



**Board Meeting Date:** October 16, 2023

**Title:** Contract for Independent School District 273 and Fraser for Agreement for Site-Based Mental Health Clinics in School Buildings

**Type:** Consent

**Presenter(s):** Jody Remsing

**Description:** The purpose of this Agreement is to create an agreement between ISD 273 and Fraser with an Agreement for Site-Based Mental Health Clinics in Schools.

**Recommendation:** Approve the attached Agreement with Fraser for Site-Based Mental Health Clinics in Schools.

**Desired Outcomes from the Board:** Approve the attached agreement with Fraser.

**Attachments:** Agreement with Fraser for Site-Based Mental Health Clinics.

## **AGREEMENT FOR SITE-BASED MENTAL HEALTH CLINICS IN SCHOOL BUILDINGS**

This Agreement for the location of a site-based mental health clinic in school buildings ("Agreement") is made and entered into August 1<sup>st</sup>, 2023 by and between Independent School District No. 273, Edina Public Schools ("District") and Fraser ("Provider"). The District and the Provider are collectively referred to herein as the "Parties," and individually as a "Party."

WHEREAS, the District owns and operates Edina High School, Valley View Middle School, South View Middle School, Countryside Elementary School, Creek Valley Elementary School, Highlands Elementary School, Cornelia Elementary School, Concord Elementary School, Normandale Elementary School and Early Childhood Special Education ("Schools");

WHEREAS, Provider offers certain mental health therapy and treatment services to children, including children residing in and attending schools located within the District;

WHEREAS, Provider wishes to operate a site-based mental health clinic for children between the ages of Birth to 21 years of age;

WHEREAS, Provider wishes to operate the Program at the School; and

WHEREAS, the District desires to make space in the School available to Provider in order to facilitate Provider's access to children attending the Program.

NOW, THEREFORE, IN CONSIDERATION OF the foregoing, the mutual promises and covenants contained in this Agreement, including the relinquishment of certain legal rights, and other good and valuable consideration, the sufficiency and receipt are hereby acknowledged, the Parties agree as follows:

### **I. ACCESS TO DISTRICT PROPERTY AND RESPONSIBILITIES OF THE DISTRICT**

- A. Facility Use.** The District shall designate one or more rooms in the School for use by the Provider in operating the Program ("Program Site"). Except as expressly provided herein, the number and location of the rooms of the Program Site shall be solely a matter of District discretion.
- B. Hours of Access.** The Program Site will be accessible by the Provider and its employees, agents, and representatives during the normal business hours of the School. In the event that the Provider or any of its employees, agents, or representatives requires access to the Program Site when the School is not open, the Provider may contact the building Principal or Site Coordinator to make arrangements to allow the Provider to access the Program Site.
- C. Furnishing Provided by the District.** The District shall furnish each room of the Program Site with a desk, one or more chairs, and a table. In addition, the District

will make available the use of a copy and fax machine as well as a dedicated phone for Provider's use. The Program Site shall be private and limited external noise for the purpose of therapy services and provided with electricity and access to the Internet, lighted, and climate controlled in the same manner as the other rooms of the School.

- D. Furnishing Provided by the Provider.** Other than the items described in Paragraph III(C) of this Agreement, the Provider shall be responsible for furnishing the Program Site with all pieces of furniture, supplies, and/or other equipment, including computer equipment, that it deems necessary or desirable.
- G. Payment for Services Provided.** Within thirty (30) calendar days after receiving the required invoice for consultative and therapeutic services, the District will pay Provider at the rate of 154 dollars (\$154 .00) per hour for each hour of service under this Contract, including any time spent attending Individualized Education Plan (IEP) meetings at the request of the District. District agrees to pay for one (1) hour of consultative time for each of the ten (10) school sites each week (total of 10 hours per week) during weeks the school is open from September 2023 through May 2024, not to exceed 36 weeks total. In addition, District will pay for up to 12 hours of therapeutic services for each identified "Under Insured" or "Uninsured" student who has prior authorization from the District.

The total cost of these services to the District shall not exceed \$154.00 per hour for each hour of service under this Contract.

Additional trainings or consultations can be provided to the District by provider upon further District request or approval. The rate of these services would be 154 dollars (\$154) per hour.

The District will submit Contract costs for special education services to the Minnesota Department of Education for reimbursement in accordance with the Department's special education procedures. Local District funds will be used to co-fund the services as necessary.

## **II. PROVIDER'S OBLIGATIONS**

- A. Access to Mental Health Services.** The Provider acknowledges and agrees that Edina District students, who are in need of mental health services offered as part of the Program are able to participate in the Program or receive other mental health services from Provider.
- 1. Consultation Services.** One hour of consultative services shall be provided weekly, during the school year, by the Provider to each school site. The purpose of these services is to work with building problem solving teams in an effort to improve student outcomes, consult on student programming and identify students in need of mental health services.

2. **Services to Under Insured and Uninsured Students.** Students identified by the District as "Under Insured" or "Uninsured" will have access to mental health services by the Provider at the District's expense. The prior authorization of these services is required. A formal process of identification and prior authorization will be developed by the District. Prior authorization will allow for up to twelve (12) therapeutic sessions. Additional sessions may be requested by the Provider. No unauthorized services will be reimbursed with the sole exception that the services were required due to an unforeseen emergency or crisis.

- B. **Criminal Background Check.** Consistent with Minnesota Statute 245C, the Provider must conduct a criminal background check on every individual who has access to the Program Site. The background check must be completed before the individual has access to the Program Site. Copies of the criminal background check must be made available to the District upon request.
- C. **Insurance.** At its own expense, the Provider shall maintain general liability insurance for its operations throughout the term of this Agreement. Such insurance shall be in amounts not less than the limits set forth in Minnesota Statutes, section 466.04, as amended. The District shall be named as an additional insured on Provider's policy of liability insurance. Within ten (10) business days after receiving a fully executed copy of this Agreement, the Provider shall provide the District with proof of such insurance.

### III. LIABILITY

- A. **Indemnification.** The Provider hereby agrees to defend and indemnify the District, its board members, employees, agents, and representatives against any and all claims, demands, actions, administrative proceedings, causes of action, and liability, of any nature arising out of or relating to this Agreement. This indemnification specifically includes, but is not limited to, any action arising out of any allegation of the following: failure to comply with any federal or state law; or any form of inappropriate conduct by the Provider. Upon timely written notice from the District, the Provider shall defend the District in any such action or proceeding within the purview of this Paragraph brought against the District, its employees, officers, directors, attorneys, and agents.
- B. **Limitation on Indemnification.** Nothing in this Agreement shall be construed to require the Provider to indemnify, defend, save or hold harmless the District, its employees, officers, directors, and agents against any claims, demands, suits, costs, judgments or other forms of liability, actual or claimed, including attorneys' fees, for any injury resulting from the intentional or negligent misconduct of the District, its employees, officers, directors, or agents.
- C. **Restriction on Settlement.** Notwithstanding any other provision in this Agreement, the Provider shall not settle or compromise any claim against the District without a signed agreement approved by the District.

- D. Effect of Termination.** The Parties agree and acknowledge that the Provider's duty to defend and indemnify the District survives the termination and/or expiration of this Agreement.

#### **IV. DATA PRIVACY**

- A. Governing Law.** The Parties understand and agree that all documents, surveillance tapes, and other recorded information created, received, and/or maintained by the District are "government-data" within the meaning of the Minnesota Government Data Practices Act ("MGDPA") and that student records are also governed by the Family Educational Rights and Privacy Act ("FERPA"). The Parties further understand and agree that the MGDPA and FERPA limit the District's ability to release such data or records. Nothing in this Agreement shall be construed to provide the Provider or any of its employees, agents, independent contractors, volunteers, or other representatives with access to any data, document, surveillance tape, or other recorded information beyond that which is provided by the MGDPA and/or FERPA.
- B. District Access to Student Records.** If any District student is enrolled in the Program or otherwise receives services from the Provider as part of the student's educational program, the Provider agrees that, as part of its intake process, it will offer the student's parent or guardian the opportunity to sign a written and legally sufficient authorization to allow the District and the Provider to consult regularly on the student's progress and treatment in order to improve educational outcomes and therapeutic programming.

#### **V. DURATION AND TERMINATION**

- A. Expiration.** This Agreement expires at 11:59 p.m. on July 31, 2024. This Agreement shall not automatically renew or continue. The Parties may only renew or continue this Agreement in writing, signed by both Parties.
- B. Termination With or Without Cause.** This Agreement may be terminated, with or without cause, by either Party upon thirty (30) days' notice in writing to the other Party.
- C. Termination for Cause.** The District may terminate this Agreement, for cause, if the Provider fails to perform any obligation required by this Agreement, including, but not limited to, administering appropriate background checks on any employee or volunteer accessing the Program Site, as required by this Agreement.
- D. Effect of Expiration or Termination.** Except as expressly provided in this Agreement, all obligations, rights, duties, and entitlements created by this Agreement terminate and are extinguished, without need of any further action by either Party, upon the effective date of termination or expiration of this Agreement.

#### **VI. EQUAL EMPLOYMENT OPPORTUNITY, NONDISCRIMINATION AND CIVIL RIGHTS**

The Provider agrees to provide equal opportunity to all employees and applicants for employment in accordance with applicable EEO/AA laws, directives and regulations of Federal, State and local governing bodies or agencies thereof, specifically Minnesota Statutes Chapter 363A.

No persons shall, on the grounds of race, color, religion, age, sex, disability, marital status, sexual preference, HIV status, public assistance status, creed or national origin be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any

program, service, or activity under the provisions of any or all applicable Federal and State laws, including the Civil Rights Act of 1964.

## **VII. MISCELLANEOUS**

- A. Choice of Law and Severability.** This Agreement shall be governed by the laws of the State of Minnesota, without regard to its conflicts of laws provisions. If a court of competent jurisdiction determines that any part of this Agreement is void or voidable, violates any law, or is otherwise unenforceable, the remaining portions of this Agreement will remain in full force and effect, unless the remaining portions would not serve the original purpose of this Agreement.
- B. Joint Drafting.** This Agreement must be construed to have been drafted equally by the Parties.
- C. Responsibility for Costs.** With the exception of the costs assumed by the Parties pursuant to this Agreement, each Party shall be responsible for its own costs, expenses, and any attorneys' fees associated with this Agreement and any related matters, including enforcement of this Agreement.
- D. Enforcement.** Failure to insist on compliance with any term, covenant, or condition contained in this Agreement shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power contained in this Agreement at any time be deemed a waiver or relinquishment of any right or power at any other time.
- E. Voluntary Agreement.** All Parties have voluntarily signed this Agreement. No Party has been threatened, coerced, intimidated, or otherwise forced to sign this agreement by any other Party, any officer, employee, School Board member, agent, representative, or attorney of any other Party, or any other person or entity acting on behalf of any other Party. **Relationship of the Parties.** The Provider does not operate anysite-based mental health facilities on behalf of the District. Nothing in this Agreement shall be construed to create any partnership, joint venture, or employment relationship between the Provider, and/or its employees, officers, directors, and/or agents, and the District and/or its employees, officers, directors, and/or agents. The Parties understand and agree that this Agreement does not create any rights or obligations beyond those expressly contained herein.
- F. Complete Agreement.** This Agreement, along with the Business Associate Agreement, constitutes the entire agreement between the Parties relating to the matters addressed in this document. This Agreement supersedes any and all prior agreements between the Parties. No Party has relied upon any statements, promises or representations other than those contained in this Agreement. No changes to this Agreement shall be considered valid unless they are in writing and signed by both Parties.

By signing below, each Party specifically acknowledges that it has read this Agreement, that it has had an opportunity to review this Agreement with legal counsel, that it understands this Agreement, and that it agrees to be legally bound by all terms of this Agreement.

Fraser  
2400 W. 64th Street  
Minneapolis, MN 55423

Independent School District  
Edina Public Schools  
5701 Normandale Road  
Edina, MN 55424

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: Jody Remsing

Name: Jody Remsing

Title: Director of Student Support Services

Date: 9/8/23