

April 25, 2017

The regular meeting of the Otsego County Board of Commissioners was held at the Multi-Purpose Room at County Building at 225 West Main Street, Room 100, Gaylord, Michigan. The meeting was called to order at 9:30 a.m. by Chairman Ken Borton. Invocation by Commissioner Paul Beachnau, followed by the Pledge of Allegiance led by Melissa FitzGerald.

Roll Call:

Present: Julie Powers, Paul Beachnau, Paul Liss, Duane Switalski, Rob Pallarito, Ken Glasser, Doug Johnson, Ken Borton.

Absent: Bruce Brown.

Administrative Report:

Rachel Frisch reported the 2016 Audit is finished; traveling to Oakland County on April 26, 2017 for an Economic Development meeting; Meeting with Maureen Derenzy and the Architect regarding the Library building.

Consent Agenda:

Motion to approve the Regular Minutes of April 11, 2017 with attachments and minutes of the Special meeting for April 18, 2017. Ayes: Unanimous. Motion carried.

Motion to approve the Otsego County Bus System Controlled Substance and Alcohol misuse policy. Ayes: Unanimous. Motion carried. (see attached)

Motion to adopt OCR 17-04, Mortgage Discharge to Helen Edwards.

Roll Call Vote:

Ayes: Julie Powers, Paul Beachnau, Paul Liss, Duane Switalski, Rob Pallarito, Ken Glasser, Doug Johnson, Ken Borton.

Nays: None.

Absent: Bruce Brown.

Motion carried/Resolution adopted. (see attached)

Motion to adopt OCR 17-05, National Police Week.

Roll Call Vote:

Ayes: Julie Powers, Paul Beachnau, Paul Liss, Duane Switalski, Rob Pallarito, Ken Glasser, Doug Johnson, Ken Borton.

Nays: None.

Absent: Bruce Brown.

Motion carried/Resolution adopted. (see attached)

Committee Reports:

Motion by Commissioner Paul Beachnau, seconded by Commissioner Ken Glasser, to award bid 2017-05 to Crestline in the amount of \$178,535.63, to be paid out of the Public Improvement

Fund, with \$50,000 to be reimbursed by the USDA Grant, and the remaining \$128,535.63 to be paid back over 60 months at a 4% interest rate. Ayes: Unanimous. Motion carried.

Motion by Commissioner Paul Beachnau, seconded by Commissioner Rob Pallarito, to decrease all Building Department fees by 5%, along with an increase of the contractual inspector's rate for inspections to \$50.00 and \$40.00 for office hours and plan reviews. Additionally to create two full-time building inspector positions. In the case of an inspector position not being filled, the Administrator is authorized to contract for inspection services for up to six months. Ayes: Unanimous. Motion carried.

Motion by Commissioner Paul Beachnau, to approve the Library Purchase Agreement with Lake Development of Gaylord, LLC. Ayes: Unanimous. Motion carried. (see attached)

Department Head Report:

Melissa FitzGerald reported on the Animal Control, new software program for the shelter; received the Michigan Pet Fund Alliance Award for the first shelter to be a no kill; a trap, sterilize and release fund created; shelter garage needed; empty the shelter program is Saturday, April 29, 2017 at the Shelter. Over 1000 complaints handled last year, after hours calls have increased; Thanked the Board of Commissioners, Administration office, staff and volunteers for their support.

City Liaison, Township and Village Representative: None.

Correspondence:

March 2017 Financial Reports presented.

New Business:

Motion by Commissioner Paul Liss, seconded by Commissioner Julie Powers, to approve the April 18, 2017 Warrant in the amount of \$558,817.69. Ayes: Unanimous. Motion carried.

Motion by Commissioner Doug Johnson, seconded by Commissioner Paul Liss, to approve the April 25, 2017 Warrant in the amount of \$406,753.89. Ayes: Unanimous. Motion carried.

Motion by Commissioner Rob Pallarito, seconded by Commissioner Ken Glasser, to adopt Resolution OCR 17-06, NE MI Community Corrections Grant Application.

Roll Call Vote:

Ayes: Julie Powers, Paul Beachnau, Paul Liss, Duane Switalski, Rob Pallarito, Ken Glasser, Doug Johnson, Ken Borton.

Nays: None.

Absent: Bruce Brown.

Motion carried/Resolution adopted. (see attached)

Public Comment:

Chairman Ken Borton opened up the meeting for public comment.

Board Remarks:

Commissioner Rob Pallarito discussed Bradford Lake funds; Attending a tour for line 5; Joint Land Use Study.

Commissioner Ken Glasser discussed the Joint Land Use Study; has a draft plan; Road Commissioner meeting; Otsego Lake level is really high, the drain is wide open; Conservation District is asking for help for education center and volunteers for tree sale.

Commissioner Paul Liss had no report.

Commissioner Paul Beachnau reported on the Pigeon River Advisory Committee meeting; bill introduced regarding projects approved by the trust fund; Tourism Bureau lunch and learn today, April 25, 2017 11:30 a.m.-1:00 p.m. at the Pigeon River Forest Headquarters.

Commissioner Julie Powers toured the Groen Nature property; Reported on the City Council meeting; sewer/water line collapsed.

Commissioner Duane Switalski attended the Township Association meeting; lack of new assessors.

Commissioner Doug Johnson had no report.

Commissioner Ken Borton attended the Township Association meeting. Attending the Economic Development meeting in Oakland County on April 26, 2017.

Meeting adjourned at 10:24 a.m.

Kenneth C. Borton, Chairman

Susan I. DeFeyter, Otsego County Clerk

Otsego County Bus System

Controlled Substances and Alcohol Misuse Testing Policy

U.S. Department of Transportation Federal Transit Administration (FTA) Regulations

49 CFR Parts 40 & 655

Effective:
March 23, 2017

OCBS's drug testing provider is:

OMS Compliance Systems, Inc.
(231) 582-5898

I. STATEMENT OF POLICY

FTA Policy

Otsego County Bus System ("OCBS"), the Federal Transit Administration and the U.S. Congress have determined that alcohol abuse and illegal drug use pose specific dangers to the safety and welfare of the Nation. In fact, the Federal Transit Administration has specifically noted that the use of alcohol and illegal drugs has been demonstrated to significantly affect the performance of individuals involved in the public transportation industry. It is therefore the policy of OCBS and the Federal Transit Administration that safety-sensitive employees in the public transportation industry be free from the influence of drugs and alcohol.

In order to achieve this objective and to comply with the requirements of the Omnibus Transportation Employee Testing Act of 1991 and Federal Transit Administration Regulation, 49 CFR Part 655, OCBS has developed and implemented a drug and alcohol testing program designed to help prevent accidents and injuries resulting from the misuse of alcohol and prohibited drugs by employees who perform safety-sensitive functions in the public transportation industry, and to deter and detect the use of prohibited drugs by covered employees. Implementation of this program also helps deter substance abuse, as well as reduce absenteeism, accidents, health care costs and other drug-related problems. This program enhances the safety of our employees and the users of public transportation by facilitating the early identification of substance abuse-related issues and referral for treatment of workers with drug or alcohol abuse problems.

Those areas of the policy that appear in bold and underline print reflect the County's independent authority to require additional provisions with regard to drug and alcohol testing procedures.

II. SCOPE

Individuals Subject to Testing (Covered Employees) [655.4]. Part 655.4 defines a "Covered Employee" as a person, including an applicant or transferee, who performs or will perform a safety-sensitive function for an entity subject to part 655.

For purposes of this policy a "safety-sensitive function" includes:

- Operating a revenue service vehicle, including when not in revenue service;
- Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver's License (CDL);
- Controlling dispatch of movement of a revenue service vehicle;
- Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service. This section does not apply to the following: an employer who receives funding under 49 USC 5307 or 5309, is an area of less than 200,000 in population, and contracts out such services; or an employer who receives funding under 49 USC 5311 and contracts out such services; or
- Carrying a firearm for security purposes.
- An individual will be performing a safety-sensitive function during any period in which he/she is performing, ready to perform or immediately available to perform such functions.

A volunteer is a covered employee if:

- The volunteer is required to hold a commercial driver's license to operate the vehicle; or
- The volunteer performs a safety-sensitive function for an entity subject to this part and receives remuneration more than his or her actual expenses incurred while engaged in the volunteer activity.

"Vehicles" subject to this policy include buses, electric buses, vans, automobiles, rail cars, trolley cars, trolley buses or vessels. "Public transit vehicles" are vehicles used for public transportation or ancillary services.

A. Contractors. Under FTA regulations, the requirements of this policy apply to recipients of FTA assistance as defined in 49 CFR, as well as other entities that provide public transportation services or perform safety-sensitive functions for such recipients or entities, including sub-recipients, operators and **contractors**.

"Contractors" subject to the requirements of the regulations include persons or organizations that provide services for an FTA covered "employer" consistent with a specific understanding or arrangement, which can be evidenced by a written agreement and such contractors are also considered employers within the FTA definition of "employer".

B. Alcohol. For purposes of this policy, "*alcohol*" means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol. "*Alcohol use*" means the consumption of any beverage, mixture, or preparation, including any medication, which contains 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.

C. Prohibited Drugs. Although this policy prohibits the use of any controlled substances not lawfully prescribed by a physician, any drug test required under this policy will analyze an individual's urine to test for the presence of marijuana, cocaine, opiates, amphetamines and phencyclidine and/or their metabolites.

D. Prescription or Over-the-Counter Medication. An individual will be allowed to list on the back of the donor copy of the Drug Testing Custody and Control Form, any prescription or over-the-counter medication that he/she may be taking or may have recently taken. If the testing laboratory returns a positive test result, the individual will have the opportunity to discuss the use of the medication with OCBS's medical review officer.

In the event, it is determined by the MRO that an employee is taking a medication that may pose a safety risk though the continued performance of safety-sensitive functions, the employee may be placed on a medical leave of absence until that threat is acceptably reduced or eliminated.

A legally prescribed drug means that the individual has a prescription or other written approval from a physician for the use of a drug during medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing transit business is prohibited.

III. QUALIFICATIONS FOR EMPLOYMENT

A. Prohibited Conduct

- i. **Prohibited Drugs [655.21]** Covered employees are prohibited from using prohibited drugs at any time, from refusing to submit to a required test, and from performing a safety-sensitive function after receiving a verified positive test result following any drug test receiving a verified positive test result in any drug test required by this policy. For purposes of this policy the prohibited drugs tested for are marijuana, cocaine, opiates, phencyclidine, and amphetamines.
- ii. **Alcohol [655 Subpart D]** Company policy and Federal Transit Administration Regulations prohibit the following conduct as it relates to the use of alcohol:
 - a. **Alcohol concentration** - reporting for duty or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater.
 - b. **On-duty use** - using alcohol while performing safety-sensitive functions. If OCBS has actual knowledge that a covered employee is using alcohol while performing safety-sensitive functions OCBS will not permit the employee to perform or continue to perform safety-sensitive functions.
 - c. **Pre-duty use** - using alcohol within four hours prior to performing a safety-sensitive function. If OCBS has actual knowledge that a covered employee has used alcohol within 4 hours prior to performing safety-sensitive functions OCBS will not permit the employee to perform or continue to perform safety-sensitive functions.
 - d. **Use following an accident** - using alcohol for eight hours following an accident, unless the employee has first undergone a post-accident alcohol test.
 - e. **Refusal to submit** - refusing to submit to any alcohol test required under this policy.
 - f. **On-call employees** - OCBS will prohibit the consumption of alcohol for the specified on-call hours of each covered employee who is on-call. The procedure will include:
 - The opportunity for the covered employee to acknowledge the use of alcohol at the time he or she is called to report to duty and the inability to perform his or her safety-sensitive function.
 - The requirement that the covered employee take an alcohol test, if the covered employee has acknowledged the use of alcohol, but claims ability to perform his or her safety-sensitive function.

No discipline will be taken against any on-call employee who acknowledges his/her use of alcohol while in an on-call status, unless such conduct has the effect of making that employee repeatedly unavailable for duty.

- g. **Other alcohol-related conduct** - OCBS will not permit a covered employee tested under the provisions of subpart E of part 655 who is

found to have an alcohol concentration of 0.02 or greater but less than 0.04 to perform or continue to perform safety-sensitive functions, until:

- The employee's alcohol concentration measures less than 0.02; or
- The start of the employee's next regularly scheduled duty period, but not less than 8 hours following administration of the test.
- Except as provided in the regulations, OCBS will not take any action under this part against an employee based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit OCBS with authority independent of part 655 from taking any action otherwise consistent with law.

B. Removal from Service

- i. Prohibited drugs. [655.61]** As soon as OCBS has received notice from a medical review officer that an employee has a verified positive test result, or upon notice that an employee has refused to submit to a required test, it shall immediately remove the employee from the performance of safety-sensitive functions.
- ii. Alcohol [655.61].** As soon as OCBS has received notice from a Breath Alcohol Technician that a covered employee has a confirmed alcohol test result of 0.04 or greater, or has refused to submit to an alcohol test required under this policy, it shall immediately remove the employee from the performance of safety-sensitive functions.

Any covered employee requested to submit to an alcohol test required under this policy and found to have an alcohol concentration of 0.02 or greater, but less than 0.04, will be disqualified from performing or continuing to perform a safety-sensitive functions until eight (8) hours following administration of the test or until the employee's BAC measures less than .02 in a retest.

- iii. Return to Duty.** No employee who has engaged in conduct prohibited by this policy will be allowed to resume performing safety-sensitive functions unless and until that individual has been evaluated by a substance abuse professional and complied with recommended treatment or rehabilitation assistance, and has satisfied the return-to-duty obligations outlined in Section IV, F & G of this policy.
- iv. Medical Marijuana.** The U.S. Department of Transportation's Drug and Alcohol Testing Regulation – 49 CFR Part 40, at 40.151(e) – does not authorize "medical marijuana" under a state law to be a valid medical explanation for a transportation employee's positive drug test result. Medical Marijuana remains unacceptable for any safety-sensitive employee subject to the authority of the U.S. Department of Transportation.

IV. TYPES OF TESTING [655 Subpart E]

- A. Notice of Testing Circumstances.** Before performing any alcohol or drug test required by this policy, OCBS will notify the test subject that the test is being required

pursuant to this policy and/or Federal Transit Administration Regulations (49 CFR Part 655). OCBS will not represent that any requested test is required by federal regulations if, in fact, the individual to be tested is not subject to those regulations.

- B. Pre-Employment.** No employee or applicant will be permitted to perform a safety-sensitive function, and no employee will be transferred from a non-safety-sensitive function to a safety-sensitive function, unless the individual takes a drug test with a verified negative test result. If for some reason a pre-employment drug test is canceled, the individual will be required to submit to another test.

If an applicant fails a pre-employment drug test, the conditional offer of employment will be rescinded. When an employee being transferred, or promoted from a non-DOT position to a covered position submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with this policy.

When an employee or applicant has previously failed or refused a pre-employment drug test conducted under DOT authority, the individual must provide OCBS with proof of having successfully completed a referral, evaluation and treatment plan. When an employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days regardless of the reason, and the employee has not been in OCBS's random testing pool during that time, OCBS shall ensure that the employee takes a pre-employment drug test with a verified negative result.

If the individual's test result is negative-dilute, OCBS reserves the right to require the individual to submit to another drug test. If the subsequent drug test is also negative dilute, OCBS will accept the result as negative.

- C. Post-Accident.** An employee who is performing a safety-sensitive function must submit to a post-accident drug and alcohol test as soon as possible after any occurrence that meets the description of a "DOT Accident". For purposes of this Policy and OCBS's drug and alcohol testing program, a "DOT Accident" is defined as an occurrence associated with the operation of a vehicle, if as a result:

- Individual dies; or
- An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or
- With respect to an occurrence in which the public transportation vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or
- With respect to an occurrence in which the public transportation vehicle involved is a rail car, trolley car, trolley bus, or vessel, the public transportation vehicle is removed from operation.

Under FTA regulations "Disabling damage" means damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

- i. Inclusion.** Damage to a motor vehicle, where the vehicle could have been driven, but would have been further damaged if so driven.

ii. Exclusions.

- a. Damage that can be remedied temporarily at the scene of the accident without special tools or parts.
- b. Tire disablement without other damage even if no spare tire is available.
- c. Headlamp or tail light damage.
- d. Damage to turn signals, horn, or windshield wipers, which makes the vehicle inoperable.

i. Fatal accidents.

- a. As soon as practicable following an accident involving the loss of human life, OCBS will conduct drug and alcohol tests on each surviving covered employee operating the public transportation vehicle at the time of the accident. Post-accident drug and alcohol testing of the operator is not required if the covered employee is tested under the fatal accident testing requirements of the Federal Motor Carrier Safety Administration rule.
- b. OCBS will also drug and alcohol test any other covered employee whose performance could have contributed to the accident, as determined by OCBS using the best information available at the time of the decision.

i. Nonfatal accidents.

- a. As soon as practicable following an accident not involving the loss of human life in which a public transportation vehicle is involved, OCBS will drug and alcohol test each covered employee operating the public transportation vehicle at the time of the accident unless OCBS determines, using the best information available at the time of the decision, that the covered employee's performance can be completely discounted as a contributing factor to the accident. OCBS will also drug and alcohol test any other covered employee whose performance could have contributed to the accident, as determined by OCBS using the best information available at the time of the decision.

If an alcohol test required by the regulations is not administered within two hours following the accident, OCBS will prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by the regulations is not administered within eight hours following the accident, OCBS will cease attempts to administer an alcohol test and maintain the record. Records must be submitted to FTA upon request of the Administrator.

OCBS will ensure that a covered employee required to be drug tested under this section is tested as soon as practicable but within 32 hours of the accident.

A covered employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying OCBS or OCBS representative of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed by OCBS to have refused to submit to testing.

The decision not to administer a drug and/or alcohol test will be based on OCBS's determination, using the best available information at the time of the determination that the employee's performance could not have contributed to the accident. Such a decision must be documented in detail, including the decision-making process used to reach the decision not to test.

Nothing in the regulations should be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

The results of a blood, urine, or breath test for the use of prohibited drugs or alcohol misuse, conducted by Federal, State, or local officials having independent authority for the test, will be considered to meet the requirements of the regulations provided such test conforms to the applicable Federal, State, or local testing requirements, and that the test results are obtained by OCBS. Such test results may be used only when OCBS is unable to perform a post-accident test within the required period.

If the individual's test result is negative-dilute, OCBS reserves the right to require the individual to submit to another drug test. If the subsequent drug test is also negative dilute, OCBS will accept the result as negative.

- D. **Random.** Both OCBS and Federal Transit Administration believe that random drug and alcohol testing is an essential part of any program seeking to ensure a drug and alcohol-free workplace. All covered employees subject to this policy will therefore be required to submit to random drug and alcohol testing.

The random selection process will be completely objective and anonymous and will utilize a scientifically valid method such as a random number table or a computer-based random number generator matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. The tests will be unannounced and the dates for test will be reasonably spread throughout the course of the year. All covered employees will have an equal chance of being testing each time selections are made, regardless of the number of his/her previous selections, if any.

Any covered employee notified of his/her selection for random testing will be required to proceed to the test site immediately. If a covered employee is performing a safety-sensitive function at the time of his/her notification of a random test requirement, he/she will be required to cease performing the safety-sensitive function and proceed to the testing site immediately. However, covered employees will only be required to submit to random alcohol tests if they are performing a safety-sensitive function, about to perform a safety-sensitive function, or have just ceased performing a safety-sensitive function, whereas covered employees may be randomly tested for prohibited drug use any time while on duty.

If the individual's test result is negative-dilute, OCBS reserves the right to require the individual to submit to another drug test. If the subsequent drug test is also negative dilute, OCBS will accept the result as negative.

- E. **Reasonable Suspicion.** Whenever OCBS has reasonable suspicion to believe that a covered employee has used a prohibited drug or has violated any alcohol prohibition contained in this policy, it will require him/her to submit to a drug and/or alcohol test. However, any such suspicion must be based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the covered employee. These observations will only be made by a supervisor who has received appropriate training in detecting the signs and symptoms of drug and alcohol use and will be documented by that individual in a Supervisor's Report of Reasonable Suspicion. Any supervisor who decides that reasonable suspicion exists to require a covered employee to submit to an alcohol or drug test will not be permitted to conduct the breath alcohol test on that individual or serve as the drug collection site person for his/her drug test.

A reasonable suspicion alcohol test will only be required if the reasonable suspicion observations are made just before, during or after the period of the work day that the covered employee is required to follow this policy. OCBS will therefore only direct a covered employee to undergo reasonable suspicion alcohol testing while the employee is performing safety-sensitive functions, is just about to perform safety-sensitive functions, or has just ceased performing safety-sensitive functions.

If a reasonable suspicion alcohol test is not administered within two hours following the reasonable suspicion determination, OCBS will document the reasons why the test was not promptly administered. If the test is not administered within eight hours following the reasonable suspicion determination, OCBS will no longer attempt to administer an alcohol test and will document the reasons for its inability to do so.

Notwithstanding the above testing requirements, a covered employee may not report for duty or remain on duty requiring the performance of a safety-sensitive function if that employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech and performance indicators of alcohol misuse. Any such covered employee will not be allowed to perform or continue to perform a safety-sensitive function until the employee undergoes an alcohol test yielding an alcohol concentration level of less than 0.02; or the start of the employee's next regularly-scheduled duty period, but not less than eight hours following the reasonable suspicion determination.

If the individual's test result is negative-dilute, OCBS reserves the right to require the individual to submit to another drug test. If the subsequent drug test is also negative dilute, OCBS will accept the result as negative.

- F. **Return-to-Duty.** Before a covered employee who has engaged in any conduct prohibited by this policy will be allowed to return to duty requiring the performance of a safety-sensitive function, he/she will be required to undergo return-to-duty alcohol testing with a result indicating an alcohol concentration of less than 0.02 if the conduct involved alcohol, and/or a return-to-duty drug test with a verified negative result, if the conduct involved prohibited drugs. The controlled substances urine specimen must be conducted under direct observation procedures. If the test is canceled, he/she will be required to take another return-to-duty test.

If the drug test is negative-dilute, OCBS reserves the right to have the individual take another test. If the result of a subsequent test is also negative-dilute, OCBS shall accept that result as negative.

G. Follow-Up. Any employee who has engaged in conduct prohibited by this policy, and who has returned to safety-sensitive duties, will be subject to additional, unannounced follow-up testing for alcohol and/or controlled substances as directed by the SAP (minimum of six follow-up tests in the first year after return to safety-sensitive duties). The controlled substances urine specimen must be conducted under direct observation procedures. Participation in a follow-up testing program may be required for up to five years, at the SAP's discretion. However, follow-up alcohol testing will be conducted only when the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing safety-sensitive functions.

If the drug test is negative-dilute, OCBS reserves the right to have the individual take another test. If the result of a subsequent test is also negative-dilute, OCBS shall accept that result as negative.

H. Alcohol Concentration $.02 < .04$. If an employee is administered an alcohol test that produces an alcohol concentration of $.02$ or greater, but less than $.04$, he/she will not be permitted to perform a safety-sensitive function within eight hours of that test unless he/she is retested and has a test result of less than 0.02 .

I. Refusal to Submit. Any covered employee who refuses to submit to an alcohol or drug test will be prohibited from performing or continuing to perform a safety-sensitive function and be subject to discipline as outlined in Section X of this policy. "Refusal to submit" to an alcohol or drug test (or Refusal to Test) constitutes a violation of policy and includes the following conduct:

- i. Failure to appear for any test (excluding a pre-employment test) within a reasonable time, as determined by the employer, after being directed to do so by the employer;
- ii. Failure to remain at the testing site until the testing process is complete;
- iii. Failure to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations;
- iv. In the case of a directly observed or monitored collection in a drug test, failure to permit the observation or monitoring of the provision of a specimen;
- v. Failure to provide enough urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- vi. Failure or refusal to take a second test the employer or collector has directed;
- vii. Failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures;

- viii. Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process);
- ix. Confirmation by the MRO that there has been a verified adulterated or substituted test result;
- x. Failure or refusal to sign Step 2 of the alcohol testing form;
- xi. Failure to follow the observer's instructions during an observed collection including instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is present any type of prosthetic or other device that could be used to interfere with the collection process;
- xii. Possession or wearing of a prosthetic or other device that could be used to interfere with the collection process;
- xiii. Admission by the donor to the collector or MRO that the specimen was adulterated or substituted.

V. ALCOHOL TESTING PROCEDURES [Part 40, Subparts L, M, and N]

A. Screening and Confirmation Testing. All alcohol testing conducted under this policy will be done in accordance with the procedures outlined in 49 CFR Part 40, Subparts L and M. After providing photo identification to the BAT or STT, the employee and the BAT/STT will complete the Alcohol Testing Form (ATF). Any employee who refuses to sign the acknowledgment of testing in Step 2 of the form will be considered to have refused to test. The employee will follow the BAT/STT's instructions and provide a breath or saliva sample for the initial test. If the result of the test is <0.02 alcohol concentration, the test is considered negative and the process is complete. The BAT/STT will complete and sign the breath alcohol testing form.

If the initial alcohol test result is 0.02 or greater, a confirmation test, using an EBT capable of printing the test results, will be conducted. After a waiting period of at least 15 minutes, during which the employee is observed and requested not to take anything by mouth, the employee will be asked to provide a breath sample. The purpose of the waiting period is to ensure that no residual mouth alcohol is present for the confirmation test. If the confirmation test result is >0.02, the BAT will immediately notify OCBS DER, and the employee will remain at the testing facility until provided transportation. The employee and the BAT will complete and sign the breath alcohol testing form and a copy of the form, including the test results, will be provided to the employee. If the confirmation result is <0.02, the test is negative. The BAT shall sign the alcohol testing form and provide a copy of the form to the employee and the DER.

VI. CONTROLLED SUBSTANCES TESTING PROCEDURES [Part 40, Subparts D & E]

A. Urine Specimen Collection. Any person required to undergo a drug test will provide a urine sample at a designated collection site. To ensure integrity of the specimen collection procedure, a standard Federal Drug Testing Custody and

Control Form (CCF) will be used. This form will be completed by the employee and the specimen collector and will be forwarded along with the urine sample to a designated laboratory. The MRO, employee, collector and Company DER also receive a copy of the Custody and Control Form.

All urine specimens will be collected in a clean, single-use collection container that is securely wrapped until used. The urine specimen will be poured into two specimen bottles (wrapped or sealed until used) that will be labeled and sealed with tamper-evident tape/label by the collector in the employee's presence. The employee will initial the bottle(s) seals and the collector will date them.

B. Direct Observation Collections. Under DOT's 49 CFR Part 40 directly observed collections are authorized and required in specific situations. In the event of a direct observed collection the employee will not be given notice. A direct observed collection will take place if:

- i. The test is a return-to-duty or follow-up test;
- ii. The MRO receives a report from the laboratory that a specimen is invalid and the MRO subsequently reports to OCBS that there was not an adequate medical explanation for the result;
- iii. The MRO reports to OCBS that the original positive, adulterated, or substituted result had to be cancelled because the test of the split specimen could not be performed; or
- iv. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to OCBS as negative-dilute and that a second collection must take place under direct observation.

In the circumstances described above, the individual will undergo specimen collection under the direct observation of a same sex observer. OCBS also has the right to require any return to duty or follow-up test to be conducted under direct observation.

If the sample is being collected from an employee in need of medical attention (e.g., as part of a post-accident test given in an emergency medical facility), necessary medical attention shall not be delayed to collect the specimen. Specimens will not be collected from deceased, comatose or otherwise unresponsive employees.

C. Specimen Integrity and Identity. OCBS, the employee and the collection site shall take appropriate precautions to preserve the integrity of the urine specimen by ensuring that it is not adulterated or diluted during the collection procedure and that the urine specimen tested is that of the person from whom it was collected. Collection site personnel will be responsible for maintaining the integrity of the specimen collection and transfer process, but employees are expected to cooperate with collection site personnel and to exercise good faith in conjunction with the specimen collection procedures.

D. Inability to Provide a Specimen. If the employee is unable to urinate, or provides an insufficient quantity of urine (<45mL), the employee will be provided fluids to drink (up to 40 oz.) and up to three hours to provide an adequate specimen. (Note: It is not a refusal to test if the employee declines to drink.) If the employee is unable to

provide an adequate specimen after three hours, the collection process will cease. The collector will inform OCBS, and OCBS will direct the employee to be evaluated by a Company-designated physician as soon as practical (within 5 days, if possible). If the physician determines, after examination of the employee, that there is no medical explanation for the employee's failure to provide an adequate specimen, the employee will be considered to have refused to test. The MRO shall review the written report of the examining physician's findings.

- E. **Failure to Cooperate.** If the employee refuses to cooperate during the collection process (e.g., refusal to attempt to provide a complete specimen, remain in the collection site until the completion of the process), the collector will inform OCBS representative (DER) and document the employee's conduct on the Drug Testing Custody and Control Form.

VII. CONTROLLED SUBSTANCE TEST RESULTS [Part 40 Subpart G]

- A. **Medical Review Officer.** All test results will be reported by the laboratory to a medical review officer (MRO). The MRO will be a licensed physician who has met the qualification training, and continuing education requirements of § 40.121. The MRO will review and consider possible alternative medical explanations for positive, adulterated, substituted, and invalid test results, as well as review of the CCF to determine if it is complete and accurate. OCBS will designate an MRO for its controlled substance testing program. The designated MRO is listed in Appendix B.

- B. **MRO Determinations.** If the MRO determines that there is a legitimate medical explanation for a positive test result the MRO will report the test as negative. If the MRO determines that there is no legitimate medical explanation for the confirmed positive test result, the MRO shall report the test as positive, and provide the name of drug(s) detected.

The MRO shall report a negative-dilute result to OCBS when the laboratory has concluded that the specimen meets the criteria established by DOT for dilution.

OCBS reserves the right to require the individual to submit another specimen. If the second specimen is also reported negative-dilute, OCBS will accept the result as negative.

- C. **Split Specimen Procedures.** The MRO will notify each employee who has a verified positive, adulterated, or substituted test that he/she has 72 hours in which to request a test of the split specimen. If the employee requests an analysis of the split specimen within 72 hours of such notice, the MRO will direct, in writing, the laboratory to provide the split specimen to another DHHS-certified laboratory for analysis.

OCBS reserves the right to obtain reimbursement from the employee for the costs of the split specimen analysis. In no case, will the MRO or laboratory delay or reject an employee's timely request for the split specimen analysis pending receipt of payment for the analysis.

If the analysis of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO will cancel the test and

report the cancellation and the reasons for it to the DOT, the employer and the employee.

If the analysis of the split specimen fails to reconfirm the adulterant or substitution criteria found in the primary specimen, the MRO will cancel the test and report the cancellation and reasons for it to the DOT, the employer and the employee. In reconfirming adulteration or substitution, the laboratory must apply the same criteria used in the determination of adulteration or substitution of the primary specimen. If an employee has not contacted the MRO within 72 hours concerning testing of the split specimen, the employee may present the MRO with information documenting that serious illness, injury, inability to contact the MRO, or other circumstances unavoidably prevented the employee from timely contacting the MRO. If the MRO concludes that there is a legitimate explanation of the employee's failure to contact him/her within 72 hours, the MRO will direct that analysis of the split specimen be performed.

VIII. CONFIDENTIALITY AND RECORDKEEPING

A. Confidentiality. OCBS will maintain all records generated under this policy in a secure manner so that disclosure to unauthorized persons does not occur. Thus, the results of any tests administered under this policy and/or any other information generated pursuant to this policy will not be disclosed or released to anyone without the express written consent of the employee, except where otherwise required or authorized by DOT regulations. In addition, OCBS's contracts with its designated service agents require them to maintain all employee test records in confidence.

OCBS or its service agent(s) must release information under the following circumstances:

- i. Upon specific, written consent from an employee authorizing the release of information about that employee's drug or alcohol tests to an identified person, including to a subsequent employer.
- ii. Upon request of DOT agency representatives, including:
 - a. Access to facilities used for DOT agency drug and alcohol program functions.
 - b. All written, printed, and computer-based drug and alcohol program records and reports (including copies of name-specific records or reports), files, materials, data, documents/documentation, agreements, contracts, policies, and statements that are required by this part and DOT agency regulations.
- iii. Upon request by the National Transportation Safety Board as part of an accident investigation, provide information concerning post-accident tests administered after the accident.
- iv. Upon request by a Federal, state or local safety agency with regulatory authority over OCBS, provide drug and alcohol test records concerning any covered employee.

However, the laboratory or OCBS may disclose information required to be maintained under this policy to the employee, the employer or the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual, and arising from the results of an alcohol and/or drug test administered under this policy, or from the employer's determination that the employee engaged in conduct prohibited by this policy (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee.)

- B. Access to Facilities and Records [Part 40 Subpart P].** Upon written request by any covered employee, OCBS will promptly (within 10 days of the employee's written request) provide copies of any records pertaining to the employee's use of alcohol or drugs, including any records pertaining to his or her alcohol or drug tests. Access to a covered employee's records will not be contingent upon payment for records other than those specifically requested.

OCBS will also permit access to all facilities utilized and alcohol or drug testing documents generated in complying with the requirements of 49 CFR Part 655 to the Secretary of Transportation, any DOT agency with regulatory authority over the employer or any of its covered employees, or to a State oversight agency. When requested by the National Transportation Safety Board as part of an accident investigation, OCBS will disclose information related to the employer's administration of a post-accident alcohol and/or drug test administered following the accident under investigation.

Records will also be made available to an identified person or a subsequent employer upon receipt of a written request from an employee, but only as expressly authorized and directed by the terms of the employee's written consent. The subsequent release of such information by the person receiving it will be permitted only in accordance with the terms of the employee's consent.

IX. EMPLOYEE ASSISTANCE PROGRAM/SUBSTANCE ABUSE PROFESSIONAL

- A. Employee Education.** OCBS will provide employees subject to this policy with education materials explaining the requirements of the Federal Transit Administration drug and alcohol regulations and OCBS policies and procedures for meeting them. In addition, employees will be provided with information concerning the effects of drug use and alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol or drug problem (the employee's or a co-worker's); and available methods of intervening when an alcohol or drug problem (the employee's or a co-worker's) is suspected, including confrontation, referral to an employee assistance program and/or referral to management. This information will include the following:

- i. Display and distribution of informational material
- ii. Display and distribution of a community service hot-line telephone number for employee assistance.

Covered employees will receive at least 60 minutes of training of the effects and consequences of prohibited drug use on personal health, safety and the work

environment and on the signs and symptoms which may indicate prohibited drug use.

Copies of the above materials and this policy will be distributed to each covered employee prior to the start of alcohol and drug testing required herein and to each employee subsequently hired or transferred into a position requiring the performance of a safety-sensitive function covered by this policy.

Each employee who receives a copy of these materials will be required to sign a statement certifying that he or she has received a copy of the same. OCBS will retain the original of the signed certificate and will provide a copy to the employee, if requested.

OCBS will also provide written notice to representatives of employee organizations as to the availability of this information, if applicable. Any questions about the requirements of this policy should be directed to the program contact individual listed in Appendix B.

B. Supervisory Training. Any individual designated to determine whether reasonable suspicion exists to require a covered employee to undergo a drug or alcohol test under this policy will be required to receive at least 60 minutes of training on alcohol misuse and 60 minutes of training on drug use. This training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and prohibited drug use.

C. Referral, Evaluation and Treatment.

- i. **Available Resources.** Any employee who engages in conduct prohibited by this policy (positive drug test, refusal to test, or alcohol test result of 0.04 or greater alcohol concentration) will be provided with information about the resources available for evaluating and resolving problems associated with the misuse of alcohol or prohibited drug use, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.
- ii. **Substance Abuse Evaluation.** Employees will be provided Substance Abuse Professional referral information, advised to undergo an evaluation by an appropriate substance abuse professional if they seek to perform United States Department of Transportation safety sensitive functions in the future, who will determine what assistance the employee may need in resolving problems associated with alcohol misuse and/or prohibited drug use. **All costs associated with any evaluation, intervention and assistance will be at the sole expense of the terminated employee.**
- iii. **Substance Abuse Professional (SAP).** For purposes of this policy, a substance abuse professional (SAP) is defined as a licensed physician (Doctor of Medicine or Osteopathy); or a licensed or certified social worker; or a licensed or certified psychologist; or a licensed or certified employee assistance professional; or a state-licensed or certified marriage and family therapist; or an alcohol and drug abuse counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) or by the International Certification Reciprocity

Consortium/Alcohol and Other Drug Abuse (ICRC) or by the National Board of Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC) who has knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders and who has met the qualification training standards specified in Part 40.

The SAP's role is to evaluate the employee's need for assistance in resolving problems related to alcohol or drug abuse, determine if the employee has complied with recommended treatment or rehabilitation, and to determine a program of follow-up testing as appropriate. (Refer to 49 CFR part 40 Subpart O for additional information about SAPs.)

X. DISCIPLINE

In addition to the removal from safety-sensitive functions required by Federal Transit Administration Regulations, OCBS will take the following disciplinary action against any individual who violates this policy.

A. Applicants

An individual who tests positive on a pre-employment or pre-duty test for a prohibited drug will not be hired for, or allowed to serve in, a covered function position. Likewise, an individual who submits a specimen determined to be adulterated or substituted will not be hired or allowed to serve in a covered position.

The applicant will be provided Substance Abuse Professional referral information which the individual may use at his or her own expense if the person seeks to perform United States Department of Transportation covered functions in the future. OCBS will not charge employees for SAP contact information.

B. Employees

Any employee who tests positive for a prohibited drug or for alcohol with a concentration level of 0.04 or greater will be subject to disciplinary action up to and including discharge from employment with OCBS. A terminated employee will be provided Substance Abuse Professional referral information which former employee may use at his or her own expense if employee seeks to perform United States Department of Transportation covered functions in the future.

Any employee who engages in any conduct that constitutes a refusal to submit to a drug or alcohol test required under this policy will be discharged from employment with OCBS. The terminated employee will be provided Substance Abuse Professional referral information which former employee may use at his or her own expense if employee seeks to perform United States Department of Transportation covered functions in the future.

Any employee whose alcohol test result is 0.02-0.039 alcohol concentration will be removed from duty for at least 8 hours or until his/her next regularly scheduled shift, whichever is longer. All time suspended will be without pay. Any employee who tests 0.02-0.039 alcohol concentration on more than one occasion will be discharged from employment with OCBS. The terminated employee will be provided Substance Abuse Professional referral information which former

employee may use at his or her own expense if employee seeks to perform United States Department of Transportation covered functions in the future. OCBS will not charge employees for SAP contact information.

Depending on the circumstances involved, OCBS may at its sole discretion, offer employees who voluntarily request help with a drug or alcohol problem, the option of rehabilitation in lieu of discharge. Employees offered this option will be referred to a qualified Substance Abuse Professional (SAP). The employee will be expected, as a condition of continued employment, to sign a return to work agreement, to follow the SAP's advise or recommendation program of rehabilitation, and to agree to follow up testing. Failure to do so, or any positive test result within a period of up to 60 months after the completion of the rehabilitation program, will result in disciplinary action, up to and including discharge.

XI. GRIEVANCE AND APPEAL

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

XIII. DRUG STATUTE CONVICTION

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the Otsego County Bus System's management of any criminal drug statute conviction within 5 days. Failure to comply with this provision shall result in disciplinary action as defined in this policy

XIV. RECORDKEEPING AND REPORTING

A. Retention of Records. OCBS will maintain records relating to this policy as outlined in 49 CFR Part 655. These records will be maintained in a secure location with controlled access for the specified periods of time, measured from the date of the document's or data's creation.

B. Management Information System. OCBS will prepare and submit to the FTA Office of Safety and Security by March 15 of each year, two annual calendar year summaries of the results of all alcohol and drug testing performed under this policy. The summary reports will contain all the required information as specified in § 655.72.

XV. DEFINITIONS – 49 CFR Part 40 and Part 655

Accident. An occurrence associated with the operation of a vehicle, if as a result: 1) an individual dies; or 2) an individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or 3) with respect to an occurrence in which the public transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as a result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or 4) with respect to an occurrence in which the public

transportation vehicle is involved is a rail car, trolley care, or vessel, the public transportation vehicle is removed from operation.

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

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

Alcohol concentration. The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under this part.

Alcohol confirmation test. A subsequent test using an EBT, following a screening test with a result of 0.02 or greater, that provides quantitative data about the alcohol concentration.

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

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

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

Collection container. A container into which the employee urinates to provide the specimen for a drug test.

Collection site. A place selected by the employer where employees present themselves for the purpose of providing a urine specimen for a drug test.

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

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

Contractor. A person or organization that provides a safety-sensitive service for a recipient, subrecipient, employer, or operator consistent with a specific understanding or arrangement. The understanding can be a written contract or an informal arrangement that reflects an ongoing relationship between the parties.

Covered employee. A person, including an applicant or transferee, who performs or will perform a safety-sensitive function for an entity subject to this part. A volunteer is a covered employee if:

- The volunteer is required to hold a commercial driver's license to operate the vehicle; or

- The volunteer performs a safety-sensitive function for an entity subject to this part and receives remuneration more than his or her actual expenses incurred while engaged in the volunteer activity.

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

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

DOT, The Department, DOT agency. These terms encompass all DOT agencies, including, but not limited to, the United States Coast Guard (USCG), the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). These terms include any designee of a DOT agency.

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

Employee. Any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing under this part, the term employee has the same meaning as the term "donor" as found on CCF and related guidance materials produced by the Department of Health and Human Services.

Employer. A person or entity employing one or more employees (including an individual who is self-employed) subject to DOT agency regulations requiring compliance with this part. The term includes an employer's officers, representatives, and management personnel. Service agents are not employers for the purposes of this part.

Federal Transit Administration (FTA). An agency of the U.S. Department of Transportation.

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

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

Laboratory. Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

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

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

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

Primary specimen. In drug testing, the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing. The primary specimen is distinguished from the split specimen, defined in this section.

Reconfirmed. The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

Refuse to submit. Any circumstance outlined in 49 CFR 40.191 and 40.261.

Safety-sensitive function. Any of the following duties, when performed by employees of recipients, sub-recipients, operators, or contractors:

- Operating a revenue service vehicle, including when not in revenue service;
- Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;
- Controlling the dispatch or movement of a revenue service vehicle;
- Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service. This section does not apply to the following: an employer who receives funding under 49 U.S.C. 5307 or 5309, is in an area less than 200,000 in population, and contracts out such services; or an employer who receives funding under 49 U.S.C. 5311 and contracts out such services;
- Carrying a firearm for security purposes.

Specimen bottle. The bottle that, after being sealed and labeled according to the procedures in this part, is used to hold the urine specimen during transportation to the laboratory.

Split specimen. In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

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

Substance Abuse Professional (SAP). A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

Substituted specimen. A urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

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

Verified test. A drug test result or validity testing result from an HHS-certified laboratory that has undergone review and final determination by the MRO.

APPENDIX A

LISTING OF SAFETY-SENSITIVE JOB TITLES

Otsego County Bus System has determined that the following job titles are safety-sensitive and therefore covered by the FTA drug and alcohol testing regulations and this policy:

- Bus Driver
- Dispatcher

- Chief Dispatcher
- Mechanic
- Lead Mechanic
- Driver/Dispatcher
- General Maintenance
- Home Delivered Meals Drivers

APPENDIX B

COMPANY DESIGNATED SERVICE PROVIDERS FOR DRUG AND ALCOHOL TESTING

1. Company Drug and Alcohol Testing Program Contact

For all questions concerning OCBS's policy or implementation of OCBS's drug and alcohol testing program, employees should contact the individual(s) named below:

Trisha Adam, SPHR, SHRM-SCP
Human Resources Director/Assistant County Administrator
225 W. Main St., #203
Gaylord, MI 49735
tadam@otsegocountymi.gov
989-731-7522

2. Drug Testing Laboratory

The following DHHS-certified laboratory has been designated by OCBS to conduct the analysis of all urine specimens tested under the terms of this policy.

Quest Diagnostics
10101 Renner Blvd
Lenexa, KS 66700
800-877-7484

3. Medical Review Officer

The following physician(s) has been designated by OCBS to perform Medical Review Officer functions for all drug tests conducted under the terms of this policy.

David Nahin, M.D.
i3screen
9501 Northfield Blvd.
Denver, CO 80238
877-295-3381

4. Substance Abuse Professional

Substance Abuse Professional (SAP) services, including information, referral, assessment, and evaluation, are available from the following Company-designated individuals and/or organizations:

Catholic Human Services
1165 Elkview Drive
Gaylord, MI 49735
(989) 732-6761

5. Approved Specimen Collection Sites

The facilities listed below are authorized to conduct urine specimen collection in accordance with 49 CFR Part 40 for the purpose of any controlled substance test required by OCBS:

OMH Walk-In Clinic
1996 Walden Drive
Gaylord, MI 49735
(989) 731-4111

OMH Walk-In Clinic
2572 N. US131
Elmira, MI 49730

(989) 731-7700

OMS Compliance, Inc.
562 South M-75
Boyne City, MI 49712
P 231-582-5898
F 231-582-5371

Attachment to FTA Drug-Free Workplace Policy

Signs and Symptoms of a Drug and Alcohol Use

Drugs and alcohol can result in such work-related problems as absenteeism and tardiness, lower productivity, missed deadlines, poor work quality, unsafe driving, and increased injuries and accidents. Problems relating to or communicating with supervisors, co-workers or customers, following directions, concentrating or remembering things may also indicate a drug or alcohol problem.

Drugs and alcohol slow reaction times, cause confusion, harm coordination and motor skills and can impair decision-making and memory. People misusing alcohol and using illegal drugs may be withdrawn, lethargic, depressed, erratic, "hyper" or unusually anxious, hostile or paranoid.

Drugs and alcohol misuse can also result in health problems like chronic gastritis, headaches, chronic respiratory infections and liver problems. They may also show up as poor hygiene, a sloppy appearance, financial problems, DUIs or family problems.

Evidence of use can include paraphernalia such as pipes, syringes, foil packets, pills, powders and empty alcohol containers. Physical symptoms of use can include:

1. Marijuana and alcohol odors
2. Puffy or droopy eyelids, bloodshot eyes, dilated or pinpoint pupils
3. Nosebleeds, excessive sniffing, chronic sinus problems, nasal sores
4. Needle tracks or blood spots on clothing
5. Tremors, racing or irregular heartbeats
6. Slurred or incoherent speech
7. Confusion, anxiety, paranoia
8. Coordination problems
9. Lethargy and sleepiness

Effects of Drugs and Alcohol

Drugs and alcohol can harm health and the workplace in a variety of ways.

Alcohol

Alcohol is a central nervous system depressant that acts like a poison if used in large quantities. Each year the lives of tens of thousands of Americans are shortened or ended by alcohol misuse.

Alcohol quickly reaches the brain after drinking. It impairs self-control and other learned behaviors. This loss of self-control can lead to aggressive driving (or overly cautious driving), as well as the other kinds of aggressive behaviors associated with drinking. Even small doses of alcohol, i.e. a single drink, can harm driving performance. In large doses, alcohol significantly impairs coordination, memory and judgment.

Over time, alcohol misuse damages the liver, the heart, the digestive system and can cause permanent brain damage. On average, alcoholics shorten their life span by about 10 years. Alcohol misuse harms the ability to think clearly, harms judgment and can affect the ability to get along with and work constructively with co-workers and customers. Alcoholics often have attendance and work performance problems and get fired because of the consequences of alcohol misuse. Because of its adverse effects on coordination, reflex time, vision, driving

ability, judgment and the ability to evaluate and quickly process information, alcohol is especially dangerous for drivers of commercial motor vehicles.

A small glass of wine, a can of beer and a one and one-half ounce shot of liquor all contain about the same amount of alcohol. It takes the body about one hour to metabolize and eliminate each "drink" of alcohol. Coffee, exercise and cold showers do not speed up this process or magically produce sobriety. While individuals differ greatly, each drink on an empty stomach by an average-sized adult male may lead to an alcohol concentration of about .02. Thus, drinking more than two drinks raises a serious risk of having an alcohol concentration more than DOT rules, especially for people with low body weights. Any drinking while on duty or during the 4 hours before working violates DOT rules.

Cocaine

Cocaine is a powerful stimulant that can be inhaled up the nose, injected or smoked. It greatly increases heart rate and blood pressure. Partly because of its effects on the circulatory system, cocaine use can lead to seizures. Every time cocaine is used, there is some unquantifiable risk of a fatal stroke or heart attack. Cocaine can also cause tremors, convulsions, vomiting and raises body temperature to dangerous levels. Repeated snorting damages nasal tissues, sometimes permanently. Needle use carries risks of infection and overdose.

Initially, cocaine use brings a rush of euphoria and exaggerated overconfidence. Sometimes these effects are so strong that safe driving is impossible. Cocaine wears off in about an hour after it is snorted and in just a few minutes after it is smoked. When it wears off, the user may become depressed, anxious, paranoid and exhausted.

Cocaine users may exhibit rapid mood swings and changes in activity level. They may grind their teeth, repeatedly wash their hands or engage in other compulsive behaviors.

Amphetamines

Amphetamines, also known as "speed," are powerful stimulants that are often abused by truck drivers because they make it easy to stay awake. Amphetamines, however, are dangerous drugs with a high potential for abuse. Amphetamines may also be known as uppers, black beauties, white crosses or dexies.

Use brings feelings of alertness and a loss in appetite. The user may also become very talkative or physically active or feel very strong after ingesting amphetamines. In a few hours however, the amphetamines wear off and restlessness, anxiety, paranoia and headaches set in. In large doses, amphetamines can produce serious toxic effects. The user's blood pressure can rise to the point where strokes or heart attacks occur. Long-term users often have acne, tooth problems and may exhibit symptoms of permanent brain damage.

Marijuana

Marijuana is a hallucinogen that alters the user's sense of time and reduces the user's ability to perform tasks requiring coordination, swift reactions and concentration. Taken in large quantities, marijuana can act like a depressant.

While some people may regard marijuana as harmless, there is evidence its use is unhealthy and dangerous for the driver. Marijuana causes significant increases in blood pressure and pulse rate and, thus, can aggravate or cause heart disease. Marijuana smoke also contains several known carcinogens. Many experts believe that marijuana is unhealthier to smoke than tobacco.

Studies have shown that smoking marijuana affects the ability to perform tasks like driving, which require both thinking and motor skills, for at least 24 hours. Users, however, often believe that all the impairing effects of smoking have worn off after 4 to 6 hours. Marijuana significantly impairs short-term memory and can harm the user's ability to concentrate or plan for and achieve long-term goals. There is also significant evidence that marijuana harms the reproductive systems of men and women and is dangerous for children and non-smokers who live with the user.

Opiates

Opiates are a class of narcotics and sedatives derived from the opium poppy plant. Heroin is the strongest opiate. Heroin use has been increasing in recent years because of the availability of cheap, strong heroin from Asia. This new stronger heroin can be smoked or snorted. Heroin can also be injected using needles.

Morphine and codeine are opiates that are often used to relieve pain or induce sleep. However, they can be stolen from hospitals or pharmacies and abused.

Opiate misuse causes several health problems. Because of variations in dosages and strength, heroin use carries a risk of overdose and death. Addicts who use needles also risk contracting AIDS or hepatitis. Heroin is often contaminated with other drugs or toxins or combined with other narcotics.

Opiate use slows down and depresses several body functions, including brain functioning. Heroin users may act sleepy or euphoric for a while and then become anxious or irritated after the heroin wears off. Heroin users tend to have several related health problems and tend to also abuse alcohol and tobacco. Together, these drugs and the unhealthy lifestyles of heroin users result in decreased life expectancy.

PCP

Phencyclidine, or PCP, is also called angel dust or dust. PCP is an extremely dangerous hallucinogen that has unusual and unpredictable side effects. It was developed as an anesthetic in the late 1950's and used for a while as a tranquilizer both for humans and animals. Because of its dangers, it now has no legal uses and is no longer legally manufactured. Rather, PCP is manufactured in underground laboratories. It often contains dangerous adulterants but is very dangerous all by itself.

PCP can produce violence and bizarre behavior in anyone who uses it. Occasionally, PCP users attack nurses and policemen or jump out of windows because they believe they can fly. PCP somehow scrambles the brain's internal stimuli and seriously changes how users feel, see and deal with their environment.

In low doses, PCP produces a feeling of numbness. Increased doses produce excitement, confusion and delirium. The user's body may become rigid or go into convulsions. Routine activities like driving become dangerous and unpredictable.

Users may walk with strange uncoordinated steps. PCP users may have a blank stare, sweat heavily, have thick slurred speech or engage in some of the violent and bizarre behaviors mentioned above.

Otsego County Bus System Acknowledgement of Receipt of Policy

I hereby acknowledge that I have received, read, and understand my Company's Drug-Free Workplace Program Policy required by the United States Department of Transportation (DOT) regulations. I understand that I am subject to and must adhere to the DOT regulations, and must abide by the terms of OCBS's Policy as a condition of employment.

I understand that during my employment I may be required to submit to drug and/or alcohol tests based on the United States Department of Transportation regulations as directed by OCBS. I agree to comply with OCBS's Policy on drugs and/or alcohol and understand failure to comply is grounds for disciplinary action, up to and including termination, in addition to any action required by DOT regulations.

I also understand that refusal to submit to a controlled substances or alcohol test is a violation of DOT regulations, as well as OCBS's Policy, and may result in disciplinary action, including but not limited to suspension (with or without pay) or termination of employment, in addition to action required by DOT regulations. I further understand the consequences related to controlled substances use or alcohol misuse as prohibited by Company's Policy.

I understand the laboratory test results will be released in accordance with OCBS Policy to the selected Medical Review Officer (MRO). In doing so, I understand that I will be given an opportunity to discuss a positive drug test result with the MRO before the result is reported to OCBS as a verified positive test result. Furthermore, I authorize the release of the results of a saliva or breath alcohol test by a certified technician to OCBS.

I acknowledge that the provisions of OCBS's Drug-Free Workplace Program Policy are part of the terms and conditions of my employment, and that I agree to abide by them.

**THE UNDERSIGNED STATES THAT HE OR SHE HAS READ THE FOREGOING
ACKNOWLEDGMENT AND UNDERSTANDS THE CONTENTS THEREOF.**

Employee Name: _____ Date: _____

Employee Number: _____

Employee Signature: _____

Company Name: _____

RESOLUTION NO. OCR 17-04
AUTHORIZING RESOLUTION
OTSEGO COUNTY BOARD OF COMMISSIONERS
April 25, 2017

WHEREAS, the Otsego County Board of Commissioners is the owner of a property located at 1725 Shallow Shores Drive, Gaylord, Michigan 49735 and has a mortgage recorded in the office of the Register of Deeds for Otsego County Michigan, in Liber 1162, Pages 488-501 in the name Helen V. Edwards, a single woman and

WHEREAS, said Mortgage has been paid in full; now, therefore, be it

RESOLVED, that Otsego County hereby issues a DISCHARGE OF MORTGAGE to Helen V. Edwards, a single woman and be it further

RESOLVED, that the Otsego County Administrator, on behalf of the Otsego County Board of Commissioners, be authorized to sign said document.

OCR 17-05
Proclaiming National Police Week & Police Memorial Day
OTSEGO COUNTY BOARD OF COMMISSIONERS
April 25, 2017

- WHEREAS**, The Congress of the United States of America has designated the week of May 14th through May 20th, 2017 to be dedicated as "NATIONAL POLICE WEEK" and May 15th of each year to be "NATIONAL PEACE OFFICERS MEMORIAL DAY"; and
- WHEREAS**, there are approximately 900,000 law enforcement officers serving in communities across the United States, including the dedicated members of the Otsego County Sheriff's Department; and
- WHEREAS**, there have been 15,548 assaults against law enforcement officers in 2015, resulting in approximately 14,453 injuries; and
- WHEREAS**, since the first recorded death in 1791, more than 20,000 enforcement officers in the United States have made the ultimate sacrifice and been killed in the line of duty, including 3 members of the Otsego County Sheriff's Department; and
- WHEREAS**, 394 new names of fallen heroes are being added to the National Law Enforcement Officers Memorial this spring, including 143 killed in 2016 and 251 officers killed in previous years; and
- WHEREAS**, the service and sacrifice of all officers killed in the line of duty will be honored during Washington, DC's National Law Enforcement Officers Memorial Fund's 29th Annual Candlelight Vigil, on the evening of May 13, 2017; and
- WHEREAS**, the Candlelight Vigil is part of National Police Week, which takes place this year on May 14th through 20th; Otsego County's event will take place on Monday, May 15th; and
- WHEREAS**, May 15th is designated as Peace Officers Memorial Day, in honor of all fallen officers and their families and U.S. flags should be flown at half-staff; and
- WHEREAS**, the members of law enforcement agencies protect life and property throughout the County of Otsego and play an essential role in safeguarding the rights and freedoms of our citizens; and
- WHEREAS**, the County of Otsego desires to honor the valor, service and dedication of its own Sheriff Deputies, especially those who have given their lives in the line of duty; and
- WHEREAS**, the County of Otsego further desires to recognize and appreciate the duties, hazards, and sacrifices of law enforcement personnel; and
- WHEREAS**, the Board of Commissioners calls upon the citizens of Otsego County to take a moment on May 15th, to remember those fallen officers who made the ultimate sacrifice for their fellow man; now, therefore, be it
- RESOLVED**, that we proclaim the week of May 14th to May 20th to be "POLICE WEEK" and call upon all our citizens in this community to especially honor and show our sincere appreciation for the Sheriff Deputies of this County by deed, remark and attitude; and be it further
- RESOLVED** that the flags be flown at half-staff on May 15th during Otsego County's ceremony as well as over the weekend on May 14th in honor of Deputy Carl L. Darling, Jr., who gave his life in the line of duty on May 3, 1986; Sergeant Larry C. Washburn, who died while on duty on May 15, 1994 and Deputy John K. Gunsell, who died in the line of duty on September 12, 2004.

PURCHASE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is entered into on this _____ day of _____, 2017 by and between the Sellers and Purchasers, both hereinafter defined, whereby the Sellers agree to sell and Purchasers agree to buy the Property, hereinafter defined, upon the terms, conditions and provisions set forth below.

1. PARTIES. Otsego County, MI ("Sellers")

Sellers' Address:

PURCHASER(S): Lake Development of Gaylord, LLC (Resident Agent:
Lawrence A. Platte)

PURCHASERS' ADDRESS: P.O.Box 7
Gaylord, Michigan 49734

2. PROPERTY. All the real estate, personal property and improvements situated in the City of Gaylord, County of Otsego, State of Michigan, more specifically described as:

Parcel 1: A parcel of land on part of the NW ¼ of Section 34, T31N-R3W, City of Gaylord, Otsego County, MI, being further described as: Commencing at the West ¼ corner of said Section 34; thence S89°44'52"E, 330.33' along the E-W ¼ line of said Section 34 to the POINT OF BEGINNING; thence N00°36'02"E, 428.02'; thence S89°44'17"E, 509.32'; thence S00°37'31"W, 427.93' to the E-W ¼ line of said Section 34; thence N89°44'52"W, 509.13' along said E-W ¼ line of said Section 34 to the Point of Beginning, containing 5.0 acres more or less.

Parcel 2: A parcel of land on part of the NW ¼ of Section 34, T31N-R3W, City of Gaylord, Otsego County, MI, being further described as: Commencing at the W ¼ corner of said Section 34; thence S89°44'52"E, 330.33' along the E-W ¼ line of said Section 34; thence N00°36'02"E, 428.02' to the POINT OF BEGINNING; thence continuing N00°36'02"E, 403.16'; thence S89°19'22"E, 541.91'; thence S00°37'31"W, 409.15'; thence N89°44'17"W, 32.43'; thence N00°37'31"E, 9.93'; thence N89°44'17"W, 509.32' to the Point of Beginning, containing 5.0 acres more or less. And being subject to and together with a 66' wide easement for ingress, egress and public utilities, whose centerline is described as: Commencing at the West corner

of said Section 34; thence N00°36'45"E, 833.63' to the Point of Beginning; thence S89°19'22"E, 1257.94' to the Point of Ending of this easement (Please see attached Exhibit "A");

And

All of Lot 1 as shown on attached Exhibit "B";

all of the above hereinafter collectively called the "Property".

Seller shall retain any and all mineral rights in the "Property".

Seller shall transfer to Purchaser any and all splits that may be available for said "Property".

3. PURCHASE PRICE.

A. The **Total Purchase Price** for the Property is \$100,000.00 payable in U.S. dollars by Purchasers as follows:

(1) **Purchase Price** in the amount \$100,000.00 is due at the time of the closing of this transaction and must be paid by Purchasers' certified personal check or official cashier's check from a bank, made payable to the direct order of Sellers or such other payee(s) as Sellers may hereafter designate in writing. In lieu of accepting checks, Sellers reserve the right to require Purchasers to pay the balance of the Purchase Price by wire transfer to a bank account designated by Sellers.

4. REPRESENTATION, WARRANTIES AND COVENANTS OF PURCHASERS/SELLERS

Purchasers and Sellers represent, warrant and covenant as follows:

A. Purchasers are knowledgeable purchasers and have reviewed the documents provided and/or had the documents reviewed by their own consultants;

B. Purchasers shall have thirty (30) days from the date of signing to have property inspections done, including structural, electrical, mechanical and any and all other inspections deemed necessary by the Purchasers. Purchasers may void this Agreement in relying solely on their own inspections and examinations of the Property. If Purchasers are satisfied with the inspections and proceeds with sale of the Property it is purchased in "AS IS, WHERE IS" condition. Purchasers further acknowledge that having been given the opportunity to inspect the Property, Purchasers are relying solely on their own investigation of the Property and not on any information provided or to be provided by Sellers and agree to accept the Property and waive all objections or claims against Sellers arising from or related to the Property or to any Hazardous Materials on the Property except for a breach of any representations or warranties set forth in this Agreement or any of the Closing documents. Purchasers further

acknowledge that any information provided or to be provided with respect to the Property was obtained from a variety of sources and that Sellers have not made any independent investigation or verification of the information and make no representations as to the accuracy, truthfulness, or completeness of the information.

C. Purchasers acknowledge that, except as otherwise set forth in this Agreement or in any of the Closing documents, Sellers have not made, do not make, and specifically negate and disclaim any and all representations, warranties, promises, covenants, agreements, or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning, or with respect to (i) the value, nature, quality, or condition of the Property, including, without limitation, the water, soil, and geology or structural elements, or foundations; (ii) the suitability of the Property for any or all of Purchasers' activities and uses; (iii) the compliance of or by the Property with any laws, codes, roles, ordinances, regulations, orders, decrees, or other requirement of any applicable governmental authority or body (collectively, the "Laws"), including, without limitation, compliance with any applicable zoning ordinance; (iv) the habitability, marketability, profitability, or fitness for a particular purpose of the Property; (v) existence in, on, under, or over the Property of any Hazardous Materials (defined below); or (vi) any other matter with respect to the Property. Additionally, no person acting on behalf of Sellers is authorized to make, and by execution of this Agreement Purchasers acknowledge that no person has made, any representation, agreement, statement, warranty, guaranty, or promise regarding the Property, and no representation, warranty, agreement, guaranty, statement, or promise, if any, made by any person acting on behalf of Sellers shall be valid or binding on Sellers unless expressly set forth in this Agreement or in any of the Closing documents. "Hazardous Materials" means any substance that is or contains (A) any "hazardous substance" as now or hereafter defined in §101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended (42 USC 9601 et seq.), or any regulations promulgated under CERCLA; (B) any "hazardous waste" as now or hereafter defined in the Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.) or regulations promulgated under RCRA; (C) any substance regulated by the Toxic Substances Control Act (TSCA) (15 USC 2601 et seq.); (D) gasoline, diesel fuel, or other petroleum hydrocarbons; (E) asbestos and asbestos-containing materials in any form, whether friable or nonfriable; (F) polychlorinated biphenyls; (G) radon gas; and (H) any additional substances or materials that are now or hereafter classified or considered to be hazardous or toxic under any Laws.

C. There are no actions, suits, claims or other proceedings pending or, to the best of Purchasers' knowledge, contemplated or threatened against Purchasers that could affect Purchasers' ability to perform its obligations under this Agreement; and

D. Purchasers have sufficient funds available to consummate the Closing of the transaction described in this Agreement.

E. Purchasers shall submit \$5,000 deposit to Lighthouse Title within 2 business days of acceptance of offer along with Proof of Funds. Deposit will be refunded if Seller breaches and/or cannot comply with specific terms of Agreement.

F. Purchase is contingent upon the Zoning Board approving re-zoning of the property to R-2 or commercial.

G. Purchase is further contingent upon the City granting site approval of the property.

5. **EVIDENCE OF TITLE.** As evidence of title, Sellers agree to furnish Purchasers as soon as possible, a complete Abstract or Title and Tax History, certified to a date later than the acceptance hereof, and issued by Lighthouse Title. In lieu thereof, a commitment for and Policy of Title Insurance issued by said Corporation in an amount not less than the purchase price, bearing date later than the acceptance hereof and guaranteeing the title in the condition required for performance of this agreement, will be accepted.

6. **TIME OF CLOSING/PURCHASERS' DEFAULT.** If this offer is accepted by the Sellers and if title can be conveyed in the condition required hereunder, and the Property properly re-zoned, the Purchasers agree that closing will occur on or before August 31, 2017. In the event of a default under this Agreement by Purchasers, Sellers may, as their sole and exclusive remedy, elect to terminate this Agreement. Notwithstanding anything in this Agreement to the contrary, in the event of such a termination, the deposit shall be forfeited by Purchasers.

7. **TITLE OBJECTIONS.** If objection to the title is made in the commitment for title insurance or based upon written opinion of Purchasers' attorney that the title is not in the condition required for performance hereunder, the Sellers, at Sellers sole option, shall have 30 days from the date they are notified in writing of the particular defects claimed, either (1) to remedy the title, or (2) to obtain title insurance as required above, or (3) to refund the deposit in full termination of this agreement if unable to remedy the title or obtain title insurance. If the Sellers remedy the title or shall obtain such commitment for a title policy within the time specified, the Purchasers agree to complete the sale within 10 days of written notification thereof. If the Sellers are unable to remedy the title or obtain title insurance within the time specified, the deposit shall be refunded forthwith in full termination of this Agreement.

8. **POSSESSION.** The Sellers shall deliver and the Purchasers shall accept possession of said property at closing.

9. **PAYMENT OF FEES AND CLOSING COSTS.** Sellers and Purchasers shall equally pay all closing fees and all costs associated with recording the required deed and any loan documents. The parties agree that the Title Company will prepare the required deed and closing documents necessary to complete this transaction, that Lighthouse Title will conduct

the closing, and that the cost of same, together with any document preparation fee, excepting as to loan documents, will be paid by Purchasers and Sellers equally. At closing, the parties will execute closing statements prepared by the Lighthouse Title and all other reporting documents as required by the title company.

10. TAXES AND PRORATED ITEMS. There will no tax proration as this is a county-owned parcel and taxes are not assessed. All future taxes are responsibility of Purchasers.

11. NOTICES. All notices, elections, consents, demands and communications (collectively called "Notices" or individually called "Notice") shall be in writing and delivered personally or by registered or certified mail return receipt requested, postage prepaid, express mail or mailgram and, if sent to Purchasers, addressed to Purchasers at Purchasers' address and, if sent to the Sellers, addressed to the Sellers at Sellers' address as stated in this Agreement. Either party may, by written notice to the other, change the address to which notices are to be sent. Unless otherwise provided herein, all notices shall be deemed given when personal delivery is effected or when deposited in any branch, station or depository maintained by the U.S. Postal Service the express mail service or overnight courier within the United States of America, except that a Notice of a change of address shall be deemed given when actually received.

12. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties as to the subject matter hereof and supersedes all prior understandings and agreements. There are no representations, agreements arrangements or understandings, oral or written, between the parties relating to the subject matter contained in this Agreement which is not fully expressed or referred to herein.

13. INTEREST. It is hereby acknowledged by Sellers that they collectively and individually are selling their interest in the real property as well as any personal property located on the real property to Lake Development of Gaylord, LLC. Sellers are relinquishing any and all ownership interest they may have in the Property.

14. SUCCESSORS AND ASSIGNS. The provisions of this Agreement shall bind and inure to the benefit of Purchasers and Purchasers' heirs, legal representatives, successors and assigns and shall bind and inure to the benefit of the Sellers and their successors and assigns.

14. JOINT PURCHASERS. The term "Purchaser" shall be read as "Purchasers" if more than one person is the Purchaser of the Property, in which case their obligations shall be joint and several.

15. SEVERABILITY. If any clause or provision of this Agreement is held to be invalid or unenforceable by any court of competent jurisdiction as against any person or under any circumstances, the remainder of this Agreement and the applicability of any such clause or provision to other persons or circumstances shall not be affected thereby. All other clauses or

provisions of this Agreement, not found invalid or unenforceable shall be and remain valid and enforceable.

16. **TIME.** Time is of the essence of this Agreement.

17. **STRICT COMPLIANCE.** Any failure by either party to insist upon strict performance by the other party of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions hereof, irrespective of the number of violations or breaches that may occur, and each party, notwithstanding any such failure, shall have the right thereafter to insist upon strict performance by the other of any and all of the provisions of this Agreement.

18. **GOVERNING LAW.** The provisions of this Agreement shall be governed by, and construed and enforced in accordance with the laws of the state of Michigan.

19. **NO ORAL CHANGES.** This Agreement cannot be changed or any provision waived orally. ANY CHANGES OR ADDITIONAL PROVISIONS OR WAIVERS MUST BE SET FORTH IN A RIDER ATTACHED HERETO OR IN A SEPARATE WRITTEN AGREEMENT SIGNED BY THE PARTIES.

20. **EXHIBITS.** All Exhibits described herein and attached hereto are incorporated herein by this reference for all purposes.

21. **NO PRESUMPTION REGARDING DRAFTING.** It is acknowledged and presumed that the substance and form of this Agreement have been fully reviewed by the parties hereto and approved as to form by their respective counsel. It is further acknowledged and agreed that no presumption shall exist against either party hereto by virtue of this Agreement being considered to have been drafted by counsel for either party.

22. **COUNTERPARTS.** This Agreement may be executed in multiple counterparts all of which when taken together shall constitute an Agreement for the sale of Real Estate under the laws of this State. It is binding upon and inures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be canceled, modified or amended only by a written instrument executed by both the Seller and the Purchaser.

23. **COUNTERPART FACSIMILE EXECUTION.** For purposes of executing this Agreement, a document signed and transmitted by facsimile machine shall be treated as an original document. The signature of any party thereon shall be considered as an original signature, and the document transmitted shall be considered to have the same binding legal effect as an original signature on an original document. At the request of either party, any facsimile document shall be re-executed by both parties in original form. No party hereto

may raise the use of a facsimile machine or the fact that any signature was transmitted through the use of a facsimile machine as a defense to the enforcement of this Agreement or any amendment executed in compliance with this Paragraph. This Paragraph does not supersede the requirements of the "Notices" Paragraph.

24. **FIRPTA.** Sellers represent and warrant to Purchasers that Sellers are not "foreign persons", as that term is defined for purposes of the Foreign Investment in Real Property Tax Act, Internal Revenue Code ("IRC") Section 1445, as amended, and the regulations promulgated thereunder (collectively "FIRPTA").

25. **CONSULT YOUR ATTORNEY. THIS IS INTENDED TO BE A LEGALLY BINDING AGREEMENT. READ IT CAREFULLY. NO REPRESENTATION OR RECOMMENDATION IS MADE BY PURCHASERS, OR THEIR AGENTS OR EMPLOYEES AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS DOCUMENT OR THE TRANSACTION RELATING THERETO. CONSULT YOUR ATTORNEY BEFORE SIGNING.**

IN WITNESS HEREOF, Purchasers and Sellers agree that the Date of this Agreement shall be the date the Sellers execute this Agreement.

SELLERS:

PURCHASERS:

By:
Otsego County
Its:
Dated:

By: Lawrence A. Platte
Lake Development of Gaylord, LLC
Its: Resident Agent
Dated:

OCR 17-06
Approval of the
FY 2018 NE MI Community Corrections Grant Application of the
Northeast Michigan Council of Governments
OTSEGO COUNTY BOARD OF COMMISSIONERS
April 25, 2017

WHEREAS, the Northeast Michigan Council of Governments (NEMCOG) serves as the Fiscal Agent and Program Manager for the Northern Michigan Community Corrections Advisory Board (NMCCAB) and the Sunrise Side Community Corrections Advisory Board (SSCCAB); and

WHEREAS, the Office of Community Corrections (OCC) of the Department of Corrections (DOC) requested the NMCCAB and SSCCAB to be combined; and

WHEREAS, NMCCAB and SSCCAB agreed to combine and will now be called Northeast MI Community Corrections Advisory Board (NEMCCAB); and

WHEREAS, this County is a member of either the NMCCAB or SSCCAB and strongly desires to continue to participate with Community Correction's Programs and Services; and

WHEREAS, NEMCOG has worked with the OCC to develop a FY2018 Community Corrections Grant Application for the NEMCCAB; and

WHEREAS, the FY2018 Community Corrections Grant Application has been prepared by NEMCOG in the amount of \$307,200.00 for Community Corrections Programs and Services in the counties of: Alcona, Alpena, Cheboygan, Crawford, and Otsego; and

WHEREAS, the Northeast Michigan Community Corrections Advisory Board, has approved this Grant Application and recommends its approval by the member counties; now, therefore, be it

RESOLVED, that Otsego County hereby approves the Northeast Michigan Community Corrections Advisory Board, FY2018 Community Corrections Grant Application in the annual amount of \$307,200.00 for Programs and Services.