

**Number:** 415  
**Sections:** 1-17  
**Effective Date:** May 20, 1996

**SUBJECT:** Alcohol and Controlled Substance Testing Policy

1. **Purpose** To comply with the United States Department of Transportation (DOT) and Federal Highway Administration (FHWA) regulations which implement the Federal Omnibus Transportation Employee Testing Act of 1991.

2. **Authority** The City must comply with the regulations of the Federal Highway Administration (FHWA) with regard to testing employees who perform safety sensitive duties for alcohol and controlled substance use. Adoption of this policy is an obligation of the City under these regulations.

3. **Scope** This policy sets forth the rights and responsibilities of employees covered by this policy. If you are a covered employee affected by this policy, you should familiarize yourself with its provisions since your compliance is a condition of employment. All questions regarding this policy shall be referred to the Personnel Director.

4. **Responsibility** The Personnel Division is responsible for conducting tests and communicating test results. Department Heads are responsible for employee discipline and operational issues.

5. **Definitions:**

**5.1 Covered Employees** All City employees whose job requires the possession of a commercial driver's license and perform safety sensitive functions as detailed below in Section 5.2. The employee classifications of "covered employees" who are subject to this administrative regulation are attached hereto as Exhibit #1. This exhibit will be updated to include positions added by the DOT requirements.

**5.2 Safety Sensitive Functions** Although covered employees should not be under the influence or in possession of controlled substances or alcohol during working hours, the regulations of FHWA prohibit certain conduct (refer to Section 6) while performing safety sensitive functions. A safety sensitive function is defined as:

**5.2-1** Driving a commercial vehicle. A commercial vehicle is: 1. A vehicle with a gross combination weight of at least 26,001 pounds inclusive of a towed unit with a gross vehicle weight rating more than 10,000 pounds; 2. A vehicle with a gross vehicle weight of at least 26,0001 pounds; 3. A vehicle designed to transport 16 or more passengers, including the driver; or 4. A vehicle used to transport those hazardous materials found in the Hazardous Materials Transportation Act. This is any vehicle that requires hazardous materials warning placards.

**5.2-2** Waiting to be dispatched as a driver of a commercial motor vehicle.

**5.2-3** Inspecting, servicing, or conditioning any commercial motor vehicle at any time.

**5.2-4** Repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle.

**5.2-5** Loading or unloading a commercial motor vehicle; giving or receiving receipts for shipments loaded or unloaded; or supervising, assisting, or remaining in readiness to operate a commercial motor vehicle.

**6. Prohibitions** The following conduct is prohibited and may result in disciplinary action which could lead to termination:

**6.1** Reporting for duty or remaining on duty requiring the performance of a safety sensitive function while having an alcohol concentration level of 0.04 or greater;

**6.2** Performing a safety sensitive function within four hours after drinking alcohol;

**6.3** Being on duty or operating a vehicle as described in Section 5.2, while possessing alcohol;

**6.4** Using alcohol while performing a safety sensitive function;

**6.5** Reporting for duty or remaining on duty requiring the performance of a safety sensitive function when the employee has used any controlled substances, unless the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a vehicle.

**6.6** Reporting for duty or remaining on duty requiring the performance of a safety sensitive function if the employee tests positive for a controlled substance;

**6.7** Refusing to submit to any alcohol or controlled substances test required by this policy. The consequences for a covered employee who refuses to take a required test will be the same as for an employee who tested 0.04 or greater on an alcohol test or tested positively for a controlled substance.

**6.8** Consuming alcohol during the eight hours immediately following a vehicle accident, unless the employee has been informed that his/her actions have been eliminated as a contributing factor, or if the employee has already been tested.

**7. Consequences for Employees Tested with Alcohol Concentration Levels Between 0.02 and 0.04** When an alcohol test indicates an alcohol concentration level between 0.02 and 0.04, the employee will be prohibited from performing a safety sensitive function for at least eight hours. Such an employee may be subject to discipline which could lead to termination. The City must re-test the employee before performance of a safety sensitive function and the employee's alcohol concentration must indicate a concentration below 0.02.

**8. Types of Tests Required:**

**8.1 Pre-Employment Testing** Commencing May 1, 1995, all applicants for classifications that are covered by this policy will be required to be tested for controlled substances prior to being hired. City employees are subject to testing for controlled substances prior to being transferred or reassigned to a position requiring safety sensitive functions. Applicants will not be hired or assigned to a safety sensitive position if they do not pass the tests. Any applicant disqualified for employment pursuant to this policy may reapply after six (6) months.

**8.2 Post-Accident Testing** Post-accident alcohol and controlled substance testing will be conducted on employees following a vehicle accident unless the employee's performance can be excluded as a contributing factor to the accident.

Under this policy, an vehicle accident is defined as an occurrence where there has been a fatality or where a citation for a moving violation is

issued by a law enforcement official to the employee driver because of the accident.

Post-accident alcohol tests shall be administered within two hours following a vehicle accident, but no test for alcohol may be administered after eight hours. If eight (8) hours have passed, the supervisor must document the reason that a test was not given. A post-accident test for controlled substances shall be conducted within 32 hours following the vehicle accident. If a controlled substance test is not administered within thirty-two (32) hours following the accident, the test may not be administered and the supervisor shall document the reason that a test was not given.

**8.3 Random Testing** Covered employees will be subject to random alcohol and controlled substance testing as follows:

A random alcohol test will be administered just prior to the employee performing a safety sensitive function (i.e., driving), or just after the employee has performed a safety sensitive function. The City shall randomly test at least 25% of the total number of covered employees for alcohol each year. A random test for controlled substances shall be administered to at least 50% of the total number of covered employees each year.

Because of random selection, some employees may be tested more than once a year while others are not tested at all during the same period.

When an employee is away from duty for random testing, the supervisor will arrange for coverage. The employee selected for testing will receive a written notice indicating the reporting time and test location.

**8.4 Reasonable Suspicion Testing** Covered employees are also required to submit to an alcohol or drug test when a trained supervisor has reasonable suspicion to believe the employee is under the influence of alcohol or a controlled substance.

“Reasonable Cause/Suspicion” means that the supervisor believes that the actions, appearance, speech, body odors or conduct of an on-duty employee indicate the use of alcohol or a controlled substance. The witness(es) must directly observe the behavior. Hearsay or second-hand information is not sufficient cause to require an employee to submit to a drug or alcohol test. The determination that a reasonable suspicion exists to require an employee to undergo a drug or alcohol test must be based on specific, objective,

contemporaneous, explainable facts concerning the behavior, appearance, speech or body odors of the employee. It must be based upon observations of the supervisor making the determination, and may not be based upon hearsay. The supervisor witnessing the impairment must document the specific observations upon which the reasonable suspicion is based.

Drug or alcohol testing may be performed only if the observations upon which reasonable suspicion are based are made during, just preceding or just after a work period where the employee is required to be in compliance with this policy. An employee may be directed to submit to a drug or alcohol test based upon reasonable suspicion just before, during or immediately after performing a safety-sensitive function.

If an alcohol test is not administered within two (2) hours following a reasonable suspicion determination, the supervisor shall document the reason for the delay. If an alcohol test is not administered within eight (8) hours, the test shall not be administered, and the supervisor shall document the reason it was not given.

If an alcohol test indicates a concentration of 0.02 or greater, the employee is prohibited from performing any safety-sensitive function for 24 hours. Except as provided in this paragraph, the City shall not take any action against an employee based solely on a test result indicating an alcohol concentration of less than 0.04.

Supervisors will attend a minimum of one hour of training on alcohol use and one hour of training on controlled substance use before they are authorized to refer and employee for a reasonable suspicion alcohol or controlled substance test. The training will cover the short-term physical, behavioral, speech, and performance indicators of alcohol or controlled substance use.

**8.5 Return to Duty and Follow-up Testing** A covered employee who has violated any of the prohibitions of this policy, as detailed in Section 6, must submit to a test before returning to work. Depending on the violation, a test result below 0.02 alcohol or a verified negative result on a controlled substances test is required before an employee can return to duty. The returning employee will be subject to at least six unannounced tests during the first year after returning to a safety sensitive position. The extra testing of a returning employee is in addition to, and separate from, the random testing program.

## **9. Procedures for Detection of Alcohol and Controlled Substance Use:**

**9.1 Alcohol Testing** Alcohol testing will be conducted either by using an evidential breathing testing device (EBT) approved by the National Highway Traffic Safety Administration, or by a urine test. If the result of the EBT is an alcohol concentration level of less than 0.02, the test is considered negative. If the alcohol concentration level is 0.02 or more, a second confirmation test will be conducted. If a urine test is conducted and the results are positive, a confirmation test will also be conducted. The procedures that will be utilized by the lab for collection of the urine test and testing of the specimen are attached hereto as Exhibit #2.

**9.2 Controlled Substance Testing** Testing for controlled substances will be conducted pursuant to the procedures set forth in Exhibit #2, Lab Procedures, and will ensure that:

**9.2-1** The urine specimen will be tested for marijuana, cocaine, opiates, amphetamines and phencyclidine.

**9.2-2** The urine specimen sent to the lab will be split into two bottles labeled as “primary” and “split” specimen.

**9.2-3** If the urinalysis of the primary specimen tests positive for the presence of a controlled substance, the employee has 72 hours to request that the split specimen be analyzed by a different lab.

**9.2-4** If the test is positive for one or more controlled substance(s), a confirmation test will be performed using gas chromatography/mass spectrometry analysis.

**9.2-5** Tests will be reviewed and interpreted by a physician before being reported to the employee and then to the City.

**9.2-6** With positive tests, the physician/medical review officer (MRO) will first contact the employee to determine if there is a medical explanation for the positive test result. If the MRO determines that there was a legitimate medical reason for the presence of a controlled substance, the test result will be reported to the City as “negative”.

**10. Employee Refusal to be Tested for Alcohol or Controlled Substances**

A covered employee who refuses to submit to any required test for alcohol or controlled substances will be subject to the same consequences as an employee

who has tested 0.04 or greater on an alcohol test or tested positively on a controlled substances test.

**11. Consequences of Failing a Test for Alcohol or Controlled Substances** A positive result from a test for alcohol or controlled substances may result in disciplinary action leading to, and including, termination. (MEA employees refer to Exhibit #4) As a minimum an employee, who fails a test for alcohol or controlled substances, shall be:

**11.1** Removed from performing any safety sensitive function.

**11.2** Must submit to an examination by a Substance Abuse Professional (SAP). Upon the determination of the substance abuse professional, the employee may be required to undergo treatment to prevent a recurrence.

**11.3** The employee may not perform safety sensitive duties until the controlled substance or alcohol test that was failed is passed.

**11.4** The employee will be required to submit to unannounced follow-up testing as detailed in Section 8.5 when the performance of safety sensitive functions is resumed.

**11.5** The disciplinary procedures are contained in Exhibit #4.

**12. Records** - The Personnel Division will keep the following records for the period specified:

**12.1** Results of an employee's alcohol test which indicates an alcohol concentration level of 0.02 or higher; documentation of any employee who refused to submit to a required alcohol/drug test; calibration documentation; employee evaluations and referrals by substance abuse professionals. ***Retention Period: 5 Years.***

**12.2** Records documenting the collection process for alcohol and controlled substances tests and the training of supervisors. ***Retention Period: 2 Years.***

**12.3** Results of any negative or canceled drug test or any alcohol test result which is less than 0.02. ***Retention Period: 1 Year.***

By March 15 of each year, the City must present a report summarizing the results of its alcohol misuse and controlled substances prevention program.

The City may not release information concerning employees to third parties unless specifically authorized by statute. However, the City may request, in writing, to receive copies of any records pertaining to the employee's use of drugs or alcohol contained in an employee's file from former employees.

**13. Confidentiality** Confidentiality is an essential element of this Alcohol and Control Substance Testing Policy.

**13.1** The results of any testing done pursuant to this policy shall be used for employment purposes only and shall not be released for use in the criminal justice system.

**13.2** All records pertaining to controlled substances and alcohol testing of an employee shall be contained in a separate, confidential, medical file that will be securely kept under the control of the Personnel Director, separate from the employee's other personnel records.

**13.3** Absent the employee's consent, test results may be disclosed only to City Management and only on a strictly need-to-know basis and to the employee upon request.

**13.4** The City may disclose test results without the employee's consent only when:

**13.4-1** The information is compelled by law or by judicial or administrative process;

**13.4-2** The information has been placed at issue by the employee in a formal dispute between the employee and the City.

**13.4-3** The information is necessary to administer an employee benefit plan; or

**13.4-4** The information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.



**13.4-5** Any positive test results which are later refuted shall be removed from the employee's file and not used for any purpose.

**14. Substance Abuse Professionals** The City encourages covered employees who engage in behavior prohibited by this policy to avail themselves of the opportunity available for treatment. The City will provide the names, addresses, and telephone numbers of Substance Abuse Professionals (SAP), counseling, treatment programs or other available services. The City will provide an evaluation by a Substance Abuse Professional to assess an employee's need for drug and/or alcohol treatment.

Each covered employee who violates these rules must be evaluated to determine whether the employee needs assistance or referral for treatment to resolve problems with controlled substances and/or alcohol misuse.

Before returning to duty, each employee identified as needing assistance must: (1) be evaluated again by a SAP to determine whether the employee has successfully complied with the treatment program prescribed following the initial evaluation; (2) undergo a drug and/or alcohol test to satisfy established acceptable results for return to duty; (3) be subject to a minimum of six unannounced follow up drug and/or alcohol tests over the following 12 months.

**15. Employee Assistance Program** An Employee Assistance Program is available to help employees overcome an alcohol or controlled substance abuse problem. Employees wishing to utilize the Employee Assistance Program may call the Managed Health Network, Inc. at 1-(800)-777-9355. This service is available 24 hours daily and is completely confidential.

**16. Effects of Alcohol and Controlled Substances** Employees covered under this policy will receive a fact sheet published by the Federal Transportation Administration that addresses the effects of alcohol and the various controlled substances which are tested under this policy.

**17. Notice and Effective Date** - All covered employees shall be given a copy of this policy at the time they commence employment with the City. Anyone currently employed by the City at the time this policy is adopted shall be given a copy thereof within 10 days of its adoption.

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Michael T. Uberuaga  
City Administrator

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Date

# **EXHIBIT #1**

## **Employees in Testing Program**

Exhibit #1 has been revised by position, not classification.

# EXHIBIT #1

## Employees in Testing Program

### PUBLIC WORKS *PARKS, TREES & LANDSCAPE*

<b>Employee</b>	<b>Position #</b>	<b>Classification</b>
Adams, Mark	7644-014	Equipment Operator
Ayers, Rick	8682-001	Ldwkr Landscape
Banuelos, Joseph	8682-007	Ldwkr Landscape
Briones, Richard	7659-001	Tree Trimmer Aerial
Cain, Chad	7659-004	Tree Trimmer Aerial
Caswell, Gregg	7644-013	Equipment Operator
Cerda, Danny	8682-006	Ldwkr Landscape
Cervin, Christopher	7644-019	Equipment Operator
Civitano, Brian	8683-002	Ldwkr Park Maintenance
Conklin, Jim	2675-001	Crwldr Street Trees
Craven, Ron	7644-022	Equipment Operator
Curtis, Gary	7644-020	Equipment Operator
De La Torre, David	8683-001	Ldwkr Park Maintenance
Faust, Robert	7644-021	Equipment Operator
Foreman, Ronald	2686-001	Crewleader, Park
Gutierrez, Gregory	7644-017	Equipment Operator
Honea, Michael	7644-015	Equipment Operator
Hunt, Travy	8682-004	Ldwkr Landscape
Kinaman, Richard	8682-002	Ldwkr Landscape
Kleffman, Robert	7644-018	Equipment Operator
Lanier, Chris	7644-016	Equipment Operator
Lewis, Randall	7644-012	Equipment Operator
Mesa, Michael	8636-019	Maintenance Svc Wkr
Ohta, Leslie	8682-009	Ldwkr Landscape
Orris, Jack	8682-003	Ldwkr Landscape
Peters, Gregory	7659-003	Tree Trimmer Aerial
Reddy, Michael	8636-023	Maintenance Svc Wkr
Roysdon, Bob	8682-005	Ldwkr Landscape
Snyder, Robert	8682-008	Ldwkr Landscape
Weide, Donald	2688-001	Crewleader, Irrigation
Welch, Edward	7644-023	Equipment Operator

### **TRAFFIC**

	7617-001	Electrician Traffic Signal
Martin, Robert	7617-003	Electrician Traffic Signal
Ruff, George	7617-002	Electrician Traffic Signal
Strook, Donn	2669-001	Crwldr, Traffic Signal
Sunich, Tony	8644-001	Electrical Repair Wrkr

## EXHIBIT #1 Employees in Testing Program

### STREETS

Arnold, Ted	8636-006	Maintenance Svc Wkr
Churchill, Jason	8636-007	Maintenance Svc Wkr
Costanzo, Larry	7644-001	Equipment Operator
Dunbar, Marcia	8636-003	Maintenance Svc Wkr
Enright, William 'Al'	8686-003	Ldwkr Streets
Fluss, Duane 'Bob'	7644-003	Equipment Operator
Gazafy, Mike	8636-004	Maintenance Svc Wkr
Gray, Chris	2682-002	Ldwkr Streets
Hoggatt, Philip	2682-001	Crwldr Street Svc
Hollingsworth, Cal	8636-008	Maintenance Svc Wkr
Livermore, Dereck	8638-003	Maintenance Svc Wrk
Martinez, Rudy	2676-001	Crwldr Street Lndscp
Nelson, Phil	8636-011	Maintenance Svc Wkr
Rodriguez, Pedro (Pete)	7644-004	Equipment Operator
Russell, Kent	7644-002	Equipment Operator
Slater, Brad	8636-009	Maintenance Svc Wkr
Szabo, Marcel	8686-001	Maintenance Svc Wkr
Turlo, Cas	8636-010	Maintenance Svc Wkr
Woodyard, Terry	7643-001	Equipment Oper. HD

### STREET CLEANING

Caudillo, Ray	7644-007	Equipment Operator
Collings, Ron	8636-012	Maintenance Svc Wkr
Gonzalez, Carlos	8686-004	Ldwkr Streets
Guzman, Bob	7629-002	Concrete Finisher
Kuciemba, Rick	8636-005	Maintenance Svc Wkr
Middleton, Bob	8686-005	Ldwkr Streets
Munoz, Harvey	7629-001	Concrete Finisher
Radcliffe, Dave	7644-008	Equipment Operator
Sramek, Chester 'Chet'	7644-006	Equipment Operator
Wilson, Ray	7644-005	Equipment Operator

## EXHIBIT #1 Employees in Testing Program

### **WATER DIVISION**

Allen, Curtis	7643-004	Equipment Oper. Hvy Dty
Boucher, David	7643-003	Equipment Oper Hvy Dty
Bystrom, Brian	7667-002	Water Systems Tech I
Cardon, Frank	7684-001	Crewleader - Water Distrbtn
Eddington, Gary	7669-003	Water Systems Tech III
Hehn, Michael	7668-001	Water Systems Tech II
Houser, Rodney	7668-002	Water Systems Tech II
Hughes, Peter	7690-001	Ldwkr Water Construction
Hurtado, Jesus	8638-006	Maintenance Worker
Ketcham, Gregory	7669-001	Water Systems Tech III
Kleinheinz, Jay	2685-001	Crewleader - Water Prodtn
Mahon, Lawrence	7668-003	Water Systems Tech II
Pineda, David	7643-002	Equipment Oper Hvy Dty
Reinhardt, Gary	7646-003	Service Worker
Rizco, Anthony	7667-001	Water Systems Tech I
Taylor, Robert	7670-002	Ldwkr Water Systems
Youngberg, Kurt	7646-001	Maintenance Worker

### **SEWER MAINTENANCE**

Arrollado, John	8636-015	Maintenance Svc Wkr
Birchfield, Mark	8627-001	Mechanic Sewer Pumps
Costanzo, Mike	8636-014	Maintenance Svc Wkr
Dilks, Jerry	2677-001	Crwldr Sewer Maint
Fajardo, Ron	7632-001	Telemetry Inst Tech
Geck, Mike	7644-010	Equipment Operator
Lemus, Enrique	8636-013	Maintenance Svc Wkr
Moore, Les	7644-011	Equipment Operator
Rannie, James	8684-001	Ldwkr Sewer
Rathbun, Ronald	8684-003	Ldwkr Sewer
Zielke, Cliff	7684-009	Equipment Operator

# EXHIBIT #1

## Employees in Testing Program

### *MECHANICAL MAINTENANCE*

Blair, Clyde	7636-012	Mechanic Sr
Durkin, Joe	7636-013	Mechanic Sr
Hasty, Robert	7636-008	Mechanic Sr
Morgan, Frank	7635-003	Mechanic Heavy Duty
Perri, James	7636-007	Mechanic Senior
Zilly, Brian	2672-003	Crewleader Mech Maint

**EXHIBIT #1**  
**Employees in Testing Program**

**POLICE DEPARTMENT**

***JAIL***

Backstrom, Richard	4325-001	Detention Officer
Sather, Marvin	4326-002	Detention Officer Senior
Subnick, Howard	4325-009	Detention Officer
Young-Nasser, Allissa	4325-004	Detention Officer



**EXHIBIT #1**  
**Employees in Testing Program**

**FIRE DEPARTMENT**  
***MECHANICAL MAINTENANCE***

Honda, Terrill	7635-001	Mechanic Heavy Duty
Mishler, Richard	7636-001	Mechanic Senior
Weir, Arthur	2672-001	Crewleader Mech Maint

**EXHIBIT #2**  
**COLLECTION SITE CHECKLIST**  
**(To be used by Specimen Collection Personnel)**

1. Verify the identity of the employee through the use of an official picture identification or verification by a transit official. Notify the transit agency if the employee fails to report or arrives late.
2. If the employee providing the specimen requests it, present your identification as well.
3. Request that the employee check his/her belongings, including unnecessary outer garments, purses and briefcases. The employee may retain his/her wallet. If the employee requests it, provide a receipt for his/her personal belongings.
4. Request the employee to rinse his/her hands with water and dry them.
5. Provide the employee with a specimen bottle and direct him/her to the privacy enclosure. Do not enter the enclosure. You should not observe the specimen collection unless special circumstances exist. Instruct the employee that at least 45 milliliters of urine are required and that the temperature will be taken to ensure the integrity of the sample.
6. If the employee refuses to provide a specimen, or otherwise fails to cooperate with the process, inform the employer and document the refusal on the custody and control form.
7. If the employee is unable to provide at least 45 milliliters, the original specimen shall be discarded and the employee will be instructed to drink not more than 24 ounces of fluid in a period of up to two hours. If 45 milliliters cannot be provided within the two-hour limit, notify the transit agency.
8. After providing the specimen, allow the employee to wash his/her hands.
9. Measure the temperature of the specimen. If the temperature of the specimen is outside the acceptable range (90.5 to 99.8 F), the collection site person will require the employee to have his/her oral temperature taken to counter any suspicion of tampering with or substitution of the specimen. Note the temperature in the appropriate place on the custody and control form.

**EXHIBIT #2**  
**COLLECTION SITE CHECKLIST**

**(To be used by Specimen Collection Personnel)**

10. If there is any reason to suspect adulteration or substitution, notify a higher level supervisor, have a same-gender technician directly observe the collection of a second specimen, note the unusual behavior on the custody and control form, and submit both specimens for testing.
11. Pour the first 30 ml of urine into the specimen bottle for the original specimen. Up to 15 ml is to be used for the split specimen.
12. Keep the specimens in view at all time prior to sealing and labeling. The specimen must also be in view of the employee.
13. Seal and label the specimens in view of the employee. Record the date on the specimen label. Have the employee initial the label verifying that the specimens are his/hers.
14. Complete the custody and control form ensuring that you and the employee have signed the appropriate certification statements. Document receipt and release of specimen and shipment courier in chain of custody section of the form.
15. Place the specimens and the copies of the custody and control form in a container suitable for shipment and seal. Initial the seal and record the time and date of closure for shipment.
16. Store all specimens in a secure location until shipment.
17. Ship the specimens to the laboratory using the designated courier.

**EXHIBIT #2**  
**COLLECTION SITE CHECKLIST**  
**(For Employees Required to Provide Urine Specimens)**

1. Report to the specimen collection site as soon as possible after notification to report. Refusal to report for collection or refusal to cooperate with the collection process will result in a determination of a refusal to provide a specimen.
2. Show the collection site personnel an official photo identification card.
3. Check your outer garments with the collection site personnel for safekeeping. You have the right to retain your wallet and to ask for a receipt for your belongings.
4. Rinse and dry your hands.
5. Obtain a wrapped specimen container from the specimen collection personnel.
6. Proceed to the privacy enclosure and provide a specimen in the collection container. At least 45 milliliters of urine are required for analysis. If an insufficient amount of urine is provided, the original specimen will be discarded and you will be required to consume not more than 24 ounces of fluid in two hours to provide another specimen. Do not tamper with the specimen or make substitutions. The specimen will be visually inspected for unusual color and sediment.
7. The temperature of the specimen will be measured and must fall within an acceptable range. If the temperature falls outside the acceptable range, you will be required to provide an oral temperature to counter any suspicion of tampering.
8. Give the specimen to the specimen collection personnel and watch the sealing and labeling of the bottles. Initial the labels verifying that the specimen is yours.
9. You may wish to indicate on the back of your copy of the custody and control form any medications you are currently using. This list may serve as a memory jogger in the event a Medical Review Officer calls you to discuss the results of your test.

10. The results of the laboratory analysis will be forwarded to your employer's Medical Review Officer. If the results are negative (no drugs

**EXHIBIT #2**  
**COLLECTION SITE CHECKLIST**  
**(For Employees Required to Provide Urine Specimens)**

detected), the MRO will notify your employer. If the laboratory confirms a positive result (drugs detected), the MRO will contact you at the telephone number you provided to give you the opportunity to discuss the test results and to submit information demonstrating authorized use of the drugs in question.

## **EXHIBIT #4 DISCIPLINARY PROCEDURE**

### **I. General Provisions**

- A. Whenever practicable, an employee is entitled to have a representative from the Huntington Beach Municipal Employees Association present when he or she is being tested under the reasonable suspicion provisions of the drug and alcohol testing rules.
- B. The Association representative shall be permitted to accompany the employee to the test site and shall be permitted to perform this function on City time, except where the testing process extends past the representative's normal workday, at which time the representative is permitted to stay but shall not be compensated for such time.
- C. Employees who are subjected to reasonable suspicion testing shall be transported to and from the test sites and home, if sent home.
- D. Tests shall be administered on City time. An employee shall be paid for overtime if the testing process extends past an employee's normal workday.
- E. In deciding whether or not to administer a reasonable suspicion test, a second supervisor shall, whenever practicable, confirm the first supervisor's observations.
- F. The City agrees to pay for any rehabilitation required by the substance abuse professional.
- G. In split sample testing, the City will reimburse the employee for the costs of the second sample if the test comes back negative.
- H. The City shall change its promotional flyers to reflect the fact that drug and alcohol testing is required for safety-sensitive positions.

## **EXHIBIT #4 DISCIPLINARY PROCEDURE**

### **II. Reasonable Suspicion Testing**

- A. The City shall generally offer rehabilitation for the first failure of a reasonable suspicion test. Any discipline short of proposed dismissal will include mandatory rehabilitation, as determined by the City-approved Substance Abuse Professional.
- B. An employee who previously tested positive for controlled substance and/or alcohol, but who has not tested positive during the preceding five years, shall not have the previous positive test considered for purposes of progressive discipline under this policy.
- C. An employee may ask to have the positive results of his or her drug or alcohol test removed from his or her personnel file after five years in which there have been no further positive tests.
- D. An employee who tests negative as a result of a reasonable suspicion test shall be credited with four hours compensatory time.

### **III. Positive Testing - Random Testing**

- A. Under City policy, a covered employee who, as a result of a random test, tests positive for:
  - 1. Controlled substances;
  - 2. Alcohol above 0.04;
  - 3. And/or alcohol between 0.02 to 0.04, as a result of a test administered more than two hours from the beginning of the employee's shift, shall be subject to a progressive discipline policy.
- B. Progressive Discipline Policy
  - 1. First Positive Test
    - a). The employee shall be immediately suspended for forty hours.

## **EXHIBIT #4**

### **DISCIPLINARY PROCEDURE**

- b). The employee shall be referred to the City's Employees Assistance Program for evaluation. The evaluation will be conducted by a Substance Abuse Professional, who will determine, in conjunction with the Medical Review Officer, the appropriate counseling or treatment program the employee should undertake or assess that the employee is "fit for duty" and return that employee to work. If the SAP/MRO recommends the employee undergo treatment or engage in counseling, the employee must successfully complete the program as outlined by the SAP/MRO and be certified by the SAP/MRO to return to work. An employee who is deemed "fit for duty", but cannot pass a follow-up test shall be assigned non-safety sensitive duties until such time as the employee has passed a return to duty test or for 60 days, whichever is less. Failure to pass a return to duty test within 60 days shall result in termination.
  - c). The employee shall be placed on administrative leave without pay when participating in a medically supervised/approved residential rehabilitation program. Such leave may be charged to the employee's sick leave, compensatory time or vacation account.
  - d). The employee shall instruct the treatment/rehabilitation program provider to release any and all medical records of the treatment plan to the MRO or SAP. Such information shall be treated as confidential medical information by the MRO/SAP.
  - e). Each employee who has received treatment pursuant to the recommendation of the SAP shall be subject to a minimum of six unannounced tests during the first twelve-month period following a return to duty. Such testing shall be as determined by the MRO/SAP.
2. Second Positive Test Within Three Years
- a). A covered employee who within three years receives a positive test as described in III A above, will be terminated.



## **EXHIBIT #4**

### **DISCIPLINARY PROCEDURE**

3. Second Positive Test After Three Years
  - a). An employee who tests positive as described in III A above, after three years, shall receive an 80 hour suspension, along with mandatory referral to rehabilitation, as determined by the SAP and shall be placed on a mandatory Constructive Action Program. Failure to comply with either the rehabilitation program or the CAP shall result in automatic termination.
4. An employee who previously tested positive as described in III A above, but who has not tested positive during the preceding five years, shall not have the previous positive test considered for purposes or progressive discipline under this policy.
5. An employee may ask to have the results of his or her drug or alcohol test removed after five years in which there have been no further positive tests.

#### **IV. Positive Testing - The "Hangover" Failure**

Any employee who within the first two hours of his or her shift is given an alcohol confirmation test by the BAT and the breath alcohol concentration level is 0.02 or greater, but less than 0.04, shall be taken off safety sensitive duties for the remainder of the shift and shall be suspended without pay the following shift. A second "hangover" failure within three years shall result in a 40 hour suspension, along with a mandatory rehabilitation as determined by the SAP. A third such failure within three years shall result in automatic termination.