

1 _____ **1.1.2.** A history of one or more violent acts as defined in RCW
2 10.77.010(13) and (21);

3 _____ **1.1.3.** Been previously found incompetent under chapter 10.77 RCW or
4 an equivalent federal or out-of-state statute with regard to an alleged offense involving
5 actual, threatened, or attempted physical harm to a person; and/or
6

7 _____ **1.1.4.** Been previously acquitted by reason of insanity under chapter
8 10.77 RCW or an equivalent federal or out-of-state statute with regard to an alleged
9 offense involving actual, threatened, or attempted physical harm to a person.

10 **1.2. Competency to Stand Trial.** The Court finds by a preponderance of the evidence
11 that the Defendant lacks the capacity to understand the nature of the proceedings against
12 him/her or to assist in his/her own defense as a result of mental disease or defect. The
13 Defendant is therefore not competent to stand trial, pursuant to RCW 10.77.010(14) and
14 10.77.050.
15

16 **1.3. Competency Restoration Treatment Appropriate.** The Court does **not** presently
17 find that the Defendant is unlikely to regain competency with treatment. The Court is
18 therefore required to order that the Defendant undergo treatment for the restoration of
19 competency, as directed by RCW 10.77.090(1)(d)(i). In connection with the above-entitled
20 cause, the Defendant has or has not previously undergone treatment for competency
21 restoration as marked on the blank lines below:
22

23 _____ **1.3.1.** The Defendant has not previously been placed in any form of
24 treatment for competency restoration pursuant to RCW 10.77.090(1)(d)(i)(C).

25 _____ **1.3.2.** The Defendant has previously been placed in an inpatient
26 treatment program at a secure mental health facility in the custody of the Department of
27

1 Social and Health Services for mental health treatment and restoration of competency,
2 pursuant to RCW 10.77.090(1)(d)(i)(C)(I).

3 _____ **1.3.3.** The Defendant has previously been placed on a 90-day
4 conditional release program for mental health treatment and restoration of competency,
5 pursuant to RCW 10.77.090(1)(d)(i)(C)(II).

6
7 **2. ORDERS REGARDING TREATMENT FOR RESTORATION OF**

8 **COMPETENCY**: The Secretary of the Department of Social and Health Services (DSHS) is
9 hereby ordered to place the Defendant in a program for mental health treatment and restoration
10 of competency, as noted on the blank lines below.

11 _____ **2.1. Inpatient Program**. The Defendant shall be placed at a secure mental
12 health facility in the custody of DSHS (or an agency designated by DSHS) for mental health
13 treatment and restoration of competency. The Defendant shall comply with all aspects of the
14 treatment as directed by the treatment facility, including, without limitation, taking any
15 medications prescribed as part of the program.

16 **2.1.1.** The placement shall not exceed 14 days in addition to any unused
17 time of evaluation under RCW 10.77.060. There are ____ days of unused time
18 of the 15-day evaluation (if the preceding line is left blank, then there are no
19 unused days of the evaluation), so the total placement shall not exceed ____
20 days (if the preceding line is left blank, then the total placement shall not exceed
21 14 days).

22 **2.1.2.** The 14 days includes only the time the Defendant is actually at the
23 facility and shall be in addition to reasonable time for transport to or from the
24 facility.

1 **2.1.3.** The inpatient treatment program shall be provided at
2 _____ . If the preceding line is
3 left blank, then the location shall be Western State Hospital.

4 **2.2. 90-Day Conditional Release Program.** The Defendant shall be placed
5 on conditional release for 90 days for mental health treatment and restoration of competency.
6 The treatment shall be performed at the following DSHS-designated treatment facility
7 (“Treatment Facility”):
8 _____ .

9 **2.2.1.** The Defendant shall be released from custody forthwith, and is
10 hereby directed to contact the Treatment Facility in person or by telephone
11 within _____ days of this order.

12 **2.2.2.** The Defendant shall comply with the following conditions:

13 Comply with all terms and conditions of the treatment program as
14 directed by the Treatment Facility, including, without limitation, taking
15 any medications prescribed as part of the program.

16 Notify the Court and the Treatment Facility of any change of
17 address or telephone number.

18 Have no criminal law violations.

19 Attend all required Court appearances in this matter or in any other
20 criminal matters in this or any other Court.

21 Abstain from alcohol and all other mood altering drugs, unless
22 prescribed by a physician.

23 Possess no weapons.

24 Other: _____
25 _____

1 _____
2 _____
3
4 **2.2.3.** The Treatment Facility shall inform the Court, the Mental Health
5 Court Monitor, the defense attorney listed below, and the prosecutor listed below
6 immediately if the Defendant fails to comply with any of the conditions of the
7 conditional release.

8 **2.2.4.** The Treatment Facility shall provide monthly reports on the
9 Defendant's progress to the Court, the Mental Health Court Monitor, the defense
10 attorney listed below, and the prosecutor listed below.

11 **2.3. Involuntary Administration of Medication.** Western State Hospital
12 evaluated the Defendant pursuant to a court-ordered competency evaluation. Western
13 State Hospital produced a report, dated _____, which the parties
14 have agreed to rely on for purposes of having this Court determine whether an order
15 permitting treatment including the involuntary administration of psychotropic
16 medication is appropriate. The Court, having reviewed that report, and having heard
17 further argument from the parties, makes the following findings and enters the
18 following orders as marked below, pursuant to *Sell v. United States*, 123 S.Ct. 2174,
19 539 U.S. 166, 156 L.Ed.2d 197 (2003), *Riggins v. Nevada*, 504 U.S. 127 (1992),
20 *United States v. Weston*, 255 F.3d 873 (U.S. Cir. 2001), *cert. denied*, 534 U.S. 1067
21 (2001), *State v. Adams*, 77 Wn.App. 50, 55-57 (1995) and *State v. Lover*, 41 Wn.App.
22 685, 688-690 (1985), in addition to all other findings and orders set forth elsewhere in
23 this Order:
24

25 _____ **2.3.1. Violent Crime.** If the Court has marked this section, the
26 Court has based its findings on the U.S. Supreme Court's discussion of *Riggins*
27

1 in the *Sell* decision, and on the Circuit Court opinion in *Weston*. The Court finds
2 that the Defendant is charged with a violent crime in this case. The Court finds
3 that the City has an essential government interest at stake in trying to render the
4 Defendant competent to stand trial on the charges involved in this case (which
5 the Court also finds to be a compelling interest under *Adams, supra*, and *Lover,*
6 *supra*). The Court also finds that involuntary medication is necessary to
7 accomplish that essential government interest, that there are no less intrusive
8 means to do so, and that involuntary medication is likely to render the Defendant
9 competent to stand trial in this case. The Court further finds that involuntary
10 medication is substantially unlikely to have side effects that will interfere
11 significantly with the Defendant's ability to assist counsel in conducting a trial
12 defense, thereby rendering the trial unfair.

13
14 **_____ 2.3.2. Serious, Non-Violent Crime.** If the Court has marked this
15 section, the Court has based its findings on the U.S. Supreme Court's decision in
16 *Sell*. The Court finds that the Defendant is not charged with a violent crime, but
17 is charged with a serious nonviolent crime in this case. The Court further finds
18 as follows:

19 **2.3.2.1.** The Court finds that the City has an important
20 governmental interest at stake in trying to render the Defendant
21 competent to stand trial on the charges involved in this case (which this
22 Court also finds is a compelling interest under *Adams, supra*, and *Lover,*
23 *supra*). In making this finding, the Court has considered: the facts of
24 this case, including the potential for future confinement; the current
25 length of the Defendant's confinement; and that there are no other
26 grounds upon which this Court may order involuntary medications.

1 **2.3.2.2.** The Court finds that involuntary medication will
2 significant further the City's governmental interests. The Court further
3 finds that involuntary medication is substantially likely to render the
4 Defendant competent to stand trial. The Court further finds that
5 involuntary medication is substantially unlikely to have side effects that
6 will interfere significantly with the Defendant's ability to assist counsel in
7 conducting a trial defense, thereby rendering the trial unfair.

8 **2.3.2.3.** The Court finds that involuntary medication is necessary
9 to further the City's governmental interests. The Court further finds that
10 any alternative, less intrusive treatments are unlikely to achieve
11 substantially the same results. In making these findings, the Court has
12 considered less intrusive means for administering the medication.

13 **2.3.2.4.** The Court finds that involuntary medication is medically
14 appropriate, in that it is in the Defendant's best medical interest in light of
15 the Defendant's medical condition.

16 **2.3.3.** If either section 2.3.1. or 2.3.2. above is checked, then the
17 treatment facility providing competency restoration treatment, whether pursuant
18 to subsection 2.1. or 2.2. above, is hereby authorized to administer anti-
19 psychotic medication to the defendant on either a voluntary basis or an
20 involuntary basis. If neither section 2.3.1. nor 2.3.2. above is checked, then such
21 treatment facility is hereby authorized to administer anti-psychotic medication to
22 the defendant only on a voluntary basis.

23 **2.3.4.** Any medication administered by the treatment facility pursuant to
24 this order shall be administered under the care of a duly authorized psychiatrist

1 employed by the treatment facility, and shall be administered in the minimum
2 dosage necessary. The psychiatrist shall take all precautions to minimize side
3 effects on the Defendant and effects on any medical conditions of the Defendant.

4
5 **3. ORDERS UPON COMPLETION OF TREATMENT PERIOD.**

6 **3.1. Re-evaluation for competency.** Prior to the end of the treatment period
7 pursuant to section 2 above and at least 24 hours before the Defendant's next scheduled court
8 hearing as determined under section 3.3 below, the staff at Western State Hospital ("WSH")
9 shall evaluate the Defendant's competency to stand trial, and prepare a written report of the
10 results of the evaluation. The evaluation, and the contents of the report, shall be as set forth
11 below.

12
13 **3.1.1. Time and location of evaluation.** The evaluation shall occur at such
14 time prior to the end of the treatment period as WSH determines is reasonable and
15 appropriate to evaluate the Defendant's competency while also maximizing his/her
16 available treatment time.

17 **3.1.1.1.** If the Defendant has been placed in an inpatient treatment
18 program, the evaluation shall occur at the location of the treatment program.

19
20 **3.1.1.2.** If the Defendant has been placed on a 90-day conditional release,
21 the evaluation may occur at the Treatment Facility or any other location of
22 WSH's choosing.

23 **3.1.2. Contents of report.** WSH shall furnish a written examination report to
24 the Court, setting forth its findings. If any portions of the findings are unchanged from
25 a previous competency evaluation report furnished to this Court in the instant criminal
26 case, the report may refer the Court to that prior evaluation. The findings shall include:

1 which outpatient competency restoration would be conducted in the event the
2 Court orders placement at such treatment. The information in section 3.1.2.4.(f)
3 shall only be required if the defendant has not yet been placed into outpatient
4 competency restoration treatment in connection with the present matter.

5 **3.1.3. Access to records.** For purposes of the competency evaluation under this
6 subsection 3.1, and to the extent permitted by RCW Chs. 10.77 and 71.05 (including
7 but not limited to 10.77.065, 10.77.097, and 71.05.390) or other applicable law, WSH
8 is hereby granted access to the Defendant's medical records, whether they are located at
9 WSH, the Treatment Facility, the King County Correctional Facilities, or elsewhere.
10 The City Attorney's office is authorized and directed to transmit a copy of this order to
11 WSH so that WSH may conduct the competency re-evaluation pursuant to this order.

12 **3.2. Copies of Report.** WSH shall provide copies of the competency report prepared
13 pursuant to this order to the following: the Court, the Mental Health Court Monitor, the City
14 Attorney (directed to the attention of the Case Prep Unit), the defense attorney (whose name
15 and address are provided at the end of this order), the County Designated Mental Health
16 Professional for King County, and the Psychiatric Services Administrator of the King County
17 Department of Adult Detention.
18

19 **3.3. Return to Court.** The Defendant shall return to Court at the end of the treatment
20 program, or as otherwise directed below or by further order of this Court.

21 **3.3.1.** The next hearing date and time in this case shall be:
22 _____, at _____ o'clock, in Courtroom _____. If, however, the
23 treatment program, or WSH, notifies the Court prior to the end of the treatment
24 program that the Defendant's competency is unlikely to be restored with further
25 treatment, or that the Defendant's competency has been restored, and if this
26 determination is made more than 48 hours prior to the next hearing date, WSH may
27

1 notify the Court, prosecutor and defense attorney by FAX requesting that the Defendant
2 be transported earlier than ordered and that the next hearing date be advanced. The
3 Court shall review such request with the parties and shall notify the parties and WSH
4 by FAX of the new date for transport and hearing, or of the denial of the request. If the
5 request is granted, WSH shall make appropriate transport arrangements with the King
6 County Department of Adult Detention. If the notification by WSH is on a weekend
7 and/or within 48 hours of the next hearing date, the Court will not be able to grant the
8 request and the transportation date and hearing date will remain as originally ordered.

9
10 **3.3.2.** If (a) the treatment program is an inpatient program, (b) the transportation
11 and next hearing dates set by the Court are prior to the end of the statutorily authorized
12 competency restoration period, and (c) WSH does not believe that the Defendant's
13 competency will be restored prior to the original transportation date, WSH may notify
14 the Court by FAX and request that the transportation and hearing dates be reset to allow
15 for the full restoration period authorized by statute. The Court shall review such
16 request with the parties and shall notify the parties and WSH by FAX of the new date
17 for transport and hearing or of the denial of the request. If the request is granted, WSH
18 shall make appropriate transport arrangements with the King County Department of
19 Adult Detention.

20 **3.3.3.** If the treatment program is an inpatient program, the Defendant shall be
21 transported to Court by the King County Department of Adult Detention as provided in
22 section 4 below, for the next hearing. If the treatment program is the 90-day
23 conditional release, the Defendant is hereby ordered to appear in this Court for the next
24 hearing.

1 ///
2 ///
3 ///
4 ///

Presented by:

Defense Attorney:

Assistant City Attorney
WSBA # _____

(Attorney Name) WSBA #

Attention: Case Preparation Unit
Seattle City Attorney's Office
Public and Community Safety Division
700 Fifth Avenue, Suite 5350
P.O. Box 94667
Seattle, WA 98124-4667
(206) 684-7757
FAX (206) 615-1293

(Firm)

(Address)

(City, State, Zip)

(Telephone)

(Fax)

Copy received; Approved for entry:

WSBA # _____

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