

STATE OF TEXAS

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IN THE 450TH JUDICIAL

V.

DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

**Agreement for Participation in the Travis County
Felony DWI Court Program**

The Travis County Felony DWI Court (*hereinafter* F-DWI Court) is an alcohol intervention program and an alternative to prosecution offered by the Travis County District Attorney’s Office. The program is designed to provide an early opportunity for changing negative behaviors through court monitoring, urinalysis, case management, community outreach, and alcohol abuse education and treatment referrals. It is also a cost effective alternative to traditional criminal case processing.

_____, hereinafter referred to as the Defendant, is reported to have committed the felony offense of **DRIVING WHILE INTOXICATED 3rd** on or about _____, in violation of the Texas Penal Code 49.09(b), to wit: **See Exhibit “A”**.

Upon your accepting responsibility for your behavior and your signature on this agreement, and after an investigation of the offense and your background, it has been determined that the interest of the State of Texas, your interest and the interest of justice will be served by the procedures outlined below.

Prosecution of this felony offense shall be deferred provided that you abide by the conditions and requirements of the program set out below.

DEFENDANT’S AGREEMENT

The Defendant seeks placement into the F-DWI Court and swears that he/she has never been convicted of nor received probation or deferred adjudication for a felony offense. The Defendant swears that he/she has not been arrested/cited for any criminal offense since his/her application for F-DWI Court was received by the District Attorney’s Office. The Defendant waives his/her Constitutional rights as set out in **Exhibit “B”**, and is incorporated herein by reference. The Defendant swears that he/she is a resident of Travis County or a contiguous county. The Defendant swears that this offense did not involve a collision or a child passenger. The Defendant swears that he/she has not previously been a DWI Court or Drug Court participant. Defendant agrees to the terms set forth in this Agreement and further agrees to follow the conditions of F-DWI Court as set out below. The Defendant understands that a violation of any conditions of this Agreement will allow the District Attorney to proceed with the prosecution of the felony offense of Driving While Intoxicated 3rd. If further prosecution results, there will be no refund or credit for any fees paid, community supervision service hours performed, or programs attended.

The District Attorney may at any time during the Defendant's participation in F-DWI Court initiate prosecution for this felony offense should the Defendant violate any or all of the conditions of the Agreement. The District Attorney will furnish the Defendant notice specifying the conditions of the Agreement which have been violated by a letter to the Defendant and the Attorney for the Defendant. This letter will include a notice to appear in court for plea and sentencing. Further, the Defendant agrees to the following:

- 1) I agree to successfully complete the DWI-Court in County Court #7 under the supervision of Judge Elisabeth Earle or the presiding judge for County Court #7.
- 2) I agree to sign a judicial confession admitting guilt to the felony Driving While Intoxicated 3rd offense as stated in Exhibit "A," which may be entered into evidence without objection by the defendant in the event that I violate any or all of the terms of this Agreement.
- 3) I agree that I will not violate the laws of Texas, or any other state of the United States, or any other political subdivision of these jurisdictions during this period of deferment. I understand that a subsequent arrest jeopardizes my continued participation in the program, regardless of whether I am subsequently convicted or not.
- 4) I will participate in any evaluation or assessment procedure to determine the extent of my alcohol use and other needs.
- 5) I will appear in this court as directed by the court, case manager and/or counselor. Notice of my appearance date may be mailed to me at the above address, unless I have given written notice of a new home address in a timely manner. If I have given such written notice, then written notice to the new address shall be sufficient. If I do not appear in court as directed, I understand a warrant can be issued for my arrest. In addition, I understand that if I fail to contact the program for 30 consecutive days, I will be placed on absconder status, which may result in my arrest and unsuccessful discharge from the program.
- 6) I will fully participate in and successfully complete all phases of DWI-Court which may include:
 - Group and individual counseling sessions
 - Treatment Team Meetings (TTMs)
 - Meetings with case manager
 - Home or employment visits
 - External alcohol abuse education programs or classes
 - Suitable employment
 - Community Service Restitution (CSR)
 - Individual curfew requirements
 - Monitoring technology
 - Residential treatment
 - Other strategies designed to meet my needs
- 7) I will comply with any jail commitment ordered by the court.

- 8) I will abstain from the use of any illegal, controlled substances that are prohibited by the court and will adopt a drug free lifestyle. Additionally I will make social adjustments and changes as necessary to maintain drug free and crime free behavior.
- 9) I will carefully review the ingredients of any substance I put in my body, particularly over-the-counter medications, to ensure the substance does not contain anything that will cause a false positive on my drug tests. I understand that during my participation if an illness requires medication I will inform my physician of my participation in this program and request a non-habit forming medication, if available. I must inform my case manager within 24 hours of beginning any new prescription medication.
- 10) I will voluntarily submit to random drug/alcohol testing or any other type of chemical substance testing whenever requested by an agent of the court for detecting subsequent use of alcohol, and/or controlled substances. I understand that testing will continue throughout my entire participation in the program.
- 11) I will obtain appropriate employment that is conducive to recovery, and is not at a business whose primary services include serving alcoholic beverages. I understand that the staff will make reasonable efforts to help me secure appropriate employment.
- 12) I agree to pay the program fee of \$500.00 and supervision fees of \$60.00 per month as directed by the court or by an agent of the court, to cover the cost of my participation in the program. I further understand that I may be required to pay additional fees associated with court ordered treatment referrals and drug testing. I understand fees must be paid monthly in order to remain in compliance. I further understand that unless I have completely paid all my program fees, I may not be allowed to graduate.
- 13) I further understand and agree that in the event that I violate one or more of the terms of this Agreement, the court may revoke my bond and I may be detained on court ordered warrant, until such time as the court determines appropriate action.
- 14) I also understand and agree that should I violate any or all terms of this Agreement, the District Attorney for Travis County, Texas may revoke this Agreement and proceed to prosecute the original charge(s). I request that my case not be actively prosecuted while I participate in the program.
- 15) In the event that I comply with all the terms of this Agreement and successfully complete the Felony DWI Court program, I understand that the District Attorney for Travis County, Texas will prosecute me for the lesser-included offense of Class A Misdemeanor Driving While Intoxicated 2nd in the above-styled and numbered cause. I will then plead guilty to Class A Misdemeanor Driving While Intoxicated 2nd.
- 16) In consideration of the opportunity to participate in the program, I agree to release, waive, discharge and covenant not to sue Travis County, its officers, agents, employees and servants, including, but not limited to, Travis County Felony DWI Court staff and volunteers, from all claims, demands, or causes of action of any kind whatsoever arising out of my participation in the program.

17) I request that my case, whether indicted or unindicted, be reset for non-trial settings during my participation in the F-DWI Court. I waive any rights I may have to a speedy trial in this case. I waive any rights to require the State to be ready for trial in this case or to proceed to trial on this case at this time. I waive any rights to have an indictment returned by a grand jury on this case within the time limits established under Article 17.151 Texas Code of Criminal Procedure, the Texas or United States Constitution, or any other statute. I further certify that I discussed this Agreement and the consequences of entering the Travis County Felony DWI Court with an attorney retained by me or appointed to me, if I so qualify. Having consulted with an attorney, I understand the rights outlined in this Agreement and with full knowledge of the consequences of my actions wish to waive said rights.

In consideration of the Defendant's promise to abide by the terms and conditions of this Agreement, the District Attorney of Travis County, Texas, does promise to defer the prosecution of the felony offense of Driving While Intoxicated 3rd and if fully satisfied that the Defendant has successfully complied with the terms of the Agreement will reduce the offense to a Class A Misdemeanor Driving While Intoxicated 2nd charge.

I, _____, am guilty of the felony offense of Driving While Intoxicated 3rd, accept responsibility for this crime and with full knowledge and understanding of my rights and the above terms and conditions set forth in this Agreement, and understand the consequences of entering into this Agreement. With that understanding, I agree to participate in the Felony DWI Court Program of Travis County, Texas and agree to all the terms and conditions contained in this Agreement.

Defendant

Contract Date

APPROVAL OF AGREEMENT BY DEFENDANT'S ATTORNEY

I have consulted with my client; advised him/her of his/her rights; believe him/her to be mentally competent. I am satisfied that he/she completely understands the waivers and the consequences of signing this waiver. I join in the waivers and Agreement set for above.

Attorney for Defendant

Bar No.

Contract Date

STATE'S AGREEMENT

If the Defendant complies with all the terms and conditions of the Agreement and successfully completes the Felony DWI Court Program of Travis County, then the State will reduce the felony offense in the above-styled and numbered cause to a Class A Misdemeanor Driving While Intoxicated 2nd.

Craig J. Moore

Contract Date

EXHIBIT "B": WAIVER OF RIGHTS

I, _____, hereby acknowledge that I have been advised (*by my attorney*) of my Constitutional rights as follows:

- 1. The right to a jury trial by the court. _____**
- 2. The right to be presumed innocent until proven guilty beyond a reasonable doubt, being advised further that at my trial it would be the burden of the prosecution to prove me guilty beyond a reasonable doubt. _____**
- 3. The right to confront and question witnesses against me and the right to have subpoenas issued by the court requiring the attendance of witnesses in court whom I may desire to testify in my favor. _____**
- 4. The right to remain silent or testify at my trial should I choose to have a trial and the right to have no inferences drawn which are adverse to me in the event I choose not to testify. _____**
- 5. The right to a speedy trial. _____**
- 6. The right to appeal. _____**

I hereby request that the Travis County District Attorney defer any prosecution of me of this felony offense provided that I abide by the conditions and requirements of the Felony DWI Court Program. Should the District Attorney decide to proceed with the prosecution of the above described offense in accordance with the terms and conditions of this Agreement, I waive my Constitutional rights described above and those referenced in the Agreement. To induce the District Attorney to defer such prosecution, I agree and consent that any delay from the date of the said offense to the date on which prosecution may be resumed, as provided in the terms expressed herein, shall be deemed to be a necessary delay at my request and I waive any defense to such prosecution on the ground that such delay operated to deny my rights under Article 32A.01 of the Texas Code of Criminal Procedure and the Sixth Amendment of the United States Constitution to a speedy trial.

With full knowledge and understanding of the above terms and conditions, and my rights and the effect of my waiver of those rights, I, the undersigned defendant, agree to participate in the Felony DWI Court of Travis County, Texas.

Defendant

Contract Date

APPROVAL OF WAIVER OF RIGHTS BY DEFENDANT'S ATTORNEY

I have consulted with my client; advised him/her of his/her rights; believe him/her to be mentally competent. I am satisfied that he/she completely understands the waivers in the Agreement and those contained in Exhibit "B" and the consequences of signing this waiver. I join in the waivers and agreement set for above.

Attorney for Defendant

Bar No.

Contract Date

STATE'S AGREEMENT

If the Defendant follows the terms of the agreement and the rules of community supervision, the State will not pursue further prosecution of this offense.

Craig J. Moore

Assistant District Attorney

Contract Date