

**"Legal Services in Santa Barbara,
Very High Prices for Comprehensive Representation."**

SUMMARY

The Santa Barbara County Civil Grand Jury conducted an inquiry into legal services provided to municipal government and school and special districts. The Grand Jury examined legal service agreements, billing practices, staff and outside counsel and related issues of legal representation. Each governmental entity arranges for legal representation in a manner best suited to its unique circumstances. Notwithstanding the vital need for legal services, the Grand Jury found that government must exercise detailed controls on the nature and extent of legal services and must review billing practices.

Carpinteria Valley Water District Response:

Recommendation 1: Municipalities and districts should review and define the level of their legal service needs and seek counsel at a level to satisfy those needs. The level of needed legal services should be developed objectively with an understanding of the anticipated actual costs and include a realistic amount in the annual budget.

Response to Recommendation 1: Implemented. CVWD has for many years annually reviewed and determined its level of need for legal services as a routine part of its fiscal year budget cycle.

Recommendation 2: Municipalities and districts should review, audit and control the number of hours for which services are claimed for billing purposes. Management personnel must be given authority to review and audit claims for legal services in the same manner as they review and audit other services provided to the municipality and district.

Response to Recommendation 2: Implemented. The General Manager was given authority by the Board of Directors by a vote of the Board of Directors on December 18, 1996 to provide direction and billing oversight to legal counsel for services rendered in the same manner as other consultants engaged by the Board of Directors.

Recommendation 3: Municipalities and districts should review the basic fees structure and give consideration to flat rate charges for routine or monthly services and define with precision additional services and the methods of authorizing additional services.

Response to Recommendation 3: Implemented. Since 2003 CVWD's engagement letter for services rendered by its general counsel expressly identifies and delineates flat rate services as well as additional services.

Recommendation 4: Municipalities and districts should use caps and budgets or other limitations to control costs in litigation where the municipality or district is named as a party.

Response to Recommendation 4: Implemented. CVWD has routinely used both caps and budgets over the years in an effort to control unpredictable litigation costs.

Recommendation 5: Municipalities and districts should review the necessity for attendance by counsel at advisory board meetings.

Response to Recommendation 5: Implemented. CVWD rarely holds an advisory board meeting, but when it does the General Manager informs counsel as to the need or lack thereof for his attendance and directs him accordingly. The same process is used by the Manager with regard to attendance by special counsel.

Recommendation 6: Municipalities and districts should consider billing practices, minimum charges, Minimum hours, carryover of unused monthly hours, multiple billing for in-office conferences and the services to be included in monthly minimum fees.

Response to Recommendation 6: Implemented. Since 2003 CVWD though the retainer provision of its engagement letter with counsel precludes the use of minimum charges, minimum hours and carryover expenses for most services provided to the District.

Recommendation 7: Municipalities and districts should review disbursements such as electronic research, postage, shipping, telephone, travel time and travel expenses, expert witness costs, extraordinary discovery procedures, staff overtime costs, outdated charges such as word processing charges, prior approval provisions related to extraordinary costs and costs assumed by a municipality or district in the event of a dispute.

Response to Recommendation 7: Implemented. CVWD has reviewed its attorney billing practices, and its engagement letter with counsel since 2003 restricts miscellaneous charges. CVWD carefully reviews all charges and hours during its monthly review of legal statements.

Recommendation 8: Municipalities and districts should require proof of an agreed level of professional Liability insurance.

Response to Recommendation 8: Implemented. CVWD has current proof of professional liability insurance from District counsel on file.

Recommendation 9: Municipalities and districts should require disclosure of the names of current clients represented by the firm to be retained who may have potential conflicts with the municipality or district. Municipalities and districts should give consideration to limitations on its law firm's representation of other clients whose interests could foresee ably result in a conflict requiring disqualification of the municipality or district's law firm and provide a procedure to deal with the issue if it should arise.

Response to Recommendation 9: Implemented. CVWD since 2003 has a specific procedure to deal with the issue of potential conflict or appearance of conflict by the District's law firm, and has found that process to be very satisfactory. District counsel has revealed the names of other current agency clients with potential conflict due to geographic proximity, and does not represent private clients in matters related to the District.

Recommendation 10: Retainers should provide for payment within a period longer than 30 days without Penalty to permit full audit of services. In no event should the period within which pay is required to be made be less than the normal meeting cycle plus processing time of the governing board.

Response to Recommendation 10: Implemented. CVWD has never been penalized for payments extending beyond it are agreed upon 30 day payment period within 30 days of counsel's billing date.

Recommendation 11: Municipalities and districts should require renewal retainers to be upon the complete agreement rather than the change of a rate sheet.

Response to Recommendation 11: Implemented. CVWD negotiated a new agreement n September of 2003 and is currently in discussion about renewal expected no later than September of 2006.

Recommendation 12: Municipalities and districts should use requests for proposals for retaining counsel to handle routine, repetitive matters.

Response to Recommendation 12: CVWD finds this recommendation to be not applicable, as there are so few routine or repetitive matters handled by counsel.

Recommendation 13: Where legal service costs exceed 1% of the budget of the municipality or district, legal service costs should be monitored and evaluated to determine need and Appropriateness.

Response to Recommendation 13: Although CVWD legal services costs do not exceed 1% of its annual budget they are routinely monitored and evaluated.

Recommendation 14: In situations where informed consent is required, the rules related to informed consent should be strictly enforced and the basis upon which informed consent is given should be fully set forth in the minutes of the governing body.

Response to Recommendation 14: CVWD has not implemented the recommendation regarding reflection in the minutes of informed consent. This recommendation will be followed in those instances where it is required.

Recommendation 15: Bills and other records of charges made for legal services after deleting confidential information should be deemed to be public records open to public disclosure.

Response to Recommendation 15: Implemented. It is CVWD's practice to treat all non-confidential records of legal charges as public records.

Carpinteria Response: DID NOT RESPOND TO RECOMMENDATIONS

Board of Supervisors Response: The Board has *adopted the response from the County Counsel Department* (attached) as its response to the Grand Jury report.

Santa Maria City Counsel RESPONSE:

Recommendation 1: Municipalities and districts should review and define the level of their legal service needs and seek counsel at a level to satisfy those needs. The level of needed legal services should be developed objectively with an understanding of the anticipated actual costs and include a realistic amount in the annual budget.

City Response: The recommendation has been implemented. The City Attorney's Office ("CAD") has already reviewed and defined the level of legal services the City of Santa Maria requires and has determined that outside counsel should be retained for most litigation matters (in-house attorneys occasionally will litigate cases, but rarely). Several years ago, a determination was also made to assign Municipal Code misdemeanor and infraction prosecutions to outside counsel on the basis that it would promote efficiency of the three in-house attorneys employed in the CAD and was an economically beneficial arrangement.

Recommendation 2: Municipalities and districts should review, audit and control the number of hours for which services are claimed for billing purposes. Management personnel must be given authority to review and audit claims for legal services in the same manner as they review and audit other services provided to the municipality and district.

City Response: The recommendation has been implemented as all bills for legal services from outside counsel are reviewed by an attorney in the CAD. Questionable, erroneous, and unclear time entries of outside counsel are noted and brought to the attention of the particular law firm or lawyer. These amounts are not paid unless the law firm can clarify and/or justify the amount billed to the City.

Recommendation 3: Municipalities and districts should review the basic fees structure and give consideration to flat rate charges for routine or monthly services and define with precision additional services and the methods of authorizing additional services.

City Response: The recommendation will not be implemented because it is not warranted as the City does not assign a significant amount of its "routine or monthly" legal work to outside counsel as this work is performed by its in-house legal counsel. The exception to this is the assignment of criminal prosecution of Municipal Code violations to outside counsel. Under this arrangement, a private attorney goes to the Superior Court once per week (on Thursdays, at the court's request). The arraignments all concern citations for violations of the City's Municipal Code that are issued by the City's police officers, the Recreation and Parks Department's Park Services Officers, or by County Animal Control Officers (e.g., leash law violations, barking dog, etc.). Although this work can be viewed as "routine," the amount of prosecution required varies widely, thus making a flat fee arrangement problematic. In addition this work is limited in scope, thus there is little or no need to define with precision the method of authorizing additional services since they are seldom, if ever, required or provided.

Recommendation 4: Municipalities and districts should use caps and budgets or other limitations to control costs in litigation where the municipality or district is named as a party.

City Response: The recommendation will not be implemented as "caps" are not commonly used by civil litigation firms, particularly those few local firms capable of adequately handling the City's tort litigation. "Caps" might be more appropriate for a city that retains outside counsel for city attorney services (which are performed in-house in Santa Maria). Accordingly, this recommendation is not warranted in the City of Santa Maria.

Recommendation 5: Municipalities and districts should review the necessity for attendance by counsel at advisory board meetings.

City Response: The recommendation has been implemented as the CAD reviews the necessity of attendance by counsel at advisory board meetings. Legal counsel seldom attends these meetings, however, when appropriate, counsel does attend such meetings.

Recommendation 6: Municipalities and districts should consider billing practices, minimum charges, minimum hours, carryover of unused monthly hours, multiple billing for in-office conferences and the services to be included in monthly minimum fees.

City Response: The recommendation has been implemented as the CAO considers billing practices, minimum charges, and multiple billing for in-office conferences when it retains outside counsel. Part of cultivating professional relationships with outside counsel involves negotiating such matters and obtaining their willingness to comply with the City's Billing and Retention Policy. The City does not have a need presently to negotiate minimum hours or carryover of unused monthly hours since the City does not utilize monthly retainer agreements in which such provisions would be included, nor does the City have any expectation that such provisions will ever be included in any of its agreements with outside counsel (although, such provisions would be considered in an appropriate context).

Recommendation 7: Municipalities and districts should review disbursements such as electronic research, postage, shipping, telephone, travel time and travel expenses, expert witness costs, extraordinary discovery procedures, staff overtime costs, outdated charges such as word processing charges, prior approval provisions related to extraordinary costs and costs assumed by a municipality or district in the event of a dispute.

City Response: The recommendation has been implemented as the CAO reviews all bills received from outside counsel. All costs and expenses charged to the City are reviewed in addition to the time entries for work performed by attorneys and paralegals. The City's Billing and Retention Policy has provisions regarding these types of expenses and requires pre-approval for some of them.

Recommendation 8: Municipalities and districts should required proof of an agreed level of professional liability insurance.

City Response: The recommendation has been implemented as the City generally requires that professionals carry one million dollars of professional liability insurance, including attorneys who provide services to the City. Most attorneys carry this type of insurance, with comparable coverage limits. However, since "one size does not fit all" when it comes to the delivery of legal services, the CAO would not assign the City's legal defense in a litigation matter if the lawyer or law firm did not have an adequate amount of professional liability coverage.

Recommendation 9: Municipalities and districts should require disclosure of the names of current clients represented by the firm to be retained who may have potential conflicts with the municipality or district. Municipalities and districts should give consideration to limitations on its law firm's representation of other clients whose interests could foreseeable result in a conflict requiring disqualification of the municipality or district's law firm and provide a procedure to deal with the issue if it should arise.

City Response: The recommendation will not be implemented because it is not warranted since the burden of assuring that an attorney does not engage in representation (s) that might create a conflict of interest between the attorney and a client lies squarely on the shoulders of the attorney. The California Rules of Professional Conduct provide specific guidance on such matters. Putting the onus of conflict checking on municipalities and districts would create more administrative burdens and costs that simply need not be borne or incurred by them. Accordingly, this recommendation is not warranted in the City of Santa Maria.

Recommendation 10: Retainers should provide for payment within a period longer than 30 days without penalty to permit full audit of services. In no event should the period within which pay is required to be made be less than the normal meeting cycle plus processing time of the governing board.

City Response: The recommendation has been implemented as the City pays invoices received from its outside counsel within 30 days in most cases. The City Council has delegated the responsibility of monitoring outside counsel, including reviewing and authorizing of payment of their invoices, to the CAO. Thus, the City Council does not authorize payment of the bills of outside legal counsel. This arrangement saves a great deal of time and permits a review of all bills for legal services along with issuance of a check to occur within 30 days of receipt in most cases. In those few situations where more time is required to pay a bill than 30 days, the City takes that time. The City would not retain outside counsel that insisted on receipt of payment within 30 days of receipt of an invoice.

Recommendation 11: Municipalities and districts should require renewal retainers to be upon the complete agreement rather than the change of a rate sheet.

City Response: The recommendation will not be implemented because it is not warranted. The City's agreements with its outside counsel retained for consultation matters provide that either party may terminate the agreement at any time. If a new "rate sheet" is received that notifies the City of an increase in hourly rates, the City has the right to cancel the agreement upon written notice. This provides an adequate method of controlling the cost.

Recommendation 12:

Municipalities and districts should use requests for proposals for retaining counsel to handle routine, repetitive matters.

City Response: The recommendation will not be implemented because it is not warranted since the City has a full-time, in-house legal staff to handle day-to-day routine and repetitive matters.

Recommendation 13: Where legal service costs exceed 1% of the budget of the municipality or district, legal service costs should be monitored and evaluated to determine need and appropriateness.

City Response: The recommendation has been implemented as the CAO and City Manager's Office (including the Director of Administrative Services and the Risk manager) monitor and evaluate the need and appropriateness of legal service costs at least once per year In connection with the budget process.

Recommendation 14:

In situations where informed consent is required, the rules related to informed consent should be strictly enforced upon which informed consent is given should be fully set forth In the minutes of the governing body.

City Response: The recommendation has been implemented as whenever "informed written consent". is required pursuant to Rule 3-310 of the California Rules of Professional Conduct, the CAO ensures strict compliance and entry of this in the minutes of the government body.

Recommendation 15: Bills and other records of charges made for legal services after deleting confidential information should be deemed to be public records open to public disclosure.

City Response: The recommendation has been implemented as the City allows inspection of all bills from outside counsel after redacting any confidential, attorney-client privileged or work product information.

TIM Cary & assoc. response for SM Bonita School Dist to "legal services...."

Recommendation 1: Municipalities and districts should review and define the level of their legal service needs and seek counsel at a level to satisfy those needs. The level of needed legal services should be developed objectively with an understanding of the anticipated actual costs and include a realistic amount in the annual budget.

Response 1: This recommendation has been implemented by the Santa Maria-Bonita School District. The District staff regularly reviews the level of legal services needed and annually develops a budget to take into account those needs.

Recommendation 2: Municipalities and districts should review, audit and control the number of hours for which services are claimed for billing purposes. Management personnel must be given authority to review and audit claims for legal services in the same manner as they review and audit other services provided to the municipality and district.

Response 2: This recommendation has been implemented by the Santa Maria-Bonita School District. The District staff reviews, audits and controls the number of hours for which services are claimed for billing purposes. In addition, District management personnel are given authority to review and audit claims for legal services in the same manner as they review and audit other services provided to the District.

Recommendation 3: Municipalities and districts should review the basic fees structure and give consideration to flat rate charges for routine or monthly services and define with precision additional services and the methods of authorizing additional services.

Response 3: This recommendation will not be implemented by the Santa Maria-Bonita School District because it is not warranted.

Santa Maria-Bonita School District believes that this recommendation greatly oversimplifies the use of flat rate charges. Moreover, flat rate charges provide incentives for counsel to provide fewer services than are needed by the District in order to increase their profit margin.

Recommendation 4: Municipalities and districts should use caps and budgets or other limitations to control costs in litigation where the municipality or district is named a party.

Response 4: This recommendation has been implemented by the Santa Maria-Bonita School District. The District staff reviews legal bills to control costs of litigation when the District is a named party.

Recommendation 5: Municipalities and districts should review the necessity for attendance by counsel at advisory board meetings.

Response 5: This recommendation has been implemented by the Santa Maria-Bonita School District. The District's legal counsel is only present at Board meetings when their attendance is necessary.

Recommendation 6:

Municipalities and districts should consider billing practices, minimum charges, minimum hours, carryover and unused monthly hours, multiple billing for in-office conferences and the services to be included in monthly minimum fees.

Response 6: This recommendation will not be implemented by the Santa Maria-Bonita School District because it is not warranted.

Santa Maria-Bonita School District feels that this will not yield cost savings for the District because the District already carefully reviews its legal bills.

Recommendation 7:

Municipalities and districts should review disbursements such as electronic research, postage, shipping, telephone, travel time and travel expenses, expert witness costs, extraordinary Discovery procedures, staff overtime costs, outdated charges such as word processing charges, prior approval provisions related to extraordinary costs and costs assumed by a municipality or district in the event of a dispute.

Response 7: This recommendation has been implemented by the Santa Maria-Bonita School District. The District staff carefully reviews disbursements related to legal services.

Recommendation 8: Municipalities and districts should require proof of an agreed level of professional liability Insurance.

Response 8: This recommendation has been implemented by the Santa Maria-Bonita School District. Santa Maria-Bonita School District requires proof of professional liability insurance.

Recommendation 9: Municipalities and districts should require disclosure of the names of current clients represented by the firm to be retained who may have potential conflicts with the municipality or district. Municipalities and districts should give consideration to limitations on its law firm's representation of other clients whose interest could foresee ably result in a conflict requiring disqualification of the municipality or district's law firms and provide a procedure to deal with the issue if it should arise.

Response 9: This recommendation has been implemented by the Santa Maria-Bonita School District. Santa Maria-Bonita School District expects that the District's law firms will act in accordance with the Rules of Professional Responsibility which requires disclosure of any conflicts.

Recommendation 10: Retainers should provide for payment within a period longer than 30 days without penalty to permit full audit of services. In no event should the period within which pay is required to be made be less than the normal meeting cycle plus processing time of the governing board.

Response 10: This recommendation has been implemented by the Santa Maria-Bonita School District. The District's Legal Services Agreement provides for payment within a period longer than 30 days without penalty to permit full audit of services.

Recommendation 11: Municipalities and districts should require renewal retainers to be upon the complete agreement rather than the change of a rate sheet.

Response 11: This recommendation has been implemented by the Santa Maria-Bonita School District. The District requires renewal Legal Service Agreements to be upon the complete agreement rather than on the change of a rate sheet.

Recommendation 12: Municipalities and districts should use requests for proposals for retaining counsel to handle routine, repetitive matters.

Response 12: This recommendation has been implemented by the Santa Maria-Bonita School District. In the past, Santa Maria-Bonita School District has used a variety of methods to obtain legal services at competitive rates.

Recommendation 13: Where legal services costs exceed 1% of the budget of the municipalities or district, legal service costs should be monitored and evaluated to determine need and appropriateness.

Response 13: This recommendation has been implemented by the Santa Maria-Bonita School District. Santa Maria-Bonita School District monitors and evaluates the costs of legal services to determine need and appropriateness.

Recommendation 14: In situations where informed consent is required, the rules related to informed consent should be strictly enforced and the basis upon which informed consent is given should be fully set forth in the minutes of the governing body.

Response 14: This recommendation has been implemented by the Santa Maria-Bonita School District. In situations where informed consent is required the rules relating to informed consent are strictly enforced.

Recommendation 15: Bills and other records of charges made for legal services after deleting confidential information should be deemed to be public records open to public disclosure.

Response 15: This recommendation will not be implemented by the Santa Maria-Bonita School District because it is not reasonable.

Santa Maria-Bonita's legal bills contain detailed information about matters involving legal counsel and due to attorney-client privilege it would not be reasonable or advisable to attempt to delete the attorney-client privileged information and make it a public record. However, the invoice page for legal services is made available by the District as a public record.

MTD response to "legal services....."

Recommendation 1: This recommendation has historically been followed and implemented by MTD. Legal needs are assessed and realistically budgeted for annually.

Recommendation 2: This recommendation has historically been followed and implemented by MTD. MTD reviews all legal bills monthly.

Recommendation 3: While MTD agrees with this recommendation, it cannot be implemented at MTD because there is very little in the nature of routine legal services provided to the District. MTD does define the legal services needed when it retains counsel.

Recommendation 4: MTD agrees with and has implemented budgeting and other limitations in an attempt to control litigation expenses. However, MTD does not believe it prudent to impose caps, especially when defending litigation where caps could be Counterproductive.

Recommendation 5: MTD agrees with and has historically implemented this recommendation. Counsel is requested to attend MTD board meetings only when necessary and, then, only for the agenda items needing legal counsel.

Recommendation 6: MTD agrees with and has historically implemented this recommendation. MTD's counsel does not utilize minimum charges/hours or monthly minimum fees.

Recommendation 7: MTD agrees with and has historically implemented this recommendation. MTD reviews all legal bills monthly. Its counsel rarely incurs travel time or travel expenses, and MTD does not pay for staff overtime or word processing charges.

Recommendation 8: This recommendation has been implemented by MTD. All counsel has provided the District with evidence of professional liability insurance.

Recommendation 9: MTD agrees with this recommendation. MTD understands that its counsel are ethically required to evaluate potential conflicts on all new matters and will forthwith confirm that understanding in writing with all counsel.

Recommendation 10: MTD has not historically used formal retainer agreements with its counsel; it agrees with the need for adequate time to evaluate billings and is under no contractual obligation to pay for legal services within 30 days. MTD reviews all billings for legal services monthly.

Recommendation 11: MTD agrees with this recommendation, but has not historically used formal retainer agreements.

Recommendation 12: MTD generally agrees with this recommendation, but it is not applicable to MTD's need for legal services. MTD has very little in the nature of routine legal needs.

Recommendation 13: MTD agrees with and has historically implemented this recommendation regardless of whether legal services do or do not exceed 1 % of its budget. It is important to recognize that measuring legal services as a percent of budget can be misleading. For example, MTD carries a high self insurance retention for workers' compensation and liability claims, unlike some other public agencies.

As a consequence, its insurance costs will be lower, but its legal costs may be a bit higher than other comparable public agencies. This method has saved the District significantly beginning with its inception in 1989. MTD monitors its legal expenses monthly.

Recommendation 14: Although MTD generally agrees with this recommendation, it appears to have little applicability to MTD. Consequently, this recommendation cannot be implemented because informed consent is rarely an issue regarding MTD's business.

Recommendation 15: MTD agrees with and will forthwith implement this recommendation should there be a request for public disclosure of non-confidential information concerning bills for legal services. MTD will protect and redact confidential information, including attorney-client privileged information, from any such disclosure, but will provide redacted bills reflecting legal charges for certain periods of time.

City of SOLVANG RESPONSE:

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Recommendation 1: Municipalities and districts should review and define the level of their legal service needs and seek counsel at a level to satisfy those needs. The level of needed legal services should be developed objectively with an understanding of the anticipated actual costs and include a realistic amount in the annual budget.

Response to Recommendation 1: This recommendation has been implemented. The Solvang City Council when it recruited the current City Attorney more than eight years ago used a process as now recommended. The City Councils over the past eight years have analyzed their legal services needs objectively and included realistic amounts in the budgets and monitored budgetary performance.

Recommendation 2: Municipalities and districts should review, audit and control the number of hours for which services are claimed for billing purposes. Management personnel must be given authority to review and audit claims for legal services in the same manner as they review and audit other services provided to the municipality and district.

Response to Recommendation 2: This recommendation has been implemented. This has been the practice in Solvang for at least the last eight years.

Recommendation 3: Municipalities and districts should review the basic fees structure and give consideration to flat rate charges for routine or monthly services and define with precision additional services and the methods of authorizing additional services.

Response to Recommendation 3: The recommendation will not be implemented because is not currently warranted or reasonable. Legal services for the City of Solvang for the years in question in the Grand Jury Report and for prior years have been carefully monitored and have been reasonable. Although City Council and staff have discussed the potential of flat rate charges for routine or monthly services, it has been determined that the current procedure of low rates for the number of hours reasonably anticipated is very similar to a flat rate for basic services. However, the City Council will continue to monitor its legal expenses carefully.

Recommendation 4: Municipalities and districts should use caps and budgets or other limitations to control costs in litigation where the municipality or district is named as a party.

Response to Recommendation 4: Although an arbitrary cap is not feasible when litigation is involved, the recommendations to the extent they are possible to implement have already been implemented in the City of Solvang. Please see our recent responses to the findings above.

Recommendation 5: Municipalities and districts should review the necessity for attendance by counsel at advisory board meetings.

Response to Recommendation 5: This recommendation has been implemented. The City Council has reviewed the necessity for attendance by Council at advisory board meetings. For that reason, the City Attorney's office staffs the Planning Commission meetings held monthly but does not otherwise staff on a regular basis the other advisory board meetings. Those meetings will be attended by the City Attorney only where directed by the City Council and/or the City Manager in unusual circumstances. An additional cost saving method is to have joint meetings of the various boards where common legal issues need to be discussed. This has also already been implemented.

Recommendation 6: Municipalities and districts should consider billing practices, minimum charges, minimum hours, carryover of unused monthly hours, multiple billing for in-office conferences and the services to be included in monthly minimum fees.

Response to Recommendation 6: This recommendation has already been implanted by past practice in the City of Solvang. The City of Solvang strongly audits the billings to prevent multiple billing for in-office conferences and multiple billing for services to be included in the monthly minimum fees.

Recommendation 7: Municipalities and districts should review disbursements such as electronic research, postage, shipping, telephone, travel time and travel expenses, expert witness costs, extraordinary discovery procedures, staff overtime costs, outdated charges such as word processing charges, prior approval provisions related to extraordinary costs and costs assumed by a municipality or district in the event of a dispute.

Response to Recommendation 7: The City Council of the City of Solvang has already implemented this recommendation by past practice. The City of Solvang does not pay for City Attorney costs such as electronic research, normal postage, shipping, telephone, and does not pay for travel time for regular meetings or regular office hours. Likewise, the City Council does not pay for staff overtime costs or outdated charges such as word processing charges and has prior approval provisions related to extraordinary costs or costs assumed by the City.

Recommendation 8: Municipalities and districts should require proof of an agreed level of professional liability insurance.

Response to Recommendation 8: This recommendation has been implemented.

Recommendation 9: Municipalities and districts should require disclosure of the names of current clients represented by the firm to be retained who may have potential conflicts with the municipality or district. Municipalities and districts should give consideration to limitations on its law firm's representation of other clients whose interests could foresee ably result in a conflict requiring disqualification of the municipality or district's law firm and provide a procedure to deal with the issue if it should arise.

Response to Recommendation 9: This recommendation has already been implemented. The City of Solvang requires its City Attorney to refuse representation of other clients whose interests could foresee ably result in a conflict requiring disqualification.

Recommendation 10: Retainers should provide for payment within a period longer than 30 days without penalty to permit full audit of services. In no event should the period within which pay is required to be made be less than the normal meeting cycle plus processing time of the government board.

Response to Recommendation 10: This recommendation will not be implemented. The low rates provided for our current City Attorney are based upon timely payment. The City staff, City Manager and Financial Department is charged with auditing those bills and since the City Council meets every two weeks, any amounts over the normal monthly retainer are presented to the City Council before they are paid.

Recommendation 11: Municipalities and districts should require renewal retainers to be upon the complete agreement rather than the change of a rate sheet.

Response to Recommendation 11: The recommendation has not yet been implemented. The recommendation will be implemented if and when the City Attorney seeks a raise in compensation.

Recommendation 12: Municipalities and districts should use requests for proposals for retaining counsel to handle routine, repetitive matters.

Response to Recommendation 12: This recommendation has been long implemented in the City of Solvang.

Recommendation 13: Where legal service costs exceed 1% of the budget of the municipality or district, legal service costs should be monitored and evaluated to determine need and appropriateness.

Response to Recommendation 13: This recommendation likewise has been long implemented in the City of Solvang. The City of Solvang feels that legal service caution be monitored and evaluated even if they are less than 1% of the budget of the municipality.

Recommendation 14: In situations where informed consent is required, the rules related to informed consent should be strictly enforced and the basis upon which informed consent is given should be fully set forth in the minutes of the governing body.

Response to Recommendation 14: This recommendation will be immediately implemented, though there is not likely to occur such an event in the near future. It should be noted that some of these legal issues are properly discussed in closed session and that minutes of closed sessions are not public records.

Recommendation 15: Bills and other records of charges made for legal services after deleting confidential information should be deemed to be public records open to public disclosure.

Response to Recommendation 15: This recommendation will be implemented consistent with existing state law on public records and attorney-client privilege.

County Counsel Response:

Recommendation 1: Municipalities and districts should review and define the level of their legal service needs and seek counsel at a level to satisfy those needs. The level of needed legal services should be developed objectively with an understanding of the anticipated actual costs and include a realistic amount in the annual budget.

Response 1: Already implemented. The legal service needs of the County are reviewed through the budget process. County counsel staffing and anticipated revenue, and funding for outside counsel for complex litigation and advisory matters, is provided in the budget. The County has implemented several processes to improve the tracking of litigation and reduce litigation costs, including "Top 25" case review and early mediation or settlement.

Recommendation 2: Municipalities and districts should review, audit and control the number of hours for which services are claimed for billing purposes. Management personnel must be given authority to review and audit claims for legal services in the same manner as they review and audit other services provided to the municipality and district.

Response 2: Already implemented. County litigation costs are subject to review by the Auditor as are other county costs.

Recommendation 3: Municipalities and districts should review the basic fees structure and give consideration to flat rate charges for routine or monthly services and define with precision additional services and the methods of authorizing additional services.

Response 3: Already implemented. County Counsel negotiates hourly charges or flat fees with clients other than County general fund departments.

Recommendation 4: Municipalities and districts should use caps and budgets or other limitations to control costs in litigation where the municipality or district is named as a party.

Response 4: Already implemented, will implement additional measures. Contracts with outside counsel usually contain a limit on total charges without board of supervisor's authority. We are developing additional ways to budget and control litigation costs, such as "roundtable" meetings to get early determination of settlement value.

Recommendation 5: Municipalities and districts should review the necessity for attendance by counsel at advisory board meetings.

Response 5: Already implemented. County Counsel has recently reviewed the commissions whose meetings we attend on a regular basis. Generally, we attend meetings of agencies that make decisions that affect people's rights, and attend meetings of purely advisory agencies on request, to provide training, or where controversial or complex matters are considered.

Recommendation 6: Municipalities and districts should consider billing practices, minimum charges, minimum hours, carryover of unused monthly hours, multiple billing for in-office conferences and the services to be included in monthly minimum fees.

Response 6: Will be implemented. County Counsel does not agree to minimum charges or pay multiple billing for in-office conferences. We agree that it is desirable to have a formal protocol on billing practices.

Recommendation 7: Municipalities and districts should review disbursements such as electronic research, postage, shipping, telephone, travel time and travel expenses, expert witness costs, extraordinary discovery procedures, staff overtime costs, outdated charges such as word processing charges, prior approval provisions related to extraordinary costs and costs assumed by a municipality or district in the event of a dispute.

Response 7: Already implemented, will implement additional measures. We presently review disbursements. We will improve monitoring of extraordinary discovery costs through early budgeting and roundtable meetings in major cases.
part in hiring decisions.

Recommendation 8: Municipalities and districts should require proof of an agreed level of professional liability insurance.

Response 8: Already implemented. County contracts require professional liability insurance for outside counsel.

Recommendation 9: Municipalities and districts should require disclosure of the names of current clients represented by the firm to be retained who may have potential conflicts with the municipality or district. Municipalities and districts should give consideration to limitations on its law firm's representation of other clients whose interests could foresee ably result in a conflict requiring disqualification of the municipality or district's law firm and provide a procedure to deal with the issue if it should arise.

Response 9: Already implemented. County Counsel representation of independent special districts is predicated on a waiver of conflicts between the district and the county.

Recommendation 10: Retainers should provide for payment within a period longer than 30 days without penalty to permit full audit of services. In no event should the period within which pay is required to be made be less than the normal meeting cycle plus processing time of the governing board.

Response 10: Will be implemented. We believe that in most cases bills can be paid within 30 days and still be subject to adequate review. Generally, Risk Management and County Counsel strive to pay bills as quickly as possible. In some cases it may take more than 30 days to adequately review billings and meet with outside counsel, in part due to timing and distance. Commencing with the next outside counsel contracts, we will ensure that sufficient time is allowed to permit adequate billing review.

Recommendation 11: Municipalities and districts should require renewal retainers to be upon the complete agreement rather than the change of a rate sheet.

Response 11: Will not be implemented. County Counsel does not have retainers subject to renewal.

Recommendation 12: Municipalities and districts should use requests for proposals for retaining counsel to handle routine, repetitive matters.

Response 12: Will not be implemented. The standard functions of county counsel, advice to government agencies, prosecutorial-type civil litigation, and defense of civil suits, are not routine and repetitive. After evaluation, we determined that because of the high priority placed on reducing workers compensation liability and the need to coordinate workers compensation with other employment-related processes, it is more cost-effective to defend workers compensation cases, the major county counsel function that might be considered "routine," in-house. We are also evaluating whether to continue handling bail bond forfeiture matters.

Recommendation 13: Where legal service costs exceed 1% of the budget of the municipality or district, legal service costs should be monitored and evaluated to determine need and appropriateness.

Response 13: Does not apply to county.

Recommendation 14: In situations where informed consent is required, the rules related to informed consent should be strictly enforced and the basis upon which informed consent is given should be fully set forth in the minutes of the governing body.

Response 14: Already implemented in part, will not be implemented further. In the few situations where informed consent is required, appropriate procedures are followed and the basis for informed consent is recorded in writing. It is not necessary to set forth the basis in the minutes of the board of supervisors.

Recommendation 15: Bills and other records of charges made for legal services after deleting confidential information should be deemed to be public records open to public disclosure.

Response 15: Will not be implemented. Disclosure of the details of bills relating to pending litigation is resisted because the cost and nature of expenditures can reveal strategy and logistics to adversaries. If request is made, redaction of bills will be attempted on a case by case basis. Bills and other financial records regarding closed litigation is public record.

Guadalupe Response:

1. **LEGAL SERVICES FOR MUNICIPALITIES:** The City Attorney for the city of Guadalupe is Randy Risner. Legal fees include advice related to the City and the Redevelopment Agency. Costs related to developments in the city are reimbursable under development agreements and, therefore, the revenue from the developers offset the actual cost to the city. The Santa Maria Valley Water Conservation District's water litigation has been a high cost to the city but we are seeing a reduction over time. The expenditures for legal fees are controllable if the city places an hour "cap" on time worked.
2. **COSTLY LEGAL SERVICES:** Litigation costs are higher per hour than advisory services. The expenditures for city-related legal fees are of concern to the City Council and litigation costs appear to be the major factor driving costs up. Sound legal advice should be a function of decreased litigation.
3. **CONFIDENTIAL BILLS:** The city complied with public records requirements when submitting bills to the Grand Jury.
4. **INFORMED CONSENT:** Conflicts of interest should be disclosed. Attorneys should act in the best interest of the municipality they serve.
5. **RETAINERS:** The city uses a standard contract for all consultants including the city attorney.
6. **NEGOTIATION OF TERMS:** The Council negotiates the terms of the agreement during closed session and again when the contract is approved in open session.
7. **LEGAL FEE BUDGETS:** The Council should be made aware of legal fees exceeding budgeted amounts during mid-year budget review. It is difficult to place restrictions on legal fees that are warranted.
8. **SELECTION PROCESS:** The RFP process is performed and Council interviews candidates in closed session. A background check is performed prior to approving a contract. The current City Attorney went through two RFP's.
9. **HIRING PROCESS:** The Council negotiates the terms of the agreement during closed session and again when the contract is approved in open session
10. **SPECIAL COUNSEL:** Special counsel is generally a recommendation of the city attorney. This should be considered and factored into the budget as needed.
11. **PAYMENT REVIEW:** The City Administrator reviews the legal bills. Copies are submitted to Council with the agenda's warrant listing for approval. City Attorney does not charge for mileage.

CONCLUSION: Legal fees should be kept in check at all times. The City respects the Grand Jury's recommendations and we hope this response demonstrates our desire to keep the best interest of the public in mind always. Please accept our sincere thanks and appreciation.

Allan Hancock College Response:

Recommendation 1: Municipalities and districts should review and define the level of their legal service needs and seek counsel at a level to satisfy those needs. The level of needed legal services should be developed objectively with an understanding of the anticipated actual costs and include a realistic amount in the annual budget.

Response: Agreed. Allan Hancock College believes that this is the process that it follows.

Recommendation 2: Municipalities and districts should review, audit and control the number of hours, for which services are claimed for billing purposes. Management personnel must be given authority to review and audit claims for legal services in the same manner as they review and audit other services provided to the municipality and district.

Response: Agreed, this is the process followed by Allan Hancock College.

Recommendation 3: Municipalities and districts should review the basic fee structure and give consideration to flat rate charges for routine or monthly services and define with precision additional services and the methods of authorizing additional services.

Response: Agreed. Allan Hancock College does not contract with legal firms for routine or monthly services.

Recommendation 4: Municipalities and districts should use caps and budgets or other limitations to control costs in litigation where the municipality or district is named as a party.

Response: Budgets alone cannot control legal expenses. Allan Hancock College does budget for anticipated and predictable legal costs but in the event that something occurs that requires legal counsel the elected board of trustees is notified of the event. Careful risk management efforts and addressing issues early have had the greatest effect on controlling legal expenses

Recommendation 5: Municipalities and districts should review the necessity for attendance by counsel at advisory board meetings.

Response: Agreed. Allan Hancock College seldom invites legal counsel to meetings of the board of trustees unless that attendance is requested by the board of trustees.

Recommendation 6: Municipalities and districts should consider billing practices, minimum charges, minimum hours, carryover of unused monthly hours, multiple billing for in-office conferences and the services to be included in monthly minimum fees.

Response: Agreed. Allan Hancock College does have agreements for legal services but does not enter into typical retainer agreements where fees are paid in advance of services. Allan Hancock College pays legal fees based on actual hours performed and therefore, is not subject to minimum charges or hours and has no unused monthly hours.

Recommendation 7: Municipalities and districts should review disbursements such as electronic research, postage, shipping, telephone, travel time and travel expenses, expert witness costs, extraordinary discovery procedures, staff overtime costs, outdated charges such as word processing charges, prior approval provisions related to extraordinary costs and costs assumed by a municipality or district in the event of a dispute.

Response: Agreed.

Recommendation 8: Municipalities and districts should require proof of an agreed level of professional liability insurance.

Response: Agreed.

Recommendation 9: Municipalities and districts should require disclosure of the names of current clients represented by the firm to be retained who may have potential conflicts with the municipality or district. Municipalities and districts should give consideration to limitations on its law firm's representation of other clients whose interests could foresee ably result in a conflict requiring disqualification of the municipality or district's law firm and provide a procedure to deal with the issue if it should arise.

Response: Professional standards related to client representation and issues of confidentiality should be addressed.

Recommendation 10: Retainers should provide for payment within a period longer than 30 days without penalty to permit full audit of services. In no event should the period within which pay is required to be made be less than the normal meeting cycle plus processing time of the governing board.

Response: Allan Hancock College's agreement for special services with Liebert Cassidy Whitmore contains a clause that states "Payment by District against monthly billings is due upon receipt of statements, and is considered delinquent if payment is not received within thirty (30) days of the date of the invoice." There is not a clause that would permit additional charges in the event the district was unable to meet this requirement. Typically this timing is not a problem for the district as the board of trustee's meets monthly and processing time is routine. Any questions related to the billings are typically resolved quickly and have not caused any undue delays in processing payments.

Recommendation 11: Municipalities and districts should require renewal retainers to be upon the complete agreement rather than the change of a rate sheet.

Response: Allan Hancock College does not currently have any retainer agreements but does have agreements for special services that are billed on an hourly basis. The district agrees that complete agreements should be renewed periodically but it does not appear efficient with a relatively new agreement of less than three years and no proposed change from either party other than rates to renew the full agreement.

Recommendation 12: Municipalities and districts should use requests for proposals for retaining counsel to handle routine, repetitive matters.

Response: Allan Hancock College does not use counsel to handle routine, repetitive matters. If the district were to do so, issuing a request for proposal would be an appropriate step to take.

Recommendation 13: Where legal services exceed 1% of the budget of the municipality or district, legal service costs should be monitored and evaluated to determine need and appropriateness.

Response: Legal services in 2004-05 for Allan Hancock College were only .327% of the budget. While this amount did not reach or exceed 1% of the budget, the district does monitor and evaluate need and appropriateness of services.

Recommendation 14: In situations where informed consent is required, the rules related to informed consent should be strictly enforced and the basis upon which informed consent is given should be fully set forth in the minutes of the governing body.

Response: It is agreed that rules related to informed consent should be enforced. Issues that would typically involve communications with attorneys are covered in closed session discussions with the board of trustees as authorized by the Brown Act. Minutes of closed session discussion items are not public documents.

Recommendation 15: Bills and other records of charges made for legal services after deleting confidential information should be deemed to be public records open to public disclosure.

Response: Issues related to attorney/client privilege would need to be appropriately addressed.

Santa Barbara City College Response:

Recommendation 1: Municipalities and districts should review and define the level of their legal service needs and seek counsel at a level to satisfy those needs. The level of needed legal services should be developed objectively with an understanding of the anticipated actual costs and include a realistic amount in the annual budget.

Response 1: Agree. We select outside counsel based on the type and level of service needed. We participate in a consortium that includes management training in an array of legal issues with the goal of preventing problems and reducing exposure.

Recommendation 2: Municipalities and districts should review, audit and control the number of hours for which services are claimed for billing purposes. Management personnel must be given authority to review and audit claims for legal services in the same manner as they review and audit other services provided to the municipality and district.

Response 2: Agree. We do this. See response to Finding 11.

Recommendation 3:

Municipalities and districts should review the basic fees structure and give consideration to flat rate charges for routine or monthly services and define with precision additional services and the methods of authorizing additional services.

Response 3: Agree. We have some agreements structured in this manner.

Recommendation 4: Municipalities and districts should use caps and budgets or other limitations to control costs in litigation where the municipality or district is named as a party.

Response 4: Agree

Recommendation 5: Municipalities and districts should review the necessity for attendance by counsel at advisory board meetings.

Response 5: Agree.

Recommendation 6: Municipalities and districts should consider billing practices, minimum charges, minimum hours, carryover of unused monthly hours, multiple billing for in-office conferences and the services to be included in monthly minimum fees.

Response 6: Agree.

Recommendation 7: Municipalities and districts should review disbursements such as electronic research, postage, shipping, telephone, travel time and travel expenses, expert witness costs, extraordinary discovery procedures, staff overtime costs, outdated charges such as word processing charges, prior approval provisions related to extraordinary costs and costs assumed by a municipality or district in the event of a dispute.

Response 7: Agree

Recommendation 8: Municipalities and districts should require proof of an agreed level of professional liability insurance.

Response 8: Agree

Recommendation 9: Municipalities and districts should require disclosure of the names of current clients represented by the firm to be retained who may have potential conflicts with the municipality or district. Municipalities and districts should give consideration to limitations on its law firm's representation of other clients whose interests could foresee ably result in a conflict requiring disqualification of the municipality or district's law firm and provide a procedure to deal with the issue if it should arise.

Response 9: Disagree as this would require violation of confidentiality.

Recommendation 10: Retainers should provide for payment within a period longer than 30 days without penalty to permit full audit of services. In no event should the period within which pay is required to be made be less than the normal meeting cycle plus processing time of the governing board.

Response 10: Agree

Recommendation 11: Municipalities and districts should require renewal retainers to be upon the complete agreement rather than the change of a rate sheet.

Response 11: Agree

Recommendation 12: Municipalities and districts should use requests for proposals for retaining counsel to handle routine, repetitive matters.

Response 12: Disagree. This practice does not necessarily procure the best or most appropriate service.

Recommendation 13: Where legal service costs exceed 1% of the budget of the municipality or district, legal service costs should be monitored and evaluated to determine need and appropriateness.

Response 13: Agree

Recommendation 14: In situations where informed consent is required, the rules related to informed consent should be strictly enforced and the basis upon which informed consent is given should be fully set forth in the minutes of the governing body.

Response 14: Agree

Recommendation 15: Bills and other records of charges made for legal services after deleting confidential information should be deemed to be public records open to public disclosure.

Response 15: Agree.

Montecito Water District Response:

Dear Judge Melville and Civil Grand Jury Foreman:

By letter dated May 16, 2006, to the Board of the Montecito Water District, Ted Sten as Foreman of the Santa Barbara County Civil Grand Jury notified this District that we are "required to respond within 60 days to each applicable finding and recommendation contained in the (above-referenced) report as specified by California Penal Code § 933.05(b)."

As an initial matter, we note that the Montecito Water District is a political subdivision of the State of California, with a separate directly elected Board of Directors. Though it is formed pursuant to the "County Water District Law" (Water Code § 30,000 et seq.), the District is not a part of county government or a county dependent special district as referenced in Penal Code § 925, or an incorporated city or a joint powers agency as referenced in Penal Code § 925a, or any of the other types of agencies over which the Grand Jury has been statutorily granted reviewing authority. We therefore do not understand that the District is actually subject to such Grand Jury reviewing authority. Despite that lack of jurisdiction, the District has been happy to cooperate with the Grand Jury, in an attempt to provide all requested information, but has not thereby waived any jurisdictional issue. We do further note, however, that Penal Code § 933(c), the section referenced in the demand for response, expressly provides that the response by the governing board of any public agency which is subject to the reviewing Authority of the Grand Jury is due no later than 90 days after submission of the final report. The 60-day comment period is for elected county officers or agency heads for which the Grand Jury has responsibility pursuant to Penal Code § 914.1 - county matters of civil concern including illegal use of county funds. While the Montecito Water District is organized pursuant to the County Water District Act, it is not part of the county government.

As a responsible local agency, the governing board of the Montecito Water District is happy to provide these responses to the Civil Grand Jury Report, but is providing them within the terms of the 90-day period which would be applicable if the District were subject to Grand Jury reviewing authority, and is not providing the additional responses to county officials called for under the 60-day response period of § 933(c).

We also find that the Grand Jury Report calls for the Montecito Water District to respond to all findings and recommendations. We have attempted to so respond, although some findings and recommendations do not appear to be at all applicable to the District.

Recommendation 1: Implemented. The District regularly reviews and defines the level of its legal service needs and develops its annual legal budget based upon its anticipated actual costs.

Recommendation 2: Implemented. Management personnel have authority to review and audit claims for legal services, and legal service bills are also subject to review by the District Finance Committee and Board of Directors.

Recommendation 3: Implemented. In 2005, the District performed a detailed review of fees and charges for legal services to the District, considered negotiation of a retainer agreement, and determined that it was instead in the best interest of the District to continue with its current services agreement, by which the District is billed for services on an hourly basis, at a reduced "public agency" rate, with specific guidelines for utilization of such legal services and coordination of District agendas so that District legal counsel time will be used most efficiently.

Recommendation 4: Implemented. The District will continue to use budgets and other appropriate limitations to control costs and litigation where the District is named as a party.

Recommendation 5: Implemented. As noted in the response to Recommendation 3, the District regularly reviews the necessity for attendance by counsel at Advisory Board meetings, and has established a process for consultation between the District General Manager and counsel of the agendas for such meetings, and counsel only attends such meetings at the request of the Manager or Board.

Recommendation 6: Implemented. As noted in the response to Recommendation 3 above, the District has recently reviewed and considered District counsel billing practices. Those practices do not include minimum charges, minimum hours, carry-over of unused monthly hours, or monthly minimum fees. Multiple billing for in-office conferences are also carefully scrutinized, and District counsel avoids such practice except where the District is clearly benefiting from and requires services of more than one attorney at the firm, such as where one attorney is providing a specialized service which also requires service from general counsel.

Recommendation 7: Implemented. The District will continue to review all actual cost charges by District counsel.

Recommendation 8: Implemented. The District has on file a current Certificate of Insurance evidencing that District Counsel carries professional liability insurance in an amount the District finds adequate.

Recommendation 9: Implemented. The District has provided a specific procedure to deal with the issue of potential conflict or appearance of conflict by the District's law firm, and has found that process to be very satisfactory. District counsel is an office of the District, and so is required to annually submit disclosure forms listing all significant sources of income, which includes all clients of the firm for which the firm performs legal services of more than \$100,000 per year. District counsel has revealed the names of other current agency clients with potential conflict due to geographic proximity, and does not represent private clients in matters related to the District. Finally, the District notes that the Grand Jury cites with approval the representation by Liebert, Cassidy Whitmore (LCW) of at least 17 separate and often adjacent and overlapping school districts in Santa Barbara County, apparently with the understanding that such multiple representation can provide economies of scale and knowledge of related issues.

Recommendation 10: Implemented. The District legal counsel does not charge penalties to the District for late payment of legal services, and provides any period requested by the District for appropriate review of billings.

Recommendation 11: Implemented. The District currently considers appointment of legal counsel on a bi-annual basis, at the time the District considers appointment of its other officers. The District and District legal counsel have also agreed to limit fee increases to an annual cost of living adjustment based upon the cost of living adjustment used by the District for other purposes. The District will consider renewal of the complete legal agreement at the next time it considers appointment of legal counsel.

Recommendation 12: The recommendation is not warranted. The District believes it is currently well served by District legal counsel, including due to the long institutional memory and relevant legal and factual information that counsel has about the District, the counsel's general and specific knowledge in areas of practice relevant to the District, the breadth of specialized legal services available through general counsel's firm, and the economies of scale available with general counsel's current practices as overseen by and working in close cooperation with the District's manager, of routine, repetitive matters. The District therefore does not believe use of the request for proposals is appropriate at this time.

Recommendation 13: Implemented. The District notes that legal service costs currently are within 1% of the District's budget, and that costs have been at or below approximately 1% for the past couple of years. The District did have significant management challenges a few years ago, which resulted in District legal counsel performing District management functions, and so caused higher than typical legal service costs. The District has subsequently addressed those management issues through the hiring of a highly experienced General Manager. While District legal costs generally do not exceed 1% of the budget, legal service costs are still closely monitored and evaluated to determine need and appropriateness.

Recommendation 14: Implemented. The requirement and procedure for informed written consent is included in the District's legal services agreement. If the District does in the future provide informed consent for additional joint representations, the District will reflect such consent in the Board minutes.

Recommendation 15: Implemented. The District will continue to treat bills and other records of charges for legal services as public records, except to the extent that they contain confidential information, which would primarily, relate to ongoing litigation, administrative or personnel proceedings.

Santa Barbara City Attorney Response:

REPORT RECOMMENDATIONS: The City agrees with all of the recommendation made in the Grand Jury's Report. In fact, the City and its City Attorney's office already does all of the things recommended by the Grand Jury and has done so for many years.

City of Santa Barbara Response:

REPORT RECOMMENDATIONS: The City agrees with all of the recommendation made in the Grand Jury's Report. In fact, the City and its City Attorney's office already does all of the things recommended by the Grand Jury and has done so for many years.

ISLA VISTA Rec & Park Response:

Recommendation 1: Municipalities and districts should review and define the level of their legal service needs and seek counsel at a level to satisfy those needs. The level of needed legal services should be developed objectively with an understanding of the anticipated actual costs and include a realistic amount in the annual budget.

Response to Recommendation 1: This recommendation has already been implemented. The District in conjunction with its annual work plan strives to anticipate the actual cost of legal services and includes such cost in its budget.

Recommendation 2: Municipalities and districts should review, audit and control the number of hours for which services are claimed for billing purposes. Management personnel must be given authority to review and audit claims for legal services in the same manner as they review and audit other services provided to the municipality and district.

Response to Recommendation 2: This recommendation has already been implemented as the District reviews bills for legal services to ensure that the bills reflect work requested and the bills comply with the agreement for legal services. If warranted, an audit can be conducted in the same manner as audits for other services provided to the District.

Recommendation 3: Municipalities and district should review the basic fees structure and give consideration to flat rate charges for routine or monthly services and define with precision additional services and the methods of authorizing additional services.

Response to Recommendation 3: The District will implement the recommendation and review its fee structure for General Counsel Services within this fiscal year. The remainder of the recommendation has already been implemented, as the agreement for legal services with its General Counsel is specific as to what services are considered general services and what services are considered special services.

Recommendation 4: Municipalities and districts should use caps and budgets or other limitations to control costs in litigation where the municipality or district is named as a party.

Response to Recommendation 4: The District agrees with the recommendation that budgets or other limitations should be used to control costs in litigation. The District, however, does not agree that caps are a feasible or realistic method to control litigation. As noted in the report, "the length and difficulty of any litigation makes fixed fees difficult." (Report at page 26). Notwithstanding, the District will implement the recommendation as it relates to budgets and believes that it is appropriate to use budgets as a means to control litigation expenses and ensure that the General Manager and District Board are aware of litigation expenses.

Recommendation 5: Municipalities and districts should review the necessity for attendance by counsel at advisory board meetings.

Response to Recommendation 5: The District General Manager has already implemented this recommendation as the General Counsel attends District meetings or other meetings of the District only upon request.

Recommendation 6: Municipalities and districts should consider billing practices, minimum charges, minimum hours, carryover of unused monthly hours, multiple billing for in-office conferences and the services to be included in monthly minimum fees.

Response to Recommendation 6: This recommendation will not be implemented because it is not warranted. The agreement between the District and its General Counsel provides that fees for legal services are based on an hourly rate and not a retainer basis. If in the future the District retains counsel on a retainer basis, the District will consider implementing this recommendation.

Recommendation 7: Municipalities and districts should review disbursements such as electronic research, postage, shipping, telephone, travel time and travel expenses, expert witness costs, extraordinary discovery procedures, staff overtime costs, outdated charges such as word processing charges, prior approval provisions related to extraordinary costs and costs assumed by a municipality or district in the event of a dispute.

Response to Recommendation 7: This recommendation has already been implemented as the District reviews bills for legal services to ensure that the bills reflect work requested and the bills comply with the agreement for legal services. If warranted, an audit can be conducted in the same manner as audits for other services provided to the District.

Recommendation 8: Municipalities and districts should require proof of an agreed level of professional liability insurance.

Response to Recommendation 8: This recommendation has already been implemented as the agreement between the District and its General Counsel requires an agreed level of professional liability insurance.

Recommendation 9: Municipalities and districts should require disclosure of the names of current clients represented by the firm to be retained who may have potential conflicts with the municipality or district. Municipalities and districts should give consideration to limitations on its law firm's representation of other clients whose interests could foreseeably result in a conflict requiring disqualification of the municipality or district's law firm and provide a procedure to deal with the issue if it should arise.

Response to Recommendation 9: This recommendation has already been implemented as the agreement between the District and its General Counsel requires the General Counsel to comply with the California Rules of Professional Responsibility including notifying the District of any known conflict of interest related to matters upon which the General Counsel is providing services.

Recommendation 10: Retainers should provide for payment within a period longer than 30 days without penalty to permit full audit of services. In no event should the period within which payment is required to be made be less than the normal meeting cycle plus processing time of the governing board.

Response to Recommendation 10: The District agrees with the recommendation and the recommendation has already been implemented. The agreement between the District and its General Counsel provides flexibility for payment and requires that the District process and cause such billings to be paid promptly.

Recommendation 11: Municipalities and districts should require renewal retainers to be upon the complete agreement rather than the change of a rate sheet.

Response to Recommendation 11: This recommendation will not be implemented because it is not warranted. The District does not have a retainer agreement with its *General Counsel*. If in the future the District retains counsel on a retainer basis, the District will consider implementing this recommendation.

Recommendation 12: Municipalities and districts should use requests for proposals for retaining counsel to handle routine, repetitive matters.

Response to Recommendation 12: The District agrees with the recommendation and has implemented this recommendation.

Recommendation 13: Where legal service costs exceed 1% of the budget of the municipality or district, legal service costs should be monitored and evaluated to determine need and appropriateness.

Response to Recommendation 13: The District first notes that its budgeted amount for legal services (excluding the cost related to the Libertarian Party litigation) already exceeds 1% of the District's budget. The 1% threshold chosen by the Grand Jury may not be appropriate for all districts or municipalities as legal expenses includes not only routine matters but also any special projects the public entity may have for that particular fiscal year. In response to this recommendation, the District already implements this recommendation. The District continually monitors its legal expenses on a monthly basis.

Recommendation 14: In situations where informed consent is required, the rules related to informed consent should be strictly enforced and the basis upon which informed consent is given should be fully set forth in the minutes of the governing body.

Response to Recommendation 14: This recommendation has already been implemented as the agreement between the District and its *General Counsel* requires the *General Counsel* to comply with the California Rules of Professional Responsibility including notifying the District of any known conflict of interest related to matters upon which the *General Counsel* is providing services.

Recommendation 15: Bills and other records of charges made for legal services after deleting confidential information should be deemed to be public records open to public disclosure.

Response to Recommendation 15: This recommendation has already been implemented as the District complies with the Public Records Act, which recognizes that information or documents subject to attorney-client privilege are exempt from disclosure.

City Attorney of Buellton Response to "Legal Services.....:"

Recommendation 1: Municipalities and districts should review and define the level of their legal service needs and seek counsel at a level to satisfy those needs. The level of needed legal services should be developed objectively with an understanding of the anticipated actual costs and include a realistic amount in the annual budget.

Response to Recommendation 1: Agree.

Recommendation 2: Municipalities and districts should review, audit and control the number of hours for which services are claimed for billing purposes. Management personnel must be given authority to review and audit claims for legal services in the same manner as they review and audit other services provided to the municipality and district.

Response to Recommendation 2: Agree with first sentence. Remainder of the recommendation is too broad with which to agree or disagree.

Recommendation 3: Municipalities and districts should review the basic fees structure and give consideration to flat rate charges for routine or monthly services and define with precision additional services and the methods of authorizing additional services.

Response to Recommendation 3: Agree.

Recommendation 4: Municipalities and districts should use caps and budgets or other limitations to control costs in litigation where the municipality or district is named as a party.

Response to Recommendation 4: Disagree. Municipalities should use budgets, but caps are unrealistic if not absolutely impossible for significant litigation. At some point, any city could stop any litigation if desired and a cap is not needed to reach this termination. A cap could leave the City at a disadvantage if its adversary could ascertain the extent of the City's commitment to the litigation.

Recommendation 5: Municipalities and districts should review the necessity for attendance by counsel at advisory board meetings.

Response to Recommendation 5: Agree.

Recommendation 6: Municipalities and districts should consider billing practices, minimum charges, minimum hours, carryover of unused monthly hours, multiple billing for in-office conferences and the services to be included in monthly minimum fees.

Response to Recommendation 6: Agree.

Recommendation 7: Municipalities and districts should review disbursements such as electronic research, postage, shipping, telephone, travel time and travel expenses, expert witness costs, extraordinary discovery procedures, staff overtime costs, outdated charges such as word processing charges, prior approval provisions related to extraordinary costs and costs assumed by a municipality or district in the event of a dispute.

Response to Recommendation 7: Agree.

Recommendation 8: Municipalities and districts should require proof of an agreed level of professional liability insurance.

Response to Recommendation 8: Agree.

Recommendation 9: Municipalities and districts should require disclosure of the names of current clients represented by the firm to be retained who may have potential conflicts with the municipality or district. Municipalities and districts should give consideration to limitations on its law firm's representation of other clients whose interests could foresee ably result in a conflict requiring disqualification of the municipality or district's law firm and provide a procedure to deal with the issue if it should arise.

Response to Recommendation 9: Agree.

Recommendation 10: Retainers should provide for payment within a period longer than 30 days without penalty to permit full audit of services. In no event should the period within which pay is required to be made be less than the normal meeting cycle plus processing time of the governing board.

Response to Recommendation 10: Agree and suggest time limitation be 45 days. This limitation is necessary in as much as the law firms are carrying receivables during the non payment period and their ability to do so can be limited. This is especially true if a city is using a small local law firm to lessen its costs.

Recommendation 11: Municipalities and districts should require renewal retainers to be upon the complete agreement rather than the change of a rate sheet.

Response to Recommendation 11: Generally agree, however, the best practice is what meets the specific needs of the client and the law firm.

Recommendation 12: Municipalities and districts should use requests for proposals for retaining counsel to handle routine, repetitive matters.

Response to Recommendation 12: Agree.

Recommendation 13: Where legal service costs exceed 1% of the budget of the municipality or district, legal service costs should be monitored and evaluated to determine need and appropriateness.

Response to Recommendation 13: One percent (1%) is irrelevant. Legal services should always be monitored and evaluated to determine need and appropriateness no matter what percent of the budget.

Recommendation 14: In situations where informed consent is required, the rules related to informed consent should be strictly enforced and the basis upon which informed consent is given should be fully set forth in the minutes of the governing body.

Response to Recommendation 14: Probably agree depending on the definition of "informed consent".

Recommendation 15: Bills and other records of charges made for legal services after deleting confidential information should be deemed to be public records open to public disclosure.

Response to Recommendation 15: Bills and other records for legal services should generally be deemed public records after deleting confidential information. There are circumstances that can arise that make immediate availability of such records detrimental to a City and the public's best interest. Each situation should be addressed on an ad hoc basis.

City of Buellton Response:

Recommendation 1: Municipalities and districts should review and define the level of their legal service needs and seek counsel at a level to satisfy those needs. The level of needed legal services should be developed objectively with an understanding of the anticipated actual costs and include a realistic amount in the annual budget.

Response to Recommendation 1: The City Council agrees that municipalities and districts should review and define the level of their legal service needs and seek counsel at an objectively developed level to satisfy those needs.

Recommendation 2: Municipalities and districts should review, audit and control the number of hours for which services are claimed for billing purposes. Management personnel must be given authority to review and audit claims for legal services in the same manner as they review and audit other services provided to the municipality and district.

Response to Recommendation 2: The City Council agrees that municipalities and districts should review, audit, and to the extent possible control the number of hours for which services are claimed for billing purposes. The City Council generally agrees that designated management personnel should be given authority to review and audit claims for legal services in the same manner as other services to the municipality are reviewed and audited.

Recommendation 3: Municipalities and districts should review the basic fees structure and give consideration to flat rate charges for routine or monthly services and define with precision additional services and the methods of authorizing additional services.

Response to Recommendation 3: The City Council agrees that municipalities and districts should review the basic fees structure and give consideration to flat rate charges for routine or monthly services and define with precision additional services and the methods of authorizing additional services.

Recommendation 4: Municipalities and districts should use caps and budgets or other limitations to control costs in litigation where the municipality or district is named as a party.

Response to Recommendation 4: The City Council disagrees that monetary limitations should be used to control costs in litigation involving the municipality or district. A cap could leave the City at a disadvantage if its adversary could ascertain the extent of the City's commitment to the litigation.

Recommendation 5: Municipalities and districts should review the necessity for attendance by counsel at advisory board meetings.

Response to Recommendation 5: The City Council agrees that municipalities and districts should review the necessity for attendance at advisory board meetings.

Recommendation 6: Municipalities and districts should consider billing practices, minimum charges, minimum hours, carryover of unused monthly hours, multiple billing for in-office conferences and the services to be included in monthly minimum fees.

Response to Recommendation 6: The City Council agrees that municipalities and districts should consider billing practices and procedures in the determination of appropriate legal fees.

Recommendation 7: Municipalities and districts should review disbursements such as electronic research, postage, shipping, telephone, travel time and travel expenses, expert witness costs, extraordinary discovery procedures, staff overtime costs, outdated charges such as word processing charges, prior approval provisions related to extraordinary costs and costs assumed by a municipality or district in the event of a dispute.

Response to Recommendation 7: The City Council agrees that municipalities and districts should review disbursements for such operational costs.

Recommendation 8: Municipalities and districts should require proof of an agreed level of professional liability insurance.

Response to Recommendation 8: The City Council agrees that municipalities and districts should require proof of an agreed level of professional liability insurance.

Recommendation 9: Municipalities and districts should require disclosure of the names of current clients represented by the firm to be retained who may have potential conflicts with the municipality or district. Municipalities and districts should give consideration to limitations on its law firm's representation of other clients whose interests could foresee ably result in a conflict requiring disqualification of the municipality or district's law firm and provide a procedure to deal with the issue if it should arise.

Response to Recommendation 9: The City Council agrees that municipalities and districts should require disclosure of the names of current clients represented by the firm to be retained and should give consideration to limitations on its law firm's representation of other clients.

Recommendation 10: Retainers should provide for payment within a period longer than 30 days without penalty to permit full audit of services. In no event should the period within which pay is required to be made be less than the normal meeting cycle plus processing time of the governing board.

Response to Recommendation 10: The City Council agrees that retainers should provide for payment within a period longer than 30 days without penalty to permit full audit of services.

Recommendation 11: Municipalities and districts should require renewal retainers to be upon the complete agreement rather than the change of a rate sheet.

Response to Recommendation 11: The City Council generally agrees that municipalities and districts should require renewal retainers to be upon the complete agreement rather than the change of a rate sheet.

Recommendation 12: Municipalities and districts should use requests for proposals for retaining counsel to handle routine, repetitive matters.

Response to Recommendation 12: The City Council agrees that municipalities and districts should use requests for proposals for retaining counsel to handle routine, repetitive matters.

Recommendation 13: Where legal service costs exceed 1% of the budget of the municipality or district, legal service costs should be monitored and evaluated to determine need and appropriateness.

Response to Recommendation 13: The City Council disagrees that a percentage of the budget should be used to determine when legal service costs should be monitored and evaluated as to need and appropriateness. The City Council feels that legal services should always be monitored and evaluated to determine need and appropriateness regardless of the percentage of the budget that is for legal service costs.

Recommendation 14: In situations where informed consent is required, the rules related to informed consent should be strictly enforced and the basis upon which informed consent is given should be fully set forth in the minutes of the governing body.

Response to Recommendation 14: The City Council generally agrees that in situations where informed consent is required, the rules related to informed consent should be strictly enforced and the basis upon which informed consent is given should be recorded in the governing body meeting minutes.

Recommendation 15: Bills and other records of charges made for legal services after deleting confidential information should be deemed to be public records open to public disclosure.

Response to Recommendation 15: The City Council generally agrees that bills and other records of charges made for legal services should be deemed to be public records open to public disclosure after deleting confidential information.

Goleta West Sanitary District Response:

Recommendation 1: The District already follows this procedure.

Recommendation 2: The District already follows this procedure.

Recommendation 3: The District will consider this alternative.

Recommendation 4: The District will consider this procedure on a case-by-case basis, since some kinds of litigation may be appropriate for caps and budgets and others may not.

Recommendation 5: The District's General Counsel does not usually attend advisory board meetings.

Recommendation 6: The District has not historically used monthly fixed retainers, and so this recommendation does not apply.

Recommendation 7: The legal services invoices received by the District contain detail on the disbursements listed in the recommendation, thus providing the District with an opportunity to conduct the recommended review. The District is not charged for word processing charges, and typically is asked for prior approval for significant and extraordinary expenses (such as the engagement of an expert witness).

Recommendation 8: The District will consider this procedure. The District's General Counsel carries adequate liability coverage.

Recommendation 9: California law already requires that conflicts of interest be disclosed and waived at the time of engagement, and conflicts that arise after engagement have begun be disclosed and either waived or otherwise appropriately handled. The District and its general counsel are scrupulous in avoiding violations of the California Rules of Professional Conduct and the Political Reform Act of 1974.

Recommendation 10: This recommendation deals with an issue that has never been a problem for the District.

Recommendation 11: The District does not have a retainer on deposit with its general counsel.

Recommendation 12: The District is not convinced that splitting legal services among two or more firms, with one of them handling "routine repetitive matters," is cost effective or efficient.

Recommendation 13: The District will consider this recommendation.

Recommendation 14: This recommendation deals with an issue that has not arisen for the District.

Recommendation 15: The District already accepts the viewpoint expressed in this recommendation.

Additional Comments: The District wishes to call the Grand Jury's attention to the fact that, during the 2004-05 fiscal year, the District's legal fees were higher than in previous years because of litigation by the District against the Regional Water Quality Control Board ("Regional Board") resulting from the Regional Board's decision to impose on the District a Wastewater Discharge Order that the District believes is unwarranted and unauthorized. That litigation is in the process of being settled, and thus it is expected that the legal fees for 2006-07 will be more in line with previous legal expense budgets.

Goleta Sanitary Response:

RECOMMENDATION 1: Municipalities and districts should review and define the level of their legal service needs and seek counsel at a level to satisfy those needs. The level of needed legal Services should be developed objectively with an understanding of the anticipated Actual costs and include a realistic amount in the annual budget.

RESPONSE TO RECOMMENDATION 1: This recommendation has been implemented. GSD defines the level of legal services it anticipates for each fiscal year during the preparation of its annual budget. The estimated legal services budget is based on historical actual legal expenditures for routine services, and any foreseeable unusual expenditure associated with predetermined events such as operating permit renewal, appeals, or ongoing litigation, if any.

RECOMMENDATION 2: Municipalities and districts should review, audit and control the number of hours for which services are claimed for billing purposes. Management personnel must be given authority to review and audit claims for legal services in the same manner as they review and audit other services provided to the municipality and district.

RESPONSE TO RECOMMENDATION 2: This recommendation has been implemented. GSD management reviews all legal invoices, which contain detailed descriptions of legal services provided, including hours spent, and hourly rates for such services.

RECOMMENDATION 3: Municipalities and districts should review the basic fees structure and give consideration to flat rate charges for routine or monthly services and define with precision additional services and the methods of authorizing additional services.

RESPONSE TO RECOMMENDATION 3: This recommendation has been implemented. GSD has negotiated a flat rate for legal services associated with preparation and review of the regular meeting agenda, and for attendance at monthly Governing Board meetings. GSD has also negotiated discounted hourly rates for all attorneys performing budgeted and anticipated routine legal services. Unanticipated services are charged using the same discounted hourly rates upon specific authorization on a case-by-case basis.

RECOMMENDATION 4: Municipalities and districts should use caps and budgets or other limitations to control costs in litigation where the municipality or district is named as a party.

RESPONSE TO RECOMMENDATION 4: This recommendation has been implemented. Although litigation is often difficult to predict and control, GSD budgets for litigation whenever feasible. GSD is very aware of the nature of litigation and is very prudent in engaging in such efforts. On those occasions where GSD has found itself compelled to enter litigation, it has managed its options very thoroughly to control costs and has sought reasonable settlements prior to proceeding with expensive court trials.

RECOMMENDATION 5: Municipalities and districts should review the necessity for attendance by counsel at advisory board meetings.

RESPONSE TO RECOMMENDATION 5: This recommendation has been implemented. GSD previously considered this issue and made the decision to have its legal counsel attend its regular Board meetings to make sure that its policies and practices are always in compliance with applicable legal requirements. GSD believes that defending its position due to inadvertent improper policies or practices would result in legal expenditures that far exceed its monthly fixed retainer with its legal counsel for Board meeting attendance. Legal counsel attends meetings of standing and advisory committees only when necessary.

RECOMMENDATION 6: Municipalities and districts should consider billing practices, minimum charges, Minimum hours, carryover of unused monthly hours, multiple billing for in-office conferences and the services to be included in monthly minimum fees.

RESPONSE TO RECOMMENDATION 6: This recommendation has been implemented. GSD only pays for legal services actually performed. There are no carry-over hours. All legal services are charged as a flat fee (e.g., for attendance at Board meetings) or at discounted hourly rates. GSD is not charged for miscellaneous administrative services provided by its legal counsel.

RECOMMENDATION 7: Municipalities and districts should review disbursements such as electronic research, postage, shipping, telephone, travel time and travel expenses, expert witness costs, extraordinary discovery procedures, staff overtime costs, outdated charges such as word processing charges, prior approval provisions related to extraordinary costs and costs assumed by a municipality or district in the event of a dispute.

RESPONSE TO RECOMMENDATION 7: This recommendation has been implemented. Please refer to responses to recommendations 3, 4 and 6 above.

RECOMMENDATION 8: Municipalities and districts should require proof of an agreed level of professional liability insurance.

RESPONSE TO RECOMMENDATION 8: This recommendation will be implemented. GSD's legal counsel carries adequate levels of professional liability insurance. GSD will obtain proof of such coverage within the next 30 days and will thereafter ensure that it has proof of such coverage at all times.

RECOMMENDATION 9: Municipalities and districts should require disclosure of the names of current clients represented by the firm to be retained who may have potential conflicts with the municipality or district. Municipalities and districts should give consideration to limitations on its law firm's representation of other clients whose interests could foreseeably result in a conflict requiring disqualification of the municipality or district's law firm and provide a procedure to deal with the issue if it should arise.

RESPONSE TO RECOMMENDATION 9: This recommendation has been implemented. GSD's legal counsel advises the District of all reasonably foreseeable potential conflict associated with his or his firm's services to the District. It should be noted, however, that any person or business within the GSD service area could potentially have a conflict with GSD in the future. It would not be reasonable to restrict the District's law firm from representing all persons and business within the GSD service, nor would it be reasonable or appropriate to require the law firm to disclose all such persons and businesses to GSD. Instead, when a conflict of interest arises or becomes reasonably foreseeable, the matter is handled on a case by case basis in accordance with applicable law and the Rules of Professional Conduct governing the practice of law in California.

RECOMMENDATION 10: Retainers should provide for payment within a period longer than 30 days without penalty to permit full audit of services. In no event should the period within which pay is required to be made be less than the normal meeting cycle plus processing time of the governing board.

RESPONSE TO RECOMMENDATION 10: This recommendation has been implemented. Invoices for legal services are paid after review and approval by the GSD's management and upon approval of the Governing Board. The Governing Board meets twice per month and invoices are paid without penalty within 30 days after receipt. In case of audit of services, invoices are paid after completion of audit and after resolution of any conflicts.

RECOMMENDATION 11: Municipalities and districts should require renewal retainers to be upon the complete agreement rather than the change of a rate sheet.

RESPONSE TO RECOMMENDATION 11: This recommendation has been implemented. GSD reviews its legal services agreement at regular intervals, at which time rates and other matter are renegotiated. The existing fee agreement is revised as necessary at that time.

RECOMMENDATION 12: Municipalities and districts should use requests for proposals for retaining counsel to handle routine, repetitive matters.

RESPONSE TO RECOMMENDATION 12: This recommendation will not be implemented. GSD is of the opinion that changing legal counsels frequently is neither beneficial nor cost effective to the District. Lack of continuity with District's policies, procedures and practices will result in more expensive legal services. GSD will change its legal counsel in the event of unsatisfactory performance. GSD surveys legal costs locally at regular intervals in the process of renegotiating its legal services agreement to ensure appropriate cost of services.

RECOMMENDATION 13: Where legal service costs exceed 1% of the budget of the municipality or district, legal service costs should be monitored and evaluated to determine need and appropriateness.

RESPONSE TO RECOMMENDATION 13: This recommendation has been implemented. GSD monitors its legal services for need and appropriateness at all times and irrespective of whether such services are below or above 1% of the budget. District management is closely involved in all legal counsel activities performed for the District.

RECOMMENDATION 14: In situations where informed consent is required, the rules related to informed consent should be strictly enforced and the basis upon which informed consent is given should be fully set forth in the minutes of the governing body.

RESPONSE TO RECOMMENDATION 14: This recommendation has been implemented. GSD and its legal counsel comply with the requirements of informed consent in accordance with applicable law and the Rules of Professional Conduct governing the practice of law in California.

RECOMMENDATION 15: Bills and other records of charges made for legal services after deleting confidential information should be deemed to be public records open to public disclosure.

RESPONSE TO RECOMMENDATION 15: This recommendation has been implemented. The California Public Records Act, Evidence Code and other provisions of California law specify the circumstances under which GSD's records are public records open to public disclosure. GSD fully complies with all applicable legal requirements when acting on a request to disclose bills and other records of charges made for legal services. Where appropriate, GSD deletes confidential information prior to disclosure.

ADDITIONAL COMMENTS: GSD wishes to call to the Grand Jury's attention the fact that, during the 2004-2005 year, the District's legal fees were higher than in prior years and higher than budgeted because of extraordinary matters relating to the renewal of the District's wastewater discharge permit. As noted in the Grand Jury's 2004 report, the level of treatment provided by the District involves numerous complex issues. These issues came to a head during hearings before the Regional Water Quality Control Board and State Water Resources Control Board in 2004 and 2005. Litigation arose out of these hearings and the District was required to hire special counsel. Pursuant to the terms of the settlement agreement entered into to conclude this litigation, the District is now proceeding to convert its existing facilities to provide full secondary treatment. This project will be carried out over a ten year period and is expected to cost in excess of \$25,000,000. This represents the most expensive project ever undertaken by the District. The higher than usual legal fees during the 2004-2005 year are attributable to these unusually significant events.

Goleta City Council Response:

[NON-CONFORMING WAY OF ANSWERING]

Goleta - Special Legal Needs for a Start-up City

From the beginning, the City of Goleta has attempted to recruit recognized experts to provide guidance with regard to all aspects of municipal endeavor. Prior to incorporation, the proponents of the new City enlisted the assistance of Burke, Williams & Sorensen ("BWS"), a 70 year old Los Angeles law firm that specializes in public law, to shepherd them through the incorporation process and to assist in negotiations with the County of Santa Barbara. BWS was selected primarily because of the reputation it had developed relating to incorporation of such new cities as Laguna Woods, Mission Viejo, Dana Point, Buellton, Camarillo, Santa Clarita, and Temecula among others.

It was also selected because of its recognized expertise in providing City Attorney services to cities throughout California. The proponents of incorporation, four of whom became members of the new City Council and remain on that Council today, worked with attorneys from BWS for more than a year prior to the successful incorporation vote in November of 2001. After the election, recognizing that time was short and that a great deal of legal work needed to be completed, the Council-elect retained BWS to prepare all necessary documents, ordinances, resolutions and agendas for the first City Council meeting to be held on February 1, 2002, the effective date of incorporation.

After the effective date of incorporation, the City continued to retain the services of BWS as interim City Attorney and, after more than six months of working with BWS in that capacity, the City Council determined that the services that had been provided were excellent, timely and reasonable in cost, thus the firm was made the permanent City Attorney. As noted in the report, the City of Goleta was able to secure the services of Burke, Williams & Sorensen, LLP, on a competitive rate basis.

Virtually all of the issues of concern to the City presented unique legal challenges beginning in the very first few months of the City's existence. The need for competent and experienced professional legal advisors was therefore paramount. The airport expansion issue, the Oly Chadmar Sandpiper residential development project, preservation of the City's mobile home rent control ordinance, preserving the Ellwood Mesa through a complex acquisition and land swap, and issues relating to various franchise agreements previously held by the County were some of the issues that confronted our new City from day one. All of these issues relate directly to establishing the City's right to control community land use decisions. The costs during the first three years of incorporation reflect that extraordinary situation.

It should be noted that the Ellwood Mesa land acquisition and land swap transaction was notable because it did not result in litigation. The Report intimates that the Ellwood Mesa transaction was part of the litigation that the City has experienced. That is simply not the case. In fact, the success of the City in shepherding the transaction to completion was recognized as an extraordinary accomplishment by the League of California Cities resulting in the City receiving the 2005 Helen Putnam Award. This is a huge accomplishment for a City that has been in existence for less than five years.

Responsiveness to Grand Jury Requests

With regard to the response of the City of Goleta's attorneys to the Grand Jury request for information, we would note that the Report demonstrates clearly that Goleta responded with full and valuable information as to the costs of legal services, how those costs are allocated among matters and the cumulative costs incurred since incorporation. No other city appears to have provided so comprehensive a presentation of costs.

With regard to the confidentiality of legal bills, we believe that our attorneys have correctly limited the release of such information. The public is certainly entitled to know what public money is being spent where. The level of disclosure by the City of Goleta to the Grand Jury is evidence of our commitment to that principle. Our attorneys report to us during our annual budget and mid-year budget process, explaining such costs by function and by matter, as the Grand Jury is aware.

Preventive Legal Services

One issue that was stated in the report is of concern to the City of Goleta. The Grand Jury was concerned that the City was "seeking legal cover beyond reason" and that somehow Goleta was over-using its City Attorney resources. Nothing could be further from the truth. The City has acted prudently in involving its attorneys up-front in matters that pose legal risk in order to avoid unnecessary litigation. It has been the philosophy of the City that it is better to avoid legal pitfalls than to correct them. Particularly with regard to sensitive personnel issues, as well as Brown Act and conflict of interest issues, obtaining proper advice before action is taken is critical in our view. We believe that is an appropriate and responsible position for the City to take.

We also note that the Grand Jury has reported legal charges incurred by the City of Goleta from incorporation through the present, a four and one-half year period showing a total cost for that entire time frame. Setting forth this information in this way implies that the total cost for that period is somehow disproportionately high. As no other jurisdiction was reviewed in this manner, there is no basis for comparison. All other jurisdictions were evaluated solely on their costs for the 2004-2005 fiscal year. We are, however, pleased that the Grand Jury has presented the full picture in the Report as it highlights the peaking of legal costs in 2003-2004 and the consistent reduction of those costs since then.

Attendance of Legal Counsel at Public Meetings

With regard to the attendance of legal counsel at meetings of various City agencies, we are a bit confused by the Grand Jury's remarks. We have legal counsel from our contract law firm in attendance at meetings of the City Council and the Redevelopment Agency which are usually held either concurrently or consecutively on the same day. We also have legal counsel available at meetings of our Planning Agency. Our extensive work and numerous public meetings relating to the adoption of our new General Plan have required the presence of legal counsel to respond to complex and sophisticated questions posed by counsel for the development community. In our experience, no other jurisdiction would consider having similar meetings without legal counsel present. It is the norm in order to expedite the business of the City and avoid unnecessary legal costs.

Our Design Review Board on occasion requests legal assistance on difficult matters, particularly where appeals are involved.

City Council, Redevelopment, Planning Agency and DRB meetings all are subject to the Brown Act and other rules, regulations and laws affecting legislative and quasi judicial actions of legislative bodies in California. Because of this we believe, like most other cities that it is prudent to have legal counsel present to field questions and concerns as they arise to assure that the meeting is conducted and decisions are made in accord with California law.

Review of Legal Services and Billings

We note that the Report states that the "City Administrator and Deputy City Administrator claim that the staff role in reviewing legal services is limited to totaling the amounts charged for claimed services and asserted that the review function rested with the City Council." This is a clear misstatement of our process. The City Manager (we do not have a City Administrator) is responsible for reviewing all bills received and verifying their accuracy. The Assistant City Manager has a similar role. If there is a question about a particular entry, it is taken up with the City Attorney and resolved. While the Council approves all City budgets and disbursements, they do not review legal bills nor do they review the bills of other professionals retained by the City. That function rests with the City Manager and his designees.

Specific Billing Issues

With regard to disbursements advanced by our law firm for various costs associated with litigation, we are somewhat perplexed by the Grand Jury's comment. Our attorneys charge the actual cost of the disbursements. In this regard, the Report references a comment with respect to the Sandpiper residential project litigation, but we have been unable to determine what that comment is or where it appears.

With regard to word processing charges, we are not familiar with what this entails for in-house attorneys or other contract law firms. We can confirm, however, that other than extraordinary document production costs, and our attorneys do not charge for routine preparation of documents, memoranda, correspondence and the like. Most attorneys prepare their own documents directly.

Retainer Issues

We also note, with regard to the billing structure that has been set up for our legal services, we are billed on what is called a "blended" rate for attorney services. Regular public agency rates charged by Burke, Williams & Sorensen, LLP range from about \$185 for new attorneys to \$275 for seasoned partners. The City of Goleta negotiated an arrangement where charges for all associates are billed at \$205 and charges for all partners, including the City Attorney, are billed at \$225. Given the nature of the work that is done for the City we believe this arrangement best serves the needs of the City rather than a retainer system.

Our attorneys, though headquartered in Southern California, do not bill for travel time to or from the City.

Requests for Proposal for Specific Legal Services

The Report recommends that cities extend requests for proposals to retain counsel to handle "routine, repetitive matters." We are unaware of any routine or repetitive legal matters that arise in our City. While we do refer basic personal and property liability issues to our insurance pool, JPIA, as they arise, when a specific matter reaches the point of needing legal attention, our contract attorneys are usually well aware of the circumstances and issues as well as risks facing the City. Issuing an RFP at that point for attorneys unfamiliar with the situation to take it on seems counterproductive on its face. That is a major reason why we have chosen to retain a large law firm with broad experience and specialized staffing in municipal law.

Capping Legal Fees

With regard to the idea of capping legal fees for litigation costs, we would simply point out that when a public agency is a defendant, it does not necessarily control where litigation goes or how costly it may become. Rather than imposing a cap on fees, we believe the better approach is to have regular updates from our attorneys on matters that are pending, both as to the progress of the litigation itself and as to its cost. Where settlement can be achieved in a manner that serves the best interests of the people, we are more than willing to consider a settlement option and we expect our legal counsel to work at developing settlement opportunities.

It should also be noted that the private sector has no constraints with regard to the legal costs that may be incurred in a challenge against the City. Private development interests retain attorneys whose hourly rates are frequently double that paid by governmental entities to public agency attorneys. If a public agency is to be well represented, it must retain legal counsel with expertise and skills commensurate with the need. Quality legal services, as the Report concludes, are not inexpensive.

Legal Fees Today

The Report provides extensive data with regard to the cost of legal services within Santa Barbara County. On a per capita basis among cities in Santa Barbara County, the average cost per resident, based upon the numbers budgeted for 2004-2005 show the following:

<u>CITY</u>	<u>COST PER CAPITA</u>
Guadalupe	\$65
Buellton	\$34
Carpinteria	\$25
Goleta	\$23
City of Santa Barbara	\$22
Lompoc	\$17
County of Santa Barbara	\$15
Santa Maria	\$13
Solvang	\$ 9

Given the relative sizes of the cities shown above and the resultant costs per capita, it is clear that legal service needs vary according to events and that projecting a particular cost per capita may not relate to actual needs in any given year. In the same light, tying legal services to a percentage of a city's budget is also an unrealistic approach. Just as the cost of public employees is seldom materially affected by the population of community, so the need for legal services and its attendant costs is far more dependent upon events than it is upon general financial structures.

In addition, we are pleased to report, that, as anticipated, legal fees for the City of Goleta have been showing a consistent downward trend as specific legal issues are resolved. At the present time, we are in the final stages of completing two major pieces of litigation, *Oley Chad mar Sandpiper Partners v. City of Goleta* and *Guggenheim v. City of Goleta*. Our legal fees for 2005-2006 will be approximately \$630,000 instead of the nearly \$700,000 budgeted. We cannot predict the future, of course, and there may be new lawsuits on the horizon that will alter this picture. Nevertheless, the consistent trend for regular non-litigation work has been a reduction over time. As the City develops more corporate history, we anticipate that the need for basic legal services will be further reduced.

Thank you again for the care and effort you have put into the Report. To the extent that it promotes transparency in local government, it is a service to the taxpayers and the community alike.

Lompoc City Attorney Response:

Recommendation 1: Municipalities and districts should review and define the level of their legal service needs and seek counsel at a level to satisfy those needs. The level of needed legal services should be developed objectively with an understanding of the anticipated actual costs and include a realistic amount in the annual budget.

Response 1: This Recommendation has been in effect in the City of Lompoc for many years, as set forth more specifically in the response to Finding 9.

Recommendation 2: Municipalities and districts should review, audit and control the number of hours for which services are claimed for billing purposes. Management personnel must be given authority to review and audit claims for legal services in the same manner as they review and audit other services provided to the municipality and district.

Response 2: This Recommendation has been in effect in the City of Lompoc for many years, as described in the response to Finding 11.

Recommendation 3: Municipalities and districts should review the basic fees structure and give consideration to flat rate charges for routine or monthly services and define with precision additional services and the methods of authorizing additional services.

Response 3: This Recommendation will be implemented, when appropriate, within ninety days.

Recommendation 4: Municipalities and districts should use caps and budgets or other limitations to control costs in litigation where the municipality or district is named as a party.

Response 4: This Recommendation has been in effect in the City of Lompoc for many years, as set forth in more detail in the response to Finding 2.

Recommendation 5: Municipalities and districts should review the necessity for attendance by counsel at advisory board meetings.

Response 5: This Recommendation has been followed in the City of Lompoc for many years. Although attendance by in-house counsel at the meetings of the City's twelve permanent advisory boards and commissions does not result in the City being charged for billable hours, only two attorneys comprise the City's full-time professional legal staff. In view of such limited staff resources, the necessity for an attorney to attend advisory body meetings is continually reviewed.

Recommendation 6: Municipalities and districts should consider billing practices, minimum charges, minimum hours, carryover of unused monthly hours, multiple billing for in-office conferences and the services to be included in monthly minimum fees.

Response 6: This Recommendation is in effect in the City of Lompoc and is used when appropriate. Because of the full-time employment of two staff attorneys, however, the concept of minimum monthly fees for a specified number of hours of service generally has no bearing on the costs of Lompoc's legal services.

Recommendation 7: Municipalities and districts should review disbursements such as electronic research, postage, shipping, telephone, travel time and travel expenses, expert witness costs, extraordinary discovery procedures, staff overtime costs, outdated charges such as word processing charges, prior approval provisions related to extraordinary costs and costs assumed by a municipality or district in the event of a dispute.

Response 7: This Recommendation is in effect in Lompoc, as described in the response to Finding 11.

Recommendation 8: Municipalities and districts should require proof of an agreed level of professional liability insurance.

Response 8: This Recommendation has been partially implemented in the City of Lompoc, and will be fully implemented as each retainer agreement expires.

Recommendation 9: Municipalities and districts should require disclosure of the names of current clients represented by the firm to be retained who may have potential conflicts with the municipality or district. Municipalities and districts should give consideration to limitations on its law firm's representation of other clients whose interest could foresee ably result in a conflict requiring disqualification of the municipality or district's law firm and provide a procedure to deal with the issue if it should arise.

Response 9: As set forth in the Response to Finding 4, Respondent has implemented this Recommendation.

Recommendation 10: Retainers should provide for payment with a period longer than 30 days without penalty to permit full audit of services. In no event should the period within which pay [sic] is required to be made be less than the normal meeting cycle plus processing time of the governing board.

Response 10: This Recommendation has been in effect for many years, and the City of Lompoc virtually never accrues penalties for late payment of invoices.

Recommendation 11: Municipalities and districts should require renewal retainers to be upon the complete agreement rather than the change of a rate sheet.

Response 11: This Recommendation will be implemented as each legal services contract expires.

Recommendation 12: Municipalities and districts should use requests for proposals for retaining counsel to handle routine, repetitive matters.

Response 12: Respondent has implemented this Recommendation, as noted in the response to Finding 9.

Recommendation 13: Where legal services exceed 1% of the budget of the municipality or district, legal service costs should be monitored and evaluated to determine need and appropriateness.

Response 13: This Recommendation has been in effect in the City of Lompoc for many years, as borne out by the fact that the percentage of Lompoc's budget spent for legal services in 2004-2005 was only .0064, the best record of the seven cities ranked by the Grand Jury report on this subject. The budgeted amount for Lompoc's legal services for 2005-2006 is .0080% of the total City budget.

Recommendation 14: In situations where informed consent is required, the rules related to informed consent should be strictly enforced and the basis upon which informed consent is given should be fully set forth in the minutes of the governing body.

Response 14: The rules of conflict of interest are strictly enforced in Lompoc. However, this matter generally has not been included in the minutes of City Council meetings. This Recommendation will be implemented as the issue arises from time to time in the future.

Recommendation 15: Bills and other records of charges made for legal services after deleting confidential information should be deemed to be public records open to public disclosure.

Response 15: The disclosure of information transmitted between attorney and client is governed by the California Rules of Professional Conduct and the California Evidence Code. The City of Lompoc, acting through its City Council, is the holder of the attorney-client privilege; Respondent cannot waive this privilege, and will not recommend to the City Council that Recommendation 15 be implemented. The fact pattern of each case is unique, and the dissemination of attorney-client communications is approached by the courts on a case-by-case basis. Generally, absent a court order or other clear authority, an attorney has an ethical obligation to zealously guard confidential communications between attorney and client, in whatever form that information takes, including, but not limited to, billing records containing confidential information. Because of the sensitivity of the information and the ethical and statutory requirements bearing on this issue, it is not feasible to state a blanket general rule regarding future disclosure of all billing records. Respondent is obligated to act in the best interest of the City of Lompoc, and therefore must make all reasonable efforts to protect the confidential information communicated between the City and its attorneys unless and until the City Council waives the attorney-client privilege.

Santa Maria Valley Water Conservation District Response:

Recommendation 1: Municipalities and district should review and define the level of their legal service needs and seek counsel at a level to satisfy those needs. The level of needed legal services should be developed objectively with an understanding of the anticipated actual costs and include a realistic amount in the annual budget.

Response 1: Since the District has signed the Stipulation of Settlement, the involvement and thus legal expense has and will continue to go down unless any unforeseen legalities or litigation arises. The amount that has been budgeted for legal fees in the 2006-2007 budget reflects this trend.

Recommendation 2: Municipalities and districts should review, audit and control the number of hours for which services are claimed for billing purposes. Management personnel must be given authority to review and audit claims for legal services in the same manner as they review and audit other services provided to the municipality and district.

Response 2: District staff reviews and audits all services provided to the district and challenges charges as needed.

Recommendation 3: Municipalities and district should review basic fee structures and give consideration to flat rate charges for routine or monthly services and define with precision additional services and the methods of authorizing additional services.

Response 3: The District will weigh the practicability of a flat rate charge for legal services.

Recommendation 4: Municipalities and districts should use caps and budgets or other limitations to control costs in litigation where the municipality or district is names a party.

Response 4: The District agrees that this would be a good practice where practical.

Recommendation 5: Municipalities and districts should review necessity for attendance by counsel at advisory board meeting.

Response 5: The District has discussed having legal counsel attend board meeting, but decided that the increase legal fees would not make it a viable solution. Counsel can be contacted as needed on a case, by case basis.

Recommendation 6: Municipalities and district should consider billing practices, minimum charges, minimum hours, carryover of unused monthly hours, multiple billing for in-office conferences and the services to be included in monthly minimum fees.

Response 6: The District is not sure that this recommendation applies to us as our legal services do not use the method described above.

Recommendation 7: Municipalities and districts should review disbursements such as electronic research, postage, shipping, telephone, travel time and travel expenses, expert witness costs, extraordinary discovery procedures, staff overtime costs, outdated charges such as word processing charges, prior approval provisions related to extraordinary costs and costs assumed by a municipality or district in the event of a dispute.

Response 7: The District does review all disbursements on all bills, legal or non-legal.

Recommendation 8: Municipalities and districts should require proof of an agreed level of Professional liability insurance.

Response 8: Downey Brand, in accordance with the requirements of California Business and Profession Code section 6148, maintains professional error and omissions insurance. The District will contact County Counsel of Santa Barbara County for a verification of their professional liability insurance.

Recommendation 9 Municipalities and district should require disclosure of the names of current clients represented by the firm to be retained who may have potential conflict with the municipality or district. Municipalities and district should give consideration to limitations on its law firm's representation of other clients whose interest could foresee ably result in a conflict requiring disqualifications of the municipality of district's law firm and provide a procedure to deal with the issue if it should arise.

Response 9: The District's law firm for litigation is based in Sacramento. The local legal representation is County Counsel of Santa Barbara County. In their legal services agreement, potential conflict of interest clients have been identified. A procedure for dealing with this issue if it should ever arise will be forthcoming.

Recommendation 10: Retainers should provide for payment within a period longer than 30 days without penalty to permit full audit of services. In no event should the period within which pay is required to be made be less than the normal meeting cycle plus processing time of the governing board.

Response 10: The District's legal bills usually arrive mid-month and cover the previous month's charges. We are not charged late fees. There is plenty of time to review the invoices.

Recommendation 11: Municipalities and district should require renewal retainers to be upon the complete agreement rather than the change of a rate sheet.

Response 11: The District agrees that this would be a good practice to implement.

Recommendation 12: Municipalities and districts should use request for proposals for retaining counsel to handle routine, repetitive matters.

Response 12: The District agrees that when new issues come up, rfp's would be a good way to select new counsel.

Recommendation 13: Where legal services exceed 1% of the budget of the municipality or district, legal service costs should be monitored and evaluated to determine need and appropriateness.

Response 13: In the event of on-going litigation, such as what the District has been involved in for the past seven years, more than 1% of the operating budget has been designated for legal fees. It was the District's responsibility to finish what had been started on the behalf of its constituents.

Recommendation 14: In situations where informed consent is required, the rules related to informed consent should be strictly enforced and the basis upon which informed consent is given should be fully set forth in the minutes of the governing body.

Response 14: The District is not sure what the Grand Jury's opinion and understanding of "informed consent" in the context of this report and is unsure how to respond without clarification of this term rfi.

Recommendation 15: Bills and other records of charges made for legal services after deleting confidential information should be deemed to be public records open to public disclosure.

Response 15: The District has all paid bills for legal services as well as all other expenditures available to the public during our normal business hours. Copies of the monthly expenditures are also found in the attachments to the monthly board meetings.

Lompoc City Counsel Response:

Recommendation 1: Municipalities and districts should review and define the level of their legal service needs and seek counsel at a level to satisfy those needs. The level of needed legal services should be developed objectively with an understanding of the anticipated actual costs and include a realistic amount in the annual budget.

Response 1: This Recommendation has been fully implemented in the City of Lompoc, as stated in the response to Finding 9.

Recommendation 2: Municipalities and districts should review, audit and control the number of hours for which services are claimed for billing purposes. Management personnel must be given authority to review and audit claims for legal services in the same manner as they review and audit other services provided to the municipality and district.

Response 2: This Recommendation is in effect in the City of Lompoc, as noted in the response to Finding 11.

Recommendation 3: Municipalities and districts should review the basic fees structure and give consideration to flat rate charges for routine or monthly services and define with precision additional services and the methods of authorizing additional services.

Response 3: This Recommendation is in effect in the City of Lompoc.

Recommendation 4: Municipalities and districts should use caps and budgets or other limitations to control costs in litigation where the municipality or district is named as a party.

Response 4: This Recommendation has been implemented in the City of Lompoc, as noted in the response to Finding 2.

Recommendation 5: Municipalities and districts should review the necessity for attendance by counsel at advisory board meetings.

Response 5: This Recommendation is followed in the City of Lompoc. The necessity for attendance by the City's limited professional legal staff at meetings of the City's twelve advisory boards, committees, and commissions is continually reviewed.

Recommendation 6: Municipalities and districts should consider billing practices, minimum charges, minimum hours, carryover of unused monthly hours, multiple billing for in-office conferences and the services to be included in monthly minimum fees.

Response 6: This Recommendation is in effect in the City of Lompoc and is used when appropriate. Because of the full-time employment of two staff attorneys, however, the concept of minimum monthly fees for a specified number of hours of service presently has no bearing on the costs of Lompoc's legal services.

Recommendation 7: Municipalities and districts should review disbursements such as electronic research, postage, shipping, telephone, travel time and travel expenses, expert witness costs, extraordinary discovery procedures, staff overtime costs, outdated charges such as word processing charges, prior approval provisions related to extraordinary costs and costs assumed by a municipality or district in the event of a dispute.

Response 7: This Recommendation is in effect in Lompoc, as described in the response to Finding 11.

Recommendation 8: Municipalities and districts should require proof of an agreed level of professional liability insurance.

Response 8: This Recommendation has been partially implemented in the City of Lompoc, and will be fully implemented as each retainer agreement expires.

Recommendation 9: Municipalities and districts should require disclosure of the names of current clients represented by the firm to be retained who may have potential conflicts with the municipality or district. Municipalities and districts should give consideration to limitations on its law firm's representation of other clients whose interest could foresee ably result in a conflict requiring disqualification of the municipality or district's law firm and provide a procedure to deal with the issue if it should arise.

Response 9: As noted in the Response to Finding 4, Respondent has implemented this Recommendation.

Recommendation 10: Retainers should provide for payment with a period longer than 30 days without penalty to permit full audit of services. In no event should the period within which pay [sic] is required to be made be less than the normal meeting cycle plus processing time of the governing board.

Response 10: This Recommendation is followed in the City of Lompoc. The City virtually never is assessed penalties for late payment of invoices.

Recommendation 11: Municipalities and districts should require renewal retainers to be upon the complete agreement rather than the change of a rate sheet.

Response 11: This Recommendation will be implemented as each legal services contract expires.

Recommendation 12: Municipalities and districts should use requests for proposals for retaining counsel to handle routine, repetitive matters.

Response 12: Respondent has implemented this Recommendation, as noted in the response to Finding 9.

Recommendation 13: Where legal services exceed 1% of the budget of the municipality or district, legal service costs should be monitored and evaluated to determine need and appropriateness.

Response 13: This Recommendation has been in effect in the City of Lompoc for many years, as borne out by the fact that the percentage of Lompoc's budget spent for legal services in 2004-2005 was only .0064. The amount budgeted for legal services in 2005-2006 constitute only .0080% of the City's total budget.

Recommendation 14: In situations where informed consent is required, the rules related to informed consent should be strictly enforced and the basis upon which informed consent is given should be fully set forth in the minutes of the governing body.

Response 14: The rules of conflict of interest are strictly enforced in the City of Lompoc. However, details of decisions related to informed consent generally have not been included in the minutes of City Council meetings. This Recommendation will be implemented as the issue arises from time to time in the future.

Recommendation 15: Bills and other records of charges made for legal services after deleting confidential information should be deemed to be public records open to public disclosure.

Response 15: This Recommendation will not be implemented. As holder of the attorney-client privilege, Respondent believes that a blanket general advance waiver of this privilege is not prudent. Respondent notes, however, that this position does not foreclose public access to any confidential information that the City Council may choose to disclose, or consent to disclose, on a case-by-case basis in the future.