

6. IGA Contract No. 312979 with Centennial School District to Collect and Remit the Enterprise Zone School Support Fee

Move to approve Intergovernmental Agreement Contract No. 312979 with Centennial School District to collect and remit the Enterprise Zone Program school support fee.

minutes

Intergovernmental Agreement Between the City of Gresham, Oregon and the Centennial School District to Collect and Remit the Enterprise Zone School Support Fee

This Enterprise Zone School Support Fee Intergovernmental Agreement (“Agreement”) is entered into between the City of Gresham, a municipal corporation of the State of Oregon ("City"), and the Centennial School District ("School District"). Each referred to as a “Party” and collectively as the “Parties.”

RECITALS

- A. Whereas, ORS 190.110 provides that a unit of local government may enter into a written agreement with another unit of local government for the performance of any or all functions and activities that a Party to the Agreement has the authority to perform;
- B. Whereas, HB 2009 was passed in the 2023 Oregon Legislative Session and created a school support fee as part of Oregon’s Enterprise Zone Program. HB 2009 requires the governing body of each school district within an Enterprise Zone, along with the governing body of the zone sponsor, to set a rate for the School Support Fee imposed pursuant to Sections 48 (2) and 51 (2) of HB 2009 (2023);
- C. Whereas, School District has coordinated with the governing body of the City of Gresham to set the rate. Pursuant to HB 2009, School District has adopted a resolution establishing an Enterprise Zone School Support Fee of 15% throughout its jurisdiction. The resolution provides that the School Support Fee be collected by the City and remitted to School District pursuant to an Intergovernmental Agreement.
- D. Whereas, the Enterprise Zone School Support Fee is calculated at 15% of the total property taxes abated in years four and five of abatement for qualified firms authorized for an extended abatement under the Gresham Enterprise Zone program;
- E. Whereas, City and School District desire to establish certain procedures needed to collect the Enterprise Zone School Support Fee and remit the tax to School District via this Agreement; and
- F. Whereas, City is authorized to establish a school support fee for the Gresham Enterprise Zone via Council Resolution No. 3632 A Resolution Authorizing a School Support Fee of 15% for the Gresham Enterprise Zone.

NOW THEREFORE, the Parties agree as follows:

AGREEMENT

1. TERM

The term of this Agreement shall be from March 3, 2025, through March 2, 2035. The effective date of this Agreement will be March 3, 2025, or when each Party has signed the Agreement.

RESPONSIBILITIES OF SCHOOL DISTRICT Information and Forms. School District shall provide all of the forms and information necessary to City to collect the Enterprise Zone School Support Fee including a signed copy of the resolution establishing the Enterprise Zone School

Support Fee.

Staffing. School District shall provide sufficient staff to implement all other aspects of the Enterprise Zone School Support Fee established by the School District. School District shall appoint a single point of contact for whom the City can refer customers. School District shall provide the contact information for the single point of contact in **Section 14** of the Agreement.

Refunds. School District agrees to process and issue any required refunds of the Enterprise Zone School Support Fee.

Remittance. School District shall deposit the Enterprise Zone School Support Fee collected into the appropriate School District accounts.

2. **RESPONSIBILITIES OF CITY OF GRESHAM**

Information and Forms. City shall develop electronic worksheets that will be utilized to calculate the Enterprise Zone School Support Fee. City shall rely on the Multnomah County Property tax information to calculate the School Support Fee.

Staffing. City shall provide sufficient staff to calculate and collect the Enterprise Zone School Support Fee in accordance with the terms of this Agreement.

Collection; Start date. City will collect the Enterprise Zone School Support Fee on behalf of School District for those authorized businesses located on properties that are within the School District boundaries and within the Gresham Enterprise Zone as follows:

- A. Collection shall be in the form of payment from companies authorized in the Gresham Enterprise Zone payable to the City of Gresham.
- B. City will begin collecting the Enterprise Zone School Support Fee upon:
 - 1. Receipt of a signed copy of School District's resolution establishing the Enterprise Zone School Support Fee which is in compliance with ORS 285C.066 and ORS 285C.067.
 - 2. Receipt of a fully executed copy of this Agreement.
- C. City will begin collection of the Enterprise Zone School Support Fee on behalf of the School District in the fourth and fifth years of property tax abatement for those qualified firms authorized for an extended property tax abatement under the Gresham Enterprise Zone program.
- D. The City will end collection of the Enterprise Zone School Support Fee if the underlying statutory authority is repealed, if the Enterprise Zone program is terminated by the City of Gresham, or this Agreement is terminated by either the School District or the City.

Remittance. City will remit the collected Enterprise Zone School Support Fees to School District within 45 business days of collection.

3. **FAILURE TO PAY ENTERPRISE ZONE SCHOOL SUPPORT FEE**

The City shall collect the Enterprise Zone School Support Fee from authorized Enterprise Zone

firms in the years following the fourth and fifth years of property tax abatement. Upon refusal or failure to pay the Enterprise Zone School Support Fee when due, the authorized Enterprise Zone firm may face disqualification from the Enterprise Zone and be subject to provisions of ORS 285C.240.

4. **ACCESS TO RECORDS**

Each Party shall have access to the book, documents and other records of the other which are related to this Agreement for the purpose of examination, copying and audit, unless exempted by law.

5. **CITY'S ADMINISTRATIVE FEE**

As consideration for the above-described services, the City will retain an administrative fee in an amount equal to 1% of the Enterprise Zone School Support Fee collected by the City. For purposes of calculating the fee, the amount of gross Enterprise Zone School Support Fee collected shall not be reduced by refunds or checks returned for insufficient funds.

6. **REVIEW OF THE AGREEMENT**

Parties agree to review this Agreement and consider amendments to this Agreement should the HB 2009 (2023) law be amended by subsequent legislation or judicial proceedings so that this Agreement is consistent with the most current legislation. If a request to review the Agreement is made, the Parties agree to convene in a timely manner and participate in the negotiations in good faith.

7. **OTHER AGREEMENTS**

This Enterprise Zone School Support Fee Collection Agreement does not affect or alter any other agreements between School District and City.

8. **INDEMNIFICATION**

Subject to the conditions and limitations of the Oregon Constitution, Article XI, Section 7, and the Oregon Tort Claims Act (ORS 30.260 through 30.300), School District shall indemnify, defend, and hold harmless City from and against all liability, loss and costs arising out of or resulting from the acts of School District, its officers, employees, and agents in the performance of this Agreement. Subject to the conditions and limitations of the Oregon Constitution, Article XI, Section 7, and the Oregon Tort Claims Act (ORS 30.260 to 30.300), City shall indemnify, defend, and hold harmless School District from and against all liability, loss, and costs arising out of or resulting from the acts of City, its officers, employees, and agents in the performance of this Agreement.

9. **TERMINATION**

Either Party may terminate this Agreement for any reason upon 90 calendar days written notice to the other Party.

10. **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.

11. **SEVERABILITY**

If any of the provisions contained in this Agreement are declared by a court of competent jurisdiction to be invalid, unconstitutional, unenforceable or in conflict with any law, the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or

provision held to be invalid.

12. **NO THIRD-PARTY BENEFICIARY**

The Parties are the only parties to this Agreement, and as such are the only parties entitled enforce its terms. Nothing contained in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise to any other party unless that party is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

13. **MERGER CLAUSE**

This Agreement constitutes the entire agreement between the Parties and supersedes all 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.

14. **PROJECT MANAGEMENT**

The individuals identified below are the designated Project Managers for coordination of this Agreement, unless another individual is designated by written notice to the other Parties. Notice and communications provided for under this Agreement shall be addressed to the Project Managers as follows:

City of Gresham

Erika Fitzgerald

Senior Economic Development Specialist

Erika.Fitzgerald@greshamoregon.gov

Office: (503) 618-2504

1333 NW Eastman Parkway

Gresham, OR 97030

Centennial School District

Paul

Southerton

Director Business & Operations

paul_southerton@csd28j.org

503-760-7990

18135 SE Brooklyn Street

Portland, OR 97236

15. **NO WAIVER**

A Party's failure to object to a breach of this Agreement shall not constitute a waiver of that Party's right to object to any additional breach, or to require specific performance of this Agreement.

16. **ADHERENCE TO LAW**

The Parties will comply with all applicable federal, state, and local laws, regulations, rules, policies and ordinances applicable to this Agreement.

17. **NON-DISCRIMINATION**

In the exercise and enjoyment of authority under this Agreement, no Party shall discriminate against any person because of age, sex, race, religion, color, national origin, marital status, pregnancy, veteran status, any physical, mental, or sensory disability, or actual or perceived sexual orientation or any other discrimination by federal or Oregon law.

18. **GOVERNING LAW**

The provisions of this Agreement shall be construed in accordance with the laws of the State of Oregon and shall be deemed to incorporate by reference all requirements for public contracts as may be required by law. Any action or suits involving any questions arising under this Agreement must be brought in the appropriate court in Multnomah County, Oregon. If the claim must be

brought in a federal forum, then it shall be brought and conducted in the United States District Court of the District of Oregon. In the event of litigation, each Party shall bear its own costs.

19. **ASSIGNMENT**

No Party may assign, delegate or subcontract its rights or obligations hereunder without the prior written consent of the other Party.

20. **MEDIATION**

Should any dispute arise between the Parties concerning this Agreement, which is not resolved by mutual agreement, it is agreed that it will be submitted to mediated negotiation prior to any Party commencing litigation. In such an event, the Parties to this Agreement agree to participate in good faith in a non-binding mediation process. The mediator shall be selected by mutual agreement of the Parties, but in the absence of such an agreement each Party shall select a temporary mediator, and those mediators shall jointly select the permanent mediator. All costs of mediation shall be borne equally by the Parties.

21. **AUTHORITY.** The representatives signing below certify that they are duly authorized to enter into this Agreement on behalf of the Party for which each signs.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates indicated below:

City of Gresham

Centennial School District

Erika Fitzgerald, Project Manager

Paul Southerton, Project Manager

Eric Schmidt, City Manager

Approved as to Form

City Attorney or Designee