

RESOLUTION NO. 070813-2

A RESOLUTION APPROVING THE FEDERAL TRANSIT ADMINISTRATION/KANSAS DEPARTMENT OF TRANSPORTATION ANTI-DRUG AND ALCOHOL MISUSE PREVENTION POLICY AS REVISED IN JUNE 2013 FOR THE CITY OF ABILENE, KANSAS

WHEREAS, the City of Abilene receives federal and state grant dollars for its operation of public transportation services to its citizens and the general public; and

WHEREAS, the Federal Transit Administration (“FTA”) and Kansas Department of Transportation (“KDOT”) have an adopted Anti-Drug and Alcohol Misuse Prevention Policy to ensure compliance with all applicable Department of Transportation regulations that require affirmative actions to eliminate the impact of the use of controlled substances and misuse of alcohol in the workplace.

NOW, THEREFORE BE IT RESOLVED, by the City Commission of the City of Abilene, as follows:

Section 1. Adopted Policy. That the FTA/KDOT Anti-Drug and Alcohol Misuse and Prevention Policy, as revised in June 2013, is hereby adopted as attached hereto as **Exhibit A**.

Section 2. Personnel Policy. Said policy shall be incorporated as an appendix to the Personnel Policy of the City of Abilene, Kansas, and shall be applicable to all employees operating public transit operations for the City.

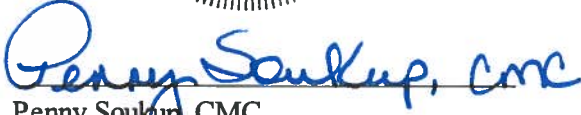
Section 3. Implementation. The City Commission is hereby authorized to sign the Policy Approval form, as required, indicating the approval of the City of Abilene of said policy. The City Manager shall be authorized to enforce the provisions as provided therein and in applicable resolutions, ordinances, and laws.

Section 4. Effective Date. That the effects of this Resolution shall be in full force after its approval by the City Commission.

PASSED AND APPROVED by the Governing Body of the City of Abilene, Kansas this 8th day of July, 2013.



ATTEST:


Penny Soukup, CMC
City Clerk

CITY OF ABILENE, KANSAS

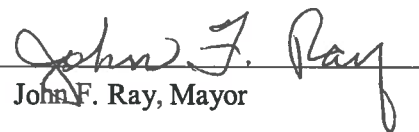
By: 
John F. Ray, Mayor

EXHIBIT A

**FTA/KDOT
Anti-Drug and Alcohol Misuse Prevention Policy**

July 8, 2013



800-886-1123/785-232-5016 • 534 S. Kansas Avenue, Ste. 600, Topeka, Ks 66603 • www.tmhcservices.com

**CITY OF ABILENE
ABILENE, KANSAS**

**Anti-Drug and Alcohol Misuse Prevention Policy
(FTA / DOT)**

**Policy Date: October 2007
Revised: June 2013**

Anti-Drug and Alcohol Misuse Prevention Policy Policy Approval

We have reviewed and concur with the contents of the City of Abilene Anti-Drug and Alcohol Misuse Prevention Policy. Our signatures indicate approval of the policy and its contents.

John F. Row, Mayor
City of Abilene Governing Board

7/8/2013
Date

City of Abilene Governing Board

Date

City of Abilene Governing Board

Date

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I. GENERAL

A. Purpose

1. City of Abilene has a long-standing commitment to maintaining the highest standards for employee safety and health. The use of controlled substances and the misuse of alcohol are contrary to these high standards. The purpose of this policy is to bring City of Abilene into compliance with all DOT regulations that require affirmative actions to eliminate the impact of the use of controlled substances and misuse of alcohol in the workplace. The purpose of this anti-drug and alcohol misuse prevention policy is to reduce accidents that result from the use of controlled substances and misuse of alcohol, thereby reducing fatalities, injuries, and property damage.
2. **This policy does not create any contractual rights in favor of employees to whom the Policy is applicable. Nor does this Policy in any way alter the at-will nature of employment or imply that discharge will occur only "for cause".**
3. Title 49 Code of Federal Regulations (CFR) Part 655.3 requires any recipient of Federal financial assistance under Sections 5307, 5309, or 5311 of the Federal Transit Act, as amended and any contractor to comply with these regulations, and submit to drug and alcohol testing administered in accordance with part 655. Recipients of these funds and their subcontractors must test their employees for prohibited drugs and misuse of alcohol under the following work-related conditions:

DRUG TESTING

- a. Pre-employment
- b. Random
- c. Post-accident
- d. Reasonable cause
- e. Return-to-duty
- f. Follow-up

ALCOHOL TESTING

- a. Random
- b. Post-accident
- c. Reasonable cause
- d. Return-to-duty
- e. Follow-up

4. **Those areas of the policy printed in bold and underlined text reflect City of Abilene's independent authority to require additional provisions with regard to the drug and alcohol testing procedures.**
5. **The presence of controlled substances in the body as well as the use or possession of controlled substances and/or alcoholic beverages while on City of Abilene property, or in any City of Abilene vehicle, or on duty, including breaks or lunch, paid or unpaid, on any shift, is strictly prohibited.**
6. **Drug and Alcohol Program Manager:** Appendix B contains the name, address, and telephone number of the responsible individual(s). The DAPM shall be responsible for providing oversight and evaluation on the policy; providing guidance and counseling; reviewing of all discipline applied under this policy for consistency and conformance to human resources policies and procedures; scheduling drug and alcohol tests for random, return-to-duty and follow-up testing; maintaining a locked file system with limited access to all test results; and promotion of the employee assistance program (EAP). City of Abilene shall ensure that all covered employees are aware of the provisions and coverage of City of Abilene's anti-drug and alcohol misuse policy.
7. **Designated Employer Representative:** Appendix B contains the name, address, and telephone number of the Designated Employer Representative (DER). The DER is authorized by City of Abilene to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer consistent with the requirements of 49 CFR Part 40.

B. Applicability

1. This policy applies to any employee of City of Abilene who perform safety-sensitive functions.
2. The FTA has determined that "safety-sensitive" functions are performed by those who (49 CFR Part 655.4):
 - a. Operate revenue service vehicles including when not in revenue service.
 - b. Operate non-revenue service vehicles that require drivers to hold a CDL.
 - c. Dispatch or control revenue service vehicles.
 - d. Performing maintenance function including repairing, overhauling, and rebuilding revenue service vehicles or equipment used in revenue service;
 - e. Provide security and carry a firearm.
 - f. These categories include supervisors who perform these functions. Supervisors of employees in these categories who do not themselves perform these functions, are excluded.
 - g. Volunteers required to hold a commercial driver's license to operate the vehicle; or perform a safety-sensitive function for any entity subject to this part.
 - h. Contractor employees that stand in the shoes of Transit System employees.
 - i. A list of safety-sensitive positions that perform one of the above-mentioned duties is found in Appendix C.

C. Testing Procedures

It is a condition of employment that all safety-sensitive employees submit to drug and alcohol testing. All testing conducted under this policy will follow the procedures as set forth in 49 CFR Part 40. The procedures have been developed to protect the employee and the integrity of the testing process, to safeguard the validity of the test results, and to ensure that the test results are attributed to the correct employee.

D. Definitions

Words and phrases used in this policy are as defined and found in 49 CFR Part 40.3 and 655.4.

II. PROHIBITIONS

City of Abilene shall test each covered employee who performs a safety-sensitive function for evidence of the following substances: Alcohol, Marijuana, Cocaine, Opiates, Phencyclidine, Amphetamines, Heroin (6-acetylmorphine), and MDMA (Ecstasy).

A. Alcohol

1. No employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater.
2. No employee shall use alcohol 4 hours prior, on call, or while performing a safety-sensitive function. This includes beverages containing alcohol or substances containing alcohol including any medication, mouthwash, food, candy, or any other substance that would cause alcohol to be present in the body.
3. No employee required to take a post-accident alcohol test shall use alcohol for eight hours following the accident, or until a post-accident alcohol test has been administered, whichever occurs first.

B. Controlled Substances

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance.

1. ILLEGAL DRUGS: The use of any illegal drug or any substance (identified in Schedules I through V of the Controlled Substance Act) is prohibited at all times unless a legal prescription has been written for the substance. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.
2. 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 supervisor. In addition, the employee must obtain a written release from the attending physician
3. releasing the person to perform their job duties any time they obtain a performance-altering prescription.

3. **PRESCRIPTION DRUGS:** A legally prescribed drug means that the employee has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing safety-sensitive functions is prohibited.

C. Refusal to Submit to a Required Alcohol or Controlled Substances Test

No employee shall refuse to submit to an alcohol or controlled substance test required by 49 CFR Part 40 and 655.

1. As an employee, you have refused to take a drug test if you:
 - a. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer.
 - b. Fail to remain at the testing site until the testing process is complete.
 - c. Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations.
 - d. In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of the provision of a specimen.
 - e. Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
 - f. Fail or decline to take an additional drug test the employer or collector has directed you to take.
 - g. Failing to undergo a medical examination when required.
 - h. Failing to cooperate with any part of the testing process.
 - i. For an observed collection, fail to follow the observer's instructions to raise and lower clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have a type of prosthetic or other device that could be used to interfere with the collection process.
 - j. Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
 - k. Admit to the collector or MRO that you adulterated or substituted the specimen.
 - l. As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.
 - m. Fail to provide an adequate amount of saliva or breath for any alcohol test required by this part or DOT agency regulations.
 - n. Fail to provide a sufficient breath specimen, and the physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
 - o. Failing to sign Step 2 of the alcohol test form.
2. For Pre-employment Tests the Following are NOT Refusals (Once the donor has received the specimen collection cup from the collector the test has commenced.)
 - a. Failure to appear for the test.
 - b. Failure to remain at the site prior to the commencement of the test
 - c. Failure to provide a specimen before the test commences.

III. TESTS REQUIRED (DOT PANEL)

A. Pre-employment or Transfer Testing

The following conditions establish who may be screened and under what circumstances the drug and alcohol screening may occur. All testing will comply with 49 CFR Part 40 and Part 655.

All applicants for employment in a safety-sensitive position with City of Abilene will undergo urine drug testing immediately following the offer of employment. All current employees who are requesting transfer to a position covered in this policy are also subject to this policy. This policy covers applicants for, or requests for transfer to, full-time or part-time employment and applicants for regular or temporary employment.

Testing involves the following situations:

1. Prior to the first time an employee or applicant performs any safety-sensitive functions, the employee will undergo pre-employment testing. If the employee has a verified negative result, no further immediate action is necessary. (§655.41(a)(1))
2. When a covered employee or applicant has previously failed or refused a pre-employment drug test, the employee must provide proof to the Director of City of Abilene of having completed a referral, evaluation, and treatment plan as described in section 655.62 of subpart G. (§655.41(a)(2))
3. Prior to transferring an employee from a Non safety-sensitive function to a safety-sensitive function, the employee must undergo a pre-employment drug test and have a verified negative result. (§655.41(b))
4. If a pre-employment drug test is canceled, the employee or applicant is required to schedule another pre-employment drug test and have a verified negative result. (§655.41(c))
5. When a covered employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days, and the employee has not been in the random selection pool during that time, the employee is subject to a pre-employment test which produces verified negative results. (§655.41(d))

B. Post-accident Testing

1. Post-accident testing is required for prohibited drugs and alcohol in the case of certain transit accidents:
 - a. Fatal Accident: Whenever there is a loss of human life, each surviving safety-sensitive employee operating the transit vehicle at the time of the accident must be tested. City of Abilene will also determine using the best information available at the time of the decision whether to test any other safety-sensitive employees (e.g., maintenance personnel) where performance could have contributed to the accident.
 - b. Non-fatal Accident: Whenever an individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or vehicles incur disabling damage as a result of the occurrence and vehicles are transported away from the scene by a tow truck or other vehicle, City of Abilene shall test each safety-sensitive employee operating the transit vehicle at the time of the accident, unless their behavior can be completely discounted as a contributing factor to the accident. City of Abilene shall test any other safety-sensitive employee, whose performance could have contributed to the accident, using the best information available at the time of the accident.
 - c. Post-accident drug and alcohol tests must be performed as soon as possible: Drug tests must be performed as soon as possible but within 32 hours following the accident. Alcohol tests must be performed as soon as possible, within 2 hours following the accident. If the alcohol test is not administered within 2 hours following the accident, City of Abilene must still attempt to administer the test, and must also prepare and maintain on file, a record stating the reason(s) the test was not promptly administered. If the alcohol test is still not administered within 8 hours following the accident, City of Abilene shall cease attempts to administer the test, and must also prepare and maintain on file, a record stating the reason the test was not completed.
 - d. The requirement to test for drugs and alcohol following an accident should in no way delay necessary medical attention for injured people or prohibit a safety-sensitive employee from leaving the scene of an accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care. However, the safety-sensitive employee must remain readily available, which means the transit agency knows the location of the safety-sensitive employee. If he or she leaves the scene of the accident prior to submission to such test, employee may be deemed by the employer to have refused to submit to testing.

C. Random Testing

Random testing of safety-sensitive employees will be conducted in a manner consistent with the requirements of 49 CFR Part 655 (Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations) and 49 CFR Part 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs).

The City of Abilene participates in a statewide rural transit consortium; therefore, all employees performing safety-sensitive functions are placed in a statewide pool and will have an equal chance of being selected for testing and will remain in the pool, even after being tested. There is no discretion on the part of management in the selection and notification of the individuals who are to be tested.

Random testing will meet the following criteria:

1. The random alcohol testing will be conducted using the current applicable rates required by KDOT which meets or exceeds FTA requirements. Safety-sensitive positions in the testing pool are tested on a random basis annually under the drug and alcohol testing requirement for alcohol.
2. The random drug testing will be conducted using the current applicable rates required by KDOT which meets or exceeds FTA requirements. Safety-sensitive positions in the testing pool are tested on a random basis annually under the drug and alcohol testing requirement for drugs.
3. Random selection is made through a scientifically valid computerized random number generator program matched with employees' social security number. This program is provided by a contracted, third party administrator for the drug program. (§655.45(e))
4. The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year. Testing must be unannounced, unpredictable and will be conducted at all times of the day when safety-sensitive functions are performed. (§655.45(g))
5. A covered employee will only be randomly tested for alcohol just prior to, during or just after performing a safety-sensitive function. (§655.45(i)) The City of Abilene will ensure that the employee stops performing the safety-sensitive function and proceeds to the testing site immediately. (§655.45(h))
6. Random tests for drugs can be conducted at any time during an employee's shift. Testing can occur during the beginning, middle or end of an employee's shift. (§655.45(i))

D. Reasonable Suspicion Testing

1. A safety-sensitive employee is required to submit to a drug and/or alcohol test when the employer has reasonable suspicion that the employee has used a prohibited drug or has misused alcohol as defined in the regulations.
2. A trained supervisor's determination that reasonable suspicion exists will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.
3. Under this policy drug testing can occur anytime the employee is on duty. Alcohol testing will only occur during, just preceding, or just after the employee has performed a safety-sensitive function.
 - a. An employer shall conduct a 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.
 - b. An employer's determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee. A supervisor (s), or other company official (s) who is trained in detecting the signs and symptoms of drug use and alcohol misuse must make the required observations.
 - c. Alcohol testing is authorized under this section only if the observations required by paragraph (b) of this section are made during, just preceding, or just after the period of the workday that the covered employee is required to be in compliance with this part. An employer may direct a covered employee to undergo reasonable suspicion testing for alcohol only while the employee is performing safety-sensitive functions; just before the employee is to performing safety-sensitive functions; or just after the employee has ceased performing such functions.

- d. If an alcohol test required by this section is not administered within two hours following the determination under paragraph (b) of this section, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the determination under paragraph (b) of this section, the employer shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

Details of the reasonable suspicion testing process can be found in 49 CFR Part 40, subpart E.

E. Return-to-duty Testing

Details of the return-to-duty testing process can be found in 49 CFR Part 40, subpart O.

F. Follow-up Testing

Details of the follow-up testing process can be found in 49 CFR Part 40, subpart O.

IV. HANDLING OF TEST RESULTS, CONFIDENTIALITY

A. Access to Records

1. Except as required by law or expressly authorized by release by an employee, City of Abilene will not release information that is contained in records required to be maintained under 49 CFR Part 40 and 655.
2. An employee is entitled, upon written request, to obtain copies of any records pertaining to the use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substances tests.
3. An employee's testing records will be made available to a subsequent employer upon receipt of a written request from the employee.
4. City of Abilene may disclose information required to be maintained pertaining to a driver to the decision maker in a lawsuit, grievance, or administrative proceeding initiated by or on behalf of the individual, and arising from a positive DOT drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test result), (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee).

V. CONSEQUENCES OF FAILING OR REFUSING A DRUG TEST

- A. General. Compliance with this drug testing policy is a condition of employment. Refusal to take a required drug test or failure of a drug test shall result in removal from performing covered functions. Additional disciplinary action up to and including termination may result.

B. Refusal and Prohibited Conduct Prohibitions

1. City of Abilene shall not permit any employee, who fails a drug test as verified by the Medical Review Officer (MRO), as described in Part 655, to perform covered functions or continue to perform covered functions.
2. A covered employee who refuses to submit to a random, post-accident, reasonable suspicion or follow-up drug test shall result in the covered employee not being allowed to perform or to continue to perform any covered functions.

- C. Required Referrals and Evaluation. An employee will be given an opportunity to retain his or her employment, provided they first do the following:

1. Have been evaluated by a Substance Abuse Professional (SAP)
2. Have completed the recommendations of a qualified SAP on the appropriate evaluation/rehabilitation program.
3. Pass a return-to-duty drug test.

If an employee refuses to report for assessment, evaluation, and/or referral for treatment with a substance abuse professional, he/she will be terminated.

If an employee, after assessment, is referred for rehabilitation and the employee refuses to enter or successfully complete such a rehabilitation assessment program, he/she will be terminated.

All costs associated with the evaluation and rehabilitation program are the responsibility of the employee.

Employees should consult their insurance policy for extent of nervous, mental and substance abuse coverage.

On duty use or possession of drugs on company time or on company premises will result in termination from City of Abilene.

A second positive drug test or the equivalent will result in immediate termination of employment.

A covered employee who engages in prohibited conduct shall be advised of available resources to evaluate and resolve problems associated with substance abuse misuse.

D. Retesting of Drug Positive Samples

1. General. An applicant/employee may verbally request a retest of a positive sample by contacting the MRO by phone, within 72 hours of notification of the positive test result from the MRO.
2. Retest Provisions. The retest will be conducted at a different SAMHSA certified laboratory. The test will be conducted on the split sample that was provided by the applicant/employee at the same time as the original sample. All costs for such testing are to be reimbursed to City of Abilene by the applicant/employee unless the result of the split sample test invalidates the result of the original test. The method of collection, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40.
3. Detection Levels. Because some analytes deteriorate or are lost during freezing and/or storage, quantitation for a retest is not subject to a specific cutoff requirement but must provide data sufficient to confirm the presence of the drug or metabolite.

VI. CONSEQUENCES OF FAILING OR REFUSING AN ALCOHOL TEST

- A. General. Compliance with this alcohol testing policy is a condition of employment. Refusal to take a required alcohol test or failure of an alcohol test shall result in removal from performing covered safety-sensitive functions. Additional disciplinary action up to and including termination may result.
- B. Refusal and Prohibited Conduct.
 1. A covered employee who has engaged in prohibited conduct as described in Part 655 shall not be permitted to perform covered functions or continue to perform covered functions.
 2. A covered employee who refuses to submit to a random, post-accident, reasonable suspicion or follow-up alcohol test shall result in the covered employee not being allowed to perform or to continue to perform any covered functions.
- C. Alcohol Concentration. A covered employee shall be prohibited from reporting for duty or remaining on duty requiring the performance of covered functions while having an alcohol concentration of 0.04 or greater.
 1. On-Duty Use: A covered employee shall be prohibited from using alcohol while performing covered functions.
 2. Pre-Duty Use: A covered employee that is on call shall be prohibited from performing a covered function, if the employee has consumed alcohol within four hours of being called to duty.
- D. Required Referrals and Evaluation. An employee will be given an opportunity to retain his or her employment, provided they first do the following:
 1. Have been evaluated by a Substance Abuse Professional (SAP),
 2. Have completed the company approved evaluation/rehabilitation program successfully,
 3. Pass a return-to-duty alcohol test.

If an employee refuses to report for assessment, evaluation, and/or referral for treatment with a substance abuse professional, he/she will be terminated.

If an employee, after assessment, is referred for rehabilitation and the employee refuses to enter or successfully complete such a rehabilitation assessment program, he/she will be terminated.

All costs associated with the evaluation and rehabilitation program are the responsibility of the employee.

In all cases of an employee having an alcohol concentration of 0.04 or greater, and who has tested a second time at an alcohol concentration of 0.04 or greater, will be terminated.

An employee who refuses to provide an adequate breath for alcohol testing without a valid medical explanation after he/she has received notice of the requirement to be tested in accordance with the requirements of the DAPM, or who engages in conduct that clearly obstructs the testing procedure, will be terminated from City of Abilene.

On duty use or possession of alcohol on company time or on company premises will result in termination from City of Abilene.

A covered employee who engages in prohibited conduct shall be advised of available resources to evaluate and resolve problems associated with alcohol misuse.

E. Retesting of Covered Employees for Alcohol

1. A covered employee tested and found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not be permitted to perform or continue to perform covered functions until:
 - a. The employee's alcohol concentration measures less than 0.02 in another alcohol test administered in compliance with this policy; or
 - b. The start of the employee's next regularly scheduled duty period, but not less than 8 hours following administration of the alcohol test.

F. Results of a second confirmed alcohol test (in the following twelve month period) indicating an alcohol concentration of 0.02 or greater, but less than 0.04: When an employee has an alcohol test conducted and the alcohol concentration is 0.02 or greater, but less than 0.04, on a second confirmed test, the employee will be removed from performing covered functions and shall be referred to a substance abuse professional, and must follow all the recommendations of the assessment. Any subsequent test at 0.02 or greater will result in termination from City of Abilene.

G. Results of a second confirmed alcohol test (in the following twelve-month period) indicating an alcohol concentration 0.02 or greater, but less than 0.04 after a prior alcohol test which had produced an alcohol concentration of 0.04 or greater: When an employee has an alcohol test conducted and the alcohol concentration is 0.02 or greater, but less than 0.04 after having had a prior alcohol concentration 0.04 or greater, then that employee will be removed from performing covered functions and referred to the substance abuse professional and any subsequent alcohol concentration 0.02 or greater will result in immediate termination.

CITY OF ABILENE
P.O. Box 519
Abilene, Kansas 67410

APPENDIX A

ALCOHOL SUPPLEMENT

A. Why you should get involved:

1. Although City of Abilene has no history of substance abuse problems, we recognize that alcoholism and alcohol misuse are problems throughout America.
2. There are three good reasons why you should be concerned if any of your co-workers are using drugs or alcohol on the job.
 - a. Your health and safety may be at risk.
 - b. Alcohol misuse costs you money.
 - c. Alcohol creates a negative work environment.
3. According to the National Institute on Alcohol Abuse and Alcoholism, drug and alcohol use on the job costs society an estimated \$102 billion a year. Since most of this cost is passed on to you in the form of higher health insurance rates or in consumer prices, drug and alcohol use on the job costs you and your fellow workers a significant amount of money.
4. Absenteeism among problem drinkers or alcoholics is 3.9 to 8.3 times greater than normal. If your fellow workers don't come to work, you may have to do their jobs in addition to your own.
5. Workers who misuse alcohol don't function at their full potential. Not only is absenteeism a problem, when they are at work these employees may have reduced capabilities and productivity. Since our product is the safe transportation of people, alcohol misuse is an especially serious issue.
6. No matter what your position is in the organization, there is something you can do to ensure that drug and alcohol use on the job never becomes a problem at the company. Acceptance of any misuse puts you, this company, and the public at risk.

B. Effects of alcohol misuse on an individual's health, work, and personal life:

1. Alcohol is a central nervous system depressant. Taken in large quantities, it causes not only the euphoria associated with being drunk, but also adversely affects your judgment, ability to think, and your motor functions. Drink enough alcohol fast enough and it can kill you.
2. Long term overuse of alcohol can cause liver damage, heart problems, sexual dysfunction, and other serious medical problems.
3. In some cases, alcohol use can lead to physical and psychological dependence on alcohol. Alcoholism is a serious chronic disease. Left untreated it will inevitably get worse.
4. Workers who use alcohol (and other drugs) affect everyone. Studies show that compared to alcohol-and drug-free workers, substance abusers are far less productive, miss more workdays, are more likely to injure themselves or someone else, and file more workers compensation claims.
5. The measurable dollar costs of workplace substance abuse from absenteeism, overtime pay, tardiness, sick leave, insurance claims, and workers' compensation can be substantial. However, the hidden costs resulting from diverted supervisory and managerial time, friction among workers, damage to equipment, and damage to company's public image means that workplace substance abuse can further cut profits and competitiveness.
6. Alcohol can also destroy relationships, lead to serious problems with the law (e.g., drunk driving), and even cause harm to the people you love.
7. If drinking affects your work life, it could lead to job loss and all the financial problems that would follow.

C. Signs and symptoms of alcohol misuse - Any one or more of the following signs may indicate a drinking problem:

- Family or social problems caused by drinking
- Job or financial difficulties related to drinking
- Loss of a consistent ability to control drinking
- "Blackouts" or the inability to remember what happened while drinking
- Distressing physical and/or psychological reactions if you try to stop drinking
- A need to drink increasing amounts of alcohol to get the desired effect
- Marked changes in behavior or personality when drinking
- Getting drunk frequently
- Injuring yourself - or someone else while intoxicated
- Breaking the law while intoxicated
- Starting the day with a drink

D. Available methods of evaluating and resolving problems associated with the misuse of alcohol.

1. Outpatient programs exist in a variety of settings:

- a. Community mental health centers
- b. Full service agencies
- c. Private physicians' and therapists' offices
- d. Occupational settings
- e. Specialized alcoholism treatment facilities

2. Inpatient services, designed for those with more serious alcohol problems, can be found in hospitals, residential care facilities, community halfway houses, and some alcoholism clinics.

3. Your local telephone directory will list helpful referral organizations such as:

- a. Local council on alcoholism
- b. Alcoholics Anonymous
- c. Community alcoholism or mental health clinic
- d. Social services or human resources department
- e. County medical society

4. The SAP will perform an initial evaluation, recommend any additional treatment if necessary, and will refer employees needing assistance for treatment covered under our health insurance program.

CITY OF ABILENE
P.O. Box 519
Abilene, Kansas 67410

APPENDIX B CITY OF ABILENE

DRUG AND ALCOHOL TESTING PROGRAM PERSONNEL AND SERVICES

1. DESIGNATED EMPLOYER REPRESENTATION (DER)/DRUG AND ALCOHOL PROGRAM MANAGER

Primary Contact

Jane Foltz
Parks & Recreation Director
P.O. Box 519
Abilene, Kansas 67410
785-263-7266

Secondary Contact

City Clerk
Penny Soukup
P.O. Box 519
Abilene, Kansas 67410
785-263-2550

2. LOCAL COLLECTION SITE

Memorial Hospital - Abilene
511 NE 10th St
Abilene, Kansas 67410
785-263-3027

In most instances the TMHC Services, Inc. mobile collector can do your collections on site. However, a local collection site has been set up for use when the on-site collector is unavailable.

3. MEDICAL REVIEW OFFICER (MRO)

Sanford E. Pomerantz, M.D.
534 South Kansas Ave, Suite 600
Topeka, Kansas 66603
Local (785) 291-9162
Toll Free (1-888-842-0348)

4. CERTIFIED LABORATORY

Clinical Reference Laboratory
8433 Quivira
Lenexa, Kansas 66215
Toll-Free: 1-800-445-6917

5. EMPLOYEE ASSISTANCE PROGRAM (EAP) REFERRAL FOR SUBSTANCE ABUSE PROFESSIONAL (SAP)

Employee Assistance Program
Local 785-575-9343
Toll Free 1-800-999-1196

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APPENDIX C

EMPLOYEE/SUPERVISORY POSITIONS SUBJECT TO DRUG AND ALCOHOL TESTING

(JOB CLASSIFICATIONS/TITLES)

SAFETY –SENSITIVE FUNCTIONS

A safety-sensitive function, as defined by FTA 49 CFR Part 655, is any specified duty performed by City of Abilene employees related to the safe operation of mass transit service.

These duties include the following activities:

1. Operating a revenue service vehicle, including when not in revenue service;
2. Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License (CDL);
3. Controlling dispatch or movement of a revenue service vehicle;
4. Maintaining (including repairs, overhaul, and rebuilding) a revenue service vehicle or equipment used in revenue service;
5. Carrying a firearm for security purposes.

The following specific job titles identify those employees who perform safety-sensitive job functions at City of Abilene:

- a.
- b.
- c.
- d.
- e.

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**EMPLOYEE AFFIRMATION OF
DRUG AND ALCOHOL TESTING POLICY**

As an employee in a safety-sensitive position, I affirm that I have received, read and understand City of Abilene's Drug and Alcohol Testing Policy and educational materials. I am aware that I may be required to undergo a drug and/or alcohol screen as outlined by City of Abilene's policy requirements and that I will be informed prior to the drug/alcohol screen; and, that I may be referred to an education and treatment program depending on the results of the drug/alcohol screen. I agree to abide by all provisions of the anti-drug policy as a condition of my continued employment with the company.

Employee Name (Please Print)

Employee Signature

Date

City of Abilene Representative

Date

**SUPPLEMENT
DILUTE NEGATIVE DRUG TEST RESULTS**

(This supplement explains what happens when an employer receives a report from the MRO of a negative dilute specimen and employer options)

City of Abilene

A negative dilute specimen (Creatinine 5mg/dl to <20 mg/dl, Specific gravity between 1.001 & 1.003) is a specimen that contains an unusually high level of water concentration. Some of the ways this can occur are outlined below:

1. Donor may consume large amounts of water as part of their regular routine.
2. In the case of "shy bladder" collector may offer extra fluids in order to obtain a specimen.
3. Donor may consume large amounts of water in an effort to intentionally dilute the specimen causing drug concentrations to fall below the cutoff levels.
4. Donor may conceal additional water on their person and add to the specimen in an effort to deliberately dilute the sample.

As an employer you may establish different policies regarding dilute negative specimens based on different types of tests. Under 49 CFR Part 40 Section 40.197, you have the following options:

- a. Accept a negative dilute specimen as a valid drug test.
- b. Require one recollection of the specimen.

Please mark the different types of tests in which your company will accept a negative dilute specimen or require a repeat test to be performed.

| | | | | |
|------------------|-------|-------------|-------|-------------|
| Pre-Employment | _____ | Accept Test | _____ | Repeat Test |
| Post-Accident | _____ | Accept Test | _____ | Repeat Test |
| Reasonable Cause | _____ | Accept Test | _____ | Repeat Test |
| Return to Duty | _____ | Accept Test | _____ | Repeat Test |
| Follow-Up | _____ | Accept Test | _____ | Repeat Test |
| Random | _____ | Accept Test | _____ | Repeat Test |

- 1) You must treat all employees the same for this purpose. For example, you must not retest some employees and not others for each test type. Retests should be done as soon as possible and within the same selection quarter.
- 2) You are required to inform your employees in advance of your decisions on these matters.
- 3) You must ensure that the employee is given the minimum possible advance notice that he or she must go to the collection site.
- 4) You must treat the result of the recollected test as the test result of record.
- 5) You are required to follow the provisions regarding negative dilute specimens as outlined under Section 40.197 of 49 CFR Part 40.

Signature

Title

Date