

**A RESOLUTION ADOPTING A FEDERAL TRANSIT ADMINISTRATION (FTA)  
SUBSTANCE ABUSE POLICY FOR  
PARK CITY MUNICIPAL CORPORATION**

WHEREAS, the City operates a public transit system and is committed to the safety and welfare of the general public utilizing the system; and

WHEREAS, Park City receives FTA 5309 and 5311 funds and a substance abuse policy and testing program are required under 49 Code of Federal Regulations Part 40 for all recipients of FTA 5309 and 5311 funds; and

WHEREAS, in order to continue to qualify for federal and state transportation grant assistance, the City Council must adopt the FTA Substance Abuse Policy;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Park City, Utah, as follows:

**SECTION 1. SUBSTANCE ABUSE POLICY ADOPTED.** The Substance Abuse Policy, attached hereto as Attachment A, is hereby adopted. Any conflicting policy or regulation is hereby repealed.

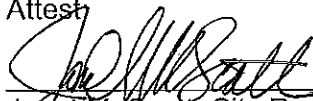
**SECTION 2. EFFECTIVE DATE** This Resolution shall become effective upon adoption and shall remain in effect until amended or repealed by resolution.

PASSED, ADOPTED, AND APPROVED the 2<sup>nd</sup> day of February, 2012.


PARK CITY MUNICIPAL CORPORATION

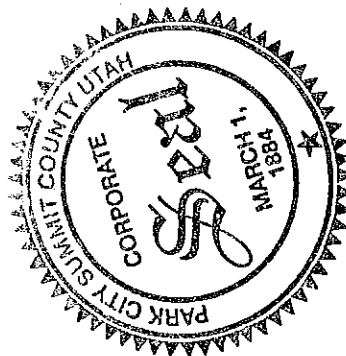
  
Mayor Dana Williams

Attest

  
Janet M. Scott, City Recorder

Approved as to form:

  
Mark D. Harrington, City Attorney





## Park City Municipal Corporation Federal Transit Administration Substance Abuse Policy

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**Note** Park City Municipal Corporation at its option, may change, add, delete, suspend, or discontinue parts or the Substance Abuse Policy in its entirety, at any time without prior notice.

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## **SUBSTANCE ABUSE POLICY**

**All provisions set forth in standard text are consistent with requirements specifically set forth in 49 CFR Part 655 or Part 40, as amended. All provisions set forth in italics are consistent with requirements specifically set forth in the Drug-Free Workplace Act (49 CFR Part 29). All provisions set forth in bold text are consistent with requirements of the Park City Transportation Department.**

### **1 POLICY**

**Park City Municipal Corporation is dedicated to providing safe, dependable and economical transportation services to our transit system passengers. Park City's employees are our most valuable resource and it is our goal to provide a safe, satisfying working environment, which promotes personal opportunities for growth. In meeting this goal it is our policy to (1) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner; (2) create a workplace environment free from the adverse effects of drug abuse and alcohol misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) encourage employees to seek professional assistance any time personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.**

**Park City's Substance Abuse Policy was originally approved and adopted by the Park City Council on January 7, 1999, and became effective on that same date. A copy of the signed adoption by the City Council is attached to this policy. Anytime this policy is amended in the future, the policy will contain the date, proof of adoption of the amended policy by the City Council and the date the amended policy became effective.**

## 2 PURPOSE

The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the misuse of alcohol and the use of prohibited drugs. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. The Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, which mandate urine drug testing and breath alcohol testing for safety-sensitive positions and which prohibit performance of safety-sensitive functions when there is a positive test result. The U.S. Department of Transportation (DOT) has also published 49 CFR Part 40, and the Omnibus act from 1991 as amended, which sets standards for the collection and testing of urine and breath specimens. In addition, the Federal government published 49 CFR Part 29, "The Drug-Free Workplace Act of 1988" which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA. This policy incorporates those requirements for safety-sensitive employees and others when so noted.

Employees who have questions about this policy should contact the Drug and Alcohol Program Manager (DAPM) identified in Section 21 of this policy.

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### 3 APPLICABILITY

This policy applies to all transit system employees, paid part-time employees, contract employees and contractors when performing any transit-related safety-sensitive duties **or when they are on transit property. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. Vendor's, and contract employees are governed by this policy while on transit premises and will not be permitted to conduct transit business if found to be in violation of this policy.**

A safety-sensitive function is any duty related to the safe operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), dispatch and maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, and any other employee or volunteer who perform duties requiring a CDL, and / or perform a safety sensitive function and receives remuneration in excess of their actual expenses. Supervisors performing any of the above described functions are considered to be safety-sensitive employees. Participation in Park City's Substance Abuse Program as stated in this policy is a condition of employment.

All positions of Park City were reviewed for safety-sensitive duties to determine the safety-sensitive positions. Additionally, any new positions created in the future will be reviewed for safety-sensitive duties. The following positions were determined to be safety-sensitive:

Bus Driver II	Mechanic
Bus Driver III	Transit Shift Supervisor
Bus Driver IV	Transit Team Leader
Dispatcher	

## 4 PROHIBITED SUBSTANCES

'Prohibited substances' addressed by this policy include the following:

### 4.1 Illegally Used Controlled Substances or Drugs

*Any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15. This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, MDMA (ecstasy) as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal uses include use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. This list of drugs will change in accordance with any changes made by the FTA or FHWA.*

### 4.2 Legal Drugs

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates the mental functioning, motor skills, or judgment may be adversely affected must be reported to supervisory personnel and medical advice must be sought by the employee, as appropriate, before performing work-related duties.

A legally prescribed drug means that the individual has a prescription or other written approval from a physician for the use of the drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing transit business is prohibited.

### 4.3 Alcohol

The use of beverages containing alcohol or substances including any medication, mouthwash, food, candy, or any other substance, which causes alcohol to be present in the body while performing transit business, is prohibited. The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device.

## 5 PROHIBITED CONDUCT

### 5.1 Manufacture, Trafficking, Possession, and Use

*Transit System employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances on transit authority premises, in transit vehicles, on transit authority business, or while in uniform. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.*

### 5.2 Intoxication/Under the Influence

**Any safety-sensitive employee who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty shall be suspended from job duties pending an investigation and verification of condition.** Employees who fail to pass a drug or an alcohol test shall be removed from duty immediately, informed of educational and rehabilitation programs available, and referred to a Substance Abuse Professional (SAP) **and employee will be terminated.** A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.

### 5.3 Alcohol Use

No safety-sensitive employee should report for duty or remain on duty when his/her ability to perform assigned safety-sensitive functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.02 or greater. An employee with an alcohol test result of 0.04% or greater is considered to have a positive alcohol test result. No safety-sensitive employee shall use alcohol while on duty, **in uniform**, while performing safety-sensitive functions, or just before or just after performing a safety-sensitive function. No safety-sensitive employee shall use alcohol within four hours of reporting for duty, or during the hours that they are on call. **Violation of these provisions is prohibited and will result in employee termination.**

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## 6 COMPLIANCE WITH TESTING REQUIREMENTS

All safety-sensitive employees will be subject to urine drug testing anytime while on duty and alcohol testing only just prior, during and just after performance of safety sensitive duties. The alcohol testing may be done using breath or saliva for the screening test. All confirmation tests for alcohol must be done using an Evidential Breath Testing Device. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty immediately, informed of educational and rehabilitation programs available, and referred to a SAP. Any safety-sensitive employee who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection.

### **Refusal to Test**

Refusal to comply with drug and alcohol testing requirements can include an inability to provide sufficient urine specimen or breath samples without a valid medical explanation, the lab's inability to test a sample due to tampering or adulteration, verbal declaration of refusal, obstructive behavior, failure to cooperate with any part of the testing process, failure to remain at collection site until the testing process is complete, failure to undergo a medical evaluation as required by an MRO or DER, failure to take a second test or permit monitoring or direct observation when requested by the collector or DAPM, refusal to sign Step #2 on the alcohol testing form, leaving the scene of an accident without a valid reason before drug and alcohol testing have been completed, or physical absence. Physical absence includes not reporting immediately for testing when directed by the employer. Refusal to test is considered a positive test and will result in immediate removal from duty and referral to a SAP.

### **Refusal to Test**

Refusals can include a variety of behaviors including;

- Verbal or written refusal
- Physical absence
- An inability to provide a urine specimen or breath sample without a valid medical explanation
- Failure to undergo a medical evaluation or an observed collection when required
- Obstructive behavior
- Failure to provide a urine sample
- Not reporting to the collection site in the time allotted (except in the case of pre-employment)
- Not remain at the collection site until the completion of the process
- Failure to sign step 2 of the alcohol test form
- Failure to permit monitoring or direct observation when appropriate
- Leaving the scene of an accident prior to submitting to a post accident test when required.
- Failure to take a second test as directed by the collector or employer

- Having an adulterated or substituted test result verified by an MRO
- Employee admits to the collector that he/she adulterated or substituted their specimen
- Employee behaves in a confrontational way that disrupts the collection process
- In the event of the need to do an observed collection: employee fails to follow the observer's instructions to raise and lower their clothing and to turnaround to permit the observer to determine if the employee has a prosthetic or other device that could be used to interfere with the collection process.
- The employee possesses or wears a prosthetic or other device that could be used to interfere with the collection process.
- The employee refuses to wash his or her hands after being directed to do so.

A refusal to test will be treated the same as a positive test result.

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## **7 TREATMENT REQUIREMENTS**

**All employees are encouraged to made use of the available resources for treatment for alcohol misuse and illegal drug use problems. Under certain circumstances, employees may be required to undergo treatment for substance abuse or alcohol misuse. Any employee who refuses or fails to comply with Park City's requirements for treatment, aftercare, or return-to-duty shall be subject to disciplinary action, up to and including termination. The cost of any treatment or rehabilitation services will be paid for directly by the employee or their insurance provider.**

**Eligible employees will be allowed to take accumulated sick leave and/or vacation leave to participate in the prescribed rehabilitation program.**



## **8 NOTIFICATION OF CRIMINAL DRUG CONVICTION**

*All employees are required to notify the transit system of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. **Failure to comply with this provision shall result in disciplinary action, up to and including termination.***

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## **9 PROPER APPLICATION OF THE POLICY**

**Park City is dedicated to ensuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including dismissal.**

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## **10 TRAINING FOR SAFETY-SENSITIVE EMPLOYEES & SUPERVISORS**

All safety-sensitive employees shall receive a minimum of 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment and indicators of prohibited drug use. **Additionally, this policy contains information on the effects or alcohol misuse on an individual's health, work, and personal life.**

Supervisors responsible for making the decision to test for reasonable suspicion must receive a minimum of 60 minutes of training on drug and 60 minutes of training on alcohol information regarding the physical, behavioral, speech, and performance indicators of probably drug and alcohol use.

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## 11 TESTING PROCEDURES

**Analytical urine drug testing and breath testing for alcohol may be conducted when circumstances warrant and as required by Federal regulations.** Testing shall be conducted in a manner to assure a high degree of accuracy and reliability, using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS). All testing will be conducted according to the procedures put forth in 49 CFR Part 40, as amended, including, picture identification of the employee, Federal Drug Custody and Control form with unique specimen identification number completed by a trained collection site person who insures that the Custody and Control Form is completed correctly and signed and certified by the donor, collection of Split Sample specimens that are sealed and initialed by the donor. (See Attachment A for more detailed procedures)

The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine and MDMA (ecstasy). An initial drug screen, called an immunoassay test, will be conducted on each urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/ Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40, as amended.

**In instances where there is a reason to believe an employee is abusing a substance other than the six drugs listed above, Park City reserves the right to request a separate sample and to test for additional drugs under Park City's own authority using standard laboratory testing protocols. Park City also reserves the right to require a fitness-for-duty examination by a licensed physician when an employee's observable behavior and actions are considered to be inconsistent with a safe workplace.**

The integrity of the alcohol testing process is insured by picture identification of the employee, use of a National Highway Traffic Safety Administration (NHSTA) approved evidential breath testing device (EBT) that displays and prints unique sequential numbers and is capable of producing 3 copies of the test result. The test is administered by a certified breath alcohol technician (BAT) who is "trained to proficiency" in the operation of the EBT being used. The BAT completes a Federal Breath Alcohol Testing form and ensures that it is signed by the donor. The employee shall be provided with written instructions prior to specimen collection for drug testing. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. A safety-sensitive employee who has confirmed alcohol concentration of 0.02 or greater, but less than 0.04 will immediately be removed from his/her duties for a minimum the start of the employees next regularly scheduled duty period but not less than 8 hours, or until a retest results in a concentration measure of less than 0.02. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy and a violation of the requirements set forth in 49 CFR Parts 655 and 40 for safety-sensitive employees. Alcohol testing will only be done just prior to, during, or just after a safety-sensitive employee's shift.

Screening Test Technicians (STT) may be used to perform alcohol screening tests (saliva or breath), however, an EBT operated by a BAT must be used for confirmation of an alcohol test. Neither the STT nor BAT may act as a collector if they are a direct supervisor of the employee.

Any safety-sensitive employee that has a confirmed positive drug or alcohol test will be immediately removed from their duties, informed of educational and rehabilitation programs available and referred to a Substance Abuse Professional (SAP) for an evaluation and assessment. Any employee who has a verified positive drug or alcohol test result shall be terminated.

**Detailed information on the drug testing process and the alcohol testing process are presented later in this policy. Employees may also request a copy of 49CFR Part 40 and 49 CFR Part 655 from the City's Drug and Alcohol Program Manager (DAPM).**

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## 12 TYPES OF DRUG & ALCOHOL TESTING EVENTS

### 12.1 Pre-Employment Drug Testing

All safety-sensitive position applicants shall undergo urine drug testing immediately following the offer of employment into a safety-sensitive position or before transferring into a safety-sensitive position. Receipt by Park City of a negative drug test result is required prior to employment, transfer to a safety-sensitive position, or for any safety-sensitive employee who has not conducted safety-sensitive duties for 90 or more consecutive days and has not been in the City's random test pool during that time period.

Any pre-employment drug test that results in a "Cancel" does not satisfy the requirement for a negative drug test result detailed in this part.

When an applicant has previously failed a pre-employment drug test, (or any other drug test or refused to be tested in the prior 2 years), the employee must present to the employer proof of successfully having completed a referral, evaluation and treatment plan as described in Sec. 655.62 to be considered for the hiring process

If otherwise qualified, an individual with permanent or long term disabilities that directly render him unable to provide an adequate urine specimen will be able to perform safety-sensitive duties despite his inability to provide urine during a pre-employment test. The MRO will determine long term inability to provide urine by medical examination and consultation with the employee's physician.

Any applicant for any safety sensitive position covered by this policy whose pre-employment drug test is verified positive by the MRO will not be employed by Park City.

### 12.2 Reasonable Suspicion Testing

**All safety-sensitive employees may be subject to fitness for duty evaluation and urine and/or breath testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance.** A reasonable suspicion referral must be made by a supervisor, trained in the signs and symptoms of drug and alcohol use, who has personally observed and documented objective facts and circumstances which are consistent with the short-term effects of substance abuse. The criteria for a reasonable suspicion test must be based on contemporaneous, articulateness, observations concerning the appearance, behavior, speech or body odor of the safety-sensitive employee. A supervisor making the decision to reasonable suspicion test may not act as the STT or BAT for that test.

**Once the decision to reasonable suspicion test is made, the employee will be removed from safety-sensitive duties until the test results are received. The employee will be escorted to the collection site by the supervisor or another transit employee.**

Any employee who has a verified positive drug or alcohol test result shall be terminated.

## 12.3 Post Accident Testing

Post accident testing of safety-sensitive employees involved in an accident with Park City's vehicle (regardless of whether or not the vehicle is in revenue service) is mandatory for accidents where there is loss of life and for nonfatal accidents if, 1) an individual involved in the accident immediately receives medical treatment away from the scene of the accident, or 2) one or more vehicles involved in the accident incurs disabling damage (damage which precludes the departure of a motor vehicle from the scene of an accident in its usual manner in daylight after simple repair) requiring transportation from the scene by tow truck or other vehicle.

Where there is loss of human life, each surviving safety-sensitive employee on duty in the mass transit vehicle at the time of the accident must be tested. Safety-sensitive employees not on the vehicle (e.g., maintenance personnel), whose performance could have contributed to the accident (as determined by Park City using the best information available at the time of the accident) must be tested. Safety-sensitive employees on duty in the mass transit vehicle at the time of a nonfatal accident (fitting the criteria above) must be tested unless their behavior can be completely discounted as a contributing factor in the accident. Other safety-sensitive employees whose performance could have contributed to the accident, as determined by Park City using the best information available at the time of the accident shall also be tested after a non-fatal accident.

Following an accident, safety-sensitive employees will be tested as soon as possible, but not to exceed 32 hours for drug testing. If alcohol testing is not done within 2 hours of the accident, the reason for not testing should be documented and attempts to alcohol test must continue for up to 8 hours after the accident. If alcohol testing is not done within 8 hours or drug testing is not done within 32 hours following the accident, the reasons for not testing must also be documented. Any safety-sensitive employee involved in an accident must refrain from alcohol use for eight hours following an accident or until they undergo a post-accident alcohol test.

The result of a blood, urine and breath test conducted by Federal, State, or local officials shall be considered to meet the requirements of this section, provided such test conforms to the applicable Federal, State, or local testing requirements and that the test results can be obtained by the employer.

The requirements to test for drugs and alcohol following an accident should in no way delay necessary medical attention for injured people or prohibit a safety-sensitive employee from leaving the scene of an accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care. However, the safety-sensitive employee must remain readily available, which means Park City knows the location of the safety-sensitive employee. Any safety-sensitive employee who leaves the scene of the accident, without a justifiable explanation, prior to submission to drug and alcohol testing will be considered to have refused the test **and shall be terminated**.

## 12.4 Random Testing

All safety-sensitive employees shall be subject to random, unannounced testing. The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates established by Federal regulations for those safety-sensitive employees subject to random testing by Federal regulations.. These percentages are subject to change based on industry-wide test results. This policy will change in accordance with any changes made by the FTA or FHWA. The percentage of the number of employees the FTA currently requires to be randomly tested for alcohol is 10% of the number of all covered employees annually. The percentage of the number of

employees the FHWA currently requires to be randomly tested for alcohol is 10% of the number of all covered employees annually. The selection of safety-sensitive employees for random drug and alcohol testing shall be made using a scientifically valid method such as a random number table or a computer-based random number generator that ensures each safety-sensitive employee that they will have an equal chance of being selected each time selections are made. Random tests will be unannounced and spread throughout all days and all hours of all shifts Park City is in operation during the year. Employees are to proceed to the testing site immediately upon notification of a random test.

There is no discretion on the part of management or operations in the selection and notification for testing.

**Any employee who has a verified positive drug or alcohol test result shall be terminated.**

## 12.5 Return To Duty Testing

Before any safety-sensitive employee is allowed to return to duty and perform safety-sensitive duties following a verified positive drug or alcohol test, they must be evaluated by a SAP, complete any recommended treatment and pass a return to duty test. Return to duty testing is done at the recommendation of the SAP and decided upon by the DER and may be for drugs and/or alcohol.

## 12.6 Follow-up Testing

Once a safety-sensitive employee is allowed to return to duty, they shall be subjected to unannounced random follow-up testing for at least 12 months, but not more than 60 months with a minimum of 6 tests being done during the first 12 months. The SAP will determine the frequency and duration of the follow-up testing. Follow-up testing is separate from and in addition to the regular random testing program. Employees subject to follow-up testing must also remain in the standard random pool and must be tested whenever their name comes up for random testing, even if this means being tested twice in the same day, week, or month.

## 12.7 Employee Requested Testing

Any safety-sensitive employee who questions the results of a required drug test may request that an additional test be conducted. This test must be conducted at a different DHHS certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the original sample. **The employee pays all costs for such testing unless the result of the split sample test invalidates the result of the original test.** However, if the employee is unable or refuses to pay for the testing, Park City will pay and ensure that the testing is done in a timely manner. Park City may require reimbursement for the cost. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for split sample testing must be made to the Medical Review Officer (MRO) within 72 hours of notice of the original sample verified test result. The MRO must direct the laboratory in writing to send the split sample with appropriate

copies of the chain of custody form and a copy of the MRO's request for testing to another DHHS certified laboratory. Requests after 72 hours will only be accepted if the delay was due to document able facts that were beyond the control of the employee.

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## 13 DRUG TESTING PROCEDURES

### 13.1 Urine Specimen Collection

Urine collection for drug testing shall be done at a location that provides:

- A privacy enclosure for urination
- A toilet receptacle large enough to contain a complete void
- A source for washing hands
- A suitable surface for writing

The collection site personnel shall be trained in the proper procedures for preparing the collection site, collecting the urine specimen, sealing and preparing the specimen for shipment and completing the custody and control form as required in 49 CFR Part 40.

A DOT drug testing custody and control form will be used for the collection.

The collection room shall be inspected by the collector before and after each specimen collection for removal of any unauthorized persons and materials that could be used to adulterate the specimen. The collection site will be secure to prevent unauthorized access during the collection process.

The collector will verify the employee's identify by photo identification or by a Park City representative. The collection will not proceed if identify is not verified. The collection site will notify the employer if the employee fails to report. The collector will unwrap the collection cup or specimen bottle in front of the employee and direct him/her to the privacy enclosure. The collector remains outside the enclosure. The employee is instructed to provide at least 45 ml (about 2 ounces) of urine.

If the employee is unable to provide at least 45 ml of urine, he/she will be given up to 40 ounces of fluids and remain at the collection site for up to 3 hours in an attempt to provide the specimen. If the required amount is provided, the original sample is discarded. If the employee is still unable to provide an adequate specimen, the insufficient specimen is discarded, testing discontinued and the employer notified. The MRO shall refer the employee for a medical evaluation to determine whether the employee's inability to provide a specimen is genuine or constitutes a refusal to submit to a drug test.

Within four (4) minutes of receiving the specimen from the employee, the collector will record the temperature of the specimen on the custody and control form. The temperature must be between 90.0 and 100.0 F. . If the temperature is out of range a new collection will take place under the observed collection protocol The collector shall also visually examine the specimen for any unusual color or sediment, and note the results on the custody and control form.

If the employee refuses to cooperate with the collection process, the collector notifies the employer immediately and documents the non-cooperation on the custody and control form.

If a collection container is used, the collection site person, in the presence of the donor, pours the urine into two specimen bottles. Thirty (30) ml shall be poured into one bottle, to be used as the primary specimen. At least 15 ml shall be poured into the other bottle, to be used as the split specimen. If a specimen bottle is used as a collection container, the collector shall pour off 30 ml of urine from the specimen bottle into a second specimen bottle, to be used as the primary bottle, and retain the remainder (at least 15 ml) in the collection bottle to be used as the split specimen.

Both bottles must be sealed and labeled in the presence of the donor. The labels must be printed with the same specimen identification number as the custody and control form.

The donor initials the seals on the bottles verifying the specimen is his/hers.

After the custody and control form is completed, the collector and the donor must sign the appropriate certification statements on the form regarding authenticity of the specimen and noted on the chain of custody portions of the urine custody and control form. Every effort should be made to minimize the number of persons handling the specimen.

Both the primary specimen and the split specimen shall be sealed in a single shipping container, together with the appropriate pages of the custody and control form. The tape seal on the container shall bear the initials of the collector and the date of the closure for shipment. The specimen must be stored in a secured location until transport to the laboratory.

### **13.2 Observed Collections**

Procedures for collecting urine specimens shall allow individual privacy unless there is a reason to believe that a particular individual may alter or substitute the specimen to be provided. In all cases the employee must be advised of the reasons for requiring an observed collection.

In the following circumstances the collector must authorize a second observed collection immediately after the first collection:

- The employee has presented a urine sample that falls outside the normal temperature range (90.0 to 100.0 F) The collector observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample (e.g., substitute urine in plain view, blue dye in specimen presented, etc.)

In the following circumstances (previous collection events) the employer must authorize an immediate observed collection:

- The most recent urine specimen provided by the employee (on a previous occasion) was determined by the laboratory to be invalid and the MRO reports to the DAPM that there was not an adequate medical explanation for the result.
- The MRO reports to the DAPM that the original positive adulterated or substituted result had to be cancelled because the test of the split specimen could not be confirmed.
- The employee has previously been determined to have used a controlled substance without medical authorization and the particular test is being conducted under the FTA regulations as a return to duty or follow-up test.

The direct observation must be by an observer of the same gender as the employee being tested. The observer can be a different person than the collector and need not be a qualified collector.

### **13.3 Negative Dilute Drug Test Result**

In the event that it is reported that a negative test was dilute (i.e., because the creatinine concentration of the specimen was equal to or greater than 2 mg/dL, but less than or equal to 5 mg/dL) the employee or potential employee will be directed

to take another test.

- Such collections will not be collected under direct observation.
- Minimum possible advance notice will be given that he or she must go to the collection site
- The second test taken under this provision, and not the prior test will be the test result of record.
- If the result of the second test is also negative and dilute, the test will be considered negative and no further retesting required; provided the dilute test result does not have a creatinine concentration of less than 2 mg/dL in which case the MRO may require an observed collection as provided in 14.2
- If the employee declines to take a test as directed in this section the employee has refused the test for purposes of this part and DOT agency regulations.

## 14 ALCOHOL TESTING PROCEDURES

Alcohol testing shall be done at a location that provides:

- Privacy to the individual being tested
- Security with no unauthorized access at any time to the EBT
- BAT conducting only one test at a time who must not leave the testing site while the preparations for testing or the test itself are in progress.

Upon arrival at the testing site, the employee must provide positive identification in the form of a photo identification or identification by a company representative.

The BAT will explain the testing procedures to the employee.

The BAT and the employee will complete, date and sign Step #1 and Step #2 of the alcohol testing form indicating the employee is present and providing a breath specimen. Refusal by the employee to sign Step #2 of the alcohol testing form will be noted by the BAT in the remarks section and is considered a refusal to test.

### 14.1 Screening Test

The employee is informed that testing will begin with a screening test. The BAT will open an individually sealed, disposable mouthpiece in view of the employee and attach it to the EBT.

The employee will be instructed to blow forcefully into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained. The BAT will show the employee the result displayed on the EBT or the printed result.

If the result of the screening test is an alcohol concentration of less than 0.02, no further testing is required. The BAT and the employee will finish filling out the alcohol testing form. The employee may return to their safety-sensitive position. The test will be reported to the employer as a negative.

Note: Alcohol screens may be performed by certified Screening Test Technicians (STT) using alternative alcohol screening devices approved by the Department of Transportation.

The alternative methods may test either breath or saliva. If the screening tests results are 0.02 or greater, a confirmation test by a BAT, using an evidential breath testing device, must be performed.

### 14.2 Confirmation Test

If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test must be performed.

The confirmation test must be conducted at least 15 minutes, but not more than 30 minutes, after the completion of the initial test. This delay prevents any accumulation of alcohol in the mouth from leading to an artificially high reading.

The BAT will inform the employee of the need to conduct a confirmation test. The employee will be instructed not to eat, drink, or put any object or substance in his/her mouth. The BAT will also instruct the employee not to belch to the extent possible while awaiting the confirmation test. The BAT will inform the employee that the test will be

conducted at the end of the waiting period, even if the employee has disregarded the instructions.

Before the confirmation test is administered, the BAT shall conduct an airblank on the EBT. If the reading is greater than 0.00, the BAT shall conduct one more airblank. If the second airblank reading is greater than 0.00, the BAT shall not use the EBT to conduct the test.

The confirmation test is conducted using the same procedures as the screening test. A new mouthpiece will be used.

If the initial and confirmatory test results are not identical, the confirmation test result is deemed to be the final result.

If the result displayed on the EBT is not the same as that on the printed form, the test will be canceled, and the EBT removed from service.

The BAT will sign and date the form. The employee will sign and date the certification statement, which includes a notice that the employee cannot perform safety-sensitive duties or operate a motor vehicle if the results are 0.02 or greater. Refusal by the employee to sign the certification statement is not considered a refusal to test, but it will be noted in the remarks section by the BAT.

The BAT will attach the alcohol test result printout directly onto the alcohol collection form with tamper-proof tape (unless the EBT prints the results directly on the form).

### **14.3 Reporting**

The BAT will transmit all results to the employer's designated representative in a confidential manner. In the event an individual must be removed from safety-sensitive duties, the BAT will notify the employer's representative immediately.

## **15 MEDICAL REVIEW OFFICER**

The laboratory results must be reviewed by a qualified MRO. The purpose of this review is to verify and validate test results. The laboratory shall report all results to the MRO in a confidential manner.

A qualified MRO is a licensed physician who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

### **15.1 Negative Test Results**

The MRO shall conduct an administrative review of the control and custody form on all negative test results. The result may then be reported to the employer.

### **15.2 Positive Test Results**

It is the responsibility of the MRO to review and interpret an individual's confirmed positive test. Those responsibilities include:

- Reviewing the individual's medical history, including any medical records and biomedical information provided.
- Affording the individual an opportunity to discuss the test result.
- Deciding whether there is a legitimate medical explanation for the result, including legally prescribed medication.
- If appropriate, request the laboratory to analyze the original specimen again to verify the accuracy of the test result reported.
- Notify each employee who has a verified positive test that they have 72 hours in which to request a test of the split specimen. If the employee requests an analysis of the split sample within 72 hours of having been informed of their verified positive test, the MRO shall direct, in writing, the laboratory to ship the split specimen to another DHHS certified laboratory for analysis. Reporting of a verified positive result is not delayed pending the split specimen analysis.
- If the employee does not request testing of the split sample within 72 hours of being notified of a positive test result and can provide documentation (such as serious illness, injury, hospitalization, etc.) which prevented the employee from making the request within the 72 hour time limit and the MRO concludes it is a legitimate reason, the MRO shall direct the analysis of the split sample performed.
- If the analysis of the split sample fails to confirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable or inadequate for testing, or if the split is adulterated and the primary sample is not, the MRO shall cancel the test and report the cancellation and the reasons for it to the DOT, the employer, and the employee.
- If the MRO is unable to reach the individual directly, after making and

documenting all reasonable efforts, the MRO shall contact the designated employer representative who shall direct the individual to contact the MRO as soon as possible. If 5 days have passed from the time the employer directs the individual to contact the MRO and they have not done so, the MRO shall report the test result to the employer as (non-contact) positive from the laboratory. If neither the MRO nor the employer have been able to contact the individual within ten days from the date MRO received positive test result from the laboratory, the MRO shall report the test results to the employer as positive. If the individual can provide the MRO with a documented reason (such as illness, injury, hospitalization) for not contacting the MRO within a reasonable time, MRO may reopen the interview process.

- It is the responsibility of the MRO to protect the employee's privacy and the confidentiality of the testing program. It is also the responsibility of the MRO to maintain records on all negative test results for a minimum of one (1) year and all positive test results for a minimum of five (5) years unless there is pending litigation in which case the files must be retained.

## **16 SUBSTANCE ABUSE PROFESSIONAL (SAP)**

Any individual who has a verified positive drug or alcohol test shall be removed from safety-sensitive duties immediately, informed of educational and rehabilitation programs available, and referred to a Substance Abuse Professional (SAP). A SAP can be a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, licensed marriage and family counselor, or employee assistance professional with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders or an addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission.

The responsibilities of the SAP include:

- Evaluating the type and scope of assistance a safety-sensitive employee who has refused to submit to a drug or alcohol test or who has verified positive drug or alcohol test result is in need of to resolve the problems associated with prohibited drug and alcohol use.
- Evaluating whether a safety-sensitive employee who has a verified positive drug or alcohol test result has complied with the SAP's recommendations.
- Determine when return-to-duty testing is appropriate and whether it should be for drugs and/or alcohol.
- Recommend the number of months the returning safety-sensitive employee will be subject to follow-up testing (after the minimum six tests during the first 12 months) and whether it will be for drugs and/or school.

The SAP who determines that a covered employee requires assistance in resolving problems with substance abuse may not refer the employee to the SAP's private practice from which the SAP receives remuneration or to a person or organization in which the SAP has a financial interest.

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## **17 ANNUAL REVIEW PROCEDURES**

To ensure quality service at collection sites, Park City's Program Manager will meet with the City's Third Party Administrator, at a minimum annually, to review the following:

- Collection Procedures;
- Collection Staff Training; and
- Collection Recordkeeping.

If during the course of these reviews deficiencies are identified, the Program Manager and Third Party Administrator will develop a remedial action plan to correct the deficiencies. The Program Manager will be responsible for monitoring the Third Party Administrator's progress and completion of the remedial action plan.

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## **18 RECORD KEEPING AND CONFIDENTIALITY**

### **18.1 Employer**

The employer must maintain records on program administration and test results of individuals for whom they have testing responsibility. Following is the required time line for retaining records and documentation on program administration:

Negative and cancelled drug test results and alcohol test results less than 0.02 - 1 year

Documentation on employee training and collection site personnel training - 2years

Information obtained from previous employers under 49CFR40.25 concerning drug and alcohol test results of employees – 3 years

Verified positive drug tests, refusals, referrals (including substituted or adulterated test results, Alcohol test results greater than 0.02 or greater, EBT calibration documentation and MIS Reports – 5 years

Drug testing records must be kept in a secure location with controlled access.

Drug and alcohol test results may be released only under the following circumstances:

- Employer shall release information or copies of records regarding an employee's test results to a third party only as directed by specific, written instruction of the employee.
- Employer may disclose information related to a test result to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee tested.

Upon written request, employer must promptly provide any employee with any records relating to his/her test.

Employer must release information to the National Transportation Safety Board (NTSB) about any post-accident test performed for an accident under NTSB investigation.

Employer shall make available copies of all results of employer testing programs, and any other records pertaining to testing programs when requested by DOT or any DOT agency with regulatory authority over the employer or any of its employees, or to a State oversight agency authorized to oversee rail fixed guide-way systems.

The FTA requires that transit agencies file annual report summarizing test results.

### **18.2 Laboratory**

The laboratory shall maintain all test results in a confidential manner and provide secure storage for specimens. The testing laboratory may only release test results to a designated example, teleprinters, facsimile, or computer in a manner designated to ensure confidentiality. Results may not be provided by telephone. Following is the required time line for retaining records and specimen storage.

Unless otherwise instructed by the employer in writing, all records pertaining to urine specimens shall be retained by the testing laboratory for two years.

The testing laboratory shall retain and place in properly secured long-term frozen storage all specimens confirmed positive in their original labeled specimen bottles for one year.

Within this year the employer may request the laboratory to retain the specimen for an additional period of time. The laboratory shall also be required to maintain any specimen known to be under legal challenge for an indefinite period.

The laboratory must also provide the employer with periodic summary reports.

### **18.3 Medical Review Officer**

It is the responsibility of the Medical Review Officer (MRO) to protect the employee's privacy and the confidentiality of the testing program. All results will be reported to the employer's designated representative in a secure, confidential manner. The MRO shall not disclose to any third party medical information provided by the individual to the MRO as a part of the testing verification process except in the following situations:

An applicable DOT regulation permits or requires such disclosure.

In the MRO's reasonable medical judgment, the information could result in the employee being determined to be medically unqualified under an applicable DOT agency rule.

In the MRO's reasonable medical judgment, in a situation in which there is not a DOT agency rule establishing physical qualification standards applicable to the employee, the information indicates that continued performance by the employee of his or her safety-sensitive function could pose a significant safety risk.

The following is a time line required of the MRO for retaining drug test result records:

Drug test results reported to the employer as negative -	1 year
Drug test results reported to the employer as positive -	5 years

## **19 RE-ENTRY CONTRACT**

**Employees who re-enter the workforce must agree to a re-entry contract. The contract may include (but is not limited to):**

- **A release to work statement prepared by the Substance Abuse Professional.**
  - **A negative test for drugs and/or alcohol.**
  - **An arrangement to unannounced frequent follow-up testing for a period of one to five years with at least six tests performed the first year.**
  - **A statement of expected work-related behaviors.**
  - **An agreement to follow specified after-care requirements with the understanding that violation of the re-entry contract is grounds for discharge.**
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## 20 SYSTEM CONTACTS

(Updated Subsequent to Adoption of Resolution – Legal Dept.)

### Program Manager (DAPM):

Name: Darren Davis  
Title: Transit Administrative Team Leader  
Address: P O Box 1480  
Park City UT 84060  
Telephone: (435) 615-5351

### Designated Employee Representative (DER):

Name: Destry Pollard  
Title: Transit Operations Team Leader  
Address: P.O. Box 1480  
Park City, Ut 84060  
Telephone: (435) 615-5354

### Medical Review Officer (MRO):

Name: Paul D. Teynor, MD, MPH  
Address: Intermountain MRO Services, Inc.  
P O Box 240  
Salt Lake City UT 84110  
Telephone: (801) 486-5400

### Substance Abuse Professional (SAP):

Name: Jesus De La Torre  
Address: 1579 W. 600 S.  
Salt Lake City, UT 84070  
Telephone: (801) 973-0655

### DHHS Certified Laboratory:

Quest Diagnostics  
8401 Fallbrook Avenue  
Westhills, CA 91304  
OR  
10101 Renner Boulevard  
Lenexa, KS 66219

The toll-free number for Substance Abuse Assistance is: **1-800-662-HELP**

**EMPLOYEE ACKNOWLEDGMENT**

**Return this completed form to your immediate supervisor.**

Print Employee Name: \_\_\_\_\_

I certify I have received a copy of the Substance Abuse Policy.

I understand receipt of this Policy constitutes legal notification of the contents, and it is my responsibility to become familiar with, and adhere to the Policy.

I understand the information contained in this Policy is subject to change at any time, should circumstances warrant, and it is my responsibility to keep informed of these changes.

I understand no verbal or written agreement, understanding, representation, or statement made by my department head or supervisor can amend the Policy, nor bind the City to any course of action. Only the City Council or City Manager may amend this policy.

I understand that violation of this Policy may be grounds for immediate termination of my employment.

I understand that my employment with Park City is conditioned on my agreement to sign this acknowledgment form, and that my refusal to do so will result in my immediate termination.

Employee Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_