

AGENDA

**HUMAN RESOURCES COMMITTEE MEETING
LEUCADIA WASTEWATER DISTRICT**

Tuesday, November 30, 2021 – 10:30 a.m.
Via Teleconference

Pursuant to the State of California Executive Order N-29-20, and in the interest of public health, the District is temporarily taking actions to mitigate the COVID-19 pandemic by holding meetings by teleconference. The general public may not attend this meeting at the District's office due to social distancing requirements.

Members of the public attending via teleconference will be provided with an opportunity to comment on each agenda item prior to Committee discussion.

To join this meeting via Teleconference please dial: (669) 900-6833

Meeting ID: 873 9207 0695 Password: 138854

1. **Call to Order**
2. **Roll Call**
3. **Public Comment**
4. **New Business**
 - A. Annual Review of the Board-General Manager/Staff Relations Policy.
(Pages 2-6)
 - B. Adopt Resolution No. 2360 – Amending LWD's Substance Abuse Policy.
(Pages 7-26)
 - C. Review Board Performance Evaluation Survey. (Pages 27-38)
5. **Information Items**

None.
6. **Directors' Comments**
7. **General Manager's Comments**
8. **Adjournment**

MEMORANDUM

DATE: November 23, 2021
TO: Human Resources Committee
FROM: Paul J. Bushee, General Manager 
SUBJECT: **Board-General Manager/Staff Relations Policy Annual Review**

RECOMMENDATION:

Staff requests that the Human Resources Committee (HRC) recommend that the Board of Directors:

1. Receive and file the Annual Review of the LWD Board-General Manager/Staff Relations Policy; or,
2. Discuss and take other action, as appropriate.

DISCUSSION:

Tactical Goal: People/Administrative Policy Updates-Reviews/Board-General Manager/Staff Relations Policy

In January, 2007, the Board of Directors (Board) adopted Leucadia Wastewater District's (LWD) Board-General Manager/Staff Relations Policy. The policy, which was last amended on January 13, 2021, calls for an annual review by the Board of Directors.

Staff recently conducted an annual review of the existing policy. Based on this review, staff is not recommending any changes. This item has been placed on the agenda for the HRC's review and comment. If the HRC concurs with staff, this item will be placed on the December consent calendar for the Board to receive and file.

th:PJB

Attachment

LEUCADIA WASTEWATER DISTRICT BOARD - GENERAL MANAGER/STAFF RELATIONS POLICY

Ref: 21-7483

I. General Provisions

A) The Board of Directors, acting as a Board, is the governing body of the Leucadia Wastewater District (District) and is accountable to the public for the District's services, finances, establishment of policy and District performance. All powers of the Board shall be exercised and performed by the Board as a body, and no individual Director, except as otherwise authorized by the Board, shall have the power to alter or amend Board policy or directions. Public statements of Board policy and direction should reflect the viewpoint of a Board majority, notwithstanding a minority position. Directors acting within the scope and authority of their position enjoy strong legal protections from personal liability. Directors could lose some of these protections and risk personal liability if they act independently in excess of their authority.

B) The General Manager serves at the pleasure of the Board and is accountable to the Board for the implementation of Board policy and directions. The General Manager is the official spokesman for the District and is responsible for its day-to-day operation and administration. Unless directed otherwise by the Board, letters that express policies or positions of the District shall be from the General Manager.

C) The staff is responsible for performing administrative and operational functions assigned by the General Manager, or his or her designee, in implementing Board policy and directions. Direction to staff shall come through formal job descriptions or by directives from the General Manager or his or her designee.

D) District Counsel is retained by the Board, and is solely accountable to the Board.

E) The District's Financial Auditor is directly accountable to the Board. The Investment and Finance Committee (IFC) shall serve as the Board's delegated point of contact and meet with the Financial Auditor as required during the audit process.

II. Board to General Manager

A) The Board shall hire a General Manager, establish his or her compensation and define the conditions of his or her employment. The General Manager shall serve at the pleasure of the Board.

B) The General Manager is responsible for performing those functions, specific or general, assigned by the Board, either in the form of job description or Board direction.

C) The General Manager shall recommend, and the Board shall approve, the organizational structure of the District.

D) The General Manager shall hire all personnel with the exception of General Counsel at his or her sole discretion. The General Manager shall recommend and the Board shall approve the District's organizational chart and compensation ranges.

Policy Adopted: January 10, 2007

Amended: October 12, 2012, November 12, 2014, January 9, 2019, January 8, 2020,
January 13, 2021 (approved via minutes)

E) The Board of Directors shall ultimately approve district Policy. The General Manager may recommend and provide information regarding policy matters, including information relating to the technical, administrative and fiscal ramifications of the policies being considered.

F) The General Manager shall take direction only from a Board majority, or from a duly appointed committee, acting within the scope of the District's policies.

G) The General Manager shall act as the primary point of contact between the Board and the staff.

H) The General Manager shall provide such reports for the Board as requested, including but not limited to:

- 1) Status reports on Board directed activities.
- 2) Financial reports.
- 3) Updates on operations, maintenance, construction and personnel matters.
- 4) Emergency reports.

III. Board to Staff

A) Administration of staff is the direct responsibility of the General Manager. The General Manager shall provide policy and administrative direction to staff. Directors shall not direct staff regarding their employment duties.

B) If a Director is requesting the creation of a particular report or analysis, the matter shall be brought to the General Manager or, if appropriate, the Board of Directors. However, Directors may obtain copies of existing reports and analysis from staff.

C) Individual Directors may contact Management Staff directly for the purpose of asking questions about, or seeking clarifications of, issues related to the District's official business. For the purposes of this policy, Management Staff includes the Administrative Services Manager, the Technical Services Manager and the Field Services Superintendent. Travel questions may be directed to the Executive Assistant. The General Manager should be notified by staff of such contacts. This access may be in person or via telephone, e-mail or other forms of written or verbal requests.

D) Individual Directors intending to use more than 30 minutes of any staff member's time for issues relating to the District's business, should make an appointment with the staff member at a mutually agreed time and date. Contact with staff members should not generally exceed one (1) hour in any one week. Contact between Directors and the General Manager is not limited.

E) Individual Directors shall be granted access to all existing public documents at the District.

F) Staff members are not precluded from speaking with Directors. However, all complaints or matters of internal discipline should follow the established chain of command.

IV. Board and Employee Political/Election Related Activities

A) Government Code § 3204 prohibits elected public officials, such as District Board Members, from directly or indirectly “using any office, authority or influence” to persuade an individual to vote, exert political influence, or take political action on behalf of any candidate, officer, or party, in exchange for aiding or obstructing that individual’s ability to secure “any position, nomination, confirmation, or promotion.” It is unlawful, therefore, for Board Members to use their positions to force employees to perform political or election related tasks, or to retaliate against employees for refusing to do so.

B) In the event that District employees volunteer to help Board Members with election or political activities, the District prohibits such conduct while at work or while on District property. The basic rule is that public entities cannot use public funds or resources to influence voters to support a political position. This prohibition naturally extends to a public employee’s use of his or her time on the job for political or election activities. Employees may not participate in political or election activities while in uniform or at work.

V. Board, General Manager and Staff to Attorneys

A) The Board may hire Attorneys as needed and establish their compensation. Attorneys shall work under the direction of the Board or its designee and shall serve at the pleasure of the Board or its designee.

B) Attorneys shall not become involved in policy decisions, except to comment on the legal ramifications of the policies being discussed or considered.

C) Attorneys shall take direction from a Board majority, or from a duly appointed committee acting within the scope of the District’s policies.

D) Any Director may request a verbal opinion from Attorneys on matters relating to District business, including, but not limited to, clarification of potential conflicts of interest which may bear on the Director’s ability to participate in a vote. Any advice Attorneys provide shall be as legal counsel for the District and not individual Directors. Attorneys shall inform the Board if they become aware of any potential conflict of interest that may require withdrawal, disclosure, or abstention of a Director or otherwise impact the actions of the Board.

Directors may consult independent counsel on conflict of interest matters. If a potential conflict between an individual Director and the Board arises, the Director is encouraged to consult independent counsel.

E) Attorneys shall not respond to individual requests of a personal nature.

F) The General Manager is the primary point of contact between the staff and Attorneys for the assignment of work.

G) The General Manager shall be authorized to contact Attorneys at his or her discretion.

VI. Board to Other Agencies

- A) Directors may contact elected officials, or staffs of other Agencies, on behalf of the Board. However, when representing the Board, Directors' comments should reflect approved Board policies or, in areas where no policy has yet been developed, the viewpoint of a majority of the Board. If the Board's viewpoint is unclear or not known, this should be stated.
- B) If a Director expresses an opinion before another agency regarding District business that is inconsistent with established Board policy or is simply not covered by Board policy or action, it is requested that the Director state that he or she is expressing their own opinion and not representing the Board as a whole.
- C) Directors shall not offer testimony or comments, regarding District business, at a formal meeting of another official body, without express consent from the Board.

VII. Emergency Situations

- A) The General Manager or his/her appointee shall notify Directors of an emergency as soon as reasonably practical. The General Manager or his/her appointee shall follow-up with a written report to the Board at the next scheduled Board meeting following the emergency.


VIII. Access To The Agenda

- A) The Board may request items to be placed on future agendas at its regular meetings. In addition, each and every Director may place any item on the agenda provided the request is made no later than Tuesday of the week before the meeting.
- B) Items placed on the agenda by an individual Director, accompanied by material submitted by that Director, shall be included in the agenda packet.

IX. Policy Review

- A) This policy shall be reviewed annually by the Board of Directors.

MEMORANDUM

DATE: November 23, 2021
TO: Human Resources Committee
FROM: Paul J. Bushee, General Manager 
SUBJECT: Amending the LWD Substance Abuse Policy

RECOMMENDATION:

Staff requests that the Human Resources Committee (HRC) recommend that the Board of Directors:

1. Adopt Resolution No. 2360 – Amending LWD’s Substance Abuse Policy.
2. Discuss and take other action, as appropriate.

BACKGROUND:

LWD is a drug and alcohol-free workplace. LWD’s Substance Abuse Policy was developed in 1999 to assure worker fitness for duty and to protect employees and the public from risks associated with the use of alcohol and controlled substances. This policy was last updated on November 8, 2006. Since that time, regulatory requirements, as well as District procedures have changed rendering the existing policy obsolete.

DISCUSSION:

LWD is a Department of Transportation (DOT) regulated employer, because LWD’s Field Services Technicians are required to hold a class B driver’s license to perform their essential job duties.

During January 2020, the Federal Motor Carriers Safety Administration (FMCSA) of the DOT implemented an online National Database. The purpose of this secure online database is for the storage of information about driver violations of DOT FMSCA drug and alcohol testing regulations. As a DOT FMCSA regulated employer, new mandated responsibilities were implemented. The proposed policy provides compliance with changes in DOT regulations, updates to LWD’s procedures, and includes clarification and clerical revisions.

Below please find a summary of the policy revisions:

Sections I and II – Purpose and Policy Statements

- Section I - Introduction statement from previous policy was revised to Section I – Purpose statement. (Page 1)
- Section II – Policy paragraph was summarized to indicate which Federal and states regulations governing workplace anti-drug programs into a bulletin format for ease of reading. (Page 1)

Section III – Applicability

- This section was revised to explain who the policy applies to. In addition, a paragraph was removed from this section that stated similar language in Section IX. (Page 1)

Section IV – Definitions

- The definition section was moved towards the beginning of the policy. The definition of the Commercial Driver's License Drug and Alcohol Clearinghouse was added to the policy. (Pages 1 – 5)

Section V – Prohibited Substances

- Paragraph C. Prescription Drugs was added to the Policy to explain that certain prescription drugs may impair a worker's ability to perform their job duties in a safe manner and that they should inform their supervisor if they are required to take a prescription drug. (Pages 5-6)

Sections IX and X – Testing for Prohibited Substances for All Employees vs. Safety-Sensitive Employees

- Separate sections were created to clarify when and how testing will occur for non-safety sensitive-employees versus safety-sensitive employees. (Pages 7-9)

Appendix A – Procedures for Complying with FMCSA and Clearinghouse Requirements and Conducting Substance Abuse Testing

- New language was added to reflect new FMCSA and Clearinghouse requirements.
- District's third-party administrator, DATCO's Limited Query Consent form was included in Appendix A. This form is only required for DOT employees.

Minor Revisions and Formatting

Throughout the policy, various minor changes were made to improve clarity, correct grammatical spelling, and format inconsistencies.

The proposed policy was reviewed by General Counsel Brechtel and his recommended changes have been incorporated into the proposed policy.

Therefore, staff requests that the HRC recommend that the Board of Directors adopt Resolution No. 2360 amending the Substance Abuse Policy and/or provide direction as appropriate.

th:PJB

Attachment

RESOLUTION NO. 2360

**A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE LEUCADIA WASTEWATER DISTRICT
ADOPTING THE AMENDED SUBSTANCE ABUSE POLICY**

Whereas, the Leucadia Wastewater District (LWD) Board of Directors originally adopted LWD's Substance Abuse Policy in 1999; and,

Whereas, the Substance Abuse Policy was last updated on November 8, 2006; and

Whereas, the Board of Directors desire to amend the Substance Abuse Policy to reflect changes in applicable federal and state laws.

NOW, THEREFORE, it is hereby resolved as follows:

1. The LWD Board of Directors adopts the amended LWD Substance Abuse Policy attached hereto as Exhibit "A" and directs that it be implemented consistent with all applicable laws and related District policies.
2. This Resolution supersedes the policy established on November 8, 2006.

Passed and Adopted by the Board of Directors of the Leucadia Wastewater District this 8th day of December 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Donald F. Omsted, President

Attest:

Paul J. Bushee, Secretary /Manager

SEAL

SUBSTANCE ABUSE POLICY

I. PURPOSE

LEUCADIA WASTEWATER DISTRICT (District) is a drug and alcohol-free workplace. The purpose of this policy is to ensure all employees, contractors, customers and vendors are free from the adverse consequences of drug and alcohol use.

II. POLICY

It is the policy of the District to maintain a drug and alcohol-free workplace. This policy also supplements section 3.12 of the Human Resources Policy Manual (HRPM). In addition, it complies with all applicable Federal and State regulations governing workplace anti-drug programs, including the following regulations that apply to safety-sensitive employees with a commercial driver's license:

- Department of Transportation's (DOT) "The Drug-Free Workplace Act of 1988 (U.S. Code Title 41, Chapter 10),
- DOT's Code of Federal Regulations (CFR), Subtitle A, Part 40,
- Federal Motor Carrier Safety Administration (FMCSA) (49 CFR Part 382),
- The State of California's "Drugfree Workplace Act of 1990" (Government Code Section 8350 et seq.), and
- DOT Drug and Alcohol Clearinghouse (49 CFR, §382.701 et. seq)

As with any District policy, the District reserves the right to change, alter, amend, and interpret this policy without notice. The procedures used to enforce this policy will be determined by the General Manager in accordance with applicable federal and state regulations. These procedures may be amended as required.

III. APPLICABILITY

This policy applies to all employees, contractors, vendors and customers when they are on District property or when performing any District related business. For those District employees in safety-sensitive positions, this policy is intended to follow the federal and state regulations governing such employees. Visitors, vendors, and contracted employees are governed by this policy while on District premises, and they will not be permitted to conduct business if found to be in violation of this policy.

An employee is considered to be performing a job function while actually performing duties related to the job function, preparing to perform such duties, or on call or available for such duties as described in the job description. It also applies to off-site lunch periods and breaks when an employee is scheduled to return to work.

IV. DEFINITIONS

ACCIDENT - means an unintended happening or mishap where there is loss of human life (regardless of fault), bodily injury, significant property damage, or an injury as defined by Workers' Compensation Guidelines.

ALCOHOL - means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol.

ALCOHOL CONCENTRATION - means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this regulation. For example, 0.02 means 0.02 grams of alcohol in 210 liters of expired deep lung air.

ALCOHOL USE - means consumption of any beverage, mixture, or preparation, including any medication containing ethyl alcohol. Since ingestion of a given amount of alcohol produces the same alcohol concentration in an individual whether the alcohol comes from a mixed drink or cough syrup, the Department of Transportation (DOT) prohibits the use of any substance containing alcohol, such as prescription or over-the-counter medication or liquor-filled chocolates. Prescription medications containing alcohol may have a greater impairing affect due to the presence of other elements (e.g., antihistamines).

BREATH ALCOHOL TECHNICIAN (BAT) - means a person trained in the operation of the Evidential Breath Testing (EBT) device that the technician is using in the alcohol testing procedures. BATs are the only qualified personnel to administer the EBT tests.

CHAIN OF CUSTODY - means the procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of testing to final disposition.

TESTING SITE - means a place designated by the District where individuals present themselves for the purpose of providing a specimen of either urine and/or breath.

COMMERCIAL DRIVER'S LICENSE DRUG AND ALCOHOL CLEARINGHOUSE (CLEARINGHOUSE) - The Clearinghouse is a secure online database that gives employers including the District, the Federal Motor Carrier Safety Administration, State Driver Licensing Agencies, and State law enforcement personnel real-time information about commercial driver's license and commercial learner's permit holders' drug and alcohol program violations.

The Clearinghouse contains records of violations of drug and alcohol prohibitions in 49 C.F.R. § 382, Subpart B, including positive drug or alcohol test results and test refusals. When a driver completes the return-to-duty (RTD) process and follow-up testing plan, this information is also recorded in the Clearinghouse. See also 49 C.F.R. § 382 Subpart G—Requirements and Procedures for Implementation of the Commercial Driver's License Drug and Alcohol Clearinghouse.

COMMERCIAL MOTOR VEHICLE - means a motor vehicle, or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle: (1) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or (2) has a gross vehicle weight rating of 26,001 or more pounds; or (3) is designed to transport 16 or more passengers, including the driver; or (4) is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations.

CONFIRMATION TEST - for alcohol testing means a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration. For controlled substances testing this means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. (Gas chromatography/mass spectrometry (CG/MS) is the only authorized confirmation method of cocaine, marijuana, opiates, amphetamines, and phencyclidine.)

CONTROLLED SUBSTANCE (DRUG) TEST - A method of detecting and measuring the presence of alcohol and other controlled substances, whether legal or illegal, in a person's body. A controlled

substance test may be either an initial test or confirmation test. An initial controlled substance test is designed to identify specimens having concentrations of a particular class of drug above a specified concentration level. It eliminates negative specimens from further consideration.

Controlled substances will be tested under the Department of Health and Human Services (DHHS) guidelines. See the DOT website [DOT Rule 49 CFR Part 40 Section 40.87 | US Department of Transportation](#) for **the primary (initial or screening) controlled substance test thresholds for a verified positive test result.**

A confirmation drug testing is a second analytical procedure to detect the presence of a specific drug or its metabolite. The confirmation procedure is conducted independent of the initial test and uses a different technique and chemical principle in order to confirm reliability and accuracy. See the Department of Transportation website [DOT Rule 49 CFR Part 40 Section 40.87 | US Department of Transportation](#) for **the confirmation controlled substance test thresholds for a verified positive test result.**

COVERED EMPLOYEE - means a person including a volunteer, applicant, or transferee, who performs a job function for the District.

DEPARTMENT OF TRANSPORTATION GUIDELINES - means the controlled substance and alcohol testing rules (49 CFR Part 199 (RSPA - Pipeline), Part 219 (FRA - Railroad), Part 382 (FMCSA - Commercial Motor Vehicle), 654 (FTA - Mass Transit) and 14 CFR 61 (FAA - Aviation) et. al.) setting forth the procedures for controlled substance and alcohol testing (49 CFR Part 40) in all the transportation industries.

DISTRICT - means LEUCADIA WASTEWATER DISTRICT

DISTRICT TIME - means any period of time in which the employee is actually performing, ready to perform, or immediately available to perform any job function.

DRIVER - means any person who operates a commercial motor vehicle. This includes full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer. For the purposes of pre-employment/pre-duty testing only, the term driver includes a person applying to an employer to drive a commercial motor vehicle.

DRUG (CONTROLLED SUBSTANCE) METABOLITE - means the specific substance produced when the human body metabolizes (changes) a given drug (controlled substance) as it passes through the body and is excreted in urine.

EMPLOYEE ASSISTANCE PROFESSIONAL (EAP) - An employee assistance professional is an individual who assists the work organization, its employees and their family members with personal and behavioral problems including, but not limited to: health, marital, family, financial, alcohol, drug, legal emotional, stress, or other personal concerns which may adversely affect employee job performance and productivity.

EVIDENTIAL BREATH TESTING DEVICE (EBT) - means the device to be used for breath alcohol testing.

EQUIPMENT - means any and all machinery, material, gear and the like in and/or around the District plants, on District premises, or on customer property and/or premises.

MEDICAL REVIEW OFFICER (MRO) - means a licensed physician responsible for analyzing laboratory results generated by an employer's controlled substance (drug) testing program. The MRO is knowledgeable about substance abuse disorders and has appropriate medical training to interpret and evaluate positive test results.

PERFORMING (SAFETY-SENSITIVE FUNCTION) - means a safety-sensitive employee is considered to be performing a safety sensitive function and includes any period in which the safety-sensitive employee is actually performing, ready to perform, or immediately available to perform such functions.

POST-ACCIDENT ALCOHOL AND/OR CONTROLLED SUBSTANCE TESTING - conducted after accidents on employees whose performance could have contributed to the accident. For drivers this is determined by a citation for a moving traffic violation and for all fatal accidents even if the driver is not cited for a moving traffic violation. See Accident.

PRE-EMPLOYMENT CONTROLLED SUBSTANCE TESTING - conducted before applicants are hired or after an offer to hire, but before actually performing job functions for the first time. Also required when employees transfer to a defined job classification.

PROHIBITED DRUGS (CONTROLLED SUBSTANCES) - means Marijuana, Cocaine, Opiates, Amphetamines, or Phencyclidine.

PROHIBITED SUBSTANCES - means and is synonymous to drug abuse and/or alcohol misuse or abuse.

RANDOM ALCOHOL AND/OR CONTROLLED SUBSTANCE TESTING - conducted on a random unannounced basis just before, during or just after performance of safety sensitive functions.

REASONABLE SUSPICION ALCOHOL AND/OR CONTROLLED SUBSTANCE TESTING - conducted when a trained supervisor observes behavior or appearance that is characteristic of alcohol misuse or controlled substance abuse.

REFUSE TO SUBMIT (TO AN ALCOHOL AND/OR CONTROLLED SUBSTANCE TEST) - means that an employee fails to provide an adequate breath or urine sample for testing without a valid medical explanation after that employee received notice of the requirement to be tested, or engages in conduct that clearly obstructs the testing process (i.e., verbal declarations, obstructive behavior or physical absence resulting in the inability to conduct the test.)

REHABILITATION - The total process of restoring an employee to satisfactory work performance through constructive confrontation, referral to the SAP and participation in SAP recommendations such as education, treatment and/or support groups to resolve personal, physical or emotional/mental problems which contributed to job problems.

RETURN-TO-DUTY AND FOLLOW-UP ALCOHOL AND/OR CONTROLLED SUBSTANCE TESTING - conducted when an individual who has violated the prohibited alcohol or controlled substance conduct standards returns to performing employment duties. For safety sensitive employees, follow-up tests are unannounced and at least 6 tests must 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 upon the SAP recommendation. For all other employees, the duration and frequency of follow-up testing shall be determined by the SAP and/or District General Manager in accordance with this Policy.

RETURN-TO-DUTY AGREEMENT - means a document agreed to and signed by the employer, employee and the Substance Abuse Professional (SAP) that outlines the terms and conditions under

which the employee may return to duty after having had a verified positive controlled substance test result or an alcohol concentration of 0.04 or greater on an alcohol test.

SAFETY-SENSITIVE EMPLOYEE - Employees with job classifications that requires a Class A or B commercial license.

SAFETY-SENSITIVE FUNCTION - A safety sensitive employee is considered to be performing a safety-sensitive function during any period in which that employee is actually performing, ready to perform, or immediately available to perform his or her job duties.

SCREENING (INITIAL) TEST - In alcohol testing, it means an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in their system. In controlled substance testing, it means an immunoassay screen to eliminate negative urine specimens from further consideration.

SUBSTANCE ABUSE PROFESSIONAL (SAP) - means a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker (with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol- related disorders, the license alone does not authorize this), Certified Employee Assistance Professional (CEAP), or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

SUPERVISOR - means a person in authority who has had one hour of training on the signs and symptoms of alcohol abuse and an additional hour of training on the signs and symptoms of controlled substance abuse.

VEHICLE - means a bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel used for mass transportation.

WORKERS' COMPENSATION GUIDELINES - means the procedures for determining the eligibility for workers' compensation benefits as determined by Labor Code and resulting case law.

V. PROHIBITED SUBSTANCES

A. Alcohol

This policy addresses alcohol use such that it is present in the body at a level in excess of that stated in DOT guidelines while actually performing, ready to perform, or immediately available to perform any District business, is prohibited. "Alcohol" is defined as: the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl or isopropyl alcohol.

B. Controlled Substances/Drugs

This policy addresses any controlled substances, which in the opinion of competent medical professionals, causes or may cause significant impairment of job performance or which causes or may cause behavior that is a threat to the safety of the affected employee or others. All controlled substances listed in any federal, state or local controlled substance acts or regulations, including, but not limited to, substances listed in Controlled Substances Act (21 USC 812, Section V, Schedules I-V). Employees may be tested for the following controlled substances: marijuana, amphetamines, opiates, phencyclidine (PCP) and cocaine.

C. Prescription Drugs

No prescription drug shall be possessed or used by an employee other than the employee for whom the drug is prescribed by a licensed medical practitioner. A prescription drug shall be used only in the manner, combination, and quantity prescribed. An employee must advise his/her supervisor if they have taken or been prescribed a medication that could impair their ability to operate a District vehicle or otherwise perform assigned duties, such as when a prescribed medication includes a warning that it could cause drowsiness or impair operation to motor vehicles. An employee's failure to provide this notice in a timely manner can result in discipline, up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

VI. **PROHIBITED CONDUCT**

A. Manufacture, Trafficking, Possession, and Use

Engaging in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance or alcohol on District premises, in District vehicles or while conducting District business off the premises is absolutely prohibited. The alcohol prohibition does not apply to off-site conferences, meetings or off duty social events; however, it does apply to use of a District vehicle at all times. Violations will result in immediate removal from duty and testing in accordance with Section VIII of this policy.

B. Impaired/Not Fit for Duty

Any employee who is reasonably suspected of being impaired, under the influence of alcohol or a controlled substance, or not fit for duty shall be immediately removed from duty and be required to undergo a reasonable suspicion-controlled substance or alcohol test in accordance with Section VIII of this policy.

No employee may report for duty or remain on duty when his/her ability to perform assigned functions is adversely affected by alcohol or controlled substances. No employee shall use alcohol while on duty or while performing his/her job functions. No employee shall use alcohol within four hours of reporting for duty or during hours that he/she is on call. For purposes of this paragraph, "duty" or "performance of job functions" do not include off-site conferences, meetings or off duty social events, but does include the driving of a District vehicle at any time. Violation of this provision is prohibited and will subject the employee to immediate removal from duty and testing in accordance with Section VIII of this policy.

C. Failed Alcohol or Controlled Substance Test

A controlled substance or alcohol test is considered positive (failed) if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in the DOT guidelines.

D. Compliance with Testing Requirements

All employees are subject to controlled substance and alcohol testing. Any employee who refuses to comply with a request for testing, who provides false information in connection with a test or who attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be removed from duty immediately. Refusal to submit to a test can include an inability to provide a urine specimen or breath sample without a valid medical explanation, a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test. Such refusal will be treated the same as if the test resulted in a positive (failed) result.

VII. NOTIFYING THE DISTRICT OF CRIMINAL DRUG CONVICTION

Pursuant to the "Drug Free Workplace Act of 1988" any employee who has been convicted of any criminal controlled substance statute must notify the district within five (5) days after the conviction. The employee will be subject to disciplinary action within 30 days in accordance with the HRPM. If the employee fails to immediately notify the District of any criminal controlled substance statute conviction, the employee shall be subject to termination of employment.

VIII. PROPER APPLICATION OF THE POLICY

The District is dedicated to assuring fair and equitable application of this Policy. Therefore, supervisors are required to administer all aspects of the policy in an unbiased and impartial manner. Any supervisor who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy with respect to his/her subordinates shall be subject to disciplinary action, up to and including termination.

IX. TESTING FOR PROHIBITED SUBSTANCES FOR ALL EMPLOYEES

All employees shall be subject to testing in the following situations; prior to employment, reasonable suspicion, and following an accident, as defined in the DOT guidelines. All employees will be tested prior to returning to duty after failing a controlled substance and/or alcohol test and subject to random testing as determined by a Substance Abuse Professional (SAP) and/or General Manager.

Pre-Employment Testing

All applicants shall undergo urine-controlled substance testing prior to employment. Receipt of a satisfactory test result is required prior to employment and failure of a controlled substance test will disqualify the applicant from further consideration for employment. Pre-employment testing requirements will be conducted in compliance with the law.

Reasonable Suspicion Testing

All employees will be subject to urine and /or breath testing when there is reasonable suspicion that controlled substances or alcohol use is adversely affecting job performance. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances which are consistent with the effects of substance abuse. Examples of reasonable suspicion include, but are not limited to, the following:

1. Adequate documentation of unsatisfactory work performance or on-the-job behavior.
2. Physical signs and symptoms consistent with prohibited substance use.
3. Occurrence of a serious or potentially serious accident that may have been caused by human error.
4. Threatening behavior or assaults (to mean physical contact) and flagrant disregard or violations of established safety, security, or other operation procedures.

Reasonable suspicion determinations will be made by a supervisor who is trained to detect the signs and symptoms of controlled substance and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to prohibited substance abuse or misuse.

Post-Accident Testing

All employees will be required to undergo controlled substance and/or breath alcohol testing if they are involved in an accident with a District vehicle that results in; 1) a fatality, or 2) injuries requiring transportation to a medical treatment facility, or 3) where one or more vehicles incurs disabling damage that requires towing from the site and the employee receives a citation under State or local law for a moving traffic violation arising from the accident. This includes all safety-sensitive employees who are on duty in the vehicles and any other whose performance could have contributed to the accident.

Following an accident, the employee will be tested as soon as possible, but not to exceed eight hours for alcohol and 32 hours for controlled substances. Any employee who leaves the scene of the accident without appropriate authorization prior to submission to controlled substance and alcohol testing will be considered to have refused the test and subject to discipline up to and including termination. Post-accident testing of employees will include not only the operation personnel, but any other covered employees whose performance could have contributed to the accident.

Return-to-Duty and Follow Up Testing

All employees who previously tested positive on a controlled substance or alcohol test must test negative and be evaluated and released to duty by the SAP before returning to duty. In addition, they may be required to undergo unannounced follow-up-controlled substance and/or alcohol breath testing following returning to duty. The duration and frequency will be determined by the SAP. The employee will also be subject to discipline in accordance with the District's HRPM.

Employee Requested Testing

Any employee who questions the result of a required controlled substance test may request that an additional test be conducted. This additional test may be conducted at the same laboratory or at a different DHHS certified laboratory. The test must be conducted on the original sample. All costs for such testing are to be paid by the employee unless the second test invalidated the original test. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in the DOT guidelines. The employee's request for a retest must be made to the Medical Review Officer (MRO) within 72 hours of notice of the initial test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee.

X. TESTING FOR PROHIBITED SUBSTANCES FOR SAFETY-SENSITIVE EMPLOYEES

In addition to testing as stated in section IX, employees working in safety-sensitive positions will be subject to random and unannounced testing. The random selection will be by a computer-generated algorithm. Each safety-sensitive employee will have an equal chance of being tested each time selections are made. Safety-sensitive employees will be tested either just before departure, during duty, or just after the safety-sensitive employee has ceased performing his/her duty.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the Department of Health and Human Services (DHHS). All testing will be conducted consistent with the procedures put forth in the DOT guidelines.

The controlled substances that will be tested for include, but not limited to, alcohol, marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP). An initial controlled substance screen will be conducted on each specimen. For those specimens that are positive, a second confirmatory test will be completed by a completely different methodology. The test will be considered positive if

the controlled substance levels present are above the minimum thresholds established in the DOT guidelines.

Tests for alcohol concentration will be conducted utilizing an approved Evidential Breath Testing device (EBT) operated by a trained BAT. If the initial test indicated an alcohol concentration of 0.02 or greater, a second confirmation test will be performed.

An employee who has a confirmed alcohol concentration of 0.02 but less than 0.04 will be removed from his/her position for at least twenty-four hours unless a retest results in an alcohol concentration less than 0.02. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of DOT guidelines and this policy.

Any employee who has a confirmed positive controlled substance or alcohol test with an alcohol concentration of 0.04 or greater, will be removed from his/her position, informed of educational and rehabilitation program available, and assessed by an SAP in accordance with Section I of this policy. The employee will also be subject to discipline in accordance with the District's HRPM in either case listed above in which the confirmed alcohol concentration is 0.02 but less than 0.04 or greater than 0.04.

The District affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process. Confidentiality of District records regarding alcohol and controlled substance tests will be maintained in accordance with applicable State and Federal Law.

Return-to-Duty and Follow Up Testing

Safety-sensitive employees who previously tested positive on a controlled substance or alcohol test must test negative and be evaluated and released to duty by the SAP before returning to duty.

Safety-sensitive employees will be required to undergo unannounced follow-up-controlled substance and/or alcohol breath testing following their return to duty. The duration and frequency will be determined by the SAP. Frequency of the testing, shall not be less than 6 tests during the first 12 months, and not to exceed 60 months in total, following return to duty.

XI. EMPLOYEE ASSESSMENT

Any employee who tests positive for the presence of controlled substances or whose breath alcohol concentration is above the 0.04 minimum thresholds set forth in the DOT guidelines will be assessed by an SAP. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited substance abuse or misuse. If an employee is returned to duty following rehabilitation, he/she must agree to and sign a Return-To-Duty Agreement, pass a return-to-duty controlled substance and/or alcohol test and be subject to unannounced follow-up tests for a period of one to five years, as determined by the SAP. **The cost of any rehabilitation and subsequent controlled substance and/or alcohol testing is borne by the employee and is on a one-time basis only. The employee will be immediately terminated on the occurrence of a second verified positive test result.** Employees may use accumulated sick leave, vacation and floating holidays, or leave without pay, if approved by the General Manager to participate in the prescribed rehabilitation program.

XII. TREATMENT/REHABILITATION

The General Manager will determine, on a case-by-case basis, if a rehabilitation program will be offered. Attendance at a rehabilitation program does not preclude disciplinary action. Program costs and subsequent controlled substance and/or alcohol testing costs will be paid by the employee.

When recommended by the SAP, participation and completion of the rehabilitation program is mandatory. Failure of an employee to attend and/or complete a prescribed program will result in termination from employment. Prior to return-to-duty testing, an employee must follow the rehabilitation program recommended by the SAP and agree to and sign a Return-To-Duty Agreement, pass a return-to-duty controlled substance and/or alcohol test and be subject to unannounced follow-up testing. The duration and frequency of follow-up testing shall be determined by the SAP and/or General Manager in accordance with this Policy.

Voluntary Admittance: All employees who feel they have a problem with controlled substances and/or alcohol may request voluntary admission to a rehabilitation program. Requests must be submitted to a Department Head or Supervisor for review. The General Manager will make the final decision concerning requests for voluntary admission to a substance abuse program. **Program costs and subsequent controlled substance and/or alcohol testing costs will be paid by the employee.** An employee completing a rehabilitation program must agree to and sign a Return-To-Duty Agreement, pass a return-to-duty controlled substance and/or alcohol test and be subject to unannounced follow-up testing. The duration and frequency of follow-up testing shall be determined by the SAP and/or General Manager in accordance with this Policy.

Participants in the rehabilitation program may use accumulated sick leave, vacation, floating holidays or other accrued leave, if any.

XIII. CONTACT PERSON

Any questions regarding this policy should contact the following District representative:

Title: General Manager
Address: 1960 La Costa Avenue, Carlsbad, CA 92009
Telephone: (760) 753-0155

APPENDIX A

PROCEDURES FOR COMPLYING WITH FMCSA AND CLEARINGHOUSE REQUIREMENTS AND CONDUCTING SUBSTANCE ABUSE TESTING

A. FMCSA AND ALCOHOL CLEARINGHOUSE REQUIREMENTS (SAFETY-SENSITIVE EMPLOYEES)

1. The FMCSA has created the CDL Drug and Alcohol Clearinghouse for querying and reporting CDL drivers' compliance with 49 C.F.R. § 382, including CDL drivers' drug and alcohol testing violations and other pertinent information.

The District is required to query the database on an annual (or more frequent basis) for each current CDL driver, and as part of the pre-employment screening process for each driver applicant. In addition, the District is required to report driver-specific 49 C.F.R. § 382 drug and alcohol violations and other records to the Clearinghouse. All queries through the Clearinghouse require the driver's consent.

2. A FULL Query of the Clearinghouse will be conducted for each driver applicant before hiring into a CDL position. FMCSA will only share detailed drug and alcohol violation information with a prospective or current employer, and/or their designated Third-Party Administrator (TPA), once the employer or designated TPA has requested and received specific consent from the driver. Drivers will be able to see the information that would be released to an employer before consenting to the release.
3. A driver must register with the Clearinghouse in order to execute the required FMCSA Clearinghouse consent, to provide electronic consent for any required FULL Query by any prospective or current employer, and to access his/her Clearinghouse records. The driver will receive notices and communication from the FMCSA Clearinghouse via US mail to the address on record with the State Driver Licensing Agency that issued the driver's commercial driver's license. However, a driver may provide the Clearinghouse with an alternative means or address for notification, including electronic mail.

The fastest and suggested method for driver's to be quickly informed of records being reported to the Clearinghouse, or consent being requested by a motor carrier for a query, is to register using at least one cell phone number for immediate notification.

Any driver or authorized representative of the driver may submit a petition to the FMCSA contesting the accuracy of information reported in the Clearinghouse, using the procedures specified in 49 C.F.R. § 382.717.

- a. If an applicant refuses consent to conduct inquiries, he/she will not be hired to perform any Safety-Sensitive functions including driving.
- b. If the Full Query result states that the driver is qualified under Part 382, the driver may be hired.
- c. If the query result states that the driver has Part 382 violations and has not completed the return to duty requirements of Part 40, Subpart O, the driver will not be hired.
- d. A FULL Query must also be performed and consented to by the driver, via the Clearinghouse, if a driver is terminated or resigns from his/her employment with the

District and subsequently applies to be a driver for the District.

- e. A LIMITED Query will be performed with the Clearinghouse at least one time per year, as required by law, for each driver who performs Safety-Sensitive functions including driving, and every year annually thereafter at a minimum.
- f. Each driver shall sign a Limited Query Consent Form or provide specific consent directly through the Clearinghouse for the query. The driver's signed consent form will be used for multiple Clearinghouse queries and extends for the tenure of the driver's employment with the District (Attachment B).
- g. If the driver refuses consent for the query, either by refusing to sign the written consent form or by refusing to provide consent through the Clearinghouse, the driver will be removed from all Safety-Sensitive Functions, including driving, and will not be permitted to resume performing Safety-Sensitive Functions until the query has been conducted.
- h. If the query results in notification that a driver's Clearinghouse record contains drug and/or alcohol violations, a FULL query of the driver's Clearinghouse record must be conducted within 24 hours of obtaining the driver's consent.
- i. Drug and alcohol testing information will be reported to the Clearinghouse using driver-specific identification data including the driver's name, CDL license number and State of issuance, and the driver's date of birth. Driver consent is not required for such reporting.
- j. The District will report the information about a driver described below to the Clearinghouse within 3 business days of obtaining the information:
 - An alcohol confirmation test with an alcohol concentration of 0.04 or higher.
 - A refusal to test (alcohol) as specified in 49 C.F.R. § 40.261.
 - A refusal to test (drug) not requiring a determination by the MRO as specified in 49 C.F.R. § 40.191.
 - Actual knowledge, as defined in 49 C.F.R. § 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance.
 - A negative return-to-duty test result (drug and/or alcohol testing, as applicable).
 - Completion of follow-up testing requirements.
- k. The Medical Review Officer will report the following violations to the Clearinghouse within 2 business days of obtaining the information:
 - Verified positive, adulterated, or substituted drug test results.
 - Refusal to test (drug) requiring a determination by the MRO as specified in 49 C.F.R. § 40.191.
- l. Substance Abuse Professionals will report within one business day of obtaining the information:
 - Identification of the driver and the date the initial assessment was initiated.
 - Date of successful completion of treatment and/or education and the determination of eligibility for return-to-duty testing.

B. RANDOM TESTING (SAFETY-SENSITIVE EMPLOYEES)

1. The TPA notifies the Human Resources designee. The designee notifies the appropriate manager/supervisor to send the employee to the testing site for alcohol and/or controlled substance testing.
2. The manager/supervisor notifies the employee to go to the testing site for alcohol and/or controlled substance testing immediately. Because of a testing facility requirement, the employee in question must have proof of identification, such as a photo driver's license or state-issued photo identification card.
3. At the testing site, the employee will be required to submit either: 1) a urine sample in the event that controlled substances are to be tested for, or 2) a breath sample in the event that alcohol is being tested for to the on-duty technician or both. Care will be taken to provide the employee with maximum privacy without compromising the integrity of the sample.
4. The employee whose test results are negative (less than 0.02 alcohol concentration) for alcohol or a controlled substance will return to duty. The employee, whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04, will not be permitted to return to duty for 24 hours after administration of the test. The employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater for alcohol may be referred to a District specified outside SAP who will assess the employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the employee. The same procedures apply, if the controlled substance test is verified positive by the MRO. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination.

C. REASONABLE SUSPICION TESTING

1. An employee who may possibly be under the influence of alcohol and/or controlled substances is observed by a supervisor/manager.

Any employee may identify someone suspected of alcohol and/or controlled substance to any supervisor. Employees should realize, however, that it is against District policy to make false or malicious statements about other employees and doing so can result in disciplinary action being taken against the offending employee. However, the supervisor must witness first-hand the employee's signs and symptoms.

2. The supervisor is then obligated to ensure that the matter is immediately investigated. If possible, two supervisors determine (independently or together) that the employee in question may be under the influence of alcohol and/or controlled substances.
3. When the supervisor(s) suspect and believe that the employee may be under the influence of alcohol and/or controlled substances, the employee is then immediately suspended from duty (with pay) and driven by District staff (or others designated) to the District specified testing site. Because of a testing facility requirement, the employee in question must show proof of identification, such as a photo driver's license or state-issued photo identification card.

Whenever practical, a manager should be notified in advance of the employee being taken to the testing site.

4. At the testing site, the employee will be required to submit a urine sample in the event that controlled substances are suspected or a breath sample in the event that alcohol intoxication is suspected to the on-duty technician. Care will be taken to provide the employee with maximum privacy without compromising the integrity of the sample.
5. The District will take precautions to prevent the employee being tested from going back to work and driving their own car home. Instead, the employee will be given assistance in obtaining a ride home from the testing site.
6. The employee whose test results are negative for alcohol (less than 0.02 alcohol concentration) or a controlled substance will be reinstated. The employee, whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04, will not be permitted to return to duty for 24 hours after administration of the test. The employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater for alcohol may be referred to a District specified SAP who will assess the employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the employee. The same procedures apply, if the controlled substance test is verified positive by the MRO. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination.

D. POST ACCIDENT

1. The employee notifies a supervisor that an accident has occurred.
2. All employees will be required to undergo controlled substance and/or breath alcohol testing if they are involved in an accident with a District vehicle that results in; 1) a fatality, or 2) injuries requiring transportation to a medical treatment facility, or 3) where one or more vehicles incurs disabling damage that requires towing from the site and the employee receives a citation under State or local law for a moving traffic violation arising from the accident. This includes all safety-sensitive employees who are on duty in the vehicles and any other whose performance could have contributed to the accident. The supervisor determines whether the circumstances of the accident warrant a post-accident. Thereafter, the supervisor directs the employee to immediately go to the testing site for alcohol and controlled substance testing. Because of a testing facility requirement, the employee in question must have proof of identification, such as a photo driver's license or state-issued photo identification card.
3. At the testing site, the employee **will be required to submit a urine sample for controlled substances and a breath sample for alcohol** testing to the on-duty technician. Care will be taken to provide the employee with maximum privacy without compromising the integrity of the sample.
4. A manager/supervisor will be notified that an accident has occurred and that the employee was instructed to go to the testing site.
5. The employee whose test results are negative (less than 0.02 alcohol concentration) will be reinstated. The employee, whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04, will not be permitted to return to duty for 24 hours after administration of the test. The employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater for alcohol may be referred to a District specified outside SAP who will assess the employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the

employee. The employee will also be subject to discipline in accordance with the District's HRPM in either case listed above in which the confirmed alcohol concentration is 0.02 but less than 0.04 or greater than 0.04. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination.

6. The employee whose controlled substance test results are verified negative will be reinstated. The employee whose controlled substance test is verified positive by the Medical Review Officer may be referred to a District specified outside SAP who will assess the employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination.

E. RETURN-TO-DUTY and FOLLOW-UP

1. The TPA notifies the District's Human Resources designee to send the employee to the testing site for alcohol and controlled substance testing. The designee notifies the appropriate manager/supervisor to send the employee to the testing site for alcohol and/or controlled substance testing.
2. The supervisor notifies the employee to immediately go to the testing site for alcohol and/or controlled substance testing. Because of a testing facility requirement, the employee in question must have proof of identification, such as a photo driver's license or state-issued photo identification card.
3. At the testing site, the employee will be required to submit a urine sample for controlled substances and a breath sample for alcohol testing to the on-duty technician. Care will be taken to provide the employee with maximum privacy without compromising the integrity of the sample.
4. The employee whose confirmation test results indicate an alcohol concentration greater than 0.02 or whose controlled substance test is verified positive will be terminated.

F. SPECIMEN TESTING OF STRANGE AND/OR UNRECOGNIZABLE SUBSTANCES

1. An employee is observed with a strange and/or unrecognizable substance.
2. The supervisor, in the presence of a witness, places the strange and/or unrecognizable substance into a clear plastic bag. The bag is sealed, labeled and signed by both the supervisor and a witness.
3. An incident report is made and signed by both the supervisor and a witness.
4. The plastic bag containing the specimen and a copy of the incident report is taken to the testing site for transportation to the laboratory for analysis.

G. CHAIN OF CUSTODY FOR CONTROLLED SUBSTANCE SPECIMENS

1. At the time a specimen is collected, the employee will be given a copy of the specimen testing procedures.

2. Urine will be in a wide-mouthed clinic specimen container which will remain in full view of the employee until split, transferred to, sealed and initialed in two tamper-resistant urine bottles.
3. Immediately after the specimens are collected, the urine bottles will, in the presence of the employee, be labeled and then initialed by the employee. If the sample must be collected at the site other than the controlled substance and/or alcohol testing laboratory, the specimens will then be placed in the transportation container. The container will be sealed in the employee's presence and the employee will be asked to initial or sign the container. The container will be sent to the designated testing laboratory on that day or the earliest business day by the fastest available method.
4. A chain of custody form will be completed by the on-duty technician during the specimen testing process and attached to and mailed with the specimen.

H. ALCOHOL CONCENTRATION

1. At the testing facility, the employee and the on-duty BAT will complete the alcohol testing form to ensure that the results are properly recorded.
2. After an explanation of how the breathalyzer works, an initial breath sample is taken.
3. If the results of the initial test show an alcohol concentration of 0.02 or greater a second or confirmation test must be conducted. The confirmation test shall not be conducted not less than 15 minutes after and not or more than 20 minutes after the initial screening test.
4. The confirmation test will utilize Evidential Breath Testing devices that print out the results, date and time, a sequential test number, and the name and serial number of the Evidential Breath Testing device to ensure the reliability of the results.

I. TRAINING REQUIREMENTS

The District shall ensure that all persons designated to supervise drivers receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substances use. The training will be used by the supervisors to determine whether reasonable suspicion exists to require a driver to undergo testing under §382.307. The training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. Recurrent training for supervisory personnel is not required.



When completed please return this form to DATCO by:
Fax: (888) 219-6878; or E-mail: stephanie@datcoservices.com; or
Mail: 2280 Grass Valley Highway, Suite 232, Auburn, CA 95603

For: Leucadia Wastewater District

Pursuant to 49 CFR, Section 40.25(b), I hereby authorize the companies listed below to furnish to Leucadia Wastewater District or it's service agent DATCO Services Corporation the following information, if any, concerning controlled substance and alcohol tests I have been involved in during the last 3 years: (1) the dates on which I had a confirmed positive test for controlled substance(s), and the controlled substance(s) involved; (2) the dates on which I had a confirmed alcohol test result of 0.04 or greater, and the alcohol content recorded; (3) the dates on which I refused to be tested for controlled substances and/or alcohol; and (4) the dates and circumstances of any other Department of Transportation drug and alcohol testing regulation violation I may have had.

Were there any situations in which you tested positive on a pre-employment test for a DOT employer that did not hire you? () yes or () no

Were there any situations in which you refused to submit (including positives by adulteration or substitution) to a pre-employment test for a DOT employer that did not hire you? () yes or () no

Applicant Name: Social:

Signed: Date:

PREVIOUS Employer: Contact:

Address:

Phone: () - Fax: () -

TO BE COMPLETED BY PREVIOUS EMPLOYER and transmitted to the NEW EMPLOYER (see instructions above):
If this employee was NOT subject to DOT testing regulations while employed by your company, please check here [], sign and date below, and return this form. If this employee was subject to DOT testing regulations, please supply employment dates - from until and answer the questions below:

- 1. Has this individual been in a Department of Transportation random testing program within 30 days of the date on this release? YES NO
The date of the last random test for drugs was and for alcohol was
2. Has this individual had a controlled substance (drug) test with confirmed positive results OR an alcohol test with results .04 or greater in the past 3 years? YES NO
3. Has this individual refused a controlled substance test (including verified adulterated or substituted drug test results) or alcohol test within the past 3 years? YES NO
4. Has this individual violated any other provisions of the Department of Transportation drug and alcohol testing regulations? YES NO
5. Did a previous Consortium report a drug and alcohol rules violation to you? YES NO
(If yes, please provide the previous Consortium's report.)

IF YES to questions 2, 3, or 4 above, you must also transmit the appropriate return-to-duty documentation (e.g., SAP report(s), follow-up testing record).


Company Official Providing Information

Phone

Date: Signed:

Failure to furnish information as required by 49 CFR, Sections 40.25(h) and 382.301 is a violation of Department of Transportation regulations and Federal law and may result in a fine and/or civil liability.

MEMORANDUM

DATE: November 23, 2021
TO: Human Resources Committee
FROM: Paul J. Bushee, General Manager 
SUBJECT: **Review Board Performance Evaluation Survey**

RECOMMENDED:

Staff recommends that the Human Resources Committee (HRC):

1. Review and provide direction on the Board Performance Evaluation Survey.

DISCUSSION:

At the October Board Meeting, the Board of Directors reviewed and discussed a sample Board performance evaluation survey submitted by Mr. Jeff Bills. Following discussion, the Board referred this matter to the HRC for further review and directed staff to revise and shorten the survey.

Attached please find the revised draft survey for the HRC's review. The revised survey includes two sections: 1) an individual evaluation form for Board members to evaluate themselves; and 2) a full Board evaluation form for Board members to evaluate the Board as a whole. The survey has been shortened to a total of 15 questions. A copy of the full evaluation form that was reviewed at the October Board meeting has also been attached for comparison purposes.

Staff is requesting that the HRC review the draft Board evaluation survey and provide comments and direction as appropriate.

tb:PJB

Attachments

Individual Self Evaluation Form

Individual Self Evaluation Form

This form is used for each Board member to evaluate themselves personally

	Always	Most of the Time	Sometimes	Never
1 Do you read all Board materials and prepare before Board meetings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2 Do you engage with others and contribute to discussion frequently?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Do you demonstrate the ability to think long term?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4 Can you engage with others in discussing differences without conflict?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5 Do all your comments and decisions reflect mission conformance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6 Do you vote against motions for personal reasons?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7 Do you trust management and do so without getting over-involved?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Additional Comments:

Full Board Evaluation Form

Full Board Evaluation Form

This form is used for each Board member to evaluate the Board as a whole

	Always	Most of the Time	Sometimes	Never
1 Does the Board show a disposition that promotes teamwork?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2 Is the full Board prepared to make critical decisions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Do all Board members contribute in meaningful ways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4 Can the Board resolve conflict without lingering affects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5 Are Board decisions reflective of long term thought and value?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6 Does the Board communicate effectively among itself?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7 Do all Board decisions reflect a commitment to mission?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8 Do our decisions show trust in management?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Additional Comments:

**Board Performance
Evaluation Survey**
(Presented at the October Board Meeting)

CONFIDENCECONSULTING

Individual Board Member Self-Evaluation Form (This form is used for each Board member to evaluate themselves personally.)

Board Area	Outstanding	Average	Below Average	Key Question
Display of Integrity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are you honest in your statements and displays of credibility?
Disposition	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you think like a Board member and avoid operational details?
Attendance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you attend all Board meetings and are excused only in emergencies?
Preparation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you read all Board materials and prepare before Board meetings?
Contribution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you engage with others and contribute to discussion frequently?
Critical Thinking	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Can you demonstrate a focus on outcomes as opposed to detail?
Conflict Resolution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you focus on resolution of differences and not personal thought?
Strategic Thinking	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you demonstrate the ability to think long term?

Individual Board Member Self-Evaluation Form Page Two

Board Area	Outstanding	Average	Below Average	Key Question
Discipline	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do your comments show restraint and patience?
Engagement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you contribute to positive outcomes in an energetic way?
Communication Skills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you demonstrate active listening and communication skills?
Interpersonal Skills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Can you engage with others in discussing differences without conflict?
Flexibility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Can you listen and accept differing points of view?
Mission Conformance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do all your comments and decisions reflect mission conformance?
Value Adherence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are your decisions and votes consistent with what is ethically right?
Board Culture	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you contribute to a positive Board culture?

Individual Board Member Self-Evaluation Form Page Three

Board Area	Outstanding	Average	Below Average	Key Question
Voting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you vote against motions because of who makes the motion?
Decision Making	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you delay decisions intentionally for personal reasons?
Decision Making	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you procrastinate decisions because you are unsure?
Decision Making	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you vote against motions for personal reasons?
Decision Making	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Have you changed your mind because of another Board Members opinion?
Trust	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you trust management and do so without getting over-involved?
Role	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do I show Governance understanding by being "eyes in and hands out?"

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Board Self-Evaluation Form (This form is used for each Board member to annually evaluate the Board as a whole. Results are tabulated and reviewed.)

Board Area	Outstanding	Average	Below Average	Key Question
Display of Integrity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is the Board consistent in making ethical and honest decisions?
Disposition	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Does the Board show a disposition that promotes teamwork?
Attendance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do all Board meetings reflect a full quorum of interest?
Preparation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is the full Board prepared to make critical decisions?
Contribution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do all Board members contribute in meaningful ways?
Critical Thinking	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Does the full Board discuss and make decisions or just rubber stamp?
Conflict Resolution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Can the Board resolve conflict without lingering affects?
Strategic Thinking	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are Board decisions reflective of long term thought and value?

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Board Self-Evaluation Form Page Two

Board Area	Outstanding	Average	Below Average	Key Question
Discipline	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are Board meetings organized and conducted with purpose?
Engagement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is the full Board engaged or are some members non-participating?
Communication Skills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Does the Board communicate effectively among itself?
Interpersonal Skills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do all Board members find ways to work effectively together?
Flexibility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Can the Board adjust and compromise in changing situations?
Mission Conformance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do all Board decisions reflect a commitment to mission?
Value Adherence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Does the Board tolerate deviations from core values?
Board Culture	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is the Board culture one that is positive, rewarding and of pride?

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Board Self-Evaluation Form Page Three

Board Area	Outstanding	Average	Below Average	Key Question
Role and Accountability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do our decisions show trust in management?
Decision Making	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do we make timely decisions or delay out of fear or procrastination?
Fear of Failure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do we avoid taking action because we are uncertain of our decisions?
Delegation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do we avoid making decisions due to lack of trust in management?
Role and Accountability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Have our decisions turned out right?
Role and Accountability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do we show good Governance by demonstrating "eyes in and hands out?"
Trust	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Does our Community trust us as a Board?"
Awareness	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do any Board Members dominate the agenda or conversation?