



EAST PALO ALTO CITY COUNCIL SPECIAL MEETING AGENDA

Tuesday, August 20, 2024, 5:00 PM
EPA Government Center
2415 University Avenue, First Floor
East Palo Alto, CA 94303

NOTICE

This meeting will be held virtually and in-person at the Council Chambers located on 2415 University Ave, First Floor East Palo Alto, CA 94303. The virtual portion of this City Council meeting will be conducted in accordance with City of East Palo Alto Resolution adopted pursuant to Assembly Bill 361.

The public may participate in the City Council Meeting via Zoom Meeting or by attending in-person in the Council Chambers at 2415 University Ave, First Floor East Palo Alto, CA 94303. Community members may provide comments by emailing cityclerk@cityofepa.org, submitting a speaker card at the meeting, or using the **RAISE HAND** feature when the Mayor or City Clerk call for public comment. Emailed comments should include the specific agenda item on which you are commenting.

Please click this URL to join

<https://us06web.zoom.us/j/85106797217>

Or join by phone:

Dial (for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or
+ 1 346 248 7799 or
+ 1 253 215 8782 or
+ 1 312 626 6799 or
+ 1 929 205 6099 or
+ 1 301 715 8592

Webinar ID: 851 0679 7217

International numbers available: <https://zoom.us/u/aMWYF4KT>

1. **CALL TO ORDER AND ROLL CALL**

2. **APPROVAL OF THE AGENDA**

3. **APPROVAL OF THE CONSENT CALENDAR**

1. **Increasing the Bridge Loan to Creative Montessori Learning Center of East Palo Alto**

Recommendation: Adopt a resolution:

1. Authorizing the City Manager to execute an amendment to increase the loan agreement amount to with the Creative Montessori Learning Center (CMLC), in a form approved by the City Attorney, by an additional \$150,000 for a total not - to -exceed amount of \$246,000, to help alleviate its current financial crisis; and

2. Approve an appropriation of \$150,000 from Children Youth and Family Services (CYFS) Transient Occupancy Tax (TOT) Fund in the Fiscal Year 2024-25 Budget; and

3. Find that the proposed action does not constitute a “Project” within the meaning of the California Environmental Quality Act (CEQA), pursuant to CEQA Guideline section 15378 (b)(5), in that it is a government administrative activity that will not result in direct or indirect changes in the environment..

4. **CLOSED SESSION**

4.1 CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION (Government Code Section 54956.9(d)(1).) Name of Case: East Palo Alto Sanitary District v. San Mateo Local Area Formation Commission et al.;

4.2 CONFERENCE WITH LABOR NEGOTIATORS (Government Code Section 54957.6.)

Unrepresented employee: City Attorney

5. **POLICY AND ACTION**

1. **Chapter 2.12 (City Manager) Amendment regarding Sanitary District**

Recommendation:

1. Waive the first reading and introduce an ordinance amending Chapter 2.12 “CITY MANAGER” of the East Palo Municipal Code granting additional powers to the City Manager in the event the East Palo Sanitary District is made a subsidiary district of the City; and

2. Find that the adoption by the City Council of the amendments is exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code section 21065 (not a project), and CEQA Guidelines Sections 15061(b)(3) (common sense exemption) and 15320(a) (changes

of organization).

6. **ADJOURNMENT**

This AGENDA is posted in accordance with Government Code Section 54954.2(a)

This Notice of Availability of Public Records: All public records relating to an open session item which are not exempt from disclosure pursuant to the Public Records Act, that are distributed to the majority of the City Council will be available for public inspection at the City Clerk's Office, 2415 University Avenue, East Palo Alto, CA at the same time that the public records are distributed or made available to the City Council. Such documents may also be available on the East Palo Alto website www.cityofepa.org subject to staff's ability to post the documents prior to the meeting. Information may be obtained by calling (650) 853-3100.

The City Council meeting packet may be reviewed by the public in the Library or the City Clerk's Office. Any writings or documents pertaining to an open session item provided to a majority of the City Council less than 72 hours prior to the meeting, shall be made available for public inspection at the front counter at the City Clerk's Office, 2ND Floor, City Hall, 2415 University Avenue, East Palo Alto, California 94303 during normal business hours. Information distributed to the Council at the Council meeting becomes part of the public record. A copy of written material, pictures, etc. should be provided for this purpose.

View documents related to this agenda on the City's website: <https://www.cityofepa.org/citycouncil/page/agenda-and-minutes>

East Palo Alto City Council Chambers is ADA compliant. Requests for disability related modifications or accommodations, aids or services may be made by a person with a disability to the City Clerk's office at (650) 853-3127 no less than 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act of 1990 and the federal rules and regulations adopted in implementation thereof.

DECLARATION OF POSTING

This Notice is posted in accordance with Government Code §54954.2(a) or §54956. Members of the public can view electronic agendas and staff reports by accessing the City website. Under penalty of perjury, this Agenda was posted to the public at least 72 hours prior to the meeting.

POSTED: August 15, 2024

ATTEST:

James Colin

City Clerk



EAST PALO ALTO CITY COUNCIL STAFF REPORT

DATE: August 20, 2024

TO: Honorable Mayor and Members of the City Council

VIA: Melvin E. Gaines, City Manager

BY: Tomohito Oku, Finance Director

SUBJECT: Increasing the Bridge Loan to Creative Montessori Learning Center of East Palo Alto

Recommendation

Adopt a resolution:

1. Authorizing the City Manager to execute an amendment to the loan agreement with the Creative Montessori Learning Center (CMLC), in a form approved by the City Attorney, by an additional \$150,000 for a total not-to-exceed amount of \$246,0000, to help alleviate its current financial crisis; and
2. Approve an additional appropriation of \$150,000 from Children Youth and Family Services (CYFS) Transient Occupancy Tax (TOT) Fund in the Fiscal Year 2024-25 Budget; and
3. Find that the proposed action does not constitute a “Project” within the meaning of the California Environmental Quality Act (CEQA), pursuant to CEQA Guideline section 15378 (b)(5), in that it is a government administrative activity that will not result in direct or indirect changes in the environment.

Alignment with City Council Strategic Plan

This recommendation is primarily aligned with:

Priority: Enhance Community Services and Parks for Residents

Background

On July 25, 2024, the City Council approved a \$96,000 bridge loan to the Creative Montessori Learning Center (CMLC) of East Palo Alto. CMLC used those funds for payroll, employee medical and other benefits, as well as food and supplies. On August 9, of this amount less than \$20,000 remained, which was not enough for CMLC’s August 12, 2024 payroll.

CMLC closed on Monday August 12, 2024, and will remain closed until they have funds to cover payroll. CMLC requested an increased loan amount from the City to allow them to reopen the Center and provide childcare to 74 families.

Analysis

CMLC provided documentation to the City from the California Department of Education (CDE) stating that CMLC submitted the necessary audit information and CDE would remove CMLC from the delinquent audit. CDE also requires that CMLC repay them a \$50,000 overpayment from 2021 before they release the \$1.1 million to CMLC.

The California Department of Social Services (CDSS) will mail a \$108,000 payment to CMLC by August 23, 2024; however, that will not be enough to cover payroll and make the \$50,000 payment to CDE needed for CMLC to receive the \$1.1 million CDE payment. If the City provides an additional \$150,000 loan to CMLC by August 23 and CMLC receives the CDSS payment, they will have enough funds reopen by Monday, August 26, 2024, and to repay CDE the \$50,000 overpayment.

CMLC will be able to operate for 6 weeks, through October 4, 2024, with the additional \$150,000. Staff believes 6 weeks is a long enough period for CMLC to meet its \$50,000 payment obligation to CDE and to receive the \$1.1 million payment from CDE which will allow CMLC to repay the City and sustain its operations.

The loan terms would remain the same, this would simply be an increased loan amount. The loan terms include:

- A detailed repayment plan with a term of the earlier of one year from the date of disbursement or 30 days after the anticipated revenues from the state are received.
- Provide regular financial reporting to the City to monitor the center's progress upon requests.
- Demonstrate efforts to develop a balanced annual budget, including implementation of cost-saving measures and strategies to increase enrollment.

It's important to note that this recommendation, while carrying a potential risk of bad debt based on our preliminary due diligence, is a strategic decision that reinforces our community's educational infrastructure and economic stability. CMLC's role in delivering quality education to our youngest residents is invaluable, and the proposed loan will secure its continued operation.

Fiscal Impact

The proposed additional loan amount is \$150,000, which will be sourced from the City's CYFS TOT Fund under Chapter 3.68 of the Municipal Code. This funding source is specifically dedicated to supporting services for children, youth, families, and senior citizens, making the loan qualified under Chapter 3.68 use of revenues. The total loan amount will be \$192,000.

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The fiscal impact on the City's budget is manageable within the current financial position of the CYFS TOT fund which is estimated to be approximately \$1,050,000 as of July 1, 2024.

The loan is expected to be repaid in full, ensuring the City's investment is returned. Furthermore, the investment in CMLC is anticipated to have a positive economic impact on the community by preserving jobs and maintaining an essential educational service for local families.

Public Notice

The public was provided notice by making the agenda and report available on the City's website and on bulletin boards located at (1) City Hall: 2415 University Avenue, East Palo Alto, (2) Library: 2415 University Avenue, East Palo Alto, and (3) 1960 Tate Street, East Palo Alto

Environmental

The action being considered does not constitute a "Project" within the meaning of the California Environmental Quality Act (CEQA), pursuant to CEQA Guideline section 15378 (b)(5), in that it is a government administrative activity that will not result in direct or indirect changes in the environment.

Government Code § 84308

Applicability of Levine Act: Yes.

Analysis of Levine Act Compliance: The signator(ies) to the loan agreement, includes Diana Buffington, Executive Director of CMLC. Staff is unaware of any other parties or participants relevant to the Council's consideration of this item.

Attachments

1. Resolution

RESOLUTION NO. XX– 2025

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO

ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER EXECUTE AN AMENDMENT TO THE LOAN AGREEMENT WITH THE CREATIVE MONTESSORI LEARNING CENTER (CMLC), IN A FORM APPROVED BY THE CITY ATTORNEY, TO INCREASE THE LOAN BY \$150,000 TO HELP ALLEVIATE ITS CURRENT FINANCIAL CRISIS AND APPROVE THE APPROPRIATION \$150,000 FROM CHILDREN YOUTH AND FAMILY SERVICES (CYFS) TRANSIENT OCCUPANCY TAX (TOT) FUND IN THE FISCAL YEAR 2024-25 BUDGET

WHEREAS, the Creative Montessori Learning Center (CMLC) located in East Palo Alto has been a cornerstone of the community for over 50 years, providing high-quality, accessible childcare education and committed to serving families regardless of race, ethnicity, or status and offers care and high-quality education to low-income families with the help of state subsidies; and

WHEREAS, CMLC is currently facing a severe financial crisis due to a delayed annual audit, which has resulted in the State of California withholding funds since December 2023; and

WHEREAS, CMLC has exhausted all reserve funds and, as of July 11, 2024, does not have sufficient funds to process payroll, with the State currently holding \$1,122,797 in anticipated revenues due to the delayed audit; and

WHEREAS, CMLC serves 74 children and employs 21 staff members, all of whom would be directly impacted by its closure, and the loss of the center would create a gap in the community's educational resources, particularly in early childhood education; and

WHEREAS, CMLC has taken steps to mitigate the crisis, including seeking additional lines of credit, loans, and bridge funding, and board members have provided loans to help maintain operations during this difficult period; and

WHEREAS, on July 25, 2024, the City Council approved a \$96,000 bridge loan to CMLC; and

WHEREAS, on August 9, less than \$20,000 remained of the City's original loan, which is insufficient for CMLC's August 12, 2024 payroll; CMLC closed on Monday August 12, 2024, and will remain closed until they have funds to cover payroll; CMLC requested an increased loan amount from the City to allow them to reopen the Center and provide childcare to 74 families; and

WHEREAS, if the City provides an additional \$150,000 loan to CMLC by August 23 and CMLC receives the California Department of Social Services (CDSS) payment, they will have enough funds reopen by Monday, August 26, 2024; and

WHEREAS, CMLC will be able to operate for six (6) weeks, through October 4, 2025, with the additional \$150,000 loan proceeds from the City; staff believes six (6) weeks is a long enough period for CMLC to meet its \$50,000 payment obligation to CDE and to receive the \$1.1 million payment from CDE which will allow CMLC to repay the City and sustain its operations; and

WHEREAS, the proposed revised terms, including in particular, the additional funding from the City would provide the necessary bridge funding to stabilize CMLC's finances until the delayed state Resolution No. XX-2025

funds are released; and

WHEREAS, the City has determined that the additional loan proceeds to CMLC is a qualified use of revenues under Chapter 3.68 of the City's Municipal Code, specifically the "Dedication of Ten Percent of Revenues to Children, Youth and Family Services, Including Senior Citizens" of Transient Occupancy Tax; and

WHEREAS, the City has determined that providing a loan to CMLC is a qualified use of revenues under Chapter 3.68 of the City's Municipal Code, specifically the "Dedication of Ten Percent of Revenues to Children, Youth and Family Services, Including Senior Citizens" of Transient Occupancy Tax; and

WHEREAS, the fiscal impact on the City's budget is manageable within the current financial position of the CYFS TOT fund, which is estimated to be approximately \$1,050,000 as of July 1, 2024, and the loan is expected to be repaid in full, ensuring the City's investment is returned.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO HEREBY:

1. Finds the foregoing recitals are true and correct, and are incorporated by this reference into this action;
2. Authorizes the City Manager to execute an amendment to the loan agreement with the Creative Montessori Learning Center, in a form approved by the City Attorney, to increase the loan by \$150,000, to help alleviate its current financial crisis
3. Appropriates \$150,000 from the Children, Youth, and Family Services (CYFS) Transient Occupancy Tax (TOT) Fund in the fiscal year 2024-25 Budget for this loan; and
4. Finds that the action being considered does not constitute a "Project" within the meaning of the California Environmental Quality Act (CEQA), pursuant to CEQA Guideline section 15378 (b)(5), in that it is a government administrative activity that will not result in direct or indirect changes in the environment.

PASSED AND ADOPTED this 20th day of August 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Antonio D. Lopez, Mayor

ATTEST:

APPROVED AS TO FORM:

James Colin, City Clerk

John D. Lê, City Attorney



EAST PALO ALTO CITY COUNCIL STAFF REPORT

DATE: August 16, 2024

TO: Honorable Mayor and Members of the City Council

VIA: John D. Lê, City Attorney

SUBJECT: Chapter 2.12 (City Manager) Amendment regarding Sanitary District

Recommendation

1. Waive the first reading and introduce an ordinance amending Chapter 2.12 “CITY MANAGER” of the East Palo Municipal Code granting additional powers to the City Manager in the event the East Palo Sanitary District is made a subsidiary district of the City; and
2. Find that the adoption by the City Council of the amendments is exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code section 21065 (not a project), and CEQA Guidelines Sections 15061(b)(3) (common sense exemption) and 15320(a) (changes of organization).

Alignment with City Council Strategic Plan

This recommendation is primarily aligned with:

- Promote Health & Public Safety.

Background

On November 15, 2024, the San Mateo Local Area Formation Commission (“LAFCo”) unanimously approved the City’s application requesting that the East Palo Alto Sanitary District (“District”) be made a subsidiary of the City of East Palo Alto.

On July 17, after the protest period commenced and concluded, the LAFCo held a hearing certifying the results of the protest, concluding that opponents of the proposal had failed



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to garner enough protests from either voters or landowners to either terminate the application or require an election. Accordingly, the LAFCo certified those results.

Meanwhile, the City has made steady progress and is nearing completion of all three conditions of approval related to the approved application. With that, staff is requesting that the Council take the following preparatory action: in the event, that the LAFCo issues a certificate of completion, the Municipal Code sections relating to the responsibilities of the City Manager shall be clarified, in an abundance of caution only, to ensure seamless transition of the District to a subsidiary district of the City, including that the City Manager shall have authority over the general manager of the District, as an employee and over any contractors retained by the District.

Analysis

Pursuant to Chapter 2.12 (Powers and duties), the City Manager of the City of East Palo Alto is vested with administrative powers, including the control over any “heads of departments” or “subordinate officers,” the power to remove each of the City’s “officers or employees,” and the responsibility to “administer” and carry out all contracts. It is the City Attorney’s Office’s opinion that the City Manager’s responsibilities codified in Section 2.12.070 of the East Palo Municipal Code sufficiently authorize him to function as the general manager of the District in the event it becomes a subsidiary district of the City.

Nonetheless, to resolve all doubt and in an abundance of caution, staff recommends that these powers be made explicit to avoid any delay in execution of services by the District to its ratepayers. To effectuate this purpose, staff recommends adding a new Section 2.12.150 (Subsidiary districts). Any additional responsibilities of the City Manager shall become effective from the date of filing of a Notice of Completion.

Staff therefore asks that the Council open the public hearing and waive the first reading of an ordinance amending portions of the East Palo Alto Municipal Code related to the powers and duties of the City Manager (Chapter 2.12) as discussed herein and set forth therein (attached ordinance).

Fiscal Impact

There are no fiscal impacts associated with the proposed action as it merely clarifies what the law otherwise provides.

Public Notice

The public was provided notice by making the agenda and report available on the City’s website and on a bulletin board located at City Hall: 2415 University Avenue, East Palo Alto.

Environmental



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The proposed action is not a “project” under California Environmental Quality Act (CEQA) because: (i) it is not a project within the meaning of Public Resources Code, section 21065 because a clarification of the City’s administrative structure has no potential to alter the physical environment; (ii) pursuant to CEQA Guidelines section 15061(b)(3), the so-called “common sense” exemption, for this same reason and (iii) pursuant to CEQA Guidelines section 15320(a) as involving the establishment of a subsidiary district.

Government Code § 84308

Applicability of Levine Act: No, as no contract or permit is involved.

Analysis of Levine Act Compliance: Not applicable.

Attachments

1. Ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF EAST PALO ALTO**

**ADDING A NEW SECTION 2.12.150 OF THE EAST PALO ALTO MUNICIPAL CODE
GRANTING ADDITIONAL POWERS TO THE CITY MANAGER OF THE CITY OF
EAST PALO ALTO IN THE EVENT A SUBSIDIARY DISTRICT OF THE CITY OF
EAST PALO ALTO IS ESTABLISHED**

WHEREAS, on November 15, 2024, the San Mateo Local Area Formation Commission ("LAFCo") unanimously approved the City's application requesting that the East Palo Alto Sanitary District ("District") be made a subsidiary of the City of East Palo Alto; and

WHEREAS, on July 17, after the protest period commenced and concluded, the LAFCo held a hearing certifying the results of the protest period, concluding that the District had failed to garner enough protests from either voters or landowners to either terminate the application or require an election. Accordingly, the LAFCo certified those results; and

WHEREAS, pursuant to Chapter 2.12 (Powers and duties), the City Manager of the City of East Palo Alto is vested with administrative powers, including the control over any "heads of departments" or "subordinate officers," the power to remove each of the City's "officers or employees," and the responsibility to "administer" and carry out all contracts; and

WHEREAS, the City Manager's responsibilities codified in existing Section 2.12.070 of the East Palo Municipal Code sufficiently authorize him to function as the de facto manager of the District in the event of a change of organization establishing a subsidiary district of the City; and

WHEREAS, nonetheless, to resolve all doubt and in an abundance of caution, staff had recommended that these powers be made explicit to avoid any delay in execution of services by the District and its ratepayers; and

WHEREAS, to effectuate this purpose, staff recommended to the East Palo Alto City Council to add a new Section 2.12.150 (Subsidiary districts) such that any additional responsibilities of the City Manager shall become effective from the date of filing the Certificate of Completion.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO
DOES ORDAIN AS FOLLOWS:**

SECTION 1. INCORPORATION OF RECITALS

The City Council finds that all the foregoing recitals are true and correct and incorporated herein by reference.

SECTION 2: PURPOSE AND INTENT

It is the purpose and intent of this Ordinance to clarify that existing local law provides that the City Manager has administrative powers that would permit the operation of the East Palo Alto Sanitary District in the event that a Certificate of Completion is filed establishing the District as a subsidiary district to the City of East Palo Alto, including without limitation control over any “heads of departments” or “subordinate officers,” the power to remove each of the District’s “officers or employees,” and the responsibility to “administer” and carry out all contracts. Therefore, any substantive provisions in this Ordinance are declaratory of existing law.

SECTION 3: AMENDMENTS TO CHAPTER 2.12 (CITY MANAGER)

Notwithstanding any provisions of law, Chapter 2.12 of the East Palo Alto Municipal Code is hereby amended to add a new section 2.12.150 to read as follows:

2.12.150 – Subsidiary districts.

Upon the recording of a notice of completion of a local government reorganization under the Cortese-Knox-Hertzberg Act (Gov. Code, § 56000 et seq.) establishing a subsidiary district of the city, the city manager shall be the general manager or other chief executive officer of that subsidiary district. Any and all employees of that district shall be subordinate to the city manager in that role. Every provision of this chapter shall apply to the city manager’s leadership of such subsidiary district and the word “city” as used in this chapter includes any such subsidiary district.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT.

The City Council finds that adoption of this Ordinance is exempt from CEQA because: (i) it is not a project within the meaning of Public Resources Code, section 21065 because a clarification of the city’s administrative structure has no potential to alter the physical environment; (ii) pursuant to CEQA Guidelines section 15061(b)(3), the so-called “common sense” exemption, for this same reason and (iii) pursuant to CEQA Guidelines section 15320(a) as involving the establishment of a subsidiary district.

SECTION 5: IMPLIED REPEAL.

Any provision of the East Palo Alto Municipal Code inconsistent with this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to effectuate this Ordinance.

SECTION 6: REFERENCES TO PRIOR CODE

Unless superseded and repealed (express or implied), references in City forms, documents and regulation to the chapters and sections of the former City codes, shall be construed to apply to the corresponding provisions contained within this Ordinance.

SECTION 7. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

SECTION 8. EFFECTIVE DATE.

This Ordinance shall become effective 30 days after second reading.

SECTION 9. PUBLICATION.

Within fifteen (15) days of this adoption, the Ordinance shall be posted in three (3) public places within the City of East Palo Alto, and the Ordinance, or summary of the Ordinance prepared by the City Attorney, shall be published in a local newspaper used to publish official notice for the City of East Palo Alto prior to the effective date.

This Ordinance was introduced at the August 20, 2024 meeting of the City Council of the City of East Palo Alto.

PASSED AND ADOPTED this _____ day of _____, 202[] by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Antonio D. Lopez, Mayor

ATTEST:

APPROVED AS TO FORM:

James Colin, City Clerk

John D. Lê, City Attorney

SAMPLE