

MEMORANDUM OF UNDERSTANDING  
DRUG AND ALCOHOL ABUSE PREVENTION AND DETECTION

The parties recognize the problems which drug and alcohol abuse have created in the construction industry and the need to develop drug and alcohol abuse prevention programs. Accordingly, the parties agree that in order to enhance the safety of the work place and to maintain a drug free work environment, individual employers may require applicants or employees to undergo drug and alcohol screening. The parties agree that if a screening program is implemented by an individual Employer, the following items have been agreed upon by Labor and Management:

1. It is understood that the use, possession, transfer, or sale of illegal drugs, narcotics, or other unlawful substances is absolutely prohibited while employees are on the Employer's job premises, in the Employer's vehicles, or while working on any site in connection with work performed under the applicable agreement. In addition, alcohol will not be allowed in the Employer's vehicles.
2. Employers may use an on-site Oral Fluid or Urine Test solely as a type of screen for new hires and for probable cause, post accident, follow-up, compliance or conformity testing procedure on current employees. The results of on-site Oral Fluid or Urine testing may not be used as a sole means to establish grounds for denial of employment or as cause for termination.
  - The individual dispatched and being screened shall complete an on-site Oral or Urine screening consent form prior to the screening.
  - The individual providing specimens for testing shall use standard universal precautions to prevent the spread of infectious disease. As a minimum, protection shall be the use of disposable latex gloves.
  - On-site Oral or Urine testing procedures shall be conducted in a manner consistent with the product manufacturers' instructions. Test procedures shall be performed only by the person being tested in accordance with the product manufacturer's specifications.
  - A member of management and a designated union representative can witness the on-site Oral or Urine Fluid screening.
  - When a dispatched individual successfully achieves a negative test result, from a substance testing perspective, this individual shall be considered eligible for employment.
  - When a dispatched individual receives an inconclusive test or positive result, the actual test plate, or photographic record of the inconclusive

or positive test result, shall be retained by the individual employer for a minimum of sixty (60) days. These records shall be placed in a sealed envelope, signed by the tested individual, and shall be stored in a secure location separate from the individual's personnel record.

- In the event of a non-negative test result, the individual shall be immediately referred to the nearest clinic for a standard drug or alcohol test as prescribed below. The results of the standard drug or alcohol test shall determine whether the designated\_employee is hired or retained by the employer.
3. All applicants or newly hired employees are subject to a drug and alcohol screening at a facility certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) in accordance with the terms of this Memorandum. The Employer agrees to pay each applicant or employee who takes and passes the drug and alcohol test for all the time it takes to undergo the drug and alcohol screening up to a maximum of two hours travel time plus lab time.
  4. Applicants not passing the drug and alcohol screen will not be placed on the Employer's payroll or receive any compensation. Employees not passing the drug and/or alcohol screen will be removed from the Employer's payroll. The Employer agrees to pay the cost for administering the drug and alcohol screen.
  5. The Employer may require that an employee be tested for drugs and alcohol where the Employer has reasonable cause to believe that the employee is impaired from performing his/her job. Observation must be made by at least two (2) persons, one of whom may be a Union employee. This provision shall be applied in a non-discriminatory manner and shall utilize the reasonable suspicion checklist and reporting form attached hereto as Appendix A, or a comparable checklist. Supervisors will administer the program in a fair and confidential manner. For employees who refuse to take a test where the prerequisites set forth in this paragraph have been met, there will be a rebuttable presumption that the test result would have been positive for an unlawful substance.
  6. An Employer may require that an employee who contributed to an accident be tested for drugs and/or alcohol where the Employer has reasonable cause to believe that the accident resulted from drug and/or alcohol usage.
  7. The Employers will be allowed to conduct random jobsite drug testing on construction projects under the following conditions:

- a. All of the Employer's personnel who are working on the project must be tested (excluding personnel working under a collective bargaining agreement that provides otherwise).
  - b. Testing shall be conducted by a SAMHSA certified laboratory, pursuant to the provisions set forth in Paragraph 9 below.
  - c. Employer shall notify the Union at least three (3) days prior to its intent to implement random drug testing on a company wide basis.
  - d. If the Employer manipulates the random drug testing provision in any way to single out any employee(s), such conduct shall be a violation of this MOU and subject to the grievance and arbitration procedure in the MLA. If the Joint Adjustment Board or the Arbitrator finds that the Employer has committed the violation, the Employer may no longer random drug test under the provisions of this Section 7.
8. It is understood that the unsafe use of prescribed medication, or where the use of prescribed medication impairs the employee's ability to perform work, is a basis for removal.
  9. Drug screening shall be performed at a SAMHSA certified lab. A sufficient amount of a urine sample shall be taken to allow for an initial drug test and a drug confirmation test. The initial test will be by Enzyme Multiplied immunoassay Technique (EMIT). In the event a question or positive result arises from the initial test a confirmation test must be utilized before action can be taken against the employee or applicant. The confirmation test will be by Gas Chromatography - Mass Spectrometry (GC/MS). The cutoff levels for both the initial test and confirmation test will be those established by the Substance Abuse and Mental Health Services Administration, as indicated in Appendix B. Any diluted or delayed test shall be a presumed positive result, unless reviewed and overturned by the Medical Review Officer. Confirmed positive samples will be retained by the testing laboratory in secured long term frozen storage for a minimum of one year. Handling and transportation of each sample must be documented through strict chain of custody procedures.
  10. If a medical standard is developed for Cannabinoids (THC) level that indicates impairment, the parties shall meet and bargain regarding the revision of this Memorandum of Understanding to reflect such levels.

11. Alcohol testing shall be performed at a SAMHSA certified lab using only approved evidential breath testing devices, or saliva alcohol screening devices listed on the National Highway Traffic Safety Administration's (NHTSA) Conforming Products List. All equipment shall have a quality assurance plan approved by the NHTSA and shall not be used in the event that the device does not meet specified quality controls.
12. Present employees, if tested positive for drugs or alcohol, shall have the prerogative for a rehabilitation program at the employee's expense. When such program has been successfully completed, the Employer shall not discriminate in any way against the employee. If work for which the employee is qualified exists, he or she shall be reinstated.
13. Any dispute which arises under this drug and alcohol policy shall be submitted to the grievance and arbitration procedure set forth in the applicable Agreement.
14. If, as a condition of contract award or due to Federal, State, or Governmental Agency requirements, including but not limited to Federal D.O.T. commercial driver drug & alcohol testing requirements, an individual Employer is required to abide by or implement more stringent requirements than set forth in the Memorandum of Understanding, the individual Employer will notify the Union in writing of those requirements.
15. The establishment or operation of this policy shall not curtail any right of an employee found in any law, rule, or regulation. Should any part of this policy be found unlawful by a court of competent jurisdiction or a public agency having jurisdiction over the parties, the remaining portions of the policy shall be unaffected and the parties shall enter negotiations to replace the affected provision.
16. The Employer shall indemnify and hold the Union harmless against any and all claims, demands, suits or liabilities that may arise solely out of the Employer's application of the Substance Abuse program.

17. This policy will become effective July 1, 2022, and shall remain in effect for the term of 2022-2026 Master Labor Agreement.

FOR THE EMPLOYERS:

ASSOCIATED GENERAL CONTRACTORS OF CALIFORNIA INC.

By: Peter Faterichi

Date 9/16/2022

BUILDING INDUSTRY ASSOCIATION OF SOUTHERN CALIFORNIA, INC.

By: [Signature]

Date 9/29/22

SOUTHERN CALIFORNIA CONTRACTORS ASSOCIATION, INC.

By: [Signature]

Date 9/21/22

FOR THE UNION:

SOUTHERN CALIFORNIA DISTRICT COUNCIL OF LABORERS

By: [Signature]

By: [Signature]

By: [Signature]

Date 10/06/2022

**Appendix A  
Reasonable Suspicion Checklist  
And Reporting Form**

Date of Report: \_\_\_\_\_ Date/Time Period Covered by Observation: \_\_\_\_\_

Employee Name: \_\_\_\_\_ Job Title: \_\_\_\_\_

Supervisor: \_\_\_\_\_

Corroborating Witness (*if applicable*): \_\_\_\_\_

**Physical Symptoms**

*(Provide explanation where appropriate)*

- \_\_\_\_\_ flushed or pale face
  - \_\_\_\_\_ dilated or constricted pupils (note which)
  - \_\_\_\_\_ constricted pupils
  - \_\_\_\_\_ glassy eyes
  - \_\_\_\_\_ bloodshot or red eyes
  - \_\_\_\_\_ sniffles/runny nose
  - \_\_\_\_\_ swaying, wobbling, staggering or falling
  - \_\_\_\_\_ dizziness
  - \_\_\_\_\_ excessive sweating in cool areas
  - \_\_\_\_\_ smell of liquor
  - \_\_\_\_\_ strange chemical odor on breath
  - \_\_\_\_\_ burnt rope smell on clothes, hair or body
  - \_\_\_\_\_ drowsiness
  - \_\_\_\_\_ incoherent, confused or slurred speech
  - \_\_\_\_\_ apparent insensitivity to pain
  - \_\_\_\_\_ reduced reaction time
  - \_\_\_\_\_ poor coordination
  - \_\_\_\_\_ increased or depressed breathing rate
  - \_\_\_\_\_ tremors
  - \_\_\_\_\_ other (explain)
- 

**Behavioral**

- \_\_\_\_\_ antagonistic
  - \_\_\_\_\_ restless
  - \_\_\_\_\_ overreacts to minor things
  - \_\_\_\_\_ unusually talkative/rapid speech
  - \_\_\_\_\_ excessive laughter or hilarity
  - \_\_\_\_\_ baseless panic
  - \_\_\_\_\_ withdrawn
  - \_\_\_\_\_ rapid mood swings
  - \_\_\_\_\_ irritable
  - \_\_\_\_\_ combative
  - \_\_\_\_\_ depressed
  - \_\_\_\_\_ paranoid
  - \_\_\_\_\_ other (explain)
-

**Work Symptoms**

*(Provide explanation where appropriate)*

- \_\_\_\_\_ doesn't follow task instructions
- \_\_\_\_\_ shows disregard for safety of self and others
- \_\_\_\_\_ exhibits excessive carelessness
- \_\_\_\_\_ appears unable to concentrate fully
- \_\_\_\_\_ excessive mistakes
- \_\_\_\_\_ unexplained declines in productivity
- \_\_\_\_\_ dangerous behavior/needless risk taking
- \_\_\_\_\_ unable to order tasks
- \_\_\_\_\_ forgetfulness
- \_\_\_\_\_ excessive focus on minute details
- \_\_\_\_\_ unexplained and frequent absences from work area
- \_\_\_\_\_ other (*explain*)

**Long Term Symptoms**

- \_\_\_\_\_ complaints from coworkers
- \_\_\_\_\_ excessive work absences
- \_\_\_\_\_ leaves job early for variety of excuses
- \_\_\_\_\_ comes late form a variety of excuses
- \_\_\_\_\_ accident prone
- \_\_\_\_\_ general poor and deteriorating physical condition
- \_\_\_\_\_ weight loss
- \_\_\_\_\_ other (*explain*)

General Comments: \_\_\_\_\_

\_\_\_\_\_

By (signature) _____  Title _____	<b>Action</b> * Refer to Drug Test ___ * Refer to MAP/EAP ___ * No further action at this time ___
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Meeting Notes \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date of meeting: \_\_\_\_\_

## Appendix B

### Testing Levels

<u>Drug Group</u>	<u>Initial Test ng/ml</u>	<u>Confirmation Test ng/ml</u>
Cannabinoids* (THC)	50	15
Cocaine		
Benzoyllecgonine*	150	100
Amphetamines*	500	250
MDMA (Confirmation for MDMA, MDA, MDEA) (Ecstasy)	500	250
Opiates*	300**	300**
Propoxyphene	300	300
6-Acetylmorphine	10	10
Methadone	300	300
Phencyclidine*(PCP)	25	25
Benzodiazepine	300	300
Barbiturates	300	200
Alcohol	>0.04% BAC***	>0.04% BAC***

\* Cut-off values shall meet or exceed those established by SAMHSA's Mandatory Guidelines for Federal Workplace Drug Testing Programs.

\*\* Includes extended Opiates-Oxycodone, Hydrocodone, and Hydromorphone.

\*\*\* As per DOT