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CAUSE NO. 2024CCV-61174-3

AJIT DAVID,	§	IN THE COUNTY COURT
Plaintiff,	§	
	§	
vs.	§	AT LAW NO. 3
	§	
CITY OF CORPUS CHRISTI,	§	
TEXAS,	§	
Defendant.	§	NUECES COUNTY, TEXAS

ORAL VIDEOTAPED DEPOSITION

MIKE CULBERTSON

May 5, 2025

ORAL VIDEOTAPED DEPOSITION OF MIKE CULBERTSON,
produced as a witness at the instance of the Plaintiff
and duly sworn, was taken in the above-styled and
numbered cause on May 5, 2025, from 9:29 a.m. to
12:27 p.m., before Tanisha Terrazas, Certified Shorthand
Reporter in and for the State of Texas, reported by oral
stenography at the offices of Wood, Boykin & Wolter, 555
North Carancahua Street, Suite 1510, Corpus Christi,
Texas 78401, pursuant to the Texas Rules of Civil
Procedure and the provisions stated on the record or
attached hereto.

APPEARANCES

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ALSO PRESENT:

Tom Kling, videographer
Ajit David, observing

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EXHIBITS

(None offered)

1 P-R-O-C-E-E-D-I-N-G-S

2 Whereupon,

3 9:29 a.m.

4

5 THE VIDEOGRAPHER: Time is 9:29 a.m.,
6 may 5th, year 2025. We are recording.

7 THE COURT REPORTER: My name is Tanisha
8 Terrazas, Texas CSR No. 12061. I will be administering
9 the oath and reporting the deposition by oral
10 stenography.

11 Counsel, would you please state your
12 appearances, starting with plaintiff.

13 MR. ALLISON: Doug Allison.

14 MR. DEKOCH: Oh, Mark DeKoch for the
15 City.

16 MR. BELL: And I'm John Bell with the
17 Corpus Christi Regional Economic Development
18 Corporation.

19 (The witness was sworn.)

20 MIKE CULBERTSON,
21 having been first duly sworn, testified as follows:

22 EXAMINATION

23 BY MR. ALLISON:

24 Q. Will you state your name, please.

25 A. Paul Michael Culbertson.

1 Q. Okay. And Mr. Culbertson, I know you go by, I
2 guess, your middle name?

3 A. Right. Mike.

4 Q. And do you have a preference that I call you
5 Mike or Mr. Culbertson?

6 A. Mike is fine.

7 Q. Okay. And we not going to be calling each
8 other by first names a lot, just --

9 A. Okay.

10 Q. -- mostly question and answer --

11 A. I understand.

12 Q. -- slip into that. Thank you.

13 And do you understand that we are here
14 today to take your deposition in a pending case?

15 A. Yes, I do.

16 Q. And I understand that Mr. Bell is your
17 attorney?

18 A. Yes.

19 Q. Okay. And, before we get into any of the
20 details of the case, I do want to get some background on
21 you.

22 A. Okay.

23 Q. Where did you go to -- let's say, college?

24 A. I went to University of Texas.

25 Q. Okay. And did you graduate from there?

1 A. Yes, I did.

2 Q. And what year?

3 A. 1979.

4 Q. Okay. And then-- and on -- I know I reached
5 way back, I'm not going to cover every year.

6 A. Okay.

7 Q. Okay. When did you come to Corpus Christi?

8 A. 2005.

9 Q. Do you -- when you graduated from University of
10 Texas, what was your degree or -- or focus?

11 A. Aerospace engineering.

12 Q. And so did you graduate with an engineering
13 degree?

14 A. Yes.

15 Q. Did you -- when you started -- well, did you do
16 any postgraduate work?

17 A. I did not.

18 Q. Did you go into the workforce?

19 A. I joined the Navy.

20 Q. And how long did you serve in the Navy?

21 A. Until 1993. So that would be 14 years.

22 Q. Thank you for your service.

23 And in 1993 -- well let me ask you this.

24 What did you do for the Navy?

25 A. I was a carrier pilot. I flew the A-6

1 Intruder.

2 Q. And what does that mean you were doing?

3 A. It means I was flying off of carriers and
4 attack squadron.

5 Q. And after you left the Navy, what did you go
6 do?

7 A. I went and got my MBA at University of Houston.

8 Q. And did you graduate from there?

9 A. I did.

10 Q. What year?

11 A. 1995.

12 Q. And where did you go after that?

13 A. I worked three different jobs from '95 to 2005
14 in Houston, Texas.

15 Q. And you're doing a good outline for me and I
16 appreciate that.

17 Go ahead and go -- tell me those three
18 jobs and then it sounds like we're going to come to
19 Corpus.

20 A. Okay. I worked for Next Level, which is a
21 computer installation company for three years.

22 And then I worked for a company called
23 HireRight. Like -- like, hire -- hire the right person.
24 HireRight. And -- and they do background checks, but
25 what it was doing was moving everything to the internet.

1 And -- and then I worked for ABB, Asea
2 Brown Boveri. It's a huge multinational company. And I
3 was the controller.

4 Q. And then it sounds like you came to Corpus
5 Christi?

6 A. Yes.

7 Q. And that was in 2005?

8 A. Correct.

9 Q. And what was it that brought you to Corpus?

10 A. My wife wanted to move back here.

11 Q. Was she from here?

12 A. Yes.

13 Q. And when you first came here, did you have a
14 job lined up or did you come looking?

15 A. I came looking.

16 Q. And what did you find?

17 A. I found a couple, I worked for IRC, which is
18 International Resistive Company. And then I worked for
19 CC Distributors.

20 Q. How long were you with IRC?

21 A. Actually, not very long. Maybe -- maybe a
22 year. And I got a better offer at CC Distributors and I
23 moved to them.

24 Q. And what did you do at IRC?

25 A. I was the assistant controller.

1 Q. And then with CC Distributors, what kind of
2 business is that?

3 A. That provides supplies for -- for bases. So
4 Air Force bases, Navy bases around the country.

5 Q. And what did you do the -- for them?

6 A. I was a controller.

7 Q. And how were -- long were you with CC
8 distributors?

9 A. Three years until 2008.

10 Q. Pardon? Until when?

11 A. 2008. Maybe 2009, but.

12 Q. And where did you go after CC Distributors?

13 A. CC -- Corpus Christi Regional Economic
14 Development Corporation. I started in 2009.

15 Q. And if we call that CCREDC, that makes sense?

16 A. Yes. Yes, sir.

17 Q. And so you have been with CCREDC from about
18 2009 until recently?

19 A. Correct. And I'm still there.

20 Q. And you're still there right now?

21 A. Yes.

22 Q. And I thought I heard you announce a
23 retirement, maybe?

24 A. Yes, but with the search committee and the
25 thing, it'll probably be August before I'm out the door.

1 But yes, we are actively searching for --
2 I informed the board I want to retire this year.

3 Q. Okay. When you started with CCREDC, where did
4 you start?

5 What was your role?

6 A. My role was vice president of compliance and
7 incentives.

8 Q. And -- and what does that mean, as a practical
9 matter?

10 A. That means that I draft and work with local
11 taxing entities on incentive agreements. That can be
12 Chapter 380s with the cities, Chapter 381 with the
13 counties, tax abatements, and some state incentives such
14 as Texas Enterprise Zone, Texas Enterprise Fund. And
15 Type A with the City and now Type B.

16 Q. And so you've -- for how many years were you
17 vice president of Compliance in doing that job?

18 A. Until 2015. So six years. Actually, I kept
19 that, even though in 2015 I became chief operating
20 officer.

21 Q. 2015?

22 A. Correct.

23 Q. But then you continued in your role as VP of
24 compliance and incentives also?

25 A. Correct.

1 Q. And so how long did you continue in your role
2 as VP of compliance and incentives?

3 A. 2021.

4 Q. And then who did you hand the reins to?

5 A. I hired Randy Almaguer, A-L-M-A-G-U-E-R,
6 Almaguer.

7 Q. And is Randy still in that role?

8 A. That's correct.

9 Q. I may come back to that, but let's go ahead and
10 get our timeline.

11 In 2015, you became COO?

12 A. Yes.

13 Q. I might guess what that means and what that has
14 you doing, but go ahead and tell me -- that's chief
15 operating officer, but tell me what you were doing as a
16 practical matter?

17 A. So I was responsible for the execution of
18 everything in the office. So I had worked -- so people
19 reported to me and then onto the CEO.

20 Q. How long were you the COO?

21 A. I was made interim CEO in July of '22, and I
22 was made permanent CEO in April of '23.

23 Q. And how would you describe the job of the CEO?

24 A. CEO is responsible for everything to the board
25 for the actions and execution of everything, economic

1 development in that office and in the region. And we
2 define the region as the MSA, which is Nueces, San
3 Patricio and Aransas counties.

4 Q. Who do you get paid by?

5 A. I get paid by Corpus Christi Regional Economic
6 Development Corporation. My salary? Or are you talking
7 about my salary, or?

8 Q. Yes, sir.

9 A. Yeah. Corpus Christi Regional Economic
10 Development Corporation.

11 Q. Okay. Anybody else?

12 A. No.

13 Q. Do you have any responsibilities that are
14 separate and apart from the CER-- CCREDC to the City of
15 Corpus Christi?

16 A. So as part of our funding, the City provides
17 \$575,000 a year for economic development. We have an
18 agreement with -- used to be Type A, now it's Type B,
19 for 125,000 provides staffing for the Type B
20 corporation.

21 Q. So it's 575 plus 125?

22 A. Yes.

23 Q. And the 125 now comes from Type B?

24 A. Correct.

25 Q. And in exchange for that, do you have

1 responsibilities for the City?

2 A. Yes. We provide staffing for Type B projects
3 that come to the City. And Type B is a type of sales
4 tax incentive.

5 And so if somebody would like an
6 incentive, they would come here, submit an application,
7 and the application goes through corp -- through CCREDC.
8 We take it through our board per guidelines, through the
9 Type B board and present it to the city council.

10 Q. And I know that, you know, we're here to talk
11 eventually about --

12 A. Yes, sir.

13 Q. -- the downtown hotel project, whatever we want
14 to call that.

15 What do you refer to that as?

16 A. Homewood Suites.

17 Q. Huh?

18 A. Homewood Suites.

19 Q. Okay. And what did Homewood Suites run through
20 this type of B process?

21 A. That's correct.

22 Q. And when you say that you provide staffing for
23 Type B projects for the City, what does that mean?

24 A. That means we intake applications, we do
25 economic impact reports on it. We present it to the

1 CCREDC board of directors for a vote for recommendation
2 to the Type B board. And then we put all the agenda
3 items requirements for the Type B, and we take it to the
4 -- and we present it to the Type B. And then if that is
5 successful at Type B, then we do the agenda items and
6 present for the city council.

7 Q. Is there some sort of a written document that
8 lays out that process?

9 A. Yes. Type B guidelines. They're done by Type
10 B and -- and approved by the city council.

11 Q. And do those Type B guidelines lay out the
12 very, probably with more specificity this procedure
13 you're telling me about?

14 A. Yes.

15 Q. I think you had said in your description a
16 moment ago that as CEO, it's your responsibility to at
17 least one of the responsibilities is to report to your
18 board of directors?

19 A. That's correct.

20 Q. Who are the current board of directors?

21 A. Okay. Right now, our chairman is Dr. Bryan
22 Gulley. Our vice chair is Anna Aldridge. Our treasurer
23 is Mark Meyer. Our secretary is Kyle Sharon -- he's the
24 plant manager of Valero. And we have one called the
25 BDAC, Business Development Advisory Council. That is

1 Bart Braselton. We have a San Patricio County
2 representative. That's commissioner, Tom Yardley.

3 Q. Rogley?

4 A. Yardley, just Yard and L-E-Y.

5 Q. Okay. Thank you.

6 Are all of those voting members so far?

7 A. Correct.

8 Q. And I think maybe there's sometimes --

9 A. Oh, we -- we have -- I'm sorry. We have, like,
10 18 board members.

11 Q. That are voting?

12 A. Yes.

13 Q. Okay. And you're giving me, it sounds like the
14 officer?

15 A. Yes, sir. Yeah.

16 Q. And -- and is there a Nueces County
17 representative?

18 A. Yes. Judge Connie Scott.

19 Q. Is there Aransas County rep?

20 A. No. We also have -- the City has a Mayor
21 Guajardo. Right now, it is a councilman, Roland
22 Barrera. We have -- we have an opening because Bobby
23 Gonzalez resigned. He was the immediate -- immediate
24 first chair, but he resigned. We have Dr. Reddy. We
25 have -- who's another one -- oh, Chief Rocha. Remember,

1 Fire Chief Rocha? And, on the port, we have Dr. Gulley
2 as a port, and Gabe Guerra with Kleberg.

3 And then our investors, our Kyle Sharon,
4 Bart Braselton, Anna Aldridge, Kyle -- I already talked
5 about Kyle. Oh God. Chad Courville.

6 And I think that's it. I think I have one
7 more. I just can't think of his name, but that's it.

8 Q. I understand. If you miss some, that's okay.
9 And they're probably available online.

10 A. True. Yes.

11 Q. Yeah. Now I want to go back to the Type B
12 guidelines.

13 A. Uh-huh.

14 Q. Are you with me?

15 A. Yes.

16 Q. And we don't have those in front of us today.

17 Are they available online?

18 A. Yes.

19 Q. On your website?

20 A. No, they should be on the City's. They might
21 be on ours too. I would have to check.

22 Q. And walk me through that process though with
23 the -- with some more detail, if you will.

24 A. Okay.

25 Q. And well, let me do it this way if you want.

1 I think the first thing you said is you
2 all are responsible for -- and by you, I mean the REDC.

3 A. I understand.

4 Q. That the REDC is responsible for receiving
5 applications.

6 A. That's correct. So when we -- we are sent
7 people or people know that we take applications we
8 discuss project with them and they give us an
9 application and we give them the application to fill
10 out, it's quite lengthy. When they bring it back,
11 things happen.

12 And so what happens is, for example, as
13 soon as we get it, we're required to send it to the
14 City, city manager, one of the assistant city managers,
15 which handles economic development and the mayor. And
16 that's so they know what's -- what's coming.

17 After that we run through to make sure the
18 application's complete and we start working economic
19 impact models using a RIMS II model, R-I-M-S and then
20 two I's, RIMS II.

21 There are two different ways to do
22 economic impact. One is -- one is RIMS and one is
23 IMPLAN, I-M-P-L-A-N. And these are accepted used by the
24 Bureau of Labor Statistics. And we go through that.

25 Q. And -- and I'm going to slow you down for a

1 minute --

2 A. Okay.

3 Q. -- because you're ahead of me, just on --
4 definitely on something that I don't understand there.

5 A. All right.

6 Q. Okay. You being the expert on it and not me.

7 A. No, that's fine.

8 Q. Okay. So in order to evaluate the economic
9 impact, you -- it sounds like you run it through two
10 models?

11 A. No, just one. The RIMS II.

12 Q. And how do you sp -- R-I-N?

13 A. R-I-M-S. All caps and then space and then
14 capital I, capital I.

15 Q. And we call it -- that looks like RIMS II to
16 me, but you called it --

17 A. No. RIMS II.

18 Q. Okay. RIMS II. Okay. Got it.

19 And but you said -- I thought you said
20 something about a second one?

21 A. Yeah, there is a second one that is out there
22 and it's called IMPLAN, I-M-P-L-A-N.

23 For example, if you ever heard about
24 Dr. Lee at the university, when they do one, they use
25 that.

1 Q. Okay. But you guys don't --

2 A. Correct.

3 Q. -- do that one?

4 A. Yeah.

5 Q. Okay.

6 A. They're just, like -- like, two different, you
7 know, like --

8 Q. Okay. And RIMS II, tell me specifically, you
9 say you run it through that, I guess, you're doing that
10 because it is a model that probably based on whatever
11 type of business or industry and probably a multitude of
12 factors, this computer software is designed to help you
13 understand the economic impact of that coming to our
14 community.

15 A. That is correct. It gives us what a -- how
16 much taxes various taxes will be collected from the
17 project. So those taxes can obvious ones, property tax,
18 sales tax. But also, by creating jobs, those people buy
19 things. And so we collect those sales tax.

20 If it's a hotel, if it's a destination
21 hotel, then we would look at HOT -- which is hotel
22 occupancy tax and also the building permits, whatever.
23 But those are pretty much awash.

24 Q. And all of those are revenue sources?

25 A. To the City.

1 Q. Right.

2 A. Yes or if we can do it for the County, it would
3 be -- obviously, we wouldn't have sales tax for the
4 County.

5 Q. Okay. So does RIMS II -- other than looking
6 at, I guess, different revenue streams that a proposed
7 project will bring to the City, that's one thing it
8 does?

9 A. Yeah.

10 Q. Does it do other things?

11 A. No.

12 Q. Okay. In order to -- and I -- I guess, the
13 goal is to ultimately -- and I'm sure there's give and
14 take on this, but I'm sure the goal is to bring industry
15 or business to the community that has a positive impact?

16 A. That's correct.

17 Q. And so the more revenue generated from the City
18 standpoint and from the economic development
19 perspective, the better?

20 A. Yeah. Correct.

21 Q. Okay. And so what are the factors that play
22 into -- I mean, how do you -- how do you rank a project
23 then?

24 What does that -- how does that shake out?

25 A. We do it by payback and -- and investment

1 return and return on investment, ROI.

2 So payback means that say you give \$50,000
3 in incentives, how long would it take for the taxes
4 generated to equal 50,000? And so that's the payback
5 period.

6 Q. And is it in RIMS II or somewhere else that
7 maybe there's some guidelines for an EDC such as yours
8 to rank what are more attractive types of businesses to
9 bring to a community?

10 A. We have by the Type A, now, Type B, we've
11 always used a five-year payback and greater than 12
12 percent return on investment.

13 If we have less than that, then we would
14 have to obviously make the case that it's worth it. But
15 if it hits those goals, we are looking for the -- to hit
16 those goals.

17 Q. Five-year payback and greater than 12 percent
18 ROI?

19 A. Correct. At least 12 percent. How's that --
20 say it that way --

21 Q. Is that in the --

22 A. In the guidelines?

23 Q. In the guidelines.

24 A. I don't know. We've talked about it before
25 putting it in the guidelines, but.

1 Q. Okay.

2 A. But not all projects go through that.

3 For example, Del Mar is looking to add a
4 -- a curriculum. I mean, that doesn't really work that
5 way, right, but.

6 Q. That's education.

7 A. Yeah.

8 Q. It's public.

9 A. Right. But for incentives for projects, it --
10 that's how we do it.

11 Q. By -- and by when -- what you're really
12 probably, we should make a distinction between a public
13 project and a private project, sure? Is that fair?

14 A. Yes, that's fair.

15 Q. Okay. But on the -- but on the private
16 projects, your criteria for supporting it and
17 recommending it is this five-year payback and greater
18 than 12 percent ROI?

19 A. Correct.

20 Q. Is there any criteria that along the lines of
21 the types of jobs or numbers of jobs or high paying jobs
22 that are considered?

23 A. RIMS II can by -- by putting in the average
24 salary of the workers will show -- show that jobs that
25 pay higher are more attractive. But that's a -- it just

1 works through that.

2 Q. And what I'm -- I'm kind of getting the sense
3 and guessing, so I'm going to throw it out there.

4 I'm guessing that at the end of the day,
5 the -- whether the jobs are higher paying or higher
6 quality jobs, when you're putting this different data,
7 that data and different data into RIMS, it all comes
8 out.

9 And those are factors because those are
10 variables you're inputting?

11 A. Right.

12 Q. But it's at the end of the day, you're looking
13 for a result from this computer software?

14 A. Correct.

15 Q. Okay. So you're not -- you're not sitting
16 there saying, well, I like it, I think it'll be pretty.

17 You're really feeding data into a computer
18 and looking for a result?

19 A. Correct.

20 Q. Okay. And that's-- that -- that's how it's
21 supposed to work at EDC?

22 A. Correct. We have not hit a point where it's
23 like we have to pick between two projects.

24 Q. So we're -- we're hoping for that day?

25 A. Yeah. If we hit that, then obviously the

1 higher-paying jobs would -- would be preferable to us.

2 Q. Right. But -- and you said something that amo
3 -- a moment ago then that further peaked my interest.

4 And that is it sounds like from what you
5 said, that one of the factors that influences RIMS II is
6 the type of jobs it will create?

7 A. Correct. And in RIMS II, just -- just so in
8 RIMS II, it'll take a look at the type of job and it'll
9 determine how many more jobs will be created in the
10 economy.

11 For example, if you're a refinery job,
12 it'll be eight jobs. So the eight, the one job that's
13 created two indirect, which are, like, contractors that
14 are on site and then there's induced jobs. Which is
15 H-E-B would hire somebody or somebody who's making \$20
16 an hour would -- I mean 20 hours a week would go to
17 40 hours.

18 Q. Okay. And so what I would like to do is
19 understand what the different data is that is input it
20 into RIMS.

21 A. Uh-huh.

22 Q. And it sounds like type of job is one?

23 A. Correct.

24 Q. Is the pay scale for that job inputted?

25 A. Yes.

1 Q. Is the number of jobs inputted?

2 A. Yes.

3 Q. Is the type of industry inputted?

4 A. Yes.

5 Q. So far, I'm just guessing good.

6 A. No, that's --

7 Q. It's not that I -- it is not that I know. I
8 just -- I'm just trying to think about what things would
9 -- would give influence, economic output. Go ahead.

10 A. So capital investment -- but not only capital
11 investment, when. So when.

12 Q. When?

13 A. For example, if it was a \$20 million or say a
14 hundred million dollars project, if you had all the
15 spending in the first year, it would be much better than
16 have the spending over a three-year construction period.

17 Q. Makes perfect sense to me.

18 A. Yeah.

19 Q. What other variables?

20 A. When you -- when you bring people on, you know,
21 so you don't bring them on until construction's, we
22 don't -- the model doesn't assume until the
23 construction's complete.

24 So again, if you finish in the first year,
25 you have people starting year two working and three-year

1 starting year four people start working.

2 Q. What other factors do you feed into RIMS II?

3 A. That's it. I mean, on location, you have the
4 whole suite of tax rates depending on where you are. Of
5 course, in Corpus, the tax rates normal. I mean, you
6 have, you know, the County, have county roads, you have
7 hospital district, you have Del Mar, you have a ISD
8 somewhere.

9 Q. I think what you're telling me is location
10 probably doesn't influence the output as much because we
11 live in Corpus.

12 A. Right.

13 Q. But that's still probably one of the things you
14 feed in?

15 A. Yes.

16 Q. Okay. Any other data points that you feed in
17 that you can think of?

18 A. No.

19 Q. Okay. Is CCREDC'S decision to recommend or not
20 recommend a project directed solely by its economic
21 impact?

22 A. Yes. Now, it goes before the board and the
23 board can decide, but so far it has been
24 (unintelligible).

25 THE COURT REPORTER: Has been what?

1 THE WITNESS: So far, it has just been
2 determined by the impact.

3 Q. (BY MR. ALLISON) Well, in other words, it's
4 staff's job to make the recommendation based on impact.

5 A. Correct.

6 Q. And I understand that the board gets to vote on
7 it?

8 A. Right.

9 Q. Okay. So there's this application process --
10 and I understand there's a lengthy application, right?

11 A. Yes.

12 Q. And then there's this effort, I -- I'm
13 understanding from our EDC staff that's going to be
14 gathering information probably from the application --

15 A. Correct.

16 Q. -- about the proposed project.

17 Am I right so far?

18 A. Yes.

19 Q. And then putting that into RIMS?

20 A. Yes.

21 Q. And you call it RIMS II, I think?

22 A. Yes, sir.

23 Q. And -- and does staff get information from
24 sources other than the application, typically?

25 A. If needed, I'm trying to think of one where we

1 went for something else. For this one, for example, for
2 hotels, it seems like we're dealing with a lot now. We
3 talked to Visit Corpus Christi, about hotel occupancy,
4 about Airbnb usage, things like that.

5 Q. Does that impact the RIMS score?

6 A. So if you were a say Margaritaville, which is a
7 destination, then we would include hotel occupancy tax,
8 because it would go up because of this.

9 If you were just another hotel, in fact,
10 this was the discussion we had with this one. If you're
11 just another hotel and you realize that occupancy is
12 even -- even in good months, 72 percent, then we would
13 not include HOT.

14 Q. You would not include the HOT tax?

15 A. Right. And HOT can be huge. I mean, it's what
16 9 percent, you know, for -- for whatever. So 9 percent
17 of your -- of your -- your hotel bill has 9 percent
18 added on.

19 Q. Okay.

20 A. That goes to Corpus Christi.

21 Q. Okay. And so you're saying that you would
22 factor in, for example, if it's a type of hotel that is
23 a destination?

24 A. Correct.

25 Q. Will draw new people here?

1 A. Uh-huh.

2 Q. Then that's another positive thing -- sum in --
3 in the --

4 A. Yes.

5 Q. -- in the equation?

6 A. Right.

7 Q. Does that -- is that considered by RIMS II or
8 is that something --

9 A. Yes.

10 Q. Okay. So that is another data point?

11 A. Right. But we intentionally did not use it for
12 this one.

13 Q. Okay. Home -- Homewood Suites is not a --

14 A. Yeah, it's not a destination.

15 Q. It's not -- it doesn't draw people -- Oh, I
16 want to go stay at a Home -- I want to go -- I want to
17 go stay at a Homewood Suite.

18 A. Yeah, fair enough.

19 Q. The -- and so we're talking about the process.

20 So then you're going to get all the data
21 points, put them into RIMS II, you're going to get a
22 report?

23 A. Correct.

24 Q. What do we call that report?

25 A. Really, it's just the economic impact report.

1 Q. Okay. And let me back up a little bit. Well,
2 let me go ahead and stay where we are for a second.

3 A. Okay.

4 Q. The economic import impact report, who gets
5 that?

6 A. So right now Randy runs it and it comes to me.

7 Q. Well, let's go ahead and stick -- just so that
8 we don't have to go back into it.

9 A. Okay.

10 Q. For the time period of the Homewood Suites
11 project --

12 A. Uh-huh.

13 Q. -- who would be on the distribution list for
14 the economic impact report?

15 A. So it would be -- so Randy ran it and I
16 received it.

17 Q. Randy ran it, and?

18 A. And I received it. So that was it.

19 Eventually, we will present it to our
20 board as part of the presentation and in the Type B
21 board and then the City, if that's what it -- if -- if
22 we're at time.

23 Q. If it gets that far?

24 A. Yeah.

25 Q. Okay. Is there any of those boards where the

1 chairman or mayor gets it ahead of the board?

2 A. No.

3 Q. So it gets delivered at whichever level you're
4 presenting in conjunction with the presentation?

5 A. Correct.

6 Q. It doesn't go early to anyone else?

7 A. No.

8 Q. Correct?

9 A. Correct.

10 Q. Put a double negative in there.

11 A. Yep.

12 Q. Just fix that.

13 A. I understand.

14 Q. Okay. And let me back up and ask you about the
15 application.

16 When the application is in progress or
17 completed, who does it get distributed to?

18 A. It goes to Randy, myself, and then once we have
19 it, we have a requirement under the guidelines to give
20 it to the City manager, the assistant city manager of
21 economic development, which is now Heather and the
22 mayor. And we just sent them the application and said
23 we have received this.

24 Q. And what?

25 A. When we send them the application and we said

1 we have received this application.

2 Q. Okay. And then in this process, we're talking
3 about after you get the application, after it runs
4 through RIMS II and the economic development analysis is
5 there some sort of a staff meeting to say this is a good
6 one, this is a terrible one?

7 How do you -- how do you handle that?

8 A. Randy and I, we talk about it and -- and in
9 preparation for presentation to our board.

10 Q. But I mean --

11 A. We have to present all applications to our
12 board.

13 Q. That's what I was wondering. I --

14 A. Yeah.

15 Q. Okay. So you're not filtering?

16 A. Correct. And, in fact, if our board -- if we
17 have one that one of the things we do is when we send it
18 to City, it goes through legal, and legal says if it's
19 -- if it's eligible for Type B, and so, it could end
20 there if it's not eligible.

21 Any application that we do not recommend
22 to the Type B, we still present to the Type B and tell
23 them it was not recommended and here's why.

24 So we can't filter. I mean, we can tell
25 them we don't -- we don't think it's good idea.

1 Q. But you present all applications though to the
2 Type B board?

3 A. Correct.

4 Q. Not just to your board?

5 A. Correct.

6 Q. So that I would assume means you present all
7 applications to your board and to the Type B board?z?

8 A. Yes.

9 Q. You've told me about sort of the threshold
10 issue from an economic --

11 A. Uh-huh.

12 Q. -- development perspective of what you're
13 looking for.

14 Do you have -- are there different
15 criteria or guidelines of what Type B is looking for?

16 A. So under Type A, it was pretty simple. It was
17 a -- had to be a manufacturing company and it had to hit
18 the 12 percent, at least 12 percent and five-year
19 payback.

20 Under Type B, there are other things that
21 you can do. So that's how hotels get in. We have gone
22 through the guidelines and the guidelines are pretty
23 wide open. So there's -- because it's allowed under --
24 under State law.

25 So while the first one was really easy, if

1 manufacturer, we all know what that is. The other ones,
2 you know, start to get.

3 Q. But is there a written guideline for Type B?

4 A. Yes.

5 Q. What do we call that?

6 A. The Corpus Christi Type B Corporation
7 Guidelines.

8 Q. But if I'm understanding you, it's pretty
9 general?

10 A. Yes. In that part, on the manufacturing, it's
11 pretty in depth.

12 Q. Okay. So on manufacturing it's more defined?

13 A. Correct.

14 Q. But on some other industries it's more general?

15 A. That's correct.

16 Q. Okay. Are there written guidelines as to
17 hotels for Type B?

18 A. Not particularly.

19 Q. Is there -- and I kind of went here a little
20 bit, but didn't quite --

21 A. There was a discussion at one point, but I
22 don't know if that got incorporated, but I don't think
23 it did.

24 Q. Well, was there a -- is -- was there a
25 discussion about this type of industries, the kind we're

1 looking for and -- and these other ones are generally
2 not big?

3 A. No.

4 Q. Okay. I mean, for example, do hotels rank the
5 same as manufacturing?

6 A. For us, no. Manufacturing would be more
7 important. But like I said, we've yet to hit a point
8 where we had to pick between projects.

9 Q. Okay. But there's no ranking of the type of
10 industries that are historically better known for
11 helping with economic development?

12 A. RIMS II would take care of that because, for
13 example, if you had a -- like I said, a refinery could
14 create eight jobs while a restaurant actually, will
15 create 0.6 jobs. So it takes care of that in it's --
16 when it comes back and spits out the payback and the
17 return on investment.

18 Q. Sounds like --

19 A. But no, we do not. While we have a preference,
20 there is no preference in RIMS. RIMS II does not see
21 that it just takes the investment, jobs, salary, and --

22 Q. RIMS is running a program?

23 A. Correct.

24 Q. Okay. But you said we have a preference.

25 Who's we?

1 A. We, the EDC.

2 Q. And what is the EDC's preference?

3 A. The EDC is manufacturing.

4 But like I said, we have not had a point
5 where we had to decide between two projects. In other
6 words, we didn't have enough money.

7 Q. Say it again?

8 A. We didn't have -- there wasn't enough money in
9 Type B, for example, to where you had to pick one or the
10 other.

11 Q. Okay.

12 A. So we've not run into that yet.

13 Q. All the money spoken for?

14 A. No, there's plenty of money left.

15 Q. Oh, okay.

16 A. Uh-huh.

17 Q. Okay.

18 A. It generates, something like \$4 million a year,
19 every year, and it goes up every year, so.

20 Q. For example, you just told me about
21 restaurants.

22 What are the -- what are the parameters
23 that you think of in terms of hotel?

24 A. Well, we would like a more of a destination one
25 if we can. Schlitterbahn comes to mind. A

1 Margaritaville, something like that. A four or five
2 star would be preferable to a two star or no star.

3 Obviously, a number of jobs has that
4 impact. But if you had a two star but had a lot of
5 jobs, you know, it's probably worth it, so.

6 Q. Okay. But -- okay.

7 So kind of the -- with the hotel, in your
8 mind you start thinking, we would rather have a
9 destination hotel --

10 A. Right.

11 Q. -- we would rather have a four or five star,
12 right so far?

13 A. Yeah. We would -- we would rather have that,
14 but we just put it into RIMS and see that it hits those
15 numbers.

16 Q. Mr. Culbert, you've been doing this a long
17 time, so I'm wondering the sense that --

18 A. Oh, okay.

19 Q. -- that you -- you know what -- what it -- it's
20 probably it passed the smell test to you?

21 A. Right. It does.

22 Q. Okay. When it walks in the door and you hear
23 what they're doing, you go, Oh, this is what I like
24 about it, this is what I don't like about it.

25 A. Yeah. Right.

1 Q. Okay. And so when a hotel walks in the door,
2 you're thinking, I, you know, my preference would be
3 destination four to five star, how many jobs is it going
4 to generate?

5 A. Location.

6 Q. Am I correct so far?

7 A. Yes, you are.

8 Q. And then location?

9 A. Right?

10 Q. All right.

11 A. So SPID would be, you know, it's just another
12 hotel.

13 Q. Another shoebox?

14 A. Right.

15 Q. What other factors for you?

16 A. Really, that's a -- that's it if they --

17 Q. How about and -- and -- and, for example, you
18 said a restaurant creates point six jobs?

19 A. Right.

20 Q. What does that mean?

21 A. That means for every job it creates it -- this
22 is how many jobs it will create. In other words, the
23 reason why it says 0.6 is because very few people are
24 full-time in a restaurant.

25 Q. Whereas, I think you said industry creates

1 eight?

2 A. Yes.

3 Q. What does a hotel do?

4 A. I think it's 1.3.

5 Q. So it's pretty low?

6 A. Yes.

7 Q. What do we call that? A job factor? I don't
8 know what you call it.

9 A. There actually is a technical name for it and
10 it escapes me.

11 Q. You said 1.3?

12 A. Yes. It's jobs created, for lack of a better
13 term.

14 Q. What are the -- what are the positives?

15 You said the preference is manufacturing.

16 Why?

17 What are the things that manufacturing
18 does?

19 A. Because manufacturing actually increases the
20 wealth of the region by bringing -- by exporting goods
21 and indoor services and bringing money from the outside
22 in.

23 So for example, I'll give you an easy
24 example. So we live in Portland. When I moved to
25 Portland in 19 -- in 2005, it had four restaurants and

1 then Chili's opened and one of the old ones closed, and
2 then a one opened and one of the old ones closed. All
3 they're doing is just cannibalizing each other.

4 It wasn't until we brought TPCO,
5 Voestalpine, Cheniere, now we have 12 restaurants and we
6 went from 2 hotels to 11. So that is the difference.

7 Q. Okay. So manufacturing, for example, creates
8 -- creates more jobs?

9 A. Right.

10 Q. Creates some higher-paying jobs?

11 A. Right. And brings money from the outside.

12 Q. I say brings wealth to the community?

13 A. Right.

14 Q. Okay. And do -- do you look at hotels as
15 creating higher-paying jobs or not?

16 A. No.

17 Q. Do you look at hotels as bringing wealth to the
18 area?

19 A. No.

20 Q. Do you look at hotels as there was a third one
21 that industry does?

22 A. It brings wealth in it raises taxes. Well, tax
23 -- tax revenue goes up. Also, somebody with a -- a
24 higher salary has a higher disposable income, and so
25 their sales tax goes up.

1 Q. And so indu -- that's a plus for industry?

2 A. Right.

3 Q. But hotels don't do that?

4 A. No, not really.

5 Q. Yeah. Because most of the staff there are
6 lower-paying jobs?

7 A. Correct.

8 Q. I think I've heard a number that at a hotel
9 like Home Suites, that there is a specific number
10 assigned or a dollar amount assigned to the average wage
11 that it's going to bring?

12 A. That's correct.

13 Q. And do you remember what it is for Home Suites?

14 A. I do not.

15 Q. Does around \$13 sound right? Per hour?

16 A. It seemed low.

17 Q. Okay. But historically hotels bring --

18 A. Yeah.

19 Q. -- bring low-paying jobs?

20 A. Yes. Which is taken into account by RIMS II.
21 Right.

22 Q. And all we're doing here is kind of
23 cannibalizing?

24 A. Right.

25 Q. Taking apart RIMS so that we can also talk

1 about it?

2 A. Right.

3 Q. Okay. Any other factors that you can think of
4 as far as how you distinguish a project that is
5 attractive to you all at REDC versus those that are not
6 attractive?

7 A. No.

8 Q. Okay.

9 THE COURT REPORTER: If you don't mind
10 just waiting for him to get his full question.

11 THE WITNESS: Oh, I'm sorry.

12 THE COURT REPORTER: I know it sounds
13 okay, like, conversational, but on the transcript every
14 time -- it breaks up his question.

15 THE WITNESS: Okay. I'm sorry.

16 THE COURT REPORTER: Doesn't look good.

17 MR. ALLISON: What -- what she really
18 means is that it's embarrassing to me when you know what
19 I'm asking before -- before I -- no, I'm just kidding.
20 Makes her job harder.

21 Q. (BY MR. ALLISON) Okay. So I am sure there's a
22 RIMS II report, I guess, we ought to call it the
23 economic development report for the Home Suite projects?

24 A. That's correct.

25 Q. And do you remember how it scored?

1 A. It was within the five-year payback and at
2 least 11 -- 12 percent for -- for what we recommended.

3 Q. In other words, for a specific dollar amount?

4 A. Correct.

5 Q. And what was that dollar amount?

6 A. For our recommendation was, and I don't know
7 the entire one, but it was 1,043,000.

8 Q. 1,043,000?

9 A. Yes. And there's three more numbers on there,
10 so.

11 Q. Can we call it a million?

12 A. Yeah.

13 Q. Okay. And so did you take that to, I guess,
14 first when you say the recommendation, that's staff's
15 recommendation?

16 A. Correct.

17 Q. And that's after the application and after it
18 gets put through the RIMS II?

19 A. That's correct.

20 Q. And, I guess, obviously if the number of
21 dollars going in increases, then it's probably not going
22 to meet your five years and 12 percent ROI?

23 A. I'll be honest, I don't remember if we ran that
24 at the higher number.

25 Q. Okay. And you're saying that the higher

1 number, because you and I both know eventually
2 \$2 million was given?

3 A. That's correct.

4 Q. Okay.

5 A. That was the ask.

6 Q. The ask was 1 million?

7 A. Was 2 million from -- from the project. It was
8 2 million.

9 Q. Fair enough.

10 Who asked?

11 A. The project, it was Philip Ramirez. And, I can
12 see him, but I don't remember him. ZJZ.

13 Q. Okay. Who's that?

14 A. I can't -- I can see --

15 Q. You talking about our -- our other hotel here?

16 A. Yes. Yeah. The other guy in there.

17 Q. Yeah.

18 A. Yeah. Bhakta, Deven.

19 Q. Oh, sorry.

20 THE COURT REPORTER: What -- what was his
21 last name?

22 A. Bhakta.

23 Q. (BY MR. ALLISON) And is it, Deven?

24 A. Deven, yeah. Deven.

25 Q. And so Deven Bhakta and Philip Ramirez,

1 obviously were the ones behind the Home Suites project?

2 A. Correct.

3 Q. And they were the ones who, I guess, were
4 interfacing with our EDC?

5 A. Correct.

6 Q. And they are the ones who had the ask for 2
7 million for the project?

8 A. Correct.

9 Q. And did -- were -- were those in person
10 meetings with you?

11 A. Correct. And Randy.

12 Q. Were there any other asks?

13 A. No.

14 Q. And was there discussion -- well, let me ask
15 you first.

16 Do you remember if on the application
17 there was a reason for the ask?

18 A. I don't even know if it's in the application
19 itself. I don't remember if it was actually the ask was
20 in the application itself.

21 Q. The reason for the ask?

22 A. No, the ask.

23 Q. Okay. You don't know if the 2 million was in
24 the application?

25 A. Correct.

1 Q. But you remember that that was their verbal
2 ask?

3 A. Correct.

4 Q. And do you remember if the reason for the ask
5 was in the application?

6 A. Actually, I'm sorry, I don't remember.

7 Q. Okay. Do you remember if verbally at the
8 application stage, if there was a reason for the ask?

9 A. They may have said it, you know, higher cost or
10 whatever, but -- but I don't really remember
11 specifically. I just remember the ask was 2 million.

12 Q. Do you remember roughly the date of the
13 application?

14 A. It was the end of September '23.

15 Q. And when did it go in front of the REDC board?

16 A. It went in before the end of the year, so it
17 goes in twice. One is a -- so we meet monthly. One is
18 a presentation and just talk and we just talk about the
19 project and we go through how we did the analysis.

20 And the board can ask questions at that
21 time so that we will, the next time we bring it forward
22 the next month, we have all those questions answered.

23 Q. Sounds like you have a process. You know it?

24 A. Correct. Yes.

25 Q. Okay. And do you know -- said -- you said the

1 first board meeting would have been by end of year?

2 A. Yes. Both board meetings would be by the end
3 of the year.

4 Q. And I -- I want to say, and I'm just trying to
5 get us bookends --

6 A. Uh-huh.

7 Q. I want to say the Type B meeting was December
8 of 2023; does that sound right?

9 A. Yeah. That sounds right.

10 Q. Okay. So you would have had to have your --

11 A. Actually, it's probably, it was November and
12 then we had a December one, but they didn't make a
13 decision and then it got moved to January and in January
14 started the city council.

15 Q. Right. Okay.

16 But -- and I'm kind of telling you that
17 because I'm trying to give us some bookends and time.

18 A. I understand.

19 Q. Okay. And so the first, do you think there
20 were two meetings at your REDC board level before it
21 went to Type B board?

22 A. That's correct.

23 Q. And so those would have happened --

24 A. Well, we had -- so we kind of do them in -- we
25 -- we present to our board and then we present to the

1 Type B board in close session, and then we vote on it on
2 our board, and then it goes to a vote in Type B.

3 Q. Okay. Are you telling me that your second
4 board meeting at REDC would maybe be the same day as --

5 A. No.

6 Q. Okay. There's still time in there?

7 A. Yeah.

8 Q. Okay. But do you present at Type B in
9 executive session?

10 A. Correct.

11 Q. On the initial meeting, always?

12 A. Yes.

13 Q. And you think you did that on this hotel?

14 A. Yes.

15 Q. Okay. So the different meetings that would
16 have occurred, I just want to get arms around that
17 first --

18 A. Okay.

19 Q. -- is, first of all, there would be that
20 initial REDC meeting where you would get all their
21 questions --

22 A. Uh-huh.

23 Q. -- present and get all their questions?

24 A. Right.

25 Q. Then you're going to -- then you would have had

1 for this hotel a second meeting where you tried to
2 present or you present to the board and you're trying to
3 answer all the questions from last time and probably
4 still having discussion?

5 A. Right.

6 Q. Do you think for this hotel project that we're
7 here today on, do you think that at the second board
8 meeting for the REDC, did they vote on it?

9 A. Yes, they did.

10 Q. Did they vote at the first one?

11 A. No.

12 Q. Okay. The -- the vote at the first RD -- oh,
13 sorry.

14 The vote at the second REDC meeting was at
15 the only vote on it at the REDC?

16 A. That's correct.

17 Q. And then it would have been after that vote
18 that it would have been presented to Type B?

19 A. Correct.

20 Q. Okay. And -- and in the first Type B board
21 presentation, would that have been in close session for
22 this project?

23 A. Correct.

24 Q. And then it would -- this project then would
25 make -- make it, if it did and it did, would make it

1 then into an open meeting?

2 A. Correct.

3 Q. For the Type B board?

4 A. Yes.

5 Q. And then if it comes out of there with a
6 recommendation, then it goes to the City?

7 A. Correct.

8 Q. Okay. Now, for the first -- okay. And well,
9 let me back up for a minute.

10 Is there anybody else that was presenting,
11 making the application and presenting the project to the
12 REDC other than Deven Bhakta and Philip Ramirez?

13 A. No.

14 Q. And --

15 A. We present our side of it.

16 Q. I know it, but they were the face of the
17 project?

18 A. Yes. Correct.

19 Q. Okay. And --

20 A. But they're not there during the vote in the
21 following month.

22 Q. Okay. They're not there during the vote?

23 A. Correct.

24 Q. Okay. And that's probably an important
25 distinction because Philip, at the time of this Philip

1 Ramirez was or was not on REDC?

2 A. He was not.

3 Q. But he had been?

4 A. Yes.

5 Q. When did Philip, to your recollection, re --
6 leave the REDC?

7 A. Twenty-two?

8 Q. So the year before?

9 A. Yeah.

10 Q. Comports with your memory?

11 A. Yeah. Yes.

12 Q. And, what was his past position at the time
13 right before he left the REDC?

14 A. He was actually just a board member. He had
15 been chair and then immediate past chair, but he still
16 had one more year and he was just a board member at that
17 point.

18 Q. When had Philip been -- Philip Ramirez been the
19 chair for REDC?

20 A. That would probably be 2019. And we do by
21 calendar year.

22 Q. And then past chair in 2020?

23 A. Correct.

24 Q. And then continued as a member for 2021 and
25 2022?

1 A. Yeah. Something like that, yes, sir.

2 Q. And Deven Bhakta, has he ever served on that
3 board?

4 A. No. Not since I've been there.

5 Q. So when he was chairman, you were CEO?

6 A. No, I was COO.

7 Q. And then you became CEO -- I'm scrolling up for
8 my notes, but I know you know about --

9 A. Interim in April of '20 -- oh, in July of '22.

10 Q. Okay. But I'm sure that, I mean, as COO you
11 still interfaced, I'm sure, frequently with the board
12 members?

13 A. Correct.

14 Q. And so in 2019, 2020, while he is -- while
15 Philip Ramirez is moving up the ranks, because that's
16 normally how it works here?

17 A. Yes, sir.

18 Q. While he is moving up the ranks and then
19 becoming chair, you would have interface with them
20 frequently?

21 A. No. I -- I -- I see the board once a month.

22 Q. Okay. Frequently, it's a bad word. That could
23 mean once a once --

24 A. Certainly.

25 Q. -- once a month, but once a month --

1 A. There --

2 Q. -- is a better answer. Thank you.

3 A. Yes, sir.

4 Q. Before Deven Bhakta came in and was part of
5 this application process for this hotel, had -- did you
6 know him?

7 A. I knew who he was, yes.

8 Q. Did -- did enough where you would say, Hi,
9 Deven, how are you?

10 A. Or, I would say, Hi. I don't know if I
11 remember his name, but.

12 Q. Okay. Fair enough.

13 A. Uh-huh.

14 Q. Let's go ahead and take a break for you.

15 A. Okay.

16 THE VIDEOGRAPHER: Time is 10:30 a.m.
17 We're off the video record.

18 (Recess from 10:30 a.m to 10:38 a.m.)

19 THE VIDEOGRAPHER: Time is 10:38 a.m.
20 We're back on the video record.

21 Q. (BY MR. ALLISON) I think just before the break
22 we're sort of getting our timeline in terms of --

23 A. Yes, sir.

24 Q. -- when it went in front of the REDC board?

25 A. Correct.

1 Q. And it sounds like that would have been after
2 September, but certainly before December of 2023?

3 A. Correct.

4 Q. Okay. And at the first presentation was a
5 presentation to the REDC board made by staff?

6 A. We bring in the project and they make the
7 presentation, and then we talk about economic impact and
8 things like that.

9 Q. So are you -- I think what you're letting me
10 know there is Deven Bhakta and Philip Ramirez probably
11 made that presentation?

12 A. Correct.

13 Q. And did Philip Ramirez and Deven Bhakta make
14 the second presentation also?

15 A. No. The project is not in for the second
16 presentation for the vote.

17 Q. Okay. And during the presentation what -- the
18 ask was \$2 million --

19 A. Correct.

20 Q. -- to the REDC?

21 A. Yes.

22 Q. And the staff's recommendation was \$1 million?

23 A. Not on that one, not on the presentation. On
24 the second one where we voted, it was \$1 million.

25 Q. Okay. And -- and that's because the staff had

1 completed their analysis of where it kind of what
2 benefit, cost benefit there was to it.

3 A. Right.

4 Q. To the project?

5 A. And that's all we do.

6 Q. Okay. Is that a public meeting, the first --
7 the first meeting with the REDC, is that a public
8 meeting?

9 A. No, we're 501-C-6, so we're private.

10 Q. And so I -- I assume you're familiar, but you
11 know, there was a slide presentation that was used with
12 the B -- Type B board meeting?

13 A. Yes.

14 Q. I have that if you want to refer to it, let me
15 just show you, and it's just for the record, it's the
16 title on the document is QOF presentation.

17 A. Uh-huh.

18 MR. DEKOCH: I'll make an objection here
19 is -- or a clarification.

20 Is this in the private meeting or in the
21 open?

22 MR. ALLISON: That's what I'm going to
23 clarify.

24 MR. DEKOCH: Okay.

25 MR. ALLISON: I'm going to show it to

1 you.

2 MR. DEKOCH: I may -- I may have an
3 objection if it's in the closed meeting.

4 MR. ALLISON: Okay. I -- I don't think
5 I'm asking anything that's in a closed meeting.

6 MR. DEKOCH: Okay.

7 MR. ALLISON: But I'll -- I'll clarify
8 that.

9 MR. DEKOCH: Okay.

10 Q. (BY MR. ALLISON) I have a five-slide
11 presentation.

12 A. Yeah.

13 Q. That's slide one, slide two --

14 A. Uh-huh.

15 Q. -- slide three, slide four, and slide five.

16 A. Correct. You might want to go back to slide
17 two so he can see.

18 Q. Okay. Are you familiar with that presentation?

19 A. Yes, I am. Yeah.

20 Q. And was that same slide presentation made at
21 the first meeting with REDC?

22 A. No, we don't have -- we don't have that
23 ability, you know, for presentations.

24 Q. Okay. But you're familiar with this
25 presentation --

1 A. Yes.

2 Q. -- because it was made to the Type B board?

3 A. That's correct.

4 Q. Okay.

5 MR. DEKOCH: I still don't have a
6 clarification.

7 Was that --

8 Q. (BY MR. ALLISON) Then the Type B board
9 presentation when that was made to the Type B board that
10 was in an open meeting? I have a video -- I have a
11 video tape on it.

12 A. Yes. Yes, yes, yes it was. Yes, it was.

13 Q. And let -- and let me back up his point may be
14 exactly this would the -- after the project with Philip
15 Ramirez and Deven Bhakta kind of gets beyond REDC, I
16 think you told us that the first meeting with Type B
17 would typically be in executive session?

18 A. That's correct.

19 Q. But the slides show that I just showed you
20 those five slides.

21 I think you're confirming for me that that
22 presentation was made at an open meeting in front of
23 Type B at a later time.

24 A. That's correct.

25 Q. Okay. And do you know, well, was this same

1 slide show used during the closed meeting?

2 A. I don't think so. There's -- there is not -- I
3 do not think so. And because there is not a -- a video
4 thing there.

5 Q. Okay. Now I'm going to switch gears a little
6 bit separate and apart from the slideshow.

7 I want to ask very specifically if the --
8 this project, so when I say this project, you know,
9 we're talking about Homewood Suites.

10 A. Right. Yes.

11 Q. And, separate and apart from the slideshow, I
12 want to be very specific about this.

13 On the application, did they ask for
14 \$2 million?

15 A. No, there's not a ask on the application.

16 Q. Okay. On the application, did they identify
17 what the money that would be given to them, if any, what
18 it would be used for?

19 A. Yes.

20 Q. And what was the reason or the needed use for
21 the money that was expressed in when the project was
22 brought to the ADG?

23 A. I don't really remember the text of the thing
24 as -- as opposed to, you know, we want this money for
25 this. It says this is how much it's going to cost us,

1 and --

2 Q. Well, but it's going to cost us, it's going to
3 -- this is how much it's going to cost us?

4 A. Right.

5 Q. To do what?

6 A. To construct the building with these amenities
7 or whatever.

8 Q. That's all that Philip and -- and Deven Bhakta
9 told you?

10 A. Yes.

11 Q. Pardon?

12 A. Yes.

13 Q. And -- and -- and that was true until what
14 point in time?

15 When did you see it shift?

16 A. I don't remember if it was the presentation at
17 our first one or in between those two that -- that the
18 increased requirements of FEMA came up.

19 Q. That the increase for FEMA?

20 A. Yes.

21 Q. But you're remembering that -- that -- that the
22 increase for FEMA came in using your words?

23 A. Yeah.

24 Q. Somewhere maybe between the first presentation
25 and the second presentation?

1 A. Yes.

2 Q. For the REDC?

3 A. Yes, that's what I believe.

4 Q. But it was not in the original app.

5 A. I do not recall that it is.

6 Q. And you -- and to your recollection, your
7 original encounter with Deven Bhakta and Philip Ramirez,
8 it was not in those initial discussions, it came in a
9 little bit later?

10 A. Correct.

11 Q. So it would have been -- and I'm still going to
12 try to leave it pretty rough, October or November of
13 2023, to your recollection, where the ask became tied to
14 a reason and that was because of FEMA?

15 A. Correct.

16 Q. And in this October, 2023, November, 2023
17 timeframe, the reason that they were articulating to you
18 for their ask of 2 million was to address changes in
19 FEMA?

20 A. Yes, I would say that's correct.

21 Q. Changes in the FEMA rules?

22 A. Right.

23 Q. And specifically changes in the floodplain for
24 FEMA?

25 A. Yes.

1 Q. And it sounds like that discussion was
2 occurring before you saw the slides show I showed you a
3 moment ago?

4 A. Maybe it is at the same time or --

5 Q. Either --

6 A. I don't think it --

7 Q. -- at same time or -- same time or close in
8 time?

9 A. Correct.

10 Q. So at the same time, or about the same time
11 that you're hearing that the \$2 million is needed for
12 changes in the floodplain that had been issued for FEMA
13 it's in that same timeframe that you saw the slide show
14 I just showed you?

15 A. Correct.

16 Q. Okay. We're talking about discussions with
17 Philip Ramirez and Deven Bhakta where you learned this
18 information, right?

19 A. Correct.

20 Q. And I'm trying to figure out if it's the three
21 of you talking, or was it really you and Philip or you
22 and Deven Bhakta, or?

23 A. It is really them and Randy.

24 Q. By them, you mean Philip and Deven and Randy?

25 A. Yeah, correct.

1 Q. Were you in the room?

2 A. No, I was kept apprised.

3 Q. Did you at some point in time have direct commu
4 -- communications with either Philip or Deven about
5 FEMA?

6 A. I am -- I'm sure I did, but I -- I can't really
7 recall a specific meeting that we had a meeting and went
8 through it.

9 Q. To the extent you were not having direct
10 communications with Philip and Deven, it sounds like you
11 were talking to Randy?

12 A. Yes.

13 Q. And what was Randy telling you he had been told
14 by Philip and Deven?

15 A. That due to increase in construction costs plus
16 the FEMA requirements that's what the ask was for.

17 Q. And by plus the FEMA requirements, you mean the
18 changes they were saying had occurred at FEMA with
19 regard to the floodplain?

20 A. Correct.

21 Q. At the second meeting for the REDC, then did
22 you explain to your board that the, first of all, that
23 there was a \$2 million ask for this project?

24 A. Was not at the second meeting. I was out and
25 -- and it was explained to the board that -- that there

1 was a \$2 million ask.

2 Q. And was it also -- who would have taken lead in
3 your absence?

4 A. Bobby Gonzalez was the chair. Was it Bobby?
5 No, it wasn't Bobby.

6 Q. Well, he -- he's --

7 A. Is the one before him. Judith. Judith
8 Talavera would have -- would have been the chair.

9 Q. But who would have taken the lead for staff?

10 A. Randy.

11 Q. And wouldn't -- wouldn't it then fall on Randy
12 then to present the project?

13 A. Yes.

14 Q. And so do you believe he would have said
15 there's a \$2 million ask?

16 A. Yes.

17 Q. That would have been protocol?

18 A. Yes.

19 Q. And do you believe that he would have
20 identified the reason for the ask?

21 A. I would assume so, yes.

22 Q. And that would be protocol?

23 A. Right.

24 Q. I mean, the -- the amount of the ask and the
25 reason for the ask are certainly critical terms to be

1 considered.

2 A. Understood. Yes.

3 Q. We agree?

4 A. Yes, that is correct.

5 Q. Okay. I mean, the amount matters?

6 A. Yes.

7 Q. And reasons matter?

8 A. Correct.

9 Q. Okay. And at this point in time, when we're at
10 the second meeting for the REDC, it sounds to me like
11 there was likely not a slide presentation.

12 A. Correct. There was not one.

13 Q. Well, maybe it wouldn't been developed or not.
14 I don't know.

15 Do you know?

16 A. I do not.

17 Q. Did you ever have conversations with Philip
18 Ramirez about the 2 million ask for the changes in FEMA
19 floodplain?

20 A. Besides, that was one of the reasons. No, we
21 didn't have anything else besides that or we had because
22 of that.

23 Q. I am not sure I understand your answer.

24 A. We did not have a specific conversation about
25 the FEMA change, just that due to the FEMA change.

1 Q. It's just what?

2 A. Due to the FEMA change.

3 Q. Okay. Due to the FEMA floodplain change?

4 A. Right. In downtown. That -- that's why the
5 ask was where it was.

6 Q. But I mean, you heard those words from Philip
7 Ramirez?

8 A. Yes.

9 Q. Did you also hear those words from Deven
10 Bhakta?

11 A. I don't remember him. He's --

12 Q. And after -- was that -- do you think your
13 first knowledge of the reason for the ask came from
14 Philip Ramirez or you think you heard it first from
15 Randy and then from Philip?

16 A. I think from Randy and then Philip.

17 Q. And, but what you heard from Randy and then
18 from Philip, was it consistent the messaging?

19 A. Yes.

20 Q. And that is that the 2 million ask was for the
21 2 million --

22 A. For increased cost and the change to the FEMA
23 flood map. Because remember, construction costs went up
24 by 40 percent during COVID, so.

25 Q. That was a year before this though, right?

1 A. I understand.

2 Q. Okay. I mean, I -- I understand everybody
3 likes to say COVID, but --

4 A. Yeah.

5 Q. -- sometimes it's just that's the price, right?

6 A. I understand.

7 Q. You know, I know a little about that.

8 When you heard the words from Philip that
9 the reason for the \$2 million ask was for the change in
10 FEMA floodplain, do you think that was before or after
11 the executive session meeting that likely occurred with
12 the Type B board?

13 A. It's probably before.

14 Q. Okay. So it would have probably been November,
15 2023?

16 A. Yeah. Or December.

17 Q. Okay.

18 A. Right.

19 Q. And did you have any conversations with him
20 regarding a presentation that they were making?

21 A. Randy did. So -- and we really just took their
22 presentation and put it up.

23 Q. At the Type B board meeting?

24 A. Correct.

25 MR. DEKOCH: The open meeting?

1 THE WITNESS: The open meeting.

2 Q. (BY MR. ALLISON) And by we, you mean our REDC?

3 A. Yes, sir.

4 Q. So did you have a hand in developing the
5 presentation?

6 A. No.

7 Q. I was gathering that. As to your knowledge,
8 the presentation, it even says QOF on it, and that's a
9 reference to their group, right?

10 A. Right.

11 Q. So to your knowledge, the five slide
12 presentation I showed you a moment ago was developed by
13 -- from your perspective, Philip Ramirez?

14 A. From their side. I don't know who exactly, but
15 -- but, you know, we did touch it. I mean, you'll see
16 our logo on there.

17 Q. Okay. Who added your logo?

18 A. Randy would have.

19 Q. Okay. Did Randy make any other modifications
20 to it?

21 A. Not to my knowledge.

22 Q. Okay. You know why I'm asking?

23 A. Yeah.

24 Q. Okay. And it wasn't an accusation I was
25 asking.

1 A. I understand.

2 Q. Okay. I mean, to put a bookend on this --

3 A. Okay.

4 Q. -- I think you and I both know later in time,
5 it was pointed out that one of the slides in that
6 five-slide presentation had been falsified or altered,
7 right?

8 A. Altered, yes.

9 Q. Okay. Well, altered in a way that it was no
10 longer conveying the full information that was on the
11 published federal rev -- website, right?

12 A. I know that a date was missing.

13 Q. And also, the reference number, I think.

14 A. Was it? Okay. I do not know that. I just
15 know the date was missing.

16 Q. Okay.

17 A. The date of publication was missing.

18 Q. And you and I know that became a subject of
19 great criticism?

20 A. Correct.

21 Q. Okay. So I'm putting a bookend on this here
22 because at some point in time, I'm sure you said, Hey,
23 who's altering this federal slide? Right?

24 A. It was when we were in the city council part of
25 it, and by that time, City was handling that part.

1 Q. Okay. But I mean some --

2 A. Oh, I'm sorry.

3 MR. DEKOCH: I -- I need to, once again,
4 make sure when you're talking about it, is it exec
5 session or open session?

6 THE WITNESS: This would have been in the
7 open.

8 Q. (BY MR. ALLISON) Yeah. Okay.

9 And so I'm just putting a bookend on that
10 for you now, because at some point in time I'm sure you
11 realized, Hey, this presentation we're using has been,
12 whether you want to call it altered or changed or
13 falsified, whatever word you want to use, it created a
14 -- a -- a commotion?

15 A. Yes, it did.

16 Q. Okay. And then I'm sure naturally you sort of
17 wanted to or did say to yourself, Hey, what -- what's
18 the deal here? What -- what's going? How did this
19 happen? How did we get into this uncomfortable spot?

20 Fair enough?

21 A. Yes.

22 Q. Okay. Did you have conversations to try -- to
23 learn about why it had been altered or falsified?

24 A. I did not.

25 Q. You never talked to anybody about it?

1 A. I talked to Randy about it, but that was it.
2 Just that it had happened.

3 Q. Who what?

4 A. Just that it had happened because once it came
5 out of Type B, it was a different animal.

6 Q. Your conversations with Randy relating to the
7 altered or false slide, what were those conversations?

8 A. Just what are they talking about? Because I
9 was not making the presentations, Randy was, and so when
10 it came up and city council, that's when I asked him
11 what it was.

12 Q. And what did he tell you?

13 A. He said that a date was missing.

14 Q. Did you say anything else?

15 A. No. That it was on the presentation, but that
16 was it.

17 Q. Did you ask him, Randy, did you do it?

18 A. Yes, I did. And he said, No.

19 Q. It's a pretty natural question.

20 A. Yeah. No, I understand.

21 Q. Did you -- the next natural one is, do you know
22 who did it?

23 A. I do not.

24 Q. Did you ask him who did it?

25 A. No, I did not. I mean, I asked him if he did

1 it and he said, No.

2 Q. Okay.

3 A. He said, I received it like that.

4 Q. And I think you have had a conversation that
5 tells me the -- if I ask you who did it, then your
6 deductive reasoning was it came from the applicant.

7 A. Correct.

8 Q. Yeah. And I think you told Ajit David that it
9 came from the applicant?

10 A. Correct.

11 Q. Okay. And that's still your belief?

12 A. Yes.

13 Q. And whether it was Philip or Deven or someone
14 else over on the applicant's side that actually
15 physically did the falsifying of that slide, you don't
16 know?

17 A. Correct. I do not know.

18 Q. And you have never asked?

19 A. Correct. But it was -- it was a different
20 animal once it came out of Type B. Type B did not use
21 FEMA as -- as for the increased. So it become -- it
22 became moot to me, so.

23 MR. ALLISON: Cool. This is where I say
24 object. Non-responsive. And -- and we'll leave it at
25 that.

1 A. Oh, you -- I'm sorry.

2 Q. (BY MR. ALLISON) Don't worry about that.

3 A. Okay.

4 Q. Every now and then lawyers will do something
5 like that and you have permission to ignore it whether
6 it's me or him or him.

7 A. Okay. Fair enough.

8 Q. Just so I can ask you specifically about it,
9 I'm going to show you the online version -- version of
10 the FEMA federal document.

11 Do you understand what I'm going to show
12 you?

13 A. Yes, I do.

14 Q. And do you see, I think you're familiar with
15 this for sure.

16 Do you see the release date of April 13th,
17 2022?

18 A. I do.

19 Q. And do you see the reference number of R-6-009?

20 A. I do.

21 Q. And do you see the release date of April 13th,
22 2022?

23 A. I do.

24 Q. Okay. And then if I go to the slide that was
25 used, do you see that all three pieces of information

1 are missing?

2 A. I do see that, that they are missing.

3 Q. Okay. And so -- and I wanted to show you that
4 because you've told me that, oh, I just knew about the
5 one date.

6 A. Uh-huh.

7 Q. Correct?

8 A. Correct.

9 Q. Did you until right now know that there were
10 three separate alterations or falsifications of the
11 document?

12 A. No.

13 Q. This is the first time you've heard that,
14 correct?

15 A. I just thought it was the date.

16 THE COURT REPORTER: Are you going to
17 want to make that an exhibit?

18 MR. ALLISON: Hmm?

19 THE COURT REPORTER: Are you going to
20 want to make that an exhibit?

21 MR. ALLISON: I'll -- I'll share with
22 everybody. I'll make it in exhibit if you want to. I
23 don't -- I don't -- whatever he says doesn't matter.
24 I'm sure we have -- all have these things.

25 THE WITNESS: Correct.

1 Q. (BY MR. ALLISON) And did you attend the open
2 meeting at the Type B board meeting?

3 A. Yes.

4 Q. So you were there when Philip Ramirez and Deven
5 Bhakta made the open meeting presentation using that
6 slideshow?

7 A. I was there. I'm trying to think if they did
8 it or not, or if Randy did it and the project.

9 Q. They did it.

10 A. Yeah. Okay.

11 Q. It's on video.

12 A. Oh, okay. So yes. Yeah.

13 MR. DEKOCH: Doug, can you take a short
14 break?

15 MR. ALLISON: Sure. Call off record for
16 one second.

17 THE VIDEOGRAPHER: Time is 11:06 a.m.
18 we're off the video record.

19 (Recess from 11:06 a.m to 11:09 a.m.)

20 THE VIDEOGRAPHER: Time is 11:09 a.m.
21 we're back on the video record.

22 Q. (BY MR. ALLISON) All right. You told us that
23 you were at the open meeting -- excuse me. Back up.

24 MS. MARCUM: Sorry. Amanda Marcum here
25 on behalf of the City.

1 Q. (BY MR. ALLISON) You told us that you were at
2 the open meeting for the Type B board --

3 A. Yes.

4 Q. -- when the project was presented, right?

5 A. Yes, I believe so.

6 Q. Okay. And during that presentation, and we
7 have it on video --

8 A. Uh-huh.

9 Q. -- but I -- the applicant's, I believe it was
10 Ramirez.

11 A. Uh-huh.

12 Q. Philip Ramirez talked about how they would
13 reimagine that project in July of 2022, remember that?

14 A. Something like that. I do not remember.

15 Q. Do you remember that they asked for 2 million?

16 A. Yes.

17 Q. Do you remember that they told the Type B board
18 that the change in FEMA rules is what they were
19 representing, that that was one of the reasons for the
20 ask?

21 A. Yes.

22 Q. Okay. And -- and that they needed the
23 2 million, or at least a portion of it, in order to
24 comply with these new, what they call new FEMA
25 requirements?

1 A. Yes.

2 Q. And specifically, they told the Type B board
3 that they had to elevate the first floor of the building
4 four feet?

5 A. Yes.

6 Q. And that they were kind of caught by surprise,
7 by they -- the way they expressed it, by these new FEMA
8 rules and did not anticipate, and therefore were making
9 this monetary ask.

10 Do you remember that?

11 A. I remember the gist of that, yes.

12 Q. Okay. And I'm not trying to quote them.

13 A. Okay.

14 Q. I have the quotes, but I'm --

15 A. Okay.

16 Q. -- I'm articulating it --

17 A. I understand.

18 Q. -- in a way that I think is proper.

19 A. Yes, sir.

20 Q. Okay. You now know that the floodplain for
21 that piece of property is the same in 2022 and 2023 as
22 it was for a decade and more before, right?

23 A. I thought it moved up actually.

24 Q. Well, for that piece of property?

25 A. Yes.

1 Q. You think it had -- when do you think it
2 changed?

3 A. I think it changed with the FEMA rules.

4 Q. Okay. And how do you think it changed with
5 FEMA?

6 A. I think it went from 13 feet to 15 and a half
7 or 15 feet.

8 Q. You're talking about the standard changed?

9 A. Right.

10 Q. Okay. But I'm talking about it's always been
11 in the a hundred year flood -- floodplain, right?

12 A. I assume so. Yes, sir.

13 Q. Yeah. I mean, Corpus didn't get lower or
14 higher.

15 A. Yeah. Correct. Yes, sir.

16 Q. The -- so in terms of it being in a floodplain
17 at the time they bought the property, at the time they
18 reimagined the project and for decades before that, that
19 piece of property has been in the floodplain under year
20 floodplain for decades, right?

21 A. I assume so. I --

22 Q. And you assume --

23 A. -- I did not look up specifically floodplain
24 and stuff like that.

25 Q. I'm not saying you went back and did the

1 research.

2 A. Okay. All right.

3 Q. Okay.

4 A. Yes, sir.

5 Q. But I mean, you know that the elevation hadn't
6 changed and the floodplains are basically the same for
7 decades?

8 A. That's correct. Yeah.

9 Q. And that's anything down the hill -- we're up
10 on the hill right now --

11 A. Correct.

12 Q. Anything down the hill is considered in the
13 floodplain?

14 A. Correct.

15 Q. Okay. And that's been true for a long, long,
16 long time.

17 A. It -- yes.

18 Q. Okay. And that's not any kind of -- well --
19 and the FEMA rules, you now know and I understand that
20 the slideshow, first of all does not have the dates on
21 it, right?

22 A. Correct.

23 Q. Okay. But you now know those dates are dated
24 back in April of 2022, right?

25 A. Yes.

1 Q. So if he says they -- he being Phillips, says
2 they reimagine the project in July of 2022, they didn't
3 even imagine a hotel there until after the FEMA rules
4 had already changed, right?

5 A. The FEMA rules changed in, like, October or
6 August, right, so.

7 Q. Well, that's when they came into effect, but
8 they were released in April of 2022.

9 A. I do now know that, yes.

10 Q. Okay. And so you now know that it cannot be
11 true that this surprised them on their project because
12 they didn't even reimagine the project until July of
13 2022?

14 A. I can't answer that. I have no idea.

15 Q. Okay. As an economic development person, when
16 you are looking at investing in a piece of property, I
17 think some of the first questions that always get asked
18 is, its insurability, right?

19 You don't --

20 A. I don't think so. I don't think so. And the--
21 and the reason why I say that is because there are
22 business risks that businesses take. If they were, for
23 example, in a new place without other buildings, then
24 yes, that would be a question.

25 But downtown has hundreds of buildings, so

1 and if you want to be downtown, this is, you have to
2 build here. So I think we leave those types of business
3 risk assessments to the project.

4 Q. To the project meaning Philip Ramirez and Deven
5 Bhakta?

6 A. Yes. Right.

7 Q. Okay. So you would expect them to make sure
8 the property's insurable?

9 A. Correct.

10 Q. You would expect them before they come ask for
11 \$2 million to make sure what the flood -- floodplain was
12 -- was for the project?

13 A. That's correct.

14 Q. You would expect them to be keeping up with
15 FEMA rules to make sure that they know they can succeed
16 with the project?

17 A. I would assume that.

18 Q. Well, you would expect them to?

19 A. Right. Yes.

20 Q. You don't -- I mean, you don't just assume you
21 would expect them to make sure of what the FEMA rules
22 are before they come and ask you for 2 million, wouldn't
23 you?

24 A. That's correct.

25 Q. Okay. Because you're saying you're not taking

1 that risk, you're expecting them to do it?

2 A. Correct.

3 Q. That's their job as the developer?

4 A. Uh-huh.

5 Q. Yes?

6 A. Yes.

7 Q. And their job, in Philip's case, is being the
8 architect?

9 A. Yes.

10 Q. Okay. And I'm sure you're familiar enough to
11 know that architects deal with floodplain on every
12 project?

13 A. Yes. Here, yes.

14 Q. Pardon?

15 A. Here, especially, yes.

16 Q. Yes. Even more so here?

17 A. Yes.

18 Q. Some places you maybe don't have to deal with
19 it, but here, you know, it's something you got to check
20 on every project before you put a penny in?

21 A. Correct.

22 Q. Okay. Did you ever have any conversations with
23 Peter Zanoni about the hullabaloo?

24 A. We spoke briefly about it. About -- I think
25 the time we spoke about it was actually, he asked about

1 the presentation and we told him where we got it from
2 and that we hadn't altered it except for put our logo on
3 it. And that they were delaying the February meeting
4 and that was it.

5 Q. So you let Peter Zanon know that the REDC was
6 not responsible for the change in its content --

7 A. That's correct.

8 Q. -- in the slide presentation?

9 A. Correct.

10 Q. In the FEMA slide specifically?

11 A. Correct.

12 Q. Okay. And that is specifically what he was
13 asking you about is, Hey, who changed this slide,
14 basically?

15 A. Yes.

16 Q. When did that discussion occur?

17 A. It's probably early February of '23. '23, '24.
18 '24 -- I'm sorry, early February '24.

19 Q. And did he offer any information about what
20 they had found in their investigation?

21 A. No.

22 Q. Have you had any other conversations with him
23 about this subject matter other than then -- other than
24 that one conversation?

25 A. No.

1 Q. Okay. He saw you recently, obviously y'all all
2 saw each other, I think at --

3 A. Oh yeah.

4 Q. Yeah. I know you were meeting recently with
5 Peter Zanoni with your deposition coming up.

6 Did that come up at all?

7 A. Nothing that really came up. I did tell him I
8 was getting deposed and he is like, Okay. But no, we --
9 we meet regularly with the -- on water. Obviously,
10 water's a big deal right now. And so that's what we're
11 meeting with.

12 Q. Do you know if Peter has ever talked to Randy
13 about the hotel issues?

14 A. I do not know specifically.

15 Q. Not while you were present?

16 A. Correct.

17 Q. Have you ever talked to the mayor about it?

18 A. No.

19 Q. If the mayor has indicated that she -- well,
20 let me say it this way.

21 If the mayor is saying that the floodplain
22 that the FEMA rules had, you know, suddenly changed or
23 recently changed, do you know where she would have
24 gotten that information?

25 A. No.

1 Q. But, you know -- you now know that's false
2 information?

3 A. That they've recently changed? I mean --

4 Q. Well, the changes were announced back in
5 April --

6 A. Right.

7 Q. -- and -- and -- and finalized in October, and
8 then it's --

9 A. Right.

10 Q. -- a year plus later. That's -- that's not a
11 recent change. Agreed?

12 A. Yeah, I -- I agreed to the dates.

13 Q. Okay. Well, and I mean, so if you're going
14 around saying they just changed FEMA rules and that's
15 why we have to have \$2 million, that's not really a
16 truthful representation; fair to say?

17 A. Yeah. I'm not going to touch that. I don't
18 know. I --

19 Q. You don't know what the truth is?

20 A. No, I don't know. I don't know if you can say
21 that's recent or not recent. I don't know how long it
22 takes to plan one of these. I will agree to the dates,
23 obviously.

24 Q. If they didn't -- if they didn't imagine it
25 until July of 2022 --

1 A. Yeah.

2 Q. -- then -- then we know that they should have
3 known it. The architect should have known.

4 A. Yes. I -- I will say that yes, they should
5 have known.

6 Q. Okay. The architect should have known before
7 -- before they even announced the changes.

8 A. Yes.

9 Q. And the architect should have known when the
10 changes were going to come into --

11 A. Effect, yes.

12 Q. -- effect before he even imagined the project,
13 apparently, right?

14 A. I would assume so, yes.

15 Q. Okay. And so if you're going around ask --
16 acting like it's this change that we didn't anticipate,
17 that's -- whether you want to call it untruthful --

18 A. Disingenuous.

19 Q. -- disin -- disingenuous or untruthful, it's
20 really not -- it's not being square.

21 A. I'll agree with that.

22 Q. Okay. And whether you want to call it
23 disingenuous or untruthful or not -- not squared up, not
24 honest, that's the reason that city council changes in
25 FEMA, is the reason that city council was given for the

1 2 million ask, right? At first reading?

2 A. Yes.

3 Q. Okay. And I have it in front of me, so I'll be
4 paraphrasing, but if you want to look at it.

5 A. I'm sure. No, that's fine.

6 Q. Okay. You know I'm going to look at the agenda
7 item?

8 A. Right.

9 Q. Okay. And the reason that the developer, Deven
10 Bhakta, Philip Ramirez were given to the city council
11 for the 2 million ask was for quote, Cost associated
12 with FEMA flood zone requirements.

13 Does that sound right?

14 A. Yes.

15 Q. And the other reasons were that the grant
16 request it said would be utilized for additional cost
17 associated with newly defined Federal Emergency
18 Management Agency, FEMA, AE flood zone requirements that
19 has added unexpected additional cost of 1,510,000 and
20 change towards the project.

21 Do you remember that being essentially on
22 the agenda?

23 A. That's correct.

24 Q. Okay. And that's really a false reason.
25 Agreed?

1 A. It's not entirely covers everything. No.

2 Q. What's, it's not entirely true?

3 A. Just something like that. Yeah.

4 Q. Okay. Remember in school when they said if
5 it's not entirely true, then you're supposed to check
6 false?

7 A. Yes.

8 Q. Okay. So on that one, we're going to have to
9 check false. Agreed?

10 A. Agreed.

11 Q. Okay. So it also says that the Homewood Suites
12 would have to be raised a minimum of four feet high on
13 the side, as well as dry flood proofing around the
14 entire first floor.

15 Do you understand that was represented to
16 the city council?

17 A. Yes.

18 Q. And do you know if they have, in fact, raised
19 the floor four feet?

20 A. We are doing compliance. Randy's doing
21 compliance sometime this year.

22 Q. So I -- I'm going to take that to mean you
23 really don't know.

24 A. Yes, I do not know.

25 Q. Okay. But it certainly, it -- it better be

1 true if they're going to represent it --

2 A. That's correct.

3 Q. -- in order to get \$2 million.

4 A. Correct.

5 Q. And I assume you would agree that everything
6 that is being put in front of the city council when
7 you're asking for \$2 million in tax money needs to be a
8 hundred percent, true?

9 A. That is correct. So what goes into the
10 agreement, is what we do compliance on.

11 Q. Okay. But I mean, you're agreeing me, it's --

12 A. Yes.

13 Q. Okay. You're agreeing with me?

14 A. I am.

15 Q. Okay. And what we're reading on this, the
16 agenda clearly is not a hundred percent true, right?

17 A. Correct.

18 Q. And that's why a minute ago you agreed we have
19 to check the false box on it.

20 A. Yes.

21 Q. Okay. Are you -- do you think that it is -- by
22 the way, in what we're talking about here, these were
23 the reasons that Philip Ramirez and Deven Bhakta were
24 telling the city council for providing a incentive of
25 \$2 million in taxpayer money to their project, right?

1 A. Correct.

2 Q. And like you said earlier, reasons matter.

3 A. Right.

4 Q. Okay. It's important that the reason be
5 correctly stated before anyone ever considers a
6 incentive of \$2 million like this.

7 A. Correct.

8 Q. Okay. Reasons are a critical part of the
9 evaluation to either support something or not support
10 something?

11 A. Correct.

12 Q. I mean, if you don't have a good reason, then
13 you probably shouldn't get the money?

14 A. Right. Correct.

15 Q. So I assume you would agree with me that it is
16 100 percent in the wrong to have asked for \$2 million
17 with reasons that are not correct?

18 A. Correct.

19 Q. Okay. You're agreeing with me?

20 I'm erasing the double negative.

21 A. In any -- the time we go through this, people
22 try to put the best face on the project. I appreciate
23 that. Is it patently false? I don't know, but it -- it
24 certainly with the dates that we know it's not a hundred
25 percent accurate.

1 Q. Well, it doesn't pass the smell test.

2 Do we agree?

3 A. Correct.

4 Q. Okay. And, you know, and I don't -- I -- I'm
5 not faulting anybody for trying to put their best foot
6 forward.

7 A. Right. Okay.

8 Q. That's what you're saying, right?

9 A. Yes, sir.

10 Q. But I think we can agree that going to them
11 knowing the timeline that we know now about FEMA --

12 A. Uh-huh.

13 Q. -- that going to the city council and asking
14 for the \$2 million for the reasons set forth in the
15 agenda item is wrong.

16 A. In the first reading, yes.

17 Q. Okay. And you -- you agree it's wrong to have
18 done that?

19 A. Yes.

20 Q. And I assume you agree it is wrong to have
21 altered a federal document as part of a presentation to
22 get \$2 million?

23 A. Yes.

24 Q. I mean, that's not just wrong, ha -- have you
25 had anybody talk to you about that potentially being a

1 crime?

2 A. No.

3 Q. Have you talked to the FBI?

4 A. I have not.

5 Q. You have not been interviewed?

6 A. Huh-uh.

7 Q. Okay. But we can agree that forging or
8 falsifying or altering a document in order to play into
9 a narrative that it's a recent change when it's not
10 really that recent is a misrepresentation, at least
11 about the need for the project.

12 A. I agree.

13 Q. And you shouldn't get \$2 million.

14 I'm -- I'm trusting in your character
15 here, you should not be asking for or receiving
16 \$2 million if you're misrepresenting material
17 information like this on a project.

18 A. I would agree. Yeah.

19 Q. I know you qualified an answer a little bit
20 earlier by making sure that we're communicating
21 correctly --

22 A. Yes, sir.

23 Q. -- about this being a first reading to the city
24 council.

25 A. Correct.

1 Q. And that's because you know that they
2 substantially and materially changed the wording of the
3 agenda item when it came up. That same ordinance number
4 came up for a second reading?

5 A. That's correct.

6 Q. Okay. And did you get consulted before they
7 made those changes?

8 A. Yes.

9 Q. And who consulted you about that?

10 A. Both the City and then as part of that ongoing,
11 the president of the Type B said that was that our first
12 agenda item in the first reading was not entirely
13 correct. That it was not based on the FEMA part, that
14 it was a -- a project that would help downtown and
15 that's why they got the 2 million and not because of the
16 FEMA.

17 Q. That's a conversation you had with the
18 president of the Type B board?

19 A. Yes.

20 Q. And who was that?

21 A. Leah Olivarri.

22 Q. And that conversation, it sounds like, happened
23 sometime between the first reading at the City and the
24 second reading?

25 A. That's correct.

1 Q. And did you talk --

2 A. She brought it up after the first reading
3 because she didn't think it was entirely correct what we
4 had put.

5 Q. Okay. In other words, that the information,
6 and I'm sure she said it in a very, very nice way --

7 A. Yeah.

8 Q. -- but basically, she was conceding or
9 recognizing that the information in the agenda item as
10 for the reason was untrue.

11 A. Does not properly reflect what Type B said --

12 Q. Okay.

13 A. -- when they passed the measure for 2 million.

14 Q. Okay. Did you talk to anybody else about
15 changes in the agenda or changes in about this, about
16 changing the narrative?

17 A. Probably no. I think it was just that, and, of
18 course --

19 Q. You talked to city --

20 A. We -- we talked through Heather.

21 Q. Okay.

22 A. Heather Hulbert.

23 Q. Yeah. You said --

24 A. Yeah.

25 Q. -- somebody at City--

1 A. Right.

2 Q. Was that Heather?

3 A. Yes, that was Heather.

4 Q. Okay. What were your conversations with
5 Heather about changes, about different reasons behind
6 the ask --

7 A. Right, that --

8 Q. -- or whatever the conversations were?

9 A. Yeah. That -- do the questions from the city
10 council, and -- and Leah's input that we really needed
11 to change the agenda item. So -- so we did.

12 Q. Okay. So you first had a conversation, it
13 sounds like, with Leah Olivarri?

14 A. Yes.

15 Q. And then you had a conversation with Heather?

16 A. Correct.

17 Q. At the City?

18 A. Yes.

19 Q. And was it just you and Heather, or who all was
20 at that meeting?

21 A. Actually, I think it was in email, just me and
22 Heather.

23 Q. Did you also do any emails with Leah Olivarri?

24 A. I don't think so. I think our conversation was
25 on the phone.

1 Q. And I probably goes without saying, but I'll
2 let you know.

3 I'm going to guess we're going to get that
4 email, gut so do your best to recall what you told
5 Heather in the email.

6 Do you think of the email was it prompted
7 by your discussion with Leah Olivarri?

8 A. I think Leah made the same observation to the
9 City to -- to Heather after the first reading.

10 Q. Okay. But did you call Leah or did Leah call
11 you?

12 A. Leah called me.

13 Q. And she called you for the purpose, it sounds
14 like, of letting you know that the narrative as to the
15 reason for the ask of 2 million needed to be changed?

16 A. That's correct.

17 Q. And you agreed with her?

18 A. Yes.

19 Q. Okay. And the reason it needed to be changed
20 is because of the -- whether you'll call it a
21 misrepresentation, false, not square, disingenuous,
22 whatever reason you want to put on it.

23 That was the reason for changing it?

24 A. No, she said it was because of where it was
25 located. That's why the Type B made their decision. It

1 wasn't based on anything else.

2 Q. Right. So Leah's point is, Hey, we're going to
3 -- we're going to say it's because of where it's located
4 and we want a project downtown --

5 A. Right.

6 Q. -- we don't want to say anymore that it's
7 because of changes, recent changes in FEMA.

8 A. Correct.

9 Q. So you're changing the narrative?

10 A. Actually, if you go back to Type B, that's
11 actually what they said. They said because it was a
12 catalyst for downtown.

13 Q. And I actually, I think all of those things
14 were said in Type B.

15 A. Oh, okay. All right.

16 Q. In other words, there was certainly talk about,
17 because the slide was presented, there was certainly
18 talk about changes in FEMA at Type B --

19 A. Uh-huh.

20 Q. -- and there were changes about -- and there
21 was talk about wanting to incentivize a -- a project
22 downtown.

23 A. Right. Yes.

24 Q. Okay. But we know that out of those two
25 narratives you understand those are two different

1 narratives.

2 A. Correct.

3 Q. Out of those two narratives, the narrative that
4 made it into the city council agenda item that got voted
5 on at first reading was the narrative, the false
6 narrative about it being a change in FEMA?

7 A. That's correct.

8 Q. Okay. And Leah was calling saying, we need to
9 get rid of the false narrative.

10 And I'm not saying she used that word, but
11 we need to get rid of that false narrative and get a
12 different narrative in there.

13 A. That's correct.

14 Q. Okay. And did you agree with her?

15 A. Yes, I did. However, our -- our point, we work
16 on numbers and so that's really where the -- the first
17 ordinance, the first reading came from is, you know, we
18 base our stuff on numbers.

19 But yes, when she talked about it and
20 referred back to the Type B, then I understood what she
21 was saying.

22 Q. Right, but the numbers you were working on was
23 that it met your criteria if the investment was
24 \$1,043,000.

25 A. If the invest -- and if -- if the incentive

1 were 1,000,043, correct.

2 Q. And that was no longer the incentive, so you're
3 no longer living in your world of numbers?

4 A. Correct.

5 Q. Okay.

6 A. Yes.

7 Q. So now -- now we're living in a different world
8 of politics by the time --

9 A. Right.

10 Q. -- it gets to the City.

11 A. Uh-huh.

12 Q. Right?

13 A. Correct.

14 Q. Okay. We're -- it wasn't going forward or not
15 going forward because of the numbers at that point in
16 time, because the numbers it was going forward with at
17 the City --

18 A. Was 2 million.

19 Q. -- were not and which is a number you had not
20 recommended?

21 A. Correct.

22 Q. Okay.

23 A. Our board had not recommended.

24 Q. Right. Both?

25 A. Yes.

1 Q. Okay. And so it sounds like after your -- it
2 was a phone discussion with Leah Olivarri or in person?

3 A. It's phone.

4 Q. Okay.

5 A. We talk by phone.

6 Q. And was it after that then that you emailed
7 Heather?

8 A. Yes.

9 Q. Okay. And the place we kind of got sidetracked
10 --

11 A. Yeah.

12 Q. -- to the -- I'm -- I really do, I think I'll
13 probably get your email --

14 A. Uh-huh.

15 Q. And so I'm saying that so that you can do your
16 best, just articulate as well as you can. What you told
17 E Heather in the email.

18 A. I think we -- there was a discussion that she
19 had talked to Leah also, and that we were going to
20 change the agenda and the agenda item and we did. So
21 that's really what it was to better reflect what Type B
22 board had said when they passed it.

23 Q. And you said discussion, that makes me think
24 you talked on the phone or in person?

25 A. No, it was just in the email that just came up.

1 Q. Okay. But it was a back and forth?

2 A. I think it came from Heather to -- to that we
3 need -- that, you know, in discussions with Leah. And
4 then I came back and I said, we'll change it. And we
5 changed it.

6 Q. So was the email initiated by Heather?

7 A. Yes. She was telling us why it was being
8 delayed off of the February agenda.

9 Q. Did she mention the investigation?

10 A. I -- I would have to look at the email.

11 Q. Okay.

12 A. I have it somewhere, but --

13 Q. Okay. Do you have it with you?

14 A. No. No, I don't.

15 Q. I just, oh --

16 A. These were -- these were dates. I was trying
17 to get the dates right.

18 Q. Okay. Fair enough.

19 You -- you're free to look at your cheat
20 sheet. I don't care.

21 A. Okay.

22 Q. Because I like getting the dates right too.

23 A. Yeah. All right.

24 Q. Put it in front of you if you want.

25 A. Uh-huh.

1 Q. Do you need to correct any dates?

2 A. Let's see. So we did Type B in closed session
3 in October 16th, closed session on November 23rd. And
4 then we did a open session on December 11th and it was
5 -- and they directed staff to prepare a \$2 million
6 grant.

7 And then it was passed on January 22nd of
8 '23 or '24. City council first reading was February
9 20th and then the second reading was not until April.
10 So we were delaying it off of the March between the
11 first reading and second reading, so.

12 Q. And do you have the dates for the REDC
13 meetings?

14 A. We had REDC was introduced September 27th of
15 '23 and -- oh no, that's when we received the
16 application. The initial meeting was October 12th of
17 '23 and that was just the introduced and it was voted on
18 November 9th of '23 and we recommended 1,043,433 to the
19 Type B board.

20 Q. And do you know why the amount changed from
21 1 million to 2 million?

22 A. We recommended 1,000,043 because with the with
23 the RIMS II model, that's what it came out with. With
24 that kind of investment over this many years with this
25 many jobs at this much salary, it came out to 1,000,043

1 and that's with a five-year payback and a 12 percent --

2 Q. And, but --

3 A. -- ROI.

4 Q. -- and -- and we agreed a moment ago, and I
5 think you'll still agree --

6 A. Uh-huh.

7 Q. -- that's the way y'all look at it or REDC --

8 A. Correct.

9 Q. -- from a number standpoint, right?

10 A. Correct.

11 Q. And that once it became a \$2 million animal,
12 then it's no longer within your realm of the numbers.

13 A. Right. So in December, Type B board directed
14 staff, which is us to prepare a grant for 2 million.

15 Q. Right. And what I was asking you, because when
16 we said a moment ago, it kind of goes from a numbers to
17 a political issue.

18 A. Right. Yes.

19 Q. Right?

20 And do you know what the politics were of
21 getting it to 2 million?

22 A. Just that it was a great project to incentivize
23 to kickstart downtown and go forward.

24 Q. Okay. Was there ever any discussion about
25 different city council members or the mayor's

1 relationship with the applicants?

2 A. No.

3 Q. Are -- you're aware of that relationship,
4 right?

5 You know your board's appointed mostly by
6 the City?

7 A. So the City appoints 6 of 18.

8 Q. Yes. Six of eight what?

9 A. Eighteen.

10 Q. Right.

11 A. We have 18 board members. The City of 6.

12 Q. Okay.

13 A. Yes.

14 Q. And are they still -- back then, were they your
15 largest contributor?

16 A. The City provides 700,000 and investors. The
17 companies they're right at 700,000. So they -- they are
18 certainly the largest.

19 Q. Yeah. There's many investors --

20 A. Right.

21 Q. -- that provide that 700.

22 A. Uh-huh.

23 Q. And there's one city that provides 700,000.

24 A. That's correct.

25 Q. So they are far and away, I think your biggest,

1 largest in --

2 A. Single investor, yes.

3 Q. -- largest single investor.

4 A. Yes, sir.

5 Q. Or contributor.

6 A. Yep. However, you want to say. Funder.

7 Q. Yeah.

8 MR. ALLISON: Can we take about five
9 minutes? Let me go over my notes with this gentleman
10 here.

11 THE VIDEOGRAPHER: Time is 11:40 a.m.
12 We're back on the video record.

13 (Recess from 11:40 a.m to 11:57 a.m.)

14 THE VIDEOGRAPHER: Time is 11:57 a.m.
15 We're back on the video record.

16 Q. (BY MR. ALLISON) Before the break we were
17 talking about how the narrative changed.

18 A. Yes, sir.

19 Q. And I'm going to read you the agenda item at
20 the second meeting.

21 A. Okay.

22 Q. Okay. Were you there for that presentation?

23 A. Yes, I was. I made the presentation.

24 Q. And you were there for the first presentation
25 too?

1 A. Yes, I think so. Yeah.

2 Q. Yeah. And on the second presentation, because
3 we talked -- well let me back up.

4 We already talked about how the agenda
5 item read for the City on the first presentation of the
6 ordinance, right?

7 A. Yes. Correct. Yes.

8 Q. And you understand, I'm about to read you the
9 ordinance as it was presented at the second meeting
10 relating to this project.

11 A. Yes. I understand.

12 Q. And I understand it has the same ordinance
13 number.

14 A. Yes.

15 Q. Okay. But it reads as follows, The agenda
16 item, ordinance authorizing an agreement between Type B
17 corporation and elevate QOF LLC for a total incentive
18 amount not to exceed 2 million for Homewood Suites by
19 Hilton at the corner of in Chaparral Street and Lomax
20 Street.

21 Do you understand so far?

22 A. Yes.

23 Q. So far in no change, right?

24 A. Correct.

25 Q. And then it continues, For costs associated

1 with the street level retail, public space and outdoor
2 dining area activation, including gray box and finish
3 out including necessary flood wall and dry flood
4 proofing, to allow a consistent street level access
5 authorizing the expenditure up to 2 million from the
6 Type B unreserved fund balance and amending the fiscal
7 year 2023, 2024 budget to increase expenditures by
8 2 million.

9 First of all, do you understand what I've
10 read to you?

11 A. I do.

12 Q. And do you -- does that sound like what the
13 second --

14 A. It sounded like, yes.

15 Q. Okay. And you realize they were referring to
16 this, they, being the City was treating this like it's a
17 second reading on ordinance 240256, right?

18 A. Yes.

19 Q. But like we discussed earlier, the narrative
20 has completely changed, right?

21 A. That's correct.

22 Q. And so the reason that we're now seeing, and
23 let's just recap, the reason that was put in the first
24 reading for the 2 million was because of these changes
25 in FEMA rules?

1 A. Yes.

2 Q. And now it doesn't even mention that.

3 A. Correct.

4 Q. Okay. Now it's making it sound like it's cost
5 associated with street level retail, public space,
6 outdoor dining, things that are very, very different,
7 right?

8 A. Yes.

9 Q. And like we said earlier, reasons matter.

10 A. Yes.

11 Q. And so in that sense, I mean, and I understand
12 it's still got the number 2 million and who's getting
13 it.

14 A. Correct.

15 Q. That's the same, right?

16 A. Correct.

17 Q. But in terms of whether somebody would change
18 their vote on the city council or not, you really don't
19 know because it's an independent, it's a different
20 reason now.

21 A. Correct.

22 Q. Okay. And so do you see how when you change
23 the reason for the ordinance you have maybe, maybe
24 you'll get more votes, maybe you'll get fewer votes?

25 A. I don't know.

1 Q. You don't know?

2 A. Correct.

3 Q. And that's because reasons matter?

4 A. Correct.

5 Q. Okay. And so you understand that the reasons
6 for -- they're supposed to be doing at the City two
7 readings on the same ordinance is because it -- the same
8 thing is supposed to be voted on twice, right?

9 A. I would agree with that, yes.

10 Q. You agree?

11 A. Yes.

12 Q. Okay.

13 A. I agree.

14 Q. And here because of how they have changed the
15 reason behind it, we're not getting really two votes on
16 the same thing.

17 A. Correct.

18 Q. Okay. And again, you can't predict if it would
19 get more or less votes because of how it was changed.
20 That's up to each individual council member.

21 A. Correct.

22 Q. Okay. And certainly, there had been a lot of,
23 I think I used the word commotion earlier after the
24 first reading to the city council. There was a lot of
25 commotion about, Hey, there's this altered or falsified

1 federal document, right?

2 A. Correct.

3 Q. And so if the second reading on ordinance
4 240256 had had the same wording as the first reading
5 where it's relying upon an altered federal document, you
6 can't tell us if it would have passed or not?

7 A. I could not. Correct. I could not tell you.

8 Q. Yeah. Because you don't know how the city
9 council learning about the falsified document being the
10 underlying basis for the ask, you can't tell us how that
11 would affect each council person?

12 A. That's correct. I cannot.

13 Q. Before this Homewood Suites project that we've
14 been talking about received this \$2 million in tax payer
15 money, before that, has there ever been any hotel that
16 received a fa -- favorable recommendation from REDC for
17 a grant of a million or more?

18 A. Schlitterbahn. Because it had a hotel attached
19 to it, but besides that I can -- I cannot think of one
20 for Type B or A.

21 Q. Okay. So this would be the only one that was a
22 hotel only.

23 A. For Type B or A.

24 Q. And let me rephrase it because I kind of
25 generalized there too.

1 The Homewood Suites the one that we're
2 talking about --

3 A. Yes, sir.

4 Q. -- in this lawsuit, it would have been the
5 first hotel that's just a hotel (unintelligible) a lot
6 more than that.

7 A. I understand. Yes, sir.

8 Q. It would have been the first hotel that you
9 know of that ever got any Type A or Type B money.

10 A. That's correct.

11 Q. And was this Homewood Suites one, and I
12 understand the recommendation coming out of our EDC was
13 a -- a million plus little --

14 A. Right.

15 Q. -- was it the first one to ever get REDC money?
16 First hotel?

17 A. In Type A or B. There have been -- we have had
18 tax abatements on, you know, but in Type A or B is the
19 very first one.

20 Q. Yes. And I understand, you understand the
21 difference between tax abatement and giving them your
22 money.

23 A. Right. Right.

24 Q. Okay.

25 A. Yeah.

1 Q. And since this grant or pledge by the City of
2 the 2 million from Type B money, since then to present,
3 has there been another hotel that has gotten this sort
4 of financial support from taxpayer money?

5 A. No.

6 Q. So it's still in the category of one of a kind?

7 A. Correct.

8 Q. And Schlitterbahn -- just -- I know you and I
9 are thinking already Schlitterbahn's very different
10 because it's not just a hotel, it also has the
11 Schlitterbahn facility and it's a destination.

12 A. Right.

13 Q. Do you know of any studies that would indicate
14 that bringing the Homewood Suites hotel here, the one
15 we're talking about in this case, that bringing it here
16 would in any way increase, you know, serve the pur --
17 increase tourism or serve the purpose of a destination
18 hotel?

19 A. No, there has been none. In fact, we
20 specifically took HOT out of the calculation.

21 Q. For the reasons you explained earlier?

22 A. Correct. Yes, sir.

23 Q. Explain that to me one more time.

24 A. We did not believe that a hotel of this nature
25 would increase tourism be a destination in and of

1 itself. It would just take rooms from other businesses.

2 So we did not add HOT as in the
3 calculation for the incentive.

4 Q. And would it not only take room from -- rooms
5 from other hotels, but would it also -- that's one thing
6 you recognize it would do?

7 A. Yes.

8 Q. But would it also take staff from other hotels?

9 A. I don't think we think that way because of our
10 unemployment, you know, sits about 1 percent above Texas
11 and the US. So we -- we believe that they would
12 certainly have enough staffing.

13 Q. I thought that --

14 A. That could be -- that could be a-- a result of
15 that.

16 Q. Yeah.

17 A. But we did not look at that, specifically.

18 Q. It's not in your RIMS II analysis?

19 A. Correct. It is not.

20 Q. Okay. But you -- but I thought you said that
21 with restaurants that one opens and the other one
22 closes?

23 A. Right. Yeah.

24 Q. Okay. This is a scenario since it's not a
25 destination hotel, Homewood Suites is not a destination

1 hotel. This is a scenario where since it's not bringing
2 new people to town, it may take away from other hotels.

3 A. Correct.

4 Q. Yeah. And it was -- and that taken alone would
5 really mean it should not qualify for any incentive like
6 this \$2 million, agreed?

7 A. Our recommendation based on RIMS II was
8 1,043,000. That was based on numbers, anything above
9 that. And that is what we held throughout the entire
10 process.

11 Q. And anything above that you would not be
12 recommending?

13 A. Correct. And we did not.

14 Q. Right. But when you got in front of city
15 council, you did recommend the project, didn't you?

16 A. Yes, I did. That was a question.

17 Q. And why? Why would you do that if it's not
18 supported by your analysis?

19 A. Because at the time when they were saying that
20 it would in -- it would help out downtown, then, you
21 know, I'm fine with that. I can understand that and go
22 forward.

23 Q. Okay. In other words, were -- would it be fair
24 to say that falls again then over on the politics side?

25 A. Yes.

1 Q. Okay. So the politics of it were for you to
2 get behind it.

3 A. Yes. Yes, it was. No, I understand. I'm with
4 you.

5 Q. Did you ever have anybody ask you to recommend
6 it?

7 A. No, not specifically. Mike, please recommend
8 this. No.

9 Q. Okay. Anything along those lines? Don't hedge
10 on me.

11 A. No. No.

12 Q. Okay. And another reason, whatever you want to
13 name it or call it, and if you have a name, let me know.

14 But the phenomenon you described earlier
15 where if one new restaurant opens, one closes, because
16 this is not a destination hotel, it runs the risk of
17 doing that here in Corpus, right?

18 A. That's correct.

19 Q. And that's another reason that there should not
20 be public money spent on it?

21 A. It does not help the economics. It does not.

22 Q. Right. Which the whole reason you're supposed
23 to be giving public money is to help the economics.

24 A. That's correct.

25 Q. And so the fact that it doesn't help --

1 Homewood Suites did not help the economics, that would
2 be a reason to not give them anything?

3 A. Not nothing. We still have the investment
4 which adds to the tax base, the sales tax during
5 maintenance and during construction and the -- and the
6 jobs. Now if it reduces in jobs, but you still have the
7 investment.

8 Q. I'm going to say this, the phenomenon that you
9 talked about earlier with one restaurant open --

10 A. Yes.

11 Q. -- and another one closes, it's sort of, for
12 lack of a better term, it can --

13 A. Cannibalizes.

14 Q. -- I thought you said that may be earlier.

15 A. Yeah, we do -- we say that word.

16 Q. Okay. And so this is a scenario with this
17 Homewood Suites because of the factors we have talked
18 about, that it may cannibalize other hotels.

19 A. That's correct.

20 Q. Okay. And that factor taken alone certainly is
21 -- is not a reason to give money to it.

22 A. That is certainly something in not in its
23 favor.

24 Q. Yeah. And because it is supposed to be, the
25 money is supposed to be for the purpose of giving an

1 incentive to increase economic development?

2 A. That is correct.

3 Q. And what we're talking about this cannibalizing
4 effect is not increasing economic development?

5 A. Yes. Barring the new investment, correct.

6 Q. Okay. And so because the Type B money and,
7 well, let me back up.

8 If REDC is going to get behind it, then
9 you want to spend money on projects that will
10 incentivize those projects coming here?

11 A. Correct.

12 Q. And in this particular Home Suites scenario, it
13 was a hotel at the time they were making the ask for 2
14 million.

15 It was a hotel project that was already in
16 construction?

17 A. No, it was -- there is a clause in Type B that
18 construction could not have started. I'm not talking
19 about demolition of what was there, but construction has
20 not have started. And we checked redevelopment services
21 and that was the case.

22 Q. Okay. So you don't think they had a second
23 story built already framed out?

24 A. No, I don't.

25 Q. Okay. You're saying it was in demolition

1 phase?

2 A. Correct.

3 Q. Okay. So the project was --

4 A. We asked the question of the City, Are they in
5 construction? The answer was, No.

6 Q. And who told you, No, it's not?

7 A. Probably somebody from development services
8 because we check for permits and if they have started.

9 Q. But the permits had already been issued.

10 A. It can be as long as per -- as long as
11 construction is not starting.

12 Q. I was going to say, you -- you cannot do demo
13 without permits.

14 A. Right. Oh, yes. sir.

15 Q. Okay.

16 A. You're -- you're correct.

17 Q. So the -- for sure the demo permits had already
18 been issued?

19 A. Uh-huh.

20 Q. Right?

21 A. Yes.

22 Q. And --

23 A. I assume so. Yes.

24 Q. -- and well, and do you know if the -- the
25 construction permits had already been issued or not? Do

1 you know?

2 A. I do not know.

3 Q. Okay. And what you were saying though, is
4 somebody -- was it you that reached out to the City?

5 A. It's probably Randy.

6 Q. Okay. You just know you got word back from
7 your team?

8 A. Uh-huh.

9 Q. That the answer was that it was, there's
10 activity down there, but they're not formally or
11 technically in construction.

12 A. That is correct.

13 Q. Okay. And that was some word that came from
14 the City?

15 A. That's correct.

16 Q. Okay. Do you know, but -- but at -- did you
17 know at the time the ask was there for the \$2 million,
18 did you know that the project was already committed,
19 contract signed, money change in hands?

20 A. I did not know.

21 Q. Okay. Because you can understand that it -- it
22 doesn't make sense to give money that's incentive
23 money --

24 A. Right.

25 Q. -- to a project that's already committed.

1 A. Correct.

2 Q. Okay. And so that would be another reason that
3 would cut against giving money to this project if they
4 were already committed?

5 A. I agree.

6 Q. Yeah. They should not qualify for an
7 incentive.

8 A. Right.

9 Q. They're already here?

10 A. Yes.

11 Q. Okay. Is any information about FEMA put into
12 the RIMS II?

13 A. No.

14 Q. I am going to read you a transcript of a
15 recorded statement of Peter Zanon.

16 A. Okay.

17 Q. He says, quote, Definitely it was altered.

18 We know he is talking about the document.

19 A. I understand.

20 Q. When you read the entire PowerPoint, it was so
21 obvious that the writer wanted one to believe that the
22 FEMA change was just recent, recently released, and this
23 and that.

24 Do you agree with that statement?

25 A. That he said it?

1 Q. No. Oh, I know you don't know if he said it or
2 not. But you don't have the tape?

3 A. Right. Right.

4 Q. Okay.

5 A. Right.

6 Q. You want me to read it again to you?

7 A. Yes, please.

8 Q. Okay. When you read the entire PowerPoint, it
9 was so obvious that the reader wanted one to believe
10 that the FEMA change was just recent -- recently
11 released, and this and that.

12 Do you agree with that?

13 A. I would agree.

14 Q. Continuing to quote, Part of it goes back to
15 the narrative. Mike Culbertson said, this has to be
16 tied to infrastructure. And then they hatch a scheme,
17 FEMA floodplain, that's infrastructure, fixing the
18 bottom floors. Then they developed a narrative to fit
19 it that they just found out because people would say
20 that, Shit, they come -- they should have known of this
21 a long time ago like Commissioner Hunter -- Councilman
22 Hunter.

23 A. Councilman, yeah.

24 Q. Did that happen?

25 A. Did --

1 Q. I'll -- I'll -- I'll go -- it's a long sentence
2 and I hate taking things out of context --

3 A. Okay.

4 Q. -- so I read you the whole thing.

5 A. Yes.

6 Q. Now I'm going to center in on the portion of it
7 that I want to ask you about them.

8 A. Uh-huh.

9 Q. Fair enough?

10 A. Fair enough.

11 Q. Okay. Part of it goes back to the narrative.

12 Mike Culbertson said this has to be tied
13 to the infrastructure and then they hatch a scheme, FEMA
14 floodplain.

15 Do you agree with that part of it?

16 A. I agree that I said it had to be tied to
17 infrastructure. I'm not sure about the hatching the
18 scheme, but.

19 Q. And who did you say it had to be tied to
20 infrastructure?

21 A. I told both my board the project and Type B, it
22 had to be tied to infrastructure.

23 Q. And what is the reason that it had to be tied
24 to infrastructure?

25 A. Because in the Type B guidelines, there is a --

1 a -- a clause that allows for the reimbursement of
2 infrastructure. And, in fact, that's all we've ever
3 done when we looked at co -- at projects like this, that
4 it -- that it is tied to infrastructure.

5 Q. And so when would you have made that statement
6 that it had to be tied to infrastructure?

7 A. I'm sure I would have said it prior -- prior to
8 even to the project, even before it went to our board.

9 Q. Before the first presentation or?

10 A. Yes.

11 Q. Pardon?

12 A. Yes. The first presentation.

13 Q. So before -- before the first presentation to
14 the REDC?

15 A. Correct.

16 Q. Okay. Peter goes on to say, Then they
17 developed a narrative to fit it that they just found out
18 because people would say that, Shit, they should have
19 known of this a long time ago like, Councilman Hunter.

20 My question is this, do you agree that
21 they developed a narrative to fit the infrastructure
22 requirement?

23 A. I'll agree that -- that they came to the -- to
24 us with the infrastructure.

25 Q. By they, you're talking about --

1 A. The project.

2 Q. Philip and --

3 A. Yeah.

4 Q. -- and Debbie.

5 A. You're correct.

6 Q. Okay. And was that after you told them it had
7 to fit infrastructure?

8 A. I am -- I am sure. I probably told them when
9 -- when we first started talking about it, so.

10 Q. So you think the sequence of events is you told
11 -- you had some conversation where they want 2 million?

12 A. Right.

13 Q. And you're telling them it has to fit
14 infrastructure?

15 A. Correct.

16 Q. And then do you think the sequence is, and then
17 they came up with this FEMA plan concept.

18 A. I do not know the actual thing, but that sounds
19 like it would fall into place, yes.

20 Q. That -- that seems like the likely --

21 A. Scenario.

22 Q. -- sequence of events?

23 A. Yes.

24 Q. And did you ever -- did they ever say to you,
25 Hey, we found the infrastructure connection that you

1 said we needed to find, or anything along those lines?

2 A. No. They gave us a -- a detail of the
3 infrastructure requirements.

4 Q. The FEMA?

5 A. No. Just what their infrastructure would be
6 and, yes. Based on, partly based on FEMA.

7 Q. Okay. So apparently this discussion you're
8 telling me about started a discussion between REDC and
9 Philip and Deven, where you're trying to say, what
10 infrastructure can we pin it to?

11 A. Correct.

12 Q. And part of that discussion was a discussion
13 about FEMA.

14 A. Correct.

15 Q. And the result of that is it ended up that FEMA
16 was really the -- the poster child, the -- the face for
17 why you needed the 2 million?

18 A. That's correct.

19 Q. Okay. And then that obviously led to the
20 falsification of a slide that we've seen in the
21 five-slide presentation?

22 A. I -- I can't say that it directly led to it,
23 but it was after that.

24 Q. The falsified slide came up after the idea of
25 we need infrastructure came up.

1 A. Correct.

2 Q. Okay. And you were looking for an
3 infrastructure tie in in order to try to support this
4 \$2 million award or million award, whatever amount it
5 was going to end up being.

6 A. Correct.

7 Q. Because you knew you couldn't get behind it
8 without there being some infrastructure tie in.

9 A. Correct.

10 Q. And you couldn't get Type B money in your mind
11 and left, there was a infrastructure tie in.

12 A. That's correct.

13 Q. When you were having those conversations, well,
14 it sounds like these conversations were directly between
15 you and Philip?

16 A. They were probably between Philip and Randy and
17 I -- and I was kept apprised.

18 Q. Okay.

19 A. Or it may have happened the very first time we
20 met about it, you know, they came to the office and we
21 talked about it, and I said, it has to be tied to
22 infrastructure.

23 Q. You told that directly to Philip?

24 A. That's correct.

25 Q. Okay. And did you in any way, shape or form

1 mean or suggest that the need for an infrastructure tie
2 in justified altering a federal document?

3 A. No.

4 Q. Would you have ever tolerated that?

5 A. No.

6 Q. I mean, you would have screamed bloody murder,
7 I think?

8 A. That's correct.

9 Q. Okay.

10 A. I would not have let it go forward.

11 Q. Pardon?

12 A. I would not have let it go forward.

13 Q. Right. And therefore, they would have never
14 gotten it, agreed?

15 A. Yes. Unless they came back with something
16 else.

17 Q. Let's say -- let's say found their own new tie
18 in which --

19 A. Yes. Yes.

20 Q. -- but now -- now apparently, they're -- what
21 it-- what it morphed into was prettier sidewalks in a
22 dining area --

23 A. Correct.

24 Q. Right?

25 A. Correct. Yes.

1 Q. Okay. Which did not meet your infrastructure
2 requirement, right?

3 A. Correct.

4 Q. So it would never have gotten out your door
5 with the recommendation?

6 A. Well, it got out our -- our door with the
7 million-dollar recommendation, right. Yes, sir. And
8 that actually wasn't all of infrastructure.

9 Q. There were -- I know there were other things in
10 it too.

11 A. Right.

12 Q. Peter says in the recording quote, I'm not
13 recommending it.

14 Did you ever have a discussion with Peter
15 about whether he would recommend it or not?

16 A. No.

17 Q. On April 23rd, this is another statement from
18 Peter, Legit, I got screwed on this item and had nothing
19 to do with it from the get go.

20 Is that true?

21 A. That's correct. He didn't -- it went through
22 us --

23 Q. Huh?

24 A. -- and it went through us and then Type B and
25 then city council.

1 Q. Okay. But do you agree he got screwed, Peter?

2 A. It was bad press in it, certainly.

3 Q. Then he says, I know what happened, and it's
4 two bad people weren't truthful.

5 Do you agree with that?

6 A. That he said that?

7 Q. No. Do you agree that it's two bad people
8 weren't truthful?

9 Let me put it this way, earlier I think
10 you agreed that the way it was presented misrepresented
11 the project and also --

12 A. Correct.

13 Q. -- was not -- was false because it's not really
14 truthful?

15 A. Correct.

16 Q. Okay. In that sense, do you agree with him
17 that people --

18 A. It-- it provided a -- a different timeline,
19 right. Because it's -- it's recent, but it had actually
20 been out since April of '22, yeah.

21 Q. Yeah. Right.

22 I mean, you're referring to the date. I
23 mean, there's a reason. It's a pretty obvious reason
24 that they -- that they blotted out or redacted or
25 removed the date, right?

1 A. Yes.

2 Q. And that's because they needed it to fit this
3 narrative that it was tied to infrastructure and a
4 recent change in infrastructure, right?

5 A. That was a result. I -- I can't tell you what
6 they were thinking when they did it.

7 Q. Shit, but it -- it kind of reeks?

8 A. Yes.

9 Q. Doesn't pass the smell test.

10 A. I'll agree with that.

11 Q. Okay. Because, I mean, there conversations
12 that you're aware of with it needing to fit an
13 infrastructure issue help us understand perhaps what
14 someone was thinking when they altered the document.

15 A. Okay.

16 Q. Agreed?

17 A. Agreed.

18 Q. Okay. And -- and, of course, that's not a good
19 reason to be altered in a federal document, agreed?

20 A. Agreed.

21 THE WITNESS: I need to add more time to
22 mine.

23 MR. ALLISON: Okay.

24 THE WITNESS: Okay.

25 MR. ALLISON: You did it that quick.

1 THE WITNESS: No, no. It said I can't --
2 I've reached the maximum.

3 MR. ALLISON: Okay. Okay. Well, we --
4 we will -- they don't drive by every minute. Give me
5 just a second here.

6 THE WITNESS: All right.

7 Q. (BY MR. ALLISON) Did you ever talk to Sony
8 about it?

9 A. I don't think so. No.

10 Q. Okay. Did you ever talk to Alan Wilson about
11 it?

12 A. I mean, we did as part of the board, but we
13 briefed the board.

14 Q. Did you ever hear that after it came to light
15 that there had been a -- a federal document altered or
16 falsified that he said he would never have supported it?

17 A. I did not hear that. No.

18 Q. Earlier we talked, and you told me that you did
19 tell a jade that you had not altered it and that -- or
20 that REDC had not alternate it and that it was the
21 applicant.

22 Do you remember that?

23 A. Yes.

24 Q. After that, did you call Peter?

25 A. I don't remember that. I'm not saying I

1 didn't, I'm just -- I don't remember.

2 Q. Okay. That's all I have for you. Wait,
3 uh-huh. Nothing further, sir. Thank you.

4 A. Okay. Thank you.

5 Q. Yes, sir.

6 THE VIDEOGRAPHER: The time is --

7 THE COURT REPORTER: One second --

8 THE VIDEOGRAPHER: Okay.

9 THE COURT REPORTER: Before we go off the
10 record, I just need to get clarification on the
11 exhibits. Were you going to be --

12 MR. ALLISON: I won't do any exhibits. I
13 didn't -- I'll share anything I have. That's all --
14 same stuff we all have.

15 THE COURT REPORTER: Okay.

16 MR. ALLISON: But I will start getting a
17 notebook together for the future.

18 THE COURT REPORTER: Okay. And then copy
19 orders on the record, let's see.

20 Mr. Bell, were you going to want to
21 purchase a copy of the transcript?

22 MR. BELL: No.

23 THE COURT REPORTER: And then Ms. Marcum?

24 MS. MARCUM: Not at this time.

25 THE COURT REPORTER: Okay. We're good.

1 THE VIDEOGRAPHER: Okay. Time is 12:27
2 p.m. We're off the record.

3 (Signature having been not waived, the
4 deposition was concluded at 12:27 p.m.)
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REASON

U.S. LEGAL SUPPORT, INC
713-653-7100

WITNESS SIGNATURE

I, MIKE CULBERTSON have read the foregoing
deposition and hereby affix my signature that same is
true and correct, except as noted above.

MIKE CULBERTSON

THE STATE OF TEXAS §

COUNTY OF NUECES §

Before me, _____, on this
day personally appeared MIKE CULBERTSON known to me or
proved to me on the oath of _____ or through
_____ (description of identity card or
other document) to be the person whose name is
subscribed to the foregoing instrument and acknowledged
to me that he/she executed the same for the purpose and
consideration therein expressed.

Given under my hand and seal of office on this
_____ day of _____, 2025.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

My Commission Expires: _____

CAUSE NO. 2024CCV-61174-3

AJIT DAVID,	§	IN THE COUNTY COURT
Plaintiff,	§	
	§	
vs.	§	AT LAW NO. 3
	§	
CITY OF CORPUS CHRISTI,	§	
TEXAS,	§	
Defendant.	§	NUECES COUNTY, TEXAS

REPORTERS CERTIFICATION
Oral Videotaped Deposition
OF MIKE CULBERTSON
May 5, 2025

I, Tanisha Terrazas, Certified Shorthand
Reporter in and for the State of Texas, hereby certify
to the following:

That the witness, MIKE CULBERTSON was duly
sworn by the officer and that the transcript is a true
record of the testimony given by the witness;

That pursuant to information given to the
deposition officer at the time said testimony was taken,
the following includes all parties of record and the
amount of time used by each party at the time of the
deposition:

Mr. Allison (2h57m)
Attorney for Plaintiff
Mr. DeKoch (0h0m)
Attorney for Defendant
Ms. Marcum (0h0m)
Attorney for Defendant
Mr. Bell (0h0m)
Attorney for Mike Culbertson

1 That a copy of this certificate was served on
2 all parties shown herein on _____ and
3 filed with the Clerk.

4 I further certify that I am neither counsel
5 for, related to, nor employed by any of the parties in
6 the action in which this proceeding was taken, and
7 further that I am not financially or otherwise
8 interested in the outcome of this action.

9 Further certification requirements pursuant to
10 Rule 203 of the Texas Code of Civil Procedure will be
11 certified to after they have occurred.

12 Certified to by me on this 4th day of June,
13 2025.

14 

15 _____
16 TANISHA TERRAZAS
17 Texas CSR No. 12061
18 Exp: 07/31/2026
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24 CAUSE NO. 2024CCV-61174-3

25 AJIT DAVID,
Plaintiff,

§ IN THE COUNTY COURT
§

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Certified to by me on this _____ day of

_____, 2025.

Firm Rep Signature

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\$	1,510,000	101:3	2020
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\$1	1.3	15:10 103:7,	2021
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15 66:9	11:06		60:13,16
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