

COURT FILE NUMBER: _____

REQUEST TO BE CONSIDERED FOR DIVERSION

STATE OF MINNESOTA,

Plaintiff,

vs.

_____,

Defendant.

I, _____, Defendant in the above-entitled action, respectfully represent and state as follows:

1. My full name is _____ I am ____ years old. My date of birth is _____.

2. I have received, read and fully understand the provisions of this request and the Diversion Program Agreement form.

3. If accepted into the Olmsted County Adult Diversion Program, I agree to be bound by all provisions of the Olmsted County Adult Diversion Program.

4. If accepted into the Olmsted County Adult Diversion Program, I understand I am waiving any rights I have to a speedy trial or Omnibus Hearing.

5. I understand that I have been charged with the crime(s) of _____, committed on or about _____ in Olmsted County, Minnesota.

6. I understand that in order to be accepted into this program, I must fully disclose and admit the facts underlying the charges including, but not limited to, the identity and involvement of others. I understand that I may be required to cooperate in the ongoing investigation of this matter and may be required to testify against others involved in this matter.

7. I understand and agree that any and all statements I make in this request are voluntarily given and may be used against me in any subsequent legal proceedings.

8. ***The following is my full, complete and truthful statement of the facts underlying these charges (use additional sheets if necessary):*** _____

9. I agree to be bound by all terms and conditions placed upon me by the Diversion Coordinator.

10. I understand that if I fail to meet any of the terms and conditions placed on me, I will be adjudicated guilty as charged and subjected to further sentencing proceedings.

11. I understand that if I wish to discontinue participation in the program prior to successful completion of all terms and conditions, I will be adjudicated guilty as charged and subjected to further sentencing proceedings.

12. In view of all facts and considerations, and with a full understanding of the provisions of this document and the Olmsted County Adult Diversion Program, I am hereby requesting admission into this program.

Offender

Subscribed and sworn to before me this
_____ day of _____, 20____.

Notary Public

I, _____ state that I am the attorney for the defendant in the above-entitled criminal action; that I personally explained the contents of the above petition to the defendant; and that I personally observed the defendant date and sign the above petition.

Dated this ____ day of _____, 20____.

Attorney for Defendant

***OLMSTED COUNTY ADULT PRE-TRIAL
DIVERSION PROGRAM AGREEMENT FORM***

I. BACKGROUND INFORMATION:

<hr/>	<hr/>	<hr/>	<hr/>
Last Name	First	MI	Soc. Sec. #
<hr/>			Sex: M___ F___
Current Address			
<hr/>			<hr/>
City	State	Zip	Date of Birth
Home Phone Number (____) ____ - ____		Race: _____	
Are you currently Employed? <input type="checkbox"/> Yes <input type="checkbox"/> No			
<hr/>			<hr/>
Place of Employment			Occupation
<hr/>			
Employment Address			
<hr/>			(____)____-____
City	State	Zip	Employment Phone
Marital Status: <input type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/>			
Spousal information:			
<hr/>			<hr/>
Last Name	First	MI	Maiden Name
<hr/>			<hr/>
Current Address			Soc. Sec. #
<hr/>			<hr/>
City	State	Zip	Date of Birth
Home Phone Number (____) ____ - ____			

Is your spouse currently employed? ☐ Yes ☐ No

Place of Employment

Address of Employment

City State Zip (____)____-_____
Employment Phone

Do you have any children? (If so, list their names and ages below)

Are your parents still living? ☐ Yes ☐ No

List surviving parents below:

Father:

Last Name First MI

Current Address

City State Zip

Home Phone Number (____) ____ - ____

Mother:

Last Name First MI

Current Address

City State Zip

Home Phone Number (____) ____ - ____

Please list all previous addresses in the past ten years

Address	City	State	Zip
Address	City	State	Zip
Address	City	State	Zip
Address	City	State	Zip
Address	City	State	Zip
Address	City	State	Zip

II. POLICY STATEMENT

The decision to offer pretrial diversion as an alternative disposition to criminal prosecution is a matter of prosecutorial discretion. Therefore, the Olmsted County adult pretrial diversion program is a matter of internal policy only and does not have the force and effect of law. It also is not intended to create any legal rights, privileges, or benefits to prospective offenders nor to create any legal obligations on the part of the Olmsted County Attorney's Office. Revisions to this program may be made at any time by the Olmsted County Attorney's Office without notice to any party, person, agency, corporation, or governmental unit or subdivision.

The Olmsted County Attorney's Office intends to administer this policy in a non-discriminatory manner. Therefore, the decision whether to offer or to accept pretrial diversion as an alternative disposition will not be based upon race, color, creed, sex, sexual preference, citizenship, status with regard to public assistance, or other constitutionally impermissible considerations.

The decision to offer pretrial diversion will be based upon a review of the investigative reports relating to the offense; the offender's criminal history, traffic offense, juvenile, and court records; and any other relevant information.

An offer of pretrial diversion will be made after consideration of the opinion of the victim. However, this right does not in any way affect the inherent and statutory discretion of the Olmsted County Attorney's Office to determine whether or not charges, and to determine which charges, will be filed in any given case.

The primary investigating officer also has a right to make his views known regarding pretrial diversion. Investigating officers will be encouraged to identify and make recommendations regarding offenders they deem appropriate for pretrial diversion.

III. PARTIES

The principal parties to this agreement are the offender hereinabove mentioned, the offender's attorney (if one exists), Olmsted County Department of Court Services, and the Olmsted County Attorney's Office.

IV. PROCEDURE

To accept the terms of the pretrial diversion program, the above-named offender must agree to each condition as outlined in this Agreement below. To do so, the offender must sign his/her initials on the line provided following each of the conditions. The parties to this Agreement must then sign this Agreement, binding them immediately to this Agreement. Once this pretrial diversion agreement is executed, it will be filed with the court. The agreement will be for a period not to exceed twenty four (24) months.

V. TERMS OF THE PROGRAM

(THIS SECTION TO BE COMPLETED BY DIVERSION PROGRAM OFFICER.)

The offender hereinabove named is hereby charged with the following offense(s): _____

The offender by signing this Agreement herein below agrees to the conditions of this pretrial diversion program.

This Agreement will extend until _____, during which the offender hereinabove agrees to the following:

- ☐ **Pay restitution in the amount of \$_____.**
- ☐ **Perform _____ hours of community service.**
- ☐ **Undergo Chemical Dependency Assessment and follow recommendations for treatment.**
- ☐ **Complete a Level of Service Inventory (LSI).**
- ☐ **Be subject to the Intermediate Sanctions Program, with sanctions for violations to be determined by Probation.**
- ☐ **Complete GED.**
- ☐ **Be subject to random alcohol and drug testing and random searches.**
- ☐ **Pay _____ to defray the costs of the program.**
- ☐ **Remain law abiding and of good behavior.**
- ☐ **Other _____**

VI. CONDITIONS

The defendant must write his/her initials behind each of the following:

- (1) I hereby acknowledge guilt for the charge to be diverted, and waive any objection to the admissibility of this admission at trial in the event that I violate the conditions of the pretrial diversion program. ____
- (2) I hereby waive my right to a speedy trial and any similar defense based upon the delay brought about by my participation in the pretrial diversion program. ____
- (3) I hereby waive my right to trial by jury in the event I violate the conditions of the pretrial diversion program. ____
- (4) I hereby do not waive my right to an omnibus or evidentiary hearing on any constitutional or evidentiary issues. ____
- (5) I hereby agree to make restitution to the victim(s) of the crime, if any, and such payments must be made in full prior to being discharged from the pretrial diversion program. Such restitution will be paid in the amount of \$_____ at a rate of \$____ per _____ beginning on _____. ____
- (6) I hereby agree to remain law-abiding during the entire period of the pretrial diversion program, which includes no arrests, citations, or charges brought for a misdemeanor, gross misdemeanor, or felony offense committed during the period of the pretrial diversion program. Any arrests, citations, or charges for offenses committed prior to entering the pretrial diversion program, but not issued until after entering into the program, also will result in the my disqualification from the program unless I provided complete and truthful information regarding the prior offenses to the Olmsted County Attorney's Office before entering into the program. ____
- (7) I hereby agree not to engage in specified activities, conduct, or associations, as separately determined by the diversion worker, during the entire period of the pretrial diversion program. ____
- (8) I hereby agree to provide complete and truthful information about and to testify against co-defendants or confederates to the offense being diverted. ____
- (9) I hereby agree to waive any right to the expungement of records relating to the offense being diverted. ____
- (10) I hereby agree to attend and successfully complete a rehabilitation program, including chemical dependency, psychological, or other treatment, counseling, training, or education, if recommended, and to pay for the costs of the program(s). ____
- (11) I hereby agree to perform community service.
- (12) I hereby agree to no contact with the victim(s) of or witness(es) to the crime for the duration of the pretrial diversion program, if requested by the victim(s) or witness(es). ____
- (13) I hereby attest that I have provided complete and truthful information regarding past criminal record, juvenile record, residences, education, psychological or medical treatment, finances, etc., in order to ensure I am eligible for participation in the program, and I hereby agree to sign releases for any of this information if I am requested to do so. ____
- (14) I hereby agree to pay for any costs of the pretrial diversion program. ____
- (15) In cases where there may be a potential statute of limitations problem, I hereby agree to waive any statute of

limitations defense. ____

(16) I agree to contact the diversion worker with any change in address, telephone number, or contact with law enforcement.

(17) I have been informed by my attorney of my right to demand the issuance and service of a warrant of extradition and my right to apply for a writ of habeas corpus to test the legality of my arrest. I hereby waive the issuance and service of a warrant of extradition and the right to apply for a writ of habeas corpus, and I hereby freely and voluntarily agree to return (go) to the State of Minnesota, accompanied by a peace officer for the purpose of answering this criminal charge pending against me. ____

VII. TERMINATION AND COMPLETION

If the offender hereinbefore mentioned violates any of the conditions of the pretrial diversion agreement or provides false or misleading information to the Olmsted County Attorney's Office prior to the time the agreement is due to expire, the Olmsted County Attorney's Office has the right to revoke the agreement and to proceed with entry of the guilty plea and sentencing of the offender. The decision as to whether the agreement has been violated and whether the agreement is to be revoked is to be made solely by the Olmsted County Attorney's Office.

If the offender successfully completes the period of pretrial diversion set forth in the agreement, the offender and/or his attorney will be notified that the pretrial diversion was successfully completed and is terminated. If the Olmsted County Attorney's Office determines that a violation occurred during the diversion period, it has the discretion to revoke the agreement by informing the offender and/or his attorney of the intent to do so and then proceeding with the criminal prosecution.

VIII. EFFECTIVE DATE

This Agreement shall become effective as of the date it is signed by the individual parties herein below provided and shall continue in force until terminated or completed as hereinabove provided.

Offender

Signed on the ____ day of _____, ____.

Offender's Attorney

Signed on the ____ day of _____, ____.

Court Services

Signed on the ____ day of _____, ____.

Olmsted County Attorney's Office

Signed on the ____ day of _____, ____.