

## Exhibit A

### DOT – TEST CODE 15223

<b>Initial test analyte</b>	<b>Initial test cutoff1</b>	<b>Confirmatory test analyte</b>	<b>Confirmatory test cutoff concentration</b>
MARIJUANA METABOLITES (THCA)2	50 ng/mL3	THCA	15 ng/mL.
COCAINE METABOLITE (BENZOYLECGONINE)	150 ng/mL3	BENZOYLECGONINE	100 ng/mL.
CODEINE/ MORPHINE	2000 ng/mL	CODEINE MORPHINE	2000 ng/mL. 2000 ng/mL.
HYDROCODONE/ HYDROMORPHONE	300 ng/mL	HYDROCODONE HYDROMORPHONE	100 ng/mL. 100 ng/mL.
OXYCODONE/ OXYMORPHONE	100 ng/mL	OXYCODONE OXYMORPHONE	100 ng/mL. 100 ng/mL.
6-ACETYLMORPHINE	10 ng/mL	6-ACETYLMORPHINE	10 ng/mL.
PHENCYCLIDINE	25 ng/mL	PHENCYCLIDINE	25 ng/mL.
AMPHETAMINE/ METHAMPHETAMINE	500 ng/mL	AMPHETAMINE METHAMPHETAMINE	250 ng/mL. 250 ng/mL.
MDMA4/MDA5	500 ng/mL	MDMA MDA	250 ng/mL. 250 ng/mL.

## Exhibit B

### NON-DOT – TEST CODE 87842


SUBSTANCE	SCREENING THRESHOLD	CONFIRMATION THRESHOLD
AMPHETAMINES	500 NG/ML	250 NG/ML
BARBITURATES	200 NG/ML	200 NG/ML
BENZODIAZEPINES	200 NG/ML	75 NG/ML
DIAZEPAM, DESMETHYLDIAZEPAM		
OXAZEPAM, TEMAZEPAM		
ALPRAZOLAM, ALPHA-OH-ALPRAZOLAM		
LORAZEPAM, ALPHA-HYDROXYTRIAZOLAM		
HYDROXYETHYLFLURAZEPAM,		
7-AMINOCLONAZEPAM, ALPHA-HYDROXYMIDAZOLAM		
7-AMINOFLUNITRAZEPAM		
COCAINE METABOLITE	150 NG/ML	100 NG/ML
OPIATES	2000 NG/ML	
CODEINE		300 NG/ML
MORPHINE		300 NG/ML
HYDROCODONE		300 NG/ML
HYDROMORPHONE		300 NG/ML
PHENCYCLIDINE	25 NG/ML	25 NG/ML
MARIJUANA METABOLITE	50 NG/ML	15 NG/ML
METHADONE	300 NG/ML	200 NG/ML
PROPOXYPHENE	300 NG/ML	300 NG/ML

## Exhibit B

### NON-DOT W/ALCOHOL – TEST CODE 87843

SUBSTANCE	SCREENING THRESHOLD	CONFIRMATION THRESHOLD
ETHYL ALCOHOL	0.020 GM/DL	0.020 GM/DL
AMPHETAMINES	500 NG/ML	250 NG/ML
BARBITURATES	300 NG/ML	200 NG/ML
BENZODIAZEPINES	300 NG/ML	75 NG/ML
DIAZEPAM, DESMETHYLDIAZEPAM		
OXAZEPAM, TEMAZEPAM		
ALPRAZOLAM, ALPHA-OH-ALPRAZOLAM		
LORAZEPAM, ALPHA-HYDROXYTRIAZOLAM		
HYDROXYETHYLFLURAZEPAM,		
7-AMINOCLONAZEPAM, ALPHA-HYDROXYMIDAZOLAM		
7-AMINOFLUNITRAZEPAM		
COCAINE METABOLITE	150 NG/ML	100 NG/ML
OPIATES	2000 NG/ML	
CODEINE		300 NG/ML
MORPHINE		300 NG/ML
HYDROCODONE		300 NG/ML
HYDROMORPHONE		300 NG/ML
PHENCYCLIDINE	25 NG/ML	25 NG/ML
MARIJUANA METABOLITE	50 NG/ML	15 NG/ML
METHADONE	300 NG/ML	300 NG/ML
PROPOXYPHENE	300 NG/ML	300 NG/ML

## AR324 – MEDICATIONS AND SUBSTANCE ABUSE

	<b>Responsible Department:</b> Human Resources	<b>Effective Date:</b> January 28, 2021
	<b>Approvals:</b>	<b>Date Approved:</b>
	Jim Thompson, City Manager	January 28, 2021
	Donna B. Brown, Human Resources Director	January 28, 2021

**1.0 PURPOSE**

- 1.1. Protect the workplace, employees, and the public we serve by preventing accidents, lack of productivity and problems that could be caused by an employee's use of medications or substances that may impair an employee's ability to safely perform the job.

**2.0 APPLICABILITY**

- 2.1. This Administrative Regulation is applicable to all employees and applicants for employment to include contract workers and volunteers, as applicable.

**3.0 POLICY**

- 3.1. For purposes of this policy, any references to medications or other substances include, but are not limited to, marijuana, alcohol, and any drug or hormone regardless of whether it is a controlled substance and regardless of whether the employee has a prescription.
- 3.2. The City of Scottsdale prohibits unlawful discrimination against employees or applicants based on their status as a medical marijuana cardholder.
- 3.3. Prohibited Conduct:
  - 3.3.1. While on City time, using or being under the influence of a medication or any substance that may impair the employee's ability to safely perform their job without having first discussed the potential side effects of the medication and/or substance with their supervisor. (See AR 325, Drug Free Workplace policy - It is also prohibited to use, possess, sell, trade, and/or offer for sale alcohol, illegal drugs or intoxicants while on City business).
  - 3.3.2. Refusing to submit to a work-related alcohol and/or drug test requested pursuant to this policy.
  - 3.3.3. Interfering with, altering, substituting, adulterating, or in any way affecting, or attempting to affect, the outcome of the alcohol or drug testing procedure or results.
  - 3.3.4. Testing positive for alcohol or illegal substances while performing work-related activities.
  - 3.3.5. Testing positive for alcohol or addictive or controlled substances after being released by a Substance Abuse Professional ("SAP") or Employee Assistance Program (counselor) ("EAP").

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- 3.3.6. Using, possessing or being impaired by marijuana in the workplace or during work hours.
- 3.3.7. Pursuant to Federal Firearms laws and regulations (See 18 USC 922 and advisory ATF letter to all licensees' date September 21, 2011), using medical marijuana at any time when authorized to carry a firearm or ammunition as part of their duties with the City of Scottsdale.

**4.0 PROCEDURES**

**4.1. Types of Alcohol and Controlled Substance Testing**

- 4.1.1. Sworn police employees involved in an officer involved shooting are required to submit to alcohol and drug tests.
- 4.1.2. All City employees are subject to reasonable suspicion testing, return-to-duty testing, post-accident testing, and follow-up testing as reasonably necessary.
- 4.1.3. HR will be responsible for authorizing testing, in conjunction with applicable department management, and the City Attorney's office.

**4.2. Pre-employment Testing for Internal and External Applicants**

- 4.2.1 All applicants for City employment that are hired or promoted into a safety/sensitive position are subject to pre-employment drug testing, within one business day of acceptance of the job offer, as a condition of employment or pursuant to 4.2.3 below.
- 4.2.2 New hires and employees cannot begin work until all pre-employment requirements are passed.
- 4.2.3 Pre-employment tests for out of state applicants must be arranged by contacting HR staff. The time limits for testing and hiring set forth in this subsection may be modified by the HR director, when the director believes that the modifications are reasonably necessary given the hiring circumstances for a specific position and it is in the best interests of the City.
- 4.2.3 If an applicant has a verified positive test result, HR staff will notify the department supervisor of the positive test result. If a violation of AR 325 – Drug Free Workplace, the conditional job offer will be rescinded. Other positive test results will be reviewed for appropriate action, which may include rescinding the job offer.
- 4.2.4 The Medical Review Officer (MRO) and HR will contact the employee or applicant if the result is a verified positive result.
- 4.2.5 Any internal applicant or employee that tests positive on a pre-employment drug or alcohol test will not be placed in the job assignment and may be subject to discipline up to and including termination.

**4.3 Reasonable Suspicion Testing**

- 4.3.1 An employee will be required to submit to an alcohol and/or drug test when the City has reasonable suspicion to believe that the employee has violated the prohibitions of this regulation. The City's determination that

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reasonable suspicion exists must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, and speech or body odors of the employee. The observations may include indications of the chronic and withdrawal effects of controlled substances.

- 4.3.2 If a supervisor, or the supervisor's designee, suspects an employee is impaired, the following actions must take place:

4.3.2.1 The supervisor will immediately stop the employee from performing their current job duties to ensure the safety of the employee and other employees.

4.3.2.2 The supervisor, along with another supervisor/manager, will meet with the employee to ask questions about his/her behavior. Each supervisor or manager will individually document their own observations, involvement and conversation with the employee. The written observation records must be sent to HR by the end of business day of or the morning following the observed behavior or before the test results are released, whichever is earlier.

4.3.2.3 A supervisor must have approval of the HR director, or designee, prior to requiring an employee to submit to a drug or alcohol test. If a decision is made not to require testing, the HR director, or designee, will discuss with the supervisor the appropriate action, if any, to take with the employee.

- 4.3.3 If HR authorizes testing, the supervisor will notify the employee of the required tests. Refusal of an employee to submit to a required test may result in the termination of the employee.

- 4.3.4 The supervisor, or designee, will immediately take the employee to an authorized collection site. HR will notify the laboratory and/or collection site of the authorized tests.

- 4.3.5 The supervisor, or designee, will remain at the collection site while the required test is being conducted and then ensure the employee is transported home.

**4.4 Random Testing**

- 4.4.1 Sworn police employees assigned to the drug enforcement agency or drug enforcement units will participate in a random selection drug test monthly.

- 4.4.2 Other limited job classifications may be subject to random testing, depending on the requirements of the job as authorized in conjunction with HR, and the City Attorney's office (i.e., jobs that require a Commercial Driver's License or other applicable requirements). See AR 323 – Commercial Driver's License, and AR 322 - Compliance with Department of Transportation Regulations Regarding Drugs and Alcohol.

**4.5 Return to Duty Testing**

- 4.5.1 If an employee has engaged in conduct prohibited by this regulation, the employee may be required to participate in SAP or EAP as a condition of

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continued employment if authorized by HR and applicable department management in consultation with the City Attorney's office.

- 4.5.2 If the employee complies with recommended treatment, has been released by the SAP to return to work, and has been approved to return to work by HR and department management, the employee may be required to undergo a return to duty drug or alcohol test and a controlled substances test with a verified negative result before reporting to work.
- 4.5.3 Once the employee returns to duty, the employee may be subject to follow-up testing. Follow-up tests will be coordinated through Human Resources in consultation with the City Attorney's office.

**4.6 Post-Accident Testing**

- 4.6.1 Employees involved in an accident during work hours, whether in a City or personal vehicle may be subject to drug and alcohol testing immediately following the accident.

**4.7 Substances Tested**

- 4.7.1 Any medication or substance that causes or could cause impairment can be tested, including but not limited to: alcohol, amphetamines, barbiturates, benzodiazepines, cocaine, cannabinoids, methadone, opiates, phencyclidine, ecstasy, and propoxyphene.

**4.8 Collection and Testing Procedures**

- 4.8.1 The only drug and alcohol tests that will be accepted are those from collection and testing organizations authorized by the HR.

**4.9 Inability to Provide Samples**

- 4.9.1 If an employee is unable to provide an amount of breath enough to permit a valid breath test or urine to provide a valid urine test, the employee may be deemed to have refused testing. The only acceptable reason for an employee to not provide an adequate sample is a medical condition; this determination requires a medical evaluation by a City-approved medical professional. If the medical professional determines that a medical condition does not exist that would cause the inability to provide an adequate sample, the employee shall be deemed to have refused testing.

**4.10 Reporting Test Results**

- 4.10.1 Alcohol breath test results are immediately known at the time of testing. HR will be contacted by the authorized testing facility as soon as a confirmed positive alcohol test result has occurred. The collection site or laboratory will provide a copy of the alcohol test results to the employee at the conclusion of the test. A "dilute" sample is a specimen with creatinine and specific gravity values that are lower than expected for human urine. For results reported as "negative and dilute," HR will direct the applicant/employee to immediately take a second test. If the second test is also dilute, the job offer will be rescinded, and the employee may have further disciplinary actions.
- 4.10.2 The City will release required test results for a minor (under the age of 18) to the minor's parent or legal guardian who has signed the release to have the minor applicant/employee tested and has submitted a written request

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to HR for the results. If the City does not receive a signed consent form for pre-employment testing, this will constitute a refusal to test.

**4.11 Consequences of Positive Results**

**4.11.1 Pre-employment testing**

- 4.11.1.1 Job offers for safety/sensitive positions are contingent upon test results. An external applicant who tests positive for illegal substances or alcohol, will have their conditional job offer rescinded. An internal applicant will be immediately removed from safety-sensitive duties, will not be promoted/transferred and will be subject to disciplinary action, up to and including termination of City employment.
- 4.11.1.2 An applicant who tests positive for medications or substances other than those described above will be allowed an opportunity to provide a legitimate medical explanation such as a prescription. However, the presence of a prescription does not prohibit the City from rescinding the conditional job offer and in the case of an internal applicant, taking other disciplinary action up to and including termination of City employment.
- 4.11.1.3 A job applicant who interferes with, alters, substitutes, adulterates, contaminates, or in any way affects, or attempts to affect, the outcome of the drug test procedures will not be hired for City employment.

**4.11.2 Post-Hire Testing**

- 4.11.2.1 An employee who refuses to submit to a required test may be terminated from City employment.
- 4.11.2.2 An employee who engages in prohibited conduct will be removed immediately from their safety/sensitive and/or driving position and will be subject to disciplinary action up to and including termination of City employment.
- 4.11.2.3 An employee who has knowledge of another employee who has violated this administrative regulation and does not report it immediately to management or HR will be subject to disciplinary action up to and including termination of City employment.
- 4.11.2.4 An employee who is convicted of any federal, state or local crime involving controlled substances will notify their immediate supervisor no later than five working days following the conviction. Failure to give timely notice of the conviction may be grounds for termination of City employment. An employee who is convicted of violating any criminal drug statute may be subject to disciplinary action up to and including termination of City employment.
- 4.11.2.5 Verified positive test results and related administrative and/or criminal information will be reviewed on a case-by-case basis by management, HR and the City Attorney's office to determine appropriate disciplinary action up to and including termination of City employment.



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4.11.2.6 All City property, equipment and vehicles are subject to inspection by the City at any time. Any employee who fails to cooperate with inspections under this regulation will be subject to disciplinary action up to and including termination of City employment.

**4.12 If Treatment/Rehabilitation is Approved**

4.12.1 HR staff will contact the employee and advise him/her of the test results. If discipline is warranted, division management and HR staff will meet with the employee to discuss the disciplinary action and future expectations.

4.12.2 HR staff will contact the employee to provide SAP contact and location information. The employee must contact the SAP to set up an appointment and sign the SAP medical release. The SAP will evaluate the employee, recommend a treatment program and will report program performance results to HR staff.

4.12.3 The employee must keep in regular contact and forward required paperwork to HR staff.

4.12.4 When the employee is released from the SAP, HR staff and division management will determine a return to work date.

4.12.5 HR staff will notify the employee of the required return to duty drug and alcohol tests and the scheduled return to work date, pending the results of the test. After verified tests results have been received, HR will notify management and the employee that return to work is authorized.

**4.13 Authorized Laboratory**

4.13.1 The City of Scottsdale uses a Department of Health and Human Services ("DHHS") certified laboratory, for all controlled substances tests for all City employees. The DHHS certification standards and the proficiency testing requirements are the most stringent laboratory accreditation program standards and requirements available in analytical forensic toxicology for urine drug testing.

4.13.2 Certified laboratories have a quality assurance program, which encompasses all aspects of the testing process, including but not limited to specimen acquisition, chain of custody security and reporting of results, initial and confirmatory testing and validation of analytical procedures.

**4.14 Cost of Testing**

4.14.1 The City will pay for the drug and alcohol tests (requested or required).

**5.0 RESPONSIBILITIES**

**Human Resources (HR)**

5.1. HR is responsible for the administration and training of this AR.

**Supervisors**

5.2. Supervisors, who have actual knowledge or reasonable suspicion of a violation of this administrative regulation, shall not permit the employee to continue performing their job and/or safety/sensitive duties, and immediately notifying HR.

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**Employees**

- 5.3. It is the employee's responsibility to comply with this administrative regulation.
- 5.4. An employee who voluntarily self-discloses to their supervisor and/or City representative that they have an alcohol and/or substance abuse problem will be provided assistance through the EAP. Upon successful release from the EAP, the employee must complete a return to duty drug and alcohol test with a verified negative result to be allowed to return to work.

**Medical Marijuana**

- 5.5. Under no circumstance should any employee work while under the influence or use of marijuana or have a detectable level while in a safety/sensitive position.
- 5.6. It is the responsibility of the employee to provide written notice to human resources of his/her intent to use medical marijuana under the provisions of the Arizona Medical Marijuana Act. The City will make a reasonable attempt to reassign the employee to a non-safety sensitive position or place on paid or unpaid leave during the duration of the legal medical marijuana treatment. Failure to notify the City of the legal use of medical marijuana and a subsequent positive result on any drug test (post-accident, random, or reasonable suspicion) will result in disciplinary action up to and including termination.

**Prescription Drugs or Over the Counter Medication**

- 5.7. An employee under the treatment of a physician will advise the physician of the kind of work done by the employee and the essential functions of the job. Each employee is responsible for discussing the effects of taking prescribed medication(s) or over-the-counter medication(s) with the prescribing physician to determine whether they may adversely affect the employee's ability to safely perform their job functions. An employee using medication or prescribed drugs that may affect job safety shall notify their supervisor prior to performing any job functions. Performing job duties while using a medication or any substance that may impair the employee's ability to safely perform their job is prohibited.
  - 5.7.1 Employees in positions that have been designated safety/sensitive (see definitions below) must notify their supervisor if being treated with medications or other substances that could cause impairment or lessen job performance. This notification includes employees who are qualified patients wishing to use medical marijuana. Employees in safety/sensitive positions who are using any prescribed drug that could cause impairment or lessen work performance will be prohibited from returning to work in a safety/sensitive position until the City can reasonably confirm that the employee will not suffer any impairment or lessened work performance while using any prescribed drug. (See ARS 23-493.06 (A) (7)). Any such employee should consult with their supervisor and/or HR about leave or other options that may be available to them during the time period they are unable to perform safety/sensitive duties. DOT safety/sensitive positions (employees in CDL positions) are not able to use medical marijuana under federal law and should refer to AR 323 for additional guidance.

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### **Medical Review Officer (“MRO”)**

- 5.8 An MRO is a licensed physician, who will be responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.
- 5.9. The MRO is responsible for reviewing all employee samples reported by the laboratory as positive, invalid, adulterated or substituted. The MRO conducts an investigation on all positive or suspicious test results.
- 5.10. The MRO contacts the employee directly, on a confidential basis, to determine whether the employee wishes to discuss the test result. The employee will be given the opportunity to present a medical explanation for the result, including legally prescribed medication.
- 5.11. If the MRO is unsuccessful in contacting the employee, the MRO will contact HR staff and ask for assistance in contacting the employee. If the employee does not contact the MRO within 48 hours, the MRO will contact the HR staff member and report a Laboratory Positive result.
- 5.12. If the MRO determines that the laboratory positive test is the result of a medical condition, the MRO will report the test result as a negative test result. If use of a substance, even though not a violation of Federal Motor Carrier Safety Administration (FMCSA) drug and alcohol rules, creates safety or fitness for duty problems, the MRO will report this information to the City's human resources staff member.
- 5.13. If the MRO determines that the positive drug test is not the result of a medical condition and is the result of substance use, the MRO will inform the employee that the City will be notified of a positive test result.
- 5.14. HR will review all test results pursuant to this Policy prior to taking or recommending any action.

### **6.0. OVERSIGHT/REVIEW**

- 6.1. HR will be responsible for the administration and training on this Administrative Regulation.
- 6.2. Employees and supervisors are responsible for complying with this AR.
- 6.3. Employees in violation of this AR are subject to discipline up to and including termination.
- 6.4. Contract workers or volunteers who violate this policy will be released.

### **7.0. DEFINITIONS**

- 7.1. **Applicants:** Potential employees who have received a conditional job offer.
- 7.2. **Controlled Substances:** Drugs whose general availability is restricted; any one of several drugs or other substances which are strictly regulated or outlawed because of their potential for abuse or addiction. Such drugs include those classified as narcotics, stimulants, anabolic steroids, depressants, hallucinogens, and cannabis (marijuana).

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- 7.3. **Controlled Substance/Drug Abuse:** When drugs are used in a manner or amount inconsistent with the medical or social patterns of a culture. While legal pharmaceuticals placed under control in the Controlled Substance Act of 1970 (CSA) are prescribed outside the scope of sound medical practice is drug abuse (defined by the US Drug Enforcement Administration).
- 7.4. **Department of Transportation (DOT):** The Department of the US federal government that coordinates and institutes national transportation programs.
- 7.5. **Depressant:** Any one of various substances that diminish functional activity, usually by depressing the nervous system (alcohol, barbiturates, benzodiazepines).
- 7.6. **Drug:** Any chemical that, when absorbed into the body, alters the functions of both mind and body.
- 7.7. **Illegal Controlled Substances:** Illegal use as defined in ARS 13-3401 definitions under dangerous drugs, marijuana, narcotic drugs and illegal use of prescription-only drugs (which can include taking another person's prescription medication).
- 7.8. **Impairment:** Symptoms that an employee/individual may be under the influence of alcohol, drugs and/or a controlled substance while at work that may decrease or lessen his/her performance of the duties or tasks of his/her position.
- 7.9. **Medical Review Officer (MRO):** Is a licensed physician who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.
- 7.10. **Over the Counter (OTC) Drug:** A drug for which a prescription is not needed.
- 7.11. **Positive Alcohol and Controlled Substances Tests:**
  - 7.11.1. **Alcohol test** – A Breath alcohol concentration of 0.02 or greater is a positive test result or a verified positive test from an MRO.
  - 7.11.2. **Drug Test** – A positive for controlled substances is defined as a verified positive controlled substance test from an MRO under this administrative regulation.
- 7.12. **Prescription:** A qualified medical providers order for the preparation and administration of a drug or device for a patient.
- 7.13. **Refusal:** Instances where an employee shall be considered a refusal include, but are not limited to: failing to report for the test; failing to report for the test in a reasonable amount of time as determined by the HR department; adulterating or diluting the specimen; substituting the specimen with that of another or different specimen; sending an imposter; refusing to sign the required forms; or refusing to cooperate in the testing process in such a way that prevents completion of the test.
- 7.14. **Safety/Sensitive Position:** Safety/sensitive positions that are required to perform job-related functions in which the City believes could directly affect the safety, health, or well-being of the employee or others, to include but not limited to: 1) operating, maintaining or repairing motorized vehicles or equipment, or machinery; 2.) responsible for handling or maintaining firearms; 3) responsible for handling and working with hazardous chemicals and/or materials; 4) responsible for accessing criminal justice information; 5) preparing or handling food or

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medicine, 6) responsible for treating or delivering drinking water, 7) working in any occupation regulated by Arizona Revised Statutes Title 32; All other job classifications not identified above that should also be considered safety/sensitive will be reviewed in collaboration with HR, City Attorney's Office, and the Division/Department Director before a final decision is made.

- 7.15. **Substance Abuse Professional ("SAP"):** A vendor that is trained and will make recommendations concerning education, treatment, follow-up testing and aftercare for referred employees.




**8.0 RELATIONSHIPS TO ADOPTED POLICIES AND ORDINANCES**

- 8.1 Administrative Regulation #125 – Authorization and Operation of City Owned and Leased Motor Vehicles
- 8.2 Administrative Regulation #322 - Compliance with Department of Transportation Regulations Regarding Drugs and Alcohol
- 8.3 Administrative Regulation #323 – Commercial Driver License
- 8.4 Administrative Regulation #306 – Contract Workers
- 8.5 Administrative Regulation #308 – Citywide Volunteer Program

**9.0 REVIEWED/AMENDED DATE(S) AND NOTES ON SIGNIFICANT CHANGES:**

- 9.1 Original Effective Date December 2, 2003, AR 324 – Substance Abuse
- 9.2 Amended May 2011:
  - 9.2.1 Clarification on self-disclosure.
  - 9.2.2 Clarification of self-referral.
  - 9.2.3 Inclusion of clarification on CDL portions.
  - 9.2.4 Responsibilities of DER.
- 9.3 Amended November 2015, updated title to AR 324 – Medication and Substance Abuse:
  - 9.3.1 Inclusion of Medical Marijuana
  - 9.3.2 Clarified definitions
  - 9.3.3 Moved CDL information to AR 323 – Commercial Driver's License
  - 9.3.4 Moved Drug-Free Workplace information to AR 325 – Drug-Free Workplace
- 9.4 Amended January 28, 2021:
  - 9.4.1 Included the recreational use of marijuana due to the passing of Prop 207.
  - 9.4.2 Adding the reference to Administrative Regulation #322 - Compliance with Department of Transportation Regulations Regarding Drugs and Alcohol.

## AR322 – Compliance with Department of Transportation Regulations Regarding Drugs and Alcohol

	<b>Responsible Department:</b>	<b>Effective Date:</b>
	Human Resources Department	01/01/2019
	<b>Approvals:</b>	<b>Date Approved:</b>
	 Jim Thompson, City Manager	01/01/2019
	 Donna B. Brown, Human Resources Director	01/01/2019

### 1.0 PURPOSE

- 1.1. Establish a policy to guide city employees on compliance with the Department of Transportation (DOT) Regulations (49 CFR Part 655, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operation, and Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs, as amended).
- 1.2. This Administrative Regulation is intended to protect the safety of employees and the public we serve, prevent accidents, injuries, and fatalities resulting from the misuse of alcohol or use of prohibited drugs or controlled substances by employees who perform safety-sensitive functions, and provide direction to employees and supervisors.

### 2.0 APPLICABILITY

- 2.1. This Administrative Regulation is applicable to all City employees in positions that fall under DOT Regulations 49 CFR Part 655 and Part 40, as amended and applicants for employment whose transportation-related job functions are considered safety sensitive. Employees who are required to have a Commercial Driver's License (CDL) as a condition of employment must follow Administrative Regulation 323, Commercial Driver's License.
- 2.2. Safety-sensitive duties include (§655.4):
  - 2.2.1. Operating a revenue service vehicle, including when it is not in revenue service.
  - 2.2.2. Operating a non-revenue vehicle requires a CDL holder as the operator.
  - 2.2.3. Controlling dispatch or movement of a revenue service vehicle.
  - 2.2.4. Maintaining (including repairs, overhaul, and rebuilding) a service vehicle or equipment used in revenue service.
  - 2.2.5. Carrying a firearm for security purposes.

### 3.0 POLICY

- 3.1. It is the policy of the City to comply with DOT Regulations (49 CFR Part 655, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operation, and Part 40 Procedures for Transportation Workplace Drug and Alcohol Testing Programs, as amended).
- 3.2. Prohibited conduct such as using or being under the influence of alcohol or drugs while performing job duties or having knowledge of employees being under the influence of alcohol or drugs while performing job duties and failing to report such violations to management or HR, are covered in Administrative Regulation 324, Medication and Substance Abuse.
- 3.3. Covered employees shall be prohibited from using alcohol within four hours prior to performing safety-sensitive job functions. Employees, supervisors, or managers having actual knowledge that a covered employee has used alcohol within four hours of performing a safety sensitive job function shall not permit the employee to perform

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or continue to perform safety sensitive functions and must report it to a supervisor or Human Resources immediately (§655.33).

### 4.0 PROCEDURES

- 4.1. Procedures set forth in this policy prohibit drug use and alcohol misuse in the workplace and prescribe the consequences associated with prohibited drug use and alcohol misuse.
- 4.2. Substance to Test - The City tests employees covered under this policy for the following: alcohol (except for pre-employment), marijuana, cocaine, opiates, amphetamines, and phencyclidine (§655.21).
- 4.3. Types of Alcohol and Drug Testing
  - 4.3.1. The City will pay for any drug and alcohol test that it requests or requires, which shall be conducted at a certified lab designated by the City.
  - 4.3.2. Pre-Employment Drug Testing: As a condition of City employment, all external applicants and covered employees seeking a promotion are subject to pre-employment drug testing no later than the end of the next business day after acceptance of the job offer. The City cannot hire an applicant to perform a safety-sensitive function unless the applicant has taken a drug test with a verified negative result (§655.41).
    - 4.3.2.1. New hires, rehires, or promoted employees cannot begin work until drug test results are received and verified. The applicant must begin work in the safety-sensitive function within 30 days of the drug test, or he/she must be re-tested with a verified negative result before the actual start date.
    - 4.3.2.2. When a covered employee or applicant has previously failed or refused a pre-employment drug test, the employee must provide proof to the Human Resources Director or designee of having successfully completed a referral, evaluation and treatment plan as described in section 4.5.
    - 4.3.2.3. If a pre-employment drug test is canceled by the City, the covered employee or applicant must take another or be rescheduled for a pre-employment drug test with a verified negative result before the actual start date.
    - 4.3.2.4. An employee in a non-safety sensitive position cannot be transferred or promoted in to a safety-sensitive position until the employee takes a pre-employment drug test with a verified negative result.
    - 4.3.2.5. An external candidate who tests positive for drugs will have the job offer rescinded and will be informed of the substance abuse professional (SAP) services available. The City will not pay for SAP services for a rejected external candidate.
    - 4.3.2.6. An internal candidate who tests positive for drugs will not be promoted to the position for which the candidate applied, will be referred to an SAP, and will be subject to disciplinary action, up to and including

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termination of City employment. The City will pay for SAP services for an internal candidate who continues to be employed by the City.

4.3.2.7.A probationary employee covered under this policy who tests positive for drugs may have his/her probation rejected and will be informed of the SAP services available. The City will not pay for SAP services for a rejected probationary employee.

4.3.3. Random testing. Random drug and alcohol tests will be administered in compliance with the minimum annual percentage rates as prescribed in §655.45.

4.3.3.1. Employees under this policy will be randomly selected from a "pool" of employees subject to testing. The testing dates and times are unannounced and unpredictable. The dates for administering random tests are spread reasonably throughout the calendar year. Random testing shall be conducted at all times when safety-sensitive functions are performed.

4.3.3.2. The list of employees selected will be determined by a computer-based random number that is matched by the covered employee's identification number and/or employee name. All employees in the random testing pool will have an equal chance of being selected. Some employees may be tested more than once each year; some may not be tested at all, depending on the random selection.

4.3.3.3. Once notified of selection for any random testing, an employee is required to report immediately to the City's designated testing/collection site.

4.3.4. Reasonable Suspicion testing (§655.43): An employee will be required to submit to an alcohol and/or drug test when the City has reasonable suspicion to believe that the employee has used a prohibited drug and/or engaged in alcohol misuse.

4.3.4.1. The City's determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. The observations may include indications of the chronic and withdrawal effects of controlled substances.

4.3.4.1.1. Under FTA regulations, reasonable suspicion for alcohol testing will be based on observations made during, just preceding, or just after the period of the workday that the covered employee is required to comply. If an alcohol test required by this section is not administered within two hours following the determination of reasonable suspicion, the supervisor making the reasonable suspicion determination shall prepare a document stating the reasons the alcohol test was not promptly administered and must submit this document to Human Resources for records retention. If alcohol testing is not conducted within eight hours following the determination that such testing is required, attempts to test shall cease and the supervisor shall document in the



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record the reasons for not administering the test, which must be forwarded to Human Resources.

4.3.4.2.A covered employee will be directed to undergo reasonable suspicion testing for alcohol and drugs only while the employee is performing safety sensitive functions, just before the employee is to perform safety sensitive functions, or just after the employee has ceased performing such functions.

4.3.5. Post-Accident (§655.44): Covered employees are subject to post-accident testing. Regardless of whether reasonable suspicion exists, these tests must be conducted (as soon as practicable) following an accident that occurred in a public transportation vehicle covered under this policy that is being operated on a public road in the following situations:

4.3.5.1. Fatal Accidents. As soon as practicable, following an accident involving the loss of human life, drug and alcohol testing shall be conducted on each surviving covered employee operating the public transportation vehicle at the time of the accident. The City (supervisor or manager of the covered employee) shall ensure the covered employee is taken to an approved test/collection site. The City may also elect to drug and alcohol test other covered employee(s) whose performance could have contributed to the accident, using the best information available at the time of the decision.

4.3.5.2. Non-fatal Accidents. As soon as practical following an accident not involving the loss of human life in which a public transportation vehicle is involved, the City shall drug and alcohol test each covered employee operating the public transportation vehicle at the time of the accident; unless the City determines, using the best information available at the time of the decision, that the covered employee(s) performance can be completely discounted as a contributing factor to the accident.

4.3.5.3. Under FTA regulations, if **alcohol** testing required under this section is not administered within two hours following the accident, the supervisor of the covered employee shall prepare a document stating the reasons the alcohol test was not promptly administered and must submit this document to Human Resources for records retention. If alcohol testing is not conducted within eight hours following the accident, attempts to test shall cease and the supervisor shall document for the record the reasons why the test was not administered, which must be forwarded to Human Resources for recordkeeping.

4.3.5.3.1. The covered employee required to take a post-accident alcohol test shall be prohibited from consuming alcohol for eight hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first (§655.34).

4.3.5.4. The City shall ensure that the covered employee required to be **drug** tested under this section is tested as soon as practicable but within 32 hours of the accident.

4.3.5.5. Covered employees who are subject to post-accident testing and who fail to remain readily available for such testing, including notifying the

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supervisor or manager of his or her location if he or she leaves the scene of the accident prior to submission to such test, shall be deemed to have refused to submit to testing and will be subject to disciplinary actions up to and including dismissal.

4.3.5.6. If the post-accident test is required, the supervisor should take the employee to the test/collection site for testing. The supervisor must follow up with Human Resources as soon as practical or the morning of the following business day, at the latest.

4.3.6. Return to Duty/Follow-Up Testing (§655.47). Before an employee covered under this policy returns to duty requiring the performance of a safety sensitive function, after having engaged in conduct prohibited by this Administrative Regulation (consumption of alcohol or controlled substance), the employee must undergo a return to duty alcohol test that has a result indicating an alcohol concentration of less than 0.02 and/or a drug test with a verified negative result.

4.3.6.1. An employee may not return to work unless and until the employee has been evaluated by an SAP, complied with recommended treatment and required testing, been released by the SAP to return to work, passed the return to duty test(s), and has been approved to return to work by Human Resources.

4.4. Refusal to Submit to a Required Alcohol or Drug Test (§655.49)

4.4.1. After following the procedures in 49 CFR § 40.265 or § 40.193, as applicable, if an employee is unable to provide an amount of breath sufficient to permit a valid breath test, or urine to provide a valid urine test, the employee will be deemed to have refused testing. The only acceptable reason for an employee to be unable to provide an adequate sample is a medical condition, requiring a medical evaluation by a City-approved physician. If the physician determines, in his/her reasonable medical judgment, that a medical condition causing the inability to provide an adequate sample does not exist, the employee shall be deemed to have refused testing.

4.5. Referral, evaluation, and treatment (§655.62).

4.5.1. If an employee has a verified positive drug test result, has a confirmed alcohol test of 0.02 or greater, or refuses to submit to a required drug or alcohol test, the Human Resources Director or designee will advise the employee of the resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse, including the names, addresses, and telephone numbers of SAPs, counseling, and treatment programs.

4.5.2. The SAP must perform the functions in 49 CFR Part 40 (§655.52).

4.6. Collection and testing procedures

4.6.1. The City sends employees to labs which follow all procedures for drug and alcohol testing as described in Title 49 CFR, Part 40. Alcohol testing will be given by specially trained Breath Alcohol Technicians (as provided by the Blood Alcohol Test, or B.A.T.) using approved testing devices. All controlled substance urine samples will be collected and analyzed by Department of Health & Human Services (DHHS) certified laboratories.

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### **4.7. Consequences (§655.61).**

- 4.7.1. When a covered employee has a verified positive drug test result (as provided by the Medical Review Officer or MRO) or has a confirmed alcohol test result of 0.02 (from the B.A.T.) or greater or refuses to submit to a test, he or she must immediately cease performing his or her safety-sensitive job functions. If necessary, an employee will be placed on paid leave pending the completion of an investigation and determination of their employment status.
- 4.7.2. An employee who interferes with, alters, substitutes, adulterates, contaminates, or in any way affects, or attempts to affect, the outcome of the alcohol or drug test procedure will be subject to termination.
- 4.7.3. An employee who fails to notify the City of any prescribed controlled substance or any other medication that may affect his/her ability to safely perform his/her job functions and is later determined to have been taking such medication before coming to work or during work will be subject to disciplinary action, up to and including termination.
- 4.7.4. An employee who engages in conduct prohibited by the AR will be removed immediately from his/her safety-sensitive position and will be subject to disciplinary action up to and including termination of City employment.
- 4.7.5. An employee who has actual knowledge that another employee has violated this Administrative Regulation and does not report it immediately to management or Human Resources will be subject to disciplinary action up to and including termination of City employment.
- 4.7.6. An employee who is convicted of any federal, state or local crime involving alcohol or controlled substances will notify his or her immediate supervisor not later than one working day following the conviction. Failure to give timely notice of the conviction will be grounds for termination of City employment.
- 4.7.7. An employee who is convicted of violating any criminal alcohol or drug statute will be subject to disciplinary action up to and including termination of City employment.

### **4.8. Education and Training Procedures (§655.14).**

- 4.8.1. Covered employees must receive at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use.
- 4.8.2. Employees designated to supervise employees covered under this policy are required to attend training of least 60 minutes on the physical, behavioral, and performance indicators of probable drug use and at least 60 minutes of training on the physical, behavior, speech, and performance indicators of probable alcohol misuse. Supervisors use the information from the trainings to determine whether reasonable suspicion exists to require a driver to undergo reasonable suspicion testing.

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### **4.9. Retention of Records (§655.71).**

- 4.9.1. Human Resources shall maintain records of the City's anti-drug and alcohol misuse program(s). All drug and alcohol test records will be kept in a secure location with controlled access. Records are secured and to the extent permitted by law, confidential. If records are kept electronically, they are password protected.
- 4.9.2. Each record shall be maintained for the specified minimum period as measured from the date of the creation of the record, in accordance to the following schedule:
  - 1 Year: Records of negative drug or alcohol tests results.
  - 2 Years: Records related to the collection process and employee training.
  - 5 Years: Records of covered employees verified positive drug or alcohol test results, documentation of refusals to take required drug or alcohol tests, and covered employee referrals to the substance abuse professional, and copies of annual Management Information System (MIS) reports submitted to the FTA.

## **5.0 RESPONSIBILITIES**

### **Employees**

- 5.1. It is the responsibility of the employee to maintain in good standing with the appropriate licensure and endorsements if it is required for his/her position. Failure to do so will result in disciplinary action up to and including termination of City employment.
- 5.2. Employees are required to notify their supervisor if they are using any drugs, prescribed medications, or over-the-counter medications that may adversely affect his or her ability to safely perform job functions prior to performing any job functions.

In the event that an employee covered under this policy has his or her license revoked, suspended, or is disqualified for a period of time, the policies and procedures set forth in AR 123 - Operation of City-Owned and Leased Vehicles will apply.

- 5.3. Employees covered under this policy must report suspension, revocation or period of disqualification relating to their license to their supervisor not later than the employee's next scheduled work day, following receipt of notice of the suspension, revocation, or disqualification.
- 5.4. Employees are required to update their personal contact information to include mailing addresses to ensure the correct address matches the Department of Motor Vehicles records.

### **Supervisors**

- 5.5 Supervisors hired, transferred or promoted into positions with covered employees under this policy are responsible for complying with the regulations as outlined in this policy.

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Department or Division Director

5.6 The Department or Division Director that is responsible for receiving transportation-related Federal financial assistance (grants) under this policy is responsible for the annual requirement to certify compliance with the applicable Federal Transit Administration Regional Office (§655.83).

Human Resources

5.7. The Designated Employer Representative (DER) is the Human Resources Director, or designee to answer questions about anti-drug use and alcohol misuse programs, controlled substances, and alcohol testing.

5.8. Human Resources is responsible for associated training programs.

5.9. Human Resources is responsible for the distribution of this AR to new, rehired and promoted covered employees.

### 6.0 OVERSIGHT/REVIEW

6.1. Human Resources will be responsible for the administration and training on this Administrative Regulation, which will be reviewed (at the minimum) every three years.

### 7.0 DEFINITIONS

7.1. **Applicants:** Potential employees who have received a conditional job offer.

7.2. **Controlled Substances:** Drugs whose general availability is restricted; any one of a number of drugs or other substances which are strictly regulated or outlawed because of their potential for abuse or addiction. Such drugs include those classified as narcotics, stimulants, anabolic steroids, depressants, hallucinogens, and cannabis (marijuana).

7.3. **CDL Employees:** Those employees who are in jobs where a Commercial Driver's License is required as a condition of employment.

7.4. **Covered Employee:** An employee, applicant, or volunteer who performs or will perform a safety-sensitive function under this policy.

7.5. **Department of Transportation (DOT):** The Department of the US federal government that coordinates and institutes national transportation programs.

7.6. **Drug:** Any chemical that, when absorbed into the body, alters the functions of both mind and body.

7.7. **Federal Motor Carrier Safety Administration (FMCSA):** An agency within the DOT, FMCSA that is responsible for developing and enforcing the regulations of the U.S. trucking industry, including the commercial motor vehicle alcohol and drug testing programs. Further information regarding the FMSCA regulations, including the effects of alcohol misuse and controlled substances, signs and symptoms and available methods of intervention is available upon request to Human Resources.

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- 7.8. **Medical Review Officer:** A Medical Review Officer is a licensed physician who shall be responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results. The MRO must comply with all FMCSA medical requirements and qualifications, and all processes consistent with 49 CFR Part 40.
- 7.9. **Refusal:** Instances where an employee shall be considered a refusal include, but are not limited to: failing to report for the test; failing to report for the test in a reasonable amount of time as determined by the HR department; adulterating or diluting the specimen; substituting the specimen with that of another or different specimen; sending an imposter; refusing to sign the required forms; or refusing to cooperate in the testing process in such a way that prevents completion of the test.
- 7.10. **Substance Abuse Professional (SAP):** A trained professional who will evaluate an employee who has violated DOT drug and alcohol regulations.





### 8.0 RELATIONSHIPS TO ADOPTED POLICIES AND ORDINANCES

- 8.1. 49 CFR Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs
- 8.2. 49 CFR Part 655 - Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations
- 8.3. Scottsdale Revised Code 14-72, Grounds for discipline; dismissal
- 8.4. Administrative Regulation 123 - Operation of City Owned Leased Motor Vehicles
- 8.5. Administrative Regulation 244 - Risk Management and Safety Functions and Practices
- 8.6. Administrative Regulation 306 - Contract Workers and Temporary Employees
- 8.7. Administrative Regulation 323 - Commercial Driver's License
- 8.8. Administrative Regulation 324 - Medication and Substance Abuse
- 8.9. Administrative Regulation 325 - Drug-Free Workplace

### 9.0 REVIEWED/AMENDED DATE(S) AND NOTES ON SIGNIFICANT CHANGES:

- 9.1. Original Effective Date January 1, 2019.

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	<b>Responsible Department:</b>	<b>Effective Date:</b>
	Human Resources, Main ext. x22491	July 3, 2003
	<b>Approvals:</b>	<b>Date Approved:</b>
	 Jim Thompson, City Manager  Katie Callaway, Risk Management Director  Donna B. Brown, Human Resources Executive Director	January 6, 2020 January 6, 2020 January 6, 2020

### 1.0 PURPOSE

- 1.1 Establish a policy to guide city employees on compliance with the Federal Motor Carrier Safety Administration ("FMCSA") Regulations (49 CFR, Parts 382 and 40).
- 1.2 This Administrative Regulation is intended to protect the safety of employees and the public we serve, prevent accidents and injuries that may result from the misuse of alcohol or use of controlled substances, and provide direction to employees and supervisors.

### 2.0 APPLICABILITY

- 2.1 This Administrative Regulation is applicable to all Commercial Driver License (CDL) City employees and applicants for employment who are required to have a CDL as a condition of employment.
- 2.2 City employees required to maintain a Class A (to operate a vehicle with a gross combination weight rating or gross combination weight of 26,001 pounds or more, inclusive of a towed vehicle with a gross combination weight of 10,001 pounds or more) or Class B (to operate a vehicle with a gross vehicle weight of 26,001 or more pounds) driver's license, a Class C driver's license with a hazardous material endorsement, or who operate a vehicle designed to transport 16 or more passengers, (§382.107).
- 2.3 CDL job functions are considered safety sensitive, which means all on-duty time an employee is in readiness or begins work (including inspecting, servicing or driving a commercial motor vehicle) is safety sensitive until the time they are relieved from all work responsibility (§382.107).

### 3.0 POLICY

- 3.1 It is the policy of the City to comply with the Federal Motor Carrier Safety Administration ("FMCSA") Regulations (49 CFR, Parts 382 and 40). If a situation is not covered in the City's regulation, the City will follow the FMCSA Regulations, interpretations, and guidelines.

### 4.0 PROCEDURES

- 4.1 Prohibited Conduct
  - 4.1.1 Employees cannot report to work or remain on duty if they are under the influence of alcohol.
  - 4.1.2 An employee cannot report for duty or remain on duty when he/she uses any controlled substance, except when the use is following the instructions of a physician who has advised the employee in writing that the substance does not adversely affect his/her ability to safely operate a commercial motor vehicle (§383.213).
  - 4.1.3 An employee cannot report for duty, remain on duty or perform work if they test positive for a controlled substance.
- 4.2 Refusal to Submit to a Required Alcohol or Controlled Substance Test

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4.2.1 No employee shall refuse to submit to a post-accident alcohol or controlled substances test required under §382.303, a random alcohol or controlled substances test required under §382.305, a reasonable suspicion alcohol or controlled substances test required under §382.307, or a follow-up alcohol or controlled substances test required under §382.311.

4.2.2 If an employee refuses to submit to a required alcohol or controlled substances test, the refusal will be considered a "positive" test.

### 4.3 Types of Alcohol and Controlled Substance Testing

4.3.1 Pre-Employment: As a condition of City employment, all candidates for consideration for a CDL position are subject to pre-employment drug testing no later than the end of the next business day of acceptance of the job offer. The City cannot hire a CDL applicant to perform a safety-sensitive function unless the applicant has taken a drug test with a verified negative result (§382.301(a)).

4.3.1.1 New hires, rehires, or promoted employees cannot begin work until drug test results are received and verified. The applicant must begin work in the safety sensitive function within 30 days of the drug test, or he/she must be re-tested with a verified negative result before the actual start date.

4.3.1.2 Required tests for out-of-state candidates must be arranged by Human Resources staff prior to making the job offer.

4.3.1.2.1 The time limits for testing and hiring set forth in this section may be modified by the Human Resources Director when the Director believes that the modifications are reasonably necessary, given the hiring circumstance for a specific position and it is in the best interests of the City.

4.3.2 Random: Random testing is based on the fact that each employed commercial motor vehicle driver has an equal chance to be selected for such testing (§382.305).

4.3.2.1 The employee will be randomly selected for testing from a "pool" of CDL employees subject to testing. The testing dates and times are unannounced and are administered with unpredictable frequency throughout the year. The list of employees selected will be computer generated from the pool of all CDL employees maintained by Human Resources. All CDL employees will have an equal chance of being elected. Some employees may be tested more than once each year; some may not be tested at all, depending on the random selection.

4.3.2.2 City will comply with FMCSA Regulation 49 CFR 382.305, which sets the annual minimum random testing rates for controlled substances testing. The random alcohol test must be performed immediately prior to, during or immediately after a driver has, or is about to perform a safety sensitive function. Random testing for drugs does not have to be conducted in immediate time proximity to performing safety-sensitive functions.

4.3.2.3 Once notified of selection for any random testing, an employee is required to report immediately to the City's designated collection site.

4.3.3 Reasonable Suspicion: A CDL employee will be required to submit to an alcohol or drug test when the City has reasonable suspicion to believe that the employee has violated the prohibitions of this regulation (§382.307).

4.3.3.1 The City's determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the



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employee. The observations may include indications of the chronic and withdrawal effects of controlled substances.

- 4.3.3.2 Under the FMCSA regulation, reasonable suspicion alcohol testing will be based on observations made during, just preceding, or just after the period of the workday that the covered employee is required to be in compliance with this regulation.
- 4.3.3.3 A CDL employee will be directed to undergo reasonable suspicion testing for alcohol and drugs only while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.
- 4.3.3.4 Human Resources must authorize testing, and testing will be administered within two hours of the determination that such testing is required.
  - 4.3.3.4.1 If alcohol testing is not conducted within two hours following the observations triggering the request to test, the supervisor, or the supervisor's designee, must prepare documentation stating the reasons that the test was not promptly administered.
    - 4.3.3.4.1.1 If alcohol testing is not conducted within eight hours following the determination that such testing is required, attempts to test shall cease and the driver shall be placed out of service for twenty-four hours.
    - 4.3.3.4.2 The supervisor, or the supervisor's designee, must prepare a written record stating the reasons the test was not performed within 24 hours of the observed behavior or before the results of the controlled substance abuse tests are released, whichever is earlier. Documentation required by this paragraph shall be forwarded to Human Resources to be placed in the driver qualification file.
- 4.3.4 Post-Accident: CDL employees are subject to post-accident testing. These tests must be conducted as soon as practicable following an accident involving a commercial motor vehicle being operated on a public road, as follows, regardless of whether reasonable suspicion exists (§382.303) in the following situations:
  - 4.3.4.1 Each surviving driver, who was performing safety sensitive functions with respect to the vehicle, if the accident involved the loss of human life.
  - 4.3.4.2 A CDL employee who receives a citation under State or local law for a moving traffic violation arising from the accident, if the accident involved bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident.
  - 4.3.4.3 A CDL employee who receives a citation under State or local law for a moving traffic violation arising from the accident and 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.
  - 4.3.4.4 If employees are required to take a post-accident alcohol test, they cannot use alcohol for eight hours following the accident, or until after they take the test.

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- 4.3.4.5 If the post-accident test is required outside regular city business hours/days (8:00AM – 5:00PM, Monday – Friday), and HR is not available, then the supervisor will proceed to take the employee to be tested, provided all provisions under Post-Accident testing are adhered to. The supervisor must follow up with Human Resources the morning of the following business day.
- 4.3.5 Return to Duty: Before a CDL employee returns to duty requiring the performance of a safety-sensitive function, after having engaged in conduct prohibited by this Administrative Regulation (see prohibited conduct section 3.0, above) concerning alcohol or controlled substance, the employee must undergo a return to duty alcohol test that has a result indicating an alcohol concentration of less than 0.02 and a controlled substances test with a result indicating a verified negative result for controlled substances use (§382.309).
  - 4.3.5.1 An employee may not return to work unless and until the employee has been evaluated by a Substance Abuse Professional (SAP), complied with recommended treatment and required testing, been released by the SAP to return to work, passed the return to duty tests, and has been approved to return to work by Human Resources.
- 4.3.6 Follow-Up: If an employee returns to duty after having engaged in conduct prohibited by this Administrative Regulation (see prohibited conduct section 3.0, above) concerning drugs or alcohol, the employee will be subject to follow-up testing (§382.311).
  - 4.3.6.1 Follow-up tests are unannounced. A minimum of six tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

### 4.4 Substance to Test

- 4.4.1 The City tests CDL employees for the following drugs: marijuana, cocaine, amphetamines, opiates, opioids, and phencyclidine (PCP) (§40.85).
- 4.4.2 Testing for additional controlled substances utilizing the same sample is not permitted under the U.S. DOT regulations. However, under City of Scottsdale policy, the City may require additional tests for other controlled substances provided that a separate urine sample is provided and tested and is collected after the U.S. DOT specimen (§40.13).
- 4.4.3 Alcohol testing will be conducted with a Breathalyzer as mandated by the FMCSA regulation.

### 4.5 Prescription drugs or over the counter medication

- 4.5.1 An employee under the treatment of a physician who is prescribed prescription drugs by the physician will advise the physician of the kind of work done by the employee and the essential functions of the job.
- 4.5.2 Each CDL employee is responsible for discussing the effects of taking prescribed medication(s) with the prescribing physician to determine whether they may adversely affect the employee's ability to safely perform his or her job functions.
- 4.5.3 An employee using medication or prescribed drugs that may adversely affect his/her ability to safely perform job functions must inform his/her supervisor prior to performing any job functions.

**PLEASE NOTE:** An employee must report any and all prescribed controlled substance (such as but not limited to, opioid/opiate, sleep medications, hypnotics, narcotics, sedatives, depressants, stimulants or any other controlled substance) to his or her supervisor even if the employee and the prescribing physician are of the opinion that the medication would not adversely affect the employee's ability to safely perform his or her job functions. The City must be informed so that it can make

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sure it takes any reasonable steps necessary to ensure the employee is and remains able to safely perform his or her job functions, even if the shifts or functions change moving forward.

- 4.5.4 When a CDL employee has reported that they are taking any medication that has been medically determined to potentially affect their ability to safely perform their job functions (either by the prescribing medical provider or a City's contracted physician), the Department, in consultation with the Human Resources Director, will determine if the CDL employee should be permitted to work in a modified work capacity while taking the medication; temporarily removed from all CDL/safety sensitive functions during the duration of the treatment, placed on a no-work status until the medication changes, or provided with other appropriate restrictions.
- 4.5.5 It is illegal to take another person's prescription drug. The City may request that an employee provide, in writing, information about medications or prescriptions being taken by the employee and/or an authorization for a physician to release information about medication or prescriptions.

### 4.6 Medical Marijuana

- 4.6.1 Under no circumstance should any employee work while under the influence or use of medical marijuana or have a detectable level in their system while in a CDL or safety sensitive position.
- 4.6.2 It is the responsibility of the employee to provide written notice to HR of his/her intent to use medical marijuana under the provisions of the Arizona Medical Marijuana Act.
- 4.6.3 The City will make a reasonable attempt to reassign the employee to a non-CDL position or place the employee on paid or unpaid leave during the duration of the legal medical marijuana treatment.
- 4.6.4 Failure to notify the City of the legal use of medical marijuana and a subsequent positive result on any drug test (pre-employment, post-accident, random, or reasonable suspicion) will result in disciplinary action, up to and including termination.

### 4.7 Collection and testing procedures

- 4.7.1 The City sends employees to labs which follow all procedures for drug and alcohol testing as described in Title 49 CFR, Part 40. Alcohol testing will be given by specially trained Breath Alcohol Technicians (B.A.T.) using approved testing devices. All controlled substance urine samples will be collected and analyzed by Department of Health & Human Services (DHHS) certified laboratories.

### 4.8 Inability to provide samples

- 4.8.1 If an employee is unable to provide an amount of breath sufficient to permit a valid breath test, or urine to provide a valid urine test, the employee will be deemed to have refused testing.
- 4.8.2 The only acceptable reason for an employee to be unable to provide an adequate sample is a medical condition, requiring a medical evaluation by a City-approved physician. If the physician determines, in his/her reasonable medical judgment, that a medical condition causing the inability to provide an adequate sample does not exist, the employee shall be deemed to have refused testing.

### 4.9 Positive alcohol and controlled substance tests

- 4.9.1 Alcohol Test: A breath alcohol concentration of 0.02 or greater is a positive test result.

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- 4.9.1.1 FMCSA regulations state that an employee tested and found to have a breath alcohol concentration of 0.02 or greater but less than 0.04 will not be allowed to perform safety-sensitive functions for a minimum of 24 hours.
- 4.9.1.2 A 0.04 or greater result requires evaluation by a Substance Abuse Professional (SAP), rehabilitation/treatment if necessary, return to duty testing and follow-up testing.
- 4.9.2 Controlled Substance Test: A positive controlled substance test is one that has been confirmed positive by a Medical Review Officer (MRO) for a drug or drug metabolite, an adulterated test before the MRO has completed verification of the test, a "positive and dilute," or a refusal to test.
  - 4.9.2.1 A "dilute" sample is a specimen with creatinine and specific gravity values that are lower than expected for human urine.
  - 4.9.2.2 For results reported as "negative and dilute," Human Resources will direct the applicant/employee to immediately take a second test.
  - 4.9.2.3 If the second test is also negative and dilute, the second test result will be reported as negative and will become the test of record.
  - 4.9.2.4 A "positive and dilute" result will be treated as a verified positive test.
  - 4.9.2.5 Although having legal prescriptions for medications including may technically constitute a negative result by the MRO, CDL employees are still required to inform their supervisor if they are taking any controlled substance or other medications that may adversely affect their ability to safely perform job functions prior to performing any job functions.
- 4.9.3 Consequences:
  - 4.9.3.1 An employee who refuses to submit to a required test will be subject to termination.
  - 4.9.3.2 An employee who interferes with, alters, substitutes, adulterates, contaminates, or in any way affects, or attempts to affect, the outcome of the alcohol or drug test procedure will be subject to termination.
  - 4.9.3.3 An employee who fails to notify the City of any prescribed controlled substance or any other medication that may affect their ability to safely perform their job functions and is later determined to have been taking such medication before coming to work or during work will be subject to disciplinary action, up to and including termination.
  - 4.9.3.4 A CDL employee who engages in prohibited conduct will be removed immediately from their safety-sensitive/driving position and will be subject to disciplinary action up to and including termination of City employment.
  - 4.9.3.5 An employee who has specific, contemporaneous, articulable observations that another employee has violated prohibitions of this Administrative Regulation and does not report it immediately to management or Human Resources will be subject to disciplinary action up to and including termination of City employment.
  - 4.9.3.6 An employee who is convicted of any federal, state or local crime involving alcohol or controlled substances will notify his or her immediate supervisor not later than one working day following the conviction. Failure to give timely notice of the conviction will be grounds for termination of City employment.

## Exhibit E

### AR323 - Commercial Driver's License

4.9.3.7 An employee who is convicted of violating any criminal alcohol or drug statute will be subject to disciplinary action up to and including termination of City employment.

4.9.3.8 If necessary, an employee will be placed on paid leave pending the completion of an investigation and determination of their employment status.

#### 4.9.4 Positive Test Results:

4.9.4.1 An external candidate who tests positive for drugs or alcohol will have the job offer rescinded and will be informed of the SAP services available. The City will not pay for SAP services for a rejected external candidate.

4.9.4.2 An internal candidate who tests positive for drugs or alcohol will not be promoted to the position for which the candidate applied, will be referred to a SAP (see 13.0, Violation of Alcohol and/or Controlled Substance Rules), and will be subject to disciplinary action, up to and including termination of City employment. The City will pay for SAP services for an internal candidate (§382.605).

4.9.4.3 A CDL probationary employee who tests positive for alcohol and/or drugs may have their probation rejected and will be informed of the SAP services available. The City will not pay for SAP services for a rejected probationary employee.

#### 4.10 Violation of Alcohol and/or Controlled Substances Rules

4.10.1 If an employee is found to have a breath alcohol level of 0.04 or greater or any positive urine test for controlled substances, they will immediately be removed from performing any safety sensitive functions. The employee will:

4.10.1.1 Be referred to a SAP (§40.285);

4.10.1.2 Be evaluated by a SAP;

4.10.1.3 Complete the SAP evaluation, referral and education and/or treatment process prescribed by the SAP;

4.10.1.4 Be reevaluated by a SAP;

4.10.1.5 Submit to a return to duty test before they can return to a safety sensitive function (return to duty alcohol test with a result indicating an alcohol concentration of less than 0.02 or a controlled substances test with a verified negative result); §382.605(c)(2); and,

4.10.1.6 Subject to at least six unannounced follow up tests (or the number of tests prescribed by the SAP) in the next 12 months.

#### 4.11 FMCSA Clearinghouse ("Clearinghouse") Queries and Reporting

##### 4.11.1 Limited Queries:

4.11.1.1 Limited Query: A limited query indicates any information about resolved or unresolved drug and alcohol program violations but does not show specific program violations.

4.11.1.2 If a limited query shows a resolved or unresolved violation, a full query must be completed within 24 hours (see 4.11.2 below).

4.11.1.3 If a full query provides an unresolved violation, the candidate will not be hired.

## AR323 - Commercial Driver's License

### 4.11.2 Full Queries

- 4.11.2.1 Full Query: A full query shows detailed information about any drug and alcohol program violations.
- 4.11.2.2 A full query will be performed for every new hire as part of the conditional job offer process.
- 4.11.2.3 A full query requires consent from the CDL holder within the Clearinghouse (the CDL holder will need to register with the Clearinghouse to provide consent).
- 4.11.2.4 If a full query shows an unresolved violation, the employee cannot perform Safety-Sensitive functions.
- 4.11.2.5 If the person is a candidate, he or she cannot not be hired.
- 4.11.2.6 If a CDL holder fails to provide consent, he or she cannot be hired.

### 4.11.3 Responsibility for Reporting to the Clearinghouse (§382.705)

- 4.11.3.1 MRO: Within 2 business days of making a determination or verification, MRO's must report to the Clearinghouse:
  - Verified positive, adulterated or substituted controlled substances test results and refusal-to-test determination.
- 4.11.3.2 Within 1 business day of making any change to the results report, the MRO must report that changed result to the Clearinghouse.
- 4.11.3.3 Human Resources: Within 3 business days following the date the information was received, HR must report to the Clearinghouse:
  - All alcohol test results with an alcohol concentration of 0.04 or greater (alcohol test results do not go to MRO);
  - A negative return-to-duty test result;
  - A refusal to take an alcohol test (except a pre-employment alcohol test)
  - Actual knowledge of prohibited alcohol or controlled substance use
  - Follow up completion report (not individual tests ordered by SAP)
- 4.11.3.4 SAP: By close of business following the action, the SAP is responsible for reporting:
  - The initial assessment and completion report for return-to-duty process (not test results).

### 4.12 Self Identification Referral Assistance

- 4.12.1 The City of Scottsdale encourages employees to voluntarily seek help ("self-referral") to resolve problems relating to the use or misuse of illegal drugs, alcohol or controlled substances.
- 4.12.2 Voluntary self-referral will not relieve the employee of the responsibility for adequate job performance, allow avoidance of testing, or prevent disciplinary action from being taken against an employee who fails a required test.

## AR323 - Commercial Driver's License

### 4.13 Cost of testing

- 4.13.1 The City will pay for any drug and alcohol test that it requests or requires and is conducted at the certified lab designated by the City. Employees have the option to request that the second half of the split sample be tested.

### 4.14 Positions that do not require a CDL

- 4.14.1 If an employee's job classification does not require a CDL, but the employee wants to obtain or maintain a CDL, he/she may do so on his/her personal time and expense.
- 4.14.2 The City will not utilize the employee in a CDL role unless he/she is promoted or transferred to a position requiring a CDL (CDL employee).

### 4.15 Training Procedures

- 4.15.1 Employees designated to supervise CDL employees are provided, and required to attend, training of least 60 minutes on alcohol misuse and at least an additional 60 minutes of training on controlled substances use. Supervisors use the information from the training to determine whether reasonable suspicion exists to require a driver to undergo reasonable suspicion testing. The training includes the physical, behavioral, speech, and performance indicators of probable use and/or misuse of alcohol and controlled substances.
- 4.15.2 Recurrent training is not required by the FMCSA regulation, but may be provided as determined by Human Resources or Risk Management.

### 4.16 Recordkeeping

#### 4.16.1 CDL Employee Driver Qualification Files

- 4.16.1.1 Employee test results will be kept in the CDL Driver Qualification File in Human Resources.
- 4.16.1.2 A CDL employee's driver qualification file will be retained for as long as the employee is employed by the City of Scottsdale and for three years from the date of termination of City employment.
- 4.16.1.3 In place of, and as equivalent to, the road test required by §391.31, the City shall retain a legible copy (front and back) of the CDL or certificate.

#### 4.16.2 Records Required to Keep

- 4.16.2.1 Human Resources is required to keep the following records (not all inclusive):

- Test results
- Testing process administration
- Return-to-duty process administration
- Employee training, as applicable
- Supervisor training, as applicable

- 4.16.2.2 How Long Records Must Be Kept:

- 1 Year: Negative drug test results Alcohol test results less than 0.02
- 2 Years: Records related to the alcohol and drug collection process
- 3 Years: Previous employer records
- 5 Years: Annual MIS reports
- Employee evaluation and referrals to SAPs
- Follow-up tests and follow-up schedules
- Refusals to test

## AR323 - Commercial Driver's License

Alcohol test results 0.02 or greater  
Verified positive drug test results  
EBT calibration documentation

Indefinite period: Education and Training records, plus two years after ceasing to perform functions

- 4.16.3 Records Storage Requirements: All DOT drug & alcohol test records will be kept in a secure location with controlled access. Records are secured and to the extent permitted by law, confidential. If records are kept electronically, they are password protected.
- 4.16.4 Paper Files Required: The City of Scottsdale will keep electronic records for its own purposes; however, DOT requires that paper records of the random drug test results be kept by the City in the event of an audit.
- 4.16.5 Employee Access to Records from Current or Previous DOT Covered Employer: Upon request, employees are entitled to all records about their drug and alcohol tests, including test results and return to duty testing records, which must be provided promptly. The City of Scottsdale requires the current or former employee to sign a release before releasing records; however, release of the records cannot be contingent upon receiving any kind of payment from the employee.
- 4.16.6 Employees May Obtain Records from the Medical Review Officer (MRO): Upon request, the MRO must provide all records that are available related to the employee within ten working days.
- 4.16.7 Records Released to Other Employers: Upon receipt of written consent, the City will provide information to other employers concerning the employee's DOT drug and alcohol tests that occurred in the three years preceding the request, including information received from a former employer.

### 5.0 RESPONSIBILITIES

#### Employees

- 5.1 It is the responsibility of the CDL employee to maintain in good standing a CDL with appropriate endorsements as long as it is required for their position. Failure to do so will result in disciplinary action up to and including termination of City employment.
  - 5.1.1 CDL employees are required to notify their supervisor if they are using any drugs, prescribed medications, or over the counter medications that may adversely affect his or her ability to safely perform job functions prior to performing any job functions.
  - 5.1.2 In the event that a CDL employee has his or her CDL revoked, suspended, or is disqualified from holding a CDL for a period of time, the policies and procedures set forth in AR 123 - Operation of City-Owned and Leased Vehicles apply.
  - 5.1.3 CDL employees must report suspension, revocation or period of disqualification relating to their CDL to their supervisor not later than the employee's next scheduled work-day, following receipt of notice of the suspension, revocation, or disqualification.
- 5.2 Employees are required to forward copies of CDL and Medical Certification renewals to Risk Management no later than the expiration date of their current CDL or Medical Certification on file.
- 5.3 Employees are required to update their personal contact information to include mailing addresses to ensure the correct address matches the Department of Motor Vehicles records.
- 5.4 Employees are required to provide authorization for full or limited Clearinghouse queries.



## AR323 - Commercial Driver's License

### Supervisors

- 5.5 Supervisors hired, transferred or promoted into positions with CDL employees are responsible for completing DOT Supervisory Training that includes 60-minute training on the symptoms of alcohol abuse and another 60 minutes of training on the symptoms of controlled substances use (120 minutes total) within 60 days of hire or promotion into that position.
- 5.6 Supervisors are responsible for forwarding copies of their CDL employees' renewed CDL and Medical Certifications to Risk Management no later than the expiration date of their current CDL or Medical Certification on file.
- 5.7 Supervisors are responsible for immediately notifying HR and Risk Management of their CDL employees' suspension, revocation or period of disqualification.

### Human Resources

- 5.8 Human Resources is responsible for the administration of the substance abuse testing programs.
- 5.9 The Designated Employer Representative (DER) is the Human Resources Director, or designee to answer questions about controlled substances and alcohol testing (§382.601(b)(1)).
- 5.10 Human Resources is responsible for the distribution of this AR to new, rehired and promoted CDL employees per FMCSA regulation (§382.601).
- 5.11 Human Resources is responsible for the distribution of the "Federal Motor Carrier Safety Regulations Pocketbook", which contains a Driver's Receipt (Acknowledgement Form). This form will be collected and filed in the CDL employee's personnel file.
- 5.12 Human Resources is responsible for obtaining authorization from CDL candidates for the "Release of Information Form-49 CFR Part 40 Drug and Alcohol Testing," and submitting the forms to current and former CDL employers.
- 5.13 Human Resources is responsible for obtaining authorization from CDL candidates for querying the FMCSA Drug & Alcohol Clearinghouse ("Clearinghouse"), and for recording positive tests, refusals to test, and return-to-duty results in the Clearinghouse.
- 5.14 Human Resources is responsible for running annual Clearinghouse queries on all current CDL holders.
- 5.15 Human Resources is responsible for providing the link and tracking of the mandatory DOT Supervisory Training for drugs and alcohol.

### Risk Management

- 5.16 Risk Management is responsible for the tracking and notification to HR of CDL medical certifications renewals and will notify HR of any expired medical certification for a current CDL employee.
- 5.17 Risk Management is responsible to annually obtain the motor vehicle record for all current CDL employees.

### Medical Review Officer (MRO)

- 5.18 Report positives and some refusal situations
  - 5.18.1 MRO must report within 2 business days
  - 5.18.2 Change to report must be reported within 1 business day

## AR323 - Commercial Driver's License

### Substance Abuse Professional (SAP)

- 5.19 Report to Duty Process (not test results)
  - 5.19.1 Initial and completion reports
  - 5.19.2 SAP must report by close of business following the action

## 6.0 OVERSIGHT/REVIEW

- 6.1 Human Resources will be responsible for the administration and training on this Administrative Regulation, which will be reviewed (at the minimum) every three years.

## 7.0 DEFINITIONS

- 7.1 **Applicants:** Potential employees who have received a conditional job offer.
- 7.2 **CDL Employees:** Those employees who are in jobs where a CDL is required as a condition of employment.
- 7.3 **Clearinghouse:** The FMCSA Drug and Alcohol Clearinghouse database is a secure, online database that allows the City to identify drivers who are prohibited from operating a commercial motor vehicle (CMV) based on DOT drug and alcohol program violations.
- 7.4 **Controlled Substances:** Marijuana, Cocaine, Amphetamines, Opioids and Phencyclidine (PCP).
- 7.5 **Controlled Substance/Drug Abuse:** Abuse as defined by the US Drug Enforcement Administration (DEA) as when drugs are used in a manner or amount inconsistent with the medical or social patterns of a culture, and legal pharmaceuticals placed under control in the Controlled Substance Act of 1970 (CSA) that are prescribed outside the scope of sound medical practice.
- 7.6 **Department of Transportation (DOT):** The Department of the US federal government that coordinates and institutes national transportation programs.
- 7.7 **Depressant:** Any one of various substances that diminish functional activity, usually by depressing the nervous system (alcohol, barbiturates, benzodiazepines).
- 7.8 **Dilute Specimen:** A creatinine concentration equal to or greater than 2mg/dL, but less than or equal to 5mg/dL, typically as a result of a donor drinking an unusual amount of water prior to their urine drug screen.
- 7.9 **Drug:** Any chemical that, when absorbed into the body, alters the functions of both mind and body.
- 7.10 **Federal Motor Carrier Safety Administration (FMCSA):** An agency within the DOT, FMCSA that is responsible for developing and enforcing the regulations of the U.S. trucking industry, including the commercial motor vehicle alcohol and drug testing programs. Further information regarding the FMCSA regulations, including the effects of alcohol misuse and controlled substances, signs and symptoms and available methods of intervention is available upon request to Human Resources or at [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov).
- 7.11 **Medical Review Officer (MRO):** A Medical Review Officer is a licensed physician and who shall be responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results. The MRO must comply with all FMCSA medical requirements and qualifications, and all processes consistent with 49 CFR Part 40.
- 7.12 **On-Duty time:** FMCSA Regulation 49 CFR part 395.2 defines on duty time as "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." This will include all time at City facilities, other property, or any public property, waiting to be dispatched; all time inspecting, servicing or conditioning equipment; driving time; all time, other than driving time in or upon any commercial motor vehicle; loading or unloading, supervising or assisting in loading and unloading a vehicle, etc.; all time

## Exhibit E

### AR323 - Commercial Driver's License

performing driver requirements at an accident; all time repairing, obtaining assistance or remaining in attendance upon a disabled vehicle; all time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with the random, reasonable suspicion, post-accident or follow-up testing required by part 382.

- 7.13 **Over the Counter (OTC) Drug:** A drug for which a prescription is not needed.
- 7.14 **Prescription:** A qualified medical provider's order for the preparation and administration of a drug or device for a patient.
- 7.15 **Refusal:** Instances where an employee shall be considered a refusal include, but are not limited to: failing to report for the test; failing to report for the test in a reasonable amount of time as determined by the HR department; adulterating or diluting the specimen; substituting the specimen with that of another or different specimen; sending an imposter; refusing to sign the required forms; or refusing to cooperate in the testing process in such a way that prevents completion of the test.
- 7.16 **Substance Abuse Professional (SAP):** A trained professional who will evaluate an employee who has violated a FMCSA drug and alcohol regulation.

#### 8.0 RELATIONSHIP TO ADOPTED POLICIES AND ORDINANCES

- 8.1 [AR123 - Operation of City Owned & Leased Motor Vehicles](#)
- 8.2 [AR244 - Risk Management and Safety Functions and Practices](#)
- 8.3 [AR306 - Contract Workers and Temporary Employees](#)
- 8.4 [AR324 - Medication and Substance Abuse](#)
- 8.5 [AR325 - Drug-Free Workplace](#)
- 8.6 Scottsdale Revised Code, 14-8, Access to Personnel Files
- 8.7 Scottsdale Revised Code 14-72, Grounds for discipline; dismissal
- 8.8 Arizona Medical Marijuana Act of 2010
- 8.9 Federal Motor Carrier Safety Administration ("FMCSA") Regulations (49 CFR, Parts 382 and (40)).

#### 9.0 LINKS TO SUPPORTING DOCUMENTS

- 9.1. Add links to all documents referenced within the AR

#### 10.0 REVIEWED/AMENDED DATE(S) AND NOTES ON SIGNIFICANT CHANGES

- 10.1 Original Effective Date July 3, 2003, AR323 – Commercial Driver's License
- 10.2 Amended May 2018 to be consistent with organizational practices and legal compliance.
  - 10.2.1 Inclusion of Designated Employee Representative (DER)
  - 10.2.2 Removed minimum annual test percentage rates for alcohol and controlled substances
  - 10.2.3 Inclusion of Medical Marijuana
  - 10.2.4 Inclusion of Drug or Alcohol Test Results Recordkeeping
  - 10.2.5 Inclusion of Record Storage Requirements
  - 10.2.6 Inclusion of Opioids as a tested substance

Exhibit E

**AR323 - Commercial Driver's License**

- 10.3 Amended January 6, 2020 to include the FMCSA Drug and Alcohol Clearinghouse regulations effective January 6, 2020.

## Exhibit F

### ATTENTION:

Susana Sola  
City of Scottsdale: Non-Dot  
9191 E. San Salvador Drive  
Scottsdale, AZ 85258

Participant Doe, John  
Participant ID: 1234  
SSN: XXX-XX-XXXX  
Other ID:

### Results of Controlled Substance Test

Record Status: Negative  
Test Type: Pre-Employment  
Collection Date/Time: 02/18/2021  
Batch ID: 000000  
Specimen ID: 0000000

Laboratory:  
Collection Site:

Specimen Collector: Jane Doe

Test Panel: DCPS

<u>Test Performed</u>	<u>Result</u>	<u>Test Performed</u>	<u>Result</u>
Cocaine	Negative	Phencyclidine	Negative
Marijuana	Negative	Amphetamines	Negative
Barbiturates	Negative	Benzodiazepines	Negative
Methadone	Negative	Propoxyphene	Negative
Opioids	Negative		



Dr. D. Smith

2/22/2021

Verification Date

**PRE-EMPLOYMENT MEDICAL EXAMINATION RESULTS FORM**

**(MANDATORY FORM USE)**



**Public Safety Personnel Retirement System**

**(PSPRS) Pre-Existing Condition(s) Report**

Consent to release of Medical Information

☐ I **AGREE** that the condition(s) listed on the second page of this form by the examining Physician are pre-existing. I understand that it/they may impact my disability retirement benefits.

☐ I **DO NOT AGREE** with the information listed on the second page of this form by the examining Physician and would like to appeal the diagnosis of this condition as pre-existing. I will furnish additional information to the PSPRS Local Board to support my appeal.

I \_\_\_\_\_ authorize release of this information to the PSPRS Local Board and to the City of Scottsdale Human Resources Department.



Exhibit G

RELEASE CONSENT FORM

(MANDATORY FORM USE)

Public Safety Personnel Retirement System (PSPRS) Pre-Existing Condition(s) Report

To be completed by the examining Physician

Name of candidate: \_\_\_\_\_

Last four digits of social security: \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip code \_\_\_\_\_

A.R.S. Section 38.844 - precludes eligibility of accidental or ordinary disability benefits if the disability results from a pre-existing condition.

The Public Safety Personnel Retirement System (PSPRS) Local Board will make a determination whether to grant disability benefits, or deny them because of a pre-existing condition, based on the information you provide below. Please give as much detailed information as possible on any conditions the employee has noted and/or discussed with you.

Physical or mental conditions (or injuries) have been identified by the Board's physician as existing, or occurred prior to the individual's date of membership in the Public Safety System:

Condition(s)	Specific Description	Date First Diagnosed	Date of Last Treatment

Certified by:

Signature of Examining Physician: \_\_\_\_\_ Date \_\_\_\_\_



# Arizona Peace Officer Standards and Training Board



## MEDICAL EXAMINATION REPORT

### APPLICANT'S INFORMATION (Please type or print)

APPLICANT'S NAME	BIRTHDATE	LAST 4 DIGITS OF SSN
HIRING AGENCY		

### CERTIFICATION: Important - Physician Please Read Carefully

#### INSTRUCTIONS TO THE EXAMINING PHYSICIAN:

The person being examined is an applicant for the position of peace officer within the State of Arizona. Peace officers are required to perform a variety of strenuous and difficult job functions, including those described in the job description for Arizona entry level peace officer available from the Agency where application is being made. The purpose of this examination is to determine if the applicant is able to safely perform these essential job functions. Applicants may be required to attend a police academy where both physical and mental stresses are encountered. Please collect a written medical history provided by the applicant in conjunction with a medical examination as a basis for completing this report. Medical requirements for Arizona peace officers are specified in Arizona Administrative Code R13-4-107, listed below.

#### R13-4-107. Medical Requirements

##### A. Medical, physical, and mental eligibility for certification.

1. An agency may appoint an individual if the individual meets the minimum qualifications in R13-4-105 and is able to perform all the essential functions of the job of peace officer effectively, with or without reasonable accommodation, without creating a reasonable probability of substantial harm to the individual or others.
2. If an agency wishes to appoint an individual who is unable to perform all the essential functions of the job of peace officer effectively, the agency may seek a restricted certification for the individual. The Board shall determine whether placing restrictions or requirements on the individual as a condition of certification will enable the individual to perform the essential functions authorized within the restriction without creating a reasonable probability of harm to the individual or others.

##### B. Medical examination process.

1. Medical history. An individual applying to be appointed shall provide to the examining physician a written statement of the individual's medical history that includes past and present diseases, illnesses, symptoms, conditions, injuries, functionality, surgeries, procedures, immunizations, medications, and psychological information.

##### 2. Medical examination.

- a. The examining physician shall review the medical history statement and take an additional verbal history from the applicant;
- b. The examining physician shall conduct a physical examination consistent with the standard of care for occupational medical examinations;
- c. The examining physician shall order tests, obtain medical records, and require specialist or functional examinations and evaluations that the examining physician deems necessary to determine the applicant's ability to perform all the essential functions of the job of peace officer;
- d. The examining physician shall make a report to the agency and provide a:
  - i. Summary of the examination;
  - ii. Description of any significant medical findings;
  - iii. Description of any limitation to the ability to perform the essential functions of the job of a peace officer; and
  - iv. Medical opinion about the applicant's ability to perform the essential functions of the job of peace officer, with or without reasonable accommodations; and
- e. The examining physician shall consult with the agency, upon request, about the report and the efficacy of any accommodations the agency deems reasonable.

**I certify that I have examined the applicant whose name appears on this form and that I am a licensed allopathic or osteopathic physician. I further certify that based upon the applicant's history (which I have reviewed), physical examination, diagnostic studies, specialist evaluation (if indicated) the applicant:**

- ☐ a. is capable of performing the duties of a peace officer without accommodations.
- ☐ b. is capable of performing the duties of a peace officer with accommodations, as noted in COMMENTS on Page 2.
- ☐ c. is not capable of performing the duties of a peace officer.

PRINT NAME OF LICENSED PHYSICIAN	SIGNATURE ATTESTING TO R13-4-107, NOTED ABOVE 		DATE
PRINT NAME OF AGENCY REPRESENTATIVE	SIGNATURE ATTESTING TO R13-4-107, NOTED ABOVE 	PHONE	DATE



Exhibit G

APPLICANT'S NAME	BIRTHDATE	LAST 4 DIGITS OF SSN
COMMENTS: (Reasonable Accommodations must be noted here)		
MEDICAL INFORMATION RELEASE (To Be Completed By Applicant)		
I hereby authorize the examining physician whose signature appears on this form to release all information concerning my medical condition and history to the listed hiring agency and Arizona POST, its staff, or designated representatives. I also certify that I have provided the examining physician with full, complete and accurate medical history.		
PRINT NAME OF APPLICANT	SIGNATURE OF RELEASE, AS NOTED ABOVE	DATE
	