MEMORANDUM OF UNDERSTANDING REGARDING ORLEANS PARISH DISTRICT ATTORNEY'S DIVERSION TRACK I PROGRAM

This Memorandum of Understanding is entered into this 2+ day 2012 between the Orleans Parish District Attorney's Office and the New Orleans Racial Justice Improvement Project (RJIP) Task Force¹

WHEREAS the parties to this Memorandum understand that diversion is an alternative to criminal adjudication for a person accused of a crime who agrees to fulfill a prescribed set of conditions or complete a formal program; and

WHREAS the parties recognize the purposes of diversion are efficient and appropriate use of community and criminal justice resources, mitigation of the lasting collateral consequences of conviction, rehabilitation of the accused, justice and proportionality in the individual case, and public safety; and

WHEREAS the parties appreciate the importance of the Orleans Parish District Attorney's Office to focus its limited prosecutorial resources on violent and other serious offenders; and

WHEREAS the parties agree that the Orleans Parish District Attorney's Diversion Track I Program will supplement the current Diversion Treatment Program (Track II) by diverting persons accused of nonviolent, property crimes to community service and GED programs.

NOW THEREFORE, the parties hereby enter into this agreement, incorporating by reference the above recitals, to wit:

- The following persons will be eligible for Diversion Track I Program:
 - a. Arrested for a property offense², including but not limited to, simple criminal damage to property, unauthorized entry, simple burglary, theft, unauthorized use of a moveable, illegal possession of stolen things, access device fraud, issuing worthless checks, and monetary instrument abuse.
 - No prior felony convictions;
 - No more than two nonviolent misdemeanor convictions;
 - No arrests for crimes of violence under La. R.S. 14:2 for the past seven (7) years;
 - e. No mental health counseling needs; and
 - No drug treatment needs.

Members of the Racial Justice Improvement Project's (RJIP) Task Force, New Orleans are Michael Bradley, Deputy Director, Orleans Public Defenders; Rosana Cruz, Deputy Director, Voices of the Ex-Offender (V.O.T.E.); Norris Henderson, Executive Director, V.O.T.E.; Andree Mattix, Director of Social Services; Orleans Parish District Attorney's Office; Judge Laurie White, Criminal District Court of Orleans Parish, Section A; and Jee Park, RJIP Coordinator. Cynthia Jones as the Director of ABA's RJIP oversees the work of the New Orleans Task Force.

² Ineligible property offenses are as follows: unauthorized entry of a home; aggravated burglary; and unauthorized entry or burglary of a pharmacy. Individuals charged with the above may be eligible for the Diversion Treatment Program, Track 2.

- An eligible participant after consultation with his/her attorney may decline to participate in the program.
- 3) If admitted to Diversion Track I Program, each participant must:
 - Participate in the 4-8 weeks of initial assessment conducted by counselors and social workers in the District Attorney's Diversion Office;
 - b. Weekly drug testing for the first four (4) weeks of initial assessment;
 - If a participant tests positive during any of the first four (4) weeks, s/he
 must participate in a 12-week drug education group run by diversion
 counselors at the diversion office in Tulane Towers; and
 - During those 12-weeks, participants may be asked to take random drug tests by his/her counselor.
 - If a participant fails to remain drug-free, s/he will either be offered to participate in the Diversion Treatment Program, Track 2, or terminated from the program.
 - Weekly in-person reporting during the first four (4) weeks of initial assessment to a counselor in the District Attorney's Diversion Office;
 - If a participant fails to report during any of the first four (4) weeks, weekly reporting may be extended up to 6 weeks/
 - Failure to report for consecutive two weeks without a good cause explanation may result in termination from the program.
 - d. After the initial four (4) weeks, participants must maintain monthly contact with their counselors until the completion of the program by monthly office visits. Monthly phone check-ins may be permitted with pre-approval from counselor; and
 - Failure to report for consecutive two monthly check-ins without a good cause explanation may result in termination from the program.
 - e. Participants must complete 40 hours of community service with a designated community service organization³; OR
 - For those who do not have a high school diploma or a GED, must enroll in and maintain regular attendance at a GED Program; OR
 - g. Maintain employment and make timely restitution payments.
 - All participants of the program may be subject to random drug testing during the course of their participation as determined by their case managers.
- 4) Participants of the Diversion Track I Program must attempt to complete the above-noted requirements in 9 months or less, but the program will allow participants up to 12 months to complete the program. Participants with one or more misdemeanor convictions must remain in the program for a minimum of 12 months. Participant making restitution payments will remain in the program beyond the 9-12 months until the restitution payments have been paid in full.

One of the community service organizations to partner with Diversion Program, Track I, is St. Bernard Project. St Bernard Project rebuilds homes for senior citizens, people with disabilities and families with children who cannot afford to have their homes rebuilt by contractors. St. Bernard Project uses supervised volunteer labor for its work. Participants who chose to volunteer with St. Bernard Project will gain invaluable carpentry and other building skills.

- 5) When a participant is admitted to the Diversion Track I Program, the District Attorney's Office will enter a nolle prosequi in the criminal case.
- 6) If the participant fails to complete the Diversion Track I Program, the District Attorney's Office will reinstitute the criminal charge(s) against the defendant.
- 7) Diversion Track I Program will start July 1, 2012.
- 8) New Orleans Pretrial Services (NOPS) will screen for eligible participants using the attached Initial Diversion Screening Form provided by the District Attorney's Office during its pretrial risk assessment screening.
 - a. If an eligible participant is identified, the Assistant District Attorney and the Public Defender will ask the individual to be released on his own recognizance so that s/he may report to the Diversion Office for subsequent screening and assessment.
- During the pilot phase of the Diversion Track I Program, the Program will admit at minimum 25 and at most 50 participants.
- 10) During the pilot phase of the Diversion Track I Program, the first four weeks of weekly drug testing fee for indigent participants will be fully covered by the RJIP grant money. The indigent participants must drug test at a pre-approved drug testing location such as drug testing lab located at the Orleans Parish Criminal District Court or the Tulane Drug Analysis Laboratory located on Poydras Street.
 - Indigency will be determined by Magistrate Judge and Commissioners at First Appearances with the assistance of New Orleans Pretrial Services.
- 11) RJIP grant money will not be responsible for paying for any participants' random drug testing ordered by counselors during the course of their program participation.
- 12) During the pilot phase of the Diversion Track I Program, participants will be responsible for paying for the program fee by no later than the end of the program. Depending on participants' indigency and financial ability to pay, a sliding scale ranging from \$25-\$200 will be applicable. Andree Mattix, Director of Social Services of the District Attorney's Office, will determine for each participant what s/he must pay to participate.
- 13) Andree Mattix, Director of Social Services of the District Attorney's Office, will maintain a case management system of all participants in the Diversion Track I Program.
- 14) At the end of the pilot phase of the program, Andree Mattix, Director of Social Services of the District Attorney's Office, will provide a report to ABA's RJIP Task Force with the following information to measure the program's effectiveness. Evidence-based program often succeed in receiving additional grant funding.
 - a. Number of eligible participants;
 - Number of actual participants;
 - Number of participants who successfully completed the program;

- d. Number of participants who failed to complete the program;
- e. Participants' charge(s);
- f. Participants' gender and race;
- g. Participants' criminal histories, including convictions and arrests;
- h. Participants' compliance with drug testing;
- i. Participants' compliance with weekly and monthly check-ins;
- For those participants who successfully completed the program, the length of time it took them to either complete the community service or enroll in GED and maintain consistent attendance; and
- For those participants who failed the program, why did they fail to complete the program.
- 15) The RJIP Task Force in conjunction with the ABA will continue to seek additional grant funding to support this program.

THUS DONE AND SIGNED on the day and year first set forth above.

Andree Mattix Director of Social Services Ofleans Parish District Attorney's Office

RJIP Facilitator