

APPENDIX

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Appendix A

1. Campaign finance.

All candidates for the chief administrative office (mayor), any candidates who spend more than \$500, and candidates for other offices that pay at least \$100 a month are required to file campaign financial disclosure reports. Civil penalties of \$25 per day are authorized for late filings. Penalties up to the greater of \$10,000 or 15 percent of the amount in controversy may be levied for filings more than 35 days late. It is a Class E felony for a multicandidate political campaign committee with a prior assessment record to intentionally fail to file a required campaign financial report. Further, the treasurer of such a committee may be personally liable for any penalty levied by the Registry of Election Finance (T.C.A. § 2-10-101–118).

Contributions to political campaigns for municipal candidates are limited to:

- a. \$1,000 from any person (including corporations and other organizations);
- b. \$5,000 from a multicandidate political campaign committee;
- c. \$20,000 from the candidate;
- d. \$20,000 from a political party; and
- e. \$75,000 from multicandidate political campaign committees.

The Registry of Election Finance may impose a maximum penalty of \$10,000 or 115 percent of the amount of all contributions made or accepted in excess of these limits, whichever is greater (T.C.A. § 2-10-301–310).

Each candidate for local public office must prepare a report of contributions that includes the receipt date of each contribution and a political campaign committee's statement indicating the date of each expenditure (T.C.A. § 2-10-105, 107).

Candidates are prohibited from converting leftover campaign funds to personal use. The funds must be returned to contributors, put in the volunteer public education trust fund, or transferred to another political campaign fund, a political party, a charitable or civic organization, educational institution, or an organization described in 26 U.S.C. 170(c) (T.C.A. § 2-10-114).

2. Conflicts of Interest.

Municipal officers and employees are permitted to have an "indirect interest" in contracts with their municipality if the officers or employees publicly acknowledge their interest. An indirect interest is any interest that is not "direct," except it includes a direct interest if the officer is the only supplier of

goods or services in a municipality. A “direct interest” is any contract with the official himself or with any business of which the official is the sole proprietor, a partner, or owner of the largest number of outstanding shares held by any individual or corporation. Except as noted, direct interests are absolutely prohibited (T.C.A. § 6-2-402, T.C.A. § 6-20-205, T.C.A. § 6-54-107–108, T.C.A. § 12-4-101–102).

3. Disclosure conflict of interests.

Conflict of interest disclosure reports by any candidate or appointee to a local public office are required under T.C.A. §§ 8-50-501 *et seq.* Detailed financial information is required, including the names of corporations or organizations in which the official or one immediate family member has an investment of over \$10,000 or 5 percent of the total capital. This must be filed no later than 30 days after the last day legally allowed for qualifying as a candidate. As long as an elected official holds office, he or she must file an amended statement with the Tennessee Ethics Commission or inform that office in writing that an amended statement is not necessary because nothing has changed. The amended statement must be filed no later than January 31 of each year (T.C.A. § 8-50-504).

4. Consulting fee prohibition for elected municipal officials.

Any member or member-elect of a municipal governing body is prohibited under T.C.A. § 2-10-124 from “knowingly” receiving any form of compensation for “consulting services” other than compensation paid by the state, county, or municipality. Violations are punishable as Class C felonies if the conduct constitutes bribery under T.C.A. § 39-16-102. Other violations are prosecuted as Class A misdemeanors. A conviction under either statute disqualifies the offender from holding any office under the laws or Constitution of the State of Tennessee.

“Consulting services” under T.C.A. § 2-10-122 means “services to advise or assist a person or entity in influencing legislative or administrative action, as that term is defined in § 3-6-301, relative to the municipality or county represented by that official.” “Consulting services” also means services to advise or assist a person or entity in maintaining, applying for, soliciting or entering into a contract with the municipality represented by that official. “Consulting services” does not mean the practice or business of law in connection with representation of clients by a licensed attorney in a contested case action, administrative proceeding or rule making procedure;

"Compensation" does not include an "honorarium" under T.C.A. § 2-10-116, or certain gifts under T.C.A. § 3-6-305(b), which are defined and prohibited under those statutes.

The attorney general construes "Consulting services" to include advertising or other informational services that directly promote specific legislation or specifically target legislators or state executive officials. Advertising aimed at the general public that does not promote or otherwise attempt to influence specific legislative or administrative action is not prohibited. Op. Atty.Gen. No. 05-096, June 17, 2005.

5. Bribery offenses.

a. A person who is convicted of bribery of a public servant, as defined in T.C.A. § 39-16-102, or a public servant who is convicted of accepting a bribe under the statute, commits a Class B felony.

b. Under T.C.A. § 39-16-103, a person convicted of bribery is disqualified from ever holding office again in the state. Conviction while in office will not end the person's term of office under this statute, but a person may be removed from office pursuant to any law providing for removal or expulsion existing prior to the conviction.

c. A public servant who requests a pecuniary benefit for performing an act the person would have had to perform without the benefit or for a lesser fee, may be convicted of a Class E felony for solicitation of unlawful compensation under T.C.A. § 39-16-104.

d. A public servant convicted of "buying and selling in regard to offices" under T.C.A. § 39-16-105, may be found guilty of a Class C felony. Offenses under this statute relevant to public officials are selling, resigning, vacating, or refusing to qualify and enter upon the duties of the office for pecuniary gain, or entering into any kind of borrowing or selling for anything of value with regard to the office.

e. Exceptions to 1, 3, and 4, above include lawful contributions to political campaigns, and a "trivial benefit" that is "incidental to personal, professional, or business contacts" in which there is no danger of undermining an official's impartiality.

6. Official misconduct, official oppression, misuse of official information.

a. Public misconduct offenses under Tennessee Code Annotated § 39-16-401 through § 39-16-404 apply to officers, elected officials, employees,

candidates for nomination or election to public office, and persons performing a governmental function under claim of right even though not qualified to do so.

b. Official misconduct under Tennessee Code Annotated § 39-16-402 pertains to acts related to a public servant's office or employment committed with an intent to obtain a benefit or to harm another. Acts constituting an offense include the unauthorized exercise of official power, acts exceeding one's official power, failure to perform a duty required by law, and receiving a benefit not authorized by law. Offenses under this section constitute a Class E felony.

c. Under Tennessee Code Annotated § 39-16-403, "Official oppression," a public servant acting in an official capacity who intentionally arrests, detains, frisks, etc., or intentionally prevents another from enjoying a right or privilege commits a Class E felony.

d. Tennessee Code Annotated § 39-16-404 prohibits a public servant's use of information attained in an official capacity, to attain a benefit or aid another which has not been made public. Offenses under the section are Class B misdemeanors.

e. A public servant convicted for any of the offenses summarized in sections 2-4 above shall be removed from office or discharged from a position of employment, in addition to the criminal penalties provided for each offense. Additionally, an elected or appointed official is prohibited from holding another appointed or elected office for ten (10) years. At-will employees convicted will be discharged, but are not prohibited from working in public service for any specific period. Subsequent employment is left to the discretion of the hiring entity for those employees. Tennessee Code Annotated § 39-16-406.

7. Ouster law.

Some Tennessee city charters include ouster provisions, but the only general law procedure for removing elected officials from office is judicial ouster. Cities are entitled to use their municipal charter ouster provisions, or they may proceed under state law.

The judicial ouster procedure applies to all officers, including people holding any municipal "office of trust or profit." (Note that it must be an "office" filled by an "officer," distinguished from an "employee" holding a "position" that does not have the attributes of an "office.") The statute makes any officer subject to such removal "who shall knowingly or willfully misconduct himself in office, or who shall knowingly or willfully neglect to perform any duty enjoined upon such officer by any of the laws of the state, or who shall in any public place be in a state of intoxication produced by strong drink voluntarily taken, or who shall

engage in any form of illegal gambling, or who shall commit any act constituting a violation of any penal statute involving moral turpitude” (T.C.A. § 8-47-101).

T.C.A. § 8-47-122(b) allows the taxing of costs and attorney fees against the complainant in an ouster suit if the complaint subsequently is withdrawn or deemed meritless. Similarly, after a final judgment in an ouster suit, governments may order reimbursement of attorney fees to the officer targeted in a failed ouster attempt (T.C.A. § 8-47-121).

The local attorney general or city attorney has a legal “duty” to investigate a written allegation that an officer has been guilty of any of the mentioned offenses. If he or she finds that “there is reasonable cause for such complaint, he shall forthwith institute proceedings in the Circuit, Chancery, or Criminal Court of the proper county.” However, with respect to the city attorney, there may be an irreconcilable conflict between that duty and the city attorney’s duties to the city, the mayor, and the rules of professional responsibility governing attorneys. Also, an attorney general or city attorney may act on his or her own initiative without a formal complaint (T.C.A. § 8-47-101–102). The officer must be removed from office if found guilty (T.C.A. § 8-47-120).

APPENDIX B
CITY OF HARROGATE
Purchasing Procedures

As designated in Ordinance No.31, adopted on June 18, 2002, the Mayor shall act as purchasing agent for the City, with power, except as set out in these procedures, to purchase materials, supplies, equipment, and services; secure leases and lease-purchases; and dispose of and transfer surplus property for the proper conduct of the City's business. All contracts, leases, and lease-purchase agreements extended beyond the end of any fiscal year must have prior approval of the governing body.

The purchasing agent shall have the authority to make purchases, leases, and lease-purchases of more than \$1,000 and less than \$10,000 singly or in the aggregate during any fiscal year and, except as otherwise provided herein, shall require a minimum of two competitive bids or quotations, either verbal or written whenever possible prior to each purchase. Competitive bids or quotations for the purchase of items which cost less than \$1,000 are desirable but not mandatory. All competitive bids or quotations received shall be recorded and maintained in the office of the city recorder for a minimum of two years after audit. Awards shall be made to the lowest responsible bidder.

A description of all projects and purchases, except as herein provided, which require the expenditure of city funds of \$10,000 or more singly or in the aggregate during any fiscal year shall be prepared by the purchasing agent and submitted to the governing body for authorization to call for bids or proposals. After the determination that adequate funds are budgeted and available for a purchase, the governing body may authorize the purchasing agent to advertise for bids or proposals. The award of purchases, leases, or lease-purchases of \$10,000 or more shall be made by the governing body to the lowest responsible bidder.

Purchases amounting to \$10,000 or more, which do not require public advertising and sealed bids or proposals, may be allowed only under the following circumstances and, except as otherwise provided herein, when such purchases are approved by the governing body:

- Sole source of supply or proprietary products as determined after complete search by the purchasing agent, with governing body approval.
- Emergency expenditures with subsequent approval of the governing body.
- Purchases from instrumentalities created by two or more cooperating governments.

- Purchases from non-profit corporations whose purpose or one of whose purposes is to provide goods or services specifically to municipalities.
- Purchases, leases, or lease-purchases of real property.
- Purchases, leases, or lease-purchases, from any federal, state, or local government unit or agency, of second-hand articles or equipment or other materials, supplies, commodities, and equipment.
- Purchases through other units of governments as authorized by the Municipal Purchasing Law of 1983.
- Purchases directed through or in conjunction with the state Department of General Services.
- Purchases from Tennessee state industries.
- Professional service contracts as provided in Tennessee Code Annotated 29-20-407.
- Tort Liability Insurance as provided in TCA 12-4-407.
- Purchases of perishable commodities.
- Professional services shall not be bid.

The purchasing agent shall be responsible for following these procedures and the Municipal Purchasing Law of 1983, as amended, including keeping and filing required records and reports, as if they were set out herein and made a part of hereof and within definitions of words and phrases from the law as herein defined.

The purchasing agent may use a city purchase order to outline the terms and conditions for a purchase. A sample purchase order is attached.

A Receiving Report, copy attached, must be matched to each purchase order prior to payment.

If the purchase is over the dollar limit, under no circumstances may multiple forms be used in an effort to avoid competitive bidding. Any variations in the purchase order and invoiced amount for purchases exceeding \$10,000 shall be approved by the Board of Mayor and Aldermen.

Emergency purchases are to be made only when normal functions and operations of the City would be hampered by purchasing in the regular manner, or where property, equipment, or life are endangered through unexpected circumstances and materials, services, etc., and are needed immediately. If a tool breaks and the repair is needed immediately an emergency purchase may be necessary. If a city waits until the last minute to purchase a police vehicle, and needs it for tomorrow evening's shift, it may be poor management instead of an emergency.

A Summary of Bids Form should be used to record all bids. The form should be included in the information presented to the governing body for consideration of award of the bid. All bids should be opened in public at a specified time. Late bids should not be accepted or opened. A copy of the Bid Summary Form is attached.

Petty Cash Fund

To buy items that cost less than \$100* from businesses that do not issue invoices or have charge accounts, a petty cash fund must be set up by the finance officer. The finance officer is solely responsible for any withdrawals from this account. Any receipts or requests for monies from this fund must contain the expense code and be signed by the person receiving the cash for payment. This fund should be used only if other purchasing methods are not applicable.

- Amount to be established by the governing body.

Sealed Bids or Proposals

Sealed bids are required on purchases of \$10,000 or more. Bids must be advertised in a local newspaper of general circulation not less than five days before bid opening date.

Purchasing Agent's Responsibility

- Prepare bid requests.
- Establish date and time for bid opening.
- Select possible sources of supply.
- Prepare specifications (unless of a technical nature, such as architectural, engineering, etc).
- Mail bid requests and advertise as appropriate. If delivered by hand, a receipt of the bid request should be signed by the vendor.
- Receive and open bids.
- Evaluate bids using staff or professional assistance.
- Make recommendations on award to governing body for approval.
- Process purchase order after governing body approval.
- Maintain all specification and bid data files.

General Information

The following policies shall apply to sealed bids:

1. **Bid or Proposal Opening:** Bids will be opened at the time and date specified on the bid request. All bids are opened publicly and read aloud,

with a tabulation provided to all vendors participating. Proposals for extensive systems, complicated equipment, or construction projects, may be evaluated privately with a public recommendation to the governing board after evaluation and study.

2. **Late Bids:** No bids received after closing time will be accepted. All late bids will be returned unopened to the vendor. Bids postmarked on the bid opening date but received after the specified time will be considered late and will be returned unopened. It is important that the integrity of the bidding process be maintained.
3. **Bid Opening Schedule:** The purchasing agent is responsible for setting bid opening dates and times.
4. **Telephone Bids:** The purchasing agent will not accept any bid by telephone. He may accept telephone quotes for amounts less than \$10,000.
5. **Bid Form:** When the purchasing agent sends duplicate copies of bid request forms to each bidder, thereby enabling the bidder to return one and maintain a file copy, only bids on the Bid Form will be accepted. Bids will not be accepted on any vendor letterhead, vendor bid form or other substitutions unless special permission is given by the purchasing agent.
6. **Unsigned Bids:** Failure of a vendor representative to sign a bid proposal removes that bid from consideration. A typed official's name will not be accepted without that person's written signature.
7. **Acceptance of Bids:** The City reserves the right to reject any or all bids, to waive any irregularities in a bid, to make awards to more than one bidder, to accept any part or all of a bid, or to accept that bid (or bids) which in the judgment of the governing body is in the best interest of the City.
8. **Shipping Charges:** Bids are to include all shipping charges to the point of delivery. Bids will only be considered on the basis of delivered price, except as otherwise authorized by the governing body. In many instances, the amount of shipping charges will be the deciding factor in making a purchase.
9. **Sample Product Policy:** The purchasing agent may request a sample product as part of a bid. If this is stated on the bid proposal form, the vendor is required to comply with this request or have the bid removed from consideration.

10. **Approved Equal Policy:** Specifications in the request for bids are intended to establish a desired quality or performance level or other minimum requirements, which will provide the City with the best product available at the lowest possible price.

When a **brand name** and/or model is designated, it signifies the minimum quality acceptable. If an alternate is offered, the bidder must include the brand name or model to be furnished, along with complete specifications and descriptive literature and, if requested, a sample for testing.

Brands and/or models other than those designated as "equal to" products shall receive equal consideration.

11. **Alternate Bids:** Should it be found, after bids have been opened, that a product has been offered with an alternative specification and that this product would be better for the City to use, all bids for that item may be rejected and specifications redrawn to allow all bidders an equal opportunity to submit bids on the alternate item.
12. **Tie Bids:** A tie bid is one in which two or more vendors bid identical items at the same unit cost. Tie bids may be determined by one of the following factors:
 - a. Discount allowed
 - b. Delivery schedule
 - c. Precious vendor performance
 - d. Vendor location
 - e. Trade-in value offered

If the tie cannot be resolved in this manner to the satisfaction of the governing body, the decision shall be based upon a coin toss as directed by the governing body.

13. **Cancellation of Invitation for Bid or Request for Proposal:** An invitation to bid, a request for proposal, or other solicitations may be canceled, or any or all bids or proposals may be rejected in part as may be specified in the solicitation when it is in the best interest of the City. The reasons shall be made a part of the bid or proposal file.
14. **Public Advertisement:** In addition to publication in a newspaper of general circulation as required by law, the purchasing agent may make any other efforts to let all prospective bidders know about the invitation to bid. This may be accomplished by delivery, verbally, mail, or by posting the invitation to bid in a public place. It is not required that specifications

be included in the invitation to bid. However, the notice should state clearly the purchase to be made.

15. Other Aspects To Be Considered in Bid Awards:

- The ability of the bidder to perform the contract or provide the material or service required.
- Whether the bidder can perform the contract or provide the material or service promptly or within the time specified, without delay or interference.
- The character, integrity, reputation, experience, and efficiency of the bidder.
- The previous and existing compliance, by the bidder, with laws and ordinances relating to the contract or service.
- The ability of the bidder to provide future maintenance and service for the use of the subject contract.
- Terms and conditions stated in the bid.
- Compliance and specifications or request for proposal.

Non-Performance Policy

Failure of a bidder to complete a contract, bid, or purchase order in the specified time agreed on, or failure to provide the service, materials, or supplies required by such contract, bid, or purchase order, or failure to honor a quoted price on services, materials, or supplies on a contract, bid, or purchase order may result in one or more of the following actions:

- Removal of a vendor from a bid list for a period to be determined by the governing body.
- Allowing the vendor to find the needed item for the City from another supplier at no additional cost to the City.
- Allowing the City to purchase the needed services, materials, or supplies from another source and charge the vendor for any difference in cost resulting from this purchase.
- Allowing monetary settlement.

Delinquent Delivery

Once the purchasing agent has issued a purchase order, no follow-up work should be done unless the item has not been received. If this happens, the purchasing agent may initiate action, either written or verbal as time allows, to investigate the delay.

Contractual Purchases

Such materials, supplies, or services that are constantly needed for city operations will be taken on a formal bid and will be awarded by the governing body for a contract period determined to be in the best interest of the City. This procedure shall be used in cases where the amount of the purchase of said materials, supplies, or services will be \$10,000 or more within the fiscal year. For amounts below \$10,000 the award will be made by the purchasing agent.

Items Covered By Warranty Or Guarantee

The City buys many items that have a warranty or guarantee for a certain length of time, such as tires, batteries, water heaters, roofs, and equipment. Before these items are repaired or replaced, the purchasing agent should be consulted to see if the item is covered by such warranty or guarantee. The city recorder shall maintain an active current file with complete information on such warranties or guarantees. All warranties must be remitted to the purchasing agent with the invoice indicating date of receipt.

Signatures

Contracts, applications for title, tax exemption certificates, agreements, and contracts for utilities shall not be signed by any city employee unless authorized in writing by the purchasing agent or by action of the governing body.

Trade-Ins

List of equipment to be used as trade-in shall accompany the request and specifications. The list includes the model, year, serial and city tag numbers, and other pertinent data.

Sale of Surplus Property

When the purchasing agent decides there is surplus equipment or material in the City, he shall figure out the best way to dispose of those items with an estimated value of less than \$100 and dispose of them with a report to the governing board. Items with an estimated value of more than \$100 shall be advertised for bidding, which will begin after the purchasing agent has received approval from the governing body. Such equipment or materials will be sold to the highest bidder.

Professional Service Contracts (Tennessee Code Annotated 12-4-106)

Professional services include legal services, fiscal agent, financial adviser or advisory services, educational consultant services, and similar services by professional people or groups with "high ethical standards." Only contracts for services performed within the professional's field of expertise are to be considered professional service contracts. Leasing office space from an attorney or purchasing computer services from an accountant, for example, are not professional services, and will require competitive bids.

Contracts for professional services will be awarded on the basis of recognized competence and integrity, rather than on competitive bids. This does not stop a city from requesting proposals from eligible service providers, then deciding about the capabilities of each. Although cost may be considered in choosing the service provider, it must not be the sole factor.

Certain Insurance (TCA 29-20-407)

Cities may purchase tort liability insurance, without competitive bidding, from the Tennessee Municipal League, or any other plan authorized by any organization of governmental entities representing cities and counties.

Purchases Through State-General Services (TCA 12-3-1001)

Cities may take advantage of so called "state prices" regardless of any charter or general law requirements. Not all prices quoted to the state are available to local governments. The items, price, and vendor information are available from the purchasing division of the Department of General Services.

"Buy America" Act (TCA 54-5-135)

Cities must not buy any materials used for highway or roadway construction, resurfacing, or maintenance from any foreign government, any company wholly owned or controlled by a foreign government, or any agency of such foreign government or company. Materials include, but are not limited to asphalt cement, asphalt emulsion, rock, aggregate, liquid and solid additives, sealers, and oils. This legislation will not apply if materials made by American companies are of unsatisfactory condition, are not of sufficient quantity, or increase the overall project cost by 5 percent more than the overall project costs using materials produced by foreign companies.

Purchases of Confiscated Property from the State (TCA 12-2-201)

A city may buy a motor vehicle that has been confiscated by the state by any city officer, employee, or their agent when the purchase is for municipal use.

Interest of Officer in Municipal Contracts (TCA 6-54-107)

No one holding a city office, elected or appointed, shall contract with the City for any work. Nor shall such person hold or have any direct interest in such a contract. Direct interest is defined as any business in which the official is the sole proprietor, a partner, or the person who has the controlling interest. Controlling interest means the person with the ownership or control of the largest number of outstanding shares owned by any individual or corporation.

No city official shall be indirectly interested in any contract with the municipality unless the officer publicly acknowledges his interest. Indirectly interested is defined as any contract in which the officer is interested, but not directly, but includes contracts where the officer is directly interested, but is the sole supplier in the municipality.

Personal Interest of Officers Prohibited (TCA 12-4-101)

It is unlawful for any person whose duty is to vote for or to supervise any contract with a city to be directly interested in such a contract. No city officer or other person whose duty is to superintend any contract with a city shall be indirectly interested in any such contract, unless the officer or person publicly acknowledges his interest.

Other General Information

Preference to Local Dealers: When buying supplies, materials, equipment, and services for the City's requirements, preference shall be given dealers who have stores or warehouses within the City – price, quality, delivery, and service being equal.

Federal Excise Tax: The City is exempt from the payment of excise taxes imposed by the federal government, and suppliers should be required to deduct the amount of such taxes from their bids, quotations, and invoices. The City is not required to pay sales taxes on purchases.

Public Inspection of Records: The purchasing agent shall keep a complete record of all quotations, bids, and purchase orders. Such records shall be open to public inspection.

Designee: The purchasing agent may designate the city recorder to serve as purchasing officer under his supervision and direction.

Within the Limits of the Approved Budget: Purchases must stay within appropriation limits in funds requiring budgets either by law, regulation, or policy. Appropriation limits do not apply to nonexpendable funds not requiring budgets, such as enterprise funds, intra governmental service funds, and nonexpendable trust funds.

Performance and Bid Bonds: Performance and bid bonds may be required as determined by the purchasing agent or the governing body.

Payment Bond: A payment bond is required for all contracts of \$25,000 or more to insure that all materials are paid for by the contractor. This is a requirement of Tennessee Law.

Architect or Engineer Required: Plans, specifications, and estimates for any public works project exceeding \$25,000 must be prepared by a registered architect or engineer as required by TCA 62-2-107.

APPENDIX C

City of Harrogate, Tennessee

**DRUG AND ALCOHOL
TESTING POLICY**

Developed with the Assistance of
Tennessee Municipal League
Municipal Technical Advisory Service
Institute of Public Service
The University of Tennessee

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DRUG AND ALCOHOL TESTING POLICY

(Note - The MTAS model Drug and Alcohol Testing Policy was prepared by MTAS Consultants for use by Tennessee municipalities implementing drug testing programs for municipal employees. This policy is an alternative to the Drug Free Workplace Program developed by the Tennessee Department of Labor, under the Drug Free Workplace Act. Municipalities seeking the "drug free workplace" designation from the state must adopt the program developed by the Department of Labor. MTAS Management Consultants can assist your city in obtaining a copy of the state regulations for the Drug Free Workplace Program.

The Tennessee Drug Free Workplace Program is broader than the MTAS policy in that it requires the testing of applicants for all employment positions, after a conditional offer of employment. MTAS Consultants have concerns about the legality of the state program as applied to government employees. Drug testing by a government employer is considered to be a search under the United States Constitution, and some courts have found that government employees have greater rights to contest drug testing policies than employees in the private sector. The Tennessee Drug Free Workplace Act has not been tested in court, so there is no guidance concerning the outcome of potential constitutional challenges which public employees may raise under the state law. MTAS Consultants are further concerned that cities adopting the state program may inadvertently alter the at-will status of employees. The adoption of the state program also results in the employer's loss of control over drug testing, as the General Assembly and the Department of Labor have authority over the requirements of the law and the implementation of the statute.

One benefit of adopting the state program is that the city may be designated as a "drug free workplace" by the Workers' Compensation Division of the Department of Labor. Such designation may entitle the employer to a discount on workers' compensation insurance premiums. The TML Risk Management Pool, which provides workers' compensation insurance for many Tennessee municipalities, views the drug free workplace designation as one of many factors considered when setting premium amounts charged to municipal employers.

The MTAS model Drug and Alcohol Testing Policy permits pre-employment testing and random testing of employees in "safety sensitive" positions only. This policy further provides for reasonable suspicion testing and post accident testing for all employment positions. The more limited scope and application of the MTAS policy, as compared to the state program, is based upon legal research and analysis by MTAS Consultants. It is the opinion of MTAS Consultants that drug and alcohol testing of municipal employees when

implemented in accordance with this model policy, is a practice which may be defended successfully in the event of litigation.

If you have questions concerning the MTAS model Drug and Alcohol Testing Policy please contact your MTAS Management Consultant for further information.)

1. **PURPOSE**

The City of Harrogate, Tennessee, recognizes that the use and abuse of drugs and alcohol in today's society is a serious problem that may involve the workplace. It is the intent of the City of Harrogate, Tennessee, to provide all employees with a safe and secure workplace in which each person can perform his/her duties in an environment that promotes individual health and workplace efficiency. Employees of the City of Harrogate, Tennessee are public employees and must foster the public trust by preserving employee reputation for integrity, honesty, and responsibility.

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the City of Harrogate, Tennessee has adopted this drug and alcohol testing policy effective March, 2011. This policy complies with the Federal Drug-Free Workplace Act of 1988, which ensures employees the right to work in an alcohol- and drug-free environment and to work with persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver's license (CDL); Division of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass transit industries. In the case of this policy, the Omnibus Transportation Employee Testing Act of 1991 is most significant with its additional requirement of using the "split specimen" approach to drug testing, which provides an extra safeguard for employees. The types of tests required are: pre-employment, transfer, reasonable suspicion, post-accident (post-incident), random, return-to-duty, and follow-up.

It is the policy of the City of Harrogate, Tennessee that the use of drugs by its employees and impairment in the workplace due to drugs and/or alcohol are prohibited and will not be tolerated. Engaging in prohibited and/or illegal conduct may lead to termination of employment. Prohibited and/or illegal conduct includes but is not limited to:

1. Being on duty or performing work in or on city property while under the influence of drugs and/or alcohol;
2. Engaging in the manufacture, sale, distribution, use, or unauthorized possession of (illegal) drugs at any time and of alcohol while on duty or while in or on city property;

3. Refusing or failing a drug and/or alcohol test administered under this policy;
4. Providing an adulterated, altered, or substituted specimen for testing;
5. Use of alcohol within four hours prior to reporting for duty on schedule or use of alcohol while on-call for duty; and
6. Use of alcohol or drugs within eight hours following an accident (incident) if the employee's involvement has not been discounted as a contributing factor in the accident (incident) or until the employee has successfully completed drug and/or alcohol testing procedures.

This policy does not preclude the appropriate use of legally prescribed medication that does not adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his/her duties. It is the employee's responsibility to inform the proper supervisory personnel of his/her use of such legally prescribed medication before the employee goes on duty or performs any work.

In order to educate the employees about the dangers of drug and/or alcohol abuse, the city shall sponsor an information and education program for all employees and supervisors. Information will be provided on the signs and symptoms of drug and/or alcohol abuse; the effects of drug and/or alcohol abuse on an individual's health, work, and personal life; the city's policy regarding drugs and/or alcohol; and the availability of counseling. The city recorder or his/her designee has been designated as the municipal official responsible for answering questions regarding this policy and its implementation.

All City of Harrogate, Tennessee property may be subject to inspection at any time without notice. There should be no expectation of privacy in such property. Property includes, but is not limited to, vehicles, desks, containers, files, and lockers.

2. SCOPE

Certain aspects of this policy may apply to full-time, part-time, temporary, and volunteer employees of the City of Harrogate, Tennessee. The policy also applies to applicants for positions requiring a CDL and other safety sensitive positions who have been given a conditional offer of employment from the City of Harrogate, Tennessee.

3. CONSENT FORM

Before a drug and/or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the laboratory, medical review officer (MRO), city recorder or his/her designee. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the city's drug and alcohol testing policy.

The consent form shall set forth the following information:

1. The procedure for confirming and verifying an initial positive test result;
2. The consequences of a verified positive test result; and
3. The consequences of refusing to undergo a drug and/or alcohol test.

The consent form also provides authorization for certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol were present in the employee's system.

4. COMPLIANCE WITH SUBSTANCE ABUSE POLICY

Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for termination. The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire or for termination.

5. GENERAL RULES

These are the general rules governing the City of Harrogate, Tennessee's drug and alcohol testing program:

1. City employees shall not take or be under the influence of any drugs unless prescribed by the employee's licensed physician. Employees who are required to take prescription and/or over-the-counter medications shall notify the proper supervisory personnel before the employees go on duty.

2. City employees are prohibited from engaging in the manufacture, sale, distribution, use, or unauthorized possession of illegal drugs at any time and of alcohol while on duty or while in or on city property.
3. All City of Harrogate, Tennessee, property is subject to inspection at any time without notice. There should be no expectation of privacy in or on such property. City property includes, but is not limited to, vehicles, desks, containers, files, and lockers.
4. Any employee convicted of violating a criminal drug statute shall inform the director of his/her department of such conviction (including pleas of guilty and nolo contendere) within five days of the conviction occurring. Failure to so inform the city subjects the employee to disciplinary action up to and including termination for the first offense. The city will notify the federal contracting officer pursuant to applicable provisions of the Drug-Free Workplace Act and the Omnibus Transportation Employee Testing Act.

6. **DRUG TESTING**

An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to drug testing under six separate conditions:

A. **TYPES OF TESTS**

1. **Pre-employment**

All employment applicants for safety sensitive positions who have received a conditional offer of employment with the City of Harrogate, Tennessee, must take a drug test before receiving a final offer of employment. "Safety sensitive positions" include police officers, firefighters, positions requiring a commercial driver's license, public works positions involving the operation of heavy equipment, water/wastewater plant operators, all positions involving the construction and maintenance of electrical lines, teachers and other positions having responsibility for the safety and care of children.

2. Transfer

Employees transferring to a safety sensitive position and/or another position within the city that requires a commercial driver's license (CDL) shall undergo drug testing.

3. Post-Accident/Post-Incident Testing

Following any workplace accident (incident) determined by supervisory personnel of the City of Harrogate, Tennessee, to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, **any** employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible drug use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) drug test.

Post-accident (post-incident) testing shall be carried out within 32 hours following the accident (incident). **(Note - DOT regulations allow up to 32 hours for drug tests. A lesser time provision is optional.)** Urine collection for post-accident (post-incident) testing shall be monitored or observed by same-gender collection personnel at the established collection site(s).

In instances where post-accident (post-incident) testing is to be performed, the City of Harrogate, Tennessee reserves the right to direct the medical review officer (MRO) to instruct the designated laboratory to perform testing on submitted urine specimens for possible illegal/illegitimate substances.

Any testing for additional substances listed under the Tennessee Drug Control Act of 1989 as amended shall be performed at the urinary cutoff level that is normally used for those specific substances by the laboratory selected.

a. Post-Accident (Post-Incident) Testing for Ambulatory Employees

Following all workplace accidents (incidents) where drug testing is to be performed, unless otherwise specified by the department head, any affected employees who are

ambulatory will be taken by a supervisor or designated personnel of the City of Harrogate, Tennessee to the designated urine specimen collection site within 32 hours following the accident. **(Note - DOT regulations allow up to 32 hours for drug tests. A lesser time provision is optional.)** In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the (testing site) within 32 hours. No employee shall consume drugs prior to completing the post-accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in providing specimens for drug testing shall be considered a refusal to cooperate with the substance abuse program of the City of Harrogate, Tennessee and shall result in administrative action up to and including termination of employment.

b. **Post-Accident (Post-Incident) Testing for Injured Employees**

Any affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for drug testing by qualified, licensed attending medical personnel and consent to the testing of the specimens. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the City of Harrogate, Tennessee appropriate and necessary information or records that would indicate only whether or not specified prohibited drugs (and what amounts) were found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the City of Harrogate, Tennessee or upon hiring following the implementation date.

Post-accident (post-incident) urinary testing may be impossible for unconscious, seriously-injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if drugs were present in the employee's system. Only an accepted method

for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within 32 hours must be fully documented by the attending medical personnel.

4. **Testing Based on Reasonable Suspicion**

A drug test is required for **any** employee where there is reasonable suspicion to believe the employee is using or is under the influence of drugs and/or alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used drugs. This belief should be based on recent, physical, behavioral, or performance indicators of possible drug use. One supervisor who has received drug detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the City of Harrogate, Tennessee making a determination to subject any employee to drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the city recorder or his/her designee within 24 hours of the decision to test and before the results of the urine drug tests are received by the department. Urine collection for reasonable suspicion testing shall be monitored or observed by same-gender collection personnel.

5. **Random Testing**

Only employees of the City of Harrogate, Tennessee holding safety sensitive positions are subject to random alcohol and drug testing. "Safety sensitive positions" include police officers, firefighters, positions requiring a commercial driver's license, public works equipment operators, water/wastewater plant operators, all positions involving the construction and maintenance of electrical lines, teachers and other positions having responsibility for the safety and care of children. It is the policy of the City of Harrogate, Tennessee to annually random test for drugs at least 50 percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL).

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random

urine drug testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced with unpredictable frequency. Some may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work-related causes, etc.) to produce a specimen on the date random testing occurs, the City of Harrogate, Tennessee may omit that employee from that random testing or await the employee's return to work.

6. Return-to-Duty and Follow-Up

Any employee of the City of Harrogate, Tennessee who has violated the prohibited drug conduct standards and is allowed to return to work, must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least 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.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee possessing a CDL returning from leave or special assignment in excess of six months. In this situation, the employee will not be required to pay for the testing.

B. PROHIBITED DRUGS

All drug results will be reported to the medical review officer (MRO). If verified by the MRO, they will be reported to the city recorder or his/her designee. The following is a list of drugs for which tests will be routinely conducted (see Appendix A for cutoff levels):

1. Amphetamines,
2. Marijuana,
3. Cocaine,

4. Opiates,
5. Phencyclidine (PCP),
6. Alcohol, and
7. Depressants.

The city may test for any additional substances listed under the Tennessee Drug Control Act of 1989.

C. DRUG TESTING COLLECTION PROCEDURES

Testing will be accomplished as non-intrusively as possible. Affected employees, except in cases of random testing, will be taken by a supervisor or designated personnel of the City of Harrogate, Tennessee to a drug test collection facility selected by the City of Harrogate, Tennessee (see Appendix B), where a urine sample will be taken from the employee in privacy. The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by these personnel for signs of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the City of Harrogate, Tennessee to perform the analysis on collected urine samples.

D. DRUG TESTING LABORATORY STANDARDS AND PROCEDURES

All collected urine samples will be sent to a laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS) (see Appendix C).

As specified earlier, in the event of an accident (incident) occurring after regular work hours, the supervisor or designated personnel shall take the employee(s) to the (testing site) within 32 hours where proper collection procedures will be administered.

The Omnibus Act requires that drug testing procedures include split specimen procedures. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence

of drugs, the employee has 72 hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. After the MRO has evaluated a positive test result, the employee will be notified, and the MRO will notify the city recorder or his/her designee.

E. REPORTING AND REVIEWING

The City of Harrogate, Tennessee shall designate a medical review officer (MRO) to receive, report, and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders (see Appendix C).

1. The laboratory shall report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the City of Harrogate, Tennessee.
2. Reports from the laboratory to the MRO shall be in writing or by fax. The MRO may talk with the employee by telephone upon exchange of acceptable identification.
3. The testing laboratory, collection site personnel, and MRO shall maintain security over all the testing data and limit access to such information to the following: the respective department head, the city recorder or his/her designee, and the employee.
4. Neither the City of Harrogate, Tennessee the laboratory, nor the MRO shall disclose any drug test results to any other person except under written authorization from the affected employee, unless such results are necessary in the process of resolution of accident (incident) investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the city attorney.

7. ALCOHOL TESTING

An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to alcohol testing under six separate conditions:

A. TYPES OF TESTS

1. Post-Accident/Post-Incident Testing

Following any workplace accident (incident) determined by supervisory personnel of the City of Harrogate, Tennessee to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible alcohol use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) alcohol test.

Post-accident (post-incident) testing shall be carried out within two hours following the accident (incident).

a. Post-Accident (Post-Incident) Testing for Ambulatory Employees

Following all workplace accidents (incidents) where alcohol testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the City of Harrogate, Tennessee to the designated breath alcohol test site for a breath alcohol test within two hours following the accident. In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the (testing site) within two hours. No employee shall consume alcohol prior to completing the post-accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in appearing for alcohol

testing shall be considered a refusal to cooperate with the substance abuse program of the City of Harrogate, Tennessee, and shall result in administrative action up to and including termination of employment.

b. **Post-Accident (Post-Incident) Testing for Injured Employees**

An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the City of Harrogate, Tennessee, appropriate and necessary information or records that would indicate only whether or not specified prohibited alcohol (and what amount) was found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the City of Harrogate, Tennessee or upon hiring following the implementation date.

Post-accident (post-incident) breath alcohol testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if alcohol was present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within two hours must be fully documented by the attending medical personnel.

2. **Testing Based on Reasonable Suspicion**

An alcohol test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used alcohol. This belief should be based on recent, physical, behavioral, or performance indicators of possible alcohol use. One

supervisor who has received alcohol detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the City of Harrogate, Tennessee making a determination to subject any employee to alcohol testing based on reasonable suspicion shall document their specific reasons and observations in writing to the city recorder or his/her designee within eight hours of the decision to test and before the results of the tests are received by the department.

3. **Random Testing**

Only employees of the City of Harrogate, Tennessee holding safety sensitive positions are subject to random alcohol testing. "Safety sensitive positions" include police officers, firefighters, positions requiring a commercial driver's license, public works equipment operators, water/wastewater plant operators, all positions involving the construction and maintenance of pipelines, teachers and other positions having responsibility for the safety and care of children. It is the policy of the City of Harrogate, Tennessee to annually random test for alcohol at least 25 percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL).

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random alcohol testing and the actual presentation for testing.

Random test dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work-related causes, etc.) to be tested on the date random testing occurs, the City of Harrogate, Tennessee may omit that employee from that random testing or await the employee's return to work.

4. **Return-to-Duty and Follow-Up**

Any employee of the City of Harrogate, Tennessee who has violated the prohibited alcohol conduct standards must submit to a return-to-duty test. Follow-up tests will be unannounced, and at

least 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.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly. **(Note - Requiring employees to pay for their return-to-duty and follow-up tests is optional.)**

Testing will also be performed on any employee with a CDL returning from leave or special assignment in excess of six months. In this situation, the employee will not be required to pay for the testing.

B. ALCOHOL TESTING PROCEDURES

All breath alcohol testing conducted for the City of Harrogate, Tennessee shall be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA). **(Note - A city's own public safety department cannot do this testing unless the test is required because of a traffic accident (incident).)**

Alcohol testing is to be performed by a qualified technician as follows:

1. **Step One:**

An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the National Highway Traffic Safety Administration (NHTSA). If the measured result is less than 0.02 percent breath alcohol level (BAL), the test shall be considered negative. If the result is greater or equal to 0.04 percent BAL, the result shall be recorded and witnessed, and the test shall proceed to Step Two.

2. **Step Two:**

Fifteen minutes shall be allowed to pass following the completion of Step One above. Before the confirmation test or Step Two is administered for each employee, the breath alcohol technician shall insure that the evidential breath testing device registers 0.00 on an air blank. If the reading is greater than 0.00, the breath alcohol technician shall conduct one more air blank. If the reading is greater than 0.00, testing shall not proceed using that instrument. However, testing may proceed on another instrument. Then Step One shall be repeated using a new mouthpiece and

either the same or equivalent but different breath analysis device.

The breath alcohol level detected in Step Two shall be recorded and witnessed.

If the lower of the breath alcohol measurements in Step One and Step Two is 0.04 percent or greater, the employee shall be considered to have failed the breath alcohol test. Failure of the breath alcohol test shall result in administrative action by proper officials of the City of Harrogate, Tennessee up to and including termination of employment.

Any breath level found upon analysis to be between 0.02 percent BAL and 0.04 percent BAL shall result in the employee's removal from duty without pay for a minimum of 24 hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of less than 0.02 percent before returning to duty with the City of Harrogate, Tennessee.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the City of Harrogate, Tennessee, when possible.

The completed breath alcohol test form shall be submitted to the city recorder or his/her designee.

8. EDUCATION AND TRAINING

A. Supervisory Personnel Who Will Determine Reasonable Suspicion Testing

Training supervisory personnel who will determine whether an employee must be tested based on reasonable suspicion will include at the minimum two 60-minute periods of training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probable drug use and alcohol use. One 60-minute period will be for drugs and one will be for alcohol.

The City of Harrogate, Tennessee will sponsor a drug-free awareness program for all employees.

B. Distribution of Information

The minimal distribution of information for all employees will include the display and distribution of:

- a. Informational material on the effects of drug and alcohol abuse;
- b. An existing community services hotline number, available drug counseling, rehabilitation, and employee assistance programs for employee assistance;
- c. The City of Harrogate, Tennessee policy regarding the use of prohibited drugs and/or alcohol; and
- d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

9. CONSEQUENCES OF A CONFIRMED POSITIVE DRUG AND/OR ALCOHOL TEST RESULT AND/OR VERIFIED POSITIVE DRUG AND/OR ALCOHOL TEST RESULT

Job applicants will be denied employment with the City of Harrogate, Tennessee if their initial positive pre-employment drug test results have been confirmed/verified.

If a current employee's positive drug and alcohol test result has been confirmed, the employee is subject to immediate removal from any safety-sensitive function and may be subject to disciplinary action up to and including termination. The city may consider the following factors in determining the appropriate disciplinary response: the employee's work history, length of employment, current work assignment, current job performance, and existence of past disciplinary actions. However, the city reserves the right to allow employees to participate in an education and/or treatment program approved by the city Employee Assistance Program as an alternative to or in addition to disciplinary action. If such a program is offered and accepted by the employee, then the employee must satisfactorily participate in and complete the program as a condition of continued employment.

No disciplinary action may be taken pursuant to this drug policy against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation through the city's Employee Assistance Program or other program sanctioned by the city, and thereafter refrain from violating the city's policy on drug and alcohol abuse. However, voluntary identification will not

prohibit disciplinary action for the violation of city personnel policy and regulations, nor will it relieve the employee of any requirements for return to duty testing.

Refusing to submit to an alcohol or controlled substances test means that a driver: (1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part; (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or (3) engages in conduct that clearly obstructs the testing process. In either case the physician or breath alcohol technician shall provide a written statement to the city indicating a refusal to test.

10. VOLUNTARY DISCLOSURE OF DRUG AND/OR ALCOHOL USE

In the event that an employee of the City of Harrogate, Tennessee is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her problem with the respective department head in private.

Such voluntary desire for help with a substance abuse problem will be honored by the City of Harrogate, Tennessee. If substance abuse treatment is required, the employee will be removed from active duty pending completion of the treatment.

Affected employees of the City of Harrogate, Tennessee may be allowed up to 30 consecutive calendar days for initial substance abuse treatment as follows:

1. The employee must use all vacation, sick, and compensatory time available.
2. In the event accumulated vacation, sick, and compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of 30 consecutive calendar days, the employee will be provided paid/unpaid leave for the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum 30-day treatment period. (Note - This is an optional provision.)

Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.

Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to-duty recommendation from the substance abuse professional (SAP) of the City of Harrogate, Tennessee. The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or random drug and alcohol testing requirements. The respective department head and city recorder or his/her designee of the City of Harrogate, Tennessee will consider each case individually and set forth final conditions of reinstatement to active duty. These conditions of reinstatement must be met by the employee. Failure of the employee to complete treatment or follow after-care conditions, or subsequent failure of any drug or alcohol test under this policy will result in administrative action up to and including termination of employment.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the City of Harrogate, Tennessee. Voluntary disclosure provisions do not apply to applicants. Employees found positive during drug and/or alcohol testing under this policy are subject to administrative action up to and including termination of employment as specified elsewhere in this policy.

11. EXCEPTIONS

This policy does not apply to possession, use, or provision of alcohol and/or drugs by employees in the context of authorized work assignments (i.e., undercover police enforcement, intoxilyzer demonstrations). In all such cases, it is the individual employee's responsibility to ensure that job performance is not adversely affected by the possession, use, or provision of alcohol.

12. MODIFICATION OF POLICY

This statement of policy may be revised by the City of Harrogate, Tennessee at any time to comply with applicable federal and state regulations that may be implemented, to comply with judicial rulings, or to meet any changes in the work environment or changes in the drug and alcohol testing policy of the City of Harrogate, Tennessee.

This employee drug and alcohol testing policy has been approved and adopted by the City of Harrogate, Tennessee, effective March 2011.

By: _____, Mayor

By: _____, City Recorder

13. DEFINITIONS

For purposes of the drug and alcohol testing policy, the following definitions are adopted:

Alcohol - The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.

Alcohol Concentration - The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.

Alcohol Use - The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Applicant - Any person who has on file an application for employment or any person who is otherwise being considered for employment or transfer to the police department, fire department, or to a position requiring a commercial driver's license (CDL) being processed for employment. For the purposes of this policy, an applicant may also be: a uniformed employee who has applied for and is offered a promotion or who has been selected for a special assignment; a non-uniformed employee who is offered a position as a uniformed employee; or an employee transferring to or applying for a position requiring a CDL.

Breath Alcohol Technician (BAT) - An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

Chain of Custody - The method of tracking each urine specimen to maintain control from initial collection to final disposition for such samples and accountability at each stage of handling, testing, storing, and reporting.

Collection Site - A place where applicants or employees present themselves to provide, under controlled conditions, a urine specimen that will be analyzed for the presence of alcohol and/or drugs. Collection site may also include a place for the administration of a breath analysis test.

Collection Site Personnel - A person who instructs donors at the collection site.

Commercial Driver's License (CDL) - A motor vehicle driver's license required to operate a commercial motor vehicle (CMV).

Commercial Motor Vehicle (CMV) - Any vehicle or combination of vehicles meeting the following criteria: weighing more than 26,000 pounds; designed to

transport more than 15 passengers; transporting hazardous materials required by law to be placarded, regardless of weight; and/or classified as a school bus.

Confirmation Test - In drug testing, a second analytical procedure that is independent of the initial test to identify the presence of a specific drug or metabolite that uses a different chemical principle from that of the initial test to ensure reliability and accuracy. In breath alcohol testing, a second test following an initial test with a result of 0.02 or greater that provides quantitative data of alcohol concentration.

Confirmed Positive Result - The presence of an illicit substance in the pure form or its metabolites at or above the cutoff level specified by the National Institute of Drug Abuse identified in two consecutive tests that utilize different test methods and that was not determined by the appropriate medical, scientific, professional testing, or forensic authority to have been caused by an alternate medical explanation or technically insufficient data. An EBT result equal to or greater than 0.02 is considered a positive result.

Consortium - An entity, including a group or association of employers or contractors, which provides alcohol or controlled substances testing as required by this part or other DOT alcohol or drug testing rules and that acts on behalf of the employers.

Department Director - The director or chief of a city department or his/her designee. The designee may be an individual who acts on behalf of the director to implement and administer these procedures.

DHHS - The federal Department of Health and Human Services or any designee of the secretary, Department of Health and Human Services.

DOT Agency - An agency of the United States Department of Transportation administering regulations related to alcohol and/or drug testing. For the City of Harrogate, the Federal Highway Administration (FHWA) is the DOT agency.

Driver - Any person who operates a commercial motor vehicle.

EAP - Employee Assistance Program.

Employee - An individual currently employed by the City of Harrogate.

Evidential Breath Testing Device (EBT) - An instrument approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices."

FHWA - Federal Highway Administration.

Initial Test - In drug testing, an immunoassay test to eliminate negative urine specimens from further analysis. In alcohol testing, an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

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

Negative Result - The absence of an illicit substance in the pure form or its metabolites in sufficient quantities to be identified by either an initial test or confirmation test.

NHTSA - National Highway and Traffic Safety Administration.

Refuse to Submit - Refusing to submit to an alcohol or controlled substances test means that a driver: (1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part; (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or (3) engages in conduct that clearly obstructs the testing process.

Safety-Sensitive Positions - Safety Sensitive positions include police officers, firefighters, positions requiring a commercial drivers license, public works equipment operators, water/wastewater plant operators, all positions involving the construction and maintenance of pipelines, teachers and other positions having responsibility for the safety and care of children.

Split Specimen - Urine drug test sample will be divided into two parts. One part will be tested initially, the other will remain sealed in case a retest is required or requested.

Substance Abuse Professional - A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission)

with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

APPENDICES

APPENDIX A

S. 1994 DRUG AND ALCOHOL TEST STANDARDS

| <u>Drug</u> | <u>Cutoff Level Screen (ng/ml)</u> | <u>Cutoff Level Confirmation (ng/ml)</u> |
|---------------------------|--|--|
| Amphetamine (speed) | 1,000.00 | |
| Amphetamine | | 500.00 |
| Methamphetamine | | 500.00 |
| Cannabinoid (marijuana) | 50.00 | 15.00 |
| Cocaine (benzoylecgonine) | 300.00 | 150.00 |
| Opiate | 300.00 | |
| Codeine | | 300.00 |
| Morphine | | 300.00 |
| Phencyclidine (PCP) | 25.00 | 25.00 |
| Alcohol | .02 percent BAL | .04 percent BAL |

(Note - Additional substances listed under the Tennessee Drug Control Act of 1989 may be tested at the cutoff level customarily used by the selected laboratory. Cutoff levels are subject to change as DOT rules change.)

APPENDIX B**T. DESIGNATED DRUG TESTING COLLECTION FACILITY**Possible Option:

Aegis Analytical Laboratories, Inc.
624 Grassmere Park, Suite 21
Nashville, TN 37211
(615) 323-0250

Employers Drug Program Management, Inc.
616 S. Ninth St.
Birmingham, AL 35233

America School Management Corporation
(ASMC)
P.O. Box 571
Selmer, TN 38375-0571

Examination Management Services, Inc.
11 W. Mockingbird Lane, Fourth Floor
Dallas, TX 75247

AMS Distributors, Inc.
P.O. Box 457
Roswell, GA 30077

Fidelity Search, Inc.
P.O. Box 3571
Jackson, TN 38303

Attest National Drug Testing, Inc.
1600 W. Seventh St., Suite 505
Fort Worth, TX 76102

Grabek Resource Management
615 Lindsay St., Suite 330
Chattanooga, TN 37403

Baptist Occupational Medicine Centers
342 21st Ave. N.
Nashville, TN 37203
(615) 321-4800

Health Trans
3250 Dickerson Road, Suite 25
Nashville, TN 37207

Collins & Company
928 McCallie Ave.
Chattanooga, TN 37403
Attn: Joe Horne

National MRO
12600 W. Colfax, Suite A500
Lakewood, CO 80215

Drug Free, Inc.
P.O. Box 8520
Little Rock, AK 72215-8520
1-800-762-3623

National Health Laboratories Incorporated
2540 Empire Drive
Winston-Salem, N.C. 27103
(800) 334-8627 / (919) 760-4620

Drug Intervention Services of America
(DISA)
11200 Westheimer, Suite 630
Houston, TX 77042

National Safety Alliance
446 Metroplex Drive, Suite A 226
Nashville, TN 37215
(615) 832-0046

National Safety Council
1121 Spring Lake Drive
Itasca, IL 60143-3201

United Labs
P.O. Box 1208
Evans City, PA 16033

National Transportation Screening Alliance
P.O. Box 249
Signal Mountain, TN 37377

St. Mary's Medical Services Center
1725 Triangle Park Drive
Maryville, TN 37801
(615) 982-9532

Nationwide Truckers Association, Inc.
(NTA, Inc.)
P.O. Box 1380
201 Huntersville-Concord Road
Huntersville, NC 28078
1-800-452-0030

Occupational Rehabilitation of Chattanooga
(ORC)
6500 Eastgate Center, Suite 8600
Chattanooga, TN 37411
(615) 899-7253

Pembroke Occupational Health
2307 N. Parham Road
Richmond, VA 23229
(804) 346-1010

Roche Biomedical Laboratories, Inc.
CompuChem Division
3308 Chapel Hill/Nelson Highway
Research Triangle Park, NC 27709
Attn: Lisa Darby
1-800-833-3984, Ext. 3009

Roche Diagnostic Systems
1080 U.S. Highway 202
Branchburg, NJ 08876-1760

Safety and Compliance Management, Inc.
P.O. Box 69, 104 Howard St.
Rossville, GA 30741

Tennessee Consortium
1320 W. Main St., Suite 418
Franklin, TN 37064

APPENDIX C

U. DESIGNATED DEPARTMENT OF HEALTH AND HUMAN SERVICES
(DHHS) CERTIFIED LABORATORIES

Aegis Analytical Laboratories, Inc.
624 Grassmere Park Rd., Suite 21
Nashville, TN 37211
615 331 5300

Cedars Medical Center, Department of
Pathology
1400 Northwest 12th Ave.
Miami, FL 33136
305 325 5810

Alabama Reference Laboratories, Inc.
543 South Hull St.
Montgomery, AL 36103
800 541 4931/205 263 5745

Centinela Hospital Airport Toxicology
Laboratory
9601 S. Sepulveda Blvd.
Los Angeles, CA 90045
310 215 6020

American Medical Laboratories, Inc. 14225
Newbrook Dr.
Chantilly, VA 22021
703 802 6900

Clinical Reference Lab
11850 West 85th St.
Lenexa, KS 66214
800 445 6917

Associated Pathologists Laboratories, Inc.
4230 South Burnham Ave., Suite 250
Las Vegas, NV 89119 5412
702 733 7866

CompuChem Laboratories, Inc.
3308 Chapel Hill, Nelson Hwy.
Research Triangle Park, NC 27709
919 549 8263/800 833 3984
(Formerly: CompuChem Laboratories, Inc.,
A Subsidiary of Roche Biomedical
Laboratory, Roche CompuChem
Laboratories, Inc., A Member of the Roche
Group)

Associated Regional and University
Pathologists, Inc. (ARUP)
500 Chipeta Way
Salt Lake City, UT 84108
801 583 2787

CompuChem Laboratories, Inc.
Special Division
3308 Chapel Hill Nelson Hwy.
Research Triangle Park, NC 27709
919 549 8263
(Formerly: Roche CompuChem Laboratories,
Inc., Special Division, A Member of the
Roche Group, CompuChem Laboratories,
Inc. Special Division)

Baptist Medical Center
 Toxicology Laboratory
 9601 1 630, Exit 7
 Little Rock, AR 72205 7299
 501 227 2783
 (formerly: Forensic Toxicology Laboratory
 Baptist Medical Center)

Bayshore Clinical Laboratory
 4555 W. Schroeder Dr.
 Brown Deer, WI 53223
 414 355-4444/800 877 7016

CORNING Clinical Laboratories Inc.
 1355 Miftel Blvd.
 Wood Dale, IL 60191
 708 595 3888
 (formerly: MetPath, Inc., CORNING
 MetPath Clinical Laboratories)

CORNING MetPath Clinical Laboratories
 One Malcolm Ave.
 Teterboro, NJ 07608
 201 393 5000
 (formerly: MetPath, Inc.)

CORNING National Center for Forensic
 Science
 1901 Sulphur Spring Rd.
 Baltimore, MD 21227
 410 536 1485
 (formerly: Maryland Medical Laboratory,
 Inc., National Center for Forensic Science)

CORNING Nichols Institute
 7470 A Mission Valley Rd.
 San Diego, CA 92108 4406
 800 446 47,28/619 686 3200
 (formerly: Nichols Institute, Nichols
 Institute Substance Abuse Testing (NISAT))

CORNING Clinical Laboratories
 South Central Division
 2320 Schuetz Rd.
 St. Louis, MO 63146
 800 288 7293

CORNING Clinical Laboratories
 8300 Esters Blvd., Suite 900
 Irving, TX 75063
 800 526 0947
 (formerly: Damon Clinical Labs,
 Damon/MetPath)

Doctors Laboratory, Inc.
 P.O. Box 2658
 2906 Julia Dr.
 Valdosta, GA 31604
 912 244 4468

Drug Labs of Texas
 15201 I-10 East, Suite 125
 Channelview, TX 77530
 713 457 3784

DrugProof
 Division of Dynacare/Laboratory of
 Pathology, LLC
 1229 Madison St., Suite 500
 Nordstrom Medical Tower
 Seattle, WA 98104
 800 898 0180/206 386 2672
 (formerly: Laboratory of Pathology of
 Seattle, Inc., DrugProof, Division of
 Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc.
 P.O. Box 2969
 1119 Meams Rd.
 Warminster, PA 18974
 215 674 9310

Cox Medical Centers
Department of Toxicology
1423 North Jefferson Ave.
Springfield, MO 65802
800 876 3652/417 836 3093

Dept. of the Navy, Navy Drug Screening
Laboratory
Building 38 H
Great Lakes, IL 60088 5223
708 688 2045/708 688 4171
Diagnostic Services Inc., dba DSI
4048 Evans Ave., Suite 301
Fort Myers, FL 33901
813 936 5446/800 735 5416

Harrison Laboratories, Inc.
9930 W. Highway 80
Midland, TX 79706
800 725 3784/915 563 3300
(formerly: Harrison & Ass. Forensic
Laboratories)

HealthCare/MetPath
24451 Telegraph Rd.
Southfield, MI 48034
800 444 0106 ext. 650
(formerly: HealthCare/Preferred
Laboratories)

Holmes Regional Medical Center Toxicology
Laboratory
5200 Babcock St., N.E., Suite 107
Palm Bay, FL 32905
407 726 9920

Jewish Hospital of Cincinnati, Inc.
3200 Burnet Ave.
Cincinnati, OH 45229
513 569 2051

ElSohly Laboratohes, Inc.
5 Industrial Park Dr.
Oxford, MS 38655
601 236 2609

General Medical Laboratories
36 South Brooks St.
Madison, WI 53715
608 267 6267

National Reference Laboratory, Substance
Abuse Division Laboratory Corporation of
America
21903 68th Ave. South, Kent, WA 98032
206 395 4000
(Formerly: Regional Toxicology Services)

Laboratory Corporation of America
2540 Empire Dr.
Winston Salem, NC 27103 6710
Outside NC: 919 760 4620/800 334 8627 /
Inside NC: 800 642 0894
(Formerly: National Health Laboratories
Incorporated)

Laboratory Corporation of America Holdings
1120 Stateline Rd.
Southaven, MS 38671
601 342 1286
(Formerly: Roche Biomedical Laboratories,
Inc.)

Laboratory Corporation of America Holdings
69 First Ave.
Raritan, NJ 08869
800 437 4986
(Formerly: Roche Biomedical Laboratories,
Inc.)

LabOne, Inc.
8915 Lenexa Dr.
Overland Park, Kansas 66214
913 888 3927
(formerly: Center for Lab Services)

Laboratory Corporation of America
13900 Park Center Rd.
Hemdon, VA 22071
703 742 3100
(Formerly: National Health Laboratories
Incorporated)

Laboratory Corporation of America d.b.a.
LabCorp Reference Laboratory, Substance
Abuse Division
1400 Donelson Pike, Suite A 15
Nashville, TN 37217
615 360 3992/800 800 4522
(Formerly: National Health Laboratories
Incorporated, d.b.a.)

Medical College Hospitals Toxicology
Laboratory
Department of Pathology
3000 Adington Ave.
Toledo, OH 43699 0008
419 381 5213

Medlab Clinical Testing, Inc.
212 Cherry Lane
New Castle, DE 19720
302 655 5227

MedTox Laboratories, Inc.
402 W. County Rd. D
St. Paul, MN 55112
800 832 3244/612 636 7466

Methodist Hospital of Indiana, Inc.
Department of Pathology and Laboratory
Medicine
1701 N. Senate Blvd.
Indianapolis, IN 46202
317 929 3587

Laboratory Specialists, Inc.
113 Jarrell Dr.
Belle Chasse, LA 70037
504 392 7961

Marshfield Laboratories
1000 North Oak Ave.
Marshfield, WI 54449
715 389 3734/800 222 5835

MedExpress
National Laboratory Center
4022 Willow Lake Blvd.
Memphis, TN 38175
901 795 1515

National Toxicology Laboratories, Inc.
1100 California Ave.
Bakersfield, CA 93304
805 322 4250

Northwest Toxicology, Inc.
1141 E. 3900 South
Salt Lake City, UT 84124
800 322 3361

Oregon Medical Laboratories
P.O. Box 972
722 East 11th Ave.
Eugene, OR 97440 0972
503 687 2134

Pathology Associates Medical Laboratories,
East
11604 IN
Spokane, WA 99206
509 926 2400

Methodist Medical Center Toxicology
Laboratory
221 N.E. Glen Oak Ave.
Peoria, IL 61636
800 752 1835/309 671 5199

MetPath Laboratories
875 Greentree Rd.
4 Parkway Ctr.
Pittsburgh, PA 15220 3610
412 931 7200 (formerly: Med Chek Labs,
Inc.,)

MetroLab Legacy Laboratory Services
235 N. Graham St.
Portland, OR 97227
503 413 4512, 800 237 7808(x4512)

National Psychopharmacology Laboratory,
Inc.
9320 Park W. Blvd.
Knoxville, TN 37923
800 251 9492

Poisonlab, Inc.
7272 Clairemont Mesa Rd.
San Diego, CA 92111
619 279 2600/800 882 7272

Presbyterian Laboratory Services
1851 East Third Street
Charlotte, NC 28204
800 473 6640

PDLA, Inc. (Princeton)
100 Corporate Court
So. Plainfield, NJ 07080
908 769 8500/800 237 7352

PharmChem Laboratories, Inc.
1505 A O'Brien Dr.
Menlo Park, CA 94025
415 328 6200/800 446 5177

PharmChem Laboratories, Inc. Texas
Division
7606 Pebble Dr.
Fort Worth, TX 76118
817 595 0294
(formerly: Harris Medical Laboratory)

Physicians Reference Laboratory
7800 West 110th St.
Overland Park, KS 66210
913 338 4070/800 821 3627
(formerly: Physicians Ref Lab Toxicology
Lab)

SmithKline Beecham Clinical Laboratories
506 E. State Pkwy.
Schaumburg, IL 60173
708 885 2010
(formerly: International Toxicology
Laboratories)

SmithKline Beecham Clinical Laboratories
400 Egypt Rd.
Nordstown, PA 19403
800 523 5447
(formerly: SmithKline Bio Science
Laboratories)

Puckett Laboratory
4200 Mamie St.
Haftiesburgh, MS 39402
601 264 3856/800 844 8378

Scientific Testing Laboratories, Inc.
463 Southlake Blvd.
Richmond, VA 23236
804 378 9130

Scott & White Drug Testing Laboratory
600 S. 25th St.
Temple, TX 76504
800 749 3788

S.E.D. Medical Laboratories
500 Walter NE, Suite 500
Albuquerque, NM 87102
505:244 8800

Sierra Nevada Laboratories, Inc.
888 Willow St.
Reno, NV 89502
800 648 5472

SmithKline Beecham Clinical Laboratories,
7600 Tyrone Ave.,
Van Nuys, CA 91045,
818 376 2520

SmithKline Beecham Clinical Laboratories
801 East Dixie Ave.
Leesburg, FL 34748
904 787 9006
SmithKline Beecham Clinical Laboratories
3175 Presidential Dr.
Atlanta, GA 30340
404 934 9205
(formerly: SmithKline Bio Science
Laboratories)

SmithKline Beecham Clinical Laboratories
8000 Sovereign Row
Dallas, TX 75247
214 638 1301
(formerly: SmithKline Bio Science
Laboratories)

SmithKline Beecham Clinical Laboratories
1737 Airport Way South, Suite 200
Seattle, WA 98134
206 623 8100

South Bend Medical Foundation, Inc.
530 N. Lafayette Blvd.
South Bend, IN 46601
219 234 4176

Southwest Laboratories
2727 W. Baseline Rd., Suite 6
Tempe, AZ 85283
602 438 8507

St. Anthony Hospital (Toxicology
Laboratory)
P.O. Box 205
1000 N. Lee St.
Oklahoma City, OK 73102
405 272 7052

Toxicology Testing Service, Inc.
5426 N.W. 79th Ave.
Miami, FL 33166
305 593 2260

Toxicology & Drug Monitoring Laboratory
University of Missouri Hospital & Clinics
301 Business Loop 70 West, Suite 208
Columbia, MO 65203
314 882 1273

TOXWORX Laboratories, Inc.
6160 Vadel Ave.
Woodland Hills, CA 91367
818 226 4373
(formerly: Laboratory Specialists, Inc.;
Abused Drug Laboratories; MedTox Bio
Analytical, a Division of MedTox
Laboratories, Inc.)

UNILAB
18408 Oxnard St.
Tarzana, CA 91356
800 492 0800/818 3438191
(formerly: MetWest BPL Toxicology
Laboratory)

APPENDIX D**V. EMPLOYEE ACKNOWLEDGMENT FORM (CDL Required)****City of Harrogate, Tennessee****EMPLOYEE ACKNOWLEDGMENT**

As an applicant or an employee, I have carefully read the City of Harrogate, Tennessee's drug and alcohol testing policy. I have received a copy of the City of Harrogate, Tennessee's drug and alcohol testing policy, understand its requirements, and agree without reservation to follow this policy. As an applicant, I am aware that my offer of employment is conditional upon the results of a drug and/or alcohol test. As an employee, I am aware that I may be required to undergo drug and/or alcohol tests, that I will be informed prior to the drug and/or alcohol test, and that I may be subject to immediate dismissal if I refuse to take the test.

Name of Applicant or Employee

Social Security Number

Department

Supervisor

(Signature of Applicant or Employee)

Date

(Signature of Witness)

Date

APPENDIX E**W. CONSENT AND ACKNOWLEDGMENT FORM****City of Harrogate, Tennessee****DRUG/ALCOHOL TESTING PROCEDURES****CONSENT AND ACKNOWLEDGMENT FORM**

As an applicant or an employee with the City of Harrogate, Tennessee, I hereby consent to and acknowledge that I am scheduled to undergo drug and/or alcohol testing. The test for alcohol will be a breath analysis test. The drug test will involve an analysis of a urine sample, which I will provide at a designated site. The purpose of the test will be to test for the presence of the following substances: amphetamines, marijuana, cocaine, opiates, PCP, alcohol, and/or any additional drugs listed in the Tennessee Drug Control Act. I authorize qualified personnel to take and have analyzed appropriate specimens to determine if drugs and/or alcohol are present in my system. I acknowledge that the drug/alcohol screen test results will be made available to the testing laboratory, medical review officer (MRO), the city recorder, or his/her designee. As an applicant, I am aware that a confirmed and verified positive drug/alcohol test result will rescind my conditional offer of employment. As an employee, I am aware that a confirmed and verified positive test result may lead to disciplinary action up to and including immediate dismissal. I will present a copy of this form to the collection site when I report for my scheduled drug/alcohol test. I also understand that failure to provide adequate breath for testing without a valid medical explanation, failure to provide adequate urine for controlled substances testing without a valid medical explanation, and engaging in conduct that clearly obstructs the testing process are the same as refusing to test.

Name of Applicant or Employee: _____

Department Name: _____

Social Security Number: _____

(Signature of Applicant or Employee)_____
Date_____
(Signature of Witness)_____
Date

APPENDIX F

ANTI-DRUG AND ALCOHOL POLICY TESTING REQUIREMENTS

| TYPE OF TEST | EMPLOYEE GROUP | | | |
|--|-----------------|--------------------|---------------------|------------------|
| | CDL REQUIRED | PIPELINE WORKER | SAFETY SENSITIVE | OTHER GENERAL |
| DRUG TESTING: | | | | |
| 1. Pre Employment | Required | Required | Optional | No |
| 2. Transfer * | Required | Required | Optional | No |
| 3. Post Accident/Incident | Required | Required | Optional | Optional |
| 4. Reasonable Suspicion | Required | Required | Optional | Optional |
| 5. Random | Required | Required | Optional | No |
| 6. Return to Duty/Follow up | Required | Required | Optional | Optional |
| ALCOHOL TESTING: | | | | |
| 1. Transfer * | Required | No | No | No |
| 2. Post Accident/Incident | Required | Optional | Optional | Optional |
| 3. Reasonable Suspicion | Required | Optional | Optional | Optional |
| 4. Random | Required | No | No | No |
| 5. Return to Duty/Follow up | Required | Optional | Optional | Optional |
| * Applies to existing employees transferring into a new position within the respective employee group. | | | | |

APPENDIX G**REQUIREMENTS FOR ALCOHOL AND DRUG TESTING POLICY STATEMENTS**

Local governments are required to develop a policy statement for the alcohol and drug testing programs. This policy statement must be distributed to every safety sensitive employee prior to the start of the testing program, to representatives of employee organizations, and to new employees as they are hired or transferred into safety sensitive positions. The FHWA rules require that the following information be included in the policy:

- 1) The name of the person designated by the employer to answer questions about the alcohol and drug testing program;
- 2) The employees who are covered by the DOT and FHWA rules and consequently the local government's alcohol and drug testing policy;
- 3) Information about the safety sensitive functions performed by the covered employees;
- 4) Information concerning safety sensitive employee conduct that is prohibited under the DOT/FHWA rules;
- 5) The circumstances under which a driver will be tested for alcohol and drugs;
- 6) The procedures that will be followed to:
 - a) Test for the presence of alcohol and drugs;
 - b) Protect the covered employee and the integrity of the testing processes;
 - c) Safeguard the validity of the test results;
 - d) Ensure that those results are attributed to the correct employee;
- 7) The requirement that a covered employee submit to alcohol and drug tests administered in accordance with the DOT/FHWA rules;

- 8) An explanation of what constitutes a refusal to submit to an alcohol or drug test and the resulting consequences;
- 9) The consequences resulting from positive alcohol and/or drug tests;
- 10) Information concerning
 - a) The effects of alcohol and drug use on an individual's health, work, and personal life
 - b) Signs and symptoms of an alcohol or drug problem (the driver's or a coworkers's)
 - c) Available methods of intervening when an alcohol or drug problem is suspected, including confrontation, referral to any employee assistance program, and/or referral to management.

The policy may also include information on additional local government policies regarding the use or possession of alcohol or drugs that the local government has implemented under its own authority. For example, local governments may want to explain whether the local government will pay for all alcohol and drug tests, if the employees will pay for all the tests, or if the costs will be shared. Although these rules preempt any inconsistent state or local laws, state or local governments may have adopted policies that require funding of alcohol and drug tests and such policies would not be considered as inconsistent with these rules. A thorough, legal review of all state and local laws regarding alcohol and drug testing should be conducted before implementation of these rules begins.

The local government must ensure that each covered employee is required to sign a statement that he/she has received a copy of the policy described above. The local government keeps the original of the signed statement and may also provide a copy to the employee.

APPENDIX D

Enforcement Response Guide Table

| Unauthorized Discharge (no permit) | | | | | |
|---|---|---|---|-----------|--|
| Noncompliance | Nature of Violation | Category | Enforcement Response | Personnel | |
| Failure to Return Industrial user Survey | Initial, requirements not understood | 1 | Phone call or visit to explain or assist | PC | |
| | Persistent after assistance | 4 | AO and fine or termination of service | PC, LAO | |
| Unpermitted discharge | IU unaware of requirements; no harm to POTW or environment | 1 | Phone Call and or NOV with application | PC | |
| | IU unaware of requirement; harm to POTW or environment | 3 | Show Cause Hearing and/or AO and fine | LAO | |
| | Failure to apply continues after notification by PC | 4 | AO and fine or termination of service | LAO | |
| Failure to renew permit | IU has not submitted application within 10 days of due date | 1 | Phone call, NOV | PC | |
| Discharge Permit Violations | | | | | |
| Exceeding of local, state, or federal standards | Isolated, <or= 1/ month (no harm) | 1 | Phone call and/ or NOV | PC | |
| | Isolated, > or= 1/month (no harm) | 2 | AO to develop spill prevention plan (if not previously submitted) | LAO | |
| | Isolated, harmful to POTW or environment | 3 | Show Cause Hearing and/ or AO and fine | PC LAO | |
| | Chronic or TRC, no harm | 2, ^{1st} 3, ^{2nd} 4, ^{3rd} | AO and fine | LAO | |
| | Chronic or TRC, harm to POTW or environment | 4 | AO and fine and/ or Termination of service | LAO | |

Enforcement Response Guide Table

| Monitoring and Reporting Violations | | | | | |
|-------------------------------------|--|----------|---|-----------|--|
| Noncompliance | Nature of Violation | Category | Enforcement Response | Personnel | |
| Reporting violation | Report improperly signed or certified | 1 | Phone call and/ or NOV | PC | |
| | Report improperly signed or certified after prior notice | 2 | Show Cause Hearing and/ or AO | PC LAO | |
| | Isolated, (<20% / 6mo. >5 days late) | 1 | Phone call and/ or NOV | PC | |
| | Significant, (>20% / 6mo.>5 days late) | 2 | AO to submit and fine for each additional day late | LAO | |
| | Reports always late: failure to submit (> 75% of reports > 5 days late) within 12 month reporting period | 5 | AO and fine and/ or Civil action or Chancery Court or Termination of service | LAO | |
| | Failure to report spill or discharge change, no harm | 1 | NOV | PC | |
| | Failure to report spill or discharge change with harm | 3 | AO and fine and/ or Civil action | LAO | |
| | Repeated failure to report spills >2 failures / 12 mo. Reporting periods | 5 | AO and fine and/ or civil action or termination | LAO | |
| | Falsification of records | 5 | Criminal Investigation or termination | LAO | |
| | Failure to monitor all permit required pollutants | 1 2 | NOV 1 st / 12mo. reporting period AO 2 nd / 12mo. Reporting period | PC LAO | |
| Failure to monitor correctly | Recurring failure to monitor > 4 failures/ 24 month reporting period | 3 | AO and fine and/ or Civil action | LAO | |

| | | | | |
|-------------------|--|---|---------------------------------------|-----|
| Improper sampling | No evidence of intent | 1 | NOV | PC |
| | Evidence of intent, tampering with sampler | 5 | Criminal investigation or termination | LAO |

Enforcement Response Guide Table

| Monitoring and Reporting Violations (cont.) | | | | |
|---|---|----------|---|-----------|
| Noncompliance | Nature of Violation | Category | Enforcement Response | Personnel |
| Failure to install monitoring equipment | Delay of less than 30 days | 1 | NOV | PC |
| | Delay of more than 30 days | 2 | AO to install with fine for each additional day | LAO |
| | Recurring, violation of AO | 5 | Civil Action or Criminal Investigation or termination of service | LAO |
| Compliance schedule | Missed milestone, less than 30 days, will not affect final schedule | 1 | NOV | PC |
| | Missed milestone more than 30 days, will affect final schedule (good cause) | 2 | AO | LAO |
| | Missed milestone, more than 30 days, will affect final schedule (no good cause) | 4 | AO and fine Civil action or termination | LAO |
| | Recurring violations or violations of AO | 5 | Civil Action and/or Criminal Investigation and/ or Termination of service | LAO |

Enforcement Response Guide Table

| Other Permit Violations | | | | | |
|---|-------------------------------------|---------------------------------|---|-----------|--|
| Non-compliance | Nature of Violation | Category | Enforcement Response | Personnel | |
| Waste Stream Dilution in lieu of pretreatment | Initial violation | 2 | AO and fine | LAO | |
| | Recurring | 3 | Show Cause Hearing Termination | LAO | |
| Failure to mitigate noncompliance or halt production | Does not cause harm | 1 | NOV | PC | |
| | Does cause harm | 5 | AO and fine or Civil action | LAO | |
| Discharging following a terminated permit due to enforcement action that terminated service | Initial violation | 5 | Maximum penalties | LAO | |
| Failure to resample following violation | Initial violation | 1 | Phone call or visit | PC | |
| | Repeated failure after notice by PC | 2 nd #1,3rd#2, 4th#3 | 2 nd NOV, 3 rd AO and fine 4 th AO and fine and/or termination of service | PC, LAO | |
| Failure to properly operate and maintain facility | Does not cause harm | 1 | NOV | PC | |
| | Does cause harm | 4 | AO and fine or, Civil Action | LAO | |

| Violations Detected During Site Visit | | | | | |
|--|---|---|--|--|-----|
| Entry Denial | Entry denied or consent withdrawn: copies of records denied | 2 | | Obtain warrant and return to IU | PC |
| Illegal Discharge, violation of general discharge prohibitions | No harm to POTW or environment | 2 | | AO and fine | LAO |
| | Caused harm or evidence of intent or negligence | 4 | | AO and fine and/ or Civil action and or criminal investigation | LAO |
| | Recurring, violation of AO | 5 | | Terminate Service | LAO |

Enforcement Response Guide Table

| Violations During Site Visits (cont.) | | | | | |
|---|---|----------|----------------------|-----------|--|
| Non-compliance | Nature of violation | Category | Enforcement Response | Personnel | |
| Improper sampling | Unintentional sampling at incorrect location | 1 | NOV | PC | |
| | Unintentional using incorrect sample type | 1 | NOV | PC | |
| | Unintentional using incorrect techniques | 1 | NOV | PC | |
| Inadequate record keeping | Files incomplete or missing (no evidence of intent) | 1 | NOV | PC | |
| | Recurring | 3 | AO and fine | LAO | |
| Failure to report additional monitoring | Inspection finds additional files (unintentional) | 2 | NOV | LAO | |
| | Recurring (considered falsification) | 4 | AO and Fine | LAO | |