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February 25, 2020

VIA EMAIL ONLY: tloew@gannett.com

Tracy Loew
340 Vista Ave SE, Suite 200
Salem, OR 97302

Re: Petition for Public Records Disclosure Order
Oregon Department of Transportation
DOJ File No.: 734010-GA0021-20

Dear Ms. Loew:

This letter is the Attorney General's response to your petition for disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition asks the Attorney General to order the Oregon Department of Transportation (ODOT) to disclose the results and supporting materials of personnel investigations into two Motor Carrier Transportation Division employees. For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers the right to inspect public records in Oregon, unless such records are exempt under ORS 192.338, 192.345, or 192.355. ORS 192.314(1). The law is a disclosure law and exemptions from disclosure must be express. Any person denied the right to inspect or to receive a copy of a public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.411(1). The agency carries the burden to sustain its actions. ORS 192.411(1).

According to your petition, you originally requested these records on February 10, 2020. ODOT denied your request on February 14, 2020, indicating the records are exempt in their entirely under ORS 192.345(12) because they relate to personnel disciplinary actions. ODOT's response also indicated that the records you seek may contain information that is exempt under ORS 192.355(2)(a) (unreasonable invasion of privacy), ORS 192.355(1) (internal advisory communications) and ORS 192.355(9)(a) (state law incorporating the lawyer-client privilege).

We contacted ODOT in response to your petition. After discussing the relevant records, ODOT no longer asserts they are exempt in their entirety under ORS 192.345(12). ODOT has

therefore agreed to process your request, subject to the redaction of any information it concludes is exempt from disclosure. *See* ORS 192.338 (duty to separate exempt and nonexempt material). If you disagree with any such redactions, you may petition this office for review. Because ODOT has agreed to process your request, we respectfully deny your petition as moot.

Sincerely,

Frederick M. Boss
Deputy Attorney General

FMB:pjn/DM10116260
c via email only: Carla Finegan (ODOT)