



COUNCIL REPORT

DATE: June 27, 2023

CATEGORY: Consent

DEPT.: City Manager's Office

TITLE: **2023 Education Enhancement Reserve
Joint Powers Agreement**

RECOMMENDATION

Acting as the Shoreline Regional Park Community Board of Directors, approve the 2023 Education Enhancement Reserve Joint Powers Agreement.

BACKGROUND

In January 2006, the Shoreline Regional Park Community (SRPC or Shoreline Community), a separate legal entity from the City, 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 Community's economic vitality. The initial funding in 2005 was approximately \$400,000 per year per district, adjusted annually by up to 3%. An amendment to the 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 JPA was amended to provide the school districts with their full tax rate allocation on property tax revenue 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 comes online in the North Bayshore Area over time, the payment to the school districts will increase significantly.

Since 2005, total payments from the Shoreline Community to the school districts amount to \$49,388,386 to MVWSD and \$32,551,064 to MVLA for a total of \$81,939,450.

The 2013 EER JPA expires on June 30, 2023. As required in the agreement, Shoreline Community and school district staff began meeting to discuss a successor agreement in 2019. In 2021, Shoreline Community staff proposed an extension to provide the time needed to develop a long-term forecast informed by the North Bayshore Master Plan (NBMP). (The NBMP was subsequently approved by the City Council on June 13, 2023.) Shoreline Community staff also proposed to update the 1977 Shoreline Area Plan, which outlines the allowable uses for Shoreline Community tax increment and does not currently identify school capacity as an allowable use.

Staff presented this proposed approach at the November 29, 2022 meeting of the EER JPA Board. At this meeting, the Board provided direction to staff to develop a short-term agreement for adoption as soon as possible to provide certainty for a payment in Fiscal Year 2023-24 in an amount no less than the Fiscal Year 2022-23 payment, i.e., \$5,346,723, and \$3,423,095 for MVWSD and MVLA, respectively. The EER JPA Board also provided direction for staff to return before summer with a process for negotiation of a long-term successor agreement.

In follow up to the November 29, 2022 EER JPA Board meeting, the working group of staff from the three agencies met in December 2022 and engaged in ongoing discussions to develop a short-term successor agreement. Shoreline Community staff provided a draft agreement to the school districts on February 24, 2023. This draft was based on the 2013 agreement with an increased minimum payment to equal the Fiscal Year 2022-23 payment, an adjustment payment based on the growth rate in property tax revenue, and a one-time additional payment. In addition, the draft included updated recitals and some language cleanup.

On March 29, 2023, MVWSD provided suggested edits, including an increased minimum payment and other terms related to setting aside reserves for future payments to the school districts. Staff updated the Shoreline Community Board of Directors at a Study Session on April 3, 2023. At this meeting, the Board provided direction to Shoreline Community staff to work out a focused short-term agreement as soon as possible and not include provisions related to the future long-term agreement. Shoreline Community staff sent an updated draft of the agreement to the school districts' staff on April 28, 2023, accepting the increased minimum payment and some of the suggested language modifications as described in the Analysis section below.

The EER JPA Board met on May 30, 2023 and voted to recommend this latest draft of the EER Agreement to the respective elected bodies of the Shoreline Community, MVWSD, and MVLA. The agreement was approved by the MVLA Board of Trustees on June 5 and by the MVWSD Board of Trustees on June 15, 2023. It is now before the Shoreline Community Board of Directors for approval.

ANALYSIS

Proposed Short-Term Agreement

The proposed 2023 short-term successor EER Agreement is included in this memo as Attachment 1. The key terms are outlined below:

- **Purpose:** Create an Education Enhancement Reserve in which funds provided by the Shoreline Community shall be used to improve, rehabilitate, develop, or redevelop school district facilities that serve the residents of the Shoreline Community and enhance the educational and technology capacity of students in districts' schools that serve the residents and workforce needs of the Shoreline Community. The Purpose was updated and expanded to include use for facilities as noted above. As noted below, this will require an update to the Shoreline Area Plan.
- **Updated Language:** A recital was added to reflect the Shoreline Community's intention to update the Shoreline Area Plan to address the increased demand for infrastructure, school district facilities, affordable housing, and services generated by new development in the Shoreline Community. A recital was also added to emphasize the parties' commitment to negotiate in good faith to reach a long-term successor agreement in a timely manner.
- **Minimum Payment:** Upon execution of the agreement, the school districts will receive a Minimum Payment for Fiscal Year 2023-24 as follows:
 - MVWSD: \$5,686,451
 - MVLA: \$3,640,595
- **Adjustment Payment:** In addition, on or before December 31, 2023, the school districts will receive an Adjustment Payment for Fiscal Year 2023-24 calculated by applying to the Minimum Payment the same percentage change in property tax revenues compared to the preceding fiscal year (2022-23).
- **Additional One-Time Payment:** In addition, on or before December 31, 2023, the school districts will receive a One-Time Additional Payment for Fiscal Year 2023-24 equal to 10% of the Adjustment Payment.

For illustrative purposes, if property tax revenue in the Shoreline Community were to increase 10%, the payment would be \$6.3 million to MVWSD and \$4 million to MVLA, resulting in a total of \$10.3 million.

- Fiscal Year 2023-24 Shoreline Community Bond Issuance: In response, to an interest stated by MVWSD, the short-term agreement includes a term that the Shoreline Community will forego issuing bonds and certificates of participation in Fiscal Year 2023-24.
- Agreement Duration: The term of the short-term successor EER Agreement is Fiscal Year 2023-24. The agreement may be extended by written agreement of all parties on the same or different terms negotiated by the parties so long as the parties continue to negotiate in good faith on a longer-term agreement.

Process for Long-Term Agreement

As noted above, the EER JPA Board directed staff to return before the summer with a process for negotiating the long-term successor EER JPA. Shoreline Community staff outlined a proposed process in the memo for the April 3, 2023 Study Session of the Shoreline Community Board of Directors. This process involves convening elected officials from the three agencies to: build relationships and trust; share information through real-time, direct communication; identify shared and separate interests; and provide process guidelines for staff-level negotiation. The tri-agency convenings would include a Joint Kickoff meeting of the three elected bodies followed by up to three meetings of an ad hoc committee comprised of representatives of each of the agency elected bodies (with one less than a quorum from each agency). These convenings are to be supported by a professional, neutral facilitator. The Shoreline Community Board of Directors approved of this approach at the April 3, 2023 meeting, and the Mayor sent a letter to the school districts on April 28, 2023 inviting participation in this process. Shoreline Community staff has been working since early April to identify a mediator that is amenable to all parties.

FISCAL IMPACT

The EER Agreement will result in a total minimum payment from the Shoreline Community Fund in the amount of \$9,327,046. The EER Agreement also provides for an adjustment payment and additional one-time payment that will have an additional fiscal impact on the Shoreline Community Fund. The amount of this impact will depend on the growth in property tax revenue. For example, if property tax revenue grows 10%, the total fiscal impact will be \$10,353,022.

ALTERNATIVES

1. Do not approve the agreement.
2. Provide other direction.

PUBLIC NOTICING—Agenda posting and a copy of report to MVWSD and MVLA.

Prepared and Approved by:

Audrey Seymour Ramberg
Assistant City Manager

ASR/MS/8/CAM
602-06-27-23CR
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Attachment: 1. 2023 Short-Term Education Enhancement Reserve Agreement