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JACKSONVILLE CITY COUNCIL
SPECIAL INVESTIGATORY COMMITTEE ON JEA MATTER

INTERVIEW OF
ROBIN GREGORY SMITH

DATE TAKEN: Tuesday, June 9, 2020
TIME: 1:57 p.m. to 3:50 p.m.
LOCATION: Smith Hulsey & Busey
One Independent Drive
Suite 3300
Jacksonville, Florida 32202

Examination of the witness taken before:
Terrie L. Cook, RPR, CRR, FPR, and a Notary Public

Hedquist and Associates
345 East Forsyth Street
Jacksonville, Florida 32202
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| 1 | - - - | 5 |
| 2 | ROBIN GREGORY SMITH, | |
| 3 | acknowledged having been duly sworn to tell the truth | |
| 4 | and testified upon his oath as follows: | |
| 5 | THE WITNESS: Yes. | |
| 6 | EXAMINATION | |
| 7 | BY MR. RUSSELL: | |
| 8 | Q Tell us your full name, please. | |
| 9 | A Robin Gregory Smith. | |
| 10 | Q In connection with this interview, did you | |
| 11 | speak to anybody other than Mr. Murphy about the | |
| 12 | interview? | |
| 13 | A No. | |
| 14 | Q Did you review any documents in preparation for | |
| 15 | this interview? | |
| 16 | A No. | |
| 17 | THE REPORTER: Okay. Y'all are already too | |
| 18 | low. | |
| 19 | (Brief interruption.) | |
| 20 | BY MR. RUSSELL: | |
| 21 | Q Let me just get a little bit of brief | |
| 22 | background about your work history. Did you graduate | |
| 23 | from college? | |
| 24 | A University of Florida. | |
| 25 | Q The degree in? | |
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1 A Mechanical engineering.
 2 Q And what was your job out of college?
 3 A Out of college, my first job was actually
 4 working doing hazardous material remediation, asbestos,
 5 lead paint, things like that.
 6 Q And --
 7 A Shortly after that I started working for a
 8 civil engineer.
 9 Q When -- between working for that civil engineer
 10 and coming to J- -- the City of Jacksonville, how long
 11 was that?
 12 A So I would think 2005, 2004, so 15 years,
 13 whatever.
 14 Q Okay. So you've held some other jobs in
 15 between?
 16 A Yes.
 17 Q Were they all in the engineering field?
 18 A Engineering construction.
 19 Q Okay. If you'd look in your folder there.
 20 This will become Exhibit 1. It's an announcement, JEA
 21 Announces Negotiation Team Changes.
 22 Have you seen this document before, Mr. Smith?
 23 A Yes, I believe I've seen this before.
 24 (Exhibit 1 was marked for identification.)
 25 Q Okay. Do you know who prepared this document?
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1 A I do not.
 2 Q Okay. Did you know before the date of this
 3 document, which is 11/22/2019, the public announcement
 4 of your appointment as negotiator for the INT [sic]
 5 process for JEA, that you had been appointed?
 6 A Could you ask the question again?
 7 Q Yeah. Sure. Probably ask it better too.
 8 Did you know before this announcement that you
 9 had been appointed as a negotiator?
 10 A Yes.
 11 Q Okay. Do you know why new negotiators were
 12 needed?
 13 A I do not.
 14 Q In the announcement, it says you were made
 15 available to be a negotiator, who made you available?
 16 A My boss. I guess Brian Hughes would be the --
 17 Q Okay. Do you know who chose you to be the
 18 negotiator?
 19 A No, I -- I do not. I know I interviewed with
 20 Brian Hughes and the OGC Jason Gabriel.
 21 Q In connection with becoming negotiator?
 22 A Yes.
 23 Q Okay. In that interview, did you have any
 24 clues as to why you were being chosen?
 25 A Yes. I have extensive experience in utilities.
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1 I handle all the engineering construction, RFPs, RFQs
 2 for the City so I have pretty extensive experience in
 3 the procurement process as well.
 4 Q Did you recall asking any questions of either
 5 Mr. Hughes or Mr. Gabriel about your role as
 6 negotiator?
 7 A General -- general questions about what that
 8 role would mean?
 9 Q Did you receive any instructions from
 10 Mr. Gabriel about your role as a negotiator?
 11 A No. No. None.
 12 Q How -- how about Mr. Hughes?
 13 A No.
 14 Q In this meeting with Mr. Gabriel and
 15 Mr. Hughes, did you talk about any specific --
 16 MR. MURPHY: Well, you're assuming it's the
 17 same meeting.
 18 Q Yeah, it is the same meeting. It was not the
 19 same interview.
 20 A They -- it was not the same. It was two
 21 separate interviews.
 22 Q Okay. Do you know -- I mean, the announcement
 23 will help you figure it out, the first meeting with
 24 David Hurth?
 25 A The first meeting with the negotiating team?
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1 Q The first meeting with -- the meeting with
 2 Brian Hughes and Jason Gabriel?
 3 A I don't recall exactly when. It would have
 4 been a day or two before this announcement.
 5 Q Okay. Did you meet again with Brian Hughes and
 6 Jason Gabriel?
 7 A No.
 8 Q Well, I was trying to ask still about that
 9 first meeting.
 10 MR. MURPHY: Yeah. I think you're still
 11 confused. There was a meeting with Brian Hughes and
 12 there was another separate meeting with Jason
 13 Gabriel.
 14 MR. RUSSELL: Okay.
 15 MR. MURPHY: And you're assuming it's the same
 16 meeting.
 17 MR. RUSSELL: I was. Yes.
 18 MR. MURPHY: Yeah.
 19 MR. RUSSELL: So they're separate meetings.
 20 BY MR. RUSSELL:
 21 Q Of those two persons you met with, you
 22 described Brian Hughes and Jason Gabriel, who did you
 23 meet with first?
 24 A I met with Brian Hughes first.
 25 Q And at that point in time, had you already been
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1 chosen or were they making up their mind about whether
2 you would be chosen?

3 **A** It was my impression that I was interviewing
4 for the position.

5 **Q** Okay. Do you recall in connection with this
6 interview the questions that you were asked by
7 Mr. Hughes?

8 **A** I -- I don't recall specific questions. I
9 recall the general tone of the questions.

10 **Q** Okay.

11 **A** They were regarding my qualifications and --
12 and my work history.

13 **Q** And how long after your meeting with Mr. Hughes
14 was your meeting with Mr. Gabriel?

15 **A** I -- I believe it was later the same day.

16 **Q** Okay. Did Mr. Gabriel advise you of any
17 specific instructions concerning the INT process if you
18 were selected?

19 **A** He did not.

20 **Q** Didn't tell you it was confidential and you
21 should not talk about it to anybody outside of the INT
22 group?

23 **A** I do not recall any discussions of that.

24 **Q** Okay. You were selected as one of the three
25 negotiators; is that correct?

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1 talk with either of the other two chosen negotiators?

2 **A** I mean, they're both colleagues. I mean, I've
3 had conversations with them, but never discussing the
4 ITN process.

5 **Q** It's a broad question because it covers the
6 whole INT period from your first meeting as a group and
7 then your meetings with the bidders and then more
8 meetings of the negotiating group.

9 Did you and the other two negotiators,
10 Stephanie Burch and Randall Brian [sic], ever talk about
11 the ranking of the bidders, what bidders you think were
12 in what position on the list?

13 **A** No. And it's Randall Barnes.

14 **Q** What did I say?

15 **A** I think you said Brian.

16 **Q** Brian. Oh, Randall Barnes. That's the name
17 the first time.

18 **MR. RUSSELL:** Let's go ahead and attach this
19 document as Exhibit 2.

20 (Exhibit 2 was marked for identification.)

21 **BY MR. RUSSELL:**

22 **Q** It's a letter to you, Mr. Smith, asking you --
23 directing you to come to this interview and
24 acknowledging that you've agreed to do so; is that
25 correct?

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1 **A** Yes.

2 **Q** Okay. And you participated in the INT process
3 that went on for a good part of April and a good part of
4 December.

5 During that INT process, did you talk any
6 further with Brian Hughes about what you were doing as a
7 negotiator?

8 **A** First of all, it's ITN process, I assume --

9 **Q** I'm sorry, ITN.

10 **A** -- is what you're talking about. But, no, I
11 never had another conversation with Brian Hughes about
12 the process.

13 **Q** Did you communicate in any way, e-mail or text,
14 with Mr. Hughes about the ITN process?

15 **A** No.

16 **Q** Any further communications with Jason Gabriel
17 about the ITN process?

18 **A** No.

19 **Q** When you were appointed negotiator, had -- you
20 know if the other two negotiators had been chosen?

21 **A** No, I do not know.

22 **Q** Okay. Did you -- how did you learn who the
23 other two negotiators were?

24 **A** Quite frankly, I don't recall how I knew.

25 **Q** Prior to commencing the ITN process, did you

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1 **A** Yes.

2 **Q** Would you hand that to the court reporter and
3 she'll mark that one as 2.

4 **A** (Witness complies.)

5 **Q** You spoke about you believe your experience in
6 utilities was one of the reasons you were chosen. Did
7 you have any prior experience, prior to this event,
8 Mr. Smith, in negotiating extremely large dollar sales
9 of assets, in the billions of dollars?

10 **A** So it -- at that dollar value, I had not had
11 any previous experience, but extensive experience in
12 procurement of multimillion dollar projects.

13 **Q** Okay. Now, you said procurement. That's my --

14 **A** RFP process, RFQ process, negotiations,
15 contract negotiations, all -- all facets of that.

16 **Q** And selling those not billions, but million
17 dollar assets?

18 **A** In some cases.

19 **Q** Okay. Can you give me an example of a
20 multimillion dollar asset, whose sale you were involved
21 in?

22 **A** I can't think of it off the top of my head
23 right now.

24 **Q** Prior to your being appointed as one of the
25 negotiators, there was a group of evaluators who ranked

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1 the bidders. And one of those bidders was E&W
 2 Development Corporation. Do you know why E&W
 3 Development Corporation did not continue in the process,
 4 the ITN process?
 5 A I don't know.
 6 Q There are a number of sessions with -- I think
 7 you were being the negotiator, I think there were eight
 8 bidders still, there were eight bidders that were still
 9 in the process, if you recall, during that period of
 10 time, those multiple meetings, do you recall ever asking
 11 any bidder a question?
 12 A Me personally asking the --
 13 Q Yeah.
 14 A No.
 15 Q Do you recall, in all -- all those sessions
 16 with the bidders, ever answering a question asked by a
 17 bidder?
 18 A Me personally answering a question, I do not
 19 recall ever answering a question asked by a bidder.
 20 Q Did you ever have any reason to talk with our
 21 mayor about the INT process?
 22 MR. MURPHY: ITN.
 23 MR. RUSSELL: ITN. Sorry. Thank you. Don't
 24 put that up on the transcript that I'm messing up
 25 that word.

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1 liabilities.
 2 Q Okay. And can you explain to me what you mean
 3 by "deal with those liabilities"?
 4 A So there's multiple different scenarios laid
 5 out. And we were open to scenarios that we -- that had
 6 not been thought of. We were part of the -- it was
 7 looking for creative ways to handle the situation.
 8 Q Okay. Did you have a cell phone during the
 9 time of the ITN process, which would have been November
 10 19 and December 19, 2019?
 11 A Yes.
 12 Q Was that a cell phone provided to you by the
 13 City of Jacksonville?
 14 A Yes.
 15 Q What was the number for that cell phone?
 16 A (904) 801-9603.
 17 Q Do you recall the manufacturer of the phone,
 18 what type?
 19 A Do I recall -- it was an iPhone.
 20 Q Okay. And who was the cell phone provider for
 21 that phone in November 2019 and December 2019?
 22 A The service provider?
 23 Q Yes, sir.
 24 A To -- to be honest, I don't recall. It's a --
 25 it's a phone that's provided to me by the City. I'm not

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1 MR. MURPHY: Just that I corrected him.
 2 Q ITN. Did you speak to the mayor about the ITN
 3 process?
 4 A No, I have not. And to -- I have never
 5 actually spoken with the mayor.
 6 Q Okay. I think we confirmed before I asked it
 7 narrowly, during the IN- -- ITN process, did you ever
 8 communicate by text or cell phone to anybody about that
 9 process?
 10 A No.
 11 Q Going to the next document, which will be
 12 Number 3. It's an invitation to negotiate, which is
 13 what ITN means. Were you given this document,
 14 Mr. Smith?
 15 A This document was made available to me.
 16 (Exhibit 3 was marked for identification.)
 17 Q And did you read it and understand it?
 18 A Yes.
 19 Q Did you have an understanding in terms of the
 20 minimum requirements of a bid that that bid, in order to
 21 meet the minimum requirements established for the ITN,
 22 would have to satisfy the -- what's referred to as the
 23 Plant -- Plant Vogtle liabilities?
 24 A It was my understanding that the -- the
 25 proposal had to have a plan to deal with those

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1 sure who the service is through.
 2 Q Do you still have the same cell phone?
 3 A Yes.
 4 Q Okay. Did you ever send any text from that
 5 cell phone related to the ITN?
 6 A No.
 7 Q Did you ever make any calls on that cell phone
 8 relating to the ITN?
 9 A Not that I recall.
 10 Q Do you have on your phone the texts that were
 11 sent in November -- by you in November of 2019 and
 12 December of 2019?
 13 A Do I have them currently on my phone?
 14 Q Yes.
 15 A I do not.
 16 Q Could you explain that to me, please?
 17 A So it appears that sometime in March, when I
 18 reset my phone, I lost all the text messages on that
 19 phone.
 20 Q And you have no understanding as to how that
 21 happened?
 22 A I reset the phone.
 23 Q Right.
 24 A I did not intend to delete the phone, that's
 25 not why I was resetting the phone, but apparently that

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1 has -- is what happened.

2 Q Let me show you this: I don't have it in the
3 package and you may not recall it at all, but just in
4 case. Actually, it was about that time.

5 And you said when you inadvertently deleted the
6 texts from your phone was in March --

7 A Uh-huh.

8 Q -- were you aware of this memorandum signed by
9 the General Counsel of Jacksonville and Rory Diamond,
10 requiring that anybody in possession of JEA information
11 protect and preserve that information?

12 A I was not aware of this.

13 Q We're going to mark that as 3, please.

14 MR. MURPHY: Be 3A?

15 MR. RUSSELL: Yeah, 3A. Thank you.

16 (Exhibit 3A was marked for identification.)

17 BY MR. RUSSELL:

18 Q I'm not the technician, the IT guy. What do
19 you mean by resetting the phone?

20 A So to be frank, I -- I went through a divorce
21 in March. I had literally shared accounts on my phone.
22 We had a family plan through Apple. And following my
23 divorce, which was finalized in March, it was my desire
24 to remove any trace of my ex-wife from my cell phone.
25 So I reset the phone, signed out of my account, signed

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1 cell phone records, will you answer questions about
2 those records in the future?

3 A I don't see why not.

4 Q We'll make it -- we'll make it -- probably over
5 the phone.

6 THE REPORTER: I'm sorry, I didn't get your
7 answer.

8 A Yes.

9 Q The iTunes was only on your personal phone?

10 A iTunes I view is on my personal phone.

11 Q Okay. It was never on the City phone. And you
12 never used the personal phone for City business?

13 A No, no.

14 Q During the ITN process, there were materials
15 handed out to you by -- in connection with the event,
16 the meeting or the session with the bidders?

17 A Uh-huh.

18 Q Did you save any of those materials?

19 A No.

20 Q What did you do with them?

21 A Returned them at the end of the meetings.

22 Q Was that something that happened routinely,
23 somebody come around at the end of each meeting and pick
24 up the documents that the negotiating time had been
25 given?

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1 back into my account. And only recently did I realize
2 that those texts were not there.

3 Q Okay. It's a City-owned phone, does the bill
4 for that phone go to the City?

5 A Yes.

6 Q And you use it for City business?

7 A Yes.

8 Q And you use it for personal business also?

9 A I try not to, but my ex-wife was not very
10 discriminating.

11 Q Okay. Do you, on the cell phone, use the
12 iTunes service?

13 A Not on my City cell phone.

14 Q Did you ever back up or save the data that was
15 on your City cell phone?

16 A Yes.

17 Q Okay. And what, I guess, I understood from
18 what you're saying, in addition to your City phone, you
19 have a personal cell phone?

20 A Yes.

21 Q Okay. And did you use that for any City
22 business?

23 A Never.

24 Q Okay. I spoke with your lawyer before this
25 interview and if for some reason we were able to retain

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1 A Yes.

2 Q During this process that was almost two months
3 and at the end of the process you were going to make the
4 decision, you three negotiators, as to whom -- as to
5 what entity was the best bid, did you take notes in that
6 two-month period?

7 A I did not.

8 Q So you were going to make the decision of who
9 would be the best bidder on this multibillion dollar
10 asset with just your recollection?

11 A No, not at all. We were expected to have
12 updated proposals from all the bidders so we -- I
13 intended to make selection from those updated
14 proposals.

15 Q During the INT -- ITN process in which there
16 were meetings or telephone calls with bidders, were
17 there ever any efforts by the negotiation team to cause
18 bidders to drop out of the process?

19 A No.

20 Q Did you ever hear in the phone calls,
21 particularly, a negotiator tell a bidder that their bid
22 was far off the mark?

23 A I don't recall that.

24 Q You don't recall Stacey Burch telling that to
25 multiple bidders on the phone?

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1 MR. MURPHY: Stephanie Burch.
 2 MR. RUSSELL: Stephanie Burch.
 3 A I don't recall her using the phrase far off the
 4 mark.
 5 Q How about along with -- well, what phrase do
 6 you recall her using in discussing the bidders?
 7 A I -- I recall, in general, there was discussion
 8 that certain bidders would need to increase their bid if
 9 they wanted to be competitive. But that -- my
 10 recollection is that's something that we really told all
 11 bidders. It was a -- it was a -- my impression, it was
 12 a tactic to get a better proposal from the -- from the
 13 bidders.
 14 Q Do you recall that that kind of comment was
 15 made to NextEra?
 16 A I don't recall specifically, but the -- the
 17 tone of every -- even with -- with all firms, the tone
 18 was to elicit the best offer out of every firm.
 19 Q These calls were transcribed, that's why I can
 20 ask these very specific questions. And if you don't
 21 recall, that's fine.
 22 Do you recall, during these phone calls with
 23 the bidders, and I think they began on December 4th,
 24 2019, that some bidders were told they had a long way
 25 to go?

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1 A I do not recall that phrasing.
 2 Q Okay. Or the phrase "have little chance of
 3 succeeding unless the bid was materially increased"?
 4 A Again, I don't recall that specific statement.
 5 Q During the ITN process, do you recall observing
 6 Stacey Burch and Aaron Zahn meeting separately from the
 7 rest of the group?
 8 A Stephanie Burch?
 9 Q Yes.
 10 A No, I do not recall. Never seen them.
 11 Q Do you recall during the December 4th -- I
 12 think it was December 4th and December 5th, that the
 13 bidders were told that the bids would need to be
 14 submitted to the JEA board by January 30, 2020?
 15 A I don't recall the specific date, but I -- I --
 16 generally that's -- that sounds correct.
 17 Q In the ITN that you reviewed, I believe it
 18 provided for a different time line and -- do you recall
 19 when the ITN process began that there was a time line
 20 that called for the submission of bids at the end of
 21 March in 2020?
 22 A I do not recall that.
 23 Q Okay. So you don't know whether January, end
 24 of -- that is, before January 20, '20, was a changed
 25 date?

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1 A I do not recall.
 2 Q Do you recall the bidders having any reaction
 3 when they were told the submission date would be January
 4 20, 2020?
 5 A Not specifically. I -- I do recall the -- the
 6 time line was -- was tight for all bidders.
 7 Q Do you recall one bidder not complaining about
 8 the time line and saying there would be no problem for
 9 them?
 10 A I do not recall that. And my -- my
 11 recollection is that there -- there was frustration from
 12 all bidders at the time I was associated with it.
 13 Q Did anyone suggest to you who you should select
 14 as the winning bidder?
 15 A No.
 16 Q You never had a discussion within the group of
 17 who is going to be the selected bidder?
 18 A No. We -- I mean, we -- we were always waiting
 19 for the revised proposals to begin our evaluation. In
 20 my mind, I never even began the valuation of which was
 21 the best proposal.
 22 Q For the conversations that happened with the
 23 bidders on the telephone beginning on December 4th, can
 24 you describe to me how that process worked?
 25 A Well, there's many different kinds of

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1 conversations. So typically the -- the lead -- the lead
 2 -- the JEA negotiation team, Jenny or John would
 3 schedule a call. We'd all show up at that time of day,
 4 the experts that were needed for that call would all be
 5 there and we would make the phone call. And, you know,
 6 if it was an information session, we'd be -- you know,
 7 the bidder could ask questions, we'd answer them,
 8 vice-versa.
 9 Sometimes it's -- you know, there's actual
 10 negotiations happening, but, you know, there was a lot
 11 of different sort of -- it wasn't a one type of phone
 12 call, I guess.
 13 Q Okay. But structurally, the phone calls that
 14 were being made by the JEA negotiation team were made to
 15 one bidder at a time?
 16 A Yes.
 17 Q And then for a set period of time and then
 18 you'd move on to the next scheduled bidder?
 19 A It's a one bidder's team, right.
 20 Q Yes. One bidder's team would get the next
 21 phone call?
 22 A Yes.
 23 Q You would do that with each of the eight
 24 bidders that were still in the process?
 25 A Yes.

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1 Q Okay. And there was a separate call then to
2 NextEra?
3 A There were.
4 Q You need answer out loud.
5 A I'm sure -- I'm sure there was -- there was
6 many calls with NextEra.
7 Q And do you recall NextEra being told in that
8 separate call that you are very competitive in this
9 process -- excuse me, the word very isn't there -- that
10 you are competitive in this process?
11 A I don't recall that specifically.
12 Q Do you recall any others that are being told
13 anything like that?
14 A I do not recall.
15 MR. RUSSELL: What number are we up to?
16 THE REPORTER: 4.
17 MR. RUSSELL: Go ahead and make this 4A. It
18 was a transcript I was reading from and it was a
19 transcript from the December 4th call to -- and it
20 says on top NextEra, Negotiation Session, NextEra
21 Energy. If you'd hand that to her, please.
22 THE WITNESS: Sure.
23 MR. RUSSELL: We'll make this 4A so I don't
24 mess up my numbering.
25 THE REPORTER: You haven't marked 4 yet.
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1 MR. RUSSELL: We don't have a 4 yet?
2 THE REPORTER: No.
3 MR. RUSSELL: So that will be 3A.
4 MR. MURPHY: We already have 3A.
5 THE REPORTER: You already have 3A.
6 MR. MURPHY: You want to make it 3B?
7 MR. RUSSELL: Yes.
8 (Exhibit 3B marked for identification.)
9 BY MR. RUSSELL:
10 Q Did you ever receive, Mr. Smith, a set of
11 written instructions that you were to follow in
12 determining and evaluating a bid?
13 A No, not that I recall. There was -- you know,
14 the ITN process was laid out in the document we looked
15 at earlier. And, yeah, I don't recall any specific
16 document telling me how to evaluate this, no.
17 Q There wasn't a list of factors and how those
18 factors should be weighed?
19 A There was differently factors of, you know,
20 different -- different goals that the INT process was to
21 achieve. And to be clear, you know, I -- I wasn't -- I
22 was not looking at the process as a sale. There was a
23 lot of different options besides selling the asset.
24 So, you know, there was -- it wasn't -- to me,
25 it wasn't just a bid for a sale. It was a lot of
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1 different criteria, as you said, some community
2 criteria, things like that, that were to be taken into
3 consideration.
4 Q Okay. But for the --
5 A I don't remember the exact -- what they are,
6 but I know they are -- like you said, four or five
7 specific criteria.
8 Q Just conceptually, if you were going to give a
9 criteria, did it end up with a numerical score where
10 you -- was each criteria going to have a numerical
11 score?
12 A No. So we -- we, the negotiating team,
13 intended to develop how we were going to score these,
14 you know, once we had received a bid. So we didn't --
15 because it was -- you're not just comparing dollars to
16 dollars, we were going to have to get creative on how we
17 scored them. So there wouldn't -- there would have been
18 some sort of scoring system, but we never discussed
19 that.
20 Q Okay. The negotiation team did receive bids,
21 didn't it?
22 A There -- the bids that were received were
23 received well before we were the negotiation team. We
24 in -- in our -- the process we were going through was
25 receiving a second set of bids that we would then grade
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1 those second revised proposals.
2 Q Okay. And to grade the second revised set of
3 proposals, you never received any instructions?
4 A No.
5 Q Did you ever see the criteria by which the bids
6 were ranked before you were appointed?
7 A I do not recall seeing that.
8 Q The sheet with numbers on it, you don't recall
9 that --
10 A I do not recall.
11 Q -- of each of the bidders?
12 A I do not recall seeing that.
13 Q In connection with the bids that you would
14 ultimately evaluate, what was your understanding,
15 Mr. Smith, about how many bids would be submitted to the
16 JE board -- JEA board for consideration?
17 A How many -- how many bids of -- of the ones we
18 were scoring?
19 Q Yes.
20 A My intention was to provide one proposal from
21 the -- from the process.
22 Q If you'll look at the next document, which will
23 be 4. It's an agenda dated 11/25/2019. And its purpose
24 was a negotiation strategy session. And the document
25 shows that you did not attend this initial negotiation
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1 strategy session?
 2 **A** I -- I don't recall just -- just specific
 3 date.
 4 (Exhibit 4 was marked for identification.)
 5 **Q** Okay. You don't recall that the --
 6 **A** I mean, I did -- so the -- if I'm looking at
 7 the agenda, I recall a meeting where we went through
 8 that agenda. And so if there's no other one that has my
 9 name on it with that agenda, then that's perhaps an
 10 error. I do remember going through the negotiation
 11 appointment letter, through -- through all these things.
 12 I don't recall what day it was.
 13 **Q** Tell me about the negotiation -- the
 14 negotiator appointment letter. What was that? I've
 15 never seen it.
 16 **A** I believe it's the letter that you just
 17 refer- -- that you had at the beginning. It just -- as
 18 far as I recall, it just said the new team is the three
 19 of us.
 20 **Q** This announcement was the negotiator
 21 appointment letter?
 22 **A** It was that or something very similar to that.
 23 **Q** Okay. And item number 2 on this agenda is
 24 negotiator training. Tell what that was about.
 25 **A** I -- my recollection is kind of walking through
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1 the ITN document, discussing the goals. There was some
 2 discussion of the JEA procurement policy. We were
 3 provided with that. I don't recall whether we reviewed
 4 it or not. Just basic things like that.
 5 **Q** Okay. How long did that training session
 6 last?
 7 **A** I recall that meeting lasting in the range of
 8 an hour or so.
 9 **Q** Okay. The -- the individual component part was
 10 negotiating training, of that hour, how much was devoted
 11 to the negotiator training?
 12 **A** I don't recall.
 13 **Q** Less than an hour?
 14 **A** Less than an hour.
 15 **Q** Was the bulk of the meeting devoted to
 16 negotiator training, if you recall?
 17 **A** Looking at the agenda, it -- I re- -- yes, that
 18 would have been the bulk of the -- the discussion.
 19 **Q** Okay. Okay. Do you recall who did the
 20 negotiator training?
 21 **A** John McCarthy.
 22 **Q** And the last item was scheduling negotiator
 23 strategy sessions. Do you recall how many negotiator
 24 strategy sessions were actually scheduled?
 25 **A** I do not.
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1 **Q** At this meeting on October 25th, did y'all
 2 discuss, in connection with negotiating training, any
 3 of the goals that were to be achieved in the ITN
 4 process?
 5 **A** So just to be clear, this meeting was November
 6 25th, not October, and I do not recall if I was actually
 7 at this specific meeting.
 8 **Q** Okay. Do you recall any negotiator sessions,
 9 meaning negotiator strategy sessions, in which the topic
 10 of goals to be achieved were discussed?
 11 **A** Only the goals that were outlined in the ITN.
 12 **Q** Okay. If you'll hand that to the court
 13 reporter and she can mark that as Number 4. This is
 14 4.
 15 **A** (Witness complies.)
 16 **Q** And this is 5. This is another agenda for a
 17 Negotiation Strategy Session and it is the day after 4,
 18 the 26th, you were at this one according to the
 19 attendees?
 20 **A** Uh-huh.
 21 **Q** You need to say yes.
 22 **A** Yes, I was actually reading.
 23 **Q** Thank you. The revised replies, can you tell
 24 me what that is, please?
 25 **A** That was discussion about what we expect the --
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1 the revised proposals to be.
 2 **Q** Okay. They weren't here at this meeting?
 3 **A** No.
 4 **Q** They were coming sometime in the future?
 5 **A** That was a discussion of when we expect to end
 6 this process to make the selection.
 7 **Q** Okay. And explain to me the concept of -- if
 8 you can, please, subject matter experts?
 9 **A** The concept of subject matter experts?
 10 **Q** Yeah. What were they?
 11 **A** People who had specific knowledge of JEA's
 12 interbusiness that were helpful in the process.
 13 **Q** So a subject matter expert throughout this
 14 process was a JEA employee?
 15 **A** So I believe the subject matter experts were
 16 JEA employee -- there was also consultants. I -- they
 17 had a different -- I don't believe they were called
 18 subject matter experts, they had a different name,
 19 but --
 20 **Q** Okay.
 21 **A** -- there were JEA employees and consultants
 22 that were helping us with the process.
 23 **Q** And do you recall that the consultants were,
 24 some of them, lawyers?
 25 **A** Yes.
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1 Q Do you recall what law firms provided
2 consultants that you worked with?
3 A I mean, they're listed here. Foley & Lardner
4 is one that I recall.
5 Q All right. Do recall working with another law
6 firm, Pillsbury? Master, I think is the second name.
7 A The name Pillsbury is familiar. I'm not sure
8 which representative from them, but I do recall the
9 name -- the name Pillsbury.
10 Q Of the appointed three negotiated, as we saw at
11 the beginning of this interview, was one of those three
12 designated as the lead negotiator?
13 A Was selected as a lead negotiator, yes.
14 Q Who was that?
15 A Stephanie Burch.
16 Q And who made the selection that Stephanie
17 would be the lead negotiator?
18 A The negotiation team; Randall, Stephanie and
19 I.
20 Q So there was discussion of it and you and
21 Randall agreed that it would be Stephanie?
22 A Yes.
23 Q Okay. It didn't happen where she was first
24 appointed? It was actually sometime after that?
25 A No, I -- my recollection is that it was in one
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1 of these meetings and there should be a transcript of
2 it.
3 Q Okay.
4 A It was -- it was definitely the three of us,
5 though.
6 Q And it was at one of the meetings, then it was
7 done with others present because I don't remember any
8 transcripts that was just of the three --
9 A No. I mean, it was -- it was in a strategy
10 session with the --
11 Q Right.
12 A -- the JEA. I don't remember exactly who was
13 there at the time.
14 Q And by designating Stephanie Burch as the
15 lead negotiator, what was that intended to allow her to
16 do?
17 A My -- my -- my impression is it allowed us, as
18 a team, to streamline this process. And she could act
19 as the spokesperson for the team during the -- during
20 these sessions.
21 Q Okay. For this 26 -- 11/26/2019 meeting --
22 A Uh-huh.
23 Q -- do you recall anything that you actually
24 did, said?
25 A At this 11/26? Not specifically.
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1 Q Anything you participated in particularly?
2 A I mean, I participated in the meeting. I don't
3 recall exactly what I said during the meeting.
4 MR. RUSSELL: Okay. If you'd hand Number 5 to
5 the court reporter.
6 THE WITNESS: (Witness complies.)
7 (Exhibit 5 was marked for identification.)
8 BY MR. RUSSELL:
9 Q Do you recognize the document that I had marked
10 as Number 6, Mr. Smith?
11 A So this would have been -- this was issued
12 before I would have been part of the team, but it -- the
13 substance of this looks familiar. I -- I don't know
14 that it's specifically this document that I've seen, but
15 I've seen some -- it looks familiar.
16 (Exhibit 6 was marked for identification.)
17 Q Okay. What we just looked at in 5, you --
18 there was something that said revised replies?
19 A Yes.
20 Q And you were at this meeting, waiting to begin
21 reviewing those; is that correct?
22 A I --
23 Q You didn't have them at --
24 A No, at that -- we were discussing what those
25 revised replies would look like.
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1 Q Is it --
2 A We did not have the -- the replies.
3 Q This says it's a Revised Reply and it's dated
4 October 29th, 2019.
5 MR. MURPHY: It says, Revised Reply Instruction
6 to be fair.
7 MR. RUSSELL: Okay. I'm sorry. That's
8 correct.
9 A So this -- this is giving guidance to those
10 respondents on what those revised replies should look
11 like is my understanding of this document.
12 Q Okay. Did you review this document?
13 A I don't know that I reviewed this exact version
14 of this document, but a document very similar to this,
15 yes.
16 Q Okay. Turn to Page 3, if you would, please.
17 A Okay.
18 Q And Page 3 addresses, I think in its entirety,
19 the Plant Vogtle issue?
20 A It -- I don't know about its entirety, but it
21 discusses that issue, yes.
22 Q Well, the whole page is --
23 A Yes.
24 Q -- devoted to --
25 A Most of the page, yes.
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1 Q And it provides a number of different options
 2 by which a bidder could deal with the Plant Vogtle
 3 liability?
 4 A Yes.
 5 Q Okay.
 6 A It looks like it.
 7 Q And when the revised bids were actually
 8 submitted, did the bidder -- bidder select different
 9 alternatives?
 10 A The revised bids were never submitted.
 11 Q Okay. I understood that the updated revised
 12 replies never got submitted, but the revised replies,
 13 they were, in fact, submitted, weren't they?
 14 A So I know -- I don't -- I don't know what the
 15 -- the answer to the question you're asking. I -- my
 16 recollection is that we did not have final replies to
 17 review.
 18 Q Okay. Did you ever review any replies?
 19 A There -- yes, before we started the process,
 20 there was already a reply --
 21 Q Okay.
 22 A -- from all eight of them -- of them.
 23 Q Okay. And this reply here would have been --
 24 the response to this request for a reply would have
 25 already existed when you were appointed?

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1 A Yes.
 2 Q Okay. And then what I think you're suggesting
 3 is you're -- you're to the end of the process, a request
 4 for an updated revised reply went out and none of those
 5 ever came in for you to see?
 6 A Yes, that sounds accurate.
 7 Q Okay.
 8 A We never -- I never had in my possession what I
 9 considered to be final replies from any of the
 10 respondents to review.
 11 Q You -- do you know why this document -- the
 12 request for revised reply provides a substantially
 13 expand -- substantial definition of the term gross
 14 proceeds?
 15 A I do not know why.
 16 Q Do you recall gross proceeds as a concept being
 17 discussed amongst this -- the negotiation team at any
 18 time?
 19 A I don't recall that term being used.
 20 Q In connection with the evaluation which you
 21 ultimately would do, was gross proceeds one of the
 22 criteria to valuate bids?
 23 A I do not recall that. I do not believe so.
 24 Q The revised replies, which you did see, were
 25 those replies required to satisfy the criteria that were

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1 in the letter that went out by JEA asking for revised
 2 replies?
 3 A Could you state the question again?
 4 Q Yes. This is a request for revised replies --
 5 A Yes.
 6 Q -- which I understand you saw.
 7 A Yes.
 8 Q Did the revised replies, which you saw, have to
 9 meet the criteria established by this letter?
 10 A Yes.
 11 Q If you feel --
 12 THE WITNESS: You mind if I take a five-minute
 13 break?
 14 MR. RUSSELL: That would be great. Any time
 15 you want, please ask.
 16 (Recess taken.)
 17 A So I just want to -- to restate, I recognize
 18 some of the content of this letter. I don't know that
 19 this letter, in specific, that I reviewed.
 20 Q Okay.
 21 A I just want to make that clear.
 22 MR. BLODGETT: Okay. When you say letter,
 23 though, just make sure you're talking about this
 24 request --
 25 THE WITNESS: Yeah, October 29, 2019 --
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1 MR. BLODGETT: Exhibit 6?
 2 THE WITNESS: Yes.
 3 MR. BLODGETT: Got you.
 4 MR. RUSSELL: Thank you.
 5 BY MR. RUSSELL:
 6 Q Do you recall being invited to something called
 7 -- access to something called the data room?
 8 A Yes.
 9 Q And explain what that is.
 10 A The data room was an online database of various
 11 files.
 12 MR. RUSSELL: Okay. And this is Number 7.
 13 (Exhibit 7 was marked for identification.)
 14 BY MR. RUSSELL:
 15 Q And it's just a simple e-mail. It is addressed
 16 to you. And it says, The negotiation team should now
 17 have access to folder 26, Current Drafts of Documents.
 18 Is folder 26.25 something that would have been
 19 in the data room?
 20 A I assume so.
 21 Q Do you recall what documents you had accessed
 22 in the data room?
 23 Let me ask you this first: Did you ever access
 24 any documents in the data room?
 25 A Yes, a few, but I do not recall specifically
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1 which they were.

2 Q Did you call -- did you access the data room

3 multiple times?

4 A I -- likely, yes. I don't recall exactly, but

5 likely, yes.

6 Q Okay. And you may not know this. Was the

7 access that you had to the data room to all of the

8 documents in the data room or is it limited to certain

9 documents?

10 A I do not know.

11 Q Okay. And, again, you may not know. Did you

12 have the same access to the materials that the subject

13 matter experts, the JEA employees had?

14 A I do not know.

15 Q Let me back up a little bit because I want to

16 make sure I understood something. I asked you about

17 your cell phone.

18 A Yes.

19 Q And I think I asked you did you back it up.

20 What was your answer?

21 A You did not ask me that.

22 Q I'm sorry.

23 A My cell phone does back up. The -- so -- where

24 you're going with the question is do I have a backup

25 that possibly has those texts? And I checked and I do

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1 not.

2 Q How did you -- and what --

3 MR. BLODGETT: You know where this is going.

4 Q Where did you -- I just need some help.

5 A Okay.

6 Q How did you back up the phone?

7 A iCloud, which is an Apple service.

8 Q Right.

9 A So my phone backs up regularly. Recently, when

10 I discovered my texts were not there, I looked to see if

11 there was a previous backup stored that would have had

12 those messages and I was not able to find one more than

13 a few days old.

14 Q Okay. Did you ever check with iCloud to see

15 if they had any explanation for why the items that

16 should have been in the iCloud were there -- were not

17 there?

18 A I don't know whether or not they should be

19 there or not, but, no, I have not reached out to

20 iCloud.

21 Q You have been, in addition to this interview,

22 interviewed by the Inspector General for the City of

23 Jacksonville?

24 A Yes.

25 Q And in connection with that interview, you were

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1 able to produce, I believe it was a single text that

2 still was on your phone --

3 A Yes.

4 Q -- for her?

5 A Yes.

6 Q Who was that text to?

7 A That text was from Brian Hughes. And the

8 content of the text was I need to meet with you.

9 Q Was -- and that text was sent during the period

10 of time in November or December when the ITN was in

11 process?

12 A The ITN was in process. At that time I was not

13 a member -- I don't -- part of the process. That was

14 his invitation to come to his office and discuss the

15 process.

16 Q Okay. Thank you. If you could look at the

17 document -- that was 7. I'll have her mark that as 7,

18 please.

19 This is another negotiation session and shows

20 you attending. This one was on 11/29/2019. Do you

21 recall at any of these negotiation sessions that a

22 member of the JEA board, actually may have been Chairman

23 Alan Howard, being present?

24 A Alan Howard?

25 Q Alan Howard.

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1 A I do not recall.

2 Q Do you recall the man who appointed you, Brian

3 Hughes, coming to any of these meetings?

4 A I do not.

5 Q Do you know who Tim Baker is?

6 A The same sounds familiar, but I don't know who

7 that is.

8 Q Okay.

9 A I don't -- he was not in any of the sessions.

10 Q Were there any JEA board members who attended

11 any of these negotiating --

12 A I don't know --

13 Q -- sessions?

14 A -- who all the JEA board members are, but, to

15 my knowledge, there -- none of the people in the

16 meetings were JEA board members.

17 Q Do you know why there was a further meeting on

18 this day about the revised replies? It says,

19 Clarifications. A better question may be, do you recall

20 what was clarified?

21 A I do not recall, but it was likely a dis- -- a

22 similar discussion with a different company. But I do

23 not recall specifically why or if there was another

24 meeting on that same day.

25 Q By this date, 11/29/2019, had all of the

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1 revised replies been received by JEA?
 2 A I do not recall.
 3 Q Did you actually review each of the revised
 4 replies?
 5 A So I'm -- just to be clear, I'm a little maybe
 6 confused about the terminol- -- so there was a set of
 7 replies that we were viewing, but we anticipated another
 8 final set. So we -- yes, I reviewed a version of the
 9 replies for all the bidders.
 10 Q Okay. And do you recall anything further about
 11 the clarification of the revised replies?
 12 A I do not. I don't remember the specifics of
 13 what those clarifications were.
 14 Q And I take it most of the agendas have on them
 15 open discussion. Do you recall there ever being
 16 anything that fell in that category and actually got
 17 discussed in any of these meetings?
 18 A I don't recall.
 19 Q In preparation for this meeting on 11/29/2019,
 20 did you review all of the replies that had been turned
 21 in on 11/26/2019, do you recall?
 22 A Likely -- I don't recall, but, likely, I would
 23 have reviewed them by now, by this time.
 24 Q Did you recall you making any comments about
 25 this meeting, about the revised replies personally?

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1 (Exhibit 10 was marked for identification.)
 2 Q But you --
 3 A I -- I see on the -- the -- it says on the
 4 agenda the production of the summary document, but I
 5 don't recall what I had in my hand at this meeting.
 6 Q Okay. You have a -- you do have a specific
 7 recollection at some point in time, you were given each
 8 of the eight revised replies for you to review?
 9 A Yes.
 10 Q Okay.
 11 A And, again, I'm not -- I'm a little unclear on
 12 the revised term. I was given a proposal to review from
 13 every firm.
 14 Q Okay.
 15 A Yes.
 16 Q I think I'm done with 10.
 17 And I think the answer to this is independent
 18 knowledge. Do you have any knowledge that the initial
 19 deadline for submission of final bids to the JEA board
 20 was March 20, 2020?
 21 A I do not recall that date.
 22 Q Do you recall some date later than January
 23 20 -- I mean, 30, 2020, being the intended submission
 24 day?
 25 A No. My recollection is that we were -- we were

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1 A Do I personally? I do not.
 2 Q Do you know one way or another whether you did
 3 or did not?
 4 A Whether I made any comment in the meeting? I
 5 do not.
 6 MR. RUSSELL: Go ahead and get that document
 7 marked as 8.
 8 (Exhibit 8 was marked for identification.)
 9 BY MR. RUSSELL:
 10 Q You might want to leave it right there for just
 11 a moment.
 12 A Okay.
 13 Q Because the next document I'm looking at is
 14 12/2, becomes Number 9. It was for an agenda for a
 15 December 2, 2019, meeting. And, again, it says Revised
 16 Replies Clarification.
 17 Do you know what causes a further meeting on
 18 Revised Replies Clari- -- Clarifications?
 19 A Not specifically, I do not recall.
 20 (Exhibit 9 was marked for identification.)
 21 Q 10. This is an agenda for a 12/3/2019 meeting
 22 the day after the -- I think it was Number 9. At this
 23 meeting, do you recall having in your possession the --
 24 each of the revised replies?
 25 A I do not recall.

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1 always talking about January.
 2 Q Okay. Do you recognize the document that's
 3 been tagged as Number 11, which is called JEA Project
 4 Scampi - Summary of Revised Replies? And it has a
 5 December 2019 date on it.
 6 A Yes, I recall it.
 7 (Exhibit 11 was marked for identification.)
 8 Q Did you review this at -- do you recall
 9 reviewing this at the December 4th meeting?
 10 A Again, I don't recall exactly the date, but
 11 based on the agenda that you just showed me, that it's
 12 likely this was -- that was the date this was
 13 reviewed.
 14 Q Did you have any input into the preparation of
 15 this document?
 16 A No.
 17 Q Explain to me what this document is, if you
 18 would, please.
 19 A So, in short, this document evaluated different
 20 aspects of the different proposals and explained them to
 21 me and the other members of the negotiation team to sort
 22 of help us begin our valuation process.
 23 Q Okay. Now, when you saw this document -- if
 24 you'll turn to Page 2, there's some redactions. When
 25 you saw this document, it didn't have any redactions; is

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1 that correct?

2 A That is correct.

3 Q Okay. And if you look at Page 2, at the top of

4 the page, under Total Deductions from Gross Proceeds,

5 you see it's been blacked out?

6 A I see that.

7 Q And net proceeds has also been blacked out?

8 A Yes.

9 Q Do you recall which bidder --

10 A No.

11 Q -- is being analyzed in this top column?

12 A I do not recall.

13 Q Do you recall at this -- this is the one --

14 where did I get this? This group of people on this

15 12/3 addenda were sitting around talking about this

16 document?

17 A I -- I -- I don't recall that specifically, but

18 I do remember discussion of this document.

19 Q Okay. And in connection with the discussion,

20 this document prepared by the J.P. Morgan, Morgan

21 Stanley, who had the highest dollar bid, if you recall?

22 A Which proposal had the highest dollar value?

23 Q Which bidder, yes.

24 A NextEra.

25 Q Do you recall how much higher the NextEra
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1 proposal was to the next nearest bid?

2 A I do not recall exactly, but I believe it was

3 more than 1 billion over the next lowest -- next

4 highest, I should say.

5 Q This document summarizes the revised replies;

6 is that correct?

7 A Yes.

8 Q Okay. And do you recall the date on which the

9 revised supplies -- revised replies were due at JEA?

10 A I do not.

11 Q Okay. But whatever date the revised replies

12 were actually received at JEA, they would have from that

13 point in time to the date of this document, to December

14 3rd when you saw this document, to get it prepared?

15 A Yes.

16 Q That probably wasn't a good question, but thank

17 you.

18 Do you recall ever seeing any other document,

19 other than this document, which actually ranked the

20 bidders?

21 A I'm -- I'm not sure that this document ranks

22 the bidders, specifically, but I do not recall any

23 document that ranks the bidders.

24 Q Perhaps a better word is prepare the bids. Do

25 you recall any other document --

1 A I did not.

2 Q But this document prepares the bids, it's

3 one where --

4 A This document prepares the bid, yes.

5 Q Okay. Do you recall any other document that

6 actually prepared the bids?

7 A I do not recall.

8 Q Okay. And you don't recall that from the top

9 going to the bottom was, in fact, the ranking, the best

10 bid was put at the top. And what the investment banker

11 perceived was the worst bid was put at the bottom?

12 A I do not recall that being the case.

13 Q Okay. The meeting that happened on December

14 3rd, which this document was discussed, do you recall

15 how long that meeting lasted?

16 A No, I do not.

17 Q Do you recall during that December 3rd meeting

18 you personally saying anything about this document,

19 which we've marked as Number 11?

20 A I do not recall.

21 Q Do you recall Stephanie Burch at this meeting

22 says -- saying that NextEra is the clear winner?

23 A I do not recall that.

24 Q You just don't recall one way or another? She

25 could have said it, but you just don't recall? You're
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1 not saying she didn't say it?

2 A I do not recall her saying that.

3 Q Okay. Thank you. Now, at this meeting, I

4 think I know the answer, but do you recall Stephanie

5 Burch further talking about accelerating the time line

6 from the scheduled time, from March to the end of

7 January 2020?

8 A I do not recall that discussion.

9 Q Okay. Was there discussion at this 12- --

10 December 3rd, 2019, meeting of -- you hear the term at

11 this meeting "self select" in describing bidders?

12 A I don't recall that term being ever used.

13 Q Do you know what it means?

14 A I do not.

15 Q Okay. And like your other meetings, at the

16 conclusion of this meeting, did you make any notes on

17 this document or take any notes concerning this

18 document?

19 A I don't believe I did, no.

20 Q Okay. Well, this document was picked up and

21 taken away from you at the end of the meeting?

22 A It would have been, yes.

23 Q I don't know if I asked this, I may, how

24 long have you -- do you recall how long this meeting

25 lasted?

1 A I do not.
 2 Q Okay.
 3 A Just -- just to be clear, there was many,
 4 many, many meetings, so recalling specifics of one
 5 meeting, there's -- I'm not going to be able to probably
 6 do that.
 7 Q From this meeting, did you personally reach any
 8 conclusions concerning any of the bids and where they
 9 were falling in ranking order?
 10 A No, I didn't. I didn't even think we were
 11 looking at the final bids.
 12 Q Well, you said these were bids.
 13 A Based on these bids, I made no determinations
 14 whatsoever.
 15 Q Okay.
 16 A And to be clear, they're not specifically bids,
 17 they're proposals.
 18 Q Actually, I've -- actually, replies.
 19 A Replies, yes.
 20 Q Okay. You told me a few moments ago that you
 21 had reviewed all of the replies. Do you recall when you
 22 first received the replies, how long before this
 23 December 3rd meeting?
 24 A I do not recall.
 25 Q Okay. How were the replies given to you? Were
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1 they given to you by JEA?
 2 A I don't recall. But I would assume that that's
 3 how they would be given to me, but I do not specifically
 4 recall.
 5 Q And did you do anything to personally verify or
 6 check the information that was in Exhibit 11? Look at
 7 the replies and if see they matched up?
 8 A I mean, I -- I would have reviewed this with
 9 the replies, yes.
 10 Q Okay.
 11 A You know, I don't -- yes, I would have
 12 referenced this with the replies themselves.
 13 Q So the replies, you were allowed to keep those
 14 outside of a meeting? You were given the replies,
 15 couldn't read them all at the meeting and you had them
 16 with you again when you came to this December 3rd
 17 meeting?
 18 A I do not recall ever having a copy of the
 19 replies on my person.
 20 Q How did you read the replies?
 21 A We had many, many meetings. We were in
 22 conference rooms for many hours, many days.
 23 Q But sometime between -- this meeting happened
 24 on December the 3rd, as shown by the agenda, and the
 25 documents were the replies, were submitted at a date
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1 certain and do you know that date?
 2 A I do not, no.
 3 Q But you just -- physics, you couldn't read them
 4 before they were submitted to JEA?
 5 A Yes.
 6 Q Okay. So whatever that date is, by the date of
 7 this meeting, 12/3, you would have had sat in a meeting
 8 somewhere and read the eight replies?
 9 A I don't know that at this meeting I had
 10 thoroughly reviewed all the replies, but I would have
 11 used this document in reference to the replies.
 12 Q Were you given -- well, how did -- you weren't
 13 given the replies at this meeting, were you?
 14 A I honestly do not recall.
 15 Q Okay.
 16 A The replies were available to us, but I just
 17 never had any copy that I left the room with in my --
 18 that I recall.
 19 Q How -- were they available to you in the data
 20 room?
 21 A I do not recall.
 22 Q Do you recall -- okay. You don't recall. You
 23 didn't go there and look at them?
 24 A I mean, it's -- so my recollection is reviewing
 25 the paper copy, but I did not keep that copy. I prefer
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1 to review paper documents over a computer.
 2 Q Okay. And what I'm understanding from you,
 3 Mr. Smith, is that if you reviewed the paper document,
 4 the only place you would have done that is sitting in a
 5 meeting with other members of the negotiation team
 6 because you never left the room with a document -- a
 7 paper document?
 8 A That sounds accurate, yes.
 9 Q The document shows on the first page that it
 10 was prepared by J.P. Morgan and Morgan Stanley.
 11 Do you recall representatives of those
 12 investment banks talking to you at this December 3rd
 13 meeting about how the stock that was prepared and what
 14 criteria they used?
 15 A In general, I recall something along those
 16 lines.
 17 Q And -- and applying that criteria, did you
 18 understand from the investment bank, which is Morgan
 19 Stanley and J.P. Morgan, that this is, in fact, a
 20 ranking of the bidders, this document?
 21 A Well, regardless of how they intended it, I did
 22 not consider this to be a ranking that I was going to
 23 utilize.
 24 Q Okay.
 25 A So perhaps that was their intention, but that's
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1 not how I reviewed this document. They were reviewing
2 minimum criteria, things like that. There were some
3 that perhaps didn't meet the minimum criteria or some
4 of -- one of the things that was discussed.

5 Q Do you recall that actually being discussed,
6 that the investment banker said X bidder bid does not
7 meet the minimum criteria?

8 A Well, you can see there's some question marks.
9 There were some questions on whether or not those
10 aspects of the proposal met the requirements of the
11 ITN.

12 Q And I understand --

13 A Specifics, I do not recall, but there was --
14 there was those type of discussions, whether or not a
15 certain aspect of the proposal would meet the
16 requirements of the ITN. But, ultimately, I -- this --
17 this was a guideline document, never was a -- driving my
18 valuation.

19 Q You -- you never got to the point that you
20 actually did a valuation of the bidders, did you?

21 A No, sir.

22 Q What would have driven your evaluation, were
23 you given the opportunity to do that?

24 A We had criteria in the ITN that we were to
25 evaluate against. And so that is the same as any RFP,
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1 RFQ process I've ever done, you evaluate the proposals
2 based on the criteria and the document where you request
3 the proposals.

4 Q And what I think we may have talked about
5 before, in the ITN document, did it tell you how to use
6 the criteria in terms of making a valuation? Were those
7 directions in there?

8 A As I recall, the ITN document laid out the
9 minimum requirements, but did not lay out how we were to
10 evaluate those minimum requirements.

11 Q Okay. If you'll look at 12, and this may be
12 very quick, did you ever have a document that was
13 provided to you that looked like this document?

14 A I do not recall receiving this. No, I do not
15 recall this document.

16 (Exhibit 12 was marked for identification.)

17 Q Okay. Thank you.

18 If you look at the next document, going pretty
19 much in order here, this is an agenda from 12/4/2019.
20 You're working hard, Mr. Smith. And do you recall what
21 happened at this meeting?

22 A I do not.

23 Q Do you recall that this was, what, the
24 beginning of the meetings, which were phone calls who
25 were made by a negotiation group to each of the bidders

1 and the bids were discussed over the phone?

2 A I do not recall that about this specific
3 meeting, no.

4 Q Did there come a point in time sometime in the
5 process of early December in which the negotiation team
6 came to a room and made calls to each of the bidders and
7 discussed their revised bids?

8 A Multiple times.

9 Q Multiple times. Okay.

10 Do you recall in the phone calls with the
11 bidders that -- the date of January 30th, 2020, for the
12 submission of the bids was discussed?

13 A Do I recall that on the phone calls that -- not
14 specifically, but it's something that would have been
15 discussed.

16 Q Okay. And -- and you don't recall any reaction
17 from those bidders saying that's not right, it's
18 supposed to be March 30th, 2020, we can't get it done
19 that quick?

20 A I -- I do not recall that.

21 Q Okay. And, again, I may have asked this
22 before, but do you recall any specific comments to the
23 bidder about the likelihood of success of their bid,
24 whether it was on the --

25 A I -- I do not recall that.

1 Q I mean, you -- in these phone calls, did you
2 have any comments that you made to the bidders about
3 their bids?

4 A I do not recall, but I do not believe I
5 specifically personally made any comments towards the
6 bidders.

7 Q Do you recall how many days the phone calls
8 went on? Was it two full days of phone calls?

9 A I -- I -- I recall more than two days of
10 phone -- I mean, I don't know exactly how many days of
11 phone calls there were, but we made many, many meetings
12 where we were on the phone with respondents. I do not
13 recall a number.

14 Q Right. So -- and the only personal meeting
15 that happened with the bidder group occurred in
16 Atlanta?

17 A Yeah. Yes.

18 Q In the one day --

19 A And the one meeting was here in Jacksonville,
20 yes.

21 Q Okay. Do you recall, after the conclusion of
22 the telephone calls with the bidders, that two of the
23 eight bidders dropped out of the process?

24 A I don't -- I don't recall that -- when that
25 happened, but I -- that sounds like -- I recall that

1 happening.

2 Q Okay.

3 MR. RUSSELL: Did we mark 13? Give that to the

4 court reporter.

5 THE WITNESS: (Witness complies.)

6 (Exhibit 13 was marked for identification.)

7 BY MR. RUSSELL:

8 Q You don't recall which bidders dropped out, do

9 you?

10 A I do not.

11 Q Do you know why they dropped out?

12 A I do not recall.

13 Q This is just the document by which you

14 acknowledged that the INT -- ITN process would be

15 confidential?

16 A Uh-huh.

17 (Exhibit 14 was marked for identification.)

18 Q Who provided you with this document?

19 A I believe the JEA negotiation team.

20 Q Did you have any questions about this document

21 with the person that -- discussion about this document

22 with the person that provided it to you?

23 A I don't recall specifically. I -- I vaguely

24 remember some general discussion about this, but I

25 don't -- I do not specifically recall if we discussed

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1 this.

2 Q Okay. Were you told that you had to sign

3 this document in order to participate in the ITN

4 process?

5 A No, I don't know that I was told that, but, you

6 know, I was handed the document as a part of the

7 process. So if I were -- I didn't have any problem

8 signing it.

9 Q And --

10 A I believe I've -- I've signed this multiple

11 times.

12 Q Sure. And you complied with it?

13 A Absolutely.

14 Q Okay. And -- and I don't understand the

15 concept, you said the JEA negotiation team gave you this

16 document?

17 A So -- so Jenny and John McCarthy were our sort

18 of contacts.

19 Q Right.

20 A So I believe one of them would have given this

21 to me.

22 Q That's what I was trying to get at.

23 A Yeah. They had a specific title. I forget

24 what it was, but they were, you know --

25 Q Document 15 is another agenda for the

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1 negotiating strategy session on December 9th, 2019. And

2 it shows, Mr. Smith, you were at this meeting?

3 A Yes.

4 (Exhibit 15 was marked for identification.)

5 Q And it says, Production of Management

6 Presentation Document.

7 Tell me what that's about, if you know,

8 recall?

9 A That was a large PowerPoint presentation that I

10 believe was in the same presentation that was presented

11 to the respondents in Atlanta.

12 Q Was that document complete and shown to you at

13 this meeting, if you recall?

14 A I be- -- I can't respond to the completeness.

15 It's a very long document, but we were provided a copy

16 of it to review in the -- and my recollection is the

17 document was what was presented in Atlanta.

18 Q Okay.

19 A And just -- just to back up, the designated

20 procurement representative was the term I was looking

21 for Jenny and John.

22 Q In describing it for me, it was Jenny McCarthy

23 and John --

24 A John McCarthy and Jenny --

25 Q McCollum?

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1 A -- McCollum, yeah.

2 Q Tell me what their role in this process was.

3 A They -- you know, they schedule all the

4 meetings and sort of facilitated the meetings, I guess

5 you would say.

6 Q Okay. Number 2 is the Production of the draft

7 APA.

8 Do you recall what that document -- what that's

9 about?

10 A I do not recall.

11 Q Do you recall what the APA is?

12 A I do not.

13 Q It's not a trick question. It's the asset

14 purchase agreement. Do you recall that --

15 A Okay.

16 Q -- the discussion was -- at this meeting was

17 the APA, potential asset purchase agreement, was being

18 drafted?

19 A Yes.

20 Q Okay. And do you recall who was actually

21 drafting what could become the asset purchase

22 agreement?

23 A I do not recall who specifically was drafting

24 it, no.

25 Q And do you understand in number 3 what the MIRA

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1 communication was?

2 **A** I do not recall what MIRA stands for.

3 **Q** And I don't know either.

4 **MR. BLODGETT:** It's an acronym for one of the

5 bidder names, MacQuarie.

6 **A** Okay. No, I do not recall what that --

7 **Q** Okay. Does it refresh your recollection if I

8 tell you that the MIRA communication, as I understand

9 it, was that MIRA told JEA that it was dropping out of

10 the process? Does that refresh your recollection?

11 **A** So I remember something along those lines, you

12 know. Specifically was it this date, likely it was, but

13 I don't recall for certain. But that does sound -- I do

14 remember something like that.

15 **MR. RUSSELL:** Okay. That will be 15.

16 Okay. Let me -- I need to take a break for

17 about five minutes.

18 (Recess taken.)

19 **BY MR. RUSSELL:**

20 **Q** Before we took the break, we were talking about

21 what we've marked as Exhibit 16, entitled Management

22 Presentation.

23 Did you have any involvement in the preparation

24 of this document?

25 **A** No, I did not.

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1 (Exhibit 16 was marked for identification.)

2 **Q** Did you have any input into what was going to

3 go into it?

4 **A** No.

5 **Q** The management presentations occurred in

6 Atlanta?

7 **A** Yes.

8 **Q** And do you recall when they began in Atlanta?

9 **A** I don't recall the specific date. It was in

10 December.

11 **Q** Okay. Prior to those meetings beginning, you

12 had been given this document, did you read this

13 document?

14 **A** I -- I mean, I didn't read it in detail. This

15 is -- this is a presentation I was about to be given,

16 so, you know, I -- I glanced through it --

17 **Q** Okay.

18 **A** -- before the presentations.

19 **Q** At the meeting, which I have the agenda for, do

20 you recall anything that was discussed about this

21 document at the meeting that occurred on 12/9/2019?

22 **A** I don't recall anything -- any details of that

23 discussion.

24 **Q** Anybody at that meeting suggest something in

25 this document should be changed or altered?

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1 **A** I don't recall that at all.

2 **Q** Okay. I'm going to back up again because I

3 don't think I got this nailed down.

4 In connection with the problem with your phone

5 when the --

6 **A** Yeah.

7 **Q** -- texts disappeared, that event happened after

8 this ITN process was completely over?

9 **A** Yes. I believe that I -- it was some time in

10 March.

11 **Q** Okay. March of 2020?

12 **A** March of 2020, this year.

13 **Q** Okay.

14 **A** Yes. I wasn't aware of it until yesterday.

15 **Q** Really? Okay. Got it.

16 Do you have the document -- 16A, we're not

17 going to need so just give that one back to me.

18 **MR. RUSSELL:** You can keep it, Neils, but I'm

19 not going to use it.

20 **MR. MURPHY:** Okay. I'll just --

21 **MR. RUSSELL:** Sure.

22 **MR. MURPHY:** -- throw it in my file.

23 **BY MR. RUSSELL:**

24 **Q** 17, do you recall reviewing this document,

25 Mr. Smith?

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1 **A** I do not.

2 (Exhibit 17 was marked for identification.)

3 **Q** Okay. This was actually what we were talking

4 about earlier. It was the asset purchase and sale

5 agreement.

6 **A** (Nods head.)

7 **Q** It's your understanding a document like this

8 was being prepared for the potential bidder?

9 **A** For the potential bidders, yes.

10 **Q** Bidders. Excuse me. Yes.

11 And so do you have any knowledge as to whether

12 this document was being prepared for specific bidders,

13 each one had a specific APA, or asset purchase

14 agreement, or were all of them generic and the same?

15 **A** My understanding is everyone was given a sort

16 of standard one to review and make comments on.

17 **Q** Okay. And along with the asset purchase

18 agreement, there were certain related documents, a

19 number of them, in fact, that were going to go along

20 with the asset purchase agreement.

21 The one that I have here is the system

22 coordination agreement. Do you recall any discussion

23 about this agreement?

24 **A** No, I do not.

25 (Exhibit 18 was marked for identification.)

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1 Q Okay.
2 A I don't recall seeing this.
3 Q Do you know if any of the -- I'll call these
4 ancillary documents -- were prepared with a specific
5 bidder in mind?

6 A I do not know that.
7 Q Just to be clear, what I was asking you was
8 there -- was there ever any proposed contract prepared
9 for a specific bid- -- bidder by JEA?

10 A I do not recall.
11 Q I have a letter dated December 12, 2019, from
12 the Office of the Mayor and it's actually from the
13 mayor. There are just a couple provisions in this I
14 wanted to talk to you about.

15 In paragraph 2 on the second page, the mayor
16 asked the JEA board to tell the senior leaders and their
17 advisors to conclude the ITN by the end of January. And
18 it was -- I think I heard -- it was your understanding
19 that it was always the end of January?

20 A Yes, that's the -- that's the date that I
21 always recall discussing.

22 Q Okay. And in Paragraph 3, at the bottom, I see
23 the last two lines of Paragraph 3, Mr. Smith, it says,
24 The top tier of the proposal should be given to the City
25 Council for them to review.

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1 MR. RUSSELL: Not to him specifically.
2 MR. MURPHY: I -- I just want to be clear
3 that -- what we're talking about here.

4 MR. RUSSELL: Right.
5 A And so just -- I -- I believe this was written
6 to the -- yeah, the JEA board members.

7 Q Right.
8 A So this wasn't even, in my opinion, directed at
9 me, you know. So we intended to provide a ranked list
10 of the proposals with a top selection. What the board
11 of JEA decided to do with that is --

12 Q Okay. Can you --
13 A My intention was to create a one -- one top
14 proposal.

15 Q Right.
16 A Evaluate the proposals and have a top ranked
17 proposal.

18 Q And you'd give him a second ranked proposal?

19 A Well, that's how these things work. Yeah,
20 there would be a second --

21 Q All of them would be ranked -- okay. Let's
22 straighten it out.

23 In view of the way things were going to work,
24 all of the bidders that were still in process were going
25 to be ranked one through however many were left, maybe

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1 Did that change your thinking about how many
2 bids were to be submitted?

3 A No, I always intended to choose one --

4 Q Okay.

5 A -- proposal.

6 Q Did you get this letter and read it?

7 A I -- I remember it. I -- yes, I'm sure I -- I
8 reviewed this.

9 Q Okay. Are you telling me --

10 A I don't remember the -- the content fully, but
11 I recall this -- this letter being -- being read.

12 Q I know it's pretty late in the process, but are
13 you telling me that although the mayor now has
14 instructed that the top tier proposals be given to
15 City Council, you still were just going to pick one
16 bidder?

17 MR. MURPHY: Let me object to the form. I
18 mean, I don't think he instructed anyone. Is that
19 what it says? Let's be clear. Was it a suggestion
20 or an instruction? Let's talk about -- what
21 paragraph are you referring to?

22 MR. RUSSELL: The last sentence of paragraph 3.
23 It's a fair question, Neils, but it's -- it's an
24 instruction.

25 MR. MURPHY: Okay.

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1 six?

2 A Yes.

3 Q And that would be given to the JEA board, one
4 through six?

5 A Yes.

6 Q And they could choose, the JEA board, anyone
7 they wanted, one through six?

8 A I -- my -- my understanding is the JEA board
9 could have done whatever they wanted with our
10 suggestion.

11 Q And then did you understand, as indicated in
12 this letter, that once the JEA board made a decision
13 of who to select or how many to select, it would go to
14 the City Council and they would have to make the
15 decision?

16 A That -- so my understanding was there would be
17 some -- after we were done with the process, there would
18 be an interim process of JEA board, City Council. And
19 at some point there would be a referendum. But the
20 portion of the process I was involved in, I always
21 intended to have a number one selection that was the
22 best for the City.

23 Q Right. But that wasn't the only one you were
24 going to give them. You were going to give them the
25 top -- the -- not you personally, the negotiation team,

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1 from your perspective, was going to take all the bidders
2 and rank them and give that to the JEA board?
3 A We never discussed how we were going to present
4 that to the board, to be -- to be clear.

5 Q Okay.

6 A But my intention was never to provide a -- you
7 know, this is back up number one, back up number two.
8 To present a clear -- the best proposal out of the --
9 the bunch.

10 MR. RUSSELL: Okay. Let's go ahead and hand
11 that to her and she can mark it as 19, please.

12 THE WITNESS: (Witness complies.)
13 (Exhibit 19 was marked for identification.)

14 BY MR. RUSSELL:

15 Q Ultimately the negotiation team was going to
16 make the selection of who the submitted bidders would
17 be?

18 A Would -- say -- state the question again.

19 Q Ultimately --

20 A It was a statement. I don't think it was a
21 question.

22 Q Yeah. Meant to be a question.

23 My understanding is that ultimately the three
24 negotiators would make the decision of who the
25 successful bidder or bidders would be and that would be
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1 MR. MURPHY: First, I mean, you're assuming it
2 was sent out. I mean, you're making a lot of
3 assumptions. Has he ever seen the document? How
4 about we start with something like that --

5 MR. RUSSELL: We'll do that.

6 MR. MURPHY: -- like, predicate questions --

7 MR. RUSSELL: Sure.

8 BY MR. RUSSELL:

9 Q Have you ever seen --

10 MR. MURPHY: -- instead of all the leading
11 questions, Lanny, of a live adverse witness.

12 MR. RUSSELL: I've been very pleasant.

13 MR. BLODGETT: This is not evidentiary.

14 MR. RUSSELL: Don't cause something else.

15 BY MR. RUSSELL:

16 Q All right. Have you ever seen this document
17 before?

18 A Again, I -- the content of this document looks
19 familiar. Have I seen this exact document? I -- I
20 can't recall.

21 Q Well, do you recall there came a point when it
22 was decided by the negotiation team that having already
23 sent out a reply -- revised reply for instructions, that
24 you would send out an updated revised reply for
25 instructions?
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1 submitted to the JEA board?

2 A So I would use the term "successful." We
3 intended to select the best proposal out of the
4 proposals received.

5 Q Okay. And since those three were making that
6 selection and it was up to them when they were going
7 to make the selection, do you know why this letter went
8 to the JEA board instead of to you, the three
9 evaluators?

10 A I don't know.

11 Q Outside of this letter, did you ever receive
12 anything similar to the instructions provided in this
13 letter from anybody else?

14 A No.

15 Q Do you believe you were required to follow the
16 instructions in this letter?

17 A No.

18 MR. RUSSELL: That'll be marked as 20.
19 (Exhibit 20 was marked for identification.)

20 BY MR. RUSSELL:

21 Q This is 20 there, Mr. Smith. And this -- I was
22 at the right page. This subject of this letter is
23 Updated Revised Reply Instruction for Project Scampi
24 Invitation to Negotiate.

25 Do you know why this document was sent out?
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1 A It is my recollection that -- that a letter
2 like that was sent, yes.

3 Q And what necessitated an updated revised reply
4 for instructions?

5 A In general, there were questions that were
6 shared across the different proposals. And -- and in
7 some cases we chose to answer them in a letter that
8 would go to all, rather than to individually. So it --
9 you know, specifically, I don't recall exactly why, but
10 I recall generally there were issues that we felt were
11 best handled in a correspondence that went to all
12 bidders.

13 Q Okay. And did you have an understanding that
14 this document went out to each of the bidders who were
15 still participating in the ITN process?

16 A My understanding is that a document similar to
17 this was sent to all the respondents that were still
18 participating in the process, yes.

19 Q Did you have any input into the preparation of
20 the document?

21 A You know, the -- the content of the document
22 was based on discussions within the meeting. So in
23 that, yes. But did I actually have any direct -- no.

24 Q Okay. Do you know who prepared the document?

25 A I do not.
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1 Q And were there any responses to the updated
2 revised reply request?
3 A I do not recall.
4 Q So that will be 20.
5 Oh, I guess that's a fair question. I asked
6 something like that.
7 Do you know who made the decision, group or an
8 individual, that this letter should go out? Did you
9 have input into whether this letter -- let me stop and
10 ask good questions.
11 Did you have any input into whether or not this
12 document should be sent out?
13 A There was discussion in the meetings about
14 whether the document should be sent out and we agreed,
15 as a committee, that the document should be sent out.
16 Q The negotiations committee?
17 A The negotiation committee.
18 Q Right. Okay. And you should have 22 and 21.
19 A 21 and 22.
20 Q Okay. 21 is a Negotiation Session, Agenda for
21 12/23/2019. And it shows that this negotiation session
22 has been cancelled.
23 Do you know why this negotiation session was
24 cancelled?
25 A I do not recall specifically, but I believe it
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1 was because the -- the process was coming to -- was
2 stopped. I don't recall exactly why this meeting was
3 cancelled.
4 (Exhibit 21 and 22 were marked for
5 identification.)
6 Q Okay. I guess that's what I'm trying to find
7 out, the notice of cancellation of the ITN process came
8 out of JEA on a date of December 24th, 2019, but for
9 some reason on 20 -- 12/23/2019, the NextEra negotiation
10 session was cancelled, is that because there was prior
11 knowledge of the upcoming cancellation by the
12 negotiating team?
13 A So I -- we never had prior knowledge before
14 there was a public knowledge of the cancellation. I
15 don't know what the dates -- when that know- -- when
16 that was made public.
17 Q Okay. Well, the notice that I have is 12/24,
18 but the NextEra cancelled session is 12/23. Can you
19 explain why the NextEra session was cancelled?
20 MR. MURPHY: I'm sorry, Lanny, which --
21 which -- what did it say, NextEra was cancelled?
22 MR. RUSSELL: Sure.
23 MR. MURPHY: I see Jethawk, I'm just curious.
24 MR. BLODGETT: Yeah, that's -- that's the
25 NextEra code name. I don't --
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1 MR. MURPHY: Oh, okay. I'm sorry. NextEra on
2 here. And Jethawk, who's the same thing, is
3 NextEra.
4 MR. RUSSELL: It is.
5 MR. BLODGETT: Yes.
6 MR. MURPHY: I didn't know that. Sorry.
7 MR. RUSSELL: That's all right.
8 MR. BLODGETT: We didn't until recently either
9 so.
10 BY MR. RUSSELL:
11 Q I'm just trying to --
12 A So I -- I do not recall the specific time line
13 of when we -- when we were asked in the process, but I
14 don't -- I don't recall exactly.
15 Q Do you know why the ITN process was cancelled?
16 A I do not know specifically why it was
17 cancelled.
18 Q Going back to the document we talked about,
19 which had the ranking of the bids, I recall your
20 recollection being that the FPL, Florida Power & Light,
21 bid was approximately \$2 billion higher than any other
22 bidder?
23 A I said one billion.
24 Q One billion. I'm sorry.
25 A Yes.
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1 Q One billion is enough. You said you thought it
2 was about \$1 billion higher than any of the competing
3 bids. At that discussion of that document that had that
4 information in it, did anybody question how it was
5 possible that that bidder, Florida Power & Light, could
6 be a billion dollars higher than the nearest bidder?
7 A I don't recall any discussion about that.
8 Q Okay.
9 A I have an opinion, a personal opinion about
10 that, but I don't recall any discussion about that with
11 the committee at all.
12 Q What's your opinion?
13 A My personal opinion is that strategically it's
14 the most important for them. More valuable to them.
15 Q Do you know who made, on Exhibit 21, the
16 decision to cancel the --
17 A I do not --
18 Q -- session?
19 A I do not recall.
20 Q Was it communicated to you before you came to
21 the meeting?
22 A I don't recall.
23 Q Do you recall, on this day, November 23rd, in
24 the morning before the cancellation of the 2:00 o'clock
25 session, a session with other bidders?
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1 A It's very likely.
 2 Q Okay.
 3 MR. RUSSELL: Thank you for your time, both of
 4 you.
 5 MR. MURPHY: All right. Thank you.
 6 (Witness excused.)
 7 (The interview was concluded at 3:50 p.m.)
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1 REPORTER'S CERTIFICATE
 2
 3 STATE OF FLORIDA
 4 COUNTY OF DUVAL
 5
 6 I, Terrie L. Cook, RPR, CRR, FPR, certify that I
 7 was authorized to and did stenographically report the
 8 interview of ROBIN GREGORY SMITH; and that the foregoing
 9 transcript, pages 1 through 82, is a true record of my
 10 stenographic notes.
 11
 12 I further certify that I am not a relative,
 13 employee, attorney, or counsel of any of the parties,
 14 nor am I a relative or employee of any of the parties'
 15 attorney or counsel connected with the action, nor am I
 16 financially interested in the action.
 17
 18 DATED on June 18, 2020, Jacksonville, Duval
 19 County, Florida.
 20
 21
 22
 23
 24
 25

Terrie L. Cook, RPR, CRR, FPR

Hedquist & Associates Reporters, Inc.

1 CERTIFICATE OF OATH
 2 STATE OF FLORIDA)
 3 COUNTY OF DUVAL)
 4
 5 I, Terrie L. Cook, RPR, CRR, FPR, Notary
 6 Public, State of Florida, certify that ROBIN GREGORY
 7 SMITH personally appeared before me on June 9, 2020, and
 8 was duly sworn.
 9
 10 WITNESS my hand and official seal on
 11 June 18, 2020.
 12
 13
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 20
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 24
 25

Terrie L. Cook, RPR, CRR, FPR
Notary Public, State of Florida

Hedquist & Associates Reporters, Inc.



1 June 18, 2020
 2
 3 ROBIN GREGORY SMITH
 4 c/o Niels P. Murphy, Esquire
 5 Murphy & Anderson, P.A.
 6 1501 San Marco Blvd.
 7 Jacksonville, FL 32207
 8
 9 In Re: June 9, 2020
 10
 11 Dear Sir:
 12
 13 This letter is to advise that the transcript for the
 14 above-referenced deposition has been completed and is
 15 available for review. Please make arrangements for read
 16 and sign or sign below to waive review of this
 17 transcript.
 18
 19 It is suggested that the review of this transcript be
 20 completed within 30 days of your receipt of this letter,
 21 as considered reasonable under Federal Rules*, however,
 22 there is no Florida Statute to this regard.
 23
 24 The original of this transcript has been forwarded to
 25 the ordering parties and your errata, once received,
 will be forwarded to all ordering parties for inclusion
 in the transcript.
 Sincerely,
 Terrie L. Cook, RPR, CRR, FPR
 Hedquist & Associates, Inc.
 cc: Niels P. Murphy, Esquire
 E. Lanny Russell, Esquire
 Waiver:
 I, _____, hereby waive the reading & signing
 of my deposition transcript.

Deponent Signature _____ Date _____

Hedquist & Associates Reporters, Inc.

1 ERRATA SHEET
2 DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES

3 INTERVIEW OF ROBIN GREGORY SMITH

4 TAKEN - June 9, 2020

5 PAGE NUMBER LINE NUMBER CHANGE/REASON

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15
16 under penalties of perjury, I declare that I have read
17 the foregoing document and that the facts stated in it
18 are true.

18 _____
Date ROBIN GREGORY SMITH

19
20 cc: Terrie L. Cook, RPR, CRR, FPR
Niels P. Murphy, Esquire
E. Lanny Russell, Esquire

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23
24
25

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