

LOCAL FINANCE BOARD

MARCH 8, 2017

Held at the:

Department of Community Affairs

Conference Room #129/235A

101 South Broad Street

Trenton, New Jersey 08625-0803

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(1) B E F O R E:

(2)

(3) CHAIRMAN, TIMOTHY CUNNINGHAM

(4) EMMA SALAY, Deputy Executive

(5) Secretary.

(6) PATRICIA McNAMARA, Executive Secretary

(7) BOARD MEMBERS:

(8) Idida Rodriguez

(9) Alan Avery

(10) Ted Light

(11) William Close

(12) Francis Blee

(13) Dominic Dirocco

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(1) CHAIRMAN CUNNINGHAM Good morning. This
(2) matter was previously opened to the public
(3) upstairs, so we don't have to go through any of
(4) those formalities. Also, I've gotten in the habit
(5) of mentioning that if there is any public comment
(6) on an application -- so often there's not -- please
(7) just put your hand up and let the Board know when
(8) we're addressing an item and obviously we will
(9) accommodate that.

(10) Moving directly into the agenda, the
(11) first matter before the Board was an application
(12) for a nonconformity maturity schedule for West Cape
(13) May Borough. I actually waived the appearance by
(14) the Applicant, in this regard, simply because the
(15) only need for the nonconformity maturity schedule
(16) related to the fact that it was a USDA project, a
(17) finance project which therefore calls for semi-
(18) annual principal payments, principal payments that
(19) increase by more than one hundred percent. We we
(20) do feel the USDA programs are excellent for those
(21) municipalities and other borrowers that need sewer
(22) and water programs. So with waiving their
(23) appearance we nevertheless still need to take a
(24) vote. And I would ask my colleagues for a motion
(25) and a second.

- (1) MR. AVERY: So move.
- (2) MR. CLOSE: Second.
- (3) CHAIRMAN CUNNINGHAM: Mr. Avery, Mr.
- (4) Close. Roll call, please.
- (5) MS. MCNAMARA: Mr. Cunningham?
- (6) CHAIRMAN CUNNINGHAM: Yes.
- (7) MS. MCNAMARA: Mr. Avery?
- (8) MR. AVERY: Yes.
- (9) MS. MCNAMARA: MS. RODRIGUEZ?
- (10) MS. RODRIGUEZ: Yes.
- (11) MS. MCNAMARA: Mr. Light?
- (12) MR. LIGHT: Yes.
- (13) MS. MCNAMARA: Mr. Close?
- (14) MR. CLOSE: Yes.
- (15) MS. MCNAMARA: Mr. Dirocco?
- (16) MR. DIROCCO: Yes.
- (17) CHAIRMAN CUNNINGHAM: So the first
- (18) appearance today would be the City of Camden.
- (19) ---
- (20) CAMDEN CITY-NJSA 40A2-26(ee)
- (21) \$865,263 Proposed CAP Waiver (Surplus)
- (22) ---
- (23) CHAIRMAN CUNNINGHAM: Good morning.
- (24) For all of the applicants, if you would,
- (25) please introduce yourselves so you can be recorded

(1) into the record. And those who aren't Counsel will
(2) need to be sworn in.

(3) GLENN JONES: Glenn Jones, Director of
(4) Finance for the City of Camden.

(5) CHERYL OBERDORF: Cheryl Oberdorf, Loan
(6) Counsel for the City of Counsel, Decotiis,
(7) Fitzpatrick, Cole & Giblin.

(8) MATT SWEENEY: Matt Sweeney, Financial
(9) Advisor, Phoenix Advisors.

(10) (All sworn.)

(11) CHAIRMAN CUNNINGHAM: So the first matter
(12) before us from Camden today is a CAP waiver for use
(13) of a surplus?

(14) GLENN JONES: Yes, sir.

(15) CHAIRMAN CUNNINGHAM: So Glenn, did you
(16) want to just kind of walk the Board through that
(17) application?

(18) GLENN JONES: Sure. We have the
(19) circumstance of having more retirees than we have
(20) active employees. We have about 500 active
(21) employees on the health care plan; 700 retirees.
(22) So even though the contribution of the employees
(23) goes up every year, we have less employees to
(24) contribute. So that's why we're asking for the CAP
(25) waiver.

(1) CHAIRMAN CUNNINGHAM: Again I should note
(2) that the coal ordinances hadn't been introduced in
(3) years past, which kind of limited your ceiling if
(4) you would.

(5) GLENN JONES: Correct.

(6) CHAIRMAN CUNNINGHAM: But you did adopt a
(7) coal ordinance by '17. And by the 2018 budget we
(8) don't think the CAP waiver will be needed because
(9) of the expansion under those coal ordinances,
(10) correct?

(11) GLENN JONES: Yes, sir, correct.

(12) CHAIRMAN CUNNINGHAM: As far as the
(13) surplus, I mean, unless the entirety of the City's
(14) surplus is being used to issue the budget.

(15) GLENN JONES: Correct.

(16) CHAIRMAN CUNNINGHAM: And levy is
(17) increasing by three percent, which is what is
(18) allowed under the mirror statute, which Camden is
(19) still subject to.

(20) GLENN JONES: Yes, sir.

(21) CHAIRMAN CUNNINGHAM: For the Board's
(22) benefit, the Division Bureau of Financial
(23) Regulation looked at this application, worked with
(24) the City, and has recommended its approval as has
(25) the transitional aide monitor that's assigned to

(1) Camden. Any questions?

(2) MR. CLOSE: I have a question.

(3) What do you do when you took -- having
(4) more retirees than active employees? And you're
(5) asking this for the purpose of paying insurance
(6) premium increases? What steps have you taken to
(7) try to address stabilizing the amount of your
(8) health benefit program? Have you looked at all
(9) their alternative? Have you had contractual
(10) discussions with the unions, which you identify in
(11) your description here?

(12) GLENN JONES We do discuss with the
(13) union but we pretty much have our hands tied.
(14) Premiums go up every year; more retirees every
(15) year. It's just less employees to contribute. The
(16) retirees don't contribute at all to the health
(17) care.

(18) MR. CLOSE: Are you self-funded?

(19) GLENN JONES No state health
(20) benefits.

(21) MR. CLOSE: State health benefits.
(22) Have you looked at other alternatives?

(23) GLENN JONES: Within the last two or
(24) three years, no.

(25) MR. CLOSE: Okay.

(1) CHAIRMAN CUNNINGHAM: Okay. If there are
(2) no other questions, then I would ask for a motion
(3) and a second.

(4) MS. RODRIGUEZ: I will make a
(5) motion.

(6) MR. LIGHT: Second.

(7) CHAIRMAN CUNNINGHAM: Do we have a
(8) second?

(9) MR. LIGHT: I'll second.

(10) CHAIRMAN CUNNINGHAM: Mr. Light?

(11) MR. LIGHT: Yes.

(12) CHAIRMAN CUNNINGHAM: Roll call,
(13) please.

(14) MS. MCNAMARA: Mr. Cunningham?

(15) MR. CUNNINGHAM: Yes.

(16) MS. MCNAMARA: Mr. Avery?

(17) MR. AVERY: Yes.

(18) MS. MCNAMARA: Ms. Rodriguez?

(19) MS. RODRIGUEZ: Yes.

(20) MS. MCNAMARA: Mr. Light?

(21) MR. LIGHT: Yes.

(22) MS. MCNAMARA: Mr. Close?

(23) MR. CLOSE: Yes.

(24) MS. MCNAMARA: Mr. Dirocco?

(25) MR. DIROCCO: Yes.

(1) CHAIRMAN CUNNINGHAM: The second
(2) matter before the Board today is the issuance of or
(3) adoption of a Bond ordinance pursuant to a
(4) qualified bond program?

(5) GLENN JONES: Yes, sir.

(6) CHERYL OBERDORF: This is an
(7) application -- or actually approval of a maturity
(8) schedule pursuant to the Municipal Qualified Bond
(9) Act for bond ordinances were previously qualified
(10) in January, February 2015 as well as May of 2016,
(11) but the maturity schedule pursuant to the Qualified
(12) Bond Act was never set forth in any of the
(13) applications. So at this point the City has 7.5
(14) billion of bonds maturing in April, which they wish
(15) to permanently finance, and \$5 million of a new
(16) money ordinance, which was -- the ordinance was
(17) qualified in May of 2016. So this is an
(18) application for the qualification of the maturity
(19) schedule, which is a conforming maturity schedule
(20) pursuant to the Municipal Qualified Bond Act.

(21) Essentially it starts -- it's a
(22) ten-year maturity schedule: \$750,000 at the
(23) beginning, going to \$1.5 million at the end, you
(24) know, again conforming to a local bond law. And in
(25) addition, the tax impact is nine cents per 100

(1) assessed value of property.

(2) Does anybody have any questions?

(3) CHAIRMAN CUNNINGHAM: Thank you,

(4) Cheryl.

(5) CHERYL OBERDORF: You're welcome.

(6) CHAIRMAN CUNNINGHAM: The staff
(7) report that was provided kind of recaps the four
(8) ordinances that are, in essence, being permanently
(9) financed here. If there are no questions, then we
(10) can take a vote on it please. I'd ask for a motion
(11) and a second.

(12) MR. DIROCCO: I'll make a motion.

(13) CHAIRMAN CUNNINGHAM: Mr. Dirocco,
(14) thank you. Ms. Rodriguez, thank you.

(15) MS. RODRIGUEZ: Yes.

(16) MS. MCNAMARA: Mr. Cunningham?

(17) MR. CUNNINGHAM: Yes.

(18) MS. MCNAMARA: Mr. Avery?

(19) MR. AVERY: Yes.

(20) MS. MCNAMARA: Ms. Rodriguez?

(21) MS. RODRIGUEZ: Yes.

(22) MS. MCNAMARA: Mr. Light?

(23) MR. LIGHT: Yes.

(24) MS. MCNAMARA: Mr. Close?

(25) MR. CLOSE: Yes.

(1) MS. MCNAMARA: Mr. Dirocco?

(2) MR. DIROCCO: Yes.

(3) CHAIRMAN CUNNINGHAM: Thank you very
(4) much.

(5) CHERYL OBERDORF: Thank you.

(6) GLENN JONES: Thank you.

(7) ---

(8) CHAIRMAN CUNNINGHAM: City of Asbury
(9) Park.

(10) ASBURY PARK CITY

(11) MONMOUTH -NJSA 40A:31-4.

(12) \$12,530,000 Proposed Issuance of Bonds
(13) Pursuant to the Qualified Bond Program

(14) ---

(15) MICHAEL CAPABIANCO, JENNIFER EDWARDS,
(16) after having duly been sworn testified as follows:

(17) JENNIFER EDWARDS: Jennifer Edwards with
(18) Acacia Financial, Financial Advisor to the City.

(19) MICHAEL CAPABIANCO: Michael
(20) Capabianco, City Manager.

(21) JOHN CANTALUPO, ESQ.: John Cantalupo,
(22) Archer Greiner, Bond Counsel to the City.

(23) CHAIRMAN CUNNINGHAM: Thanks very much.

(24) Welcome. So Qualified Bond Act deal
(25) for some capital for Asbury Park?

(1) JOHN CANTALUPO, ESQ.: Yes, sir.

(2) JENNIFER EDWARDS: Yes.

(3) JOHN CANTALUPO, ESQ: John Cantalupo from
(4) Archer and Greiner, Bond Counsel for the City of
(5) Asbury Park. The City is here today for its
(6) general capital program to issue \$10,857,000 in
(7) bonds or notes through the Municipal Qualified Bond
(8) Act. It's for their general capital program:
(9) Roadway improvements, police department vehicles,
(10) equipment and building improvements, fire
(11) department equipment, public works capital
(12) improvement, street scape improvements and some
(13) general computer equipment and software. They,
(14) most likely, will go through the Monmouth County
(15) Improvement Authority Program and will not use the
(16) Municipal Qualified Bond Act, but they certainly
(17) have a very large amount of capacity under that
(18) program. Currently they have \$8.2 million worth of
(19) eligible revenues for it. And they're only using
(20) roughly about 500,000. And this will add another
(21) \$240,000. They roughly have a \$7.3 million left
(22) over under that program, but they just want to
(23) reserve their rights. But that service will be
(24) about \$49 on the average assessed home of a
(25) \$242,000 home. So we're asking the Board's

(1) approval to issue the bond under the Qualified Bond
(2) Act and endorse your consent upon the bond
(3) ordinance.

(4) CHAIRMAN CUNNINGHAM: Thank you,
(5) John.

(6) So for the Board's benefit -- and as
(7) I think everyone knows -- Asbury Park is a
(8) transitional aide town, perhaps not very much
(9) longer.

(10) Mr. Capabianco?

(11) MICHAEL CAPABIANCO: This will
(12) probably be our last year.

(13) CHAIRMAN CUNNINGHAM: Probably?

(14) MICHAEL CAPABIANCO: It will be, got
(15) to hedge our bets a little bit, but it will be our
(16) last year.

(17) CHAIRMAN CUNNINGHAM: So
(18) nevertheless we do keep even after --

(19) MICHAEL CAPABIANCO: Yes.

(20) CHAIRMAN CUNNINGHAM: -- we do keep
(21) supervision even after a year after. And I know
(22) Asbury Park has really been making great progress.

(23) One of the things I want to
(24) transition on, and frankly all municipalities
(25) coming forth with kind of an annual capital program

(1) that the staff looks at, and in this case the
(2) transitional aide monitor as well, is we look
(3) through the items to be financed to make sure they
(4) are truly are capital, make sure they truly are
(5) necessary. A municipality may not need
(6) transitional aid maybe if there's a luxury that
(7) they want to afford themselves. I use "luxury" not
(8) in a flipped sense, but if there is something that
(9) may be a little more outside the box, you know,
(10) that's their business, but when state monies are
(11) being used to augment the budget, we look at the
(12) list of project pretty carefully. And when we look
(13) through these, we see expenses that we think are
(14) prudent and things that are part of a normal
(15) capital plan: Ongoing replacement of police
(16) vehicles, ongoing road improvements. And we had no
(17) issues with any of them. The transitional aid
(18) monitor looked at that as well and signed off on
(19) the application.

(20) The only thing that I kind of wanted
(21) to confirm -- and Mike, I would address this
(22) question to you is that my staff report says that
(23) this is anticipated to be the only capital
(24) ordinance that Asbury Park brings this year. And I
(25) just wanted to hopefully get that on the record.

(1) MICHAEL CAPABIANCO: Yes, it is.

(2) CHAIRMAN CUNNINGHAM: Okay. Thank
(3) you.

(4) Any questions for the Applicant on
(5) the projects?

(6) MS. RODRIGUEZ: No, I'd like to make
(7) a comment.

(8) CHAIRMAN CUNNINGHAM: Please do.

(9) MS. RODRIGUEZ: I would like to
(10) commend yourself and Counsel, I mean, Asbury has
(11) come a long way. It's a joy and pleasure to visit.

(12) MICHAEL CAPABIANCO: Thank you.

(13) CHAIRMAN CUNNINGHAM: I have to have
(14) a meeting down there but I'm waiting for the
(15) spring.

(16) MR. AVERY: The amount that we're
(17) talking about is \$3 million?

(18) JENNIFER EDWARDS: Yes.

(19) JOHN CANTALUPO: It's an
(20) appropriation of three million, two million in
(21) bonds.

(22) MR. AVERY: You said 10.

(23) JOHN CANTALUPO: Oh, did I say 10.
(24) Two million. Sorry.

(25) CHAIRMAN CUNNINGHAM: Any other

(1) questions? I would ask for a motion and a second.

(2) MS. RODRIGUEZ: Make motion.

(3) CHAIRMAN CUNNINGHAM: Roll call

(4) please.

(5) MS. MCNAMARA: Mr. Cunningham?

(6) MR. CUNNINGHAM: Yes.

(7) MS. MCNAMARA: Mr. Avery?

(8) MR. AVERY: Yes.

(9) MS. MCNAMARA: Ms. Rodriguez?

(10) MS. RODRIGUEZ: Yes.

(11) MS. MCNAMARA: Mr. Light?

(12) MR. LIGHT: Yes.

(13) MS. MCNAMARA: Mr. Close?

(14) MR. CLOSE: Yes.

(15) MS. MCNAMARA: Mr. Dirocco?

(16) MR. DIROCCO: Yes.

(17) CHAIRMAN CUNNINGHAM: Thank you very

(18) much. Please identify yourselves, and those who

(19) aren't Counsel be sworn.

(20) ---

(21) Pleasantville City, (Emergency).

(22) Atlantic NJSA 40A 2-51.

(23) \$815,000 Proposed Refunding Bond

(24) Ordinance

(25) BARRY LUDY: Barry Ludy, CFO for the

(1) City.

(2) JEFFREY WINITSKY: Jeff Winitsky Bond
(3) Counsel for the City.

(4) HARVEY COCOZZA, JR.: Harvey Cocozza,
(5) Ford Scott, associate auditor for the City.

(6) (BARRY LUDY, HARVEY COCOZZA, after having
(7) duly been sworn was examined and testified as
(8) follows:

(9) CHAIRMAN CUNNINGHAM: Counselor, do
(10) you want to go first?

(11) JEFFREY WINITSKY, ESQ: Yes.

(12) Good morning. We're here seeking
(13) approval pursuant to NJSA 40A-2-51 to finally adopt
(14) our refunding bond ordinance in an amount not to
(15) exceed \$815,000. The proceeds of those refunding
(16) notes in this case will be used to fund an
(17) emergency appropriation of the City that arose in
(18) December of last year. It specifically arose as a
(19) result of a settlement of a litigation matter that
(20) had been going on for several years in the city
(21) with a former police officer. A copy of the
(22) settlement agreement had been provided to the local
(23) finance board, I think, in a supplemental filings.
(24) The history of sort of the matter is set forth
(25) therein. We can certainly speak to it now, but

(1) ultimately it's about getting a financing, a
(2) settlement that wasn't otherwise anticipated in
(3) their 2016 budget for which the city did an
(4) emergency appropriation and then did emergency
(5) notes at that point. What the City would like to
(6) do is issue notes for a period of three years to
(7) minimize the impact of that settlement on their
(8) budget. What we're looking to do is a three-year
(9) amortization, which would be approximately \$30 hit
(10) on an average taxpayer bill per year.

(11) If the Board has any questions with
(12) respect to, as I said, the settlement or
(13) specifically how we intend to amortize the debt
(14) we're happy to answer any questions that you may
(15) have.

(16) CHAIRMAN CUNNINGHAM:I think the
(17) obvious question, Counselor -- we had a
(18) conversation about this, and I certainly told you
(19) it was coming -- was that the settlement was
(20) December of '16 --

(21) JEFFREY WINITSKY:Correct.

(22) CHAIRMAN CUNNINGHAM:-- but the
(23) case originated in '12. And it surprises me that
(24) no provision was made at all in the municipal
(25) budget for the exposure that you have under this

(1) claim, and ultimately turned out to settle for it.
(2) So I'd like, you know, the Applicant to discuss
(3) that with the Board, please.

(4) BARRY LUDY: Mr. Chairman, a number
(5) of things happened in 2012. The officer was
(6) suspended. He went to perk in 2013. He was
(7) reinstated. We put all our administrative leave in
(8) January 2014. It wasn't till 2015 or so where the
(9) lawsuit head started bringing up, because we had a
(10) police chief retire. This officer, as well as
(11) another officer, took the test for police chief.
(12) He was number one, but number two was appointed.
(13) He was never interviewed, the first one. And then
(14) he felt that he should have been nominated, picked
(15) as chief, but because the situation had happened in
(16) the police department, it was decided by the City
(17) Council that the morale of the city police
(18) department would go downhill because of the action
(19) that were going on before this all happened. It
(20) wasn't till 2015 where the lawsuit really became
(21) more and more evident. And with our municipal
(22) budget the way it is, putting aside one we never
(23) knew how big the settlement would be obviously.
(24) Even if we put aside two hundred thousand or three
(25) hundred thousand dollars a year, it would have

(1) killed our taxpayers. Over the last five years we
(2) lost \$250,000,000 in ratables. We've gone from one
(3) point zero four billion, less than eight hundred
(4) million in ratables in the city because of tax
(5) appeals, both local as well as county. We have
(6) over 300 homes that are now boarded up and
(7) abandoned. We have probably another three hundred
(8) 300 are in various stages of foreclosure. It is a
(9) poor town. Our tax rate, even this year, if we
(10) have zero percent increase in our budget, my tax
(11) rate is going up 28 cents. This is a phenomenal
(12) amount that has to be paid by the local citizens,
(13) who 28 percent of them are below the poverty level.
(14) City Council over the years has always tried to
(15) keep things as tight as possible. I've been there
(16) four years and luckily I've been able to squeeze as
(17) much as I can out of what little we have.

(18) MR. CLOSE: Director, my same
(19) question was about what you had done to plan for,
(20) you know, appropriate annually for some -- for this
(21) impact. Because your insurance fund paid 160,000,
(22) and I assume your total was nine seventy-five --

(23) BARRY LUDY: That's correct.

(24) MR. CLOSE: -- which are on a bond
(25) for. Also you talked about, for example, the chief

(1) leaving. I'm sure you had a reduction in salary.
(2) There had to be some shifting. Was any of that
(3) money reappropriated back to offset the costs of
(4) this settlement? And if not, why not?

(5) BARRY LUDY: You're asking for
(6) shifting of salaries?

(7) MR. CLOSE: Well if the chief
(8) retired, chief gets promoted, he'll get a salary
(9) but you're bringing somebody new on and he'll get a
(10) lesser salary than what you paid before. There is
(11) a salary differential in that hiring process.

(12) BARRY LUDY: Yes. The numbers are
(13) probably in an area of 30,000 a year based on what
(14) our union contract calls for local -- for a
(15) beginning police officer. No, we did not set that
(16) aside.

(17) MR. CLOSE: So none of that money
(18) was set aside.

(19) BARRY LUDY: No. We try to keep
(20) things as constant as possible to make it less
(21) harmful on our taxpayers.

(22) MR. CLOSE: I understand that.

(23) BARRY LUDY: Even the \$30,000 is a
(24) number we could have set aside. Did we? No, we did
(25) not.

(1) MR. CLOSE: I understand.

(2) Ultimately, though even when you bond, ultimately
(3) it's an impact on the taxpayer. You pay now, pay
(4) later, but you are paying.

(5) BARRY LUDY: Right. What is
(6) happening in 2017 we are losing about \$350,000 in
(7) debt service. That's dropping off the books. So
(8) what I would -- ideal would be for us to maybe not
(9) pay anything in '17, but pay it over '18 and '19.
(10) It's \$350,000 we're saving in debt service from
(11) this year over those two years, that would be seven
(12) hundred. We could probably raise the other 50 a
(13) year for the next three years in order to make this
(14) make the -- -

(15) CHAIRMAN CUNNINGHAM: Just to hear
(16) you, when does that debt cliff occur?

(17) BARRY LUDY: December 2017.

(18) MR. CLOSE: So starting in '18 you
(19) would take that differential and apply it to this?

(20) BARRY LUDY: Yes, sir.

(21) MR. CLOSE: That's the
(22) representation being made here? You're going to
(23) take how much of that?

(24) BARRY LUDY: We're going to take --

(25) MR. CLOSE: The entire amount which

(1) is --

(2) BARRY LUDY: \$346,000.

(3) MR. CLOSE: 346.

(4) BARRY LUDY: Right.

(5) MS. RODRIGUEZ: That makes sense.

(6) MR. CLOSE: Yes, if you apply the
(7) whole thing, you're going to re-appropriate it
(8) somewhere else.

(9) MS. RODRIGUEZ: If you apply the
(10) whole thing, yeah. Because as it is you have a
(11) community, right? This is a certain percentage of
(12) the -- you know, the home taxpayers are carrying
(13) the entire city basically, if you will,
(14) foreclosures and short sales and everything that
(15) you have.

(16) MR. CLOSE: I made a representation
(17) to you, director. That's my --

(18) CHAIRMAN CUNNINGHAM: Jeff, when the
(19) application is submitted, and your staff report has
(20) a chart set out in front of you what the impact of
(21) the -- on what the average assessed home would be.

(22) JEFFREY WINITSKY, ESQ: Right.

(23) CHAIRMAN CUNNINGHAM: That would
(24) assume a level --

(25) JEFFREY WINITSKY, ESQ.: Level,

(1) right.

(2) CHAIRMAN CUNNINGHAM:Not this
(3) concept that's been discussed.

(4) JEFFREY WINITSKY, ESQ.: Yes. I
(5) think what you have to remember is you still have
(6) to raise it to pay it whether it's an existing debt
(7) service or new debt service. So there is an impact
(8) obviously. It's just not -- the impact is lessened
(9) by the fact that you're losing an additional debt
(10) piece, which is why Mr. Ludy had said, you know, to
(11) the extent that we can extend it to '18 -- '19 that
(12) lessens the impact on the city at the end of the
(13) day, which is why in the application we had said
(14) that we would -- and in our supplemental filings if
(15) we could avoid having to pay it in '17, that's a
(16) big hit to the city to not have to pay.

(17) CHAIRMAN CUNNINGHAM:The other
(18) thing, you were seeking three years.

(19) JEFFREY WINITSKY, ESQ.: Correct.

(20) CHAIRMAN CUNNINGHAM:Three years,
(21) as you said during your initial testimony, was 30
(22) something dollars --

(23) JEFFREY WINITSKY, ESQ.: Correct.

(24) CHAIRMAN CUNNINGHAM:-- which is
(25) not what this Board typically approves. We had a

(1) pretty consistent policy with trying to get the 50,
(2) which actually what these two years would be 50.37.

(3) JEFFREY WINITSKY, ESQ.: Correct.

(4) CHAIRMAN CUNNINGHAM: Probably --
(5) let me say it a different way.

(6) My probable recommendation in front
(7) of the Board was to go for two years at \$50.37, but
(8) not offer the municipality the deferral they were
(9) seeking and have it start in '17. I will admit
(10) though that I didn't realize the magnitude of the
(11) debt cliff that you have coming up. And I'm not
(12) sure if it's not a prudent idea to allow that
(13) deferral for a year, but I think that should be
(14) something the Board thinks about and --

(15) MR. LIGHT: Yes. Normally I would
(16) want it to go to the two years at 50, but under
(17) these circumstances I'd be willing to go with the
(18) three years at \$30 -- \$40.

(19) CHAIRMAN CUNNINGHAM: Mr. Light, if
(20) I could, I'd still like to go to two years 50 but
(21) then not have it start until '18, but I want to --

(22) MR. LIGHT: Oh, you want to do that?

(23) CHAIRMAN CUNNINGHAM: Yes, because
(24) if -- and I'd like to hear the testimony. I mean
(25) two years with the \$50 impact would be something

(1) the municipality, you know, would may not have
(2) preferred, but certainly could live with. Is that
(3) correct?

(4) BARRY LUDY:I believe so, yes.

(5) JEFFREY WINITSKY, ESQ.: Yes.

(6) CHAIRMAN CUNNINGHAM:But because
(7) you have 375,000 or something --

(8) BARRY LUDY: 346.

(9) CHAIRMAN CUNNINGHAM:-- 346 coming
(10) off in December of '17, raising this over the
(11) subsequent two years --

(12) BARRY LUDY:Correct.

(13) CHAIRMAN CUNNINGHAM:-- would be
(14) the request that you're putting in front of us.

(15) JEFFREY WINITSKY, ESQ.: Correct.

(16) MR. DIROCCO: Why did the JIF pay
(17) such a small percentage?

(18) BARRY LUDY:I guess we didn't twist
(19) their arm enough. No, we tried the best to get as
(20) much as we could out of them. And that was the
(21) numbers based on, I guess, the settlement between
(22) our attorney and JIF's attorney. But that was --
(23) we wanted more obviously, but we had to settle for
(24) what they were offering.

(25) MR. DIROCCO: I think that the

(1) two-year program that's been discussed makes sense.

(2) MR. CLOSE: I agree with the
(3) Director's recommendation. I would be supportive
(4) of that given the comments by the Applicant.

(5) CHAIRMAN CUNNINGHAM: Does anyone
(6) care to make a motion in that regard then?

(7) MR. CLOSE: So moved.

(8) CHAIRMAN CUNNINGHAM: Mr. Close
(9) makes the motion.

(10) MR. DIROCCO: I'll second.

(11) CHAIRMAN CUNNINGHAM: Mr. Dirocco is
(12) the first one who seconds. Roll call, please.

(13) MS. MCNAMARA: Mr. Cunningham?

(14) CHAIRMAN CUNNINGHAM: Yes.

(15) MS. MCNAMARA: Mr. Avery?

(16) MR. AVERY: Yes.

(17) MS. MCNAMARA: Ms. Rodriguez?

(18) MS. RODRIGUEZ: Yes.

(19) MS. MCNAMARA: Mr. Light?

(20) MR. LIGHT: Yes.

(21) MS. MCNAMARA: Mr. Close?

(22) MR. CLOSE: Yes.

(23) MS. MCNAMARA: Mr. Dirocco?

(24) MR. DIROCCO: Yes.

(25) CHAIRMAN CUNNINGHAM: Okay.

(1) BARRY LUDY: Thank you very much.
(2) CHAIRMAN CUNNINGHAM: Orange City
(3) Township.

(4) ---
(5) ORANGE CITY TOWNSHIP
(6) WATER UTILITY SYSTEM EMERGENCY
(7) APPROPRIATION ESSEX NJSA 40A 2-51
(8) \$2,150,000

(9) ---
(10) CHAIRMAN CUNNINGHAM: Gentlemen,
(11) would you please introduce yourselves to the Board.

(12) EVERETT JOHNSON, ESQ.: To my left
(13) we have Dieter Lerch, who's the Budget Consultant
(14) to the City. Then I have Mr. Adrian Mapp, who's
(15) the Director of Revenue and Finance. I'm Everett
(16) Johnson, Bond Counsel from Wilentz, Goldman &
(17) Spitzer. To my right is Chris Hartwick, the
(18) business administrator to the city, and Glasio
(19) Montillas is an Assistant Corporation Counsel.

(20) CHAIRMAN CUNNINGHAM: Thank you.

(21) EVERETT JOHNSON, ESQ.: Good morning.

(22) In December of 2016 the City adopted a
(23) resolution for \$2.5 million to fund the emergency
(24) appropriation related to the Pendle water purchase
(25) and capital repairs to its water utility system.

(1) At that point and time the city has
(2) been able to accept and negotiate an amount with
(3) the third-party operator of the water system. So
(4) that today we're proposing that the City would like
(5) to adopt a refunded bond ordinance for \$2.15
(6) million to pay off the emergency appropriation over
(7) a five-year period. I'm going to turn it over to
(8) Dieter Lerch to kind of give some background
(9) related to the emergency repairs, and how we got
(10) here. And also the particular rate impact that
(11) this would have to the City if we were not able to
(12) finance it over a period five years. Dieter.

(13) DIETER LERCH Thank you, the
(14) emergency for -- the emergency, that was passed,
(15) the emergency resolution totaled 2.5 million.
(16) However, after further review, it's the City's
(17) intention to cancel \$350,000 of that emergency. So
(18) that the adjusted emergency will be two million one
(19) hundred and fifty thousand. And that's what we're
(20) seeking for the refunding bond ordinance.

(21) So let me speak to the two million
(22) one hundred and 50 thousand. There's really two
(23) components that make that number up. The first is
(24) the City actually purchases water through an
(25) interconnect system from American Water Supply.

(1) And what occurred was the actual -- and the bills
(2) for American Water go back to 2012. The City was
(3) actually presented with approximately \$1.8 million
(4) worth of water bills dating back several years.
(5) They've been successful in negotiating that number
(6) in half. So they've negotiated the \$1.8 million
(7) liability down to 900,000. So part of the
(8) emergency is the prior year's bills of \$900,000 for
(9) American Water, which was part of a negotiated
(10) settlement. And then they're also requesting an
(11) additional 200,000 to cover the December bill. So
(12) that 1.1 million is strictly for the payment of
(13) American Water and that would bring the City up to
(14) date with the liability with respect to American
(15) Water.

(16) The second component of the
(17) emergency is for payment for capital improvements
(18) to the system to Suez. Suez is a private operator
(19) that's been operating on a month-to-month basis
(20) over at the city. And the contract is really
(21) twofold: They receive a monthly amount for
(22) operation of the system, but then they also bill
(23) for any kind of capital improvements. They pass
(24) that on.

(25) The City has been presented with

(1) bills totaling \$900,000 from Suez and that also
(2) goes back. And those bills were not presented on a
(3) timely basis. So now really the purpose of the
(4) emergency is the City wants to total up payment
(5) with Suez for the 900,000. They want to square up
(6) payment with American Water for 1.1 million. That
(7) totals \$2 million and then the balance of \$150,000
(8) is for cost of issuance and incidentals there too.
(9) The City is requesting -- the City is requesting
(10) that this be refunded over a five-year period. The
(11) average impact to the average residential water
(12) consumer would be \$37 a year. The reason for the
(13) five-year impact is the City just -- the City just
(14) introduced its budget last night. And in that
(15) introduced budget the utility already is facing a
(16) 22 percent rate increase. So that they're facing a
(17) 22 percent rate increase already in 2017. So this
(18) \$37 would be on top of that. And the City is
(19) requesting that this take effect in Calendar Year
(20) 2018 through 2022.

(21) With that I'd like to turn it over
(22) to Chris Hartwick to just maybe he can explain the
(23) whole settlement and how that came about.

(24) CHRISTOPHER HARTWICK: Sure. The City
(25) was presented with -- I arrived at the City in

(1) August of 2016.

(2) The City was presented with bills in
(3) early 2016 that had not been presented either
(4) through Suez or directly from American Water going
(5) back to 2012.

(6) We immediately attempted to contact,
(7) through the City Attorney's office, American Water.
(8) We invited them in for discussions. Those efforts
(9) were redoubled upon my arrival in August. We were
(10) finally able to engage them in negotiation
(11) commencing in approximately October of 2016. We
(12) pushed very hard during those negotiations to reach
(13) a settlement.

(14) The water supply from American Water
(15) is an emergency connection. Consequently under the
(16) contract, Suez had control of when the emergency
(17) connection was turned on and off. And Suez
(18) ultimately was the party in receipt of the bills
(19) but not until early 2016. There was a disconnect
(20) between American Water -- the use of the emergency
(21) connect and the billing for American Water to Suez
(22) for that use.

(23) In 2016 the use of that emergency
(24) connect shot up dramatically because of the loss--
(25) unanticipated loss of two wells for the City's

(1) water well fields. Those wells had been repaired
(2) or under repair. The capacity as a result --
(3) capacity production for water as a result of the
(4) return of Well 2 has decreased our reliance upon
(5) the emergency connection. We were able to
(6) finally, at the end of 2016 -- beginning of 2017 --
(7) we had an agreement at the end of 2016. It took a
(8) little while to get it on paper. And we were able
(9) to cut that bill in half.

(10) CHAIRMAN CUNNINGHAM: Thank you.
(11) I'd just like the record to indicate that the
(12) Division Staff and the Applicant did a rather
(13) lengthy call on Monday. One of the things that was
(14) troubling to the Division was, given the date of
(15) the invoices, why this was considered an emergency.
(16) We saw invoices that were dated well before the
(17) budget was adopted. And I believe you had an
(18) answer for that. And I'd like you to put that
(19) answer on the record.

(20) COURT REPORTER: I'm sorry. Can you
(21) say your name again.

(22) ADRIAN MAPP: Adrian Mapp.

(23) Well, thank you, Director. The
(24) reason for those items not being provided for in
(25) the budget is that we had no knowledge of the

(1) existence of those expenditures. And the reason
(2) for that is because those bills did not come to us
(3) until very late in the process after the budget
(4) process was completed. And so we budgeted based on
(5) what we knew, based on expectations, based on
(6) conversations with our third-party provider. And
(7) so when we were provided with those bills they came
(8) as a surprise to us. And even though the bills
(9) carried dates that are in March and April, those
(10) dates don't accurately tell the story in terms of
(11) when they were actually received. And so we did
(12) our best in terms of providing the resources we
(13) felt we needed in the budget process for 2016.

(14) CHAIRMAN CUNNINGHAM: And to that
(15) same end, the invoices contained items for things
(16) that the Division Staff thought would be kind of a
(17) routine operating expense. And I'll use the one
(18) that jumped out in a kind of very glaring way,
(19) which is snow removal, which is something we would
(20) not typically allow or want included. But I
(21) believe again on the conference call these were
(22) items that Suez expended, that you owe Suez for
(23) under the contract with them that you were not
(24) aware of and is part of --

(25) ADRIAN MAPP: That is correct.

(1) CHAIRMAN CUNNINGHAM: -- part of
(2) the batch of invoices you received.

(3) ADRIAN MAPP: That is absolutely
(4) correct.

(5) CHAIRMAN CUNNINGHAM: Mr. Close, do
(6) you have more questions?

(7) MR. CLOSE: Well, Director, yes,
(8) that was -- my first was what the staff
(9) conversation was on maintenance and repair-type
(10) costs, which are not bondable. I had some concerns
(11) about that: Their inclusion in this request. So
(12) this is a one-time -- this is moving out of this
(13) contract with Suez. You've now identified that as
(14) not being something that you will be subject to in
(15) the future.

(16) And then the other part I would like
(17) for you to talk about, if you don't mind, is that
(18) there's no E and O, errors or omissions, contract
(19) language that you could go back to them on about
(20) not presenting this, and have you explored this,
(21) and what was the outcome of those discussions?

(22) CHRISTOPHER HARTWICK: So the 2003
(23) contract was apparently drafted with the
(24) expectation that it would be renegotiated within
(25) two years. Even though it was a longer term

(1) agreement, it was executed at a time when the City
(2) decided to go from operating the water system
(3) inhouse for a period of years, a short period of
(4) years, and they decided to go back out to operate
(5) to a private -- public private partnership.

(6) The anticipation at the time was
(7) that the contract would be renegotiated
(8) approximately -- they would see how it went for two
(9) years. Well apparently what they did is they saw
(10) how it went for 10 years. And consequently the
(11) structure of the contract is not what you would see
(12) in contracts that would be negotiated today or
(13) within the last five years between public --
(14) private operators in a public water system. So
(15) directly there is no E and O. There's no omission
(16) or failure to act clause. There's no delay clause.
(17) There are a number of other things that are lacking
(18) in terms of the agreement. That's why the
(19) administration chose not to exercise in 2013 the
(20) five-year option period under the agreement. And
(21) while we were in the process of doing an RFP. To
(22) redo the entire contract, we decided to put the
(23) brakes on that for a few months while we dealt with
(24) some issues that were raised by DEP, and did some
(25) repairs and an assessment to the system so that

(1) when we were actually negotiating and doing an RFP
(2) process for the water system we were on better
(3) footing in terms of that process.

(4) With respect to the first
(5) question -- notwithstanding what the contract
(6) says -- in August and September of this year, we
(7) instituted internal processes in terms of the
(8) assignment of personnel to monitor the contract on
(9) a daily basis and to administer the contract.
(10) Prior to that, back in the mid 2000s, there had
(11) been an employee in the city who was administering
(12) the contract on a daily basis. That person retired
(13) in 2011.

(14) In 2012 they had some -- and '13
(15) they had some changes on the administration of the
(16) contract on the private side. The process, in
(17) terms of how that contract was executed,
(18) administered and monitored broke down. We've put
(19) in place a manager for the water utility -- a daily
(20) contact for the water utility company. And I'd
(21) like to say we have a much better handle on exactly
(22) what's going on in terms of the repairs as well as
(23) the daily operation. We still have some
(24) improvements. You probably saw the e-mails
(25) yesterday about some of the bills that you had

(1) requested for the 175. So we were a little
(2) surprised even yesterday that we received some
(3) bills we were unaware of from October. However,
(4) I'll address that in my office with the manager and
(5) the appropriate people at Suez. This will not be a
(6) recurring annual problem. I think what we're doing
(7) here is we're cleaning up a problem that
(8) accumulated over a couple of years. And the
(9) anticipation is that by the time we get to the end
(10) of 2017, we will be in a full-fledged RFP
(11) negotiation process for a new operator for the
(12) system.

(13) MR. CLOSE: Okay.

(14) MS. RODRIGUEZ: I have some
(15) questions. I'm just trying to make sense of this.
(16) American Water is your provider.

(17) CHRISTOPHER HARTWICK: No.

(18) MS. RODRIGUEZ: Just on an emergency
(19) basis.

(20) CHRISTOPHER HARTWICK: Correct.

(21) MS. RODRIGUEZ: Okay. So who is
(22) your provider?

(23) CHRISTOPHER HARTWICK: The manager
(24) operator on a daily basis is United Suez.

(25) MS. RODRIGUEZ: Okay.

(1) CHRISTOPHER HARTWICK:And they
(2) asked the City to enter into an emergency provision
(3) contract with American Water back in 2011.

(4) DIETER LERCH:I think the question
(5) though is who is the provider. The City has its
(6) own well system. So -- -

(7) MS. RODRIGUEZ:Right. You have
(8) your own --

(9) DIETER LERCH:Right. So the real
(10) provider -- the resources were city, city water.

(11) MS. RODRIGUEZ:Right. City water
(12) was operated--

(13) DIETER LERCH:Right.

(14) MS. RODRIGUEZ:-- operated by Suez.

(15) DIETER LERCH:Right. But it was
(16) their own water system.

(17) MS. RODRIGUEZ:And the bill that
(18) was due was from American Water, right --

(19) CHRISTOPHER HARTWICK:That's
(20) correct.

(21) MS. RODRIGUEZ:- which supposedly
(22) Suez got it and never forwarded it to the City
(23) according to American? Is that --I'm just asking.

(24) CHRISTOPHER HARTWICK:That's
(25) correct.

(1) DIETER LERCH: That's correct.

(2) MS. RODRIGUEZ: Okay. So this is
(3) your operator who never gave you the water bills.
(4) Okay.

(5) Now, when they do capital
(6) improvements to the mains or lining or whatever
(7) they do to your system, is that already in the
(8) contract?

(9) CHRISTOPHER HARTWICK: The contract
(10) provides --

(11) MS. RODRIGUEZ: Who do they give
(12) authorization for to go out and repair, make
(13) repairs --

(14) CHRISTOPHER HARTWICK: Sure.

(15) MS. RODRIGUEZ: -- on your water
(16) system?

(17) CHRISTOPHER HARTWICK: The letter of
(18) the contract provides that they're authorized to go
(19) out and solicit a minimum of three quotes or to use
(20) a preferential contracting arrangement that they
(21) have negotiated --

(22) MS. RODRIGUEZ: Uh-huh.

(23) CHRISTOPHER HARTWICK: -- to make
(24) repairs. They only have to come to us, once they
(25) have the three quotes, and tell us under the letter

(1) of the contract: We're doing these repairs and
(2) we're using a contractor. The only time that the
(3) City gets involved in that process is if the
(4) particular repair or improvement is outside of the
(5) parameters of the four corners of the contract.
(6) For example, if it was a major waterline --

(7) MS. RODRIGUEZ: Right.

(8) CHRISTOPHER HARTWICK:- rupture,
(9) they would have to come to us and we would have to
(10) work out some arrangement. So that process as set
(11) forth in the contract clearly worked out.

(12) MS. RODRIGUEZ: Okay. So my last
(13) question is: There is going to be a 22 percent
(14) increase on the rate payers, right?

(15) DIETER LERCH: Correct.

(16) MS. RODRIGUEZ: And so you're here
(17) to borrow money that, if approved, you're going to
(18) -- you're going -- you're seeking a five-year year?

(19) DIETER LERCH: Correct.

(20) MS. RODRIGUEZ: And where the rate
(21) payers -- right?

(22) DIETER LERCH: Yes.

(23) MS. RODRIGUEZ: -- the rate payers
(24) are going to be paying \$37.

(25) DIETER LERCH: That's correct.

(1) CHAIRMAN CUNNINGHAM: On top of the
(2) 22 percent.

(3) MS. RODRIGUEZ: On top of the 22
(4) percent.

(5) DIETER LERCH: That is correct.

(6) MS. RODRIGUEZ: My concern -- unless
(7) this -- all the legalities and you get your
(8) operations and all of that together, I would love
(9) to say this is probably going to be the only time
(10) you're going to come here, but for this situation,
(11) this is a very serious situation. I mean water is
(12) important to communities. And what can I say?
(13) I mean it's --

(14) CHRISTOPHER HARTWICK: I think, you
(15) know, these are some of the things you need to
(16) know.

(17) MS. RODRIGUEZ: Right.

(18) CHRISTOPHER HARTWICK: The emergency
(19) water connect is the highest rate you can possibly
(20) detect.

(21) MS. RODRIGUEZ: I know.

(22) CHRISTOPHER HARTWICK: For whatever
(23) reason, either with or without knowledge, we've
(24) been relying upon that emergency connect for the
(25) last five years.

(1) MS. RODRIGUEZ: Right.

(2) CHRISTOPHER HARTWICK: We're no
(3) longer going to rely upon the emergency connect.
(4) We're going to enter into either a purchase water
(5) agreement, which will cut our water purchase costs
(6) approximately to 30 percent of what we've been
(7) paying over the last five years. That's step one.
(8) We're in the process of doing that now. We have to
(9) put that in place in order to be able to go forward
(10) with our RFP process.

(11) Secondly, we've allocated in
(12) accordance with that rate increase. We've
(13) developed a capital improvement program for the
(14) water utility for the next five years, which,
(15) hopefully, that investment in our wells and our
(16) equipment will keep capacity when you combine that
(17) with our water purchase agreement at the level
(18) that's necessary so that we don't have to, you
(19) know, go out and buy water on an emergency basis.
(20) That's the worst possible position we would be in.

(21) MS. RODRIGUEZ: You're looking to do
(22) your own preserves --

(23) CHRISTOPHER HARTWICK: That's
(24) correct.

(25) MR. CLOSE: The emergency water

(1) connection that you described -- and if I heard you
(2) correctly before you said they didn't have to give
(3) you notice. They just drew down on it whenever
(4) they determined it was appropriate; is that
(5) correct?

(6) CHRISTOPHER HARTWICK That's
(7) correct.

(8) MR. CLOSE: So those bills for that
(9) use -- because you said you could not identify when
(10) they were done -- were they for emergency
(11) circumstances?

(12) CHRISTOPHER HARTWICK Ordinary --

(13) MR. CLOSE: Because in the
(14) description it makes it sound like they just
(15) utilized the water for the functioning of the
(16) system. Was it actually an emergency? And if so,
(17) does that tie out to emergencies that you found in
(18) terms of water main breaks -- things of that nature
(19) -- within the city?

(20) DIETER LERCH My understanding is
(21) that the city has its own well system. So when the
(22) well system went down, it's automatic that the
(23) interconnect --

(24) MR. CLOSE: Draws down.

(25) DIETER LERCH: Yeah, when the well

(1) system shuts down you have to supply water to the
(2) 30,000 residents.

(3) MS. RODRIGUEZ: Right. Right.

(4) DIETER LERCH: So it's automatic
(5) that the interconnect comes on. So it's not really
(6) a conscious decision. It's really a matter they
(7) have to do the water supply.

(8) MR. CLOSE: Water has to be turned
(9) on for somebody -- water connect has to be
(10) activated --

(11) DIETER LERCH: Yes, and Suez is the
(12) one who controls it, not the city.

(13) MR. CLOSE: Sections of the city
(14) that were in need of water typically because there
(15) was some incident that needed the additional water
(16) flow because your wells were down. They had
(17) reached a certain level, and they weren't able to
(18) provide it. That's what I was trying to ask, was
(19) that the case?

(20) DIETER LERCH: Yes, and Suez would
(21) activate that.

(22) MR. CLOSE: But they never gave you
(23) any log or information to tie it out to the bills
(24) that you were submitting.

(25) CHRISTOPHER HARTWICK: That's

(1) correct.

(2) MR. CLOSE: That's the point
(3) I wanted to get to.

(4) CHRISTOPHER HARTWICK That's
(5) correct. So you understand there's reserve water
(6) tank, right, that's monitored on a daily basis, and
(7) when that water tank goes below a certain level,
(8) that triggers the need for --

(9) MR. CLOSE: The use.

(10) CHRISTOPHER HARTWICK: -- the use of
(11) the emergency connect because that tells us that,
(12) absent the use of the emergency connect, should we
(13) be hit either with a water main break -- which is
(14) entirely possible -- or with a huge fire, we would
(15) be challenged to provide the capacity to do all of
(16) that at the same time without the connect.

(17) MR. CLOSE: There was no way ever to
(18) tie out to it and the bills that came in after the
(19) fact, there was no log that would be -- that would
(20) come up in your annual review of the expenditures
(21) with the audit, et cetera, because the bills were
(22) never present --

(23) DIETER LERCH Correct.

(24) MR. CLOSE: -- until recently.

(25) CHRISTOPHER HARTWICK That's

(1) correct.

(2) MS. RODRIGUEZ: Now you put somebody
(3) to oversee that on a daily basis, right? Someone is
(4) assigned specifically for waterworks.

(5) CHRISTOPHER HARTWICK: Yes. And we
(6) put someone in charge. We have charged the
(7) operator with a sufficient notification system of
(8) the use of the interconnect to city personnel
(9) within 24 hours.

(10) MS. RODRIGUEZ: Okay.

(11) MR. AVERY: Did I understand you to
(12) say that the city has used this interconnection for
(13) the last five years as is its primary source of
(14) water?

(15) CHRISTOPHER HARTWICK: No, no. The
(16) primary source of water are the well fields that
(17) the city operates. Those are the primary source.

(18) When capacity declined, the reliance
(19) upon the interconnect broke, and the capacity
(20) declined because wells were out of service for
(21) specified periods of time.

(22) MR. AVERY: And so some number of
(23) wells had been out of service or reduced capacity
(24) for the last five years, which is --

(25) CHRISTOPHER HARTWICK: At different

(1) times.

(2) MR. AVERY: Different times.

(3) CHRISTOPHER HARTWICK: Different
(4) wells.

(5) MR. AVERY: And the DEP's concern
(6) was over pumping out a well, you added a permit?

(7) CHRISTOPHER HARTWICK: DEP's concern
(8) is accurately and fairly is overreliance upon the
(9) emergency interconnect and lack of productive
(10) capacity from the well fields, so they wanted a
(11) hydrologic study which we contracted for.

(12) MR. AVERY: Is there no baseline
(13) requirement for Suez to operate your system at a
(14) certain level, so, you know, they have an
(15) obligation?

(16) CHRISTOPHER HARTWICK: There are
(17) baseline requirements under the contract, which is
(18) why they would be required to flip the
(19) interconnect.

(20) MR. AVERY: So it really ties into
(21) the interconnection, not the production.

(22) CHRISTOPHER HARTWICK: Correct.

(23) MS. RODRIGUEZ: My last question:
(24) Are you going out for both, for emergencies and
(25) operations? You say you're in the process of doing

(1) a RFP by the end of the year?

(2) CHRISTOPHER HARTWICK: The RFP will
(3) be for the operation and management of the system.

(4) MS. RODRIGUEZ: And?

(5) CHRISTOPHER HARTWICK: And prior to
(6) that there will be an RFP for a standalone water
(7) purchase agreement, not an emergency interconnect.

(8) MS. RODRIGUEZ: Oh, okay.

(9) CHRISTOPHER HARTWICK: Which under
(10) BPU rates is a substantially reduced rate from that
(11) which is charged for an emergency interconnect.

(12) MS. RODRIGUEZ: Yes.

(13) MR. AVERY: So this amount that
(14) you're in front of the Board today, fixes the well
(15) field, or just -- or pays the bills to fix the well
(16) field?

(17) CHRISTOPHER HARTWICK: It pays the
(18) bills for the water that was used in reliance upon
(19) the emergency interconnect without knowledge. And
(20) it pays the bills for a variety of improvements
(21) that we were not told about during the year.

(22) MR. AVERY: Are all the wells back
(23) in service now?

(24) CHRISTOPHER HARTWICK: Not all. Well
(25) 7 and 8, which are -- were shut down for arsenic.

(1) We're still studying the when exactly, so when we
(2) do those improvements, because we anticipate some
(3) changes in the regulatory requirements for those
(4) spill systems.

(5) MR. AVERY: I understand that.

(6) MR. CLOSE: Suez was your licensed
(7) operator.

(8) CHRISTOPHER HARTWICK: Yes, sir.

(9) CHAIRMAN CUNNINGHAM: I also wanted
(10) to note that the Board received a letter in
(11) opposition of this application from Mr. Jeffrey
(12) Feld who I guess is not in attendance today, but
(13) I did want the record to reflect that we looked
(14) through the enumerated actions, 18 enumerated
(15) actions that Mr. Feld suggested the Board consider.
(16) We found three of them to be germane to this
(17) particular application and discussed them with the
(18) Applicant on the conference call. One was just not
(19) the underlying type of transaction that was being
(20) conducted here. The other sought to request the
(21) settlement, but we happen to have that. And the
(22) third had to do with the City posting to refund the
(23) the bond application on the City's public website.
(24) And I just wanted to find out that that happened?

(25) CHRISTOPHER HARTWICK: I can

(1) represent to you it was posted yesterday early day.

(2) CHAIRMAN CUNNINGHAM:Okay.

(3) CHRISTOPHER HARTWICKAnd it's on
(4) the transparency page if anybody seeks to look at
(5) it.

(6) CHAIRMAN CUNNINGHAM:Thank you. So
(7) the decision in front of the Board is whether or
(8) not to permit this emergency; and then if so, for
(9) how long and starting when. I don't know that the
(10) Board has a great choice here in terms of, you
(11) know, whether or not to permit it. So I think the
(12) conversation moves to how much and when? So the
(13) Applicant is seeking five years, which they said
(14) was \$37 for the average -- I'm sorry -- or per rate
(15) payer, \$37 annually for the rate payer, they're
(16) also seeking to begin payback in 2018, which is
(17) something I don't think I'd be supportive of. And
(18) then just for the Board's and the Public's benefit,
(19) if they were to pay it back over four years, it
(20) would be \$45 on the average -- I'm sorry -- on the
(21) residential rate payer; \$157 dollars on
(22) nonresidential. And if it was a three-year
(23) payback, it would be \$60 of a rate -- residential
(24) rate increase and 207 on nonresidential. So I'm
(25) just curious about what the Board's pleasure may be

(1) in that regard.

(2) MS. RODRIGUEZ: If I may, because of
(3) the situation that they're in now, there's going to
(4) be a rate increase, I would ask probably do the
(5) five-year because of that. And again, I don't know
(6) that that's starting in 2018.

(7) CHAIRMAN CUNNINGHAM: So you would
(8) be okay with five years starting in '17?

(9) MS. RODRIGUEZ: I would be okay with
(10) five years starting in 2017.

(11) MR. LIGHT: I was going to suggest
(12) four but that was a passionate plea that --

(13) MS. RODRIGUEZ: Well, no, because
(14) they're going to be four and there's a 22 percent
(15) -- you know, this is a city in transition.

(16) MR. LIGHT: No, I understand the
(17) hole is deep.

(18) MR. CLOSE: My initial reaction
(19) would be probably along Ted's lines. I understand
(20) what you are saying. And with the deferral aspect
(21) I'm with the director on that. I would be thinking
(22) more in the lines of four.

(23) CHAIRMAN CUNNINGHAM: Four starting
(24) '17?

(25) MR. CLOSE: Yes.

(1) MR. LIGHT: What's your feeling on
(2) this?

(3) CHAIRMAN CUNNINGHAM: I'm
(4) sympathetic to the fact that there's already a
(5) rate increase and I'm contemplating on the budget.
(6) The city has got a very sombre responsibility for
(7) the failure to monitor this situation and the
(8) invoices. I mean -- and I can certainly appreciate
(9) your-- you're cleaning up a heck of a mess. But
(10) you inherited a mess that was preventable. I hear
(11) that two of my colleagues are recommending four
(12) years. I don't think there's any appetite for the
(13) deferral.

(14) MR. LIGHT: What's your comment on
(15) the four?

(16) MR. CLOSE: Where are you with the
(17) four? I'd like to hear your reaction.

(18) DIETER LERCH: We appreciate that and
(19) we'll accept that. I mean obviously we're hoping
(20) to lessen the burden on the rate payer because
(21) we're already facing a 22 percent increase.

(22) CHAIRMAN CUNNINGHAM: What does 22
(23) percent amount to in dollars?

(24) DIETER LERCH: That comes out to
(25) about \$175 dollars. So I mean it's just a matter

(1) of how much the people can tolerate. So we're at
(2) your mercy on that issue.

(3) MS. RODRIGUEZ: That's a year you're
(4) saying?

(5) DIETER LERCH: Yes.

(6) CHAIRMAN CUNNINGHAM: Residential?

(7) DIETER LERCH: Yes.

(8) MR. CLOSE: Based on that I'd
(9) probably go with the five or the deferral anyway at
(10) least.

(11) MS. RODRIGUEZ: Yeah.

(12) MR. LIGHT: I'll withdraw mine and
(13) go with the five.

(14) CHAIRMAN CUNNINGHAM: Sorry. I just
(15) want to make sure we get this right. 122 you said?
(16) \$122?

(17) DIETER LERCH: 175 we're looking at
(18) on the water.

(19) MR. CLOSE: Residential.

(20) DIETER LERCH: Residential, correct.

(21) CHAIRMAN CUNNINGHAM: That's not the
(22) 22 percent increase. That's what the total --

(23) DIETER LERCH: That's with the 22
(24) percent increase.

(25) MR. CLOSE: That's with the 22?

(1) DIETER LERCH: Yes, because that's
(2) -- we're roughly about a \$1.1 million increase
(3) we're facing right now.

(4) CHAIRMAN CUNNINGHAM: I'm sorry.
(5) I'm still not understanding. Does the 22 percent
(6) increase equal 175, or does the new bill with the
(7) 22 percent increase equal --

(8) DIETER LERCH: The 22 percent is the
(9) \$175 on the water.

(10) MR. DIROCCO: That's on top of
(11) the --

(12) DIETER LERCH: So we'd have the \$37
(13) on top of that.

(14) CHAIRMAN CUNNINGHAM: Okay.

(15) MR. CLOSE: So it would be 212
(16) versus --

(17) DIETER LERCH: Correct.

(18) MR. CLOSE: -- versus 175 over the
(19) course of the year.

(20) DIETER LERCH: Correct.

(21) MR. AVERY: How quickly does the
(22) City contemplate doing the final repairs to the
(23) well system? Is that something that's imminent?

(24) CHAIRMAN CUNNINGHAM: I don't
(25) believe -- the deferral is not on the table.

(1) CHRISTOPHER HARTWICK:The deferral
(2) is not on the table, right?

(3) MS. RODRIGUEZ:No, it's not on the
(4) table.

(5) CHRISTOPHER HARTWICKThe hydro
(6) study just started. Before I pump money into seven
(7) and eight, I want the results of the hydro study.
(8) So I'm looking at mid year befor seven and eight
(9) are back on line. Five will be back in line within
(10) weeks. Two is already back on line.

(11) MS. RODRIGUEZ:Emergency operator--
(12) You have taken the correct steps. I mean obviously
(13) you have knowledge. You know, that's important.
(14) --

(15) CHAIRMAN CUNNINGHAM:Your
(16) recommendation is five.

(17) MS. RODRIGUEZ:Yes.

(18) CHAIRMAN CUNNINGHAM:Is that
(19) palatable to --

(20) MR. AVERY:I'll go with five
(21) starting this year.

(22) CHAIRMAN CUNNINGHAM:Five starting
(23) this year.

(24) MR. CLOSE:Yeah, I can live with
(25) that. I would be more inclined to do the four.

(1) I agree with your comments, Director. But given
(2) the fact that you've inherited a proverbial leaky
(3) bag, you're trying to clean things up, I can see
(4) doing the five, so --

(5) CHAIRMAN CUNNINGHAM: All right.

(6) DIETER LERCH: Thank you.

(7) CHAIRMAN CUNNINGHAM: Perhaps we can
(8) have a motion in that regard then for a five-year
(9) repayment schedule starting in 2017.

(10) MS. RODRIGUEZ: I make a motion.

(11) CHAIRMAN CUNNINGHAM: Ms. Rodriguez
(12) makes a motion.

(13) MR. AVERY: Second.

(14) CHAIRMAN CUNNINGHAM: Mr. Avery
(15) seconds. Roll call please.

(16) MS. MCNAMARA: Mr. Cunningham?

(17) CHAIRMAN CUNNINGHAM: Yes.

(18) MS. MCNAMARA: Mr. Avery?

(19) MR. AVERY: Yep.

(20) MS. MCNAMARA: Ms. Rodriguez?

(21) MS. RODRIGUEZ: Yes. Lots of luck.

(22) MS. MCNAMARA: Mr. Light?

(23) MR. LIGHT: Yes.

(24) MS. MCNAMARA: Mr. Close?

(25) MR. CLOSE: Yes.

(1) MS. MCNAMARA: Mr. Dirocco?

(2) MR. DIROCCO: Yes.

(3) DIETER LERCH Thank you very much.

(4) CHAIRMAN CUNNINGHAM: South Brunswick
(5) Township Board of Ed.

(6) ---

(7) SOUTH BRUNSWICK TOWNSHIP BOARD OF
(8) EDUCATION (SCHOOL ENERGY SAVINGS OBLIGATION
(9) REFUNDING BONDS) MIDDLESEX-NJSA 18A24-61 5 (1)
(10) \$4,000,000 Proposed School Refunding Bonds (ESIP)

(11) ---

(12) CHAIRMAN CUNNINGHAM: Good morning.
(13) Introduce yourselves, and those who are not counsel
(14) be sworn.

(15) EDWARD McMANIMON Ed McManimon,
(16) McManimon, Scotland and Baumann, Bond Counsel to
(17) the South Brunswick Board of Education. To my
(18) right is Thaddeus Thompson, the business
(19) administrator. And to his right is Robbi Acampora,
(20) who is the financial advisor to the school
(21) district. I guess they need to be sworn.

(22) (THADDEUS THOMPSON, ROBBI ACAMPORA,
(23) after having duly been sworn was examined and
(24) testified as follows:)

(25) EDWARD McMANIMON This is a

(1) supplemental application in the amount of \$4
(2) million for a continued piece of program that's
(3) been approved by the BPU. They had approval for
(4) the original amount of \$23,300,000 in November of
(5) last year, but when the bids came in, they came in
(6) at such a good level they could actually
(7) incorporate two more facilities and still have the
(8) debt service paid from the savings that are
(9) generated from this program. That amount is \$4
(10) million, and it all works out financially. So we
(11) would ask the Board if they would approve the
(12) supplemental arrangement for the financing of the
(13) additional energy savings facilities.

(14) CHAIRMAN CUNNINGHAM: So a technical
(15) question, something I don't understand at all. So
(16) the fact you got a lower rate, and you have
(17) additional savings, you're now going to fund a dual
(18) temperature system in two elementary schools?

(19) THADDEUS THOMPSON: Correct.

(20) CHAIRMAN CUNNINGHAM: Can you tell
(21) me what that means?

(22) THADDEUS THOMPSON: Right now there
(23) are older systems in the building. And they are
(24) going to replace them and put in heating and air
(25) conditioning. Right now there's just got an older

(1) model heating. It was something that when they
(2) developed the piece originally, it didn't work in
(3) due to the costs, but now with the increase of
(4) savings it looks like a good opportunity.

(5) CHAIRMAN CUNNINGHAM: So you get a
(6) little more bang for the buck is generally the
(7) purpose of this application.

(8) THADDEUS THOMPSON: Correct.

(9) CHAIRMAN CUNNINGHAM: Questions from
(10) the Board.

(11) MR. LIGHT: Move for the
(12) application.

(13) CHAIRMAN CUNNINGHAM: We have a
(14) motion?

(15) MR. LIGHT: Yes.

(16) MR. AVERY: Second.

(17) CHAIRMAN CUNNINGHAM: Second?

(18) MR. AVERY: Yes.

(19) CHAIRMAN CUNNINGHAM: Mr. Avery
(20) seconds. Roll call.

(21) MS. MCNAMARA: Mr. Cunningham?

(22) CHAIRMAN CUNNINGHAM: Yes.

(23) MS. MCNAMARA: Mr. Avery?

(24) MR. AVERY: Yes.

(25) MS. MCNAMARA: Ms. Rodriguez?

(1) MS. RODRIGUEZ: Yes.

(2) MS. MCNAMARA: Mr. Light?

(3) MR. LIGHT: Yes.

(4) MS. MCNAMARA: Mr. Close?

(5) MR. CLOSE: Yes.

(6) MS. MCNAMARA: Mr. Dirocco?

(7) MR. DIROCCO: Yes.

(8) EDWARD McMANIMON: Thank you very
(9) much.

(10) ---

(11) NEWARK CITY STATE OPERATED SCHOOL

(12) DISTRICT ESSEX - NJSA 18A: 20-4 2(e)(4) \$42,500,000

(13) Proposed Lease Agreement Newark State Operated
(14) School District

(15) ---

(16) CHAIRMAN CUNNINGHAM: Newark City
(17) State Operated School District.

(18) CHAIRMAN CUNNINGHAM: Introduce
(19) yourselves. Those that aren't counsel be sworn.

(20) ALEXANDER D'JAMOOS: Yes, of course.

(21) My name is Alexander D'Jamoos, I'm the Associate
(22) Deputy General Counsel, Inhouse Counsel for Newark
(23) Public Schools.

(24) And I'm joined here by Valerie,
(25) Wilson who is our school business administrator.

(1) THOMAS SCHIROCKY:Thomas Schirocky
(2) from CBRE.

(3) PERRY LATTIBOUDERE:Perry with a P,
(4) P-E-R-R-Y, Lattiboudere, L-A-T-T-I-B-O-U-D-E-R-E.
(5) I'm with Adams Latier, outside Counsel to the
(6) Newark schools.

(7) JORGE MADRUGA My name is Jorge
(8) Madruga and I'm the CEO and Founder of MADDD
(9) Equities.

(10) (JORGE MADRUGA, VALERIE WILSON,
(11) THOMAS SHIROCKY, PERRY LATTIBOUDERE, after having
(12) duly been sworn was examined and testified as
(13) follows:)

(14) CHAIRMAN CUNNINGHAM:Counselor, do
(15) you want to begin?

(16) ALEXANDER JAMOOS, ESQ: Yes, I will,
(17) thank you, sir.

(18) Good morning, Mr. Cunningham and
(19) other members of the local finance board. Thank
(20) you for your opportunity to present this morning.

(21) The application that was submitted
(22) by the state operated school district of the City
(23) of Newark, is also known as "Newark Public Schools"
(24) is for a requested approval pursuant to what is
(25) essentially the New Jersey Education Statute:

(1) NJSA 18A:20-4.2, subpart (e), subpart (4). That
(2) effectively requires that the district in any Lease
(3) Agreement longer than five years obtain the
(4) approval of the Commissioner of education, which
(5) has been obtained and also the local finance board.

(6) We have submitted those -- the
(7) materials in the packet. We have obtained the
(8) approval by a super majority of our Board of
(9) Education. We've also obtained the approval of the
(10) Acting Commissioner of Education, Ms. Harrington.
(11) This is the third and final approval required by
(12) the district in order to enter into the Lease
(13) Agreement with New Jersey Realty Partners.

(14) VALERIE WILSON Good morning. As
(15) the director indicates, my name is Valerie Wilson.
(16) And I am the school business administrator for the
(17) Newark Public Schools.

(18) Chairman Cunningham and board
(19) members, we come before you this morning with a
(20) request for an approval of the Lease Agreement with
(21) a 16-year term with a total value of approximately
(22) \$42.5 million over that 16-year term.

(23) The district has resided in its
(24) current location at Two Cedar Street since 1990.
(25) We occupy three floors and the basement for which

(1) we pay \$4.9 million in rent. The proposal that we
(2) have placed before you we'll save an average of 2.3
(3) to 2.5 million per year of the agreement. We'll
(4) reduce the district's occupancy from 181,000 square
(5) feet to approximately 97,000 square feet. It is
(6) three blocks south of our current location. We
(7) will be entering into this agreement effective July
(8) 1st -- I'm sorry -- August 1st at the end of our
(9) current Lease arrangement with our current
(10) landlord. The district as has been no secret and
(11) has had several years of significant reductions in
(12) order to adjust its operating expenses, and in
(13) order to ensure that our students are not impacted
(14) by the level of funding that Newark receives, which
(15) is less than the state formula suggests, but we
(16) have also raised taxes to ensure that we are
(17) beginning to pay our adequate and local fair share.
(18) So this is another arrangement for us to reduce our
(19) operating expense by a significant amount and be
(20) able to curtail the impact to students in our
(21) district.

(22) CHAIRMAN CUNNINGHAM: Thank you. So
(23) you went out for proposals for various locations?

(24) VALERIE WILSON: Yes, we did. We
(25) actually -- I'm sorry.

(1) CHAIRMAN CUNNINGHAM:Please. Go
(2) ahead.

(3) VALERIE WILSONWe actually began
(4) our market overview back in the second quarter of
(5) 2016, actually almost seven -- eight months ago.
(6) We looked at what was available in the market.
(7) There were approximately 12 properties. We
(8) windowed that down to approximately four
(9) properties, which we received proposals from and
(10) actually negotiated with those properties for what
(11) was the actual deal that we are presenting to you
(12) today.

(13) CHAIRMAN CUNNINGHAM:And one of the
(14) elements of that negotiation was to go to a 16-year
(15) Lease term, which, in essence, is a 15-year Lease
(16) term, but the first year is being deferred such
(17) that it would allow the City to absorb moving
(18) costs.

(19) VALERIE WILSON:It will allow the
(20) district to absorb moving costs, yes.

(21) CHAIRMAN CUNNINGHAM:And this has
(22) also been reviewed by the Department of Education
(23) and the Commissioner approval was received.

(24) VALERIE WILSON:We received
(25) Commission Harrington's approval in writing. And

(1) I should also note that the Mayor of the City has
(2) also reviewed this particular agreement and has no
(3) objection.

(4) CHAIRMAN CUNNINGHAM: Thank you.

(5) For the benefit of the Board,
(6) I should have said that we've done at least one
(7) phone call. And I don't know whether we did more
(8) than that, but I know we had some staff -- at the
(9) staff level we had significant discussions with
(10) this Applicant about this particular application.

(11) The other thing we saw, which was
(12) received and distributed to the members is we
(13) wanted to understand the ownership of the proposed
(14) new landlord so that none of the board members were
(15) placed into a position of conflict voting for
(16) something they may have had a business relationship
(17) with, and we did receive that information.

(18) Any other questions from the Board?

(19) MS. RODRIGUEZ: I have a comment. I
(20) think it's a smart move for the district to move in
(21) the center of the city. I mean that's better than
(22) Broad Street. Hopefully -- you know, I've been to
(23) your current location. It's tough parking, and
(24) getting there. And it's all scaffolding. And so
(25) I commend you for looking out. And I just think

(1) it's going to be a great place for parents and
(2) students to come to. I'm familiar with the
(3) location. And great savings, and you know, I think
(4) you are doing a good job.

(5) VALERIE WILSON: Thanks, Ms.
(6) Rodriguez. We actually have parking at that
(7) location available for our visitors.

(8) CHAIRMAN CUNNINGHAM: Just if
(9) there's any public comment, anyone that makes
(10) public comment, I just ask you to put your hand up.
(11) So seeing none, I do want to just acknowledge for
(12) the record that the school district sent a detailed
(13) letter in response to a letter that Counsel Jenkins
(14) had sent to my attention. I have to admit though
(15) that that letter never was received by the Counsel
(16) woman, but I got your response to it. And one of
(17) the things that I would just like to go on the
(18) record with -- or I'm sorry -- I would ask you to
(19) put on the record is -- and we had asked this
(20) question, and I guess the Counsel must have had the
(21) same concern -- can you talk a little bit about why
(22) the district isn't buying the building and why the
(23) Lease arrangement is still determined to be
(24) prudent?

(25) VALERIE WILSON: So I've been

(1) business administrator since 2009. Since my tenure
(2) we have had at least double-digit gaps in our
(3) ability to meet our budgetary needs. We have a
(4) building inventory that is significantly aged. Our
(5) buildings actually average 92 years old. We are in
(6) the process of discussions, and we'll probably come
(7) before this Board again for bonding with the City
(8) to do repairs. So we would not want to use our
(9) bonding capacity to buy a building for a central
(10) office.

(11) We've also looked at schools to
(12) determine whether or not an existing building could
(13) be used. And we have found -- because of our aged
(14) property -- that any school that we would use and
(15) one, in particular, will cost us almost \$43,000,000
(16) to have it ready both for code and employee
(17) occupancy on a long-term, whether it's HVAC,
(18) elevators, building envelope, that particular
(19) building the masonry actually fell off of it in the
(20) fall of I think 2014. That building will also be
(21) subject to SDA repairs. There are approximately
(22) \$7.2 million of masonry window and other building
(23) envelope repairs. So we looked both internally as
(24) well as looking at the opportunity to buy.

(25) This particular Lease arrangement

(1) will allow us to be able to remain within our
(2) budgeted dollars, actually returning dollars to the
(3) school and still be able to pay rent, pay for the
(4) relocation of our office in what we'll be an
(5) ergonomically efficiently designed building because
(6) we will be moving into modular space which is going
(7) to be a significant culture shock for many of the
(8) members of our staff, but nonetheless that is what
(9) we will do. So we believe that a Lease arrangement
(10) with an option to buy in our long-term Lease is the
(11) best opportunity for the district. Of course we
(12) will come back before this Board for an approval of
(13) a purchase.

(14) CHAIRMAN CUNNINGHAM: Thank you very
(15) much.

(16) So for my colleagues on the Board
(17) this matter comes in front of us through Title 18
(18) as an education statute. And the education statute
(19) is excerpted in your staff report. And it really
(20) -- in a case of a Lease over five years, such a
(21) Lease would have to be approved by the Commissioner
(22) of Education and the Local Finance Board. So we're
(23) just approving the Lease. I don't know that it's
(24) possible to approve the Lease without understanding
(25) the methodology and the thought process that went

(1) into both procuring that Lease and negotiating it,
(2) but I -- neither I nor the staff saw any reason why
(3) the Board should not approve, but obviously the
(4) Applicant is here and you should have any
(5) questions, I'd ask you to feel free to ask them.

(6) MR. CLOSE: No. Sounds like a wise
(7) decision on many levels. Just curious you said you
(8) are going to save 2.3 million?

(9) VALERIE WILSON Annually.

(10) MR. CLOSE: Approximately.

(11) VALIERIE WILSON Yes.

(12) MR. CLOSE: How much of that do you
(13) anticipate re-appropriate to the repairs you just
(14) identified on the other building structures within
(15) the system?

(16) VALERIE WILSON: As you know we are
(17) an SDA district, formally an avid district. So we
(18) are continuing to work with the SDA to acquire
(19) approval for emergent repairs. We have also
(20) decided to work with the City as we anticipate
(21) return to local control to actually bond for
(22) repairs. So this money will, in particular, will
(23) go back into the school budgets and in terms of
(24) what we need to do academically for students.

(25) MR. CLOSE: You are not anticipating any

(1) of this 2.3 to be utilized for repairs that you --

(2) VALERIE WILSON No, sir.

(3) MR. CLOSE: -- had identified as being
(4) much needed long-term repairs.

(5) VALERIE WILSON No.

(6) MR. CLOSE: Somewhat surprised about
(7) that, that you're not taking any portion of that to
(8) utilize for repairs, and rather looking just to
(9) bond for that (inaudible)-- completely. I would
(10) think that some element of that savings would be
(11) set aside for that purpose.

(12) VALERIE WILSON At this point --

(13) MR. CLOSE: Just from my
(14) perspective. I don't speak for the rest of the
(15) board.

(16) VALERIE WILSON I do understand. At
(17) this point and time we are looking at every avenue
(18) available to us. So there's been reimbursement for
(19) remediation of lead. As you know we came out last
(20) March, almost a year ago, with elevated levels and
(21) have been testing voluntarily prior to that. So we
(22) are looking at all -- as of right now, it is our
(23) intent to put it back into schools.

(24) MS. RODRIGUEZ: I have a question.
(25) Currently what is your student body population?

(1) VALERIE WILSON: Currently we have
(2) approximately 34,000 students in district with
(3) another 15 in charters.

(4) MS. RODRIGUEZ: Right.

(5) VALERIE WILSON: I should also say
(6) we are also selling assets to offset some of our
(7) operating costs. So where we've had closed
(8) buildings, we're selling those.

(9) CHAIRMAN CUNNINGHAM: Any other
(10) questions? I'll ask for a motion and a second.

(11) MS. RODRIGUEZ: I will make a
(12) motion.

(13) CHAIRMAN CUNNINGHAM: Ms. Rodriguez
(14) makes a motion.

(15) MR. LIGHT: I'll second it.

(16) CHAIRMAN CUNNINGHAM: Mr. Light.

(17) MS. MCNAMARA: Mr. Cunningham?

(18) CHAIRMAN CUNNINGHAM: Yes.

(19) MS. MCNAMARA: Mr. Avery?

(20) MR. AVERY: Yes.

(21) MS. MCNAMARA: Ms. Rodriguez?

(22) MS. RODRIGUEZ: Yes.

(23) MS. MCNAMARA: Mr. Light?

(24) MR. LIGHT: Yes.

(25) MS. MCNAMARA: Mr. Close?

(1) MR. CLOSE: Yes.

(2) MS. MCNAMARA: Mr. Dirocco?

(3) MR. DIROCCO: Yes.

(4) CHAIRMAN CUNNINGHAM: Sticking with
(5) Newark. We will hear from the City next.

(6) ---

(7) Newark City Essex - NJSA 18A:20-4 2(e)(4)

(8) CHAIRMAN CUNNINGHAM: Hello, Counselor.

(9) BILL MAYOR: Good morning. Good morning.

(10) DANIELLE SMITH: Good morning.

(11) CHAIRMAN CUNNINGHAM: Would you please
(12) introduce yourself and be sworn.

(13) BILL MAYOR: I would be pleased to.

(14) I'm Bill Mayor with Decotiis, Bond
(15) Counsel for the City of Newark. To my right is
(16) Danielle Smith, the CFO of the City, and to
(17) Danielle's right is John George, Supervising
(18) Engineer.

(19) BILL MAYOR, DANIELLE SMITH, JOHN GEORGE,
(20) after having duly been sworn was examined and
(21) testified as follows:

(22) CHAIRMAN CUNNINGHAM: We're before you
(23) this morning and the City is continuing water and
(24) sewer NJEA fee projects. This is a request for
(25) approval of the \$20 million qualified bond

(1) ordinance for what we've been calling the small
(2) diameter sewer program. I think the EAT
(3) application probably says it better than I did in
(4) the ordinance of the application. It's for the
(5) structural evaluation and rehabilitation of
(6) approximately 350 miles of small diameter less than
(7) 22-inch sewers made of various different materials.
(8) The ordinance has been introduced. The EAT
(9) application has been filed. The ordinance of
(10) course was filed by the state monitor and then
(11) introduced and we're seeking your approval on the
(12) Qualified Bond Act, which would then lead to
(13) adoption of the ordinance and authorization to
(14) award contracts, moving to hopefully the
(15) construction financing program with the EIT leading
(16) to a long-term, up to 30-year program, EFT program
(17) Danielle can answer financial
(18) questions. And John is very familiar with the
(19) water and sewer system.

(20) CHAIRMAN CUNNINGHAM: We know the
(21) EIT program very well. I sit on that Board and I
(22) understand the financial value going through the
(23) program.

(24) Could you just talk a little bit
(25) about the actual technical -- what this is and you

(1) know, it's a lot of miles but it's also a lot of
(2) money. Can you help us understand what's being
(3) done?

(4) JOHN GEORGE: Sure. Thank you.

(5) The City of Newark has --

(6) COURT REPORTER: I'm sorry you have
(7) to speak up.

(8) JOHN GEORGE: Oh, I'm sorry.

(9) The City of Newark has over four
(10) hundred miles of sewers. And a portion of that are
(11) large diameter pipes, mostly made out of brick,
(12) which the City evaluated and rehabilitated over the
(13) last 20 years using NJ loan monies, and PPA grant
(14) monies. And now the City is faced with addressing
(15) the smaller diameter pipes, which are basically 22
(16) inches and less in diameter, which exhibited
(17) collapses and problems because they are all built
(18) mostly a hundred years or so ago. So the City is
(19) spending a lot pf money every year to fixing ea.ch
(20) -- emergency fixes. So we are looking at
(21) evaluating and prioritizing the failing smaller
(22) diameter pipes, basically inspect all of them and
(23) then come up with the plan, which ones to address
(24) first and be able to take them -- (inaudible).

(25) CHAIRMAN CUNNINGHAM: Thank you.

(1) Like I said, the EIT is contracted
(2) finance, but it's still a lot of money, even if
(3) it's free money, you know, it has to be paid
(4) back.

(5) But my reaction upon reading the
(6) application was that this is one of those things we
(7) have to spend money to save money. We have to
(8) spend money to see where you target your repair
(9) money. And I remember in a prior meeting we talked
(10) about status of the cities, sewer infrastructure
(11) and just how much work needed to be done to fix it.

(12) I don't have a lot more to say than
(13) that, but I know some of my colleagues on the Board
(14) are a little closer to the water/sewer projects
(15) than I am. So I would ask whether there is any
(16) other question or comments.

(17) BILL MAYOR: 350 miles is for you,
(18) Mr. Avery. A lot of fight.

(19) MR. AVERY: I understand. No
(20) combined sewer involved in this project, right?

(21) JOHN GEORGE: There are storm and
(22) combined sewers which are little (inaudible)

(23) MR. AVERY: Make it more efficient
(24) to pollute Newark Bay. That's all.

(25) MR. LIGHT: Is any of it going to

(1) eliminate some of the combination or --

(2) JOHN GEORGE No.

(3) MR. LIGHT: You appeared before us
(4) sometime ago, because I remember it was a
(5) discussion about a project or plans to be able to
(6) start to convert some of those -- if I remember
(7) correctly.

(8) JOHN GEORGE I appeared here on a
(9) previous application later to combine a sewer
(10) overflow and storm flooding relief project.

(11) MR. LIGHT: Right.

(12) JOHN GEORGE: But this has nothing
(13) to do with that. And there is no combined sewer
(14) overflows involved in this project. These are just
(15) the pipes.

(16) MR. LIGHT: There's no consideration
(17) this time to alleviate the combined and separate
(18) the city water, the drainage from the sewerage.

(19) JOHN GEORGE The separation of
(20) sewers that comes from the sanitary and storm was
(21) addressed previously at a project that the City --
(22) several years ago, and where it was possible and
(23) needed, the separation had been performed.

(24) MR. LIGHT: It was just discussed?
(25) Nothing, nothing planned or --

(1) JOHN GEORGE: In this project there
(2) is no separation envision.

(3) BILL MAYOR: I believe it's a very
(4) large project to separate in Newark.

(5) MR. LIGHT: I understand. It
(6) involved some smaller municipalities that have done
(7) that. And it's a large project there. So it's an
(8) immense project in Newark.

(9) BILL MAYOR: Immense project.

(10) MR. LIGHT: I understand that. All
(11) of these discharge into Newark Bay. There is no
(12) area of any kind of separation, or filtration or
(13) cleaning whatsoever. It's just drainage and
(14) sewerage that goes down to the bay, right?

(15) JOHN GEORGE: There is cleaning in
(16) every one of these sewers.

(17) MR. LIGHT: There is what?

(18) JOHN GEORGE: There is cleaning of
(19) the sewers. Every one of these sewers would -- you
(20) know, anywhere that they find the need to clean
(21) will be cleaned. That's part of their --

(22) MR. LIGHT: That's only if some
(23) areas are concentrated that build up that need to
(24) be taken out, because there's clogs or something of
(25) that nature?

(1) JOHN GEORGE: Yes, those will be
(2) addressed. That's correct.

(3) MR. LIGHT: But it has nothing that
(4) separates the sewerage from the water supply?

(5) JOHN GEORGE: No, we have no
(6) separation of sewers.

(7) BILL MAYOR: John, then where is the
(8) City's sewerage treated?

(9) JOHN GEORGE: The sewerage is treated
(10) at the Passaic Valley Sewerage Treatment Plant and
(11) also most of the sewerage goes to the Joint Meeting
(12) Plant.

(13) BILL MAYOR: And that includes the
(14) storm and sanitary --and when you talk about
(15) combined, yes, there's a combined discharge --

(16) MR. LIGHT: I mentioned the bay, so
(17) I should rephrase that.

(18) Does the discharge of the combined
(19) sewage then go to the Passaic Valley Sewage
(20) Authority?

(21) JOHN GEORGE: Yes. Yes.

(22) BILL MAYOR: Is that tertiary or
(23) secondary, John?

(24) MR. AVERY: No. Storm water. That
(25) gets diverted.

(1) BILL MAYOR: In the overflow
(2) situation.

(3) MR. AVERY: Right. Out of the
(4) intersector into the big ditch project or whatever
(5) it was called.

(6) BILL MAYOR: That was queen ditch it
(7) was called.

(8) MR. AVERY: What?

(9) BILL MAYOR: Queen ditch. I'm sure
(10) there is various.

(11) MR. LIGHT: Heavy rain, overflow
(12) situation, it goes to ditches.

(13) MR. AVERY: I think the problem
(14) I had with that is that, as I remember your
(15) testimony previously, almost every great event
(16) causes it to be bypassed from the treatment plant.

(17) JOHN GEORGE: I think it was more --
(18) I think the question was more about the flooding
(19) situation, because the Queen Ditch project we had
(20) addressed earlier was addressing the flooding
(21) mainly. And I did answer the questions related to
(22) the combined sewer overflow.

(23) MR. AVERY: We stray.

(24) BILL MAYOR: We stray. But you're
(25) allowed to.

(1) MS. RODRIGUEZ: But I think there
(2) was -- having nothing to do with this, by the way,
(3) this is most -- this is rehab.

(4) JOHN GEORGE: Yes.

(5) MS. RODRIGUEZ: What you're talking
(6) about, I know Newark, the City of Newark, at one
(7) time, there was going to be some EPA funds to do
(8) the whole cleanup over by the bay. It was a while
(9) ago. And it was not in Newark. It was like all
(10) the surrounding towns and cities in the area. So
(11) that's something that was being looked at at a
(12) federal level at one time.

(13) BILL MAYOR: Yes, I think that's
(14) still active, that discussion. But it's sitting
(15) very slowly.

(16) MS. RODRIGUEZ: Yes, it is. But
(17) that's going to take time.

(18) They're slow.

(19) BILL MAYOR: Several of our urban
(20) areas.

(21) MR. AVERY: Better hurry before EPA
(22) goes away.

(23) MS. RODRIGUEZ: It's going away.

(24) BILL MAYOR: We stray farther.

(25) CHAIRMAN CUNNINGHAM: Any other

(1) questions or comments?

(2) MR. CLOSE: The 15 million hard,
(3) costs, does that -- how much of a contingency have
(4) you got for potential change orders as a result of
(5) site work and unanticipated additional work that
(6) may be required?

(7) JOHN GEORGE: The EIT program allows
(8) to five percent of the building costs. I included
(9) it as -- for emergency expenses. So we have
(10) 750,000 into the loan application.

(11) MR. CLOSE: So 750 is just for the
(12) change orders, and hard cost work?

(13) JOHN GEORGE: Yes.

(14) BILL MAYOR: At the end of the day,
(15) once the contracts are awarded, they finally size
(16) it. They had a five percent contingency on top of
(17) that.

(18) MR. CLOSE: Okay.

(19) BILL MAYOR: It's not really free
(20) money, but it's zero.

(21) CHAIRMAN CUNNINGHAM: It's not a
(22) grant.

(23) BILL MAYOR: It's not a grant. The
(24) net interest costs in these latest numbers are
(25) projecting 1.25 percent. You know, it's a great

- (1) program.
- (2) CHAIRMAN CUNNINGHAM:Great deal.
- (3) BILL MAYOR: It's a great program.
- (4) CHAIRMAN CUNNINGHAM:I'm looking
- (5) for a motion or a second, unless there's any
- (6) questions? Nobody?
- (7) MS. RODRIGUEZ:I make a motion.
- (8) CHAIRMAN CUNNINGHAM:Ms. Rodriguez
- (9) makes a motion. Anybody care to make a second?
- (10) Mr. Dirocco seconds.
- (11) MS. MCNAMARA Mr. Cunningham?
- (12) CHAIRMAN CUNNINGHAM:Yes.
- (13) MS. MCNAMARA: Mr. Avery?
- (14) MR. AVERY: Yes.
- (15) MS. MCNAMARA: Ms. Rodriguez?
- (16) MS. RODRIGUEZ: Yes.
- (17) MS. MCNAMARA: Mr. Light?
- (18) MR. LIGHT: Abstain.
- (19) MS. MCNAMARA: Mr. Close?
- (20) MR. CLOSE: Yep.
- (21) MS. MCNAMARA: Mr. Dirocco?
- (22) MR. DIROCCO: Yes.
- (23) BILL MAYOR:Thank you very much.
- (24) CHAIRMAN CUNNINGHAM:Union County
- (25) Improvement Authority.

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UNION COUNTY IMPROVEMENT AUTHORITY (COUNTY
GUARANTEED LEASE REVENUE BONDS-UNION COUNTY FAMILY
COURT BUILDING PROJECT -ELIZABETH UNION
NJSA 40A: 5A-6 \$8,000,000 Proposed Project
Financing

CHAIRMAN CUNNINGHAM:Please
introduce yourselves. Those that aren't Counsel be
sworn.

CHRISTOPHER LANGHART:Good
afternoon, Chairman. I'm Chris Langhart from
McManimon, Scotland & Baumann, Bond Counsel for the
Improvement Authority.

To my left I have Dennis Enright,
from NW. To my right I have Dan Sullivan,
Executive Director. Ryan Scerbo from the Decotiis
Law Firm.

TED DOMURACKI:Ted Thalmeracky,
Mass Construction.

CHRISTOPHER LANGHART:Sean Edmonds
is here from Mass as well.

We're here before you today seeking
positive findings for the approval of eight million
dollars worth of completion bonds for the Union

(1) County Family Courthouse project. Also, the
(2) positive findings to the County Guarantee on those
(3) bonds. We have an introduced copy of the Guarantee
(4) and the application.

(5) Chairman, I know we had a call about
(6) this, but just to put it on the record, we need to
(7) do the completion bonds, because this project was
(8) started back in 2012. We issued approximately
(9) \$43 million worth of bonds for the project. In the
(10) interim we've had a default by the General
(11) Contractor. We've had the bonding company come in
(12) and take over the construction. We've had change
(13) orders for safety changes to the project. And
(14) we've had costs from the delays of the General
(15) Contractor defaulting.

(16) We have plenty of representation up
(17) here. We're happy to answer any questions you
(18) might have about the project.

(19) COURT REPORTER: Mr. Chairman, I
(20) have to swear in the witnesses.

(21) CHAIRMAN CUNNINGHAM: Yes, please.

(22) ---

(23) TED DOMURACKI, SEAN EDMONDS,
(24) CHRISTOPHER LANGHART, after having duly been sworn
(25) was examined and testified as follows:

(1) CHAIRMAN CUNNINGHAM: So Chris,
(2) thank you for that introduction.

(3) So we did. We had a rather lengthy
(4) conference call on Monday, I think, where we talked
(5) a little bit about the project.

(6) In 2012 the Improvement Authority
(7) issued \$43 million in bonds and coming back in
(8) front of the Board right now for an eight million
(9) dollar issuance likely expected to be issued about
(10) seven three.

(11) CHRISTOPHER LANGHART: Well, if you
(12) put in the costs, so I think we'll be close to the
(13) eight million dollar mark.

(14) CHAIRMAN CUNNINGHAM: Still however
(15) even more so significant increase to the overall
(16) project. And we talked a little bit about that.
(17) And I think we have to put on the record -- and I
(18) know the board members had a brief conversation in
(19) public session, but certainly not substantive.

(20) I think we need to put on the record
(21) what happened with the contractor, the bonding
(22) company, and with Mass being brought in to finish
(23) the job.

(24) So rather than ask a series of
(25) questions, I'd ask you or all of you to just kind

(1) of put a narrative in front of the Board in terms
(2) of, you know, what had happened.

(3) And the other thing I'm going to ask
(4) you to do is and I'm just going to ask you to do it
(5) one time is one of the things I was really driving
(6) on the call the other day was trying to figure out
(7) which of these change orders were related to
(8) contractor lack of performance or inability to
(9) perform, and which were project redesigns, because
(10) I think we kind of want to hear that as well.

(11) RYAN SCERBO: Director, I could
(12) answer the first question. And I think what
(13) I would like to do is ask Mass Construction, our
(14) construction manager for the project to go over
(15) site plans.

(16) CHAIRMAN CUNNINGHAM: Thank you.

(17) RYAN SCERBO: As I mentioned on our
(18) conference call there is a lengthy history
(19) associated with this project.

(20) When it was first initiated after an
(21) initial bidding, it had to be reengineered and then
(22) rebid. That was to remove, essentially, a parking
(23) facility that was to be associated with the new
(24) family courthouse. The costs came in higher than
(25) anticipated until it was reengineered to bring the

(1) project costs down. Ultimately the contract was
(2) rebid and awarded to a company through a low bid
(3) process. That company began performing the
(4) project. We initially ran into some significant
(5) weather delays. This project ran through one of
(6) the coldest winters that we had in a while. That
(7) led to some significant weather delays. And in
(8) addition at that same time the project was reviewed
(9) by the City of Elizabeth and required the
(10) installation of a system that was not included in
(11) the original project called the "smoke evacuation
(12) system." When you enter buildings that have very
(13) large open areas -- this is not a technical
(14) explanation -- but large foyer areas, there's a
(15) need for the evacuation of smoke for fire safety
(16) suppression issues.

(17) So that was ordered to be installed
(18) as part of the project by the City for code
(19) inspection and enforcement. It was added to the
(20) project as the initial change order to the
(21) contractor. And as part of that initial change
(22) order, some of the weather delays were also caught
(23) up in that which gave the contractor additional
(24) time.

(25) Each time we had extended the

(1) timeline of the project, we also extend other
(2) costs, professional costs associated with
(3) construction management. Architectural folks also
(4) have people on the job during the construction
(5) management process.

(6) The contractor then started to
(7) proceed. We were concerned about the lack of
(8) performance by the contractor in terms of the speed
(9) at which he was moving. Also, some of the work
(10) became questionable. I will say though that at
(11) every turn when work was questioned the contractor
(12) came up with a plausible explanation for how he
(13) would correct the work. It wasn't a running
(14) dispute about: No, the work is not, not
(15) acceptable. He did agree with the construction
(16) manager in most instances and agreed that he would
(17) undertake the work and complete it. We were just
(18) not seeing the job populated the way it should have
(19) been with manpower in order to get it done as it
(20) was projected to be done under the construction
(21) schedule.

(22) So several times the Executive
(23) Director, myself, other members of the team here
(24) today, met with the contractor, gave him stern
(25) discussions over meeting his contractual

(1) obligations and our lack of faith in him being able
(2) to meet schedules that he was putting forward. We
(3) met several times after a second meeting. We
(4) called in his bonding company and asked them to
(5) witness the meeting and conduct their own internal
(6) investigation of the contractor. I won't say that
(7) they declined to do it. They indicated they would
(8) look into the matter. They never really said much
(9) to us. Ultimately if the work became so tenuous,
(10) our situation with them became so tenuous that we
(11) decided that we had no choice but to default the
(12) contractor. He was hanging large scale stone
(13) panels on the outside of the building. We weren't
(14) comfortable with the way he was doing it pursuant
(15) to the safety issue. And the quality of the work
(16) was deteriorating rapidly.

(17) At the same time he had
(18) subcontractors that notified us of failure to be
(19) paid. That's something we take very seriously
(20) obviously. We have people that were working on
(21) these jobs, and they're union jobs, and folks
(22) expect to be paid. So the Authority looked into
(23) it. We immediately withheld funds from the
(24) contractor. And we took the final step to default
(25) him in the spring of last year.

(1) So after having done that, we
(2) settled in, because we figured we were going to be
(3) in a long fight with the bonding company before
(4) someone show up on that job. It did take about six
(5) weeks but we were able to negotiate a takeover
(6) agreement. The bonding company stepped in, brought
(7) in a high quality contractor that, I think,
(8) everyone here today would say that they are
(9) performing admirably. We had some conversations
(10) with the bonding company over damages, but we
(11) agreed to set that aside temporarily to work out
(12) the takeover agreement and get the job going again.
(13) We have a judiciary that's waiting to move into
(14) this building and has been waiting over a year now
(15) behind schedule to move in.

(16) So we eventually, as the project
(17) proceeded -- and it is anticipated to be completed
(18) this April -- as it proceeded, and the contractor
(19) remained on schedule, we did eventually sit down
(20) and talk about our disputes with one another. We
(21) of course, as you can see by this application, did
(22) not have enough funds to complete the project. One
(23) of the consequences is the contractor could have
(24) ceased working which would have made our situation
(25) and the judiciary situation much worse. Part of an

(1) agreement to settle our claims between each other,
(2) drop all claims against each other up to that date,
(3) was that the contractor would continue to perform
(4) sequential work that could not be performed out of
(5) sequence. Even though he knows we do not have the
(6) funds at this time to pay him, that we would go out
(7) and secure financing through this process. And
(8) we've kept the freeholders of the County,
(9) obviously, informed through this process as well,
(10) meeting with them several times. The contractor
(11) has continued to perform. And as I said we do
(12) expect the project to be finished in April.

(13) CHAIRMAN CUNNINGHAM: Thank you.

(14) CHRISTOPHER LANGHART: To try to
(15) answer the second part of the question, which is
(16) how the costs have increased due to the contractor
(17) default.

(18) Speaking specifically for the
(19) contractor default, which Ryan alluded to a couple
(20) moments ago, that was actually back -- the process
(21) started back in April 2015. And by July of 2015
(22) Premi Management, who is now the contractor, was on
(23) board. Overall it wound up spanning about 18
(24) months to the project. And with Mass Construction
(25) being on-site every day, that increases our time

(1) on-site for the project in addition to the
(2) architect for construction administration services.
(3) All told with construction management,
(4) architectural fees and as well as legal fees, we're
(5) about \$1.5 million in professional services for
(6) just -- excuse me -- just for the contractor
(7) takeover. But also just to take on a point that I
(8) wanted to mentioned is those weather permit delays
(9) also did add for the overall professional services
(10) cost for the time on the project as well. All
(11) told, you're looking at \$2 million when you add the
(12) weather permit, read the delays in addition to the
(13) contractor default. And that's over the course of
(14) approximately 24 months.

(15) MR. CLOSE: How much of that was
(16) covered by the bonding company?

(17) RYAN SCERBO: As part of their
(18) agreement with the bonding company, we are now
(19) making a claim against them. Essentially our claim
(20) would have been liquidated damages and would have
(21) been roughly in the \$2 million range. They put
(22) forward communications to us indicating that they
(23) had a claim of over \$3 million, claims of delayed
(24) work by the owner. I won't go into the merit of
(25) their claims, but they had a series of claims,

(1) including delayed work; that was the most
(2) significant one. They also had other claims
(3) related to design and engineering, but we agreed,
(4) as part of the communications when we settled just
(5) at the end of December of this year, that they
(6) would continue working, because they were aware we
(7) did not have funding and they did say they would
(8) stop working if there was not funding secured,
(9) which would have led to an increased delay claim on
(10) their side of the table. We agreed that we would
(11) resolve all claims that day, dropping all claims
(12) against each other. If there are claims from
(13) January through April, those claims are still on
(14) the table for discussion. We're not aware of any
(15) at this time. And we don't have any against them
(16) at this time.

(17) DAN SULLIVAN: I was also going to
(18) note -- and Mass can comment on this -- how much
(19) actually the bonding company has paid over and
(20) above the contracted price?

(21) TED DOMURACKI: \$15 million.

(22) MR. CLOSE: Over and above 12 to 15
(23) to date?

(24) DAN SULLIVAN: On their own. Over
(25) the contract amount to correct the errors that were

(1) caused by the original contractor.

(2) RYAN SCERBO: To give you a sense,
(3) one of the things they had to do to understand the
(4) magnitude, is the building was nearly entirely
(5) populated with stone panels on the exterior. All
(6) of those stone panels were removed, demoed and
(7) re-fabricated and then reinstalled. And that is
(8) not a cost that we had borne at all. That is a
(9) cost purely on the bonding company's shoulders.

(10) DAN SULLIVAN: That alone was
(11) probably \$5 million.

(12) RYAN SCERBO: That's \$700,000 of
(13) proposed change orders that we rejected through the
(14) process. They agreed to take those off the table
(15) as well as part of our settlement.

(16) CHRISTOPHER LANGHART: If I can just
(17) point that out. A lot of the defects with the
(18) stone that went up on the building were latent
(19) defects. So when the stone arrived there was no
(20) way to tell that there was an issue with the stone.
(21) It goes up on the building, and all of a sudden you
(22) start to see lippage with panel movements and rust
(23) coming through the caulk joints, which they
(24) improperly fabricated offsite. And there was metal
(25) shavings from when they did -- made -- you know,

(1) any of the penetrations to attach the rails to the
(2) steel trusses. They never cleaned that off and all
(3) that stuff started to rust and leak through the
(4) stone. Through investigations we found areas where
(5) it didn't have proper insulation, so on and so
(6) forth. And Perini made the decision to Dan's point
(7) about how everything was taken down -- or Ryan's
(8) point. They made the decision that the only way to
(9) really correct it was to demolish the whole entire
(10) thing.

(11) DAN SULLIVAN: On their account.

(12) CHRISTOPHER LANGHART: On their
(13) account.

(14) MR. AVERY: So the panels, were they
(15) designed improperly, or were they fabricated
(16) improperly, or were they installed according to the
(17) architect's design?

(18) CHRISTOPHER LANGHART: They were
(19) actually -- it was a performance design. It was a
(20) performance design. And it was -- in all honesty,
(21) it seemed like they tried to cut corners by
(22) performing -- you know, instead of having a one
(23) stop shop where somebody who had full experience
(24) with fabricating stone, and attaching it to the
(25) trusses, they tried to have one contractor

(1) fabricate the steel truss, and another one did the
(2) stone. In their shop they tried to put them
(3) together. So it was in an effort on their end to
(4) try to save money.

(5) TED DOMURACKI: They owned the design
(6) and they fabricated the panels' offset.

(7) MR. AVERY: Who was the fabricator
(8) for the panels, the stone?

(9) CHRISTOPHER LANGHART: It was a sub
(10) company.

(11) RYAN SCERBO: Yeah, it was APS and
(12) it was High Mountain.

(13) TED DOMURACKI: Just so you know, in
(14) the bid spec itself, we recommended a panel
(15) manufacturer or someone to put together the panels.
(16) That person was not selected by APS, the contractor
(17) who won the bid. Ultimately the bonding company
(18) went to that contractor that we specified and used
(19) them to manufacture the new panels that are on the
(20) new building because of their qualifications in
(21) this area. I hate to say it but it's part of the
(22) low bid process in this state and we all suffer
(23) from it.

(24) MS. RODRIGUEZ: Yes, you get what
(25) you pay for.

(1) DAN SULLIVAN: And the prototype of
(2) the panels was approved by both Mass and the
(3) architect.

(4) TED DOMURACKI: The first prototype
(5) was.

(6) DAN SULLIVAN: The first prototype
(7) and then they proceeded to just change.

(8) MR. AVERY: Right. Well, who
(9) inspected them upon delivery? Are you telling me
(10) that you couldn't see the defect upon delivery?

(11) TED DOMURACKI: Some of the defects
(12) we were able to see and we documented. And they
(13) gave us fixes for those.

(14) MR. AVERY: You didn't reject them.

(15) CHRISTOPHER LANGHART: Most of the
(16) latent defects came about when they hung the
(17) panels.

(18) TED DOMURACKI: Chipped panels for
(19) instance. They gave an industry accepted method
(20) for correcting those chips. Repair. But you have
(21) to be a qualified individual to do it.

(22) MS. RODRIGUEZ: Right. And you were
(23) just a construction manager, am I correct?

(24) TED DOMURACKI: Can't dictate their
(25) means and methods.

(1) Ms. Rodriguez: Exactly.

(2) MR. AVERY: Who retained the
(3) architect originally? Was it the county? Was
(4) it --

(5) DANIEL SULLIVANThe county retained
(6) the architect, probably going back to 2010, and
(7) then the project was turned over to the Improvement
(8) Authority in 2012.

(9) MR. AVERY: So the County selected
(10) the architect based on a RFP or something process.

(11) DANIEL SULLIVANYes.

(12) MR. AVERY: And then the county
(13) approved the design and it turned it over to the
(14) Improvement Authority to construct it.

(15) DANIEL SULLIVAN:Correct.

(16) MR. AVERY: And man it, the
(17) construction. And Mass -- Mass is the construction
(18) management firm.

(19) RYAN SCERBO: For the authority.

(20) MR. AVERY: For the authority.

(21) RYAN SCERBOFor the owner, correct.
(22) Was Mass involved from Day 1?

(23) RYAN SCERBO: Yes. I will say a lot
(24) of the reason we're able to hold the bonding
(25) company to the fire on this project was because of

(1) the documentation that Mass kept and accumulated
(2) throughout the process.

(3) CHAIRMAN CUNNINGHAM:One thing we
(4) talked about on the call the other day was how
(5) close to completion the project is. Can you talk
(6) about that as well?

(7) CHRISTOPHER LANGHART:Yes, actually
(8) we're just inside two months from completion. The
(9) TCO date, Temporary Certificate of Occupancy is
(10) April 28th and we're -- Perini is heavily into the
(11) finishes right now. Each of the floors in the
(12) building is just about substantially complete with
(13) final cleaning underway. Fire alarm has been
(14) tested. Fire pump has been tested and passed.
(15) Door active controls, final terminations are going
(16) on. So just to give you an idea of where things
(17) are, the building, if you were going to walk in
(18) there today, it looks like it needs to be cleaned.
(19) And it's very close to being cleaned on the inside
(20) --

(21) TED DOMURACKI:Furniture being
(22) delivered the end of March. Card access
(23) programming needs to occur in April.

(24) CHRISTOPHER LANGHART:On the
(25) exterior of the building, they already have the

(1) baseboard, of course the asphalt in. They're
(2) looking at the 1st of April to finish al the paving
(3) outside. Cleaning of all the stone of the building
(4) has started.

(5) DAN SULLIVAN: And getting this
(6) courthouse opened is critical to the County and the
(7) court system, because once this courthouse is
(8) complete, and the move -- they will move from the
(9) old courthouse into the new house, there's a whole
(10) project, a renovation project in the old courthouse
(11) that had been waiting now several years to get
(12) started and can't until the courts move from, you
(13) know, Point A to the new courthouse. And so it's
(14) critical that everything finally gets complete.

(15) MR. AVERY: I understand how that
(16) works. I don't want to dominate. How did the
(17) size -- I mean we've had some public comment on
(18) this obviously. I hope it's been shared.

(19) CHAIRMAN CUNNINGHAM: Well, if I can
(20) just mention, we discussed on the call that there's
(21) a Union County resident, an engineer who has
(22) expressed concerns and submitted open requests to
(23) the Improvement Authority. A lot of those
(24) documents weren't provided. I mean certainly not
(25) in violation of OPRA, but he had been seeking them.

(1) I was just handed something that came in, and
(2) I guess, late yesterday but I have not had a chance
(3) to read them. And I think Allen is referring to a
(4) pretty substantial letter from Mr. Bruce Paterson
(5) of Garwood. And he outlines, I guess, his analysis
(6) of change orders. And it's really a difficult
(7) position for the Board to be in right now, because
(8) these look like substantive criticisms of
(9) questions. Yet, here we are at the meeting, you
(10) know, forced to take a vote today, or potentially
(11) forced to take a vote today.

(12) So allen, were there particular
(13) things in his letter that we should address?

(14) MR. AVERY: Well, the thing that
(15) jumped out at me was the comments on the change
(16) orders, you know? I know that Dingie is the
(17) original contract and the odd is change orders.
(18) How did the building increase so much in size, if
(19) in fact it did increase in size?

(20) DAN SULLIVAN: It hasn't increased
(21) in size at all.

(22) RYAN SCERBO: From the time of its
(23) award.

(24) CHAIRMAN CUNNINGHAM: Let me
(25) interject for a second. Because we did talk about

(1) the contractor deficiencies that resulted in, you
(2) know, the longer time on-site and professional
(3) expenses. But when we talked on the call the other
(4) day, there were scope changes by the owner.

(5) RYAN SCERBO: Yes.

(6) CHAIRMAN CUNNINGHAM: And I don't
(7) know that we really kind of articulated them. But
(8) just what was brought up on the call, as an
(9) example, when we ran through the change orders:
(10) Switching space out, the Improvement Authority was
(11) not going to occupy space and the Prosecutor's
(12) office was, and there was chairs requests for
(13) various things that made the communication between
(14) the courtrooms and the safety response more
(15) accurate -- so those type of things.

(16) RYAN SCERBO: To be fair, they're
(17) added components and revised components to the
(18) project, but the footprint of the project has not
(19) changed.

(20) MS. RODRIGUEZ: Just a fit out.

(21) RYAN SCERBO: Yes, interior to the
(22) building. It's a very technical -- and they can
(23) speak to it better than I could -- but obviously
(24) for safety and security reasons. It's a family
(25) courthouse. And some of the things that go on in a

(1) family courtroom are highly emotional, and
(2) therefore there's increased levels of safety. But
(3) some of the owner changes, I think could be
(4) discussed by Mass if you'd like to have a little
(5) background about those items.

(6) MR. AVERY: I mean this is in the
(7) correspondence that we reviewed today. And it may
(8) not be accurate and I understand that.

(9) DAN SULLIVAN: I would just say,
(10) I haven't received that.

(11) RYAN SCERBO: I haven't.

(12) MR. AVERY: You can have mine.

(13) DAN SULLIVAN: I could say this: I
(14) know Mr. Patterson. And just to the point of the
(15) OPRA requests, those requests have been completed.

(16) MR. AVERY: Well, this is a factual
(17) question.

(18) RYAN SCERBO: Sure.

(19) MR. AVERY: It states that the RFP
(20) or the original architectural services was for
(21) a 24,000-square foot building. What's being built
(22) is a 75,000-square foot building. Is that --

(23) DAN SULLIVAN: That's not the case,
(24) no.

(25) MR. AVERY: Is it close to the

(1) 24,000 square feet?

(2) RYAN SCERBO: No. They eliminated
(3) the basement.

(4) DAN SULLIVAN: When the project was
(5) given the go-ahead, the footprint that stands now
(6) is again the footprint that exists today. I don't
(7) know where that 24,000 --

(8) MR. AVERY: I don't know.

(9) DAN SULLIVAN: I will tell you this:
(10) I was a freeholder at the time and approved this
(11) project prior to becoming the Executive Director of
(12) the Improvement Authority. So I can tell you at no
(13) time that 24,000-square foot number is a made-up
(14) number. Never, never. Never was that
(15) considered --

(16) MR. AVERY: What was the square
(17) footage of the original RFP? What did the
(18) freeholder board approve for the original contract
(19) in terms of --

(20) MS. RODRIGUEZ: Size.

(21) MR. AVERY: -- size?

(22) RYAN SCERBO: It was either 58 or
(23) 78.

(24) DAN SULLIVAN: Whatever the current
(25) size is now, that's what was finally approved,

(1) because that, as Ryan said, that went out -- it
(2) went out to bid and changed a couple of times, and
(3) the big change was the removal of the parking
(4) garage.

(5) MR. AVERY: Parking.

(6) DAN SULLIVAN: But the footprint of
(7) the building has not changed at all.

(8) MS. RODRIGUEZ: The actual building.

(9) DAN SULLIVAN: The actual building.
(10) No. The number of courtrooms and additional space
(11) is exactly the same as it was five years ago.

(12) TED DOMURACKI: 2009 program
(13) document.

(14) DAN SULLIVAN: There was never a case
(15) where there was a 24,000-square foot that became
(16) 78,000-square foot. That's just not true.

(17) MR. AVERY: That's why I asked the
(18) question.

(19) DAN SULLIVAN: Well, I'm not saying
(20) -- I'm just telling you, that's not true.

(21) MR. AVERY: I am also curious, is
(22) the architect, I assume, went to the City to get a
(23) building permit?

(24) RYAN SCERBO: Correct.

(25) MR. AVERY: And the requirement for

(1) the smoke evacuations system came at that point and
(2) the architect was not aware of that requirement.

(3) DAN SULLIVAN: I would say this:

(4) The architect has had a running disagreement with
(5) the City in terms of whether that smoke evacuation
(6) system was necessary. To this day, I would say he
(7) feels it's an interpretation of the law that he has
(8) a disagreement with.

(9) RYAN SCERBO: And there was a change
(10) of inspectors, too.

(11) DAN SULLIVAN: And there was a change
(12) of inspectors. To the point, though, if it was
(13) necessary at the beginning, it would have been put
(14) into the beginning and the cost at the beginning.
(15) So I believe he was trying to save us money, in
(16) terms of feeling that that system was not
(17) necessary. And then the City ordered it and that
(18) was --

(19) RYAN SCERBO: It's important that
(20) even though there is a change order for the smoke
(21) evac system, that there was a delay in the project
(22) due to the smoke evac system. It was just married
(23) with the weather delays and the same change order.

(24) MS. RODRIGUEZ: Additional costs.

(25) RYAN SCERBO: The additional cost,

(1) right. And it wasn't that we paid for a design
(2) that was not -- it was new.

(3) DAN SULLIVAN: That was what I'm
(4) saying, in this letter, the criticism of that, from
(5) my perspective and the Board's perspective, all it
(6) was, he was trying to save us money. And it was
(7) the City who finally said we're not -- we're not
(8) moving ahead with the permits until this piece of
(9) the project gets put in place.

(10) MR. AVERY: I think my question is
(11) whether the architect has any liability of his
(12) errors and omissions, and if that was evident in
(13) the code. I understand fire inspectors have their
(14) own opinions on how code applies.

(15) DAN SULLIVAN: Well, as Ryan said, we
(16) had one inspector that said it wasn't necessary and
(17) the inspector changed, and the new one said it was.

(18) MR. AVERY: You got your building
(19) permit early.

(20) DAN SULLIVAN: Right.

(21) MR. LIGHT: A question I might have
(22) is certainly this wasn't something that occurred
(23) overnight. How come we're receiving this just in
(24) the morning of the day that we have the --
(25) submitted before us?

(1) CHAIRMAN CUNNINGHAM:This
(2) particular public commenter has been writing us for
(3) the last week or so. His allegation is that he
(4) sought information from the Improvement Authority
(5) through the Open Public Meetings Act -- Open Public
(6) Records Act. And we had conversations as part of
(7) our meeting with the executive director and the
(8) clerk explaining why some of the OPRA requests
(9) required additional clarification. So it was a bit
(10) of a timing issue, but I'm uncomfortable, you know?
(11) And I understand the frustration it must cause you.
(12) I'm sure you have a history here, but I can pick up
(13) on kind of sidebar conversations going on and I'm
(14) hearing there's discomfort from the Board. And I'm
(15) going to have to ask you the question -- and I know
(16) you don't want to hear it -- but if the Board were
(17) to defer the vote on this for a month, would that
(18) impact the financing schedule?

(19) DAN SULLIVAN:It absolutely would.

(20) RYAN SCERBO: It would.

(21) CHAIRMAN CUNNINGHAM:Explain.

(22) RYAN SCERBO:I could explain that it
(23) would impact our underlying agreement with the
(24) bonding company. We are required to make payment
(25) on requisitions received within 90 days of their

(1) receipt. The way it was established is after
(2) speaking with Bond Counsel, we put together a
(3) financing schedule that would have us selling bonds
(4) and having funds on hand in late April, which would
(5) meet the first requisition that was submitted by
(6) the bonding company, post the settlement agreement.

(7) So while I do understand your
(8) concern and your discomforts, I appreciate your
(9) desire to ensure that the public is fully informed.
(10) With all due respect to the commenter, you know,
(11) this is a person who is making comments and
(12) statements, two of which are completely said are
(13) flat out not true. We would be happy to go through
(14) that letter for you post this meeting and provide
(15) answers to the commenter. And debunk the things
(16) that are actually not correct in the letter, but
(17) the OPRA requests, as we mentioned on the
(18) telephone, we did comply with OPRA. We provided
(19) communications to the requester within the seven-
(20) day window. We also required or provided him with
(21) a request for clarification. And I understand your
(22) point on the telephone, but when someone asks for
(23) any and all of any documents, I have an absolute
(24) objection to using OPRA as a resource to do
(25) research. The government should not be involved in

(1) having to do that for someone. If you would like
(2) specific document, we could absolutely give it, but
(3) in this case the clerk had a legitimate question.
(4) I personally would have rejected the request, but
(5) she did more than that. She just asked for
(6) clarification, and ultimately responded to it. So
(7) again we have nothing to hide. We have gone over
(8) this with the freeholders many times. And we think
(9) it's critical we do receive an approval, if the
(10) Board is willing to provide us with one with this
(11) meeting because it will keep us on track with
(12) financing and allow us to keep an agreement we made
(13) with the bonding company which I understand is not
(14) your concern but it does mean a lot to us in
(15) completing the project.

(16) CHRISTOPHER LANGHART:Mr. Chairman,
(17) I just want to touch on that, too. I agree with
(18) Ryan. I think the OPRA requests is vague and
(19) overbroad and I think the Improvement Authority did
(20) a great job in getting the information out as they
(21) did in a timeframe. It was only through Ryan's
(22) efforts that we were able to extend our timeline
(23) that we could issue the bonds post April 1. That
(24) was the original deadline that we had discussed.

(25) CHAIRMAN CUNNINGHAM:I can

(1) appreciate that. And I know you haven't had the
(2) benefit of seeing it. I haven't had the benefit of
(3) --

(4) RYAN SCERBO: Going through it.

(5) CHAIRMAN CUNNINGHAM: -- going
(6) through it in detail, but I can tell you this is
(7) specific, and it's enumerated by change order. And
(8) Ryan, just challenging a little bit for the -- kind
(9) of figuring the discussion out here. So you made
(10) the offer and it was greatly appreciated that you
(11) would go through and respond point by point.
(12) Hypothetically, what if we don't like your answers?

(13) RYAN SCERBO: Understood.

(14) CHAIRMAN CUNNINGHAM: I'm seldom at
(15) a loss for words on this dais.

(16) RYAN SCERBO: And I certainly am --

(17) CHAIRMAN CUNNINGHAM: As many attend
(18) will tell you, but I'm just trying to figure out
(19) and be honest with you somewhat. While people are
(20) talking, I'm trying to think through concepts like
(21) contingent approvals and --

(22) RYAN SCERBO: That is what I was
(23) going to suggest. And I would also like to point
(24) out, too, that while I understand this Board takes
(25) its job very seriously, the freeholders take their

(1) job very seriously. And the Executive Director
(2) can tell you, we sat with them on several occasions
(3) before we could have even got permission to come
(4) here and speak with you.

(5) DAN SULLIVAN: Just --

(6) CHAIRMAN CUNNINGHAM: Let me throw
(7) one other idea -- -

(8) DAN SULLIVAN: Sure.

(9) CHAIRMAN CUNNINGHAM: -- because I
(10) just want to figure out where we're going to go
(11) from here. I can posit another idea. Probably in
(12) the back of my mind, and the executive secretary
(13) just mentioned it. So I assume it wouldn't take
(14) you very long to respond to this letter.

(15) RYAN SCERBO: I would agree.

(16) CHAIRMAN CUNNINGHAM: We would
(17) provide you with copies immediately. You can have
(18) my copy.

(19) RYAN SCERBO: I would agree.

(20) CHAIRMAN CUNNINGHAM: What if we
(21) actually did a phone meeting of the Board to
(22) actually take a vote early next week. And again,
(23) as long as I have a quorum, I don't necessarily
(24) need all members' availability. We can do it by
(25) phone. We wouldn't require any appearances. But

(1) we would just generally table today's vote and say:
(2) You get us a response back by the end of the week,
(3) we'll schedule a conference call for Monday or
(4) Tuesday. Obviously this is very out of the norm.
(5) I don't believe we've done this. We certainly
(6) haven't done this during my tenure, but I'm looking
(7) for some solution that protects the public
(8) involvement that satisfies the Board that issues
(9) raised by someone purporting to be an experienced
(10) engineer, that those questions are answered, but at
(11) the same time, I'm really cognisant of your need to
(12) maintain the schedule of your project and the deals
(13) you have with the bonding company. I'm racking my
(14) brain trying to come up with something. Is that
(15) something that you think could work as you as the
(16) Applicant?

(17) RYAN SCERBO: The only question I
(18) have is for Chris --

(19) CHRISTOPHER LANGHART: Yes.

(20) RYAN SCERBO: -- is from a timing
(21) perspective: Will one more week throw off any of
(22) the approvals we need to get to the County?

(23) CHRISTOPHER LANGHART: Well, I was
(24) going to ask you, Mr. Chairman, tomorrow the County
(25) is scheduled to adopt the Guarantee Ordinance.

(1) I would ask that we go ahead with that, and you
(2) know, if we get it adopted and subject to our
(3) meeting next week, there are issues that that
(4) ordinance will be on the books, but we can always
(5) rescind it. That would help us keep to our
(6) timeline.

(7) CHAIRMAN CUNNINGHAM:Yes. Because
(8) I want to move forward.

(9) CHRISTOPHER LANGHART:Good.

(10) CHAIRMAN CUNNINGHAM:I don't want
(11) to completely bring the project to a halt. And
(12) I hope you realize how hard I'm trying to get
(13) there.

(14) RYAN SCERBO:Yes, absolutely.

(15) CHRISTOPHER LANGHART:Yes.

(16) CHAIRMAN CUNNINGHAM:But as I said
(17) I can kind of pick up -- where I sit, I can kind of
(18) hear the conversations and see the conversations,
(19) and I'm seeing two different sidebar conversations
(20) that are clear discomfort: What do we do with
(21) this?

(22) So I think what I would propose
(23) is -- and before I even go any further, what are
(24) the thoughts on my colleagues on that? I kind of
(25) Bill, I saw you shaking your head a little bit. I

(1) know Allen you were looking at the letter. I mean
(2) is that a potential solution that would give you --

(3) MR. CLOSE: Yeah, I'm comfortable
(4) with that as a solution, Director. You know, it's
(5) unfortunate this came so late. And really, as you
(6) said, if it wasn't point by point on each change
(7) orders -- it has been unfair to the applicant by
(8) the way. To some extent obviously they haven't
(9) seen it either, so that they can properly respond
(10) to the points, which I would prefer they have the
(11) opportunity to respond to this in an informed
(12) detailed fashion, rather than put them on the spot
(13) here at the table. And while I respect their
(14) timeline, and I certainly want to make sure we try
(15) to help them stay on track with that, but at the
(16) same time, as you said, address the public's
(17) concerns. I would feel comfortable with the
(18) alternative solution that you put forth with an
(19) option that would allow for both, from my
(20) perspective.

(21) MR. AVERY: Mr. Chairman, my
(22) questions, reading this letter, I think, are
(23) primarily oriented towards addressing what I think
(24) are the commenter's concerns about the overall
(25) project. Having been a county administrator,

(1) I understand how wonderful it is to present change
(2) orders to a freeholder board. Welcome with open
(3) arms. I know they're --

(4) DAN SULLIVAN I sat on both sides
(5) myself.

(6) CHAIRMAN CUNNINGHAM: Especially
(7) what you do with late starters.

(8) RYAN SCERBO Bruises are not
(9) showing.

(10) MR. AVERY: And I understand all of
(11) this. I've built courthouses. I've built jails as
(12) project administrator. So those -- and I
(13) understand the change orders aren't approved
(14) lately. So I have less concern with the change
(15) orders that some of the other issues, like the size
(16) of the building, did it change? You represent that
(17) it did. The other question I have is whether the
(18) original RFP -- and I think this is important
(19) because it's \$890,000 required the architect to do
(20) a lead certified building --

(21) MR. CLOSE: Right.

(22) MR. AVERY: -- you know, because
(23) this --

(24) DAN SULLIVAN That was a requirement
(25) from the County, as far as they wanted it to be a

(1) lead certified building.

(2) MR. AVERY: I understand that. Then
(3) in this comment today, is there a change order now
(4) for \$890,000 or thereabouts to do a lead
(5) certification?

(6) DAN SULLIVAN: I assume you're
(7) asserting something that he wrote in.

(8) MR. AVERY: Yes.

(9) DAN SULLIVAN: I really can't comment
(10) on --

(11) MR. AVERY: Those are the really --
(12) and the last one would be the costs of -- the legal
(13) costs, which are not construction costs, but the
(14) legal costs that are included or alleged to be
(15) included to terminate the original contract.

(16) DAN SULLIVAN: I won't go into that
(17) either, but to the process, if anybody is -- like
(18) you said you've done construction -- to terminate a
(19) contractor under, you know, the public bid laws is
(20) -- is -- cumbersome is being kind.

(21) RYAN SCERBO: Our call is good luck
(22) with that.

(23) MR. AVERY: I had one voluntarily
(24) default. That was--

(25) DAN SULLIVAN: I would say this, just

(1) in comments, I have gotten calls from three
(2) different public agencies: One, New Jersey Transit
(3) about this same contractor.

(4) RYAN SCERBO New York Parks
(5) Department, too.

(6) DAN SULLIVAN:- being successful in
(7) getting bids to the projects after --

(8) CHAIRMAN CUNNINGHAM:Which means he
(9) was successful in getting bonds.

(10) DAN SULLIVANWhich is amazing

(11) RYAN SCERBOHe has to have
(12) certified --

(13) DAN SULLIVANWhich was amazing to
(14) me. So any time I've had a conversation with any
(15) of these agencies, you know --

(16) MS. RODRIGUEZ:I have a comment.
(17) Mr. Patterson, and Jacobs Engineering, that's --
(18) because I'd like to know who he is. He claims to
(19) be an engineer, 40 years of experience. And I mean
(20) because I want to talk about who the letter -- the
(21) claims are coming from. And so his experience -- I
(22) worked with multi million dollar companies such as
(23) Jacobs Engineering, you know, and personally,
(24) Jacobs Engineering, his last thing happens to be
(25) Patterson, and Jacobs Engineering in Patterson with

(1) the construction corporation. So I think it's
(2) important to, you know, to see where the letter is
(3) coming from and --

(4) DAN SULLIVAN: I can say this -- and
(5) I'm not going to cast any discursions--

(6) MS. RODRIGUEZ: No, I'm not
(7) putting--

(8) DAN SULLIVAN: He is a regular person
(9) at every freeholder meeting.

(10) CHAIRMAN CUNNINGHAM: I figured that
(11) much.

(12) DAN SULLIVAN: I've known him -- I
(13) was a freeholder back from '95. Probably for that
(14) long. He's one of the folks that comes to every
(15) meeting and has comments on at least 10 resolutions
(16) per freeholder meeting.

(17) MR. AVERY: Truly, Mr. Chairman, I
(18) don't have as much concern about change orders, the
(19) larger questions that we've talked about today.

(20) CHAIRMAN CUNNINGHAM: If you think
(21) there's enough votes that you --

(22) MR. AVERY: I like your idea because
(23) that would give them, the Applicant the rest of the
(24) numbers.

(25) MR. LIGHT: Not only do I have the

(1) comment that I had before about receiving this
(2) during the meeting, but at the beginning of the
(3) meeting, but also to the fact if he had that much
(4) concern and he says: Oh, I cannot attend the
(5) meeting, he should have been here. We haven't
(6) discussed it with this -- that's another strike.

(7) DAN SULLIVAN: I can tell you this:
(8) He's never come to an Improvement Authority meeting
(9) to comment on any change order that occurred in
(10) this process. Never.

(11) MR. LIGHT: That leaves a gap.

(12) DAN SULLIVAN: Never. And I'm
(13) telling you facts.

(14) RYAN SCERBO: And if I can just tell
(15) you --

(16) MR. LIGHT: No problems participating
(17) in a phone --

(18) CHAIRMAN CUNNINGHAM: Mr. Dirocco.

(19) MR. DIROCCO: I was going to say I
(20) have not problem with the phone meeting. The
(21) proposal you laid out is certainly acceptable and
(22) I'm happy -- not to complicate things more, but we
(23) have four -- five other items. I wonder if we give
(24) the Applicant a minute to go through these and we
(25) handle the rest of our agenda. And if we can

(1) dispose of these items now --

(2) CHAIRMAN CUNNINGHAM:It's good
(3) idea.

(4) RYAN SCERBOI would be happy to do
(5) it. The only caveat I have is on your agenda for a
(6) later application, I will do my best to be back
(7) here at the table.

(8) CHAIR CUNNINGHAMWhich one? Waive
(9) your appearance. Rahway.

(10) CHAIRMAN CUNNINGHAM:See how far
(11) you go with this one.

(12) RYAN SCERBOCan I have a copy? Can
(13) we have several copies?

(14) COURT REPORTER:I need a break.
(15) Five minutes.

(16) CHAIRMAN CUNNINGHAM:We're going to
(17) adjourn.

(18) (A recess was taken.)

(19) CHAIRMAN CUNNINGHAM:And I should
(20) mention that the Essex County Improvement Authority
(21) matter listed had been deferred by the Applicant.

(22) HUDSON COUNTY IMPROVEMENT AUTHORITY
(23) (COUNTY GUARANTEED POOLED NOTES LOCAL UNIT LOAN
(24) PROGRAM) HUDSON -NJSA 40A:5A-6 \$34,000,000 PROPOSED
(25) PROJECT FINANCING.

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CHAIRMAN CUNNINGHAM:Gentlemen, do you want to just be introduced and sworn please?

EDWARD MCMANIMONEdward McManimon, McManimon, Scotland and Baumann, Bond Counsel to the Improvement Authority. Curt Cherry who is the Executive Director and the Chief Financial Officer of the Authority. And Mike Hanley from NW who is the Financial Advisor to the Authority. They can be sworn.

MIKE HANLEY, CURT CHERRY AND EDWARD McMANIMON, after having duly been sworn was examined and testified as follows:

CHAIRMAN CUNNINGHAM:Anybody -- aren't we missing someone from your cast?

EDWARD MCMANIMON:Excuse me?

CHAIRMAN CUNNINGHAM:Aren't we missing someone from your cast? Nobody from the -- nobody from the municipality?

EDWARD MCMANIMONNo one from Weehawken or Union City. I think Mike who is their financial advisor can address to you decide wheter -- we tried anyway.

I'm aware of your desire. We expressed it. And because they haven't appeared in

(1) the past, except Weehawken has.

(2) Anyway I'll present it and you can
(3) decide.

(4) CHAIRMAN CUNNINGHAM: Keep going.

(5) EDWARD MCMANIMON This is a Series A 2017
(6) rollover of prior notes that were issued. This has
(7) a significant paydown from the prior notes that
(8) were issued a year ago. There's a series that are
(9) tax exempt. There's a series that's taxable. One
(10) of the issues is by the Improvement Authority
(11) directly in front of the Weehawken Special
(12) Improvement district, there's a public entity that
(13) doesn't have any ability to borrow money. So the
(14) Improvement Authority is the borrower of the money
(15) to loan to them. Weehawken is issuing \$26,712,000.
(16) 14,453,000 is tax exempt. There's a new money
(17) piece of that, which is 1,084,000. There's
(18) a \$12,259,000 taxable piece, again continuing what
(19) it has been. This is to fund tax appeals and self
(20) insurance and acquisition of property and vehicles.
(21) And Union City has a \$7,968,000 tax exempt
(22) borrowing to fund tax appeals. Computer upgrades,
(23) park improvements and various general improvements
(24) that they've been financing over a period of years.
(25) I know in the past the board has asked about

(1) permanent financing. I know Union City just had a
(2) bond issue in December last year. Weehawken did a
(3) bond issue two years ago. And there's another bond
(4) issue scheduled for this year. Like a lot of
(5) municipalities that have a lot of debt, they have
(6) permanent financing and temporary financing. This
(7) provides them with interest rates that without the
(8) County Guarantee that comes from this program would
(9) be higher. These are relative ranges similar to
(10) what rates have bumped up in the last four months,
(11) between one and one and a half percent rather than
(12) under one percent. And the rates that are
(13) projected by NW are slightly higher in that range
(14) to reflect the borrowers, plus the County
(15) Guarantee.

(16) So Union City has made, again,
(17) required paydown against their amounts of \$504,000.
(18) The paydown by the Weehawken SID is 788,000. They
(19) started with \$11 million about six years ago.
(20) They're down to this amount, which is six million
(21) -- I had it in front of me. \$6,177,000. So
(22) they're making substantial paydowns as they go
(23) through this and stay in temporary financing while
(24) they permanently finance other things rather than
(25) put those other things in this program. So we have

(1) the people here to answer any questions, if you
(2) have it. Again this is a continuation of a program
(3) that has worked very effectively. Other towns that
(4) had been in the program when they're rating -- when
(5) they're bond rating was lower, and have increased
(6) the bond rating are no longer in the program. This
(7) is designed to help the municipalities in the
(8) county that have -- that are credit challenged and
(9) therefore have less access to the market.

(10) CHAIRMAN CUNNINGHAM: Questions?

(11) MR. CLOSE: At this point if there's
(12) not (inaudible)

(13) CHAIRMAN CUNNINGHAM: Let the other
(14) participants know --

(15) EDWARD MCMANIMON: Absolutely. I
(16) did it yesterday and again this morning. I said we
(17) would present as best we could. I thought these
(18) were the questions, and so they addressed them to
(19) me in e-mails about their bonds and other things.
(20) And I said we would present it and if it didn't
(21) work that would be fine. So having said that on
(22) the record --

(23) CHAIRMAN CUNNINGHAM: It's respect
(24) for the board, too. It's just not necessarily to
(25) answer questions.

(1) EDWARD MCMANIMON:No, it's all part
(2) of that. Believe me. We obviously appeared before
(3) you. We know that full well and have expressed
(4) that. You having said it on the record makes it
(5) easier for us to say the next time here.

(6) CHAIRMAN CUNNINGHAM:That's why
(7) we're doing it.

(8) MR. CLOSE:They're well represented
(9) by their professionals. You guys have done a great
(10) job for them. I don't have any issue with that.
(11) In the furture if people don't take the time to
(12) come down and represent their own interests as well
(13) to move it forward.

(14) EDWARD MCMANIMON:Make sure the
(15) first part is on the record as well.

(16) MR. CLOSE:Absolutely. As a matter
(17) of fact I'll put that in writing for you.

(18) CHAIRMAN CUNNINGHAM:I've had
(19) concerns with this program. I think some of these
(20) towns are far overleveraged. We've had
(21) conversations, and sometimes you just have to hope
(22) the process works and it gets better. And again
(23) Weehawken, I guess they're required to pay down
(24) now, right?

(25) EDWARD MCMANIMONYes.

(1) CHAIRMAN CUNNINGHAM:I mean they're
(2) at a point, they've been out so long they have no
(3) choice but to pay down.

(4) EDWARD MCMANIMON:That's Union City
(5) as well. They're required for paydowns as well.

(6) CHAIRMAN CUNNINGHAM:Any questions,
(7) feel free to ask or I'll entertain a motion and a
(8) second.

(9) MR. AVERY: Move it.

(10) MS. RODRIGUEZ: I'll second.

(11) MS. MCNAMARA: Mr. Cunningham?

(12) CHAIRMAN CUNNINGHAM: Abstain.

(13) MS. MCNAMARA: Mr. Avery?

(14) MR. AVERY: Yes.

(15) MS. MCNAMARA: Ms. Rodriguez?

(16) MS. RODRIGUEZ: Yes.

(17) MS. MCNAMARA: Mr. Light?

(18) MR. LIGHT: Yes.

(19) MS. MCNAMARA: Mr. Close?

(20) MR. CLOSE: Yes.

(21) MS. MCNAMARA: Mr. Dirocco?

(22) MR. DIROCCO: Yes.

(23) EDWARD MCMANIMON Thank you very
(24) much.

(25) ---

(1) CHAIRMAN CUNNINGHAM:We'll go to
(2) Rahway.

(3) RAHWAY CITY (WATER SUPPLY SYSTEM)

(4) --

(5) CHAIRMAN CUNNINGHAM:Okay. Can you
(6) please be introduced and those who aren't Counsel
(7) be sworn.

(8) RYAN SCERBA:Yes. I'm Ryan Scerba.
(9) I'm Special Counsel for the City of Rahway.

(10) CHERRON ROUNTREE:Cherron Rountree.
(11) I'm the business administrator for the City of
(12) Rahway.

(13) DENNIS ENRIGHT:Dennis Enright, NW,
(14) Advisor.

(15) DIETER LERCH:Dieter Lerch, Auditor
(16) for the City of Rahway.

(17)

(18)

(19) DENNIS ENRIGHT, DIETER LERCH,
(20) CHERRON ROUNTREE, after having duly been sworn was
(21) examined and testified as follows:

(22) RYAN SCERBO Good morning, again,
(23) Direct. So this application --

(24) CHAIRMAN CUNNINGHAM:This is
(25) afternoon.

(1) RYAN SCERBO Yes, it is. Late
(2) afternoon.

(3) So this application is provided to
(4) you pursuant to the New Jersey Water Supply Public
(5) Private Contracting Act. The City of Rahway has a
(6) current contract with United Suez. That contract
(7) has been in place for almost twenty years coming to
(8) the end of its term. And the City, back in 2015,
(9) it initiated a process beginning by putting
(10) together a professional team to go out and first
(11) examine options for re-procurement. And then
(12) actually issue requests for proposals pursuant to
(13) the Act.

(14) The City received two proposals from
(15) -- one from Suez, one from Middlesex Water.
(16) Proposals were received in August of 2017 -- I'm
(17) sorry -- 2015. We interviewed the Respondents,
(18) both Respondents. Ultimately, Suez was selected
(19) for negotiations. Those negotiations lasted for a
(20) significant period of time. We had updated and
(21) fully modernized the scope of services and what the
(22) different ways of putting together the feed package
(23) with Suez. Negotiations ended in October. And
(24) we've provided a complete public hearing package
(25) for a public hearing in January -- I'm sorry -- in

(1) late fall of 2016.

(2) That public hearing lead to an
(3) application, which was approved by the Board of
(4) Public Utilities. The project included concession
(5) fee at the time. We looked at submitting an
(6) application here to the Local Finance Board. We
(7) had some discussions with the Local Finance Board.
(8) We looked at removing the concession fee
(9) ultimately. We negotiated that correction with
(10) Suez, which was very easy, simple discussion with
(11) them, because it's very transparent in their fee
(12) about how things were affected. We ultimately held
(13) a new public hearing to inform the public of that
(14) change. And we put together a hearing package that
(15) a hearing took place in January. We've submitted
(16) packages to local fines board. DCA and DEP. BPU
(17) has our application, has gone through it and has
(18) sent us some interrogatories, which we shared with
(19) the Local Finance Board. Those questions were
(20) answered by our team. And we anticipate being on
(21) their agenda, if not this month, then certainly
(22) next month.

(23) CHAIRMAN CUNNINGHAM: Ryan, you got
(24) the points you want to make especially related to
(25) the concession coming in now?

(1) RYAN SCERBO: Correct.

(2) CHAIRMAN CUNNINGHAM: I thank you
(3) for that. That was the one thing I wanted to make
(4) sure was on the record.

(5) Any other questions from the Board?
(6) So the one thing we've had these types of
(7) applications in front of us, and what we've been
(8) requiring and I don't believe we looked at all is
(9) we ask the Applicant provide or identify one person
(10) to serve as the contract administrator and submit
(11) that to the division for approval and have that
(12) person, you know, get quarterly reports that we get
(13) copies of. And we've put that in the Resolution,
(14) Ryan. But the reason is, is because we want to
(15) make sure that we have someone accountable so we
(16) don't have a repeat of what we kind of saw earlier
(17) with the City of Orange where there is no one kind
(18) of mining the store; no one responsible for the
(19) contract. That would be the only condition that
(20) I would put on the approval of the application.
(21) And as I said, we've been consistent with doing
(22) that with these types of matters coming from the
(23) Board over the last several months.

(24) If there are no other questions from
(25) the Board, then I would entertain a motion and a

(1) second.

(2) MR. DIROCCO: I make a motion.

(3) MS. RODRIGUEZ: I second.

(4) CHAIRMAN CUNNINGHAM: Mr. Diorrocco
(5) makes a motion. Ms. Rodriguez seconds.

(6) MS. MCNAMARA: Mr. Cunningham?

(7) CHAIRMAN CUNNINGHAM: Yes.

(8) MS. MCNAMARA: Mr. Avery?

(9) MR. AVERY: Yes.

(10) MS. RODRIGUEZ: Yes.

(11) MR. LIGHT: Yes.

(12) MR. CLOSE: Yes.

(13) MR. DIROCCO: Yes.

(14) RYAN SCERBO: Thank you very much.

(15) CHAIRMAN CUNNINGHAM: Okay. You've
(16) already been sworn in.

(17) JEFFREY WINITSKY: Yes.

(18) CHAIRMAN CUNNINGHAM: Well, your
(19) Counsel. You don't need to be sworn in. You
(20) already appeared. Jeff Winitsky from Parker McCay.

(21) JEFFREY WINITSKY: Yes.

(22) CHAIRMAN CUNNINGHAM: So you have a
(23) matter as it relates to the Gloucester County
(24) Utilities Authority. Sorry it took so long to get
(25) to you. We don't require an appearance of the

(1) Applicant because it is old business. So if you
(2) can just set it up, we'll try to dispatch it.

(3) JEFFREY WINITSKY: A year ago
(4) tomorrow, the Improvement Authority -- excuse me --
(5) the Utilities Authority appeared before the Board
(6) and received positive findings for the issuance of
(7) not to exceed \$16, 500,000 of its revenue refunding
(8) bonds. The proceeds of those bonds will be used to
(9) fund the Authority's 2003 -- 2005 A and 2005 B
(10) bonds.

(11) Subsequent to that application, the
(12) Authority adopted its supplemental bond resolution
(13) to allow for the issuance, but concurrently with
(14) that adoption, it received a Notice of Audit
(15) Inquiry from the IRS on a series of bonds that were
(16) issued in 1993 actually.

(17) I'm happy to say we were not bond
(18) counsel to the Utilities Authority in 1993. I'll
(19) put that on the record. During that process, the
(20) Utilities Authority, at our recommendation,
(21) determined not to go forward with the issuance of
(22) the bonds to the extent that there's an IRS audit
(23) undergoing. There's a question as to whether or
(24) not that would influence bond holder decisions to
(25) purchase. You want to understand what the outcome

(1) of that proceeding would be before you put a public
(2) document to -- with respect to the Authority or its
(3) obligations and liability certainly to the IRS. So
(4) that process has since concluded. It took over a
(5) year to do so. It was favorable to the Authority.
(6) The 1993 bonds are actually no longer on the
(7) market. There was a fee paid to the IRS, but by
(8) their prior lawyers, not by the Utilities
(9) Authority. They essentially were given bad,
(10) advice, followed that advice. And in doing so
(11) there was an arbitrage problem with respect to the
(12) escrow for the refunding bonds at that time. As
(13) I said, it has been resolved. The IRS has entered
(14) into a closing agreement with the Utilities
(15) Authority and the prior law firm, the penalty has
(16) been paid. We are now sort of through that process
(17) and we're now in the position to get back into the
(18) marketplace. Unfortunately it has been a year
(19) since the -- since the Board's initial approval.
(20) And pursuant to the resolution, we have one year to
(21) do. So we're back simply to ask for additional 90
(22) days to allow that to happen. We don't expect it
(23) to take 90 days from tomorrow, but we, you know, in
(24) case something happened, the market turns on us or
(25) something else might pop up, we would appreciate 90

(1) days to get that done. Presently we're looking at
(2) over eight percent in that present value savings.
(3) So it works for our financing perspectives. We
(4) just need to get back into the marketplace with
(5) your permission to do so.

(6) CHAIRMAN CUNNINGHAM: Any concerns with
(7) 90 days? Okay.

(8) MR. LIGHT: I'll move the application.

(9) CHAIRMAN CUNNINGHAM: Mr. Light moves.
(10) Mr. Close seconds.

(11) MS. MCNAMRA ROLL CALL:

(12) CHAIRMAN CUNNINGHAM: Yes.

(13) MR. AVERY: Yes.

(14) MS. RODRIGUEZ: Yes.

(15) MR. LIGHT: Yes.

(16) MR. CLOSE: Yes.

(17) MR. DIROCCO: Yes.

(18) JEFFREY WINITSKY Thank you very much.

(19) CHAIRMAN CUNNINGHAM: Sorry it took so
(20) long.

(21) JEFFREY WINITSKY: No problem.

(22) CHAIRMAN CUNNINGHAM: We will
(23) reconstitute Union County Improvement Authority.
(24) Again you gentlemen have all been sworn already.
(25) Do you still promise to tell the truth?

(1) So you've had a limited amount of
(2) time but nevertheless you had enough time to --
(3) frankly you've had more time to look at that than I
(4) have.

(5) DAN SULLIVAN: Than you have.

(6) CHAIRMAN CUNNINGHAM: Just to be
(7) candid, so are there some initial reactions to it?

(8) RYAN SCERBO: I will say this: We
(9) will provide responses to all of these. It's
(10) probably easiest unfortunately for you that we walk
(11) through them one by one, but it's very difficult,
(12) I'll say this, to provide a response to something
(13) that's just factually untrue. So some of our
(14) responses will be that something is just false or
(15) incorrect. But we can provide more color on that
(16) as we move forward.

(17) DAN SULLIVAN: And I will just say:
(18) I had a flat tire when I walked out this morning.
(19) I should have known it was going to be that kind of
(20) a day.

(21) RYAN SCERBO: Sorry. Do you want our
(22) copy back? We wrote on a couple of them.

(23) CHAIRMAN CUNNINGHAM: So is your
(24) thought that you want to attempt to respond to
(25) these point by point now or --

(1) RYAN SCERBO: If we could and if the
(2) board feels comfortable to these, I would like to
(3) make today as productive as we could.

(4) CHAIRMAN CUNNINGHAM: Let's give it
(5) a whirl.

(6) TED DOMURACKI: Do you want me to
(7) start?

(8) This issue with smoke evacuation was
(9) added after permits were approved in the building
(10) as inspectors changed hands, who demanded that it
(11) be included, because he's allowed to interpret
(12) code. So the design was approved without it and a
(13) new inspector came on board and asked to add it.

(14) CHAIRMAN CUNNINGHAM: The exact same
(15) issue going on with the project Asbury Parks and
(16) the rest of them (inaudible)-- it's an unfortunate
(17) occurrence but not uncommon.

(18) TED DOMURACKI: The building
(19) inspector is allowed to interpret a code and add it
(20) if he so desires.

(21) COURT REPORTER: I'm sorry.

(22) TED DOMURACKI: High Mountain
(23) Concrete -- I'm just going through specifically
(24) item by item here. High Mountain Concrete got into
(25) dispute with the general contractor APS on pouring

(1) the floors. We found out first when we were
(2) verifying the quality of construction was that they
(3) were poured out of variance, out of -- by as much
(4) as an inch. And it was an argument over who would
(5) grind the floors back down in order to receive the
(6) finished terrazzo finish. The replacement
(7) contractor Perini did that all of his own expenses
(8) as part of his 12 to 15 million dollars that
(9) I mentioned to you. But this basically became a
(10) cost dispute between the general contractor and
(11) subcontractor on the project.

(12) CHAIRMAN CUNNINGHAM:Okay. I think
(13) you've already addressed the delay ones. So can we
(14) move then to the change order about the
(15) prosecutor's space.

(16) RYAN SCERBO:Yes, I'll handle that
(17) one.

(18) CHAIRMAN CUNNINGHAM:This is
(19) something we talked about on the phone the other
(20) day. Put that on the record.

(21) RYAN SCERBO:So the prosecutor's
(22) space that's referred to here in this letter is
(23) intended to be the home of the Union County
(24) Improvement Authority when it was finished being
(25) built. The County asked the Improvement Authority

(1) if it would lend that space to the prosecutor
(2) providing domestic violence counseling services out
(3) of that space. Unfortunately at the time that
(4) decision was made by the county site. It was
(5) already fitted out for the intended use of the
(6) Improvement Authority. Part of that fit out
(7) included a single point of access to the exterior
(8) of the courthouse, but not to the interior of the
(9) courthouse. As I said before it's a highly secured
(10) building. So when it became available to the
(11) prosecutor and required dual access into the
(12) courthouse and out of the courthouse, additional
(13) security measures had to be added, including a
(14) metal detector, security doors, and the fit out had
(15) to be completely reconfigured. So it is an
(16) expensive item. We don't disagree, but it is part
(17) of a process, and it is a changed decision made by
(18) the County.

(19) DAN SULLIVAN: A change in use.

(20) CHRISTOPHER LANGHART: And I would
(21) just say, we talk about change of scope, the
(22) building itself. This is really the only part that
(23) changed from the original design, because as Ryan
(24) said, the offices for the Improvement Authority
(25) were to be separate. This office space was

(1) entirely separate from the rest of the building.
(2) There would be no access from that space into the
(3) -- into the court. Once that changed, that
(4) necessitated, you know, the cost that we were
(5) talking about, but this was done with the full
(6) approval of the County, as well as the prosecutor.
(7) That was what they wanted. And we made that
(8) agreement in order to do that. So, if we talk
(9) about change of scope, I think that's really the
(10) only -- only thing that was not intended when the
(11) building was designed and when construction began.

(12) CHAIRMAN CUNNINGHAM: No, there were
(13) some other owner requests, and scope adjustments
(14) that not necessarily changed the footprint or even
(15) the design but they were add-ons and I know we
(16) talked about the sheriff officer requiring some
(17) dedicated cameras and direct run lines and that
(18) sort of thing.

(19) RYAN SCERBO: There is one on this
(20) page, actually second from the bottom, it says
(21) \$158,000. That is Active Shooter Program. That
(22) was installed in the building and paid for by the
(23) county, not paid for by --

(24) TED DOMURACKI: -- Sheriff's
(25) department through a Union County board meeting and

(1) approved by the County.

(2) CHAIRMAN CUNNINGHAM: Thank you.

(3) Let's go over a couple more of these.

(4) TED DOMURACKI: Change order number
(5) seven?

(6) CHAIRMAN CUNNINGHAM: Yes, because
(7) that's a big one. That's 1.8.

(8) TED DOMURACKI: That's the cost to
(9) complete all the outstanding change orders for the
(10) takeover contractor, what he's done over the last
(11) two years to scrub over the documents to try to
(12) recover some costs. So every single thing that
(13) might be appropriate under the completed design
(14) that the original contractor bid on, he's trying to
(15) recover and in addition, it includes \$685,000 in
(16) contingency, which we may or may not use.

(17) CHAIRMAN CUNNINGHAM: And if there
(18) is some duplication, you'll investigate that.

(19) TED DOMURACKI: Yes. We have vetted
(20) every single PCO. Sometimes they are approved at
(21) face value. More often than not they're negotiated
(22) with architect's approval.

(23) CHAIRMAN CUNNINGHAM: An alleged
(24) duplication is being brought to your attention and
(25) I would just like to acknowledge that you'll

(1) investigate that.

(2) DAN SULLIVAN Yes, we will.

(3) RYAN SCERBO Yes.

(4) CHAIRMAN CUNNINGHAM: Other big
(5) ones were, okay, the one point eight for the --
(6) what's VE?

(7) TED DOMURACKI Value engineering.

(8) CHAIRMAN CUNNINGHAM: Thank you.

(9) RYAN SCERBO: Value engineering took
(10) place when the first bid failed, and the second bid
(11) was necessitated. The parking deck was removed
(12) from the project and it required a redesign because
(13) of the connectivity of the parking deck to the
(14) building. Were there other changes?

(15) TED DOMURACKI: It was re-bid three
(16) times.

(17) RYAN SCERBO Three times.

(18) TED DOMURACKI: Before it was
(19) successfully awarded. And changes had to be
(20) made to the design at the budget compliance at each
(21) of those stages.

(22) CHAIRMAN CUNNINGHAM: The next big
(23) one, why don't you just address the change order
(24) number 2, \$890,000 for lead design.

(25) TED DOMURACKI Right here.

(1) RYAN SCERBO I can say that the
(2) architect doesn't provide the lead services
(3) provided by a third-party who's hired through the
(4) architect. So it's not money to the architect.

(5) CHAIRMAN CUNNINGHAM: So you'll
(6) respond in writing to us on that one?

(7) RYAN SCERBO We certainly can do
(8) that, yes. And it is a lead certified building.
(9) And it has lead requirements.

(10) CHRISTOPHER LANGHART: It's not only
(11) for lead design services. It's for RSLP for
(12) contaminated soil on the site and other cost
(13) categories which we can break down and answer.

(14) SPEAKER: Also had some additional
(15) where it says CA services, construction
(16) administrative services. That's time on the job
(17) related to the one hundred plus days of time
(18) extension for contractor to do the weather delays.

(19) CHAIRMAN CUNNINGHAM: Two other
(20) change orders over a half a million dollars. The
(21) rest we don't have time to go through.

(22) A project of this scope, \$183,000, I
(23) don't want to be dismissive of it. Let's stick to
(24) the big ones.

(25) Change order DCO number 1, 537,000

(1) for extended services.

(2) TED DOMURACKI: I'd like to address
(3) DCO number one, two and three.

(4) CHAIRMAN CUNNINGHAM: All right,
(5) please.

(6) TED DOMURACKI: Our services are AN
(7) extension of time relative to the duration. We had
(8) three and a half people on the project, full-time
(9) documenting what I would call the failure of APS,
(10) the original contractor, okay? We reduced it
(11) because when Tuter Perini took over the project it
(12) was more under control. So it will reduce the size
(13) of the staff based on the percentage completion of
(14) the job loss. I can produce time cards to document
(15) the presence on-site of personnel or committed to
(16) the project for all three of those categories. And
(17) it's related totally to duration and extension of
(18) time on the project.

(19) CHAIRMAN CUNNINGHAM: To my
(20) colleagues on the board, while it's important to
(21) have public comment -- and I don't want to be
(22) dismissive of it, we quickly rolled through the
(23) majority of the large change orders and it seems at
(24) least to me that there are credible explanations.
(25) Rather than scheduling a separate meeting, Here's

(1) what I propose. I propose we take a vote on the
(2) matter today, and condition it upon receiving a
(3) written letter within seven days, 10 days --
(4) whatever.

(5) RYAN SCERBO: Seven days is fine.

(6) CHAIRMAN CUNNINGHAM: Seven days
(7) going through point by point. I think it's
(8) probably the most prudent course of action, unless
(9) the board feels there's additional items in this
(10) correspondence that they would like the Applicant
(11) to address now.

(12) MR. LIGHT: Fully agree.

(13) CHAIRMAN CUNNINGHAM: So with that
(14) condition I'll make a motion to approve this
(15) application. And again, there's a couple different
(16) requested actions here, both positive findings and
(17) positive findings to the County Guarantee. My
(18) motion will encompass both. And I will ask one of
(19) my colleagues for a second. Ms. Rodriguez seconds.
(20) Take a roll call please, Pat.

(21) MS. MCNAMARA:

(22) CHAIRMAN CUNNINGHAM: Yes.

(23) MR. AVERY: Yes.

(24) MS. RODRIGUEZ: Yes.

(25) MR. LIGHT: Yes.

(1) MR. CLOSE: Yes.

(2) MR. DIROCCO: Yes.

(3) CHRISTOPHER LANGHART Thank you very
(4) much for your time.

(5) RYAN SCERBO: Thank you.

(6) CHAIRMAN CUNNINGHAM: Motion to
(7) adjourn?

(8) So moved.

(9) Second? All in favor.

(10) Aye.

(11) Opposed? No. That's it.

(12)

(13)

(14) C E R T I F I C A T E

(15)

(16) I, ANGELA R. WATERS, CCR, RPR, DO HEREBY CERTIFY
(17) that the deposition of DR. JOHN STERN is a true and
(18) accurate transcript of my stenographic notes.

(19)

(20)

(21)

ANGELA R. WATERS, CCR, RPR

(23)

(24)

(25)

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