



# BOARD OF COUNTY COMMISSIONERS FOR COLUMBIA COUNTY, OREGON

Wednesday, September 19, 2018  
10:00 a.m. - Room 308

## BOARD MEETING AGENDA

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### CALL TO ORDER/FLAG SALUTE

### MINUTES:

Minutes, September 12, 2018 Board meeting.  
Minutes, September 12, 2018 Work Session

### VISITOR COMMENTS - 5 MINUTE LIMIT

### CONSENT AGENDA:

- (A) Ratify the Select to Pay for the week of 09.17.18.

### AGREEMENTS/CONTRACTS/AMENDMENTS:

- (B) Rescind prior approval of C13-2018 - ODOT Agreement #32544 and approve revised C13-2018 - ODOT Agreement #32544.

### DISCUSSION ITEMS:

### COMMISSIONER HEIMULLER COMMENTS:

### COMMISSIONER MAGRUDER COMMENTS:

### COMMISSIONER TARDIF COMMENTS:

*Pursuant to ORS 192.640(1), the Board of County Commissioners reserves the right to consider and discuss, in either open session or Executive Session, additional subjects which may arise after the agenda is published.*

**INTERGOVERNMENTAL AGREEMENT**  
**MCSEnforcement Data**  
**Motor Carrier Transportation Division (MCTD)**  
**And**  
**Columbia County Sheriff's Department**

**THIS AGREEMENT** is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, Motor Carrier Transportation Division, hereinafter referred to as "MCTD;" and Columbia County, acting by and through the Columbia County Sheriff's Office, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

**RECITALS**

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, state agencies may enter into agreements with units of local government for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
2. MCTD utilizes technology to improve operating efficiencies of state and local agencies and trucking industry operations in Oregon. MCTD implemented web based technology that provides Agency enforcement staff real time information regarding a motor carrier's compliance status with size and weight regulations. Agency will utilize web based technology to assist enforcement activity. The Parties share mutual goals of improving highway safety and protecting infrastructure.

**NOW THEREFORE**, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

**TERMS OF AGREEMENT**

1. Under such authority, MCTD and Agency agree to MCTD providing Agency access to MCSEnforcement data (i.e. Enforcer and OSCAR data). In addition, MCTD will issue a PIN number to Agency for said data. Agency shall provide MCTD with all scale numbers for fixed and portable sites and shall utilize the information made available under this Agreement to perform size and weight enforcement activity on Agency roads, and shall submit "weight data" collected to MCTD, hereinafter referred to as "Services." Agency shall provide to MCTD authorized user information.
2. Since the records Agency requests contain sensitive and confidential information Agency is advised that the information must be protected from further disclosure. Further ORS 825.517 defines this information as not public and State will release it to Agency under the provision of ORS 825.517 (3). **See Exhibit A for specific instructions and requirements.**

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3. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate ten (10) calendar years following the date all required signatures are obtained.

## **AGENCY OBLIGATIONS**

1. Agency shall be issued a PIN number to access MCTD web site and shall ensure the security of the pin.
2. Information obtained by Agency pursuant to this Agreement shall be used by Agency only for the purposes of performing its duties to size and weight enforcement. Agency shall allow only its authorized employees to access MCTD records to obtain information necessary to perform functions in pursuit of the aforementioned goals. No other use, sale or access by unauthorized persons shall be allowed. No individual or other entity shall access or otherwise utilize any information contained in the database for any purpose not permitted or authorized by the State of Oregon acting through MCTD.
3. Agency shall immediately notify MCTD of any breach or potential breach of security of MCTD data obtained by Agency pursuant to this Agreement. For the purpose of this agreement, a breach of security is the unauthorized release or inadvertent public exposure of data in any format that has potential to materially compromise security, confidentiality or integrity of personal information maintained by person. Agency will bear the expense of any notification to the entities impacted by breach or potential breach if MCTD in its judgement determines that notification is required by statute or prudence; and, Agency will bear the expense of any credit monitoring by impacted parties resulting from a security breach to MCTD data that is caused by Agency users or systems.
4. Agency shall provide MCTD with all county scale numbers for fixed and portable sites.
5. Agency shall utilize the information made available to it under this Agreement to perform size and weight enforcement on Agency roads, and shall submit weigh data collected to MCTD.
6. Parties hereto are subject to the Oregon Public Records Law, ORS 192.41 through 192.55, and ORS 802.179. Parties authority to maintain the confidentiality of records and documents is subject to and limited by law.
7. The State acting through ODOT and Agency are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, or is intended to give, or shall be construed to give or provide, any benefit or right to third persons.

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8. Agency, its employees, representatives and agents shall not be eligible for any compensation, social security, unemployment insurance or workers compensation benefits from the State under, or by reason of his Agreement.
9. Failure of the parties to enforce any provisions of this Agreement shall not constitute a waiver by the parties of that or any other provisions.
10. Agency and State each shall be responsible, to the extent provided by the Oregon Tort Claims Act (ORS 30.260-30.300) and the Oregon Constitution, only for the acts, omissions or negligence of its own officers, employees or agents.
11. Agency's Project Manager for this Project / Single Point of Contact is Jon Kinsel, Columbia County Sheriff's Department, 901-Port Avenue, St Helens, OR 97501 Phone: 503-397-2511, Email: [Jon.kinsel@co.columbia.or.us](mailto:Jon.kinsel@co.columbia.or.us) or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.
12. Agency shall provide to MCTD a list of all user staff authorized to access the data system and be issued an access PIN Number. Agency shall provide to MCTD staff user information, including the following:
  - A. Name
  - B. Address
  - C. Phone #
  - D. Badge #

## **STATE/MCTD OBLIGATIONS**

1. MCTD shall provide PIN number to Agency for access to MSCEnforcement data.
2. MCTD's Project Manager for this Project / Single Point of Contact is W. Edward Scrivner, Manager Fleet Motor Carrier Services, 3930 Fairview Industrial Dr. SE, Salem, OR 97302 Phone: 503-378-6071 Email: [w.e.scrivner@odot.state.or.us](mailto:w.e.scrivner@odot.state.or.us) or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

## **GENERAL PROVISIONS**

1. This Agreement may be terminated by either Party upon thirty (30) days' notice, in writing and delivered by certified mail or in person.
2. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by

a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

3. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
4. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
5. Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
6. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
7. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No

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waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

**THE PARTIES**, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

**Signature Page to Follow**

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**Columbia County Sheriffs Department,**  
**by and through its designated officials**

By \_\_\_\_\_

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_

Date \_\_\_\_\_

**APPROVED AS TO LEGAL**  
**SUFFICIENCY** (If required in Agency  
Process)

By \_\_\_\_\_

Counsel

Date \_\_\_\_\_

**Columbia County Agency Contact**  
Columbia County Sheriff's Department  
Jon Kinsel  
901 Port Avenue  
St. Helens, OR 97051  
PH: 503-397-2511  
Email: [Jon.kinsel@co.columbia.or.us](mailto:Jon.kinsel@co.columbia.or.us)

**Additional Agency Contacts Day to Day**  
**Operations:**  
Columbia County Sheriff's Department  
Deputy Bill Goodwin  
901 Port Avenue  
St. Helens, OR 97051  
PH: 503-366-4611  
Email: [Bill.goodwin@co.columbia.or.us](mailto:Bill.goodwin@co.columbia.or.us)

**STATE OF OREGON,** by and through  
**its Department of Transportation**

By \_\_\_\_\_

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_

Date \_\_\_\_\_

**State MCTD Contact**

Philip Grant  
3930 Fairview Industrial Dr. SE  
Salem, OR 97302-1166  
PH: 541-883-5701  
Email: [Phillip.T.Grant@odot.state.or.us](mailto:Phillip.T.Grant@odot.state.or.us)

**Additional MCTD Contact Day to Day**  
**Operation:**  
Gary Pullen  
Field Service Technical Analyst  
3930 Fairview Industrial Drive SE  
Salem, OR 97302  
PH: 503-378-6070  
Email: [Garry.p.pullen@odot.state.or.us](mailto:Garry.p.pullen@odot.state.or.us)

## EXHIBIT A

### ORS 825.517 - Sensitive and Confidential Records

Since the weight-mile tax information requested by Agency contains sensitive and confidential information, State is advising Agency and the City of Portland that the information must be protected from further disclosure. Further, ORS 825.517 defines this information as not public and State releases it to Agency and the City of Portland under the provision of ORS 825.517 (3).

#### ORS 825.517 Certain records not public

(1) The following are not public records unless the public interest requires disclosure in the particular instance:

(a) Reports from motor carriers required to be filed with the Department of Transportation in connection with the imposition or collection of any tax.

(b) Information collected by the department from a motor carrier for the purpose of conducting a tax audit.

(2) A motor carrier to whom the information pertains, or a person who has written permission from the carrier, may inspect information described in subsection (1) of this section.

(3) The department, upon request or as required by law, shall disclose information from the records described in subsection (1) of this section to a government agency for use in carrying out its governmental functions. [1997 c.501 §2]

Agency is required to inform all individuals having access to this information of the sensitive nature of the information. Agency assumes the risk of disclosure once the information has been transmitted and is in the possession of Agency.