



## **BOARD REPORT**

**DATE:** October 10, 2023

**CATEGORY:** New Business

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

**TITLE:** **Amendment to Education Enhancement Reserve Joint Powers Agreement**

### **RECOMMENDATION**

Acting as the Shoreline Regional Park Community Board of Directors, authorize amendment of the Education Enhancement Reserve Joint Powers Agreement for the purpose of extending the Minimum Payment and Adjustment Payment through June 30, 2027.

### **BACKGROUND**

In January 2006, the Shoreline Regional Park Community (SRPC or Shoreline Community), a separate legal entity from the City of Mountain View (City), the Mountain View Whisman School District (MVWSD), and Mountain View Los Altos Union High School District (MVLA) entered into the Education Enhancement Reserve Joint Powers Agreement (EER JPA or EER Agreement). The purpose of the EER JPA is to provide annual payments to the school districts from the Shoreline Community to benefit local education with the goal of attracting and retaining a quality employment base, which supports the City's and Shoreline Community's economic vitality. The initial funding was approximately \$400,000 per year per district, adjusted annually by up to 3%.

An amendment to the EER JPA was adopted in 2011 to increase the payment amount in order to help address school district budget shortfalls due to the economic recession at that time. In June 2013, the three entities entered into a new agreement that continued the EER JPA and further increased funding to the school districts during a 10-year term from Fiscal Year 2013-14 through Fiscal Year 2022-23. In 2019, the EER Agreement was amended to provide the school districts with their full tax rate allocation on property tax revenue derived from new residential development in the Shoreline Community. This amendment recognizes that new housing in the Shoreline Community will result in increased school enrollment and was enacted to implement Funding for Schools, Policy 3.4.5.5, in the North Bayshore Precise Plan, which was adopted by the City Council in 2017. Consequently, when new housing is developed in the North Bayshore Area over time, the payment to the school districts will increase significantly under the amended EER Agreement.

In May of this year, a 2023 agreement was recommended by the EER JPA Board, which is defined later in this report, and subsequently approved by the City Council and the MVWSD and MVLA Boards of Trustees. This agreement has a one-year term and expires on June 30, 2024.

This current agreement provides three payment components:

1. A Minimum Payment to the school districts based on the final payment to the school districts under the terms of the most recent agreement. The Minimum Payments for each school district are as follows:
  - MVWSD: \$5,686,451; and
  - MVLA: \$3,640,595.
2. An Adjustment Payment calculated by applying to the Minimum Payment the same percentage change in property tax revenue compared to the preceding fiscal year; and
3. An Additional One-Time Payment equal to 10% of the Adjustment Payment.

The estimated total payments to MVWSD and MVLA, combining all three payment components, for Fiscal Year 2023-24 are \$6.5 million and \$4.2 million, respectively.

As noted above, the 2023 EER Agreement has a one-year term and was adopted with the understanding that discussions would continue among the Shoreline Community, MVWSD, and MVLA to reach a longer-term successor agreement. The process for these discussions, approved by the City Council at its April 3, 2023 Study Session, involves convening elected officials from the three agencies in a Joint Kickoff meeting of the three elected bodies, which took place on September 18, 2023. This initial meeting will be followed by meetings of an ad hoc committee comprised of representatives of each of the agency's elected bodies (with one less representative than would constitute a quorum from each agency). The primary purposes of the tri-agency convenings are to build relationships and trust; share information through real-time, and direct communication; identify shared and separate interests; and provide guidelines for staff-level negotiation of the successor EER Agreement.

## **ANALYSIS**

### **MVWSD Request**

School districts are required to submit their budgets, including two-year projections, to the Santa Clara County Office of Education for review and approval. On September 8, Shoreline Community staff heard from MVWSD staff that the district had received a message from the 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 since the current EER Agreement term ends on June 30, 2024. The County Office of Education's concern is that the projections rely on revenue that is contingent on a successor agreement that has not been executed. They have asked MVWSD to provide an agreement covering these years or a letter of assurance from the City as to the future funding. Otherwise, the County Office of Education will require the district to exclude this funding from the district's budget projection and submit a new budget and forecast by December 15.

To avoid the need for adjustments that could impact schools and students, MVWSD is requesting greater certainty regarding EER JPA revenue through Fiscal Year 2026-27. (A letter of request is included as Attachment 1.) MVWSD has stated that a third year of certainty will assist them with future projections and is, thus, proposing that the assurance be extended for a third year, one year beyond the requirement of the County Office of Education.

While MVWSD has highlighted the uncertainty of future EER Agreement payments in the past during its budget process, the Shoreline Community has maintained a continuity of payments to the school districts for nearly 20 years and is committed to continuing the payments into the future. The proposed amendment to the EER Agreement would document this commitment through Fiscal Year 2026-27.

This also demonstrates the City's continued support to Mountain View schools and students and helps avoid potential impacts that MVWSD might feel the need to plan for in its future forecasts if it could not demonstrate assurance of payments from the Shoreline Community.

Because MVWSD property tax revenue assumptions are typically very conservative (well below the City's property tax assumptions and MVWSD's own actuals), potential projected impacts of MVWSD not being able to include future EER Agreement payments in its revenue forecasts may not come to pass. Nonetheless, staff recognizes MVWSD's interest in having upfront certainty and recommends amending the current EER Agreement to extend the payment for three additional years.

### **Proposed EER Agreement Amendment**

Staff seeks Council direction to develop an amendment to the current 2023 EER Agreement to extend payments to both MVWSD and MVLA, the key terms of which are summarized below. MVLA has not made a similar request; however, as a party to the EER Agreement, the extended term would apply to MVLA as well. The intent of the proposed terms is to narrowly focus on extension of the term and payment and to provide assurance of continuity of the current Minimum Payment and Adjustment Payment to address the budget process needs of MVWSD.

- Term: Through June 30, 2027.
- Payment Amount: Starting in Fiscal Year 2024-25, the annual payment will be calculated by adjusting the sum of the prior year's Minimum Payment plus Adjustment Payment by the same percentage change in property tax revenues compared to the preceding fiscal year. (In addition, the annual New Residential Property Tax Revenue Payment will continue through the extended agreement term.)
- Payment Timing: Annual payments will be made by December 31 of each year.

### **NEXT STEPS**

With Council's approval of the staff recommendation, staff will prepare an amendment to the EER Agreement consistent with the terms identified above. Staff will circulate the amendment for review with its counterparts at the two districts. The EER Agreement amendment will then be presented to the EER JPA Board, which consists of the Shoreline Manager (City Manager) and the MVWSD and MVLA Superintendents. This Board is charged with administering the EER Agreement and will be asked to approve the amendment for recommendation to the agencies' respective governing bodies. At this point, the EER Agreement amendment will come back to the Shoreline Board of Directors (City Council) for final approval. Staff expects to complete this process by the end of the 2023 calendar year.

### **Successor Agreement Negotiation**

Notwithstanding the proposed action to extend the current agreement to provide certainty to MVWSD for its administrative purposes, the negotiation process outlined in the Background section of this report will continue as scheduled. Shoreline Community staff is committed to working with our school district partners and moving forward in this process as expeditiously as possible. It is anticipated that a successor EER Agreement will be reached to replace the amended 2023 agreement well before the end of the proposed extended term of June 30, 2027.

### **FISCAL IMPACT**

The proposed payments in Fiscal Years 2024-25 through 2026-27 are based on the Fiscal Year 2023-24 Minimum Payment plus Adjustment Payment. The estimated total Minimum Payment plus Adjustment Payment for the current Fiscal Year 2023-24 (not including the One-Time Additional Payment) is approximately \$10.6 million. The payment in future years will increase each year by the rate of property tax revenue growth. For illustration purposes, if property tax revenue grows by 7% in each of the next three years, the estimated annual total payments to the school districts would range from \$11.3 million to \$13 million per year. It is expected that there will be sufficient funding in the Shoreline Community Fund to cover these payments.

**ALTERNATIVES**

1. Do not approve the staff recommendation and deny the extension of the EER JPA amendment.
2. Do not approve the staff recommendation and require that MVWSD provide more information regarding its request and explore whether the district can instead adjust its conservative property tax revenue assumptions in its budget. Essentially, ask the district to utilize similar property tax growth assumptions used by the City and/or MVLA.
3. Provide other direction to staff.

**PUBLIC NOTICING**

Agenda posting. A copy of the report was sent to MVWSD and MVLA.

Prepared by:

Audrey Seymour Ramberg  
Assistant City Manager

Approved by:

Kimbra McCarthy  
City Manager

ASR/MS/1/CAM  
602-10-10-23CR  
203508

Attachment: 1. MVWSD Request Letter