**Positive DOT Alcohol or Controlled Substances Test Result Notice, LMC Model Form**

*Helpful background information on this model may be found in* [*Drug and Alcohol Testing Toolkit for the City Workplace*](https://www.lmc.org/resources/drug-and-alcohol-testing-toolkit-for-the-city-workplace/)*.*

**This icon marks places where the city must customize the model. They offer additional provisions, optional language, or comments for your consideration. The icon, and language you do not wish to include, should be deleted from this model before use. Make other changes, as needed, to customize the model for your city.**

**City of** **\_\_\_\_\_\_\_**

**Positive Test Results Notification Form**

**HAND DELIVERED**

To: **\_\_\_\_\_\_\_**

From: **\_\_\_\_\_\_\_** *[City Representative]*

 **\_\_\_\_\_\_\_** *[Title]*

 City of **\_\_\_\_\_\_\_**

Date: **\_\_\_\_\_\_\_**

RE: DOT Positive Reasonable Suspicion Test Results

On **\_\_\_\_\_\_\_** *[insert date],* you were tested for **\_\_\_\_\_\_\_** *[insert either controlled substances or alcohol]* in accordance with the reasonable suspicion requirements under the City’s **Controlled Substances and Alcohol Testing for Commercial Drivers – DOT Policy.** **\_\_\_\_\_\_\_** *[Insert city function, e.g. Human Resources]* received the test results, which indicated you had a confirmed positive test result for **\_\_\_\_\_\_\_** *[insert either alcohol or controlled substances]*.

*[For an* ***alcohol positive result*** *use this language]:*

You were provided with a copy of the test results immediately after your test, but I have also attached a copy of the test form for your records.]

*[For a* ***controlled substances positive result*** *use this language]:*

I have received the results of the test. The results indicate that you have a positive test result for **\_\_\_\_\_\_\_** *[insert name of controlled substance*]. Attached is a copy of the test results. You will be provided with an opportunity to explain the positive test result if you so desire.]

The laboratory has conducted two tests: 1) an initial screening test, and 2) a confirmatory test. Both tests were positive. Dr. **\_\_\_\_\_\_\_** *[insert Medical Review Officer’s name]* has confirmed the positive test results.]

*Confirmatory Retest*

Dr. **\_\_\_\_\_\_\_** *[insert Medical Review Officer’s name]* has discussed with you your rights regarding a retest of the split specimen which was collected on **\_\_\_\_\_\_\_** *[insert date of collection]*. The retest must be conducted in accordance with the split specimen procedures as required under 49 C.F.R. part 40. The retest would be at your expense. The retest is available to you, and is at your option.

If you do not request a confirmatory retest within 72 hours from **\_\_\_\_\_\_\_** [insert date calculated from date of this notice] or if the confirmatory retest is positive, the following steps will be taken:

*[Describe actions to be taken.]*

*[For* ***either alcohol or controlled substance notice****, Family and Medical Leave Act provisions may be applicable. If so, use this language]:*

You are hereby placed on provisional Family Medical Leave, if you are eligible for this benefit. This provisional leave is contingent upon the completion of Family Medical Leave certification paperwork. You may use available vacation, compensatory time and sick leave during this time.

In accordance with Federal Department of Transportation Regulations, any employee requiring a Commercial Driver’s License (CDL) to perform the essential functions of their employment that tests positive for a controlled substance, or for an alcohol test of 0.04 or higher, must undergo an evaluation by a Substance Abuse Professional (SAP) and Return-to-Duty testing before being allowed to return to work. You will find a list of qualified SAPs attached to this notice. The counseling and treatment program will be at your own expense or pursuant to the City’s health benefit program.

You must provide the City with written documentation of successful completion of any recommended counseling or treatment program prior to returning to work. If you successfully complete the recommended program and receive a negative test report at the completion of the program, you will be reinstated as an employee. If you fail to complete counseling or treatment as evidenced by withdrawal from the program before its completion, you will be subject to termination from City employment.

Following completion of a counseling or rehabilitation program, the City will require you to submit to Return-to-Duty testing. Your test result will require **\_\_\_\_\_\_\_** *[insert “a negative controlled substances test result”* and/or “*an alcohol concentration of less than 0.02” as applicable.]* If you receive a positive controlled substance or alcohol test result, the City will begin termination proceedings per the City's termination policies and respective collective bargaining agreements.

When you return to work, you will be subject to additional follow-up testing in accordance with federal law and City testing policies. You will be responsible for the return-to-duty and follow-up testing expenses. If you choose not to follow requirements as outlined in this letter, you will be terminated from employment effective the date of the receipt of the confirmed positive, adulterated or substituted controlled substance or alcohol test result.

The City will maintain your test result reports in accordance with the Minnesota Data Practices Act and DOT regulations. In accordance with the Federal Motor Carrier Safety Administration’s (FMCSA) Commercial Driver’s License (CDL) Drug and Alcohol Clearinghouse reporting requirements, beginning January 6, 2020, the City will report the following information to the Clearinghouse within three business days:

* A DOT alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
* A negative DOT return-to-duty test result;
* The driver’s refusal to submit to a DOT test for drug or alcohol use;
* An “Actual knowledge” violation by a CDL driver; and
* A report that the driver successfully completed all DOT follow-up tests as ordered by an SAP.

Additionally, the City will maintain your test results in your driver’s file retained in the City’s personnel records.

The **\_\_\_\_\_\_\_** *[insert name of city function, e.g. Human Resources Division]* is available to assist you any way we can. We wish you every success and look forward to your return to work. If you have any questions, I encourage you to contact me at **\_\_\_\_\_\_\_** *[insert phone number].*

Attachments:

 1 – Copy of DOT Alcohol Testing Form

 2 – SAP Resource Contact List Form

 3 – Authorization for Release of Confidential Information

 4 – FMLA forms (as applicable)

Employee Acknowledgement:

I acknowledge that I have received this letter and the enclosures indicated above.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name