



AGENDA

REGULAR CITY COUNCIL MEETING
Tuesday, September 15, 2015 – 7:00 p.m.
City Council Chambers

Meeting Location
El Cerrito City Hall
10890 San Pablo Avenue, El Cerrito

Mark Friedman – Mayor

Mayor Pro Tem Greg Lyman
Councilmember Jan Bridges

Councilmember Janet Abelson
Councilmember Gabriel Quinto

ROLL CALL

7:00 p.m. CONVENE REGULAR CITY COUNCIL MEETING

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE – *Councilmember Gabriel Quinto.*

2. COUNCIL / STAFF COMMUNICATIONS (*Reports of Closed Session, commission appointments and informational reports on matters of general interest which are announced by the City Council & City Staff.*)

3. ORAL COMMUNICATIONS FROM THE PUBLIC

All persons wishing to speak should sign up with the City Clerk. Remarks are typically limited to 3 minutes per person. The Mayor may reduce the time limit per speaker depending upon the number of speakers. Kindly state your name and city of residence for the record. Comments regarding non-agenda, presentation and consent calendar items will be heard first. Comments related to items appearing on the Public Hearing or Policy Matter portions of the Agenda are taken up at the time the City Council deliberates each action item. Individuals wishing to comment on any closed session scheduled after the regular meeting may do so during this public comment period or after formal announcement of the closed session.

4. PRESENTATIONS

Presentation and Report on the 2015 EC Stars Program– *Presentation by Suzanne Iarla, Assistant to the City Manager and Corey Mason, West Contra Costa Unified School District.*

Receive a presentation regarding the 2015 El Cerrito Students Training and Ready for

Success (“EC STARS”) Internship Program.

5. ADOPTION OF THE CONSENT CALENDAR – Item Nos. 5A through 5E
CITY COUNCIL ITEMS

A. Minutes for Approval

Approve the August 18, 2015 Regular City Council meeting minutes. *Joint Special Meetings of Planning Commission, Design Review Board and City Council were convened on August 18 and August 25, 2015 for the limited purpose of touring the Ohlone Gardens Apartments, 6495 Portola Drive, however no quorum of the City Council was present at either special meeting therefore no minutes were prepared.*

B. Proclamation Pledging Partnership with the East Bay Municipal Utility District to Save Water

Approve a proclamation pledging to partner with EBMUD to work together to reduce 2015 water use in the EBMUD service area by twenty percent compared to use in 2013. Together the City and EBMUD can meet local and state water conservation mandates.

C. Contract for Summit K2 High School Environmental Review

Adopt a resolution authorizing the City Manager to execute a contract with Lamphier-Gregory in an amount not to exceed \$73,650 and approving up to \$7,400 in contingency tasks to perform environmental review services for the Summit K2 High School project.

D. Economic Development Committee Appointment

Approve an Economic Development Committee recommendation to appoint Shanti Corrigan to the Economic Development Committee, effective September 16, 2015.

SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY ITEM

E. Review and Authorization to Submit the Draft Recognized Obligations Payment Schedule 15-16B (January – June 2016)

Adopt a Successor Agency resolution reviewing and authorizing submittal of the draft Recognized Obligations Payment Schedule 15-16B covering the period January to June 2016.

6. PUBLIC HEARINGS

A. Abatement of Fire Hazard Public Nuisances on Eight Properties Pursuant to El Cerrito Municipal Code Chapter 16.26

Conduct a public hearing and upon conclusion adopt a resolution confirming the cost of abatement of public nuisance conditions resulting from the presence of weeds, rubbish, litter and other flammable material on private property designated in Exhibit A to the resolution as authorized by El Cerrito Municipal Code Chapter 16.26.

B. Ordinance Establishing a Tobacco Retailer License Program

Conduct a public hearing and upon conclusion, introduce by title, waive any further reading, and approve an ordinance amending El Cerrito Municipal Code (ECMC) Title 6 “Business Permits and Regulations” by adding a new Chapter 6.100 “Tobacco Retailer License Program,” repealing Section 19.20.210, amending Section 19.46.060(D) and Table 19.07-A.

7. POLICY MATTERS - None

8. COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENT REPORTS

Mayoral and City Council communications regarding local and regional liaison assignments and committee reports.

9. ADJOURN REGULAR CITY COUNCIL MEETING

The next regular City Council meeting is Tuesday, October 6, 2015 at 7:00 p.m. at City Hall, 10890 San Pablo Avenue, El Cerrito, California.

The City of El Cerrito serves, leads and supports our diverse community by providing exemplary and innovative services, public places and infrastructure, ensuring public safety and creating an economically and environmentally sustainable future.

- Council Meetings can be heard live on FM Radio, KECG – 88.1 and 97.7 FM and viewed live on Cable TV - KCRT-Channel 28 and AT&T Uverse Channel 99. The meetings are rebroadcast on Channel 28 the following Thursday and Monday at 12 noon, except on holidays. Live and On-Demand Webcast of the Council Meetings can be accessed from the City's website <http://www.el-cerrito.org/ind-ex.aspx?NID=114>. Copies of the agenda bills and other written documentation relating to items of business referred to on the agenda are on file and available for public inspection in the Office of the City Clerk, at the El Cerrito Library and posted on the City's website at www.el-cerrito.org prior to the meeting.
- In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, (510) 215-4305. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title I). Assistive listening devices are available for use at the meeting.
- ***The Deadline for agenda items and communications*** is eight days prior to the next meeting by 12 noon, City Clerk's Office, 10890 San Pablo Avenue, El Cerrito, CA. Tel: 215-4305 Fax: 215-4379, email cmorse@ci.el-cerrito.ca.us
- IF YOU CHALLENGE A DECISION OF THE CITY COUNCIL IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE COUNCIL MEETING. ACTIONS CHALLENGING CITY COUNCIL DECISIONS SHALL BE SUBJECT TO THE TIME LIMITATIONS CONTAINED IN CODE OF CIVIL PROCEDURE SECTION 1094.6.
- The City Council believes that late night meetings deter public participation, can affect the Council's decision-making ability, and can be a burden to staff. City Council Meetings shall be adjourned by 10:30 p.m., unless extended to a specific time determined by a majority of the Council.



AGENDA BILL

Agenda Item No. 4

Date: September 15, 2015
To: El Cerrito City Council
From: Suzanne Iarla, Assistant to the City Manager
Subject: Presentation and Report on the 2015 EC STARS Program

ACTION REQUESTED

Receive a presentation regarding the 2015 El Cerrito Students Training and Ready for Success (“EC STARS”) Internship Program. Suzanne Iarla and Mr. Corey Mason will provide a brief overview of the program. Mr. Mason has been the lead teacher for all three years of the EC STARS program. Following the introduction, each intern will speak briefly about their experience.

BACKGROUND

2015 is the third year of the El Cerrito Students Training and Ready for Success Program, also known as EC STARS. The program is a summer internship program in partnership with the Information Technology and the Media Academies at El Cerrito High School. This year, there were six interns in seven City Departments:

2015 EC STARS		
Department / Division	Mentor	Intern
OESD/Recycling Center	Maria Sanders	Katushka Aburto
Recreation	Bridget Cooney & Vivian Brandt	Andres Montes Clemens
Fire & City Manager’s Office	Brenda Navellier & Suzanne Iarla	Manuel Espinoza
Community Development & City Manager’s Office	Margaret Kavanaugh-Lynch & Suzanne Iarla	Wei Cheng Chen
Finance & Human Resources	Lisa Malek-Zadeh & Cheryl Mosby	Chelsea Martinez
Finance & Human Resources	Lisa Malek-Zadeh & Cheryl Mosby	Danielle Garnett
Finance & Human Resources	Lisa Malek-Zadeh & Cheryl Mosby	Zhondon McDaniel

In addition to working approximately 15 hours per week in a city office, the interns also attended a weekly class for academic credit. Class time included reflections on the student’s internship experience, reading “Get the Job You Love” by Marjorie

Weingrow, presentations by city staff on local government careers, and homework assignments.

ANALYSIS

The EC STARS program continues to offer students learning opportunities in a variety of fields, while enriching public service for the City. The primary goal of the EC STARS Internship Program is to have a positive impact on youth by connecting them to local government employment through skill building. City staff strives to ensure that the students have a clear understanding of basic employment rules and requirements, employer goals and expectations, and obtain the necessary information to perform well in a structured educational setting as well as on the job.

The program will achieve this goal by accomplishing the following objectives:

1. Enhance the basic educational skills of the students
2. Encourage school completion
3. Expose youth to career options and opportunities
4. Direction to enter into career paths
5. Offer part-time work
6. Divert youth from anti-social behavior
7. Assist youth with inter-personal relations
8. Provide guidance and assistance
9. Introduce youth to the world of work
10. Enhance other 21st Century skills

STRATEGIC PLAN CONSIDERATIONS

The EC STARS program helps to achieve a number of strategies identified in the City's strategic Plan:

The program strengthens the City's relationship with El Cerrito High School – an objective for both Goal A, "Deliver exemplary government services" and Goal C, "Deepen a sense of place and community identity/"

The program also indirectly helps to recruit a talented and workforce (an objective of Goal A) by providing local youth the opportunity to experience working for the City and learning about career opportunities in local government.

The program also encourages civic involvement by youth, another objective of Goal C.

Reviewed by:



Scott Hanin, City Manager

EL CERRITO CITY COUNCIL

MINUTES

REGULAR CITY COUNCIL MEETING
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City Council Chambers

Meeting Location
El Cerrito City Hall
10890 San Pablo Avenue, El Cerrito

Mark Friedman – Mayor

Mayor Pro Tem Greg Lyman
Councilmember Jan Bridges

Councilmember Janet Abelson
Councilmember Gabriel Quinto

ROLL CALL

Councilmembers Abelson, Bridges, Lyman, Quinto and Mayor Friedman all present.

7:00 p.m.

CONVENE REGULAR CITY COUNCIL MEETING

Mayor Friedman convened the regular City Council meeting at 7:00 p.m.

- 1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE** was led by Mayor Pro Tem Lyman.
- 2. COUNCIL / STAFF COMMUNICATIONS** – *No reports.*
- 3. ORAL COMMUNICATIONS FROM THE PUBLIC**

Tom Panas, El Cerrito, invited all to attend the Anza Trail dedication ceremony on August 25 to commemorate the Anza Expedition which brought the first European settlers to California. El Cerrito is the first city to install a marker and banners that highlight this historic trail and event. On April 1, 1776, the Anza Expedition passed through the area that is now known as El Cerrito. The banners will commemorate the Anza Expedition's visit in El Cerrito each year.

Mr. Panas also stated that he was initially opposed to the construction at Castro Park due to the unearthing of an old dump at the Castro School site. Mr. Panas praised the City's Development Services Manager, Ms. Kavanaugh-Lynch, for how she handled the situation and noted that it was a good example of cooperation between the City, School District and the El Cerrito Historical Society.

Cordell Hindler, Richmond, invited the City Council to the Richmond "Our Power Festival" on August 22. Mr. Hindler also stated that he is involved with the Richmond Youth Leadership Committee and concluded by noting that he is grateful that the El Cerrito Police

Department have not been coming down his street.

Ben Choi, representing Marin Clean Energy (MCE), gave an update on MCE enrollment in El Cerrito which has been quite successful. Approximately 91% of El Cerrito customers have enrolled with MCE. There is less than a 10% opt-out rate. El Cerrito has the highest number of “deep green” enrollments. Additionally, El Cerrito is the first City Council with all members enrolled in “deep green.” MCE will continue to work with the Environmental Quality Committee (EQC) regarding enrollment of local businesses.

4. PRESENTATIONS

A. Proclamation Honoring Lieutenant Bonini and Sergeant Shawn Maples: 2015 Special Olympics Torch Run Final Leg Participants – Presentation by Sylvia Moir, Police Chief.

Approve a proclamation recognizing Sergeant Shawn Maples and Lieutenant Stephen Bonini as 2015 Special Olympics Torch Run Final Leg Participants for Special Olympics of Northern California. Sergeant Maples and Lieutenant Bonini are examples of the strength and selflessness of volunteerism in the highest ideals of service in policing, and serve as examples to members of the Police Department, the profession of law enforcement, and the El Cerrito community.

Presenter: Sylvia Moir, Chief of Police.

Action: Moved, seconded (Lyman/Bridges) and carried unanimously to approve the proclamation. Presented to Police Lieutenant Stephen Bonini and Sergeant Shawn Maples.

B. Proclamation Commemorating the 25th Anniversary of the Americans with Disabilities Act – Presentation by Mallory Nestor-Brush, Manager of Accessible Services, Alameda-Contra Costa Transit District.

At the request of Councilmember Abelson, approve a proclamation recognizing the significance of the efforts and advocacy of people with disabilities throughout the United States including the Alameda-Contra Costa Transit District, locally, who established an Accessibility Advisory Committee and has recommitted its efforts toward maintaining the District’s ADA compliance to secure access, inclusion and independence for people with disabilities. The City will continue to seek the guidance of the disability community in the continued development and provision of fully accessible services and celebrates and recognizes the progress that has been made by reaffirming the principles of equality and inclusion.

Speakers: Christian Peebles and Joe Wallace, AC Transit Board of Directors, and Mallory Nestor-Bush, Manager of Accessible Services, AC Transit.

Action: Moved, seconded (Abelson/Lyman) and carried unanimously to approve the proclamation.

C. Renaming of the Competition Pool at the El Cerrito Swim Center to the Emery G. Weed, III Lap Pool

At the request of El Cerrito residents and swim patrons Rudy Donofrio and former Mayor Norman La Force, consider adopting a resolution to rename the Competition Pool at the El Cerrito Swim Center, the Emery G. Weed, III Lap Pool in memory of Emery Weed, Senior Lifeguard and Swim Instructor who worked at the Swim Center for 25 years.

Presenters: Chris Jones, Recreation Director and Norman LaForce, Former Mayor of El Cerrito.

Speakers: Rudy Donofrio, co-applicant for renaming of the competition pool, spoke about Mr. Weed’s rules for being human and the applicability of these for all of life’s challenges. Mr. Donofrio also spoke of Mr. Weed’s ability to evoke a positive mental attitude in others, enhance self-esteem, his many contributions and the personalized coaching

and mentoring Mr. Weed offered to everyone. Mr. Weed believed that one could do anything in life if one set his/her mind to it.

Rosie Weed, wife of Emery G. Weed, III, thanked the City Council, Mr. Donofrio and Mr. LaForce for the special recognition and stated that Mr. Weed knew that helping others overcome a fear of water would help transform lives.

Action: Moved, seconded (Bridges/Quinto) and carried unanimously to adopt Resolution No. 2015–55.

5. ADOPTION OF THE CONSENT CALENDAR – Item Nos. 5A through 5J

Moved, seconded (Lyman/Abelson) and carried unanimously to approve Consent Calendar Item Nos. 5A, 5C and 5E through 5J in one motion as indicated below. Consent Calendar Item No. 5B was removed from the Consent Calendar at the request of Mayor Friedman for the purpose of presenting the proclamation. Consent Calendar Item No. 5D was removed from the Consent Calendar at the request of Mayor Pro Tem Lyman.

A. Minutes for Approval

Approve the July 21, 2015 Special and Regular City Council meeting minutes.

Action: Approved minutes.

B. Proclamation in Support of Citizens for East Shore Parks 30 Years of Public Service

Approve a proclamation recognizing the exceptional service to the East Bay provided by Citizens for East Shore Parks and supporting its continuing work toward protecting the East Bay shoreline.

Action: Moved to Presentation by Mayor Friedman. Moved, seconded (Lyman/Quinto) and carried unanimously to approve the proclamation. Presented to Citizens for Eastshore Parks President and former Mayor of Albany Robert Cheasty, former El Cerrito Mayor and Director Norman LaForce and Director Roberta Wyn.

C. Expedited Permitting Procedures for Small Residential Rooftop Solar Energy Systems Ordinance

Adopt Ordinance No. 2015–05 adding Section 16.030.065 to the El Cerrito Municipal Code relating to expedited permitting procedures for small residential rooftop solar energy systems. *First reading July 21, 2015. Vote: Ayes – Councilmembers Abelson, Bridges, Quinto and Mayor Friedman; Noes – None; Absent – Mayor Pro Tem Lyman. (Exempt from CEQA)*

Action: Adopted Ordinance No. 2015–05.

D. Floodplain Management Ordinance

Adopt Ordinance No. 2015–06 updating Floodplain Management Regulations and repealing El Cerrito Municipal Code Chapter 8.35 – Flood Hazard Areas, and replacing it by adding and adopting El Cerrito Municipal Code Chapter 8.35, Floodplain management. *First reading July 21, 2015. Vote: Ayes – Councilmembers Abelson, Bridges, Quinto and Mayor Friedman; Noes – None; Absent – Mayor Pro Tem Lyman. (Exempt from CEQA)*

Action: Removed from the Consent Calendar at the request of Mayor Pro Tem Lyman who suggested that staff consider focusing on the 150 Square feet rather than the \$1,500 value outlined in Section 8.35.030(2)(b) of the ordinance if possible. Mayor Pro Tem Lyman also commented on the map and queried whether the model used for the map accurately reflects development that has occurred since 1971 and asked staff to look into it and ensure accuracy in any maps going forward. Moved, seconded (Lyman/Bridges) and carried unanimously to adopt Ordinance No. 2015–06.

E. Measure A Swim Center Ordinance

Adopt Ordinance No. 2015–07 setting tax rates beginning Fiscal Year 2015-16 for the special tax imposed pursuant to Chapter 4.56 of the El Cerrito Municipal Code. Rates will be set at the maximum authorized rate of \$58.46 per single family residential unit, \$45.00 per multi-family residential unit, and \$410.00 per acre of non-residential property to address maintenance needs of the Swim Center facility and generate additional funds for future capital projects. *First reading July 21, 2015. Vote: Ayes – Councilmembers Abelson, Bridges, Quinto and Mayor Friedman; Noes – None; Absent – Mayor Pro Tem Lyman. (Exempt from CEQA).*

Action: Adopted Ordinance No. 2015–07.

F. Storm Drain System Maintenance Services Agreement

Adopt a resolution authorizing the City Manager to execute an agreement with PSC Industrial Outsourcing, LP in an amount not to exceed \$45,000 to provide storm drain maintenance services for Fiscal Year 2015-16.

Action: Adopted Resolution No. 2015–56.

G. 2015 Slurry Seal and Curb Ramp Program

Adopt a resolution taking the following actions: 1) Approve plans for the 2015 Slurry Seal and Curb Ramp Program, City Project No. C3027.16; 2) Accept the two submitted bids; 3) Authorize the City Manager to award a contract, contingent on successful negotiations with Golden Bay Construction, Inc. (the lowest responsible bidder), for a deductive change order after undergoing a value engineering process which is not inconsistent with the revised budget for the 2015 Slurry Seal and Curb Ramp Program, City Project No. C3027.16; 4) Amend the Fiscal Year 2015-16 Adopted Budget to appropriate an additional \$141,724 in funding including \$60,000 in the Measure A Street Improvement Fund, \$50,000 in the Measure J Return to Source Fund and \$31,724 in Capital Improvement Fund for the 2015 Slurry Seal and Curb Ramp Program, City Project No. C3027.16; and 5) Amend the Capital Improvement Program and Annual Program of Maintenance and Improvement pursuant to Measure A Street Improvement Program per the above items. *Exempt from CEQA.*

Action: Adopted Resolution No. 2015–57.

H. Agreement with the State Board of Equalization and Other Actions Regarding Implementation of the Local Pre-Paid Mobile Telephony Services Collection Act

Adopt resolutions: 1) Authorizing the City Manager to execute documents by the State Board of Equalization (BOE) to collect a charge on pre-paid wireless service, and authorizing the City Attorney to certify specific information to the BOE, as required by statute; and 2) Authorizing the examination of records related to the collection of the charge on prepaid mobile telephone services.

Action: Adopted Resolution Nos. 2015–58 and 2015–59.

I. Support for New Sustainable Transportation Funding

Adopt a resolution urging Governor Brown and the State Legislature to provide sufficient and stable funding for local and state transportation infrastructure to ensure the safe and efficient mobility of the travelling public and the economic vitality of California.

Action: Adopted Resolution No. 2015–60.

J. Quarterly Investment Report

Receive and file the City's Quarterly Investment Report for the period ending June 30, 2015.

Action: Received and filed.

6. PUBLIC HEARINGS – None

7. POLICY MATTERS

Study Session Regarding Establishing a Minimum Wage Ordinance

This Study Session is an opportunity for the City Council to hear from a panel of experts, and to discuss and provide feedback regarding development of a local minimum wage ordinance. Should the Council wish to proceed with directing staff to prepare an ordinance for consideration, the Council is expected to provide specific direction regarding the elements it would like to see in a proposed local minimum wage ordinance for El Cerrito.

Presenters:

Mayor Friedman stated that the City had been researching minimum wage options for awhile and that it is exciting to be at the point the City is in now with the possible adoption of an ordinance raising the minimum wage and help alleviate poverty.

John Gioia, Supervisor, Contra Costa Board of Supervisors, recognized the leadership of the Mayor and City Council in addressing climate change and income equality. Supervisor Gioia explained that there is a regional effort to develop a common minimum wage throughout Contra Costa County and to link political support in the County with good public policy. Supervisor Gioia stated that there is a Self-Sufficiency Standard in Contra Costa County which is the amount of money needed for a family of four to avoid relying on public assistance. The amount is currently approximately \$72,000 for a family of four, however, two people earning minimum wage earn approximately half this amount or \$37,000 per year.

Marianna Moore, Director, Ensuring Opportunity Campaign to End Poverty in Contra Costa County. Ms. Moore said she was grateful to Supervisor Gioia for the statewide leadership he has shown. The Ensuring Opportunity Campaign is advocating a county wide uniform ordinance that is sound public policy and will be simultaneously adopted by all nineteen jurisdictions across the County. Although El Cerrito will be a vanguard of the movement, smaller cities will have a collective impact. The ordinance should be simple and workable without a lot of exceptions. The goal is a stepped wage increase to \$15 per hour by 2020 by all jurisdictions in the County.

Annette Bernhardt, Senior Researcher, UC Berkeley Institute for Research on Labor and Education (Institute) stated that the County campaign is similar to other proposals and is very much in line with what other cities have done and/or are planning to do. The Institute has prepared impact studies for a number of California cities that are looking at raising the minimum wage including San Francisco, Oakland, Los Angeles, Sacramento and San Diego. The Institute is also preparing a study for the Ensuring Opportunity Campaign proposal however it has not been completed yet. There are 24 cities in the United States that have minimum wage laws. The East Bay has bounced back from the recession. Unemployment rates are down to below recession levels. Economic indicators show that although local economies are back on track, income inequality has been rising. In Contra Costa County, between 2007-2013, median annual earnings adjusted for inflation fell by 12 percent. The rise in income inequality has risen faster than in San Francisco. Studies indicate that lots of workers will benefit from the minimum wage proposal. Up to 38% of the workforce is expected to receive a minimum wage increase which will have a substantial impact on the local economy and addressing poverty. The institute has found that a small majority of workers that will benefit from a minimum wage increase are teenagers. The majority are adults, most of whom have families and are communities of color or are immigrants. The two industries that are most impacted are restaurants and retail. It is difficult to assess impacts on El Cerrito however research completed at a broader level suggests that there are minimal to no negative impacts to employment associated with raising the minimum wage. When workers are paid more turnover is decreased and productivity increases. The Institute predicts modest price increases in the restaurant sector of 0.5-1% per year. Very small price increases are predicted in the retail sector. Dr. Bernhardt stated that it will be very hard to estimate impacts in El Cerrito versus another city because of data constraints. In Los Angeles, the Institute found that to the extent there is a reduction in employment growth from a higher minimum wage, the Institute expects that it will be more than offset by increased

consumption by low wage workers and their families from the increased wages that they are earning. This stimulative effect is diffused throughout the region because of commuters and shows why it is important to develop a regional policy and economic approach and coordination. Dr. Bernhardt cautioned that a lot of her report is based on past minimum wage research and on minimum wage increases that are typically smaller than many cities are considering. The impact studies that the Institute is doing are prospective and are making predictions about the future and noted that there is a certain level of uncertainty associated with this. Dr. Bernhardt suggested that Cities monitor the community, workers and businesses after passing a minimum wage law.

Jennifer Lin, Deputy Director, East Bay Alliance for a Sustainable Economy (EBASE), stated that the mission of EBASE is to create a just economy in the East Bay economy based on good jobs and healthy communities. EBASE has helped pass Living Wage policies in the East Bay and was part of the coalition that helped pass minimum wage ordinances in Oakland and Emeryville. El Cerrito would be joining a movement of cities in the East Bay. Ms. Lin described lessons learned in the cities of Oakland and Emeryville. Polls across the nation show support for raising the minimum wage. There is consensus among small businesses in raising the minimum wage and in creating innovative ways to pay workers more. Big corporations can afford to pay more. Ms. Lin also spoke about how raising the minimum wage can affect the lives of workers. In one instance, a worker at McDonalds was able to take her daughter out for ice cream whenever she asked for it and to fill her car with gasoline. Ms. Lin commended the City's leadership in taking a step forward in approving a minimum wage law and said her organization looks forward to working with a coalition of elected officials, workers, labor and community organizations to create a strong, effective policy that has at its core low wage workers.

Suzanne Iarla, Assistant to the City Manager, highlighted provisions of minimum wage laws passed by neighboring cities and also sought direction from the Council regarding development of a local minimum wage law.

Speakers: Cordell Hindler, Richmond, encouraged the City Council to adopt an ordinance.

Kevin O'Neal, El Cerrito, stated that he is a local coffee shop owner who employees local high school kids. He is opposed to a proposed minimum wage ordinance. Mr. O'Neal stated that he is terrified about the impacts a minimum wage law will have on his business and stated that automatic raises take away merit increases and will make hiring teenagers even more difficult among small businesses. Mr. O'Neal said El Cerrito is a small city with limited resources and doesn't need to be in the vanguard but should sit back and wait.

Kiev Smith, El Cerrito, spoke in support of increasing the minimum wage in El Cerrito, noted that rents are high in El Cerrito and that he has friends that cannot afford to eat in a restaurant in El Cerrito.

Carla Hansen, El Cerrito Democratic Club President, spoke in support of increasing a minimum wage law in El Cerrito and stated that the Democratic Club has been building support for increasing the minimum wage over the last few months and urges the City Council to take swift action in adopting an ordinance and give a boost to the local economy. There is support from Boards and Commissions, community groups and businesses.

Dan Jameyson, Service Employees International Union (SEIU) 1021, President Rank and File Chapter, stated that SEIU supports increasing the minimum wage throughout the Bay Area and suggested an immediate increase of \$12.25 per hour and \$15.00 by 2018 with the addition of sick days and no exemptions.

Reverend Brian Woodson, Sr., El Cerrito, Leader of Faith, spoke in support of an increase in the minimum wage and stated that people that work for a living must be able to live. Reverend Woodson thanked Supervisor Gioia for his work on increasing the minimum wage and encouraged the City Council to increase the minimum wage. Reverend Woodson encouraged \$15 per hour at 2018, or sooner, noted that paid sick days are important and

stated that no business model should depend on the exploitation of anyone to survive.

Nicholas Arzio, El Cerrito and Vice President of the El Cerrito Democratic Club, stated that the Democratic Club passed a resolution urging the City Council to pass a local minimum wage rate in El Cerrito to be set no lower than the rate set by Richmond and that it should be passed by January 1, 2016. Mr. Arzio stated that the Democratic Club voted to support a local ordinance not a countywide ordinance although members may support a countywide ordinance too.

Helen Dickey, El Cerrito, thanked the City Council for taking up the issue.

Action: Discussion held. The City Council, by mutual consensus provided staff with the following direction:

- 1) Research raising the minimum wage to \$15 per hour by 2018 vs. \$15 per hour by 2020;
- 2) The ordinance should include an annual increase in the minimum wage, such as the Consumer Price Index;
- 3) Achieve consistent policies for all employers;
- 4) Research the inclusion of paid sick leave but not at the risk of slowing down a vote on the minimum wage ordinance;
- 5) Include the following best practices for enforcement in the ordinance; a) Private right of action; b) Damages and other penalties; c) Retaliation protections; and d) Notice posting and record keeping provisions;
- 6) Research how enforcement activities will be implemented in cooperation with the County as well as state or regional options. Rely on external support as much as possible including the option to outsource this function. The City Council also noted the importance of extensive and ongoing education and that enforcement activities may be placed into the ordinance at a future date after the initial minimum wage ordinance is passed;
- 7) Wage Liens present a level of complexity that should not be included in the ordinance at this time but looked into at the time enforcement arrangements are implemented; and
- 8) Promote homegrown, El Cerrito pride and one of-a-kind businesses.

8. COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENT REPORTS –
No reports.

9. ADJOURNED REGULAR CITY COUNCIL MEETING at 10:15 p.m.

SUPPLEMENTAL REPORTS AND COMMUNICATIONS

Item No. 4(B) Proclamation Commemorating the 25th Anniversary of the Americans with Disabilities Act

1. Powerpoint presentation – *Submitted by Mallory Nestor-Bush, Manager of Accessible Services, AC Transit.*

Item No. 4(C) Renaming of the Competition Pool at the El Cerrito Swim Center to the Emery G. Weed, III Lap Pool

2. Program for Emery “Butch” Weed, III Memorial Event – *Submitted by Rudy Donofrio.*

Item No. 7 Study Session Regarding Establishing a Minimum Wage Ordinance

3. Revised powerpoint presentation – *Submitted by Suzanne Iarla, Assistant to the City Manager.*

Other:

4. City of Richmond Youth Leadership Committee advertisement – *Submitted by Cordell Hindler, Richmond.*
5. Richmond “Our Power Festival” flyer – *Submitted by Cordell Hindler, Richmond.*
6. Comments regarding the Anza Expedition Historic Trail marker dedication and Castro Park – *Submitted by Tom Panas, El Cerrito.*

EL CERRITO CITY COUNCIL PROCLAMATION

PLEDGE TO PARTNER WITH EAST BAY MUNICIPAL UTILITY DISTRICT TO SAVE WATER

WHEREAS, it is up to all of us to ensure that there is enough water for our communities;
and

WHEREAS, the City can meet local and state water conservation mandates; and

WHEREAS, the City will do its part by taking the following actions and encourages all residents to join with the City and the East Bay Municipal Utility District (EBMUD) in this pledge:

1. Immediately turn off any potable water systems used to irrigate ornamental turf in public medians;
2. Abide by regulations that prohibit outdoor irrigation from 9:00 a.m. to 6:00 p.m., limit watering of outdoor landscapes to two non-consecutive days per week and require that we prevent overspray and runoff when watering;
3. Use a hose with a shutoff valve when hand-washing motor vehicles;
4. Use a broom or air blower, not water, to clean driveways, sidewalks, patios and other hard surfaces;
5. Turn off any fountain or decorative water feature that uses potable water unless the water is recirculated;
6. Partner with EBMUD to promote conservation throughout the City of El Cerrito;
7. Alert EBMUD to possible water waste for follow-up by conservation experts; and
8. Explore ways to partner with EBMUD to put a stop to any violations of mandatory water use restrictions that may be identified in our community.

NOW THEREFORE, the City Council of the City of El Cerrito hereby agrees to partner with EBMUD to work together to reduce 2015 water use in the EBMUD service area by twenty percent compared to use in 2013. Together we can meet local and state water conservation mandates.

Dated: September 15, 2015

Mark Friedman, Mayor



AGENDA BILL

Agenda Item No. 5(C)

Date: September 15, 2015
To: El Cerrito City Council
From: Sean Moss, Senior Planner
Subject: Contract for Summit K2 High School Environmental Review

ACTION REQUESTED

Adopt a resolution authorizing the City Manager to execute a contract with Lamphier-Gregory in an amount not to exceed \$73,650 and approving up to \$7,400 in contingency tasks to perform environmental review services for the Summit K2 High School project.

BACKGROUND

A. Purpose of the Environmental Review

Summit K2 is currently operating at 1800 Elm Street with grades 7 and 8 under the Conditional Use Permit (CUP) that was approved for the former Windrush School in 2007. A Mitigated Negative Declaration (MND) was certified at this time. (Both the CUP and MND are available at City Hall and on the City's website under Community Development-Planning-Major Projects 1800 Elm Street). The applicant, Education Matters (Applicant), is proposing to amend the existing use permit to allow grades 7-12. The applicant is also proposing to extend the allowed school hours by 30 minutes to 3:30 p.m and to increase the enrollment cap to 630 students during the school year and 315 students for summer programs.

The proposal is considered a 'project' for the purposes of the California Environmental Quality Act (CEQA) and therefore requires the preparation of an environmental document.

B. Request for Proposal Process

A Request for Proposals (RFP) was circulated from July 2, 2015 to July 24, 2015. Requests were sent to nine firms, of which, four submitted proposals.

The table below lists each firm and the proposed total budget for the project. The question of what type of environmental document is necessary was left to the consultant to decide based on the information contained in the RFP. As the Lead Agency, the City is ultimately responsible for making this decision. However, City staff felt that it was appropriate to allow the consultants to advise staff on the appropriate type of environmental document. Some firms' proposals reflect the need for a Mitigated Negative Declaration and some firms proposed preparation of an Environmental Impact Report. In reviewing the proposals, staff, in consultation with the applicant, determined

that preparation of an EIR was appropriate for the project. Lamphier-Gregory (Consultant) was selected due to their approach and their experience on similar projects.

Bid Summary

Firm	Bid for Required Tasks
Lamphier-Gregory	\$73,650 (EIR)
LSA	\$39,530 (MND)
M-Group	\$39,990 (MND)
Michael Baker International	\$69,430 (EIR)

C. Project Schedule

City staff and the Consultant anticipate completion of the Administrative Draft of the Summit K2 High School Environmental Impact Report nineteen weeks after the start date. Staff anticipates that the Draft EIR will be circulated for a 45-day public review period after an additional five weeks and the Final EIR will be complete and ready for consideration by the Planning Commission eight weeks after the end of the public comment period.

FINANCIAL CONSIDERATIONS

The environmental review process is legally required and must accompany the entitlement process. The City's Master Fee Schedule dictates that the applicant is responsible for the cost of the environmental review plus the City's administrative fee. The Applicant will deposit the \$73,650 in contract funds and ten percent contingency of \$7,400 to fund this process for a total amount of \$81,050 with the City. As invoices are submitted, the consultant will be paid directly from this deposit account and there will be no impact on the City's budget.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Resolution

RESOLUTION 2015-XX

A RESOLUTION OF THE EL CERRITO CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF EL CERRITO AND LAMPHIER-GREGORY IN AN AMOUNT NOT TO EXCEED \$73,650 AND TO APPROVE UP TO \$7,400 IN CONTINGENCY TASKS FOR ENVIRONMENTAL REVIEW SERVICES FOR THE SUMMIT K2 HIGH SCHOOL PROJECT

WHEREAS, the City conducted a Request for Proposal (RFP) process during which Lamphier-Gregory submitted a proposal for the Summit K2 High School project Environmental Review in the amount of \$81,050, including a contingency of \$7,400; and

WHEREAS, Lamphier -Gregory has demonstrated that it can best perform the tasks outlined in the Summit K2 High School RFP; and

WHEREAS, the City will oversee the environmental review, and the applicant, Education Matters, will provide the City with the funding for the environmental review (\$73,650) and a ten percent (10%) contingency (\$7,400).

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby authorizes the City Manager to execute an agreement between the City of El Cerrito and Lamphier -Gregory in an amount not to exceed \$73,650 plus \$7,400 for contingency tasks and appropriate said funds as described.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon its passage and adoption.

I CERTIFY that at an adjourned regular meeting on September 15, 2015, the El Cerrito City Council passed this resolution by the following vote:

AYES: COUNCILMEMBER:
NOES: COUNCILMEMBER:
ABSENT: COUNCILMEMBER:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on September XX, 2015.

Cheryl Morse, City Clerk

APPROVED

Mark Friedman, Mayor



AGENDA BILL

Agenda Item No. 5(D)

Date: September 15, 2015
To: El Cerrito City Council
From: Melanie Mintz, Community Development Director
Subject: Economic Development Committee Appointment

ACTION REQUESTED

Approve an Economic Development Committee recommendation to appoint Shanti Corrigan to the Economic Development Committee, effective September 16, 2015.

BACKGROUND

An application to be appointed to the Economic Development Committee (EDC) was recently received from Shanti Corrigan, who has attended three meetings of the Economic Development Committee. During the regular Committee Meeting on August 27th, the Committee voted unanimously to recommend to the Council that Shanti Corrigan be appointed to the Economic Development Committee.

Shanti is an El Cerrito resident and is currently Assistant Dean of External Relations for the Graduate Division at UC Berkeley. She has demonstrated through her application and participation at EDC meetings that she is committed to economic prosperity and community in keeping with the mission of the Committee. With a Master Degree in Communications Management and Bachelor of Arts in Community Studies, she has the skills and enthusiasm required to support the activities of the Committee.

If the Council approves this recommendation, the number of Committee members will be 9, with one member, Tess Taylor, out on leave. Resolution 2013-66 establishes the maximum committee size at 15.

Reviewed by:

Scott Hanin, City Manager



**September 15, 2015
Regular City Council Meeting**

**Agenda Item No. 5(D)
Economic Development Committee Appointment
Attachment 1 – Shanti Corrigan Application**

Hardcopies are available for review at:

Office of the City Clerk
10890 San Pablo Avenue
El Cerrito, CA
(510) 215-4305

and

The El Cerrito Library
6510 Stockton Avenue
El Cerrito, CA



AGENDA BILL

Agenda Item No. 5(E)

Date: September 15, 2015

To: City Council of the City of El Cerrito
El Cerrito Redevelopment Successor Agency

From: Melanie Mintz, Community Development Director
Lisa Malek-Zadeh, Finance Director/City Treasurer

Subject: Review and Authorization to Submit the Draft Recognized Obligations
Payment Schedule 15-16B (January-June 2016)

ACTION REQUESTED

Adopt a Successor Agency resolution reviewing and authorizing submittal of the draft Recognized Obligations Payment Schedule 15-16B covering the period January to June 2016.

BACKGROUND

Recognized Obligation Payment Schedules

ABx1 26 (Dissolution Act) dissolved the El Cerrito Redevelopment Agency (RDA) and established the El Cerrito Redevelopment Successor Agency (Successor Agency) on February 1, 2012. Under the Dissolution Act, the portion of property tax revenues collected in the City of El Cerrito Redevelopment Project Area (Project Area) that was considered Tax Increment prior to the RDA's dissolution are called Redevelopment Property Tax and are deposited by the County Auditor-Controller (Auditor-Controller) into the Redevelopment Property Tax Trust Fund (RPTTF). The Auditor-Controller distributes the funds in the RPTTF with the following priority:

1. Auditor-Controller's administrative costs
2. Pass-through payments to the taxing entities affected by the Redevelopment Plan for the Project Area, calculated the same as prior to RDA dissolution
3. Distribution to the Successor Agency to retire the former RDA's obligations
4. Repayment of loans from the Housing Fund (starting in FY 2014-15)
5. Distribution of residual funds to taxing entities

The Successor Agency must review and authorize submittal of a Recognized Obligation Schedule (ROPS) for each six-month period. Each ROPS must then be approved by the Oversight Board to the Successor Agency (Oversight Board) and the California Department of Finance (DOF) before the Auditor-Controller disburses funding for payments on the approved ROPS.

The schedule being reviewed this evening is the draft ROPS 15-6B covering payments due during the period of January to June 2016. The Successor Agency must submit

Agenda Item No. 5(E)

ROPS 15-16B approved by the Oversight Board to DOF no later than October 5, 2015. The Oversight Board is scheduled to consider ROPS 15-16B at its upcoming special meeting on September 29, 2015. After submittal, DOF then has 45 days to review the ROPS and approve or disapprove of any items. The Successor Agency can request additional review by DOF and an opportunity to meet and confer on disputed items, and must make that request within five business days of receiving a DOF determination. The DOF is required to notify the Successor Agency and Auditor-Controller of its final determination of the approved payments at least 15 days prior to the date of distributions from the RPTTF.

ROPS 15-16B

The proposed ROPS 15-16B is Exhibit A to the attached Successor Agency resolution, authorizing its submittal. It includes: 1) A summary of the funding request; 2) An itemized listing of obligations (“ROPS Detail”); 3) A report of cash balances; and 4) A reconciliation of prior payments and resulting adjustments (“Prior Period Adjustments.

Obligations with remaining outstanding balances are included on ROPS 15-16B, whether previously approved by DOF or in dispute. They are as follows:

- Tax Allocation Bond Debt Service. Payments are due to the trustee Union Bank by January 2016.
- Valente Note. Payment of \$288,216 is due on March 5, 2016.
- Litigation Costs. The Successor Agency’s litigation expenses are an enforceable obligation. The Successor Agency is estimating litigation costs of \$38,000 in the January through June 2016 period.
- San Pablo Avenue Streetscape and Streetlights. In the process of closing out multi-year capital improvement projects, it was determined that commitments of tax increment by the RDA to the City were not transferred to the Capital Improvement Fund, but were relied upon for letting construction contracts. While the commitment of tax increment not transferred by the RDA totaled \$956,511, the City was able to reduce project costs and only \$431,599 of the commitment remains outstanding. This continues to be recorded on the ROPS, although DOF has denied this item in the past.
- ERAF and SERAF Loans. The annual payment amount was listed on the last ROPS 15-16A consistent with the approved SERAF/ERAF Loan Repayment Schedule pursuant to Successor Agency Resolution No. 2014-01 and Oversight Board Resolution No. 2014-03. The previously approved payment schedule contemplates repayment of this loan with payments once per year from the RPTTF distributed for the first ROPS of each fiscal year. The next payment will appear on ROPS 16-17 A.
- FY 2015-16 Administrative Allowance. One half of the Successor Agency’s administrative allowance is included on the ROPS.

The total amount of RPTTF funding required for ROPS 15-16B is estimated to be \$1,235,414. The Agency also carried over \$731,962 from ROPS 15-16A to pay debt service, which is shown under the column Reserve Balance. There is a Prior Period

Agenda Item No. 5(E)

Adjustment of \$23,564 to the requested RPTTF funding for ROPS 15-16B due to unspent funds from the prior period.

LEGAL CONSIDERATIONS

All actions being requested are consistent with the Dissolution Act, as amended and have been reviewed by the Agency attorney.

Reviewed by:



Scott Hanin
City Manager

Attachment:

1. Successor Agency Resolution, reviewing and authorizing submittal of the draft Recognized Obligation Payment Schedule 15-16B

SUCCESSOR AGENCY RESOLUTION 2015-XX

RESOLUTION OF THE EL CERRITO REDEVELOPMENT AGENCY SUCCESSOR AGENCY AUTHORIZING SUBMITTAL OF THE DRAFT RECOGNIZED OBLIGATION PAYMENT SCHEDULE 15-16B, AS REQUIRED UNDER THE DISSOLUTION ACT

WHEREAS, pursuant to the California Community Redevelopment Law (the “Redevelopment Law”), the City Council (the “City Council”) of the City of El Cerrito (the “City”) adopted the Redevelopment Plan for the City of El Cerrito Redevelopment Project Area by Ordinance No. 77-17, as amended by Ordinances No. 80-13; No. 89-5; No. 94-4; No. 2004-3; No. 2005-01; and No. 2006-10 (collectively, the “Redevelopment Plan”); and

WHEREAS, the El Cerrito Redevelopment Agency (the “RDA”) was responsible for implementation of the Redevelopment Plan; and

WHEREAS, as part of the 2011-12 State budget bill, ABx1 26 (the “Dissolution Act”) was enacted significantly modifying the Redevelopment Law to require the dissolution of redevelopment agencies throughout California and the establishment of successor agencies to wind down the former redevelopment agencies’ affairs; and

WHEREAS, on August 15, 2011, pursuant to the Dissolution Act, the City elected to serve as the El Cerrito Redevelopment Agency Successor Agency (the “Successor Agency”), should the RDA be dissolved; and

WHEREAS, California redevelopment agencies were dissolved on February 1, 2012; and

WHEREAS, pursuant to the Dissolution Act, upon dissolution, the RDA transferred as a matter of law all remaining liabilities, debts and obligations to the Successor Agency; and transferred all unencumbered funds and assets to the Successor Agency’s Redevelopment Obligation Retirement Fund (the “RORF”), for disposition and/or use by the Successor Agency to retire RDA debt and pay for RDA obligations; and

WHEREAS, pursuant to the Dissolution Act, the Contra Costa County Auditor Controller (the “Auditor-Controller”) established the Redevelopment Property Tax Trust Fund (the “RPTTF”) to hold Redevelopment Property Tax collected from the City of El Cerrito Redevelopment Project Area to be disbursed to the Successor Agency for payment of its enforceable obligations and to taxing entities affected by the Redevelopment Plan; and

WHEREAS, AB 1484 (the “Trailer Bill”) was enacted on July 1, 2012 modifying the Dissolution Act to require the Successor Agency to submit an oversight board-approved Recognized Obligations Payment Schedule 15-16B (“ROPS 15-16B”) covering the period January through June 2016 to the Department of Finance (the “DOF”) by October 5, 2015; and

WHEREAS, the Trailer Bill made clear that the Successor Agency is a separate public entity from the City; and

Agenda Item No. 5(E)
Attachment 1

WHEREAS, the Oversight Board to the Successor Agency to the El Cerrito Redevelopment Agency (the "Oversight Board") was formed on April 4, 2012; and

WHEREAS, the Successor Agency has reviewed the draft ROPS 15-16B that was prepared pursuant to the Dissolution Act and the Trailer Bill, which is attached and incorporated as Exhibit A to this Resolution, for submittal to the Oversight Board, the Auditor-Controller, and DOF; and

WHEREAS, the Successor Agency wishes to authorize Successor Agency staff to amend the ROPS 15-16B administratively to account for any additional changes made by the DOF to the ROPS form or changes made by the Oversight Board that occur after the Successor Agency's consideration.

NOW THEREFORE, BE IT RESOLVED that the El Cerrito Redevelopment Agency Successor Agency hereby finds the above recitals to be true and accurate.

BE IT FURTHER RESOLVED that the El Cerrito Redevelopment Agency Successor Agency authorizes the submittal of the draft Recognized Obligation Payment Schedule 15-16B as required under the Dissolution Act, subject to such changes as may be necessary to accommodate changes in the DOF approved form and any changes made by the Oversight Board any such changes to be approved by the Executive Director.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon its passage and adoption.

I CERTIFY that at the regular meeting on September 15, 2015, the City Council of the City of El Cerrito acting as the El Cerrito Redevelopment Agency Successor Agency passed this resolution by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

IN WITNESS of this action, I sign this document on September __, 2015.

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor

Recognized Obligation Payment Schedule (ROPS 15-16B) - Summary

Filed for the January 1, 2016 through June 30, 2016 Period

Name of Successor Agency:	<u>El Cerrito</u>
Name of County:	<u>Contra Costa</u>

Current Period Requested Funding for Outstanding Debt or Obligation		Six-Month Total
Enforceable Obligations Funded with Non-Redevelopment Property Tax Trust Fund (RPTTF) Funding		
A Sources (B+C+D):		\$ 731,962
B Bond Proceeds Funding (ROPS Detail)		-
C Reserve Balance Funding (ROPS Detail)		731,962
D Other Funding (ROPS Detail)		-
E Enforceable Obligations Funded with RPTTF Funding (F+G):		\$ 1,235,414
F Non-Administrative Costs (ROPS Detail)		1,110,414
G Administrative Costs (ROPS Detail)		125,000
H Total Current Period Enforceable Obligations (A+E):		\$ 1,967,376

Successor Agency Self-Reported Prior Period Adjustment to Current Period RPTTF Requested Funding		
I Enforceable Obligations funded with RPTTF (E):		1,235,414
J Less Prior Period Adjustment (Report of Prior Period Adjustments Column S)		(23,564)
K Adjusted Current Period RPTTF Requested Funding (I-J)		\$ 1,211,850

County Auditor Controller Reported Prior Period Adjustment to Current Period RPTTF Requested Funding		
L Enforceable Obligations funded with RPTTF (E):		1,235,414
M Less Prior Period Adjustment (Report of Prior Period Adjustments Column AA)		-
N Adjusted Current Period RPTTF Requested Funding (L-M)		1,235,414

Certification of Oversight Board Chairman:
Pursuant to Section 34177 (m) of the Health and Safety code, I
hereby certify that the above is a true and accurate Recognized
Obligation Payment Schedule for the above named agency.

Name	Title
/s/	
Signature	Date

El Cerrito Recognized Obligation Payment Schedule (ROPS 15-16B) - ROPS Detail
January 1, 2016 through June 30, 2016
(Report Amounts in Whole Dollars)

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Item #	Project Name / Debt Obligation	Obligation Type	Contract/Agreement Execution Date	Contract/Agreement Termination Date	Payee	Description/Project Scope	Project Area	Total Outstanding Debt or Obligation	Retired	Funding Source					Six-Month Total
										Non-Redevelopment Property Tax Trust Fund (Non-RPTTF)			RPTTF		
										Bond Proceeds	Reserve Balance	Other Funds	Non-Admin	Admin	
1	Tax Allocation Bonds 1997 A	Bonds Issued On or Before 12/31/10	12/17/1997	7/1/2019	Union Bank	Refunding of prior TAB for Redev	City of El Cerrito	\$ 21,361,256	N	\$ -	\$ 731,962	\$ -	\$ 1,110,414	\$ 125,000	\$ 1,967,376
3	Tax Allocation Bonds 2004 A	Bonds Issued On or Before 12/31/10	10/21/2004	7/1/2023	Union Bank	Tax-exempt TAB for Infrastructure Projs	City of El Cerrito	1,769,375 9,786,859	N		210,000 364,462		44,875 213,114		\$ 254,875 577,576
5	Tax Allocation Bonds 2004 B Hsg	Bonds Issued On or Before 12/31/10	10/21/2004	7/1/2023	Union Bank	Taxable TAB for L&M Hsg Projs	City of El Cerrito	4,191,180	N		157,500		94,610		\$ 252,110
6	2009-10 SERAF Loan	SERAF/ERAF	2/16/2010	11/24/2024	City L&M Housing Fund	Funds advanced for SERAF payment	City of El Cerrito	874,941	N						\$ -
7	2005-06 ERAF Loan	SERAF/ERAF	4/17/2006	11/24/2024	City L&M Housing Fund	Funds advanced for ERAF payment	City of El Cerrito	121,377	N						\$ -
9	Valente Promissory Note	Third-Party Loans	3/5/2009	3/5/2024	George Valente	Loan for land acquisition	City of El Cerrito	1,897,925	N				288,216		\$ 288,216
11	Eden Housing Loan Agreement	OPA/DDA/Constructi on	5/17/2011	11/24/2024	Eden Housing	Undisbursed loan commitment	City of El Cerrito		N						\$ -
12	Cooperation Agreement	Project Management Costs	3/7/2011	11/24/2024	El Cerrito MSC	Implementation of City of El Cerrito Redevelopment Plan	City of El Cerrito		N						\$ -
18	Eden Housing Loan Agreement Post-DDA	OPA/DDA/Constructi on	5/17/2011	11/24/2024	Eden Housing	Undisbursed loan commitment contingent on DDA	City of El Cerrito		N						\$ -
19	Cooperation Agreement	Project Management Costs	3/7/2011	11/24/2024	El Cerrito MSC	Implementation of Redevelopment Plan	City of El Cerrito		N						\$ -
21	Litigation Cost/Cash Flow Loan Agreement	Legal	10/1/2013	6/30/2015	City of El Cerrito	Successor Agency litigation costs funded by ROPS 14-15B RPT and/or by City of El Cerrito Cash Flow Loan pursuant to H&S Code Section 341.73(h).	City of El Cerrito	38,000	N				38,000		\$ 38,000
22	Eden Housing Loan Agreement Post-DDA	OPA/DDA/Constructi on	5/17/2011	11/24/2024	Eden Housing	Undisbursed loan commitment contingent on DDA			N						\$ -
23	Cooperation Agreement	Project Management Costs	3/7/2011	11/24/2024	El Cerrito MSC	Implementation of Redevelopment Plan			N						\$ -
24	San Pablo Avenue Streetscape	OPA/DDA/Constructi on	7/1/2004	11/24/2024	City of El Cerrito	Undisbursed commitment for public improvements constructed in 2004-2011		431,599	N				431,599		\$ 431,599
25	Administrative Allowance	Admin Costs	6/1/2014	7/31/2023	City of El Cerrito	Annual allowance		2,250,000	N					125,000	\$ 125,000
28									N						\$ -
29									N						\$ -
30									N						\$ -
31									N						\$ -
32									N						\$ -
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67									N						\$ -

El Cerrito Recognized Obligation Payment Schedule (ROPS 15-16B) - Report of Cash Balances
(Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177 (I), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. For tips on how to complete the Report of Cash Balances Form, see [Cash Balance Tips Sheet](#)

A	B	C	D	E	F	G	H	I
	Cash Balance Information by ROPS Period	Fund Sources						Comments
		Bond Proceeds		Reserve Balance		Other	RPTTF	
		Bonds Issued on or before 12/31/10	Bonds Issued on or after 01/01/11	Prior ROPS period balances and DDR RPTTF balances retained	Prior ROPS RPTTF distributed as reserve for future period(s)	Rent, Grants, Interest, Etc.	Non-Admin and Admin	
ROPS 14-15B Actuals (01/01/15 - 06/30/15)								
1	Beginning Available Cash Balance (Actual 01/01/15)	-	-	16,592	495,378	1,277	75,653	
2	Revenue/Income (Actual 06/30/15) RPTTF amounts should tie to the ROPS 14-15B distribution from the County Auditor-Controller during January 2015						1,521,831	
3	Expenditures for ROPS 14-15B Enforceable Obligations (Actual 06/30/15) RPTTF amounts, H3 plus H4 should equal total reported actual expenditures in the Report of PPA, Columns L and Q			15,455	495,378	1,175	1,002,940	
4	Retention of Available Cash Balance (Actual 06/30/15) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)							
5	ROPS 14-15B RPTTF Prior Period Adjustment RPTTF amount should tie to the self-reported ROPS 14-15B PPA in the Report of PPA, Column S	No entry required						23,564
6	Ending Actual Available Cash Balance C to G = (1 + 2 - 3 - 4), H = (1 + 2 - 3 - 4 - 5)	\$ -	\$ -	\$ 1,137	\$ -	\$ 102	\$ 570,980	
ROPS 15-16A Estimate (07/01/15 - 12/31/15)								
7	Beginning Available Cash Balance (Actual 07/01/15) (C, D, E, G = 4 + 6, F = H4 + F4 + F6, and H = 5 + 6)	\$ -	\$ -	\$ 1,137	\$ -	\$ 102	\$ 594,544	
8	Revenue/Income (Estimate 12/31/15) RPTTF amounts should tie to the ROPS 15-16A distribution from the County Auditor-Controller during June 2015						1,456,261	
9	Expenditures for ROPS 15-16A Enforceable Obligations (Estimate 12/31/15)						799,949	
10	Retention of Available Cash Balance (Estimate 12/31/15) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)						731,962	
11	Ending Estimated Available Cash Balance (7 + 8 - 9 - 10)	\$ -	\$ -	\$ 1,137	\$ -	\$ 102	\$ 518,894	

El Cerrito Recognized Obligation Payment Schedule (ROPS 15-16B) - Report of Prior Period Adjustments Reported for the ROPS 14-15B (January 1, 2015 through June 30, 2015) Period Pursuant to Health and Safety Code (HSC) section 34186 (a) (Report Amounts in Whole Dollars)																											
ROPS 14-15B Successor Agency (SA) Self-reported Prior Period Adjustments (PPA):Pursuant to HSC Section 34186 (a), SAs are required to report the differences between their actual available funding and their actual expenditures for the ROPS 14-15B (January through June 2015) period. The amount of Redevelopment Property Tax Trust Fund (RPTTF) approved for the ROPS 15-16B (January through June 2016) period will be offset by the SA's self-reported ROPS 14-15B prior period adjustment. HSC Section 34186 (a) also specifies that the prior period adjustments self-reported by SAs are subject to audit by the county auditor-controller (CAC) and the State Controller.																				ROPS 14-15B CAC PPA: To be completed by the CAC upon submittal of the ROPS 15-16B by the SA to Finance and the CAC. Note that CACs will need to enter their own formulas at the line item level pursuant to the manner in which they calculate the PPA. Also note that the Admin amounts do not need to be listed at the line item level and may be entered as a lump sum.							
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z	AA	AB
Item #	Project Name / Debt Obligation	Non-RPTTF Expenditures						RPTTF Expenditures										SA Comments	RPTTF Expenditures							CAC Comments	
		Bond Proceeds		Reserve Balance		Other Funds		Non-Admin					Admin						Net SA Non-Admin and Admin PPA (Amount Used to Offset ROPS 15-16B Requested RPTTF)	Non-Admin CAC			Admin CAC				Net CAC Non-Admin and Admin PPA (Amount Used to Offset ROPS 15-16B Requested RPTTF)
		Authorized	Actual	Authorized	Actual	Authorized	Actual	Authorized	Available RPTTF (ROPS 14-15B distributed + all other available as of 01/1/15)	Net Lesser of Authorized / Available	Actual	Difference (If K is less than L, the difference is zero)	Authorized	Available RPTTF (ROPS 14-15B distributed + all other available as of 01/1/15)	Net Lesser of Authorized / Available	Actual	Difference (If total actual exceeds total authorized, the total difference is zero)		Net Difference (M+R)	Net Lesser of Authorized / Available	Actual	Difference	Net Lesser of Authorized / Available	Actual	Difference		Net Difference
		\$ -	\$ -	\$ 15,455	\$ 15,455	\$ 1,175	\$ 1,175	\$ 1,396,831	\$ 1,396,831	\$ 1,373,267	\$ 23,564	\$ 125,000	\$ 125,000	\$ 125,000	\$ 125,000	\$ -	\$ 23,564				\$ -			\$ -	\$ -		
1	Tax Allocation	-	-	-	-	-	-	281,125	281,125	\$ 281,125	281,125	\$ -					\$ -										
2	Tax Allocation	-	-	-	-	-	-	113,144	113,144	\$ 113,144	113,144	\$ -					\$ -										
3	Tax Allocation Bonds 2004 A	-	-	-	-	-	-	535,249	535,249	\$ 535,249	535,249	\$ -					\$ -										
5	Tax Allocation Bonds 2004 B Hsg	-	-	-	-	-	-	134,098	134,098	\$ 134,098	134,098	\$ -					\$ -										
6	2009-10 SERAF Loan	-	-	-	-	-	-	-	-	\$ -	-	\$ -					\$ -										
7	2005-06 ERAF Loan	-	-	-	-	-	-	-	-	\$ -	-	\$ -					\$ -										
9	Valente Promissory Note	-	-	-	-	-	-	288,215	288,215	\$ 288,215	288,215	\$ -					\$ -										
11	Eden Housing Loan Agreement	-	-	-	-	-	-	-	-	\$ -	-	\$ -					\$ -										
12	Cooperation Agreement	-	-	-	-	-	-	-	-	\$ -	-	\$ -					\$ -										
18	Eden Housing Loan Agreement Post-DDA	-	-	-	-	-	-	-	-	\$ -	-	\$ -					\$ -										
19	Cooperation Agreement	-	-	-	-	-	-	-	-	\$ -	-	\$ -					\$ -										
21	Litigation Cost/Cash Flow Loan Agreement	-	-	15,455	15,455	1,175	1,175	45,000	45,000	\$ 45,000	21,436	\$ 23,564					\$ 23,564										
22	Eden Housing Loan Agreement Post-DDA	-	-	-	-	-	-	-	-	\$ -	-	\$ -					\$ -										
23	Cooperation Agreement	-	-	-	-	-	-	-	-	\$ -	-	\$ -					\$ -										
24	San Pablo Avenue Streetscape	-	-	-	-	-	-	-	-	\$ -	-	\$ -					\$ -										
25	FY 14-15 Administrative Allowance	-	-	-	-	-	-	-	-	\$ -	-	\$ -					\$ -										
26	2009-10 SERAF Loan	-	-	-	-	-	-	-	-	\$ -	-	\$ -					\$ -										
27	2005-06 ERAF Loan	-	-	-	-	-	-	-	-	\$ -	-	\$ -					\$ -										
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AGENDA BILL

Agenda Item No. 6(A)

Date: September 15, 2015

To: El Cerrito City Council

From: Michael J. Bond, Fire Marshal
Lance J. Maples, Fire Chief

Subject: Abatement of Fire Hazard Public Nuisances on Eight Properties Pursuant to El Cerrito Municipal Code Chapter 16.26

ACTION REQUESTED

Conduct a public hearing and upon conclusion adopt a resolution confirming the cost of abatement of public nuisance conditions resulting from the presence of weeds, rubbish, litter or other flammable material on private property designated in Exhibit A to the resolution as authorized by El Cerrito Municipal Code Chapter 16.26.

BACKGROUND

The Fire Department has completed its annual fire hazard abatement program. The purpose of this program is to remove weeds, dry grass, stubble, brush, rubbish, litter and other flammable material from private properties where such flammable material endangers the public safety by creating a public nuisance and a fire hazard.

Notices were sent to 173 parcel owners notifying them that hazards existed on their parcels. With support and help from the Fire Department all but eight property owners abated the hazards on their parcels.

The property owners identified in Exhibit A failed to abate the fire hazards on their property. For these properties the City has followed a statutory procedure to remove the hazardous conditions. This procedure is specified in the July 21, 2015 staff report and Resolution No. 2015-52. The owners of the properties identified in Exhibit A were notified that if they did not abate the hazardous conditions on their property, the City would do so. They were given the opportunity at a public hearing to object to the City's plan to abate these conditions. On July 22, 2015, the City then sent the owners of the properties identified in Exhibit A, a second notice, informing them that the City would perform abatement through its own staff or through private contract. The property owners identified in Exhibit A failed to abate the hazards and the City then performed the abatement work through private contractors.

Notice has been sent to the owners of the properties identified in Exhibit A informing them of a scheduled hearing before the City Council on September 15, 2015 to confirm the costs of the abatement work performed on their properties.

ANALYSIS

The fire hazard abatement procedure provides ample due process for the affected property owners, well beyond the minimum procedure statutorily required. The most important part of the procedure is that the property owners listed in Exhibit A were given the opportunity to contest whether their property constituted a public nuisance and a fire hazard at a public hearing before the City Council. The property owners did not contest the designation, nor did the property owners voluntarily abate the nuisance conditions. The City Council therefore directed City staff to abate said conditions.

This matter appears before the City Council for the sole purpose of confirming the abatement costs already incurred by the City for the properties identified in Exhibit A. At this hearing, the City Council should review the reasonableness of the costs of abatement as specified, and then determine the abatement costs to be assessed. The attached resolution provides for confirmation of the report of abatement costs. Exhibit B to the resolution specifies the administrative costs associated with each of the properties. Once confirmed by the City Council, the costs of abating the nuisance will be forwarded to the County Auditor by September 25, 2015 for assessment to the individual property and a lien will be recorded with the County Recorder.

FINANCIAL CONSIDERATIONS

The abatement work has been completed by contract labor and the City has paid the contractors a total of \$8,800.00 for their work. The City and County administrative costs of \$7,339.75 have been added, bringing the total cost to \$16,139.75. These costs include: 1) Fire Department investigation, boundary determination and supervision of the contract labor; and 2) City Administration costs for the program. In order for the City to fully recover the direct and indirect costs of \$16,139.75 already incurred for the abatement work performed, the City Council should confirm the report on the costs of abatement at this time so that these costs can be forwarded to the County for collection from the property owner.

LEGAL CONSIDERATIONS

The City Attorney has reviewed and approved the process.

Reviewed by:

A handwritten signature in blue ink, appearing to read 'SH', is written over a horizontal line.

Scott Hanin, City Manager

Attachments:

1. Resolution
2. Exhibit A – List of Properties
3. Exhibit B – Cost Analysis and Invoices

RESOLUTION NO. 2015-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO CONFIRMING THE REPORT OF THE COSTS OF ABATEMENT OF PUBLIC NUISANCE CONDITIONS RESULTING FROM THE PRESENCE OF WEEDS, RUBBISH, LITTER OR OTHER FLAMMABLE MATERIAL ON THE PRIVATE PROPERTY DESIGNATED HEREIN UNDER THE AUTHORITY CONTAINED IN EL CERRITO MUNICIPAL CODE CHAPTER 16.26

WHEREAS, El Cerrito Municipal Code Chapter 16.26, et seq. provides a method by which a local legislative body may abate public nuisance conditions on private property relating to weeds, rubbish, litter or other flammable material which creates a fire hazard, a menace to the public health or which is otherwise noxious or dangerous; and

WHEREAS, pursuant to El Cerrito Municipal Code Chapter 16.26 the El Cerrito City Council declared, through Resolution No. 2015-52, that the properties identified herein in Exhibit A constitute a public nuisance because the presence of weeds, rubbish, litter or other flammable material on the properties created a fire hazard, a menace to the public health, or were otherwise noxious or dangerous; and

WHEREAS, through Resolution No. 2015-53 the City Council directed, under the further authority of El Cerrito Municipal Code Chapter 16.26, that notice be provided to the owners of the properties identified in Exhibit A informing the owners that if they did not abate the nuisance conditions, that these conditions would be abated by the City, and that upon confirmation, the abatement costs would constitute a lien upon the properties until paid; and

WHEREAS, through Resolution No. 2015-53 the City Council further directed that a public hearing be scheduled at which time the owners of the properties identified in Exhibit A could present objections to the designation of their property as a public nuisance and objections to the abatement of these public nuisance conditions by the City; and

WHEREAS, notice designating the properties identified in Exhibit A as a public nuisance and informing the owners of the properties of the right to object to such designation and proposed abatement by the City was provided to the owners of the properties as required by Government Code Sections 39560 through 39588; and

WHEREAS, the owners of the properties identified in Exhibit A did not appear at the July 21, 2015 public hearings to contest the public nuisance designation or to object to the abatement of the public nuisance conditions by the City; and

WHEREAS, at the conclusion of the July 21, 2015 public hearings, the City Council, by Resolution No. 2015-53 for Exhibit A, directed the City Manager or designee to abate those public nuisance conditions as provided for by El Cerrito Municipal Code Chapter 16.26 and Government Code Section 39560 through 39588; and

WHEREAS, the City Council further directed that the City Manager or designee to keep an account of the cost of abatement for each property on which work was performed and that a report be prepared and presented to the City Council so that, after notice and hearing, these abatement costs

could be confirmed as a special assessment against the property; and

WHEREAS, after the adoption of Resolution No. 2015-52 a second notice was mailed to the owners of the properties identified in that resolution again informing the property owners that if they did not abate the public nuisance conditions on the properties, that the City would abate these nuisance conditions and assess the abatement costs against the properties; and

WHEREAS, as required by El Cerrito Municipal Code Section 16.26 the El Cerrito City Council conducted a hearing on September 15, 2015 at which an opportunity was given to voice objections regarding the report and the assessment of the abatement costs for the properties identified in Exhibit A of this Resolution. Notice of the hearing was provided to the owners of the properties; and

WHEREAS, at the September 15, 2015 hearing, the property owners were given the opportunity to object and protest the report and the abatement costs assessed. The property owners were also given the opportunity to present evidence in support of their arguments; and

WHEREAS, such testimony provided at the public hearing included a description of the public nuisance conditions which existed at the property prior to the abatement, a description of the services required to abate those conditions, the cost to the City in abating those conditions and such other matters deemed relevant by the City Council; and

WHEREAS, the City Council does hereby conclude that the abatement costs as contained in Exhibit B, B-1 through B-8, as such costs may have been modified by the City Council after a review of the evidence, are fair and reasonable. This determination is based on the evidence submitted by the property owners, the evidence submitted by City staff, the evidence concerning the nuisance conditions which existed at the property prior to abatement, the evidence concerning the scope of services required to abate those conditions, and such other matters deemed relevant by the City Council.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito does hereby confirm the report of the costs of abatement as contained in Exhibit B, B-1 through B-8 of this Resolution.

BE IT FURTHER RESOLVED that the costs of abatement shall be levied as a special assessment against the property and that these costs shall be certified to the auditor of Contra Costa County so that the costs of abatement shall be collected at the same time and in the same manner as ordinary municipal taxes.

BE IT FURTHER RESOLVED that a certified copy of this Resolution confirming the abatement costs for the properties identified in Exhibit A of this Resolution shall be filed with the County Auditor on or before September 25, 2015.

BE IT FURTHER RESOLVED that the City Manager or designee shall take such action as may be necessary to record the abatement costs for the property identified in Exhibits A and B of this Resolution with the County Recorder as a lien against the property as provided for in El Cerrito Municipal Code Section 16.26

Agenda Item No. 6(A)
Attachment 1

I CERTIFY that at a regular meeting on September 15, 2015 the El Cerrito City Council passed this resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on September ____, 2015.

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor

EXHIBIT A

El Cerrito
List of Real Abated Properties
9-15-2015

<u>APN</u>	<u>Street Address</u>
500-360-010	5621 LUDWIG AVE
505-421-011	1626 JULIAN DR
510-042-019	5619 EL DORADO AVE
573-132-026	8421 WILDCAT DR
573-132-025	8415 WILDCAT DR
573-132-024	8411 WILDCAT DR
573-132-023	8407 WILDCAT DR
504-414-004	520 VILLAGE DR

Oakland Hills Brush Clearing

6114 La Salle Ave. #235
Oakland, CA 94611
(510)339-9991
OaklandHillsBrushClearing.com



INVOICE

BILL TO
E.C.F.D.
10890 San Pablo Ave.
El Cerrito, Ca. 94530

INVOICE # 2664
DATE 08/18/2015
DUE DATE 09/17/2015
TERMS Net 30

ACTIVITY	AMOUNT
Brush Clearing	285.00
5621 Ludwig Ave.- Fire Prevention Clearing & Hauling of tall, dense weeds in front yard areas, according to ECFD regulations.	
Thanks for using our services!	BALANCE DUE
	\$285.00

EXHIBIT B-1 page 2

REPORT ON ABATEMENT OF FIRE HAZARDS EL CERRITO FIRE DEPARTMENT

Property:

Parcel Number: [500-360-010](tel:500-360-010)
 Property Address: 5621 LUDWIG AVE, EL CERRITO, CA 94530
 Contact Address: 5621 LUDWIG AVE, EL CERRITO, CA 94530

Owner' Name: [REDACTED]

Abatement Work Performed:

Description: Clearing of tall dense weeds from front/side yard;
removal/hauling of cuttings

Date Work Performed: August 18, 2015

Work Performed By: Oakland Hills Brush Clearing
 6114 LaSalle Ave., #235
 Oakland, CA 94611
 510- 339-9991

Contracted Costs..... \$285.00

Administrative Costs: Fire Department Administration, Investigation,
 Boundary determination and supervision fees
 4 Hr, 45 min. X \$187.00/hr..... \$888.25

Property Tax collection fee N/C

County Recording and
 Administration fees N/C

TOTAL ABATEMENT COST: \$ 1173.25

Certified by: _____ Date: _____

Chris Renshaw
 Fire Prevention Officer

Exhibit B-2 page 3

**EL CERRITO CITY ADMINISTRATIVE COST
WORK SHEET****5621 Ludwig Ave.**

6/1/2015 - Initial inspection and notice.....15 min @ \$187.00/hr.....	\$46.75
7/15/2015 – Re-inspection15 min @ 187.00/hr.....	46.75
7/21/2015 - Office work and attend for City Council Meeting Abatement Hearing 60 min @ 187.00/hr.....	187.00
7/22/2015 – Second notice.....15 min @ 187.00/hr.....	46.75
8/11/2015- Re-inspection.....15 min @ 187.00/hr.....	46.75
8/13/2015 - Vendor bid inspection.....30 min @ 187.00/hr.....	93.50
8/18/2015 - Vendor observation / inspection.....15 min @ 187.00/hr.....	46.75
9/15/2015 - Office work and attend City Council Meeting Cost Hearing60 min @ 187.00/hr.....	187.00
9/21/2015 - County Record Abatement Martinez.....60 min @ 187.00/hr.....	187.00
TOTAL ADMINISTRATIVE COST.....	\$ 888.25

Oakland Hills Brush Clearing

6114 La Salle Ave. #235
Oakland, CA 94611
(510)339-9991
OaklandHillsBrushClearing.com



INVOICE

BILL TO
E.C.F.D.
10890 San Pablo Ave.
El Cerrito, Ca. 94530

INVOICE # 2665
DATE 08/18/2015
DUE DATE 09/17/2015
TERMS Net 30

ACTIVITY	AMOUNT
Property Serviced	985.00
1626 Julian Dr., El Cerrito- Clear this steep, upsloping undeveloped parcel of weeds & scotch broom (mainly scotch broom). Limb up low branches of conifers. Hauling. In accordance with ECFD regulations.	
Thanks for using our services!	BALANCE DUE
	\$985.00

EXHIBIT B-2 page 2

REPORT ON ABATEMENT OF FIRE HAZARDS EL CERRITO FIRE DEPARTMENT

Property:

Parcel Number: [505-421-011](#)
 Property Address: 1626 JULIAN DR, EL CERRITO, CA 94530
 Contact Address: 145 CREST RD, WOODSIDE, CA 94062

Owner' Name: [REDACTED]

Abatement Work Performed:

Description: Clear steep parcel of weeds and scotch broom, limb up low Branches, haul away debris.

Date Work Performed: August 18, 2015

Work Performed By: Oakland Hills Brush Clearing
 6114 LaSalle Ave., #235
 Oakland, CA 94611
 510- 339-9991

Contracted Costs..... \$985.00

Administrative Costs: Fire Department Administration, Investigation,
 Boundary determination and supervision fees
 4 Hr, 45 min. X \$187.00/hr..... \$888.25

Property Tax collection fee N/C

County Recording and
 Administration fees N/C

TOTAL ABATEMENT COST: \$ 1873.25

Certified by: _____ Date: _____

Chris Renshaw
 Fire Prevention Officer

Exhibit B-2 page 3

**EL CERRITO CITY ADMINISTRATIVE COST
WORK SHEET**

1626 Julian Dr.

6/1/2015 - Initial inspection and notice.....15 min @ \$187.00/hr.....	\$46.75
7/15/2015 – Re-inspection15 min @ 187.00/hr.....	46.75
7/21/2015 - Office work and attend for City Council Meeting Abatement Hearing 60 min @ 187.00/hr.....	187.00
7/22/2015 – Second notice.....15 min @ 187.00/hr.....	46.75
8/11/2015- Re-inspection.....15 min @ 187.00/hr.....	46.75
8/13/2015 - Vendor bid inspection.....30 min @ 187.00/hr.....	93.50
8/18/2015 - Vendor observation / inspection.....15 min @ 180.00/hr.....	46.75
9/15/2015 - Office work and attend City Council Meeting Cost Hearing60 min @ 187.00/hr.....	187.00
9/21/2015 - County Record Abatement Martinez.....60 min @ 187.00/hr.....	187.00
TOTAL ADMINISTRATIVE COST.....	\$ 888.25

Oakland Hills Brush Clearing
6114 La Salle Ave. #235
Oakland, CA 94611
(510)339-9991
OaklandHillsBrushClearing.com



INVOICE

BILL TO
E.C.F.D.
10890 San Pablo Ave.
El Cerrito, Ca. 94530

INVOICE # 2667
DATE 08/18/2015
DUE DATE 09/17/2015
TERMS Net 30

ACTIVITY	AMOUNT
Property Serviced	765.00
5619 El Dorado Ave., El Cerrito. Fire Prevention Clearing of weeds, vines, deadwood, and brush in front and side yard areas; hauling. In accordance with ECFD regulations.	
Thanks for using our services!	
BALANCE DUE	\$765.00

EXHIBIT B-3 page 2

REPORT ON ABATEMENT OF FIRE HAZARDS EL CERRITO FIRE DEPARTMENT

Property:

Parcel Number: [510-042-019](#)
 Property Address: 5619 EL DORADO AVE, EL CERRITO, CA 94530
 Contact Address: 5619 EL DORADO AVE, EL CERRITO, CA 94530

Owner' Name:



Abatement Work Performed:

Description: Clear weeds, vines, deadwood and brush front, back and side yard. Haul away debris.

Date Work Performed: August 18, 2015

Work Performed By: Oakland Hills Brush Clearing
 6114 LaSalle Ave., #235
 Oakland, CA 94611
 510- 339-9991

Contracted Costs..... \$765.00

Administrative Costs: Fire Department Administration, Investigation,
 Boundary determination and supervision fees
 4 Hr, 45 min. X \$187.00/hr..... \$888.25

Property Tax collection fee N/C

County Recording and
 Administration fees N/C

TOTAL ABATEMENT COST: \$ 1653.25

Certified by: _____ Date: _____

Chris Renshaw
 Fire Prevention Officer

Agenda Item No. 6(A)
Attachment 3

Exhibit B-3 page 3

**EL CERRITO CITY ADMINISTRATIVE COST
WORK SHEET**

5691 El Dorado Ave.

6/1/2015 - Initial inspection and notice.....15 min @ \$187.00/hr.....	\$46.75
7/15/2015 – Re-inspection15 min @ 187.00/hr.....	46.75
7/21/2015 - Office work and attend for City Council Meeting Abatement Hearing 60 min @ 187.00/hr.....	187.00
7/22/2015 – Second notice.....15 min @ 187.00/hr.....	46.75
8/11/2015- Re-inspection.....15 min @ 187.00/hr.....	46.75
8/13/2015 - Vendor bid inspection.....30 min @ 187.00/hr.....	93.50
8/18/2015 - Vendor observation / inspection.....15 min @ 180.00/hr.....	46.75
9/15/2015 - Office work and attend City Council Meeting Cost Hearing60 min @ 187.00/hr.....	187.00
9/21/2015 - County Record Abatement Martinez.....60 min @ 187.00/hr.....	187.00
TOTAL ADMINISTRATIVE COST.....	\$ 888.25

Item No. 6(A)
Attachment 3

Exhibit B-4 page 1

FIRE SAFETY CLEARING
510-541-2130

Sept. 2 , 2015

INVOICE# 45004-Wildcat Dr.

To: El Cerrito Fire Dept.

-Lots on Wildcat Dr.

work completed on Aug. 26, 2015

-Weed Abatement, Brush Control

-Maintain 10ft. Roadside Clearing

-Fuel Reduction 50% ...20ft.

*as per City of El Cerrito Fire Dept. codes and reg.

8421 Wildcat Dr.

-10 ft. roadside clearing, brush removal

-20 ft. fuel reduction, 50%.....\$1500

TOTAL DUE.....\$1500.00

Thanks, hope everything looks O.K.

Please make check payable to:



1224 Masonic Ave.

Berkeley, CA. 94706

Thanks for the work. Hope everything looks O.K.

EXHIBIT B-4 page 2

REPORT ON ABATEMENT OF FIRE HAZARDS EL CERRITO FIRE DEPARTMENT

Property:

Parcel Number: [573-132-026](#)
 Property Address: 8421 WILDCAT DR, EL CERRITO, CA 94530
 Contact Address: 9058 DEVON CREST WAY, ELK GROVE, CA 95624

Owner' Name:



Abatement Work Performed:

Description: Weed abate, Brush control and fuel reduction. Limb up
 Trees and haul away debris.

Date Work Performed: August 26, 2015

Work Performed By: Fire Safety Clearing
 1224 Masonic Ave
 Berkeley, CA. 94706
 510- 510-541-2130

Contracted Costs..... \$1500.00

Administrative Costs: Fire Department Administration, Investigation,
 Boundary determination and supervision fees
 5 Hr X \$187.00/hr..... \$935.00

Property Tax collection fee N/C

County Recording and
 Administration fees N/C

TOTAL ABATEMENT COST: \$ 2435.00

Certified by: _____ Date: _____

Chris Renshaw
 Fire Prevention Officer

Exhibit B-4 page 3

**EL CERRITO CITY ADMINISTRATIVE COST
WORK SHEET**

8421 Wildcat Dr.

6/1/2015 - Initial inspection and notice.....15 min @ \$187.00/hr.....	\$46.75
7/15/2015 – Re-inspection15 min @ 187.00/hr.....	46.75
7/21/2015 - Office work and attend for City Council Meeting Abatement Hearing 60 min @ 187.00/hr.....	187.00
7/22/2015 – Second notice.....15 min @ 187.00/hr.....	46.75
8/11/2015- Re-inspection.....15 min @ 187.00/hr.....	46.75
8/13/2015 - Vendor bid inspection.....30 min @ 187.00/hr.....	93.50
8/26/2015 - Vendor observation / inspection.....30 min @ 180.00/hr.....	93.50
9/15/2015 - Office work and attend City Council Meeting Cost Hearing60 min @ 187.00/hr.....	187.00
9/21/2015 - County Record Abatement Martinez.....60 min @ 187.00/hr.....	187.00
TOTAL ADMINISTRATIVE COST.....	\$ 935.00

Agenda Item No. 6(A)
Attachment 3

Exhibit B-5 page 1

FIRE SAFETY CLEARING
510-541-2130

Sept. 2 , 2015

INVOICE# 45003-Wildcat Dr.

To: El Cerrito Fire Dept.

-Lots on Wildcat Dr.

work completed on Aug. 19, 2015

-Weed Abatement, Brush Control

-Maintain 10ft. Roadside Clearing

-Fuel Reduction 50% ...20ft.

*as per City of El Cerrito Fire Dept. codes and reg.

8415 Wildcat Dr.

-10 ft. roadside clearing, brush removal

-20 ft. fuel reduction, 50%.....\$1500

TOTAL DUE.....\$1500.00

Thanks, hope everything looks O.K.

Please make check payable to:



1224 Masonic Ave.

Berkeley, CA. 94706

Thanks for the work. Hope everything looks O.K.

EXHIBIT B-5 page 2

REPORT ON ABATEMENT OF FIRE HAZARDS EL CERRITO FIRE DEPARTMENT

Property:

Parcel Number: [573-132-025](#)
 Property Address: 8415 WILDCAT DR, EL CERRITO, CA 94530
 Contact Address: 5410 LA JOLLA BLVD, LA JOLLA, CA 92037

Owner' Name: CANYON ESTATES INC

Abatement Work Performed:

Description: Weed abate, Brush control and fuel reduction.
 haul away debris.

Date Work Performed: August 19, 2015

Work Performed By: Fire Safety Clearing
 1224 Masonic Ave
 Berkeley, CA. 94706
 510- 510-541-2130

Contracted Costs..... \$1500.00

Administrative Costs: Fire Department Administration, Investigation,
 Boundary determination and supervision fees
 5 Hr X \$187.00/hr..... \$935.00

Property Tax collection fee N/C

County Recording and
 Administration fees N/C

TOTAL ABATEMENT COST: \$ 2435.00

Certified by: _____ Date: _____

Chris Renshaw
 Fire Prevention Officer

Agenda Item No. 6(A)
Attachment 3

Exhibit B-5 page 3

EL CERRITO CITY ADMINISTRATIVE COST WORK SHEET

8415 Wildcat Dr.

6/1/2015 - Initial inspection and notice.....	15 min @ \$187.00/hr.....	\$46.75
7/15/2015 – Re-inspection	15 min @ 187.00/hr.....	46.75
7/21/2015 - Office work and attend for City Council Meeting Abatement Hearing	60 min @ 187.00/hr.....	187.00
7/22/2015 – Second notice.....	15 min @ 187.00/hr.....	46.75
8/11/2015- Re-inspection.....	15 min @ 187.00/hr.....	46.75
8/13/2015 - Vendor bid inspection.....	30 min @ 187.00/hr.....	93.50
8/19/2015 - Vendor observation / inspection.....	30 min @ 180.00/hr.....	93.50
9/15/2015 - Office work and attend City Council Meeting Cost Hearing	60 min @ 187.00/hr.....	187.00
9/21/2015 - County Record Abatement Martinez.....	60 min @ 187.00/hr.....	187.00
TOTAL ADMINISTRATIVE COST.....		\$ 935.00

Agenda Item No. 6(A)
Attachment 3

Exhibit B-6 page 1

FIRE SAFETY CLEARING
510-541-2130

Sept. 2 , 2015

INVOICE# 45002-Wildcat Dr.

To: El Cerrito Fire Dept.

-Lots on Wildcat Dr.

work completed on Aug. 24, 2015

-Weed Abatement, Brush Control

-Maintain 10ft. Roadside Clearing

-Fuel Reduction 50% ...20ft.

*as per City of El Cerrito Fire Dept. codes and reg.

8411 Wildcat Dr.

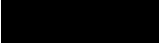
-10 ft. roadside clearing, brush removal

-20 ft. fuel reduction, 50%.....\$1500

TOTAL DUE.....\$1500.00

Thanks, hope everything looks O.K.

Please make check payable to:



1224 Masonic Ave.

Berkeley, CA. 94706

Thanks for the work. Hope everything looks O.K.

EXHIBIT B-6 page 2

REPORT ON ABATEMENT OF FIRE HAZARDS EL CERRITO FIRE DEPARTMENT

Property:

Parcel Number: [573-132-024](#)
 Property Address: 8411 WILDCAT DR, EL CERRITO, CA 94530
 Contact Address: 13 CASCADE LN, ORINDA, CA 94563

Owner' Name: [REDACTED]

Abatement Work Performed:

Description: Weed abate, Brush control and fuel reduction,
haul away debris.

Date Work Performed: August 24, 2015

Work Performed By: Fire Safety Clearing
 1224 Masonic Ave
 Berkeley, CA. 94706
 510- 510-541-2130

Contracted Costs..... \$1500.00

Administrative Costs: Fire Department Administration, Investigation,
 Boundary determination and supervision fees
 5 Hr X \$187.00/hr..... \$935.00

Property Tax collection fee N/C

County Recording and
 Administration fees N/C

TOTAL ABATEMENT COST: \$ 2435.00

Certified by: _____ Date: _____

Chris Renshaw
 Fire Prevention Officer

Exhibit B-6 page 3

EL CERRITO CITY ADMINISTRATIVE COST WORK SHEET

8411 Wildcat Dr.

6/1/2015 - Initial inspection and notice.....	15 min @ \$187.00/hr.....	\$46.75
7/15/2015 – Re-inspection	15 min @ 187.00/hr.....	46.75
7/21/2015 - Office work and attend for City Council Meeting Abatement Hearing	60 min @ 187.00/hr.....	187.00
7/22/2015 – Second notice.....	15 min @ 187.00/hr.....	46.75
8/11/2015- Re-inspection.....	15 min @ 187.00/hr.....	46.75
8/13/2015 - Vendor bid inspection.....	30 min @ 187.00/hr.....	93.50
8/24/2015 - Vendor observation / inspection.....	30 min @ 180.00/hr.....	93.50
9/15/2015 - Office work and attend City Council Meeting Cost Hearing	60 min @ 187.00/hr.....	187.00
9/21/2015 - County Record Abatement Martinez.....	60 min @ 187.00/hr.....	187.00
TOTAL ADMINISTRATIVE COST.....		\$ 935.00

Agenda Item No. 6(A)
Attachment 3

Exhibit B-7 page 1

FIRE SAFETY CLEARING
510-541-2130

Sept. 2 , 2015

INVOICE# 45001-Wildcat Dr.

To: El Cerrito Fire Dept.

-Lots on Wildcat Dr.

work completed on Aug. 24, 2015

-Weed Abatement, Brush Control

-Maintain 10ft. Roadside Clearing

-Fuel Reduction 50% ...20ft.

*as per City of El Cerrito Fire Dept. codes and reg.

. 8407 Wildcat Dr.

-10 ft. roadside clearing, brush removal

-20 ft. fuel reduction, 50%.....\$1500

TOTAL DUE.....\$1500.00

Thanks, hope everything looks O.K.

Please make check payable to:



1224 Masonic Ave.

Berkeley, CA. 94706

Thanks for the work. Hope everything looks O.K.

EXHIBIT B-7 page 2

**REPORT ON ABATEMENT OF FIRE HAZARDS
EL CERRITO FIRE DEPARTMENT**

Property:

Parcel Number: [573-132-023](#)
Property Address: 8407 WILDCAT DR, EL CERRITO, CA 94530
Contact Address: 13 CASCADE LN, ORINDA, CA 94563

Owner' Name:



Abatement Work Performed:

Description: Weed abate, Brush control and fuel reduction,
haul away debris.

Date Work Performed: August 24, 2015

Work Performed By: Fire Safety Clearing
1224 Masonic Ave
Berkeley, CA. 94706
510- 510-541-2130

Contracted Costs..... \$1500.00

Administrative Costs: Fire Department Administration, Investigation,
Boundary determination and supervision fees
5 Hr X \$187.00/hr..... \$935.00

Property Tax collection fee N/C

County Recording and
Administration fees N/C

TOTAL ABATEMENT COST: \$ 2435.00

Certified by: _____ Date: _____

Chris Renshaw
Fire Prevention Officer Page 2

Exhibit B-7 page 3

**EL CERRITO CITY ADMINISTRATIVE COST
WORK SHEET**

8407 Wildcat Dr.

6/1/2015 - Initial inspection and notice.....	15 min @ \$187.00/hr.....	\$46.75
7/15/2015 – Re-inspection	15 min @ 187.00/hr.....	46.75
7/21/2015 - Office work and attend for City Council Meeting Abatement Hearing	60 min @ 187.00/hr.....	187.00
7/22/2015 – Second notice.....	15 min @ 187.00/hr.....	46.75
8/11/2015- Re-inspection.....	15 min @ 187.00/hr.....	46.75
8/13/2015 - Vendor bid inspection.....	30 min @ 187.00/hr.....	93.50
8/24/2015 - Vendor observation / inspection.....	30 min @ 180.00/hr.....	93.50
9/15/2015 - Office work and attend City Council Meeting Cost Hearing	60 min @ 187.00/hr.....	187.00
9/21/2015 - County Record Abatement Martinez.....	60 min @ 187.00/hr.....	187.00
TOTAL ADMINISTRATIVE COST.....		\$ 935.00

Oakland Hills Brush Clearing

6114 La Salle Ave. #235
Oakland, CA 94611
(510)339-9991
OaklandHillsBrushClearing.com



INVOICE

BILL TO
E.C.F.D.
10890 San Pablo Ave.
El Cerrito, Ca. 94530

INVOICE # 2666
DATE 08/18/2015
DUE DATE 09/17/2015
TERMS Net 30

ACTIVITY	AMOUNT
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Property Serviced	765.00
--------------------------	--------

520 Village Dr., El Cerrito. Fire Prevention Clearing of front and side yard weeds, vines, brush, deadwood; pruning of dead branches and away from house. Hauling. In accordance with ECFD regulations.

Thanks for using our services!

BALANCE DUE

\$765.00

EXHIBIT B-8 page 2

REPORT ON ABATEMENT OF FIRE HAZARDS EL CERRITO FIRE DEPARTMENT

Property:

Parcel Number: [504-41-4004](tel:504-41-4004)
 Property Address: 520 VILLAGE DR, EL CERRITO, CA 94530
 Contact Address: 520 VILLAGE DR, EL CERRITO, CA 94530

Owner' Name:



Abatement Work Performed:

Description: Clear weeds, vines, deadwood and brush front and back yard. Limb up and prune trees, haul away debris.

Date Work Performed: August 18, 2015

Work Performed By: Oakland Hills Brush Clearing
 6114 LaSalle Ave., #235
 Oakland, CA 94611
 510- 339-9991

Contracted Costs..... \$765.00

Administrative Costs: Fire Department Administration, Investigation,
 Boundary determination and supervision fees
 5 Hr X \$187.00/hr..... \$935.00

Property Tax collection fee N/C

County Recording and
 Administration fees N/C

TOTAL ABATEMENT COST: \$ 1700.00

Certified by: _____ Date: _____

Chris Renshaw
 Fire Prevention Officer

Exhibit B-8 page 3

**EL CERRITO CITY ADMINISTRATIVE COST
WORK SHEET**

520 Village Dr.

6/1/2015 - Initial inspection and notice.....15 min @ \$187.00/hr.....	\$46.75
7/15/2015 – Re-inspection15 min @ 187.00/hr.....	46.75
7/21/2015 - Office work and attend for City Council Meeting Abatement Hearing 60 min @ 187.00/hr.....	187.00
7/22/2015 – Second notice.....15 min @ 187.00/hr.....	46.75
8/11/2015- Re-inspection.....15 min @ 187.00/hr.....	46.75
8/13/2015 - Vendor bid inspection.....30 min @ 187.00/hr.....	93.50
8/18/2015 - Vendor observation / inspection.....30 min @ 180.00/hr.....	93.50
9/15/2015 - Office work and attend City Council Meeting Cost Hearing60 min @ 187.00/hr.....	187.00
9/21/2015 - County Record Abatement Martinez.....60 min @ 187.00/hr.....	187.00
TOTAL ADMINISTRATIVE COST.....	\$ 935.00



AGENDA BILL

Agenda Item No. 6(B)

Date: September 15, 2015
To: El Cerrito City Council
From: Suzanne Iarla, Assistant to the City Manager
Subject: Ordinance Establishing a Tobacco Retailer License Program

ACTION REQUESTED

Conduct a public hearing and upon conclusion introduce by title, waive any further reading, and approve an ordinance amending El Cerrito Municipal Code (ECMC) Title 6 “Business Permits and Regulations” by adding a new Chapter 6.100 “Tobacco Retailer License Program,” repealing Section 19.20.210, and amending Section 19.46.060(D) and Table 19.07-A.

BACKGROUND

The proposed Tobacco Retailer License Program being considered tonight would establish a local licensing system for tobacco retailers to ensure that retailers comply with tobacco control laws and business standards in order to protect the health, safety, and welfare of our residents and to discourage violations of tobacco-related laws, especially those that prohibit the sale or distribution of tobacco products to minors.

Studies have shown that limiting where tobacco is sold can curtail youth access to tobacco products, help local governments in targeting enforcement of the licensing provisions, and combat social perceptions that tobacco use is normal or acceptable. Requiring a local tobacco retailer license generally increases compliance rates of tobacco sales laws and provides revenue to cover administration of license and enforcement efforts.

In California, 148 cities or counties require tobacco retailers to obtain a local license to sell tobacco products. The American Lung Association (ALA) annually issues a “State of Tobacco Control” report on key tobacco control policies and assigns grades to states and local jurisdiction in three categories: Smokefree Outdoor Air, Smokefree Housing, and Reducing Sales of Tobacco Products. In 2015, the ALA provided an “A” grade to 117 jurisdictions for reducing sales of tobacco products. El Cerrito’s current grade in this category is an “F”.

Regarding tobacco retailer license programs, the 2015 “State of Tobacco Control” report found:

- **122** jurisdictions have a strong definition of smoke, smoking, or tobacco product that includes electronic cigarettes or other new and emerging tobacco products in a jurisdiction’s secondhand smoke laws
- **91** jurisdictions have a strong definition of smoke, smoking or tobacco product that would include electronic cigarettes or other new and emerging tobacco products in a jurisdiction’s tobacco retailer licensing ordinance

- **38** jurisdictions restrict the sale of tobacco products within a certain distance of schools/parks
- **46** jurisdictions restrict the sampling of tobacco products
- **6** jurisdictions restrict the sale of tobacco products at pharmacies
- **2** jurisdictions prohibit the sale of flavored tobacco products, including cigar, little cigars, pipe tobacco and electronic cigarettes is prohibited
- **2** jurisdictions prohibit the sale of cigars in individual or small packages

Attachment 2 is the State of Tobacco Control 2015 – California Local Grades for Alameda and Contra Costa County jurisdictions.

Tobacco Use is an Urgent Public Health Matter

Tobacco use is the number one preventable cause of death and disease in California, killing nearly 40,000 Californians every year. The 2012 Surgeon General’s Report found that about 90 percent of all smokers first tried cigarettes as teens; and that about three of every four teen smokers continue into adulthood. Further, young adults, ages 18 to 24 have the highest smoking prevalence among any age group according to the California Department of Public Health. A recent report by the Centers for Disease Control and Prevention (CDC) reports that nationally, e-cigarette use among middle and high school students tripled from 2013 to 2014. This is the first time since the survey started collecting data on e-cigarettes in 2011 that current e-cigarette use has surpassed current use of every other tobacco product overall, including conventional cigarettes. The study found that in 2014, the products most commonly used by high school students were e-cigarettes (13.4%), hookah (9.4%), cigarettes (9.2%), cigars (8.2%), smokeless tobacco (5.5%), snus (1.9 %) and pipes (1.5%).

Table 1: Current E-cigarette Use Among Youth
(use on at least 1 day in the past 30 days)

Source: [*Centers for Disease Control and Prevention*](#)

	2013	2014
Middle School Students	1.1% ~120,000	3.9% ~ 450,000
High School Students	4.5% ~660,000	13.4% ~2 million

According to the most recent California Healthy Kids Survey, local high school students were almost three times as likely to have tried an e-cigarette or other vaping device compared to a cigarette:

Table 2:
Tobacco & E-Cigarette Use Among El Cerrito High School Students

Source: *ECHS 2014–15 California Healthy Kids Survey*

ECHS Students 2014-15 School Year:	9th Grade	10th Grade	11th Grade	12th Grade
Ever tried an E-cigarette or other vaping device	25%	25%	30%	26%
E-cigarette/ vaping Current Use (last 30 days)	8%	6%	10%	5%

Ever tried a whole cigarette	6%	11%	13%	19%
Cigarette Current Use (last 30 days)	2%	3%	4%	9%

Attachment 4 is the 2014–15 California Healthy Kids Survey (CHKS) results regarding tobacco use among high school students at El Cerrito High School. The full report is online at: http://www.wccusd.net/cms/lib03/CA01001466/Centricity/Domain/11/CHKS%20Results%202013-14/2014-15/WCCU_El_Cerrito_Senior_High_1415_Sec_CHKS_Grd9-12.pdf

Development Process to Date

On May 20, 2014, the City Council directed staff to develop an ordinance regulating the sales of tobacco by businesses in El Cerrito. Since that time, staff from the City Manager’s Office, Community Development and the Police Department have met multiple times regarding development of a tobacco retailer license program.

Staff has researched best practices in other communities as well as researched the location and business type of current tobacco retailers in El Cerrito, worked with the Coalition and ChangeLab Solutions (a national, nonpartisan nonprofit), solicited comments from the public and received input from the City Council, the Planning Commission, the ALA, the American Cancer Society (ACS), the National Association of Tobacco Retailers, Inc (NATO), the California Retailers Association as well as a few members of the public, including local retailers.

The most common concern heard from retailers were in regard to the prohibition on the sale of flavored products because they felt this regulation will negatively impact their business—both due to current revenue received from these products as well as concern for loss of customers to businesses in Richmond where the flavored products would still be available for sale. Some current retailers also said any fee imposed by the City would hurt their business because it would be increasing their operating costs.

The Planning Commission discussed the matter at numerous public meetings between December 2014 and May of this year.

On January 20, 2015, the Council held a study session and provided additional direction to staff regarding the establishment of a Tobacco Retailer License Program. During the study session, the City Council affirmed the desire to develop a strong tobacco retailer license program to help ensure the public’s health and safety, specifically with the intention to:

1. Ensure responsible, legal sales of tobacco related products;
2. Ensure that minors are not encouraged to use tobacco;
3. Establish a program fee that including funding for enforcement and compliance monitoring; and
4. Regulate flavored tobacco products and other emerging products to close gaps in Federal and State laws that do not yet address electronic cigarettes or electronic nicotine delivery systems and other products marketed to youth

At the April 15, 2015 Planning Commission meeting, a motion to recommend the City Council adopt the proposed ordinance with edits failed to pass.

On May 20, 2105, staff presented a revised ordinance to the Planning Commission. The Commission passed the following motion by a vote of 4-0 (3 absent):

Motion to recommend adoption of an ordinance amending Title 6 (Business Permits and Regulations) and Title 19 (Zoning) of the El Cerrito Municipal Code to the City Council with the additional changes:

- Sunset the grandfather clause after 10 years, requiring all tobacco sales businesses to comply with the ordinance at that time.
- Provide technical assistance to businesses to aid with compliance with new regulations
- Recommend that the City Council carefully consider the economic impacts of adopting the ordinance and take appropriate action to mitigate the impacts.

Changes compared to the draft ordinance presented to the Planning Commission in May 2015

Since the May 20, 2015 Planning Commission recommendation, staff has made some changes to the draft ordinance. Attachment 4 shows the changes to the ordinance since the May 2015 version reviewed by the Planning Commission (excluding formatting corrections.) Below is an overview of the changes:

- Changed term from “significant tobacco retailer” to “significant tobacco retail establishment”
- Sunset the grandfather clause after 10 years, requiring all tobacco sales businesses to comply with the full ordinance at that time. This was recommended by the Planning Commission
- Removed reference to the example of “a youth decoy operation” as a type of inspection the Police Department would conduct to monitor compliance. This change was recommended by the Police Department to allow them flexibility with regard to the manner in which compliance checks and law enforcement is conducted
- Changed the license fee based on the estimated cost to carry out the program. The proposed fee is now \$485 for an initial license and \$439 for a renewal. (The reduction in the fee is attributed to the removal of the requirement for an annual youth decoy operation by the Police Department.)
- Changed the incentive for existing business to come into full compliance in regard to the business standards (Article 2), not the entire chapter
- Changed the effective date from December 1, 2015 to January 1, 2016 to allow staff time to implement the new program

Changes to Tobacco Sales Regulations:

Currently, there are 18 tobacco retailers in El Cerrito, including two retailers whose apparent core business is the sale of tobacco products. See attachment 5 for an illustrative map of existing tobacco retailers and sensitive sites in El Cerrito. The City’s zoning code currently provides some land use regulations and standards regarding the sale of tobacco by some tobacco retailers, but does not require a tobacco retailer license (Refer to ECMC 19.20.210).

The proposed ordinance makes the following changes:

- Amend Title 19, Section 19.20.210 (“Tobacco Sales”) to prohibit tobacco product manufacturing in Medium Industry Zones
- Amend Title 19, Section 19.46.050.X.2 (“Use Classifications”) to replace the definition of “Tobacco Sales” with the new definition of “Tobacco Retailer”
- Update Title 19 Table 19.07-A to refer to the new program
- Add a new chapter to Title 6 (“Business Permits and Regulations”), Chapter 6.100, “Tobacco Retailer License Program” as summarized later in this report

ANALYSIS

The proposed ordinance includes a number of specific findings. A short overview of the basis for including certain regulations is outlined below:

Table 3: Rationale

Type of Restriction	Reason
Require every tobacco retailer to have a city tobacco retailer license	Requiring a local tobacco retailer license generally increases compliance rates of tobacco sales laws & provides revenue to cover administration of license and enforcement efforts.
Separation requirements for tobacco retailers to be at least 500’ from schools, parks (except the Ohlone Greenway and “pocket parks” as defined in the San Pablo Avenue Specific Plan) and other youth-serving areas	Research shows that children are more likely to experiment with tobacco products when tobacco retailers are located near schools. Restricting tobacco sales around schools or other areas frequented by youth can help reduce youth initiation. 500’ is approximately one block.
Separation requirements for new tobacco retailers to be at least 1,000’ from any existing tobacco retailers	Limiting proximity of Tobacco Retailers to one another prevents a concentration of tobacco retailers in an area. A high density of tobacco retailers has been associated with increased smoking rates, particularly among youth. 1,000’ is the distance previously established to limit the proximity and density of significant tobacco retailers.
A new retailer may request an exception to the 1,000’ separation requirement between tobacco retailers. The request will be reviewed and decided by the body that approves the use or other required permission	This exception is an effort to balance the need for economic development and the goals of the program. Allowing new retailers the opportunity to apply for relief from the a 1,000 foot buffer between tobacco retailers provides the City with flexibility to evaluate the benefits of the new retail store within the context in place at that time.

	Currently, most existing tobacco retailers are located on San Pablo Avenue, El Cerrito's commercial corridor, so there may be some economic development consequences related to business attraction due to prohibiting businesses who wish to sell tobacco products from operating in close proximity to an existing tobacco retailer. Business types such as grocery stores are vital to serve the needs of existing and future residents, and existing city policies (including but not limited to the recently adopted San Pablo Avenue Specific Plan and the Climate Action Plan (adopted in 2013) encourage smart infill development, walkable neighborhoods and community nodes.
Grandfather clause for separation requirements	Providing a grandfather clause regarding the separation requirements will allow the existing businesses to remain at their current location regardless of proximity to sensitive sites or another tobacco retailer. The retailer must not let their tobacco retailer license lapse, closes the business for more than 60 days, changes the business operation significantly, or receive multiple violations. The City will pass on this exception to a new owner for a period of ten (10) years from adoption of this ordinance. After that time, if the business is sold, a tobacco retailer license will not be issued to the new owner if the location is too close to sensitive sites or another tobacco retailer.
No sales of flavored tobacco products (other than cigarettes as defined by federal law) and No sales of single and small-pack cigars Exception: Single cigars priced over \$5 each	Neither federal nor California laws restrict sales of flavored non-cigarette tobacco products, such as cigars, cigarillos, smokeless tobacco, hookah tobacco, and electronic smoking devices and the nicotine solutions used in these devices. Flavored tobacco products are especially appealing to youth because of their sweet flavors (including apple, chocolate, grape, strawberry, vanilla, cotton candy and bubble gum) and bright packaging. The low price point for individual and small-pack makes products more appeal/accessible to youth.

No employee younger than the California minimum age to purchase or possession of tobacco products shall engage in the sales transaction of tobacco products	Requiring employees to be at least 18 years old to sell tobacco products recognize the difficulty young salespersons may have in refusing to sell cigarettes to their peers; as well as avoids a young employee from being in a situation that may unduly influence their acceptance of tobacco use. This does not prohibit the retailer from hiring minors; it simply prohibits their role in the sales transaction of tobacco products.
No self-service display of tobacco products (including e-cigarettes & smoking paraphernalia)	Prohibit the self-service display of tobacco products reduces youth access to tobacco by reducing tobacco theft. It also increases the level of interaction required before a clerk can sell tobacco to a minor by requiring the minor to specifically ask for tobacco and the clerk to consciously provide it. This applies to all tobacco products and paraphernalia and is therefore more comprehensive than state law, which prohibits only the self-service display of cigarettes and explicitly provides that broader local requirements may be enacted.
Offer grace period to existing tobacco retailers for the following business requirements: • Minimum Age For Persons Selling Tobacco • No Self-Service Displays Prohibited • No Sale of Flavored Tobacco Products • No Sale of Single And Small-Pack Cigars Prohibited and associated recordkeeping for original labeling and packaging	A grace period would provide a 24 month transition period for existing tobacco to sell the merchandise they already have in stock and adjust to the new regulations. The retailer must not let their tobacco retailer license lapse, closes the business for more than 60 days, changes the business operation significantly, or receive multiple violations during the grace period.
No New Significant Tobacco Retail Establishments	“Significant Tobacco Retail Establishments”—which can include head shops, discount cigarette stores, and smoke shops – have a higher statewide average rate of illegally selling tobacco to minors at a higher rate than the statewide average. These types of businesses often sell items that are commonly known to be drug paraphernalia while claiming that such items are intended for tobacco use.

	Further, allowing new Significant Tobacco Retailers to open in El Cerrito may reinforce positive social perceptions of smoking and convey tacit approval of tobacco use.
Existing retailers may apply for an exception to the limit on the display area devoted to tobacco products and/or the cap on gross sales receipts are derived from tobacco products. This exception will sunset (end) in ten years	Providing a grandfather clause for “Significant Tobacco Retail Establishments” will allow the existing businesses to continue to offer tobacco products at the same rate as they currently operate for up to ten years. After that time, the store’s merchandise must be diversified so that not more than twenty percent (20%) of the store display area is used for tobacco products, smoking paraphernalia or both. This generous timeframe will allow existing retailers to modify their business to come into full compliance with the ordinance. The retailer must not let their tobacco retailer license lapse, closes the business for more than 60 days, changes the business operation significantly, or receive multiple violations.
No Cigar Lounges, Hookah Lounges, Vapor Lounges	Consume any amount of tobacco product, or using an electronic smoking device or other apparatus to deliver an inhaled dose of nicotine or other substance exposes customers (and also potentially exposes employees) to potentially hazardous chemicals and undermines existing clean indoor air laws. The recently adopted Smoking Pollution Protection Ordinance (ECMC 2014-05) now requires 100% smoke free places of employment, however, including this specific prohibition would ensure it is clear to business owners and prospective business owners that this type of business is prohibited in El Cerrito. There are not currently any cigar lounges, hookah lounges or vapor bars, in El Cerrito, therefore, no existing businesses will be affected by this regulation.

Ban mobile sales	Banning mobile sales would limit tobacco sales to fixed locations.
Prohibit distribution of samples or coupons for tobacco products (including eNDDs) except inside adult-only businesses as allowed by State law	Limiting distribution of samples of both tobacco and tobacco-related products, paraphernalia as well as coupons is intended to reduce the likelihood that those free products and coupons will be made available to youth.
Removal of products and required notice of violations during periods of suspension or revocation	To ensure customers and the public are aware of periods of suspension or revocation, all tobacco-related products, paraphernalia, and advertising must be removed from public view during periods of suspension or revocation. Additionally, during periods of suspension or revocation, the City shall post a notice on the property that states “This retailer has violated important public health laws regulating tobacco. Tobacco sales are currently banned at this location.” Enforcement for violations will be enforced through the City’s Administrative Penalties.
Suspension or Revocation of Use Permit for Repeated Violation	In addition to any other penalties, upon a finding by the City (or a Court of competent jurisdiction) of three or more violations of this chapter at a location within any five year period, the tobacco retailer’s license shall be revoked and no new license issued for two years.

Major Components of Proposed Ordinance

As proposed, the Tobacco Retailer License Program:

- Requires retailers who offer tobacco products for sale to obtain a license annually, starting in January 2016. The fee for the current fiscal year is proposed at \$485 for tobacco retailer license (initial license) and \$439 for tobacco retailer license renewal in July 2016. (The fee is intended to cover the actual costs for administering the program including license issuance, compliance checks and enforcement operations.) The City Council can adjust the rate of the fee from time to time. The proposed ordinance includes a provision for a fee reduction for retailer who are in full compliance with the business standards at the time of their initial license application and their first renewal license application
- Establishes a minimum age for employees engaged in the sales transaction of tobacco products
- Prohibits self-service displays of all tobacco products, electronic smoking devices, and smoking paraphernalia

Agenda Item No. 6(B)

- Prohibits the sale of all flavored tobacco products, including flavored cigars, little cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, blunts, and electronic cigarettes and electronic smoking devices containing nicotine
- Prohibits the sale of all imitation tobacco products by tobacco retailers, including candy or chocolate cigarettes, bubble gum cigars, shredded bubble gum resembling spit tobacco, and shredded beef jerky in containers resembling snuff tins
- Prohibits the sale of single and small pack cigars
- Prohibits cigar lounges, hookah lounges, vapor bars, and similar establishments as well as any use of tobacco products and electronic smoking device on the Retailer's Premises
- Prohibits "Significant Tobacco Retail Establishments" (with a limited exception for some existing retailers for a ten year period.)
- Prohibits mobile vending
- Prohibits new or relocated stores to be within five hundred (500) feet of public and private schools, the public library, parks (excluding the Ohlone Greenway) and public recreation facilities such as the Community Center and Senior Center
- Prohibits new or relocated stores to be within one thousand (1,000) feet of a tobacco retail establishment already licensed
- Provides an exception for existing retailers in close proximity to sensitive and other tobacco retailers for a period of ten year: Existing tobacco retailers may remain in their current location. If such businesses are sold in an arm's length transaction within 10 years of adoption, the location exception will continue to apply to the new owner. The purpose of this sunset clause is intended to phase out retailers in close proximity to sensitive sites and other tobacco retailers at the time the business changes hands
- Provides the opportunity for a new retailer to request an exception to the proximity buffer around other tobacco retail establishments
- Designates the City's Community Development Department, working in conjunction with the Police Department with compliance monitoring and enforcement, including to conduct a compliance check visit to each tobacco retailing location at least once during the initial twelve (12) month period, and thereafter on a periodic basis
- Establishes violations to be public nuisances that may be prosecuted as infractions or misdemeanors when the interests of justice so require
- Requires any new tobacco retailer beginning operation after the effective date of the ordinance to need to be in full compliance with the ordinance
- Provides existing tobacco retailers with 24 months to comply with the following sections:
 - Minimum Age For Persons Selling Tobacco
 - Self-Service Displays Prohibited
 - Flavored Tobacco Products Prohibited
 - Single And Small-Pack Cigars Prohibited
 - RecordKeeping related to Original Labeling and Packaging
- Provides existing tobacco retailers with a 50% reduction in license fees for the initial license and a 25% reduction in fees for the first license renewal (in July 2016) for businesses who are in full compliance with Article 2 (i.e. not utilizing the 24 month grace period) at those times

- Provides existing tobacco retailers the ability to seek an exception to the prohibition of “significant tobacco retail establishments.” If granted, such tobacco retailers would be allowed to continue to devote the same amount of display area and/or receive up to the same percent of gross receipts from tobacco products with certain conditions

Program Implementation:

Establishing and conducting the tobacco retailer license program will involve multiple City Departments:

- City Manager’s Office will oversee implementation of the program
- Finance Department will collect license fee and issue new/renewal Tobacco Retailer Licenses
- Community Development Department will review development/use applications to ensure compliance with the municipal code; conduct periodic inspections of tobacco retailer establishments; respond to municipal code complaints and violations; and provide business development resources to existing businesses affected by the program
- Police Department will conduct periodic inspections to determine compliance with the regulations of this program and any state or federal law related to tobacco sales, especially those related to the minimum age for tobacco purchases
- Enforcement remedies for violations would be handled through the City’s Administrative Penalties procedure. The City will charge retailers a re-inspection fee to off-set the additional staff time required to handle non-compliant businesses

Technical Assistance Support:

The Planning Commission recommended the City Council consider offering technical assistance to existing tobacco retailers impacted by the Program. If the program is established, staff plans to compile a handout with information about free and paid business development resources, such as the free advising program offered by the Contra Costa Small Business Development Center and the low-cost business classes offered by the Renaissance Entrepreneurship Center. See Attachment 6 for summary of these technical assistance resources.

Staff recommends the City offer existing tobacco retailers who are small business owners (not corporate stores) to be reimbursed for the enrollment fee for the Renaissance Entrepreneurship Center’s intermediate level “Business Prep” class, or a comparable class if one is developed to offer specialized curriculum for tobacco retailers. The reimbursement would only be provided upon successful completion of the class within 18 months of adoption of this ordinance. The reimbursement would be administered by the Community Development Department.

STRATEGIC PLAN CONSIDERATIONS

Adoption of the proposed Smoking Pollution Protection Ordinance would help fulfill Goal E, Preserve the Public’s Health and Safety. Specifically, adoption of the proposed Ordinance would contribute to achieving the strategy of “*Explore innovative and best practices for promoting public health (e.g., smoking ordinances, nutrition, and obesity prevention)*”).

FINANCIAL CONSIDERATIONS

Program Costs:

Costs associated with implementing the ordinance include the development of necessary forms, and increased staff time for education and outreach, inspections, and dealing with questions or complaints.

During the first year, more staff time will likely be required to establish the program, develop forms and other materials, train staff and outreach to retailers, etc. however, in future years, the cost of the program is anticipated to be recovered in full through the collection of the tobacco retailer license fee.

The costs for one-time development of forms/materials and staff training as well as on-going nominal staff time to respond to general inquiries about the program will be absorbed by existing departments involved with implementing and enforcing the ordinance.

The costs for one-time reimbursement to an affected retailer for completion of the Renaissance Entrepreneurship Center's "Business Prep" (or comparable customized class) would not exceed \$2,300 since the class is limited to small business owners only and a number of existing retailers are corporate/chain stores. This cost would be absorbed by the Community Development Department.

After year one of the program, the ongoing costs to administer new and renewal licenses, review zoning, conduct enforcement and provide information to licensees and prospective licensees are expected to be covered by the new fee associated with the license. Additional inspections will be billed based on actual costs incurred to offset the additional staff time required to handle non-compliant businesses.

New Fees:

If adopted, the Tobacco Retailer License Program will require new fees to be paid by tobacco retailers in order for the City to provide the services needed to administer and enforce the program. Staff will prepare a resolution for the Council to adopt at a future meeting to amend the City's Master Fee Schedule to add new Tobacco Retailer License Program Fees.

Table 4: Fees

Type	FY2015-16 Fee:
Tobacco retailer license <i>(initial license)</i>	\$485
Tobacco retailer license renewal	\$439
Re-inspection fee <i>(for non-compliant businesses)</i>	based on actual costs incurred

To encourage compliance in a timely manner, the ordinance includes a reduction in the license fee for existing retailers who are able to demonstrate full compliance with this chapter (i.e. not take advantage of the grace period being provided related to certain business standards). This will reduce the amount of revenue the City receives for the first two years of the program. The exact amount will vary depending on the number of businesses who come into full compliance within the first 2 years of the program. The incentives are not mutually exclusive.

Table 5: Fee Reduction Incentive

Status of Business Compliance	Incentive
Full compliance at time of initial license (January 2016)	50% fee reduction (\$242.47)
Full compliance at time of first license renewal (July 2016)	25% fee reduction (\$329.20)

LEGAL CONSIDERATIONS

The City Attorney's Office has reviewed the proposed Ordinance.

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. Proposed Tobacco Retailer License Program Ordinance
2. American Lung Association's State of Tobacco Control 2015 – California Local Grades for Alameda and Contra Costa County jurisdictions.
3. Chapter 7 "Tobacco Use" from the El Cerrito High School Results Report: 2014–15 California Healthy Kids Survey
4. Summary of Changes to Draft Ordinance since May 2015
5. Illustrative Map of Tobacco Retailers, Schools and Parks in El Cerrito (2014)
6. Summary of Technical Assistance Resources

ORDINANCE NO. 2015–XX

AN ORDINANCE OF THE CITY OF EL CERRITO REQUIRING THE LICENSURE OF TOBACCO RETAILERS AND AMENDING THE EL CERRITO MUNICIPAL CODE BY REPEALING SECTION 19.20.210, AMENDING SECTION 19.46.060(D) AND TABLE 19.07-A AND ADDING A NEW CHAPTER 6.100 (“TOBACCO RETAILER LICENSE PROGRAM”)

WHEREAS, tobacco use causes death and disease and continues to be an urgent public health challenge; and

WHEREAS, society is becoming more aware of the harms of smoking, particularly in El Cerrito, where a majority of participants in surveys and community meetings indicated a need to regulate smoking within the City limits; and

WHEREAS, the City Council recently adopted Ordinance 2014-05 to regulate smoking within the City of El Cerrito and protect the public and environment from secondhand smoke; and

WHEREAS, nationally, the failure of tobacco retailers to comply with all tobacco control laws, particularly laws prohibiting the sale of tobacco products to minors, presents an imminent threat to the public health, safety, and welfare and therefore is a threat to the public health, safety, and welfare of the residents of the City of El Cerrito; and

WHEREAS, a local licensing system for tobacco retailers is appropriate to ensure that retailers comply with tobacco control laws and business standards of the City of El Cerrito, to protect the health, safety, and welfare of our residents; and

WHEREAS, approximately 480,000 people die in the United States from tobacco-related diseases every year, making tobacco use the nation’s leading cause of preventable death;¹ and

WHEREAS, the California Legislature has recognized the danger of tobacco use and has made reducing youth access to tobacco products a high priority, as evidenced by the fact that:

1. The Legislature has declared that smoking is the single most important source of preventable disease and premature death in California (Cal. Health & Safety Code § 118950);
2. State law prohibits the sale or furnishing of cigarettes, tobacco products, and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors (Cal. Pen. Code § 308);
3. State law requires that tobacco retailers check the identification of tobacco purchasers who reasonably appear to be under 18 years of age (Cal. Bus. & Prof. Code § 22956) and provides procedures for using minors to conduct onsite compliance checks of tobacco retailers (Cal. Bus. & Prof. Code § 22952); and

4. State law prohibits the sale or furnishing of electronic cigarettes to minors (Cal. Health & Safety Code § 119405).

WHEREAS, the density of tobacco retailers, particularly in neighborhoods surrounding schools, has been associated with increased youth smoking rates;² and

WHEREAS, a California study found that the density of tobacco retailers near schools was positively associated with the prevalence of students reporting experimental smoking;³ and

WHEREAS, a high density of tobacco retailers has been associated with increased smoking rates, particularly among youth;⁴ and

WHEREAS, over 8 percent of all tobacco retailers statewide were witnessed unlawfully selling to minors in 2012, and tobacco stores (defined as businesses in which at least 80 percent of merchandise was tobacco products) sold to minors at a much higher rate than the statewide average, as high as 20.5 percent;⁵ and

WHEREAS, many cigarette, tobacco, and retail outlets specializing in tobacco paraphernalia (sometimes called “head shops”) sell items that are commonly known to be drug paraphernalia, including bongs and pipes used to smoke methamphetamine and other illicit drugs, and claim that such items are intended for tobacco use; and

WHEREAS, state law prohibits sales of “drug paraphernalia”;⁶ yet many retailers nevertheless sell items that are commonly known to be “drug paraphernalia,” including bongs and pipes used to smoke methamphetamine and other illicit drugs, claiming that such items are intended for tobacco use; and

WHEREAS, state law requires all tobacco retailers to be licensed by the Board of Equalization primarily to curb the illegal sale and distribution of cigarettes due to tax evasion and counterfeiting (Cal. Bus. & Prof. Code §§ 22970.1, 22972); and

WHEREAS, state law explicitly permits cities and counties to enact local tobacco retail licensing ordinances, and allows for the suspension or revocation of a local license for a violation of any state tobacco control law (Cal. Bus. & Prof. Code § 22971.3); and

WHEREAS, California courts have affirmed the power of the City of El Cerrito to regulate business activity to discourage violations of law. See, e.g., *Cohen v. Board of Supervisors*, 40 Cal. 3d 277 (1985); *Bravo Vending v. City of Rancho Mirage*, 16 Cal. App. 4th 383 (1993); *Prime Gas, Inc. v. City of Sacramento*, 184 Cal. App. 4th 697 (2010); and

WHEREAS, despite the state’s efforts to limit youth access to tobacco, minors are still able to access cigarettes, as evidenced by the fact that 19 percent of seniors in West Contra Costa Unified School District have smoked a whole cigarette;⁷ and in California, 64 percent of adult smokers started by the age of 18;⁸ and

WHEREAS, “little cigars” look nearly identical to cigarettes;⁹ and

WHEREAS, although the sale of flavored and individual cigarettes is banned by federal

law, neither federal nor California law restrict the sale of flavored cigar products or the sale of individual cigar products;¹⁰ and

WHEREAS, the federal Family Smoking Prevention and Tobacco Control Act (FSPTCA), enacted in 2009, prohibited candy and fruit-flavored cigarettes,¹¹ largely because these flavored products were marketed to youth and young adults,¹² and younger smokers were more likely to have tried these products than older smokers;¹³ and although the manufacture and distribution of flavored cigarettes (excluding menthol) is banned by federal law,¹⁴ neither federal nor California laws restrict sales of flavored non-cigarette tobacco products, such as cigars, cigarillos, smokeless tobacco, hookah tobacco, and electronic smoking devices and the nicotine solutions used in these devices; and

WHEREAS, flavored non-cigarette tobacco products have become increasingly common and are available in a variety of flavors that appeal to children and young adults,¹⁵ including apple, cherry, chocolate, grape, peach, strawberry, and vanilla; and

WHEREAS, the U.S. Food and Drug Administration and the U.S. Surgeon General have stated that flavored tobacco products are considered to be “starter” products that help establish smoking habits that can lead to long-term addiction;¹⁶ and

WHEREAS, data from the National Youth Tobacco Survey indicate that more than two-fifths of U.S. middle and high school smokers report using flavored little cigars or flavored cigarettes;¹⁷ and

WHEREAS, tobacco companies have used flavorings such as mint and wintergreen in smokeless tobacco products as part of a “graduation strategy” to encourage new users to start with products with lower levels of nicotine and progress to products with higher levels of nicotine;¹⁸ and

WHEREAS, the U.S. Centers for Disease Control and Prevention has reported current e-cigarette use (use on at least 1 day in the past 30 days) among high school students increased from 4.5 percent in 2013 to 13.4 percent in 2014, rising from approximately 660,000 to 2 million students. Among middle school students, current e-cigarette use more than tripled from 1.1 percent in 2013 to 3.9 percent in 2014—an increase from approximately 120,000 to 450,000 students;¹⁹ and

WHEREAS, nicotine solutions, which are consumed via electronic smoking devices such as electronic cigarettes, are sold in dozens of flavors that appeal to youth, such as cotton candy and bubble gum;²⁰ and

WHEREAS, the California Attorney General has stated that electronic cigarette companies have targeted minors with fruit-flavored products;²¹ and

WHEREAS, research demonstrates that local tobacco retail ordinances dramatically reduce youth access to cigarettes. For example:

1. A review of 33 California communities with strong tobacco retailer licensing ordinances shows that the youth sales rate declined in 31 of these communities after the

ordinances were enacted, with an average decrease of 26 percent in the youth sales rate;²²

2. License suspension or revocation after repeated violations is recognized as an effective strategy to reduce youth access to tobacco;²³ and

3. A study of the effect of licensing and enforcement methods used in the Philadelphia area revealed a decrease in sales to minors from 85 percent in 1994 to 43 percent in 1998;²⁴

4. A study of several Minnesota cities found that an increased licensing fee in conjunction with strict enforcement of youth access laws led to a decrease from 39.8 percent to 4.9 percent in the number of youth able to purchase tobacco;²⁵ and

WHEREAS, over 148 cities and counties in California have passed tobacco retailer licensing ordinances in an effort to stop minors from using tobacco;²⁶ and

WHEREAS, the City has a substantial interest in promoting compliance with federal, state, and local laws intended to regulate tobacco sales and use; in discouraging the illegal purchase of tobacco products by minors; in promoting compliance with laws prohibiting sales of cigarettes and tobacco products to minors; and finally, and most importantly, in protecting children from being lured into illegal activity through the misconduct of adults; and

WHEREAS, the City Council finds that the regulations imposed by this chapter provide a reasonable opportunity for tobacco retailers to operate within the City of El Cerrito. In the establishment of these regulations, the City Council considered their effects on the number and suitability of locations for tobacco retailers.

NOW THEREFORE, it is the intent of the City Council, in enacting this ordinance, to ensure compliance with the business standards and practices of the City and to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those which prohibit or discourage the sale or distribution of tobacco and nicotine products to minors, but not to expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalties provided therein.

The City Council of the City of El Cerrito does hereby ordain as follows:

SECTION 1. FINDINGS.

The above recitals are hereby declared to be true and correct and are findings of the City Council of the City of El Cerrito.

SECTION 2. AMENDMENT OF TITLE 19 OF THE EL CERRITO MUNICIPAL CODE

A. Section 19.20.210 ("Tobacco Sales") of the El Cerrito Municipal Code is hereby repealed.

B. Section 19.46.060 (D) of the El Cerrito Municipal Code is hereby amended to read as follows: *(strikeout indicating deleted text)*

Section 19.46.060(D) – **Industry, Medium.** Manufacturing or assembly of products from extracted, raw or finished materials or recycled or secondary materials, or bulk storage and handling of such products and materials. This classification includes: ~~tobacco product~~

~~manufacturing~~ textile mills, textile product mills, apparel manufacturing, leather and allied product manufacturing, wood product manufacturing, paper manufacturing, chemical manufacturing, plastics and rubber products manufacturing, nonmetallic mineral product manufacturing, primary metal manufacturing, and fabricated metal product manufacturing.”

C. Table 19.07-A (“Use Regulations-Commercial And Transit-Oriented Mixed-Use Districts”) under the heading Commercial Use Types is hereby amended to read as follows (*strikeout indicates deleted text and underlined text is to be added*):

	CN	CC	TOM	Additional Regulations
Tobacco Sales	C <u>L</u>	A <u>L</u>	A-L	See <u>Section 19.20.210</u> <u>Chapter 6.100</u>

D. 19.46.050.X.2 (Use Classifications *strikeout indicates deleted text and underlined text is to be added*):

~~Tobacco Sales. Retail establishments deriving 50 percent or more of gross sales receipts from the sale or exchange of tobacco-related products, including but not limited to, cigarettes, cigars, chewing tobacco and dipping tobacco, cigarette papers, pipes, or any other instrument or paraphernalia for the smoking or ingestion of tobacco and products prepared from tobacco.~~

Tobacco retailer” means any person that sells tobacco, tobacco products, electronic smoking devices, smoking paraphernalia, or any combination thereof, including retail or wholesale sales. “Tobacco retailing” shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products or smoking paraphernalia sold, offers for sale, exchanged, or offered for exchange.

SECTION 3. AMENDMENT OF EL CERRITO MUNICIPAL CODE TITLE 6
Title 6 (“Business Permits and Regulations”) of the El Cerrito Municipal Code is hereby amended to add a new Chapter 6.100 (“Tobacco Retailer License Program”) to read as follows:

TOBACCO RETAILER LICENSE PROGRAM

Article 1 – Title and Definitions

6.100.010 – Title.

6.100.020 – Definitions.

Article 2. Requirements and Prohibitions

6.100.040 - Tobacco Retailer License Required.

6.100.060 - Lawful Business Operation.

6.100.080 - Display of License.

6.100.100 - Positive Identification Required.

- 6.100.120 - Minimum Age for Persons Selling Tobacco.**
- 6.100.140- Self-Service Displays Prohibited.**
- 6.100.160 - Flavored Tobacco Products Prohibited.**
- 6.100.180 - Single and Small-Pack Cigars Prohibited.**
- 6.100.200 - Original Labeling and Packaging.**
- 6.100.220 - No Tobacco Product or Electronic Smoking Device Use on Premises.**
- 6.100.240 - Mobile Vending.**
- 6.100.260 - Tobacco Samples Prohibited.**
- 6.100.280 - False and Misleading Advertising Prohibited.**
- 6.100.300 - Drug Paraphernalia Laws.**
- 6.100.320 - Significant Tobacco Retail Establishments Prohibited.**
- 6.100.340 - Consideration for Existing Retailers.**

Article 3. Location Requirements

- 6.100.360 - Schools and Youth-Populated Areas.**
- 6.100.380 - Proximity to Other Retailers.**
- 6.100.390 - Distances**

Article 4. License Application and Procedures.

- 6.100.400 - Application Form.**
- 6.100.420 - Issuance Procedure.**
- 6.100.440 - Appeal.**
- 6.100.460 - Renewal of License.**
- 6.100.480 - Delinquency—Installments.**
- 6.100.500 - Licenses Nontransferable.**
- 6.100.520 - License Conveys a Limited, Conditional Privilege.**
- 6.100.540 - Fee for License.**
- 6.100.560 - Compliance Monitoring.**
- 6.100.580 - Inspection And Right Of Entry.**
- 6.100.600 - Suspension or Revocation of License for Violation.**
- 6.100.620 - Product Removal During Suspension or Revocation.**
- 6.100.640 - Appeal of Suspension or Revocation.**

Article 5. Penalties

- 6.100.660 – Penalties.**
- 6.100.680 - Tobacco Retailing Without a License.**
- 6.100.700 - Agreed Penalty In Lieu of Hearing.**

Article 1. Title and Definitions

6.100.010 Title. This Chapter shall be known as the Tobacco Retailer License Program. The City of El Cerrito hereinafter shall be called "City."

6.100.020 Definitions. The following definitions apply to this Chapter:

A. “Arm’s Length Transaction” means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this chapter is not an Arm’s Length Transaction. The City may require tobacco retailers to provide documentation that demonstrates that a transaction was at arm’s length.

B. “Cigar” means (i) any roll of tobacco wrapped entirely or in part in tobacco or in any substance containing tobacco; or (ii) any paper or wrapper that contains tobacco and is designed for smoking or ingestion of tobacco products. For the purposes of this Chapter, “Cigar” includes, but is not limited to, tobacco products known or labeled as “cigar,” “cigarillo,” “tiparillo,” “little cigar,” “blunt,” “blunt wrap,” or “cigar wrap.”

C. “Cigar Lounge” means any facility, building, structure or location, where customers consume cigars or similar smoking products

D. “Characterizing Flavor” means a distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted by a tobacco product or any byproduct produced by the tobacco product, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice.

E. “Distinguishable” means perceivable by an ordinary consumer by either the sense of smell or taste.

F. “Drug Paraphernalia” has the meaning set forth in California Health & Safety Code section 11014.5, as that section may be amended from time to time.

G. “Electronic Smoking Device” means an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other substances. “Electronic smoking device” includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor. “Electronic smoking device” does not include any product specifically approved by the United States Food and Drug Administration for use in the mitigation, treatment, or prevention of disease.

H. “Flavored Tobacco Product” means any tobacco product (other than cigarettes as defined by the U.S. Food and Drug Administration) that contains a constituent that imparts a characterizing flavor. This includes cigars, little cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, blunts, and electronic cigarettes or electronic smoking devices containing nicotine.

1. For purposes of this definition, “constituent” means any ingredient, substance, chemical, or compound, other than tobacco, water, or reconstituted tobacco sheet, which is added by the manufacturer to a tobacco product during the processing, manufacture, or packing of the tobacco product.

2. Further, a tobacco product is presumed to be a flavored tobacco product if a manufacturer or any of the manufacturer's agents or employees has:

a. Made a public statement or claim that the tobacco product has or produces a characterizing flavor, including, but not limited to, text and/or images on the product's labeling or packaging that are used explicitly or implicitly to communicate information about the flavor, taste, or aroma of a tobacco product; or

b. Taken actions directed to consumers that would be reasonably expected to result in consumers believing that the tobacco product imparts a characterizing flavor.

I. "Gross Receipts" includes the total of amounts actually received or receivable from sales and the total of amounts actually received or receivable for the performance of any act or service of whatever nature it may be for, for which a charge is made or credit allowed, in connection with the sale of materials, goods, wares, or merchandise. Refer to ECMC 4.32.010 for the full definition.

J. "Hookah Lounge" means any facility, building, structure or location, where customers share tobacco or a similar smoking product from a communal hookah placed throughout the establishment.

K. "Imitation Tobacco Product" means any edible non-tobacco product designed to resemble a tobacco product or any non-edible non-tobacco product designed to resemble a tobacco product that is intended to be used by children as a toy. Examples of imitation tobacco products include, but are not limited to, candy or chocolate cigarettes, bubble gum cigars, shredded bubble gum resembling spit tobacco, and shredded beef jerky in containers resembling snuff tins. An electronic smoking device is not an imitation tobacco product.

L. "Packaging" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a tobacco product is sold or offered for sale to a consumer.

M. "Person" means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

N. "Self-Service Display" means the open display or storage of tobacco products, electronic smoking devices or smoking paraphernalia in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of Self-Service Display.

O. "Significant Tobacco Retail Establishment" means any tobacco retail business for which the principal or core business is selling tobacco products, smoking paraphernalia, or both, as evidenced by any one of the following:

1. Twenty percent (20%) or more of floor or display area is devoted to tobacco products, smoking paraphernalia, or both;
2. Fifty percent (50%) or more of gross sales receipts are derived from tobacco products, smoking paraphernalia, or both;

3. Self-disclosure

P. “Smoking Lounge” means any facility, building, structure or location, where customers consume tobacco or a similar smoking product, or where customers use an electronic smoking device or other apparatus to deliver an inhaled dose of nicotine or other substance within the establishment. This includes cigar lounge, hookah lounge, vapor bar, and similar establishments.

Q. “Smoking Paraphernalia” means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the consumption or preparation of tobacco products; electronic smoking devices and item specifically designed for the preparation, charging, or use of Electronic Smoking Devices including cartridges, cartomizers, e-liquid, smoke juice, tips, atomizers, Electronic Smoking Device batteries, Electronic Smoking Device chargers, and any other Electronic Smoking Device Paraphernalia.

R. “Tobacco Product” means any of the following:

1. Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, snus; and
2. Any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, cigar, pipe, or hookah.
3. Notwithstanding any provision of subsections (a) and (b) to the contrary, “tobacco product” includes any component, part, or accessory of a tobacco product, whether or not sold separately. “Tobacco product” does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

S. “Tobacco Retailer” or “Retailer” means any person that sells tobacco, tobacco products, electronic smoking devices, smoking paraphernalia, or any combination thereof, including retail or wholesale sales. “Tobacco retailing” shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products or smoking paraphernalia sold, offers for sale, exchanged, or offered for exchange.

T. “Tobacco Retailer License” means the license issued pursuant to Article 4 that authorizes retail sales of tobacco, tobacco products, electronic smoking devices, smoking paraphernalia, or any combination thereof, at a certain, fixed location and by a certain tobacco retailer.

U. “Vapor Lounge” or “Vape Lounge” or “Vapor Bar” (also referred to as “smoking device bar” or “electronic smoking device lounge”) means any facility, building, structure or

location where customers use an electronic smoking device or other apparatus to deliver an inhaled dose of nicotine or other substance within the establishment.

Article 2. Requirements and Prohibitions

6.100.040 Tobacco Retailer License Required. It shall be unlawful for any person to engage in the retail sales of tobacco in the City of El Cerrito without first obtaining and maintaining a valid tobacco retailer license pursuant to this chapter for each location at which that activity is to occur. Tobacco retailing without a valid tobacco retailer license is a nuisance as a matter of law.

6.100.060 Lawful Business Operation. It shall be a violation of this chapter for any person, or any of the person's agents or employees, to violate any local, state, and/or federal laws regarding sales, advertising or display of tobacco products, electronic smoking devices, imitation tobacco products and/or smoking paraphernalia.

6.100.080 Display Of License. A current tobacco retailer license shall be prominently displayed in a publicly visible location at each licensed location.

6.100.100 Positive Identification Required. No person engaged in tobacco retailing shall sell or transfer any tobacco product or smoking paraphernalia to another person who appears to be under the age of twenty-seven (27) years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under state law to purchase and possess the tobacco product, electronic smoking device or smoking paraphernalia.

6.100.120 Minimum Age For Persons Selling Tobacco. No person who is younger than the minimum age established by state law for the purchase or possession of tobacco products shall engage in the sales transaction of tobacco products.

6.100.140 Self-Service Displays Prohibited. Tobacco retailing, including sales of any tobacco product, electronic smoking device, or smoking paraphernalia, by means of a self-service display is prohibited.

6.100.160 Flavored Tobacco Products Prohibited. No tobacco retailer, nor any of the retailer's agents or employees, shall sell or offer for sale, or to possess with intent to sell or offer for sale, any imitation tobacco products or flavored tobacco product.

1. There shall be a presumption that a tobacco retailer in possession of four (4) or more flavored tobacco products, which shall include individual flavored tobacco products, packages of flavored tobacco products, or any combination thereof, possesses such flavored tobacco products with intent to sell or offer for sale.

6.100.180 Single And Small-Pack Cigars Prohibited. No tobacco retailer, nor any of the retailer's agents or employees, shall sell or offer for sale, or to possess with intent to sell or offer for sale:

1. Any single cigar, whether or not packaged for individual sale;

2. Any number of cigars fewer than the number contained in the manufacturer's original consumer packaging designed for retail sale to a consumer;
3. Any package of cigars containing fewer than five (5) cigars.
4. Subsection one does not apply to the sale or offer for sale of a single cigar for which the retail price exceeds five dollars (\$5.00). This minimum retail amount may be adjusted from time to time by a resolution of the City Council.

6.100.200 Original Labeling And Packaging. Every tobacco retailer shall maintain on the premises the original labeling and packaging provided by the manufacturer for all tobacco products that are sold or offered for sale by the retailer separately from the original packaging designed for retail sale to the consumer. The original labeling and packaging from which the contents are sold separately shall be maintained during such time as the contents of the package are offered for sale, and may be disposed of upon the sale of the entire contents of such package.

6.100.220 No Tobacco Product Or Electronic Smoking Device Use On Premises. A Cigar lounge, hookah bar, vape bar or similar establishment is prohibited in the City of El Cerrito. No retailer shall operate a smoking lounge, or any facility, building, structure or location, where customers consume any amount of tobacco product, or where customers use an electronic smoking device or other apparatus to deliver an inhaled dose of nicotine or other substance.

6.100.240 Mobile Vending. No license for a tobacco retailer may be issued to authorize tobacco retailing at other than a fixed location. For example, tobacco retailing by persons on foot or from vehicles is prohibited.

6.100.260 Tobacco Samples Prohibited. Except as allowed in adult-only businesses per State and Federal law, no person shall knowingly distribute, furnish without charge, or cause to be furnished without charge for a commercial purpose, cigarettes or other tobacco products including and smoking paraphernalia, or coupons for discounts on the purchase of cigarettes or other tobacco products including and smoking paraphernalia, at any event open to the public or in any public place, including but not limited to any public way, mall or shopping center, park, playground, or any property owned by the City or any other public agency.

6.100.280 False And Misleading Advertising Prohibited. A person selling tobacco products without a valid tobacco retailer license or a licensee whose privilege to sell tobacco has been suspended or revoked:

1. Shall keep all tobacco products and smoking paraphernalia out of public view. The public display of tobacco products or smoking paraphernalia in violation of this provision shall constitute tobacco retailing without a license; and
2. Shall not display any advertisement relating to tobacco products or smoking paraphernalia that promotes the sale or distribution of such products from the tobacco retailer's location or that could lead a reasonable consumer to believe that such products can be obtained at that location.

6.100.300 Drug Paraphernalia Laws. It shall be a violation of this chapter for any retailer or any of the retailer's agents or employees to violate any local, state, or federal law

regulating controlled substances or drug paraphernalia, such as, for example, California Health and Safety Code section 11364.7, except that conduct authorized pursuant to the state Medical Marijuana Program (California Health and Safety Code sections 11362.7 *et seq.*) shall not be a violation of this chapter.

6.100.320 Significant Tobacco Retail Establishments Prohibited. No tobacco retailer shall operate as a “significant tobacco retail establishment.”

1. No license for a tobacco retail establishment may be issued if the retailer intends to operate a significant tobacco retail establishment.
2. No tobacco retailer may utilize more than twenty percent (20%) of the store display area for tobacco products, smoking paraphernalia or both.
3. No tobacco retailer may derive fifty percent (50%) or more of gross receipts from tobacco products, smoking paraphernalia, or both.

Existing tobacco retailers operating at the time this chapter goes into effect may seek an exception to this section for up to ten (10) years) by demonstrating that use of a larger display area or percentage of gross receipts preceded the effective date of this chapter. The tobacco retailer shall make this showing to the satisfaction of the City. Such tobacco retailers will be allowed to continue to devote the same amount of display area and/or receive up to the same percent of gross receipts from tobacco products as demonstrated so long as:

1. A tobacco retailer license and exception to this section are obtained in a timely manner;
2. The tobacco retailer is not closed for business or otherwise suspends tobacco retailing for more than sixty (60) consecutive days;
3. The tobacco retailer does not substantially change the business premises or business operation, as determined by the City;
4. The tobacco retailer does not increase the percent of display area and/or gross receipts beyond that store’s previously declared percentages, or the aforementioned limits, whichever is greater;
5. The tobacco retailer does not receive three or more citations for any reason within a five year period; and
6. The tobacco retailer retains the right to operate under other applicable laws.

This exception will sunset ten (10) years from adoption of this ordinance.

6.100.340 Consideration For Existing Retailers. Existing tobacco retailers have 24 months from adoption of this chapter to comply with sections 6.100.120 through 6.100.200 inclusive so long as:

1. The tobacco retailer license is obtained and renewed annually in a timely manner. The license will be considered delinquent if payment is past due by more than 30 days;
2. The tobacco retailer is not closed for business or otherwise suspends tobacco retailing for more than sixty (60) consecutive days;
3. The tobacco retailer does not substantially change the business premises or business operation;
4. The tobacco retailer does not receive three or more violations within a twenty-four month period; and

5. The tobacco retailer retains the right to operate under other applicable laws.

Article 3. Location Requirements.

6.100.360 Schools And Youth-Populated Areas. No new license may be issued to authorize tobacco retailing within five hundred (500) feet of public and private schools and areas with youth populations as follows:

1. A private or public kindergarten, elementary, middle, junior high, or high school;
2. A library open to the public; or
3. A publically-owned park (excluding the Ohlone Greenway and pocket parks as defined in the San Pablo Avenue Specific Plan) or recreation facility including, but not limited to, clubhouses, the Community Center, the Senior Center, and the Swim Center.

EXCEPTION: Tobacco retailers operating at the time this chapter goes into effect may remain in their current location. In addition, if, within ten (10) years of adoption of this ordinance, such businesses are sold in an arm's length transaction, as determined by the City, the location exception will continue to apply to the new owner.

6.100.380 Proximity To Other Retailers. No new license may be issued to authorize tobacco retailing within one thousand (1,000) feet of a tobacco retailer location already licensed pursuant to this chapter.

EXCEPTIONS:

1. Tobacco retailers operating at the time this chapter goes into effect may remain in their current location. In addition, if, within ten (10) years of adoption of this ordinance, such businesses are sold in an arm's length transaction, as determined by the City, the location exception will continue to apply to the new owner.
2. Any new retailer may request an exception to this section. If the body of approval is the Planning Commission, they will hear the exception request; If the Planning Commission is not the body of approval for the use, the Zoning Administrator will hear the exception request at an administrative hearing. In making a decision on an exception, the approving body will consider whether there are specific economic, legal, social, environmental or other benefits of the proposed retail operation that will outweigh the harms. (For example, the decision to grant the exception will take into account if the proposed use will provide a public benefit which will further one or more of the goals of the San Pablo Avenue Specific Plan or other adopted city policy document related to economic development.) The benefits will be stated in a finding(s) that the approving body makes when approving the exception.

6.100.390 Distances. The distances set forth in section 6.100.360 shall be measured as a straight line, without regard to intervening structures or objects, from the property line of the property containing the tobacco retail business to the property line of the other property. The distances set forth in section 6.100.380 between tobacco retailers shall be measured from the outside wall of the tenant space of each tobacco retailer.

Article 4. License Application and Procedures.

6.100.400 Application Form.

Applications for a tobacco retailer license shall be submitted on a form provided by the City.

6.100.420 Issuance Procedure.

Upon the receipt of a complete application for a tobacco retailer license and the license fee required by this chapter, the City shall issue a license unless substantial evidence demonstrates that one or more of the following bases for denial exists:

1. The information presented in the application is inaccurate or false. Intentionally supplying inaccurate or false information shall be a violation of this chapter;
2. Tobacco retailing is not an allowed use at the stated location;
3. The application seeks authorization for tobacco retailing that is prohibited pursuant to this chapter, that is unlawful pursuant to any portion of the El Cerrito Municipal Code or that is unlawful pursuant to any other law;
4. The location for which a tobacco retailer license is sought lacks a valid state tobacco retailer license issued by the California Board of Equalization; or
5. The applicant has been found in violation of three (3) or more regulations within the last five years pertaining to any local, state, and/or federal laws regarding sales, advertising or display of tobacco products, electronic smoking devices, imitation tobacco products and/or smoking paraphernalia.

6.100.440 Appeal.

Any person aggrieved by any decision of the license administrator with respect to the issuance or refusal to issue such license may follow the process described in ECMC 4.32.150

6.100.460 Renewal Of License.

The initial tobacco retailer license will expire at the same time as the retailer's business license, therefore, the initial license may have a term shorter than one year.

The renewal term of a tobacco retailer license is one year. Each tobacco retailer shall apply for the annual renewal of his or her tobacco retailer license and the license fee shall be due and payable in advance of the time the retailer's business license expires. The applicant for the renewal of a tobacco retailer license shall submit the renewal form, including a sworn statement setting forth such information concerning the applicant's business as may be required by the license administrator to enable the administrator to ascertain if tobacco retail was the principal or core business during the preceding year and if the applicant or an employee has been found in violation pertaining to any local, state, and/or federal laws regarding sales, advertising or display of tobacco products, electronic smoking devices, flavored tobacco products, imitation tobacco products and/or smoking paraphernalia.

6.100.480 Delinquency—Installments.

For failure to pay a renewal fee of the license when due, the license administrator shall add a penalty at the rate set forth for business license taxes per ECMC 4.32.210, using the tobacco license cost as the basis to determine the penalty amount.

No license shall be issued, nor one which has been suspended or revoked, shall be reinstated or reissued to any person who, at the time of applying therefore, is indebted to the City for any delinquent license fees, unless such licensee, with the consent of the license administrator, enters into a written agreement with the City through the license administrator to pay such delinquent fees in at least monthly installments extending over a period not to exceed one year.

Such agreement must acknowledge the obligation owed to the City by the licensee, and provide that upon failure to make timely payment of any installment, the whole amount unpaid shall become immediately due and payable and that the current license shall be revocable by the license administrator upon thirty days' notice and, in the event legal action is brought by the City to enforce collection of any amount included in the agreement, such licensee shall pay all costs of suit incurred by the city or its assignee, including reasonable attorney fees. The execution of such an agreement shall not prevent the prior accrual of penalties on unpaid balances at the rate provided in this section, but no penalties shall accrue on account of fees included in the agreement after the execution of the agreement and the payment of the first installment and during such time as such licensee shall not be in breach of the agreement.

6.100.500 Licenses Nontransferable.

A. A tobacco retailer license may not be transferred from one person to another or from one location to another. A new tobacco retailer license is required whenever a tobacco retailing business has a change in owner(s).

B. Notwithstanding any other provision of this chapter, prior violations at a location shall continue to be counted against a location and license ineligibility periods shall continue to apply to a location unless:

1. The location has been transferred to new owner(s) in an arm's length transaction; and
2. The new owner(s) provide the City with convincing evidence that the new owner(s) have acquired or are acquiring the location in an arm's length transaction.

6.100.520 License Conveys A Limited, Conditional Privilege. Nothing in this chapter shall be construed to grant any person obtaining and maintaining a tobacco retailer license any status or right other than the limited conditional privilege to act as a tobacco retailer at the location in the City identified on the face of the permit. For example, nothing in this chapter shall be construed to render inapplicable, supersede, or apply in lieu of, any other provision of applicable law, including but not limited to, any provision of this Code or any condition or limitation on smoking in an enclosed place of employment pursuant to California Labor Code section 6404.5. For example, obtaining a tobacco retailer license does not make the retailer a "retail or wholesale tobacco shop" for the purposes of California Labor Code section 6404.5.

6.100.540 Fee For License. The fees for the annual tobacco retailer license shall be established by the City Council and included in the City's Master Fee Schedule. Fees are payable at the time the retailer obtains or renews its business license. The fee shall be calculated so as to recover the cost of administration and enforcement of this chapter, including, for example, issuing a license, administering the license program, retailer

education, retailer inspection and compliance checks, documentation of violations, and enforcement, but shall not exceed the cost of the regulatory program authorized by this chapter. Annual fees shall not be pro-rated or refunded during the course of the year. Upon adoption of this chapter, the following fees will be included in the City's Master Fee Schedule as amended by Council resolution and reviewed annually thereafter:

\$485 for tobacco retailer license (initial license)

\$439 for tobacco retailer license renewal

The City may charge a re-inspection fee to offset the additional staff time required to handle non-compliant businesses. Additional inspections will be billed based on actual costs incurred.

To encourage compliance in a timely manner, tobacco retailers operating at the time this chapter is adopted who are able to demonstrate full compliance with Article 2 (Requirements and Prohibitions) of this chapter at the time of initial application for a tobacco retailer license shall have the license fee for the first year reduced by fifty percent (50%). Tobacco retailers operating at the time this chapter is adopted who are able to demonstrate full compliance with Article 2 of this chapter at the time of license renewal in 2016 shall have that year's license renewal fee reduced by twenty five percent (25%).

6.100.560 Compliance Monitoring. Compliance with the regulations in this chapter shall be enforced by the City's Community Development Department, in conjunction with the El Cerrito Police Department. The City Manager may designate another position responsible for these duties. The Code Enforcement Officer or his/her designee shall use reasonable efforts to conduct a compliance check visit to each tobacco retailing location at least once during the initial twelve (12) month period, and thereafter on a periodic basis to determine if the tobacco retailer is in compliance with these regulations. Nothing in this section shall create a right of action in any tobacco retailer or other person against the City or its agents in conducting these annual inspections.

Retailers may be subject to additional inspections based on random selection, past violations or complaints. Nothing in this paragraph shall create a right of action in any licensee or other person against the City or its agents.

The City's Police Department shall develop and carry out inspections in an effort to enforce any local, state or federal law related to tobacco sales, especially those related to a minimum age for tobacco purchases or possession.

6.100.580 Inspection And Right Of Entry. To the extent permissible by law, the Community Development Director, Chief of Police and their designees shall have the right to enter and inspect any tobacco retailer for the purpose of ensuring compliance with the regulations in this chapter, provided that any such entry and inspection shall be conducted in a reasonable manner and when there is reason to suspect a violation of any of the provisions of the tobacco retailer regulations.

Whether in plain clothes or uniform, peace officers have the right to visit and inspect any tobacco retailing location at any time during business hours without a search warrant upon

presentation of appropriate credentials. This includes inspecting the bar and back bar, store room, office, closed or locked cabinets, safes, kitchen, or any other area within the premises. Inspections will be requested or conducted no more than once in a 24-hour period. Refusal to allow inspection will be a violation of this chapter.

6.100.600 Suspension Or Revocation Of License For Violation. In addition to any other penalty authorized by law, a tobacco retailer license shall be suspended or revoked if any court of competent jurisdiction determines, or the City finds based on a preponderance of the evidence, after the licensee is afforded notice and an opportunity to be heard, that the licensee, or any of the licensee's agents or employees, has violated any of the requirements, conditions, or prohibitions of this chapter or has pleaded guilty, "no contest" or its equivalent, or admitted to a violation of any law designated in this chapter.

1. Upon a finding by the City of a first violation of this chapter, at a location within any five (5) year period, the privilege to sell tobacco, tobacco products, electronic smoking devices and smoking paraphernalia shall be suspended for ten (10) days.
2. Upon a finding by the City of a second violation of this chapter at a location within any five (5) year period, the privilege to sell tobacco, tobacco products, electronic smoking devices and smoking paraphernalia shall be suspended for thirty (30) days.
3. Upon a finding by the City of a third violation of this chapter at a location within any five (5) year period, the privilege to sell tobacco, tobacco products, electronic smoking devices and smoking paraphernalia shall be suspended for sixty (60) days.
4. Upon a finding by the City of four (4) or more violations of this chapter at a location within any five year period, the tobacco retailer license shall be revoked.

Notwithstanding any other provision of this chapter, prior violations at a location shall continue to be counted against a location and license ineligibility periods shall continue to apply to a location unless:

1. The location has been transferred to new owner(s) in an arm's length transaction; and
2. The new owner(s) provide the City with evidence that the new owner(s) have acquired or are acquiring the location in an arm's length transaction.

6.100.620 Product Removal During Suspension Or Revocation. To ensure customers and the public are aware of periods of suspension or revocation, all tobacco-related products, paraphernalia, and advertising must be removed from public view during periods of suspension or revocation.

1. During periods of suspension or revocation, the City shall post a notice to the public on the property that states "This retailer has violated important public health laws regulating tobacco. Tobacco sales are currently banned at this location." The notice will be at least 22" wide and placed nearby the main entrance to the store

6.100.640 Appeal Of Suspension Or Revocation. Any person found to be in violation of this chapter shall have the right to a hearing in accordance with ECMC Chapter 1.14, "Administrative Penalties."

Article 5. Penalties

6.100.660 Penalties.

- A. Violations of this chapter are hereby declared to be public nuisances.
- B. Violations of this chapter may be prosecuted as infractions or misdemeanors when the interests of justice so require.
- C. Violations of this chapter are subject to a civil action brought by the City Attorney, punishable by a civil fine not less than two hundred fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) per violation.
- D. Any person who is found to have violated this chapter shall be liable for such costs, expenses and disbursements paid or incurred by the City or any of its contractors in the correction, abatement, prosecution of, or administrative hearing on, the violation. Re-inspection fees to ascertain compliance with previously noticed violations shall be charged to the owner of the establishment, as may be set by the City Council in the Master Fee Schedule.

6.100.680 Tobacco Retailing Without A License.

A. In addition to any other penalty authorized by law, if a court of competent jurisdiction determines, or the City finds based on a preponderance of evidence, after notice and an opportunity to be heard, that any person has engaged in tobacco retailing at a location without a valid tobacco retailer license, either directly or through the person's agents or employees, the person shall be ineligible to apply for, or to be issued, a tobacco retailer license as follows:

1. After a first violation of this section at a location within any five (5) year period, no new license may issue for the person or the location (unless ownership of the business at the location has been transferred in an arm's length transaction), until thirty (30) days have passed from the date of the violation.
2. After a second violation of this section at a location within any five (5) year period, no new license may issue for the person or the location (unless ownership of the business at the location has been transferred in an arm's length transaction), until ninety (90) days have passed from the date of the violation.
3. After of a third or subsequent violation of this section at a location within any five (5) year period, the tobacco retailer license will be revoked and no new license may issue for the person or the location (unless ownership of the business at the location has been transferred in an arm's length transaction), until two (2) years have passed from the date of the violation.

B. For the purposes of the civil remedies provided in this chapter:

1. Each day on which a tobacco product or smoking paraphernalia is offered for sale is a violation of this chapter; or
2. Each individual retail tobacco product and each individual retail item of smoking paraphernalia that is distributed, sold, or offered for sale in violation of this chapter shall constitute a separate violation of this chapter.

6.100.700 Agreed Penalty In Lieu Of Hearing. For a first or second alleged violation of this chapter within any twenty-four (24) month period, the City Manager may allow a person alleged to have violated this chapter to agree to the penalties provided in this section in lieu of the penalties that would otherwise apply under this chapter and to forego a hearing

on the allegations. Agreements for penalties in lieu of a hearing shall not be confidential and may contain the following terms as well as any other non-criminal provisions established by the City Manager in the interests of justice:

A. After a first alleged violation of this chapter at a location, the person shall agree to all of the following penalties (where applicable):

1. An agreement to stop engaging in tobacco retailing for two (2) days.
2. An administrative penalty of one thousand dollars (\$1,000).
3. Posting of a sign outside near the store's main entrance for the two days during which sales are suspended, that is at least at least 22" wide and states "This retailer has violated important public health laws regulating tobacco. Tobacco sales are currently banned at this location."
4. An admission that the violation occurred and an acknowledgment that the violation will be considered in determining the fine or penalty for any future violation.

B. After a second alleged violation of this chapter at a location within any twenty-four (24) month period, the person shall agree to all of the following penalties (where applicable):

1. An agreement to stop engaging in tobacco retailing for seven (7) days.
2. An administrative penalty of at least five thousand dollars (\$5,000).
3. Posting of a sign outside near the store's main entrance for the two days during which sales are suspended, that is at least at least twenty-two inches (22") wide and states "This retailer has violated important public health laws regulating tobacco. Tobacco sales are currently banned at this location."
4. An admission that the violation occurred and an acknowledgment that the violation will be considered in determining the fine or penalty for any future violations.

SECTION 4. SEVERABILITY If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The city council hereby declares that it would have passed the ordinance codified in this chapter, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of this chapter would be subsequently declared invalid or unconstitutional.

SECTION 5. NOTICING, POSTING AND PUBLICATION

This ordinance is adopted pursuant to the procedures established by state law, and all required notices have been given and the public hearing has been properly held and conducted.

SECTION 6. EFFECTIVE DATE.

This ordinance shall take effect on January 1, 2016.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council on _____, 2015 and passed by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ADOPTED AND ORDERED published at a regular meeting of the City Council held on _____, 2015 and passed by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Mark Friedman, Mayor

ATTEST:

Cheryl Morse, City Clerk

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on _____, 2015.

Cheryl Morse, City Clerk

ORDINANCE CERTIFICATION

I, Cheryl Morse, City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is the true and correct original Ordinance No. 2015-XX of the City of El Cerrito; that said Ordinance was duly enacted and adopted by the City Council of the City of El Cerrito at a meeting of the City Council held on the ____ day of _____, 2015; and that said Ordinance has been published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of El Cerrito, California, this ____ day of _____, 2015.

Cheryl Morse, City Clerk

¹ U.S. Department of Health and Human Services. 2014. *The Health Consequences of Smoking — 50 Years of Progress. A Report of the Surgeon General*, www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf

² Henriksen L, Feighery EC, Schleicher NC, et al. 2008. "Is Adolescent Smoking Related to Density and

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- Proximity of Tobacco Outlets and Retail Cigarette Advertising Near Schools?” *Preventive Medicine* 47: 210-214.
- ⁵ Chapman R. 2012. *State Health Officer’s Report on Tobacco Use and Promotion in California*. California Department of Public Health, California Tobacco Control Program, p. 8, www.cdph.ca.gov/Documents/EMBARGOED%20State%20Health%20Officers%20Report%20on%20Tobacco.pdf
- ⁶ Cal. Health & Safety Code §§ 11014.5, 11364.7.
- ⁷ West Contra Costa Unified School District. California Healthy Kids Survey, 2014-15: Main Report. San Francisco: WestEd Health & Human Development Program for the California Department of Education., [http://www.wccusd.net/cms/lib03/CA01001466/Centricity/Domain/11/West Contra Costa Unified 1415 Sec CHKS.pdf](http://www.wccusd.net/cms/lib03/CA01001466/Centricity/Domain/11/West%20Contra%20Costa%20Unified%201415%20Sec%20CHKS.pdf)
- ⁸ Chapman, R. 2012. *State Health Officer’s Report on Tobacco Use and Promotion in California*. California Department of Public Health, California Tobacco Control Program, p. 6, www.cdph.ca.gov/Documents/EMBARGOED%20State%20Health%20Officers%20Report%20on%20Tobacco.pdf
- ⁹ Answers About Black & Milds, Swisher Sweets, and Other Little Cigars and Cigarillos. Available at: <http://smokefree.gov/tob-cigarillo.aspx>.
- ¹⁰ 21 C.F.R. § 1140.14(d).
- ¹¹ 21 U.S.C. § 387g.
- ¹² Carpenter CM, Wayne GF, Pauly JL, et al. 2005. “New Cigarette Brands with Flavors that Appeal to Youth: Tobacco Marketing Strategies.” *Health Affairs*. 24(6): 1601–1610; Lewis M and Wackowski O. 2006. “Dealing with an Innovative Industry: A Look at Flavored Cigarettes Promoted by Mainstream Brands.” *American Journal of Public Health*. 96(2): 244–251; Connolly GN. 2004. “Sweet and Spicy Flavours: New Brands for Minorities and Youth.” *Tobacco Control*. 13(3): 211–212; U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 537, www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf.
- ¹³ U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf.
- ¹⁴ 21 U.S.C. § 387g.
- ¹⁵ U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 164, 205, www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf; Morris DS and Fiala SC. 2013. “Flavoured, Non-cigarette Tobacco for Sale in the USA: An Inventory Analysis of Internet Retailers.” *Tobacco Control*. [Electronic publication ahead of print], <http://tobaccocontrol.bmj.com/content/early/2013/08/08/tobaccocontrol-2013-051059.full>.
- ¹⁶ Food and Drug Administration. 2011. *Fact Sheet: Flavored tobacco products*, www.fda.gov/downloads/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/UCM183214.pdf; U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf.
- ¹⁷ King BA, Tynan MA, Dube SR, et al. 2013. “Flavored-Little-Cigar and Flavored-Cigarette Use Among U.S. Middle and High School Students.” *Journal of Adolescent Health*. [Article in press],

www.jahonline.org/article/S1054-139X%2813%2900415-1/abstract.

- ¹⁸ U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf.
- ¹⁹ Centers for Disease Control & Prevention. April 17, 2015. "Tobacco Use Among Middle and High School Students — United States, 2011–2014 .," *Morbidity and Mortality Weekly Report (MMWR)* 64(14):381-385 http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6414a3.htm?s_cid=mm6414a3_w
- ²⁰ Cameron JM, Howell DN, White JR, et al. 2013. "Variable and Potentially Fatal Amounts of Nicotine in E-cigarette Nicotine Solutions." *Tobacco Control*. [Electronic publication ahead of print], <http://tobaccocontrol.bmj.com/content/early/2013/02/12/tobaccocontrol-2012-050604.full>; U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 549, www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf.
- ²¹ Press Release, State of California Department of Justice, Office of the Attorney General, Brown Announces Electronic Cigarette Maker's Agreement to Stop Deceptive Marketing and Sales to Minors (Aug. 3, 2010), oag.ca.gov/news/press-releases/brown-announces-electronic-cigarette-makers-agreement-stop-deceptive-marketing.
- ²² American Lung Association in California, Center for Tobacco Policy & Organizing. 2013. *Tobacco Retail Licensing is Effective*, <http://center4tobaccopolicy.org/wp-content/uploads/2013/09/Tobacco-Retailer-Licensing-is-Effective-September-2013.pdf>
- ²³ California Department of Health Services, Tobacco Control Section. 2003. *Final Report, Independent Evaluation of the California Tobacco Control Prevention & Education Program: Waves 1, 2, and 3 (1996-2000)*, p. 110, www.cdph.ca.gov/programs/tobacco/Documents/WavesComplete.pdf
- ²⁴ Ma GX, Shive S and Tracy M. 2001. "The Effects of Licensing and Inspection Enforcement to Reduce Tobacco Sales to Minors in Greater Philadelphia, 1994-1998." *Addictive Behaviors* 26(5): 677-687.
- ²⁵ Forster JL, Murray DM, Wolfson M, et al. 1988. "The Effects of Community Policies to Reduce Youth Access to Tobacco." *American Journal of Public Health* 88(8): 1193-1197.
- ²⁶ American Nonsmokers' Rights Foundation. 2012. *California Municipalities with Laws Restricting Youth Access to Tobacco*, <http://changelabsolutions.org/publications/anrf-list>

State of Tobacco Control 2015 – California Local Grades



ALAMEDA COUNTY

	Alameda	Albany	Berkeley	Dublin	Emeryville	Fremont	Hayward	Livermore	Newark	Oakland	Piedmont	Pleasanton	San Leandro	Union City	County Unincorporated
Overall Tobacco Control Grade	B	B	A	A	C	C	B	D	D	B	C	D	C	A	D
Total Points	8	10	13	11	5	6	8	2	3	9	6	3	5	12	4
Smokefree Outdoor Air	A	A	A	A	B	A	B	D	C	B	A	C	A	A	B
Dining	2	2	4	4	4	4	4	2	4	4	4	4	4	4	4
Entryways	4	4	4	4	4	4	0	2	4	4	4	2	4	4	4
Public Events	4	4	4	2	0	4	2	0	0	0	4	0	4	4	0
Recreation Areas	4	4	4	4	4	4	4	2	0	4	4	0	4	4	4
Service Areas	4	4	4	4	4	4	4	0	4	4	4	4	4	4	4
Sidewalks	1	1	1	0	0	1	1	0	0	0	1	0	0	0	0
Worksites	1	1	1	0	1	1	0	0	0	0	1	0	1	1	0
Total Points	20	20	22	18	17	22	15	6	12	16	22	10	21	21	16
Smokefree Housing	A	C	A	B	C	C	F	D	D	C	C	D	D	B	D
Nonsmoking Apartments	4	0	4	2	0	0	0	0	0	0	0	0	0	4	0
Nonsmoking Condominiums	4	0	4	2	0	0	0	0	0	0	0	0	0	0	0
Nonsmoking Common Areas	4	4	4	4	4	4	0	2	2	4	4	2	2	4	2
Nonsmoking Housing Authority	1	n/a	0	0	n/a	n/a	n/a	0	n/a	0	n/a	1	n/a	n/a	0
Total Points	13	4	12	8	4	4	0	2	2	4	4	3	2	8	2
Reducing Sales of Tobacco Products	F	A	A	B	F	F	A	F	F	A	F	F	F	A	F
Tobacco Retailer Licensing	0	4	4	3	0	0	4	0	0	4	0	0	0	4	0
Total Points	0	4	4	3	0	0	4	0	0	4	0	0	0	4	0
Emerging Issues Bonus Points															
Emerging Products Definition - Secondhand Smoke	0	0	1	1	1	1	1	0	0	0	1	1	1	1	0
Emerging Products Definition - Licensing	0	1	0	1	0	0	1	0	0	1	0	0	0	1	0
Retailer Location Restrictions	1	1	1	1	1	0	1	0	1	1	0	0	1	1	0
Sampling of Tobacco Products	0	0	1	1	1	1	1	1	0	1	0	1	0	1	1
Sale of Tobacco Products in Pharmacies	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0
Flavored Tobacco Products	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0
Minimum Pack Size of Cigars	0	0	0	0	0	0	1	0	0	0	0	0	0	1	0
Total Points	1	2	4	4	3	2	6	1	1	3	1	2	2	5	1

Overall Tobacco Control Grade: A (11-12), B (8-10), C (5-7), D (2-4), F (0-1);
determined by grades and points from other three categories – A (4), B (3), C (2), D (1), F (0)
Smokefree Outdoor Air Grade: A (18+), B (13-17), C (8-12), D (3-7), F (0-2)

Smokefree Housing Grade: A (11+), B (8-10), C (5-7), D (2-4), F (0-1)
Reducing Sales of Tobacco Products Grade: A (4+), B (3), C (2), D (1), F (0)

State of Tobacco Control 2015 – California Local Grades



CONTRA COSTA COUNTY

	Antioch	Brentwood	Clayton	Concord	Danville	El Cerrito	Hercules	Lafayette	Martinez	Moraga	Oakley	Orinda	Pinole	Pittsburg	Pleasant Hill	Richmond	San Pablo	San Ramon	Walnut Creek	County Unincorporated
Overall Tobacco Control Grade	F	F	D	C	D	B	F	C	C	F	C	F	C	F	C	A	D	C	B	B
Total Points	0	0	2	6	2	8	0	7	6	0	6	0	7	1	5	13	4	7	8	10
Smokefree Outdoor Air	F	F	D	C	D	A	F	A	A	F	A	F	A	D	B	A	F	A	A	A
Dining	0	0	0	2	0	4	0	4	4	0	4	0	4	0	2	4	0	4	4	4
Entryways	0	0	0	0	0	4	0	4	4	0	4	0	4	0	3	4	0	4	4	4
Public Events	0	0	0	2	0	4	0	4	4	0	4	0	4	0	3	4	0	4	0	4
Recreation Areas	0	0	4	2	4	4	0	4	4	0	4	2	4	4	4	4	0	4	4	4
Service Areas	0	0	0	2	0	4	0	4	4	0	4	0	4	0	4	4	0	4	4	4
Sidewalks	0	0	0	1	0	1	0	1	0	0	0	0	0	0	0	0	0	0	1	0
Worksites	0	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	1	0
Total Points	0	0	4	9	4	22	0	21	21	0	20	2	20	4	16	20	0	20	18	20
Smokefree Housing	F	F	F	F	F	A	F	B	C	F	C	F	C	F	C	A	F	C	A	C
Nonsmoking Apartments	0	0	0	0	0	4	0	2	0	0	1	0	1	0	1	4	0	0	4	1
Nonsmoking Condominiums	0	0	0	0	0	4	0	2	0	0	1	0	1	0	0	4	0	0	4	1
Nonsmoking Common Areas	0	0	0	0	0	4	0	4	4	0	4	0	4	0	4	4	0	4	4	4
Nonsmoking Housing Authority	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0	n/a	1	n/a	n/a	n/a	0
Total Points	0	0	0	0	0	12	0	8	4	0	6	0	6	0	5	13	0	4	12	6
Reducing Sales of Tobacco Products	F	F	D	A	D	F	F	F	F	F	F	D	F	F	F	A	A	D	F	A
Tobacco Retailer Licensing	0	0	1	4	1	0	0	0	0	0	0	1	0	0	4	4	1	0	4	
Total Points	0	0	1	4	1	0	0	0	0	0	0	1	0	0	4	4	1	0	4	
Emerging Issues Bonus Points																				
Emerging Products Def - Secondhand Smoke	0	0	0	1	0	1	0	0	1	0	1	0	0	1	0	1	0	0	1	1
Emerging Products Def - Licensing	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1
Retailer Location Restrictions	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sampling of Tobacco Products	1	0	1	1	0	0	1	1	1	0	0	1	1	1	1	1	0	1	1	1
Sale of Tobacco Products in Pharmacies	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0
Flavored Tobacco Products	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Minimum Pack Size of Cigars	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Points	1	0	1	3	0	1	1	1	2	0	1	1	1	2	1	4	0	1	2	3

Overall Tobacco Control Grade: A (11-12), B (8-10), C (5-7), D (2-4), F (0-1);
determined by grades and points from other three categories – A (4), B (3), C (2), D (1), F (0)
Smokefree Outdoor Air Grade: A (18+), B (13-17), C (8-12), D (3-7), F (0-2)

Smokefree Housing Grade: A (11+), B (8-10), C (5-7), D (2-4), F (0-1)
Reducing Sales of Tobacco Products Grade: A (4+), B (3), C (2), D (1), F (0)

CALIFORNIA HEALTHY KIDS SURVEY



El Cerrito Senior High Secondary 2014-2015 Main Report

This report was prepared by WestEd, a research, development, and service agency, in collaboration with Duerr Evaluation Resources, under contract from the California Department of Education Coordinated School Health and Safety Office. For contract information, contact:

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PREFACE

NEW THIS YEAR

The list of content sections and table names at the beginning of the digital report have been hyperlinked to the tables. Click on the title of a content section or a table and you will be automatically directed to the actual content section or table in the report.

This report provides the detailed results for each question from this school/district's 2014–15 *California Healthy Kids Survey* (CHKS), presented in tables organized by topic. This year, the content of the survey was significantly revised to enhance the value of its data for guiding school improvement efforts and developing and monitoring the newly-required Local Control and Accountability Plan (LCAP), particularly in regard to the state priorities of enhancing school climate, pupil engagement, and parent involvement.

To help in understanding and interpreting these results, the *CHKS Guidebook* to survey content discusses the significance of each question.¹ Several other tools to help in data use are also available, as described below. For additional information and resources, visit the survey website: chks.wested.org.

The CHKS, along with its two companion surveys — *California School Climate Survey* (CSCS) for staff and the *California School Parent Survey* (CSPS) is a service of the California Department of Education (CDE). These three surveys form the *California School Climate, Health, and Learning Surveys* (Cal-SCHLS), the largest, most comprehensive effort in the nation to assess students, staff, and parents at the local level on a regular basis to provide key data on school climate, learning supports and barriers, stakeholder engagement; as well as overall youth development, health, and well-being.

The results of this student survey should be compared to those obtained from school staff and parent surveys. It is important to determine how consistent are student, staff, and parent perceptions and experiences. Appendix 5 of *Workbook for Improving School Climate* provides a crosswalk between student, staff, and parent survey questions to facilitate this comparison.²

SURVEY PURPOSE

The California Department of Education (CDE) has funded the CHKS since 1997 to provide data that would assist schools in: (1) fostering positive school climates and engagement in learning; (2) preventing youth health-risk behaviors and other barriers to academic achievement; and (3) promoting positive youth development, resilience, and well-being. A thorough understanding of the scope and nature of youth behaviors, attitudes, and learning conditions is essential to guide school improvement efforts and to also develop effective prevention, health, and youth development programs. These surveys grew out of CDE's commitment to helping schools promote the successful cognitive, social, and emotional development of all students and create more positive, engaging school environments for students, staff, and parents.

SURVEY CONTENT OVERVIEW

The secondary-school CHKS consists of a required general Core Module and a series of optional, supplementary topic-focused modules that districts can elect to administer. Districts may also add their own

¹ *Guidebook to the California Healthy Kids Survey, Part II: Survey Content* (chks.wested.org/training_support)

² See californias3.wested.org/resources/schoolclimateworkbook-2ndedition_final.pdf.

questions of local interest in a custom module. Table A1.1 indicates the modules administered by the district.

The Core Module consists of a broad range of key questions, identified by an expert advisory committee, that are considered most important for schools to administer to guide improvement of academic, health, and prevention programs and the promotion of student achievement, positive development, and well-being.³ The primary focus of the Core Module is assessing student perceptions and experiences related to school climate and engagement, learning supports, and health-related, non-academic learning barriers (e.g., substance use, bullying and violence, and poor physical and mental health). To further support school improvement efforts and the LCAP, a supplementary School Climate Module is also available.

School-Related Core Content

The great majority of all questions on the CHKS Core are school-specific. The survey provides self-reported data on:

- Student grades, truancy, reasons for missing school, learning motivation, and school connectedness, as indicators of engagement;
- The levels of students' three fundamental developmental supports (protective factors) that promote positive academic, social, and emotional outcomes: experiences of caring adult relationships, high expectations, and opportunities for meaningful participation at school;
- Perceived safety and the frequency of, type, and reasons for, harassment and bullying at school; and
- Levels of violence, substance use, and crime-related behavior (e.g., weapons possession) at school.

Supplementary School Climate Module

A supplementary School Climate Module provides additional data on student academic mindset, school academic supports, discipline/order, supports for social-emotional learning, bullying prevention and positive peer relationships, respect for diversity, and the quality of the physical environment. A companion Learning Conditions module can be added to the staff survey to compare their perceptions on the same constructs. Download: chks.wested.org/administer/supplemental1#clim.

Closing the Achievement Gap

Several tables are useful for helping districts identify and address student needs related to closing the state's persistent racial/ethnic achievement gap. On the CHKS, students are asked to indicate their racial/ethnic identity and to report whether they have experienced harassment because of their race/ethnicity. Summary tables provide key findings (e.g., harassment, developmental supports, school connectedness) disaggregated by race/ethnic categories. A supplementary module is available that assesses student attitudes and experiences related to equity, diversity, cultural sensitivity, and respect. Schools can request supplementary reports disaggregating all their CHKS results by the race/ethnicity of students.

³Guidebook to the California Healthy Kids Survey, Part I: Administration (chks.wested.org/training_support) provides detailed information about the content of all of the survey modules. The modules themselves can be downloaded from chks.wested.org/administer/download.

SURVEY ADMINISTRATION AND SAMPLING

School staff administered the survey, following detailed instructions provided by CDE that were designed to assure the protection of all student and parental rights to privacy and to maintain confidentiality. Students were surveyed only with the consent of parents or guardians. Each student's participation was voluntary, anonymous, and confidential. Table A1.2 gives the target sample of students and the final number and percent of students who completed the survey (the participation response rate).

THE REPORT

The tables in the Main Report, organized by topic, provide the percentages responding to each question response option by grade level. Because it is just as important to identify the positive behaviors of youth as it is to identify the risks they face, the tables reporting risk-behavior data include the percentages of youth who responded negatively (did not engage in the behavior).

UNDERSTANDING AND USING THE DATA

Several guides, workshops, and other aids are available to help you understand and use the survey results. These are described and made available on the survey website. Three are particularly important:

- To help in understanding and interpreting these results, *Guidebook to the California Healthy Kids Survey, Part II: Survey Content* (chks.wested.org/training_support) provides a detailed explanation of each question and its significance (why it was asked) and the potential implications of the results for programs.
- The *Guidebook to the California Healthy Kids Survey, Part III: Data Use and Dissemination* (chks.wested.org/training_support) provides a step-by-step process for reviewing, analyzing, and disseminating survey results as part of a data-driven decision-making process for program improvement. Free call-in data use workshops are offered as well.
- The *Workbook for Improving School Climate and Closing the Achievement Gap* provides a practical guide to using the data in the framework of improving academic achievement and well-being among all students and closing the achievement gap. It provides examples of how to use the data to improve practice and policy.⁴

Care must be particularly taken to understand the factors that can impact the quality, validity, and generalizability of the results, such as changes that occur in survey content, administration, and/or sample characteristics between administrations. The following are a few of the key issues that should be kept in mind. A more detailed discussion of these topics can be found in the *CHKS Data Use and Dissemination Guidebook*.

Sample Characteristics

Among the most important factors affecting the quality of survey results is the level and type of student participation. The validity and representativeness of the results will be adversely affected if the student response rate is lower than 60%. One indication of the survey's representativeness is how accurately the sample reflects the gender and ethnic composition of the district's student enrollment. Even if the response rate is low, the results provide an indication of what those students who did respond felt about the school and their experiences and behavior.

⁴The Guidebooks may be downloaded from chks.wested.org/training_support, and the Workbook from chks.wested.org/about/ctag.

Changes Between Surveys

Many factors besides real changes in behavior, attitudes, or experiences among students may account for changes in results from administration to administration. Changes may be due to differences over time in the characteristics or size of the sample of students who completed the survey, changes in the questions themselves, or differences between time periods in which the survey was administered (e.g., some risk behaviors tend to increase as students age, or may increase after holidays or social events).

NEXT STEPS

Receiving this report is just a beginning step in a data-driven decision-making process. The following actions can be taken to analyze and use the results to support school and program improvement efforts.

Compare with Other Data Sources

CHKS results will be enriched if analyzed in the context of data from the CSCS and other sources, particularly in the context of identifying consistent patterns. Other data typically collected in effectiveness studies of school climate include numbers and kinds of discipline referrals, school demographic information, school vandalism costs, and behavioral observations in classrooms.

Discuss with Students, Staff, and Parents

Discuss the results with both students and staff to explore the meaning of the results in more depth and to obtain their input into how the school might better meet the needs identified. This is especially important because it communicates to students that you value their input into how to improve the school and gives them an opportunity for meaningful participation. This helps improve student perceptions of the developmental supports and opportunities that the school offers and enhances school connectedness. Cal-SCHLS staff can provide information on conducting structured group *Listening to Students* fishbowls designed to explore with students, as staff observe, the meaning of survey results and obtain their input on how to address the needs identified by the survey.

Equally important is communicating the results and your plans for making improvements to parents. This fosters parent involvement and collaboration in addressing the identified needs, and also support for the survey, important for improving student participation rates. The importance and value of this has been made even greater by the parent involvement requirements of the Local Control and Accountability Plan.

ACKNOWLEDGMENTS

The CHKS and this report were developed by WestEd, in collaboration with Duerr Evaluation Resources, under contract from the California Department of Education Coordinated School Health and Safety Office. For more information, call the toll-free helpline at 888.841.7536, or visit the website at chks.wested.org.

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California Department of Education

Survey Administration

Table 1

CHKS Survey Modules Administered

Survey Module	Administered
A. Core (Required)	X
B. AOD (Alcohol and Other Drugs) Module	
C. Building Healthy Communities (BHC) Module	
D. CalMHSA Module	
E. Closing the Achievement Gap (CTAG) Module	
F. District Afterschool Module (DASM)	
G. Drug Free Communities (DFC) Module	
H. Gang Risk Awareness Module	
I. Military Connected School Module	
J. Physical Health & Nutrition Module	
K. Resilience & Youth Development Module	
L. Safety & Violence Module	
M. School Climate Module	X
N. Sexual Behavior Module	
O. Social Emotional Health Module	
P. Tobacco Module	
Z. Custom Questions	X

Core Module Results

1. Survey Sample

Table A1.1

Student Sample Characteristics

	Grade 9	Grade 10	Grade 11	Grade 12
<i>Student Sample Size</i>				
Target sample	363	365	326	301
Final number	320	327	259	158
Average Response Rate	88%	90%	79%	52%

2. Summary of Key Indicators

Table A2.1

Key Indicators of School Climate and Student Well-Being

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %	Table
School Engagement and Supports					
School connectedness (high)	45	45	52	47	A4.4
Academic motivation (high)	32	32	27	26	A4.4
Truant more than a few times [†]	9	10	16	32	A4.2
Caring adult relationships (high)	23	32	34	38	A4.4
High expectations (high)	44	40	38	41	A4.4
Meaningful participation (high)	9	11	11	20	A4.4
School Safety and Substance Use					
School perceived as very safe or safe	62	63	69	69	A5.1
Experienced any harassment or bullying [†]	28	22	28	26	A5.4
Had mean rumors or lies spread about you [†]	28	23	24	18	A5.2
Been afraid of being beaten up [†]	12	8	5	5	A5.3
Been in a physical fight [†]	12	9	7	5	A5.3
Seen a weapon on campus [†]	11	13	10	6	A5.6
Been drunk or “high” on drugs at school, ever	9	12	19	20	A6.10
Mental and Physical Health					
Current alcohol or drug use [‡]	19	22	29	37	A6.5
Current binge drinking [‡]	2	7	13	19	A6.5
Very drunk or “high” 7 or more times	8	14	24	31	A6.7
Current cigarette smoking [‡]	2	3	4	9	A7.4
Experienced chronic sadness/hopelessness [†]	25	26	22	19	A8.3
Considered suicide [†]	11	13	12	12	A8.4

Notes: Cells are empty if there are less than 25 respondents.

[†]Past 12 months; [‡]Past 30 days.

3. Demographics

Table A3.1

Age of Sample

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
10 years or younger	0	0	0	1
11 years old	0	0	0	0
12 years old	0	0	0	0
13 years old	1	0	0	0
14 years old	60	1	0	0
15 years old	37	54	1	0
16 years old	2	43	56	1
17 years old	0	2	41	61
18 years old or older	0	0	2	37

Question HS/MS A.3: How old are you?

Note: Cells are empty if there are less than 25 respondents.

Table A3.2

Gender of Sample

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Male	53	55	54	56
Female	47	45	46	44

Question HS/MS A.4: What is your sex?

Note: Cells are empty if there are less than 25 respondents.

Table A3.3

Hispanic or Latino

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
No	64	68	63	68
Yes	36	32	37	32

Question HS/MS A.6: Are you of Hispanic or Latino origin?

Note: Cells are empty if there are less than 25 respondents.

Table A3.4***Race***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
American Indian or Alaska Native	2	2	0	0
Asian	15	21	24	27
Black or African American	21	27	20	25
Native Hawaiian or Pacific Islander	3	1	3	2
White	21	20	20	25
Mixed (two or more) races	38	30	33	22

Question HS/MS A.7: What is your race?

Note: Cells are empty if there are less than 25 respondents.

Table A3.5***Living Situation***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
A home with one or more parents or guardian	92	93	93	94
Other relative's home	2	1	1	1
A home with more than one family	3	3	3	4
Friend's home	0	1	1	0
Foster home, group care, or waiting placement	1	1	0	0
Hotel or motel	0	1	0	0
Shelter, car, campground, or other transitional or temporary housing	1	0	0	1
Other living arrangement	1	2	2	1

Question HS A.9: What best describes where you live? A home includes a house, apartment, trailer, or mobile home.

Notes: Cells are empty if there are less than 25 respondents.

Table A3.6
Highest Education of Parents

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Did not finish high school	11	12	17	17
Graduated from high school	16	15	16	25
Attended college but did not complete four-year degree	13	15	16	13
Graduated from college	47	45	44	39
Don't know	13	13	8	6

Question HS A.10/MS A.9: What is the highest level of education your parents completed? (Mark the Educational Level Of The Parent Who Went the Furthest In School.)

Note: Cells are empty if there are less than 25 respondents.

Table A3.7
Sexual Identification

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Heterosexual (straight)	82	79	85	83
Gay or Lesbian or Bisexual	5	7	6	6
Transgender	1	2	2	0
Not sure	11	10	8	6
Decline to respond	8	10	8	8

Question HS A.113/MS A.101: Which of the following best describes you? (Mark All That Apply.)

Notes: Cells are empty if there are less than 25 respondents. Total percentages may exceed 100% for "mark all that apply" items.

Table A3.8
Military Connections

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
No	92	94	95	94
Yes	4	3	2	3
Don't know	4	4	2	3

Question HS A.112/MS A.100: Is your father, mother, or caretaker currently in the military (Army, Navy, Marines, Air Force, National Guard, or Reserves)?

Note: Cells are empty if there are less than 25 respondents.

4. School Performance, Supports and Engagements

Table A4.1

Grades, Past 12 months

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Mostly A's	27	25	20	23
A's and B's	23	25	34	33
Mostly B's	8	6	10	12
B's and C's	21	26	19	14
Mostly C's	7	7	7	6
C's and D's	9	8	7	7
Mostly D's	2	2	2	1
Mostly F's	4	2	1	3

Question HS A.11/MS A.10: During the past 12 months, how would you describe the grades you mostly received in school?

Note: Cells are empty if there are less than 25 respondents.

Table A4.2

Truancy, Past 12 months

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
0 times	60	51	37	25
1-2 times	21	18	21	19
A few times	10	20	25	25
Once a month	1	2	5	11
Once a week	3	3	4	10
More than once a week	5	6	7	11

Question HS A.12/MS A.11: During the past 12 months, about how many times did you skip school or cut classes?

Note: Cells are empty if there are less than 25 respondents.

Table A4.3***Reasons for Absence***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Does not apply, I didn't miss any school	36	35	27	29
Illness (feeling physically sick), including problems with breathing or your teeth	48	49	53	56
Felt very sad, hopeless, anxious, stressed, or angry	7	10	13	14
Didn't get enough sleep	11	13	17	26
Didn't feel safe at school	1	1	2	3
Had to work	2	2	3	5
Had to take care of or help a family member or friend	5	6	4	8
Wanted to spend time with friends who don't go to your school	3	4	10	14
Wanted to use alcohol or drugs	1	3	4	6
Were behind in schoolwork or weren't prepared for a test or class assignment	5	8	15	14
Were bored with or uninterested in school	4	6	12	19
Were suspended	1	1	0	0
Other reason	16	13	13	10

Question HS A.13/MS A.12: In the past 30 days, did you miss school for any of the following reasons? (Mark All That Apply.)

Notes: Cells are empty if there are less than 25 respondents. Total percentages may exceed 100% for "mark all that apply" items.

Table A4.4***School Developmental Supports, Connectedness and Academic Motivation***

Percent of students scoring High, Moderate, and Low (%)	Grade 9			Grade 10			Grade 11			Grade 12		
	H	M	L	H	M	L	H	M	L	H	M	L
<i>School Environment</i>												
Total school supports	20	66	14	27	56	17	30	58	12	37	53	10
Caring adults in school	23	65	12	32	57	12	34	56	11	38	55	7
High expectations-adults in school	44	48	8	40	51	9	38	56	5	41	53	6
Meaningful participation at school	9	56	35	11	55	34	11	56	33	20	49	31
<i>School Connectedness</i>	45	48	7	45	43	12	52	41	8	47	45	9
<i>Academic Motivation</i>	32	49	19	32	49	20	27	54	19	26	42	32

Note: Cells are empty if there are less than 25 respondents.

Table A4.5
School Connectedness Scale Questions

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
I feel close to people at this school.				
Strongly disagree	4	6	5	2
Disagree	6	9	10	12
Neither disagree nor agree	28	25	24	31
Agree	43	42	43	34
Strongly agree	19	18	17	22
I am happy to be at this school.				
Strongly disagree	3	8	5	6
Disagree	5	7	9	8
Neither disagree nor agree	23	27	28	28
Agree	52	41	45	38
Strongly agree	17	17	14	20
I feel like I am part of this school.				
Strongly disagree	5	6	4	5
Disagree	7	8	8	11
Neither disagree nor agree	36	31	31	32
Agree	40	41	47	37
Strongly agree	12	14	11	15
The teachers at this school treat students fairly.				
Strongly disagree	7	7	4	5
Disagree	13	16	9	9
Neither disagree nor agree	30	31	28	35
Agree	43	36	50	39
Strongly agree	7	10	11	13
I feel safe in my school.				
Strongly disagree	5	5	2	3
Disagree	5	6	3	5
Neither disagree nor agree	26	26	27	33
Agree	52	53	53	46
Strongly agree	13	11	14	13

Question HS A.14-18/MS A.13-17: How strongly do you agree or disagree with the following statements?... I feel close to people at this school... I am happy to be at this school... I feel like I am part of this school... The teachers at this school treat students fairly... I feel safe in my school.

Note: Cells are empty if there are less than 25 respondents.

Table A4.6***Academic Motivation Scale Questions***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
I try hard to make sure that I am good at my schoolwork.				
Strongly disagree	3	3	2	3
Disagree	2	3	2	6
Neither disagree nor agree	12	12	11	24
Agree	45	43	52	36
Strongly agree	38	39	33	31
I try hard at school because I am interested in my work.				
Strongly disagree	5	5	4	7
Disagree	7	9	8	7
Neither disagree nor agree	28	25	25	28
Agree	40	37	44	40
Strongly agree	21	24	19	18
I work hard to try to understand new things at school.				
Strongly disagree	3	3	3	5
Disagree	3	4	3	5
Neither disagree nor agree	18	18	16	24
Agree	50	46	53	38
Strongly agree	27	29	25	28
I am always trying to do better in my schoolwork.				
Strongly disagree	3	3	2	4
Disagree	2	3	2	9
Neither disagree nor agree	15	16	18	22
Agree	46	44	48	38
Strongly agree	35	34	30	27

Question HS A.19-22/MS A.18-21: How strongly do you agree or disagree with the following statements?... I try hard to make sure that I am good at my schoolwork... I try hard at school because I am interested in my work... I work hard to try to understand new things at school... I am always trying to do better in my schoolwork.

Note: Cells are empty if there are less than 25 respondents.

Table A4.7***School Developmental Supports Scale Questions***

At my school, there is a teacher or some other adult...	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
<i>Caring Relationships</i>				
who really cares about me.				
Not at all true	12	10	8	7
A little true	37	28	25	22
Pretty much true	34	37	39	37
Very much true	17	25	29	34
who notices when I'm not there.				
Not at all true	14	10	9	9
A little true	30	30	26	21
Pretty much true	37	35	39	38
Very much true	19	24	25	32
who listens to me when I have something to say.				
Not at all true	9	9	6	7
A little true	26	24	20	20
Pretty much true	39	37	41	36
Very much true	26	29	34	37
<i>High Expectations</i>				
who tells me when I do a good job.				
Not at all true	6	10	7	6
A little true	22	22	18	21
Pretty much true	47	45	48	41
Very much true	24	23	27	33
who always wants me to do my best.				
Not at all true	4	7	2	5
A little true	21	16	15	15
Pretty much true	36	37	45	39
Very much true	38	40	38	41
who believes that I will be a success.				
Not at all true	8	9	6	5
A little true	19	21	17	18
Pretty much true	35	35	43	38
Very much true	38	35	34	38

Question HS A.23-28/MS A.22-27: At my school, there is a teacher or some other adult who...really cares about me... tells me when I do a good job... notices when I am not there... always wants me to do my best... listens to me when I have something to say... believes that I will be a success.

Note: Cells are empty if there are less than 25 respondents.

Table A4.7***School Developmental Supports Scale Questions - Continued***

At school...	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
<i>Opportunities for Meaningful Participation</i>				
I do interesting activities.				
Not at all true	16	17	17	17
A little true	32	37	31	28
Pretty much true	36	27	32	31
Very much true	16	19	19	24
I help decide things like class activities or rules.				
Not at all true	37	37	29	32
A little true	37	35	36	28
Pretty much true	20	20	26	26
Very much true	6	8	9	14
I do things that make a difference.				
Not at all true	30	30	29	26
A little true	45	38	35	32
Pretty much true	18	23	26	26
Very much true	7	9	10	16

Question HS A.29-31/MS A.28-30: At school... I do interesting activities... I help decide things like class activities or rules... I do things that make a difference.

Note: Cells are empty if there are less than 25 respondents.

5. School Violence, Victimization and Safety

Table A5.1

Perceived Safety at School

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Very safe	15	16	23	24
Safe	47	47	46	45
Neither safe nor unsafe	32	31	29	26
Unsafe	4	3	1	3
Very unsafe	2	4	1	2

Question HS A.84/MS A.72: How safe do you feel when you are at school?

Note: Cells are empty if there are less than 25 respondents.

Table A5.2

Verbal Harassment

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
<i>During the past 12 months, how many times on school property have you...</i>				
<i>had mean rumors or lies spread about you?</i>				
0 times	72	77	76	82
1 time	16	10	12	6
2 to 3 times	7	5	6	5
4 or more times	6	7	6	7
<i>had sexual jokes, comments, or gestures made to you?</i>				
0 times	71	69	67	77
1 time	11	9	9	6
2 to 3 times	8	11	9	6
4 or more times	10	11	15	12
<i>been made fun of because of your looks or the way you talk?</i>				
0 times	70	75	79	77
1 time	16	9	8	10
2 to 3 times	7	7	4	3
4 or more times	7	8	8	9
<i>been made fun of, insulted, or called names?</i>				
0 times	69	76	75	82
1 time	13	8	10	7
2 to 3 times	6	7	7	3
4 or more times	11	9	9	8

Question HS A.88-90, 99/MS A.77-79, 88: During the past 12 months, how many times on school property have you... had mean rumors or lies spread about you... had sexual jokes, comments, or gestures made to you... been made fun of because of your looks or the way you talk... been made fun of, insulted, or called names?

Note: Cells are empty if there are less than 25 respondents.

Table A5.3***Violence and Victimization on School Property, Past 12 Months***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
<i>During the past 12 months, how many times on school property have you...</i>				
been pushed, shoved, slapped, hit, or kicked by someone who wasn't just kidding around?				
0 times	82	89	90	89
1 time	11	5	5	7
2 to 3 times	3	2	2	2
4 or more times	4	3	2	2
been afraid of being beaten up?				
0 times	88	92	95	95
1 time	7	6	2	3
2 to 3 times	2	1	1	0
4 or more times	2	1	2	2
been in a physical fight?				
0 times	88	91	93	95
1 time	6	5	4	3
2 to 3 times	4	2	1	1
4 or more times	3	2	1	1
been threatened with harm or injury?				
0 times	93	94	95	95
1 time	5	3	1	2
2 to 3 times	1	1	3	1
4 or more times	1	2	1	2
been threatened or injured with a weapon (gun, knife, club, etc.)?				
0 times	97	96	97	98
1 time	3	2	2	1
2 to 3 times	0	0	1	0
4 or more times	0	2	0	1
been offered, sold, or given an illegal drug?				
0 times	78	74	77	79
1 time	10	10	6	5
2 to 3 times	6	8	6	6
4 or more times	6	9	11	10

Question HS A.85-87, 92, 96, 98/MS A.74-76, 81, 85, 87: During the past 12 months, how many times on school property have you... been pushed, shoved, slapped, hit, or kicked by someone who wasn't just kidding around... been afraid of being beaten up... been in a physical fight... been offered, sold, or given an illegal drug... been threatened or injured with a weapon (gun, knife, club, etc.) ... been threatened with harm or injury?

Note: Cells are empty if there are less than 25 respondents.

Table A5.4***Reasons for Harassment on School Property, Past 12 Months***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Race, ethnicity, or national origin				
0 times	87	87	85	87
1 time	8	6	7	5
2 or more times	6	7	8	8
Religion				
0 times	94	97	92	94
1 time	4	2	4	2
2 or more times	2	1	4	4
Gender (being male or female)				
0 times	96	93	91	92
1 time	1	4	4	3
2 or more times	2	3	5	5
Because you are gay or lesbian or someone thought you were				
0 times	94	95	96	92
1 time	3	4	1	6
2 or more times	3	2	4	3
A physical or mental disability				
0 times	97	96	94	97
1 time	1	2	3	1
2 or more times	2	2	3	2
<i>Any of the above five hate-crime reasons</i>	21	18	24	21
Any other reason				
0 times	85	88	90	85
1 time	8	5	4	6
2 or more times	7	7	7	9
<i>Any harassment</i>	28	22	28	26

Question HS A.100-105/MS A.89-94: During the past 12 months, how many times on school property were you harassed or bullied for any of the following reasons?... Your race, ethnicity, or national origin... Your religion... Your gender (being male or female)... Because you are gay or lesbian or someone thought you were... A physical or mental disability... Any other reason.

Note: Cells are empty if there are less than 25 respondents.

Table A5.5***Property Damage on School Property, Past 12 Months***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Had your property stolen or deliberately damaged				
0 times	85	86	87	89
1 time	11	9	8	7
2 to 3 times	3	3	3	3
4 or more times	1	2	2	1
Damaged school property on purpose				
0 times	95	92	94	94
1 time	3	4	4	3
2 to 3 times	1	2	2	3
4 or more times	1	2	1	0

Question HS A.91, 93/MS A.80, 82: During the past 12 months, how many times on school property have you... had your property stolen or deliberately damaged, such as your car, clothing, or books... damaged school property on purpose?

Note: Cells are empty if there are less than 25 respondents.

Table A5.6***Weapons Possession on School Property, Past 12 Months***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Carried a gun				
0 times	97	96	99	98
1 time	2	1	0	1
2 to 3 times	0	0	1	0
4 or more times	1	3	0	1
Carried any other weapon (such as a knife or club)				
0 times	94	92	94	95
1 time	3	3	3	3
2 to 3 times	1	2	2	1
4 or more times	2	3	2	1
Seen someone carrying a gun, knife, or other weapon				
0 times	89	87	90	94
1 time	6	7	6	3
2 to 3 times	2	3	3	1
4 or more times	3	3	1	1

Question HS A.94, 95, 97/MS A.83, 84, 86: During the past 12 months, how many times on school property have you... carried a gun... carried any other weapon (such as a knife or club)... seen someone carrying a gun, knife, or other weapon?

Note: Cells are empty if there are less than 25 respondents.

6. Alcohol and Other Drug Use

Table A6.1

Summary Measures of Level of AOD Use

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %	Table
Lifetime alcohol or drugs (excluding cold/cough medicines and prescription drugs)	35	40	52	58	A6.2
Current alcohol or drugs	19	22	29	37	A6.5
Current heavy drug users	9	13	13	14	A6.5
Current heavy alcohol user (binge drinker)	2	7	13	19	A6.5
Current alcohol or drug use on school property	6	6	8	8	A6.11

Note: Cells are empty if there are less than 25 respondents.

Table A6.2
Lifetime AOD Use

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Alcohol (one full drink)				
0 times	74	69	58	50
1 time	9	9	6	7
2 to 3 times	9	8	9	8
4 or more times	7	14	28	35
Marijuana				
0 times	77	70	58	55
1 time	5	7	6	5
2 to 3 times	7	7	6	9
4 or more times	11	16	30	31
Inhalants (to get “high”)				
0 times	96	97	94	93
1 time	2	0	2	1
2 to 3 times	1	1	1	3
4 or more times	1	2	2	3
Cocaine, Methamphetamine, or any amphetamines				
0 times	99	97	96	90
1 time	0	1	1	3
2 to 3 times	1	1	2	3
4 or more times	0	1	2	4
Ecstasy, LSD, or other psychedelics				
0 times	97	96	93	93
1 time	2	2	2	2
2 to 3 times	1	1	3	2
4 or more times	0	1	2	3
Any other drug, or pill, or medicine to get “high” or for other than medical reasons				
0 times	96	91	92	93
1 time	1	4	2	2
2 to 3 times	1	2	1	1
4 or more times	2	3	4	3
Any of the above AOD use	35	40	52	58

Question HS A.35-38, 40, 45/MS A.35-37: During your life, how many times have you used the following substances? One full drink of alcohol (such as a can of beer, glass of wine, wine cooler, or shot of liquor)... Marijuana (pot, weed, grass, hash, bud)... Inhalants (things you sniff, huff, or breathe to get “high” such as glue, paint, aerosol sprays, gasoline, poppers, gases)... Cocaine, Methamphetamine, or any amphetamines (meth, speed, crystal, crank, ice)... Ecstasy, LSD, or other psychedelics (acid, mescaline, peyote, mushrooms)... Any other drug, or pill, or medicine to get “high” or for other than medical reasons.

Notes: Cells are empty if there are less than 25 respondents.

Table A6.2***Lifetime AOD Use – Continued***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Prescription pain killers , tranquilizers, or sedatives				
0 times	90	90	88	87
1 time	4	4	2	1
2 to 3 times	3	3	5	4
4 or more times	3	3	6	7
Diet Pills				
0 times	94	96	96	96
1 time	2	1	0	1
2 to 3 times	1	2	0	0
4 or more times	2	2	3	3
RitalinTM or AdderallTM or other prescription stimulant				
0 times	96	96	95	94
1 time	1	0	2	1
2 to 3 times	1	1	2	1
4 or more times	2	3	2	4
Cold/Cough Medicines or other over-the-counter medicines				
0 times	68	73	71	81
1 time	6	4	5	1
2 to 3 times	8	9	6	7
4 or more times	18	14	19	11

Question HS A.41-44: During your life, how many times have you used the following substances?... Prescription pain killers (VicodinTM, OxyContinTM, PercodanTM, LortabTM), tranquilizers, or sedatives (XanaxTM, AtivanTM)... Diet Pills (Didrex, Dexedrine, Zinadrine, Skittles, M&M's)... RitalinTM or AdderallTM (JIF, R-ball, Skippy) or other prescription stimulant... Cold/Cough Medicines (Triple-C's, Coricidin Cough, Sudafed, TheraFlu, Tylenol Cough) or other over-the-counter medicines.

Notes: Cells are empty if there are less than 25 respondents.

Table A6.3**Summary of AOD Lifetime Use**

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Alcohol	26	31	42	50
Marijuana	23	30	42	45
Inhalants	4	3	6	7
Cocaine	1	3	4	10
Ecstasy, LSD, or other psychedelics, lifetime	3	4	7	7
Prescription pain killers, Diet Pills, or other prescription stimulant	14	14	14	15

Notes: Cells are empty if there are less than 25 respondents.

Table A6.4**Age of Onset – AOD Use**

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Alcohol (one full drink)				
Never	64	64	52	45
10 or under	7	7	5	7
11-12 years old	8	3	4	7
13-14 years old	16	15	13	11
15-16 years old	4	10	23	21
17 years or older	0	1	2	9
Marijuana				
Never	76	74	57	58
10 or under	2	2	2	3
11-12 years old	4	4	4	5
13-14 years old	17	14	17	12
15-16 years old	1	6	17	11
17 years or older	0	1	4	11
Any other illegal drug or pill to get “high”				
Never	94	89	87	89
10 or under	0	1	1	3
11-12 years old	2	1	2	0
13-14 years old	3	5	5	3
15-16 years old	0	3	2	3
17 years or older	0	0	2	3

Question HS A.49, 52, 53/MS A.42, 45, 46: About how old were you the first time you did any of these things? Had a drink of an alcoholic beverage (other than a sip or two)... Used marijuana or hashish... Used any other illegal drug or pill to get “high.”

Note: Cells are empty if there are less than 25 respondents.

Table A6.5***Current AOD Use, Past 30 Days***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Alcohol (at least one drink)	11	15	23	31
Binge drinking (5 or more drinks in a row)	2	7	13	19
Marijuana	13	17	20	22
Inhalants	2	2	1	1
Prescription pain medications to get “high” or for reasons other than prescribed	2	4	5	4
Other drug, pill, or medicine to get “high” or for other than medical reasons	3	5	2	4
<i>Any drug use</i>	15	18	21	23
<i>Heavy drug user</i>	9	13	13	14
<i>Any AOD Use</i>	19	22	29	37
Two or more drugs at the same time	3	7	8	9

Question HS A.57-63/MS A.50-53, 54: During the past 30 days, on how many days did you use... at least one drink of alcohol... five or more drinks of alcohol in a row, that is, within a couple of hours... marijuana (pot, weed, grass, hash, bud)... inhalants (things you sniff, huff, or breathe to get “high”)... prescription pain medications to get “high” or for reasons other than prescribed (such as Vicodin™, OxyContin™, Percodan™, Ritalin™, Adderall™, Xanax™)... any other drug, pill, or medicine to get “high” or for other than medical reasons... two or more drugs at the same time (for example, alcohol with marijuana, ecstasy with mushrooms)?

Notes: Cells are empty if there are less than 25 respondents.

Table A6.6
Frequency of Current AOD Use

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Alcohol (at least one drink)				
0 days	89	85	77	69
1 or 2 days	9	11	13	17
3 to 9 days	1	2	8	12
10 to 19 days	1	1	2	2
20 or more days	0	1	1	1
Binge drinking (5 or more drinks in a row)				
0 days	98	93	87	81
1 or 2 days	2	5	8	8
3 to 9 days	0	0	2	9
10 to 19 days	1	1	2	1
20 or more days	0	1	2	1
Marijuana				
0 days	87	83	80	78
1 or 2 days	7	6	8	10
3 to 9 days	3	3	4	6
10 to 19 days	1	3	3	2
20 or more days	1	5	5	4

Question HS A.57-59/MS A.50-52: During the past 30 days, on how many days did you use... at least one drink of alcohol... five or more drinks of alcohol in a row, that is, within a couple of hours... marijuana (pot, weed, grass, hash, bud)?

Note: Cells are empty if there are less than 25 respondents.

Table A6.7***Lifetime Drunk or “High”***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Very drunk or sick after drinking alcohol				
0 times	88	87	77	70
1 to 2 times	9	5	13	15
3 to 6 times	2	4	6	5
7 or more times	1	4	4	10
“High” (loaded, stoned, or wasted) from using drugs				
0 times	80	73	63	61
1 to 2 times	9	9	6	6
3 to 6 times	3	5	8	3
7 or more times	8	13	23	30
Very drunk or “high” 7 or more times	8	14	24	31

Question HS A.46, 47/MS A.39, 40: During your life, how many times have you been... very drunk or sick after drinking alcohol... “high” (loaded, stoned, or wasted) from using drugs?

Note: Cells are empty if there are less than 25 respondents.

Table A6.8***Cessation Attempts***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Alcohol				
Does not apply, don’t use	89	86	75	64
0 times	8	11	20	27
1 time	2	2	2	3
2 to 3 times	0	0	2	1
4 or more times	0	1	0	3
Marijuana				
Does not apply, don’t use	85	81	70	65
0 times	10	11	17	24
1 time	3	3	6	3
2 to 3 times	2	2	4	3
4 or more times	1	2	3	4

Question HS A.81, 82: How many times have you tried to quit or stop using... alcohol... marijuana?

Notes: Cells are empty if there are less than 25 respondents.

Table A6.9
Drinking While Driving

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Driven a car when you had been drinking, or been in a car driven by a friend who had been drinking				
Never	93	87	84	82
1 time	3	6	6	3
2 times	2	3	4	8
3 to 6 times	2	2	3	3
7 or more times	1	2	4	4

Question HS A.83: During your life, how many times have you ever driven a car when you had been drinking alcohol, or been in a car driven by a friend when he or she had been drinking?

Notes: Cells are empty if there are less than 25 respondents.

Table A6.10
Lifetime Drunk or “High” on School Property

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
0 times	91	88	81	80
1 to 2 times	6	6	6	7
3 to 6 times	1	2	5	3
7 or more times	2	4	8	10

Question HS A.48/MS A.41: During your life, how many times have you been... drunk on alcohol or “high” on drugs on school property?

Note: Cells are empty if there are less than 25 respondents.

Table A6.11***Current AOD Use on School Property***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Alcohol				
0 days	97	97	96	95
1 to 2 days	2	3	3	3
3 or more days	1	1	1	3
Marijuana				
0 days	95	96	95	96
1 to 2 days	3	2	2	1
3 or more days	2	2	3	3
Any other illegal drug or pill to get “high”				
0 days	99	98	96	97
1 to 2 days	1	1	2	1
3 or more days	0	1	2	2
<i>Any of the above</i>	6	6	8	8

Question HS A.67-69/MS A.58-60: During the past 30 days, on how many days on school property did you... have at least one drink of alcohol... smoke marijuana... use any other illegal drug or pill to get “high”?

Note: Cells are empty if there are less than 25 respondents.

Table A6.12***Perceived Harm and Availability***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
<i>Perceived Harm of Use...</i>				
Alcohol - drink occasionally				
Great	30	27	32	31
Moderate	28	28	22	20
Slight	24	24	27	23
None	19	21	20	26
Alcohol - 5 or more drinks once or twice a week				
Great	51	55	53	46
Moderate	23	22	25	31
Slight	11	7	11	5
None	15	16	12	18
Marijuana - smoke occasionally				
Great	32	28	25	24
Moderate	22	16	14	15
Slight	24	23	27	23
None	22	32	35	38
Marijuana - smoke once or twice a week				
Great	39	36	32	29
Moderate	25	19	23	22
Slight	17	18	20	18
None	19	26	25	30
<i>Perceived Difficulty of Obtaining...</i>				
Alcohol				
Very difficult	10	11	10	7
Fairly difficult	9	8	8	4
Fairly easy	26	18	25	19
Very easy	23	28	29	49
Don't know	32	36	28	21
Marijuana				
Very difficult	7	10	8	4
Fairly difficult	9	4	2	2
Fairly easy	22	18	14	9
Very easy	31	38	49	66
Don't know	30	31	27	19

Question HS A.72-75, 77, 78/MS A.63-66, 68, 69: How much do people risk harming themselves physically and in other ways when they do the following?... Drink alcohol occasionally... Have five or more drinks of an alcoholic beverage once or twice a week... Smoke marijuana occasionally... Smoke marijuana once or twice a week... How difficult is it for students in your grade to get any of the following substances if they really want them?... Alcohol... Marijuana.

Note: Cells are empty if there are less than 25 respondents.

7. Tobacco Use

Table A7.1

Summary of Key CHKS Tobacco Indicators

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %	Table
Use Prevalence and Patterns					
Ever smoked a whole cigarette	6	11	13	19	A7.2
Current cigarette smoking [‡]	2	3	4	9	A7.4
Current cigarette smoking at school [‡]	1	2	1	3	A7.5
Ever tried smokeless tobacco	2	4	6	5	A7.2
Current smokeless tobacco use [‡]	1	2	2	3	A7.4
Current smokeless tobacco use at school [‡]	1	2	1	1	A7.5
Ever used electronic cigarettes or other vaping device	25	25	30	26	A7.2
Current use of electronic cigarettes or other vaping device [‡]	8	6	10	5	A7.4
Current use of electronic cigarettes or other vaping device at school [‡]	5	3	3	1	A7.5
Cessation Attempts					
Tried to quit or stop using cigarettes	1	2	3	6	A7.6
Attitudes and Correlates					
Occasional smoking great harm	37	38	42	43	A7.8
Smoking 1-2 packs per day great harm	68	72	75	68	A7.8
Strongly disapprove of peer smoking 1 or more packs of cigarettes a day	54	60	59	57	A7.7
Very easy to obtain cigarettes	19	22	24	48	A7.8

Notes: Cells are empty if there are less than 25 respondents.

[‡]Past 30 days.

Table A7.2
Lifetime Tobacco Use

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
A whole cigarette				
0 times	94	89	87	81
1 time	4	4	3	5
2 to 3 times	1	2	4	3
4 or more times	1	5	7	11
Smokeless tobacco				
0 times	98	96	94	95
1 time	0	2	2	1
2 to 3 times	1	1	2	1
4 or more times	1	2	2	3
An electronic cigarette or other vaping device				
0 times	75	75	70	74
1 time	8	9	6	5
2 to 3 times	6	7	7	5
4 or more times	11	8	18	15

Question HS/MS A.32-34: During your life, how many times have you used the following substances? A whole cigarette... Smokeless tobacco (dip, chew, or snuff such as Redman™, Skoal™, or Beechnut™)... Electronic cigarettes, e-cigarettes or other vaping device such as e-hookah, hookah pens or vape pens.

Notes: Cells are empty if there are less than 25 respondents.

Table A7.3***Age of Onset – Tobacco Use***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Smoked part or all of a cigarette				
Never	91	88	82	77
10 or under	1	3	3	5
11-12 years old	2	2	2	2
13-14 years old	5	5	6	3
15-16 years old	0	1	7	5
17 years or older	0	1	1	9
Smokeless tobacco				
Never	94	96	90	90
10 or under	0	1	1	3
11-12 years old	2	0	2	1
13-14 years old	4	2	1	2
15-16 years old	0	1	5	2
17 years or older	0	0	1	3

Question HS A.50-51/MS A.43-44: About how old were you the first time you did any of these things? Smoked part or all of a cigarette... Used smokeless tobacco or other tobacco products.

Note: Cells are empty if there are less than 25 respondents.

Table A7.4***Any Current Use and Daily Use***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Cigarette				
Any	2	3	4	9
Daily (20 or more days)	0	1	0	1
Smokeless Tobacco				
Any	1	2	2	3
Daily (20 or more days)	0	0	0	0
Electronic cigarette				
Any	8	6	10	5
Daily (20 or more days)	0	1	1	1

Question HS A.54-56/MS A.47-49: During the past 30 days, on how many days did you use... cigarettes... smokeless tobacco (dip, chew or snuff)... an electronic cigarette or any other nicotine delivery device?

Note: Cells are empty if there are less than 25 respondents.

Table A7.5***Current Smoking on School Property, Past 30 Days***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Cigarette				
0 days	99	98	99	97
1 or 2 days	1	1	1	1
3 to 9 days	0	1	0	1
10 to 19 days	0	0	0	0
20 or more days	0	0	0	1
Smokeless Tobacco				
0 days	99	98	99	99
1 or 2 days	1	1	1	0
3 to 9 days	0	0	0	1
10 to 19 days	0	0	0	0
20 or more days	0	0	0	0
Electronic cigarette or other vaping device				
0 days	95	97	97	99
1 or 2 days	4	2	1	1
3 to 9 days	0	1	2	1
10 to 19 days	0	0	0	0
20 or more days	0	1	0	0

Question HS A.64-66/MS A.55-57: During the past 30 days, on how many days on school property did you... smoke cigarettes... use smokeless tobacco... use electronic cigarettes, e-cigarettes or other vaping device such as e-hookah, hookah pens or vape pens?

Note: Cells are empty if there are less than 25 respondents.

Table A7.6***Cigarette Smoking Cessation Attempts***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Does not apply, don't use	95	95	92	86
0 times	4	3	6	7
1 time	0	1	1	3
2 to 3 times	0	1	2	1
4 or more times	0	0	0	2

Question HS A.80: How many times have you tried to quit or stop using cigarettes?

Notes: Cells are empty if there are less than 25 respondents.

Table A7.7***Personal Disapproval of Peer Cigarette Smoking, One or More Packs A Day***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Neither approve nor disapprove	23	26	25	27
Somewhat disapprove	23	14	16	16
Strongly disapprove	54	60	59	57

Question HS A.79/MS A.70: How do you feel about someone your age smoking one or more packs of cigarettes a day?

Note: Cells are empty if there are less than 25 respondents.

Table A7.8***Perceived Harm of Cigarette Smoking and Difficulty of Obtaining Cigarettes***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
<i>Perceived Harm of Use...</i>				
Smoke cigarettes occasionally				
Great	37	38	42	43
Moderate	32	30	29	27
Slight	16	14	15	10
None	15	19	14	20
Smoke 1-2 packs of cigarettes a day				
Great	68	72	75	68
Moderate	10	10	8	11
Slight	7	2	4	1
None	15	17	13	19
<i>Perceived Difficulty of Obtaining...</i>				
Cigarettes				
Very difficult	11	12	11	6
Fairly difficult	10	7	8	4
Fairly easy	22	19	17	16
Very easy	19	22	24	48
Don't know	38	39	40	26

Question HS A.70, 71, 76/MS A.61, 62, 67: How much do people risk harming themselves physically and in other ways when they do the following?... Smoke cigarettes occasionally... Smoke 1-2 packs of cigarettes each day... How difficult is it for students in your grade to get any of the following substances if they really want them?... Cigarettes.

Note: Cells are empty if there are less than 25 respondents.

8. Other Physical and Mental Health Risks

Table A8.1

Cyber Bullying, Past 12 Months

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
0 times (never)	87	89	89	88
1 time	7	5	5	5
2 to 3 times	4	5	4	5
4 or more times	3	1	2	3

Question HS A.106/MS A.95: During the past 12 months, how many times did other students spread mean rumors or lies about you on the internet (i.e., Facebook™, MySpace™, email, instant message)?

Note: Cells are empty if there are less than 25 respondents.

Table A8.2

Eating of Breakfast

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
No	34	33	33	31
Yes	66	67	67	69

Question HS A.110/MS A.98: Did you eat breakfast today?

Note: Cells are empty if there are less than 25 respondents.

Table A8.3

Chronic Sad or Hopeless Feelings, Past 12 Months

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
No	75	74	78	81
Yes	25	26	22	19

Question HS A.108/MS A.97: During the past 12 months, did you ever feel so sad or hopeless almost every day for two weeks or more that you stopped doing some usual activities?

Note: Cells are empty if there are less than 25 respondents.

Table A8.4***Seriously Considered Attempting Suicide, Past 12 Months***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
No	89	87	88	88
Yes	11	13	12	12

Question HS A.109: During the past 12 months, did you ever seriously consider attempting suicide?

Notes: Cells are empty if there are less than 25 respondents.

Table A8.5***Gang Involvement***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
No	94	95	91	93
Yes	6	5	9	7

Question HS A.107/MS A.96: Do you consider yourself a member of a gang?

Note: Cells are empty if there are less than 25 respondents.

9. Race/Ethnic Breakdowns

Table A9.1

School Developmental Supports and Connectedness by Race/Ethnicity - 9th Grade

Percent of students scoring High (%)	Grade 9						
	H/L	AI/AN	Asian	AA	NH/PI	White	Mixed
<i>School Environment</i>							
Total school supports	23		17	20		16	23
Caring adults in school	27		12	24		27	23
High expectations-adults in school	42		32	51		43	47
Meaningful participation at school	6		5	13		13	11
<i>School Connectedness</i>	40		52	47		43	45
<i>Academic Motivation</i>	29		38	24		29	38

Notes: Cells are empty if there are less than 25 respondents. H/L: Hispanic or Latino; AI/AN: American Indian or Alaska Native; AA: Black or African American; NH/PI: Native Hawaiian or Pacific Islander; Mixed: Mixed (two or more) races.

Table A9.2

School Developmental Supports and Connectedness by Race/Ethnicity - 10th Grade

Percent of students scoring High (%)	Grade 10						
	H/L	AI/AN	Asian	AA	NH/PI	White	Mixed
<i>School Environment</i>							
Total school supports	23		31	27		28	28
Caring adults in school	29		29	32		36	34
High expectations-adults in school	36		43	39		38	44
Meaningful participation at school	10		13	10		11	11
<i>School Connectedness</i>	47		47	44		45	48
<i>Academic Motivation</i>	33		44	27		24	28

Notes: Cells are empty if there are less than 25 respondents. H/L: Hispanic or Latino; AI/AN: American Indian or Alaska Native; AA: Black or African American; NH/PI: Native Hawaiian or Pacific Islander; Mixed: Mixed (two or more) races.

Table A9.3***School Developmental Supports and Connectedness by Race/Ethnicity - 11th Grade***

Percent of students scoring High (%)	Grade 11						
	H/L	AI/AN	Asian	AA	NH/PI	White	Mixed
<i>School Environment</i>							
Total school supports	21		34	35		28	28
Caring adults in school	27		33	23		38	40
High expectations-adults in school	29		39	42		40	37
Meaningful participation at school	10		10	19		5	12
<i>School Connectedness</i>	45		59	47		60	51
<i>Academic Motivation</i>	29		33	21		24	23

Notes: Cells are empty if there are less than 25 respondents. H/L: Hispanic or Latino; AI/AN: American Indian or Alaska Native; AA: Black or African American; NH/PI: Native Hawaiian or Pacific Islander; Mixed: Mixed (two or more) races.

Table A9.4***School Developmental Supports and Connectedness by Race/Ethnicity - 12th Grade***

Percent of students scoring High (%)	Grade 12						
	H/L	AI/AN	Asian	AA	NH/PI	White	Mixed
<i>School Environment</i>							
Total school supports	29		29	48		48	37
Caring adults in school	31		29	34		53	48
High expectations-adults in school	39		32	41		47	52
Meaningful participation at school	18		18	39		14	25
<i>School Connectedness</i>	41		47	50		52	48
<i>Academic Motivation</i>	27		18	28		28	37

Notes: Cells are empty if there are less than 25 respondents. H/L: Hispanic or Latino; AI/AN: American Indian or Alaska Native; AA: Black or African American; NH/PI: Native Hawaiian or Pacific Islander; Mixed: Mixed (two or more) races.

Table A9.5***Current Cigarette Smoking, by Race/Ethnicity***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Smoked cigarettes in the past 30 days				
Hispanic or Latino	3	4	5	11
American Indian or Alaska Native				
Asian	0	0	2	6
Black or African American	4	1	0	3
Native Hawaiian or Pacific Islander				
White	0	6	5	13
Mixed (two or more) races	2	7	10	15

Notes: Cells are empty if there are less than 25 respondents.

10. Gender Breakdowns

Table A10.1

School Developmental Supports, Connectedness and Academic Motivation by Gender

Percent of Students Scoring High	Grade 9		Grade 10		Grade 11		Grade 12	
	Female %	Male %	Female %	Male %	Female %	Male %	Female %	Male %
<i>School Environment</i>								
Total school supports	23	18	24	30	27	33	39	35
Caring adults in school	29	17	30	33	37	31	46	32
High expectations-adults in school	48	41	40	40	40	37	48	36
Meaningful participation at school	8	10	8	13	9	14	20	20
<i>School Connectedness</i>	45	45	39	51	45	58	40	52
<i>Academic Motivation</i>	37	28	35	29	34	21	28	25

Note: Cells are empty if there are less than 25 respondents.

Table A10.2
Selected Alcohol and Drug Use Measures by Gender

	Grade 9		Grade 10		Grade 11		Grade 12	
	Female %	Male %	Female %	Male %	Female %	Male %	Female %	Male %
Lifetime and Current AOD Use								
<i>During your life, did you ever...</i>								
drink alcohol (one full drink)?	27	25	33	30	49	36	51	49
use inhalants?	3	6	3	3	5	6	8	6
smoke marijuana?	27	20	27	33	48	38	50	40
<i>During the past 30 days, did you...</i>								
drink alcohol (one full drink)?	13	9	17	13	27	19	31	30
use inhalants?	1	2	1	3	1	1	0	1
smoke marijuana?	16	10	15	18	24	17	23	21
Level of Involvement (High Risk Patterns)								
<i>During your life, have you ever...</i>								
been very drunk or sick after drinking alcohol?	10	14	16	12	30	17	27	32
been “high” from using drugs?	23	18	25	30	41	33	40	37
During the past 30 days, did you drink 5 or more drinks of alcohol in a couple of hours?	3	2	8	6	11	14	18	19
AOD Use at School								
During your life, have you ever been drunk or “high” on school property?	12	7	10	13	22	15	22	18
During the past 30 days, did you use marijuana on school property?	5	5	2	6	5	5	6	3
Perceived Harm								
<i>Frequent use of...is harmful.^A</i>								
alcohol (five or more drinks once or twice a week)	86	85	89	81	93	85	88	78
marijuana (once or twice a week)	81	82	74	73	79	71	78	64

Notes: Cells are empty if there are less than 25 respondents.

^A*Combines Great, Moderate, and Slight.*

Table A10.3
Selected Tobacco Use Measures by Gender

	Grade 9		Grade 10		Grade 11		Grade 12	
	Female	Male	Female	Male	Female	Male	Female	Male
	%	%	%	%	%	%	%	%
During your life, did you ever smoke a cigarette?	7	6	9	12	16	11	13	22
During the past 30 days, did you smoke a cigarette?	1	3	3	4	4	4	3	12
During the past 30 days, did you smoke cigarettes daily?	0	0	1	1	0	0	0	1
During the past 30 days, did you smoke cigarettes on school property?	1	1	1	3	0	1	2	4
Frequent use of cigarettes is harmful. (1-2 packs a day) ^A	85	84	87	80	92	82	88	77

Notes: Cells are empty if there are less than 25 respondents.

^A*Combines Great, Moderate, and Slight.*

Table A10.4
School Safety - Related Indicators by Gender

	Grade 9		Grade 10		Grade 11		Grade 12	
	Female	Male	Female	Male	Female	Male	Female	Male
	%	%	%	%	%	%	%	%
<i>During the past 12 months at school, have you been harassed or bullied for any of the following reasons?</i>								
Race, ethnicity, or national origin	12	15	14	12	14	15	9	17
Religion	8	5	2	4	11	5	4	8
Gender	7	1	11	4	14	4	10	5
Gay/lesbian, or someone thought you were	6	6	6	5	4	4	12	5
Physical/mental disability	3	3	4	4	4	6	4	3
Any other reason	18	12	15	10	13	7	14	16
During the past 12 months at school, have you been in a physical fight?	4	20	6	11	5	8	3	6
Feels safe at school	65	58	58	66	66	72	71	67
Currently belong to a gang	2	9	3	7	5	12	6	8

Note: Cells are empty if there are less than 25 respondents.

Table A10.5

Physical and Mental Health Measures by Gender

	Grade 9		Grade 10		Grade 11		Grade 12	
	Female %	Male %	Female %	Male %	Female %	Male %	Female %	Male %
Eating of breakfast	59	73	63	71	67	67	70	68
Chronic sad or hopeless feelings	31	20	42	12	28	16	27	13

Note: Cells are empty if there are less than 25 respondents.

School Climate Module

1. Module Sample

Table M1.1

Student Sample for School Climate Module

	Grade 9	Grade 10	Grade 11	Grade 12
<i>Student Sample Size</i>				
Target sample	363	365	326	301
Final number	305	317	249	148
Average Response Rate	84%	87%	76%	49%

2. Supports for Learning & Student Academic Engagement

Table M2.1

Supports for Learning

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Students at this school are motivated to learn.				
Strongly disagree	10	9	7	10
Disagree	15	14	14	13
Neither disagree nor agree	46	50	45	49
Agree	23	21	27	24
Strongly agree	5	6	6	3
Adults at this school encourage me to work hard so I can be successful in college or at the job I choose.				
Strongly disagree	7	6	6	5
Disagree	5	7	6	2
Neither disagree nor agree	30	31	24	33
Agree	45	42	48	45
Strongly agree	14	15	16	14
My teachers work hard to help me with my schoolwork when I need it.				
Strongly disagree	7	5	6	5
Disagree	5	4	5	3
Neither disagree nor agree	29	33	24	26
Agree	49	42	45	50
Strongly agree	11	16	20	16
Teachers show how classroom lessons are helpful to students in real life.				
Strongly disagree	8	9	9	7
Disagree	14	12	12	5
Neither disagree nor agree	35	38	29	42
Agree	35	32	40	35
Strongly agree	8	9	11	11

Question HS/MS M.1-4: How strongly do you agree or disagree with the following statements about your school?... Students at this school are motivated to learn... Adults at this school encourage me to work hard so I can be successful in college or at the job I choose... My teachers work hard to help me with my schoolwork when I need it... Teachers show how classroom lessons are helpful to students in real life.

Note: Cells are empty if there are less than 25 respondents.

Table M2.1***Supports for Learning – Continued***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Teachers give students a chance to take part in classroom discussions or activities.				
Strongly disagree	5	5	6	4
Disagree	5	3	3	3
Neither disagree nor agree	25	26	23	32
Agree	52	49	52	48
Strongly agree	14	16	16	14
This school promotes academic success for all students.				
Strongly disagree	6	5	6	6
Disagree	4	4	6	3
Neither disagree nor agree	28	29	27	38
Agree	48	43	49	41
Strongly agree	14	18	13	12
This school is a supportive and inviting place for students to learn.				
Strongly disagree	6	5	6	5
Disagree	5	8	5	3
Neither disagree nor agree	28	34	30	34
Agree	50	39	45	46
Strongly agree	11	13	13	11
Teachers go out of their way to help students.				
Strongly disagree	6	8	6	5
Disagree	10	9	9	3
Neither disagree nor agree	38	34	28	39
Agree	36	36	42	39
Strongly agree	10	12	14	14

Question HS/MS M.5-8: How strongly do you agree or disagree with the following statements about your school?... Teachers give students a chance to take part in classroom discussions or activities... This school promotes academic success for all students... This school is a supportive and inviting place for students to learn... Teachers go out of their way to help students.

Note: Cells are empty if there are less than 25 respondents.

Table M2.1***Supports for Learning – Continued***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Students really enjoy their classes.				
Strongly disagree	11	14	11	10
Disagree	21	19	16	9
Neither disagree nor agree	47	50	45	54
Agree	18	13	22	21
Strongly agree	3	6	6	5
Teachers help students catch up when they return from an absence.				
Strongly disagree	14	10	9	6
Disagree	11	18	14	10
Neither disagree nor agree	42	36	31	44
Agree	27	29	35	31
Strongly agree	7	7	10	10
My teachers give me useful feedback on my work.				
Strongly disagree	7	9	7	4
Disagree	7	11	9	8
Neither disagree nor agree	35	37	36	32
Agree	43	34	37	44
Strongly agree	7	9	11	12
My classes are challenging.				
Strongly disagree	7	7	7	6
Disagree	12	9	3	7
Neither disagree nor agree	37	44	33	31
Agree	35	28	41	43
Strongly agree	9	12	15	13

Question HS/MS M.9-12: How strongly do you agree or disagree with the following statements about your school?... Students really enjoy their classes... Teachers help students catch up when they return from an absence... My teachers give me useful feedback on my work... My classes are challenging.

Note: Cells are empty if there are less than 25 respondents.

Table M2.2***Student Academic Mindset and Learning Engagement***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Students pay attention in class.				
Strongly disagree	14	10	11	5
Disagree	20	22	19	21
Neither disagree nor agree	52	50	53	57
Agree	11	14	15	13
Strongly agree	3	4	2	4
Students try their best in school.				
Strongly disagree	12	8	11	5
Disagree	18	14	15	14
Neither disagree nor agree	54	56	56	58
Agree	12	17	17	19
Strongly agree	4	5	2	4
Students usually follow the rules at school.				
Strongly disagree	12	8	11	7
Disagree	17	17	18	16
Neither disagree nor agree	52	49	48	51
Agree	17	23	21	22
Strongly agree	2	4	2	4
Students turn in their homework on time.				
Strongly disagree	12	7	9	6
Disagree	16	16	14	12
Neither disagree nor agree	54	55	53	60
Agree	15	19	22	19
Strongly agree	3	3	2	3

Question HS/MS M.52-55: How strongly do you agree or disagree with the following statements about your school?... Students pay attention in class... Students try their best in school... Students usually follow the rules at school... Students turn in their homework on time.

Note: Cells are empty if there are less than 25 respondents.

Table M2.2***Student Academic Mindset and Learning Engagement – Continued***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Students try to get good grades.				
Strongly disagree	8	7	8	4
Disagree	9	8	8	12
Neither disagree nor agree	51	49	43	48
Agree	26	29	34	27
Strongly agree	6	8	7	8

Question HS/MS M.56: How strongly do you agree or disagree with the following statements about your school?... Students try to get good grades.

Note: Cells are empty if there are less than 25 respondents.

3. Fairness and Respect for Diversity

Table M3.1

Fairness and Respect

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Adults at this school treat all students with respect.				
Strongly disagree	10	11	8	4
Disagree	12	12	13	9
Neither disagree nor agree	40	37	32	45
Agree	30	27	35	35
Strongly agree	7	12	12	8
Students treat teachers with respect.				
Strongly disagree	19	17	18	14
Disagree	22	24	21	17
Neither disagree nor agree	43	39	37	42
Agree	13	16	19	20
Strongly agree	2	4	5	6
The school rules are fair.				
Strongly disagree	8	7	9	6
Disagree	8	8	5	10
Neither disagree nor agree	41	40	32	36
Agree	34	33	44	38
Strongly agree	8	11	10	9
All students are treated fairly when they break school rules.				
Strongly disagree	11	10	10	8
Disagree	13	11	10	11
Neither disagree nor agree	42	43	40	43
Agree	30	29	34	30
Strongly agree	3	7	7	7

Question HS/MS M.13-16: How strongly do you agree or disagree with the following statements about your school?... Adults at this school treat all students with respect... Students treat teachers with respect... The school rules are fair... All students are treated fairly when they break school rules.

Note: Cells are empty if there are less than 25 respondents.

Table M3.2
Respect for Diversity

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
My class lessons include examples of my racial, ethnic, or cultural background.				
Strongly disagree	9	8	9	7
Disagree	8	14	9	12
Neither disagree nor agree	49	47	45	49
Agree	28	23	30	27
Strongly agree	5	7	8	5
I have been disrespected by an adult at this school because of my race, ethnicity, or culture.				
Strongly disagree	35	35	39	21
Disagree	29	25	24	30
Neither disagree nor agree	27	31	30	34
Agree	6	6	6	13
Strongly agree	3	3	2	3
There is a lot of tension in this school between people of different cultures, races, or ethnicities.				
Strongly disagree	21	20	22	13
Disagree	25	24	27	22
Neither disagree nor agree	41	40	38	48
Agree	9	12	10	15
Strongly agree	4	4	4	3
Students in this school respect each other's differences.				
Strongly disagree	13	10	11	6
Disagree	13	15	14	12
Neither disagree nor agree	43	40	41	50
Agree	25	27	27	26
Strongly agree	7	8	7	5

Question HS/MS M.43-46: How strongly do you agree or disagree with the following statements about your school?... My class lessons include examples of my racial, ethnic, or cultural background... I have been disrespected by an adult at this school because of my race, ethnicity, or culture... There is a lot of tension in this school between people of different cultures, races, or ethnicities... Students in this school respect each other's differences (for example, gender, race, culture, sexual orientation).

Note: Cells are empty if there are less than 25 respondents.

Table M3.2***Respect for Diversity – Continued***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Adults in this school respect differences in students.				
Strongly disagree	9	9	9	5
Disagree	9	8	6	6
Neither disagree nor agree	37	33	41	43
Agree	33	35	30	36
Strongly agree	12	16	15	10
Teachers show that they think it is important for students of different races and cultures at this school to get along with each other.				
Strongly disagree	8	7	9	4
Disagree	7	8	5	4
Neither disagree nor agree	43	40	43	49
Agree	32	36	30	34
Strongly agree	10	10	13	9

Question HS/MS M.47-48: How strongly do you agree or disagree with the following statements about your school?... Adults in this school respect differences in students (for example, gender, race, culture, sexual orientation)... Teachers show that they think it is important for students of different races and cultures at this school to get along with each other.

Note: Cells are empty if there are less than 25 respondents.

4. Disciplinary Environment

Table M4.1

Consistency and Clarity of Rules and Expectations

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
This school clearly informs students what would happen if they break school rules.				
Strongly disagree	8	9	7	5
Disagree	10	10	9	6
Neither disagree nor agree	36	37	31	45
Agree	36	32	41	33
Strongly agree	11	12	11	10
Rules in this school are made clear to students.				
Strongly disagree	7	5	5	4
Disagree	9	10	5	6
Neither disagree nor agree	36	38	38	48
Agree	40	38	39	35
Strongly agree	8	8	12	6
Students know how they are expected to act.				
Strongly disagree	7	6	6	5
Disagree	6	8	6	10
Neither disagree nor agree	39	33	36	42
Agree	40	44	40	34
Strongly agree	8	10	12	8
Students know what the rules are.				
Strongly disagree	6	5	4	4
Disagree	8	9	4	6
Neither disagree nor agree	36	34	34	43
Agree	42	41	45	38
Strongly agree	9	10	12	9
This school makes it clear how students are expected to act.				
Strongly disagree	6	5	5	4
Disagree	8	7	5	5
Neither disagree nor agree	37	34	35	44
Agree	40	43	41	38
Strongly agree	9	10	13	8

Question HS/MS M.17, 23-26: How strongly do you agree or disagree with the following statements about your school?... This school clearly informs students what would happen if they break school rules... Rules in this school are made clear to students... Students know how they are expected to act... Students know what the rules are... This school makes it clear how students are expected to act.

Note: Cells are empty if there are less than 25 respondents.

Table M4.2
Disciplinary Harshness

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
The rules in this school are too strict.				
Strongly disagree	16	14	13	8
Disagree	27	25	24	27
Neither disagree nor agree	44	44	46	45
Agree	11	12	13	15
Strongly agree	3	5	4	5
It is easy for students to get kicked out of class or get suspended.				
Strongly disagree	11	9	8	6
Disagree	16	15	20	18
Neither disagree nor agree	47	47	43	48
Agree	18	22	19	20
Strongly agree	9	7	9	8
Students get in trouble for breaking small rules.				
Strongly disagree	9	8	12	8
Disagree	16	13	16	16
Neither disagree nor agree	45	44	43	47
Agree	19	26	21	21
Strongly agree	11	9	8	9
Teachers are very strict here.				
Strongly disagree	7	7	9	7
Disagree	19	22	23	24
Neither disagree nor agree	55	56	51	53
Agree	14	11	14	12
Strongly agree	4	4	3	3

Question HS/MS M.19-22: How strongly do you agree or disagree with the following statements about your school?... The rules in this school are too strict... It is easy for students to get kicked out of class or get suspended... Students get in trouble for breaking small rules... Teachers are very strict here.

Note: Cells are empty if there are less than 25 respondents.

Table M4.3***Behaving in School***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Students at this school are well-behaved.				
Strongly disagree	17	17	19	19
Disagree	18	17	20	18
Neither disagree nor agree	49	47	43	44
Agree	16	14	16	13
Strongly agree	1	4	3	6

Question HS/MS M.18: How strongly do you agree or disagree with the following statements about your school?... Students at this school are well-behaved.

Note: Cells are empty if there are less than 25 respondents.

5. Student Peer Relationships

Table M5.1

Peer Caring Relationships

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Students enjoy doing things with each other in school activities.				
Strongly disagree	7	7	4	5
Disagree	7	9	7	8
Neither disagree nor agree	43	47	40	43
Agree	34	28	38	36
Strongly agree	9	8	11	8
Students enjoy working together on projects in class.				
Strongly disagree	8	7	5	6
Disagree	11	9	10	8
Neither disagree nor agree	42	48	40	49
Agree	30	28	36	31
Strongly agree	8	8	8	7
Students care about each other.				
Strongly disagree	9	7	7	4
Disagree	12	12	12	8
Neither disagree nor agree	44	49	47	52
Agree	29	27	28	29
Strongly agree	7	6	5	7
Students treat each other with respect.				
Strongly disagree	9	12	9	6
Disagree	15	13	17	10
Neither disagree nor agree	48	48	45	52
Agree	26	24	24	27
Strongly agree	3	3	5	6
Students get along well with each other.				
Strongly disagree	8	7	6	5
Disagree	10	11	11	6
Neither disagree nor agree	49	53	47	52
Agree	28	25	31	30
Strongly agree	5	4	5	6

Question HS/MS M.27-31: How strongly do you agree or disagree with the following statements about your school?... Students enjoy doing things with each other in school activities... Students enjoy working together on projects in class... Students care about each other... Students treat each other with respect... Students get along well with each other.

Note: Cells are empty if there are less than 25 respondents.

6. Social and Emotional Learning

Table M6.1

Supports for Social and Emotional Learning

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
This school encourages students to feel responsible for how they act.				
Strongly disagree	7	6	7	5
Disagree	8	9	8	10
Neither disagree nor agree	45	45	39	52
Agree	33	32	37	28
Strongly agree	7	7	8	6
Students are often given rewards for being good.				
Strongly disagree	15	15	15	8
Disagree	22	24	18	14
Neither disagree nor agree	45	44	43	53
Agree	15	14	18	20
Strongly agree	3	3	6	6
This school encourages students to understand how others think and feel.				
Strongly disagree	9	9	6	5
Disagree	14	12	13	10
Neither disagree nor agree	43	48	48	51
Agree	28	26	25	29
Strongly agree	6	5	9	5
Students are taught that they can control their own behavior.				
Strongly disagree	9	6	7	5
Disagree	10	12	11	7
Neither disagree nor agree	46	40	45	53
Agree	28	34	30	29
Strongly agree	6	7	8	6

Question HS/MS M.32-35: How strongly do you agree or disagree with the following statements about your school?... This school encourages students to feel responsible for how they act... Students are often given rewards for being good... This school encourages students to understand how others think and feel... Students are taught that they can control their own behavior.

Note: Cells are empty if there are less than 25 respondents.

Table M6.1***Supports for Social and Emotional Learning – Continued***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
This school helps students solve conflicts with one another.				
Strongly disagree	10	8	6	5
Disagree	13	11	13	12
Neither disagree nor agree	47	47	47	51
Agree	24	26	29	25
Strongly agree	6	7	5	6
This school encourages students to care about how others feel.				
Strongly disagree	9	7	8	4
Disagree	10	14	10	13
Neither disagree nor agree	46	45	47	53
Agree	28	28	29	25
Strongly agree	7	6	7	5

Question HS/MS M.36-37: How strongly do you agree or disagree with the following statements about your school?... This school helps students solve conflicts with one another... This school encourages students to care about how others feel.

Note: Cells are empty if there are less than 25 respondents.

7. School Anti-Bullying Climate

Table M7.1

School Responses to Bullying

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
Teachers here make it clear to students that bullying is not tolerated.				
Strongly disagree	8	7	7	7
Disagree	6	6	5	6
Neither disagree nor agree	40	32	36	42
Agree	33	37	36	37
Strongly agree	13	17	16	9
If another student was bullying me, I would tell one of the teachers or staff at school.				
Strongly disagree	15	9	9	8
Disagree	12	12	11	12
Neither disagree nor agree	40	40	39	43
Agree	24	26	29	24
Strongly agree	10	14	12	13
Students tell teachers when other students are being bullied.				
Strongly disagree	15	12	11	7
Disagree	22	20	17	11
Neither disagree nor agree	44	48	50	55
Agree	15	14	17	21
Strongly agree	5	6	5	6

Question HS/MS M.38-40: How strongly do you agree or disagree with the following statements about your school?... Teachers here make it clear to students that bullying is not tolerated... If another student was bullying me, I would tell one of the teachers or staff at school... Students tell teachers when other students are being bullied.

Note: Cells are empty if there are less than 25 respondents.

Table M7.1***School Responses to Bullying – Continued***

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
If I tell a teacher that someone is bullying me, the teacher will do something to help.				
Strongly disagree	9	7	6	5
Disagree	7	8	6	5
Neither disagree nor agree	47	44	39	49
Agree	27	31	36	29
Strongly agree	11	11	12	13
Students here try to stop bullying when they see it happening.				
Strongly disagree	14	14	12	8
Disagree	20	17	13	11
Neither disagree nor agree	44	47	46	52
Agree	18	17	22	23
Strongly agree	4	4	7	6

Question HS/MS M.41-42: How strongly do you agree or disagree with the following statements about your school?... If I tell a teacher that someone is bullying me, the teacher will do something to help... Students here try to stop bullying when they see it happening.

Note: Cells are empty if there are less than 25 respondents.

8. Facilities Physical Environment

Table M8.1

Quality of Physical Environment

	Grade 9 %	Grade 10 %	Grade 11 %	Grade 12 %
The schoolyard and buildings are clean and in good condition.				
Strongly disagree	11	11	12	9
Disagree	11	15	15	13
Neither disagree nor agree	39	37	40	42
Agree	30	30	26	31
Strongly agree	9	7	7	4
My school is usually clean and tidy.				
Strongly disagree	12	12	14	10
Disagree	14	20	16	14
Neither disagree nor agree	38	37	41	43
Agree	29	24	24	27
Strongly agree	7	6	5	6
The school grounds are kept clean.				
Strongly disagree	11	12	15	10
Disagree	15	19	18	14
Neither disagree nor agree	40	36	40	41
Agree	27	28	23	29
Strongly agree	7	6	4	5

Question HS/MS M.49-51: How strongly do you agree or disagree with the following statements about your school?... The schoolyard and buildings are clean and in good condition... My school is usually clean and tidy... The school grounds are kept clean.

Note: Cells are empty if there are less than 25 respondents.

Z. West Contra Costa Unified Custom Questions

1. Module Sample

Table Z1.1

Student Sample for Custom Questions

	Grade 9	Grade 10	Grade 11	Grade 12
<i>Student Sample Size</i>				
Target sample	363	365	326	301
Final number	291	306	247	141
Average Response Rate	80%	84%	76%	47%

2. Custom Questions

Table AZ.2.1

In the past year, how often has your parent/guardian visited your school?

	Grade				Total %
	9th %	10th %	11th %	12th %	
Almost never	25	32	35	29	30
Once or twice	48	43	45	41	45
Every few months	16	14	15	19	15
Monthly	8	6	5	6	6
Weekly or more	3	5	0	5	3

Question HS/MS Z.1.

Note: Columns are not displayed if there are less than 25 respondents.

Table AZ.2.2

How often do your parent/guardian meet in person with teachers at your school?

	Grade				Total %
	9th %	10th %	11th %	12th %	
Almost never	40	44	52	50	45
Once or twice per year	43	42	39	35	40
Every few months	14	10	7	13	11
Monthly	3	3	2	1	2
Weekly or more	0	2	1	1	1

Question HS/MS Z.2.

Note: Columns are not displayed if there are less than 25 respondents.

Table AZ.2.3

Does your parent or guardian ask about and/or check your homework?

	Grade				Total %
	9th %	10th %	11th %	12th %	
No	23	24	34	47	29
Yes	77	76	66	53	71

Question HS/MS Z.3.

Note: Columns are not displayed if there are less than 25 respondents.

Table AZ.2.4***How much do you think your parent is involved with your school?***

	Grade				Total %
	9th %	10th %	11th %	12th %	
Too much	16	13	13	17	14
About right amount	72	67	70	62	69
Too little	11	20	17	21	17

*Question HS/MS Z.4.**Note: Columns are not displayed if there are less than 25 respondents.***Table AZ.2.5*****Where do you usually go right after school is over?***

	Grade				Total %
	9th %	10th %	11th %	12th %	
Your home, or another home, with an adult there	53	52	49	49	51
Your home, or another home, without an adult there	15	15	19	16	16
A park or recreation program	5	2	4	6	4
A community, volunteer, or church group	1	1	2	3	2
Stay at school for an afterschool program	2	4	3	4	3
Stay at school for an extra class, tutoring, or activity	7	18	11	6	11
To a job	2	0	5	8	3
Some other place	16	7	7	8	10

*Question HS/MS Z.5.**Note: Columns are not displayed if there are less than 25 respondents.*

Table AZ.2.6***What do you usually do after school is over? (Mark aLL that you do for about one hour or more.)***

	Grade				Total %
	9th %	10th %	11th %	12th %	
Do your schoolwork (homework or studying)	68	72	71	57	68
Get help with your schoolwork from an adult (such as a tutor)	5	9	12	9	9
Take private classes or lessons such as art, music, or dance	10	9	6	10	9
Play or practice (sport, band, other hobby)	44	46	42	47	45
Hang out with friends (talking, playing games, going to the mall or a movie)	44	36	34	43	39
Watch TV	39	41	34	43	39
Play video games	26	28	23	20	25
Do religious activities or get religious instruction	3	6	6	4	5
Work at a job	6	6	12	19	9
Other	21	17	23	20	20

*Question HS/MS Z.6.**Notes: Columns are not displayed if there are less than 25 respondents. Total percentages may exceed 100% for “mark all that apply” items.***Table AZ.2.7*****If you saw another student being bullied, what would you do?***

	Grade				Total %
	9th %	10th %	11th %	12th %	
Stick up for or help the student	49	49	49	58	50
Tell an adult at school	23	26	28	22	25
Laugh or join in	2	3	2	2	2
Nothing	26	22	20	18	22

*Question HS/MS Z.7.**Note: Columns are not displayed if there are less than 25 respondents.*

Table AZ.2.8***How many times have you used the School Health Center this year?***

	Grade				Total
	9th %	10th %	11th %	12th %	
None	63	52	59	53	57
1 or 2 times	21	27	24	28	24
3 to 5 times	8	14	11	9	11
6 to 9 times	5	3	2	4	3
10 times or more	3	5	4	7	4

*Question HS/MS Z.8.**Note: Columns are not displayed if there are less than 25 respondents.***Table AZ.2.9*****Which of the following services have you received from the School Health Center? (mark all that apply)***

	Grade				Total
	9th %	10th %	11th %	12th %	
Medical care when you were sick, hurt or needed a check-up	24	24	24	21	24
Counseling to help you deal with issues like stress, feeling sad, family problems or alcohol or drug use	8	11	15	12	11
Help with sexual health issues like birth control/condoms or testing for pregnancy/STDs	8	14	18	16	14
Help with diet, nutrition or exercise	3	2	3	1	2
Dental care for cleanings, toothaches or cavities	4	3	3	2	3
Other	11	15	12	15	13
Does not apply - I have never used the School Health Center	60	51	50	48	53

*Question HS/MS Z.9.**Notes: Columns are not displayed if there are less than 25 respondents. Total percentages may exceed 100% for "mark all that apply" items.*

Table AZ.2.10***Are any of the following reasons why you have not used the School Health Center? (mark all that apply)***

	Grade				Total
	9th %	10th %	11th %	12th %	
I didn't need any services	63	53	55	57	57
I didn't know there was a School Health Center	5	4	2	2	3
I was afraid my parents would find out	3	4	3	5	3
I was afraid other students would find out	2	2	2	3	2
The wait was too long	2	2	2	2	2
Didn't feel like people who work there would understand me	3	3	2	1	3
I couldn't get a pass to leave class	2	4	0	2	2
Other reasons	4	6	9	4	6
Does not apply - I have used the School Health Center	34	37	35	35	35

*Question HS/MS Z.10.**Notes: Columns are not displayed if there are less than 25 respondents. Total percentages may exceed 100% for "mark all that apply" items.***Table AZ.2.11*****If your community was going to provide new activities for people your age, what would you want? (Choose top 3)***

	Grade				Total
	9th %	10th %	11th %	12th %	
Organized sports and recreation	44	44	44	32	43
Arts, music, dance, and drama	40	38	36	42	39
Computer, video production, photography	32	41	28	18	32
Volunteering to help others, animals, or the environment	24	29	32	29	28
Tutors and mentors	13	14	14	23	15
Youth clubs and centers	12	7	13	15	11
Job readiness and work internships	31	34	46	35	36
Counseling	8	8	6	10	8
Alcohol and drug treatment	5	8	3	8	6

*Question HS/MS Z.11.**Notes: Columns are not displayed if there are less than 25 respondents. Total percentages may exceed 100% for "mark all that apply" items.*

Table AZ.2.12***After high school graduation I plan on***

	Grade				Total %
	9th %	10th %	11th %	12th %	
Attending a four-year college	74	67	60	61	66
Attending a two-year / community college	2	7	9	10	6
Attending a two-year college, then transferring to a four-year college	8	8	14	12	10
Attending a trade school	1	1	2	1	1
Going to work	2	4	2	7	4
Enlisting in the military	1	3	5	2	3
I don't know	11	10	8	7	9

*Question HS/MS Z.12.**Note: Columns are not displayed if there are less than 25 respondents.***Table AZ.2.13*****This school year, what have you discussed most with your parents/guardian concerning your options after high school graduation (mark all that apply)?***

	Grade				Total %
	9th %	10th %	11th %	12th %	
Whether or not I should go to college	18	19	20	21	19
Which courses I should take and/or admission requirements	38	42	46	40	41
Options for more schooling like 4-year university, community college, or trade schools	43	46	58	44	48
Job possibilities after high school graduation	23	23	20	23	22
We haven't had any discussions	23	19	15	15	18

*Question HS/MS Z.13.**Notes: Columns are not displayed if there are less than 25 respondents. Total percentages may exceed 100% for "mark all that apply" items.*

Table AZ.2.14

This school year, what have you discussed most with adults at your school (counselor, teacher, etc.) concerning your options after high school graduation (mark all that apply)?

	Grade				Total %
	9th %	10th %	11th %	12th %	
Whether or not I should go to college	12	15	13	15	14
Which courses I should take and/or admission requirements	33	39	41	44	38
Options for more schooling like 4-year university / community	29	33	44	35	35
College/trade schools	13	16	22	24	18
Job possibilities after high school graduation	14	14	13	18	14
We haven't had any discussions	37	33	26	18	30

Question HS/MS Z.14.

Notes: Columns are not displayed if there are less than 25 respondents. Total percentages may exceed 100% for "mark all that apply" items.

Table AZ.2.15

Driving while buzzed from marijuana use is very risky.

	Grade				Total %
	9th %	10th %	11th %	12th %	
Strongly disagree	21	17	23	16	20
Disagree	5	5	9	8	6
Neither disagree nor agree	12	19	19	30	19
Agree	23	28	20	24	24
Strongly agree	39	31	29	22	31

Question HS/MS Z.15.

Note: Columns are not displayed if there are less than 25 respondents.

Table AZ.2.16

Using alcohol and marijuana at the same time can lead to doing risky things.

	Grade				Total %
	9th %	10th %	11th %	12th %	
Strongly disagree	19	14	17	14	16
Disagree	5	4	7	3	5
Neither disagree nor agree	12	15	20	29	18
Agree	24	31	23	28	26
Strongly agree	41	35	33	26	35

Question HS/MS Z.16.

Note: Columns are not displayed if there are less than 25 respondents.

Table AZ.2.17***Eating foods containing marijuana or hashish (edibles) is very risky.***

	Grade				Total %
	9th %	10th %	11th %	12th %	
Strongly disagree	18	18	21	14	18
Disagree	8	9	11	10	9
Neither disagree nor agree	16	24	28	38	25
Agree	26	25	20	19	23
Strongly agree	32	24	20	20	25

*Question HS/MS Z.17.**Note: Columns are not displayed if there are less than 25 respondents.***Table AZ.2.18*****Using marijuana to feel better when you are down or upset can lead to other problems in your life.***

	Grade				Total %
	9th %	10th %	11th %	12th %	
Strongly disagree	21	19	22	17	20
Disagree	8	10	15	12	11
Neither disagree nor agree	23	24	22	34	25
Agree	22	25	21	21	22
Strongly agree	26	22	20	17	22

*Question HS/MS Z.18.**Note: Columns are not displayed if there are less than 25 respondents.***Table AZ.2.19*****Using marijuana would get in the way of what is important to me.***

	Grade				Total %
	9th %	10th %	11th %	12th %	
Strongly disagree	22	20	24	19	21
Disagree	7	10	13	13	10
Neither disagree nor agree	20	22	28	34	24
Agree	20	24	15	17	19
Strongly agree	32	24	21	17	25

*Question HS/MS Z.19.**Note: Columns are not displayed if there are less than 25 respondents.*

Table AZ.2.20*Not using marijuana is a way of being in control of my life.*

	Grade				Total %
	9th	10th	11th	12th	
	%	%	%	%	
Strongly disagree	19	19	19	15	18
Disagree	6	7	13	12	9
Neither disagree nor agree	20	26	29	45	28
Agree	23	22	17	14	20
Strongly agree	32	25	23	15	25

*Question HS/MS Z.20.**Note: Columns are not displayed if there are less than 25 respondents.***Table AZ.2.21***I plan to try or use marijuana in the next six months*

	Grade				Total %
	9th	10th	11th	12th	
	%	%	%	%	
Strongly disagree	50	46	39	29	43
Disagree	12	8	11	12	10
Neither disagree nor agree	21	22	24	36	24
Agree	8	11	12	10	10
Strongly agree	9	12	15	12	12

*Question HS/MS Z.21.**Note: Columns are not displayed if there are less than 25 respondents.***Table AZ.2.22***In your life, how many times have you eaten foods containing marijuana or hashish (edibles)?*

	Grade				Total %
	9th	10th	11th	12th	
	%	%	%	%	
0 times	80	74	64	63	71
1 time	8	8	11	10	9
2 times	5	7	7	12	7
3-9 times	5	5	11	7	7
10-19 times	0	2	3	3	2
20-30 times	1	1	0	1	1
More than 30 times	1	4	4	5	3

*Question HS/MS Z.22.**Note: Columns are not displayed if there are less than 25 respondents.*

**SUMMARY OF CHANGES TO
TOBACCO RETAILER LICENSE PROGRAM ORDINANCE**

Summary of Changes to the Proposed Ordinance since the May 20, 2015 Planning Commission version as noted by strikethrough or underlined text. (Some minor formatting or grammatical changes not included here)

Page 2:

WHEREAS, despite the state's efforts to limit youth access to tobacco, minors are still able to access cigarettes, as evidenced by the fact that ~~36.8 percent of high school students have smoked a whole cigarette by 14 years of age~~ at High Schools in the West Contra Costa Unified School District, 19 percent of seniors have smoked a whole cigarette;ⁱ and in California, 64 percent of adult smokers started by the age of 18;ⁱⁱ and

Page 3:

WHEREAS, the U.S. Centers for Disease Control and Prevention has reported current e-cigarette use (use on at least 1 day in the past 30 days) among high school students increased from 4.5 percent in 2013 to 13.4 percent in 2014, rising from approximately 660,000 to 2 million students. Among middle school students, current e-cigarette use more than tripled from 1.1 percent in 2013 to 3.9 percent in 2014—an increase from approximately 120,000 to 450,000 students;ⁱⁱⁱ ~~that electronic cigarette use among middle and high school students doubled from 2011 to 2012 and~~

Page 4:

WHEREAS, over ~~100~~ 148 cities and counties in California have passed tobacco retailer licensing ordinances in an effort to stop minors from using tobacco;^{iv} and

Page 7:

Re-numbered definition list

Page 9 :

O. "Significant Tobacco Retail Establishment" means any tobacco retail business for which the principal or core business is selling tobacco products, smoking paraphernalia, or both, as evidenced by any one of the following: ...

Page 10:

6.100.120 Minimum Age For Persons Selling Tobacco. No person who is younger than the minimum age established by state law for the purchase or possession of tobacco products shall engage in ~~tobacco retailing~~ the sales transaction of tobacco products.

Page 10:

6.100.140 Self-Service Displays Prohibited. Tobacco retailing, including sales of any tobacco product, electronic smoking device, or smoking paraphernalia, by means of a self-service display is prohibited.

Page 10:

6.100.160 Flavored Tobacco Products Prohibited. ~~No person engaged in tobacco retailing, or~~ tobacco retailer, nor any of the licensee's retailer's agents or employees, shall sell or offer

for sale, or to possess with intent to sell or offer for sale, any imitation tobacco products or flavored tobacco product.

Page 11

6.100.180 Single And Small-Pack Cigars Prohibited. ~~No person engaged in tobacco retailing, or~~ tobacco retailer, nor any of the licensee's retailer's agents or employees, shall sell or offer for sale, or to possess with intent to sell or offer for sale: ...

Page 11

6.100.200 Original Labeling And Packaging. Every tobacco retailer shall maintain on the premises the original labeling and packaging provided by the manufacturer for all tobacco products that are sold or offered for sale by the ~~establishment~~ retailer separately from the original packaging designed for retail sale to the consumer. The original labeling and packaging from which the contents are sold separately shall be maintained during such time as the contents of the package are offered for sale, and may be disposed of upon the sale of the entire contents of such package.

Page 11

6.100.220 No Tobacco Product Or Electronic Smoking Device Use On Premises. No retailer shall operate a smoking lounge, or any facility, building, structure or location, where customers consume any amount of tobacco product, or where customers use an electronic smoking device or other apparatus to deliver an inhaled dose of nicotine or other substance.

Page 11

6.100.280 False And Misleading Advertising Prohibited. ~~A tobacco retailer~~ person selling tobacco products without a valid tobacco retailer license or a ~~proprietor~~ licensee whose privilege to sell tobacco has been suspended or revoked: ...

Page 12:

6.100.300 Drug Paraphernalia Laws. It shall be a violation of this chapter for any retailer or any of the retailer's agents or employees to violate any local, state, or federal law regulating controlled substances or drug paraphernalia, such as, for example, California Health and Safety Code section 11364.7, except that conduct authorized pursuant to the state Medical Marijuana Program (California Health and Safety Code sections 11362.7 et seq.) shall not be a violation of this chapter.

Page 12:

6.100.320 Significant Tobacco Retail Establishments Prohibited. No tobacco retailer shall operate as a "significant tobacco retail establishment."

1. No license for a tobacco retail establishment may be issued if the retailer intends to operate a significant tobacco retail establishment.
2. No tobacco retailer may utilize more than twenty percent (20%) of the store display area for tobacco products, smoking paraphernalia or both.
3. No tobacco retailer may derive fifty percent (50%) or more of gross receipts from tobacco products, smoking paraphernalia, or both.

Existing tobacco retailers operating at the time this ~~ordinance~~ chapter goes into effect may seek an exception to this section for up to ten (10 years) by demonstrating that use of a larger

display area or percentage of gross sales-receipts preceded the effective date of this Ordinance chapter. The tobacco retailer shall make this showing to the satisfaction of the City. Such tobacco retailers will be allowed to continue to devote the same amount of display area and/or receive up to the same percent of gross sales receipts from tobacco products as demonstrated so long as:

1. A tobacco retailer license and exception to this section are obtained in a timely manner;
2. The tobacco retailer is not closed for business or otherwise suspends tobacco retailing for more than sixty (60) consecutive days;
3. The tobacco retailer does not substantially change the business premises or business operation, as determined by the City;
4. The tobacco retailer does not increase the percent of display area and/or gross sales receipts beyond that store's previously declared percentages, or the aforementioned limits, whichever is greater;
5. The tobacco retailer does not receive three or more citations for any reason within a five year period;

6. The tobacco retailer retains the right to operate under other applicable laws.

This exception will sunset ten (10) years from adoption of this ordinance.

Page 12-13:

6.100.340 Consideration For Existing Retailers. Existing tobacco retailers have 24 months from adoption of this ordinance chapter to comply with sections 6.100.120 through 6.100.200 inclusive so long as:

1. The tobacco retailer license is obtained and renewed annually in a timely manner. The license will be considered delinquent if payment is past due by more than 30 days.~~within this extension period.~~
2. The tobacco retailer is not closed for business or otherwise suspends tobacco retailing for more than sixty (60) consecutive days.
3. The tobacco retailer does not substantially change the business premises or business operation.
4. The tobacco retailer does not receive three or more violations within a twenty-four month period. And;
5. The tobacco retailer retains the right to operate under other applicable laws.

Page13:

6.100.360 Smoking Lounges Prohibited. A Cigar lounge, hookah bar, vape bar or similar establishment is prohibited in the City of El Cerrito.

Page 13:

6.100.360 Schools And Youth-Populated Areas. ... EXCEPTION: Tobacco retailers operating at the time this chapter goes into effect may remain in their current location. In addition, if, within ten (10) years of adoption of this ordinance, such businesses are sold in an arm's length transaction, as determined by the City, the location exception will continue to apply to the new ~~proprietor~~ owner.

Page 13:

6.100.380... EXCEPTIONS: Tobacco retailers operating at the time this chapter goes into effect may remain in their current location. In addition, if, within ten (10) years of adoption of this ordinance, such businesses are sold in an arm's length transaction, as determined by the City, the location exception will continue to apply to the new ~~proprietor~~ owner.

1. Any new retailer may request an exception to this section 6.100.04.020. If the body of approval is the Planning Commission, they they will hear the exception request; If the Planning Commission is not the body of approval for the use, the Zoning Administrator will hear the exception request at an administrative hearing. ~~The request will be reviewed and decided by the body that approves the use or other required permission.~~ In making a decision on an exception, the approving body will consider whether there are specific economic, legal, social, environmental or other benefits of the proposed retail operation that will outweigh the harms....

Page 14:

6.100.420 Issuance Procedure.... 4. The location for which a tobacco retailer license is sought lacks a valid state tobacco retailer license issued by the California Board of Equalization.

Page 15:

6.100.500 Licenses Nontransferable.

A. A tobacco retailer license may not be transferred from one person to another or from one location to another. A new tobacco retailer license is required whenever a tobacco retailing business has a change in ~~proprietor~~ owner(s).

B. Notwithstanding any other provision of this chapter, prior violations at a location shall continue to be counted against a location and license ineligibility periods shall continue to apply to a location unless:

1. The location has been transferred to new owner(s) in an arm's length transaction; and
2. The new ~~proprietor~~ owner(s) provide the City with ~~clear and~~ convincing evidence that the new ~~proprietor~~ owner(s) have acquired or are acquiring the location in an arm's length transaction.

Page 15:

6.100.540 Fee For License. The fees for the annual tobacco retailer license shall be established by the City Council and included in the City's Master Fee Schedule. Fees are payable at the time the ~~establishment~~ retailer obtains or renews its business license. The fee shall be calculated so as to recover the cost of administration and enforcement of this chapter, including, for example, issuing a license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and enforcement, but shall not exceed the cost of the regulatory program authorized by this chapter. Annual fees shall not be pro-rated or refunded during the course of the year. Upon adoption of this chapter, the following fees will be included in the City's Master Fee Schedule as amended by council resolution and reviewed annually thereafter:

~~\$485~~ ~~\$577~~ for tobacco retailer license (initial license)

~~\$439~~ ~~\$533~~ for tobacco retailer license renewal

The City may charge a re-inspection fee to offset the additional staff time required to handle non-compliant businesses. Additional inspections will be billed based on actual costs incurred.

To encourage compliance in a timely manner, ~~existing~~ tobacco retailers operating at the time this chapter is adopted who are able to demonstrate full compliance with ~~this ordinance~~ Article 2 (Requirements and Prohibitions) of this chapter at the time of initial application for a tobacco retailer license shall have the license fee for the first year reduced by 50%. Tobacco retailers operating at the time this chapter is adopted who are able to demonstrate full compliance with ~~this ordinance~~ Article 2 of this chapter at the time of license renewal in 2016 shall have that year's license renewal fee reduced by 25%.

Page 15:

6.100.600 The City's Police Department shall develop and carry out inspections, ~~including a "youth decoy" program~~ in an effort to enforce any local, state or federal law related to tobacco sales, especially those related to a minimum age for tobacco purchases or possession.

Page 20:

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect on ~~December 1, 2015.~~ January 1, 2016.

NEW FOOTNOTES:

ⁱ West Contra Costa Unified School District. California Healthy Kids Survey, 2014-15: Main Report. San Francisco: WestEd Health & Human Development Program for the California Department of Education., http://www.wccusd.net/cms/lib03/CA01001466/Centricity/Domain/11/West_Contra_Costa_Unified_1415_Sec_CHKS.pdf

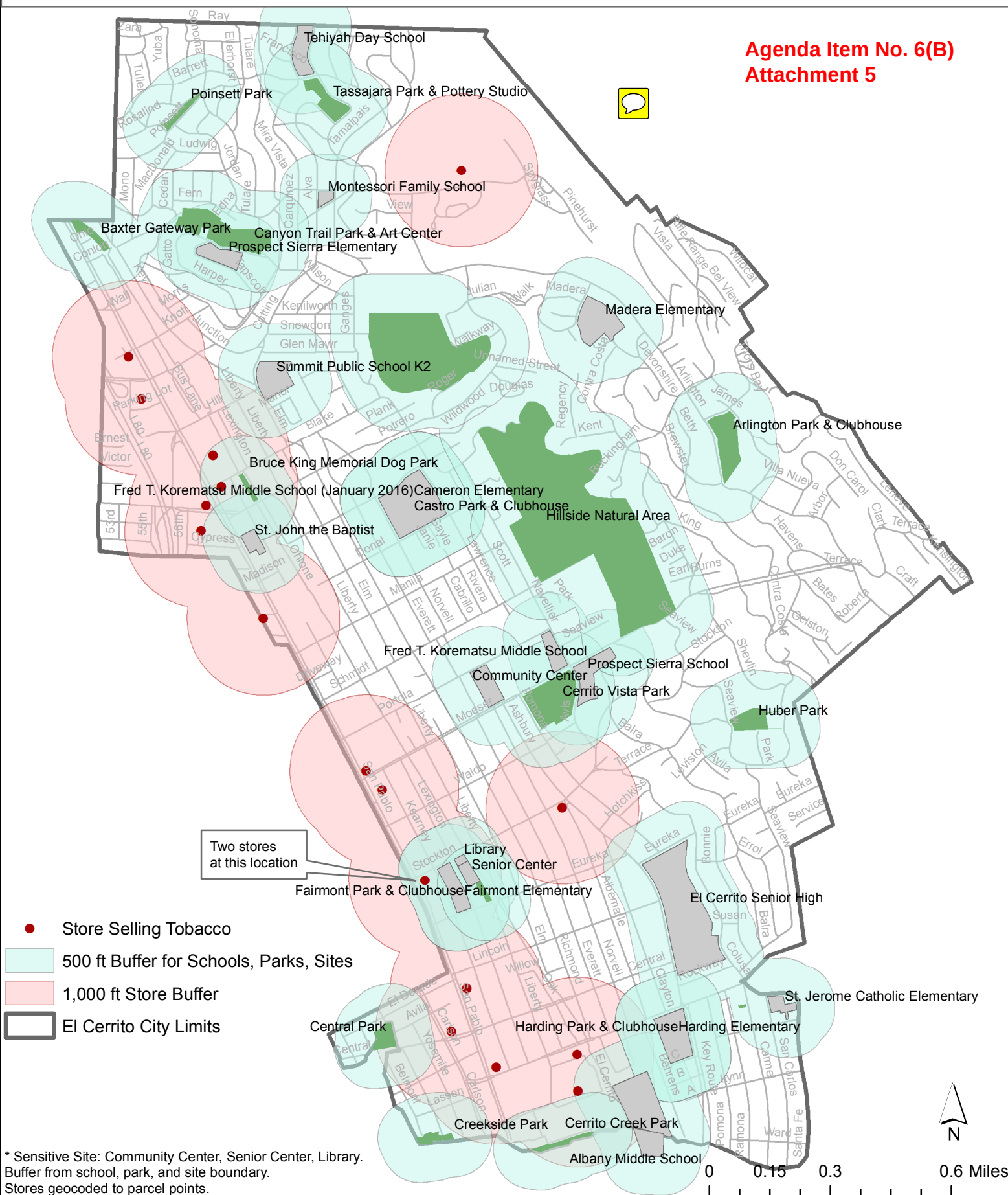
ⁱⁱ Chapman, R. 2012. *State Health Officer's Report on Tobacco Use and Promotion in California*. California Department of Public Health, California Tobacco Control Program, p. 6, www.cdph.ca.gov/Documents/EMBARGOED%20State%20Health%20Officers%20Report%20on%20Tobacco.pdf

ⁱⁱⁱ Centers for Disease Control & Prevention. April 17, 2015. "Tobacco Use Among Middle and High School Students — United States, 2011–2014," *Morbidity and Mortality Weekly Report (MMWR)* 64(14);381-385 http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6414a3.htm?s_cid=mm6414a3_w

^{iv} American Nonsmokers' Rights Foundation. 2012. *California Municipalities with Laws Restricting Youth Access to Tobacco*, <http://changelabsolutions.org/publications/anrf-list>

El Cerrito: Stores Selling Tobacco by Proximity to Schools, Parks, and Youth Sensitive Sites*, 2014

**Agenda Item No. 6(B)
Attachment 5**



Summary of Technical Assistance Resources

Contra Costa SBDC

Staff spoke with Oscar Dominguez, Director of the Contra Costa Small Business Development Center (or “Contra Costa SBDC”). Contra Costa SBDC could offer a workshop in El Cerrito to introduce tobacco retailers to their services and assist retailers with the online registration process to receive 1:1 advising services at no cost to the retailer.

Tobacco retailers interested in the individualized advising services would be assessed for the potential to achieve economic impact (such as job retention) in the next 6-12 months, then a Scope of Work would be developed for individualized services. The expectation is that for every hour the Center invests in a project, the retailer will work approximately 5 hours. For example, the retailer should plan to spend 25 hours working on their goals (such as a business plan to diversify products sold) in exchange for five hours of individual consulting. It is likely the consulting sessions could be held in El Cerrito for the convenience of the business owner. The Contra Costa SBDC advising services are available to small businesses, such as businesses with less 500 employees and less than \$15M annual revenue.

More information about applying for advising services with Contra Costa SBDC is available on their website: <http://contracostasbdc.org/node/20289>

Renaissance Entrepreneurship Center

Staff spoke with Bret Sweet, Program Manager at the Renaissance Entrepreneurship Center (www.rencenter.org). The Renaissance Entrepreneurship Center is a non-profit that works to increase the entrepreneurial capacities individuals, and thereby strengthen communities through the creation of sustainable new businesses, new jobs, and the promotion of financial self-sufficiency.

They offer classes, workshop and 1:1 consulting in Richmond. Their beginner class, “Start Smart” is a 4 week program (12 hours) and costs \$120 with financially-based scholarships available. Their intermediate class, “Business Prep” is a nine week program (27 hours) and costs \$240 with financially-based scholarships available. They also offer workshops for advanced entrepreneurs (people who have launched their business) ranging from Quickbooks to ecommerce to social media marketing.

The Renaissance Entrepreneurship Center would be willing to partner with the City to provide specialized curriculum for tobacco retailers, or offer their classes to a cohort of tobacco retailers if there was interest.

Entrepreneur Training Program with Jeff Hall

Staff spoke with Jeff Hall (www.JeffreyGHall.com). The City has contracted with Mr. Hall five times to run an Entrepreneur Training Program, an 11 week program providing entrepreneurial skills and development of a business plan. The cost of the program is \$5000 for the City, plus \$300 per participant. The session could be limited to tobacco retailers or open to other El Cerrito businesses as well.