

## BID OPENING DATE AND TIME

**ON: March 15, 2013**

**AT: 10:30 A.M.**

<b>BID NO.</b>  <b>S3Z59620</b>	<b>PAGE</b> <b>1</b> <b>OF</b> <b>39</b>	<b>INVITATION AND BID ADVERTISED</b>	<b>BIDDER MUST COMPLETE BELOW</b> <small>BIDDER AGREES TO COMPLY WITH ALL CONDITIONS OF THIS BID. UNSIGNED BIDS WILL NOT BE ACCEPTED.</small>
This Invitation to Bid with your quotations must be received prior to the above cited bid opening date and time.		 BIDS MUST BE RETURNED TO  <b>CITY OF PHILADELPHIA</b> <b>PROCUREMENT DEPARTMENT</b> <b>MUNICIPAL SERVICES BLDG.</b> <b>1401 JFK BLVD, ROOM 170A</b> <b>PHILADELPHIA, PA 19102-1685</b>	<b>NAME AND ADDRESS OF FIRM</b>
DEPARTMENT <b>VARIOUS</b>	DIVISION <b>VARIOUS</b>		
<small>AWARDED</small>			
<b>DATE</b>			
FOR THE PROCUREMENT COMMISSIONER			Federal EIN/Social Security Number
			<b>BUYER : T. VINSON K. OWENS</b>

**TITLE OF BID: Drug Screen Testing Services Schedule No. 951**

### Commerce Department-Office of Economic Development (OEO) Anti-Discrimination Policy Executive Order 02-05 – Bidder Requirements

This Invitation to Bid is issued under the Anti-Discrimination Policy described in the Mayor's Executive Order, policy and guidelines as attached. Specific instructions must be adhered to, and forms completed. Bidders are advised to review the instructions carefully. Failure to comply may disqualify the bidder. The specified ranges represent the percentage of Minority, Woman and Disabled participation that should be attained by the Bidder.

#### **Participation Ranges**

M-BE: GOOD FAITH EFFORTS

W-BE: GOOD FAITH EFFORTS

DS-BE: GOOD FAITH EFFORTS

Any and all questions about Executive Order 02-05 and bidder compliance should be directed to the Commerce Department Office of Economic Opportunity (OEO) office at (215) 683- 2000.

#### BID QUESTIONS

All questions concerning this Invitation to Bid, including specifications and conditions, must be Presented prior to the bid opening date and time. Contact the Procurement Department, Public Information Center by calling (215) 686-4721, 686-4720, or 686-4719 with questions.

For City Use Only

PERFORMANCE SECURITY	PERFORMANCE SECURITY		CHECK SUBMITTED WITH QUOTATION	
	<input type="checkbox"/> YES	<input type="checkbox"/> NO	AMOUNT	CHECK NUMBER

**CITY OF PHILADELPHIA  
OFFICE OF ECONOMIC OPPORTUNITY  
ANTIDISCRIMINATION POLICY- MINORITY, WOMAN AND DISABLED OWNED  
BUSINESS ENTERPRISES  
FORMS, INSTRUCTIONS AND SPECIAL CONTRACT PROVISIONS  
(SEALED BID CONTRACTS)**

Under the authority of Executive Orders No. 02-05, as reauthorized, and 14-08, the City of Philadelphia has established an antidiscrimination policy ("Policy") relating to the participation of Minority (MBE), Woman (WBE) and Disabled (DSBE) Owned Business Enterprises in City contracts. Executive Order 14-08 disestablished the Minority Business Enterprise Council and transferred its administrative functions under Executive Order 02-05 to the Office of Economic Opportunity ("OEO").

The purpose of this Policy is to provide equal opportunity for all businesses and to assure that City funds are not used, directly or indirectly, to promote, reinforce or perpetuate discriminatory practices. The City is committed to fostering an environment in which all businesses are free to participate in business opportunities without the impediments of discrimination and participate in all City contracts on an equitable basis. In accordance with the contracting requirements of the City, the City's Policy is applicable to this Invitation and Bid (hereinafter, "Bid").

The Office of Economic Opportunity has approved the following projected ranges of participation for this Bid which serve as a guide in determining each bidder's responsibility:

MBE: GOOD FAITH EFFORTS

WBE: GOOD FAITH EFFORTS

DSBE: GOOD FAITH EFFORTS

These ranges represent the percentage of MBE, WBE, DBE<sup>1</sup> and/or DSBE (collectively, "M/W/DSBE") participation that should be attained by M/W/DSBEs from business opportunities existing in the available market absent discrimination in the solicitation and selection of these businesses. These ranges are based upon an analysis of factors such as the size and scope of the contract and the availability of certified M/W/DSBEs to perform various elements of the contract. The submission of a Solicitation For Participation and Commitment Form and any supporting documentation (more fully discussed below) is an element of responsiveness to the Bid and failure to submit the required information will result in rejection of your bid.

**Bidder hereby verifies that all forms, information and documentation submitted to the OEO are true and correct and is notified that the submission of false information by Bidder is subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities. Bidder also acknowledges that if it is awarded a contract resulting from this Invitation and Bid, it is a felony in the third degree under 18 Pa.C.S. Section 4107.2(a)(4) if, in the course of this contract,**

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<sup>1</sup> "DBE" or "Disadvantaged Business Enterprise" means a socially and economically disadvantaged minority or woman owned business that is certified under 49 C.F.R. Part 26. If Bidder makes solicitation(s) and commitment(s) with a DBE, Bidder shall indicate which category, MBE or WBE, is submitted for credit.

**it fraudulently obtains public moneys reserved for or allocated or available to minority business enterprises or women's business enterprises.**

## **A. M/W/DSBE PARTICIPATION**

1. MBE, WBE, DBE and DSBE shall refer to certified businesses so recognized by the City of Philadelphia through its OEO. Only the work or supply effort of firms that are certified as M/W/DSBEs by an OEO approved certifying agency<sup>2</sup> at the time of bid opening will be eligible to receive credit towards the participation ranges. In order to be counted, certified firms must successfully complete and submit to the OEO an application to be included in the OEO Registry which is a list of registered M/W/DSBEs maintained by the OEO and available online at [www.phila.gov/oEO/directory](http://www.phila.gov/oEO/directory).

If bidder or bidder's subcontractor(s) is certified by an approved certifying agency, a copy of that certification should be furnished with the bid.

2. No bidder that seeks to meet the participation range(s) for participation by entering into subcontracts with any M/W/DSBE subcontractor shall be considered to meet the range(s) if the M/W/DSBE subcontractor does not perform a commercially acceptable function ("CAF"). A M/W/DSBE is considered to perform a CAF when it engages in meaningful work or supply effort that provides for a distinct element of the subcontract (as required by the work to be performed in accordance with the Bid), where the distinct element is worthy of the dollar amount of the subcontract and where the M/W/DSBE carries out its responsibilities by actually performing, managing and supervising the work involved; M/W/DSBE subcontractors must perform at least twenty percent (20%) of the cost of the subcontract (not including the cost of materials, equipment or supplies incident to the performance of the subcontract) with their own employees. The OEO may evaluate the amount of work subcontracted, industry practices and any other relevant factors in determining whether the M/W/DSBE is performing a CAF. If it is determined during the review of your Solicitation and Commitment Form that the work described on the Form does not constitute a CAF, your bid may be rejected. For example, a Bidder using an M/W/DSBE non-stocking supplier (i.e., a firm that does not manufacture or warehouse the materials or equipment of the general character described by the Bid specifications and required under the contract) to furnish equipment or materials will only receive credit towards the participation ranges for the fees or commissions charged, not the entire value of the equipment or materials furnished.

3. In order to maximize opportunities for as many businesses as possible, a firm that is certified in two or more categories (e.g. MBE and WBE and DSBE or WBE and DSBE) will only be credited toward one participation range as either an MBE or WBE or DSBE. The firm will not be credited toward more than one category. Bidders will note with their submission which category, MBE or WBE or DSBE, is submitted for credit.

4. An MBE/WBE/DSBE submitting as the prime bidder is required, like all other bidders, to submit a bid that is responsive to the Policy and will only receive credit toward the relevant participation ranges (e.g., MBE range or WBE range or DSBE range) for the amount of its own work or supply effort on this Bid. In addition, the participation of an M/W/DSBE partner, as part of a joint venture created for this bid, may be credited

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<sup>2</sup>A list of "OEO approved certifying agencies" can be found at [www.phila.gov/oEO](http://www.phila.gov/oEO)

towards the participation ranges only to the extent of the M/W/DSBE partner's ownership interest in the joint venture in accordance with the following criteria:

- The MBE, WBE or DSBE partner(s) must be identified in the OEO Registry prior to contract award;
- The M/W/DSBE partner(s) must derive substantial benefit from the arrangement;
- The M/W/DSBE partner(s) must be substantially involved in all phases of the contract including planning, staffing and daily management;
- The business arrangement must be customary (i.e., each partner shares in the risk and profits of the joint venture commensurate with their ownership interest, contributes working capital and other resources, etc).

5. In listing participation commitments on the Solicitation for Participation and Commitment Form, bidders are required to list a detailed description of the work or supply effort, the dollar amount of the quotation, and percentage of the contract the participation represents. In calculating the percentage amount, bidders may apply the standard mathematical rules in rounding off numbers. The OEO reserves the right to request clarifying information in the event of an inconsistency or ambiguity in the Solicitation For Participation and Commitment Form.

## **B. RESPONSIVENESS**

1. A Bid responsive to the Policy is one which contains documentary evidence of the M/W/DSBEs that have been solicited and that will be used by the Bidder on the contract, if awarded; where the Bid satisfies the M/W/DSBE participation ranges for that contract, the Bidder is rebuttably presumed not to have discriminated in its selection of contract participants.

2. Bidders must submit documentary evidence of MBEs, WBEs and DSBEs who have been solicited and with whom commitments have been made in response to the participation ranges included in this Bid. Failure to submit the Solicitation For Participation and Commitment Form will result in the rejection of the Bid as nonresponsive, although the City, at its sole discretion, may allow Bidders to submit or amend the Solicitation For Participation and Commitment Form at any time prior to award. The Solicitation For Participation and Commitment Form must contain the following information:

- Documentation of all solicitations (regardless of whether commitments resulted therefrom) as well as all commitments made on the enclosed document entitled "Solicitation For Participation and Commitment Form". Bidders should only make actual solicitations of M/W/DSBEs whose work or materials are within the scope of this Bid. Mass mailing of a general nature to M/W/DSBEs or similar methods will not be deemed solicitation, but rather will be treated as informational notification only. A reasonable period of time should be given to all solicited firms to ensure that they have sufficient time to adequately prepare their quotes/subproposals. The bidder's listing of a commitment with an M/W/DSBE constitutes a representation that the Bidder has made a legally binding commitment to contract with such firm, upon receipt of a contract award from the City.

- If the Bidder has entered into a joint venture with an MBE, WBE and/or DSBE partner, the bidder is also required to submit along with the Solicitation For Participation and Commitment Form, a document entitled "Joint Venture Eligibility Information Form," available at OEO, for the City's review and approval of the joint venture arrangement.

3. If Bidder does not fully meet each of the range(s) for participation established for this Bid, Bidder must explain what efforts the bidder made to achieve the M/W/DSBE participation ranges. Bidder must demonstrate, through the submission of documentary evidence, that it took all necessary steps and made reasonable efforts to achieve the M/W/DSBE participation ranges, even if these efforts were not fully successful. OEO will evaluate the scope, intensity and appropriateness of these efforts to ascertain whether they could reasonably be expected to achieve M/W/DSBE participation commensurate with the ranges. Failure to submit the documentary evidence will result in rejection of the bid as nonresponsive, although the City, at its sole discretion, may allow bidders to submit or amend their evidentiary submission at any time prior to award. The submission shall contain and discuss, at a minimum, the following:

- Provide reasons for not committing with any M/W/DSBEs that submitted a quote/subproposal, regardless of whether the quote/subproposal was solicited by Bidder.
- Provide list of all certifying directories used to solicit participation for this Bid.
- Provide any additional evidence pertinent to Bidder's conduct relating to this Bid including sufficient evidence which demonstrates to the OEO that Bidder has not engaged in discriminatory practices in the solicitation of and commitment with contract participants. In describing Bidder's efforts to achieve participation within the ranges, Bidder may submit any corroborating documentation (e.g., copies of advertisements for participation).

The bidder's documentary evidence will be reviewed by the OEO to ascertain whether discrimination has occurred in the solicitation or selection of contract participants. The review will include consideration of the following:

- Whether the bidder's actions were motivated by considerations of race or gender or disability. The OEO may investigate the bidder's contracting activities and business practices on similar public and private sector contracts. For example, if bidder rejects any M/W/DSBE based on price, bidder must fully document its reasons for the rejection and also demonstrate that bidder subjects non-M/W/DSBEs to the same pricing standards. OEO will investigate whether there was any attempt at good faith negotiation of price.
- Whether M/W/DSBEs were treated equally as other businesses in the solicitation and commitment process. For example, the OEO will investigate whether M/W/DSBEs are given the same information, access to the plans and requirements of the contract

and given adequate amount of time to prepare a quote/subcontract as others who were solicited by bidder. The OEO will also investigate whether M/W/DSBEs were accorded the same level of outreach as non-M/W/DSBEs, for example whether bidder short listed M/W/DSBEs for participation or solicited M/W/DSBEs at any pre-bid meetings.

- Whether the bidder's contracting decisions were based upon policies which disparately affect M/W/DSBEs. OEO will ascertain whether bidder selected portions of work or material needs consistent with the capacity of available M/W/DSBE subcontractors and suppliers. OEO will consider whether bidder employed policies which facilitate the participation of M/W/DSBEs on City contracts such as segmentation of the contract or prompt payment practices.

4. After review of the bidder's submission and other information the OEO deems relevant to its evaluation, the OEO will make a written determination that will be forwarded to the awarding City Department.

- If the bid is determined nonresponsive by the OEO, the applicant will be notified and may file a written appeal with the OEO within forty-eight (48) hours of the date of notification. The decision of the OEO may be appealed in writing within forty-eight (48) hours of the date of the OEO's decision to the Chief Operating Officer of the Commerce Department or his/her designee whose decision shall be final.

### **C. RESPONSIBILITY**

1. Upon award, the completed Solicitation For Participation and Commitment Form and accompanying documents regarding solicitation and commitments with MBEs, WBEs and DSBEs become part of the contract. M/W/DSBE percentage commitments are to be maintained throughout the term of the contract and shall apply to the total contract value (including amendments). Any change in commitment, including but not limited to substitutions for the listed firm(s), changes or reductions in the work and/or listed dollar/percentage amounts, must be pre-approved in writing by the OEO.

2. The Successful Bidder shall, within five (5) business days after receipt of a payment from the City for work performed under the contract, deliver to its M/W/DSBE subcontractors the proportionate share of such payment for work performed (including the supply of materials) by its M/W/DSBE subcontractors. In connection with payment of its M/W/DSBE subcontractors, the Successful Bidder agrees to fully comply with the City's payment reporting process which may include the use of electronic payment verification systems.

3. No privity of contract exists between the City and any M/W/DSBE subcontractor identified in any contract resulting from this Bid. The City does not intend to give or confer upon any such M/W/DSBE subcontractor(s) any legal rights or remedies in connection with the subcontracted services under Executive Orders 2-05 and 14-08 or by reason of any contract resulting from the Bid except such rights or remedies that the

M/W/DSBE subcontractor may seek as a private cause of action under any legally binding contract to which it may be a party.

4. If the OEO determines that the bidder has discriminated against a M/W/DSBE at any time during the term of the contract, the OEO may recommend to the Procurement Commissioner the imposition of sanctions on the Bidder including debarment of the bidder from submitting and/or participating in future City contracts for a period of up to three (3) years.

#### **D. ACCESS TO INFORMATION**

1. The OEO shall have the right to make site visits to the Bidder's place of business and/or job site and obtain documents, such as quotations, and information from any Bidder, subcontractor, supplier, manufacturer or contract participant that may be required in order to ascertain a Bidder's responsiveness and responsibility.

2. Failure to cooperate with the OEO in its review may result in a recommendation to terminate the contract.

#### **E. RECORDS AND REPORTS**

1. The Successful Bidder shall maintain all books and records relating to its M/W/DSBE commitments (e.g. copies of quotations, subcontracts, joint venture agreement, correspondence, cancelled checks, invoices, telephone logs) for a period of at least three (3) years following acceptance of final payment. These records shall be made available for inspection by the OEO and/or other appropriate City officials. The Successful Bidder agrees to submit reports and other documentation to the OEO as deemed necessary by the OEO to ascertain the successful bidder's fulfillment of its M/W/DSBE commitments.

#### **F. REMEDIES**

1. The Successful Bidder's compliance with the requirements of Executive Orders 2-05 and 14-08, including the fulfillment of any M/W/DSBE commitments, is material to the contract. Any failure to comply with these requirements constitutes a substantial breach of the contract. It is further understood and agreed that in the event the City determines that the Successful Bidder hereunder has failed to comply with these requirements the City may, in addition to any other rights and remedies the City may have under the contract, any bond filed in connection therewith or at law or in equity, exercise one or more of the following remedies, as deemed applicable, which shall be deemed cumulative and concurrent:

a. Withhold payment(s) or any part thereof until corrective action is taken.

b. Terminate the contract, in whole or in part.

c. Suspend/Debar the Successful Bidder from proposing/bidding and/or participating in any future City contracts for a period of up to three (3) years.

d. Recover as liquidated damages, one percent of the total dollar amount of the contract for each one percent (or fraction thereof) of the commitment

shortfall. (NOTE: The “total dollar amount of the contract” shall include approved change orders, amendments and for requirements contracts shall be based on actual quantities ordered by the City. For Concessions, the “total dollar amount of the contract” shall mean the Concession Fee paid to the City.)

The remedies enumerated above are for the sole benefit of the City and City’s failure to enforce any provision or the City’s indulgence of any non-compliance with any provision hereunder, shall not operate as a waiver of any of the City’s rights in connection with any contract resulting from this Bid nor shall it give rise to actions by any third parties including identified M/W/DSBE subcontractors.

**ANTIDISCRIMINATION POLICY SOLICITATION FOR PARTICIPATION AND COMMITMENT FORM**  
 Minority (MBE), Woman (WBE), Disabled (DSBE) and Disadvantaged (DBE) Business Enterprises<sup>1</sup>

**DEPARTMENT OF COMMERCE**  
**OFFICE OF ECONOMIC OPPORTUNITY (OEO)**

<b>Bid Number or Proposal Title:</b>		<b>Name of Bidder/Proposer:</b>				<b>Bid/RFP Opening Date:</b>	
List below ALL MBE/WBE/DBE/DSBEs that were solicited regardless of whether a commitment resulted therefrom. - Photocopy this form as necessary.							
<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> DSBE <input type="checkbox"/> M-DBE <input type="checkbox"/> W-DBE		<b>Work or Supply Effort to be Performed</b>	<b>Date Solicited</b>		<b>Commitment Made</b>		<b>Give Reason(s) If No Commitment</b>
<b>Company Name</b>			<b>By Phone</b>	<b>By Mail</b>	<b>Yes (If Yes, give date)</b>	<b>NO</b>	
<b>Address</b>							
<b>Contact Person</b>			<b>Quote Received</b>		<b>Amount Committed To</b>		
<b>Telephone Number</b> <b>Fax Number</b>			<b>YES<sup>2</sup></b>	<b>NO</b>	<b>Dollar Amount</b>		
<b>Email Address</b>					<b>\$</b>		
<b>OEO REGISTRY #</b>	<b>CERTIFYING AGENCY</b>				<b>Percent of Total Bid/RFP</b>		
					<b>%</b>		
<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> DSBE <input type="checkbox"/> M-DBE <input type="checkbox"/> W-DBE		<b>Work or Supply Effort to be Performed</b>	<b>Date Solicited</b>		<b>Commitment Made</b>		<b>Give Reason(s) If No Commitment</b>
<b>Company Name</b>			<b>By Phone</b>	<b>By Mail</b>	<b>Yes (If Yes, give date)</b>	<b>NO</b>	
<b>Address</b>							
<b>Contact Person</b>			<b>Quote Received</b>		<b>Amount Committed To</b>		
<b>Telephone Number</b> <b>Fax Number</b>			<b>YES<sup>2</sup></b>	<b>NO</b>	<b>Dollar Amount</b>		
<b>Email Address</b>					<b>\$</b>		
<b>OEO REGISTRY #</b>	<b>CERTIFYING AGENCY</b>				<b>Percent of Total Bid/RFP</b>		
					<b>%</b>		
<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> DSBE <input type="checkbox"/> M-DBE <input type="checkbox"/> W-DBE		<b>Work or Supply Effort to be Performed</b>	<b>Date Solicited</b>		<b>Commitment Made</b>		<b>Give Reason(s) If No Commitment</b>
<b>Company Name</b>			<b>By Phone</b>	<b>By Mail</b>	<b>Yes (If Yes, give date)</b>	<b>NO</b>	
<b>Address</b>							
<b>Contact Person</b>			<b>Quote Received</b>		<b>Amount Committed To</b>		
<b>Telephone Number</b> <b>Fax Number</b>			<b>YES<sup>2</sup></b>	<b>NO</b>	<b>Dollar Amount</b>		
<b>Email Address</b>					<b>\$</b>		
<b>OEO REGISTRY #</b>	<b>CERTIFYING AGENCY</b>				<b>Percent of Total Bid/RFP</b>		
					<b>%</b>		

1. If Bidder/Proposer makes solicitation(s) and commitment(s) with a DBE, Bidder/Proposer shall indicate which class type, M-DBE or W-DBE, is submitted for credit.  
 2. Attach all quotations to this form.  
 09/2010

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		FIRM NAME (Must be filled in)	

## **SECTION 1: GENERAL BID SUBMISSION**

1.1 **TITLE: Drug Screen Testing Services**

1.2 **SCHEDULE NO: 951**

1.3 **CONTRACT TERM:** 04/01/2013 to 03/31/2014 (“Initial Term”), with an option to renew for up to three (3) additional one (1) year periods, (“the Renewal Term”) exercisable, at the City’s sole discretion, as of the expiration of the Initial Term or the current Renewal term. The City may, at its sole discretion, renew the contract for up to three (3) months at the beginning of each renewal period(s) (the “Additional Performance Period”), if a decision has been made not to renew the contract for an entire year.

1.3.1 The City shall exercise such sole option to renew the Contract Term by issuing a letter (the “Renewal Notice”) notifying the Contractor that the Contract is renewed for the Renewal Term or Additional Performance Period (identified by commencement and termination dates) that is specified in the Renewal Notice. The Contract shall be deemed to be renewed for such Renewal Term or Additional Performance Period, and Contractor shall be obligated to perform all terms and conditions of the Contract throughout such Renewal Term or Additional Performance Period, as of the effective date indicated on the City’s Renewal Notice, whether or not Contractor has agreed, verbally or in writing, to such renewal of the Contract term.

1.3.2 If an individual Performance Bond and/or Payment Bond is required under this Invitation and Bid, such bond(s) shall be and remain in full force and effect throughout the Initial Term, all Renewal Terms, any Additional Performance Period, and the period of any unexpired warranty provided or required under the Contract, without notice of Contract renewal by the City to the surety or the consent of the surety thereto. It is the sole responsibility of the Contractor to ensure that such bond(s) remain in full force and effect as provided in this Section, and failure to do so shall be an event of default pursuant to Section 19, Default, of the attached Terms and Conditions of Bidding and Contract.

If participation in the City’s Master Performance Security Program is required under this Invitation and Bid, Contractor shall pay the required annual fee for such participation for each Renewal Term upon the issuance of the Renewal Notice.

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**1.4 CONTRACT TYPE: REQUIREMENTS**

1.4.1 The following items are required in the operation of various City agencies as ordered. Exact quantities cannot now be determined but estimates thereof are listed herein. Quantities listed may be increased or decreased to meet the requirements of the City during the period of this contract. A minimum is not guaranteed. Purchase orders issued as a result of this bid will be for materials or services to be delivered generally on an as-needed basis. Successful bidders are cautioned not to deliver any materials or services without first being advised to do so by the ordering agency.

1.4.2 It is the intent of the Procurement Department to make an award for the period as stated above subject to the appropriation of funds in succeeding fiscal year/years by City Council. The City's fiscal year is from July 1st to June 30th inclusive.

Commodities or services on the bid to be ordered after the end of the fiscal year are subject to the issuance of purchase orders for the following fiscal years. The City is not liable for the award involving following fiscal years' funds until such orders are issued.

The successful bidder(s) obligation to deliver on such purchase orders shall not take effect until the orders are issued. To simplify the contract procedure, however, the successful vendor will be required to furnish a Performance Bond or Performance Security Fee to cover units awarded to him.

**1.5 METHODOLOGY OF ACQUISITION: PURCHASE only.**

**1.6 STATEMENT OF DIRECTION:**

It is the intent of the City of Philadelphia to enter into a contract with a drug testing laboratory to perform testing services, provide expert testimony, training, regulatory support and guidance in the City's Drug Screen Testing Program for applicants and employees of the Philadelphia (Phila.) Police Department, for applicants and employees of the Philadelphia Fire Department, and for those applicants, employees, and those employment positions identified as necessary and appropriate for drug screening by Human Resources of the City of Philadelphia. Services include extended support and guidance for various City departments including Employee Medical, Human Resources, Police, Fire, Aviation, Prisons, Risk Management, Labor Relations, and Law Department.

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## 1.7 BID SECURITY

1.7.1 Bid security shall be based upon **cumulative bid amount per Section 5.**

All bids submitted with a total greater than \$30,000.00 must be accompanied by the proper Bid Security.

Bidders already enrolled in the City's Master Bid Security Program for July 1, 2012 to June 30, 2014 are not required to provide Bid Security if their bid total is \$500,000.00 or less (per paragraph 2 of "Terms and Conditions of Bidding and Contract").

**The Master Bid Security Program** allows bidders to qualify for bid security for individual bids submitted during the covered bidding period provided the individual bid total is \$500,000.00 or less.

### 1.7.2 **Bids Opening July 1, 2012 through June 30, 2014**

Bidders may qualify for the Master Bid Security Program described above for **July 1, 2012 – June 30, 2014** by submitting a check in the amount of **\$200.00** made payable to the City of Philadelphia. The check should be submitted, under separate cover, to the Bid Unit Supervisor at least one day prior to the first bid that the bidder wants covered under the program and is *non-refundable*.

Or if, and only if, the bidder chooses to submit the check for the Master Bid Security Program with their bid, the check **MUST** be in the form of a Certified, Treasurer's or Cashier's Check, Bank or United States Postal Money Order and is non-refundable.

1.7.3 If the bidder is not enrolled and does not intend to enroll; or if the total value of the bid submitted exceeds \$500,000.00, the Master Bid Security Program is not applicable. Bidders instead **MUST** submit with their bid a refundable Certified, Treasurer's or Cashier's Check, Bank Money Order or United States Postal Money Order in the amount as specified in Paragraph 2 entitled "Bid Security", of the "Terms and Conditions of Bidding and Contract".

## 1.8 BID INFORMATION:

1.8.1 All information concerning this bid will be contained in this bid document as issued or amended.

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1.8.2 Information provided verbally by any City official shall not be binding or relevant.

**1.9 BID SUBMISSION:**

1.9.1 Bid information must be submitted to the City of Philadelphia no later than the time and date for the bid opening.

1.9.2 Advertised sealed bids will be received and read publicly at 10:30 AM in Room #170A, 1<sup>st</sup> Floor, Municipal Services Building, 1401 JFK Boulevard.

1.9.3 Bid should be complete and include ALL information required as described in the various paragraphs of the bid specifications.

1.9.4 All pricing must be completed on the forms provided; be complete; and be in ink or typed.

1.9.5 The bid must be complete as to required bid signatures and corporate seal, and fully accept the terms and conditions contained in the bid.

**1.9.6 BID PROCESSING FEE:**

All bids submitted where the bid total is greater than \$30,000 shall be accompanied by the proper Bid Processing Fee. The fee shall be in the form of a separate check or money order in accordance with Paragraph 3 of the "Terms and Conditions of Bidding and Contract."

1.9.7 In accordance with the City of Philadelphia's Regulations Relating to Local Bidding Preferences for Procurement Contracts, this bid may be subject to a 5% local bid preference. In order to determine eligibility to receive the 5% preference, if applicable, **bidder or subcontractor must be certified at the time of the bid opening and must submit with the bid the Local Business Entity Certification number** as issued by the Procurement Department for the prime contractor or the applicable subcontractor. If the prime relies upon its subcontractor's LBE status in order to be eligible for the preference, the name and certification number of the subcontractor **must** be submitted with the bid. **Failure to submit the prime's LBE certification number or the subcontractor's name and the LBE certification number with the bid will deem bidder ineligible for the 5% preference.**

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Further, by submission of this bid, bidder makes the following certification in connection with the grant of any local bidding preference:

“I certify, that if awarded this contract on the basis of application of the LBE preference, my company or my subcontractor, throughout the entirety of this contract, will perform the majority of the work under this contract within the geographic limits of the City of Philadelphia, and I will, or cause my subcontractor to, maintain within the City a majority of the inventory or equipment that will be used on this contract or the amount of inventory that is customary for this industry.”

Prime or subcontractor’s LBE Certification Number\_\_\_\_\_

If applicable:

Subcontractor’s Name\_\_\_\_\_

**NOTE: If you wish to apply for Local Business Entity (LBE) certification, go to [www.phila.gov/bids](http://www.phila.gov/bids). Please provide sufficient time prior to bidding for processing of the LBE application.**

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1.9.8 **BID QUESTIONS OR PROBLEMS**

In preparing the bid response, should any bidder need clarification on the bid requirements, identify a discrepancy in the specifications, determine that a specified product has been discontinued or an alternate procedure is advised, etc.; then the bidder is **STRONGLY** encouraged to bring these issues to the attention of the Procurement Department’s Public Information Unit prior to the bid opening by calling (215) 686-4720 or 4721, or by faxing (215) 686-4716. **Questions, whether phoned or faxed, should be received no later than three (3) business days after the scheduled Non-Mandatory Pre-Bid Meeting date referenced in paragraph 1.10 of this Invitation and Bid. The City reserves the right to only respond to those questions submitted prior to the stated deadline.** If it is in the City’s best interest to do so, the bid MAY be amended to reflect the proposed changes/modifications. **Exceptions taken DO NOT obligate the City to change the specifications. The City of Philadelphia, Procurement Department will notify all bidders in writing, by addendum duly issued, of any interpretations/changes made to specifications or instructions. The City will not accept responsibility for oral instructions, suggestions or changes by any City agency.**

Otherwise the successful bidder will have to provide the product or service exactly as defined in this bid, and in accordance with the specifications and requirements as listed in this Invitation and Bid.

1.10 **NON-MANDATORY PRE-BID MEETING:**

A **Non-Mandatory Pre-Bid Meeting** will be held for all interested parties on **February 28, 2013 at 12:00 (Noon) in the Bid Room, Room 170A, Municipal Services Building, 1401 J.F.K. Boulevard, Philadelphia, PA 19102-1685.**

The purpose of this meeting is to respond to questions from prospective bidders. Bidders are encouraged to submit questions in writing at this time. All questions that materially impact upon the bid process will be answered, in writing, in a formal addendum issued by the City. Oral responses by City employees or their representatives are not binding and shall not in any way be a commitment by the City.

Attendance at this Pre-Bid Meeting is not a requirement for bidding.

**IT IS THE VENDOR’S RESPONSIBILITY TO ENSURE THAT THEY ARRIVE AT THE PRE-BID MEETING ON TIME. VENDORS WHO ARRIVE TWENTY MINUTES AFTER THE MEETING HAS STARTED, MAY BE DENIED ENTRY TO THE MEETING.**

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**1.11 BIDDER QUALIFICATION AND BID SUBMISSION:**

1.11.1 Vendor qualifications and the bid document must be submitted in two (2) separate sealed packages.

The first package must be identified as **Bidder's Qualification Package** and show Bid No. along with the name of the firm. The package should contain all of the information as requested in **Paragraphs 1.14 through 1.14.4.7**.

The second package must be identified as **Bid Documents Package** and show Bid No. along with the name of the firm. This package must contain the fully executed bid documents (to include pricing pages, contract backer any Addendums, Bid Security and Bid Processing Fee) as requested in **Paragraph 1.15**.

1.11.2 Qualifications and bid information must be submitted to the City's Procurement Department no later than the time and date stated for bid submittal. Only Company names shall be read if requested at the date and time of bid submission.

1.11.3 Qualifications and bid must be complete and should include all information required and as described in Section 1.14 through 1.14.4.7 and 1.15 of this bid. Incomplete submission may result in bidder's disqualification for reasons of non-responsiveness.

1.11.4 All bid pricing must be completed on the forms provided, be complete, and be in ink or typed.

1.11.5 Bid must be complete as to required bid signatures and corporate seals and must fully accept the terms and conditions contained in the bid. A bid submitted with counter terms and conditions may be disqualified.

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1.12 **BIDDER CONTACT PERSON(S):**

**PRE-AWARD:**

Indicate below to whom in your firm questions concerning this Invitation and Bid should be directed:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/ZC: \_\_\_\_\_

Telephone No.(\_\_\_\_) \_\_\_\_\_ Ext.: \_\_\_\_\_

Fax No.(\_\_\_\_) \_\_\_\_\_

E-mail address \_\_\_\_\_

**State Company Web Site Address:** \_\_\_\_\_

1.13 **CONTRACT CONTACT PERSON:**

Indicate below to whom in your firm questions concerning the Contract resulting from this Invitation and Bid should be directed:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/ZC: \_\_\_\_\_

Telephone No.(\_\_\_\_) \_\_\_\_\_ Ext.: \_\_\_\_\_

Fax No.(\_\_\_\_) \_\_\_\_\_

E-mail address \_\_\_\_\_

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## 1.14 BIDDER QUALIFICATION PACKAGE

City is committed to only contracting with a vendor who is qualified to meet all the specifications and requirements of this bid. As such, bidders are to respond to each element of Section 1.14, Bidder Qualification. If the information requested does not apply to your firm, it must be so noted in the qualification submittal.

The City may require bidders to briefly discuss or clarify their submission.

### 1.14.1 Form of Bidder Qualification Submittal

The Bidder qualification submittal must be in a separate envelope from the bid package. The bidder is to submit one original qualification submittal plus two (2) additional copies. The envelope is to clearly note Bid firm's name and be labeled "**Bidder's Qualification Package.**"

The qualification is to be organized as follows with all pages numbered and bid paragraphs specifically identified:

- 1) Table of Contents
- 2) General Information per Section 1.14.2.
- 3) Capabilities & References per Section 1.14.3.
- 4) Financial per Section 1.14.4
- 5) Confidential Information

If the bidder chooses to include material of a confidential nature, then the City will exercise reasonable efforts to keep such material confidential to the extent permitted by law. The bidder shall separate all confidential material from the rest of the Bidder's Qualification Package and provide it in a sealed envelope, with each page of the confidential material marked "Confidential" and a cross reference designation in both the Qualification Package and in the confidential material so that the City can easily determine where the material belongs in the Qualification package.

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1.14.2 **General Information:**

- 1.14.2.1 Provide a brief history of your organization and an executive summary signed by an officer that describes your company's qualifications, ability and experience in furnishing and delivering the required service as described in this bid.
- 1.14.2.2 No bid shall be accepted from any bidder having less than ten (10) years experience as a drug testing laboratory capable of providing expert testimony, regulatory guidance, support and training in the drug testing processes. The bidder is to indicate the number of years and extent of services it has provided.
- 1.14.2.3 The bidder's testing laboratory must meet all appropriate Commonwealth of Pennsylvania (Pennsylvania) and Federal licensing and accreditation standards, rules and regulations for a drug testing laboratory, including any and all applicable Department of Health and Human Services/Substance Abuse and Mental Health Service Administration (DHHS/SAMHSA) certifications. Additionally, the laboratory must have at least (5) years' experience in public sector drug testing and five (5) years demonstrated experience in the use of G.C./M.S. confirmatory technique. Minimum service provider qualifications also require that service provider meet current DHHS/SAMHSA regulations and certification standards for drug testing laboratories.

Bidder shall include copies of relevant permits and licenses required for drug screen testing, to include all relevant permits and licenses for the laboratory facility.

The Bidder's laboratory facility that will be utilized during the contract period for testing samples must deal exclusively with drug screening services and must not be used to provide clinical urinalysis within the same laboratory facility. Distinct and bona fide segregation of clinical urinalysis is mandated.

For the purposes of this Invitation and Bid it is Mandatory that the Bidder's laboratory facility be located within a Fifty (50) Mile radius of the City of Philadelphia (Center City).

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1.14.2.4 **Expert Testimony**

The testing laboratory must have a demonstrated record of providing technical testimony by a qualified expert involving the forensic analysis of drugs, cut-off levels and test results for private and public employees for court cases, labor arbitration and other types of litigation.

1.14.2.5 **Laboratory Personnel Qualifications**

1.14.2.5.1 The director of the facility must be certified as a Laboratory Director by Pennsylvania in forensic/toxicological analysis, or hold a Ph.D in pharmacology, toxicology or analytical chemistry. The director must have at least two (2) years of experience in analytic toxicology and appropriate training and/or forensic applications (court testimony, research and publications in analytic toxicology of drugs of abuse, etc.). The director shall also possess scientific qualifications comparable to certification by the American Board of Toxicology or the American Board of Chemistry in toxicological chemistry.

1.14.2.5.2 Supervisors of analysts must have a B.S. degree in chemistry or at least the education and experience comparable to a Medical Technologist certified by the American Society of Clinical Pathologists (MT(SDVP), or its equivalent.

1.14.2.5.3 Other laboratory personnel, including technicians or non-technical staff, must possess the necessary training and skills for the task(s) assigned them.

1.14.2.6 **Turnkey Responsibility**

Any service provider responding to this Bidder Qualification must submit their bid as the primary contractor with total responsibility. The successful provider will assume single source responsibility and be the sole point of contact for all contractual matters. THERE WILL BE NO SUB-CONTRACTING OF ANY SERVICES DURING THE CONTRACT PERIOD.

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- 1.14.2.7 The City reserves the right to inspect all aspects of the successful vendor's operation during the contract term. Inspection or failure to inspect shall not relieve the successful vendor of any duty, responsibility, or liability provided by law or contract.
- 1.14.2.8 The bidder is to give the following assurances and information and covenants that as a bidder it is fully qualified to provide services as listed in Section 2 of this Invitation and Bid.
- 1.14.2.9 Bidder shall provide to the City, in writing, a brief description per each paragraph on how it will meet each of the City's requirements stated in Section 2, Specifications. At a minimum the following must be addressed:
- 1.14.2.9.1 Staffing levels and equipment to be utilized to fulfill the requirements specified herein. Identify vendor's management team, its support team, their background and experience.
- The resumes of the Laboratory Director, his/her subordinate managers, the regulatory and technical expert, and other members of the management team that the vendor will appoint to be ultimately responsible for the City's account.
- 1.14.2.9.2 The resumes shall indicate the qualifications of the management staff with, as a minimum, their positions in the firm, their degrees and applicable certifications, their total years in the firm, their types of experience and their job assignment for this program.
- 1.14.2.9.3 Procedures for dealing with City's complaints about the quality and availability of services.
- 1.14.2.9.4 A contingency plan to be utilized in case the primary laboratory becomes unavailable for service at any time during the contract period.

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1.14.2.9.5 A technical plan containing a detailed description of how the required services, as described in Section 2, “Specifications,” will be provided and a discussion of how the vendor proposes to satisfy all minimum requirements of this Invitation and Bid. Include all available data to support the provider’s abilities to maintain chain of custody and quality assurance.

1.14.2.9.6 A description of the comprehensive training program that will be furnished to those individuals selected and designated by the City. Include a description of all guides, manuals, training orders and other documentation that will be furnished to the City.

1.14.2.9.7 A description of the random selection process to be utilized for generating random selections for the Police Department, Fire Department, Human Resources and other covered personnel.

1.14.2.9.8 Describe process in providing federally qualified collection staff and certified breath alcohol technicians (BAT) with NHTSA approved evidential breath testing devices from the conforming products list (CPL) for conducting after hours post accident or reasonable cause testing situations for all City Departments.

1.14.3 **Capabilities and References**

1.14.3.1 List all contracts your company or related companies have had with the City in the last three (3) years.

1.14.3.2 List any experience in the last three (3) years in which your company or related companies failed to successfully complete a contract. List any contractual arrangements which were canceled, found to be in default, terminated for default or not renewed for poor performance.

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- 1.14.3.3 Provide a minimum of three (3) contract references that your firm has provided Drug Testing Laboratory and Expert Testimony Services for the last five (5) years. These references should support your company's capability to meet the requirements of this bid's size and scope. Provide a detailed description for each contract.

The description, at a minimum, is to include the contract term, estimated annual contract value, nature of the work, and the name, address and telephone number of the customer's contract administrator.

At the discretion of the City, these persons may be contacted.

1.14.4 **Financial Information**

- 1.14.4.1 A copy of your company's financial statements, including a detailed balance sheet and profit and loss statement for the last three (3) years. The City reserves the right to request audited statements.
- 1.14.4.2 List a minimum of three (3) supplier references, name and telephone number of a person familiar with your accounts, types of accounts, loans or lines of credit and relevant dates that accounts were established. These persons may be contacted by the City as references.
- 1.14.4.3 If you are a partnership or a joint venture, give the date of the formation agreement, County and State where the agreement was filed, and name of each partner.

If you are a corporation, give the date and state of incorporation and the names of the officers.

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- 1.14.4.4 List any law suits against your company or any of your officers or partners in the last five (5) years. Bidder shall describe any pending, contemplated or on-going administrative or judicial proceedings material to Bidder's business or finances including, but not limited to, any litigation, consent orders or agreements with any state or federal regulatory agency involving Bidder or any subcontractor Bidder plans to use for the services described in this bid.
- 1.14.4.5 Describe any Notices of Violations, compliance orders, fines or penalties for regulatory noncompliance issued by any state or federal regulatory agency during the last five (5) years issued to your company or to any laboratory facilities your company plans to use for the provision of drug testing under the terms of the contract resulting from this Invitation and Bid.
- 1.14.4.6 List any performance bonds that were called the last five (5) years due to unsuccessful completion of the contract.
- 1.14.4.7 State whether your company, subsidiaries or affiliated organizations are delinquent in payment of any debts or obligations to the City of Philadelphia or its related agencies.

**1.15 BID DOCUMENTS PACKAGE**

This package must be identified as Bid Documents and show **Bid No. S3Z59620** along with the Package Bid submittal date and name of the firm. This package must contain the fully executed bid documents, pricing pages, contract backer, any addendums, Bid Security, and Bid Processing Fee. All bid pricing must be completed on the forms provided, be complete (bid on all items) and be in ink or typed. Bid must be complete as to required signatures and corporate seal. Any bid submitted with counter terms and conditions may be disqualified.

**SECTION 2: SPECIFICATIONS**

**2.1 GENERAL**

- 2.1.1 The City seeks to establish a contract with the successful vendor to provide drug testing services, and random selection services for:

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- (i) New applicants for the position of Firefighter, Police Officer, Paramedic and those classes of employment identified by Human Resources as requiring a pre-employment drug screen.
- (ii) Sworn Fire personnel under reasonable suspicion and post accident conditions.
- (iii) Sworn Fire personnel under certain routine physical examination conditions.
- (iv) Sworn Police personnel under reasonable suspicion conditions and post accident conditions.
- (v) Sworn Police personnel under certain routine physical examination conditions.
- (vi) Existing personnel for Streets, Water, Prisons or any other City Departments as deemed appropriate by Human Resources.
- (vii) Sworn Fire personnel, sworn police personnel, and DOT covered personnel, under random testing conditions.
- (viii) Existing personnel under reasonable suspicion and post accident conditions, and those subject to random testing by virtue of a “safety sensitive” designation.

2.1.2 The successful vendor will be required to have the proposed service operational and available within thirty (30) calendar days after the date of notice to proceed by the City.

## 2.2 TESTING

2.2.1 Drug testing will be performed at a laboratory certified by the Department of Health and Human Services/ Substance Abuse and Mental Health Services Administration DHHS/ SAMHSA. Testing will include screening, validity testing, and confirmatory testing will be performed by the GC/ MS and/or LC/MS technique in accordance with Part 40 protocols. However, those substances tested and cutoff levels are determined by individual Directives and policies.

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- 2.2.1.1 Attachment 'A' is the "City of Philadelphia Drug and Alcohol Policy" outlines the appropriate test standards and other pertinent conditions for all above mentioned applicants.
- 2.2.1.2 Attachment 'B', Police Directive #55, outlines the appropriate test standards and other pertinent conditions for Sworn Police personnel.
- 2.2.1.3 Attachment 'C', Fire Directive #54, outlines the appropriate test standards and other pertinent conditions for sworn Fire personnel.
- 2.2.1.4 Attachment 'D' "Drug and Alcohol Testing Policy for Operators of Commercial Vehicles", outlines the appropriate test standards and other pertinent conditions for Operators of Commercial Vehicles and shall apply to City personnel required to possess a Commercial Drivers License (CDL).
- 2.2.1.5 Attachment 'E', "Twenty-four (24) hour on site collection and availability for the collection of urine specimens and breath alcohol testing." The service is utilized for reasonable cause and post accident testing situations. On site collections require less than 60 minute response time from initial call for service.
- 2.2.1.6 Appendix "A", "B", and "C" represent the various substances tested and the respective cutoff levels for those drug metabolites. Individual Directives and policies will dictate the appropriate test panel for a particular City entity.

### 2.3 CHAIN OF CUSTODY

- 2.3.1 The testing laboratory will conform to standard evidentiary procedures for the maintenance of Chain of Custody in the urine sample collection, securement, transportation, receiving, processing, initial, and, if necessary, confirmatory testing, sample storage and reporting of results. All necessary documentation forms and supplies will be provided by the testing laboratory.

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### 2.3.2 Forms

An appropriate chain of custody form documenting proper transfer of the sample from collection through the testing process according to standard evidentiary requirements will be maintained. The form will contain appropriate line items for the relevant identification of the individual submitting the sample (examinee), documenting by the sample taker and/or witness(es) and other chain of custody certifications.

The form will also include a place for additional pertinent information such as the examinee's name (where required), and/or a confidential test identification code, DOB, date of sample collection, time of collection and test requestor.

### 2.3.3 Containers

All containers for the collection samples will be provided in tamper-proof packaging (e.g., shrink-wrapped boxes, etc.). An evidence tampering seal(s) will be provided for specimen container sealing of secured samples.

### 2.3.4 Transportation

All samples will be transported by bonded carriers, whether by private courier service or by a testing laboratory's private courier service.

### 2.3.5 Sample Receiving and Processing

Only authorized employees of the City or the testing laboratory shall have access to samples. Upon delivery of samples to the laboratory, authorized personnel will perform the necessary administrative processing. Evidence of mishandling, tampering or other discrepancies will be documented on the chain of custody form and also reported in writing to the appropriate City representative within 24 hours, with a detailed explanation. The sample will be processed for testing unless protocol mandates rejection.

The sample will be checked for validity (adulteration / substitution) and submitted to a G.C./M.S. evaluation test to document any adulteration or of drug presence in the sample.

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### 2.3.6 Result Reporting

An appropriate form of result reporting will be provided by one or more of the following methods, listed in order of preference by the City:

- (i) Web-Based System transmission to dedicated location.
- (ii) Facsimile transmission to dedicated location
- (iii) Courier delivery
- (iv) Sealed written notification by registered mail.

All equipment, and costs thereof, used for result reporting will be the responsibility of the service provider.

### 2.3.7 Sample Storage

Confirmed positive samples will be properly maintained by a storage method that will maintain the integrity of the sample for additional forensic testing, if required. The testing laboratory must have the ability to store such samples for a minimum of one year, or longer if required.

Any applicant or Sworn member of the Police or Fire Departments or applicant for those employment positions identified by Human Resources as being required to have a drug screen, whose urine is confirmed positive will be provided an opportunity to have a secondary test at the applicant's or employee's own expense at a facility selected by and by a procedure determined by the City for testing a remaining portion of a submitted sample by G.C./M.S. confirmatory test.

When the City receives a request for the split to be tested, it shall direct the applicant or employee to contact the testing laboratory. The testing laboratory shall provide a letter to the applicant or employee with a list of SAMHSA certified laboratories and instructions how to initiate the process.

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## 2.4 **QUALITY CONTROL/ASSURANCE PROGRAM**

The testing laboratory must have an established quality assurance program encompassing all aspects of the testing process. Quality Control procedures must be designed, implemented and reviewed to monitor the conduct of each step of the process. The testing laboratory must submit to regular quality assurance tests and issue quality assurance reports.

## 2.5 **TURNAROUND TIME**

For negative results, notifications must be made within twenty-four (24) hours upon receipt of laboratory results. For positive results, it shall be forty-eight (48) hours upon receipt of laboratory results; however, in no case shall turnaround time be more than seventy-two (72) hours for confirmatory testing.

## 2.6 **TRAINING, REGULATORY SUPPORT, GUIDANCE, AND DOCUMENTATION**

2.6.1 The successful vendor will be required to provide a comprehensive reasonable cause training program, complete with operating manuals and other supporting documentation, for regular monthly training for City managers approximately 120 hours per year.

2.6.2 Urine specimen collection training and materials provided by the vendor for designated medical staff and police officers in accordance with Part 40 is conducted annually on as needed basis.

2.6.3 Risk management, labor, and law support and testimony is provided by the vendor by a technical & regulatory expert on an as needed basis (between twenty five to fifty hours per year).

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## 2.7 PROCEDURAL REQUIREMENTS OVERVIEW

In order to ensure complete program understanding, it is essential that potential service providers familiarize themselves with the City of Philadelphia Substance Abuse Policy (the procedural requirements overview, (Attachment A), the Police Procedural Directive on Drug Screening (Attachment B), The Fire Procedural Directive on Drug Screening (Attachment C), The Drug and Alcohol Testing procedure for Operators of Commercial Vehicles (Attachment D) and the Twenty-four (24) hour access and availability for conducting an evidential breath test EBT and urine specimen collection (Attachment E), so that their Bidder Qualification Package will satisfy in all aspects of the Police and Fire Departments' needs and those applicants for positions in non-uniformed services which may be identified as necessary and appropriate for drug / alcohol testing by Human Resources. Service providers will review Attachments A, B, C, D, E and Appendix A, B, C and certify their understanding of the process in light of their Bidder Qualification Package that is submitted. Potential Service providers should also review DHHS/SAMHSA Laboratory Certification Standards governing actual laboratory operations, qualifications of laboratory personnel and procedural and testing documentation requirements.

## 2.8 ESTIMATED QUANTITIES

No minimum or maximum quantity of test procedures is guaranteed by the City for the term of the contract resulting from this Invitation and Bid.

## 2.9 CITY RESPONSIBILITIES

The City reserves the right to inspect all aspects of the successful vendor's operation during the contract term. Inspection or failure to inspect shall not relieve the successful vendor of any duty, responsibility, or liability provided by law or contract.

## 2.10 PERSONNEL

Technical & Regulatory Expert – The vendor will appoint a technical & regulatory expert available 24 /7 with ultimate reasonability and oversight for the City's account. The technical & regulatory expert will be the main point of contact with the City's Contract Manager or designated contact person(s).

## 2.11 CONTRACT MANAGEMENT

City Contract Manager – The City may appoint a contract manager for this contract or

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may choose a prime contact person from each major using agency (i.e., Police, Fire, Employee Medical Unit, Aviation, Risk, Labor, Law, Water, Streets and the Prisons), as well as from Human Resources.

## 2.12 MANAGEMENT REPORTS

The successful vendor shall provide documentation on all testing, testimony, training, consultation, supplies and any other applicable services to each City agency utilizing the contract on a monthly basis.

## 2.13 COLLECTION SITES

2.13.1 City of Philadelphia Applicant Drug Screen Procedure, Operators of Commercial Vehicles and Police

Department Testing Locations:

Health Department  
Medical Evaluation Unit  
1901 Fairmount Avenue  
Philadelphia, PA 19130

Police Department  
Internal Affairs Division  
7700 Dungan Road  
Philadelphia, PA 19152

2.13.2 Twenty-four (24) Hour Access and Availability for Urine Collection and Breath Alcohol Testing Locations:

Jeanes Hospital  
7600 Central Avenue  
Philadelphia, PA 19111

or

Vendor Emergency Call Out  
Services @ any City managed  
facility

2.13.3 Scheduled on-site collections and breath testing @ any City managed facility:

It is the intent of the City of Philadelphia to continue using both Jeanes Hospital and for Twenty-four (24) hour access and availability for drawing blood and urine samples and breath alcohol testing.

It shall be the responsibility of the awarded vendor to establish and maintain, for the life of the contract with the City of Philadelphia, a contractual agreement with Jeanes Hospital in order to provide continued Twenty-four (24) hour access and availability for drawing blood and urine samples and breath alcohol testing services to the City of Philadelphia.

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2.13.4 The Contractor will also be required to perform On-Site testing on a 24 x 7 basis at various Fire Department Engine Houses located throughout the City during the contract period. The Contractor will coordinate with the City of Philadelphia Fire Department Human Resources / SIO to provide on site testing services at scheduled locations without disrupting staffing or fire service requirements.

Attached is a listing of the City of Philadelphia Fire Department Engine Houses:

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E.	BAND	LOCATION	E.	BAND	LOCATION
1	S	711 S. BROAD ST (47)	40	S	65TH & WOODLAND AV (42)
2	S	2426 - 32 N. 2 <sup>ND</sup> ST (33)	41	S	61 <sup>ST</sup> & THOMPSON STS (51)
3	S	WASHINGTON & MOYAMENSING AVS (47)	43	S	2110 MARKET ST (03)
5	S	43 <sup>RD</sup> & MARKET STS (04)	44	S	3420 HAVERFORD AV (04)
6	S	BELGRADE & HUNTINGDON STS (25)	45	S	26 <sup>TH</sup> & YORK STS (32)
7	N	KENSINGTON & CASTOR AVS (24)	46	N	FRANKFORD & LINDEN AVS (14)
8	S	4 <sup>TH</sup> & ARCH STS (06)	47	S	3031 GRAYS FERRY AV (46)
9	N	GERMANTOWN AV & CARPENTER LN (19)	49	S	13 <sup>TH</sup> & SHUNK STS (48)
10	S	12 <sup>TH</sup> & REED STS (47)	50	N	PARK AV & CAMBRIA ST (32)
11	S	6 <sup>TH</sup> & SOUTH STS (47)	51	N	5931 OLD YORK RD (41)
12	N	4445 MAIN ST (27)	52	N	JACKSON & VANKIRK STS (35)
13	S	1541-47 PARRISH ST. (30)	53	S	4 <sup>TH</sup> ST & SNYDER AV (48)
14	N	FOULKROD & DARRAH STS (24)	54	S	63 <sup>RD</sup> ST & LANCASTER AV (51)
16	S	BELMONT AV & VIOLA ST (04)	55	N	FRONT & LUZERNE STS (40)
18	N	8205 ROOSEVELT BLVD (52)	56	N	RHAWN ST & VERREE RD (11)
19	N	CHELTEN AV & BAYNTON ST (44)	57	S	56 <sup>TH</sup> & CHESTNUT STS (39)
20	S	10 <sup>TH</sup> & CHERRY STS (07)	58	N	812 HENDRIX ST (16)
22	N	3270 COMLY RD (ACADEMY RD) (54)	59	N	HUNTING PARK AV & SCHUYLER ST (40)
24	S	20 <sup>TH</sup> & FEDERAL STS (46)	60	S	24 <sup>TH</sup> & RITNER STS (45)
25	N	BOUDINOT ST & HART LN (34)	61	N	RISING SUN & SOMERVILLE AVS (20)
27	S	19 <sup>TH</sup> & OXFORD STS (21)	62	N	BUSTLETON AV & BOWLER ST (15)
28	N	BELGRADE & ONTARIO STS (34)	63	N	1210 OAK LANE AV (26)
29	S	4 <sup>TH</sup> ST & GIRARD AV (23)	64	N	RISING SUN AV & BENNER ST (11)
33	N	RICHMOND & KIRKBRIDE STS (37)	66	N	RIDGE AV & SHAWMONT ST (28)
34	S	28 <sup>TH</sup> & THOMPSON STS (21)	68	S	52 <sup>ND</sup> ST & WILLOWS AV (43)
35	N	RIDGE & MIDVALE AVS (29)	69	S	82 <sup>ND</sup> ST & BARTRAM AV (53)
36	N	7818 FRANKFORD AV (36)	70	N	FOULKROD & LANGDON STS (24)
37	N	HIGHLAND AV & SHAWNEE ST (18)	71	N	COTTMAN & LORETTO AVS (38)
38	N	4931 Magee Avenue (35)	72	N	1127 W. LOUDEN ST (41)
39	N	RIDGE AV & CINNAMINSON ST (28)	73	N	76TH ST & OGONTZ AV (11)
			78	S	PHILA INTL AIRPORT (53)
					FIRE ADMINISTRATION BLD. 240 SPRING GARDEN ST.
					FIRE ACADEMY 5200 PENNYPACK ST.

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### **SECTION 3: BID EVALUATION AND AWARD**

#### **3.1 EVALUATION:**

The award of the contract to the successful bidder will take place in three stages.

##### **3.1.1 Qualification Stage:**

3.1.1.1 The qualification information furnished by the bidders in accordance with Sections 1.14 through 1.14.4.7 will be received by the City of Philadelphia Procurement Department for determination as to bidder's ability to perform the scope of services listed.

3.1.1.2 The City may require bidders to briefly discuss or clarify their submission.

3.1.1.3 The Procurement Department and A Selection Committee from other City Agencies shall evaluate all on-time submissions.

3.1.1.4 The City shall not be liable for any costs associated with the development, preparation, transmittal or presentation of any information or material submitted in response to this qualification information request. All information/material submitted becomes the sole property of the City and will be retained, returned, or destroyed at the City's discretion.

##### **3.1.1.5 Reservation of Rights**

The City reserves and may exercise the following rights and options with respect to the qualification process:

3.1.1.5.1 To qualify one (1) or more bidders

3.1.1.5.2 To reject any and all qualification information received pursuant to this request.

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- 3.1.1.5.3 To supplement, amend, substitute or otherwise modify the qualification information request at any time prior to bidder qualification and to cancel this process with or without another qualification process or to extend the submittal date and request additional qualification; information prior to final determination of bidders eligible for award.
- 3.1.1.5.4 To request additional qualification: Information (including information inadvertently omitted) and to conduct investigations with respect to the qualifications of each bidder submitting qualification information.
- 3.1.1.5.5 To expressly waive any defect or technicality in the qualification information received.
- 3.1.1.5.6 All bidders submitting qualification information will be informed in writing of the City's decision.
- A. If a bidder's qualification information is determined to be non-responsive per the requirements of this bid, the bidder will be disqualified. Disqualification for non-responsiveness is final in the sole judgment and discretion of the City.
- B. Bidders disqualified for reasons of responsibility who wish to appeal the decision must do so within two (2) business days of receipt of notification by the City.
- 3.1.1.5.7 Only those bidders determined qualified will be eligible for award. Bid packages from disqualified bidders will not be opened and will be returned unopened to the address specified in Section 1.12.

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3.1.1.5.8 The City reserves the right to make site inspections of the contractor's facility, whether announced or unannounced prior to the award of this Invitation and Bid and during the life of the contract.

3.1.2 **Bid Evaluation Stage:**

Notification of the bid Opening date for bids that were submitted by vendors who have been deemed qualified, shall be announced once the City has completed its review of the Bidder Qualification Stage.

3.1.2.1 Bids will be evaluated by the Procurement and a Selection Committee from other City Agencies requiring services as a result of the awarded contract.

3.1.2.2 Bids will be evaluated for responsiveness to the bid specifications and for responsibility of the bidders.

3.1.2.3 Bids which are determined to be non-responsive for reasons of:

- (i) improper bid security
- (ii) improper bid execution
- (iii) incompleteness
- (iv) offering counter terms and conditions
- (v) improper or incomplete execution of OEO documents (if applicable)

may be disqualified by the City without notice to the bidder. The decision of the City is Final and is in the Sole Judgement and Discretion of the City.

3.2 **AWARD:**

3.2.1 This invitation and Bid shall be awarded as a whole to the lowest responsive and responsible bidder. Bidder must bid all items to be eligible for award.

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**3.2.2 LBE Calculation:**

If the 5 % local bid preference is applicable, the total bid price or total section price of the certified Local Business Entity (LBE) will be multiplied by .95 and rounded to the second decimal place. The adjusted bid price of the LBE will then be used in determining the lowest responsive and responsible bidder. If any section of the bid is awarded by line item, the 5% local bid preference will not apply to that section.

Unless the Procurement Commissioner determines not to grant a preference for the reasons stated in subsection b., of the LBE Regulation, an LBE, whose bid is otherwise responsive and responsible and who has submitted the information required above, shall be granted a five percent bid preference on competitive bid(s) awards that are over \$30,000.00 and awarded as a whole or by section.

**3.2.3 PERFORMANCE SECURITY:**

Bidder’s attention is directed to paragraph 14 of “Terms and Conditions of Bidding and Contract,” for the required Performance Security.

Please note however, that all awards as a result of this bid will have a minimum contract amount of \$30,000.01. All awards at the \$30,000.01 amount will be subject to a \$50.00 Master Performance Security Fee.

Performance security shall be required for any subsequent renewal periods.

**3.2.4 City of Philadelphia-Business, Corporate and Slavery Era Insurance Disclosure**

In accordance with Section 17-104 of The Philadelphia Code, the Bidder, after execution of this Contract, will complete an affidavit certifying and representing that the Bidder (including any parent company, subsidiary, exclusive distributor or company affiliated with Bidder) has searched any and all records of the Bidder or any predecessor business entity regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era. The names of any slaves or slaveholders described in those records must be disclosed in the affidavit.

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The Bidder expressly understands and agrees that any false certification or representation in connection with this Paragraph and/or any failure to comply with the provisions of this Paragraph shall constitute a substantial breach of this Contract entitling the City to all rights and remedies provided in this Contract or otherwise available in law (including, but not limited to, Section 17-104 of the Philadelphia Code) or equity and the contract will be deemed voidable. In addition, it is understood that false certification or representation is subject to prosecution under Title 18 Pa.C.S.A. Section 4904.

### 3.2.5

#### **INSURANCE:**

Insurance is a requirement for this bid in accordance with Paragraph 15 of the "Terms and Conditions of Bidding and Contract". No contract will be executed nor purchase order issued unless and until all required insurance certificates, in the required amount, are received. **All insurance MUST meet the following requirements:**

- Insured must be in the same name and address as the Bidder
- The insurance carrier must be rated "A" or better by AM Best
- The certificate holder must be the City of Philadelphia, and specifically named as an additional insured on the certificate in the "Description of Operations section".
- Certificate must be signed by an authorized representative of the insurance company/carrier

All certificates are to be sent to the Office of Risk Management, One Parkway, 1515 Arch Street, 14<sup>th</sup> Floor, Philadelphia, PA 19102, Attn. Debbie Lawton or FAX to (215) 683-1705.

## **SECTION 4: CONTRACT MANAGEMENT**

### 4.1 **CITY OF PHILADELPHIA RESPONSIBILITY:**

- 4.1.1 City agencies will be notified by Procurement of award(s) and will be provided with vendor(s), vendor contact(s) and applicable pricing. Departments will prepare and submit through the appropriate review channels, a requisition detailing their specific needs and requirements to Procurement. The Procurement Department shall then apply the requisition against the contract and issue a purchase order.

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**Order Against Contracts**

Subsequent to contract conformance of a Requirements bid, purchase orders will be issued at such time that the product and/or service is needed. Such purchase orders will show if delivery is to be made upon receipt of order, or only after notification by the using department.

- 4.1.2 Invoices shall be submitted after delivery and acceptance of the product or service by the City. The City attempts to process invoices in a timely manner. Delays can occur because of incomplete or inaccurate invoicing information. Please make sure that invoices contain the following information to help the City process payments to the Contractor as quickly as possible.
- (a) After the delivery or services have been completed the Contractor must submit three (3) copies of the invoice for payment to the receiving department listed on the purchase order.
  - (b) The invoice must correctly reference the purchase order number, the vendor name, address and Federal Employer Identification number.
  - (c) Checks will only be made payable to the company name as shown on the purchase order; the invoice must reflect this same company name as the “pay to”.
  - (d) The invoice must show the quantity and type of item or service and the price.
  - (e) The unit of purchase on the invoice must agree with the unit cited on the purchase order. Reference to the specific line item is helpful.
- 4.1.3 The using agencies and departments are responsible for monitoring the services and/or products delivered as described in the contract. If any problems arise, a letter should be sent to the vendor requesting resolution by a specified date. A copy should be sent to the buyer. If vendor does not resolve the breach of contract by the requested date the matter should be turned over to the buyer.
- 4.1.4 **ADD-ONS:**  
The City reserves the right to add, delete and/or acquire products/services that the vendor can supply that are similar to, but not specifically called for in this bid. The procedure for such acquisitions shall be as follows:

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Procurement or the using department will obtain from the Vendor a letter (on his/her letterhead) verifying the items to be added. The letter shall include the complete description of the item, the location (if applicable), the bid number bid schedule number, the price to the City and the applicable contract period; and upon receipt and approval by the Procurement Department shall automatically become part of the contract. **The City, however, reserves the right to accept or reject the letter and to acquire the supplies or materials in the open market.**

#### 4.2 **VENDOR RESPONSIBILITY:**

4.2.1 Contractor may deliver only products, services or equipment (as applicable) as authorized in the contract and only after receipt of a purchase order or other authorized document from the Procurement Department. All orders must be in writing. Contractor shall not accept verbal delivery requests until after receipt of purchase order or other authorizing document from Procurement.

4.2.2 Contractor may deliver only products, services or equipment (as applicable) at the prices quoted in the contract and that are reflected on a purchase order or a change to a purchase order (a change to a purchase order is issued whenever the items, unit price, total amount, or terms and conditions change from the original purchase order).

4.2.3 Contractors may deliver products, services or equipment (as applicable) up to the dollar limit of the purchase order and for the period shown on the purchase order. Contractors are requested to carefully monitor obligations against purchase orders and inform the departments of anticipated funding shortfalls.

#### 4.2.4 **DELIVERY:**

Unless otherwise specified in Section 2, noted by bidder in Section 5, and/or approved by the Using Agency, delivery of product and/or service will be made within 72 hours from date requested by Using Agency. **VENDOR NOTE:** In Section 5, specify delivery if other than 72 hours.

##### 4.2.4.1 **Liquidated Damages:**

Liquidated Damages in the amount of 5% of the unit price may be applied to each item which exceeds the delivery schedule/requirement.

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- 4.2.5 In the event that the contractor receives an order for products, services or equipment not specifically priced and incorporated into the contract, they must:
- (i) bring this to the immediate attention of the Procurement Dept., and
  - (ii) notify the ordering agency in writing and refuse to deliver.
- 4.2.6 Should products, services, or equipment be delivered that are not specifically incorporated and priced into the contract, and/or be delivered without purchase order, the City shall have no obligation for payment.
- 4.2.7 For delivery of products or equipment, contractors shall honor and be paid for orders placed until the close of business of the date of purchase order expiration. Delivery of product may occur following purchase order expiration, so long as the order was placed prior to the purchase order expiration date.
- 4.2.8 For performance of services, contractor shall honor and be paid for orders placed until the close of business of the date of purchase order expiration. Performance of services may occur following purchase order expiration, so long as the order was placed prior to the purchase order expiration date.
- 4.2.9 At the conclusion of this contract, Contractor agrees to cooperate with any incoming vendor on a transition plan to ensure an orderly changeover of responsibilities.
- 4.2.10 **Invoices/Receipts:**
- 4.2.10.1 Successful bidder(s) agrees not to invoice more than once per month.
  - 4.2.10.2 Invoices should be sent in triplicate to each ordering department
    - 4.2.10.2.1 One (1) original and two (2) copies fully itemized invoices (no photostat copies).
    - 4.2.10.2.2 See also item 4.1.2 above.

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#### 4.2.11 **AUDITS**

The vendor agrees to provide the City with auditing privileges. The contractor shall preserve books, documents and records for a period of five (5) years from completion of the contract. During the term of contract, all information obtained by the contractor in the performance of this contract will be made available to the City immediately upon demand. If requested, the contractor shall deliver to City background material prepared or obtained by the contractor incident to the performance of this contract. Background material is defined as original work papers, notes and drafts prepared by the contractor and all data related to the services being rendered, including electronic data processing forms, computer programs, instructional material, reports, pamphlets, maps and drawings.

#### 4.2.12 **CONFIDENTIAL / PROPRIETARY INFORMATION**

The vendor must agree to treat all information obtained from the City which is not generally available to the public as confidential and proprietary to the City. Vendor shall exercise all reasonable precautions to prevent any information derived from such sources from being disclosed to any other person. Vendor agrees to indemnify and hold harmless from and against all liability, demands, claims, suits, losses, damages, causes of action, fines and judgments (including attorney's fees) resulting from any use or disclosure of such confidential information by vendor or employees, or any person acquiring such information, directly or indirectly, from vendor.

#### 4.3 **EVENTS OF DEFAULT**

The occurrence of any of the following shall constitute a material breach by vendor and an event of default:

- 4.3.1 An instance of illegal, unethical or improper business practices shall be deemed an automatic event of default without any right to notice or cure from the City and upon occurrence, the City may terminate this contract or exercise such other remedies available hereunder, at law or in equity. Such practices include, without limitation, theft, disregard of safety procedures, and falsification of records. Additionally, any other material breach or non-performance of the contract by the vendor shall be grounds for termination of the contract. The vendor shall be in default for failing in the performance of any covenant or condition herein required by the vendor.

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- 4.3.2 Vendor’s refusal or failure to observe or perform any of its obligations under contract resulting from this bid or fails to provide services and such failure to provide services shall continue for a period of one (1) day after notification thereof (or written notice) from the City’s Procurement Department, or shall fail to provide services on two (2) separate occasions (to be determined) by the Procurement) during the term of contract, then, in addition to any other remedies provided hereunder or at law, the City may immediately terminate this contract.
- 4.3.3 If vendor shall become or be declared insolvent or make an assignment for the benefit of creditors, or if proceedings are commenced for appointment of a receiver for vendor, or if proceedings for bankruptcy, arrangement, reorganization or composition of creditors under any laws is instituted by or against vendor, the City may, at its option, immediately without notice or opportunity to cure, declare the vendor in default.
- 4.3.4 In the event of any default by the vendor hereunder, the City may in addition to any other rights or remedies it may have under any statute, common law, equity, or under any bond provided by vendor all of which reserved, terminate the contract and solicit bids (if circumstances allow) and award a new contract, in which case the original vendor shall be liable to the City for all losses (including loss of revenue), costs, expenses, or damages suffered or incurred by the City by reason of the vendor’s default.
- 4.3.5 Failure by the City to take any authorized action upon default by the vendor of any of the terms, covenants, or conditions required to be performed, kept and observed by the vendor shall not be construed to be or act as a waiver of the default or any subsequent default or of any of the terms, covenants and conditions herein contained to be performed, kept and observed by the vendor.

**4.4 TERMINATION FOR CONVENIENCE**

The City reserves the right to terminate any contract resulting from this Invitation and Bid for any reason upon thirty (30) days written notice to the contractor. In the event the City terminates this contract pursuant to this paragraph, contractor shall continue to provide services to the effective date of termination and City shall pay vendor for services rendered to such date. City shall incur no liability beyond such amount.

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4.5 **PRICE INCREASE OR DECREASE:**

Contractor shall provide Drug Screen Testing Services at the prices set forth in Section 5 for a period of twelve (12) months; thereafter, the contract may be renewed under the terms and conditions of this agreement at the sole option of the City on an annual basis for up to three (3) additional one (1) year period(s). Contractor may increase prices for future renewal periods provided that:

Notice of price increases must be received, in writing, by the City at least sixty (60) days prior to the expiration of each contract period in order for price increase to be effective as of the first day of the renewal period. Price increase letter shall be sent to the Buyer in Room 120 Municipal Services Building, 1401 JFK Blvd., Philadelphia, PA 19102, referencing bid number, contract number, period and showing item(s) description and applicable pricing. Failure to notify the City within this sixty (60) day time frame shall result in the following:

the effective date of the price increase shall be sixty (60) days from the receipt of the price increase letter by the City;

or

if the letter is not received before the last day of the contract period, the prices for the renewal period shall be the same as the prices for the previous contract period.

For each renewal period the price increase and/or decrease shall be based upon the **percent (%) change** in the Index for All Urban Consumers – Philadelphia of the Consumer Price Index (All Items) as published by the U.S. Department of Labor, Bureau of Labor Statistics and as indicated by the Mid-Atlantic CPI Announcement for December of the **applicable year of the renewal**.

In no event shall the price increase exceed 4% in any renewal period. The increase shall reflect the change to the CPI or the 4% cap, whichever is less.

**NOTE: Price decreases may be forwarded to the Procurement Department buyer, in writing at any time during the contract period, to include any renewal period(s).**

**Failure to notify the City within the time frame specified in Para. 4.5 will result in a commensurate delay in implementing the price change.**

4.6 **VENDOR ACCEPTANCES – IN SUBMITTING AN EXECUTED BID, THE BIDDER AGREES TO THE CONTRACT MANAGEMENT PROCEDURES IN THIS SECTION.**

<b>INVITATION AND BID Continuation</b>	CITY OF PHILADELPHIA PROCUREMENT DEPARTMENT PHILADELPHIA, PA 19102 - 1685	BID NUMBER <b>S3Z59620</b>	PAGE OF <b>37 39</b>
		FIRM NAME (Must be filled in)	

**SECTION 5: PRICING**

**PRICES QUOTED MAY NOT EXCEED THREE (3) DECIMAL PLACES)**

NOTE:

Unit Price(s) quoted below (Section 5: Pricing), will prevail in case of any discrepancy(ies) between Unit Price and "Amount" and will be the determining factor in establishing applicable contract amount(s)/award.

	<u>Quantity</u>	<u>Unit of Measure</u>	<u>Unit Price</u>	<u>Total Amount</u>
5.1 <b>25084 002 000</b> UNIT PRICE PER SPECIMEN (TO INCLUDE THE FOLLOWING SERVICES)	9500	EA	\$ _____	\$ _____

- Initial Screening via EMIT
- Validity Testing
- Confirmatory Testing via GC/MS / LC/MS
- Supplies (kits, forms, Specimen cups)
- Transportation via courier
- Initial reporting on Non-DOT specimens via fax
- Initial reporting on DOT Specimens to MRO via fax
- Provision of fax machine to Medical Review Officer
- Hard Copy reporting via overnight courier
- Monthly reasonable suspicion training sessions for City designates on recognizing substance abuse and alcohol misuse in the workplace (approx 120 hours per yr)
- In person regulatory testimony, support, guidance, for all City agencies as needed (approx 25-50 hours per yr)
- Urine specimen collection training on as needed basis
- Random Selection for Drugs and/or Alcohol on a monthly basis
- Split Specimen for DOT and NON DOT

<b>INVITATION AND BID Continuation</b>	CITY OF PHILADELPHIA PROCUREMENT DEPARTMENT PHILADELPHIA, PA 19102 - 1685	BID NUMBER <b>S3Z59620</b>	PAGE OF <b>38 39</b>
		FIRM NAME (Must be filled in)	

<u>Quantity</u>	<u>Unit of Measure</u>	<u>Unit Price</u>	<u>Total Amount</u>
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5.2 **25084 002 001**

Unit price per each urine collection and breath alcohol test during regular hospital service hours of 7:00 am and 5:00 pa (twenty-four (24) hour access and availability)

36	EA	\$ _____	\$ _____
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THE UNIT PRICE THAT IS APPLIED ABOVE SHALL BE IN ADDITION TO THE HOSPITAL SERVICE CHARGE. THE SERVICE CHARGE MUST BE THE ACTUAL COST FROM THE HOSPITAL TO THE VENDOR (TO BE SUPPORTED BY INVOICES)

5.2.1 **25084 002 001 00**

UNIT PRICE PER URINE COLLECTION AND BREATH ALCOHOL TEST OUTSIDE OF THE REGULAR HOSPITAL SERVICE HOURS (5:00 PM AND 7:00 AM), (TWENTY-FOUR HOUR ACCESS AND AVAILABILITY)

24	EA	\$ _____	\$ _____
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THE UNIT PRICE THAT IS APPLIED ABOVE SHALL BE IN ADDITION TO THE HOSPITAL SERVICE CHARGE. THE SERVICE CHARGE MUST BE THE ACTUAL COST FROM THE HOSPITAL TO THE VENDOR (TO BE SUPPORTED BY INVOICES)

<b>INVITATION AND BID Continuation</b>	CITY OF PHILADELPHIA PROCUREMENT DEPARTMENT PHILADELPHIA, PA 19102 - 1685	BID NUMBER <b>S3Z59620</b>	PAGE OF <b>39 39</b>
		FIRM NAME (Must be filled in)	

		<u>Quantity</u>	<u>Unit of Measure</u>	<u>Unit Price</u>	<u>Total Amount</u>
5.3	<b>25084 002 003</b> UNIT PRICE PER SPECIMEN FOR BLOOD ALCOHOL TEST WITH CONFIRMATION VIA VAPOR PHASE GAS CHROMATOGRAPHY (TWENTY-FOUR (24) HOUR ACCESS AND AVAILABILITY)	30	EA	\$ _____	\$ _____
5.4	<b>25084 002 002</b> VENDOR'S HOURLY RATE FOR PROVIDING EXPERT TESTIMONY (FORENSIC TOXICOLIGIST) OF DRUG TESTING RESULTS	25	HR	\$ _____	\$ _____
5.5	<b>25084 002 004</b> SERVICE CHARGE PER EACH ON-SITE TEST (URINE COLLECTION & EBT TEST) PERFORMED BY FEDERALLY QUALIFIED & CERTIFIED BREATH ALCOHOL TECHNICIAN AT THE VARIOUS FIRE DEPARTMENT & CITY LOCATIONS (SCHEDULED)	1300	EA	\$ _____	\$ _____
5.6	<b>25084 002 005</b> SERVICE CHARGE PER EACH ON SITE EMERGENCY CALL OUT UTILIZING VENDOR EMERGENCY CALL OUT SERVICE WITH FEDERALLY QUALIFIED COLLECTOR AND CERTIFIED BREATH ALCOHOL TECHNICIAN	45	EA	\$ _____	\$ _____
<b>EXTENDED TOTAL BID AMOUNT (UNIT PRICE X QUANTITY FOR ALL ITEMS)</b>				<b>\$ _____</b>	

**ATTACHMENT – A**

**City of Philadelphia**  
**Drug and Alcohol Testing Policy**

**CITY OF PHILADELPHIA  
DRUG AND ALCOHOL  
POLICY**

December 1, 2004

## INTRODUCTION

Alcohol and drug abuse has become a very serious social, medical and economic problem in America pervading every area of life. More specifically, substance abuse can have an adverse effect on work performance, the quality and quantity of services provided to the citizens of the City of Philadelphia, and the health and welfare of employees. Further, substance abuse contributes to increasing the cost of medical benefits.

Therefore, in accordance with the Drug Free Workplace Act, and pursuant to negotiations with applicable bargaining units, the City of Philadelphia adopts the following Drug and Alcohol Abuse Policy, which shall apply to all non-uniformed employees in and applicants to positions in the City of Philadelphia, with the exception of employees covered by the Drug and Alcohol Testing Policy for Operators of Commercial Vehicles.

## DRUG/ALCOHOL POLICY

### I. PURPOSE

- To establish that all of the premises and motor vehicles used by the City of Philadelphia, whether owned or leased, for any program of activity of the City of Philadelphia shall be maintained as drug and alcohol free workplaces,
- To provide a framework that will enable departments and agencies in City government to establish and maintain a safe, drug free work environment,
- To provide consistent and relevant guidelines for all non-uniformed City employees covered by this policy regarding alcohol and drug use situations,
- To encourage employees with substance abuse problems to attend rehabilitation, and to give those employees the opportunity to remain employed.

### II. POLICY

The possession, manufacture, transfer, distribution, dispensing, sale, or use of prohibited substances or alcoholic beverages is strictly prohibited while on City premises; or during any working hours; or while driving City-owned or -leased motor vehicles; or while driving personal motor vehicles, owned or leased, while conducting City business. This includes during lunch and break periods.

Reporting to work under the influence of alcohol, or drugs is prohibited. All employees have the responsibility to report to work in a fit condition to perform their jobs without unnecessary risk to themselves or other individuals. Employees reporting or returning to work whose behavior reflects the consumption of alcoholic beverages or other drugs will be referred for reasonable suspicion drug and/or alcohol screening.

Employees who believe supervisors are in violation of this policy may report the violation to a DAEPP – trained supervisor, or to the ADA Officer, who will take further action consistent with the applicable drug and alcohol policy. The identity of the employee who made the report will

not be disclosed and will be kept confidential. The employee who makes the report will not be discriminated against or retaliated against in any way for making the report.

For purposes of this policy a blood alcohol level of .08 or greater constitutes being under the influence of alcohol. Unacceptable levels of drugs are defined at part 40.29 of Title 49 of the federal regulations. An alcohol level of more than .04 while not considered a positive test result, shall be considered a "prohibited alcohol level" for performing safety-sensitive functions.

The City of Philadelphia encourages the earliest possible diagnosis and treatment for alcohol or drug abuse. The City supports sound treatment efforts. Whenever feasible, the City of Philadelphia will assist and reasonably accommodate employees who are actively involved in overcoming a drug or alcohol abuse problem, and who are forthcoming with Management. The intent of this policy is to treat alcohol and drug dependency problems as other types of health problems. However, employees whose job performance, attendance and behavior continue to deteriorate as a result of ongoing alcohol and drug dependence problems may be subject to disciplinary action up to and including dismissal consistent with applicable bargaining unit agreements.

The use of drugs prescribed by a medical practitioner for an employee or the use of over-the-counter drugs are permissible at the work site provided they are used in strict accordance with medical and/or label directives. Employees who operate machinery or a motor vehicle must not take prescribed or over-the-counter drugs that will impair their functioning and/or psychomotor skills. It is incumbent on the employee to notify his/her ADA Officer or Personnel Officer of medications that may affect one's performance and behavior adversely. The employee is not required to disclose the medical reason for which the drug has been prescribed.

The ADA/Personnel Officer will notify the employee's supervisor only of the limitations placed on the employee's work assignment, but not the nature of the employee's condition or the types of medications. If the ADA/Personnel Officer determines that the safety of the employee or others may be affected a medical evaluation by the Medical Evaluation Unit may be required. A trained medical professional will make the determination of the employee's ability to function in his/her position. The Medical Evaluation Unit will advise the Departmental ADA/Personnel Officer of outcome of the evaluation. If the employee is unable to function in his/her position as a result of taking prescribed medications, the employee may be temporarily transferred to a different position or shift, if one is available, until able to resume his/her regular job duties.

### **III. DEFINITIONS:**

A. For the purposes of this policy, the following definitions shall apply:

1. The term "**accident**" shall mean any occurrence involving the operation of a motor vehicle, which results in the loss of human life or bodily injury requiring hospitalization for medical treatment or observation, or resulting in property damage of more than \$500.00. The term shall also mean any occurrence involving the operation of a motor vehicle that results in an employee's citation for driving under the influence. Any such incident or accident must occur while on duty.

2. **“Operation of Motor Vehicle”** shall mean the operation of a City owned or leased vehicle or the operation of a personal vehicle being used while performing job duties.
3. The term **“alternative assignment”** shall mean assignment to a non-safety-sensitive position of an employee who has been appointed to a safety-sensitive position, when he or she has been removed from that position as a result of a positive drug or alcohol test and has not been cleared by the Medical Review Officer to return to the safety-sensitive position.
4. The terms **“being under the influence”** and **“having work performance impaired”** shall mean having a positive test result on any drug or alcohol test administered under the terms of this policy.
5. The term **“drug free workplace”** shall mean the absence of alcoholic beverages and illegal drug or prescription drugs, which impair the employee’s ability to perform duties.
6. The term **“employee”** includes every person employed by the City of Philadelphia in a non-uniformed classification. Uniformed classifications are those in the Police Department and District Attorney’s Office represented by the Fraternal Order of Police Lodge #5 and those in the Fire Department represented by the International Association of Fire Fighters, Local 22. Also excluded are employees whose job duties are regulated by the Department of Transportation CDL policy.
7. The term **“positive”** when used in connection with a drug test, shall mean that based on a GC/MS (Gas Chromatography/Mass Spectrometry) analysis, the test specimen contains drug metabolites at or above the levels established by the Federal Department of Transportation’s Testing Guidelines. When used in connection with an alcohol test administered to safety-sensitive employees, the term shall mean a blood alcohol level as measured in breath alcohol concentration at or above .04. When used in connection with an alcohol test administered to non-safety-sensitive employees, the terms shall mean a breath alcohol concentration at or above .08.
8. The term **“prohibited substance”** shall mean marijuana, cocaine, and opiates such as morphine and codeine, phencyclidine, amphetamines and methamphetamine and barbiturates. Please see definitions of a controlled substance as contained within Schedules I, II and III of the “Controlled Substance, Drug, Device and Cosmetic Act.”
9. The term **“refused to submit”** shall mean the employee is engaging in conduct that clearly obstructs the testing process, including but not limited to efforts to adulterate a testing sample or refusal to sign any consent or waiver required by this policy or refuses to make oneself available for testing.
10. The term **“Substance Abuse Professional”** (SAP) shall mean a licensed professional (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, licensed clinical social worker, employee assistance professional, or certified addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

11. The **Medical Review Officer (MRO)** is a licensed medical doctor who is also certified as a MRO. Any medical review officer shall re-certify every three years.
12. **ADA Officer** shall mean a person in the department designated to handle ADA issues. A list of the ADA/Personnel Officers will be provided to the Union each year. The ADA Officer in each department should be identified each year by notice to the employees.
13. **“Reasonable Suspicion”** means an articulable belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of, or impaired to any degree by drugs and/or alcohol.
14. **DAEPP: Drug and Alcohol Education Prevention Program** – shall educate employees about the effects and consequences of drug and alcohol abuse. Designated Supervisors and Union representatives are required to attend this training.
15. The term **“self-referral”** shall mean an employee who has achieved permanent employee status voluntarily identifying himself or herself (including through his or her applicable Union representative, if represented) as requiring assistance in dealing with alcohol or drug dependency.
16. **FMLA:** The federal Family and Medical Leave Act.
17. **Normal Work Hours:** Monday through Friday, 8:30 AM – 5:00 PM
18. **After Normal Work Hours:** Monday through Friday 5:30 PM – 8:30 AM, Weekends, Holidays

#### **IV. DRUG & ALCOHOL EDUCATION PREVENTION PROGRAM: IDENTIFYING TROUBLED EMPLOYEES**

##### **A. The Supervisor’s/ Trained DAEPP Employee’s Role**

Supervisors are required to attend the Drug and Alcohol Education Prevention Program (DAEPP). DAEPP-trained employees shall receive at least four (4) hours of training on alcohol misuse and use of controlled substances. The training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

##### **B. The Union Representative’s Role**

Represented employees may consult with and obtain the assistance of a union representative concerning reasonable suspicion testing, provided such consultation or assistance does not prevent the employee from being administered the drug and/or alcohol test within a timely fashion. Any Union representative participating in the consultation process must be certified through the DAEPP training course. Management should consult the employee’s Union representative when attempting to determine whether the employee may have a substance abuse problem.

### C. Drug and Alcohol Abuse Education for Employees

The Drug and Alcohol Policy Committee described in Section V.B.1 below shall discuss the creation of an employee education program aimed at making employees aware of the negative effects of drug and alcohol abuse and the availability of treatment options.

## V. TYPES OF REQUIRED DRUG & ALCOHOL TESTS

### A. REASONABLE SUSPICION

There are certain circumstances which constitute a basis for determining "reasonable suspicion". Only those trained in identifying the possible use of drugs and/or alcohol will make the determination to send an employee for reasonable suspicion testing. If a DAEPP-trained employee is not available on site, one will be contacted to make the determination.

(See Appendix V for Reasonable Suspicion Testing Form)

#### 1. REASONABLE SUSPICION TESTING PROCEDURE

- a. A DAEPP-trained supervisor may require an employee to submit to a drug and/or alcohol test when there is reasonable suspicion to believe that the employee has violated the prohibitions of this policy.
- b. Before the testing is done, a written record of the observations leading to a reasonable suspicion test shall be made and signed by the DAEPP-trained supervisor who made the observations and corroborated by a DAEPP-trained supervisor or DAEPP-trained employee who is not a member of the employee's bargaining unit.
- c. If requested by the employee, the appropriate DAEPP-trained Union representative will be notified.
- d. A DAEPP-trained supervisor's determination that reasonable suspicion exists to require the employee to undergo a drug and/or alcohol test must be based on specific, currently-observed, detailed observations concerning the appearance, behavior and speech of the employee and must be documented. The observations may include indications of the chronic and withdrawal effects of controlled substances. (See Appendix V.)
- e. Reasonable suspicion testing will be performed only if the required observations are made while on City property, or while the employee is actively engaged in City business, or during the period of the workday, or if the employee is on City property and ready to perform or immediately available to perform work.
- f. Reasonable suspicion alcohol testing should be conducted within two (2) hours of the supervisor's initial referral for testing and must be conducted within four (4) hours of the initial referral. If a test cannot be administered within (4) hours attempts to administer the test shall cease, and the reasons for not administering the test will be recorded and maintained at the Medical Evaluation Unit only as part of the employee's confidential medical file.

- g. DAEPP-trained supervisors will not permit any employee demonstrating impairment to perform or continue to perform safety-sensitive functions if there is reasonable suspicion. If any employee's physical condition permits, the employee may be reassigned to non-safety-sensitive functions pending receipt of the final test results. Employees will remain in pay status until such is fully confirmed by testing procedures completed as outlined in this procedure.
- h. During normal working hours --Monday through Friday between the hours of 8:30 a.m. and 5:00 p.m. --screening will be performed at the MEU. The employee will be transported to the MEU.
- i. Between the hours of 5:00 p.m. and 8:30 a.m., and on weekends and Holidays, screening will be performed by an independent on-site testing company to be designated by the City. The supervisor or DAEPP-trained employee will notify the after hour on-site testing company to report to the facility to collect a sample from the employee. All necessary precautions will be taken to protect the privacy and confidentiality of the employee during this process. When possible, a private bathroom will be provided for the collection of the sample.

## **B. RANDOM TESTING**

Employees in safety-sensitive positions, which are defined based on job classification, shall be subject to random alcohol/drug screening. Job classifications considered safety-sensitive will be designated on a department by department basis.

## **SELECTION OF SAFETY-SENSITIVE POSITIONS**

1. The City will propose "safety-sensitive" positions for inclusion in the Random Testing Program. A Drug and Alcohol Policy Committee, consisting of three members appointed by the Union and three members appointed by the City, will discuss these proposed positions and, if no agreement is reached, the positions will be presented to a neutral arbitrator for an expedited determination of whether the designation is appropriate. The arbitrator shall review such designation based solely on the duties of the position.
2. Each employee in a safety-sensitive position at the time this policy is adopted shall be provided with notice of the status of his/her positions. Such notice will indicate that the employee will be subject to a program of random testing.
3. Each employee who is transferred into a safety-sensitive position will be provided with notice of the status of his/her position. Such notice will indicate that the employee will be subject to a program of random testing.
4. Each employee hired into a safety-sensitive position will be advised of such designation prior to appointment. He/She shall be tested prior to employment and will not be appointed if the presence of drugs or alcohol is indicated. He/She will be notified that he/she is subject to random testing.
5. The Medical Evaluation Unit (MEU) shall administer the random program, by assigning numbers to positions designated as safety-sensitive. The MEU will use the random program to test a minimum of 10% and a maximum of 25% of the employees assigned to positions designated as safety-sensitive each year. The

number of employees who are subject to testing and the number of employees who have been tested will be forwarded to the Union annually.

### **C. POST-ACCIDENT DRUG AND ALCOHOL SCREENING**

1. A non-uniformed employee who is involved in an accident as defined in Section III.A.1. while operating a City of Philadelphia motor vehicle or a personally owned vehicle operated while conducting City of Philadelphia business shall inform his or her supervisor of the accident as soon as practicable and shall remain readily available for drug and alcohol testing, if required by the appointing authority or designee. Failure to notify a supervisor of an accident may result in discipline.
2. All post-accident alcohol testing should be administered within four (4) hours following the accident and must be administered within eight (8) hours following the accident. All post-accident testing for controlled substances must be administered within 32 hours following the accident.
3. No tested employee shall be permitted to return to work in a safety-sensitive function until the post-accident test results are finalized. If the post-accident test results are negative the employee will remain in pay status. If the test result is positive, time will be administratively charged to the employee's accrued leave time or a non-pay approved leave status.
4. Nothing in this section shall:
  - a. Require the delay of necessary medical attention for injured people following an accident; or
  - b. Prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain necessary emergency assistance or medical care; or
  - c. Require an IOD care provider to administer an alcohol or drug test merely because the employee has an accident.

### **D. RETURN TO WORK**

Employees returning to work following a leave of absence pursuant to this policy must successfully pass a drug and alcohol test.

## **VI. TREATMENT OPTIONS/AFTER CARE**

### **A. MEDICAL LEAVE OF ABSENCE**

1. An employee seeking treatment for substance abuse may take leave under the FMLA, if eligible, or may request a medical leave of absence under Civil Service Regulation 22, or may use accrued paid leave.
  - a. Employees who are eligible for FMLA leave will have their absence charged against their FMLA leave entitlement.
  - b. Leave requests made by employees not eligible for FMLA leave, or who have exhausted that leave, will be approved on a case by case basis. Except in

exceptional circumstances, the request will be approved the first time an employee requests leave for treatment.

c. Employees who comply with this policy will not be penalized for voluntarily seeking treatment.

2. Employees seeking treatment under this policy must sign a Substance Abuse Agreement (Appendix III) agreeing to seek treatment and to undergo periodic drug tests, including drug testing upon return to work. Completion of this form and compliance with its terms shall be a prerequisite to consideration for reinstatement by the Medical Evaluation Unit.

## **B. CONFIDENTIALITY**

1. All information on an employee undergoing treatment shall be strictly confidential in accordance with applicable laws.

2. All records related to an employee's use of an Employee Assistance Program or use of mental health benefits will be maintained with the strictest confidentiality in accordance with the medical, legal, and ethical standards. All such records will be located at the Employee Assistance Office or the mental health provider's office.

3. A request for employee assistance may be directed to the Employee Assistance Program Office or to the Mental Health provider according to the benefit plan of the employee. (See Appendix I for the list of Employee Assistance Programs offered to City employees)

4. An employee returning to work after he/she is approved by the MEU to return to duty will be required to sign an After Care Contract. (See Appendix IV). In signing the After Care Contract, the employee agrees to attend counseling meetings and submit to a program of follow-up testing that at the department's option may include random testing for up to one year. The employee also agrees to remain totally drug and alcohol free. Refusal to sign the After Care Contract or to adhere to its requirements may result in the employee being placed on non-pay status until the contract is signed. If the employee still has not signed the After Care Contract thirty (30) days following his/her test results report he/she will be separated from City employment. The City will attempt to accommodate an employee during rehabilitation following their return to work, as necessary, within the operational requirements of the department and in accordance with ADA and FMLA laws. Such accommodations may include paid or unpaid leave for rehabilitation, flextime, revised hours, etc., and shall be determined on a case by case basis.

## **VII. ROLE OF THE MEU, DEPARTMENT OF PUBLIC HEALTH**

### **A. Medical Evaluation Unit Responsibilities**

1. The Medical Evaluation Unit (MEU) provides evaluations of employees and applicants for employment to determine their ability to perform the essential functions of a position. The MEU is responsible for the collection of the specimen for drug and alcohol testing during normal work hours. The MEU will maintain the safety-sensitive position roster and randomly select employees for random testing.

2. All urine specimens will be sent to a drug analysis laboratory to be tested. The MEU expects to receive the results within 72 hours.
3. A Medical Review Officer (MRO) designated by the MEU will review the positive results of all drug tests in conjunction with the employee's medical disclosure to determine if the results are "true positives" for controlled substances. The MRO will monitor an employee's compliance with the EAP/Counseling selected by the employee. The Medical Evaluation Unit does not act in a Substance Abuse Professional capacity.
4. The MEU will maintain confidential records and report test results to the Department of Human Resources Unit or the ADA/Personnel Officer.
5. In the course of medical evaluations of employees, the MEU may identify an employee with a substance abuse problem, and determine that the employee is not fit for duty. The MEU will notify the Appointing Authority, Departmental Human Resources Unit or the ADA/Personnel Officer that the applicant or employee is not fit for duty.
6. If the MRO or trained medical professional determines that an employee is unfit for duty, the employee may be sent home and put on a paid leave status, if the employee has accrued leave time, pending the determination of appropriate action.

## **B. Reporting and Review of Results**

1. The employee will be carried in paid status during the testing process until such time as the impairment is confirmed or the employee is returned to duty.
2. Negative Results:
  - a. The MEU will inform the Human Resources office immediately upon receipt of knowledge of an employee's negative test results.
  - b. The employee will then be returned to full duty status and all references to this issue will be expunged from all departmental and Personnel Department files.
3. Positive Results:
  - a. The MRO will examine all positive confirmed test results to determine if there is an alternative medical explanation for the positive test result. Before making a final decision as to whether a positive test is valid, the MRO will provide the employee with the opportunity to discuss the test result. If the MRO determines there is a legitimate medical explanation for the positive test result, the MEU will inform the Human Resources office/ADA Officer that the test is negative. The MRO will report all true positives to the SAP.
  - b. After receiving written notification of a positive test result, the employee has 72 hours to request a second test. The employee will be advised of his/her right to challenge the test results. The employee will be required to pay for the second test. If the results of the second test are negative, the City will reimburse the

employee the cost of the second test. The specimen must be tested in one of three federally certified labs other than those currently used by MEU.

- c. An employee testing positive for drugs or alcohol abuse may request a Medical Leave of Absence as described in subsection VI (A), above.

### **C. DRUG SCREENING**

Drug screening will be done by urinalysis. All tests will be done in order to detect the presence of marijuana metabolites, 1 cocaine metabolites, 2 opiate metabolites, phencyclidine and amphetamines. Positive threshold levels can be found at part 40.29 of title 49 of the federal regulations. As "drugs of choice" change, the City may include additional items in the testing list.

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1 Delta-9-tetrahydrocannabinol-9-carboxylic acid

2 Benzoylcegonine

### **VIII. VOLUNTARY REQUESTS FOR ASSISTANCE FOR SUBSTANCE ABUSE PROBLEMS**

The City of Philadelphia encourages employees with substance abuse problems to obtain assistance and appropriate treatment to help resolve these problems. All records related to the employee's use of an EAP will be maintained with the strictest confidentiality in accordance with medical, legal and ethical standards.

An employee who recognizes that a substance problem is causing distress in his/her life, and/or impacting his or her job performance, should call the Employee Assistance office or a health provider.

1. An employee who self-refers shall be referred to a substance abuse professional for evaluation.
2. An employee subject to probationary or post-accident testing may not make a self-referral.
3. An employee who voluntarily identifies him-or herself as requiring assistance in dealing with an alcohol or drug problem after providing the results of a breath or urine testing sample shall not be considered a self-referral.
4. Employees who comply with this policy will not be penalized for voluntarily seeking treatment.

### **IX. DISCIPLINE**

An employee found in violation of this policy, or found to have engaged in criminal drug conduct in the workplace, may be subject to appropriate discipline for just cause. In non-discharge cases, the City may require, as a condition of employment, participation in a treatment or counseling program for drug or alcohol abuse, including an After Care agreement.

**ATTACHMENT "B"**

**POLICE DIRECTIVE #55**



**SUBJECT: IMPAIRMENT AND DRUG TESTING OF POLICE DEPARTMENT  
SWORN PERSONNEL**

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**I. PURPOSE**

- A. Drug and alcohol abuse has an adverse effect upon a police officer's ability to execute his/her duties. The officer's life, the lives of fellow officers and the lives of the public depend on the officer's alertness and the ability to make rational decisions with a clear head unaffected by narcotics, controlled substances, or alcohol.
  - B. Integrity is an essential element in our relationship with the public and this is undermined when officers use drugs illegally, or are intoxicated on duty and thereby, place themselves above the laws they are sworn to uphold.
- 

**II. POLICY**

- A. It is the policy of the Philadelphia Police Department that the abusive and/or illicit use of drugs by its members will not be tolerated. The Department has a paramount interest in protecting and serving the public by ensuring that its officers are fit to perform their duties.
- B. Drug testing shall be a part of the requirements of a routine physical examination.
- C. The Police Commissioner, Deputy Commissioners, Chief Administrative Officer, and all sworn personnel shall be subject to random drug testing.
- D. The use of illicit narcotics is indicative of illegal purchase and possession, and the abuse of controlled substances is illegal in certain circumstances.
- E. The methods for drug testing will be by urinalysis and/or hair testing. All physical examinations required under Section IV, A, 1 through 6 will include a urinalysis and/or hair testing. However, for applicant drug testing and reasonable suspicion, a urinalysis and hair test will be conducted. A hair and urinalysis test will be conducted on all reinstatements and medical evaluations. Random tests shall include a urinalysis and a hair test based on a percentage to be determined by the Police Commissioner.

1. Hair samples will be extracted primarily from the scalp. However, in the event that a necessary amount of specimen cannot be extracted, hair samples may be taken from an alternate site on the body, such as the arms or armpits, legs, chest, or other site deemed appropriate by the Internal Affairs Division (IAD) investigator.
- F. Prescription drugs (controlled and non-controlled) are to be administered as per the instructions of the prescribing medical or dental practitioner. It is the responsibility of the officer to make the prescribing medical or dental practitioner aware of the safety sensitive nature of the officer's job related duties prior to prescribing any medication.
  - G. Non-prescribed, over the counter medications must only be used in recommended dosage amounts. Officers must consider possible effects on job performance, both before and during dosing.
  - H. Should an officer have questions or concerns regarding prescribed medications and needs an explanation as to potential side effects and/or therapeutic actions for prescribed medications or an explanation of the label instructions on over-the-counter medications, then the officer should contact their doctor, pharmacist, or Employee Medical Services, 19th Street and Fairmount Avenue for further interpretation and direction.
  - I. Medical records, reports, and/or receipts received by the Risk Management Office, in the course of normal business duties, which indicate that an officer had a positive urinalysis and/or hair test shall be considered reasonable suspicion that a subsequent drug test will produce evidence of illegal and/or abusive use of drugs for purposes of Section VI. Thus, upon receipt of this information, all procedures, including subsequent urinalysis and hair testing, set forth in Section VI shall apply.
  - J. All information or reports submitted to or received by the Department regarding drug testing is considered strictly confidential and the unauthorized dissemination of this information by a member of the Department shall result in disciplinary action, as described in the Disciplinary Code, including possible dismissal.
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### III. DEFINITIONS

- A. Reasonable Suspicion--Sufficient facts or information to justify a reasonable belief that a drug test will produce evidence of illegal and /or abusive use of drugs.
- B. Routine Physical Examination--A regularly scheduled examination by the Medical Director, Employee Medical Services.
- C. Testing Officer -- A member of the Internal Affairs Division (IAD), assigned by the Police Commissioner, with full authority to ensure the validity of the entire drug testing process.

1. Testing will be conducted by officers of supervisory rank. Testing Officers will receive training in the proper and legal administration of this directive prior to the start of actual testing and shall receive additional training as required.
- D. Positive Result -- A finding which indicates the presence of illegal drugs or controlled substances and/or non controlled substances in an individual's urine and/or hair sample obtained by chemical laboratory testing. A result will be considered positive only after the confirmatory test has identified the presence of illegal drugs or controlled substances in an individual's urine and/or hair test. Cut-off levels will be established for each drug or drug metabolite to indicate what is considered a positive result by the contracted laboratory. These cut-off levels, which are listed in Section XII of this directive, will be set at reliable forensic threshold levels and will be consistent with the levels of reasonable analytical accuracy (see Exception, Section II, Subsection "I", and Section XII).
- E. Blood Alcohol Content - (BAC) The concentration of alcohol in the blood. This measurement can be determined utilizing a blood sample, but is more commonly measured using a breathalyzer; a device that estimates the blood – alcohol level from a breath sample.

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#### IV. USE OF THE ROUTINE PHYSICAL EXAMINATION

- A. Routine physical examinations may be administered by the Department under the following conditions:
1. Promotional.
  2. Reinstatement -- Any leave of absence or separation from the Department, including military leave of more than 15 working days in a consecutive period.
  3. Return from extended sick leave, ten (10) or more consecutive calendar days.
  4. Return after admission to a medical facility for observation or treatment, or after undergoing a surgical procedure, regardless of duration of the absence. This provision will apply to injuries and/or conditions arising from motor vehicle accidents as well as other causes, and will include "same day" and outpatient procedures.
  5. Commanding Officer's request for medical evaluation.
  6. Upon a transfer, assignment, or detail to the following units.
    - a. The immediate offices of the Police Commissioner, Deputy Commissioners, or the Chief Administrative Officer.

- b. Narcotics Bureau.
- c. Internal Affairs Division (IAD).
- d. S.W.A.T.
- e. Forensic Science Bureau, which includes personnel assigned to the Crime Scene Unit.
- f. Training and Education Services Bureau.
- g. Any exclusive Narcotics assignment or district Narcotics Enforcement Teams. It will be the responsibility of the District Commanding Officer to notify the Internal Affairs Bureau of these assignments.
- h. Criminal Intelligence Unit.
- i. Employee Assistance Program Unit (EAP).
- j. Marine Unit.
- k. Aviation Unit.
- l. Canine Unit
- m. Bomb Disposal Unit.
- \*2 n. Mounted Unit
- \*2 o. Real Time Crime Center
- \*2 p. Homeland Security
- \*2 q. And any other special unit as designated by the Police Commissioner.

NOTE: The City of Philadelphia will conduct a urinalysis drug screening on police applicants as a part of the pre-employment physical examination conducted by the Public Health Department. The Philadelphia Police Department will conduct a hair analysis test on the applicant.

## **V. PROCEDURE--GENERAL**

- A. Sworn personnel are ordered to provide a urine and/or hair sample as directed for a drug test under the following circumstances:
    - 1. As part of an ordered physical examination, which includes the following:
      - a. When an officer's actions, appearance, or demeanor indicates a reasonable suspicion that he/she has used drugs illegally or improperly.
      - b. When an internal investigation reveals a reasonable suspicion that an officer has used drugs illegally or improperly.
    - 2. As a component of a routine physical examination required under Section IV, A, subsections 1 through 6.
    - 3. As set forth in this Drug Testing Policy, Section II, Subsection E, and Section VIII, Random Drug Testing.
    - 4. Police recruit promotional drug testing.
  - B. In all cases, once an officer has arrived at a medical testing facility (either the Medical Dispensary, a City-contracted hospital or laboratory), he/she will:
    - 1. Be under the direct supervision of the testing officer, where appropriate.
    - 2. Will be assigned a test code for identification purposes in order to maintain anonymity and privacy throughout the sampling and testing procedure.
    - 3. Complete the Police Department Test Identification Form and other forms required by the Public Health Department and/or contracted laboratory.
    - 4. Wash his/her hands thoroughly prior to the delivery of a urine and/or hair sample and shall deliver the sample in a quantity required for laboratory testing purposes. This will be done in the presence of a testing officer, where appropriate.
    - 5. Sign the required forms, certifying that the sample corresponds with the test code identification assigned to the subject/officer.
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## **VI. PROCEDURE--REASONABLE SUSPICION**

- A. Reasonable Suspicion Cases

1. Sight Impairment Situation -- When a commander or supervisor, based on observations or other articulated facts, believes that reasonable suspicion exists requiring a physical examination (including a urinalysis and hair sampling), due to indications that an officer is unfit for duty or may be under the influence of drugs, the commander or supervisor shall:
  - a. Contact an available commander or supervisor of higher rank to review and confirm that a reasonable suspicion exists based upon the facts and circumstances of the incident.
  - b. When the higher ranking commander or supervisor believes that a reasonable suspicion exists, prepare a revised Employee Impairment Report (82-S-55) and retain the employee's weapon pending the outcome of the investigation.
  - c. Contact IAD to document the incident.
  - d. The supervisor at IAD will order the officer to be immediately brought to IAD. The assigned investigator shall include his/her observations of the employee in the investigation report.
  - e. The Internal Affairs Division will follow the procedures set forth in Section VI, A, 2, b through h, where appropriate.
2. All other reasonable suspicion cases--When a commander or supervisor believes that reasonable suspicion exists requiring a physical examination and/or a urinalysis or hair testing, he or she will contact IAD. An IAD commander will then review all statements and documentation concerning the reasonable suspicion. Upon agreement by the IAD commander that reasonable suspicion exists, an IAD investigator will be assigned and be responsible for the following:
  - a. Notify the officer's commanding officer that the officer be brought to IAD and (if the officer's commanding officer has not already done so); retain the officer's weapon pending the outcome of the investigation.
  - b. Advise the officer of his/her right to make a statement after the facts of the reasonable suspicion have been described.
  - c. Order the officer to submit to a physical examination, which shall include a urinalysis and/or hair test and, in certain impairment cases, where appropriate, order a breathalyzer examination.

NOTE: In cases where a breathalyzer examination is required, the officer will be transported first to the Accident Investigation District where the investigator will arrange to have the examination administered and will be present during the examination. A copy of the Breathalyzer Examination (75-15) will be submitted to the District/Unit Commanding Officer.

- d. Transport the officer to the physical examination site and supervise the urinalysis and drug test component of the physical examination, collect the sample, and submit it to the laboratory for testing.
- e. Obtain the result of the laboratory report for the urinalysis and/or hair test.
- f. Inform the officer if the results were negative. However, if the results were positive, the assigned investigator will interview the officer about the results and advise the officer of the procedures outlined in Section XI, "Reconfirmation Testing".
- g. Submit a report to the Police Commissioner stating in full, the facts of the case, procedures followed, and all test results (including breathalyzer examination, if applicable).
- h. Notify the officer of disciplinary action imposed by the Police Commissioner, and the officer's commanding officer who will be responsible for referring the incident to the Commanding Officer of the Charging Unit.

NOTE: The Legal Counsel's Office is available for consultation in all reasonable suspicion cases to review the facts of the incident and to analyze the existence of reasonable suspicion.

**B. Testing Officer's Duties:**

1. In "reasonable suspicion" cases, the Testing Officer will be responsible for the following:
  - a. Arrange for the transportation of the officer to the testing facility. Under most circumstances, this will take place after the interview by the IAD investigator concerning the alleged use of illegal drugs or abuse of controlled substances.
  - b. Provide the officer with all forms required to be completed prior to testing, and ensure that a test-identification code is assigned.
    - (1) When samples are taken in the field, i.e., district/unit, a private room and/or area is to be provided to the Testing Officer in order to complete all forms and obtain needed samples, including hair samples, if warranted.

c. Supervise and observe all aspects of the following:

- (1) Maintain presence during the collection of the samples in order to ensure that no adulteration, alteration, or substitution has been made by the employee.
2. Mark the individual urine and/or hair sample by matching the sample with the employee's test identification code.
3. Assure that the required forms have been completed according to the chain-of-custody and have the officer certify that the sample corresponds with his/her test identification code by signing the appropriate forms.
4. Protect sample containers and seals against contamination or tampering, by keeping them in a secure area until the sample(s) are taken.
5. Perform any further steps that may be required in order to maintain legal procedure, controlling all steps from initial notification of the employee to the final marking, sealing, and transport to the testing laboratory.
6. Inform the officer that he/she will be placed on administrative duty by the Officer's Commanding Officer pending the results of laboratory analysis.
7. Deliver to the Commanding Officer, IAD all reports, test records, and documents relating to the test and/or chain of custody.

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## **VII. PROCEDURE--ROUTINE PHYSICAL EXAMINATIONS**

- A. The Internal Affairs Division will have Testing Officers assigned to the Unit to perform the following:
  1. Supervise all tests.
  2. Ensure that all samples are controlled and procedures are followed.
  3. Obtain results of all tests from the laboratory.
- B. During routine physical examinations, the Testing Officer will be assigned to the Medical Evaluation Unit (19<sup>th</sup> and Fairmount Ave.) and perform the following procedures:
  1. Supervise and observe that the collection of the drug test sample is in accordance with Departmental policy.

2. Deliver all records pertaining to the drug tests to the IAD Drug Testing Unit for processing and storage until the results are received from the contracted laboratory.
3. If the results of the test are positive, forward the information to the Commanding Officer, IAD for appropriate action as previously outlined in this directive.
4. Inform the officer that he/she will be placed on administrative duty as a result of the positive laboratory analysis.

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## VIII. PROCEDURE--RANDOM DRUG TESTING

- A. Random drug testing shall be conducted according to the same standards as all other previously outlined tests.
- B. Random drug testing shall be administered by Testing Officers assigned to IAD. The Testing Officer will notify the commanding officer or supervisor before notifying the officer selected for testing.
- C. Sworn personnel shall not be required to undergo a physical as a part of this test with the exception of personnel who attempt to report off after they have been notified to appear. These officers will be escorted by IAD personnel to an appropriate medical facility for an immediate physical examination and drug test.
- D. The Police Commissioner will designate the number of personnel that shall be required to submit samples for both a urinalysis and hair analysis test. The remainder will only be subject to a urinalysis test.
- E. Random drug testing will be conducted seven days a week and on all tours of duty. Testing will be conducted in the officer's district and/or unit of assignment. Testing can be performed at the pertinent district or unit, Employee Medical Services located at 19<sup>th</sup> Street and Fairmount Avenue, and at IAD headquarters located at 7790 Dungan Road.
- F. Selection shall be at random, generated by computer at the contracted laboratory. This selection is taken from the personnel database on a monthly basis. Upon request, the Fraternal Order of Police (FOP) will be provided with a copy of the previous month random selection list, at the beginning of each new month.

NOTE: Under this system, it is possible that a member of the Department may be randomly tested more than once a year. This is due to the fact that the list includes all sworn personnel available on duty at the time of selection.

- G. If personnel selected during the monthly period are unavailable due to legitimate reasons they will not be tested.
  - H. Personnel notified to appear for random drug testing must appear when scheduled with no exceptions and will not be permitted to report off until they have been tested.
  - I. When a member of the Drug Testing Unit is selected for a random drug test, it will be the responsibility of the ranking supervisor or command personnel to ensure the integrity of the test by being present from the point of notification to the collection of the sample.
  - J. Responsibilities
    - 1. The Information Systems Division will be responsible for the following:
      - a. Provide IAD with a monthly list of all sworn personnel from the personnel data base. Internal Affairs Division personnel will then deliver the list to the private laboratory for generation of the random list.
    - 2. The Drug Testing Unit will notify the commanding officer or immediate supervisor of the district/unit officer who has been selected for random drug testing.
    - 3. Internal Affairs Division Testing Officers will follow the basic guidelines and \ procedures for supervising and collecting drug test samples.
    - 4. Commanding officers or ranking supervisors will notify selected personnel under their command that they have been selected for a random drug test and will ensure that officers to be tested comply with the procedures outlined in this policy.
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## **IX. DISCIPLINARY ACTION**

- A. Disciplinary action of dismissal will be taken against a member of the Department under the following conditions:
  - 1. A urinalysis and/or hair test indicates a positive result as defined in Section III, "D" of this directive.
  - 2. Refusal of a direct order by an officer to submit to a drug test. This action shall be considered as a cause to suspend the officer with the intent to dismiss.
  - 3. Any action or attempt by an officer to alter, taint, or impair the validity of a drug test including any adulteration or substitution of a sample.
  - 4. A positive drug test as per Section XII.

B. Disciplinary action up to and including dismissal will be taken against a member of the Department under the following conditions:

1. Refusal of a direct order by an officer to submit to a breathalyzer test.
2. The use of a prescription drug (controlled or non-controlled) which was not prescribed for the officer by a licensed medical practitioner.
3. The abuse and/ or illicit use of prescription and/or non-prescription drugs.
4. Any attempt by an officer to circumvent, delay, or fail to cooperate in the exercise of the drug testing procedures outlined in this directive

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## **X. LABORATORY TESTING**

- A. The testing of urine and hair specimens of personnel will be completed by a qualified medical laboratory selected by the Department who will meet the Departmental contract specifications which will ensure results that are legally supportable and scientifically accurate.
- B. With the delivery of each specimen, the Department will designate to the testing laboratory only certain specific drugs for which the specimen is to be analyzed. The testing laboratory will report findings only as to those specific substances contained in the Department request.
- C. To ensure optimum accuracy, the tests will be drug-specific. The drug abuse screening test will consist of two tests:
  1. The initial test of each urine and/or hair sample will employ a methodology different from the secondary confirmation test.
  2. The initial test will use an "emit test" and/or a thin-layer chromatography process unless a different process has been approved by the Department. The testing process at the laboratory for the initial analysis will be completed in 24 to 48 hours.
  3. The secondary confirmation test of any positive findings on specific drugs selected to be screened in the subject shall be accomplished by the gas liquid chromatography/mass spectrometry method.
  4. The initial test procedure for determining the presence of cannabinoids will be immunoassay. Secondary confirmation testing of a positive result for the presence of cannabinoids will be gas chromatography/mass spectrometry.

- D. The testing laboratory contracted by the Department to test urine specimens under this directive must continue the uninterrupted chain-of-custody procedure from receipt of specimens to chain-of-control of all specimens. This will help to establish fundamental accountability and reliability of testing from a legal viewpoint at each stage in the handling, testing, and storing of specimens and reporting of the test results.
  - E. The testing laboratory is subjected to appropriate external proficiency-testing and internal quality assurance procedures for evaluating the performance of its testing process and procedures. These procedures must be in conformance with Pennsylvania law and contract specifications. The testing laboratory will not be allowed to know the identity of the subject tested.
  - F. Strict confidentiality must be maintained throughout the entire testing and reporting process. Results of the test will be forwarded only to the Commanding Officer, IAD or that person authorized by the Police Commissioner to receive test results. Test results must be either hand delivered or sent electronically.
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## **XI. RECONFIRMATION TESTING**

- A. The Police Department's contracted laboratory for urine specimens is required to store a portion of a positive urine specimen for a period of one year. Officers who have tested positive for drugs will have the option of a reconfirmation test. The reconfirmation test will be conducted on the split specimen, which will remain sealed at the lab for one (1) year. The lab conducting the reconfirmation test must be certified by the U. S. Department of Health and Human Services. The Internal Affairs Division maintains a list of certified labs. The Officer will be responsible for all costs including shipping to a certified lab of their choice and the testing of the specimen.
- B. From the date that an officer has been notified that they have had a positive urine test for drugs, the officer has 30 days to notify in writing the Commanding Officer, IAD, of their request for a reconfirmation test. The officer must provide the name and address of the lab, and the name of the contact person at the lab. All costs are the responsibility of the employee.
- C. An officer who has a positive hair test can request a reconfirmation test by providing a second hair sample for testing. The subject officer must provide the second hair sample within ten (10) days of his notification of a positive test result. The request must be in writing to the Commanding Officer, IAD. The reconfirmation test sample will be sent to the Department's contracted laboratory. All costs of testing are the responsibility of the officer requesting the test.

- D. The laboratory conducting the reconfirmation test must provide the Police Department's Internal Affairs Division with a written report of the results of the testing conducted on behalf of the officer.

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## XII. DRUG TESTING CUT-OFF LEVELS

- A. These listings represent the screening and confirmatory test cut-off levels of the Department.
- B. The Department may change the test cut-off levels, and add or delete drugs to be screened, as changes in technology or other considerations warrant identification of these, or other substances at other concentrations. The Department will provide notification of any change in test cut-off levels.

<u>Cut-off levels (urine)</u>	<u>Emit screen</u>	<u>GC/MS screen</u>
THC/Marijuana Metabolites	20 NG/ML	15 NG/ML
Cocaine/Metabolites	150 NG/ML	100 NG/ML
Opiates/Metabolites	2000 NG/ML	2000 NG/ML
Phencyclidine	25 NG/ML	25 NG/ML
Amphetamine/Methamphetamine	500 NG/ML	250 NG/ML
Barbiturate	300 NG/ML	300 NG/ML
Benzodiazepine/Metabolites	300 NG/ML	300 NG/ML
Methaqualone	300 NG/ML	300 NG/ML
Methadone	300 NG/ML	300 NG/ML
d-Propoxyphene	300 NG/ML	300 NG/ML
MDMA	500 NG/ML	250 NG/ML

<u>Cut-off levels (hair)</u>	<u>Screening</u>	<u>GC/MS</u>	<u>Reconfirmation Test</u>
Cocaine	5ng/10mg	5ng/10mg	Limit of Detection
Opiates	3ng/10mg	3ng/10mg	Limit of Detection
PCP	3ng/10mg	3ng/10mg	Limit of Detection
Amphetamine	5ng/10mg	5ng/10mg	Limit of Detection
Marijuana	0.01ng/10mg	0.003ng/10mg	Limit of Detection

- All reconfirmation tests for hair and urine will be a limit of detection test.
- Limit of detection is defined as the lowest concentration at which the laboratory can identify a substance.

- C. Since the controlled substances listed above were not meant to be all inclusive of the drugs subject to abuse, the Department reserves the right (e. g., in reasonable suspicion/cause) to perform analysis for additional controlled substances (e.g., steroids). Appropriate forensic analytical techniques, (e. g., gas chromatography/mass spectrometry), will be used to detect, identify and measure (to the limit of quantization) such illicit agents or prescription-only medications.
  - D. Cut-off levels for drugs not listed above will be at the limit of quantization.
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### **XIII. EXPOSURE TO ILLEGAL CONTROLLED SUBSTANCE**

#### **A. Procedure**

1. Officers in on-duty or off-duty status who become aware that they indirectly or accidentally have breathed, ingested, (including undercover “forced ingestions”) or otherwise internalized illegal controlled substances, will report such occurrences, take police action where appropriate, or explain why police action could not have been taken.
  2. The officer, whether indirectly or accidentally exposed to controlled substance, will immediately submit a memorandum detailing the incident to his/her commanding officer. The Commanding Officer will immediately notify the Commanding Officer, Office of Professional Responsibility of the incident, retain the original memorandum in a district unit file, and submit a copy of the officer’s memorandum to the Commanding Officer, Drug Screen Unit and Commanding Officer, Safety Unit.
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### **XIV. DRUG TESTING ADVISORY COMMITTEE**

- A. The Drug Testing Advisory Committee will advise the Police Commissioner on procedural and technical matters pertinent to the drug testing program.
- B. Membership:
  1. Membership will consist of one (1) representative from the Fraternal Order of Police (FOP), Lodge 5.
  2. Medical specialist(s) in various sciences pertinent to drug testing such as pharmacology, toxicology and pathology.
  3. Command personnel of the Department.
- C. Committee Role:

1. Offer recommendations on the procedures and mechanics of the program and the science of drug testing. Maintain fairness, objectivity, accuracy and confidentiality in the program and be alert for the following:
    - a. Changes and improvements in science and technology to improve the effectiveness of laboratory testing for the detection of illegal drug use/abuse.
    - b. Proficiency testing and quality assurance procedures for evaluating the performance of drug testing laboratories.
    - c. Outline of procedure for certification, de-certification, and re-certification of laboratories.
    - d. Make recommendations to improve the effectiveness of the drug testing program.
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## **XV. INTOXICATION**

- A. When a member is on duty or is off duty but has taken some official police action and is suspected by police personnel of being intoxicated or otherwise impaired, the below guidelines will be followed. (See procedure in Part VI for suspicion of being under the influence of drugs).
  1. Responsibilities of the Duty Lieutenant or in his or her absence the Sergeant are as follows:
    - a. Immediately notify Internal Affairs, the member's Commanding Officer and the Commanding Officer of the District of Occurrence (if not the same). During non-business hours, the Duty Captain – Command Inspections Bureau (CIB) will be notified in lieu of the Commanding Officer of the District of Occurrence
    - b. Relieve the suspected member of any weapons.
    - c. Prohibit the member from drinking, eating, ingesting, chewing gum or otherwise using any substance until examined by the Accident Investigation District and receives a breathalyzer exam.

NOTE: Off-duty members who have taken some official police actions and are suspected of being intoxicated or otherwise impaired shall be deemed on-duty until officially declared off-duty by the Commanding Officer of the District of Occurrence or the Duty Captain – Command Inspections Bureau.

- d. Have the Operations Room Supervisor (ORS) prepare five (5) copies of the Intoxication Report Form (82-S-55).

2. The Responsibilities of the Commanding Officer of the District of Occurrence or the Duty Captain – Command Inspections Bureau, during non-business hours, are as follows:
  - a. Take custody of any weapons retained by Duty Lieutenant/Sergeant (see section XV-A-1-b).
  - b. Prohibit the member from drinking, eating, ingesting or otherwise using any substance until examined by the Accident Investigation District and receives a breathalyzer exam.
  - c. Ensure that the Accident Investigation District Supervisor is notified that a member is being sent for a breathalyzer examination within sixty (60) minutes.
  - d. If the official police action taken resulted in serious bodily injury or death, Internal Affairs will be updated.

NOTE: A supervisor from AID must be on location and observe the actual breathalyzer examination and verify the results.

- e. Transport the suspected member, without delay, to the Accident Investigation District for a breathalyzer examination, observe the actual examination and verify the results.
  1. The examination should be conducted no more than sixty (60) minutes after a member was initially suspected. Any examinations conducted after sixty (60) minutes from the time of the initial suspicion will require a memorandum detailing the facts and circumstances for the delay forwarded to the Deputy Commissioner, Field Operations.
- f. Obtain a radio time check (1) upon arrival on location, (2) when transportation has commenced, (3) upon arrival at the Accident Investigation District.
- g. Ensure that five (5) copies of the Intoxication Report (82-S-55) are submitted to the AID Examiner and upon completion of the examination, are distributed as follows:

Original	-	Pertinent Deputy Commissioner
1 <sup>st</sup> Copy	-	Divisional Inspector/Commanding Officer
2 <sup>nd</sup> Copy	-	AID Examiner
3 <sup>rd</sup> Copy	-	Suspected / Accused Member's Commanding Officer
4 <sup>th</sup> Copy	-	Commanding Officer, Charging Unit
- h. Notify the member's Commanding Officer, if not the same, and deliver any weapons retained from the suspected member.

3. Internal Affairs shall be responsible to review all actions taken pursuant to this section by police personnel for compliance with Departmental policy.
- B. To refute allegations, when a member is on-duty or is off-duty but has taken some official police action and is accused, on scene, of being intoxicated or otherwise impaired by a civilian complainant or witness the highest ranking supervisor on location shall:
1. Conduct an independent examination of the accused member to determine if suspicion exists that the member may be intoxicated or otherwise impaired and document the results either positive or negative on a Complainant or Incident Report (75-48).
    - a. If suspicion exists that the member is intoxicated or otherwise impaired, the provisions of Section A shall apply.
    - b. If no suspicion exists that the member is intoxicated or otherwise impaired, no further action according to this Directive is needed.
- C. If a breathalyzer examination reveals that a member on-duty, reporting on or off duty has any blood alcohol content (BAC) level, or a member off-duty, who has taken some official police action, has imbibed a sufficient amount of alcohol such that the member is rendered impaired or incapable of safely taking police action (Also refer to, Commissioner's Memorandum 98-1 Section I, D).
1. Responsibilities of the Commanding Officer of the District of Occurrence or the Duty Captain-Command Inspections Bureau during non-business hours, are as follows:
    - a. Retain the member's weapon or relieve the member of any weapons if initially transported based on civilian accusations (See section XV-B-2).
    - b. Ensure the member is transported home and have him or her report for duty on his or her next scheduled working day.
    - c. Notify the member's Commanding Officer, if not the same, of all actions taken and deliver any weapons retained from the suspected member.

NOTE: For purposes of this section "impaired or incapable of safely taking police action" shall be inferred after a member had imbibed a sufficient amount of alcohol such that the alcohol concentration in the member's breath is .04% or greater within two (2) hours after the member has taken official police action.

2. The Responsibilities of the member's Commanding Officer are as follows:

- a. If applicable, ensure the member is suspended for the day. Enter "Z" in the Daily Attendance Report. Insert "Impaired-Unable to perform duties" in the comments section.
  - b. Contact the Employee Assistance Program (EAP) and provide the members name and payroll number. Ensure the member is scheduled to meet with a representative of EAP within three (3) calendar days.
  - c. Submit a complete and thorough investigation to the Commanding Officer of the Charging Unit. A cover memorandum requesting disciplinary action will be attached to the package.
  - d. Safeguard any weapons received and return to members when appropriate. (See, section XV-C-1-c).
- D. If a member refuses to be transported to the Accident Investigation District and/or refuses to undergo the breathalyzer examination.
1. The Responsibilities of the Commanding Officer of the District of Occurrence or the Duty Captain-Command Inspections Bureau, during non-business hours, are as follows:
    - a. Give the member a direct order to accompany the Commanding Officer of the District of Occurrence to the Accident Investigation District and/or submit to a breathalyzer examination (Also refer to, Commissioner's Memorandum 98-1 Section (II)(E)(1)).
- NOTE: If the suspected or accused member is a ranking officer, the next highest rank will be contacted, without unnecessary delay, through the chain of command to issue the direct order identified in Section (D)(1)(a) either personally or via telephone. During non-business hours the Command Inspections Bureau will be contacted and the appropriate rank will issue the order.
- b. Notify Police Radio and receive a time check at the time of the member's refusal to comply with a direct order.
  - c. Retain the member's weapon or relieve the member of any city issued weapons if initially transported based on civilian accusations. (See (B)(2)).
  - d. Ensure the member is transported home and have him or her report for duty on his next scheduled working day.

- e. Notify the member's Commanding Officer, if not the same, of all actions taken.
2. The Responsibilities of the member's Commanding Officer are as follows:
- a. If applicable, ensure the member is suspended for the day. Enter "Z" in the Daily Attendance Report. Insert "Impaired-Unable to perform duties-refused direct order" in the comment section.
  - b. Submit a complete and thorough investigation to the Commanding Officer of the Charging Unit. A cover memorandum requesting disciplinary action will be attached to the package.

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**BY COMMAND OF THE POLICE COMMISSIONER**

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<u>FOOTNOTE</u>	<u>GEN#</u>	<u>DATE</u>	<u>CHANGE</u>
*1	1127	01-30-12	Add Appendix "A"
*2	1776/1777	02-15-12	Addition



APPENDIX "A"

SUBJECT: STEROID TESTING

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I. POLICY

- A. Steroids, which are listed as Schedule III drugs under the Controlled Substances Act, are legally available only with a prescription. The use of steroids for non- medical purposes is illegal. Non-medical usage of steroids could produce adverse psychoactive effects resulting in on-the- job safety related issues involving the officer's own welfare and the welfare of others, and is prohibited.
- B. The Controlled Substances Act (CSA) defines anabolic steroids as any drug or hormonal substance chemically and pharmacologically related to testosterone (other than estrogen, progestions, and corticosteroids) that promotes muscle growth. Pharmacologically and toxicologically, anabolic steroids act as synthetic testosterone. For some individuals, the use of anabolic steroids may be associated with psychotic reactions, manic episodes, feelings of anger and hostility, aggression and violent behavior.
- C. Any and all anabolic androgenic steroids, covered by Schedule III of the Code of Federal Regulations' Schedule of Controlled Substances, as amended from time to time, shall be considered steroids. Synthetic and/or metabolic anabolic androgenic steroids that are not covered by Schedule III, and are not medically prescribed, shall also be considered steroids for the purpose of this directive. The following is a non-exhaustive list of substances that shall be considered steroids under departmental policy:
1. Androstenediol
  2. Androstenedione
  3. Androstenediol
  4. Androstenedione
  5. Bolasterone
  6. Boldenone
  7. Calusterone
  8. Clostebol
  9. Dehydrochloromethyltestosterone
  10. Desoxy-methyltestosterone
  11. ^1-dihydrotestosterone
  12. 4-dihydrotestosterone
  13. Drostanolone

14. Ethylestrenol
15. Fluoxymesterone
16. Formebolone
17. Furazabol
18. 13a-ethyl-17a-hydroxygon-4-en-3-one
19. 4-hydroxtestosterone
20. 4-hydroxy-19-nortestosterone
21. Mestanolone
22. Mesterolone
23. Methandienone
24. Methandriol
25. Methenolone
26. Methyltestosterone
27. Mibolerone
28. 17-a-methyl-<sup>1</sup>-dihydrotestosterone
29. Nandrolone
30. Norandrostenediol
31. Norandrostenedione
32. Norbolethone
33. Norclostebol
34. Norethandrolone
35. Oxandrolone
36. Oxymesterone
37. Oxymetholone
38. Stanozolol
39. Stenbolone
40. Testolactone
41. Testosterone
42. Tetrahydrogestrinone
43. Trenbolone
44. Any salt, ester, or ester of a drug or substance listed above; and
45. Human Growth Hormone

- D. Steroid testing will be done on a “reasonable suspicion” basis. The method of testing will be urinalysis. The collection process will consist of two separate test kits being prepared, both of which are derived from an original urine sample. The first test kit will be forwarded to the departments contracted laboratory and will undergo testing for the department’s standard urinalysis drug panel. The second test kit will be tested for steroids. It will also be forwarded to the departments contracted laboratory. If steroid analysis cannot be performed there, the departments contracted laboratory will forward the in-tact test kit to a laboratory certified by the US Department of Health and Human Services or approved by WADA (World Anti-Doping Agency).

- E. The testing laboratory will utilize confirmation testing via gas chromatography / mass spectrometry ( GC/MS) and/or liquid chromatography / mass spectrometry (LC/MS) providing the necessary quantum of proof for identifying the presence of the anabolic steroid. Qualitative testing is utilized with the ability to accurately identify the anabolic steroid to the laboratory's limit of quantification (LOQ) which is typically 1 ng/mL. Testosterone and epitestosterone which are all present in very small quantities in the human body will have cutoff parameters applied as follows: Testosterone and/or epitestosterone, and/or a T/E ratio greater than or equal to 6.0 : POSITIVE. Nandrolone which is not normally present in the human body can be present in rare circumstances in very minute quantities; therefore, Nandrolone, or 19-Norandrosterone, or 19-Noretiocholanolone greater than or equal to 10 ng/mL: POSITIVE. The presence via confirmation testing of any other anabolic steroid and/or HGH (human growth hormone) as defined in E (3) will be reported positive.
- F. If an officer tests positive for a steroidal type substance, and cannot produce evidence of a legitimate prescription for a medically necessary condition, then disciplinary action up to and including dismissal will be incurred. Hence, absent a valid medical reason and/or prescription, the officer will be held accountable for the intake of that particular substance.
- G. An officer who tests positive for a steroidal type substance has the option for a reconfirmation test. From the date that the officer was notified that they had a positive test result, the officer has 30 days to notify in writing the Commanding Officer, IAD, of their request for a reconfirmation test. The reconfirmation test will be conducted on the split specimen, which will remain sealed at the testing laboratory for one (1) year. The laboratory conducting the reconfirmation test must be certified by the US Department of Health and Human Services or approved by WADA (World Anti-Doping Agency). The Officer will be responsible for all costs associated with reconfirmation test.
- H. Dietary Supplements
1. Dietary supplements are legal products that are available over the counter in health stores, drug stores, supermarkets, other chain stores and through direct selling companies, physicians, and direct mail catalogs and the internet. When selecting supplements, officers should choose wisely from companies and sources they know as trustworthy.
  2. An officer has the ultimate responsibility and will be held accountable for knowing what particular substances they are putting in their body, whether it is supplements from pills, protein shakes, or any other form of supplement. Warning labels should be read and adhered to. There are some supplements that when ingested and metabolized, could potentially lead to a positive drug test result. If there are any questions or concerns as to the intake of a particular product, the officer should

consult with their physician or the Department's Medical Review Officer for guidance.

3. If an officer tests positive for a steroidal type substance and cannot produce evidence of a legitimate prescription for a medically necessary condition, disciplinary action up to and including dismissal will be incurred. Hence, absent a valid medical reason and/or prescription, the officer will be held accountable for the intake of that particular substance.

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**BY COMMAND OF THE POLICE COMMISSIONER**

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**ATTACHMENT "C"**

**FIRE DIRECTIVE #54**

**SUBJECT: DRUG AND ALCOHOL POLICY**

**1. POLICY**

The Philadelphia Fire Department has a strong commitment to all members to provide a safe work place and to promote employee health. The Department is also responsible to the citizens of our city to deliver appropriate fire fighting and Emergency Medical Services. Consistent with these commitments, the Department's goal is to establish and maintain a work environment that is free from the adverse effects of drug and/or alcohol use.

**2. RATIONALE**

The mission of the Philadelphia Fire Department revolves around protecting and serving the public. Therefore, all members must maintain a state of alertness and an ability to act in a rational manner with clear thought processes which are unaffected by the use of any drugs and/or alcohol. Public trust is an essential element to the effective performance of any Fire Department and this concept is rooted in the public having confidence in the integrity of its Firefighters and Paramedics. This confidence may be severely damaged by Firefighters and Paramedics abusing drugs and/or alcohol in any manner. Because the use of drugs and/or alcohol may affect the mental and physical condition of any member, the Department mandates full compliance with all provisions set forth in this Directive.

The Department does not wish to overly intrude into the private lives of its members to accomplish this goal. However, in conformance with this policy, all members are expected to report to work assignments fit for duty and able to perform their duties:

- Free from the use of drugs and/or alcohol
- In a manner that will not present a hazard to themselves, their fellow members, or the general public.

**3. DEFINITIONS**

**3.1 ACCIDENT**

Vehicular Accident: means an occurrence associated with the operation of a City of Philadelphia Fire Department vehicle, if as a result:

**3.1.1** An individual dies; or

**3.1.2** An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or

**3.1.3** With respect to an occurrence in which the City or Philadelphia Fire Department Vehicle incurs disabling damage as the result of the occurrence and such vehicle must be transported away from the scene by tow truck or other vehicle.

**3.2 AFTER CARE**

The outpatient treatment that is so vital following release from a rehabilitation facility. This eighteen (18) month period allows the member, with the assistance of AA/NA and the EAP Peer Group counseling sessions to adopt the skills necessary to maintain a sober and dependency free life style.

**3.3 AFTER CARE CONTRACT (APPENDIX #5 or #6)**

The third and final form that the disciplined member (Appendix #5) or member utilizing second voluntary disclosure (Appendix #6) must sign as a condition of continued employment. This contract clearly defines the member's responsibilities during the upcoming eighteen (18) months of outpatient treatment in the PFD's Peer Group counseling sessions. This form must be signed before the member is permitted to return to active duty.

**3.4 ALCOHOL LEVEL**

The percentage of the amount of alcohol by weight in the blood or breath of the person tested.

**3.5 ALCOHOLIC'S ANONYMOUS (AA)**

A fellowship of men and women who share experience, strength and hope with each other that they may solve their common problem and help others recover from alcoholism.

**3.6 CHAIN OF CUSTODY**

The procedure used by the Department whereby a bonded carrier is responsible for the transportation of all "**POSITIVE**" blood samples, Blood Alcohol Concentration (BAC), urine and hair specimens from one testing facility to another. This Chain of Custody conforms to standard evidentiary procedures for specimen collection, securement, transportation, receiving, processing, initial and if necessary confirmatory testing, specimen storage and the reporting of results. All necessary documentation terms and supplies will be provided by the testing facilities.

**3.7 CLEAR CUT NEGATIVE**

A "**NEGATIVE**" result on a specimen(s) that is not diluted, adulterated or manipulated, that establishes a member is medically qualified to return to active duty.

**3.8 CONFIRMATORY TEST**

A second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy.

**3.9 CONFIRMED USE OF DRUG AND/OR ALCOHOL**

A "**POSITIVE**" result on a specimen(s) utilizing an initial Enzyme Multiplied Immunoassay Technique (EMIT) screening followed by a confirming result utilizing the Gas Chromatography/Mass Spectrometry (GC/MS) test method. New technology may be used to improve the confirmatory process when approved by management and labor. All specimens will be subjected to the designated chain of custody.

**3.10 DETOXIFICATION**

An in-patient hospital program which assists the member to withdraw in a safe, protective environment from drugs and/or alcohol. During this period, all medical problems caused by the drugs and/or alcohol are addressed. A program of education and motivation is started during this phase of recovery.

**3.11 DIRECTOR OF EMPLOYEE ASSISTANCE PROGRAM UNIT**

That individual, working under the guidance of the Employee Relations Officer (ERO) who oversees the daily activities of the Unit, coordinates the various functions of the Unit and assists in long range development of general assistance programs.

**3.12 EMPLOYEE ASSISTANCE PROGRAM (EAP)**

A confidential program offered by the Department to provide individual and family counseling for behavioral, emotional and substance abuse problems, as well as a full range of general assistance programs.

**3.12.1** The EAP is staffed by a full time director and full time counselors that work under the direction of the Department's Employee Relations Officer (ERO). The services of "back up" counselors are available on each of the four platoons around the clock and contact can be made through the supervisor at the Fire Communication Center. In the event that contact with a "back-up" counselor does not resolve a situation, a PFD supervisor may request that the "on-call" assigned staff counselor become actively involved.

**3.12.2** The EAP is located in old Engine 21's station, at 611 North 2nd Street, and is staffed from 0830 to 1700 Hours, Monday through Friday. The EAP is staffed until 2130 hours Tuesday through Thursday nights. There are currently no weekend hours of operation.

**3.12.3** The EAP telephone number is 685-HELP, and during off-hours a tape is utilized to assist a caller.

**3.12.4** The fundamental mission of the EAP is to provide professional advice, assistance and support to those members, and their families in need of such help.

**3.13 EMPLOYEE RELATIONS OFFICER (ERO)**

That Chief Officer who supervises the daily activities and long range goals of the Employee Assistance Program Unit. Working under the direction of the Human Resources Officer, this Officer plays a vital role in assisting all members in voluntary

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treatment for drug and/or alcohol abuse, as well as ensuring that members are in compliance with all provisions of the After Care Contract.

**3.14 SPECIAL INVESTIGATIONS OFFICER (SIO)**

That Chief Officer, working under the direction of the Fire Commissioner, who is responsible for ensuring that all parts of this drug and/or alcohol policy are carried out to the Department's satisfaction. The Special Investigations Officer will become actively involved in all drug and/or alcohol disciplinary matters.

**3.15 INITIAL TEST**

An immunoassay screen to eliminate "NEGATIVE" urine specimens from further consideration (also known as Screening Test).

**3.16 MANDATORY REHABILITATION PROGRAM**

This program is mandated as a condition for continued employment for any member involved in an on-duty drug and/or alcohol incident. The rehabilitation program may entail a first phase detoxification program at a professional facility, and/or a second phase in-house treatment program at a professional facility. A third phase eighteen (18) month After Care Program is sponsored by the Department's EAP where certain minimum attendance requirements are mandatory.

**3.17 MEDICALLY UNQUALIFIED**

A determination made by the Medical Review Officer of the Medical Evaluation Unit that indicates that a clear cut "NEGATIVE" result was not established as a result of testing on a specimen(s) utilizing the GC/MS test method. This method may be modified in the event of changes in Federal or State Legislation or Department of Transportation Regulations or revised testing methodologies or level requirements. This determination would preclude a member from becoming active duty.

**3.18 NARCOTICS ANONYMOUS (NA)**

A fellowship of men and women who share their experience, strength and hope with each other that they may solve their common problem and help others to recover from their addiction.

**3.19 PEER GROUP COUNSELING**

The Employee Assistance Program's prescribed After Care Plan that is sponsored by the Department. This counseling was founded by Philadelphia Firefighters and is maintained and operated by Philadelphia Firefighters and Paramedics who are thoroughly capable of relating to and dealing with the current issues in a member's work and social environment. Firefighters and Paramedics assigned full time to the staff have special academic training and skills, and work closely with other related professional organizations.

**3.20 REHABILITATION**

An in-patient facility experience whereby the individual will learn about drug and/or alcohol abuse, and how that abuse affects their life. During this period the member is given the opportunity to deal with the problems in their life, and is given a support system to help in a successful return to daily life.

**3.21 CONSENT FORM – SUBSTANCE ABUSE TESTING (APPENDIX #1)**

This is the first form that a member involved in an on-duty drug and/or alcohol incident must sign; failure to cooperate will lead to an immediate thirty (30) day suspension with intent to dismiss. This form, required by law, allows the testing facility to release the test results to the Department's designated representative.

**3.22 SUBSTANCE ABUSE AGREEMENT (APPENDIX #2, #3 OR #4)**

The second form that a member must sign when involved in the drug and/or alcohol disciplinary process or voluntary disclosure. This form clearly outlines the member's upcoming responsibilities enroute to recovery. As a condition for continued employment, the member **MUST** sign this form at the earliest possible time when he/she is free from the effects of drug and/or alcohol abuse and adhere to all the provisions contained within. This will usually occur upon the member's release from a detoxification unit.

**4. RESPONSIBILITIES**

**4.1 MEMBERS**

**4.1.1** All members of the Philadelphia Fire Department are responsible for their own physical and mental condition and must conduct themselves in a manner in which

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their work performance remains free from any adverse effects of drug and/or alcohol abuse.

- 4.1.2 It will be the responsibility of all members to familiarize themselves with all sections of this directive.
- 4.1.3 All members must adhere to strict confidentiality throughout the entire testing and reporting process. Results of tests, both "POSITIVE" and "NEGATIVE," will be shared only with those few individuals having authorization from the Fire Commissioner. Any breach of confidentiality, whether intentional or unintentional, may result in disciplinary action.

**5. GENERAL INFORMATION**

**5.1 ENFORCEMENT**

- 5.1.1 Disciplinary action will be taken against a member for the confirmed use of illegal drugs, the illegal or improper use of controlled substances, alcohol intoxication on-duty (blood alcohol level of .08% or higher) or a "POSITIVE" (.02% or above) on-duty alcohol test result. That member will immediately be suspended. In some circumstances, more severe disciplinary action, including dismissal, may be applied by the Department.
- 5.1.2 As a condition of continued employment with the Department, after an alcohol/drug incident, the member may be mandated to successfully complete a detoxification/ rehabilitation program followed by an eighteen- (18) month After Care Program under the supervision of the Department's Employee Assistance Program Staff.
- 5.1.3 At the Department's option, a member testing "POSITIVE" for alcohol, but falling below the intoxication threshold, may be placed immediately into the Department's Rehabilitation/After Care Program and not mandated to an in patient detoxification/rehabilitation facility.
- 5.1.4 Probationary employees with less than one-year of employment, who are disciplined for any violation of this policy, will be rejected for such confirmed use. Such confirmation shall be considered "just cause" for rejection by the Department. In addition to normal Departmental disciplinary procedure, any member on promotional probation will be demoted to their previous rank.
- 5.1.5 Dismissal proceedings will be initiated against any member for a second confirmed disciplinary occurrence or third voluntary disclosure of illegal drugs,

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the illegal or improper use of controlled substances, alcohol intoxication (blood level of .08% or higher) or testing "**POSITIVE**" (.02% or above) on-duty for alcohol.

- 5.1.6 Any breach of the eighteen (18) month written After-Care Contract will lead to the initiation of dismissal proceedings.
- 5.1.7 The Department's option for permitting a member to undergo detoxification/rehabilitation/after care in lieu of dismissal for a first time disciplinary infraction is a one time exception. **A MEMBER WILL NOT BE GRANTED A SECOND DISCIPLINARY EXCEPTION.**

**5.2 DISCLOSURES**

The Department, in being sensitive to employee needs, has adopted the following policy:

**5.2.1 TWO VOLUNTARY DISCLOSURES:**

5.2.1.1 First - No mandatory After Care Contract Program, however members must be assessed and satisfactorily complete detoxification and rehabilitation as necessary. The assessment, detoxification/rehabilitation process effectively reduces the recidivism of alcohol and/or substance abuse.

5.2.1.2 Second – Members must be assessed and satisfactorily complete detoxification and rehabilitation as necessary. The assessment, detoxification/rehabilitation process effectively reduces the recidivism of alcohol and/or substance abuse. Members must also enter the Department's eighteen- (18) month After Care Contract Program and adhere to all its provisions.

**5.2.2 ONE VOLUNTARY AND ONE DISCIPLINARY DISCLOSURE:**

5.2.2.1 Voluntary First - No mandatory After Care Contract Program, however members must be assessed and satisfactorily complete detoxification and rehabilitation as necessary. The assessment and detoxification/rehabilitation process effectively reduces the recidivism of alcohol and/or substance abuse.

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**5.2.2.2** Disciplinary Disclosure – Members must enter and complete the eighteen (18) month After Care Program. If a member makes a voluntary disclosure during this period, it will count as their second chance, and a new eighteen- (18) month After Care Contract will be created.

**5.2.2.3** If the Voluntary Disclosure is made after the member has successfully completed their eighteen (18) month After Care Contract Program, member must re-enter the eighteen (18) month program as a condition of continued employment.

**NOTE:** Voluntary Disclosures must be made as outlined on Page #9 of Directive #54. See Appendix #7; schedule "A" for Criteria for Dismissals under Directive #54.

**5.2.3** To encourage voluntary declarations and allow treatment in non-disciplinary situations, the member will be permitted to use accrued sick leave on both occasions and will not be bound to enter a mandatory eighteen- (18) month After Care Contract for the first occasion. However, a second career voluntary disclosure will require the member to enter into and successfully complete the Department's standard eighteen (18) month After Care Program as a condition of continued employment.

**5.2.4** In order for a member's admission of a drug and/or alcohol problem to be considered "Voluntary," the disclosure must be made:

**5.2.4.1** PRIOR TO THE INVESTIGATION OF ANY INCIDENT

**5.2.4.2** PRIOR TO THE MEMBER BEING ORDERED FOR DRUG AND/OR ALCOHOL ABUSE TESTING

**5.2.4.3** PRIOR TO THE DEPARTMENT INITIATING ANY TYPE OF DISCIPLINARY ACTION AGAINST THE MEMBER

**5.2.5** Voluntary declarations of substance abuse made known to the Department after the implementation of this policy via sick leave, medical leave of absence or other related incidents will count as a Departmentally exercised detoxification/rehabilitation/aftercare options. A third Voluntary declaration of a substance abuse problem made known to the Department in any manner will lead to dismissal proceedings.

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- 5.2.6 Members who experience formal disciplinary action for a substance abuse problem will not be granted a second disciplinary occurrence, but may utilize their Voluntary option. There will be no combinations of two Voluntary and one Disciplinary occurrence. Only disclosures as outlined above will be acceptable under this policy.
- 5.2.7 Based up on the member's career record, the length of time between substance abuse incidents and the specific facts of the latest incident, the Fire Commissioner may permit reinstatement of a member dismissed for a Voluntary admission of substance abuse.
- 5.2.8 Any member applying for reinstatement, must have successfully completed a Certified Rehabilitation Treatment Program and be actively involved in an After Care program. The Department will require proof of these treatment activities and year of the dismissal date.
- 5.2.9 If the Department reinstates any member, they must enter and successfully complete the Department's eighteen- (18) month After Care Contract Program as a condition of continued employment.
- 5.2.10 All members undergoing the Department's mandated eighteen- (18) month After Care Program, WILL be given follow up drug and/or alcohol tests on a non-scheduled basis during this eighteen-month period to ensure After Care compliance. If at any time, a member has a confirmed "**POSITIVE**" drug and/or alcohol test result, dismissal proceedings will be initiated.
- 5.2.11 The Fire Commissioner will reserve the right to alter or waive any provision of this policy for unique or extenuating circumstances.

**5.3 TESTING LEVELS**

- 5.3.1 During routine and promotional physical examinations, drug screening will be done by urinalysis. No testing for alcohol will be done at this time.
- 5.3.2 When drug and alcohol screening is required under the disciplinary provisions of this policy, blood sample, Breath Alcohol Concentration (BAC), urinalysis and/or hair (Hair-5 Drug Panel) tests may be given (refer to Schedule "A" for controlled substances and levels).
- 5.3.3 This list (Schedule A) is not intended as an exhaustive inventory of every drug that is tested for by the Department. The selection of drugs will be based upon

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known abuses in the community and the ability of each drug to affect the member's performance.

- 5.3.4 The pharmacological development of new or exotic drugs may affect the drug usage patterns in the community. If any of these usage patterns impact on the Department's current procedures, changes will be made as required. All changes will be made by the Fire Commissioner on a recommendation from a designated Departmental Drug Advisory Committee in conjunction with the City's contracted testing facilities. Local #22 will be provided with a minimum notice of thirty days prior to any such change.

**5.4 TESTING METHOD**

- 5.4.1 The initial drug testing will be performed by the EMIT and the use of alcohol will be tested for by drawing blood sample or BAC. Any "**POSITIVE**" findings will require a second independent confirmatory test with the integrity of the specimens maintained by the appropriate "chain of custody."
- 5.4.2 Additional tests will also be required for urine specimens exhibiting abnormal pH levels or other chemical abnormalities indicating possible adulteration.
- 5.4.3 All confirmatory tests will be made by the GC/MS or other approved methodology.
- 5.4.4 The Department may exercise its right to administer the Hair-5 Drug Panel test.
- 5.4.5 Examinees, whose specimens are confirmed "**POSITIVE**" will be provided with an opportunity to have an independent licensed laboratory of their choice, and at their expense, conduct an additional test of the original specimen(s). Any request for this third test must be made by the member in writing and reach the Fire Commissioner within ten days of the initial suspension date.

**5.5 TESTING CRITERIA**

- 5.5.1 Routine Testing: The Department will initiate routine drug screening of members under the following conditions:
- 5.5.1.1 Regular physical examinations.
- 5.5.1.2 Promotional physical examinations.
- 5.5.1.3 Return to work physicals per the Medical Evaluation Unit.

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**5.5.1.4** Follow-up testing as per the After Care Contract.

**NOTE:** If a member is confirmed "**POSITIVE**" for drug abuse from any of these four routine testing procedures, or random testing they will be subject to the disciplinary actions described in Section 5.1, "Enforcement."

**5.5.2** Non-Routine Testing:

**5.5.2.1** Post Accident – The Department may initiate drug and/or alcohol screening on a Philadelphia Fire Department vehicle operator as soon as practicable following a vehicular accident involving the loss of human life, serious injury or a vehicle being towed from the scene. Member(s) will not automatically be placed on administrative leave pending the results of any post accident testing. Each situation will be determined based on the facts and circumstances. The on-duty Deputy Commissioner will be notified whenever member(s) are taken for post accident testing.

**5.5.2.1.1** Fatal accidents: As soon as practicable following a vehicular accident involving the loss of human life, the Department shall conduct drug and alcohol tests on each employee operating the Department owned vehicle at the time of the accident.

**5.5.2.1.2** Nonfatal accidents: As soon as practicable following a vehicular accident not involving the loss of human life in which a Department owned vehicle is involved, the Department shall drug and alcohol test each covered employee operating the Department owned vehicle at the time of the accident unless the Department determines, using the best information available at the time of the decision, that the covered employee's performance can be completely discounted as a contributing factor to the accident.

**5.5.2.1.3** If an alcohol test required by this section is not administered within two hours following the accident, the Department shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours

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following the accident, the Department shall cease attempts to administer an alcohol test and maintain the record.

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

**5.5.2.1.5** A covered employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the Department or his/her Battalion Chief of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed by the Department to have refused to submit to testing.

**5.5.2.1.6** The decision not to administer a drug and/or alcohol test under this section shall be based on the Department's determination, using the best available information at the time of the determination that the employee's performance could not have contributed to the accident. Such a decision must be documented in detail.

**5.5.2.1.7** Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

**5.5.2.2** Reasonable Suspicion - The Department may also initiate drug and/or alcohol screening for any incident where an employee is suspected to be under the influence of, or impaired to any degree, by drugs and/or alcohol while on-duty. When "reasonable suspicion" is determined indicating that an employee is using illegal drugs or misusing prescription drugs or abusing alcohol causing on-duty impairment, that employee may be drug screened while off-duty.

**5.5.2.2.1** "Reasonable Suspicion" definition – "An articulable belief based on specific facts and reasonable inferences drawn from those facts that a member is under the influence of, or impaired to any degree by drug and/or alcohol."

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**5.5.2.2.2** Circumstances which constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

- Direct observation of drug and/or alcohol use.
- The member's body shows evidence of drug use (e.g. "track marks", etc.).
- The member is found to be in possession of alcohol and/or drugs while on-duty.
- Spontaneous unusual, abnormal, erratic or unacceptable behavior.
- A documented pattern of unusual, abnormal erratic or unacceptable behavior.
- An unusual or suspicious pattern of sick leave usage.
- A serious on-duty injury under suspicious circumstances.
- An on-duty accident under suspicious circumstances.
- Reporting to work unfit for duty.
- Being under any suspension that may be related to substance abuse.
- Being under current investigation for a disciplinary infraction that may be related to substance abuse.
- Information is provided by a reliable and credible source.
- The presence of physical symptoms of drug and/or alcohol use (i.e. glassy or bloodshot eyes, the odor of alcohol on the breath, slurred speech, poor coordination and/or reflexes, etc.)

**5.5.3** All Departmental supervisors initiating disciplinary action on the basis of "reasonable suspicion" will be required to detail in writing the specific facts,

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symptoms or observations which formed the basis for their determination that "reasonable suspicion" existed to warrant the testing of the member.

**5.5.4** The Department shall develop and maintain an educational program that addresses all current related substance abuse issues. A segment of this educational program must be directed towards helping all members recognize certain conduct and behavior that give rise to a "reasonable suspicion" of drug and/or alcohol abuse. This educational program will be scheduled at sufficient intervals to ensure that not only are the goals of this policy met, but that all members are familiar with the issues, problems and current trends of thought concerning contemporary substance abuse.

**5.6 SUBSTANCE ABUSE INDICATORS/TRAITIS**

**5.6.1** All Supervisors are required to be alert for impaired job performance or behavior that exhibits traits consistent with drug and/or alcohol abuse.

**5.6.2** The following behaviors are consistent with a chemically dependent employee. In most cases, these traits can be accompanied by clear evidence of the member's deteriorating job performance.

**5.6.3** In the absence of any deterioration of job performance or a specific incident giving rise to "reasonable suspicion", supervisors must be able to document enough indicators/traits to meet the "reasonable suspicion" requirement before any testing will take place.

**5.6.4** All supervisors must be thoroughly familiar with the "Non-disciplinary Referral Procedure" (section 5.7), and maintain a pro-active role in the early detection of possible substance abuse problems.

**5.6.4.1 PHYSICAL**

- Loss of weight
- Increased thirst
- Chronic hoarseness of voice
- Chronic persistent running nose

- Tremors/twitching of mouth and/or nose
- Habitual grinding of teeth/licking of lips
- Excessive sweating/rise in body temperature

**5.6.4.2 PSYCHOLOGICAL**

- Short temper
- Severe mood changes
- Desire for isolation
- Habitual irritability
- Questionable judgment
- Thinking becomes altered
- Shortened attention span
- Paranoid/argumentative/sensitive
- Difficulty remembering/memory lapses
- Regular periods of severe depression
- Over-reaction to real or imagined criticism

**5.6.4.3 BEHAVIORAL**

- Picking at food
- Sloppy appearance
- Persistent lateness
- Frequent absenteeism
- Needless risk taking

- Irrational decisions
- Frantic/rapid speech
- Delays in starting work
- Habitually short of cash
- Constant financial difficulties
- Compulsive, repetitive behavior
- Frequent visits to the bathroom
- Schedules/appointments not kept
- Alternate periods of high and low energy levels

## **5.7 NON-DISCIPLINARY REFERRAL PROCEDURE**

**5.7.1** Any member(s) experiencing a problem with drugs and/or alcohol and seeking counseling/assistance is encouraged to refer themselves to the EAP at any time.

**5.7.2** Occasionally, a member's immediate supervisor, or a co-worker will begin to notice indicators (physical, psychological or behavioral) that warrant further examination. At this point, available information falls short of "reasonable suspicion" whereby the member would warrant drug and/or alcohol testing.

**5.7.3** It must be kept in mind that some of these indicators may be caused by non-substance abuse factors. The supervisor, with an obligation to protect the member's reputation and to uphold the Department's commitment to a substance abuse free work force, may initiate a non-disciplinary referral procedure. This "three step process" is designed to render maximum possible assistance to the member in an environment designed to avoid any disciplinary action.

### **5.7.4 STEP 1 – SUPERVISOR'S INTERVIEW**

**5.7.4.1** If a supervisor decides to initiate this non-disciplinary process, they will be required to conduct a formal interview in private with the affected member.

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**5.7.4.2** Before the interview, the supervisor may discuss the problem in non-specific terms (withholding the name of employee, etc.) with counselors from the EAP. Advice offered from the EAP may be of great assistance to the immediate supervisor. No written record of this interview shall be kept.

**5.7.5 STEP 2 - SUPERVISOR'S REFERRAL TO THE EMPLOYEE ASSISTANCE PROGRAM**

**5.7.5.1** If the private formal interview produces no improvement in the member's conduct and the nature of the problem still falls short of "reasonable suspicion", the immediate supervisor will detail the member to EAP Unit on the next available day work. If the supervisor feels that the situation is of an urgent nature, the officer should consult with an on-call EAP staff member who can be contacted through the Fire Communication Center.

**5.7.5.2** In all cases, the supervisor shall provide the Battalion Chief and the EAP Unit with as much information and "lead time" as possible.

**5.7.5.3** While detailed to the EAP Unit, the member will receive an assessment and counseling. An attitude of total assistance and support will be offered by the EAP counselors in an effort to resolve any real or imagined problems.

**5.7.6 STEP 3 - SUPERVISOR'S REFERRAL TO THE EMPLOYEE RELATIONS OFFICER (ERO)**

**5.7.6.1** In the event that Step 2 fails to rectify the problem and the nature of the problem still falls short of "reasonable suspicion," the supervisor will call the Department's ERO and explain the entire situation.

**5.7.6.2** At the ERO's option, in a further attempt to avoid any disciplinary action, the member may be scheduled for a private, formal interview and assessment with the ERO.

**5.7.6.3** Prior to the ERO interview, the supervisor shall prepare a memorandum and forward it to the Fire Commissioner in a sealed envelope.

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5.7.6.4 This memorandum must outline the individual's behavior, the problems that have been identified and the steps taken in regards to counseling. The memorandum must include the dates and times of all significant events.

**5.8 ON DUTY DRUG AND/OR ALCOHOL INCIDENT PROCEDURE**

5.8.1 Company level supervisors identifying a suspected drug and/or alcohol related incident involving one of their subordinates will immediately notify their Battalion Chief.

5.8.1.1 If that Battalion Chief is unavailable, the supervisor will notify, in order, the assigned Deputy Chief, the other on-duty Deputy Chief or the on-duty Deputy Commissioner.

5.8.1.2 Upon this notification, the Battalion Chief will immediately notify the assigned Deputy Chief.

5.8.1.3 If the assigned Deputy Chief is not available, the Battalion Chief will notify, in order, the other on-duty Deputy Chief or the on-duty Deputy Commissioner.

5.8.1.4 During the normal working hours of Fire Headquarters, the Deputy Chief will adhere to Directive #25, Page 19, Specification 4.9.1, to effect Union notification.

5.8.1.5 During the hours when Fire Headquarters is closed, the Deputy Chief will immediately notify a representative of Local #22's Executive Board.

5.8.1.6 This notification will in no way delay the testing process at the contracted facility.

**NOTE:** As per Department policy, in all AWOL situations, the absent member is to be ordered to report to the station to be certified "Fit for Duty" by a Battalion Chief.

5.8.2 However, when an AWOL member contacts the station and admits to current drug and/or alcohol use, or upon hearing from the AWOL member, if the supervisor has "reasonable suspicion" to believe that the member is currently under the influence of drugs and/or alcohol, or impaired to any degree, the member will not be ordered into work. Instead, a Battalion Chief will transport the member from their location to the contracted testing facility. In the event that the member is outside the City limits, the Department will only transport where traveling distance is reasonable.

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- 5.8.3** At the station, the member under suspicion will be isolated and supervised. The member will not be allowed to ingest anything but water (not to exceed 40 ounces) prior to being transported to the contracted testing facility.
- 5.8.4** Upon arrival, the Battalion Chief will provide a second independent assessment of the member's condition.
- 5.8.5** If the Battalion Chief concurs with the supervisor's assessment, the member will be informed of the charges, provided with the basis of "reasonable suspicion" and will be given an opportunity to respond. The Battalion Chief will then immediately notify the assigned Deputy Chief of all facts.
- 5.8.6** If the Battalion Chief does not concur with the supervisor's assessment, no testing will take place. The Battalion Chief will be required to submit a report explaining all specific details.
- 5.8.7** If testing is indicated, the Deputy Chief will take the following actions:

  - 5.8.7.1** Place that Battalion Chief out of service to transport the member to an appropriate testing facility.
  - 5.8.7.2** Place the company out of service if the loss of the one member drops the on-duty quota to below minimum staffing requirements and make arrangements to restore the company staffing as quickly as possible.
  - 5.8.7.3** Call the contracted testing facility and notify them that a member will be enroute shortly. The Deputy Chief will provide the contracted testing facility with their name, rank and telephone number. The Deputy Chief should inform the facility that the written test results are to be forwarded to the Department's Special Investigations Officer at the Fire Administration Building (FAB) when completed.
  - 5.8.7.4** Provide the telephone number of the Special Investigations Officer to the facility at this time. After the member has provided specimens for testing at the contracted facility, they will be transported by the Battalion Chief to their address of record or another acceptable location. The member will remain off-duty pending confirmation of the test results. The tested member will be placed on Administrative Leave pending the confirmatory test results. If the test results are negative, the member will be granted Administrative Leave for the period of the absence. If the test results are confirmed for substance abuse, the member will be carried suspended for

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all time lost. The Battalion Chief will forward a memo to the Fire Commissioner noting the date, time and location where the member was transported and observed entering the premises.

**NOTE:** Any test results provided to the Department, will only address the limited scope of substance abuse information.

**5.8.7.5** Cooperate with Local 22 by providing all known information surrounding the specific incident.

**5.8.7.6** Advise the Battalion Chief of their option to request one of the platoon on-duty or back-up EAP counselors accompany the chief officer throughout the entire process. If utilized, the counselor will lend expertise to the situation, but will not become involved in any manner with the disciplinary process. The FCC maintains a current list of all back-up EAP counselors.

**5.8.7.7** Advise the Battalion Chief before the suspected member is transported to the contracted testing facility to order the member to comply with the mandatory requirements of the upcoming process.

**5.8.7.7.1** The member **MUST** consent to the testing and be prepared to sign the consent form upon arrival at the testing facility. A photo ID is required.

**5.8.7.7.2** The member **MUST** conduct themselves in an acceptable, non-threatening, cooperative manner throughout the entire procedure.

**5.8.7.7.3** If tested "**POSITIVE**" and so ordered, the member **MUST** enter a detoxification and/or rehabilitation treatment program followed by the Department's prescribed After Care Program.

**5.8.7.7.4** The member **MUST** sign the Substance Abuse Agreement at the earliest possible time when he/she is free from the effects of drug and/or alcohol abuse.

**NOTE:** This will usually take place upon the member's release from a detoxification unit.

**5.8.7.7.5** Before being permitted to return to active duty, the member **MUST** sign the After-Care Contract. If a member requires

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rehabilitation treatment at a medical facility, this contract will be executed at its conclusion.

THE MEMBER'S FAILURE TO COMPLY WITH ANY ONE OF THESE MANDATORY CONDITIONS OF CONTINUED EMPLOYMENT WILL RESULT IN IMMEDIATE INITIATION OF DISMISSAL PROCEEDINGS.

**5.8.7.7.6** If at any time during the procedure, the suspected member becomes disorderly or their behavior negatively impacts upon the Department, the Philadelphia Police Department will be summoned and the appropriate measures taken, up to and including prosecution.

**NOTE:** In all cases where the Department becomes involved with a member suspected of, or admitting to drug and/or alcohol use, on or off duty, the Department will arrange for the safe transportation of the member to an authorized treatment or testing facility.

**5.8.7.7.7** The contracted testing facility will notify the appropriate Department representative, the Special Investigations Officer, and if the Special Investigations Officer is unavailable, The Deputy Commissioner, Operations of the test results as soon as possible during the normal business hours Monday to Friday 0830 to 1700 hours. Depending upon the activity at the testing facility, the notification will usually be made within a 48 to 72 hour time frame after the specimens are drawn.

**5.8.7.7.8** Following the resolution of the member's status, appropriate Board Charge Sheets will be completed by the member's immediate supervisor. A large memorandum must accompany the Trial Board Charge Sheets indicating, in narrative form, all pertinent facts of the incident. At the minimum, the Battalion Chief and/or Deputy Chief **must** make comments indicating their assessment of the member's condition.

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**BY ORDER OF THE FIRE COMMISSIONER**

**CONSENT FORM-SUBSTANCE ABUSE TESTING**  
**THE PHILADELPHIA FIRE DEPARTMENT**

1. I, \_\_\_\_\_ (Rank) \_\_\_\_\_ (Name) consent to a Blood Test, BAC, Urinalysis and/or Toxic Screen and such preliminary treatment as deemed necessary by the Philadelphia Fire Department's Employee Assistance Program Unit.
2. I further authorize \_\_\_\_\_ (Testing Facility) to release the results from the above mentioned tests to the Commissioner of the Philadelphia Fire Department or the authorized designee.
3. As a result of Departmental Disciplinary Substance Abuse Action, Violation of Directive #54 against me, I acknowledge that any alcohol or drug use prior to signing the After Care Contract, will constitute a second Disciplinary violation of Directive #54, and result in immediate dismissal.
4. I waive confidentiality regarding test results, and agree that the Department retains the right to institute follow up testing at its discretion during this Pre-Care period. If I am tested "Positive", I understand that I will be dismissed.

I have disclosed any recent prescription and/or "over the counter" drug use for medical reasons prior to this testing. Upon request, I will promptly provide any necessary documentation.

I HAVE CAREFULLY READ AND UNDERSTAND ALL THE TERMS OF THIS CONTRACT, AND I VOLUNTARILY ACCEPT ALL ITS PROVISIONS.

\_\_\_\_\_ PR# \_\_\_\_\_  
Member's Name (print)

\_\_\_\_\_  
Member Consenting to Test

\_\_\_\_\_  
Date

\_\_\_\_\_  
Fire Department Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Testing Facility Witness

\_\_\_\_\_  
Date

**SUBSTANCE ABUSE AGREEMENT**  
**THE PHILADELPHIA FIRE DEPARTMENT**

As a result of my voluntary disclosure for alcohol and or substance abuse, I accept the following provisions as conditions of my continued employment with the Philadelphia Fire Department:

1. I will satisfactorily complete rehabilitation and After-Care treatment as determined by the Department's Employee Assistance Program Unit.
2. I must pass a physical examination (Medical Evaluation Unit) prior to returning to active duty.
3. I must be interviewed by the Department's Special Investigations Officer, or the authorized designee, at which time an After-Care Contract must be signed prior to returning to active duty.
4. I waive confidentiality regarding test results and After-Care treatment attendance. However, this information will be strictly safeguarded and made available only to those Department members with a valid "need to know".
5. I understand that the Department retains the right to institute follow-up testing at its discretion during the After Care period. If I am tested "positive", I understand that I will be dismissed.
6. I understand that any further substance abuse problems off-duty will lead to my dismissal.
7. I understand that any further substance abuse incident on-duty will lead to my dismissal.
8. I understand that I am not obligated to sign this agreement; however, my failure to sign the agreement will be viewed as refusal to accept the required treatment. Members refusing required treatment for substance abuse may be suspended for thirty (30) days with Intent to Dismiss.

**I HAVE CAREFULLY READ AND UNDERSTAND ALL THE TERMS OF THIS AGREEMENT, AND I VOLUNTARILY ACCEPT ALL ITS PROVISIONS.**

\_\_\_\_\_ PR# \_\_\_\_\_  
Member's Name (print)

\_\_\_\_\_  
Member Consenting to Test

\_\_\_\_\_  
Date

\_\_\_\_\_  
Special Investigations Officer

\_\_\_\_\_  
Date

**SUBSTANCE ABUSE AGREEMENT**  
**THE PHILADELPHIA FIRE DEPARTMENT**

Because I have been involved in an on-duty incident or internal investigation and have tested "positive" for substance abuse, the following provisions are conditions of my continued employment with the Philadelphia Fire Department:

1. I will satisfactorily complete rehabilitation and After-Care treatment as determined by the Department's Employee Assistance Program Unit.
2. I must pass a physical examination (Medical Evaluation Unit) prior to returning to active duty.
3. I must be interviewed by the Department's Special Investigations Officer, or the authorized designee, at which time an After-Care Contract must be signed prior to returning to active duty.
4. I waive confidentiality regarding test results and After-Care treatment attendance. However, this information will be strictly safeguarded and made available only to those Department members with a valid "need to know".
5. I understand that the Department retains the right to institute follow-up testing at its discretion during the After Care period. If I am tested "positive", I understand that I will be dismissed.
6. I understand that any further substance abuse problems off-duty will lead to my dismissal.
7. I understand that any further substance abuse incident on-duty will lead to my dismissal.
8. I understand that I am not obligated to sign this agreement; however, my failure to sign the agreement will be viewed as refusal to accept the required treatment. Members refusing required treatment for on-duty substance abuse will be suspended for thirty (30) days with Intent to Dismiss.

**I HAVE CAREFULLY READ AND UNDERSTAND ALL THE TERMS OF THIS AGREEMENT, AND I VOLUNTARILY ACCEPT ALL ITS PROVISIONS.**

\_\_\_\_\_ PR# \_\_\_\_\_  
Member's Name (print)

\_\_\_\_\_  
Member Consenting to Test

\_\_\_\_\_  
Date

\_\_\_\_\_  
Special Investigations Officer

\_\_\_\_\_  
Date

**SUBSTANCE ABUSE AGREEMENT**  
**THE PHILADELPHIA FIRE DEPARTMENT**

Because I have been involved in a second substance abuse incident, which I have voluntarily disclosed, the following provisions are conditions of my continued employment with the Philadelphia Fire Department:

1. I will satisfactorily complete rehabilitation and After-Care treatment as determined by the Department's Employee Assistance Program Unit.
2. I must pass a physical examination (Medical Evaluation Unit) prior to returning to active duty.
3. I must be interviewed by the Department's Special Investigations Officer, or the authorized designee, at which time an After-Care Contract must be signed prior to returning to active duty.
4. I waive confidentiality regarding test results and After-Care treatment attendance. However, this information will be strictly safeguarded and made available only to those Department members with a valid "need to know".
5. I understand that the Department retains the right to institute follow-up testing at its discretion during the After Care period. If I am tested "positive", I understand that I will be dismissed.
6. I understand that any further substance abuse problems off-duty will lead to my dismissal.
7. I understand that any further substance abuse incident on-duty will lead to my dismissal.
8. I understand that I am not obligated to sign this agreement; however, my failure to sign the agreement will be viewed as refusal to accept the required treatment. Members refusing required treatment for on-duty substance abuse will be suspended for thirty (30) days with Intent to Dismiss.

**I HAVE CAREFULLY READ AND UNDERSTAND ALL THE TERMS OF THIS AGREEMENT, AND I VOLUNTARILY ACCEPT ALL ITS PROVISIONS.**

\_\_\_\_\_ PR# \_\_\_\_\_  
Member's Name (print)

\_\_\_\_\_ Date \_\_\_\_\_  
Member Consenting to Test

\_\_\_\_\_ Date \_\_\_\_\_  
Special Investigations Officer

**AFTER CARE CONTRACT**  
**PHILADELPHIA FIRE DEPARTMENT**

As a result of departmental disciplinary substance abuse action against me, an After Care Treatment Program, as outlined below, and in accordance with Section 4.2.2, page 8 of Directive #54, is a condition of my continued employment with the Philadelphia Fire Department.

Attendance at the Philadelphia Fire Department sponsored Employee Assistance Program Peer Addiction Groups, is the **only** recognized After Care compliance source. However, attendance at outside AA/NA meetings is strongly recommended for the first ninety (90) days.

My attendance will be monitored by the Employee Relations Officer and the Special Investigations Officer. All group meetings start promptly at 0930 and 1900 Hours; any lateness will **not** be credited as an "official" attendance.

Attending two meetings in one day is permissible on those days when more than one meeting is held.

Confidentiality, regarding After Care attendance, is waived by my execution of this contract.

1. For the first six months, I must attend three (3) group meetings per week  
FROM \_\_\_\_\_ TO \_\_\_\_\_.
2. For the second six months, I must attend two (2) group meetings per week  
FROM \_\_\_\_\_ TO \_\_\_\_\_.
3. For the third six months, I must attend one (1) group meeting per week  
FROM \_\_\_\_\_ TO \_\_\_\_\_.

These meeting requirements are only the minimum levels of attendance. Members are strongly encouraged to increase their program participation.

**DURING THE EIGHTEEN (18) MONTH AFTER CARE PERIOD, I MUST REMAIN DRUG AND ALCOHOL FREE.** I also understand I **will** undergo random Drug/Alcohol testing during this eighteen (18) month period, and if **confirmed positive**, it will result in my dismissal.

I have read this After Care Contract and I understand all its provisions as a condition of my continued employment with the Philadelphia Fire Department, I voluntarily agree to comply with all requirements of the contract and with all rules and regulations set forth by the E.A.P. Unit (participation, cooperation, behavior, etc.)

PR# \_\_\_\_\_  
EMPLOYEE'S NAME (PRINT)

\_\_\_\_\_  
Date

\_\_\_\_\_  
EMPLOYEE'S SIGNATURE

\_\_\_\_\_  
Special Investigations Officer

\_\_\_\_\_  
Date

**AFTER CARE CONTRACT**  
**PHILADELPHIA FIRE DEPARTMENT**

As a result of my voluntary disclosure and in lieu of disciplinary action being taken against me for alcohol and or substance abuse, I accept the following provisions as conditions of my continued employment with the Philadelphia Fire Department:

Attendance at the Philadelphia Fire Department sponsored Employee Assistance Program Peer Addiction Groups, is the **only** recognized After Care compliance source. However, attendance at outside AA/NA meetings is strongly recommended for the first ninety (90) days.

My attendance will be monitored by the Employee Relations Officer and the Special Investigations Officer. All group meetings start promptly at 0930 and 1900 Hours; any lateness will **not** be credited as an "official" attendance.

Attending two meetings in one day is permissible on those days when more than one meeting is held.

Confidentiality, regarding After Care attendance, is waived by my execution of this contract.

1. For the first six months, I must attend three (3) group meetings per week  
FROM \_\_\_\_\_ TO \_\_\_\_\_
2. For the second six months, I must attend two (2) group meetings per week  
FROM \_\_\_\_\_ TO \_\_\_\_\_
3. For the third six months, I must attend one (1) group meeting per week  
FROM \_\_\_\_\_ TO \_\_\_\_\_

These meeting requirements are only the minimum levels of attendance. Members are strongly encouraged to increase their program participation.

**DURING THE EIGHTEEN (18) MONTH AFTER CARE PERIOD, I MUST REMAIN DRUG AND ALCOHOL FREE.** I also understand I **will** undergo random Drug/Alcohol testing during this eighteen (18) month period, and if **confirmed positive**, it will result in my dismissal.

I have read this After Care Contract and I understand all its provisions as a condition of my continued employment with the Philadelphia Fire Department, I voluntarily agree to comply with all requirements of the contract and with all rules and regulations set forth by the E.A.P. Unit (participation, cooperation, behavior, etc.)

\_\_\_\_\_  
PR# \_\_\_\_\_  
EMPLOYEE'S NAME (PRINT)

\_\_\_\_\_  
Date

\_\_\_\_\_  
EMPLOYEE'S SIGNATURE

\_\_\_\_\_  
Special Investigations Officer

\_\_\_\_\_  
Date

**SCHEDULE "A"**

<b><u>SUBSTANCE</u></b>	<b><u>INITIAL TEST LEVEL</u></b>	<b><u>CONFIRMATORY TEST LEVEL</u></b>
ALCOHOL ETHYL (Disciplinary Events)	ANY LEVEL	.01%
AMPHETAMINES	500 (NG/ML)	
D-AMPHETAMINE		500 (NG/ML)
D-METHAMPHETAMINE		500 (NG/ML)
BARBITURATES	300 (NG/ML)	300 (NG/ML)
AMOLARLITAL		500 (NG/ML)
BUTABARBITAL		500 (NG/ML)
BUTALBITAL		500 (NG/ML)
PENTOBARBITAL		500 (NG/ML)
PHENOBARBITAL		500 (NG/ML)
SECOBARBITAL		300 (NG/ML)
BENZODIAZEPINE METABOLITES		300 (NG/ML)
CHLORDIAZEPOXIDE		300 (NG/ML)
CLORAZEPATE		300 (NG/ML)
DIAZEPAM		1000 (NG/ML)
OXAZEPAM		300 (NG/ML)
COCAINE MLTABOLITES	300 (NG/ML)	150 (NG/ML)
MARIJUANA METABOLITES	50 (NG/ML)	
DELTA-9-CARBOXY THC		15 (NG/ML)
METHADONE	300 (NG/ML)	300 (NG/ML)
METHAQUALONE	300 (NG/ML)	300 (NG/ML)
OPIATE METABOLITES	300 (NG/ML)	
CODEINE		300 (NG/ML)
HYDROMORPHONE		1000 (NG/ML)
MORPHINE		300 (NG/ML)
PHENCYCLIDINE	25 (NG/ML)	25 (NG/ML)
PROPOXYPHENE	300 (NG/ML)	300 (NG/ML)

**CRITERIA FOR DISMISSAL UNDER DIRECTIVE #54**

1st VOLUNTARY + 2ND VOLUNTARY + 3RD VOLUNTARY = DISMISSAL  
 1st VOLUNTARY + 1ST DISCIPLINARY + 3RD OFFENSE = DISMISSAL  
 1st DISCIPLINARY + 1st VOLUNTARY + 3rd OFFENSE = DISMISSAL  
 1st DISCIPLINARY + 2ND DISCIPLINARY = DISMISSAL

**SUBJECT : RANDOM DRUG AND ALCOHOL TESTING PROCEDURE**

**1. POLICY**

The Philadelphia Fire Department has a strong commitment to all members to provide a drug and/or alcohol free safe work environment. The Random Drug and Alcohol Policy procedures are extracted from the outlined standards of the Department of Transportation and Federal Regulations. The Department's Policy is clear. Any "**POSITIVE**" drug and/or alcohol result, or "Refusal to Test" resulting from random testing will constitute a disciplinary disclosure."

**1.1 RATIONALE**

- a. Safeguarding the public and our members is critical to the mission of the Philadelphia Fire Department. All members are expected to report to their work assignments, free from the use of drugs and/or alcohol, capable of properly performing their duties in a manner that will not present a safety hazard to themselves, their fellow Department members, or to the general public.
- b. The Philadelphia Fire Department's mission involves providing safe fire suppression and emergency medical services to the public at all times. Accordingly, all members must maintain a state of readiness and the ability to act in a rational and professional manner unaffected by the use of any drugs and/or alcohol.
- c. Public trust is an essential element to the effective performance of the Philadelphia Fire Department and this concept is rooted in the public having full confidence in the integrity of Philadelphia's firefighters and paramedics. This trust would be severely damaged and undermined by officers, paramedics or firefighters violating the law by abusing drugs and/or alcohol.

**1.2 RANDOM TESTING**

- a. All uniformed members of the Philadelphia Fire Department shall be subject to random drug and alcohol testing during their assigned tours of duty. Annually, there will be a number of random drug and alcohol screening tests equal to fifty-percent (50%) of the total number of Department members. Of that selection

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pool, ten-percent (10%) will be randomly tested using the breath analysis method for blood alcohol levels.

The random drug screening and alcohol testing procedures will be modified in the event of changes in Federal or State Legislation or Department of Transportation Regulations or revised testing methodologies or level requirements.

- b. Uniformed members will be selected for random drug and alcohol testing by the contracted laboratory from a list of members provided by the Department. That list shall be updated monthly or as necessary, to include new hires and to delete those Department members who have resigned, retired or otherwise been terminated from the Department. Members will be randomly selected by their payroll number.
- c. The contracted laboratory shall be responsible for the selection process of members scheduled for random testing utilizing a computerized scientifically valid method. All testing will occur during the member's regular scheduled tour of duty. This will include all tours seven days per week. If a member is unavailable, (i.e. sick leave, vacation leave, or any other type of leave) they will be excused from the testing, but will remain subject to testing upon returning to active duty during that selection period. No member will be excused from testing once they have been notified. Under no circumstance will any leave be granted subsequent to a drug/alcohol test notification.
- d. If a selected member is unavailable due to a legitimate reason (i.e. military leave, maternity leave, long-term injury, etc.), during a specific testing period, they will not be tested during that specific period, but will remain part of the random selection pool upon their return.

**Note: Under this selection process, it is possible that a member of the Department may be selected and randomly tested more than once per year. The selection process, which is statistically random with replacement, includes all members available for active duty during the specific selected period. The annual selection process is divided into (4) periods per year.**

**2. DEFINITIONS**

**2.1 ABBREVIATIONS**

**CLR** = Contracted Laboratory Representative  
**FCC** = Fire Communications Center  
**MRO** = Medical Review Officer  
**MEU** = Medical Examination Unit  
**SIO** = Special Investigations Officer  
**EAP** = Employee Assistance Program  
**DOT** = Department of Transportation  
**DHHS** = Department of Health and Human Services  
**BAC** = Breath Alcohol Concentration  
**NLCP** = National Laboratory Certification Program  
**NHTSA** = National Highway Transportation Administration

**3. RESPONSIBILITIES**

**3.1 MEMBERS**

- a. All members of the Philadelphia Fire Department are responsible for their own physical and mental condition. Members must conduct themselves in a manner in which their work performance remains free from any adverse effects of unauthorized and/or illegal drug and alcohol misuse.
- b. It is the responsibility of all members to familiarize themselves with all sections of this Directive and the outlined testing procedures.
- c. Confidentiality will be maintained throughout the random testing and documentation process.

**4. GENERAL INFORMATION**

**4.1 RANDOM TESTING PROCEDURES**

- a. A Contracted Laboratory Representative (CLR) will arrive at the selected station and report to the Officer-in-charge or Staff Unit's Commanding Officer and inquire if the selected member is on duty.

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- b. The Officer-in-charge will make notification to the FCC Supervisor and their Battalion Chief, and place the company out-of-service until the testing procedures are completed. The test collection process should take approximately five to ten minutes per member to complete and any abnormal situation shall be reported to the Battalion Chief without delay, who will make necessary staffing adjustments.
- c. Selected member/members will provide a urine specimen for a drug screening test and if selected, a breath analysis for alcohol screening. In special circumstances the Department may use other technology.
- d. Once the test collection processes are completed, the Officer-in-charge will notify the FCC Supervisor and their Battalion Chief and then return the company to service.

**NOTE: ANY MEMBER REFUSING TO COOPERATE AND/OR SUBMIT TO THE RANDOM DRUG AND ALCOHOL TESTING PROCEDURES AS MANDATED BY THIS DIRECTIVE WILL BE SUBJECT TO IMMEDIATE DISMISSAL.**

- e. The selected member will be provided the opportunity to discuss any legally prescribed medications with the Medical Review Officer (MRO) prior to the laboratory test findings being ruled and released to the designated Department Special Investigation Officer.
- f. If the selected member is unable to produce the 45 mL of urine required for drug screen testing, they shall be offered up to 40 ounces of fluids to drink and within a three (3) hour period afforded an opportunity to provide a urine specimen. If the member is unable to provide the minimum quantity the specimen will be discarded. If the member still cannot produce a 45 mL specimen, the member will be directed by the SIO to the Medical Examination Unit, (MEU) for a medical evaluation by the MRO. The MRO will determine if there is a legitimate medical explanation for the inability to produce a specimen. Absent a legitimate explanation for the inability to produce a specimen the MRO will rule that the donor **"Refused To Be Tested."**

4.2 ENFORCEMENT

- a. Disciplinary action will be taken against a member for the confirmed use of illegal drugs, the illegal or improper use of controlled substances, and alcohol use on duty (blood alcohol level of 0.04% or higher), which result in a **“POSITIVE”** test result, or “Refusal to Test.” That member will immediately be suspended for a minimum period of twenty (20) working days. In some circumstances, the Department may apply more severe disciplinary action, including dismissal.
- b. As a condition of continued employment with the Department, the member will be mandated to successfully complete a detoxification / rehabilitation program followed by, but not limited to an eighteen (18) month After Care Program under the supervision of the Department's Employee Assistance Program Unit (EAP).
- c. A member testing positive for alcohol, will be suspended. If the member's reading falls below the (state intoxication .08 % BAC) threshold, (.04%- .079% BAC) **the member may be placed into the Department's Rehabilitation/After Care Program but not mandated to in-patient detoxification/rehabilitation facilities.** Members whose readings are between .020% - .039% BAC will be deemed unfit for duty. The member shall be suspended without pay for a period of 24 hours following the administration of the test. Any member found unfit for duty can not remove any private vehicle from Fire Department property for a period of 24 hours. Any reading of .02% BAC and above requires a confirmation test.
- d. Probationary employees with less than one (1) year employment, who are disciplined for confirmed use are in violation of this policy and will be rejected during probation.
- e. In addition to normal Department disciplinary procedures, any member on promotional probation will be demoted to their previous rank.
- f. Dismissal proceedings will be initiated against any member for a second confirmed disciplinary occurrence, or voluntary disclosure of illegal drugs, **the illegal or improper use of controlled substances, and a blood alcohol level of 0.04% or higher or refusing to be tested.**
- g. Any breach of the eighteen (18) month written After Care Contract will result in the initiation of dismissal proceedings.

The Department's option for permitting a member to undergo Detoxification/ Rehabilitation/ After Care in lieu of dismissal for a first time disciplinary infraction is a one time occurrence.

**NOTE: A MEMBER WILL NOT BE GRANTED A SECOND DISCIPLINARY OCCURRENCE.**

#### **4.3 CHAIN-OF-CUSTODY PROCEDURES**

- a. Any specimens collected for random drug testing shall follow the DHHS/DOT (Department of Health and Human Services/Department of Transportation) specimen collection procedures. At the time specimens are collected for any random drug testing, the member shall be given a copy of the specimen collection procedures, included on the donor copy of the custody and control form. In the presence of the member, the specimens are to be sealed and labeled, as per DOT Regulations, to ensure that the specimens tested by the laboratory are a particular member's. It is the member's responsibility to initial the seals on the specimen bottles.
- b. When urine specimens are to be provided, a minimum of 45mL of specimen shall be collected. At least 30 mL shall be placed in one (1) self-sealing, screw-capped or snap-capped container. A urine specimen of at least 15mL shall be placed in a second (2<sup>nd</sup>) such container. They shall be sealed and labeled by the collector (CLR), and initialed by the member without the specimen containers leaving the member's presence. The member has the responsibility to identify each container and initial the bottle seals. Following collection, the specimens shall be placed in the transportation container together with the laboratory copy of the custody and control form. The transportation container shall then be sealed in the member's presence. The container shall be delivered to the designated testing laboratory at the earliest possible time by the CLR.
- c. In this urine collection procedure, the donor shall urinate into a collection container capable of holding at least 55mL, which shall remain in full view of the member until transferred to tamper-resistant urine bottles. After which, the member will initial the bottle seals after they have been affixed to the primary and split bottles.
- d. It is understood and recognized that the CLR is required to check for sufficiency of specimen, acceptable temperature range, and signs of tampering, while ensuring that the member's right to privacy is guaranteed.
- e. If it is established that the member's specimen is outside of the acceptable temperature range or has been intentionally tampered with or substituted by the member; that member will be required to immediately submit an additional specimen collection under direct observation after being transported by the Battalion Chief to Jeanes Business Health. In addition, the Medical Review Officer may direct an observed re-collection when Federal Regulations mandate such re-collection to occur.

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- f. In order to deter adulteration of the urine specimen during the collection process, physiologic determinations such as for creatinine, specific gravity, pH, and any substances that may be used to adulterate the specimen shall be performed by the laboratory.
- g. Any findings by the laboratory outside the "**normal**" ranges for creatinine, specific gravity and/or pH that indicate that a specimen is adulterated or substituted as a result of the fact that it contained a substance that is not expected to be present in human urine; a substance that is expected to be present however, is identified at a concentration so high that it is not consistent with human urine; or has physical characteristics which are outside the normal expected range for human urine shall be immediately reported to the Department's SIO and the Medical Review Officer at MEU. **This will constitute an adulterated or substituted specimen, and render a "Refusal To Test Ruling" which is a violation of this policy and Directive #54, and will result in dismissal.**
- h. Chain of Custody integrity will be mandated by the immediate sealing and labeling of the specimen bottles in the presence of the tested member.

#### **4.4 URINE COLLECTION KITS AND FORMS**

- a. The kit shall include a specimen collection container capable of holding at least fifty-five (55) mL of urine and contain a temperature reading device capable of registering the urine temperature specified in the DOT regulations.
- b. Two (2) plastic bottles that are capable of holding at least thirty (30) mL, have screw-on, or snap-on caps, and markings clearly indicating the appropriate levels for the primary (30 mL) and split (15 mL) specimens.
- c. A uniquely numbered (i.e. Specimen Identification Number) Chain of Custody Form (mirrors the Federal Custody & Control Form) with similarly numbered Bottle Custody Seals, and a transportation kit seal (e.g. Box Seal) shall be utilized during the urine collection process and completed by the CLR. The appropriate laboratory copies will be placed into the transportation container with the urine specimen. The exterior of the transportation kit shall then be properly secured by placing the tamper-proof Box Seal over the outlined area.
- d. Shrink-wrapped or similarly protected kits shall be used in all instances.

**4.5 LABORATORY REQUIREMENTS**

- a. In testing urine samples, the testing laboratory shall test specifically for those drugs and classes of drugs and adulterants employing the test methodologies covered in the DOT Regulations 49CFR, Part # 40.
- b. All specimens deemed "**POSITIVE**", adulterated, substituted or invalid by the laboratory, according to the prescribed guidelines, will be retained at the laboratory for a period of one (1) year.
- c. Split Sample Procedure;

- (1) The member will be provided with a shrink-wrapped or similar protected urine kit. After the CLR receives the specimen, shall pour at least 30mL of urine into the

specimen bottle, and at least 15mL into the second split specimen bottle. Both bottles shall be sealed in the member's presence, initialed by the member and then forwarded to an accredited testing laboratory.

- (2) If the member is notified that the first (1st) urine sample tested "**POSITIVE**", adulterated, or substituted, the member may, within seventy-two (72) hours of notification by the MRO, request from the MRO & SIO, that the second (2<sup>nd</sup>) urine specimen be forwarded by the initial testing laboratory to another independent and unrelated accredited laboratory for GC/MS confirmatory testing for the presence of the drug, or other confirmation testing for adulterants, or to confirm that the specimen had been substituted as defined in 49 CFR, Part # 40.
- (3) If the member opts to have the split (second) urine sample analyzed; they shall at that time execute a special check-off authorization form to ensure payment by the member. Split specimen testing will conform to the regulations as defined in 49 CFR, Part # 40.

d. Laboratory Accreditation

- (1) All laboratories used to perform urine drug testing pursuant to this Directive will be certified by the Department of Health and Human Services under the National Laboratory Certification Program (NLCP).

#### 4.6 LABORATORY TESTING METHODOLOGY

- a. The initial testing shall be by an immunoassay test meeting the requirements of the Food and Drug Administration for commercial distribution. The initial cutoff levels used when screening urine specimens, to determine whether they are "**NEGATIVE**" or "**POSITIVE**" for various classes of drugs, shall be those contained in the Scientific and Technical Guidelines for Federal Drug Testing Programs. This is subject to revision in accordance with subsequent amendments to the DHHS Guidelines.
- b. All specimens identified as "**POSITIVE**" on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques. Quantitative GC/MS confirmatory procedures for drugs and confirmatory procedures for specimens, that are initially identified as being adulterated or substituted, shall comply with the testing protocols mandated by the Scientific and Technical Guidelines for Federal Drug Testing Programs. This is subject to revision in accordance with subsequent amendments to the DHHS Guidelines.
- c. Validity testing shall be conducted on all specimens, pursuant to DHHS requirements, to determine whether they have been adulterated or substituted. All specimens which test "**NEGATIVE**" on either the initial test or the GC/MS confirmation test shall be reported only as "**NEGATIVE**" unless they are found to be adulterated, substituted, or invalid. Only specimens which test "**POSITIVE**" on both the initial test and the GC/MS confirmation test shall be reported as "**POSITIVE**". Specimens that are found to be adulterated or substituted shall be reported as such.
- d. When a donor's urine specimen is determined to be adulterated or substituted, the donor will be afforded the opportunity to discuss the laboratory findings with MRO and/or the Department's SIO prior to a ruling.
- e. Where Schedule "A" drugs are detected, the laboratory is to report a "**POSITIVE**" test based on a forensically acceptable positive quantum of proof. All "**POSITIVE**" test results must be reviewed by the certifying scientist and certified as accurate.

#### 4.7 MEDICAL REVIEW OFFICER (MRO)

- a. The Medical Review Officer (MRO) at the Medical Examination Unit (MEU) shall be the licensed physician. The MRO will have an understanding and knowledge of substance abuse disorders, issues relating to adulterated and substituted specimens, possible medical causes of specimens having an invalid result, and all applicable DOT Agency Regulations.

- b. The MRO shall review all urine drug test results from the laboratory that are reported as adulterated or substituted, as well as those results reported as invalid. The findings and MRO decision will be forwarded to the Department's SIO.

#### **4.8 ALCOHOL TESTING PROCEDURE**

- a. All alcohol testing will be conducted in accordance with applicable DOT Regulations. All equipment used for alcohol testing must be on the NHTSA Conforming Products List. All equipment must be used and maintained in compliance with DOT requirements.
- b. Breath samples will be collected by a Breath Alcohol Technician (BAT) who has successfully completed the necessary training course that is the equivalent of the DOT model course and who is knowledgeable of the alcohol testing procedures set forth in 49 CFR, Part # 40 and any current DOT Guidance.
- c. The training shall be specific to the type of Evidential Breath Testing (EBT) device being used for testing.

#### **4.9 DOT REQUIREMENT FOR ALCOHOL SCREENING TESTING**

- a. The initial screening test uses an Evidential Breath Testing (EBT) device, unless other testing methodologies or devices are mandated or agreed upon, to determine level of alcohol. The following initial alcohol levels shall be used when screening breath samples to determine whether they are "**NEGATIVE**" or "**POSITIVE**" for alcohol.
- b. In the confirmation test all samples identified as "**POSITIVE**" on the initial screening test, indicating an alcohol concentration of 0.02% BAC or higher, shall be confirmed using an EBT device that is capable of providing a printed result in triplicate; is capable of assigning a unique sequential number to each test; and is capable of printing out, on each copy of the printed test result, the manufacture's name for the device, the device's serial number and the time of the test.
  - (1) The following alcohol levels shall be used to confirm a "**POSITIVE**" test for alcohol and consist of the listed Breath Alcohol Concentration (BAC).
    - **Less than 0.02% BAC - "NEGATIVE"**
    - **0.02% BAC to 0.039% BAC - "POSITIVE"**
    - **0.04% BAC and above - "POSITIVE"**

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- (2) A "**POSITIVE**" Breath Alcohol Concentration (BAC) of 0.02% to 0.039% results in the tested member being unfit for duty. The member shall be suspended without pay for a period of 24 hours following the administration of the test. The member will be scheduled for an interview with the Departments S.I.O. and attend an EAP session on their own time.
- (3) The company level supervisor after notification from the CLR that a member has tested "**POSITIVE**" **with BAC of 0.04% or greater**, will immediately remain out-of-service, and notify their Battalion Chief. If the Battalion Chief is unavailable, the supervisor will notify, in order, the assigned Deputy Chief, the other on-duty Deputy Chief or the on-duty Deputy Commissioner. Upon this notification, the Battalion Chief will immediately notify the assigned Deputy Chief. If the assigned Deputy Chief is not available, the Battalion Chief will notify, in order, the other duty Deputy Chief or the on-duty Deputy Commissioner.
- (4) During the normal working hours of Fire Headquarters, the Deputy Chief will notify the Deputy Commissioner of Operations. The tested member will be placed on Administrative Leave pending a disciplinary interview with the Department's SIO.

**4.10 RANDOM TESTING SELECTION (ALCOHOL)**

- a. The method used to randomly select members for alcohol testing shall be neutral, scientifically valid and in compliance with DOT Regulations.
- b. The annual random alcohol testing percentage rate of 10% will be achieved through a selection process of 2 ½ % per period to meet the percentage rate established by the Department.
- c. Members subject to random alcohol testing shall be tested during their random drug test.

**4.11 REFUSAL TO SUBMIT TO RANDOM TESTING**

- a. The following will constitute a member's refusal to submit to random drug and/or alcohol testing and result in disciplinary proceedings:
  - (1) Refusal to complete and sign required forms for random drug and/or alcohol testing.

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- (2) Refusal to provide breath or urine sample without a valid medical explanation as determined by the Medical Review Officer (MRO).
- (3) Refusal to provide adequate amount of breath for testing.
- (4) Refusal to otherwise cooperate with the random testing process.
- (5) Providing a substituted or an adulterated specimen.

**NOTE: Any member refusing to cooperate and/or submit to the random drug and alcohol testing procedures as mandated by this Directive will be subject to immediate dismissal.**

**4.12 RESPONSIBILITIES:**

- a. Company level supervisors informed by the CLR, of a member refusing a random drug and/or alcohol test will immediately notify their Battalion Chief. Isolate the member in the office and properly document the actions. The company will remain out-of-service during a refusal by a member.
- b. The Battalion Chief will proceed to station, document the refusal, and prepare Trial Board Charge Sheets; their Deputy Chief will be notified.
- c. The Deputy Chief will notify the on-duty Deputy Commissioner and Department's SIO.
- d. The member will be placed on Administrative Leave and a disciplinary interview will be conducted by the Department's SIO.

**4.13 DRUG TESTING CUT-OFF LEVELS**

- a. Since the controlled substances listed in this procedure were not meant to be all inclusive of the federally designated drugs subject to abuse, the Philadelphia Fire Department reserves-the-right to perform analysis for additional controlled substances. The appropriate forensic analytical techniques will be used to detect, identify, and measure such illicit agents or prescription-only medications. Cut-off levels for drugs not listed will be at the limit of quantization.

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- b. The pharmacological development of new or exotic drugs may affect the drug usage patterns in the community. Accordingly, the Fire Commissioner reserves-the-right to amend the Drug and Alcohol Directives based on the recommendation of the city's designated contracted testing facility whenever any usage pattern is noted and can impact the membership of the Department.

SCHEDULE "A"

<u>SUBSTANCE</u>	<u>INITIAL TEST LEVEL</u>	<u>CONFIRMATORY TEST LEVEL</u>
AMPHETAMINES	500 (ng/mL)	500 (ng/mL)
AMPHETAMINE		500 (ng/mL)
METHAMPHETAMINE		500 (ng/mL)
BARBITURATES	300 (ng/mL)	300 (ng/mL)
BENZODIAZEPINE METABOLITES	300 (ng/mL)	300 (ng/mL)
COCAINE METABOLITES	300 (ng/mL)	150 (ng/mL)
MARIJUANA METABOLITES	50 (ng/mL)	15 (ng/mL)
DELTA-9-CARBOXY THC		15 (ng/mL)
METHADONE	300 (ng/mL)	300 (ng/mL)
METHAQUALONE	300 (ng/mL)	300 (ng/mL)
OPIATE METABOLITES	300 (ng/mL)	300 (ng/mL)
CODEINE	300 (ng/mL)	300 (ng/mL)
MORPHINE	300 (ng/mL)	300 (ng/mL)
6- AM		10 (ng/mL)
PHENCYCLIDINE	25 (ng/mL)	25 (ng/mL)
PROPOXYPHENE	300 (ng/mL)	300 (ng/mL)

BY ORDER OF THE FIRE COMMISSIONER

**ATTACHMENT "D"**

**Policy For Commercial Drivers & Operators**

**CITY OF PHILADELPHIA**

**DRUG AND ALCOHOL TESTING POLICY  
FOR OPERATORS OF COMMERCIAL VEHICLES**

**I. PURPOSE OF THE POLICY**

In order to promote safety and prevent accidents and injuries resulting from the misuse of alcohol or the use of controlled substances by the operators of commercial vehicles, and to conform to federal law and the regulations promulgated by the Department of Transportation's Federal Highway Administration (49 CFR part 382), the City of Philadelphia adopts the following drug and alcohol testing program.

**II. WHO IS COVERED BY THE POLICY**

This Drug and Alcohol Testing Policy shall apply only to City employees who are required by their job to have a commercial driver's license and operate commercial vehicles on a regular, casual, intermittent, or occasional basis for the City of Philadelphia. This Drug and Alcohol Testing Policy applies to those employees who are required by their job to have a commercial driver's license and who are actually performing, or are ready to perform, or immediately available to perform any safety sensitive function described in the next section. Those employees covered by this policy shall be referred to as "covered employees" throughout this policy. For the purposes of this policy, covered employees include both permanent operators, relief operators, and employees who are on-call to operate commercial vehicles.

Commercial vehicles are those vehicles that:

1. have a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of 26,001 or more pounds;
2. have a gross vehicle weight rating of 26,001 or more pounds; or
3. are designed to transport 16 or more people, including the driver; or
4. are used in the transportation of materials found to be hazardous under the Hazardous Materials Transportation Act (and which require the vehicle to be placarded under 49 CFR part 172, subpart F).

### **III. EMPLOYEES WHO PERFORM SAFETY SENSITIVE FUNCTIONS SUBJECT TO THE TESTING PROVISIONS OF THIS POLICY**

Employees required to possess a Commercial Driver's License, and assigned to operate a commercial vehicle on a regular, casual, intermittent or occasional basis are subject to the testing provisions of this policy when performing, or are ready to perform, or immediately available to perform any of the following safety sensitive functions:

1. operating or being ready or on-call to operate a commercial motor vehicle;
2. being in or upon any commercial motor vehicle;
3. inspecting, servicing, or conditioning any commercial motor at any time;
4. inspecting service brakes (including trailer brake connections), parking (hand) brakes, steering mechanism, lighting devices and reflectors, tires, horns, windshield wipers, rear vision mirrors, coupling devices, fire extinguishers, spare fuses, and warning devices for stopped vehicles;
5. supervising, assisting, or attending the loading or unloading of a commercial motor vehicle;
6. repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

### **IV. REQUIRED PARTICIPATION**

Those City employees who operate commercial vehicles on a regular, casual, intermittent, or occasional basis for the City of Philadelphia are required to participate in and comply with the City's drug and alcohol testing program by both federal law and this policy.

Each City employee who is covered by this policy will be notified of same and provided with a copy of this policy when they first become subject to the policy. Generally, covered employees are persons employed in the job titles attached to this policy as "Appendix A," provided that they meet all other requirements of an employee subject to drug and alcohol testing pursuant to 49 CFR Part 382.

Appendix "A" may be periodically updated by the City to encompass changes in job titles or position descriptions.

## **1. PROHIBITED CONDUCT**

Covered employees are prohibited from the following conduct which results in positive test results or test results indicating prohibited conduct under this policy:

1. using illicit drugs, such as marijuana, cocaine, opiates (including heroin), amphetamines, and phencyclidine (PCP);
2. using any of the above controlled substances, unless a physician has both prescribed the use of the controlled substance to the employee and has also advised the employee that the substance does not adversely affect his or her ability to safely operate a commercial vehicle;
3. reporting to work or performing safety-sensitive functions if he or she has consumed any alcohol within the prior four (4) hours;
4. consuming alcohol while performing safety-sensitive functions;
5. reporting for duty or remaining on duty while having an alcohol concentration of 0.02 or greater;
6. possessing any alcohol, on the employee's person or City premises or vehicles, while on duty or operating a commercial motor vehicle;
7. using alcohol for eight (8) hours following an accident involving a commercial motor vehicle, or until he/she undergoes a post-accident alcohol test, whichever occurs first;
8. refusing to submit to a post-accident alcohol or controlled substances test; a random alcohol or controlled substances test; a reasonable suspicion alcohol or

controlled substances test; or a return-to-duty or follow-up alcohol or controlled substances test;

9. tampering with a breath or urine sample or otherwise engaging in conduct which clearly obstructs an alcohol or drug test.

## V. TYPES OF REQUIRED DRUG AND ALCOHOL TESTS

Beginning January 1, 1995, there are six (6) situations where covered employees may be required to undergo drug and alcohol testing under this policy. Those situations are:

### A. Pre-employment/pre-promotion testing.

1. Prior to the first time that a driver performs safety sensitive functions (whether after initial hire, by promotion, or assignment), the driver shall undergo testing for alcohol and controlled substances.

2. If, during pre-employment testing/pre/promotion an individual is determined to have an alcohol concentration level of 0.02 or greater but less than 0.04, he or she shall be considered to have declined the position under consideration. Three such declinations will result in his or her removal from that eligible list.

3. If, during pre-employment/pre-promotion testing, an individual is determined to have an alcohol concentration level at or above 0.04 or an individual is determined to have tested positive for controlled substances, he or she shall be removed from that eligible list. In addition, if the individual is already employed in a covered position by the City, the results of the pre-promotion test will be treated as a positive result for purposes of this policy.

### B. Post-accident testing.

1. As soon as practicable following an accident involving a commercial motor vehicle, the surviving driver shall be tested for alcohol and controlled substances if:

- a) the accident involved the loss of human life; or
- b) he or she receives a citation for a moving traffic violation arising from the accident.

Accidents that don't result in either of the above-mentioned conditions may result in reasonable suspicion testing as described in sub-section "C".

2. All post-accident alcohol testing should be administered within two (2) hours following the accident and must be administered within eight (8) hours following the accident. All post-accident testing for controlled substances must be administered within 32 hours following the accident.

- a) No employee shall be permitted to return to work in a safety-sensitive function until the post-accident tests results are finalized. If the post-accident test results are negative, the employee will be carried in pay status. However, if the test results are positive, the employee will not have been carried in pay status for the period awaiting the test results. Depending upon the employee's condition, the employee may be re-assigned to non-safety sensitive functions pending the finalization of the test results.

3. A covered employee who is involved in an accident while operating a commercial motor vehicle shall inform his or her supervisor of the accident as soon as practicable and shall remain readily available for drug and alcohol testing. The employee will be accompanied by a supervisor to the site designated for drug and/or alcohol testing. Failure to notify a supervisor of an accident may be viewed as a violation of Section VII of the Policy.

4. Nothing in this section shall:

- a) require the delay of necessary medical attention for injured people following an accident; or

- b) prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain necessary emergency assistance or medical care.

**C. Reasonable suspicion testing.**

1. At any time during the work period, any supervisor who has been trained in accordance with Department of Transportation regulations, shall require a covered employee to submit to a drug and/or alcohol test when the supervisor has reasonable suspicion to believe that the covered employee has violated the prohibitions of this policy concerning alcohol or use of controlled substances.

a) The supervisor's determination that reasonable suspicion exists to require the covered employee to undergo a drug and/or alcohol test must be based on specific, contemporaneous, articulated observations concerning the appearance behavior, speech or odors of the driver and must be documented in accordance with applicable federal regulations. The observations may include indications of the chronic and withdrawal effects of controlled substances.

b) A written record shall be made of the observations leading to a reasonable suspicion test(s), and signed by the supervisor who made the observations, within 24 hours of the observed behavior or before the results of the reasonable suspicion test(s) are released, whichever is earlier.

c) Reasonable suspicion alcohol testing will be performed only if the required observations are made during, just preceding or just after the period of the work day that the driver is required to be in compliance with this part. A driver may only be directed to undergo reasonable suspicion testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

2. The covered employee may consult with and obtain the assistance of a union representative concerning reasonable suspicion testing, provided such consultation or assistance does not prevent the employee from being administered the drug and/or alcohol test within a timely fashion.

a) Reasonable suspicion testing should be conducted within two (2) hours of the supervisor's initial referral for testing and must be conducted within eight (8) hours of the initial referral. If a test cannot be administered within eight (8) hours, attempts to administer the test shall cease, and the reasons for not administering the test will be recorded.

b) No driver shall report for or remain on duty while required to perform safety-sensitive functions while the driver is impaired by the influence of alcohol or controlled substances, as shown by the behavioral, speech and performance indicators of alcohol or drug misuse. Supervisors will not permit any employee demonstrating such impairment to perform or continue to perform safety-sensitive functions, until:

(1) an alcohol test is administered and the employee's alcohol concentration level measures less than .02; or

(2) twenty-four (24) hours from the initial determination of reasonable suspicion, whichever is sooner.

c) If the employee is required to submit to a reasonable-suspicion drug test, he shall not be permitted to work at any safety-sensitive function until the drug tests are finalized. If any employee's physical condition permits, the employee may be reassigned to non-safety sensitive functions pending receipt of the final test results.

3. The supervisor who makes the determination that reasonable suspicion exists to conduct a drug and/or alcohol test shall not conduct the alcohol test of the covered employee, though the supervisor can transport the employee to the testing site.

4. Supervisors designated to determine whether reasonable suspicion exists to require a covered employee to undergo reasonable suspicion testing shall receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substance use. The training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

#### **D. Random testing.**

1. Unannounced random testing is required on a certain percentage of covered employees each year, as determined by the Federal Highway Administration. In addition, the dates for administering random alcohol and controlled substances tests shall be spread reasonable throughout the calendar year. The Federal Highway Administration has set the current minimum annual percentage rate for random alcohol testing at 25 percent of the average number of covered employees. The

Federal Highway Administration has set the current minimum annual percentage rate for random controlled substances testing at 50 percent of the average number of covered employees.

2. Names of covered employees will be selected for random testing using a computerized number generating program. Any employee selected for random testing for alcohol and/or controlled substances must proceed to the test site immediately; provided, however, that if the covered employee is performing a safety-sensitive function at the time of notification, the supervisor shall instead ensure that the employee ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible. The employee's department shall make reasonable arrangements, where possible, to transport the employee to the test site.

3. A driver shall only be tested for alcohol while the driver is actually performing, or is ready to perform, or immediately available to perform any safety sensitive function.

**E. Return-to-duty testing.**

1. Before a covered employee returns to duty requiring the performance of safety-sensitive functions after engaging in conduct prohibited by this policy, the employee shall: (a) pass a return-to-duty alcohol test with a result indicating an alcohol concentration of less than .02; and/or (b) pass a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substances use.

**F. Follow-up testing.**

1. An employee will be subject to unannounced follow-up alcohol and/or controlled substances testing as directed by a Substance Abuse Professional following a determination by a Substance Abuse Professional that a covered employee is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances. The number and frequency of such follow-up testing shall be at least six (6) follow-up tests in the first 12 months following the employee's return to duty. Follow-up testing shall not exceed 60 months from the date of the employee's return to duty. The Substance Abuse Professional may terminate the requirement for follow-up testing at any time after

the first six (6) follow-up tests have been administered, if the substance abuse professional determines that such testing is not longer necessary.

2. Follow-up alcohol testing shall be conducted only when the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing safety-sensitive functions.

## **VI. CONSEQUENCES OF REFUSING TO SUBMIT TO A DRUG AND/OR ALCOHOL TEST**

A. A covered employee who engages in conduct that clearly obstructs the testing process or who refuses to submit to an alcohol or controlled substances test, shall be removed from performing or continuing to perform safety-sensitive functions. In addition, such employees may be subject to discipline, in accordance with Philadelphia Civil Service Regulations and applicable collectible bargaining agreements.

1. Examples of conduct that may be considered as clearly obstructing the testing process or refusing to submit to a test include, but are not limited to:

a) failing to provide adequate breath or urine for testing without a valid medical explanation after the employee has received notice of the requirement for testing in accordance with the provisions of this policy; or

b) tampering with or attempting to adulterate the specimen or collection procedure;

c) not reporting to the testing site in the time required for testing;

d) not being able to present adequate identification (e.g., commercial driver's license, City identification, etc.) within the time frames for testing required by this policy;

- e) failing to report an accident without a valid reason;
- f) otherwise engaging in conduct that intentionally obstructs the testing process.

## **VII. DRUG AND ALCOHOL TEST PROCEDURES AND NOTIFICATION OF RESULTS**

A. Drug and alcohol testing under this policy shall be conducted in conformity with all provisions of the parts 40 and 382 of title 49 of the federal regulations. A brief summary of what an employee can expect is provided below.

### **1. Alcohol testing procedures.**

a) All alcohol testing is done with a breath testing device by a certified Breath Alcohol Technician in a private setting where only the Breath Alcohol Technician and the employee can see or hear the test results.

b) When an employee arrives at the collection site, the employee shall be required to positively identify himself or herself as the employee selected for testing (e.g., through presentation of photo identification or identification by a supervisor). If the employee's identity cannot be established, the collection site person shall not proceed with the collection.

c) The employee will be required to blow forcefully into the mouthpiece of the breath testing device.

d) A screening test is done first. If the result of the screening test is less than 0.02, the employee will sign a certification form and fill in the date.

e) If the result of the screening test is 0.02 or over, a confirmation test shall be done after 15 minutes but within 20 minutes of the screening test. Prior to the confirmation test, the employee will be prohibited from eating, drinking or putting anything in his or her mouth. The confirmation test result shall control.

### **2. Drug testing procedures.**

- a) For drug testing, employees are required to submit a urine sample.
  
- b) When an employee arrives at the collection site, the employee shall be required to positively identify himself or herself as the employee selected for testing (e.g., through presentation of photo identification or identification by a supervisor). If the employee's identity cannot be established, the collection site person shall not proceed with the collection.
  
- c) The collection site person may ask the individual to remove any garments that might conceal items or substances that could be used to tamper with or adulterate the individual's urine specimen.
  
- d) The employee shall be instructed to wash and dry his or her hands prior to urination. After washing hands, the individual shall remain in the same area as the collection site person and shall not have access to any water, soap dispenser, cleaning agent or any other materials which could be used to adulterate the specimen.
  
- e) The employee shall be allowed to provide his/her specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy. However, whenever there is reason to believe that a particular employee has altered or substituted the urine specimen, a second specimen shall be obtained as soon as possible under the direct observation of a same gender collection site person.
  
- f) Urine specimens are divided into two (2) containers by the collection site person in the presence of the tested employee. These two (2) samples are called "primary" and "split".
  
- g) If the test result of the primary specimen is positive, a confirmation test will be performed using gas chromatography/mass spectrometry.
  
- h) If the conformation test is positive, the Medical Review Officer will notify the employee of the positive result and interview the employee to determine if there is a medical reason for the use of drugs. After notification by the Medical Review Officer, if the employee requests a

retest of the "split" specimen within three (3) work days after the date of notification, the City shall obtain a retest by another laboratory.

**B. Notification and confidentiality of results.**

1. The City shall notify the covered employee of the results of each test within five (5) work days of receiving the test results. A medical review officer shall be available during business hours to discuss the results of a positive test with an employee.

2. The City will maintain records concerning the testing of covered employees in a secure location with controlled access. Positive test results will be dealt with in a professional and confidential manner. Except as required for normal administrative purposes of the City, or as provided for under the federal regulations, no information regarding such tests shall be released without the written consent of the employee.

3. The City shall release information regarding an employee's testing records if directed by the specific, written consent of the covered employee authorizing release of the information to an identified person, including the employee's union representative.

**VIII. DEFINITION OF A POSITIVE TEST RESULTS**

A. An alcohol concentration level of .04 % or greater is considered a positive test result for purposes of this policy.

B. An alcohol concentration level of .02 % or greater but less than .04 %, while not considered a positive test result, shall be considered a "prohibited alcohol level" for performing safety sensitive functions.

C. The positive threshold levels for marijuana metabolites, cocaine metabolites, opiate metabolites, phencyclidine, and amphetamines can be found at part 40.29 of title 49 of the federal regulations.

**IX. CONSEQUENCES OF VIOLATING THIS POLICY**

A. Operating or preparing to operate a motor vehicle with an alcohol level of .1 % or greater, or where a post-accident test or reasonable suspicion test result for drugs or alcohol is positive may result in immediate disciplinary action up to and including dismissal. Otherwise, the consequences for violating this policy are as follows:

**B. Positive Test for Prohibited Controlled Substances or Alcohol Concentration level of 0.04 or greater.**

1. First Occurrence of a Positive Test for Prohibited Controlled Substances or Alcohol Concentration level of 0.04 or greater.

a) Employee is removed from all safety sensitive assignments, including driving, and not permitted to return to work until evaluated and approved for return to work by the Substance Abuse Professional.

b) The employee shall be advised of the resources available to the employee in evaluating and resolving problems associated with the misuse of alcohol and the use of controlled substances, including the names, addresses, and telephone numbers of substance abuse professionals and counselling and treatment programs.

c) The Substance Abuse Professional shall:

(1) determine what rehabilitation, if any, the employee must undergo before returning to work;

(2) determine the number and frequency of follow-up testing;

(3) determine whether the employee has properly followed the rehabilitation program prescribed by the Substance Abuse Professional;

d) Until the employee is evaluated by the Substance Abuse Professional, he or she will be docked for the absence. If the Substance Abuse Professional determines that the employee cannot return to work until after completing a rehabilitation/treatment program, the employee:

(1) may use accrued leave (sick, vacation, A.L.) to cover the absence that results from the rehabilitation/treatment program; or

(2) be granted a Leave of Absence Without Pay if the employee does not have sufficient accrued leave to cover the absence that results from the rehabilitation/treatment program.

Utilization of Accrued Leave or a Leave of Absence Without Pay will only be permitted if the employee actually enrolls in a rehabilitation/treatment program meeting the specifications established by the Substance Abuse Professional. Failure to complete the rehabilitation/treatment program required by the Substance Abuse Professional will result in dismissal.

e) Before returning to work, the employee shall be required to pass a "return to duty" test and, if a rehabilitation/treatment program has been prescribed by the Substance Abuse Professional, to satisfactorily complete the prescribed program. If the employee fails the "return to duty" test, he shall be dismissed from City employment.

**1. Second Positive Drug Test or an Alcohol Test of .02 or Above following Any Previous Positive Drug Test or any Previous Alcohol Test Result of .04 or Above.**

f) In addition to all of the consequences listed above for a First Positive Drug or Alcohol Test, the employee will receive a written warning that any additional positive drug test or any test result indicating an alcohol concentration level of .02 or above will result in dismissal. This warning will remain effective throughout the follow-up period prescribed by the Substance Abuse Professional.

**2. Positive Drug Test or an Alcohol Test Result of .02 or Above After Receiving A Written Warning:**

a) Employee will be dismissed from employment.

**C. Alcohol Test Result Indicating Alcohol Concentration Level of 0.02 % or greater but less than 0.04 % (provided the employee has never been subject to the consequences outlined in Category "b" of Section "X").**

1. First Alcohol Test Result Indicating Alcohol Concentration Level of 0.02 % or greater but less than 0.04 % (provided the employee has never been subject to the consequences outlined in Category "b" of Section "X").

a) Employee is removed from all safety sensitive assignments, including driving, and not permitted to perform any safety sensitive functions for 24 hours or until the start of his or her next shift, whichever period is longer.

(1) Re-Assignment to non-safety sensitive assignments may be permitted if the supervisor determines that the employee can effectively perform the re-assignment without a risk of injury to the employee or others.

(2) If the supervisor believes that the employee cannot safely and effectively perform non-safety sensitive assignments, the employee shall be sent home. The employee may use accrued leave (sick, vacation or A.L.) to cover the absence.

b) Before returning to work, the employee shall be required to pass a "return to duty" alcohol test with an alcohol level of less than .02. Failure to pass the "return to duty" test will constitute an additional violation occurrence, subject to the consequences for that level of violation as defined in this policy.

**2. Second Alcohol Test Result, Within a Twenty-Four Month Period, Indicating Alcohol Concentration Level of 0.02 % or greater but less than 0.04 % (provided the employee has never been subject to the consequences outlined in Category "B" of Section "X").**

a) Employee is removed from all safety sensitive assignments, including driving, and sent home without pay for a period of 24 hours or until the start of his or her next shift, which period is longer.

(1) Employee shall not be re-assigned.

b) Before returning to work, the employee shall be required to pass a "return to duty" alcohol test with an alcohol level of less than .02.

c) The employee shall be subject to follow-up testing as determined by the Medical Evaluation Unit.

**3. Third Alcohol Test Result, Within Twenty-four Months of Last Violation, Indicating Alcohol Concentration Level of 0.02 % or greater but less than 0.04 % (provided the employee has never been subject to the consequences outlined in Category "B" of Section "X").**

a) Employee is removed from all safety sensitive assignments, including driving, and sent home without pay for a period of 24 hours or until the start of his or her next shift, which period is longer.

(1) Employee shall not be re-assigned.

b) Before returning to work, the employee shall be required to pass a "return to duty" alcohol test with an alcohol level of less than .02.

c) The employee is given a written warning that if he tests positive for drugs or has an alcohol level of .02 or greater within the next 24 months, he will be dismissed from employment.

d) The employee shall be subject to follow-up testing as determined by the Medical Evaluation Unit.

**4. Fourth Alcohol Test Result, Within Twenty-four Months of Last Violation, Indicating Alcohol Concentration Level of 0.02 % or greater but less than 0.04 % or a positive test for controlled substances.**

a) Employee will be dismissed from employment.

**D. NOTE:** Employees who have been tested at or above the 0.02 level for alcohol, or positive for controlled substances, but who have not received a notice of intent to dismiss based upon such occurrences, shall be permitted to apply for voluntary demotion to a position that does not require the operation of any motor vehicle. Approval of such a demotion shall be at the sole discretion of the appointing authority, and may be conditioned upon the employee's agreement to participate in a program of monitored aftercare including random follow-up testing. Any employee granted such a demotion shall agree in writing not to apply for any position requiring driving for a period of two years from the date of demotion.

**X. EMPLOYEE EDUCATION AND TRAINING**

A. Prior to the initiation of testing under this policy, and upon assignment, appointment or promotion to a covered position, the City will provide to all covered employees a copy of this policy and supplemental educational materials. Pursuant to 49 CFR part 382.601 (d) covered employees are required by federal law and this policy to sign a statement certifying that they have received a copy of these materials.

**XI. EMPLOYEE ASSISTANCE**

A. Any employee who tests positive for controlled substances shall be provided, by a Substance Abuse Professional, with information on available treatment options.

B. Covered employees who believe that they may have problems associated with the misuse of controlled substances and/or alcohol are encouraged to voluntarily disclose such problems. Employees who voluntarily disclose such problems shall not be disciplined for such disclosure. Rather, such employees will be advised of the evaluation and treatment resources that are available. The City shall consider a disclosure to be voluntary only if it is made prior to a referral for testing or before any accident that would lead to testing.

**XII. QUESTIONS CONCERNING THIS POLICY**

1. Employees may direct questions concerning this policy to their departmental Personnel Officer.

**ATTACHMENT "E"**

## **ATTACHMENT “E”**

### **TWENTY-FOUR (24) HOUR ACCESS AND AVAILABILITY FOR BREATH ALCOHOL TESTING AND URINE SPECIMEN COLLECTION**

In such cases of City personnel suspected of being under the influence of alcohol or illegal drugs the City shall require Twenty-four (24) hour on site collection for the collection of urine specimens and breath alcohol testing. Response from time of notification must be less than sixty minutes for the arrival of the technician to the on site location.

All urine specimens and breath alcohol testing shall follow the guidelines as set in 49 CFR Part 40. Turnaround time will be less than 24 hours from the time of collection for those specimens reported as negative via the immunoassay screening. Less than 72 hours from time of collection for those specimens testing positive via confirmatory process Gas / Chromatography / Mass Spectrometry (GC/M.) or Liquid Chromatography / Mass Spectrometry (LC/MS).

The City of Philadelphia is currently using the successful vendors on site collection technicians (certified BAT and Collector) for after hours service and Jeanes Hospital, located at 7600 Central Avenue, Philadelphia, PA. 19111. During normal business hours the City’s Medical Evaluation Unit (MEU) will provide collection and evidential breath testing services (EBT).

It is the intent of the City of Philadelphia to continue using Jeanes Hospital for twenty-four access and availability for urine specimen collection and breath alcohol testing services. It shall be the responsibility of the awarded vendor to establish and maintain, for the life of the contract with the City of Philadelphia, a contractual agreement with Jeanes Hospital in order to provide continued service and availability for urine specimen collection and breath alcohol testing services to the City of Philadelphia.

## APPENDIX "A"

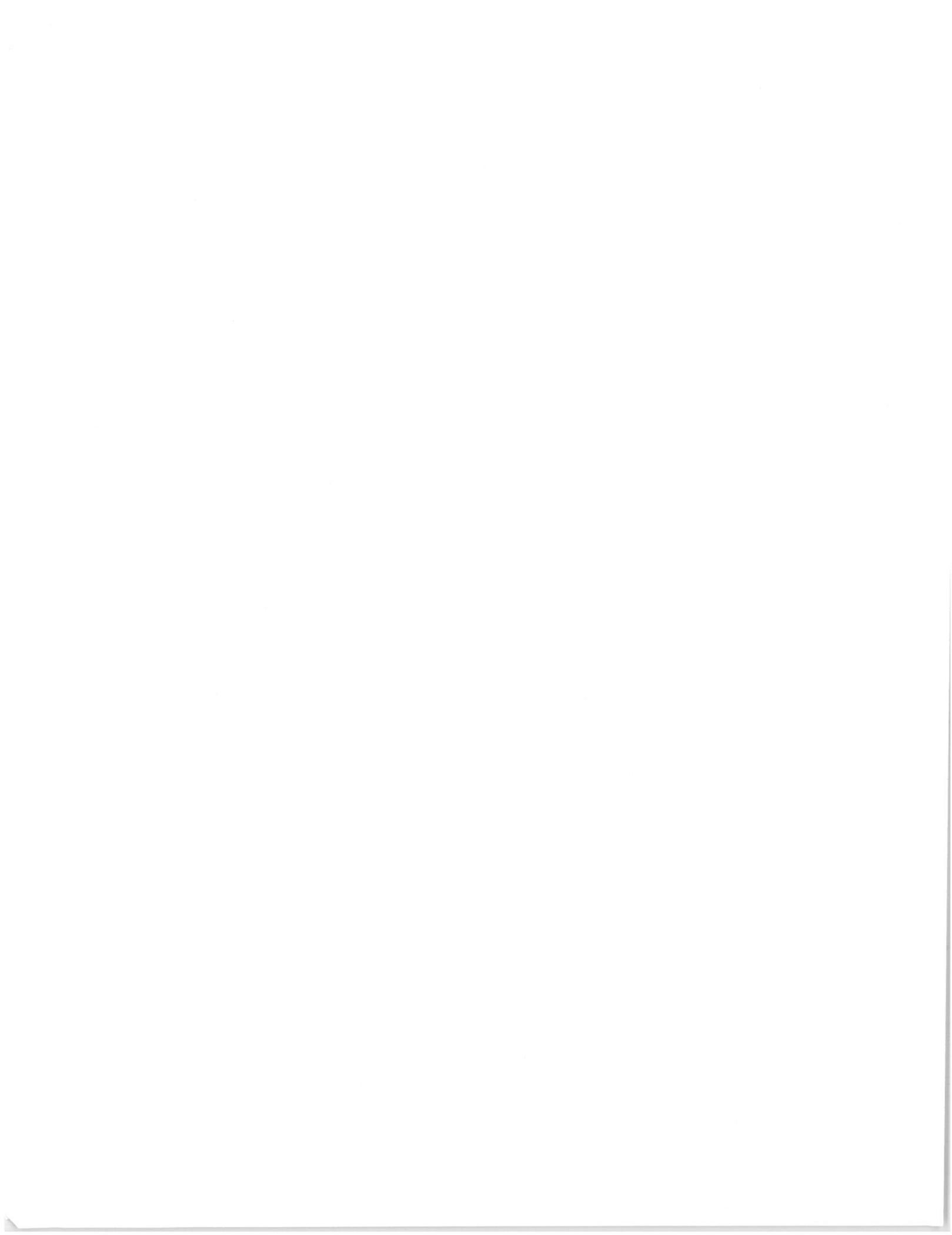
SUBSTANCE	Initial Test Level	Confirmation Test Level
Alcohol, Ethyl (Disciplinary Events)	.02 % BAC	.02 % BAC
Amphetamines D-Amphetamine D-Methamphetamine	500 (ng/ml)	250 (ng/ml)
Barbiturates Amobarbital Butobarbital Butalbital Pentobarbital Secobarbital	300 (ng/ml)	300 (ng/ml)
Benzodiazepines Chlordiazepoxide Clorazepate Diazepam	300 (ng/ml)	300 (ng/ml)
Cocaine Metabolites	150 (ng/ml)	100 (ng/ml)
Marijuana Metabolites  Delta-9-Carboxy THC	20 (ng/ml)	15 (ng/ml)
Methadone	300 (ng/ml)	300 (ng/ml)
MDMA (Ecstasy) MDEA MDA	500 (ng/ml)	250 (ng/ml)
Opiate Metabolites Codeine Hydromorphone Morphine 6-AM	2000 (ng/ml)   10 (ng/mL)	2000 (ng/ml)   10 (ng/mL)
Phencyclidine	25 (ng/ml)	25 (ng/ml)
Propoxyphene	300 (ng/ml)	300 (ng/ml)

## APPENDIX "B"

SUBSTANCE	Initial Test Level	Confirmation Test Level
Alcohol, Ethyl (Disciplinary Events)	.02 % BAC	.02 % BAC
Amphetamines D-Amphetamine D-Methamphetamine	500 (ng/ml)	250 (ng/ml)
Barbiturates Amobarbital Butabarbital Butalbital Pentobarbital Secobarbital	300 (ng/ml)	300 (ng/ml)
Benzodiazepines Chlordiazepoxide Clorazepate Diazepam	300 (ng/ml)	300 (ng/ml)
Cocaine Metabolites	150 (ng/ml)	100 (ng/ml)
Marijuana Metabolites  Delta-9-Carboxy THC	50 (ng/ml)	15 (ng/ml)
Methadone	300 (ng/ml)	300 (ng/ml)
MDMA (Ecstasy) MDEA MDA	500 (ng/ml)	250 (ng/ml)
Opiate Metabolites Codeine Hydromorphone Morphine 6-AM	2000 (ng/ml)   10 (ng/mL)	2000 (ng/ml)   10 (ng/mL)
Phencyclidine	25 (ng/ml)	25 (ng/ml)
Propoxyphene	300 (ng/ml)	300 (ng/ml)

## APPENDIX "C"

SUBSTANCE	Initial Test Level	Confirmation Test Level
Alcohol, Ethyl (Disciplinary Events)	.02 % BAC	.02 % BAC
Amphetamines D-Amphetamine D-Methamphetamine	500 (ng/ml)	250 (ng/ml)
Cocaine Metabolites	150 (ng/ml)	100 (ng/ml)
Marijuana Metabolites  Delta-9-Carboxy THC	50 (ng/ml)	15 (ng/ml)
MDMA (Ecstasy) MDEA MDA	500 (ng/ml)	250 (ng/ml)
Opiate Metabolites Codeine Morphine  6-AM	2000 (ng/ml)   10 (ng/mL)	2000 (ng/ml)   10 (ng/mL)
Phencyclidine	25 (ng/ml)	25 (ng/ml)



Attention Bidder:

This bid document may not contain all of the documents that you will need to complete the bid submission. On occasion, it is not possible to include the following:

**Exhibits**

**Drawings**

**Attached specifications**

**Attached documents**

If you have not received a corresponding attachment, drawing or exhibit that is referenced in the bid document you may obtain it by contacting the Public Information Unit at 215-686-4720.



## **CITY OF PHILADELPHIA**

### **INSTRUCTIONS FOR GETTING PAID** **BY THE CITY OF PHILADELPHIA**

The City attempts to process invoices in a timely manner. Delays can occur because of incomplete or inaccurate invoicing information. Please make sure that all your invoices contain the following information to help the City in paying you as quickly as possible.

- 1. AFTER THE DELIVERY OR SERVICES HAS BEEN COMPLETED YOU MUST SUBMIT THREE (3) COPIES OF AN INVOICE FOR PAYMENT TO THE RECEIVING DEPARTMENT LISTED ON THE PURCHASE ORDER.**
- 2. THE INVOICE MUST CORRECTLY REFERENCE THE PURCHASE ORDER NUMBER, THE VENDOR NAME, ADDRESS AND FEDERAL EMPLOYER IDENTIFICATION NUMBER.**
- 3. CHECKS WILL ONLY BE MADE PAYABLE TO THE COMPANY NAME AS SHOWN ON THE PURCHASE ORDER, THE INVOICE MUST REFLECT THIS SAME COMPANY NAME AS THE "PAY TO".**
- 4. THE INVOICE MUST SHOW THE QUANTITY AND TYPE OF ITEM OR SERVICE AND THE PRICE.**
- 5. THE UNIT OF PURCHASE ON THE INVOICE MUST AGREE WITH THE UNIT CITED ON THE PURCHASE ORDER. REFERENCE TO THE SPECIFIC LINE ITEM IS HELPFUL.**

Paying vendors is the responsibility of the *receiving* City Department(s), not the Procurement Department. Vendors should bring any problems concerning payments to the attention of the appropriate City receiving department. The name and number of the contact person can generally be found on the purchase order. If all necessary paperwork has been submitted to the department and questions still remain, vendors should contact:

**City of Philadelphia  
Accounting Verification  
Room 1340 Municipal Services Building  
1401 J.F.K. Blvd.  
Philadelphia, PA 19102  
Te. 215 686 6365**

**IN YOU ARE INTERESTED IN RECEIVING YOUR PAYMENTS ELECTRONICALLY RATHER THAN BY CHECK PLEASE SEE ATTACHED LETTER & ACH VENDOR ENROLLMENT AND CHANGE FORM.**

## **BIDDERS GUIDELINES\***

The following list will assist you in the preparation of your bid.

- Read the entire bid so that you fully understand all the requirements.
- All bids must be submitted to the City no later than the time and date states as the Bid opening.
- Note the City Anti-Discrimination Policy or Economic Opportunity Plan (EOP). If Department of Commerce Office of Economic Opportunity (OEO) Participation is required be sure to fill out all appropriate forms. If you have questions call OEO at (215) 683-2000.
- Make sure you submit the appropriate Bid Security and Bid Submission Fee with your bid. Refer to Section 1 of the bid and the Conditions of Bidding sheet.
- Bidder must meet all qualifications.
- If an alternate to any item is being offered, you must follow the instructions in paragraph 2 of the Conditions of Bidding sheet.
- Does the bid require a site inspection, attendance at a Pre-Bid Meeting, samples, financial information or other data you must provide?
- Have you signed and returned all Addenda?
- If the bid is going to be awarded as a whole, you must bid on all items. See Section 3 of the bid: Bid Evaluation and Award.
- Bidders' attention is directed to the Conditions of Bidding sheet regarding the Master Performance Bond.
- Bids and pricing must be written in ink or typed. Faxed bids will not be accepted.
- Do not submit counter terms or conditions. **Your bid will be rejected.**
- Have you signed the Contract Page and affixed your Corporate Seal as required?
- **Do not** combine check amounts. All checks should be individual and specific.
- Please double check all mathematical calculations for errors.

**If you have questions call Public Information at (215) 686-4720.**

\*This information is provided for guidance only and does not preclude your responsibility to read fully and respond to all portions of the bid.



**CITY OF PHILADELPHIA  
PROCUREMENT DEPARTMENT  
Public Information Unit**

**This Is Not A Right To Know Request. This form cannot be used to submit a Right To Know Request. See City of Philadelphia Open Records Policy:  
<http://www.phila.gov/privacy/pdfs/finalcityopenrecords.pdf>**

**ATTENTION VENDORS**

If your company would like to receive the results of a particular bid, the Public Information Unit of the Procurement Department will forward this information to you at a **\$10.00 fee, company check or money order only, no personal checks or cash**, for each bid number requested. Please be advised that bid tabulations are **not available** by telephone. If you have any questions, Please call 215-686-4755 or 215-686-4756.

**BID RESULTS REQUEST FORM**

Please complete form below. Only one (1) request per form.

Date of Request: \_\_\_\_\_

Bid Number Requested: \_\_\_\_\_ Opening Date: \_\_\_\_\_

Company Name: \_\_\_\_\_

Company Representative: \_\_\_\_\_

Address: \_\_\_\_\_

Email Address \_\_\_\_\_

Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

**Mail this Request to the address below and enclose the following items:**

- Company check or Money Order payable to “City of Philadelphia”
- A self-addressed stamped envelope which is at least 9 ½ ” x 12 ½ ” or larger for each Bid requested.

**Failure to send either of the above items, will void your request.**

**Mail Request To:**

The Procurement Department Public Information Unit  
Attention: Bid Results  
1401 JFK Blvd.  
Room 170B  
Philadelphia, PA 19102

**COMPANY CHECK OR MONEY ORDER ONLY**



# CITY OF PHILADELPHIA

Procurement Department  
120 Municipal Services Building  
Philadelphia, PA 19102-1685  
(215) 686-4720  
(215) 686-4716 Fax

Hugh Ortman  
Procurement Commissioner

## Master Bid Security Program for Service, Supplies and Equipment Bids Period of Coverage: July 1, 2012 – June 30, 2014

### (Bids for Professional Consulting Services, Public Works, Construction and Demolition [wrecking and building removal] are not covered under the Master Bid Security Program)

Dear Vendor:

The Philadelphia City Charter requires that each bid submission over \$30,000 be accompanied by a certified check in the amount specified in the bid invitation. This requirement can be met for most bids if the Bidder is covered under the City's Master Bid Security Program. This program provides bid security coverage for Service, Supply and Equipment bids that have a total dollar value of over \$30,000 up to \$500,000.

To file for coverage under the Bid Security Program, for the period **July 1, 2012 to June 30, 2014**, complete the enclosed application and return it with a check for **\$200.00**. Make the check payable to "City of Philadelphia". It is **non-refundable**. To clarify the precise use of the check, enter the words "**Bid Security Program**" 2012 – 2014 on the face of the check.

If you do not become a participant in the program at this time, you may still submit bids. However, they must be accompanied by a certified check in the amount specified in the Terms and Conditions of Bidding.

For additional information or inquiries regarding this program, please contact: The Public Information Unit at (215) 686-4719, (215) 686-4720 or (215) 686-4721.

IF A RECEIPT IS REQUESTED, PLEASE ENCLOSE A SELF-ADDRESSED STAMPED ENVELOPE.

Forward Check with Application to  
CITY OF PHILADELPHIA  
**MASTER BID SECURITY PROGRAM**  
170A Municipal Services Building  
Philadelphia, PA 19102-1685

**Company Name:** \_\_\_\_\_

**Fed EIN/SSN:** \_\_\_\_\_

**Street Address:** \_\_\_\_\_

**City, State, Zip:** \_\_\_\_\_

**Contact Person:** \_\_\_\_\_

**E Mail Address:** \_\_\_\_\_

**Telephone No:** (\_\_\_\_) \_\_\_\_\_ **Fax No:** (\_\_\_\_) \_\_\_\_\_

A. Check payable to the City of Philadelphia in the amount of \$200.00 for 7/1/12 to 6/30/14  
**DO NOT SEND CASH. NO PERSONAL CHECKS.**

*Internal Use Only*

Rcvd. \_\_\_/\_\_\_/\_\_\_ Pymt. Type \_\_\_\_\_ Ck. Amt. \$ \_\_\_\_\_ Ck.# \_\_\_\_\_



# CITY OF PHILADELPHIA

Office of the Director of Finance  
Room 1330, Municipal Services Bldg.  
1401 John F. Kennedy Boulevard  
Philadelphia, Pa 19102-1685

Rob Dubow  
Director of Finance

The City of Philadelphia is pleased to announce a **Vendor Information Payment System (VIPS)** which will allow businesses such as yours to inquire about the status of invoices billed against purchase orders and professional services contracts. The only requirement is that your invoices utilize a unique number – either alpha, numeric or a combination of the two.

This system will be operational twenty four hours a day, seven days a week. All you have to do is dial **215-686-5968**, and follow the prompts to get an up-to-date status on your payments.

Enclosed for your convenience is an easy to use reference guide which provides a brief overview of what you can expect. I urge you to give it a try and see for yourself how easy it is to use. If you should happen to experience any problems, or if you would like to comment on this system, please call the **Office of the Director of Finance** at **215-686-6167**.

I believe that you will find this way of obtaining payment information convenient and easy to use.

# Vendor Information Payment Reference Guide

- 1- Call 215-686-5968.
- 2- After the prompts, enter the 8 numeric characters that uniquely identifies your purchase order.
- 3- Select one of the three inquiry options:
  - ▶ a) by your purchase order.
  - ▶ b) by your company.
  - ▶ c) by your specific invoice number.
    - (Numeric invoice numbers only)



# CITY OF PHILADELPHIA

PROCUREMENT DEPARTMENT  
120 Municipal Services Building  
Philadelphia, Pa 19102-1685

Hugh Ortman  
Procurement Commissioner

Dear Valued Vendor,

The City of Philadelphia is pleased to announce a new online **Vendor Invoice Information (VII) Website** which will allow businesses such as yours to inquire about the status of invoices billed against purchase orders and professional services contracts. The only requirement is that your invoices utilize a unique number – alpha, numeric or a combination of the two.

This system will be operational twenty four hours a day, seven days a week. All you have to do is log on to the City of Philadelphia website: [www.phila.gov](http://www.phila.gov), click on “Vendor Invoice Information” under the “Help Me” section of the home page, enter your Federal Employer Identification Number (FEIN) and a valid active purchase order. Then, agree to a waiver statement and follow the prompts to get an up-to-date status on your payments.

You are urged to give it a try and see for yourself how easy it is to use. If you should happen to experience any problems, or if you would like to comment on this new system, please e-mail us using the question and comment field provided on the site.

We believe that you will find this new way of obtaining payment information convenient and easy to use.

**TERMS AND CONDITIONS OF BIDDING AND CONTRACT**

**BID SUBMISSION**

**1. PREPARATION AND SUBMISSION OF BID.**

All bids must be written in ink or typewritten and made on the forms issued and signed in ink by a person with legal authority to bind the bidder. The contract awarded hereunder shall consist of the Invitation and Bid, all addenda thereto issued by the City, all exhibits and attachments issued and/or accepted by the City and these Terms and Conditions of Bidding and Contract (the "Contract"). It is the sole responsibility of the bidder to ensure that it has received any and all addenda and the Procurement Commissioner may in his/her sole discretion reject any bid for which all addenda have not been executed and returned in accordance with the instructions provided therein. No bid may be considered if received after the date and time for the opening of bids established by the Invitation and Bid, nor may any bid be modified after that date and time. The time of bid opening shall be the time displayed on the City's official bid clock located at the bid room. In the event of any discrepancy between actual time and the City's official bid clock, the latter shall determine the time of bid opening.

**2. BID SECURITY.** Unless the bidder is enrolled under the City's Annual Master Bid Security Program or an individual bid bond is required in the Invitation and Bid, all bids must be accompanied by a Certified Check, Treasurer's Check, Cashier's Check, Bank Money Order, or United States Postal Money Order made payable to the order of "The City of Philadelphia" in the proper amount as shown below:

AMOUNT OF BID OR ESTIMATED CONTRACT	AMOUNT OF CERTIFIED CHECK
\$ 30,000.00 or less	No Check Required
\$ 30,000.01 – \$ 99,999.99	\$ 500.00
\$100,000.00 – \$249,999.99	\$2,000.00
\$250,000.00 – \$499,999.99	\$4,000.00
\$500,000.00 or more	\$6,000.00

When computing amount of Bid for Certified Check purposes, do NOT deduct for trade-ins.

Any bid in excess of \$500,000 is not covered by the Annual Master Bid Security Program, and bidder must submit a certified check, treasurer's check, cashier's check, bank money order, or United States postal money order made payable to the order of "The City of Philadelphia" in the required amount.

Once the lowest responsive and responsible bidder has been determined all other bidders will receive a refund in the amount of the bid security submitted. Bid security submitted by the lowest responsive and responsible bidder will be refunded after receipt of all duly executed Contract documents, required fees, bonds or other performance security. Funds submitted for the Master Bid Security Program are not refundable.

**3. BID PROCESSING FEE.** In addition to bid security and any other fee or monies required to be submitted with the bid, the bid shall be accompanied by a non-refundable processing fee in the form of a separate standard check, bank money order or United States postal money order made payable to the order of "City of Philadelphia" in an amount based on the gross amount of the bid in accordance with the formula below. Cash is not acceptable.

AMOUNT OF BID OR ESTIMATED CONTRACT	AMOUNT OF PROCESSING FEE
\$ 30,000.00 or less	No Check Required
\$ 30,000.01 – \$ 100,000.00	\$ 10.00
\$ 100,000.01 – \$ 300,000.00	\$ 30.00
\$ 300,000.01 – \$ 500,000.00	\$ 50.00
\$ 500,000.01 – \$1,000,000.00	\$100.00
\$1,000,000.01 – \$2,000,000.00	\$200.00
\$2,000,000.01 – \$3,000,000.00	\$300.00
\$3,000,000.01 – \$4,000,000.00	\$400.00
\$4,000,000.01 – \$5,000,000.00	\$500.00
\$5,000,000.01 or more	\$600.00

**4. SPECIFICATIONS.** When a formal, numbered, specification is referred to in the Invitation and Bid, no deviation therefrom will be permitted, except if/as indicated in the Invitation and Bid and the bidder will be required to furnish articles and/or services in conformity with that specification. When catalogues, model numbers, trade names, or cuts are listed in the Invitation and Bid, they are, unless otherwise specified, included for the purposes of furnishing bidders with information concerning the style, type or kind of article and/or service desired. A bidder may offer an article and/or service which he/she certifies to be equal or better in quality, performance and other essential characteristics. If submitting an alternate, the bidder must specify the alternate (e.g., make and model #) in the bid and submit with the bid a complete description of the article (including any technical literature) and/or service proposed to be furnished. Failure to do so will require the bidder to furnish the article and/or service specified in the Invitation and Bid. The Procurement Commissioner reserves the sole right to determine whether alternates offered are equal or better. Unless otherwise provided in the bid specifications, all items offered by the bidder must be new. A "new" item is one which will be used first by the City. This clause shall not be construed to prohibit bidders from offering goods, supplies, equipment, or materials containing recycled materials or printing with recycled content; bidders intending to provide goods made with recycled materials should notify the Procurement Department.

**5. PATENTS.** The successful bidder shall be solely responsible for all royalties and charges that may be due to any patent holder for or on account of the use of any patented appliance, product or processes. Evidence of such payment shall be submitted upon request of the Procurement Commissioner and failure to submit such evidence may, in the sole discretion of the Procurement Commissioner, result in rejection of the bid or constitute an event of default, entitling the City to all rights and remedies as provided herein in

## TERMS AND CONDITIONS OF BIDDING AND CONTRACT

Section 16 and/or 18.

### 6. LOCAL BIDDING PREFERENCE

In accordance with Chapter 17-109 of the Philadelphia Code relating to Local Bidding Preferences for Procurement Contracts, this bid may be subject to a 5% local bid preference. In order to determine eligibility to receive the 5% preference, if applicable, bidder or subcontractor must be certified at the time of the bid opening and must submit with the bid, the Local Business Entity Certification Number\* as issued by the Procurement Department for the prime contractor or the applicable subcontractor.

\*Note: If you wish to apply for Local Business Entity (LBE) certification, go to [www.phila.gov/bids](http://www.phila.gov/bids). Please allow sufficient time prior to bidding for processing of the LBE application.

### EVALUATION AND AWARD

**7. TYPES OF BIDDER RESTRICTED.** Bidders must not be a party to more than one bid for the same article or service. A violation of this condition may, in the sole discretion of the Procurement Commissioner, result in rejection of any or all such bids in which the bidder has an interest.

**8. RESPONSIVENESS.** Subject to the right of the Procurement Commissioner to waive non-responsiveness as set forth below in this Section, these Terms and Conditions of Bidding and Contract and the specifications and requirements included in the Invitation and Bid are mandatory and must be strictly followed by all bidders in the preparation and submission of their bids. After bids are opened, the Procurement Department, and other City departments or agencies where appropriate or specified, shall review all bids for responsiveness to these Terms and Conditions of Bidding and Contract and the specifications and requirements included in the Invitation and Bid.

Any bid which is incomplete, obscure, conditional, or unbalanced, which contains additions not called for, or irregularities of any kind, including alterations or erasures, or which fails to conform in any respect to these Terms and Conditions of Bidding and Contract and the specifications and requirements included in the Invitation and Bid is non-responsive and shall be rejected, except where the Procurement Commissioner, in his/her sole discretion, determines that the non-responsiveness is not material to the Invitation and Bid or that a waiver of the non-responsiveness is otherwise permitted by the Invitation and Bid, by these Terms and Conditions of Bidding and Contract or by law. The Procurement Department's determination of non-responsiveness shall be final and any bid rejected as non-responsive shall not be eligible for contract award.

**9. RESPONSIBILITY.** Unless otherwise specified, after bids are opened, the Procurement Department, and other City departments or agencies where appropriate or specified, shall review and may investigate the responsibility, including, but not limited to, the qualifications, references, capacity and ability to perform the Contract resulting from the Invitation and Bid in accordance with its terms, and integrity, of the

lowest responsive bidder. All determinations of bidder responsibility shall be vested in the sole discretion of the Procurement Commissioner and other City officials. Any bidder who is deemed not responsible shall be ineligible for award of the Contract.

Bidders deemed not responsible will be notified of such determination and the reasons therefore in writing by the Procurement Department, and shall have the right to contest the determination by submitting to the Procurement Department, within forty-eight (48) hours after receipt of its written determination, a written request for reconsideration that includes information relating to the bidder's qualifications and responsibility and demonstrating the insufficiency of the reasons stated in the written determination finding the bidder not responsible. Any further determination of a contesting bidder's responsibility shall be vested in the sound discretion of the Procurement Commissioner and other City officials.

**10. CANCELLATION AND AWARD.** The Procurement Commissioner, in his/her sole discretion, may cancel any Invitation and Bid prior to bid opening. After bid opening, the Procurement Commissioner, in his/her sole discretion, may reject all bids, if deemed in the best interest of the City. In all cases where a Contract award is made by the Procurement Department, the bidder is bound by the terms and conditions of the Invitation and Bid upon the submission of its bid. All bids are valid for a period of not less than 60 days, or as otherwise specified in the Invitation and Bid. If the bid has not been awarded within the specified period of time, the bid shall be valid for subsequent award only upon the express consent of the bidder, with no change to the submitted bid. Any price increases/decreases expressly provided for in the Invitation and Bid will be allowed. All Contract awards shall be made by the Procurement Department upon written notice to the bidder that is determined by the Procurement Department to be the lowest responsive and responsible bidder.

**11. QUANTITIES AWARDED.** For requirements contracts only, the articles and quantities of such articles as set forth in the Invitation and Bid are estimates and the Procurement Commissioner, in his/her sole discretion, may make an award for all or some of the articles bid and in such quantities as the Procurement Commissioner shall deem appropriate. For firm limit contracts, it is the City's intent to award based upon the quantities set forth in the Invitation and Bid, but the City reserves the right to award more or less.

**12. DELIVERY, PRICE INCREASES AND TIE BIDS.** All articles must be delivered at the price(s) bid, FOB Destination. Bids containing reservations of the right to increase the price(s) bid, including, but not limited to, late payment charges, will not be considered, except where the Procurement Commissioner, in his/her sole discretion, finds it in the City's best interest to do so. In the event of an absolute tie, the award decision will be made in the best interests of the City as determined by the Procurement Commissioner.

## TERMS AND CONDITIONS OF BIDDING AND CONTRACT

### CONTRACT EXECUTION AND CONFORMANCE

**13. CONTRACTS.** Awards of contracts in amounts less than or equal to \$30,000 shall become contracts binding upon the City upon written notice of award by the Procurement Commissioner. Awards of contracts in amounts greater than \$30,000 shall not become contracts binding upon the City until after written notice of award is made and until after all of the following conditions have been satisfied:

- a. Successful bidder posts sufficient performance security, as required in the Invitation and Bid, within the time specified in the written notice of award;
- b. Successful bidder posts a payment bond or other payment security, if and as required by the Invitation and Bid, within the time specified in the written notice of award;
- c. Approval of the Contract as to form by the City's Law Department;
- d. Certification by the Director of Finance and City Controller as to the availability of funds; and
- e. Execution of the Contract by the Procurement Commissioner.

The Procurement Commissioner may, in his/her sole discretion, cancel any Contract award if any of the above conditions (a-e) are not satisfied, or if the Procurement Commissioner, in his/her sole discretion, determines cancellation to be in the best interests of the City. The bidder agrees that in the event of such cancellation, it shall not have any claim against the City, including any claim for breach of contract or of any other legal duty, or for lost profits, costs, damages, or expenses of any kind.

**14. PERFORMANCE SECURITY.** The City of Philadelphia requires performance security for contracts greater than \$30,000. If the amount of the contract to be awarded is greater than \$30,000 but less than or equal to \$500,000, the successful bidder is required to participate in the City's Master Performance Security Program by paying to the City a non-refundable fee of \$5.00 per thousand dollars of the contract amount for firm limit contracts and \$4.00 per thousand dollars of the contract amount for requirements contracts, or as otherwise specified. If the amount of the contract to be awarded is in excess of \$500,000 the successful bidder is required to furnish an individual performance bond, issued by a surety approved by the City on a form prepared by the City's Law Department and in the amount specified in the notice of contract award. The successful bidder is also required to pay a bond preparation fee to the City's Law Department in an amount prescribed by Chapter 17-700 of The Philadelphia Code; a schedule of such fees may be obtained from the Procurement Department's Public Information Office.

**15. INSURANCE.** Unless otherwise specified, the successful bidder (referred to in this Section as "Contractor") shall, at its sole cost and expense, procure and maintain in full force and effect, during the

entire period of the Contract (including any applicable warranty and/or renewal periods), the minimum types of insurance specified below. All insurance shall be procured from reputable insurers authorized to do business in the Commonwealth of Pennsylvania and shall be acceptable to the City. All insurance required herein shall be written on an "occurrence" basis and not a "claims-made" basis. The City of Philadelphia, its officers, employees, and agents are to be named as additional insured on all policies required hereunder, except the Workers' Compensation and Employers' Liability. Also, an endorsement is required stating that the coverage afforded these parties as additional insured will be primary to any other coverage available to them. The City's coverage as an additional insured shall be primary coverage. The insurance shall provide for at least thirty (30) days prior written notice to be given to the City in the event coverage is materially changed, canceled or non-renewed. Certificates of insurance evidencing the required coverages shall be submitted to the City within fifteen (15) days of notice of contract award. The City reserves the right to require the Contractor to furnish certified copies of the original policies of all insurance required hereunder at any time upon fifteen (15) days prior written notice. The insurance requirements set forth herein are not intended and shall not be construed to modify, limit, or reduce the indemnifications made in this Contract by the Contractor to the City of to limit the Contractor's liability under this Contract to the limits of the policies of insurance required to be maintained by the Contractor hereunder.

**(a) WORKERS COMPENSATION AND EMPLOYERS LIABILITY**

- (1) Workers' Compensation - Statutory limits
- (2) Employers Liability - \$100,000 Each Accident
- Bodily Injury by Accident; \$100,000 Each Employee
- Bodily Injury by Disease; \$500,000 Policy Limit - Bodily Injury by Disease

(3) Other states insurance including Pennsylvania

**(b) GENERAL LIABILITY INSURANCE**

- (1) Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability.

(2) Coverage: Premises operation: Blanket Contractual liability; Personal Injury liability; Products and completed operations; Independent Contractors; Employees as additional insured; Cross liability; Broad form property damage (including loss of use) liability; Asbestos abatement liability coverage (Note: Required for asbestos abatement projects only).

**(c) AUTOMOBILE LIABILITY**

- (1) Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability.

(2) Coverage: owned, non-owned and hired vehicles.

**16. INDEMNIFICATION.** All bidders shall indemnify, defend and hold harmless the City, its officers, employees and agents from and against any and all losses, costs (including, but not limited to, litigation and settlement costs and counsel fees), claims, suits, actions, damages, liabilities and expenses, occasioned wholly or in part by the bidder's act or omission or fault or negligence or the act or omission or fault or negligence of bidder's agents, subcontractors (including suppliers), employees or servants in connection with

## TERMS AND CONDITIONS OF BIDDING AND CONTRACT

the Contract, including, but not limited to, those acts or omissions or faults or negligence in connection with loss of life, bodily injury, personal injury, damage to property, contamination or adverse effects on the environment, the bidder's default under the Contract, losses incurred by the City's Master Performance Security Program, failure to pay subcontractors and suppliers and any infringement or violation of any proprietary right (including, but not limited to, patent, copyright, trademark, service mark and trade secret). This obligation to indemnify, defend and hold harmless the City, its officers, employees and agents shall survive the termination of the Contract resulting from the Invitation and Bid.

**17. FAILURE TO EXECUTE CONTRACT.** Any bidder not lawfully released from its bid, who refuses to execute a contract in accordance with its bid or who fails, refuses or is unable to furnish any required payment security, performance security or insurance, as may be required by the Invitation and Bid and/or these Terms and Conditions of Bidding and Contract, shall be liable for the entire amount of its bid security, as liquidated damages to the City; or if bid security is furnished under the Annual Master Bid Security Program, for 10% of the amount of its bid, as liquidated damages to the City; or where the damages are readily ascertainable by the City, for the actual loss, cost or damage incurred by the City as a result of its failure to execute the contract or to furnish such bonds, performance security or insurance.

**18. ASSIGNMENT.** The successful bidder shall not assign the Contract resulting from the Invitation and Bid, or any part of the Contract, or any right to any monies to be paid under the Contract, or delegate performance of the Contract, without obtaining the prior written consent of the Procurement Commissioner. The decision whether to consent to an assignment is within the Procurement Commissioner's sole discretion. In no case shall the Procurement Commissioner's consent to the assignment of any monies to be paid under the Contract relieve the bidder from faithful performance of any of its obligations under the Contract or change any of the terms and conditions of the Contract. Any purported assignment in violation of this provision shall be of no effect.

**19. DEFAULT.** All work performed and goods and services rendered by a successful bidder (referred to in this Section as "Contractor") under any Contract resulting from the Invitation and Bid shall strictly conform to these Terms and Conditions of Bidding and Contract and the specifications and requirements contained in the Invitation and Bid. The successful bidder shall comply with all applicable federal, state and local laws, statutes and ordinances and the regulations of all governmental departments, boards, agencies, and commissions. The following shall constitute events of default under any Contract resulting from the Invitation and Bid:

a. Failure by Contractor to comply with any provision or Section of the Contract, including the bid specifications contained in the Invitation and Bid and these Terms and Conditions of Bidding and Contract and/or failure by Contractor to comply with any federal,

state and local law, statute, ordinance or regulation of any governmental department, board, agency and commission.

b. Falseness of any representation or warranty made in the Contract or other document(s) submitted to the City by Contractor in connection with the Invitation and Bid.

c. Failure by Contractor to pay its suppliers or subContractors, misappropriation of any funds provided under the Contract or failure to notify City upon discovery of any misappropriation.

d. A violation of law by Contractor which results in its making a guilty plea, a plea of nolo contendere, or conviction of a criminal offense by Contractor, its directors, employees, or agent or indictment or charges, in the sole judgment of the Procurement Commissioner, adversely affect the performance of the Contract.

e. Failure by Contractor to comply with the Mayoral Executive Order establishing the City's antidiscrimination policy relating to the participation of minority, woman and disabled owned disadvantaged business enterprises.

f. The Procurement Department's determination that the Contractor is not a responsible bidder on the Invitation and Bid, where such determination is made, and is based upon, information received after award of the Contract and/or after execution of the Contract by the Procurement Commissioner and/or after satisfaction of any or all other conditions of a binding Contract set forth in Section 2 above.

g. Any other act or omission identified in these Terms and Conditions of Bidding and Contract or elsewhere in the Invitation and Bid as an event or condition constituting default.

Upon the occurrence of an event of default, the Procurement Commissioner, in his/her sole discretion, may require Contractor to cure the default within a period of time to be determined by the Procurement Commissioner, or terminate the Contract in whole or in part and exercise any one or more of the following remedies (which remedies may be concurrent and shall be in addition to and not in lieu of the remedies available to the City at law, in equity, under any bond(s) filed in connection with the contract or under other sections of these Terms and Conditions of Bidding and Contract and Contract):

a. Purchase goods and/or services from others in substitution of goods or services that were not furnished or performed by Contractor or that were defective or otherwise in violation of any provision of the Contract; the cost of such substituted goods and services shall be the sole responsibility of Contractor and Contractor agrees to pay immediately, upon receipt of the City's invoice, the difference between the Contract price and the substituted product or service cost, plus any other loss, cost or damages incurred by the City.

b. Appropriate to the payment of the difference between the Contract price and the cost of such substitute goods or services, and the amount of any

## TERMS AND CONDITIONS OF BIDDING AND CONTRACT

other loss, cost or damage incurred by the City as a result of the default, any monies which may then be due and payable to Contractor under this Contract or any other Contract that Contractor then has with the City.

The City shall notify Contractor in writing of such termination, which shall be effective as of the date specified in the notice of termination (the "Termination Date"). The Procurement Commissioner may, in his/her sole discretion, require Contractor to continue to furnish all goods and perform all services required under the Contract until the Termination Date, in which case, subject to the remedies enumerated above, the successful bidder shall be paid in accordance with the Contract therefore. If the City requires Contractor to cure the event(s) of default, or to continue to furnish goods or services until the Termination Date, and Contractor refuses or fails to do so, then such failure shall itself be deemed an event of default under this Section, for which the City may exercise any of its rights hereunder.

**20. PAYMENT FOR EQUIPMENT.** Unless otherwise provided in the bid specifications, when equipment involves installation, (which shall also be interpreted to mean erection and/or setting up or placing in position for service or use) and/or testing, and where such installation or testing is delayed though no fault of the contractor, contractor shall be entitled to a payment equal to 50% of the price bid when such equipment is delivered on site and to a further payment equal to an additional 25% of the price bid when the equipment is installed and ready for test. The balance shall be paid only after the equipment is tested and found to be satisfactory by the City. If the equipment must be tested, but installation is not required to be made by the supplier or if the equipment must be installed but testing is not required, and the installation or testing is delayed through no fault of the contractor, contractor shall be entitled to a payment equal to 75% of the price bid at the time of delivery and the balance shall be paid after satisfactory testing and/or installation, as required.

### TAX MATTERS

**21. TAX EXEMPTION.** The City of Philadelphia is exempt from the payment of any federal excise or transportation taxes and any Pennsylvania sales tax. The price bid must be net, exclusive of taxes. However, when under established trade practice any federal excise tax is included in list prices, bidder may quote the list price and shall show separately the amount of the federal tax, either as a flat sum or as a percentage of the list price, which shall be deducted by the City. In the event bidder pays any sales or use tax, bidder hereby assigns to City, or City's agent, all of its rights, title and interest in any sales or use tax which may be refunded as a result of the purchase of any articles furnished in connection with the Contract and bidder, unless directed by the City, shall not file a claim for any sales or use tax refund subject to this assignment. Bidder authorizes the City, in City's name or the name of bidder, to file a claim for refund of any sales or use tax subject to this assignment.

**22. TAX INDEBTEDNESS.** The City of Philadelphia does not wish to do business with tax delinquents or other businesses indebted to the City. In furtherance of

this policy, the following certifications have been developed and shall form a part of any Contract resulting from the Invitation and Bid. The successful bidder or other entity Contracting with the City is referred to below as the "Contractor".

a. Contractor's Certification of Non-Indebtedness -- Contractor hereby certifies and represents that Contractor and Contractor's parent company(ies) and subsidiary(ies) are not currently indebted to the City of Philadelphia (the "City") and will not at any time during the term of this Contract (including any extensions or renewals thereof) be indebted to the City, for or on account of any delinquent taxes (including, but not limited to, taxes collected by the City on behalf of the School District), liens, judgments, fees or other debts for which no written agreement or payment plan satisfactory to the City has been established. In addition to any other rights or remedies available to the City at law or in equity, Contractor acknowledges that any breach or failure to conform to this certification may, at the option of the City, result in the withholding of payments otherwise due to Contractor and, if such breach or failure is not resolved to the City's satisfaction within a reasonable time frame specified by the City in writing, may result in the offset of any such indebtedness against said payments and/or the termination of this Contract for default (in which case Contractor shall be liable for all costs, losses and other damages resulting from the termination).

b. Subcontractor's Certification of Non-Indebtedness -- Contractor shall require all subcontractors performing work in connection with this Contract ("subcontractor" shall also include suppliers providing goods or materials) to be bound by the following provision, and Contractor shall cooperate fully with the City in exercising the rights and remedies described below or otherwise available at law or in equity:

"Subcontractor hereby certifies and represents that subcontractor and subcontractor's parent company(ies) and subsidiary(ies) are not currently indebted to the City of Philadelphia ("City"). and will not at any time during the term of Contractor's Contract with the City (the "Contract"), including any extensions or renewals thereof, be indebted to the City, for or on account of any delinquent taxes (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), liens, judgments, fees or other debts for which no written agreement or payment plan satisfactory to the City has been established. In addition to any other rights or remedies available at law or in equity, subcontractor acknowledges that any breach or failure to conform to this certification may, at the option of the City, result in the withholding of payments otherwise due to subcontractor for services rendered in connection with the Contract and, if such breach or failure is not resolved to the City's satisfaction within a reasonable time frame specified by the City in writing, may result in the offset of any such indebtedness against said payments otherwise due to subcontractor and/or the termination of subcontractor for default (in which case subcontractor shall be liable for all costs, losses and other damages resulting from the termination)."

## TERMS AND CONDITIONS OF BIDDING AND CONTRACT

**23. TAX REQUIREMENTS.** Any person or entity who bids on and/or is awarded a contract by the City and/or School District of Philadelphia, is subject to Philadelphia's business tax ordinances and regulations. The City Solicitor has determined that anyone who is awarded a contract by the City and/or School District pursuant to a bid has entered into a contract within the City, and the subsequent delivery of goods into the City or performance of services within the City constitutes doing business in the City and subjects the successful bidder, including but not limited to, one or more of the following taxes:

- a. Business Privilege Tax
- b. Net Profits Tax
- c. City Wage Tax

The successful bidder, if not already paying the aforesaid taxes, is required to apply to the Department of Revenue, 1401 John F. Kennedy Blvd., Public Service Concourse, Municipal Services Building, Philadelphia, PA 19102 for a tax identification number and to file appropriate business tax returns as provided by law. Questions should be directed to the Business and Earnings Tax Unit at (215) 686-6600.

### GENERAL INFORMATION

**24. COMPLIANCE WITH LAWS.** All goods and services and all documents and other materials furnished under the Contract shall conform with all applicable federal, state and local laws, statutes and ordinances and the applicable rules, regulations, methods and procedures of all governmental boards, bureaus, offices, commissions and other agencies. Contractor shall maintain during the term of the Contract all licenses, and authorizations required by any applicable federal, state or local law or regulation. Applicable law shall include, without limitation, the laws stated in paragraphs 25 through 31 herein.

### 25. NONDISCRIMINATION.

a. Any Contract awarded pursuant to the Invitation and Bid is entered into under the terms of the Philadelphia Home Rule Charter and in its performance, Contractor shall not discriminate nor permit discrimination against any person because of race, color, religion, national origin, or sex. Such discrimination shall constitute an event of default under this Contract entitling City to terminate this Contract forthwith. This right of termination shall be in addition to any other rights or remedies as provided herein in Section 19 or otherwise available to the City at law or in equity.

b. In accordance with Chapter 17-400 of The Philadelphia Code, Contractor agrees that its payment or reimbursement of membership fees or other expenses associated with participation by its employees in an exclusionary private organization, insofar as such participation confers an employment advantage or constitutes or results in discrimination with regard to hiring, tenure of employment, promotions, terms, privileges or conditions of employment, on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin or ancestry, shall constitute an event of default under this Contract and shall entitle the City to all rights and

remedies as provided herein in Section 19 or otherwise available to the City at law or in equity. Contractor agrees to include the immediately preceding sentence, with appropriate adjustments for the identity of the parties, in all subcontracts which are entered into pursuant to this Contract. Contractor further agrees to cooperate with the Commission on Human Relations of the City of Philadelphia in any manner which the said Commission deems reasonable and necessary for the Commission to carry out its responsibilities under Chapter 17-400 of The Philadelphia Code. Failure to so cooperate shall constitute an event of default under this Contract entitling the City to all rights and remedies as provided herein in Section 19 or otherwise available to the City at law or in equity.

**26. ETHICS REQUIREMENTS.** To preserve the integrity of City employees and maintain public confidence in the competitive bidding system, the City intends to vigorously enforce the various ethics laws as they relate to City employees in the bidding and execution of City contracts. Such laws are in three categories:

a. Gifts. Executive Order No. 02-04 prohibits City employees from soliciting or accepting anything of value from any person or entity seeking to initiate or maintain a business relationship with the City of Philadelphia, its departments, boards, commissions, and agencies. Bidder understands and agrees that if it offers anything of value to a City official or employee under circumstances where the receipt of such item would violate the provisions of this Executive Order shall be subject to sanctions with respect to future City Contracts. Such sanctions may range from disqualification from participation in a particular Contract to debarment, depending on the nature of the violation. All bidders, agents or intermediaries who are solicited for gifts or gratuities by City employees are urged to report these incidents to the Inspector General, Aramark Tower, Third Floor, 1101 Market Street, Philadelphia, PA 19107.

b. City Employee Interest in City Contracts. In accordance with Section 10-102 of The Philadelphia Home Rule Charter, no bid shall be accepted from, or Contract awarded to, any City employee or official, or any firm in which a City employee or official has a direct or indirect financial interest. All bidders are required to disclose any current City employees or officials who are employees or officials of the bidder's firm, or who otherwise would have a financial interest in the Contract.

c. Conflict of Interest. Both the State Ethics Act and the City Ethics Code prohibit a public employee from using his/her public office or any confidential information gained thereby to obtain financial gain for himself/herself a member of his/her immediate family, or a business with which he/she or a member of his/her immediate family is associated. "Use of public office" is avoided by the employee or official publicly disclosing the conflict and disqualifying himself/herself from official action in the matter, as provided in The Philadelphia Code Section 20-608.

**27. NORTHERN IRELAND.** Section 17-104(2)(b) of The Philadelphia Code prohibits the City from accepting

## TERMS AND CONDITIONS OF BIDDING AND CONTRACT

bids from companies that do business in Northern Ireland, unless that business has implemented the fair employment principles embodied in the MacBride Principles. In furtherance of this ordinance, bidder makes the following certification and representations:

a. In accordance with Section 17-104 of the Philadelphia Code, bidder by execution of its bid certifies and represents that (i) bidder (including any parent company, subsidiary, exclusive distributor, or company affiliated with Bidder) does not have, and will not have at any time during the term of any Contract resulting from this bid (including any extensions thereof), any investments, licenses, franchises, management agreements or operations in Northern Ireland, and (ii) no product to be provided to the City under any resulting Contract will originate in Northern Ireland unless Bidder has implemented the fair employment principles embodied in the MacBride Principles.

b. In the performance of any Contract resulting from this bid, Bidder agrees that it will not utilize any suppliers or subcontractors at any tier (i) who have (or whose parent subsidiary, exclusive distributor or company affiliate have) any investments, licenses, franchises, management agreements or operations in Northern Ireland or (ii) who will provide products originating in Northern Ireland unless said supplier or subcontractor has implemented the fair employment principles embodied in the MacBride Principles. Bidder further agrees to include provisions with this subparagraph (b), with appropriate adjustments for the identity of the parties, in all subcontracts and supply agreements which are entered into in connection with the performance of any resulting Contract.

c. Bidder agrees to cooperate with the City's Director of Finance in any manner which the said Director deems reasonable and necessary to carry out the Director's responsibilities under Section 17-104 of The Philadelphia Code. Bidder expressly understands and agrees that any false certification or representation in connection with this subparagraph (c) and/or any failure to comply with the provisions of this subparagraph (c) shall constitute a substantial breach of any Contract resulting from the Invitation and Bid entitling the City to all rights and remedies provided in this bid or otherwise available in law (including, but not limited to, Section 17-104 of the Philadelphia Code) or at equity. In addition, it is understood that false certification or representation is subject to prosecution under IS Pa.C.S. Section 4904.

**28. BUSINESS, CORPORATE AND SLAVERY ERA INSURANCE DISCLOSURE.** In accordance with Section 17-104 of The Philadelphia Code, the successful bidder, after award of the Contract, will complete an affidavit certifying and representing that the bidder (including any parent company, subsidiary, exclusive distributor or company affiliated with bidder) has searched any and all records of the bidder or any predecessor business entity regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era. The names of any slaves or slaveholders described in those records must be disclosed in the affidavit.

The bidder expressly understands and agrees that any

false certification or representation in connection with this Paragraph and/or any failure to comply with the provisions of this Paragraph shall constitute a substantial breach of this Contract entitling the City to all rights and remedies provided in this Contract or otherwise available in law (including, but not limited to, Section 17-104 of The Philadelphia Code) or equity and the Contract will be deemed voidable. In addition, it is understood that false certification or representation is subject to prosecution under Title 18 Pa.C.S.A. Section 4904.

**29. PHILADELPHIA 21<sup>ST</sup> CENTURY MINIMUM WAGE STANDARD.** If Contractor is an Employer, as defined in Philadelphia Code Sections 17-1302(5) and 17-1303 and if this is a Service Contract, as defined in Code Section 17-1302(9), Contractor shall comply with the minimum compensation standards by providing to those employees 1) an hourly wage, excluding benefits, at least 150 percent of the federal minimum wage, and health benefits to each full-time, non-temporary, non-seasonal covered Employee, as more fully set forth at Philadelphia Code Chapter 17-1300, 2) to the extent the Contractor provides health benefits to any of its employees, provide each full-time, non-temporary, non-seasonal covered Employee with health benefits at least as valuable as the least valuable health benefits that are provided to any other full-time employees of the Contractor; and 3) provide to each full-time, non-temporary, non-seasonal covered Employee at least the minimum number of earned sick leave days required by Code Section 17-1305(2). By submission of its Bid, Contractor so acknowledges and certifies its compliance with Chapter 17-1300 and shall promptly provide to the City, at its request, all documents and information further verifying its compliance with the requirements of this Chapter. Furthermore, Contractor shall notify each affected employee what wages are required to be paid.

The Managing Director's Office (MDO) may grant a partial or total waiver of Chapter 17-1300 based on specific stipulated reasons elaborated in Section 17-1304.

**30. PROTECTION OF DISPLACED CONTRACT WORKERS.** If this bid is for the furnishing of the following services, Security, Janitorial, Building Maintenance, Food and Beverage, Hotel or Non-Professional Health Care Services, then this bid is subject to the "Protection of Displaced Contract Workers" Law, Chapter 9-2300 of the Philadelphia Code. The successful Bidder, if it is a Successor Contractor is required, among other things, to retain certain service employees of the Predecessor Contractor for a ninety day period.

**31. EQUAL BENEFITS.** If this is a Service Contract, as defined in Philadelphia Code Section 17-1901(4), for an amount in excess of \$250,000, Contractor shall, for employees who reside in the City or employees who are non-residents subject to City wage tax under Philadelphia Code Section 19-502(b), extend the same employment benefits the Contractor extends to spouses of its employees to life partners of such employees. By submission of its Bid, Contractor so acknowledges and certifies its compliance with Chapter 17-1900 of the

## **TERMS AND CONDITIONS OF BIDDING AND CONTRACT**

Philadelphia Code and shall notify its employees of the employment benefits available to life partners pursuant to Chapter 17-1900. Following the award of a contract subject to Chapter 17-1900 and prior to execution of the contract by the City, Contractor shall certify that its employees have received the required notification of the employment benefits available to life partners and that such employment benefits will actually be available, or that the Contractor does not provide employment benefits to the spouses of married employees.

Contractor's failure to comply with the provisions of Chapter 17-1900 or any discrimination or retaliation by the Contractor against any employee on account of having claimed a violation of Chapter 17-1900 shall be a material breach the Service Contract.

**TERMS AND CONDITIONS OF BIDDING AND CONTRACT**  
**SIGNING OF BIDS**

This contract consists of the Invitation and Bid (including exhibits and attachments), any addenda thereto issued by the City and the foregoing Terms and Conditions of Bidding and Contract (collectively, the "contract") and contains all the terms, conditions and requirements agreed upon by the parties. The terms "contract" and "agreement," whether capitalized or uncapitalized, shall have the foregoing meaning wherever they are used in the invitation and Bid, addenda thereto, the Terms and Conditions of Bidding and Contract, and this page. No other contract or agreement, oral or otherwise, regarding the subject matter of the contract shall be deemed to exist or to bind any party hereto or to vary any of the terms contained in the contract.

This contract may not be changed, amended or renewed, in whole or in part, except by a written amendment signed by the parties. No waiver by the City of any breach or noncompliance by the undersigned with any provision of this contract shall relieve the undersigned of any of its obligations or representations made under this contract.

This contract and all disputes arising under this contract shall be governed, construed and decided in accordance with the laws of the Commonwealth of Pennsylvania. The parties agree that any lawsuit, action, claim or legal proceeding involving, directly or indirectly, any matter arising out of or related to this contract or the relationship created or evidenced thereby, shall be brought exclusively in the United States District Court for the Eastern District of Pennsylvania or the Court of Common Pleas of Philadelphia County. It is the express intent of the parties that jurisdiction over any lawsuit, action, claim, or legal proceeding shall lie exclusively in either of these two forums. The parties further agree not to raise any objection to any lawsuit, action, claim or legal proceeding which is brought in either of these two forums and the parties expressly consent to the jurisdiction and venue of these two forums. The parties further agree that service of original process in any such lawsuit, action, claim or legal proceeding may be duly affected by mailing a copy thereof, by certified mail, postage prepaid to the addresses specified in the Invitation and Bid and/or this page.

**NOTE: ANY BID THAT IS NOT EXECUTED IN ACCORDANCE WITH THE INSTRUCTIONS PROVIDED BELOW OR THAT DOES NOT INCLUDE STREET ADDRESS, CITY, STATE AND PHONE NUMBER, MAY, IN THE SOLE DISCRETION OF THE PROCUREMENT COMMISSIONER, BE REJECTED.**

**SIGNING OF BIDS:**

If bid is by an INDIVIDUAL or a PARTNERSHIP, or if the bid does not exceed \$30,000, date and sign the bid here, with the original signatures, in ink.

This \_\_\_\_\_ day of \_\_\_\_\_ 20

\_\_\_\_\_  
(Signature of Owner, Partner)

\_\_\_\_\_  
(Type or Print Name and Title)

\_\_\_\_\_  
(Business Name of Bidder)

\_\_\_\_\_  
(Address, including Zip Code)

\_\_\_\_\_  
(Telephone Number, including Area Code)

If the bid is a CORPORATION, date and sign the bid here with original signatures, in ink, by (a) President or Vice President of the Corporation AND (b) Secretary, Assistant Secretary, Treasurer or Assistant Treasurer of the Corporation; and (c) affix the seal of the Corporation. If the form is not signed by the President or a Vice President and Secretary, Assistant Secretary, Treasurer or Assistant Treasurer, attach a duly certified corporate resolution authorizing the person signing in place of such officers to execute this bid for the corporation.

This \_\_\_\_\_ day of \_\_\_\_\_ 20

**CORPORATE SEAL**

\_\_\_\_\_  
(Corporate or Business Name of Bidder)

\_\_\_\_\_  
(Address, including Zip Code)

\_\_\_\_\_  
(Telephone Number, including Area Code)

\_\_\_\_\_  
(Signature of President or Vice President)

\_\_\_\_\_  
(Signature of Secy., Asst. Secy., Treas. or Asst. Treas.)

\_\_\_\_\_  
(Type or Print Name and Title)

\_\_\_\_\_  
(Type or Print Name and Title)

**APPROVED AS TO FORM**

**CONTRACT EXECUTION**

\_\_\_\_\_  
(Assistant City Solicitor)

\_\_\_\_\_  
(Procurement Commissioner)