



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

October 31, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement (IGA) Between Clackamas County and the Oregon Department of Transportation Related to the Collection and Distribution of Vehicle Registration Fees

Purpose/Outcomes	This agreement with the Oregon Department of Transportation, Driver and Motor Vehicle Division (DMV) is necessary to implement the newly-created vehicle registration fee (VRF) and will allow DMV to collect the fee on behalf of the County.
Dollar Amount and Fiscal Impact	This countywide VRF will raise approximately \$11 million per year with 50% distributed to the County, 40% distributed to cities located in the County and 10% allocated to a strategic investment fund for road transfers and multi-jurisdictional congestion relief projects. As stated in this agreement, DMV will charge an administrative fee of \$0.05 per transaction.
Funding Source	Community Road Fund
Duration	Indefinite
Previous Board Action	December 18, 2018 - Board directed staff to draft an ordinance adopting a countywide vehicle registration fee for public hearing and discussion at two separate business meetings. February 7, 2019 – VRF Ordinance First Reading February 21, 2019 – VRF Ordinance Second Reading and approval
Strategic Plan Alignment	Build a strong infrastructure. Build public trust through good government.
Contact Person	Mike Bezner– 503-742-4651
Contract No.	N/A

BACKGROUND:

In response to a continuing need for a steady, local source of funds to maintain and improve our transportation system, officials from Clackamas County and cities in the county determined that a countywide vehicle registration fee (VRF) is needed. The County's VRF became effective on May 22, 2019.

Prior to fully implementing the adopted VRF, state law requires that the County enter into an intergovernmental agreement (IGA) with the Oregon Department of Transportation, Driver and Motor Vehicle Division (DMV) to address collection and distribution of the fees. The proposed

IGA allows DMV to collect the registration fees on behalf of the County, and directs how distributions are to be made.

- DMV will be required to provide to the County a monthly report of the total amount of registrations subject to the County's ordinance.
- In exchange for DMV collecting the fee on behalf of the County and fulfilling its other obligations under the IGA, the County will pay to DMV an administrative fee of \$0.05 per transaction, the same amount paid by neighboring counties with previously adopted vehicle registration fees.

DMV will begin collecting fees on behalf of the County for those vehicles that are registered, or required to be registered on or after January 1, 2020. Because DMV sends renewal reminders to vehicle owners up to two months in advance of the expiration of an existing registration, and allows those owners to pay the renewal fee in advance to avoid a lapse in registration status, some vehicle owners will see the new fee reflected in their registration materials as soon as November 2019.

With the adoption of this IGA, the County will begin receiving revenue in early 2020. The County has created a new fund – the Community Road Fund – to track the revenue and expenditures related to the new VRF.

Since the County's VRF ordinance has been effective, ODOT has been setting up its system to collect the new registration fee. County staff have been working on this IGA, as well as working with the newly-formed Community Road Fund Advisory Committee that will recommend which capital projects should be constructed with the County's VRF revenue.

This IGA is necessary to ensure that both DMV and the County are in position to begin collection and distribution efforts by January 1, 2020.

RECOMMENDATION:

Staff respectfully requests that the Board approve this Intergovernmental Agreement between Clackamas County and the DMV to implement the newly-created countywide vehicle registration fee.

Respectfully submitted,



Dan Johnson
Director – Department of Transportation and Development

Attachments: Intergovernmental Agreement

**INTERGOVERNMENTAL AGREEMENT
Clackamas County Vehicle Registration Fee Collection**

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, Driver and Motor Vehicle Division, hereinafter referred to as "DMV;" and Clackamas County, acting by and through its elected officials, hereinafter referred to as "County," 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. By the authority granted in ORS 801.040, 801.041, and 803.445(1) DMV shall perform all of the duties, functions, and powers with respect to the administration of laws relating to the collection of county vehicle registration fees on behalf of County.
3. By the authority granted in ORS 802.110(2)(f), the moneys collected by DMV under this Agreement shall be paid to County after the deduction of expenses for collection, transfer and administration of county vehicle registration fees.
4. By the authority granted by County Ordinance No. 01-2019, DMV is authorized to collect a county vehicle registration fee for each Subject Vehicle at the time of registration.

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. EFFECTIVE DATE:

a. The terms of this Agreement shall begin October 1, 2019, and this Agreement may be terminated by either Party upon thirty (30) days' notice, in writing and delivered by certified mail or in person.

2. DEFINITIONS:

a. "County Ordinance" means Clackamas County Ordinance No. 01-2019, relating to imposition of County Registration Fees on Subject Vehicles.

b. "County Registration Fees" means vehicle registration fees established under County Ordinance and imposed on Subject Vehicles for vehicles registered at a residence or business address within County. County Registration Fee amounts are

as set forth in EXHIBIT A, attached hereto and by this reference made a part hereof. County Registration Fees are in addition to DMV Registration Fees.

c. "Merchant Fee" means the fee charged to DMV by a credit or debit card company to process a credit or debit card transaction. DMV is charged a merchant fee each time a customer pays Registration Fees, including County Registration Fees, using a credit or debit card.

d. "Registration" means the initial recording of a vehicle as authorized for use within the State of Oregon pursuant to ORS 803.350.

e. "Registration Renewal" or "Renewal" means an extension of vehicle Registration.

f. "State Registration Fees" means the fees collected under ORS 803.420 upon initial registration or registration renewal of a vehicle authorized to operate for use within the State of Oregon pursuant to ORS 803.350.

g. "Subject Vehicle" means a vehicle described under EXHIBIT A, which is registered or required to be registered at a residence or business address within County and is subject to a County Registration Fee.

3. AUTHORIZATION TO COLLECT AND PAY COUNTY REGISTRATION FEES:

a. Subject to the provisions of this Agreement, DMV agrees to collect County Registration Fees upon receipt of all documents and fees for Registration or Registration Renewal as required under ORS 803.420 and OAR 735-30-0045 for Subject Vehicles and to transfer to County all collected County Registration Fees. County agrees DMV is authorized to collect County Registration Fees and to transfer collected County Registration Fees to County in accordance with the terms and conditions of this Agreement.

COUNTY OBLIGATIONS

1. County is responsible for resolving any disputes from registered owners regarding county of registration. If a registered owner claims an adjacent county has jurisdiction, the county listed in the DMV vehicle record, as shown on the vehicle's registration card or renewal notice, is considered the county of registration for DMV purposes.
2. If County determines, for any reason, that a Subject Vehicle is not registered at a residence or business address within the boundaries of Clackamas County, Oregon, County shall immediately notify DMV in writing of the determination. The notification shall include the date of the determination, an explanation for the determination, the vehicle's registration plate number, and the name and address of the registered owner. If the County determines that a Subject Vehicle is not registered at a residence or business address within the County, and the fees have already been paid, the County is responsible for refunding any such overpayment to the customer.

3. County's Project Liaison for this Agreement is: Diedre Landon, Administrative Services Manager, Department of Transportation and Development, 150 Beavercreek Rd, Oregon City, OR 97045, 503-742-4411, DLandon@clackamas.us, or assigned designee upon individual's absence. County may change its Project Liaison by providing to DMV's Project Liaison notice in writing of any contact information changes during the term of this Agreement.

DMV OBLIGATIONS

1. DMV shall collect vehicle registrations in the amounts specified in Exhibit A.
2. Funding. DMV certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within DMV's current appropriation or limitation of the current biennial budget.
3. Collection of County Registration Fees – Beginning Date. DMV shall begin collecting County Registration Fees for Subject Vehicles that are registered or required to be registered on or after January 1, 2020, and upon receipt of all documents and fees required for Registration or Registration Renewal pursuant to ORS 803.420 and OAR 735-030-0045.
4. Refund of County Registration Fees. DMV shall refund collected County Registration Fees to the registered owner of a vehicle if DMV determines the fees were collected in error and the fees have not been paid to Clackamas County. DMV shall refer customers to Clackamas County if the customer is requesting a refund after fees have been transferred to the County.
5. Transfer of County Registration Fees. Subject to DMV Obligations paragraphs 5 and 6 of this Agreement, DMV shall transfer to an account designated by County all County Registration Fees collected, not later than sixty (60) days following the month in which the fees were collected.
6. Prior to the transfer of County Registration Fees to County, DMV shall deduct a per transaction administrative fee to cover costs incurred by DMV for the collection, processing, deposit and transfer of County Registration Fees in accordance with the terms and conditions of this Agreement. The administrative fee amount for this Agreement is five (5) cents per transaction. This amount does not include costs incurred by DMV for Merchant Fees, the amount of any refunds made pursuant to DMV Obligations paragraph 4 or uncollectible debt. If there is a change in the administrative costs incurred by DMV, DMV shall provide to the County documentation describing the changes described in this paragraph. The Parties may amend the Agreement to adjust the fees to an amount mutually agreed upon by DMV and County.
7. Prior to the transfer of County Registration Fees to County, DMV shall deduct the actual costs incurred by DMV for monthly Merchant Fees, the amount of any refunds made pursuant to DMV Obligations paragraph 4 and any uncollectable debt

attributed to the County portion of Registration Fees. A deduction for refunds made or for uncollectible debt may occur any time after the date that DMV pays a refund or determines a fee previously transferred to County is uncollectible. DMV shall not make any deductions for collection costs associated with DMV collection efforts to recover uncollectible debt.

8. DMV shall prepare a monthly report of the total number of County Registration Fees collected. The report must also include the monthly administrative fee amount described in DMV Obligations paragraph 6 of this Agreement, the Merchant Fee costs and, if applicable, any fee amount deducted for refunds or uncollectible debt as described in DMV Obligations paragraph 7 of this Agreement. DMV shall send the monthly report to County not later than 30 days after the date of each monthly transfer of County Registration Fees to the following address:

Administrative Services Manager
Department of Transportation and Development
150 Beaver Creek Rd
Oregon City, OR 97045

9. DMV's project liaison for this Agreement is: Tracy Olander, Senior Policy Analyst, DMV Program Services, 1905 Lana Ave. NE, Salem, OR 97314, 503-945-5237, tracy.g.olander@odot.state.or.us, or assigned designee upon individual's absence. DMV may change its Project Liaison by providing County's Project Liaison notice in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS

1. Termination.
 - a. This Agreement may be terminated by either Party upon thirty (30) days' notice, in writing and delivered by certified mail or in person.
 - b. DMV may terminate this Agreement effective upon delivery of written notice to County, or at such later date as may be established by DMV, under any of the following conditions:
 - i. State statutes, administrative rules or local ordinances are repealed, or are modified, changed, or interpreted in such a way that County Registration Fees can no longer be collected by DMV.
 - ii. DMV fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow DMV, in the exercise of its reasonable administrative discretion, to continue to provide services under this Agreement.
 - iii. Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement

is prohibited or State is prohibited from paying for such work from the planned funding source.

c. Duties upon Termination. Upon termination of this Agreement, DMV shall immediately cease collecting County Registration Fees. DMV shall transfer to County any County Registration Fees collected by DMV as provided under DMV Obligations paragraphs 5, 6, and 7 of this Agreement.

d. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

2. Workers' Compensation Law. All employers, including County, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126.
3. Waiver; Amendment. No waiver, consent, amendment or modification of or to this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary state approvals, if applicable, have been obtained. Such waiver, consent, amendment or modification, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of DMV to enforce any provision of this Agreement shall not constitute a waiver by DMV of that or any other provision.
4. Compliance with Law Generally. County shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Agreement and the performance of the services described herein. Without limiting the generality of the foregoing, County expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to this Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Title V and Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health (HITECH) Act portion of the American Recovery and Reinvestment Act of 2009 (ARRA), including the Privacy and Security Rules found at 45 CFR Parts 160 and 164, as the law and its implementing regulations may be updated from time to time; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) Section 188 of the Workforce Investment Act (WIA) of 1998, as amended; (ix) ORS Chapter 659, as amended; (x) all regulations and administrative rules established pursuant to the foregoing laws; and (xi) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. DMV's performance under the Agreement is conditioned upon County's compliance with

the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 which are incorporated by reference herein. County shall, to the maximum extent economically feasible in the performance of this Agreement, use recycled paper (as defined in ORS 279A.010(1)(gg)), recycled PETE products (as defined in ORS 279A.010(1)(hh)), and other recycled products (as "recycled product" is defined in ORS 279A.010(1)(ii)).

5. Inspection and Audit. County acknowledges and agrees that DMV, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of County, which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. County shall make available copies of applicable records upon request. DMV shall reimburse County for all costs associated with providing copies of records requested by DMV.
6. Force Majeure. Neither DMV nor County shall be held responsible for delay or default caused by fire, riot, acts of God, or war where such cause was beyond the reasonable control of DMV or County respectively. The Parties shall, however, make all reasonable efforts to remove or eliminate such a cause or delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
7. No Substitutions or Assignments. County shall not substitute, assign, sublicense, lease, encumber, or otherwise transfer or attempt to transfer any of its rights, obligations or interests under this Agreement. This Agreement is only valid to DMV and County named herein and is not valid to any respective successor in interest of County.
8. No Third Party Beneficiaries. County and DMV are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
9. Indemnification:
 - a. DMV and County each shall be responsible, to the extent permitted by the Oregon Tort Claims Act (ORS 30.260 to 30.300), only for the acts, omissions or negligence of its own officers, employees or agents.
 - b. 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 a Party (the "Notified Party") with respect to which the Other Party (the "Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim, as provided in Section 10, and deliver to

the Other Party, along with the written notice, a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. 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.

- c. With respect to a Third Party Claim, each Party shall contribute to the amount of any defense expenses (including attorneys' fees or costs of litigation), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Party in such proportion as is appropriate to reflect the Parties' relative fault. Each Party's relative fault 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. Each Party's contribution amount shall be for its respective relative fault and payable solely from its risk management fund, insurance or other funds lawfully available for such purpose. The contribution amounts owed to the other Party under this Section 9 shall apply notwithstanding the relevant limits on liability to third parties under the Oregon Tort Claims Act, ORS 30.260 to 30.300.
 - d. The 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.
10. Notice. Except as otherwise expressly provided in this Agreement, any communications between the Parties hereto or notices to be given hereunder must be given in writing by email, personal delivery, facsimile, or mailing the same, postage prepaid, to County or DMV at the email address, postal address or telephone number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this Section 6.11. Any communication or notice so addressed and mailed is effective five business days after mailing. Any communication or notice delivered by facsimile is effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours, or on the next business day, if transmission was outside normal business hours of the recipient. To be effective against DMV, any notice transmitted by facsimile must be confirmed by telephone notice to DMV's Contract Administrator. Any communication or notice given by personal delivery is effective when actually delivered. Any notice given by email is effective when the sender receives confirmation of delivery, either by return email, or by demonstrating through other technological means that the email has been delivered to the intended email address.

11. Entire Agreement. This Agreement constitutes 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 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 either Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision.

12. Counterparts. 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.

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.

DMV/County
Agreement No. 33258

Clackamas County, by and through its
elected officials

By _____
Jim Bernard, County Chair
or designated county commissioner
Board of County Commissioners
For Clackamas County, Oregon

Date _____

**REVIEW (If required in County's
process)**

By _____
County's Counsel

Date _____

County Contact:

Deidre Landon, Administrative Services
Manager
Clackamas County - Department of
Transportation and Development
150 Beaver Creek Road
Oregon City, OR 97045
Phone: 503-742-4411
Email: dlandon@clackamas.us

STATE OF OREGON, by and through
its Department of Transportation

By _____
Tom McClellan, Division Administrator,
Driver and Motor Vehicle Service Division

Date _____

APPROVAL RECOMMENDED

By _____

Date _____

By _____

Date _____

By _____

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Assistant Attorney General

Date _____

DMV Contact:

Tracy Olander, Senior Policy Analyst
ODOT - DMV Program Services - Vehicle
Policy Unit
1905 Lana Ave NE
Salem, OR 97314
Phone: 503-945-5237
Email: tracy.g.olander@odot.state.or.us

EXHIBIT A
Clackamas County Vehicle Registration
Fee Amounts; Subject Vehicles; Exemptions

Vehicle Classification	Registration Period	Registration Fee Amounts
Passenger	Biennial or 4-year	\$60 or \$120
Motorcycles	Biennial or 4-year	\$30 or \$60
Mopeds	Biennial or 4-year	\$30 or \$60
Low-speed	Biennial	\$60
Medium-speed	Biennial	\$60
Trucks (10,000 - 26,000 lbs.)	Annual or Quarterly	\$30 or \$7.50
Light Trailers	Biennial	\$60
For Rent Trailers	Annual or 5-year	\$30 or \$150
Buses	Annual	\$30
Tow Trucks	Annual	\$30
Charitable/Non-Profit (Passenger)	Biennial	\$60
Charitable/Non-Profit (Truck or Bus)	Annual or Quarterly	\$30 or \$7.50
Special Use Trailers	Biennial	\$60
Permanent Fleet (Passenger)	Biennial	\$60
Permanent Fleet (Truck or Bus)	Annual	\$30
Exempt Vehicles		
Snowmobiles and Class I all-terrain vehicles	N/A	Exempt
Fixed load vehicles	N/A	Exempt
Vehicles registered to disabled veterans	N/A	Exempt
Vehicles registered to ex-POWs	N/A	Exempt
Antique vehicles	N/A	Exempt
Special interest vehicles	N/A	Exempt
Government-owned or operated vehicles	N/A	Exempt
School buses or school activity vehicles	N/A	Exempt
Law enforcement undercover vehicles	N/A	Exempt
Vehicles registered proportionally for interstate operation	N/A	Exempt
Vehicles with a registration weight of 26,001 pounds or more	N/A	Exempt
Farm vehicles	N/A	Exempt
Heavy trailers	N/A	Exempt
Travel trailers, campers and motor homes	N/A	Exempt
Vehicles registered to an employment address as provided in ORS 802.250 when residence address is not within county of employment address	N/A	Exempt
Vehicles registered under ORS 805.110 to former prisoners of war	N/A	Exempt