Florida Secretary of State
Division of Corporations
The Capitol, Room 2002
Tallahassee, Florida 32301

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****122.50 *****78.75

IN RE: The Incorporation of GLADES CORRECTIONAL DEVELOPMENT CORPORATION

Dear Sir:

Enclosed herewith is the original and one copy of the duly executed Articles of Incorporation along with my check in the amount of \$122.50 for the incorporation of GLADES CORRECTIONAL DEVELOPMENT CORPORATION

Please file them with your department and return to me a certified copy thereof. I have enclosed a self-addressed, stamped envelope for your convenience.

Thank you for your assistance and cooperation in this matter.

Sincerely,



Steven A. Ramunni

/slp

Enclosures

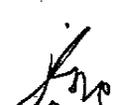
Sherry Passmore GAVE

AUTHORIZATION BY PHONE TO

CORRECT Articles-Address

DATE 5-13-02

DOC. EXAM. ilne



FILED
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLES OF INCORPORATION

OF

02 MAY -6 AM 8:44

GLADES CORRECTIONAL DEVELOPMENT CORPORATION

ARTICLE I

Name of Corporation

The name of this corporation shall be Glades Correctional Development Corporation (hereinafter the "Corporation").

ARTICLE II

Corporate Duration

The Corporation shall have perpetual existence unless sooner dissolved by law.

ARTICLE III

Purposes and Powers

Purposes. The purposes for which the Corporation is organized are exclusively public charitable within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and shall include, without limitation, acting as an instrumentality of Glades County, Florida (the "County") for Federal income tax purposes and in furtherance of the policies of the County to acquire, construct, erect, maintain and/or operate one or more jails, incarceration facilities, including related buildings and works, for the housing and incarceration of inmates, detainees and criminals and to otherwise assist the County in its policies of providing adequate jail and incarceration facilities for use by the Sheriff of Glades County, the State of Florida, or other governmental law enforcement divisions, and in the

economic development of the County. It is intended that the Corporation shall comply with the requirements of Revenue Ruling 63-20 issued by the Internal Revenue Service.

Powers. The Corporation shall have all of the powers permitted to a not for profit corporation under the Florida Not For Profit Corporation Act, as amended, appearing as Chapter 617 of Florida Statutes.

The Corporation shall construct, own, operate, rent and/or finance facilities for the incarceration of inmates and criminals in Glades County, Florida, may borrow money and issue bonds from time to time to do so, may receive contributions and may do all other things necessary in connection therewith, but shall not have other activities.

ARTICLE IV

Membership

The Corporation shall initially have no members other than those members of the board of directors listed herein or hereinafter elected (hereinafter the "Board of Directors" or "Directors"), except as may be added by the Board of Commissioners of the County as set forth in the Corporation's By-Laws.

ARTICLE V

Initial Registered Agent and Initial Registered Office

The initial registered agent of the Corporation shall be Steven A. Ramunni, Esq., and the initial registered office of the Corporation shall be located at 90 Howe Ave., LaBelle, Florida 33935.

ARTICLE VI

Board of Directors

Number. The Corporation shall initially have five (5) Directors. The number of Directors may be either increased or diminished from time to time in accordance with the By-Laws, but shall never be fewer than three (3), nor more than seven (7).

Members of Board. The names and addresses of the initial Board of Directors of the Corporation, who shall serve until their successors are elected or appointed and have qualified, are:

Robert Giesler

K.S. Jones

Alvin Ward

Franklin Simmons

Thomas Johnson

Election. Subsequent Directors shall be elected by the Directors of the Corporation in accordance with the By-Laws of the Corporation, provided that the County shall have the right by resolution to appoint (if no such subsequent Directors are so elected), or confirm the appointment of, not less than eighty percent (80%) of the Directors. The County shall have the right to remove any Director for inefficiency, neglect of duty or misconduct in office after ten days' written notice and a public hearing, by resolution of the County.

ARTICLE VII

Incorporator

The name and address of the incorporator is Steven A. Ramunni, Esq., 90 Howe Avenue LaBelle, Florida 33935.

ARTICLE VIII

Nonstock Basis

The Corporation shall be operated on a nonstock basis as a not for profit corporation.

ARTICLE IX

Prohibited Activities

No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to its trustees, officers, members, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distribution in furtherance of the purposes set forth in Article III hereof, and may make distributions to the County (or as the County shall designate) if not prohibited by contract.

No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

Notwithstanding any other provision of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on by (a) a corporation exempt from Federal income

tax under Section 501(c)(3) of the Code or the corresponding provisions of any future United States Internal Revenue Law and (b) a corporation contributions to which are deductible under Section 170(c)(1) of the Code, or any other corresponding provisions of any further United States Internal Revenue Law.

ARTICLE X

Dissolution or Transfer of Assets

If the Corporation is dissolved, any residual assets of the Corporation after satisfaction of claims and creditors shall be distributed to the County. At the request of the County, the Corporation shall transfer good and marketable title to any and all assets, both real and personal, of the Corporation maintained in furtherance of its purposes to the County; provided, however, that any outstanding indebtedness of the Corporation which said assets may secure is paid or retired prior to such transfer.

ARTICLE XI

Indemnification

Every Director and every officer (hereinafter "Officer") of the Corporation shall be indemnified by the Corporation to the full extent permitted by law against all expenses and liabilities, including attorneys' fees in trial and appellate proceedings or any settlement thereof, reasonably incurred by or imposed upon them in connection with any proceeding to which they may be a party, or in which they may become involved, by reason of their being or having been a Director or Officer of the Corporation, whether or not they are Directors or Officers at the time such expenses are incurred, unless the liability of the Director or Officer in question is adjudged by decision of court to result from the gross negligence or willful misconduct of

either Officer or Director in the performance of his duties; provided, however, that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interest of the Corporation. The foregoing right of indemnification shall be in addition to and shall not be exclusive of all other rights to which said Director or Officer may be entitled.

ARTICLE XII

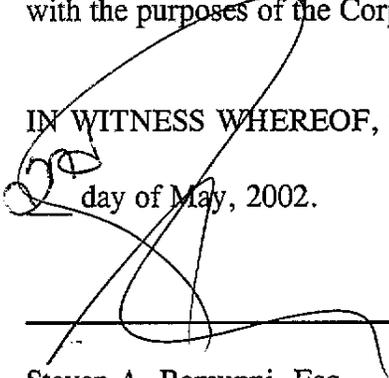
Amendment

These Articles of Incorporation may be amended in accordance with the Florida Not For Profit Corporation Act, as amended.

ARTICLE XIII

By-Laws

The Board of Directors of the Corporation is authorized to adopt By-Laws which are consistent with the purposes of the Corporation and which are not inconsistent with these Articles.

IN WITNESS WHEREOF, the undersigned has executed these Articles of Incorporation, this
 day of May, 2002.

Steven A. Ramunni, Esq.,

Incorporator/Registered Agent

STATE OF FLORIDA

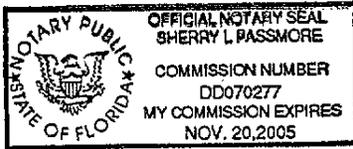
COUNTY OF GLADES

The foregoing instrument was acknowledged before me, this 2nd day of May, 2002, by Steven A. Ramunni, Esq., the sole incorporator/registered agent of the said Corporation.

Sherry L. Passmore

Notary Public

My Commission Expires: 11-20-05

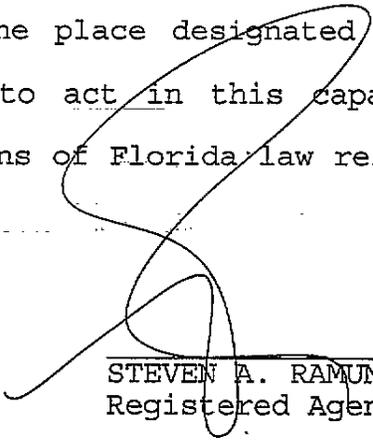


**CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE
FOR THE SERVICE OF PROCESS WITHIN THIS STATE,
NAMING AGENT UPON WHOM PROCESS MAY BE SERVED**

That GLADES CORRECTIONAL DEVELOPMENT CORPORATION, desiring to organize under the laws of the State of Florida, with its principal office located at 90 Howe Avenue, LaBelle, Florida, County of Hendry, State of Florida, has named STEVEN A. RAMUNNI, located at 90 Howe Avenue, LaBelle, Florida, County of Hendry, State of Florida, as its agent to accept service of process within this state.

ACKNOWLEDGMENT

Having been named to accept service of process for the above-named Corporation, at the place designated in this certificate, the undersigned agrees to act in this capacity, and agrees to comply with the provisions of Florida law relative to keeping the designated office open.



STEVEN A. RAMUNNI
Registered Agent

FILED
SECRETARY OF STATE
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02 MAY -6 AM 8:44