

**Exhibit A**

**Settlement Agreement**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

)  
)  
)  
IN RE HUTTO FAMILY DETENTION ) Case No. A-07-CA-164-SS  
CENTER )  
)  
)  
)  
)

**SETTLEMENT AGREEMENT**

**Preamble**

This Settlement Agreement (the “Agreement” or “Hutto Agreement”) is made and entered into by all Plaintiffs and Defendants in the individual actions consolidated as *In re Hutto Family Detention Center*, No. A-07-CA-164-SS (collectively herein, the “Parties”), as of August 26, 2007. A list of individual actions that the Court consolidated is attached as Exhibit A (“Consolidated Actions”). The Hutto Agreement resolves all claims raised by Plaintiffs in the Consolidated Actions.

WHEREAS, in January 1997, Defendants entered into a Settlement Agreement in the case of *Flores v. Meese*, No. CV 85-4544-RJK (C.D. Cal.);

WHEREAS, Plaintiffs filed multiple individual lawsuits in the United States District Court for the Western District of Texas pursuant to Paragraph 24(B) of the *Flores* Settlement Agreement (“FSA”), which permits minors in immigration custody to challenge their placement in particular types of facilities, and allows minors to assert that particular types of facilities do not comply with the minimum standards for licensed facilities set forth in Exhibit 1 of the FSA;

WHEREAS, Plaintiffs alleged that the T. Don Hutto Family Residential Center in Taylor, Texas (“Hutto” or “Hutto facility”) is non-compliant with the FSA and the minimum standards for licensed facilities set forth in Exhibit 1 of the FSA;

WHEREAS, Defendants deny the allegations;

WHEREAS, the Parties have conducted extensive discovery on an expedited schedule and the Parties believe it is in their mutual interest to settle the Consolidated Actions to avoid the risks and burdens of trial in this matter, and accordingly enter into this Hutto Agreement to globally resolve all claims brought forth in the Consolidated Actions;

NOW, THEREFORE, in full settlement of the Consolidated Action and in consideration of the promises and undertakings set forth herein and other consideration, the sufficiency of which is hereby acknowledged, it is hereby stipulated and agreed, by and between the undersigned, as follows:

**I. Parties and Definitions**

1. Plaintiffs are the following accompanied minors who are in legal custody of U.S. Immigration and Customs Enforcement (“ICE”) at the Hutto facility, or were detained at Hutto and remain subject to re-detention by ICE: Antony Castanon Nartatez; Jonathan Castanon Nartatez; Jeniffer Castillo-Padilla; Esther Donaire-Padilla; Jose Fernando Erazo-Paredes; Gladys Elizabeth Martinez Grijalva; Maryorie Alejandra Martinez Grijalva; Antony Alexander Martinez Grijalva; Joseline Vanessa Mendez-Sanchez; Kimberly Dayan Sanchez Ordonez; Fredy Pineda-Brisuela; Marusia Razmias; Paola Osorio Restrepo; Andrea Osorio Restrepo; Susana Rodriguez Blanco; and Marco Antonio Toruno Altamirano.

2. Plaintiffs are represented by the following counsel: the national legal department of the American Civil Liberties Union (“ACLU”); the American Civil Liberties Union of Texas; LeBoeuf Lamb Greene & MacRae LLP, and the University of Texas School of Law Immigration Clinic.

3. Defendants are Michael Chertoff, Secretary of U.S. Department of Homeland Security (“DHS”); Julie L. Myers, Assistant Secretary, ICE; John P. Torres, Director, Office of Detention and Removal Operations, ICE; Marc Moore, ICE Field Office Director; Gary Mead, Assistant Director of Detention and Removal Operations at ICE; Simona Colon, ICE Officer in Charge; and John Pogash, former ICE National Juvenile Coordinator.

4. The “Effective Date” is the date upon which the Agreement enters into effect, which shall be the date on which the Court signs an order approving the Agreement.

**II. Living Accommodations at the Hutto Facility**

5. Defendants agree to provide living accommodations to all residents of the Hutto facility that comply with the specific conditions identified in Exhibit B and Exhibit C of this Agreement. Exhibit B identifies conditions reforms that Defendants agree to implement within three (3) months of the Effective Date of the Agreement. Exhibit C details many of the conditions reforms already made by Defendants.

**III. Hutto Population and Periodic Review of Detention**

6. Defendants agree to take the following actions in an effort to shorten the average duration that accompanied minors are detained at Hutto:

- A. ICE agrees to place only those families that are in expedited removal proceedings pursuant to 8 U.S.C. § 1225(b) in the Hutto facility, barring exigent circumstances such as an unexpected influx of alien families or lack of available bed space for family detention as described below. If ICE determines in its discretion that a family in non-expedited removal proceedings should be detained in a family detention center, and bed space exists at another facility that ICE is using as a family detention center at the time of the Effective Date of this Agreement, ICE will first seek placement at that facility. If no bed space exists at that facility, the family may be detained at Hutto or another ICE family detention center then in use. This paragraph has no effect on families initially placed at Hutto who are in expedited removal proceedings, but who later establish a credible fear, and who may subsequently enter non-expedited removal proceedings.
- B. Every six (6) months during the term of the Agreement, Defendants will produce spreadsheets (redacted of names and identifying information) to Plaintiffs' Counsel showing that, for each non-expedited removal family placed at Hutto, no bed space existed at any other ICE family facility at the time of the placement.
- C. ICE agrees that the Field Office Director ("FOD") in charge of case management at the Hutto facility, or his or her designate,

shall, within thirty (30) days of a family's initial arrival at the Hutto facility, conduct a review to assess whether that family may be released on parole, bond, or other conditions, or released on recognizance, or transferred to another family detention facility, and whether the family's conditions of release may be modified (e.g., whether a previously set bond may be reduced). The FOD or his or her designate shall thereafter conduct a review every 30 days, or as close to every 30 days as possible when professional obligations necessitate otherwise but not later than 40 days, to determine if circumstances warrant that the family be released on parole, bond, or other conditions, or released on recognizance, or transferred to another family detention facility, and whether the family's conditions of release may be modified (e.g., whether a previously set bond may be reduced where the family is eligible for a bond reduction by the FOD). The FOD will conduct such review by considering all relevant information in his or her possession, including any information provided by the detained family members and/or their respective counsel.

- D. Upon review of specific requests for release or transfer and in all cases where a family has been detained at Hutto for greater than sixty (60) days, if the FOD decides to not release or transfer the family, reduce the family's bond (where a family is eligible for a bond reduction by the FOD), or modify the family's conditions of

release, the FOD will issue a written decision summarizing the reasons for such a determination. However, nothing in this paragraph limits the discretion of the FOD to deny release, deny transfer, deny reduction of bond (where eligible), or deny modification of the conditions of release. Such denials by the FOD shall not give rise to an actionable claim under this Agreement, and are not subject to challenge or review in any forum, whether administrative or judicial. This paragraph shall not be construed as precluding any alien's right to petition for a writ of habeas corpus.

- E. Defendants will retain copies of all letters generated pursuant to this paragraph and will provide these copies to U.S. Magistrate Judge Andrew W. Austin during each compliance review conducted pursuant to Paragraph 7 of this Agreement.

#### **IV. External Oversight**

7. Magistrate Judge Austin will conduct on-site reviews of the Hutto facility to verify ongoing compliance with conditions reforms listed in Exhibits B and C of the Agreement, and the periodic reviews conducted pursuant Paragraphs 6(C) and 6(E) of the Agreement. Magistrate Judge Austin will conduct the first compliance review within four (4) months of the Effective Date of the Agreement; a second compliance review within six (6) months of the first review; and a third compliance review within one (1) year of the second review.

8. To complete his reviews, Magistrate Judge Austin shall have full access to the Hutto facility and to all non-privileged materials and documents related to Hutto in

the Defendants' possession, custody, or control, as necessary to verify compliance with those provisions identified in Paragraph 7. To the extent materials and documents in the possession or control of any organization or entity providing detention services at Hutto are deemed to be necessary by Magistrate Judge Austin to verify compliance, Defendants shall make all reasonable efforts to obtain such materials and documents. If Defendants are unable to obtain such materials and documents from the detention services provider, and it is impossible for Magistrate Judge Austin to verify compliance by any other means, Magistrate Judge Austin may find the applicable provision to be "deficient because of an inability to verify." Magistrate Judge Austin further shall be permitted to conduct private, confidential interviews with Hutto detainees and facility staff, including Defendants' employees, as necessary to verify compliance.

9. As soon as possible after each review, Magistrate Judge Austin will report to the Parties regarding compliance, identifying all conditions noted to be deficient and making recommendations for resolving any deficiencies.

10. In the event any provisions are noted as being deficient, Defendants shall have forty-five (45) days to cure the deficiency. During the forty-five (45) day cure period, Plaintiffs may not bring any judicial action for violation of this Agreement based on the deficiency. If the deficiency remains uncured after the forty-five (45) day cure period upon verification in a manner agreed upon by the Parties, Plaintiffs may pursue any remedy under the procedures established in Paragraph 24 of this Agreement.

11. For those conditions reforms identified in Exhibits B and C of the Agreement that are marked with an asterisk (\*), it shall be an affirmative defense to any action to enforce the provisions of this Agreement that the failure to cure a deficiency is



because compliance with the particular conditions reform would compromise the safety, health, or welfare of the detainees or staff at the Hutto facility. However, in the event that changed circumstances would warrant non-compliance with a conditions reform identified in Exhibits B and C of the Agreement, Defendants shall, except in emergency situations, first seek modification of the conditions reforms pursuant to Paragraph 34 of this Agreement to account for such changed circumstances, and, in emergency situations, shall seek modification of the conditions reforms within thirty (30) days of the emergency arising.

12. Plaintiffs shall not be responsible for any costs associated with the compliance reviews conducted by Magistrate Judge Austin.

**V. JFRMU Administrative Review**

13. Within four (4) months of the Effective Date of this Agreement, Defendants agree that ICE's Juvenile and Family Residential Management Unit ("JFRMU") shall implement standards governing the care of families detained at Hutto, including standards related to the hiring and training of on-site staff at the facility ("family detention standards"). JFRMU will consider standards that are employed by states operating residential centers, including, but not limited to, the State of Texas, e.g., Texas' Minimum Standards for General Residential Operations (40 Tex. Admin. Code § 748.1 *et seq.*), in formulating, developing, issuing, and implementing the family detention standards. However, standards that would require structural changes to the Hutto facility (e.g., minimum room size) shall not apply. JFRMU shall retain full discretion in issuing the family detention standards, and such standards shall not be subject to administrative

or judicial review. Within one week of the implementation of the family detention standards, a copy shall be provided to Plaintiffs' Counsel.

14. In addition to the consultants listed in Paragraph 18 of this Agreement, JFRMU will retain a Child Care Professional who meets the qualifications listed in Exhibit D of the Agreement to act as a consultant and assist JFRMU in the development of the family detention standards and to participate in the annual evaluation of the Hutto facility for compliance with those standards.

15. Within six (6) months of the Effective Date of the Agreement, and annually thereafter, JFRMU shall evaluate the Hutto facility against the family detention standards that are issued pursuant to Paragraph 13 of this Agreement and report on the facility's compliance. During the term of this Agreement, Defendants agree to provide copies of all inspection reports prepared by JFRMU pursuant to this paragraph to Plaintiffs' Counsel within one (1) week of the reports being issued.

16. In the event JFRMU determines that any family detention standards are not being satisfied at Hutto, Defendants shall have sixty (60) days to cure the deficiency and obtain verification of compliance from JFRMU. During this period, Plaintiffs may not bring any judicial action for violation of this Agreement based on the non-compliance. If Defendants remain non-compliant with a particular standard after the conclusion of the sixty-day cure period and upon verification by JFRMU, Plaintiffs may pursue any remedy under the procedures established in Paragraph 24 of this Agreement.

17. Defendants agree to continue to make reasonable efforts to secure a license from the State of Texas and to keep Plaintiffs' Counsel apprised of these efforts. If Texas grants a license, Paragraphs 13-16 will cease to apply.

18. JFRMU is in the process of retaining consultants in the following areas: medical, mental health, child psychiatry, education, and conditions. All such consultants who have been retained shall assist JFRMU in both the development of the family detention standards and the inspection of the Hutto facility for compliance with those standards.

**VI. Management of the Hutto Facility**

19. During the term of the Agreement, Defendants will ensure that, in hiring all professional and non-professional staff who will have regular and significant direct contact with children, the contractors and subcontractors involved in management of the facility (“detention services providers”) make reasonable efforts to recruit and give preference in hiring to candidates with prior experience working with children and families, or with an educational background in child welfare, child psychology, education or social work. Within four (4) months of the Effective Date of the Agreement, and annually thereafter, Defendants will report to Plaintiffs’ Counsel describing efforts made in compliance with this paragraph and actions taken by the current detention services provider(s) in response to these efforts.

20. Defendants intend to modify the Inter-Governmental Service Agreement (IGSA) between ICE and Williamson County to incorporate performance-based family detention standards after the standards are implemented pursuant to Paragraph 13 of the Agreement.

21. Defendants are responsible for ensuring that future contracts regarding Hutto and any subcontracts regarding Hutto shall be consistent with the terms and conditions of this Agreement.

**VII. Term of Agreement and Dispute Resolution**

22. This Agreement, and all responsibilities and obligations contained herein, will terminate upon any of the following events, whichever occurs first:

- A. Publication in the Federal Register of final regulations implementing the FSA;
- B. Discontinued use of the Hutto facility as a family residential center on a permanent basis (evidenced by a public statement from ICE and transfer of all families out of Hutto) or for a period of one (1) year or longer (evidenced by non-detention of families at Hutto for 365 continuous days); or,
- C. Two (2) years from the Effective Date of the Agreement.

23. This Agreement applies to and is binding upon all Plaintiffs and Defendants, including Defendants' officers, agents, employees, successors and assigns.

24. In the event of non-compliance with the terms of the Agreement, Plaintiffs may seek judicial relief in the method described as follows:

- A. Plaintiffs shall notify Defendants in writing of the specific grounds and facts upon which Plaintiffs allege non-compliance with identified provisions of the Agreement. Defendants shall respond in writing within fourteen (14) calendar days. The Parties will agree to a reasonable date by which Defendants will cure instances of non-compliance. If the dispute is not resolved, Plaintiffs shall notify Defendants by letter and request that counsel meet and confer. The Parties shall meet within fourteen (14) calendar days

of Plaintiffs' notice, or on some other mutually agreed upon date, in an attempt to arrive at an amicable resolution of the dispute. Nothing said by any party or counsel for any party during any and all meetings held pursuant to this paragraph may be used by any opposing party in subsequent litigation between the Parties or in any other lawsuit.

- B. Upon mutual agreement of the Parties, and the consent of Magistrate Judge Austin, the Parties may refer a dispute unresolved after the meetings held pursuant to Paragraph 24(A) to Magistrate Judge Austin for mediation.
- C. If the dispute remains unresolved five (5) business days following the conclusion of such meeting or meetings, or following mediation held pursuant to Paragraph 24(B), or if Defendants do not respond to Plaintiffs' initial notice of dispute within fourteen (14) calendar days, or if counsel do not meet and confer (or agree to a date to meet and confer) within fourteen (14) calendar days of Plaintiffs' request to meet and confer, Plaintiffs may apply to the Court for specific performance or other appropriate relief.

25. The Parties agree that the United States District Court for the Western District of Texas (Austin Division) has jurisdiction to enforce the provisions of this Agreement.

26. Good faith efforts to comply with the dispute resolution procedures set forth in this Agreement are a condition precedent to any action to enforce the Agreement by Plaintiffs.

**VIII. Finality and Release of Claims**

27. During the term of the Agreement, Plaintiffs and Plaintiffs' Counsel, as defined in Paragraphs 1 and 2, agree not to file any class action in the Central District of California or any new individual actions in the Western District of Texas based on any alleged FSA violations involving the Hutto facility. However, this paragraph does not limit the ability of Plaintiffs' or Plaintiffs' Counsel to file any action to enforce the provisions of this Agreement in the manner specified in Paragraph 24 of this Agreement.

28. During the term of the Agreement, Defendants agree not to move to modify or terminate the Agreement based on mootness or standing grounds. However, if the United States District Court for the Central District of California (Western Division) issues an order pursuant to that court's continuing jurisdiction in *Flores v. Chertoff*, CV 85-4544-RJK, that Defendants believe conflicts with, or is duplicative of, its obligations under this Agreement, Defendants may move the United States District Court for the Western District of Texas (Austin Division) for an order terminating Defendants' conflicting or duplicative obligations under this Agreement. If the District Court of the Western District of Texas finds that the order of the District Court of the Central District of California does conflict with or duplicate Defendants' obligations under this Agreement, those obligations found to be conflicting or duplicative shall immediately terminate. All other provisions of this Agreement, including all Defendants' obligations not found to be conflicting or duplicative shall remain in full force and effect.

Defendants' inclusion of this clause has no preclusive effect on the Government's ability to assert *res judicata*, collateral estoppel, law of the case, or any other appropriate defense to whatever litigation may develop before the District Court of the Central District of California.

29. The Parties will jointly file a motion asking the Court to approve the Agreement and to retain enforcement jurisdiction during the term of the Agreement. The Parties agree to not appeal or move to reconsider any findings made by the Court in approving the Agreement, but Plaintiffs reserve the right to move to reconsider or appeal any dismissal of the Consolidated Actions by the Court. However, once the Agreement terminates pursuant to Paragraph 22, the Parties agree that all rights to move to reconsider or appeal will terminate.

30. This Agreement, as of the Effective Date, resolves any and all claims raised by Plaintiffs in their complaints against Defendants and their predecessors, successors, or assignees, together with past, present or future officials, employees, representatives, and agents.

31. Plaintiffs' Counsel agree to make all reasonable efforts to ensure Plaintiffs' appearances at all immigration hearings, up to and including any hearings on final orders of removal.

32. Each party agrees to bear its own costs and fees (including attorneys' fees), and with no rights of appeal. Plaintiffs agree that they shall not seek, solicit, or request attorneys' fees and/or litigation costs provided under the Equal Access to Justice Act, 28 U.S.C. § 2412 or any other provision.

**IX. Modification of Agreement**

33. This Agreement constitutes the entire agreement among the Parties as to all claims raised by Plaintiffs in the Consolidated Action, and supersedes all prior agreements, representations, warranties, statements, promises, covenants, and understandings, whether oral or written, express or implied, with respect to the subject matter hereof, with the exception of the FSA, which the Parties agree is not modified by this Agreement.

34. This is an integrated agreement and may not be altered or modified except by a writing signed by all parties in interest at the time of the authorization and modification.

**X. Protection of Discovery Materials**

35. Within ninety (90) days of the Effective Date of this Agreement, Defendants may produce to Plaintiffs' Counsel a list of documents identified by Bates-number for which they have a good faith basis to assert privilege. Plaintiffs are under no obligation to object to Defendants' assertion of privilege at the time the list is produced and retain the right to dispute Defendants' assertion of privilege as to specific documents at any time. Plaintiffs agree to provide Defendants with at least ten (10) days notice if they intend to disclose or disseminate in other litigation any of the documents identified as privileged by Defendants. If Defendants object to the intended disclosure, they have the burden to seek appropriate protection in any court of competent jurisdiction. If Plaintiffs intend to disclose or disseminate in other litigation any documents that Defendants have produced during the course of this litigation within ninety (90) days of



the Effective Date of this Agreement, Plaintiffs will provide Defendants with ten (10) days notice.

**XI. No Admission of Liability**

36. The Parties understand and expressly agree that the terms of this Agreement, the settlement provided for herein, and any action taken by any party in connection herewith are intended to compromise disputed claims, to avoid litigation, and to buy peace, and that this Agreement and the settlement provided for herein do not constitute and shall not be construed or viewed as an admission of any wrongdoing or liability by any party, including but not limited to: (a) an admission by Defendants of any violation of law or the FSA; (b) an admission by Defendants that any standard, policy, practice or procedure challenged in the Consolidated Action violated or failed to comply with either the language or the intent of any applicable law or the FSA, or (c) an admission by Defendants that their position in this litigation was not substantially justified.

**XII. Representations**

37. The Parties to this Agreement represent and warrant to each other that:
- A. Each of them has legal capacity, and authority to compromise and release all claims as provided herein;
  - B. Each of them has the legal capacity and authority to enter into and perform all the terms of this Agreement; and
  - C. Each of them has read this Agreement, understands its terms, and intends to be legally bound by it.

**XIII. Sufficiency of Consideration**

38. The Parties acknowledge that the covenants contained in this Agreement provide good and sufficient consideration for every promise, duty, release, obligation, agreement, and right contained in this Agreement.

**XIV. Advice of Counsel**

39. Each party to this Agreement acknowledges that the party has had the benefit of advice of competent legal counsel with respect to the decision to enter into this Agreement and the settlement provided for herein.

**XV. Mutual Exclusivity of Provisions**

40. If any provision of this Agreement is declared invalid, illegal or unenforceable in any respect, the remaining provisions shall remain in full force and effect, unaffected and unimpaired.

**XVI. Notifications**

41. All written communications required by this Agreement shall be transmitted by U.S. Mail and electronic mail to undersigned counsel for Defendants and Plaintiffs at the addresses listed below. All counsel shall be informed promptly in the event that any substitution is to be made in counsel or representatives designated to receive notification under this Agreement, and the name and contact information for substitute counsel or designated representative shall be promptly provided.

**XVII. Non-Retaliation**

42. Defendants agree that they shall not retaliate against any Plaintiff because that person has filed or may file a complaint for enforcement purposes only, provided

information or assistance, or participated in any other manner in a proceeding relating to this Agreement.

**XVIII. Defense of Agreement**

43. The Parties agree to defend the provisions of this Agreement. The Parties shall notify each other of any court challenge to this Agreement.

**XIX. Multiple Counterparts**

44. This Agreement may be executed in a number of identical counterparts, all of which shall constitute one agreement, and such execution may be evidenced by signatures delivered by facsimile transmission.

**XX. Successors**

45. This Agreement shall be binding on all successors, assignees, employees, and all those working for or on behalf of Defendants and Plaintiffs.

**XXI. Titles and Headings**

46. Titles and headings to Articles and Sections herein are inserted for convenience and reference only, and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

**For PLAINTIFFS**

By: 

Date: 8/26/07

Vinita Gupta  
American Civil Liberties Union Foundation  
Racial Justice Program  
125 Broad Street, 18th Floor  
New York, NY 10004  
vgupta@aclu.org

By: 

Date: 8/26/07

Gouri Bhat  
American Civil Liberties Union Foundation  
National Prison Project  
915 15th Street, NW, 7th Floor  
Washington, DC 20005  
gbhat@app-aclu.org

**For DEFENDANTS**

By: 

Date: 8/26/07

John F. Torres  
Director  
Office of Detention and Removal Operations  
U.S. Immigration and Customs Enforcement  
U.S. Department of Homeland Security  
Washington, D.C. 20536

By: 

Date: 8/26/07

Victor M. Lawrence  
Senior Litigation Counsel  
Office of Immigration Litigation  
U.S. Department of Justice  
Washington, D.C. 20544  
Victor.Lawrence@usdoj.gov

**EXHIBIT A**

The Consolidated Actions include the following individual lawsuits, consolidated for trial under *In re Hutto Family Detention Center*, Case No. A-07-CA-164-SS:

07-CA-309-SS: Susana Rodriguez Blanco  
07-CA-380-SS: Fredy Pineda-Brisuela  
07-CA-381-SS: Antony Castanon Nartatez  
07-CA-382-SS: Jonathan Castanon Nartatez  
07-CA-383-SS: Marusia Razmias  
07-CA-384-SS: Marco Antonio Toruno Altamirano  
07-CA-452-SS: Kimberly Dayan Sanchez-Ordonez  
07-CA-453-SS: Maryorie Alejandra Martinez Grijalva  
07-CA-454-SS: Esther Donaire-Padilla  
07-CA-455-SS: Jose Fernando Erazo-Paredes  
07-CA-456-SS: Gladys Elizabeth Martinez Grijalva  
07-CA-457-SS: Paola Osorio Restrepo  
07-CA-458-SS: Joseline Vanessa Mendez-Sanchez  
07-CA-459-SS: Jeniffer Castillo-Padilla  
07-CA-460-SS: Antony Alexander Martinez Grijalva  
07-CA-461-SS: Andrea Osorio Restrepo

**EXHIBIT B**

**Structural Changes**

**Yes**   **No**

- Privacy curtains installed in showers in all pods.
- Privacy curtains installed around toilets in all rooms.
- Porcelain toilets and sinks installed in all rooms occupied by residents.
- Outdoor recreation area improved to include sand volleyball court.

**Living Arrangements**

**Yes**   **No**

- \*Room searches are not conducted in the absence of individualized suspicion, unless necessary to ensure the health or safety of a resident.
- Each resident is provided with his or her own bed.
- Residents are permitted to decorate rooms with personal items, so long as the decorations do not present a health or safety hazard.
- Residents are provided mattresses of at least 4 inches in thickness, or, if 4" thick mattresses are not yet available, residents who express discomfort with their bed may have access to two 3" mattresses.
- Each family (including husband-and-wife couples) is permitted to spend unlimited time together in any of their respective rooms, with the door open, between the hours of 8 a.m. and 8 p.m. During orientation, families are informed that they may spend this time together in their rooms. Adults are not disciplined for being in their spouse's room. However, residents, including husband-and-wife couples, are further informed during orientation that they may not engage in sexual or intimate activity. If residents do engage in sexual or intimate activity, their privilege of being in individual rooms together will be suspended.

**Movement**

**Yes**   **No**

- \*Between 8 a.m. and 8 p.m., residents are allowed free access to the

outdoors and other areas within the perimeter of the facility. These areas include, but are not limited to, outdoor and indoor recreation areas, the gymnasium, computer lab, library, cafeteria, all pods, barber area, and medical and dental clinics. Minor residents 12 years and older are free to move to and from these areas with a pass signed by his or her parent; residents younger than 12 years must be accompanied by a parent.

**Clothing**

Yes    No

- Residents are allowed access to personal clothing, if appropriate and in acceptable condition.
- The facility provides pajamas for children upon request.
- Residents are allowed to retain in their rooms up to 10 sets of clothing, including personal clothing and facility-provided clothing, so long as the clothing does not cause a safety hazard and appropriate space exists.
- The facility accepts donations of appropriate clothing from organizations.

**Toys**

Yes    No

- Each pod contains communal toys for minor residents' use.
- \*Children are allowed to keep a limited number of toys in their rooms from 8 a.m. to 8 p.m. After 8 p.m., toys are returned to the communal area.
- The facility allows for the donation of new toys in their original packaging, although the facility may screen toys to ensure they are appropriate and safe for children's play.

**Phone Access**

Yes    No

- Phone cards are sold at commissary at reasonable cost.
- Phone calls placed by children are not monitored in real time or subsequently in the absence of

individualized suspicion, but the facility may log phone calls placed by children.

- During orientation, the facility informs all residents that their personal calls are recorded (even in the absence of individualized suspicion), but generally are not monitored in real time.
- The facility does not refer to residents as "prisoners" in outgoing phone messages.
- The facility provides access to a telephone system that allows residents to make phone calls free of charge to pro bono or free legal service providers.

**Schedule**

Yes   No

- From Monday through Friday, the facility does not wake children until 6:30 a.m. at the earliest.
- On Saturday and Sunday, the facility does not have a wake-up time for residents. On these days, the facility offers a continental-style breakfast and/or brunch for extended hours to allow for flexible wake-up times.
- A flexible showering schedule is implemented so that children may shower at various times during the day (e.g., after they exercise).

**Food**

Yes   No

- A variety of meals are offered at the facility.
- Food is served from serving stations visible to the residents.
- A certified dietician oversees and approves menus.
- The facility consistently ensures that perishable food items such as milk have not expired or spoiled.

**Library**

Yes   No



- Residents have free access to a library and books.
- The facility makes efforts to ensure there are a sufficient number of age- and language-appropriate books available to residents.
- The facility ensures that translation dictionaries are available in Spanish.
- The facility allows for organizations to donate new and used books, although books may be subject to screening to ensure no contraband is contained in any books.

**Television and Music**

Yes   No

- Each occupied pod has two televisions to allow for both Spanish and English TV.
- The facility provides music and listening equipment to residents, or accepts donations of these items.

**Law Library**

Yes   No

- Residents have access to current legal materials as required by ICE's National Detention Standards.

**Orientation**

Yes   No

- Residents are provided with a handbook reflecting current rules and policies. The Handbook is updated within reasonable time after rule and policy changes are made.

**Legal Orientation and Access**

Yes   No

- Legal orientation materials are available to residents in both English and Spanish, including materials prepared by, or in consultation with, local immigrants' rights organizations.
- Immigrants' rights organizations are permitted to conduct legal orientation

presentations (LOPs) on a regular basis.

- Facility staff are instructed on attorney-client privilege and confidentiality to prevent questioning of residents about the content of legal visits. Facility staff are instructed to not provide legal advice or discourage residents from exercising their rights.
- Interpreters affiliated with a non-profit organization or an attorney are permitted to enter the facility if, on that first visit, the interpreter provides 24-hour advance notice. On subsequent visits, the interpreter need not announce his or her visit in advance, and is only subject to the same security procedures as attorneys (e.g., provision of identification, etc.) as long as they are accompanied by, and under the supervision of, the law student, paralegal or attorney for whom they are working.
- Residents are provided access to a copier at no cost for use in preparation of their legal case.
- Attorneys are able to leave incoming phone messages for residents. Messages are then promptly provided to residents who are permitted to return the attorneys' calls.
- Phone instructions (as clarified by plaintiffs' counsel) for accessing toll-free pro bono legal services are provided by the phones in each pod.

**Visitation**

Yes   No

- The facility has weekday visitation hours; signs at the facility display the weekday visitation hours.

**Activities for Children**

Yes   No

- Structured physical activities are provided for children when not in school, such as organized sports, physical activities such as dance, intellectually stimulating activities, arts and crafts, and music.
- \*The facility organizes regular off-site field trips for children that serve either a recreational or educational function. However, children subject to a final order of removal, children with documented disciplinary problems, and children whose parents do not consent to off-site trips may be prohibited from participating. The facility also may condition a child's

participation on an off-site trip upon the parent(s) consent to limit and/or waive liability of the government, service provider, or field trip provider.

- Children are permitted to have paper, pens, crayons, pencils, toys, and books in their rooms between 8 a.m. and 8 p.m.

**Mail**

Yes No

- The facility ensures that guards do not read resident mail.
- Residents' relatives are permitted to send books and appropriate clothes.

**Medical & Dental Care**

Yes No

- Subject to the availability of qualified and willing candidates, the facility has on-site medical staff who speak Spanish.
- The facility will provide a larger and more suitable space for medical consultation (the actual increase in space may not yet be in place within 3 months of the Effective Date of the Agreement).
- Subject to the availability of qualified and willing candidates, the facility has an on-site Spanish-speaking dental assistant.
- Residents have access to a limited number of over-the-counter medications, such as Pepto Bismol, through the medical services staff at the facility.
- Children are provided with soft and full-sized toothbrushes.

**Mental Health**

Yes No

- Residents have access to mental health care as needed.
- Subject to the availability of qualified and willing candidates, the facility has a Spanish-speaking social worker for on-site counseling.

**Counts**

Yes   No

- \*No head counts of residents are performed as a regular operating practice. Facility utilizes a system in which residents self check-in with designated staff no more than three times per day.

**Commissary**

Yes   No

- Residents' family members and friends are allowed to add money to residents' commissary accounts.
- Items are available at the commissary for purchase by residents at a reasonable cost.
- Residents are permitted to purchase additional grooming items at the commissary.

**Computers**

Yes   No

- Residents are permitted limited access to the internet in the facility's computer lab; Facility may employ web-filtering software and web-monitoring software, and require residents to follow an access policy.

**EXHIBIT C**

**Yes**   **No**

**Education**

- Students have five hours of class time per day.
- Computer lab with English as a second language (ESL) and other computer classes available. (The language program is the English Language Learning and Instruction System (ELLIS), which teaches elementary vocabulary to users in Spanish, Mandarin Chinese, Vietnamese, and Arabic.)
- Telephonic translating service is accessible in the classrooms.
- Educational assessments completed for each child.
- Adult education classes, including ESL, parenting, development, and computers are occurring. (A Spanish language computer parenting program is loaded on the computers. A separate ESL class in addition to the ELLIS software will be added.)
- School curriculum is based on Texas Educational Knowledge and Skills standards.
- All teachers are certified in Texas or are enrolled in a Texas Education Agency certification program.

**Recreation**

- Children and adults have access to the outdoors during the day.
- Children have a physical education period and a recess period during the school day.
- Open recreation time offered during the day.
- Child recreation rooms available to all residents.
- Movie nights occur at least once per week.
- Monthly birthday parties for residents occur.
- Residents have outside recreation time on weekends, weather permitting.

- Yarn, crochet needles and other craft activities available in pods.

**Living Conditions**

- Mattresses are at least three-inches in thickness.
- Walls in pods and many common spaces painted in variety of colors, including some art murals.
- Leaks in living areas from ceilings are repaired in a timely manner. (Immediate repairs may not be possible due to weather conditions.)
- Temperature is regulated and adjusted to account for resident complaints.
- Some decorating of rooms allowed.
- Each child allowed a teddy bear in room.
- Porcelain toilets and sinks present in pods.
- Night lights are not on in the room unless requested by residents.
- Room doors are unlocked at all times.

**Clothing**

- Residents can wear their own clothing, within prescribed limits.
- Residents are provided various types of clothing to wear in the facility.

**Privacy**

- One room in each pod is vacant and designated for private toilet use.
- Curtains around toilets installed in all pods, except for B Hall. Installation in B Hall is in progress and will be completed within three (3) months.

**Grooming**

- Shampoo and conditioner available to residents.
- Barber services available at least twice per week.
- Variety of grooming supplies and toiletries available at commissary.

**Food**

- Menu undergoes regular revisions.
- Cafeteria-style menu allows residents to select from choice of entrees and side dishes.
- Salad bars available.
- Meat-based courses available at every meal.
- Refrigerators in pods are stocked with juice, milk, cookies, and fruit.
- Condiments are readily available.
- Drink machines are available in the cafeteria for dinner.
- Variety of snacks are available in the commissary.

**Mental Health Services**

- "Town Hall" meeting occurs twice each week.
- Individualized needs assessment performed for each minor.
- Minors have available to them a session with social worker once per week.
- Acculturation and adaptation services, containing information on social and inter-personal skills, are available.
- Division of Immigration Health Services (DIHS) staff assists with monitoring of assessment folders to refer minors for immediate counseling and mental health care if they need it.

**Medical Care**

- Full-time Public Health Service pediatrician onsite.
- Immunization program for minors in place.
- Morning and evening medicine distribution takes place in pods.

**Visitation**

- Contact visits available.

**Attorney Visitation**

- Attorneys are not required to fax in visitation sheet before arriving.
- Designated attorney room available for client meetings.
- Children are not required be with parents during attorney meetings.

**Detainee Movement**

- Housing and interior doors opened; residents are free to move between housing units and non-restricted areas of the facility so long as they check-in when they enter a new area. For children 12 and above, a pass indicating parental consent is required; children under 12 must be accompanied by their parent.
- Daily head counts of residents achieved through system whereby residents check-in with staff at set times.

**Staff**

- Staff uniform consists of polo shirts and khakis.

**Orientation**

- Orientation explaining rules, services, expectations, and the availability of legal assistance provided to new residents.
- Local non-profit organizations permitted to give legal orientation program at the organization's expense.

**Hutto Facility**

- No razor wire on perimeter fencing.
- No fence in front of the entrance to the facility.
- No bars on the entrance to the facility.
- Front area and back recreation area landscaped; flower beds on grounds.
- Resident intake area has wooden doors; doors remain unlocked.
- No signs on premises describing Hutto as a "corrections facility."



**Record Keeping**

- Resident files now contain intake forms, disciplinary reports, records of counseling and commissary records.
- Client case records are safe guarded and locked in Case Manager's Office; strict key control is maintained; a logbook is utilized to ensure file integrity.

**Work**

- Detainees allowed to work in kitchen or housekeeping for \$1/day.

**EXHIBIT D**

Requirements for Child Care Professional retained by JFRMU pursuant to

Paragraph 14 of the Agreement:

- At least 2 years of full-time experience in the management or supervision of child-care personnel and programs.
- A master's or doctoral degree in social work or child psychology.