

**MINUTES
BOROUGH OF NEW MILFORD
7:00 PM WORK SESSION
OPEN SESSION immediately following
8:00 PM PUBLIC MEETING
Monday, December 16, 2019**



WORK SESSION:

Mayor Putrino read the Open Public Meeting and Mission Statements.

Councilwoman Thea Sirocchi-Hurley	Present
Councilman Matthew Seymour	Present
Council President Randi Duffie	Present
Councilman Ira Grotsky	Present
Councilwoman Kelly Greco-Langschultz	Present
Councilwoman Hedy Grant	Present
Mayor Michael Putrino	Present

Also Present: K. Kelly – Borough Attorney; C. Demiris – Administrator/Borough Clerk

Councilman Grotsky made a motion to add the topic of Police Department – Personnel to the closed session agenda. Councilwoman Grant seconded the motion. The motion carried. All present in favor, none opposed.

Councilman Grotsky made a motion to go into closed session. Councilwoman Grant seconded the motion. The motion carried. All present in favor, none opposed. Time 7:05 PM.

CLOSED SESSION:

1. Police Department - Personnel
2. RFQ Submissions – Legal Advice
3. Review of Closed Session Minutes

At the conclusion of the closed session, Councilman Grotsky made a motion to return to open session. Councilwoman Sirocchi-Hurley seconded the motion. The motion carried. All present in favor, none opposed. Time 7:24 PM.

Councilman Grotsky made a motion to add a resolution to the consent agenda to authorize the Mayor to sign a Separation Agreement and Release between the Borough of New Milford and Captain Thomas Johnson. Councilwoman Grant seconded the motion. The motion carried. All present in favor, none opposed.

OPEN SESSION:

1. Cross River Fiber – Use of Public Right-of-Way

Mr. Kelly said the request is from a licensed telecommunications company and they have met all of the requirements of the Board of Public Utilities and the federal government. He said he

has prepared a resolution, to allow use of the public right-of-way, similar to the resolution used for two other telecommunication companies. The resolution is on the agenda for the Council's consideration.

2. RFQ Review

The Administrator reviewed the receipt of RFQs. She said only one RFQ was received for each of the following positions: Borough Attorney, Tax Appeal Attorney, Rent Leveling Attorney, Auditor, Planner, Appraiser for Tax Assessments (Residential), and Appraiser for Tax Assessments (Commercial). The Council unanimously agreed to those appointments.

The Administrator said two RFQs were received for the position of Labor Attorney; one from John Shahdanian of Chasan, Lamparello, Mallon & Cappuzzo and the other from Raymond Wiss of Wiss Bouregy. The Council unanimously agreed on the reappointment of John Shahdanian.

The Administrator said two RFQs were received for the position of Bond Attorney; one from Steve Rogut of Rogut McCarthy and the other from Winne, Banta, Basralian & Kahn. The Council unanimously agreed on the reappointment of Steve Rogut.

The Administrator said two RFQs were received for the position of Risk Manager; one from Art Caughlan of Nelson Patterson Agency and the other from Alamo Insurance Group. The Council unanimously agreed on the reappointment of Art Caughlan.

The Administrator said three RFQs were received for the position of Grants Consultant; one from Millennium Strategies, one from Bruno Associates and one from Capital Alternatives. The Council unanimously agreed on the reappointment of Millennium Strategies.

The Administrator said one RFQ was received, for the position of Fire Department Grants Consultant, prior to the deadline and one was received after the deadline. Mayor Putrino said he would recommend that all grants should go through Millennium Strategies. Mr. Kelly said if that is the pleasure of the Council, the Mayor should ask for a motion to abandon the project and not fill the position of Fire Department Grants Consultant.

After some discussion, Councilman Grotsky offered the motion. Councilwoman Grant seconded the motion. The motion carried on a roll call vote as follows:

For the motion:	Sirocchi-Hurley, Seymour, Duffie, Grotsky, Grant
Against the motion:	Langschultz

The Administrator said three RFQs were received for the position of Borough Engineer; one from Boswell Engineering, one from Costa Engineering and one from Maser Consulting. Councilwoman Duffie said she is still reviewing the RFQs and is not prepared to make a decision at this time.

Councilwoman Grant made a motion to table the decision. Councilwoman Sirocchi-Hurley seconded the motion. The motion carried on a roll call vote as follows:

For the motion: Sirocchi-Hurley, Seymour, Duffie, Grotsky, Grant
Against the motion: Langschultz

3. U.S. Soccer Foundation Grant

The Administrator said the Borough has been awarded a grant of \$6,912 from the US Soccer Foundation in the form of a product/service credit from Hunter Irrigation. She then referenced the emails from both the Borough Attorney and Risk Manager in which they outlined the reasons why the risk to the Borough, with regard to the indemnification requirements, far outweighs the benefit of the grant. Mr. Kelly also noted that the foundation would have the right to schedule their own events on borough property, which may run contrary to the Borough's Green Acres obligations.

Councilman Grotsky made a motion to decline the grant. Councilwoman Sirocchi-Hurley seconded the motion. The motion carried on a roll call vote. All present in favor, none opposed.

4. Administrator's Report

The Administrator reviewed the holiday office hours for the Borough offices, noting an early closure on December 24th and December 31st. She said the hours will be posted at the Borough Hall and on the Borough website.

The Administrator reported that paperwork has been submitted for grant reimbursement for Kennedy Field. She said \$125,000 has already been received from Bergen County Open Space and an additional \$647,500 is expected from DEP Green Acres.

The Administrator said she, Mayor Putrino and Councilman Grotsky met recently with the Tax Assessor, Patrick Wilkins. Mr. Wilkins advised that the County recently ordered the town to perform a town wide reassessment. She referenced information previously sent to the governing body and Mr. Wilkins' recommendation to ask the County to postpone the order to the following year. Mr. Wilkins is appearing before the County Board on January 8th and has asked for the Council's support of this request. There was no objection from the Council.

The Administrator said January is Radon Awareness Month. She said the Mayor will be reading a proclamation tonight and a press release has been posted to the Borough website and will be forwarded to the local newspaper. She said the Borough received a grant from the State for radon kits, which are in stock and can be obtained from the Borough Clerk's office.

The Administrator said the annual reorganization meeting is scheduled for Monday, January 6th at 7:00 PM.

The Administrator said the Veteran Parking signs have come in and one sign each has been placed at the Borough Hall, the Library and Kennedy Field.

Councilwoman Grant made a motion to reconvene in Council Chambers. Council President Duffie seconded the motion. The motion carried. All present in favor, none opposed. Time 7:55 PM.

PUBLIC SESSION:

Mayor Putrino called the meeting to order, asked for a moment of silent prayer and/or reflection and led the flag salute. Mayor Putrino read the Open Public Meeting Law and Mission Statements and pointed out the fire exits in the Conference Room.

ROLL CALL:

Councilwoman Thea Sirocchi-Hurley	Present
Councilman Matthew Seymour	Present
Council President Randi Duffie	Present
Councilman Ira Grotsky	Present
Councilwoman Kelly Greco-Langschultz	Present
Councilwoman Hedy Grant	Present
Mayor Michael Putrino	Present

PRESENTATION: POLICE DEPARTMENT AWARDS

Chief Clancy presented Lifesaving Awards to: Lt. Duby, Lt. LaMorges, P.O. Conboy, P.O. Boinski, P.O. Hanikeh, Sgt. Pisano, P.O. Marshall, P.O. Mone, Sgt. Petrie, P.O. Wilde, P.O. Gerais, P.O. Civitello, and P.O. Reardon.

Chief Clancy presented the 2018 MADD Awards to: P.O. Mone, P.O. Lafrano, P.O. Gerais and P.O. Lignos.

Chief Clancy presented Meritorious Awards to: P.O. Wester (2), Det. Mattessich (3), P.O. Boinski, P.O. Gerais (3), P.O. Civitello (2), P.O. Lignos, Sgt. Herrero, P.O. Hanikeh (2), Det. Lt. Van Saders, P.O. Mone, Det. Perez, Det. Carlino, P.O. Lafrano, Sgt. Petrie and P.O. Doran.

Mayor Putrino presented Certificates of Appreciation to: Det. Lt. Van Saders for his assistance with the recent Domestic Violence event and Sgt. Herrero and P.O. Wester for their assistance with the recent ADAM event.

PRESENTATION: KENNEDY FIELD – BOSWELL ENGINEERING

John Cassetta and Peter Ten Kate of Boswell Engineering presented the Mayor and Council with the 1st Place award from the New Jersey Society of Municipal Engineers for Municipal Construction Management Projects for populations under 20,000 for Kennedy Memorial Field.

PROCLAMATION: RADON AWARENESS MONTH

COUNCIL COMMITTEE REPORTS:

Councilwoman Grant made a motion to file Committee Reports with the Borough Clerk to be spread in full upon the minutes. The motion carried. All present in favor, none opposed.

UNFINISHED BUSINESS:

Councilwoman Grant made a motion to approve the minutes from the November 25, 2019 Closed, Work and Public Session meetings. Councilman Grotsky seconded the motion. The motion carried. All present in favor, none opposed.

ADOPT ORDINANCE 2019:28

AN ORDINANCE REPEALING AND REPLACING IN ITS ENTIRETY CHAPTER XXXII ENTITLED "AFFORDABLE HOUSING" OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF NEW MILFORD, TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) AND TO COMPLY WITH THE BOROUGH'S THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS.

Councilwoman Grant made a motion to open to the public for comment on this ordinance. Council President Duffie seconded the motion. The motion carried. All present in favor, none opposed.

The record reflects that no member of the public wished to comment on this ordinance.

Council President Duffie made a motion to close to the public. Councilwoman Grant seconded the motion. The motion carried. All present in favor, none opposed.

Councilwoman Grant made a motion to adopt this ordinance on the second and final reading. Council President Duffie seconded the motion. The motion carried on a roll call vote. All present in favor, none opposed.

Mayor Putrino said resolution 2019:272 was added to the consent agenda. He said the purpose of the resolution is to authorize him to sign a separation agreement with a member of the Police Department.

COUNCIL:

Councilwoman Grant said she recently attended a luncheon for Terry Conlan, who is retiring from the Library after forty years of service. She additionally noted that the first night of Hanukkah is December 22nd and said that a candle will be lit that night and each subsequent night on the menorah at Borough Hall.

Mayor Putrino said he received a letter of thanks from: the Inserra family for the Council's participation in the Bagging for Hunger event; Congressman Gottheimer for allowing him to introduce the Darren Drake Act in New Milford; and Boy Scout Troop 291 for the town's support of their Haunted House attraction. Mayor Putrino said he also received notice of a recent

inspection by the Department of Corrections of the New Milford Police Department, at which no deficiencies were noted. Mayor Putrino reported on the recent notification of a \$117,000 grant, from the Department of Transportation, for a sidewalk project on Madison Avenue. He then extended an invitation to the governing body, on behalf of the Senior Center, to their holiday party scheduled for 10:00 AM to 3:00 PM on Friday, December 20th.

NEW BUSINESS:

RESOLUTIONS:

- 2019:260 Closed Session
- 2019:261 Payment of Bills and Vouchers
- 2019:262 Approve 2019 Appropriation Budget Transfers
- 2019:263 Adopt Borough CDL Policy
- 2019:264 Appoint Designated Employer Representative (DER) and Alternate DER
- 2019:265 Adopt Domestic Violence Policy for Public Employers
- 2019:266 Approve Right-of-Way Use to Cross River Fiber
- 2019:267 Approve Cancellations of Credit Balances Under \$10.00 – Various Blocks and Lots
- 2019:268 Approve Cancellations of Uncollectible Balances Under \$10.00 – Various Blocks and Lots
- 2019:269 Refund Duplicate Tax Payment – Various Blocks and Lots
- 2019:270 Approve Social Affair Permit – Hovnanian School – February 8, 2020
- 2019:271 Authorize Mayor to Sign Grant Agreement with County of Bergen for Senior Center Program
- 2019:272 Authorize Mayor to Sign Separation Agreement and Release with Thomas Johnson

COMMENTS FROM THE PUBLIC

Councilwoman Grant made a motion to open to the public. Councilman Grotsky seconded the motion. The motion carried. All present in favor, none opposed.

The record reflects that no member of the public wished to comment.

Councilman Seymour made a motion to close to the public. Councilwoman Sirocchi-Hurley seconded the motion. The motion carried. All present in favor, none opposed.

VOTE ON RESOLUTIONS

Councilman Grotsky made a motion to approve the consent agenda consisting of resolutions 2019:260 through 2019:272. Councilman Seymour seconded the motion. The motion carried. All present in favor, none opposed.

ADJOURNMENT

Being no further business before the governing body, Councilwoman Grant made a motion to adjourn. Councilwoman Sirocchi-Hurley seconded the motion. The motion carried. All present in favor, none opposed. Time 8:45 PM.

Respectfully submitted,



Christine Demiris, RMC, CMC
Borough Clerk

BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

RESOLUTION

No. 2019:260

Offered by: [Signature]

Seconded by: [Signature]

Member	Aye	No	Abstain	Absent
SIROCCHI-HURLEY	<input checked="" type="checkbox"/>			
SEYMOUR	<input checked="" type="checkbox"/>			
DUFFIE	<input checked="" type="checkbox"/>			
GROTSKY	<input checked="" type="checkbox"/>			
GRECO-LANGSCHULTZ	<input checked="" type="checkbox"/>			
GRANT	<input checked="" type="checkbox"/>			
MAYOR (tie)				

WHEREAS, the Open Public Meetings Act, P.L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist; and

WHEREAS, the Governing Body wishes to discuss:

1. RFQ Submissions – Legal Advice
2. Review of Closed Session Minutes
3. Police Department – Personnel

WHEREAS, minutes will be kept and once the matter involving the confidentiality of the above no longer requires that confidentiality, then the minutes can be made public.

NOW, THEREFORE BE IT RESOLVED that the public be excluded from this meeting.

I hereby certify that the above is a true copy of a resolution adopted by the Council of the Borough of New Milford at the meeting held on December 16, 2019.

SEAL

Christine Demus

BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

RESOLUTION

No. 2019:261

Offered by: *Paul G. Gask*

Seconded by: *[Signature]*

Member	Aye	No	Abstain	Absent
SIROCCHI-HURLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SEYMOUR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DUFFIE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GROTSKY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GRECO-LANGSCHULTZ	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GRANT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MAYOR (lie)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

WHEREAS, the claims and accounts listed in the attached, have been authorized by the CFO, and found correct.

NOW, THEREFORE BE IT RESOLVED, that the Mayor and Council hereby authorize the payment of these claims, and that warrants be drawn therefore when funds are available in the aggregate amount of \$4,966,480.21.

I hereby certify that the above is a true copy of a resolution adopted by the Council of the Borough of New Milford at the meeting held on December 16, 2019.

SEAL

Christine Demaris

BOROUGH OF NEW MILFORD**Bill list****NOV. 16 - NOV. 30, 2019 PAYROLL**

<u>Vendor</u>	<u>Amount</u>	<u>Description</u>	<u>Account</u>	<u>Check #</u>
PAYROLL	5368.34	NOV. 16 - NOV. 30, 2019	PAYROLL RECEIVABLE:	17964
PAYROLL	2083.33	NOV. 16 - NOV. 30, 2019	PAYROLL GENERAL	17964
PAYROLL	10459.38	NOV. 16 - NOV. 30, 2019	PAYROLL MUNICIPAL	17964
PAYROLL	1166.67	NOV. 16 - NOV. 30, 2019	PAYROLL FINANCE	17964
PAYROLL	7698.30	NOV. 16 - NOV. 30, 2019	PAYROLL COLLECTION	17964
PAYROLL	1470.75	NOV. 16 - NOV. 30, 2019	PAYROLL ASSESSMENT	17964
PAYROLL	919.84	NOV. 16 - NOV. 30, 2019	PAYROLL ASSESSMENT	17964
PAYROLL	30.00	NOV. 16 - NOV. 30, 2019	PAYROLL ZONING	17964
PAYROLL	5756.57	NOV. 16 - NOV. 30, 2019	PAYROLL CODE	17964
PAYROLL	8981.22	NOV. 16 - NOV. 30, 2019	PAYROLL POLICE	17964
PAYROLL	3865.09	NOV. 16 - NOV. 30, 2019	PAYROLL POLICE	17964
PAYROLL	6575.36	NOV. 16 - NOV. 30, 2019	PAYROLL POLICE	17964
PAYROLL	169075.61	NOV. 16 - NOV. 30, 2019	PAYROLL POLICE	17964
PAYROLL	7408.89	NOV. 16 - NOV. 30, 2019	PAYROLL POLICE	17964
PAYROLL	1050.00	NOV. 16 - NOV. 30, 2019	PAYROLL POLICE	17964
PAYROLL	400.00	NOV. 16 - NOV. 30, 2019	PAYROLL UNIFORM	17964
PAYROLL	546.47	NOV. 16 - NOV. 30, 2019	PAYROLL UNIFORM	17964
PAYROLL	4677.16	NOV. 16 - NOV. 30, 2019	PAYROLL PUBLIC	17964
PAYROLL	74417.72	NOV. 16 - NOV. 30, 2019	PAYROLL PUBLIC	17964
PAYROLL	750.00	NOV. 16 - NOV. 30, 2019	PAYROLL PUBLIC	17964
PAYROLL	894.04	NOV. 16 - NOV. 30, 2019	PAYROLL RECYCLING	17964
PAYROLL	5634.61	NOV. 16 - NOV. 30, 2019	PAYROLL BOARD OF	17964
PAYROLL	2626.56	NOV. 16 - NOV. 30, 2019	PAYROLL RECREATION	17964
PAYROLL	1024.36	NOV. 16 - NOV. 30, 2019	PAYROLL RECREATION	17964
PAYROLL	8665.00	NOV. 16 - NOV. 30, 2019	PAYROLL RECREATION	17964
PAYROLL	6567.30	NOV. 16 - NOV. 30, 2019	PAYROLL SENIOR	17964
PAYROLL	0.00	NOV. 16 - NOV. 30, 2019	PAYROLL LIBRARY	17964
PAYROLL	23821.08	NOV. 16 - NOV. 30, 2019	PAYROLL LIBRARY	17964
PAYROLL	9391.96	NOV. 16 - NOV. 30, 2019	PAYROLL MUNICIPAL	17964
PAYROLL	842.88	NOV. 16 - NOV. 30, 2019	PAYROLL TITLE III -	17964
PAYROLL	5389.25	NOV. 16 - NOV. 30, 2019	MEDICARE SOCIAL	17965
PAYROLL	11681.29	NOV. 16 - NOV. 30, 2019	FICA SOCIAL	17966

Total fund: 01 Current**389239.03****Total Bill List: 389239.03**

BOROUGH OF NEW MILFORD**Bill list****DECEMBER 16, 2019**

<u>Vendor</u>	<u>Amount</u>	<u>Description</u>	<u>Account</u>	<u>Check #</u>
JP MORGAN CHASE	0.00	12/1/19 WIRE TRANSFER-2015	PAYMENT	17967
JP MORGAN CHASE	290000.00	12/1/19 WIRE TRANSFER-2015	PAYMENT	17967
JP MORGAN CHASE	98190.63	12/1/19 WIRE TRANSFER-2015	INTEREST ON	17967
NEW MILFORD BOARD OF	2870146.00	DECEMBER 2019 SCHOOL APPROPRIATION	SCHOOL	17968
FLAGSHIP DENTAL PLANS	85.78	INV. 126838 DEC., 2019 DENTAL	INSURANCE	17969
BERGEN COUNTY DEPT. OF	1764.00	INV. BBP941 6/1-10/31/19	BOARD OF	17970
NORTH JERSEY MEDIA GROUP	440.80	ACCT.410677 AD#3878203 TAX SALE AD	COLLECTION	17971
STEWART BUSINESS SYSTEMS	148.12	INV.IN603784 QUARTERLY	BOARD OF	17972
EVS EMERGENCY PRODUCTS LLC	325.00	INV.19-113 5 PACK BATTERIES AA,	FIRE O/E	17973
EVS EMERGENCY PRODUCTS LLC	760.00	INV.19-119 COMMUNICATION CONSOLE	EMERGENCY	17974
CROWN TROPHY	1201.20	INV. RE-512-01 11/1/14/19 FALL REC	RECREATION	17975
GEESE CHASERS, NORTH JERSEY	1295.66	INV. 523259 NOV. GEESE CHASERS	RECREATION	17976
ROBERT TERRANOVA	400.00	8 GAMES REC SOCCER OFFICIAL	RECREATION	17977
HOWARD CONKLIN	50.00	1 GAME REC SOCCER OFFICIAL	RECREATION	17978
JAMES GLEICH	250.00	5 GAMES REC SOCCER OFFICIAL	RECREATION	17979
JOSE A. SUAREZ	1200.00	REC SOCCER OFFICIAL	RECREATION	17980
DELL MARKETING , INC.	279.98	INV.10332280653 MONITOR	RECREATION	17981
BAUER SPORT SHOP	423.00	INV.3519, 6700 CHAMPIONSHIP T	RECREATION	17982
NE HOUSE NURSERY, LLC	475.00	INV. T-1147394 STONEHOUSE NURSERY	RECREATION	17983
JHS SERVICES INC.	402.00	INV.NM191120 3RD QTR 2019 CAR	VEHICLE	17984
VERIZON COMMUNICATIONS	140.24	450-306-722-0001-51 111519 RADIO	O/E	17985
EXTEL COMMUNICATION	349.00	INV.57923 MEESAGE-ON-HOLD &	POLICE	17986
MAIN LOCK SHOP	264.75	INV.169828 11/8/19 DEADBOLT, ENTRY	PUBLIC	17987
PRIMO PEST CONTROL CO., INC.	50.00	INV.5562 11/26/19 NOVEMBER PEST	SENIOR	17988
STATE LINE	110.40	INV.121012 FIRE EXT. REFILL &	POLICE	17989
P & A AUTO PARTS	52.14	INV.157943, 158097, 158253 AUTO	VEHICLE	17990
P & A AUTO PARTS	998.77	15 INVOICES - 3 CREDITS AUTO PARTS	VEHICLE	17991
RAPID PUMP & METER	325.00	INV.37526 NOVEMBER 2019 JACKSON	PUBLIC	17992
AMERICANWEAR INDUSTRIAL	714.00	8 INVOICES NOVEMBER UNIFORMS	PUBLIC	17993
MSA OVERHEAD DOORS	730.00	INV.1039 10/28/19 REPAIR GARAGE	PUBLIC	17994
GABRIELLI KENWORTH OF NJ	609.00	INV.30800RS REPAIR TRUCK 76	VEHICLE	17995
PURICH INC.	450.00	INV.13560 REBUILD SEAT TRUCK 66	VEHICLE	17996
BERGEN COUNTY UTILITIES	22518.16	INV.5425 SEPT. 2019 TIPPING FEES	GARBAGE &	17997
I-M CLEANING, INC.	4775.00	INV.7817 DECEMBER 2019 BUILDING	PUBLIC	17998
SCOTT GRAPHICS PRINTING	75.00	INV.15009 BUSINESS CARDS FOR V.	PUBLIC	17999
CEUNION	95.00	INV.3503 WEBINAR 8/15 & CLASS	PUBLIC	18000
HIGHWAY TRAFFIC SUPPLY	100.36	INV.58078 STREET SIGNS	PUBLIC	18001
WB MASON CO., INC.	417.95	INV.204983911 NEW PRINTER FOR SHOP	VEHICLE	18002
NORTH EAST FIRE & SAFETY	445.00	INV.53595 SEMI-ANNUAL KITCHEN FIRE	PUBLIC	18003
JET-VAC EQUIPMENT, LLC	111.80	INV.591 75291-00-Z ROLLERS	VEHICLE	18004
JAWSON PRODUCTS, INC.	521.08	INV.9307170154 PAILLS OF ORANGE	PUBLIC	18005
MERMAN EQUIPMENT COMPANY	44.84	INV.219595 SEAL FOR ELGIN SWEEPER	VEHICLE	18006
SNAP ON TOOLS	184.95	INV.11081965537 REPL. BATTERY FOR	VEHICLE	18007
HIGHWAY TRAFFIC SUPPLY	462.00	INV.58123 SURFACE MOUNT U CHANNEL	PUBLIC	18008
NORTHEAST TALENT SOLUTIONS	4856.36	INV.1301,1306,1308 & 1325 NOV.	RECYCLING	18009
ROMAN PIZZA RESTAURANT	225.08	INV.507105-2 & 11530 LUNCH FOR	PUBLIC	18010
DURIE LAWN MOWER & EQUIPMENT	188.35	INV.9026 & 8617 PARTS FOR SMALL	PUBLIC	18011

<u>Vendor</u>	<u>Amount</u>	<u>Description</u>	<u>Account</u>	<u>Check #</u>
HOLY NAME HOSPITAL	70.00	INV. 81407046 201905OH 6/6/19	PUBLIC	18012
DELUXE INTERNATIONAL TRUCKS	184.78	INV.102026562 11/12/19	VEHICLE	18013
PAYLOCITY	1212.86	INV.105733345, 105786182 NOV. 2019	MUNICIPAL	18014
TMUM	364.96	11/23-12/22/19 FIOS PD	POLICE	18015
VERIZON	89.99	ACCT#255-924-016-0001-79	O/E	18016
BOROUGH OF NEW MILFORD	41.31	PETTY CASH	BOARD OF	18017
JOHN L. SHAHDANIAN, ESQ	968.00	INV.192748 & 192749 OCT.2019	LEGAL	18018
ENGIE RESOURCES	3290.75	OCT.11-NOV.8, 2019 ENERGY SUPPLIER	O/E STREET	18019
GEORGE A. KOTEEN ASSOC. INC.	241.68	SEPT., OCT., NOV., 2019 ELIMINATE	O/E STREET	18020
RELIANCE STANDARD LIFE INS.	1502.14	STD 159044 DEC 2019 PREMIUM	INSURANCE	18021
SHOP RITE OF NEW MILFORD	136.52	CUST. 3563 NOV. 2019 FOOD/SUPPLIES	SENIOR	18022
SCOTT GRAPHICS PRINTING	330.00	INV.15036 11/21/19 ENVELOPES & BUS	CODE	18023
TYCO ANIMAL CONTROL	1735.00	NOV. 2019 ANIMAL CONTROL SERVICE	ANIMAL	18024
CHERYL KATZ	150.00	DEC. 2019 FASHION ADVICE FOR	SENIOR	18025
RICOH USA INC.	69.00	INV.11567221119 DECEMBER 2019	SENIOR	18026
RICOH USA INC.	280.00	DEC., 2019 LEASE ON COPIERS	MUNICIPAL	18027
RICOH USA INC.	63.00	DEC., 2019 LEASE ON COPIERS	COLLECTION	18027
RICOH USA INC.	17.00	DEC., 2019 LEASE ON COPIERS	ASSESSMENT	18027
RICOH USA INC.	96.00	DEC., 2019 LEASE ON COPIERS	CODE	18027
RICOH USA INC.	273.00	DEC., 2019 LEASE ON COPIERS	POLICE	18027
RICOH USA INC.	79.00	DEC., 2019 LEASE ON COPIERS	PUBLIC	18027
RICOH USA INC.	0.00	DEC., 2019 LEASE ON COPIERS	MUNICIPAL	18027
RICOH USA INC.	32.00	DEC., 2019 LEASE ON COPIERS	MUNICIPAL	18027
HACKENSACK OCCUPATIONAL	6000.00	ACCT.2069776 5 OFFICERS	POLICE	18028
WB MASON CO., INC.	249.20	INV.205260463 11/22/19	COLLECTION	18029
DARLENE MINKO	50.44	REIMB. WREATHS FOR CEMETERY	CELEBRATION	18030
PER GEAR DESIGNS	172.50	INV.19-1112 NMPD LAPEL PINS	POLICE	18031
PALISADES SALES CORPORATION	179.00	INV.955848 VM WARE 3 YEAR RENEWAL	POLICE	18032
FORD MOTOR CREDIT COMPANY	2934.94	INV.1707306 DEC. 2019 ACCT.5381019	POLICE	18033
FORD MOTOR CREDIT COMPANY	3740.70	INV.1707307 DEC. 2019 ACCT.5381020	POLICE	18034
NJ CRIMINAL INTERDICTION LLC	95.00	INV.9626-139-1-4133 COURSE	POLICE	18035
VERIZON WIRELESS	2103.45	CURRENT CELLULAR CHARGES	O/E	18036
POWER DMS, INC.	4321.50	INV.31575 POWER DMS0001 RENEWAL	POLICE	18037
H & H WEB MANAGEMENT LLC	300.00	INV.NMPD12019 (NOV.DEC.JAN)	POLICE	18038
P & A AUTO PARTS	668.00	7 INVOICES VEHICLE PARTS	VEHICLE	18039
P & G AUTO, INC.	349.12	INV.154751,154813,154820,154821	VEHICLE	18040
P & G AUTO, INC.	120.71	INV.143833, 151279, 152846 VEHICLE	VEHICLE	18041
VINCENT CAHILL	225.00	REIMB. MEALS, PARKING 10/15-17/19	PUBLIC	18042
VINCENT CAHILL	850.00	2019 MEAL MONEY FOR STAFF	PUBLIC	18043
RSC ARCHITECTS, P.A.	6300.00	INV.9571 ARCHITECTURAL SERVICES	PUBLIC	18044
JOSEPH SMENTKOWSKI, INC.	32633.77	INV.103310 DEC. 2019	GARBAGE &	18045
NEW MILFORD DELI	170.00	INV.52176 12/2/19 AUXILIARY	POLICE	18046
COOPER ELECTRIC SUPPLY CO.	487.30	INV.38467719,38898736,38865193,388	PUBLIC	18047
CLEAN MAT SERVICES LLC	415.00	INV.230963 DECEMBER 2019 MAT	PUBLIC	18048
ARROW ELEVATOR INC.	440.00	INV.92408 DEC. 2019 ELEVATOR	PUBLIC	18049
NORTHEAST GAS SERVICES	90.00	INV.32006 OCT. 2019 PROPANE	VEHICLE	18050
AMERICAN HOSE & HYDRAULICS	158.38	INV.49333 PARTS FOR VEHICLES	VEHICLE	18051
TITANIUM PLUMBING AND	635.00	INV.3209 & 3270 WINTERIZE	PUBLIC	18052
BERGEN GARDEN CENTER & FARMS	515.00	INV.2038 HOLIDAY WREATHS	PUBLIC	18053
BOURGH OF NEW MILFORD	100.64	PETTY CASH	PUBLIC	18054
VINCENT CAHILL	280.00	12/1-12/3/19 MEAL MONEY FOR STAFF	PUBLIC	18055
CIGNA HEALTHCARE	187382.58	DECEMBER, 2019 MEDICAL INSURANCE	INSURANCE	18056
ATLANTIC TOMORROWS OFFICE	154.93	INV.CNIN978027 DEC., 2019 MAINT.	MUNICIPAL	18057
ATLANTIC TOMORROWS OFFICE	33.68	INV.CNIN978027 DEC., 2019 MAINT.	COLLECTION	18057
ATLANTIC TOMORROWS OFFICE	33.68	INV.CNIN978027 DEC., 2019 MAINT.	ASSESSMENT	18057

<u>Vendor</u>	<u>Amount</u>	<u>Description</u>	<u>Account</u>	<u>Check #</u>
ATLANTIC TOMORROWS OFFICE	33.68	INV.CNIN978027 DEC., 2019 MAINT.	CODE	18057
ATLANTIC TOMORROWS OFFICE	101.05	INV.CNIN978027 DEC., 2019 MAINT.	POLICE	18057
ATLANTIC TOMORROWS OFFICE	33.68	INV.CNIN978027 DEC., 2019 MAINT.	PUBLIC	18057
ATLANTIC TOMORROWS OFFICE	0.00	INV.CNIN978027 DEC., 2019 MAINT.	MUNICIPAL	18057
ATLANTIC TOMORROWS OFFICE	33.68	INV.CNIN978027 DEC., 2019 MAINT.	MUNICIPAL	18057
IRON MOUNTAIN RECORDS MGMT	360.13	INV.CDVB999 DEC. 2019 STORAGE	MUNICIPAL	18058
SUEZ WATER NEW JERSEY	14839.82	DECEMBER, 2019 HYDRANT CHARGES	O/E WATER	18059
OPTIMUM	109.44	DECEMBER, 2019 CURRENT CHARGES	MUNICIPAL	18060
OPTIMUM	133.62	DECEMBER, 2019 CURRENT CHARGES	PUBLIC	18060
OPTIMUM	138.10	DECEMBER, 2019 CURRENT CHARGES	RECREATION	18060
OPTIMUM	0.00	DECEMBER, 2019 CURRENT CHARGES	O/E	18060
OPTIMUM	104.85	DECEMBER, 2019 CURRENT CHARGES	O/E	18060
VERIZON	144.99	ACCT#354-820-617-0001-80	O/E	18061
MILLENNIUM STRATEGIES, LLC.	3000.00	INV. 9387 NOVEMBER 2019 GRANT	MUNICIPAL	18062
S. ROTONDI & SONS, INC.	17745.00	INV.365195 NOV. 2019 LEAF DISPOSAL	GARBAGE &	18063
NORTHEAST TALENT SOLUTIONS	2432.43	INV.1333, 1343 11/29/19 & 12/6/19	RECYCLING	18064
UNITED STATES POSTAL SERVICE	900.00	PERMIT 284 ACCT.1467594 2020 BORO	2019 CLEAN	18065
RACHLES/MICHELE'S OIL	2562.30	INV.308940 10/23/19 GASOLINE	O/E GAS &	18066
PAYROLL	8964.07	DEC. 1 - DEC. 15, 2019 PAYROLL	RECEIVABLE:	18067
PAYROLL	2083.33	DEC. 1 - DEC. 15, 2019 PAYROLL	GENERAL	18067
PAYROLL	15371.98	DEC. 1 - DEC. 15, 2019 PAYROLL	MUNICIPAL	18067
PAYROLL	1166.67	DEC. 1 - DEC. 15, 2019 PAYROLL	FINANCE	18067
PAYROLL	7698.30	DEC. 1 - DEC. 15, 2019 PAYROLL	COLLECTION	18067
PAYROLL	1735.75	DEC. 1 - DEC. 15, 2019 PAYROLL	ASSESSMENT	18067
PAYROLL	919.84	DEC. 1 - DEC. 15, 2019 PAYROLL	ASSESSMENT	18067
PAYROLL	6935.09	DEC. 1 - DEC. 15, 2019 PAYROLL	CODE	18067
PAYROLL	580.92	DEC. 1 - DEC. 15, 2019 PAYROLL	POLICE	18067
PAYROLL	8766.20	DEC. 1 - DEC. 15, 2019 PAYROLL	POLICE	18067
PAYROLL	3865.09	DEC. 1 - DEC. 15, 2019 PAYROLL	POLICE	18067
PAYROLL	21146.38	DEC. 1 - DEC. 15, 2019 PAYROLL	POLICE	18067
PAYROLL	169579.61	DEC. 1 - DEC. 15, 2019 PAYROLL	POLICE	18067
PAYROLL	78904.74	DEC. 1 - DEC. 15, 2019 PAYROLL	POLICE	18067
PAYROLL	200.00	DEC. 1 - DEC. 15, 2019 PAYROLL	UNIFORM	18067
PAYROLL	546.47	DEC. 1 - DEC. 15, 2019 PAYROLL	UNIFORM	18067
PAYROLL	11062.92	DEC. 1 - DEC. 15, 2019 PAYROLL	PUBLIC	18067
PAYROLL	72829.05	DEC. 1 - DEC. 15, 2019 PAYROLL	PUBLIC	18067
PAYROLL	24195.60	DEC. 1 - DEC. 15, 2019 PAYROLL	PUBLIC	18067
PAYROLL	750.00	DEC. 1 - DEC. 15, 2019 PAYROLL	PUBLIC	18067
PAYROLL	1252.69	DEC. 1 - DEC. 15, 2019 PAYROLL	RECYCLING	18067
PAYROLL	1839.08	DEC. 1 - DEC. 15, 2019 PAYROLL	RECYCLING	18067
PAYROLL	5584.61	DEC. 1 - DEC. 15, 2019 PAYROLL	BOARD OF	18067
PAYROLL	1861.02	DEC. 1 - DEC. 15, 2019 PAYROLL	BOARD OF	18067
PAYROLL	1901.42	DEC. 1 - DEC. 15, 2019 PAYROLL	RECREATION	18067
PAYROLL	426.00	DEC. 1 - DEC. 15, 2019 PAYROLL	RECREATION	18067
PAYROLL	9452.57	DEC. 1 - DEC. 15, 2019 PAYROLL	SENIOR	18067
PAYROLL	0.00	DEC. 1 - DEC. 15, 2019 PAYROLL	LIBRARY	18067
PAYROLL	32088.38	DEC. 1 - DEC. 15, 2019 PAYROLL	LIBRARY	18067
PAYROLL	1152.25	DEC. 1 - DEC. 15, 2019 PAYROLL	MUNICIPAL	18067
PAYROLL	6004.89	DEC. 1 - DEC. 15, 2019 PAYROLL	MUNICIPAL	18067
PAYROLL	842.88	DEC. 1 - DEC. 15, 2019 PAYROLL	TITLE III -	18067
PAYROLL	7034.40	DEC. 1 - DEC. 15, 2019 MEDICARE	SOCIAL	18068
PAYROLL	13108.74	DEC. 1 - DEC. 15, 2019 FICA	SOCIAL	18069
CORELOGIC	269.27	BL.612 LOT 8 216 LINDEN	TAX	18070
CORELOGIC	375.56	BL.712 LOT 8 250	TAX	18071
CORELOGIC	2861.00	BL.1013 LOT 14 650	TAX	18072

<u>Vendor</u>	<u>Amount</u>	<u>Description</u>	<u>Account</u>	<u>Check #</u>
CORELOGIC	2216.00	BL.1212 LOT 5 266 MADISON	TAX	18073
CORELOGIC	173.61	BL.1520 LOT 1 222 CENTER ST-SIMON	TAX	18074
LERETA LLC	2963.00	BL.110 LOT 11 1154 ROSSE AVE-US	TAX	18075
ETA LLC	2687.00	BL.301 LOT 11 994 OXFORD	TAX	18076
SERPA, INGABORTH SOMAYA	108.06	BL.103 LOT 5 REFUND TAX	TAX	18077
ENRICO, THOMAS J. & KAREN	190.54	BL.104.02 LOT 10 C0010 REFUND TAX	TAX	18078
MULLINS, MEL D. & RITA	190.68	BL.104.02 LOT 12 C0012 REFUND TAX	TAX	18079
PROUDIAN, ROBERT D.	253.93	BL.104.02 LOT 13 C0013 REFUND TAX	TAX	18080
BERTERO, HENRIETTA	2685.57	BL.402 LOT 19 REFUND TAX	TAX	18081
EISNER, SAMUEL & GITTLE L.	2838.00	BL.710 LOT 8 REFUND TAX	TAX	18082
BENITEZ, TAMIKA	2569.50	BL.1102 LOT 29 REFUND TAX	TAX	18083
ALE, CARLOS J.	4238.00	BL.1604 LOT 20 REFUND TAX	TAX	18084
LOWENSTEIN, DANIEL J.	100.00	BL.1607 LOT 11 REFUND TAX	TAX	18085
MORGAN, VERNON T. & ARMELLE	62.82	BL.1608 LOT 29 REFUND TAX	TAX	18086
DOLORES BULI	750.00	12/11/19 6 HRS CHC	BOARD OF	18087
PC DOES IT	100.00	DEC. 2019 TECH HELP AND SMART	SENIOR	18088
STEPHEN SINISI	400.00	DEC. 2019 SMALL GROUP TRAINING FOR	SENIOR	18089
SENIORS TECH ACADEMY	100.00	DEC. 2019 COMPUTER TECH HELP AND	SENIOR	18090
JOYCE ROMANO	110.00	DEC. 2019 ZUMATRA DANCE	SENIOR	18091
WAYNE MARKETING ASSOCIATES	250.00	NOV. & DEC. 2019 COGNITIVE BRAIN	SENIOR	18092
NEW MILFORD DELI	350.00	DEPOSIT 1/2/19 HOLIDAY BREAKFAST	MUNICIPAL	18093
SCOTT G. SPROVIERO, ESQ.	100.00	12/10/19 ZBF MEETING ATTENDANCE	ZONING	18094
BOSWELL MCCLAVE ENGINEERING	197.00	INV.136288 11/22/19 NM735 ATTEND	PLANNING	18095
PAUL CONOVER	250.00	REC SOCCER OFFICIAL	RECREATION	18096
GEESE CHASERS, NORTH JERSEY	1295.66	INV.523304 DEC. 2019 GEESE CHASERS	RECREATION	18097
FRIENDS OF NEW MILFORD	1650.00	OFFICIAL DONATION REC WRESTLING	RECREATION	18098
UGH OF NEW MILFORD	60.00	PETTY CASH	MUNICIPAL	18099
BOROUGH OF NEW MILFORD	201.69	PETTY CASH	MUNICIPAL	18099
BOROUGH OF NEW MILFORD	3.98	PETTY CASH	COLLECTION	18099
BOROUGH OF NEW MILFORD	5.86	PETTY CASH	CODE	18099
BOROUGH OF NEW MILFORD	0.00	PETTY CASH	CELEBRATION	18099
BOROUGH OF NEW MILFORD	59.39	PETTY CASH	CELEBRATION	18099
PETER GRECO	300.00	12/1/19 TREE LIGHTING PERFORMANCE	CELEBRATION	18100
S. ROTONDI & SONS, INC.	957.00	INV.365086, 365665 11/5 & 11/18/19	GARBAGE &	18101
S. ROTONDI & SONS, INC.	9100.00	INV. 365729 11/20-11/22/19 LEAF	GARBAGE &	18102
ONE CALL CONCEPTS, INC.	89.76	INV.9115104 NOV. 2019 48 MARKOUTS	PUBLIC	18103
AMERICANWEAR INDUSTRIAL	369.65	INV.139659 ACCT 2174 UNIFORMS	PUBLIC	18104
WASTE MANAGEMENT NJ, INC.	1000.50	INV.2579622-1374-6 DISPOSAL OF	GARBAGE &	18105
CUSTOM BANDAG INC.	472.00	INV.60175862 TIRES	VEHICLE	18106
METROPOLITAN RUBBER CO.	174.53	INV.39823 O-RING	VEHICLE	18107
BROOKCHESTER APARTMENTS	15117.99	4TH QTR 2019 GARBAGE REIMBURSEMENT	GARBAGE &	18108
RALPH LEONARDI	120.00	2019 CAR EXPENSE	UNIFORM	18109
WILLIAM DREW	120.00	CAR EXPENSE 2019	UNIFORM	18110
SALONEY CHANDRA	270.00	DEC. 2019 ZUMBA GOLD EXERCISE	SENIOR	18111
HASMIG MEKJIAN	630.00	DEC. 2019 TAI CHI INSTRUCTION FOR	SENIOR	18112
NEW JERSEY STATE ASSOCIATION	4800.00	INV.6258 2019 PROMOTION TESTING	POLICE	18113
NEW MILFORD DELI	252.99	INV.352170, 837953 FOOD FOR	POLICE	18114
CJ EMERGENCY TRAINING CENTER	60.00	INV.13 SLEO III CPR TRAINING	POLICE	18115
CIRCLE D LIGHTS	384.00	INV.156089 STINGER LED FLASHLIGHTS	POLICE	18116
GAS, INC.	1.28	INV.9094501149, 9094249525, 90954086	POLICE	18117
KEVIN P. KELLY, ESQ.	2519.90	NOV. 2019 PROFESSIONAL LEGAL	LEGAL	18118
NATIONAL FIRE PROTECTION	175.00	INV.7615437X ANNUAL NFPA #	FIRE O/E	18119
ACCESS HEALTH SYSTEMS	2850.00	10 HAZ MAT PHYSICALS	FIRE O/E	18120
OSCAR BERNAL	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18121
JARED BIRNBAUM	400.00	CAPTAIN'S EXPENSE 2019	FIRE O/E	18122

<u>Vendor</u>	<u>Amount</u>	<u>Description</u>	<u>Account</u>	<u>Check #</u>
JARED BIRNBAUM	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18123
SCOTT BRUNNER	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18124
MATTHEW CALNAN	450.00	DEPUTY FIRE CHIEF'S EXPENSE 2019	FIRE O/E	18125
MATTHEW CALNAN	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18126
JACK V. CLARKE	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18127
ANGELO DE CARLO	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18128
WILLIAM DREW	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18129
SCOTT DZADIK	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18130
JAMES FAVIA	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18131
XAVIER HERNANDEZ	300.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18132
CRAIG HITTLE	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18133
GERALD HOWARD	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18134
JUSTIN HUGERICH	300.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18135
PETER HUGERICH	450.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18136
BRIAN JOHNSON	300.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18137
RICHARD KOCH	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18138
RALPH LEONARDI	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18139
JOSEPH MC NULTY	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18140
THOMAS MULLIGAN	300.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18141
WILLIAM MURY	450.00	ASS'T FIRE CHIEF'S EXPENSE 2019	FIRE O/E	18142
WILLIAM MURY	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18143
RICHARD NEUNER, SR.	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18144
ROBERT O'BRIEN	400.00	CAPTAIN'S EXPENSE 2019	FIRE O/E	18145
ROBERT O'BRIEN	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18146
MATTHEW PORRINO	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18147
ROSS RHEIN	350.00	LIEUTENANT'S EXPENSE 2019	FIRE O/E	18148
ROSS RHEIN	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18149
ROBERT RYAN	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18150
THOMAS RYAN	300.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18151
GEORGE SAIGH	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18152
JOSEPH SCHRADER	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18153
TIMOTHY SEEBACK	450.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18154
JACK P. SICCARDI	450.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18155
JOHN SICCARDI	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18156
ALAN SILVERMAN	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18157
GERARD SMITHSON	350.00	LIEUTENANT'S EXPENSE 2019	FIRE O/E	18158
GERARD SMITHSON	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18159
JOSEPH SPINA	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18160
RONALD STOKES	600.00	CHIEF'S EXPENSE 2019	FIRE O/E	18161
RONALD STOKES	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18162
PAUL STUCKE	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18163
JAMES TUFARO	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18164
VERIZON	144.99	12/5/19-1/14/20 FIOS ACCT	O/E	18165
PALISADES SALES CORPORATION	2072.40	INV.955946 SYMANTEC ANTI VIRUS	MUNICIPAL	18166
THOMSON REUTERS WEST	257.58	NOV. 2019 INV.841384453 ONLINE	POLICE	18167
GEORGE HERRERO	86.76	REIMB. 10/24, 10/25 & 11/1/19	POLICE	18168
FRANCIS F. HAGGERTY	57.84	REIMB. 10/24-10/25/19	POLICE	18169
GENERAL SALES ADMINISTRATION	972.02	INV.105418 D/B AUDI LIGHTING	VEHICLE	18170
WB MASON CO., INC.	140.44	INV.205118460 11/19/19 C2365727	MUNICIPAL	18171
VERIZON	89.99	FIOS CHARGES 11/4-12/3/19	O/E	18172
BOROUGH OF NEW MILFORD	493.30	CLOSE OUT DETECTIVE BUREAU PETTY	POLICE	18173
BOROUGH OF NEW MILFORD	82.52	CLOSE OUT POLICE 2019 PETTY CASH	POLICE	18174
BOROUGH OF NEW MILFORD	0.00	CLOSE OUT POLICE 2019 PETTY CASH	POLICE	18174
BOROUGH OF NEW MILFORD	17.56	CLOSE OUT POLICE 2019 PETTY CASH	POLICE	18174
BOROUGH OF NEW MILFORD	21.33	CLOSE OUT POLICE 2019 PETTY CASH	VEHICLE	18174

<u>Vendor</u>	<u>Amount</u>	<u>Description</u>	<u>Account</u>	<u>Check #</u>
DAVID STORMER	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18175
TYLER COSS Y LEON	599.00	2019 CLOTHING ALLOWANCE	FIRE O/E	18176

Total fund: 01 Current 4232878.07

Total Bill List: 4232878.07

BOROUGH OF NEW MILFORD

Bill list

DECEMBER 16, 2019

<u>Vendor</u>	<u>Amount</u>	<u>Description</u>	<u>Account</u>	<u>Check #</u>
BOSWELL MCCLAVE ENGINEERING	1589.25	INV. 136275 11/22/19 NM695I	2017	2174
BOSWELL MCCLAVE ENGINEERING	207.00	INV.136440 12/3/19 NM744 BULGER	2018	2175
BOSWELL MCCLAVE ENGINEERING	1515.99	INV.136289 11/22/19 NM745 BLVD	2019	2176
PALMERS ACE HARDWARE	157.82	INV.702108,702191,702305,702411,70	2018	2177
STONE HOUSE NURSERY, LLC	5000.00	INV. 1149162 TREES FOR KENNEDY	2017	2178

Total fund: 04 CAPITAL 8470.06

Total Bill List: 8470.06

BOROUGH OF NEW MILFORD

Bill list

DECEMBER 16, 2019

Combined ANIMAL CONTROL 13

<u>Vendor</u>	<u>Amount</u>	<u>Description</u>	<u>Account</u>	<u>Check #</u>
NJ STATE DEPT. OF HEALTH	6.60	NOVEMBER 2019 DOG LICENSE FEES	RES'V FOR	1139
MGL PRINTING SOLUTIONS	738.00	INV.168323 11/20/19 N017 DOG/CAT	RES'V FOR	1140
Total fund: 2930 RES'V FOR ANIMAL CTRL EXPENSE				744.60
Total Bill List:		744.60		

BOROUGH OF NEW MILFORD

Bill list

DECEMBER 16, 2019

Combined BUILDING DEV TRUST 14

<u>Vendor</u>	<u>Amount</u>	<u>Description</u>	<u>Account</u>	<u>Check #</u>
NORTH JERSEY MEDIA GROUP	43.15	AD# 1458950 ACCT.3900382 BERMEO	RESERVE FOR	1933
SCOTT G. SPROVIERO, ESQ.	343.75	HOTTO-SCROW- 12/9/19 2.75 HRS	RESERVE FOR	1934
SCOTT G. SPROVIERO, ESQ.	312.50	LAZARUS-12/6/19-12/10/19 2.5 HRS	RESERVE FOR	1935
Total fund: 2940 RESERVE FOR BUILDING/DEV ESCRO				699.40
Total Bill List:	699.40			

BOROUGH OF NEW MILFORD

Bill list

DECEMBER 16, 2019

Combined TRUST FUND 12

<u>Vendor</u>	<u>Amount</u>	<u>Description</u>	<u>Account</u>	<u>Check #</u>
KEITH WESTER	85.85	REIMB. FOR SANTA LANDING	RESERVE JR.	1078
Total fund: 2803 RESERVE JR. POLICE ACADEMY				85.85
Total Bill List:		85.85		

BOROUGH OF NEW MILFORD

Bill list

DECEMBER 16, 2019

Combined RECREATION COMM TRUST 18

<u>Vendor</u>	<u>Amount</u>	<u>Description</u>	<u>Account</u>	<u>Check #</u>
BERGEN TRAVEL BASKETBALL	12750.00	INV.#1 TRAVEL BASKETBALL LEAGUE 10	RES'V FOR	1757
ASHLEY MARIE BECKER	150.00	INDOOR SOCCER EVALUATER	RES'V FOR	1758
THOMAS A. GORMAN	225.00	TRAVEL BASKETBALL EVALUATER	RES'V FOR	1759
CRAIG T. VONDEROSTEN	75.00	TRAVEL BASKETBALL EVALUATER	RES'V FOR	1760
PASCACK VALLEY INDOOR	1375.00	LEAGUE FEES	RES'V FOR	1761
FRIENDS OF NEW MILFORD	2525.00	INDOOR SOCCER REFEREE DONATION	RES'V FOR	1762
Total fund: 2930 RES'V RECREATION COMM EXPENSES				17100.00
<hr/>				
Total Bill List:	17100.00			

BOROUGH OF NEW MILFORD

Bill list

DECEMBER 16, 2019

<u>Vendor</u>	<u>Amount</u>	<u>Description</u>	<u>Account</u>	<u>Check #</u>
THEA SIROCCHI-HURLEY	65.00	NJLM BADGE REIMBURSEMENT	MUNICIPAL	18177
PETER DE VRIES	120.00	CAR EXPENSE 2019	UNIFORM	18178
PALMERS ACE HARDWARE	78.20	INV.702474 CR.702475	FIRE O/E	18179
Total fund:	01	Current		263.20

Total Bill List: 263.20

BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

RESOLUTION

No. 2019: 262

Offered by: *[Signature]*

Seconded by: *[Signature]*

Member	Aye	No	Abstain	Absent
SIROCCHI-HURLEY	/			
SEYMOUR	/			
DUFFIE	/			
GROTSKY	/			
GRECO-LANGSCHULTZ	/			
GRANT	/			
MAYOR (tie)				

BE IT RESOLVED, by the Governing Body of the Borough of New Milford, that the following appropriation transfers, affecting the 2019 Local Municipal Budget Year, be approved:

BE IT FURTHER RESOLVED, that the proper Borough officers be and they are hereby directed to enter the said transfers on the financial records of the Borough:

Transfer to:

Office Equip.	01-2010-20-1252	6,000
Telephone	01-2010-31-4402	2,000
		<hr/> 8,000

Transfer from:

Electricity	01-2010-31-4362	4,000
Natural Gas	01-2010-31-4472	4,000
		<hr/> 8,000

I hereby certify that the above is a true copy of a resolution adopted by the Council of the Borough of New Milford at the meeting held on December 16, 2019.

[Signature]

SEAL

BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

RESOLUTION

No. 2019:263

Offered by: [Signature]

Seconded by: [Signature]

Member	Aye	No	Abstain	Absent
SIROCCHI-HURLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SEYMOUR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DUFFIE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GROTSKY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GRECO-LANGSCHULTZ	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GRANT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MAYOR (lie)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

WHEREAS, the ever changing environment where drivers may be impaired while operating agency vehicles makes it necessary for public employers to review and update their drug and alcohol policies regarding drivers who operate public agency vehicles or private vehicles on agency business; and

WHEREAS, the Municipal Excess Liability Joint Insurance Fund (MEL) has promulgated a draft Public Entity Drug & Alcohol Policy for covered Municipalities throughout the State of New Jersey; and

WHEREAS, the Borough has reviewed the draft policy provided by the MEL with the labor attorney and drafted the Borough of New Milford Commercial Driving License (CDL) Drug and Alcohol Policy ("Borough CDL Policy"), which is tailored to the needs of the Borough and incorporates policies required by Federal Law and the Department of Transportation (DOT). A true and accurate copy of the Policy is attached hereto; and

NOW, THEREFORE, BE IT RESOLVED, the Mayor and Council of the Borough of New Milford hereby adopt the Borough CDL Policy.

BE IT FURTHER RESOLVED that a copy of the Borough CDL Policy will be distributed to all employees required to possess a Commercial Driver's License (CDL) and each affected employee will be required to acknowledge receipt of the Borough CDL Policy.

BE IT FURTHER RESOLVED that a copy of the Borough CDL Policy will be available for inspection at the Office of the Borough Clerk for any employee desirous of viewing same.

BE IT FURTHER RESOLVED that the Borough CDL Policy shall become effective as of the date of passage of this Resolution and shall remain in effect until otherwise modified, amended or repealed by the Borough.

I hereby certify that the above is a true copy of a resolution adopted by the Council of the Borough of New Milford at the meeting held on December 16, 2019.

SEAL

[Signature]

BOROUGH OF NEW MILFORD
COMMERCIAL DRIVING LICENSE (CDL)
DRUG AND ALCOHOL POLICY

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THE BOROUGH SERVICE AGENT CONTACT INFORMATION

DESIGNATED EMPLOYER REPRESENTATIVE (DER)

NAME: Vincent A. Cahill
TITLE: Director of Public Works
ADDRESS: 930 River Road, New Milford, NJ 07646
PHONE: 201-967-8172
E-MAIL: vcahill@newmilfordboro.com
HOURS WHEN AVAILABLE: Monday to Friday 7 AM to 3 PM

ALTERNATE DESIGNATED EMPLOYER REPRESENTATIVE (DER)

NAME: Syl Bresa
TITLE: Superintendent Public Works
ADDRESS: 930 River Road, New Milford, NJ 07646
PHONE: 201-967-8172
E-MAIL: sbresa@newmilfordboro.com
HOURS WHEN AVAILABLE: Monday to Friday 7 AM to 3 PM

MEDICAL REVIEW OFFICER (MRO)

NAME: Holy Name Medical Center – Dr. Brunetti – NPI Number 1891722724
ADDRESS: 718 Teaneck Road, Teaneck, New Jersey 07666
PHONE: (201) 833-3000

LABORATORY

NAME: Medtox Labs
ADDRESS: 402 W. County Road D, St. Paul, MN 55112
PHONE: (877) 628-7279

SUBSTANCE ABUSE PROFESSIONAL (SAP)

NAME: Bergen County Department of Health Services - Employee Assistance Program
ADDRESS: One Bergen County Plaza, 4th Floor, Hackensack, NJ 07601
PHONE: 1-800-663-0404

THE BOROUGH'S INDEPENDENT AUTHORITY

This CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY sets forth the requirements of 49 CFR Parts 382 and 40. Those areas of the policy that appear in italic print reflect the Borough's independent authority to require additional provisions with regard to drug and alcohol testing procedures. To the extent the Borough's state specific non-DOT the Borough Authority Policy supplements, and does not conflict with applicable DOT Regulations, and current agreements, it is to be followed. In the event that DOT Regulations are applicable to the driver's or applicant's particular situation or issue, the DOT Regulations pre-empt conflicting State Laws, the Borough's non-DOT Policies and all other agreements.

PERIOD OF WORKDAY A DRIVER IS REQUIRED TO BE IN COMPLIANCE

Safety-Sensitive Functions as covered under 49 CFR Part 382: In accordance with 49 CFR 382 drivers who possess CDL licenses are subject to DOT regulated alcohol and drug testing at all times from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- (1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- (2) All time inspecting equipment as required by 49 CFR 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- (3) All time spent at the driving controls of a commercial motor vehicle in operation;
- (4) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- (5) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

A driver is required to be in compliance with this policy during that period of the workday when they are on-duty performing *safety-sensitive functions* (See *Definitions*).

DRIVER FITNESS FOR DUTY 391.11

DOT regulations provide that the Borough as a DOT regulated employer makes the final determination of who is a qualified individual to drive a commercial motor vehicle. 49 CFR § 391.11(a). The Borough shall not permit a person to drive a commercial motor vehicle unless the person meets all DOT minimum qualifications and such other more stringent qualifications and requirements relating to safety of operation and employee safety and health as it may decide in its judgment and discretion. The Borough shall use the services of independent Certified Medical Examiners, Occupational Medicine Physicians, Medical Review Officers, as well as other medical and industry professionals to make its final fitness for duty determinations.

TESTING PROCEDURES 382.105

The Borough shall ensure that all alcohol or controlled substances testing conducted under this policy complies with the procedures set forth in 49 CFR part 40. The provisions of 49 CFR part 40 that address alcohol or controlled substances testing are made applicable to the Borough by 382.105.

DEFINITIONS 382.107

Words or phrases used in this policy are defined in Sections 386.2, 390.5 and 40.3 of Federal regulations, except as provided herein.

Actual knowledge for the purpose of Section B of this policy means actual knowledge by the Borough that a driver has used alcohol or controlled substances based on the Borough's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use, except as provided in 382.121. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under 382.307.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol's including methyl and isopropyl alcohol.

Alcohol concentration (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this policy.

Alcohol use means the drinking or swallowing of any beverage, liquid mixture, or preparation, (including any medication), containing alcohol

CFR means Code of Federal Regulations.

Commerce means:

- (1) Any trade, traffic or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States and
- (2) Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in (1) of this definition.

Commercial driver's license Drug and Alcohol Clearinghouse (Clearinghouse) means the FMCSA database that subpart G of 49 CFR Part 382.701-727 requires employers and service agents to report information to and to query regarding drivers who are subject to the DOT controlled substance and alcohol testing regulations. Effective January 6, 2020, the FMCSA will establish a mandatory database and the following personal information collected and maintained under this part shall be reported to the Clearinghouse:

- (1) A verified positive, adulterated, or substituted drug test result;
- (2) An alcohol confirmation test with a concentration of 0.04 or higher;
- (3) A refusal to submit to any test required by subpart C of this part;
- (4) An employer's report of actual knowledge, as defined at § 382.107;
- (5) On duty alcohol use pursuant to § 382.205;
- (6) Pre-duty alcohol use pursuant to § 382.207;
- (7) Alcohol use following an accident pursuant to § 382.209; and
- (8) Controlled substance use pursuant to § 382.213;
- (9) A substance abuse professional (SAP as defined in § 40.3 of this title) report of the successful completion of the return-to-duty process;
- (10) A negative return-to-duty test; and

- (11) An employer's report of completion of follow-up testing.

Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

- (1) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or
- (2) Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds), whichever is greater; or
- (3) Is designed to transport 16 or more passengers, including the driver; or
- (4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

Confirmation (or confirmatory) drug test means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.

Confirmation (or confirmatory) validity test means a second test performed on a urine specimen to further support a validity test result.

Confirmed drug test means a confirmation test result received by an MRO from a laboratory.

Consortium/Third party administrator (C/TPA) means a service agent that provides or coordinates one or more drug and/or alcohol testing services to DOT-regulated employers. C/TPAs typically provide or coordinate the provision of a number of such services and perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members (e.g., having a combined random testing pool). C/TPAs are not "employers" for purposes of Federal regulations.

Controlled substances mean those substances identified in 40.85. As of January 1, 2018, the drugs tested for may include all or some of the following: (1) Amphetamines; (2) Cannabinoids; (3) Cocaine; (4) Phencyclidine (PCP); and (5) Opioids.

Designated employer representative (DER) is an individual identified by the Borough as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The individual must be an employee of the Borough. Service agents cannot serve as DERs.

Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

- (1) Inclusions. Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.
- (2) Exclusions:

- i. Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
- ii. Tire disablement without other damage even if no spare tire is available.
- iii. Headlight or taillight damage.
- iv. Damage to turn signals, horn, or windshield wipers which make them inoperative.

DOT Agency means an agency (or "operating administration") of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing (14 CFR parts 61, 63, 65, 121, and 135; 49 CFR parts 199, 219, 382, 653, and 654) in accordance with 49 CFR part 40.

Driver means any person who operates a commercial motor vehicle. This includes, but is not limited to: Full time, regularly employed Commercial Motor Vehicle drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.

Employer means an entity, including a municipal employer, employing one or more employees (including an individual who is self-employed) that is subject to DOT agency regulations requiring compliance with this Federal regulation. The term, as used in this policy, refers to the entity responsible for overall implementation of DOT drug and alcohol program requirements, including individuals employed by the entity who take personnel actions resulting from violations of this policy and any applicable DOT agency regulations. Service agents are not employers for the purpose of Federal regulations.

Licensed medical practitioner means a person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.

Negative return-to-duty test means a return-to-duty test with a negative drug result and/or an alcohol test with an alcohol concentration of less than 0.02, as described in § 40.305.

Performing (a safety-sensitive function) means a driver is considered to be performing a safety-sensitive function during any period in which he/she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

Positive alcohol test means an alcohol test with an alcohol concentration of greater than or equal to 0.04.

Positive rate for random drug testing means the number of verified positive results for random drug tests conducted under this part plus the number of refusals of random drug tests required by this part, divided by the total number of random drug tests results (i.e., positives, negatives, and refusals) under this part.

Refuse to submit (to an alcohol or controlled substances test) means that you as a driver:

- (a)(1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by C/TPA (see §40.61(a));

(2) Fail to remain at the testing site until the testing process is complete. Provided that an employee who leaves the testing site before the testing process commences (see §40.63(c)) for a pre-employment test is not deemed to have refused to test;

(3) Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations; Provided that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see §40.63(c)) for a pre-employment test is not deemed to have refused to test;

(4) In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen (see §§40.67(l) and 40.69(g));

(5) Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see §40.193(d)(2));

(6) Fail or decline to take an additional drug test the employer or collector has directed you to take (see, for instance, Sec.40.197 (b));

(7) Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under Sec. 40.193(d). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test; or

(8) Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).

(9) For an observed collection, fail to follow the observer's 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.

(10) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.

(11) Admit to the collector or MRO that you adulterated or substituted the specimen.

(12) For a breath alcohol test, refusing to sign the certification at Step 2 of the ATF 40.261 (a) (3).

(b) As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

(c) As an employee, if you refuse to take a drug test, you incur the consequences specified under DOT agency regulations for a violation of those DOT agency regulations. 40.191

Safety-sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- (1) All time at an employer facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;

- (2) All time inspecting servicing, or conditioning any commercial motor vehicle at any time;
- (3) All time spent at the driving controls of a commercial motor vehicle in operation;
- (4) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, using a vehicle for road clearing, snow removal, trash and recycling removal, remaining in readiness to operate the vehicle, and
- (5) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Screening test (or initial test) means:

- (1) In drug testing, a test to eliminate "negative" urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs.
- (2) In alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

Service agent means any person or entity, other than an employee of the employer, who provides services to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/TPAs. To act as service agents, persons and organizations must meet DOT qualifications, if applicable. Service agents are not employers for purposes of this part.

Stand-down means the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test results.

Violation rate for random alcohol testing means the number of 0.04 and above random alcohol confirmation test results conducted under this part plus the number of refusals of random alcohol tests required by this part, divided by the total number of random alcohol screening tests (including refusals) conducted under this part.

PREEMPTION OF STATE AND LOCAL LAWS 382.109

- (a) Except as provided in paragraph (b) of this section, the Federal regulation requiring this alcohol and controlled substances testing preempts any State or local law, rule, regulation, order to the extent that:
 - (1) Compliance with both the State or local requirement and the Federal regulation is not possible; or
 - (2) Compliance with the State or local requirement is an obstacle to the accomplishment and execution of any requirement of this Federal regulation.
- (b) This policy, and the Federal regulation requiring it, shall not be construed to preempt provisions of State criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees, the Borough, or the general public.

OTHER REQUIREMENTS IMPOSED BY THE BOROUGH 382.111

Except as expressly provided in this policy, nothing in the Federal regulation 382 and 49 CFR part 40 shall be construed to affect the authority of the Borough, or the rights of drivers, with respect to the

use of alcohol, or the use of controlled substances, including authority and rights with respect to testing and rehabilitation. Accordingly, the Borough has adopted, under its own authority, a Non-DOT drug and alcohol testing program.

REQUIREMENT FOR NOTICE 382.113

Before performing an alcohol or controlled substances test under the Federal regulation, the Borough shall notify a driver that the alcohol or controlled substances test is required by Federal regulation. The Borough shall not falsely represent that a test is administered under Federal regulation.

STARTING DATE FOR TESTING PROGRAMS 382.115

All domestic-domiciled employers must implement the requirements of this policy the date the employer begins commercial motor vehicle operations.

PUBLIC INTEREST EXCLUSION 382.117

The Borough shall not use the services of a service agent who is subject to a public interest exclusion (PIE) in accordance with 49 CFR part 40, Subpart R.

EMPLOYEE ADMISSION OF ALCOHOL AND CONTROLLED SUBSTANCE USE 382.121

(a) Employees who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation and treatment requirements of this policy and 49 CFR part 40, provided that:

- (1) The admission is in accordance with the Borough's written voluntary self-identification program or policy that meets the requirements of paragraph (b) of this section;
- (2) The driver does not self-identify in order to avoid testing under the requirements of this part;
- (3) The driver makes the admission of alcohol misuse or controlled substances use prior to performing a safety sensitive function (i.e., prior to reporting for duty); and
- (4) The driver does not perform a safety sensitive function until the Borough is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.

(b) A qualified voluntary self-identification program or policy must contain the following elements:

- (1) It prohibits the Borough from taking adverse action against an employee making a voluntary admission of alcohol misuse or controlled substances use within the parameters of the program or policy and paragraph (a) of this section;
- (2) It must allow the employee sufficient opportunity to seek evaluation, education or treatment to establish control over the employee's drug or alcohol problem;
- (3) It must permit the employee to return to safety sensitive duties only upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert, i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor;

- (4) It must ensure that:
 - (i) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty test with a result indicating an alcohol concentration of less than 0.02; and/or
 - (ii) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty controlled substance test with a verified negative test result for controlled substances use; and
- (5) It may incorporate employee monitoring and include non-DOT follow-up testing.

DRIVER IDENTIFICATION 382.123

- (a) For each alcohol test performed, the Borough shall provide the driver's commercial driver's license number and State of issuance in Step 1, Section B of the Alcohol Testing Form (ATF).
- (b) For each controlled substance test performed under this part, the Borough shall provide the following information, which must be recorded as follows:
 - (i) The driver's commercial driver's license number and State of issuance in Step 1, section C of the Federal Drug Testing Custody and Control Form (CCF).
 - (ii) The employer's name and other identifying information required in Step 1, section A of the ATF.

EMPLOYEE ASSISTANCE PROGRAM

The Borough's employee assistance program (EAP) is a confidential program designed to assist in the identification and resolution of problems associated with employees impaired by alcohol or drugs, or other personal concerns that may adversely affect employee job performance.

SECTION B - PROHIBITIONS

ALCOHOL CONCENTRATION 382.201

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. If the Borough has actual knowledge that a driver has an alcohol concentration of 0.04 or greater, the driver will not be permitted to perform or continue to perform safety-sensitive functions.

ON-DUTY USE 382.205

No driver shall use alcohol while performing safety-sensitive functions. If the Borough has actual knowledge that a driver is using alcohol while performing safety-sensitive functions, that driver shall not be permitted to perform or continue to perform safety-sensitive functions.

PRE-DUTY USE 382.207

No driver shall perform safety-sensitive functions within four (4) hours after using alcohol. If the Borough has actual knowledge of a driver who has used alcohol within four (4) hours, that driver will not be permitted to perform or continue to perform safety-sensitive functions.

USE FOLLOWING AN ACCIDENT 382.209

No driver required to take a post-accident alcohol test under 382.303 shall use alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.

REFUSAL TO SUBMIT TO A REQUIRED ALCOHOL OR CONTROLLED SUBSTANCES TEST 382.211

No driver shall refuse to submit to a post-accident alcohol or controlled substances test required under 382.303, a random alcohol or controlled substances test required under 382.305, a reasonable suspicion alcohol or controlled substances test required under 382.307, or a follow-up alcohol or controlled substances test required under 382.311. The Borough shall not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

DISCLOSURE OF OFF-DUTY DUI AND DRUG OFFENSE ARREST AND/OR CONVICTION 382.111

Safety Rule requiring mandatory reporting by Drivers of off – duty DUI and Drug Offense Arrest and/or Conviction. In accordance with the authority granted to the Borough by the DOT in 49 CFR 382.111 to impose other requirements to prevent alcohol misuse by Drivers, it is mandatory that Drivers disclose to their supervisor by the end of the business day arrest and/or convictions for all alcohol and/or drug related offenses committed while operating any motor vehicle. This will allow the Borough to immediately remove from safety sensitive functions, Drivers who have engaged in off – duty unsafe behavior related to alcohol or drug misuse (which is directly related to their safety sensitive functions performed for the Borough) to make determinations as follows: 1) if the Driver is fit for duty; 2) if the Driver is still qualified under DOT regulations to operate a CMV for the Borough ; 3) if the Driver is still insurable at standard rates under the Borough fleet policy; and 4) if the Driver can

still meet the essential job functions for the position of Driver. It is an Essential Job Function of every DOT regulated Driver that they be qualified and licensed to operate a CMV without the use of a judicially ordered interlocking device, or similar device as part of a diversion or conviction for an alcohol related offence.

PRE-DUTY DISCLOSURE OF ANY IMPAIRING EFFECT MEDICATION OR SUBSTANCES 382.213

(a) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in 382.107, who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

(b) The Borough, having actual knowledge that a driver has used a controlled substance, shall not permit the driver to perform or continue to perform a safety-sensitive function.

(c) The Borough may require a driver to inform the Borough of any therapeutic drug use.

All drivers of the Borough are required, as a safety rule and under DOT regulations, to pre-duty disclosure that they are taking ANY impairing affect therapeutic drug, prescription medication (including medical marijuana), over-the-counter medication, mind altering synthetic or designer drugs or substances which may have an effect on their ability to safely operate a commercial motor vehicle or the performance of safety-sensitive duties. It is an essential function of every driver's position at the Borough to be able to work in a constant state of alertness and in a safe manner. If the fact that the driver is taking an impairing effect drug, medication or substance is not disclosed pre-duty by a driver, and the driver tests positive or is determined by the MRO to be a potential safety risk due to a drug, medication or substance, that driver will be subject to discipline, up to and including termination for violation of this safety rule. If disclosure is made, the Borough, in accordance with its authority under 49 CFR Part 391.11(a), reserves the right to send the driver for a Fitness-for-Duty evaluation to evaluate the medication and its possible adverse effects on the driver's ability to safely operate a commercial motor vehicle or the performance of other safety-sensitive duties. In determining whether the employee has a legally valid prescription so as to constitute a legitimate medical explanation, consistent with the Controlled Substances Act (CSA), the MRO will use the CSA standard when conducting his medical review (49 CFR Part 40.137).

In advance of the operation of a commercial motor vehicle, or the performance of other safety-sensitive duties, or testing, drivers are strongly encouraged (and mandated by DOT Regulations) to have their own doctor make an individualized assessment of any safety related risks of the drug, medication or substance which they are taking, providing the doctor a copy of their job description or specific duties, and having the doctor render an opinion on the safety related risks. The driver need not disclose to their supervisor the drug, medication or substance, or the medical condition involved, to fulfill this pre-duty disclosure obligation of this safety policy, but may do so confidentially to the DER. All information provided will be kept separate from personnel files and in a confidential manner by the DER. The MRO will make the final determination on the driver's ability to safely operate a commercial motor vehicle or the safety related risks of any particular drug, medication or substance, although the Borough shall make the final determination on whether the driver is qualified to drive/operate a commercial motor vehicle.

CONTROLLED SUBSTANCES TESTING 382.215

No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. The Borough, having actual knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances, shall not permit the driver to perform or continue to perform safety-sensitive functions. In accordance with 49 CFR Part 40.171, when the MRO has notified the driver that he or she has a verified positive drug test and/or refusal to test because of adulteration or substitution, the driver has 72 hours from the time of notification to request a test of the split specimen.

EMPLOYER RESPONSIBILITIES 382.217

No employer may allow, require, permit or authorize a driver to operate a commercial motor vehicle during any period in which an employer determines that a driver is not in compliance with the return-to-duty requirements in 49 CFR part 40, subpart O, after the occurrence of any of the following events:

- (a) The driver receives a positive, adulterated, or substituted drug test result conducted under part 40;
- (b) The driver receives an alcohol confirmation test result of 0.04 or higher alcohol concentration conducted under part 40;
- (c) The driver refused to submit to a test for drugs or alcohol required under § 382; or
- (d) The driver used alcohol prior to a post-accident alcohol test in violation of § 382.209.

CONSEQUENCES OF CONDUCT PROHIBITED BY SECTION B Any driver who engages in conduct prohibited by Section B of this policy will be subject to disciplinary action up to and including termination.

TESTS REQUIRED

Required testing includes pre-employment (controlled substances required, alcohol at option of the Borough), post-accident, random, and reasonable suspicion. Return-to-duty and follow-up-testing is also required if the Borough allows a "positive" test employee to return to a safety-sensitive function after the required evaluation by a Substance Abuse Professional and the required rehabilitation.

THE BOROUGH RESERVES RIGHT TO CONDUCT NON-DOT DRUG AND ALCOHOL TESTING

In addition to drug and alcohol testing conducted by the Borough pursuant to 49 CFR Part 40 and 49 CFR Part 382, the Borough reserves the independent authority to screen and/or test employees under the Borough's Policy including, but not limited to, laboratory testing and point of collection test (POCT) devices utilizing alternative body specimens including hair, urine and oral fluid (saliva), for the detection of illegal drugs, prescription and over-the-counter medications or substances which have an impairing affect and/or alcohol, taken by those who are considered safety-sensitive employees, as may be permitted and/or restricted by applicable state or local laws or regulations and applicable collective bargaining agreements. The term "illegal use of drugs" includes any mind altering synthetic or designer drugs as well as any controlled or scheduled substance not used in accordance with a health care provider's lawful prescription for the user. These collections will be performed in addition to, and not as a substitute for, DOT regulated tests and these urine specimens will not be poured from or taken from the same specimen collected for a DOT urine test or alcohol test [40.13] and will not be

conducted using DOT forms [40.47, 40.227]. This may also include a "zero tolerance" policy for the use of drugs or alcohol.

PRE-EMPLOYMENT 382.301

(a) Prior to the first time a driver performs safety-sensitive functions for the Borough, the driver shall undergo testing for controlled substances as a condition prior to being used, unless the Borough uses the exception in paragraph (b) of this section. The Borough shall not allow a driver, who the Borough intends to hire or use, to perform safety-sensitive functions unless the Borough has received a controlled substances test result from the MRO or C/TPA indicating a verified negative test result for that driver. The Borough shall require a re-collection of a urine specimen on any pre-employment, return-to-duty and follow-up drug test if the result is negative-dilute. The MRO has authority to direct the re-collection be observed. If the second test result is also negative-dilute, the Borough shall accept the result as a negative test.

(b) The Borough is not required to administer a controlled substances test required by paragraph (a) of this section if:

(1) The driver has participated in a controlled substances testing program that meets the requirements of this policy within the previous 30 days; and

(2) While participating in that program, either--

(i) Was tested for controlled substances within the past 6 months (from the date of application with the Borough), or

(ii) Participated in the random controlled substances testing program for the previous 12 months (from the date of application with the Borough); and

(3) The Borough ensures that no prior employer of the driver of whom the Borough has knowledge has records of a violation of this policy or the controlled substances use rule of another DOT agency within the previous six months.

(c) (1) If the Borough exercises the exception in paragraph (b) of this section, the Borough shall contact the controlled substances testing program(s) in which the driver participates or participated and shall obtain and retain from the testing program(s) the following information:

(i) Name(s) and address(es) of the program(s).

(ii) Verification that the driver participates or participated in the program(s).

(iii) Verification that the program(s) conforms to part 40 of Federal regulations.

(iv) Verification that the driver is qualified under the rules of this policy, including that the driver has not refused to be tested for controlled substances.

(v) The date the driver was last tested for controlled substances.

(vi) The results of any tests taken within the previous six months and any other violations of Section B of this policy.

(2) If the Borough who uses, but does not employ a driver more than once a year to operate commercial motor vehicles must obtain the information in paragraph (c)(1) of this section at least

once every six months. The records prepared under this paragraph shall be maintained in accordance with 382.401. If the Borough cannot verify that the driver is participating in a controlled substances testing program in accordance with this policy and part 40 of Federal regulations, the Borough shall conduct a pre-employment-controlled substances test.

- (d) The Borough may, but is not required to, conduct pre-employment alcohol testing under this policy. If the Borough chooses to conduct pre-employment alcohol testing, it must comply with the following requirements:
 - (1) It must conduct a pre-employment alcohol test before the first performance of safety-sensitive functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions).
 - (2) It must treat all safety-sensitive employees performing safety-sensitive functions the same for the purpose of pre-employment alcohol testing (i.e., it must not test some covered employees and not others).
 - (3) It must conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test.
 - (4) It must conduct all pre-employment alcohol tests using the alcohol testing procedures of 49 CFR part 40 of Federal regulation.
 - (5) It must not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.04.

POST-ACCIDENT 382.303

- (a) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, the Borough shall test for alcohol for each of its surviving drivers:
 - (1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 - (2) Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - (i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - (ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
- (b) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, the Borough shall test for controlled substances for each of its surviving drivers:
 - (1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(2) Who receives a citation within thirty-two hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:

(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(c) The following table notes when a post-accident test is required to be conducted by paragraphs (a)(1), (a)(2), (b)(1), and (b)(2) of this section:

<u>Type of accident involved</u>	<u>Citation issued to the CMV driver</u>	<u>Test must be performed by the Borough</u>
Human fatality	YES	YES
	NO	YES
Bodily injury with immediate medical	YES	YES
Treatment away from the scene	NO	NO
Disabling damage to any motor	YES	YES
Vehicle requiring tow away	NO	NO

(d) (1) Alcohol tests. If a test required by this section is not administered within two hours following the accident, the Borough shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within eight hours following the accident, the Borough shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.

(2) Controlled substance tests. If a test required by this section is not administered within 32 hours following the accident, the Borough shall cease attempts to administer a controlled substances test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.

(e) A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the Borough to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver 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.

(f) The Borough shall provide drivers with necessary post-accident information, procedures and instructions, prior to the driver operating a commercial motor vehicle, so that drivers will be able to comply with the requirements of this section.

(g) (1) The results of a breath or blood test for the use of alcohol, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of

this section, provided such tests conform to the applicable Federal, State or local alcohol testing requirements, and that the results of the tests are obtained by the Borough.

(2) The results of a urine test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local controlled substances testing requirements, and that the results of the tests are obtained by the Borough.

(h) Exception. This section does not apply to:

(1) An occurrence involving only boarding or alighting from a stationary motor vehicle; or

(2) An occurrence involving only the loading or unloading of cargo; or

(3) An occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in 571.3) by the Borough unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with 177.823.

RANDOM 382.305

(a) The Borough shall comply with the requirements of this section. Every driver shall submit to random alcohol and controlled substance testing as required in this section.

(b) (1) Except as provided in paragraphs (c) through (e) of this section, the minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of driver positions.

(2) Except as provided in paragraphs (f) through (h) of this section, the minimum annual percentage rate for random controlled substances testing shall be 25 percent of the average number of driver positions.

(i) (1) The selection of drivers for random alcohol and controlled substances testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers.

(2) Each driver selected for random alcohol and controlled substances testing under the selection process used, shall have an equal chance of being tested each time selections are made.

(3) Each driver selected for testing shall be tested during the selection period.

(j) (1) To calculate the total number of covered drivers eligible for random testing throughout the year, the Borough, must add the total number of covered drivers eligible for testing during each random testing period for the year and divide that total by the number of random testing periods. Covered employees, and only covered employees, are to be in the Borough's random testing pool, and all covered drivers must be in the random pool. If the Borough conducts random testing more often than once per month (e.g., daily, weekly, bi-weekly) the Borough does not need to compute this total number of covered drivers' rate more than on a once per month basis.

(2) The Borough may use a service agent (e.g., a C/TPA) to perform random selections and covered drivers may be part of a larger random testing pool of covered employees. However, the Borough

must ensure that the service agent is testing at the appropriate percentage established for FMCSA and that only covered employees are in the random testing pool

(k) (1) The Borough shall ensure that random alcohol and controlled substances tests conducted under this policy are unannounced.

(2) The Borough shall ensure that the dates for administering random alcohol and controlled substances tests are spread reasonably throughout the calendar year.

(l) The Borough shall require that each driver who is notified of selection for random alcohol and/or controlled substances testing proceeds to the test site immediately; provided, however, that if the driver is performing a safety-sensitive function, other than driving a commercial motor vehicle, at the time of notification, the Borough shall instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible.

(m) A driver shall only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

(n) If a given driver is subject to random alcohol or controlled substances testing under the random alcohol or controlled substances testing rules of more than one DOT agency for the Borough, the driver shall be subject to random alcohol and/or controlled substances testing at the annual percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the driver's function.

(o) If the Borough is required to conduct random alcohol or controlled substances testing under the alcohol or controlled substances testing rules of more than one DOT agency, the Borough may--

(1) Establish separate pools for random selection, with each pool containing the DOT-covered employees who are subject to testing at the same required minimum annual percentage rate; or

(2) Randomly select such employees for testing at the highest minimum annual percentage rate established for the calendar year by any DOT agency to which the Borough is subject.

REASONABLE SUSPICION 382.307

(a) The Borough shall require a driver to submit to an alcohol test when the Borough has reasonable suspicion to believe that the driver has violated the prohibitions of Section B of this policy concerning alcohol. The Borough's determination that reasonable suspicion exists to require the driver to undergo an alcohol test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver.

(b) The Borough shall require a driver to submit to a controlled substances test when there is reasonable suspicion to believe that the driver has violated the prohibitions of Section B of this policy concerning controlled substances. The Borough's determination that reasonable suspicion exists to require the driver to undergo a controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.

(c) The required observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by a supervisor or an official of the Borough who is trained in accordance with 382.603.

The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver. If the employee insists on driving, the proper local Police authority should be notified that an employee, who we believe may be under the influence of a drug or alcohol, is leaving the Borough premises driving a motor vehicle.

(d) Alcohol testing is authorized by DOT/FMCSA regulations only if the observations required by paragraph (a) of this section are made during, just preceding, or just after the period of the work day that the driver is required to be in compliance with the Federal regulation. A driver may be directed by the Borough to only undergo reasonable suspicion alcohol testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

(e) (1) If an alcohol test required by DOT/FMCSA regulations is not administered within two (2) hours following the determination under paragraph (a) of this section, the Borough shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by DOT/FMCSA regulations is not administered within eight (8) hours following the determination under paragraph (a) of this section, the Borough shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

(2) Notwithstanding the absence of a reasonable suspicion alcohol test under DOT/FMCSA regulations, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor shall the Borough permit the driver to perform or continue to perform safety-sensitive functions, until:

(i) An alcohol test is administered and the driver's alcohol concentration measures less than 0.02; or

(ii) Twenty four (24) hours have elapsed following the determination under paragraph (a) of this section that there is reasonable suspicion to believe that the driver has violated the prohibitions in this policy concerning the use of alcohol.

(3) Except as provided in paragraph (e)(2) of this section, the Borough shall take no action under this policy against a driver based solely on the driver's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test. This does not prohibit the Borough with independent authority of DOT/FMCSA regulations from taking any action otherwise consistent with law.

(f) A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or an official of the Borough who made the observations, with 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

RETURN-TO-DUTY 382.309

The requirements for return-to-duty testing must be performed in accordance with 49 CFR part 40, Subpart O, including that such tests will be collected under direct observation.

FOLLOW-UP 382.311

The requirements for follow-up testing must be performed in accordance with 49 CFR part 40, Subpart O, including that such tests will be collected under direct observation.

SECTION C - TESTS REQUIRED

TESTS REQUIRED

Required testing includes pre-employment (controlled substances required, alcohol at option of the Borough), post-accident, random, and reasonable suspicion. Return-to-duty and follow-up-testing is also required if the Borough allows a "positive" test employee to return to a safety-sensitive function after the required evaluation by a Substance Abuse Professional and the required rehabilitation.

THE BOROUGH RESERVES RIGHT TO CONDUCT NON-DOT DRUG AND ALCOHOL TESTING

In addition to drug and alcohol testing conducted by the Borough pursuant to 49 CFR Part 40 and 49 CFR Part 382, the Borough reserves the independent authority to screen and/or test employees under the Borough's Policy including, but not limited to, laboratory testing and point of collection test (POCT) devices utilizing alternative body specimens including hair, urine and oral fluid (saliva), for the detection of illegal drugs, prescription and over-the-counter medications or substances which have an impairing affect and/or alcohol, taken by those who are considered safety-sensitive employees, as may be permitted and/or restricted by applicable state or local laws or regulations and applicable collective bargaining agreements. The term "illegal use of drugs" includes any mind altering synthetic or designer drugs as well as any controlled or scheduled substance not used in accordance with a health care provider's lawful prescription for the user. These collections will be performed in addition to, and not as a substitute for, DOT regulated tests and these urine specimens will not be poured from or taken from the same specimen collected for a DOT urine test or alcohol test [40.13] and will not be conducted using DOT forms [40.47, 40.227]. This may also include a "zero tolerance" policy for the use of drugs or alcohol.

PRE-EMPLOYMENT 382.301

(a) Prior to the first time a driver performs safety-sensitive functions for the Borough, the driver shall undergo testing for controlled substances as a condition prior to being used, unless the Borough uses the exception in paragraph (b) of this section. The Borough shall not allow a driver, who the Borough intends to hire or use, to perform safety-sensitive functions unless the Borough has received a controlled substances test result from the MRO or C/TPA indicating a verified negative test result for that driver. The Borough shall require a re-collection of a urine specimen on any pre-employment, return-to-duty and follow-up drug test if the result is negative-dilute. The MRO has authority to direct the re-collection be observed. If the second test result is also negative-dilute, the Borough shall accept the result as a negative test.

(b) The Borough is not required to administer a controlled substances test required by paragraph (a) of this section if:

- (1) The driver has participated in a controlled substances testing program that meets the requirements of this policy within the previous 30 days; and
- (2) While participating in that program, either--
 - (i) Was tested for controlled substances within the past 6 months (from the date of application with the Borough), or

- (ii) Participated in the random controlled substances testing program for the previous 12 months (from the date of application with the Borough); and
- (3) The Borough ensures that no prior employer of the driver of whom the Borough has knowledge has records of a violation of this policy or the controlled substances use rule of another DOT agency within the previous six months.
- (c) (1) If the Borough exercises the exception in paragraph (b) of this section, the Borough shall contact the controlled substances testing program(s) in which the driver participates or participated and shall obtain and retain from the testing program(s) the following information:
 - (i) Name(s) and address(es) of the program(s).
 - (ii) Verification that the driver participates or participated in the program(s).
 - (iii) Verification that the program(s) conforms to part 40 of Federal regulations.
 - (iv) Verification that the driver is qualified under the rules of this policy, including that the driver has not refused to be tested for controlled substances.
 - (v) The date the driver was last tested for controlled substances.
 - (vi) The results of any tests taken within the previous six months and any other violations of Section B of this policy.
- (2) If the Borough who uses, but does not employ a driver more than once a year to operate commercial motor vehicles must obtain the information in paragraph (c)(1) of this section at least once every six months. The records prepared under this paragraph shall be maintained in accordance with 382.401. If the Borough cannot verify that the driver is participating in a controlled substances testing program in accordance with this policy and part 40 of Federal regulations, the Borough shall conduct a pre-employment-controlled substances test.
- (d) The Borough may, but is not required to, conduct pre-employment alcohol testing under this policy. If the Borough chooses to conduct pre-employment alcohol testing, it must comply with the following requirements:
 - (1) It must conduct a pre-employment alcohol test before the first performance of safety-sensitive functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions).
 - (2) It must treat all safety-sensitive employees performing safety-sensitive functions the same for the purpose of pre-employment alcohol testing (i.e., it must not test some covered employees and not others).
 - (3) It must conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test.
 - (4) It must conduct all pre-employment alcohol tests using the alcohol testing procedures of 49 CFR part 40 of Federal regulation.
 - (5) It must not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.04.

POST-ACCIDENT 382.303

(a) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, the Borough shall test for alcohol for each of its surviving drivers:

(1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(2) Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:

(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(b) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, the Borough shall test for controlled substances for each of its surviving drivers:

(1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(2) Who receives a citation within thirty-two hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:

(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(c) The following table notes when a post-accident test is required to be conducted by paragraphs (a)(1), (a)(2), (b)(1), and (b)(2) of this section:

<u>Type of accident involved</u>	<u>Citation issued to the CMV driver</u>	<u>Test must be performed by the Borough</u>
Human fatality	YES	YES
	NO	YES
Bodily injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO

(d) (1) Alcohol tests. If a test required by this section is not administered within two hours following the accident, the Borough shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within eight hours following the accident, the Borough shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.

(2) Controlled substance tests. If a test required by this section is not administered within 32 hours following the accident, the Borough shall cease attempts to administer a controlled substances test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.

(e) A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the Borough to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver 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.

(f) The Borough shall provide drivers with necessary post-accident information, procedures and instructions, prior to the driver operating a commercial motor vehicle, so that drivers will be able to comply with the requirements of this section.

(g) (1) The results of a breath or blood test for the use of alcohol, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local alcohol testing requirements, and that the results of the tests are obtained by the Borough.

(2) The results of a urine test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local controlled substances testing requirements, and that the results of the tests are obtained by the Borough.

(h) Exception. This section does not apply to:

(1) An occurrence involving only boarding or alighting from a stationary motor vehicle; or

(2) An occurrence involving only the loading or unloading of cargo; or

(3) An occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in 571.3) by the Borough unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with 177.823.

RANDOM 382.305

- (a) The Borough shall comply with the requirements of this section. Every driver shall submit to random alcohol and controlled substance testing as required in this section.
- (b) (1) Except as provided in paragraphs (c) through (e) of this section, the minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of driver positions.
- (2) Except as provided in paragraphs (f) through (h) of this section, the minimum annual percentage rate for random controlled substances testing shall be 25 percent of the average number of driver positions.
- (i) (1) The selection of drivers for random alcohol and controlled substances testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers.
- (2) Each driver selected for random alcohol and controlled substances testing under the selection process used, shall have an equal chance of being tested each time selections are made.
- (3) Each driver selected for testing shall be tested during the selection period.
- (j) (1) To calculate the total number of covered drivers eligible for random testing throughout the year, the Borough, must add the total number of covered drivers eligible for testing during each random testing period for the year and divide that total by the number of random testing periods. Covered employees, and only covered employees, are to be in the Borough's random testing pool, and all covered drivers must be in the random pool. If the Borough conducts random testing more often than once per month (e.g., daily, weekly, bi-weekly) the Borough does not need to compute this total number of covered drivers' rate more than on a once per month basis.
- (2) The Borough may use a service agent (e.g., a C/TPA) to perform random selections and covered drivers may be part of a larger random testing pool of covered employees. However, the Borough must ensure that the service agent is testing at the appropriate percentage established for FMCSA and that only covered employees are in the random testing pool
- (k) (1) The Borough shall ensure that random alcohol and controlled substances tests conducted under this policy are unannounced.
- (2) The Borough shall ensure that the dates for administering random alcohol and controlled substances tests are spread reasonably throughout the calendar year.
- (l) The Borough shall require that each driver who is notified of selection for random alcohol and/or controlled substances testing proceeds to the test site immediately; provided, however, that if the driver is performing a safety-sensitive function, other than driving a commercial motor vehicle, at the time of

notification, the Borough shall instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible.

(m) A driver shall only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

(n) If a given driver is subject to random alcohol or controlled substances testing under the random alcohol or controlled substances testing rules of more than one DOT agency for the Borough, the driver shall be subject to random alcohol and/or controlled substances testing at the annual percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the driver's function.

(o) If the Borough is required to conduct random alcohol or controlled substances testing under the alcohol or controlled substances testing rules of more than one DOT agency, the Borough may--

(1) Establish separate pools for random selection, with each pool containing the DOT-covered employees who are subject to testing at the same required minimum annual percentage rate; or

(2) Randomly select such employees for testing at the highest minimum annual percentage rate established for the calendar year by any DOT agency to which the Borough is subject.

REASONABLE SUSPICION 382.307

(a) The Borough shall require a driver to submit to an alcohol test when the Borough has reasonable suspicion to believe that the driver has violated the prohibitions of Section B of this policy concerning alcohol. The Borough's determination that reasonable suspicion exists to require the driver to undergo an alcohol test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver.

(b) The Borough shall require a driver to submit to a controlled substances test when there is reasonable suspicion to believe that the driver has violated the prohibitions of Section B of this policy concerning controlled substances. The Borough's determination that reasonable suspicion exists to require the driver to undergo a controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.

(c) The required observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by a supervisor or an official of the Borough who is trained in accordance with 382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver. If the employee insists on driving, the proper local Police authority should be notified that an employee, who we believe may be under the influence of a drug or alcohol, is leaving the Borough premises driving a motor vehicle.

(d) Alcohol testing is authorized by DOT/FMCSA regulations only if the observations required by paragraph (a) of this section are made during, just preceding, or just after the period of the work day that the driver is required to be in compliance with the Federal regulation. A driver may be directed by the Borough to only undergo reasonable suspicion alcohol testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

(e) (1) If an alcohol test required by DOT/FMCSA regulations is not administered within two (2) hours following the determination under paragraph (a) of this section, the Borough shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by DOT/FMCSA regulations is not administered within eight (8) hours following the determination under paragraph (a) of this section, the Borough shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

(2) Notwithstanding the absence of a reasonable suspicion alcohol test under DOT/FMCSA regulations, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor shall the Borough permit the driver to perform or continue to perform safety-sensitive functions, until:

(i) An alcohol test is administered and the driver's alcohol concentration measures less than 0.02;
or

(ii) Twenty four (24) hours have elapsed following the determination under paragraph (a) of this section that there is reasonable suspicion to believe that the driver has violated the prohibitions in this policy concerning the use of alcohol.

(3) Except as provided in paragraph (e)(2) of this section, the Borough shall take no action under this policy against a driver based solely on the driver's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test. This does not prohibit the Borough with independent authority of DOT/FMCSA regulations from taking any action otherwise consistent with law.

(f) A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or an official of the Borough who made the observations, with 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

RETURN-TO-DUTY 382.309

The requirements for return-to-duty testing must be performed in accordance with 49 CFR part 40, Subpart O, including that such tests will be collected under direct observation.

FOLLOW-UP 382.311

The requirements for follow-up testing must be performed in accordance with 49 CFR part 40, Subpart O, including that such tests will be collected under direct observation.

SECTION D - HANDLING OF TEST RESULTS, RECORD RETENTION AND CONFIDENTIALITY

RETENTION OF RECORDS 382.401

(a) General requirement. The Borough shall maintain records of its alcohol misuse and controlled substances use prevention programs as provided in this section. The records shall be maintained in a secure location with controlled access.

(b) Period of retention. The Borough shall maintain the records in accordance with the following schedule:

(1) *Five years.* The following records shall be maintained for a minimum of five years:

- (i) Records of driver alcohol test results indicating an alcohol concentration of 0.02 or greater,
- (ii) Records of driver verified positive controlled substances test results,
- (iii) Documentation of refusals to take required alcohol and/or controlled substances tests,
- (iv) Driver evaluation and referrals,
- (v) Calibration documentation,
- (vi) Records related to the administration of the alcohol and controlled substances testing programs,
- (vii) Records related to the administration of the alcohol and controlled substances testing program, including records of all driver violations, and
- (viii) A copy of each annual calendar year summary required by 382.403.

(2) *Two years.* Records related to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices).

(3) *One year.* Records of negative and canceled controlled substances test results (as defined in part 40 of Federal regulations) and alcohol test results with a concentration of less than 0.02 shall be maintained for a minimum of one year.

(4) *Indefinite period.* Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and drivers shall be maintained by the Borough while the individual performs the functions which require the training and for two years after ceasing to perform those functions.

(c) Types of records. The following specific records shall be maintained. "Documents generated" are documents that may have to be prepared under a requirement of Federal regulations and this policy. If the record is required to be prepared, it must be maintained.

(1) Records related to the collection process:

- (i) Collection logbooks, if used,

- (ii) Documents relating to the random selection process,
- (iii) Calibration documentation for evidential breath testing devices,
- (iv) Documentation of breath alcohol technician training,
- (v) Documents generated in connection with decisions to administer reasonable suspicion alcohol or controlled substances tests,
- (vi) Documents generated in connection with decisions on post-accident tests,
- (vii) Documents verifying existence of a medical explanation of the inability of a driver to provide adequate breath or to provide a urine specimen for testing and
- (viii) A copy of each annual calendar year summary as required by 382.403.

(2) Records related to a driver's test results:

- (i) The Borough's copy of the alcohol test form, including the results of the test,
- (ii) The Borough's copy of the controlled substances test chain of custody and control form,
- (iii) Documents sent by the MRO to the Borough, including those required by part 40, Subpart G,
- (iv) Documents related to the refusal of any driver to submit to an alcohol or controlled substances test required by this policy and
- (v) Documents presented by a driver to dispute the result of an alcohol or controlled substances test administered under this policy.
- (vi) Documents generated in connection with verifications of prior employers' alcohol or controlled substances test results that the Borough:
 - (A) Must obtain in connection with the exception contained in 382.301 of this policy, and
 - (B) Must obtain as required by 382.413.

(3) Records related to other violations of this policy.

(4) Records related to evaluations:

- (i) Records pertaining to a determination by a substance abuse professional concerning a driver's need for assistance and
- (ii) Records concerning a driver's compliance with recommendations of the substance abuse professional.

(5) Records related to education and training:

- (i) Materials on alcohol misuse and controlled substances use awareness, including a copy of the Borough's policy on alcohol misuse and controlled substances use,
- (ii) Documentation of compliance with requirements of 382.601, including the driver's signed receipt of education materials,

- (iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol and/or controlled substances testing based on reasonable suspicion;
 - (iv) Documentation of training for breath alcohol technicians as required by 40.213(a), and
 - (v) Certification that any training conducted under these Federal Regulations complies with requirements for such training.
- (6) Administrative records related to alcohol and controlled substances testing:
- (i) Agreements with collection site facilities, laboratories, breath alcohol technicians, screening test technicians, medical review officers, and consortia and/or with a C/TPA,
 - (ii) Names and positions of officials and their role in the Borough's alcohol and controlled substances testing program(s),
 - (iii) Semi-annual laboratory statistical summaries of urinalysis required by 40.111 (a) of Federal regulations and
 - (iv) The Borough's alcohol and controlled substances testing policy and procedures.
- (d) Location of records. All records required by this policy shall be maintained as required by 390.31 and shall be made available for inspection at the Borough's principal place of business within two business days after a request has been made by an authorized representative of the FMCSA.

REPORTING OF RESULTS IN A MANAGEMENT INFORMATION SYSTEM 382.403

- (a) The Borough shall prepare and maintain a summary of the results of its alcohol and controlled substances testing programs performed under this part during the previous calendar year, when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the Borough or any of its drivers.
- (b) If the Borough is notified, during the month of January, of a request by the Federal Motor Carrier Safety Administration to report the Borough's annual calendar year summary information, the Borough shall prepare and submit the report to the FMCSA by March 15 of that year. The Borough shall ensure that the annual summary report is accurate and received by March 15 at the location that the FMCSA specifies in its request. The Borough must use the Management Information System (MIS) form and instructions as required by 49 CFR part 40 (at Sec. 40.26 and appendix H to part 40). The Borough may also use the electronic version of the MIS form provided by the DOT. The Administrator may designate means (e.g., electronic program transmitted via the Internet), other than hard-copy, for MIS form submission. For information on the electronic version of the form, see:

<http://www.fmcsa.dot.gov/safetyprogs/drugs/engtesting.htm>.

You must use the form at appendix H to this part. You may also view and download the updated (1.01.2018) instructions at the DOT's website: (<https://www.transportation.gov/odapc>). You must submit the MIS report in accordance with rule requirements (e.g., dates for submission, selection of companies required to submit, and method of reporting) established by the DOT agency regulating your operation.

(c) When the report is submitted to the FMCSA by mail or electronic transmission, the information requested shall be typed, except for the signature of the certifying official. The Borough shall ensure the accuracy and timeliness of each report submitted by the Borough or a consortium.

(d) If the Borough has a covered employee who performs multi-DOT agency functions (e.g., an employee drives a commercial motor vehicle and performs pipeline maintenance duties for the Borough), then that employee shall be counted only on the MIS report for the DOT agency under which he or she is randomly tested. Normally, this will be the DOT agency under which the employee performs more than 50% of his or her duties. The Borough may have to explain the testing data for these employees in the event of a DOT agency inspection or audit.

(e) A service agent (e.g., Consortia/Third party administrator as defined in 49 CFR 382.107) may prepare the MIS report on behalf of the Borough. However, the Borough official (e.g., Designated employer representative) must certify the accuracy and completeness of the MIS report, no matter who prepares it.

ACCESS TO FACILITIES AND RECORDS 382.405

(a) Except as required by law or expressly authorized or required, the Borough shall not release driver information that is contained in records required to be maintained under 382.401.

(b) A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to his/her alcohol or controlled substances tests. The Borough will promptly provide the records requested by the driver. Access to a driver's records shall not be contingent upon payment for records other than those specifically requested.

(c) The Borough shall permit access to all facilities utilized in complying with the requirements of this policy to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the Borough or any of its drivers.

(d) The Borough and each service agent who maintains records for an employer, must make available copies of all results for DOT alcohol and/or controlled substances testing conducted by the Borough and any other information pertaining to the Borough's alcohol misuse and/or controlled substances use prevention program when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the Borough or any of its drivers.

(e) When requested by the National Transportation Safety Board as a part of a crash investigation:

(i) The Borough must disclose information related to the Borough's administration of a post-accident alcohol and/or a controlled substances test administered following the crash under investigation; and

(ii) FMCSA will provide access to information in the Clearinghouse (once established) concerning drivers who are involved with the crash under investigation.

(f) When requested by the National Transportation Safety Board as part of an accident investigation, the Borough shall disclose information related to the Borough's administration of a post-accident alcohol and/or controlled substances test administered following the accident under investigation.

(g) Records shall be made available to a subsequent employer upon receipt of a written request from a driver. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the driver's request.

(h) The Borough may disclose information required to be maintained under this policy pertaining to a driver to the decision maker in a lawsuit, grievance, or administrative proceeding initiated by or on behalf of the individual, and arising from a positive DOT drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test results) of this policy (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought).

(i) The Borough shall release information regarding a driver's records as directed by the specific written consent of the driver authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's specific written consent as outlined in 49 CFR part 40.321(b).

MEDICAL REVIEW OFFICER NOTIFICATIONS TO THE BOROUGH 382.407

The medical review officer shall report the results of controlled substances tests to the Borough in accordance with the requirements of 49 CFR part 40, Subpart G.

MEDICAL REVIEW OFFICER RECORD RETENTION FOR CONTROLLED SUBSTANCES 382.409

(a) A medical review officer or third party administrator shall maintain all dated records and notifications, identified by individual, for a minimum of five (5) years for verified positive controlled substances test results.

(b) A medical review officer or third party administrator shall maintain all dated records and notifications, identified by individual, for a minimum of one (1) year for negative and canceled controlled substances test results.

(c) No person may obtain the individual controlled substances test results retained by a medical review officer (MRO as defined in § 40.3) or a consortium/third party administrator (C/TPA as defined in 382.107), and no MRO or C/TPA may release the individual controlled substances test results of any driver to any person, without first obtaining a specific, written authorization from the tested driver. Nothing in this paragraph (c) shall prohibit a MRO or a C/TPA from releasing to the employer, the Clearinghouse (once established), or to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the controlled substances and alcohol testing program under this part, the information delineated in part 40, subpart G.

EMPLOYER NOTIFICATIONS 382.411

(a) The Borough shall notify a driver of the results of a pre-employment-controlled substances test conducted under this policy, if the driver applicant requests such results within 60 calendar days of being notified of the disposition of the employment application. The Borough shall notify a driver of the results of random, reasonable suspicion and post-accident tests for controlled substances conducted under this policy if the test results are verified positive. The Borough shall also inform the driver which controlled substance or substances were verified as positive.

(b) The designated employer representative (DER) shall make reasonable efforts to contact and request each driver who submitted a specimen under this policy, regardless of the driver's employment status, to contact and discuss the results of the controlled substances test with a medical review officer who has been unable to contact the driver.

(c) The designated employer representative (DER) shall immediately notify the medical review officer that the driver has been notified to contact the medical review officer within 24 hours.

INQUIRIES FOR ALCOHOL AND CONTROLLED SUBSTANCES INFORMATION FROM PREVIOUS EMPLOYERS 382.413

(a) The Borough must request alcohol and controlled substances information from previous employers in accordance with the requirements of § 40.25, except that the Borough must request information from all DOT-regulated employers that employed the driver within the previous 3 years and the scope of the information requested must date back 3 years.

(b) As of January 6, 2023, employers must use the Drug and Alcohol Clearinghouse in accordance with § 382.701(a) to comply with the requirements of § 40.25 of this title with respect to FMCSA-regulated employers. **Exception:** When an employee who is subject to follow-up testing has not successfully completed all follow-up tests, employers must request the previous employer's follow-up testing plan directly from the previous employer in accordance with § 40.25(b)(5).

(c) If an applicant was subject to an alcohol and controlled substance testing program under the requirements of a DOT Agency other than FMCSA, the Borough must request the alcohol and controlled substances information required under this section and § 40.25 directly from those employers regulated by a DOT Agency other than FMCSA.

NOTIFICATION TO EMPLOYERS OF A CONTROLLED SUBSTANCES OR ALCOHOL TESTING PROGRAM VIOLATION 382.415

Each person holding a commercial driver's license and subject to the DOT controlled substances and alcohol testing requirements under § 382 who has violated the alcohol and controlled substances prohibitions under part 40 or under § 382 without complying with the requirements of part 40, subpart O, must notify in writing all current employers of such violation(s). The driver is not required to provide notification to the employer that administered the test or documented the circumstances that gave rise to the violation. The notification must be made before the end of the business day following the day the employee received notice of the violation, or prior to performing any safety-sensitive function, whichever comes first.

SECTION E - CONSEQUENCES FOR DRIVERS ENGAGING IN SUBSTANCE USE-RELATED CONDUCT

REMOVAL FROM SAFETY-SENSITIVE FUNCTION 382.501

- (a) Except as provided in Section F of this policy, no driver shall perform safety-sensitive functions, including driving a commercial motor vehicle, if the driver has engaged in conduct prohibited by Section B of this policy or an alcohol or controlled substances rule of another DOT agency.
- (b) The Borough shall not permit any driver to perform safety-sensitive functions, including driving a commercial motor vehicle, if the Borough has determined that the driver has violated this policy.
- (c) For the purposes of DOT/FMCSA regulations, commercial motor vehicle means a commercial motor vehicle in commerce as defined in 382.107 and a commercial motor vehicle in interstate commerce as defined in part 390.

REQUIRED EVALUATION AND TESTING 382.503

No driver who has engaged in conduct prohibited by Section B of this policy shall perform safety-sensitive functions, including driving a commercial motor vehicle, unless the driver has met the requirements of 49 CFR part 40, Subpart O. The Borough shall not permit a driver who has engaged in conduct prohibited by Section B of this policy to perform safety-sensitive functions, including driving a commercial motor vehicle, unless the driver has met the requirements of 49 CFR part 40, Subpart O.

OTHER ALCOHOL-RELATED CONDUCT 382.505

- (a) No driver tested under the provisions of Section C of this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform or continue to perform safety-sensitive functions for the Borough, including driving a commercial motor vehicle, nor shall the Borough permit the driver to perform or continue to perform safety-sensitive functions, until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.
- (b) Except as provided in paragraph (a) of this section, the Borough shall not take any action under this policy against a driver based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit the Borough with authority independent of this policy from taking any action otherwise consistent with law.

The use or possession of alcoholic beverages while on the Borough's property, or in any of the Borough's vehicle, or on the Borough's time, including breaks or lunch, paid or unpaid, on any shift, is strictly prohibited.

Employees who are not at work, but who could be called out are expected to be fit for duty upon reporting for work. If an employee is under the influence of alcohol, the employee must notify the Borough's personnel when contacted. Failure to advise the Borough of alcohol consumption may result in disciplinary action. If a covered employee is perceived to be under the influence of alcohol when reporting to work after being called in, the employee's supervisor must be notified.

The supervisor must objectively observe the employee's behavior and if possible, substantiate the behavior with a second supervisor. Supervisors must have received training in alcohol and/or substance abuse detection. The supervisor must follow procedures outlined in the policy. If a determination to test for reasonable suspicion is made, the employee is immediately removed from safety-sensitive duties and the DER is contacted.

PENALTIES 382.507

The Borough and/or driver who violates the FMCSA requirements of § 382 and/or 49 CFR part 40 shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. Section 521(b).

SECTION F – ALCOHOL MISUSE AND CONTROLLED SUBSTANCES USE INFORMATION, TRAINING, AND REFERRAL

THE BOROUGH’S OBLIGATION TO PROMULGATE A POLICY ON THE MISUSE OF ALCOHOL AND USE OF CONTROLLED SUBSTANCES. 382.601

(a) *General requirements.* The Borough shall provide educational materials that explain the requirements of this policy and the Borough’s policies and procedures with respect to meeting the FMCSA alcohol and drug testing requirements.

(1) The Borough shall ensure that a copy of these materials is distributed to each driver prior to the start of alcohol and controlled substances testing under this policy and to each driver subsequently hired or transferred into a position requiring driving a commercial motor vehicle.

(2) The Borough shall provide written notice to representatives of employee organizations of the availability of this information.

(b) *Required content.* The materials to be made available to drivers shall include detailed discussion of at least the following:

(1) The identity of the person designated by the Borough to answer driver questions about the materials’

(2) The categories of drivers who are subject to the provisions of this policy;

(3) Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the work day the driver is required to be in compliance with the policy;

(4) Specific information concerning driver conduct that is prohibited by this policy;

(5) The circumstances under which a driver will be tested for alcohol and/or controlled substances under this policy including post-accident testing under 382.303(d);

(6) The procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver, including post-accident information, procedures and instructions required by 382.303(d); (49 CFR part 40)

(7) The requirement that a driver submit to alcohol and controlled substances tests administered in accordance with this policy;

(8) An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendant consequences;

(9) The consequences for drivers found to have violated Section B of this policy, including the requirement that the driver be removed immediately from safety-sensitive functions, and the procedures under 49 CFR part 40, Subpart O;

(10) The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04;

(11) Information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver's or a coworker's); and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management;

(c) The requirement that the following personal information collected and maintained under this part shall be reported to the Clearinghouse (once established):

(1) A verified positive, adulterated, or substituted drug test result;

(2) An alcohol confirmation test with a concentration of 0.04 or higher;

(3) A refusal to submit to any test required by subpart C;

(4) An employer's report of actual knowledge, as defined at § 382.107;

(5) On-duty alcohol use pursuant to § 382.205;

(6) Pre-duty alcohol use pursuant to § 382.207;

(7) Alcohol use following an accident pursuant to § 382.209; and

(8) Controlled substance use pursuant to § 382.213;

(9) A substance abuse professional (SAP as defined in § 40.3 of this title) report of the successful completion of the return-to-duty process;

(10) A negative return-to-duty test; and

(11) An employer's report of completion of follow-up testing.

(d) *Optional provision.* The materials supplied to drivers may also include information on the Borough's additional policies with respect to the use or possession of alcohol or controlled substances, including any consequences for a driver found to have a specified alcohol or controlled substances level, that are based on the Borough's authority independent of Federal regulation. Any such additional policies or consequences must be clearly and obviously described as being based on independent authority.

(e) *Certificate of receipt.* The Borough shall ensure that each driver is required to sign a statement certifying that he/she has received a copy of these materials described in this section. The Borough shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver.

TRAINING FOR SUPERVISORS 382.603

The Borough shall ensure that all persons designated to supervise drivers receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substances use. The training will be used by the supervisors to determine whether reasonable suspicion exists to require a driver to undergo testing under § 382.307. The training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. Recurrent training for supervisory personnel is not required.

REFERRAL, EVALUATION, AND TREATMENT 382.605

The requirements for referral, evaluation, and treatment must be performed in accordance with 49 CFR part 40, Subpart O.

SECTION G – REQUIREMENTS AND PROCEDURES FOR IMPLEMENTATION OF THE COMMERCIAL DRIVER’S LICENSE DRUG AND ALCOHOL CLEARINGHOUSE

The purpose of the Borough Policy update in advance of the Compliance Date of January 6, 2020 as mandated by § 382.601: 1) is part of the Borough’s efforts to meet its *Employer Obligation to Promulgate a Policy on the Misuse of Alcohol and Use of Controlled Substance*; 2) to publish educational materials to drivers about the Clearinghouse and other regulatory changes contained in the Final Rule issued December 5, 2016; and 3) to notify drivers that drug and alcohol test information will be reported to the Clearinghouse beginning January 6, 2020 so as to encourage drivers to seek substance abuse treatment if they currently have a problem with the misuse of alcohol and/or use of controlled substance(s).

DRUG AND ALCOHOL CLEARINGHOUSE 382.701

(a) Pre-employment query required.

(1) Employers must not employ a driver subject to controlled substances and alcohol testing to perform a safety-sensitive function without first conducting a pre-employment query of the Clearinghouse to obtain information about whether the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of § 382.211; or that an employer has reported actual knowledge, as defined at § 382.107, that the driver used alcohol on duty in violation of § 382.205, used alcohol before duty in violation of § 382.207, used alcohol following an accident in violation of § 382.209, or used a controlled substance, in violation of § 382.213.

(2) The Borough must conduct a full query under this section, which releases information in the Clearinghouse to an employer and requires that the individual driver give specific consent.

(b) Annual query required.

(1) The Borough must conduct a query of the Clearinghouse at least once per year for information for all employee’s subject to controlled substance and alcohol testing under 382, to determine whether information exists in the Clearinghouse about those employees.

(2) In lieu of a full query, as described in paragraph (a)(2) of 382.701, the Borough may obtain the individual driver’s consent to conduct a limited query to satisfy the annual query requirement in paragraph (b)(1) of this section. The limited query will tell the Borough whether there is information about the individual driver in the Clearinghouse, but will not release that information to the Borough. The individual driver may give consent to conduct limited queries that is effective for more than one year.

(3) If the limited query shows that information exists in the Clearinghouse about the individual driver, the employer must conduct a full query, in accordance with paragraph (a)(2) of 382.701, within 24 hours of conducting the limited query. If the employer fails to conduct a full query within 24 hours, the employer must not allow the driver to continue to perform any safety-sensitive

function until the employer conducts the full query and the results confirm that the driver's Clearinghouse record contains no prohibitions as defined in paragraph (d) of 382.701.

(c) *Employer notification.* If any information described in paragraph (a) of 382.701 is entered into the Clearinghouse about a driver during the 30-day period immediately following an employer conducting a query of that driver's records, FMCSA will notify the employer.

(d) *Prohibition.* No employer may allow a driver to perform any safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of § 382.211; or that an employer has reported actual knowledge, as defined at

§ 382.107, that the driver used alcohol on duty in violation of § 382.205, used alcohol before duty in violation of § 382.207, used alcohol following an accident in violation of § 382.209, or used a controlled substance in violation of § 382.213, except where a query of the Clearinghouse demonstrates:

(1) That the driver has successfully completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, of this title; achieves a negative return-to-duty test result; and completes the follow-up testing plan prescribed by the SAP.

(2) That, if the driver has not completed all follow-up tests as prescribed by the SAP in accordance with § 40.307 and specified in the SAP report required by § 40.311, the driver has completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, and achieves a negative return-to-duty test result, and the employer assumes the responsibility for managing the follow-up testing process associated with the testing violation.

(e) *Recordkeeping required.* Employers must retain for 3 years a record of each query and all information received in response to each query made under this section. As of January 6, 2023, an employer who maintains a valid registration fulfills this requirement.

DRIVER CONSENT TO PERMIT ACCESS TO INFORMATION IN THE CLEARINGHOUSE 382.703

(a) No employer may query the Clearinghouse to determine whether a record exists for any particular driver without first obtaining that driver's written or electronic consent. The employer conducting the search must retain the consent for 3 years from the date of the last query.

(b) Before the Borough may access information contained in the driver's Clearinghouse record, the driver must submit electronic consent through the Clearinghouse granting the employer access to the following specific records:

(1) A verified positive, adulterated, or substituted controlled substances test result;

(2) An alcohol confirmation test with a concentration of 0.04 or higher;

(3) A refusal to submit to a test in violation of § 382.211;

(4) An employer's report of actual knowledge, as defined at § 382.107, of:

(i) On duty alcohol use pursuant to § 382.205;

(ii) Pre-duty alcohol use pursuant to § 382.207;

- (iii) Alcohol use following an accident pursuant to § 382.209; and
 - (iv) Controlled substance use pursuant to § 382.213;
 - (5) A SAP report of the successful completion of the return-to-duty process;
 - (6) A negative return-to-duty test; and
 - (7) An employer's report of completion of follow-up testing.
- (c) No employer may permit a driver to perform a safety-sensitive function if the driver refuses to grant the consent required by paragraphs (a) and (b) of 382.703.
- (d) A driver granting consent under 382.703 must provide consent electronically to the Agency through the Clearinghouse prior to release of information to an employer in accordance with § 382.701(a)(2) or (b)(3).
- (e) A driver granting consent under this section grants consent for the Agency to release information to an employer in accordance with § 382.701(c).

REPORTING TO THE CLEARINGHOUSE 382.705

(a) MROs.

(1) Within 2 business days of making a determination or verification, MROs must report the following information about a driver to the Clearinghouse:

- (i) Verified positive, adulterated, or substituted controlled substances test results;
- (ii) Refusal-to-test determination by the MRO in accordance with 49 CFR 40.191(a)(5), (7), and (11), (b), and (d)(2).

(2) MROs must provide the following information for each controlled substances test result specified in paragraph (a)(1) of this section:

- (i) Reason for the test;
- (ii) Federal Drug Testing Custody and Control Form specimen ID number;
- (iii) Driver's name, date of birth, and CDL number and State of issuance;
- (iv) Employer's name, address, and USDOT number, if applicable;
- (v) Date of the test;
- (vi) Date of the verified result; and
- (vii) *Test result*. The test result must be one of the following:

- (A) Positive (including the controlled substance(s) identified);
- (B) Refusal to test: adulterated;
- (C) Refusal to test: substituted; or

(D) Refusal to provide a sufficient specimen after the MRO makes a determination, in accordance with § 40.193 of this title, that the employee does not have a medical condition that has, or with a high degree of probability could have, precluded the employee

from providing a sufficient amount of urine. Under this subpart a refusal would also include a refusal to undergo a medical examination or evaluation to substantiate a qualifying medical condition.

(3) Within 1 business day of making any change to the results report in accordance with paragraph (a)(1) of this section, a MRO must report that changed result to the Clearinghouse.

(b) *Employers.*

(1) Employers must report the following information about a driver to the Clearinghouse by the close of the third business day following the date on which they obtained that information:

- (i) An alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
- (ii) A negative return-to-duty test result;
- (iii) A refusal to take an alcohol test pursuant to 49 CFR 40.261;
- (iv) A refusal to test determination made in accordance with 49 CFR 40.191(a)(1) through (4), (a)(6), (a)(8) through (11), or (d)(1), but in the case of a refusal to test under (a)(11), the employer may report only those admissions made to the specimen collector; and
- (v) A report that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§ 40.307, 40.309, and 40.311 of this title.

(2) The information required to be reported under paragraph (b)(1) of this section must include, as applicable:

- (i) Reason for the test;
- (ii) Driver's name, date of birth, and CDL number and State of issuance;
- (iii) Employer name, address, and USDOT number;
- (iv) Date of the test;
- (v) Date the result was reported; and
- (vi) *Test result.* The test result must be one of the following:
 - (A) Negative (only required for return-to-duty tests administered in accordance with § 382.309);
 - (B) Positive; or
 - (C) Refusal to take a test.

(3) For each report of a violation of 49 CFR 40.261(a)(1) or 40.191(a)(1), the employer must report the following information:

- (i) Documentation, including, but not limited to, electronic mail or other contemporaneous record of the time and date the driver was notified to appear at a testing site; and the time, date and testing site location at which the employee was directed to appear, or an affidavit providing evidence of such notification;

(ii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, indicating the date the employee was terminated or resigned (if applicable);

(iii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, showing that the C/TPA reporting the violation was designated as a service agent for an employer who employs himself/herself as a driver pursuant to paragraph (b)(6) of this section when the reported refusal occurred (if applicable); and

(iv) Documentation, including a certificate of service or other evidence, showing that the employer provided the employee with all documentation reported under paragraph (b)(3) of this section.

(4) Employers must report the following violations by the close of the third business day following the date on which the employer obtains actual knowledge, as defined at § 382.107, of:

(i) On-duty alcohol use pursuant to § 382.205;

(ii) Pre-duty alcohol use pursuant to § 382.207;

(iii) Alcohol use following an accident pursuant to § 382.209; and

(iv) Controlled substance use pursuant to § 382.213.

(5) For each violation in paragraph (b)(4) of this section, the employer must report the following information:

(i) Driver's name, date of birth, CDL number and State of issuance;

(ii) Employer name, address, and USDOT number, if applicable;

(iii) Date the employer obtained actual knowledge of the violation;

(iv) Witnesses to the violation, if any, including contact information;

(v) Description of the violation;

(vi) Evidence supporting each fact alleged in the description of the violation required under paragraph (b)(4) of this section, which may include, but is not limited to, affidavits, photographs, video or audio recordings, employee statements (other than admissions pursuant to § 382.121), correspondence, or other documentation; and

(vii) A certificate of service or other evidence showing that the employer provided the employee with all information reported under paragraph (b)(4) of this section.

(6) An employer who employs himself/herself as a driver must designate a C/TPA to comply with the employer requirements in paragraph (b) of this section related to his or her own alcohol and controlled substances use.

(c) *C/TPAs*. Any employer may designate a C/TPA to perform the employer requirements in paragraph (b) of this section. Regardless of whether it uses a C/TPA to perform its requirements, the employer retains ultimate responsibility for compliance with this section. Exception: an employer does not retain

responsibility where the C/TPA is designated to comply with employer requirements as described in paragraph (b)(6) of 382.705.

(d) *SAPs.*

(1) SAPs must report to the Clearinghouse for each driver who has completed the return-to-duty process in accordance with 49 CFR part 40, subpart O, the following information:

- (i) SAPs name, address, and telephone number;
- (ii) Driver's name, date of birth, and CDL number and State of issuance;
- (iii) Date of the initial substance-abuse-professional assessment; and
- (iv) Date the SAP determined that the driver demonstrated successful compliance as defined in 49 CFR part 40, subpart O, and was eligible for return-to-duty testing under 382.

(2) SAP must report the information required by paragraphs (d)(1)(i) through (iii) of this section by the close of the business day following the date of the initial substance abuse assessment, and must report the information required by paragraph (d)(1)(iv) of 382.703 by the close of the business day following the determination that the driver has completed the return-to-duty process.

(e) *Reporting truthfully and accurately.* Every person or entity with access must report truthfully and accurately to the Clearinghouse and is expressly prohibited from reporting information he or she knows or should know is false or inaccurate.

Reporting Entities and Circumstances	
Reporting Entity	When Information Will Be Reported to Clearinghouse
Prospective/Current Employer of CDL Driver	<ul style="list-style-type: none"> — An alcohol confirmation test with a concentration of 0.04 or higher — Refusal to test (alcohol) as specified in 49 CFR 40.261 — Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191 — Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance. — Negative return-to-duty test results (drug and alcohol testing, as applicable) — Completion of follow-up testing
Service Agent acting on behalf of Current Employer of CDL Driver	<ul style="list-style-type: none"> — An alcohol confirmation test with a concentration of 0.04 or higher — Refusal to test (alcohol) as specified in 49 CFR 40.261 — Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191 — Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance. — Negative return-to-duty test results (drug and alcohol testing, as applicable) — Completion of follow-up testing
MRO	<ul style="list-style-type: none"> — Verified positive, adulterated, or substituted drug test result — Refusal to test (drug) requiring a determination by the MRO as specified in 49 CFR 40.191
SAP	<ul style="list-style-type: none"> — Identification of driver and date the initial assessment was initiated — Successful completion of treatment and/or education and the determination of eligibility for return-to-duty testing

NOTICE TO DRIVERS OF ENTRY, REVISION, REMOVAL, OR RELEASE OF INFORMATION 382.707

(a) FMCSA must notify a driver when information concerning that driver has been added to, revised, or removed from the Clearinghouse.

(b) FMCSA must notify a driver when information concerning that driver has been released from the Clearinghouse to an employer and specify the reason for the release.

(c) Drivers will be notified by letter sent by U.S. Mail to the address on record with the State Driver Licensing Agency that issued the driver's commercial driver's license. Exception: A driver may provide the Clearinghouse with an alternative means or address for notification, including electronic mail.

DRIVERS' ACCESS TO INFORMATION IN THE CLEARINGHOUSE 382.709

A driver may review information in the Clearinghouse about himself or herself, except as otherwise restricted by law or regulation. A driver must register with the Clearinghouse before accessing his or her information.

CLEARINGHOUSE REGISTRATION 382.711

(a) *Clearinghouse registration required.* Each employer and service agent must register with the Clearinghouse before accessing or reporting information in the Clearinghouse.

(b) *Employers.*

(1) Employer Clearinghouse registration must include:

- (i) Name, address, and telephone number;
- (ii) USDOT number, except if the registrant does not have a USDOT Number, it may be requested to provide other information to verify identity; and
- (iii) Name of the person(s) the employer authorizes to report information to or obtain information from the Clearinghouse and any additional information FMCSA needs to validate his or her identity.

(2) Employers must verify the names of the person(s) authorized under paragraph (b)(1)(iii) of this section annually.

(3) Identification of the C/TPA or other service agent used to comply with the requirements of this part, if applicable, and authorization for the C/TPA to query or report information to the Clearinghouse. Employers must update any changes to this information within 10 days.

(c) *MROs and SAPs.* Each MRO or SAP must provide the following to apply for Clearinghouse registration:

- (1) Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity;
- (2) A certification that the applicant's access to the Clearinghouse is conditioned on his or her compliance with the applicable qualification and/or training requirements in 49 CFR part 40; and
- (3) Evidence of required professional credentials to verify that the applicant currently meets the applicable qualification and/or training requirements in 49 CFR part 40.

(d) *C/TPAs and other service agents.* Each consortium/third party administrator or other service agent must provide the following to apply for Clearinghouse registration:

- (1) Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity; and
- (2) Name, title, and telephone number of the person(s) authorized to report information to and obtain information from the Clearinghouse.
- (3) Each C/TPA or other service agent must verify the names of the person(s) authorized under paragraph (d)(2) of 382.711 annually.

DURATION, CANCELLATION, AND REVOCATION OF ACCESS 382.713

- (a) *Term.* Clearinghouse registration is valid for 5 years, unless cancelled or revoked.
- (b) *Cancellation.* FMCSA will cancel Clearinghouse registrations for anyone who has not queried or reported to the Clearinghouse for 2 years.
- (c) *Revocation.* FMCSA has the right to revoke the Clearinghouse registration of anyone who fails to comply with any of the prescribed rights and restrictions on access to the Clearinghouse, including but not limited to, submission of inaccurate or false information and misuse or misappropriation of access rights or protected information from the Clearinghouse and failure to maintain the requisite qualifications, certifications and/or training requirements as set forth in part 40 of this title.

AUTHORIZATION TO ENTER INFORMATION INTO THE CLEARINGHOUSE 382.717

- (a) *C/TPAs.* No C/TPA or other service agent may enter information into the Clearinghouse on an employer's behalf unless the employer designates the C/TPA or other service agent.
- (b) *SAPs.* A driver must designate a SAP before that SAP can enter any information about the driver's return-to-duty process into the Clearinghouse.

PROCEDURES FOR CORRECTING INFORMATION IN THE DATABASE 382.17

- (a) Petitions limited to inaccurately reported information.

(1) Under this section, petitioners may challenge only the accuracy of information reporting, not the accuracy of test results or refusals.

(2) *Exceptions.*

(i) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge that the driver received a traffic citation for driving a commercial motor vehicle while under the influence of alcohol or controlled substances if the citation did not result in a conviction. For the purposes of this section, conviction has the same meaning as used in 49 CFR part 383.

(ii) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge (other than as provided for in paragraph (a)(2)(i) of this section) if that report does not comply with the reporting requirements in § 382.705(b)(5).

(iii) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of a violation under 49 CFR 40.261(a)(1) or 40.191(a)(1) if that report does not comply with the reporting requirements in § 382.705(b)(3).

- (b) *Petition.* Any driver or authorized representative of the driver may submit a petition to the FMCSA contesting the accuracy of information in the Clearinghouse. The petition must include:

- (1) The petitioner's name, address, telephone number, and CDL number and State of issuance;
- (2) Detailed description of the basis for the allegation that the information is not accurate; and
- (3) Evidence supporting the allegation that the information is not accurate. Failure to submit evidence is cause for dismissing the petition.

(c) *Submission of petition.* The petitioner may submit his/her petition electronically through the Clearinghouse or in writing to: Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance, Attention: Drug and Alcohol Program Manager, 1200 New Jersey Avenue SE, Washington, D.C. 20590.

(d) *Notice of decision.* Within 45 days of receiving a complete petition, FMCSA will inform the driver in writing of its decision to remove, retain, or correct the information in the database and provide the basis for the decision.

(e) *Request for expedited treatment.*

(1) A driver may request expedited treatment to correct inaccurate information in his or her Clearinghouse record under paragraph (a)(1) of this section if the inaccuracy is currently preventing him or her from performing safety-sensitive functions, or to remove employer reports under paragraph (a)(2) of this section if such reports are currently preventing him or her from performing safety-sensitive functions. This request may be included in the original petition or as a separate document.

(2) If FMCSA grants expedited treatment, it will subsequently inform the driver of its decision in writing within 14 days of receipt of a complete petition.

(f) *Administrative review.*

(1) A driver may request FMCSA to conduct an administrative review if he or she believes that a decision made in accordance with paragraph (d) or (e) of this section was in error.

(2) The request must prominently state at the top of the document: "Administrative Review of Drug and Alcohol Clearinghouse Decision" and the driver may submit his/her request electronically through the Clearinghouse or in writing to the Associate Administrator for Enforcement (MC-E), Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590.

(3) The driver's request must explain the error he or she believes FMCSA committed and provide information and/or documents to support his or her argument.

(4) FMCSA will complete its administrative review no later than 30 days after receiving the driver's request for review. The Associate Administrator's decision will constitute the final Agency action.

(g) *Subsequent notification to employers.* When information is corrected or removed in accordance with this section, or in accordance with 49 CFR part 10, FMCSA will notify any employer that accessed the incorrect information that a correction or removal was made.

AVAILABILITY AND REMOVAL OF INFORMATION 382.719

(a) Driver information not available. Information about a driver's drug or alcohol violation will not be available to an employer conducting a query of the Clearinghouse after all of the following conditions relating to the violation are satisfied:

(1) The SAP reports to the Clearinghouse the information required in § 382.705(d);

(2) The employer reports to the Clearinghouse that the driver's return-to-duty test results are negative;

(3) The driver's current employer reports that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§ 40.307, 40.309, and 40.311 of this title; and

(4) Five years have passed since the date of the violation determination.

(b) Driver information remains available. Information about a particular driver's drug or alcohol violation will remain available to employers conducting a query until all requirements in paragraph (a) of this section have been met.

(c) *Exceptions.*

(1) Within 2 business days of granting a request for removal pursuant to § 382.717(a)(2)(i), FMCSA will remove information from the Clearinghouse.

(2) Information about a particular driver's drug or alcohol violation may be removed in accordance with § 382.717(a)(2)(ii) and (iii) or in accordance with 49 CFR part 10.

(d) *Driver information remains available.* Nothing in this part shall prevent FMCSA from using information removed under this section for research, auditing, or enforcement purposes.

FEES 382.721

FMCSA may collect a reasonable fee from entities required to query the Clearinghouse. *Exception:* No driver may be required to pay a fee to access his or her own information in the Clearinghouse.

UNAUTHORIZED ACCESS OR USE PROHIBITED 382.723

(a) Except as expressly authorized in this subpart, no person or entity may access the Clearinghouse. No person or entity may share, distribute, publish, or otherwise release any information in the Clearinghouse except as specifically authorized by law. No person may report inaccurate or misleading information to the Clearinghouse.

(b) An employer's use of information received from the Clearinghouse is limited to determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle. No employer may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle.

(c) Violations of this section are subject to civil and criminal penalties in accordance with applicable law, including those set forth at § 382.507.

(d) Nothing in this part shall prohibit FMCSA from accessing information about individual drivers in the Clearinghouse for research, auditing, or enforcement purposes.

ACCESS BY STATE LICENSING AUTHORITIES 382.725

(a) In order to determine whether a driver is qualified to operate a commercial motor vehicle, the chief commercial driver's licensing official of a State must obtain the driver's record from the Clearinghouse if the driver has applied for a commercial driver's license from that State.

(b) By applying for a commercial driver's license, a driver is deemed to have consented to the release of information from the Clearinghouse in accordance with this section.

(c) The chief commercial driver's licensing official's use of information received from the Clearinghouse is limited to determining an individual's qualifications to operate a commercial motor vehicle. No chief driver's licensing official may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining an individual's qualifications to operate a commercial motor vehicle.

(d) A chief commercial driver's licensing official who does not take appropriate safeguards to protect the privacy and confidentiality of information obtained under this section is subject to revocation of his or her right of access under this section.

PENALTIES 382.727

An employer, employee, MRO, or service agent who violates any provision of this subpart shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. 521(b)(2)(C).

INVESTIGATION AND INQUIRIES 391.23

(e) (4) As of January 6, 2023, employers subject to § 382.701(a) of § 382 must use the Drug and Alcohol Clearinghouse to comply with the requirements of this section with respect to FMCSA-regulated employers.

(i) Exceptions.

(A) If an applicant who is subject to follow-up testing has not successfully completed all follow-up tests, the employer must request the applicant's follow-up testing plan directly from the previous employer in accordance with § 40.25(b)(5) of Part 40.

(B) If an applicant was subject to an alcohol and controlled substance testing program under the requirements of a DOT mode other than FMCSA, the employer must request alcohol and controlled substances information required under this section directly from those employers regulated by a DOT mode other than FMCSA.

(ii) [Reserved]

(f) (1) A prospective motor carrier employer must provide to the previous employer the driver's consent meeting the requirements of § 40.321(b) of Part 40 for the release of the information in paragraph (e) of 391.23. If the driver refuses to provide this consent, the prospective motor carrier employer must not permit the driver to operate a commercial motor vehicle for that motor carrier.

(2) If a driver refuses to grant consent for the prospective motor carrier employer to query the Drug and Alcohol Clearinghouse in accordance with paragraph (e)(4) of 391.23, the prospective motor carrier employer must not permit the driver to operate a commercial motor vehicle.

Appendix A

The Borough of New Milford Commercial Motor Vehicle Driver's Certificate of Compliance With DOT Cell- Phone/Texting Bans

MOTOR CARRIERS: The restrictions in 49 CFR Part 392 on using a mobile telephone or texting while driving apply to every operator of a "commercial motor vehicle" as defined in Section 390.5, including interstate vehicles weighing or rated at 10,001 pounds or more, vehicles placarded for hazardous materials, and certain vehicles designed or used for more than 8 passengers (including the driver). In-state operations of vehicles placarded for hazardous materials are also subject to the restrictions. Other in-state-only operations may also be subject, depending on state rules.

DRIVERS: Part 392 of the Federal Motor Carrier Safety Regulations contains restrictions on texting and the use of hand-held mobile telephones while driving a commercial motor vehicle (CMV), including the following:

- **Texting ban (392.80):** You may not manually enter text into or read text from an electronic device while driving a CMV. This includes e-mailing, text messaging, using the internet, pressing more than one button to start or end a phone call, or any other form of text retrieval or entry for communication purposes.
- **Hand-held cell-phone ban (392.82):** You are prohibited from using a hand-held cell phone while driving a CMV. This includes talking on a phone while holding it in your hand (including push-to-talk), pressing more than a single button to dial or answer a cell phone, or leaving your normal, seated driving position to reach for a cell phone.

Except as prohibited under the Borough policy, you are allowed to use a hands-free phone, a CB radio, a navigation system, a two-way radio, a music player, or a fleet management system for purposes other than texting. Texting and hand-held cell-phone use are **only** allowed if you need to contact emergency services or if you have stopped in a safe location off the road.

Penalties (383.51, 391.15, 49 CFR 386): CDL and non-CDL drivers can be disqualified for 60 up to 120 days and/or face fines of up to \$2,750 for each violation. The Borough can be fined up to \$11,000 for each violation.

It is understood that the above information is being provided to the employee in an effort by the Borough to show good faith efforts to achieve compliance with the above-cited regulations. (49 CFR § 386.81)

BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

RESOLUTION

No.

2019:264

Offered by

Seconded by

Member	Aye	No	Abstain	Absent
SIROCCHI-HURLEY	✓			
SEYMOUR	✓			
DUFFIE	✓			
GROTSKY	✓			
GRECO-LANGSCHULTZ	✓			
GRANT	✓			
MAYOR (tie)				

WHEREAS, the Mayor and Council of the Borough of New Milford have adopted the Borough of New Milford Commercial Driving License (CDL) Drug and Alcohol Policy; and

WHEREAS, the policy requires that a Designated Employer Representative (DER) be named; and

WHEREAS, Vince Cahill has agreed to serve as the DER; and

WHEREAS, the policy recommends that an Alternate Designated Employer Representative (DER) be named; and

WHEREAS, Syl Bresa has agreed to serve as the Alternate (DER).

NOW, THEREFORE, BE IT RESOLVED, the Mayor and Council of the Borough of New Milford hereby appoint Vince Cahill as the DER and Syl Bresa as the Alternate DER.

I hereby certify that the above is a true copy of a resolution adopted by the Council of the Borough of New Milford at the meeting held on December 16, 2019.

SEAL

Christine Demmer

BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

RESOLUTION

No. 2019:265

Offered by: 

Seconded by: 

Member	Aye	No	Abstain	Absent
SIROCCHI-HURLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SEYMOUR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DUFFIE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GROTSKY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GRECO-LANGSCHULTZ	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GRANT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MAYOR (tie)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

WHEREAS, the New Jersey Legislature has enacted the Domestic Violence Policy Act for Public Employers; and

WHEREAS, the law directed the Civil Service Commission (NJCSC) to develop a uniform domestic violence policy and requires all public employers to adopt a written policy concerning the reporting and handling of domestic violence, regardless of whether or not the employer is subject to Civil Service; and

WHEREAS, on October 15, 2019 the NJCSC issued its uniform domestic violence policy, which must be adopted locally, at the same or higher level of protection and service to employees as set forth in the model policy; and

WHEREAS, the Administrator has reviewed the model policy with the labor attorney and recommends the Borough adopt the model policy as drafted by the NJCSC and attached hereto.

NOW, THEREFORE, BE IT RESOLVED, the Mayor and Council of the Borough of New Milford hereby adopt the Domestic Violence Policy for Public Employers.

BE IT FURTHER RESOLVED, that a copy of the Domestic Violence Policy for Public Employers be distributed to all employees as required.

I hereby certify that the above is a true copy of a resolution passed by the Council of the Borough of New Milford at the meeting held on December 16, 2019.

SEAL



DOMESTIC VIOLENCE POLICY FOR PUBLIC EMPLOYERS

Prepared for:

THE BOROUGH OF NEW MILFORD

Reviewed by (print name): _____

Signature: _____

Date: _____

DOMESTIC VIOLENCE POLICY FOR PUBLIC EMPLOYERS BOROUGH OF NEW MILFORD

PURPOSE

The purpose of the State of New Jersey Domestic Violence Policy for Public Employers (herein "policy") is to set forth a uniform domestic violence policy for all public employers to adopt in accordance with N.J.S.A. 11A:2-6a. The purpose of this policy is also to encourage employees who are victims of domestic violence, and those impacted by domestic violence, to seek assistance from their human resources officers and provide a standard for human resources officers to follow when responding to employees.

DEFINITIONS

The following terms are defined solely for the purpose of this policy:

Domestic Violence – Acts or threatened acts, that are used by a perpetrator to gain power and control over a current or former spouse, family member, household member, intimate partner, someone the perpetrator dated, or person with whom the perpetrator shares a child in common or anticipates having a child in common if one of the parties is pregnant. Domestic violence includes, but is not limited to the following: physical violence; injury; intimidation; sexual violence or abuse; emotional and/or psychological intimidation; verbal abuse; threats; harassment; cyber harassment; stalking; economic abuse or control; damaging property to intimidate or attempt to control the behavior of a person in a relationship with the perpetrator; strangulation; or abuse of animals or pets.

Abuser/Perpetrator – An individual who commits or threatens to commit an act of domestic violence, including unwarranted violence against individuals and animals. Other abusive behaviors and forms of violence can include the following: bullying, humiliating, isolating, intimidating, harassing, stalking, or threatening the victim, disturbing someone's peace, or destroying someone's property.

Human Resources Officer (HRO) – An employee of a public employer with a human resources job title, or its equivalent, who is responsible for orienting, training, counseling, and appraising staff. Persons designated by the employer as the primary or secondary contact to assist employees in reporting domestic violence incidents.

Intimate Partner – Partners of any sexual orientation or preference who have been legally married or formerly married to one another, have a child or children in common, or anticipate having a child in common if one party is pregnant. Intimate partner also includes those who live together or have lived together, as well as persons who are dating or have dated in the past.

DOMESTIC VIOLENCE POLICY FOR PUBLIC EMPLOYERS BOROUGH OF NEW MILFORD

Managers and supervisors are often aware of circumstances involving an employee who is experiencing domestic violence. Managers and supervisors are required to refer any employee who is experiencing domestic violence or who report witnessing domestic violence to the designated HRO. Managers and supervisors must maintain confidentiality, to the extent possible, and be sensitive, compassionate, and respectful to the needs of persons who are victims of domestic violence.

The name and contact information of the designated HRO will be provided to all employees by distribution of this policy.

This policy does not supersede applicable laws, guidelines, standard operating procedures, internal affairs policies, or New Jersey Attorney General Directives and guidelines that impose a duty to report. For example, if there is any indication a child may also be a victim, reporting is mandatory to the Department of Children and Families, Child Protection and Permanency, under N.J.S.A. 9:6-8.13.

DOMESTIC VIOLENCE REPORTING PROCEDURES

Employees who are victims of domestic violence are encouraged to seek immediate assistance from their HRO. Employees who have information about or witness an act of domestic violence against an employee, are encouraged to report that information to the designated HRO, unless the employee is required to report the domestic violence pursuant to applicable laws, guidelines, standard operating procedures, internal affairs policies, or New Jersey Attorney General directives and guidelines that impose a duty to report, in which case the employee must so report to the appropriate authority in addition to reporting to the designated HRO. Nothing in this policy shall preclude an employee from contacting 911 in emergency situations. Indeed, HROs shall remind employees to contact 911 if they feel they are in immediate danger.

Each designated HRO shall:

- A. Immediately respond to an employee upon request and provide a safe and confidential location to allow the employee to discuss the circumstances surrounding the domestic violence incident and the request for assistance.
- B. Determine whether there is an imminent and emergent need to contact 911 and/or local law enforcement.
- C. Provide the employee with resource information and a confidential telephone line to make necessary calls for services for emergent intervention and supportive services, when appropriate. The HRO or the employee can contact the appropriate Employee Assistance Program to assist with securing resources and confidential services.
- D. Refer the employee to the provisions and protections of The New Jersey Security

DOMESTIC VIOLENCE POLICY FOR PUBLIC EMPLOYERS BOROUGH OF NEW MILFORD

This policy does not supersede applicable laws, guidelines, standard operating procedures, internal affairs policies, or New Jersey Attorney General Directives and guidelines where mandatory reporting is required by the appointing authority or a specific class of employees.

CONFIDENTIALITY OF EMPLOYEE RECORDS

To ensure confidentiality and accuracy of information, this policy requires the HRO to keep all documents and reports of domestic violence in confidential personnel file separate from the employee's other personnel records. These records shall be considered personnel records and shall not be government records available for public access under the Open Public Records Act. See N.J.S.A. 47:1A-10.

THE NEW JERSEY SECURITY AND FINANCIAL EMPOWERMENT ACT

The New Jersey Security and Financial Empowerment Act, N.J.S.A. 34:11C-1, et seq. (NJ SAFE Act), is a law that provides employment protection for victims of domestic or sexual violence.

The NJ SAFE Act allows a maximum of 20 days of unpaid leave in one 12-month period, to be used within 12 months following any act of domestic or sexual violence. To be eligible, the employee must have worked at least 1,000 hours during the 12-month period immediately before the act of domestic or sexual violence. Further, the employee must have worked for an employer in the State that employs 25 or more employees for each working day during 20 or more calendar weeks in the current or immediately preceding calendar year. This leave can be taken intermittently in days, but not hours.

Leave under the NJ SAFE Act may be taken by an employee who is a victim of domestic violence, as that term is defined in N.J.S.A. 2C:25-19 and N.J.S.A. 30:4-27.6, respectively. Leave may also be taken by an employee whose child, parent, spouse, domestic partner, civil union partner, or other relationships as defined in applicable statutes is a victim of domestic or sexual violence.

Leave under the NJ SAFE Act may be taken for the purpose of engaging in any of the following activities, for themselves, or a child, parent, spouse, domestic partner, or civil union partner, as they relate to an incident of domestic or sexual violence:

- 1) Seeking medical attention;
- 2) Obtaining services from a victim services organization;
- 3) Obtaining psychological or other counseling;
- 4) Participating in safety planning, temporarily or permanently relocating, or taking other actions to increase safety;
- 5) Seeking legal assistance or remedies to ensure health and safety of the victim; or
- 6) Attending, participating in, or preparing for a criminal or civil court proceeding relating to an incident of domestic or sexual violence.

DOMESTIC VIOLENCE POLICY FOR PUBLIC EMPLOYERS BOROUGH OF NEW MILFORD

encouraged to be placed in visible areas, such as restrooms, cafeterias, breakrooms, and where other resource information is located.

RESOURCES

This policy provides an Appendix listing resources and program information readily available to assist victims of domestic violence. These resources should be provided by the designated HRO to any victim of domestic violence at the time of reporting.

DISTRIBUTION OF POLICY

Diane Grimaldi – Deputy Administrator/Deputy Clerk will be responsible for distributing this policy to employees, volunteers, and other employees identified above.

Diane Grimaldi – Deputy Administrator/Deputy Clerk will be responsible for updating this policy at least annually to reflect circumstances changes in the organization.

Diane Grimaldi – Deputy Administrator/Deputy Clerk will be responsible for monitoring The Civil Service Commission and the Division of Local Government Services in the Department of Community Affairs for modifications thereto, to public employers.

OTHER APPLICABLE REQUIREMENTS

In addition to this policy, the HRO and the public employer's appointing authority must follow all applicable laws, guidelines, standard operating procedures, internal affairs policies, and New Jersey Attorney General Directives and guidelines that impose a duty to report. Additionally, to the extent that the procedures set forth in this policy conflict with collective negotiated agreements or with the Family Educational Rights and Privacy Act (FERPA), the provisions of the negotiated agreements and the provisions of FERPA control.

POLICY MODIFICATION AND REVIEW

A public employer may seek to modify this policy, to create additional protocols to protect victims of domestic violence but may not modify in a way that reduces or compromises the safeguards and processes set out in this policy.

The Civil Service Commission will review and modify this policy periodically and as needed.

BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

RESOLUTION

No. 2019:266

Offered by: [Signature]

Seconded by: [Signature]

Member	Aye	No	Abstain	Absent
SIROCCHI-HURLEY	/			
SEYMOUR	✓			
DUFFIE	✓			
GROTSKY	✓			
GRECO-LANGSCHULTZ	✓			
GRANT	✓			
MAYOR (tie)				

RESOLUTION APPROVING RIGHT-OF-WAY USE TO CROSS RIVER FIBER

WHEREAS, Cross River Fiber LLC ("Cross River Fiber"), seeks to place its telecommunication facilities aerially on existing utility poles or in an underground conduit in the Public Rights-of-Way within the Borough of New Milford for the purpose of owning, constructing, installing, operating, repairing and maintaining a telecommunications system; and

WHEREAS, Cross River Fiber was approved by the New Jersey Board of Public Utilities to provide local exchange and interexchange telecommunications services throughout the State; and

WHEREAS, N.J.S.A. 48:3-19 requires Cross River Fiber to obtain the consent of Borough of New Milford for the joint use of any existing utility poles; and

WHEREAS, the consent granted is for the non-exclusive use of the Public Rights-of-Ways for the purpose of owning, constructing, installing, operating, repairing and maintaining a telecommunications system subject to the terms and conditions:

1. Permission and authority are hereby granted to Cross River Fiber, and its successors and assigns, to use existing utility poles and/or underground conduits erected by parties that have the lawful right to maintain such existing poles and/or conduits within the public right-of-way in the Borough of New Milford, subject to the following:
 - A. Cross River Fiber, and its successors and assigns, shall provide the Borough of New Milford with proof of consent to use the existing poles and conduits, from the party that erected same.

BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

RESOLUTION

No. 2019: 266

Offered by:.....

Seconded by:.....

- B. Cross River Fiber, and its successors and assigns, shall adhere to all applicable Federal, State, and Local laws regarding safety requirements related to the use of the public right-of-way.
- C. Cross River Fiber, and its successors and assigns, shall comply with all applicable Federal, State, and Local laws requiring permits prior to beginning construction on existing poles, and shall obtain any applicable permits that may be required by the Borough of New Milford.
- D. Such permission be and is hereby given upon the condition and provision that Cross River Fiber, and its successors and assigns, shall indemnify, defend and hold harmless the Borough of New Milford, its officers, agents, and servants, from any claim of liability or loss or bodily injury or property damage resulting from or arising out of the acts or omissions of Cross River Fiber or its agents in connection with the use and occupancy of the existing poles located within the public right-of-way, except to the extent resulting from the acts or omissions of the Borough of New Milford.
- E. Cross River Fiber shall, at its own cost and expense, maintain commercial general liability insurance with limits not less than \$5,000,000 for injury to or death of one or more persons in any one occurrence and \$1,000,000 for damage or destruction to property in any one occurrence. Cross River Fiber shall include the Borough of New Milford as an additional insured.
- F. Cross River Fiber shall be responsible for the repair of any damage to paving, existing utility lines, or any surface or subsurface installations, arising from its construction, installation or maintenance of its facilities.
- G. Notwithstanding any provision contained herein, neither the Borough of neither New Milford nor Cross River Fiber shall be liable to the other for consequential, incidental, exemplary, or punitive damages on account of any activity pursuant to this instrument.
- H. This shall not be deemed to grant, convey, create or vest in Cross River Fiber a real property interest in land, including any fee, leasehold interest, easement, or any other form of interest or ownership in the Public Rights-of-way.
- I. This instrument shall be adopted on behalf of the Borough of New Milford by the Borough Council of the Borough of New Milford and attested to by the Borough of New Milford Clerk who shall affix the Borough of New Milford Seal thereto.

BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

RESOLUTION

No. 2019:266

Offered by:.....

Seconded by:.....

- J. The permission and authority hereby granted does not include the authority to install any additional poles of additional equipment or property in the right of way and may continue for the same period of time as the grant to parties whose poles Cross River Fiber is using.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of New Milford hereby grant Cross River Fiber a non-exclusive use of the Public Rights-of-Ways for the purpose of owning, constructing, installing, operating repairing and maintaining a telecommunications system.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to execute any and all documents necessary to effectuate this Resolution.

I hereby certify that the above is a true copy of a resolution adopted by the Council of the Borough of New Milford at the meeting held on December 16, 2019.

SEAL



BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

RESOLUTION

No. 2019:267

Offered by: [Signature]

Seconded by: [Signature]

Member	Aye	No	Abstain	Absent
SIROCCHI-HURLEY	/			
SEYMOUR	/			
DUFFIE	/			
GROTSKY	/			
GRECO-LANGSCHULTZ	/			
GRANT	/			
MAYOR (tie)				

WHEREAS, the following taxpayers and/ or mortgage company paid their 2019 taxes, in full,

WHEREAS, there is a credit of \$10.00 or under

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of New Milford, New Jersey, that the following be cancelled.

BLOCK	LOT	NAME	ADDRESS	AMOUNT
111	4	Siegel, Est of Fanny	1146 Lynnwood Avenue	\$.75
318	16	Chen, Jing Ming	222 Woodland Road	.53
904	19	Buckey, Shawn & Marie	632 Asbury Street	7.18
1519	2	210 Center Properties LLC	210 Center Street	.88
1708	30	Rubinetti, Gerald	585 Elizabeth Street	7.59

I hereby certify that the above is a true copy of a resolution adopted by the Council of the Borough of New Milford at the meeting held on December 16, 2019.

SEAL

[Signature]

BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

RESOLUTION

No. 2019:268

Offered by: *[Signature]*

Seconded by: *[Signature]*

Member	Aye	No	Abstain	Absent
SIROCCHI-HURLEY	✓			
SEYMOUR	✓			
DUFFIE	✓			
GROTSKY	✓			
GRECO-LANGSCHULTZ	✓			
GRANT	✓			
MAYOR (tie)				

WHEREAS, the following taxpayers and or mortgage company has an uncollectable balance under \$10.00 for 2019 taxes,

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of New Milford, New Jersey, that the following be cancelled.

BLOCK	LOT	NAME	ADDRESS	AMOUNT
114	36	Petro Realty LLC	1150 River Road	\$ 1.73
204	1	Gottesman, Moshe	1099 Boulevard	2.00
205	20	Bromberg, Neil & Michelle	1109 Allessandrini	3.05
206	5.01	Alfaro, Jose & Graciela	Korfitsen Road	.16
411	8	Ohanian, Khachik & Maryam	1040 Boulevard	.95
602	15	Utsch II, Charles P. & Heather N.	296 Graphic Blvd	.02
802	2	Francisco, Dale R.	370 Monmouth Ave	1.00
809	5	Ashway, Josette & Joelle	740 Holly Street	1.33
810	7	Arroyo, Victor M.	750 Cherry Street	.01

BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

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No. 2019:268

Offered by:.....

Seconded by:.....

812	10	Moran, Robert J. & Mary Ellen	745 Chestnut Street	.10
819	5	Malanga, Regina S. & Rafferty, Julie	784 Cherry Street	.71
905	23	Hackett, Robert P.	643 Asbury Street	.10
1012	6	Regalbuto, Phyllis & Marianne	552 Mabie Street	.55
1012	21	Albardak, Vedat & Tulin	563 Plympton Street	.03
1101	10	OWB REO, LLC	528 Columbia Street	.72
1109	6	Sondergard, Robert K.	150 Madison Avenue	.10
1113	11	Grippo, Robert T. Sr. & Karen P.	468 Charles Street	.34
1114	3	206 Myrtle Avenue Holdings, LLC	206 Myrtle Avenue	6.98
1203	7	Colosimo, Stephen G.	324 Grove Street	9.52
1214	25	Kim, Steven & Yat Hing	467 Charles Street	2.47
1401	4	Radhakrishnan, V. & Somanathan, V.	146 N. Terrace Place	4.06
1403	16	Jaimes, Manuel	145 Sutton Place	1.77
1407	43	314 Kastler Court LLC % Kraus, Shaya	314 Kastler Court	9.85

BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

RESOLUTION

No. 2019:268

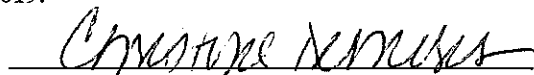
Offered by:.....

Seconded by:.....

1509	36	Gatto, Jamie & Duemo, Michael	125 Center Street	.53
1605	2	Valdivia, Eduardo & Liliana	322 Webster Drive	1.99
1704	4	Ansari, Imdad A. & Abida	370 Lacey Drive	1.23
1705	37	Ndreu, Viktor & Anjeza	361 Lacey Drive	.60

I hereby certify that the above is a true copy of a resolution adopted by the Council of the Borough of New Milford at the meeting held on December 16, 2019.

SEAL



BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

RESOLUTION

No. 2019:269

Offered by: [Signature]

Seconded by: [Signature]

Member	Aye	No	Abstain	Absent
SIROCCHI-HURLEY	✓			
SEYMOUR	✓			
DUFFIE	✓			
GROTSKY	✓			
GRECO-LANGSCHULTZ	✓			
GRANT	✓			
MAYOR (tie)				

WHEREAS, the following taxpayer and/or title/mortgage company has made duplicate payments of property taxes, creating an overpayment,

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of New Milford, New Jersey, that a refunds be granted to:

VENDOR	BLK	LOT	NAME	ADDRESS	AMT	CK#
4378	612	8	Meneses, Philip & Patricia	216 LINDEN PLACE **MAIL REFUND TO: CORELOGIC P.O. BOX 9202 COPPELL, TX 75019-9760	\$ 269.27	
4378	712	8	Garcia-Noriega, Pedro S. & Garcia, M.	250 REICHEL T ROAD **MAIL REFUND TO: CORELOGIC P.O. BOX 9202 COPPELL, TX 75019-9760	\$ 375.56	
4378	1013	14	Bogarin, Maria (*previous Owner)	650 BOULEVARD **MAIL REFUNDS TO: CORELOGIC P.O. BOX 9202 COPPELL, TX 75019-9760	\$2861.00	
4378	1212	5	Malone, Timothy & Amy G.	266 MADISON AVENUE **MAIL REFUNDS TO: CORELOGIC P.O. BOX 9202 COPPELL, TX 75019-9760	\$2216.00	
4378	1520	1	Simon, Ruth F. & Nichols, Jennifer E.	222 CENTER STREET **MAIL REFUNDS TO: CORELOGIC P.O. BOX 9202 COPPELL, TX 75019-9760	\$ 173.61	

BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

RESOLUTION

No. 2019:269

Offered by:.....

Seconded by:.....

4660	110	11	US Bank National Assoc, as Trustee(*previous owner)	1154 ROSSE AVENUE **ATTN:CENTRALREFUNDS LERETA, LLC 1123 PARK VIEW DRIVE COVINA, CA 91724	\$2963.00	
4660	301	11	Monaco Jr., Jeffrey(*previous owner)	994 OXFORD LANE **ATTN:CENTRALREFUNDS LERETA, LLC 1123 PARK VIEW DRIVE COVINA, CA 91724	\$2687.00	
4448	103	5	Serpa, Ingaborth, Somaya & Cristian	137 MAPLE AVENUE NEW MILFORD, NJ	\$ 108.06	
5544	104.02	10 C0010	Enrico, Thomas J. & Karen	10 CANTERBURY LANE NEW MILFORD, NJ	\$ 190.54	
5545	104.02	12 C0012	Mullins, Mel D. & Rita	12 CANTERBURY LANE NEW MILFORD, NJ	\$ 190.68	
5546	104.02	13 C0013	Proudian, Robert D.	13 CANTERBURY LANE NEW MILFORD, NJ	\$ 253.93	
5547	402	19	Bertero, Henrietta (ETALS)	265 GREVE DRIVE NEW MILFORD, NJ	\$2685.57	
5548	710	8	Eisner, Samuel & Gittle L.	351 E. WOODLAND ROAD NEW MILFORD, NJ	\$2838.00	
5549	1102	29	Benitez, Tamika	508 HUGHES ROAD NEW MILFORD, NJ	\$2569.50	

BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

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No. 2019:269

Offered by:.....

Seconded by:.....

5550	1604	20	Ale, Carlos J.	65 BOULEVARD NEW MILFORD, NJ	\$4238.00	
5551	1607	11	Lowenstein, Daniel J.	364 TRENSCH DRIVE NEW MILFORD, NJ	\$ 100.00	
5552	1608	29	Morgan, Vernon T. & Armelle Doradene	93 BOULEVARD NEW MILFORD, NJ	\$ 62.82	

I hereby certify that the above is a true copy of a resolution adopted by the Council of the Borough of New Milford at the meeting held on December 16, 2019.

SEAL

Christine Ferriter

BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

RESOLUTION

No. 2019:270

Offered by: [Signature]

Seconded by: [Signature]

Member	Aye	No	Abstain	Absent
SIROCCHI-HURLEY	/			
SEYMOUR	/			
DUFFIE	/			
GROTSKY	/			
GRECO-LANGSCHULTZ	/			
GRANT	/			
MAYOR (tie)				

WHEREAS, the Hovnanian School, 817 River Road, New Milford, NJ has applied for a Special Permit for a Social Affair; and

WHEREAS, the Mayor & Council of the Borough of New Milford have agreed for certain non-profit organizations to dispense and serve alcohol set forth under the guidelines of the Division of Alcoholic Beverage Control (ABC) pursuant to N.J.S.A. 33:74-1 and N.J.A.C. 13:2-5.1; and

WHEREAS, the required documentation along with a fee of \$100.00 to the Division of Alcohol and Beverage Control has been submitted, reviewed and signed by the Chief of Police and Borough Clerk of the Borough of New Milford, NJ;

NOW, THEREFORE, BE IT RESOLVED, the Mayor and Council hereby grant a Special Social Affair Permit to the Hovnanian School to conduct a social gathering at which alcohol will be served on the premises of the school, 817 River Road, New Milford, NJ on February 8, 2020 from 8:00 PM – 1:00 AM in accordance with New Milford Borough Ordinance #6-4, et seq.; and

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Hovnanian School, to the attention of Sonya Bekarian

I hereby certify that the above is a true copy of a resolution adopted by the Council of the Borough of New Milford at the meeting held on December 16, 2019.

SEAL

[Signature]

BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

RESOLUTION

No. 2019: 271

Offered by:.....

Seconded by:.....

Member	Aye	No	Abstain	Absent
SIROCCHI-HURLEY	/			
SEYMOUR	/			
DUFFIE	/			
GROTSKY	/			
GRECO-LANGSCHULTZ	/			
GRANT	/			
MAYOR (lie)				

WHEREAS, the Mayor and Council of the Borough of New Milford wish to continue the agreement with County of Bergen, Department of Human Services to provide funding for the 2020 New Milford Senior Center Program; and

WHEREAS, the County of Bergen, Department of Human Services has agreed to appropriate \$20,303 towards the nutrition site, personnel, maintenance and drivers; and

WHEREAS, the Mayor and Council of the Borough of New Milford wish to continue these services to the New Milford Seniors;

NOW, THEREFORE BE IT RESOLVED that the Mayor and Council hereby approve the continuation of the agreement with the County of Bergen Department of Human Services and authorize the Mayor to sign the agreement and Borough Clerk to attest to the same.

I hereby certify that the above is a true copy of a resolution adopted by the Council of the Borough of New Milford at the meeting held on December 16, 2019.

SEAL

Christine Xennakis

BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

RESOLUTION

No. 2019:272

Offered by: Councilman Grotsky.....

Seconded by: Councilman Seymour.....

Member	Aye	No	Abstain	Absent
SIROCCHI-HURLEY	✓			
SEYMOUR	✓			
DUFFIE	✓			
GROTSKY	✓			
GRECO-LANGSCHULTZ	✓			
GRANT	✓			
MAYOR (tie)				

WHEREAS, the Mayor and Council of the Borough of New Milford wish to enter into a Separation Agreement and Release with Captain Thomas Johnson; and

WHEREAS, the proposed Separation Agreement and Release was drafted by the Labor Attorney and has been reviewed by Chief Clancy and the Borough Administrator; and

NOW, THEREFORE BE IT RESOLVED, that the Mayor and Council of the Borough of New Milford hereby approve the Separation Agreement and Release between the Borough of New Milford and Captain Thomas Johnson.

BE IT FURTHER RESOLVED that the Mayor is authorized to sign the agreement, the Borough Clerk is authorized to attest to the same.

I hereby certify that the above is a true copy of a resolution adopted by the Council of the Borough of New Milford at the meeting held on December 16, 2019.

SEAL

Christine Demus