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IN THE EDMONDS MUNICIPAL COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SNOHOMISH

CITY OF EDMONDS,

Plaintiff,

vs.

Defendant.

) Case No.: CR29177
)
) PRETRIAL DIVERSION AGREEMENT AND
) ORDER OF CONTINUANCE
) STIPULATION TO REPORT AT REVOCATION
) Hit & Run Unattended Vehicle
) amended to Unsafe Backing
) infraction after 12 months

I. PRETRIAL DIVERSION AGREEMENT

COMES NOW the Plaintiff, CITY OF EDMONDS by and through its Prosecuting Attorney, and the Defendant, above-named, by and through his/her attorney [REDACTED], and hereby enter into the following Pretrial Diversion Agreement (hereinafter "Agreement").

A. **Waiver of Time for Trial (CrRLJ 3.3). Waiver of Jury Trial (CrRLJ 6.1.1(a)).** The Defendant understands that he/she has the right to trial within ninety (90) days following his/her arraignment date. The Defendant understands that if he/she is brought to trial within this time that the case(s) may be dismissed with prejudice unless he/she waives this right. The Defendant hereby waives his/her time for trial rights to _____, plus 90 days, which shall be the new commencement date. The Defendant understands that he/she has a right to a trial by jury unless he/she waives the right to a jury trial. The defendant hereby waives his/her right to a jury trial and requests that his/her guilt or innocence be determined by a judge.

B. **Submittal of the Case on the Record (CrRLJ 6.1.2(b)).** Should the Defendant fail to comply with any term of this agreement, this matter shall be submitted on the record pursuant to CrRLJ 6.1.2(b). This Stipulated Order of Continuance and the agreements contained herein are not an admission of guilt. However, in the event that this Stipulated Order of Continuance is violated, I agree to submit the above case(s) on the record. I understand and agree that this means that should I be found at a future hearing to have violated the terms of this agreement, the judge at that future hearing will read the police report(s) for the cases listed below, including all witness statements and other evidence included in those police reports. These police reports are identified as follows: Incident Report No: [REDACTED]

I understand and agree that if I violate this agreement the judge at a future hearing will also review the police report or portions of the police report that have been filed in the court file for this case. I understand that the police reports listed above and any additional evidence listed above have been marked as exhibits for administrative purposes only and are attached to this Stipulated Order of Continuance, and will be filed in the court file for this case along with this Stipulated Order of Continuance but they have not yet been admitted into evidence. Should I violate this Stipulated Order of Continuance I hereby waive any objections or challenges to their admission into evidence at a future hearing. I understand that no determination has been made by the judge as to whether this

evidence is sufficient to support a finding of guilty against me at this time. However I also understand and agree that in the event that I violate this Stipulated Order of Continuance, the judge will review the evidence listed in this section and based only upon this evidence the judge will decide if I am guilty of the crime(s) listed below:

- 1. Hit & Run Unattended Vehicle
- 2. _____

I understand that, by this process, I am giving up the constitutional right to a jury trial, the right to hear and question witnesses, the right to call witnesses in my own behalf, and the right to testify or not to testify. I understand that the maximum sentence for the crime(s) is (1) 364 days in jail and / or a \$5,000.00 fine or (2) 90 days in jail and/or a \$1000.00 fine and that the judge can impose any sentence up to the maximum no matter what the prosecution or the defense recommends. No one has made any threats or promises to me to enter into this agreement and the entirety of the prosecuting authority's promises should I comply with the terms of this agreement are outlined and contained completely and exclusively within this agreement.

C. Waiver of Evidentiary Objections. I understand that the police reports listed above and any additional evidence listed above have been marked as exhibits for administrative purposes only and are attached to this Stipulated Order of Continuance, and will be filed in the court file for this case along with this Stipulated Order of Continuance, but they have not yet been admitted into evidence. Should I violate this Stipulated Order of Continuance, I hereby waive any objections or challenges to their admission into evidence at a future hearing. Should I violate the terms of the Stipulated Order of Continuance, I hereby waive challenges to probable cause to stop, arrest, search, any other evidentiary objections or challenges to the issue of corpus delicti, or the sufficiency of the charging document.

D. Prosecuting Authority's Agreement. This matter shall be continued for 12 months. At the conclusion of the 12 month period, the Prosecuting Authority agrees to:

move the Court to amend the charge of Hit & Run Unattended to Unsafe/Improper Backing Infraction, ask the court to find the defendant ~~guilty~~ committed of the amended infraction charge, and close the file; or (RCW 46.61.605.1)

move the Court to accept a bail forfeiture in the amount of \$_____; to the charge of / amended charge of _____, and close the file; or

move the Court to dismiss with prejudice the charge of _____, *conditioned* upon defendant satisfying the following conditions:

- The Defendant shall have no further criminal law violations supported by probable cause.
- Defendant shall keep the Clerk of the Court *and* probation notified of his/her current mailing address.
- The Defendant shall comply and abide by all terms and conditions set by this Court's probation department/ and or any treatment agency.
- Defendant shall not operate a motor vehicle unless properly licensed and insured.
- Defendant shall have no alcohol/drug related violations criminal/civil supported by probable cause.

Defendant shall commit no moving traffic infractions supported by a preponderance of the evidence during the term of this agreement.

1 Defendant shall complete and file proof completion with the clerk of the court of
2 (1) NTSI level I or (2) NTSI level II course within 60 days and file proof of completion with the court within 90
3 days.

4 _____
5 _____
6 _____

7 The Defendant shall pay the following costs associated with this matter within (1) 60 days of
8 signing of this agreement, or (2) within the time payment arrangement set up by the court, **failure to comply with**
9 **the time pay arrangement will constitute a breach of this agreement:**

10 Court costs \$ _____

11 Probation monitoring costs as condition of pre-trial release in the amount of \$ 500.00

12 **BAC Fee** in the amount of \$200.00 [**BAC/REFUSAL**]

13 Public Defender reimbursement (if applicable)

14 Probation monitoring costs as condition of pre-trial release on **DUI** charge of \$875.00/ _____

15 DUI Emergency Response Fee in the amount of \$ _____, payable to the Police
16 Department.

17 Restitution in the amount of \$ _____ paid to _____ through the
18 registry of the court within _____ days. Should the amount of restitution be uncertain at the time of entry of this
19 agreement, the City reserves the right to file a motion for a restitution hearing within 90 days of entry of this
20 agreement.

21 The Defendant shall obtain an **alcohol/drug evaluation** from a State certified evaluator and shall
22 provide a copy of that evaluation to the Clerk of the Court within **60 days** of the signing of this agreement. The
23 Defendant shall comply with all treatment recommendations of the evaluator and commence with recommended
24 treatment within **90 days** of entering this agreement. Defendant shall provide monthly treatment reports to the Clerk
25 of the Court and/or probation showing compliance with such treatment recommendations. The Defendant shall not
change treatment agencies without the consent of probation. Non-compliant reports serve as a basis to revoke this
agreement.

The Defendant shall attend and complete the **DUI Victim's Panel** and file proof with the Clerk of
the Court within **60 days** of the signing of this agreement.

Defendant shall not possess or consume any alcohol or non prescribed controlled substance while
on the pre-trial diversion agreement.

The Defendant agrees to entry of an Order prohibiting the Defendant from operating any motor
vehicle that is not equipped with a functioning Ignition Interlock Alcohol Device from _____ to _____.

The Defendant shall begin and attend a **State Certified Domestic Violence Perpetrator's**
Treatment Program within **60 days** of the entry of this agreement. Defendant shall file the **evaluation** with the
clerk of the court within **90 days** of the entry of this agreement. Defendant shall comply with all terms and

1 conditions set by the treatment agency. Defendant shall submit monthly treatment reports to the court/probation
2 showing the Defendant to be in compliance with treatment. The Defendant shall not change treatment agencies
3 without the consent of probation. Noncompliance with treatment is a basis for the City to move to revoke this
4 agreement.

5 The Defendant shall not drive or be in actual physical control of a motor vehicle while having an
6 alcohol concentration greater than 0.01 within two hours after driving or being in physical control. The Defendant
7 shall not refuse to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a
8 law enforcement officer having reasonable grounds to believe that the Defendant has consumed alcohol or drugs or
9 was driving or in actual physical control of a motor vehicle while under the influence of intoxicants and/or drugs.

10 The Defendant shall attend and complete a State Certified **(8) eight hour / (16) sixteen hour**
11 **Anger Management program** within **60 days** of the entry of this agreement and file proof of completion of the
12 anger management class within **90 days** of the entry of this agreement to the Clerk of the Court.

13 The Defendant shall attend and complete the following program(s) within **60 days** and provide
14 proof of completion to the Clerk of the Court within **90 days** of the entry of this agreement: _____
15

16 Entry of a DV Pre-Trial No-Contact Order listing _____
17 as the protected party. The parties to this agreement stipulate that the court may review, modify or terminate this
18 Domestic Violence No-Contact Order **subject to the consent of the City.**

19 Defendant shall perform and complete _____ hours of community service to the City of
20 Lynnwood, through the City of Lynnwood Jail's community service program. Community service hours shall be
21 completed by _____. Defendant agrees to pay the associated community service fee. **Defendant**
22 **agrees that no extensions of the time for completion of the community service hours will be granted.**

23 **E. Defendant's Acknowledgment:** My decision to enter into this Stipulated Order of Continuance
24 is made freely, knowingly, intelligently and voluntarily. I have read this document or had it read to me in its entirety
25 and I understand its terms and conditions. No one has made any threats or promises to get me to enter into this
Stipulated Order of Continuance, other than those contained in this agreement. I understand that if I am found to be
in non-compliance with the conditions of this agreement a warrant for my arrest may issue and I understand that if I
fail to comply with this agreement the likely result of non-compliance will be a conviction for the crime(s) charged
and imposition of up to the maximum penalties allowed by law.

I understand that if I am not a citizen of the United States a finding of guilt at a future hearing on the above
charges may be a basis for deportation or exclusion from admission to the United States, or denial of naturalization
pursuant to the laws of the United States.

F. Defendant's Criminal History. The Plaintiff is aware of the Defendant's criminal history as set
forth below and the Defendant declares such criminal history is complete and accurate. Failure to set forth complete
and accurate criminal history shall constitute a breach of this agreement. Defendant's Criminal History: **SEE DCH**

1 **G. Procedure on Breach of Agreement.** The Prosecuting Authority reserves the right to prosecute
2 the Defendant upon any breach of the terms or conditions of this agreement in accordance with the procedures in
3 State v. Marino, 100 Wn.2d 719 (1984) and State v. Kessler , 75 Wn. App. 634 (1994).

4 **H. Presence of the Defendant.** The Defendant understands and agrees that he or she shall be present
5 at all future court hearing regarding these matters for which the Defendant has been summoned to appear.

6 **DATED** this _____ day of _____, 201 ____.

7 _____
8 Defendant

9 I have read and discussed this Stipulated Order of Continuance with the defendant and believe that the defendant is
10 competent and fully understands all the terms and conditions contained herein.

11 _____
12 Attorney for Defendant

13 _____
14 WSBA No. _____

15 Presented By:

16 _____
17 Prosecuting Attorney
18 WSBA No. _____

19 **II. ORDER OF CONTINUANCE**

20 **THIS MATTER** having come on regularly before the undersigned Judge of the above-captioned Court by
21 agreement of the parties for an Order of Continuance; the Court having considered the motion and the records and
22 files herein and being otherwise fully advised, it is now hereby ORDERED that the above referenced matter shall be
23 continued for 12 months. At the end of the continuance, so long as the Defendant is in compliance with all of
24 the terms of this agreement, the clerk of the court shall set an administrative hearing for entry of final disposition
25 consistent with the terms of this agreement. The Defendant need not appear at that hearing unless summoned by the
court. If the Defendant has breached the agreement or is non-compliant with any of its terms, the court shall set a
hearing and summons the Defendant to appear in court for a review hearing.

DONE IN OPEN COURT this _____ day of _____, 201 ____.

JUDGE

23 Presented By:

24 _____
25 Prosecuting Attorney
WSBA No. _____

Approved for Entry:

Attorney for Defendant
WSBA No. _____