

INTERGOVERNMENTAL AGREEMENT

BETWEEN

PORTLAND PUBLIC SCHOOLS, SCHOOL DISTRICT NO. 1J

AND

THE CITY OF PORTLAND

This INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into as of _____, 2014, by and between PORTLAND PUBLIC SCHOOLS, SCHOOL DISTRICT NO. 1J, MULTNOMAH COUNTY, OREGON ("District") and THE CITY OF PORTLAND, PORTLAND ("City") pursuant to ORS Chapter 190 (Intergovernmental Cooperation).

PURPOSE

The purpose of this Agreement is to identify how the City will review, prioritize and implement transportation system improvements to increase active transportation access to school sites operated by the District.

RECITALS

A. On February 23, 2011, the Portland City Council adopted Ordinance 184443 improving land use regulations related to schools as part of the Schools and Parks Conditional Use Code Refinement Package.

B. The City and the District entered into a Memorandum of Understanding on May 13, 2011, which expressed a preliminary agreement to use the City's Safe Routes to School ("SRTS") program administered by the Portland Bureau of Transportation ("PBOT") as the primary mechanism to address student transportation safety concerns throughout the District.

C. District school sites are generally located in established neighborhoods and subject to land use review under Portland City Code Title 33, the Planning and Zone Code, as approved conditional uses. Land use review criteria include determination of transportation capability to support school site development proposals subject to Conditional Use Review approval.

D. The District and City agree that funding to address infrastructure improvements is a limited resource and that increasing active transportation access to school sites sustains transportation system capability and neighborhood livability.

E. The District and City desire to create a means of assessing transportation system capability to support District improvements that prioritizes active transportation and recognizes SRTS Policy equity goals to meet the requirements of Title 17, Public Works, as a condition of approval under Title 33 or as a result an early assistance appointment, public works inquiry, or permit review. The City does not anticipate significant transportation improvements being required for any individual school site since most are located in areas where their frontages already have standard improvements.

F. The Public Works Appeal process allows for proposed alternatives consistent with applicable City Code, rules, standards, and policies.

G. This Intergovernmental Agreement ("IGA") is intended to formalize that Agreement in support of the District Supplemental Transportation Plan Update ("STPU"), SRTS engineering strategies and mutual commitment to equitable active transportation access policies by the District and the City.

AGREEMENT

The City and District agree as follows:

I. DEFINITIONS

A. Portland Safe Routes to School (SRTS) means: Portland Safe Routes to School is a program of the City's Bureau of Transportation that partners with schools, neighborhoods, community organizations and agencies that advocates for and implements projects that make walking and biking around our neighborhoods and K-8 schools fun, easy, safe and healthy for all students and families while reducing our reliance on cars. SRTS program elements include equity, education, engineering, enforcement, encouragement and evaluation. SRTS is funded through federal and state transportation funds.

B. Capital Funding Decision Matrix (CFDM) means: A SRTS set of weighting criteria that ranks K-8 schools in terms of transportation safety needs based on equity, safety, and past program expenditures. The criteria have been in use since 2011 by the SRTS program and stakeholders to help allocate limited capital resources toward school student walk areas with the most needs in an equitable and transparent manner. Application of the CFDM in the context of this Agreement would rank District K-8 schools to develop a master priority project list to support the District's Supplemental Transportation Plan Update, to meet transportation criteria condition of approval under Title 33, or as a result of an early assistance appointment, public works inquiry, or permit review.

C. Supplemental Transportation Plan Update (STPU) means: A plan required of the District by the ODE for the reimbursement of approved supplemental transportation costs of K-12 students. The plan requires documenting and evaluating the safety of student walk areas, the 1-mile walking radius of K-8 school sites and 1.5 mile of 9-12 school sites, and identifies barriers to active transportation access to the school sites. The STPU will identify health or safety reasons that necessitate providing supplemental transportation. The STPU will identify planned support for removing or mitigating safety barriers in the public right-of-way, within applicable walking mile limitations, working towards reducing the need for supplemental transportation.

II. JOINT OBLIGATIONS OF CITY AND DISTRICT

- A. The City and District will use the City's SRTS program as the primary mechanism to increase active transportation access to all K-8 and 9-12 school sites operated by the District. This approach will include:
1. Expanding the existing CFDM to include all K-8 school sites operated by the District through the civic engagement and planned support for the STPU.
 2. Annual review of the CFDM upon adoption of the STPU planned support document by the District School Board and approved by the ODE.
 3. A mutual intent to fund infrastructure improvements at schools identified in the CFDM with monies available to the SRTS program, District contributions from voter-approved capital bond programs, as well as available City resources, including urban renewal financing.
 4. Joint use of the CFDM methodology when identifying active transportation improvements to increase transportation capability to meet the requirements of Title 17, Public Works, as a condition of approval under Title 33 or as a result of an early assistance appointment, public works inquiry, or permit with the District as applicant and PBOT as respondent. Evaluation of transportation system capability will include improvements identified within the STPU planned support document and SRTS CFDM.
 5. Identification of projects through CFDM ranking to meet Conditional Use Review requirements based on the relative priority of the project within the STPU planned support document and funding availability.
 6. Joint coordination of efforts to improve active transportation routes to mass transit stops that serve high school clusters where feasible.
 7. Joint lobbying of existing funding sources, including Oregon Department of Transportation (ODOT) and the Federal Highway Administration (FHWA) to increase the share of funding from the national program for Oregon/Portland and explore additional funding for the program through (but not limited to) Metro's Regional Transportation Plan and Metropolitan Transportation Improvement Program.
 8. Mutual acknowledgment that future capital bond work conducted by the District will involve the modernization and rebuilding of some schools. Modernization of schools will involve existing buildings. Depending on the site characteristics, this may preclude the installation of transportation infrastructure improvements adjacent to existing buildings.
- B. District and City recognize that the City and the SRTS program have obligations to all of Portland's school districts. Outside of the District's capital bond funds, District and City intend that this Agreement will not prioritize SRTS funding to

Portland Public Schools to the detriment of service to Portland's other school districts.

- C. The District and City will consider active transportation improvements as an alternative means to increase transportation system capability.
- D. The City and the District agree to using the SRTS CFDM when allocating funds to public right-of-way, capital improvement projects within the District to increase active transportation access to school sites.
- E. The City and the District agree that projects identified through the application of CFDM for individual schools may be proposed through conditions of approval to meet all or part of the transportation approval criteria in the City's zoning code applicable to school uses that trigger zoning code review as a result of grade level changes, placement of portable or modular classrooms, or reopening of a school site that has lost school use entitlements.

III. DISTRICT OBLIGATIONS

- A.. Based upon voter approval of the capital bond for the District on November 6, 2012, the District will provide \$5 million in restricted funds to SRTS for the sole purpose of funding projects that increase active transportation access to K-8 and high school sites operated by the District. The District will provide the restricted funds between FY 2014 and FY 2020 in disbursement amounts to be determined. While the District does not anticipate significant transportation improvements being required due to work stemming from the capital bond program, this funding will be used to fund any improvements required by Conditional Use Review in the public right-of-way.
- B. District financial contributions to these projects will be administered by the District on a reimbursement basis to the City of Portland within 30 days of receipt of invoice.
- C.. The District will direct its capital improvement project management staff and traffic engineering consultants to consider active transportation improvements as an alternative means to increase access to school sites and to sustain transportation system capability and neighborhood livability.
- D. The District will engage in a master planning process for each school undergoing full modernization or replacement as part of any voter-approved capital bond work. The master planning process will occur prior to City land use review and will serve as an opportunity to engage the local community in the design process including issues and concerns relative to the local transportation system.
- E. District master planning efforts of rebuild and full modernization projects will seek to minimize the extent by which proposed development increases trip generation and require improvements in the public right-of-way that are vehicular oriented. This may include transportation demand management plans incorporated into master plans that identify mode-split goals and increasing transportation system capability through improved active transportation access to school sites under consideration.

F. As the master planning for the 2012 Capital Bond Program will occur prior to the completion of the District STPU and production of a planned support document, District staff and consultants will include PBOT staff in the project design process to identify active transportation projects that efficiently and economically meet anticipated Title 33 and Title 17 requirements as a result of an early assistance appointment, a public works inquiry, or permit review.

G. The District will provide to SRTS \$200,000 for civic engagement and planned support consulting services for the STPU project. Monies will be made payable over FY 2014, 2015, and 2016 in disbursement amounts to be determined and predicated upon annual District budget approval.

H. The District will incorporate SRTS program elements of equity, education, encouragement, engineering, enforcement, and evaluation into the STPU.

I. The District will support the SRTS evaluation program elements during the STPU project as follows.

1. Develop, conduct and provide to SRTS use of a Geographic Information System ("GIS") analysis methodology to assess student walk-area safety and safe walk route finding.
2. Conduct, and provide to SRTS, District level GIS analysis of existing conditions in student walk-areas.
3. Conduct, and provide to SRTS, school-site level GIS analysis of student walk-areas pedestrian network completeness, safety assessment, and safe route wayfinding.

J. The District will support the SRTS engagement program element during the STPU project as follows:

1. Provide student walk-area mapping for the above to support community open houses and targeted, equity-based community walks/open houses.
2. Provide staff to assist with community open houses and targeted, equity-based community walks/open houses.
3. Provide translation services for mode-split surveys.
4. Provide translation services at community open houses and targeted, equity-based community walks/open houses.
5. Provide child care services at community open houses and targeted, equity-based community walks/open houses.

K. The District will align the SPTU planned support document with SRTS equity policy and CFDM.

L. The District will use existing SRTS program elements to assess student walk areas and develop a planned support document for the STPU to identify barriers to active transportation.

M. The District will provide to SRTS restricted funds for the purpose of increasing active transportation access to school sites operated by the District where capital bond funded projects occur.

N. The District will provide consulting funds to SRTS for the purposes of civic engagement and production of a planned support document for the STPU.

IV. CITY OBLIGATIONS

A. PBOT will ensure that restricted funds provided by the District to SRTS are used for active transportation improvement projects eligible for authorized capital bond funding. These projects must serve to increase active transportation access to school sites identified within a District capital bond funding program. In addition to using the funds for active transportation projects, funds will be used to satisfy any transportation criteria of Conditional Use Reviews and/or Public Works requirements at individual schools sites where capital bond funded development is proposed.

B. PBOT will provide to the District a master list of projects by high school cluster, that are identified through the CFDM, for approval prior to undertaking project engineering paid for in whole or in part with the restrict District funds.

C. PBOT will provide the District project descriptions and cost estimates for review prior to undertaking construction of any active transportation improvement project paid for in whole or in part with the restricted District funds.

D. PBOT will evaluate the components of existing school-specific transportation safety plans (e.g. SRTS Engineering Strategy Reports and Continuous Service Plans) to determine how they could be modified to better address the transportation criteria of the Conditional Use Review requirements until the successor District STPU planned support document is adopted by the District School Board and approved by ODE.

E. PBOT will incorporate the District STPU planned support document into the SRTS CFDM.

F. PBOT will reference existing SRTS Engineering Strategy Reports and Continuous Service Plans and the successor STPU planned support document as the initial mechanism by which staff response to Title 33 transportation-related approval criteria or Title 17 permit review are made. The District may offer these documents as primary evidence to demonstrate compliance with these transportation criteria as part of a land use review application or public works appeal request.

H. PBOT will provide a SRTS project team, including project manager, organizers, and technical services to conduct STPU civic engagement community and the production of a planned support document.

- I. PBOT will provide and evaluate SRTS mode-split surveys for K-5, K-6, and 6-8 sites where not previously conducted or updating is required.
- J. PBOT will organize and staff eight SRTS student-walk area assessment and safe walk route wayfinding community open houses by high school cluster.
- K. PBOT will organize and staff three targeted, equity-based SRTS community walks and open houses.
- L. PBOT will produce SRTS engineering strategy reports by high school cluster for use in the planned support document.
- M. PBOT will advise the District in the alignment of STPU planned support with the SRTS equity policy and CFDM.
- O. The City will, in assessing transportation system capability to support District school site development projects, prioritize active transportation and recognize SRTS Policy equity goals.

V. GENERAL PROVISIONS

A. Good Faith Agreement. The District and the City recognize this IGA is of mutual benefit to each Party, and the safety of PPS students. By executing this IGA, the District and the City intend to negotiate, in good faith, the means of assessing transportation system capability to support District improvements that prioritizes active transportation and recognizes SRTS Policy equity goals to meet the requirements of Title 17, Public Works, as a condition of approval under Title 33 or as a result of an early assistance appointment, public works inquiry, or permit review.

B. Administration of the Agreement. The Commissioner in Charge of PBOT, or her/his designee, is authorized to administer the City responsibilities stated in this Agreement. The Executive Director of the District's Office of School Modernization, or her/his designee, is authorized to administer the District responsibilities stated in this Agreement.

C. Effective Date/Term. This Agreement is effective from the date that all Parties have executed this Agreement. The term of this Agreement is from the date that all Parties have signed it through November 10, 2020, the duration of the District's 2012 voter approved capital bond program. The IGA may be extended provided both Parties agree in writing.

D. Amendments. The terms of this Agreement will not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both Parties. The Commissioner in Charge of the Portland Bureau of Transportation, or her/his designee, is authorized to amend this Agreement provided it does not increase the cost to the City. The Superintendent or his/her designee is authorized to amend this Agreement provided it does not increase the cost to the District.

E. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

F. Law/Choice of Venue. Oregon law, without reference to its conflict of laws provisions, will govern this Agreement and all rights, obligations and disputes arising out of the Agreement. Venue for all disputes and litigation will be in Multnomah County, Oregon. Before commencing any legal action under this Agreement, the Parties agree to enter into mediation if a dispute arises that cannot otherwise be resolved by the parties, as provided in Section V.M of this Agreement.

G. Severability/Survival. If any of the provisions contained in this Agreement are held unconstitutional or unenforceable, the enforceability of the remaining provisions will not be impaired. All provisions concerning the limitation of liability, indemnity and conflicts of interest will survive the termination of this Agreement for any cause.

H. No Third Party Beneficiary. City and PPS are the only Parties to this Agreement and as such, are the only Parties entitled to enforce its terms. Nothing contained in this Agreement gives or will be construed to give or provide any benefit, direct, indirect, or otherwise to third Parties unless third persons are expressly described as intended to be beneficiaries of its terms.

I. Merger. This Agreement constitutes the entire Agreement between the Parties regarding the substantive matters addressed in this Agreement. No waiver, consent, modification or change of terms of this Agreement will bind either Party unless in writing and signed by both Parties. Such waiver, consent, modification or change, if made, will be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.

J. Counterparts. Electronic Signatures. This Agreement may be executed in any number of counterparts, all of which when taken together will constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. The Parties agree that they may conduct this transaction, including any amendments or extension, by electronic means including the use of electronic signatures.

K. Assignment. No Party will assign or transfer any interest in this Agreement, nor assign any claims for money due or to become due under this Agreement, without the prior written approval of the other Parties. This Agreement will bind and inure to the benefit of, and be enforceable by, the Parties hereto and their respective successors and permitted assigns.

L. Termination. This Agreement may be mutually terminated at any time by written consent of the Parties. Either the City or PPS may terminate this Agreement upon 180 days prior written notice to the other Party.

M. Dispute Resolution. In the event a dispute arises regarding this Agreement, the Parties agree to have high-level representatives of City and PPS to engage in discussions before taking any legal action. If discussions fail to resolve the issue the Parties will engage in mandatory mediation in an attempt to resolve the dispute. In

the event of mediation the Parties will each pay one-half of the mediator's bill. If mediation fails to resolve the matter either Party may take any legal action permitted to it under the law of the State of Oregon.

N. No Substitute for Land Use Reviews. This Agreement is not a substitute for any applicable Conditional Use Review requirements in Title 33 or any conditions of approval that have been approved and are currently effective or are requirements under Title 17 to maintain, repair or replace existing public works improvements to applicable standards as the result of alteration during District school site development projects.

BY:

Charlie Hales
Mayor
City of Portland

Carole Smith
Superintendent
Portland Public Schools