



ROD UNDERHILL, District Attorney for Multnomah County

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PRETRIAL OFFER AND PLEA CONTRACT PER ORS 135.407 and ORS 135.432(2) and governed by Oregon law on contracts:

Plead guilty to the following charges: Count 1: Attempt Assault of a Public Safety Officer; Count 3: Interfering with a Peace Officer

Sentences (imposed on BOTH counts):

- 2 years Bench Probation
- 10 days jail (concurrent), including all credit for time served
- All standard conditions of bench probations
- Possess no weapons
- 40 hours community service, may be served at an entity of defendant's choosing
- Stay *at least* 10 feet away from officers while they are carrying out their duties with respect to other persons/ property (this does not mean defendant is exempt from orders to stay more than 10 feet back if said orders are otherwise lawfully given)
- *Immediately vacate* City Hall, or any other Government Building, when lawfully ordered to do so by a person(s) in charge (examples of lawful exclusions include: space is closed to the public, person has been ejected for violation of facility rules)
- NTSI level 1 Anger Management Classes
- Stipulate to liability for restitution, if applicable
- Fines and fees per the court
- Any statutory fees or assessments as the court may deem appropriate

The state will dismiss: Count 2: Resisting Arrest; Count 4: Disorderly Conduct in the Second Degree

All general terms and conditions of probation apply.

There will be no administrative or structured sanctions in this case. All probation violations will return to the sentencing judge for disposition.

1. THIS IS A MUTUALLY-BINDING AGREEMENT, INCLUDING A WAIVER OF ALL APPELLATE RIGHTS BY BOTH PARTIES:

As a condition on accepting this offer, and by entering a plea pursuant to this offer, defendant waives forever all rights to appeal or challenge this judgment in any fashion based upon state or federal laws, state or federal constitutions, federal treaties, or any other grounds. These waived

rights include, but are not limited to, pre-indictment and post-indictment speedy trial, due process, federal habeas corpus relief, statute of limitations, international law or treaties, fitness to proceed or mental state issues, and any challenge to the sentence itself, including the right to have a jury or judge determine sentencing factors under *Blakely v. Washington*, 524 US 296 (2004), including upward departures and whether the sentence is unconstitutionally cruel and unusual. Defendant waives the right to withdraw his plea, and to move for a new trial or habeas corpus relief or any other form of relief at any time based upon newly discovered evidence or for any other reason. Defendant waives all above rights as to all counts pled to and also as to all counts or indictments dismissed. As part of this contract, defendant stipulates that a legal and factual basis exists to support any plea and sentence that is part of this agreement, that a legal and factual basis exists for any consecutive sentences and departure sentences, and that each sentence is both legal and constitutional under state and federal law and constitutions. In short, defendant will make no claim—ever—that the sentences are illegal, including consecutive and departure sentences. Defendant, by signing below and accepting the terms of this agreement, hereby asserts that: (1) defendant was properly found guilty of all crimes pled to and sentenced under this agreement; (2) defendant is truly guilty of those crimes (whether the plea was “guilty” or “no contest”); (3) each sentence imposed is entirely legal, fair and appropriate; and (4) each consecutive and/or departure sentence is supported by the facts and law, and legal.

Defendant agrees that an important result of this agreement for all parties, including defendant, is finality for the victims, defendant and the state. Defendant further acknowledges that defendant is receiving valuable consideration from the state, in the form of reduced or dismissed charge(s), a reduction in the maximum possible sentences defendant will serve, and/or other considerations listed herein, as part of this agreement. To accomplish the ends of this agreement, defendant will not be allowed to withdraw these guilty or no contest pleas after such pleas have been accepted, any motion to do so will be denied, and defendant will fulfill defendant’s part of this agreement and receive and serve this negotiated sentence without further argument or legal challenge of any kind. If defendant files any legal challenges to the judgments in this matter, then defendant agrees that they will be dismissed immediately upon the state’s motion.

Defendant understands and agrees that each crime to which defendant pleads under this offer will remain a separate conviction and be separately punishable as such. Defendant stipulates that none of the convictions merge in any fashion and that consecutive sentences on all charges pled to are legally available, including on probation revocations if probation is imposed.

2. DEFENDANT’S PARTIAL WAIVER OF COLLATERAL REMEDIES:

I, the defendant in this matter, indicate by my signature below that I understand that under state and federal law I may file a petition for habeas corpus relief, or a petition for post-conviction relief, in which I may challenge the legal validity of the convictions and sentences entered in this case. I understand that in such proceeding I may ask the court to invalidate and set aside my plea, the convictions, and the sentences entered in this case. I understand that such an action may be based upon a claim that the state acted unlawfully in obtaining evidence against me or unlawfully withholding evidence that may have been useful to my defense, or that some other legal or factual ground exists for granting relief.

Knowing all of this, I acknowledge and agree that:

(1) I am completely satisfied with the investigation that my attorney has conducted in this case. There is no additional factual investigation, reports or

evidence I am aware of that my attorney should have done, or obtained, in my defense, nor do I have reason to believe there is any.

(2) I am completely satisfied with all efforts my attorney made to defend me in this case. Further, I have had sufficient time and opportunity to talk with my attorney about my case and all issues therein. I do not need any more time to consult with my attorney.

(3) I am not aware of any evidence of any kind that the state obtained, or withheld, unlawfully or otherwise, in this case, nor do I have reason to believe there is any. I believe the state has provided me with all constitutionally required discovery materials, and have no reason to believe anything has been withheld.

(4) I am completely satisfied with the advice my attorney has given me in this case. I have no further questions regarding the investigation by the state or defense, the charges, potential defenses to the charges, the potential sentence, the terms of this agreement, or any other aspect of the case. All of my questions in this case have been answered to my total satisfaction.

(5) I am completely satisfied with the advice my attorney has given me with regard to trial, this stipulated sentencing agreement, any waiver of rights and all other aspects of this case. I have no further questions regarding the purpose, scope, and effect of this agreement and waiver, and I am willing to fulfill this agreement and waiver in return for the state's promises, which are valuable to me.

(6) I know of no grounds for complaint against my attorney and am fully satisfied with my attorney's representation of me in this matter.

I understand and agree that the state and the victim have a strong interest in preventing any further litigation in this case, as do I. Therefore, in consideration for the state's promises that are set forth in this plea contract, I hereby waive forever my right to file any petition for state or federal habeas corpus relief that would challenge the validity of the convictions or sentences entered in this case, or any other aspect of this case and judgment, except on the ground of ineffective assistance of counsel (although I am unaware of any grounds existing for claiming ineffective assistance of counsel). Further, in consideration for the state's promises that are set forth in this agreement, I hereby agree that if I ever do file a petition for state or federal habeas corpus relief, or for post conviction relief, then I will do so not later than 60 days after entry of the convictions. I hereby specifically waive my right to file such a petition within the longer period that otherwise is allowed by state or federal law. I also agree that if I file such a petition more than 60 days after entry of the convictions in this case, the state, at its sole election and at any time it chooses, may either: (1) move to dismiss that petition based on this waiver, or (2) declare my filing of that petition to be a material breach of this agreement and ask this court to reinstate all the charge(s) as set forth below.

3. PARTIES' REMEDIES UPON BREACH:

Defendant acknowledges and agrees that the waivers and limitations of rights to appeal and to petition for state and federal habeas corpus relief and post-conviction relief are an essential and material part of this agreement. If for any reason defendant ever challenges in any manner this plea contract or any aspect of the judgment(s) herein, including a motion for withdrawal of plea under ORS 135.365, then defendant expressly stipulates that the state's remedy under this agreement is immediate dismissal with prejudice of any defense motion, claim, appeal, collateral attack, or other challenge to the judgment(s) in this matter, and denial of any motion to withdraw his plea, and defendant further stipulates that such remedy shall be granted to the state without further argument or delay, and that any defense challenge of any kind to the judgment or

sentences in this matter will be dismissed immediately. Under the terms of this contract defendant stipulates that the state may specifically enforce all of its terms, including the exact plea and sentences that were negotiated, including any sentence(s) to be imposed for defendant's non-compliance with the plea contract and cooperation agreement. In the same manner, the state shall be held to all of its obligations in this agreement and will not challenge this agreement or outcome so long as defendant fully performs and the agreement is fully enforced by the court.

If for any reason the court does not follow the plea contract in all particulars, or if defendant files a claim or appeal or collateral relief that for any reason is not dismissed pursuant to the immediately preceding paragraph, then defendant stipulates that the entire original indictment will be reinstated, including all counts or indictments dismissed or reduced, and any charges not filed pursuant to this plea will then be taken to grand jury and, if the grand jury indicts, filed and tried. Speedy trial, statute of limitations bars, pre-indictment delay and any former-jeopardy bar under Oregon or federal law or the state and federal constitutions are expressly waived as to all charges, including charges dismissed and new charges to be taken to grand jury and indicted. All conditions in this offer are accepted and stipulated to by defendant as manifested by defendant's acceptance of the offer and entering the plea in this case. Defendant acknowledges the state's and victims' detrimental reliance upon this agreement and upon defendant's and the court's full compliance with this agreement. Further, by entering this agreement and accepting its benefits, defendant agrees never to approach the court and ask that the sentence be modified. Moreover, in consideration for the state's promises that are set forth in this agreement, defendant agrees that if defendant breaches any part of this agreement, or if any conviction entered in this case otherwise is ever set aside or vacated, the state, at its sole election, may use against defendant in any subsequent proceeding, whether related to this case or not, and for any reason, any statement, admission, confession, stipulation, jury finding or disclosure that defendant has made or will make in this investigation and case during negotiations, debriefings, or any pretrial hearing, at any plea hearing, or at sentencing. For that purpose, defendant waives any right that defendant would otherwise have under ORS 135.037(4), ORS 135.435, and Rule 410 of the Oregon Evidence Code to exclude any such statement, admission, confession, stipulation, or disclosure.

Defendant further agrees that the state may introduce against defendant in any later trial or other proceeding, and for any relevant purpose, the written or recorded statements and/or testimony of any witness who either testified at any hearing or whose statements are contained in any police reports concerning the crimes charged in all indictments subject to this agreement, and defendant hereby waives any objection that defendant would otherwise have to admission of the statements and testimony based on the hearsay rules and upon the all state and federal constitutional and statutory rights, including the rights to confront and cross-examine witnesses.

4. OTHER PROVISIONS OF THIS AGREEMENT:

Unless expressly stated to the contrary in this offer, defendant stipulates that any sentence will be without SB 936 credits (ORS 137.750-137.752), including good time, work time, and earned time credits, temporary leave from custody, boot camp, work release, alternative incarceration programs, or any program of conditional or supervised release authorized by law, whether now or in the future, for which defendant would otherwise be eligible. Defendant expressly waives the right to seek a "second look" hearing as that is defined at ORS 420A.203 if that provision would otherwise apply; accordingly, defendant stipulates that there will be no "second look" hearing under any circumstance, including upon revocation and sentencing. Defendant stipulates that there will be no reduction or modification of the sentence, no departure to probation, and no defense request for either under ORS 137.712, which, defendant hereby stipulates, does not apply to this agreement. Defendant agrees that the charges pled to as part of this agreement will never

be reduced or modified in any manner, nor will defendant ask the court to do so. Should defendant ever ask the court to modify or reduce any sentence or charge in this matter, then that request will be, by defendant's stipulation, denied. Defendant agrees that on any probation count there will be no administrative or structured sanctions, and that any probation violation (PV), no matter how minor, will return to the court for a probation violation hearing. In other words, the Court retains authority per ORS 137.593(2) on probation violation sanctions and revocations; structured sanctions (aka administrative sanctions) per ORS 137.595 are—per defendant's stipulation as part of accepting this offer—prohibited.

As a condition of this contract, defendant stipulates that this sentence will be consecutive to any other sentence defendant is now serving in any jurisdiction. Defendant also stipulates that this sentence will be consecutive to any parole, probation or post-prison supervision sanction he will serve anywhere as a result of this conviction or for any other reason.

Defendant stipulates to full restitution to all victims in this matter as to all counts, whether pled to or dismissed, as a condition of any probation and/or post-prison supervision. Defendant waives the right to shorter statutory timelines and stipulates that restitution may be finalized within one year from date of sentencing, with the state free to submit figures to the defense and court at any time during that year. Defendant expressly waives all rights, whether constitutional or statutory, to have the state present restitution information to the court and defendant at or before sentencing. Defendant agrees that the restitution package will be part of the sentence(s) in this case, and defendant agrees to fully and truthfully comply with all conditions of this package.

This offer does not address any charges or potential charges, present or future, unless specifically mentioned herein. In other words, the only criminal charges or potential future charges subject to this agreement are those specifically mentioned in this agreement.

If this offer includes one or more probations, defendant stipulates that, notwithstanding case law to the contrary, hearsay in all forms will be admissible in any probation violation hearing, any probation review, and any other hearing conducted on matters subject to the probation. For example, a written UA failure report will be admissible, police reports of alleged violation activity will be admissible, and victim and witness statements to the probation officer or a police officer will be admissible in any probation violation or other hearing. This is not an exclusive list but instead gives examples of the effect of this hearsay stipulation. Defendant agrees that the state is making an important concession by agreeing to probation and not seeking other sanctions, including prison or other, more serious probation conditions, and defendant, in exchange, agrees that hearsay may be admitted in any probation violation or other hearing related to enforcing the probation conditions.

This written offer, which includes all conditions described in any attachment(s), will be a plea contract, fully binding upon both parties in all respects. This written offer, including any specifically incorporated attachment(s), is the sole expression of the terms of the agreement between the parties. There are no oral terms or amendments. There will be no amendment except in writing signed and dated by the deputy district attorney signing the offer below.

Any failure by the court to follow every condition in this offer, including all stipulated probation conditions, voids the offer and the matter will be set for trial. The case deputy district attorney, or the District Attorney's designee, will be the sole arbiter of whether this offer has been fully complied with by defendant and the court. Defendant stipulates that any question about defendant's or the court's compliance with this contract plea will be decided solely by the case deputy district attorney.

This offer is predicated upon defendant having absolutely no adult criminal convictions or arrests, and no juvenile delinquency arrests or findings within the delinquency jurisdiction of the court, with the following exceptions: PER ENCLOSED CRIMINAL HISTORY FORM .

If defendant has any conviction(s) that place this case within ORS 137.635 (Denny Smith mandatory sentencing law), then this is defendant's notice that this law requires that defendant serve every day of any sentence imposed, and that, as a part of this contract and by operation of law, the final order in this case will so state. This is true regardless of whether the state or Court presently know of the predicate conviction, or discover it some time after this offer is made or accepted, or after the defendant has pled, or even after defendant is sentenced.

If defendant is not a United States citizen, then defendant understands that this conviction will result in defendant's permanent deportation from the United States, will bar defendant from ever obtaining United States citizenship, and may result in defendant's detention by the federal government pending deportation.

The parties agree, and the defendant expressly stipulates, that this plea contract is a stipulated sentencing agreement between the state and the defendant, to be approved by the sentencing court on the record, and is, therefore, not subject to appellate review per ORS 138.222(2)(d).

Finally, should this case proceed to trial, this is defendant's notice that the state will call all witnesses mentioned in police reports or other discovery, and may offer any evidence mentioned in the discovery materials. This constitutes a request for discovery from the defense.

This offer closes: At next call date.

Very truly yours,

ROD UNDERHILL
District Attorney
Multnomah County, Oregon

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Deputy District Attorney

I HAVE READ AND UNDERSTOOD THIS ENTIRE PRETRIAL OFFER AND PLEA CONTRACT, INCLUDING ALL RIGHTS AND OBLIGATIONS MENTIONED HEREIN, AND ANY ATTACHMENT(S), AND THIS OFFER IS:

____ Accepted

____ Rejected

Signed:

Defendant
Date:

Defense Counsel
Date:

From:
Sent: Friday, March 10, 2017 10:18 AM
To:
Subject:

PTO is attached. It expires 3/24. Ignore the date on the scan. She does not need to debrief.

She can be released to inpatient treatment only after 4/15/17.

She agrees to restitution on this case and the craigslist case. The state agrees not to charge UUV from XXXXXXXXXXXX in DA# XXXXXXXX.

\$1791.15 to XXXXXXXX

\$105.45 to XXXXXXXX

\$3,000.00 to XXXXXXXXXXXX

She agrees that starting 60 days after she is out of custody, to start paying restitution back at no less than \$100 a month. For any month where she does not pay \$100, she agrees that for the next month must complete 16 hours of ACS.

She agrees that she can still face a PV for not paying.

She agrees that she will not use craigslist or any internet website to buy or sell items, such as Offer Up or Let it Go or eBay.

She agrees to strict compliance with no driving without ODL and insurance.

For any PV hearing, defendant waives all U.S. and Oregon Constitutional Rights, including 6th & 14th Amendment rights, including Crawford rights, and all rights under Monk 244 Or App 152, and State v. Harris, 260 Or App 154 (2013), to confrontation regarding any police officer, law enforcement, or probation officer observations or statements, including defendant statements, contained in any officer's report. Such report can be a fax or email. The defendant agrees said reports are admissible in PV hearings. Additionally, the defendant also waives these same rights to OJIN entries and agrees that the court can take judicial notice of all OJIN entries at PV hearing.

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Deputy District Attorney
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