

CITY OF MILWAUKEE ADMINISTRATIVE REVIEW APPEALS BOARD

Transcript of the Testimony of:

TRANSCRIPTION

May 04, 2018



1 STATE OF WISCONSIN
2 CITY OF MILWAUKEE
3 ADMINISTRATIVE REVIEW APPEALS BOARD
4 MAY 4, 2018
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<p style="text-align: right;">Page 2</p> <p>1 CHAIRMAN VINCENT BOBOT: Administrative Review 2 Appeals Board meeting for May 4th, 2018. Ah, I am the 3 chairperson of the board. My name is Vincent Bobot. To my 4 immediate right is board member Brad Hoeschen. To his 5 right is Steve Fritsche. 6 MR. STEVE FRITSCHKE: Good morning. 7 CHAIRMAN VINCENT BOBOT: To my immediate left is 8 Linda Elmer; she's our administrative assistant. And to 9 her left is Bill Averill. 10 MR. BILL AVERILL: Good morning. 11 ATTORNEY EMERY HARLAN: Good morning. 12 CHAIRMAN VINCENT BOBOT: It is our policy, ah, 13 that we always have the city go first, unless there's 14 something unusual. It is my understanding that the city 15 will present its case first to the board and then at that 16 time, the appellant will have his opportunity to sup - ah, 17 supply us with the information witnesses he chose for us to 18 hear. All witnesses will be sworn in our by our 19 administrative assistant and, ah, the city may com - ah, 20 commence. Could you just state your name for the record, 21 please? 22 MR. STEVE FRITSCHKE: Ah, Mr. Chairman, before we 23 begin, I just have a question. 24 CHAIRMAN VINCENT BOBOT: Yes. 25 MR. STEVE FRITSCHKE: Um, what is our role here?</p>	<p style="text-align: right;">Page 4</p> <p>1 remedy. 2 MR. STEVE FRITSCHKE: Okay. 3 CHAIRMAN VINCENT BOBOT: And the reason I kind of 4 hedge on it as well is because we don't know what the 5 result's going to be. 6 ASSISTANT CITY ATTORNEY KATHY BLOCK: Ah, well, 7 and - 8 MR. BRAD HOESCHEN: But the city has made its 9 determination. 10 CHAIRMAN VINCENT BOBOT: Yes. 11 MR. BRAD HOESCHEN: And it is our job, in my 12 view, to determine whether or not the city's determination 13 was proper. 14 ASSISTANT CITY ATTORNEY KATHY BLOCK: Ah - at 15 some point, and it doesn't have to be now, I would like an 16 opportunity to be heard on that matter; um, what this 17 board's authority is with regard to, um, its ability to 18 either award damages or fashion a remedy. Um, and if it's 19 not now, that's fine, um, but obviously, I would like to 20 reserve, um, some time at some point to be heard on that 21 issue. 22 CHAIRMAN VINCENT BOBOT: I agree. So, um, you 23 may commence. 24 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. Um, 25 I would like to just ask a few questions of Mr. Harlan, ah,</p>
<p style="text-align: right;">Page 3</p> <p>1 Is this where we're going to determine whether or not the 2 city acted appropriately and followed procedure? And if 3 not, the case is sent back to the city department for 4 further review? 5 CHAIRMAN VINCENT BOBOT: Ah, that's what I would 6 anticipate. 7 MR. STEVE FRITSCHKE: Okay. 8 CHAIRMAN VINCENT BOBOT: Mr. Hoeschen, do you 9 have any - 10 MR. BRAD HOESCHEN: I, I would disagree. I think 11 we're making a final decision today on whether or not the 12 department acted properly. Ah, I, I, I don't think it's a 13 matter of whether or not the city followed procedure. I 14 think did the city act properly? If it did, the matter is 15 completed. They've already awarded the contract. 16 MR. STEVE FRITSCHKE: Right. If it didn't, what's 17 the - 18 MR. BRAD HOESCHEN: If it didn't, then - 19 MR. STEVE FRITSCHKE: - the solution? 20 MR. BRAD HOESCHEN: - then we define what the 21 remedy is. It would be the burden of the appellant to tell 22 us what the remedy should be, whether that be the award of 23 the contract or that be cash damages or something else that 24 we haven't contemplated. Ah, and we can determine whether 25 or not they have sufficiently proven that that's a proper</p>	<p style="text-align: right;">Page 5</p> <p>1 himself. Um, I - they're not numerous. So, if we could 2 just kind of get his testimony out of the way, that'd be 3 great. Oh, and just as a kind of an initial matter, um, we 4 had discussed putting together, um, a binder of the 5 exhibits that he had proposed - I think you have in your e- 6 book - of, um, for use, ease of use, for the witnesses who 7 would be testifying. I don't have any objection to those 8 being offered. If we could just sort of offer them 9 jointly, um, and have them available for the witnesses that 10 are testifying, um, I think that would be appropriate. I 11 only have one additional, um, exhibit, which is the, um, 12 complete copy of the proposal that was submitted by Quarles 13 & Brady, um, for disclosure counsel services; I have copies 14 of that. Mr. Harlan, um, actually requested a full copy of 15 that recently, um, and I have copies for everyone here and 16 for the witnesses, as well, and obviously for Mr. Harlan, 17 as well. 18 CHAIRMAN VINCENT BOBOT: I guess the only issue I 19 have or the question I have for you is, the questions 20 you're going to ask of Mr. Harlan, is he a witness to this 21 matter? 22 MR. BRAD HOESCHEN: Exactly what I was wondering. 23 ASSISTANT CITY ATTORNEY KATHY BLOCK: Well - 24 MR. BRAD HOESCHEN: Is Mr. Harlan a fact witness? 25 ASSISTANT CITY ATTORNEY KATHY BLOCK: - I think</p>

<p style="text-align: right;">Page 6</p> <p>1 he absolutely is.</p> <p>2 MR. BRAD HOESCHEN: And do you object to him then</p> <p>3 participating as counsel for MWH?</p> <p>4 ASSISTANT CITY ATTORNEY KATHY BLOCK: Well, they</p> <p>5 actually relate to his participation as counsel for Quarles</p> <p>6 & Brady.</p> <p>7 CHAIRMAN VINCENT BOBOT: It's very -</p> <p>8 MR. BRAD HOESCHEN: It's interesting, isn't it?</p> <p>9 CHAIRMAN VINCENT BOBOT: Well, it's very</p> <p>10 problematic from my standpoint.</p> <p>11 ASSISTANT CITY ATTORNEY KATHY BLOCK: Well, I</p> <p>12 think it's - this is the problem, um, and I'll lay out my</p> <p>13 argument right now. The proposal itself was signed by</p> <p>14 Quarles & Brady, not by MWH. The appeal was filed by</p> <p>15 Quarles & Brady and MWH. I believe Mr. Harlan, obviously,</p> <p>16 is employed by MWH. I don't know that he was retained at</p> <p>17 any point by Quarles & Brady and I would like to know</p> <p>18 whether or not that's the case. I don't think MWH is the</p> <p>19 proper party and interest here. I don't know that he was</p> <p>20 retained by Quarles & Brady. And I think if that's the</p> <p>21 case, I don't know that we have any proper party here who</p> <p>22 is represented and I think the appeal should be dismissed</p> <p>23 in its entirety on that basis.</p> <p>24 MR. BRAD HOESCHEN: Well, but Ms. - I'm sorry,</p> <p>25 Mr. Chair.</p>	<p style="text-align: right;">Page 8</p> <p>1 ASSISTANT CITY ATTORNEY KATHY BLOCK: I believe -</p> <p>2 I believe he represents MWH.</p> <p>3 MR. BRAD HOESCHEN: But MWH can be counsel for</p> <p>4 Quarles & Brady.</p> <p>5 ASSISTANT CITY ATTORNEY KATHY BLOCK: Sure, it</p> <p>6 could. Has he been retained by Quarles & Brady?</p> <p>7 ATTORNEY EMERY HARLAN: It's -</p> <p>8 MR. BRAD HOESCHEN: Does that matter?</p> <p>9 ATTORNEY EMERY HARLAN: It's, it's in the appeal</p> <p>10 on the second page.</p> <p>11 MR. BRAD HOESCHEN: Right.</p> <p>12 ATTORNEY EMERY HARLAN: And of course, we just</p> <p>13 had - we had a previous hearing, that issue wasn't raised.</p> <p>14 I would argue, even if it was an issue, it certainly had</p> <p>15 been waived.</p> <p>16 MR. BRAD HOESCHEN: Nah. Ah, but do you have the</p> <p>17 appeal?</p> <p>18 ASSISTANT CITY ATTORNEY KATHY BLOCK: I do.</p> <p>19 MR. BRAD HOESCHEN: So the appeal is filed, ah,</p> <p>20 as Emery K. Harlan on behalf of MWH Law Group, LLP and</p> <p>21 Quarles & Brady, LLP. I mean, I trust the word of the</p> <p>22 lawyer that he represents his client. You're suggesting</p> <p>23 that you want to contest whether or not Quarles & Brady is</p> <p>24 actually his client?</p> <p>25 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yes.</p>
<p style="text-align: right;">Page 7</p> <p>1 CHAIRMAN VINCENT BOBOT: Mr. Hoe - Mr. Hoeschen.</p> <p>2 MR. BRAD HOESCHEN: Ms. Block, a, ah, a - he</p> <p>3 represents as an attorney that he represents Quarles &</p> <p>4 Brady.</p> <p>5 ASSISTANT CITY ATTORNEY KATHY BLOCK: Has he</p> <p>6 represented that -</p> <p>7 MR. BRAD HOESCHEN: Well, sure -</p> <p>8 ASSISTANT CITY ATTORNEY KATHY BLOCK: - at any</p> <p>9 point?</p> <p>10 MR. BRAD HOESCHEN: - he's - yes -</p> <p>11 ATTORNEY EMERY HARLAN: We found, we found -</p> <p>12 MR. BRAD HOESCHEN: Hold on, Mr. Harlan.</p> <p>13 ATTORNEY EMERY HARLAN: Oh.</p> <p>14 MR. BRAD HOESCHEN: His, his appeal to our board</p> <p>15 was Emery Harlan as attorney for MWH and Quarles & Brady.</p> <p>16 ASSISTANT CITY ATTORNEY KATHY BLOCK: Has he</p> <p>17 represented that? When?</p> <p>18 MR. BRAD HOESCHEN: That's what the appeal was;</p> <p>19 that's the appeal - the appeal that was filed with us. I -</p> <p>20 it's - let me get it.</p> <p>21 CHAIRMAN VINCENT BOBOT: Well, that was my</p> <p>22 understanding, too, but -</p> <p>23 ASSISTANT CITY ATTORNEY KATHY BLOCK: Every piece</p> <p>24 of paperwork has been filed on MWH's letterhead.</p> <p>25 MR. BRAD HOESCHEN: I'm -</p>	<p style="text-align: right;">Page 9</p> <p>1 MR. BRAD HOESCHEN: Ah, who have you put on your</p> <p>2 witness list from Quarles & Brady to ask about that?</p> <p>3 ASSISTANT CITY ATTORNEY KATHY BLOCK: I haven't</p> <p>4 filed a witness list. You typically get witness lists, ah,</p> <p>5 from your parties in front of the ARAB?</p> <p>6 UNKNOWN MALE SPEAKER: No, ma'am.</p> <p>7 MR. BRAD HOESCHEN: No, we do not.</p> <p>8 ASSISTANT CITY ATTORNEY KATHY BLOCK: Do you</p> <p>9 require them?</p> <p>10 MR. BRAD HOESCHEN: Well, go ahead and call</p> <p>11 somebody from Quarles & Brady. Go ahead and call them;</p> <p>12 have them come over and ask them. But I don't think that</p> <p>13 asking an attorney who his client is is an appropriate</p> <p>14 question of -</p> <p>15 ASSISTANT CITY ATTORNEY KATHY BLOCK: Why not?</p> <p>16 MR. BRAD HOESCHEN: - a client. Because the -</p> <p>17 well, first of all, the attorney's going to tell you,</p> <p>18 "Yes." But, secondly, it's -</p> <p>19 ASSISTANT CITY ATTORNEY KATHY BLOCK: Under oath</p> <p>20 he -</p> <p>21 MR. BRAD HOESCHEN: - attorney client</p> <p>22 relationship.</p> <p>23 ASSISTANT CITY ATTORNEY KATHY BLOCK: - will?</p> <p>24 MR. BRAD HOESCHEN: It's an attorney client</p> <p>25 relationship. It's up to you; it's, it's your call -</p>

<p style="text-align: right;">Page 10</p> <p>1 CHAIRMAN VINCENT BOBOT: The only -</p> <p>2 MR. BRAD HOESCHEN: - as the chair. I -</p> <p>3 CHAIRMAN VINCENT BOBOT: The only problem is if I</p> <p>4 - the problem here is once you call him as a witness -</p> <p>5 MR. BRAD HOESCHEN: Then I'm concerned about</p> <p>6 whether or not -</p> <p>7 CHAIRMAN VINCENT BOBOT: Then it's a problem.</p> <p>8 MR. BRAD HOESCHEN: I - yeah. And so, is this a</p> <p>9 tactic in order to disqualify Mr. Harlan from representing</p> <p>10 his client?</p> <p>11 CHAIRMAN VINCENT BOBOT: I have the same</p> <p>12 concerns. You call him as a, a witness -</p> <p>13 MR. BRAD HOESCHEN: Mr. Chair -</p> <p>14 CHAIRMAN VINCENT BOBOT: - I don't know if we can</p> <p>15 allow him then to represent -</p> <p>16 MR. BRAD HOESCHEN: Mr. Chair?</p> <p>17 CHAIRMAN VINCENT BOBOT: Yes, Mr. Hoeschen?</p> <p>18 MR. BRAD HOESCHEN: Mr. Harlan, would you consent</p> <p>19 to calling someone from Quarles & Brady to come here and</p> <p>20 testify as to whether or not the firm is a client of yours?</p> <p>21 ATTORNEY EMERY HARLAN: Yes, if that person's</p> <p>22 available. I mean, this is just outrageous. Um, frankly,</p> <p>23 I've had very -</p> <p>24 UNKNOWN MALE SPEAKER: Oh, I'm sorry.</p> <p>25 ATTORNEY EMERY HARLAN: - interactions with Ms.</p>	<p style="text-align: right;">Page 12</p> <p>1 issue after having consented to it.</p> <p>2 MR. BRAD HOESCHEN: But you -</p> <p>3 ATTORNEY EMERY HARLAN: Ah -</p> <p>4 MR. BRAD HOESCHEN: You actually agreed with Ms.</p> <p>5 Block that the only purpose of that hearing was to</p> <p>6 determine whether or not we had jurisdiction. She - I</p> <p>7 don't think she waived that argument because the - we all</p> <p>8 agreed the only purpose of our last hearing was to</p> <p>9 determine whether or not we had jurisdiction. We</p> <p>10 determined we had jurisdiction. I mean, I agree with you</p> <p>11 this likely -</p> <p>12 ATTORNEY EMERY HARLAN: Right, but she's -</p> <p>13 MR. BRAD HOESCHEN: - could have been handled -</p> <p>14 ATTORNEY EMERY HARLAN: - coming with a question</p> <p>15 whether I can -</p> <p>16 MR. BRAD HOESCHEN: - more elegantly.</p> <p>17 ATTORNEY EMERY HARLAN: - work in, in</p> <p>18 representing the, ah, Quarles & Brady in this matter. So</p> <p>19 that issue was just as pertinent in the initial proceeding</p> <p>20 as it is this one. Ah, if you believe her position is she</p> <p>21 didn't raise it in the initial proceeding before this board</p> <p>22 and so, I would maintain you can dispose of this because</p> <p>23 she has consented to this and has waived the issue.</p> <p>24 CHAIRMAN VINCENT BOBOT: I - Mr. Hoeschen, ah,</p> <p>25 disagrees with your position and quite frankly, so do I.</p>
<p style="text-align: right;">Page 11</p> <p>1 Block.</p> <p>2 CHAIRMAN VINCENT BOBOT: Can you pull the mic up</p> <p>3 a little bit?</p> <p>4 ATTORNEY EMERY HARLAN: Oh, yes. Yes. I - this</p> <p>5 is just really unprofessional in my opinion. We, we've had</p> <p>6 very amic - amicable relations in terms of exchanging</p> <p>7 information -</p> <p>8 MR. BRAD HOESCHEN: I mean, she's entitled to</p> <p>9 zealously represent her client, so -</p> <p>10 ATTORNEY EMERY HARLAN: Yeah. Yeah, but come on,</p> <p>11 we have a - we have a manner of professionalism in the bar.</p> <p>12 If this was an issue, she should have given it - given</p> <p>13 notice and not try to, ah, exact the surprise at the</p> <p>14 hearing that wastes everybody's time.</p> <p>15 MR. BRAD HOESCHEN: But Mr. Bobot and I -</p> <p>16 ATTORNEY EMERY HARLAN: But -</p> <p>17 MR. BRAD HOESCHEN: - are trying to find a</p> <p>18 solution that allows you to continue as counsel for your</p> <p>19 client while still making sure she has the satisfaction of</p> <p>20 question.</p> <p>21 ATTORNEY EMERY HARLAN: The, the other issue that</p> <p>22 I would raise is to the extent there was even a legal</p> <p>23 issue. This issue wasn't raised; we've had - this is the</p> <p>24 second hearing. We've had - this matter has been pending.</p> <p>25 Ah, I don't believe that she has the ability to raise this</p>	<p style="text-align: right;">Page 13</p> <p>1 Ah, I just know if you become a witness to this, as far as</p> <p>2 I'm concerned, someone else is going to have to take your</p> <p>3 place for the further proceedings.</p> <p>4 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. I</p> <p>5 am, I am happy to accept without putting Mr. Harlan under</p> <p>6 oath his representation that Quarles & Brady has retained</p> <p>7 him.</p> <p>8 CHAIRMAN VINCENT BOBOT: Have they -</p> <p>9 ATTORNEY EMERY HARLAN: Okay.</p> <p>10 CHAIRMAN VINCENT BOBOT: - retained you?</p> <p>11 ATTORNEY EMERY HARLAN: Yeah, I filed a document</p> <p>12 with the board saying that I'm the attorney for both of the</p> <p>13 parties in this matter. I mean, what else do I need to do?</p> <p>14 CHAIRMAN VINCENT BOBOT: Well, that's what you -</p> <p>15 ATTORNEY EMERY HARLAN: I'm not going to get into</p> <p>16 what the nature of the retention is but I made the</p> <p>17 representation. I'm a lawyer; I know what that means. I</p> <p>18 don't know what else I can tell you.</p> <p>19 CHAIRMAN VINCENT BOBOT: Does that satisfy you?</p> <p>20 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yes.</p> <p>21 CHAIRMAN VINCENT BOBOT: Okay. Well, we've got</p> <p>22 one issue taken care of. You can proceed.</p> <p>23 ASSISTANT CITY ATTORNEY KATHY BLOCK: Alright. I</p> <p>24 only have - well, and I guess if this is going to be</p> <p>25 bringing up a fact question, I'll have to just make my</p>

<p style="text-align: right;">Page 14</p> <p>1 argument and leave it at that. So now we'll move on to Ms. 2 Kelsey's testimony. 3 CHAIRMAN VINCENT BOBOT: Thank you. 4 ASSISTANT CITY ATTORNEY KATHY BLOCK: Thank you. 5 CHAIRMAN VINCENT BOBOT: Ah, Ms. Kelsey, ah, 6 would you raise your right hand, please? 7 MS. LINDA ELMER: Do you solemnly affirm [sic] 8 the pains and penalties of perj [sic] in the state of 9 Wisconsin that the testimony about to give is the truth, 10 the whole truth, and nothing but the truth? 11 MS. RHONDA KELSEY: Yes. 12 CHAIRMAN VINCENT BOBOT: And could you state your 13 name for the record, please? 14 MS. RHONDA KELSEY: Rhonda Kelsey. 15 CHAIRMAN VINCENT BOBOT: And could you spell your 16 last name? 17 MS. RHONDA KELSEY: K-e-l-s-e-y. 18 CHAIRMAN VINCENT BOBOT: Okay, your witness, Ms. 19 Block. 20 ASSISTANT CITY ATTORNEY KATHY BLOCK: Thank you. 21 Rhonda, can you speak generally about the nature of the 22 difference between a bid and an RFP? Just generally for 23 the benefit of the board. 24 MS. RHONDA KELSEY: Sure. Um, so, so a bid is a 25 competitive procurement process that the city uses to</p>	<p style="text-align: right;">Page 16</p> <p>1 MR. BRAD HOESCHEN: And what other positions have 2 you held with the city? 3 MS. RHONDA KELSEY: Um, what other positions did 4 I hold? 5 MR. BRAD HOESCHEN: With the city - 6 MS. RHONDA KELSEY: Um, I - 7 MR. BRAD HOESCHEN: Yes. 8 MS. RHONDA KELSEY: - I started in the budget 9 office as a budget analyst. I moved on to, um, head - what 10 is now known as the Office of Small Business Development; 11 it was known as the Equal Opportunities Enterprise program. 12 Um, the Equal Rights Commission was also a part of the 13 department at the time but I would say the equivalent of 14 that department, um, now is the Office of Small Business 15 Development, which I believe you all are familiar with. 16 Um, from there I went on to serve as, um, Mayor Tom 17 Barrett's, um, policy coordinator for his first term and 18 then I was appointed to serve as the purchasing director in 19 2008. 20 MR. BRAD HOESCHEN: And what does the purchasing 21 office do? 22 MS. RHONDA KELSEY: So we are responsible for 23 administering the procurement process for city departments. 24 City departments submit, um, procurement requests to us via 25 the form of a requisition. Um, we issue - um, back to, um,</p>
<p style="text-align: right;">Page 15</p> <p>1 receive responses from contractors, um, to provide a good 2 or service to the city. 3 MR. BRAD HOESCHEN: Mr. Chair - 4 MS. RHONDA KELSEY: The - 5 CHAIRMAN VINCENT BOBOT: Ah, ah, I'm just going 6 to interrupt. I just wanted to let her finish the 7 question. 8 MR. BRAD HOESCHEN: Okay, sorry. 9 CHAIRMAN VINCENT BOBOT: Could you just give us a 10 little background on her job? 11 MR. BRAD HOESCHEN: Well what, what do you do for 12 a living, Ms. Kelsey? 13 ASSISTANT CITY ATTORNEY KATHY BLOCK: [Laughter] 14 Sure, sorry. 15 MS. RHONDA KELSEY: I am the purchasing director 16 for the city of Milwaukee. 17 CHAIRMAN VINCENT BOBOT: Okay. 18 MR. BRAD HOESCHEN: And how long have you held 19 that position? 20 MS. RHONDA KELSEY: I've held that position since 21 2008. 22 MR. BRAD HOESCHEN: And how long have you worked 23 for the city of Milwaukee? 24 MS. RHONDA KELSEY: I've worked for the city of 25 Milwaukee since 1996.</p>	<p style="text-align: right;">Page 17</p> <p>1 Attorney Block's question - we will administer the process 2 for the solicit - solicitation of bids from the contracting 3 community, as well as requests for proposals. 4 MR. BRAD HOESCHEN: So is it fair that 5 effectively, any product or service purchased by the city 6 comes through your department? 7 MS. RHONDA KELSEY: The majority of them. Now, 8 construction is a different, um, bailiwick. Um, 9 construction contracts are led by the Department of Public 10 Works so for the most part, we, um, handle the procurement 11 process for things like vehicles, water chemicals, paper, 12 various other, um, types of commodities and services, 13 professional services, legal services; this very, ah, 14 service that we're talking about today would be another 15 example. There are some departments, other departments 16 that have a certain level of independent contracting 17 authority. DNS, they handle demolition contracts. Um, 18 library, they have a certain level of independent 19 contracting authority, as well. Does that - 20 MR. BRAD HOESCHEN: Mr. Chair - thank you, Ms. 21 Kelsey. 22 MS. RHONDA KELSEY: Sure. 23 CHAIRMAN VINCENT BOBOT: Well, ah - 24 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. 25 CHAIRMAN VINCENT BOBOT: - do you just want to</p>

<p style="text-align: right;">Page 18</p> <p>1 restate your question? Cause -</p> <p>2 ASSISTANT CITY ATTORNEY KATHY BLOCK: Sure.</p> <p>3 CHAIRMAN VINCENT BOBOT: - I wanted to wait until</p> <p>4 she finished and I was going to ask for a little</p> <p>5 background.</p> <p>6 ASSISTANT CITY ATTORNEY KATHY BLOCK: Sure. And</p> <p>7 I appreciate that. Okay, so can you describe, I guess,</p> <p>8 then generally a, a bid process and how that works?</p> <p>9 MS. RHONDA KELSEY: So, so a - the bid process is</p> <p>10 a procurement process whereby we're looking at awarding the</p> <p>11 contract based on pretty much low, the low bid, in</p> <p>12 accordance with the specifications that we've included in</p> <p>13 the bid document itself, which is, um, advertised in the</p> <p>14 Daily Reporter, if it's a formal bid, which is at \$50,000.</p> <p>15 We also advertise the solicitation of bid responses on the</p> <p>16 city's website via e-notify. Um, so it really is for the</p> <p>17 most part a cut and dry, um, process. We do - after the</p> <p>18 receipt, after bids come in - um, we, um, there's a review</p> <p>19 of those responses by the purchasing department. Um, our</p> <p>20 department makes a recommendation to the user department,</p> <p>21 which may be the police department for the purchase of</p> <p>22 squad cars. Um, we would then ask that department to</p> <p>23 review that recommendation and sign off on it to ensure</p> <p>24 that, you know, the recommendation and award is, um, sound.</p> <p>25 The RFP process is what we consider to be an exception to</p>	<p style="text-align: right;">Page 20</p> <p>1 by the purchasing agent before those proposals are sent on</p> <p>2 to the committee. Um -</p> <p>3 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay, so</p> <p>4 let's just back up a little.</p> <p>5 MS. RHONDA KELSEY: Hmm-hmm.</p> <p>6 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay, so in</p> <p>7 a bid process, is it fair to say that there are</p> <p>8 specifications that are drafted and so long as the bidder</p> <p>9 who submits a bit is responsible and responsive as deemed</p> <p>10 by the - you, the purchasing director -</p> <p>11 MS. RHONDA KELSEY: Hmm-hmm.</p> <p>12 ASSISTANT CITY ATTORNEY KATHY BLOCK: - that the</p> <p>13 lowest bid will get the contract?</p> <p>14 MS. RHONDA KELSEY: Correct.</p> <p>15 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay.</p> <p>16 MS. RHONDA KELSEY: And compliant, yeah.</p> <p>17 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yep.</p> <p>18 MS. RHONDA KELSEY: Provided they -</p> <p>19 ASSISTANT CITY ATTORNEY KATHY BLOCK: They -</p> <p>20 MS. RHONDA KELSEY: The lowest complying bidder -</p> <p>21 ASSISTANT CITY ATTORNEY KATHY BLOCK: Right.</p> <p>22 MS. RHONDA KELSEY: - is the terminology that we</p> <p>23 use -</p> <p>24 ASSISTANT CITY ATTORNEY KATHY BLOCK: Right.</p> <p>25 MS. RHONDA KELSEY: - to order.</p>
<p style="text-align: right;">Page 19</p> <p>1 bid process because we're looking at other factors beyond</p> <p>2 just pricing and compliance with the specifications.</p> <p>3 There, um, we use award criteria, um, and so there are</p> <p>4 points that a proposer can earn; um, a maximum of typically</p> <p>5 100 points. Um, bonus points are typically, um, offered to</p> <p>6 proposers, SBE participation, as well as, um, LBE</p> <p>7 participation. So 25 points may be allocated - or could be</p> <p>8 earned - um, relative to a proposer's methodology. Twenty-</p> <p>9 five points may be designated, um, for experience. And so,</p> <p>10 um, there are a number of factors that are used to</p> <p>11 determine who the highest ranked proposer is. There's</p> <p>12 also, obviously as you know at this point, um, an</p> <p>13 evaluation committee that's involved in that process. Um,</p> <p>14 so each, um, evaluator that sits on that committee reviews</p> <p>15 the proposals that we receive. Um, there's, there's a</p> <p>16 meeting that takes place. Um, that group then has to come</p> <p>17 to consensus to make a determination as to who the highest</p> <p>18 ranked proposer, um, is. Um, backing up just on the front</p> <p>19 end, if, um, there are some particular requirements that we</p> <p>20 would include in the request for proposal that, um, the</p> <p>21 compliance with those requirements. So if the SBE</p> <p>22 participation were a requirement or if we had, let's just</p> <p>23 say, you know, living wage requirements and their</p> <p>24 particular forms that would be required for submission with</p> <p>25 that, with the proposal, that would work is, um, conducted</p>	<p style="text-align: right;">Page 21</p> <p>1 CHAIRMAN VINCENT BOBOT: What -</p> <p>2 ASSISTANT CITY ATTORNEY KATHY BLOCK: Whereas -</p> <p>3 CHAIRMAN VINCENT BOBOT: What was that</p> <p>4 terminology again?</p> <p>5 MS. RHONDA KELSEY: The lowest complying bidder.</p> <p>6 CHAIRMAN VINCENT BOBOT: Thank you.</p> <p>7 ASSISTANT CITY ATTORNEY KATHY BLOCK: Whereas in</p> <p>8 an RFP process, you - the, the specifications might be</p> <p>9 slightly less specific, um, you know, as opposed to a bid</p> <p>10 where you would say, "We want XYZ." In a proposal</p> <p>11 situation, you might say, for instance, "We want an</p> <p>12 attorney who has experience doing this sort of work and we,</p> <p>13 you know, would want to see what your, um, some</p> <p>14 references," -</p> <p>15 MS. RHONDA KELSEY: Right.</p> <p>16 ASSISTANT CITY ATTORNEY KATHY BLOCK: - "for</p> <p>17 doing this sort of work."</p> <p>18 MS. RHONDA KELSEY: Hmm-hmm.</p> <p>19 ASSISTANT CITY ATTORNEY KATHY BLOCK: And then a</p> <p>20 team evaluates that - the proposals that are submitted</p> <p>21 based on various criteria that are given a, um, percentage</p> <p>22 weight.</p> <p>23 MS. RHONDA KELSEY: Hmm-hmm.</p> <p>24 ASSISTANT CITY ATTORNEY KATHY BLOCK: And then a,</p> <p>25 um, best ranked proposer is selected and then negotiations</p>

<p style="text-align: right;">Page 22</p> <p>1 would be entered into with that -</p> <p>2 MS. RHONDA KELSEY: If necessary.</p> <p>3 ASSISTANT CITY ATTORNEY KATHY BLOCK: - proposal.</p> <p>4 MS. RHONDA KELSEY: Hmm-hmm.</p> <p>5 ASSISTANT CITY ATTORNEY KATHY BLOCK: Right.</p> <p>6 ATTORNEY EMERY HARLAN: Can I interpose an</p> <p>7 objection? I -</p> <p>8 ASSISTANT CITY ATTORNEY KATHY BLOCK: Oh, of</p> <p>9 course.</p> <p>10 ATTORNEY EMERY HARLAN: I -</p> <p>11 CHAIRMAN VINCENT BOBOT: What would, what would</p> <p>12 the objection be?</p> <p>13 ATTORNEY EMERY HARLAN: I will, ah, stipulate</p> <p>14 that this isn't a bid process so I don't know why we're</p> <p>15 talking about bids. This is a RFP process.</p> <p>16 ASSISTANT CITY ATTORNEY KATHY BLOCK: No, I'm</p> <p>17 sorry. I was just trying to get the background of how the</p> <p>18 - they function. And I'm, I'm -</p> <p>19 CHAIRMAN VINCENT BOBOT: I -</p> <p>20 ASSISTANT CITY ATTORNEY KATHY BLOCK: - done</p> <p>21 talking about bids.</p> <p>22 CHAIRMAN VINCENT BOBOT: I, I'll over - overrule</p> <p>23 your objection because I think she's just trying to explain</p> <p>24 the, the, the universe of what goes on with the bidding and</p> <p>25 I do realize it's an F - RFP.</p>	<p style="text-align: right;">Page 24</p> <p>1 um, program. So for bids - and again, I - this helps me</p> <p>2 explain it to you and I want to make sure that you have</p> <p>3 clarity - those points are awarded - we consider it to be</p> <p>4 bid incentive. So it's different from SBE participation</p> <p>5 whereby we may require, um, that a prime contractor sub</p> <p>6 with a SBE firm. So under the RFP process, again, they can</p> <p>7 earn up to 10 points. A proposer - and this is, um, this</p> <p>8 is an advantage, if you will, that the prime contractor is</p> <p>9 able to take advantage of, as opposed to an SBE firm, which</p> <p>10 is at the sublevel, typically - um, so the firm is required</p> <p>11 to submit an LBE affidavit verifying that, you know, they</p> <p>12 have property, or lease property, in the city of Milwaukee,</p> <p>13 that they've been in business for more than one year and</p> <p>14 all of that, the, the criteria is specified in the</p> <p>15 ordinance and in the form. That form has to be signed and</p> <p>16 notarized by the prime contractor. Um, the - if a prime</p> <p>17 contractor owns or leases additional property, the, um, the</p> <p>18 property that is located or leased in the city of Milwaukee</p> <p>19 must, in terms of space, um, be the largest piece of</p> <p>20 property, if you will, or in terms of square footage or</p> <p>21 acreage.</p> <p>22 CHAIRMAN VINCENT BOBOT: So in this -</p> <p>23 MS. RHONDA KELSEY: So if -</p> <p>24 CHAIRMAN VINCENT BOBOT: - particular contract,</p> <p>25 this 10 points represents 10 points out of the total 100-</p>
<p style="text-align: right;">Page 23</p> <p>1 ATTORNEY EMERY HARLAN: Thank you, sir.</p> <p>2 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yep. So</p> <p>3 let's, let's turn to then -</p> <p>4 MS. RHONDA KELSEY: Hmm-hmm.</p> <p>5 ASSISTANT CITY ATTORNEY KATHY BLOCK: - um, what</p> <p>6 would happen with the Local Business Enterprise program?</p> <p>7 And in the binder there's a copy of the, um, chapter 365,</p> <p>8 which deals with the Local Enterprise program in case you</p> <p>9 need to refer to it.</p> <p>10 MS. RHONDA KELSEY: Hmm-hmm.</p> <p>11 ASSISTANT CITY ATTORNEY KATHY BLOCK: Can you</p> <p>12 explain the Local Business Enterprise program and how that</p> <p>13 works in an RFP situation?</p> <p>14 MS. RHONDA KELSEY: Okay. So, again, a proposer</p> <p>15 can receive 10 points for LBE participation, provided that</p> <p>16 they meet certain criteria, which -</p> <p>17 MR. BRAD HOESCHEN: Mr. Chair?</p> <p>18 MS. RHONDA KELSEY: - and I need to -</p> <p>19 CHAIRMAN VINCENT BOBOT: Yes, Mr. Hoeschen?</p> <p>20 MR. BRAD HOESCHEN: Ms. Kelsey, what does LBE</p> <p>21 stand for?</p> <p>22 MS. RHONDA KELSEY: Oh, I'm sorry.</p> <p>23 ASSISTANT CITY ATTORNEY KATHY BLOCK: [Laughter]</p> <p>24 Sorry.</p> <p>25 MS. RHONDA KELSEY: Local Business Enterprise,</p>	<p style="text-align: right;">Page 25</p> <p>1 some they could get?</p> <p>2 MS. RHONDA KELSEY: So - right.</p> <p>3 CHAIRMAN VINCENT BOBOT: If -</p> <p>4 MS. RHONDA KELSEY: So there's a base of 100 and</p> <p>5 then you can earn an additional 10 points for -</p> <p>6 CHAIRMAN VINCENT BOBOT: So this would be then -</p> <p>7 MS. RHONDA KELSEY: - LBE -</p> <p>8 CHAIRMAN VINCENT BOBOT: - 100-some -</p> <p>9 MS. RHONDA KELSEY: - on top of it.</p> <p>10 MR. BRAD HOESCHEN: She called them bonus points.</p> <p>11 MS. RHONDA KELSEY: Bonus, bonus points.</p> <p>12 CHAIRMAN VINCENT BOBOT: So this would be the -</p> <p>13 this would be a bonus point.</p> <p>14 MS. RHONDA KELSEY: Correct.</p> <p>15 CHAIRMAN VINCENT BOBOT: Okay.</p> <p>16 MR. BRAD HOESCHEN: So there's still a 100 point</p> <p>17 maximum.</p> <p>18 MS. RHONDA KELSEY: Correct.</p> <p>19 MR. BRAD HOESCHEN: But someone could</p> <p>20 conceivably, if they got all 100 points, have 110 -</p> <p>21 MS. RHONDA KELSEY: Yes.</p> <p>22 MR. BRAD HOESCHEN: - but it would be unlikely to</p> <p>23 get more.</p> <p>24 MS. RHONDA KELSEY: It's not likely.</p> <p>25 MR. BRAD HOESCHEN: Okay.</p>

<p style="text-align: right;">Page 26</p> <p>1 MS. RHONDA KELSEY: But, you know -</p> <p>2 CHAIRMAN VINCENT BOBOT: I just want to clarify -</p> <p>3 MS. RHONDA KELSEY: - provided that they meet the</p> <p>4 criteria set forth in the, in the ordinance. Yeah.</p> <p>5 ASSISTANT CITY ATTORNEY KATHY BLOCK: So the</p> <p>6 Local Business Enterprise program, or LBE, that is a</p> <p>7 program that's intended to benefit the prime contractor -</p> <p>8 MS. RHONDA KELSEY: Correct.</p> <p>9 ASSISTANT CITY ATTORNEY KATHY BLOCK: - or the</p> <p>10 bidders or proposers on a contract, correct?</p> <p>11 MS. RHONDA KELSEY: Yes.</p> <p>12 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay.</p> <p>13 MS. RHONDA KELSEY: Yes.</p> <p>14 ASSISTANT CITY ATTORNEY KATHY BLOCK: So now</p> <p>15 we've kind of talked about that and it's really, it's, it's</p> <p>16 intended to, um, or it's geared toward the location,</p> <p>17 literally the location, of the bidder or proposers</p> <p>18 business.</p> <p>19 MS. RHONDA KELSEY: Hmm-hmm.</p> <p>20 ASSISTANT CITY ATTORNEY KATHY BLOCK: Is that</p> <p>21 fair to say?</p> <p>22 MS. RHONDA KELSEY: Yes.</p> <p>23 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. So</p> <p>24 then let's just talk about the Small Business Enterprise</p> <p>25 program or SBE program.</p>	<p style="text-align: right;">Page 28</p> <p>1 particular category in order to include a participation,</p> <p>2 SBE participation requirement in a, in a contract. So they</p> <p>3 may say, "Yes, we have five or more firms certified in this</p> <p>4 area. We would like for you to include, um, SBE</p> <p>5 participation on this particular bid or contract." Um,</p> <p>6 city departments are required to meet certain goals</p> <p>7 annually. So for construction, um, that goal is 25 percent</p> <p>8 for SBE participation. For professional services, it's 18</p> <p>9 percent. So we have the flexibility to - we may, we may</p> <p>10 place a 40 percent requirement in a bid or in a contract,</p> <p>11 particularly with contracts that are led by my department</p> <p>12 because there aren't a lot of SBE firms that are certified</p> <p>13 to provide squad cars, water chemicals, you know, to ensure</p> <p>14 that the water is, you know, um, safe to drink, um, things</p> <p>15 like that. Um, so, so we would and we would include that</p> <p>16 in the bid. Um, for an RFP, typically what we'll do, um,</p> <p>17 is we'll say a proposer can earn a certain number of</p> <p>18 points, bonus points, similar to SBE but it, um, the, the</p> <p>19 process is - so the proposer or bidder has to submit Form A</p> <p>20 in the bid. Because we want to make sure that the process</p> <p>21 is fair for everybody, they must identify the, the SBE</p> <p>22 firm; they have to identify who the SBE firm is. Um,</p> <p>23 because, because again, we want to - we obviously want to</p> <p>24 know if there is going to be a subcontracting relationship</p> <p>25 with an SBE firm, we want to know who that firm is and we</p>
<p style="text-align: right;">Page 27</p> <p>1 MS. RHONDA KELSEY: Okay.</p> <p>2 ASSISTANT CITY ATTORNEY KATHY BLOCK: And I think</p> <p>3 that's tabbed - it is tabbed - at number six in the set of</p> <p>4 exhibits; it's chapter 370. Okay. Now that program, I</p> <p>5 think it's fair to say, works differently than -</p> <p>6 MS. RHONDA KELSEY: Yes.</p> <p>7 ASSISTANT CITY ATTORNEY KATHY BLOCK: - the LBE</p> <p>8 program.</p> <p>9 MS. RHONDA KELSEY: Correct.</p> <p>10 ASSISTANT CITY ATTORNEY KATHY BLOCK: Correct?</p> <p>11 MS. RHONDA KELSEY: Correct.</p> <p>12 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. Now</p> <p>13 can you just generally - without really dealing with this</p> <p>14 contract - just generally talk about how that program</p> <p>15 works?</p> <p>16 MS. RHONDA KELSEY: Okay. So typically, so</p> <p>17 here's the process. A user department will submit a</p> <p>18 requisition to purchasing, let's just say, for legal</p> <p>19 services. Um, that procurement request is then reviewed by</p> <p>20 the Office of Small Business Development to make a</p> <p>21 determination as to whether or not we should include what</p> <p>22 we call an SBE requirement in the contract or in the bid.</p> <p>23 So the Office of Small Business Development may inform</p> <p>24 purchasing staff that, yes, there are two or more, you</p> <p>25 know, there has to be more than one SBE firm certified in a</p>	<p style="text-align: right;">Page 29</p> <p>1 just - the Office of Small Business Development needs to</p> <p>2 obviously track that information for purposes of, you know,</p> <p>3 measuring the outcomes of, um, the work that they do. Um,</p> <p>4 so, um, proposers, bidders, are - and it's stipulated in</p> <p>5 the bid or in the RFP - um, that they must submit this form</p> <p>6 identifying who the SBE firm is, um, so that, um, the</p> <p>7 committee or, you know, based on a bid scenario, um, that</p> <p>8 the, that the purchasing agent can evaluate whether or not</p> <p>9 the SBE firm is legitimate, whether or not the work that,</p> <p>10 you know, whether or not they're certified, whether or not</p> <p>11 they can actually perform the work, etcetera. It's no</p> <p>12 different than any other, you know, form that we would</p> <p>13 require for different, other types of requirements like</p> <p>14 living wage or, again, the LBE affidavit. It's stipulated</p> <p>15 that you must submit this form. Otherwise, your proposal</p> <p>16 may be - or your bid - may be rejected. And we have to</p> <p>17 have, you know, clear guidelines and procedures for</p> <p>18 everyone so as to maintain the fairness and integrity of</p> <p>19 the process. We can't say to one bidder, "Oh, you can do</p> <p>20 this," but another bidder, proposer can do that. I mean,</p> <p>21 and that - from my perspective, from a procurement</p> <p>22 perspective, then you start to sort of tamper our - with</p> <p>23 the integrity of fairness of the process. So does that -</p> <p>24 was that -</p> <p>25 CHAIRMAN VINCENT BOBOT: Well, now you mention</p>

<p style="text-align: right;">Page 30</p> <p>1 this was bonus points? Or is it part of the 100 points?</p> <p>2 MS. RHONDA KELSEY: So for an RFP, it could be -</p> <p>3 it is bonus points, not a requirement, but it could be.</p> <p>4 CHAIRMAN VINCENT BOBOT: No, in this particular -</p> <p>5 MR. BRAD HOESCHEN: In, in this -</p> <p>6 CHAIRMAN VINCENT BOBOT: - in this particular -</p> <p>7 MR. BRAD HOESCHEN: - specific, in this specific</p> <p>8 -</p> <p>9 MS. RHONDA KELSEY: And going back to this</p> <p>10 solicitation?</p> <p>11 CHAIRMAN VINCENT BOBOT: In this particular case.</p> <p>12 MS. RHONDA KELSEY: It was points. It was</p> <p>13 points.</p> <p>14 CHAIRMAN VINCENT BOBOT: So it was not bonus</p> <p>15 points; it was points.</p> <p>16 MS. RHONDA KELSEY: Bonus points, I'm sorry.</p> <p>17 Bonus points.</p> <p>18 CHAIRMAN VINCENT BOBOT: Oh, bonus points. And</p> <p>19 how many, how many bonus points?</p> <p>20 MS. RHONDA KELSEY: Ten.</p> <p>21 CHAIRMAN VINCENT BOBOT: Okay.</p> <p>22 MR. BRAD HOESCHEN: Ten for LBE and 10 for -</p> <p>23 MS. RHONDA KELSEY: And for -</p> <p>24 MR. BRAD HOESCHEN: - SBE.</p> <p>25 MS. RHONDA KELSEY: - SBE.</p>	<p style="text-align: right;">Page 32</p> <p>1 subcontractor, you just contact the SBE office to verify</p> <p>2 that they're certified?</p> <p>3 MS. RHONDA KELSEY: Yes.</p> <p>4 MR. STEVE FRITSCHKE: Okay.</p> <p>5 CHAIRMAN VINCENT BOBOT: And you may -</p> <p>6 MS. RHONDA KELSEY: And, typically - yeah.</p> <p>7 CHAIRMAN VINCENT BOBOT: You may continue,</p> <p>8 Attorney Block.</p> <p>9 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay, so</p> <p>10 just to summarize this, there - the departments have annual</p> <p>11 overall goals -</p> <p>12 MS. RHONDA KELSEY: Right.</p> <p>13 ASSISTANT CITY ATTORNEY KATHY BLOCK: -</p> <p>14 participation goals.</p> <p>15 MS. RHONDA KELSEY: Yes.</p> <p>16 ASSISTANT CITY ATTORNEY KATHY BLOCK: Depending</p> <p>17 on the category of contract.</p> <p>18 MS. RHONDA KELSEY: Right.</p> <p>19 ASSISTANT CITY ATTORNEY KATHY BLOCK: And there</p> <p>20 are three different con - categories -</p> <p>21 MS. RHONDA KELSEY: Hmm-hmm.</p> <p>22 ASSISTANT CITY ATTORNEY KATHY BLOCK: - correct?</p> <p>23 MS. RHONDA KELSEY: Hmm-hmm.</p> <p>24 ASSISTANT CITY ATTORNEY KATHY BLOCK: And they</p> <p>25 may meet those goals after consultation with the Office of</p>
<p style="text-align: right;">Page 31</p> <p>1 MR. BRAD HOESCHEN: Alright.</p> <p>2 MS. RHONDA KELSEY: So then the next amount -</p> <p>3 MR. BRAD HOESCHEN: A total of 20 additional</p> <p>4 points.</p> <p>5 MS. RHONDA KELSEY: - could be 120, yes.</p> <p>6 CHAIRMAN VINCENT BOBOT: And, and -</p> <p>7 MS. RHONDA KELSEY: Yes.</p> <p>8 MR. STEVE FRITSCHKE: And, and Mr. Chairman, I</p> <p>9 have a question.</p> <p>10 CHAIRMAN VINCENT BOBOT: Yes, Mr. Fritsche?</p> <p>11 MR. STEVE FRITSCHKE: Depending on the contract,</p> <p>12 ah, the RFP, do those numbers change? Could a contract</p> <p>13 have like 25 points for, for an SBE component? You said</p> <p>14 there were 10 for each in this particular one. Does that</p> <p>15 mean that number can change depending on the RFP?</p> <p>16 MS. RHONDA KELSEY: Typically, it's ten. No, we</p> <p>17 wouldn't, we wouldn't, you know, inform proposers that they</p> <p>18 can earn up to 25 points for SBE because, again, the max is</p> <p>19 one hundred. I mean, there's just a limit that - no, it</p> <p>20 wouldn't change, to answer your question.</p> <p>21 MR. STEVE FRITSCHKE: And -</p> <p>22 MS. RHONDA KELSEY: I don't want to complicate</p> <p>23 it.</p> <p>24 MR. STEVE FRITSCHKE: - a second question is, um,</p> <p>25 if a bidder, um, has, is presenting a SBE component, ah,</p>	<p style="text-align: right;">Page 33</p> <p>1 Small Business Development. Um, depending on how many</p> <p>2 certified, um, small business, um, certified small</p> <p>3 businesses there are in the, um, type of contract that</p> <p>4 they're letting -</p> <p>5 MS. RHONDA KELSEY: Yes.</p> <p>6 ASSISTANT CITY ATTORNEY KATHY BLOCK: - um, by</p> <p>7 arriving at contract requirements for certain contracts or</p> <p>8 not; they might not set - they might set a zero percentage.</p> <p>9 MS. RHONDA KELSEY: Right, they may say, "No, we</p> <p>10 don't have any firms certified in this area." Therefore,</p> <p>11 we wouldn't, -</p> <p>12 ASSISTANT CITY ATTORNEY KATHY BLOCK: There's -</p> <p>13 MS. RHONDA KELSEY: - include points or we</p> <p>14 wouldn't include a requirement for SBE participation.</p> <p>15 CHAIRMAN VINCENT BOBOT: But in this contract</p> <p>16 there were.</p> <p>17 MS. RHONDA KELSEY: Yes.</p> <p>18 ASSISTANT CITY ATTORNEY KATHY BLOCK: Well -</p> <p>19 MS. RHONDA KELSEY: Points that, that a proposer</p> <p>20 could earn.</p> <p>21 CHAIRMAN VINCENT BOBOT: Yes.</p> <p>22 MS. RHONDA KELSEY: Yes.</p> <p>23 ASSISTANT CITY ATTORNEY KATHY BLOCK: And I, I</p> <p>24 plan -</p> <p>25 MS. RHONDA KELSEY: Bonus points.</p>

<p style="text-align: right;">Page 34</p> <p>1 ASSISTANT CITY ATTORNEY KATHY BLOCK: - to talk 2 about this contract more specifically but since we're kind 3 of on the topic, let's talk about this contract more 4 specifically. Um, in this case, we're in consultation with 5 the Office of Small Business Development. Um, there was 6 not a requirement set, is that correct? 7 ATTORNEY EMERY HARLAN: I'm, I'm going to object. 8 I don't know if, if she's laid a foundation that purchasing 9 actually talked - 10 ASSISTANT CITY ATTORNEY KATHY BLOCK: Ah, I, fair 11 enough. Um - 12 CHAIRMAN VINCENT BOBOT: Well, I'll sustain that 13 then. You may - you may put together a live framework and 14 for us to - 15 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yes. 16 ATTORNEY EMERY HARLAN: I don't think there's 17 testimony that Ms. Kelsey's office even contacted the Small 18 Business - 19 ASSISTANT CITY ATTORNEY KATHY BLOCK: Well, I can 20 certainly ask that question [laughter]. 21 MS. RHONDA KELSEY: And I, so - 22 CHAIRMAN VINCENT BOBOT: Well, hold on, Ms. 23 Kelsey. We - you have to wait until a question is put 24 forth to you. 25 MS. RHONDA KELSEY: Oh, I'm sorry.</p>	<p style="text-align: right;">Page 36</p> <p>1 regard to this contract, what was the result of that, um, 2 sign off? 3 MS. RHONDA KELSEY: That we would include points, 4 the 10 points, the 10 bonus points. 5 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. And 6 - 7 ATTORNEY EMERY HARLAN: Can I just - 8 ASSISTANT CITY ATTORNEY KATHY BLOCK: - what 9 would - 10 ATTORNEY HARLAN EMERY: Can, can I raise an 11 objection, ah - 12 CHAIRMAN VINCENT BOBOT: What's the objection? 13 ATTORNEY HARLAN EMERY: So, we have exchanged 14 discovery in this matter in, in the sense that we have made 15 an open records request and we subpoenaed documents and 16 Block has provided us with a fair amount of material 17 related to this procurement. The document that the witness 18 testified about, um, was not one of them. Ah, that - we 19 never got anything from the Small Business Department 20 indicating that they had signed off and decided that points 21 would be appropriate for this procurement and, ah, so we 22 don't have that material. 23 CHAIRMAN VINCENT BOBOT: Any response to that, 24 Attorney Block? 25 ASSISTANT CITY ATTORNEY KATHY BLOCK: Well, ah,</p>
<p style="text-align: right;">Page 35</p> <p>1 CHAIRMAN VINCENT BOBOT: Yeah, Attorney Block 2 will decide what she's going to ask you and - 3 ASSISTANT CITY ATTORNEY KATHY BLOCK: [Laughter] 4 With - 5 CHAIRMAN VINCENT BOBOT: - Mr. Harlan will - 6 ASSISTANT CITY ATTORNEY KATHY BLOCK: With regard 7 to this specific contract at issue, um, did you contact, 8 um, or did someone in your office contact the Office of 9 Small Business Development? 10 MS. RHONDA KELSEY: With the award of the 11 contract? 12 ASSISTANT CITY ATTORNEY KATHY BLOCK: No, not - 13 but prior to the award, when you were putting together the 14 RFP, are you aware, ah, whether or not the Office of Small 15 Business Development was contacted - 16 MS. RHONDA KELSEY: The Office - 17 ASSISTANT CITY ATTORNEY KATHY BLOCK: - with 18 regard to this contract? 19 MS. RHONDA KELSEY: The Office of Small Business 20 Development has to sign off on the request for exception to 21 bid, OSBD Analysis Participation form. So that is where 22 they conduct their initial review as to whether or not 23 points or a requirement would be included in a particular, 24 um, procurement. 25 ASSISTANT CITY ATTORNEY KATHY BLOCK: And with</p>	<p style="text-align: right;">Page 37</p> <p>1 all I can say is I was not involved in the public records 2 request that preceded it. My understanding of the subpoena 3 was you asked for questions related to the evaluation of 4 the RFP. That's not a document related to the evaluation 5 of the RFP; that's something that would have happened 6 before the RFP was even put together. 7 MS. RHONDA KELSEY: Right. 8 ATTORNEY EMERY HARLAN: We, we asked for all 9 records relating to the RFP itself. 10 ASSISTANT CITY ATTORNEY KATHY BLOCK: No, that's 11 not accurate. 12 ATTORNEY EMERY HARLAN: Okay. 13 CHAIRMAN VINCENT BOBOT: Well - 14 ATTORNEY EMERY HARLAN: I'll, I'll withdraw the 15 objection and go ahead and - 16 CHAIRMAN VINCENT BOBOT: Okay, you may continue. 17 He's withdraw - he's withdrawing his objection. 18 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, so with 19 regard to the - and now I lost my train of thought - ah, 20 um, oh, okay. So with regard to the, um - you received a, 21 or, you received a, um, sign off back from Nikki - or, 22 excuse me, from the Office of Small Business Development 23 and I assume that was Nikki Purvis, correct? 24 MS. RHONDA KELSEY: Yes. 25 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay, who's</p>

<p style="text-align: right;">Page 38</p> <p>1 the head of -</p> <p>2 MS. RHONDA KELSEY: Or a staffer.</p> <p>3 ASSISTANT CITY ATTORNEY KATHY BLOCK: - yeah.</p> <p>4 MS. RHONDA KELSEY: Yes.</p> <p>5 ASSISTANT CITY ATTORNEY KATHY BLOCK: The Office</p> <p>6 of Small -</p> <p>7 MS. RHONDA KELSEY: The office.</p> <p>8 ASSISTANT CITY ATTORNEY KATHY BLOCK: - Business</p> <p>9 Development.</p> <p>10 MS. RHONDA KELSEY: Yes.</p> <p>11 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, that</p> <p>12 suggested you include a 10 point bonus on this contract?</p> <p>13 MS. RHONDA KELSEY: Yes.</p> <p>14 ASSISTANT CITY ATTORNEY KATHY BLOCK: And what</p> <p>15 would the reason for that be? Are you aware?</p> <p>16 MS. RHONDA KELSEY: What would be the reason why</p> <p>17 a -</p> <p>18 ASSISTANT CITY ATTORNEY KATHY BLOCK: For -</p> <p>19 MS. RHONDA KELSEY: - determination was made</p> <p>20 relative to including bonus points -</p> <p>21 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yes.</p> <p>22 MS. RHONDA KELSEY: - as opposed to requirement?</p> <p>23 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yes.</p> <p>24 MS. RHONDA KELSEY: Because with an RFP, um, and</p> <p>25 the nature of this particular RFP, this service, it just</p>	<p style="text-align: right;">Page 40</p> <p>1 MS. RHONDA KELSEY: Yes, with this proposal.</p> <p>2 Yes. Yes, with this contract.</p> <p>3 ASSISTANT CITY ATTORNEY KATHY BLOCK: And let me</p> <p>4 just ask a follow-up to that, um, question. If - okay, so</p> <p>5 the, the 10 bonus points would have been allowed for, um,</p> <p>6 an SBE, correct? Utilization of an SBE?</p> <p>7 MS. RHONDA KELSEY: Yes.</p> <p>8 ASSISTANT CITY ATTORNEY KATHY BLOCK: Where would</p> <p>9 the other 10 points have been, um, earnable from?</p> <p>10 MS. RHONDA KELSEY: LBE.</p> <p>11 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, would</p> <p>12 that have been earnable by every LBE?</p> <p>13 MS. RHONDA KELSEY: Yes, provided that they</p> <p>14 qualify and meet the criteria.</p> <p>15 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay.</p> <p>16 MS. RHONDA KELSEY: Yes.</p> <p>17 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay, thank</p> <p>18 you. Um, okay, so now, I kind of want to now go back to</p> <p>19 the specifics of this contract and obviously, we've covered</p> <p>20 a lot of this so I, you know, I guess some of this is going</p> <p>21 to be duplicative but I want to try and go in a - in a</p> <p>22 coherent order. Um, you - in developing the RFP document</p> <p>23 itself -</p> <p>24 MS. RHONDA KELSEY: Hmm-hmm.</p> <p>25 ASSISTANT CITY ATTORNEY KATHY BLOCK: - um, what</p>
<p style="text-align: right;">Page 39</p> <p>1 makes more sense to allow for - it, it's different from -</p> <p>2 I'm trying to give an example of, um, a situation where it</p> <p>3 would be - just because the nature of an RFP, quite</p> <p>4 honestly, we just allow for points as opposed to a</p> <p>5 requirement. It gives proposers more flexibility to, to</p> <p>6 basically earn those points.</p> <p>7 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay, so</p> <p>8 it's -</p> <p>9 MS. RHONDA KELSEY: That's the best way to put</p> <p>10 it. Because we don't want to hard fast dictate something</p> <p>11 that might not be achievable or doable and that's why we</p> <p>12 structure, um, that's why we include, um, bonus points as</p> <p>13 opposed to saying this is a hard fast requirement because</p> <p>14 we may be in a situation where we don't get responses if</p> <p>15 we're requiring something that may not be achievable. So</p> <p>16 we structure it such that proposers are allowed to earn</p> <p>17 these points and they can earn the maximum but it's not a</p> <p>18 requirement, if that makes sense. Does that make sense?</p> <p>19 CHAIRMAN VINCENT BOBOT: But in this particular</p> <p>20 contract, there was a potential to earn 20 bonus points or</p> <p>21 just ten?</p> <p>22 MS. RHONDA KELSEY: Well, with the com - with the</p> <p>23 LBE and SBE combined, it would be twenty.</p> <p>24 CHAIRMAN VINCENT BOBOT: And that was with this</p> <p>25 particular contract.</p>	<p style="text-align: right;">Page 41</p> <p>1 would that all include? Um, you know, what, what goes into</p> <p>2 the RFP or the Request for Proposal, I'm sorry. The</p> <p>3 Request for Proposal itself?</p> <p>4 MS. RHONDA KELSEY: Hmm-hmm.</p> <p>5 ATTORNEY EMERY HARLAN: Ah, Mr. Chair, just for</p> <p>6 clarification, I don't know if the question is a general</p> <p>7 one in terms of what the standard operating procedure is?</p> <p>8 ASSISTANT CITY ATTORNEY KATHY BLOCK: Oh, sorry.</p> <p>9 Apologize.</p> <p>10 ATTORNEY EMERY HARLAN: Or this particular</p> <p>11 procurement.</p> <p>12 ASSISTANT CITY ATTORNEY KATHY BLOCK: I -</p> <p>13 apologies.</p> <p>14 CHAIRMAN VINCENT BOBOT: Oh, I have to admit, I</p> <p>15 prefer this particular -</p> <p>16 ASSISTANT CITY ATTORNEY KATHY BLOCK: And I think</p> <p>17 that's -</p> <p>18 CHAIRMAN VINCENT BOBOT: - this particular</p> <p>19 proposal.</p> <p>20 ASSISTANT CITY ATTORNEY KATHY BLOCK: - and</p> <p>21 that's really what I do mean and I think, quite honestly,</p> <p>22 I, I - if, if I may rephrase the question. Um, I - is it</p> <p>23 fair to say that this procurement - in, in developing this</p> <p>24 Request for Proposal, would you say that it followed your</p> <p>25 standard procedure for developing a, a Request for</p>

<p style="text-align: right;">Page 42</p> <p>1 Proposal?</p> <p>2 MS. RHONDA KELSEY: Yes.</p> <p>3 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. So</p> <p>4 then let's discuss this Request for Proposal -</p> <p>5 MS. RHONDA KELSEY: Okay.</p> <p>6 ASSISTANT CITY ATTORNEY KATHY BLOCK: -</p> <p>7 particularly. Um, in putting together this Request for</p> <p>8 Proposal, um, is it fair to say it included - yeah,</p> <p>9 specifications -</p> <p>10 MS. RHONDA KELSEY: All the work.</p> <p>11 ASSISTANT CITY ATTORNEY KATHY BLOCK: - as to the</p> <p>12 sort of work and, um, as we previously discussed also, um,</p> <p>13 criteria for evaluating that were awarded, you know, that</p> <p>14 percentages to what, you know -</p> <p>15 MS. RHONDA KELSEY: Weights. Yes.</p> <p>16 ASSISTANT CITY ATTORNEY KATHY BLOCK: - weights</p> <p>17 as to how you would have the, the, um, ah, the review panel</p> <p>18 would evaluate the proposal itself, correct?</p> <p>19 MS. RHONDA KELSEY: Yes.</p> <p>20 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. And</p> <p>21 as we've prior discussed, there was, ah, bonus points for</p> <p>22 the Local Business Enterprise and that was included, ah,</p> <p>23 correct, because that was required by ordinance?</p> <p>24 MS. RHONDA KELSEY: Yes.</p> <p>25 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yes. And</p>	<p style="text-align: right;">Page 44</p> <p>1 participation, is there not?</p> <p>2 MS. RHONDA KELSEY: Yes, there is.</p> <p>3 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, so you</p> <p>4 may use that, perhaps, to refresh your recollection. Does</p> <p>5 it discuss the Form A?</p> <p>6 MS. RHONDA KELSEY: Yes.</p> <p>7 ASSISTANT CITY ATTORNEY KATHY BLOCK: What does</p> <p>8 it say about the Form A?</p> <p>9 MS. RHONDA KELSEY: You, you want me to read this</p> <p>10 entire - basically, what it says is the Office of Small</p> <p>11 Business Development Contractor Compliance Plan, Form A,</p> <p>12 must be submitted - must be completed and submitted with</p> <p>13 your proposal if you intend to utilize an SBE</p> <p>14 subcontractor. Failure to return these properly completed</p> <p>15 forms will result in disqual - disqualification from</p> <p>16 receiving additional points or SBE participation -</p> <p>17 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay.</p> <p>18 MS. RHONDA KELSEY: - for SBE participation.</p> <p>19 ASSISTANT CITY ATTORNEY KATHY BLOCK: And, and</p> <p>20 how does your, um, department interpret that language?</p> <p>21 MS. RHONDA KELSEY: It is interpreted such that</p> <p>22 if you don't submit the form, then you're not eligible to,</p> <p>23 to earn the points.</p> <p>24 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. Now</p> <p>25 the SBE program, it - let's assume, for the sake of</p>
<p style="text-align: right;">Page 43</p> <p>1 we've already discussed why there was a Small Business</p> <p>2 Enterprise requirement.</p> <p>3 MS. RHONDA KELSEY: Bonus points, yes.</p> <p>4 ASSISTANT CITY ATTORNEY KATHY BLOCK: Bonus</p> <p>5 points, I'm sorry. Ah, you mentioned the Form A earlier</p> <p>6 with regard to the Small Business Enterprise, um, bonus</p> <p>7 points. Was there - and I guess, let's, um, maybe turn</p> <p>8 specifically to the proposal itself and there are, let's</p> <p>9 see, in - I'm turning explicitly to - if you need to</p> <p>10 refresh your recollection, there are pages in exhibit 10,</p> <p>11 which is part of the Request for Proposal itself. On page</p> <p>12 two of that exhibit, um, which you have a copy of the</p> <p>13 binder in front of you; I've got notes on mine. Um,</p> <p>14 exhibit 10 -</p> <p>15 MS. RHONDA KELSEY: Exhibit ten.</p> <p>16 ASSISTANT CITY ATTORNEY KATHY BLOCK: - is a, um</p> <p>17 -</p> <p>18 MS. RHONDA KELSEY: Sorry.</p> <p>19 ASSISTANT CITY ATTORNEY KATHY BLOCK: - portions</p> <p>20 of the Request for Proposal.</p> <p>21 MS. RHONDA KELSEY: Page two?</p> <p>22 ASSISTANT CITY ATTORNEY KATHY BLOCK: Page two.</p> <p>23 MS. RHONDA KELSEY: Okay.</p> <p>24 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, there</p> <p>25 is a portion there, um, that speaks to the bonus for SBE</p>	<p style="text-align: right;">Page 45</p> <p>1 argument, um, in this case -</p> <p>2 CHAIRMAN VINCENT BOBOT: I'm just going to take</p> <p>3 one short note. We were just handed the Request for</p> <p>4 Proposal by opposing counsel.</p> <p>5 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay</p> <p>6 [laughter].</p> <p>7 ATTORNEY EMERY HARLAN: I -</p> <p>8 CHAIRMAN VINCENT BOBOT: Um -</p> <p>9 ATTORNEY EMERY HARLAN: I have copies so I know</p> <p>10 we sent it electronically but if -</p> <p>11 CHAIRMAN VINCENT BOBOT: Right.</p> <p>12 ATTORNEY EMERY HARLAN: As we introduce these</p> <p>13 exhibits, I'll give you copies I have.</p> <p>14 CHAIRMAN VINCENT BOBOT: Ah -</p> <p>15 ATTORNEY EMERY HARLAN: I might as well -</p> <p>16 ASSISTANT CITY ATTORNEY KATHY BLOCK: Oh, I</p> <p>17 assumed you had them in the e-book, sorry.</p> <p>18 MS. LINDA ELMER: We do.</p> <p>19 MR. AVERILL: They are.</p> <p>20 CHAIRMAN VINCENT BOBOT: We may, but it's -</p> <p>21 ASSISTANT CITY ATTORNEY KATHY BLOCK: Oh, okay.</p> <p>22 CHAIRMAN VINCENT BOBOT: - it's hard to shuffle</p> <p>23 back and forth -</p> <p>24 ASSISTANT CITY ATTORNEY KATHY BLOCK: Fair</p> <p>25 enough.</p>

<p style="text-align: right;">Page 46</p> <p>1 CHAIRMAN VINCENT BOBOT: - in the e-book.</p> <p>2 ASSISTANT CITY ATTORNEY KATHY BLOCK: Fair</p> <p>3 enough. Um, on page - so I'm on page two of the RFP, ah,</p> <p>4 at the bottom of the page there where it talks about the</p> <p>5 SBE participation. Um, so let's go back to the SBE</p> <p>6 ordinance generally. If - MWH is a certified SBE firm, is</p> <p>7 it not?</p> <p>8 MS. RHONDA KELSEY: Yes, it is.</p> <p>9 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yes. Let's</p> <p>10 assume for the sake of argument, MWH had without Quarles &</p> <p>11 Brady, um, pro - filed a proposal in response to this</p> <p>12 procurement and filed a Form A properly.</p> <p>13 MS. RHONDA KELSEY: Hmm-hmm.</p> <p>14 ASSISTANT CITY ATTORNEY KATHY BLOCK: Would they</p> <p>15 have gotten the bonus points?</p> <p>16 MS. RHONDA KELSEY: Yes.</p> <p>17 ASSISTANT CITY ATTORNEY KATHY BLOCK: If in this</p> <p>18 proposal had there been a Form A properly filed and</p> <p>19 completed, would MWH and Quarles have gotten the bonus</p> <p>20 points for SBE participation?</p> <p>21 MS. RHONDA KELSEY: Yes.</p> <p>22 ASSISTANT CITY ATTORNEY KATHY BLOCK: Did - the</p> <p>23 gist of my question is in a, in a typical proposal for -</p> <p>24 let's strike that. The - is it necessary in every case</p> <p>25 that an SBE firm be a subcontractor in order to receive -</p>	<p style="text-align: right;">Page 48</p> <p>1 major priorities is, is making sure that the process is</p> <p>2 fair and ethical. There's a Q and A period for all</p> <p>3 proposers to ask questions about what is required, any</p> <p>4 additional clarity. Um, they can also take exceptions to</p> <p>5 what has been specified in the proposal. So a proposer</p> <p>6 could say, "Hey, I don't agree with what, you know, you're</p> <p>7 asking for. This would be a better option." Or, "We're</p> <p>8 doing something different. Will the city consider,</p> <p>9 consider this?" It could be considered. That is the</p> <p>10 opportunity for a firm to ask questions, receive clarity,</p> <p>11 and make the city aware of the fact that they may be going</p> <p>12 in a different direction, other than what is being</p> <p>13 specified or called for in RFP. Because we could then</p> <p>14 decide to make a change that all proposers would be aware</p> <p>15 of. Because if we don't do that, then again, going back to</p> <p>16 what I just said, then we're, we're changing processes and</p> <p>17 procedures for individual proposers and that's not</p> <p>18 transparent; that's -</p> <p>19 CHAIRMAN VINCENT BOBOT: But it wasn't changed -</p> <p>20 MS. RHONDA KELSEY: - not transparent.</p> <p>21 CHAIRMAN VINCENT BOBOT: - in this particular</p> <p>22 case.</p> <p>23 MS. RHONDA KELSEY: Because that didn't happen.</p> <p>24 Because -</p> <p>25 CHAIRMAN VINCENT BOBOT: Oh, well the question is</p>
<p style="text-align: right;">Page 47</p> <p>1 MS. RHONDA KELSEY: Yes. Yes, unless we're</p> <p>2 calling for something different. The RFP is clear about</p> <p>3 the arrangement should - and this is where the Request for</p> <p>4 Proposal process is a lot different from the bidding</p> <p>5 process. If some sort of different arrangement - I mean,</p> <p>6 that's what it is, typically. Yes, you - the SBE is</p> <p>7 functioning as a sub to the prime, um, and therefore,</p> <p>8 providing a particular service as a sub under the contract.</p> <p>9 Um, if -</p> <p>10 CHAIRMAN VINCENT BOBOT: Was Form A submitted?</p> <p>11 MS. RHONDA KELSEY: No.</p> <p>12 CHAIRMAN VINCENT BOBOT: So the 10 bonus points</p> <p>13 was not awarded.</p> <p>14 MS. RHONDA KELSEY: Correct.</p> <p>15 CHAIRMAN VINCENT BOBOT: Thank you.</p> <p>16 MS. RHONDA KELSEY: So, I guess I just want to -</p> <p>17 even if the form were submitted, potentially - and I don't</p> <p>18 know; I mean, I can't - this - you know, I'm going way back</p> <p>19 to the fall of 2017 - but it wasn't, it wasn't submitted in</p> <p>20 the, in the proposal; the RFP was clear about that. And</p> <p>21 the purchasing agent made a determination that they weren't</p> <p>22 eligible for the points for that reason; just from a clear</p> <p>23 black and white perspective. And we have instructions for</p> <p>24 proposers to follow. We can't change the rules as we go</p> <p>25 along and because, again, it goes back to what one of my</p>	<p style="text-align: right;">Page 49</p> <p>1 was it changed or wasn't it changed?</p> <p>2 MS. RHONDA KELSEY: It wasn't.</p> <p>3 CHAIRMAN VINCENT BOBOT: Thank you.</p> <p>4 MR. STEVE FRITSCHKE: Mr. Chair, I have a</p> <p>5 question.</p> <p>6 CHAIRMAN VINCENT BOBOT: Mr. Fritsche?</p> <p>7 MR. STEVE FRITSCHKE: Um, so you're not hand</p> <p>8 holders. If someone submits, ah, a RFP proposal and</p> <p>9 they're identifying a - as an example - an SBE, ah,</p> <p>10 subcontractor but they haven't submitted Form A, you don't</p> <p>11 call them and say, "Hey, I see you've identified the</p> <p>12 subcontractor. We don't have Form A."</p> <p>13 MS. RHONDA KELSEY: No.</p> <p>14 MR. STEVE FRITSCHKE: Okay.</p> <p>15 MS. RHONDA KELSEY: We don't do that.</p> <p>16 CHAIRMAN VINCENT BOBOT: You may continue, Ms.</p> <p>17 Block.</p> <p>18 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, in fact</p> <p>19 if we turn to page three of the, um, disclosure counsel</p> <p>20 RFP, it states that, um, proposers can ask questions,</p> <p>21 correct? And there's a process for that?</p> <p>22 MS. RHONDA KELSEY: Yes.</p> <p>23 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, in this</p> <p>24 case, are you aware - did any proposers, um, potential</p> <p>25 proposers, ask questions?</p>

<p style="text-align: right;">Page 50</p> <p>1 MS. RHONDA KELSEY: Yeah, they - there were quite 2 a few, ah, questions that were, um, presented. And what we 3 do is we respond to those questions and the responses are 4 posted via an addendum; an addendum to the RFP itself and 5 that all proposers are required to sign that addendum, send 6 it back with their proposal, to ensure that they all 7 understand what is being asked, if there are, you know, we 8 may change the date, the closing date for an RFP. That's 9 the vehicle or mechanism that we use to keep all proposers 10 - again, in a very transparent fashion - aware of what 11 we're doing throughout the process. So a proposer could 12 have submitted a question again, like I said, "Hey, we 13 don't like this in the proposal; we don't think this is 14 fair." The city could entertain that and then say we are 15 amending this RFP to change this particular requirement. 16 Then all proposers are informed and aware of that change. 17 That is the process; that is the vehicle for a proposer to 18 question or request any changes to the RFP or obtain 19 clarity. 20 ATTORNEY EMERY HARLAN: I - 21 CHAIRMAN VINCENT BOBOT: But in this particular 22 case, you did not eliminate the Form A requirement. 23 MS. RHONDA KELSEY: We weren't asked to. 24 CHAIRMAN VINCENT BOBOT: No, the question is - 25 MR. BRAD HOESCHEN: Right, that's -</p>	<p style="text-align: right;">Page 52</p> <p>1 going to - 2 MS. RHONDA KELSEY: Yes. 3 ASSISTANT CITY ATTORNEY KATHY BLOCK: - refer you 4 to the chapter of - 5 MS. RHONDA KELSEY: Section 12, here, yes. 6 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yes. 7 MS. RHONDA KELSEY: There is reference to it. 8 ASSISTANT CITY ATTORNEY KATHY BLOCK: It defines 9 joint venture, you're correct. 10 MS. RHONDA KELSEY: It defines it; correct. 11 ASSISTANT CITY ATTORNEY KATHY BLOCK: And that 12 definition then becomes relevant, um, if we look at chapter 13 370 and - 14 CHAIRMAN VINCENT BOBOT: I'm sorry - 15 ASSISTANT CITY ATTORNEY KATHY BLOCK: - 370-5(3). 16 MS. RHONDA KELSEY: Dash five, sub three, okay. 17 Yes, it's in two sections, actually; I was looking at 18 another section. 19 ASSISTANT CITY ATTORNEY KATHY BLOCK: And if you 20 want to read that to refresh your recollection. 21 MS. RHONDA KELSEY: Sure. Sure. Participation 22 of Small Business Enterprises and joint ventures with other 23 such businesses and mainstream business entities is 24 encouraged. In the case of a certified joint venture, only 25 that portion of the total dollar value of the contract</p>
<p style="text-align: right;">Page 51</p> <p>1 CHAIRMAN VINCENT BOBOT: - the [inaudible]. 2 MR. BRAD HOESCHEN: I think we're - right, I 3 think we're getting sort of sidetracked on this question 4 issue. The, the real issue here is in order to get the SBE 5 points, you had to submit Form A. 6 MS. RHONDA KELSEY: Correct. 7 MR. BRAD HOESCHEN: And the proposer, or the 8 appellant in this case, did not submit Form A. 9 MS. RHONDA KELSEY: Correct. 10 MR. BRAD HOESCHEN: Okay. 11 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, is, is 12 there, um, any portion of the SBE ordinance that talks 13 about joint ventures? And if I may, I'll refer - 14 MS. RHONDA KELSEY: I think - 15 ASSISTANT CITY ATTORNEY KATHY BLOCK: - you to - 16 MS. RHONDA KELSEY: I think there is, um, but - 17 or used to be years ago. 18 ASSISTANT CITY ATTORNEY KATHY BLOCK: [Laughter] 19 There - 20 MS. RHONDA KELSEY: Um - 21 ASSISTANT CITY ATTORNEY KATHY BLOCK: There is. 22 MS. RHONDA KELSEY: Okay, I thought so. 23 ASSISTANT CITY ATTORNEY KATHY BLOCK: [Laughter] 24 MS. RHONDA KELSEY: Right? 25 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, I'm</p>	<p style="text-align: right;">Page 53</p> <p>1 equal to the percentage of participation of the Small 2 Business Enterprise partner venture and the joint venture 3 shall be counted toward the applicable requirement. 4 ASSISTANT CITY ATTORNEY KATHY BLOCK: And then it 5 - there is an exhibit here, which is number five and, I'm 6 sorry, I keep flipping all the, ah, exhibits. Um, which is 7 a copy of the Form A - 8 MS. RHONDA KELSEY: Yes. 9 ASSISTANT CITY ATTORNEY KATHY BLOCK: - that you 10 would have included in the, ah, RFP? Is that the - is it 11 the form that was included in this, ah, RFP? 12 MS. RHONDA KELSEY: Yes. 13 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, so this 14 is a copy that the winning proposer, I guess, or - 15 MS. RHONDA KELSEY: It is. 16 ASSISTANT CITY ATTORNEY KATHY BLOCK: - best 17 ranked proposer - 18 MS. RHONDA KELSEY: Yes, the highest. Yes. 19 ASSISTANT CITY ATTORNEY KATHY BLOCK: - used? 20 MS. RHONDA KELSEY: Yes. 21 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. Um - 22 UNKNOWN MALE SPEAKER: Thanks. 23 ASSISTANT CITY ATTORNEY KATHY BLOCK: - does that 24 indicate what percentage, um, of payments were going to 25 the, ah, in this case the subcontractor?</p>

<p style="text-align: right;">Page 54</p> <p>1 MS. RHONDA KELSEY: Yes, 20 percent.</p> <p>2 MR. BRAD HOESCHEN: Do you have four? Okay.</p> <p>3 MS. LINDA ELMER: I -</p> <p>4 ASSISTANT CITY ATTORNEY KATHY BLOCK: Thank you.</p> <p>5 MS. LINDA ELMER: Thank you.</p> <p>6 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay, and</p> <p>7 then I - we have - can you explain what Bonfire is to me?</p> <p>8 MS. RHONDA KELSEY: So Bonfire is the software</p> <p>9 platform that we use to, um, allow, ah, proposers to upload</p> <p>10 proposals, um, that are being requested by the, um, city.</p> <p>11 Um, the software platform is also used by, um, the</p> <p>12 purchasing agent to review the proposals for compliance, as</p> <p>13 well as the, um, the evaluation committee members to score</p> <p>14 the proposals, um, to include notes. Um, we're also able</p> <p>15 to generate some analytics from that software regarding,</p> <p>16 you know, all of the proposals that have been submitted,</p> <p>17 you know, dollar amount, number, etcetera, by type. So</p> <p>18 that's the electronic or digital system that we use to, um,</p> <p>19 evaluate proposals to - and allow for, um, potential</p> <p>20 proposers to submit, um, proposals. Years ago, um, they,</p> <p>21 you know, brought in, um, hard copies. We still do receive</p> <p>22 a couple of hard copies but years ago, we used to receive</p> <p>23 like requests like eight or nine, so it's a more</p> <p>24 streamlined process that we use.</p> <p>25 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. And</p>	<p style="text-align: right;">Page 56</p> <p>1 standard across the board; we didn't treat, you know, one</p> <p>2 proposer different than another. Another proposer didn't</p> <p>3 earn the points because they also didn't submit Form A.</p> <p>4 Um, what else here? I don't see anything else about SBE</p> <p>5 participation. Ah, let's see - so yeah, "Deduct 9.6 points</p> <p>6 for Quarles & Brady, bonus SBE points zero. Deduct 3.2</p> <p>7 points for Duane Morris, bonus SBE points to zero."</p> <p>8 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay, so</p> <p>9 Duane Morris was another proposer -</p> <p>10 MS. RHONDA KELSEY: Yes.</p> <p>11 ASSISTANT CITY ATTORNEY KATHY BLOCK: - that</p> <p>12 failed to submit a Form A.</p> <p>13 MS. RHONDA KELSEY: Correct.</p> <p>14 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. But,</p> <p>15 but at some point, there were points that were indicated</p> <p>16 here. Can you explain why that would be?</p> <p>17 MS. RHONDA KELSEY: So I think the committee was,</p> <p>18 um, the committee scored the proposals and gave those firms</p> <p>19 the points. The purchasing agent then, um -</p> <p>20 ATTORNEY EMERY HARLAN: I - can I just object to</p> <p>21 this? Unless there's a foundation that she was actually a</p> <p>22 part of that process? I mean, she's just speculating in</p> <p>23 terms of what a committee did. If she was there</p> <p>24 participating in the process and has firsthand knowledge</p> <p>25 that's relevant, but if she wasn't there, her opinion of</p>
<p style="text-align: right;">Page 55</p> <p>1 then there was a copy, um, of exhibit three here, which is,</p> <p>2 I guess, that's what would be sort of like the Bonfire</p> <p>3 summary of the, the evaluator's notes and comments -</p> <p>4 MS. RHONDA KELSEY: Yes.</p> <p>5 ASSISTANT CITY ATTORNEY KATHY BLOCK: - for this</p> <p>6 RFP. Is that correct?</p> <p>7 MS. RHONDA KELSEY: Yes.</p> <p>8 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, does it</p> <p>9 indicate to you anything about the Small Business</p> <p>10 Enterprise points, um, bonus points, um, that - for, um,</p> <p>11 Quarles & Brady, ah, Quarles & Brady's proposal, um,</p> <p>12 specifically?</p> <p>13 MS. RHONDA KELSEY: Yes.</p> <p>14 ASSISTANT CITY ATTORNEY KATHY BLOCK: Can you</p> <p>15 tell me what that is?</p> <p>16 MS. RHONDA KELSEY: It says, um, ah, on the first</p> <p>17 page, ah, after the cover page, "SBE corrections Quarles &</p> <p>18 Brady, minus 9.6 SBE points, OSBD plan not submitted for</p> <p>19 evaluator review as required."</p> <p>20 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, is</p> <p>21 there any other note after -</p> <p>22 MS. RHONDA KELSEY: Um -</p> <p>23 ASSISTANT CITY ATTORNEY KATHY BLOCK: - that one?</p> <p>24 MS. RHONDA KELSEY: - let's see. Duane Morris,</p> <p>25 loss of 3.2 SBE points, no - so, so again, this was a</p>	<p style="text-align: right;">Page 57</p> <p>1 what happens is no better than anybody else's.</p> <p>2 MS. RHONDA KELSEY: Those are - those are the</p> <p>3 facts.</p> <p>4 ASSISTANT CITY ATTORNEY KATHY BLOCK: I, I mean,</p> <p>5 I think she -</p> <p>6 MS. RHONDA KELSEY: It's right here; I'm looking</p> <p>7 at it.</p> <p>8 ASSISTANT CITY ATTORNEY KATHY BLOCK: I think she</p> <p>9 can interpret what happens -</p> <p>10 MS. RHONDA KELSEY: Yeah.</p> <p>11 ASSISTANT CITY ATTORNEY KATHY BLOCK: - regarding</p> <p>12 her own software depending on what's - and if, ah, Mr.</p> <p>13 Harlan wants to offer -</p> <p>14 CHAIRMAN VINCENT BOBOT: I -</p> <p>15 ASSISTANT CITY ATTORNEY KATHY BLOCK: - other</p> <p>16 testimony, he can ask these people.</p> <p>17 CHAIRMAN VINCENT BOBOT: I guess I'll sustain the</p> <p>18 objection in that, that I think she can testify to what the</p> <p>19 conclusions were for one firm scored this, um, 14749 scored</p> <p>20 that. But she can't testify to how they came to that.</p> <p>21 ASSISTANT CITY ATTORNEY KATHY BLOCK: Well no,</p> <p>22 I'm not - I'm not saying she can say why.</p> <p>23 CHAIRMAN VINCENT BOBOT: She's just explaining</p> <p>24 why they got points in these certain areas, but that's</p> <p>25 about it; that's on the form.</p>

<p style="text-align: right;">Page 58</p> <p>1 ASSISTANT CITY ATTORNEY KATHY BLOCK: Well, I - 2 okay, that's fine. 3 CHAIRMAN VINCENT BOBOT: I mean, fair enough? 4 ATTORNEY EMERY HARLAN: Yeah, actually - 5 CHAIRMAN VINCENT BOBOT: She'll be able to say 6 what's on the form when one got this many points but the 7 other person got - the firm got this many points - but 8 that's about the end of it. 9 ASSISTANT CITY ATTORNEY KATHY BLOCK: Well, I 10 think she can indicate why the, there are changes that were 11 made. Um, I mean, they're - I, I mean, if - 12 CHAIRMAN VINCENT BOBOT: Well - 13 ASSISTANT CITY ATTORNEY KATHY BLOCK: - if it 14 says, "Plan not submitted," I mean, I think she can 15 understand why her software that she, you know, administers 16 has notations that are made, um - 17 CHAIRMAN VINCENT BOBOT: I think - I just think 18 she'd go to - I've got zero points in that area and that's 19 it. 20 MR. BRAD HOESCHEN: It, I - I think the testimony 21 came in, Ms. Block. 22 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. Fair 23 enough. Okay, so let's move on and discuss LBE, ah, 24 programs, specifically, as it related to this contract. Um 25 -</p>	<p style="text-align: right;">Page 60</p> <p>1 points that, that the committee members determined that 2 Quarles and - that, that should be received for SBE 3 participation. So it could be - it could be 10, it could 4 be, it could be five. It could be four. It could be zero. 5 A firm may even submit the Form A and the committee may 6 evaluate what has been submitted and determine that no 7 points should be earned. 8 MR. BRAD HOESCHEN: So there are five members of 9 the committee and they each get two points to award and 10 somebody awarded .6 at some point? Okay. 11 UNKNOWN MALE SPEAKER: Did you hear that? 12 UNKNOWN FEMALE SPEAKER: Yeah. 13 ASSISTANT CITY ATTORNEY KATHY BLOCK: Well, and I 14 guess - 15 MS. RHONDA KELSEY: [Inaudible] write down - 16 ASSISTANT CITY ATTORNEY KATHY BLOCK: I'll just - 17 MS. RHONDA KELSEY: - the individual - 18 ASSISTANT CITY ATTORNEY KATHY BLOCK: I'll just 19 ask you here and this maybe will draw out, um, the 20 committee's attention. Um, if we're looking at Duane 21 Morris', um, which is the other firm that, ah, apparently 22 did not submit a Form A - we're looking at page three of 23 four of their, ah, little summary score. 24 MS. RHONDA KELSEY: I can't find it. 25 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, about</p>
<p style="text-align: right;">Page 59</p> <p>1 MS. RHONDA KELSEY: Let me go back. 2 ASSISTANT CITY ATTORNEY KATHY BLOCK: - did MWH 3 submit an LBE affidavit, um, in connection with this, ah, 4 with the proposal that was filed here? 5 MS. RHONDA KELSEY: Yes. 6 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. And 7 that's attached as, um, oh, let's see, I think that's 8 exhibit fourteen? 9 MS. RHONDA KELSEY: Fourteen, yes. 10 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. Oh, 11 except that's only - 12 MR. BRAD HOESCHEN: I - oh, I'm sorry, Mr. Chair? 13 ASSISTANT CITY ATTORNEY KATHY BLOCK: Oh - 14 CHAIRMAN VINCENT BOBOT: Yes, Mr. Hoeschen? 15 MR. BRAD HOESCHEN: Ms. Block, before you move on 16 - 17 ASSISTANT CITY ATTORNEY KATHY BLOCK: Of course. 18 MR. BRAD HOESCHEN: - ah, Ms. Kelsey, the, the 19 notation, the correction says, "Quarles & Brady, minus 9.6 20 SBE points." Why would 9.6 have been awarded? 21 MS. RHONDA KELSEY: The number? 22 MR. BRAD HOESCHEN: Yes. 23 MS. RHONDA KELSEY: The, the points are - each 24 evaluator on the committee, um, assigns points in that 25 particular category and that, that is a total number of</p>	<p style="text-align: right;">Page 61</p> <p>1 halfway down the page it says, "SBE participation bonus 2 points." 3 MS. RHONDA KELSEY: Duane Morris, okay. 4 ASSISTANT CITY ATTORNEY KATHY BLOCK: Ah, if you 5 could note what's, ah, um, if you can, ah, let me know 6 what's noted there by committee member for points awarded 7 there - 8 MS. RHONDA KELSEY: Um - 9 ASSISTANT CITY ATTORNEY KATHY BLOCK: - if you 10 get there. 11 MS. RHONDA KELSEY: What, what page? 12 ASSISTANT CITY ATTORNEY KATHY BLOCK: Page three 13 of four. 14 MS. RHONDA KELSEY: Page three of four. 15 MR. BRAD HOESCHEN: Duane Morris is part of the 16 back - 17 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yes, Duane 18 Morris. 19 MS. RHONDA KELSEY: Yep. 20 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, we've 21 got Richard Lee, David Anderson, Jerry Allen, and Jeremy 22 McKenzie - 23 MS. RHONDA KELSEY: Hmm-hmm. 24 ASSISTANT CITY ATTORNEY KATHY BLOCK: - and 25 Dennis Yaccarino.</p>

<p style="text-align: right;">Page 62</p> <p>1 MS. RHONDA KELSEY: Right.</p> <p>2 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, they</p> <p>3 awarded differing amounts of points for SBE participation,</p> <p>4 correct?</p> <p>5 MS. RHONDA KELSEY: Yeah.</p> <p>6 ASSISTANT CITY ATTORNEY KATHY BLOCK: Out of a</p> <p>7 total of ten?</p> <p>8 MS. RHONDA KELSEY: Yes.</p> <p>9 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, some</p> <p>10 were awarded zero, some were awarded five, and some were</p> <p>11 awarded six, correct?</p> <p>12 MS. RHONDA KELSEY: Yes.</p> <p>13 ASSISTANT CITY ATTORNEY KATHY BLOCK: So, um,</p> <p>14 they just awarded differing amounts of points, correct?</p> <p>15 MS. RHONDA KELSEY: They're allowed to do.</p> <p>16 ASSISTANT CITY ATTORNEY KATHY BLOCK: Right.</p> <p>17 Okay. So, I'm -</p> <p>18 MR. BRAD HOESCHEN: I see it. And if you look on</p> <p>19 Quarles & Brady's on page three of three -</p> <p>20 ASSISTANT CITY ATTORNEY KATHY BLOCK: Right.</p> <p>21 MR. BRAD HOESCHEN: - the same thing happened</p> <p>22 there.</p> <p>23 ASSISTANT CITY ATTORNEY KATHY BLOCK: Right.</p> <p>24 MR. BRAD HOESCHEN: Four of the five evaluators</p> <p>25 awarded 10 out of 10 and one evaluator, for some reason -</p>	<p style="text-align: right;">Page 64</p> <p>1 ATTORNEY EMERY HARLAN: And just for the record,</p> <p>2 did we admit all the other things in the binder? All the</p> <p>3 exhibits that were -</p> <p>4 ASSISTANT CITY ATTORNEY KATHY BLOCK: They're in</p> <p>5 the e-book? I mean, I'm certainly - no objections.</p> <p>6 CHAIRMAN VINCENT BOBOT: Well, why don't we just</p> <p>7 go through that real quick.</p> <p>8 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yep.</p> <p>9 CHAIRMAN VINCENT BOBOT: I know we have exhibit</p> <p>10 three, five, 10, um, did I miss any? Three, five, 10 and</p> <p>11 then there was -</p> <p>12 MR. BRAD HOESCHEN: This is sixteen.</p> <p>13 CHAIRMAN VINCENT BOBOT: - sixteen. But was</p> <p>14 there other than three, five, 10 or sixteen?</p> <p>15 ATTORNEY EMERY HARLAN: Why - I think that the -</p> <p>16 what was contemplated was everything that we sent was by</p> <p>17 mutual agreement to be part of the record.</p> <p>18 ASSISTANT CITY ATTORNEY KATHY BLOCK: I have no</p> <p>19 objection -</p> <p>20 CHAIRMAN VINCENT BOBOT: Okay.</p> <p>21 ASSISTANT CITY ATTORNEY KATHY BLOCK: - to that.</p> <p>22 CHAIRMAN VINCENT BOBOT: So noted.</p> <p>23 MR. BRAD HOESCHEN: Is that okay with you? Okay.</p> <p>24 Our counsel said -</p> <p>25 ASSISTANT CITY ATTORNEY KATHY BLOCK: [Inaudible]</p>
<p style="text-align: right;">Page 63</p> <p>1 ASSISTANT CITY ATTORNEY KATHY BLOCK: [Laughter]</p> <p>2 MR. BRAD HOESCHEN: - only awarded eight out of</p> <p>3 ten. Alright, thank you.</p> <p>4 ASSISTANT CITY ATTORNEY KATHY BLOCK: And I've got</p> <p>5 - this is, um - I'm just going to use this for like one</p> <p>6 thing.</p> <p>7 MS. LINDA ELMER: Thank you.</p> <p>8 ASSISTANT CITY ATTORNEY KATHY BLOCK: This is a</p> <p>9 full copy of the - of Quarles & Brady's, um, response to</p> <p>10 the RFP; so this is their complete proposal. And on page -</p> <p>11 huh, it ends up being, I guess, page -</p> <p>12 ATTORNEY EMERY HARLAN: And I'd find this -</p> <p>13 excuse me.</p> <p>14 ASSISTANT CITY ATTORNEY KATHY BLOCK: Oh, I'm</p> <p>15 sorry.</p> <p>16 ATTORNEY EMERY HARLAN: Is it - does it - is this</p> <p>17 going to be sixteen? Or -</p> <p>18 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yeah, I</p> <p>19 guess I would make it sixteen? Although, I, I should note</p> <p>20 that I noticed when I was coming down here, their taxpayer</p> <p>21 employer number - the taxpayer, um, identification number</p> <p>22 is on this so we need to redact this before we admit it -</p> <p>23 ATTORNEY EMERY HARLAN: No objection to that.</p> <p>24 CHAIRMAN VINCENT BOBOT: And if I - if this is</p> <p>25 going to be exhibit sixteen?</p>	<p style="text-align: right;">Page 65</p> <p>1 ordinances don't need to get moved but -</p> <p>2 CHAIRMAN VINCENT BOBOT: That's fine. Policy -</p> <p>3 ASSISTANT CITY ATTORNEY KATHY BLOCK: - but, but</p> <p>4 I'm - again, no objection.</p> <p>5 CHAIRMAN VINCENT BOBOT: Okay.</p> <p>6 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. Um,</p> <p>7 so tab B, page 11, um, you get a copy [laughter]. Tab B,</p> <p>8 page 11, um, binding signatures for RFP and contract. Um,</p> <p>9 Ms. Kelsey, can you please indicate who is listed as the</p> <p>10 proposer's firm?</p> <p>11 MS. RHONDA KELSEY: Quarles & Brady.</p> <p>12 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, is MWH</p> <p>13 listed on that page in any way?</p> <p>14 MS. RHONDA KELSEY: Not that I can see, no.</p> <p>15 ASSISTANT CITY ATTORNEY KATHY BLOCK: And we</p> <p>16 discussed earlier that the LBE, um, program, the Local</p> <p>17 Business Enterprise program, is a, ah, a program that's</p> <p>18 intended to benefit the prime contractor or the proposer.</p> <p>19 Is that correct?</p> <p>20 MS. RHONDA KELSEY: Yes.</p> <p>21 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay, so</p> <p>22 now turning to specifically to - now we don't need to use</p> <p>23 this exhibit -</p> <p>24 MS. RHONDA KELSEY: Okay.</p> <p>25 ASSISTANT CITY ATTORNEY KATHY BLOCK: - cause</p>

<p style="text-align: right;">Page 66</p> <p>1 it's really only need for - um, we can now look 2 specifically to, um, exhibit 14, which is the Local 3 Business Enterprise Program Affidavit of Compliance 4 submitted by MMH. On page - I guess this would be really 5 page three of the form, which is sort of an additional for 6 you need to submit if you've got more than one property 7 location - is that correct? 8 MS. RHONDA KELSEY: Yes. 9 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, can you 10 tell me how many properties are listed there? 11 MS. RHONDA KELSEY: Four. 12 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. And 13 so one of those is in Milwaukee, correct? 14 MS. RHONDA KELSEY: Yes. 15 ASSISTANT CITY ATTORNEY KATHY BLOCK: And the 16 others are not, correct? 17 MS. RHONDA KELSEY: Yes. 18 ASSISTANT CITY ATTORNEY KATHY BLOCK: And they're 19 not in - well, it doesn't matter; they're not in Milwaukee, 20 or they're not in Wisconsin - but they're not - um, can you 21 tell me, um, why the, ah, why the, um, proposal of Quarles 22 & Brady was not awarded LBE points? 23 MS. RHONDA KELSEY: A determination was made 24 that, um, because additional properties were listed - 25 ASSISTANT CITY ATTORNEY KATHY BLOCK: Hmm-hmm.</p>	<p style="text-align: right;">Page 68</p> <p>1 ATTORNEY EMERY HARLAN: I guess the objection is 2 the witness doesn't have personal knowledge, which is 3 pretty apparent. She's saying, "I'm going to guess that's 4 why the decision was made." So as to the extent she's 5 testifying about why the decision was made without any 6 foundation that she was involved in that decision - 7 ASSISTANT CITY ATTORNEY KATHY BLOCK: Fair 8 enough. 9 ATTORNEY EMERY HARLAN: - or made the decision, I 10 - 11 CHAIRMAN VINCENT BOBOT: I'll sustain it. 12 ATTORNEY EMERY HARLAN: - would strike - 13 ASSISTANT CITY ATTORNEY KATHY BLOCK: Fair 14 enough. 15 ATTORNEY EMERY HARLAN: Okay. 16 MR. AVERILL: Mr. Chair? 17 MR. BRAD HOESCHEN: Mr. Chair? 18 CHAIRMAN VINCENT BOBOT: Ah, Mr. Hoeschen? Well - 19 MR. BRAD HOESCHEN: Actually, Mr. Averill was 20 first. 21 CHAIRMAN VINCENT BOBOT: Mr. Averill? 22 MR. AVERILL: Thank you, Mr. Chair. I have a 23 question for Ms. Kelsey. 24 MS. RHONDA KELSEY: Yes? 25 MR. AVERILL: Ms. Kelsey, can you tell me the</p>
<p style="text-align: right;">Page 67</p> <p>1 MS. RHONDA KELSEY: - in this form, um, that, you 2 know, the combined square footage or, um, the office space, 3 if you will, in these other locations, um, didn't meet the 4 criteria set forth in the affidavit whereby we say that the 5 majority, um, of the, you know, owned or leased space by 6 the prime, um, has to represent, um, the majority of the 7 proposer's office space. So a determination was made that 8 they were not - that they didn't meet the criteria and 9 that's why they didn't earn, um, the 10 points for SBE 10 participation. 11 MS. RHONDA KELSEY: So it wasn't because there 12 was only one property in Milwaukee and three properties 13 that were outside Milwaukee. You just didn't go one verses 14 three, did you? 15 ASSISTANT CITY ATTORNEY KATHY BLOCK: Drilling 16 down at that level of detail, one verses three? 17 MS. RHONDA KELSEY: I mean, you didn't just count 18 the number of properties. Or did you? 19 MS. RHONDA KELSEY: I think a determination was 20 made, they're three - 21 ATTORNEY EMERY HARLAN: I'm going to object 22 because it - 23 MS. RHONDA KELSEY: There are three that - 24 CHAIRMAN VINCENT BOBOT: Hold on one second, Ms. 25 Kelsey; there's an objection.</p>	<p style="text-align: right;">Page 69</p> <p>1 square footage of properties one, two, three, and four? 2 MS. RHONDA KELSEY: Yes. Um, I was told by Mr. 3 Harlan, um, 3,000 square feet for the Milwaukee office. 4 For the office in Iowa, I was told 2,444 square feet. And 5 for the Chicago location, I was informed that there was no 6 office; um, they just use that location for, um, conference 7 space. Um, and then for Indiana, the Indiana office, I was 8 informed that, um, it was a business that is being operated 9 in a house and this was all after the - this is - I was 10 informed of this October 9th, 2017. 11 MR. AVERILL: Mr. Chair, as a follow-up? 12 CHAIRMAN VINCENT BOBOT: Yes, Mr. Averill. 13 MR. AVERILL: So the property that was operated 14 in a house, presumably the house does have some square 15 footage but you don't know the size of the house? Or how 16 much of that house was being operated as an office? 17 MS. RHONDA KELSEY: I was not provided with that 18 information. 19 MR. AVERILL: Thank you. 20 MR. BRAD HOESCHEN: Mr. Chair? 21 CHAIRMAN VINCENT BOBOT: Mr. Hoeschen? 22 MR. BRAD HOESCHEN: Ms. Kelsey, even if a 23 determination had been made that LBE participation was 24 appropriate for Quarles & Brady, would the award have 25 automatically been 10 points? Or would the reviewers have</p>

<p style="text-align: right;">Page 70</p> <p>1 had the ability, like they did with the SBE, for some 2 reason to award something less than ten? 3 MS. RHONDA KELSEY: They would - it would have 4 been, it would have been automatic for the most part. 5 MR. BRAD HOESCHEN: It's an automatic 10 points. 6 So it's not like the SBE where, where they were initially 7 awarded 9.6 because someone thought for whatever reason 8 they only deserved eight out of ten. 9 MS. RHONDA KELSEY: Correct. 10 MR. BRAD HOESCHEN: Okay. So it's 10 or nothing 11 on the LB. 12 MS. RHONDA KELSEY: It's 10 or nothing. 13 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. So 14 did - and I'll ask the question that we kind of got to 15 before - um, did you, ah, make the determination as to 16 whether or not, excuse me, the Local Business Enterprise, 17 um, affidavit, ah, demonstrated - or did you make the 18 initial determination, let's say, as to whether or not the 19 Local Enterprise - the Local Business Enterprise program 20 criteria were met, um, when the Request for Proposal was 21 evaluated? 22 MS. RHONDA KELSEY: I did not. 23 ASSISTANT CITY ATTORNEY KATHY BLOCK: Did you at 24 some point, um, evaluate or consider whether or not that 25 was a proper determination?</p>	<p style="text-align: right;">Page 72</p> <p>1 next time you looked at Quarles & Brady's RFP, you could 2 determine they were an LBE. 3 MS. RHONDA KELSEY: Yes. 4 MR. BRAD HOESCHEN: Alright. Thank you. 5 CHAIRMAN VINCENT BOBOT: You may continue, 6 Attorney Block. 7 ASSISTANT CITY ATTORNEY KATHY BLOCK: Just give 8 me a second. I think I don't have anything further. 9 CHAIRMAN VINCENT BOBOT: Okay, I just have one 10 quick question. Do you know the total dollar amount that 11 was budgeted or set aside for this particular RFP? 12 MS. RHONDA KELSEY: I do not have the dollar 13 value of the contract - 14 CHAIRMAN VINCENT BOBOT: In other words - 15 MS. RHONDA KELSEY: - with me. I don't - 16 CHAIRMAN VINCENT BOBOT: - was there a limit? Do 17 you know if there was a limit? 18 MS. RHONDA KELSEY: I'm, I'm pretty sure - yeah, 19 we - in, in the contract document itself, we will - we 20 identified the actual dollar amount of the contract award 21 and I, I don't, I don't have that - 22 ASSISTANT CITY ATTORNEY KATHY BLOCK: Is - 23 MS. RHONDA KELSEY: - in front of me; I 24 apologize. 25 ASSISTANT CITY ATTORNEY KATHY BLOCK: Is your</p>
<p style="text-align: right;">Page 71</p> <p>1 MS. RHONDA KELSEY: At, at the point that, um, 2 the open records request was received, I did look into it 3 further - 4 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. 5 MS. RHONDA KELSEY: - as MWH is aware of. 6 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. 7 Thank you. And so, was that prior to the award of the 8 contract? 9 MS. RHONDA KELSEY: No. 10 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay, thank 11 you. 12 MR. BRAD HOESCHEN: Mr. Chair? 13 CHAIRMAN VINCENT BOBOT: Mr. Hoeschen? 14 MR. BRAD HOESCHEN: Ah, Ms. Kelsey, when someone 15 receives their SBE designation, they get a document and 16 they are declared an SBE, correct? 17 MS. RHONDA KELSEY: Yes. 18 MR. BRAD HOESCHEN: How does - does someone 19 receive an LBE designation that they carry around with 20 them? 21 MS. RHONDA KELSEY: No. 22 MR. BRAD HOESCHEN: So it's made on a case by 23 case basis each time you receive an RFP. 24 MS. RHONDA KELSEY: Yes. 25 MR. BRAD HOESCHEN: So it's possible that the</p>	<p style="text-align: right;">Page 73</p> <p>1 question, you know, an estimate before the contract's lets 2 that - 3 ATTORNEY EMERY HARLAN: Um - 4 ASSISTANT CITY ATTORNEY KATHY BLOCK: - if we go 5 over - 6 MR. BRAD HOESCHEN: Because they each request the 7 - they submit their own requests in their different prices. 8 CHAIRMAN VINCENT BOBOT: Well, that's the point 9 I'm kind of driving at is obviously, what we're talking 10 about here is money for providing services and have you at 11 least identified - in other words, do you have an RFP? My 12 limit on this RFP, I'm going to pull the plug after 13 \$100,000 or \$150,000. 14 MS. RHONDA KELSEY: So during the negotiation 15 process, we sort of get into the number; we don't, we don't 16 share that up front. But again, if you are interested in 17 the actual contract award amount, I can share that - 18 CHAIRMAN VINCENT BOBOT: Well, what's the - 19 MS. RHONDA KELSEY: - with you cause - 20 CHAIRMAN VINCENT BOBOT: - actual award? 21 MS. RHONDA KELSEY: I, I, I, I, I don't know 22 offhand. 23 MR. BRAD HOESCHEN: Ms. Black, is that a number 24 you could stipulate to or you don't - 25 MS. RHONDA KELSEY: I don't have the contract in</p>

<p style="text-align: right;">Page 74</p> <p>1 front -</p> <p>2 ASSISTANT CITY ATTORNEY KATHY BLOCK: I have -</p> <p>3 MS. RHONDA KELSEY: - of me.</p> <p>4 ASSISTANT CITY ATTORNEY KATHY BLOCK: No, I</p> <p>5 really couldn't.</p> <p>6 CHAIRMAN VINCENT BOBOT: Do you -</p> <p>7 ASSISTANT CITY ATTORNEY KATHY BLOCK: I mean,</p> <p>8 there's, there's any number of factors that could go into</p> <p>9 that.</p> <p>10 MR. BRAD HOESCHEN: No -</p> <p>11 ASSISTANT CITY ATTORNEY KATHY BLOCK: I mean -</p> <p>12 MR. BRAD HOESCHEN: - do you know what the number</p> <p>13 of this contract that's -</p> <p>14 ASSISTANT CITY ATTORNEY KATHY BLOCK: Oh, I have</p> <p>15 absolutely -</p> <p>16 MR. BRAD HOESCHEN: - been awarded?</p> <p>17 ASSISTANT CITY ATTORNEY KATHY BLOCK: - no idea,</p> <p>18 nor could I even say. I mean, it's a multi-year contract;</p> <p>19 things could change. I mean, budgets change. The</p> <p>20 departments could make different decisions about policy. I</p> <p>21 mean -</p> <p>22 CHAIRMAN VINCENT BOBOT: Well, that's why I asked</p> <p>23 if there was a limit. I didn't ask - yeah, yeah, I -</p> <p>24 ASSISTANT CITY ATTORNEY KATHY BLOCK: No.</p> <p>25 MS. RHONDA KELSEY: I mean -</p>	<p style="text-align: right;">Page 76</p> <p>1 Um, I'm confused about this LBE thing, um, because your</p> <p>2 testimony seems to be - if I understand it - that only the</p> <p>3 person who signed - only the entity that signed the</p> <p>4 proposal or the prime to use your, your term, only their</p> <p>5 status, ah, is what dictates whether you get LBE -</p> <p>6 CHAIRMAN VINCENT BOBOT: You have to use -</p> <p>7 MR. BRAD HOESCHEN: Mr. Harlan, they can't hear</p> <p>8 you.</p> <p>9 ATTORNEY EMERY HARLAN: Oh -</p> <p>10 CHAIRMAN VINCENT BOBOT: You have to use the mic</p> <p>11 -</p> <p>12 ATTORNEY EMERY HARLAN: I'm sorry.</p> <p>13 CHAIRMAN VINCENT BOBOT: We just a call from the</p> <p>14 -</p> <p>15 MR. BRAD HOESCHEN: We are on television -</p> <p>16 CHAIRMAN VINCENT BOBOT: - people who -</p> <p>17 MR. BRAD HOESCHEN: - so -</p> <p>18 CHAIRMAN VINCENT BOBOT: And it's being recorded</p> <p>19 and they can't pick up his voice.</p> <p>20 ATTORNEY EMERY HARLAN: This thing right here?</p> <p>21 MR. BRAD HOESCHEN: Just pull it closer to you.</p> <p>22 CHAIRMAN VINCENT BOBOT: Just move it towards</p> <p>23 you.</p> <p>24 MR. BRAD HOESCHEN: You're too far away.</p> <p>25 ATTORNEY EMERY HARLAN: Oh, okay.</p>
<p style="text-align: right;">Page 75</p> <p>1 CHAIRMAN VINCENT BOBOT: I understand -</p> <p>2 ASSISTANT CITY ATTORNEY KATHY BLOCK: I mean, now</p> <p>3 there's not. I mean, now I could tell you right now what</p> <p>4 the not to exceed amount is. I could tell you what that is</p> <p>5 but that could change. I mean, I'm sure we have a right to</p> <p>6 terminate the contract tomorrow -</p> <p>7 CHAIRMAN VINCENT BOBOT: No, I -</p> <p>8 ASSISTANT CITY ATTORNEY KATHY BLOCK: - and</p> <p>9 probably we could add another \$2 million dollars. I mean,</p> <p>10 there's no - there's no limit to what could be spent or</p> <p>11 what might, they might decide to do.</p> <p>12 MR. BRAD HOESCHEN: She just gave Mr. Harlan his</p> <p>13 remedy; they could terminate the contract tomorrow</p> <p>14 [laughter].</p> <p>15 ATTORNEY EMERY HARLAN: Thank you.</p> <p>16 MR. BRAD HOESCHEN: [Laughter]</p> <p>17 ASSISTANT CITY ATTORNEY KATHY BLOCK: Oh, yeah.</p> <p>18 Try that. Watch how fast I run to circuit court</p> <p>19 [laughter].</p> <p>20 CHAIRMAN VINCENT BOBOT: Well, fair enough. Ah,</p> <p>21 your witness.</p> <p>22 ATTORNEY EMERY HARLAN: Okay. Ms. Kelsey, good</p> <p>23 morning. How are you?</p> <p>24 MS. RHONDA KELSEY: Good, how are you?</p> <p>25 ATTORNEY EMERY HARLAN: Excellent, thank you.</p>	<p style="text-align: right;">Page 77</p> <p>1 MR. BRAD HOESCHEN: It's on; you're just too far</p> <p>2 away from it.</p> <p>3 ATTORNEY EMERY HARLAN: So, so I'm sorry, I'll</p> <p>4 start over. Um, so for purposes of determining, ah,</p> <p>5 whether LBE points are to be assigned, is the decision</p> <p>6 based upon whether, um, one of the parties to the proposal</p> <p>7 has that status? Or both? Or you seem to be saying that</p> <p>8 the rule is since Quarles wasn't an LBE, there weren't</p> <p>9 points available.</p> <p>10 MS. RHONDA KELSEY: I didn't say that.</p> <p>11 ATTORNEY EMERY HARLAN: Oh, okay. So as long as</p> <p>12 MWH met the criteria for, ah, LBE status, then that's all</p> <p>13 that it took in order to get the 10 points.</p> <p>14 MS. RHONDA KELSEY: I'm saying I didn't say that.</p> <p>15 Um, Attorney Block made the point that Quarles & Brady</p> <p>16 signed the proposal, the binding signature page. And the</p> <p>17 LBE program is applicable to the prime. For purposes of</p> <p>18 this evaluation, obviously we allow for MWH in this</p> <p>19 scenario to - I mean, it was reviewed, it was submitted.</p> <p>20 ATTORNEY EMERY HARLAN: Just so I'm clear from -</p> <p>21 and, and primarily for the board's, ah, purposes, so</p> <p>22 assuming MWH met the criteria for LBE designation, then the</p> <p>23 Quarles & Brady MWH proposal would be entitled to the 10</p> <p>24 points?</p> <p>25 MS. RHONDA KELSEY: Yes.</p>

<p style="text-align: right;">Page 78</p> <p>1 ATTORNEY EMERY HARLAN: Okay. Now going back to 2 the, ah, affidavit - 3 MS. RHONDA KELSEY: Hmm-hmm. 4 ATTORNEY EMERY HARLAN: - that we submitted - so 5 you have been in the - basically in charge of the 6 purchasing department since 2008. 7 MS. RHONDA KELSEY: Yes. 8 ATTORNEY EMERY HARLAN: And during that time, 9 you've overseen literally hundreds of millions of dollars 10 of purchasing activity. Fair? 11 MS. RHONDA KELSEY: Yes. 12 ATTORNEY EMERY HARLAN: And you understand what 13 the rules and the processes and the guidelines because 14 that's your job. 15 MS. RHONDA KELSEY: Hmm-hmm. 16 ATTORNEY EMERY HARLAN: Right? Is that correct? 17 MS. RHONDA KELSEY: Yes. 18 ATTORNEY EMERY HARLAN: And you also understand 19 that, ah, folks like MWH or other, ah, proposers when they 20 submit documentation to the city making representations 21 about their status, um, they can get in trouble if they are 22 not truthfully providing information about their status, 23 right? 24 MS. RHONDA KELSEY: Yes. 25 ATTORNEY EMERY HARLAN: That's fraud.</p>	<p style="text-align: right;">Page 80</p> <p>1 ATTORNEY EMERY HARLAN: Okay. And your 2 understanding is she made that determination by simply 3 counting up the number of offices. 4 MS. RHONDA KELSEY: That is my understanding. 5 ATTORNEY EMERY HARLAN: Right. 6 MS. RHONDA KELSEY: Yeah. 7 ATTORNEY EMERY HARLAN: And - 8 MS. RHONDA KELSEY: Yes. 9 ATTORNEY EMERY HARLAN: Okay. And based on the 10 LBE program that's set forth in the city ordinances, as you 11 sit here today, you would concede that that's not the 12 appropriate way to make a determination as to whether 13 someone's entitled to the benefits that the city of 14 Milwaukee says should be afforded businesses that meet that 15 standard, correct? 16 MS. RHONDA KELSEY: Yes. 17 ATTORNEY EMERY HARLAN: So counting up the number 18 of offices doesn't get you there, right? 19 MS. RHONDA KELSEY: Yes, I would agree. 20 ATTORNEY EMERY HARLAN: Okay. And, and so it's 21 fair to say then that in the decision to deny the MWH 22 Quarles & Brady proposal those 10 points, that was in 23 error. 24 MS. RHONDA KELSEY: I would not necessarily yes 25 to that because I want to be careful about my response</p>
<p style="text-align: right;">Page 79</p> <p>1 MS. RHONDA KELSEY: Right. 2 ATTORNEY EMERY HARLAN: Did somebody in your 3 department reach a conclusion essentially then that MWH had 4 engaged in fraud by virtue of, ah, what's been marked as 5 exhibit 14, which is this affidavit, ah, attesting to its 6 LBE status? 7 MS. RHONDA KELSEY: No, and again, it's important 8 to point out that, um, what I share relative to the square 9 footage of the various properties was communicated to me in 10 October, post contract award. So - 11 ATTORNEY EMERY HARLAN: Okay, so the third page 12 of exhibit 14, um, which you said it's your understanding 13 was the basis for the person on your staff's decision to, 14 ah, basically say that MWH wasn't entitled - the MWH 15 Quarles & Brady proposal wasn't entitled to LBE points was 16 based on page three, correct? 17 MS. RHONDA KELSEY: Yes. 18 ATTORNEY EMERY HARLAN: Okay. And, and by that, 19 that person - is that Ms. Jeffries? 20 MS. RHONDA KELSEY: That is the purchasing agent 21 that was working on this - 22 ATTORNEY EMERY HARLAN: Karen Jeffries? 23 MS. RHONDA KELSEY: - proposal. 24 ATTORNEY EMERY HARLAN: Correct? 25 MS. RHONDA KELSEY: RFP. Yes.</p>	<p style="text-align: right;">Page 81</p> <p>1 about that because I'm not - I'm still not really clear 2 based on what you submitted later as to whether or not 3 truly the Milwaukee - you know, never - yes, I will just 4 say yes because what we did, quite honestly, is we now have 5 amended this form to get at that information so we can see 6 the actual square footage, so I will say yes. 7 CHAIRMAN VINCENT BOBOT: Ah, yes to - could you - 8 yes to what question? Somewhere we got lost - 9 ATTORNEY EMERY HARLAN: I think the answer is yes 10 that - 11 MS. RHONDA KELSEY: That - 12 ATTORNEY EMERY HARLAN: - the city made an error 13 - 14 MS. RHONDA KELSEY: Well, let me, let me explain 15 for myself; I'll do that. I will say that I think further 16 due diligence should have been done to determine what the 17 square footage was for each of the properties. That did 18 not occur. We've amended the form since then to be more 19 specific about that. As I stated, I think an assumption 20 was made that this particular, um, MWH has four offices and 21 that, um, the three of them are located outside of the city 22 of Milwaukee. So an assumption was made that the combined 23 space, square footage, what have you, exceeded the space at 24 the Milwaukee location. That was an assumption. Um, 25 again, since this, um, has occurred, we've amended this</p>

<p style="text-align: right;">Page 82</p> <p>1 form to ask proposers or bidders to tell us specifically 2 what, um, the square footage is for each business that's 3 located - or, excuse me - that's referenced in the LBE 4 form. 5 MR. BRAD HOESCHEN: Mr. Chair? 6 CHAIRMAN VINCENT BOBOT: Okay, Mr. Hoeschen? 7 MR. BRAD HOESCHEN: Ah, but Ms. Kelsey, I'm 8 confused. Here we are talking about whether or not MWH Law 9 Group qualifies as an LBE. But what I heard you say 10 earlier was that the proposal was, ah, submitted by Quarles 11 & Brady and so the determination as to whether or not they 12 are an LBE falls to Quarles & Brady, not to MWH. Is, is 13 that what I understood? 14 MS. RHONDA KELSEY: Tech - technically in the 15 ordinance, yes, that's true. What I'm saying is throughout 16 the process, MWH was - it was reviewed, those points were 17 reviewed, as it relates to MWH, not Q&B; that wasn't even a 18 thought at the time, is what I'm saying. Technically, it 19 applies to the prime. Yes, technically, that's how it 20 works. 21 MR. BRAD HOESCHEN: And since this RFP has been 22 awarded, have you made that analysis as to Quarles & Brady 23 or not? 24 MR. STEVE FRITSCHKE: You mean reanalysis? 25 MS. RHONDA KELSEY: Yeah, I was just going to -</p>	<p style="text-align: right;">Page 84</p> <p>1 MS. RHONDA KELSEY: If, if they did not - 2 MR. BRAD HOESCHEN: - did not submit an 3 affidavit. 4 MS. RHONDA KELSEY: If they would not have 5 submitted an affidavit, they would not have earned the 6 points. 7 MR. STEVE FRITSCHKE: Mr. Chair? 8 ATTORNEY EMERY HARLAN: I don't - 9 CHAIRMAN VINCENT BOBOT: Mister - 10 ATTORNEY EMERY HARLAN: Oh, I'm sorry. 11 CHAIRMAN VINCENT BOBOT: Mr. Fritschke? 12 MR. STEVE FRITSCHKE: Um, the square footage that 13 is - is that part of the ordinance? Is that part of your, 14 um, pol - how is that - where is that - 15 MS. RHONDA KELSEY: It's in the ordinance. 16 MR. STEVE FRITSCHKE: It's in the ordinance. 17 MS. RHONDA KELSEY: Yes. 18 MR. STEVE FRITSCHKE: So if someone, ah, submits 19 an application, ah, such as we find in, ah, exhibit 14, 20 page three where they're listing four offices, it would 21 lend to confusion, and again, if you're not handholding 22 applicants, it seems to me the burden is on them to, you 23 know, explain that Milwaukee is the largest office. 24 MS. RHONDA KELSEY: I would agree. 25 MR. STEVE FRITSCHKE: Is that fair?</p>
<p style="text-align: right;">Page 83</p> <p>1 MR. BRAD HOESCHEN: No. No, Quarles & Brady - 2 there's no, there's no affidavit for Quarles & Brady. 3 MR. STEVE FRITSCHKE: Hmm. 4 MR. BRAD HOESCHEN: The only affidavit - 5 MR. STEVE FRITSCHKE: Right, okay. 6 MR. BRAD HOESCHEN: - is for MWH. So, have you - 7 MS. RHONDA KELSEY: I haven't. The contract - 8 MR. BRAD HOESCHEN: Okay. 9 MS. RHONDA KELSEY: - has been awarded, I mean - 10 MR. BRAD HOESCHEN: Right. I understand. 11 MS. RHONDA KELSEY: - what - 12 MR. BRAD HOESCHEN: I understand. Thank you. 13 CHAIRMAN VINCENT BOBOT: Miss - 14 MS. RHONDA KELSEY: If you, if you want to be 15 technical about it, it applies to the prime; Quarles & 16 Brady signed the proposal. 17 MR. BRAD HOESCHEN: So then your pre - then 18 you're finding well, I, I understand your concerns about 19 your office's findings for MWH. But if the prime was 20 Quarles & Brady and you received a proposal where the 21 affidavit was from MWH, Quarles & Brady would get no 22 points; the result would be the same, right? 23 MS. RHONDA KELSEY: If - 24 MR. BRAD HOESCHEN: Because, because Quarles & 25 Brady -</p>	<p style="text-align: right;">Page 85</p> <p>1 MS. RHONDA KELSEY: I think - 2 MR. STEVE FRITSCHKE: I mean - 3 MS. RHONDA KELSEY: - that is absolutely fair 4 assessment. 5 ATTORNEY EMERY HARLAN: Um, so Ms. Kelsey, you 6 said, um, in response to Mister - is it Hoeschen? 7 MR. BRAD HOESCHEN: It is, yes, thank you. 8 ATTORNEY EMERY HARLAN: Mr. Hoeschen's question 9 that in fact, based on how the process or the ordinance 10 works, that the status of the prime is what drives whether 11 these 10 points are awarded. Is that what your testimony 12 was now? 13 MS. RHONDA KELSEY: Yes. 14 ATTORNEY EMERY HARLAN: Can - now when you have 15 the ordinance in front of you on page - on exhibit four - 16 can you direct our attention to where it says that? 17 MS. RHONDA KELSEY: The ordinance on page four? 18 ATTORNEY EMERY HARLAN: Exhibit four, I'm sorry. 19 MR. BRAD HOESCHEN: That's chapter 370? Is that 20 right? 21 ATTORNEY EMERY HARLAN: Ah, 365. 22 CHAIRMAN VINCENT BOBOT: Three - 23 MR. BRAD HOESCHEN: Three sixty-five, thank you. 24 MS. RHONDA KELSEY: If you look at, um, section 25 365-7, it states that a contracting agency shall</p>

<p style="text-align: right;">Page 86</p> <p>1 [inaudible] contract - contrary to federal, state or local 2 law regulation apply an award standard in all formal 3 competitive bids so that an otherwise responsive and 4 responsible bidder, which is a Local Business Enterprise, 5 shall be awarded the contract, provided that its bid does 6 not exceed the lowest bid by more than five percent. So 7 we're referring to the actual bidder, not, not a partner, 8 not a subcontractor. That is where, um, I would offer that 9 information resides.</p> <p>10 ATTORNEY EMERY HARLAN: We - first of all, I 11 mean, you testified earlier that this isn't a bid process, 12 right? This was a RFP. You testified extensively about 13 the fact that there's a distinction between -</p> <p>14 MS. RHONDA KELSEY: Yes. So -</p> <p>15 ATTORNEY EMERY HARLAN: - bids and RFP's, 16 correct?</p> <p>17 MS. RHONDA KELSEY: I'll go on to speak to the 18 RFP section, which is section B. Um, it's similar language 19 but it, um, it speaks specifically to RFP's. So again, 20 where we're referring to, um, the RFP that's submitted by 21 the, the proposers, the prime proposer; not a sub, not a 22 partner.</p> <p>23 ATTORNEY EMERY HARLAN: And does the word "prime" 24 appear anywhere in the ordinance in terms of dictating, ah, 25 who drives the award of LBE points?</p>	<p style="text-align: right;">Page 88</p> <p>1 sixteen.</p> <p>2 MS. RHONDA KELSEY: Yes.</p> <p>3 MR. BRAD HOESCHEN: It's right there.</p> <p>4 ASSISTANT CITY ATTORNEY KATHY BLOCK: [Laughter]</p> <p>5 MR. BRAD HOESCHEN: So this says, ah, "Response 6 to City of Milwaukee's Request for Proposal Number 14749 7 [Inaudible] for Disclosure," ah, "Disclosure Counsel 8 Services." It lists the deadline and under that it says, 9 "Quarles & Brady and MHW [sic] Law Group." Doesn't that 10 mean the proposer is both?</p> <p>11 MS. RHONDA KELSEY: No, what - technically, the 12 proposer is the individual of the firm that signs the 13 binding signature page.</p> <p>14 MR. BRAD HOESCHEN: On page eleven.</p> <p>15 MS. RHONDA KELSEY: Correct. We have to know who 16 is submitting a response, who is submitting a bid. At the 17 end of the day, who are we going to cut a check to -</p> <p>18 MR. BRAD HOESCHEN: That's the contractor.</p> <p>19 MS. RHONDA KELSEY: - and it is, it is the 20 contractor that signs the binding signature page. We have 21 to have some clarity with that.</p> <p>22 MR. BRAD HOESCHEN: [Inaudible]</p> <p>23 CHAIRMAN VINCENT BOBOT: Okay, Mr. Harlan, you 24 had a question?</p> <p>25 ATTORNEY EMERY HARLAN: So, Ms. Kelsey, up until</p>
<p style="text-align: right;">Page 87</p> <p>1 MS. RHONDA KELSEY: In section B it says, "A 2 contracting agency shall, unless contrary to federal, 3 state, or local law regulation, apply an award standard in 4 the composition of scales used to evaluate proposals 5 submitted in response to formal Requests for Proposals to 6 be com - to procure goods or services.</p> <p>7 ATTORNEY EMERY HARLAN: Yeah, I see that, but I 8 don't see where that says that the only and determining who 9 gets the points, ah, you only look to a prime.</p> <p>10 MS. RHONDA KELSEY: We're not speaking - the fact 11 that we receive proposals, RFP, from the prime proposer 12 from the prime bidder, we re - we have - we receive 13 proposals and bids from an entity, a firm, a business. It 14 doesn't speak to subcontractors or partners -</p> <p>15 MR. BRAD HOESCHEN: Mr. Chair?</p> <p>16 MS. RHONDA KELSEY: - a formal Request for 17 Proposals, not for joint proposals, not for subs.</p> <p>18 ATTORNEY EMERY HARLAN: Have you reviewed -</p> <p>19 MR. BRAD HOESCHEN: Mr. Chair?</p> <p>20 ATTORNEY EMERY HARLAN: Ah, go ahead, I'm sorry, 21 Mr. Hoeschen.</p> <p>22 MR. BRAD HOESCHEN: Ah, I - can you look at the 23 front of page 16 for me? Or exhibit 16 for me, please?</p> <p>24 MS. RHONDA KELSEY: Ah -</p> <p>25 CHAIRMAN VINCENT BOBOT: You may not have</p>	<p style="text-align: right;">Page 89</p> <p>1 the point until the award was issued and an appeal filed, 2 did you review any of the proposals that were submitted in 3 connection with this dis - disclosure counsel process?</p> <p>4 MS. RHONDA KELSEY: I have.</p> <p>5 ATTORNEY EMERY HARLAN: Well, I understand you 6 have now, but the question is a little bit different. At 7 the time of the proposal process when the evaluation 8 committee was considering it, when RFP was out, did you 9 review any of the proposals?</p> <p>10 MS. RHONDA KELSEY: Yes.</p> <p>11 ATTORNEY EMERY HARLAN: Okay. And you saw then 12 what Mr. Hoeschen indicated, that, ah, on the proposal 13 submitted by Quarles & Brady and MWH, both firms were on 14 the cover page, right?</p> <p>15 MS. RHONDA KELSEY: Hmm-hmm.</p> <p>16 ATTORNEY EMERY HARLAN: And in the proposal, did 17 you understand how the economics and work division were set 18 forth?</p> <p>19 MS. RHONDA KELSEY: What do you mean by the 20 economics and works division?</p> <p>21 ATTORNEY EMERY HARLAN: Well, did the, did the 22 proposal discuss, um -</p> <p>23 MS. RHONDA KELSEY: Who's the economics and works 24 division?</p> <p>25 ATTORNEY EMERY HARLAN: Okay, let me, let me</p>

<p style="text-align: right;">Page 90</p> <p>1 clarify that. Did the proposal submitted by MWH and 2 Quarles indicate how the work was going to be divided? 3 MS. RHONDA KELSEY: Yes. 4 ATTORNEY EMERY HARLAN: And what was provided in 5 that proposal? 6 MS. RHONDA KELSEY: The, the joint venture 7 relationship. 8 ATTORNEY EMERY HARLAN: Well, I don't think the 9 term "joint venture," was ever used, but - 10 MS. RHONDA KELSEY: Co-partners. I could go back 11 and - do you want me to turn to the - you - 12 ATTORNEY EMERY HARLAN: I guess, isn't it true 13 that the proposal provided that the work would be divided 14 equally between the two firms? 15 MS. RHONDA KELSEY: Yes. 16 ATTORNEY EMERY HARLAN: Okay. And also, wasn't 17 it set forth expressly in the proposal that the money to be 18 earned in connection with the proposal would be divided 19 equally? 20 MS. RHONDA KELSEY: Yes. 21 ATTORNEY EMERY HARLAN: Okay. 22 MS. RHONDA KELSEY: I believe so. 23 CHAIRMAN VINCENT BOBOT: Well, you qual - you 24 qualified, "I believe so," but do you know? Or - I mean, I 25 only want you to answer what you know.</p>	<p style="text-align: right;">Page 92</p> <p>1 ASSISTANT CITY ATTORNEY KATHY BLOCK: I'm looking 2 for it, too. I - 3 MS. RHONDA KELSEY: This - yeah, I do - but let's 4 confirm for the record. 5 CHAIRMAN VINCENT BOBOT: Um - 6 MS. RHONDA KELSEY: Um - 7 CHAIRMAN VINCENT BOBOT: I'm just trying to 8 eliminate the guesswork. 9 MS. RHONDA KELSEY: Let's see, proposed - okay, 10 tab D, but I don't have the tabs so be patient with me. 11 Sorry. 12 ATTORNEY EMERY HARLAN: Look at, ah - 13 MR. BRAD HOESCHEN: Yeah, that's - 14 ATTORNEY EMERY HARLAN: Look at tab K. 15 MS. RHONDA KELSEY: Tab K. 16 CHAIRMAN VINCENT BOBOT: [Inaudible] putting you 17 to work. 18 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yeah, at 19 the end of that; just before tab L. 20 CHAIRMAN VINCENT BOBOT: [Inaudible] 21 MS. RHONDA KELSEY: I'm not sure - [inaudible]. 22 Oh, here we go; here's tab L. Which, um - can you find it? 23 [Inaudible] 24 ASSISTANT CITY ATTORNEY KATHY BLOCK: Are you 25 looking for tab K?</p>
<p style="text-align: right;">Page 91</p> <p>1 MS. RHONDA KELSEY: I mean, I can go back - 2 CHAIRMAN VINCENT BOBOT: If you have to guess - 3 MS. RHONDA KELSEY: - and check - 4 CHAIRMAN VINCENT BOBOT: Yeah - 5 MS. RHONDA KELSEY: Let me ver -let me verify. 6 CHAIRMAN VINCENT BOBOT: Can you verify - 7 MS. RHONDA KELSEY: Can you give me seven minutes 8 to, um - 9 CHAIRMAN VINCENT BOBOT: Take all the time you 10 need. 11 MS. RHONDA KELSEY: Something of that effect was 12 - um, proposal - 13 CHAIRMAN VINCENT BOBOT: I understand that when 14 you look for something, it becomes very hard to find. You 15 don't want to look for it, it's right in front of you. 16 MS. RHONDA KELSEY: Ah - 17 MR. AVERILL: And when someone points it out, 18 it's even harder. 19 ALL: [Laughter] 20 MS. RHONDA KELSEY: I think it's - 21 ASSISTANT CITY ATTORNEY KATHY BLOCK: Legal 22 disclosure counsel - 23 MS. RHONDA KELSEY: And I don't mind Mr. Harlan 24 like pointing directly to that page if that would help 25 expedite -</p>	<p style="text-align: right;">Page 93</p> <p>1 ATTORNEY EMERY HARLAN: Yes, tab K. 2 MR. BRAD HOESCHEN: She has it; she's just trying 3 to find the language she needs. 4 MS. RHONDA KELSEY: It's here. 5 ASSISTANT CITY ATTORNEY KATHY BLOCK: Oh, yeah. 6 MR. BRAD HOESCHEN: She, she's got it, Linda. 7 MS. RHONDA KELSEY: It says, um, "Quarles," - 8 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yeah. 9 MS. RHONDA KELSEY: "[Inaudible] minimum of 20 10 percent of fees paid to LBE," - does it - 11 MS. LINDA ELMER: [Inaudible] 12 CHAIRMAN VINCENT BOBOT: Yeah, my finger's not 13 working that well. 14 MS. RHONDA KELSEY: [Inaudible] 15 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yeah, 20 16 percent, it's - 17 MS. RHONDA KELSEY: Oh, yeah. So it says, 18 "Quarles and Brady is," yeah, "committed to a meaningful 19 partnership with qualified LBE, SBE firms," which that, 20 "And has chosen MWH Law Group as its partner. Rather than 21 committing to the city's minimum of 20 percent of fees paid 22 to LBE, SBE firms, all fees will be split evenly between 23 both firms." There it is, yes. 24 ATTORNEY EMERY HARLAN: Thank you. So going back 25 to the, um, this Form A that apparently was the reason why,</p>

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<p>1 ah, as your understanding that the, the MWH, um, Quarles 2 proposal had its points - after awarded in the procurement 3 process - withdrawn is because this Form A was not 4 submitted, correct? 5 MS. RHONDA KELSEY: Yes. 6 ATTORNEY EMERY HARLAN: And looking at the Form A 7 that, again, was the basis for your department's decision 8 to withdraw the points, what information does Form A ask 9 for that was not set forth in the proposal? 10 MS. RHONDA KELSEY: A description of the, um, 11 services to be offered by the SBE firm. There's a, um, 12 section right after the general information section of the 13 form. 14 ATTORNEY EMERY HARLAN: You - okay, so we're 15 looking at exhibit five. And can you direct me to - 16 MS. RHONDA KELSEY: It's just right here; the 17 section one, general information required. Um, so there's, 18 there's some lines here, a section, for you to describe the 19 work that will be performed. So in this section, you would 20 have ideally explained your - what you were attempting to 21 do: Your co-venture, your - how you would be involved with 22 this effort. 23 ATTORNEY EMERY HARLAN: So if you look at exhibit 24 five, the, the winning proposer, they described what they 25 were doing.</p>	<p>1 ATTORNEY EMERY HARLAN: Well - 2 MR. BRAD HOESCHEN: - they actually get to decide 3 what you have to submit. 4 ATTORNEY EMERY HARLAN: Um, yeah. This board has 5 the authority though to determine whether the process was 6 followed and if not, if this process was not a fair process 7 and an injustice was done to do something about it, and 8 that's why the appeal has been filed. 9 CHAIRMAN VINCENT BOBOT: Fair - 10 ATTORNEY EMERY HARLAN: So - 11 CHAIRMAN VINCENT BOBOT: Fair enough. I, I think 12 you can proceed with the question. 13 ATTORNEY EMERY HARLAN: Right. 14 MR. AVERILL: Mister - 15 ATTORNEY EMERY HARLAN: Just like in, in the 16 situation where firms apply for SBE certification and the 17 department makes a judgement that the person doesn't 18 qualify, I've actually observed hearings where this board 19 has decided, based on the circumstances, that certification 20 should be awarded. Um, so with respect to this Form A, um 21 - 22 CHAIRMAN VINCENT BOBOT: I just want to interrupt 23 you for a moment. You had a, ah, question or a comment - 24 MR. AVERILL: I, I - 25 CHAIRMAN VINCENT BOBOT: - Mr. Averill?</p>
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<p>1 MS. RHONDA KELSEY: Right. I'm just looking at 2 the form; I'm just telling you what that section of the 3 form - 4 ATTORNEY EMERY HARLAN: And, and - 5 MS. RHONDA KELSEY: - is for. 6 ATTORNEY EMERY HARLAN: - I guess the only point 7 I'm making is every piece of information that Form A asks 8 for is in the proposal, right? There's, there's nothing 9 left out of Form A that is not disclosed in the proposal. 10 MR. BRAD HOESCHEN: Mr. Chair? 11 MS. RHONDA KELSEY: Well, the acknowledgement - 12 the acknowledgment piece of the arrangement, etcetera, um, 13 you know, it's a form that, um, you know, typically the 14 prime - cause we want their acknowledgement that this 15 arrangement exists. I mean, that's - you could argue 16 that's in the proposal. 17 CHAIRMAN VINCENT BOBOT: Okay, Mr. Hoeschen, you 18 have - 19 MS. RHONDA KELSEY: You could argue that. 20 MR. BRAD HOESCHEN: Mr. Harlan, your argument 21 here is substance over form? 22 ATTORNEY EMERY HARLAN: Exact - well, my, my 23 argument is - 24 MR. BRAD HOESCHEN: [Inaudible] require the form. 25 I mean, that's the problem. They -</p>	<p>1 MR. AVERILL: - have a question for Ms. Kelsey. 2 MS. RHONDA KELSEY: Hmm-hmm. 3 MR. AVERILL: Um, is it, is it the city's 4 requirement that the form, quote end quote, Form A, be 5 submitted by all proposers? 6 MS. RHONDA KELSEY: Yes. 7 MR. AVERILL: Thank you. 8 CHAIRMAN VINCENT BOBOT: I just want to go on the 9 record on that particular note that's been asked and 10 answered prior to this answer. 11 ATTORNEY EMERY HARLAN: And, and, Ms. Kelsey, 12 that's actually not an accurate response, right? Cause it, 13 it doesn't - first of all, the SBE participation points 14 were optional, am I correct? 15 MR. BRAD HOESCHEN: Is there, is there an 16 objection? 17 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yeah. 18 CHAIRMAN VINCENT BOBOT: What is the objection? 19 ASSISTANT CITY ATTORNEY KATHY BLOCK: Asked and 20 answered; a ton of times. 21 MR. BRAD HOESCHEN: And - 22 CHAIRMAN VINCENT BOBOT: I will sustain that. I, 23 I'm going to ask - 24 MR. BRAD HOESCHEN: And argumentative. 25 MS. RHONDA KELSEY: It's in black and white in -</p>

<p style="text-align: right;">Page 98</p> <p>1 CHAIRMAN VINCENT BOBOT: No, no. You don't need 2 to respond. 3 ATTORNEY EMERY HARLAN: Am, am I correct that SBE 4 points here were optional points that were available as a 5 bonus? 6 ASSISTANT CITY ATTORNEY KATHY BLOCK: Also asked 7 and answered. 8 MR. BRAD HOESCHEN: Yes. 9 CHAIRMAN VINCENT BOBOT: I will sustain that; 10 that that's been answered and that it was available 11 ATTORNEY EMERY HARLAN: Okay. 12 CHAIRMAN VINCENT BOBOT: The LBE and SBE were 13 available 10 and 10, for a total of 20 bonus points. 14 ATTORNEY EMERY HARLAN: So we were discussing, 15 ah, the, the issue of the LBE points. And just so I'm 16 clear, for purposes of this procurement, the purchasing 17 department's decision was that as long as one party to the 18 proposal that works - 19 ASSISTANT CITY ATTORNEY KATHY BLOCK: Also asked 20 and answered. 21 CHAIRMAN VINCENT BOBOT: Well, hold on, let him 22 finish the question because I, I want to see what he says. 23 ATTORNEY EMERY HARLAN: I just want to be clear 24 because we've talked about after the fact justifications 25 verses what the rules for this procurement. Am I clear</p>	<p style="text-align: right;">Page 100</p> <p>1 ATTORNEY EMERY HARLAN: Now during your, ah, 2 examination by the, by corporation counsel, ah, or city 3 attorney's office, um, you, you indicated that in order to, 4 to be able to get SBE bonus points, a firm had to be in the 5 status of a subcontractor. 6 MS. RHONDA KELSEY: No, I didn't say that. I 7 didn't say that. 8 ATTORNEY EMERY HARLAN: Okay, then I, I 9 misunderstood you. So it didn't matter what the status of 10 the firm was for purposes of a firm being entitled to the 11 SBE bonus points, as long as they had SBE certification, 12 ah, and completed Form A. 13 MS. RHONDA KELSEY: Yes. 14 ATTORNEY EMERY HARLAN: Okay. So turning to 15 exhibit 10, if you look at the third to the last sentence, 16 it reads: "The Office of Small Business Development 17 Contractor Compliance Plan Form A must be completed and 18 submitted with your proposal if you intend to use an SBE 19 subcontractor." 20 MS. RHONDA KELSEY: Hmm-hmm. 21 CHAIRMAN VINCENT BOBOT: Is that a yes? I mean, 22 you have - 23 MS. RHONDA KELSEY: That's how it works. 24 CHAIRMAN VINCENT BOBOT: - to verbalize. 25 MS. RHONDA KELSEY: That's not a reason -</p>
<p style="text-align: right;">Page 99</p> <p>1 that for this procurement, what the requirement was, was 2 that one of the participants in a proposal had to meet the 3 criteria for LBE certification in the city ordinance and as 4 long as they did, they were entitled to the 10 points? 5 ASSISTANT CITY ATTORNEY KATHY BLOCK: Asked and 6 answered. 7 MS. RHONDA KELSEY: Yes. 8 ATTORNEY EMERY HARLAN: Is the answer yes? 9 MS. RHONDA KELSEY: Yes. 10 CHAIRMAN VINCENT BOBOT: That's - 11 ATTORNEY EMERY HARLAN: Okay, thank you. So the 12 Form A that, ah, we've been talking about, is this a form 13 prepared by purchasing or is it a different department? 14 MS. RHONDA KELSEY: It's prepared by, um, 15 purchasing. 16 ATTORNEY EMERY HARLAN: So this isn't a form that 17 comes from the Small Business area? 18 MS. RHONDA KELSEY: I'm sorry, it - I apologize 19 for that because at one point, and let me be clear, um, the 20 Office of Small Business Development used to be a division 21 within what was known as the Business Operations Division, 22 so we were all together. So I'm, I'm thinking from that 23 lens; this is an OSBD form, because it was our form because 24 we were together. I apologize for the record. This is an 25 OSBD form, yes.</p>	<p style="text-align: right;">Page 101</p> <p>1 CHAIRMAN VINCENT BOBOT: No, you - 2 MR. BRAD HOESCHEN: You just said, "Uh-huh." 3 CHAIRMAN VINCENT BOBOT: You have to verbalize 4 it. 5 MS. RHONDA KELSEY: Oh, yes. I'm sorry. I'm 6 sorry, I need some more coffee. I'm sorry. 7 ATTORNEY EMERY HARLAN: So for the expressed - 8 the rules of the role for this procurement was that the 9 Form A is only required in two conditions. If both 10 conditions are met, there is - you're seeing SBE points and 11 you have an SBE on your team and that - 12 ASSISTANT CITY ATTORNEY KATHY BLOCK: Objection; 13 drawing a legal conclusion [laughter]. 14 CHAIRMAN VINCENT BOBOT: I'm going to sustain 15 that. 16 ATTORNEY EMERY HARLAN: Okay. So am I correct 17 then, looking at the rules that your office established for 18 this procurement, if a SBE firm was not operating as a 19 subcontractor, there was no requirement under the rules 20 that your office established for the Form A. 21 MS. RHONDA KELSEY: No, I'm not saying that. 22 ATTORNEY EMERY HARLAN: Well, how do you, how do 23 you, I guess, harmonize that with what you just read? 24 MS. RHONDA KELSEY: Because that's typically the 25 way it works. This is unusual. That doesn't discount</p>

<p style="text-align: right;">Page 102</p> <p>1 anything else; you just need to submit some Form A. I</p> <p>2 don't, I don't know how else to explain that.</p> <p>3 ATTORNEY EMERY HARLAN: Okay. So if I - again,</p> <p>4 this -</p> <p>5 MS. RHONDA KELSEY: Is that why you chose -</p> <p>6 CHAIRMAN VINCENT BOBOT: No -</p> <p>7 MS. RHONDA KELSEY: Can I ask a question?</p> <p>8 CHAIRMAN VINCENT BOBOT: Just answer -</p> <p>9 MS. RHONDA KELSEY: Can I ask him a question?</p> <p>10 CHAIRMAN VINCENT BOBOT: Just answer questions</p> <p>11 put to you because I don't want -</p> <p>12 MS. RHONDA KELSEY: Sorry.</p> <p>13 ATTORNEY EMERY HARLAN: So -</p> <p>14 CHAIRMAN VINCENT BOBOT: - arguing. I mean, you</p> <p>15 clearly say you have to submit Form A. It wasn't done.</p> <p>16 ATTORNEY EMERY HARLAN: Right.</p> <p>17 MS. RHONDA KELSEY: Right.</p> <p>18 ATTORNEY EMERY HARLAN: So exhibit 10 was</p> <p>19 prepared by your office, correct?</p> <p>20 MS. RHONDA KELSEY: Exhibit ten.</p> <p>21 MR. BRAD HOESCHEN: Where are you reading -</p> <p>22 MS. RHONDA KELSEY: Ah, yes.</p> <p>23 MR. BRAD HOESCHEN: - that? Exhibit ten?</p> <p>24 MR. STEVE FRITSCHKE: Yes, what page.</p> <p>25 MR. BRAD HOESCHEN: Yeah.</p>	<p style="text-align: right;">Page 104</p> <p>1 ATTORNEY EMERY HARLAN: Okay. What does the term</p> <p>2 "subcontractor" mean based on your understanding of the</p> <p>3 term as a person in charge of the department that put this</p> <p>4 procurement together?</p> <p>5 MS. RHONDA KELSEY: A subcontractor's a</p> <p>6 subcontractor. The -</p> <p>7 ATTORNEY EMERY HARLAN: Okay.</p> <p>8 MS. RHONDA KELSEY: - sub to a prime contract.</p> <p>9 ATTORNEY EMERY HARLAN: In your experience, Ms.</p> <p>10 Kelsey, have you ever seen a subcontractor contractor</p> <p>11 relationship when both parties in that relationship are</p> <p>12 dividing the money equally and the work equally.</p> <p>13 MS. RHONDA KELSEY: I've never seen -</p> <p>14 CHAIRMAN VINCENT BOBOT: Hold on, hold on a</p> <p>15 second. I only want you to answer it if you know it. If</p> <p>16 you don't know it, say you don't know it.</p> <p>17 MS. RHONDA KELSEY: Okay.</p> <p>18 CHAIRMAN VINCENT BOBOT: I don't want you</p> <p>19 speculating.</p> <p>20 MS. RHONDA KELSEY: Okay. Restate the question,</p> <p>21 thank you.</p> <p>22 ATTORNEY EMERY HARLAN: Based on your knowledge -</p> <p>23 you have extensive experience in procurement for the city,</p> <p>24 correct?</p> <p>25 MS. RHONDA KELSEY: Yes.</p>
<p style="text-align: right;">Page 103</p> <p>1 ATTORNEY EMERY HARLAN: Oh, so exhibit 10 -</p> <p>2 MS. RHONDA KELSEY: Yes.</p> <p>3 ATTORNEY EMERY HARLAN: - page two.</p> <p>4 MR. BRAD HOESCHEN: Right.</p> <p>5 ATTORNEY EMERY HARLAN: Ah, under the SBE</p> <p>6 participation box.</p> <p>7 MR. BRAD HOESCHEN: Yep. Uh-huh.</p> <p>8 ATTORNEY EMERY HARLAN: The sentence I read was,</p> <p>9 I think, like the third from the bottom: "The Office of</p> <p>10 Small Business Development," - are you guys there yet?</p> <p>11 MR. BRAD HOESCHEN: Yep.</p> <p>12 MR. STEVE FRITSCHKE: Yep.</p> <p>13 ATTORNEY EMERY HARLAN: "The Office of Small</p> <p>14 Business Development Contractor Compliance Plan Form A,"</p> <p>15 which is what we've been discussing, "must be completed and</p> <p>16 submitted with your proposal if you intend to utilize an</p> <p>17 SBE subcontractor." Right?</p> <p>18 MR. BRAD HOESCHEN: Subcontractor.</p> <p>19 MS. RHONDA KELSEY: It says that, yes.</p> <p>20 ATTORNEY EMERY HARLAN: So what that means is if</p> <p>21 the SBE firm is in some other capacity, not serving as a</p> <p>22 subcontractor, that form is not required for this</p> <p>23 procurement.</p> <p>24 MS. RHONDA KELSEY: It doesn't mean that. That,</p> <p>25 that's, that's not what that means.</p>	<p style="text-align: right;">Page 105</p> <p>1 ATTORNEY EMERY HARLAN: And in fact, under your</p> <p>2 watch, every year millions of dollars are overseen by you</p> <p>3 and your office, correct? In terms of purchases?</p> <p>4 MS. RHONDA KELSEY: Yes.</p> <p>5 ATTORNEY EMERY HARLAN: And my, my only question</p> <p>6 is have you ever seen a subcontractor contractor</p> <p>7 relationship when both parties are equally dividing the</p> <p>8 work and the money?</p> <p>9 MS. RHONDA KELSEY: No.</p> <p>10 ATTORNEY EMERY HARLAN: Okay, thank you.</p> <p>11 MR. BRAD HOESCHEN: Mr. Har - Mr. Chair?</p> <p>12 CHAIRMAN VINCENT BOBOT: Mr. Hoeschen?</p> <p>13 MR. BRAD HOESCHEN: Mr. Harlan, are you telling</p> <p>14 us that Quarles & Brady read this provision and made the</p> <p>15 determination that they didn't need to submit Form A</p> <p>16 because they didn't have a subcontractor?</p> <p>17 ATTORNEY EMERY HARLAN: Absolutely. That's</p> <p>18 exactly what I'm telling you.</p> <p>19 MR. BRAD HOESCHEN: That's naïve.</p> <p>20 ATTORNEY EMERY HARLAN: Okay. Well, I, I beg to</p> <p>21 differ but that's exactly what -</p> <p>22 CHAIRMAN VINCENT BOBOT: I just think it's a</p> <p>23 stretch.</p> <p>24 ATTORNEY EMERY HARLAN: Okay.</p> <p>25 MR. BRAD HOESCHEN: Alright. I, I understand</p>

<p style="text-align: right;">Page 106</p> <p>1 your argument.</p> <p>2 ATTORNEY EMERY HARLAN: So let me, let me ask it</p> <p>3 this way, Ms. Kelsey. What, what is a subcontractor?</p> <p>4 CHAIRMAN VINCENT BOBOT: I - I'm going to -</p> <p>5 ATTORNEY EMERY HARLAN: I mean, she's using -</p> <p>6 these are the operative words in the proposal in the RFP</p> <p>7 that her office designed and drafted and submitted that</p> <p>8 everyone had to operate under. And I think it's a very</p> <p>9 fair question to understand -</p> <p>10 CHAIRMAN VINCENT BOBOT: You can answer -</p> <p>11 ATTORNEY EMERY HARLAN: - what subcontractor</p> <p>12 means?</p> <p>13 CHAIRMAN VINCENT BOBOT: - if you, if you can, I</p> <p>14 guess.</p> <p>15 MS. RHONDA KELSEY: What is the definition of a</p> <p>16 subcontractor?</p> <p>17 ATTORNEY EMERY HARLAN: Your office used the</p> <p>18 term, so -</p> <p>19 MS. RHONDA KELSEY: Sub to a prime contractor.</p> <p>20 ATTORNEY EMERY HARLAN: I'm sorry?</p> <p>21 MS. RHONDA KELSEY: The sub to a prime</p> <p>22 contractor.</p> <p>23 ATTORNEY EMERY HARLAN: And when you say a "sub,"</p> <p>24 does that mean that one is working for the other?</p> <p>25 MS. RHONDA KELSEY: You could interpret it that</p>	<p style="text-align: right;">Page 108</p> <p>1 clearly on the record that the points were not a function</p> <p>2 of being a subcontractor. That's what she said; that's the</p> <p>3 testimony. You can't unscramble that. That's her</p> <p>4 testimony. Her office was in charge of the procure - of</p> <p>5 the procurement. That's what she testified.</p> <p>6 MR. BRAD HOESCHEN: But she also testified that</p> <p>7 subcontractor doesn't mean subcontractor for purses - for</p> <p>8 purposes of the Form A and you're telling us to ignore</p> <p>9 that.</p> <p>10 ATTORNEY EMERY HARLAN: I don't think that's -</p> <p>11 MR. BRAD HOESCHEN: You, you get one or the</p> <p>12 other; you don't get them both.</p> <p>13 ATTORNEY EMERY HARLAN: Ah, I'll move on cause I</p> <p>14 think -</p> <p>15 MS. RHONDA KELSEY: Okay.</p> <p>16 ATTORNEY EMERY HARLAN: - the record is clear but</p> <p>17 I do just want to finish the questioning about what is a</p> <p>18 subcontractor because I think the words obviously matter in</p> <p>19 the procurement; that's what we're here for.</p> <p>20 ASSISTANT CITY ATTORNEY KATHY BLOCK: And I, and</p> <p>21 I'm sorry, I'm just going to interrupt for two seconds and</p> <p>22 say obviously, we're getting up to 11:00. I know, ah, Mr.</p> <p>23 Anderson has to leave by noon and we -</p> <p>24 CHAIRMAN VINCENT BOBOT: Ah, how much more time</p> <p>25 for -</p>
<p style="text-align: right;">Page 107</p> <p>1 way, yes. Yes.</p> <p>2 MR. BRAD HOESCHEN: Mr. Chair?</p> <p>3 CHAIRMAN VINCENT BOBOT: Yes, Mr. Hoeschen?</p> <p>4 MR. BRAD HOESCHEN: But, Mr. Harlan, let's read</p> <p>5 the second full sentence of that bonus paragraph then. It</p> <p>6 says, "Proposers who utilize a city certified SBE vendor</p> <p>7 for this contract will be eligible for up to 10 additional</p> <p>8 points for subcontracting a portion of the work with a city</p> <p>9 certified SBE vendor." So you only get those points if you</p> <p>10 use a subcontractor. If you are arguing that Quarles &</p> <p>11 Brady and MWH were simply one bidder, you're not eligible.</p> <p>12 ATTORNEY EMERY HARLAN: Um, Mr. Hoeschen, let me,</p> <p>13 first of all, the record is clear. Ms. Kelsey has</p> <p>14 testified as a person who's in charge of the procurement</p> <p>15 that a firm did not necessarily have to be in that capacity</p> <p>16 in order to get the SBE points. Did she test - so testify</p> <p>17 -</p> <p>18 MR. BRAD HOESCHEN: But you don't get it both</p> <p>19 ways, Mr. Harlan. You're saying you didn't have to submit</p> <p>20 Form A because you weren't a subcontractor but then on the</p> <p>21 other side of the coin, you're asking us to say, "Well, but</p> <p>22 you don't have to read this language that says you only get</p> <p>23 the points if you have a subcontractor."</p> <p>24 ATTORNEY EMERY HARLAN: Ah, Mr. Hoeschen, I'm,</p> <p>25 I'm not asking you that. I, I - Ms. Kelsey testified</p>	<p style="text-align: right;">Page 109</p> <p>1 ASSISTANT CITY ATTORNEY KATHY BLOCK: - have</p> <p>2 another witness who's going to have problems this</p> <p>3 afternoon, so.</p> <p>4 CHAIRMAN VINCENT BOBOT: How much more time for</p> <p>5 the questioning -</p> <p>6 ATTORNEY EMERY HARLAN: Um -</p> <p>7 CHAIRMAN VINCENT BOBOT: - that you anticipate</p> <p>8 for Ms. Kelsey?</p> <p>9 ASSISTANT CITY ATTORNEY KATHY BLOCK: And I -</p> <p>10 ATTORNEY EMERY HARLAN: Probably another, ah,</p> <p>11 five minutes at the most?</p> <p>12 ASSISTANT CITY ATTORNEY KATHY BLOCK: Oh, okay.</p> <p>13 I'm sorry.</p> <p>14 ATTORNEY EMERY HARLAN: I'll move on.</p> <p>15 MR. BRAD HOESCHEN: [Inaudible]</p> <p>16 CHAIRMAN VINCENT BOBOT: [Inaudible] I do, too.</p> <p>17 ATTORNEY EMERY HARLAN: Ah, Ms. Kelsey, when did</p> <p>18 you become aware of the issues relating to, ah, I guess,</p> <p>19 two bidders not receiving, ah, or basically having their</p> <p>20 points withdrawn that had been awarded in the procurement</p> <p>21 process?</p> <p>22 MS. RHONDA KELSEY: Recently.</p> <p>23 ATTORNEY EMERY HARLAN: Okay, so not until after</p> <p>24 the award was made was that decision something that you</p> <p>25 were aware of. And was that decision made by the</p>

<p style="text-align: right;">Page 110</p> <p>1 evaluation committee or was it made by your office?</p> <p>2 MS. RHONDA KELSEY: The decision to rescind the</p> <p>3 points?</p> <p>4 ATTORNEY EMERY HARLAN: Yes.</p> <p>5 MS. RHONDA KELSEY: My office.</p> <p>6 ATTORNEY EMERY HARLAN: Okay. So the evaluation</p> <p>7 committee went through, assigned SBE points, and your</p> <p>8 office made the decision to withdraw the points, correct?</p> <p>9 MS. RHONDA KELSEY: Yes.</p> <p>10 ATTORNEY EMERY HARLAN: Okay. And so the, the</p> <p>11 evaluation committee was never afforded an opportunity to,</p> <p>12 um, make a decision about whether the points should be</p> <p>13 awarded or not.</p> <p>14 MS. RHONDA KELSEY: Yes.</p> <p>15 ATTORNEY EMERY HARLAN: Okay. And is there</p> <p>16 somewhere in the RFP documents, um, or the city's</p> <p>17 ordinance, that allows in a RFP process the purchasing</p> <p>18 department to make that decision?</p> <p>19 MS. RHONDA KELSEY: The process is such that the</p> <p>20 compliance review for the different requirements does occur</p> <p>21 on the front end of the process. So the proposal should be</p> <p>22 sent to the committee with that compliance review for the</p> <p>23 different, um, requirements beforehand. But that wasn't</p> <p>24 the case.</p> <p>25 ATTORNEY EMERY HARLAN: So the, the new - the</p>	<p style="text-align: right;">Page 112</p> <p>1 seeking SBE points, correct?</p> <p>2 MS. RHONDA KELSEY: Restate the question, I'm</p> <p>3 sorry.</p> <p>4 ATTORNEY EMERY HARLAN: Let me ask it a different</p> <p>5 way. Other than the fact that the Quarles & Brady MWH</p> <p>6 proposal omitted Form A, were there any other defects, any</p> <p>7 other things missing, any other things omitted from the</p> <p>8 proposal that would suggest that it was a sloppy proposal?</p> <p>9 MS. RHONDA KELSEY: Not that I'm aware of.</p> <p>10 ATTORNEY EMERY HARLAN: Okay. Did they fail to</p> <p>11 follow - did the proposal fail to follow the city's rules</p> <p>12 and guidelines in any other respect?</p> <p>13 MS. RHONDA KELSEY: Not that I'm aware of.</p> <p>14 ATTORNEY EMERY HARLAN: So the, the only thing</p> <p>15 that was amiss was this Form A that you maintain, ah,</p> <p>16 needed to be filed in order to get the SBE points.</p> <p>17 MS. RHONDA KELSEY: Yes.</p> <p>18 ATTORNEY EMERY HARLAN: Is that, "Yes?"</p> <p>19 MS. RHONDA KELSEY: Yes.</p> <p>20 ATTORNEY EMERY HARLAN: Okay. Did you, did you</p> <p>21 look at, ah, exhibit two? I just want to confirm that</p> <p>22 that's your email correspondence with a representative of</p> <p>23 Quarles & Brady on the date and time indicated?</p> <p>24 MS. RHONDA KELSEY: Yes, it is.</p> <p>25 ATTORNEY EMERY HARLAN: Okay. Going back to the,</p>
<p style="text-align: right;">Page 111</p> <p>1 standard operating procedure for, ah, how procurement</p> <p>2 should be handled in the RFP context - if, if I understand</p> <p>3 your testimony - for whatever reason wasn't followed in</p> <p>4 this case.</p> <p>5 ASSISTANT CITY ATTORNEY KATHY BLOCK: If you're</p> <p>6 aware.</p> <p>7 CHAIRMAN VINCENT BOBOT: Or if you understand the</p> <p>8 question.</p> <p>9 ASSISTANT CITY ATTORNEY KATHY BLOCK: [Laughter]</p> <p>10 MS. RHONDA KELSEY: Can you restate the question?</p> <p>11 ATTORNEY EMERY HARLAN: Well, you said normally</p> <p>12 the compliance process happens before the folks on the</p> <p>13 evaluation committee get the proposals.</p> <p>14 MS. RHONDA KELSEY: Yes.</p> <p>15 ATTORNEY EMERY HARLAN: So they know, for</p> <p>16 instance, if someone is not compliant.</p> <p>17 MS. RHONDA KELSEY: So in checking for forms and</p> <p>18 things like that, that, that would happen beforehand, yes.</p> <p>19 ATTORNEY EMERY HARLAN: Right. And that didn't</p> <p>20 happen here.</p> <p>21 MS. RHONDA KELSEY: Correct.</p> <p>22 ATTORNEY EMERY HARLAN: Okay. With respect to</p> <p>23 the Quarles & Brady and MWH proposal, you, you've indicated</p> <p>24 that one problem with the proposal was the failure to</p> <p>25 submit this Form A, given that the proposal team was</p>	<p style="text-align: right;">Page 113</p> <p>1 ah, LBE form, ah, affidavit that was submitted by, ah, MWH</p> <p>2 in connection with the MWH Quarles bid.</p> <p>3 MS. RHONDA KELSEY: Hmm-hmm.</p> <p>4 ATTORNEY EMERY HARLAN: There was a question</p> <p>5 raised about, ah, what was listed on the last page in terms</p> <p>6 of property.</p> <p>7 MS. RHONDA KELSEY: Hmm-hmm.</p> <p>8 ATTORNEY EMERY HARLAN: Does that page ask for</p> <p>9 information about leases?</p> <p>10 MS. RHONDA KELSEY: No.</p> <p>11 CHAIRMAN VINCENT BOBOT: What was the answer?</p> <p>12 MS. RHONDA KELSEY: No.</p> <p>13 CHAIRMAN VINCENT BOBOT: Okay.</p> <p>14 ATTORNEY EMERY HARLAN: And it asks for business</p> <p>15 property, correct? It asks for locations of business</p> <p>16 property, right?</p> <p>17 MS. RHONDA KELSEY: Um, space is not - the amount</p> <p>18 of space is not referenced, correct.</p> <p>19 ATTORNEY EMERY HARLAN: Well, not only that, but</p> <p>20 it asks about business property, so that's computers,</p> <p>21 notebooks, desks. Business property is not just leases,</p> <p>22 right?</p> <p>23 MS. RHONDA KELSEY: No, that's not the -</p> <p>24 ASSISTANT CITY ATTORNEY KATHY BLOCK: That calls</p> <p>25 for legal conclusion.</p>

<p style="text-align: right;">Page 114</p> <p>1 MS. RHONDA KELSEY: That's not -</p> <p>2 ASSISTANT CITY ATTORNEY KATHY BLOCK: Objection.</p> <p>3 MS. RHONDA KELSEY: - the intent of the</p> <p>4 ordinance.</p> <p>5 CHAIRMAN VINCENT BOBOT: Hold on a second.</p> <p>6 MS. RHONDA KELSEY: It's relative -</p> <p>7 CHAIRMAN VINCENT BOBOT: There's an objection.</p> <p>8 MS. RHONDA KELSEY: Oh, I'm sorry.</p> <p>9 CHAIRMAN VINCENT BOBOT: Ah, I guess -</p> <p>10 ATTORNEY EMERY HARLAN: I, I just want to address</p> <p>11 there was a concern raised by the board that maybe MWH was</p> <p>12 responsible for confusing, ah, the purchasing officials in</p> <p>13 this particular instance and the point I'm making is that</p> <p>14 this asks for where your business property is located. It</p> <p>15 doesn't say, "Where you have leases." It doesn't ask that</p> <p>16 question. So if you are properly putting information on</p> <p>17 this form, it requires you to list, literally, the location</p> <p>18 in terms of city, whatever, where you have property, which</p> <p>19 we did.</p> <p>20 ASSISTANT CITY ATTORNEY KATHY BLOCK: And you're</p> <p>21 free to make that argument to the board.</p> <p>22 ATTORNEY EMERY HARLAN: It's not an argument;</p> <p>23 it's, it's on the form.</p> <p>24 CHAIRMAN VINCENT BOBOT: Well, I think you stated</p> <p>25 that pretty clearly and I think we understand what's going</p>	<p style="text-align: right;">Page 116</p> <p>1 MS. RHONDA KELSEY: No.</p> <p>2 CHAIRMAN VINCENT BOBOT: Thank you.</p> <p>3 ATTORNEY EMERY HARLAN: Just to follow-up on, ah,</p> <p>4 Chairman Bobot's question, where in the process would we</p> <p>5 lodge an objection about Form A, ah, if there was no</p> <p>6 subcontractor part of the proposal process?</p> <p>7 MS. RHONDA KELSEY: It's the question and answer</p> <p>8 process, or period, to obtain clarity about what's being</p> <p>9 asked for under the proposal or what, you know, any</p> <p>10 questions that you may have about the forms. It's the</p> <p>11 process that I referred to earlier, which is typically</p> <p>12 seven days before, um, the proposals are due.</p> <p>13 ATTORNEY EMERY HARLAN: Were there any</p> <p>14 discussions that you were a part of - leaving aside the</p> <p>15 city attorney - um, were there any discussions with the</p> <p>16 controller's office about this particular procurement? Did</p> <p>17 you talk to Mr. Matson, Mr. Lee, about this procurement?</p> <p>18 MS. RHONDA KELSEY: Yes.</p> <p>19 ATTORNEY EMERY HARLAN: Okay. At what point?</p> <p>20 MS. RHONDA KELSEY: Early on. I mean, they have</p> <p>21 to submit a request, you know, the requisition, the actual</p> <p>22 forms, clarity would occur, if necessary, regarding any</p> <p>23 information in a proposal.</p> <p>24 ATTORNEY EMERY HARLAN: And did you -</p> <p>25 MS. RHONDA KELSEY: That's just the normal back</p>
<p style="text-align: right;">Page 115</p> <p>1 on.</p> <p>2 ATTORNEY EMERY HARLAN: Okay.</p> <p>3 CHAIRMAN VINCENT BOBOT: In that regard.</p> <p>4 ATTORNEY EMERY HARLAN: I'll move on. Thank you.</p> <p>5 CHAIRMAN VINCENT BOBOT: We don't have any</p> <p>6 confusion there.</p> <p>7 ATTORNEY EMERY HARLAN: Going back to the, um,</p> <p>8 the Form A, um, is it my understanding if - was it your</p> <p>9 testimony that if MWH was the only bidder for this that it</p> <p>10 would be, would be required to fill out Form A?</p> <p>11 MS. RHONDA KELSEY: If it were seeking to qualify</p> <p>12 for SBE points, yes.</p> <p>13 ATTORNEY EMERY HARLAN: So it would fill out a</p> <p>14 Form A, which asks to indicate who was going to subcontract</p> <p>15 with in terms of an SBE even though it is an SBE?</p> <p>16 MS. RHONDA KELSEY: The, the intent of the form</p> <p>17 is to simply provide a description of how the SBE is going</p> <p>18 to serve under, or operate under, the contract. So it's a</p> <p>19 - the form is required of all proposers. It's, um - that's</p> <p>20 what it is.</p> <p>21 ATTORNEY EMERY HARLAN: Okay.</p> <p>22 CHAIRMAN VINCENT BOBOT: A follow-up question at</p> <p>23 this point, if it's appropriate. Was there any objections,</p> <p>24 lodged by Quarles and Barry - Quarles and Brady - or MWH</p> <p>25 about having to submit Form A, to your knowledge?</p>	<p style="text-align: right;">Page 117</p> <p>1 and form in trying to get an RFP on the street for, um, a</p> <p>2 firm.</p> <p>3 ATTORNEY EMERY HARLAN: And did -</p> <p>4 MS. RHONDA KELSEY: Ah, user department, sorry.</p> <p>5 ATTORNEY EMERY HARLAN: And were you personally</p> <p>6 involved in those discussions or was that someone on your</p> <p>7 staff?</p> <p>8 MS. RHONDA KELSEY: I don't recall having any</p> <p>9 conversations directly with Marty or anybody from the</p> <p>10 comptroller's office about it, no.</p> <p>11 ATTORNEY EMERY HARLAN: Um, just a couple of</p> <p>12 additional questions. Um, for clarity's sake, under what</p> <p>13 circumstances, based on your understanding of the</p> <p>14 purchasing rules, are departments like - or, or, um, parts</p> <p>15 of the city government, like the controller's office -</p> <p>16 allowed to enter into an agreement without going through a</p> <p>17 competitive bid or an RFP process? Is there a dollar</p> <p>18 amount?</p> <p>19 MS. RHONDA KELSEY: Restate that question. I'm</p> <p>20 sorry.</p> <p>21 ATTORNEY EMERY HARLAN: Is an RFP / competitive</p> <p>22 bidding process always required?</p> <p>23 MS. RHONDA KELSEY: What is required from user</p> <p>24 departments is, um - no. No. So departments are required</p> <p>25 to submit a procurement request, a requisition to the</p>

<p style="text-align: right;">Page 118</p> <p>1 purchasing department, when the dollar value of the service 2 is \$5,000 or more. 3 ATTORNEY EMERY HARLAN: Okay. 4 MS. RHONDA KELSEY: That's - 5 ATTORNEY EMERY HARLAN: So if this board, for 6 instance, um - 7 MS. RHONDA KELSEY: They may - I'm sorry. 8 ATTORNEY EMERY HARLAN: - wanted to, as a remedy, 9 simply have MWH / Quarles & Brady added as an additional 10 disclosure counsel firm, if that was the wisdom and 11 judgment of this board, um, is there anything that would 12 preclude them from doing that as far as you know? 13 MS. RHONDA KELSEY: They would have to, 14 obviously, follow city policy and procedure. I mean, that, 15 that's an option. I mean, in accordance with city policy 16 and - policies and procedures. I don't - 17 CHAIRMAN VINCENT BOBOT: [Inaudible] 18 MS. RHONDA KELSEY: - really understand the 19 question, to be honest, where you're going with that. I 20 know where you're going with that, but - 21 ALL: [Laughter] 22 MS. RHONDA KELSEY: I'm sorry. 23 MR. BRAD HOESCHEN: We all did. 24 CHAIRMAN VINCENT BOBOT: I think we realize what 25 he's trying to do is an example we can do as remedy but -</p>	<p style="text-align: right;">Page 120</p> <p>1 might those be? 2 UNKNOWN MALE SPEAKER: Negligence. 3 MS. RHONDA KELSEY: Questionable information. I 4 mean, I don't - I mean - 5 ASSISTANT CITY ATTORNEY KATHY BLOCK: A person 6 could make an error or misunderstand their requirements of 7 the ordinance, for instance. 8 MS. RHONDA KELSEY: Right. 9 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. Um, 10 with regard to the, um, proposal submitted by Quarles & 11 Brady, exhibit 16 that you have in front of you, um, if you 12 skim the table of contents and look at the tabs, um, as 13 opposed to say, the cover page, which indicates both 14 parties there. Um, a lot of the tabs mention "lead 15 disclosure counsel." Is that, ah, correct there on the 16 table of contents page, which is under tab A? 17 MS. RHONDA KELSEY: Yes. 18 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, and one 19 of them has proposed - ah, tab L - a proposed code 20 disclosure counsel information. Is that correct? 21 MS. RHONDA KELSEY: Yes. 22 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, if just 23 skimming through that, the sections that deal - let's see, 24 one, two, three, four, five - at least deal with lead 25 disclosure counsel information. Um, do those sections, ah,</p>
<p style="text-align: right;">Page 119</p> <p>1 MR. BRAD HOESCHEN: [Laughter] 2 CHAIRMAN VINCENT BOBOT: - that would be up to us 3 and then others. 4 MR. BRAD HOESCHEN: We're not going to - 5 MS. RHONDA KELSEY: Yes. 6 CHAIRMAN VINCENT BOBOT: It would not be fair for 7 you to answer that question - 8 MS. RHONDA KELSEY: Yeah. 9 CHAIRMAN VINCENT BOBOT: - cause it would be up 10 to the other people, other than yourself - 11 MS. RHONDA KELSEY: Yes, not my - right? 12 ATTORNEY EMERY HARLAN: I think I'm done. 13 CHAIRMAN VINCENT BOBOT: Any further questions 14 from the city? 15 ASSISTANT CITY ATTORNEY KATHY BLOCK: I do have a 16 couple; I think can - yeah, get them done in, let's say, 17 five minutes. Um, you were earlier asked about the LBE 18 affidavit submitted by MWH and if you concluded that fraud 19 was involved in the submission of that form. In your 20 experience, could there be other explanations why a form 21 submitted might not rise to the level of fraud but might 22 also, um, demonstrate noncompliance with the requirements 23 of the ordinance? 24 MS. RHONDA KELSEY: Yes. 25 ASSISTANT CITY ATTORNEY KATHY BLOCK: And what</p>	<p style="text-align: right;">Page 121</p> <p>1 talk primarily about Quarles & Brady or about MWH? 2 MS. RHONDA KELSEY: Quarles & Brady. 3 ASSISTANT CITY ATTORNEY KATHY BLOCK: Thank you. 4 Um, and now I guess my last questions just deal with, um, 5 Form A, um, and we've got a copy of that in - as exhibit 6 five. Um, but speak to it generally; not specifically to 7 the Hurtado [sounds like], um, form. 8 MS. RHONDA KELSEY: Which exhibit? I'm sorry. 9 ASSISTANT CITY ATTORNEY KATHY BLOCK: I'm sorry, 10 exhibit five. 11 MS. RHONDA KELSEY: Okay. 12 ASSISTANT CITY ATTORNEY KATHY BLOCK: In addition 13 to the description of the services that are provided by an 14 SBE subcontractor, um, there are acknowledgments on that 15 form as you testified to, correct? 16 MS. RHONDA KELSEY: Yes. 17 ASSISTANT CITY ATTORNEY KATHY BLOCK: Why might 18 those be important? 19 MS. RHONDA KELSEY: Because we want all of the 20 parties to acknowledge the, the arrangement; what's going 21 to, um, the service that will provided, um, by all parties 22 involved. 23 ASSISTANT CITY ATTORNEY KATHY BLOCK: Is that, 24 um, sometimes particularly important that an SBE attest to 25 that information?</p>

<p style="text-align: right;">Page 122</p> <p>1 MS. RHONDA KELSEY: Yes.</p> <p>2 ASSISTANT CITY ATTORNEY KATHY BLOCK: Why's that?</p> <p>3 MS. RHONDA KELSEY: Because we don't want to be</p> <p>4 in a situation where we're possibly dealing with fronts, or</p> <p>5 pass throughs, or we want to make sure that the</p> <p>6 relationship is legitimate. So we want the, you know, the</p> <p>7 SBE firm to attest to the partnership, the - whatever the</p> <p>8 relationship is. We need them to attest to that.</p> <p>9 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. And</p> <p>10 at the top of page one of that form, um, which for some</p> <p>11 reason in my copy - I may be looking at it wrong - is kind</p> <p>12 of on the back. Um, does it indicate that this form must</p> <p>13 be submitted with, ah, an invitation to bid or a request</p> <p>14 for proposal?</p> <p>15 MS. RHONDA KELSEY: Yes.</p> <p>16 ASSISTANT CITY ATTORNEY KATHY BLOCK: Thanks.</p> <p>17 Um, is there another means, um, by which a person who's</p> <p>18 considering, um, submitting a bid or a req - or a proposal</p> <p>19 in response to Request for Proposal might, um, question or,</p> <p>20 um, file some sort of appeal process regarding, um,</p> <p>21 specifications that appear in a proposal or a - or Request</p> <p>22 for Proposal - or Request for Bid, aside from the question</p> <p>23 and answer period you mentioned that was present here?</p> <p>24 MS. RHONDA KELSEY: There's an appeal process for</p> <p>25 bids, yes.</p>	<p style="text-align: right;">Page 124</p> <p>1 CHAIRMAN VINCENT BOBOT: I'll let her answer if</p> <p>2 she knows.</p> <p>3 MS. RHONDA KELSEY: Interview, of, whom?</p> <p>4 CHAIRMAN VINCENT BOBOT: It's kind of general.</p> <p>5 ATTORNEY EMERY HARLAN: Yeah, so as part of the</p> <p>6 RFP process, is there usually, um, well, strike that. As</p> <p>7 part of the normal RFP process, um, once the closest, ah,</p> <p>8 firms in terms of points are narrowed, is there typically</p> <p>9 an interview process?</p> <p>10 MS. RHONDA KELSEY: It's an option; it's not a</p> <p>11 requirement.</p> <p>12 ATTORNEY EMERY HARLAN: Okay. Do you know if</p> <p>13 that was contemplated in this particular case?</p> <p>14 MS. RHONDA KELSEY: Not - no, I don't. I can't</p> <p>15 answer that.</p> <p>16 ATTORNEY EMERY HARLAN: Okay. Counsel asked you</p> <p>17 about, ah, Quarles & Brady being designated as lead,</p> <p>18 correct?</p> <p>19 MS. RHONDA KELSEY: She, she asked me if that was</p> <p>20 referenced in the proposal.</p> <p>21 ATTORNEY EMERY HARLAN: Yeah.</p> <p>22 MS. RHONDA KELSEY: Yes.</p> <p>23 ATTORNEY EMERY HARLAN: And in fact, RFP required</p> <p>24 that a firm be designated as lead, correct?</p> <p>25 MS. RHONDA KELSEY: Yes.</p>
<p style="text-align: right;">Page 123</p> <p>1 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, after</p> <p>2 the award that exists, right?</p> <p>3 MS. RHONDA KELSEY: Um, actually, um, a bidder,</p> <p>4 um, can actually award the, um - I'm sorry, appeal the</p> <p>5 actual specifications or the award. So there's two options</p> <p>6 available.</p> <p>7 ASSISTANT CITY ATTORNEY KATHY BLOCK: I expect</p> <p>8 appeals are available for, um, for Request for Proposals,</p> <p>9 too?</p> <p>10 MS. RHONDA KELSEY: No.</p> <p>11 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. Um,</p> <p>12 and I think that's all I've got.</p> <p>13 CHAIRMAN VINCENT BOBOT: Any follow-up questions,</p> <p>14 Mr. Harlan?</p> <p>15 ATTORNEY EMERY HARLAN: Just, just a couple</p> <p>16 follow-ups. I forgot to ask you, um -</p> <p>17 ASSISTANT CITY ATTORNEY KATHY BLOCK: Well, is</p> <p>18 that re - re-direct? Or, I forgot to ask -</p> <p>19 CHAIRMAN VINCENT BOBOT: I don't know what the</p> <p>20 question is, so -</p> <p>21 ATTORNEY EMERY HARLAN: Is - was there an</p> <p>22 interview process contemplated in this proposal process?</p> <p>23 ASSISTANT CITY ATTORNEY KATHY BLOCK: Well,</p> <p>24 again, re - or, I forgot to ask you, or -</p> <p>25 ATTORNEY EMERY HARLAN: Okay, it's -</p>	<p style="text-align: right;">Page 125</p> <p>1 ATTORNEY EMERY HARLAN: And she also asked you</p> <p>2 about the fact that Quarles & Brady signed the proposal</p> <p>3 that came from MMH and Quarles & Brady but in fact, it was</p> <p>4 only one signature block, um, for a firm to sign, correct?</p> <p>5 MS. RHONDA KELSEY: Yes. Yes.</p> <p>6 MR. BRAD HOESCHEN: I don't think he heard you.</p> <p>7 MS. RHONDA KELSEY: I'm sorry, yes.</p> <p>8 MR. BRAD HOESCHEN: It's okay.</p> <p>9 MS. RHONDA KELSEY: Yes.</p> <p>10 ATTORNEY EMERY HARLAN: Okay. And then, finally,</p> <p>11 with respect to the acknowledgement significance of the</p> <p>12 Form A, you would agree if a proposal was coming from two</p> <p>13 law firms where they set forth what the relationship is,</p> <p>14 that clearly indicates to all parties involved, as well as</p> <p>15 the purchaser, what the relationship is, correct?</p> <p>16 MS. RHONDA KELSEY: Yes.</p> <p>17 ATTORNEY EMERY HARLAN: And then, the truly final</p> <p>18 question. On this Form A, um, if you look at the top, it</p> <p>19 said the, the form must be submitted by everybody, whether</p> <p>20 you have SBE participation or not. Correct?</p> <p>21 MS. RHONDA KELSEY: No.</p> <p>22 ATTORNEY EMERY HARLAN: Doesn't it say that?</p> <p>23 MS. RHONDA KELSEY: No, regardless of SBE</p> <p>24 participation or the lack thereof.</p> <p>25 ATTORNEY EMERY HARLAN: Right. So that means if</p>

<p style="text-align: right;">Page 126</p> <p>1 you have SBE participation or not -</p> <p>2 ASSISTANT CITY ATTORNEY KATHY BLOCK: Well -</p> <p>3 ATTORNEY EMERY HARLAN: - you're supposed to fill</p> <p>4 out that form.</p> <p>5 ASSISTANT CITY ATTORNEY KATHY BLOCK: You're</p> <p>6 getting -</p> <p>7 ATTORNEY EMERY HARLAN: Is that what it says?</p> <p>8 MS. RHONDA KELSEY: I don't know why it says</p> <p>9 that; that makes no sense.</p> <p>10 ATTORNEY EMERY HARLAN: Right.</p> <p>11 MS. RHONDA KELSEY: We wouldn't ask anybody to</p> <p>12 submit it if they're not - if there is no SBE involvement.</p> <p>13 That's a question for OSBD -</p> <p>14 ATTORNEY EMERY HARLAN: Oh.</p> <p>15 MS. RHONDA KELSEY: - I'm sorry.</p> <p>16 ATTORNEY EMERY HARLAN: So that would defy common</p> <p>17 sense, correct?</p> <p>18 CHAIRMAN VINCENT BOBOT: Well, we're going to</p> <p>19 just note that exhibit five has been admitted as evidence.</p> <p>20 ATTORNEY EMERY HARLAN: And, in fact -</p> <p>21 CHAIRMAN VINCENT BOBOT: Just [inaudible] from</p> <p>22 that.</p> <p>23 ATTORNEY EMERY HARLAN: And, and in fact, you</p> <p>24 didn't disqualify any firm for their failure to submit that</p> <p>25 form, correct? Chapman and Cutler was one of the</p>	<p style="text-align: right;">Page 128</p> <p>1 Harlan's.</p> <p>2 CHAIRMAN VINCENT BOBOT: Okay, at this time, I</p> <p>3 take it the, ah, other than rebuttal witnesses, you're -</p> <p>4 ASSISTANT CITY ATTORNEY KATHY BLOCK: Correct.</p> <p>5 CHAIRMAN VINCENT BOBOT: Okay, Mr. Harlan, you</p> <p>6 may call your first witness.</p> <p>7 ATTORNEY EMERY HARLAN: Okay. David?</p> <p>8 MR. DAVID ANDERSON: Yep.</p> <p>9 ATTORNEY EMERY HARLAN: And what's your last</p> <p>10 name, David?</p> <p>11 MR. DAVID ANDERSON: Anderson.</p> <p>12 ATTORNEY EMERY HARLAN: Anderson.</p> <p>13 CHAIRMAN VINCENT BOBOT: So you're going to call</p> <p>14 David Anderson to the stand. Mr. Anderson, could you raise</p> <p>15 your right hand, please?</p> <p>16 MS. LINDA ELMER: Do you solemnly affirm the</p> <p>17 pains and penalties of perj [sic] in the state of Wisconsin</p> <p>18 that the test [sic] you're about to give is the truth, the</p> <p>19 whole truth, and nothing but truth?</p> <p>20 MR. DAVID ANDERSON: Yes.</p> <p>21 CHAIRMAN VINCENT BOBOT: Could you spell your</p> <p>22 last name for the record, Mr. Anderson?</p> <p>23 MR. DAVID ANDERSON: A-n-d-e-r-s-o-n.</p> <p>24 CHAIRMAN VINCENT BOBOT: Okay, your witness, Mr.</p> <p>25 Harlan.</p>
<p style="text-align: right;">Page 127</p> <p>1 proposers. Was their proposal disqualified because they</p> <p>2 didn't submit Form A?</p> <p>3 MS. RHONDA KELSEY: Proposals aren't disqualified</p> <p>4 for not submitting that form; we don't disqualify proposers</p> <p>5 for not submitting it. What we say is if you don't submit</p> <p>6 it, you cannot earn the points associated with it.</p> <p>7 ATTORNEY EMERY HARLAN: Well, that's not what</p> <p>8 this form says but that - I think the board can take it for</p> <p>9 what it's worth. No other questions.</p> <p>10 CHAIRMAN VINCENT BOBOT: Any further questions,</p> <p>11 Ms. Block?</p> <p>12 ASSISTANT CITY ATTORNEY KATHY BLOCK: No.</p> <p>13 CHAIRMAN VINCENT BOBOT: Um, can this witness be</p> <p>14 excused?</p> <p>15 ATTORNEY EMERY HARLAN: Absolutely.</p> <p>16 CHAIRMAN VINCENT BOBOT: You are excused.</p> <p>17 MS. RHONDA KELSEY: Thank you so much.</p> <p>18 ALL: [Laughter]</p> <p>19 CHAIRMAN VINCENT BOBOT: We're going to take</p> <p>20 about a four minute break, just -</p> <p>21 ATTORNEY EMERY HARLAN: Okay.</p> <p>22 CHAIRMAN VINCENT BOBOT: On the record, Ms.</p> <p>23 Block, and you now have another witness?</p> <p>24 ASSISTANT CITY ATTORNEY KATHY BLOCK: Actually,</p> <p>25 I'm finished calling witnesses and the floor is, ah, Mr.</p>	<p style="text-align: right;">Page 129</p> <p>1 ATTORNEY EMERY HARLAN: Ah, Mr. Anderson, I</p> <p>2 promise this is going to be quick.</p> <p>3 ALL: [Laughter]</p> <p>4 MR. DAVID ANDERSON: Thank you.</p> <p>5 ATTORNEY EMERY HARLAN: So you, you're with PFM,</p> <p>6 correct?</p> <p>7 MR. DAVID ANDERSON: Yes.</p> <p>8 ATTORNEY EMERY HARLAN: Alright, so you're a</p> <p>9 financial consultant, worked with cities, municipalities,</p> <p>10 towns, what have you.</p> <p>11 MR. DAVID ANDERSON: That is correct.</p> <p>12 ATTORNEY EMERY HARLAN: And, ah, is this the</p> <p>13 first time you've been on an evaluation panel?</p> <p>14 MR. DAVID ANDERSON: No.</p> <p>15 ATTORNEY EMERY HARLAN: Okay, so you've done this</p> <p>16 on some other occasion.</p> <p>17 MR. DAVID ANDERSON: Yes.</p> <p>18 ATTORNEY EMERY HARLAN: Was the process, as far</p> <p>19 as you observed it, typical of what you see when you've</p> <p>20 served on other panels?</p> <p>21 MR. DAVID ANDERSON: There's - this is the first</p> <p>22 time I used the Bonfire software, so from that perspective</p> <p>23 it was different.</p> <p>24 ATTORNEY EMERY HARLAN: Okay.</p> <p>25 MR. DAVID ANDERSON: So most panels do have</p>

<p style="text-align: right;">Page 130</p> <p>1 scoring processes and things like that but not in a</p> <p>2 formalized, computer software process, so that part was</p> <p>3 different.</p> <p>4 ATTORNEY EMERY HARLAN: And so do you - how did</p> <p>5 you end up on the panel, if you know?</p> <p>6 MR. DAVID ANDERSON: I was asked; that's all.</p> <p>7 ATTORNEY EMERY HARLAN: And by Mr. Lee? Or who</p> <p>8 was it?</p> <p>9 MR. DAVID ANDERSON: You know, I think by, ah,</p> <p>10 the procurement office. I don't know if Mr. Lee gave him -</p> <p>11 gave my name there or not.</p> <p>12 ATTORNEY EMERY HARLAN: Okay. Did you discuss</p> <p>13 being on the panel with Mr. Lee?</p> <p>14 MR. DAVID ANDERSON: I don't specifically recall</p> <p>15 that.</p> <p>16 ATTORNEY EMERY HARLAN: Okay.</p> <p>17 MR. DAVID ANDERSON: If --</p> <p>18 ATTORNEY EMERY HARLAN: So you don't know whether</p> <p>19 prior to you being on the panel you had any discussions</p> <p>20 with Richard Lee or anyone from the controller's office.</p> <p>21 MR. DAVID ANDERSON: No.</p> <p>22 ATTORNEY EMERY HARLAN: Okay. And, um, did the -</p> <p>23 you mentioned Bonfire so I'm, I imagine at some point you</p> <p>24 went online to record your scores of the various proposals?</p> <p>25 MR. DAVID ANDERSON: Right.</p>	<p style="text-align: right;">Page 132</p> <p>1 lot of discussion about SBE and LBE.</p> <p>2 MR. DAVID ANDERSON: Right.</p> <p>3 ATTORNEY EMERY HARLAN: Do, do you remember those</p> <p>4 topics coming up in any of your discussions with your</p> <p>5 fellow committee members?</p> <p>6 MR. DAVID ANDERSON: What came up is before our</p> <p>7 discussion of the, um - not the LBE; I don't remember that</p> <p>8 one at all. The SBE, the discussion was, um, stopped</p> <p>9 before it started because the procurement officer said</p> <p>10 that, that the form wasn't, wasn't there so any point we</p> <p>11 assigned wouldn't be assigned.</p> <p>12 ATTORNEY EMERY HARLAN: So in -</p> <p>13 MR. DAVID ANDERSON: [Inaudible] discuss that.</p> <p>14 ATTORNEY EMERY HARLAN: Do you remember the woman</p> <p>15 or the gentleman's name who conveyed that?</p> <p>16 MR. DAVID ANDERSON: Um, I - you mentioned Ms.</p> <p>17 Jeffries? Is that -</p> <p>18 ATTORNEY EMERY HARLAN: Yes. Karen Jeffries.</p> <p>19 MR. DAVID ANDERSON: Yeah.</p> <p>20 ATTORNEY EMERY HARLAN: And she was a person that</p> <p>21 communicated to the evaluation committee that</p> <p>22 notwithstanding your prior scoring in the SBE category, it</p> <p>23 didn't make sense to have a discussion in person because</p> <p>24 the points weren't going to be awarded.</p> <p>25 MR. DAVID ANDERSON: That's correct.</p>
<p style="text-align: right;">Page 131</p> <p>1 ATTORNEY EMERY HARLAN: Um, did you all have a</p> <p>2 meeting of the evaluation committee prior to that?</p> <p>3 MR. DAVID ANDERSON: No, I did not. I don't</p> <p>4 believe so.</p> <p>5 ATTORNEY EMERY HARLAN: There, there wasn't an</p> <p>6 in-person meeting at all?</p> <p>7 MR. DAVID ANDERSON: After the - when we went</p> <p>8 online, there was an in-person meeting.</p> <p>9 ATTORNEY EMERY HARLAN: Okay. So after you</p> <p>10 recorded your scores, you all assembled together at the</p> <p>11 city hall somewhere -</p> <p>12 MR. DAVID ANDERSON: Right.</p> <p>13 ATTORNEY EMERY HARLAN: - to discuss your</p> <p>14 thoughts about the firms.</p> <p>15 MR. DAVID ANDERSON: Right.</p> <p>16 ATTORNEY EMERY HARLAN: Was there a discussion</p> <p>17 about the, ah, potential interview process?</p> <p>18 MR. DAVID ANDERSON: I don't recall that there</p> <p>19 was.</p> <p>20 ATTORNEY EMERY HARLAN: Okay. Um, do you know if</p> <p>21 it was intended that there'd be an interview process</p> <p>22 depending on the relative scores of the firms?</p> <p>23 MR. DAVID ANDERSON: I don't know that.</p> <p>24 ATTORNEY EMERY HARLAN: You heard a lot - you</p> <p>25 were here, um, when Ms. Kelsey was testifying - you heard a</p>	<p style="text-align: right;">Page 133</p> <p>1 ATTORNEY EMERY HARLAN: Okay. Did you have any</p> <p>2 role in developing the proposal?</p> <p>3 MR. DAVID ANDERSON: I don't, I don't recall. I</p> <p>4 mean, I see a lot of things coming all the time. This</p> <p>5 happened last summer and I, I just don't recall if I had -</p> <p>6 was asked to look at it or not.</p> <p>7 ATTORNEY EMERY HARLAN: Okay. And prior to being</p> <p>8 part of the evaluation committee, you were serving as a</p> <p>9 financial advisor to the city, and in particular, working</p> <p>10 with Mr. Lee and Mr. Matson, correct?</p> <p>11 MR. DAVID ANDERSON: That's true.</p> <p>12 ATTORNEY EMERY HARLAN: And as part of that you</p> <p>13 also worked with the winning bidder in this procurement,</p> <p>14 Katten Muchin, right?</p> <p>15 MR. DAVID ANDERSON: That's correct.</p> <p>16 ATTORNEY EMERY HARLAN: And that's the firm that</p> <p>17 office is in Chicago.</p> <p>18 MR. DAVID ANDERSON: That's correct.</p> <p>19 ATTORNEY EMERY HARLAN: Alright. Just one final</p> <p>20 question. Um, to the best of your recollection, can you</p> <p>21 tell us what Ms. Jeffries communicated on the issue of</p> <p>22 Small Business, um, points not being available, um, because</p> <p>23 the firms didn't do something?</p> <p>24 MR. DAVID ANDERSON: Yes, she just said that the</p> <p>25 proper information was not where - the proper form was not</p>

<p style="text-align: right;">Page 134</p> <p>1 submitted.</p> <p>2 ATTORNEY EMERY HARLAN: Was there any questioning</p> <p>3 of her in terms of what she meant by that?</p> <p>4 MR. DAVID ANDERSON: No, I don't believe so.</p> <p>5 ATTORNEY EMERY HARLAN: So you obviously read all</p> <p>6 the proposals, correct?</p> <p>7 MR. DAVID ANDERSON: That's correct.</p> <p>8 ATTORNEY EMERY HARLAN: And based on the scoring</p> <p>9 comments that I saw from you, you seem to have a clear</p> <p>10 understanding of what the relationship was between the SBE</p> <p>11 firms and the non-SBE firms that bid together, correct?</p> <p>12 MR. DAVID ANDERSON: Correct.</p> <p>13 ATTORNEY EMERY HARLAN: Okay. Even if you were</p> <p>14 like missing any information to be able to make a scoring</p> <p>15 decision, correct?</p> <p>16 MR. DAVID ANDERSON: Correct.</p> <p>17 ATTORNEY EMERY HARLAN: And you understood how</p> <p>18 the economics and the work was going to be divided,</p> <p>19 correct?</p> <p>20 MR. DAVID ANDERSON: Correct.</p> <p>21 ATTORNEY EMERY HARLAN: That's all I have.</p> <p>22 CHAIRMAN VINCENT BOBOT: Any questions from the</p> <p>23 state?</p> <p>24 ASSISTANT CITY ATTORNEY KATHY BLOCK: No.</p> <p>25 CHAIRMAN VINCENT BOBOT: Okay, can this witness</p>	<p style="text-align: right;">Page 136</p> <p>1 look I have seen since I left home this morning.</p> <p>2 CHAIRMAN VINCENT BOBOT: Yeah, if somebody who</p> <p>3 knows her, have you seen her, [inaudible].</p> <p>4 ALL: [Laughter]</p> <p>5 ASSISTANT CITY ATTORNEY KATHY BLOCK: Let me know</p> <p>6 if you know decide to bump [inaudible].</p> <p>7 ATTORNEY EMERY HARLAN: [Inaudible] Dennis? I</p> <p>8 don't think [inaudible]. What's the gentleman's name in</p> <p>9 Budget?</p> <p>10 ASSISTANT CITY ATTORNEY KATHY BLOCK: Jerry</p> <p>11 Allens? Dennis and Jerry Allen are the two that are -</p> <p>12 Dennis, Dennis is from budget.</p> <p>13 ATTORNEY EMERY HARLAN: Okay.</p> <p>14 ASSISTANT CITY ATTORNEY KATHY BLOCK: Jerry's</p> <p>15 from ERS.</p> <p>16 ATTORNEY EMERY HARLAN: Who, who else is left</p> <p>17 from the committee?</p> <p>18 ASSISTANT CITY ATTORNEY KATHY BLOCK: Well, my</p> <p>19 colleague who's in L.A. and, ah, Richard.</p> <p>20 ATTORNEY EMERY HARLAN: Okay. I definitely want</p> <p>21 Richard.</p> <p>22 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yeah,</p> <p>23 obviously.</p> <p>24 ATTORNEY EMERY HARLAN: Right.</p> <p>25 ASSISTANT CITY ATTORNEY KATHY BLOCK: And then</p>
<p style="text-align: right;">Page 135</p> <p>1 be excused?</p> <p>2 ATTORNEY EMERY HARLAN: [Inaudible]</p> <p>3 ALL: [Laughter]</p> <p>4 MR. DAVID ANDERSON: Thank you.</p> <p>5 MR. AVERILL: Thank you, sir.</p> <p>6 ASSISTANT CITY ATTORNEY KATHY BLOCK: Thank you</p> <p>7 so much for coming. We appreciate it.</p> <p>8 CHAIRMAN VINCENT BOBOT: Mr. Harlan, your next</p> <p>9 witness?</p> <p>10 ATTORNEY EMERY HARLAN: Um, Miss - why don't we</p> <p>11 call Ms. Jeffries.</p> <p>12 ASSISTANT CITY ATTORNEY KATHY BLOCK: Oh, I'm</p> <p>13 sorry. We - okay. Did we talk about that?</p> <p>14 ATTORNEY EMERY HARLAN: Actually, maybe we can</p> <p>15 call Ms. Kelsey back.</p> <p>16 MR. AVERILL: Yeah.</p> <p>17 ALL: [Laughter]</p> <p>18 CHAIRMAN VINCENT BOBOT: [Inaudible] she's been</p> <p>19 excused but obviously, by the look she gave -</p> <p>20 ATTORNEY EMERY HARLAN: The look she gave me.</p> <p>21 ALL: [Laughter]</p> <p>22 MR. BRAD HOESCHEN: That was, that was -</p> <p>23 CHAIRMAN VINCENT BOBOT: You won't answer your</p> <p>24 phone.</p> <p>25 MR. BRAD HOESCHEN: That was the most unimpressed</p>	<p style="text-align: right;">Page 137</p> <p>1 [Inaudible] is the only other guy -</p> <p>2 ATTORNEY EMERY HARLAN: Yeah.</p> <p>3 ASSISTANT CITY ATTORNEY KATHY BLOCK: - that</p> <p>4 [inaudible] to us.</p> <p>5 ATTORNEY EMERY HARLAN: Let's let Mr. Matson stay</p> <p>6 in his office.</p> <p>7 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yeah.</p> <p>8 ATTORNEY EMERY HARLAN: And, um -</p> <p>9 MS. RHONDA KELSEY: [Inaudible]?</p> <p>10 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yeah, if</p> <p>11 [inaudible].</p> <p>12 ATTORNEY EMERY HARLAN: Let me have Dennis,</p> <p>13 please.</p> <p>14 ASSISTANT CITY ATTORNEY KATHY BLOCK: Dennis from</p> <p>15 -</p> <p>16 ATTORNEY EMERY HARLAN: Yeah.</p> <p>17 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay.</p> <p>18 ATTORNEY EMERY HARLAN: And then Jerry -</p> <p>19 ASSISTANT CITY ATTORNEY KATHY BLOCK: Tell Jerry</p> <p>20 to -</p> <p>21 MS. LINDA ELMER: We're still on TV but okay, who</p> <p>22 -</p> <p>23 ASSISTANT CITY ATTORNEY KATHY BLOCK: Sorry.</p> <p>24 CHAIRMAN VINCENT BOBOT: Do you want to have - do</p> <p>25 you want to have them come up?</p>

<p style="text-align: right;">Page 138</p> <p>1 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yeah, ah -</p> <p>2 why don't we - no, Karen's probably going to take a while,</p> <p>3 would you agree?</p> <p>4 ATTORNEY EMERY HARLAN: Yeah. She -</p> <p>5 ASSISTANT CITY ATTORNEY KATHY BLOCK: But can we</p> <p>6 tell, um, Jerry Allen he's off the hook?</p> <p>7 MS. LINDA ELMER: Oh, okay.</p> <p>8 CHAIRMAN VINCENT BOBOT: Would the other</p> <p>9 witnesses - would that be available after -</p> <p>10 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yeah.</p> <p>11 CHAIRMAN VINCENT BOBOT: - Ms. Jeffries?</p> <p>12 ASSISTANT CITY ATTORNEY KATHY BLOCK: Karen,</p> <p>13 we're a little worried about her timing so we want to get</p> <p>14 her.</p> <p>15 CHAIRMAN VINCENT BOBOT: I guess what I'm worried</p> <p>16 about is that they go on a lunch break and they're not</p> <p>17 available and we'd like to -</p> <p>18 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yeah, well</p> <p>19 that's true. We might want to just kind of let people</p> <p>20 know.</p> <p>21 MS. LINDA ELMER: Okay. Bye.</p> <p>22 CHAIRMAN VINCENT BOBOT: This - that they'll be</p> <p>23 called -</p> <p>24 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yeah.</p> <p>25 CHAIRMAN VINCENT BOBOT: - to -</p>	<p style="text-align: right;">Page 140</p> <p>1 MR. BRAD HOESCHEN: As long as we're done by -</p> <p>2 CHAIRMAN VINCENT BOBOT: Any objections to -</p> <p>3 MR. BRAD HOESCHEN: - 1:30 or 2:00.</p> <p>4 CHAIRMAN VINCENT BOBOT: - if we work through</p> <p>5 lunch?</p> <p>6 MR. AVERILL: Yeah, otherwise [inaudible].</p> <p>7 MR. BRAD HOESCHEN: I, I mean - I have a feeling,</p> <p>8 ah, if, if we're going to be done by 1:30 or 2:00 by</p> <p>9 working through lunch, I'm willing to do that. But at some</p> <p>10 point, lack of food will cause -</p> <p>11 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay.</p> <p>12 MR. BRAD HOESCHEN: - lack of attention. Ah, so</p> <p>13 -</p> <p>14 ATTORNEY EMERY HARLAN: I think, you know, my</p> <p>15 perspective is I think the board has an understanding of</p> <p>16 what the issues are based on the witnesses we've had so</p> <p>17 far, um, and so that's why his testimony was very quick.</p> <p>18 So out of respect for you all's time, I'm trying to get</p> <p>19 through it.</p> <p>20 CHAIRMAN VINCENT BOBOT: Yeah, I think we also</p> <p>21 have a pretty good understanding of the issues.</p> <p>22 ATTORNEY EMERY HARLAN: Okay.</p> <p>23 MR. AVERILL: But, but also, we should have a</p> <p>24 full hearing for you -</p> <p>25 ATTORNEY EMERY HARLAN: Yeah.</p>
<p style="text-align: right;">Page 139</p> <p>1 MS. LINDA ELMER: He's very upset about it but</p> <p>2 he'll -</p> <p>3 ALL: [Laughter]</p> <p>4 ASSISTANT CITY ATTORNEY KATHY BLOCK: Maybe just</p> <p>5 let, um, Dennis and Richard and Marty know they're still on</p> <p>6 the hook but, you know, we're going -</p> <p>7 MS. LINDA ELMER: [Inaudible]</p> <p>8 ASSISTANT CITY ATTORNEY KATHY BLOCK: - into the</p> <p>9 afternoon.</p> <p>10 MS. LINDA ELMER: Okay.</p> <p>11 CHAIRMAN VINCENT BOBOT: It's, ah, that they</p> <p>12 should stay in the building.</p> <p>13 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay.</p> <p>14 MR. BRAD HOESCHEN: [Inaudible]?</p> <p>15 [INAUDIBLE BACKGROUND CONVERSATION]</p> <p>16 CHAIRMAN VINCENT BOBOT: I guess that's up to the</p> <p>17 committee.</p> <p>18 MR. BRAD HOESCHEN: What do you want to do?</p> <p>19 UNKNOWN MALE SPEAKER: Do you want to do a</p> <p>20 bifurcated meeting?</p> <p>21 MR. BRAD HOESCHEN: Do you want to go to lunch?</p> <p>22 Or stay for lunch? I mean, I don't mind working through</p> <p>23 lunch if -</p> <p>24 MR. AVERILL: I would, I would say let's work</p> <p>25 through lunch so that -</p>	<p style="text-align: right;">Page 141</p> <p>1 MR. AVERILL: - to make your full case.</p> <p>2 ATTORNEY EMERY HARLAN: And we will. In, in</p> <p>3 terms of - I will, you know, feel very comfortable with</p> <p>4 what we're doing.</p> <p>5 CHAIRMAN VINCENT BOBOT: Right.</p> <p>6 ATTORNEY EMERY HARLAN: But we'll also move</p> <p>7 expeditiously.</p> <p>8 MR. LEE: [Inaudible]</p> <p>9 ASSISTANT CITY ATTORNEY KATHY BLOCK: We're not</p> <p>10 going to be ready for you for a while, Richard.</p> <p>11 MR. LEE: Okay.</p> <p>12 ASSISTANT CITY ATTORNEY KATHY BLOCK: Sorry.</p> <p>13 Karen, why don't you come up.</p> <p>14 CHAIRMAN VINCENT BOBOT: Richard, are you -</p> <p>15 you're free to stay if you'd like.</p> <p>16 ATTORNEY EMERY HARLAN: Well, we, we actually -</p> <p>17 CHAIRMAN VINCENT BOBOT: It's just that we need</p> <p>18 to -</p> <p>19 ATTORNEY EMERY HARLAN: - reached an agreement -</p> <p>20 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yeah, he</p> <p>21 would prefer not have to witness.</p> <p>22 CHAIRMAN VINCENT BOBOT: Oh, yeah.</p> <p>23 ATTORNEY EMERY HARLAN: [Inaudible] on TV.</p> <p>24 ASSISTANT CITY ATTORNEY KATHY BLOCK: Actually,</p> <p>25 why don't you sit here, Karen. You don't mind if Karen</p>

<p style="text-align: right;">Page 142</p> <p>1 sits here, do you?</p> <p>2 MR. BRAD HOESCHEN: No, that's fine.</p> <p>3 ASSISTANT CITY ATTORNEY KATHY BLOCK: I think it</p> <p>4 will be easier for -</p> <p>5 MR. BRAD HOESCHEN: That's fine.</p> <p>6 ASSISTANT CITY ATTORNEY KATHY BLOCK: - Emery to</p> <p>7 see the witnesses if I'm not leaning all up in -</p> <p>8 MR. STEVE FRITSCHKE: Could you pull the</p> <p>9 microphone.</p> <p>10 MR. BRAD HOESCHEN: Ms. Jeffries, there we go.</p> <p>11 CHAIRMAN VINCENT BOBOT: Okay. Would you please</p> <p>12 raise your right hand?</p> <p>13 MS. LINDA ELMER: Do you solemnly affirm the</p> <p>14 pains and penalties of perj [sic] in the state of Wisconsin</p> <p>15 that the testimony you're about to give is the truth, the</p> <p>16 whole truth, and not [sic] the truth?</p> <p>17 MS. KAREN JEFFRIES: Yes.</p> <p>18 CHAIRMAN VINCENT BOBOT: Could you state your</p> <p>19 name and spell your last name for the record, please?</p> <p>20 MS. KAREN JEFFRIES: Karen Jeffries, J-e-f-f-r-i-</p> <p>21 e-s.</p> <p>22 CHAIRMAN VINCENT BOBOT: Okay, Mr. Harlan, your</p> <p>23 witness.</p> <p>24 ATTORNEY EMERY HARLAN: Ah, good - I, I'm</p> <p>25 assuming it's still morning. Good morning, Ms. Jeffries.</p>	<p style="text-align: right;">Page 144</p> <p>1 MS. KAREN JEFFRIES: No, it was just assigned by</p> <p>2 director, Kelsey.</p> <p>3 ATTORNEY EMERY HARLAN: Okay.</p> <p>4 MS. KAREN JEFFRIES: Yes.</p> <p>5 ATTORNEY EMERY HARLAN: And, um, tell me about</p> <p>6 the evaluation committee process. How did, how did that</p> <p>7 committee get formed?</p> <p>8 MS. KAREN JEFFRIES: The department proposes a</p> <p>9 committee and then that information is shared with the</p> <p>10 director for a final decision as to is this a complete</p> <p>11 committee in terms of, ah, evaluation? Um, should anyone be</p> <p>12 added? So that's a decision that our director would make,</p> <p>13 so -</p> <p>14 ATTORNEY EMERY HARLAN: Okay.</p> <p>15 MS. KAREN JEFFRIES: - that's essentially the</p> <p>16 process.</p> <p>17 ATTORNEY EMERY HARLAN: So that's the general</p> <p>18 process and in this particular case, is that how the</p> <p>19 process played out?</p> <p>20 MS. KAREN JEFFRIES: Yes.</p> <p>21 ATTORNEY EMERY HARLAN: And when you say the</p> <p>22 department, was that the controller's office?</p> <p>23 MS. KAREN JEFFRIES: Yes.</p> <p>24 ATTORNEY EMERY HARLAN: And in particular, was</p> <p>25 that Mr. Lee?</p>
<p style="text-align: right;">Page 143</p> <p>1 How are you?</p> <p>2 MS. KAREN JEFFRIES: Good morning. Fine, thank</p> <p>3 you.</p> <p>4 ATTORNEY EMERY HARLAN: Um, so you're in a</p> <p>5 purchase, purchasing department. Are you a purchasing</p> <p>6 agent?</p> <p>7 MS. KAREN JEFFRIES: Yes, I'm a purchasing</p> <p>8 specialist.</p> <p>9 ATTORNEY EMERY HARLAN: Okay.</p> <p>10 MS. KAREN JEFFRIES: Procurement specialist.</p> <p>11 ATTORNEY EMERY HARLAN: Okay. How long have you</p> <p>12 been in the purchasing department, ma'am?</p> <p>13 MS. KAREN JEFFRIES: Since 2011.</p> <p>14 ATTORNEY EMERY HARLAN: Okay. And in that time,</p> <p>15 you've been part of a number of RFP scenarios like the one</p> <p>16 that this hearing's about?</p> <p>17 MS. KAREN JEFFRIES: Yes.</p> <p>18 ATTORNEY EMERY HARLAN: Okay. And you report</p> <p>19 directly to Ms. Kelsey?</p> <p>20 MS. KAREN JEFFRIES: Yes.</p> <p>21 ATTORNEY EMERY HARLAN: Okay. Alright. So how</p> <p>22 did you get involved in this particular procurement? Did</p> <p>23 she, Ms. Kelsey, ask you to do that? Or is it</p> <p>24 automatically come - you have certain departments that you</p> <p>25 work with?</p>	<p style="text-align: right;">Page 145</p> <p>1 MS. KAREN JEFFRIES: I would have made the email</p> <p>2 request to Mr. Lee and his response would have been shared</p> <p>3 with the director, yes.</p> <p>4 ATTORNEY EMERY HARLAN: Okay. And just for</p> <p>5 clarity, all the people then who made it on to the</p> <p>6 evaluation committee essentially were people that Mr. Lee</p> <p>7 suggested?</p> <p>8 MS. KAREN JEFFRIES: Correct; proposed by their</p> <p>9 department, yes.</p> <p>10 ATTORNEY EMERY HARLAN: Right.</p> <p>11 MS. KAREN JEFFRIES: And he is their</p> <p>12 representative that I would work with on this particular</p> <p>13 solicitation.</p> <p>14 MR. STEVE FRITSCHKE: Could, could you hold the</p> <p>15 microphone just a little closer?</p> <p>16 MS. KAREN JEFFRIES: Sure.</p> <p>17 MR. STEVE FRITSCHKE: You're just a little - thank</p> <p>18 you.</p> <p>19 ATTORNEY EMERY HARLAN: Right. And so, there</p> <p>20 weren't, for instance, individuals you or Ms. Kelsey</p> <p>21 suggested who made it on the committee.</p> <p>22 MS. KAREN JEFFRIES: No.</p> <p>23 ATTORNEY EMERY HARLAN: Now originally, Mr.</p> <p>24 Matson was supposed to be on the committee but he wasn't,</p> <p>25 correct?</p>

<p style="text-align: right;">Page 146</p> <p>1 MS. KAREN JEFFRIES: I'm not sure if he was 2 supposed to be on the committee. He's - as the leader of 3 that department - he should definitely be aware of some of 4 the initial communications but it's not my understanding 5 that he was supposed to be on the committee. 6 ATTORNEY EMERY HARLAN: Okay. And I understand 7 that you all have, you know, various rules in the 8 purchasing area that, that, ah, people follow. One, one of 9 the, one of the most important rules, would you agree, is 10 that basically, once the RFP is on the street, the 11 proposers don't have contact or are not supposed to have 12 contact with anybody on the committee, right? 13 MS. KAREN JEFFRIES: That is correct. 14 ATTORNEY EMERY HARLAN: Right. They're not to 15 ask questions, send them emails, or anything like that, 16 right? 17 MS. KAREN JEFFRIES: Correct. 18 ATTORNEY EMERY HARLAN: Alright. 19 MS. KAREN JEFFRIES: Yes. 20 ATTORNEY EMERY HARLAN: And is it your 21 understanding of the department rules if that were to 22 happen, then the evaluation committee member reports that 23 to purchasing and the committee, correct? 24 MS. KAREN JEFFRIES: We would; that would be the 25 expectation.</p>	<p style="text-align: right;">Page 148</p> <p>1 ATTORNEY EMERY HARLAN: Now it's my 2 understanding, um, that there is a process in connection 3 with these proposals when the Office of Small Business 4 looks at what is, what is intended to be procured and makes 5 a decision about whether, ah, there should be a requirement 6 for SBE participation, correct? 7 MS. KAREN JEFFRIES: That's correct. 8 ATTORNEY EMERY HARLAN: And was that process 9 followed in this situation? 10 MS. KAREN JEFFRIES: Yes. A document that, um, 11 is generated by the purchasing division called the Request 12 for Exception to Bid form is submitted to the Office of 13 Small Business Development and that's where the business 14 analysts from their department will take a look at the 15 scope and determine if an SBE requirement is to be placed 16 on the solicitation before it's published. 17 ATTORNEY EMERY HARLAN: And is the reason that 18 there are even SBE requirements because of the city's 19 desire, um, from a policy standpoint to have significant 20 SBE participation in procurements? 21 MS. KAREN JEFFRIES: Ah - 22 ATTORNEY EMERY HARLAN: If you know. 23 ASSISTANT CITY ATTORNEY KATHY BLOCK: I was just 24 going to say - thank you. 25 MS. KAREN JEFFRIES: The code of ordinances.</p>
<p style="text-align: right;">Page 147</p> <p>1 ATTORNEY EMERY HARLAN: Alright. Now in terms of 2 the RFP for disclosure counsel that is again the subject of 3 this hearing, can it - kind of walk us through how that 4 developed. How did the RFP come together as a document? 5 MS. KAREN JEFFRIES: We get the scope of services 6 from the department and the paperwork is compiled and then 7 loaded into our Bonfire software portal and then a date is 8 determined for it to be actually posted and it's, ah, 9 reviewed by our director to make sure that the scope is, 10 um, complete and then it's posted. 11 ATTORNEY EMERY HARLAN: So is it fair to say the 12 process is kind of hybrid in the sense that the department 13 is providing some of the substantive elements and then 14 there are other elements that are kind of used in all the 15 RFP processes that the purchasing department supplies. 16 MS. KAREN JEFFRIES: Correct. 17 ATTORNEY EMERY HARLAN: And that would, in this 18 particular procurement mean that, for instance, the 19 purchasing department, um, really provided the information 20 about Local Business Enterprise and Small Business 21 Enterprise, correct? 22 MS. KAREN JEFFRIES: Correct. 23 ATTORNEY EMERY HARLAN: That's not something that 24 Mr. Lee or Mr. Matson dictated. 25 MS. KAREN JEFFRIES: Correct.</p>	<p style="text-align: right;">Page 149</p> <p>1 ATTORNEY EMERY HARLAN: Right. 2 MS. KAREN JEFFRIES: Yes. 3 ATTORNEY EMERY HARLAN: And based on, ah - okay. 4 And, ah, and based on your knowledge of the procurement 5 process, it has been a area of priority to have SBE 6 participation in the procurement process, right? 7 MS. KAREN JEFFRIES: That is to be checked for 8 each solicitation before it goes out, yes. 9 ATTORNEY EMERY HARLAN: Right. And based on your 10 understanding, it's something that the city and the mayor 11 and the purchasing department is serious about, correct? 12 MS. KAREN JEFFRIES: If you're asking if that's 13 my assumption, that would be a correct assumption. 14 ATTORNEY EMERY HARLAN: Okay. And in this 15 particular case, do you have a recollection of - because 16 apparently, there was no requirement placed on this 17 particular procurement for SBE participation; it was an 18 optional item. 19 MS. KAREN JEFFRIES: Correct. 20 ATTORNEY EMERY HARLAN: Did you have any 21 discussions with the folks in the Office of Small Business 22 Enterprises or Small Business Development in terms of why a 23 decision was made in that regard? 24 MS. KAREN JEFFRIES: No. 25 ATTORNEY EMERY HARLAN: Okay. But you recall</p>

<p style="text-align: right;">Page 150</p> <p>1 getting a document of some sort back from them?</p> <p>2 MS. KAREN JEFFRIES: Correct.</p> <p>3 ATTORNEY EMERY HARLAN: Okay. You still have</p> <p>4 that document?</p> <p>5 MS. KAREN JEFFRIES: It would be in the file and,</p> <p>6 again, it would be entitled the Request for Exception to</p> <p>7 Bidding form.</p> <p>8 ATTORNEY EMERY HARLAN: Okay. And why is it</p> <p>9 called Exception to Bidding? Were you asking the</p> <p>10 department to have an exception for SBE, SBE requirement?</p> <p>11 MS. KAREN JEFFRIES: I can't speak to why that is</p> <p>12 the title of the form.</p> <p>13 ATTORNEY EMERY HARLAN: But in, in sending</p> <p>14 information to that department, you weren't asking for an</p> <p>15 exception to the SBE requirement to be made.</p> <p>16 MS. KAREN JEFFRIES: No.</p> <p>17 ATTORNEY EMERY HARLAN: Okay.</p> <p>18 MS. KAREN JEFFRIES: There's a doc - a portion of</p> <p>19 the document that gives them an opportunity to place a</p> <p>20 percentage and sign off on that document. Why it's</p> <p>21 entitled that, I'm not sure.</p> <p>22 ATTORNEY EMERY HARLAN: Okay.</p> <p>23 UNKNOWN FEMALE SPEAKER: [Inaudible]</p> <p>24 ATTORNEY EMERY HARLAN: Okay.</p> <p>25 UNKNOWN FEMALE SPEAKER: [Inaudible]</p>	<p style="text-align: right;">Page 152</p> <p>1 ATTORNEY EMERY HARLAN: One of the things that I</p> <p>2 noted, unless I missed it, there's, there's nothing in this</p> <p>3 document about requiring a Form A; a form from - that talks</p> <p>4 about the SBE participation, correct?</p> <p>5 MS. KAREN JEFFRIES: I don't see it referenced.</p> <p>6 ATTORNEY EMERY HARLAN: Okay. Alright. And I</p> <p>7 note that this document was amended in February?</p> <p>8 MS. KAREN JEFFRIES: I -</p> <p>9 ATTORNEY EMERY HARLAN: Were you -</p> <p>10 MS. KAREN JEFFRIES: Our procurement - I would</p> <p>11 not be involved in that. Our procurement administrator</p> <p>12 would be most likely involved with that -</p> <p>13 ATTORNEY EMERY HARLAN: Okay.</p> <p>14 MS. KAREN JEFFRIES: - and any updates to this</p> <p>15 document. But it is dated - updated February 28, 2018. I</p> <p>16 can say that.</p> <p>17 ATTORNEY EMERY HARLAN: Okay.</p> <p>18 MS. KAREN JEFFRIES: That's printed right there.</p> <p>19 ATTORNEY EMERY HARLAN: Okay, and you don't know</p> <p>20 how it was changed from what was in place during the</p> <p>21 procurement to that date, correct?</p> <p>22 MS. KAREN JEFFRIES: No.</p> <p>23 ATTORNEY EMERY HARLAN: And, um, do you know</p> <p>24 anything about what's provided in paragraph three relative</p> <p>25 to there not being an appeal process for RFP's?</p>
<p style="text-align: right;">Page 151</p> <p>1 ATTORNEY EMERY HARLAN: You have the exhibits in</p> <p>2 front of you?</p> <p>3 UNKNOWN FEMALE SPEAKER: [Inaudible]</p> <p>4 ASSISTANT CITY ATTORNEY KATHY BLOCK: Ah, in the</p> <p>5 binder.</p> <p>6 ATTORNEY EMERY HARLAN: You can look at number</p> <p>7 eight.</p> <p>8 CHAIRMAN VINCENT BOBOT: And Ms. Jeffries, you</p> <p>9 can look at number eight and after you're done looking at</p> <p>10 it, you can let us know and you can resume questioning.</p> <p>11 ATTORNEY EMERY HARLAN: Are you familiar with</p> <p>12 that document, ma'am?</p> <p>13 MS. KAREN JEFFRIES: The Purchasing Liaison</p> <p>14 Manual? Yes.</p> <p>15 ATTORNEY EMERY HARLAN: And what is it?</p> <p>16 MS. KAREN JEFFRIES: It is a document that's</p> <p>17 placed out on our - the city's website to give departments</p> <p>18 insight as to general processes that are used in the</p> <p>19 purchasing division and some of our requirements.</p> <p>20 ATTORNEY EMERY HARLAN: Okay. And this is, would</p> <p>21 you agree, an important document for purposes of, ah, kind</p> <p>22 of the rules of the road for the procurement process,</p> <p>23 correct?</p> <p>24 MS. KAREN JEFFRIES: Yes, that would be the</p> <p>25 intent.</p>	<p style="text-align: right;">Page 153</p> <p>1 MS. KAREN JEFFRIES: I can't speak to this</p> <p>2 document. The procurement administrator and our director</p> <p>3 handle the - this document. We, as agents, don't.</p> <p>4 ASSISTANT CITY ATTORNEY KATHY BLOCK: Where are</p> <p>5 you? I'm sorry, where are you?</p> <p>6 ATTORNEY EMERY HARLAN: It's on page two in the</p> <p>7 third paragraph. It says in bold, "There is no appeal</p> <p>8 process for an RFP," which this is, right?</p> <p>9 ASSISTANT CITY ATTORNEY KATHY BLOCK: I really</p> <p>10 don't know where you're looking, sorry.</p> <p>11 MR. BRAD HOESCHEN: Page 41 -</p> <p>12 ASSISTANT CITY ATTORNEY KATHY BLOCK: It's on</p> <p>13 page forty-one?</p> <p>14 MR. BRAD HOESCHEN: It's labeled page 41; it's</p> <p>15 page two of the -</p> <p>16 ASSISTANT CITY ATTORNEY KATHY BLOCK: Oh, I -</p> <p>17 MR. BRAD HOESCHEN: - exhibit.</p> <p>18 ASSISTANT CITY ATTORNEY KATHY BLOCK: - thank</p> <p>19 you.</p> <p>20 CHAIRMAN VINCENT BOBOT: And she did answer the</p> <p>21 question; she doesn't have any knowledge.</p> <p>22 MS. KAREN JEFFRIES: I'm sorry.</p> <p>23 ATTORNEY EMERY HARLAN: Okay.</p> <p>24 CHAIRMAN VINCENT BOBOT: What leads to that or</p> <p>25 may not - it sounds like it's beyond her, her, ah, job</p>

<p style="text-align: right;">Page 154</p> <p>1 title, or function.</p> <p>2 ATTORNEY EMERY HARLAN: Now, did you participate</p> <p>3 in, in all aspects of this procurement?</p> <p>4 MS. KAREN JEFFRIES: Yes.</p> <p>5 ATTORNEY EMERY HARLAN: Okay, so, um, walk us</p> <p>6 through how the process worked. Ah, you know, once the</p> <p>7 committee was put together, what, what happened next?</p> <p>8 MS. KAREN JEFFRIES: Once the committee is put</p> <p>9 together, the RFP is approved and posted, proposals are</p> <p>10 due, and they're received, then I look at the documentation</p> <p>11 that has been received in our Bonfire portal and to be sure</p> <p>12 that, um, general requirements are met, that binding</p> <p>13 signatures are there, um, just basic information before I</p> <p>14 move the proposals to the evaluators. And this is done</p> <p>15 through the Bonfire software, so it's not a matter of a</p> <p>16 verbal conversation. It's - I look at the proposals</p> <p>17 received to see if they are in a form that is reviewable by</p> <p>18 the evaluators and then I move the proposals, technically,</p> <p>19 in the Bonfire software to the evaluators and they received</p> <p>20 emails letting them know that these proposals are now ready</p> <p>21 for your evaluation process.</p> <p>22 ATTORNEY EMERY HARLAN: Okay.</p> <p>23 MS. KAREN JEFFRIES: And once they're reviewed by</p> <p>24 the evaluators, then the scores are compiled. What I look</p> <p>25 at are the Local Business Enterprise and to see if the</p>	<p style="text-align: right;">Page 156</p> <p>1 sometimes I do have to consult with the director but that's</p> <p>2 after the evaluation process is done by the evaluators and</p> <p>3 their scores are in Bonfire.</p> <p>4 ATTORNEY EMERY HARLAN: Okay, so -</p> <p>5 MS. KAREN JEFFRIES: Hmm-hmm.</p> <p>6 ATTORNEY EMERY HARLAN: - just so I'm clear about</p> <p>7 the standard operating procedure, so you're saying that it</p> <p>8 is not the standard operating procedure to, um, essentially</p> <p>9 withhold points or disqualify firms that have failed to</p> <p>10 follow the procurement process in terms of submitting the</p> <p>11 necessary forms prior to the scoring.</p> <p>12 MS. KAREN JEFFRIES: It is not the standard</p> <p>13 process to do that, no.</p> <p>14 ATTORNEY EMERY HARLAN: Okay. Would it surprise</p> <p>15 you that Ms. Kelsey said that that was the standard</p> <p>16 process? Okay, I'll move on. So, so basically in this</p> <p>17 situation, um, you looked at the, the various proposals,</p> <p>18 took note of whether they had the LBE affidavit or the SBE</p> <p>19 form and ultimately, passed the proposals on to the</p> <p>20 evaluation committee without comment.</p> <p>21 MS. KAREN JEFFRIES: Right, because they're not</p> <p>22 responsible for scoring LBE. They would be responsible for</p> <p>23 scoring the SBE -</p> <p>24 ATTORNEY EMERY HARLAN: Okay.</p> <p>25 MS. KAREN JEFFRIES: - aspect of the scoring in</p>
<p style="text-align: right;">Page 155</p> <p>1 forms are there and if the forms are there, so I'm backing</p> <p>2 up somewhat before they go to the evaluators. I am looking</p> <p>3 at the Local Business Enterprise forms that are submitted,</p> <p>4 or not submitted, when it's not applicable. And I do look</p> <p>5 at the Office of Small Business Development forms if they</p> <p>6 are there so that I have an idea of what I am forwarding on</p> <p>7 for the evaluator's review.</p> <p>8 ATTORNEY EMERY HARLAN: Okay.</p> <p>9 MS. KAREN JEFFRIES: So once the review is done,</p> <p>10 then I look at the scores that are in Bonfire and I -</p> <p>11 ATTORNEY EMERY HARLAN: Well, let's - before we</p> <p>12 get to the scoring aspect of it -</p> <p>13 MS. KAREN JEFFRIES: Okay.</p> <p>14 ATTORNEY EMERY HARLAN: So the standard operating</p> <p>15 procedure when, when you run these procurements in RFP</p> <p>16 context, is - in respect to the LBE forms to the extent</p> <p>17 it's, ah, applicable - you look at it and then determine</p> <p>18 whether the proposers have complied with the, um,</p> <p>19 requirements. Um, and if not, then you so indicate that</p> <p>20 they have not complied, correct?</p> <p>21 MS. KAREN JEFFRIES: I look at the forms to see</p> <p>22 if they are submitted, if they are included, and then I</p> <p>23 will go ahead and apply the points. Or I will have a</p> <p>24 conversation with my director to find out if this</p> <p>25 particular form should have points assigned. But, um, so</p>	<p style="text-align: right;">Page 157</p> <p>1 Bonfire. So it can move on because that's something that</p> <p>2 is determined within the purchasing division; never by the</p> <p>3 evaluators. So there's no reason to hold it up for that.</p> <p>4 So can you refer me then to, I guess - since exhibit number</p> <p>5 eight is kind of the critical document that lays out how</p> <p>6 the, the process is supposed to work - can you refer me to</p> <p>7 the part of that that says that the evaluation committee</p> <p>8 does not have decision making authority on the issue of</p> <p>9 whether LBE bonus points or SBE points are to be awarded?</p> <p>10 MS. KAREN JEFFRIES: I'm glancing - as I said, I</p> <p>11 don't offer this or contribute to this - so, um, I don't</p> <p>12 see any reference to LBE.</p> <p>13 ATTORNEY EMERY HARLAN: So is it in the city</p> <p>14 ordinance? Where would I find support for what you said in</p> <p>15 terms of the fact that the evaluation committee does not</p> <p>16 score proposals or award points for LBE or SBE?</p> <p>17 MS. KAREN JEFFRIES: I don't know where you would</p> <p>18 find it. I don't see SBE or LBE referenced in -</p> <p>19 ATTORNEY EMERY HARLAN: Okay.</p> <p>20 MS. KAREN JEFFRIES: - section eight.</p> <p>21 ATTORNEY EMERY HARLAN: Okay. But aside from</p> <p>22 exhibit eight, is there anywhere you're aware of where that</p> <p>23 is set forth? Is it in an ordinance?</p> <p>24 MS. KAREN JEFFRIES: I can't say I'm aware of it</p> <p>25 being in writing anywhere.</p>

<p style="text-align: right;">Page 158</p> <p>1 ATTORNEY EMERY HARLAN: Are the - are the, ah, 2 evaluation com - ah, committee members told that they have 3 absolutely no input or discretion in terms of whether LBE 4 bonus points or SBE bonus points are to be awarded? 5 MS. KAREN JEFFRIES: They're two separate 6 categories in the Bonfire software. So when I release the 7 proposals to the committee, the category for SBE is 8 available for them to score. The LBE category is not 9 released to them to score. So - 10 ATTORNEY EMERY HARLAN: Okay, so - 11 MS. KAREN JEFFRIES: - but it's not verbally 12 stated but it's not provided to them to score LBE; only 13 SBE. 14 ATTORNEY EMERY HARLAN: Okay. So the SBE scoring 15 is available to them irrespective of whether a firm has 16 filled out a Form A. 17 MS. KAREN JEFFRIES: It is available to them to 18 score. 19 ATTORNEY EMERY HARLAN: Okay. And so, in this 20 particular instance, the proposals were sent to the 21 committee; no firm was disqualified based upon not having 22 completed Form A. 23 MS. KAREN JEFFRIES: No; no firm was 24 disqualified. 25 ATTORNEY EMERY HARLAN: And in fact, the</p>	<p style="text-align: right;">Page 160</p> <p>1 is - first, back up. The assumption is that they have not 2 had an opportunity to meet with each other. They've scored 3 independently in the Bonfire software so as a committee, 4 this is their first opportunity to come together and look 5 at the scores. Their names are not attached to the scores 6 but I show them on a screen the compilation of the scores 7 so that they can see the highest ranked, second ranked, 8 third ranked proposer. So that is the purpose of that 9 initial meeting and, um, yeah, so that would be the 10 purpose. 11 ATTORNEY EMERY HARLAN: Okay. So is, is the 12 standard operating procedure based on how the process 13 normally works that once the committee is aware of the 14 scoring, do they have discretion to be able to change the 15 scoring? 16 MS. KAREN JEFFRIES: It would depend on the 17 circumstance. Say, for example, it's a project that would 18 require demonstrations from top ranked proposers, if they 19 go through the demonstration process for a day or two and 20 see a product, how it actually works, and if they feel they 21 need an opportunity to say, change or revise their scores 22 based on what they read in the proposal and saw in the 23 demonstration, so that would be, um, I can't say, no, 24 they're never given an opportunity to revisit their scores 25 but there'd have to be a true, valid reason to give that</p>
<p style="text-align: right;">Page 159</p> <p>1 evaluation committee was asked to conduct an evaluation to 2 award points based on the SBE component. 3 MS. KAREN JEFFRIES: They - that category was 4 provided and they did provide scores for that category. 5 ATTORNEY EMERY HARLAN: Okay. And were they 6 allowed to vote in terms of whether the SBE withdrawal of 7 points was an appropriate measure to take? 8 MS. KAREN JEFFRIES: No, that is a discussion 9 that I had with the director after the scores are received 10 in Bonfire. 11 ATTORNEY EMERY HARLAN: Okay. Now, so, so the 12 proposals went to the evaluation committee, they scored it 13 in Bonfire, and at some point, the evaluation committee got 14 together to meet. 15 MS. KAREN JEFFRIES: Right. I convene a meeting 16 for everyone to come together and talk about their scores 17 and I let them know who the highest ranked proposer is and 18 it gives them an opportunity to talk about their scores 19 that they recorded in Bonfire, as well as any notes that 20 they entered into the Bonfire software. 21 ATTORNEY EMERY HARLAN: So what I'm struggling 22 with is trying to understand the purpose of them meeting 23 after they've scored the proposals. Um, is there a process 24 whereby they can change their scoring? 25 MS. KAREN JEFFRIES: The purpose of the meeting</p>	<p style="text-align: right;">Page 161</p> <p>1 opportunity. 2 ATTORNEY EMERY HARLAN: So it's my understanding, 3 um, that one of the potentials here were, was that the 4 committee, um, was contemplating having interviews. Is 5 that correct? 6 MS. KAREN JEFFRIES: That is an opportunity. 7 When I present the agenda, that is one of the items I ask 8 them: Do you feel that you need an interview with the 9 highest ranked proposer or their top two highest ranked 10 proposers? So that is an option that is up to the 11 committee and I would facilitate that process if they felt 12 they needed that. 13 ATTORNEY EMERY HARLAN: Okay. And so that 14 specifically was raised with this evaluation committee. 15 MS. KAREN JEFFRIES: With all committees, if they 16 feel they need an interview or they need demonstrations, 17 hmm-hmm. 18 ATTORNEY EMERY HARLAN: And do you recall what 19 the discussion was, ah, specifically - I don't want you to 20 guess about how it generally happens - but for this 21 procurement, do you recall what was said about the wisdom, 22 um, of, of having interviews or not? 23 MS. KAREN JEFFRIES: I can't recall specifically 24 but the op - if they wanted it, I would have facilitated 25 it. So as a committee, they did not ask for that as</p>

<p style="text-align: right;">Page 162</p> <p>1 something that they needed in order to make a final 2 decision on accepting the highest ranked proposer according 3 to the scores. And the meeting is, again, an opportunity 4 for them to hear from each other what their thoughts were 5 about the proposals and if they felt that they gained an 6 insight that should be revisited in their scores, then 7 again, that would be an opportunity but, um, yeah. 8 ATTORNEY EMERY HARLAN: Okay. 9 MS. KAREN JEFFRIES: Normally they don't revise 10 their scores unless someone on the committee expresses a 11 true need to be able to do that once they gain some 12 insights from that initial discussion. 13 ATTORNEY EMERY HARLAN: So, you - 14 MS. KAREN JEFFRIES: It's not common. 15 ATTORNEY EMERY HARLAN: You mentioned that one of 16 the things that could possibly change the scoring is, for 17 instance, if a, a decision was made by the evaluation 18 committee to have a bidder or proposer do a demonstration. 19 And based on your understanding of the procurement rules, 20 that could allow the committee to, for instance, take a 21 number two ranked proposer and make that person the 22 awardee, correct? 23 MS. KAREN JEFFRIES: The end result; that could 24 be the end result. 25 ATTORNEY EMERY HARLAN: Right. And would the</p>	<p style="text-align: right;">Page 164</p> <p>1 hmm-hmm. 2 ATTORNEY EMERY HARLAN: Okay. And it says, 3 "Affidavit of Compliance;" that it was, "Recorded on page 4 one of Affidavit of Compliance." What was recorded? 5 MS. KAREN JEFFRIES: Okay, there - Affidavit of 6 Compliance would indicate that whatever name was there, um, 7 I have there, "No affidavit." 8 ATTORNEY EMERY HARLAN: Well, that's just - 9 that's under the bonus points - 10 MS. KAREN JEFFRIES: Hmm-hmm. 11 ATTORNEY EMERY HARLAN: - category. I'm just 12 trying to figure out what that means. Does that mean that 13 you had notes on the Affidavit of Compliance that you 14 inputted into Bonfire? Or what? What's, what's that mean? 15 MS. KAREN JEFFRIES: I can't say what that means; 16 that's not something that I would have typed in there, 17 "Recorded on page one." That's not something that I would 18 have entered there. My comments are in caps, "NO 19 AFFIDAVIT." So maybe the system - I see that it's repeated 20 again, "Recorded by Karen Jeffries," um, "Recorded by 21 Richard," so it may be the system maybe inputting and 22 printing information there? 23 ATTORNEY EMERY HARLAN: Okay. 24 MS. KAREN JEFFRIES: And it's prefaced with, 25 "Recorded on," "Recorded by." It's not something that I</p>
<p style="text-align: right;">Page 163</p> <p>1 same hold true for interview process? If they were really 2 impressed with a proposer who was the number three ranked 3 proposer and thought based on what was communicated during 4 the interview process, that number three proposer should be 5 the number one proposer. Based on your understanding of 6 the process and the rules, was that permissible? 7 MS. KAREN JEFFRIES: Once they revisit their 8 scores, there could definitely be a change in the ranking. 9 ATTORNEY EMERY HARLAN: Okay. Thank you. So are 10 you - so some of the information we have, ah, exhibit 11 number three, which is data that comes from Bonfire, I 12 believe. 13 MS. KAREN JEFFRIES: Yes. 14 ATTORNEY EMERY HARLAN: Okay. So, um, trying to 15 understand what you inputted verses what the committee 16 inputted. So looking on page one under the Katten Muchin 17 proposal, it says, um, "Comments: Lowest cost," in that 18 evaluation group number one. "Primary reason: Other, 19 recorded on page one of Affidavit of Compliance." What's 20 that mean? Well, first of all, I'm assuming you wrote - 21 you, you inputted that information into Bonfire? 22 MS. KAREN JEFFRIES: Yes, for anything that has 23 my name attached to it, that would be my comments that I 24 added in. For cost, I'm the only person that would 25 evaluate the cost and assign the cost points, and then LBE,</p>	<p style="text-align: right;">Page 165</p> <p>1 type in. 2 ATTORNEY EMERY HARLAN: Okay. Got it. Going to, 3 um, on that same page under A2, you have, "SBE 4 corrections," and it says, "Quarles & Brady, minus 9.6." 5 So am I correct what that means, um, is that when the 6 points were calculated, they got nine point - that proposal 7 got 9.6 and here a decision is being made by your 8 department or you to take those points away. 9 MS. KAREN JEFFRIES: The decision was made by - 10 after speaking with my director and reviewing all of the 11 scores - the decision was made to take those points away 12 because they did not submit their plan. 13 ATTORNEY EMERY HARLAN: Okay. 14 MS. KAREN JEFFRIES: Hmm-hmm. 15 ATTORNEY EMERY HARLAN: And - 16 MS. KAREN JEFFRIES: And the same for Duane 17 Morris. 18 ATTORNEY EMERY HARLAN: Okay. 19 MS. KAREN JEFFRIES: So that's after the 20 evaluators have entered their scores. 21 ATTORNEY EMERY HARLAN: Okay. And, um, just so 22 I'm clear, your, your testimony is that prior to making the 23 decision to withdraw the 9.6 points, you have a specific 24 recollection of talking with Ms. Kelsey about that issue. 25 MS. KAREN JEFFRIES: About the entire ranking</p>

<p style="text-align: right;">Page 166</p> <p>1 because once I've had the meeting with the committee and I 2 receive an email from the committee pretty much stating 3 that, who they would like to go with, that they are 4 confirming the highest ranked proposer, then I present that 5 information to the director and sit down and share with her 6 who the highest ranked proposer is, second ranked, and what 7 I found in the aspects that I scored and discuss what do I 8 do with this matter here. Because if they don't have their 9 plan, they shouldn't have the points. And if you're going 10 to take away points from one, you take points from the 11 second vendor. So the conver - the conversation was larger 12 than just SBE, LBE. It's a matter of many other aspects 13 before I was - would move into award. Yeah, this would 14 have been part of a bigger conversation with her. 15 ATTORNEY EMERY HARLAN: Okay, so, so in this 16 particular case, you're saying that the evaluation 17 committee voted, they assigned points, and then when the 18 committee got together as a group, by that point in time 19 you had met with Ms. Kelsey and decided that the points 20 should be withdrawn. 21 MS. KAREN JEFFRIES: The points were, were not 22 supported by the required OSBD form and so everything that 23 we publish that says that form was required if you wanted 24 to receive SBE points. So by, by it not being there, 25 that's one thing that I would have presented to her. And</p>	<p style="text-align: right;">Page 168</p> <p>1 when I discussed with her, "This is where it stands right 2 now, this is what was presented to the committee. Now I 3 need to do know what do I do about these SBE points and 4 LBE, as well? Because if the form is there, do we allow 5 and give them the bonus points for LBE?" So it was part of 6 a bigger discussion; what do we do with the forms that are 7 submitted for LBE and SBE. 8 ATTORNEY EMERY HARLAN: Well, but isn't that 9 information that the committee would want to know? So it's 10 one thing if there's a 20 point difference - 11 MS. KAREN JEFFRIES: If the - after that 12 discussion, if the ranking was to change, then yes, I would 13 have to go back to the committee. After that discussion, 14 larger discussion, the ranking did not change. So they 15 were comfortable going with the highest ranked proposer. 16 The ranking did not change. 17 ATTORNEY EMERY HARLAN: Okay. But we now know 18 from Ms. Kelsey's testimony that your department has 19 admitted a mistake as it relates to LBE points being 20 awarded; that was testified to that those 10 points should 21 have been awarded to the Quarles & Brady MWH proposal. 22 That's after the fact. But isn't that information that the 23 committee could have used, for instance, to determine 24 whether they have an interview process or not? 25 ASSISTANT CITY ATTORNEY KATHY BLOCK: Objection;</p>
<p style="text-align: right;">Page 167</p> <p>1 the fact that there was a second vendor that received 2 points, so that would - 3 ATTORNEY EMERY HARLAN: Right. I'm just, I'm 4 just trying to understand the timing of it; that, that's 5 it. 6 MS. KAREN JEFFRIES: Okay. That would have been 7 after the committee had provided their scores and I can see 8 that points before this summary is published on our website 9 that would be inaccurate for them to have points so that's 10 a discussion that I would have had so that she knows why 11 I'm removing these points because I'm the only one that - 12 for this RFP - that could go into Bonfire and change the 13 points. 14 ATTORNEY EMERY HARLAN: Okay. 15 MS. KAREN JEFFRIES: So - 16 ATTORNEY EMERY HARLAN: And so that happened 17 before the committee met? 18 MS. KAREN JEFFRIES: No, that would have been 19 after they met and I'm ready to award and it was part of a 20 bigger discussion. 21 ATTORNEY EMERY HARLAN: So how would the 22 committee have been in the position to figure out what they 23 wanted to do without a final determination being made about 24 the points for LBE and SBE? 25 MS. KAREN JEFFRIES: And that would have been</p>	<p style="text-align: right;">Page 169</p> <p>1 calls for speculation. 2 CHAIRMAN VINCENT BOBOT: Um, would you know? Or 3 would you have to speculate? Would you have to guess? 4 MS. KAREN JEFFRIES: I would have to - I would 5 say speculate because - 6 CHAIRMAN VINCENT BOBOT: Alright, I'll - 7 ATTORNEY EMERY HARLAN: Well - 8 CHAIRMAN VINCENT BOBOT: - sustain it. 9 ATTORNEY EMERY HARLAN: Well, let me ask the 10 question this way. So based on the process and the rules 11 and the procedures, is information like whether a firm went 12 from 80 points to 98 points and, therefore, there was a 13 closer gap between one and two, is that information under 14 the city's rules, under the department's rules, that the 15 committee could have used in making a determination to have 16 a interview process as a final step in the decision making? 17 MS. KAREN JEFFRIES: The question is out there 18 for the committee; I don't know how they would have 19 considered it if - 20 ATTORNEY EMERY HARLAN: No, I - 21 MS. KAREN JEFFRIES: - the points had been 22 closer. 23 ATTORNEY EMERY HARLAN: I'm not asking you to 24 determine - 25 MS. KAREN JEFFRIES: But -</p>

<p style="text-align: right;">Page 170</p> <p>1 ATTORNEY EMERY HARLAN: - what the committee 2 would have done. I'm just simply asking you based on the 3 rules that existed at the time, is that information the 4 committee could have used to decide that they want to bring 5 two firms in for interviews before making a final award? 6 MS. KAREN JEFFRIES: I can't say that it couldn't 7 have been used. 8 ATTORNEY EMERY HARLAN: So the answer is, yes, 9 that is information they could have used. 10 MS. KAREN JEFFRIES: It could have been shared. 11 It would have been useful, I'm sure, but it's up to the 12 committee. When I ask them do they feel they need an 13 interview, um, with the highest ranked proposers, 14 regardless of the gap - 15 CHAIRMAN VINCENT BOBOT: [Inaudible] answer is 16 yes. 17 ATTORNEY EMERY HARLAN: Yeah, ah - 18 CHAIRMAN VINCENT BOBOT: Ah, you know - 19 ATTORNEY EMERY HARLAN: And in fact though, they 20 were deprived of that opportunity for this procurement, 21 correct - 22 MS. KAREN JEFFRIES: They - 23 ATTORNEY EMERY HARLAN: - because they didn't 24 have that information? 25 MS. KAREN JEFFRIES: They were asked if they</p>	<p style="text-align: right;">Page 172</p> <p>1 on the document? 2 ATTORNEY EMERY HARLAN: Right. With, with 3 anybody on the named on the doc - I'm saying you received 4 in Bonfire a proposal that Quarles & Brady submitted, 5 correct? 6 MS. KAREN JEFFRIES: Correct. 7 ATTORNEY EMERY HARLAN: Okay. And there's been 8 testimony from Ms. Kelsey, as long as one of the parties in 9 that proposal, um, submitted an affidavit, ah, that was 10 accurate as to, ah, LBE status, the proposal was entitled 11 to points, correct? 12 MR. BRAD HOESCHEN: I, I'm sorry, for the record, 13 I, I don't believe that was Ms. Kelsey's testimony. 14 ATTORNEY EMERY HARLAN: Well then, I, I think it 15 - 16 MR. BRAD HOESCHEN: You're welcome to ask your 17 question but I don't know that Ms. Kelsey said that. 18 ATTORNEY EMERY HARLAN: What is - 19 MR. BRAD HOESCHEN: I - 20 Ms. KAREN JEFFRIES: The - 21 ATTORNEY EMERY HARLAN: Did you have a discussion 22 with - 23 MS. KAREN JEFFRIES: The LBE form - 24 ATTORNEY EMERY HARLAN: Let me - 25 MS. KAREN JEFFRIES: Sorry.</p>
<p style="text-align: right;">Page 171</p> <p>1 wanted interviews and the answer was no. 2 ATTORNEY EMERY HARLAN: Right. 3 MS. KAREN JEFFRIES: They felt comfortable with 4 the highest ranked proposer. I don't know if the scores 5 had been closer if that would have affected that decision; 6 I don't know. 7 ATTORNEY EMERY HARLAN: Okay. Now going to - on 8 this LBE issue, LBE issue, same exhibit, number three, just 9 quickly - um, ah, under the bonus point category, um, it 10 says, "No affidavit for the Quarles & Brady MWH proposal." 11 You see that? 12 MS. KAREN JEFFRIES: Yes. 13 ATTORNEY EMERY HARLAN: Towards the middle of the 14 page? 15 MS. KAREN JEFFRIES: Hmm-hmm. 16 ATTORNEY EMERY HARLAN: Those are comments you 17 would have inputted, correct? 18 MS. KAREN JEFFRIES: Yes. 19 ATTORNEY EMERY HARLAN: And that's false? 20 MS. KAREN JEFFRIES: For Quarles & Brady? There 21 was no affidavit. 22 ATTORNEY EMERY HARLAN: In the proposal that was 23 submitted by Quarles & Brady, is it your testimony that 24 there was no affidavit submitted in that proposal? 25 MS. KAREN JEFFRIES: With Quarles & Brady named</p>	<p style="text-align: right;">Page 173</p> <p>1 ATTORNEY EMERY HARLAN: I'll withdraw the 2 question. Did you have a discussion at some point in the 3 process or after the award as to whether, um, a LB - the 4 LBE points should have been awarded to this proposal? 5 MS. KAREN JEFFRIES: There was no discussion 6 before the award except for a conversation, a larger 7 conversation, with director Kelsey regarding how should 8 this be awarded, given certain facts surrounding this. I 9 know your document, ah, that you submitted stated that 10 you're not aware of a prior contract for a disclosure by 11 counsel services. There was a prior contract and there was 12 a contract in place when this RFP was let and published. 13 So when it was time to - 14 ATTORNEY EMERY HARLAN: Let, let me - I'll 15 withdraw the question because I don't think we're on - 16 we're communicating. So my question is, at any point in 17 time, did you have a discussion with your boss, Ms. Kelsey, 18 about whether the correct determination was made to deny 19 the Quarles & Brady and MWH proposal LBE points? Whether 20 it was yesterday or last year? 21 MS. KAREN JEFFRIES: Yes, there was a discussion 22 about - 23 ATTORNEY EMERY HARLAN: Okay. 24 MS. KAREN JEFFRIES: - the documents submitted 25 for that proposal and whether or not points would apply.</p>

<p style="text-align: right;">Page 174</p> <p>1 ATTORNEY EMERY HARLAN: Okay. And at some point 2 in time, did Ms. Kelsey tell you that looking at this, it 3 looks like that proposal should have received 10 points? 4 MS. KAREN JEFFRIES: No. 5 ATTORNEY EMERY HARLAN: Okay, so she never told 6 you that. 7 MS. KAREN JEFFRIES: No. 8 ATTORNEY EMERY HARLAN: Okay. And your 9 understanding of the rule is that only the person, ah - in 10 this particular instance, Quarles & Brady - only if they 11 had submitted an affidavit would LBE points be awardable. 12 MS. KAREN JEFFRIES: No, that's not true. 13 ATTORNEY EMERY HARLAN: Okay. 14 MS. KAREN JEFFRIES: Either party that's party to 15 the proposal can submit the LBE form for review. 16 ATTORNEY EMERY HARLAN: Right. And if it is a 17 valid LBE form, then either party to the proposal - the SBE 18 or the non-SBE - would be entitled to the 10 points. 19 MS. KAREN JEFFRIES: Yes. 20 ATTORNEY EMERY HARLAN: Okay. So I think that's 21 clear now on the record that the, the evidence from the 22 city is that no matter which one of the parties had the 23 certification, um, who were parties to the proposal, the 10 24 points were to be awarded. 25 MS. KAREN JEFFRIES: And that question,</p>	<p style="text-align: right;">Page 176</p> <p>1 a person seek - or a business seeking LBE status to get the 2 points awarded to them? 3 MS. KAREN JEFFRIES: It says 50 percent of their 4 real estate where they conduct their business must be in 5 Milwaukee, 50 percent or more, and then there's some other 6 criteria listed on the affidavit. But if the affidavit is 7 submitted and notarized properly, that is a testation to 8 the fact that the vendor or the proposer is affirming that 9 they do qualify in accordance with the criteria that's 10 listed on the affidavit. 11 ATTORNEY EMERY HARLAN: Okay. 12 MS. KAREN JEFFRIES: So that would be my 13 assumption that it's - they're eligible. 14 ATTORNEY EMERY HARLAN: Thank you. And as you 15 sit here today, ma'am, have you discovered any information 16 to indicate that 50 percent or more of the space leased by 17 MWH is outside of the city of Milwaukee? 18 MS. KAREN JEFFRIES: I wouldn't have that 19 information. 20 ATTORNEY EMERY HARLAN: At some point in the 21 procurement process, did you go to the website of MWH as 22 part of a, um, effort to determine whether it met the 23 criteria for LBE points? 24 MS. KAREN JEFFRIES: No. 25 ATTORNEY EMERY HARLAN: Okay. Did you tell</p>
<p style="text-align: right;">Page 175</p> <p>1 essentially, you can - LBE points can be applicable to 2 either party of a proposal that's generally being asked and 3 answered in prior RFPs in terms of responses to questions 4 received that are published in addendums. So, yes, that is 5 a general understanding that points are available for 6 either party to a proposal. 7 ATTORNEY EMERY HARLAN: Right. And - 8 MS. KAREN JEFFRIES: If it's valid. 9 ATTORNEY EMERY HARLAN: And, um, in this case, 10 you had a discussion with Ms. Kelsey and indicated that you 11 didn't think that LBE points should be awarded to the MWH 12 Quarles & Brady proposal because it appeared that MWH that 13 submitted a affidavit, um, had more offices outside of the 14 city than inside of the city. 15 MS. KAREN JEFFRIES: No. When I talked with her, 16 it was - the form itself was not definitive. 17 ATTORNEY EMERY HARLAN: Okay. So what is - what 18 are you - 19 MS. KAREN JEFFRIES: So what do I do? My 20 question would have been what do I do? Do we give them the 21 points or not? The form itself is not, was not definitive 22 for me so I posed a question to her because I couldn't - I 23 didn't have a definitive answer. 24 ATTORNEY EMERY HARLAN: What is your 25 understanding of the criteria that must be met in order for</p>	<p style="text-align: right;">Page 177</p> <p>1 somebody that you did that? 2 MS. KAREN JEFFRIES: No. 3 ATTORNEY EMERY HARLAN: Okay. So your conclusion 4 was based strictly on what was set forth in that affidavit. 5 MS. KAREN JEFFRIES: Right. 6 ATTORNEY EMERY HARLAN: Okay. And again, the 7 affidavit did not designate, nor did it ask, that the party 8 designate on an office-by-office basis what square footage 9 was being leased in each location, correct? 10 MS. KAREN JEFFRIES: The property form - there's 11 an affidavit for Local Business Enterprise and then there's 12 a property form. The property form does not, did not ask 13 for square footage. The version that's available now does. 14 ATTORNEY EMERY HARLAN: Okay. 15 MS. KAREN JEFFRIES: And that is published now; 16 the RFP does - 17 ATTORNEY EMERY HARLAN: So - 18 MS. KAREN JEFFRIES: - ask for square footage. 19 ATTORNEY EMERY HARLAN: And not to beat a dead 20 horse, just to wrap this up, when you said that you had 21 concerns about whether the form gave you enough information 22 to make a decision about whether LBE points were awardable, 23 what was supposed to be on the affidavit that wasn't? 24 MS. KAREN JEFFRIES: When I, when I'm asking it 25 is because as a partner on the proposal, my question was in</p>

<p style="text-align: right;">Page 178</p> <p>1 terms of is this acceptable? It has been asked and 2 answered in the past so I'm affirming is this acceptable? 3 Because then they should have the 10 points, which would 4 increase their total points. So that was the gist of my 5 discussion, along with other aspects of how do we move 6 forward here because of other, ah, circumstances 7 surrounding this award. 8 ATTORNEY EMERY HARLAN: I, I know, but I'm still 9 trying to understand what gave you pause about the 10 affidavit submitted by MWH in terms of like what was 11 missing, what was creating confusion on your part about 12 whether they get the 10 points or not? 13 MS. KAREN JEFFRIES: No, I didn't have a question 14 about giving the 10 points; my question was a larger issue. 15 You have the affidavit; that's acceptable in and of itself. 16 It's already been asked. If a partner on a proposal has 17 submitted it, the points are available. So I didn't have a 18 question about the LBE. 19 ATTORNEY EMERY HARLAN: So why didn't we get the 20 points then? 21 MS. KAREN JEFFRIES: After discussing, I'm not 22 sure where that came from. You had one address listed on 23 the property form, if I recall correctly. There was one 24 address listed, so that would look like 100 percent instead 25 of - so you're meeting the 50 percent and then some</p>	<p style="text-align: right;">Page 180</p> <p>1 services? 2 MS. KAREN JEFFRIES: For disclosure and bond 3 counsel services combined into one contract. 4 ATTORNEY EMERY HARLAN: When did that occur? 5 MS. KAREN JEFFRIES: It was in place when I was 6 working on this RFP. And so when this was awarded, this 7 was to replace the current contract that had bond counsel 8 and disclosure counsel services on one contract. 9 ATTORNEY EMERY HARLAN: Do you know if that 10 contract that you're referring to was a product of an RFP 11 process? 12 MS. KAREN JEFFRIES: Yes, it was. 13 ATTORNEY EMERY HARLAN: Okay. So - 14 MS. KAREN JEFFRIES: And so my question to the 15 director was if I'm going to award to your organization, 16 what do I do about this current contract that a colleague 17 extended out to April of 2018 in error? 18 ATTORNEY EMERY HARLAN: When you say that it 19 shouldn't have been extended to 2018, first of all, can you 20 identify the colleague who made that decision? 21 MS. KAREN JEFFRIES: Her name is Arvaya - and 22 she's Arvaya, A-r-v-a-y-a. 23 ATTORNEY EMERY HARLAN: She's still with the 24 city? 25 MS. KAREN JEFFRIES: No. No.</p>
<p style="text-align: right;">Page 179</p> <p>1 requirement on the LBE affidavit that says at least 50 2 percent of the acreage, I think we used the term acreage - 3 ATTORNEY EMERY HARLAN: Yes. 4 MS. KAREN JEFFRIES: - is there. So that was not 5 my question when I had a discussion with the director. My 6 question was related to the current contract that was in 7 place. If I'm going to award and award these points - LBE 8 and SBE - what do we do about the current contract with 9 Katten Muchin that was extended in error out to April of 10 2018? So there's another - and I shared that, I shared 11 that - with Attorney Block. 12 ATTORNEY EMERY HARLAN: I'm - okay, so was - let 13 me - 14 MS. KAREN JEFFRIES: So this was - 15 ATTORNEY EMERY HARLAN: - try to unpack that. 16 MS. KAREN JEFFRIES: - a bigger discussion. It 17 wasn't about should they get the LBE or should they not get 18 the LBE points. It was a matter of if I'm going to award 19 to them, I need this current contract that was extended out 20 to April of 2018 but not requested to be extended out. And 21 like I said, I know in your statement you included, um, a 22 reference to the fact that you're not aware of an existing 23 contract before this solicitation. There was - there was a 24 contract in place. 25 ATTORNEY EMERY HARLAN: For disclosure counsel</p>	<p style="text-align: right;">Page 181</p> <p>1 ATTORNEY EMERY HARLAN: Did she lose her position 2 over this error, did she? 3 MS. KAREN JEFFRIES: [Shakes head] 4 ATTORNEY EMERY HARLAN: Not to your knowledge. 5 MS. KAREN JEFFRIES: No. 6 ATTORNEY EMERY HARLAN: And why did she - why was 7 she in error in, um, I guess, signing off on this 8 extension? 9 MS. KAREN JEFFRIES: That was part of my 10 discussion. Director Kelsey, "Here, I am ready to award 11 this contract. It was published that the effective date of 12 this RFP would have been, what, July of 2017? How am I 13 going to award this to be effective July, August 2017 when 14 the current contract, B10504, has already been extended out 15 to April of 2018?" How did that happen? The comptroller's 16 office did not ask for that extension so, like I said, this 17 was part of a bigger conversation. I need - 18 ATTORNEY EMERY HARLAN: What was the - 19 MS. KAREN JEFFRIES: - the director - 20 ATTORNEY EMERY HARLAN: What was the contract 21 number that was extended improperly? 22 MS. KAREN JEFFRIES: B10504. 23 ATTORNEY EMERY HARLAN: B105 - 24 MS. KAREN JEFFRIES: And I shared that with 25 Attorney Block.</p>

<p style="text-align: right;">Page 182</p> <p>1 MR. STEVE FRITSCH: Mr. Chairman, ah, I'm not 2 sure that this conversation is getting us any closer to the 3 conclusion of this case. Whether or not there was an 4 overlapping contract really doesn't move us forward on this 5 specific issue. 6 CHAIRMAN VINCENT BOBOT: Well - 7 MR. BRAD HOESCHEN: Mr. Chair, may I? 8 CHAIRMAN VINCENT BOBOT: Mr. Hoeschen? 9 MR. BRAD HOESCHEN: Ms. Jeffries, are you 10 suggesting that the LBE points were declined in order to 11 fix an error of extending a contract? 12 MS. KAREN JEFFRIES: Like I - for me, as the 13 procurement specialist, I take the entire situation to the 14 director for direction. What do I do? Even if I award to 15 this vendor, we have this contract that's been extended out 16 until April of 2018 - 17 MR. BRAD HOESCHEN: And it was after that - 18 MS. KAREN JEFFRIES: - and - 19 MR. BRAD HOESCHEN: - conversation that you were 20 instructed to deduct the LBE points? 21 MS. KAREN JEFFRIES: I was instructed - yes. I 22 don't do that on my own; go in and take away points. It 23 was part of a larger discussion; that's what I've been 24 saying. It's part of - 25 ATTORNEY EMERY HARLAN: Can, can I ask that we</p>	<p style="text-align: right;">Page 184</p> <p>1 statement had for a witness who has already testified, um, 2 and her character, um, if not actual possible unethical and 3 criminal conduct that was alleged. Um, I think that the 4 best - frankly, I'm a little concerned about how to proceed 5 at this point without talking to my supervisors to make 6 sure everyone's, um, rights are adequately, um, protected. 7 Um, and I think that, ah, Mr. Harlan has very, um, 8 generously, um, offered to, ah, potentially adjourn, um, 9 the proceedings today and if that's an amenable way to, ah, 10 approach the, ah, ah, rest of the day, I would, ah, 11 certainly appreciate the board's, um, ah, allowance of that 12 way to proceed. 13 CHAIRMAN VINCENT BOBOT: Well, I will tell you 14 that it was my opinion before we even had a discussion that 15 an adjournment was in order. And I know that Mr. 16 Hoeschen's [inaudible], "Well, shouldn't we let this 17 witness, this witness finish?" I, I think we should 18 adjourn. I think, um, I don't know if I see all the stuff 19 that you just mentioned but I think an adjournment's in 20 order. So, I'll entertain a motion - 21 MR. AVERILL: Mr. Chair? I make a motion that we 22 adjourn and hold this matter at the, ah, convenience of the 23 chair. 24 CHAIRMAN VINCENT BOBOT: Okay. I have a motion 25 by Mr. Averill to adjourn. Do I have a second?</p>
<p style="text-align: right;">Page 183</p> <p>1 adjourn - 2 MS. KAREN JEFFRIES: - a larger discussion. 3 ATTORNEY EMERY HARLAN: - um, briefly, for five 4 minutes? I'd like to confer with the city. 5 CHAIRMAN VINCENT BOBOT: Well, I, I just - I, I 6 don't have a problem with that. It's just that I have one 7 question. Even with the 10 points, they're close - 8 MR. BRAD HOESCHEN: No. 9 CHAIRMAN VINCENT BOBOT: - but somebody's still 10 above them. 11 MR. BRAD HOESCHEN: No, they're over. No, 12 they're eight points behind. 13 CHAIRMAN VINCENT BOBOT: Oh. 14 MR. BRAD HOESCHEN: They go to 107.4 and the 15 winner had 105.6. 16 CHAIRMAN VINCENT BOBOT: Okay. We'll have an 17 adjournment for five or 10 minutes. 18 ASSISTANT CITY ATTORNEY KATHY BLOCK: I'm - 19 CHAIRMAN VINCENT BOBOT: Back on the record. 20 ASSISTANT CITY ATTORNEY KATHY BLOCK: And 21 obviously, I'd like to say something if, if I may? 22 CHAIRMAN VINCENT BOBOT: Oh, absolutely. 23 ASSISTANT CITY ATTORNEY KATHY BLOCK: Um, I, you 24 know, obviously, I think something was implied by the 25 witness. I'm very concerned about the implications that</p>	<p style="text-align: right;">Page 185</p> <p>1 MR. STEVE FRITSCH: Second. 2 CHAIRMAN VINCENT BOBOT: Any objection? So 3 ordered. Ah, we're going to schedule a date though. So 4 we're going to schedule a date that we would come back. 5 Ah, so I guess I'm open to how much time. I will tell you 6 the third week in May I'm going to be out of town. Ah, so, 7 ah - 8 MR. STEVE FRITSCH: I'm going to be gone from 9 the 16th on, so - 10 CHAIRMAN VINCENT BOBOT: Okay. How much time do 11 you think you need? 12 ATTORNEY EMERY HARLAN: Ah - 13 UNKNOWN MALE SPEAKER: Is that next week or June? 14 ATTORNEY EMERY HARLAN: I think probably two or 15 three hours, um - 16 MR. BRAD HOESCHEN: No, no - 17 CHAIRMAN VINCENT BOBOT: No, no. 18 MR. BRAD HOESCHEN: How much time - 19 ASSISTANT CITY ATTORNEY KATHY BLOCK: [Laughter] 20 CHAIRMAN VINCENT BOBOT: No - 21 ASSISTANT CITY ATTORNEY KATHY BLOCK: A week. 22 CHAIRMAN VINCENT BOBOT: We're going to get a 23 different day - 24 MR. STEVE FRITSCH: Can we, can we do it next 25 week?</p>

<p style="text-align: right;">Page 186</p> <p>1 CHAIRMAN VINCENT BOBOT: Can you do next week?</p> <p>2 ATTORNEY EMERY HARLAN: Well, one issue - and I</p> <p>3 leave it to you all's discretion - I mean, so do we have</p> <p>4 some members who are not present?</p> <p>5 CHAIRMAN VINCENT BOBOT: Ah, Mister - ah, Chevy</p> <p>6 Johnson is the only one cause the twins. So -</p> <p>7 MR. BRAD HOESCHEN: And he won't -</p> <p>8 CHAIRMAN VINCENT BOBOT: He won't -</p> <p>9 MR. BRAD HOESCHEN: - be here the next meeting</p> <p>10 either.</p> <p>11 CHAIRMAN VINCENT BOBOT: - be here. He won't be</p> <p>12 here at the next meeting.</p> <p>13 ASSISTANT CITY ATTORNEY KATHY BLOCK: No.</p> <p>14 CHAIRMAN VINCENT BOBOT: It's just going to be</p> <p>15 us.</p> <p>16 ATTORNEY EMERY HARLAN: Okay. So what, what,</p> <p>17 what day are you contemplating?</p> <p>18 MR. BRAD HOESCHEN: We're asking you. Can you do</p> <p>19 it next week?</p> <p>20 ATTORNEY EMERY HARLAN: Um -</p> <p>21 CHAIRMAN VINCENT BOBOT: I'm available the 10th</p> <p>22 and 11th -</p> <p>23 ATTORNEY EMERY HARLAN: I don't think that's</p> <p>24 going to allow me enough time to resolve our issues, so I</p> <p>25 don't think next week -</p>	<p style="text-align: right;">Page 188</p> <p>1 MS. LINDA ELMER: Okay.</p> <p>2 CHAIRMAN VINCENT BOBOT: Well, I was thinking</p> <p>3 about -</p> <p>4 MR. BRAD HOESCHEN: Well, you said you were gone</p> <p>5 the third week of May, is that right?</p> <p>6 CHAIRMAN VINCENT BOBOT: Yes.</p> <p>7 MR. BRAD HOESCHEN: And you're gone from the 6th</p> <p>8 to the 8th - ah, 16th, ah Steve, to the eighth?</p> <p>9 MR. STEVE FRITSCHKE: I'm gone from the 16th to</p> <p>10 the seventh.</p> <p>11 MR. BRAD HOESCHEN: Alright.</p> <p>12 CHAIRMAN VINCENT BOBOT: I was thinking about</p> <p>13 using the 13th for this and then doing the stuff on the</p> <p>14 13th at a different date.</p> <p>15 MR. BRAD HOESCHEN: But it's already been -</p> <p>16 Linda, has it been published?</p> <p>17 MS. LINDA ELMER: No.</p> <p>18 MR. BRAD HOESCHEN: That date?</p> <p>19 MS. LINDA ELMER: I haven't -</p> <p>20 MR. BRAD HOESCHEN: No?</p> <p>21 MS. LINDA ELMER: I just emailed our staff but -</p> <p>22 ATTORNEY EMERY HARLAN: I, I'm having trouble</p> <p>23 with -</p> <p>24 MR. BRAD HOESCHEN: Oh, okay.</p> <p>25 ATTORNEY EMERY HARLAN: - on my end.</p>
<p style="text-align: right;">Page 187</p> <p>1 CHAIRMAN VINCENT BOBOT: Okay.</p> <p>2 ATTORNEY EMERY HARLAN: - makes sense.</p> <p>3 MR. BRAD HOESCHEN: Beginning of June?</p> <p>4 CHAIRMAN VINCENT BOBOT: Okay.</p> <p>5 ATTORNEY EMERY HARLAN: That, that's fine.</p> <p>6 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay.</p> <p>7 CHAIRMAN VINCENT BOBOT: How does June 4th look?</p> <p>8 MR. STEVE FRITSCHKE: Um, I'm not back until the,</p> <p>9 ah, eighth.</p> <p>10 CHAIRMAN VINCENT BOBOT: Oh. Could we do the 8th</p> <p>11 in the afternoon?</p> <p>12 MR. STEVE FRITSCHKE: No.</p> <p>13 MR. BRAD HOESCHEN: Ah, no, I can't do on the 8th</p> <p>14 in the afternoon.</p> <p>15 CHAIRMAN VINCENT BOBOT: You want to do it on the</p> <p>16 13th at our [inaudible] board meeting and you shuffle</p> <p>17 around that?</p> <p>18 MR. BRAD HOESCHEN: I -</p> <p>19 CHAIRMAN VINCENT BOBOT: Linda?</p> <p>20 MR. BRAD HOESCHEN: I don't think that's a good -</p> <p>21 ASSISTANT CITY ATTORNEY KATHY BLOCK: [Laughter]</p> <p>22 MS. LINDA ELMER: Right now we don't have May</p> <p>23 appeals.</p> <p>24 MR. BRAD HOESCHEN: Yeah, but I don't think</p> <p>25 that's a good idea.</p>	<p style="text-align: right;">Page 189</p> <p>1 MS. LINDA ELMER: Oh, reception?</p> <p>2 ATTORNEY EMERY HARLAN: Can I -</p> <p>3 MS. LINDA ELMER: [Inaudible]</p> <p>4 CHAIRMAN VINCENT BOBOT: You need to get a paper</p> <p>5 calendar.</p> <p>6 ALL: [Laughter]</p> <p>7 CHAIRMAN VINCENT BOBOT: How are you ever going</p> <p>8 to schedule something when there's -</p> <p>9 ATTORNEY EMERY HARLAN: Talking about old school,</p> <p>10 man.</p> <p>11 CHAIRMAN VINCENT BOBOT: Well, how are you going</p> <p>12 to schedule something when there's metal on the roof and</p> <p>13 stuff? You can't break it.</p> <p>14 MR. BRAD HOESCHEN: What?</p> <p>15 ATTORNEY EMERY HARLAN: I'll, I'll [inaudible].</p> <p>16 CHAIRMAN VINCENT BOBOT: Well, haven't you been</p> <p>17 in places where the stuff doesn't work?</p> <p>18 MR. BRAD HOESCHEN: No, your calendar isn't</p> <p>19 connected to - my calendar's in my phone. I don't need the</p> <p>20 network -</p> <p>21 CHAIRMAN VINCENT BOBOT: Oh.</p> <p>22 MR. BRAD HOESCHEN: - for my calendar.</p> <p>23 CHAIRMAN VINCENT BOBOT: Oh, you don't need the</p> <p>24 network?</p> <p>25 MR. BRAD HOESCHEN: Yeah.</p>

<p style="text-align: right;">Page 190</p> <p>1 CHAIRMAN VINCENT BOBOT: I don't do that; I'm a 2 dinosaur. 3 MR. BRAD HOESCHEN: I mean, there's the bigger 4 issue. 5 ALL: [Laughter] 6 ASSISTANT CITY ATTORNEY KATHY BLOCK: Just hope 7 [laughter]. I hope I'm free? I vaguely know when I'll be 8 gone. 9 MR. BRAD HOESCHEN: Well, the 13th we already 10 have on the calendar so can you do the thirteenth? 11 ATTORNEY EMERY HARLAN: I'm sorry, I'm checking 12 if - 13 MR. BRAD HOESCHEN: Okay. 14 CHAIRMAN VINCENT BOBOT: The thirteenth - 15 ATTORNEY EMERY HARLAN: You with me? I'm having 16 some technical problems. 17 CHAIRMAN VINCENT BOBOT: Put it in. 18 MR. AVERILL: Do you remember last month 19 [inaudible] - 20 MS. LINDA ELMER: Yeah, we contacted him - 21 ATTORNEY EMERY HARLAN: So, um - 22 MS. LINDA ELMER: He had no - 23 CHAIRMAN VINCENT BOBOT: What [inaudible]? 24 ATTORNEY EMERY HARLAN: I have a deposition that 25 day [inaudible].</p>	<p style="text-align: right;">Page 192</p> <p>1 MR. BRAD HOESCHEN: Nine a.m. 2 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yes. 3 MR. BRAD HOESCHEN: That'd be fine. 4 CHAIRMAN VINCENT BOBOT: Yeah, make it 9:00 a.m. 5 MS. LINDA ELMER: June 18th, 9:00 a.m. 6 ASSISTANT CITY ATTORNEY KATHY BLOCK: Did you get 7 that date? 8 UNKNOWN FEMALE SPEAKER: Yes. 9 CHAIRMAN VINCENT BOBOT: And if it does get 10 resolved, you can always let us know. 11 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yes. Okay. 12 CHAIRMAN VINCENT BOBOT: Mr. Harlan, is that 13 alright? The 18th at 9:00 a.m.? 14 ATTORNEY EMERY HARLAN: Yes, sir. Yes, sir. 15 ASSISTANT CITY ATTORNEY KATHY BLOCK: Okay. 16 MS. LINDA ELMER: So the June 13th date and then 17 June - 18 CHAIRMAN VINCENT BOBOT: Yes. 19 MS. LINDA ELMER: Okay. 20 MR. AVERILL: And yes, we made the motion to 21 adjourn so - 22 MS. LINDA ELMER: Yep. 23 ASSISTANT CITY ATTORNEY KATHY BLOCK: Good. 24 MR. AVERILL: - we're done. Thank you, everyone. 25 ASSISTANT CITY ATTORNEY KATHY BLOCK: Thank you.</p>
<p style="text-align: right;">Page 191</p> <p>1 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yeah, 2 Rhonda will have to be at Finance and Personnel at 9:00 on 3 the thirteenth. 4 CHAIRMAN VINCENT BOBOT: Okay. 5 MR. BRAD HOESCHEN: But she's finished but if you 6 want her here - 7 ASSISTANT CITY ATTORNEY KATHY BLOCK: Well, I may 8 need her here - 9 MR. BRAD HOESCHEN: - we could schedule - 10 ASSISTANT CITY ATTORNEY KATHY BLOCK: - for 11 rebuttal. 12 MR. BRAD HOESCHEN: Right. 13 CHAIRMAN VINCENT BOBOT: How's the 18th looking? 14 ATTORNEY EMERY HARLAN: Eighteenth of June? 15 CHAIRMAN VINCENT BOBOT: Yes. 16 ATTORNEY EMERY HARLAN: Um, I - I have, I have a 17 trial the following week but as of now, I could make that 18 work. 19 MR. STEVE FRITSCH: I can make that work. 20 CHAIRMAN VINCENT BOBOT: Okay. [Inaudible], too? 21 ASSISTANT CITY ATTORNEY KATHY BLOCK: I assume 22 that's a Monday? 23 MS. LINDA ELMER: Yes. 24 ASSISTANT CITY ATTORNEY KATHY BLOCK: Yeah? At 25 9:00 a.m.?</p>	<p style="text-align: right;">Page 193</p> <p>1 Certification 2 I, Adrea Knoll, an experienced transcriber, did transcribe 3 the attached proceedings. 4 The attached is an original and verbatim transcription of 5 the said proceedings, within the limits of the quality of 6 the recording, containing the full text of the recording. 7 I further certify that I am neither a party to this case 8 nor a relative or employee of any party to this case. I 9 was not present at the recording sessions and have no way 10 of personally guaranteeing the accuracy of the recordings. 11 12 13 14 By: Adrea Knoll 15 16 17 18 19 20 21 22 23 24 25</p>

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