



ESTA BOARD AGENDA

Regular Meeting

Friday, February 14, 2020 at 11:00am
Town of Mammoth Lakes Council Chambers
2520 Main St., Ste. Z, Mammoth Lakes, CA
The Agenda is available at www.estransit.com

Chairperson: Bob Gardner

Vice-Chairperson: Jim Ellis

Board Members:

Cleland Hoff (Mammoth Lakes)
Karen Schwartz (Bishop)
Jim Ellis (Bishop)
Dan Totheroh (Inyo County)

Jeff Griffiths (Inyo County)
Jennifer Kreitz (Mono County)
Bill Sauser (Mammoth Lakes)
Bob Gardner (Mono County)

Note: In compliance with the Americans with Disabilities Act, if an individual requires special assistance to participate in this meeting, please contact Eastern Sierra Transit at (760) 872-1901 ext. 15 or 800-922-1930. Notification 48 hours prior to the meeting will enable the Authority to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 13.102-35.104 ADA Title II)

Call to Order

Pledge of Allegiance

Roll Call

Public Comment: The Board reserves this portion of the agenda for members of the public to address the Eastern Sierra Transit Authority Board on any items not on the agenda and within the jurisdiction of the Board. The Board will listen to all communication, but in compliance with the Brown Act, will not take any action on items that are not on the agenda.

A. Information Agenda

- A-1 Executive Director Report
 - Reporting on ESTA activities and performance
- A-2 Financial Report – FY 2019-20
- A-3 Operations Report
- A-4 Quarterly Update on Recommendation of Triennial Audit and Organizational Assessment
- A-5 Employee of the Quarter

B. Action Agenda

- B-1 Drug and Alcohol Policy Update
- B-2 Adpot OPEB Funding Policy
- B-3 Approve Budget Ammendment

C. Consent Agenda

The following items are considered routine and non-controversial by staff and will be approved by one motion if no member of the ESTA or public wishes an item removed. If discussion is desired by anyone, the item will be removed from the consent agenda and will be considered separately. Questions of clarification may be made by ESTA Board members, without the removal of the item from the Consent Agenda.

- C-1 Approval of Meeting Minutes of January 10, 2020
- C-2 Authorization of Representative for the California Joint Powers Insurance Authority

D. Board Member Comments

E. Adjournment

The next scheduled regular meeting will be March 13, 2020 City of Bishop Council Chambers 301 West Line St., Bishop, CA at 9:00 am.

STAFF REPORT

Subject: Executive Director's Report
Presented by: Phil Moores, Executive Director

Safety:

Post-collision training is ongoing along with regular driver safety training.

Maintenance:

Mammoth bus 806 has completed repairs with a cost of \$35,000.

The Town of Mammoth Lakes has decided not to staff the ESTA yard with mechanics. Instead they are purchasing a set of new lifts for their main shop with the intention of improving output. The Town Maintenance Manager does not have a large enough staff to run two shops. The new lifts are only a half-measure to address the growing demand on the Town's maintenance department. A breaking point is on the horizon and with ESTA's fleet de-prioritized to Town equipment; it is likely to be ESTA's fleet that will suffer. The Mammoth ESTA staff is directed to down any bus that is past its maintenance and safety inspection limit. Lost service due to this restriction will be the sign that greater steps must be taken. Ultimately, ESTA may need to hire and train its own mechanics to perform some of the inspections and repairs.

Lakes Basin bike trailers have not been ordered due to manufacturer delays on engineering new trays for fat-tire bikes. I am hoping to get the green light to order new trailers soon.

Administration:

This is contract negotiation season and I am writing amendments to contracts with:

1. TOML
2. Reds Meadow (USFS)
3. MMSA
4. Bishop Creek Shuttle (USFS)

Hopefully, these contracts can be signed and the associated revenues available for ESTA budget consideration.

ESTA's server and IT network is being upgraded. Better security, dependability, and access are just a few of the benefits to replacing the old system. I have set up a Mammoth office where I can be productive while being available to Mammoth staff on a more frequent basis. The new server provides greater access to files making the Mammoth office equally productive for Bishop staff.

After today's meeting, several Board members and ESTA staff will conduct a workshop to develop the first ESTA Strategic Business Plan (SBP). With most of the recommendations from the 2017 Organizational Assessment completed, I will

recommend the new SBP replace the Organizational Assessment reporting. Recommendations not yet completed in the Organizational Assessment can be incorporated in the SBP.

Staffing Report

We currently have a full administrative staff and do not have ads running for drivers. Mammoth is not fully staffed, but has sufficient drivers to cover shifts until the next hiring period. Since hiring and training new drivers is a big job requiring driver instructors to stop driving, we limit our hiring periods to shoulder seasons and emergencies.

The new weekend Bishop DAR Dispatcher starts February 15th and this will significantly improve customer service and driver safety. Until now, weekend drivers were carrying cell phones trying to provide customer phone support while delivering DAR service. They weren't doing either optimally.

Funding Report

The 5304 Planning application is still pending. A purchase order for the new trolley has been submitted and we expect delivery in April 2020. We are most likely successful with a 5310 grant for two new Bishop DAR vehicles. On top of that, we are rumored to have been successful with a 5339 grant awarding ESTA funds for several new trolleys.

A 5339 grant is being prepared for additional funds to complete the Bishop facility. Also, a Low or No Emissions grant for purchasing electric buses in Bishop is being prepared. Electric Vehicle Technology required to satisfy the demanding environment of Mammoth is still uncertain. Route information has been sent to Proterra Electric Bus manufacturers for evaluation. The results will tell us if current technology is up to the task in Mammoth's cold and mountainous terrain. Also, a demonstration bus is being requested to test the equipment. I spoke with Breckenridge, CO Transit about their electric buses and learned that the buses are only good for about 8 hours before needing recharging. Mammoth routes run 12+ hours.

Our server needed replacement and we are using State Transit Assistance (STA) funds for the project. The Mono County Local Transportation Commission (MCLTC) receives both Inyo and Mono STA funds since the state will not split the distribution of PUC 99314 funds for a single transit agency. Therefore, the MCLTC approved a resolution to expend STA funds on the server replacement. The entire project is estimated to cost around \$20,000. It includes improved cyber-security and greater access to files for both Mammoth and Bishop offices.

Training:

Safety training is ongoing for drivers as part of their annual training requirements. Staff attendance at conferences is being arranged for the Spring.

Planning:

The Design, Engineering, and Construction Management RFP for the Bishop Operations Building is being drafted. The lease from Inyo County for the new Operations Building at the Airport is also being drafted for future implementation.

STAFF REPORT

Subject: Financial Report – FY 2019/20
 Initiated by: Karie Bentley, Administration Manger

The year-to-date roll-up and fund balance reports for the 2019/20 fiscal year are included on the following pages. Reports are as of February 4, 2020.

Fuel cost per gallon has been running at about 20% below budget, however, the low actual expense on the financial report for fuel and maintenance is primarily a result of not yet being in receipt of billings from the Town of Mammoth Lakes for the months of November, December and January.

The table below summarizes the year-to-date revenue and the expenses by major expense category. An analysis of our operational revenue is attached.

ESTA Operating Expenses FY 19/20			
% of fiscal year →			60.0%
Category	Budget	Actual Year to Date	% of Budget
Total Revenue	5,408,210	2,518,103	46.6%
EXPENSES			
Total Salaries	2,088,694	1,085,355	52.0%
Total Benefits	770,029	349,010	45.3%
Total Insurance	323,760	282,886	87.4%
Total Maintenance	644,789	260,403	40.4%
Facilities	257,274	152,951	59.5%
Total Services	213,874	104,643	48.9%
Fuel	632,751	211,598	33.4%
Other	337,758	45,615	13.5%
Total Expenses	5,268,929	2,492,461	47.3%

Operational Revenue Analysis from Major Funding Sources

4061 Local Transportation Tax

This revenue is paid on a monthly basis by Inyo LTC and Mono LTC. Mono LTC pays the invoices upon receipt. Inyo LTC pay the invoice for any given month after the tax payment has been received by Inyo LTC. Inyo invoices are typically paid around 60 days after receipt.

4065 State Transit Assistance (STA)

This revenue is paid quarterly by the State Controller's office to the LTCs although the timing of the payments doesn't always fall in a predictable pattern. For example, the first quarter's payment was made to the LTCs on December 13, 2019. The amount of the payments varies (they are not ¼ each). A notice is put out when the money is available and ESTA then invoices the LTCs. The January 2019 estimate used in ESTA's budget was revised in November 2019 and went down. This will result in approximately \$44.3K less STA revenue than budgeted. This amount should be offset by other revenue which wasn't expected in the budget (toll credits for 5311(f) which frees up LTF funds previously budgeted as a match and possibly excess LTF reserves).

4498 State Grants (LCTOP)

This is funding from the Low Carbon Transit Operations Program (LCTOP) program and is paid to ESTA in advance of the fiscal year. Funds are on track with the budget.

4499 State Grants Other (State of Good Repair)

This revenue is usually paid in method similar to the STA funds with is described above. he first quarter's payment was made to the LTCs on December 13, 2019. All available funds have been invoiced. Current SGR estimates are around \$900 higher than budgeted amounts.

4555 Federal Grants

5310 - This funding is for mileage reimbursement and administrative expenses for ESTA's Non-Emergency Medical Transportation Program. The first quarter's invoice has been submitted, \$4,287. The second quarter invoice is being compiled for submittal.

5311 (apportionment) - We are awaiting our contract from Caltrans who is waiting for funding from the Federal Government. The full amount, \$187,601 will be invoiced once the contracts are in place.

5311(f) (395 routes) - We are awaiting our contract from Caltrans who is waiting for funding from the Federal Government. The first quarters reimbursement packet is in review and will be sent when the contract is in place. The second quarter's reimbursements are being compiled.

4599 Other Agencies

This consists of funding from Kern Regional Transit and revenue from the contract with The Town of Mammoth Lakes. Revenue id on track with the budget.

4819 Services and Fees

Revenue is showing a bit less than expected due to one outstanding invoiced to Mammoth Mountain, although it is expended shortly. Receipt of that payment will put us within our expected revenue range for this time of year.

COUNTY OF INYO

Budget to Actuals with Encumbrances by Key/Obj

Ledger: GL

As of 1/2/2020

Object	Description	Budget	Actual	Encumbrance	Balance	%
Key: 153298 - ESTA - BUDGET						
OPERATING						
Revenue						
Expenditure						
NET OPERATING		0.00	0.00	0.00	0.00	
CAPITAL ACCOUNT						
Revenue						
Expenditure						
NET CAPITAL ACCOUNT		0.00	0.00	0.00	0.00	
Key: 153299 - EASTERN SIERRA TRANSIT						
OPERATING						
Revenue						
4061	LOCAL TRANSPORTATION TAX	1,272,738.00	468,071.59	0.00	804,666.41	36.77
4065	STATE TRANSIT ASST	503,314.00	0.00	0.00	503,314.00	0.00
4301	INTEREST FROM TREASURY	24,000.00	19,838.60	0.00	4,161.40	82.66
4498	STATE GRANTS	35,355.00	35,355.00	0.00	0.00	100.00
4499	STATE OTHER	70,940.00	0.00	0.00	70,940.00	0.00
4555	FEDERAL GRANTS	515,601.00	0.00	0.00	515,601.00	0.00
4599	OTHER AGENCIES	921,794.00	392,999.23	0.00	528,794.77	42.63
4747	INSURANCE PAYMENTS	0.00	1,816.77	0.00	(1,816.77)	0.00
4819	SERVICES & FEES	2,052,468.00	928,247.69	0.00	1,124,220.31	45.22
4959	MISCELLANEOUS REVENUE	12,000.00	2,902.19	0.00	9,097.81	24.18
Revenue Total:		5,408,210.00	1,849,231.07	0.00	3,558,978.93	34.19
Expenditure						
5001	SALARIED EMPLOYEES	1,510,603.00	615,673.60	0.00	894,929.40	40.75
5003	OVERTIME	75,106.00	34,227.46	0.00	40,878.54	45.57
5005	HOLIDAY OVERTIME	124,696.00	52,535.07	0.00	72,160.93	42.13
5012	PART TIME EMPLOYEES	378,289.00	212,489.31	0.00	165,799.69	56.17
5021	RETIREMENT & SOCIAL SECURITY	51,858.00	19,087.31	0.00	32,770.69	36.80
5022	PERS RETIREMENT	221,020.00	93,391.72	0.00	127,628.28	42.25
5031	MEDICAL INSURANCE	306,000.00	98,373.66	0.00	207,626.34	32.14
5043	OTHER BENEFITS	39,398.00	12,409.92	0.00	26,988.08	31.49
5045	COMPENSATED ABSENCE EXPENSE	146,000.00	73,283.44	0.00	72,716.56	50.19
5047	EMPLOYEE INCENTIVES	5,753.00	1,332.65	0.00	4,420.35	23.16
5111	CLOTHING	10,600.00	577.55	0.00	10,022.45	5.44
5152	WORKERS COMPENSATION	102,180.00	101,122.00	0.00	1,058.00	98.96
5154	UNEMPLOYMENT INSURANCE	43,000.00	3,222.98	0.00	39,777.02	7.49
5158	INSURANCE PREMIUM	178,580.00	178,541.00	0.00	39.00	99.97
5171	MAINTENANCE OF EQUIPMENT	613,789.00	227,305.80	0.00	386,483.20	37.03
5173	MAINTENANCE OF EQUIPMENT-	19,500.00	2,622.53	0.00	16,877.47	13.44
5191	MAINTENANCE OF STRUCTURES	11,500.00	0.00	0.00	11,500.00	0.00
5211	MEMBERSHIPS	2,300.00	890.00	0.00	1,410.00	38.69
5232	OFFICE & OTHER EQUIP < \$5,000	15,500.00	160.04	0.00	15,339.96	1.03
5238	OFFICE SUPPLIES	8,000.00	3,590.67	0.00	4,409.33	44.88
5253	ACCOUNTING & AUDITING SERVICE	49,750.00	11,812.50	0.00	37,937.50	23.74
5260	HEALTH - EMPLOYEE PHYSICALS	5,890.00	3,055.00	0.00	2,835.00	51.86
5263	ADVERTISING	53,700.00	19,066.61	0.00	34,633.39	35.50
5265	PROFESSIONAL & SPECIAL SERVICE	104,534.00	50,524.39	0.02	54,009.59	48.33
5291	OFFICE, SPACE & SITE RENTAL	194,648.00	84,949.54	0.00	109,698.46	43.64

COUNTY OF INYO
Budget to Actuals with Encumbrances by Key/Obj

Ledger: GL

As of 1/2/2020

Object	Description	Budget	Actual	Encumbrance	Balance	%
5311	GENERAL OPERATING EXPENSE	60,440.00	20,641.59	0.00	39,798.41	34.15
5326	LATE FEES & FINANCE CHARGES	0.00	46.50	0.00	(46.50)	0.00
5331	TRAVEL EXPENSE	9,600.00	4,851.30	0.00	4,748.70	50.53
5332	MILEAGE REIMBURSEMENT	32,468.00	6,461.80	0.00	26,006.20	19.90
5351	UTILITIES	62,626.00	10,777.10	0.00	51,848.90	17.20
5352	FUEL & OIL	632,751.00	194,270.31	0.00	438,480.69	30.70
5539	OTHER AGENCY CONTRIBUTIONS	60,000.00	0.00	0.00	60,000.00	0.00
5901	CONTINGENCIES	138,850.00	0.00	0.00	138,850.00	0.00
	Expenditure Total:	<u>5,268,929.00</u>	<u>2,137,293.35</u>	<u>0.02</u>	<u>3,131,635.63</u>	<u>40.56</u>
NET OPERATING		<u>139,281.00</u>	<u>(288,062.28)</u>	<u>(0.02)</u>	<u>427,343.30</u>	
CAPITAL ACCOUNT						
Revenue						
4066	PTMISEA	278,742.00	0.00	0.00	278,742.00	0.00
4067	STATE TRANSIT ASST-CAPITAL	160,952.00	0.00	0.00	160,952.00	0.00
4495	STATE GRANTS - CAPITAL	61,568.00	61,568.00	0.00	0.00	100.00
4557	FEDERAL GRANTS - CAPITAL	705,957.00	0.00	0.00	705,957.00	0.00
	Revenue Total:	<u>1,207,219.00</u>	<u>61,568.00</u>	<u>0.00</u>	<u>1,145,651.00</u>	<u>5.09</u>
Expenditure						
5640	STRUCTURES & IMPROVEMENTS	707,071.00	0.00	0.00	707,071.00	0.00
5650	EQUIPMENT	101,568.00	0.00	0.00	101,568.00	0.00
5655	VEHICLES	432,672.00	0.00	0.00	432,672.00	0.00
	Expenditure Total:	<u>1,241,311.00</u>	<u>0.00</u>	<u>0.00</u>	<u>1,241,311.00</u>	<u>0.00</u>
NET CAPITAL ACCOUNT		<u>(34,092.00)</u>	<u>61,568.00</u>	<u>0.00</u>	<u>(95,660.00)</u>	
TRANSFERS						
Revenue						
Expenditure						
5798	CAPITAL REPLACEMENT	158,990.00	0.00	0.00	158,990.00	0.00
	Expenditure Total:	<u>158,990.00</u>	<u>0.00</u>	<u>0.00</u>	<u>158,990.00</u>	<u>0.00</u>
NET TRANSFERS		<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	
153299 Total:		<u>(53,801.00)</u>	<u>(226,494.28)</u>	<u>(0.02)</u>	<u>172,693.30</u>	

**COUNTY OF INYO
UNDESIGNATED FUND BALANCES**

AS OF 06/30/2020

	Claim on Cash 1000	Accounts Receivable 1100,1105,1160	Loans Receivable 1140	Prepaid Expenses 1200	Accounts Payable 2000	Loans Payable 2140	Deferred Revenue 2200	Computed Fund Balance	Encumbrances	Fund Balance Undesignated
ESTA - EASTERN SIERRA TRANSIT AUTHORI										
1532 EASTERN SIERRA TRANSIT	2,419,512	155,672	18,000		(40,305)			2,633,489		2,633,489
1533 ESTA ACCUMULATED	1,214,588							1,214,588		1,214,588
1534 ESTA GENERAL RESERVE	523,528							523,528		523,528
1535 ESTA BUDGET STAB	209,409							209,409		209,409
1536 REDS MEADOW ROAD	110,555							110,555		110,555
6813 JARC-LONE PINE/BISHOP	23,113					3,000		20,113		20,113
6814 JARC-MAMMOTH EXPRESS	48,548							48,548		48,548
6817 GOOGLE TRANSIT PHASE 2	55							55		55
6818 CAPP-CLEAN AIR PROJECT	2,923							2,923		2,923
6819 MOBILITY MANAGEMENT 14	2,227							2,227		2,227
6820 NON-EMERGENCY TRAN REIM	116					10,000		(9,884)		(9,884)
6821 BISHOP YARD-ESTA	198					5,000		(4,802)		(4,802)
6822 LCTOP-ELECTRIC VEHICLE	88,643							88,643		88,643
6823 PTMISEA-CAPITAL PROJECT						1		(1)		(1)
6824 ESTA-LCTOP	17,421				90			17,331		17,331
ESTA Totals	4,660,836	155,672	18,000		(40,215)	18,001		4,856,722		4,856,722
Grand Totals	4,660,836	155,672	18,000		(40,215)	18,001		4,856,722		4,856,722

STAFF REPORT

Subject: Operations Report December 2019
Presented by: Phil Moores, Executive Director

Executive Summary

Overall ridership increased in December 2019 compared to last year. Noteworthy variances are a 56% increase in the Mammoth Express, 16% increase in Bishop DAR, and 10% decreases in Mammoth fixed Routes. Road calls (0) and customer comments (4) met the monthly goals. There were two preventable accidents and Bishop Dial-a-Ride wait times did not meet the goals. We missed 82 trips in October due to driver shortages and chain installation.

	Dec-19	Nov-19	Percent Change	Dec-18	Percent Change
PASSENGERS					
Adult	121,981	36,915	230.4%	119,347	2.2%
Senior	1,880	1,670	12.6%	1,618	16.2%
Disabled	641	602	6.5%	672	-4.6%
Wheelchair	315	231	36.4%	282	11.7%
Child	13,784	5,247	162.7%	13,661	0.9%
Child under 5	619	143	332.9%	254	143.7%
Total Passengers	139,220	44,808	210.7%	135,834	2.5%
FARES	\$35,775.40	\$25,866.40	38.3%	\$35,462.00	0.9%
SERVICE MILES	81,486	62,747	29.9%	81,404	0.1%
SERVICE HOURS	5,279	3,772	40.0%	5,205	1.4%
Passengers per Hour	26.37	11.88	122.0%	26.10	1.1%

RIDERSHIP COMPARISON				
REPORT MONTH - THIS YEAR/LAST YEAR				
Route	Dec-19	Dec-18	Variance	% Change
Mammoth Express	630	403	227	56.3%
Lone Pine Express	222	187	35	18.7%
Lone Pine DAR	417	329	88	26.7%
Tecopa	10	11	-1	-9.1%
Walker DAR	26	107	-81	-75.7%
Bridgeport to G'Ville	24	10	14	140.0%
Benton to Bishop	33	35	-2	-5.7%
Bishop DAR	3,816	3,271	545	16.7%
Nite Rider	404	379	25	6.6%
Mammoth FR	24,999	27,883	-2,884	-10.3%
Mammoth DAR	183	210	-27	-12.9%
Reno	625	557	68	12.2%
Lancaster	419	373	46	12.3%
MMSA	105,606	99,931	5,675	5.7%
TOTALS	139,220	135,834	3,386	2.5%

PASSENGERS PER SERVICE HOUR				
REPORT MONTH - THIS YEAR/LAST YEAR				PAX MILES/
Route	Dec-19	Dec-18	% Change	SVC HOUR
Mammoth Express	7.79	5.24	48.8%	
Lone Pine Express	2.16	1.92	12.9%	
Lone Pine DAR	2.84	2.35	20.9%	
Tecopa	0.83	0.75	10.5%	
Walker DAR	0.22	0.71	-69.8%	
Bridgeport to G'Ville	1.38	0.47	192.3%	
Benton to Bishop	1.89	3.23	-41.6%	
Bishop DAR	4.15	3.74	10.8%	
Nite Rider	5.99	5.02	19.2%	
Mammoth FR	27.64	29.18	-5.3%	
Mammoth DAR	1.03	1.29	-20.7%	
Reno	2.29	2.10	9.3%	233.36
Lancaster	1.84	1.78	3.7%	220.99
MMSA	48.35	48.39	-0.1%	
Total	26.37	26.10	1.1%	

Route	Fares	Adults	Snr	Dis	W/C	Child	Free	Total Pax	Yd Hrs	Svc Hours	Yd Mi	SVC MILES	AVG FARE	REV/SVC MILE	PAX / SVC HR	MI / SVC HR	PAX / SVC MI
Dec-19																	
Mammoth Express	\$2,074.50	583	22	1	0	6	18	630	91	81	3,674	3,611	3.29	.57	7.79	45.4	0.17
Lone Pine Express	\$1,126.50	117	91	12	1	0	1	222	116	103	4,793	4,658	5.07	.24	2.16	46.7	0.05
Lone Pine DAR	\$1,050.20	13	276	49	10	69	0	417	154	147	1,738	1,738	2.52	.60	2.84	11.8	0.24
Tecopa	\$50.00	0	10	0	0	0	0	10	12	12	302	302	5.00	.17	.83	25.2	0.03
Walker DAR	\$83.10	8	15	3	0	0	0	26	128	121	351	343	3.20	.24	.22	2.9	0.08
Bridgeport to G'Ville	\$132.00	0	0	24	0	0	0	24	18	17	258	248	5.50	.53	1.38	14.8	0.10
Benton to Bishop	\$183.00	6	15	12	0	0	0	33	35	18	1,479	769	5.55	.24	1.89	84.5	0.04
Specials	\$0.00	1570	30	0	0	206	0	1806	30	27	435	403	N/A	N/A			
Bishop DAR	\$7,961.00	1,277	1,233	438	286	24	558	3,816	984	920	10,252	9,394	2.09	.85	4.15	11.1	0.41
Nite Rider	\$1,603.20	298	23	56	17	5	5	404	69	68	1,001	978	3.97	1.64	5.99	14.8	0.41
Mammoth FR	\$0.00	23,101	0	5	0	1,893	0	24,999	958	904	11,720	11,093	N/A	N/A	27.64	13.0	2.25
Mammoth DAR	\$443.40	124	9	10	0	8	32	183	180	178	865	749	2.42	.59	1.03	4.8	0.24
Reno	\$13,599.00	522	82	7	1	12	1	625	291	273	11,622	11,471	21.76	1.19	2.29	42.6	0.05
Lancaster	\$7,469.50	313	74	19	0	9	4	419	252	227	10,734	10,515	17.83	.71	1.84	47.2	0.04
MMSA	\$0.00	94,049	0	5	0	11,552	0	105,606	2,302	2,184	27,267	25,214	N/A	N/A	48.35	12.5	4.19
Total	\$35,775.40	121,981	1,880	641	315	13,784	619	139,220	5,620	5,279	86,491	81,486	.26	.44	26.37	16.4	1.71

Dec-18																	
Mammoth Express	\$2,396.00	344	38	4	3	8	6	403	87	77	3,520	3,453	5.95	.69	5.24	45.7	0.12
Lone Pine Express	\$957.25	83	61	17	19	4	3	187	119	98	4,882	4,498	5.12	.21	1.92	50.0	0.04
Lone Pine DAR	\$826.80	24	149	64	25	67	0	329	147	140	1,340	1,324	2.51	.62	2.35	9.6	0.25
Tecopa	\$55.00	0	11	0	0	0	0	11	15	15	344	344	5.00	.16	.75	23.6	0.03
Walker DAR	\$289.80	1	1	104	0	1	0	107	160	150	733	615	2.71	.47	.71	4.9	0.17
Bridgeport to G'Ville	\$75.00	0	0	10	0	0	0	10	22	21	549	213	7.50	.35	.47	25.8	0.05
Benton to Bishop	\$198.50	12	19	3	1	0	0	35	22	11	962	483	5.67	.41	3.23	88.8	0.07
Specials	\$0.00	1,704	0	0	0	230	0	1,934	25	24	267	242	N/A	N/A			
Bishop DAR	\$7,378.00	1,243	1,166	373	215	91	183	3,271	941	874	9,718	8,930	2.26	.83	3.74	11.1	0.37
Nite Rider	\$1,537.20	301	28	36	10	0	4	379	80	76	1,058	1,058	4.06	1.45	5.02	14.0	0.36
Mammoth FR	\$0.00	25,508	0	1	0	2,374	0	27,883	1,012	955	12,842	12,110	N/A	N/A	29.18	13.4	2.30
Mammoth DAR	\$492.20	139	4	17	0	1	49	210	175	162	971	908	2.34	.54	1.29	6.0	0.23
Reno	\$11,427.00	434	83	17	7	14	2	557	283	266	11,450	11,060	20.52	1.03	2.10	43.1	0.05
Lancaster	\$6,127.25	276	58	24	2	6	7	373	231	210	10,189	9,984	16.43	.61	1.78	48.5	0.04
MMSA	\$0.00	89,067	0	1	0	10,863	0	99,931	2,176	2,065	26,764	24,842	.00	.00	48.39	13.0	4.02
Total	\$35,462.00	119,347	1,618	672	282	13,661	254	135,834	5,567	5,205	87,057	81,404	.26	.44	26.10	16.7	1.67

VARIANCE BY ROUTE (RAW NUMBERS) – December 2019 to December 2018																	
ROUTES	FARES	ADULTS	SNR	DIS	W/C	CHILD	FREE	TOTAL PAX	YD HOURS	SVC HOURS	YD MILES	SVC MILES	AVG FARE	REV/SV C MILE	PAX / SVC HR	MI / SVC HR	PAX / SVC MI
Mammoth Express	-\$321.50	239	-16	-3	-3	-2	12	227	5	4	154	158	-2.65	-0.12	2.56	-0.30	0.06
Lone Pine Express	\$169.25	34	30	-5	-18	-4	-2	35	-3	5	-89	160	-0.04	0.03	0.25	-3.33	0.01
Lone Pine DAR	\$223.40	-11	127	-15	-15	2	0	88	7	7	398	414	0.01	-0.02	0.49	2.27	-0.01
Tecopa	-\$5.00	0	-1	0	0	0	0	-1	-3	-3	-42	-42	0.00	0.01	0.08	1.58	0.00
Walker DAR	-\$206.70	7	14	-101	0	-1	0	-81	-32	-30	-382	-272	0.49	-0.23	-0.50	-1.97	-0.10
Bridgeport to G'Ville	\$57.00	0	0	14	0	0	0	14	-4	-4	-291	35	-2.00	0.18	0.90	-11.05	0.05
Benton to Bishop	-\$15.50	-6	-4	9	-1	0	0	-2	13	7	517	286	-0.13	-0.17	-1.35	-4.29	-0.03
Bishop DAR	\$583.00	34	67	65	71	-67	375	545	42	47	534	464	-0.17	0.02	0.40	0.02	0.04
Nite Rider	\$66.00	-3	-5	20	7	5	1	25	-11	-8	-57	-80	-0.09	0.19	0.97	0.82	0.05
Mammoth FR	\$0.00	-2407	0	4	0	-481	0	-2884	-54	-51	-1122	-1017	N/A	N/A	-1.54	-0.48	-0.05
Mammoth DAR	-\$48.80	-15	5	-7	0	7	-17	-27	5	16	-106	-159	0.08	0.05	-0.27	-1.13	0.01
Reno	\$2,172.00	88	-1	-10	-6	-2	-1	68	8	7	172	411	1.24	0.15	0.19	-0.49	0.00
Lancaster	\$1,342.25	37	16	-5	-2	3	-3	46	21	17	545	531	1.40	0.10	0.07	-1.32	0.00
MMSA	\$0.00	4,982	0	4	0	689	0	5,675	126	119	503	372					

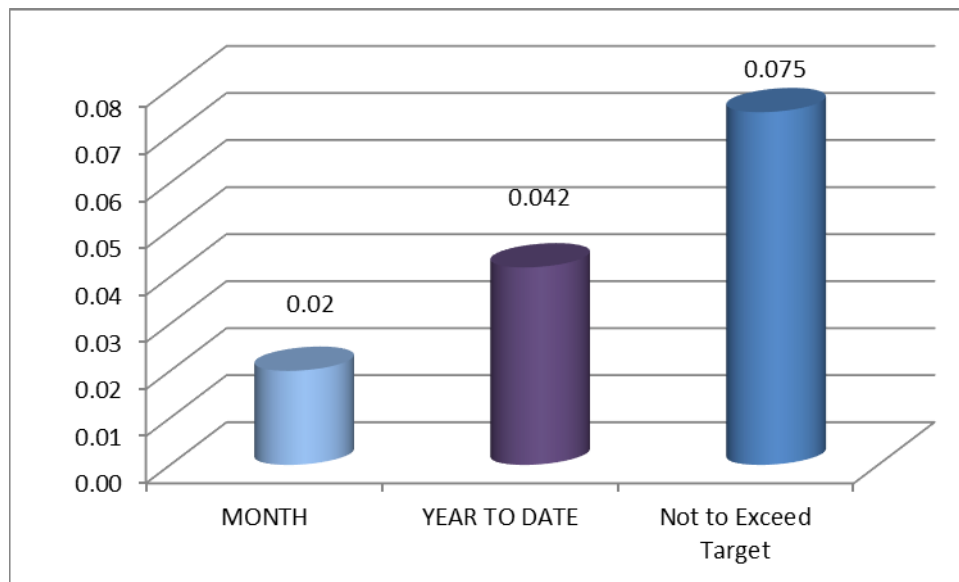
VARIANCE BY ROUTE (PERCENTAGE) – December 2019 to December 2018																	
ROUTES	FARES	ADULTS	SNR	DIS	W/C	CHILD	FREE	TOTAL PAX	YD HOURS	SVC HOURS	YD MILES	SVC MILES	AVG FARE	REV/SV C MILE	PAX / SVC HR	MI / SVC HR	PAX / SVC MI
Mammoth Express	-13%	69%	-42%	-75%	-100%	-25%	200%	56%	5%	5%	4%	5%	-45%	-17%	49%	-1%	49%
Lone Pine Express	18%	41%	49%	-29%	-95%	-100%	-67%	19%	-2%	5%	-2%	4%	-1%	14%	13%	-7%	15%
Lone Pine DAR	27%	-46%	85%	-23%	-60%	3%		27%	4%	5%	30%	31%	0%	-3%	21%	24%	-3%
Tecopa	-9%		-9%					-9%	-18%	-18%	-12%	-12%	0%	4%	10%	7%	4%
Walker DAR	-71%	700%	1400%	-97%		-100%		-76%	-20%	-20%	-52%	-44%	18%	-49%	-70%	-40%	-56%
Bridgeport to G'Ville	76%			140%				140%	-17%	-18%	-53%	16%	-27%	51%	192%	-43%	106%
Benton to Bishop	-8%	-50%	-21%	300%	-100%			-6%	58%	62%	54%	59%	-2%	-42%	-42%	-5%	-41%
Bishop DAR	7.9%	2.7%	5.7%	17.4%	33.0%	-73.6%	204.9%	16.7%	4.5%	5.3%	5.5%	5.2%	-7.5%	2.6%	10.8%	0.2%	10.9%
Nite Rider	4%	-1%	-18%	56%	70%		25%	7%	-13%	-11%	-5%	-8%	-2%	13%	19%	6%	15%
Mammoth FR		-9%		400%		-20%		-10%	-5%	-5%	-9%	-8%	N/A	N/A	-5%	-4%	-2%
Mammoth DAR	-10%	-11%	125%	-41%		700%	-35%	-13%	3%	10%	-11%	-18%	3%	9%	-21%	-19%	6%
Reno	19%	20%	-1%	-59%	-86%	-14%	-50%	12%	3%	3%	2%	4%	6%	15%	9%	-1%	8%
Lancaster	22%	13%	28%	-21%	-100%	50%	-43%	12%	9%	8%	5%	5%	9%	16%	4%	-3%	7%
MMSA		6%		400%		6%		6%	6%	6%	2%	1%					

Customer Comments

There were four comments received for the month of December 2019.

- 12/3: Customer called to complain that the Purple Line had not stopped at the Visitor Center for over 30 minutes. Driver was unfamiliar with route, and stopped shortly thereafter.
- 12/5: A Bishop resident called to complain that an ESTA driver had used the entrance to his driveway to turn the bus around. Driver advised to not use private property to turn.
- 12/9: Customer called to compliment ESTA service and drivers, especially driver Cathy Liberato who she has ridden with to Lancaster on several occasions.
- 12/27: Customer called to complain that a Red Line driver was rude with passengers boarding her bus.

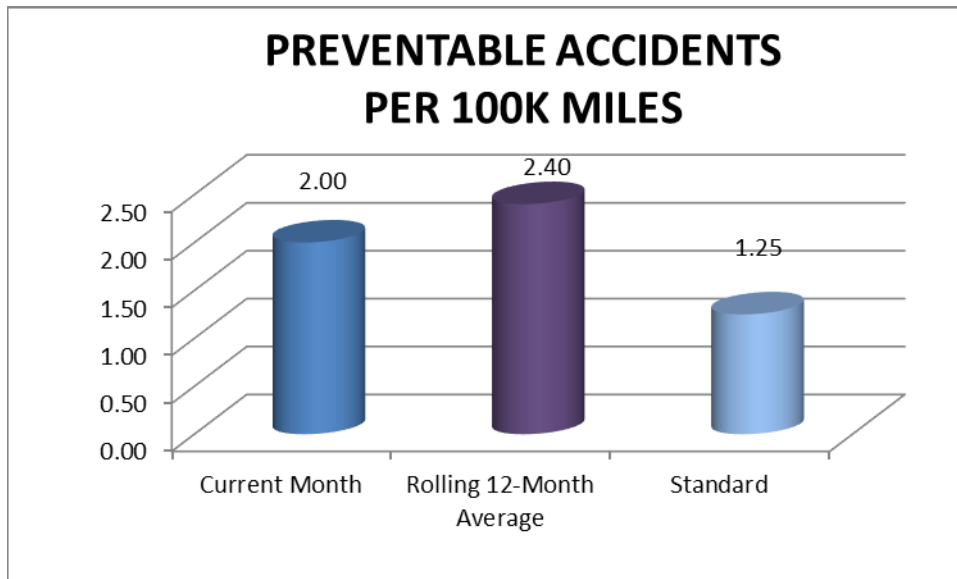
COMPLAINTS PER 1,000 PASSENGERS



Accident/Incidents

There were two preventable accidents in December 2019.

- 12/21: Driver sideswiped another ESTA vehicle when pulling out of a parking space at ESTA Mammoth yard
- 12/24: Driver grazed protective post next to fuel pump with rear bumper causing minor damage.



Road Call Frequency

There were no road calls during the month of December 2019 where a service vehicle had to be called to repair in place or tow a transit vehicle. There were 6 vehicle exchanges during the month of December 2019 due to mechanical issues requiring a replacement transit vehicle be placed into service. The average Road Call frequency is 0.82 per 100,00 miles.

Date	Road Calls	Bus Exchange	Miles	Road Calls / 100K Miles
Feb-19	1	5	78666	1.27
Mar-19	0	7	88385	0.00
Apr-19	2	6	85782	2.33
May-19	1	5	66050	1.51
Jun-19	1	8	65973	1.52
Jul-19	1	16	105637	0.95
Aug-19	0	11	109797	0.00
Sep-19	0	12	72042	0.00
Oct-19	1	8	68833	1.45
Nov-19	0	8	66663	0.00
Dec-19	0	6	86491	0.00

Missed Runs

There were 82 missed/late runs in December 2019.

- 12/2: Purple Line 1 run missed due to tire chain repair.
Night Trolley 6 runs missed due to driver callout.
- 12/3: Night Trolley 1 run missed due to driver late for shift.
- 12/4: Purple Line 1 run missed to tire chain repair.
Walker DAR reduced service due to staffing issue.
- 12/8: Green/Yellow Line 4 runs missed due to driver no show.
Green Line 2 runs missed due to bus switch out.
- 12/10: Night Trolley 6 runs missed due to driver illness.
- 12/11: Blue Line 1 run missed due to driver illness.
Walker DAR reduced service due to staffing issue.
- 12/12: Blue Line 2 runs missed due to chain install.
Purple Line 1 run missed due to flat tire.
- 12/13: Purple Line 2 runs due to driver callout.
Blue Line 5 runs missed due to chain install/heavy snow.
Yellow Line 2 runs missed due to chain install/accident along route.
Green Line 1 run missed due to chain install.
- 12/16: Night Trolley 4 runs missed due to driver illness.
- 12/17: Night Trolley 6 runs missed due to driver callout.
- 12/23: Night Trolley 6 runs missed due to driver illness.
- 12/24: Purple Line 2 runs missed due to chain install/heavy snow.
Blue Line 1 run missed due to chain install/heavy snow.
Yellow Line 2 runs missed due to chain install/heavy snow.
Green Line 5 runs missed due to chain install/heavy snow.
Walker DAR no service due to staffing issue.
- 12/25: Green Line 2 runs missed due to chain uninstall/heavy snow.
Purple Line 1 run missed due disabled passenger drop-off.
- 12/26: Blue Line 4 runs missed due to chain install/heavy snow.
Green Line 5 runs missed due to chain install/heavy snow.

- Walker DAR no service due to staffing issue.
- 12/27: Walker DAR no service due to staffing issue.
- 12/31: Blue Line 4 runs missed due to mechanical issue.

Bishop Area Dial-A-Ride Wait Times

Wait times for the Bishop Area Dial-A-Ride (Mon. through Fri., 7:00 a.m. – 6:00 p.m.)

DECEMBER 2019			
		PERCENT	GOAL
IMMEDIATE RESPONSE TRIPS			
Total Trips:	2,197	81.5%	
Average Wait Time (min.):	14		< 20 Minutes
Trips > 30 Minute Wait:	137	6.2%	< 5%
ADVANCE RESERVATION TRIPS			
Total Trips:	498	18.5%	
On Time Trips (± 10 min.)	403	80.9%	
TOTAL SCHEDULED TRIPS			
No-Shows Including Checkpoints	301	11.2%	
No-Shows Excluding Checkpoints	201	7.5%	
Cancellations	104	3.9%	

STAFF REPORT

Subject: Organizational Assessment and Triennial Audit Recommendations Update
Initiated by: Karie Bentley, Administration Manager

BACKGROUND:

In October 2017, the ESTA Board approved award of a contract to The Matrix Consulting Group to perform an Organizational Assessment of the Authority. The Organizational Assessment report is available on ESTA's website at:

<https://www.estransit.com/wp-content/uploads/2018/05/ESTA-Organizational-Assessment-Final-Report.pdf>

Additionally, Michael Baker International completed the triennial performance audit of ESTA for the three-year period ending June 30, 2016. The report is available here:

https://www.estransit.com/wp-content/uploads/2018/12/FY-2014-16_TDA-Performance-Audit_ESTA_Final.pdf

At the request of the Board, the status of these recommendations is being reported on quarterly.

ANALYSIS/DISCUSSION:

Updates on Hiring and Training:

ESTA's on-boarding and new hire training continues to be strengthened. Mammoth Operations Supervisor, Joe Warta completed the Transportation Safety Institute Transit Trainers course in January, giving ESTA another certified trainer. An additional spot for this training is reserved for June. We are hoping to have a successful recruitment for this additional Transit Trainer position.

Efforts continue to document procedures, attend trainings, cross train administrative staff and improve administrative support in areas where employees indicated concerns with existing practices. An employee survey is in development to gauge progress in this area.

Updates on IT:

Payroll software research has been put on hold in favor of a much-needed server and network upgrade. This is a necessary step before addressing Assessment Recommendation 10, "ESTA should have a systems/data security audit completed by a qualified company specializing in cyber security."

ESTA's servers are located in Bishop. The file server is ten+ years old. The server that hosts Routematch, the software used for Dial-A-Ride, is showing signs of approaching the end of its life. Carmichael Business Technologies (CBT) located in Mammoth Lakes has performed an assessment of our needs and a new server and other hardware are being implemented.

The updated configuration will utilize Office 365 for email and possibly file storage, with the files also syncing to a Network Attached Storage (NAS) device with separate credentials to provide additional protection in the event of a cyber-attack. Routematch will continue to be hosted locally on a physical server in our Bishop office. The new server is in a locked server rack which will improve physical security.

Our Mammoth Office, which is currently on a file share totally separate from the Bishop office, will have access to the same system allowing for a single repository for ESTA’s documents. This will allow the Executive Director and Administrative staff to also work in the Mammoth office, and will fulfill the recommendation on page 51 that states, “The new Administrative Manager should visit the Mammoth Lakes location at least twice per month”.

Efforts to source and implement payroll software will continue as time allows, upon completion of the server and network update. The complexity of both the PERS calculations and cost tracking for various routes has presented challenges.

Updates on On-Board Video:

Grant applications for new vehicles have included the cost of on-board video systems to insure new additions to our fleet are equipped with these systems. We are expecting a new trolley in April which will arrive with on-board video. There have been indications that our 5310 Application for two vehicle and additional equipment have been successful. Camera systems were included in the application and are expected to be awarded.

Updates on Fleet Maintenance:

The Executive Director continues to review maintenance strategies with the Town of Mammoth Lakes (TOML).

Below are some of the more granular Opportunities for Improvements that ESTA staff has made progress on since the assessment. The complete list can be found on pages 39-60 of the Organizational Assessment

Opportunities for Improvement	Actions Taken
Develop a procedures manual covering all administrative processes.	Many procedures have been written. The procedures manual is being put together in a spreadsheet that details the timing or reoccurring tasks. Each task is linked to the associated procedure.
Once procedures have been developed all administrative staff should be cross-trained on critical financial and human resource processes.	Cross-training is ongoing.
Administrative staff should cross-trained in budget processes and reporting requirements.	The Administration Manager is cross-trained in the budget process and reporting requirements. Discussions about budget and reporting requirements with Administrative Specialists are ongoing.

<p>Delegate approval of expenditures below a reasonable threshold that were clearly budgeted so long as separation of duties principles are followed.</p>	<p>Authority has been delegated and the Administration Manager routinely signs off on budgeted expenditures.</p>
<p>The full range of personnel/payroll issues should be included in annual communications to staff (taxes, deferred comp, payroll schedules, etc. and reminders about leave).</p>	<p>Information on tax forms, deferred compensation, payroll schedules, reminders about leave and other benefits are sent out regularly.</p>
<p>Procurement card limits are low at \$1,000 for the Transit Analyst and \$2,000 for the Executive Director. Limits should be raised to \$5,000 and consideration given to providing the Operations Supervisors with their own cards to facilitate purchase of vehicle maintenance parts and services.</p>	<p>Procurement card limits are currently \$2,000 for the Executive Director and Administration Manager. Operations Supervisors have been issued cards with \$500 limits for emergencies and approved purchases.</p>
<p>Procedure statements for critical HR functions need to be developed and published in a manual.</p>	<p>Procedures have been written and will be included in the Administrative Manual</p>
<p>Once procedures have been developed all administrative staff should be cross-trained on critical financial and human resource processes.</p>	<p>Cross-training is ongoing</p>
<p>Develop a training plan that includes general HR concepts (perhaps by having the two analysts attend an annual HR conference), PERS classes (for both analyst positions to support cross training), and DOT training for the Operations Supervisors.</p>	<p>While a formal ongoing plan has not been put into place the following trainings have been attended: HR Academy (2 Admins) Transit Trainer Training (2 Sups, 1 trainer) Transit Supervisors Certification (1 Sup.) FTA Triennial Workshop (2 Admins) ADA Coordinator Training (2 Admins) Risk Management Training (Admin) CalACT (ED, Admin, Sups) Procurement Training (ED) Procurement Overview (Admin) Contract Training (ED, 3 Admins) PERS Business Rules (3 Admins) Other trainings scheduled this FY: CalAct, DOT Drug and Alcohol, CJPIA Executive Academy and transit trainer training. A list for next fiscal year will be compiled during the budgeting process.</p>

As part of its recruitment plan, ESTA should explore other avenues for recruitment such as military installations, newspapers in other resort areas, and trade journals for transit properties and schools.	Online advertising for seasonal drivers was tried this past year. Although there were some interested parties the housing situation prevented any hires. ESTA has begun recruiting in community events such as Earth Day and the Choo-Choo Swap Meet and has successfully hired from these events.
Sign-on bonuses should be explored for seasonal bus drivers	Sign on bonuses are in place.
A training plan should be developed that covers all employees in the organization. The plan should include a structured program for both new and experienced bus drivers.	A new hire driver training program is in place and has been well received. Post-accident training has been implemented. Ongoing training occurs bi-annually in Mammoth Lakes and quarterly in Bishop, the scheduling is currently under review.
ESTA should formalize the appointment of an employee as the organization's IT coordinator.	The Administration Manager has been appointed the organization's IT coordinator.
Older computers and peripherals should be included in a comprehensive asset inventory and replacement plan.	This is part of the server/network upgrade that is currently underway.

The overview tables listing the recommendations of the organizational assessment and the Triennial Audit follow this report along with a brief status report.

FINANCIAL CONSIDERATIONS

The Organizational Assessment and Triennial Audit Recommendation update is presented at this time for the Board's information and consideration. Any costs associated with the recommendations will be provided as they become known.

RECOMMENDATION

The Organizational Assessment and Triennial Audit update is presented at this time as an information item for the Board.

Triennial Audit Recommendations:

1. Ensure vehicle maintenance is conducted within maintenance parameters. <i>(High Priority)</i>	Fleet maintenance in Mammoth Lakes is under review.
2. Study feasibility of bringing 45-day vehicle inspections in-house. <i>(Medium Priority)</i>	This task is pending.

3. Include comparison of performance against new standards in the monthly operations report. (<i>Medium Priority</i>)	Some new standards have been incorporated into the monthly operations report.
4. Continue working with Mono and Inyo LTCs and Caltrans to procure additional on-board video cameras for the bus fleet. (<i>Medium Priority</i>)	Ten additional video systems were installed in March 2019. New funding requests for vehicle purchases include funding for cameras.

Summary of Organizational Assessment Recommendations

Rec.	Recommendation	Priority	Status
1	ESTA should adopt a new organizational structure that consolidates all administrative activities under an Administrative Manager position.	1	Done
2	ESTA should adopt revised position titles and job duty descriptions for the administrative positions.	1	Done
3	ESTA should adopt salary levels that are competitive with the market for administrative and supervisory staff positions.	1	Done
4	ESTA should consider adding 1.5 administrative support positions to its staff including making the current half-time clerical position in Bishop full-time and adding a full-time clerical position to the Mammoth Lakes terminal.	1	Bishop half-time clerical position has been made full time. Half-time admin staff in Mammoth was discontinued.
5	ESTA should assign back-up dispatch duties to the added clerical positions so that professional staff currently backing up the dispatchers can focus on more technical duties.	1	Done
6	ESTA should work to improve administrative support areas where employees indicated concerns with existing practices.	2	Improvements continue, an employee survey is in the works to gauge progress.
7	ESTA should develop a procedures manual covering all key administrative processes.	3	ongoing
8	ESTA should develop an annual training plan to ensure that a minimum of two staff are proficient in critical administrative functional areas and processes.	4	Administration Manager is cross training the Admin. Spec. I & III in a number of areas. Administration Manager is also working to understand Executive Director Responsibilities
9	ESTA should assess the feasibility of acquiring an integrated financial/personnel management system that includes time keeping/payroll functionality.	2	Payroll software research is on hold until after network upgrade.
10	ESTA should have a systems/data security audit completed by a qualified company specializing in cyber security.	1	A server and network upgrade is underway as a precursor to this task.
11	ESTA should develop a workforce plan to project retirements and replacement for critical positions.	4	Not yet started.

12 ESTA should review its fleet operations to ensure the most cost-effective and beneficial models are in place for replacing, fueling, and maintaining its buses and other vehicles.

4 Fleet replacement strategy is being reviewed. Fleet maintenance in Mammoth under review.

STAFF REPORT

Subject: Employee of the Quarter

Presented by: Phil Moores, Executive Director

ESTA has an Employee of the Quarter program which rotates between the Mammoth Lakes and Bishop yards. The program is sustained by coworker nominations and a selection committee comprised of drivers, office staff, and supervisors. Winners are selected for outstanding professionalism and customer service. This month's winner is from the Mammoth yard and has proven to be extremely dependable and hardworking. He was nominated by many of his coworkers, which says a lot about his character. He can be seen riding his mountain bike around Mammoth and enjoying the great outdoors. Please join me in congratulating Eric Hunter as this quarter's winner!

STAFF REPORT

Subject: Drug and Alcohol Testing Policy Revision

Initiated by: Karie Bentley, Administration Manager

BACKGROUND:

In August 2019 ESTA was selected for a Drug & Alcohol Program Oversight Desk Review as part of the required oversight for recipients of Section 5311 funds. Although ESTA's Drug and Alcohol Policy was modeled on a template prepared by the Federal Transit Administration and distributed in California by the California Department of Transportation (Caltrans) and the California Association of Coordinated Transportation (CalACT) one of the required follow up actions from the Desk Review is updating ESTA's Drug and Alcohol Policy.

In addition to the edits required of the Desk Review, the information for ESTA's Medical Review Officer, Substance Abuse Professional and HHS Certified Laboratory Primary Specimen, have been updated to reflect ESTA's move to a new testing provider. Minor changes to format were also made.

ANALYSIS/DISCUSSION:

The list below summarizes the areas of required follow-up action from the Drug and Alcohol Desk Review as well the steps taken to address them. No further information or action has been requested since ESTA supplied the required information.

- Reviewer requested ESTA's Drug and Alcohol Policy be updated to address the revisions indicated by the Reviewer and that the revisions be approved by the Governing Authority. After obtaining the approval all covered employees must be made aware of the policy changes through signing a policy acknowledgment form.
- The Drug and Alcohol Policy revisions are being presented to the Board for approval and are attached to this Board Report. Once approved all covered employees will be made aware of the policy and will be required to sign a policy acknowledgment form.
- Reviewer requested Custody and Control Form (CCF), Medical Review Officer Verified Result, and documentation of a Substance Abuse Professional referral, on a positive pre-employment test result.
- The information was provided.
- Reviewer requested documentation showing the oversight efforts ESTA has taken to ensure its contractor (Pahrump Senior Center) is compliant with all USDOT-FTA drug and alcohol regulations.

- The information was provided.
- DOT previous employer records for two employees were not sufficient to show that the previous employers responded to ESTA's request. Reviewer requested documentation showing ESTA received responses from those previous employers, or official documentation showing that ESTA showed a "good faith effort" to obtain the information.
- The information was provided.
- The Reviewer discovered that several of the Pre-Employment CCFs, Step 1F (test to be performed) were left unmarked. A signed statement certifying that ESTA will ensure all required elements of the CCFs will be accurately completed in future tests was requested.
- A signed statement was provided. Although it is the responsibility of the collection site to complete the form based on the information provided on the Collection Pass, ESTA staff ordering the tests were trained to check the box.
- Reviewer requested a signed statement, on official ESTA letterhead, explaining the method that is used to select individuals for random testing each quarter. The statement needed to be sufficient to show compliance with 49 CFR Part 655 that the selection method is scientifically valid.
- The information was provided.
- Reviewer commented that all random tests provided for review were conducted from 9AM - 4PM. ESTA operates from 6:15AM - 2AM. Reviewer requested a signed statement on agency letterhead stating that the Drug and Alcohol Program Manager had read and fully understood the requirements of 49 CFR Part 655.45 which require random testing to be spread throughout all hours of the day that safety-sensitive operations are conducted and a signed statement describing how ESTA will ensure this requirement is met in the future.
- The statement was provided. Calls were made to the testing facilities requesting they accommodate earlier and later testing times. Both facilities indicated they would work with ESTA to accommodate tests before and after normal collection hours.

FINANCIAL CONSIDERATIONS

None.

RECOMMENDATION

The Board is requested to pass and approve Resolution 2020-20 ratifying and adopting the revised Eastern Sierra Transit Authority Drug and Alcohol Testing Policy.

RESOLUTION 2020-02

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE EASTERN SIERRA TRANSIT AUTHORITY (ESTA) ADOPTING ESTA’S REVISED DRUG AND ALCOHOL TESTING POLICY

WHEREAS, the Eastern Sierra Transit Authority (“ESTA”), as an entity providing transit services to the public and operating vehicles in the scope of public business, must comply with safety regulations promulgated by the United States Department of Transportation, specifically, implementing the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991; and

WHEREAS, ESTA must specifically comply with the regulations of the Federal Highway Administration: and

WHEREAS, adoption of a policy to implement a program for alcohol misuse and controlled substance abuse by employees with commercial driver’s licenses is one of ESTA’s obligations under these regulations; and

WHEREAS, such program is intended to help prevent accidents and injuries resulting from such misuse and use of drugs and alcohol, as well as to reduce ESTA’s liabilities for any such accidents and injuries; and

WHEREAS, it has been determined that the Eastern Sierra Transit Authority Drug and Alcohol Testing Policy adopted by the ESTA Board of Directors in April of 2007, and amended in November of 2012, November of 2014, January of 2016, January of 2018 and May of 2019 is in need of clarification and update.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Eastern Sierra Transit Authority as follows:

The revised Eastern Sierra Transit Authority Drug and Alcohol Testing Policy, as mandated by the Department of Transportation, and attached hereto as Exhibit “A”, and which is incorporated herein by this reference is hereby ratified and adopted February, 14, 2020

APPROVED, RATIFIED AND ADOPTED this 14th day of February, 2020, by the following vote of the Eastern Sierra Transit Authority Board of Directors:

AYES:
NOES:
ABSTAIN:
ABSENT:

Bob Gardner, Chairperson
Eastern Sierra Transit Authority Board of Directors

Attest: Linda Robinson
Secretary of the Board

By: _____
Linda Robinson

Exhibit A

DRUG AND ALCOHOL TESTING POLICY
Eastern Sierra Transit Authority
Adopted as of February 14, 2020

A. PURPOSE

- 1) The Eastern Sierra Transit Authority provides public transit and paratransit services for the residents of *Inyo and Mono Counties*. 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, Eastern Sierra Transit Authority declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.
- 2) Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, 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 Federal Transit Administration (FTA) of the U.S. Department of Transportation 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, or a refusal to test. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.
- 3) Any provisions set forth in this policy that are included under the sole authority of Eastern Sierra Transit Authority and are not provided under the authority of the abovenamed Federal regulations are underlined. Tests conducted under the sole authority of Eastern Sierra Transit Authority 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 safety-sensitive employees (full- or part-time) when performing safety sensitive duties Eastern Sierra Transit Authority employees that do not perform safety-sensitive functions are also covered under this policy under the sole authority of Eastern Sierra Transit Authority. See Attachment A for a list of employees and the authority under which they are included.

A safety-sensitive function is operation of public 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 to operate. 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 contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

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

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

Canceled Test: A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.

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.

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).

Covered Employee Under Company Authority: An employee, applicant, or transferee that will not perform a safety-sensitive function as defined by FTA but is included under the company's own authority. (See Attachment A).

Designated Employer Representative (DER): An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

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 49 CFR Part 40, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes. These terms include any designee of a DOT agency.

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, or windshield wipers that makes them inoperative.

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

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 urine specimen is adulterated, diluted, substituted, or invalid

Invalid Result: The result reported by a Department of Health & Human Services (HHS)-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted results 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 of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; 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 a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

Limit of Quantitation: For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

Negative Dilute: A drug test result which is negative for the five drug/drug metabolites but has creatinine and specific gravity values that are lower than expected for human urine.

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 test result: A urine specimen that is reported as adulterated, substituted, invalid, or positive for drug/drug metabolites.

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.

Prohibited drug: Identified as marijuana, cocaine, opioids, amphetamines or phencyclidine at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

Reconfirmed: The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary 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: Employee duties identified as:

- (1) The operation of a transit 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) Maintaining a revenue service vehicle or equipment used in revenue service.
- (4) Controlling the movement of a revenue service vehicle and
- (5) 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 an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Substituted specimen: 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 employee:

- (1) 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
- (2) Fails 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.
- (3) Fails 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 urine or breath 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.
- (4) 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
- (5) 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
- (6) Fails or declines to take a second test the employer or collector has directed you to take
- (7) Fails to undergo a medical examination or evaluation, as directed by the MRO, or as directed by the DER
- (8) Fails to cooperate with any part of the testing process
- (9) If the MRO reports that there is verified adulterated or substituted test result
- (10) Failure or refusal to sign Step 2 of the alcohol testing form
- (11) 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.

- (12) Possess or wear a prosthetic or other device that could be used to interfere with the collection process
- (13) Admit to the collector or MRO that you adulterated or substituted the specimen.
- (14) Fail to remain readily available for testing following involvement in an accident.

Vehicle: A bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel. A public transit vehicle is a vehicle used for public transportation or for ancillary services.

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, opioids, 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 above the minimum thresholds 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, opioids, and phencyclidine as described in Section H of this policy. Employees covered under company authority will also be tested for these same substances. 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 Eastern Sierra Transit Authority 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 containing alcohol in a manner which violates the conduct listed in this policy is prohibited. A random, reasonable suspicion, or follow-up 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 Eastern Sierra Transit Authority authority, a non-DOT alcohol test can be performed any time an employee is on duty.

F. PROHIBITED CONDUCT

- 1) All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.
- 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 0.04 or greater regardless of when the alcohol was consumed.
 - a. An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT-FTA drug and alcohol regulations, provided the employee hasn't consumed the alcohol within four (4) hours of performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT-FTA regulations require the employee to be removed from the performance of safety-sensitive duties until:
 - i. The employee's alcohol concentration measures less than 0.02; or
 - ii. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.
- 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) Eastern Sierra Transit Authority under its own authority also prohibits the consumption of alcohol all times employee is on duty, or anytime the employee is in uniform.

- 8) Consistent with the Drug-free Workplace Act of 1988, all Eastern Sierra Transit Authority 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 Eastern Sierra Transit Authority 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 of this policy.

H. TESTING REQUIREMENTS

- 1) Analytical urine drug testing and breath testing for alcohol will be conducted using the testing methodologies and thresholds 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. All employees covered under company authority will also be subject to testing for reasonable suspicion, post-accident, random and return to duty/follow up using non-DOT testing forms
- 2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion, random, or follow-up alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job function. Under Eastern Sierra Transit Authority authority, a non-DOT alcohol test can be performed any time an employee is on duty.
- 3) All employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with Eastern Sierra Transit Authority. 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 Service (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) The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. 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 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 Chromatography/Mass Spectrometry (GC/MS) or Liquid Chromatography/Mass Spectrometry (LC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS or LC/MS test are above the minimum thresholds 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 Eastern Sierra Transit Authority. If a legitimate explanation is found, the MRO will report the test result as negative.
- 4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. 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 sample be tested. The split sample 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 sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample 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. Eastern Sierra Transit Authority will ensure that the cost for the split specimen are covered in order for a timely analysis of the sample, however Eastern Sierra Transit Authority 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.
- 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. 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 (by a person of the same gender) with no advance notice will occur if:
 - i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to Eastern Sierra Transit Authority that there was not an adequate medical explanation for the result;
 - ii. The MRO reports to Eastern Sierra Transit Authority 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 as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).

- 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). A list of approved EBTs can be found on ODAPC's Web page for "Approved Evidential Breath Measurement Devices". Alcohol screening tests may be performed using a non-evidential testing device (alcohol screening device (ASD)) which is also approved by NHTSA. A list of approved ASDs can be found on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids". 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 an approved alcohol testing form, 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 for the duration of the work day whichever is longer and 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) Eastern Sierra Transit Authority affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, 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 alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

K. PRE-EMPLOYMENT TESTING

- 1) All applicants for covered transit positions shall undergo urine drug testing 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.
 - b. An employee shall not be placed, transferred or promoted into a position covered under FTA or company authority until the employee takes a drug test with verified negative results.
 - c. 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 list of USDOT qualified SAPs. Failure of a pre-employment drug test will disqualify an applicant for employment 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.

- d. When an employee being placed, transferred, or promoted from a non-covered position to a 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.
- e. If a pre-employment test is canceled, Eastern Sierra Transit Authority will require the applicant to take and pass another pre-employment drug test.
- f. 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.
- g. 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.
- h. Applicants are required (even if ultimately not hired) to provide Eastern Sierra Transit Authority with signed written releases requesting USDOT 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. Eastern Sierra Transit Authority 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 Eastern Sierra Transit Authority 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 Eastern Sierra Transit Authority 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 Eastern Sierra Transit Authority'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) Eastern Sierra Transit Authority 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 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 ESTA Drug and Alcohol Program Manager.
- 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. Eastern Sierra Transit Authority 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 Eastern Sierra Transit Authority. **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

- 1) **FATAL ACCIDENTS** – A covered employee will be required to undergo urine and breath testing if they are involved in an accident with a transit vehicle regardless of whether or not the vehicle is in revenue service that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.
- 2) **NON-FATAL ACCIDENTS** - A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least one of the following conditions is met:
 - a. The accident results in injuries requiring immediate transportation to a medical treatment facility 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 as a result of the occurrence and must be transported away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident

As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

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.

Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test.

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.

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.

In the rare event that Eastern Sierra Transit Authority is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), Eastern Sierra Transit Authority 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 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.
- 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 shall be not less than the percentage rates set each year by the FTA administrator. The current random testing rates can be viewed online at <https://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 the testing pool of non-safety-sensitive employees that are included solely under Eastern Sierra Transit Authority authority.

- 6) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under Eastern Sierra Transit Authority's authority, a non-DOT random alcohol test may be performed any time the 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. 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. The SAP will determine whether the employee returning to duty will require a return-to-duty drug test, alcohol test, or both.

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 to five years with a minimum of six tests to be performed the first year. The 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. Follow-up testing should be frequent enough to deter and/or detect a relapse. 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 or 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 equivalent to a positive test result and a direct act of insubordination and shall result in termination and referral to a list of USDOT qualified SAPs. 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. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
 - c. Fails 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 urine or breath 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.
 - 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, or as directed by the DER
 - h. Fails to cooperate with any part of the testing 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
 - n. Fail to remain readily available following involvement in an accident
- 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), 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 duty agreement;
 - b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from Eastern Sierra Transit Authority 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 shall result in termination from Eastern Sierra Transit Authority employment.
- 5) The first instance of a verified positive post-accident or reasonable suspicion drug and/or alcohol test shall result in termination.
- 6) Regardless of test category or type, the second instance of a verified positive drug or alcohol (≥ 0.04 BAC) test result shall result in termination from Eastern Sierra Transit Authority employment.
- 7) An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder or 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 a NON-DOT alcohol test with a result of less than 0.02 BAC.

- 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.

- 10) 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 termination from Eastern Sierra Transit Authority 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 described in Section P of this policy; however, all follow-up testing performed as part of a return-to-work agreement required under section Q of this policy is under the sole authority of the Eastern Sierra Transit Authority and will be performed using non-DOT testing forms.
 - 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 Eastern Sierra Transit Authority.
 - g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.
- 11) 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 OF THE POLICY

Eastern Sierra Transit Authority 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 Eastern Sierra Transit Authority 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 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 Eastern Sierra Transit Authority 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.

This Policy was adopted by the *Eastern Sierra Transit Authority Board of Directors* on February 14, 2020. Attachment A

<u>Job Title</u>	<u>Job Duties</u>	<u>Testing Authority</u>
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Safety Sensitive Positions

Executive Director	Driver/Dispatcher	FTA
Administrative Specialist	Dispatcher	FTA
Transit Operations Supervisor	Driver/Dispatcher	FTA
Transit Operations Assistant	Driver/Dispatcher	FTA
Transit Trainer	Driver	FTA
Lead Transit Driver	Driver	FTA
Transit Driver	Driver	FTA
Dispatcher	Dispatcher	FTA
Account Clerk	Dispatcher	FTA
Utility Worker	Vehicle Cleaning	FTA

Non-Safety Sensitive Positions

Passenger Services Assistant	Ticket Sales	ESTA
Administration Manager	Manages Administration	ESTA

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

ESTA Drug and Alcohol Program Manager

Name: Karie Bentley
Title: Administration Manager
Address: P.O. Box 1357 – Bishop, CA 93515
Telephone Number: (760) 872-1901 ext. 15

Medical Review Officer

Name: David R. Nahin, M.D.
Title: Certified Medical Review Officer
Address: 9501 Northfield Blvd., Denver, CO 80238
Telephone Number: (877) 585-7366

Substance Abuse Professional

Name: Jo A. St. Peter
Address: 3680 Grant Drive, Ste. J, Reno, NV 89509
Telephone Number: (775) 786-1190

HHS Certified Laboratory Primary Specimen

Name: Quest Diagnostics-Lenexa
Address: 10101 Renner Blvd., Lenexa KS 66219
Telephone Number: 800-877-7484

Safety-sensitive functions: Employee duties identified as:

- (1) The operation of a transit 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) Maintaining a revenue service vehicle or equipment used in revenue service.
- (4) Controlling the movement of a revenue service vehicle and
- (5) 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 an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Substituted specimen: 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 employee:

- (1) 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
- (2) Fails 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.
- (3) Fails 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 urine or breath 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.
- (4) 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
- (5) 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
- (6) Fails or declines to take a second test the employer or collector has directed you to take

- (7) Fails to undergo a medical examination or evaluation, as directed by the MRO, or as directed by the DER
- (8) Fails to cooperate with any part of the testing process
- (9) If the MRO reports that there is verified adulterated or substituted test result
- (10) Failure or refusal to sign Step 2 of the alcohol testing form
- (11) 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.
- (12) Possess or wear a prosthetic or other device that could be used to interfere with the collection process
- (13) Admit to the collector or MRO that you adulterated or substituted the specimen.
- (14) Fail to remain readily available for testing following involvement in an accident.

Vehicle: A bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel. A public transit vehicle is a vehicle used for public transportation or for ancillary services.

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

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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, opioids, 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 above the minimum thresholds 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, opioids, and phencyclidine as described in Section H of this policy. Employees covered under company authority will also be tested for these same substances. 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 Eastern Sierra Transit Authority 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~~ containing alcohol in a manner which violates the conduct listed in this policy is prohibited. A random, ~~or~~ reasonable suspicion, or follow-up 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 Eastern Sierra Transit Authority authority, a non-DOT alcohol test can be performed any time an employee is on duty.

F. PROHIBITED CONDUCT

- 1) All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.
- 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 0.04 or greater regardless of when the alcohol was consumed.
 - a. An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT-FTA drug and alcohol regulations, provided the employee hasn't consumed the alcohol within four (4) hours of performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT-FTA regulations require the employee to be removed from the performance of safety-sensitive duties until:
 - i. The employee's alcohol concentration measures less than 0.02; or

- ii. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.
- 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) Eastern Sierra Transit Authority under its own authority also prohibits the consumption of alcohol all times employee is on duty, or anytime the employee is in uniform.
- 8) Consistent with the Drug-free Workplace Act of 1988, all Eastern Sierra Transit Authority 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 Eastern Sierra Transit Authority 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 of this policy.

H. TESTING REQUIREMENTS

- 1) Analytical urine drug testing and breath testing for alcohol will be conducted using the testing methodologies and thresholds 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. All employees covered under company authority will also be subject to testing for reasonable suspicion, post-accident, random and return to duty/follow up using non-DOT testing forms
- 2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion, ~~or random,~~ or follow-up alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job

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function. Under Eastern Sierra Transit Authority authority, a non-DOT alcohol test can be performed any time an employee is on duty.

- 3) All employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with Eastern Sierra Transit Authority. 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 Service (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) The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. 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 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 Chromatography/Mass Spectrometry (GC/MS) or Liquid Chromatography/Mass Spectrometry (LC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS or LC/MS test are above the minimum thresholds 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

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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 Eastern Sierra Transit Authority Drug and Alcohol Program Manager (DAPM)~~. If a legitimate explanation is found, the MRO will report the test result as negative.

- 4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. 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 sample be tested. The split sample 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 sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample 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. Eastern Sierra Transit Authority will ensure that the cost for the split specimen are covered in order for a timely analysis of the sample, however Eastern Sierra Transit Authority 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.
- 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. 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 (by a person of the same gender) with no advance notice will occur if:
- i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to Eastern Sierra Transit Authority that there was not an adequate medical explanation for the result;
 - ii. The MRO reports to Eastern Sierra Transit Authority 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 as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).
 - 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). A

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list of approved EBTs can be found on ODAPC's Web page for "Approved Evidential Breath Measurement Devices". Alcohol screening tests may be performed using a non-evidential testing device (alcohol screening device (ASD)) which is also approved by NHTSA. A list of approved ASDs can be found on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids". 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 an approved alcohol testing form, 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 for the duration of the work day whichever is longer and 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) Eastern Sierra Transit Authority affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, 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 alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

K. PRE-EMPLOYMENT TESTING

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- 1) All applicants for covered transit positions shall undergo urine drug testing 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.
 - b. An employee shall not be placed, transferred or promoted into a position covered under FTA or company authority until the employee takes a drug test with verified negative results.
 - c. 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 list of USDOT qualified SAPs. Failure of a pre-employment drug test will disqualify an applicant for employment 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.
 - d. When an employee being placed, transferred, or promoted from a non-covered position to a 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.
 - e. If a pre-employment test is canceled, Eastern Sierra Transit Authority will require the applicant to take and pass another pre-employment drug test.
 - f. 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.
 - g. 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.

- h. Applicants are required (even if ultimately not hired) to provide Eastern Sierra Transit Authority with signed written releases requesting USDOT 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. Eastern Sierra Transit Authority 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 Eastern Sierra Transit Authority proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

N.L. REASONABLE SUSPICION TESTING

- 1) All Eastern Sierra Transit Authority 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 Eastern Sierra Transit Authority'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) Eastern Sierra Transit Authority 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 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 ESTA Drug and Alcohol Program Manager.

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. Eastern Sierra Transit Authority 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 Eastern Sierra Transit Authority. **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.

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S.M. POST-ACCIDENT TESTING

1) FATAL ACCIDENTS – A covered employee will be required to undergo urine and breath testing if they are involved in an accident with a transit vehicle regardless of whether or not the vehicle is in revenue service that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.

2) NON-FATAL ACCIDENTS - A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least one of the following conditions is met:

- a. The accident results in injuries requiring immediate transportation to a medical treatment facility away from the scene, ~~and unless~~ the covered employee ~~may have contributed~~can be completely discounted as a contributing factor to the accident.
- b. One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, ~~and the covered employee may have contributed~~unless the covered employee can be completely discounted as a contributing factor to the accident

As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

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.

Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test.

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.

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.

In the rare event that Eastern Sierra Transit Authority is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), Eastern Sierra Transit Authority 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.

T.N. RANDOM TESTING

- 1) All covered employees will be subjected to random, unannounced 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.
- 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 shall be not less than the percentage rates set each year by the FTA administrator. The current random testing rates can be viewed online at <https://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 the testing pool of non-safety-sensitive employees that are included solely under Eastern Sierra Transit Authority authority.
- 6) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under Eastern Sierra Transit Authority's authority, a non-DOT random alcohol test may be performed any time the 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.

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U.O. RETURN-TO-DUTY TESTING

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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. The SAP will determine whether the employee returning to duty will require a return-to-duty drug test, alcohol test, or both.

V.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 to five years with a minimum of six tests to be performed the first year. The 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. Follow-up testing should be frequent enough to deter and/or detect a relapse. 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 or 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.

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AA.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 equivalent to a positive test result and a direct act of insubordination and shall result in termination and referral to a list of USDOT qualified SAPs. 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. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
 - c. Fails 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 urine or breath 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.
 - 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, or as directed by the DER
 - h. Fails to cooperate with any part of the testing 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
 - n. Fail to remain readily available following involvement in an accident
- 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), 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 duty agreement;
 - b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from Eastern Sierra Transit Authority 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 shall result in termination from Eastern Sierra Transit Authority employment.
- 5) The first instance of a verified positive post-accident or reasonable suspicion drug and/or alcohol test shall result in termination.
- 6) Regardless of test category or type, the second instance of a verified positive drug or alcohol (≥ 0.04 BAC) test result for any category of testing shall result in termination from Eastern Sierra Transit Authority employment.
- ~~7)~~
- 78) An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder or 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 a NON-DOT alcohol test with a result of less than 0.02 BAC.

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- 89) 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.
- 10) 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 termination from Eastern Sierra Transit Authority 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 described in Section P of this policy; however, all follow-up testing performed as part of a return-to-work agreement required under section Q of this policy is under the sole authority of the Eastern Sierra Transit Authority and will be performed using non-DOT testing forms.
 - 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 Eastern Sierra Transit Authority.
 - g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.
- 11) 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.

BB.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.

CC.S. PROPER APPLICATION OF THE POLICY

Eastern Sierra Transit Authority 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.

DD.T. INFORMATION DISCLOSURE

- 1) Drug/alcohol testing records shall be maintained by the Eastern Sierra Transit Authority 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 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 Eastern Sierra Transit Authority 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.

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This Policy was adopted by the *Eastern Sierra Transit Authority Board of Directors* on ~~May 14, 2018~~ February 14, 2020. Attachment A

<u>Job Title</u>	<u>Job Duties</u>	<u>Testing Authority</u>
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Safety Sensitive Positions

Executive Director	Driver/Dispatcher	FTA
Administrative Specialist	Dispatcher	FTA
Transit Operations Supervisor	Driver/Dispatcher	FTA
Transit Operations Assistant	Driver/Dispatcher	FTA
Transit Trainer	Driver	FTA
Lead Transit Driver	Driver	FTA
Transit Driver	Driver	FTA
Dispatcher	Dispatcher	FTA
Account Clerk	Dispatcher	FTA
Utility Worker	Vehicle Cleaning	FTA

Non-Safety Sensitive Positions

Passenger Services Assistant	Ticket Sales	ESTA
Administration Manager	Manages Administration	ESTA

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

ESTA Drug and Alcohol Program Manager

Name: Karie Bentley
Title: Administration Manager
Address: P.O. Box 1357 – Bishop, CA 93515
Telephone Number: (760) 872-1901 ext. 15

Medical Review Officer

Name: ~~Dr. David Nahin M.D.~~ David R. Nahin, M.D.
Title: Certified Medical Review Officer
Address: ~~9501 Northfield Blvd. Denver, CA 802~~ 9501 Northfield Blvd. 38 —, Denver, CO 80238
Telephone Number: ~~(877) 585-7366~~ 877-585-7366

Substance Abuse Professional

~~Name: Human Behavior Associates, Inc.
Name: Robert Harelson, Phd., SAP
Address: 3411C Mt. Diablo Blvd., Lafayette, CA 94549
Telephone: (707) 747-0447
Fax: (707) 747-6646
<http://www.callhba.com>
Jo A. St. Peter
Address: 3680 Grant Drive, Ste. J, Reno, NV 89509
Telephone Number: (775) 786-1190~~

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HHS Certified Laboratory Primary Specimen

Name: Quest Diagnostics ~~Lenexa~~
Address: 10101 Renner Blvd., Lenexa KS 66219
Telephone Number: 800-877-7484

~~**HHS Certified Laboratory Split Specimen**~~

~~Name: _____
Address: _____
Telephone Number: _____~~

DRUG AND ALCOHOL POLICY ADDENDUM EFFECTIVE: JANUARY 1, 2018

The United States Department of Transportation (USDOT)—Office of Drug and Alcohol Policy and Compliance (ODAPC) has issued an update to USDOT’s drug and alcohol testing regulation (49 CFR Part 40). The new regulation has been revised and the changes (summarized below) will become effective on January 1, 2018. Therefore, the Eastern Sierra Transit Authority’s drug and alcohol testing policy is amended as follows:

1. CHANGES TO THE DRUG TESTING PANEL

a. Four new opioids added to the drug testing panel—

i. The USDOT drug test remains a “5-panel” drug test; however, the list of opioids for which are tested will expand from three to seven opioids:

ii. The “opioid” category will continue to test for codeine, morphine, and heroin; however, the “opioid” testing panel will now be expanded to include four (4) new semi-synthetic opioids:

1. (1) Hydrocodone, (2) Hydromorphone, (3) Oxycodone, and (4) Oxymorphone.

2. Common brand names for these semi-synthetic opioids include, but may not be limited to: OxyContin®, Percodan®, Percocet®, Vicodin®, Lortab®, Norco®, Dilaudid®, Exalgo®.

b. ‘MDA’ will be tested as an initial test analyte

c. ‘MDEA’ will no longer be tested for under the “amphetamines” category.

2. BLIND SPECIMEN TESTING

a. The USDOT no longer requires blind specimens to be submitted to laboratories.

3. ADDITIONS TO THE LIST OF “FATAL FLAWS”

a. The following three circumstances have been added to the list of “fatal flaws”:

i. No CCF received by the laboratory with the urine specimen.

ii. In cases where a specimen has been collected, there was no specimen submitted with the CCF to the laboratory.

iii. Two separate collections are performed using one CCF.

4. MRO VERIFICATION OF PRESCRIPTIONS

a. When a tested employee is taking a prescribed medication, after verifying the prescription and immediately notifying the employer of a verified negative result, the MRO must then (after notifying the employee) wait five (5) business days to be contacted by the employee’s prescribing physician before notifying the employer of a medical-qualification issue or significant safety risk.

i. Specifically, in cases where an MRO verifies a prescription is consistent with the Controlled Substances Act, but that the MRO has still made a determination that the prescription may disqualify the employee under other USDOT medical-qualification requirements, or that the prescription poses a significant safety risk, the MRO must advise the employee that they will have five (5) business days from the date the MRO reports the verified negative result to the employer for the employee to have their prescribing physician contact the MRO. The prescribing physician will need to contact the MRO

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to assist the MRO in determining if the medication can be changed to one that does not make the employee medically unqualified or does not pose a significant safety risk. If in the MRO's reasonable medical judgment, a medical qualification issue or a significant safety risk still remains after the MRO communicates with the employee's prescribing physician, or after five (5) business days, whichever is shorter, the MRO must communicate this issue to the employer consistent with 49 CFR Part 40.327.

5. DEFINITIONS

a. The term "**DOT, the Department, DOT Agency**"

i. Modified to encompass all DOT agencies, including, but not limited to, FAA, FRA, FMCSA, FTA, PHMSA, NHTSA, Office of the Secretary (OST), and any designee of a DOT agency.

ii. For the purposes of testing under 49 CFR Part 40, the USCG (in the Department of Homeland Security) is considered to be a DOT agency for drug testing purposes.

b. The term "**Opiate**" is replaced with the term "**Opioid**" in all points of reference.

c. The definition of "**Alcohol Screening Device (ASD)**" is modified to include reference to the list of approved devices as listed on ODAPC's website.

d. The definition of "**Evidential Breath Testing Device (EBT)**" is modified to include reference to the list of approved devices as listed on ODAPC's website.

e. The definition of "**Substance Abuse Professional (SAP)**" will be modified to include reference to ODAPC's website. The fully revised definition includes:

i. A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

NOTE: The revisions listed in this addendum include only those revisions to 49 CFR Part 40 which may be referenced in our drug & alcohol testing policy. A list of all the revisions made to 49 CFR Part 40 can be found at <https://www.transportation.gov/odapc>.

Addendum Authorization Date: May 14, 2018

Authorized Official (Printed Name):

Authorized Official (Signature): _____

Employee (Printed Name):

Employee (Signature): _____

Employee Receipt Date: _____

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STAFF REPORT

Subject: Adopt Other Post-Employment Benefits (OPEB) Trust Funding Policy

Initiated by: Phil Moores, Executive Director

BACKGROUND

The Eastern Sierra Transit Authority has a growing liability for future retiree health benefits. At last measure, the liability was around \$663k over the next twenty years. The ESTA Board asked staff to research an OPEB trust option. Primarily, the reason to prefund an OPEB trust is to provide the opportunity to gain returns and lower the liability of future long-term benefit payments. Ideally, the trust reaches a point where the principle plus interest meets or exceeds the annual OPEB liability. Another reason for this recommendation is that contributions into a trust are assets that offset liabilities on financial sheets. Finally, as the account balance increases it presents a type of insurance against challenging budget years.

ANALYSIS

Once the funds are deposited in a trust, only withdrawals for OPEB expenses are allowed. With a large capital project looming at the Bishop yard, careful consideration of investments must be made. The funding policy attached guides deposits, withdrawals, and other fund management and policy decisions.

The funding strategy should be evaluated every **five years** to ensure the fund is on track and the level of risk is appropriate. An actuarial firm determined several funding strategies for our consideration. The OPEB Funding Policy guides the investment strategy.

FINANCIAL CONSIDERATIONS

ESTA's current 20-year projected OPEB liability is \$663,136. However, this figure is expected to increase over time and threatens to pose a significant financial challenge. We are currently 100% funded making full payment-as-we-go of our liabilities to date. DFA Consulting provided four funding alternatives:

1. Pay-as-you-go (expected future benefit payments);
2. A level contribution amount for the next 20 years;
3. A level % of unfunded liability; and
4. A first-year lump sum of \$200,000 followed by level contributions for the next 19 years.

The full DFA Consulting report is attached. ESTA budget policy and reserve balances will influence the timing and extent of fund investment. Another primary consideration is the Bishop Administrative building project. Before funding the OPEB Trust in earnest, the building project should be completed. As part of the building project, a cash flow analysis will be conducted to determine ESTA's financial strength and available reserves against operational expenses.

There are five investment strategies available with the Trust. Considering the long-term nature of the investment a higher risk strategy, but not the highest, is advisable. As the Trust balance grows the risk should be slowly reduced to protect against volatility in the market while still earning interest sufficient to cover payments.

RECOMMENDATION

The Board is requested to approve the OPEB Funding Policy, approve the Balanced investment strategy, and to authorize the Executive Director to manage the Trust in accordance with ESTA adopted policies.



Eastern Sierra Transit Authority

Other Post-Employment Benefits (OPEB) Funding Policy

Effective February 14, 2020

Purpose and Introduction

The purpose of this Other Post-Employment Benefits (OPEB) Funding Policy ("Policy") is to establish a methodology and a process for funding current and future costs associated with ESTA's obligations to provide retiree medical benefits as set forth in the personnel rules.

Adoption and Implementation

The ESTA Board is responsible for adopting the Other Post-Employment Benefits (OPEB) Funding Policy and for approving any significant revision. The Executive Director, or his/her designee, is responsible for developing administrative procedures, as needed, to implement the Policy. In this role, the Executive Director, or his/ her designee, is authorized to make minor administrative changes in the Policy as long as they are intended to carry out the purpose of this Policy and will not have any significant policy impact. The ESTA Board will review and approve this policy via resolution, as needed, to ensure it meets the current and future needs of ESTA.

Initial Set Up

ESTA shall establish an Internal Revenue Service Code Section 115 approved irrevocable trust to achieve a higher rate of return on investments than that earned with the Treasurer's accounts. Once ESTA transfers funds into such a trust, they can only be utilized for payment of employee OPEB costs.

The following outlines the governance and administration of the OPEB Trust:

- ESTA Board has the authority to establish the Trust and define policies for the administration of the Trust funds.
- Executive Director and staff have overall responsibility for the Trust funds and will develop and manage procedures in accordance with the ESTA adopted policies.
- Trust Administrator, PARS, keeps plan documents current to ensure that they reflect the substantive plan and provides ongoing consulting, reporting and plan accounting records.
- Trustee, currently U.S. Bank, will be the plan's trustee and custodian and will safeguard the assets in the Trust, hold the investment securities for safekeeping and make disbursements on request.
- Investment Manager, currently U.S. Bank and its sub-advisor, Highmark Capital Management, will recommend investment portfolio allocations based upon the OPEB Trust Funds' adopted investment policies and manage those assets accordingly.

Trust Administrator

Public Agency Retirement Services (PARS) has established a multi-employer irrevocable trust in compliance with the requirements of Section 115 of the Internal Revenue Code. While it is a multi-employer trust, each employer's contributions

benefit only its own employees. There is no sharing of either liability or investment earnings, and separate employer accounts are maintained. PARS serves as the administrator of the Trust.

Trustee

Any contributions made to the program are held and invested by a trustee. The trustee duties include:

1. Safeguarding assets for the benefit of retirees;
2. Providing oversight protection of the investments;
3. Custodian of the assets; and
4. Disbursing funds to pay for pension costs and/or retiree healthcare premiums.

Investment Manager

As needed, the Investment Manager assists ESTA with selecting investment strategy depending on what rate of return ESTA expects to earn and level of risk tolerance ESTA is willing to take. The Investment Manager provides annual review of the investment portfolio and asset allocation as well as takes on fiduciary responsibility for the ESTA's OPEB assets management.

Asset Allocation Investment Strategy

PARS provides flexibility to ESTA in the selection of the investment strategy for its funds in the Trust, giving ESTA control on target yield and level of risk on its investments. Within the Trust, ESTA has the option of pre-funding the OPEB account. ESTA has the ability to select one of five Investment Options that best suits its desired or expected return on its investments in the Trust. Each Investment Option allocates the assets in varying investment combinations of equity, fixed income, and cash. With each Investment Option, as the expected rate of return increases so does the assumed risk. The Asset Allocation Strategies and the corresponding Investment Options currently available are:

	Equity	Fixed Income	Cash
Conservative	5% - 20%	60% - 95%	0% - 20%
Moderately Conservative	20% - 40%	50% - 80%	0% - 20%
Moderate	40% - 60%	40% - 60%	0% - 20%
Balanced	50% - 70%	30% - 50%	0% - 20%
Capital Appreciation	65% - 80%	10% - 30%	0% - 20%

The ESTA Board will select the most appropriate investment option for the Trust. Generally, as the Trust balance increases and approaches fully funded status, the investment strategy should tend toward investments with less risk.

This Policy recognizes that there will be investment market place volatility and that actual economic and demographic experience will differ from assumed experience. Accordingly, this Policy is intended to provide flexibility to smooth such volatility and experience in a reasonable, systematic and financially sound manner.

Annual Contributions

In order to establish realistic and appropriate thresholds for annual contributions,

ESTA adopts the following requirement for contributions in any given year:

Minimum - The equivalent of 10% of each fiscal year's budget surplus shall be put into the OPEB Trust Fund. The surplus will be calculated from the prior year's budget roll-up before the Employee Association Incentive Bonus is determined. The contribution will be paid annually at the start of the fiscal year and drawn as a deficit from the general fund balance.

Maximum - Unlimited

Refer to the ESTA Funding Study (attached) for the optimal deposit strategy. Shorter term funding strategies such as the Lump Sum scenario promise to achieve the goal of fully funding the Trust in the shortest period of time.

Annual Withdrawals

In order to establish realistic and appropriate thresholds for annual withdrawals, ESTA adopts the following limitations on the withdrawals:

Minimum - \$0

Maximum - Annual Required Contribution (ARC) for two years. This is the Trust's maximum withdrawal period which allows the withdrawal of two years of Normal Costs.

Actuarial Terms Definition:

Normal Cost

ESTA incurs an annual OPEB retirement obligation for current employees. The ongoing cost for OPEB earned by current employees during the current year is referred to as the "normal" cost.

Unfunded Actuarial Accrued Liability (UAAL)

The actuarial valuation calculates an unfunded actuarial accrued liability (UAAL) as of the valuation date. The UAAL represents the difference between assets available in the trust fund and the liability related to prior employment service for former and existing employees.

Annual Required Contributions (ARC)

The ARC to fund OPEB, as determined by the actuarial valuation, reflect the normal cost, plus amortization of the UAAL, until such time as the UAAL is fully amortized.



Eastern Sierra Transit Authority Funding Study

DFA prepared the following table of funding schedules for Eastern Sierra Transit Authority to assist in the development of a funding strategy. As requested, the table shows the following four funding schedules:

1. Pay-as-you-go (expected future benefit payments);
2. A level contribution amount for the next 20 years;
3. A level percent of the Unfunded Accrued Liability; and
4. A first-year lump sum of \$200,000 followed by level contributions for the next 19 years.

The schedules all assume that the retiree fund earns, or is otherwise credited with, 6.00% per annum on its investments, a starting value of \$0 as of July 1, 2019, and that contributions and benefits are paid mid-year. The last three funding schedules include the "pay-as-you-go" costs. The expected future benefit payments are based on the Authority's most recent actuarial valuation as of July 1, 2017. We exclude the implicit subsidy from these funding schedules because we do not recommend that the Authority pre-fund for the full age-adjusted costs.

Year Beginning	Pay-as-you-go	Level Contribution for 20 years	Level% of Unfunded Liability	First-Year Lump Sum Contribution
2019	\$12,710	\$44,594	\$48,760	\$200,000
2020	16,042	44,594	45,651	30,667
2021	17,537	44,594	43,006	30,667
2022	24,043	44,594	40,678	30,667
2023	26,020	44,594	38,887	30,667
2024	30,033	44,594	37,340	30,667
2025	32,204	44,594	36,107	30,667
2026	34,371	44,594	35,058	30,667
2027	35,614	44,594	34,172	30,667
2028	35,923	44,594	33,383	30,667
2029	40,218	44,594	32,638	30,667
2030	40,474	44,594	32,103	30,667
2031	43,383	44,594	31,574	30,667
2032	43,526	44,594	31,159	30,667
2033	44,848	44,594	30,727	30,667
2034	44,802	44,594	30,324	30,667
2035	44,632	44,594	29,891	30,667
2036	46,852	44,594	29,426	30,667
2037	46,474	44,594	29,015	30,667
2038	45,945	44,594	28,557	30,667
2039	45,257	0	28,051	0
2040	44,404	0	27,498	0
2041	43,383	0	26,898	0
2042	42,192	0	26,251	0
2043	40,837	0	25,560	0
2044	39,324	0	24,828	0
2045	40,819	0	24,056	0
2046	39,127	0	23,328	0
2047	37,337	0	22,557	0
2048	36,375	0	21,751	0
2049	34,488	0	20,934	0
2050	33,428	0	20,090	0
2055	26,069	0	15,847	0
2060	18,834	0	11,781	0
2065	13,401	0	8,295	0
2070	9,468	0	5,408	0
2075	6,306	0	3,371	0

STAFF REPORT

Subject: FY 19/20 Budget Amendment

Initiated by: Phil Moores, Executive Director

BACKGROUND:

With the conclusion of Employee Association MOU negotiations, funds from contingency must be moved to salary and benefit budget units to compensate for increased wages. The contingency unit was funded with this transfer in mind during the 19/20 budget process last spring and has sufficient monies to cover the bargained wage and benefit increases.

The travel budget unit also needs an infusion of funds to continue ESTA's staff training program.

Mono County Local Transportation Commission (MCLTC) issued a check to ESTA in the amount of \$177,628. These funds are an excess of Local Transportation Funds (LTF) derived from sales tax and allocated annually to Mono County through the Transportation Development Act (TDA). Mono County's MCLTC Handbook directs the MCLTC to distribute excess funds annually. Each year the MCLTC predicts the available LTF funds by using the 10-year rolling average and when the actual LTF funds exceed the prediction, the excess funds are distributed. A reserve fund is maintained and used by MCLTC during lean years to balance ESTA's budget as needed. In Mono County this reserve fund is around 15% of the rolling average or \$110,000. Potential uses for these funds include:

1. Operations Building Project
2. Funding OPEB Trust
3. Covering STA revenue shortfalls

BUDGET ACTIONS

Item 1:

Approval of the recommendation will keep the salary, benefits, and travel budget units balanced. The current balance in unit 5901 Contingency is \$138,850. The recommended transfers from Contingency are as follows:

1. \$8,000 to 5003 Overtime
2. \$13,000 to 5005 Holiday Overtime
3. \$38,000 to 5012 Part Time Employees

4. \$5,000 to 5331 Travel

The remaining balance in 5901 Contingency will be \$74,850. ESTA's Budget Policy calls for a 1% of operating expense balance in contingency at the start of the fiscal year.

The adjusted year-to-date balances of the affected budget units will be reported in next month's financial report.

Item 2:

Deposit \$177,000 LTF excess funds into the 1532 General Fund.

RECOMMENDATION

The Board is requested to approve and adopt the amended FY 19/20 budget.

EASTERN SIERRA TRANSIT AUTHORITY

**Minutes of Friday, January 10, 2020
 Regular Meeting**

The meeting of the Board of Directors of the Eastern Sierra Transit Authority was called to order at 9:00 a.m. on Friday, January 10, 2020, 2019 at the City of Bishop Council Chambers, 301 West Line St., Bishop, California. The following members were present: Karen Schwartz, Jennifer Kreitz, Bob Gardner, Bill Sauser, and Dan Totheroh. Cleland Hoff joined the meeting at 9:01 a.m. Jeff Griffiths joined the meeting at 9:03 a.m. Jim Ellis was absent. Director Tothoh led the pledge of allegiance.

Public Comment	John Pickney with Inyo County Local Transportation Commission made a public comment.
Executive Director Report	Mr. Moores reported on ESTA activities and performance.
Financial Report – 2019-20	Ms. Bentley presented the Financial Report for the 2019/20 fiscal year as of January 2, 2020.
Operations Report	Mr. Moores presented the Monthly Operations Report for November 2019.
Action Agenda: Approve ESTA Employees Association (EEA) MOU	Moved by Director Hoff and seconded by Director Totheroh to approve Memorandum of Understanding (MOU) between Eastern Sierra Transit Authority and the ESTA Employees Association (EEA) to be effective January 6, 2020 through January 1, 2023. Motion carried 7-0 with Director Ellis absent.
Approve Resolution #2020-01	Moved by Director Griffiths and seconded by Director Kreitz to approve Resolution #2020-01 authorizing the Executive Director to File and Execute Applications Pursuant to Section 5311 and 5311(f) of the Federal Transit Act. Motion carried 7-0 with Director Ellis absent.
Consent Agenda: Approval of Meeting Minutes	Moved by Director Kreitz and seconded by Director Hoff to approve the Meeting Minutes of December 13, 2019. Motion carried 7-0 with Director Ellis absent.
Board Member Comments	Director Kreitz would like ESTA to look at delivery of our services and make sure ESTA is consistently delivering high quality service.

Closed Session	Open session was recessed at 9:27 a.m. to convene in closed session with Director Ellis absent to consider: a. CONFERENCE WITH LEGAL COUNSEL: Executive Director Performance Evaluation (Govt. Code Section 54957)
Report on Closed Session	Closed session adjourned at 9:57 a.m. to reconvene in open session. Director Gardner reported that no action was taken during closed session.
Adjournment	The Chairperson adjourned the meeting at 9:57 a.m. The next regular meeting of the Eastern Sierra Transit Authority Board of Directors is scheduled for February 14, 2020 in the Town of Mammoth Lakes Council Chambers, 2520 Main St., Ste. Z, Mammoth Lakes, CA at 11:00 am.

Recorded & Prepared by:

Linda Robinson
Board Clerk
Eastern Sierra Transit Authority

Minutes approved:

STAFF REPORT

Subject: Authorization of Representatives for the California Joint Powers Insurance Authority

Initiated by: Karie Bentley, Administration Manager

BACKGROUND:

ESTA's insurer, the California Joint Powers Insurance Authority (CJPIA) requires an annual certification from its member agencies identifying the persons authorized to represent the agencies to CJPIA. These persons are authorized to vote on ESTA's behalf at the CJPIA Board of Director's Meeting.

ANALYSIS/DISCUSSION:

Staff received correspondence from CJPIA requesting that a certification form identifying ESTA's authorized representatives be completed and approved. This certification is an annual requirement of all of the agencies insured through CJPIA. The CJPIA considers the Chairperson of the Board the Primary Voting Delegate. Historically, ESTA has identified the Executive Director, and the Administration Manager as alternates. Annually, ESTA endeavors to send a representative to the CJPIA Board of Director's Meeting in La Palma, CA to help insure they have a quorum to vote at their business meeting. Typically, the Executive Director or Administration Manager attend this meeting.

The Town of Mammoth Lakes and the City of Bishop are also members of the CJPIA. On some occasions, an ESTA Board Member is in attendance at the CJPIA Board Meeting on behalf of their City. On these occasions, if the Board Member was authorized to also represent ESTA, it would be possible for that person to vote on behalf of their City and ESTA. This would be of great efficiency.

RECOMMENDATION:

Direct that the following individuals and/or positions be authorized to represent ESTA to CJPIA and that a Minute Order from the February 14, 2020 Board Meeting document the authorization.

Bob Gardner	ESTA Chairperson
Karen Schwartz	ESTA Board Member
Jim Ellis	ESTA Board Member
Cleland Hoff	ESTA Board Member
Bill Sauser	ESTA Board Member
Phil Moores	Executive Director
Karie Bentley	Administration Manager