

**Second Agreement with Monitoring Team Panel
to Monitor 16- and 17-Year-Old Adolescent Offenders at Horizon Juvenile Center**

This Agreement (“Agreement”) is voluntarily entered into by the Monitor appointed in the *Nunez* Consent Decree (11-cv-5845, docket entry 249) as defined in § XX, ¶ 1 & 6 (the “Monitoring Team Panel” or “Monitor”), the City of New York (the “City”), and the Administration of Children Services (“ACS”), for the period from July 1, 2022 to June 30, 2023. This Agreement concerns the management and supervision of Adolescent Offenders, as defined under Criminal Procedure Law § 1.20(44), who are or will be housed at the Horizon Juvenile Center (“AO Youth”), and the operation of that facility.

(1) ACS will make deliberate and good faith efforts to improve its practices regarding the enumerated provisions in ¶ 2 below.

(2) ACS agrees to the following:

- a. AO Youth shall be supervised at all times in a manner that protects them from an unreasonable risk of harm. Staff shall intervene in a timely manner to prevent youth-on-youth fights and assaults, and to de-escalate youth-on-youth confrontations, as soon as it is practicable and reasonably safe to do so.
- b. ACS shall comply with applicable ACS policies governing staff’s use of physical interventions and restraints (collectively “Physical Restraints”) and any required reporting of such incidents, including Policy # 2014/10 (“Safe Intervention Policy for Secure and Non-Secure Detention”) and Administrative Order #01/2012 (“Reporting of Incidents and Data Management for Group Oriented Analysis of Leadership Strategies (Goals)”). The aforementioned policies shall be referred herein as “the ACS Physical Restraint Policies.” The City and ACS shall also agree to comply with 9 NY-CRR §§180-3.15 and 180-3.16.
 - i. The Monitoring Team Panel shall assess, in collaboration with ACS’s Division of Youth and Family Justice (“DYFJ”) senior managers, on ACS’ Staff reporting and use of Physical Restraints, and shall provide feedback and any necessary recommendations for enhancements to reporting, limiting physical interventions where possible, and improvements to the use of Physical Restraints. This assessment shall include a review by the Monitoring Team Panel of a reasonable number of incidents involving the use of Physical Restraints (including the review of staff reports and/or video footage), to provide feedback on de-escalation and restraint approaches in response to youth-on-youth violence, youth-on-staff violence, staff on youth violence, and other situations with an imminent threat of harm. The Monitoring Team Panel shall make recommendations about staff training, and articulate general improvements to practice as necessary, in consultation with DYFJ senior management.
- c. ACS shall conduct timely and thorough reviews of Physical Restraints to determine whether the intervention was appropriate and whether ACS staff complied with the ACS Physical Restraint Policies.

- d. ACS shall develop, track, and maintain a sufficient level of programming for AO Youth, consistent with best practices for adolescents and young adults.
 - e. ACS shall maintain systems, policies, and procedures for AO Youth that: (i) reward and incentivize positive conduct and (ii) sanction negative conduct. The application of these procedures shall be individualized, consistent with any treatment needs for AO Youth and shall not compromise the safety of other AO Youth or ACS staff.
 - f. ACS shall comply with applicable ACS policies and practices governing the use of room confinement.
- (3) ACS agrees, in the spirit of collaboration and in recognition of the deep mutual commitment to improving program and practice goals, to continue to consult with the Monitoring Team Panel regarding the areas set forth above in Paragraphs 2(a)-(f). The Monitoring Team Panel will meet on a quarterly basis with the ACS Commissioner and relevant associated senior staff, to discuss the Monitoring Team Panel's observations and assessment of ACS program and practice at Horizon Juvenile Center, improvements made or not, and to relate any other information that the Monitoring Team Panel deems relevant and appropriate for enhancing ACS' practice at Horizon Juvenile Center.
- (4) During the period of this Agreement, the Monitoring Team Panel may, as necessary, provide technical assistance to ACS regarding the terms of this Agreement.
- (5) The Monitor will assess compliance with the requirements set forth above in Paragraphs 2(a)-(f). For purposes of this Agreement, the Monitor shall find ACS to be in "Compliance" with a provision if the Monitor finds that ACS has consistently complied with the relevant requirement and any violations of the relevant requirement are only minor or occasional and not systemic, material, or recurring. The Monitor will file two public reports ("Monitor Reports") on the docket 11-cv-5845 (LTS) (S.D.N.Y.) assessing ACS' compliance with these requirements during two reporting periods.
- a. There shall be two reporting periods during the term of this Agreement. The first reporting period shall cover July 1, 2022 to December 31, 2022. The second reporting period shall cover January 1, 2023 to June 30, 2023.
 - b. The Monitor shall issue a report within 80 business days following each reporting period. Within 30 days from the end of each Reporting Period detailed in subdivision (a) of this Section, ACS will share a Written Compliance Assessment, followed by a presentation/meeting with the Monitoring Team describing ACS efforts, successes and challenges in meeting the expectations detailed in Paragraphs 2(a-f) of this Agreement. The Monitor Reports shall be provided to the City and ACS in draft form for comment at least 30 business days prior to their issuance. The City and ACS shall provide the Monitor with their comments, if any, within 15 business days after receipt of the draft Monitor Report. The Monitor shall consider the comments, and make any changes deemed appropriate, before issuing the final report. The Monitor Reports shall be written with due regard for the privacy interests of individual AO Youth and ACS staff members; federal, state and local laws regarding the privacy of such information; and the interest of ACS in protecting against the disclosure of non-public or privileged information.

Consistent with such interests and laws, the Monitor shall redact individual-identifying information from Monitor Reports and any documents submitted with those reports, and shall give due consideration to ACS requests to edit or redact any other information. The Monitor shall provide the final report and redline comparing the final report with the draft Monitor Report to ACS 5 business days prior to issuing the final report. To the extent the Monitor declines to make the edits or redactions requested by ACS, ACS can append any comments to the Monitor Report that is submitted by providing such appendix to the Monitor by noon on the day the final report is to be issued.

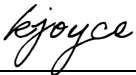
- c. Each of the Monitor Reports shall provide relevant and appropriate context for its findings and give due consideration to the totality of the circumstances. Further, as appropriate and relevant, the Monitor Reports shall describe: (1) ACS' diligent and good faith efforts to implement ¶ 2 (a)-(f) of this Agreement, (2) generally accepted practice for 16- and 17-year old youth as it relates to this Agreement, and (3) any challenges or obstacles related to implementing ¶ 2 (a)-(f) of this Agreement.
 - d. ACS will be afforded the opportunity to append a response to the final Monitor Report filed with the Court.
- (6) In furtherance of this Agreement, the City shall bear all reasonable fees, costs, and expenses of the Monitor, including payments to the Monitor's staff as required under the *Nunez* Consent Judgment § XX, ¶ 5 and consistent with the Monitoring Team Panel's payment structure with the City that is in place for the *Nunez* Consent Judgment.
- (7) ACS will provide the Monitoring Team Panel reasonable and timely access to relevant information and documents in order to perform the responsibilities of this Agreement. The January 7, 2021 confidentiality agreement between the Monitoring Team Panel and ACS, which delineates the acquisition and appropriate use by the Monitoring Team Panel of confidential information, prohibitions on secondary dissemination, record retention during the period of this Agreement, and destruction of records provided to the Monitoring Team Panel at the end of the period of this Agreement, remains in effect.

Date: September 29, 2022

**FOR THE CITY OF NEW YORK AND
THE ADMINISTRATION FOR CHILDREN'S SERVICES:**

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FOR THE MONITOR:

s/ Steve J. Martin

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