



ILLINOIS FOP LABOR COUNCIL

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MEMORANDUM OF UNDERSTANDING – DRUG AND ALCOHOL TESTING

Effective upon execution of this Memorandum of Understanding, the City of Morrison and the Illinois Fraternal Order of Police Labor Council agree to amend the parties current Collective Bargaining Agreement May 1, 2017 through April 30, 2020 through and continuing between the parties. All current provisions other than as stated below in Section 12.6 and new Appendix G remain as stated in the Collective Bargaining Agreement. The parties agree to the following:

SECTION 12.6 – DRUG AND ALCOHOL TESTING

1. Purpose and Definitions

The Parties desire to provide a safe working environment, to protect and preserve the rights of the Officers, and to safeguard the City and its Officers from liability.

“Confirmatory Test” and “Confirmatory Retest” means a drug or alcohol test that uses TLC (thin layer chromatography), HPTLC (high performance thin layer chromatography), or GLC (gas liquid chromatography) for initial screening; and GC/MS (gas chromatography/mass spectrometry) for the confirmation step.

“Drug” means a controlled substance as defined in Illinois Statutes, 720 ILCS 570/100, et seq.

“Drug and/or alcohol testing”: means analysis of a body component sample under one of the above testing procedures, including blood or urine for the purpose of measuring the presence or absence of drugs, alcohol or their metabolites in the sample tested. An electronic breath testing (EBT) device will be used for measuring the presence of alcohol. Only if the employee is medically unable to provide a urine sample or perform a breathalyzer test will blood be drawn.

“Officer” means a person covered by the terms of this Labor Agreement.

“Employer” means the City of Morrison acting through its Chief of Police or any authorized designee of the Chief of Police.

“Initial Screening” means a drug or alcohol test which uses a method of analysis as outlined in Section 12.6 and is capable of providing data as to general classes of drugs, alcohol, or their metabolites.

“Positive Test Result” means a finding of the presence of drugs or their metabolites per the established cut-off levels of the Substance Abuse and Mental Health Services Administration (S.A.M.H.S.A.) that the employee has used or consumed the specific drug.

“Reasonable Suspicion” means a basis for forming a reasonable belief based on specific identified facts and reasonable inferences drawn from those facts.



2. Prohibitions

No Officer shall be under the influence of any drug or alcohol while the Officer is working or while the Officer is on the Employer's premises or operating the Employer's vehicle, machinery or equipment, except to the extent authorized by a valid medical prescription. No Officer shall use, possess, sell or transfer drugs or alcohol while the Officer is working or while the Officer is on the Employer's premises or operating the Employer's vehicle, machinery or equipment; except to the extent authorized by a valid medical prescription or when engaged in approved law enforcement activity. Officers shall be required to communicate any known effects of prescribed medications that may impair job performance to the Chief of Police. The Chief of Police may then require the officer to obtain a release by the prescribing physician before an officer may return to work if the valid medical prescription has any known effects that may impair job performance.

3. Drug and Alcohol Testing Permitted

The Employer shall be permitted to order Officers for drug and alcohol testing under these conditions:

1. The Employer has reasonable suspicion that the Officer is in violation of the prohibitions set forth in the Section 12.6/2.
2. When the Officer is involved in a traffic crash involving personal injury and/or damage to property exceeding five thousand dollars (\$5,000).
3. When an officer discharges his or her firearm, causing injury or death to a person or persons, during the performance of his or her official duties or in the line of duty pursuant to 50 ILCS 727/1-25.

4. Procedure for Testing

Before ordering an Officer to undergo drug or alcohol testing, the Employer shall provide the individual with a written notification form (attached hereto as Appendix G) on which to:

1. Acknowledge that the individual has been given a copy of this drug and alcohol testing procedure at the time the request was made; and
2. Provide objective facts and reasonable inferences drawn from those facts which form the basis of the order to test. The Officer shall be permitted reasonable time to consult with a representative of the Labor Council, but any such consultation shall not modify the obligation to complete such testing as soon as practicable but in no event later than the end of the Officer's shift or tour of duty. No questioning of the Officer shall be conducted, other than the general questions to ensure the immediate safety of the public, without first affording the Officer all rights provided, included but not limited to the right to representation, as provided in the Peace Officers Disciplinary Act, 50 ILCS 725/1 et seq. The parties agree that refusal to submit to such a test may subject the Officer to discipline, but the taking of the test and the consent derived from this form do not constitute a waiver of any objections the Officer or Labor Council may later raise, including, but not limited to, the right to contest results as denoted in Section 12.6/11.

The Chief of Police, or his/her designee, shall accompany the involved Officer(s) from the time of those conditions as stipulated under 3. Drug and Alcohol Testing Permitted, through the conclusion of any drug and alcohol testing. Officer(s) will be afforded privacy from all individuals to include the Chief of Police or his/her designee when consulting with F.O.P. Labor Council Representatives and or F.O.P. Labor Council Attorney's or Private Attorney's at any time throughout the drug and alcohol testing process.

5. Test Sample

The test sample shall be obtained only at a clinical laboratory or hospital facility that is licensed pursuant to the



Illinois Clinical Laboratory Act or has been accredited by the Substance Abuse and Mental Health Services Administration (S.A.M.H.S.A.). A sufficient sample of the same bodily fluid or material shall be collected from an Officer to allow for initial screening, a confirmatory test and a sufficient amount of the same sample to be set aside and reserved for later testing. The procedures for taking the sample shall insure privacy to the Officers to the extent practicable, consistent with the need to prevent tampering with the sample.

6. Laboratory

All drug or alcohol testing shall use the services of a testing laboratory that is licensed pursuant to the Illinois Clinical Laboratory Act or has been accredited by the Substance Abuse and Mental Health Services Administration (S.A.M.H.S.A.), and conforms to all S.A.M.H.S.A. standards. Said testing laboratory shall be responsible for maintaining the identity and integrity of the sample. Retention and storage procedures shall comply with the rules regarding proper preservation of evidence and all samples that produced a positive result shall be retained and properly stored for at least one (1) year. The testing laboratory shall prepare a written report indicating the drugs, alcohol, or their metabolites tested for, the types of tests conducted, and whether the test produced negative or positive test results, and the testing laboratory shall disclose that report only per the Medical Review Officer to the Chief of Police within three (3) calendar days after obtaining the final confirmatory test report. Positive results on an initial screening test shall not be reported to the Employer unless a positive result is obtained on the GC/MS gas chromatography/mass spectrometer confirmatory test of the same sample.

7. Notice of Test Results

All service providers will have a Medical Review Officer (MRO) as designated by Health Services provide for any test. All positive tests will be reviewed only by the MRO at the Health Services provider for final determination of results. This determination will be communicated directly from the MRO to the Chief of Police. Before a positive test is reported to the Employer, the hospital or lab will have the results reviewed by the MRO, who will verify the existence of a valid prescription or conflict, which might result in a false positive. If the MRO determines that there is a valid reason for a false positive, the results will not be reported. A positive result, which is verified by the MRO review and confirmation and indicates the presence of the drug or its metabolites listed above as indicated in the initial concentration levels. Accepted practices for the collection and preservation of urine samples shall be followed as defined by S.A.M.H.S.A. standards. A similar amount of the sample shall be set aside and preserved for later testing. All samples shall be preserved in accordance with Section 40.99 of Subpart F-Drug Testing Laboratories of Part 40-Procedures for Transportation Workplace Drug and Alcohol Testing Program which provides for the extension of preservation of the split samples. Within three (3) calendar days after receipt of the test result report from the testing laboratory, the Chief of Police shall inform in writing an Officer who has undergone drug or alcohol testing and provide copies of such results. The Employer will provide the Officer tested with an opportunity to have the reserved portion of the sample tested by a clinical laboratory or hospital facility of the Officer's own choosing, at the Officer's own expense, provided the Officer notifies the Employer within five (5) calendar days of receiving the notice from the Employer of the results of the test. The clinical laboratory or hospital facility chosen by the Officer must be accredited and conform to the Substance Abuse and Mental Health Services Administration (S.A.M.H.S.A.) standards.

8. Alcohol Testing

With regard to alcohol testing, for the purpose of determining whether the Officer is under the influence of alcohol, test results that show an alcohol concentration of .04 or more based upon the grams of alcohol per 100 milliliters of blood shall be considered positive. The foregoing standard shall not preclude the Employer from attempting to show the test results below .04 demonstrate that the Officer was under the influence to the extent to impair the Officer's ability to perform their duties consistent with Illinois law, but the Employer shall bear the burden of proof in such cases.



9. Re-assignment During Testing Procedures

No Officer shall be the subject of any adverse employment action, except emergency temporary re-assignment with pay during the pendency of any testing procedure. Any such emergency re-assignment shall be immediately discontinued in the event of a negative test result.

10. Refusal to Undergo Testing

If any Officer refuses to undergo drug or alcohol testing as required by the Labor Agreement, the Chief of Police may recommend that the Officer be discharged from employment. The Officer and/or the Labor Council shall have the right to offer evidence in mitigation. Treatment and counseling may be offered as an alternative to or in conjunction with any discipline that may be appropriate. No officer who refuses to undergo drug or alcohol testing of a blood sample upon bonafide religious grounds shall be deemed to have refused unless the Officer also refuses to undergo drug or alcohol testing of a urine sample. The Officer's taking of the test shall not be construed a waiver of any objection or rights that the Officer may have under this Labor Agreement or applicable law.

11. Right To Contest

The Labor Council and/or the Officer, with or without the Labor Council, shall have the right to file a grievance concerning any testing permitted by this Labor Agreement, contesting the basis for the order to submit to these tests, the right to test, the administration of the tests, the significance and accuracy of the tests, the consequences of the testing or results or any other alleged violation of this Labor Agreement. Such grievances shall be commenced at Step 2 of the grievance procedure. It is agreed that the parties in no way intend or have in any manner restricted, diminished or otherwise impair any legal rights that the Officer may have with regard to such testing under applicable law.

12. Voluntary Requests For Assistance

The Employer shall take no adverse employment action against an Officer who voluntarily seeks treatment, counseling or other support for an alcohol or drug related problem, other than the Employer may require re-assignment of the Officer with pay if the Officer is then unfit for duty in their current assignment. The Employer shall make available a means by which the Officer may obtain referrals and a one-time in-patient treatment program. Any subsequent in-patient treatment program shall involve a Last-Chance Agreement regarding the Officer's continued employment with the City. All such requests shall be confidential, and any information received by the City, through whatever means, shall not be used in any manner adverse to the Officer's interests, except reassignment as described above. Any such voluntary request for assistance shall not prevent the Employer from seeking disciplinary action up to and including discharge for conduct that occurs before an Officer makes any voluntary request for assistance under this section.

13. Discipline

Use of illegal, controlled drugs at any time while employed by the Employer (except as may be required in the line of duty) shall be cause for discipline, including discharge. Nothing in this Section shall be construed to prevent an Officer from asserting that there should be treatment in lieu of discipline in any disciplinary proceeding; or contesting any discipline that may be imposed under applicable federal or state discrimination laws. Officers who voluntarily seek assistance with drug and/or alcohol related problems, shall not be subject to any disciplinary or other adverse employment action by the Employer. Officers who are taking prescribed over the counter medication that has known adverse side effects which interfere with the Officer's ability to perform their normal duties, may be temporarily re-assigned with pay to other more suitable police duties.



14. Compliance With Law

The City maintains a drug-free work place policy. In the event an employee is convicted of any criminal drug statute, said employee shall notify the City no later than five (5) days after such conviction. Failure to timely notify the City may result in disciplinary action. By law, if the City is involved in a federal and/or state contract or grant, the City shall notify the federal and/or state contracting Officer, if any, with ten (10) days after receiving such notice from an employee or otherwise receiving such notice of a conviction, and may impose appropriate discipline within thirty (30) days of receiving such notice.

For the Employer:

Barry Dykhuizen 12/12/17
Barry Dykhuizen Date
City Administrator

B. R. Melton 12-12-17
Brian Melton Date
Chief of Police

For the Union:

Jay Titus 12-27-17
Jay Titus Date
Field Representative
IL FOP Labor Council

Curt Workman 12/22/17
Curt Workman Date
Bargaining Unit Chairman



APPENDIX G DRUG/ALCOHOL TEST FORM

MORRISON POLICE DEPARTMENT DRUG/ALCOHOL TESTING NOTIFICATION

Officers shall receive a completed copy of this form prior to testing. Pursuant to Section 12.6 of the Labor Agreement between the City of Morrison and the Illinois Fraternal Order of Police Labor Council you are hereby notified that you are ordered to submit to a drug/alcohol test for the following reason(s):

(Check applicable statement)

_____ You were involved in a traffic crash involving personal injury and/or damage exceeding five thousand dollars (\$5,000).

_____ You discharged your firearm, causing injury or death to a person or persons, during the performance of your official duties or in the line of duty pursuant to 50 ILCS 727/1-25.

_____ You are returning from a sick leave or absence of sixty (60) days or more.

_____ Reasonable suspicion exists pursuant to Section 12.6 of the Labor Agreement set forth as below:

(use back side if necessary)

I acknowledge receipt of the drug and alcohol policy and procedure for testing. _____
(Officer Initials)

I understand that a positive result or a refusal to comply with this direct order may subject me to disciplinary action up to and including discharge.

Employee Date Time A.M./P.M.

Employer/Designee Title

Witness