

**Agreement Between
The City of Ann Arbor on behalf of the 15th Judicial District Court
and
Dawn Inc.**

Agreement is made this ____ day of _____, 2013, by and between the City of Ann Arbor (the "City"), a municipal corporation, on behalf of the 15th Judicial District Court (the "Court"), located at 301 E. Huron Street, Ann Arbor, MI 48104 and Dawn Inc., located at 6633 Stony Creek Road, Ypsilanti, MI 48197 (the "Contractor", EIN: 23-7318277).

In consideration of the promises below, the parties mutually agree as follows:

ARTICLE I - SCOPE OF SERVICES

The Contractor will provide alcohol assessments, testing, transitional housing and in-patient and out-patient substance abuse counseling and rehabilitative services to 15th Judicial District Court defendants referred to the Contractor by the Court from the Court's Sobriety Court docket.

ARTICLE II - COMPENSATION

Upon completion of the above services and submission of invoices the City will pay the Contractor an amount not to exceed Sixty-Five Thousand Dollars (\$65,000) for services rendered. These funds will be disbursed as mutually agreed upon by the Court and the Contractor.

These services are funded from funds from the Supreme Court of Michigan State Court Administrative Office Michigan Drug Court Grant Program (SCAO-MDCGP).

The parties agree that the City on behalf of the Court will compensate the Contractor only to the extent that SCAO-MDCGP funds are actually awarded to and received by the Court.

ARTICLE III – CONTRACTOR CONTACT INFORMATION

Dawn Inc. dba Dawn Farm, 6633 Stony Creek Road, Ypsilanti, MI 48197. Phone: (734)485-8725. Project Official: James Balmer, President. Financial Official: Beverly Ghesquiere, Financial Coordinator.

ARTICLE IV - REPORTING OF CONTRACTOR, RETENTION REQUIREMENTS

All reports, estimates, memoranda and documents submitted by the Contractor must be dated and bear the Contractor's name and be in compliance with the grant guidelines.

All reports made in connection with these services are subject to review and final approval by the Chief Judge of the Court or his/her designee, and by the City Administrator or his/her designee.

The Chief Judge of the Court or his/her designee, and the City Administrator or his/her designee may review, monitor and inspect the Contractor's activities during the term of this contract to assure the administration and payment of grant funds is consistent with laws, regulations and contract provisions.

When applicable, the Contractor will submit a final, written report to the Chief Judge of the Court or his/her designee, and to the City Administrator or his/her designee.

After reasonable notice to the Contractor, the City or Court may review any of the Contractor's internal records, reports, or insurance policies pertaining to this contract. The Contractor shall grant access to SCAO, the Court, the City or to any of their duly authorized representatives to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcriptions. Additionally, the Contractor shall retain all required records for three (3) years after final payments and all other pending matters are closed.

ARTICLE V - TERM

This contract begins on October 1, 2013 and ends on September 30, 2014.

In the event the State Court Administrative Office extends the term of either of the grants funding this contract to any date beyond September 30, 2014, in that case the term of this agreement shall be extended to a date concurrent with the extended grant termination date without further action by the parties.

ARTICLE VI - PERSONNEL

The Contractor will provide the required services and will not subcontract or assign the services without the written approval of the Chief Judge of the Court or his/her designee.

The Contractor will not hire any City employee for any of the required services without the written approval of the Chief Judge of the Court or his/her designee.

The parties agree that the Contractor is neither an employee nor an agent of the Court or of the City for any purpose.

ARTICLE VII – ASSURANCES

The parties agree that the parties:

1. Shall establish safeguards to prohibit employees from using positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain;
2. Shall initiate and complete work within the applicable time frame after approval;
3. Shall assist SCAO with completion of compliance audits under the Single Audit Act Amendments of 1996;
4. Assure that no grant funds will replace state, local or tribal funds that would have otherwise been spent on positions and/or other items approved for expenditure of grant funds;
5. Assure that no grant funds will be used to influence an officer or employee of any agency or any legislator;
6. Certify that the Contractor is not currently disbarred, suspended, declared ineligible, has not been convicted for fraud, bribery or any other violation of any legal fiduciary duty within the last three years, is not presently under indictment for the foregoing offenses, and has not had a public transaction terminated for cause or default in the last three years;
7. Certify that the costs and expenses shall be reasonable and necessary;
8. Certify that none of the Contractor's principals are employed by the City of Ann Arbor or by the Court.

ARTICLE VIII – JOINT INDEMNITY

The Contractor shall indemnify and hold the Court and the City harmless from and against all actions, liabilities, demands, cost and expenses, including court costs, expenses and attorney fees, which may arise due to the Contractor's negligent acts or omissions under this Agreement.

The Court and the City shall hold the Contractor harmless from and against all actions, liabilities, demands, cost and expenses, including court costs, expenses and attorney fees, which may arise due to negligent acts or omissions of the Court or City with respect to this Agreement, but only to the extent that such claims are not or would not be barred by governmental immunity.

This Article VIII is not intended, and shall not be construed, to waive or limit any immunity defense which either the Court, City or the Contractor may have. Further this provision does not and shall not be construed as imposing liability on 15th Judicial District Court or the City either for the acts or omissions of Contractor, its officers or employees, or for the acts and/or omissions of third parties.

ARTICLE IX - INSURANCE REQUIREMENTS

The Contractor will maintain at its own expense during the term of this Contract, the following insurance and or equivalent in self-insurance:

1. Workers' Compensation Insurance with Michigan statutory limits and Employers Liability Insurance with a minimum limit of \$100,000 each accident for any employee.
2. Comprehensive/Commercial General Liability Insurance with a combined single limit of \$1,000,000 each occurrence for bodily injury and property damage. The City shall be added as "additional insured" on general liability policy with respect to the services provided under this contract.
3. Automobile Liability Insurance covering all owned, hired and non-owned vehicles with Personal Protection Insurance and Property Protection Insurance to comply with the provisions of the Michigan No Fault Insurance Law, including residual liability insurance with a minimum combined single limit of \$1,000,000 each accident for bodily injury and property damage.

Insurance companies, named insureds and policy forms shall be subject to the approval of the City Administrator. Such approval shall not be unreasonably withheld. Insurance policies shall not contain endorsements or policy conditions which reduce coverage provided to the City. Contractor shall furnish the City Administrator or his/her designee with satisfactory certificates of insurance or a certified copy of the policy, if requested by the City Administrator.

No payments will be made to the Contractor until the current certificates of insurance have been received and approved by the City Administrator or his/her designee. If the insurance as evidenced by the certificates furnished by the Contractor expires or is canceled during the term of the contract, services and related payments will be suspended. Contractor shall furnish the City Administrator or his/her designee with certification of insurance evidencing such coverage and endorsements at least ten (10) working days prior to commencement of services under this contract. Certificates shall be addressed to the City Administrator c/o Court Administrator, 15th Judicial District Court, 301 E. Huron St., Room 407, Ann Arbor, MI 48104 and shall provide for thirty (30) day written notice to the Certificate holder of cancellation of coverage.

ARTICLE X - COMPLIANCE WITH LAWS AND REGULATIONS

The Contractor will comply with all federal, state and local regulations, executive orders and policies, including but not limited to all applicable OSHA/MIOSHA requirements, the Americans with Disabilities Act, the Intergovernmental Personnel Act of 1970, Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the Davis-Bacon Act, the Copeland Act, the Contract Work Hours and Safety Standards Act, the Hatch Act, environmental standards under the National Environmental Policy Act of 1969, the Coastal Zone Management Act of 1972, the State Clean Air Implementation Plans under the Clean Air Act of 1955, the Safe Drinking Water ACT OF 1974, the Endangered Species Act of 1973, the Wild and Scenic Rivers Act of 1968, the National Historic Preservation Act of 1966, Public Law 93-348 regarding human subjects involved in research, the Laboratory Animal Welfare Act of 1966, the Lead-Based Paint Poisoning Prevention Act, the Health Portability and Accountability Act of 1996 (HIPPA), the Drug-Free Workplace Act of 1988 and Executive Orders 11514, 11738, 11990 and 11988.

ARTICLE XI - INTEREST OF CONTRACTOR AND CITY

The Contractor promises that it has no interest which would conflict with the performance of services required by this contract. The Contractor also promises that, in the performance of this contract, no officer, agent, employee of the Court or of the City, or member of its governing bodies, may participate in any decision relating to this contract which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is directly or indirectly interested or has any personal or pecuniary interest. However, this paragraph does not apply if there has been compliance with the provisions of Section 3 of Act No. 317 of the Public Acts of 1968 and/or Section 30 of Act No. 156 of Public Acts of 1851, as amended by Act No. 51 of the Public Acts of 1978, whichever is applicable.

ARTICLE XII –EQUAL EMPLOYMENT OPPORTUNITY

The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, national origin, physical handicap, age, height, weight, marital status, veteran status, religion and political belief (except as it relates to a bona fide occupational qualification reasonably necessary to the normal operation of the business).

The Contractor will take affirmative action to eliminate discrimination based on sex, race, or a handicap in the hiring of applicant and the treatment of employees. Affirmative action will include, but not be limited to: Employment; upgrading, demotion or transfer; recruitment advertisement; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship.

The Contractor agrees to post notices containing this policy against discrimination in conspicuous places available to applicants for employment and employees. All solicitations or advertisements for employees, placed by or on the behalf of the Contractor, will state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, sexual orientation, national origin, physical handicap, age, height, weight, marital status, veteran status, religion and political belief.

ARTICLE XIII - EQUAL ACCESS

The Contractor shall provide the services set forth in Article I without discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, marital status, physical or mental handicap, or age.

ARTICLE XIV - CONFIDENTIALITY AND THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

Both Parties shall be in compliance with applicable confidentiality laws including the Michigan Mental Health Code; 42 CFR, Part 2 (for information related to substance abuse treatment); and all applicable aspects of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Administrative Simplification section, Title II, Subtitle F, regarding standards for privacy and security of protected health information (PHI) as outlined in the Act.

Both parties agree to implement all administrative, physical, and technical safeguards necessary to reasonably and appropriately protect the confidentiality, integrity, and availability of any PHI received from, or created or received by either party in accordance with applicable state and federal laws. These safeguards apply to PHI in any form or medium.

Both parties will make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by either parties available to the Secretary of Health and Human Services, or its designee, for the purpose of determining compliance with HIPAA.

If either party becomes aware of a material breach or any violation of its obligation to protect the confidentiality and security of consumers' PHI, both parties must immediately take reasonable steps to cure the breach or end the violation, and must report the breach or

violation to the Privacy Officer. The alleged breach or violation will be investigated and an appropriate sanction issued. Contractor reserves the right to terminate this Contract or impose contract penalties if it determines that 15th Judicial District Court Sobriety Court has violated a material term of the Contract.

ARTICLE XIV - OWNERSHIP OF DOCUMENTS AND PUBLICATION

All documents developed as a result of this contract will be freely available to the public. None may be copyrighted by the Contractor.

During the performance of the services, the Contractor will be responsible for any loss of or damage to the documents while they are in its possession and must restore the loss or damage at its expense.

Any use of the information and results of this contract by the Contractor must reference the project sponsorship by the Court and the City.

Any publication of the information or results must be co-authored by the Court or by the City.

ARTICLE XV - ASSIGNS AND SUCCESSORS

This contract is binding on the City and the Contractor, their successors and assigns. The City nor the Contractor will assign or transfer its interest in this contract without the written consent of the other party.

ARTICLE XVI - PAYROLL TAXES

The Contractor is responsible for all applicable state and federal social security benefits and unemployment taxes for employees of the Contractor, and agrees to indemnify and protect the City and Court against such liability.

ARTICLE XVII - TERMINATION OF CONTRACT

Either party may terminate the contract without cause by giving thirty (30) days written notice to the other party.

ARTICLE XVIII - CHANGES IN SCOPE OR SCHEDULE OF SERVICES

Changes mutually agreed upon by the City and the Contractor will be incorporated into this contract by written amendments signed by both parties.

ARTICLE XIX - CHOICE OF LAW AND FORUM

This Agreement will be governed and controlled in all respects by the laws of the State of Michigan, including interpretation, enforceability, validity and construction, excepting the principles of conflicts of law. The parties submit to the jurisdiction and venue of the Circuit Court for Washtenaw County, State of Michigan, or, if original jurisdiction can be established, the United States District Court for the Eastern District of Michigan, Southern Division, with respect to any action arising, directly or indirectly, out of this Agreement or the performance or breach of this Agreement. The parties stipulate that the venues referenced in this Agreement are convenient and waive any claim of non-convenience.

ARTICLE XX - EXTENT OF CONTRACT

This contract represents the entire agreement between the parties and supersedes all prior representations, negotiations or agreements whether written or oral.

DAWN, INC.:

CITY OF ANN ARBOR:

By:

By:

Jim Balmer
President

(Date)

John Hieftje
Mayor

(Date)

By:

Jacqueline Beaudry (Date)
City Clerk

APPROVED AS TO FORM & SUBSTANCE:

By:

Stephen K. Postema (Date)
City Attorney

APPROVED AS TO SUBSTANCE:

By:

Steven D. Powers (Date)
City Administrator

APPROVED AS TO SUBSTANCE:

By:

Elizabeth Pollard Hines (Date)
Chief Judge
15th Judicial District Court

APPROVED AS TO SUBSTANCE:

By:

Shryl L. Samborn (Date)
Deputy Administrator
15th Judicial District Court