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1 JACKSONVILLE CITY COUNCIL
 2 SPECIAL INVESTIGATORY COMMITTEE ON JEA MATTER
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 6 INTERVIEW OF STEPHANIE BURCH
 7
 8 Date Taken: Thursday, June 11, 2020
 9
 10 Time Taken: 10:00 a.m. to 1:50 p.m.
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 15 Examination of the witness taken before:
 16 Terry T. Hurley, RPR and a Notary Public
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 2 A P P E A R A N C E S
 3 On Behalf of Special Investigatory Committee
 4 E. LANNY RUSSELL, ESQUIRE
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 10 On Behalf of Stephanie Burch
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1 I N D E X
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 3 Witness: STEPHANIE BURCH
 4 Examination
 5 By Mr. Russell-----004
 6 By Mr. Blodgett-----096
 7 By Mr. Russell-----162
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 10 P a g e
 11 DIRECT EXAMINATION
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1 STEPHANIE BURCH,
 2 having been produced, testified as follows:
 3
 4 E X A M I N A T I O N
 5 BY MR. RUSSELL:
 6 Q Good morning, Ms. Burch.
 7 A Good morning.
 8 Q I'm Lanny Russell, and I intend to ask you
 9 questions today in this interview about the events
 10 surrounding the sale of -- potential sale of
 11 Jacksonville Electric Authority, JEA.
 12 Would you state your full name for the record.
 13 A Stephanie Lynn Burch.
 14 MR. RUSSELL: Let's go ahead and mark --
 15 (Off the record.)
 16 (Exhibit No. 1 was marked for identification.)
 17 Q And, Ms. Burch, you're employed by the City of
 18 Jacksonville?
 19 A Correct.
 20 Q And what is your position?
 21 A Deputy Chief Administrative Officer.
 22 Q And how many years have you been employed by
 23 the City of Jacksonville?
 24 A Just over four.
 25 Q Prior to being employed by the City of
 Jacksonville where did you work?
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1 A I was in private practice for a little while
 2 before I started with the City. Prior to that I worked
 3 for the Florida Department of Transportation for five
 4 years. Prior to that I was in private practice.
 5 Q Private practice. You mean the practice of
 6 law?
 7 A Yes.
 8 Q Okay. And you graduated from law school in
 9 what year?
 10 A December 2005.
 11 Q Did you talk with anybody other than
 12 Mr. Lindsey about this interview today?
 13 A The only person was Brian Hughes and my
 14 assistant, some other staff in the mayor's office, just
 15 to let them know that I would be out of the office most
 16 of today.
 17 Q Okay. There was no discussion of what you
 18 expected to be the substance of this deposition with
 19 those persons, and no guidance from any of those persons
 20 about what you should say at today's deposition?
 21 A No.
 22 Q Interview. Forgive me.
 23 Did you go actually read anything? Did you go
 24 back and look at any old documents in connection with
 25 this interview?

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1 A The only thing was the text messages and the
 2 phone records that we provided.
 3 Q Okay. If you'll look at what's in front of you
 4 and marked as Exhibit 1, that's a letter dated May 6,
 5 2020. It's to you from Brian Hughes, who is the Chief
 6 Administrative Officer. That's his title on the letter.
 7 Do you recall receiving this letter?
 8 A Yes.
 9 Q And it's because of this letter that you've
 10 chosen to appear at today's interview?
 11 A Yes.
 12 MR. RUSSELL: Anything further you want about
 13 that?
 14 MR. LINDSEY: No. Just that she's here not
 15 voluntarily, but she's here because she was ordered
 16 to be here based upon the assurances that were in
 17 the letter about Garrett and everything.
 18 MR. RUSSELL: Good.
 19 Q If you'll look --
 20 MR. RUSSELL: Hand that document, if you will,
 21 to the court reporter, and she will put a
 22 professional sticker on it.
 23 And the next document that will become
 24 Exhibit 2 is an announcement of your appointment, I
 25 think it's at the end of the first paragraph, as a

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1 negotiator for JEA in connection with the ITN, which
 2 is the invitation to negotiate process.
 3 (Exhibit No. 2 was marked for identification.)
 4 Q How did you learn about your appointment as a
 5 negotiator for that process?
 6 A Brian Hughes brought me in his office. This is
 7 dated the 22nd. I spoke with him on the 21st, where he
 8 asked me if I was willing to participate on a
 9 negotiation team.
 10 Q You've said Mr. Hughes called you into his
 11 office.
 12 Is your physical office in close proximity to
 13 Mr. Hughes' office?
 14 A Yes.
 15 Q Are they adjacent to each other?
 16 A There is an office in between our two offices,
 17 so I would not say adjacent, but they're still very
 18 close.
 19 Q Just on average, how often would you visit with
 20 Mr. -- physically visit with Mr. Brian(sic) on a -- in a
 21 day of work?
 22 A It depends on the day, but multiple times a
 23 day.
 24 Q Frequently would be a fair statement?
 25 A Yes.

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1 Q Okay. And you also, in addition to personal
 2 visits, you communicate by phone and e-mail and other
 3 methods?
 4 A Correct.
 5 Q Do you know who made you available to the JEA,
 6 made the decision that you would be made available to
 7 the JEA to participate in the ITN process?
 8 A What Brian told me is the mayor offered for JEA
 9 to be able to use City employees to participate on the
 10 negotiation team. So then it was up to Brian to
 11 determine who the best people would be.
 12 Q I think you said it would have been on
 13 November 20, 2019, that you and Brian spoke about this
 14 appointment?
 15 MR. LINDSEY: Mr. Hughes.
 16 A The 21st.
 17 Q 21st. The day before the announcement?
 18 A Correct.
 19 Q 21st. On the 21st when you and Mr. Hughes
 20 spoke do you recall anything further you talked about in
 21 connection with this appointment?
 22 A The only thing /UPB we -- he brought me up to
 23 speed on the ethics issues and why he was asking me to
 24 participate, because up until that time I didn't really
 25 pay attention.

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1 So he brought me up to speed on Carla Miller's
2 determination with the prior negotiation teams and how
3 she had turned over the issue, what she felt was a
4 conflict of interest for the negotiation team. She had
5 turned over that issue to the State Ethics Commission,
6 who apparently said that they would not be able to meet
7 on it until January.

8 JEA was interested in continuing to move
9 forward with the ITN, so they requested to be able to
10 use City employees.

11 Q Okay. Did you recall having any questions of
12 Mr. Hughes about what your responsibilities in this
13 matter would be?

14 A My only question was timing. I just -- you
15 know, as with any project, I wanted to know what the
16 timeline looked like, because I knew that I would have
17 to pretty much clear my calendar for all of the meetings
18 that would take place. So I just asked him what the
19 timeline would look like.

20 Q Okay. Can you recall what the timeline you
21 were -- was explained to you as to what the timeline
22 would look like?

23 A Yes. He said that if we could -- we, the
24 negotiation team, could get something to City Council
25 sometime in February, that's what he thought was
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1 Q After this initial meeting with Mr. Hughes on
2 November 21, 2019, did you have any further discussions
3 with him about what was occurring in the ITN process?

4 A As far as what was occurring in the ITN
5 process, nothing outside of scheduling, letting him know
6 when I needed to be out of the office, when I would be
7 back in the office, my travel schedule for when we went
8 to Atlanta, things like that.

9 Q Okay. And during the ITN process, outside of
10 notice and scheduled meetings, did you have
11 communications with anybody about the ITN process that
12 you can recall?

13 A No.

14 Q Other than administrative or scheduling.

15 A Correct. Other than that, no.

16 Q No substantive discussions?

17 A No.

18 Q All right.

19 A There was one set of phone calls, which I'm
20 sure we'll get to with Kevin, where -- there was a set
21 of phone calls one evening where Aaron Zahn had called
22 to ask about some attendees in some of the meetings, and
23 I reached out to Brian about that.

24 So outside of that, no, no other discussions.
25 It's on November 25th.

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1 feasible.

2 Q And at that point in time was the process
3 discussed in terms of their would be meetings with
4 bidders and meetings with the negotiation team, further
5 meetings with bidders, review of documents and reports
6 from analysts? Were those kind of details discussed?

7 A No.

8 Q Eventually did you ever see for this process,
9 which basically for you started on November 21st and
10 ended sometime shortly before Christmas in December, did
11 you ever see anything that looked like a schedule of the
12 events that would occur?

13 A So the only thing where a schedule may have
14 been included was, from what I can remember, I sat down
15 with Melissa Dykes at some point where she walked me
16 through a document called the CIP. It's C-I-P.

17 I could not tell you what it stands for. I
18 don't remember the acronym.

19 Q What was the acronym again?

20 A CIP. She called it the CIP. It's the C-I-P.

21 And I believe there was a schedule -- there potentially
22 was a schedule in there that we looked at.

23 Q Okay. Were any specific bidders discussed at
24 your meeting with Mr. Hughes?

25 A No.

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1 (Discussion off the record.)

2 Q Did you, in the ITN process, meet separately
3 with the other two negotiators?

4 A Outside of scheduling, no, because I had to
5 discuss with them the travel plans for Atlanta, and
6 whatnot. But outside of that, no.

7 Q So you -- and let's make sure we know who they
8 are so the record is clear. They were Randall Barnes,
9 and they were Robin Smith, and they were you, Stephanie
10 Burch, were pointed as the negotiators. And you three
11 never -- a noticed meeting, just at the meeting or
12 negotiation session did you three ever meet together and
13 talk about what you were going to decide?

14 A No. No, not outside of a meeting.

15 Q When you left your meeting with Brian Hughes on
16 11/22/2019 did you have the understanding that it was
17 the responsibility of -- you three negotiators who I
18 just identified -- to make a decision of what bids would
19 be recommended to the JEA board's consideration?

20 A No. And to clarify the record, the meeting was
21 on the 21st. I believe you just said the 22nd.

22 Q Oh, I did that. I know it was the 21st.
23 Sorry.

24 The meeting on the 21st. Did you leave that
25 meeting with an understanding that it was your -- you

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1 three, you, Robin Smith, and Randall Barnes, it was your
2 responsibility and duty for you to make the decision as
3 to what bids would be submitted to the JEA board?

4 A Yes. Our instruction was to find the best
5 value for the City of Jacksonville.

6 Q In the ITN process did you separately meet with
7 what I've heard referred to as SME's?

8 A SME's.

9 Q SME's. Okay.

10 A Yes.

11 Q Did you separately meet with those persons?

12 A Yes.

13 Q Do you recall specifically any of those
14 meetings?

15 A Well, one specifically was with Melissa Dykes,
16 which I had already referred to, where she walked me
17 through the CIP. We talked about the Plant Vogtle
18 agreement. I also had two to three separate meetings
19 with Aaron Zahn as a SME, and there may -- there may
20 have been others. I may have had a couple meetings with
21 Lynne Rhode as a SME. But outside of that, really
22 everything else was, you know, with a strategy session
23 or a negotiation session with the team.

24 Q Okay. SME means subject matter expert?

25 A Correct.

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1 Q And each of the subject matter experts you just
2 identified were members of the senior management team of
3 JEA?

4 A Correct.

5 Q And you mentioned your meeting with Melissa
6 Dykes and said that she explained the process to you, is
7 what I understood her to talk to you about.

8 A The process?

9 Q Of what was going to happen in the ITN.

10 A We -- we probably did a little bit, but
11 never -- I don't know that we really got in-depth with
12 anything on the process.

13 Q Did you and Ms. Dykes discuss your evaluation
14 of any of the bids that had been submitted?

15 A Not that I can recall specifically, because all
16 of those conversations really took place in a strategy
17 session where the advisors walked us through.

18 It was really written up like an executive
19 summary of the different revised replies that had come
20 in. I think it was early December when those came in.

21 Q And in the strategy session that occurred in
22 early December, did you express any opinion that you had
23 then developed of the quality of any particular bids
24 that had been received?

25 A I mean, I think at that time it was pretty

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1 clear, you know, with the values that were submitted.
2 There were certainly two to three that were, you know,
3 at the top, if you will. There were a couple in the
4 middle, and then there were a couple at the bottom,
5 which is to be expected with a procurement like that.

6 Q Okay. And do you recall who the two or three
7 were that were at the top in your evaluation at that
8 time?

9 A I want to say Duke Energy was pretty close top,
10 NextEra. I think Emera was pretty close to the top.

11 Q Do you recall expressing an opinion that
12 NextEra was actually the highest and best bid that had
13 been received?

14 A Sure, because -- let me clarify.

15 Q Sure.

16 A I don't know about highest and best, because
17 there was still a lot of negotiation to take place, but
18 they certainly had the highest bid.

19 Q And do you recall who was the second?

20 A I believe it was Duke.

21 Q Duke. I'll wait until get to those.

22 In connection with your role as a negotiator in
23 this process, what instructions were you given about how
24 to perform that role?

25 A I would say there were instructions from time
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1 to time from the procurement folks about we need to
2 discuss this today at the strategy session, whether it
3 was schedule, it was, you know, how to -- how to conduct
4 different meetings with the proposers.

5 But typically it was something where they came
6 to me and said, hey, we've got questions about a certain
7 topic. We need the negotiation team to discuss it. And
8 so I would bring that up in the strategy session to
9 discuss it.

10 Q Okay. And more specifically what I was asking
11 for, were you given criteria by which the bids should be
12 evaluated?

13 A Outside what was in the ITN, no, because there
14 was specific criteria in the ITN.

15 Q And in the ITN did it specify how those
16 criteria were to be evaluated? I know it had a number
17 of items, like how it dealt with Plant Vogtle or
18 community benefit.

19 Were you told how those criteria were to be
20 used in developing a ranking in the ITN?

21 A No. I don't know that we ever got to that
22 point, to be honest, because, you know, we received
23 revised replies early in December, and then there was
24 supposed to be another round of revised replies in
25 January sometime, but we never got to that one.

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1 Q You just answered the exact question I had
2 written down next. Thank you. That doesn't happen very
3 often.

4 So at the time -- and I asked that question
5 too.

6 Did you have an understanding of how many bids
7 the negotiators would recommend to the JEA board for
8 consideration?

9 A My understanding from my experience was that
10 there would be one. I don't know how we could do it any
11 other way. So that was my understanding.

12 Q Was there any discussion amongst the
13 negotiators, the SME's, or the consultants for the
14 process, about how many bids should be submitted?

15 A So, yes, we did have a discussion in a strategy
16 session. It was after the mayor had commented in the
17 press about how he wanted several bidders to be proposed
18 to the JEA board.

19 So we discussed that story, I guess you could
20 call it. We discussed the story in a strategy session,
21 and talked quite a bit about how we would be able to do
22 that, because it was -- I felt it would be pretty
23 difficult to try to choose, you know, two or three to
24 try to provide to the board.

25 Q So make sure I understand. After the mayor's
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1 Q The CPI -- CIP -- I get initials backwards
2 sometimes -- tell us what that was.

3 A It was -- like I said, I don't remember what
4 the acronym stands for, but it was a document that just
5 kind of laid out -- from what I remember, it was really
6 about the business operations of JEA.

7 Because I had this conversation with Melissa
8 early on where she was meeting to explain a lot of
9 things to me, you know, as far as how the utility
10 operates, the difference between the electric side, the
11 water and sewer side, and all that kind of stuff.

12 It was more of a -- kind of in-the-weeds
13 conversation about business operations.

14 Q The copy of the CIP that you obtained, do you
15 recall how you obtained it?

16 A It was me looking at it on Melissa's tablet.

17 Q Okay. And was Melissa's tablet being used to
18 look at a database that was referred to, I think, as the
19 data room where different materials had been
20 electronically stored for the access of people on the
21 negotiation team?

22 A I don't know where Melissa accessed it from.
23 All I know is it was on her tablet, and I -- that's
24 where I looked at it.

25 Q Okay. So you read it on her tablet. You never
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1 letter, if I can remember the date, mid December, late
2 December --

3 A I think it was the 12th.

4 Q 12th, in which he suggested a top tier of
5 bidders be given to the JEA board for consideration, the
6 group talked about complying with that request?

7 A Talked about whether we could comply with the
8 request, yes.

9 Q And was a decision made of whether you could
10 comply, or was it open still?

11 A I don't remember whether we made a decision. I
12 think it was still open, because there still was a lot
13 of work to do in the process. So I don't know that we
14 ever came to a conclusion.

15 Q Okay. Going back to your meeting with Mr.
16 Hughes about the time of your appointment on November
17 21st, did Mr. Hughes tell you that the State Ethics
18 Commission had not yet issued an opinion on the
19 objection that Carla Miller had raised concerning the
20 ethics of JEA employees participating in the process,
21 the INT -- ITN?

22 A ITN. Mr. Hughes just stated that the Ethics
23 Commission had told someone, I don't know who, but that
24 the Ethics Commission had stated they would not be able
25 to meet on it until sometime in January.

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1 took a copy of it?

2 A I never took a copy of it.

3 Q And I think this occurred consistently
4 throughout the ITN process, that if there was an event,
5 if it was a bidder session, if you had been passed out
6 materials, those materials were taken back from you at
7 the end of the session?

8 A Correct.

9 Q And if you had taken notes, those notes were
10 taken back from you at the end of the session?

11 A Correct.

12 Q And do you know what's happened to those
13 materials that were taken back, and your notes?

14 A No.

15 Q And the same thing would be true if it was a
16 strategy session amongst the negotiators, if you
17 received a document, that document would be taken back
18 from you at the end of the session?

19 A Yes.

20 Q And if you happened to take notes during those
21 session, negotiator strategy sessions, those notes would
22 be taken back from you?

23 A Yes.

24 Q Do you know why that was?

25 A It's a pretty typical practice in a procurement

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1 like that.

2 Q That information -- would that information have

3 been useful to you when it came time to make a decision

4 about bids, particularly your own notes?

5 A Potentially.

6 Q Do you recall -- and I think the date is

7 December 4, 2019 -- that calls were made to the bidders

8 about the bids that they had submitted?

9 A Yes.

10 Q Okay. And tell me about the process of those

11 calls to the bidders. How did that occur?

12 A We were attempting to figure out the schedule

13 for the management presentations in Atlanta. We were

14 trying to figure out a way where we could weed out some

15 of the bidders who, you know, maybe were kind of

16 questioning whether they really needed to travel for the

17 meetings, because we knew that people would be coming

18 from all over the world for the meetings, and they bring

19 big teams of people with them.

20 So we knew, you know, it's a lot of dollars for

21 them to make all the travel arrangements, so we were

22 trying to figure out whether there was a way we could

23 weed proposers out, or if they would weed themselves out

24 of the process. So we had several calls with the

25 proposers that week.

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1 Q At that time I believe there were still eight

2 bidders that were perceived to be participating in the

3 process?

4 A I remember nine, but maybe there were only

5 eight. I don't -- I don't remember.

6 Q Something in that range.

7 And in these calls that were made to the eight

8 or nine bidders, was the entire negotiation team present

9 for those calls?

10 A As far as I remember.

11 Q Okay. And were there two people -- were you

12 designated to be one of the speakers on the phone?

13 A Yes, because the procurement folks had asked us

14 at one point to nominate a lead negotiator.

15 Q And who are you talking about when you refer to

16 as the procurement folk?

17 A John McCarthy and Jenny McCollum.

18 Q Besides you -- I'm going to massacre his

19 name -- was there a gentleman named Giardinelli also

20 appointed to speak on the phone?

21 A He was one of the advisors, yes.

22 Q Was he one?

23 A I don't know if Giardinelli was his -- it

24 started with a G, but anyway.

25 Q I've got the notes here and it's spelled

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1 G-i-a-r-d-i-n-e-l-l-i.

2 A Okay.

3 Q So however that's pronounced, do you recall

4 what organization he was with?

5 A He was either with J.P. Morgan or Morgan

6 Stanley. I'm not sure which firm.

7 Q And those were the two investment banks that

8 worked with the negotiation team?

9 A Correct.

10 Q Okay. And in connection with this call did you

11 tell the bidders that the goal was the actual

12 consummation of a transaction in connection with JEA by

13 the end of January of 2020?

14 A I believe we did.

15 Q And that's something you -- you believe you

16 said that to the bidders?

17 A Uh-huh.

18 Q Do you recall what NextEra's response to that

19 date was when you made that statement to the NextEra

20 people on the phone?

21 A Not specifically on that day, because we -- we

22 talked about it a couple of times with the bidders. So

23 I don't remember specifically on that day what their

24 response was.

25 Q Okay. But over the number of times that you

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1 talked with NextEra about that date, do you recall

2 NextEra ever expressing any concern with meeting that

3 timetable?

4 A Outside of them, you know, discussing that it

5 was aggressive, but they felt they could meet it.

6 Q Okay. Now, as to the other seven or eight

7 bidders, in discussing with those bidder representatives

8 what was their reaction to the January 30, 2020

9 transaction deadline?

10 A From what I remember, there were -- I -- I know

11 I -- I remember specifically Emera said that if they

12 were only bidding on the water side they would be able

13 to meet that date as well. I believe Duke was somewhat

14 favorable to meeting that date too.

15 Outside of that, I think most of the other

16 comments were that it was too aggressive of a schedule,

17 with the holidays in between there they weren't sure

18 they could make it happen.

19 Q Okay. And in connection with the call to the

20 NextEra representatives by you and Mr. Giardinelli, do

21 you recall making any comments to the NextEra

22 representatives about the status or the relative quality

23 of their bids in terms of comparison to other bidders?

24 A Sure. The comments for all of the bidders were

25 whether they were close to the top or close to the

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1 bottom.

2 Again, it was an attempt to weed out some of

3 the bidders for the -- for the process, for the

4 management presentations.

5 Q So do you recall then what your comment was to

6 NextEra about its bid?

7 A Not specifically.

8 Q Well, it would have been right next to the top.

9 A Do you want -- do you want -- do you want me to

10 read what is on the exhibit?

11 Q Right. I didn't know -- these are parts of

12 transcripts.

13 A I'm guessing it's a transcript.

14 Q Yes.

15 A Yes.

16 Q And we have transcripts from this December 4th

17 group of calls, and it went into a lot of other stuff,

18 and I took out those things that I thought were

19 relevant.

20 For some reason, on the meeting that occurred

21 prior to the December 4th meeting, on December 3rd, the

22 negotiation strategy session in preparation for these

23 calls we can't find the transcript.

24 Do you have any idea why that --

25 A No.

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1 Q Where we are?

2 A No. Did we -- no, I don't know why.

3 Q All right. As to the other bidders in

4 connection with the statements, and I've marked on the

5 transcript there, were your comments to the other

6 bidders in the nature of you will need to find more

7 value, you're going to need to get your bid up higher to

8 be in competition. You'll have to change your bid in a

9 way to make it more proceeds -- proceeds are benefits to

10 the City?

11 A I don't know if it was stated exactly like

12 that, but we were trying to show certain bidders

13 without, you know, giving a specific Delta for them,

14 that if they wanted to stay in the process they

15 certainly -- to provide the best value for the citizens

16 of Jacksonville, they would need to revise their bid.

17 Q For example, in regards to the Emera, Inc.

18 bid -- it's on about page 5, Ms. Burch -- the transcript

19 says what you told the Emera representatives about their

20 bid was -- it's in the third from the bottom line, I've

21 taken a portion of the phrase -- you are at the level

22 where an increase in value -- with an increase in value

23 you could be successful.

24 Do you believe --

25 A You're saying that's on Emera page 5? Is that

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1 in Todd's comments?

2 Q Yes, I'm sorry. Todd's comments.

3 A Okay.

4 Q Do you recall Mr. Giardinelli making a

5 statement like that to the Emera representatives who

6 were on the phone?

7 A I don't recall specifically to Emera, but there

8 were several I believe that he said that too, so it's

9 possible.

10 Q Okay. In the discussions with these bidders

11 the term -- some similar term was used by both you and

12 Mr. Giardinelli about best value to the City, what your

13 bid would need to achieve in order to be the successful

14 bid.

15 What did you mean by that?

16 A Whatever ended up being the best value to the

17 City. It could be the amount of gross proceeds, it

18 could be the fact that the City was still going to

19 retain the assets. It just depended on where we got at

20 the end of the process.

21 Q Okay. But at the point you got to in the

22 process, that is until it's determination, were you ever

23 given any instructions on how you were to take those

24 criterias and make that evaluation of what would be the

25 best bid?

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1 A Not that I remember.

2 Q And I think this consistently happens, and

3 you're welcome to look at the transcript excerpts if you

4 want --

5 MR. LINDSEY: Why don't you just take a second

6 to read them.

7 MS. BURCH: Before I answer?

8 MR. LINDSEY: Yeah, just take a minute.

9 MS. BURCH: Which one are we on?

10 MR. LINDSEY: Read the whole things.

11 MS. BURCH: Oh, all right. You want me to read

12 the whole thing.

13 MR. LINDSEY: That way you don't have to go

14 back and forth.

15 MS. BURCH: Thank you.

16 MR. RUSSELL: And, Ms. Burch, at any time if

17 I've handed you a document, if you want to take the

18 time to read throughout the document, that's fine.

19 It's just that I had very specific questions,

20 Warren, about some of the documents.

21 MR. LINDSEY: Understood.

22 MR. RUSSELL: But this one's gotten to the

23 point I think you're right that she better read it.

24 MR. LINDSEY: That way she doesn't go back and

25 forth. Thank you.

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1 MS. BURCH: It looks like I'm saying pretty
2 much the same thing in all of them too. Okay.
3 Q If you will look at page 7. This is a
4 telephone call that you and Mr. Giardinelli were making
5 to JEA Public Power Partners.

6 A Uh-huh.

7 Q And do you see in the transcripts of the
8 statement of what Mr. Giardinelli said -- it's at
9 page 11 of his transcript from this call --
10 Mr. Giardinelli told JEA Public Power Partners that:
11 But we want to let you know from a value perspective
12 your bid from both the upfront proceeds as well as the
13 ongoing proceeds to the City, when we take them in
14 totality, is substantially below the top bid.

15 Is that consistent with the statements that
16 Mr. Giardinelli made to a number of the bidders?

17 A Well, reading through the transcripts it
18 doesn't appear to be.

19 Q It's not the exact statement, but he told other
20 bidders about the quality of their bid and what would
21 need to be done to make their bid improve.

22 A Uh-huh. Yes.

23 Q And when those bidders were told that, did many
24 of the bidders, like JEA Public Power, ask of
25 Mr. Giardinelli to tell them how much they were off the
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1 mark, how much they would need to raise their bid to
2 become competitive?

3 A I see that here for JEA PPP, and I saw it on
4 another one as well, Emera. So I would say at least two
5 of them asked about that.

6 Because these are just pieces of conversations,
7 I don't know what the rest of them -- I don't remember
8 what the rest of them said specifically about it.

9 Q Oh. There are two calls that were made that
10 day, one to American Public Infrastructure, LLC, and the
11 other one was to I -- was intended to be made to IFM
12 Investors Pty Ltd. And for the documents that have been
13 given to us we were told that there are no transcripts
14 of those calls.

15 Did those calls actually occur?

16 A I don't remember specifically. I don't
17 remember if we actually had calls with them.

18 Q In connection with these discussions, Ms.
19 Burch, were you given a transcript for you to use in
20 talking to the bidders?

21 A No, I don't believe I was.

22 Q And I had asked earlier about who else you may
23 have spoken to about the ITN process outside of one of
24 the noticed bidder sessions or strategy sessions, and
25 you mentioned and described some of the subject matter
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1 experts you had spoken to.

2 Did you ever speak with the investment bankers,
3 Morgan Stanley or J.P. Morgan, their representatives,
4 outside of a noticed session of bidders or negotiators?

5 A Potentially, but it would have only been me and
6 a JEA representative. We -- we never -- I mean, I never
7 had any -- outside of a recorded strategy session, I
8 never had meetings with any of the other negotiators
9 with them.

10 Q So anytime you talked to an investment banker
11 it was in a recorded strategy session?

12 A From what I remember, that's correct.

13 Q And you understood from the confidentiality
14 agreement and what you had been told that was the proper
15 place for those discussions to occur?

16 A Correct.

17 Q The other consultants for JEA in this matter
18 were two law firms. One was Foley & Lardner.

19 Do you recall that?

20 A Yes.

21 Q And the other was the Pillsbury firm.

22 A Yes.

23 Q You recall those lawyers being consultants.

24 As to the lawyers, did you ever talk with them
25 outside of a noticed strategy session, that you recall?
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1 A Yes. I believe I had -- there would have been
2 more conversations Foley & Lardner, because they were
3 the -- they were advising on the procurement process.

4 So it's very possible that I had conversations
5 with them about the process outside of a strategy
6 session.

7 Q Okay. And what lawyers at Foley & Lardner did
8 you speak to, if you recall?

9 A This is terrible. One of them, his name was
10 Ben. And -- but the lead attorney, I -- I don't
11 remember his name, unfortunately.

12 Q Okay. Were those in-person conversations?

13 A Sometimes.

14 Q Were some of them also telephone conversations?

15 A Yes.

16 Q And the telephone logs that you've produced for
17 us, are those -- and they would not have been -- well,
18 yes, they would. They may have been.

19 Do you know if you put those telephone calls
20 with those lawyers on your phone log?

21 A The logs that I gave you were from my personal
22 cell phone. So I never made calls to them on my
23 personal cell phone. If I had, it would have been
24 included.

25 Q What phone did you use to make those calls on?
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1 A It was always with a JEA representative there,
2 so it was from a JEA phone.

3 Q Okay. And was it -- do you recall what JEA
4 representative was with you when you made those calls?

5 A I know Lynne Rhode would have been present.
6 It's possible that John or Jenny may have been present
7 for those phone calls as well.

8 Q And were you making those phone calls from that
9 JEA employee's cell phone?

10 A No, they were from --

11 Q Land line?

12 A Yeah, JEA land line.

13 Q That's fine. In terms of the procurement
14 process that you talked about, do you remember
15 specifically what it was you were asking for guidance
16 on?

17 A I don't remember specifically. There was
18 always questions about whether we could or couldn't, you
19 know, talk about something, or do something, in a
20 strategy session or outside of a strategy session.
21 There were constant conversations with them about what
22 we could or couldn't do.

23 Q The next document --

24 MS. BURCH: Do you want this one marked?

25 MR. RUSSELL: Yes. Thank you very much. We
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1 decided it will be 3, I think.

2 (Exhibit No. 3 was marked for identification.)

3 Q The next one in your package is a document
4 called Project Freebird.

5 Do you know what Project Freebird refers to?

6 A No, I don't.

7 Q And this document predates your appointment as
8 a negotiator by several months, but I wanted to use it
9 to discuss something that did concern you.

10 And just an example of what I want to talk to
11 you about, if you will turn to -- they're unnamed --
12 unnumbered pages, unfortunately.

13 A They're down at the bottom.

14 MR. LINDSEY: Very light.

15 MR. RUSSELL: You found it. Thank you.

16 Q Turn to page 7. Unfortunately, it's the best
17 copy we have. There's the last entry at the bottom, and
18 it says: Board meeting to approve transaction.

19 Again I apologize for the quality of the copy.
20 Very bottom. Can you read that?

21 MR. LINDSEY: Do you see it?

22 MS. BURCH: Yeah, I see it.

23 MR. LINDSEY: She has better eyes.

24 Q And if you follow across to the other side of
25 the page for that --

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1 A March --

2 Q -- item, does it have a date?

3 A March something. Looks like --

4 Q March 2020?

5 A I can't tell for sure. All I can tell is it
6 fits under March.

7 Q Well, if we're in December '19, the next March
8 that would occur after December '19 would be March 2020?

9 A I would stipulate to that.

10 Q Okay. Thank you. I didn't know a better way
11 to get there. I apologize. And I'm sorry for the long

12 way of getting around to this, but you, in your

13 statements to the bidders, told them that the
14 transaction deadline was January 30, 2020, not March 30,

15 2020.

16 A Uh-huh.

17 Q Did you understand you had the authority to
18 change that date?

19 A Yes.

20 Q Why did you have that understanding?

21 A I was the lead negotiator.

22 Q Okay. And despite the fact that this date had
23 been established by the senior leadership team of JEA,
24 it was still your understanding that you could change
25 the date?

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1 A With the concurrence of the negotiation team
2 members.

3 Q Okay. So that date, which I guess you came up
4 with, the negotiation team concurred with that?

5 A Yes.

6 Q And that would mean --

7 A Let me clarify.

8 Q Sure.

9 A I would say initially not unequivocally did
10 they concur with it, because there were several
11 discussions that we still needed to have. There were
12 still many negotiations that needed to take place. And
13 so I don't -- I would not agree that we definitively
14 said at any point in time we were going to be done by
15 the end of January.

16 You know, you have to understand, in a lot of
17 the transcripts that you're reading there's posturing
18 that goes on. You know, you're trying to drive a
19 schedule to get them to respond to it, so there's
20 posturing that happens.

21 But I would not say I -- me, personally, never
22 felt that we definitively had come to an agreement that
23 the end of January was what it was going to be. We were
24 pushing them for that, but we never got to the point
25 where we could actually say that.

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1 Q The calls that were made on December 4th, I
2 think ultimately -- and I'm sorry. You answered this.
3 I just don't remember the answer to it.

4 American Public Infrastructure, it shows there
5 is no transcript. Is that because there wasn't a call
6 or there just wasn't a transcript?

7 A I don't remember.

8 Q Okay. That's why I don't remember.

9 A Yeah, I don't remember.

10 Q Okay. So assuming all these calls were made --
11 1, 2, 3, 4, 5, 6, 7 -- eight calls, do you recall on
12 that day how much time you and Mr. Giardinelli devoted
13 to these calls? How long did it take?

14 A From my recollection, it wasn't very long.
15 They were pretty quick calls. I feel like we scheduled
16 them for maybe 30 minutes, and I don't think any of them
17 took that long, but I would have to view a full
18 transcript to be able to tell you exactly.

19 Q In your role as an appointed negotiator did you
20 ever become aware that the initial bids of the bidders
21 had been evaluated by JEA employees?

22 A The initial bids. So prior to the revised
23 replies that came in.

24 I don't remember specifically whether they had
25 been evaluated. I'm sure they were reviewed, but I
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1 the time that things were falling apart with the ITN
2 process, so the sooner we could complete it the better
3 off we were all going to be.

4 So that at that point it would go to the JEA
5 board, they would do whatever they were going to do with
6 it, and then it would go to City Council, if it got that
7 far. So...

8 Q When you talked to me about your original
9 conversation with Brian Hughes on November 21st, in
10 connection with your appointment as an negotiator, and
11 you told me you talked to him about the deadline --
12 excuse me -- the timeline for that process. One of the
13 things in that timeline that you and Mr. Hughes
14 discussed was the end of the timeline, the transaction
15 date, and you and Mr. Hughes discussed that date being
16 January 20th -- January 30th, 2020?

17 A No.

18 Q When did that discussion with Mr. Hughes
19 happen?

20 A What Mr. Hughes said was that if something
21 could go to City Council in February that would be good.

22 Q Okay.

23 A Those were his words.

24 Q And then you had a later conversation with
25 Aaron Zahn.
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1 don't know if JEA staff evaluated any of the bids.

2 Q Okay.

3 A I couldn't tell you.

4 Q So since you don't know that, you never saw a
5 document prepared by JEA staff that went through the
6 initial group of bids, which I believe the number was 18
7 or 19, and gave it a evaluation, a numerical evaluation
8 of a number of criteria concerning those bids?

9 A I don't remember seeing anything to that
10 effect.

11 Q Going back to the January 30, 2020, date. Were
12 you the individual who initially came up with that for
13 the proposed date to conclude the transaction?

14 A Yes.

15 Q And it wasn't suggested to you by anybody else?

16 A No.

17 Q Just your idea originally?

18 A Yeah. I mean, I was going off the timeline
19 that I had discussed with Brian, you know, before I was
20 actually on the negotiation team. So going based on
21 that timeline I had conversations with Melissa Dykes and
22 Aaron Zahn separately to make sure that they thought
23 that was a feasible schedule for the proposers, and they
24 both said, yes, they thought that it was.

25 And it just -- you know, it was very clear at
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1 A Uh-huh.

2 Q Just you and Mr. Zahn?

3 A Yes.

4 Q And again, was it about the entire timeline, or
5 was it focussed specifically on the date that the
6 transaction would be concluded?

7 A I think that's one and the same, the entire
8 timeline and then the date that it would be concluded.
9 So I guess my answer to that is yes.

10 Q Okay. And tell me about that discussion, what
11 you said to Mr. Zahn and what Mr. Zahn said to you about
12 the deadline.

13 A I'm sure we discussed a few different things,
14 but -- but it was just, you know, do you think this is
15 possible for the -- for the bidders.

16 Q You were asking that question of Mr. Zahn?

17 A I believe so, yes.

18 Q Do you have a recollection, Ms. Burch, what he
19 said in response?

20 A Outside of, yes, I think that's possible.

21 Q If the process -- ITN process was, as you said,
22 falling apart, tell me why you would accelerate the
23 schedule. What would that accomplish?

24 A To get it done sooner.

25 Q To prevent it from falling apart?
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1 A Yes.

2 Q Okay. Faster would, in your judgment and Mr.
3 Zahn's judgment and Mr. Burch's judgment, have helped
4 the ITN not to fall apart?

5 A You said Mr. Burch's judgment?

6 Q I'm sorry. Mr. Hughes.

7 A Brian's judgment.

8 Q Brian's judgment.

9 A Well, I don't know what Brian's judgment was on
10 it other than what he told me as far as if you could
11 send something to City Council sometime in February that
12 would be good. There was no directive. There was no
13 you must do this. It was simply that sounds like a good
14 timeline to me.

15 So once I got involved -- and remember, that's
16 prior to me being appointed to the negotiation team. So
17 once I got involved I explored that possibility with
18 Aaron and Melissa. They both felt that that was
19 possible. Melissa went a little bit further and said,
20 you should discuss that with the advisors.

21 So we had a separate conversation with the
22 advisors about that. I believe it took place all during
23 a strategy session, because I know that Randall and
24 Robin also weighed in on the timeline.

25 And that's why I said earlier I don't think we
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1 ever got to a definitive, yes, that's going to work.

2 There still was a lot of work that needed to be done.

3 Q Okay. But the specific discussion about
4 sticking to that timeline or that date for the
5 conclusion of the transaction, because the ITN process
6 was falling apart, that conversation -- make sure I
7 understood you -- was between you and Mr. Zahn?

8 A I mean, I don't -- I don't know -- so the
9 conversation -- I had conversations with Aaron about it,
10 and I had a conversation with Melissa about it as well,
11 and it was simply to figure out whether they thought the
12 end of January was feasible.

13 Q Okay. But when we talked about that earlier,
14 we talked about that end of January deadline as being
15 important to try to hold together the falling apart ITN
16 process.

17 A Right.

18 Q In connection with the falling apart of the ITN
19 process, when did that begin?

20 A I mean, it was happening as I got appointed.

21 Q What were the reasons for that?

22 A Well, the initial reason was because of
23 Councilman Diamond and Councilman Salem's meeting
24 regarding the PUP.

25 Q Okay. And as you continued in the process
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1 thereafter, did the ITN process continue to fall apart
2 further?

3 A Yes.

4 Q Do you recall any of the other reasons?

5 A No. I mean, strictly other than the -- the
6 news articles about everything, and the City Council
7 meetings that were taking place. You know, it just --
8 it just continued to deteriorate.

9 Q Did you discuss with Mr. Zahn anything else,
10 any other activities -- actions, excuse me, that could
11 be undertaken to hold the INT process together?

12 A To hold it together?

13 Q Right.

14 A No, not that I remember.

15 Q Okay. Nobody had any suggestions of things
16 that could be done to enhance the chances of the process
17 succeeding?

18 A No. It was simply let's get it done sooner
19 rather than later.

20 Q Okay. It may have been you that said this.

21 Do you recall making the statement that
22 increasing or keeping the timeline of the ITN process as
23 January 30, 2020 would enhance transparency? Do you
24 remember saying that?

25 A I may have said it, but it would have been a
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1 reaction.

2 I know Aaron was the first one to bring that
3 up. So if I repeated it after him, it was, you know,
4 just trying to stay consistent with our comments with
5 all the bidders.

6 Q Could you help me understand why speeding up
7 the process or keeping up this aggressive pace helps
8 transparency?

9 A Because the sooner it's done the sooner
10 everything can be released to the public.

11 Q Thank you.

12 A Yeah.

13 Q Okay. The next document --

14 MS. BURCH: Are we done with this one?

15 MR. RUSSELL: Yes.

16 (Exhibit No. 4 was marked for identification.)

17 Q Following up on the transparency question, part
18 of your answer was: Transparency would occur because
19 everything could be released to the public at the end of
20 the transaction.

21 A Uh-huh.

22 Q So it was your understanding that everything
23 that went on in the ITN process at its end would be
24 released to the public?

25 A Yes.

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1 Q Has that occurred, if you know?
 2 A I mean, outside of the news articles I read
 3 about what JEA has released and what they haven't. I
 4 mean, I assume so, but I haven't talked to anybody about
 5 it.
 6 Q You're not aware then that certain bidders
 7 continue to claim that they have materials that are
 8 confidential and will not be released to the public?
 9 A I'm aware of it because I read the news
 10 articles.
 11 Q But you have no involvement in it?
 12 A No.
 13 Q Okay.
 14 A That's pretty typical practice though for a
 15 procurement like that.
 16 Q Where did you get the understanding that
 17 everything would be released at the end of the ITN
 18 process?
 19 A My prior experience.
 20 (Exhibit No. 5 was marked for identification.)
 21 Q Let's look at Exhibit 5, which should be an
 22 agenda for 11/25/2019.
 23 Your appointment was announced on 11/22/2019.
 24 I think this would be the first meeting you had with
 25 your negotiation strategy session?
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1 A Yes, our first meeting was on the 25th. I
 2 don't know that anything was released before that,
 3 because I was still -- we all were still going through
 4 confidentiality checks on that date.
 5 Q Sure. The announcement is dated 11/22.
 6 A Yeah, but I don't think it was released. It
 7 may have been a draft that somebody wrote up. I don't
 8 think anything was released on the 22nd until this was
 9 completed.
 10 Q It may be just an absence of information. Our
 11 understanding is that the announcement I used as
 12 Exhibit 1 was actually on that date shown on the
 13 document, published on the JEA website.
 14 A Well, that -- that is news to me. I was not
 15 aware. I don't know how they could do that, but --
 16 Q That is one of the least big deals we will talk
 17 about, so don't worry about it.
 18 A Anyway, yes, this was our first meeting for our
 19 appointment.
 20 Q Okay. Do you recall how long this meeting
 21 lasted?
 22 A I don't remember it being very long, but I
 23 could not give you an amount of time.
 24 Q There's a document we referred -- I assume it's
 25 a document. It's Item 1, negotiator appointment letter.
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1 Can you tell me what that was? I've never seen
 2 one.
 3 A I believe it just was something -- I don't
 4 remember if I signed it or not, but it was an
 5 appointment letter that I believe that John McCarthy had
 6 his signature on it.
 7 Q Okay. Did you get to keep that document?
 8 A No, I didn't keep your copy.
 9 Q They took your appointment letter back from you
 10 also?
 11 A Uh-huh.
 12 Q We just have never been able to find one.
 13 A Oh, really?
 14 Q Yeah. There may be a very logical explanation.
 15 A I don't know.
 16 Q Okay. And I think you just answered this
 17 question.
 18 You believe you signed the letter and then gave
 19 it back to Mr. McCarthy?
 20 A Yes.
 21 Q So that would indicate to me that perhaps a
 22 good person to ask for these letters would be
 23 Mr. McCarthy.
 24 A I would say so.
 25 Q Okay. Another agenda item -- few more
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1 questions on 5, please.
 2 A Oh, on 5?
 3 Q Yeah. The negotiator training. At this event
 4 did negotiator training actually take place?
 5 A Not that I remember. I don't remember anything
 6 specific about training.
 7 Q Just to try to jog your memory. Was there talk
 8 about -- at this initial meeting -- that there would be
 9 a series of negotiator trainings that would occur, and
 10 they would be scheduled, and that would happen before
 11 you actually began your work as a negotiator?
 12 A I don't remember. I really don't.
 13 Q Do you remember at any time during the ITN
 14 process ever seeing something that was like a schedule
 15 that said this is what we're going to do on this date,
 16 we're going to have a strategy session with the
 17 negotiators, and then we're going to have a session with
 18 the bidders, and then we're going to have another
 19 strategy session, and then we're going to accomplish
 20 this goal, get the revised replies in?
 21 Did you ever see a schedule of that kind?
 22 A I don't remember.
 23 Q Do you recall, at this initial meeting did
 24 anything get handed to you other than the letter,
 25 materials about your role as a negotiator?
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1 A Yeah. I don't remember anything specifically
 2 outside of the appointment letter.
 3 Q And two people attended this meeting by phone.
 4 They were lawyers from Foley & Lardner.
 5 A Right.
 6 Q Mr. Hosay and Mr. Grossman?
 7 A Right. Yes.
 8 Q Can you tell me what their role was in this
 9 phone call?
 10 A It -- it was just to advise on the procurement
 11 process. And those were the two I couldn't remember
 12 earlier.
 13 Q You had I think told me earlier in passing that
 14 you've had substantial involvement in the procurement
 15 process for the City?
 16 A Not for the City. It was my experience at the
 17 Florida Department of Transportation.
 18 Q My understanding is the word procurement means
 19 to buy something, to get it.
 20 A Typically.
 21 Q All right. Why would a process by which JEA
 22 buys things apply to JEA selling things?
 23 A I think the process that they used through an
 24 invitation to negotiate -- I can't advise you why they
 25 did it. They were already down this road long before I
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1 got involved, so I can't really answer your question. I
 2 don't know why they did it this way.
 3 Q The other topic on this agenda is subject
 4 matter expert training.
 5 Do you recall what was said about that?
 6 A I don't.
 7 Q It's just an odd thing to be on an agenda that
 8 only has negotiators there and not any subject matter
 9 experts at this meeting.
 10 A Yeah. I don't -- I don't remember. I -- I
 11 really don't remember anything about that conversation.
 12 Q During the ITN process were you ever told that
 13 you could consider the information that was given to you
 14 by subject matter experts, but the decision of the bid
 15 or bids to be submitted to the JEA board of directors
 16 was yours alone?
 17 A Can -- can you ask that again?
 18 Q Sure.
 19 A I'm sorry.
 20 Q Were you ever told that although JEA had a
 21 number of subject matter experts who participated in the
 22 negotiation sessions and provided information to the
 23 bidders and information to you, that the ultimate
 24 decision of who would be -- which bidders would be
 25 submitted to the JEA board was your -- the three
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1 negotiators, and the three negotiators alone?
 2 A Correct.
 3 Q Who told you that? Or where did you get that
 4 understanding?
 5 A I mean, I guess I don't know specif- -- I don't
 6 know exactly who would have said that, other than
 7 everyone we were working with. I mean, it's my
 8 understanding we're the negotiation team, so we're there
 9 to find the best value for the taxpayers.
 10 Q So what I understand that to mean is it was
 11 sort of implicit and everybody understood it, and there
 12 wasn't a lot of need to talk about it expressly.
 13 A Yeah. Correct.
 14 Q There was a term, and I don't know if it got
 15 coined by the media or the participants, the cone of
 16 silence.
 17 A Uh-huh.
 18 Q So tell me what you understood about the cone
 19 of silence?
 20 A So cone of silence is once the procurement is
 21 released, then anyone involved in it can't discuss it
 22 outside of a recorded session.
 23 Q Okay. Did anybody ever provide you any
 24 training on, quote, the cone of silence and what its
 25 implementation would be like, and the things that would
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1 have to be done to comply?
 2 A Outside of -- we may have had conversations
 3 with Foley & Lardner and the -- and John and Jenny.
 4 Q Okay.
 5 A And I'm sure Lynne was a part of that as well,
 6 if we did.
 7 Q So it's your understanding that the cone of
 8 silence would actually apply to all the participants in
 9 the ITN process. So that would include you and your
 10 colleagues as negotiators?
 11 A Yes.
 12 Q Did it also apply to the subject matter experts
 13 at JEA?
 14 A I don't remember.
 15 Q Was it your understanding that it applied to
 16 the consultants that participated in the ITN process?
 17 A So they could talk to each other. The
 18 consultants and JEA's representatives, they could talk
 19 to each other. They could talk to the negotiation team
 20 one on one, but outside of that they could not discuss
 21 it.
 22 Q Okay.
 23 A It's protected.
 24 Q Are you aware of any breaches of the cone of
 25 silence that occurred?
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1 A I'm not aware of any.
 2 Q Then the next agenda --
 3 MR. RUSSELL: That was 5.
 4 Next I want to talk about an agenda for an
 5 11/26/2019 meeting, which will become Exhibit 6.
 6 (Exhibit No. 6 was marked for identification.)
 7 Q And the first attendee it shows is you, Ms.
 8 Burch.
 9 My understanding was that you were the chief
 10 negotiator amongst the three negotiators.
 11 A The lead, yes.
 12 Q Lead. Sorry.
 13 A I was designated the lead negotiator in a
 14 strategy session. I don't remember which one.
 15 Q Who would have made that designation?
 16 A The other two negotiators.
 17 Q Okay. And tell me how being lead negotiator
 18 changed what you were doing in the process.
 19 A It was more I just had to drive kind of the --
 20 the agenda for the session, and just led all of the
 21 conversations.
 22 Q The other one would have been calls to bidders.
 23 You got -- as lead negotiator that was something that
 24 fell on you to be your responsibility?
 25 A Correct.
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1 Q And for that call, the investment banker,
 2 Giardinelli, how did he get chosen to participate in
 3 that call?
 4 A I -- I don't really know. He's one of the
 5 advisors, so...
 6 Q You didn't make that decision?
 7 A No. I guess they could have chosen anyone, but
 8 I don't really know.
 9 Q In the agenda, which is Exhibit 6, Item 2 is
 10 revised replies.
 11 Do you recall what was discussed at this
 12 meeting about the revised replies?
 13 A I don't remember.
 14 Q Do you recall that actually 11/26 was the date
 15 by which revised replies were required to be received by
 16 JEA?
 17 A I don't remember.
 18 Q Okay. Were the revised replies present for you
 19 to look at at this meeting, if you recall?
 20 A I don't remember.
 21 Q Okay. Do you recall when you got to see the
 22 revised replies?
 23 A Not precisely. And I don't know that we were
 24 ever presented with replies. They may have been in the
 25 data room. But what we were presented with at a
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1 strategy session was more of an executive summary that
 2 had been developed by the investment bankers, by the
 3 advisors.
 4 Q Okay. And that -- this is coming up pretty
 5 quick. You're right.
 6 Again the subject matter experts are listed on
 7 this agenda. Do you recall what the discussion was, or
 8 what the subject matter experts did at this meeting?
 9 A I don't remember.
 10 MR. RUSSELL: We've been going over an hour.
 11 Let's get up and stretch and get some water or
 12 whatever you'd like.
 13 (Short break.)
 14 BY MR. RUSSELL:
 15 Q Follow-up question from one of my earlier
 16 questions about reviewing materials prior to this
 17 deposition.
 18 Do you recall now reviewing something prior to
 19 this deposition?
 20 A I do. Thank you for -- yeah, thank you for
 21 reviewing that again.
 22 Warren and I went last week to review a
 23 recording from an interview that I gave to the Inspector
 24 General back in January about the ITN process. So we
 25 reviewed the recording, and that helped. Along with
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1 going through my text messages and the phone -- the
 2 phone logs, that helped jog my memory about a few things
 3 along the way, so...
 4 MR. LINDSEY: Buy you also -- they showed you,
 5 after you reviewed the --
 6 MS. BURCH: Oh, the schedule.
 7 MR. LINDSEY: They showed you something.
 8 MR. BURCH: Yes.
 9 MR. LINDSEY: Tell Mr. Russell what you saw.
 10 MR. BURCH: Yes. They showed me the schedule,
 11 which it looks like is the same thing that you
 12 pointed out in Exhibit 4, I believe. And that was
 13 the first time I remembered seeing it, was in my
 14 interview with the Inspector General.
 15 Q Did you provide documents to the Inspector
 16 General at her request?
 17 A I don't believe so.
 18 MR. LINDSEY: I didn't see any that were --
 19 A Yeah, I don't -- I don't believe -- I don't
 20 believe she asked me for anything. It was simply just
 21 kind of reviewing some things to clarify some questions
 22 that she had.
 23 Q Okay. How long was the interview with the
 24 Inspector General, if you recall?
 25 MR. LINDSEY: I think it was about --
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1 A I think about 40 minutes.
 2 MR. LINDSEY: -- 40 minutes, give or take.
 3 Q And that was in January of this year?
 4 A Yes.
 5 Q Okay. You're really good at this. My next
 6 question was did you ever see a writing that established
 7 a schedule for the ITN process.
 8 MR. RUSSELL: Okay. The agenda for 26 we've
 9 completed?
 10 Q Who actually set the agenda for what would
 11 occur at the ITN sessions?
 12 A Typically it was John and Jenny.
 13 Q They're employees of JEA?
 14 A Yes.
 15 Q And they had a particular role in this. I
 16 forgot what the title is.
 17 A Procurement.
 18 Q Procurement?
 19 A Yeah, I don't remember exactly what the title
 20 was, but they were over the procurement function for
 21 JEA, so...
 22 Q Did you have the opportunity actually with
 23 setting the agenda to provide any input to the
 24 procurement people about what you wanted on the agenda?
 25 A Yes.

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1 Q Okay. And can you recall some examples of
 2 that?
 3 A No.
 4 Q Okay. And when you actually attended a
 5 session -- I've seen the transcripts, so I know you
 6 spoke, but the people who actually led the sessions,
 7 would that have been the procurement people, who were
 8 John McCarthy and Jen McCollum?
 9 A Jenny.
 10 Q Jenny McCollum?
 11 A Jenny, yeah.
 12 It depends on the session. It may have been
 13 them. It may have been myself. I may have been some of
 14 the advisors who led the session. It just depended on
 15 what the discussion topics were.
 16 Q Did those participating in the ITN process,
 17 particularly yourself, did you get any advance notice of
 18 what would be discussed at the ITN session?
 19 A From time to time, because like I said earlier,
 20 John and Jenny would -- would come to me and say, you
 21 know, hey, we need to get this on the record today, so
 22 let's discuss, you know, a certain topic, whether it was
 23 schedule, or whatever it may be.
 24 Q I asked you about Exhibit 5, but I think I
 25 forgot to ask about Exhibit 6, which you still have in

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1 front of you.
 2 A I have that here.
 3 Q Do you recall approximately how long this
 4 meeting would have been?
 5 A I don't remember.
 6 Q Were any of these meetings multiple hours for
 7 the negotiator strategy sessions? Particularly these
 8 couple preliminary ones, would they have been two or
 9 three hours?
 10 A I really -- I really don't remember.
 11 Q That's fine.
 12 In connection with these two meetings we've
 13 talked about already, did you do anything to prepare for
 14 these meetings?
 15 A There was a point in time where I was trying to
 16 review documents in the data room, because we did get
 17 access to that. So I did try to review some documents
 18 ahead of time.
 19 Like, I read through the entire ITN at one
 20 point, and was trying to review some other things from
 21 time to time. But that's it.
 22 Q The revised replies that were received by JEA,
 23 my notes tell me it was eight, did you actually review
 24 all of the revised replies that were received by JEA?
 25 A As I stated earlier, I don't remember whether I

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1 reviewed the actual replies themselves. What I
 2 remember reviewing is the executive summary we received
 3 and went over in the strategy session that the advisors
 4 prepared.
 5 Q Okay. Sorry. I did ask that question before.
 6 We're going to get to the summary of the
 7 replies in just a few minutes.
 8 A Okay.
 9 Q But just to keep it in order, do you have a
 10 recollection without looking at a document of who was
 11 the bidder who had the highest gross proceeds?
 12 A NextEra.
 13 Q And second?
 14 A I think it was Duke.
 15 Q Okay. And do you recall the Delta, the
 16 difference between those, what the amount of that
 17 difference was?
 18 A I don't remember.
 19 Q Do you recall it being more than a billion
 20 dollars?
 21 A I believe so.
 22 Q At the meeting in which that document was
 23 discussed did anybody discuss why one bidder could be a
 24 billion dollars higher than another bidder?
 25 A I don't remember if we discussed that

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1 specifically in a session.

2 Q Do you know why the bids had to be revised?

3 A It was just refining them. I don't --

4 Q Okay.

5 A Yeah. I don't know. It's just there's

6 refinements along the way in order to eventually get to

7 one. So I think it's just a part of the process.

8 MR. RUSSELL: Okay. If you'll hand the court

9 reporter Exhibit 6.

10 (Exhibit No. 7 was marked for identification.)

11 Q The next document I have is October 29, 2019.

12 Again, that's a date prior to your appointment, but do

13 you recall ever looking at this document?

14 A I don't remember reviewing this. I looked at a

15 lot of things, so it's possible, but it doesn't stand

16 out to me.

17 Q Okay. And what this document is is the request

18 for the revised replies that you ultimately reviewed,

19 mostly in the form of a summary prepared by the

20 investment bankers. Correct?

21 A Uh-huh.

22 Q And I just wanted to see if you knew anything

23 about this issue of the document.

24 The document on page 2 deals with the subject

25 of gross proceeds. Did you ever understand why the bids

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1 had to be revised in connection with gross proceeds?

2 You're welcome to read what you need to.

3 A Yeah, if you can give me a minute to read that

4 section.

5 MS. BURCH: So can you repeat your question.

6 MR. RUSSELL: Sure.

7 MS. BURCH: Thank you.

8 Q The letter is requesting a revised reply, and

9 part of its description is about gross proceeds.

10 Do you know what was requested to be -- why

11 gross proceeds bids -- the gross proceeds that's used in

12 the bids was requested to be revised?

13 A Gross proceeds was a minimum requirement in the

14 ITN, and so it's a part of the whole, and they were

15 asking for revised replies that addressed everything in

16 the ITN.

17 Q Okay. What was your understanding of how Plant

18 Vogtle fit into the determination of gross proceeds, the

19 Plant Vogtle liability?

20 A My understanding was it could either be

21 included or excluded.

22 From what I remember with my conversations with

23 the SME's, they pretty much felt that Plant Vogtle would

24 have to be excluded really from the -- the final

25 agreement, whatever that looked like, just because

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1 nobody had been able to figure out a good way to include

2 it because it was such a liability.

3 Q Do you recall the treatment that the highest

4 gross proceeds bid, that of Florida Power & Light, what

5 was Florida Power & Light's treatment of Plant Vogtle?

6 A I don't remember specifically.

7 Q In looking at the bids you would look at the

8 gross amount of the bids as one of the criteria, and

9 there was a minimum amount of what gross proceeds had to

10 be?

11 A Uh-huh.

12 Q Do you recall what that had to be?

13 A I think it was 3 billion.

14 Q And then you had other criteria that were more

15 subjective, like the treatment of Plant Vogtle.

16 Did you ever get to the point where you had an

17 understanding of how you would factor into your

18 consideration of the best bid that bidder's proposal

19 regarding treatment of Plant Vogtle?

20 A No. We didn't have an opportunity to get that

21 far.

22 Q In the ITN do you know how the \$3 billion

23 number was arrived at for the minimum gross proceeds?

24 A I do not.

25 (Exhibit No. 8 was marked for identification.)

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1 Q And this was just a document I put in here to

2 put in context the data room. And this is a document

3 from John McCarthy, who was the procurement person for

4 the ITN, I just learned, and it's among -- to you, among

5 other people, the other two negotiators, Randall Barnes

6 and Robin Smith, actually just you three. And what

7 Mr. McCarthy is telling you: The most updated versions

8 of the APA and related agreements have been loaded into

9 the VDR folder, and the negotiation team can be given

10 access to this folder.

11 What I understand this is talking about is

12 something I referred to as the data room.

13 A Uh-huh.

14 Q And you were given -- you personally, and the

15 other two negotiators, were given access to the data

16 room?

17 A Correct.

18 Q Okay. And did you access the data room?

19 A Yes.

20 Q Was there particular things that you were

21 interested in seeing when you accessed the data room?

22 A Initially it was the ITN. I needed to read

23 that, because I had not at that point. And outside of

24 that, it would've -- I was taking things as they came.

25 So I just was trying to -- you know, from time to time

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1 would access whatever a topic of conversation was for
2 that particular session.

3 Q And are -- would you -- how frequently during
4 this process would you access the data room: Daily,
5 weekly, lesser amount of times?

6 A I would say probably a few times a week.

7 Q Other than the APA and related documents --
8 related agreements, excuse me, discussed in this e-mail,
9 and the ITN, do you recall any other specific documents
10 you sought out?

11 A Not specifically. It was more me just kind of
12 going through the different folders to see what would be
13 relevant for -- for my purposes.

14 There's a lot of information in there, and I
15 knew, I mean, I didn't have time to look at 8000
16 documents, so I was just trying to pick the ones that
17 were most important.

18 Q Did you have complete access to all the data
19 that was stored in the data room?

20 A As far as I know.

21 Q So --

22 A I couldn't tell you if I didn't.

23 Q You're not aware of any difference between the
24 access that the subject matter experts had and you had?
25 You just don't know about any difference?

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1 A Yeah, I don't know.

2 Q The document referred to in Mr. McCarthy's
3 e-mail is the updated versions of the APA and related
4 agreements.

5 What is the APA?

6 A Asset purchase agreement.

7 Q Okay. And what are the related agreements, if
8 you recall?

9 A It would have been related closing documents
10 essentially.

11 Q As I've seen it, there is the APA and there are
12 attached to it quite a large number of what's referred
13 to as, I think here, as related agreements that went
14 along with the APA.

15 A That makes sense.

16 Q Okay. Did you sign a confidentiality agreement
17 specifically related to access to the data room?

18 A I don't remember.

19 Q Do you recall signing earlier on -- I'm going
20 to get to it in just a minute -- a general
21 confidentiality in connection with your --
22 confidentiality agreement in connection with your
23 participation in the ITN process?

24 A I remember signing them essentially on a daily
25 basis. I don't think we signed them for each separate

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1 session we had. So I remember signing them at least on
2 a daily basis. And I don't know if there was anything
3 specifically for access to the data room, or anything
4 else.

5 Q Every day you had to sign a new confidentiality
6 agreement?

7 A Yes.

8 Q Okay. We've only found one dated one. That
9 just seems odd.

10 (Exhibit No. 9 was marked for identification.)

11 Q Exhibit 9 is an agenda for an 11/29/2019
12 negotiation session, and it concerned the revised
13 replies clarifications.

14 Can you tell me what revised replies
15 clarifications means?

16 A I can't tell you exactly without reviewing the
17 transcript. I don't know if it was really
18 clarifications or if it was just reviewing the executive
19 summary that the advisors prepared.

20 Q What we looked at in number seven was a revised
21 reply instructions.

22 A Uh-huh.

23 Q Do you recall that further down the line there
24 was going to be -- there was in fact a request for
25 further -- I think the way it was phrased was a request

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1 by JEA for updated revised replies.

2 A There was going to be. I don't know if that
3 actually ever went out before the process was
4 terminated, but that was the plan.

5 Q Okay. And ultimately the, if the process
6 hadn't ended, what you as negotiators would make a
7 decision on would be the updated revised replies that
8 may be referred to in this agenda Item 1?

9 A Well, I don't believe -- based on the date on
10 the agenda, I don't believe Item 1 was referring to the
11 revised replies that would have been received in
12 January. I believe this is referring to the ones that
13 had come in on the 26th.

14 Q 26th. Right. What I'm trying to understand
15 is, on the 29th had somebody already made a decision
16 that the replies that came in on the 26th were going to
17 have to be clarified at some time in the future?

18 A I -- I don't remember.

19 Q On each of the agendas we have looked at
20 there's an item called open discussion. And it may be
21 hard for you to recall, but do you ever recall at any of
22 the strategy sessions, negotiation sessions, that under
23 open discussions anything -- was there ever any
24 discussion of anything under the open discussion label?

25 A I -- without reviewing transcripts, I -- I

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1 don't remember.

2 Q You certainly don't remember anything?

3 A No, I just don't remember.

4 (Exhibit No. 10 was marked for identification.)

5 Q Okay. The next document is Number10. It's an

6 agenda for the 12/3/2019 meeting, and it looks like

7 there's quite a number of people attending this meeting.

8 At this meeting Item 1 is Revised Replies

9 Review. Can you tell me what happened in connection

10 with that agenda item?

11 A I believe this is where we went over the

12 executive summary that the advisors prepared.

13 Q I'm going to get to that summary next, but let

14 me ask a few more questions about this.

15 The Production Bid Summary document, do you

16 have an understanding what that refers to?

17 A Production of Bid -- well, that would be --

18 yeah, that would be --

19 Q Production of Bid. Okay. That's right.

20 A That's what I'm calling the executive summary.

21 Q Okay. Good. And we have Open Discussion,

22 Number 2, which never had anything occur at it. And

23 Number 3 was next steps.

24 Do you recall a timeline being developed at

25 this time?

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1 A Yes, the financial advisors.

2 Q Okay. Was it your under understanding that

3 J.P. Morgan and Morgan Stanley prepared this document?

4 A Yes.

5 Q Did you have -- did anybody -- I'll about you.

6 Did you have any input into the preparation of this

7 document?

8 A No.

9 Q Are you aware of anybody other than the

10 investment bankers who had input into the preparation of

11 the document?

12 A I'm not aware of anyone specifically.

13 Q It's possible, you just don't know?

14 A It's possible, but I -- yeah, I don't know.

15 Q And this document, as we just saw, was

16 discussed at the 12/3 meeting, which is the agenda for

17 Item 10.

18 How long did this meeting last, if you recall?

19 A I don't remember.

20 Q Who at this meeting was leading this meeting?

21 A If I remember right, it would have been Jason

22 Gredell. Yeah, I believe it was Jason Gredell.

23 Q Okay. Jason Gredell?

24 A Gredell.

25 Q Gredell.

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1 A I don't remember. That may have been where we

2 started discussing the January timeline, which I think

3 is very possible that that happened at this meeting

4 since that's specifically on this agenda.

5 Q And 3B says Document Markup.

6 Do you know what documents referred to as being

7 marked up?

8 A I don't remember that specifically. I -- I

9 don't remember.

10 Q And lastly, I don't know what it means, it says

11 Production of the Data Room.

12 Do you have any understanding what that means?

13 A No, I don't. I don't remember what that means

14 either, huh-uh.

15 Q Okay. Let's talk --

16 MR. RUSSELL: Okay. That will be 10. Thank

17 you.

18 (Exhibit No. 11 was marked for identification.)

19 Q And now we're to a document called Project

20 Scampi, Summary of Replies Revised Replies. It shows a

21 date of December 2019, and at the bottom of the document

22 it lists J.P. Morgan and Morgan Stanley.

23 You previously told us, Ms. Burch, that those

24 are the investment bankers that worked with the

25 negotiation group?

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1 A Uh-huh.

2 Q Okay. And tell me, if you can recall, how he

3 conducted this meeting? What did he do?

4 A Just walked through the document with us.

5 Q And the document was given to you at the

6 meeting?

7 A From what I remember, yes.

8 Q Okay. It wasn't given to you several days and

9 you brought it to the meeting -- several days before the

10 meeting?

11 A No.

12 Q It came --

13 A No.

14 Q Again, like every other document, you had to

15 return this at the conclusion of the meeting?

16 A Yes.

17 Q Okay. And unlike the document that I have here

18 as an exhibit, which has redactions in it, the document

19 that you saw had -- was not redacted?

20 A Correct.

21 Q Okay. And if we look at page 2, you see

22 columns of checks and number figures.

23 Is this a chart that shows this information for

24 each of the bids that were submitted?

25 A I believe so.

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1 Q Okay. And as you said before, the entity that
 2 would be in the two blacked-out numbers at the top of
 3 this chart would have been NextEra?
 4 A I believe so.
 5 Q Okay. And on page 3 -- yes, page 3 -- going
 6 over to page 4 there is a number of -- what would you
 7 call that -- charts with writing in it?
 8 A Uh-huh.
 9 Q And were these the investment bankers -- did
 10 you go over this at the meeting?
 11 A Yes.
 12 Q Okay. And these were the investment bankers'
 13 comments on each of the bids?
 14 A Yes.
 15 Q So the page 3 and 4, we're looking at the
 16 investment bankers' comments on NextEra Energy's bid?
 17 A Yeah. I mean, I think it was -- I would not
 18 necessarily characterize it as their comments. They
 19 were summarizing the bids in these charts. So I would
 20 say it's a summary of the bids.
 21 Q Okay. And in preparing a summary what you take
 22 is what you believe is the most important parts of a bid
 23 and reduce it to those important parts?
 24 A Uh-huh.
 25 Q So that's what you believe J.P. Morgan and
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1 Morgan Stanley did in this regard?
 2 A Yes.
 3 Q Do you recall any specific comments that Jason
 4 Gredell made about the NextEra bid?
 5 A Not specifically. I mean, they went through
 6 every single one of them with us, so...
 7 Q In connection with every single one, do you
 8 recall any comments that were made about any of the bids
 9 specifically?
 10 A No, I -- no, I don't.
 11 Q Do you recall at this 12/3/2019 meeting that
 12 Carla Miller was present?
 13 A I don't remember. Is she on the agenda?
 14 Q Yes, she's on the list of attendees.
 15 A I -- I don't -- I don't remember if she was at
 16 that one or not.
 17 Q Okay. And it also lists Lisa Green, the
 18 Inspector General.
 19 Was she at the meeting, if you recall?
 20 A I don't remember.
 21 Q And Lisa Green is the person we talked about
 22 just a few moments ago who took a recorded statement
 23 from you?
 24 A Correct. She and Deborah Anderson, who works
 25 for Lisa.

1 Q Okay. In this December 3 meeting do you recall
 2 making the comment that because of the time period, the
 3 aggressive time period, that some of the bidders must --
 4 might drop out?
 5 A I don't remember specifically, but it's very
 6 possible.
 7 We were looking at, you know, the management
 8 presentation meetings, and it was going to be difficult
 9 to manage eleven of those in one week, so...
 10 Q Okay. And do you recall in this meeting using
 11 the term self select to describe what may occur to some
 12 of the bidders?
 13 A I might have.
 14 Q Is that a term you use?
 15 A In a process like this, probably, but not every
 16 day.
 17 Q And what do you mean by self select?
 18 A Meaning like what we discussed earlier, that,
 19 you know, when we were talking about an aggressive
 20 timeline they would decide, well, that's something that
 21 we can't meet, and so we might decide to not travel to
 22 Atlanta for the management presentation. They would
 23 kind of take themselves out of the process.
 24 Q Okay. Do you recall that after this process,
 25 and I guess including the calls the following day, on
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1 December 4th, did some bidders in fact self select and
 2 drop out?
 3 A I don't remember that anyone necessarily self
 4 selected. I'll leave it at that. I don't remember that
 5 anyone self selected to not participate.
 6 MR. RUSSELL: I need to take a five-minute
 7 break myself.
 8 (Short break.)
 9 Q At the 12/3 meeting in which the summary of
 10 replies was discussed, do you recall there was a
 11 discussion about the need for some of the bidders to
 12 partner with other bidders in order to have a chance of
 13 being successful?
 14 A I don't know if we talked about it on that day,
 15 but it did come up in conversation at some point.
 16 Q In connection with the need for those bidders
 17 to partner, did the January 30, 2020 deadline present a
 18 particular problem for those -- those bidders?
 19 A It might -- it might have.
 20 Q Did someone say that it did? Do you recall in
 21 your December 4 calls?
 22 A Yes. I mean, I don't remember which team
 23 exactly said that, you know, it was going to make it
 24 difficult, but I think everyone was willing to try,
 25 so...

1 (Exhibit No. 12 was marked for identification.)
 2 Q I believe you told me you never saw this
 3 document. This actually is an evaluation matrix that
 4 was done before you were appointed by --

5 MS. BURCH: Are we done with this one?

6 MR. LINDSEY: Is this Exhibit 12?

7 MR. RUSSELL: Yeah. I'm sorry. I jumped
 8 ahead. I'm done with that one.

9 Q This is an exhibit that was prepared quite a
 10 while before you were appointed as a negotiator, but it
 11 is an evaluation matrix, and I just want to confirm that
 12 you never saw anything like this, or saw this particular
 13 document first.

14 A No.

15 Q Did you even -- and I may have asked this
 16 question, and I apologize if I did.

17 Did you even know that a prior evaluation had
 18 been done in the initial bids?

19 A Not that I recall.

20 MS. BURCH: Are we through with this?

21 MR. RUSSELL: Yeah. So that would become 12.

22 MS. BURCH: I don't recall who Juli Crawford.

23 MR. BLODGETT: JEA employee.

24 MS. BURCH: Oh, okay.

25 Q Yeah. I think my first question asked you if
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1 knew if this evaluation matrix did this.

2 A JEA employee. Right.

3 (Exhibit No. 13 was marked for identification.)

4 Q And the next document, which will become
 5 Exhibit 13, is the agenda for the 12/4/29(sic)
 6 negotiation strategy session.

7 My understanding is that this date, 12/4, was
 8 actually the day that you and Mr. Giardinelli made the
 9 calls to the bidders.

10 A Uh-huh.

11 Q Okay. And was there a meeting separate of
 12 those calls?

13 A Based on what you're showing me, it looks like
 14 it, yes. I don't remember specifically. I think we had
 15 a lot of meetings set up that day because we had to get
 16 in all of the phone calls with the proposers.

17 Q But you don't recall --

18 A So it's possible.

19 Q -- anything specific about this meeting that
 20 occurred amongst the negotiation team?

21 A Well, yeah, because I don't know if we
 22 discussed it, you know, on the 4th, or maybe on the 3rd,
 23 but we had a discussion in a strategy session about, you
 24 know, making the comments to the proposers when we
 25 called them about, you know, you're either close to the
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1 top, or you're close to the bottom so your bid is going
 2 to have to increase.

3 We did have a conversation about that at some
 4 point. I don't remember if it was on the 3rd or the
 5 4th.

6 Q The time of this meeting was 1:30.

7 Do you recall on the 4th, if that was the date
 8 the calls were made, did you make some calls before this
 9 meeting and some of the calls after this meeting to the
 10 bidders?

11 A I don't remember, but it's possible.

12 Q At the December 3 meeting where there was
 13 further discussion, I think you said, about the
 14 deadline, do you recall what the investment bankers had
 15 to say, if anything, about the January 30, 2020
 16 deadline?

17 A Yes. They didn't like it.

18 Q Did they say why?

19 A They just thought it was too aggressive; we
 20 needed to give the proposers more time.

21 Q And on the agenda for the 12/4 it says review
 22 of next steps.

23 Do you recall what the next steps were?

24 A No, I don't remember what that's talking about.

25 Q And there was no writing of what the next steps
 Hedquist & Associates Reporters, Inc.

1 were that you recall?

2 A Not that I'm aware of.

3 (Exhibit No. 14 was marked for identification.)

4 Q Exhibit 14 is Acknowledgment of
 5 Confidentiality. It's dated November 27, 2019, and it
 6 indicates ITN, negotiation strategy meeting, and it has
 7 text that talks about the need for you to maintain
 8 confidentiality concerning the ITN process, and
 9 describes a number of code provisions and statutes that
 10 require that confidentiality.

11 Do you recall being provided this document?

12 A Like I said before, I've signed several of
 13 these along the way, so when you say provided the
 14 document, I signed them and gave them back to JEA, so...

15 Q And you said something I'm just unaware of;
 16 that you believe you may have signed a document like
 17 this at the beginning of every meeting, negotiation
 18 strategy meeting?

19 A I don't know about the beginning of every
 20 meeting, but it was --

21 Q Multiple?

22 A -- usually daily when we signed these.

23 Q Okay.

24 A Because it was intended to cover that day,
 25 knowing that we would have several meetings during a
 Hedquist & Associates Reporters, Inc.

1 day.

2 Q So when you say daily, you mean daily as to

3 each day that you had a JE --

4 A No.

5 Q -- ITN meeting?

6 A Yes.

7 Q You didn't every day just get up and sign one

8 of these?

9 A Right.

10 Q Okay.

11 A Yes.

12 Q All right.

13 A Thank you for correcting that, but, yes, that's

14 what I meant.

15 (Exhibit No. 15 was marked for identification.)

16 Q And the next agenda is for the 12/9 negotiation

17 strategy meeting, and it says -- Item 1, the topic is

18 Production of Management Presentation Document.

19 Can you tell me what the management

20 presentation document was?

21 A That was the document that JEA used during the

22 management presentations.

23 Q And if I understand what's going to happen,

24 that document was going to be used I think beginning the

25 next day on December 10th, in which the negotiation team

Hedquist & Associates Reporters, Inc.

1 was meeting with the bidders in Atlanta?

2 A Yes.

3 Q Okay. Was the production presentation document

4 actually at this meeting? Did you get to see it?

5 A I don't remember that. My first recollection

6 of receiving the presentation document was at the very

7 first meeting that we had with the proposer.

8 Q Okay. And since you haven't seen it, I will

9 take it as true that you had no input into what the

10 document was going to say?

11 A No, no.

12 Q And at the meetings, which I do believe began

13 on that next day, which was the 10th of December --

14 A Uh-huh.

15 Q -- do you know how long the meetings went on?

16 Was it the 10th, the 11th, and 12th of December, or was

17 the last date --

18 A Without looking at a calendar, it was either a

19 total of three or four days.

20 Q Okay. And tell me -- these meetings; what was

21 the structure of these meetings with the bidders?

22 A JEA would go through their management

23 presentation, which took an hour to two hours I believe

24 for them to do that, and then we reserved about an hour

25 for questions and back and forth with the bidders.

Hedquist & Associates Reporters, Inc.

1 Q Okay. Now, in the presentation of management

2 did the negotiators talk at all during that part of the

3 meeting?

4 A During the presentation?

5 Q Yes.

6 A No. Typically not until the question and

7 answer period.

8 Q And then at the second part of the meeting when

9 bidders were asking questions would negotiators respond?

10 A From time to time.

11 Q Would the subject matter experts also respond?

12 A Yes.

13 Q And did on some occasions the consultants, the

14 investment bankers, or the lawyers respond to the bidder

15 questions?

16 A Yes.

17 Q Okay. So if you got this document --

18 MS. BURCH: Are we done with this one?

19 MR. RUSSELL: Yes, we're done with 15, and

20 thank you very much.

21 (Exhibit No. 16 was marked for identification.)

22 Q So the next document which will become

23 Exhibit 16 is the Management Presentation For Project

24 Scampi, and it shows a date on the cover of 2019.

25 This is a document that you recall that you

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1 first saw when the meeting with the bidders began in

2 Atlanta?

3 A Yes.

4 Q I'm sorry. One further question I forgot to

5 ask on 15.

6 A All right. Sorry. Back to 15.

7 Q Sure, please.

8 A Okay.

9 Q It says: Production of draft APA.

10 That's the asset purchase agreement we talked

11 about earlier?

12 A Uh-huh.

13 Q And do you recall if the draft APA document was

14 available to you at this meeting?

15 A I do not remember.

16 Q And Number 3 is MIRA Communication.

17 Do understand what MIRA Communication refers

18 to?

19 A I believe that's referring to --

20 Q Pardon me.

21 A I believe -- so when we say MIRA we're

22 referring to the Macquarie team, and I believe they had

23 sent a letter to JEA about something regarding the

24 process. I don't remember exactly what the letter was

25 about.

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1 Q Was the letter about MIRA dropping out of the
2 process?

3 A It may have been.

4 Q Did they in fact drop out of the process?

5 A I don't think anybody did before we -- before
6 it was terminated.

7 Q Okay. We talked about the -- in the December 3
8 meeting that the investment bankers thought that the
9 January 20, 2020 date was aggressive.

10 Do you recall where the subject matter experts
11 were on that topic? Were they of the belief that it was
12 too aggressive also?

13 A What I remember is that I think everybody felt
14 that the timeline was aggressive. We all knew that it
15 was moving the timeline up. So we all knew that it was
16 an aggressive timeline, but I think those of us who were
17 more -- who lived in Jacksonville and, you know, worked
18 for either JEA or the City were very well aware of what
19 was going on with the news media at the time, and the
20 public conversation that was happening.

21 So I think we were all kind of balancing an
22 aggressive timeline with also trying to get the
23 procurement completed at some point.

24 Q Okay. So you said the decision was made -- or
25 not going to alter the January 20 -- January 30, 2020
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1 deadline. Whose decision was that?

2 A I don't think we ever made a decision. We
3 talked about it, but I don't think we ever came to a
4 conclusion that that's what was going to happen,
5 because, like I said, there still was a -- there still
6 was a lot of negotiation that had -- that had to happen.
7 And so I personally never felt like we actually settled
8 on January 30th as a deadline.

9 Q Okay. And as of the date that the termination
10 occurred, December 24th, the day before Christmas -- as
11 of December 24th, in your mind, what would be the
12 submission deadline, was still subject to change?

13 A Yes.

14 MR. RUSSELL: That was 16.
15 (Exhibit No. 17 was marked for identification.)

16 Q Okay. 17 is the Asset Purchase and Sale
17 Agreement we talked about before. It shows in the upper
18 right-hand corner that it's a draft prepared by the law
19 firm of Pillsbury Winthrop Shaw & Pittman, and dated
20 12/12/19.

21 Do you recall seeing this document, Ms. Burch?

22 A I can't say specifically. I -- I may have
23 reviewed it, but I reviewed a lot of documents, so I
24 don't remember if I read every paragraph in this
25 document.

1 Q Did you have an understanding as to what the
2 work product that was being done by the lawyers? Were
3 they in the process of preparing an asset purchase and
4 sale agreement that would be a generic agreement that
5 could be used by any of the bidders --

6 A Yes.

7 Q -- who actually signed it?

8 And none of these agreements were prepared
9 by -- for a specific bid, or to match up to a specific
10 bid?

11 A That's my understanding.

12 Q Okay. And I think we talked about --

13 MR. RUSSELL: This will be 17 then -- no,
14 excuse me. This will be 18. That will be 17.
15 (Exhibit No. 18 was marked for identification.)

16 Q And 18 is a System Coordination Agreement.
17 Do you recall what this document had to do in
18 connection with the sale of JEA?

19 A No I don't remember this one at all.

20 Q And so you don't know -- were these -- I'll
21 call them, for lack of a better term, sub agreements.

22 To your knowledge, were any of sub agreements
23 being prepared based upon the structure of any specific
24 bids?

25 A Of any specific bids?
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1 Q Right.

2 A No.

3 MR. RUSSELL: And so we marked that one as 18.
4 (Exhibit No. 19 was marked for identification.)

5 Q Number 19 is a letter dated December 12th from
6 -- 12, 2019 -- from Mayor Curry to JEA board members.

7 Do you recall reading this letter?

8 A Can I read it first?

9 Q Sure. Absolutely.

10 MR. RUSSELL: And I'll go get some water.
11 Take your time. I'm going to grab a bottle of
12 water.

13 MS. BURCH: Okay.

14 A So I don't recall ever reading this document,
15 but there was obviously conversation about it.

16 Q Okay. And there really was just two specific
17 paragraphs I wanted to ask you about.

18 A Okay.

19 Q First, the mayor seems to have adopted -- I
20 think it was originally your idea -- that the ITN
21 process should conclude by the end of January. On
22 page 2 --

23 A What paragraph.

24 Q -- paragraph 2.

25 A Paragraph 2?

1 Q Yes.

2 A Looks like it.

3 Q Okay. Is that just a coincidence?

4 A I don't know.

5 Q Do you know if he had knowledge that the

6 January 20, 2020 date was being used by the negotiation

7 team in talking to the bidders?

8 A I don't know.

9 Q Okay. And then in paragraph 3 the concept I

10 wanted to talk to you about it says: -- the mayor's

11 saying that a top tier of the proposals should be given

12 to the City Council for them to review and consider.

13 And that's different than the idea being

14 pursued by the negotiation team of a single bidder.

15 A Yes, it was.

16 Q But did the negotiation team ever meet again

17 before the cancelation of the ITN and discuss the

18 mayor's request -- demand -- or, excuse me, the request

19 to the JEA board members that a top tier of bidders be

20 provided to the board?

21 A Yes. We talked about it at a strategy session.

22 I don't remember what the date was, but I know there was

23 conversation about it.

24 Q Can you tell me about that conversation,

25 please?

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1 A Yeah, it was really -- you know, up until this

2 time we had all been on the path to choose one entity,

3 and we were contemplating, you know, his comments in the

4 letter, as it had been reported in the press, whether

5 that was even possible, you know, because we all felt

6 that -- or I -- I can't speak for everybody else, but I

7 felt that we had to close the procurement in order to be

8 able to actually send something to the JEA board.

9 And in my mind, the only way you could close a

10 procurement was to have a best value proposer to

11 present.

12 MR. RUSSELL: So that will be 19, I hope.

13 (Exhibit No. 20 was marked for identification.)

14 Q And 20 again is -- is a document. I don't know

15 whether you would have even seen this document.

16 First, a very confusing thing about the

17 document is it indicates it's from NextEra, but that's

18 because the produced copy we got was produced by NextEra

19 and they put their stamp on it. So this is actually a

20 JEA document.

21 Did you ever see this document?

22 A Let me take a look.

23 So I can't tell you specifically whether I

24 reviewed this. I can't tell you specifically whether I

25 reviewed this or not.

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1 Q Just so we can identify it, what this is is an

2 updated revised reply instructions for the Project

3 Scampi Invitation to Negotiate. And what your

4 negotiation team had seen before was just revised reply

5 instructions.

6 So this is a further request, if I understand

7 it, and if you agree with me, that further replies be

8 submitted by the bidders.

9 A That is my understanding.

10 Q Okay.

11 A And if you got this from NextEra, then, you

12 know --

13 Q It went out.

14 A Yeah, I would assume that it went out.

15 Q Yeah, it did.

16 And then my question is, do you know if any

17 updated revised replies were provided to JEA or to the

18 negotiation team actually by any of the bidders?

19 A No, because they weren't -- we didn't expect

20 them until January.

21 (Exhibit No. 21 was marked for identification.)

22 Q Then 21 is a lot of people showing up for a

23 canceled meeting, and this looks like a meeting that was

24 scheduled for the negotiation team and NextEra.

25 Is that my understanding of this?

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1 A So without me -- I -- I don't remember exactly,

2 but what this looks like, because it includes U.S. Water

3 on there -- U.S. Water.

4 I -- you know what? I can't tell you

5 specifically if this was -- it may have been partnering

6 meeting as well.

7 Q My understanding is NextEra makes it on this

8 agenda with U.S. Water because they were talking about

9 partnering on the water side.

10 A Very possible.

11 Q Okay. And it got canceled. I just don't know

12 what it is.

13 What is the FTI Regulatory Report? Do you

14 know?

15 A Oh, yeah. That was a report that had been

16 prepared by a different advisor, and it was talking

17 about as far as with the states, the -- what's the

18 commission? Like the utility -- the state's -- yeah,

19 the PSE. That's right. Public Service Commission.

20 Kind of there was a lot of discussions about

21 what types of approvals would have to be obtained from

22 the Public Service Commission. So that was a report

23 that that particular consultant was -- you know, had

24 prepared on what approvals would be required, and which

25 ones wouldn't for the different type of transactions.

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1 Q Okay. And in the first line in parens is the
 2 term Jethawk. Do you see that?
 3 A Yeah.
 4 Q Do you know what Jethawk means?
 5 A I don't.
 6 Q Do you recall that it was a code name for
 7 NextEra?
 8 A I don't remember that.
 9 Q Okay. And this meeting, which was scheduled
 10 for 2 o'clock on November 23rd, 2019, was canceled.
 11 Do you know why it was canceled?
 12 A Well, based on the date and the time, I believe
 13 it's because that was after the mayor had come out and
 14 publicly asked the JEA board to cancel the ITN.
 15 (Exhibit No. 22 was marked for identification.)
 16 Q What I have as the document, which is the --
 17 that will become 22, the Notice of Cancellation of the
 18 ITN and it's dated December 24, 2019.
 19 A Uh-huh.
 20 Q And this is from the JEA.
 21 So it's your recollection that prior to this
 22 notice coming out there was public knowledge of the
 23 mayor requesting JEA to cancel the ITN?
 24 A That's what I remember.
 25 Q Okay. And then JEA actually did that, because
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1 it had its choice to cancel or not. It did it on the
 2 following day?
 3 A Correct.
 4 Q Is it your belief that the INT process was in
 5 fact canceled by the JEA because of the mayor's request?
 6 A I would say, no, that's not my belief. The JEA
 7 board acts independently, and so it was up to them to
 8 have the discussion whether they wanted to take his
 9 comments under advisement or not.
 10 Q Sure. So do you have a belief that they would
 11 have canceled it without the mayor's request as if it
 12 had never occurred? The JEA board.
 13 A That's hypothetical for me to, you know, opine
 14 on what they were going to do, and I can't -- I can't do
 15 that.
 16 Q You don't know?
 17 A I don't know.
 18 Q During the ITN process did you ever speak to
 19 any member of the JEA board?
 20 A No, outside of I think I met April Green in the
 21 elevator once, and that was it.
 22 Q And just to wind it up and be clear, consistent
 23 with the confidentiality agreement and what you
 24 understood about the code of silence, your knowledge is
 25 that you never spoke to anybody outside of the
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1 negotiation team about the INT process?
 2 A So outside of talking to people inside the
 3 office?
 4 Q Inside whose office?
 5 A The mayor's office. Those who -- my colleagues
 6 who I work with inside the mayor's office, my husband
 7 about scheduling purposes, no, there were no
 8 conversations outside that.
 9 Q And the conversations that happened with those
 10 inside the mayor's office were limited to scheduling
 11 issues?
 12 A Yes.
 13 Q No substantive conversations about what was
 14 going on in the ITN process?
 15 A Correct.
 16 Q Okay.
 17 MR. BLODGETT: Let's just take a five-minute
 18 break, and I think we're going to wrap it up with
 19 some questions about your cell phone records.
 20 MS. BURCH: Okay.
 21 (Short break.)
 22 BY MR. BLODGETT:
 23 Q Ms. Burch, my name is Kevin Blodgett. I just
 24 want to say before I begin my questions, I know that you
 25 have a lot going on right now with the City and the
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1 Covid crisis, and I've heard nothing but good things
 2 about what you're doing, so I truly appreciate you
 3 coming in and speaking with us.
 4 A Thank you.
 5 Q Because I've heard you're working 60, 80,
 6 100-hour weeks, and we really appreciate that.
 7 A It's been a lot. Thank you.
 8 Q So with in that in mind, I'm going to try to
 9 get you through this as quickly as I can.
 10 A Okay.
 11 Q And some of these questions are going to seem
 12 silly, but trust me, I wouldn't ask them if I didn't
 13 think I had to, so...
 14 A Understood.
 15 Q I want to begin just with some general
 16 questions about cell phone or cell phones you had in
 17 November or December of 2019.
 18 Based on the records you provided to us, my
 19 understanding is that you were using a cell phone while
 20 you were participating in the ITN negotiations. Is that
 21 accurate?
 22 A Potentially. You mean during a strategy
 23 session?
 24 Q Well, did you just have a cell phone in
 25 November/December 2019?
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1 **A** So I have two cell phones. One is my personal
2 and one is my City cell phone.
3 **Q** Did you provide records for both cell phones?
4 **A** Only for my personal.
5 **Q** Okay. Did you conduct any business relating to
6 the ITN process through the -- I assume the City cell
7 phone you had?
8 **A** Not -- not that I remember. But I would ask if
9 I could as a follow up when we leave here to just go
10 through and check that, because I only remember using my
11 personal cell phone, and so I did not look at my COJ
12 cell phone.
13 So if I could follow up with that with you all,
14 I'll do that when I leave.
15 **Q** Just so we're clear, you're going to go back
16 when we're done, look at your City cell phone records
17 and see if there are any documents responsive to Lanny
18 Russell's request, which is Exhibit 24.
19 THE REPORTER: Exhibit 23.
20 MR. BLODGETT: Yeah, we're skipping 23. It
21 goes from 22 to 24.
22 (Exhibit No. 24 was marked for identification.)
23 MR. BLODGETT: Good catch.
24 **Q** Do you have any idea about the timeframe that
25 will require?

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1 **A** Yes, I do.
2 MR. LINDSEY: She will do it promptly.
3 MS. BURCH: Yes, I will do it promptly.
4 MR. BLODGETT: I appreciate that.
5 **Q** So my questions are going to be just tailored
6 then to your personal cell phone.
7 **A** Yes.
8 **Q** And your personal cell phone is the device from
9 which you produced the records that we received?
10 **A** Yes.
11 **Q** Okay. Do you know what type of cell phone you
12 were using in December and November of 2019?
13 **A** Yes. It's a iPhone 11 Pro, I believe.
14 **Q** Okay. And you still have that phone; it's with
15 you here today?
16 **A** Yes.
17 **Q** And do you know what the phone number is
18 associated with that phone?
19 **A** (904)654-4948.
20 **Q** And who is the service provider for that cell
21 phone as of November and December of 2019?
22 **A** Verizon.
23 **Q** And Verizon is still your cell phone service
24 provider?
25 **A** Yes.

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1 **A** I can get it -- I can find out by the end of
2 the week.
3 **Q** Okay. It's not a super rush. I just want
4 to --
5 **A** Yeah, I really don't think there's anything on
6 there, but I did not think to check it, but I realize
7 now that I should do that.
8 **Q** Okay.
9 **A** Yeah, I'll get you something by the end of the
10 week, if I have anything.
11 **Q** Okay. We appreciate it.
12 **A** Yeah.
13 MR. RUSSELL: Tomorrow.
14 MS. BURCH: It is, isn't it?
15 MR. LINDSEY: We'll need a little more than
16 that.
17 MS. BURCH: We'll say by Monday.
18 MR. RUSSELL: Or Tuesday. That's fine.
19 MR. LINDSEY: Give her until Wednesday.
20 **Q** And the only reason I'm even asking you about a
21 timeframe is because my understanding is that not all
22 City Hall is open yet, so I just didn't know if you have
23 IT assistants to help you, or anything like that.
24 **A** Oh, yeah, I do.
25 **Q** Okay.

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1 **Q** So other than that cell phone and your City of
2 Jacksonville cell phone, did you use any other cell
3 phones while you were an ITN negotiator?
4 **A** No.
5 **Q** Do you have an employment agreement with the
6 City of Jacksonville?
7 **A** An appointment agreement?
8 **Q** Employment. Sorry.
9 **A** Employment. No.
10 **Q** Have you ever signed an agreement with the City
11 of Jacksonville that governs how you are supposed to use
12 your cell phone?
13 **A** There -- I know the City has a -- I'm pretty
14 sure the City has a policy. There's an electronics use
15 policy that the City has that I believe I've signed.
16 **Q** Do you recall when you signed that document?
17 **A** I don't remember. I'd have to check.
18 **Q** Would you be able to give us a copy of that
19 document?
20 **A** Sure.
21 MS. BURCH: I don't have anything to take a
22 note with, but --
23 MR. LINDSEY: I've got it.
24 MS. BURCH: You've got it. Okay.
25 **A** Yes, I can get you a copy.

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1 Q Thank you.

2 A And I -- to be clear, I assume you want the one

3 that I signed?

4 Q Correct.

5 A You want some proof that I signed it?

6 Q Right.

7 A Okay.

8 Q So the first document I'm going to talk about

9 is an e-mail that's Exhibit 24, and it's -- it begins

10 with the -- the top of the chain is: From Warren

11 Lindsey to Lanny Russell, but I'm mostly going to talk

12 about the last page, which is page 3. It's an e-mail

13 from Lanny Russell to Warren Lindsey dated June 1st,

14 2020.

15 A Uh-huh.

16 Q And it contains the request for documents we

17 made for you to bring with you or produce prior to this

18 statement today.

19 A Uh-huh.

20 Q Did you comply with that production request?

21 A So there's still a couple things pending.

22 Number one would be COJ cell phone that I need to check.

23 And the other thing that's pending is I did ask ITD to

24 do a search of my e-mails and calendar appointments.

25 I received a response from them late Tuesday.

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1 Some of the response is included in a PST file that I

2 have not yet figured out how to open, and I just did not

3 have time yesterday to get with ITD to give me

4 instruction on how to open that so I could review the

5 files. But I do have -- I do have that to respond as

6 well.

7 Q And just for clarification, what is ITD?

8 A It's our IT department. I can't remember what

9 the I stands for.

10 Q Information and technology department.

11 A Yes. Thank you. Thank you. That's what it

12 is.

13 Q I just didn't want to make the assumption.

14 A Information and technology, yes.

15 Q That's with the City of Jacksonville. It's not

16 an --

17 A Yes.

18 Q -- outside service provider?

19 A Correct.

20 Q So in addition to looking at the potential

21 records you may or may not have with the City of

22 Jacksonville cell phone, you're going to go back and

23 look at those documents that ITD gave you and see if

24 those are responsive to Mr. Russell's request?

25 A Yes.

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1 Q Okay. And if they are responsive you'll

2 produce them to us?

3 A Yes.

4 Q Okay. And my understanding is -- and this may

5 or may not be correct -- is that you accidentally

6 deleted one or more text messages with John McCarthy

7 prior to coming here today?

8 A Yes.

9 Q Are there any other cell phone records you're

10 aware of that are responsive to Mr. Russell's request

11 that you did not produce to us?

12 A None that I'm aware of.

13 Q Do you recall how many texts were deleted

14 between you and Mr. McCarthy?

15 A It was my whole chain at the time. So whatever

16 I had with John from the day that I met him, which I

17 believe was November 25th, through whatever the last

18 date was.

19 I remember I was at the airport in Atlanta, so

20 it would have been the day that we were leaving Atlanta.

21 So...

22 Q So you believe that you deleted one text chain,

23 but it may have comprised multiple text messages?

24 A Correct.

25 Q And do you recall how you accidentally deleted

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1 those messages?

2 A No. My phone's fairly new. I had just gotten

3 it towards the latter part of October, so I was still

4 kind of learning how to use it, because not only was it

5 a new phone, but I had switched over from Google -- a

6 Google phone -- I forget what they're called -- Android.

7 I had switched from Android to iPhone, and so was still

8 learning how to use it, and I was just fiddling around

9 with it in the airport and accidentally deleted the

10 chain with John.

11 Q Do you remember the general timeframe that you

12 made the switch from Android to iPhone?

13 A It was when I got this phone in the latter part

14 of October. So it was between mid and late October.

15 Q Of 2019?

16 A Yes.

17 Q And to your knowledge you did not delete any

18 other texts relating to the ITN process from your phone?

19 A To my knowledge.

20 Q Okay. Do you recall what the deleted text with

21 Mr. McCarthy said?

22 A No. Most of my text messages with him, as they

23 were with Jenny, were about scheduling. So it was all,

24 you know, meetings, or questions about meetings, or when

25 I needed to be somewhere, things like that.

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1 Q So scheduling of ITN-related issues?
 2 A Yes.
 3 Q Have you ever spoken with Mr. McCarthy about
 4 any subject matter that was not related to the ITN?
 5 A I mean, I'm sure we have at some point. You
 6 know, we talked. I believe he graduated from Ohio
 7 State, and I grew up in Ohio, so I know we talked about
 8 that at some point. So I'm sure we talked about things
 9 outside of that.
 10 Q How about text messages outside of the ITN
 11 process you were involved in? Had you ever texted
 12 Mr. McCarthy outside that context?
 13 A I can't say for sure without reviewing them. I
 14 don't remember.
 15 Q Do you recall the timeframe of the texts that
 16 were deleted?
 17 A Well, I met John on November 25th, and then
 18 whatever the date was that they were deleted, which was
 19 when I was -- like I said, I was sitting in the airport
 20 in Atlanta waiting on my return flight.
 21 So whatever that date was. It about
 22 December 13th or 14th, I think.
 23 Q And the Atlanta flight you're talking about,
 24 was that the Atlanta meet -- related to the Atlanta
 25 meetings for the ITN process?
 Hedquist & Associates Reporters, Inc.

1 A Yes.
 2 Q So that would have been mid December 2019?
 3 A Yes.
 4 Q So if you would look at Mr. Russell's e-mail
 5 that's been as Exhibit 24, one of the things he
 6 requested, and it's actually 1, little i, it's, I'll
 7 quote, logs for cell phone calls and texts, unquote, for
 8 the month of November and December of 2019.
 9 A Right.
 10 Q We did not receive any text message logs. We
 11 only received cell phone call logs.
 12 Did you check with Verizon to see whether or
 13 not Verizon has cell phone text logs?
 14 A No.
 15 Q Okay.
 16 A No. I don't --
 17 MR. LINDSEY: I don't even know that that --
 18 MS. BURCH: Yeah. I don't know what that is.
 19 MR. LINDSEY: So that would be my -- my -- my
 20 fault. I didn't even understand that.
 21 MS. BURCH: I didn't either.
 22 MR. BLODGETT: And I didn't know this until I
 23 had a case that revolved this issue about two months
 24 ago.
 25 MR. LINDSEY: Okay. Well, at your age, you're
 Hedquist & Associates Reporters, Inc.

1 young, I'm okay.
 2 MS. BURCH: See, I didn't know -- I didn't
 3 understand that.
 4 MR. BLODGETT: Yeah. So there are cell phone
 5 call logs, and you produced the cell phone call
 6 logs.
 7 MS. BURCH: Right.
 8 MR. BLODGETT: It looks like this document,
 9 which is Exhibit 27. And there's the same thing,
 10 but for text, for some providers.
 11 MS. BURCH: Okay.
 12 MR. BLODGETT: I'm pretty sure Verizon has text
 13 logs.
 14 MS. BURCH: Okay.
 15 MR. BLODGETT: If you could provide those to
 16 us, it would also be helpful.
 17 MS. BURCH: I'll check with them.
 18 MR. BLODGETT: And I'm also going to ask for
 19 the call logs -- or the text logs, if you would.
 20 They do not typically contain the -- the bodies of
 21 text messages, what you write or receive, but they
 22 will have, you know, the date, the time, the sent
 23 number, the received number.
 24 If you would provide us a version of that log
 25 from November 21st, 2019 to December 24th, 2019.
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1 MS. BURCH: Okay.
 2 MR. BLODGETT: Basically the day of your
 3 appointment until the day the ITN was canceled.
 4 And if you would, just --
 5 MS. BURCH: Well, the day of my appointment was
 6 November 25th. So are you saying -- because you
 7 said the 21st, and that's the day that Brian asked
 8 me to participate, but my appointment was
 9 technically on the 25th.
 10 MR. BLODGETT: Okay. I got you. Yeah, so I
 11 guess let's stick with the 21st, so when Brian spoke
 12 with you, to December 24th when the ITN was
 13 canceled.
 14 MS. BURCH: Okay.
 15 MR. BLODGETT: And if you would, just please do
 16 not redact the call information about, you know,
 17 like the numbers, the times, et cetera.
 18 But if you see that there's irrelevant text
 19 messages, bodies of the text, like I'm fine with you
 20 redacting those.
 21 Is that okay?
 22 MS. BURCH: Say that again. Don't redact date
 23 and time?
 24 MR. BLODGETT: Right. Yes, we want to be able
 25 to -- right. So we'd like to see the date, time,
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1 sender and recipient of each text within that
 2 timeframe. And if there are relevant text messages,
 3 in your judgment they're relevant to the ITN, we'd
 4 like to see those too, but if you see that there's
 5 personal text that are unrelated to the ITN, we're
 6 fine with you redacting those.

7 MS. BURCH: Okay.

8 MR. BLODGETT: Okay. Thanks.
 9 (Exhibit No. 25 was marked for identification.)

10 Q So the next exhibit is Exhibit 25. It's a
 11 memorandum created by Rory Diamond, Jason Gabriel, and
 12 Sean Granat, and it's dated January 24, 2020.

13 If you'll read it towards the middle of the
 14 paragraph, and there's only one paragraph in this memo,
 15 bu it says that, you know, Rory Diamond had instructed
 16 JEA to, quote, immediately cease the destruction,
 17 purging, or removal of any and all records whatsoever in
 18 the possession, custody, or control of JEA, JEA
 19 employees, and any third-party agents such as vendors
 20 and consultants.

21 Do you see that?

22 A I do.

23 Q Did you ever get a copy of this memorandum?
 24 A I believe so, because it was sent to the CDC
 25 e-mail address, which I have access to. I receive
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1 everything that comes through that e-mail.

2 Q Okay. And so this memorandum would have been
 3 after you accidentally deleted --

4 A Yes.

5 Q -- your text messages to Mr. McCarthy?
 6 A Yes.

7 Q Do you remember how you got a copy of this
 8 memorandum?
 9 A Through the CDC e-mail.

10 Q Okay. So just an e-mail to multiple people.
 11 You were on a chain --

12 A Yes.

13 Q -- and you received it that way?
 14 A Yes.

15 Q Did you ever have any conversations about this
 16 memorandum with anyone?
 17 A No.

18 Q Do you recall that you read this memorandum
 19 when you received it?
 20 A Yes.

21 Q After you read the memorandum did you do
 22 anything to try to recapture the text that you had
 23 accidentally deleted?
 24 A No.

25 Q Do you recall why you did not?
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1 A It was directed to JEA, and John McCarthy is
 2 the other party on that text message chain, so John
 3 would have preserved it.

4 Q Did you ever talk to John McCarthy to verify
 5 that he had the text chain that you accidentally
 6 deleted?
 7 A No.

8 MR. LINDSEY: I instructed her not to contact
 9 him.

10 MR. BLODGETT: Okay.

11 Q Prior to becoming an ITN negotiator, or really
 12 at any point in the ITN process, did you receive any
 13 instructions from anyone, including JEA's attorneys or
 14 OGC, about preserving information related to the ITN
 15 process?
 16 A Yes.

17 Q Can you explain the information that was given
 18 to you?
 19 A Don't delete anything.

20 Q And who told you that?
 21 A I don't remember. I don't remember exactly. I
 22 mean, there are several conversations. You know, Carla
 23 Miller would speak up from time to time, and, you know,
 24 give reminders about things. And between Lynne and the
 25 attorneys at Foley, you know, there were -- there were
 Hedquist & Associates Reporters, Inc.

1 conversations about it from time to time.

2 Q But you remember having multiple conversations
 3 with different sets of attorneys about that issue?
 4 A I mean, not specifically. It's more -- you
 5 know, it was more about public meetings and public
 6 records, and, you know, the rules around all of it, and,
 7 you know, I -- I know -- you know, I know the law
 8 surrounding public meetings and public records, and I
 9 just unfortunately made a mistake when I accidentally
 10 deleted those text messages.

11 Q And just to make sure I understand your earlier
 12 testimony, you've reached out to ITD to give you some
 13 information.
 14 Have you specifically asked ITD to help recover
 15 deleted texts you had with Mr. McCarthy?
 16 A No, because it's on my personal cell phone.
 17 They don't have access to that.

18 Q So even though that ITN process related to City
 19 business, you don't feel comfortable going to ITD to ask
 20 to recover that text?
 21 A No. I don't know how they would.

22 Q Do you -- between the date that you were
 23 appointed to the ITN -- strike that.
 24 The date that you spoke with Mr. Hughes and the
 25 date that the ITN was canceled, did you ever back up
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1 your cell phone?
 2 **A** I don't know specifically. That's a great
 3 question though, because I think it backs up every
 4 night. I think I have it set to back up every night.
 5 So potentially.
 6 **Q** Okay.
 7 **A** Just not knowing.
 8 **Q** When you say you have it set to back up, what
 9 do you mean by that?
 10 **A** I think when you plug it in at night -- when I
 11 plug it in at night to charge it, I think it's set to
 12 automatically back up every night.
 13 **Q** Would that be backed up on your computer, or an
 14 external hard drive, or --
 15 **A** No. I think it's in the Cloud with Verizon.
 16 I'd have to check though. I don't remember.
 17 **Q** But you believe that Cloud is through Horizon
 18 and not the iCloud?
 19 **A** Verizon.
 20 **Q** Okay.
 21 **A** Yes.
 22 **Q** And I'm assuming --
 23 **A** It may be through iCloud too. I -- I don't
 24 know for sure.
 25 **Q** Okay. So did you check the Verizon Cloud to
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1 see if those deleted texts were there?
 2 **A** Nope. I didn't think about it.
 3 **Q** Okay. And then you indicated that you may
 4 use -- it sounds like you haven't confirmed this, but
 5 you may use iCloud as well?
 6 **A** Yes, I may.
 7 **Q** And I'm assuming you did not check the iCloud
 8 to see if those texts were saved there?
 9 **A** No. I didn't think about that.
 10 **Q** So would you check those two?
 11 **A** Yes, I will.
 12 **Q** Similar line of questioning, but do you use
 13 iTunes?
 14 **A** Yes, yes.
 15 **Q** When's the last time you used iTunes?
 16 **A** I couldn't say for sure.
 17 **Q** Okay.
 18 **A** I couldn't say for sure. It's mostly just
 19 to -- to get -- to download apps for things.
 20 **Q** Okay. And the reason I ask that is sometimes
 21 people have iTunes set up so that it syncs with their
 22 phone and it will download basically backups of certain
 23 files.
 24 So if you would also check --
 25 **A** Yeah.

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1 **Q** -- your iTunes library --
 2 **A** Yeah.
 3 **Q** -- that will be helpful too.
 4 **A** I will. You know a lot more about this than I
 5 do.
 6 **Q** Well, I just got instructions from someone who
 7 actually knows they're talking about.
 8 **MR. RUSSELL:** Do you still believe this was my
 9 e-mail? He keeps on calling it Lanny's e-mail.
 10 **MR. LINDSEY:** Educating us.
 11 **MS. BURCH:** We're learning things today.
 12 (Exhibit No. 26 was marked for identification.)
 13 **Q** So I've marked as Exhibit 26 the texts you've
 14 provided, and I'm going to go through these texts as
 15 quickly as I can.
 16 **A** Okay.
 17 **Q** I have some questions. I want to make sure I
 18 understand what's --
 19 **A** Sure.
 20 **Q** -- being said.
 21 And I assume that these are texts that you sent
 22 or received to the people that are referenced in these
 23 documents.
 24 **A** In these documents?
 25 **Q** Right. So in Exhibit 26.
 Hedquist & Associates Reporters, Inc.

1 **A** The other exhibits?
 2 **Q** In Exhibit 26.
 3 **A** Yes.
 4 **Q** How did you gather these text messages that
 5 were produced to us?
 6 **A** I screen shot them from my phone.
 7 **Q** Okay. So each and every single one of these
 8 pages is a screen shot that you did?
 9 **A** Yes.
 10 **Q** Okay. And my understanding is that these are
 11 all the text messages you found that are responsive to
 12 Mr. Russell's request?
 13 **A** Yes.
 14 **Q** So looking at Exhibit 26 on page 1, it's the
 15 top of the page, it says BH Brian.
 16 **A** Uh-huh.
 17 **Q** Does that refer to Brian Hughes?
 18 **A** Yes.
 19 **Q** And then the next -- really the first text
 20 message which is in gray on page 1, it's dated
 21 November 21, 2019. Did you send or receive any text
 22 prior to that date that related to the ITN?
 23 **A** That related to the ITN, no.
 24 **Q** And just to make the record clear, the gray
 25 texts are from Brian Hughes?

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1 A Correct.

2 Q And the blue texts are from you?

3 A Correct.

4 Q Do you know if anyone else had access to your

5 cell phone in November or December of 2019?

6 A My daughter, my husband.

7 Q But do you password protect your phone?

8 A Yes.

9 Q Okay. And then the first blue text on page 1

10 says: Yes, but I spoke with JG.

11 Who is JG?

12 A Jason Gabriel.

13 Q Do you remember what you spoke with Mr. Gabriel

14 about?

15 A Yes. I was trying to schedule a time to go

16 through my conflict check with him. So this was

17 subsequent to the conversation where Brian asked me

18 whether I wanted to participate.

19 Q Do you remember what your conflict check

20 consisted of?

21 A Yeah. I met with Jason, Lawsikia Hodges, and

22 Lynne Rhode, and they reviewed questions with me about,

23 you know, whether I had any kind of conflict of interest

24 with JEA or any of the potential bidders.

25 Q Do you remember how long that process took?

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1 A Maybe an hour.

2 Q So just one meeting that was about an hour

3 long?

4 A Yes.

5 Q And do you know if the other ITN negotiation

6 team members, Randall Barnes and Robin Smith, underwent

7 a similar conflict check?

8 A It's my understanding that they did.

9 Q So looking back at page 1 of Exhibit 26 towards

10 the middle of the page it talks about -- actually strike

11 that.

12 Let's move to page 2?

13 A Okay.

14 Q So towards the middle of page 2 there's a

15 series of texts that are from Friday, November 22, 2019.

16 One of those texts say Aaron Zahn.

17 A Uh-huh.

18 Q Actually it begins on page 1 and goes on to

19 page 2. I'm assuming this is indicating you received

20 Aaron Zahn's contact information?

21 A Correct.

22 Q Had you ever spoken with Aaron Zahn prior to

23 this date?

24 A Yes.

25 Q Do you recall what the subject matter of those

Hedquist & Associates Reporters, Inc.

1 conversations were?

2 A It was during Hurricane -- or Tropical Storm,

3 whatever it ended up being, Dorian, where we were

4 spending a lot of time at the Emergency Operation

5 Center. Nothing to do with the ITN.

6 Q Okay. And nothing to do with the potential

7 privatization of JTA?

8 A No.

9 MR. RUSSELL: Which hurricane did you say it

10 was?

11 MS. BURCH: Dorian. It was -- it was barely a

12 thunderstorm by the time it got here. We waited for

13 five or six days for that thing.

14 MR. LINDSEY: That was the one over September

15 last year?

16 MS. BURCH: That's the one.

17 Q At the top of page 2 of this document, the

18 first full gray text just says: Ping Aaron when you

19 can.

20 A Uh-huh.

21 Q Do you remember whether you spoke with Aaron on

22 this date?

23 A I don't remember. I'd have to refer to the --

24 oh, so that's November 25th.

25 I spoke with him -- I know I spoke with him

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1 that evening after reviewing the phone logs, but I may

2 have talked to him that morning as well. I'd have to

3 look.

4 So, yeah, it looks like I -- it looks like I

5 talked to him at 2:10 p.m. Oh, that's on the 22nd. The

6 texts are on the 25th.

7 Q Got it.

8 A Yeah.

9 Q Okay.

10 A Yeah, so I talked to him a couple times

11 apparently.

12 Q Do you remember what you spoke with Mr. Zahn

13 about on November 25th?

14 A No. I think it just was about, you know,

15 getting started on the negotiation team, and I wanted to

16 meet with him separately to kind of talk about, you

17 know, the process and how he expected it to proceed,

18 what he wanted to get out of it. You know, all of that.

19 Q What do you recall him saying that indicate --

20 well, strike that.

21 You indicated that he may have specified what

22 he wanted to get out of the process?

23 A Uh-huh.

24 Q What did you mean by that?

25 A The -- just what his goals were by completing

Hedquist & Associates Reporters, Inc.

1 the ITN process.

2 Q And what were his goals?

3 A The best value for the citizens of

4 Jacksonville.

5 Q Did he specify what he meant by best value

6 during your November 25th cell phone call?

7 A No, because that was all to be determined based

8 on the replies that we received.

9 Q On page 2 there's a subsequent set of text

10 where Mr. Hughes asks if you connected with someone

11 named Robin?

12 A Uh-huh.

13 Q Is that referring to Robin Smith?

14 A Yes.

15 Q Did you communicate with Robin Smith on

16 November 25, 2019?

17 A I mean, that was the first day that the three

18 of us went over to be appointed to the negotiation team,

19 so I would say yes.

20 I would have to look at my call log to see.

21 Q If you need to refer to your call log, that's

22 fine?

23 A Is that okay.

24 Q Yeah.

25 A 9603. So -- okay. So I talked to him then on
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1 Sunday afternoon, is what it looks like. Yeah. Okay.

2 Q Do you recall what you discussed with

3 Mr. Smith?

4 A No. Just other than, you know, scheduling,

5 talking about, you know, what kind of things he had

6 going on for his -- for his work, and, you know, just

7 when to schedule meetings and whatnot. I don't remember

8 anything specific about it.

9 Q And moving to page 3 of Exhibit 26, towards the

10 middle of the page there's a series of texts dated

11 Tuesday, December 10, 2019.

12 A Uh-huh.

13 Q My understanding, that was the first day of the

14 ITN negotiations in Atlanta?

15 A Yes.

16 Q For some context.

17 And there's a text from Mr. Hughes that states:

18 Know your busy, but call if you can.

19 A Uh-huh.

20 Q Do you remember if you spoke with Mr. Hughes on

21 December 10th?

22 A I don't remember, but I can check the call log.

23 I probably did. I talked to him quite a bit.

24 Yes, I spoke with him that afternoon.

25 Q Do you recall what you spoke about?
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1 A No. He -- I mean, he says in the text -- talks

2 about the library. So must have been something about

3 that. I don't know exactly.

4 MR. RUSSELL: Excuse me for the interruption,

5 but the library system in Jacksonville?

6 MS. BURCH: Yeah.

7 MR. RUSSELL: Just sounded kind of peculiar.

8 MS. BURCH: Yeah. No. I mean, that's a part

9 of our responsibilities. So I don't remember what

10 -- what it was about, but --

11 Q I believe you answered this question earlier

12 today, but I just want to make sure I recall it

13 correctly.

14 But my understanding is you never spoke with

15 Mr. Hughes about a substantive issue in connection with

16 the ITN process while that process was ongoing.

17 A Correct.

18 Q So turning to page 4 of Exhibit 26, at the top

19 there's a gray message from Mr. Hughes that you received

20 at 7:17 a.m. on December 23rd, 2019, and it states,

21 quote: LC going to ask JEA board to pull plug on ITN

22 via press today.

23 Do you see that?

24 A Yes.

25 Q Do you know LC refers to?
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1 A The mayor.

2 Q Do you know why Mayor Curry was intending to

3 ask the board to pull the plug on the ITN?

4 A I mean, I think it was just a matter of, you

5 know, what public opinion looked like at that point,

6 and, you know, I think everybody was just kind of ready

7 to stop the bleeding at that point.

8 Q So during the ITN process, prior to the

9 cancelation of the ITN, did you ever speak with anyone

10 in the mayor's administration about why he was

11 considering pulling the plug on the ITN?

12 A No. Outside of our strategy session where we

13 talked about his December 12th communication.

14 Q Do you recall what was discussed about that

15 communication at the December 12th strategy session?

16 A Yeah. It was mostly -- I don't know if -- if

17 the strategy session was on the 12th. It may have been

18 the next day. But it was -- it was what we had talked

19 about before where we were trying to figure out whether

20 we could pick, you know, three or four proposers to send

21 to the JEA board, or if we had to stick with just one.

22 Q Okay. Did you or anyone else you're aware of

23 tell any of the ITN bidders that Mayor Curry intended to

24 pull the plug on the ITN process?

25 A I don't -- I don't remember that. I don't
Hedquist & Associates Reporters, Inc.

1 remember.

2 Q So you just don't recall?

3 A No, I don't recall.

4 Q So now on page 5 of Exhibit 26.

5 A I should have numbered these.

6 Q So at the very bottom there's a number, just to

7 help.

8 A Yes.

9 Q So towards the bottom of page 5 it appears you

10 sent a text to Mr. Hughes. It's dated December 26,

11 2019, and it asked him to send Kerri Stewart -- it

12 asked -- well, it asked him to send Kerri Stewart's

13 phone number to you.

14 A Right.

15 Q Do you recall why you were asking for Kerri

16 Stewart's phone number?

17 A I think we're -- there was a public records

18 request that she was working on, and I needed to either

19 provide a response or, you know, ask her a question

20 about it. But I believe it had something to do with a

21 public records request.

22 Q Do you recall what the subject matter of that

23 public records request was?

24 A I don't. There were so many.

25 Q So you don't recall if it related to the ITN?

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1 A I mean, I'm sure it did. Based on the date, it

2 had something to do with that process.

3 Q But you don't remember how it related to the

4 ITN?

5 A No. I couldn't even tell you which one --

6 which specific request it was.

7 Q Kerri Stewart is an employee of JEA; correct?

8 A Yes.

9 Q Do you typically coordinate public records

10 request responses with JEA employees?

11 A It depends on the request. We might have to if

12 we have documents, they have documents. Just depends on

13 the request.

14 Q Other than this public records request that's

15 being discussed with Kerri Stewart, can you recall any

16 other instances where you've coordinated with a JEA

17 employee about a public records request?

18 A I don't recall anything specific. Kerri was

19 the one kind of heading up all the public records

20 requests that came in. I guess the people who worked on

21 those were under her supervision, and so at the time

22 they were trying to figure out how to set up the website

23 to just put documents on the website so that they

24 wouldn't have to respond to separate requests like that

25 all the time.

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1 Q When you're talking about the website, you're

2 talking about What's Next Jax --

3 A Yes.

4 Q -- JEA website?

5 A Yes.

6 Q And that's the website where JEA has posted ITN

7 related documents?

8 A Yes.

9 Q Did you ever communicate with Jason Hutchinson

10 in connection with this public records request?

11 A Not that I remember.

12 Q And you believe that Kerri Stewart was in

13 charge of responding to at least this public records

14 request that's being discussed?

15 A At least this one. Or she was working on it.

16 I don't know if she was responsible for it, but she was

17 working on it.

18 Q What is Kerri Stewart's position with JEA?

19 A She's the director or chief of customer care, I

20 believe. Her title is something like that.

21 Q So the next text is on page 6. At the top of

22 page 6 there is a picture of a man, and underneath that

23 picture it says Randall.

24 A Yes.

25 Q Is that Randall Barnes?

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1 A Yes.

2 Q So the following pages and texts are between

3 you and Mr. Barnes?

4 A Yes.

5 Q And it's the same formatting as the other set

6 of texts we looked at where Mr. Barnes' text are gray

7 and your texts are blue; correct?

8 A Yes.

9 Q My next question is going to be about page 12.

10 A You're going to have to help me on that one.

11 Q Page 12 at the bottom?

12 A I don't have page numbers.

13 Q Oh, it doesn't?

14 A No.

15 Q It says on -- it's a text at 12 -- the top left

16 page says 12:48. It's Randall Barnes, and the first

17 text says -- it's a gray text. It says: Don't have the

18 docs. Imagine that.

19 A Yes. Got it.

20 MR. LINDSEY: Show me where we're at.

21 MS. BURCH: December 20th.

22 MR. BLODGETT: Right. It says December 20th,

23 Friday, 9:20 a.m.

24 MR. LINDSEY: Got it.

25 MR. BLODGETT: Don't have the docs. Imagine

Hedquist & Associates Reporters, Inc.

1 that.

2 Q Do you remember what documents Mr. Barnes was
3 referring to?

4 A I believe it was documents that Pillsbury was
5 working on.

6 Q Then it looks like you responded: I'm so tired
7 of them not having docs available for proposers.

8 A Yes.

9 Q Is that referring to the same documents
10 Mr. Barnes was discussing?

11 A Yes.

12 Q Do you specifically remember the titles of
13 those documents?

14 A I think it had to do with the asset purchase
15 agreement and related documents.

16 So I know you showed me drafts, and I don't
17 know if maybe they were updated drafts, or what it --
18 what it was, but I feel like we were waiting for a long
19 time for that stuff to come out to be able to provide to
20 proposers.

21 Q Was it a recurring problem for you and
22 potentially the other negotiation team members getting
23 access to the documents timely that you needed in the
24 ITN process?

25 A For that particular set I feel like it was
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1 the executive summary in a meeting. Outside of that, I
2 can't remember anything else that was, you know, like a
3 draft document that was dropped in front of us for
4 review, or anything like that.

5 Q Do you recall if you ever received a material
6 document from a legal advisor like Pillsbury, or a
7 subject matter expert, through an e-mail?

8 A I don't remember. You would have to -- we
9 would have to go back and search my e-mail. I don't
10 remember whether we did or not.

11 Q All right. So turn to page 15, which is -- at
12 the top left corner it says 4:54 p.m. -- 4:54, Randall
13 Barnes, his name and picture is still shown at the top.

14 A Okay.

15 Q And at the top of the page it says: Mayor.
16 Time to pull plug on talks of selling JEA?

17 A Uh-huh.

18 Q And towards the middle of that page there's a
19 text from Mr. Barnes that begins with, quote: I'm not
20 sure Pbury understands the level of commitment that is
21 going to be required in this process. Unquote.

22 Does Pbury refer to Pillsbury?

23 A Yes.

24 Q And then you respond to Mr. Barnes' text with
25 "IKR".

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1 because we were trying to drive the January 30th
2 deadline, and the only way that that could be successful
3 is if we got to the proposers draft documents for them
4 to review and mark up.

5 Q I don't want to put words in your mouth, but to
6 your understanding what was the reason why you were
7 having trouble getting access to those documents?

8 A To my understanding it just was continual
9 revision by the advisors.

10 Q And were these --

11 MR. RUSSELL: Damn lawyers.

12 Q And how were these documents supposed to be
13 made available to you? Was it through the data room?

14 A As far as supposed to be made available, I
15 would assume that's it. I -- I wouldn't assume that I
16 would have gotten them any other way.

17 So -- so I can't say definitively what the plan
18 was, but to me what makes sense is that they would have
19 been put in the data room.

20 Q So the material ITN documents, like the asset
21 purchase agreement, did you ever receive any other
22 material ITN documents during the ITN process through a
23 means other than the data room?

24 A Well, we received the management presentation
25 at the management presentation meetings. We received

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1 A Correct.

2 Q Does that mean I know right?

3 A Yes.

4 Q And do you remember what the issue was with
5 Pillsbury's commitment that's being discussed in these
6 text?

7 A It wasn't Pillsbury's commitment. The issue
8 was that Pillsbury was saying that they didn't think
9 that we, the negotiation team, understood the level of
10 commitment that it would take to get to the end of this
11 process.

12 Q So it was --

13 A We took offense to that.

14 Q So some attorney at Pillsbury had levied a
15 criticism about the negotiation team's level of
16 commitment?

17 A Yes.

18 Q Do you remember which attorney with Pillsbury
19 that was?

20 A I couldn't tell you for sure.

21 Q Was it a man or a woman?

22 A I believe it was a man.

23 Q And do you remember -- well, was this criticism
24 made in person, over the phone?

25 A Over the phone.

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1 Q Okay. Do you know what Stephen Amdur looks
2 like?

3 A Yes.

4 Q Okay. Do you believe it was Stephen Amdur that
5 made that criticism?

6 A I believe it's very possible it was Stephen
7 Amdur.

8 Q Do you recall with any more specificity what
9 exactly the Pillsbury attorney's criticism was with
10 respect to your level of commitment?

11 A So, yeah. I mean, I believe at that point, you
12 know, because it was after that news -- the news article
13 came out where the mayor was asking the JEA board to
14 cancel the meetings. So I believe we were talking about
15 whether to continue, you know, with meetings we had
16 scheduled that afternoon, and what else it was going to
17 take to get to the end of the process.

18 So Pillsbury, I think they, you know, perceived
19 us as trying to -- and also it was December 23rd, so
20 it's right before Christmas, and Randall was either out
21 of town already, or going out of town, and so we were
22 just discussing scheduling meetings go forward.

23 And I think they were maybe misunderstanding
24 our availability that we were expressing at that time.

25 Q Did the news that the mayor had asked for the
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1 Randall Barnes' text, but the first page -- text at the
2 top of the page is a blue text from you and it says:
3 Nobody agrees with Carla's assertion about the public
4 meeting violation she believes took place. No one from
5 OGC or outside counsel, and I doubt Lisa would either,
6 nor my own legal opinion.

7 Do you see that?

8 A I do.

9 Q Can you just kind of explain, I guess beginning
10 with what Carla Miller's concerns were, as you
11 understood them?

12 A Yeah. As I understood them, Carla Miller felt
13 that all of the ITN meetings should have been open to
14 the public, and I believe this was in response to an
15 article, a news article where she had released her notes
16 to the Times-Union.

17 Q Are you aware of any conversations where Carla
18 Miller told any of JEA's attorneys, including the
19 attorneys at Foley & Lardner and Pillsbury, about those
20 concerns that she had?

21 A I can't -- I can't say for sure. I know there
22 was a lot of conversation about Carla's opinion
23 regarding that, but I don't know exactly who she
24 expressed that to, how she expressed it to them, you
25 know, in what manner, or anything like that.

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1 plug to be pulled on the ITN process have any impact on
2 Pillsbury's commitment to try to see through the ITN
3 process?

4 A I couldn't say for sure.

5 Q I don't want to, like, put words in your mouth,
6 but what I'm getting at is it just seems strange to me
7 that the mayor would say he wants the ITN process, the
8 plug to be pulled on it, and then Pillsbury seems to be
9 kind of pushing you guys to push through that.

10 A To continue?

11 Q Right.

12 A Yeah.

13 Q So, I mean, did you have any conversations
14 about the issue with the Pillsbury attorney?

15 A I -- I can't say for sure. I don't -- we --
16 I'd have to go back and look at the transcripts to see
17 whether they were even aware of the news story at that
18 point.

19 Q Okay.

20 A We may have been trying to explain to them, you
21 know, that it didn't look good.

22 So I -- I can't say for sure without looking at
23 the transcript of that particular meeting.

24 Q The next set of texts I want to ask about is
25 page 17, which is a few pages forward. Again it's still

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1 Q Okay. So you have no personal knowledge about
2 conversations between Carla Miller and any of those JEA
3 attorneys about that issue?

4 A Not that I remember. Huh-uh.

5 Q And did Carla Miller ever explain to you or in
6 your presence kind of what the basis was for her
7 concerns?

8 A I remember at the end of a nego- -- a strategy
9 session early on Carla took a couple minutes at the end
10 of the meeting. She actually was complimenting us, but
11 also in the same vein reminding us that, you know,
12 these -- these meetings were being recorded, and, you
13 know, keep documents, and stuff like that.

14 Q And was that at one of the noticed meetings
15 where there's a transcript?

16 A I don't -- I don't think they were noticed
17 meetings, but, yes, there would be a transcript of that
18 one.

19 Q When we noticed, just so you know, what we're
20 meaning is, you know, like there's an agenda for it
21 that's published now on the JEA's What's Next website.

22 A Okay.

23 Q So just to avoid confusion --

24 A Sure.

25 Q -- if I say that again.

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1 A Okay.

2 Q But your understanding was Carla made those

3 comments at one of the ITN negotiation sessions we've

4 discussed today?

5 A Yes.

6 Q And there -- do you know if there is a

7 transcript of that meeting?

8 A Well, I know there would be a transcript, but

9 it may be possible that Carla made those statements

10 after it was done being recorded. She was also taking

11 our picture at that meeting too.

12 Q That was going to be my next question. I just

13 wanted to make sure.

14 A Yeah.

15 Q Okay. Thank you.

16 Did Ms. Miller ever specify who she thought

17 committed the potential violations?

18 A No, not that I'm aware of.

19 Q And do you know when the alleged violations may

20 have taken place?

21 A I mean, I think Carla felt that we all were

22 making the violation the entire way along.

23 Q Okay.

24 A So --

25 Q She didn't take issue with the specific
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1 meeting. She thought it was just like a --

2 A Yes.

3 Q -- systematic problem of the way the process

4 was set up?

5 A Yes.

6 Q And towards the bottom of page 17 there's a

7 text from Mr. Barnes that says --

8 MR. RUSSELL: Same page?

9 MR. BLODGETT: Right.

10 MR. LINDSEY: Same page that starts "nobody

11 agrees".

12 MR. BLODGETT: Right.

13 Q Mr. Barnes wrote, quote: Seems like SAG would

14 stand behind the ITN process.

15 Who is SAG?

16 A State Attorney. I think he got --

17 MR. RUSSELL: General.

18 A I think he got Attorney General confused with

19 State Attorney. He just combined the two.

20 Q Okay. And you responded: I believe she will.

21 Do you recall what the basis was for that

22 response?

23 A Because I don't know anyone who -- how do I put

24 this? I don't know anyone -- any attorney who was aware

25 of a public procurement process such as this who would
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1 agree with Carla's opinion.

2 Q And I guess the basis of my question, what I

3 was trying to get at is, to your knowledge, had anyone

4 sought out or received an opinion from the State

5 Attorney or the Attorney General about these ethics

6 issues?

7 A No, not to my knowledge.

8 Q We're going to skip a couple pages ahead. It

9 begins -- it's 2:37 at the top left corner, and it's AZ,

10 Aaron Zahn is the text bubble.

11 A Yeah.

12 Q I believe the first message is AZ Aaron.

13 A Got it.

14 Q I've already like answered my own question

15 here, but just to make sure, AZ Aaron refers to Aaron

16 Zahn?

17 A Yes.

18 Q And then same formatting as the prior texts,

19 the text in blue are from you, and the texts in gray are

20 from Mr. Zahn; correct?

21 A Yes.

22 Q It looks like on December 2nd at some time

23 around 3:40 p.m. you asked Mr. Zahn if he could talk,

24 and he responded "I'm free"?

25 A Uh-huh.
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1 Q Do you remember if you spoke with Mr. Zahn on

2 December 2nd?

3 A I couldn't tell you for sure. I had a few, you

4 know, subject matter expert meetings with him outside of

5 a strategy session. I was probably in the office for

6 this one.

7 MR. LINDSEY: Okay. Got you.

8 A December 2nd. I had a call with him about

9 3:41. Oh, so I guess I did talk to him. It wasn't in

10 the office. 3:41 I talked to him for a minute. Okay.

11 Q So you may not have even talked to him; you may

12 have just left a voice message.

13 A Yeah, maybe I did.

14 Q Called him, and he didn't pick up. And you

15 don't remember obviously speaking with him on that day?

16 A No, not specifically. We had a -- like I said,

17 we had a few separate meetings.

18 Q And if I understood you correctly, you

19 indicated that you may have had some, you referred to

20 them, outside strategy sessions with Mr. Zahn?

21 A Yes.

22 Q Were the other negotiation team members

23 involved in those discussions?

24 A No.

25 Q Do you remember how many of those outside
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1 strategy sessions you had with Mr. Zahn during the ITN
 2 process?
 3 **A** I think maybe three. It wasn't very many.
 4 Melissa was more my go-to.
 5 **Q** Do you remember what was discussed in those
 6 strategy sessions with Mr. Zahn?
 7 **A** Yeah. I mean, initially it was, you know, tell
 8 me about the business operations, tell me about the
 9 process that you've been through, you know, up to this
 10 point. Just kind of educating me on all things JEA.
 11 **Q** Did you ever discuss specific ITN bidders with
 12 Mr. Zahn in those sessions?
 13 **A** Potentially. Potentially. Just kind of
 14 getting his opinion on, you know, what they had
 15 presented at that point.
 16 **Q** What do you recall about Mr. Zahn's opinion
 17 about the ITN bidders?
 18 **A** I don't remember anything specific about it.
 19 It more was just -- it would have been very generic as
 20 far as, yeah, this one's good, that one doesn't make
 21 sense. You know, this one could be good if they did
 22 this. Things like that.
 23 **Q** Do you remember Mr. Zahn ever discussing who he
 24 perceived to be the best bidder, or bidders plural?
 25 **A** Well, at that point it was NextEra. They had
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1 the highest bid, so if everything else panned out then
 2 they would have been considered the best value at some
 3 point.
 4 But there -- like I said, there was a lot of
 5 work to do before everything was said and done.
 6 **Q** I just want to make sure the record is clear on
 7 this point, but from what you can recall, which seems
 8 like it's not very specific, but Mr. Zahn, his opinion
 9 about which bidders were best was based primarily or
 10 exclusively on the gross proceeds amount that had been
 11 offered?
 12 **A** From what I would -- from what I remember, I
 13 would say that's accurate.
 14 **Q** So in the ITN there's a list of criteria that
 15 are discussed that the bidders are, in theory, supposed
 16 to be evaluated against.
 17 Do you ever remember in your conversations with
 18 Mr. Zahn discussing any of the criteria other than the
 19 gross proceeds amount?
 20 **A** Sure. Because we discussed, you know, the APA
 21 at one point, and, you know, we talked about some of the
 22 things that needed to be included in the APA and the
 23 other related documents as far as things that were
 24 important to, you know, the citizens of Jacksonville.
 25 So making sure that some of those requirements got into
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1 the purchase and sale documents.
 2 It was more than just the number, and
 3 especially for myself. You know, the JEA PPP was a very
 4 interesting structure for me just based on my
 5 background, the types of procurements I've been through
 6 before.
 7 So, you know, we talked. We talked about the
 8 different structures and how, you know, things could --
 9 could be considered good or better than, you know, other
 10 ones.
 11 **Q** I just want to make sure I understand your
 12 answer better.
 13 So you believe Mr. Zahn considered factors
 14 other than just the gross proceeds amount. He was
 15 looking at some of the other criteria in the ITN when he
 16 was assessing the bidders; is that correct?
 17 **A** Yes.
 18 **Q** And you referenced an example, the APA
 19 documents.
 20 **A** Uh-huh.
 21 **Q** How does that relate to the criteria that were
 22 in the ITN that Mr. Zahn was assessing?
 23 **A** Well, the APA was going to work for almost all
 24 the bidders except for the PPP, because that would have
 25 been done through a concession agreement, because there
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1 would not have been a sale of the assets.
 2 So, you know, it just was really just trying to
 3 figure out is Plant Vogtle going to be a part of the
 4 transaction, or is that going to be left out? You know,
 5 there's many different considerations there.
 6 The other thing that we talked about was the --
 7 the rate increases, that the rates had to be held for
 8 the first I believe two years, was what was required in
 9 the ITN as well.
 10 So it just was really making sure that
 11 everybody checked the boxes on meeting all of the
 12 minimum requirements, and then just trying to, you know,
 13 figure out who holistically had -- would represent the
 14 best value for the citizens.
 15 **Q** So you specifically recall Mr. Zahn assessing
 16 and being concerned about the effect of rate increases,
 17 or the potential rate increases that the bids would
 18 have --
 19 **A** Yes.
 20 **Q** -- on JEA's rate payers?
 21 **A** Yes.
 22 **Q** Do you remember if that was done in one of the
 23 outside strategy sessions you had with Mr. Zahn, or at
 24 one of the formal sessions where's a transcription
 25 occurring?
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1 A So I don't remember Aaron attending any of our
2 nego -- any of our strategy sessions. He may have been
3 in one or two, but he was not a regular attendee of our
4 strategy sessions.

5 So I remember talking with him about it myself
6 in our one-on-one, and then also I believe it came up in
7 the management presentation meetings that we had as
8 well. So that would have been a recorded session.

9 Q You indicated that Melissa Dykes was kind of
10 your go-to, I guess, JEA employee when you had questions
11 about the ITN process.

12 Did you have outside strategy sessions with Ms.
13 Dykes?

14 A Yes.

15 Q Do you remember about how many of those
16 sessions you had during the ITN process?

17 A Maybe a total of five or six.

18 Q Do you recall, ballpark, about how long these
19 strategy sessions lasted with Mr. Zahn and Ms. Dykes?

20 A Maybe 30 minutes.

21 Q So about 30 minutes each?

22 A Yeah.

23 Q And with your external or outside strategy
24 sessions with Ms. Dykes do you recall if the other ITN
25 negotiation team members, Randall Barnes and Robin
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1 Q When you say feasible, what do you mean by
2 that?

3 A That bidders would be able to meet the
4 deadline.

5 Q Do you know what the basis was for her belief
6 that the bidders would be able to meet the deadline?

7 A I mean, she's a pretty experienced utility
8 executive, so I would imagine that's based on her
9 experience.

10 Q She didn't tell you, like, I reached out to the
11 bidders and talked?

12 A No.

13 Q Okay. So she didn't specify what the basis was
14 for that belief?

15 A No. I didn't feel like I needed to ask her.

16 Q From what you can gather, just your personal
17 opinion, did you ever get a sense that Mr. Zahn ever
18 treated any bidders differently or unfairly compared to
19 the other bidders?

20 A No.

21 Q Same question for Ms. Dykes. In your opinion,
22 based on what you saw, did Ms. Dykes treat all the
23 bidders equally and fairly?

24 A Yes.

25 Q Did you ever talk about the revised replies for
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1 Smith, participated in any of those other sessions?

2 A Not with me. All of mine were just individual
3 sessions.

4 Q Do you know if Mr. Zahn or Ms. Dykes had
5 similar strategy sessions with either of those other
6 negotiation team members?

7 A I don't know.

8 Q For the strategy sessions that you had with Ms.
9 Dykes, do you remember what you discussed?

10 A The first one I remember pretty well. That's
11 where she walked me through the CIP document, and we
12 also talked a lot about Plant Vogtle.

13 Outside of that, there was a separate meeting
14 where we discussed the January timeframe, whether she
15 felt that was feasible.

16 And then I don't remember with any specificity
17 any of the other topics we may have discussed.

18 Q Do you recall what specifically Ms. Dykes said
19 about Plant Vogtle during that session?

20 A I remember that she advised she thought it was
21 feasible, but that we needed to discuss it with the
22 advisors, because they were the ones who really had --
23 especially the financial advisors -- because they are
24 the ones that really had their fingers on the pulse of
25 the market at the time.

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1 any of the bidders with either Ms. Dykes or Mr. Zahn?

2 A I don't remember.

3 Q Moving a couple pages down in Exhibit 26, it's
4 going to be -- at the top left-hand corner it says
5 10:46, and it's -- the bubble that identifies the person
6 just says JM Jenny.

7 A Uh-huh. So the first page or the second page?

8 Q I think it's the first JM Jenny page.

9 A Okay. Where it says: Stephanie, this is Jenny
10 McCollum?

11 Q Yeah.

12 A Okay.

13 Q Right. And you've answered my first question.
14 JM Jenny stands for Jenny McCollum; right?

15 A Correct.

16 Q And same formatting where the colored texts are
17 yours, the gray texts are Jenny McCollum?

18 A Correct.

19 Q And kind of toward the middle of the page
20 there's a text from Jenny McCollum that asks you for
21 your e-mail, and then indicates that you'll need a
22 two-factor identification.

23 A Yes.

24 Q What does that refer to?

25 A So that's JEA's security system. When you are
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1 offsite, so outside the JEA building, you had to go
 2 through a two-factor identification process. So there
 3 were a couple of steps that you had to go through in
 4 order to be able to log on to the JEA system while
 5 you're offsite.
 6 Q When you said the JEA system, what are you
 7 referring to?
 8 A Their network.
 9 Q Were you assigned a unique e-mail address
 10 specifically for this ITN process?
 11 A Yes.
 12 Q Do you remember what that ITN address was?
 13 A So according to the text message it's
 14 burcsl@jea.com.
 15 Q Was it ever explained to you why you were
 16 receiving a JEA e-mail?
 17 A Yeah. I -- I may have even asked for it
 18 because I wanted to keep the JEA work separate from my
 19 City work. So it just was to have a clear delineation
 20 of JEA work versus City business.
 21 Q To your knowledge, did the other ITN
 22 negotiation team members have JEA e-mails?
 23 A Yes.
 24 Q Do you recall how many e-mails you sent or
 25 received through your JEA e-mail address?

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1 A No.
 2 Q Did all the e-mails you sent or received
 3 through the JEA e-mail address relate to the ITN
 4 process?
 5 A I believe they did.
 6 Q Do you know if this JEA e-mail has been
 7 preserved?
 8 A I don't know.
 9 Q When's the last time you accessed this e-mail
 10 account?
 11 A I can't tell you for sure, but it was most
 12 likely December 23rd. I returned it, I believe, on
 13 December 27th, because we were provided tablets, and
 14 that's how I accessed the e-mail. So it would have been
 15 towards the end of December.
 16 Q So if I understood you correctly, you
 17 indicated -- you indicated that you may have asked for a
 18 JEA e-mail?
 19 A Yes.
 20 Q You don't recall anyone from JEA telling you,
 21 or any of the JEA attorneys, that you should use a JEA
 22 e-mail?
 23 A I don't remember anyone telling me specifically
 24 that we should, but I think, you know, everyone thought
 25 it was a good idea, so...

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1 Q Turning to the next page, still Jenny McCollum
 2 texts.
 3 A Uh-huh.
 4 Q So at the top of that page, the way I interpret
 5 this text, it indicates that you were having trouble
 6 accessing the Foley FTP site.
 7 Do you see that?
 8 A Yes.
 9 Q What does the Foley FTP site refer to?
 10 A So that was a separate site where documents
 11 were provided. I couldn't tell you the difference in
 12 those documents versus the ones that were in the data
 13 room, but there were two -- you know, obviously we had
 14 to access the data room, and then we were also getting
 15 documents to look at on the -- on Foley's FTP site as
 16 well.
 17 Q But based on your understanding, the FTP site
 18 was different than the data room?
 19 A Yes.
 20 Q And you're not sure about what the different
 21 documents were stored on each of those, call them
 22 resources, but you know that they were separate
 23 resources?
 24 A I don't know that for sure. There could be
 25 some crossover with some documents on both -- on both
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1 resources, but to the best of my memory, for the most
 2 part they were different documents.
 3 Q Did you have log-in credentials, you know, like
 4 a password, for the Foley FTP site?
 5 A I believe so.
 6 Q Do you remember when you received that
 7 information?
 8 A No.
 9 Q Was it during the ITN process?
 10 A Yes.
 11 Q When's the last time you accessed the FTP site?
 12 A Oh, I -- I don't remember.
 13 Q Do you remember how many times you accessed the
 14 FTP site during the ITN process?
 15 A Probably a handful of times.
 16 Q Do you remember why you accessed the FTP site?
 17 A To review whatever documents were in there.
 18 Q Do you remember the documents you reviewed when
 19 you went into the FTP site?
 20 A No.
 21 Q Similar question, but for the data room.
 22 You were assigned a unique password and log-in
 23 information for the data room; correct?
 24 A I believe it was unique to me personally. I
 25 don't remember whether, you know, they had a universal
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1 password for everybody to use for the data room. I
 2 think it was unique to me personally.
 3 Q Do you know if Randall Barnes and Robin Smith
 4 had access to the FTP site from Foley?
 5 A I don't know for sure.
 6 Q So we're skipping towards the end of this
 7 document.
 8 (Discussion off the record.)
 9 Q This is -- I think it's the first text from
 10 Lynne Rhode.
 11 Actually how do you say her last name? I've
 12 heard it said differently. Is it Rhode?
 13 A Rhode.
 14 Q Rhode. In the top left corner it says 3:48,
 15 and then there's a gray text bubble that says LR Lynne.
 16 Looks like the first text message is
 17 December 12th at 12:19 p.m.
 18 A Okay.
 19 Q Again same format. Your text are colored,
 20 Lynne's texts are gray; correct?
 21 A Correct.
 22 Q Then towards the middle of that page there's a
 23 text, appears to you from you, dated December 12, 2019
 24 at 6:13 p.m., and you wrote: Hey, I stuck around.
 25 Would like to talk to you and Herschel before you leave.
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1 Thanks.
 2 Do you remember why you wanted to speak to Ms.
 3 Rhode?
 4 A I don't remember.
 5 Q Do you remember whether or not you actually had
 6 the conversation that's referenced in these texts with
 7 Ms. Rhode did Mr. Vinyard?
 8 A I don't remember.
 9 Q Towards the bottom of this page there's a text
 10 exchange between you and Ms. Rhode that's dated
 11 December 13th, and it actually continues on to the next
 12 page, and it's Ms. Rhode writing that Aaron would like
 13 to speak with you.
 14 Do you remember if you ever spoke with Aaron
 15 Zahn at this time?
 16 A I don't -- I don't remember.
 17 Q This would have been December 13th.
 18 A Yeah. So we were in Atlanta. I don't remember
 19 whether I did or not.
 20 Q So moving on to the next page, the first text
 21 is a gray bubble: I'll come to A4.
 22 A Uh-huh.
 23 Q Still Lynne Rhode's text?
 24 A Yes.
 25 Q And then towards the bottom of that page Ms.
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1 Rhode notified you that she would be resigning from JEA,
 2 and that text is dated December 19, 2019.
 3 Did you ever have a phone call or speak with
 4 Ms. Rhode about why she resigned from JEA?
 5 A No phone call. Just the voicemail.
 6 Q So she sent you a voicemail. Did she explain
 7 why she was leaving, or did she just tell you she was
 8 resigning?
 9 A I don't remember. I really don't remember.
 10 Q Did you save that voicemail?
 11 A I may have.
 12 MR. LINDSEY: Do you want her to see?
 13 A Should I check?
 14 Q You can check at your leisure and get back to
 15 us --
 16 A Okay.
 17 Q -- when you're doing this.
 18 I will ask that in your voice -- not your
 19 voicemail logs, but your phone record logs from Verizon
 20 there's several references to voicemails. If you would,
 21 just check to see if you still have those?
 22 A Okay.
 23 Q Let us know if you don't.
 24 A Okay. Will do.
 25 Q All right. The last page of Exhibit 26.
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1 MR. RUSSELL: If Ms. Burch finds any
 2 voicemails, what do we want her to do with them?
 3 MR. BLODGETT: She may have to have her IT
 4 department help her extract them. I would imagine
 5 that they can do that.
 6 But if not, you know, you can have your IT
 7 department and your attorney contact us, and we have
 8 people here that can help do you that.
 9 MS. BURCH: Okay.
 10 MR. RUSSELL: And these are just voicemails
 11 that concern the ITN process.
 12 MR. BLODGETT: She doesn't know if she has
 13 them, but she's going to check.
 14 MS. BURCH: Or Lynn e's resignation. I don't
 15 know if that's really an ITN process.
 16 MR. RUSSELL: Right. It's part of the process,
 17 unfortunately.
 18 MS. BURCH: All right. Where are we at?
 19 Q The last page on Exhibit 26, KS Kerri.
 20 So KS Kerri; that responds -- or that
 21 references Kerri Stewart; correct?
 22 A Yes.
 23 Q Then there's a green text at the bottom -- I'm
 24 sorry -- it's at the top of the page, and it's dated
 25 December 26, 2019.
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1 Do you see that text?
 2 A Yes.
 3 Q And the text indicates you contacted Kerri
 4 Stewart to discuss a media request.
 5 Do you remember what media request you're
 6 referring to?
 7 A No.
 8 Q Do you remember speaking to Ms. Stewart about
 9 that media request on December 26th?
 10 A You know, can I check the phone log? I may
 11 have spoken with her. I don't remember.
 12 Yes, it looks like we had a few calls that day.
 13 So I would say, yes, I spoke with her.
 14 Q Do you remember if all those calls related to
 15 the public records request that's referenced in your
 16 text?
 17 A I mean, to the best of my memory, it does.
 18 Q But you just don't remember what the subject
 19 matter of that public records request related to?
 20 A Well, it was about the ITN process, so...
 21 Q But you don't specifically recall what you were
 22 talking about. You were just, I guess, presuming that
 23 it related to the ITN, because otherwise --
 24 A Yes.
 25 Q -- she would not be reaching out to you about
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1 it; right?
 2 A Correct.
 3 (Exhibit No. 27 was marked for identification.)
 4 Q So the last exhibit is marked Exhibit 27.
 5 A Uh-huh.
 6 Q And these are a set of phone call logs that
 7 your attorney Mr. Lindsey produced to us. And I'm
 8 assuming that these phone call logs are from your
 9 personal cell phone; is that correct?
 10 A Correct.
 11 Q Did you personally get these phone logs? How
 12 did you obtain these phone logs?
 13 A Yes, I downloaded them from my Verizon account
 14 online.
 15 Q And the cover page for these records state Key
 16 to Phone Numbers.
 17 Did you prepare this cover page?
 18 A Yes.
 19 MR. RUSSELL: Thank you.
 20 MS. BURCH: You're welcome.
 21 Q Could you just kind of walk us through how you
 22 prepared this information and how you verified it.
 23 A Yeah. So, I mean, the first thing I did was
 24 download the bills that were for November and December,
 25 which actually crossed three separate billing statements
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1 for me.
 2 So I downloaded all that, printed them out, and
 3 just started reviewing the phone numbers on it of the
 4 calls that might be responsive.
 5 Q And to your knowledge there were no phone calls
 6 that were redacted from this document that related to
 7 the ITN?
 8 A Correct.
 9 Q So there are redacted phone calls in this
 10 record, but they're irrelevant and do not relate to the
 11 ITN or Mr. Russell's request?
 12 A Correct.
 13 Q My last set of questions. You referenced a
 14 tablet earlier during the ITN process.
 15 A Correct.
 16 Q Do you remember who provided you with that
 17 tablet?
 18 A Shawn Eads.
 19 Q Mr. Eads is employed at JEA; correct?
 20 A Yes.
 21 Q Do you remember what his position was in
 22 November and December of 2019?
 23 A He's the director of their information
 24 technology department.
 25 Q Why did he give you a tablet?
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1 A I believe I asked him for one so that I could
 2 access my JEA e-mails on a JEA piece of equipment.
 3 Q Do you remember just roughly the timeframe that
 4 he gave you that tablet?
 5 A I -- I don't remember. I mean, it was early
 6 on, because we started accessing e-mails and calendar
 7 appointments and things like that pretty early in the
 8 process.
 9 Q And this would have been -- well, you would
 10 have received the tablet before the Atlanta meetings;
 11 correct?
 12 A Yes.
 13 Q Do you remember if you received the tablet
 14 before the December 3rd and 4th meetings where the
 15 revised bids were discussed?
 16 A I can't say for sure, but I believe I did.
 17 Q How did you use the tablet in connection with
 18 the ITN?
 19 A So mostly there were some e-mails on there,
 20 mostly calendar appointments. And then I did take some
 21 notes on a Word document during some of our sessions
 22 that I saved on the tablet.
 23 Q Do you know what was done with the files that
 24 you created on that tablet?
 25 A I do not.
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1 Q When the ITN process was over did you return
 2 the tablet to Shawn Eads?
 3 A Yes. Well, technically. I returned it to John
 4 McCarthy.
 5 Q Do you know if the other ITN negotiation team
 6 members, Randall Barnes and Robin Smith, received
 7 tablets?
 8 A Yes.
 9 Q Do you know if they also kept notes about the
 10 ITN process on those tablets?
 11 A I don't know.
 12 Q Do you remember what type of tablet it was?
 13 A I don't remember specifically, no.
 14 Q Do you remember what it looked like, the color,
 15 the shape?
 16 A Yeah. I mean, it was -- it was in a black
 17 case, but it was like a little rectangle like a tablet.
 18 Either iPad or Surface Pro, or something like that.
 19 MR. BLODGETT: Those are all the questions.
 20 Do you have any follow-ups, Lanny?
 21 MR. RUSSELL: Give me just a minute.
 22 BY MR. RUSSELL:
 23 Q The tablet that you were given, did you use
 24 that tablet to send e-mails to members of the
 25 negotiation team, exchange e-mails with them?
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1 A I don't know specifically. If I did it would
 2 have included John and Jenny on the e-mails. It would
 3 have been something about scheduling.
 4 Q Okay. So you said that you communicated with
 5 the tablet. Your recollection was, again, scheduling
 6 and administrative issues only?
 7 A Yes. We may have --
 8 Q Scheduling traveling, those kinds of things?
 9 A Right. We may have received some documents,
 10 whether it was agendas, or something like that, but
 11 nothing -- nothing really substantive.
 12 MR. RUSSELL: Okay. We might want to do this
 13 on the record, review what we have pending.
 14 MR. LINDSEY: My understanding is check if
 15 there's any voicemails that have been kept that have
 16 anything whatsoever to do with the ITN, to check --
 17 her IT person is right now checking to see if
 18 there's any e-mails or calendar appointments that
 19 are relevant to the ITN, to see if there is a -- she
 20 can get a text log of the texts on her personal
 21 telephone for that time period, either from iCloud
 22 or from her provider, and to see if she backed up
 23 her phone to see if it would be there. I think
 24 that's it.
 25 Oh, no. And also you wanted her electronic use
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1 policy with the City that she signed.
 2 MS. BURCH: And check my City cell phone as
 3 well.
 4 MR. LINDSEY: Right. Those are the only things
 5 that I have down.
 6 Does that cover it?
 7 MR. BLODGETT: That covers it.
 8 To make sure we're okay with this text log, if
 9 there are irrelevant texts, like the bodies of
 10 texts, I'm fine with you redacting texts that are
 11 not related to the ITN, but I would like for you not
 12 to redact any of the call information, like the date
 13 of the call, the duration of the call, the number
 14 sent to and received from for each text. I would
 15 just like to see that during -- I think the date I
 16 stated was November 21st through December 24, 2019.
 17 MS. BURCH: Got it.
 18 MR. BLODGETT: Okay.
 19 MR. LINDSEY: I got it here.
 20 MR. RUSSELL: Thank you so much.
 21 MS. BURCH: You're welcome.
 22 (The interview concluded at 1:50 p.m.)
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 2 C E R T I F I C A T E
 3 STATE OF FLORIDA)
 4 COUNTY OF DUVAL)
 5
 6 I, Terry T. Hurley, RPR, certify that I was
 7 authorized to and did stenographically report the
 8 foregoing proceedings and that the transcript is a true
 9 record thereof.
 10
 11 DATED this 18th day of June 2020.
 12
 13 _____
 14 TERRY T. HURLEY, RPR
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