

**CITY OF SPRINGDALE**  
**Committee Agendas**  
**Monday, December 3<sup>rd</sup>, 2012**  
**Multi-Purpose Room #236**  
**City Administration Building**  
**Meetings begin at 5:30 p.m.**

**Finance Committee:**

1. **A Resolution** authorizing the extension of a lease agreement with the Arkansas Department of Correction, presented by Wyman Morgan, Director of Administration & Financial Services. Pg's 2-9

**Personnel Committee:**

2. **A Resolution** amending certain sections of the City of Springdale Personnel and Procedures Manual, presented by Loyd Price, Director of Human Resources. Pg's 10-42

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE EXECUTION  
OF A LEASE AGREEMENT WITH THE  
ARKANSAS DEPARTMENT OF CORRECTION**

**WHEREAS**, the Arkansas Military Department has transferred the ownership of the armory located at 600 W. Sunset Avenue to the City of Springdale, and

**WHEREAS**, the Arkansas Department of Correction desires to expand the work release center in Springdale by leasing the armory located in Springdale, and

**WHEREAS**, the expansion of this program would provide needed labor for local industries, and

**WHEREAS**, the Arkansas Department of Correction plans to spend up to \$1,000,000 on renovating the armory, and

**WHEREAS**, the Arkansas Department of Correction will assign nine (9) inmates to the City of Springdale for cleaning and maintenance of City property;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS**, that the Mayor is hereby authorized to execute the attached lease of the armory located at 600 W. Sunset to the Arkansas Department of Correction for 25 years.

**PASSED AND APPROVED** this 11th day of December, 2012.

\_\_\_\_\_  
Doug Sprouse, Mayor

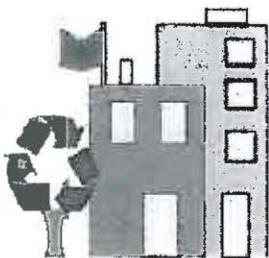
ATTEST:

\_\_\_\_\_  
Denise Pearce, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Jeff C. Harper, City Attorney

**Arkansas  
Building  
Authority**



MIKE BEEBE, GOVERNOR • ANNE W. LAIDLAW, DIRECTOR

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**Date:** Wednesday, November 14, 2012

**To:** City of Springdale  
c/o Mr. Wyman Morgan  
201 Spring Street  
Springdale, AR 72764

**From:** Melinda Miller, Real Estate Analyst  
Phone (501) 682-5566 Fax (501) 682-5589  
email:MMiller@aba.state.ar.us

- 
- Please review, sign and date and return to ABA for finalization.
  - Your file copy attached.
  - Lessor and Lessee file copy attached.  
Please distribute.
  - For your information. Please respond accordingly.
- 

**Remarks:** Lease Agreement # 72-480-P2862  
600 W. Sunset Ave.  
Springdale/Washington County

In an effort to save resources, ABA only sends one original Lease for signature. Once the Lease is fully executed, I will scan your copy to you. My email is provided for your convenience. Please call me if you have any questions.

Thank you.

*Melinda Miller*

**NOTICE of ARKANSAS FINANCIAL TRANSPARENCY ACT:** As of July 1, 2012, records reflecting lease agreements administered through Arkansas Building Authority with entities of the State of Arkansas will be disclosed to the general public pursuant to Act 303 of 2011 at [www.transparency.arkansas.gov](http://www.transparency.arkansas.gov).

**AN EQUAL OPPORTUNITY EMPLOYER • [www.aba.arkansas.gov](http://www.aba.arkansas.gov) • REAL ESTATE SERVICES SECTION  
501 WOODLANE • SUITE 101N • LITTLE ROCK, AR • 501-682-1833 • FAX 501-682-5589 • TDD 501-682-1487**

## STATE OF ARKANSAS LEASE AGREEMENT

This Lease is made this 17<sup>th</sup> day of October, 2012, by which Lessor leases the PREMISES to Lessee through ABA, Lessee's Leasing Agent.

For the purposes of this Lease Agreement the following definitions apply:

"LESSOR" means: CITY OF SPRINGDALE, ARKANSAS, 201 Spring Street, Springdale, Arkansas 72764.

"LESSEE" means: ARKANSAS DEPARTMENT OF CORRECTION, NORTHWEST ARKANSAS WORK RELEASE CENTER, 2403 E. Harding, Pine Bluff, Arkansas 71601, an agency of the State of Arkansas.

"ABA" means the Real Estate Services Section of Arkansas Building Authority. By law ABA is the leasing agency for LESSEE. Arkansas Code Annotated §22-2-114. ABA is not an additional LESSEE and therefore shall not owe any rent.

"PREMISES" means the property which is the subject of this Lease which is further described in paragraph #1.

### 1. DESCRIPTION OF PREMISES:

Approximately 1.58 acres including two buildings: one building of 8,000 rentable square feet of to be used as inmate living quarters and another building of 1,800 rentable square feet to be used as a visitor center for a total of 9,800 square feet located at 600 W. Sunset Avenue; all in the City of Springdale, County of Washington, Arkansas.

### 2. TERM:

The initial term will begin on January 1, 2013 and end on December 31, 2037. The LESSEE may elect to extend the term not more than ninety (90) days upon the same terms by written notice to LESSOR, not less than thirty (30) days before the end of the initial term.

### 3. RENT:

The LESSOR and LESSEE agree that in lieu of rent, a public advantage of services shall be made available by the LESSEE to the LESSOR (*See Special Provision 10(g)*). The LESSEE agrees to pay one dollar (\$1.00) per calendar year on or before the tenth (10) day of each such period, upon invoice from the LESSOR, to be paid to LESSOR at: 201 Spring Street, Springdale, Arkansas 72764.

**4. UTILITIES AND SERVICES:**

The LESSOR will furnish the following utilities and services:

No - Electric	No - Elevator Service
No - Gas	Yes - Trash Removal
No - Water and Sewer	No - Janitorial Services and Supplies
No - Lamps, tubes, ballast and replacements	

**5. MAINTENANCE, REPAIR AND REPLACEMENT:**

The LESSEE shall maintain the leased PREMISES, including the building and all equipment, fixtures, and appurtenances furnished by the LESSOR under this Lease, in good repair and tenantable condition, except in case of damages arising from the acts of the LESSOR'S agents or employees. For the purpose of so maintaining said PREMISES and property, the LESSOR may at reasonable times, and with the approval of the authorized LESSEE representative in charge, enter and inspect the same and make any necessary repairs hereto. The LESSEE shall be responsible for maintaining all structural supports and exterior walls of the building, including windows, doors, and passageways from the lobby, street and parking areas leading to the leased property, and the adjacent sidewalks and entrance lobby, in good order and repair, and free of snow, ice, rubbish and other obstructions. LESSEE shall provide lawn and plant maintenance and shall provide monthly pest control service. LESSEE shall maintain in good working order and repair all plumbing, toilet facilities and other fixtures and equipment installed for the general supply of hot and cold water, heat, air-conditioning (including monthly maintenance and filters).

**6. FAILURE TO PERFORM:**

The covenant to pay rent and the covenant to provide any service, utility, maintenance, or repair required under this Lease are dependent. If the LESSOR shall breach any of the conditions required to be performed by it under this Lease, LESSEE may cure such breach and deduct the cost thereof from rent subsequently becoming due hereunder. If LESSOR fails to correct a deficiency within thirty (30) days after written notice from ABA and LESSEE, or within an appropriate shorter period stated in the notice, in the event of a deficiency constituting a hazard to the health and safety of the LESSEE'S employees, property, or any other person, ABA and LESSEE may elect to terminate this Lease.

Nothing shall prohibit the LESSEE from extending the time periods stated above if LESSEE determines that it is in its best interest to do so and LESSEE determines that the LESSOR is diligently seeking to cure such failure or breach and the deficiency can be corrected within the extended time period in a manner that will ensure throughout the time period as well as upon completion, the safety of the LESSEE'S employees, property and other persons.

**7. DAMAGE BY FIRE OR OTHER CASUALTY:**

LESSOR shall bear the risk of loss by fire or other casualty and shall maintain fire and extended coverage insurance to the full replacement value of the PREMISES. If the PREMISES are destroyed by fire or other casualty, this Lease will immediately terminate. In case of partial destruction or damage, so

as to render the PREMISES unsuitable for the purposes for which they are leased, as determined by LESSEE and ABA, the LESSEE, may terminate the Lease by giving written notice to the LESSOR through ABA, within fifteen (15) calendar days thereafter; if so terminated, no rent will accrue to the LESSOR after such partial destruction or damage; and if not so terminated, the rent will be reduced proportionately by supplemental agreement hereto effective from the date of such partial destruction or damage.

Nothing shall prohibit the LESSEE from extending the time periods stated above if LESSEE determines that it is in its best interest to do so and determines in addition that the LESSOR is diligently seeking to cure the partial destruction or damage and the partial destruction or damage can be corrected within the extended time period in a manner that will ensure throughout the time period as well as upon completion, the safety of the LESSEE'S employees, property and other persons.

#### 8. ALTERATIONS:

The LESSEE may attach fixtures and install signs in or to the PREMISES with LESSOR'S approval, which shall not be unreasonably withheld. Such fixtures and signs shall remain the property of LESSEE and may be removed from the PREMISES within a reasonable time after the termination of this Lease provided the LESSEE shall restore the PREMISES to a condition as good as at the beginning of this Lease, ordinary wear and tear excepted.

ABA, acting as agent for LESSEE, may during the course of this Lease negotiate with LESSOR for other improvements to be made in the PREMISES. No additional cost or fee for services or work will be charged by LESSOR without the prior written authorization of ABA.

#### 9. TERMINATION:

In addition to other remedies provided herein, the LESSEE may terminate this Lease by thirty (30) days written notice to LESSOR by ABA if the LESSEE'S funds are insufficient for it to continue the operations for which the PREMISES are being used.

#### 10. SPECIAL PROVISIONS:

The parties agree that the terms and conditions of this Lease shall be read together and harmonized whenever possible; however in the event of a conflict between Section 10 or Section 11 and any other provisions elsewhere in this Lease Agreement, the provisions contained in Sections 1-10 (Special Provisions (a) through (e)) and Section 11 (Miscellaneous (a) through (e)) shall prevail.

- (a) LESSEE shall be responsible that this facility conforms to the Arkansas Fire Prevention Code, as amended, Arkansas State Plumbing Code, The National Electrical Code, and any other state and local laws, codes, authorities, etc., applicable to the leased facility including the Arkansas adopted Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG).
- (b) Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of terms of this contract. Any LESSOR, whether an individual or entity, who fails to make the required

disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the LESSEE.

(1) The LESSOR shall prior to assigning this Lease with any person or entity, for which the total consideration is greater than \$25,000.00 requires the assignee to complete a Contract and Grant Disclosure and Certification Form. The LESSOR shall ensure that any contract agreement, current or future between the LESSOR and an assignee for which the total consideration is greater than \$25,000.00 shall contain the following:

*Failure to make any disclosure required by Governor Executive Order 98-04, or any violation of any rule, regulation or adopted pursuant to that Order, shall be a material breach of the term of this Sublease. The party who fails to make the required disclosure or who violates the rule, regulation, or policy shall be subject to all legal remedies available to the LESSEE.*

(2) The LESSOR shall transmit to the agency a copy of the Contract and Grant Disclosure and Certification Form completed and signed by the assignee and a statement containing the dollar amount of the Sublease. The LESSOR shall transmit to ABA a copy of the disclosure form within ten (10) days of entering into any agreement with assignee.

(3) The terms and conditions regarding the failure to disclose and conditions which constitutes material breach of contract and rights of termination and remedies under the Executive Order 98-04 are hereby incorporated within.

- (c) The LESSOR hereby acknowledges that there was no agent acting on their behalf for these lease negotiations.
- (d) The State shall not be responsible for the payment of any taxes or assessments for the PREMISES.
- (e) Lessor asserts that it is the true owner of the PREMISES and the LESSOR'S rights to the PREMISES are not pursuant to a lease or sublease.
- (f) The LESSOR, LESSEE and ABA agree that should the Lease expire prior to the execution of any proposed Amendment Agreement, the parties agree that the Lease is hereby reinstated and ratified upon the Amendment Agreement being fully executed by the parties. The provisions, terms, and conditions of any subsequent Amendment Agreement shall govern in the event of conflict or inconsistencies, or both. This paragraph should not be construed between the parties as an agreement that the Lease will be extended for additional terms, but rather as an option between the parties to enter into the future negotiations for additional terms should they so desire.
- (g) The public advantage nature of this Lease as referred to in Paragraph 3. RENT shall mean the following responsibilities between the LESSOR and LESSEE:
  - i. LESSOR shall be responsible for:
    - 1) Providing property insurance of the PREMISES;
    - 2) Payment of all taxes and assessments of the PREMISE;
    - 3) Providing routine maintenance of LESSEE's vehicles;
    - 4) Provide for the paving of the front parking lot of the PREMISES; and
    - 5) Provide laundry equipment to the LESSEE.

- ii. LESSEE shall be responsible for:
  - 1) Providing renovations to the PREMISES up to \$1,000,000.00 amount for the lease term (or annual);
  - 2) Provide maintenance of the building and grounds;
  - 3) Provide up to three (3) meals a day to the LESSOR's inmates which shall not exceed thirty (30) inmates per day;
  - 4) Provide to the LESSOR for the assignment of nine (9) inmates under LESSEE's care to assist in LESSOR's cleaning/maintaining of LESSOR's property;
  - 5) Provide payment of all utilities;
  - 6) Provide transportation/medical care for LESSEE's inmates; and
  - 7) Provide for building security within the PREMISES.

11. MISCELLANEOUS:

- (a) The Lease and any modifications or amendments to it will not be valid without the written approval of ABA.
- (b) This Lease shall benefit and bind the parties hereto and their heirs, personal representatives, successors and assigns.
- (c) The LESSEE may terminate this Lease by written notice from ABA to LESSOR upon the taking by eminent domain of any part of the PREMISES. This provision does not prevent the LESSEE from claiming or recovering from the condemning authority the value of LESSEE'S leasehold interests.
- (d) Nothing in this Lease shall be construed to waive the sovereign immunity of the STATE OF ARKANSAS or any entities thereof.
- (e) This Lease contains the entire agreement of the parties.

(continued on next page)

Executed by the parties who individually represent that each has the authority to enter into this Lease.

LESSOR:

LESSEE:

CITY OF SPRINGDALE

ARKANSAS DEPARTMENT OF  
CORRECTION - NORTHWEST ARKANSAS  
WORK RELEASE CENTER

By: \_\_\_\_\_  
Doug Sprouse, Mayor

By: \_\_\_\_\_  
Ray Hobbs, Director

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

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

ARKANSAS BUILDING AUTHORITY  
As Agent for Arkansas Department  
of Correction

By: \_\_\_\_\_  
Chris Thomas, Administrator  
of Real Estate Services

By: \_\_\_\_\_  
Anne W. Laidlaw, Director

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

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

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AMENDING CERTAIN  
SECTIONS OF THE CITY OF SPRINGDALE  
PERSONNEL AND PROCEDURES MANUAL**

**WHEREAS**, the City Council for the City of Springdale, Arkansas, finds that following policies; (3.12 (Drug and Alcohol Testing), 6.4 (Drivers License), 6.5 (On-the-Job Injury or Illness) and 6.6 (Safety and Accident Prevention and Appendix "C")) in the Personnel and Procedures Manual of the City of Springdale, Arkansas are in need of revision.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPINGDALE**, that policies 3.12, 6.4, 6.5, 6.6 and Appendix "C" of the City's Personnel and Procedures Manual are amended as set out Exhibit "A", which is attached hereto and made a part hereof.

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Doug Sprouse, Mayor

**ATTEST:**

\_\_\_\_\_  
Denise Pearce, CITY CLERK

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jeff C. Harper, CITY ATTORNEY

### 3.12 Drug and Alcohol Testing Policy

Employees who are required to have a Commercial Driver's License (CDL) are covered under the policy in Appendix A attached to this Personnel & Procedures Manual. Employees who are Sworn Police Officers, Sworn Firefighters, 911 Radio Dispatchers, Jailers, Evidence Technician, City Attorney Investigator and Court Probation Officer are covered under the policy in Appendix B attached to this Personnel & Procedures Manual. Employees in positions that could affect the safety of the employees, the safety of other employees and the public, or place them at risk are covered under the policy in Appendix C attached to this Personnel & Procedures Manual. All other city employees are covered by the following policy:

~~Does not apply to employees required to have a commercial driver's license, governed by Appendix A, which is incorporated herein; nor does it apply to civil service employees, 911 dispatchers or the evidence technician within the Police Department, governed by Appendix B, which is incorporated herein; nor does it apply to those positions within the Springdale Street Department, governed by Appendix C, which is incorporated herein):~~

#### 6.4 Driver's Licenses:

Any employee whose work requires that he/she drive City vehicles must hold a valid Arkansas driver's license,. If an employee moves his/her residence from another state to Arkansas they must obtain ~~unless the employee holds a valid driver's license from another state and obtains~~ an Arkansas driver's license within the time required by law and submit proof to their department head.

All new employees who will be assigned work entailing the operating of a City vehicle will be required to submit to a Department of Motor Vehicle's driving records check as a condition of employment. A report indicating a suspended or revoked license status may be cause to deny or terminate employment.

Any employee performing work which requires the operation of a City vehicle shall notify his/her immediate supervisor in those cases where his/her license is expired, suspended or revoked. If an employee fails to report such an instance, he/she is subject to disciplinary action, including termination. An employee who fails to immediately report such revocation or suspension to his/her supervisor and continues to operate a City vehicle shall be subject to termination.

## 6.5 On-the-Job Injury or Illness:

The City shall provide for the treatment and care of on-the-job injuries and illnesses as provided by Arkansas law. Any incident involving a City employee shall be reported to that employee's supervisor immediately. ~~The supervisor shall ensure that the employee has transportation to receive minor medical care and if it is an emergency, an ambulance shall be called immediately. When possible~~ If the injury/illness requires immediate attention it is an emergency, 911 should be called so an ambulance can be dispatched and the employee should be taken to the emergency room. ~~of Northwest Medical Center. The emergency room at Northwest Medical Center is open 24 hours a day, 7 days a week, including holidays.~~

The Human Resources Department will post on the City's website and notify department heads of preferred hospital emergency rooms and non-emergency workers compensation clinics. The normal non-emergency clinic hours are from Monday through Friday from 7:30 a.m. to 5:30 p.m. If it is not an emergency and the injury/illness occurs during normal clinic hours, the Human Resources Department should be contacted so an appointment can be made with a clinic for medical attention. (If it is a non-emergency and the injury occurs after normal clinic hours an appointment can be set up for the next clinic business day.

Employees should be taken for medical attention as soon as possible. The employee will receive initial treatment and will be advised by the attending physician as to the need for further treatment and when to report back to work. ~~Follow-up treatment may be referred to the employee's private physician.~~

The employee shall complete ~~the~~ workers compensation ~~injuries form~~ paperwork within two (2) days of the incident which caused the injury/illness. ~~in which the employee received injury.~~ The supervisor should provide additional information as needed. All forms should be submitted to the ~~Mayer's office~~ Human Resources Department within three (3) days of the incident.

Additional reporting information should be recorded as described in the policy on workers compensation.

## 6.6 Safety and Accident Prevention:

The City recognizes the need for the development of safe working practices for every employee and desires to promote on-the-job safety by encouraging the proper design and use of buildings, equipment, tools and other devices.

Administration of the safety program should be the job of the supervisor. They should be constantly on the alert to observe and report unsafe working practices

or existing hazardous working conditions with the aim of immediate correction. Each department head or supervisor shall make sure that the employee under his/her supervision is well acquainted with existing safety rules and shall see that the rules are uniformly enforced. Safety education of all employees shall be promoted by supervisors adhering to all safety rules.

It is the responsibility of all employees to cooperate in making the safety program work. Employees shall:

1. Be informed of and observe established safety practices.
2. Notify supervisors of any unsafe conditions they discover.
3. Use personal protective equipment such as steel toed shoes, safety vests, safety glasses, and hard hats where required.
4. Not remove guards or other protective devices from machinery and equipment.
5. Not engage in horseplay.
6. Attend any required training or orientation to increase safety awareness.
7. Report all job-related injuries or illnesses to their supervisors promptly.
8. Assist supervisors in their investigation of any accident of which they have knowledge; accident investigation is fact finding, not fault finding.
9. Refrain from smoking in "no smoking" areas.
10. Refrain from operating, modifying, adjusting or using equipment in an unauthorized manner.
11. If an employee is taking prescription medication prescribed by a physician which might impair their ability to drive a vehicle or perform their job duties, the employee must notify their supervisor immediately so appropriate arrangements can be made.

If an employee desires to make a safety complaint or suggestion, the employee should do so in writing to the department head, who should review such complaint/suggestion, and notify the Human Resources Department Mayor's office thereof.

If emergency medical care is requested by a citizen or person visiting a City facility, the Springdale Fire Department should be called to respond. All incidents should be reported through a report and filed with the department head who shall provide a copy to the Mayor's office.

## APPENDIX C

### THE CITY OF SPRINGDALE POLICY FOR DRUG AND ALCOHOL TESTING CERTAIN EMPLOYEES IN THE ~~SPRINGDALE STREET DEPARTMENT~~ OF THE CITY OF SPRINGDALE IN POSITIONS THAT COULD AFFECT THE SAFETY OF OTHER EMPLOYEES AND THE PUBLIC, OR PLACE THEM AT RISK

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#### DISCUSSION

Drug and alcohol abuse is a subject of immediate concern in our society. These problems are extremely complex and ones for which there are no easy solutions. The Federal Motor Carrier Safety Regulations, specifically Title 49, Code of Federal Regulations, Part 382, requires the City of Springdale to establish rules and regulations for controlled substances and alcohol use and testing for all job positions which require a commercial driver's license. Pursuant to this Federal law, employees of the City of Springdale at the ~~Springdale Street Department~~ who are required to have a commercial driver's license are subject to the policy. However, there are many other jobs within the City of Springdale Street Department which, although they do not require a commercial drivers license to perform, are just as dangerous, if not more dangerous, than those jobs that require a commercial driver's license. An employee using drugs or alcohol that performs one of these jobs would constitute a danger to the employee, co-workers, and the general public. Persons hired into the City of Springdale Street Department in the positions that have been determined as dangerous by the Human Resources Department will receive a copy of their job description that includes a notation that this job has been declared as a position that is subject to this policy. ~~of Maintenance Worker I, Maintenance Worker II, or Maintenance Worker III, as well as their Supervisors, including the Street Department Superintendent, will be trained on at least one of the following pieces of equipment and may at any time be required to operate one or more of the following pieces of equipment:~~

- ~~a. Pothole patcher;~~
- ~~b. Backhoe;~~
- ~~c. Dump truck (a smaller dump truck than one requiring a commercial drivers license);~~
- ~~d. Iron wheel roller;~~
- ~~e. Rubber tire roller;~~
- ~~f. Loader;~~
- ~~g. Tractor;~~
- ~~h. Grader;~~
- ~~i. Laydown machine;~~
- ~~j. Mesquite sprayer;~~

- k. Bucket truck;
- l. Leebra;
- m. Bob cat;
- n. Sweeper;
- o. Crack filler machine;
- p. Mowers;
- r. Brush hog;
- s. Street striper.

All of this heavy equipment is usually operated in the street or the street right-of-way, in close proximity to the general public and other workers who are often times on foot. The equipment is often operated near to utility and power lines. In addition to the above mentioned equipment, employees in the positions previously mentioned in the Street Department will also be trained and required to operate at least one of the following pieces of equipment:

- aa. Chipper;
- bb. Chain saw;
- cc. Weedeater;
- dd. Sand blaster;
- ee. Jack hammer;
- ff. Cement mixer;
- gg. Mobile air compressor;
- hh. Generators;
- ii. Concrete vibrator;
- jj. Air driven tools;
- kk. Cutting torch;
- ll. Chop saw;
- mm. Power miter saw;
- nn. Table saw;
- oo. Circular saw;
- pp. Drill press;
- qq. Hand grinder;
- rr. Bench grinder.

Much of this equipment may be required to be operated on the street or in the street right-of-way. This type of equipment is also usually operated near co-workers, often times co-workers who are on foot.

Employees operating any of the equipment listed in both categories above, The Human Resources Department will review all job descriptions to identify those employees that, if they were impaired by drugs or alcohol, would endanger themselves, fellow workers, and/or the general public. There is nothing to indicate at this time that employees in the above named positions within the Street Department of the City are abusing drugs or alcohol. Unfortunately, the potential for catastrophe created by any one employee drug user or employee

influenced by alcohol in ~~any one of the positions named~~ herein mandates that this policy be implemented.

## THE EFFECTS OF ALCOHOL AND DRUGS ON HEALTH, WORK AND PERSONAL LIFE

The hazard of misuse of alcohol and illegal drugs extends far beyond the individual user. Impaired employees endanger themselves, fellow workers, and other users of our highways. Employees with drugs or alcohol in their systems are less productive and more likely to injure themselves or other persons in an accident. Alcohol and drug abusing employees increase the costs related to lost productivity, absenteeism, accidents, loss of trained personnel, theft, and treatment and deterrence programs. Also, medical costs are higher and are passed on to the employer in the form of higher health insurance rates. Alcohol and drug abuse costs both the employer and the employee. Alcohol remains the number one abused drug in this country. Alcohol consumption causes a number of changes in behavior. Even low doses can impair the judgment and coordination required for driving. Low to moderate doses increase the chances of a variety of aggressive acts. Moderate to high doses cause marked impairments in higher mental functions, severely altering a person's ability to learn and remember information. Very high doses cause respiratory depression and death. If combined with other depressant drugs, much lower doses of alcohol will produce the effects just described. Long-term consumption of large quantities of alcohol can lead to permanent damage to vital organs such as the brain and the liver.

## SCOPE OF POLICY

This policy only applies to the positions of ~~Maintenance Worker I, Maintenance Worker II, Maintenance Worker III, and their Supervisors, including the Street Department Superintendent~~ *identified by the Human Resources Department as a potential danger*. However, this policy does not apply to employees holding any of these positions who are already governed by the policy set out in Appendix A (those employees required to have a commercial drivers license to perform their job).

## DEFINITIONS

A. **Employee** -- Those employees *identified by the Human Resources Department as a potential danger and the identification is so noted on their job description*, ~~who hold the positions of Maintenance Worker I, Maintenance Worker II, or Maintenance Worker III in the Springdale Street Department, except those employees already covered by the policy set out in Appendix A. All employees holding these positions operate at least some type of dangerous equipment previously listed herein as part of their job.~~

B. **Supervisor** -- Those employees who supervise employees who are in positions identified by the Human Resources Department as a potential danger, of Maintenance Worker I, Maintenance Worker II, or Maintenance Worker III, and who are not governed by the policy set out in Appendix A. Such employees, besides being supervisors, may also be required to perform the duties of an employee subject to this policy. ~~operate any of the equipment previously mentioned herein.~~

C. **Drug Test** -- The compulsory production and submission of urine by an employee or supervisor in accordance with procedures set out herein, for chemical analysis to detect prohibited drug usage.

### PROHIBITED CONDUCT

An employee or supervisor shall not report for duty or remain on duty:

- \* while using alcohol;
- \* while having a blood alcohol concentration of 0.04% or greater and shall not operate any of the City equipment ~~listed herein~~ until having a blood alcohol concentration of less than 0.02%;
- \* while possessing alcohol. This includes the possession of medicines containing alcohol (prescription or over the counter);
- \* within four hours after using alcohol;
- \* when using any controlled substance, except when instructed by a physician who has advised the employee or supervisor that the substance does not adversely affect the employee's ability to safely operate any of the equipment; ~~previously listed herein.~~
- \* if tested positive for controlled substances.

An employee or supervisor shall not:

- \* refuse to submit to an alcohol test required by this policy, or a controlled substance test which is required by post-accident, random, reasonable suspicion or follow-up testing requirements.

No supervisor shall permit an employee to operate or continue to operate any of the equipment ~~previously listed herein~~ when the supervisor has actual knowledge that such an employee:

- \* is using alcohol;

- \* has an blood alcohol concentration of 0.04% or greater;
- \* has used alcohol within four hours;
- \* possesses alcohol; this includes the possession of medicines containing alcohol (prescription or over-the-counter);
- \* has tested positive for controlled substances;
- \* is using any controlled substance, except when the employee has been instructed by a physician that the substance does not adversely affect the employee's ability to safely operate any vehicles or equipment;
- \* has refused to submit to an alcohol or controlled substance test.

#### **WHEN AN EMPLOYEE MUST BE TESTED FOR CONTROLLED SUBSTANCES**

An employee or supervisor covered by this policy must be tested for the controlled substances contained in this policy under the following circumstances:

- \*Pre-employment
- \* Random
- \* Reasonable suspicion
- \* Post-accident
- \* Return to duty
- \* Follow-up

#### **TESTING PROCEDURES:**

##### **Drug Tests**

The testing program required by this policy is limited to five ten drug types, named as follows:

- Amphetamines
- Barbiturates
- Benzodiazepines
- Cocaine metabolite
- Opiates:  
Codeine

Morphine  
Hydrocodone  
Hydromorphone  
Oxycodone

- Phencyclidine
- Marijuana metabolite
- Methadone
- Methaqualone
- Propoxyphene

Marijuana  
Cocaine  
Opiates  
Amphetamines  
Phencyclidine (PCP).

All drug testing must be done from urine specimens collected under highly controlled conditions. Specimen collection procedures require:

- a designated collecting site;
- security for the collection site;
- chain of custody documentation;
- use of authorized personnel;
- privacy during collection;
- integrity and identity of the specimen;
- transportation to the laboratory.

After the urine specimen has been collected and forwarded to the laboratory, two tests are performed.

\* Initial test: this is an immunoassay screening test to determine drug usage for the ten five classes of drugs.

\* Second test: this is a confirmation test.

The positive levels for the five ten classes of drug tests are in the table below:

<u>Drugs</u> <u>(ng/ml)*</u>	<u>Initial Test Levels (ng/ml)*</u>	<u>Confirmation Test Levels</u>
<u>Amphetamines</u>	<u>1000</u>	<u>500</u>
<u>Barbiturates</u>	<u>300</u>	<u>300</u>
<u>Benzodiazepines</u>	<u>300</u>	<u>300</u>
<u>Cocaine metabolite</u>	<u>300</u>	<u>150</u>
<u>Opiates:</u>		

<i>Codeine</i>	300	300
<i>Morphine</i>	300	300
<i>Hydrocodone</i>	300	300
<i>Hydromorphone</i>	300	300
<i>Oxycodone</i>	100	100
<i>Phencyclidine</i>	25	25
<i>Marijuana metabolite</i>	50	50
<i>Methadone</i>	300	300
<i>Methaqualone</i>	300	300
<i>Propoxyphene</i>	300	300

Marijuana	50	15
Cocaine	300	150
Opiates	300	
Morphine		300
Codeine		300
Phencyclidine (PCP)	25	25
Amphetamines	1000	500
Methamphetamine		500

\*ng/ml means nanograms per milliliter. A nanogram is one billionth of a gram. A milliliter is one thousandth of a liter.

If the result of the initial test is negative, the testing laboratory will advise the employer's Medical Review Officer (MRO) that the drug test for the applicant, employee, or supervisor was negative. No additional tests on the specimen will be done.

If the result of the initial test is positive, that is, if the result exceeds the test levels for any of the five drug classes, a second (confirmation) test is performed. All specimens identified as positive on the initial test must be confirmed using gas chromatography/mass spectrometry techniques.

Only specimens that are confirmed positive on the second or confirmatory test are reported positive to the Medical Review Officer for review and analysis. The Medical Review Officer will contact the applicant, employee, or supervisor and confer regarding the results to determine if a false positive is possible. If after making all reasonable efforts and documenting these efforts, the MRO is unable to reach the applicant, employee, or supervisor directly, the MRO must contact the department head or the *Human Resources Department* ~~Mayor~~ in the event the department head is the involved employee, and the department head or *Human Resources Department* ~~Mayor~~ must direct the applicant, employee, or supervisor to contact the MRO. If, after making all reasonable efforts, the management official is unable to reach the employee or supervisor involved, the employer may place the involved employee or supervisor on medically unqualified status (suspension) until a determination has been made as to the

appropriate course of action to be taken. As to applicants who cannot be reached, no further action will be taken in regard to their employment until the facts can be determined so that the appropriate course of action can be taken.

The MRO may verify a test as positive without having communicated directly with the applicant, employee, or supervisor about the test results under the following circumstances:

- \* the applicant, employee or supervisor expressly declines the opportunity to discuss the test results;
- \* the applicant, employee or supervisor does not contact the MRO within 48 hours after having been instructed to do so;

Urine collections are made "split specimen." That is, the urine is divided into two specimen containers bottles before the testing. If the test result of the primary specimen is positive, the applicant, employee, or supervisor, within 48 hours of being notified of the positive test result of the primary specimen, may request the Medical Review Officer send the second (or split) specimen to a different certified laboratory for testing. The testing of the second specimen will be for the presence of drugs with no cut-off levels. The applicant, employee, or supervisor requesting such a test will be required to pay the laboratory for the test. If the result of the test of the second specimen is "negative", the MRO shall cancel the test, and the City shall reimburse the applicant, employee, or supervisor for the costs of testing the specimen.

The department head or their designee Director is required to keep a record in the employee's medical file showing the type of test (pre-employment, periodic random, etc.); date of collection; location of collection; entity performing the collection; name of the lab; name of the MRO; and the test results. For a drug test on a the Street department head Director ~~Superintendent~~, the Human Resources Department ~~Mayer~~ is required to keep such records.

### **Alcohol Tests**

Alcohol testing is done by testing breath, because it is the most easily obtained bodily substance and the results are known within minutes of testing. The weight of alcohol in the breath sample is determined and the quantity of the alcohol converted to its equivalent value in blood. A BAC (blood alcohol concentration) of 0.10 means one tenth of a gram of alcohol per 210 liters of breath.

The alcohol testing will be done in a site that affords privacy to the employees being tested. This site could be a room, ~~van~~, or a partitioned-off area. Only one breath test will be done at one time. The person giving the test will not leave the testing site during the test. The testing device is an Evidential Breath Testing Device (EBT), which is a scientific instrument that determines the concentration

of alcohol expressed as "percent by weight". This may be done by an authorized testing facility, including a law enforcement agency licensed by the State Department of Health to administer breath tests.

The first part of the testing process is to make sure the EBT is operating properly. In the presence of the person being tested, the technician runs an "air blank" test to make sure the EBT is working correctly and the reading is 0. Next, a sealed mouthpiece is opened and placed into the EBT. In order to get a sufficient quantity of deep lung air, the person being tested is requested to blow into the mouthpiece for at least 6 seconds, or until the EBT indicates that an adequate amount of breath has been obtained. The EBT will immediately read the results of the initial test.

When the initial test results show a reading of 0.02 BAC or greater, a confirmation test is necessary. Before the confirmation test, a 15-minute waiting period will be observed during which the person being tested cannot leave the test site and may not eat, drink, or smoke during this period. The purpose of the 15-minute waiting period is to ensure that the presence of mouth alcohol from recent use of food, tobacco, or hygiene products does not artificially raise the test result. The confirmation test is done on the same EBT as the first test, and the testing procedures will be the same.

When the confirmation result is different from the initial test, the lower of the two tests results will be used to determine the consequences. A breath alcohol testing form will be prepared with a copy provided to the tested employee.

## **TESTING PROGRAMS**

- **Pre-Employment Testing**

Persons who are made a job offer for the positions of ~~Maintenance Worker I, Maintenance Worker II, Maintenance Worker III, or as Supervisor of any of these positions, including Street Department Superintendent,~~ covered by this policy, must be given a post job offer pre-employment drug test. Alcohol tests are not conducted during pre-employment testing under this policy.

- **Reasonable Suspicion Testing**

The definition of reasonable suspicion is that quantity of proof or evidence that is more than a hunch, but less than probable cause. Reasonable suspicion must be based on specific, objective facts, and any rationally derived inferences from those facts about the conduct of an individual that would lead a reasonable person to suspect that the individual is or has been using drugs while on or off duty, or is impaired because of the use of alcohol.

The employee or supervisor may be directed by the employer to undergo reasonable suspicion testing for alcohol while the employee is performing any job function in connection with their job as ~~Maintenance Worker I, Maintenance Worker II, or Maintenance Worker III~~, or in the supervision of such workers, just before the employee is to perform any of these functions, or just after the employee has ceased performing such functions. The test must be done as soon as possible within the time limits set out by this policy.

In the case of suspected drug use, the employee or supervisor must be taken immediately to a collection site and a urine sample must be obtained. The behavior, appearance or other condition of the employee that causes the supervisor or other management official to require the test must be documented in writing and signed by the supervisor or management official within 24 hours after the behavior is noticed or before the controlled substances tests are released, whichever is earlier. At no time when an employee is a subject of reasonable suspicion, shall they be allowed to drive a vehicle; moreover, this means arrangements will need to be made to transport the employee to their home.

The results of any breath or blood test for the use of alcohol or a urine or blood test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this policy, provided such tests conform to applicable Federal, State, or local requirements, and the results of the tests are obtained by the employer.

- **Random Testing**

Random testing ensures that every employee and supervisor have an equal chance of being tested. Random tests are unannounced.

The rate for random testing is based on a 1-year period. The unannounced tests should be spread evenly throughout the year on a weekly, monthly, or quarterly basis.

Random drug testing is to be at a 50% annualized rate (minimum) based on the total number of employees and supervisors specifically covered by this policy (not any employee or supervisor who has a commercial driver's license that is covered by Appendix A). Alcohol tests are not conducted on a random basis under this policy.

The agency contracted by the City to collect the urine specimen for random drug testing shall notify the Human Resources Department, ~~Superintendent, or their designate~~, immediately after determining which employees or supervisors are subject to random testing. Such collection agency shall be responsible for administering the program and determining which employees are subject to

random testing and will do so by utilizing a computer program that will generate a random list of employees or supervisors. As soon as the Human Resources Department notifies the department Superintendent head (or their designate) regarding ~~is notified of~~ the employees or supervisors subject to random testing, they will ensure that the employees or supervisors report to the collection site within four hours after receiving such notification, provided that the Department Superintendent head (or their designate) is notified prior to 11:30 a.m. If the department Superintendent head (or their designate) is notified after 11:30 a.m., the notification of the employees or supervisors subject to random testing will be made before 11:30 a.m. on the next work day. Employees or supervisors subject to the test shall not be notified until the day they are to report to the collection site. If an employee or supervisor fails to report to work on a day they would have been tested, the notification will be made on the next work day in which the collection agency representative is available to test the employee or supervisor. ~~reports for work.~~

In the event ~~the a~~ department head ~~Street Department Superintendent~~ is subject to a random test under this policy, the Human Resources Department ~~the Mayor~~ will be notified by the collection agency. The Human Resources Department will then contact ~~instead of the Street Department Superintendent~~ the department head and ~~it is the Mayor's responsibility to notify the superintendent to report to~~ the collection site for testing. The timing of the notification will be as set out in the previous paragraph.

- **Post Accident Testing**

If an employee or supervisor covered by this policy ~~is operating any of the equipment listed in the first part of this policy and identified as "a" through "e,"~~ and is involved in a motor vehicle accident requiring a motor vehicle accident report to be completed under Arkansas law, such surviving employee or supervisor shall be required to be tested for controlled substances. ~~if the accident involved:~~ This includes any employee who is assigned to or given permission to operate any city-owned vehicle (Department of Transportation [DOT] or non-DOT).

~~\* a fatality;~~

~~\* the operator of the equipment receives a citation under state or local law for a moving traffic violation arising from the accident.~~

An employee or supervisor who is subject to post accident testing shall remain readily available, if possible, for such testing or may be deemed by the employer to have refused to submit to testing. Nothing in this section shall require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for a period necessary to

obtain assistance in responding to the accident or to obtain necessary emergency medical care.

An employee ~~requiring~~ **required** to be tested herein who is seriously injured and cannot provide a urine specimen at the time of the accident shall provide the necessary authorization for obtaining hospital reports and other documents that would indicate whether there were any controlled substances in his or her system.

### **REFUSAL TO SUBMIT TO AN ALCOHOL OR CONTROLLED SUBSTANCES TEST**

No employee or supervisor shall be permitted to operate any ~~of the~~ equipment ~~previously listed herein~~ when such employee or supervisor refuses to submit to a required test.

The following actions constitute a refusal to submit to a test:

- \* failure to provide an adequate amount of breath without a valid medical explanation;
- \* failure to provide sufficient urine for a drug test without a valid medical explanation;
- \* engaging in conduct that clearly obstructs the testing process.

### **Consequences of a Refusal to Submit to a Drug or Alcohol Test**

The penalty for refusing to take a mandated test for drugs or alcohol by an employee or supervisor is immediate discharge from employment with the City. Applicants who have been offered a position, but who after such offer refuse to take a mandated test for drugs, shall not be employed by the City.

### **Alcohol Test Results of 0.04% BAC and Above**

An employee or supervisor covered by this policy who tests 0.04% BAC or above will be:

- \* immediately removed from operating any of the equipment previously listed herein and be made aware of resources for solving alcohol problems;

The penalty for such a result, which is considered a positive alcohol test, is immediate discharge from employment with the City.

If returned to duty by an appeal authority, such employer or supervisor covered by this policy:

- \* shall undergo a return to duty alcohol test and receive a result indicating an alcohol concentration of less than 0.02% BAC, before returning to duty;
- \* shall be evaluated by a substance abuse professional (SAP) to determine that the employee has properly followed any rehabilitation program prescribed under the regulations;
- \* shall be subject to follow-up unannounced alcohol tests for up to 5 years, depending on the evaluation of the substance abuse professional.

#### **Alcohol Test Results of 0.02% BAC or More But Less Than 0.04%**

No employee or supervisor who is found to have a BAC of 0.02% or greater but less than 0.04% shall operate any of the equipment previously listed herein until the start of the employee's next scheduled duty period.

#### **Drug Tests**

An employee covered by this policy who tests positive for drugs shall:

- \* be immediately removed from the position that would present a potential hazard of maintenance worker I, maintenance worker II, or maintenance worker III or supervisor of such employees;
- \* be made aware of resources for solving drug problems.

The penalty for a positive drug test result, once the time limit for requesting a second test of a split sample has expired, or upon receipt of a positive drug test result from the second test, is immediate discharge from employment with the City. Employees whose drug test results are positive and who request a test of the second portion (of the split sample) will be suspended without pay until such time as the City receives the results of the second test. A negative result from the second drug test will render the first test invalid and the employee will be reinstated with back pay and reimbursed for the cost of the second test.

If an employee is discharged for a positive drug test, but is returned to duty by an appeal authority or for any other reason, such employee shall:

- \* undergo a return-to-duty drug test with a negative test result;
- \* be evaluated by a SAP (substance abuse professional) to determine that the employee has properly followed any rehabilitation program prescribed under the regulations following the positive drug test;

- \* be subject to unannounced follow-up drug tests for up to 12 months, which may be extended to 60 months, depending on the evaluation of the SAP.

#### **SIGNS AND SYMPTOMS OF AN ALCOHOL OR DRUG PROBLEM**

Drugs can show their effects in many different ways. Some of the most noticeable signs of drug abuse are drowsiness, respiratory depression, constricted pupils, nausea, slurred speech, excitement, loss of appetite, poor perception of time and distance, relaxed inhibitions, disoriented behavior, watery eyes, runny nose, chills and sweats, convulsions, apathy, depression, and the use of drug paraphernalia. Some of the signs and symptoms of alcohol misuse are the odor of alcohol, slurred speech, staggering, tremors, vomiting, cramps, delirium, loss of appetite, using arms for balance, leaning against walls and doorways, swaying while maintaining balance, and confusion.

Multiple substance abuse is abuse of more than one drug, either at the same time or over a period of time and it involves any combination of:

- \* Alcohol
- \* Prescription drugs
- \* Over-the-counter drugs
- \* Illegal drugs

Multiple substance abuse is especially dangerous because different substances interact with each other to produce unexpected effects and dangers.

Multiple substance abuse often begins with abuse of a single substance. This may happen because once a person begins to rely on a drug, abuse of additional substances becomes more likely.

People who abuse one substance are at a high risk for developing dependence and tolerance for other substances.

### **3.12 Drug and Alcohol Testing Policy**

**Employees who are required to have a Commercial Driver's License (CDL) are covered under the policy in Appendix A attached to this Personnel & Procedures Manual. Employees who are Sworn Police Officers, Sworn Firefighters, 911 Radio Dispatchers, Jailers, Evidence Technician, City Attorney Investigator and Court Probation Officer are covered under the policy in Appendix B attached to this Personnel & Procedures Manual. Employees in positions that could affect the safety of other employees and the public, or place them at risk are covered under the policy in Appendix C attached to this Personnel & Procedures Manual. All other city employees are covered by the following policy:**

#### **6.4 Driver's Licenses:**

**Any employee whose work requires that he/she drive City vehicles must hold a valid driver's license. If an employee moves his/her residence from another state to Arkansas they must obtain an Arkansas driver's license within the time required by law.**

**All new employees who will be assigned work entailing the operating of a City vehicle will be required to submit to a Department of Motor Vehicle's driving records check as a condition of employment. A report indicating a suspended or revoked license status may be cause to deny or terminate employment.**

**Any employee performing work which requires the operation of a City vehicle shall notify his/her immediate supervisor in those cases where his/her license is expired, suspended or revoked. If an employee fails to report such an instance, he/she is subject to disciplinary action, including termination. An employee who fails to immediately report such revocation or suspension to his/her supervisor and continues to operate a City vehicle shall be subject to termination.**

#### **6.5 On-the-Job Injury or Illness:**

**The City shall provide for the treatment and care of on-the-job injuries and illnesses as provided by Arkansas law. Any incident involving a City employee shall be reported to that employee's supervisor immediately. If the injury/illness requires immediate attention, 911 should be called so an ambulance can be dispatched and the employee should be taken to the emergency room of Northwest Medical Center. The emergency room at Northwest Medical Center is open 24 hours a day, 7 days a week, including holidays.**

**Arkansas Occupational Health Clinic (AOHC) is the City of Springdale's workers compensation medical clinic. AOHC has normal clinic hours from Monday**

through Friday from 7:30 a.m. to 5:30 p.m. If it is not an emergency and the injury/illness occurs during normal clinic hours, the Human Resources Department should be contacted so an appointment can be made with AOHC for medical attention. (If it is a non-emergency and the injury occurs after normal clinic hours an appointment can be set up for the next clinic business day.

Employees should be taken for medical attention as soon as possible. The employee will receive initial treatment and will be advised by the attending physician as to the need for further treatment and when to report back to work.

The employee shall complete *the* workers compensation paperwork within two (2) days of the incident which caused the injury/illness. The supervisor should provide additional information as needed. All forms should be submitted to the Human Resources Department within three (3) days of the incident.

Additional reporting information should be recorded as described in the policy on workers compensation.

#### **6.6 Safety and Accident Prevention:**

The City recognizes the need for the development of safe working practices for every employee and desires to promote on-the-job safety by encouraging the proper design and use of buildings, equipment, tools and other devices.

Administration of the safety program should be the job of the supervisor. They should be constantly on the alert to observe and report unsafe working practices or existing hazardous working conditions with the aim of immediate correction. Each department head or supervisor shall make sure that the employee under his/her supervision is well acquainted with existing safety rules and shall see that the rules are uniformly enforced. Safety education of all employees shall be promoted by supervisors adhering to all safety rules.

It is the responsibility of all employees to cooperate in making the safety program work. Employees shall:

1. Be informed of and observe established safety practices.
2. Notify supervisors of any unsafe conditions they discover.
3. Use personal protective equipment such as steel toed shoes, safety vests, safety glasses, and hard hats where required.
4. Not remove guards or other protective devices from machinery and equipment.

5. Not engage in horseplay.
6. Attend any required training or orientation to increase safety awareness.
7. Report all job-related injuries or illnesses to their supervisors promptly.
8. Assist supervisors in their investigation of any accident of which they have knowledge; accident investigation is fact finding, not fault finding.
9. Refrain from smoking in "no smoking" areas.
10. Refrain from operating, modifying, adjusting or using equipment in an unauthorized manner.
11. If an employee is required by a physician to take prescription medication which might impair their driving ability or perform their job duties, the employee must notify their supervisor immediately so appropriate arrangements can be made.

If an employee desires to make a safety complaint or suggestion, the employee should do so in writing to the department head, who should review such complaint/suggestion, and notify the Human Resources Department thereof.

If emergency medical care is requested by a citizen or person visiting a City facility, the Springdale Fire Department should be called to respond. All incidents should be reported through a report and filed with the department head who shall provide a copy to the Mayor's office.

## **APPENDIX C**

### **THE CITY OF SPRINGDALE POLICY FOR DRUG AND ALCOHOL TESTING CERTAIN EMPLOYEES OF THE CITY OF SPRINGDALE IN POSITIONS THAT COULD AFFECT THE SAFETY OF EMPLOYEES, THE SAFETY OF OTHER EMPLOYEES AND THE PUBLIC, OR PLACE THEM AT RISK**

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#### **DISCUSSION**

Drug and alcohol abuse is a subject of immediate concern in our society. These problems are extremely complex and ones for which there are no easy solutions. The Federal Motor Carrier Safety Regulations, specifically Title 49, Code of Federal Regulations, Part 382, requires the City of Springdale to establish rules and regulations for controlled substances and alcohol use and testing for all job positions which require a commercial driver's license. Pursuant to this Federal law, employees of the City of Springdale who are required to have a commercial driver's license are subject to the policy. However, there are many other jobs within the City of Springdale which, although they do not require a commercial drivers license to perform, are just as dangerous, if not more dangerous, than those jobs that require a commercial driver's license. An employee using drugs or alcohol that performs one of these jobs would constitute a danger to the employee, co-workers, and the general public. Persons hired into the City of Springdale in the positions that have been determined as dangerous by the Human Resources Department will receive a copy of their job description that includes a notation that this job has been declared as a position that is subject to this policy.

The Human Resources Department will review all job descriptions to identify those employees that, if they were impaired by drugs or alcohol, would endanger themselves, fellow workers, and/or the general public. There is nothing to indicate at this time that employees of the City are abusing drugs or alcohol. Unfortunately, the potential for catastrophe created by any one employee drug user or employee influenced by alcohol herein mandates that this policy be implemented.

#### **THE EFFECTS OF ALCOHOL AND DRUGS ON HEALTH, WORK AND PERSONAL LIFE**

The hazard of misuse of alcohol and illegal drugs extends far beyond the individual user. Impaired employees endanger themselves, fellow workers, and other users of our highways. Employees with drugs or alcohol in their systems are less productive and more likely to injure themselves or other persons in an accident. Alcohol and drug abusing employees increase the costs related to lost

productivity, absenteeism, accidents, loss of trained personnel, theft, and treatment and deterrence programs. Also, medical costs are higher and are passed on to the employer in the form of higher health insurance rates. Alcohol and drug abuse costs both the employer and the employee. Alcohol remains the number one abused drug in this country. Alcohol consumption causes a number of changes in behavior. Even low doses can impair the judgment and coordination required for driving. Low to moderate doses increase the chances of a variety of aggressive acts. Moderate to high doses cause marked impairments in higher mental functions, severely altering a person's ability to learn and remember information. Very high doses cause respiratory depression and death. If combined with other depressant drugs, much lower doses of alcohol will produce the effects just described. Long-term consumption of large quantities of alcohol can lead to permanent damage to vital organs such as the brain and the liver.

## **SCOPE OF POLICY**

This policy only applies to the positions identified by the Human Resources Department as a potential danger. However, this policy does not apply to employees holding any of these positions who are already governed by the policy set out in Appendix A (those employees required to have a commercial drivers license to perform their job).

## **DEFINITIONS**

**A. Employee** -- Those employees identified by the Human Resources Department as a potential danger and the identification is so noted on their job description, except those employees already covered by the policy set out in Appendix A.

**B. Supervisor** -- Those employees who supervise employees who are in positions identified by the Human Resources Department as a potential danger. Such employees, besides being supervisors, may also be required to perform the duties of an employee subject to this policy.

**C. Drug Test** -- The compulsory production and submission of urine by an employee or supervisor in accordance with procedures set out herein, for chemical analysis to detect prohibited drug usage.

## **PROHIBITED CONDUCT**

An employee or supervisor shall not report for duty or remain on duty:

\* while using alcohol;

- \* while having a blood alcohol concentration of 0.04% or greater and shall not operate any *City* equipment until having a blood alcohol concentration of less than 0.02%;
- \* while possessing alcohol. This includes the possession of medicines containing alcohol (prescription or over the counter);
- \* within four hours after using alcohol;
- \* when using any controlled substance, except when instructed by a physician who has advised the employee or supervisor that the substance does not adversely affect the employee's ability to safely operate equipment;
- \* if tested positive for controlled substances.

An employee or supervisor shall not:

- \* refuse to submit to an alcohol test required by this policy, or a controlled substance test which is required by post-accident, random, reasonable suspicion or follow-up testing requirements.

No supervisor shall permit an employee to operate or continue to operate any equipment when the supervisor has actual knowledge that such an employee:

- \* is using alcohol;
- \* has an blood alcohol concentration of 0.04% or greater;
- \* has used alcohol within four hours;
- \* possesses alcohol; this includes the possession of medicines containing alcohol (prescription or over-the-counter);
- \* has tested positive for controlled substances;
- \* is using any controlled substance, except when the employee has been instructed by a physician that the substance does not adversely affect the employee's ability to safely operate any vehicles or equipment;
- \* has refused to submit to an alcohol or controlled substance test.

#### **WHEN AN EMPLOYEE MUST BE TESTED FOR CONTROLLED SUBSTANCES**

An employee or supervisor covered by this policy must be tested for the controlled substances contained in this policy under the following circumstances:

\*Pre-employment

\* Random

\* Reasonable suspicion

\* Post-accident

\* Return to duty

\* Follow-up

#### **TESTING PROCEDURES:**

##### **Drug Tests**

The testing program required by this policy is limited to ten drug types, named as follows:

- Amphetamines
- Barbiturates
- Benzodiazepines
- Cocaine metabolite
- Opiates:
  - Codeine
  - Morphine
  - Hydrocodone
  - Hydromorphone
  - Oxycodone
- Phencyclidine
- Marijuana metabolite
- Methadone
- Methaqualone
- Propoxyphene

All drug testing must be done from urine specimens collected under highly controlled conditions. Specimen collection procedures require:

- a designated collecting site;
- security for the collection site;
- chain of custody documentation;
- use of authorized personnel;
- privacy during collection;
- integrity and identity of the specimen;

- transportation to the laboratory.

After the urine specimen has been collected and forwarded to the laboratory, two tests are performed.

\* Initial test: this is an immunoassay screening test to determine drug usage for the ten classes of drugs.

\* Second test: this is a confirmation test.

The positive levels for the ten classes of drug tests are in the table below:

<u>Drugs</u> <u>(ng/ml)*</u>	<u>Initial Test Levels (ng/ml)*</u>	<u>Confirmation Test Levels</u>
Amphetamines	1000	500
Barbiturates	300	300
Benzodiazepines	300	300
Cocaine metabolite	300	150
Opiates:		
Codeine	300	300
Morphine	300	300
Hydrocodone	300	300
Hydromorphone	300	300
Oxycodone	100	100
Phencyclidine	25	25
Marijuana metabolite	50	50
Methadone	300	300
Methaqualone	300	300
Propoxyphene	300	300

\*ng/ml means nanograms per milliliter. A nanogram is one billionth of a gram. A milliliter is one thousandth of a liter.

If the result of the initial test is negative, the testing laboratory will advise the employer's Medical Review Officer (MRO) that the drug test for the applicant, employee, or supervisor was negative. No additional tests on the specimen will be done.

If the result of the initial test is positive, that is, if the result exceeds the test levels for any of the five drug classes, a second (confirmation) test is performed. All specimens identified as positive on the initial test must be confirmed using gas chromatography/mass spectrometry techniques.

Only specimens that are confirmed positive on the second or confirmatory test are reported positive to the Medical Review Officer for review and analysis. The Medical Review Officer will contact the applicant, employee, or supervisor and confer regarding the results to determine if a false positive is possible. If after making all reasonable efforts and documenting these efforts, the MRO is unable to reach the applicant, employee, or supervisor directly, the MRO must contact the department head or the Human Resources Department in the event the department head is the involved employee, and the department head or Human Resources Department must direct the applicant, employee, or supervisor to contact the MRO. If, after making all reasonable efforts, the management official is unable to reach the employee or supervisor involved, the employer may place the involved employee or supervisor on medically unqualified status (suspension) until a determination has been made as to the appropriate course of action to be taken. As to applicants who cannot be reached, no further action will be taken in regard to their employment until the facts can be determined so that the appropriate course of action can be taken.

The MRO may verify a test as positive without having communicated directly with the applicant, employee, or supervisor about the test results under the following circumstances:

- \* the applicant, employee or supervisor expressly declines the opportunity to discuss the test results;
- \* the applicant, employee or supervisor does not contact the MRO within 48 hours after having been instructed to do so;

Urine collections are made "split specimen." That is, the urine is divided into two specimen containers before the testing. If the test result of the primary specimen is positive, the applicant, employee, or supervisor, within 48 hours of being notified of the positive test result of the primary specimen, may request the Medical Review Officer send the second (or split) specimen to a different certified laboratory for testing. The testing of the second specimen will be for the presence of drugs with no cut-off levels. The applicant, employee, or supervisor requesting such a test will be required to pay the laboratory for the test. If the result of the test of the second specimen is "negative", the MRO shall cancel the test, and the City shall reimburse the applicant, employee, or supervisor for the costs of testing the specimen.

The department head or their designee is required to keep a record in the employee's medical file showing the type of test (pre-employment, periodic random, etc.); date of collection; location of collection; entity performing the collection; name of the lab; name of the MRO; and the test results. For a drug test on a department head, the Human Resources Department is required to keep such records.

## **Alcohol Tests**

Alcohol testing is done by testing breath, because it is the most easily obtained bodily substance and the results are known within minutes of testing. The weight of alcohol in the breath sample is determined and the quantity of the alcohol converted to its equivalent value in blood. A BAC (blood alcohol concentration) of 0.10 means one tenth of a gram of alcohol per 210 liters of breath.

The alcohol testing will be done in a site that affords privacy to the employees being tested. This site could be a room, or a partitioned-off area. Only one breath test will be done at one time. The person giving the test will not leave the testing site during the test. The testing device is an Evidential Breath Testing Device (EBT), which is a scientific instrument that determines the concentration of alcohol expressed as "percent by weight". This may be done by an authorized testing facility, including a law enforcement agency licensed by the State Department of Health to administer breath tests.

The first part of the testing process is to make sure the EBT is operating properly. In the presence of the person being tested, the technician runs an "air blank" test to make sure the EBT is working correctly and the reading is 0. Next, a sealed mouthpiece is opened and placed into the EBT. In order to get a sufficient quantity of deep lung air, the person being tested is requested to blow into the mouthpiece for at least 6 seconds, or until the EBT indicates that an adequate amount of breath has been obtained. The EBT will immediately read the results of the initial test.

When the initial test results show a reading of 0.02 BAC or greater, a confirmation test is necessary. Before the confirmation test, a 15-minute waiting period will be observed during which the person being tested cannot leave the test site and may not eat, drink, or smoke during this period. The purpose of the 15-minute waiting period is to ensure that the presence of mouth alcohol from recent use of food, tobacco, or hygiene products does not artificially raise the test result. The confirmation test is done on the same EBT as the first test, and the testing procedures will be the same.

When the confirmation result is different from the initial test, the lower of the two tests results will be used to determine the consequences. A breath alcohol testing form will be prepared with a copy provided to the tested employee.

## **TESTING PROGRAMS**

- **Pre-Employment Testing**

Persons who are made a job offer for the positions covered by this policy, must be given a post job offer pre-employment drug test. Alcohol tests are not conducted during pre-employment testing under this policy.

- **Reasonable Suspicion Testing**

The definition of reasonable suspicion is that quantity of proof or evidence that is more than a hunch, but less than probable cause. Reasonable suspicion must be based on specific, objective facts, and any rationally derived inferences from those facts about the conduct of an individual that would lead a reasonable person to suspect that the individual is or has been using drugs while on or off duty, or is impaired because of the use of alcohol.

The employee or supervisor may be directed by the employer to undergo reasonable suspicion testing for alcohol while the employee is performing any job function in connection with their job or in the supervision of such workers, just before the employee is to perform any of these functions, or just after the employee has ceased performing such functions. The test must be done as soon as possible within the time limits set out by this policy.

In the case of suspected drug use, the employee or supervisor must be taken immediately to a collection site and a urine sample must be obtained. The behavior, appearance or other condition of the employee that causes the supervisor or other management official to require the test must be documented in writing and signed by the supervisor or management official within 24 hours after the behavior is noticed or before the controlled substances tests are released, whichever is earlier. At no time when an employee is a subject of reasonable suspicion, shall they be allowed to drive a vehicle; moreover, this means arrangements will need to be made to transport the employee to their home.

The results of any breath or blood test for the use of alcohol or a urine or blood test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this policy, provided such tests conform to applicable Federal, State, or local requirements, and the results of the tests are obtained by the employer.

- **Random Testing**

Random testing ensures that every employee and supervisor have an equal chance of being tested. Random tests are unannounced.

The rate for random testing is based on a 1-year period. The unannounced tests should be spread evenly throughout the year on a weekly, monthly, or quarterly basis.

Random drug testing is to be at a 50% annualized rate (minimum) based on the total number of employees and supervisors specifically covered by this policy

(not any employee or supervisor who has a commercial driver's license that is covered by Appendix A). Alcohol tests are not conducted on a random basis under this policy.

The agency contracted by the City to collect the urine specimen for random drug testing shall notify the Human Resources Department, immediately after determining which employees or supervisors are subject to random testing. Such collection agency shall be responsible for administering the program and determining which employees are subject to random testing and will do so by utilizing a computer program that will generate a random list of employees or supervisors. As soon as the Human Resources Department notifies the department head (or their designate) regarding the employees or supervisors subject to random testing, they will ensure that the employees or supervisors report to the collection site within four hours after receiving such notification, provided that the Department head (or their designate) is notified prior to 11:30 a.m. If the department head (or their designate) is notified after 11:30 a.m., the notification of the employees or supervisors subject to random testing will be made before 11:30 a.m. on the next work day. Employees or supervisors subject to the test shall not be notified until the day they are to report to the collection site. If an employee or supervisor fails to report to work on a day they would have been tested, the notification will be made on the next work day in which the collection agency representative is available to test the employee or supervisor.

In the event a department head is subject to a random test under this policy, the Human Resources Department will be notified by the collection agency. The Human Resources Department will then contact the department head to report to the collection site for testing. The timing of the notification will be as set out in the previous paragraph.

- **Post Accident Testing**

If an employee or supervisor covered by this policy is involved in a motor vehicle accident requiring a motor vehicle accident report to be completed under Arkansas law, such surviving employee or supervisor shall be required to be tested for controlled substances. This includes any employee who is assigned to or given permission to operate any city-owned vehicle (Department of Transportation [DOT] or non-DOT).

An employee or supervisor who is subject to post accident testing shall remain readily available, if possible, for such testing or may be deemed by the employer to have refused to submit to testing. Nothing in this section shall require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for a period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

An employee required to be tested herein who is seriously injured and cannot provide a urine specimen at the time of the accident shall provide the necessary authorization for obtaining hospital reports and other documents that would indicate whether there were any controlled substances in his or her system.

#### **REFUSAL TO SUBMIT TO AN ALCOHOL OR CONTROLLED SUBSTANCES TEST**

No employee or supervisor shall be permitted to operate any equipment when such employee or supervisor refuses to submit to a required test.

The following actions constitute a refusal to submit to a test:

- \* failure to provide an adequate amount of breath without a valid medical explanation;
- \* failure to provide sufficient urine for a drug test without a valid medical explanation;
- \* engaging in conduct that clearly obstructs the testing process.

#### **Consequences of a Refusal to Submit to a Drug or Alcohol Test**

The penalty for refusing to take a mandated test for drugs or alcohol by an employee or supervisor is immediate discharge from employment with the City. Applicants who have been offered a position, but who after such offer refuse to take a mandated test for drugs, shall not be employed by the City.

#### **Alcohol Test Results of 0.04% BAC and Above**

An employee or supervisor covered by this policy who tests 0.04% BAC or above will be:

- \* immediately removed from operating any of the equipment previously listed herein and be made aware of resources for solving alcohol problems;

The penalty for such a result, which is considered a positive alcohol test, is immediate discharge from employment with the City.

If returned to duty by an appeal authority, such employer or supervisor covered by this policy:

- \* shall undergo a return to duty alcohol test and receive a result indicating an alcohol concentration of less than 0.02% BAC, before returning to duty;

- \* shall be evaluated by a substance abuse professional (SAP) to determine that the employee has properly followed any rehabilitation program prescribed under the regulations;
- \* shall be subject to follow-up unannounced alcohol tests for up to 5 years, depending on the evaluation of the substance abuse professional.

#### **Alcohol Test Results of 0.02% BAC or More But Less Than 0.04%**

No employee or supervisor who is found to have a BAC of 0.02% or greater but less than 0.04% shall operate any of the equipment previously listed herein until the start of the employee's next scheduled duty period.

#### **Drug Tests**

An employee covered by this policy who tests positive for drugs shall:

- \* be immediately removed from the position that would present a potential;
- \* be made aware of resources for solving drug problems.

The penalty for a positive drug test result, once the time limit for requesting a second test of a split sample has expired, or upon receipt of a positive drug test result from the second test, is immediate discharge from employment with the City. Employees whose drug test results are positive and who request a test of the second portion (of the split sample) will be suspended without pay until such time as the City receives the results of the second test. A negative result from the second drug test will render the first test invalid and the employee will be reinstated with back pay and reimbursed for the cost of the second test.

If an employee is discharged for a positive drug test, but is returned to duty by an appeal authority or for any other reason, such employee shall:

- \* undergo a return-to-duty drug test with a negative test result;
- \* be evaluated by a SAP (substance abuse professional) to determine that the employee has properly followed any rehabilitation program prescribed under the regulations following the positive drug test;
- \* be subject to unannounced follow-up drug tests for up to 12 months, which may be extended to 60 months, depending on the evaluation of the SAP.

#### **SIGNS AND SYMPTOMS OF AN ALCOHOL OR DRUG PROBLEM**

Drugs can show their effects in many different ways. Some of the most noticeable signs of drug abuse are drowsiness, respiratory depression,

constricted pupils, nausea, slurred speech, excitement, loss of appetite, poor perception of time and distance, relaxed inhibitions, disoriented behavior, watery eyes, runny nose, chills and sweats, convulsions, apathy, depression, and the use of drug paraphernalia. Some of the signs and symptoms of alcohol misuse are the odor of alcohol, slurred speech, staggering, tremors, vomiting, cramps, delirium, loss of appetite, using arms for balance, leaning against walls and doorways, swaying while maintaining balance, and confusion.

Multiple substance abuse is abuse of more than one drug, either at the same time or over a period of time and it involves any combination of:

- \* Alcohol
- \* Prescription drugs
- \* Over-the-counter drugs
- \* Illegal drugs

Multiple substance abuse is especially dangerous because different substances interact with each other to produce unexpected effects and dangers.

Multiple substance abuse often begins with abuse of a single substance. This may happen because once a person begins to rely on a drug, abuse of additional substances becomes more likely.

People who abuse one substance are at a high risk for developing dependence and tolerance for other substances.