

APPENDIX C

**CITY OF BOTHELL
DRUG AND ALCOHOL TESTING PROGRAM
FOR OPERATORS OF
COMMERCIAL MOTOR VEHICLES**

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APPENDIX C

Contents

I.	INTRODUCTION	1
	A. Requirement to Participate in Drug and Alcohol Testing Program.....	1
	B. Definitions.....	1
	C. Covered Employees.....	5
	D. Designated Contact.....	5
	E. Drug & Alcohol Problems & EAP.....	5
	F. Testing, Evaluation and Referral Services.....	6
II.	PROHIBITED CONDUCT	7
	A. Prohibited Conduct.....	7
	B. Prescription Medications.....	9
	C. Other Related Alcohol Conduct.....	9
	D. Refusal to Submit to Required Testing.....	9
III.	REQUIRED TESTING	10
	A. Pre-Employment Testing.....	10
	B. Random Testing.....	11
	C. Reasonable Suspicion Testing.....	12
	D. Post-Accident Testing.....	13
	E. Return to Duty and Follow-Up Testing.....	14
	F. After Hours Testing.....	15
IV.	TESTING COSTS AND COMPENSATION	15
	A. Testing and Rehabilitation Costs.....	15
	B. Pay Status.....	15
V.	TESTING PROCEDURES	16
	A. Testing Collection Procedures.....	16
	B. Analysis of Split Sample.....	18
	C. Notification of Results.....	18
	D. Evaluation and Referral.....	18
VI.	CONSEQUENCES	18
VII.	TRAINING AND EDUCATION	19
VIII.	CONFIDENTIALITY	19
	CERTIFICATE OF RECEIPT	20

I. INTRODUCTION

A. Requirement to Participate in Drug and Alcohol Testing Program

The CITY OF BOTHELL (the City) is required by federal regulations to administer a testing program for drug and alcohol use for employees who are required to have and maintain a Commercial Driver's License (CDL) to perform their job duties. Employees covered by this policy also remain subject to all other applicable City policies. This policy provides guidelines for circumstances under which Federal Motor Carrier Safety Administration (FMCSA) and United States Department of Transportation (DOT) mandated testing must be conducted. All the details of every possible situation cannot be anticipated, so the City reserves the right to determine the appropriate application of this policy and general employment policies to any particular case.

The City expects all drivers to work drug- and alcohol-free at all times. Questions about this policy should be directed to the Human Resources Department.

The following conditions and activities are expressly prohibited:

- The manufacture, or sale, or use or possession of alcohol, any controlled or illegal substance (except strictly in accordance with medical authorization) or any other substances which impair job performance or pose a hazard, when use or possession occurs on Employer premises or property, or during work time, or while representing the Employer in any work-related fashion.
- Reporting for work having consumed alcohol or used illegal drugs or controlled substances at a time, or in such quantities, or in a manner that may impair work performance. For purposes of this policy, having any detectable level of an illegal or controlled drug, or alcohol with an alcohol concentration of .02 or greater, in one's system while covered by this policy will be considered a violation.

Throughout this policy, any provisions that are based on Employer's sole authority (vs. mandated by federal regulations) will be underlined.

B. Definitions

"Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

"Alcohol concentration (or content), BAC" means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under 49 CFR Part 382.

"Alcohol use" means the drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

"Commercial motor-vehicle" (or "CMV") means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- Has a gross vehicle weight rating of 26,001 or more pounds; or
- Is designed to transport 16 or more passengers, including the driver; or
- 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 and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR Part 172, subpart F).

"Controlled substances" mean those substances identified in 49 CFR Part 40.85, as amended: marijuana, cocaine, opiates, amphetamines, and phencyclidine.

"DOT Agency" means an agency (or "operating administration") of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing (14 CFR parts 61, 63, 65, 121, and 135; 49 CFR parts 199, 219, 382, and 655), in accordance with 49 CFR Part 40.

"Driver" means any person who operates a commercial motor vehicle. This includes, but is not limited to: full-time, regularly-employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer.

"Drug" has the meaning of any controlled substances, prescription, or over-the-counter medication.

"EBT (or evidential breath testing device)" means an EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" (CPL), and identified on

the CPL as conforming with the model specifications available from the National Highway Traffic Safety Administration, Office of Alcohol and State Programs.

"Licensed medical practitioner" means a person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, or local, laws and regulations, to prescribe controlled substances and other drugs.

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

"Performing (a safety-sensitive function)" means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

"Refuse to submit (to an alcohol or controlled substances test)" means that a covered employee:

- Fails to show up for any test within a reasonable time after being directed to do so by the Employer. This includes the failure of an employee to appear for a test when called by a Consortium/Third Party Administrator);
- Fails to remain at the testing site until the testing process is complete; provided, that an applicant who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused a test. The testing process commences once the applicant has been provided the specimen collection cup;
- Fails to provide a urine specimen for any drug test or breath or saliva sample for an alcohol test required by 49 CFR Part 382, if the employee leaves after the testing process has commenced;
- In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the provision of a specimen;
- Fails to provide a sufficient amount of urine, breath or saliva when directed, unless it has been determined, through a required medical evaluation, that there was an adequate medical explanation for the failure to provide;
- Fails or declines to take a second test the employer or collector has directed following a negative dilute result as required by 40.197(b);

- Fails to undergo an additional medical examination, as directed by the MRO as part of the verification process, or as directed by the Designated Employer Representative (DER) concerning the evaluation as part of the "shy bladder" procedures in 49 CFR Part 40, subpart I; or fails to undergo a medical examination or evaluation as directed by the employer as part of the insufficient breath procedures outlined in 40.265(c);
- Fails to cooperate (e.g. refuses to empty pockets when directed by the collector, behaves in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector) or otherwise interferes with any part of the testing process;
- Fails to sign the certification at Step 2 of the alcohol testing form (ATF);
- Is reported by the MRO as having a verified adulterated or substituted test result;
- For an observed collection, fails to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process;
- Possesses or wears a prosthetic or other device that could be used to interfere with the collection process;
- Admits to the collector or MRO to having adulterated or substituted the specimen.

"Safety-sensitive function" means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- All time at a City terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- All time inspecting equipment as required by FMCSA regulations or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- All time spent at the driving controls of a commercial motor vehicle in operation;
- All time, other than driving time, in or upon any commercial motor vehicle;
- All time loading or unloading a 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 loaded or unloaded; and

- All time spent repairing, obtaining assistance, or remaining in attendance of a disabled vehicle.

C. Covered Employees

The following groups of employees are required by law, and as a condition of their employment, to participate in the drug and alcohol testing program:

- Regular employees who are required to operate a commercial vehicle as part of their routine job duties;
- Temporary employees who are required to operate a commercial vehicle as part of their routine job duties;
- Any employee who possesses a Commercial Driver's License who may at any time operate a commercial vehicle on an on-call, emergency or unscheduled basis (including supervisory employees who may be called upon at any time to operate a commercial motor vehicle);
- Current employees who transfer or promote to a position requiring operation of a commercial vehicle and possession of a Commercial Driver's License;
- A pre-employment drug test is required of all persons given a conditional job offer for a position that meets the description outlined above.

D. Designated Contact

The following individual(s) have been designated by the City to answer questions about the program and program materials and may provide employees with resource materials or referral assistance:

Safety Manager: 425-806-6207
Human Resources: 425-806-6200

E. Drug & Alcohol Problems & EAP

In some cases alcohol and drug abuse can be a result of chemical dependency that can be successfully treated with professional help. Drivers who are having problems with alcohol or drug use are encouraged to seek voluntary counseling and treatment. It is the *driver's* responsibility to seek help when needed, and to do so *before* substance abuse causes problems on the job, results in a positive drug or alcohol test or results in disciplinary action. The City offers an Employee Assistance Program (EAP) designed to assist employees and their families who are experiencing personal or job-related problems. The EAP is available to employees who need assistance in dealing with a substance abuse problem. Employees are encouraged to contact the EAP for assistance in early detection of substance abuse problems and referral for treatment programs. All EAP services are confidential and at no cost to the employee. Employees who would like information on benefits of the Employee Assistance Program should contact Human Resources (425-806-6200).

Drivers who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation, and treatment requirements of 49 CFR Part 382 and 40, provided that:

- The admission is in accordance with the voluntary self-identification; as stated above;
- The driver does not self-identify in order to avoid testing;
- The driver makes the admission of alcohol misuse or controlled substances use before performing a safety-sensitive function;
- The driver does not perform a safety-sensitive function until the Employer is satisfied that the driver has successfully completed both education or treatment requirements in accordance with this policy.

Normally, the Employer will:

- Not take adverse action against a driver making a voluntary admission of alcohol misuse or controlled substances use provided that the admission occurs before the employee has been subject to disciplinary action or the use/misuse has affected job performance;
- Allow the driver sufficient opportunity to seek an evaluation, education or treatment to establish control over the employee's drug or alcohol problem;
- Permit the employee to return to safety sensitive duties upon successful completion of an educational or treatment program, as determined by a substance abuse professional.

The contact information for help and referrals with substance abuse can be found through EAP services at:

Wellspring Family Services
Employee Assistance Program
800-553-7798 (24 hrs/day)
206-654-4144
866-704-6355 TTY
www.wfseap.org

F. Testing, Evaluation and Referral Services

The City has joined the Association of Washington Cities (AWC) Drug and Alcohol Testing Consortium for much of the administration of this program. The AWC consortium has contracted with A WorkSAFE Service, Inc. to conduct the random testing services, provide the testing laboratory facilities, arrange the testing collection site, and provide the Medical Review Officer (MRO) functions. The services of a Substance Abuse Professional (SAP) are also available for employees with positive test results.

Drug and Alcohol Testing Collection Site:

Drug Free Business

18912 North Creek Parkway, Ste 202
Bothell, WA 98011
(425)-488-9755
7:00 am-4:00 pm, M-F

Testing Laboratory:

LabCorps
1120 Main Street
Southaven, MS 38671
(662) 280-6594

Medical Review Officers:

Dee McGonigle MD
18912 North Creek Pkwy Ste. 202
Bothell, WA 98011
(425) 488-9755

Substance Abuse Professional:

Wellspring Family Services
Employee Assistance Program
800-553-7798 (24 hrs/day)
206-654-4144
866-704-6355 TTY
www.wfseap.org

Wellspring Family Services will refer caller to a Substance Abuse Professional in the local area.

II. PROHIBITED CONDUCT

A. Prohibited Conduct

1. No employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater.
2. No employee shall use alcohol while performing safety-sensitive functions.
3. No employee shall perform safety-sensitive functions within four hours after using alcohol.

4. No employee required to take a post-accident alcohol test under 49 CFR 382.303 shall use alcohol for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.
5. No employee shall refuse to submit to a post-accident, random, reasonable suspicion, or follow-up controlled substance and/or alcohol test required by 49 CFR Part 382.
6. No employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the employee uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the employee that the substance will not adversely affect the employee's ability to safely operate a commercial motor vehicle. Please refer to Section B below for additional information about use of prescription medications.
7. No employee shall report for duty, remain on duty or perform a safety-sensitive function, if the employee tests positive for alcohol or controlled substances.
8. No driver shall report for duty, or remain on duty or perform a safety-sensitive function when there is a quantifiable level of a controlled substance in the driver's body above the minimum thresholds established in 49 CFR Part 40. Although the personal use of marijuana is permitted under Washington law, federal law still prohibits the use and possession of marijuana. Employees must be aware that having a detectable level of marijuana in their body, regardless of whether their use was for recreational or medical purposes, constitutes prohibited conduct.
9. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any drug except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in §382.107, who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle. Notwithstanding the above, the medical use of marijuana that causes drug or drug metabolites to be present in the body above minimum thresholds established in 49 CFR Part 40 constitutes prohibited conduct regardless of whether the marijuana was used under the guidance of a medical practitioner and regardless of whether the medical practitioner advised that such use will not adversely affect the driver's ability to safely operate a commercial motor vehicle.
10. The Employer shall not permit a driver to continue to perform safety sensitive functions if the Employer has actual knowledge of a driver violating any of the aforementioned prohibitions. Actual knowledge may be based on the Employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances, or an employee's admission of alcohol or controlled substances use, except as discussed in the Employer's voluntary self-identification program.

B. Prescription Medications

Prescription medicine and over the counter drugs may be allowed. However, you must meet the following minimum standards:

- The medicine is prescribed to you by a licensed physician, such as your personal doctor.
- The treating / prescribing physician has made a good faith judgment that the use of the substance at the prescribed or authorized dosage level is consistent with the safe performance of the employee's duties.
- The substance is used at the dosage prescribed or authorized.
- If you are being treated by more than one physician, you must show that at least one of the treating doctors has been informed of all prescribed and authorized medications and has determined that the use of the medications is consistent with the safe performance of your duties.

C. Other Related Alcohol Conduct

An employee tested under the requirements of this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall be removed immediately from performing safety-sensitive functions until the start of the employee's next regularly scheduled duty period, but not less than 24 hours following the test administration. Pursuant to this policy (not DOT regulations), and depending on the circumstances, an employee who is removed from service due to an alcohol concentration of 0.02 or greater but less than 0.04 may be subject to discipline.

D. Refusal to Submit to Required Testing

Employees who are subject to this policy are expected to comply fully with any required testing. Failure to do so will cause the driver to be immediately relieved from performing safety-sensitive functions, and will also be subject to disciplinary action up to and including termination of employment. A refusal to submit includes the following:

1. Failure to show up for any test within a reasonable time after being directed to do so by the City or when called by a Consortium/Third Party Administrator;
2. Failure to remain at the testing site until the testing process is complete; provided, that an applicant who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused a test. The testing process commences once the applicant has been provided the specimen collection cup.
3. Failure to provide a urine specimen for any drug test or breath or saliva sample for an alcohol test required by 49 CFR Part 382, if the employee leaves after the testing process has commenced;
4. In the case of a directly observed or monitored collection in a drug test, failure to permit the observation or monitoring of the provision of a specimen;
5. Failure to provide a sufficient amount of urine, breath or saliva when directed, unless it has been determined, through a required medical evaluation, that there was an adequate medical explanation for the failure to provide.

6. Failure to take a second test the employer has directed following a negative dilute result as required by federal regulations;
7. Failure to undergo an additional medical examination, as directed by the MRO as part of the verification process, or as directed by the City concerning the evaluation as part of the "shy bladder" procedures in 49 CFR Part 40, subpart I; or fail to undergo a medical examination or evaluation as directed by the City as part of the insufficient breath procedures outlined in federal regulations.
8. Failure to cooperate (e.g., refusal to empty pockets when directed by the collector, behaving in a confrontational way that disrupts the collection process, failure to wash hands after being directed to do so by the collector) or otherwise interfering with any part of the testing process.
9. Failure to sign the certification at Step 2 of the alcohol testing form (ATF).
10. Is reported by the MRO as having a verified adulterated or substituted test result;
11. For an observed collection, fails to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process;
12. Possesses or wears a prosthetic or other device that could be used to interfere with the collection process;
13. Admits to the collector or MRO to having adulterated or substituted the specimen.

III. REQUIRED TESTING

Submission to the controlled substance and alcohol testing described in this policy is a condition of employment with the Employer for those drivers covered by DOT and FMCSA regulations. A refusal to submit (as described above) will constitute a violation of this policy and be grounds for termination of employment. A driver may be tested for controlled substances at any time during their work day, except pre-employment, and alcohol testing will be conducted just before, during or after performing safety sensitive functions.

Drivers will be subject to testing as follows:

A. Pre-Employment Testing

Following a conditional offer of employment, prospective employees will be tested for the presence of drugs as part of the pre-employment physical examination.

Current employees who are transferring from a position that does not require a Commercial Driver's License to a position that does require one, will be tested for the presence of drugs prior to performing duties that require driving or operating a commercial vehicle.

A positive drug test result for an employment candidate will result in rescinding the conditional offer of employment by the City of Bothell. The individual will only be eligible to re-apply for a position covered by these procedures after six months. In addition, an applicant who tested positive on any DOT mandated pre-employment drug test after August 1, 2001, must provide documentation of their successful completion of DOT return-to-duty requirements (i.e., an evaluation by a substance abuse professional, education and/or treatment, and a negative DOT pre-employment test, all of which meet the requirements of 49 CFR Part 40). Employees seeking to transfer to a position requiring the driving of a commercial vehicle will be denied the transfer and are subject to discipline as described in the Drug and Alcohol Testing Policy for Employees who Operate Commercial Vehicles.

B. Random Testing

A consortium/third party administrator is used to facilitate the random selection of drivers and notification to the employer of the driver(s) selected for testing. The consortium/third party administrator is:

A WorkSAFE Service, Inc.
1696 Capitol St NE
Salem OR 97301
(503) 391-9363

Drivers will be subject to random alcohol and controlled substance testing under the following program:

Random selection of drivers will be made by a scientifically valid method using a computer-based random number generator that is matched with drivers' social security numbers.

Each driver shall have an equal chance of being drawn each time selections are made.

Selections for testing are unannounced and reasonably spread throughout the calendar year.

Random selections are made to ensure testing for controlled substances is conducted at not less than the minimum annual 25% rate and alcohol is conducted at not less than the minimum annual 10% rate, or the rates as established by the FMCSA.

A driver shall only be tested for alcohol just before, during, or after performing safety-sensitive functions; however, he/she may be tested for controlled substances any time while performing work for the Employer.

Once a driver is notified of selection for random alcohol and/or controlled substances testing, he/she shall proceed to the test site immediately.

Each month, A WorkSAFE Services, Inc. will send the names of individuals selected for random testing to the appropriate consortium member contacts. If the Employer has any employees selected for testing, the names will be sent to the designated contact.

Employees selected for random testing will be scheduled for a test by the designated contact at some time during the month that the name was selected.

Upon notification of selection for random testing, the employee will receive a *Random Notification Form* from the designated contact. The employee will be asked to present this form along with the *Drug/Alcohol Testing Request Form* to the collection site personnel along with picture identification at the time of testing. A copy of all of the forms will be retained by the City.

After notification, the employee must proceed directly to the collection site for testing accompanied by a supervisor.

If an employee scheduled for an alcohol test receives a confirmed test result with a blood alcohol level of 0.02 or above, a supervisor will transport the employee home.

Refusing to submit to a test will be considered the same as a positive test result and will subject the employee to the same consequences as receiving a positive test result.

C. Reasonable Suspicion Testing

According to the federal regulations, reasonable suspicion testing is to be based on "specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee." Only supervisors who have been trained in detecting the symptoms of alcohol misuse or drug use and who have directly observed behaviors, appearance or physical symptoms can subject an employee to reasonable suspicion testing. Supervisors should complete an *Impaired Behavior Observation Form* and have the form signed by another supervisor.

If a supervisor has reasonable suspicion that an employee who is on duty, about to go on duty or just completed duty is under any influence of drugs or alcohol, the supervisor will confer with another trained supervisor and if they agree, will remove the employee from duty immediately. The employee will be advised of the reasons for reasonable suspicion and will be transported to the collection site immediately by the supervisor or designee for testing. The Supervisor should notify Human Resources of the incident and the testing.

If a reasonable suspicion alcohol test is not conducted within two hours of determination that it is necessary, the supervisor will prepare and maintain documentation of the reasons why it did not occur. The supervisor should continue to attempt to have the test conducted for up to eight hours following the observation. After eight hours, the attempt to test may cease, and the supervisor must again document the reasons for the test not being administered.

The City shall not permit an employee to report for duty, remain on duty, perform or continue to perform any safety-sensitive functions while the employee is impaired by alcohol, as shown by the behavioral, speech or performance indicators of alcohol use until: (1) an alcohol test is administered and the employee's alcohol concentration measures less than 0.02 percent; or (2) the start of the employee's next regularly scheduled shift, but not less than 24 hours following the supervisor's determination that reasonable suspicion exists. For the return to duty process refer to Section F for Return to Duty and Follow up Testing.

D. Post-Accident Testing

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each surviving driver shall be tested for controlled substances and alcohol if:

1. The driver was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life (fatality); or
2. The driver received a citation for a moving violation and the accident involved bodily injury to any person who, as a result of the accident, immediately receives medical treatment away from the scene of the accident; or
3. The driver received a citation for a moving violation and the accident involved one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

Even where these conditions are not met, an employee may be subject to reasonable suspicion testing, as described above.

After an accident, employees are responsible for contacting the immediate supervisor or other management personnel. If the above conditions are met, the employee must make themselves available for post-accident testing as soon as possible. Post-accident testing should occur immediately. A driver may not consume alcohol for eight (8) hours following an accident that requires the DOT alcohol test. Post-accident testing for alcohol must be completed within two hours of the accident; if this does not occur, the employee and supervisor must document the reason for the delay. Testing should continue to be attempted for up to eight hours following the accident; after eight hours, attempts to test may cease, but the employee and supervisor must document the reason(s) for not completing the test. Post-accident testing for controlled substances should be administered as soon as practicable, for up to 32 hours following the accident. If testing is not accomplished within this time frame, the supervisor must provide the reasons why the test was not administered promptly. Nothing in this policy should be construed to require the delay of necessary medical attention to an injured individual.

An employee who does not comply with the post-accident testing will be considered to have refused testing and will be subject to disciplinary action. An employee in a post-accident situation should cooperate with law enforcement personnel investigating the scene.

Supervisors are responsible for determining if the accident qualifies the driver for post-accident testing according to City Policy. The supervisor or designee should escort the employee to the collection site immediately. If an employee is unable to provide consent to testing due to their medical condition, the supervisor will document the reasons why the employee was not tested. If testing is not completed within the required time following an accident, the supervisor and employee will document in writing why the tests were not administered.

Note: In addition to drug and alcohol testing required pursuant to this policy, any employee who is involved in a drug or alcohol related incident may be subjected to a disciplinary investigation that may result in discipline. In such situations, Human Resources may notify the Police Department and request an internal investigation under City Policy. Only the Human Resources Director, City Manager or other Department Head may request an internal investigation. The purpose of utilizing the Police Department to conduct internal investigations is to ensure the thoroughness, objectiveness, consistency and confidentiality of investigations for all employees. Employees who are requested to participate in an internal investigation must give their full cooperation to the investigator. Failure to do so is cause for discipline.

If the employee is subject to a criminal investigation, the criminal investigation will be completed prior to the commencement of an internal investigation under City Policy. Police conducting internal investigations shall not have access to employee personnel or medical records.

E. Return to Duty and Follow-Up Testing

All employees who have engaged in prohibited conduct as defined in this policy, including those who have tested positive for drugs or alcohol, are subject to return to duty and may be subject to follow-up testing.

1. Return to Duty Testing

No driver found to be in violation of this policy will be permitted to return to duty involving safety-sensitive functions until the driver has undergone an assessment with a Substance Abuse Professional as required by 49 CFR Part 40 and has a verified negative controlled substances test and/or an alcohol test with a result less than 0.02 alcohol concentration. All controlled substances return-to-duty tests will be conducted by same-gender direct observation. Refusing to permit an observed collection will constitute a refusal to test with the same consequences as testing positive.

2. Follow-Up Testing

Any driver in need of assistance in resolving problems associated with alcohol misuse and/or controlled substances use as identified through the evaluation by the Substance Abuse Professional will, if still employed, be required to enter into a Last Chance Agreement as a condition of continued employment and to submit to unannounced follow-up testing for controlled substances and/or alcohol as directed by the Substance Abuse Professional. The Employer may perform follow-up testing for five years. All controlled substances return-to-duty tests will be conducted by same-gender direct observation. Refusing to permit an observed collection will constitute a refusal to test with the same consequences as testing positive.

F. After Hours Testing

If the need for testing occurs outside of the normal hours of operation of the designated collection site, a supervisor or manager will be responsible for following the procedures established by A WorkSAFE Services, Inc. for such occurrences.

IV. TESTING COSTS AND COMPENSATION

A. Testing and Rehabilitation Costs

1. The City will pay for the following alcohol and or initial drug tests:
 - a. Random testing
 - b. Reasonable suspicion testing
 - c. Post-accident testing
 - d. Pre-employment
 - e. Follow-up testing
 - f. Return to duty testing
2. Employees are responsible for the costs associated with the following tests:
 - a. Split sample re-tests made at the employee's request: If a split sample re-test returns a negative result, the City will reimburse the employee for the cost of the test.
3. Substance Abuse Professional and rehabilitation costs will be the responsibility of the employee and may be covered in part by the City's EAP and the employee's health care plan.

B. Pay Status

1. For Time Spent Testing

- Employees will be compensated for time spent to report to the testing facility and be tested for the following alcohol and/or initial drug tests:
 - a. Random testing
 - b. Reasonable suspicion testing
 - c. Post-accident testing
 - d. Return to duty testing
 - e. Follow-up testing
 - Employees are responsible for taking the following tests on their own time:
 - a. Split-sample re-tests made at the employee's request unless a negative result returns.
2. Waiting for Results
- Employees who have been asked to submit to a reasonable suspicion drug test will be placed on administrative leave pending the outcome of the test results. Such employees are on paid administrative leave during this time.
3. Alcohol Concentration of 0.02 but less than 0.04
- If an employee receives an alcohol test result of at least 0.02 but less than 0.04, the employee must be removed from duty which requires driving a commercial motor vehicle for at least 24 hours following the administration of the test. The employee may use accrued vacation leave or comp time during this absence.
4. Positive Drug Test or Alcohol Test Result of 0.04 or Higher
- An employee who receives a positive drug test or who tests 0.04 or greater on an alcohol test is not allowed to return to work until all of the applicable requirements are met as outlined in this policy. Such employees may not use accrued vacation or sick leave during this unpaid leave of absence.

V. TESTING PROCEDURES

A. Testing Collection Procedures

Urine Specimen Collection: Specimen collections will be conducted in accordance with the procedures of 49 CFR Part 40, as amended. The collection procedures are designed to ensure the security and integrity of the specimen provided by each covered employee, and those procedures will strictly follow federal chain-of-custody guidelines. Moreover, every reasonable effort will be made to preserve the individual's privacy as much as possible consistent with ensuring an accurate result. Covered employees will be required to empty their pockets before providing the drug test specimen.

Under normal circumstances, the applicant or covered employee will be afforded complete privacy in the restroom for providing the urine sample. Certain situations do require the urine sample be provided under same-gender direct observation.

Those situations include:

- The temperature on the original specimen was out of range; or
- The original specimen appeared to have been tampered with (i.e. unusual color, odor, foam, etc.); or
- The collector observes materials brought to the collection site or the individual's conduct clearly indicates an attempt to tamper with a specimen; or
- The laboratory reported to the MRO that a specimen is invalid, and the MRO reported to the Employer there was not an adequate medical explanation for the result; or
- The MRO reported to the Employer that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed; or
- The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5mg/dL, and the MRO reported the specimen to the Employer as negative-dilute and a second collection must take place under direct observation; or
- All return-to-duty or follow-up drug tests.

When that occurs, the individual subjected to testing will be required to follow the observer's instructions to raise their clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process.

Refusing to permit an observed collection, or possessing or wearing a prosthetic or other device that could be used to interfere with the collection process, are considered a refusal to test and will constitute a verified positive drug test result.

1. Drug Testing

The drug testing requires an individual to provide a urine specimen to be tested for the presence of amphetamines, cocaine, marijuana (THC), synthetic opioids, phencyclidine (PCP) and ecstasy (MDMA). The specimen will be sent to LabCorps, Southaven, MS a laboratory certified by the Substance Abuse and Mental Health Services Administration (SAMSHA) conduct screening and confirmation tests according to the protocols identified in the DOT Rules. All test results will be reviewed by the Medical Review Officer (MRO).

2. Alcohol Testing

Alcohol testing will be conducted using an approved evidential breath testing (EBT) device operated by a trained breath alcohol technician (BAT). If the test results in an alcohol concentration of less than 0.02, it will be considered a negative test. If the screening test results in an alcohol concentration of 0.02 or greater, a second, or confirmation test is performed within 15 to 20 minutes.

3. Medical Review

All controlled substances test results will be reviewed by the MRO, who will attempt to contact the employee to discuss test results before reporting positive results to the City.

B. Analysis of Split Sample

Within 72 hours of the MRO notifying an employee of a verified positive drug test or of an adulterated or substituted specimen, the employee may request the reanalysis of the original split specimen. Such a reanalysis may only take place at laboratories certified by the DHHS. If the reanalysis fails to reconfirm the presence of the drug or drug metabolite, the MRO shall cancel the test. All applicants and employees have a right to request reanalysis, provided that they shall be responsible for any costs of reanalysis.

C. Notification of Results

The Employer will notify the affected driver of any controlled substances test that is reported as positive by the MRO. The Employer will notify driver-applicants of the results of pre-employment controlled substances testing if the applicant requests that information in writing within 60 days after the Employer notifies the applicant that they have or have not been hired.

D. Evaluation and Referral

DOT regulations require that any driver who violates the alcohol and controlled substances rules of 49 CFR Part 382 be advised of available evaluation resources and be evaluated by a Substance Abuse Professional. The driver must complete an appropriate education and/or treatment program before being eligible to return to safety sensitive duty.

Before returning to performing safety-sensitive functions for any DOT employer, a driver must be tested for controlled substances with a verified negative controlled substances test result and/or alcohol with a test result less than 0.02 alcohol concentration. The driver will be subject to follow-up testing of at least six tests in the first 12 months of returning to duty, and follow-up testing may continue for five years.

VI. CONSEQUENCES

Under normal circumstances, employees violating this policy or federal regulations will be suspended from performing any safety-sensitive functions with a commercial motor vehicle and will be subject to disciplinary action up to and including termination of employment. Under some circumstances, however, the Employer may agree to return an employee to performing these functions following treatment and rehabilitation. When that occurs, the employee must pay the cost of any treatment. The Employer medical plan, if available to the employee, may cover a portion of the costs associated with the pre-treatment

evaluation and treatment. Uncovered costs of treatment are the employee's responsibility to pay.

When, at the Employer's discretion, an employee is returned to work, the driver will be required to enter into a Last Chance Agreement and to submit to unannounced follow-up testing for controlled substances and/or alcohol as directed by the Substance Abuse Professional in order to continue to perform safety-sensitive functions and operate a commercial motor vehicle requiring a CDL.

VII. TRAINING AND EDUCATION

The City will provide all affected employees with copies of this policy, and other information as may be required by the federal regulations. Each employee must sign a receipt upon having been provided the above referenced information.

Federal regulations require employers to furnish information about the effects of alcohol and controlled substance use, as well as the signs and symptoms of such use. Included as an attachment to this policy are facts sheets and other information regarding alcohol and various controlled substances. From time to time, the City may also provide additional information about the effects of drug and alcohol abuse, and resources for seeking assistance.

Managers and supervisors designated to determine whether reasonable suspicion exists to require a driver to undergo alcohol or drug testing will receive at least 60 minutes of training on alcohol and 60 additional minutes of training on drug abuse. The training will cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

VIII. CONFIDENTIALITY

Records required under this policy, including test results, will be maintained in a secure location with controlled access. Each employee shall, upon written request, be entitled to receive copies of their own records, and to have copies of their records made available to any subsequent employer. Information may also be disclosed to the relevant state or federal agencies, or in connection with judicial, administrative or related proceedings (e.g., grievances and arbitration) initiated by or behalf of the employee.

CERTIFICATE OF RECEIPT

I hereby certify that on the date shown below I received and read a copy of the City of Bothell Drug and Alcohol Policy for Operators of Commercial Motor Vehicles, including the attachments to this policy. I understand and agree to comply with this policy, including any required alcohol or controlled substance testing.

EMPLOYEE - PRINT NAME

EMPLOYEE - SIGNATURE

DATED: _____