

AGREEMENT NO. 21.052.01  
School Based Counseling Program

THE AGREEMENT made and entered into this 28<sup>th</sup> day of June 2024, between the Alameda Unified School District, Alameda County, California (“District”), and Alameda Family Services (“Contractor”).

The District and the Contractor, hereinafter named, agree as follows:

ARTICLE 1. THE WORK

A. Per services awarded through RFP No. 20-052-01 School Based Counseling Program, Contractor will design, develop and deliver comprehensive, integrated, school-based counseling services for the 2021-24 academic school year for students in grades TK-12. In the model, staff therapists (registered or licensed with Board of Behavioral Sciences) and internship trainees (graduate students actively enrolled in a counseling program) will be expected to deliver individual and group counseling services, collaborate with school personnel to coordinate services and share progress of the students on their caseload, keep clinical counseling records, develop treatment plans, communicate with parents the progress of their student, consult with school staff and provide training/consultation around school-wide and classroom-wide trauma-informed culture, and ensure the social- emotional well-being of the students on their caseload. All unlicensed staff are provided supervision by a licensed clinical supervisor.

The District exercises the option to extend the three (3) year term of the initial agreement through for another one (1) year term. Contractor will supply group and individual counseling services during the 2024-2025 school year. Current schools to receive these services are identified as Bay Farm School, Love Elementary, Maya Lin Elementary, Otis Elementary, Paden Elementary, Ruby Bridges Elementary, Earhart Elementary, Edison Elementary, Franklin Elementary, Lincoln Middle, Wood Middle, Alameda High, Encinal Junior & Senior High, ASTI, and Island High. Locations may change as areas of need are identified.

B. District shall maintain lists showing the total number of pupils authorized and eligible for mental health in accordance with the schedule that shall be incorporated by reference into this Agreement.

ARTICLE 2. THE CONTRACT

The Contractor and the District agree that the Request for Proposal (“RFP”) and any addenda and the Contractor’s proposal in response to the RFP, together with this Agreement, form the Contract Documents as if hereto attached. In the event of conflict between the terms of this Agreement and any other part of the Contract Documents, the terms of this Agreement shall supersede.

ARTICLE 3. DAMAGES ON FAILURE TO PROVIDE SERVICE

It is agreed by the Contractor and the District that from the nature of the services to be rendered, it is impractical and extremely difficult to fix the actual damage to the District through the failure of the Contractor to provide any of the services under this Agreement, therefore, if the Contractor fails to provide any portion of the service required under the terms of this Agreement compensating payment shall be determined by the District in accordance with the criterion defined herein.

#### ARTICLE 4. PAYMENT

A. Contractor shall provide services for an annual fee of \$640,000.00. This sum shall be for full performance of this Agreement. The District will make payment to the Contractor monthly as charges accrue, forty-five (45) days after receipt of invoices and statements from the Contractor, both of which shall be delivered monthly to the District and rendered electronically to [accountspayable@alamedaunified.org](mailto:accountspayable@alamedaunified.org).

B. Invoices furnished by Contractor under this Agreement must be in a form acceptable to the District. All amounts paid by the District shall be subject to audit by the District.

1. Invoices shall include but not be limited to: Consultant name, consultant address, invoice date, invoice sequence number, purchase order number, name of school or department service was provided to, period of service, number of hours of service, brief description of services provided, hourly rate, and total payment requested.
2. In addition, unless specifically waived by the District as set forth above, invoices from Agencies or Organizations must include evidence of compliance.

#### ARTICLE 5. CHANGES/SUPPLEMENTAL AGREEMENT

The Contractor and the District agree that changes in this Agreement or in the work to be done under this Agreement shall become effective only when written in the form of an amendment, approved, and signed by the District and the Contractor.

#### ARTICLE 6. DISPUTES

A. In the event of a dispute between the District and the Contractor as to an interpretation of any of the Specifications, the decision of the District shall for the time being prevail and the Contractor, immediately, shall proceed as directed by the District without prejudice to final determination by negotiation, arbitration by mutual consent or litigation.

B. In the event the Contractor shall neglect to prosecute the work properly or fail to perform any provisions of this Contract, the District, after three days written notice to the Contractor, may, without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or there under due to the Contractor, subject to final settlement between the parties as in this paragraph herein above provided.

#### ARTICLE 7. ASSIGNMENT

The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the proper written consent of the surety on the contract bond, if any, and the District.

#### ARTICLE 8. CONTRACTOR INSOLVENCY

A. Contractor will notify the District immediately of any financial circumstances that may affect Contractor's ability to perform under this agreement and of Contractor's intention no less than nine-ty (90) days prior to filing bankruptcy.

B. If applicable or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he should persistently or repeatedly refuse or fail, except in cases for

which extension of time is provided to supply enough properly skilled employees or proper equipment, or persistently disregard laws, ordinances or the instructions of the District, then the District may serve written notice upon the Contractor and his Surety of its intention to terminate the Contract and, unless within five (5) days after the serving of such notice, such violations shall cease and satisfactory arrangements for corrections thereof be made the Contract shall, upon the expiration of said five (5) days, cease and terminate.

In the event of any such termination, and if applicable the District shall immediately serve written notice thereof upon the Surety and the contractor, and the Surety shall have the right to take over and perform the Contract; provided, however, that if the Surety within ten (10) days after the serving upon it Notice of Termination does not give the District written notice of its intention to take over and perform the Contract or does not commence performance thereof within the ten (10) days stated above from the date of the serving of such notice, the District may take over the work and prosecute the same to completion by any other method it may deem advisable, for the account and at the expense of the Contractor, and the Contractor and his Surety shall be liable to the District for any excess cost occasioned the District thereby, and in such event the District may without liability for so doing, take possession of and utilize in completing the work, such materials, appliance, plant and other property belonging to the Contractor as may be on the site of the work and necessary therefore. In such case the Contractor shall not be entitled to receive any further payment until the work is finished

#### ARTICLE 9. OPTION TO TERMINATE CONTRACT WITH CAUSE

Should the Contractor fail to comply with any of the terms or conditions set forth in this agreement, or should the District determine that the Contractor is in any other way unfit, unqualified, or unable to perform the needs of the District under the Contract, then with thirty (30) calendar days written notice to the Contractor this agreement may be terminated. A termination fee is not applicable in the event that the District exercises its right to terminate its contract pursuant to this paragraph.

#### ARTICLE 10. OPTION TO TERMINATE CONTRACT WITHOUT CAUSE

The District shall have the option to terminate the contract without cause as of the anniversary date of each contract year. In the event of such termination, the only liability of the District for such termination shall be the termination fee, if any, as set forth in the appropriate spaces provided on the Proposal. The District may exercise this option by mailing written notice to the Contractor at least 120 calendar days prior to the anniversary date at which termination will be effective.

#### ARTICLE 11. FORCE MAJEURE

The Contractor will only be excused from performance hereunder during the time and to the extent that Contractor is prevented from obtaining or performing required services by an act of God, fire, flood, war, riot, civil disturbance, terrorism, epidemic, quarantine/shelter in place order, strike, lockout, labor dispute, or any other occurrence which is beyond the control of the parties by when satisfactory evidence thereof is presented to the demonstrating that the nonperformance is not due to the fault of negligence of Contractor and was beyond the Contractor's control. A Contractor seeking an extension of time as a result of acts beyond the Contractors control must present the request for an extension of time to the District within fifteen (15) calendar days of the commencement of the act causing the delay. A Contractor's failure to provide written notice of a request for an extension of time may result in denial of the request.

## ARTICLE 12. INDEMNIFICATION

The Contractor agrees to defend, indemnify and hold harmless the Alameda Unified School Board, its Board of Trustees, officers, agents and employees, volunteers, individually and collectively, from and against all costs, liability, losses, claims, demands, suits, actions, payments and judgments, including legal and attorney fees, arising from personal or bodily injuries, property damage or otherwise, however caused, brought or recovered against any of the above that may arise for any negligent acts in any way occasioned by the performance or nonperformance of any duty or responsibility under this agreement by such indemnifying parties.

The Alameda Unified School District agrees to defend, indemnify and hold harmless the Contractor its officers, agents and employees, volunteers, individually and collectively, from and against all costs, liability, losses, claims, demands, suits, actions, payments and judgments, including legal and attorney fees, arising from personal or bodily injuries, property damage or otherwise, however caused, brought or recovered against any of the above that may arise from any negligent acts in any way occasioned by the performance or nonperformance of any duty or responsibility under this agreement by such indemnifying parties.

## ARTICLE 13. INSURANCE

Without limiting Contractor's indemnification, it is agreed that Contractor shall maintain in force at all time during the performance of this agreement the policies of insurance hereinafter described. Evidence of coverage shall be filed with the District prior to the commencement of work under this agreement and no later than ten (10) calendar days from the Notice of Award date. Notification by the carrier to the District at least thirty (30) calendar days prior to cancellation, failure to renew, or other termination, is required.

A. General liability insurance (“Liability Insurance”) against liability for bodily injury, including corporal punishment, death and property damage, such Liability Insurance to be in an amount not less than One Million Dollars (\$1,000,000) per occurrence for liability for bodily injury, death and property damage arising from any one occurrence and Three Million Dollars (\$3,000,000) from the aggregate of all occurrences within each policy year. Alameda Unified School District shall be named as additional insured on the policies by separate endorsements that shall be attached to the contract as proof of insurance.

B. Worker’s compensation insurance and Employers Liability coverage providing statutory benefits for all persons employed by the contractor, or its contractors and subcontractors at or in connection with the work as required by Labor Code Section 3200 et. seq. will become part of the contract. Employers’ Liability Insurance shall not be less than One Million Dollars (\$1,000,000) per accident or disease.

C. Automobile Liability, including Hired and Non-Owned Auto Liability in the amount of at least One Million Dollars (\$1,000,000) for each occurrence for bodily injury and property damage.

D. Sexual Abuse/Molestation coverage in the amount of at least One Million Dollars (\$1,000,000) for each occurrence.

All insurance shall be placed with insurers that are reasonably acceptable to the District and with an A.M. Best's rating of not less than A- (Excellent). All such insurers shall be licensed/approved to do business in California. Insurance afforded under the contractor's policy is primary and any insurance maintained by the District shall apply, if required by law, in excess of, and not contributory with, insurance required under the terms of this contract. Contractor will, at his own expense, maintain coverage in conformance with above requirements.

#### ARTICLE 14. MISCELLANEOUS PROVISIONS

A. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Contractor and District and their respective successors and assigns.

B. Severability. If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.

C. Amendments. The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement signed by the parties.

D. Anti-Discrimination. It is the policy of the Alameda Unified School District's Board of Education that in connection with all work performed under Purchasing Contracts there shall be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, sex or religious creed. Therefore, the bidder agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment and Housing Act. In the event of the Contractor's noncompliance with the provisions of this Article or with any other pertinent law or regulation pertaining to non-discrimination in employment, this contract may be cancelled, terminated or suspended in whole or in part.

E. Districts Right to Contract with Others. The services defined in the contract documents and required during the contract period shall be ordered and purchased from one contractor. Further, the Contractor agrees to the District's right to acquire from other sources during the life of the contract such services as may be required for special programs or other emergencies.

F. Entire Agreement. This Agreement constitutes the entire agreement between the parties. There are no understandings, agreements, representations or warranties, express or implied, not specified in this Agreement. Contractor, by the execution of this Agreement acknowledges that Contractor has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

G. Governing Law and Venue. In the event of litigation, the bid documents, specifications, contract documents and all matters related to the bid, contract and performance of the contract shall be governed by and construed only in accordance with the laws of the State of California. Venue shall only be with the appropriate State or federal court located in Alameda County.

H. Early Termination. Notwithstanding any provision herein to the contrary, if for any fiscal year of this agreement the governing body of the District fails to appropriate or allocate funds for future periodic payments under the agreement after exercising reasonable efforts to do so, District will not be obligated to pay the balance remaining unpaid beyond the fiscal period for which funds have been appropriated or allocated and either party hereto may terminate the agreement upon thirty (30) days written notice. Upon such notice, the District shall be released of its obligations to make all further installment payments to the vendor.

I. Relations with the Public. The Contractor will cooperate to the fullest extent possible, utilizing all measures within its means in maintaining an image commensurate with the goals and intent of the District. The District reserves the right to have Contractor's employees who do not meet these goals removed from service under this Agreement.

J. Labor Disputes. If applicable, whenever the contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the complete and timely performance of this Agreement, Contractor shall immediately notify the District in writing. This written notice shall contain all relevant information with respect to the labor dispute. In addition, upon request, the Contractor shall provide the District with any additional information concerning the labor dispute deemed relevant by the District.

Within fifteen (15) days following award of the contract, and at least one hundred twenty (120) days prior to the opening of school during each subsequent school year of the contract, Contractor shall provide the District with a complete report on the current status of Contractor's employer/employee relations. If Contractor is a party to a collective bargaining agreement, Contractor shall indicate the name of the labor organization which represents Contractor's employees, the date of contract expiration, procedures for resolving grievances and labor disputes, and all other pertinent information on the status of the Contractor's employer/employee relations which might have a material bearing on Contractor's ability to perform the contract in a timely and complete manner.

If collective bargaining agreement is in force, Contractor shall ensure that the District receives a copy of the current collective bargaining agreement as that agreement may be revised from time to time.

If a collective bargaining agreement is not in force, the Contractor shall provide information relating to its current negotiations with its employees, the status of its employer/employee relations, the nature of any pending labor disputes, and the likelihood of resolving any labor disputes prior to the opening of school. If, within one hundred twenty (120) days prior to the opening of school, a contract dispute between Contractor and its employees has not been resolved, Contractor shall secure the appointment of a mediator. The individual appointed as a mediator shall be subject to District approval. The mediator shall meet forthwith with the disputing parties or their representatives and shall take such steps as the mediator deems appropriate to persuade the parties to resolve their differences and effect a mutually acceptable agreement. Not later than fifteen (15) days following appointment of the mediator, the mediator shall provide the District with a written report of his/her evaluation of the labor dispute, the mediator's recommendations for settlement, and a candid appraisal of the good faith efforts of the Contractor to settle the dispute. If the mediator finds that the Contractor has failed to negotiate in good faith or has failed to make every good faith effort to resolve

the dispute, any delay or inability of the contractor to meet the conditions of the contract shall be deemed to be the fault of the Contractor and the provisions of this contract relating to damages for failure to provide services shall apply. If however, in the mediator's opinion, the Contractor is making a good faith effort to resolve the dispute and reach agreement, the delay shall be deemed a condition beyond the control of the Contractor and provisions of the contract relating to damages for failure to provide services shall not apply. However, irrespective of whether the Contractor is negotiating in good faith during the period of any labor dispute, fifty percent (50%) of the compensation due the Contractor for services rendered shall be withheld by the District. All funds withheld as a result of labor dispute beyond the Contractor's control shall then be paid to the Contractor within ten (10) days following final resolution of the dispute.

Notwithstanding the foregoing provisions relating to excuse for nonperformance as a result of labor disputes, the parties shall formulate a plan prior to commencement of services under this contract for continuing transportation services to handicapped pupils during any labor dispute that would disrupt transportation services to the District.

The plan shall be a part of any labor agreement between the Contractor and the Contractor's employees.

K. Rate Adjustments. Compensation for all services provided under the terms of this contract may be adjusted annually in option years. The basis for such adjustments, upward or downward, shall be limited to proven changes in the cost increase or decrease in serving this contract. The adjustments will be computed from information provided to the District by March 1 of each year, to be applied to the next fiscal year and will be, no more than a three (3) percent increase.

The successful Contractor hereby agrees, through submission of a bid response, the rate paid by Alameda Unified School District shall not exceed the rate(s) paid by other public agencies, those same rates shall be offered to Alameda Unified School District.

L. The Essence of Performance. The District shall hold the Contractor responsible for any damage which may be sustained because of failure or neglect of the Contractor to comply with any term or condition listed herein, it being specifically provided and agreed that time shall be the essence of the Contractor's performance.

M. Default. The Contractor agrees they shall be considered in default for non-performance and the contract subject to termination if:

1. Fails to comply with the requirements of this contract or any other requirements imposed by law.
2. Fails to meet the written schedules established.

N. Laws Governing Contract. This contract shall be in accordance with the laws of the State of California. The parties stipulate that this contract be entered into in the County of Alameda, in the State of California. The parties further stipulate that the County of Alameda, California, is the only appropriate forum for any litigation resulting from a breach hereof or any questions risen here from.

O. Contractor Compliance. Contractor must certify compliance with the following:

1. Child Abuse and Neglect Reporting Act guidelines for Mandated Reporters as required by California Penal Code § 11164 – 11174;
2. Fingerprinting and background checks for all employees, contractors, agents and volunteers before they have contact with any District students (Education Code Section 45125.1(e)), and
3. Have on file current documentation of Tuberculosis Screening and negative TB Test results for all employees, contractors, agents and volunteers who have contact with District students.
4. The cost of fingerprinting and health screening is the responsibility of the Contractor.

P. Excluded Parties Certification. The District and Contractor certifies to the best of its knowledge and belief, that it and its officials: Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract, certifies that this vendor does not appear on the Excluded Parties List. <https://sam.gov/content/exclusions>


Q. Custodian of Records. Contractor will be the custodian of confidential counseling records while following all HIPPA guidelines and FERPA, COPPA, PPRa and AB 1584 guidelines when necessary. Clinician records are kept with Contractor or on a District site in a separate, locked and secure storage file and are designated as highly sensitive and privileged confidential records, and Contractor takes full responsibility for these records as these are not part of the student school record.

R. Site Access/Security. While providing services as set forth in this contract, it may be determined that keys are necessary for access or emergency response. In the event that keys are approved to be issued to the Contractor, the Contractor acknowledges and agrees to the responsibility of securely maintaining said keys. The Contractor's duty, along with its employees or subcontractors if applicable, is to ensure the keys are kept safe, used only for business purposes, and not misused (shared, duplicated, etc.). In the event of any lost or stolen keys, the organization must report the incident to the District in no less than 24 hours. Furthermore, should any contractor be reassigned to another site or their contract with the District terminate or expire, all individuals must return all keys to the original issuer on their final day. The Contractor assumes all liability for re-keying costs at any District site associated with the use, loss, or failure to return District keys, including the potential of reduced or withheld invoice payments if necessary.

We, the undersigned, agree to the above terms and conditions and are duly authorized to sign on behalf of our organizations.

ALAMEDA FAMILY SERVICES

ALAMEDA UNIFIED SCHOOL DISTRICT

By:   
Signature

\_\_\_\_\_  
Signature

Latherine Schwartz, Executive Director  
Name, Title

President, Board of Education

\_\_\_\_\_  
Name, Title

6/4/2024  
Date

\_\_\_\_\_  
Date