



# JOINT REPORT

**DATE:** June 25, 2024

**CATEGORY:** Consent

**DEPT.:** City Manager's Office

**TITLE:** **Update on the Amendment to Education Enhancement Reserve Joint Powers Agreement**

## **RECOMMENDATION**

Receive an update on the Amendment to Education Enhancement Reserve Joint Powers Agreement (EER JPA).

## **BACKGROUND**

On September 8, 2023, Shoreline Regional Park Community (SRPC) staff was informed by Mountain View Whisman School District (MVWSD or District) staff that the District had received a message from the Santa Clara County Office of Education stating a concern about the District's inclusion of the \$5.7 million EER Agreement Minimum Payment as revenue in the District's Fiscal Years 2024-25 and 2025-26 projections as the current EER Agreement term ends on June 30, 2024.

The County Office of Education was concerned that the District's budget projections rely on revenue that is contingent on a successor agreement that had not been executed. It asked MVWSD to provide an agreement covering these years or a letter of assurance from the City regarding future funding. Otherwise, the County Office of Education would require the District to exclude this funding from the District's budget projection and submit a new budget and forecast by December 15, 2023.

To avoid the need for adjustments that could impact schools and students, MVWSD requested of the SRPC, in a letter dated September 28, 2023 (Attachment 1), greater certainty regarding EER JPA revenue through Fiscal Year 2026-27.

MVWSD stated that a third year of certainty would assist them with future projections and, thus, proposed that the assurance be extended for a third year, one year beyond the requirement of the County Office of Education. SRPC staff was amenable and open to the request for a three-year agreement and wanted to help the District.

Per the Shoreline Regional Park Community Act (Shoreline Act) that establishes and defends the SRPC and its powers, the SRPC Board can only commit the resources of the community through a contractual obligation, thus making the extension of the agreement the necessary means to accommodate the request made by MVWSD.

## **ANALYSIS**

Since MVWSD's September 2023 request, SRPC staff has expended significant time and effort to accommodate the District. This is evidenced through the following chronology which also illustrates that all parties were aware that an agreement extension was the way to facilitate the District's request:

On **September 28, 2023**, SRPC staff received a formal letter from the district requesting an assurance of future EER JPA payments for three years, which stated:

***“Please include assurances in the letter through June 30, 2027, to assist MVWSD in its budgeting processes.”***

In response, SRPC staff offered to amend the existing agreement through Fiscal Year 2026-27 to accommodate the District's request.

On **October 10, 2023**, the Shoreline Community Board (City Council) authorized amending the agreement through 2027 per the District's request. The SRPC Board's approval was narrowly tailored to extend the minimum and adjustment payments beyond the one-year term.

The District sent the City a letter in favor of the agreement (Attachment 2), which stated:

***“Thank you for including the Amendment to Education Enhancement Reserve Joint Powers Agreement (EER JPA) on the Council agenda on Oct. 10.”***

In addition, two MVWSD school board members provided verbal public comments during the City Council meeting in favor of the three-year agreement.

On **November 27, 2023**, SRPC staff provided the District a draft amendment to the agreement narrowly focused on extending the term and provision of payments through 2027. Other terms specific to the 2023-24 one-year agreement were not extended (Attachments 3 and 4).

In **January 2024**, MVWSD staff requested that Section 4.1 of the agreement be amended to state that the SRPC would forgo any bond issuance through 2027 or until a successor EER JPA had been approved. This request was denied due to the uncertainty of development in North Bayshore, and because of the SRPC's legal obligation to provide public infrastructure in North Bayshore if

required, which could necessitate the issuing of bonds, which are the principal financing mechanism granted to the SRPC via the Shoreline Act. Such infrastructure needs could include projects to manage the 682-acre closed landfill, make improvements the 750-acre Shoreline at Mountain View regional park, maintain wildlife habitat, address sea level rise, and expand active transportation routes, including bicycle and pedestrian pathways. It is not realistic for a public agency to commit to forgoing bonding capacity for four years in a row when it may, in fact, be necessary.

SRPC staff followed up many times with MVWSD staff inquiring about the status of the agreement that the MVWSD had asked for.

On **April 25, 2024**, the Shoreline Community Manager (City Manager) sent a letter to Superintendents Meyer (Mountain View Los Altos Union High School District or MVLA) and Rudolph (MVWSD) inquiring about the status of the amendment to the EER JPA since both Districts are party to the agreement (Attachment 5).

Superintendent Meyer responded that the agreement had been approved at MVLA's May 6, 2024 School Board meeting. Based on the MVLA School Board's approval, MVLA has signed the agreement. Superintendent Rudolph responded on May 14, 2024 that the MVWSD School Board would vote on the agreement no later than the last meeting in June.

On **June 10, 2024**, SRPC staff learned for the first time that the MVWSD would not be adopting the amendment that it requested and was provided in November of last year.

On **June 13, 2024**, MVWSD staff presented a dissimilar agreement for a one-year term and included a term that prohibited the SRPC from issuing bonds (Attachment 6). This action was contrary to the request that came from the District in the first place, which the parties had discussed and agreed upon.

Notably, during the above chronology on September 18, 2023, the SRPC, MVWSD, and MVLA held their first joint agency meeting. One element of agreement from the joint meeting was the formation of an EER JPA Ad Hoc Committee to help facilitate the development of a longer-term EER JPA. On December 15, 2023, the joint agency EER JPA Ad Hoc Committee, consisting of representatives of each of the three agencies, held its inaugural meeting. At no point in this meeting were concerns raised about the three-year agreement being worked on at MVWSD's request. SRPC staff has subsequently polled for multiple options on Ad Hoc meeting dates in March, April, May, and June 2024, but have yet to find a date when all Ad Hoc members are available.

Given the decision by MVWSD to deny its own request, and the disregard for the Shoreline Community staff time expended on the District's behalf, staff believes it is not productive to

proceed with the Ad Hoc Committee at this juncture. In addition, it is not in the SRPC's and the Mountain View community's best interest to continue Ad Hoc Committee discussions on this matter while an election season is under way. However, Shoreline Community staff is currently working on an update to the Shoreline Area Plan to include schools, which is expected to come before the SRPC Board in the next fiscal year.

In the meantime, the agreement extension requested by the MVWSD, and approved by the SRPC and MVLA School District, remains ready for MVWSD's signature (Attachment 7).

### **FISCAL IMPACT**

In June 2023, the City executed a one-year successor agreement for the period of July 1, 2023 through June 30, 2024. Per the one-year successor agreement, minimum payments of \$5.7 million and \$3.6 million were made in July 2023 to MVWSD and MVLA, respectively. In December 2023, adjustment payments and additional one-time payments of \$0.8 million and \$0.5 million were made to MVWSD and MVLA, respectively, in accordance with the one-year successor agreement. These payments total approximately \$6.5 million for MVWSD and \$4.2 million for MVLA. There are no other payments required by the expiring one-year successor agreement. If a new successor agreement is executed, payments in future years will increase each year by the rate of property tax revenue growth. For example, if property tax revenue grows by 7% in each of the next three fiscal year, the estimated annual total payments to the school districts would range from \$11.3 million to \$13.0 million per fiscal year.

**PUBLIC NOTICING**—Agenda posting.

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- Attachments:
1. September 28, 2023 MVWSD Request Letter
  2. October 10, 2023, MVWSD Extension Support Letter
  3. November 27, 2023 Amended Agreement
  4. November 27, 2023 Shoreline Community Staff Memorandum
  5. April 25, 2024 City Manager Letter to Superintendents
  6. Version of Agreement Adopted by MVWSD Board on June 13, 2024
  7. Signed Agreement by MVLA and Shoreline Community