

**CITY OF ORANGE COVE  
DRUG AND  
ALCOHOL TESTING POLICY**

**UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION  
FEDERAL TRANSIT ADMINISTRATION**

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TABLE OF CONTENTS

	Page
I. STATEMENT OF PURPOSE.....	2
II. POLICY STATEMENT.....	2
III. PROHIBITED SUBSTANCES.....	3
IV. DEFINITIONS.....	3
A. Alcohol.....	3
B. Chain of Custody.....	3
C. City Equipment.....	3
D. Commercial Motor Vehicle (“CMV”).....	4
E. Covered Employee.....	4
F. Designated Employer Representative (DER).....	4
G. Drug or Drugs.....	4
H. Illegal Use.....	5
I. Medical Review Officer (MRO).....	5
J. Performing a Safety-Sensitive Function.....	5
K. Personnel Officer.....	5
L. Positive Test.....	5
M. Prescription Drug.....	5
N. Safety-Sensitive Functions.....	5
O. Substance Abuse Professional (SAP).....	6
P. Testing Laboratory.....	6
V. EMPLOYEES WHO ARE PERFORMING A “SAFETY SENSITIVE” FUNCTION.....	6

VI.	COMPLIANCE BY EMPLOYEES.....	7
VII.	TESTING OF EMPLOYEES FOR DRUGS AND ALCOHOL.....	7
	A.    Circumstances Under Which the City May Require a Covered Employee to Submit to Testing.....	8
	B.    Testing Methods and Procedures.....	9
	1.    Testing for Drugs.....	9
	2.    Testing for Alcohol.....	10
VIII.	FEDERALLY REQUIRED TESTING OF COVERED EMPLOYEES.....	12
	1.    Pre-Employment, Promotional or Transfer Testing.....	12
	2.    Pre-Employment, Verification for Safety Sensitive Employees.....	12
	3.    Post-Accident Testing.....	13
	4.    Reasonable Suspicion Testing.....	14
	5.    Random Testing.....	16
	6.    Return to Duty Testing.....	17
	7.    Follow Up Testing.....	17
IX.	REFUSING TO TEST.....	18
X.	WHAT HAPPENS WHEN AN EMPLOYEE IS FOUND TO HAVE A POSITIVE RESULT?.....	19
XI.	EMPLOYEE LEAVE STATUS AFTER A POSITIVE DRUG/ALCOHOL RESULT OR REFUSAL TO TEST.....	19
XII.	THE ROLE OF THE SUBSTANCE ABUSE PROFESSIONAL.....	19
XIII.	THE ROLE OF THE DESIGNATED EMPLOYER REPRESENTATIVE.....	20
XIV.	TRAINING.....	20
XV.	EMPLOYEE ADMISSION OF ALCOHOL AND DRUG ABUSE.....	20

XVI. CONFIDENTIALITY.....	21
XVII. RETENTION OF RECORDS.....	21
XVIII. DRUG FREE AWARENESS PROGRAM/EMPLOYEE ASSISTANCE PROGRAM/POLICY PROMULGATION.....	22
XIX. CONSEQUENCES FOR VIOLATION OF THIS POLICY.....	23
A. Discipline.....	23
B. Removal from Work Site.....	23
C. Removal from Safety Sensitive Function.....	23
XX. WHERE TO SEEK HELP.....	23

# **DRUG AND ALCOHOL TESTING POLICY**

## **I. STATEMENT OF PURPOSE**

This Drug and Alcohol Testing Policy ("Policy") applies to all applicants and employees, who are required to hold a commercial driver's license or perform a "safety sensitive" function as defined under the Federal Omnibus Transportation Employee Testing Act of 1991 (the "Act"), as amended. This Policy also applies to off-site lunch periods or breaks when the affected individual is scheduled to return to work.

The City of Orange Cove is committed to protecting the health and safety of individual City employees, their co-workers, and the public from the hazards caused by the misuses of drugs and alcohol by its employees. In the interest of safety, individuals will not be permitted to perform their duties while impaired by the influence of alcohol or drugs. In order to achieve this goal and to comply with the Drug and Alcohol Testing Policy requirements of the United States Department of Transportation (DOT) regulations implementing the Act as set forth in 49 Code of Federal Regulations ("CFR") Part 40, as amended; the Federal Motor Carrier Safety Administration (FMCSA) regulations as set forth in 49 CFR Part 382, as amended; and the Federal Transit Administration (FTA) regulations as set forth in 49 CFR Part 655, as amended, the City has developed, and will continue to implement, a drug and alcohol testing program designed to prevent accidents and injuries resulting from the misuse of alcohol and prohibited drugs by individuals who hold a commercial driver's license or perform safety sensitive functions.

## **II. POLICY STATEMENT**

It is a violation of this Policy to manufacture, use, possess, distribute, trade, and/or offer for sale alcohol, illegal drugs or intoxicants. This Policy is intended to apply whenever anyone is representing or conducting business for the City. Therefore, this Policy applies during all working hours, lunch hours and whenever conducting business or representing the City, while on paid standby, on or off City property including vehicles. Any individual who conducts business for the City, is applying for a position with the City, or is conducting business on the City's property is covered by this Policy. This Policy includes, but is not limited to, executive management, managers, supervisors, full-time employees, part-time employees, off-site employees, contractors, volunteers, interns and applicants.

Drug and alcohol consumption on and/or off the job can adversely affect job performance and employee/public safety. The City respects the privacy of its employees and contractors unless their off the job involvement with drugs and/or alcohol adversely affects job performance or employee/public safety.

Violations of this Policy may result in the decision not to hire an applicant for employment with the City and employee discipline, up to and including termination.

Every employee shall be asked to sign a statement certifying that he or she has received a copy of this Policy and understands its contents. Any questions regarding rights and obligations under this Policy shall be referred to the employee's supervisor or the Personnel Officer.

### **III. PROHIBITED SUBSTANCES**

DOT regulations, as set forth in 49 CFR Part 40, as amended, FMCSA drug and alcohol testing regulations, as set forth in 49 CFR Part 382, as amended, and FTA drug and alcohol testing regulations, as set forth in 49 CFR Part 655, as amended, require that all covered employees be tested for marijuana, cocaine, amphetamines, methamphetamines, methylenedioxymethamphetamine (MDMA), opiates [codeine, morphine and heroin], and phencyclidine (PCP). Illegal use of these drugs is prohibited at all times and employees may be tested for these substances in accordance with the DOT, FMCSA and FTA regulations.

The use of any illegal drug or substance identified in Schedules 1 through V of Section 202 of the Controlled Substances Act (21 U.S.C. §812), and as further defined by 21 CFR §§1300.11 through 1300.15 is prohibited at all times unless a legal prescription has been written for the drug or substance. This includes, but is not limited to marijuana, amphetamines, methamphetamines, MDMA, opiates [codeine, morphine and heroin], PCP and cocaine, as well as any substance which causes the presence of these drugs or drug metabolites not approved for medical use by the U.S. Drug Enforcement Administration (DEA) or the U.S. Food and Drug Administration (FDA). Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.

### **IV. DEFINITIONS**

#### **A. Alcohol**

The intoxicating agent in alcoholic beverages, including ethyl alcohol and other low molecular weight alcohols such as methyl or isopropyl alcohol.

#### **B. Chain of Custody**

Procedures to account for the integrity of each specimen by tracking its handling and storage from point of collection to final disposition at the certified laboratory.

#### **C. City Equipment**

All property and equipment, machinery and vehicles owned, leased, retained or used by the City.

**D. Commercial Motor Vehicle ("CMV")**

A motor vehicle or combination of motor vehicles which:

1. has a gross combination of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating (GVWR) of more than 10,000 pounds; **OR**
2. has a gross vehicle weight rating fo 26,001 or more pounds; **OR**
3. is designed to transport 16 or more passengers, including the commercial driver; **OR**
4. is of any size and is used in the transportation of materials found to be hazardous for the purposes of the federal placarding requirements.

**E. Covered Employee**

A person, including an employee, transferee or applicant who is or will be required to hold a commercial driver's license in order to hold his or her position of employment or who performs or will perform a "safety-sensitive function" as defined herein.

A volunteer is a covered employee if: (1) The volunteer is required to hold a commercial driver's license to operate the vehicle; or (2) The volunteer performs a safety-sensitive function for the City and receives remuneration in excess of his or her actual expenses incurred while engaged in the volunteer activity.

**F. Designated Employer Representative (DER)**

The Designated Employer Representative (DER) shall be the Personnel Officer. In accordance with federal law the DER will be responsible to facilitate and communicate with outside service providers including the medical collection facility, testing laboratory, Medical Review Officer (MRO) and Substance Abuse Professionals (SAP). The DER is also available to respond to employee questions or concerns regarding the administration of this Policy and how the Federal guidelines and regulations regarding drug and alcohol testing are implemented.

**G. Drug or Drugs**

Any controlled substance that is not legally obtainable under State or Federal law (including but not limited to those drugs or substances identified in Schedules I-V of Section 202 of the Controlled Substances Act (21 U.S.C. §812) and as further defined by 21 C.F.R §§ 1300.11-1300.15). This includes, but is not limited to marijuana, amphetamines, methamphetamines, MDMA, opiates [codeine, morphine and heroin], PCP and cocaine, as well as any substance which causes the presence of these drugs or drug metabolites not approved for medical use by the U.S. Drug Enforcement Agency (DEA) or the U.S. Food and Drug Administration (FDA) and a prescription drug obtained or used without benefit of a valid prescription by a licensed physician.

**H. Illegal Use**

Includes the use of any illegal drug, misuse of legally prescribed drugs and the use of illegally obtained prescription drugs.

**I. Medical Review Officer (MRO)**

A licensed physician with knowledge of drug abuse disorders as well as appropriate training to interpret and evaluate an employee's positive test results together with an employee's medical history and any other biomedical information. An MRO reviews all negative and positive test results and interviews individuals who tested positive to verify the laboratory report before the employer is notified. The City shall select an MRO who is a licensed physician.

**J. Performing a Safety-Sensitive Function**

Time a commercial driver or other City employee spends performing safety-sensitive functions, as defined herein, including all driving time; all time waiting to be dispatched; all time remaining in readiness to drive; all time in or upon a motor vehicle; all time loading, unloading, inspecting, servicing or conditions vehicles; all time supervising or assisting in or attending to the loading or unloading of vehicles; all time repairing or obtaining assistance to repair, or remaining in attendance during the repair of a disabled vehicle.

**K. Personnel Officer**

For the purposes of this Policy, the City Manager shall be the Personnel Officer.

**L. Positive Test**

To have the presence of a drug or drug metabolite and/or alcohol in a person's system that is equal to or greater than the levels allowed by this Policy in the confirmation test as determined by appropriate testing of the breath, urine or blood specimen and which is determined by the MRO to be the result of the use of drugs and/or alcohol.

**M. Prescription Drug**

Any substance that can lawfully be obtained or possessed pursuant to a valid prescription by a licensed physician.

**N. Safety-Sensitive Functions**

Under the FMCSA, an employee is performing a safety-sensitive function if he or she is:

1. Driving a commercial motor vehicle which requires the driver to have a CDL;
2. Inspecting, servicing or repairing any commercial motor vehicle;
3. Waiting to be dispatched to operate a commercial motor vehicle;
4. Performing all other functions in or upon a commercial motor vehicle;

5. Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments being loaded or unloaded;
6. Performing driver requirements associated with the accident; or
7. Repairing, obtaining assistance, or remaining in attendance upon a disabled commercial vehicle.

Under the FTA, an employee is performing a safety-sensitive function if he or she is:

1. Operating a revenue service vehicle, in or out of service;
2. Operating a non-revenue vehicle requiring a CDL;
3. Controlling dispatch or movement of a revenue service vehicle;
4. Security personnel who carries firearms;
5. Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service. This section does not apply to the following: an employer who receives funding under 49 U.S.C. §5307 or 5309, is in an area less than 200,000 in population and contracts out such services; or an employer who receives funding under 49 U.S.C. §5311 and contracts out such services; OR
6. Contract employees that stand in the shoes of Transit System employees
7. Carrying a firearm for security purposes.

**O. Substance Abuse Professional (SAP)**

A licensed physician, social worker, psychologist, Employee Assistance Program (EAP) professional, or certified National Association of Alcohol and Drug Abuse Counselor (NAADAC) with knowledge of, and clinical experience in, diagnosis and treatment of alcohol and controlled substance disorders. A SAP determines whether an employee is "fit for duty" following an employee's refusal to test or failed alcohol or drug test, refers an employee for a return to duty test and schedules unannounced follow-up testing for a period of up to 36 months from the date the employee tested positive.

**P. Testing Laboratory**

A Substance Abuse and Mental Health Services Administration (SAMHSA) certified testing laboratory.

**V. EMPLOYEES WHO ARE PERFORMING A "SAFETY SENSITIVE" FUNCTION**

The DOT has published 49 Code of Federal Regulations (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 Federal Transit Administration (FTA). The DOT adopted 49 CFR Part 40 (Revised), which outlines procedures for transportation workplace drug and alcohol testing programs. This Policy incorporates these federal requirements for employees assigned to perform safety-sensitive functions, as well as certain other provisions.

Individuals covered under this Policy include those City employees and applicants who hold a commercial driver's license and operate or will operate a commercial motor vehicle as part of their job duties if the vehicle:

1. Has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
2. Has a gross vehicle weight rating of 26,001 or more pounds; or
3. Is designed to transport 16 or more passengers, including the driver; or
4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials regulations (49 CFR part 172, subpart F).

Essentially, this Policy will cover City employees and applicants whose duties require or will require the operation of large vehicles or heavy equipment, specialized vehicles, or the road testing of such vehicles. Employees who have questions or concerns regarding a "safety sensitive" designation of their position may discuss the issues with their supervisor or contact the DER for further information.

Performing a safety sensitive function as it pertains to testing for alcohol includes any period in which the covered employee is actually performing, ready to perform or immediately available to perform such functions. Testing for drugs may occur at any time that the safety sensitive employee is at work irrespective of actually performing a safety sensitive task. Testing for alcohol will only occur just before, during, or just after the performance of safety sensitive duty. Employees will be paid the applicable rate of pay during the entire period of time that they are participating in the testing process.

## **VI. COMPLIANCE BY EMPLOYEES**

Covered employees shall agree to abide by the provisions of this Policy as a condition of City employment. Individuals who are unsure if they are covered by this Policy or have questions regarding the application of this Policy are encouraged to contact the DER designated herein.

## **VII. TESTING OF EMPLOYEES FOR DRUGS AND ALCOHOL**

Covered employees are prohibited from reporting for duty or remaining on duty if there is a qualitative presence of a drug in their system which measures above the minimum thresholds as defined in the DOT regulations (49 CFR PART 40, as amended). Consistent with the Drug Free Workplace Act of 1988, all covered employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of drugs in the workplace including but not limited to the employment premises, City vehicles, or while conducting official City business.

All covered employees are further reminded that they must notify management of any criminal drug statute conviction for a violation occurring in the workplace within five (5) days after such conviction.

**A. Circumstances Under Which the City May Require a Covered Employee to Submit to Testing.**

City employees who may be called upon to perform work in a safety sensitive capacity are subject to drug and alcohol testing as outlined in the DOT, FMSCA and/or FTA regulations as applicable. The City may require such employees to submit to a drug and/or alcohol test under the following circumstances:

1. Following a work-related accident, incident or mishap that resulted in death, injury requiring medical treatment away from the scene of the accident or property damage where drug and/or alcohol use by the employee cannot be ruled out as a contributing factor.
2. When a trained supervisor has reasonable suspicion to believe, based upon specific and documented facts and observations that the employee may be under the influence of drugs and/or alcohol.
3. When a trained supervisor has reasonable suspicion to believe, based upon specific and documented facts and observations, that the employee either possesses, uses, sells, transfers, manufactures, purchases or illegally transports alcohol, drugs and/or drug related paraphernalia or attempts to do so.
4. Follow-up testing for employees who have returned to work following a positive test and participation in a drug and/or alcohol rehabilitation program.
5. When an on duty employee is contacted by a Police Officer who has reasonable suspicion to believe the employee is under the influence of alcohol or drugs or the employee has been involved in an on-duty vehicle-related incident and the officer suspects the employee is under the influence of drugs and/or alcohol.
6. As part of any random drug testing program administered in accordance with DOT regulations governing drug and alcohol testing of safety sensitive employees. Depending on the random selection, some safety sensitive employees may be tested more than once in a year, while others are not tested at all. Testing for alcohol will only take place just prior to the employee performing a safety-sensitive function, while the employee is performing a safety-sensitive function, or just after the employee has stopped performing a safety-sensitive function.

## **B. Testing Methods and Procedures**

All testing will be conducted as required in 49 CFR Part 40, as amended.

The DOT mandates urine drug testing and breathalyzer alcohol testing for employees and applicants who are performing or will be performing safety-sensitive functions as defined herein. The DOT regulations prohibit the performance of safety-sensitive functions when a covered employee has a positive test result or refuses to submit to a test.

Employees seeking specific details regarding the procedures and methodology of drug/alcohol testing under this Policy are referred to those DOT regulations set forth in 49 CFR PART 40. Employees who wish to review this information may contact the DER in the City Manager's office for assistance in securing a written copy of these regulations.

### **1. Testing for Drugs**

In accordance with the DOT regulations, testing for drugs under this Policy shall only be conducting using urine specimens that will be collected in accordance with the DOT regulations (49 CFR Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs, Subpart E, as may be amended from time to time). Employees may request a copy of these procedures from the DER.

Each urine specimen will be tested at a federally certified laboratory for the specific drugs/substances and their respective detection levels contained in the regulation which may be amended from time to time. At the present time the drugs/substances are as follows:

- Marijuana metabolites/THC
- Cocaine metabolites
- Phencyclidine (PCP)
- Amphetamines, Methamphetamine, and Methylenedioxymethamphetamine (MDMA); and
- Opiates [Codeine, Morphine and Heroin]

#### **Important:**

**As set forth above, consumption of any of the above substances is prohibited by the Federal guidelines. Individuals in positions which have been identified as being safety sensitive are encouraged to seek immediate, confidential, professional/medical assistance to initiate treatment and recovery.**

The testing laboratory is required to test all incoming primary specimens for dilution, substitution, and adulteration. The testing procedure is a two step process. The first is a screening test. If the screening test is positive

for one or more of the above substances, a confirmation test is performed for each identified drug using gas chromatography/mass spectrometry (GC/MS) analysis. As noted, all samples will also be examined to determine if it has been diluted or adulterated with any other substances designed to mask prohibited substance use.

Employees who are found positive for one or more of the above substances will be contacted by telephone by the MRO. The MRO will inform the individual of the finding and allow the individual to provide an explanation which may medically justify use of the identified substance. The use of other outside medical experts may be utilized in this process at the direction of the MRO. Unjustified use of the substance will result in the MRO reporting the finding as a "positive" to the City. Findings which are determined to be medically acceptable in the opinion of the MRO will be reported as "negative" to the City representative.

Any individual who has been tested and disagrees with the MRO's determination that the specimen is "positive" or that the specimen has been adulterated or substituted, may request that the "split" specimen be sent to another certified laboratory for analysis. The employee must make this request **within 72 hours** of being notified by the MRO of the finding. The City will initially pay for the split sample to be tested upon an employee's request for an appeal determination. In the event the MRO's decision is not reversed, the employee will be responsible to reimburse the City for the second analysis.

**Important:**

**Employees who test positive for one or more of the above-referenced substances shall be immediately removed from their safety sensitive position and referred to a SAP.**

A dilute negative shall be accepted as a negative test result and the employee or applicant shall not be required to produce an additional sample for testing purposes.

**2. Testing for Alcohol**

Prohibited use of alcohol under this Policy includes the following:

- a. Covered employees are prohibited from consuming alcohol while performing safety sensitive job functions or while on paid status to perform safety sensitive functions. An on-call employee who has consumed alcohol is required to acknowledge his/her consumption at the time that they are called to duty.
- b. Reporting for duty or remaining on duty in a safety sensitive position while having an alcohol concentration of 0.04 or greater.

- c. Using alcohol within 4 hours prior to performing a safety sensitive function.
- d. Employees who are on paid or "standby" status are prohibited from using alcohol. Employees who violate this provision and are recalled to duty are required to acknowledge the use of alcohol and their inability to perform safety sensitive duties. Employee who acknowledge the use of alcohol, but claim that they are able to perform in a safety sensitive capacity will be required to submit to an alcohol test.
- e. An employee who is required to undergo alcohol testing as part of a post-accident test may not use alcohol for eight hours following the accident or until such time as the post-accident test is completed.

In accordance with DOT regulations, testing for alcohol is performed through the use of an evidential breath test which measures the amount of alcohol concentration in the individual's system. In order to perform the test, the employee will be asked to provide a breath sample into the device which then calculates the extent of alcohol inebriation. The machines used to perform these tests are required to be calibrated and the operators are required to undergo training and testing in order to meet the Federal criteria. Refusal to submit to an alcohol test as required by the Federal regulations will be presumed as a positive finding and will result in a physician referral to determine if there is any medical basis to justify the refusal to test.

Usually, two breath tests will be performed in order to determine if an individual has a prohibited alcohol concentration. A screening test is conducted first. A result less than 0.02 alcohol concentration is considered a "negative" test.

If the concentration is 0.02 or greater, a second confirmation test is conducted. Under the FTA, if the confirmation test results in a value between 0.02, but less than 0.04, the employee shall not resume safety-sensitive functions until the next scheduled duty period, but not less than 8 hours from the time of the test [49 CFR 655.35]. Under the FMSCA, the employee shall not resume safety-sensitive functions for at least 24 hours following administration of the test [49 CFR 382.505].

Any covered employee with an alcohol concentration level of 0.04 or greater will be removed from the safety sensitive position, referred to a SAP and may not resume safety-sensitive functions until he or she successfully completes the return-to-duty process as set forth in section VIII of this Policy.

## **VIII. FEDERALLY REQUIRED TESTING OF COVERED EMPLOYEES**

All alcohol and drug testing that is required by the Federal regulations referenced herein will be conducted at the expense of the City and employees shall remain in a full pay status during any period of time connected or associated with the compliance of these regulations. The Act requires the following types of alcohol and drug testing be performed under the DOT and/or FMCSA or FTA regulations:

### **1. Pre-Employment, Promotional or Transfer Testing**

Pre-employment testing will occur after the applicant has been provided a conditional offer of employment. A pre-employment candidate must produce a verified negative drug test result prior to performing a safety sensitive duty. If the test is cancelled, the individual must re-take and successfully pass the test prior to the performance of a safety sensitive function.

Employees who are being transferred or promoted from a non-safety sensitive position to a safety sensitive position will be required to undergo drug testing. Employees who are currently employed in a safety sensitive position seeking transfer or promote to another safety sensitive position will not be required to undergo further drug testing, unless otherwise required herein. Under the FTA, covered employees are required to undergo a pre-employment drug test if he or she has been away from work for more than 90 consecutive calendar days, are removed from the random testing pool and plan to return to a safety-sensitive function.

### **2. Pre-Employment Verification for Safety Sensitive Employees**

Job offers made by the City for positions requiring the performance of safety sensitive functions are contingent upon the successful completion of a drug and/or alcohol screening.

For any position that requires the performance of safety sensitive functions, the City is required to verify previous violations of DOT drug and alcohol regulations within the last two (2) years of employment with a DOT regulated agency or employer.

For any position that requires a commercial driver's license and thus subject to the FMCSA and/or FTA regulations, the City is required to verify previous violations of DOT drug and alcohol regulations within the last three (3) years of employment with a DOT regulated agency.

Applicants for City employment positions requiring the performance of safety-sensitive functions will also be asked whether they have 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 a DOT agency during the past two (2) years or within the past three (3) years for those applicants for City employment positions requiring a commercial driver's license. If an applicant admits that he or she had a positive test or refused to test, or if the City receives information from a prior employer that an employee violated any

DOT drug and alcohol testing regulation, the applicant will not be eligible for a position with the City unless the applicant can demonstrate that he or she has complied with any return to duty testing requirements, as established by the DOT regulations.

### **3. Post-Accident Testing**

Unless the City determines that the employee's performance was not a contributing factor, any employee involved in a reportable accident may be subject to an alcohol test within two hours following the accident and to a drug test within 32 hours following the accident. Under the FTA, in addition to the employee operating the vehicle, any other employee whose performance may have contributed to the accident, such as the employee who maintains the vehicle or the work-site where the accident occurred, may also be subject to post-accident drug and alcohol testing.

#### **a. FATAL ACCIDENTS**

Under both the FMSCA and the FTA, drug and alcohol testing shall occur in all accidents involving a fatal injury.

#### **b. NON-FATAL ACCIDENTS**

In the case of non-fatal accidents, alcohol testing shall occur as set forth below if the covered employee receives a citation within 8 hours of the accident, under State or local law, for a moving traffic violation arising from the accident, if the accident involved:

- a. Bodily injury to any person who, as a result of the accident, immediately receives medical treatment away from the scene of the accident; or
- b. Vehicular damage to any involved vehicle requiring the vehicle to be transported away from the scene of the accident by a tow truck or other motor vehicle.

In the case of non-fatal accidents, drug testing shall occur as set forth below if the covered employee receives a citation within 32 hours of the accident, under State or local law, for a moving traffic violation arising from the accident, if the accident involved:

- a. Bodily injury to any person who, as a result of the accident, immediately receives medical treatment away from the scene of the accident; or
- b. Vehicular damage to any involved vehicle requiring the vehicle to be transported away from the scene of the accident by a tow truck or other motor vehicle.

- c. Testing policies and procedures applicable to all post-accident testing:
  - i. An employee shall be tested for alcohol within two (2) hours following the accident or otherwise the employer shall document the reasons the test was not administered within this two hour time period. If an alcohol test is not administered within eight hours following the accident, the City shall cease attempts to administer such test and shall state in the record the reasons for not administering the test. An individual who has been involved in an accident which requires a post-accident test, shall not consume any alcohol for a period of 8 hours after the occurrence or until such time as the post accident alcohol test has been performed.
  - ii. An employee shall be tested for drugs within 32 hours following the accident. If the drug test is not administered within this time period the employer shall document the reasons why the test was not administered within this 32 hour time period. If a test is not administered within 32 hours following the accident, the City shall cease all attempts to administer the test and shall state in the record the reasons for not administering the test.
  - iii. The potentially affected employee will not be allowed to proceed alone to or from the collection site. In addition to the safety concerns for the employee, the supervisor accompanying the employee also reduces the employee's opportunity for the employee to do or ingest anything that could affect the test result or to acquire "clean" urine from another person while en route to the collection site.
- d. A driver who is subject to post-accident drug and alcohol testing shall remain readily available in the event testing is required. Failure to remain readily available for testing can be deemed a refusal to test.
- e. Nothing in this section shall delay medical attention for an injured individual following an accident or prohibit an individual from leaving the immediate scene of the accident for the period of time necessary to obtain assistance in responding to the accident or to obtain medical treatment.

#### **4. Reasonable Suspicion Testing**

- a. Employees may be subject to reasonable suspicion testing when a trained supervisor has a reasonable suspicion that an employee is under the influence of drugs and/or alcohol.
- b. The supervisor who observes the employee's behavior upon which reasonable suspicion testing is based must have received at least 60 minutes of training on the indicators of probable alcohol abuse and an additional 60 minutes of training on the indicators of probable drug use. The training must cover the physical, behavioral, speech and performance indicators of probable alcohol abuse and drug use.

- c. Reasonable suspicion shall be based on specific, contemporaneous, articulable and documented observations concerning the physical symptoms or behaviors of being under the influence of drugs and/or alcohol. If conditions permit, the supervisor may request the assistance of another supervisor to observe the actions or behavior of the subject employee. Examples of performance indicators of probable drug use and/or alcohol abuse sufficient to lead a supervisor to suspect that an employee is under the influence of drugs and/or alcohol, include, but are not limited to, those set forth in the Reasonable Suspicion Evaluation Form attached hereto as Exhibit "A." The indicators may also include observations of the chronic use or withdrawal effects of controlled substances.
- d. The employee shall be immediately informed of the supervisor's observations and suspicions, provided with a copy of the Reasonable Suspicion Evaluation Form and advised that he or she may have a representative present. The employee shall immediately proceed to the testing facility or location for reasonable suspicion testing for drugs and/or alcohol.
- e. The Reasonable Suspicion Evaluation Form and other documentation establishing reasonable suspicion shall be prepared and signed by the witness(es) and the supervisor(s) prior to testing. The Personnel Officer should be notified as soon as possible.
- f. An employee shall be tested for alcohol within two (2) hours following the reasonable suspicion determination made by a supervisor or otherwise the employer shall document the reasons the test was not administered within this two hour time period. If an alcohol test is not administered within eight (8) hours following the reasonable suspicion determination, the City shall cease attempts to administer such test and shall state in the record the reasons for not administering the test.
- g. An employee shall be tested for drugs within 32 hours following the supervisor's reasonable suspicion determination. If the drug test is not administered within this time period the employer shall document the reasons why the test was not administered within this 32 hour time period. If a drug test is not administered within 32 hours following the supervisor's reasonable suspicion determination, the City shall cease all attempts to administer the test and shall state in the record the reasons for not administering the test.
- h. The potentially affected employee will not be allowed to proceed alone to or from the collection site. In addition to the safety concerns for the employee, the supervisor accompanying the employee also reduces the employee's opportunity for the employee to do or ingest anything that could affect the test result or to acquire "clean" urine from another person while *en route* to the collection site.
- i. An employee's refusal to submit to a drug and/or alcohol test determined to be necessary based on the reasonable suspicion of a supervisor is

cause for discipline, up to and including termination. Supervisors shall arrange to safely transport an employee who refuses to submit to testing to his or her home. If the employee refuses to accept the supervisor's arrangements to transport the employee home, or if the employee insists on driving his or her own vehicle and, in the supervisor's judgment, the employee is not in a condition to safely operate a vehicle, the supervisor has the discretion to summon law enforcement or medical assistance to assist in the safe transport of the employee off City property

- j. A written record must be made of the observations leading to a controlled substance reasonable suspicion test, and signed by the supervisor who made the observations, within 24 hours of the observed behavior or before the results of the controlled substances test are released, whichever is greater.

## 5. Random Testing

Random drug and alcohol testing under this Policy shall conform to, and not exceed the testing limits established by Federal law.

- a. Random alcohol testing shall be administered at the minimum annual rate as required by the applicable federal regulations, including but not limited to the DOT regulations.
- b. Random testing for drugs shall be administered at the minimum annual rate as required by the applicable federal regulations, including but not limited to the DOT regulations.
- c. Random alcohol and/or drug tests shall be unannounced and spread reasonably throughout the calendar year. It is possible under this random testing program that one or more covered employees could be tested more than once during a calendar year, while other covered employees may not be tested at all during that same time.
- d. Random testing for alcohol shall be conducted *only just before, during, or just after the performance of a safety sensitive function.*
- e. Random testing for drugs may be performed at any time while the individual is present at work, irrespective of the performance of a safety sensitive function.
- f. Covered employees shall be selected for random alcohol and/or drug testing by the City or its designee as follows:
  - i. The name of each individual who is subject to random testing will be placed into a pool from which the names will be randomly drawn.
  - ii. Each employee shall have an equal chance at selection and shall remain in the pool even after being tested.

- iii. The basis for random selection shall be by a scientifically valid random number general method initiated by computer and observed by an employee representative designated by the affected labor organizations effective January 1 of each calendar year in the following rotation order: Local 39 (January 1, 2012) and OCPOA (January 1, 2013).
- iv. Random drug and alcohol testing shall conform to and not exceed the testing limits established by Federal law.

Employees who have not been subject to random testing for 30 days shall be required to produce a verified negative drug test prior to their resumption of safety sensitive functions.

#### **6. Return to Duty Testing**

If the City, in its sole discretion, decides to allow a safety-sensitive employee to return to work with the City following a violation of any DOT drug and alcohol testing regulation, the employee must comply with the following return to duty testing procedures before returning to work:

- a. The employee shall undergo an evaluation of fitness for duty by the SAP;
- b. The employee must complete Return to Duty testing, under the direction of the MRO, after the SAP states the employee is fit to return to work; and
- c. The employee will then submit to a return to duty test and receive a verified negative test result for drug and/or alcohol use from the MRO before being eligible to return to work with the City.

#### **7. Follow Up Testing**

- a. Following the completion of any return to duty testing procedures described in section 6 above, and in conjunction with a determination by a SAP that an employee is in need of assistance in resolving problems associated with drug and/or alcohol use, the employee shall be subject to unannounced follow-up testing as directed by the SAP of at least a minimum of six (6) tests in the first year following the employee's return to duty, and thereafter as determined necessary by the SAP. The SAP can terminate the requirement for follow-up testing, in excess of the minimum, at any time if the SAP determine that the testing is no longer necessary and the City agrees with his or her determination.
- b. Follow-up alcohol testing may also include testing for drug use as directed and determined by the SAP.
- c. The time period for "follow-up" testing for drug and/or alcohol use will be determined by the SAP subject to a reasonable minimum of one year and never to exceed three years.

- d. Follow-up testing may be on a daily, weekly, monthly or longer basis at the discretion of the SAP.

## **IX. REFUSING TO TEST**

Pursuant to the DOT regulations, a covered employee refuses to submit to an alcohol or drug test if he or she:

1. Fails to appear at a urine collection site when directed to report;
2. Fails to remain at the urine collection site;
3. Fails to provide a urine specimen;
4. Fails to permit a monitored or observed urine collection;
5. Fails to provide a sufficient amount of urine;
6. Fails or declines to take an additional drug test the employer or collector has directed;
7. Fails to undergo a medical examination or evaluation the MRO or employer has directed;
8. Fails to cooperate with any part of the urine collection process;
9. For an observed collection, fails to follow the instructions to raise and lower clothing and turn around;
10. Possesses or wears a prosthetic or other device that could be used to interfere with the collection process;
11. Admits to the collector to having adulterated or substituted the specimen;
12. Adulterates or substitutes a urine specimen;
13. Admits to the MRO to having adulterated or substituted the specimen;
14. Fails to appear for an alcohol test when directed to report;
15. Fails to remain at the alcohol test site;
16. Fails to provide an adequate amount of saliva or breath;
17. Fails to provide a sufficient breath specimen;
18. Fails to undergo a medical examination or evaluation as the employer has directed as part of the insufficient breath procedures;
19. Fails to sign the certification statement at Step 2 of the Alcohol Testing Form (ATF); or
20. Fails to cooperate with any part of the alcohol testing process.

Employees should note that the above circumstances regarding refusal to test for alcohol or drugs are only applicable to DOT testing. If an employee refuses to take a non-DOT test or to sign a non-DOT form, it is not considered a refusal to take a DOT test. There are no consequences under DOT regulations for refusing to take a non-DOT test.

## **X. WHAT HAPPENS WHEN AN EMPLOYEE IS FOUND TO HAVE A POSITIVE RESULT?**

Employees are subject to disciplinary action up to and including termination upon the City's notice of a verified drug test result, if they have an alcohol concentration which exceeds 0.02, or if they refuse to test as defined in 49 CFR Part 40.191 and 40.261.

Any disciplinary action taken by the City as a result of this Policy will be subject to the applicable provisions of current MOUs, Administrative Orders, and the Orange Cove Municipal Code (OCMC) concerning representation and hearing appeals process. Among the factors to be considered in determining the appropriate disciplinary action include the level of the offense, the nature and requirements of the work, length of employment, current job performance, and history of past disciplinary action. The City reserves the exclusive right to determine the level of disciplinary action and/or to extend a Last Chance Agreement to employees who have tested positive.

All employee records regarding drug and alcohol testing and any follow up testing is maintained with the utmost confidentiality. Access to these records is extremely restricted to only those individuals who have a direct responsibility for the operation of the program. The City's policy regarding the confidentiality of records under this Policy is set forth in more detail in Section XVI below.

## **XI. EMPLOYEE LEAVE STATUS AFTER A POSITIVE DRUG/ALCOHOL RESULT OR REFUSAL TO TEST**

Employees who test positive for drugs or alcohol or who are determined to have refused to test, will be removed from performing a safety sensitive function and placed on paid administrative leave. Employees may elect to use other accumulated leave balances at their option in lieu of their placement on paid administrative leave.

## **XII. THE ROLE OF THE SUBSTANCE ABUSE PROFESSIONAL**

In the event that an employee has been reported as having a positive alcohol or drug test, the City of Orange Cove representative will contact the individual for the purpose of arranging a referral to a Substance Abuse Professional (SAP). As set forth in Section II above, SAPs are licensed physicians, social workers, psychologists, Employee Assistance Professionals or certified National Association of Alcohol and Drug Abuse Counselors (NAADAC) with knowledge of, and clinical experience in, diagnosis and treatment of alcohol and drug disorders. This referral is made at no cost to the employee. The function of the SAP is to meet with the employee and make recommendations concerning education, treatment, follow-up testing, and aftercare.

In all cases where the employee has had a positive drug/alcohol test, the employee shall be required to undergo an additional follow-up test with a "negative" finding prior to being allowed to return to work and perform in a safety sensitive capacity.

### **XIII. THE ROLE OF THE DESIGNATED EMPLOYER REPRESENTATIVE**

Federal law requires that employers designate an individual within the organization who will be responsible to facilitate and communicate with outside providers including the medical collection facility, MRO, and SAP. The Designated Employer Representative (DER) is also available to respond to employee questions or concerns regarding the administration of the program and how the Federal guidelines are implemented. The Designated Employer Representative for the City of Orange Cove is the Personnel Officer who is located in the City Manager's Office. The DER can be contacted at (559)

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In addition to the DER, an Advisory Committee shall be maintained to review the impact, modification, or repeal of the Omnibus Transportation Employee Testing Act and make recommendations to the City Manager on all matters relevant to the implementation of this Policy. Half of the Committee members shall be appointed by the City and half shall be appointed by those recognized employee organizations subject to this Policy and shall meet at the request of any member.

### **XIV. TRAINING**

The City will provide employees and their supervisors with information on drug and alcohol abuse and treatment resources. The training will provide information concerning the effects of alcohol and drug use on an individual's health, work and personal life; signs and symptoms of an alcohol or controlled substances problem; and available methods of intervening when an alcohol or drug problem is suspected, including confrontation, referral to any employee assistance program and or referral to management.

Supervisors of employees shall receive at least two (2) hours of training on drug and alcohol abuse detection, documentation and intervention for the purpose of making determinations for reasonable suspicion testing as required by the DOT regulations.

Covered employees shall receive training on the dangers of drug and alcohol misuse.

### **XV. EMPLOYEE ADMISSION OF ALCOHOL AND DRUG USE**

**Any City of Orange Cove employee covered by this Policy who admits to alcohol misuse or drug use prior to performing a safety sensitive function and does not self identify in order to avoid testing under the requirements of this Policy, shall be provided special consideration. Employees making such a voluntary admission will not be subject to adverse disciplinary action for violations of this Policy and shall be afforded the opportunity to seek evaluation, education or treatment to establish control over the employee's drug or alcohol problem. Employees who successfully complete an education or treatment program, as determined by a qualified drug or alcohol abuse evaluation expert (i.e., a Substance Abuse Professional, an employee assistance professional, or qualified drug and alcohol counselor) shall be permitted to return to safety sensitive duties**

upon evidence of a verified negative drug and alcohol test as provided by the Federal regulations.

## **XVI. CONFIDENTIALITY**

The City shall not release any information pertaining to a drug or alcohol test of a covered employee, without his or her consent, except:

1. When the release of information is compelled by law or by judicial or administrative process;
2. When the information has been placed at issue in a formal dispute between the employer and employee;
3. When the information is to be used in administering an employee benefit plan;
4. When the information is needed by medical personnel for the diagnosis or treatment of the employee who is unable to authorize disclosure; or
5. When requested by the DOT or any other federal, state or local officials with regulatory authority over the City or any of its safety-sensitive employees.

## **XVII. RETENTION OF RECORDS**

The DOT regulations impose the following minimum record keeping requirements upon the City with regards to alcohol and drug testing:

1. The City, or its designee, shall maintain the following records for a minimum of five (5) years:
  - Records of alcohol test results indicating an alcohol concentration of 0.02 or greater;
  - Records of verified positive drug test results;
  - Documentation of refusals to take required alcohol and drug tests (including substituted or adulterated drug tests results);
  - Annual MIS Report;
  - SAP reports; and
  - All follow-up tests and schedules for follow-up tests.

2. The City, or its designee, shall maintain the following records for a minimum of three (3) years:
  - Information obtained from previous employers under §40.25 concerning drug and alcohol test results of employees.
3. The City, or its designee, shall maintain the following records for a minimum of two (2) years:
  - Records of the inspection, maintenance and calibration of EBTs; and
  - Records related to the alcohol and drug collection process. These include, documents related to random selections, reasonable suspicion determinations and post-accident determinations; medical evaluations for insufficient amounts of urine and breath; and supervisor and employee education and training records.
4. The City, or its designee, shall maintain the following records for a minimum of one (1) year:
  - Records of negative and cancelled drug test results and alcohol tests with a concentration of less than 0.02.

The records identified above shall be maintained in a separate, confidential medical folder in a secure location with controlled access. These records may only be disclosed to City management on a strictly need-to-know basis and to the tested covered employee upon request.

DOT regulations require MROs to keep their medical review records, laboratory reports and Custody Control Form (CCF) copies they receive at their own place of business.

#### **XVIII. DRUG FREE AWARENESS PROGRAM/EMPLOYEE ASSISTANCE PROGRAM/POLICY PROMULGATION**

All covered employees will receive a copy of this Policy upon employment and will sign that they have received and are responsible for reading this Policy. In addition, the City will periodically provide substance abuse awareness programs regarding the following:

- The City's policy and commitment toward maintaining an alcohol and drug free workplace;
- The dangers of alcohol and substance abuse in the workplace;
- Available alcohol and drug counseling and rehabilitation programs;
- The penalties that may be imposed upon employees for alcohol or drug abuse violations in the workplace, including discipline, up to and including termination of employment.

## **XIX. CONSEQUENCES FOR VIOLATION OF THIS POLICY**

### **A. Discipline**

Any violation of this Policy may result in discipline, up to and including termination. Discipline may be imposed regardless of whether or not a covered employee is convicted of any crime related to any violation of this Policy.

Any violation of this Policy that may constitute criminal conduct or violation of the DOT regulations may be reported to the appropriate law enforcement agencies and/or subject the employee to civil penalties.

### **B. Removal from Work Site**

Covered employees reasonably believed to be under the influence of alcohol, drugs or controlled substances shall be immediately prevented from engaging in further work and shall be detained for a reasonable time until they can be safely transported from the work site.

### **C. Removal from Safety Sensitive Function**

A covered employee whose alcohol test indicates an alcohol concentration level between 0.02 and 0.04 will be removed from his or her safety-sensitive position in accordance with the applicable Federal regulations (for at least 8 hours after the test is administered under the FTA; for at least 24 hours after the test is administered under the FMSCA). Any covered employee whose alcohol test indicates an alcohol concentration level greater than 0.04 will be immediately removed from his or her safety-sensitive function for a period to be determined by the Personnel Officer.

If a covered employee tests positive for drugs or controlled substances, he or she may not perform safety-sensitive functions until satisfying the following requirements:

1. The employee must be retested and receive a verified negative result; and
2. When referred to a SAP, the employee must complete any course of rehabilitation and submit to a return-to-duty test, as developed with the assistance of the SAP. Subject to any provisions in an applicable memorandum of understanding or collective bargaining agreement providing otherwise, the City is not required to pay for this type of treatment.

## **XX. WHERE TO SEEK HELP**

Substance abuse, including the use of alcohol, has been recognized as a nationwide problem. It is estimated that as much as 70% of all reported violence involves alcohol

or substance abuse. Statistics indicate that over 10 million people are current users of illicit drugs and that 10% of the American population has an alcohol problem.

Lost productivity related to substance and alcohol abuse is estimated to be in excess of 50 billion dollars a year. Substance abusers have three times the normal absenteeism; five times the average Workers' Compensation claims; three times more accidents; and three times the health care benefit usage.

Frequently, the results of drug abuse in the workplace result in increased absenteeism, personality changes, an increase in the number of work related injuries, a deterioration in work quality and job performance, the offering of excuses, and complaints from co-workers and customers. The recognition of these issues is critical in assisting all effected employees in the organization to be referred to intervention programs and advised of available programs to assist them in overcoming this problem. An employee who makes a voluntary admission of alcohol or substance misuse which is not related to a positive finding associated with the mandated Federal testing program will not be subject to disciplinary action and shall be given sufficient opportunity to seek evaluation, education, or treatment to establish control over the problem. Employees who seek voluntary assistance and successfully complete an educational or treatment program as determined by a qualified substance abuse professional, shall be allowed to resume their former safety sensitive duties upon a showing of compliance with the Federal guidelines.

It is the policy of the City of Orange Cove to encourage employees to seek assistance regarding problems with substance use prior to actual detection as part of a drug/alcohol test. Employees who seek professional assistance on a voluntary basis will be afforded the opportunity to seek professional treatment on a confidential basis to assist them in achieving full recovery and the ability to return to productive work.

Included with this Policy is a list of available contacts in the community who provide counseling and treatment services for those employees seeking assistance for alcohol and/or substance abuse.

## **LISTING OF LOCAL AGENCIES FOR DEPENDENCY ISSUES & TREATMENT**

### **ALCOHOLICS ANONYMOUS**

221-6907 and 266-6752 (Spanish)

2812 N. Blackstone Avenue

Fresno, CA

Hours: 24 Hour hotline; M, T, F, 9 a.m.-4:30 p.m. W, 9 a.m.-6 p.m.

Sat., 9 a.m.-1 p.m.

### **ALCOHOLISM & DRUG ABUSE COUNCIL – FRESNO**

248-1548

4411 N. Cedar Avenue, Suite 108

Fresno, CA

Hours: M-F, 8 a.m.-5 p.m.

### **B.A.A.R.T.**

266-9581

539 N. Van Ness Ave.

Fresno, CA

Hours: M-W & F, 6 a.m.-11 a.m. (&) 12 noon-2 p.m.; Th, 6 a.m.-12:30 p.m.

Sat. & Sun 6 a.m.-10 a.m.; Holidays 6 a.m.-9 a.m.

### **COMPREHENSIVE ALCOHOL PROGRAM, INC.**

264-5096

2445 W. Whitesbridge Road

Fresno, CA

Hours: 24 hours, 7 days a week

### **DRUG TREATMENT CENTER 24 HOUR HELP LINE**

(800) 711-6375.

### **FRESNO COUNTY HISPANIC COMMISSION ON ALCOHOL AND DRUG ABUSE SERVICES, INC.**

268-6475

1444 Fulton St.

Fresno, CA

Hours: M-F, 9 a.m.-9 p.m.

### **KING OF KINGS**

Men's Residential Recovery Home

266-6449

2267 S. Geneva Ave.

Fresno, CA

Hours: 24 Hours, 7 days a week

### **KING OF KINGS DRUG ABUSE CENTER**

2385 S. Fairview Ave.

Fresno, CA

237-4116

MAROA HOME

441-1543

826 N. Palm

Fresno, CA

Hours: M-F, 8 a.m.-5 p.m.

NARCOTICS ANONYMOUS

255-5881

NUESTRA CASA RECOVERY HOME

485-0501

1414 W. Kearney Blvd.

Fresno, CA

Hours: 24 hours, 7 days a week

SALVATION ARMY A.R.C.

495-4775

804 S. Parallel Ave.

Fresno, CA

VA MEDICAL CENTER

225-6100

2615 E. Clinton

Fresno, CA

Hours: M-F, 8 a.m.-4 p.m.

WESTCARE

2772 Martin Luther King Blvd.

Fresno, CA

265-4818

**EXHIBIT A**

**CITY OF ORANGE COVE  
CONTROLLED SUBSTANCES AND ALCOHOL TESTING POLICY  
REASONABLE SUSPICION EVALUATION FORM**

Employee's Name:

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Observation Date and Time:

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Location of Employee during observation:

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Name and Location of Supervisor(s) during observation:

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Name of any other individuals present during activities or observations:

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Incident(s) observed which give cause for reasonable suspicion:

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(Factors that may be considered in combination with those listed in 1 – 6 below include: takes needless risks, accident(s), disregard for others safety, unusual/distinct pattern of absenteeism/tardiness, increased high/low periods of productivity, lapses of concentration or judgment, etc.)

1. Presence of alcohol, alcohol containers, drugs, and/or drug paraphernalia (specify):

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2. Appearance (check all that apply):

- |                                                     |                                                              |                                           |
|-----------------------------------------------------|--------------------------------------------------------------|-------------------------------------------|
| <input type="checkbox"/> Flushed                    | <input type="checkbox"/> Inappropriate                       | <input type="checkbox"/> Disheveled       |
| <input type="checkbox"/> Bloodshot/Glassy Eyes      | <input type="checkbox"/> Tremors                             | <input type="checkbox"/> Smell of Alcohol |
| <input type="checkbox"/> Dilated/Constricted Pupils | <input type="checkbox"/> Inappropriate Wearing of Sunglasses |                                           |
| <input type="checkbox"/> Dry-mouth Symptoms         | <input type="checkbox"/> Runny Nose/Sores                    |                                           |
| <input type="checkbox"/> Puncture Marks             | <input type="checkbox"/> Profuse Sweating                    |                                           |

Other:

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3. Behavior/Speech (check all that apply):

- |                                     |                                              |                                                  |
|-------------------------------------|----------------------------------------------|--------------------------------------------------|
| <input type="checkbox"/> Incoherent | <input type="checkbox"/> Slurred             | <input type="checkbox"/> Unconscious             |
| <input type="checkbox"/> Confused   | <input type="checkbox"/> Slowed              | <input type="checkbox"/> Hostile/Confrontational |
| <input type="checkbox"/> Agitated   | <input type="checkbox"/> Sleeping on the job |                                                  |

Other:

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4. State of Awareness (check all that apply):

- |                                               |                                      |                                      |
|-----------------------------------------------|--------------------------------------|--------------------------------------|
| <input type="checkbox"/> Confused             | <input type="checkbox"/> Mood Swings | <input type="checkbox"/> Euphoric    |
| <input type="checkbox"/> Lethargic            | <input type="checkbox"/> Paranoid    | <input type="checkbox"/> Disoriented |
| <input type="checkbox"/> Lack of Coordination |                                      |                                      |

Other:

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5. Motor Skills/Balance (check all that apply):

- |                                                  |                                    |                                               |
|--------------------------------------------------|------------------------------------|-----------------------------------------------|
| <input type="checkbox"/> Unsteady                | <input type="checkbox"/> Swaying   | <input type="checkbox"/> Falling              |
| <input type="checkbox"/> Staggering              | <input type="checkbox"/> Stumbling | <input type="checkbox"/> Reaching for Support |
| <input type="checkbox"/> Arms Raised for Balance |                                    |                                               |

Other:

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6. Other observed Actions or Behaviors that formed the basis for Reasonable Suspicion:

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Supervisor's Comments:

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Supervisor's Name (Please print)

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Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Witness(es) Name (Please print):

---

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**EXHIBIT B**

**ACKNOWLEDGEMENT OF RECEIPT OF CITY OF ORANGE COVE  
CONTROLLED SUBSTANCES AND ALCOHOL TESTING POLICY AND  
AGREEMENT TO COMPLY WITH ITS TERMS**

I, \_\_\_\_\_ [PRINT NAME],  
acknowledge and agree that I have received a copy of the City of Orange Cove's  
("City") Controlled Substances and Alcohol Policy ("Policy") and have read and  
understand the contents of the same.

I hereby acknowledge, understand and agree that I am required to submit to drug  
and/or alcohol testing in accordance with the Policy as a condition of my  
employment with the City.

I further acknowledge, understand and agree that information regarding the  
results of any test required to be performed under the Policy will be released to  
the City and that such information may be used as grounds for disciplinary  
action, up to and including termination.

I further acknowledge and understand that I have the right to refuse to submit to  
such testing and that my refusal to submit to or cooperate at any stage of the  
required testing process shall be considered equivalent to a confirmed "positive"  
test result for purposes of disqualification from employment and/or disciplinary  
action, up to and including the termination of my employment with the City.

I further acknowledge, understand and agree that pursuant to this Policy I may  
also be required to execute certain forms in connection with the testing for drugs  
and/or alcohol, including but not limited to the Federal Drug Testing Custody and  
Control Form (CCF) for drug testing and Department of Transportation Alcohol  
Testing Form (ATF) for alcohol testing.

I have read the above acknowledgement and certify that I have signed this  
document with full knowledge and understanding of its contents.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_