

serving its registered agent, CT Corporation System at 1999 Bryan St., Suite 900, Dallas, Texas 75201.

I. JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §1332 because Plaintiff and Defendant are citizens of different states and the amount in controversy exceeds \$75,000.

4. Venue is proper in this Court pursuant to 28 U.S.C. §1391(b) because all or a substantial part of the events or omissions giving rise to the claims occurred in Willacy County, Texas, which is within the Southern District of Texas, Brownsville Division.

5. This Court has specific personal jurisdiction over MTC because MTC contracted with a Texas resident and was to perform the contract in whole or in part in Texas, and MTC committed a tort in whole or in part in Texas.

II. FACTUAL ALLEGATIONS

A. The Construction Project in Willacy County.

6. In June 2002, Hale-Mills Construction, Ltd. (“Hale-Mills”), a multibillion-dollar government contractor, approached the Willacy County board about building a series of buildings that would be used to house federal and state prisoners, guards, and deportation detainees.

7. The proposal called for the County to borrow \$65 million from the public debt markets to fund construction of the buildings, and the debt would be managed by a trustee at U.S. Bank in California.

8. Hale-Mills’ pitch was that the County would be paid for housing these inmates and detainees. The pay was promised to be sufficient not only to recoup the \$65 million investment, but also to produce substantial net income to the County.

9. On or about July 19, 2006, Willacy County entered into a design-builder contract with Hale-Mills to construct the buildings, including the Willacy County Correctional Center in Raymondville, Texas (the “Prison”).

10. Defendant MTC is a management company that contracted with the Federal Bureau of Prisons (“BOP”) to run the Prison. Defendant MTC also contracted with the County to run and oversee the Prison and to provide all information pertaining to the Prison to the County.

B. The County’s Management Contract with MTC (“The Restated Contract”).

11. On July 21, 2006, the County entered into an Operations and Management Services Agreement with MTC, as amended August 31, 2007, August 31, 2008, February 25, 2009, and January 1, 2010 (the “Operations Contract”), which was amended and restated by agreement on July 28, 2011 (the “Restated Contract”), a true and correct copy of which is attached hereto as **Exhibit A**.

12. The purpose of the Restated Contract was for MTC to operate the Prison and receive, detain and care for offenders pursuant to agreements between a) MTC and the BOP for contract number DJBIPC015 (“BOP Contract”), or b) MTC and various government entities (“Assigning Entities”), to continue indefinitely unless terminated in writing upon 180 days’ notice by either party as set forth in §2.2 of the Restated Contract. (Exhibit A, Article I and §§2.1, 2.2).

13. Pursuant to §3.1 of the Restated Contract, MTC received payment from the County as an administrative fee equal to \$3,450 per day if the average number of inmates in the Prison was 1,380 or less, or \$6,210 per day for the first month in which the average number of inmates in the Prison exceeded 1,380, plus \$2.50 per inmate per day for each inmate in excess of 2,484 inmates based on the Midnight Count Report for each day. (Ex. A, §§3.1, 3.2).

14. Pursuant to §4.1 of the Restated Contract, MTC’s duties included developing an

operating plan for conditions of confinement (the “Operating Plan”), and operating, maintaining and managing the Prison in accordance with the Operating Plan, applicable state and federal constitutional requirements, and laws and applicable provisions of the Trust Indenture as defined in the Restated Contract. (Ex. A, §4.1). In addition, MTC was to provide at its sole expense all Operation and Maintenance Costs, including but not limited to the following: a) personnel to control ingress and egress at the Prison, in addition to security personnel within the Prison and to monitor all activities of the prisoners confined therein, as well as any additional necessary personnel; b) procurement and purchasing; c) offender food and laundry services; d) offender educational, recreational, counseling, and exercise services; e) bookkeeping and financial accounting; f) all offender medical care required by the Assigning Entity; g) necessary utilities and refuse services; and h) **all other services necessary or proper for the efficient and safe operation of the Prison in compliance with all applicable federal and state laws and regulations, including all applicable standards of the Assigning Entity Contract.** (Ex. A, §4.1). In exchange, the County agreed to reimburse MTC for Project Costs as defined in the Trust Indenture in the amount of \$2,067,472.83 to operate and maintain the Project for a period not to exceed one year after it is acquired, constructed or improved. (Ex. A, §4.1).

15. Pursuant to §4.4 of the Restated Contract, entitled “Repair and Maintenance Services,” once the repurposing of the Prison was complete pursuant to Article 6 of the Restated Contract (to comply with the physical plant standards required by the BOP Contract on or before September 1, 2011), MTC had the duty to preserve and keep the Prison in good repair, working order, and condition, subject to normal wear and tear, and make or cause to be made all necessary and proper repairs. As part of this provision and upon notification, the County agreed to bear the cost of repair, replacement, or renovations of the physical plant, equipment, and/or systems

exceeding \$10,000 and replace or repair such physical plant parts, equipment or systems with similar equipment. (Ex. A, §4.4).

C. MTC's Abysmal Mismanagement of the Prison.

16. MTC failed to properly oversee, manage, and repair the Prison and turned a blind eye to the enormous problems that plagued the Prison from its inception.

17. Problems with flooding toilets, water seeping underneath the property, rodents, and lack of access to basic inmate services plagued the facility on MTC's watch. MTC allowed the abysmal conditions to continue without taking any action of notifying the County of or attempting to rectify the problems with the Prison. Further, MTC failed to address the issue of prison overcrowding, presumably because MTC was paid an additional per diem for inmates beyond the 90 percent capacity threshold. Two hundred inmates slept in each housing pod, there was insufficient room between beds, and new inmates were forced to stay in solitary confinement because of overcrowding.

18. Tensions ran high due to MTC's mismanagement of the Prison and its conditions, and inmates routinely protested, including refusing to return to the tents until the toilets were fixed. In each of the 200 inmate housing pods, a single correctional officer was posted for the duration of an eight-hour shift. The unacceptable conditions caused by MTC's mismanagement and failure to take corrective actions led to a prison riot on February 20, 2015. Ultimately, the Prison was forced to close and declared "uninhabitable" by the BOP due to MTC's failure to meet its most basic contractual obligations. All 400 employees of the Prison lost their jobs.

19. Had MTC done its job and properly managed the Prison pursuant to its duties set forth in the Restated Contract, the County could have taken remedial action immediately to help rectify the problems, prevent the riot, and keep the Prison in business.

20. Instead, MTC routinely failed to alert the County as to the problems at the Prison

and did nothing to correct or repair them. Accordingly, MTC should be held liable for its total dereliction of its management duties at the Prison. MTC had the duty to run and operate the Prison, but MTC breached its duties and mismanaged the operation, causing the County tens of millions of dollars in damages.

FIRST CLAIM FOR RELIEF

Breach of Contract

21. Plaintiff fully incorporates the allegations set forth above.

22. In the Restated Contract, MTC specifically contracted with the County to develop an Operations Plan to develop and manage the Prison and its inmates and to operate, maintain, and manage the Prison in accordance with the Operating Plan. MTC further agreed that it would keep the Prison in good repair, working order, and condition, and would make all necessary repairs.

23. MTC materially breached the Restated Contract by failing to develop an Operations Plan, mismanaging the Prison, and failing to keep the Prison in good repair, working order, and condition. So much so, in fact, that MTC caused a prison riot.

24. Pursuant to Article 9 of the Restated Contract, MTC engaged in the following events of default: a) materially failing to keep, observe, perform, meet, or comply with any covenant, agreement, term, or provision of the Restated Contract and such failure continued for a period beyond the curative period provided in the Restated Contract after written notice thereof; and d) making material misstatements, misrepresentations and warranties in the Restated Contract that are false, misleading, or erroneous in any material respect. (Ex. A, §9.1).

25. The County asserts that it was foreseeable that MTC's numerous and material breaches of its duties contained within the Restated Contract would and did lead to an uprising of inmates and riot because of the deplorable conditions which MTC failed to address and rectify

within the curative period or at any time thereafter. (Ex. A, §§9.2, 9.3).

26. The County seeks recovery for MTC's breach of contract under the laws of the State of Texas, pursuant to §12.3 of the Restated Contract.

27. As a direct and proximate result of MTC's breach of contract, the County has sustained tens of millions of dollars of damages and other losses.

SECOND CLAIM FOR RELIEF

Negligence

28. Plaintiff fully incorporates the allegations set forth above.

29. MTC owed legal duties to the County to operate, maintain, and manage the Prison properly and to keep the County informed of issues at the Prison.

30. MTC breached the duties it owed to the County by failing to manage, maintain, and properly operate the Prison, by failing to make reports to the County about substandard construction work and other problems, and by other acts and omissions.

31. MTC's breach of its duties proximately caused tens of millions of dollars in damages to the County.

THIRD CLAIM FOR RELIEF

Fraudulent Inducement

32. Plaintiff fully incorporates the allegations set forth above.

33. Defendant MTC represented to the County that it would develop an Operating Plan for conditions of confinement and operate, maintain, and manage the Prison in accordance with the Operating Plan, applicable state and federal constitutional requirements, and laws and applicable provisions of the Trust Indenture as defined in the Restated Contract. MTC further represented that it would keep the Prison in good repair, working order, and condition, and would

make all necessary repairs

34. These representations were material to the County in deciding to enter the Restated Contract with MTC because operating and managing the Prison was an integral part of the project.

35. The representations were false and MTC knew it. MTC had no interest in developing or intent to develop an Operating Plan or keeping the Prison in good repair, but instead was only interested in the money flowing from the County from an overcrowded Prison.

36. MTC made the misrepresentations with the intent that the County would rely on them in entering into the Restated Contract.

37. The County relied on the misrepresentations by entering into the Restated Contract.

38. MTC's misrepresentations proximately caused the County tens of millions of dollars in damages.

III. REQUEST FOR RELIEF

WHEREFORE, the County respectfully requests that the court enter judgment in its favor and against MTC, as follows:

1. Ordering MTC to pay actual damages to the County;
2. Ordering MTC to pay punitive damages, as allowable by law, to the County;
3. Ordering MTC to pay attorneys' fees, pre-and post-judgment interest, costs and expenses; and
4. All other relief the court deems necessary at law or in equity.

Dated: December 7, 2016

Respectfully submitted,

/s/ Bruce Steckler

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