



# CITY OF MILPITAS

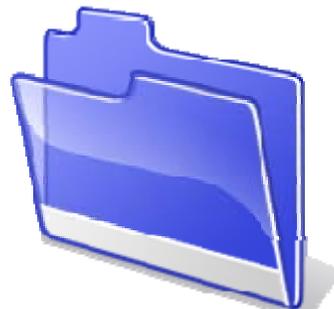
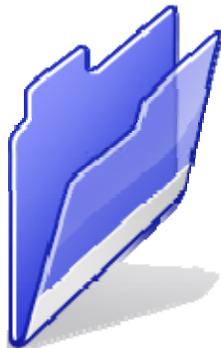
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02/07/2012

Agenda Item No. 2



## ATTACHMENTS AND/OR ADDITIONAL MATERIALS RELATED TO AGENDA ITEM AFTER AGENDA PACKET DISTRIBUTION





**CITY COUNCIL  
TRANSPORTATION &  
LAND USE  
SUBCOMMITTEE  
Unapproved Meeting  
Minutes**

**Date/Time:** Tuesday, January 24, 2012, 6:00 pm

**Where:** City Hall Committee Conference Room

**Attendants:** Council Member Gomez (Chair), Council Member Polanski,

*Quorum was established*

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**1. Call to order**

The meeting was called to order at 6:00 pm.

**2. Public Forum *Please limit comments to 3 minutes***

*There were no comments during Public Forum*

**3. Approval of Agenda & Minutes\***

*The agenda and minutes were approved.*

**4. Announcements**

*The Subcommittee did not have any announcements.*

**5. Old Business**

**A. Receive Testimony and Discussion Regarding Medical Marijuana Facilities**

Chair Gomez informed Councilmember Polanski he had requested staff to compile, in memo format, suggestions on various land use recommendations. He reviewed the previous steps outlined in August, land use, regulations, taxation, outreach and details regarding a ballot initiative. He requested staff to put these items in a work plan. He asked the land use recommendations be discussed.

Acting Director Diana Barnhart introduced Assistant Planner Janice Spuller to present this item. Ms. Spuller reviewed a power point presentation. Land use recommendations and issues included:

- Quantity of allowable dispensaries- no more than 2
- On-site vs. Off-site cultivation
- Distance requirements prohibiting around sensitive uses such as: schools & child care facilities, residential neighborhoods, public facilities, and religious institutions. Ms. Spuller referred to two maps that illustrate a 1000' and 500 foot radius from these sensitive uses.

Ms. Spuller discussed additional land use regulations that can be incorporated such as hours of operation, lighting, signage, closed circuit TV, odor restrictions, on site consumption, and age requirements of employees.

Ms. Spuller presented the work plan which included this meeting's discussion on land use regulations; the February meeting on regulation and taxation and ballot measures; the March meeting to review the draft memo; and, the April City Council meeting for review and consideration.

Ms. Barnhart summarized the recommendations described in the memo. She stated the Highway Services zoning is the recommended location for the medical marijuana] facilities. With the sensitive receptors, the city is limited to this zoning area. Ms. Spuller referred to the maps where Highway Services are located. Councilmember Polanski pointed out industrial areas. Ms. Barnhart stated there can be exceptions to the zoning to consider the industrial areas because the numbers of dispensaries are limited.

Councilmember Polanski said the Highway Services area would make sense for one dispensary. She added that looking at the 1000' buffer, Industrial zoning can also be another location for dispensaries should the Council decide on having two in Milpitas.

Ms. Spuller offered that off- and on-site cultivation can be recommended with regulation. Producing on-site can be limited by square footage, quantity of plants, and can be in or outdoor of the property.

Chair Gomez asked if the hesitation towards industrial zones were job-based, employers, and/or office space? Ms. Barnhart agreed.

Chair Gomez asked why the dispensary in San Jose works and is in an industrial zoning. Ms. Barnhart stated staff is determining if the interpretation of cultivation is factory versus agriculture. Ms. Barnhart stated staff will actually visit a site to see the operation.

Ms. Spuller addressed Chair Gomez's questions about permitting. After reviewing with the City Attorney's office, staff recommends not requiring permitting. Some examples of approval process from other Cities are approval through staff through the City Manager's or City Clerk's office, Police Departments, and zoning administrator to name a few. Chair Gomez stated you can not necessary permit these facilities by Federal Law, but there needs to be a public process. Ms. Barnhart stated staff is providing information and desires the Subcommittee direction on how to proceed with the preferred process.

Chair Gomez asked about transferability. Ms. Spuller stated when a permit is issued or approved, it stays with the parcel, and should the business move, a new permit is required. However with this type of facility, if transferability is desired, then this is (or could be) included in the regulations.

Ms. Barnhart indicated that the Subcommittee, at its next meeting, can discuss costs associated with regulation and create a more formal recommendation on how to administer this matter.

Councilmember Polanski concurred that if there are two [dispensaries], they should be spaced 1000' apart. Also agreed no more than two [dispensaries]. Ms. Spuller clarified if the preferred buffer is 1000'. Chair Gomez agreed the 1000' buffer is more appropriate.

Chair Gomez confirmed if the meeting once a month will get the Subcommittee to the April meeting. Ms. Barnhart concurred with once a month..

Chair Gomez opened this item for public forum.

Rob Means, 1421 Yellowstone, stated he is glad to see this item moving forward even though the populace was requesting this 10 years ago. He asked if there really is a problem with using marijuana knowing it is fine as a medicinal drug, but as a recreational drug. He suggests heavily regulating and legalizing it and gets similar results as other countries and other pharmaceutical drugs. He discussed new names for the medicine that are market tested. He referred to a letter he received with statistics on causing more health problems on criminalized rules for drugs rather than decriminalizing it and regulating. If you decriminalize and regulate it, things seem to go well. He thanked the Subcommittee for the work they are doing.

#### **B. Tobacco Prevention Policies Discussion**

Chair Gomez asked if staff performed any more research. Ms. Barnhart stated staff has not done any further research.

Chair Gomez opened the public forum.

Dr. Roger Kennedy, chair of the tobacco free coalition for Santa Clara County, thanked the Subcommittee for having them back. He addressed the recreation department. He displayed two full containers of cigarette butts that were collected in one hour's time at a local park. He discussed the risk of children eating them. He stated San Jose has a ban on smoking in parks, showing a container with less cigarette butts due to the ban.

In regards to tobacco retail licensing and referred to his experience as an internal medicine doctor. He said a life-saving intervention is to not having a kid start smoking. He said the coalition is working really hard to not smoke. He stated it is really easy for kids to get cigarettes from convenience store. He discussed statistics of childhood addiction to cigarettes. He stated there needs to be more accountability for merchants.

Vanessa Marvin, employee of the American Lung Association and member of Healthy Milpitas Coalition. They are working on smoke free parks, dining, and tobacco retail licensing. They have endorsements (shared with staff) from the Parks and Recreation and Cultural Resources commission as well as reached out at community meetings, health fairs, Milpitas library on their campaign. This is an instance where the government is not doing enough to prevent children from purchasing cigarettes. Outdoor smoking can create health issues with those who have asthma. She urged the Subcommittee to continue work on this.

Shi Yeng from Breathe California, a local non-profit, discussed smoke-free outdoor dining. Out of the 217 restaurants in Milpitas, 1/5 of restaurants have outdoor areas and half of them allow outdoor smoking. She discussed second hand smoke and how it is extremely harmful to children who are more likely to have bronchitis, asthma, irritation to eyes and ears. She stated outdoor smoking can sometimes equal indoor smoking in particulate air pollution. The public is supportive of outdoor dining restriction, with 70% of Californians and 80% Santa Clara residents feel this should be banned immediately.

The Subcommittee directed staff to work on this project.

### **C. Update on Possible Moratorium on Land Use Conversions for Residential Development**

Ms. Barnhart reviewed a power point presentation on land use conversions and provided a memo to the Subcommittee on the history of this item. Staff was hearing a lot about potentials for conversion of industrial areas for housing. The big issue was sewer capacity. In 2006 and 2009, the City purchased enough capacity from other agencies to provide for the buildout of the Transit Area and Midtown Specific Plan areas. For every acre of residentially zoned property (R2) it requires 8,500 gallons per day, R4, a higher density, requires 12,000 gallons per day, where industrial generates 400-600 gallons per day per acre. Changing land use is a significant hit on sewer capacity.

At build out in the Transit Area, 7,100 dwelling units and Midtown, 2800 units are anticipated. In the past few months, the City Council approved 2,700 units in the Transit Area. In the Midtown, 2,200 residential units are constructed: Terra Serena, Terra Luna and Paragon projects. There are 318 units under construction with Lyons, 204 units with Shea development, and coming forward South Main Senior Lifestyles development.

At this point, Ms. Barnhart reviewed the 6 acre site once the Ooh La Lodge and Mobile Home Park, which calls for 380 dwelling units plus street amenities. The City purchased the property just north of this site. The developer has an option on two parcels between the City parcels to expand the project. He requested City assistance to proceed. Staff supports this request, as a project of the Milpitas Economic Development Corporation (EDC), as it furthers the implementation of the Midtown Plan, providing 500-600 more dwelling units.

Ms. Barnhart requested, if the Subcommittee agrees, to move forward to purchase through the Economic Development Corporation for additional housing development. City Manager Tom Williams added that in order to build out Main Street, they use the EDC money to acquire the land and use it as an asset and leverage its investment. He restated redevelopment is no longer available.

Ms. Barnhart discussed conversions and gave the examples of Fairfield Murphy Ranch, in construction which is 600 units, and Landmark Towers, 3 acres with numerous units, and Los Coches Avenue near Sinclair Frontage to the old Read Rite building, 50 acres rezoned from industrial to Town Center, allowing for residential development. The City has reacted to many interests for conversions.

Staff recommends proceed with the moratorium to prevent additional conversions.

### **6. New Business**

Ms. Barnhart discussed all items under New Business along with Item 5C. Items 6A & 6B were discussed together as they are both Industrial Land Use Conversions. Items 6C & 6D were then discussed as they are on the same property. A discussion and direction from the Subcommittee on all items from 5C – 6D are summarized at the very end collectively.

#### **A. Preston Pipeline Residential Development Proposal (KB Homes)**

#### **B. CA Circle Residential Development Proposal (Trumark)**

#### **C. Read Rite Single Family Residential Proposal (Braddock & Logan)**

#### **D. Los Coches Single Family Residential Proposal (Doyle Heaton)**

Ms. Barnhart discussed the technical planning issues associated with the location of the Preston Pipeline Project. Staff accepted the application to allow them to present to the Council.

Ms. Barnhart then discussed the CA Circle requiring a conversion from industrial to residential. Staff can support a conversion for the east side of California Circle and recognized a mixed use zoning with complementary uses. Trumark has an application in for preliminary review.

Ms. Barnhart stated the two projects that would be considered for the land use conversion. I did?

Ms. Barnhart reviewed this project located south of Calaveras Boulevard, west of Milpitas Boulevard, and north of Los Coches. This project is a single family residential project request.

Ms. Barnhart stated this is a single family proposal, which the City envisioned a higher density. Mr. Doyle Heaton is the developer of the proposal on the corner of Los Coches and Milpitas Boulevard. Staff recommended that this project would work better if combined with the property owned by Braddock & Logan.

Staff concern was the need for retail on Milpitas Boulevard. Ms. Barnhart stated the vision has always been for high density however the market has changed. She asked what the Subcommittee thought about these projects.

Councilmember Polanski stated her concern about all these implications of long term costs to the City these projects will have with the absence of redevelopment; specifically, what can we do relative to taking care of infrastructure, parks, streets, and public safety issues? She asked if there are options the City can utilize if we do these conversions, so that the homeowners are responsible for some of that. Mr. Williams stated they can require the formation of a Homeowners Association and also they started a Community Facilities District (CFD) that requires an in lieu fee for a revenue stream for street maintenance, lighting, and infrastructure maintenance. The newest CFD was adopted in 2008 which includes public safety. Ms. Barnhart stated it is about \$500.00 per unit.

Mr. Williams stated the zoning for the Los Coches/Milpitas Boulevard projects are permitted, however the ones at Preston and California Circle require a General Plan land use amendment.

Council Member Polanski stated her other concern is jobs-housing balance. She is not as concerned about retail in the [Los Coches area], because there is the Town Center and the Serra Center, which she is hoping for something, and noted McCarthy is almost dead, how will retail help at this project site. Mr. Williams clarified it is more commercial than retail, and would rather have this instead of 7 homes along the boulevard, which might seem awkward. Mr. Williams stated staff will work with the owners on the site planning.

Council Member Polanski directed her attention to the developers and owners and stated her concern of the loss of redevelopment that they move forward in the best interest of the City, continuing the balance to provide services for the community.

Chair Gomez agreed with Council Member Polanski and added he does not know what the City will look like after the City Manager brings forward the \$8 million budget cuts. He needs to know what the impacts are on the current residents. Mr. Williams clarified \$7 million is staffing cuts plus \$7-10 million in annual capital improvement program cuts, leaving the city at about \$18 million cuts. Council Member Gomez asked about a cursory review, not a full General Plan review, looking at the jobs-housing balance; updating the plan; and, process timeframe. Mr. Williams stated it would be a 6 month process to look at the General Plan and perform fiscal impact analysis based on number of rooftops and what that is on a per capita cost basis to maintain the residential population weighed against new rooftops and buying power to strengthen retail and commercial base.

The Subcommittee found this reasonable and the purpose of the moratorium on land use conversions.

Council Member Polanski stated when the other housing conversions were approved; she voted "no" based on where they were located and her concerns then about the services.

Mr. Williams stated if there was true interest from the development community, they would assist in paying for the [General Plan/Fiscal Impact] study and work hand in hand to create the project. If they are not willing to assist, then it would be telling in itself, per Mr. Williams

Mr. Williams summarized to proceed with the moratorium, but stated the Preston Pipelines and California Circle projects are already in the application process. He asked if the projects in process should be included in the moratorium, or be exempt.

Chair Gomez asked what the status is of the projects. Mr. Williams stated Preston Pipelines is doing analysis right now, with an estimated 3 month time. He is unsure about the California Circle project. Chair Gomez debated if Preston Pipelines should be its own village or an extension of Midtown.

There was a discussion on current approved and in-progress projects within the City.

Chair Gomez opened the item for public forum.

Chris Davenport from Trumark Companies requested clarity on the Subcommittee recommendation. This is Trumark's second project in the City. In regards to CA Circle, Trumark made commitments with the seller to go forward to bring this opportunity to this area of the City of Milpitas. He urged the Subcommittee to consider because they are further along in the project. They have firm hard dates based on entitlement schedules Trumark anticipates on getting approved.

Council Member Polanski stated they can proceed but there is no guarantee what could happen when reviewed. Mr. Davenport agreed.

Doug Heaton spoke for the Los Coches site, and wanted confirmation they are out of the moratorium because they have the Town Center zoning, 1-40 units per acre. There was talk about higher density. He showed a list of 4,000 units approved for multi-family condos and apartments. He stated some are being built and some are not. He stated

what works for this location is higher density, single family detached housing. He said retail is not economical of the site.

Doyle Heaton, also the father of the previous speaker, in support of the Los Coches site, also confirmed their zoning allows for the single family housing and made sure they are not part of the moratorium.

Eldon Shreve, 702 Wessex Place, Milpitas. He is a resident of Milpitas over 50 years and discussed the schools he attended and the changes in the town. He is the managing member of 375 Los Coches. JDS Uniphase was their tenant for many years, though they have vacant for many years, and they have maintained the building. He was first unsure of the rezone of the Los Coches to Town Center, but now feels this is a good opportunity for the City and himself. He is concerned the property of Read Rite is not maintained. It is difficult to keep a tenant ready with the deterioration of the party. He does feel it is important for the single family. It will look a lot better than what he sees now. If we don't entertain this use, what will we do? He strongly supports the project and would like to see it move forward.

Jeff Lawrence with Braddock and Logan stated he is in discussion with the Heaton, the Read Rite owner and iStarr, another property owner in the area. As redevelopment is a big blow to a lot of cities and potentially good projects, it also allows cities and developers to rethink mixed-use and high density projects. One interesting point of high density, that the real estate community is beginning to understand, is that there is a \$500-800 per month HOA assessment for these projects. He referred to a high-density project in Dublin, California, where people from this area are moving from high density residential to single family homes. He also alluded to higher test scores for schools. He indicated that he considered the Preston site, but did not pursue it, stating there were a lot of issues such as the railroad as the stumbling block. He agreed that the transit area makes sense for higher densities. He has built high density single family near I-680. This site is getting more and more unsightly and this project would benefit greatly from this single family high density project. A market study the sales prices would be around the low \$700,000s.

Mr. Williams stated the fiscal impact is all discretionary permit and staff can require the developers to perform a fiscal analysis study.

Chair Gomez confirmed the General Plan process has to go through the City Council for approval. Mr. Williams stated yes.

Ms. Barnhart summarized there will be a 6 month moratorium, with the two projects (Preston Pipelines and California Circle) exempt from the moratorium. If more time is needed, then staff will go to Council to extend the moratorium. South Main Street Lifestyles will be reviewed during close session by the City Council.

The Subcommittee agreed with the recommendations summarized by Ms. Barnhart.

## **7. Other Business**

Ms. Barnhart confirmed the time for meeting at 5:00 pm. Ms. Barnhart stated staff will review agenda items so they are not too full of heavy items.

## **8. Adjourn**

*The meeting adjourned at 7:32 pm.*

## LAW OFFICES OF DANIEL A. MULLER

Daniel A. Muller  
direct: (925) 609-4326  
e-mail: dmuller@muller-law.com

February 6, 2012

**VIA E-MAIL**

Mary Lavelle ([mlavelle@ci.milpitas.ca.gov](mailto:mlavelle@ci.milpitas.ca.gov))  
Diana Barnhart ([dbarnhart@ci.milpitas.ca.gov](mailto:dbarnhart@ci.milpitas.ca.gov))

Mayor Jose Esteves, and Members of the City Council  
City of Milpitas  
455 East Calaveras Boulevard  
Milpitas, California 95035

**RE: Interim Urgency Ordinance Establishing a Moratorium on  
Conversion of Certain Industrial/Commercial Zones to  
Residential Zones (Agenda for 2/7/12, Item XIV.2)**

Dear Mayor Esteves, and Members of the City Council:

Thank you for the opportunity to provide comments and concerns regarding the Interim Urgency Ordinance proposing to establish a Moratorium on Conversion of Certain Industrial/Commercial Zones to Residential Zones ("Moratorium"). Our firm is an associate member of local and state Building Industry associations, and represents various property owners, residential and non-residential developers, and other construction-related entities. While we appreciate the information provided by City staff, we are concerned that adopting a Moratorium would unnecessarily discourage ongoing capital investment in commercial and industrial properties during the life of the moratorium, and beyond.

Therefore, we respectfully request that you take no action on Interim Urgency Ordinance No. 38.801 and Non-urgency Ordinance No. 38.802. The City's current flexible approach regarding conversion proposals does not insure that any one conversion proposal will be approved. By simply allowing the consideration of re-zone submittals (without a Moratorium) the City can reasonably reduce the risk to potential economic investment in commercial and industrial areas throughout the City.

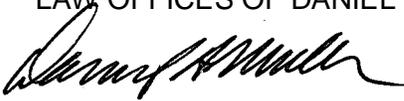
The idea of a moratorium, even with a defined duration (135 days or 6-months), has a significant, negative meaning to the banking community. It not only puts housing submittals on hold, but can stall economic opportunities for existing owners and tenants and have a negative impact on property values. The City has its Zoning Code, the General Plan, and Specific Plans to review the projected jobs and housing balance and help identify the investment risk of any proposal located in the City. The City can discourage industrial and commercial rezoning without a Moratorium. These proposals are harder to entitle and hold greater risk to the project applicant. The City can discourage these projects at the staff level during initial scoping and also at the Planning Commission and City Council level. By

allowing the option of considering a rezoning application, the City encourages creativity in the design and location of residential projects, without negatively affecting existing commercial and industrial land owners or discouraging new economic investment.

We are just starting to see projects move forward in the land development pipeline. Banks have recently started to approve project financing on residential plans with phased financial risk. Approving the proposed Moratorium will halt residential rezoning applications, but may add risk to purchasing and developing commercial and industrial parcels in the City. We urge you to vote no on Interim Urgency Ordinance No. 38.801 and the Non-Urgency Ordinance No.38.802.

Very truly yours,

LAW OFFICES OF DANIEL A. MULLER

A handwritten signature in black ink, appearing to read "Daniel A. Muller", written in a cursive style.

Daniel A. Muller

February 6, 2012



Mayor Jose Esteves and City Councilmembers  
City of Milpitas  
455 East Calaveras Boulevard  
Milpitas, California 95035

Transmitted Via Email: Mary Lavelle ([mlavelle@ci.milpitas.ca.gov](mailto:mlavelle@ci.milpitas.ca.gov)) and Diana Barnhart ([dbarnhart@ci.milpitas.ca.gov](mailto:dbarnhart@ci.milpitas.ca.gov))

**RE: Comment Letter: Interim Urgency Ordinance Establishing a Moratorium on Conversion of Certain Industrial/Commercial Zones to Residential Zones (Agenda 2/7/12, Item XIV.2)**

Dear Mayor and Councilmembers:

Thank you for the opportunity to provide comments and concerns regarding the Interim Urgency Ordinance establishing a Moratorium on Conversion of Certain Industrial/Commercial Zones to Residential Zones. While we appreciate the information provided by staff we remain concerned that the adoption of an Interim Conversion Moratorium (Moratorium) would discourage capital investment in commercial and industrial properties for the life of the moratorium and beyond.

We respectfully ask that you take no action on Interim Urgency Ordinance No. 38.801 and Non-urgency Ordinance No. 38.802. The City's current flexibility of allowing conversion proposals does not insure that any one conversion proposal will be approved. However by simply allowing the consideration of re-zone submittals (without a Moratorium) the City can reduce the risk to potential economic investment in commercial and industrial area throughout the City of Milpitas.

The idea of a moratorium, even with a defined duration (135 days or 6-months), has a significant meaning to the banking community. The proposed Moratorium not only puts housing submittals on hold but can stall economic opportunities for existing owners and tenants and have a negative impact on property values. The City has Zoning Code, the General Plan, and Specific Plans to review the projected jobs and housing balance and help identify the investment risk of any proposal located in the City of Milpitas. The City can discourage industrial and commercial rezoning without a Moratorium, these proposals are harder to entitle and hold greater risk to the project applicant. The City can discourage these projects at the staff level during initial scoping and also at the Planning Commission and City Council level. But by allowing the option of considering a rezoning application you encourage creativity in the design and location of residential projects, without negatively affecting existing commercial and industrial land owners or discouraging new economic investment.

We are just starting to see projects move forward in the land development pipeline. Banks have recently started to approve project financing on residential plans with phased financial risk. Approving the proposed Moratorium will halt residential re-zone applications, but the Moratorium may also add risk to purchasing and developing commercial and industrial parcels in the City of Milpitas. We urge you to vote no on Interim Urgency Ordinance No. 38.801 and the Non-Urgency Ordinance No.38.802.

Sincerely,  
Meritage Homes of California, Inc.

  
Josh Roden  
VP Land

1671 East Monte Vista Avenue, Suite 214  
Vacaville, CA 95688

p. 707.359.2000  
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February 7, 2012

Hon. Jose Esteves  
City of Milpitas  
455 East Calaveras Boulevard  
Milpitas, California 95035

**Via Email Only**

**RE:** *Interim Urgency Ordinance Establishing a Moratorium on Conversion of Certain Industrial and/or Commercial Zones to Residential Zones (Agenda 2/7/12, Item XIV #2)*

Dear Mayor Esteves and Councilmembers:

The California Apartment Association, Tri-County Division (CAA Tri-County) which represents over 3,000 owners, managers, and developers of residential rental property in Santa Clara, San Mateo, and Santa Cruz counties, appreciates the opportunity to comment on the proposed urgency ordinance establishing a moratorium on conversion of certain industrial and/or commercial zones to residential zones. CAA Tri-County opposes the proposed moratorium and continues to support flexibility for industrial and commercial land owners who submit creative revitalization proposals.

The term “moratorium” sends a distinct message to the business and investment community that they are not welcome in Milpitas. The proposed moratorium will have a negative effect on property values and new business opportunities. A moratorium not only puts housing applications on hold but can stall economic development and job creation. New companies will be discouraged by the uncertainty, and would be better served to invest their capitol in neighboring communities who are more open to economic development.

CAA Tri-County understands the need to balance jobs and housing. The changes in our economy demand more housing opportunities for the workforce and those who may have lost their homes because of the recession. Rental rates have increased over the past year because of an imbalance in the supply and demand for rental housing. The proposed ordinances will limit growth opportunities and make housing less affordable.

CAA Tri-County opposes to these ordinances and urges the Milpitas City Council to shy away from measures that will do nothing to increase jobs or stimulate the economy.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joshua Howard'.

Joshua Howard  
Executive Director  
CAA Tri-County

A handwritten signature in black ink, appearing to read 'Brad Speers'.

Brad Speers  
Public Affairs Manager  
CAA Tri-County

**Rachelle Currie**

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**From:** Mary Lavelle  
**Sent:** Tuesday, February 07, 2012 2:49 PM  
**To:** Rachelle Currie  
**Subject:** FW: Interim Urgency Ordinance  
**Importance:** High

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**From:** Tom Williams  
**Sent:** Tuesday, February 07, 2012 2:41 PM  
**To:** Mary Lavelle  
**Subject:** Interim Urgency Ordinance  
**Importance:** High

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**From:** Cary Matsuoka [mailto:CMatsuoka@musd.org]  
**Sent:** Tuesday, February 07, 2012 2:32 PM  
**To:** Armando Gomez; Althea Polanski; Debbie Giordano; Jose Esteves; Pete McHugh  
**Cc:** Tom Williams; Daniel Bobay; Danny Lau; Gunawan Alisantosa; Marsha Grilli; William Foulk  
**Subject:** Interim Urgency Ordinance  
**Importance:** High

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Dear Milpitas City Council members,

On behalf of the Milpitas Unified School District, I encourage you to adopt the proposed Interim Urgency Ordinance No. 38.801, establishing a moratorium on the conversion of industrial and commercial property to residential zones. In light of the enrollment growth predicted for MUSD, we believe it is appropriate for the city to study the impact of future property conversions on the city of Milpitas.

Cary Matsuoka  
Superintendent  
Milpitas Unified School District



February 6, 2012

Honorable Mayor Jose Esteves and Honorable City Councilmembers  
City of Milpitas  
455 East Calaveras Boulevard  
Milpitas, California 95035

**Via Email: Mary Lavelle ([mlavelle@ci.milpitas.ca.gov](mailto:mlavelle@ci.milpitas.ca.gov)) and Diana Barnhart ([dbarnhart@ci.milpitas.ca.gov](mailto:dbarnhart@ci.milpitas.ca.gov))**

**RE: Interim Urgency Ordinance Establishing a Moratorium on Conversion of Certain Industrial and/or Commercial Zones to Residential Zones (Agenda 2/7/12, Item XIV #2)**

Dear Honorable Mayor Esteves and Honorable Councilmembers:

On behalf of the Building Industry Association of the Bay Area (BIA) we appreciate the opportunity to provide comments regarding the Council's consideration of an Interim Ordinance establishing a Moratorium on Conversion of Certain Industrial and/or Commercial Zones to Residential Zones. At this time the BIA would urge you not to adopt an interim conversion moratorium; but instead continue to offer flexibility to industrial and commercial land owners to submit creative revitalization proposals for your consideration. The BIA's main concerns are;

- Adopting a moratorium, even for a well defined period (6-months), adds risk to any capital expenditure in Milpitas – industrial and commercial land value and investment could be negatively affected in the interim.
- The City has other tools at its disposal to discourage conversion applications, at the staff level and through the public approval and entitlement process.
- Concerns about project infrastructure capacity, utility supplies, and sewer capacity are identified through the entitlement process and CEQA analysis. If the city were to continue accepting projects, instead of adopting a moratorium, staff time to study and analyze these impacts would be paid by proposal applicants.
- The moratorium doesn't get to the core problem, why these conversions are attractive to builders when they carry additional cost and entitlement delay? What is it about the Specific Plan areas that may be acting as a deterrent?

The residential building community certainly understands that it is important that the city balance the need for housing and retail with commercial and industrial areas. Given the sluggish nature of our state-wide residential activity over the last 5 years we also acknowledge that recent interest in industrial/commercial conversions in Milpitas has raised concerns over processing additional rezoning applications and infrastructure needs. The BIA appreciates that the moratorium proposal has focused the scope to defined areas in the exhibit, and that the City will not apply the moratorium to applications which have already been submitted. We also appreciate that the proposed moratorium has been defined for a specific duration, six-months.

Mailing Address:  
150 Almaden Blvd., #1100  
San Jose, CA 95113

Tel (408) 961-8133  
[cgiles@biabayarea.org](mailto:cgiles@biabayarea.org)  
<http://www.biabayarea.org>

While the interim moratorium proposal is well defined in term length the label **moratorium** sends a distinct message to the capitol investment community and can have a negative effect on property value and attracting new business opportunities in the City of Milpitas.

A moratorium not only puts housing applications on hold but can stall economic development for existing owners and tenants while the six month clock starts ticking, risk is extended beyond the identified timeframe because the final outcome of the conversion study is unknown. New companies may be discouraged by the perceived uncertainty beyond the six month study timeframe, and would be better served to invest their capital in neighboring communities without adopted moratoriums.

While the BIA can identify with staffs concerns regarding project infrastructure capacity, utility supply, and sewer capacity, these impacts can be addressed by continuing to consider and review prospective proposals. The advantage to not adopting a moratorium is that staff time to study these impacts would be paid by the project applicants and examined through the entitlement process and CEQA analysis.

The City has many tools at its disposal that can discourage industrial and commercial rezoning without the unintended impact to potential capital investment and property values that a moratorium implies. These conversion applications can be discouraged at the staff level during the project scoping phase over the next six-months. Builders who consider rezoning projects already know they have a long road to hoe, added financial risk and increased time for project entitlements are just the beginning for these complicated applications. Builders don't consider these types of rezoning projects to burden the community or decision makers, projects like these pencil because they have a willing land seller and can attain the financial scrutiny of the lending community. These projects are subjected to a higher level of social and environmental review by the community, decision makers, and staff at every level. But by allowing the flexibility to consider these proposals without a moratorium Milpitas will continue to foster an atmosphere of innovation and creativity.

Approving a moratorium will certainly stall residential applications as intended, but given our unstable economic environment a moratorium would also add risk to purchasing and developing commercial and industrial parcels. We urge you to vote no on Interim Urgency Ordinance No. 38.801 and the Non-Urgency Ordinance No.38.802.

Thank you for your time and consideration. Please do not hesitate to contact me with any questions or comments.

Sincerely,

A handwritten signature in blue ink that reads "Crisand Giles". The signature is written in a cursive, flowing style.

Crisand Giles  
Executive Director  
925.360.5101 Cell  
[cgiles@biabayarea.org](mailto:cgiles@biabayarea.org)



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(408) 445-8500 • (408) 445-7766 • www.sccaor.com

February 7, 2012

Honorable Mayor Esteves and City Councilmembers  
City of Milpitas  
455 E. Calaveras Blvd.  
Milpitas, CA 95035

Re: Interim Urgency Ordinance Establishing a Moratorium (Agenda Item XIV #2 – 2/7/12)

Dear Honorable Mayor Esteves and City Councilmembers,

The Santa Clara County Association of REALTORS® (SCCAOR) represent close to 300 REALTORS® who base their business in the City of Milpitas. We would like to thank you for the opportunity to express our position on the proposed moratoriums before you tonight.

Moratoriums on development is the wrong course of action for Milpitas. In this time of recovering economic growth, cities must be more receptive to development. By effectively blocking all requests for rezoning for a combined six months, the City is sending a signal to future developers that the government in Milpitas isn't business friendly and it would effectively drive development elsewhere in the County.

The fact that the City requires a moratorium to have time to study the impacts of commercial/industrial land conversion signals the high demand by developers to build in Milpitas. And if City Staff are concerned about the rezoning of commercial/industrial land, they have a variety of tools and resources to curb further rezoning that avoid the economic damage that a moratorium would cause. We would encourage the Council and City Staff to fully explore existing options to discourage the rezoning of commercial/industrial land that do not convey the anti-business sentiment a moratorium does.

We recognize the high economic value that industrial and commercial lands carry and the struggle that the City of Milpitas carries in balancing the need between developing land for job creation versus housing. But a moratorium sends the wrong signals to developers that the City is closed for business. Without a robust housing market, the economy's chances for a full recovery are narrowed. According to the National Association of REALTORS®, home sales generated 2.5 million private sector jobs in the average year. And according to the National Association of Home Builders, housing contributes between 17-18% of the GDP. With housing having lead the economy out of the last 6 of 8 recessions, this is no time to place a moratorium on Valley's best path to economic recovery.

Thank you for your consideration of our position on this issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anil Babbar".

Anil Babbar  
Director of Government Affairs  
Santa Clara County Association of REALTORS®

**CALIFORNIA'S FIRST REAL ESTATE BOARD**

*SCCAOR exists to meet the business, professional and legislative needs of the real estate industry and to protect private property rights.*



# CITY OF MILPITAS

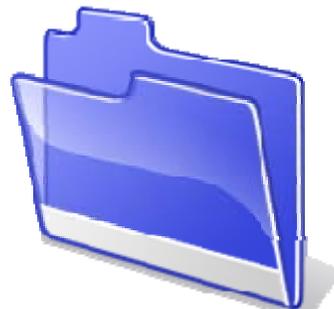
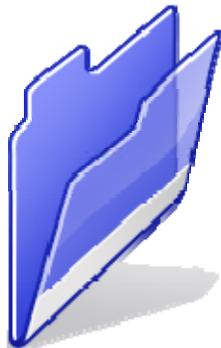
455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479  
GENERAL INFORMATION: 408-586-3000, [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov)

02/07/2012

Agenda Item No. EDC5



## ATTACHMENTS AND/OR ADDITIONAL MATERIALS RELATED TO AGENDA ITEM AFTER AGENDA PACKET DISTRIBUTION





STRATEGY  
RESEARCH  
INSTITUTE

G. Gary Manross, Ph.D.  
Chairman/CEO

G. Gary Manross, Ph.D.  
Political Communications  
& Media Effects

Richard R. Miller, Jr., Ph.D.  
Urban & Regional Planning

Michael D. Cozzens, Ph.D.  
Communication Research &  
Organizational Communications

Debra L. Schultz, Ph.D.  
Interpersonal Communications  
& Persuasion

Mary Ann Williams, M.A.  
Sociology  
Senior Research Associate

January 30, 2012

Mr. Tom Williams  
City Manager  
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Milpitas, CA 95035  
(408) 586-3056  
[twilliams@ci.milpitas.ca.gov](mailto:twilliams@ci.milpitas.ca.gov)

City Manager

JAN 31 2012

RECEIVED

Re: **Response to RFP entitled: Community Survey for Street and Sidewalk Maintenance Funding (due 5 p.m., January 5, 2012)**

Dear Mr. Williams:

I truly enjoyed our recent discussion on the phone, as I did our initial discussion a couple of months ago. I'm looking forward to meeting you in person.

Enclosed please find SRI's Research Proposal for consideration by you and the Selection Committee. Also enclosed, is a packet in which we introduce you to our research and consulting Institute.

Included in BOTH the Proposal and the Introduction Packet are:

(i) background information on our research and consulting Institute, (2) bios of each professional who will be assigned to this project, including myself, (iii) a partial listing of SRI's Clients (including several that we're presently work with on projects similar to your upcoming funding Measure), and (iv) a list of six (6) professional references, along with their respective contact information. Our professional references includes a friend of the City of Milpitas; that being the Mayor of San Jose, Chuck Reed, whom we have been working even before he was elected Mayor.

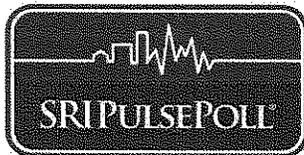
Included in the Introduction Packet, but NOT in the proposal itself, are the following:

- (i) an example of the accuracy of SRI's proven **Go, No-Go Model**, which I will review when SRI is personally interviewed;
- (ii) an example of a **Causal Model**, which literally NO OTHER polling firm knows how to design and administer; and...
- (iii) a copy of the **8-page editorial**, published by the Fresno Bee, at NO COST to the public Agency (Fresno COG), giving all the reasons to VOTE YES for a \$1.7 billion sales tax in which we secured 78% voter support.

Since the proposal is comprehensive and self-explanatory, I won't speak further to it here; except to emphasize the following.

While we've made every effort to tailor our Institute's proposal to the City's needs and expectations, as stated in the RFP, should adjustments be needed in order to meet your budget parameters, please advise. And, we'll do this without violating the parameters of *The Scientific Method*.

Creators of the...



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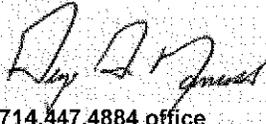
**An Institute for CONSENSUS BUILDING**

As stated in our proposal, SRI has experienced a great deal of success on behalf of voluminous Agencies in the public sector. Two of these are particularly noteworthy; (i) a successful \$1.7 billion (with a "B") sales tax, which secured 78% voter support, and (ii) a \$500 million bond, which was the largest park bond on behalf of a regional park district in the history of the United States; in fact, to date, we've been working with the Agency on a retainer basis for over 25 years AND, during that time, have helped them secure over \$1 billion through various funding measures. Our Clientele includes, of course, many, many Cities over the past two decades (including the City of Milpitas); far too numerous to name in the cover letter (refer to the partial listing of SRI clientele included in the packet).

While NOT part of the RFP, you might like to know that SRI has a great deal of experience in assisting Cities with their Economic Development and Redevelopment efforts, as well. Clearly, there are many ways in which our Institute can assist the City of Milpitas in realizing its goals and expectations, over time. I hope this will be the next step in building a lasting and mutually-beneficial relationship between our respective organizations.

I'll look forward to receiving your feedback.

Warmest regards,



714.447.4884 office

909.239.8757 cell

[gmanross@sri-consulting.org](mailto:gmanross@sri-consulting.org)

[www.sriconsulting.org](http://www.sriconsulting.org)

**Responding to an RFP entitled:**

*For Consulting Services to perform Public Opinion Survey and Funding Options Strategy Services*

*Due: February 1, 2012*

**Benchmark Scientific Survey**

**Funding Alternatives**  
**Funding Options • Strategy Services**

*Prepared expressly for the...*



**City of Milpitas**  
CALIFORNIA

**January 2012**



*An Institute for* **CONSENSUS BUILDING**  
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**STRATEGY**  
**RESEARCH**  
**INSTITUTE**

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## Section 1.0

### The difference between SRI and other research/consulting firms

While we will present SRI's expertise, background, credentials and qualifications later in this proposal (refer to Section 5), the difference between our research and consulting Institute and competing firms can perhaps be best summed up by asking a single question.

**Have you ever seen an 8-page editorial, published at NO COST to the public Agency by a major newspaper; an editorial giving ALL the reasons to vote for a \$1.7 billion (with a 'B') tax Measure?**

We'll happily show you one. It was published by *Fresno Bee* in support of a \$1.7 billion funding Measure, Measure C, which was placed on the ballot by Fresno COG, which is comprised of Fresno County and the 15 cities in the County.

This very same funding Measure had been placed on the ballot four years earlier. The research firm that handled this project predicted 72% voter support; it received 54% voter support (thus, failed to secure the requisite two-thirds voter support needed for passage). When SRI was commissioned to handle BOTH the polling AND oversight of the public outreach effort that followed, the funding Measure received 78% voter support;<sup>1</sup> along with the 8-page editorial noted above.

## Section 2.0

### Situation Analysis

The reason for the City of Milpitas is commissioning the present scientific survey is three-fold:

- i. To identify **voter support** within the Milpitas electorate for one or more funding measures (e.g., increase in the local sales tax, parcel tax of some form, perhaps a Special Benefit Assessment and/or other funding mechanism).<sup>2</sup> SRI typically "tests" up to four funding mechanisms in a single scientific voter survey.
- ii. Identify **issues of concern**, rank-ordered, that are on the collective mind of Milpitas voters; then, determine how will these will impact voting behavior, should a funding measure be placed on the June 5, 2012 ballot.
- iii. Based upon the *findings* from the scientific survey of registered voters, craft a **Message Strategy** that will be employed in an effective Public Outreach effort designed to increase voter awareness of the need for the tax Measure(s).

<sup>1</sup> SRI's scientific survey predicted voter support would range between 72% and 80%; Measure C (sponsored by Fresno COG) ultimately received 78% voter support.

<sup>2</sup> The specific funding Measures to be tested will be determined in the Start-up meeting between City officials and SRI researchers/consultant.

The RFP calls for the consulting firm to include a component (including cost parameters) designing and implementing a, "...*public information effort to increase citizen awareness of the need for the tax measure(s).*" It would be irresponsible for us to do that, however; to do so, would mean that we would be presenting the City with a "cookie cutter" campaign ("one fits all"). We do NOT believe this is in the Client's best interests.

It is SRI policy to **TAILOR** our Public Outreach Campaigns to the case-at-hand, much as we did for the successful \$1.7 billion in Fresno County, which secured 78% voter support. For example, if there is a great deal of support for the funding Measure being brought forward, the **MESSAGE STRATEGY** and campaign elements will be different compared to a scenario where voter support is relatively low, but within reach of securing requisite voter support.

Once we have benefit of the *findings* from a scientific survey of registered voters, we will be pleased to submit our proposal, including: (i) campaign elements tailored to the case-at-hand, (ii) a Gantt Chart (time line), and (iii) budget parameters. Further, this approach provides the Client with personal experience with SRI and its professional staff BEFORE committing to the Public Outreach effort.

## Section 3.0

### Telephone Survey that strictly adheres to *The Scientific Method*

#### 3.1 Research Design

The appropriate design for this effort is a scientific telephone survey that will determine, definitively, whether or not there is sufficient support from within the local electorate to secure the requisite voter support for one or more tax measures, should one be placed on the local ballot in 2012.<sup>3</sup> Equally important, if there's NOT sufficient voter support at the present time, can anything be done to realize increased voter support; if so, what would that be?

---

<sup>3</sup> There is a growing trend among research firms to encourage Cities and other government agencies to go beyond telephone surveys when addressing such matters by incorporating **focus group research** and perhaps **mail surveys** into the mix. Advocates for this approach cite a high degree of difficulty in getting registered voters, and members of the general public, to participate in telephone surveys as the justification for incorporating these added elements in the research design; pointing to the fact that many people are now asking to have their name and phone number added to the growing list of consumers whom telemarketers are forbidden to call. However, such claims are bogus. The primary motivation behind this trend is a desire on the part of the research and consulting firms to increase the size of their contract; in fact, this can easily double, triple, or even quadruple the cost of a given research effort. This is not necessary. Why?

First, the "findings" from BOTH focus group research and mail surveys are NOT "generalizable" from the sample to the population being investigated; thus, it's virtually **impossible** to accurately predict any form of decision making, especially how one would vote on a tax measure, using focus group research and/or mail surveys.

Second, because people are receiving fewer telemarketing calls today than before these lists were made available to those wanting to avoid annoying telemarketers, it is becoming easier (not harder) for research firms, such as SRI, to secure completed interviews via telephone surveys. The truth of this observation is demonstrated by the fact that SRI's predictions of voting behavior involving tax initiatives

### 3.2 SRI's proven 'Go, No-Go Model' will be employed

This will be accomplished by applying SRI's proven 'Go, No-Go Model'...which, for the past two decades, has predicted voting behavior either spot on, or within no more than 1% or 2% of reality (regardless of the statistical '*margin of error*', which typically ranges between  $\pm 4.5\%$  and  $5.8\%$ ). There are three (3) possible outcomes when applying SRI's **Go, No-Go Model**. They are:

- (i) **GO:** All is good and the funding measure(s) being tested will, indeed, secure the requisite voter support; e.g., 2/3 voter for a Parcel Tax and/or Special Tax; or, simple-majority support for a General Tax (e.g., sales tax) or a 218 Special Benefit Assessment (Benefit Assessment District).<sup>4</sup>
- (ii) **NO-GO:** There is simply not sufficient support within the local electorate to secure the requisite vote for the funding measure(s) being tested; and won't be in the foreseeable future.
- (iii) **GO...but NOT NOW**, some work needs to be done BEFORE placing the measure(s) on the local ballot. The good news is that, should this turn out to be the case, the scientific survey will be designed in a manner that will identify precisely what needs to be done. Furthermore, our Final Report will include specific recommendations for how to accomplish this objective and without violating any of the laws or even being accused of spending tax dollars advocating voter support. The key here is **CONSENSUS BUILDING** among stakeholders, many with competing agendas. SRI is an acknowledged expert in consensus building, which is easily documented through our track record.

With Fresno COG's Measure C, for example — which was a successful **\$1.7 billion** funding Measure — the BENCHMARK survey showed that we had 67% voter support; thus, we could have recommended 'GO'. However, SRI concluded that more insurance was needed; the Client agreed.

We suggested that the Expenditure Plan be adjusted to MIRROR the collective desires of Fresno County voters AND that a comprehensive Public Outreach effort be designed and administered BEFORE the Measure was placed on the local ballot. We were commissioned by Fresno COG to move forward, accordingly. Prior to placing Measure C on the ballot, we administered a Tracking Poll, which showed that Measure C would secure a minimum of 72% voter support and maximum voter support of 80%...probably at the high end. The outcome, as previously noted, turned out to be 78% voter support.

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are routinely within 1% to 2% of reality (actual voting behavior), when the acceptable "*margin of error*" in a given scientific study typically ranges between  $\pm 4.5$  to 5.8 percent.

That said, focus group research and mail surveys are extremely useful research tools that SRI routinely employs when and where appropriate. However, neither methodology is needed, nor cost justified, in the case at hand.

<sup>4</sup> A 218 **Special Benefit Assessment** is NOT placed before the local electorate; rather, it is administered through a MAIL BALLOT that is sent only to those who own property within the City and only requires support from a simple majority of those property owners who return their ballot to the local authority.

### 3.3 Research Questions

Different funding mechanisms involve different populations and different requisite levels of voter support for passage. For example, a General Obligation Bond, Parcel Tax, a Special Tax of any kind, and many (if not most) other types of funding mechanisms require that a “measure” be placed before local voters AND requires 2/3<sup>rds</sup> voter support. A 218 Special Benefit Assessment is placed before property owners within the respective community and require simple-majority support for passage. A Sales Tax may require simple-majority support OR, if the funds are earmarked for specific use, Super Majority support may be required.

The research design employed by SRI allows us to ACCURATELY “test” multiple funding mechanisms in a single scientific survey. We will discuss this matter in appropriate detail during the “Start-up Meeting”.

When surveying the local electorate to determine level of support for a tax measure, it is often beneficial to survey only high and moderate propensity voters (most low propensity voters don't vote, so surveying this subset of the local electorate actually reduced the VALIDITY for any predictions of voting behavior). In the present case, however, it may be wise to survey the entire Milpitas electorate. Here again, this matter will be discussed in appropriate detail during the Start-up meeting with City officials.

We can determine likely support for a 218 Special Benefit Assessment by simply analyzing support among a specific subset of the sample, that being property owners. Thus, we can save the City significant money by eliminating the need to conduct a separate survey of property owners in order to determine the feasibility of securing the requisite vote for this funding mechanism.<sup>5</sup> We also need to control for whatever formula is in place; for example, some cities weight the vote by the number of parcels of property one owns, while other cities weight the vote by the value of the property owned, others by frontage, what-have-you. Such factors must taken into consideration and controlled for when decisions are made regarding the research design and methodology. We will work closely with City officials as this process unfolds.

Further, since voter support is impacted in no small way by how local voters feel about how the monies being requested will be spent, our research will be designed to test and rank-order the various elements of the City's **Spending Plan**. Furthermore, it's highly likely that you will want us to test the THRESHOLD of *willingness to pay* for such services. If asked, we will also determine what, if any, “Sunset Clause” should be incorporated into the measure. Finally, specific “arguments” (both FOR and AGAINST) such a tax measure will be “tested” to see how the arguments tested, individually and collectively, will impact voting behavior.

---

<sup>5</sup> Of course, this does NOT control for those own commercial and/or industrial property. We can discuss this critical element in appropriate detail, should you want pursue this funding mechanism.

In order to realize the three primary goals of the present research effort in a thorough and adequate fashion, the study will be designed in a fashion that will address, at a minimum, the following research questions:<sup>6</sup>

1. **Determine the feasibility of a potential tax ballot measure**

*Which of several funding mechanisms are most appropriate and most likely to secure the requisite support from the local electorate (e.g., a tax measure requiring 2/3 voter support); an increase in the City's sales tax; or a 218 Special Benefits Assessment, requiring simple-majority support of property owners who return their mail ballot?*

SRI researchers and strategic planners will discuss various alternative taxing/assessment mechanisms with City officials; then design the research instrument in a fashion that will test the "feasibility" of those that City officials would like to consider. These funding mechanisms might include, for example:

- An increase in the City's **Sales Tax** that could require either 2/3rds voter support or simple-majority support (depending on whether the yield is EARMARKED for specific use).
- A **Parcel Tax** or other funding mechanism requiring 2/3-voter support from within the local electorate.
- The creation of new **218 Special Benefits Assessment** requiring a simple majority support of property owners (administered via a mail ballot).

2. **Issues of Concern to Constituents**

*What are the main issues, rank-ordered, that are on the collective mind the local electorate? And, how will these impact voting behavior, should one or more funding measures be placed on the local ballot?*

In addition to being useful for policy decision-making purposes in the short term, this form of *intelligence* can be used as a "benchmark" for identifying and tracking instructive trends and/or patterns over time (SHIFTS in public opinion and/or public sentiment) that Milpitas officials need to be aware of as the City goes about making decisions that impact public policy.

3. **Levels of Awareness**

*How AWARE is the local populace (in particular, high and moderate propensity voters) of the array of services currently being provided by, and/or through, City government?*

---

<sup>6</sup> During the Start-up meeting with Milpitas officials, SRI researchers will identify additional Research Questions that City officials would like tested in the present scientific survey.

#### 4. **Satisfaction/Loyalty Scores**

*How satisfied, overall, are residents throughout the City of Milpitas with City government; more specifically, with the type, number, and quality of services currently being provided by and/or through the City?*

Beyond that, SRI will incorporate into the study measures of LOYALTY; because, while “satisfaction” is, indeed, necessary, it is seldom sufficient. Not only does “loyalty” yield community spirit and community pride, but it is one of the most robust drivers of **voting behavior**. This is especially important when assessing the feasibility of a given funding mechanism, such as a tax measure that requires 2/3-voter support from within the local electorate OR a 218 Special Benefit Assessment that requires simple-majority support from property owners.

### 3.4 **Research Design & Methodology**

SRI researchers and strategic planners will work closely with City officials (especially its professional staff) in developing an appropriate research instrument (questionnaire) for gathering the desired information (data). We will employ the appropriate *question formats* and *response scales* (from both the scientific and applied perspectives) that are needed in order to address the research question(s) in the study at hand. Given a “team” approach between SRI researchers and City representatives, the research design being advocated herein holds special promise for the City in terms of realizing the precise goals and expectations that underlie the rationale for commissioning a scientific survey at the present point in time.

### 3.5 **Data Collection**

Data will be collected by employing a technology called **CATI** (*Computer Assisted Telephone Interviewing*). **Trained callers** will conduct telephone interviews until the agreed upon number of respondents have completed the entire survey.

The approved instrument will be pre-tested on 20 respondents. Any and all necessary adjustments will be made; the Client will be advised in advance of any required alterations. Once these alterations have been made and approved by the Client, the survey will be completed in its entirety.

### 3.6 **Data Analysis**

Data analysis will be administered through the well-known Stat package, SPSS.

The *findings* from the survey will be thoroughly examined by SRI’s researchers and strategic planners using BOTH descriptive and advanced statistical analysis (including causal modeling), conclusions drawn, and recommendations developed.

### 3.7 Final Report

The *findings* from the data analysis phase will be carefully reviewed by SRI researchers and strategic planners and a comprehensive **final report** will then be prepared for presentation to the Client. The final report will consist of a narrative and graphic interpretation of the findings. This report will include the following:

- *key findings*
- *SRI's interpretations*
- *SRI's conclusions*
- *SRI's recommendations.*

The report will include a graphic depiction of the *findings* in the form of charts, graphs, tables, and figures.

Before a final report is prepared, however, SRI researchers and strategic planners will **DEBRIEF** Milpitas officials, in person (using charts and graphs).

This provides decision-makers with an opportunity to assess the *findings* from the research effort at the earliest possible moment; furthermore, if the *findings* bring to the surface additional questions, SRI researchers can conduct the appropriate data analyses in order to address these questions, as well.

Finally, SRI will provide the Client with *four bound copies*, plus *one unbound copy* (produced in Microsoft Word<sup>®</sup>) for purposes of duplication, and one electronic copy of the final report. Further, the *findings* will be presented in the form of an oral report before the City officials (or any other group), should this be your wish.

### 3.8 Pricing

In order to permit City officials to “tailor” the present research effort to its own needs and budget parameters, we are providing 24 alternative approaches. The alternative approaches differ in such determinants of cost as: (a) length of survey AND (b) sample size. We will, of course, recommend the research design and methodology that we believe to be most appropriate and cost effective for the circumstances at hand.

The most useful way of discussing the “cost” of conducting a telephone survey is to show the cost in the context with other parameters of the respective survey; which is to say, compare each alternative approach based upon the key dimensions of the research design. Thus, for the sake of clarity and ease, the alternative approaches will be presented below in **matrix format**.

<b>Sample Size</b>	<b>15 minutes</b>	<b>17 minutes</b>	<b>20 minutes</b>	<b>25 minutes</b>
<b>N=300</b> Sampling error ±4.5 to 5.8%	Option 1-A	Option 1-B	Option 1-C	Option 1-D
	<b>\$17,000</b>	<b>\$19,000</b>	<b>\$21,000</b>	<b>\$25,000</b>
<b>N=400</b> Sampling error ±4 to 5%	Option 2-A	Option 2-B	Option 2-C	Option 2-D
	<b>19,000</b>	<b>\$21,000</b>	<b>\$23,000</b>	<b>\$27,000</b>
<b>N=500</b> Sampling error ±3.5 to 4.5%	Option 3-A	Option 3-B	Option 3-C	Option 3-D
	<b>\$21,000</b>	<b>\$23,000</b>	<b>\$25,000</b>	<b>\$29,000</b>
<b>N=600</b> Sampling error ±3 to 4%	Option 4-A	Option 4-B	Option 4-C	Option 4-D
	<b>\$23,000</b>	<b>\$25,000</b>	<b>\$27,000</b>	<b>\$31,000</b>
<b>N=800</b> Sampling error ±2.5 to 3.5%	Option 5-A	Option 5-B	Option 5-C	Option 5-D
	<b>\$27,000</b>	<b>\$29,000</b>	<b>\$31,000</b>	<b>\$35,000</b>
<b>N=1,000</b> Sampling error ±2.5 to 3.5%	Option 6-A	Option 6-B	Option 6-C	Option 6-D
	<b>\$31,000</b>	<b>\$33,000</b>	<b>\$35,000</b>	<b>\$39,000</b>

*95% confidence level*  
*Sampling error varies with size of sample*  
*Descriptive & Advanced Statistical Analysis for ALL options*

### 3.9 Recommended Research Design

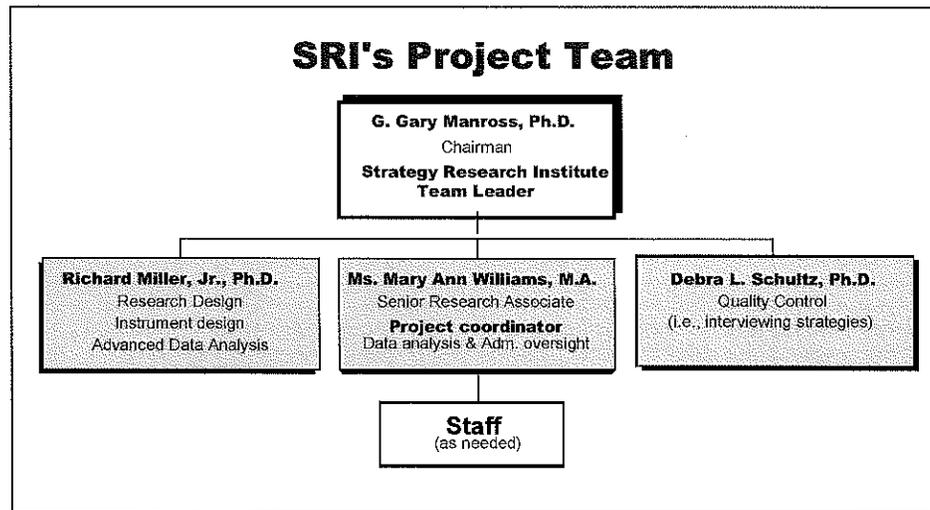
Given your goals and objectives, as we understand them, we believe to the *most appropriate* and *cost effective* research design for the upcoming scientific survey is:

<b>Option 3-C</b>	
<i>Sample Size:</i>	<b>N=500</b> <i>(Margin of Error: ±3.5 to 4.5%)</i>
<i>Length:</i>	Not to exceed <b>20 minutes</b>
<i>Level of Analysis:</i>	<b>Descriptive &amp; Advanced statistics</b>
<i>Cost:</i>	<b>\$25,000</b>

### 3.10 Payment Policy

It is SRI policy to be paid one-half of the total fee upon the signing of the contract by both parties. We are paid one fourth of the contracted price when the data are gathered and the final one-fourth upon delivery of the final report to the Client.

### 3.11 Project Team



As seen in the above organization chart, the project **team leader** will be **G. Gary Manross, Ph.D.**, Chairman/CEO of the research and consulting Institute.

Dr. Manross will be supported by the firm's Executive Vice President and Senior Research Associate, Mary Ann Williams; SRI's Chief Methodologist, Richard Miller, Ph.D.; and its Director of Qualitative Research, Debra L. Schultz, Ph.D.

Dr. Manross and Dr. Miller are behavioral scientists, with stellar academic credentials and years of applied experience. Ms. Williams has an M.A. in sociology and brings to the project nearly 20 years of applied experience; 15 of them with SRI. Dr. Schultz will oversee callers during the data-gathering phase of the research effort.

SRI will assign additional staffers to assist on the project on an "as-needed" basis. An **organization chart** showing the staff to be assigned to this project appears above.

Bios for the Project team are provided in Addendum A.

## Section 4.0

### Developing and Administering a Plan of Action

This section of the proposal speaks, briefly, to having SRI partner with the City in developing and implementing a strategic and tactical **Plan of Action** designed to:

- Develop **BALLOT LANGUAGE**;
- Inform local voters of the **NEED** for these monies;
- Work with local business, community groups, and other stakeholders to address their collective interests, issues, and concerns, then **BUILD A CONSENSUS** among these groups and organizations with regard to supporting, and even endorsing, such a tax measure;

STRATEGY RESEARCH INSTITUTE (SRI) has extensive experience in designing and administering outreach efforts for CONSENSUS BUILDING among stakeholders, many with competing agendas. It's not uncommon for this element to be the difference between success and failure for a given funding mechanism.

For the reasons stated above, however, we will not develop a formal proposal for these professional services. The *findings* from the scientific survey will be determine what further action, if any, the City needs to take to meet its goals and expectations.

## Section 5.0

### SRI is uniquely qualified to partner with the City of Milpitas

STRATEGY RESEARCH INSTITUTE (SRI) has extensive experience in designing and administering studies virtually identical to the present one; please refer to SRI's partial Client list that is included in Addendum 'B' of the present proposal.

Our research and consulting Institute is uniquely qualified to partner with your Agency for three specific reasons:

- (1) For the past two decades, we have been conducting tax feasibility studies virtually identical to the one being undertaken here; more importantly, our predictions routinely turn out to be within 1% of reality, when the statistical "margin of error" typically ranges between  $\pm 4.5\%$  and  $5.8\%$  (depending upon sample size).**

This unprecedented level of accuracy in predicting voter behavior has been made possible as a result of SRI's team of four behavioral scientists having developed, through years of practical experience, a model that incorporates sound mathematical calculations that, as noted above, routinely yields predictions of actual voting behavior that are markedly below the statistical *sampling error*. As noted above, this model has become known as the '**SRI Go, No-Go Model**' (*visit SRI's web site at [www.sri-consulting.org](http://www.sri-consulting.org), click Public Policy panel on home page, then on Tax Feasibility Studies, and finally on Go, No-Go Model in the bar at the bottom of the page*). While the number of successes are far too numerous to list here, a couple of them appear to merit note.

For example, in 1988, we partnered with the largest regional park District in the United States (also a "Special District"), the East Bay Regional Park District, in securing the requisite 2/3-voter support for a **\$225 million bond measure**, Measure AA; since then, we've assisted the District in securing over \$1 billion, including the largest funding measure placed on the ballot by any regional park District in the United States. Our most recent effort involved the successful RENEWAL (continuation) of Measure AA, which was called **Measure WW**.

As noted above, we nurtured Fresno COG (Council of Governments) in securing 78% voter support for a \$1.7 billion (with a 'B') transportation funding Measure. The identical funding Measure was placed on the ballot four years earlier; the research firm handling that effort predicted 72% voter support; at the end of the day, it received only 54% voter support...thus, failed miserably. SRI's voter survey predicted that voter support would range between 72% and 80%; as noted above, it secured 78% voter support.

**(2) SRI has experience involving virtually every form of funding measure, including (but not limited to) sales taxes, parcel taxes, bonds, 218-type Special Benefit Assessments, and more.<sup>7</sup>**

For example, after having a half-cent sales tax earmarked for public transportation defeated twice at the polls, the Marin County Congestion Management Agency commissioned SRI to join its consulting team for yet another try. The outcome of our efforts are perhaps best depicted in the following e-mail from one of the consultants with whom we partnered, Bonnie Nelson of San Francisco-based, Nelson/Nygaard, "**Hope you noticed the vote in November (2004)...71%, just as you predicted.**"

Only weeks ago, SRI was commissioned to assist Marin County again in securing the requisite support for a half-cent sales tax, wherein the yield will be earmarked for parks and recreation throughout the County; our BENCHMARK survey has led us to recommend that the Agency move forward by placing a funding Measure on the local ballot in the November 2012 election cycle; we anticipate being commissioned to partner with the County, helping them with their Public Outreach efforts.

At the present time, we are working with the City of Pittsburg and the City of San Pablo on initiatives designed to secure authorization to increase their respective sales taxes. We're also working with a Special District near Edwards Air Force Base, in Rosamond, CA. We are in the start-up phase for yet another study commissioned by the Mayor of San Jose, Chuck Reed; we've been working with Mayor Reed for the past six years.

We've also worked with AC Transit and BART (Bay Area Rapid Transit Authority), among many other public agencies.

**(3) The Institute is comprised of a select team of behavioral scientists (both quantitative and qualitative researchers) and strategic planners.**

SRI's researchers are proficient in the most up-to-date, advanced scientific methodologies and have advanced degrees from such academic institutions as U.C. Berkeley, The Annenberg School for Communication and Journalism at the University of Southern California, and New York University.

Other factors that we believe merit note in the present proposal include the following:

**We Literally wrote 'the Book'**

Without wanting to sound immodest, SRI is perceived as being an authority on the topic of campaign development and implementation. Indeed, it's been said that we've literally "written the book." on this topic. The book is entitled: **THE IMPACT OF THEORY-DRIVEN PUBLIC OPINION RESEARCH IN STRATEGIC PLANNING.**<sup>8</sup>

<sup>7</sup> Please refer to SRI's partial Client list that is included as an Addendum to the present research proposal.

<sup>8</sup> This book is used at both the graduate and undergraduate levels of education. If you would like a copy of the book, please advise and we'll happily provide you with a complimentary copy.

## Documented Accuracy

The accuracy of our research may be best demonstrated in a statement from an official of the City of Berkeley:

**“You predicted that if we followed your recommendations (based upon a scientifically-conducted telephone survey) that the bond measure would be approved by 79% of the voters. We followed your recommendations quite closely, and the measure was approved by 78.7% of the voters.”**

*Mr. Hal Cronkite  
Assistant City Manager  
City of Berkeley, Calif.*

One of SRI's major strengths lies in its ability to conduct **cause and effects research**, employing both descriptive and advanced statistical procedures. Once specific causes are known, **SRI researchers and strategists** can suggest solutions that lead the Client to successful planning and goal attainment.

### Section 6.0

## Summary Conclusion

We have presented what we believe to be the most appropriate (from both the *scientific* and *applied perspectives*) and cost effective research design possible. We have also spoken, specifically, to the matter of providing professional services involved with placing a funding measure on the local ballot, should it turn out that such a funding initiative will secure the requisite vote needed for passage.

Assuming you select Option 3C in our pricing matrix, as recommended the cost of commissioning the benchmark research effort will not exceed \$25,000.

Of course, we will be pleased to discuss additional cost-cutting measures (and their implications), should cost become an issue in awarding the present contract to SRI. We're confident that the City of Milpitas simply cannot receive a better ROI (*Return on Investment*) than it will receive through commissioning our research and consulting Institute.



## **Addendum 'A'**

### **Biographical Sketches**

**Dr. G. Gary Manross, Ph.D.**  
Chairman/CEO  
**STRATEGY RESEARCH INSTITUTE**

A behavioral scientist, G. Gary Manross, Ph.D., has more than 25 years experience in applied research (policy research, political research, and marketing research), and as a consultant in political communications, marketing communications, and communications management.

Dr. Manross has taught political communications at UCLA, mass media effects at U.S.C., and was Associate Professor of Communications in the California State University system, where he held a joint appointment in Advertising and Public Relations. He was the head of the Advertising Sequence when he left academe; during this period, he taught courses in applied research, integrated marketing communications (IMC), management, advertising, and public relations at both the undergraduate and graduate levels.

Prior to founding SRI, Dr. Manross held executive-level position with the largest public relations agency in the world, Hill & Knowlton, Inc. , the largest state trade association in the United States, the California Association of Realtors®, plus two Fortune 500 companies, Diamond Shamrock Corporation (then 152 on Fortune 500) and Chase Brass and Copper Company.

Dr. Manross' publishing record includes numerous refereed academic journals, including the **top-ranked paper** internationally in the Human Communications Technology Group of the International Communication Association (ICA), which was subsequently published as a chapter in **Communication Yearbook 10**.

His research is routinely cited in both the scholarly and popular press and in classic textbooks, such as **Diffusion of Innovations** (Everett M. Rogers, 1995, 4<sup>th</sup> ed., Free Press, N.Y.). Dr. Manross is author of a paper developed in a joint effort with Dr. Rogers that will soon be submitted to the Harvard Business Review. He also authored a book entitled: **The Impact of Theory-driven Public Opinion Research in Strategic Planning for Winning Campaigns**, Carlton Press, NY, 1995. He is presently writing a second book entitled: **Closing the Chasm**.

His academic credentials include a B.A. in Public Relations, M.A. in Communications Management, M.A. in Communications Theory, and a quantitative Ph.D. in Communication Research, with an emphasis in Political Communications and Media Effects, from the Annenberg School for Communication at the University of Southern California (USC.).



**Richard Miller, Jr., Ph.D.**  
Senior Consultant/Strategic Planner  
**STRATEGY RESEARCH INSTITUTE**

Dr. Miller began his career as a planner for the Honolulu Department of General Planning, where his responsibilities included evaluating Development Plan changes based upon population distribution and land use policies, as well as forecasting growth on the island of O'ahu by aggregate and discrete geographic areas.

He earned his doctorate is in Geography, with an emphasis on economic geography and spatial analysis, and an M.A. degree in Urban and Regional Planning, both from the University of Hawaii.

Immediately prior to joining SRI, Dr. Miller was Business Planning Manager for Health Net, Inc., where he was responsible for all business development, including the HMO's marketing research, new product development, and competitive analysis

While with Kaiser Permanente Medical Care, he held the following positions: (a) Senior Market Research Analyst, (b) Land Use/Real Estate Manager for southern California, where he was responsible for all real estate transactions and securing land use entitlements; and (c) Director of Facilities Planning and Property for the HMO's Hawaii medical facilities.

Dr. Miller is an award-winning planner, earning the *Exceptional Contribution Award* from the Society of American Institute of Architects.



**Debra L. Schultz, Ph.D.**  
Director of Qualitative Research  
**STRATEGY RESEARCH INSTITUTE**

As SRI's Director of Qualitative Research, Debra L. Schultz, Ph.D., is an expert in advanced interviewing techniques, strategic planning, persuasion, business communications, and multi-cultural communications. Prior to joining SRI, Dr. Schultz was a professor of communications at UCLA; prior to that, at New York University (NYU).

While in New York, Dr. Schultz was a member of the research staff of ABC's *Goodnight America* and *Good Morning America*; she also headed her own literary agency representing screenwriters, playwrights and other artists.

Her academic credentials include a Ph.D. in Communication, Arts and Science from New York University.

Dr. Schultz oversees the qualitative aspects of the Institute's research projects. These activities include, but are not limited to, field research (involving person-to-person interviewing), facilitating in focus group research (including in-depth probing strategies), descriptive research, library research and other secondary sources of information gathering.



**Mary Ann Williams, M.A.**  
**Senior Consultant/Strategic Planner**  
**STRATEGY RESEARCH INSTITUTE**

Mary Ann Williams is COO (Chief Operating Officer) for STRATEGY RESEARCH INSTITUTE (SRI); she oversees the administrative support services for every Client project.

Ms. Williams has nearly two decades of experience in communication management, administration (including human resource management), and related areas of responsibility. She is an expert in data management and data collection. Ms. Williams earned her M.A. and B.A. degrees in Sociology in the California State University system; California State University at Los Angeles and Cal-State University, Fullerton, respectively.

Mary Ann is responsible for Client services. In so doing, she works personally with virtually every SRI Client to ensure that all of their needs are being addressed in a comprehensive and timely fashion.

As such, Ms. Williams functions as a primary contact person for the Institute's Clientele



## Addendum 'B'

### *Partial Client Listing...* Strategy Research Institute

#### TAX INITIATIVES, ECONOMIC DEVELOPMENT, PUBLIC POLICY, MARKETING & NON-PROFITS

#### Policy Research & Consulting

(Tax Feasibility studies, 218 Special Benefit Assessments, Bond Measures, & other Funding Mechanisms); plus CONSENSUS BUILDING consulting

Partial listing of Tax Feasibility Studies presently underway (2012 election cycle)

**Marin County**,  $\frac{1}{4}$ -cent increase in Marin Sales tax

**City of Pittsburg, CA**,  $\frac{1}{2}$ -cent increase in City's Sales Tax

**City of San Pablo, CA**,  $\frac{1}{2}$ -cent increase in City's Sales Tax

**Rosamond Community Services District, Rosamond, CA**; survey property owners regarding: (i) expanding the County Service Area (CSA) and (ii) determine the THRESHOLD of *willingness to pay* for enhanced services.

Partial listing of past Tax Feasibility studies and CONSENSUS BUILDING consulting

**Fresno COG (Fresno Council of Governments)**, Fresno, CA.

Successful \$1.7 billion half-cent sales tax earmarked for public transportation and public transit. SRI was commissioned to design and administer a BENCHMARK voter survey; and subsequently, to consult with Fresno COG involving outreach to residents of 15 cities and the unincorporated areas of Fresno County regarding the need for the continuation of this funding mechanism. Measure received 78% voter support.<sup>9</sup>

**East Bay Regional Park District (EBRPD)**, Oakland, CA.

Successful \$500 mm tax measure, placed on the November 2008 ballot.

Since 1988, SRI has helped the EBRPD secure in excess of \$1 billion in new taxes and annual assessments. First project was a successful \$225 million bond measure (Measure AA) that required 2/3-voter support. Orchestrated successful Special Benefit Assessments (Measures KK and LL), which received 79.8% and 69.1% voter support, respectively. Orchestrated a successful \$45 million parcel tax requiring 2/3-voter support in the November 2004 elections; another successful funding measure in 2008, Measure CC; most recently, a \$500 mm bond measure (Measure WW), which secured over 72% voter support. Our research and consulting Institute conducted feasibility studies and provided consulting services for outreach to registered voters in the respective zone of benefit (including portions of Alameda and Contra Costa Counties). We continue to be under contract (based upon a monthly retainer) with the Agency.

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<sup>9</sup> The very same funding measure had been placed on the ballot three years earlier; SRI was NOT involved in that effort. Their polling said they had 72% voter support; we re-analyzed their polling data (from a competing firm) using the SRI Go, No-Go Model, which said likely voter support, in reality, was 56%. The outcome of that election was 54%. SRI was retained to assist in placing the Measure on the ballot a 2<sup>nd</sup> time...the outcome of that election was 78% voter support.

### **City of Eugene, Oregon**

Successful \$35.9 million G.O. Bond (Measure 20-145), placed on the November 2008 ballot. This was a street maintenance bond to fund approximately 70 lane miles of streets and 3 miles of off-street bike and pedestrian paths. Secured 57% voter support.

### **Marin County Congestion Management Agency.**

Failed half-cent sales tax in November 2004 elections. Conducted a series of feasibility studies to position Marin County to secure the requisite 2/3-voter support for a half-cent transportation tax to help alleviate regional gridlock. **SRI's proven Go, No-Go model** showed maximum voter support of 45.5%; we recommended NO-GO. Nonetheless, the Client placed a Measure on the ballot; the vote ultimately turned out to be 42.5%. Two years later, when the same funding Measure was placed on the ballot again, SRI's recommendation this time, again based upon our proven Go, No-Go Model, was to GO...the funding Measure PASSED within less than 1% above SRI's predicted outcome.

### **City of Clovis, CA. (suburb of Fresno, CA)**

Successful LMD (Landscape Maintenance District). SRI partnered with an engineering firm in bringing forward a successful LMD, wherein local property owners agreed to double and triple their annual LMD assessment. Needed simple majority; **SRI's Go, No-Go Model** showed minimum support of 53%; SRI was retained to draft ballot language and assist in Public Outreach... vote turned out to be 57.24%.

### **City of Oakland, CA.**

Successful LLAD (Landscape & Lighting District); 2008; partnered with Francisco & Associates. Needed simple majority; **SRI's Go, No-Go Model** showed minimum 48.5% support; based on SRI's data analysis and crafting a targeted MESSAGE STRATEGY, SRI recommended **GO**; the initiative passed. SRI was retained to draft ballot language and assist in Public Outreach... vote turned out to be 54.91%.

### **City of Antioch, CA., "218 Feasibility for Creating One or More Landscape & Lighting Districts,"** a survey of residential and "high-end" property owners.

Antioch's six existing Landscape & Lighting Districts were about to "sunset" (terminate). SRI was commissioned to survey residential and "high-end" (hard to reach) property owners to determine: (a) whether or not Antioch property owners would be willing to re-approve the existing Landscape & Lighting Districts, (b) whether or not they would approve creating a single, Citywide District vs. multiple, smaller Districts throughout the City, (c) determine property owners' collective "willingness to pay" for the services provided through this form of annual assessment, and (d) determine if property owners would be willing to forego the require for the District to be "re-approved" every four years and/or approve a cost-of living annual adjustment to the assessment. **SRI's Go, No-Go Model** showed **INSUFFICIENT** support; thus, we recommend **NO-GO**. The Client chose to move forward; the initiative failed.

### **City of Desert Hot Springs, CA.**

Successful TOT (bed tax); Secured 78% voter support for a 2% increase in the City's TOT.

### **Bay Area Rapid Transit Authority (BART), Oakland, CA.**

"*Determining the Level of Voter Support for the Continuation of a \$1.3 billion tax to Renovate & Improve the BART System.*" Feasibility study for the renewal of a 30-year tax initiative that would yield BART approximately \$1.3 billion.

### **AC Transit, Oakland, CA**

Through the years, SRI has partnered with AC Transit in helping identify and secure new revenue streams. Some of our projects include:

- Measure B, Reauthorization; represent AC Transit's interests in a tax initiative involving the funding of public transit in Alameda County under the auspices of the Alameda County Transit Authority. This ultimately led to a successful funding measure being placed on the local ballot.
- Measure B Exit Poll.
- Study to determine public awareness and attitudes regarding bus fares, usage and possible taxation to maintain existing levels of service. Resulted in a successful tax initiative being placed on the local ballot.

### **City of Pittsburg, CA.**

Successful L&L (increase in City's annual Landscape & Lighting Assessment). SRI was retained to identify an appropriate funding mechanism to address the City's fiscal challenges. After conducting a Tax Feasibility Study and an Opinion Leadership Survey, City officials decided to ask local property owners to authorize an increase in the City's existing Lighting & Landscape assessment. We began with 34% support for the Measure; following a concerted effort to BUILD CONSENSUS among stakeholders...combined with public outreach, the initiative ultimately received 69% support. We are presently working with City on a variety of issues; e.g., public safety funding measure, economic development, annexing Community of Bay Point into the City of Pittsburg, among others.

### **City of Hercules, CA.**

For more than 15 years, SRI has represented the City of Hercules regarding public policy research, including such things as: (i) placing successful parcel tax initiatives (requiring 2/3 voter support) on the ballot and successful 218 Special Benefit Assessment Districts (requiring 50% support) before local property owners; and (ii) "Needs Analysis" to determine where to make cutbacks in City spending plan. More specifically, SRI has conducted the following studies for the City of Hercules:

- Successful 218-type Special Benefit Assessment District, Landscape & Lighting District
- Needs analysis to determine how to cut back on City services due to budget due to pressures brought on by the deficit at the State level.
- Landscape & Lighting Assessment; feasibility study to determine level of voter support for renewing the assessment.
- Utilities study. A study to determine level of support for the City creating a new, city-owned utility via a public/private partnership with a subsidiary of ChevronTexaco.
- Twice now, we been commissioned to design and administer a needs assessment for Economic Development & Growth Management.
- Study to identify and understand opinions and attitudes among residents that impact current city services, programs and public policy decision making.
- Study to determine voter support for a capital improvement bond.
- Study to identify and understand opinions and attitudes among residents that impact current city services, programs and public policy decision making.

### **San Mateo County, Department of Parks & Recreation.**

Needs Analysis (empirical input for a 5-year Master Plan) and countywide G.O. Bond Feasibility Study, combined with a study involving the possibility of creating a 218 Special Benefits Assessment District in the mid-coast region of the county.

**The Snyderville Basin Special Recreation District**, Park City, Utah, “Needs Assessment for Recreation Program & Recreation Capital Facilities.

Three community surveys, in Utah’s Summit County conducted three years apart, to secure “intelligence” needed for developing and updating a comprehensive **Master Plan** for regional parks and recreation facilities and programs in the areas immediately contiguous to Park City, Utah. The first study resulted in the passage of an \$11 mm park bond, and the second study was designed to determine how best to invest these monies based on the collective perceptions of the District’s various constituencies. The third study led to a successful \$7 mm park bond.

**Town of Danville, CA.**

Successful \$15 million Mello-Roos Tax Measure for additional parks and recreational facilities and Opinion Leadership Study to assist in campaign strategy.

**City of Berkeley, CA.**

Successful tax measure to pay for additional fire protection, earthquake preparedness, etc. in aftermath of the Berkeley/Oakland Hills Fire.

**Economic Development**

**ChevronTexaco Corporation**, the second largest US integrated oil & gas company, with a presence in more than 180 countries.

An Economic Development survey of opinion leaders throughout the Cocotren (coastline) corridor of Baja, California, Mexico (from Ensenada through Tijuana) to secure the “intelligence” needed for developing a COMMUNITY BENEFITS PROGRAM to enhance education, health care, and “the Arts” throughout the region; to upgrade such infrastructure as local roads, streets, and the sewage system); and to promote tourism and other economic development resources.

This research effort was designed to help position ChevronTexaco to win a \$4 billion contract for constructing and operating an LNG regasification complex plant in Baja, California, Mexico.

**City of Sunnyvale, CA., “Assessing Sunnyvale’s Economic Prosperity Program & its Business Climate.”**

Surveying businesses of all sizes and types (e.g., commercial, professional, high tech, in-home businesses, both light and heavy industry) currently doing business in the City of Sunnyvale. Goal is to create an Economic Development model that will enhance the economic vitality of the City in the foreseeable future.

**East Bay Regional Park District** (the largest regional park district in the United States).

“Quantifying our Quality of Life: An Economic Analysis of the East Bay’s Unique Environment..”  
*SRI conceived the idea, and partnered with the lead consultant, Economic & Planning Systems, Inc., of Berkeley, CA., which culminated with an Economic Summit.*

**18 UTOPIA Cities, DynamicCity MetroNet Advisors**, Lindon, Utah

Economic Development studies on behalf of the **Utopia Consortium** (Utah Telecommunications Open Infrastructure Agency), which is currently comprised of 18 cities in the State of Utah, and the **Sweetwater Consortium**, which is comprised of 2 cities in Wyoming. The intent of the 20 individual studies was to identify “likely market potential” for the DynamicCity Fiber Optic MetroNet in terms of being a viable mechanism for attracting new business and industry into the respective communities.

**Oakland CEO Council**, Oakland, CA., "**Securing 'Intelligence' for Enhancing Economic Vitality in the City of Oakland**"

*Opinion Leadership* study designed to secure the "intelligence" necessary for developing a strategic plan for Economic Development within the City of Oakland. The Oakland CEO Council is comprised of the twelve largest firms with headquarters in Oakland. These include, for example, Clorox, Dryers, Kaiser Permanente, the Oakland A's).

**Rincon San Luiseño Band of Mission Indians**, San Diego County, CA.,

Survey Tribal members to secure "intelligence" for developing a 15-20 year **Economic Development Master Plan** for to allow all Tribal members to benefit from the revenues generated through gaming on the reservation (Harras's Casino). Also, conduct the first comprehensive Tribal census in the Tribe's history.

**Puyallup Indian Nation**, Tacoma, Washington

An Economic Development survey to identify voter attitudes & public sentiment statewide toward providing Education, Health Care & Social Services via Revenue Sharing with the State of Washington of Sales Tax Dollars from Native American Commerce."

## **Parks, Trails & Recreation**

**East Bay Regional Park District** (the largest regional park district in the United States), 1988 to present.

The EBRPD is comprised of Contra Costa and Alameda Counties (over 2.1 million residents). It has within its jurisdiction 59 regional parklands and over 1,100 miles of trails on approximately 85,000 acres of property.

- Benchmarking and Longitudinal Monitoring**; *SRI conceived and now oversee an on-going program to help the regional park District move from a solely tax-based operating model to a market-driven model of operations. These efforts focus, in part, upon building a comprehensive database comprised of park users, surveying them, and recommending policies and strategies to become more responsive to their collective wants and needs.*
- Consulting for developing and implementing a plan to inform constituents** of the Regional Park District's decision to place a tax initiative before them in the March '2002 elections. *This initiative is designed to provide necessary funding for operations and maintenance of the park districts parklands and trails; currently underway.*
- Park user Loyalty/Satisfaction Benchmark Survey**
- Feasibility study to determine the advisability of creating a new **Fire Assessment District** in the Oakland Hills.
- Survey of Voters, **Renters and Apartment Dwellers**.
- Constituent Attitudes Toward Assessment Fees for the **Maintenance and Operation of the EBRPD Trail System**.
- Park Trail Usage Patterns** and Public Sentiment Toward Maintenance and Operation Cost of the EBRPD Trail System.
- Customer Satisfaction Survey**, EBRPD Foundation

**City of Sacramento, CA., Department of Parks & Recreation**

Update five-year Master Plan for City's parks and recreation services, facilities, and programs.

**State of California, Parks and Recreation DEPARTMENT** (CO-SPONSORED BY THE SAVE-THE-REDWOODS LEAGUE)

Determining the feasibility of passing a *Bond Measure* to upgrade and maintain California State Parks and Recreation Facilities statewide.

**City of Milpitas, CA., Department of Parks & Recreation**

Presently conducting public opinion survey to secure "intelligence" needed for updating the City's Master Plan for its Park & Recreation Master Plan (including funding alternatives).

**Town of Corte Madera, CA, Update Master Plan for Town Park & Recreation Center**

Conducted community survey to secure "intelligence" needed from local resident for updating the Master Plan for the Town of Corte Madera Town Park & Recreation Center.

**Marin County with the Towns of San Anselmo & Fairfax** (a joint project)

Tax feasibility study to determine the wisdom of creating a Joint Powers of Authority (JPA) to purchase the **Marin Town & Country Club** property and convert it into a parks, trails, and recreation facility, study included determining the electorate's collective "threshold" of *willingness-to-pay*.

**Sonoma County Regional Parks Department, CA**

Public Opinion Poll to survey regarding Collective Attitudes and Priorities for Regional Parks and Recreation Facilities provided by and/or through the County.

**CARD (Chico Area Recreation and Park District, Chico, Ca.**

Update Agency's five-year Master Plan.

**Southgate Recreation & Park District, South Sacramento County.**

Update Master Plan for District's parks and recreation services, facilities, and programs. Presently assisting with a 2<sup>nd</sup> update of the Master Plan and securing new revenue streams for the Agency.

**The Desert Botanical Garden, Phoenix, AZ.**

Toward Building a Strategic Plan for Repositioning the Desert Botanical Garden in the Collective Mind of the General Public and Increasing Visitation to "The Garden".

**Phoenix Art Museum, Arizona**

Study to evaluate current membership attitudes, motivation for membership and services provided to members.

**City of Union City, CA**

Parks and Recreation **Master Plan**; plus, assessing issues impacting the 'Quality of life' for Union City residents. Citywide survey to determine constituent wishes for short-term and long-term needs with respect to City-sponsored parks, recreation, and leisure programs and facilities.

## **Public Safety Officers' Associations**

### **Fresno Deputy Sheriff's Association**, Fresno, CA.

Scientific survey to determine whether or not residents (especially members of the local electorate) in the 15 unincorporated sections of Metropolitan Fresno want to be annexed into the City of Fresno or have the County contract with the City to provide policing and public safety.

### **Sunnyvale PSOA** (Public Safety Officers Association), Sunnyvale, CA.

SRI is presently working our fourth project, assisting the PSOA with securing "intelligence" (empirical evidence) needed for successful negotiations with City officials.

### **Omaha Police Association** (formerly the Omaha Police Union), Omaha, Nebraska

Assisting the Association with securing empirical evidence from local voters designed to assist in mitigating unwanted changes in the police officers' Pension Plan.

### **Fairfax Coalition of Police** (Local 5000), Fairfax, Virginia.

Survey Fairfax County electorate to determine if they were willing to have policing and related public safety services provided by/through the Fairfax County Police Department cut back, due to the pressures of a depressed economy; or would they prefer to have deep cutbacks made in other services provided by/through the County. Further, was public sentiment regarding this matter sufficient to result in the incumbents in public office being replaced if they did not maintain adequate public safety for the residents throughout the Department's service area.

## **Public Policy and Public Opinion Research**

### **CITY OF BRENTWOOD, CA**

- ✓ NEEDS ASSESSMENT FOR **ECONOMIC DEVELOPMENT & GROWTH MANAGEMENT**.
- ✓ TWO STUDIES OVER FIVE-YEAR PERIOD TO IDENTIFY AND UNDERSTAND OPINIONS AND ATTITUDES AMONG RESIDENTS THAT **IMPACT CURRENT CITY SERVICES, PROGRAMS AND PUBLIC POLICY DECISION MAKING**.
- ✓ STUDY TO DETERMINE VOTER SUPPORT FOR A **CAPITAL IMPROVEMENT BOND**.
- ✓ STUDY TO DETERMINE LEVEL OF SUPPORT AMONG LOCAL PROPERTY OWNERS FOR THE RENEWAL OF AN EXISTING **LANDSCAPE & LIGHTING DISTRICT** TO PROVIDE MONIES FOR THE CREATION AND MAINTENANCE OF SUCH INFRASTRUCTURE AS STREET LIGHTING, STREETS & ROADS, PARK AND RECREATION FACILITIES, ET AL. (THIS AMOUNTS TO THE RENEW OF A 218 SPECIAL BENEFIT ASSESSMENT DISTRICT WITHIN THE CITY).
- ✓ STUDY TO IDENTIFY AND UNDERSTAND OPINIONS AND ATTITUDES AMONG RESIDENTS THAT IMPACT **CURRENT CITY SERVICES, PROGRAMS AND PUBLIC POLICY DECISION MAKING**.

### **CITY OF DAVIS, CA**

**Public Opinion, Attitudes and Spending Priorities regarding Issues of *Open Space, Natural Areas, and Recreation Trails*.**

**Delta Environment Science Center** (SURVEY RESIDENTS THROUGHOUT ENTIRE S.F. BAY AREA)  
Public Perceptions Regarding Prospective Educational and Recreational Programs, Activities & Facilities.

### **City of Fremont, CA**

Survey of local electorate to determine likelihood of support for bond/tax measure with regard to five capital projects and/or a Gann Limit override.

**City of Gilroy, CA**

Survey of city residents to identify local concerns and community priorities, and to assess city programs and service levels.

**City of Half Moon Bay, CA**

Voter attitudes toward growth management.

**City of Hollister and San Benito County** (co-sponsored by both public agencies).

Attitude Analysis regarding Growth Restricting Initiatives

**City of Lafayette.**

Survey to determine park and recreation desires and voter willingness to support tax for such projects.

**City of Los Altos, CA**

Survey to determine the general attitudes and concerns of local residents regarding the needs of seniors in the Los Altos area.

**Town of Los Altos Hills, CA**

Study electorate regarding sentiment towards two ballot measures in election dealing with local *land use decisions* and possible *annexation*; subsequently conducted a tracking survey regarding same issues.

**City of Martinez, CA**

Survey local electorate to determine perceived need for a *community center* and willingness to pay additional taxes for the construction of such a facility.

**City of Martinez, CA, "Developing a Crisis Plan to Address a Serious Budget Shortfall Impacting City Services and Securing 'Matching Funds' to Address the Problem of Flood Control in downtown Martine."**

Feasibility study to determine: (a) the likelihood of securing the requisite voter support and the "threshold" of willingness-to-pay" a new tax in order to avoid cutbacks in City services as a result of a serious budget shortfall, and (b) *willingness-to-pay* a modest tax in order to "match" funds being provided by FEMA (Federal Emergency Management Agency, CalTrans, and the Union Pacific Railroad in order to resolve a chronic flooding problem in downtown Martinez.

**City of Moreno Valley, CA**

Maintaining the Community Services Assessment District (Zone 'A')

**Threshold of Willingness-to-Pay for Parklands and Recreation Facilities Made Available from the Closure of the March Air Force Base.**

**City of Oakland Fire Department**

Study to determine voter attitudes towards existing services and possible additions/changes in services.

**City of Pacifica**

Determination of voter support for a ballot measure to exempt current growth limitations.

**City of Pleasanton** (three surveys)

First survey to determine level of support for a *growth-limiting initiative* and to establish voter attitudes towards *general land use policies* ; second survey to determine voter support for a General Plan Amendment regarding open space preservation and residential development; third survey to drive strategic planning involving Pleasanton Ridglands Land-Use Plan.

**City of South Gate, California**

DEVELOPING BENCHMARKS (BASELINE MEASURES) FOR "CONSENSUS-BUILDING" AMONG STAKEHOLDERS THROUGHOUT THE CITY'S JURISDICTION; SUSTAINING INNOVATION WITHIN THE CITY OF SOUTHGATE.. A CITY-WIDE TELEPHONE SURVEY, PLUS A SERIES OF TOWN HALL MEETINGS.

**City of Ventura, California.**

Demographic profile of the City of San Buenaventura

### Public Utilities

**Salt River Project (3rd largest public power and water utility in the United States).**

New product research in preparation for the divestiture of the utility industry within the following two years.

- ✓ Introducing *Whole House Surge Protection* products to the marketplace.
- ✓ Introducing to the marketplace *SRP's M-Power Technology* (manufactured by Motorola).
- ✓ *Product development* for BOTH residential and business markets.

### Studies in Private Sector

#### Managed Health Care Industry

**MetLife Insurance** (SafeGuard Dental Plan, a dental HMO, subsidiary to MetLife). We conduct on-going monthly "patient satisfaction" surveys involving providers who accept the SafeGuard plan in every market throughout the United States.

**J.D. Power and Associates**, Health Care Division, Mesa, Arizona. Design and administer *customer satisfaction surveys* and surveys designed to enhance business development for J.D. Power Clients.

**Humana, Inc.**, Louisville, Kentucky — Study to determine *market potential* and *pricing threshold* for premium-based POS Supplement to Medicare. Conducted telephone survey that was designed to: (1) confirm the findings from previously-conducted focus group research and (2) to address the above-noted research questions.

**Health Net, Inc.** (subsidiary of Foundation Health Systems/Health Systems International)

- ✓ **Phase I: POS (point of service) product research** to determine how to improve "HealthNet Select." Conduct a series of focus group exercises involving members who have purchased Health Net's POS product.
- ✓ **Phase II: POS (point of service) product research** to determine how to improve "HealthNet Select." Conduct a series of focus group exercises involving physicians and administrators who service Health Net's POS product.
- ✓ **New Product Development.** Conduct a series of focus group sessions to: (1) determine the likelihood of adoption of new member products/benefits being considered by Health Net and (2) to evaluate key features of the new products under consideration.

**Intergroup Health Plan**, Phoenix, Arizona (subsidiary of Foundation Health Systems/Health Systems International) — Toward enhancing member retention: *Disenrollment telephone survey*.

**PCS Health Systems**, Scottsdale, Arizona (a wholly-owned Division of *Eli Lilly Pharmaceuticals*) — Conduct 1997 **Annual Customer Satisfaction Survey**. Combination telephone and mail surveys.

**QualMed HealthLine**, Philadelphia, Pennsylvania (subsidiary of Foundation Health Systems/Health Systems International). SRI analyzes the data from mail user satisfaction surveys conducted quarterly; we conduct longitudinal (over time) analyses in order to identify instructive trends and patterns (*quarterly since May 1997*)

**SCAN Health Plan** (social HMO that is part of a Congressional experiment designed to provide health care services to the senior/Medicare population)

- ✓ **Niche Analysis and Branding Study** commissioned for the purpose of determining how to position the senior HMO to compete with larger HMO's (especially those with "deep pockets") when the protection of SCAN's niche is terminated by Congress and the playing field levels out. Study comprised of three-phases: **Phase I: telephone survey** of SCAN members and non-members; **Phase II: one-on-one, in-depth interviews** of SCAN employees & consultants; **Phase III: conduct two focus group exercises** involving consumers recruited from specific target markets.
- ✓ **Building behavioral models for client/member retention**. Combination telephone survey and focus group study.
- ✓ **Needs analysis of seniors**. Telephone survey.
- ✓ **Disenrollment Study**. Combination focus group research and telephone survey.
- ✓ **Proposed name change**. Test proposed name change for senior HMO. Focus group research.
- ✓ **Niche analysis/concept testing**. Niche marketing study (based upon in-depth one-on-one personal interviews) to determine marketability of new HMO (a subsidiary to SCAN Health Plan) called SmartCare. Study included testing three advertising concepts.

**United Health Plan**, Los Angeles, California (telephone surveys)

- ✓ **Member satisfaction survey**. Statistical analysis included "causal modeling."
- ✓ **Member & Non-member Senior Market Profile Survey**; Survey members and non-members to determine a profile of clientele.

**Yellowstone Community Health Plan**, Billings, Montana — **Needs Assessment** and **Local Market Analysis** for purposes of strategic planning. Telephone survey for start-up of new HMO.

## **Non-Health Care Research in Private Sector**

**Home Builders Association of Northern California** — Multiple studies regarding Inclusionary Zoning, to fund affordable housing in the City of San Jose.

### **AAA (Auto Club of Southern California)**

- ✓ **Understanding 'Purchase Barriers'** to AAA auto insurance.
- ✓ **Post-election survey re: 'No-fault Insurance' Ballot Initiative.** Member survey to determine level of awareness, knowledge, and attitudes after the No Fault Insurance initiative was on the statewide California ballot.
- ✓ **Pre-election survey re: 'No-fault Insurance' Ballot Initiative.** Member survey to determine level of awareness and likelihood of voter support for the statewide No Fault Insurance initiative that was on the upcoming ballot.
- ✓ **Post-election survey of AAA members** re: two transportation propositions that appeared on the November 8th ballot. Object of study was to analyze voting behavior among AAA members.
- ✓ **Market feasibility study and new product development.** Study involved a new insurance product called Mechanical Breakdown Insurance.

## **Not-for-profit Organizations**

**Vintage House Senior Center**, Sonoma, CA, "*Public Opinion Research for Purposes of Strategic Planning: Benchmarking Community Awareness, Public Image & Needs Analysis.*"

Vintage House wanted to take a higher profile in the communities they serve in the Sonoma Valley. Toward that end, they wanted to secure a better understanding of how well known the senior center was throughout the region, how they were perceived, and whether or not there were services desired by their constituency that the Center was not presently providing to seniors. Finally, they wanted to secure "intelligence" that would help improve their fund raising efforts.

**Jesus Video Project**, sponsored by the Campus Crusade for Christ

- ✓ **Testing Distribution Strategies & Measuring the Effects** of viewing "The Jesus Video" when sent, unsolicited, to homes of Christians & Non-Christians (Two surveys of residents in three cities located BOTH inside and outside of the 'Bible Belt').
- ✓ **Surveying Pastors** about The Jesus Video: Whether or not their expectations were realized.
- ✓ **Redesigning the Cover Sleeve (jacket) of The Jesus Video**: focus group research involving both Christians & Non-Christians.

**Wycliffe Bible Translation**, Orange, CA.

Developing a strategy to maximize the effectiveness of fund raising letters to supporters of the Wycliffe effort.

**Inland Auto Dismantlers' Association**, Identifying Market Potential for Used Engines & Used Parts throughout the Inland Empire.

**United Way of Orange County**

Needs analysis survey.

## **Tax Initiative for Public Schools**

### **Alameda Unified School District**, City of Alameda, California

Two studies (benchmark survey & tracking poll prior to the election) to determine the level of community support for consolidation of high schools and feasibility for passage of a *\$48 million bond*.

### **Berryessa Union School District**, San Jose, California

Study to determine feasibility of passing a local school tax initiative for education programs and establishing overall budget priorities (two studies)

### **Brentwood/Byron/Oakley School Districts**, Contra Costa County, California

Study to determine the feasibility of passing a local school tax measure.

### **Contra Costa County Libraries**

Survey to determine public library use and needs, general attitudes towards library and county services, and the likelihood of passing public financing for construction of additional libraries.

### **Department of Education, State of Arizona** (Co-sponsored by The Goldwater Institute).

Feasibility study for a 1/2 cent sales tax to "equalize school funding" throughout the State of Arizona.

### **Livermore Valley Joint Unified School District**, Livermore, California

Survey to determine the feasibility of a parcel tax measure to enhance educational programs within the District on a site-specific basis.

### **Martinez Unified School District**, Martinez, California

Baseline survey to determine feasibility of passage of \$25 million bond measure for a new high school; later conducted tracking surveys. Subsequently, ran successful campaign.

### **Mt. Diablo Unified School District**, Concord, California

Re-analyze data gathered by another research firm regarding feasibility of *\$90 million bond* measure; subsequently commissioned to conduct a tracking poll to confirm "findings."

### **Newark Unified School District & City of Newark**

Joint study to determine the feasibility of two proposed tax measures: the renovation of local schools and a community swimming pool.

### **Oakley School District**, Oakley, California

Study to determine the feasibility of passing a local school tax measure. Subsequently retained to manage successful campaign for the bond measure.

### **Redwood City Elementary School District**, Redwood City, California

Tracking survey to determine the feasibility for passage of both a successful bond measure for facility improvements and parcel tax measure for educational programs.

### **Reed Union School District**

Study to determine reasons for failure of a prior parcel tax initiative and the parameters of an acceptable measure.

### **West Contra Costa College**, Richmond, California

An assessment of resident attitudes and needs with regards to the college and its programs.



## Addendum 'C'



STRATEGY  
RESEARCH  
INSTITUTE

## SRI References

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**Mr. Bob Doyle**

General Manager

**East Bay Regional Park District**

*(largest regional park District in the United States)*

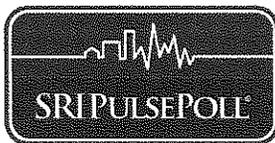
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Fairbank,  
Maslin,  
Maullin,  
Metz &  
Associates

**FM3**

Public Opinion Research  
& Strategy

City Manager

FEB 02 2012

**RECEIVED**

February 1, 2012

Tom Williams  
City Manager  
City of Milpitas  
455 E. Calaveras Blvd.  
Milpitas, CA 95035

Dear Mr. Williams,

Fairbank, Maslin, Maullin, Metz & Associates (FM3) is pleased to submit our proposal in response to the City of Milpitas' *"Request for Proposals for Consulting Services to Perform Public Opinion Survey and Funding Options Strategy Services."*

Fairbank, Maslin, Maullin, Metz and Associates (FM3), is a California corporation that has specialized in public policy-oriented opinion research since the company was first organized in 1981. FM3 offers a full range of opinion research and communications strategy consulting services, including research services for public agencies to support revenue enhancements for infrastructure improvements.

**FM3 is the recognized leader in conducting research to help California cities pass local ballot measures to provide additional revenue for city services, including those requiring a two-thirds supermajority. FM3 serves as the League of California Cities' primary opinion research firm.** FM3 has conducted research in support of more than 300 ballot measure campaigns dealing with issues like public safety, libraries, parks, infrastructure, education, health care, open space, social services, and transportation for cities, counties, school districts, and other local and state service providers.

**FM3 has extensive experience conducting research in Santa Clara County.** FM3 has worked with a range of public agencies, municipalities, non-profit organizations and candidates for public office in Santa Clara County and in Milpitas. For example, FM3 has conducted research for successful ballot measures on behalf of the **Milpitas Unified School District**, the **Evergreen School District**, and the **Franklin-McKinley School District**, and has conducted numerous community satisfaction, budget and employee surveys for the **City of San Jose** over the past decade. Other local clients include the cities of **Morgan Hill, Gilroy, Palo Alto, Los Gatos, Saratoga and Sunnyvale**, as well

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as the **Santa Clara Valley Water District**, the **Santa Clara County Office of Education**, the **Valley Transportation Authority**, the **Santa Clara County Urban Runoff Pollution Prevention Program**, the **Santa Clara Children's Health Initiative**, and the Santa Clara based non-profit the **Health Trust**, among others.

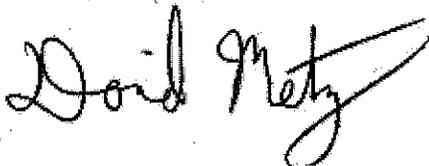
To compliment our breadth of statewide research experience, FM3 is partnering (on a subcontract basis) with Saggau & DeRollo, LLC (S&D), a San Jose, California based political consulting firm to provide political consulting and communications strategy to the Milpitas team. S&D and FM3 have successfully partnered to advise a number of Santa Clara County agencies including the **Milpitas Unified School District**, **Evergreen School District** and the **Alum Rock Union Elementary School District** in the recent past. All were successful in passing their tax measures. S&D will assist FM3 on survey design and help advise the City on the tax measure, message development and how to construct a winning campaign if the City chooses to move forward.

If selected, FM3 is prepared to sign the sample "Agreement for Professional Services" provided in the RFP document. We understand that we are bound by our proposal for 90 days. FM3 confirms that Partner Dave Metz is authorized to bind the firm during the evaluation period and through to contract execution.

If the City has any questions, or wishes to discuss our proposal further, please feel free to contact Mr. Metz at:

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(510) 451-9521 (phone)  
(510) 451-0384 (fax)  
dave@fm3research.com (email)

Sincerely,



Dave Metz  
Partner

# Proposal to Conduct a Public Opinion Survey and Strategy Services for the



# City of Milpitas

Submitted By  
**Fairbank, Maslin, Maullin, Metz & Associates**  
&  
**Saggau & DeRollo, LLC**

**February 1, 2012**

Contact:

**Dave Metz**  
Partner, FM3

**Dustin DeRollo**  
Partner, Saggau & DeRollo

921-2625

*Fairbank, Maslin, Maullin, Metz & Associates - FM3*  
*Public Opinion Research & Strategy*

SANTA MONICA • OAKLAND • MADISON • MEXICO CITY

**SAGGAU & DEROLLO LLC**

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## **A. DESCRIPTION OF PROPOSED SERVICES**

The City of Milpitas desires a voter opinion survey to evaluate the probability of passing a revenue measure to help maintain vital city services. In addition, if the City decides to move forward with a revenue measure, it desires assistance in educating the public on the need for additional revenues to maintain city services. Below we address the City's needs in two sections: **Voter Opinion Survey** and **Community Education**.

### **Voter Opinion Survey**

---

#### **Questionnaire Design**

In order to meet the City of Milpitas' needs and timeline, we recommend a meeting with City Manager Tom Williams and his designees to gather and analyze relevant data including (but not limited to): specific city services impacted by budget cuts, local issues impacting the fiscal well-being of the City, potential revenue generating sources (parcel tax, sales tax, etc.) and the revenue generated by a potential tax. In addition, we will interview stakeholders identified by the City. These processes will help inform us on the initial questionnaire design.

We will then proceed with constructing an initial written survey questionnaire. During this process we would work through several iterations of the survey questionnaire – collecting and integrating feedback, edits and suggestions from the City – before considering the survey design complete. Before commencing interviewing, we will obtain the approval of the appropriate City representative on the final version of the questionnaire.

At the City's desire, the survey can also be translated into Spanish and Vietnamese, to ensure that language barriers do not prevent local voters from participating in the survey.

#### **Sample Selection**

Based on the size of the City of Milpitas, and the potentially unique characteristics of various demographic and geographic subgroups, FM3 recommends completing 400 interviews. This will provide us with an overall margin of sampling error of +/-4.9%.

#### **Survey Pre-Testing**

Once approved for fielding, the questionnaire will be pre-tested with a sufficient number of respondents to assure ease of administration and flow. Such testing will also verify the length of the questionnaire and the survey questions' clarity and comprehensibility. The results of the pre-test will be reviewed with City staff in order to determine if any adjustments need to be made before interviewing proceeds.

#### **Interviewing**

Interviewing for the survey will be conducted by telephone by MRS, Inc. MRS has well-established procedures to supervise the interviewing process and to verify that interviews are conducted according to specifications. Among these procedures are the monitoring of actual interviews by on-site supervisors, identification of each interview by interviewer

*City of Milpitas – Fairbank, Maslin, Maullin, Metz & Associates/Saggau & DeRollo LLC  
Proposal to Conduct Opinion Research & Strategy Services - 3*

through telephone monitoring equipment, and the use of a regularly employed staff of professional, full time interviewers. There is an established protocol for callbacks of busy or "not-at-home" numbers designed specifically to maintain the randomness of interviewee selection. FM3 retains all interviews as part of its data processing procedures described below.

**Data Analysis**

Response data will be analyzed by FM3's Data Processing and Analysis Department staff using Survey System software, a well documented and widely used data analysis software package. As needed, FM3 may augment Survey System with its own custom-designed statistical analysis program to report the tabulation and cross-tabulation of data.

Within 36 to 48 hours from completion of the last interview, FM3 will provide the City with a comprehensive set of cross-tabulated results. The cross-tabulated results will include a table for each question or demographic variable in the survey, with a series of up to 200 columns indicating how various subgroups of the Milpitas electorate responded to each question. The cross-tabulated results will make it possible to detect differences in responses to each survey question among subsets of the electorate: for example, it will be possible to compare men and women; voters under age 50 and age 50 and over; households with and without people under the age of 18; homeowners and renters; different income groups; and long-time residents and more recent arrivals.

The Data Processing and Analysis Department staff employs a data checking and editing system to eliminate errors and document the handling of data received from the interviewers. FM3's custom-designed data processing software package can convert data to ASCII format or virtually any other format commonly used. All data entry and tabulation is performed on PCs.

**Reports and Presentations**

Results of the survey will be presented both in-person and in writing. After FM3/S&D's report and presentation have been completed, FM3/S&D will remain available to answer follow-up questions from City staff. FM3/S&D views the responses to the survey as an on-going data resource. If the need arises, FM3/S&D can do further analysis to provide answers to follow-up questions that may be posed by the City.

Both written and in-person presentations will contain advice on whether or not to move forward with a tax measure, how the measure should be structured for the best possibility for success, and strategic advice for mounting a successful campaign.

## **Community Education**

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If the City chooses to move forward with a revenue measure, Saggau & DeRollo, LLC is prepared to assist the City of Milpitas in organizing a community education effort to increase public awareness of the City's revenue needs and the key components of the ballot measure.<sup>1</sup>

The focus of the community education effort will be to raise overall awareness of the City of Milpitas' budget deficits and its future challenges. We will help the City highlight the real impacts of service cuts on Milpitas residents and businesses. We will help the City educate the public on the budget cutting measures implemented over the last several years, the services that will need to be cut if additional revenue is not realized and the City's intended plan on how it will invest new tax revenues.

The messaging developed for our Community Education effort will be aligned with the polling data so the City can more effectively educate residents on the services, programs and issues deemed important by voters. This approach will allow the City to have the largest impact on educating residents with its limited budget.

In collaboration with the City, we will create a community/stakeholder outreach plan aimed at educating key organizations and groups in Milpitas on the need and purpose of the tax measure. We will work with staff to develop a PowerPoint presentation to provide background information on the City's fiscal condition and the components of the tax measure.

In addition to a PowerPoint presentation, we will assist the City in developing the necessary collateral material to provide the public with factual information on the measure. This material will include: messaging documents/talking points to assist City officials in discussing the tax measures, a FAQ sheet, fact sheet, City newsletter inserts/columns, and other written materials to effectively communicate information to the public.

Finally, it will be important to educate the local media on the need for the tax measure as well as the City's plan on how it will invest the tax revenues if the ballot measure is successful. We will assist the City in preparing briefing materials for local reporters, developing talking points for interviews as well as conducting interview preparation with the designated city spokesperson to ensure the City's message is effectively delivered through the local media to residents.

As a full-service political and communications consulting firm, S&D has the capabilities of conducting a more extensive community education campaign that could include direct mail or other paid advertising. If this approach is desired by the City, S&D will produce a budget and strategy to implement the more thorough education campaign for the City's review and approval.

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<sup>1</sup> Due to the restrictions on the use of public funds, the Community Education effort will not seek to "persuade" voters to cast a "yes" ballot.

*City of Milpitas – Fairbank, Maslin, Maullin, Metz & Associates/Saggau & DeRollo LLC  
Proposal to Conduct Opinion Research & Strategy Services - 5*

**Deliverables**

In summary, upon conclusion of the survey project, the City will have received from FM3/S&D all of the documents listed below. All documents can be provided in hard-copy and electronic formats.

**Voter Opinion Survey**

- ✓ **Final survey questionnaire**
- ✓ **Topline survey results** (the survey questionnaire with response percentages for each response code)
- ✓ **Cross-tabulated results** (responses to all survey questions segmented by demographic, geographic, attitudinal and behavioral subgroups of Milpitas residents)
- ✓ **Comprehensive written report** (a written summary and analysis of the survey's results – including tables and graphs – with conclusions and recommendations)
- ✓ **In-person PowerPoint presentation (s) of key findings** (color slides highlighting important findings, conclusions and recommendations)
- ✓ **Raw data from the survey in electronic form** (delivered in a file format chosen by the City)

**Community Education**

- ✓ **Develop pre-election messages** to educate the community about the need for additional revenues to maintain/restore city services.
- ✓ **Create a community/stakeholder outreach plan** to engage the community directly about the City's revenue needs.
- ✓ **Create community presentation** for use with residents and stakeholder groups.
- ✓ **Develop key collateral material** to assist in the outreach process (messaging documents, FAQ sheets, fact sheets, etc.).
- ✓ **Create a media relations strategy** to brief local media on the City of Milpitas' revenue needs and components of the City's potential revenue measure. This could include op-ed pieces and letters to the editor if desired.

**B. PROPOSED TIMELINE**

FM3/S&D is ready to begin work on the survey at the City's request. Given the compressed timeline associated with placing a measure on the June 2012 ballot, we have included an aggressive proposed project schedule that starts with a kick-off call or meeting during the same week as the City Council makes its decision on this RFP. The goal would be to write the questionnaire, conduct the survey and complete our initial analysis of results by the end of February, allowing time in the beginning of March to review the results with City staff and the City Council. Of course, FM3/S&D would be happy to either shorten or lengthen the timetable at the City's request.

**February 7, 2012**

- Authorization to proceed

**February 8-10, 2012**

- Finalize contract
- Kick-off meeting

**February 13-17, 2012**

- Circulate first survey draft for comment
- Conference call to discuss survey draft
- Revise survey, circulate revised version for comment
- Finalize sample specifications
- Finalize survey questionnaire
- Obtain final approval of survey
- Acquire survey sample

**February 19-22, 2012**

- Conduct survey interviews
- Produce topline results
- Produce cross-tabulated results

**February 22-February 29, 2012**

- Analyze results
- Develop graphic presentation of results

**Early March 2012**

- Present survey findings and recommendations to the relevant City staff and City Council as needed.
- Develop talking points and fact sheets for City use to discuss the decision of move forward or not move
- Draft argument in favor of the measure if decision is made to move forward.

## **C. FIRM QUALIFICATIONS AND RELEVANT EXPERIENCE**

### **FM3 Firm Background**

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Fairbank, Maslin, Maullin, Metz and Associates (FM3), a California corporation, has specialized in public policy-oriented opinion research since the company was first organized in 1981. FM3 offers a full range of opinion research and communications strategy consulting services, including research services for public agencies to support revenue enhancements for infrastructure improvements. FM3 opinion research and marketing services include:

- Random-digit-dial (RDD) and listed sample public opinion telephone surveys in English and Spanish or other languages
- Public opinion mail surveys in English, Spanish and Asian languages
- In-depth executive interviews
- Focus groups in English, Spanish, and Asian languages
- Product testing and consumer market research
- Advertising testing using Audience Response System “Perception Analyzer” technology
- Communications strategy consulting

FM3 plans and executes all phases of focus group and survey research projects from beginning to end. On an annual basis, the company conducts as many as one hundred focus groups and three hundred surveys. It designs the research instrument, specifies the sampling or recruitment plan, manages the data gathering process and analyzes and interprets the data. FM3 is also adept in the use of perception analyzer technology, which bridges the gap between qualitative and quantitative opinion research.

FM3 has on-staff Spanish language capability that it applies to all research projects involving populations with significant Spanish speaking segments.

FM3's primary business is to provide timely public opinion analysis to assist policymakers in making decisions. The firm's principals have decades of experience in opinion research, and our 22-person staff is multi-talented and works as a team to assure the completion of quality opinion analysis in a timely manner. In addition, FM3's data collection and sampling sub-contractors are closely supervised and pre-qualified by FM3 to render immediate, high-quality service. FM3 prides itself in delivering personal service to its clients, who are assured ongoing contact with the firm's principals and senior personnel.

More detailed information about FM3 and its clients may be found on the firm's website, [www.fm3research.com](http://www.fm3research.com).

## **Relevant Experience**

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- ✓ **FM3 is the recognized leader in conducting research to help California cities pass local ballot measures to provide additional revenue for city services, including those requiring a two-thirds supermajority.** FM3 has conducted research in support of more than 300 ballot measure campaigns dealing with issues like public safety, libraries, parks, infrastructure, education, health care, open space, social services, and transportation for cities, counties, school districts, and other local and state service providers. At the local level, we specialize in developing strategies to pass revenue measures and we have worked in nearly a hundred cities in California. Our research identifies the feasibility of a possible ballot measure, the most appropriate tax rate, revenue mechanism (sales tax, utility users' tax, parcel tax, transient occupancy tax, bond measure, etc.), how voters prefer additional revenue be used, and how to word the ballot measure.

In addition to determining overall support for a proposed ballot measure, our survey research tests voter preferences for the funds raised. This research enables our clients to better understand the public's priorities, allowing each city to craft its measure to the specific preferences of their voters' unique needs to ensure the greatest level of support. We have adapted our experience in this field to the needs of local governments that seek voter approval for both capital and operational budget increments. In particular, our opinion research services and methods provide insight into:

- Identifying specific words, phrases, and language to use in developing the ballot resolution, and the official 75-word title and summary statement;
  - Evaluating voters' responses to different funding mechanisms, e.g. sales tax, utility user tax, etc.
  - Testing voter support for programs, provisions, taxation rates, and funding initiatives;
  - Assessing voters' needs and priorities for specific city services; and
  - Examining different themes and approach to help voter understand the city's needs for additional revenue to maintain vital local services.
- ✓ **FM3 is a leader in conducting research designed to pass ballot measures in difficult environments.** FM3 has conducted much of its ballot measure research in challenging electoral contexts, including many of the most highly-contested and difficult campaigns in the country. In many of these campaigns, FM3 has had to help develop strategies to overcome tens of millions of dollars of campaign spending from the opposition; win support from more than two-thirds of local voters to ensure passage; overcome campaigns from sponsors of competing measures on the same ballot; or obtain majority support for tax and spending measures in the midst of an economic downturn.

The latter has obviously been very challenging since the "Great Recession" began in late 2007. However, during this time period (since the beginning of 2008) FM3's opinion research has helped contribute to the passage of over 60 local bond and tax measures (primarily in California), demonstrating that despite high rates of unemployment and cynicism of government, it is still possible to pass well-crafted local finance measures.

- ✓ **FM3 has extensive experience conducting research in Santa Clara County.** FM3 has worked with a range of public agencies, municipalities, non-profit organizations and candidates for public office in Santa Clara County and in Milpitas. For example, FM3 has conducted research for successful ballot measures on behalf of the **Milpitas Unified School District**, the **Evergreen School District**, and the **Franklin-McKinley School District**, and has conducted numerous community satisfaction, budget and employee surveys for the **City of San Jose** over the past decade. Other local clients include the cities of **Morgan Hill**, **Gilroy**, **Palo Alto**, **Los Gatos**, **Saratoga** and **Sunnyvale**, as well as the **Santa Clara Valley Water District**, the **Santa Clara County Office of Education**, the **Valley Transportation Authority**, the **Santa Clara County Urban Runoff Pollution Prevention Program**, the **Santa Clara Children's Health Initiative**, and the Santa Clara based non-profit the **Health Trust**, among others.
  
- ✓ **FM3 also serves as the League of California Cities' primary opinion research firm.** Most recently, FM3 research for the League led to the passage of **Proposition 22** in November 2010, which helps to protect city and county tax revenue and funds intended to be used for transportation projects and services. In addition to this current research, FM3 helped the League successfully pass **Proposition 1A, the statewide Local Taxpayer Protection Act** in 2004. FM3's research services also helped the League and a coalition of local governments **defeat Proposition 90** (November 2006) as well as a similar measure, **Proposition 98** and pass **Proposition 99** in the June 2008 Statewide election. FM3 also regularly conducts seminars and forums with the League of California Cities to educate city leaders on how public opinion research can be used to address the concerns, needs and priorities of their residents and provide additional funds for vital city services.

Our firm understands the damaging impact of state takings on city governments, and the implications of the recent court ruling allowing the state to take local redevelopment funds. In fact, our research at the state level shows that voters are extremely upset by the state taking local government revenues. Therefore, we can apply our statewide research findings to help the City of Westminister in developing messaging and an effective strategic approach locally.

### **Saggau & DeRollo, LLC Firm Background & Relevant Experience**

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Saggau & DeRollo, LLC (S&D), a California Limited Liability Company, specializes in political strategy and communications. Located in San Jose, California, S&D's principals bring over 30 years of combined experience in Santa Clara County elections. S&D is a hands-on firm. Every client receives personal attention from one or both of the firm's partners.

As a full service political consulting firm, S&D is able to assist clients from the pre-election period through to Election Day. The following is a brief breakdown of the scope of services we can provide to our clients:

- Develop and implement campaign strategy.
- Develop key campaign messages and themes.
- Train client for media interviews; Act as liaison, and spokesperson if requested, with the local media.
- Develop total campaign budget and expenditure plan.

*City of Milpitas – Fairbank, Maslin, Maullin, Metz & Associates/Saggau & DeRollo LLC  
Proposal to Conduct Opinion Research & Strategy Services - 10*

- Create and oversee all campaign materials which could include (dictated by resources and adopted strategy):
  - Direct mail.
  - Television & Radio Ads.
  - Newspaper advertisements.
  - Informational Brochures.
  - Letters to the Editor and Opinion Pieces.
  - Public/Event presentations.
- Develop and implement grassroots field campaign for direct voter contact.

The battle to pass a tax measure begins before the measure is even put on the ballot. With our public agency clients, we engage early in the pre-election process to best position the measure for success. We work closely with quality public opinion research firms to not just determine the overall support for a measure, but to advise agencies on the most effective structure and wording of the measure. We also utilize our depth of experience in Santa Clara County elections to provide you with quality, localized advice based on the political climate in your specific community as opposed to overly broad generalizations about voters.

**Our firm has a successful track record of winning tax measure campaigns in Santa Clara County.** In 2010, we advised the **Milpitas Unified School District** on its \$84 annual parcel tax and successfully managed the associated campaign to a 70.79% victory. We had similar successes in the **Evergreen School District** where we successfully passed their \$90 parcel tax in 2008 and passed their \$150 million bond in 2006. We advised and managed the **Alum Rock Union Elementary School District** in passing its \$100 parcel tax in 2004. We also advised on San Jose's 2004 parcel tax for its library operations also in 2004. Further, one of our principals, Dustin DeRollo, was a chief advisor to the campaigns that successfully passed three bond measures in **San Jose**: a \$228 million park bond and a \$214 million library bond in 2000, and a \$159 million public safety bond in 2002.

**D. PROJECT STAFF**

The FM3 project manager for this project will be Partner Dave Metz. Mr. Metz will ensure that the project is completed within the scheduled time frame and that the quality of the required products will meet the City of Milpitas' expectations and requirements. Mr. Metz will be assisted in client coordination, survey drafting, data analysis and report writing by FM3 Vice President Curtis Below and Research Assistant Greg Lewis. The FM3 members assigned to this project are located in FM3's Oakland, California office.

All senior FM3 staff members assigned to this project possess advanced degrees in public policy, statistics and/or extensive experience working in state or local government. As a result, FM3 has a ready understanding of the challenges and tradeoffs that confront local government planners in a time of reduced revenues and increasing demand for services. The City is assured primary, direct contact with senior level project staff throughout the research project.

The S&D project manager for this project will be Partner Dustin DeRollo. Mr. DeRollo will ensure that the project is completed within the scheduled time frame and that the quality of the required products will meet the City of Milpitas' expectations and requirements. Mr. DeRollo will be assisted in client coordination and achieving the contract's deliverable by S&D Partner Tom Saggau. The City is assured direct contact with the owners of S&D throughout the project. Saggau & DeRollo, LLC is located in San Jose, California.

Biographies for key members of the project team are provided below:

**David Metz, Partner**

David Metz, Partner in Fairbank, Maslin, Maullin, Metz & Associates, has provided qualitative and quantitative research and strategic advice to dozens of non-profit organizations, government agencies, businesses, and candidate and ballot measure campaigns at both the state and local levels since joining the firm in 1998.

Metz has conducted research for dozens of local governments in California, helping them craft ballot measures to provide additional revenue to fund vital public services. Metz has also provided research and consulting to help win voter approval for five statewide parks, land use and water quality and supply bonds in California. Metz has also specialized in providing community satisfaction, policy development and financial increment surveys for cities, including San Francisco, Oakland and San Jose, as well as numerous other local and regional government agencies. Metz has also specialized in providing research to numerous conservation organizations, among them the Nature Conservancy, Trust for Public Lands, the League of Conservation Voters, the Sierra Club, and the National Audubon Society.

Prior to joining FM3, Metz served as an analyst for the City of Milwaukee's Budget and Management Division, a Staff Assistant to Milwaukee Mayor John O. Norquist, and the chief finance aide to San Francisco Supervisor Susan Leal.

*City of Milpitas – Fairbank, Maslin, Maullin, Metz & Associates/Saggau & DeRollo LLC  
Proposal to Conduct Opinion Research & Strategy Services - 12*

David Metz received his Bachelor's degree in Government from Harvard University in 1993. He received his Master's in Public Policy from the Goldman School of Public Policy at the University of California-Berkeley in 1998. Metz is a member of the American Association for Public Opinion Research (AAPOR), and may be reached at FM3's Oakland office at (510) 451-9521, or at [dave@fm3research.com](mailto:dave@fm3research.com).

**Curtis Below**

Curtis Below, Senior Researcher at Fairbank, Maslin, Maullin, Metz & Associates, brought his broad professional experience in the public, nonprofit and private sectors to FM3 in 2007. Since joining the firm he has provided qualitative and quantitative research and strategic advice to government agencies, non-profit organizations, businesses, and candidate and ballot measure campaigns at both the state and local levels.

While at FM3, Curtis has specialized in providing public financing, community satisfaction, and policy development surveys for cities, counties, school districts, and other local and regional government agencies, including the cities of San Jose and Sacramento. Curtis has also provided research to numerous conservation organizations, among them the Environmental Defense Fund, the Nature Conservancy, the League of Conservation Voters, and the Trust for Public Land. Further, Curtis has provided research for candidates seeking public office at the city, county, and state levels.

In the public sector, Curtis previously worked in the California State Legislature for then Assembly member Herb J. Wesson, Jr., specifically focusing on health, utilities and conservation issues. He also served as the Vice-Chair of the City of Oakland's Public Ethics Commission, overseeing city laws regarding open records, public meetings, campaign financing and lobbyist registration. In the nonprofit sector, Curtis worked for the Environmental Defense Fund, focusing primarily on environmental health issues. In the private sector, Curtis was a co-founder and Vice President of Get Active Software, an Internet software and services company that provided online constituent mobilization and engagement tools for nonprofit organizations, including the AFL-CIO, American Lung Association, US Chamber of Commerce, the Humane Society of the United States and PBS.

Curtis received his Bachelor's degree in Geography/Environmental Studies from UCLA in 1994 and both his Master's of Public Policy and Master's of Public Health from UC Berkeley in 1998.

**Greg Lewis**

Greg Lewis joined FM3 as a Research Assistant in 2010. Mr. Lewis is responsible for assisting researchers with qualitative and quantitative research and analysis. Since joining the firm, he has assisted with research conducted on behalf of a diverse range of public and non-profit sector clients, including the Nature Conservancy, the Sierra Club, Alameda County StopWaste.org, and many others. Prior to joining FM3, Mr. Lewis

***City of Milpitas – Fairbank, Maslin, Maullin, Metz & Associates/Saggau & DeRollo LLC  
Proposal to Conduct Opinion Research & Strategy Services - 13***

worked as a researcher and writer for Media Matters for America, a DC-based non-profit "watchdog" group concerned with accuracy in the media. He is a 2008 graduate of the University of Maryland, College Park, where he majored in Government & Politics and History.

FM3 Partner David Metz and Vice President Curtis Below may be reached in our Oakland office:

Fairbank, Maslin, Maullin, Metz & Associates  
1999 Harrison St., Suite 1290  
Oakland, CA 94612  
(510) 451-9521 (phone)  
(510) 451-0384 (fax)  
dave@fm3research.com (email)  
curtis@fm3research.com (email)

**Dustin DeRollo, Partner, Saggau & DeRollo, LLC**

Dustin DeRollo has an extensive background in local government, public policy, labor relations and political campaigns. Dustin co-founded Saggau & DeRollo, LLC after working for Platinum Advisors, a Sacramento based lobbying and public affairs firm. He's provided public relations and government affairs advice to public agency and private sector clients such as the Milpitas Unified School District, The City of Martinez, Atlantic Aviation, the Registered Nurses Professional Association, Stockton Professional Firefighters, Local 456 and BP of North America.

Dustin regularly advises and manages local tax measures and issues campaigns. He recently advised the Milpitas Unified School District in passing an \$84 parcel tax (after it previously failed) and the City of Martinez in passing its first General Obligation bond, for park and recreation improvements. Additionally, he led a series of successful bond measures to generate nearly \$600 million in capital improvements in the City of San Jose including: a \$214 million bond measure for public libraries, \$224 million bond measure for parks and recreation facilities, and a \$159 million bond measure for public safety facilities.

Dustin previously served as former San Jose Mayor Ron Gonzales' Deputy Chief of Staff, where he led Gonzales' neighborhood revitalization and public safety efforts, including the "Strong Neighborhood Initiative," a \$120 million effort to revitalize San Jose's neighborhoods, and served as Gonzales' designee on the Mayor's Gang Prevention Task Force.

A San Jose resident and political science graduate from San Jose State University, Dustin previously served as President of the Board of Education of the Franklin-McKinley School District.

*City of Milpitas – Fairbank, Maslin, Maullin, Metz & Associates/Saggau & DeRollo LLC  
Proposal to Conduct Opinion Research & Strategy Services - 14*

**Thomas Saggau, Partner, Saggau & DeRollo, LLC**

Thomas Saggau co-founded Saggau & DeRollo, LLC and brings a results-oriented approach to community outreach, coalition building, and political campaigns. Mr. Saggau has worked extensively with local governments on innovative, community-based solutions to complex criminal justice problems.

When the City of San Jose needed help to clean up areas overcome with gangs, drugs and blight, Tom spearheaded San Jose' "Project Crackdown". He organized residents, business owners, and property owners into neighborhood organizations, and then trained them in a variety of techniques to make their neighborhoods safer and coordinated police, code enforcement, and city efforts to bolster the private sector efforts. The success of Project Crackdown led to San Jose being designated one of the safest large cities in the nation.

Tom has spent over a decade working on many aspects of political campaigning, including field operations, fundraising, message development and management. This extensive campaign experience is a valuable asset in dealing with the media and defining a clear and concise message for his clients.

Building winning coalitions through education and advocacy is a key service provided by Saggau and DeRollo and Mr. Saggau is adept at weaving together key leaders, opinion shapers, and decision makers to advocate for a client's project. This was evident in the recent success of overturning a 20 year ban on the concurrent sale of gasoline and food items, including beer and wine, in San Jose for a coalition of service station owners led by BP/ARCO. Tom was able to secure the support of MADD and the San Jose Mercury News to remove the ban.

Mr. Saggau studied at San Jose City College and received a Track scholarship to Wichita State University.

**There will be no changes in key personnel without written consent of the City.**

**E. REFERENCES**

FM3 and Saggau & DeRollo, LLC are pleased to present the following public agency references:

**Milpitas Unified School District**

Marsha Grilli (Vice-President, Board of Education)  
1182 Pescadero Street  
Milpitas, CA 95035  
408-946-8337; [mgrilli@musd.org](mailto:mgrilli@musd.org)

*In 2010, FM3 and Saggau & DeRollo, LLC were hired by the Milpitas Unified School District in San Jose, California to assess the District's ability to pass a parcel tax to maintain school district operations. The District was previously unsuccessful in passing a parcel tax in 2005. The FM3/S&D team advised the Milpitas Unified School District on the appropriate tax level to seek, duration of the tax, key components to be funded by the tax as well as citizen accountability measures to ensure the tax had the best chances for success. Further, due to budget concerns the FM3/S&D team was asked to analyze the appropriate election to put the measure on in hopes of implementing a successful tax sooner. After the District adopted the recommendations made by FME/S&D, S&D successfully managed the Yes on B campaign (\$84 per parcel tax) to a 70.79% victory in the June 2010 election.*

**City of Martinez**

Rob Schroder (Mayor)  
525 Henrietta Street  
Martinez, CA 94553  
(925) 372-3501; [rschroder@cityofmartinez.org](mailto:rschroder@cityofmartinez.org)

*FM3 and Saggau & DeRollo, LLC were hired by the City of Martinez in 2008 to analyze the City's prospect for passing a municipal General Obligation bond and provide the City with advice on how to best structure and position the bond to achieve success on Election Day. The City had previously attempted to pass a GO bond in 2006 but was unsuccessful. Based on our survey research, the FM3/S&D team advised the City of Martinez to move forward on a \$30 million bond focused on park, library and recreation facilities. As part of the process, our team advised the City to delay moving forward on a more divisive advisory ballot measure on Redevelopment the City Council was considering at the time. We also analyzed the potential impact of competing local tax measures. Following the City Council's decision to place the bond on the ballot, S&D successfully managed the Yes on H bond measure campaign in November 2008 to a 68.39% yes vote. The City of Martinez is currently making great progress on constructing the project list approved by the voters.*

**City of Milpitas – Fairbank, Maslin, Maullin, Metz & Associates/Saggau & DeRollo LLC  
Proposal to Conduct Opinion Research & Strategy Services - 16**

**Evergreen School District**

Kathy Gomez (Superintendent)  
3188 Quimby Road  
San José, CA 95148-3099  
(408) 270-6800; [kgomez@eesd.org](mailto:kgomez@eesd.org)

*In 2008, FM3 and Saggau & DeRollo, LLC were hired by the Evergreen School District in San Jose, California to assess the District's ability to pass a parcel tax for school district operations. The District was previously unsuccessful in passing a parcel tax in 2004. The FM3/S&D team advised the Evergreen School District on the appropriate tax level to seek, duration of the tax, key components to be funded by the tax as well as citizen accountability measures to ensure the tax had the best chances for success. After the District adopted the recommendations made by FME/S&D, S&D successfully managed the Yes on T campaign (\$90 per parcel tax) to a 73.8% victory.*

**City of San José**

Jane Light (Library Director)  
150 East San Fernando Street  
San José, CA 95112  
(408) 808-2150; [jane.light@sjlibrary.org](mailto:jane.light@sjlibrary.org)

*Since 2000, FM3 has conducted over a dozen survey research projects for the City of San José. These include telephone surveys in English, Spanish and Vietnamese to gauge citizen attitudes toward a wide variety of City services and conditions in the community; mail-out and Internet surveys of approximately 8,000 City employees; and surveys to assess public priorities for budget cuts and revenue enhancements. For example, in 2000 FM3 and Mr. Dustin DeRollo of S&D worked together on the successful City Measures O & P (library & park bonds) and in 2004 FM3 and S&D worked together to help pass Measure S (library parcel tax). Work is ongoing; most recent project is a January 2012 budget issues survey assessing, among other things, the viability of several different finance measures*

**City of Vallejo**

Craig Whittom (Assistant City Manager)  
555 Santa Clara Street  
Vallejo, California 94590  
(707) 648-4575; [cwhittom@ci.vallejo.ca.us](mailto:cwhittom@ci.vallejo.ca.us)

*FM3 survey research was used to assess voter attitudes towards city services and to determine the electoral viability of several potential finance measures that were being considered by the City of Vallejo. The City used the results from this research successfully pass several measures, including a one-cent sales tax in November 2011 (Measure B) and a utility users tax measure in November 2009 (Measure U).*

**F. PROPOSED FEE SCHEDULE**

To perform the services outlined above, we recommend the following fee schedule. The price reflects our recommended approach. These prices assume interviews are conducted in English, Spanish, and Vietnamese and are comprehensive – reflecting all costs for sample acquisition, questionnaire development, interviewing, data entry, cross-tabulation, data analysis, and preparation and presentation of survey results.

<b>Length</b>	<b>N=400</b>
<b>15 Minutes</b>	<b>\$29,250</b>
<b>20 Minutes</b>	<b>\$32,500</b>

All project cost estimates include final sample preparation, drafting of the survey questionnaire, interviewing, data tabulation, cross-tabulation and other statistical analysis and the reporting of the results. Direct incidental expenses including extra reproduction of reports and travel are not included but would be billed at cost if incurred.

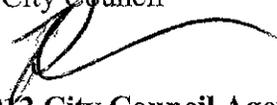
The costs associated with S&D services are included in the prices above. The price does not include any produced material the City of Milpitas may desire, such as brochures, direct mail pieces or other collateral material. If the City desires such material, S&D will develop a separate budget for the City's review and approval.

FM3 certifies that it will not engage in any activities on behalf of the City that would produce a direct or indirect financial gain for the firm, other than the agreed upon compensation.

# MEMORANDUM

*Department of the City Manager*



**To:** Mayor Esteves and Members of the City Council  
**From:** Thomas C. Williams, City Manager   
**Subject:** **Item EDC 5 on the February 7, 2012 City Council Agenda**  
**Date:** February 7, 2012

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Item EDC 5 proposes to retain a consultant to conduct a scientific random sample survey of likely voters and determine the level of support for a sales tax or other revenue measure for consideration on the upcoming June 5, 2012, ballot.

Time is of the essence as the deadline for placement on the June 5, 2012 ballot is March 8, 2012. Staff sent proposals to two firms both of whom have specialized knowledge with the City of Milpitas and have conducted survey research for both the City and Milpitas Unified School District in the recent past.

The City Council received the responses from each consultant on Friday February 3, 2012. Staff reviewed the proposals and determined that both firms are highly capable of performing the survey and public outreach campaign necessary for a successful ballot measure. After interviewing each respondent and following up on references staff concluded that both firms have slightly more expertise in one area over the other. As such, staff recommends retaining the firm of Strategy Research Institute (SRI) to design, conduct and analyze the survey for the June ballot and the firm of Saggau & DeRollo in association with the team of Fairbank, Maslin, and Maullin & Metz to assist the City with the public outreach, education, public relations and campaign efforts.

Please let me know if you have any questions.



# CITY OF MILPITAS

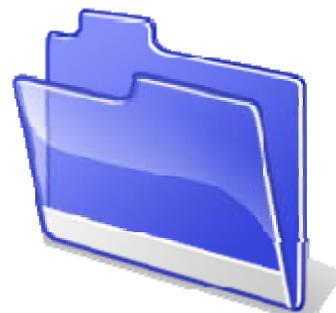
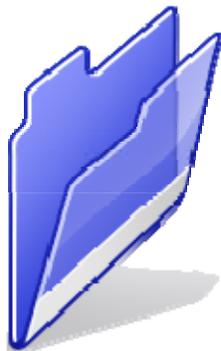
455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479  
GENERAL INFORMATION: 408-586-3000, [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov)

02/07/2012

**Agenda Item No. 18**



**REVISED ATTACHMENT for**  
**ONE of the AGREEMENTS**  
**(National University) AFTER**  
**AGENDA PACKET**  
**DISTRIBUTION**





## AGREEMENT FOR EDUCATIONAL SERVICES

THIS AGREEMENT is effective as of April 1, 2012, by and between NATIONAL UNIVERSITY, a non-profit, public benefit corporation ("University"), whose address is 11355 North Torrey Pines Road, La Jolla, California 92037-1011, Attn: Richard Carter, Executive Vice President, Administration and Business, telephone (858) 642-8593 and facsimile (858) 642-8711, and the City of Milpitas ("Employer"), whose address is 455 East Calaveras Boulevard, Milpitas CA 95035, Attn: Tom Williams, City Manager, telephone 408-586-3050 and facsimile 408-586-3056.

1. Programs. University will offer the following academic programs to Employer's employees ("Students") in a hybrid format with classes being held at Employer's facility located at 455 East Calaveras Boulevard, Milpitas CA 95035 (the "Facility"): Bachelor's and master's degree interest; disciplines to be determined and addendum added at a later date. (collectively, the "Program(s)"). All employees of the City of Milpitas that meet the minimum standards for acceptance into the University will be eligible to participate. University's General Catalog ("Catalog") in effect at the time each Student enrolls will govern all Program requirements for Students, including, but not limited to, required courses.
2. Academic Responsibility. University shall have exclusive control over all academic issues, which shall include, without limitation: selection of course content and required textbooks; delivery of instructional programs; selection and approval of faculty; admission, registration, and retention of Students; evaluation of Students' prior education; evaluation of Students' progress; scheduling courses; awarding academic credit; and conferring degrees.
3. Classroom Space and Equipment. Employer will make classroom space and equipment necessary to deliver the Program (e.g., computers, VCRs, overhead projectors, etc.) available at the Facility, as needed and at no charge to University. The parties will arrange use of classroom space and equipment prior to classes being scheduled.
4. Class Size. University will offer the Programs at the Facility for the term of this Agreement unless the enrollment in any Program falls below twelve (12) students during any two (2) consecutive months; in which case, University may terminate the effected Program(s), at its sole discretion.
5. Regulations and Services. Students will be subject to the regulations and policies and entitled to the benefits and services described in the most current version of the Catalog, except that some of the services may only be available at a University campus or center.
6. Tuition. University will charge Students a tuition rate that is 40% less than the University's standard tuition rate currently being charged at the time each course is offered. This rate is subject to normal tuition increases, as indicated in the most current version of the Catalog. University will also charge Students applicable fees and costs. Should Students take courses at any place other than the Facility, the tuition reduction offered in this Agreement will not be applicable and Students will be charged the standard, full tuition rate.
7. Verification of Employment Status. University will permit only those Students who supply University with proof of their employment status to take courses at the Facility at the reduced tuition rate stated in Paragraph Six (6) of this Agreement. University shall provide Employer with the names of all enrollees and Employer shall verify, at least quarterly, that the Students are its current employees.
8. Term. The term of this Agreement shall be two (2) years, commencing on the date first set forth above, provided that either party may terminate this Agreement, without cause, at any time, upon thirty (30)

days prior written notice to the other party. If the Agreement is terminated or if the Programs are discontinued due to low enrollment, Students may complete the Program(s) at any University campus or center at the standard, full tuition rate.

9. Insurance. University will obtain and maintain a broad form commercial general liability insurance policy acceptable to Employer in the minimum amounts of \$1,000,000 combined single limit and \$2,000,000 general aggregate. The University will provide the Employer with proof of such insurance, attached as Exhibit I.
10. Indemnity. Each party will indemnify, defend, and hold harmless the other party (including officers, employees and agents) against all claims, liabilities, damages and costs (including attorneys' fees) arising from or in any way related to this Agreement caused by that party's breach of this Agreement, inaccuracy of representations, or conduct, whether negligent, reckless or intentional. These obligations will continue after the Agreement terminates.
11. Notices. All notices or other communications given under this Agreement will be in writing and sent to the addressee listed at the beginning of this Agreement (unless a party has changed its address by giving notice), and will be effective upon receipt if delivered personally or by overnight mail, or effective three (3) days after mailing if by certified mail, return receipt requested.
12. Program Promotion. Employer will assist in promoting the Program(s) by disseminating information to employees through Employer's choice of internal mail, e-mail, posting of notices, distribution of brochures, or other methods, with University's prior review of such advertisements. Neither party may use the names, logos, or trademarks of the other party without its prior written consent.
13. Entire Agreement and Severability. If a court or arbitrator holds any provision of this Agreement to be illegal, unenforceable, or invalid, the remaining provisions will not be affected. This Agreement contains the entire agreement between the parties pertaining to the transaction and may not be amended unless in writing, signed by both parties.
14. Representations. Each party represents that: (a) it will abide by all applicable federal, state, or local statutes or regulations; (b) the individual signing this Agreement has the authority to do so; and (c) it has the ability and authority to perform each of its obligations under this Agreement. These representations will continue after the Agreement terminates.
15. General Provisions. The Agreement: (a) will be binding and enforceable by the parties and their respective successors or assigns, but not by any individual or organization not a party to this Agreement, including, but not limited to, any Student; (b) may be executed in counterparts and effective with original or facsimile signatures; (c) will be governed by California law;

CITY OF MILPITAS

By: \_\_\_\_\_  
Mr. Tom Williams  
City Manager

Date: \_\_\_\_\_

NATIONAL UNIVERSITY, a non-profit, public  
benefit corporation

By: \_\_\_\_\_  
Richard Carter, Executive Vice President,  
Administration and Business

Date: \_\_\_\_\_



NATIO11

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/26/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Commercial Lines - (949) 225-6900 Wells Fargo Insurance Services USA, Inc. - CA Lic#: 0D08408 2030 Main Street, Suite 200 Irvine, CA 92614-7253	<b>CONTACT NAME:</b> Debbie Karpuk <b>PHONE (A/C, No, Ext):</b> 949-224-1688 <b>E-MAIL ADDRESS:</b> debbie.karpuk@wellsfargo.com	<b>FAX (A/C, No):</b> 949-225-6910
	<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A: Philadelphia Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
<b>INSURED</b> National University 11355 N.Torrey Pines Road La Jolla, CA 92037-1013		

**COVERAGES** **CERTIFICATE NUMBER:** 3859718 **REVISION NUMBER:** See below

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR   WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC		PHPK777238	09/29/11	09/29/12	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ Included PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE				EACH OCCURRENCE \$ AGGREGATE \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) if yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y <input type="checkbox"/> N N/A				WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

The City of Milpitas is included as Additional Insured per form # PI-GLD-VS(01/08). as respects the General Liability Policy. Coverage is Primary and Non-contributory. Waiver of Subrogation applies.

<b>CERTIFICATE HOLDER</b> City of Milpitas Attn: Tom Williams 455 East Calaveras Blvd. Milpitas, CA 95035	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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ACORD 25 (2010/05)

(This certificate replaces certificate# 3859650 issued on 1/26/2012)

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****GENERAL LIABILITY DELUXE ENDORSEMENT  
SCHOOLS**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE**

It is understood and agreed that the following extensions only apply in the event that no other specific coverage for the indicated loss exposure is provided under this policy. If such specific coverage applies, the terms, conditions and limits of that coverage are the sole and exclusive coverage applicable under this policy, unless otherwise noted on this endorsement. The following is a summary of the Limits of Insurance and additional coverages provided by this endorsement. For complete details on specific coverages, consult the policy contract wording.

Coverage Applicable	Limit of Insurance	Page #
Damage to Premises Rented to You	\$300,000	2
Extended Property Damage	included	2
Non-Owned Watercraft	Less than 58 feet	2
Supplementary Payments – Bail Bonds	\$2,500	2
Supplementary Payment – Loss of Earnings	\$500 per day	2
Medical Payments	\$15,000	3
Medical Payments-Extended Reporting Period	3 years	3
Employee Indemnification Defense Coverage for Employee	\$25,000	3
Additional Insured – Medical Directors and Administrators	Included	3
Additional Insured – Managers and Supervisors	Included	3
Additional Insured – Broadened Named Insured	Included	3
Additional Insured – Funding Source	Included	3
Additional Insured – Managers or Lessors of Premises	Included	4
Additional Insured – By Contract, Agreement or Permit	Included	4
Additional Insured – Broad Form Vendors	Included	4
General Aggregate – Per Campus	Included	5
Duties in the Event of Occurrence, Claim or Suit	Included	6
Other Insurance – Primary Additional Insured	Included	6
Other Insurance - You Are An Additional Insured On Another Person's Or Organization's Policy.	Included	7
Unintentional Failure to Disclose Hazards	Included	8
Liberalization	included	8
Bodily Injury – includes Mental Anguish	Included	8
Personal and Advertising Injury – includes Abuse of Process, Discrimination	Included	8
Transfer of Rights of Recovery Against Others To Us	Clarification	8
Science Laboratory "Occurrence"	\$50,000	9
Medical Incident Liability-Nurse and Athletic Trainer	Included	9

**A. Damage to Premises Rented to You**

1. If damage by fire to premises rented to you is not otherwise excluded from this Coverage Part, the word "fire" is changed to "fire, lightning, explosion, smoke, or leakage from automatic fire protective systems" where it appears in:
  - a. The last paragraph of **SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Subsection 2. Exclusions;**
  - b. **SECTION III - LIMITS OF INSURANCE, Paragraph 6.;**
  - c. **SECTION V – DEFINITIONS, Paragraph 9.a.**
2. If damage by fire to premises rented to you is not otherwise excluded from this Coverage Part, the words "Fire insurance" are changed to "insurance for fire, lightning, explosion, smoke, or leakage from automatic fire protective systems" where it appears in:
  - a. **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, Subsection 4. Other Insurance, Paragraph b. Excess Insurance**
3. The Damage To Premises Rented To You Limit section of the Declarations is amended to the greater of:
  - a. \$300,000; or
  - b. The amount shown in the Declarations as the Damage to Premises Rented to You Limit.

This is the most we will pay for all damage proximately caused by the same event, whether such damage results from fire, lightning, explosion, smoke, or leaks from automatic fire protective systems or any combination thereof.

**B. Extended "Property Damage"**

**SECTION I - COVERAGES, COVERAGE A, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Subsection 2. Exclusions, Paragraph a.** is deleted and replaced by the following:

- a. **Expected or Intended Injury**  
"Bodily Injury" or "Property Damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

**C. Non-Owned Watercraft**

**SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Subsection 2. Exclusions, Paragraph g. (2)** is amended to read as follows:

- (2) A watercraft you do not own that is:
  - (a) Less than 58 feet long; and
  - (b) Not being used to carry persons or property for a charge;

This provision applies to any person, who with your consent, either uses or is responsible for the use of a watercraft. This insurance is excess over any other valid and collectible insurance available to the insured whether primary, excess or contingent.

**D. Supplementary Payments**

Under the **SUPPLEMENTARY PAYMENTS - COVERAGE A AND B** provision, Items 1.b. and 1.d.

are amended as follows:

1. The limit for the cost of bail bonds is changed from \$250 to \$2,500; and
2. The limit for loss of earnings is changed from \$250 a day to \$500 a day.

**E. Medical Payments - Limit Increased to \$15,000, Extended Reporting Period**

If **COVERAGE C MEDICAL PAYMENTS** is not otherwise excluded from this Coverage Part:

1. The Medical Expense Limit is changed subject to all of the terms of **SECTION III - LIMITS OF INSURANCE** to the greater of:
  - a. \$15,000; or
  - b. The Medical Expense Limit shown in the Declarations of this Coverage Part.
2. **SECTION I – COVERAGE, COVERAGE C MEDICAL PAYMENTS, Subsection 1. Insuring Agreement**, the second part of Paragraph a. is amended to read:

provided that:

- (2) The expenses are incurred and reported to us within three years of the date of the accident;

**F. Employee Indemnification Defense Coverage**

Under the **SUPPLEMENTARY PAYMENTS - COVERAGES A AND B** provision, the following is added:

3. We will pay, on your behalf, defense costs incurred by an "employee" in a criminal proceeding.

The most we will pay for any "employee" who is alleged to be directly involved in a criminal proceeding is \$25,000 regardless of the numbers of "employees", claims or "suits" brought or persons or organizations making claims or bringing "suits".

**G. SECTION II - WHO IS AN INSURED** is amended as follows:

1. If coverage for newly acquired or formed organizations is not otherwise excluded from this Coverage Part, Paragraph 3.a. is changed to read:
  - a. Coverage under this provision is afforded until the end of the policy period.
2. Each of the following is also an insured:
  - a. **Medical Directors and Administrators** - Your medical directors and administrators, but only while acting within the scope of and during the course of their duties as such.
  - b. **Managers and Supervisors** - If you are an organization other than a partnership or joint venture, your managers and supervisors are also insureds, but only with respect to their duties as your managers and supervisors.
  - c. **Broadened Named Insured** - Any organization and subsidiary thereof which you control and actively manage on the effective date of this Coverage Part. However, coverage does not apply to any organization or subsidiary not named in the Declarations as Named Insured, if they are also insured under another similar policy, but for its termination or the exhaustion of its limits of insurance.
  - d. **Funding Source** - Any person or organization with respect to their liability arising out of:
    - (1) Their financial control of you; or

- (2) Premises they own, maintain or control while you lease or occupy these premises. This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.
- e. **Managers or Lessors of Premises** - Any person or organization with respect to their liability arising out of the ownership, maintenance or use of that part of the premises leased to you subject to the following additional exclusions:  
 This insurance does not apply to:  
 (1) Any "occurrence" which takes place after you cease to be a tenant in that premises.  
 (2) Structural alterations, new construction or demolition operations performed by or on behalf of that person or organization.
- f. **By Contract, Agreement or Permit** - Any person or organization with whom you agreed, because of a written contract or agreement or permit, to provide insurance such as is afforded under this policy, but only with respect to your operations, "your work" or facilities owned or used by you.  
 (1) This provision does not apply:  
 (a) Unless the written contract or agreement has been executed or permit has been issued prior to the "bodily injury," "property damage," "personal and advertising injury":  
 (b) To any person or organization included as an insured under g. Broad Form Vendors below; or  
 (c) To any person or organization included as an insured by an endorsement issued by us and made a part of this Coverage Part.  
 (2) When an engineer, architect or surveyor becomes an insured under this Coverage Part, the following additional exclusion applies:  
 (a) "Bodily injury", "property damage", "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:  
 (i) The preparing, approving, or failing to approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; and  
 (ii) Supervisory, inspection, or engineering services.  
 (3) When a lessor of leased equipment becomes an insured under this Coverage Part, the following additional exclusions apply:  
 (a) To any "occurrence" which takes place after the equipment lease expires; or  
 (b) To "bodily injury" or "property damage" arising out of the sole negligence of the lessor.  
 (4) When owners or other interests from whom land has been leased become an insured under this Coverage Part, the following additional exclusions apply:  
 (a) Any "occurrence" which takes place after you cease to lease that land; or  
 (b) Structural alterations, new construction or demolition operations performed by or on behalf of the owners or other interests from whom land has been leased.
- g. **Broad Form Vendors** - Any person or organization with whom you agreed, because of a written contract or agreement to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions.  
 (1) The insurance afforded the vendor does not apply to:  
 (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;  
 (b) Any express warranty unauthorized by you;  
 (c) Any physical or chemical change in the product made intentionally by the vendor;  
 (d) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing or substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
  - (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with sale of the product;
  - (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor.
- (2) This provision does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.
  - (3) This provision does not apply to any vendor included as an insured by an endorsement issued by us and made a part of this Coverage Part.
  - (4) This provision does not apply if "bodily injury" or "property damage" included within the "products-completed operations hazard" is excluded either by the provisions of the Coverage Part or by endorsement.

**H. Per Campus – General Aggregate**

- 1. **SECTION III – LIMITS OF INSURANCE**, Paragraph 2., is amended to the following:

The General Aggregate limit is the most we will pay:

- a. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under **SECTION I – COVERAGE, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, and for all medical expenses caused by accidents under **SECTION I – COVERAGE, COVERAGE C MEDICAL PAYMENTS** which can be attributed only to operations at a single designated "campus" shown in the Declarations.
  - (1) A separate General Aggregate Limit is applicable to each single designated "campus" shown in the Declarations and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
  - (2) The General Aggregate Limit is the most we will pay for the sum of all damages under **COVERAGE A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under **COVERAGE C** regardless of the number of:
    - (a) Insureds;
    - (b) Claims made or "suits" brought; or
    - (c) Persons or organizations making claims or bringing "suits".
  - (3) Any payments made under **COVERAGE A** for damages or under **COVERAGE C** for medical expenses shall reduce the General Aggregate Limit for that designated "campus". Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other General Aggregate Limit for any other designated "campus" shown in the Declarations.
  - (4) The limits shown in the Declarations for Each Occurrence, Fire Damage and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable single designated "campus" General Aggregate Limit.

- 2. **SECTION V – DEFINITIONS** is amended by adding the following:

"Campus" is defined as premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

**I. Duties in the Event of Occurrence, Claim or Suit**

1. The requirement in Paragraph 2.a. of **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** that you must see to it that we are notified as soon as practicable of an "occurrence" or an offense, applies only when the "occurrence" or offense is known to:
  - a. You, if you are an individual;
  - b. A partner, if you are a partnership; or
  - c. An executive officer or insurance manager, if you are a corporation.
  
2. The requirement in Paragraph 2.b. of **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** that you must see to it that we receive notice of a claim or "suit" as soon as practicable will not be considered breached unless the breach occurs after such claim or "suit" is known to:
  - a. You, if you are an individual;
  - b. A partner, if you are a partnership; or
  - c. An executive officer or insurance manager, if you are a corporation.

**J. Other Insurance – Primary Additional Insured**

1. If the written contract or agreement or permit requires this insurance to be primary for any person or organization with whom you agree to include in **SECTION II - WHO IS AN INSURED**, then **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, Subsection 4. **Other Insurance** is replaced by the following:

If other valid and collectible insurance is available for a loss we cover under **COVERAGE A** of this Coverage Part, our obligations are limited as follows:

- a. **Primary Insurance** - This insurance is primary. We will not seek contributions from other insurance available to the person or organization with whom you agree to include in **SECTION II - WHO IS AN INSURED**, except when 2. below applies.
- b. **Excess Insurance** - This insurance is excess over any of the other insurance whether primary, excess, contingent or any other basis:
  - (1) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
  - (2) That is Fire, lightning or explosion insurance for premises rented to you; or temporarily occupied by you with permission of the owner; or
  - (3) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to **SECTION I – COVERAGE, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, Subsection 2. **Exclusions**, Paragraph g.

When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend any claim or "suit" that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this excess insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

- c. Method of Sharing - If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any or the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's contribution is based on the ratio of its applicable limits of insurance of all insurers.

2. This provision only applies with respect to your operations, "your work" or facilities owned or used by you.

**K. Other Insurance – You Are An Additional Insured On Another Person's Or Organization's Policy**

If you are an insured under **SECTION II - WHO IS AN INSURED**, then **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, Subsection 4. **OTHER INSURANCE**, Paragraph b. **Excess Insurance** is replaced by the following:

This insurance is excess over any other insurance, whether primary, excess, contingent or on any other basis:

1. That is Fire, Extended Coverage, Builders Risk, Installation Risk or similar coverage for "your work";
2. That is Fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;
3. If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to **SECTION I – COVERAGE, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, Subsection 2. **Exclusions**, Paragraph g.; or
4. When any of the Named Insureds, under this Coverage Part, are additional insureds under a commercial general liability policy or similar insurance of another party.

When this insurance is excess, we will have no duty under Coverages A or B to defend any claim or "suit" that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insureds.

When this insurance is excess or other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

1. The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
2. The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

**L. Unintentional Failure To Disclose Hazards**

It is agreed that, based on our reliance on your representations as to existing hazards, if you should unintentionally fail to disclose all such hazards prior to the beginning of the policy period of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

**M. Liberalization**

If we revise this endorsement to provide more coverage without additional premium charge, we will automatically provide the additional coverage to all endorsement holders as of the day the revision is effective in your state.

**N. Bodily Injury - Mental Anguish**

SECTION V – DEFINITIONS, Paragraph 3. is changed to read:

“Bodily Injury”:

- a. Means bodily injury, sickness or disease sustained by a person, and includes mental anguish resulting from any of these; and
- b. Except for mental anguish, includes death resulting from the foregoing (item a. above) at any time.

**O. Personal and Advertising Injury – Abuse of Process, Discrimination**

If **COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY COVERAGE** is not otherwise excluded from this Coverage Part, the definition of “personal and advertising injury” is amended as follows:

1. **SECTION V – DEFINITIONS**, Paragraph 14. b. is revised to read:
  - b. Malicious prosecution or abuse of process:
2. **SECTION V – DEFINITIONS**, Paragraph 14. is amended to include the following:

“Personal Injury” also means discrimination based on race, color, religion, sex, age or national origin, except when:

- a. Done intentionally by or at the direction of, or with the knowledge or consent of:
  - (1) Any insured; or
  - (2) Any executive officer, director, stockholder, partner or member of the insured; or
- b. Directly or indirectly related to the employment, former or prospective employment, termination of employment, or application for employment of any person or persons by an insured; or
- c. Directly or indirectly related to the sale, rental, lease or sublease or prospective sales, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured; or
- d. Insurance for such discrimination is prohibited by or held in violation of law, public policy, legislation, court decision or administrative ruling.

The above does not apply to fines or penalties imposed because of discrimination.

**P. Transfer of Rights of Recovery Against Others To Us**

As a clarification, the following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, Subsection 8. Transfer of Rights of Recovery Against Others To Us:

Therefore, the insured can waive the insurer's Rights of Recovery prior to the occurrence of a loss, provided the waiver is made in a written contract.

**Q. Science Laboratory "Occurrence"**

**SECTION I – COVERAGE, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE**

**LIABILITY**, Subsection 2. Exclusions, Paragraph f. does not apply to any "bodily injury" or "physical damage" arising out of a fire or "occurrence" in any of your science laboratories while teaching is being conducted in that laboratory, subject to a \$50,000 per policy limit.

**R. Medical Incident Liability-Nurse and Athletic Trainer**

1. **SECTION II – WHO IS AN INSURED**, Subparagraph 2.a. (1) (d) is deleted and replaced by the following:

(d) Arising out of his or her providing or failing to provide professional medical services. This paragraph does not apply to a registered or practical nurse or athletic trainer, while acting within the scope of his or her duties for the Named Insured and arising out of a "medical incident".

2. **SECTION V – DEFINITIONS**, 13. is deleted and replaced by the following:

"Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions, and "medical incident".

3. The following definition is added to **SECTION V – DEFINITIONS**:

"Medical Incident" means any act or omission in the furnishing or failure to furnish professional medical services by the insured or any person acting under the personal direction, control, or supervision of the insured. Any such act or omission together with all related acts or omissions in the furnishing of such services to any one person shall be considered one "medical incident".

"Medical incident" does not include any actual, alleged or threatened emotional, physical, or sexual abuse of any patient or professional medical services recipient.