**IN THE MUNICIPAL COURT OF FEDERAL WAY**

**STATE OF WASHINGTON**

**CITY OF FEDERAL WAY )**

 **Plaintiff, )**

**) Case Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**) Petition for Deferred Prosecution (DPPF)**

 **vs. )**

 **)**

 **Defendant,** **)**

**) Charges: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**) Violation Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)**

I am the defendant in this case and I petition the court for deferred prosecution under RCW Chapter 10.05. I make the following statement in support of my petition:

1. The wrongful conduct charged is the result of or caused by [ ] Alcoholism [ ] Drug Addiction

[ ] Domestic Violence Behavior Problems [ ] Mental Problems, for which I need treatment.

2. Unless I receive treatment for my problem, the probability is great that I will offend again.

3. I agree to pay the cost of diagnosis and treatment, if I am financially able to do so, subject to

RCW 10.05.130.

4. I understand that the court will not accept a petition for deferred prosecution from a person who sincerely believes that he or she is innocent of the crime(s) charged or does not suffer from alcoholism, drug addiction, domestic violence problems or mental problems.

5. If this charge is a violation of Title 46 or similar municipal ordinance, I have not previously been placed on a deferred prosecution for a Title 46 or similar municipal ordinance violation.

6. If this charge is a domestic violence offense, I have not previously been placed on a deferred prosecution for a domestic violence offense, this charge was not originally charged in superior court as a felony offense, and a prior stipulated order of continuance was not previously granted. RCW 10.05.010; RCW 10.05.160.

7. I have filed a case history and assessment with this petition as required by RCW 10.05.020.

8. I have the following rights: (a) to have a lawyer represent me at all hearings; (b) to have a lawyer appointed at public expense if I cannot afford one; (c) to have a speedy, public jury trial; (d) to appeal any conviction; (e) to remain silent and not testify; (f) to question witnesses who testify against me; (g) to call witnesses to testify for me, at no cost; (h) to be presumed innocent unless the charge(s) against me is (are) proved beyond a reasonable doubt; and (i) to present evidence and a defense. By deferring prosecution on these charges, I give up my right to: (a) a speedy trial; (b) a jury; (c) testimony on my own behalf; an opportunity to (d) call and (e) question witnesses; and (f) present evidence or a defense.

9. I agree that the facts as reported in the attached police reports are admissible evidence and are sufficient to support a conviction. I acknowledge that the above items will be used to support a finding of guilty if the deferred prosecution is revoked.

10. If my deferred prosecution is revoked and I am found guilty, I may be sentenced up to the maximum penalty allowed by law.

11. If I proceed to trial and I am found guilty, I may be allowed to seek suspension of some or all fines and incarceration if I seek treatment. I understand that I may seek treatment from a public or private agency at any time, whether or not I have been found guilty or placed on deferred prosecution.

12. For some crimes, a deferred prosecution will enhance mandatory penalties for subsequent offenses committed within a seven-year period. I understand that a deferred prosecution will be a prior offense under RCW 46.61.5055 (driving under the influence, physical control of a vehicle under the influence, negligent driving if originally charged as driving under the influence or physical control of a vehicle under the influence, vehicular homicide, or vehicular assault).

13. If the court defers prosecution on any crime that would be a violation of state law or local ordinance relating to motor vehicle traffic control, I will be disqualified from driving a commercial motor vehicle for the period specified in RCW 46.25.090 and, if I drive a commercial motor vehicle holding a license issued by Washington State, I will be required to notify the Department of Licensing and my employer of this deferred prosecution within 30 days of the judge granting this petition.

RCW 46.25.030. If the court grants this Petition, I may not operate a motor vehicle on the public highways without a valid operator’s license and proof of liability insurance pursuant to RCW 46.29.490. If my wrongful conduct is the result of or caused by alcohol dependency, I shall also be required to apply for an ignition interlock driver’s license and to install an ignition interlock device under RCW 46.20.720(2) and RCW 46.20.385. The required periods of use of the interlock shall be not less than the periods provided for in RCW 46.20.720(3). I may also be required to pay restitution to victims, pay court costs, and pay probation costs authorized by law. To help ensure continued sobriety and reduce the likelihood of reoffending, the court may order reasonable conditions during the period of the deferred prosecution including, but not limited to, attendance at self-help recovery support groups for alcoholism or drugs, complete abstinence from alcohol and all non-prescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintaining law-abiding behavior. Alcoholism programs shall require a minimum of two self-help recovery groups per week for the duration of the treatment program. The court may terminate the deferred prosecution program if I violate this paragraph.

14. If the court defers prosecution for any crime involving domestic violence behavior, I will be ordered not to possess firearms and I will be ordered to surrender firearms in my possession under RCW 9.41.800. The court may order me to make restitution and to pay costs under RCW 10.01.160. The court may also order reasonable conditions during the deferred prosecution to ensure continued sobriety and reduce the likelihood of re-offense in co-occurring domestic violence and substance abuse or mental health cases. These conditions include, but are not limited to, attendance at a self-help recovery support group for alcoholism or drugs, complete abstinence from alcohol and all non-prescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintaining law abiding behavior. The court may terminate the deferred prosecution program if I violate the deferred prosecution order.

15. A deferred prosecution program for domestic violence behavior, or domestic violence co-occurring with substance abuse or mental health, must include, but is not limited to, the following requirements: (1) Completion of a risk assessment; (2) Participation in the level of treatment recommended by the program as outlined in the current treatment plan; (3) Compliance with the contract for treatment; (4) Participation in any ancillary or co-occurring treatments that are determined to be necessary for the successful completion of the domestic violence intervention treatment including, but not limited to, mental health or substance use treatment; (5) Domestic violence intervention treatment within the purview of this section to be completed with a state-certified domestic violence intervention treatment program; (6) Signature of the petitioner agreeing to the terms and conditions of the treatment program; (7) Proof of compliance with any active order to surrender weapons issued in this program or related civil protection orders or no-contact orders.

16. If the court grants this petition, during the period of deferred prosecution I will be required to contact my probation officer, the probation director or designee, or the court if there is no probation department, to request permission to travel or transfer to another state if my wrongful conduct involves: (i) an offense in which a person has incurred direct or threatened physical or psychological harm; (ii) an offense that involves the use or possession of a firearm; (iii) a second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol; (iv) a sexual offense that requires me to register as a sex offender in Washington state. I understand that I will be required to pay an application fee with my travel or transfer request.

17. If I fail or neglect to comply with any part of my treatment plan or with any ignition interlock driver’s license or ignition interlock device requirements, then the court shall either order me to comply with the term or condition or be removed from deferred prosecution (RCW 10.05.090). After the hearing, the court will either order that I continue with treatment or be removed from deferred prosecution and enter judgment. If I am convicted of a similar offense during the deferred prosecution, the court will revoke the deferred prosecution and enter judgment.

18. The court will dismiss the charge(s) against me in this case three years from the end of the two-year treatment program and following proof to the court that I have complied with the conditions imposed by the court following successful completion of the two-year treatment program, but no less than five years from the date the deferred prosecution is granted, if the court grants this petition and if I fully comply with all the terms of the court order placing me on deferred prosecution.

I certify under penalty of perjury under the laws of the state of Washington that I have read the foregoing and agree with all of its provisions and that all statements made are true and correct.

Dated at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Washington this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Petitioner-Defendant Defense Attorney/WSBA No.

**IN THE MUNICIPAL COURT OF FEDERAL WAY**

**STATE OF WASHINGTON**

**CITY OF FEDERAL WAY, )**

**) Case Number\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **Plaintiff, )**

 **) ORDER GRANTING DEFERRED**

 **v. ) PROSECUTION ) CHARGE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **)**

 **) BAC: \_\_\_\_\_\_** **[ ] No Test [ ] Refusal**

 **) [ ] .08 - .14 [ ] .15 or above**

 **Defendant, ) [ ] Drug Related**

 **)**

 **) Vehicle: [ ]  Commercial [ ]  HazMat ) [ ]  16 P assenger**

 **THIS MATTER** having come on for hearing before the undersigned Judge of the above entitled Court, upon the Defendant’s Petition for Deferred Prosecution; the Plaintiff, City of Federal Way appearing by and through the Prosecuting Attorney, and the Defendant appearing in person and through his/her attorney of record, or having waived his/her right to counsel; the Court having examined and incorporated into the record Defendant’s Petition and Statements in support of Deferred Prosecution, the written assessment and treatment plan prepared by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (herein after referred to as treatment provider), the Defendant’s case history and abstract of driving record, and the files and records herein, having heard argument of counsel, and, otherwise, being fully informed in the premises, now, therefore makes the following:

## I. FINDINGS OF FACT

1.1 That the offense(s) for which Defendant stands charged in this case occurred as a direct result of alcoholism, drug addiction, or mental problems;

1.2 That Defendant is in need of treatment and if not treated for this condition, there is a high probability the Defendant will commit similar violations in the future;

1.3 That Defendant is amenable to treatment;

1.4 That extensive and long-term treatment is available to Defendant through the designated Treatment Provider, a state-approved treatment provider as designated under the law;

1.5 That Defendant agrees to complete the two-year program offered by the treatment provider as set forth in the attached case history and written assessment, pursuant to RCW 10.05.150 or RCW 10.05.040-.050, as applicable;

1.6 That Defendant has agreed to be liable for all costs and expenses associated with diagnosis, treatment and Supervised Probation if able to do so;

1.7 That Defendant has acknowledged and waived his or her following rights in this matter: the right to a speedy trial, the right to a jury trial, the right to testify, the right to call witnesses to testify, and the right to present evidence in his or her defense;

1.8 That Defendant has stipulated to the admissibility and sufficiency of the facts contained in the written police report(s) attached and incorporated herein by this reference and filed herewith;

1.9 That Defendant has acknowledged that the stipulated facts will be admissible and sufficient in any criminal hearing or trial on the underlying offense(s) held subsequent to revocation of this Order Granting Deferred Prosecution and that the facts contained in the report(s) will be used as the sole evidence to support a finding of guilt;

1.10 That Defendant’s statements made pursuant to RCW 10.05.020(3) in support of the Petition for Deferred Prosecution were made knowingly and voluntarily; and that if the court finds cause to revoke this Order Granting Deferred Prosecution, these statements will be used to support a finding of guilt.

1.11 That Defendant has not been previously granted a Deferred Prosecution for a Title 46 RCW violation or similar Municipal Ordinance violation.

From the foregoing FINDINGS OF FACT, the Court draws the following:

# II. CONCLUSIONS OF LAW

2.1 That the above entitled Court has jurisdiction over the subject matter and the parties to this action;

2.2 That the Defendant’s Petition for Deferred Prosecution meets the requirements of RCW 10.05 et seq;

2.3 That the diagnostic evaluation and commitment to provide treatment submitted by the treatment provider meets the requirements of RCW 10.05.040 - .050 or RCW 10.05.150, as applicable; and

2.4 That the Defendant is eligible for Deferred Prosecution.

III. ORDER

 Having made and entered the foregoing FINDINGS OF FACT and CONCLUSIONS OF LAW, it is hereby:

 **ORDERED** that prosecution is deferred pursuant to RCW Ch. 10.05 et seq. and for a term of years as set forth in RCW 10.05.120 upon the following terms and conditions:

3.1 Defendant shall complete the two-year treatment program recommended by the treatment provider, according to the terms and conditions of that plan as outlined in the diagnostic evaluation, a true copy of which is attached to the Petition and incorporated herein by this reference;

3.2 Defendant shall maintain total abstinence from alcohol, cannabis products, and any controlled substances as defined in RCW Ch. 69.50 et. seq., unless prescribed by a physician during the period of deferral;

3.3 Defendant shall commit no alcohol related criminal traffic offenses or other criminal offenses during the period of deferral;

3.4 Defendant shall not operate a motor vehicle upon the public highways without a valid operator’s license and proof of liability insurance sufficient to comply with state laws on financial responsibility [RCW 46.29.490];

3.5 An abstract of the Defendant’s acceptance for deferred prosecution shall be sent to the Department of Licensing if the charge for which the Deferred Prosecution is granted is a misdemeanor or gross misdemeanor under Title 46 RCW;

3.6 Defendant shall be on supervised probation with the Federal Way Municipal Court Probation Department during the period of deferral and shall abide by all terms, conditions, rules, and regulations of the probation department for the term of this period. Defendant shall pay the costs of probation in the amount of $55.00 per month until the completion of the treatment program. After completion of the treatment program the Defendant shall pay a probation monitoring fee of $20.00 per month until the offense (s) charged under the case number (s) above are dismissed or this Deferred Prosecution is revoked.

3.7 The treatment provider shall file with the Court and probation department status reports every month describing Defendant’s cooperation and progress in treatment. The Court or probation department may require an increase in the frequency of these reports at its discretion;

3.8 The treatment provider and probation department are authorized to monitor the Defendant’s sobriety by the use of random drug testing or breath testing. Defendant shall submit to random urinalysis or breath testing upon the request of the probation department, treatment provider, or the Court.

3.9 In the event that the Defendant fails or neglects to carry out and fulfill any term or condition of the treatment plan, or any term or condition imposed in connection with the installation of an interlock or other device under RCW 46.20.720, the facility, center, institution or agency administering the treatment or device, shall immediately in writing report such breach to the Court, the probation department, the prosecutor, and the Defendant’s attorney of record, together with its recommendation. The Court, upon receiving such a report of failure, neglect or violation, will hold a hearing to determine whether the Defendant should be removed from the deferred prosecution program;

3.10 If the Defendant is subsequently convicted of a similar offense while in the deferred prosecution program, or if the Court finds cause to revoke the deferred prosecution; the stipulated police report(s) shall be admitted into evidence. The Court will then enter judgment based solely on said report(s) and, if appropriate, sentence the Defendant according to law;

3.11 Defendant’s waiver of the right to a speedy trial pursuant to CrRLJ 3.3 and RCW 10.05.020(3) is accepted;

3.12 Defendant’s waiver of the right to a jury trial pursuant to CrRLJ 6.1.1(a) and RCW 10.05.020(3) is accepted;

3.13 Defendant shall pay a BAC State Toxicology Lab assessment in the amount of **$250** [RCW 46.61.5054]; and a Deferred Prosecution cost of **$250** within 180 days or set up a payment plan with the Court.within 180 days, or set up a payment plan with the Court.

3.14 Defendant shall keep the probation department and the clerk of the Court advised, in writing, of any changes in address and telephone number within two business days.

3.15 Defendant shall surrender his or her non-probationary Washington State driver’s license to the Washington State Department of Licensing pursuant to RCW 46.20.355;

3.16 Defendant shall not change the treatment provider without prior approval of the Court and probation department;

3.17 Three years after receiving written proof of successful completion of the two-year treatment program, but not before five years following entry of the Order of Deferred Prosecution, and if the Defendant is in full compliance with all other conditions of this order, the Court shall dismiss the charge(s) pending against the Defendant;

**IV. ADDITIONAL TERMS AND CONDITIONS:**

4.1 [ ] No Restitution is sought.

[ ] Restitution in an amount to be determined by the City within 180 days.

[ ] Defendant shall pay Restitution to (full name and address)

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in the amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, per payment plan set up by the court.

 4.2 Any Defendant traveling or relocating out of the State of Washington must comply with the provisions of the Interstate Commission on Adult Offender Supervision (ICAOS) [RCW 3.50.355];

4.4 Defendant shall attend and complete a DUI Victim’s Panel within 90 days and file written proof of completion with the probation department and the Court. [RCW 46.61.5152];

 4.5 Defendant may drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device for the mandatory period required by DOL pursuant to RCW 10.05.140 and RCW 46.20.720. It is further ordered that:

1. The Defendant shall not operate any motor vehicle unless he/she has a valid license and insurance;
2. The Defendant shall have an ignition interlock breath alcohol device installed by a Washington State Patrol certified ignition interlock breath alcohol device vendor on **ANY** motor vehicle(s) he/she operates;
3. Defendant shall bear the cost of installation and maintenance of the ignition interlock device;
4. Any ignition interlock device installed pursuant to this order shall be monitored by the installer at least once every sixty-five (65) days (WAC 204-50-080). Notification shall be made by the installer in writing to all named parties, pursuant to paragraph 3.10 above; or as required by WAC 204-50 etc seq;
5. Defendant shall not adjust, tamper with, remove, or circumvent in any manner: (1) any ignition interlock device, (2) the wiring of any ignition interlock device, or (3) the ignition system of any vehicle equipped with an ignition interlock device; and
6. Any ignition interlock device installed pursuant to this Order Granting Deferred Prosecution shall comply with the mandatory operation features required pursuant to WAC 204-50-110. The ignition interlock device shall be calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of .025 or more.
7. The court grants a 5 day grace period to install the ignition interlock.

4.6 During the three years following completion of the two-year treatment program, Defendant shall attend a minimum of 2 AA/NA or other self-help support group meetings

per week for the first year of the Deferred Prosecution and herein after per recommendation of the treatment provider. Support group attendance logs must be filed with Probation monthly by the 5th day of the following month. The log must include the defendant’s name, case number, date of the meeting, group meeting name, chairperson signature and telephone number. Approved attendance log forms are available in the Probation Office. You cannot attend multiple meetings in one day and must attend the minimum meetings ordered within each calendar month.

 4.7 Defendant shall not refuse to submit to a test of his or her breath or blood to determine alcohol concentration or the presence of controlled substances upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs.

4.8 Other terms and conditions:

**DONE IN OPEN COURT** this , day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

 Judge/Judge Pro-Tem

Presented by: Approved for Entry; Copy Received:

Attorney for Defendant Prosecuting Attorney

WSBA # WSBA#

I do hereby acknowledge the foregoing Order of Deferred Prosecution. I have read it or had it read to me, understand and agree to comply with the terms and conditions set forth therein.

Defendant Date

***INTERPRETER DECLARATION:***

I am a certified interpreter or have been found otherwise qualified by the court to interpret in the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ language, which the defendant understands, and I have translated the above document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the forgoing is true and correct.

DATED: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ LOCATION: Federal Way, Washington

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Interpreter