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# CITY OF SAN BUENAVENTURA

July 17, 1998

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SUPERIOR AND MUNICIPAL  
COURT ADMINISTRATION

## CITY COUNCIL

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Ray Di Giulio, Deputy Mayor  
Brian Brennan, Councilmember  
Donna De Paula, Councilmember  
James L. Monahan, Councilmember  
Sandy E. Smith, Councilmember  
Jack Tingstrom, Councilmember

The Honorable Charles W. Campbell  
Presiding Judge of the Superior Court  
Ventura County Superior Court  
800 South Victoria Avenue  
Ventura, California 93009

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Subject: Grand Jury Interim Report 1998

The Honorable Judge Campbell:

Thank you for the opportunity for the City of San Buenaventura to consider the recommendations included in the 1997-98 Grand Jury's Interim Report dated April 1998. Pursuant to Penal Code Section 933.05, this letter transmits the San Buenaventura City Council and the City Manager's response to the Interim Report recommendations.

### Background

On December 9, 1997, City Public Works Director Ron Calkins met with the Grand Jury at its request. Due to pending litigation pertaining to the management of the Buenaventura and Olivas Golf Courses, City Attorney Robert G. Boehm accompanied Mr. Calkins. The City sent the Grand Jury a follow up letter on December 30, 1997, along with copies of various documents regarding the Request for Qualifications (RFQ) screening and selection process.

On Tuesday, March 24, 1998, the City Manager received a letter from the Grand Jury requesting that the City review proposed findings regarding management of the Buenaventura Golf Course. A response was expected by Thursday, March 26, 1998. Within the two-day period provided by the Grand Jury, the City prepared a three-page letter correcting the Grand Jury's apparent fundamental misunderstanding of the RFQ process. The City also requested that the Grand Jury provide it with specific information regarding the factual basis of Grand Jury alleged discrepancies in verbal and written data supplied by City officials.

The Grand Jury did not reply to the City's letter. Moreover, much of the information provided to the Grand Jury in the City's letter of March 26 was not included in the Interim Report.

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### Transmittal of Interim Report

On Monday, April 20, 1998, at 2:00 p.m., the City received a copy of the Grand Jury's Interim Report on the Buenaventura Golf Course Management. The cover letter indicated that the report was transmitted two days prior to the scheduled public release of the information in accordance with California statute. That letter specifically stated that the Grand Jury would release the report on Thursday, April 23, 1998, at 11:00 a.m.

On Wednesday, April 22, 1998, the City Manager's Office received a telephone inquiry from the media regarding the Grand Jury's Interim Report on the Buenaventura Golf Course. The Interim Report on the golf course had been faxed to the media anonymously from the Grand Jury Office on Wednesday, April 22, 1998, at approximately 4:00 p.m.

The anonymous early release of the information appears to violate Penal Code § 933.05(f) which obligates that the Grand Jury Report be kept confidential until its public release. Given that the City is involved in litigation concerning the Golf Course, the anonymous nature of the fax is of concern. Further, this type of breach undermines the Grand Jury process by casting doubt on its perceived impartiality and calling its motivations into question.

### Interim Report Findings

The findings on the Buenaventura Golf Course included in the Grand Jury's Interim Report demonstrate the Grand Jury's fundamental misunderstanding of the RFQ process. **An RFQ process is not the same as the public bidding process used for public works projects.** The Grand Jury went out of its way to evaluate the City's actions according to a methodology based upon its misguided understanding of the public bidding process. This fundamental mistake caused it to arrive at erroneous conclusions.

The Grand Jury appears to be under the impression that all public projects must be submitted to a bidding process. This is incorrect. Under California law, a public agency is not obligated to use competitive bidding unless required to by statute or ordinance. There are specific provisions in California law that clearly establish that a public bidding process is not appropriate when cities contract for professional services. For example, the Government Code states that when contracting for architectural, engineering, or construction project management services, a city must select a contractor "on the basis of demonstrated competence and on the

*answer  
No,  
as quoted.*

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professional qualifications necessary for the satisfactory performance of the services required. . . ." Government Code § 4526.

Even a superficial examination of the Grand Jury's analysis reveals that it is unable, or unwilling, to understand that the City's RFQ process is in accord with California law. In brief, the City's RFQ process is similar to selecting an at-will executive or management public employee: applicants' resumes are examined; those that meet the necessary qualifications are invited to an interview; the best candidates from the first interview are then interviewed by the hiring department.

Obviously, this is a subjective process. An executive or management employee is not selected based upon test scores, typing speed, or other objective criteria. Rather, the person is selected based upon their professional experience and whether he or she will succeed in the City's corporate culture.

Applying the Grand Jury's confusing and perplexing methodology to the Golf Course Management RFQ process would have resulted in the City hiring an unqualified management company. The extraordinary efforts undertaken in the Grand Jury's analysis appear to be molded to arrive at a predetermined conclusion. This further casts doubts on its perceived impartiality and calls its motivation into question.

#### Report Conclusions

The body of the Grand Jury's report alleges that there were "inconsistencies" in data supplied verbally and in written form. The body of the report indicates that the inconsistencies will be discussed in the Conclusion Section of the report. However, discussion of this nature is not included.

In its letter of March 26, 1998, the City requested information on the specifics of alleged discrepancies. This information was not forthcoming. Professional courtesy would dictate that this information be shared with the City to clarify the Grand Jury's understandings. Publicly alleging unsubstantiated misrepresentation of facts is unprofessional and counterproductive to the Grand Jury process. This behavior further supports a suspicion of a lack of impartiality of the Grand Jury or some members, and calls its motivation into question.

The Conclusion Section notes that the Grand Jury was "unclear" on "how the list of invited bidders was compiled," "what the value and weight of the consulting firm had in its selection process," and "how evaluators found insufficient data in the materials submitted to respond adequately." The "unclear items" noted in and of themselves

illustrates the fundamental lack of understanding the RFQ process.

#### Grand Jury Recommendations

The Grand Jury included four recommendations in the Interim Report for the City's consideration. The following are the Grand Jury's recommendations and the City's response in compliance with the Penal Code:

- *"Detailed procedures be written outlining the selection of companies invited to bid on the next contract, the evaluation process and the evaluation criteria."*
- *"The development of procedures and criteria outlined above should be started immediately to allow ample time for them to be put in place before the next contract award process is begun."*
- *"Evaluation or rating sheets be designed to reduce subjectivity and provide more objectivity to the selection process."*
- *"An independent committee be formed to oversee all parts of the bidding, selection and award process outlined above to ensure all steps are taken in strict accordance with the written procedures."*

The implementation of the recommendations is not warranted. The mere fact that bids and the bidding process are referenced is evidence of the misunderstanding of the RFQ process. The City does have a comprehensive process for bidding public works projects and Request for Proposals (RFP) processes. An RFQ is not a public bidding process or an RFP process. An RFQ is a subjective process and does not lend itself to a set of guidelines that in and of themselves may be counter productive. The City's RFQ process is consistent with State law.

*answer  
No.  
(7) golfed.*


The City Manager holds all Department Heads responsible and accountable for compliance with the City's adopted purchasing policies. As a business practice, the City monitors and reviews purchasing processes to ensure compliance with adopted policy. In addition, compliance with adopted policy is a component of the City's annual financial audit.

In conclusion, the City would like to emphasize that the process for selecting the interim operator of the City's golf courses was fair and aboveboard in all respects. Moreover, it resulted in the selection of an interim golf course manager which has provided the community's golfers with an excellent level of service.

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The City of San Buenaventura appreciates the opportunity to consider the recommendations included in the 1997-98 Grand Jury's Interim Report. Staff is available to provide additional information or to answer any questions the Grand Jury may have.

Sincerely,



James J. Friedman,  
Mayor

C: City Councilmembers  
City Manager Donna Landeros  
City Attorney Robert Boehm  
City Public Works Director Ron Calkins