

**AGENDA
REGULAR MEETING
LOCAL TRANSPORTATION AUTHORITY**

DATE: Thursday, June 21, 2018
3:00 P.M.

LOCATION: **Board of Supervisors Chambers**
481 Fourth Street, Hollister, CA 95023

DIRECTORS: Chair Jaime De La Cruz, Vice Chair Tony Boch
Directors Anthony Botelho, Jim Gillio, and Ignacio Velazquez
Alternates: San Benito County: Jerry Muenzer;
City of Hollister: Mickie Solorio Luna; San Juan Bautista: Jim West

*Persons who wish to address the Board of Directors must complete a Speaker Card and give it to the Clerk prior to addressing the Board. Those who wish to address the Board on an agenda item will be heard when the Chairperson calls for comments from the audience. Following recognition, persons desiring to speak are requested to advance to the podium and state their name and address. After hearing audience comments, the Public Comment portion of the agenda item will be closed. **The opportunity to address the Board of Directors on items of interest not appearing on the agenda will be provided during Section B. Public Comment.***

3:00 P.M. CALL TO ORDER:

- A. **ACKNOWLEDGE** Certificate of Posting
- B. **PUBLIC COMMENT:** (Opportunity to address the Board on items of interest not appearing on the agenda. No action may be taken unless provided by Govt. Code Sec. 54954.2. **Speakers are limited to 3 minutes.**)

CONSENT AGENDA:

(These matters shall be considered as a whole and without discussion unless a particular item is removed from the Consent Agenda. Members of the public who wish to speak on a Consent Agenda item must submit a Speaker Card to the Clerk and wait for recognition from the Chairperson. Approval of a consent item means approval as recommended on the Staff Report.)

1. **APPROVE** Local Transportation Authority Draft Meeting Minutes Dated May 17, 2018 – Gomez
2. **RECEIVE** Specialized Transportation/Jovenes de Antaño April 2018 Monthly Service Reports – Valentine
3. **RECEIVE** County Express/MV Transportation April 2018 Monthly Operations Reports – Valentine
4. **ADOPT** Resolution 2018-04 Accepting, Approving, and Adopting the San Benito County Local Transportation Authority's Updated Drug and Alcohol Testing Policy, and Accepting

the Updated Drug and Alcohol Testing Policies of MV Transportation, Inc. as the Contracted Operator of San Benito County Express, and of Jovenes de Antaño, as the Contracted Operator of Specialized Transportation – Valentine

REGULAR AGENDA:

5. APPROVE FY 2018/19 Local Transportation Authority Final Budget – Postigo

Adjourn to LTA Meeting on Thursday, July 19, 2018. Agenda deadline is July 3, 2018 at 12:00 p.m.

In compliance with the Americans with Disabilities Act (ADA), if requested, the Agenda can be made available in appropriate alternative formats to persons with a disability. If an individual wishes to request an alternative agenda format, please contact the Clerk of the Council four (4) days prior to the meeting at (831) 637-7665. The Local Transportation Authority Board of Directors meeting facility is accessible to persons with disabilities. If you need special assistance to participate in this meeting, please contact the Clerk of the Board's office at (831) 637-7665 at least 48 hours before the meeting to enable the Council of Governments to make reasonable arrangements to ensure accessibility.

**San Benito County
LOCAL TRANSPORTATION AUTHORITY
REGULAR MEETING
May 17, 2018 3:00 P.M.**

DRAFT MINUTES

MEMBERS PRESENT:

Chair De La Cruz, Director Boch, Director Botelho, Director Gillio, and Director Velazquez

STAFF PRESENT:

County Counsel, Shirley Murphy; Executive Director, Mary Gilbert; Administrative Services Specialist, Kathy Postigo; Transportation Planner, Veronica Lezama; Transportation Planner, Regina Valentine; Secretary, Monica Gomez

CALL TO ORDER:

Chair De La Cruz called the meeting to order at 4:57 p.m.

A. CERTIFICATE OF POSTING

Upon a motion duly made by Director Boch, and seconded by Director Botelho, the Directors unanimously acknowledged the Certificate of Posting. Vote: 5/0 motion passes.

B. PUBLIC COMMENT: None

CONSENT AGENDA:

1. **Approve** Local Transportation Authority Draft Meeting Minutes Dated April 19, 2018 – Gomez
2. **Receive** Specialized Transportation/Jovenes de Antaño March 2018 Monthly Service Report – Valentine
3. **Receive** County Express/MV Transportation March 2018 Monthly Operations Report – Valentine
4. **Receive** Local Transportation Authority FY 2016-17 Third Quarter Budget Report – Postigo
5. **Token Transit Pilot Program Terms of Service** – Valentine
 1. **Approve** the Stripe Services Agreement and Stripe Connected Account Agreement Required to Implement the Token Transit Pilot Program; and
 2. **Authorize** the San Benito County Treasurer to Agree to the Terms of Services of Stripe Connect for and On Behalf of the San Benito County Local Transportation Authority.

There was no public comment on the consent agenda.

Upon a motion duly made by Director Boch, and seconded by Director Botelho, the Directors unanimously approved Items 1-5 from the Consent Agenda. Vote: 5/0 motion passes.

REGULAR AGENDA:

6. **Receive** Presentation on FY 2018/19 Local Transportation Authority Draft Budget – Postigo

Administrative Services Specialist, Kathy Postigo presented the FY 2018/19 Local Transportation Draft Budget and answered questions from the Board.

Director Botelho inquired if staff has researched purchasing smaller buses for some of the less busy routes.

Transportation Planner, Regina Valentine stated that there is a minimal difference in the 12-16 passenger cutaways purchased. Staff noted that the buses are ADA accessible and are also interchangeable and used for different service routes.

Ms. Postigo stated that she would present the Local Transportation Authority final budget to the Board at the June meeting for approval.

There was no public comment on this item.

7. Authorize Release of Request for Proposals (RFP) #2018-01 for Operation of San Benito County Express and Specialized Transportation Services – Valentine

Transportation Planner, Regina Valentine stated that staff was requesting authorization from the LTA Board to release an RFP for the procurement of County Express and Specialized Transportation service operators.

There was no discussion or public comment on the item.

Upon a motion duly made by Director Botelho, and seconded by Director Boch, the Directors unanimously approved Item 7 as noted above. Vote 5/0 motion passes.

Upon a motion duly made by Director Velazquez, and seconded by Director Boch, the Directors unanimously adjourned the LTA meeting at 5:05 p.m. Vote: 5/0 motion passes.

ADJOURN TO LTA MEETING JUNE 21, 2018.



Jovenes de Antaño

Specialized Transportation Services

Monthly Service Report - April 2018

WEEKDAYS

Service	Passengers	Vehicle Revenue Hours	Vehicle Revenue Miles	Donations/Fares Collected	Service Days
Out-of-County	404	185.40	2,075	\$ 181.50	25
Senior Lunch	524	126.00	1,768	\$ -	21
Medical/Shopping Assistance	118	118.50	1,150	\$ 147.50	20
Total	1,046	429.90	4,993	\$ 329.00	

WEEKENDS

Service	Passengers	Vehicle Revenue Hours	Vehicle Revenue Miles	Donations/Fares Collected	Service Days
Out-of-County	77	29.75	304	\$ -	4
Total	77	29.75	304	\$ -	

MONTH

Service	Passengers	Vehicle Revenue Hours	Vehicle Revenue Miles	Donations/Fares Collected	Service Days
Out-of-County	481	215.15	2,379	\$ 181.50	29
Senior Lunch	524	126.00	1,768	\$ -	21
Medical/Shopping Assistance	118	118.50	1,150	\$ 147.50	20
Total	1,123	459.65	5,297	\$ 329.00	

FISCAL YEAR TO DATE

Service	Passengers	Vehicle Revenue Hours	Vehicle Revenue Miles	Donations/Fares Collected	Service Days
Out-of-County	4,675	3,022	40,807	\$ 3,978.00	254
Senior Lunch	6,499	1,217.75	10,492	\$ -	208
Medical/Shopping Assistance	1,021	1,102.50	10,173	\$ 1,256.25	174
Total	12,195	5,342.65	61,472	\$ 5,234.25	

VEHICLE MILEAGE INFORMATION

Vehicle Number	Ending Odometer
62	13107
734	0
735	114846
736	100027
737	0
738	92937
63	20017

ADDITIONAL INFORMATION

Service	Current Month	Year To Date
Lift Assisted Trips	134	1,000
Unduplicated Passengers	0	842
Turn Downs	0	0
No Shows	4	12
Cancellations		0
Employee Hours		0
Vehicles - Midday		
Vehicles - Peak		

NOTES



Juvones de Antaño Specialized Transportation Services Monthly Service Report - April 2018

OUT OF COUNTY

ONE WAY PASSENGERS

Week of	M	T	W	TH	F	S	Total
4/2-7/2018	19	23	20	23	21	18	124
4/9-14/2018	17	19	17	19	15	17	104
4/16-21/2018	20	20	20	19	19	21	119
4/23-28/2018	19	21	17	21	16	21	115
4/30/2018	19						19
Total	94	83	74	82	71	77	481

DONATIONS

M	T	W	TH	F	S	Total
13.5	14	14	8	6.5	4.5	60.5
7	8.25	6.5	8	7	8.25	45
7	8.75	12.25	8.75	7	8.5	52.25
7	8	12.25	8.15	6.5	8.5	50.4
7						7
41.5	39	45	32.9	27	29.75	215.15

REVENUE HOURS

M	T	W	TH	F	S	Total
13.5	14	14	8	6.5	4.5	60.5
7	8.25	6.5	8	7	8.25	45
7	8.75	12.25	8.75	7	8.5	52.25
7	8	12.25	8.15	6.5	8.5	50.4
7						7
41.5	39	45	32.9	27	29.75	215.15

REVENUE MILES

M	T	W	TH	F	S	Total
203	215	224	215	165	100	1122
60	72	62	69	40	69	372
64	82	64	82	69	62	423
62	74	60	68	62	73	399
63						63
452	443	410	434	336	304	2379

SENIOR LUNCH

ONE WAY PASSENGERS

Week of	M	T	W	TH	F	S	TOTAL
4/2-7/2018	20	23	26	24	21		114
4/9-14/2018	29	30	29	26	23		137
4/16-21/2018	28	28	24	27	20		127
4/23-28/2018	25	29	16	26	25		121
4/30/2018	25						25
Total	127	110	95	103	89	0	524

DONATIONS

M	T	W	TH	F	S	Total
6	6	6	6	6	6	30
6	6	6	6	6	6	30
6	6	6	6	6	6	30
6	6	6	6	6	6	30
6						6
30	24	24	24	24	24	126

REVENUE HOURS

M	T	W	TH	F	S	Total
6	6	6	6	6	6	30
6	6	6	6	6	6	30
6	6	6	6	6	6	30
6	6	6	6	6	6	30
6						6
30	24	24	24	24	24	126

REVENUE MILES

REVENUE MALES					
M	T	W	TH	F	TOTAL
36	42	40	43	36	197
43	46	43	43	43	218
43	43	40	44	38	208
44	39	47	44	42	216
45					45
					0

MEDICAL/SHOPPING ASSISTANCE

ONE WAY PASSENGERS

Week of	M	T	W	TH	F	S	TOTAL
4/2-7/2018	4	10	4	6	4		28
4/9-14/2018	4	6	12	6	6		34
4/16-21/2018	2	6	6	6	2		22
4/23-28/2018	8	8	8	6	4		34
4/30/2018							0
Total	18	30	30	24	16		118

FARES

PARCES					
M	T	W	TH	F	TOTAL
5	12.5	5	7.5	5	35
5	7.5	15	7.5	7.5	42.5
2.5	7.5	7.5	7.5	2.5	27.5
10	10	10	7.5	5	42.5
22.5	37.5	37.5	30	20	147.5
					0

REVENUE HOURS

REVENUE HOURS						
M	T	W	TH	F	S	TOTAL
6	6.5	5	5.5	6		29
7	5.5	8	6	4.5		31
3.5	5	8.5	6	3		26
6.5	9	6	6	5		32.5
						0
23	26	27.5	23.5	18.5		118.5

REVENUE MILES

REVENUE MILES					
M	T	W	TH	F	TOTAL
6	73	32	49	63	223
42	64	121	52	49	328
30	35	124	75	29	293
49	80	56	75	46	306
					0
					0

April 2018
San Benito County Express Monthly Operations Report
 Operated by MV transportation

Year to Year comparison

	2018	2017
Passengers Per Hour		
Dial a Ride/Paratransit	3.61	3.86
Fixed Route Service	4.97	4.94
Gavilan Service	7.37	8.60
Caltrain Service	4.25	4.37
Greyhound Service	3.52	4.21
Total Passengers	9,023	8,799
Total Revenue Hours	1997.65	1806.75
Passengers per Hour	4.52	4.87
Lift Trips	190	109
No Shows	53	63
Cancellations	158	229

WEEKDAYS April 2018

Service	Passengers	Incidental Passengers	Vehicle Revenue Hours	Vehicle Revenue Miles	Cash Fares Collected	Token Fares Collected	Token Sales	Service Days	Invoiced
Dial-A-Ride	1,802	11	322.45	3,848	\$ 790.52	\$ 392.15	\$ 73.25	21	\$ 15,185.14
Paratransit	1,555	71	634.66	9,680	\$ 2,371.54	\$ 1,176.45	\$ 219.75	21	\$ 29,888.04
Fixed Route	2,281	18	463.34	5,014	\$ 1,179.75	\$ 293.50	\$ 5.00	21	\$ 21,820.07
Gavilan	2,091	0	283.88	6,408	\$ 2,153.60	\$ 946.50	\$ -	21	\$ 13,368.76
Caltrain	851	6	201.96	4,849	\$ 1,238.09	\$ 89.00	\$ -	21	\$ 9,510.90
Total	8,580	106	1,906.29	29,799	\$ 7,733.50	\$ 2,897.60	\$ 298.00		\$ 89,772.91

SATURDAY

Service	Passengers	Incidental Passengers	Vehicle Revenue Hours	Vehicle Revenue Miles	Cash Fares Collected	Token Fares Collected	Token Sales	Service Days	Invoiced
Dial-A-Ride	43	1	12.78	210	\$ 58.35	\$ 3.30	\$ -	4	\$ 601.85
Greyhound	111	0	37.06	777	\$ 204.60	\$ 1.80	\$ -	4	\$ 1,745.27
Total	154	1	49.84	987	\$ 262.95	\$ 5.10	\$ -		\$ 2,347.12

SUNDAY

Service	Passengers	Incidental Passengers	Vehicle Revenue Hours	Vehicle Revenue Miles	Cash Fares Collected	Token Fares Collected	Token Sales	Service Days	Invoiced
Dial-A-Ride	61	3	13.41	148	\$ 68.72	\$ -	\$ -	5	\$ 631.52
Greyhound	118	0	28.11	978	\$ 209.98	\$ 4.00	\$ -	5	\$ 1,323.78
Total	179	3	41.52	1,126	\$ 278.70	\$ 4.00	\$ -		\$ 1,955.30

MONTH

Service	Passengers	Incidental Passengers	Vehicle Revenue Hours	Vehicle Revenue Miles	Cash Fares Collected	Token Fares Collected	Token Sales	Service Days	Invoiced
Dial-A-Ride	1,906	15	348.64	4,206	\$ 917.59	\$ 395.45	\$ 73.25	30	\$ 16,418.50
Paratransit	1,555	71	634.66	9,680	\$ 2,371.54	\$ 1,176.45	\$ 219.75	21	\$ 29,888.04
Fixed Route	2,281	18	463.34	5,014	\$ 1,179.75	\$ 293.50	\$ 5.00	21	\$ 21,820.07
Gavilan	2,091	0	283.88	6,408	\$ 2,153.60	\$ 946.50	\$ -	21	\$ 13,368.76
Caltrain	851	6	201.96	4,849	\$ 1,238.09	\$ 89.00	\$ -	21	\$ 9,510.90
Greyhound	229	0	65.17	1,755	\$ 414.58	\$ 5.80	\$ -	9	\$ 3,069.05
Total	8,913	110	1,997.65	31,912	\$ 8,275.15	\$ 2,906.70	\$ 298.00		\$ 94,075.33

FISCAL YEAR TO DATE

Service	Passengers	Incidental Passengers	Vehicle Revenue Hours	Vehicle Revenue Miles	Cash Fares Collected	Token Fares Collected	Token Sales	Service Days	Invoiced
Dial-A-Ride	19,846	414	3,320.66	37,564	\$ 9,058.29	\$ 4,554.63	\$ 792.50	299	\$ 153,799.92
Paratransit	14,730	796	5,947.12	95,027	\$ 22,381.31	\$ 13,234.17	\$ 2,377.50	211	\$ 275,454.18
Fixed Route	23,646	262	4,614.86	51,572	\$ 13,238.00	\$ 2,746.60	\$ 160.00	210	\$ 213,814.68
Gavilan	22,798	1	2,676.81	60,796	\$ 25,546.15	\$ 8,370.80	\$ 238.00	211	\$ 123,992.78
Caltrain	8,819	9	1,955.58	48,018	\$ 13,068.73	\$ 844.40	\$ -	211	\$ 90,579.14
Greyhound	2,382	0	620.60	16,904	\$ 4,016.75	\$ 204.00	\$ -	88	\$ 28,726.91
Total	92,221	1,482	19,135.63	309,881	\$ 87,309.23	\$ 29,954.60	\$ 3,568.00		\$ 886,367.62

ADDITIONAL INFORMATION

	Current Month	Year To Date
Lift Assisted Trips	190	1,382
Turn Downs	0	0
No Shows	53	651
Cancellations	158	1,688
Employee Hours	2,498	25,839
Vehicles - Midday	7	
Vehicles - Peak	8	

NOTES

Greyhound Bikes = 0 Gavilan Bikes = 23 Caltrain Bikes = 6 Fixed Route = 1

FIXED ROUTE PASSENGER CT

	Business	Clockwise	Counter	Sunnyslope	Southside	Fixed Subtotal
1-Apr						
2-Apr	19	12	0	0	0	31
3-Apr	22	29	0	0	0	51
4-Apr	12	24	0	0	0	36
5-Apr	28	23	0	0	0	51
6-Apr	22	20	0	0	0	42
7-Apr						
8-Apr						
9-Apr	17	43	68	2	7	137
10-Apr	18	36	62	2	7	125
11-Apr	14	64	67	2	8	155
12-Apr	12	39	56	3	7	117
13-Apr	16	32	59	2	8	117
14-Apr						
15-Apr						
16-Apr	17	35	61	2	4	119
17-Apr	15	32	59	2	6	114
18-Apr	46	38	62	4	6	156
19-Apr	19	48	27	2	7	103
20-Apr	15	40	68	3	9	135
21-Apr						
22-Apr						
23-Apr	19	36	68	3	7	133
24-Apr	19	41	73	2	8	143
25-Apr	65	43	61	3	6	178
26-Apr	12	32	53	3	4	104
27-Apr	21	45	58	3	5	132
28-Apr						
29-Apr						
30-Apr	11	36	49	3	3	102
1-May						
TOTALS	439	748	951	41	102	2281
DAILY AVERAG						
E	21	36	45	2	5	109

Staff Report

To: Local Transportation Authority
From: Regina Valentine, Transportation Planner Telephone: (831) 637-7665 x 205
Date: June 21, 2018
Subject: Drug and Alcohol Testing Policy Updates

Recommendation:

ADOPT Resolution 2018-04 Accepting, Approving and Adopting the San Benito County Local Transportation Authority's Updated Drug and Alcohol Testing Policy, and Accepting the Updated Drug and Alcohol Testing Policies of MV Transportation, Inc. as the Contracted Operator of San Benito County Express, and of Jovenes de Antaño, as the Contracted Operator of Specialized Transportation.

Summary:

To be eligible for Federal Transit Administration (FTA) Section 5311 operating assistance funds through Caltrans, subrecipients, such as the Local Transportation Authority (LTA), must establish and implement anti-drug and alcohol misuse testing programs. New regulations went into effect January 1, 2018 regarding the testing of opioids requiring LTA to update its Drug and Alcohol Testing Policy by June 30, 2018. Additionally, because LTA uses contractors as transportation providers, the Board of Directors is directed by Caltrans to accept the revised Drug and Alcohol Testing Policies for MV Transportation, Inc. and Jovenes de Antaño.

Financial Considerations:

Through the FTA Section 5311 Program, LTA is eligible for approximately \$300,000 in operating assistance annually for County Express service.

Background:

To be eligible for FTA Section 5311 operating assistance funds through Caltrans, LTA must establish and implement an anti-drug and alcohol misuse testing program. The LTA Board approved and adopted a Drug and Alcohol Testing Policy in 2012 and 2016 to bring LTA into compliance with FTA and Caltrans rules and regulations at that time.

Staff Analysis:

New FTA drug and alcohol testing regulations went into effect January 1, 2018 regarding the testing of opioids. These changes require LTA to update its Drug and Alcohol Testing Policy by June 30, 2018. At this time staff is requesting the LTA Board adopt Resolution 2018-04, accepting,

approving and adopting LTA's updated Drug and Alcohol Testing Policy via addendum, and accepting the Updated Drug and Alcohol Testing Policies of MV Transportation, Inc. and Jovenes de Antaño attached to the resolution.

Because LTA uses contractors as transportation providers, the Board of Directors is directed by Caltrans to accept the revised Drug and Alcohol Testing Policies for MV Transportation, Inc. and Jovenes de Antaño.

Executive Director Review: _____

Counsel Review: Yes

Attachment: Resolution 2018-04

Exhibit A: LTA Updated Drug and Alcohol Testing Policy

Exhibit B: MV Transportation, Inc. Updated Drug and Alcohol Testing Policy

Exhibit C: Jovenes de Antaño Updated Drug and Alcohol Testing Policy

RESOLUTION OF THE SAN BENITO COUNTY LOCAL) Resolution No. 18-04
TRANSPORTATION AUTHORITY ACCEPTING,)
APPROVING AND ADOPTING THE LOCAL)
TRANSPORTATION AUTHORITY'S UPDATED DRUG AND)
ALCOHOL TESTING POLICY, AND ACCEPTING THE)
UPDATED DRUG AND ALCOHOL TESTING POLICIES OF)
MV TRANSPORTATION, INC. AS THE CONTRACTED)
OPERATOR OF SAN BENITO COUNTY EXPRESS, AND OF)
JOVENES DE ANTAÑO, AS THE CONTRACTED)
OPERATOR OF SPECIALIZED TRANSPORTATION)

WHEREAS, the San Benito County Local Transportation Authority (LTA) is a subrecipient through the California Department of Transportation (Caltrans) of Federal Transit Administration (FTA) Section 5311 funds; and

WHEREAS, LTA desires to comply with federal regulations of 49 CFR Part 40 requiring recipients of FTA Section 5311 funds establish and implement anti-drug and alcohol misuse testing programs; and

WHEREAS, the LTA Board approved and adopted a Drug and Alcohol Testing Policy in 2012 and 2016 to bring LTA into compliance with FTA and Caltrans rules and regulations at that time; and

WHEREAS, new regulations went into effect January 1, 2018 requiring LTA to update its Drug and Alcohol Testing Policy; and

WHEREAS, the LTA Board of Directors wishes to accept, approve and adopt the updated Drug and Alcohol Testing Policy developed by staff, attached hereto and incorporated herein by reference as Exhibit A, in order to comply with the necessary provisions of FTA and Caltrans as a subrecipient of FTA Section 5311 funds; and

WHEREAS, MV Transportation, Inc. provides transit services as the Contracted Operator of San Benito County Express, and has adopted an updated Drug and Alcohol Testing Policy issued April 2018, attached hereto and incorporated herein by reference as Exhibit B; and

WHEREAS, Jovenes de Antaño provides specialized transportation services as the Contracted Operator of Specialized Transportation, and has adopted an updated Drug and Alcohol Testing Policy issued June 2018, attached hereto and incorporated herein by reference as Exhibit C.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Benito County Local Transportation Authority, that it hereby accepts, approves and adopts the updated Drug and Alcohol Testing Policy (Exhibit A).

BE IT FURTHER RESOLVED by the Board of Directors of the San Benito County Local Transportation Authority, that it hereby accepts the updated Drug and Alcohol Testing Policy of MV Transportation, Inc., which provides transit services as the Contracted Operator of San Benito County Express (Exhibit B).

BE IT FURTHER RESOLVED by the Board of Directors of the San Benito County Local Transportation Authority, that it hereby accepts the updated Drug and Alcohol Testing Policy of Jovenes de Antaño, which provides specialized transportation services as the Contracted Operator of Specialized Transportation (Exhibit C).

PASSED AND ADOPTED BY THE SAN BENITO COUNTY LOCAL TRANSPORTATION AUTHORITY on this 21st day of June 2018, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:
Mary Gilbert, Executive Director

By: _____

Date: _____

Jaime De La Cruz, Chair

APPROVED AS TO LEGAL FORM:
San Benito County Counsel's Office

By: Shirley L. Murphy
Shirley L. Murphy, Deputy County Counsel
Date: June 14, 2018

**SAN BENITO COUNTY LOCAL TRANSPORTATION AUTHORITY
DRUG AND ALCOHOL TESTING POLICY
MARCH 2016**

A. PURPOSE

- 1) The San Benito County Local Transportation Authority (LTA) provides public transit and paratransit services for the residents and visitors of San Benito County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, LTA declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.
- 2) Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation (USDOT) has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result. The U. S. Department of Transportation has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.
- 3) Any provisions set forth in this policy that are included under the sole authority of LTA and are not provided under the authority of the above named Federal regulations are underlined. Tests conducted under the sole authority of LTA will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

B. APPLICABILITY

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full- or part-time) when performing safety sensitive duties. See Attachment A for a list of employees and the authority under which they are included.

A safety-sensitive function is operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, dispatchers or person controlling the movement of revenue service vehicles and any transit employee who operates a vehicle that requires a Commercial Drivers License. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions who perform one or more of the above mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for service in excess of actual expense.

C. DEFINITIONS

Accident: An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result:

- a. An individual dies;
- b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- c. One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn or windshield wipers that makes them inoperative.

Adulterated specimen: A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

Alcohol Concentration: Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.

Aliquot: A fractional part of a specimen used for testing, it is taken as a sample representing the whole specimen.

Canceled Test: A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which has been canceled. A canceled test is neither positive nor negative.

Confirmatory Drug Test: A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

Confirmatory Validity Test: A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

Covered Employee Under FTA Authority: An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

Designated Employer Representative (DER): An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions

In testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

Department of Transportation (DOT): For the purpose of Drug and Alcohol regulatory oversight, DOT is the department of the federal government which includes the Federal Transit Administration, Federal Railroad Administration, Federal Aviation Administration, Federal Motor Carriers' Safety Administration, Pipeline & Hazardous Materials Safety Administration, United States Coast Guard, and the Office of the Secretary of Transportation.

Dilute specimen: A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

Disabling damage: Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

Evidentiary Breath Testing Device (EBT): A Device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations. Approved devices are listed on the National Highway Traffic Safety Administration (NHTSA) conforming products list.

Initial Drug Test (Screening Drug Test): The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Initial Specimen Validity Test: The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid

Invalid Result: The result reported by a Department of Health & Human Services (HHS)-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted results cannot be established for a specific drug or specimen validity test.

Laboratory: Any U.S. laboratory certified by HHS under the National Laboratory Certification program as meeting standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

Limit of Detection (LOD): The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

Limit of Quantitation: For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and

evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

Negative Dilute: A drug test result which is negative for the five drug/drug metabolites but has a specific gravity value lower than expected for human urine.

Negative result: The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

Non-negative test result: A urine specimen that is reported as adulterated, substituted, invalid, or positive for drug/drug metabolites.

Oxidizing Adulterant: A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites, or affects the reagents in either the initial or confirmatory drug test.

Performing (a safety-sensitive function): A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

Positive result: The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

Prohibited drug: Identified as marijuana, cocaine, opiates, amphetamines (including ecstasy), or phencyclidine at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

Reconfirmed: The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

Rejected for Testing: The result reported by an HHS- Certified laboratory when no tests are performed for a specimen because of a fatal flaw or a correctable flaw that has not been corrected.

Revenue Service Vehicles: All transit vehicles that are used for passenger transportation service.

Safety-sensitive functions: Employee duties identified as:

- (1) The operation of a transit revenue service vehicle even when the vehicle is not in revenue service.
- (2) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL).
- (3) Maintaining a revenue service vehicle or equipment used in revenue service.
- (4) Controlling the movement of a revenue service vehicle and
- (5) Carrying a firearm for security purposes.

Split Specimen Collection: A collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed marriage and family therapist, or drug and alcohol counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse (ICRC) or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC)) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Substituted specimen: A urine specimen with creatinine and specific gravity values that are so diminished, or so divergent that they are not consistent with normal human urine.

Test Refusal: The following are considered a refusal to test if the employee:

- (1) Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer
- (2) Fails to remain at the testing site until the testing process is complete
- (3) Fails to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations
- (4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen
- (5) Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
- (6) Fails or declines to take a second test the employer or collector has directed you to take
- (7) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures
- (8) Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)
- (9) If the MRO reports that there is verified adulterated or substituted test result
- (10) Failure or refusal to sign Step 2 of the alcohol testing form
- (11) Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants,

and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.

- (12) Possess or wear a prosthetic or other device that could be used to interfere with the collection process
- (13) Admit to the collector or MRO that you adulterated or substituted the specimen.

Verified negative test: A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

Verified positive test: A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

Validity testing: The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

D. EDUCATION AND TRAINING

- 1) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.
- 2) All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

E. PROHIBITED SUBSTANCES

- 1) Prohibited substances addressed by this policy include the following.
 - a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines (including methamphetamine and ecstasy), opiates (including heroin), phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug

Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA Authority be tested for marijuana, cocaine, amphetamines (including methamphetamine and ecstasy), opiates (including heroin), and phencyclidine as described in Section H of this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

- b. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a LTA supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.
- c. Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited. A random or reasonable suspicion alcohol test can only be performed on a covered employee under 49 CFR Part 655 just before, during, or just after the performance of safety-sensitive job functions. Under LTA authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.

F. PROHIBITED CONDUCT

- 1) All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR PART 40, as amended.
- 2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline.
- 3) The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.
- 4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.

- 5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
- 6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- 7) LTA under its own authority also prohibits the consumption of alcohol at all times when employee is on duty, or anytime the employee is in uniform.
- 8) Consistent with the Drug-free Workplace Act of 1988, all LTA employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including transit system premises and transit vehicles.

G. DRUG STATUTE CONVICTION

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the LTA management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section Q.10 of this policy.

H. TESTING REQUIREMENTS

- 1) Analytical urine drug testing and breath testing for alcohol will be conducted using the testing methodologies and thresholds defined in 49 CFR Part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in Section K, L, M, and N of this policy, and return to duty/follow-up.
- 2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion and random alcohol test can be performed just before, during, or after the performance of a safety-sensitive job function. Under LTA authority, a non-DOT alcohol test can be performed any time an employee is on duty.
- 3) All employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with LTA. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section Q of this policy.

I. DRUG TESTING PROCEDURES

- 1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.
- 2) The drugs that will be tested for include marijuana, cocaine, opiates (including heroin), amphetamines (including methamphetamine and ecstasy), and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.
- 3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical

history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to the LTA Drug and Alcohol Program Manager (DAPM). If a legitimate explanation is found, the MRO will report the test result as negative to the DAPM.

- 4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
- 5) Any covered employee who questions the results of a required drug test under paragraphs L through P of this policy may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. LTA will ensure that the cost for the split specimen are covered in order for a timely analysis of the sample, however LTA will seek reimbursement for the split sample test from the employee.
- 6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled. If the split specimen is not available to analyze the MRO will direct LTA to retest the employee under direct observation.
- 7) The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year. If the primary is positive, the primary and the split will be retained for longer than one year for testing if so requested by the employee through the Medical Review Officer, or by the employer, by the MRO, or by the relevant DOT agency.

8) Observed collections

- a. Consistent with 49 CFR part 40, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:
 - i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to LTA that there was not an adequate medical explanation for the result;
 - ii. The MRO reports to LTA that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
 - iii. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to you as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).
 - iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
 - v. The temperature on the original specimen was out of range;
 - vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.
 - vii. All follow-up-tests; or
 - viii. All return-to-duty tests

J. ALCOHOL TESTING PROCEDURES

- 1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). Alcohol screening tests may be performed using a non-evidential testing device which is also approved by NHSTA. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

- 2) An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section Q of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in Section Q of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
- 3) LTA affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
- 4) The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

K. PRE-EMPLOYMENT TESTING

- 1) All applicants for covered transit positions shall undergo urine drug testing prior to performance of a safety-sensitive function.
 - a. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.
 - b. An employee shall not be placed, transferred or promoted into a position covered under FTA or company authority until the employee takes a drug test with verified negative results.
 - c. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be referred to a SAP. Failure of a pre-employment drug test will disqualify an applicant for employment to a position covered by FTA for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
 - d. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA or company authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with Section Q herein.

- e. If a pre-employment test is canceled, LTA will require the applicant to take and pass another pre-employment drug test.
- f. In instances where a FTA covered employee does not perform a safety-sensitive function for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.
- g. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- h. Applicants are required (even if ultimately not hired) to provide LTA with signed written releases requesting FTA drug and alcohol records from all previous, DOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. LTA is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a DOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a DOT covered employer, the applicant must provide LTA proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

L. REASONABLE SUSPICION TESTING

- 1) All LTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under LTA's authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.
- 2) LTA shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee suspected to have used a prohibited drug and/or engaged in alcohol misuse shall be placed on administrative leave pending disciplinary action described in Section Q of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall

immediately be placed on administrative leave pending disciplinary action as specified in Section Q of this policy.

- 3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the LTA.
- 4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with Section Q of this policy. LTA shall place the employee on administrative leave in accordance with the provisions set forth under Section Q of this policy. Testing in this circumstance would be performed under the direct authority of the LTA. Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority. However, self-referral does not exempt the covered employee from testing under Federal authority as specified in Sections I through N of this policy or the associated consequences as specified in Section Q.

M. POST-ACCIDENT TESTING

- 1) **FATAL ACCIDENTS** - All employees covered under FTA authority will be required to undergo urine and breath testing if they are involved in an accident with a transit revenue service vehicle regardless of whether or not the vehicle is in revenue service that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident
- 2) **NON-FATAL ACCIDENTS** - A post-accident test of the operator will be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility; or one or more vehicles incurs disabling damage, unless the operator's performance can be completely discounted as a contributing factor to the accident.
 - a. As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.
 - b. The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

- c. Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.
- d. An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.
- e. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.
- f. In the rare event that LTA is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), LTA may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

N. RANDOM TESTING

- 1) All covered employees will be subjected to random, unannounced testing. Employees covered under FTA authority will be selected from a pool of DOT-covered safety-sensitive employees. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of employees.
- 2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- 3) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates established by Federal regulations for those safety-sensitive employees subject to random testing by Federal regulations. The current random testing rate for drugs established by FTA equals twenty-five percent of the number of covered employees in the pool and the random testing rate for alcohol established by FTA equals ten percent of the number of covered employees in the pool.
- 4) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- 5) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from any testing pool of non-safety sensitive employees that are included solely under LTA authority.

- 6) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can be performed just before, during, or just after the performance of a safety sensitive duty. However, under LTA's authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- 7) Employees are required to proceed immediately to the collection site upon notification of their random selection.

O. RETURN-TO-DUTY TESTING

All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. For an initial positive drug test a Return-to-Duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test a Return-to-Duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undo concerns for public safety.

P. FOLLOW-UP TESTING

Covered employees will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing. In the instance of a self-referral of a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations will be conducted under company authority and will be performed using non-DOT testing forms.

Q. RESULT OF DRUG/ALCOHOL TEST

- 1) Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available and referred to a Substance Abuse Professional (SAP) for assessment. No employee will be allowed to return to duty requiring the performance of safety-sensitive job functions without the approval of the SAP and the employer.

- 2) Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- 3) Refusal to submit to a drug/alcohol test shall be considered a positive test result and a direct act of insubordination and shall result in termination and referral to an SAP. A test refusal includes the following circumstances:
- a. Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer
 - b. Fails to remain at the testing site until the testing process is complete
 - c. Fails to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations
 - d. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen
 - e. Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
 - f. Fails or declines to take a second test the employer or collector has directed you to take
 - g. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures
 - h. Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)
 - i. If the MRO reports that there is verified adulterated or substituted test result
 - j. Failure or refusal to sign Step 2 of the alcohol testing form
 - k. Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
 - l. Possess or wear a prosthetic or other device that could be used to interfere with the collection process
 - m. Admit to the collector or MRO that you adulterated or substituted the specimen

- 4) For the first instance of a verified positive test from a sample submitted as the result of a random, drug/alcohol test (≥ 0.04 BAC), disciplinary action against the employee shall include:
- n. Mandatory referral to Substance Abuse Professional for assessment, formulation of a treatment plan, and execution of a return to work agreement;
 - o. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from LTA employment.
 - i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; in the judgment of the SAP the employee is cooperating with his/her SAP recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as defined in Section P of this policy.
 - p. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination.
 - q. A periodic unannounced follow-up drug/alcohol test which results in a verified positive test shall result in termination from LTA employment.
- 5) The second instance of a verified positive drug or alcohol (≥ 0.04 BAC) test result including a sample submitted under the random, reasonable suspicion, return-to-duty, or follow-up drug/alcohol test provisions herein shall result in termination from LTA employment.
- 6) A verified positive post-accident, or reasonable suspicion drug and/or alcohol (≥ 0.04) test shall result in termination.
- 7) An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder of the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to an alcohol test with a result of less than 0.02 BAC. If the employee has an alcohol test result of ≥ 0.02 to ≤ 0.039 two or more times within a six month period, the employee will be removed from duty and referred for assessment and treatment consistent with Section Q. of this policy.
- 8) The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider. The employee will be permitted to take accrued sick leave or administrative leave to participate in the prescribed treatment program. If the employee has insufficient accrued leave, the employee shall be placed on leave without pay until the employee has successfully completed the required treatment program and has been released to return-to-duty. Any leave taken, either paid or unpaid, shall be considered leave taken under the Family and Medical Leave Act.
- 9) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:

- r. Mandatory referral for an assessment by an employer approved counseling professional, formulation of a treatment plan, and execution of a return to work agreement;
- s. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from LTA employment.
 - i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as defined in Section P of this policy.
- t. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. All tests conducted as part of the return to work agreement will be conducted under company authority and will be performed using non-DOT testing forms.
- u. A self-referral or management referral to the employer's approved counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in Section Q. of this policy.
- v. Periodic unannounced follow-up drug/alcohol test conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in Section Q. of this policy.
- w. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with LTA.
- x. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.

10) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

R. GRIEVANCE AND APPEAL

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

S. PROPER APPLICATION OF THE POLICY

LTA is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the

requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

T. INFORMATION DISCLOSURE

- 1) Drug/alcohol testing records shall be maintained by the LTA Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.
- 2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
- 3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need to know basis.
- 4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- 5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.
- 6) Records will be released to the National Transportation Safety Board during an accident investigation.
- 7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
- 8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- 9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over LTA or the employee.
- 10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken

- 11) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

APPROVED AS TO LEGAL FORM
SAN BENITO COUNTY COUNSEL'S OFFICE

By: Shirley L. Murphy 4/15/16
Shirley Murphy, Deputy County Counsel

Attachment A

Job Title	Job Duties	Testing Authority
Supervising Mechanic	Under general direction, to supervise the daily operations of the shop and to perform a variety of skilled inspection, diagnosis, maintenance, servicing, and repair work on gas, natural gas, and diesel power driven equipment; and to do related work as required.	DOT LTA
Heavy Equipment Mechanic I	Under general direction, to perform a variety of skilled inspection, diagnosis, maintenance, servicing, and repair work on gas, and diesel power driven equipment; and to do related work as required.	DOT LTA
Heavy Equipment Mechanic II	Under general supervision, to perform skilled work in repairing, overhauling and maintaining diesel and gasoline-powered automotive, road construction and maintenance equipment; and to do related work as required.	DOT LTA
Heavy Equipment Mechanic III	Under general supervision, to skillfully perform a variety of inspection, diagnosis, maintenance, servicing, and repair work on gas, propane, and diesel power driven equipment; and to do related work as required.	DOT LTA
Heavy Equipment Mechanic Assistant	Under supervision, to inspect, lubricate and service gasoline and diesel powered heavy-duty trucks and equipment and automobiles; and to assist journey level mechanics by performing sub-journey level repair duties.	DOT LTA

Attachment B Contacts

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

LTA Drug and Alcohol Program Manager

Company: San Benito County Local Transportation Authority
Contact Person: Mary Gilbert
Address: 330 Tres Pinos Road, Suite C7, Hollister, CA 95023
Telephone Number: (831) 637-7665

Medical Review Officer

Company: Heinen Medical
Contact Person: Dr. Brian Heinen
Address: 151 Leon Ave. Eunice, LA 70535
Telephone Number: (337) 457-0493

Substance Abuse Professional

Company: Human Behavior Associates, Inc.
Contact Person: James Wallace - President
Address: 1350 Hayes St., Suite B-100, Benicia, CA 94510
Telephone Number: (707) 747-0117

HHS Certified Laboratory Primary Specimen

Company: Alere Toxicology Services
Address: 1111 Newton St, Gretna, LA 70053
Telephone Number: 800-433-3823

HHS Certified Laboratory Split Specimen

Company: Baptist Medical Center
Address: 11401 I-30, Little Rock, AR 72209
Telephone Number: 501-202-2783

DRUG AND ALCOHOL POLICY ADDENDUM

EFFECTIVE: JANUARY 1, 2018

The United States Department of Transportation (USDOT) – Office of Drug and Alcohol Policy and Compliance (ODAPC) has issued an update to USDOT's drug and alcohol testing regulation (49 CFR Part 40). The new regulation has been revised and the changes (summarized below) will become effective on January 1, 2018. Therefore, the San Benito County Local Transportation Authority drug and alcohol testing policy is amended as follows:

1. CHANGES TO THE DRUG TESTING PANEL

- a. Four new opioids added to the drug testing panel –
 - i. The USDOT drug test remains a "5-panel" drug test; however, the list of opioids for which are tested will expand from three to seven opioids.
 - ii. The "opioid" category will continue to test for codeine, morphine, and heroin; however, the "opioid" testing panel will now be expanded to include four (4) new semi-synthetic opioids:
 - 1. (1) Hydrocodone, (2) Hydromorphone, (3) Oxycodone, and (4) Oxymorphone.
 - 2. Common brand names for these semi-synthetic opioids include, but may not be limited to: OxyContin®, Percodan®, Percocet®, Vicodin®, Lortab®, Norco®, Dilaudid®, Exalgo®.
- b. 'MDA' will be tested as an initial test analyte
- c. 'MDEA' will no longer be tested for under the "amphetamines" category.

2. BLIND SPECIMEN TESTING

- a. The USDOT no longer requires blind specimens to be submitted to laboratories.

3. ADDITIONS TO THE LIST OF "FATAL FLAWS"

- a. The following three circumstances have been added to the list of "fatal flaws":
 - i. No CCF received by the laboratory with the urine specimen.
 - ii. In cases where a specimen has been collected, there was no specimen submitted with the CCF to the laboratory.
 - iii. Two separate collections are performed using one CCF.

4. MRO VERIFICATION OF PRESCRIPTIONS

- a. When a tested employee is taking a prescribed medication, after verifying the prescription and immediately notifying the employer of a verified negative result, the MRO must then (after notifying the employee) wait five (5) business days to be contacted by the employee's prescribing physician before notifying the employer of a medical qualification issue or significant safety risk.

- i. Specifically, in cases where an MRO verifies a prescription is consistent with the Controlled Substances Act, but that the MRO has still made a determination that the prescription may disqualify the employee under other USDOT medical qualification requirements, or that the prescription poses a significant safety-risk, the MRO must advise the employee that they will have five (5) business days from the date the MRO reports the verified negative result to the employer for the employee to have their prescribing physician contact the MRO. The prescribing physician will need to contact the MRO to assist the MRO in determining if the medication can be changed to one that does not make the employee medically unqualified or does not pose a significant safety risk. If in the MRO's reasonable medical judgment, a medical qualification issue or a significant safety risk still remains after the MRO communicates with the employee's prescribing physician, or after five (5) business days, whichever is shorter, the MRO must communicate this issue to the employer consistent with 49 CFR Part 40.327.

5. DEFINITIONS

- a. The term "**DOT, the Department, DOT Agency**"
 - i. Modified to encompass all DOT agencies, including, but not limited to, FAA, FRA, FMCSA, FTA, PHMSA, NHTSA, Office of the Secretary (OST), and any designee of a DOT agency.
 - ii. For the purposes of testing under 49 CFR Part 40, the USCG (in the Department of Homeland Security) is considered to be a DOT agency for drug testing purposes.
- b. The term "**Opiate**" is replaced with the term "**Opioid**" in all points of reference.
- c. The definition of "**Alcohol Screening Device (ASD)**" is modified to include reference to the list of approved devices as listed on ODAPC's website.
- d. The definition of "**Evidential Breath Testing Device (EBT)**" is modified to include reference to the list of approved devices as listed on ODAPC's website.
- e. The definition of "**Substance Abuse Professional (SAP)**" will be modified to include reference to ODAPC's website. The fully revised definition includes:
 - i. A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

NOTE: The revisions listed in this addendum include only those revisions to 49 CFR Part 40 which may be referenced in our drug & alcohol testing policy. A list of all the revisions made to 49 CFR Part 40 can be found at <https://www.transportation.gov/odapc>.

Addendum Authorization Date: June 21, 2018

Authorized Official (Printed Name): Mary Gilbert, Executive Director,
LTA Drug and Alcohol Program Manager

Authorized Official

(Signature): _____

Employee (Printed Name):

Employee

(Signature): _____

Employee Receipt Date:



MV Transportation Drug and Alcohol Policy

Issue Date
April 2018

Table of Contents

Core Values Statement.....	4
1.0 Policy.....	5
2.0 Purpose.....	6
3.1 Applicability.....	6
4.0 Opportunities for Rehabilitation.....	7
5.1 Prohibited Drug Use.....	8
5.2 Prohibited Alcohol Use.....	8
6.0 Prohibited Conduct, Manufacture, Trafficking, Possession of Controlled Substances.....	9
6.1 Requirement to Submit to Drug and Alcohol Testing.....	10
6.2 Alcohol Use/Hours of Compliance.....	10
6.4 Refusal to Submit to a DOT Alcohol or Controlled Substance Test.....	10
6.6 Notify MVT of Criminal Conviction.....	11
7.0 Testing for Prohibited Substances.....	12
8.0 Types of Testing.....	13
8.1 Pre-Employment Testing.....	13
8.2 Reasonable Suspicion Testing.....	15
8.3 Post Accident Testing.....	16
8.4 Random Testing.....	17
9.1 Positive Alcohol Testing.....	17
9.2 Positive Drug Test.....	17
10.0 MRO Report of a Negative Dilute Specimen.....	18
11.0 Substance Abuse Professional.....	18
12.0 Training and Education.....	18
13.0 Employee Assistance and Community Service Hot-Line.....	19
14.0 Records, Confidentiality.....	19
15.0 System Contact.....	19
16.0 Local Authority.....	19
17.0 Revisions to the Policy and Program.....	19
18.0 Zero Tolerance Policy.....	19
Exhibit A.....	20
Exhibit B.....	21
Testing Procedures.....	22
Random Testing Procedures.....	23
Collection Procedures for All Tests.....	25
Shy Bladder Procedures.....	25
Reasonable Suspicion Testing Procedures.....	26
Post-Accident Testing Procedures.....	27
Information on Prohibited Drug Use and Alcohol Misuse.....	29
Acknowledgement of MV Transportation's Drug and Alcohol Testing Policy.....	35



Drug and Alcohol Testing Core Values

Drug and alcohol abuse are the two most preventable behavioral disorders facing our society today. Drug abuse literally costs hundreds of billions of dollars alone in lost productivity, increased healthcare costs, accidents and theft. It is estimated that drug and alcohol abuse costs over a trillion dollars worldwide and growing.

MV Transportation, Inc. and its Subsidiaries are dedicated to providing safe, dependable, and economical service to its clients. MV Transportation's employees are our most valuable resource. It is our policy (1) to take appropriate action to assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) to foster and maintain a drug and alcohol - free environment for all employees and patrons; (3) to prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) to encourage employees to voluntarily seek professional assistance whenever personal problems, including alcohol or drug use, may adversely affect their ability to perform their assigned duties.

Drug testing not only saves businesses money, but it also saves lives. This is the backdrop that MV Transportation's Drug and Alcohol Compliance Department works in to promote a safe and ethical drug testing program that will be the standard of the industry. MV Transportation's Compliance Department is always looking for ways to improve the everyday challenges by using state of the art software and easy to follow testing instructions and forms, and a comprehensive collection site inspection tutorial for supervisors.

To achieve these goals and to comply with all applicable Federal regulations governing workplace anti-drug programs in the transit industry, MV Transportation incorporates three integrated components:

- Prevention through education and training
- Detection, deterrence and enforcement
- Treatment and opportunities for rehabilitation

MV's purpose is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed using alcohol and prohibited drugs. MV is surrounded by an extraordinary Board of Directors, Executive Committee and professional staff who support and promote a safe and drug free environment in which we all live and work.

In accordance with the U.S. Department of Transportation and the
Federal Transit Administration Regulations
(49 CFR Parts 40, 655, and 382)
MV TRANSPORTATION, INC.

SUBSTANCE ABUSE POLICY

1.0 Policy

MV Transportation, Inc. and its Subsidiaries (MV Transportation) are dedicated to providing safe, dependable, and economical service to its clients. MV Transportation's employees are our most valuable resource. It is our policy (1) to take appropriate action to assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) to foster and maintain a drug and alcohol - free environment for all employees and patrons; (3) to prohibit the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances; and (4) to encourage employees to voluntarily seek professional assistance whenever personal problems, including alcohol or drug use, may adversely affect their ability to perform their assigned duties.

To achieve the goal of a substance-free workplace, this policy incorporates three integrated components:

Prevention through education and training:

Education and training will communicate and clarify this policy to all employees, assist employees in recognizing substance abuse problems and in finding solutions to those problems.


Detection, deterrence and enforcement:

Federal regulations require that effective January 1, 1995, all safety - sensitive employees will be subject to reasonable suspicion, post accident, random, return to duty and follow up drug and alcohol testing. Applicants for safety sensitive positions will not be eligible for those positions unless they pass a pre-employment drug test.

As a "zero tolerance" employer, any positive drug or alcohol or refusal to tests will result in a termination of employment.

Treatment and opportunities for rehabilitation:

Alcohol and drug abuse are recognized as diseases that can be treated. MV Transportation promotes a voluntary rehabilitation program to encourage employees to seek professional assistance prior to testing positive for drugs or alcohol, without fear of discipline.

Approved: 

Kevin Jones, CEO
MV Transportation, Inc. and its Subsidiaries

Date: April 1, 2018

2.0 Purpose

The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the use of alcohol and use of prohibited drugs (as defined below). This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug programs in the transportation industry.

The Federal Transit Administration (FTA) and the Federal Motor Carrier Safety Administration (FMCSA) of the U.S. Department of Transportation have enacted 49 CFR (Code of Federal Regulations) Parts 655 and 382, which mandate urine drug testing and breath alcohol testing for employees performing safety-sensitive functions. These regulations also prevent performance of safety-sensitive functions when there is a positive test result or a test refusal. The U.S. Department of Transportation (DOT) has also adopted the revised version of 49 CFR Part 40 as amended, which outlines procedures for transportation workplace drug and alcohol testing programs. This Policy incorporates these federal requirements for employees performing safety-sensitive functions, as well as other provisions.

In addition, DOT has published 49 CFR Part 29, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA. California passed a similar version of the federal law, the Drug-Free Workplace Act of 1990 (Gov't Code § 8350 et seq). This policy reiterates the requirements of the federal regulations; these requirements will be in *Italics*. Portions of this policy marked in **bold** are not necessarily FTA-mandated but reflect MV Transportation employment policy (this does not include policy headings).

If any provision of an existing MVT policy, rule or resolution is inconsistent or in conflict with any provision of this policy or the DOT/FTA rules, this policy and the DOT/ FTA rules shall take precedence; if any provision of this policy is inconsistent or in conflict with the DOT/ FTA rules the DOT/ FTA rules shall take precedence.

3.0 Applicability

3.1 Safety-Sensitive Employees

This policy applies to all safety-sensitive MV Transportation employees, including paid part time employees who perform or could be called upon to perform any transportation related safety-sensitive function, and this includes off-site lunch periods or breaks when an employee is scheduled to return to work.

A safety-sensitive function is any of the following duties:

- 1) The operation of a transportation revenue service vehicle even when the vehicle is not in revenue service.

- 2) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL).
- 3) Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service.
- 4) Controlling the movement of a revenue service vehicle and
- 5) Carrying a firearm for security purposes. (Not applicable to MVT)
- 6) Volunteers are considered a covered employee if; 1) they are required to hold a commercial driver's license to operate the vehicle; or 2) if the volunteer receives re-numeration in excess of their actual expenses incurred while engaged in the volunteer activity.

(For a description of job categories - See Exhibit B)

3.2 Contractors

Contractors who perform any of the safety-sensitive functions described in this policy for MVT will be subject to the same requirements as safety-sensitive MVT employees.

3.3 Non-Safety Sensitive Positions

All MVT employees are subject to the provisions of the Drug-Free Workplace Act of 1998. Visitors, vendors and contracted employees on MVT premises will not be permitted to conduct transportation business if found to be in violation of this policy.

4.0 Opportunities for Rehabilitation (MVT Policy)

To promote a drug and alcohol-free workplace, this policy includes a rehabilitation program that allows employees to voluntarily come forward to request rehabilitation.

4.1 Voluntary Rehabilitation (MVT Policy)

Any employee who has a drug and/or alcohol abuse problem and has not been selected for reasonable cause, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer her or himself to the General Manager or the Human Resource Department, who will refer the individual to the company's Employee Assistance Program and/or a Substance Abuse Counselor for a Non-DOT evaluation and treatment. Voluntary self-referral commits the employee to a therapeutic process. Confidentiality of the employee will be protected. The Counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. When an employee voluntarily refers her or himself for treatment, the employee may be eligible for sick leave and disability benefits. Employees will be allowed to take accumulated vacation time or may be eligible for unpaid time off to participate in any prescribed rehabilitation program. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.

4.2 While Undergoing Treatment (MVT Policy)

Any covered employee who admits to a drug and/or alcohol problem will immediately be removed from his/her safety-sensitive function and will not be allowed to perform such function until successful completion of a prescribed rehabilitation program is completed. The employee will be placed on an unpaid leave of absence for maximum of 30/60 days to allow time for completion of the treatment/rehabilitation program. Proof of completion must be provided in writing by a valid professional. The employee will be required to pass a Non-DOT drug and alcohol test before he/she can perform a safety-sensitive function.

*MV shall make every effort to place the employee back in his/her position upon returning to work. However, an employee's commitment to undergo rehabilitation treatment does not guarantee that the employee's job will be available upon return.

4.3 Cost of Rehabilitation (MVT Policy)

All associated costs for treatment are the sole responsibility of the employee.

4.4 Returning to Work after Treatment (MVT Policy)

All employees who successfully complete prescribed treatment and can return to work will be subject to unannounced Non-DOT follow-up testing as prescribed by doctor/counselor.

5.0 Prohibited Behavior and Conduct

"Prohibited substances" addressed by this policy include the following:

5.1 Prohibited Drug Use

FTA regulations specifically prohibit the use of the following illegal, prohibited substances and require testing for their presence under certain circumstances: Marijuana, Amphetamines, Opioids, Phencyclidine (PCP) and Cocaine ("Prohibited Drugs") - Safety-sensitive employees may be tested for prohibited drugs at any time while on duty or **on MVT property**.

5.2 Prohibited Alcohol Use

The consumption of beverages containing alcohol, or substances including any medication such that alcohol is present in the body while performing safety sensitive duties or transportation business, are prohibited. "Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol. (The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device.)

5.3 Legal Drugs (MVT Policy)

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected **MUST** be reported to supervisory personnel. Medical advice should be sought, as appropriate, while taking such medication and before performing safety-sensitive duties.

Any time an employee comes forward about a medication that he/she is taking the information must be forwarded to the Director of the Compliance Department for clarification and review. The Compliance department will then consult with the Medical Review Officer (MRO) to determine if the medication is appropriate to take while performing a safety-sensitive function.

A legally prescribed drug means that the employee has a prescription or other written approval (in his/her name) from a physician for the use of a drug during medical treatment. The misuse of legal drugs while performing a safety-sensitive function is prohibited at all times.

If the MRO determines that the medication being taken is not appropriate to take while performing a safety-sensitive function the employee will remain off duty until the issue is cleared by the MRO.

To continue performing a safety-sensitive function the employee taking the medication will be required to provide the following:

A written letter from the prescribing physician stating the patient's name, the name of the substance, the period of authorization and a statement that the medication will not adversely affect the employee's performance to drive or perform his/her safety sensitive function and that the employee may continue to perform his/her safety-sensitive function while taking such medication. The letter must be signed and dated by the physician and the letter will be provided to the MRO for final approval.

6.0 Prohibited Conduct. Manufacture, Trafficking, Possession, and Use of Controlled Substances

The manufacture, distribution, dispensation, possession, or use of controlled substances in the workplace is prohibited. A "controlled substance" is any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. § 812), and as further defined by 21 CFR 1300.11-1300.15. Any employee engaging in the manufacture, distribution, dispensation, possession or use of a controlled substance on MVT premises will be subject to disciplinary action, up to and including termination and/or will be required to complete a drug abuse assistance or rehabilitation program. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

6.1 Requirement to Submit to Drug and Alcohol Testing

MVT shall require every covered employee who performs a safety-sensitive function as described in the FTA regulations Part 655 and the FMCSA regulations Part 382 to submit to post-accident, random, and reasonable suspicion drug and alcohol test- and to a pre-employment drug test- as described in this policy. MVT shall not permit any employee who refuses to submit to such tests to perform or continue to perform any safety-sensitive functions.

6.2 Alcohol Use/Hours of Compliance

No safety-sensitive employee should report for duty or remain on duty when his or her ability to perform assigned functions is adversely affected by alcohol or when his or her breath alcohol concentration is 0.04 or greater. No employee shall use alcohol **while on duty** or while performing safety-sensitive functions. No employee shall have used alcohol within four hours prior to reporting for duty. After an accident, employees shall refrain from alcohol use for eight (8) hours or until an alcohol test has been administered, whichever occurs first.

No safety-sensitive employee shall use alcohol during the hours that they are on call. On call employees can acknowledge the use of alcohol at the time he/she is called to report to duty and the inability to perform his/her safety sensitive function.

6.3 Compliance with Testing Requirements

Any safety-sensitive employee who refuses to comply with a request for testing, who fails to remain readily available for post-accident testing, who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution, shall be removed from duty immediately. Refusal can include an inability to provide a specimen or breath alcohol sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.

6.4 Refusal to Submit to a DOT Alcohol or Controlled Substance Test

As an employee, you have refused to take a drug or alcohol test if you:

- (1) Fail to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer.
- (2) Fail to remain at the testing site until the testing process is complete; Provided, that an employee who leaves the testing site before the testing process commences, for a pre-employment test it is not deemed to have refused to test; unless the testing cup was handed to the donor.
- (3) Fail to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations.
- (4) In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen.
- (5) Fail to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.

It is MVT's policy that any employee that does not provide a valid specimen during a collection for a test will remain off duty until the employee is cleared by the MRO that the employee had a valid medical reason.

- (6) Fail or declines to take a second test the employer or collector has directed you to take.
- (7) Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures.
- (8) Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets or wash hands when so directed by the collector, behave in a confrontational way that disrupts the collection process).
- (9) If the MRO reports that there is verified adulterated or substituted test result.
- (10) Failure or refusal to sign Step 2 of the alcohol testing form.
- (11) Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- (12) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- (13) Admit to the collector or MRO that you adulterated or substituted the specimen.

As an employee, if you refuse to take a drug and/or alcohol test, you incur the same consequences as testing positive and will be immediately removed from performing any safety-sensitive functions and referred to the Substance Abuse Professional.

6.5 Compliance with Treatment Requirements

All employees are encouraged to make use of the available resources for treatment for alcohol and substance abuse problems.

6.6 Notify MVT of Criminal Drug Conviction

Every employee must notify MVT of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to do so shall subject said employee to disciplinary action up to and including termination, or satisfactory participation in a rehabilitation program, at the employee's expense.

6.7 Improper Application of the Policy

MVT is dedicated to assuring fair and equitable application of this "Zero Tolerance" substance abuse policy. Therefore, supervisors and managers are required to use and apply all aspects of this policy in an unbiased and impartial manner.

7.0 Testing for Prohibited Substances

7.1 General

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS). Testing for prohibited drugs and alcohol on safety-sensitive employees shall be conducted in accordance with the procedures set forth in 49 CFR Part 40 as amended. See attached Testing Procedures for detailed procedures on all required types of drug and alcohol testing.

Medical Review Officer (MRO)- All drug testing results shall be interpreted and evaluated by an MRO who meets all applicable requirements of Part 40, who shall be responsible for receiving laboratory results generated by an employer's drug testing program and has appropriate medical training to interpret and evaluate an individual confirmed positive test result. The MRO shall comply with the drug testing procedures set forth in 49 CFR Part 40. The MRO will not review alcohol test results. When a confirmed positive test is reported from the testing laboratory, it is the responsibility of the MRO to: (a) contact the employee and afford the employee the opportunity to discuss the test results with him/her; (b) review the individual's medical history, including any medical records and biomedical information provided; (c) determine whether there is a legitimate medical explanation for the result, including legally prescribed medication. The MRO shall not convey test results to MVT until the MRO has made a definite decision that the test result was positive or negative, or refusal to test. If the employee provides an adequate explanation, the MRO verifies the test as negative and no further action is taken. When the MRO reports the results of the verified positive test to MVT, the MRO will disclose the drug(s) for which there was a positive test. If the MRO declares a drug test to be invalid for any reason, the test is considered canceled, and neither positive nor negative. However, a re-collection under direct observation may be ordered by the MRO.

The Medical Review Officer conducting MRO services for MVT is Dr. Stephen Kracht, M.D., D.O. in Kansas City, MO.

7.2 Testing for Prohibited Drugs

MVT shall collect or have collected urine samples from safety-sensitive employees to test for Prohibited Drugs. An assigned Collection Site will split each urine sample collected into a primary and a split sample. (See testing procedures) The urine samples will be sent under seal, with required chain of custody forms, to a laboratory certified by the DHHS. Currently MV Transportation is under contract with Alere Toxicology in Gretna, LA for its initial testing and confirmation testing. An initial drug screen will be conducted on each primary specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GS/MS) test will be performed. The test will be considered positive if the amounts present are at or above the minimum thresholds established in 49 CFR Part 40 as amended, as set forth in the attached Exhibit A (Threshold Levels).

Split Specimen Testing- If the test result of the primary specimen is positive or a refusal to test due to adulteration or substitution, the employee may request the MRO to direct his/her split specimen be tested in a different DHHS-certified laboratory. The MRO shall honor such a request if it is made within 72 hours of the employee having been notified of a verified positive or refusal to test result. This does not delay MVT from taking any action consistent with this policy for positive tests and the employee will be removed immediately from any safety-sensitive functions regardless if he/she is having his/her split specimen tested by a different laboratory. However, if the split specimen (bottle B) produces a negative result, or for any reason the second portion is not available, the test is considered cancelled and no sanctions are imposed. However, a re-collection under direct observation may be ordered by the MRO.

Cancelled Test - A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which this part otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.

7.3 Alcohol Testing

Tests for alcohol concentration on safety-sensitive employees will be conducted with a National Highway Traffic Safety Administration (NHTSA) -approved evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT). In order to maintain quality assurance, EBT's must be externally calibrated in accordance with the plan developed by the manufacturer of the device. If the initial test on an employee indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. For summary of applicable alcohol threshold levels, see Exhibit A.

8.0 Types of Testing

49 CFR Parts 655 and 382 require the following types of testing for Prohibited Substances for safety-sensitive employees: Pre-employment or transfer, reasonable suspicion, post-accident, random.

8.1 Pre-employment, Transfer Testing or Return to Work Testing

All applicants for safety sensitive positions shall undergo urine drug testing prior to employment. Receipt by MVT of a verified negative test result from the MRO is required prior to performing ANY safety sensitive functions for the first time. If an applicant or employee's drug test is cancelled or negative-dilute the employee or applicant shall be required to immediately take another pre-employment drug test.

Existing employees who are being considered for transfer to a safety-sensitive position from a NON-safety-sensitive position will be required to undergo a DOT pre-employment drug test. Any existing safety-sensitive employee who is simply transferring to a different division for another safety-sensitive position is NOT required to undergo another DOT pre-employment drug test.

8.1.1 Non-Safety-Sensitive Positions

All applicants applying for non-safety-sensitive positions will have to take and pass a pre-employment NON-DOT urine drug test prior to being hired.

8.1.2 Return to Work after 30 Days (DOT-FMCSA Policy)

MVT has some contracts that are subject to the Federal Motor Carrier Safety Regulations and NOT FTA regulations. Therefore, if the employee has a commercial license and has been out for 30 days or more AND the employee has been taken out of the random testing pool, the covered employee will be required to take a DOT pre-employment drug test before he/she can perform his/her safety-sensitive position.

8.1.3 Return to Work after 90 Days (DOT-FTA Policy)

If a covered employee has not performed a safety-sensitive function for 90 consecutive calendar days regardless of the reason, AND the employee has been removed from random pool, the employee must take and pass a DOT Pre-Employment drug test (NOT a return-to-duty) before he/she can perform a safety-sensitive function.

8.1.4 Return to Work after 30 Days for Non-Regulated employees not subject to federal guidelines but perform driving duties that is considered sensitive work (MVT Policy)

It is MVT's policy that all non-covered drivers who drive an MV vehicle and has not performed his/her driving functions for 30 or more consecutive days (regardless of reason) the non-covered employee will be required to take and pass another Non-DOT Pre-Employment drug test before he/she can return to his/her driving position.

****For confirmation of regulation authority contact Drug & Alcohol Compliance Department****

8.1.5 Previous Employer Request Requirement

As an employer we are required to verify previous violations of DOT drug and alcohol regulations within the last two years of employment with a DOT regulated agency or employer.

An employer must obtain and review the information listed below from any DOT-regulated employer the employee performed safety-sensitive functions for in the previous two years. The information must be obtained and reviewed prior to the first time an employee performs safety-sensitive functions. If not feasible, the information should be obtained no later than thirty (30) days after the first time an employee performs safety-sensitive functions. The information obtained must include:

1. Information on the employee's alcohol test in which a breath alcohol concentration of 0.04 or greater was indicated.
2. Information on the employee's-controlled substance test in which a positive result was indicated.

3. Any refusal to submit to a required alcohol or controlled substance test. (including verified adulterated or substituted drug test results)
4. Other violations of DOT agency drug and alcohol testing regulations

As the applicant or employee if you have violated any of the DOT drug and alcohol regulations, you must also obtain documentation of your successful completion of the DOT return-to-duty requirements (including proof of follow-up tests administered).

Furthermore, all applicants will be asked whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for but did not obtain safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years.

8.1.6 Pre-employment Breath Alcohol Testing

Although it is not MV Transportation's policy to test for alcohol on a pre-employment test, MVT does have contracts that require a breath alcohol test be conducted in addition to the required drug test. Divisions that are subject to this requirement will have to take a pre-employment breath alcohol test. Breath alcohol testing will be in accordance with DOT Part 40 and 655.42.

8.2 Reasonable Suspicion Testing

All safety-sensitive employees shall be subject to reasonable suspicion testing, to include appropriate urine and/or breath alcohol testing when there is reasonable suspicion to believe that a covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee. Reasonable suspicion tests for the presence of alcohol shall be authorized by observations made just prior, during or immediately after the period of the day in which the employee is required to be in compliance with the requirements of Part 655; and those alcohol tests shall only be conducted just before, during, or just after the performance of a safety-sensitive function. If an alcohol test is not administered within two hours following the determination to test the employee, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If the alcohol test is not administered within eight hours following the determination, MVT shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

Reasonable suspicion determination will be made by a supervisor, or other company official who has had the required Reasonable Suspicion training to detect and document the signs and symptoms of probable drug use and alcohol use and who reasonably concludes that an employee may be impaired by of a prohibited substance.

Any employee who is required to take a Reasonable Suspicion test will remain off duty until a negative alcohol and drug test is received.

8.3 Post-Accident Testing

Fatal Accidents

As soon as practicable following an accident involving the loss of human life, MV Transportation will conduct drug and alcohol tests on each surviving covered employee operating the public transportation vehicle at the time of the accident. Post accident drug and alcohol testing of the operator is not required under this section if the covered employee is tested under the fatal accident testing requirements of the Federal Motor Carrier Safety Administration rule 49 CFR 382.303 (a)(1) or (b)(1). MV Transportation shall also test any other covered employee whose performance could have contributed to the accident as determined by investigating staff using the best information available at the time of the decision.

Non-Fatal Injury Accidents

As soon as practicable following an accident not involving the loss of human life in which a public transportation vehicle is involved, MV Transportation will drug and alcohol test each covered employee operating the public transportation vehicle at the time of the accident unless investigating staff determine, using the best information available at the time of the decision, that the covered employee's performance can be completely discounted as a contributing factor to the accident.

Accident means an occurrence associated with the operation of a vehicle, if as a result: (1) An individual dies; or (2) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or (3) With respect to an occurrence in which the transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or (4) With respect to an occurrence in which the public transportation vehicle involved is a rail car, trolley car, trolley bus, or vessel, the public transportation vehicle is removed from operation.

(For exact testing criteria -See Post Accident Testing Procedures Pg. 28)

MV Transportation shall also test any other covered employee whose performance could have contributed to the accident as determined by investigating staff using the best information available at the time of the decision.

MV Policy: When to conduct a NON-DOT Post accident/incident test

If the accident does not meet the FTA/FMCSA testing criteria, MVT will reserve the right to test any safety-sensitive employee after any accident/incident regardless of the severity of the accident/incident. Additionally, MVT will test any other safety-sensitive employee whose performance MVT determines could have contributed to the accident.

Under these circumstances it must be explained to the employee that the drug and alcohol tests will be done under M.V. Transportation authority and should be done on NON-DOT drug and alcohol chain of custody forms.

Any employee who takes a post accident test will remain off duty until a negative drug test and alcohol test result is received.

8.4 Random Testing

Employees performing safety-sensitive functions will be subject to unannounced, random drug and alcohol testing in accordance with FTA regulations. The random drug and alcohol testing rates will be, at a minimum, based on the current FTA and FMCSA requirements at all times. Each such employee shall have an equal chance at selection and shall remain in the pool even after being tested. The basis for random selection shall be by a scientifically valid random number generation method initiated by computer. The dates for administering unannounced testing of randomly-selected covered employees shall be spread reasonably throughout the calendar year, month, week, and all hours that safety-sensitive functions are performed. This ensures that employees would have a reasonable expectation that they might be called for a test on any day they are at work. A covered employee shall only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty. The employee must proceed to the test site immediately after being notified that he or she has been selected for testing in the allotted time given.

9.0 Consequences

9.1 Positive Alcohol Test

- (a) A safety-sensitive employee who has a confirmed alcohol concentration of 0.02 or greater but less than 0.04 will be removed from his or her duties for eight hours unless a confirmation test results in a concentration measure of less than 0.02. (For a test result which is less than 0.04 no other action will be taken except that which is described in this paragraph.)
- (b) An alcohol concentration of 0.04 or greater or a test refusal will be considered a positive alcohol test. The employee will be immediately removed from duty and referred to a Substance Abuse Professional (SAP) **and terminated from employment.**

9.2 Positive Drug Test

The consequences of a positive drug test or a test refusal are as follows: the employee will immediately be removed from safety sensitive duties, referred to a Substance Abuse Professional **and terminated from employment.**

10.0 MRO Report of a Negative Dilute Specimen

If the MRO informs MVT that a negative drug test was dilute, the employee will be directed to take another test immediately. In some cases, the MRO may require the retest to be performed under "Direct Observation." Each employee directed to take another test, will be given the minimum possible advance notice that he or she must go to the collection site to take another test.

For any employee that is directed to take another test, the result of the second test – not that of the original test – becomes the test of record which MVT will rely on for purposes of this policy. Any employee who is directed to take another test and the employee declines to do so, shall be considered as a refusal to test for purposes of this policy and DOT agency regulations.

Dilute Specimen- A specimen with creatinine and specific gravity values that are lower than expected for human urine.

11.0 Substance Abuse Professional (SAP)

A SAP must meet all the credential, basic knowledge, qualification training, continuing education, and documentation requirements of 49 CFR Part 40, Subpart O, §40.281 (a-e). The SAP will evaluate the employee to determine what assistance the employee needs in resolving problems associated with prohibited substance abuse or alcohol misuse. The SAP will also determine whether an employee has successfully completed a program of rehabilitation.

MV Transportation uses:

American Substance Abuse Professionals, Inc. (ASAP)
Nationwide Network www.go2asap.com
1421 Clarkview Road, Suite 130, Baltimore, Maryland 21209
Contact: Nicole Hanratty, CEAP, SAP, C-DERT
888-792-2727 x177 Mention MV Transportation

This firm is a national company that contains a large network of qualified SAPs throughout the United States. Employees simply call the toll-free number and provide the SAP their city and zip code and the SAP will find them the qualified SAPs closest to their area.

12.0 Training and Education

All employees shall participate in a minimum one-hour training session designed to meet FTA requirements by learning about the effects and consequences of drug use on personal health, safety and the work environment. For those supervisors participating in reasonable suspicion determination testing, there will be at least two hours of training to explain the criteria for reasonable cause testing, including at least an hour on the physical, behavioral and performance indicators of probable drug use and another hour on the physical, behavioral, speech and performance indicators of probable alcohol misuse. Initial training sessions will be re-enforced with educational materials and meetings. Further, employees shall be provided with a community hot-line telephone number.

13.0 Employee Assistance Community Service Hot-Line

The Center for Substance Abuse Treatment maintains a toll-free Referral Helpline
800-662-HELP
National Mental Health Association
800-969-NMHA (6642)
National Domestic Violence Hotline
800-799-SAFE
National Suicide Hotline
800-SUICIDE (784-2433)
National Child Abuse Hotline
800-422-4453

14.0 Records, Confidentiality

A safety-sensitive employee is entitled, upon written request, to review and obtain copies of any records relating to the employee's drug and alcohol testing. MVT must maintain records of its substance abuse program in a secure location with controlled access.

15.0 System Contact

Any questions regarding this policy or any other aspect of MVT's Substance Abuse Management Program should be directed to the office of the following:

Name: Esther Avalos, Director of Drug & Alcohol Compliance
Address: 2711 N. Haskell Ave., Ste. 1500, LB-2, Dallas, TX 75204
Phone Number: 972-391-4616

16.0 Local Authority

Local Division General Managers and Safety Managers are the Designated Employer Representatives (DERs) and are authorized to receive test information from the MRO as well as confirmation test results from the qualified B.A.T.

17.0 Revisions to the Policy and Program

This policy and program are subject to revision in accordance with the Department of Transportation regulations, as amended.

18.0 Zero Tolerance Policy

MV Transportation's "Zero Tolerance" Policy means any covered employee that has a verified positive drug or alcohol test, or test refusal, will be immediately removed from his/her safety-sensitive position, referred to a Substance Abuse Professional (SAP), and **will be terminated.**

EXHIBIT A

Pursuant to the Federal Department of Transportation regulations, the following are the drugs to be tested for, and the threshold levels of each test which MV Transportation is required to accept:

Initial test analyte	Initial test cutoff 1	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites (THCA) 2	50 ng/mL 3	THCA	15 ng/mL.
Cocaine metabolite (Benzoyllecgonine) ...	150 ng/mL 3	Benzoyllecgonine	100 ng/mL.
Codeine/	2000 ng/mL	Codeine	2000 ng/mL.
Morphine		Morphine	2000 ng/mL.
Hydrocodone/	300 ng/mL	Hydrocodone	100 ng/mL.
Hydromorphone		Hydromorphone	100 ng/mL.
Oxycodone/	100 ng/mL	Oxycodone	100 ng/mL.
Oxymorphone		Oxymorphone	100 ng/mL.
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL.
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL.
Amphetamine/	500 ng/mL	Amphetamine	250 ng/mL.
Methamphetamine		Methamphetamine	250 ng/mL.
MDMA 4/MDA 5	500 ng/mL	MDMA	250 ng/mL.
		MDA	250 ng/mL.

* (ng/mL) nanograms per milliliter

ALCOHOL

(Includes ethanol, methanol, isopropanol)

Breath Alcohol Concentration

(expressed in terms of grams of alcohol per 210 liters of breath)

Initial Screen

Under 0.02

Confirmatory

(given if 0.02 or greater on initial screen)

0.02 to less than .04 employee may not perform safety-sensitive function

EXHIBIT B

The following is a general list of safety-sensitive functions and the job categories of employees who are subject to the provisions of 49 CFR Par 655 and 382 at MV Transportation:

NOTE: This list is subject to change and revision.

49	Maintenance Training Manager	340	Lead Dispatcher	416	Safety Manager	550	Mechanic
87	Safety Assistant	345	Dispatcher	420	BTW Trainer	561	Mechanic A (specify Union Class)
112	Floating Class A Mechanic	346	Window Dispatcher	425	BTW Instructor	562	Mechanic B (specify Union Class)
113	Body Repairman	349	Scheduling Manager	450	Classroom Instructor	563	Mechanic C (specify Union Class)
300	General Manager	350	Scheduler	451	Classroom Trainer	564	Technician A Mechanic
301	General Manager 1	352	Scheduling Coordinator	470	Parts Manager	565	B Mechanic
302	General Manager 2	353	VA Coordinator	471	Assistant Parts Manager	566	Technician C Mechanic
303	General Manager 3	354	Operations Supervisor	475	Parts Clerk	567	Technician Apprentice
304	General Manager 4	355	Road Supervisor	500	Maintenance Manager	568	Technician
310	Division Manager	357	Where's My Ride Supervisor	510	Assistant Maintenance Manager	569	Mechanic Helper
315	Assistant Division Manager	359	Lead Supervisor	512	Maintenance Technician	570	Cleaners
320	Operations Manager	379	Lead Schedule/Dispatcher	514	Bus Stop Maintenance	571	Mechanic Helper
321	Shift Supervisor	399	Call Center Manager	515	Maintenance Clerk	572	Body Shop Technician
322	Assistant Operations Manager	400	Safety and Training Manager	516	Maintenance Supervisor	575	Service Worker
323	Operations supervisor	405	Training Manager	517	Service Employee	580	Utility Crew
330	Dispatch Manager	406	Training Supervisor	518	Advanced Service Employee	584	Station Supervisor
332	Reservations Manager	410	Safety Trainer	519	Entry Level Mechanic	590	Bus Aide
335	Dispatch Supervisor	411	Safety Training Supervisor	520	Shop Foreman	600	Driver Trainer
336	Drive Cam Supervisor	415	Assistant Safety Manager	530	Lead Mechanic	610	Driver

Any MVT employee who has a non-safety-sensitive position, but who may perform a safety sensitive function at any time while they are working will be subject to random testing and will be included in the DOT random testing pool.

Testing Procedures

Note: Testing and collection procedures will be conducted as set forth by 49 CFR Parts 40 (as amended) & 655 & 382. The information on the following pages is meant for general information only for MV Transportation employees. Any questions regarding reference to the regulations should be directed to the policy section of this handbook. A copy of 49 CFR Part 40 is available for review to each employee upon request to their local manager.

This is a “Zero Tolerance” policy and any reference to return to work after a positive test result does not apply to employees affected by this policy. The FTA does not mandate “Second Chance”.

Pre-Employment Testing

1. The FTA regulations require that all applicants for employment in safety-sensitive positions or individuals being transferred to safety-sensitive positions from NON-safety-sensitive positions must be given a pre-employment drug test.
2. Applicants may not be assigned to safety-sensitive functions unless they pass the drug test.
3. Applicants must be informed in writing of the testing requirements prior to conducting the test. **MVT will require applicant to sign a form acknowledging that they know that their urine will be tested for Cocaine, PCP, Amphetamines, Marijuana, and Opioids.**
4. Appropriate personnel at each location will schedule appointments for collection. The employee must be made aware that their placement into a safety sensitive position is contingent upon a negative test result.
5. It is the responsibility of the applicant to report to the collection site at the time and day scheduled.
6. Positive test results must be reviewed by the MRO.
7. Applicants are notified by the MRO of the laboratory results and are given an opportunity to discuss the results.
8. Applicants who test positive will not be hired into a safety-sensitive position.
9. An applicant whose pre-employment test results are negative will continue through the safety-sensitive hiring process.
10. Applicants will be asked whether he or she has tested positive or refused to test on a pre-employment drug or alcohol test while trying to obtain safety sensitive transportation work from an employer covered by DOT agency during the past two years. If applicant admits that he or she had a positive test or a refusal to test, MV will not allow the applicant to perform safety sensitive duties unless and until applicant provides documents showing the successful completion and release from a SAP.

Random Testing Procedures

The FTA regulations require random testing for prohibited drugs and alcohol for all safety-sensitive employees. Random testing identifies those who are using drugs or misusing alcohol but can use the predictability of other testing methods to escape detection. More importantly, it is widely believed that random testing serves as a strong deterrent against employees beginning or continuing prohibited drug use and misuse of alcohol at MVT. MV Transportation has developed procedures for notification and collection to best implement the requirements of the federal rules.

These procedures answer common questions regarding random testing: Who is tested? Why are only some individuals tested? When and how do the tests occur?

1. Random drug and alcohol testing applies only to safety-sensitive employees. Identification numbers for all safety-sensitive employees will be included in a selection pool.
2. Random drug and alcohol testing is accomplished by a scientifically valid, tamper-proof, computer-generated selection process. A random list for testing of employee numbers will be generated every month.
3. Employees are chosen in an unannounced, unpredictable manner. No employee will be removed from the random pool following the next selection, and every employee will continue to be subject to random selection throughout the year. Every employee in the random pool has an equal chance of being selected every time. Employees are only removed from the random pool when they are in rehabilitation programs, terminated or permanently transferred to a non-safety-sensitive position, or expected to be out for at least 90 days or more.
4. Random testing will be conducted on all shifts, all times of day, and all days of the week throughout the calendar year. No shift is exempt from testing.
5. Random drug testing may be conducted concurrently with random alcohol testing or at any time during an employee's shift. Random alcohol testing will be conducted just before the employee is scheduled to perform a safety-sensitive function, while the employee is performing safety-sensitive functions or just after the employee performs a safety-sensitive function. The employee must proceed to the test site immediately after being notified that he or she has been selected for testing in the allotted time given.
6. For both Maintenance and Operations (Drivers) the Divisional Manager in each location will be notified which employees have been selected for testing. Once an employee is notified of his/her selection, he/she must report immediately for the test. Failure to report after notification constitutes a refusal to test. (see procedures for random test notification)
7. Employees will be notified where to report for collection, when to stop work and report to the collection site and who will relieve them, if necessary.
8. The employee must submit to a drug and/or alcohol test. Failure to cooperate with the collection procedure in any way constitutes a refusal to test which has the same consequences as a positive test result.

9. The employee is in a paid status throughout the random testing procedure. Employees will be removed from duty if the results are positive **and employee will be terminated.**
10. If both alcohol and drug tests are being given, the breath alcohol test will be performed first. Immediately thereafter, the urine sample will be collected for the drug test.
11. If there is a confirmed breath alcohol test of between .02% and .039% (inclusive), the employee will be relieved from duty immediately for a minimum of eight (8) hours.
12. If there is a confirmed positive breath alcohol test (.04% or above), the employee will be given the name of a Substance Abuse Professional (SAP) **and terminated.**

Procedures for Random Test Notification

1. The Human Resource Department triggers the selection list of the month's safety-sensitive employees to be scheduled for testing.
2. The local manager will review work schedules, including planned absences when known, to develop a best available time to perform the tests. The local manager will coordinate the testing schedule with the collector.
3. In developing testing times, the goal will be to minimize the impact in service. Testing will be conducted using the following priority periods:
 - Before work,
 - During split time,
 - After work/shift is completed
 - During work, with standby personnel relief.
4. During work, without relief (if no other time is possible).
5. Notification of Employees- The Human Resources Department triggers notification to each location's designated employer representative (DER) via electronic mail. The DER will notify each safety-sensitive employee selected and thus notified. Each employee who is selected is to report to the test site immediately

The employee cannot "go off sick" or on vacation or leave of absence after notification.

6. Collection site personnel shall report "unreasonable delays" to the local DER as employees are required to immediately report to the collection site following notification. Failing to report to the collection site within a reasonable allotted time constitutes a refusal to test.
7. The DER shall confirm with the Regional, Divisional, or Operations Manager that the employee was notified.
8. The DER shall notify the proper management official if an employee fails to report for testing after notification.
9. An employee who fails to report for testing shall be removed from duty immediately. If employee is determined to have "refused to test" he/she face the

same consequences as testing “positive” for drugs/alcohol and will be given the name and number of a SAP and **terminated from employment**.

Collection Procedures for All Tests

All collection procedures shall be performed in accordance with Part 40. Upon notification of a test under this policy;

1. The employee must report to the collection site immediately after notification.
2. The employee shall provide photo identification to collection site personnel. Supervisors will verify the identification of employees without photo identification and may photograph the employee if necessary.
3. The employee must comply with all collection procedures.
4. The employee must follow the directions of the collection staff to ensure that an unadulterated urine specimen is collected, and/or the breath alcohol test is completed.
5. The employee will be in a private enclosure and unobserved unless a direct observed collection is determined to be needed by the MRO, the local DER, or the collector.
6. The employee must supply at least 45 ml of urine (approx. 1 ½ oz). If the employee gives an inadequate amount of urine or if the employee is unable to give a sufficient urine sample collection site staff shall provide the individual with no more than 40oz of fluid to drink during a period of up to 3 hours. The employee will attempt to provide a complete sample using a fresh container. If the required amount is provided, the collection staff will continue with collection process. If the employee is still unable to provide an adequate specimen within three hours of the first unsuccessful attempt to provide the specimen, the collection staff must discontinue the collection, note the facts on the “remarks” line of the CCF, and immediately notify the DER.

Shy Bladder - The term “shy bladder” refers to a situation when the employee does not provide a sufficient amount of urine (45 ml) for a DOT required drug test. If an employee tells the collector, upon arrival at the collection site, that he or she cannot provide a specimen, the collector must still begin the collection procedure regardless of the reason given and direct the employee to make the attempt to provide the specimen.

The employee must be monitored during this time. If the employee leaves the collection site or refuses to make the attempt to provide a sufficient urine specimen, this is considered a refusal to submit to a test.

Failure to produce a sample of urine will result in an immediate referral for an evaluation from a licensed physician within 5 days who can determine in his or her reasonable judgment the safety-sensitive employee’s inability to provide an adequate amount of urine. If no medical reason is found substantiating an inadequate sample, the incident will be treated as a “refusal to test” and will carry the same consequences as a positive test result.

It is MVT's policy that any employee who does not provide a valid specimen during a collection for a test will remain off duty until the employee is cleared from the MRO that the employee had a valid medical reason.

7. If the employee fails to provide an adequate amount of breath for the breath alcohol test, a second attempt will be made. If the Employee, after multiple attempts, fails to produce a sample, the Breath Alcohol Technician (BAT) shall so note in the "Remarks" section of the breath alcohol testing form and immediately inform the DER. The DER will instruct the employee to obtain, as soon as possible but within 5 days after the attempted provision of breath, an evaluation from a licensed physician who is acceptable to the employer concerning the employee's medical ability to provide an adequate amount of breath.
8. Whenever there is reason to believe that an individual has altered or substituted the urine specimen, a second specimen shall be obtained as soon as possible under direct observation of a same gender observer. Reasons may include; temperature of the specimen out of normal range, bluing agent in the specimen.

Substituted Specimen- A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

Adulterated Specimen- A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

9. If the breath alcohol screening is 0.02 or greater, the breath alcohol technician will wait at least 15 minutes and a maximum of 30 minutes before administering the confirmation test. Even if more than 30 minutes have passed the BAT will still conduct the confirmation test.
10. To ensure that the test results are attributed to the correct covered employee; both specimen bottles must be sealed and labeled in the presence of the donor. The labels must be printed with the same specimen identification number as the custody control form and are attached to the specimen bottles. The donor initials the labels on the vials verifying that the specimen is his or hers.

Reasonable Suspicion Testing Procedures

1. Supervisors and managers receive training to identify behaviors that might be indicators of drug use and/or alcohol misuse. Training includes the procedures for how to deal with employees suspected of drug use and/ or alcohol misuse.
2. If a supervisor observes an appearance, behavior, speech pattern, or body odor of the covered employee that might be indicative of drug use and/or alcohol misuse, he/she directs the employee to stop work and escorts the employee to an area to be questioned and observed in private.
3. The supervisor completes the Reasonable Suspicion Incident Report. The

supervisor must ensure that the employee does not continue to operate in a safety-sensitive function after identified for reasonable suspicion testing.

4. If there is a decision to test based on observable symptoms, the employee is ordered to submit to a drug and alcohol test and is escorted to the collection site.
5. The employee is on paid status until the test collection is completed. **Employee will remain off duty until a negative drug and alcohol test is received.** To the greatest extent possible, arrangements shall be made to have him/her transported home and employee should not be allowed to leave on his/her own recognizance.
6. If there is a confirmed breath alcohol test of between .02% and .039% (inclusive), the employee will be relieved from safety-sensitive duty immediately for a minimum of eight (8) hours. If there is a confirmed positive breath alcohol test (.04% or greater) and/or confirmed positive drug test, or refusal to test, the employee shall be provided the name and number of a SAP and the employee **will be terminated**.
7. If the employee's drug test is confirmed negative by the MRO and/or the BAT test is below 0.02 the employee will be allowed to return to work and will be paid for any time missed.

Post-Accident Testing Procedures

The FTA regulations require testing for prohibited drugs and alcohol in the case of certain public transportation accidents. Post-accident testing is mandatory for accidents where there is a loss of life and for other non-fatal accidents.

1. The supervisor ensures that all injured people receive proper medical care. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.
2. The supervisor determines whether the accident meets FTA criteria using MVT's "Post Accident Decision Checklist Form".
3. If the accident meets the FTA/DOT criteria a DOT post accident drug and alcohol test will be conducted immediately. The employee will be taken to the collection site and tested as soon as practicable following the accident. The employee should remain readily available for alcohol testing up to 8 hours and for drug testing up to 32 hours after the accident, including notifying his/her supervisor of his/her location or he/she may be deemed to have refused to submit to testing if he/she does not make him/herself readily available for testing.
4. **Once the tests have been completed the employee will remain off duty until a negative drug and alcohol test is received.**
5. If the employee is not tested within two hours for alcohol, the supervisor must document the reason for the delay, and if test is not conducted in 8 hours, the DER shall cease all further attempts and update the records as to the reason(s)

why the test was not completed. If the 32 hours have passed the DER shall cease all further attempts to complete the drug test.

6. If the employee refuses to be tested, or the breath alcohol test is .04 or greater, or if the drug test is confirmed positive, the employee is immediately removed from duty, the Sap will find them the qualified SAPs closest to their area and **will be terminated**.

Post -Accident Testing Criteria

It should be noted that a post-accident test is given because the incident meets the criteria listed below. It is NOT a probable cause or reasonable suspicion test. An accident (§ 655.4) is defined as an occurrence associated with the operation of a vehicle in which:

1. An individual dies.
2. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident.
3. With respect to an occurrence in which the public transportation vehicle involved is a bus, van or automobile, one or more vehicles incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, “disabling damage” means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs.

(Inclusions) Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated.

(Exclusions) damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, tail-lights, turn signals, horn, or windshield wipers that makes them inoperative.

4. With respect to an occurrence in which the public transportation vehicle involved is a rail car, trolley car, trolley bus, or vessel, the public transportation vehicle is removed from operation.
5. The FTA has determined that “**LIFTS**” constitute equipment used in revenue service and their operation is essential to the operation of the vehicle and protection of public safety, their operation shall now be included in the accident definition.

To determine if a test should be administered under this section, always use MV Transportation’s “Post Accident Decision Checklist”. This form should be used for all accidents in determining whether a test will be done under DOT authority.

Prohibited Drugs and Alcohol Misuse

MVT is required to ensure that all covered employees receive at least 60 minutes of training and discussion on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use. The information below shall assist in providing statistics and examples of substance abuse in the work force and the signs and symptoms of such use.

A study conducted showed 75 percent of illicit drug users 18 and older are employed, which amounts to about 10 million U.S. workers. On a daily basis, based on 250 work days in a year, at least 42,000 Americans are coming to work stoned or are getting “high” while on the job.

Studies and statistics show that:

1. Every 23 minutes a death occurs as a result of a drug or alcohol related accident.
2. A typical abuser is:
 - a. Late to work 3 times more often
 - b. Requests twice as much time off
 - c. Is absent 2 1/2 times more than average
 - d. Uses 3 times as many sick benefits
 - e. Collects 5 times as much worker's comp
 - f. Has 300% higher medical costs/benefits

If these statistics haven't convinced you that the problem is serious, let's look at a few more.

A national survey once reported that:

1. 19% of all children over the age of 12 had used some type of illegal drug
2. 65% of 18 to 25-year olds had used some type of illegal drug
3. 30 to 40 million Americans stated they had used cocaine
4. By age 17, 70% of American teenagers had tried alcohol

As you can see, drug and alcohol abuse is a serious problem, having a major effect on all our lives. Even though you may not be abusing drugs or alcohol, you are affected by the results of drug and alcohol abuse in our society. You pay higher medical costs to help cover the costs for abusers who cannot afford the cost of treatment. You pay higher insurance costs to help fund the drug and alcohol abuse programs paid for by insurance companies. The material and services you buy cost more because of decreased worker productivity, as well as increased cost to employers.

This section is designed to provide you with a brief overview of the seriousness of using controlled substances and alcohol. It also provides education on the signs, symptoms and effects of the illicit drugs that you will be tested for. Your employer has taken great measures to assure you of a safe working environment. Please review this booklet in its entirety to educate yourself on drug and alcohol in the workplace. When you have completed reading this material, you will better understand the need for a drug-free workplace.

The drugs for which you will be subject to testing include:

- Amphetamine
- Cocaine
- Marijuana
- Opioids
- Phencyclidine (PCP)
- Alcohol (by evidential breath testing device only)

Facts about Amphetamines

Amphetamines (methamphetamine, MDMA-ecstasy) are central nervous system stimulants. They tend to make people “hyper” and “jumpy”. They can be taken either orally or injected. They are often used by people to stay awake and to counteract the effects of drowsiness. They are especially dangerous to take while performing safety-sensitive tasks or driving.

Ecstasy, MDMA (3,4 methylenedioxymethamphetamine), is a synthetic, psychoactive drug that is chemically similar to the stimulant methamphetamine and the hallucinogen mescaline. MDMA causes an increase in serotonin which plays an important role in the regulation of mood, sleep, pain, appetite, and other behaviors.

Some heavy MDMA users experience long lasting confusion, depression, and selective impairment of working memory and attention processes. Ecstasy users make extremely dangerous drivers. They can exhibit the same impairments as amphetamine, heroin, cocaine, and hallucinogen users.

Signs and Symptoms of Amphetamine Use

- ◆ Hypersensitivity
- ◆ Exhaustion
- ◆ Dilated Pupils
- ◆ Grinding teeth
- ◆ Loss of appetite and immediate weight loss
- ◆ Dry mouth
- ◆ Excessive talking

Effects on Person

- ◆ More likely to take risks
- ◆ Impaired judgement

Facts about Cocaine

Cocaine also stimulates the central nervous system. It gives the user an intense feeling of well-being, or euphoria, known as a “high”. The “high” will last for 10 to 60 minutes. A more potent form of the drug called “crack” cocaine is especially addicting and dangerous. Although it’s “high” lasts only about 5 to 8 minutes, “crack” cocaine can be addicting after only one use, and cause death the first time it is used. Cocaine can be injected, snorted, or free-based. Snorting is sniffing the drug up the nose, and free-basing is done by heating the drug and inhaling the vapors.

Signs and Symptoms of Cocaine Use

- ◆ Mood swings
- ◆ Weight Loss
- ◆ Restlessness: Difficulty sitting or standing in one place
- ◆ Depression
- ◆ Nose bleeds
- ◆ Irritable, angry, nervous, angers easily
- ◆ Bad breath
- ◆ Euphoric feeling
- ◆ Running nose, uncontrollable sniffing

Effects on Person

- ◆ Slowed reaction time
- ◆ Distorted vision and depth perception
- ◆ Slow to make decisions
- ◆ Unable to correctly measure time and distance

Facts about Marijuana

Marijuana is a depressant and mind-altering drug. Marijuana does not depress the central nervous system’s reaction, it works on the brain. Mind altering means it causes hallucinations. It can be eaten or smoked. Street names for marijuana are “dope”, “grass”, “joint”, “hash”, or “hooch”.

Tests have shown that people’s reflexes and thought processes are slower under the influence of marijuana. The effects of this drug are longer lasting than first thought. In fact, impairment can last more than 24 hours after using marijuana. The body actually stores the drug for days, weeks, and in some cases, months, depending on the frequency of use.

Signs and Symptoms of Marijuana Use

- ◆ Dilated pupils
- ◆ Slowed reflexes
- ◆ Giddiness
- ◆ Slowed thinking
- ◆ Moodiness
- ◆ Trance-like state
- ◆ Impaired vision
- ◆ Reduced feeling of pain
- ◆ Odor of burning
- ◆ Short-term memory loss
- ◆ Loss of concentration
- ◆ Unable to sleep after prolonged use

Signs To Look For

- ◆ Cigarette rolling paper
- ◆ Dried plant material, either crumbled or pressed
- ◆ Roach clip (device to hold joint)
- ◆ Hash pipe (very small pipe)

Facts about Opioids

Opioids are classified as a narcotic analgesic. They tend to have a sedating, calming effect, and act as a depressant to the central nervous system. Opioids are more commonly known as morphine, codeine, hydrocodone, hydromorphone, oxycodone, oxymorphone, and heroin. Street names for Opioids are “junk”, “smack”, “horse”, and “brown sugar”. Opioids are prescribed by doctors to relieve pain, they can either be taken orally, injected or smoked. Some common names for these semi-synthetic opioids include OxyContin®, Percodan®, Percocet®, Vicodin®, Lortab®, Norco®, Dilaudid®, Exalgo®.

When the drug is injected, the user feels an immediate “rush”, usually followed by a very relaxed and soothing feeling. However, some Opioids can cause very unpleasant side effects such as nervousness, nausea, and restlessness, and if taken in excess, may cause coma or death.

Signs and Symptoms of Opioid Use

- ◆ Mental confusion

- ◆ Slurred speech
- ◆ Unsteadiness
- ◆ Hostility
- ◆ Memory loss
- ◆ Drowsiness
- ◆ Excess talking
- ◆ Euphoria
- ◆ Depression
- ◆ Short attention span
- ◆ Cold, moist or bluish skin
- ◆ Reduced feeling of pain

Effects on Person

- ◆ Lack of concentration – Day dreaming
- ◆ Distorted sense of time and distance
- ◆ Distorted vision

Facts about Phencyclidine (PCP)

Phencyclidine, commonly called “Angel Dust”, is known as a dissociative anesthetic. Users of PCP may experience hallucinations and signs of intoxication. They may not be able to focus their attention or will experience confusion and lack of coordination.

Although PCP has immediate short-term effects, it is also known for its long-term effect of causing psychotic behavior often associated with violent acts. Other street names for PCP include “hog”, and “crystal”. PCP may be smoked, snorted or injected.

Signs and Symptoms of PCP Use

- ◆ Delusions
- ◆ Confusion
- ◆ Panic
- ◆ Increased blood pressure
- ◆ Anxiety
- ◆ Flashbacks

Effects on Person

- ◆ More likely to take risks
- ◆ Impaired coordination
- ◆ Aggressive actions

Facts about Alcohol

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

Signs and Symptoms of Use

- ◆ Dulled mental processes
- ◆ Lack of coordination
- ◆ Odor of alcohol on breath
- ◆ Possible constricted pupils
- ◆ Sleepy or stuporous condition
- ◆ Slowed reaction rate
- ◆ Slurred speech

(Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

Health Effects

The chronic consumption of alcohol (average of three servings per day of beer [12oz], whiskey [1oz], or wine [6oz glass] over time may result in the following health hazards:

- ◆ Decreased sexual functioning
- ◆ Dependency (up to 10% of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed “alcoholic”)
- ◆ Fatal liver diseases
- ◆ Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma.
- ◆ Kidney disease, Pancreatitis, Ulcers
- ◆ Spontaneous abortion and neonatal mortality
- ◆ Birth defects (up to 54% of all birth defects are alcohol related).

Workplace Issues

- ◆ It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body.
- ◆ Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.
- ◆ A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.



**ACKNOWLEDGEMENT
OF
EMPLOYER'S DRUG AND ALCOHOL TESTING POLICY**

I, _____, the undersigned, hereby
Print Full Name

acknowledge that I have received a copy of the anti-drug and alcohol misuse program policy mandated by the U.S. Department of Transportation, Federal Transit Administration for all covered employees who perform a safety-sensitive function. I understand this policy is required by 49 CFR Part 655, as amended, and has been duly adopted by the governing board of the employer. Any provisions contained herein which are not required by 49 CFR Part 655, as amended, that have been imposed solely on the authority of the employer are designated as such in the policy document.

I further understand that receipt of this policy constitutes a legal notification of the contents, and that it is my responsibility to become familiar with and adhere to all provisions contained therein. I will seek and get clarification for any compliance with all provisions contained in the policy. I also understand that compliance with all provisions contained in the policy is a condition of employment.

I further understand that the information contained in the approved policy dated April 1, 2018 is subject to change, and that any such changes, or addendum, shall be disseminated in a manner consistent with the provision of 49 CFR Part 655, as amended.

I hereby acknowledge that I have participated in and completed the required minimum 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use in accordance with Part 655.14(b)(1) and in addition, to the training, this policy and handbook was reviewed.

I further acknowledge that I have been advised of the consequences for safety sensitive employees who violate the testing requirements.

Signature of Employee

Date

Print Name

**ZERO TOLERANCE
DRUG AND ALCOHOL TESTING POLICY
Jovenes de Antano Specialized Transportation
Adopted as of May 23, 2014**

A. PURPOSE

- 1) The Jovenes de Antano Specialized Transportation provides public transit and paratransit services for the residents of *San Benito County*. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, Jovenes de Antano specialized Transportation declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.
- 2) Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.
- 3) Any provisions set forth in this policy that are included under the sole authority of Jovenes de Antano Specialized Transportation and are not provided under the authority of the above named Federal regulations are underlined. Tests conducted under the sole authority of Jovenes de Antano Specialized Transportation will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

B. APPLICABILITY

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full- or part-time) when performing safety sensitive duties Jovenes de Antano Specialized Transportation employees that do not perform safety-sensitive

functions are also covered under this policy under the sole authority of Jovenes de Antano Specialized Transportation. See attachment A for a list of employees and the authority under which they are included. A safety-sensitive function is operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, dispatchers or persons controlling the movement of revenue service vehicles and any other transit employee who is required to hold a Commercial Drivers License. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions that perform one or more of the above mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for service in excess of actual expense.

C. DEFINITIONS

Accident: An occurrence associated with the operation of a revenue service vehicle even when not in revenue service, if as a result:

- a. An individual dies;
- b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- c. One or more vehicles incur disabling damage as the result of the occurrence and are transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

Adulterated specimen: A specimen that has been altered, as evidence by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

Alcohol Concentration: Expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device.

Aliquot: A fractional part of a specimen used for testing, it is taken as a sample representing the whole specimen.

Canceled Test: A drug test that has been declared invalid by a Medical Review Officer. A canceled test is neither positive nor negative.

Confirmatory Drug Test: A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

Confirmatory Validity Test: A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

Covered Employee Under FTA Authority : An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees), and other employees, applicants, or transferee that will not perform a safety-sensitive function but falls under the policy of the company's own authority.

Covered Employee Under Company Authority: An employee, applicant or transferee that will not perform a safety-sensitive function as defined by FTA but is included under the company's own authority. (See Attachment A).

Designated Employer Representative (DER): An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

Department of Transportation (DOT): Department of the federal government which includes the, Federal Transit Administration, Federal Railroad Administration, Federal Highway Administration, Federal Motor Carriers' Safety Administration, and the Office of the Secretary of Transportation. Pipeline & Hazardous Materials Safety Administration. United States Coast Guard and the office of the Secretary of Transportation.

Dilute specimen: A urine specimen with creative and specific gravity values that are lower than expected for human urine.

•

Disabling damage: Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, fire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

Evidentiary Breath Testing Device (EBT): A Device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations. Approved devices are listed on the National Highway Traffic Safety Administration (NHTSA) conforming products list.

Initial Drug Test: (Screening Drug Test) the test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Initial Specimen Validity Test: The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid

Invalid Result: The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

Laboratory: Any U.S. laboratory certified by HHS under the National Laboratory Certification program as meeting standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

Limit of Detection (LOD): The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

Limit of Quantitation: For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

Negative Dilute: A drug test result which is negative for the five drug/drug metabolites but has a specific gravity value lower than expected for human urine.

Negative result: The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

Non-negative test result: A urine specimen that is reported as adulterated, substitute, invalid, or positive for drug/drug metabolites.

Oxidizing Adulterant: A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites, or affects the reagents in either the initial or confirmatory drug test.

Performing (a safety-sensitive function): A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

Positive result: The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

Prohibited drug: Identified as marijuana, cocaine, opiates, amphetamines (including ecstasy), or phencyclidine at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

Reconfirmed: The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

Rejected for Testing: The result reported by an HHS- Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

Revenue Service Vehicles: All transit vehicles that are used for passenger transportation service,

Safety-sensitive functions: Employee duties identified as:

- (1) The operation of a transit revenue service vehicle even when the vehicle is not in revenue service.

- (2) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL).
- (3) Maintaining a revenue service vehicle or equipment used in revenue service.
- (4) Controlling the movement of a revenue service vehicle and
- (5) Carrying a firearm for security purposes.

Split Specimen Collection: A collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed marriage and family therapist, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse (ICRC) or by the National Board for Certified Counselors, Inc and Affiliates/Master Addictions Counselor (NBCC) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Substituted specimen: A urine specimen with creatinine and specific gravity values that are so diminished that they are not consistent with normal human urine.

Test Refusal: The following are considered a refusal to test if the employee:

- (1) Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer
- (2) Fails to remain at the testing site until the testing process is complete
- (3) Fails to attempt to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations
- (4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen
- (5) Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
- (6) Fails or declines to take a second test the employer or collector has directed you to take

- (7) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures
- (8) Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)
- (9) If the MRO reports that there is verified adulterated or substituted test result
- (10) Failure or refusal to sign Step 2 of the alcohol testing form
- (11) Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- (12) Possess or wear a prosthetic or other device that could be used to interfere with the collection process
- (13) Admit to the collector or MRO that you adulterated or substituted the specimen.

Verified negative test: A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

Verified positive test: A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

Validity testing: The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

D. EDUCATION AND TRAINING

- 1) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also

includes manifestations and behavioral cues that may indicate prohibited drug use.

- 2) All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

E. PROHIBITED SUBSTANCES

- 1) Prohibited substances addressed by this policy include the following.
 - a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines (including methamphetamine and ecstasy), opiates (including heroin), phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all covered employees under FTA authority be tested for marijuana, cocaine, amphetamines (including methamphetamine and ecstasy), opiates (including heroin), and phencyclidine as described in Section H of this policy. Employees covered under company authority will also be tested for these same substances. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

- a. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that

mental functioning, motor skills, or judgment may be adversely affected must be reported to a Jovenes de Antano Specialized Transportation supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.

- b. Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited. An alcohol test can be performed on a covered employee under 49 CFR Part 655 just before, during, or just after the performance of safety-sensitive job functions. Under Jovenes de Antano Specialized Transportation authority, a non-DOT alcohol test can be performed any time on a covered employee is on duty.

F. PROHIBITED CONDUCT

- 1) All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR PART 40, as amended.
- 2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.
- 3) The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol
- 4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.
- 5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.

- 6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- 7) Jovenes de Antano Specialized Transportation, under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform.
- 8) Consistent with the Drug-free Workplace Act of 1988, all Jovenes de Antano Specialized Transportation employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including transit system premises and transit vehicles.

G. DRUG STATUTE CONVICTION

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the Jovenes de Antano Specialized Transportation management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section Q of this policy.

H. TESTING REQUIREMENTS

- 1) Analytical urine drug testing and breathe testing for alcohol will be conducted as required by 49CFR part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in Section K, L, M, and N of this policy, and return to duty/follow-up. All employees covered under company authority will also be subject to testing for reasonable suspicion, post-accident, random and return to duty-follow-up using non-DOT testing forms.
- 2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion and random alcohol test can be performed just before, during, or after the performance of a safety-sensitive job function. Under Jovenes de Antano Specialized Transportation authority, an alcohol test can be performed any time a covered employee is on duty.
- 3) All covered employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with Jovenes de Antano Specialized Transportation. Any safety-sensitive employee who

refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section Q of this policy.

I. DRUG TESTING PROCEDURES

- 1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.
- 2) The drugs that will be tested for include marijuana, cocaine, opiates (including heroin), amphetamines (including methamphetamine and ecstasy), and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.
- 3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to the Jovenes de Antano specialized Transportation Drug and Alcohol Program

Manager (DAPM). If a legitimate explanation is found, the MRO will report the test result as negative to the DAPM.

- 4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
- 5) Any covered employee who questions the results of a required drug test under paragraphs L through P of this policy may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. Jovenes de Antano Specialized Transportation will ensure that the cost for the split specimen are covered in order for a timely analysis of the sample, however Jovenes de Antano Specialized Transportation will seek reimbursement for the split sample test from the employee.
- 6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled. If the split specimen is not available to analyze the MRO will direct Jovenes de Antano Specialized Transportation to retest the employee under direct observation.
- 7) The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary is positive, the split will be retained for testing if so requested by the employee through the Medical Review Officer. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year.
- 8) Observed collections

- a. Consistent with 49 CFR part 40, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:
 - i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to Jovenes de Antano Specialized Transportation that there was not an adequate medical explanation for the result;
 - ii. The MRO reports to Jovenes de Antano Specialized Transportation that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
 - iii. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to you as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).
 - iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
 - v. The temperature on the original specimen was out of range;
 - vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.
 - vii. All follow-up-tests; or
 - viii. All return-to-duty tests

J. ALCOHOL TESTING PROCEDURES

- 1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). Alcohol screening tests may be performed using a non-evidential testing device which is also approved by NHSTA. If the initial test indicates an alcohol concentration of 0.02 or greater, a

second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

- 2) An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section Q. of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in Section Q of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
- 3) Jovenes de Antano Specialized Transportation affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
- 4) The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

K. PRE-EMPLOYMENT TESTING

- 1) All applicants for covered transit positions shall undergo urine drug testing prior to performance of a safety-sensitive function.
 - b. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will

not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.

- c. A non-covered employee shall not be placed, transferred or promoted into a position covered under FTA authority or company authority until the employee takes a drug test with verified negative results.
- d. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be referred to a Substance Abuse Professional. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
- e. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or company authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with Section Q herein.
- f. If a pre-employment test is canceled, Jovenes de Antano Specialized Transportation will require the applicant to take and pass another pre-employment drug test.
- g. In instances where a FTA covered employee is on extended leave for a period of 90 consecutive days or more regardless of reason, and is not in the random testing pool the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.
- h. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- i. Applicants are required (even if ultimately not hired) to provide *Jovenes de Antano Specialized Transportation with signed written releases requesting FTA drug and alcohol records from all*

previous, DOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. *Jovenes de Antano de Specialized Transportation* on is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a DOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a DOT covered employer, the applicant must provide *Jovenes de Antano de Specialized Transportation* proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

L. REASONABLE SUSPICION TESTING

- 1) All *Jovenes de Antano Specialized Transportation* covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, particularly observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under *Jovenes de Antano Specialized Transportation's* authority, a reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.
- 2) *Jovenes de Antano Specialized Transportation* shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in Section Q of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall

immediately be placed on administrative leave pending disciplinary action as specified in Section Q of this policy.

- 3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the Jovenes de Antano Specialized Transportation
- 4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for an assessment and treatment consistent with Section Q of this policy. Jovenes de Antano Specialized Transportation shall place the employee on administrative leave in accordance with the provisions set forth under Section Q of this policy. Testing in this circumstance would be performed under the direct authority of the Jovenes de Antano Specialized Transportation. Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority. However, self-referral does not exempt the covered employee from testing under Federal authority as specified in Sections L through N of this policy or the associated consequences as specified in Section Q.

M. POST-ACCIDENT TESTING

- 1) All covered employees will be required to undergo urine and breathe testing if they are involved in an accident with a transit revenue service vehicle regardless of whether or not the vehicle is in revenue service that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance cannot be completely discounted as a contributing factor to the accident.
- 2) In addition, a post-accident test will be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility; or one or more vehicles incurs disabling damage, unless the operator's performance can be completely discounted as a contributing factor to the accident.
 - a. As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the

transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

- b. The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.
- c. Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.
- d. An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.
- e. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.
- f. In the rare event that Jovenes de Antano Specialized Transportation is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), Jovenes de Antano Specialized Transportation may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

N. RANDOM TESTING

- 1) All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees. Employees covered under company authority will be selected from a pool of non-DOT-covered employees.
- 2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- 3) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates established by Federal regulations for those safety-sensitive employees subject to random testing by Federal regulations. The current random testing rate for drugs established by FTA equals twenty-five percent of the number of covered employees in the pool and the random testing rate for alcohol established by FTA equals ten percent of the number of covered employees in the pool.
- 4) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- 5) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of employees that are included solely under Jovenes de Antano Specialized Transportation authority.
- 6) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can be performed just before, during, or just after the performance of a safety sensitive duty. However, under Jovenes de Antano Specialized Transportation's authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- 7) Employees are required to proceed immediately to the collection site upon notification of their random selection.

O. RETURN-TO-DUTY TESTING

Jovenes de Antano Specialized Transportation will terminate the employment of any employee that tests positive or refuses a test as specified in section Q of this policy. However, in the rare event an employee is reinstated with court order or other action beyond the control of the transit system, the employee must complete the return-to-duty process prior to the performance of safety-sensitive functions. All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. For an initial positive drug test a Return-to-Duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test a Return-to-Duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undo concerns for public safety.

P. FOLLOW-UP TESTING

Covered employees that have returned to duty following a positive or refused a test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

Q. RESULT OF DRUG/ALCOHOL TEST

- 1) Any covered employee that has a verified positive drug or alcohol test will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, referred to a Substance Abuse Professional (SAP) for assessment, and will be terminated.
- 2) Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the

test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.

3) A positive drug and/or alcohol test will also result in disciplinary action as specified herein.

- a. After receiving notice of a verified positive drug test result, a confirmed alcohol test result, or a test refusal, the Jovenes de Antano Specialized Transportation Drug and Alcohol Program Manager will contact the employee's supervisor to have the employee cease performing any safety-sensitive function.
- b. The employee shall be referred to a Substance Abuse Professional and will be terminated.

4) Refusal to submit to a drug/alcohol test shall be considered a positive test result and shall result in termination and referral to an SAP. A test refusal includes the following circumstances:

- a. Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer
- b. Fails to remain at the testing site until the testing process is complete
- c. Fails to attempt to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations
- d. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen
- e. Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
- f. Fails or declines to take a second test the employer or collector has directed you to take
- g. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures
- h. Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)
- i. If the MRO reports that there is verified adulterated or substituted test result
- j. Failure or refusal to sign Step 2 of the alcohol testing form
- k. Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the

waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.

- l. Possess or wear a prosthetic or other device that could be used to interfere with the collection process
 - m. Admit to the collector or MRO that you adulterated or substituted the specimen.
- 5) An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder of the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to an alcohol test with a result of less than 0.02 BAC. If the employee has an alcohol test result of ≥ 0.02 to ≤ 0.039 two or more times within a six month period, the employee will be removed from duty and referred for an assessment and treatment consistent with Section Q 9-10 of this policy.
- 6) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:
- a. Mandatory referral for an assessment by an employer approved substance abuse professional for assessment formulation of a treatment plan, and execution of a return to work agreement;
 - b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from Jovenes de Antano Specialized Transportation employment.
 - i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as defined in Section P of this policy.
 - c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. All tests conducted as part of the return to work agreement will be conducted under company authority and will be performed using non-DOT testing forms.
 - d. A self-referral or management referral to the employer's approved substance abuse professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive

test result in relation to the progressive discipline defined in Section Q of this policy.

- e. Periodic unannounced follow-up drug/alcohol test conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in Section Q of this policy.
 - f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with Jovenes de Antano Specialized Transportation.
 - g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.
- 7) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

R. GRIEVANCE AND APPEAL

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

S. PROPER APPLICATION OF THE POLICY

Jovenes de Antano Specialized Transportation is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

T. INFORMATION DISCLOSURE

- 1) Drug/alcohol testing records shall be maintained by the Jovenes de Antano Specialized Transportation Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.

- 2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
- 3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need to know basis.
- 4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- 5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the preceding.
- 6) Records will be released to the National Transportation Safety Board during an accident investigation.
- 7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
- 8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- 9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over Jovenes de Antano Specialized Transportation or the employee.
- 10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken
- 11) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

This Policy was adopted by the *Jovenes de Antano* on May 23, 2014.

(See attached list of the Board of Directors)

[APPLICABLE SIGNATURES]

Attachment A

<u>Job Title</u>	<u>Job Duties</u>	<u>Testing Authority</u>
Bus/Van Drivers	(job description attached)	American Alliance Drug Testing 334 N. Euclid Suite B Upland, CA 91786 (800) 820-9314

Attachment B Contacts

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

Jovenes de Antano Specialized Transportation Drug and Alcohol Program Manager

Name: Victoria Rivera

Title: Transportation Coordinator

Address: 300 West Street, Hollister, CA 95023

Telephone Number: (831) 637-9275

Medical Review Officer

Name:

Title:

Address:

Telephone Number:

Substance Abuse Professional

Name: SBC Behavior Health

Title: Substance Abuse Services

Address: 1131 San Felipe Road, Hollister, CA 95023

Telephone Number: (831) 636-4020

HHS Certified Laboratory Primary Specimen

Name: Pinnacle Urgent Care

Address: 529 Mc Cray Street, Hollister CA 95023

Telephone Number (831) 634-4444

HHS Certified Laboratory Split Specimen

Name: Pinnacle Urgent Care

Address: 591 Mc Cray Street, Hollister, CA 95023

Telephone Number:

DRUG AND ALCOHOL POLICY ADDENDUM

EFFECTIVE: JANUARY 1, 2018

The United States Department of Transportation (USDOT) – Office of Drug and Alcohol Policy and Compliance (ODAPC) has issued an update to USDOT's drug and alcohol testing regulation (49 CFR Part 40). The new regulation has been revised and the changes (summarized below) will become effective on January 1, 2018. Therefore, the Jovenes de Antano drug and alcohol testing policy is amended as follows:

1. CHANGES TO THE DRUG TESTING PANEL

- a. Four new opioids added to the drug testing panel –
 - i. The USDOT drug test remains a "5-panel" drug test; however, the list of opioids for which are tested will expand from three to seven opioids.
 - ii. The "opioid" category will continue to test for codeine, morphine, and heroin; however, the "opioid" testing panel will now be expanded to include four (4) new semi-synthetic opioids:
 - 1. (1) Hydrocodone, (2) Hydromorphone, (3) Oxycodone, and (4) Oxymorphone.
 - 2. Common brand names for these semi-synthetic opioids include, but may not be limited to: OxyContin®, Percodan®, Percocet®, Vicodin®, Lortab®, Norco®, Dilaudid®, Exalgo®.
- b. 'MDA' will be tested as an initial test analyte
- c. 'MDEA' will no longer be tested for under the "amphetamines" category.

2. BLIND SPECIMEN TESTING

- a. The USDOT no longer requires blind specimens to be submitted to laboratories.

3. ADDITIONS TO THE LIST OF "FATAL FLAWS"

- a. The following three circumstances have been added to the list of "fatal flaws":
 - i. No CCF received by the laboratory with the urine specimen.
 - ii. In cases where a specimen has been collected, there was no specimen submitted with the CCF to the laboratory.
 - iii. Two separate collections are performed using one CCF.

4. MRO VERIFICATION OF PRESCRIPTIONS

- a. When a tested employee is taking a prescribed medication, after verifying the prescription and immediately notifying the employer of a verified negative result, the MRO must then (after notifying the employee) wait five (5) business days to be contacted by the employee's prescribing physician before notifying the employer of a medical qualification issue or significant safety risk.
 - i. Specifically, in cases where an MRO verifies a prescription is consistent with the Controlled Substances Act, but that the MRO has still made a determination that the prescription may disqualify the employee under other USDOT medical qualification requirements, or that the prescription poses a significant safety-risk, the MRO must advise the employee that they will have five (5) business days from the date the MRO reports the verified negative result to the employer for the employee to have their prescribing physician contact the MRO. The prescribing physician will need to contact the MRO to assist the MRO in determining if the medication can be changed to one that does not make the employee medically unqualified or does not pose a significant safety risk. If in the MRO's reasonable medical judgment, a medical qualification issue or a significant safety risk still remains after the MRO communicates with the employee's prescribing physician, or after five (5) business days, whichever is shorter, the MRO must communicate this issue to the employer consistent with 49 CFR Part 40.327.

5. DEFINITIONS

- a. The term "***DOT, the Department, DOT Agency***"
 - i. Modified to encompass all DOT agencies, including, but not limited to, FAA, FRA, FMCSA, FTA, PHMSA, NHTSA, Office of the Secretary (OST), and any designee of a DOT agency.
 - ii. For the purposes of testing under 49 CFR Part 40, the USCG (in the Department of Homeland Security) is considered to be a DOT agency for drug testing purposes.
- b. The term "***Opiate***" is replaced with the term "***Opioid***" in all points of reference.
- c. The definition of "***Alcohol Screening Device (ASD)***" is modified to include reference to the list of approved devices as listed on ODAPC's website.

- d. The definition of "**Evidential Breath Testing Device (EBT)**" is modified to include reference to the list of approved devices as listed on ODAPC's website.
- e. The definition of "**Substance Abuse Professional (SAP)**" will be modified to include reference to ODAPC's website. The fully revised definition includes:
 - i. A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

NOTE: The revisions listed in this addendum include only those revisions to 49 CFR Part 40 which may be referenced in our drug & alcohol testing policy. A list of all the revisions made to 49 CFR Part 40 can be found at <https://www.transportation.gov/odapc>.

Addendum Authorization Date: June 7, 2018

Authorized Official (Printed Name): Pauline Valdivia

Authorized Official (Signature): 

Employee (Printed Name):

Employee (Signature): _____

Employee Receipt Date: _____

Staff Report

To: Local Transportation Authority
From: Kathy Postigo, Administrative Services Specialist **Telephone:** (831) 637-7665
Date: June 21, 2018
Subject: Local Transportation Authority Final Budget FY 2018/19

Staff Recommendation:

APPROVE FY 2018/19 Local Transportation Authority Final Budget.

Summary:

The Local Transportation Authority Final Budget – FY 2018/19 has been prepared using funding assumptions that are consistent with information provided through State and Federal programs. Expenditures match anticipated funding. A second fiscal year is included to the Final Budget for financial planning purposes.

Financial Considerations:

The Local Transportation Authority's total Final Budget – FY 2018/19 is \$3.24 million. This Final Budget includes contracts for transit operations including County Express and Jovenes de Antano. The Final Budget includes personnel and services to support transit operations.

Overall, the Final Budget is \$796,547 (or 19.7%) below the FY 2017/18 Budget. This decrease is mainly attributed to the Special Projects line item. This is due to the purchase of buses with the Public Transportation Modernization, Improvement and Service Enhancement (PTMISEA) funding in 2017/18.

Background:

The San Benito County Local Transportation Authority (LTA) administers and operates public transportation services in the County. County Express provides local Fixed Route service, General Public Dial-a-Ride, ADA Paratransit, and commuter services to the residents of San Benito County. Jovenes de Antano provides transportation for the Senior Lunch Program, Medical & Shopping Assistance Program and Out of County Medical Transportation.

The most important component of the Final Budget focuses on aligning spending with anticipated funding and financing transit operations. The Local Transportation Authority is funded through the Transportation Development Act, Federal Transit Act and various local grants.

Pending grant applications will be amended into the Budget at a future date if the funds become available.

Staff Analysis:

The Local Transportation Authority limits personnel costs to 13.3 percent and directs agency funds to Services and Supplies, Operations, and Capital.

Services and Supplies represents 11.1 percent of the budget. This category includes large expenditures in maintenance and fuel. The fuel estimate is the largest unknown in the Authority's Final Budget. Fluctuations at the gas pump are difficult to predict.

Contracts represent 75.6 percent of expenditures. This category includes contracts with MV Transportation for County Express and Jovenes de Antaño for Specialized Transportation. Contract line item also includes a contract for the Triennial Performance Audit required for fiscal year ending June 30, 2018.

The Local Transportation Authority set up a separate account for the Public Transportation Moderation, Improvements and Service Enhancements Account (PTMISEA), the American Recovery and Reinvestment Act (ARRA) funding and the California Transit Assistance Fund (CTAF). The Final Budget for this account is \$1,149,986. This funding is available for various transit capital needs, purchase of buses and customer services enhancements, transit maintenance and operational enhancements.

The Final Budget is balanced with revenues matching expenditures.

In summary, the Local Transportation Authority meets the goals and objectives of the agency and matches anticipated funding with expenses.

Executive Director Review:_____

Counsel Review: N/A

Attachment: LTA Final Budget – FY 2018/19

San Benito County Local Transportation Authority

Final Budget Fiscal Year 2018/19

June 21, 2018

Prepared and Compiled by:

Kathy Postigo
Administrative Services Specialist

Contact Information:
330 Tres Pinos Road, Suite C 7
Hollister, California 95023
(831) 637-7665
www.SanBenitoCountyExpress.org

LOCAL TRANSPORTATION AUTHORITY FINAL BUDGET FISCAL YEAR 2018/2019

Published by Order of the:
Board of Directors

Jaime DeLaCruz
County of San Benito

Anthony Botelho
County of San Benito

Ignacio Velazquez
City of Hollister

Jim Gillio
City of Hollister

Tony Boch
City of San Juan Bautista

Executive Director
Mary Gilbert

*Prepared and
Compiled by:*
Kathy Postigo
Administrative Services Specialist

Approved: June 21, 2018
Contact Information:
330 Tres Pinos Road, Suite C 7
Hollister, California 95023
(831) 637-7665

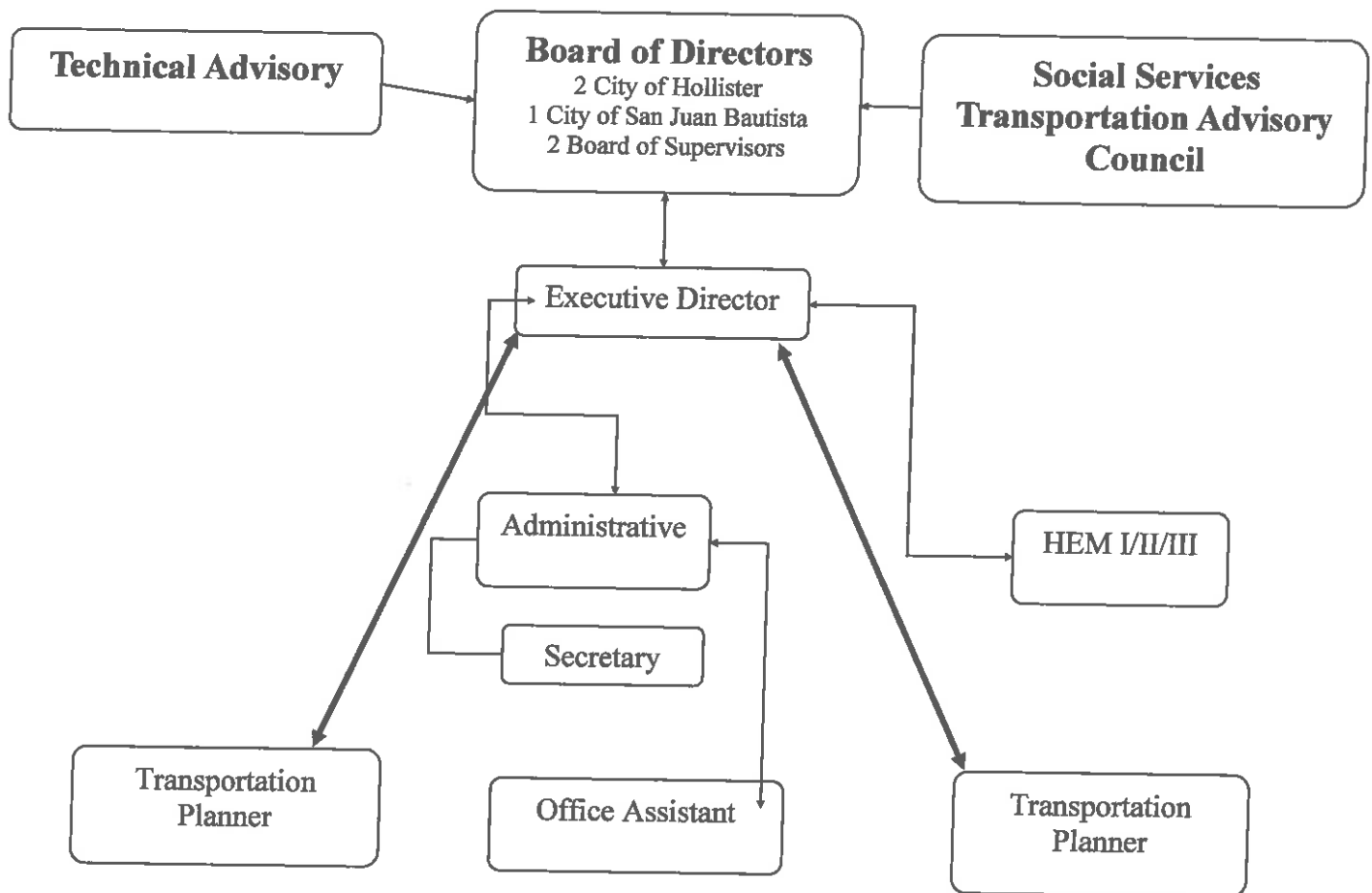
TABLE OF CONTENTS

ORGANIZATION CHART	1
LOCAL TRANSPORTATION AUTHORITY EXECUTIVE SUMMARY	2
LOCAL TRANSPORTATION AUTHORITY GOALS AND OBJECTIVES	2
REVENUE SUMMARY AND EXPENDITURE SUMMARY	3-5
PTMISE & STIMULUS	6-7
 APPENDIX	
PURCHASING POLICIES FOR THE LOCAL TRANSPORTATION AUTHORITY....	8-12
POLICIES FOR AMENDING THE LOCAL TRANSPORTATION AUTHORITY'S BUDGET	13
BUDGET ADJUSTMENT/TRANSFER FORM	14

San Benito County Local Transportation Authority Organizational Chart

Council of San Benito County
Governments
(RTPA)

San Benito County Local
Transportation Authority
(CTSA)



Executive Summary

The Local Transportation Authority (LTA) administers and operates public transportation services in San Benito County under the name of County Express and Jovenes de Antaño. County Express offers public bus service on routes in Hollister and to Gilroy. Additionally, County Express offers complementary Paratransit and Dial-a-Ride service in Hollister and San Juan Bautista. The Local Transportation Authority contracts with Jovenes de Antaño, a non-profit organization, to provide specialized transportation services for the elderly and people with disabilities.

The Local Transportation Authority's total proposed budget for FY 2018/2019 is \$3.24 million. This Budget includes contracts for transit operations for County Express and Jovenes de Antaño. The FY 2018/2019 Budget proposes an overall increased in expenditures. The FY 2018/2019 Budget proposes to keep the existing staffing level the same as the current year with only authorized positions filled. The Services & Supplies line item has decreased due to the expense of the Public Transportation Modernization, Improvement and Service Enhancement Account funding for purchase of buses. The Contracts line item increased due to anticipation of the new contracts for transit and specialized transportation services. The Other line item has decreased due to the change of OPEB cost for the Local Transportation Authority employees.

The Local Transportation Authority FY 2018/2019 Budget is balanced and supports the policies of the Board of Directors and the needs of the community.

Goals and Objectives

The Local Transportation Authority goals are to continue transit operations, implement any unmet transit needs, and implement recommendations of the Short Range Transit Plan to streamline services and maximize funding. The Local Transportation Authority also develops and maintains a comprehensive regional transit system that serves the needs of the community, with particular emphasis on serving transit dependent populations and improving the multimodal transportation network.

The implementations of the Short Range Long Range Transit Plans will continue in FY 2018/2019. The Local Transportation Authority will continue work on improving the transit system during FY 2018/2019, including upgrades to the vehicle fleet and other system infrastructure.

In FY 2018/2019 the Local Transportation Authority will be going out for Request for Proposals for the contracts of the transit operations and the specialized transportation services.

**LOCAL TRANSPORTATION AUTHORITY
FINAL BUDGET - FY 2018/19
EXPENDITURES**

EXPENDITURE DESCRIPTION		Adopted Budget FY 17/18	Estimated Actual to June 30, 2018	Proposed Budget FY 18/19	Budget Estimate for FY 19/20	Variance FY 17/18 FY 18/19
Personnel						
610.101	Salaries	249,512	226,389	280,731	250,000	31,219
610.101	Salaries	-	-	-	-	-
610.101	Salaries (5304 Bus Stop IT)	-	-	-	-	-
	Total	249,512	226,389	280,731	250,000	31,219
Services and Supplies						
619.126	Magazines and Subscriptions	-	-	-	-	-
619.130	Clothing and Safety	1,400	1,500	1,500	1,500	100
619.132	Communications	1,020	1,021	1,025	1,025	5
619.138	Computer Maintenance	3,700	3,800	1,000	600	(2,700)
619.140	Computer Supplies	-	-	-	-	-
619.142	Computer Software	200	-	200	200	-
645.701	General Insurance	4,045	4,045	4,200	4,200	155
619.152	Maintenance of Equipment	60,000	65,000	66,000	66,500	6,000
619.154	Maintenance of Equipment - Oil and Gas	140,000	139,000	141,000	142,000	1,000
619.158	Maintenance of Structures and Grounds	500	300	500	500	-
619.280	Marketing	520	650	700	650	180
619.166	Membership Dues	560	560	560	600	-
619.176	Special Project Supplies - Supplies	600	586	500	500	(100)
619.174	Supplies	450	200	250	350	(200)
619.172	Postage and Delivery	25	25	25	25	-
619.210	Professional Service - Legal	5,000	3,000	4,000	4,500	(1,000)
619.180	Public and Legal Notices	265	100	100	150	(165)
619.184	Rent Equipment	-	-	-	-	-
619.186	Rent Structures	-	-	-	-	-
619.190	Small Tools	250	250	250	250	-
619.268	Special Dept. Expense - Other	-	-	-	-	-
619.196	Travel Lodging	300	100	500	500	200
619.198	Travel Meals	150	150	200	200	50
619.194	Training	1,400	2,000	2,000	2,000	600
619.200	Travel Transportation	150	300	150	150	-
619.306	Utilities	7,160	-	7,160	12,000	-
	Total	227,695	222,587	231,820	238,400	4,125
Contracts						
619.250	Special Dept. Expense - Contracts	1,308,192	1,270,000	1,582,865	1,600,000	274,673
	Total	1,308,192	1,270,000	1,582,865	1,600,000	274,673
Capital						
650.302	Equipment other than Computer	-	-	-	-	-
650.303	Computer Hardware	-	-	-	-	-
650.301	Automobiles, Trucks, Vans	-	-	-	-	-
	Total	0	0	-	-	0
Other						
649.320	OPEB	3,378	3,378	-	3,700.00	-
	Total	3,378	3,378	-	3,700	-
TOTAL PROPOSED BUDGET		1,788,777	1,722,354	2,095,416	2,092,100	310,017

**LOCAL TRANSPORTATION AUTHORITY
FINAL BUDGET - FY 2018/19
REVENUES AND EXPENDITURES VS REVENUES**

REVENUE DESCRIPTION		Adopted Budget FY 17/18	Estimated Actual to June 30, 2018	Proposed Budget FY 18/19	Budget Estimate for FY 19/20	Variance FY 17/18 FY 18/19
570.003	Sale of Fixed Assets	3,000	2,568	3,000	3,000	-
551.113	Misc. (FTA 5311 Operating Assistance)	298,186	295,228	298,186	304,997	-
551.113	FTA 5304 (IT Tech for Safety & Efficiency)	-	44,081	-	-	-
551.113	Low Carbon Transit Operations Program	24,983	27,838	71,288	-	46,305
576.012	STA/LTF transfer	1,292,608	1,186,989	1,552,942	1,609,103	260,334
562.803	County Express Fares	170,000	165,650	170,000	175,000	-
TOTAL REVENUE		1,788,778	1,722,354	2,095,416	2,092,100	306,639

EXPENDITURES VS REVENUES

		Adopted Budget FY 17/18	Estimated Actual to June 30, 2018	Proposed Budget FY 18/19	Budget Estimate for FY 19/20	Variance FY 17/18 FY 18/19
EXPENDITURES						
Personnel		249,512	226,389	280,731	250,000	31,219
Services & Supplies		2,480,867	886,888	1,381,806	238,400	(1,099,061)
Contracts		1,308,192	1,270,000	1,582,865	1,600,000	274,673
Capital		0	0	-	-	-
Other		3,378	-	-	3,700	(3,378)
TOTAL EXPENDITURES		4,041,949	2,383,277	3,245,402	2,092,100	(796,547)
REVENUES						
Revenues		2,139,258	1,210,256	1,692,460	482,997	(446,798)
Operating Transfers (in)		1,292,608	1,186,989	1,552,942	1,609,103	260,334
TOTAL REVENUE		3,431,866	2,397,245	3,245,402	2,092,100	(186,464)
TOTAL PROPOSED BUDGET		4,041,949	2,383,277	3,245,402	2,092,100	(796,547)
FUND BALANCE				(0)		
DESIGNATED FUND BALANCE				-		
UNDESIGNATED FUND BALANCE				(0)		

The Local Transportation Authority's budget accounts include:

PTMISEA: Public Transportation Modernization, Improvement and Service enhancement Program
ARRA: American Recovery and Reinvestment Act
CTAF: California Transit Assistance Fund

**LOCAL TRANSPORTATION AUTHORITY
FINAL BUDGET - FY 2018/19
BUDGET NOTES**

BUDGET NOTES

	Proposed Budget FY 18/19
Personnel Personnel includes salaries, administrative support, and professional services. These costs include regular staff salaries, executive director services and temporary help.	
Total	280,731
Services and Supplies Services and Supplies include normal budget items to support transit operations. The largest expenses include general insurance, maintenance, and fuel.	
Total	1,381,806
Contracts Contracts includes transit operations for fixed route, intercounty route, dial-a-ride, (County Express \$1,257,285) out of county medical and senior lunch program (Jovenes de Antano \$308,580). Also \$19,000 for the Triennial Performance Audit.	
Total	1,582,865
Capital No Capital expenditures are proposed in this FINAL Budget.	
Total	-
Other LTA share of OPEB costs.	
Total	-
SRTP: Short Range Transit Plan LRTP: Long Range Transit Plan	
TOTAL PROPOSED BUDGET	3,245,402

LOCAL TRANSPORTATION AUTHORITY - PTMISEA, ARRA, AND CTAF
FINAL BUDGET - FY 2018/19
EXPENDITURES

EXPENDITURE DESCRIPTION	Adopted Budget FY 17/18	Estimated Actual to June 30, 2018	Proposed Budget FY 18/19	Budget Estimate for FY 19/20	Variance FY 17/18 FY 18/19
Personnel					
610.101 Salaries(Brochures)	-	-	-	-	-
623.510 Administrative Support	-	-	-	-	-
Total	-	-	-	-	-
Services and Supplies					
619.126 Magazines and Subscriptions	-	-	-	-	-
619.130 Clothing and Safety	-	-	-	-	-
619.132 Communications	-	-	-	-	-
619.138 Computer Maintenance	-	-	-	-	-
619.140 Computer Supplies	-	-	-	-	-
645.701 General Insurance	-	-	-	-	-
619.152 Maintenance of Equipment	-	-	-	-	-
619.154 Maintenance of Equipment - Oil and Gas	-	-	-	-	-
619.158 Maintenance of Structures and Grounds	-	-	-	-	-
619.280 Marketing	-	-	-	-	-
619.166 Membership Dues	-	-	-	-	-
619.176 Special Project Supplies - Supplies	-	-	-	-	-
619.174 Supplies	-	-	-	-	-
619.172 Postage and Delivery	-	-	-	-	-
619.210 Professional Service - Legal	-	-	-	-	-
619.180 Public and Legal Notices	-	-	-	-	-
619.184 Rent Equipment	-	-	-	-	-
619.186 Rent Structures	-	-	-	-	-
619.190 Small Tools	-	-	-	-	-
619.268 Special Dept. Expense - Other	2,253,172	664,301	1,149,986	-	(1,103,186)
619.196 Travel Lodging	-	-	-	-	-
619.198 Travel Meals	-	-	-	-	-
619.194 Training	-	-	-	-	-
619.200 Travel Transportation	-	-	-	-	-
619.306 Utilities	-	-	-	-	-
Total	2,253,172	664,301	1,149,986	-	(1,103,186)
Contracts					
619.250 Special Dept. Expense - Contracts	-	-	-	-	-
Total	-	-	-	-	-
Capital					
650.302 Equip other than Computer(CTSGP/CTAF)	-	-	-	-	-
650.303 Computer Hardware	-	-	-	-	-
650.301 Automobiles, Trucks, Vans	-	-	-	-	-
Total	-	-	-	-	-
Other					
649.320 Operating Transfers	-	-	-	-	-
Total	-	-	-	-	-
TOTAL PROPOSED BUDGET	2,253,172	664,301	1,149,986	-	(1,103,186)

**LOCAL TRANSPORTATION AUTHORITY - PTMISEA, ARRA, AND CTAF
FINAL BUDGET - FY 2018/19
REVENUES AND EXPENDITURES VS REVENUES**

REVENUE DESCRIPTION		Adopted Budget FY 17/18	Estimated Actual to June 30, 2018	Proposed Budget FY 18/19	Budget Estimate for FY 19/20	Variance FY 17/18 FY 18/19
551.401	OES (State)	-	46,712	84,081	-	84,081
551.401	PTMISEA (Proposition B)	1,055,315	-	1,055,315	-	-
551.401	ARRA (Bus Stop Shelters)	-	-	-	-	-
	Fund Balance (carryover previous years)	587,773	622,179	10,590	-	(577,183)
541.001	Interest	-	6,000	-	-	-
TOTAL REVENUE		1,643,088	674,891	1,149,986	-	(493,102)

EXPENDITURES VS REVENUES		Adopted Budget FY 17/18	Estimated Actual to June 30, 2018	Proposed Budget FY 18/19	Budget Estimate for FY 19/20	Variance FY 17/18 FY 18/19
EXPENDITURES						
	Personnel	-	-	-	-	-
	Services & Supplies	2,253,172	664,301	1,149,986	-	(1,103,186)
	Contracts	-	-	-	-	-
	Capital	-	-	-	-	-
	Other	-	-	-	-	-
TOTAL EXPENDITURES		2,253,172	664,301	1,149,986	-	(1,103,186)
REVENUES						
	Revenues	1,643,088	674,891	1,149,986	-	1,149,986
TOTAL REVENUES		1,643,088	674,891	1,149,986	-	1,149,986
TOTAL PROPOSED BUDGET		2,253,172	664,301	1,149,986	-	(1,103,186)
FUND BALANCE				(0)		
DESIGNATED FUND BALANCE				-		
UNDESIGNATED FUND BALANCE				(0)		

BUDGET NOTES

	Proposed Budget FY 18/19
Personnel No Personnel expenditures are proposed in this FINAL Budget.	
Total	-
Services and Supplies Special projects includes purchase of buses to increase service. Customer services enhancements, transit maintenance and operational enhancements. Purchased of buses will be capitalize in LTA.	
Total	1,149,986
Contracts No Contract expenditures are proposed in this FINAL Budget.	
Total	-
Capital No Capital expenditures are proposed in this FINAL Budget.	
Total	-
Other No Other expenditures are proposed in this FINAL Budget.	
Total	-
TOTAL PROPOSED BUDGET	1,149,986

PTMISEA: Public Transportation Modernization, Improvement and Service Enhancement Program
ARRA: American Recovery and Reinvestment Act
CTAF: California Transit Assistance Fund

APPENDIX

LOCAL TRANSPORTATION AUTHORITY

FINAL BUDGET

FISCAL YEAR 2018/2019

PURCHASING POLICIES FOR THE LOCAL TRANSPORTATION AUTHORITY

A. DEFINITIONS

For the purpose of this article, the following words and phrases shall have the meaning respectively ascribed by this section:

- 1) Agency: Local Transportation Authority
- 2) Board of Directors: The governing body of the agency.
- 3) Contractual services: Any telephone, gas, water, electric light and power services; the rental of equipment and machinery; insurance; the services of attorneys, physicians, electricians, engineers, consultants or other individuals or organizations possessing a high degree of technical skill; and all other types of agreements under which the contract provides services which are required by the agency, but not furnished by its own employees. Purchase of space for legal advertising shall not be subject to the provisions of this chapter.
- 4) Fixed Assets: Any piece of tangible personal property having an estimated useful life of one calendar year or more, capable of being permanently identified as an individual unit of property, and belonging to one of the general classes of property considered a fixed asset in accordance with generally accepted accounting practices (i.e., equipment, machinery, vehicles, furnishings,) with an accounting value of \$3,000 or more.
- 5) Local Business: any person or entity that regularly maintains a place of business and transacts business in, or maintains an inventory of merchandise for sale in, the County of San Benito.
- 6) Professional Services: An independent contractor's expert advice or professional services that involve extended analysis, personal expertise, the exercise of discretion and independent judgment in their performance, which are of an advisory nature, provide a recommended course of action, and have an end product transmitting information which is related to LTA programs. Providers are selected on the basis of qualification, subject to the negotiation of a fair and reasonable compensation. Classification as professional services may also require an advanced, specialized type of knowledge, expertise, technical skill or training customarily acquired either by a prolonged course of study or equivalent experience, such as accountants, financial advisors, auditors, grant writers, program specialists, labor consultants and negotiators, investigators, law enforcement retained certified laboratories, attorneys and other litigation-related specialist, environmental consultants, appraisers, architects, landscape architects, surveyors, engineers, design professionals, and construction project management firms.
- 7) Supplies and equipment: Any personal property, such as physical articles, materials or things, which property shall furnished to, or shall be used by the agency.

B. PURPOSE OF CHAPTER

The purpose of this chapter is to adopt policies and procedures governing purchases of supplies, equipment and contractual services by the agency in accordance with section 54200 et seq. of the Government Code. This chapter is not intended to conflict with applicable provisions of state law and shall be interpreted as supplementary thereto.

C. DESIGNATION OF THE PURCHASING AGENT

The Board of Directors appoints the Executive Director or designee to serve as the Purchasing Agent for Local Transportation Authority.

D. PURCHASING AGENT – POWERS AND DUTIES

The Purchasing Agent shall have all the duties and powers prescribed by the laws of the state including the following duties:

1. Acquisition of Personal Property – To purchase equipment, materials, supplies and all other personal property and services for LTA where funding has been approved and budgeted by the Board, unless specified otherwise in the Purchasing Policy.
2. Professional Service Contracts – To engage independent contractors to perform professional services through contracts for the LTA with or without furnishing of material where the aggregate cost does not exceed \$10,000. Contracts shall not be split between fiscal years to circumvent this dollar limitation.
3. Renewal/Extension of Contracts – To renew or extend contracts for professional services that are critical to ongoing LTA projects provided the financial obligation falls within his/her preview of authority.
4. Rental of Real Property – To negotiate and execute in the name of LTA, contracts to lease or rent for the LTA real property or storage space where funding has been approved by the LTA Board, with an annual rent not to exceed \$10,000.

E. DESIGNATION OF ASSISTANT PURCHASING AGENTS

The Purchasing Agent has the authority to designate such assistants and limit or rescind authority. The Purchasing Agent may delegate the authority to purchase to a deputy or assistant.

F. ASSISTANT PURCHASING AGENT – POWERS AND DUTIES

The Assistant Purchasing Agent shall have all the duties and powers prescribed by laws of the state relating to LTA purchasing agents, and orders of the Board of Directors to include the following duties:

1. Acquisition of Personal Property - To purchase, equipment, materials, supplies and all other personal property and services for LTA where funding has been approved and budgeted by the Board unless specified otherwise in the LTA Purchasing Policy.
2. Professional Service Contracts – To engage independent contractors for professional services through contracts where the cost does not exceed \$3,000, where funding has been approved and budgeted. Contracts shall not be split between fiscal years to circumvent this dollar limitation.

3. Rental of Real Property – To negotiate and execute in the name of LTA, contracts to lease or rent for LTA real property or storage space, with an annual rent not to exceed \$3,000, where funding has been approved and budgeted by the Board.

G. PURCHASING METHODS AND PROCEDURES

In the performance of his/her function hereunder, the Purchasing Agent or Assistant Purchasing Agent shall comply with all applicable statutes and regulations. Purchases shall be made using such methods and procedures to secure the lowest price consistent with the quality desirable for the use intended.

H. EXCEPTIONS TO THE COMPETITIVE PROCESS

Except as otherwise directed by law, or as directed by the Board of Directors, competitive process is not required for the following purchases:

1. Expert and professional services which involve extended analysis: the exercise of discretion and independent judgment in their performance; and an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience as defined under Definitions – Professional Services.
2. Legal brief printing, stenographic services, and transcripts.
3. Books, publications, subscriptions, recordings, motion picture films, and annual book and periodical contracts.
4. Insurance.
5. Contracts for services which by law when some other office or body is specifically charged with obtaining.
6. Public utility services.
7. Ordinary travel expenses.
8. Personal property or services obtainable through master contracts or purchasing association pools identified for the use and benefit of all local agencies.
9. Where law fixes the price of property or services.
10. Training, seminars, and classes for LTA personnel.
11. Sole source procurement, defined as an award for a commodity or service which can only be purchased from one supplier, usually because of its technological, specialized, or unique character.
12. Emergency purchases necessary when unforeseen circumstances require an immediate purchase in order to avoid a hazard to life or property or serious interruption of the operation of LTA, or the necessary emergency repair of LTA equipment.

13. When the product/services are needed by LTA pending a contract award and a contractor agrees to provide such product/services at the same contract price as a previous award, until a new contract has been awarded. Such interim period contracts shall not exceed six months.

I. CONTRACTUAL PROCEDURES

All Contracts are binding legal documents that are subject to the following provisions:

1. All contracts, leases and any amendments or modifications shall be reviewed and approved as to legal form by the County Counsel's Office prior to execution of the Purchasing Agent, Assistant Purchasing Agents and/or Board of Directors.
2. Prior approval shall be obtained from County Counsel's Office before any contracts for professional services relating to outside attorney services are executed.

J. PREFERENCE FOR PRODUCTS CONTAINING RECYCLED MATERIALS

1. The Purchasing Agent shall establish and maintain procedures and specifications to ensure that LTA gives preference, in its purchasing decisions, to products containing the maximum amount of recycled materials, where the quality and fitness of such products is equal to those of products containing no recycled materials, or a lesser amount of recycled materials, and where the total cost of such products is reasonable in comparison to the total cost of those products containing no recycled materials, or a lesser amount of recycled materials.
2. "Product containing recycled materials" means, with respect to a paper product, a "recycled paper product" as that term is defined in Section 12301© of the Public Contract Code, and means, with respect to other products, a "recycled product," as that term is defined in Section 12301(d) of the Public Contract Code.
3. To the extent that the Public Contract Code or other provisions of state law provide for purchasing preferences which are more extensive than those established herein, or for additional procedures to increase the use of recycled materials, the provisions of state law shall prevail.

K. PREFERENCE FOR LOCAL BUSINESSES

When all other factors are determined to be equal, preference shall be given to individuals or firms having a bona-fide place of business within the County of San Benito. Any responsive, responsible bid, proposal or quote for materials and supplies from a local business which is within the percent (10%) of the lowest responsive, responsible bid, proposal or quote for materials and supplies shall be considered equal to the amount of the lowest responsive, responsible bid, proposal or quote. If the business has additional places of business located outside of the County of San Benito, the designated point of sale for all resulting purchases shall be the bona-fide place of business located within the County of San Benito.

L. UNLAWFUL PURCHASES

Failure of the Purchasing Agent or Assistant Purchasing Agent to adhere to the provisions of this policy may incur costs not meriting the definition of county charges and therefore becoming the personal responsibility of the Purchasing Agent or Assistant Purchasing Agent. Except as otherwise provided by law, no purchase of Materials, supplies, furnishings, equipment, other personal property or contractual services shall be made in excess of the amount of the appropriations allowed by the budget.

M. EMERGENCY PURCHASES WITHOUT PRIOR APPROVAL

Emergency purchases may be made by the Purchasing Agent or Assistant Purchasing Agent when a generally unexpected occurrence or unforeseen circumstances require an immediate purchase of material, supplies or equipment:

1. in order to avoid a hazard to life or property;
2. in order to avoid a serious interruption or discontinuance of essential services or operation of LTA;
3. in order to make necessary emergency repairs of LTA equipment required to provide essential services or for the operation of LTA; or
4. in order to avoid economic loss to LTA.

Emergency purchases shall be submitted to the Board of Directors for ratification at its next meeting.

N. PROTEST PROCEDURES

Any aggrieved potential provider of supplies, equipment or contractual services may file a written protest against a potential purchase by the board of directors. The protest shall be filed with the Executive Director one (1) day before the day of the meeting at which the board of directors is initially scheduled to consider the subject purchase. The exact basis for the protest and proof that the protester is a viable and responsible provider of the supplies, equipment or services sought shall be specified in writing and filed with the Executive Director who shall render a written decision in response to the protest not later than five (5) days after the day of the meeting at which the board of directors is initially scheduled to consider the subject purchase. Any protester disagreeing with the decision of the Executive Director may file an appeal not later than five (5) days after the date of the Executive Director's decision. The appeal shall state the basis of error that the Executive Director allegedly made. The board of directors shall hear the appeal at the next meeting when the appeal may be placed on the agenda.

O. ACCEPTANCE OF GRATUITIES

The acceptance of any gratuity in the form of cash, merchandise or any other thing of value by an official or employee of the agency, or by an official or employee of a public agency contracting with the agency, from a vendor or contractor, or prospective vendor or contractor, is prohibited and shall be a cause for disciplinary action in the case of an agency employee or official, or in the case of an official or employee of the contracting public entity, cause for termination of the contract between the agency and the public entity.

Policies for Amending the Local Transportation Authority's Budget

Periodically, it may be necessary for the Executive Director to take financial steps to support administrative functions. A transfer of funds from one item to another may sometimes be needed due to inadequate budget allocations or unforeseen circumstances. Below are the policies for amending the Local Transportation Authority's Budget.

1. BUDGET TRANSFER REQUEST FORM

- a. A Budget Adjustment/Transfer Form must be completed to initiate any budget transfer. (See Attachment 1)
- b. The Budget Adjustment/Transfer Form must be signed by the Executive Director and/or the Administrative Services Specialist.

2. EXECUTIVE DIRECTOR APPROVAL OF BUDGET TRANSFERS

Interdepartmental transfers of less than \$10,000.

Interobject transfers of less than \$10,000.

Intraobject transfers of any amount.

3. BOARD APPROVAL OF BUDGET TRANSFERS

- a. The following Budget Transfers can only be made with prior approval of the Board of Directors.

Transfers of revenue increases.

Interdepartmental transfers of more than \$10,000.

Interobject transfers of more than \$10,000.

Note: Intraobject is within object titles example within Services and Supplies. Interobject is between object titles example between Contracts and Personnel. The following Budget Transfers may be made with prior approval of the Executive Director.

☐ **Appropriation/Est. Revenue Increase**
(Requires Board Approval)

☐ **Interdepartmental Transfer or Interobject Transfer >\$10,000**
(Requires Board Approval)

☐ **Interobject Transfer <\$10,000**
(Requires Executive Director and Admin Ser Spe)

☐ **Intraobject Transfer**
(Requires Executive Director)

□ □ □ □ □

Total

Submitted: _____

Approval by COG Board

Date

Clerk of the Board: _____