



**AGENDA
REGULAR MEETING
LOCAL TRANSPORTATION AUTHORITY**

DATE: Thursday, August 20, 2026
4:00 P.M.

LOCATION: County Board of Supervisors Chambers
481 Fourth Street
Hollister, CA 95023

DIRECTORS: Roxanne Stephens, Vice-Chair (City of Hollister)
Jackie Morris-Lopez (City of San Juan Bautista)
Rolan Resendiz (City of Hollister)
Kollin Kosmicki (County of San Benito)
Dom Zanger (County of San Benito)

ALTERNATES: San Benito County: Mindy Sotelo
City of San Juan Bautista: Scott Freels
City of Hollister: Rudy Picha

NOTICE OF PROCEDURES FOR LOCAL TRANSPORTATION AUTHORITY MEETINGS

The meeting will be available through Zoom, for those who wish to join or require accommodations.

Members of the public may participate remotely via Zoom at the following link: <https://zoom.us/join> with the following: Webinar ID: 894-5257-1554 and Webinar Passcode: 199995

*Those participating by phone who would like to make a comment can use the “raise hand” feature by dialing “*9” (star-nine). In order to receive full Zoom experience, please make sure your application is up to date. Remote Zoom participation for members of the public is provided for convenience only. In the event that the Zoom connection malfunctions for any reason, the COG Board of Directors reserves the right to conduct the meeting without remote access.*

*Persons who wish to address the Board of Directors must complete a Speaker Card and give it to the Clerk prior to addressing the Board. Those who wish to address the Board on an agenda item will be heard when the Chairperson calls for comments from the audience. Following recognition, persons desiring to speak are requested to advance to the podium and state their name and address. After hearing audience comments, the Public Comment portion of the agenda item will be closed. **The opportunity to address the Board of Directors on items of interest not appearing on the agenda will be provided during Section 3. Public Comment.***

1. CALL TO ORDER

2. Verification of Certificate of Posting

3. Public Comment: *(Opportunity to address the Board on items of interest not appearing on the agenda. No action may be taken unless provided by Govt. Code Sec. 54954.2. Speakers are limited to 3 minutes.)*

ACTION ITEMS:

4. HOLD Nomination and Election of San Benito County Local Transportation Authority (LTA) Chair and Vice Chairperson for the Remainder of the 2026 Meeting Calendar – Aceves

CONSENT AGENDA:

(These matters shall be considered as a whole and without discussion unless a particular item is removed from the Consent Agenda. Members of the public who wish to speak on a Consent Agenda item must submit a Speaker Card to the Clerk and wait for recognition from the Chairperson. Approval of a consent item means approval as recommended on the Staff Report.)

5. APPROVE Local Transportation Authority Regular Meeting Action Minutes Dated June 18, 2026 – Gomez
6. ADOPT Resolution 2026-06 Approving Projects for Funding and Authorizing the Application and Acceptance of FY 2026-27 California State of Good Repair Program Funds Totaling \$120,894 – Aceves
7. ADOPT Resolution 2026-07 Certifying the San Benito County Local Transportation Authority's 2026 Title VI Program – Aceves
8. ADOPT Resolution 2026-08 Approving an Amendment to the San Benito County Local Transportation Authority's Drug and Alcohol Testing Policy – Aceves
9. Surplus Vehicles – Aceves
 - a. DECLARE Five Vehicles Surplus Property to be Auctioned or Salvaged to Donate to Eligible Local Nonprofits and other Eligible Local Government Agencies;
 - b. DIRECT Staff to Prepare a Solicitation for Eligible Local Nonprofits and other Eligible Local Government Agencies to Indicate Interest in and Eligibility for Donation of Surplus Vehicles;
 - c. AUTHORIZE Executive Director to Execute all Necessary Documents to Auction or Salvage Surplus Vehicles for Sale or for Donation to Eligible Local Nonprofits or other Eligible Local Government Agencies.

Adjourn to LTA Meeting on September 17, 2026. Agenda deadline is September 1, 2026, at 12:00 p.m.

In compliance with the Americans with Disabilities Act (ADA), if requested, the Agenda can be made available in appropriate alternative formats to persons with a disability. If an individual wishes to request an alternative agenda format, please contact the Clerk of the Council four (4) days prior to the meeting at (831) 637-7665. The Local Transportation Authority Board of Directors meeting facility is accessible to persons with disabilities. If you need special assistance to participate in this meeting, please contact the Clerk of the Board's office at (831) 637-7665 at least 48 hours before the meeting to enable the Council of Governments to make reasonable arrangements to ensure accessibility.

Written Comments & Email Public Comment

Members of the public may submit comments via email by 5:00 PM. on the Wednesday prior to the Board meeting to the Secretary at monica@sanbenitocog.org, regardless of whether the matter is on the agenda. Every effort will be made to provide Board Members with your comments before the agenda item is heard.

Public Comment Guidelines

1. If participating on Zoom: once you are selected, you will hear that you have been unmuted. At this time, state your first name, last name, for the record.
2. The Council of Governments Board welcomes your comments.
3. Each individual speaker will be limited to a presentation total of three (3) minutes.
4. Please keep your comments brief, to the point, and do not repeat prior testimony, so that as many people as possible can be heard. Your cooperation is appreciated.

If you have questions, contact the Council of Governments, and leave a message at (831) 637-7665 x. 201, or email monica@sanbenitocog.org.

CERTIFICATE OF POSTING

Pursuant to Government Code Section #54954.2(a) the Meeting Agenda for the Local Transportation Authority on August 20, 2026, at 4:00 P.M. was posted at the following locations freely accessible to the public:

The front entrance of the San Benito County Administration Building, 481 Fourth Street Hollister, CA 95023, and the Council of Governments Office, 650 San Benito St., Ste. 120, Hollister, CA 95023, at the following date and time:

On the 14th day of August 2026, on or before 5:00 P.M.

The meeting agenda was also posted on the Council of San Benito County Governments website, www.sanbenitocog.org, under Meetings, LTA Board, Meeting Schedule.

I, Monica Gomez, swear under penalty of perjury that the foregoing is true and correct.

Monica Gomez

BY: _____
Monica Gomez, Secretary II
Council of San Benito County Governments

STAFF REPORT

Action

Prepared By: Norma Aceves, Administrative
Services Specialist

Subject: LTA Board Appointments

Agenda Item No. 4

Approved By: Binu Abraham

Meeting Date: August 20, 2026

Recommendation:

Hold nomination and election of San Benito County Local Transportation Authority (LTA) Chair and Vice Chairperson for the remainder of the 2026 Meeting Calendar.

San Benito County
LOCAL TRANSPORTATION AUTHORITY
REGULAR MEETING
Board of Supervisors Chambers, 481 Fourth Street, Hollister, CA 95023, Zoom Platform
June 18, 2026, at 4:00 P.M.
ACTION MINUTES

MEMBERS PRESENT:

Vice Chair Roxanne Stephens, Director Kollin Kosmicki, Director Jackie Morris-Lopez, Alternate Director Dom Zanger.

MEMBERS ABSENT:

Chair Ignacio Velazquez, Director Rolan Resendiz.

STAFF PRESENT:

Executive Director; Binu Abraham, Office Assistant; Griselda Arevalo; Secretary; Monica Gomez, SBCOG Legal Counsel; Osman Mufti (via-Zoom).

1. CALL TO ORDER:

Vice Chair Stephens called the meeting to order at 5:03 p.m.

2. CERTIFICATE OF POSTING

Motion made to acknowledge Certificate of Posting:

Motion: Director Kosmicki Second: Director Morris-Lopez

Motion carried: 4/0

Yes: Stephens, Kosmicki, Morris-Lopez, Zanger

No: None

Recused: None

Abstention: None

3. Public Comment: *(Opportunity to address the Board on items of interest not appearing on the agenda. No action may be taken unless provided by Govt. Code Sec. 54954.2. Speakers are limited to 3 minutes.)*

There was no public comment.

CONSENT AGENDA:

(These matters shall be considered as a whole and without discussion unless a particular item is removed from the Consent Agenda. Members of the public who wish to speak on a Consent Agenda item must submit a Speaker Card to the Clerk and wait for recognition from the Chairperson. Approval of a consent item means approval as recommended on the Staff Report.)

4. APPROVE Local Transportation Authority Regular Meeting Action Minutes Dated May 21, 2026 – Gomez
5. ADOPT Resolution 2026-05 Authorizing the San Benito County Local Transportation Authority's Executive Director to Apply for and Accept Federal Transit Administration Section 5311 Funds through the California Department of Transportation – Borick

6. Disposition of Surplus Vehicle- Arreola

- a. APPROVE** Donation of Surplus Vehicle, last five VIN No. M1409, to Community Bridges.
- b. AUTHORIZE** Staff to Re-advertise the Remaining two Surplus Vehicles and, if No Responsive Applications are Received, Dispose of the Vehicles through Salvage.

There was no public comment on the Consent Agenda.

Motion made to approve the Consent Agenda Items 4, 5 and 6a,b.:

Motion: Director Kosmicki Second: Director Zanger

Motion carried: 4/0

Yes: Stephens, Kosmicki, Morris-Lopez, Zanger

No: None

Recused: None

Abstention: None

ACTION ITEMS:

7. ADOPT Resolution 2026-04 Authorizing the Executive Director to Execute Agreements with the California Department of Transportation for the Zero-Emission Bus Clean Fuel Path Strategy – Abraham

Executive Director Abraham reported that a Caltrans Sustainable Communities grant would fund a study to support the Local Transportation Authority's transition to a zero-emission fleet. The grant totals \$224,872, including \$199,079 in state funding and a \$25,000 local match. She stated that the study will support the development of a transition plan and that Board approval of the resolution was required to accept the grant and proceed with the project.

There was no public comment.

Motion made to Approve Item 7:

Motion: Director Kosmicki Second: Director Zanger

Motion carried: 4/0

Yes: Stephens, Kosmicki, Morris-Lopez, Zanger

No: None

Recused: None

Abstention: None

ADJOURNMENT:

Vice Chair Stephens reminded everyone that there will be no LTA meeting in July and that the next regular LTA meeting will be held in August.

There being no further business to discuss, Vice Chair Stephens adjourned the LTA meeting at 5:06 p.m.
ADJOURN TO LTA MEETING ON AUGUST 20, 2026, AT 4:00 P.M.

STAFF REPORT

Consent

Prepared By: Norma Aceves, Administrative Services Specialist

Subject: State of Good Repair Funds for Transit

Agenda Item No. 6

Approved By: Binu Abraham, Executive Director

Meeting Date: August 20, 2026

Recommendation:

Adopt Resolution 2026-06 approving projects for funding and authorizing the application and acceptance of FY 2026-27 California State of Good Repair Program Funds totaling \$120, 894.

Summary:

The San Benito County Local Transportation Authority (LTA) is eligible to receive \$120, 894 in State of Good Repair funds for FY 2026-27. Adoption of Resolution 2026-06 will approve the projects identified for funding.

Background/ Discussion:

Upon the signing of California Senate Bill 1 (SB1), the California State of Good Repairs (SGR) Program was established. The purpose of the SGR Program is to provide funding to transit operators for transit maintenance, rehabilitation, and capital projects. SGR funds are distributed via State Transit Assistance formulas. SBCOG is the agency that receives the SGR allocation for the region. A board resolution is required for SBCOG to accept and allocate SGR funds.

The FY 2026-27 SGR funds received by SBCOG will be allocated to the San Benito Local Transportation Authority (LTA). Staff have identified the LTA's Vehicle Replacement Project for the allocation of SGR funds. The project will replace aging vehicles that have reached their useful life and mileage thresholds.

Financial Impact:

The LTA will receive a total of \$120,894 of FY 2026-27 SGR Program funds.

Attachment:

1. Resolution 2026-06

BEFORE THE SAN BENITO COUNTY LOCAL TRANSPORTATION AUTHORITY

RESOLUTION OF THE SAN BENITO COUNTY LOCAL)
 TRANSPORTATION AUTHORITY APPROVING)
 PROJECTS FOR FUNDING AND AUTHORIZING THE) Resolution No. 2026-06
 EXECUTIVE DIRECTOR, OR DESIGNEE TO APPLY FOR)
 AND ACCEPT FY 2026-27 CALIFORNIA STATE OF)
 GOOD REPAIRS (SGR) PROGRAM FUNDS)
 TALLING \$120, 894)

WHEREAS, the Council of San Benito County Governments (SBCOG) is the designated Regional Transportation Planning Agency (RTPA) for San Benito County, pursuant to Government Code section 29532(b); and

WHEREAS, the San Benito County Local Transportation Authority (LTA) is the designated Consolidated Transportation Services Agency (CTSA) for San Benito County, pursuant to Government Code section 15975; and

WHEREAS, as the designated RTPA for San Benito County, SBCOG is an eligible project sponsor and may receive State Transit Assistance (STA) funding from the State of Good Repair Account (SGR) for transit projects calculated pursuant to the distribution formulas in Public Utilities Code (PUC) section 99313 based on the certification of population from the California Department of Transportation; and

WHEREAS, as the designated CTSA for San Benito County, LTA is an eligible project sponsor and may receive STA funding from the SGR Account for transit projects calculated pursuant to the distribution formulas in PUC section 99314 based on the qualifying revenue amounts for each STA-eligible operator determined from annual reports submitted to the State Controller pursuant to PUC section 99243; and

WHEREAS, SBCOG and LTA have identified a list of transit projects in San Benito County, attached hereto and incorporated herein by reference as Exhibit A, to be funded through the FY 2026-27 SGR Account; and

WHEREAS, the transit projects to be submitted for FY 2026-27 SGR funding total \$120, 894, to be allocated to SBCOG and LTA pursuant to the distribution formulas in PUC sections 99313 and 99314; and

WHEREAS, SBCOG's portion of the FY 2026-27 allocation is \$119,025, as determined pursuant to the distribution formula in PUC section 99313; and

WHEREAS, LTA's portion of the FY 2026-27 allocation is \$1,869, as determined pursuant to the distribution formula in PUC section 99314; and

WHEREAS, SBCOG has approved the SGR funded transit projects identified in Exhibit A and designated LTA as the lead agency for the project list, to be funded in part through SBCOG's SGR allocations, and has indicated its desire, upon receipt of SGR funds for those projects, to allocate SBCOG's share of SGR funds to LTA, to administer the projects as the CTSA for San Benito County

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the San Benito County Local Transportation Authority hereby approves the SGR funded transit projects identified in the project list attached hereto and incorporated herein by reference as Exhibit A; and

BE IT FURTHER RESOLVED THAT the San Benito County Local Transportation Authority shall be the lead agency for the SGR funded transit projects identified in Exhibit A, to be funded in part through SBCOG's SGR allocations and in part through the LTA's SGR allocations; and

BE IT FURTHER RESOLVED THAT the Board of Directors of the San Benito County Local Transportation Authority hereby authorizes the Executive Director of the San Benito County Local Transportation Authority, or designee, to apply for and accept SGR funds awarded by Caltrans for transit projects in San Benito County for FY 2026-27, and to execute the application and related materials, grant agreements and amendments, and all other documents necessary for the application submittal and acceptance of SGR funds awarded by Caltrans for transit projects in San Benito County, for and on behalf of the Council of San Benito County Governments and San Benito Local Transportation Authority.

PASSED AND ADOPTED BY THE COUNCIL OF SAN BENITO COUNTY GOVERNMENTS
THIS 20th DAY OF AUGUST, 2026 BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAINING:

ABSENT:

Chairperson

APPROVED AS TO LEGAL

FORM:

Dated: 8/11/2026

By: 
Osman I. Mufti, SBCOG Counsel

ATTEST:

Dated: _____

By: _____
Binu Abraham, Executive Director

Exhibit A

Project(s)	FY 2026-27 SGR Estimated Funding
LTA Vehicle Replacement Project	\$120,894
<i>Total</i>	\$120,894



STAFF REPORT

Consent

Prepared By: Norma Aceves, Administrative Services Specialist

Subject: 2026 Title VI Program

Agenda Item No. 7

Approved By: Binu Abraham, Executive Director

Meeting Date: August 20, 2026

Recommendation:

Adopt Resolution 2026-07 certifying the San Benito County Local Transportation Authority's 2026 Title VI Program

Summary:

The San Benito County Local Transportation Authority (LTA), as a recipient of Federal Transit Administration (FTA) funds, is required to have an adopted Title VI Program that satisfies requirements set forth in the FTA's Circular 4702.1B. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal funds. The LTA's Title VI Program details how the LTA plans to comply with Title VI regulations and provide meaningful language access to persons who are Limited English Proficient (LEP).

Background / Discussion:

The objective of the Title VI Program is to provide guidance and procedures to help FTA grantees:

- a. Ensure that the level and quality of public transportation service is provided in a non-discriminatory manner;
- b. Promote full and fair participation in public transportation decision-making without regard to race, color, or national origin;
- c. Ensure meaningful access to transit-related programs and activities by persons with Limited English Proficiency.

As a public transit operator and FTA grantee, the LTA is required to update the Title VI Program every three years. FTA's Circular to 4702.1B provides guidance to grantees regarding Title VI of the Civil Rights Act of 1964. All grantees must submit the following to the FTA Office of Civil Rights:

- Title VI Notice to Public, Complaint Procedure, and Complaint Form
- Limited English Proficiency Plan and Public Involvement Plan
- A list of investigations, lawsuits, and complaints
- Information regarding the location of fixed route facilities
- Table depicting the racial composition of non-elected bodies

- Adoption of service standards and policies

Staff has prepared the LTA's 2026 Title VI Program in accordance with FTA requirements (Attachment 1, Exhibit A).

Financial Impact:

Without a Board adopted Title VI Program, the LTA will not be eligible to receive FTA funds, resulting in a significant reduction in existing transit services.

Attachment:

1. Resolution No. 2026-07
2. San Benito County Local Transportation Authority's 2026 Title VI Program

BEFORE THE SAN BENITO COUNTY LOCAL TRANSPORTATION AUTHORITY

A RESOLUTION OF THE SAN BENITO COUNTY)
LOCAL TRANSPORTATION AUTHORITY BOARD OF) Resolution No. 2026-07
DIRECTORS ADOPTING THE SAN BENITO COUNTY)
LOCAL TRANSPORTATION AUTHORITY'S 2026 TITLE)
VI COMPLIANCE PROGRAM)

WHEREAS, the San Benito County Local Transportation Authority (LTA) desires to comply with Title VI of the Civil Rights Act of 1964, including provisions detailed in the U.S. Department of Transportation's Federal Transit Administration Circular 4702.1B, "Title VI Requirement and Guidelines for the Federal Transit Administration Recipients"; and

WHEREAS, the LTA Board of Directors wishes to adopt the 2026 Title VI Compliance Program developed by staff, attached hereto and incorporated herein by reference as Exhibit A, in order to comply with the necessary provisions of the Civil Rights Acts.

NOW, THEREFORE, BE IT RESOLVED by the San Benito County Local Transportation Authority Board of Directors as follows:

1. The Board of Directors hereby adopts the San Benito County Local Transportation Authority's 2026 Title VI Compliance Program (Exhibit A);
2. The LTA Executive Director or their designee is authorized to implement components of the Program in order to meet federal requirements; and
3. The LTA Executive Director or their designee is authorized to implement policies that may be necessary to comply with subsequent revisions or interpretations of the Civil Rights Act.

PASSED AND ADOPTED BY THE SAN BENITO COUNTY LOCAL TRANSPORTATION AUTHORITY ON THIS 20TH DAY OF AUGUST 2026 BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAINING:

ABSENT:

Chairperson

APPROVED AS TO LEGAL FORM:

Dated: 8/11/2026

By: 
Osman I. Mufti, SBCOG Counsel

ATTEST:

Dated: _____

By: _____
Binu Abraham, Executive Director

2026 Title VI Program



LTA Board of Directors

The governing board for the San Benito County Local Transportation Authority (LTA) is made up of five members. Two members are appointed by the San Benito County Board of Supervisors, two from the City of Hollister and one from the City of San Juan Bautista.

Roxanne Stephens	City of Hollister
Kollin Kosmicki	San Benito County
Jackie Morris-Lopez	City of San Juan Bautista
Rolan Resendiz	City of Hollister
Dom Zanger	San Benito County
Scott Eades	Director District 5, Caltrans (Ex-officio)

LTA Professional Staff

Binu Abraham	Executive Director
Samuel Borick	Transportation Planner
Myranda Arreola	Transportation Planner
Norma Aceves	Administrative Services Specialist
Monica Gomez	Secretary
Griselda Arevalo	Office Assistant
Rich Alves	Heavy Equipment Mechanic

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This document was prepared by the San Benito County Local Transportation Authority to comply with Title VI of the Civil Rights Act of 1964, including provisions detailed in U.S. Department of Transportation's FTA Circular 4702.1B, "Title VI Requirement and Guidelines for Federal Transit Administration Recipients."

Policy

The San Benito County Local Transportation Authority (LTA) operates its programs and services ensuring that no person shall be excluded from the equal distribution of its services and amenities based on their race, color, and national origin in accordance with Title VI of the Civil Rights Act. Any person who believes she or he has been aggrieved by any unlawful discriminator practice under Title VI may file a complaint with the LTA.

Title VI of the Civil Rights Act of 1964 requires that no person in the United States, on the grounds of race, color or national origin be excluded from, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. Presidential Executive Order 12898 addresses environmental justice in minority and low-income populations. Presidential Executive Order 13166 addresses services to those individuals with limited English proficiency.

Location of Title VI Notice Posting

The LTA's Title VI Notice to the Public is at the following locations:

Location Name	Address	City
Administration Office	650 San Benito Street, Suite 120	Hollister
Operations Facility	3240 Southside Road	Hollister

The Title VI notice and program information is also provided on the LTA's website at: www.SanBenitoCountyExpress.org/TitleVI.html

English Notice to Public

Notifying the Public of Rights Under Title VI

San Benito County Local Transportation Authority

The San Benito County Local Transportation Authority (LTA) operates its programs and services without regard to race, color, and national origin in accordance with Title VI of the Civil Rights Act. Any person who believes she or he has been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with the LTA.

For more information on the LTA's civil rights program, and the procedures to file a complaint, call 831.637.7665, visit our administrative office at 650 San Benito Street, Suite 120 Hollister, CA or visit www.SanBenitoCountyExpress.org/TitleVI.html.

A complainant may file a complaint directly with the Federal Transit Administration by filing a complaint with the Office of Civil Rights, Attention: Title VI Program Coordinator, East Building, 5th Floor-TCR, 1200 New Jersey Avenue, SE, Washington DC 20590.

If information is needed in another language, call 831.637.7665.2024

Spanish Notice to Public

Notificar al público de los derechos bajo el título VI

La Autoridad Local de Transporte del Condado de San Benito

La Autoridad Local de Transporte del Condado de San Benito (LTA) opera sus programas y servicios sin respecto a raza, color y origen nacional con arreglo al título VI de la Civil Ley de derechos. Cualquier persona que cree que él o ella ha sido agraviado por cualquier práctica discriminatoria ilegal bajo el título VI puede presentar una queja con la LTA

Para obtener más información sobre el programa derechos civiles capaz de industrias y el procedimientos para presentar una queja, llame al 831.637.7665 o visite nuestra oficina administrativa en 650 San Benito Street, Suite 120 en Hollister, CA o visite www.SanBenitoCountyExpress.org/TitleVI_es.html.

Un demandante puede presentar una queja directamente con el Federal Transit Administration por archivar una queja con la Office of Civil Rights, Attention: Title VI Program Coordinator, East Building, 5th Floor-TCR, 1200 New Jersey Ave., SE, Washington, DC 20590

Si se necesita información en otro idioma, contacte al 831.637.7665

Title VI Complaints and Procedures

List of Transit-Related Title VI Investigations, Complaints, and Lawsuits

The LTA has not been involved in any transit-related Title VI investigations, complaints, or lawsuits.

Complaint Procedures in English

Title VI of the Civil Rights Act of 1964 requires that no person in the United States, on the grounds of race, color or national origin be excluded from, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. Presidential Executive Order 12898 addresses environmental justice in minority and low-income populations. Presidential Executive Order 13166 addresses services to those individuals with limited English proficiency.

Any person who believes that they have been excluded from, denied the benefits of, or been subjected to discrimination may file a written complaint with the LTA. Federal and State law

requires complaints be filed within one-hundred eighty (180) calendar days of the last alleged incident.

To request additional information on LTA's nondiscrimination obligations or to file a Title VI Complaint, please submit your request to:

San Benito County Local Transportation Authority
Attn: Title VI Complaint
650 San Benito Street, Suite 120
Hollister, CA 95023
Tel: 831.637.7665
Email: info@sanbenitocog.org

Complaint Forms can also be obtained at the LTA Office at 650 San Benito Street, Suite 120 in Hollister, CA or online at www.SanBenitoCountyExpress.org/TitleVI.html

Complaint Process

The LTA will begin an investigation within fifteen (15) working days of receipt of a complaint and will contact the complainant in writing no later than thirty (30) working days after receipt of complaint for additional information, if needed. If the complainant fails to provide the requested information in a timely basis, the LTA may administratively close the complaint.

LTA will complete the investigation within ninety (90) days of receipt of the complaint. If additional time is needed for investigation, complainant will be contacted. A written investigation report will be prepared by the investigator. This report shall include a summary description of the incident, findings and recommended corrective action.

A closing letter will be provided to the complainant and the respondent or respondent department. Parties will have five (5) working days from receipt of the closing letter to appeal. If neither party appeals, the complaint will be closed. If required, the investigation report will be forwarded to the appropriate federal agency.

Complaint Procedures in Spanish

El Título VI de la Ley de Derechos Civiles de 1964 establece que ninguna persona de los Estados Unidos será excluida de participar en cualquier programa o actividad que reciba asistencia financiera federal, ni se le negará los beneficios de dichos programas o actividades, ni será discriminado en ellos, por causa de su raza, color o nacionalidad. El decreto presidencial 12898 aborda la justicia del medio ambiente en las poblaciones de minorías y de bajos ingresos. El decreto presidencial 13166 aborda el tema de los servicios para aquellas personas que tienen conocimientos limitados del idioma inglés.

Toda persona que crea haber sido excluida, que se le negaron los beneficios, o que fue discriminada puede presentar una queja por escrito a la Autoridad Local de Transporte del Condado de San Benito (LTA). La legislación federal y estatal exige que las quejas sean presentadas dentro de los ciento ochenta (180) días calendario del último supuesto incidente.

Para obtener información adicional sobre las obligaciones de no discriminación de LTA o para presentar una queja de Título IV, por favor comuníquese con

San Benito County Local Transportation Authority
Attn: Queja del Título VI
650 San Benito Street, Suite 120
Hollister, CA 95023
Tel: 831.637.7665
Correo Electrónico: info@sanbenitocog.org

Los formularios de queja también están disponibles en la oficina de LTA en 650 San Benito Street, Suite 120 en Hollister, CA o página web de County Express:
www.SanBenitoCountyExpress.org/TitleVI.

Procedimiento para quejas del Título VI

La LTA comenzará una investigación dentro de los quince (15) días hábiles a partir de la recepción de la queja. En caso de que sea necesario solicitar información adicional, la LTA se comunicará con el demandante por escrito en un plazo de no más de treinta (30) días hábiles luego de recibir la queja. Si el demandante no proporcionara la información solicitada de forma oportuna, la LTA podrá cerrar el caso de forma administrativa.

La LTA completará la investigación dentro de los noventa (90) días a partir de la recepción de la queja. En caso de necesitar más tiempo para la investigación, se contactará al demandante. El investigador preparará un informe escrito de la investigación. Este informe deberá incluir un resumen de la descripción del incidente, las conclusiones y las medidas correctivas recomendadas.

Se le enviará una carta que informe que el caso se ha cerrado al demandante y al demandado o departamento demandado. Las partes tendrán cinco (5) días hábiles desde la recepción de la carta de cierre del caso para apelar. En caso de que ninguna de las partes apele, se cerrará el caso. De ser necesario, se enviará el informe de investigación a la agencia federal correspondiente.

English Title VI Complaint Form

Section I:			
1. Name:			
2. Address:			
3. Telephone:		3.a. Secondary Phone:	
4. Email Address:			
5. Accessible Format Requirements?	☐ Large Print	☐ Audio Tape	
	☐ TDD - telecommunications device for the deaf	☐ Other	
Section II:			
6. Are you filing this complaint on your own behalf?		YES*	NO
*If you answered "yes" to #6, go to Section III. If you answered "no" to #6, go to #7.			
7. What is the name of the person for whom you are filing this complaint? Name			
8. What is your relationship with this individual:			
9. Please explain why you have filed for a third party:			
10. Please confirm that you have obtained permission of the aggrieved party to file on their behalf.		YES	NO
Section III:			
11. I believe the discrimination I experienced was based on <i>(check all that apply)</i> :			
☐ Race ☐ Color ☐ National Origin			
12. Date of alleged discrimination: <i>(mm/dd/yyyy)</i>			
13. Explain as clearly as possible what happened and why you believe you were discriminated against. Describe all persons who were involved. Include the name and contact information of the person(s) who discriminated against you (if known), as well as names and contact information of any witnesses. If more space is needed, please use the back of this form.			
Section IV:			
14. Have you previously filed a Title VI complaint with the San Benito County Local Transportation Authority?		YES	NO
Section V:			

15. Have you filed this complaint with any other Federal, State, or local agency, or with any Federal or State court?	
[] YES* [] NO	
If yes, check all that apply:	
[] Federal Agency _____	[] State Agency _____
[] Federal Court _____	[] Local Agency _____
[] State Court _____	
16. If you answered "yes" to #15, provide information about a contact person at the agency/court where the complaint was filed.	
Name: _____	
Title: _____	
Agency: _____	
Address: _____	
Telephone: _____	Email: _____
Section VI:	
Name of Transit Agency complaint is against: _____	
Contact Person: _____	
Telephone: _____	

You may attach any written materials or other information that you think is relevant to your complaint.

Signature and date are required below to complete form:

Signature _____ Date _____

Please submit this form in person or mail this form to the address below:

San Benito County Local Transportation Authority
 Attn: Title VI Complaint
 650 San Benito Street, Suite 120
 Hollister, CA 95023
 Email: info@sanbenitocog.org

Spanish Title VI Complaint Form

Parte I:		
1. Nombre:		
2. Dirección Residencial:		
3. Teléfono:	3.a. Otro teléfono:	
4. Dirección de correo electrónico:		
5. ¿Requisitos de formato accesible?	☐ Letra Grande	☐ Cinta de audio
	☐ Dispositivos electrónicos para sordos (TDD)	☐ Otro
Parte II:		
6. ¿Está presentando esta queja en su propio nombre?	Sí*	No
*Si usted contesto "sí" a #6, vaya a la Sección III. Si su respuesta es "no" a #6, vaya a #7.		
7. ¿Cuál es el nombre de la persona para la cual usted está presentando esta queja? Nombre:		
8. ¿Cuál es su relación con esta persona?:		
9. Por favor explique por qué ha presentado por un tercero :		
10. Por favor confirme que ha obtenido permiso de la parte agraviada para presentar en su nombre.	Sí	No
Parte III:		
11. Creo que la discriminación que viví fue basada en (<i>marque todas las que apliquen</i>): ☐ Raza ☐ Color ☐ Nacionalidad		
12. Fecha del presunto acto de discriminación: (<i>mm/dd/yyyy</i>)		
13. Explique lo más claramente posible lo que pasó y por qué cree que fue discriminado. Describa a todas las personas que estuvieron involucradas. Incluya el nombre y la información de contacto de la persona (s) que lo discriminó (si se conoce), así como los nombres y datos de contacto de testigos. Si se necesita más espacio, por favor utilice el reverso de este formulario.		

Parte IV:		
14. ¿Ha presentado anteriormente una queja del Título VI con la Autoridad Local de Transporte del Condado de San Benito?	Sí	No
Parte V:		
15. ¿Presentó esta demanda ante otra agencia federal, estatal, local o ante un tribunal estatal o federal? ☐ Sí* ☐ No Si la respuesta es sí, marque todas las que apliquen: ☐ Agencia Federal _____ ☐ Agencia Estatal _____ ☐ Tribunal Federal _____ ☐ Agencia Local _____ ☐ Tribunal Estatal _____		
16. Si usted contestó "sí" a # 15, proporcionar información acerca de una persona de contacto en la agencia / tribunal donde se presentó la queja.		
Nombre:		
Título:		
Agencia:		
Dirección:		
Teléfono:		Dirección de correo electrónico:
Parte VI:		
Nombre de la Agencia de Transito de cual la queja está en contra:		
Persona de contacto:		
Teléfono:		

Puede adjuntar cualquier material escrito o cualquier otra información que usted considere relevante para su queja.

Su firma y fecha son requeridas abajo para completar el formulario:

Firma _____ Fecha _____

Después de completar la solicitud, por favor, envíe por correo o entréguela en persona a la siguiente dirección:

Autoridad de Transporte Local del Condado de San Benito
 Attn: Queja del Título VI
 650 San Benito Street, Suite 120
 Hollister, CA 95023
 Correo Electrónico: info@sanbenitocog.org

Public Participation Plan

The LTA is committed to informing and involving the public in the planning and implementation of its public transit services in its service area. In collaboration with the Association of Monterey Bay Area Governments (AMBAG), the *Monterey Bay Area Public Participation Plan* was created for member agencies to use in the Monterey Bay Area Region.

Purpose

The LTA uses the methodologies described in the *Monterey Bay Area Public Participation Plan* to guide all public involvement activities to ensure that the community is informed and given a chance to be involved.

Population of San Benito County

Demographic

According to the American Community Survey performed by the United States Census Bureau in 2024, San Benito County's population size is 69,159. Approximately, 25% of the population is under the age of 18 and 14% of the population is 65 years old or older.

There are 21,057 households in San Benito County. The median household income was

US Census Bureau 2024 American Community Survey 1-Year Estimates: Demographic and Housing Estimates for San Benito County (DP05)

Race and Ethnicity in San Benito County

Race	
White Alone	34.1%
Black or African American Alone	0.2%
American Indian and Alaska Native Alone	1.8%
Asian Alone	6.1%
Native Hawaiian and Other Pacific islander Alone	0.2%
Some Other Race Alone	22.3%
Two or More Races	35.3%
Hispanic or Latino	
Hispanic or Latino (any race)	63.4%
Not Hispanic or Latino	36.6%

\$114,011. Additionally, 7.2% of the County's population is considered to be below or at the Federal Poverty Level.

County Express Service Area

County Express service area comprises the Cities of Hollister and San Juan Bautista, some areas of northern San Benito County and two bus stops in the City of Gilroy in Santa Clara County. The bus stops are located at Gavilan College and Gilroy Transit Station.

All County Express services are open to the public except for its Paratransit service. A person must have a disability that prevents him/her to from accessing Fixed Route services within $\frac{3}{4}$ of a mile. The LTA is responsible for determining the eligibility for residents in San Benito County and authorizing visitor usage from other counties.

Specialized Transportation Service Area

The LTA provides door-through-door specialized transportation for persons over the age of 60 and/or have a disability. The service is open to all eligible residents of San Benito County, making the service area approximately 1,390 square miles. Eligibility of this service is determined by its operator.

Data Deficiency

The LTA does not track the racial and ethnicity makeup of its riders, which resulted in the limited analysis. As result, the LTA is unable to fully analyze the impacts of fare increases. The LTA plans to include additional questions regarding racial and ethnic makeup of its riders on new surveys it will conduct. This information would be used in future analysis of fares and services.

Public Participation Process

Approach to Public Participation

The public participation process should be considered at the earliest stages of any LTA project that may impact the surrounding community, its riders, and potential riders. As projects vary in time and size, the public participation process may vary for each, as well as the extent of public participation. The following outlines tools and strategies to ensure that public input is invited and all foreseeable impacts to the community are considered.

Outreach Requirements and Activities

The following activities are intended to serve as guidelines for minimum levels of outreach to ensure that all riders and potential riders in San Benito County have equal access and opportunity to participate in transportation planning and decision-making. These also provide current strategies for soliciting input and engaging various communities. Below is a list of outreach methods that the LTA currently uses to inform the public:

- Bilingual notice for public events include flyers posted on social media, at bus stops and onboard buses.
- Community engagement in the community being impacted by modifications to transit services.
- Bilingual notices are posted prior to the public event.
- Bilingual notices are posted at the LTA office at key community centers with whom LTA has a partnership, including the senior center, library, and schools.
- Bilingual information about public participation opportunities are posted on LTA's website and Facebook account prior to the event.
- Comments are accepted via public outreach events, email, mail, fax, social media (i.e. Facebook, Next-Door, Instagram), and by phone to ensure that all populations have the opportunity to participate.

Summary of Outreach Efforts Made Since Last Title VI Submission

Outreach LTA efforts include:

- Conducted several year-round Ad hoc outreach efforts with the Social Services Transportation Advisory Council;
- Conducted annual Unmet Transit Needs processes as required by state statute to conduct a formal hearing process that solicits information about transit needs. All hearings and meeting were held in both English and Spanish. This allows the Council of San Benito

County Governments, in partnership with the LTA, to make a determination as to whether these are unmet transit needs and whether these are transit needs that can be reasonably met;

- Participated in community events aimed at promoting safety, multi-modal transportation, and greenhouse gas reduction.
- Outreach for Coordinated Plan Updates, as needed.

Outreach Methods to Engage Minority and Limited English Proficient Populations

Currently, Spanish is the only quantifiable population within LTA's service area that is limited English proficient. The LTA will continue assessing the language needs of citizens in its service area through its Language Assistance Plan. At such time, as another group with limited English proficiency reaches significant mass, the LTA will review this plan and its strategies to engaging with non-English speaking populations. Below are the methods that the LTA are currently using:

- Notices are translated to Spanish and posted alongside English notices at the administration offices, onboard buses, social media through various platforms, and online.
- Event information on LTA's website is posted in English and Spanish.
- LTA distributes event information to community groups and agencies that work with LEP populations, if such contacts exist.
- As identified in its Language Assistance Plan, the LTA has full time staff to provide language assistance for customers and callers that are Spanish speaking.
- Spanish interpretation or translation is provided at any public meetings and workshops.
- Additional outreach is preformed in communities that traditionally do not provide public comment on transit planning processes.

Non-Elected Committees and Councils

The LTA strives to appoint diverse group of community representatives to its advisory committees.

The Board of Directors is comprised of locally elected officials that were appointed to the San Benito County Local Transportation Authority's Board of Directors from their respective jurisdictions. The Board is comprised of two representatives from the Board of Supervisors, two representatives from the City of Hollister and one representative from the City of San Juan Bautista.

The Social Service Transportation Advisory Council (SSTAC) advises the Council of Governments and the Local Transportation Authority on matters related to transportation accessibility for the elderly, the disabled, and persons of limited means. Transit issues that may require the Advisory Council to look into are specialized transportation services, planning, and studies. Members are appointed by the Council of San Benito County Governments Board.

The Technical Advisory Committee (TAC) was established to provide technical assistance, advice, and recommendations to the Council of Governments on transportation planning studies and

related transportation projects. Members consists of staff from local government agencies and are appointed to by their respective appointing authorities.

	Social Services Transportation Advisory Council	Technical Advisory Committee
Black, African American	13%	11%
Asian	13%	11%
White	38%	22%
American Indian, Alaska Native	0%	0%
Native Hawaiian, Other Pacific Islander	13%	11%
Some Other Race	13%	11%
Decline to State	13%	11%
Hispanic, Latino, Spanish origin	13%	33%

Race and Ethnicity of Non-Elected Committees and Councils

Language Assistance Plan (LAP)

The LTA prepared a Language Assistance Plan (LAP) to address its responsibilities as a recipient of federal financial assistance as they relate to the needs of individuals with limited English language skills. LAP has been prepared in accordance with Title VI of the Civil Rights Act of 1964, Federal Transit Administration Circular 4702.1B dated October 1, 2012, which state that no person shall be subjected to discrimination on the basis of race, color, or national origin.

Executive Order 13166, titled “Improving Access to Services for Persons with Limited English Proficiency”, indicates that differing treatment based upon a person’s inability to speak, read, write, or understand English is a type of national origin discrimination. It directs each federal agency to publish guidance for its respective recipients clarifying their obligation to ensure that such discrimination does not take place. This order applies to all state and local agencies which receive federal funds.

Plan Summary

The LTA operates and administers County Express and Specialized Transportation services and has developed the LAP to help identify reasonable steps for providing language assistance to persons with limited English proficiency who wish to access these services. County Express operates traditional public transit services: Fixed Route, Paratransit, Dial-A-Ride, and Intercounty. Specialized Transportation provides personalized services: Out-of-County Non-Emergency Medical Services, Senior Lunch Transportation Program, and Medical Shopping Assistance Program.

The LAP outlines how to identify a person who may need language assistance, the ways in which assistance may be provided, staff training that may be required, and how to notify Limited English Proficiency (LEP) persons that assistance is available.

In order to prepare this plan, the LTA undertook the U.S. Department of Transportation (U.S. DOT) four-factor LEP analysis which considers the following factors:

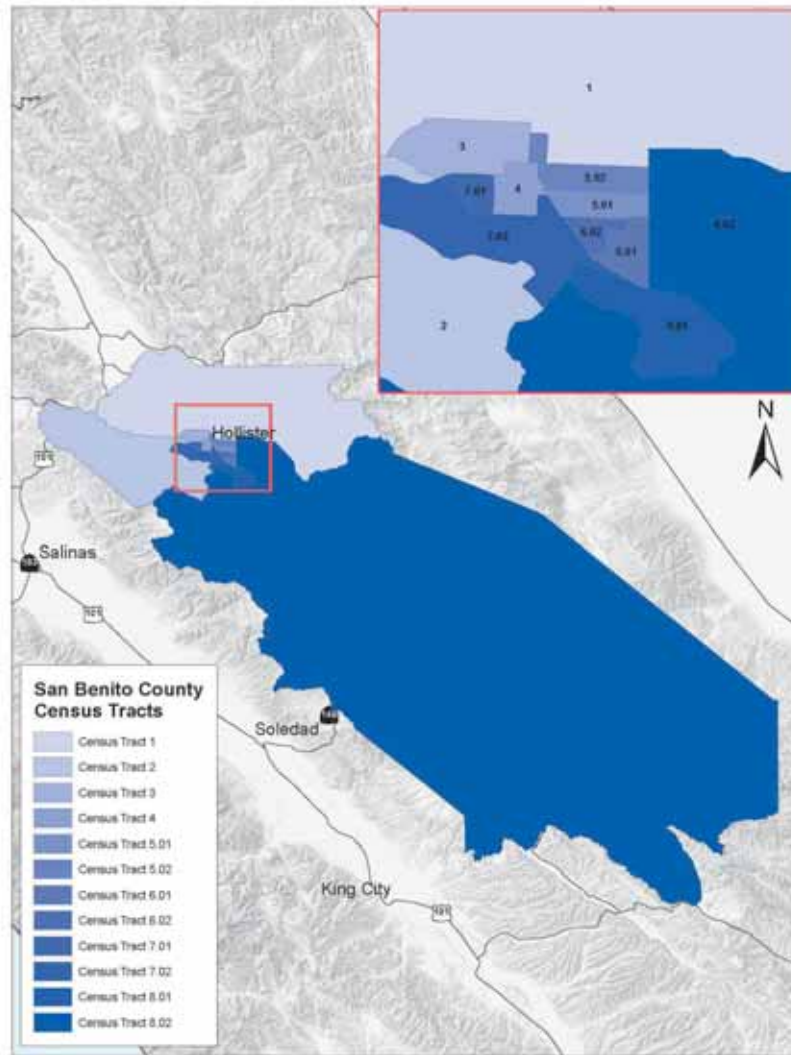
1. *Potential Number of LEP Persons Served* – The number or proportion of LEP persons in the service area who may be served or are likely to encounter a LTA program, activity, or service.
2. *Service Contact Frequency of LEP Persons* – The frequency with which LEP persons come in contact with LTA programs, activities, or services.
3. *Significance of Programs to LEP Persons* – The nature and importance of programs, activities or services provided by LTA to the LEP population.
4. *Available Resources for LEP Assistance* – Available resources to the LTA and overall costs to provide LEP assistance.

A summary of the results of the LTA four-factor analysis is in the following section.

Four – Factor Analysis

1. Potential Number of LEP Persons Served

The LTA used past experiences and consulted to the U.S. Census to determine the likelihood that the LEP population would use an LTA program or service. Due to the rural population of San Benito County, the smallest geographical area for identification is the use of Census Tracts. Eleven Census Tracts are fully, or partially, located in the service area for County Express. All Census Tracts were fully located in the service area for its Specialized Transportation Services.



San Benito County Census Tracts
Source: Association of Monterey Bay Area Governments

San Benito County Census Tract													
	1	2	3	4	5.01	5.02	6.01	6.02	7.01	7.02	8.01	8.02	% of Total Population
Spanish	833	809	1,323	1,595	562	1,894	719	155	825	902	59	227	15.72%
Other Indo-European languages	0	0	0	0	0	54	0	16	0	41	21	1	0.21%
Asian and Pacific Island languages	5	4	0	21	43	123	99	34	75	118	5	3	0.84%
Other languages	6	0	0	0	7	0	0	0	0	0	0	0	0.02%

Number of Individuals that Speak English "Less Than Very Well" By Census Tract in San Benito County

Source: 2024 American Community Survey 5 Year Estimates Detailed Table S1601

2. Service Contact Frequency of LEP Persons

The LTA has assessed the frequency in which staff, drivers, and dispatchers have, or could have, contact with LEP persons. This assessment included speaking with the staff, drivers, and dispatchers regarding their interactions with LEP persons. To date, drivers and staff have the most frequent in-person contact with LEP persons. The LTA requires its operations contractor to have at least 50% of its drivers and dispatchers to be bilingual in Spanish and English and to be available during service hours. Currently, LTA staff has four people that are bilingual in Spanish and English and are available throughout the day during business hours to LEP persons.

Information regarding fares and holiday service are posted in the vehicles, LTA Administration Office, and online (http://www.sanbenitocountyexpress.org/home_es.html) in Spanish. If LTA staff is not available to provide translation, an interpreter is used at various public meetings in which a large group of LEP persons are anticipated.

3. Significance of Programs to LEP Persons

San Benito County has two incorporated cities: Hollister and San Juan Bautista. However, three unincorporated towns and a large gated community are within the service area: Aromas, Tres Pinos, Paicines, and Ridgemark.

All County Express services are more likely to encounter LEP individuals in Hollister, San Juan Bautista, Tres Pinos and Ridgemark due to its limited service area. The service area for Specialized Transportation encompasses the entire County and is likely to encounter LEP individuals in its service area. The LTA Administration office would also be a likely place to encounter LEP individuals because the office handles Paratransit eligibility and pre-purchased fare sales. According to the census, the largest concentration of LEP individuals in the entire service area speaks Spanish.

4. Available Resources for LEP Assistance

The LTA currently translates its printed materials regarding fares and service changes into Spanish for its LEP population. Basic translation and interpretation is provided to the LTA by staff. However, more complex professional interpretation or translation services are provided.

The LTA will continue to include a clause that requires its operations contractor to employ bilingual staff to ensure that LEP riders have the opportunity to receive assistance in Spanish.

Implementation

The LTA developed its LEP Implementation Plan based upon the issues that were raised during the four-factor Analysis. The LEP Implementation Plan will provide details on how various items will be addressed by the LTA.

Identifying LEP Individuals Who Need Language Assistance

The LTA will continually monitor the language needs of the LEP individuals within its service area. The LTA will do the following:

- Continue to monitor the languages and English proficiency encountered by front-line staff (dispatchers, drivers, and front-office staff).
- Continue to have a section regarding preferred language for Paratransit applicants. Current application materials have English, Spanish and Other. The applicant, or a person assisting the applicant, may write in an unlisted language.
- Continue to contractually require operations contractors maintain at least 50% of staff to be bilingual in Spanish and to be available throughout the service hours
- For languages other than Spanish, staff will attempt to identify the LEP person's preferred language using the 2010 U.S. Census "I Speak" Identification cards
- Continue to use data available from the U.S. Census, state, and local demographic data.

Language Assistance Measures

The LTA has oral and written language assistance available to LEP persons on its vehicles, operations, and administration offices. LTA staff can respond to LEP Persons inquiries in person, by telephone or in writing. To enhance the available language assistance, the LTA currently will provide the following:

- Work with local social services agencies and organizations to provide services to LEP persons to disseminate information about LTA's services
- Continually identify new agencies or organizations that can assist in disseminating information about LTA's services
- Include a statement in notices regarding the availability of interpreting services at community events, public hearings and Board of Directors meetings with seven-day advance notice

- Communicate with drivers, dispatchers, and other front-line staff regarding their experience concerning contacts with LEP persons
- Post LTA's Title VI Policy and Complaint form on the agency's website at English: www.SanBenitoCountyExpress.org/TitleVI.html
- Spanish Title VI Policy and Complaint Form: http://www.sanbenitocountyexpress.org/TitleVI_es.html
- Provide trip planning services to LEP persons with assistance of bilingual staff
- Operations contractors maintain at least 50% of staff to be bilingual in Spanish and to be available throughout the service hours
- All notices regarding fares, service changes, and policies are translated in Spanish
- When an interpreter is needed for a language other than Spanish, in person or on the telephone, staff will attempt to access language assistance from a professional translation service or qualified community volunteers.

Translation of Vital Documents and Safe Harbor Provision

According to the 2024 American Community Survey 5 Year Estimates, there are 62,976 people in San Benito County. There were 10,579 individuals that spoke English 'less than very well.' The table below shows the breakdown of the major language groups spoken in San Benito County by Census Tract. As demonstrated in the table on page 20, Spanish is the only language that falls outside of the Safe Harbor Provision of over 5% or 1,000 individuals (whichever is less). The Authority currently provides the following documents in English and Spanish:

- Title VI Notice to the Public, Complaint Procedures, and Complaint Form
- Transit maps and schedules in print and on website
- ADA Paratransit eligibility application
- Courtesy Card application
- Public notices related to service changes and projects

	San Benito County Census Tract												% of Total Population
	1	2	3	4	5.01	5.02	6.01	6.02	7.01	7.02	8.01	8.02	
Spanish	833	809	1,323	1,595	562	1,894	719	155	825	902	59	227	15.72%
Other Indo-European languages	0	0	0	0	0	54	0	16	0	41	21	1	0.21%
Asian and Pacific Island languages	5	4	0	21	43	123	99	34	75	118	5	3	0.84%
Other languages	6	0	0	0	7	0	0	0	0	0	0	0	0.02%

Number of Individuals that Speak English "Less Than Very Well" By Census Tract in San Benito County

Source: 2024 American Community Survey 5 Year Estimates Detailed Table S1601

The LTA will continue to monitor the proportions of LEP individuals languages and will translate vital documents in additional languages should additional languages fall outside of the Safe Harbor Provision.

Staff Training

The LTA does not have a formal training program. However, it requires operations contractors to maintain its staffing so that at least 50% speak Spanish. LTA administration office currently has three full time Spanish speaking staff that is able to address Spanish speaking client concerns. The LTA strives to schedule its staff so that there is someone who can speak Spanish during normal business hours. The LTA staff is trained to communicate with Spanish speaking clients in a respectful and professional manner.

The LTA will develop a standard training session for its staff and operations contractors on the following topics:

- How to respond to LEP callers
- How to respond to correspondence from LEPs
- How to respond to LEPs in person
- How to document LEP needs
- How to respond to civil rights complaints

Public Involvement

Should the LTA produce a document that LEP individuals may read or schedule an event that may have LEP individuals in attendance, or may have interest in, the LTA shall have the documents, meeting notices or flyers, printed in an alternate language based on the known LEP population. Interpreters will be available on an as needed basis.

Monitoring and Updating the LAP Plan

The LTA review and update its LAP plan every three years. At a minimum, the Plan will be reviewed and updated when new data from the most current U.S. Census is available, or when the concentrations of LEP individuals presence in the LTA service area is observed. Updates may include, but will not be limited to, the following:

- Description of any new concentrations of LEP individuals based on ongoing monitoring of front-line staff interactions with clients
- Updated analysis of the current LEP population within the service area
- Assessment of the need for translation services
- Assessment of the effectiveness and success of current language assistance programs
- Determine whether financial resources are sufficient to fund language assistance resources
- Determine whether the LTA has fully complied with the goals of this LEP Plan
- Determine whether complaints received are an effect of the LTA's inability to meet the needs of the LEP individuals
- Update procedures or contact information

Notice to LEP Persons

A link to the LTA's Title VI Procedures and LAP Plan is available on the County Express website at www.SanBenitoCountyExpress.org. Any person or agency with internet access will be able to access and download the Plan from the abovementioned website. Alternatively, any person or agency may request a copy of the Plan via telephone, fax, mail, or in person and shall be provided a copy of the Plan at no cost. LEP individuals may request copies of the Plan in translation which LTA will provide, if feasible. *La Autoridad de Transporte Local se traducirá el Plan de Dominio Limitado de Inglés en español, si se le pide.*

Questions or comments regarding the LEP Plan may be submitted to the San Benito County Local Transportation Authority's Title VI Administrator:

San Benito County Local Transportation Authority
Attn: Title VI Administrator
650 San Benito Street, Suite 120
Hollister, CA 95023

Phone: 831.637.7665

Title VI Facilities Equity Analysis

Per 49 CFR 21.9(b)(3), the San Benito County Local Transportation Authority may not select the site or location of facilities with the purpose or effect of excluding persons from, denying the benefits of, or subjecting them to discrimination on the basis of race, color, or national origin. Per 49 CFR 21, (The Public Participation Plan), the location of projects requiring land acquisition and

the displacement of persons from their residences and business may not be determined on the basis of race, color, or national origin.

Facilities included in this provision include, but are not limited to, storage facilities, maintenance facilities, and operations centers. Bus shelters are not included in this provision as they are considered transit amenities. Transit stations, power substations and similar facilities are not included in this provision as they are evaluated during project development and the NEPA process.

For facilities covered by this provision, the San Benito County Local Transportation Authority is required to:

- Complete a Title VI equity analysis during the planning state with regard to where a project is located to ensure the location is selected without regard to race, color, or national origin, and engage in outreach to persons potentially impacted by site of the facilities. The Title VI equity analysis must compare the equity impacts of various site alternatives, and the analysis must occur before the selection of the preferred site.
- Give attention to other facilities with similar impacts in the area to determine if any cumulative adverse impacts might result. Analysis should be done at the Census tract or block group level where appropriate to ensure proper analysis of localized impacts.
- Provide substantial legitimate justification for locating a project in a location that will result in a disparate impact on the basis of race, color, or national origin, and show that there are no alternative locations that would have a less disparate impact on the basis of race, color, or national origin. In order to show that both tests have been met, the recipient must consider and analyze alternatives to determine whether those alternatives would have less of a disparate impact on the basis of race, color, or national origin, and then implement the least discriminatory alternative.

The San Benito County Local Transportation Authority has no current or anticipated plans to develop new transit facilities covered by these requirements.

System-Wide Standards and Policies

The San Benito County Local Transportation Authority strives to meet the following system-wide standards so no person or group of persons shall be discriminated against with regard to the routing, scheduling, or quality of service of transportation service on the basis of race, color, or national origin (49 CFR 21, Appendix C). Specifically, frequency of service, age and quality of transit vehicles assigned to routes, quality of stations serving different routes, and location of routes may not be determined on the basis of race, color, or national origin.

Vehicle Load Standards

Vehicles during the peak period should exceed 1.5 passengers per seat. During off peak periods, vehicles should not exceed 1.0 passengers per seat.

Vehicle Headway Standards

Vehicle headways are determined based on ridership demand, service type, time of day, and day of the week.

Weekday (Monday-Friday)

For Fixed Route services, vehicle headways are 35-50 minutes. Each Fixed Route consists of one bus make a circuitous run and the headway is determined by how fast each bus completes the run. This results in larger headways for the longer routes and shorter headways for the shorter routes.

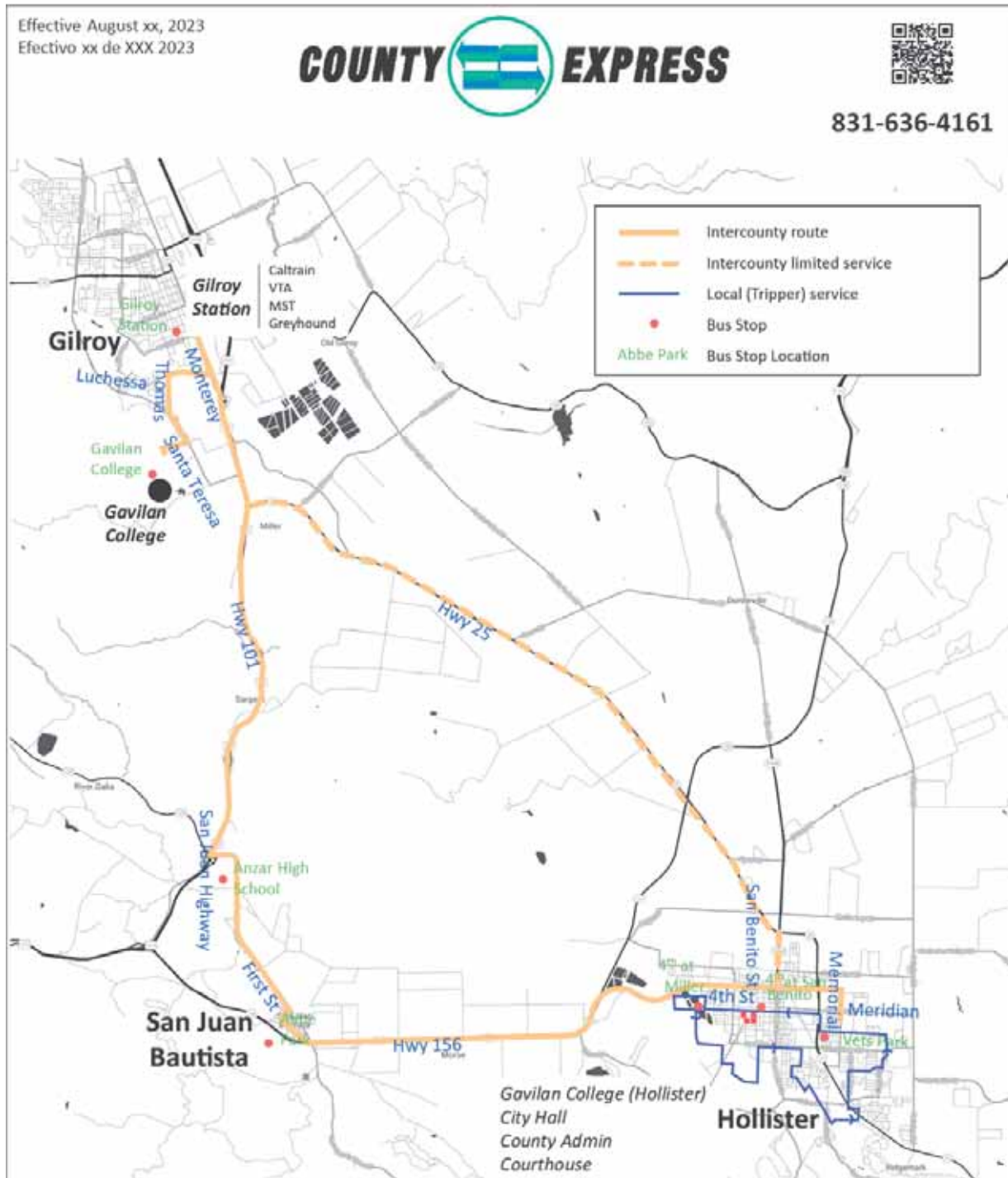
For Intercounty Gavilan, morning peak period headways are 20 minutes and evening Peak period is 60 minutes. This service primarily serves the students at Gavilan College, a community college. The trend has required the need to provide intense service in the morning for the students to go to the early classes. The evening peak schedule is less frequent that the morning service because there is no set dismissal time for each students. Students determine their own schedules and class load, resulting in a staggered peak demand.

Intercounty Caltrain is dependent on the Caltrain train schedule. This service is a direct connector to Caltrain service that runs from San Francisco to Gilroy, crossing three other counties. The frequency of this service is determined by that particular service.

Weekend (Saturday-Sunday)

There is no Fixed Route, Intercounty Gavilan, or Intercounty Caltrain service during the weekend. Intercounty Greyhound has a total of four roundtrips. There are two in the morning and two in the afternoon.

A Map depicting the LTA's fixed route services can be found on the following page.



On-Time Performance Standards

At least 85% of scheduled arrivals will be on-time (within 5 minutes).

Service Availability Standards

90% of dwelling units in areas having six or more units per acre shall be located within ¼ mile of Fixed Route Bus Stop.

Vehicle Assignment Policy

Vehicles are assigned to routes based on ridership demands. Specific vehicles are assigned to routes only when required by operating conditions. For example, in cases where a smaller bus is required to provide service on a narrow street.

Transit Amenities Policy

The LTA developed and adopted guidelines for its staff, local planning jurisdictions and developers to use in developing transit friendly designs. The guidelines are readily available online for all to view at: www.SanBenitoCountyExpress.org/news.html.

All new bus stops and improvements to existing bus stops are subject to constraints related to safety, ADA compliance, availability of funding, and other factors. Below is a table that summarizes the amenities for different types of bus stops.

Types of Stops	Minimum Amenities
High number of boarding	Bus stop sign Bus stop shelter with seating, space for wheelchair, lighting, transit information, and trash receptacle
New bus stop at new development	Bus stop sign Bus stop shelter with seating, space for wheelchair, lighting, transit information, and trash receptacle
Low boarding or stops with only alighting activity	Bus stop sign Transit information

In 2016, the LTA completed a Bus Stop Improvement Plan that includes an inventory all existing and potential new bus stops. The Plan identifies the needs of each bus stop and provides cost estimates to make each improvement.

**Board of Directors Approval of San Benito County Local Transportation
Authority's Title VI Program**

Insert upon adoption of final plan



STAFF REPORT

Consent

Prepared By: Norma Aceves, Administrative Services Specialist

Subject: Drug & Alcohol Testing Policy Update

Agenda Item No. 8

Approved By: Binu Abraham, Executive Director

Meeting Date: August 20, 2026

Recommendation:

Adopt Resolution 2026-08 approving an amendment to the San Benito County Local Transportation Authority's Drug and Alcohol Testing Policy.

Summary:

Staff have made a minor amendment to the recently updated San Benito County Local Transportation Authority (LTA) Drug and Alcohol Testing Policy to remain consistent with current U.S. Department of Transportation (USDOT) regulations.

Background/ Discussion:

On March 19, 2026, the LTA Board adopted Resolution 2026-01 Accepting, Approving, and Adopting the LTA's Drug & Alcohol Testing Policy, and the Drug and Alcohol Testing Policy for Transdev Services, Inc.

Since the March action, the USDOT issued a final rule revising terminology in its 49 CFR Part 40 testing procedures, replacing the word "gender" with "sex" to align with Executive Order 14168 (*Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*). Staff have amended the LTA's policy to reflect the terminology change and remain consistent with USDOT regulations.

Staff is requesting that the Board adopt Resolution 2026-08, approving an amendment to the San Benito County Local Transportation Authority's Drug and Alcohol Testing Policy.

Attachments:

1. Resolution 2026-08
 - a. Exhibit A: LTA Drug and Alcohol Testing Policy
2. LTA Drug and Alcohol Testing Policy

BEFORE THE SAN BENITO COUNTY LOCAL TRANSPORTATION AUTHORITY

A RESOLUTION OF THE SAN BENITO COUNTY)
LOCAL TRANSPORTATION AUTHORITY ACCEPTING,) Resolution No. 2026-08
APPROVING AND ADOPTING THE LOCAL)
TRANSPORTATION AUTHORITY'S UPDATED DRUG)
AND ALCOHOL TESTING POLICY)

WHEREAS, the San Benito County Local Transportation Authority (LTA) is a subrecipient through the California Department of Transportation (Caltrans) of Federal Transit Administration (FTA) Section 5311 funds; and

WHEREAS, LTA desires to comply with federal regulations of 49 CFR Part 40 and Part 655 requiring recipients of FTA Section 5311 funds establish and implement anti-drug and alcohol misuse testing programs; and

WHEREAS, the LTA is required to update its Drug and Alcohol Testing Policy developed by staff, attached hereto and incorporated herein by reference as Exhibit A, in order to comply with updates to 49 CFR Part 40; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the LTA, that it hereby accepts, approves and adopts the updated Drug and Alcohol Testing Policy (Exhibit A).

PASSED AND ADOPTED BY THE SAN BENITO COUNTY LOCAL TRANSPORTATION AUTHORITY ON THIS 20TH DAY OF AUGUST 2026 BY THE FOLLOWING VOTE:

AYES:

NOES:

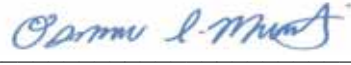
ABSTAINING:

ABSENT:

Chairperson

APPROVED AS TO LEGAL FORM:

Dated: 8/11/2026

By: 
Osman I. Mufti, SBCOG Counsel

ATTEST:

Dated: _____

By: _____
Binu Abraham, Executive Director



Drug and Alcohol Testing Policy

Effective August 20, 2026

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A. PURPOSE

- 1) The San Benito County Local Transportation Authority (LTA) provides public transit and paratransit services for the residents and visitors of San Benito County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, LTA declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees. Any employee who is convicted of any criminal drug statute for a violation occurring in the workplace shall notify the LTA Executive Director or Drug and Alcohol Program Manager in writing no later than five days after such conviction.
- 2) This policy complies with 49 CFR Part 655, as amended and 49 CFR Part 40, as amended. Copies of Parts 655 and 40 are available in the drug and alcohol program manager's office and can be found on the internet at the Federal Transit Administration (FTA) Drug and Alcohol Program website <http://transit-safety.fta.dot.gov/DrugAndAlcohol/>.
- 3) In addition, the Department of Transportation (DOT) published 49 CFR Part 32, implementing the Drug-Free Workplace Act (DFWA) of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA. The purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the DFWA, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the FTA, of the DOT, has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result. The DOT has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.
- 4) All covered employees are required to submit drug and alcohol tests as a condition of employment in accordance with 49 CFR Part 655. Employees must abide by the terms of this policy as a condition of employment.
- 5) Any provisions set forth in this policy that are included under the sole authority of LTA and are not provided under the authority of the above named Federal regulations are underlined. Tests conducted under the sole authority of LTA will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

B. APPLICABILITY

This Drug and Alcohol Testing Policy applies to all employees (full- or part-time), applicants, or transferees, who perform or will perform a "safety-sensitive function" as defined in Part 655, section 655.4. See Attachment A for a list of employees and the authority under which they are included.

A safety-sensitive function is operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, dispatchers or person controlling the movement of revenue service vehicles and any transit employee who operates a vehicle that requires a Commercial Drivers License. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions who perform one or more of the above mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if

they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for service in excess of actual expense.

C. DEFINITIONS

Accident: An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result:

- a. An individual dies;
- b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- c. One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, disabling damage means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn or windshield wipers that makes them inoperative.

Adulterated specimen: A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

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

Alcohol Concentration: The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.

Alcohol screening device (ASD): A breath or saliva device, other than an EBT that is approved by the National Highway Traffic Safety Administration (NHTSA) and appears on ODAPC's web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids" because it conforms to the model specifications from NHTSA.

Alcohol screening test: An analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

Alcohol testing site: A place selected by the employer where employees present themselves for the purpose of providing breath or saliva for an alcohol test.

Alcohol use: The drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

Aliquot: A fractional part of a specimen used for testing. It is taken as a sample representing the whole specimen.

Breath Alcohol Technician (BAT): A person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device.

San Benito Local Transportation Authority FTA Drug & Alcohol Testing Policy

Cancelled Test: A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which this part otherwise requires to be canceled. A canceled test is neither positive nor negative.

Collector: A person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees, and who initiates and completes the CCF.

Confirmatory Drug Test: A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

Confirmatory Validity Test: A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

Cutoff: The analytical value (e.g., drug or drug metabolite concentration) used as the decision point to determine a result (e.g., negative, positive, adulterated, invalid, or substituted) or the need for further testing.

Covered Employee Under FTA Authority: An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

Designated Employer Representative (DER): An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655. Service agents cannot act as DERs.

Dilute specimen: A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

Disabling damage: Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

DOT, The Department, DOT agency: These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of this part, the United States Coast Guard (USCG) in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes only since the USCG regulation does not incorporate Part 40 for its alcohol testing program. These terms include any designee of a DOT agency.

Drugs: The drugs for which test are required under this part and DOT agency regulations are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids.

Evidential Breath Testing Device (EBT): A device that is approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentration and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

San Benito Local Transportation Authority FTA Drug & Alcohol Testing Policy

HHS: The Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.

Initial Drug Test (Screening Drug Test): The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Initial Specimen Validity Test: The first test used to determine if a specimen is adulterated, diluted, substituted, or invalid

Invalid Result: The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

Laboratory: Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting standards set by HHS; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

Limit of Detection (LOD): The lowest concentration at which the analyte can be identified.

Limit of Quantitation (LOQ): For quantitative assays, the lowest concentration at which the identity and concentration of the analyte (e.g., drug or drug metabolite) can be accurately established.

Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

Negative result: The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

Non-negative specimen: A specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), and/or invalid.

Oxidizing Adulterant: A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites, or affects the reagents in either the initial or confirmatory drug test.

Performing (a safety-sensitive function): A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

Positive result: The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

Reconfirmed: The result reported for a split (Bottle B) specimen when the second HHS-certified laboratory is able to corroborate the original result reported for the primary (Bottle A) specimen.

Rejected for Testing: The result reported by an HHS- Certified laboratory when no tests are performed for a specimen because of a fatal flaw or a correctable flaw that has not been corrected.

Revenue Service Vehicles: All transit vehicles that are used for passenger transportation service.

Safety-sensitive functions: means any of the following duties, when performed by employees of recipients, subrecipients, operators, or contractors:

San Benito Local Transportation Authority FTA Drug & Alcohol Testing Policy

- 1) The operation of a revenue service vehicle even when the vehicle is not in revenue service.
- 2) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL).
- 3) Controlling dispatch or movement of a revenue service vehicle;
- 4) Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service.
- 5) Controlling the movement of a revenue service vehicle and
- 6) Carrying a firearm for security purposes.

Split Specimen Collection: A collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed marriage and family therapist, or drug and alcohol counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse (ICRC) or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC)) who evaluates employees who have violated DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

Substituted specimen: A employee's specimen not consistent with a normal human specimen, as determined by HHS (e.g., a urine specimen with creatinine and specific gravity values that are so diminished, or so divergent that they are not consistent with normal human urine.

Test Refusal: The following are considered a refusal to test if the covered employee:

- 1) Fail to appear for any test (excluding pre-employment) within a reasonable time, as determined by the LTA, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a C/TPA;
- 2) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test. The collector, BAT, or STT is not required to inform an employee that the failure to remain at the collection site is a refusal. If an employee leaves prior to the completion of the testing process, per Part 40 the employer must decide whether the employee's actions constitute a refusal; Fail to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test. The collector, BAT, or STT is not required to inform an employee that the failure to remain at the collection site is a refusal. If an employee leaves prior to the completion of the testing process, per Part 40 the employer must decide whether the employee's actions constitute a refusal;
- 3) In the case of a directly observed or monitored urine collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen.
- 4) Fail to provide a sufficient amount of specimen when directed, and it has been determined, through

San Benito Local Transportation Authority FTA Drug & Alcohol Testing Policy

a required medical evaluation, that there was no adequate medical explanation for the failure.

- 5) Fails or declines to take a second test the LTA or collector has directed you to take.
- 6) Fail to undergo a medical examination or evaluation, as directed by the MRO or as directed by the LTA's Designated Employer Representative (DER) as **part** of the "shy bladder" or "shy lung" procedures outlined in Part 40. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test;
- 7) Fail to cooperate with any **part** of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector, fail to remove objects from mouth, fail to permit inspection of the oral cavity, or fail to complete a rinse when requested);
- 8) If the MRO reports that there is verified adulterated or substituted test result
- 9) Failure or refusal to sign Step 2 of the Alcohol Testing Form (ATF)
- 10) Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- 11) Possess or wear a prosthetic or other device that could be used to interfere with the collection process
- 12) Admit to the collector or MRO that you adulterated or substituted the specimen.
- 13) Fails to remain readily available following an accident
- 14) As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.
- 15) As a covered employee, if you refuse to take a drug and/or alcohol test, you incur the consequences specified under DOT agency regulations for a violation of those DOT agency regulations. The consequences specified under DOT agency regulations for a refusal cannot be overturned or set aside by an arbitration, grievance, State court or other non-Federal forum that adjudicates the personnel decisions the employer has taken against the employee; As an employee, when you refuse to take a non-DOT test or to sign a non-DOT form, you have not refused to take a DOT test. There are no consequences under DOT agency regulations for refusing to take a non-DOT test.

Verified negative test: A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

Verified positive test: A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

Validity testing: The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were

added to the urine, if the urine was diluted, or if the specimen was substituted.

D. EDUCATION AND TRAINING

- 1) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.
- 2) All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

E. PROHIBITED SUBSTANCES

- 1) Prohibited substances addressed by this policy include the following.

- a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines (including methamphetamine and ecstasy), opiates (including heroin), phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, which cause drug or drug metabolites to be present in the body is a violation of this policy.

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA Authority be tested for marijuana, cocaine, amphetamines (including methamphetamine and ecstasy), opiates (including heroin), and phencyclidine as described in Section H of this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

- c. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a LTA supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.
 - d. Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited. A random or reasonable suspicion alcohol test can only be performed on a covered employee under 49 CFR Part 655 just before, during, or just after the performance of safety-sensitive job functions. Under LTA authority, a non-DOT alcohol test can be performed any time a covered employee is on

F. PROHIBITED CONDUCT

- 1) All covered employees are prohibited from using prohibited drugs at all times, and from reporting for duty or remaining on duty while having used prohibited drugs, as defined in 49 CFR Part 655.
- 2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline.
- 3) The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.
- 4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.
- 5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
- 6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- 7) LTA under its own authority also prohibits the consumption of alcohol at all times when employee is on duty, or anytime the employee is in uniform.
- 8) Consistent with the Drug-free Workplace Act of 1988, all LTA employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including transit system premises and transit vehicles.

G. DRUG STATUTE CONVICTION

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the LTA management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section Q.10 of this policy.

H. TESTING REQUIREMENTS

- 1) Analytical drug testing and breath testing for alcohol will be conducted using the testing methodologies and cutoff values defined in 49 CFR Part, 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in Section K, L, M, and N of this policy, and return to duty/follow-up.
- 2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion and random alcohol test can be performed just before, during, or after the performance of a safety-sensitive job function. Under LTA authority, a non-DOT alcohol test can be performed any time an employee is on duty.

- 3) All covered safety-sensitive employees will be subject to drug testing and breath alcohol testing as a condition of ongoing employment with LTA. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section Q of this policy.

I. DRUG TESTING PROCEDURES

- 1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.
- 2) Drug testing will be conducted for substances required under 49 CFR Part 40, including marijuana metabolites, cocaine metabolites, opioids, amphetamines (including methamphetamine and ecstasy), and phencyclidine (PCP). After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas test using a method authorized under 49 CFR Part 40 will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the test are above the minimum cutoff concentrations established in 49 CFR Part 40, as amended.
- 3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to the LTA Drug and Alcohol Program Manager (DAPM). If a legitimate explanation is found, the MRO will report the test result as negative to the DAPM.
- 4) If the MRO determines that a recollection is required following an invalid result, the recollection will be conducted under direct observation in accordance with 49 CFR Part 40. Employees do not have access to a test of their split specimen following an invalid result.
- 5) Any covered employee who questions the results of a required drug test under paragraphs L through P of this policy may request that the split specimen be tested at a second laboratory. The split specimen test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split specimen will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split specimen test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if

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the delay was due to documentable facts that were beyond the control of the employee. LTA will ensure that the cost for the split specimen are covered in order for a timely analysis of the sample, however LTA will seek reimbursement for the split sample test from the employee.

- 6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled. If the split specimen is not available to analyze the MRO will direct LTA to retest the employee under direct observation.
- 7) The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded in accordance with 49 CFR Part 40. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year. If the primary is positive, the primary and the split will be retained for longer than one year for testing if so requested by the employee through the Medical Review Officer, or by the employer, by the MRO, or by the relevant DOT agency.
- 8) Observed collections
 - a. Consistent with 49 CFR part 40, as amended, collection under direct observation with no advance notice will occur if:
 - i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to LTA that there was not an adequate medical explanation for the result;
 - ii. The MRO reports to LTA that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
 - iii. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to you as negative-dilute and that a second collection must take place immediately, under direct observation as required by 49 CFR Part 40.
 - iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
 - v. The temperature on the original specimen was out of range;
 - vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.
 - vii. All follow-up-tests; or
 - viii. All return-to-duty tests.

J. ALCOHOL TESTING PROCEDURES

- 1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). Alcohol screening tests may be performed using an Alcohol Screening Device which is also approved by NHTSA. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with the DOT alcohol testing form (ATF) required by 49 CFR Part 40, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.
- 2) An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section Q of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or until the start of the employee's next regularly scheduled duty period, whichever occurs first. The employee will be subject to the consequences described in Section Q of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
- 3) LTA affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If testing procedures are determined to be inconsistent with 49 CFR Part 40 such that the validity of the test is affected, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
- 4) The ATF required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure to sign the required certification on the ATF (Step 2) will be considered a refusal to submit to testing under 49 CFR Part 40.

K. PRE-EMPLOYMENT TESTING

- 1) All applicants for covered transit positions shall undergo pre-employment drug testing in accordance with 49 CFR Parts 655 and 40 prior to performance of a safety-sensitive function.
 - a. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results. All pre-employment alcohol tests will be conducted using the procedures set forth in 49 CFR Part 40.
 - b. An employee shall not be placed, transferred or promoted into a safety-sensitive position covered under FTA or company authority until the employee takes a drug test with verified negative results.
 - c. An alcohol test result of less than 0.02 is required before an employee can first perform

- d. If a pre-employment alcohol test is cancelled, the individual will be required to undergo another test with a result of less than 0.02 before performing safety-sensitive functions.
- e. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be referred to a SAP. Failure of a pre-employment drug test will disqualify an applicant for employment to a safety-sensitive position covered by FTA for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of Subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
- f. When an employee being placed, transferred, or promoted from a non-covered position to a safety-sensitive position covered under FTA or company authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with Section Q herein.
- g. If a pre-employment test is canceled, LTA will require the applicant to take and pass another pre-employment drug test.
- h. In instances where a FTA covered employee does not perform a safety-sensitive function for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.
- i. Following a negative dilute the employee will be required to undergo another test in accordance with 49 CFR Part 40. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO. Applicants are required (even if ultimately not hired) to provide LTA with signed written releases requesting FTA drug and alcohol records from all previous, DOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. LTA is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a DOT-covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a DOT-covered employer, the applicant must provide LTA proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of Subpart G.

L. REASONABLE SUSPICION TESTING

- 1) All LTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under LTA's authority, a non-DOT reasonable suspicion alcohol test may be performed any

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time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.

- 2) LTA shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee suspected to have used a prohibited drug and/or engaged in alcohol misuse shall be placed on administrative leave pending disciplinary action described in Section Q of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in Section Q of this policy.
- 3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the LTA.
- 4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with Section Q of this policy. LTA shall place the employee on administrative leave in accordance with the provisions set forth under Section Q of this policy. Testing in this circumstance would be performed under the direct authority of the LTA. Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority. However, self-referral does not exempt the covered employee from testing under Federal authority as specified in Sections L through N of this policy or the associated consequences as specified in Section Q.

M. POST-ACCIDENT TESTING

Covered employees shall be subject to post-accident drug and alcohol testing under the following circumstances:

- 1) FATAL ACCIDENTS – As soon as practicable, all employees covered under FTA authority will be required to undergo drug and alcohol testing if they are involved in an accident with a transit revenue service vehicle, regardless of whether or not the vehicle is in revenue service, that results in a fatality. This includes all surviving covered employees that were operating the vehicle at the time of the accident and any other covered employee whose performance could have contributed to the accident, as determined by the LTA using the best information available at the time of the decision. Testing will be conducted in accordance with 49 CFR Parts 655 and 40.
- 2) NON-FATAL ACCIDENTS – As soon as practicable following an accident not involving the loss of a human life, drug and alcohol test will be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:
 - a. The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident
 - b. One or more vehicles incurs disabling damage and must be towed away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident
 - c. The vehicle is a rail car, trolley car or bus, or vessel, and is removed from operation, unless

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the covered employee can be completely discounted as a contributing factor to the accident

- d. In addition, any other covered employee whose performance could have contributed to the accident, as determined by the LTA using the best information available at the time of the decision, will be tested
- e. The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.
- f. Any covered employee required to take a post-accident test are prohibited from consuming alcohol for eight (8) hours following involvement in an accident, or until he or she submits to the post-accident drug and alcohol test, whichever occurs first.
- g. An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.
- h. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an 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.
- i. In the rare event that LTA is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), LTA may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

N. RANDOM TESTING

- 1) All covered employees will be subjected to random, unannounced and unpredictable testing. Employees covered under FTA authority will be selected from a pool of DOT-covered safety-sensitive employees. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of employees, such as a random number table or computer-based random number generator.
- 2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- 3) The number of employees randomly selected for drug/alcohol testing during the calendar year meet or exceed the minimum annual percentage rate established each year by the FTA administrator. The current year testing rates can be viewed online at www.transportation.gov/odapc/random-testing-rates.
- 4) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been

previously tested. There is no discretion on the part of management in the selection.

- 5) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from any testing pool of non-safety sensitive employees that are included solely under LTA authority.
- 6) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can be performed just before, during, or just after the performance of a safety sensitive duty. However, under LTA's authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- 7) Employees are required to proceed immediately to the collection site upon notification of their random selection.

O. RETURN-TO-DUTY TESTING

All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. For an initial positive drug test a Return-to-Duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test a Return-to-Duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undo concerns for public safety. Any return-to-duty drug testing will be directly observed. All tests will be conducted in accordance with 49 CFR Part 40, Subpart O.

P. FOLLOW-UP TESTING

Covered employees will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty. The follow-up testing will be performed for a period of one (1) to five (5) years with a minimum of six (6) tests to be performed the first year. The type (drug and/or alcohol), number, frequency, and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. The duration of testing will be extended to account for any subsequent leaves of absence, as necessary. Follow-up testing should be frequent enough to deter and/or detect a relapse.

A covered employee may only be subject to follow-up alcohol testing while 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 such functions. A covered employee may be subject to follow-up drug testing anytime while on duty. All follow-up drug tests will be directly observed. All testing will be conducted in accordance with 49 CFR Part 40, Subpart O.

Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing. In the instance of a self-referral of a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations will be conducted under company authority and will be performed using non-DOT testing forms.

Q. RESULT OF DRUG/ALCOHOL TEST

- 1) Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available and referred to a Substance Abuse Professional (SAP) for assessment. No employee will be allowed to return to duty requiring the performance of safety-sensitive job functions without the approval of the SAP and the employer.
- 2) Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- 3) Refusal to submit to a drug/alcohol test shall be considered a positive test result and a direct act of insubordination and shall result in termination and referral to an SAP. A test refusal includes the following circumstances:
 - a. Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer
 - b. Fails to remain at the testing site until the testing process is complete
 - c. Fails to provide a urine or breath specimen for any drug or alcohol test required by 49 CFR Part 40 or DOT agency regulations
 - d. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen
 - e. Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
 - f. Fails or declines to take a second test the employer or collector has directed you to take
 - g. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures
 - h. Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)
 - i. If the MRO reports that there is verified adulterated or substituted test result
 - j. Failure or refusal to sign Step 2 of the alcohol testing form
 - k. Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
 - l. Possess or wear a prosthetic or other device that could be used to interfere with the collection process

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- m. Admit to the collector or MRO that you adulterated or substituted the specimen
- 4) For the first instance of a verified positive test from a sample submitted as the result of a random drug/alcohol test (0.04 BAC) or test refusal, the employee will be immediately removed from safety-sensitive duty. Disciplinary action against the employee shall include:
- a. Mandatory referral to Substance Abuse Professional for assessment, formulation of a treatment plan, and execution of a return to work agreement;
 - b. Failure to execute or remain compliant with the return-to-work agreement shall result in termination from LTA employment.
 - i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; in the judgment of the SAP the employee is cooperating with his/her SAP recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as defined in Section P of this policy.
 - c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination.
 - d. A periodic unannounced follow-up drug/alcohol test which results in a verified positive test shall result in termination from LTA employment.
- 5) The second instance of a verified positive drug or alcohol (0.04 BAC) test result including a sample submitted under the random, reasonable suspicion, return-to-duty, or follow-up drug/alcohol test provisions herein shall result in termination from LTA employment.
- 6) A verified positive post-accident, or reasonable suspicion drug and/or alcohol (0.04) test shall result in termination.
- 7) An alcohol test result of 0.02 to 0.039 BAC shall result in the immediate removal of the employee from safety-sensitive duties for eight hours or the remainder of the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to an alcohol test with a result of less than 0.02 BAC. If the employee has an alcohol test result of 0.02 to 0.039 two or more times within a six-month period, the employee will be removed from duty and referred for assessment and treatment consistent with Section Q. of this policy.
- 8) The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider. The employee will be permitted to take accrued sick leave or administrative leave to participate in the prescribed treatment program. If the employee has insufficient accrued leave, the employee shall be placed on leave without pay until the employee has successfully completed the required treatment program and has been released to return-to-duty. Any leave taken, either paid or unpaid, shall be considered leave taken under the Family and Medical Leave Act.
- 9) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:
- a. Mandatory referral for an assessment by an employer approved counseling professional, formulation of a treatment plan, and execution of a return to work agreement;
 - b. Failure to execute, or remain compliant with the return-to-work agreement shall result in

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termination from LTA employment.

- i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as defined in Section P of this policy.
- c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. All tests conducted as part of the return to work agreement will be conducted under company authority and will be performed using non-DOT testing forms.
- d. A self-referral or management referral to the employer's approved counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in Section Q. of this policy.
- e. Periodic unannounced follow-up drug/alcohol test conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in Section Q. of this policy.
- f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with LTA.
- g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.

- 10) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

R. GRIEVANCE AND APPEAL

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

S. PROPER APPLICATION

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

T. INFORMATION DISCLOSURE

- 1) Drug/alcohol testing records shall be maintained by the LTA Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.
- 2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered

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employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.

- 3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need to know basis.
- 4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- 5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.
- 6) Records will be released to the National Transportation Safety Board during an accident investigation.
- 7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
- 8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- 9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over LTA or the employee.
- 10) If a party seeks a court order to release a specimen or **part** of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken
- 11) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

Attachment A

Job Title	Job Duties	Testing Authority
Supervising Mechanic	Under general direction, to supervise the daily operations of the shop and to perform a variety of skilled inspection, diagnosis, maintenance, servicing, and repair work on gas, natural gas, and diesel power driven equipment; and to do related work as required.	DOT LTA
Heavy Mechanic I	Under general direction, to perform a variety of skilled inspection, diagnosis, maintenance, servicing, and repair work on gas, natural gas, and diesel power driven equipment; and to do related work as required.	DOT LTA
Heavy Mechanic II	Under general supervision, to perform skilled work in repairing, overhauling and maintaining diesel and gasoline-powered automotive, road construction and maintenance equipment; and to do related work as required.	DOT LTA
Heavy Mechanic III	Under general supervision, to skillfully perform a variety of inspection, diagnosis, maintenance, servicing, and repair work on gas, propane, and diesel power driven equipment; and to do related work as required.	DOT LTA
Heavy Mechanic Assistant	Under supervision, to inspect, lubricate and service gasoline and diesel powered heavy-duty trucks and equipment and automobiles; and to assist journey level mechanics by performing sub-journey level repair duties.	DOT LTA

Attachment B

Contacts

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

LTA Drug and Alcohol Program Manager

Company: San Benito County Local Transportation Authority
Contact Person: Binu Abraham
Address: 650 San Benito Street, Suite 120, Hollister, CA 95023
Telephone Number (831) 637-7665

Medical Review Officer

Company: Medical Express Corp
Contact Person: Dr. Donald Freedman
Address: 4237 Salisbury Road Suite 304, Jacksonville, FL 32216
Telephone Number (904) 332-0427

Substance Abuse Professional

Company: CADC Services
Contact Person: Peter Cusimano
Address: 999 W Taylor Street, San Jose, CA 95126
Telephone Number (650) 669-1578

HHS Certified Laboratory Primary Specimen

Company: LabOne, Inc. d/b/a Quest Diagnostics
Address: 10101 Renner Boulevard, Lenexa, KS 62219
Telephone Number (913) 888-3927

HHS Certified Laboratory Split Specimen

Company: Pharmatech, Inc.
Address: 15175 Innovation Drive, San Diego, CA 92128
Telephone Number (858) 643-5555

SAN BENITO COUNTY LOCAL TRANSPORTATION AUTHORITY

DRUG AND ALCOHOL TESTING POLICY

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SAN BENITO COUNTY LOCAL TRANSPORTATION AUTHORITY DRUG AND ALCOHOL TESTING POLICY

A. PURPOSE

- 1) The San Benito County Local Transportation Authority (LTA) provides public transit and paratransit services for the residents and visitors of San Benito County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, LTA declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees. Any employee who is convicted of any criminal drug statute for a violation occurring in the workplace shall notify the LTA Executive Director or Drug and Alcohol Program Manager in writing no later than five days after such conviction.
- 2) This policy complies with 49 CFR Part 655, as amended and 49 CFR Part 40, as amended. Copies of Parts 655 and 40 are available in the drug and alcohol program manager's office and can be found on the internet at the Federal Transit Administration (FTA) Drug and Alcohol Program website <http://transit-safety.fta.dot.gov/DrugAndAlcohol/>.
- 3) In addition, the Department of Transportation (DOT) published 49 CFR Part 32, implementing the Drug-Free Workplace Act (DFWA) of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA. The purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the DFWA, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the FTA, of the DOT, has published 49 CFR Part 655, as amended, that mandates drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result. The DOT has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.
- 4) All covered employees are required to submit drug and alcohol tests as a condition of employment in accordance with 49 CFR Part 655. Employees must abide by the terms of this policy as a condition of employment.
- 5) Any provisions set forth in this policy that are included under the sole authority of LTA and are not provided under the authority of the above named Federal regulations are underlined. Tests conducted under the sole authority of LTA will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

B. APPLICABILITY

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This Drug and Alcohol Testing Policy applies to all employees (full- or part-time), applicants, or transferees, who perform or will perform a “safety-sensitive function” as defined in Part 655, section 655.4. See Attachment A for a list of employees and the authority under which they are included.

A safety-sensitive function is operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, dispatchers or person controlling the movement of revenue service vehicles and any transit employee who operates a vehicle that requires a Commercial Drivers License. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions who perform one or more of the above mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for service in excess of actual expense.

C. DEFINITIONS

Accident: An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result:

- a. An individual dies;
- b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- c. One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn or windshield wipers that makes them inoperative.

Adulterated specimen: A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

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

Alcohol Concentration: The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.

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Alcohol screening device (ASD): A breath or saliva device, other than an EBT that is approved by the National Highway Traffic Safety Administration (NHTSA) and appears on ODAPC's web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids" because it conforms to the model specifications from NHTSA.

Alcohol screening test: An analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

Alcohol testing site: A place selected by the employer where employees present themselves for the purpose of providing breath or saliva for an alcohol test.

Alcohol use: The drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

Aliquot: A fractional part of a specimen used for testing. It is taken as a sample representing the whole specimen.

Breath Alcohol Technician (BAT): A person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device.

Cancelled Test: A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which this part otherwise requires to be canceled. A canceled test is neither positive nor negative.

Collector: A person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees, and who initiates and completes the CCF.

Confirmatory Drug Test: A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

Confirmatory Validity Test: A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

Cutoff: The analytical value (e.g., drug or drug metabolite concentration) used as the decision point to determine a result (e.g., negative, positive, adulterated, invalid, or substituted) or the need for further testing.

Covered Employee Under FTA Authority: An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

Designated Employer Representative (DER): An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation

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processes. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655. Service agents cannot act as DERs.

Dilute specimen: A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

Disabling damage: Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

DOT, The Department, DOT agency: These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of this part, the United States Coast Guard (USCG) in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes only since the USCG regulation does not incorporate Part 40 for its alcohol testing program. These terms include any designee of a DOT agency.

Drugs: The drugs for which test are required under this part and DOT agency regulations are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids.

Evidential Breath Testing Device (EBT): A device that is approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentration and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

HHS: The Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.

Initial Drug Test (Screening Drug Test): The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Initial Specimen Validity Test: The first test used to determine if a specimen is adulterated, diluted, substituted, or invalid

Invalid Result: The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

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Laboratory: Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting standards set by HHS; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

Limit of Detection (LOD): The lowest concentration at which the analyte can be identified.

Limit of Quantitation (LOQ): For quantitative assays, the lowest concentration at which the identity and concentration of the analyte (e.g., drug or drug metabolite) can be accurately established.

Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

Negative result: The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

Non-negative specimen: A specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), and/or invalid.

Oxidizing Adulterant: A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites, or affects the reagents in either the initial or confirmatory drug test.

Performing (a safety-sensitive function): A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

Positive result: The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

Reconfirmed: The result reported for a split (Bottle B) specimen when the second HHS-certified laboratory is able to corroborate the original result reported for the primary (Bottle A) specimen.

Rejected for Testing: The result reported by an HHS- Certified laboratory when no tests are performed for a specimen because of a fatal flaw or a correctable flaw that has not been corrected.

Revenue Service Vehicles: All transit vehicles that are used for passenger transportation service.

Safety-sensitive functions: means any of the following duties, when performed by employees of recipients, subrecipients, operators, or contractors:

- (1) The operation of a revenue service vehicle even when the vehicle is not in revenue service.

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- (2) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL).
- (3) Controlling dispatch or movement of a revenue service vehicle;
- (4) Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service.
- (5) Controlling the movement of a revenue service vehicle and
- (6) Carrying a firearm for security purposes.

Split Specimen Collection: A collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed marriage and family therapist, or drug and alcohol counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse (ICRC) or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC)) who evaluates employees who have violated DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

Substituted specimen: A employee's specimen not consistent with a normal human specimen, as determined by HHS (e.g., a urine specimen with creatinine and specific gravity values that are so diminished, or so divergent that they are not consistent with normal human urine).

Test Refusal: The following are considered a refusal to test if the covered employee:

- (1) Fail to appear for any test (excluding pre-employment) within a reasonable time, as determined by the LTA, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a C/TPA;
- (2) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test. The collector, BAT, or STT is not required to inform an employee that the failure to remain at the collection site is a refusal. If an employee leaves prior to the completion of the testing process, per Part 40 the employer must decide whether the employee's actions constitute a refusal; Fail to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test. The collector, BAT, or STT is not required to inform an employee that the failure to remain at the collection site is a refusal. If an employee leaves prior to the completion of the testing process, per

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Part 40 the employer must decide whether the employee's actions constitute a refusal;

- (3) In the case of a directly observed or monitored urine collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen.
- (4) Fail to provide a sufficient amount of specimen when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
- (5) Fails or declines to take a second test the LTA or collector has directed you to take.
- (6) Fail to undergo a medical examination or evaluation, as directed by the MRO or as directed by the LTA's Designated Employer Representative (DER) as part of the "shy bladder" or "shy lung" procedures outlined in Part 40. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test;
- (7) Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector, fail to remove objects from mouth, fail to permit inspection of the oral cavity, or fail to complete a rinse when requested);
- (8) If the MRO reports that there is verified adulterated or substituted test result
- (9) Failure or refusal to sign Step 2 of the Alcohol Testing Form (ATF)
- (10) Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- (11) Possess or wear a prosthetic or other device that could be used to interfere with the collection process
- (12) Admit to the collector or MRO that you adulterated or substituted the specimen.
- (13) Fails to remain readily available following an accident
- (14) As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

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- (15) As a covered employee, if you refuse to take a drug and/or alcohol test, you incur the consequences specified under DOT agency regulations for a violation of those DOT agency regulations. The consequences specified under DOT agency regulations for a refusal cannot be overturned or set aside by an arbitration, grievance, State court or other non-Federal forum that adjudicates the personnel decisions the employer has taken against the employee; As an employee, when you refuse to take a non-DOT test or to sign a non-DOT form, you have not refused to take a DOT test. There are no consequences under DOT agency regulations for refusing to take a non-DOT test.

Verified negative test: A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

Verified positive test: A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

Validity testing: The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

D. EDUCATION AND TRAINING

- 1) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.
- 2) All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

E. PROHIBITED SUBSTANCES

- 1) Prohibited substances addressed by this policy include the following.
 - a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of

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the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines (including methamphetamine and ecstasy), opiates (including heroin), phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, which cause drug or drug metabolites to be present in the body is a violation of this policy

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA Authority be tested for marijuana, cocaine, amphetamines (including methamphetamine and ecstasy), opiates (including heroin), and phencyclidine as described in Section H of this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

- b. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a LTA supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.
- c. Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited. A random or reasonable suspicion alcohol test can only be performed on a covered employee under 49 CFR Part 655 just before, during, or just after the performance of safety-sensitive job functions. Under LTA authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.

F. PROHIBITED CONDUCT

- 1) All covered employees are prohibited from using prohibited drugs at all times, and from reporting for duty or remaining on duty while having used prohibited drugs, as defined in 49 CFR Part 655.
- 2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline.

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- 3) The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.
- 4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.
- 5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
- 6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- 7) LTA under its own authority also prohibits the consumption of alcohol at all times when employee is on duty, or anytime the employee is in uniform.
- 8) Consistent with the Drug-free Workplace Act of 1988, all LTA employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including transit system premises and transit vehicles.

G. DRUG STATUTE CONVICTION

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the LTA management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section Q.10 of this policy.

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H. TESTING REQUIREMENTS

- 1) Analytical drug testing and breath testing for alcohol will be conducted using the testing methodologies and cutoff values defined in 49 CFR Part, 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in Section K, L, M, and N of this policy, and return to duty/follow-up.
- 2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion and random alcohol test can be performed just before, during, or after the performance of a safety-sensitive job function. Under LTA authority, a non-DOT alcohol test can be performed any time an employee is on duty.
- 3) All covered safety-sensitive employees will be subject to drug testing and breath alcohol testing as a condition of ongoing employment with LTA. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section Q of this policy.

I. DRUG TESTING PROCEDURES

- 1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.
- 2) Drug testing will be conducted for substances required under 49 CFR Part 40, including marijuana metabolites, cocaine metabolites, opioids, amphetamines (including methamphetamine and ecstasy), and phencyclidine (PCP). After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas test using a method authorized under 49 CFR Part 40 will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the test are above the minimum cutoff concentrations established in 49 CFR Part 40, as amended.
- 3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to

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ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to the LTA Drug and Alcohol Program Manager (DAPM). If a legitimate explanation is found, the MRO will report the test result as negative to the DAPM.

- 4) If the MRO determines that a recollection is required following an invalid result, the recollection will be conducted under direct observation in accordance with 49 CFR Part 40.. Employees do not have access to a test of their split specimen following an invalid result.
- 5) Any covered employee who questions the results of a required drug test under paragraphs L through P of this policy may request that the split specimen be tested at a second laboratory. The split specimen test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split specimen will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split specimen test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. LTA will ensure that the cost for the split specimen are covered in order for a timely analysis of the sample, however LTA will seek reimbursement for the split sample test from the employee.
- 6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled. If the split specimen is not available to analyze the MRO will direct LTA to retest the employee under direct observation.
- 7) The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded in accordance with 49 CFR Part 40. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year. If the primary is positive, the primary and the split will be retained for longer than one year for testing if so requested by the employee through the Medical Review Officer, or by the employer, by the MRO, or by the relevant DOT agency.

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8) Observed collections

- a. Consistent with 49 CFR part 40, as amended, collection under direct observation (by ~~a person of the same gender of the employee~~) with no advance notice will occur if:
 - i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to LTA that there was not an adequate medical explanation for the result;
 - ii. The MRO reports to LTA that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
 - iii. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to you as negative-dilute and that a second collection must take place immediately, under direct observation as required by 49 CFR Part 40.
 - iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
 - v. The temperature on the original specimen was out of range;
 - vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.
 - vii. All follow-up-tests; or
 - viii. All return-to-duty tests.

J. ALCOHOL TESTING PROCEDURES

- 1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). Alcohol screening tests may be performed using an Alcohol Screening Device which is also approved by NHTSA. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with the DOT alcohol testing form (ATF) required by 49 CFR Part 40, will be used to document the test, the subsequent results, and to attribute the

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test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

- 2) An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section Q of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or until the start of the employee's next regularly scheduled duty period, whichever occurs first. The employee will be subject to the consequences described in Section Q of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
- 3) LTA affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If testing procedures are determined to be inconsistent with 49 CFR Part 40 such that the validity of the test is affected, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
- 4) The ATF required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure to sign the required certification on the ATF (Step 2) will be considered a refusal to submit to testing under 49 CFR Part 40.

K. PRE-EMPLOYMENT TESTING

- 1) All applicants for covered transit positions shall undergo pre-employment drug testing in accordance with 49 CFR Parts 655 and 40 prior to performance of a safety-sensitive function.
 - a. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results. All pre-employment alcohol tests will be conducted using the procedures set forth in 49 CFR Part 40
 - b. An employee shall not be placed, transferred or promoted into a safety-sensitive position covered under FTA or company authority until the employee takes a drug test with verified negative results.
 - c. An alcohol test result of less than 0.02 is required before an employee can first perform safety-sensitive functions.

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- d. If a pre-employment alcohol test is cancelled, the individual will be required to undergo another test with a result of less than 0.02 before performing safety-sensitive functions.
- e. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be referred to a SAP. Failure of a pre-employment drug test will disqualify an applicant for employment to a safety-sensitive position covered by FTA for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
- f. When an employee being placed, transferred, or promoted from a non-covered position to a safety-sensitive position covered under FTA or company authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with Section Q herein.
- g. If a pre-employment test is canceled, LTA will require the applicant to take and pass another pre-employment drug test.
- h. In instances where a FTA covered employee does not perform a safety-sensitive function for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.
- i. Following a negative dilute the employee will be required to undergo another test in accordance with 49 CFR Part 40. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO. Applicants are required (even if ultimately not hired) to provide LTA with signed written releases requesting FTA drug and alcohol records from all previous, DOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. LTA is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a DOT-covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a DOT-covered employer, the applicant must provide LTA proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

L. REASONABLE SUSPICION TESTING

- 1) All LTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has

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used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under LTA's authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.

- 2) LTA shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee suspected to have used a prohibited drug and/or engaged in alcohol misuse shall be placed on administrative leave pending disciplinary action described in Section Q of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in Section Q of this policy.
- 3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the LTA.
- 4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with Section Q of this policy. LTA shall place the employee on administrative leave in accordance with the provisions set forth under Section Q of this policy. Testing in this circumstance would be performed under the direct authority of the LTA. Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority. However, self-referral does not exempt the covered employee from testing under Federal authority as specified in Sections L through N of this policy or the associated consequences as specified in Section Q.

M. POST-ACCIDENT TESTING

Covered employees shall be subject to post-accident drug and alcohol testing under the following circumstances:

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- 1) **FATAL ACCIDENTS** – As soon as practicable, all employees covered under FTA authority will be required to undergo drug and alcohol testing if they are involved in an accident with a transit revenue service vehicle, regardless of whether or not the vehicle is in revenue service, that results in a fatality. This includes all surviving covered employees that were operating the vehicle at the time of the accident and any other covered employee whose performance could have contributed to the accident, as determined by the LTA using the best information available at the time of the decision. Testing will be conducted in accordance with 49 CFR Parts 655 and 40.
- 2) **NON-FATAL ACCIDENTS** – As soon as practicable following an accident not involving the loss of a human life, drug and alcohol test will be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:
 - a. The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident
 - b. One or more vehicles incurs disabling damage and must be towed away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident
 - c. The vehicle is a rail car, trolley car or bus, or vessel, and is removed from operation, unless the covered employee can be completely discounted as a contributing factor to the accident
 - d. In addition, any other covered employee whose performance could have contributed to the accident, as determined by the LTA using the best information available at the time of the decision, will be tested
 - e. The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.
 - f. Any covered employee required to take a post-accident test are prohibited from consuming alcohol for eight (8) hours following involvement in an accident, or until he or she submits to the post-accident drug and alcohol test, whichever occurs first.
 - g. An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.
 - h. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an 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.
 - i. In the rare event that LTA is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), LTA

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may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

N. RANDOM TESTING

- 1) All covered employees will be subjected to random, unannounced and unpredictable testing. Employees covered under FTA authority will be selected from a pool of DOT-covered safety-sensitive employees. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of employees, such as a random number table or computer-based random number generator.
- 2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- 3) The number of employees randomly selected for drug/alcohol testing during the calendar year meet or exceed the minimum annual percentage rate established each year by the FTA administrator. The current year testing rates can be viewed online at www.transportation.gov/odapc/random-testing-rates.
- 4) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- 5) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from any testing pool of non-safety sensitive employees that are included solely under LTA authority.
- 6) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can be performed just before, during, or just after the performance of a safety sensitive duty. However, under LTA's authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- 7) Employees are required to proceed immediately to the collection site upon notification of their random selection.

O. RETURN-TO-DUTY TESTING

All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. For an initial positive drug

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test a Return-to-Duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test a Return-to-Duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undo concerns for public safety. Any return-to-duty drug testing will be directly observed. All tests will be conducted in accordance with 49 CFR Part 40, Subpart O.

P. FOLLOW-UP TESTING

Covered employees will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty. The follow-up testing will be performed for a period of one (1) to five (5) years with a minimum of six (6) tests to be performed the first year. The type (drug and/or alcohol), number, frequency, and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. The duration of testing will be extended to account for any subsequent leaves of absence, as necessary. Follow-up testing should be frequent enough to deter and/or detect a relapse.

A covered employee may only be subject to follow-up alcohol testing while 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 such functions. A covered employee may be subject to follow-up drug testing anytime while on duty. All follow-up drug tests will be directly observed. All testing will be conducted in accordance with 49 CFR Part 40, Subpart O.

Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing. In the instance of a self-referral of a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations will be conducted under company authority and will be performed using non-DOT testing forms.

Q. RESULT OF DRUG/ALCOHOL TEST

- 1) Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available and referred to a Substance Abuse Professional (SAP) for assessment. No employee will be allowed to return to duty requiring the performance of safety-sensitive job functions without the approval of the SAP and the employer.
- 2) Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.

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3) Refusal to submit to a drug/alcohol test shall be considered a positive test result and a direct act of insubordination and shall result in termination and referral to an SAP. A test refusal includes the following circumstances:

- a. Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer
- b. Fails to remain at the testing site until the testing process is complete
- c. Fails to provide a urine or breath specimen for any drug or alcohol test required by 49 CFR Part 40 or DOT agency regulations
- d. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen
- e. Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
- f. Fails or declines to take a second test the employer or collector has directed you to take
- g. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures
- h. Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)
- i. If the MRO reports that there is verified adulterated or substituted test result
- j. Failure or refusal to sign Step 2 of the alcohol testing form
- k. Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- l. Possess or wear a prosthetic or other device that could be used to interfere with the collection process
- m. Admit to the collector or MRO that you adulterated or substituted the specimen

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- 4) For the first instance of a verified positive test from a sample submitted as the result of a random drug/alcohol test (≥ 0.04 BAC) or test refusal, the employee will be immediately removed from safety-sensitive duty. Disciplinary action against the employee shall include:
- n. Mandatory referral to Substance Abuse Professional for assessment, formulation of a treatment plan, and execution of a return to work agreement;
 - o. Failure to execute or remain compliant with the return-to-work agreement shall result in termination from LTA employment.
 - i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; in the judgment of the SAP the employee is cooperating with his/her SAP recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as defined in Section P of this policy.
 - p. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination.
 - q. A periodic unannounced follow-up drug/alcohol test which results in a verified positive test shall result in termination from LTA employment.
- 5) The second instance of a verified positive drug or alcohol (≥ 0.04 BAC) test result including a sample submitted under the random, reasonable suspicion, return-to-duty, or follow-up drug/alcohol test provisions herein shall result in termination from LTA employment.
- 6) A verified positive post-accident, or reasonable suspicion drug and/or alcohol (≥ 0.04) test shall result in termination.
- 7) An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC shall result in the immediate removal of the employee from safety-sensitive duties for eight hours or the remainder of the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to an alcohol test with a result of less than 0.02 BAC. If the employee has an alcohol test result of ≥ 0.02 to ≤ 0.039 two or more times within a six-month period, the employee will be removed from duty and referred for assessment and treatment consistent with Section Q. of this policy.
- 8) The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider. The employee will be permitted to take accrued sick leave or administrative leave to participate in the prescribed treatment program. If the employee has insufficient accrued leave, the employee shall be placed on leave without pay until the employee has successfully completed the required treatment program and has been released to return-to-duty. Any leave taken, either paid or unpaid, shall be considered leave taken under the Family and Medical Leave Act.

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- 9) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:
- r. Mandatory referral for an assessment by an employer approved counseling professional, formulation of a treatment plan, and execution of a return to work agreement;
 - s. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from LTA employment.
 - i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as defined in Section P of this policy.
 - t. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. All tests conducted as part of the return to work agreement will be conducted under company authority and will be performed using non-DOT testing forms.
 - u. A self-referral or management referral to the employer's approved counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in Section Q. of this policy.
 - v. Periodic unannounced follow-up drug/alcohol test conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in Section Q. of this policy.
 - w. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with LTA.
 - x. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.
- 10) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

R. GRIEVANCE AND APPEAL

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

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S. PROPER APPLICATION OF THE POLICY

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

T. INFORMATION DISCLOSURE

- 1) Drug/alcohol testing records shall be maintained by the LTA Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.
- 2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
- 3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need to know basis.
- 4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- 5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the preceding.
- 6) Records will be released to the National Transportation Safety Board during an accident investigation.
- 7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
- 8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.

- 9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over LTA or the employee.
- 10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken
- 11) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

Attachment A

Job Title	Job Duties	Testing Authority
Supervising Mechanic	Under general direction, to supervise the daily operations of the shop and to perform a variety of skilled inspection, diagnosis, maintenance, servicing, and repair work on gas, natural gas, and diesel power driven equipment; and to do related work as required.	DOT LTA
Heavy Mechanic I	Under general direction, to perform a variety of skilled inspection, diagnosis, maintenance, servicing, and repair work on gas, and diesel power driven equipment; and to do related work as required.	DOT LTA
Heavy Mechanic II	Under general supervision, to perform skilled work in repairing, overhauling and maintaining diesel and gasoline-powered automotive, road construction and maintenance equipment; and to do related work as required.	DOT LTA
Heavy Mechanic III	Under general supervision, to skillfully perform a variety of inspection, diagnosis, maintenance, servicing, and repair work on gas, propane, and diesel power driven equipment; and to do related work as required.	DOT LTA
Heavy Mechanic Assistant	Under supervision, to inspect, lubricate and service gasoline and diesel powered heavy-duty trucks and equipment and automobiles; and to assist journey level mechanics by performing sub-journey level repair duties.	DOT LTA

Attachment B Contacts

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

LTA Drug and Alcohol Program Manager

Company:	San Benito County Local Transportation Authority
Contact Person:	Binu Abraham
Address:	650 San Benito Street, Suite 120, Hollister, CA 95023
Telephone Number:	(831) 637-7665

Medical Review Officer

Company:	Heinen Medical
Contact Person:	Dr. Brain Heinen
Address:	151 Leon Ave. Eunice. LA 70535
Telephone Number:	(337) 457-0493

Substance Abuse Professional

Company:	Human Behavior Associates, Inc.
Contact Person:	James Wallace - President
Address:	1350 Hayes St., Suite B-100, Benicia, CA 94510
Telephone Number:	(707) 747-0117

HHS Certified Laboratory Primary Specimen

Company:	Alere Toxicology Services
Address:	1111 Newton St, Gretna, LA 70053
Telephone Number:	800-433-3823

HHS Certified Laboratory Split Specimen

Company:	Baptist Medical Center
Address:	11401 I-30, Little Rock, AR 72209
Telephone Number:	501-202-2783



STAFF REPORT

Consent

Prepared By: Norma Aceves, Administrative Services Specialist

Subject: Surplus Vehicles

Agenda Item No. 9

Approved By: Binu Abraham, Executive Director

Meeting Date: August 20, 2026

Recommendation:

- Declare five vehicles surplus property to be auctioned or salvaged to donate to eligible local nonprofits and other eligible local government agencies;
- Direct staff to prepare a solicitation for eligible local nonprofits and other eligible local government agencies to indicate interest in and eligibility for donation of surplus vehicles;
- Authorize Executive Director to execute all necessary documents to auction or salvage surplus vehicles for sale or for donation to eligible local nonprofits or other eligible local government agencies.

Summary:

Staff have identified five transit vehicles to be declared surplus which may be auctioned or salvaged as they can no longer be used in transit operations. Staff will first offer the surplus vehicles to eligible local nonprofits and other eligible local government agencies.

Background/ Discussion:

Once a transit vehicle has been determined to require excessive costly repairs, the San Benito County Local Transportation Authority (LTA) may declare the vehicle as surplus property. Staff will determine whether to auction or salvage the vehicles to yield the highest return for LTA after offering it as a donation to eligible local nonprofits and other eligible local government agencies. The following vehicles can no longer be used in transit operations and are eligible to be declared as surplus property:

Bus Number	VIN (last 5 digits)	Vehicle Year/Make	Passenger Capacity	Mileage
61	59589	2013 Glaval Universal	12A/2WC	206,043
63	17477	2013 Dodge Braun Entervan	5A/1WC	85,115
735	84647	2010 Glaval Universal	16A/2WC	133,945
737	61432	2013 Dodge El Dorado	5A/1WC	142,321
738	62867	2013 Starcraft Allstar	16A/2WC	165,900

A = Ambulatory, WC = Wheelchair

Staff is providing the information below regarding the option to solicit local nonprofits and other local government agencies, to indicate interest in and eligibility to receive donations of the surplus vehicles.

Under the authority set forth in California Government Code Section 25372 of the Internal Revenue Code, LTA may donate surplus personal property. This Code Section authorizes the Board to donate any real or personal property that the Board declares to be surplus to any organization exempt from taxation pursuant to 26 U.S. Code Section 501(c) (3) that meets one of the following conditions:

The section applies to organizations that are organized for the following: care, teaching, or training of children or developmentally disabled children; care, teaching, or training of Native Americans; or to provide health or human services.

The Board may also donate to a school district or community college district, or to a county organization related to children and families.

The Board may impose on the donation any terms and conditions that it determines to be appropriate. Staff have prepared a Bill of Conditional Transfer (Attachment 1) that will be used for any transfers to eligible nonprofit organizations or local government agencies if they are selected following the LTA's solicitation. If eligible local nonprofit organizations or local government agencies do not express interest in the surplus vehicle, staff will arrange for it to be auctioned and transferred to the highest bidder via the Bill of Sale (Attachment 2).

Financial Impact:

Revenue generated from auctioning or salvaging will be used for LTA operations.

Attachment:

1. Bill of Conditional Transfer
2. Bill of Sale

BILL OF CONDITIONAL TRANSFER

The San Benito County Local Transportation Authority ("LTA"), hereby donates, transfers, conveys and assigns to _____ ("RECIPIENT"), its successors and assigns, all of the LTA's right, title and interest in and to a used van ("PROPERTY"), described as follows:

Vehicle	VIN (last 5 digits)	Vehicle Year/Make	Passenger Capacity	Mileage

The LTA warrants and represents that it is the sole owner of the PROPERTY and that the property is free and clear of all liens, encumbrances, security interest and any claims to title.

By signing this Bill of Conditional Transfer and accepting the delivery of the donated vehicle, RECIPIENT shall agree to abide by the following terms and conditions of donation:

1. This Bill of Transfer may be relied upon as conclusive proof that the property has been transferred to RECIPIENT.
2. This Bill of Transfer has been prepared, negotiated and executed, and shall be construed in accordance with, the laws of the State of California.
3. RECIPIENT shall remove the LTA's decal still on the vehicle within 15 days of the transfer or before use of the vehicle.
4. RECIPIENT represents to the LTA that it is: *[check the one that applies]*
 - ☐ an organization exempt from taxation pursuant to 26 U.S. Code section 501(c)(3) that is organized for the care, teaching, or training of children or developmentally disabled children
 - ☐ an organization exempt from taxation pursuant to 26 U.S. Code section 501(c)(3) that is organized for the care, teaching, or training of Native Americans
 - ☐ a school district
 - ☐ a community college district
 - ☐ a county children and families commission established pursuant to Health and Safety Code section 130100 *et seq.*
 - ☐ an organization exempt from taxation pursuant to 26 U.S. Code section 501(c)(3) that is organized to provide health or human services
5. RECIPIENT agrees to use the vehicle (PROPERTY) for its intended purpose, as a van to *[insert description of intended use, as allowed in Government Code section 25372]* _____, for at least 18 months after the donation.
6. RECIPIENT, acknowledges receipt of the vehicle and of this Bill of Transfer and understands there is no guarantee or warranty, expressed or implied, with respect to the above-described property. It is also understood that the above-stated vehicle is transferred in "as is" condition.

7. RECIPIENT assumes full responsibility for all risk of injury or loss, including death, which may result from the transfer of this PROPERTY.
8. RECIPIENT agrees to hold harmless, release, waive, and covenant not bring suit, and/or claims against the LTA (its officers, agents or employees) by reason of any accident, illness, injury or death, or damage to or loss or destruction of any property arising or resulting from the transfer of the PROPERTY.
9. In the event any action or proceeding is brought by either party hereto against the other party hereto by reason of the breach or enforcement of this Bill of Transfer, the prevailing party shall be entitled to have and recover from the other party all costs and expenses of the action or proceeding, including reasonable attorneys' fees. Any action or proceeding relating to or arising out of this Bill of Transfer shall be filed, if a state action, in the Superior Court of the State of California for the County of San Benito, or if a federal action, in the United States District Court for the Northern District of California.
10. EXCEPT AS MAY BE OTHERWISE PROVIDED IN THIS BILL OF TRANSFER, THE LTA AND RECIPIENT ACKNOWLEDGE AND AGREE THAT THIS IS A NON-WARRANTY BILL OF TRANSFER AND THAT RECIPIENT IS RECEIVING THE PROPERTY WITHOUT ANY WARRANTIES, WHETHER EXPRESS OR IMPLIED, AND WHETHER PURSUANT TO THE CALIFORNIA UNIFORM COMMERCIAL CODE, OR OTHERWISE. TO THE EXTENT ANY WARRANTIES WOULD APPLY TO THE PROPERTY OR THIS TRANSACTION, RECIPIENT UNCONDITIONALLY WAIVES, AND THE LTA DISCLAIMS, ANY SUCH WARRANTIES.

RECIPIENT FURTHER EXPRESSLY ACKNOWLEDGES THAT RECIPIENT IS RECEIVING THE PROPERTY IN AN "AS IS," "WHERE IS" CONDITION, WITH ALL ITS FAULTS. RECIPIENT HAS INSPECTED THE PROPERTY AND IS SATISFIED THAT THE PROPERTY IS COMPLETELY AS DESCRIBED HEREIN AND IS IN GOOD CONDITION. THE LTA HAS NOT INSPECTED THE PROPERTY, DOES NOT KNOW IF THE PROPERTY IS COMPLETELY AS DESCRIBED HEREIN, NOR DOES THE LTA KNOW THE PURPOSE TO WHICH RECIPIENT WILL PUT THE PROPERTY. THE LTA MAKES NO REPRESENTATION CONCERNING THE VALUE OF THE PROPERTY.

THE LTA DOES NOT WARRANT THE MERCHANTABILITY OF THE PROPERTY OR WHETHER IT IS FIT FOR ANY PARTICULAR PURPOSE, OR EVEN IF THE PROPERTY IS FIT FOR THE ORDINARY PURPOSE FOR WHICH IT IS NORMALLY USED, AND RECIPIENT SPECIFICALLY WAIVES ANY IMPLIED WARRANTY OF MERCHANTABILITY OF THE PROPERTY OR WARRANTY THAT THE PROPERTY IS FIT FOR ANY PARTICULAR PURPOSE OR THE PURPOSE FOR WHICH IT IS NORMALLY USED.

IN NO EVENT, SHALL RECIPIENT BE ENTITLED TO CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OF ANY KIND OR NATURE WHATSOEVER.

SIGNATURES SHALL APPEAR ON THE FOLLOWING PAGE

IN WITNESS WHEREOF, The LTA and RECIPIENT have executed this Bill of Transfer as of -
_____.

LTA
Executive Director

APPROVED AS TO LEGAL FORM:

Name: Binu Abraham, Executive Director

Dated: _____

Osman I. Mufti, SBCOG Counsel

Dated: _____

RECIPIENT

Name: _____

Dated: _____

Tax I.D. _____

BILL OF SALE

In consideration of the sum of \$____.00, receipt of payment hereby acknowledged, the San Benito County Local Transportation Authority ("LTA"), hereby transfers, conveys and assigns to _____ ("BUYER"), his/her/its successors and assigns, all of the LTA's right, title and interest in and to a used van ("PROPERTY"), described as follows:

Vehicle	VIN (last 5 digits)	Vehicle Year/Make	Passenger Capacity	Mileage

The LTA and BUYER shall agree to abide by the following terms and conditions:

1. The LTA warrants and represents that it is the sole owner of the PROPERTY and that the property is free and clear of all liens, encumbrances, security interest and any claims to title.
2. This Bill of Sale may be relied upon as conclusive proof that all of LTA's rights, title, and interest in and to the PROPERTY has been transferred to BUYER.
3. This Bill of Sale has been prepared, negotiated and executed, and shall be construed in accordance with, the laws of the State of California.
4. BUYER shall remove the LTA's decal still on the vehicle within 15 days of the transfer or before use of the vehicle.
5. BUYER acknowledges receipt of this Bill of Sale and understands there is no guarantee or warranty, expressed or implied, with respect to the above-described property. It is also understood that the above-stated vehicle is sold in "as is" condition.
6. BUYER assumes full responsibility for all risk of injury or loss, including death, which may result from the transfer of this PROPERTY and BUYER's use of the PROPERTY.
7. BUYER agrees to indemnify, hold harmless, release, waive, and covenant not bring suit, and claims against the LTA (its officers, agents or employees) by reason of any accident, illness, injury or death, or damage to or loss or destruction of any property arising or resulting from the transfer of the PROPERTY and BUYER's use of the PROPERTY. BUYER further agrees to be responsible for any and all costs (including attorneys' fees) associated with any claims brought against LTA resulting from the transfer of the PROPERTY and BUYER's use of the PROPERTY.
8. In the event any action or proceeding is brought by either party hereto against the other party hereto by reason of the breach or enforcement of this Bill of Sale, the prevailing party shall be entitled to have and recover from the other party all costs and expenses of the action or proceeding, including reasonable attorneys' fees. Any action or proceeding relating to or arising out of this Bill of Sale shall be filed, if a state action, in the Superior Court of the State of California for the County of San Benito, or if a federal action, in the United States District Court for the Northern District of California.

9. EXCEPT AS MAY BE OTHERWISE PROVIDED IN THIS BILL OF SALE, THE LTA AND BUYER ACKNOWLEDGE AND AGREE THAT THIS IS A NON-WARRANTY BILL OF SALE AND THAT BUYER IS RECEIVING THE PROPERTY WITHOUT ANY WARRANTIES, WHETHER EXPRESS OR IMPLIED, AND WHETHER PURSUANT TO THE CALIFORNIA UNIFORM COMMERCIAL CODE, OR OTHERWISE. TO THE EXTENT ANY WARRANTIES WOULD APPLY TO THE PROPERTY OR THIS TRANSACTION, BUYER UNCONDITIONALLY WAIVES, AND THE LTA DISCLAIMS, ANY SUCH WARRANTIES.

BUYER FURTHER EXPRESSLY ACKNOWLEDGES THAT BUYER IS PURCHASING THE PROPERTY IN AN "AS IS," "WHERE IS" CONDITION, WITH ALL ITS FAULTS. BUYER HAS INSPECTED THE PROPERTY AND IS SATISFIED THAT THE PROPERTY IS COMPLETELY AS DESCRIBED HEREIN AND IS IN GOOD CONDITION. THE LTA HAS NOT INSPECTED THE PROPERTY, DOES NOT KNOW IF THE PROPERTY IS COMPLETELY AS DESCRIBED HEREIN, NOR DOES THE LTA KNOW THE PURPOSE TO WHICH BUYER WILL PUT THE PROPERTY. THE LTA MAKES NO REPRESENTATION CONCERNING THE VALUE OF THE PROPERTY.

THE LTA DOES NOT WARRANT THE MERCHANTABILITY OF THE PROPERTY OR WHETHER IT IS FIT FOR ANY PARTICULAR PURPOSE, OR EVEN IF THE PROPERTY IS FIT FOR THE ORDINARY PURPOSE FOR WHICH IT IS NORMALLY USED, AND BUYER SPECIFICALLY WAIVES ANY IMPLIED WARRANTY OF MERCHANTABILITY OF THE PROPERTY OR WARRANTY THAT THE PROPERTY IS FIT FOR ANY PARTICULAR PURPOSE OR THE PURPOSE FOR WHICH IT IS NORMALLY USED.

IF THE LTA BREACHES ITS WARRANTY OF TITLE, BUYER'S SOLE AND EXCLUSIVE REMEDY SHALL BE LIMITED TO THE RECOVERY OF AN AMOUNT EQUAL TO THE FAIR MARKET VALUE OF THE PROPERTY AS OF THE DATE HEREOF AND, IN NO EVENT, SHALL BUYER BE ENTITLED TO CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OF ANY KIND OR NATURE WHATSOEVER.

By signing the Bill of Sale, the LTA and BUYER acknowledge items one through nine (1-9) above, and agree to the conditions outlined above.

IN WITNESS WHEREOF, the LTA and BUYER have executed this Bill of Sale as of _____,

LOCAL TRANSPORTATION AUTHORITY
EXECUTIVE DIRECTOR

APPROVED AS TO LEGAL FORM:
Sloan Sakai Yeung & Wong LLP

Name: Binu Abraham, Executive Director
Dated: _____

Osman I. Mufti, SBCOG Legal Counsel
Dated: _____

BUYER

Name: _____
Dated: _____
Tax I.D. : _____