

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 COUNTY OF SONOMA

3 BEFORE THE HONORABLE ELLIOT LEE DAUM, JUDGE

4 DEPARTMENT 16

5
6 BROOKTRAILS TOWNSHIP COMMUNITY SERVICES)
 DISTRICT, a Public Agency,)

7 PLAINTIFF,)
8)

9 vs.)

10 CITY OF WILLITS, a General Law City;)
 and DOES 1 through 100, inclusive)

11 DEFENDANT.)
12 _____)

No. SCV-253175

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15 VOLUME VI

16 PAGES 846-1017

17 REPORTER'S TRANSCRIPT OF PROCEEDINGS

18 FRIDAY, MARCH 20, 2015

19 JURY TRIAL

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E X H I B I T S

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330	Letter	6	
331	2102/2013 Budget	15	
332	Resolution passed July 1, 2014	44	46
333	2005 Resolution	49	51
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E X H I B I T S

Exhibit No.	Exhibit Description	<u>Marked</u>	<u>Admitted</u>
340			911
341			912
342		912	912
343		931	932
344	Email	992	996
345	Worksheet	1007	
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1 FRIDAY, MARCH 20, 2015

8:30 A.M.

2 --oOo--

3
4 THE COURT: Calling the matter of Brooktrails
5 versus Willits. Mr. O'Brien, are we ready to resume the
6 witness's testimony at this time?

7 MR. O'BRIEN: I think so. I mean, it's a little
8 messy, but I think we can get going.

9 THE COURT: And is Mr. Crowley expected?

10 MR. O'BRIEN: Yeah, he's going to be back in a
11 few minutes. He's going to get some documents copied from
12 this witness that she brought this morning in response to
13 her notice to appear.

14 THE COURT: All right. You may resume the stand,
15 and bring our jurors in, please.

16 (Jury enters the courtroom.)

17 THE COURT: We're now convened in the presence of
18 all the ladies and gentlemen of our jury and our alternates.
19 And, good morning. Welcome back, ladies and gentlemen.

20 Ms. Moore is still on the stand, still under oath
21 and ready for continuing direct examination when you are,
22 Mr. O'Brien.

23 MR. O'BRIEN: Yes, your Honor.

24 I'm exhausted from carrying these binders.

25 ADRIENNE MOORE

26 Called as a witness on behalf of the Plaintiff,
27 and after being previously sworn to tell the truth, the
28 whole truth and nothing but the truth, testified as is

1 hereinafter

2 ////

3 CROSS-EXAMINATION (776)

4 BY MR. O'BRIEN:

5 BY MR. O'BRIEN:

6 Q How are you this morning, Ms. Moore?

7 A Just great. Thank you.

8 Q We talked about audits yesterday and about some
9 metering issues and the 23.62 percent. We're going to talk
10 more about those in a little bit, but I wanted to follow up.

11 Does the witness still have her exhibits from
12 yesterday? There was a set of binders. Okay. Let me help
13 you. I'm all about binders.

14 THE WITNESS: There are six binders here.

15 BY MR. O'BRIEN:

16 Q I just wanted to follow up with a few questions
17 about the November 17th letter -- sorry, not the November
18 17th letter -- the February 19th letter that you wrote to
19 Brooktrails. And this is the letter where you informed
20 Brooktrails that you would be using the effluent meter to
21 measure the inflows into the plant, correct?

22 A Yes.

23 Q And you had talked about that there had been
24 discussions or some sort of conversation going back and
25 forth between the City of Willits and Brooktrails for some
26 time. Do you remember saying that?

27 A Yes.

28 Q And you didn't mean to imply that Brooktrails had

1 in any way agreed to changing the meter used to measure
2 their flows, did you?

3 A No.

4 Q Okay. I want you to look for a sec at Exhibit
5 300. Maybe we need to break these binders down a little bit
6 more.

7 What is Exhibit 300?

8 A It's a letter that I received from Brooktrails
9 Township signed by Denise Rose.

10 Q And do you recall receiving that letter?

11 A Yes.

12 Q Does that appear to be a true and correct copy of
13 the letter that you received from Denise Rose at
14 Brooktrails?

15 A Yes.

16 MR. O'BRIEN: I'm going to ask that the clerk
17 mark and admit, if there's no objection to moving this
18 letter into evidence.

19 THE COURT: Any legal objection?

20 MR. BARTOLOTTA: No, your Honor.

21 THE COURT: It's admitted.

22 (Plaintiff's Exhibit 330 was
23 marked for identification and received.)

24 MR. O'BRIEN: Is it admitted?

25 THE COURT: It is, yes.

26 BY MR. O'BRIEN:

27 Q And in this letter Denise Rose tells the City of
28 Willits that Brooktrails will not agree to moving the

1 measurement for their bill from the influent meter to the
2 effluent meter, correct?

3 A Let me just refresh my recollection.

4 Q Sure.

5 A She discusses their concerns.

6 Q Well, let me point you directly to the one, two,
7 three -- sixth paragraph that starts with "Therefore." And
8 when I count six, I'm counting those two middle numbered
9 paragraphs.

10 She tells you, "Therefore the recommendation that
11 the totalizing meter be moved to EFF2 would require a permit
12 amendment and an amendment to the contract," Correct?

13 A That's what she says.

14 Q Okay. And your -- the City of Willits' response.
15 So strike that.

16 The City of Willits understood in this time
17 frame, from November 2014 to February 2015, that Brooktrails
18 was against moving the influent meter to the effluent meter,
19 correct?

20 A I don't know if I would agree with that. We were
21 aware of their concerns and we had on going written
22 communications with them about the condition.

23 Q And your response to Denise Rose's letter saying
24 that if you wanted to make a change like that you would have
25 to amend the contract; that's what she says, right?

26 A Yes.

27 Q And your response, as the city manager of the
28 City of Willits, was we're doing it anyway, correct?

1 A I don't know that I would quite agree with that
2 statement.

3 Q Well, look back at your February 19th letter
4 that's Exhibit 330. You're better with those binders than I
5 am.

6 A Okay.

7 Q And in this letter you tell, and we've addressed
8 this yesterday, that you told the Brooktrails Township that
9 we are going to use EFF2, right?

10 A After ongoing communications, yes.

11 Q And you were going to do it without a contractual
12 amendment, correct?

13 A Yes.

14 Q Go ahead and fix it, because we're going to talk
15 about the bill a little bit more.

16 Just a side point before we start talking about
17 the bill. There were some pictures shown in opening
18 statement that showed pictures of the plant, and I believe
19 they were taken by counsel a couple weeks ago. Were you
20 there when those pictures were taken?

21 A I was not.

22 Q Do you know who was there from the city?

23 A I do not.

24 Q Is it possible Rod Wilburn was there?

25 A It's possible.

26 Q He'll be here. We'll ask him.

27 I wanted to clarify also what it means to be city
28 manager. You're the highest ranking official on the staff

1 of the City of Willits, correct?

2 A Yes.

3 Q And the only people higher than you are the City
4 Council, correct?

5 A Yes.

6 Q And when you have City Council meetings, the City
7 Council sits up on the dais, and you sit up there with them,
8 correct?

9 A Yes.

10 Q And you have authority over all the other
11 employees of the City of Willits, correct?

12 A Yes.

13 Q And all the other departments in the City of
14 Willits?

15 A Yes.

16 Q And you understand that keeping records is a very
17 important best management practice for a municipality,
18 correct?

19 A Yes.

20 Q And that's important both because the public has
21 a right to know what's going on, right?

22 A Yes.

23 Q And also to justify invoices and accounting that
24 you might do, correct?

25 A Yes.

26 Q And it was very important for you to keep
27 accurate records as it related to the billings that you sent
28 to Brooktrails, correct?

1 A Yes.

2 Q You understand -- go ahead and look at the bill
3 attached to Exhibit 330. Let me grab it.

4 MR. O'BRIEN: Your Honor, this has been admitted
5 as Exhibit 330. I would like to publish it to the jury.

6 THE COURT: You may.

7 BY MR. O'BRIEN:

8 Q The Crowley firm is very old-school, so this is
9 very fancy for us. I wanted to talk to you about a few
10 lines on this bill. And this is again a bill that you sent
11 attached to the letter that you sent a few weeks ago to
12 Brooktrails informing them that you were changing how you
13 would meter inflows, right?

14 A Yes.

15 Q And this is the bill -- and I don't want to look
16 at the estimates, I want to look at the actuals. So this is
17 the actual bill for fiscal year ending June 30th, 2013,
18 correct?

19 A Yes.

20 Q And on this bill you used -- you were still using
21 the 23.62 percent, correct?

22 A Yes.

23 Q And then you sent them an estimate for 2013/2014
24 fiscal year where you used the new 27 percent based on the
25 flows going out of the plant, right?

26 A Yes.

27 Q And I'll just show the jury here. The 23.62
28 percent we're talking about is over here, correct, on line

1 4?

2 A Yes.

3 Q And that's the calculation you used to determine
4 how much Brooktrails is going to pay towards the expenses of
5 this plant, correct?

6 A Yes.

7 Q So you take the total operating costs after
8 you've added up the various items, and you come up with
9 919,000, right?

10 A Yes.

11 Q And then you multiply that by whatever percentage
12 of inflows they had or, in this case, 2014 you changed it to
13 outflows and you get a number, right?

14 A Yes.

15 Q And the operations department is a sewer plant,
16 correct?

17 A Yes.

18 Q And so line 1 tells us that the sewer plant
19 operations in total costs 754,634, correct?

20 A Yes.

21 Q And the other two items that are charged to
22 Brooktrails are part of the administration, correct?

23 A Yes.

24 Q And also part of the engineering department, the
25 sewer engineering department, correct?

26 A Yes.

27 Q And the way you arrive at Brooktrails' share of
28 the administration charges is you add up the total costs of

1 the operations department and the maintenance department,
2 and then you multiply each number by that total?

3 A I think so. I don't do these computations
4 myself.

5 Q Okay. But in any case, whoever did it came up
6 with the fact that Brooktrails was going to owe 80.5 percent
7 of the administrative charges, right?

8 A Yes.

9 Q And the maintenance department would owe 19
10 percent, right?

11 A Yes.

12 Q All right. So in this year at least, any charges
13 that appeared in the sewer administration fund were going to
14 be charged 80 percent to the plant, of which Brooktrails
15 would pay part of, and 20 percent to the maintenance
16 department, correct?

17 A More or less.

18 Q The engineering department was a little bit,
19 right?

20 A In what respect?

21 Q Well you charge 100 percent of the sewer
22 administration to the plant, correct?

23 A Yes.

24 Q Sorry. 100 percent of the sewer engineering to
25 the plant, correct?

26 A Yes.

27 Q And that's true even though, and I think you
28 knew -- well, strike that.

1 At the time you sent out this bill, did you
2 understand there was problems or complaints about you
3 charging 100 percent of sewer engineering to the sewer
4 plant?

5 A I recall that those issues were just starting to
6 surface.

7 Q And that was two weeks ago or three weeks ago?

8 A The time this letter was sent.

9 Q And Joanne Cavalleri, you know Joanne Cavalleri,
10 right?

11 A Yes.

12 Q She was your former finance director up until
13 last year, correct?

14 A Yes.

15 Q And she worked at the city for five or six years,
16 correct, as finance director?

17 A Yes.

18 Q And her deposition was taken a couple months ago,
19 right?

20 A Yes.

21 Q Do you recall looking over her deposition after
22 it was taken?

23 A I did not read it.

24 Q Did anybody explain to you, other than your
25 lawyers, that Brooktrails had a serious complaint regarding
26 you charging 100 percent of the engineering, the sewer
27 engineering to the sewer plant?

28 MR. BARTOLOTTA: Objection, hearsay.

1 THE COURT: Whether the complaint was in fact
2 made in that regard is the only issue and it has to do with
3 this witness's awareness of it, not whether in fact what was
4 stated in the complaint was true.

5 So with that limitation, you may answer subject
6 to further redirect examination in effect. So if you have
7 the question in mind, you may answer.

8 THE WITNESS: Okay. Could you please restate the
9 question?

10 BY MR. O'BRIEN:

11 Q Did you learn from any source, other than your
12 attorneys, that Brooktrails had made a complaint at the time
13 of Joanne Cavalleri's deposition that it was unfair to
14 charge all of the sewer engineering to the sewer plant?

15 A I don't recall any other source.

16 Q But from some source you had, when you sent out
17 this letter two weeks ago or three weeks ago, you knew that
18 there was a problem charging 100 percent of engineering to
19 the sewer plant, correct?

20 A I don't recall the sequence of dates, but around
21 this time is when the issues of this particular issue
22 resurfaced.

23 Q Did you think to either hold off on sending the
24 bill because there was likely an error on it?

25 A Well, the bill had been delayed quite some time
26 and so it seemed important to get this piece taken care of.

27 Q There's -- well, let's look at an engineering
28 budget real quick.

1 MR. O'BRIEN: This would be admitted as a whole
2 exhibit and then the tabs would be subexhibits.

3 MR. BARTOLOTTA: I have just been handed this, so
4 I want an opportunity to review it before I agree to that,
5 but generally speaking there's an agreement that whole
6 budgets are admissible.

7 THE COURT: All right. So as long as when you
8 specify a particular document counsel is given an
9 opportunity to review that towards its admissibility, it
10 will be provisionally admitted.

11 THE CLERK: Marking it as 330.

12 MR. O'BRIEN: I am going to publish one page to
13 the jury, but I'll show the page that I'm going to publish
14 to counsel before I do. 331.

15 THE CLERK: 331.

16 (Plaintiff's Exhibit 331 was
17 marked for identification.)

18 MR. BARTOLOTTA: Mr. O'Brien, which year are we
19 looking at?

20 MR. O'BRIEN: Going to be looking at the budget
21 that goes along with the invoice. This is the 2012/13
22 budget. The one that goes along with this invoice, 2013.

23 Sorry about that. There is some housekeeping to
24 do now and then in these trials.

25 BY MR. O'BRIEN:

26 Q So I've directed you to the budget for 2012 and
27 2013. And this budget would have informed, in advance, what
28 was going to happen in the sewer engineering department for

1 that fiscal year, correct?

2 A Yes.

3 Q So this budget would have come out in advance of
4 the year as kind of a plan?

5 A Yes.

6 Q And then at the end of the year you would
7 reconcile the accounts and send out this bill, correct?

8 A Correct.

9 Q I wanted to talk to you about the sewer
10 engineering department's plan for 2012, 2013, okay?

11 A Okay.

12 Q And just to be clear, the sewer engineering
13 department does not have an office, correct?

14 A There's one office building that they're housed
15 in.

16 Q Well, that's the city engineer, right?

17 A Yes.

18 Q Okay. So the city engineer has an office,
19 correct?

20 A Yes.

21 Q And the city engineer has computers, correct?

22 A Yes.

23 Q And possibly surveying equipment, correct?

24 A Yes.

25 Q And printers or copiers or whatever goes along
26 with a city engineer's office, correct?

27 A Yes.

28 Q But this isn't the city engineering department,

1 is it?

2 A Well, it serves -- he serves this function.

3 Q I understand. His position is allocated to this
4 account, correct?

5 A Yes.

6 Q The city engineer department and the city
7 engineer account is in the general fund, correct?

8 A Yes.

9 Q Okay. And so you take a portion of the labor or
10 payroll from the city engineer's department and you just
11 allocate it to this account, correct?

12 A I believe so.

13 Q So there are no employees in the City of Willits
14 known as sewer engineers, correct?

15 A Correct.

16 Q Okay. And there are no sewer engineer computers,
17 correct?

18 A Correct.

19 Q And there's no sewer engineer desks or furniture,
20 correct?

21 A Not exclusively, no.

22 Q And there's no sewer engineer surveying
23 equipment, correct?

24 A I'm not aware.

25 Q All of that would be used -- it would be the city
26 engineer's equipment and they might use when it they're
27 working for the sewer department, right?

28 A Yes.

1 Q For 2012 and 2013 -- and we already know from the
2 bill that Brooktrails was billed its share of 100 percent of
3 the sewer engineering department, right?

4 A Yes.

5 MR. O'BRIEN: I'd like to publish this portion,
6 and it's from the sewer engineering budget for 2012/2013,
7 which is now part of Exhibit 331 at tab 10.

8 BY MR. O'BRIEN:

9 Q So what we're looking at right now is a correct
10 copy of the sewer engineering budget for 2012/2013, correct?

11 A Yes.

12 Q And under 2012/2013 program goals, that was the
13 sewer engineering's goals for that year, correct?

14 A Yes.

15 Q That's their plan?

16 A Yes.

17 Q And when you publish one of these budgets, it's
18 your duty as city manager to be as accurate as possible,
19 correct?

20 A Yes, although I was not city manager at this
21 time.

22 Q Okay. Well, whoever was the city manager before
23 you would have had the same responsibilities to your
24 citizens as you do, correct?

25 A Yes.

26 Q Okay. And you'd have to be honest, correct?

27 A Yes.

28 Q And loyal. And you have a complete duty to try

1 to do the best you can on these budgets, correct?

2 A Yes.

3 Q And the first item on this says develop a plan
4 for installing a septage receiving station, right?

5 A Yes.

6 Q And so that's -- and we'll talk about septage
7 receiving in a little bit, but that's where trucks drop off
8 raw sewage and it's put in a tank at the plant, correct?

9 A Yes.

10 Q And they pay a specific fee for that, correct?

11 A Yes.

12 Q And the rest of it is sewer that comes to the
13 plant, sewage that comes in the plant comes through pipes,
14 correct?

15 A Yes.

16 Q And it's automatically routed through the plant,
17 correct?

18 A Yes.

19 Q So some -- one of the employees from the sewer
20 plant has to go out and meet the truck, I'm assuming,
21 correct?

22 A I've never witnessed that process, no.

23 Q So you don't know exactly how it happens, but you
24 know that's kind of what happens, right?

25 A Yes.

26 Q So Brooktrails shouldn't pay a part of the
27 septage receiving station, should it?

28 A I'm sorry?

1 Q Should Brooktrails be paying any part of the
2 billing of that septage receiving station?

3 MR. BARTOLOTTA: Objection, calls for an expert
4 opinion.

5 THE COURT: That's overruled, given her status as
6 city manager, and if she knows she may give an answer.

7 Do you know?

8 THE WITNESS: I don't know.

9 BY MR. O'BRIEN:

10 Q How about provide plans, specifications and
11 recommendations for the installation of a maintenance
12 building? The maintenance is capitalized, right?

13 A Yes.

14 Q That's for the maintenance department, correct?

15 A Yes.

16 Q And the maintenance department, we've already
17 talked about that applies to the collection system for the
18 City of Willits, correct?

19 A Yes.

20 Q Okay. And Brooktrails is not supposed to pay for
21 anything related to the collection system for the City of
22 Willits, correct?

23 A I believe that's correct.

24 Q Well, do you believe it or do you know it to be
25 correct?

26 A I --

27 MR. BARTOLOTTA: Objection, your Honor,
28 argumentative.

1 THE COURT: It is.

2 BY MR. O'BRIEN:

3 Q Well, I'm just trying to clarify, because it
4 seems like there's some hesitancy.

5 You understand that Brooktrails is only supposed
6 to pay a share of the operations of the sewer plant,
7 correct?

8 A Yes.

9 Q And you're not meaning to intend that you're not
10 sure whether Brooktrails is supposed to pay for the City of
11 Willits' pipes in its streets, correct?

12 A I apologize. Yes.

13 Q So Brooktrails should not be contributing towards
14 the installation of a maintenance building for the city,
15 correct?

16 A I suppose that's correct.

17 Q And the next item is further sewer mapping by
18 converting system sewer map to ArcView for compatibility
19 with the sewer truck. And I understand that that's a truck
20 that goes around and cameras your sewer lines throughout the
21 City of Willits, right?

22 A I believe so.

23 Q Okay. And that only has to do with the city's
24 collection system, correct?

25 A I believe so.

26 Q And so Brooktrails again shouldn't ever pay for a
27 part of you sending cameras down your collection system to
28 see if there's broken pipes and whatnot, correct?

1 A I presume so.

2 Q You presume so that I'm correct that they should
3 not -- Brooktrails should not be paying for camera-ing the
4 City of Willits' pipes, correct?

5 A Yes.

6 Q Do you know what a hydraulic model is?

7 A No, I don't.

8 Q It's never been made clear to me either. We'll
9 have to ask one of the experts. We're going to have
10 somebody in here, so we won't talk about that one, okay?

11 The next one is complete the Holly Street sewer
12 line plans and specifications, right?

13 A Yes.

14 Q And that's an engineering project that's been
15 going on for the City of Willits for a few years now, right?

16 A Yes.

17 Q In fact, it's still going on, correct?

18 A Yes.

19 Q So it's been going on since 2000 -- this budget
20 was created back in 2012, right?

21 A Yes.

22 Q And Brooktrails doesn't have to help the City of
23 Willits install sewer lines in Holly Street, right?

24 A No.

25 Q So Brooktrails should not pay for any portion of
26 that engineering, correct?

27 A Right.

28 Q And this was the plan for the engineering

1 department in 2012 and 2013 that ultimately a year later
2 ended up on the bill that you sent a couple weeks ago,
3 correct? Actual amount.

4 A Yes.

5 Q So now do you understand why Brooktrails has a
6 complaint about them being charged for 100 percent of the
7 city's engineer, at least for this year?

8 A Yes.

9 Q It's pretty clear that either all or a big part
10 of what the city engineer did in 2012, 2013 only related to
11 city projects and had nothing to do with the citizens of
12 Brooktrails, correct?

13 A Well, actually --

14 MR. BARTOLOTTA: Objection, assumes facts not in
15 evidence.

16 THE COURT: Again, if this witness understands
17 the question and you believe you can answer it, you may. So
18 overruled.

19 THE WITNESS: These are program goals, they are
20 not necessarily what was actually worked on.

21 BY MR. O'BRIEN:

22 Q Let's talk about that. So this is what their
23 plan was for the year, but you're not sure whether or not
24 they followed through on their plan, correct?

25 A Yes.

26 Q Where would we look to find out if they followed
27 through on their plan?

28 A We would look at the audit, I suppose.

1 Q Where would that appear? You mean on the audit
2 that's completed for the City of Willits every year by their
3 accountants?

4 A Yes.

5 Q And where in the audit might we find whether the
6 sewer engineers completed their 2012/2013 program goals?

7 A I think based on the records that they reviewed
8 for the audit. I mean there are time sheets, and I don't
9 know what other records exist.

10 Q The sewer engineers on their time sheets don't
11 separate their time between working on the city collection
12 system and working on the sewer plant, correct?

13 A I'd have to look at a time sheet.

14 Q Okay. I'll pull some out. We looked at them.
15 You brought some to me yesterday.

16 A Yes.

17 Q So you don't know one way or the other whether
18 they separate out their time?

19 A Not offhand.

20 Q Do you plan -- given what you know now after our
21 chat, do you plan on sending out a revised bill to
22 Brooktrails for 2013, at least correcting the engineering
23 charge?

24 A At this moment I don't know.

25 Q After our discussion yesterday about the fact
26 that it may or may not be right for you to unilaterally
27 change from using the inflow meter to the outflow meter,
28 given what the contract says, do you plan on making a

1 presentation to the City Council regarding that issue and
2 possibly retracting or changing the city stance on that
3 issue?

4 A I couldn't speculate about that right now.

5 Q I'm just asking what you're going to do. I'm not
6 asking you to speculate. I'm just asking you if you have a
7 plan to do so as the CEO of the city?

8 A As this is unfolding, I'm sure that we will have
9 another update to the City Council.

10 Q And if you at the City Council determine that
11 there were mistakes made on this bill, would you also go
12 back and look at the other bills that you sent to
13 Brooktrails over the past 10 years that are at issue here?

14 A I'm sure we would review those.

15 Q And if they're due credits, you're going to give
16 them those credits, correct?

17 A Well, that would have to be determined by the
18 City Council.

19 Q Before we leave this page, I just wanted to ask
20 you and so everybody in the room understands. Right below
21 the program goals we just talked about are the allocated
22 positions, right?

23 A Yes.

24 Q And so where it says "City Engineer 10 percent,"
25 that means you're just taking part of the city engineer's
26 salary, which is sitting in the general fund, and you're
27 moving it over into the sewer fund, right?

28 A Yes.

1 Q And then ultimately passing it through to the
2 plant and to Brooktrails, right?

3 A Yes.

4 Q And that's the same thing with these other two
5 accounts, right?

6 A Yes.

7 Q All right. Let's go back to the bill for a
8 second.

9 MR. O'BRIEN: Your Honor, I'm going to republish
10 the bill that's attached to Exhibit Number 330.

11 THE COURT: You may.

12 MR. O'BRIEN: Thank you.

13 BY MR. O'BRIEN:

14 Q All right. So we talked yesterday about there's
15 problems with the 23.62 percent, which is kind of the main
16 number to get Brooktrails' payment, and we talked about
17 there being some serious questions about the engineering
18 department.

19 I want to talk a little bit about administration
20 now. In 2013, you had a company called Matrix do the
21 administration calculations for the city, right?

22 A Yes.

23 Q And that started in 2010, correct?

24 A Somewhere around there, yes.

25 Q You weren't there at the time. You were the
26 clerk, right?

27 A Right.

28 Q So you may have been at City Council meetings

1 where the Matrix plan was approved, for instance?

2 A Yes.

3 Q And Matrix does a very detailed analysis of what
4 everybody is doing in the city, right?

5 A Yes.

6 Q And then they try to very accurately assign the
7 allocated positions to the various departments where the
8 benefits are being received, right?

9 A Yes.

10 Q So the services charged need to match benefits
11 received, that's the concept, right?

12 A Yes.

13 Q But you only used Matrix for one charge, right?
14 Just for the city-wide allocations, correct?

15 A I think so. I think that's correct.

16 Q Okay. So you don't use Matrix to do an internal
17 allocation coming up with this 80/20?

18 A Actually, I couldn't speak to that because I
19 wasn't directly involved with them.

20 Q We'll talk to Ms. Cavalleri this afternoon about
21 that.

22 I'd like you to turn to the sewer administration
23 part of the budget we were just looking at. And the sewer
24 administration account is the 5010 account, right?

25 A Yes.

26 Q And the 5010 account is noted on the bill, and on
27 here it says "Administration," right?

28 A Yes.

1 Q And this year when we got to the end of the year
2 the sewer administration was 205,000, right?

3 A Yes.

4 Q And that number includes a couple things, doesn't
5 it? It includes the city-wide allocation that Matrix makes,
6 right?

7 A Yes.

8 Q And then it also includes direct allocations,
9 right?

10 A I believe -- I believe so.

11 Q So look at the sewer administration part of the
12 budget again, okay?

13 A Okay.

14 MR. O'BRIEN: And it looks just like the
15 engineering. And I'll publish it, your Honor. It's another
16 part of the budget, which I believe is Exhibit 331 at tab
17 10, and we're going to look at the sewer administration
18 account now.

19 BY MR. O'BRIEN

20 Q So we know that there's an indirect allocation
21 from Matrix. But the City of Willits also reallocates some
22 of those same positions directly to certain funds, right?

23 A Yes.

24 Q And that's what we're seeing here on the screen,
25 right?

26 A Yes.

27 Q Okay. So with regard to the city manager, your
28 salary had already been allocated to the sewer plant through

1 the Matrix report, correct?

2 A Yes.

3 Q You're part of the general fund services that the
4 Matrix allocates out?

5 A Yes.

6 Q So prior to looking at this, the sewer plant's
7 already gotten a portion of your salary, correct?

8 A Yes.

9 Q And this is a way of giving the sewer plant more
10 of your salary, right? Correct?

11 A An allocation, yes.

12 Q Yeah. An allocation gives sewer plant more of --

13 A Yes.

14 Q -- of your salary, right?

15 What does the utility billing clerk do?

16 A She does, let's see, water and sewer billing.

17 Q For your customers, right?

18 A Yes.

19 Q And that's "Office Assistant III, (UB clerk),"
20 right?

21 A Yes.

22 Q And in 2013 you budgeted that the sewer fund
23 would get 30 percent of that, right?

24 A Um, the city manager at that time budgeted for
25 that.

26 Q Well, the City of Willits, you are kind of here
27 representing them, so I kind of have to ask you about these
28 things.

1 The utility billing clerk send bills out to the
2 residents and businesses of the City of Willits for the
3 sewage or sewer services that are provided to them, correct?

4 A Yes.

5 Q And Brooktrails has its own clerk that sends out
6 the bills to the Brooktrails citizens, right?

7 A Yes.

8 Q And so by putting the utility billing clerk into
9 this, the sewer admin fund, it ultimately ends up on the
10 bill you send to Brooktrails, right?

11 A Yes.

12 Q And so Brooktrails is paying a portion of the
13 City of Willits sending its bills out to its residents,
14 right?

15 A Well, I don't know how exactly this allocation is
16 arrived at.

17 Q That's why you're here. I'm not sure either.
18 I'm just saying that's what this budget says, correct?

19 A Yes, that's what it says.

20 Q It says that ultimately the 5010 sewer
21 administration account is going to be put onto Brooktrails'
22 bill and Brooktrails is going to end up paying part of you
23 sending out the bills to your customers, correct?

24 A I can't answer that. She does many things. I
25 don't know what was factored into this allocation.

26 Q Well, wouldn't it be more appropriate to just
27 directly allocate the billing clerk to the collections
28 department, the maintenance department, so they would just

1 be paying for the bills to the customers?

2 A I don't know. You'd have to ask the finance
3 director.

4 Q As you sit here today, can you think of any tasks
5 that the utility billing clerk does that benefits
6 Brooktrails?

7 A Well, I don't ever see her work directly. She
8 reports to somebody else, so I can't answer that.

9 Q So you don't know?

10 A I don't know.

11 Q Maybe Ms. Cavalleri would know?

12 A I believe so.

13 Q Okay. Do you know how much time the finance
14 director spends working directly for the sewer plant?

15 A No. I mean --

16 Q The finance director is another one of those
17 positions that's already been allocated one time to this
18 sewer administration fund prior to this direct allocation,
19 right?

20 A Yes.

21 Q Is it true that the finance director's primary
22 job is about six months of the year to do budgets and the
23 other six months of the year to do audits?

24 A There are many, many tasks that the finance
25 director does, so I think that's a pretty simplistic
26 characterization.

27 Q And again, we can talk Ms. Cavalleri who would
28 know more about that, right?

1 A Yes.

2 Q I wanted to follow up on the 23.62 percent from
3 you and hopefully get some more information about that. And
4 part of it relates to a note that is on this bill that we've
5 been looking at, note number 4. Do you see that?

6 A Yes.

7 Q Note number 4 says, "Estimated allocation
8 percentage based on total flow entering treatment plant.
9 The average of years 1999 through 2002 reference letter city
10 -- to city from district dated 2/6/05." Do you see that?

11 A 2/8/05.

12 Q Oh, 2/8/05. I have bad eyes.

13 I asked you in your notice to appear today if you
14 could bring that letter that's referenced in not just this
15 bill but every bill that's been sent to Brooktrails since
16 2002. Did you find a letter like that?

17 A I did not receive that notice. Um, and so I -- I
18 don't know. I haven't seen this letter.

19 Q Do you know if that letter exists?

20 A I believe it does.

21 Q You do believe a letter like that exists?

22 A I have been told it does.

23 Q Okay. Well, I would love to have it produced. I
24 asked for it in the notice to appear. I don't believe one
25 exists, but if it does I want to see it. We've asked for it
26 a number of times. So perhaps we can talk about that at
27 break as well.

28 Man, my topics are going away here quickly.

1 The budget we were just looking at. There's an
2 account in the sewer fund, and it's the last account, it's
3 account 5015. Do you see that?

4 A Yes.

5 MR. O'BRIEN: I'm going to publish this one as
6 well.

7 BY MR. O'BRIEN:

8 Q This is an account for the City of Willits to
9 receive septage, right?

10 A Yes.

11 Q And this is a separate account and has its own
12 name and its own account number from the sewer plant, right?

13 A Yes.

14 Q Do you know when this account was established?

15 A No.

16 Q And you understand, I think we read yesterday in
17 the contract, that all -- the city is to establish books and
18 records of each account separate and distinct from the sewer
19 plant, correct?

20 A Yes.

21 Q And this is a separate and distinct account the
22 septage receiving account from the sewer plant, right?

23 A Um, in my understanding, all of these are related
24 to the sewer plant.

25 Q Well they're all part of the sewer fund, correct?

26 A Yes.

27 Q And the sewer fund is an enterprise fund that has
28 a group of operations in it, right?

1 A Yes.

2 Q One of them is the collection system, right?

3 A Yes.

4 Q One of them is the sewer plant, right?

5 A Yes.

6 Q There's the sewer engineering department, right?

7 A Yes.

8 Q And there's the septage receiving department,
9 correct?

10 A Fund, yes.

11 Q The septage receiving account, it's not a fund,
12 is it?

13 A Yes.

14 Q The septage receiving, do you know when the
15 septage receiving account became its own account?

16 A I do not.

17 Q Does 2010/2011 sound correct?

18 A I really have no idea.

19 Q Okay. You know if there was a time in the city
20 bookkeeping that they didn't have a septage receiving
21 account?

22 A I do not know.

23 Q Do you understand that the septage receiving
24 account is in place so that the city can segregate the
25 expenses associated with septage receiving from the expenses
26 associated with the other accounts in the sewer fund?

27 A That's my understanding.

28 Q Okay. In fact, in this year, you can see, and

1 I'll zoom in a little bit so everybody can see, you can see
2 they actually budgeted in 2011, 2012 there was some money
3 budgeted for expenses, right?

4 A Yes.

5 Q And there was some positions allocated to septage
6 receiving, right?

7 A Yes.

8 Q And these would have been for the employees going
9 out to get the septage, right?

10 A Yes.

11 Q And then if you look at the actual. So that
12 projected actual line is what you actually spent in the
13 preceding year, right?

14 A Yes.

15 Q So you budgeted expenses, which was great, and I
16 think the total was \$64,000 the septage receiving account
17 was supposed to take, but you didn't actually book the
18 expenses at the end of the year to that account, right?

19 A Yes.

20 Q So if the expenses weren't booked to that
21 account, they probably stayed in the sewer plant account,
22 correct?

23 A I don't know.

24 Q Well, the septage receiving activity or business
25 occurs at the sewer plant, correct?

26 A Yes.

27 Q And the city allows trucks, like Roto-Rooter, to
28 come down Sewer Plant Road and into the plant and, I

1 understand, dump septage into this tank, right?

2 A That's my understanding.

3 Q And you invoice them for that, right?

4 A Yes.

5 Q And you make almost \$200,000 a year for that,
6 correct?

7 A Um, I don't know offhand.

8 Q You can look at this year if you'd like. Is that
9 something that you're responsible for as a city manager,
10 booking revenue or understanding revenue?

11 A Well, the finance department is.

12 Q Okay. We can look at it in a sec. But in any
13 case, you receive a substantial amount of revenues for
14 septage receiving, correct?

15 A Yes.

16 Q And as part of that you're supposed to book
17 expenses to that account, correct?

18 A Yes.

19 Q And all the people that are receiving the septage
20 and writing the invoices and measuring the amount of septage
21 that's dropped off and testing the septage, they all work at
22 the sewer plant operation, right?

23 A Yes.

24 Q Same people?

25 A Yes.

26 Q Same equipment's used, same power is used, all
27 those things, right?

28 A I don't know if there's different equipment or

1 not.

2 Q Okay. Well, do they use the same PG&E bill?

3 A Oh, yes.

4 Q Okay. So the plant is kind of sharing expenses
5 with the septage receiving account, correct?

6 A I would presume so.

7 Q And it would be important to you as city manager
8 to make sure that the septage receiving business pays for
9 its own expenses, right?

10 A Yes.

11 Q So Brooktrails doesn't end up paying for them,
12 right?

13 A Yes.

14 Q Or anybody else?

15 A Yes.

16 Q Okay. And at least we know from the public
17 document that you're looking at right here, and it's on the
18 Elmo, you didn't book any expenses to septage receiving in
19 2012, did you?

20 A Correct.

21 Q Okay. Let's see if we can look and see if we can
22 find the revenue.

23 If you turn to the next page of the same budget
24 you're looking at. I'm --

25 MR. BARTOLOTTA: Just so the same year, 2012/13?

26 MR. O'BRIEN: This is the same budget we were
27 looking at, same budget we were looking at, which I believe
28 was Exhibit 231, tab 10, and we actually have a page number,

1 it's 331, tab 10, and we're at page 109 and 110 of the
2 2012/2013 budget. And this is tiny writing.

3 BY MR. O'BRIEN:

4 Q Okay. So if you look down here, this is part of
5 the sewer fund enterprise again, right?

6 A Yes.

7 Q And you see where the revenue is booked from
8 septic receiving?

9 A Yes.

10 Q And how much did you budget to receive in revenue
11 in 2011, 2012?

12 A \$155,000.

13 Q And how much revenue did you actually receive in
14 2011, 2012?

15 A \$180,334.

16 Q Okay. So the city was successful in booking the
17 revenue to the septage receiving account, correct?

18 A According to this, yes.

19 Q They just failed to book any expenses, right?

20 A That would seem to be the case.

21 Q Are you planning, when you leave here today, to
22 go back and talk to the City Council about correcting this
23 error in Brooktrails' bill and offering them a credit?

24 A We would have that discussion with their finance
25 department and then City Council.

26 Q So far on this bill we've talked about the 23.62
27 percent being a problem, and we've talked about the
28 administrative charges being a problem, and the engineering

1 charges being a problem, and also that it appears that
2 Brooktrails is paying for part of a separate account which
3 is septage receiving.

4 MR. O'BRIEN: Your Honor, when are we going to
5 take a break, because the next thing obviously is to talk
6 about this letter.

7 THE COURT: I wasn't going to take a break until
8 10:00.

9 MR. O'BRIEN: Okay. I can go through the letters
10 that I believe exist, and we'll start and then we'll
11 hopefully get to the break, okay?

12 THE COURT: All right.

13 BY MR. O'BRIEN:

14 Q Were you present at the -- well, were you present
15 at the meeting that recently occurred regarding your letter
16 to Brooktrails, which is Exhibit 330?

17 A What meeting are you referring to?

18 Q There was a City Council meeting discussing the
19 city's decision to use the effluent meter instead of the
20 influent meter to bill Brooktrails, right?

21 A Yes.

22 Q And you were sitting up on the dais, right?

23 A Yes.

24 Q With the City Council?

25 A Yes.

26 Q And the City Council -- it wasn't just that you
27 wrote this letter, the City Council actually adopted a
28 resolution changing the contract and saying they were going

1 to use the effluent meter instead of the influent meter,
2 correct?

3 A Yes.

4 Q And Brooktrails never adopted a resolution saying
5 that it was okay, right?

6 A I'm not aware of that.

7 Q Okay. And during that meeting, do you recall
8 Brooktrails, an individual from Brooktrails showing up and
9 saying, hey, we'd like to see this letter, and there was a
10 discussion on the City Council and Steve Lance spoke up and
11 told about the history of the letter?

12 A I do recall that, and Jim Lance, our city
13 attorney, responded that.

14 Q And do you recall Jim Lance during that meeting
15 saying that there really wasn't an agreement but it was more
16 of an understanding and there was no written agreement?

17 A Yes.

18 Q Okay. Does that refresh your recollection as to
19 whether or not the letter referred to at the bottom of this
20 bill actually exists?

21 A My recollection is that there was not a written
22 agreement between the two governing bodies, but that there
23 was a letter exchanged between the general manager and the
24 city manager.

25 Q All right. So let's look at those letters. I'd
26 like you to turn to Exhibit 90, which will be the first of
27 the letters.

28 MR. O'BRIEN: And if the clerk can turn to

1 Exhibit 90 as well, and your Honor, if you want to, you have
2 your binders.

3 THE WITNESS: I'm sorry, Exhibit 90?

4 BY MR. O'BRIEN:

5 Q I believe it's Exhibit 90. That's in my binder.
6 Oh, you probably don't have the right binder. Let's find
7 you the right one.

8 MR. O'BRIEN: If could I approach?

9 THE COURT: Of course.

10 MR. O'BRIEN: Thank you, your Honor.

11 BY MR. O'BRIEN:

12 Q There's basically six binders, and the tabs are
13 in order. Okay. Ms. Moore, are you there?

14 A Um-hum.

15 Q What is Exhibit 90?

16 A It is a letter from the City of Willits to Mike
17 Chapman who was the general manager, and it's dated February
18 1st, 2005.

19 Q Okay. So this letter is pretty close in date to
20 the one on the bottom of Brooktrails' bill, right?

21 A Yes.

22 Q The only problem with that is that this letter is
23 not from Brooktrails to the city like the note says, right?

24 A That's correct.

25 Q This is a letter from the city to Brooktrails?

26 A Yes.

27 Q Have you seen this letter before?

28 A Um, I may have.

1 Q Who signed the letter?

2 A Ross Walker.

3 Q Do you know who Ross Walker is?

4 A He was our city manager at the time.

5 Q And you worked for him when you were city clerk
6 and human resource manager, did you not?

7 A No, I did not.

8 Q So he was city manager before you got there?

9 A Yes.

10 Q Do you recognize Ross Walker's signature on this
11 document?

12 A I don't know his signature, so --

13 Q Okay. And we'll have Ross Walker here so he can
14 authenticate his own document.

15 MR. O'BRIEN: Lee, do you have a problem with
16 admitting this document now, or do you want to wait on
17 admitting this document?

18 MR. BARTOLOTTA: I'd like to wait.

19 BY MR. O'BRIEN:

20 Q This is on the City of Willits' letterhead,
21 though, correct?

22 A Yes.

23 Q And can you take a sec and have a look-see at
24 that letter?

25 A Sure.

26 Q Did you read it?

27 A Yes.

28 Q Now that you read it, do you recall reading this

1 letter in the past?

2 A I do not.

3 Q And what Ross Walker is suggesting to Mike
4 Chapman is that the meters are broken and that he would like
5 to use an average of the prior three years to bill them
6 until such time as the meter is fixed, correct?

7 MR. BARTOLOTTA: Objection, hearsay.

8 THE COURT: Sustained.

9 MR. O'BRIEN: Your Honor can I approach?

10 THE COURT: Yes.

11 (Both counsel approach the bench.)

12 THE COURT: Thank you, Counsel.

13 BY MR. O'BRIEN:

14 Q Do you know if Brooktrails responded to this
15 letter?

16 A Not offhand I don't.

17 Q Let's briefly look at Exhibit 96.

18 MR. O'BRIEN: Madam Clerk, did you mark Exhibit
19 90 even though it hasn't been admitted yet?

20 THE CLERK: Yes.

21 MR. O'BRIEN: And Exhibit 96 is the next one.

22 BY MR. O'BRIEN:

23 Q Exhibit next is a letter from Mike Chapman to
24 Ross Walker responding to the prior letter, isn't it?

25 A It does not give a date reference for the letter,
26 but the context is there.

27 Q And attached to Mike Chapman's letter is a
28 proposed -- this will get confusing -- fourth amendment,

1 right?

2 A Yes.

3 Q But this amendment doesn't regard loans, this
4 amendment regards using the 23.26 percent for a period of
5 time, correct?

6 MR. BARTOLOTTA: Objection, hearsay.

7 THE COURT: Again, well, on foundational grounds
8 the objection is sustained.

9 BY MR. O'BRIEN:

10 Q Do you know who Mike Chapman is?

11 A Yes.

12 Q Did you work with Mike Chapman while you were at
13 the city?

14 A No.

15 MR. O'BRIEN: This will be next in line. This
16 will be 332 I think we're at.

17 THE CLERK: Marking 332 for the record.

18 (Plaintiff's Exhibit 332 was
19 marked for identification.)

20 MR. O'BRIEN: Is it admitted?

21 BY MR. O'BRIEN:

22 Q Ms. Moore, the next document I'm going to show
23 you is a City of Willits resolution, I believe. Is that
24 what that is?

25 A Yes.

26 Q And you produced this to me this morning,
27 correct?

28 A Yes.

1 Q How did you find this document?

2 A I didn't find it, my deputy clerk did.

3 Q So you instructed your deputy clerk to obtain
4 some resolutions that I requested, correct?

5 A To respond to the subpoena she received
6 yesterday.

7 Q Okay. And were you at the meeting that this
8 resolution was adopted at?

9 A Yes.

10 Q And does this appear to be a true and correct
11 copy of the resolution that was passed on July 1st, 2014?

12 A Yes.

13 Q And at that time the mayor of the city was Holly
14 Madrigal who is sitting here, right?

15 A Yes.

16 Q And this resolution approves certain fees for
17 services that the City of Willits charges, correct?

18 A Yes.

19 Q And those fees are for things that aren't taxes,
20 right. So there's fees for providing a service, correct?

21 A Yes.

22 Q And included in that are things like there's
23 police service fees, right, on page 2?

24 A Yes.

25 Q There's permit fees --

26 A Yes.

27 Q -- from the public works department?

28 MR. O'BRIEN: While I'm looking, I'd like to move

1 to admit Exhibit 332.

2 MR. BARTOLOTTA: No objection.

3 THE COURT: 332 is admitted and may be published.

4 (Plaintiff's Exhibit 332

5 was received in evidence.)

6 was received into evidence.)

7 MR. O'BRIEN: Is it admitted?

8 BY MR. O'BRIEN:

9 Q And there's swimming pool fees in here, right?
10 The City of Willits has a swimming pool?

11 A Yes.

12 Q And then on page 811 we get to the sewer fund
13 fees, correct?

14 A Yes.

15 Q And you have sewer connection fees, correct,
16 that's for a new home being built where they want to connect
17 up to the city sewer, correct?

18 A Yes.

19 Q And also various special fees?

20 A Yes.

21 Q And then I was looking under sewer special fees,
22 and there's a septage disposal fee, right?

23 A Yes.

24 Q And it's \$20 a load plus 12 cents a gallon,
25 correct?

26 A Yes.

27 Q And there's also an inspection and testing fee of
28 \$25, right?

1 A Yes.

2 Q And you're not allowed to make money on these
3 fees, are you, as a city?

4 A No, it's to cover the cost of the service.

5 Q So if we look at those fees, we know exactly how
6 much the costs are for septage, right?

7 A That's the -- yes.

8 Q It's either equal to or more than that, right?

9 A Right.

10 Q You're not allowed to charge more than you spend?

11 A Right.

12 Q And that actually says it right in the
13 resolution, doesn't it?

14 A Yes.

15 Q Resolution 3 is the amount of the fee and service
16 charge set forth attached to Exhibit A which we just read
17 from, right?

18 A Yes.

19 Q "Do not exceed the estimated amount required to
20 provide the service for which the fee is charged," right?

21 A Right.

22 Q Why is that?

23 A I believe it's a state law.

24 Q Is it in the Constitution or is it the law?

25 A I couldn't tell you.

26 Q Okay. And so do you do an analysis to decide how
27 much the operating costs are for receiving septage and then
28 set the fee at that amount?

1 A Each department head would do that.

2 Q So when it says "inspection testing fee,"
3 presumably that's how much it cost to test septage when it
4 comes in, correct?

5 A Yes.

6 Q And then when it says septage disposal \$20 plus
7 12 cents a gallon, that's how much it costs for the city to
8 process septage in its septage business, correct?

9 A Yes.

10 Q And the idea at the end of the day is that the
11 revenue you bring in will cover exactly what the costs are?

12 A Yes.

13 Q You're not looking to make a profit on septage
14 receiving, correct?

15 A No.

16 Q Or on any of the services you provide, correct?

17 A That's correct.

18 Q The only way a city can make a profit is by
19 getting voters to approve a tax; isn't that right?

20 A Yes.

21 Q I learned a lot in this case.

22 I have with me copies of resolutions going all
23 the way back to 2005. And as far as you know, did same
24 language appear in the resolution all the way back to 2005?

25 A I presume so, but I'd have to read them.

26 Q Okay.

27 THE CLERK: Marking 333 for the record.

28 (Plaintiff's Exhibit 333 was
 marked for identification.)

1 BY MR. O'BRIEN:

2 Q When your city clerk went and found these
3 documents for you, these documents are kept in a specific
4 place in the city, correct?

5 A Yes.

6 Q And when these resolutions are passed, it's the
7 city's policy to contemporaneously record the resolution as
8 it was made accurately, correct?

9 A Yes.

10 Q And it's attested to, correct, by the city clerk?

11 A Yes.

12 Q That's a position you held for a while, so you
13 know how resolutions are passed, right?

14 A Yes.

15 Q And it's also attested to by the mayor, right?

16 A Yes.

17 Q So these resolutions can be considered very
18 reliable documents, correct?

19 MR. BARTOLOTTA: Objection, calls for
20 speculation.

21 THE COURT: Overruled on that ground. Was there
22 a second basis?

23 MR. BARTOLATTA: Lacks foundation.

24 THE COURT: Sustained.

25 BY MR. O'BRIEN:

26 Q As a city clerk, you do everything you possibly
27 can prior to attesting a resolution to assure that the
28 document accurately reflects the decisions made by the City

1 Council, correct?

2 A Yes.

3 Q And then the documents are stored at the city,
4 correct?

5 A Yes.

6 Q And they're stored in a reliable place?

7 A Yes.

8 Q And you asked your clerk today to go search the
9 public records of the City of Willits and find the
10 resolutions I asked for, correct?

11 A Yesterday, yes.

12 Q Do you have any reason to doubt the authenticity
13 of the records that she gave you this morning to bring to
14 me?

15 A I didn't look at them myself. I delivered them.
16 So I, on principle know they should be very authentic
17 copies.

18 MR. O'BRIEN: I'd like to move to admit this
19 resolution as well.

20 MR. BARTOLOTTA: No objection.

21 THE COURT: Just the first page or with the
22 exhibits?

23 MR. O'BRIEN: No, with the exhibits, your Honor.

24 THE COURT: So 333.

25 MR. O'BRIEN: And it's only important for our
26 damages calculation later.

27 THE COURT: 333 is admitted.

28 MR. O'BRIEN: Thank you, your Honor.

1 (Plaintiff's Exhibit 333
2 was received in evidence.)

3 BY MR. O'BRIEN:

4 Q Again, if you could just briefly scan resolution
5 2005-27. This is a similar resolution to the one that was
6 passed in 2014, correct?

7 MR. BARTOLOTTA: Lacks foundation.

8 THE COURT: If you know, you may answer.

9 THE WITNESS: Yes, it is.

10 BY MR. O'BRIEN:

11 Q You're looking at both of them, right?

12 A Yes.

13 Q So you can see whether or not they're very
14 similar, correct?

15 A Yes.

16 Q And specifically with regard to paragraph 3,
17 these -- a very similar language exists, correct?

18 A Yes.

19 Q And it says, "The amount of the fee and service
20 charges set forth in attached Exhibit A don't exceed the
21 amount required to provide the service for which the fee is
22 charged," right?

23 A Yes.

24 Q So in 2005, if we look at -- the fee schedule is
25 a little different. Page 10 in 2005, you see the septage
26 charge there, number 2?

27 A Yes.

28 Q And in 2005, you were charging \$40 a load plus 10

1 cents a gallon, right?

2 A Yes.

3 Q Or \$20 a load for trucks of 500 gallons or less,
4 right?

5 A Yes.

6 Q And you didn't have -- did you have a testing fee
7 in 2005 or not? Oh, yeah. \$25, right?

8 A Yes.

9 Q Do you know what is involved in testing septage?

10 A No.

11 Q Ask Rod Wilburn?

12 A Yes.

13 Q Okay. So the price has gone up a little bit
14 since 2005, that's because your costs have gone up a little
15 bit, correct?

16 MR. BARTOLOTTA: Objection, calls for
17 speculation, lacks foundation.

18 THE COURT: At this point, yes, it does, but
19 doesn't foreclose the area.

20 BY MR. O'BRIEN:

21 Q Again, in 2005, the way the City of Willits
22 complied with the resolution 2005-27, was they did an
23 analysis and determined that the costs listed on page 10,
24 the fees listed on page 10, would either cover or be less
25 than the amount you were paying to treat the septage,
26 correct?

27 A I really have no knowledge of what the analysis
28 was at that time.

1 Q They would have had to do some analysis in order
2 to comply with the law, right?

3 A I would presume.

4 Q Do you have any reason to believe that the
5 analysis was done differently in 2005 than it's done today?

6 A I really couldn't speculate on that.

7 Q And who was the city manager in 2005, if you
8 recall?

9 A Ross Walker.

10 Q Okay. So we can talk to Mr. Walker more about
11 that, correct?

12 A Yes.

13 MR. O'BRIEN: I have the rest of the resolutions
14 which I'm not going to ask her questions about unless you
15 need me to. I'd like to just admit the other resolutions as
16 well. They're all the same. As one packet, one exhibit.

17 MR. CROWLEY: Just lay the foundation.

18 MR. BARTOLOTTA: I have not seen them.

19 MR. O'BRIEN: All right. We'll just go through
20 each one of them.

21 THE CLERK: Marking 334 for the record.

22 (Plaintiff's Exhibit 334 was
 marked for identification.)

23 BY MR. O'BRIEN:

24 Q All right. We're looking now at Exhibit --
25 We're now looking, I think, at Exhibit 334,
26 right?

27 A Yes.

28 Q And we'll go hopefully fairly quickly. Same
 questions I asked you regarding 333. You used this same
 procedure to verify that you were delivering me an authentic
 resolution here today, right?

 A Yes.

 Q It was stored in the same reliable place, you
 used a reliable employee to retrieve it. Can you look at

1 this document and tell me if that appears to be a true and
2 correct copy of a City of Willits resolution for 2006?

3 A Yes, it does.

4 MR. O'BRIEN: I'd move to admit 334.

5 MR. BARTOLOTTA: Agreed. Admitted.

6 (Plaintiff's Exhibit 334
7 was received in evidence.)

8 BY MR. O'BRIEN:

9 Q So this document also for 2006 has the same
10 language at paragraph 3, correct?

11 A Yes.

12 MR. O'BRIEN: Okay. The next document will be
13 2007, and that's Exhibit 335.

14 THE CLERK: Marking 335.

15 (Plaintiff's Exhibit 335 was
16 marked for identification.)

17 MR. CROWLEY: Your Honor, is it okay if I just
18 hand this to the witness?

19 THE COURT: Of course.

20 BY MR. O'BRIEN:

21 Q And 335 should be the 2007 resolution.

22 A Yes.

23 Q Same questions. Did you have a reliable person
24 retrieve this document from a very reliable place?

25 A Yes.

26 Q Do you believe this to be a true and correct copy
27 of a resolution of the City of Willits?

28 A Yes.

Q And this resolution contains the same language at
paragraph 3, right, that the fees cannot exceed the costs
you incur, correct?

1 A Yes.

2 Q And on page 11, the septage fee looks like it was
3 the same as it was in 2005. Do you see that?

4 A Yes.

5 Q And in order to comply with the law, the city
6 would have had to make sure that those fees were less than
7 what their operating costs were, right?

8 A Yes.

9 MR. O'BRIEN: I'd like to admit 335.

10 MR. BARTOLOTTA: No objection.

11 THE COURT: 335 is admitted, as was 334.

12 (Plaintiff's Exhibit 334
13 was received in evidence.)

14 BY MR. O'BRIEN:

15 Q So this document also for 2006 has the same
16 language at paragraph 3, correct?

17 A Yes.

18 MR. O'BRIEN: Okay. The next document will be
19 2007, and that's Exhibit 335.

20 THE CLERK: Marking 335.

21 (Plaintiff's Exhibit 335 was
22 marked for identification.)

23 MR. CROWLEY: Your Honor, is it okay if I just
24 hand this to the witness?

25 THE COURT: Of course.

26 BY MR. O'BRIEN:

27 Q And 335 should be the 2007 resolution.

28 A Yes.

1 Q Same questions. Did you have a reliable person
2 retrieve this document from a very reliable place?

3 A Yes.

4 Q Do you believe this to be a true and correct copy
5 of a resolution of the City of Willits?

6 A Yes.

7 Q And this resolution contains the same language at
8 paragraph 3, right, that the fees cannot exceed the costs
9 you incur, correct?

10 A Yes.

11 Q And on page 11, the septage fee looks like it was
12 the same as it was in 2005. Do you see that?

13 A Yes.

14 Q And in order to comply with the law, the city
15 would have had to make sure that those fees were less than
16 what their operating costs were, right?

17 A Yes.

18 MR. O'BRIEN: I'd like to admit 335.

19 MR. BARTOLOTTA: No objection.

20 THE COURT: 335 is admitted, as was 334.

21 (Plaintiff's Exhibit 334
22 was received in evidence.)

23 (PLaintiff's Exhibit 335
24 was received in evidence.)

25 MR. O'BRIEN: This would be 336. We're going to
26 mark the resolution from 2008 as 336.

27 THE CLERK: 336.

28 (Plaintiff's Exhibit 336 was
marked for identification.)

1 MR. CROWLEY: Your Honor, may I approach?

2 THE COURT: Yes.

3 MR. O'BRIEN: I wanted to do this as a packet,
4 but we're going to do it individually.

5 MR. BARTOLOTTA: Objection, your Honor, it's not
6 a question.

7 THE COURT: It is not a question. So please just
8 put the next question.

9 BY MR. O'BRIEN:

10 Q Sure. Next question. Same questions as with
11 regard to the previous resolution. You had a reliable
12 person go retrieve this from a reliable location at the City
13 of Willits, right?

14 A Yes.

15 Q And this is a true and correct copy of a
16 resolution from 2008, as far as you know, from the City of
17 Willits, correct?

18 A Yes.

19 Q You believe this to be accurate?

20 A Yes.

21 Q And authentic?

22 A Yes.

23 Q Okay. And you see paragraph 3 where it says the
24 amount of the fee can't exceed your costs, right?

25 A Yes.

26 Q Okay. Page 11, again I should have just gone
27 through this in the first place. It's exactly the same as
28 the last year. That had septage fees again, correct?

1 A Yes.

2 Q And the septage fees for 2008 stayed the same as
3 they were for 2007, 40 bucks a load plus 10 cents a gallon,
4 right?

5 A Yes.

6 Q And the city, in order to comply with the law,
7 would have had to make sure that those fees were not more
8 than what you were expending in costs, correct?

9 A Yes.

10 MR. O'BRIEN: I'd move to admit 336.

11 MR. BARTOLOTTA: Agreed.

12 THE COURT: Admitted.

13 (Plaintiff's Exhibit 336
14 was received in evidence.)

15 THE COURT: Why don't we go ahead and take our
16 morning break at this time?

17 Ladies and gentlemen, we'll take a 20-minute
18 break. Please return promptly at 10:20 and remember the
19 admonition, and we'll resume with Ms. Moore's testimony at
20 10:20.

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1 THE COURT: Back on record in Brooktrails versus
2 City of Willits. Counsel are present. No jurors are present
3 and I just wanted to make a quick comment.

4 First of all, as counsel knows probably from their
5 experience thus far, I like to keep this informal in the
6 courtroom. I don't have any problem with witnesses being
7 approached. Counsel are very professional. That's not an
8 issue, they don't need to ask permission for that.

9 What I would like to ask you to do, Mr. O'Brien, if
10 you have something that you need to meet and confer about with
11 counsel, if you can just do it more than in a soto voce, just
12 quietly confer without the jury hearing it and make sure that
13 any comments that are on the record are in the form of
14 questions that are going to the witness and not start colloquy
15 with counsel. Again, I appreciate the informality and I
16 appreciate that you know your case so well.

17 But just for our reporters and to establish a bit of
18 decorum, let's try to do that.

19 MR. O'BRIEN: I agree 100 percent. I apologize for
20 that.

21 THE COURT: With that, let's bring in our ladies and
22 gentlemen of the jury.

23 (Whereupon the following matters were heard in open
24 court, in the presence of the jury.)

25 THE COURT: We're now convened back with the ladies
26 and gentlemen of the jury and our alternatives.

27 And at this time, when you're ready, counsel.

28 MR. O'BRIEN: Yes, your Honor.

1 BY MR. O'BRIEN:

2 Q. We had a couple more of these resolutions to go
3 through. I think we were on 337, Ms. Moore. And correct me
4 if I am wrong, this is a true and correct copy of a 2009
5 resolution with the City of Willits, correct?

6 A. Yes.

7 Q. And you gave this to me this morning, correct?

8 A. Yes.

9 Q. After you had one of your clerks search the public
10 records in your office and find these resolutions, correct?

11 A. Yes.

12 Q. You have no reason to doubt the authenticity of
13 this, correct?

14 A. No.

15 MR. O'BRIEN: I move to admit 337.

16 MR. BARTOLOTTA: Agreed.

17 THE COURT: 337 is admitted.

18 (Whereupon, Exhibit 337 was admitted.)

19 BY MR. O'BRIEN:

20 Q. And if we look at paragraph three, the same language
21 in there, is that the city can't charge more than their cost,
22 correct?

23 A. Yes.

24 Q. And maybe at page 11. Let's see. Nope. If you see
25 the sheet before me Ms. Moore, shout it out.

26 A. Page 14.

27 Q. Okay. On page 14, it appears that the septage fee
28 for 2009 was the same as 2008, being \$25 for an inspection and

1 \$40 per load, plus ten cents a gallon, correct?

2 A. Yes.

3 Q. And we know because the City of Willits had to
4 comply with this resolution and with the law that those fees
5 were either equal to or less than what you paid to process
6 that septage, correct?

7 A. That's my presumption.

8 MR. O'BRIEN: Your Honor, may I approach the
9 witness?

10 THE COURT: You may.

11 MR. O'BRIEN: That's 339?

12 THE WITNESS: 338.

13 BY MR. O'BRIEN:

14 Q. 338. The next document we're going to look at is
15 Exhibit 338. And this, does this appear to be to be a true
16 and correct copy of a resolution passed in 2010 entitled
17 resolution 2010-07?

18 A. Yes.

19 Q. And, again, the language regarding the fact that the
20 fees cannot exceed the cost charged -- the cost incurred by
21 the city appears at resolution three, correct?

22 A. Paragraph three, yes.

23 Q. A resolution is an official act of the city,
24 correct?

25 A. Yes.

26 Q. And when the city adopts this resolution, attached
27 to every one of its fee schedules, it's certified to the
28 public that the things contained in the resolution are

1 believed by the council to be true, right?

2 A. Yes.

3 Q. And they take whatever steps necessary, according to
4 best municipal management practices, to assure those
5 statements are true, right?

6 A. Yes.

7 Q. And the city council relies on the staff, including
8 you, in informing them about the veracity of these, correct?

9 MR. BARTOLOTTA: Calls for speculation.

10 THE COURT: If you know.

11 THE WITNESS: The city council would rely on staff.

12 BY MR. O'BRIEN:

13 Q. Staff preparing the fee schedule attached to this
14 fee schedule, correct?

15 A. Yes.

16 Q. And if you look at page ten, both the format and the
17 price have changed. But we see sewer special fees,
18 inspection, still \$25. And the disposal is now \$40 a load and
19 \$0.12 a gallon, correct?

20 A. Yes.

21 Q. And we can presume by, if we believe that the city
22 complied with its own official act, this resolution, that
23 those fees are either less than or equal to what you actually
24 paid in expenses to process the septage received?

25 A. Yes, we can presume that.

26 MR. O'BRIEN: I'd like to move to admit 338.

27 MR. BARTOLOTTA: Yes. Agreed.

28 THE COURT: Admitted.

1 (Whereupon, Exhibit 338 was admitted.)

2 MR. O'BRIEN: If I could approach.

3 THE COURT: You may, always, you don't have to ask.

4 MR. O'BRIEN: Okay. Thank you. Your Honor.

5 Q. You have in front of you trial Exhibit 339. This is
6 a 2011 exhibit. We have two more years to go. Again, the
7 language -- strike that.

8 This resolution appears to be a true and correct
9 copy of an official resolution of the City of Willits?

10 A. Correct.

11 Q. And you had your clerk search for this document in
12 the official files of Willits and find it, copy it and deliver
13 it to me today, right?

14 A. Yes.

15 Q. And at section three, you see the resolution amount
16 of fees and services set forth don't exceed the estimated
17 amount to provide the service, right?

18 A. Yes.

19 Q. No page numbers. Can you turn to -- there's no page
20 number on it, on the document, you have to flip through until
21 you see sewer septage fees.

22 Okay. And you see there with the sewer special fee,
23 looks like the same as the previous year, correct?

24 A. Yes.

25 Q. So in 2011, '12, you were charging \$25 for an
26 inspection fee, \$40 for a load and \$0.12 for every additional
27 gallon, right?

28 A. Yes.

1 Q. Do you know how they measure the gallons of septage
2 that are dropped off by the trucks at the plant?

3 A. No.

4 Q. You presume that someone measures the number of
5 gallons?

6 MR. BARTOLOTTA: Calls for speculation.

7 THE COURT: It does.

8 MR. O'BRIEN: I'll withdraw the question.

9 I move to admit 339.

10 MR. BARTOLOTTA: Agreed.

11 THE COURT: Admitted.

12 (Whereupon, Exhibit 339 was admitted.)

13 BY MR. O'BRIEN:

14 Q. Ms. Moore, I am going to give you Exhibit 340.
15 Exhibit 340 is similar to the previous documents we've spoken
16 about. Does this appear to be a resolution, a true and
17 correct copy of a resolution of an official act of the City of
18 Willits?

19 A. Yes.

20 Q. And did you again have your clerk search the
21 official files of Willits and find this document?

22 A. Yes.

23 Q. And do you have any reason to doubt the authenticity
24 of this development?

25 A. No.

26 Q. And at line three, it again says that the fee can't
27 be more than the costs incurred, right?

28 A. Yes.

1 Q. And Mr. Crowley was nice enough to put a tab on page
2 ten for us, saving time. And it looks like in 2012, the fees
3 didn't go up. Would you agree? Would you agree with that?

4 A. Yes.

5 Q. So there's still \$40 a load, \$.012 a gallon correct?

6 A. Yes.

7 MR. O'BRIEN: Agreed to admit 340.

8 MR. BARTOLOTTA: Agreed.

9 THE COURT: Admitted.

10 (Whereupon, Exhibit 340 was admitted.)

11 BY MR. O'BRIEN:

12 Q. Ms. Moore, I am going to provide you with a copy of
13 trial Exhibit 341. Again, does this appear to be an
14 authenticate copy of a city resolution from the City of
15 Willits Resolution Number 213-13?

16 A. Yes.

17 Q. Line three, it still says, again, that you can't
18 charge more than what you're spending on any specific service,
19 correct?

20 A. Yes.

21 Q. If you can turn to the tab page. The prices appear
22 to be the same again, \$25 for a testing fee. \$40 per load and
23 \$0.12 per gallon, correct?

24 A. Yes.

25 Q. Those should be the costs that are incurred by the
26 City of Willits, correct?

27 A. Yes.

28 MR. O'BRIEN: I moved to admit 341 as well.

1 MR. BARTOLOTTA: Agreed.

2 THE COURT: Admitted.

3 (Whereupon, Exhibit 341 was admitted.)

4 MR. O'BRIEN: I believe we have all the resolutions.

5 THE CLERK: Marking 342 for the record.

6 (Whereupon, Exhibit 342 was marked for
7 identification.)

8 BY MR. O'BRIEN:

9 Q. Ms. Moore, you recall a while ago I believe we had a
10 telephone conversation with Mr. Bartolotta on the phone and
11 you provided me with some general ledgers. Do you recall
12 that?

13 A. Yes.

14 Q. How did you go about obtaining those general
15 ledgers?

16 A. It was -- I gave my finance director direction.

17 Q. And who was your finance director?

18 A. Susan Holmes.

19 Q. And Ms. Holmes, do you believe she competently,
20 accurately carried out your instructions?

21 A. Yes.

22 Q. And she searched the city's official records and
23 found the general ledgers that I requested, right?

24 A. Yes.

25 Q. And she returned those to you once she had found
26 them, correct?

27 A. On a disk, yes.

28 Q. And you ultimately provided these through your

1 attorney to me, correct?

2 A. Yes.

3 Q. I am going to show you an excerpt out of one of the
4 general ledgers that I received from you. It's marked as
5 Trial Exhibit 342.

6 I am assuming in your position as city manager for
7 the City of Willits, you have the opportunity to look at
8 general ledgers every once in a while, correct?

9 A. I have the opportunity to do so.

10 Q. Okay. And do you do so every once in a while?

11 A. No.

12 Q. No. Have you ever seen a general ledger before?

13 A. I have. I have reviewed them during finance
14 committee meetings.

15 Q. Does this look like a true and correct copy of a
16 general ledger that you produced for me for year 2004 through
17 2014 from the sewer department?

18 A. I did not inspect the general ledgers that were on
19 that disk.

20 Q. But the general ledgers that were on that disk were
21 the ones that were provided to you by your finance
22 administrator at your direction, correct?

23 A. Yes, in response to a public request.

24 Q. Those were are all official documents of the City of
25 Willits, correct?

26 A. Yes.

27 Q. And Brooktrails doesn't need to make a public record
28 request to obtain general journals from the City of Willits on

1 the sewer fund, do they?

2 A. No.

3 Q. They have the right pursuant to the Second Amendment
4 and the original contract to do so, right?

5 A. Yes.

6 Q. Why when I was looking for these general ledgers,
7 did you require a public record requests?

8 MR. BARTOLOTTA: Objection. Lacks foundation.

9 THE COURT: That's overruled. If you have an
10 answer, you may give it, Ms. Moore.

11 THE WITNESS: I don't recall that I required, I
12 think that the somebody at the city may have requested that it
13 be submitted in that format.

14 BY MR. O'BRIEN:

15 Q. So in the future, if Brooktrails wants to get
16 general ledgers from the sewer fund, they can direct a letter
17 to you and you'd provide them?

18 A. Yes.

19 Q. In compliance with the contract?

20 A. Yes.

21 MR. O'BRIEN: I'd like to move to admit this
22 exhibit.

23 MR. BARTOLOTTA: Agreed.

24 THE COURT: And what, designated as 342?

25 MR. O'BRIEN: What number is it on the sticker, I
26 forgot.

27 THE WITNESS: 342.

28 THE COURT: 342 is admitted.

1 (Whereupon, Exhibit 342 was admitted.)

2 MR. O'BRIEN: Thank you.

3 Q. Can you turn to, I believe it's page five. You
4 recall earlier we talked a little bit about the fact that
5 there is no real sewer engineer, they're all part of the city
6 engineering department. Do you remember that conversation?

7 A. Yes.

8 Q. And we discussed the fact they don't have any of
9 their own office space or computers or anything like that,
10 correct?

11 A. Right.

12 Q. I highlighted a few notes on your -- on your exhibit
13 there that I wanted to speak to you about.

14 MR. BARTOLOTTA: Your Honor, I don't have those
15 highlights.

16 THE COURT: I am not sure I have either the
17 highlights or the correct page, counsel.

18 MR. O'BRIEN: I'll direct you to the right line, how
19 about that?

20 THE COURT: Let me just indicate, I have a document
21 of several pages, but page one of one of one of two and then
22 one of one and one of two. There's no page five on my 342.

23 MR. O'BRIEN: You were given the wrong one then.
24 That should be it.

25 MR. BARTOLOTTA: Your Honor, witness has a
26 highlighted copy. I would like to be able to see it before --

27 MR. O'BRIEN: Sure.

28 THE COURT: Please show that to counsel.

1 MR. O'BRIEN: Yes. It is actually my highlighted
2 copy. I gave it to her by accident.

3 BY MR. O'BRIEN:

4 Q. And this is a fairly quick and straightforward line
5 of questions. My question is this is a general journal that
6 we're looking at page five of the 5014 sewer engineering
7 plant, correct?

8 A. Yes.

9 Q. And I notice on line 1695 and 1696, which I
10 highlighted for you, there are amounts applied for the
11 purchase of a Dell flat panel screen and a Dell notebook, do
12 you see that?

13 A. Yes.

14 Q. Do you think these were erroneously entered into
15 this account and should have gone into the city account?

16 A. I have no idea.

17 Q. We know there's no computer in the sewer department
18 and we know there's no employees to use them, right?

19 A. This is a purchase before I was even at the city. I
20 really don't know.

21 Q. You have no information as to where those computers
22 are or why they were put in this account, right?

23 A. That's correct.

24 Q. Same thing with regard to the GHA ink camera, I
25 believe that's 1747.

26 MR. BARTOLOTTA: What was your question?

27 MR. O'BRIEN: Yes.

28 Q. Same question. Do you have any information as to

1 why a camera was purchased for an account, for a department
2 that doesn't have any employees of its own or an office or
3 anything?

4 A. I can't respond to that.

5 Q. You have no information?

6 A. I have no information.

7 Q. Right.

8 Okay. If you move down, there's some bigger
9 charges. There's a charge for 2,984 and right below it a
10 charge for 13,349 for surveying data loggers. Do you see
11 that?

12 A. I do.

13 Q. And again, the sewer engineering department doesn't
14 have any of its own data loggers, correct?

15 A. I don't know.

16 Q. Earlier you believed that there was no equipment
17 owned by the sewer engineering department specifically. Are
18 you changing your testimony?

19 A. No, I am not.

20 Q. Okay. So the sewer engineering department does not
21 have its own data logger, does it?

22 A. I don't -- not to my knowledge.

23 Q. If there's a data logger, it's in the city
24 engineer's office probably, correct?

25 A. Well, I don't know about this equipment.

26 Q. Okay. Is it -- is it -- is it likely that this
27 equipment should have been charged to the city engineer
28 department, and then part of it allocated to the sewer

1 engineering department?

2 MR. BARTOLOTTA: Objection. Lacks foundation.

3 THE COURT: Sustained.

4 BY MR. O'BRIEN:

5 Q. Would Ms. Cavallari know more about this possibly?

6 A. She may.

7 Q. As city manager at Willits who's obligated to follow
8 the best practices for a city manager, correct?

9 A. Yes.

10 Q. And has that been brought up in some of your
11 training courses that you've taken, what the best practices
12 are?

13 A. Yes.

14 Q. And one of those best practices we talked about was
15 being honest in your -- in the execution of your official
16 duties, right?

17 A. We take an oath to do so.

18 Q. Okay. So that's a yes, right?

19 A. Yes.

20 Q. And you also want to be accurate in the information
21 you're conveying, both to the city council, to your citizens,
22 to your affiliates, like Brooktrails, right?

23 A. Yes.

24 Q. And to Brooktrails citizens, correct?

25 A. Yes.

26 Q. And you want to be ethical when you're dealing with
27 financial matters on behalf of the City of Willits, right?

28 A. Yes.

1 Q. And you'd agree that your certificate -- strike
2 that.

3 Do you have any professional certificates?

4 A. For city manager, no.

5 Q. Do you have any profession certificates at all?

6 A. No. Sorry.

7 Q. Okay. I don't either.

8 And would you agree with the statement that ethics
9 and education and experience are very important to the role of
10 city manager?

11 A. Yes.

12 Q. Has the City of Willits always had the philosophy as
13 long as you've been there to use best municipal practices when
14 conducting their business?

15 A. Yes, I would say so.

16 Q. And one of the best practices would be that you
17 wouldn't want to attempt to impose or imply that language
18 exists in a contract that doesn't actually exist in a
19 contract, correct?

20 MR. BARTOLOTTA: Objection. Vague.

21 THE COURT: Sustained.

22 BY MR. O'BRIEN:

23 Q. One of the best practices that you try to employ as
24 the City of Willits when you send out bills like the one you
25 sent out a few weeks ago to Brooktrails, they should be
26 accurate, correct?

27 A. Yes.

28 Q. And they should be supported by competent data,

1 correct?

2 A. Yes.

3 Q. And if a city -- if the Town of Brooktrails wants to
4 come to the City of Willits and look at those numbers behind
5 the numbers, there should be competent evidence to support
6 each one of those numbers, correct?

7 A. Yes.

8 Q. That's the best practice, right?

9 A. Yes.

10 Q. Are your staff members in the finance department
11 trained in the best practices in preparing invoices such as
12 this?

13 A. Yes.

14 Q. And the same detail should be used in preparing
15 invoices to Willits -- excuse me -- to Brooktrails as you use
16 when you prepare invoices for your own citizens, right?

17 A. Yes.

18 Q. You should be completely accurate and honest,
19 correct?

20 A. Yes.

21 Q. And the best practices are something that all
22 municipalities nationwide try to follow, correct?

23 A. I would hope so.

24 Q. They tell you that in your training course, right?

25 A. Yes.

26 Q. The cities all try to follow these same standards,
27 correct?

28 A. I would hope so.

1 Q. As city manager, are you the CEO of Willits?

2 A. Yes.

3 Q. And Joanne Cavallari, who we're going to hear from,
4 used to be the CFO correct?

5 A. Yes.

6 Q. After our discussion, do you believe as you sit here
7 today that the City of Willits followed the best municipality
8 practices when they sent that invoice a few weeks ago to
9 Brooktrails?

10 MR. BARTOLOTTA: Objection. Vague, and lacks
11 foundation.

12 THE COURT: Calls for a conclusion, as well.
13 Sustained.

14 MR. O'BRIEN: I have no further questions.

15 THE COURT: Cross-examination at this time?

16 MR. BARTOLOTTA: Yes. Just briefly. I will bring
17 her back in our case in chief.

18 THE COURT: Okay. This is in effect redirect based
19 on what has happened as part of plaintiff's case.

20

21 RE-DIRECT EXAMINATION (776)

22

23 BY MR. BARTOLOTTA:

24 Q. Good morning, Ms. Moore. How are you?

25 A. Great. Thank you.

26 Q. So you as indicated, you're the city manager. What
27 other departments are there in the city, other than the sewer
28 department?

1 A. The water department. Public works. Streets and
2 maintenance. Police department. Finance department.
3 Planning. Code enforcement. Airport. Municipal pool. Arts
4 facility.

5 Q. And what does the planning department do?

6 A. They take care of both long-range planning and
7 day-to-day permits and plan checks, things like that.

8 Q. What does the water department do?

9 A. They treat our -- treat and distribute our water to
10 our customers.

11 Q. And how many employees does the City of Willits have
12 approximately?

13 A. About 45.

14 Q. About 45?

15 A. Uh-huh.

16 Q. And in terms of your role with the city council, how
17 would you describe your interaction with the city council on a
18 day-to-day basis?

19 A. Very well. I keep them informed as matters come up
20 that they need to know about. Discuss, you know, any issues
21 or upcoming matters with them.

22 I work more closely with the mayor in crafting the
23 agenda and any other meetings that have to occur.

24 Q. Who is the current mayor?

25 A. Bruce Burton.

26 Q. How many members are on the city council?

27 A. Five.

28 Q. How often do they meet?

1 A. Twice a month for regular meetings.

2 Q. With respect to your involvement in this metering
3 issue, there was a letter that has been marked as Exhibit 330.
4 You happen to have that in front of you somewhere? I know
5 there's a lot in front of you at this point. I think it may
6 be loose in that pile in front of you. I don't think it's
7 made it into a binder yet.

8 MR. O'BRIEN: I thought it was in the very back of
9 the binder.

10 MR. BARTOLOTTA: Maybe it is.

11 THE WITNESS: It was loose yesterday. Okay.

12 BY MR. BARTOLOTTA:

13 Q. So this is generally related to issues with the
14 meter, correct?

15 A. Yes.

16 Q. And the letter's been reviewed. This metering
17 issue, there's kind of two phases to the meeting problem,
18 correct? Okay.

19 A. (Non-verbal answer.)

20 Q. So the meter that is currently in place, do you
21 recall approximately when it was determined that it was not
22 functioning properly?

23 A. Not exactly.

24 Q. Was it within the last two years?

25 A. Yes.

26 Q. And has the city retained consultants to try to
27 address this issue?

28 A. Yes.

1 Q. And has, as far as you know, has Brooktrails
2 retained consultants?

3 A. Yes.

4 Q. Have you jointly retained a consultant who is
5 neutral to try to address this issue?

6 A. Yes.

7 Q. Over what period of time, are we talking that
8 there's been this correspondence between the City of
9 Brooktrails and these consultants that are trying to address
10 the issue?

11 A. Over the last six.

12 Q. Last six months?

13 A. Uh-huh.

14 Q. You've been involved in communication with
15 Brooktrails to set up times to have consultants try to go to
16 the plant and see what the problem is?

17 A. Yes.

18 Q. And who else has been involved, other than you? I
19 note that the letter that we're looking at, Exhibit 330, was
20 also signed by Rob Wilburn, correct?

21 A. Yes.

22 Q. Who is Bob Wilburn?

23 A. He's our public works director.

24 Q. Is anyone else involved?

25 A. In setting it up or in the -- in the actual
26 inspection?

27 Q. In the setting it up.

28 A. Jim Lance.

1 Q. So, and Jim Lance is the city attorney?

2 A. Yes.

3 Q. So this letter that was sent on February 19th, 2015,
4 this is actually addressing an issue that has been discussed
5 between the parties, at least in terms of the metering issue,
6 correct?

7 A. Yes.

8 Q. Okay. Do you have an education in finance?

9 A. No.

10 Q. Have you ever been an accountant?

11 A. No.

12 Q. Have you ever been a bookkeeper?

13 A. No.

14 Q. In terms of the city, there's a finance director?

15 A. Yes.

16 Q. And Joanne Cavallari used to be the finance
17 director, correct?

18 A. Yes.

19 Q. Was she the finance director when you were city
20 clerk?

21 A. Yes.

22 Q. Who is the finance director now?

23 A. Susan Holmes.

24 Q. Are there other individuals involved in the finance
25 department?

26 A. There are three other finance department employees.

27 Q. And what are those like, what level of employee are
28 they?

1 A. Senior accountant and then two customer service
2 clerks, that one does accounts payable, the other one does
3 utility bills. They have a variety of other duties as well.

4 Q. There's been some discussion or comments regarding
5 city engineer versus city sewer engineer.

6 I just want to review this. Who is the city
7 engineer?

8 A. Tom Mannatt.

9 Q. And what does Tom Mannatt do? What is the scope of
10 his duties as city engineer?

11 A. Well, he's our engineer of record. And so any
12 matters that, any projects that have to be developed,
13 surveying, the wastewater treatment plant was the largest
14 project that the city has ever undertaken, so he was our lead
15 person on that.

16 Q. So within the budget, there's the city engineer, has
17 its own separate accounting for the budget?

18 A. Yes.

19 Q. And then there's also a sewer engineering budget?

20 A. Yes.

21 Q. Now, that sewer engineering budget, there's an
22 allocation, a small percentage or a percentage of the
23 engineer's time that goes into that budget, correct?

24 A. Yes.

25 Q. Is there also a water engineering budget?

26 A. I'd have to look. Yes.

27 Q. And so the way the budget works, his time is
28 allocated between different departments, correct?

1 A. Yes.

2 MR. O'BRIEN: Objection. Vague as to time. What
3 budget are we looking at?

4 BY MR. BARTOLOTTA:

5 Q. The budget you've been reviewing which is 2012,
6 2013, I believe?

7 A. Yes.

8 Q. So, yes, there's no specific department that is the
9 sewer engineering or water engineering, but there's a city
10 engineering department, correct?

11 A. That's correct.

12 Q. With respect to the budgets, there was some
13 discussion regarding the goals that were set out.

14 A. Yes.

15 Q. Why is that language used -- well, strike that.

16 Is that every department have a section where
17 there's goals?

18 A. Yes.

19 Q. Why is that used?

20 A. So we can just establish our goals for the coming,
21 whether it's a year or two years or longer.

22 And inform the council and the community on what
23 we're working on.

24 Q. Okay. And is the objective that those goals are
25 what is going to get done in that year?

26 A. That's the hope.

27 Q. Does it happen?

28 A. No.

1 Q. Okay. So when did you use -- a little bit of
2 background, when did you start working for the City of
3 Willits?

4 A. In December of 2009.

5 Q. And what was your first role, your position?

6 A. Human resource director and city clerk.

7 Q. And when did you become city manager?

8 A. Initially, interim city manager in January of 2013.
9 And then appointed to the permanent position in May of 2013.

10 Q. And were you, between December of 2009 and
11 January 2013, were you through that whole period human
12 resources director and city clerk?

13 A. Yes.

14 Q. And as a city clerk, what were your duties?

15 A. Official records custodian for the city. Attended
16 all of the council meetings, whether they were regular council
17 meetings, special meetings. Took the minutes, prepared the
18 agendas.

19 Q. Slow down just a little for the court reporter's
20 sake.

21 A. Okay. Basically, keep the business of the city in
22 terms of record.

23 Q. And who is the current city clerk?

24 A. Technically, it's still me. We have a deputy city
25 clerk, who is on track, I hope, to be appointed the city clerk
26 in the near future.

27 Q. Why were you both human resources director and city
28 clerk?

1 A. Willits is a small city, a small agency and many
2 positions wear multiple hats. That position had a dual role
3 for some years. And, in fact, it had a few additional hats
4 that I didn't fortunately inherit, like airport manager.

5 Q. There were some times when someone was a city clerk
6 and airport manager?

7 A. Yes.

8 Q. You're at city hall, correct?

9 A. Yes.

10 Q. And how many people work in the office at city hall?

11 A. Six.

12 Q. And what do those six people do?

13 A. We have the finance director. Senior accountant.
14 The two finance clerks. One does accounts payable. The other
15 does utility billing primarily. And the deputy city clerk and
16 myself.

17 Q. And is there a director of the parks department?

18 A. Public works director.

19 Q. And where is the public works director's office?

20 A. Down the street on Commercial Street from city hall.

21 Q. Since you've been there, has it been your experience
22 that people wear different hats or multiple hats?

23 A. Very much so.

24 Q. Okay. Can you explain why that happens?

25 A. Well, primarily due to budget limitations. Back in
26 2009 before I came on board, there was an early retirement
27 program offered and a number of long-time city employees
28 retired as a result of those six positions, the only position

1 that I filled was the city clerk position. And that's when I
2 I was hired.

3 Q. So in 2009, eight positions were retired, but only
4 one person came in to replace them?

5 A. Yes.

6 MR. BARTOLOTTA: I have no further questions for
7 this witness at this time, and reserve the right to call her
8 in my case in chief.

9 THE COURT: Any redirect under 776, Mr. O'Brien?

10 MR. O'BRIEN: Yes, your Honor.

11
12 RECROSS EXAMINATION (776)

13
14 BY MR. O'BRIEN:

15 Q. Counsel just asked you about 2009, and I think you
16 responded that 2009 was very tough budget year; is that
17 correct?

18 A. Yes.

19 Q. Was that because there was a giant financial crisis
20 going on in the United States?

21 A. Well, I don't know what the reason was for the city.
22 I wasn't there at the time until the very end of that year.

23 Q. The city receives revenue, part of the revenue from
24 the property taxes that the county collects, correct?

25 A. Yes.

26 Q. And property values go down, property taxes go down,
27 right?

28 A. Yes.

1 Q. If the real estate market is depressed, that means
2 there could be less revenue for the City of Willits?

3 A. Yes.

4 Q. That's possible, that's one of the pressures that
5 was on Willits in 2009, right?

6 A. Yes, that's possible.

7 MR. O'BRIEN: I need to talk to the clerk for one
8 second. Binder two. Accounting binder two. This is the
9 invoices and the audit. Is that marked? We'd like to mark
10 the binder, just like we did the budget binder. Next in
11 order. We'll call it accounting binder two.

12 THE CLERK: Marking 343 for the record.

13 (Whereupon, Exhibit 343 was marked for
14 identification.)

15 MR. O'BRIEN: Make sure I am getting the right one.
16 I think it's six. Yes.

17 BY MR. O'BRIEN

18 Q. I am going to hand you what is marked as binder --
19 you've got a lot of binders up here. 343.

20 And this binder contains the invoices that we
21 received from the City of Willits as well as audited
22 financials. I'd like you to turn to the first tab six,
23 please,

24 MR. O'BRIEN: And, Mr. Bartolotta, I believe we
25 agreed these are -- you want to look over this binder before
26 we admit it?

27 MR. BARTOLOTTA: Yes, please.

28 MR. O'BRIEN: If we can just preliminarily admit it,

1 and we'll talk at it at the break.

2 MR. BARTOLOTTA: That's fine.

3 THE COURT: Provisionally admitted.

4 (Whereupon, Exhibit 343 was provisionally admitted.)

5 BY MR. O'BRIEN:

6 Q. I'd like you to look at the document that is at tab
7 six. Is that an invoice from the City of Willits to
8 Brooktrails dated June 30th, 2010?

9 A. Yes.

10 Q. And this is the actual amounts, so this is what you
11 were asking Brooktrails to pay, correct?

12 A. Yes.

13 Q. So this is, when I say fiscal year 2010, I mean from
14 June of 2009 to June of 2010, right?

15 A. I would think that would be July of 2009 through
16 June of 2010.

17 Q. July 1st, 2009?

18 A. Yes.

19 Q. Okay. And that was during this period of hard times
20 for the city, correct?

21 A. Yes.

22 MR. O'BRIEN: I'd like to publish this.

23 MR. BARTOLOTTA: That's fine. Is that okay, your
24 Honor?

25 THE COURT: Yes.

26 MR. O'BRIEN: Okay. Sorry.

27 BY MR. O'BRIEN

28 Q. I'd like you to look at the 501 account, which is

1 administration, do you see that?

2 A. Yes.

3 Q. And in 2010, the City of Willits asked Brooktrails
4 to contribute for administering the sewer plant \$471,000,
5 correct?

6 MR. BARTOLOTTA: Objection. Misstates the document,
7 what it indicates, lacks foundation.

8 THE COURT: All right. At this point, sustained.
9 Doesn't foreclose the area.

10 BY MR. O'BRIEN:

11 Q. Account number 5010 is administration, correct?

12 A. Yes.

13 Q. And we talked about administration with regard to
14 the other bills we looked at, correct?

15 A. Yes.

16 Q. And on the other bill, the administration being
17 charged the -- divided up between the sewer plant and the
18 maintenance was about \$230,000, correct?

19 A. Somewhere around there.

20 Q. Substantially less than this number, correct?

21 A. Yes.

22 Q. And if you look at this bill, in this year after the
23 calculation was done by whoever, 70 percent of the
24 administration was charged to the sewer plant, right?

25 A. Yes.

26 Q. So the amount allocated over to the sewer plant is
27 \$332,954, correct?

28 A. Yes.

1 Q. And 332,954 was then charged, or included in
2 Brooktrails bill, right?

3 A. Yes.

4 MR. BARTOLOTTA: Objection. Lacks foundation.

5 THE COURT: What was the legal objection?

6 MR. BARTOLOTTA: Lacks foundation. Improper
7 document as stated.

8 THE COURT: That will be subject perhaps in
9 redirect under 776, but witness appears able to answer and has
10 answered. So overruled. You may continue.

11 MR. O'BRIEN: I think we covered this. Maybe I
12 forgot. This is a bill the City of Willits sent to
13 Brooktrails, correct?

14 THE WITNESS: It appears to be.
15 BY MR. O'BRIEN

16 Q. For 2010?

17 A. Yes.

18 Q. And when you sent them this bill, you expected them
19 to pay the bill, correct?

20 A. Yes.

21 Q. And on this bill, it says, the City of Willits
22 allocated \$332,954 in administrative charges to the sewer
23 plant, right?

24 A. Yes.

25 Q. And they asked Brooktrails to pay its share of that,
26 correct?

27 A. Yes.

28 Q. Okay. \$471,000, can you tell me how much it costs

1 for you to hire a finance director for the City of Willits?

2 MR. BARTOLOTTA: Objection. Vague as to time.

3 BY MR. O'BRIEN:

4 Q. Now.

5 A. Okay. Total compensation or base salary?

6 Q. Total compensation?

7 A. Probably 130,000.

8 Q. Would it have been about the same in 2010?

9 A. I think it would have been less.

10 Q. Okay. Has the City of Willits ever -- strike that.
11 The finance director knows how to do human
12 resources, correct?

13 MR. BARTOLOTTA: Objection. Calls for speculation
14 and lack of foundation.

15 THE COURT: Lacks foundation. Sustained.

16 BY MR. O'BRIEN:

17 Q. Strike that. You had managed the finance director,
18 correct?

19 A. Yes.

20 Q. She's under your direct supervision, correct?

21 A. Yes.

22 Q. And she follows your direction, correct?

23 A. Yes.

24 Q. And you understand what her duties are, correct?

25 A. Yes.

26 Q. And one of her duties is managing human resources;
27 isn't that correct?

28 A. No.

1 Q. Okay. Does she understand human resources?

2 A. She does.

3 Q. Does she have people that work for her?

4 A. Yes.

5 Q. Does she write the payroll check?

6 A. The senior accountant writes them, and then she
7 reviews them.

8 Q. And the senior accountant works for the finance
9 director, right?

10 A. Yes.

11 Q. And the finance director also pays the bill for the
12 city, correct?

13 A. The accounts payable clerk issues those and is
14 reviewed by the finance director.

15 Q. She's responsible for that task?

16 A. Yes.

17 Q. Has the City of Willits -- strike that.

18 Do you have any idea how many transactions,
19 financial transactions are accomplished by the City of Willits
20 on behalf of the, just the sewer plant --

21 A. No.

22 Q. -- in a given year?

23 MR. BARTOLOTTA: Objection. Beyond the scope of
24 redirect or direct.

25 THE COURT: That's overruled. If you have an
26 answer, you may give it.

27 THE WITNESS: I do not.

28 BY MR. O'BRIEN:

1 Q. Do you know how many full-time employees are
2 assigned to the sewer plant budget?

3 A. Not offhand without looking.

4 Q. Can you look at your budget, the tab ten that we
5 were looking at?

6 MR. BARTOLOTTA: Just to be clear, this is 2012, '13
7 budget.

8 MR. O'BRIEN: We can look at any one of them.
9 They're pretty much the same.

10 MR. BARTOLOTTA: I understand where, you know,
11 you're asking her to look at.

12 THE WITNESS: Which one?

13 BY MR. O'BRIEN:

14 Q. Go ahead and look at the 2012, '13 budget.

15 A. In which funds?

16 Q. How many employees, full-time employees equivalents
17 are assigned to the sewer plant? It's account 5013.

18 A. 7.46.

19 Q. There's seven people to manage over there to
20 administrative, correct?

21 A. In '12, '13.

22 Q. In '12, '13 has the City of Willits ever considered
23 simply hiring a finance director that is just responsible for
24 administering the sewer plant for 120,000 instead of charging
25 the sewer plant for 130,000 for administration?

26 A. I have no idea.

27 Q. Is that something you may consider in the future?

28 A. We may.

1 Q. And the finance director can handle all the tax of
2 administration of the sewer plant, that was her only position,
3 correct?

4 MR. BARTOLOTTA: Objection. Lacks foundation.

5 THE COURT: If you know, she probably does.
6 Overruled. The answer stands.

7 THE WITNESS: I am sorry. I don't know that I gave
8 an answer for that.

9 THE COURT: I thought -- in any event, the objection
10 is overruled, and if you do know, you may answer.

11 THE WITNESS: My answer was that, I didn't know.

12 THE COURT: Oh, I am sorry.

13 BY MR. O'BRIEN:

14 Q. Okay. Do you believe -- strike that.

15 The allocation to administrative costs during 2009,
16 2010, should have borne a direct relevance to the benefit
17 received by that administration, by the sewer plant, right?

18 A. This budget was, an invoice was prior to my
19 involvement with this, so I really couldn't respond to that.

20 Q. With regard to every invoice, including the one you
21 sent to my client a couple of weeks ago, the administrative
22 allocation should bear direct relevance to the information
23 received by the party receiving the allocation, the sewer
24 plant, correct?

25 A. Yes.

26 Q. Did the City of Willits attempt to move excess
27 allocation to the sewer plant during this year because they
28 were having a hard time and they needed revenue?

1 MR. BARTOLOTTA: Objection. Lacks foundation.
2 Beyond the scope of direct.

3 THE COURT: On the first grounds, sustained.
4 BY MR. O'BRIEN:

5 Q. Do you have any reason to believe that the City of
6 Willits charged additional administration to -- during their
7 difficult times in '09, '10, to the sewer plant in order to
8 recover revenue from Brooktrails?

9 MR. BARTOLOTTA: Objection. Lacks foundation.
10 THE COURT: Sustained.

11 BY MR. O'BRIEN:

12 Q. Is one of the departments at the City of Willits the
13 redevelopment agency?

14 A. Not currently.

15 Q. Why not currently?

16 A. Because the redevelopment went away.

17 Q. The state took it back?

18 A. Yes.

19 Q. Did it used to be one of the departments at the
20 city?

21 A. Yes.

22 Q. Counsel was discussing with you the metering issue
23 again and your letter. Do you recall that?

24 A. Yes.

25 Q. And I think you talked about a test you performed,
26 right?

27 A. I didn't perform it.

28 Q. A test that the -- when I say you, it's a proverbial

1 you, the City of Willits performed --

2 A. Yes.

3 Q. -- right?

4 A. Yes.

5 Q. Prior to performing the test, did you contact
6 Brooktrails and tell them, hey, we're going to install some
7 Flo-Dar meters to test the plant, why didn't you send somebody
8 out to watch the installation?

9 A. No.

10 Q. Was anyone at Brooktrails invited to inspect or
11 witness the installation of the meters that you were going to
12 use as a test back in January and February?

13 A. No.

14 Q. Why not?

15 A. It was installing a meter. We didn't think it was a
16 difficult task.

17 Q. Well, forgive me if I am wrong, but for 15 years,
18 we've had a dispute over installing meters, correct?

19 MR. BARTOLOTTA: Objection. Calls for -- it's
20 argumentative.

21 THE COURT: Sustained.

22 BY MR. O'BRIEN:

23 Q. So you didn't think that you should contact
24 Brooktrails because it was just over installing a meter, did
25 you think Brooktrails would have wanted to come witness that
26 installation?

27 MR. BARTOLOTTA: Objection.

28 THE COURT: Sustained.

1 BY MR. O'BRIEN:

2 Q. Did your engineer contact Brooktrails or Brooktrails
3 engineers and tell them, hey, we're installing a Flo-Dar meter
4 to do a test, come watch the installation so you can verify
5 it's done properly?

6 A. I don't know.

7 Q. Do you know if any of the individuals that installed
8 the Flo-Dar meters had ever installed a Flo-Dar meter prior to
9 this one?

10 A. No. I don't know.

11 Q. Do you know if they had an instruction manual
12 available when they did the installation?

13 A. I don't know.

14 Q. Do you know anyone in -- do you know if any of the
15 supervisors who supervised the installation of this test had
16 any experience installing a Flo-Dar meter in the past?

17 A. I don't know.

18 Q. As city manager, was it important when you were
19 spending city funds to perform a test that you gain knowledge
20 or information regarding the validity of the test?

21 A. Yes.

22 Q. It was important to you that that test was going to
23 be worth something, correct?

24 A. Yes.

25 Q. Why didn't you ask if any of the people that were
26 going to be performing the test had any knowledge regarding
27 how to do the test?

28 A. I did not interact with those folks directly.

1 Q. After the meters were installed, did you ever
2 contact my office or Brooktrails or Chris Neary's office
3 seeing how we were just coming up to trial and inform them
4 about this test?

5 A. It was communicated in a letter.

6 Q. A letter we talked about earlier, right?

7 A. Yes.

8 Q. After it was done, correct?

9 A. Yes.

10 Q. Okay. I am talking about after the installation,
11 while the test was ongoing, did you instruct, did either you
12 or any of your employees contact me, Mr. Neary's office or
13 Brooktrails and tell them about the test? That's the first
14 question, sorry.

15 A. No.

16 Q. And invite them to come inspect the workings of
17 these Flo-Dar meters and verify they were installed correctly?

18 A. No.

19 Q. Why not?

20 A. Well, first of all, we were responding to their
21 suggestion that we use Flo-Dar meters so.

22 Q. So there's -- strike that.

23 They suggested that you conduct this test?

24 A. They suggested that we use Flo-Dar meters.

25 Q. Permanently, correct?

26 A. Yes.

27 Q. That Brooktrails would like to see a Flo-Dar meter
28 installed in the place of the broken meter, correct?

1 A. Yes.

2 Q. That's not what this test was doing, right?

3 A. This test was to verify data from our mag meter.

4 Q. So -- strike that.

5 Do you know if any of the individuals who performed
6 this test had any training whatsoever with Flo-Dar meters?

7 A. I don't know.

8 Q. Do you know how complicated a Flo-Dar meter is to
9 install?

10 A. I do not.

11 Q. Did you ask anybody?

12 A. I did not.

13 Q. Just getting back to the accounting thing one more
14 time.

15 When did the redevelopment agency end?

16 A. I want to say 2011.

17 Q. And am I correct in stating that when the
18 redevelopment agency ended, all the funds, all the
19 redevelopment funds that the City of Willits had, had to be
20 transferred to the State of California?

21 A. There was a complicated process and changing,
22 changing both roles from the department of finance.

23 Q. But was the net effect all your redevelopment funds
24 ended up going to the State of California?

25 A. Yes.

26 Q. And that's why there's no redevelopment agency
27 anymore, correct?

28 A. Correct.

1 Q. Do you owe currently any money to the State of
2 California, in the form of redevelopment funds?

3 A. I'd have to look at the current books to see that.
4 I don't -- I don't recall offhand.

5 Q. That was -- go ahead.

6 A. We had very little involved in it. So it has not
7 been as awful of a process for us as it has for many other
8 entities.

9 Q. Where would I look to find out if the City of
10 Willits owes money to the redevelopment agency?

11 A. It should be in our budget.

12 Q. Your annual budget 2014-2015?

13 A. Yes.

14 Q. Would it be in the audit as well?

15 A. It should be.

16 MR. O'BRIEN: Thanks.

17 I have nothing further.

18 MR. BARTOLOTTA: Nothing further.

19 THE COURT: Before I let you go, Ms. Moore, any
20 questions from our jurors for this testimony? She will be
21 back. Ms. Serpa has a question. If you can present that to
22 the bailiff, and we'll mark that as exhibit next in order.

23 THE CLERK: Marking Court Exhibit 3 for the record.

24 (Whereupon Court Exhibit 3 was marked.)

25 (Side bar had, not reported.)

26 THE COURT: Thank you very much, counsel.

27 Court Exhibit 3 will be asked, but when Ms. Moore
28 does come back at a later time. That will fit into the logic

1 of the presentation of the case because questions will be put
2 to her at a later time.

3 Ms. Moore, you are excused.

4 MR. O'BRIEN: Your Honor, may I approach and
5 organize?

6 THE COURT: Sure.

7 MR. BARTOLOTTA: Mr. O'Brien, Ms. Cavalleri?

8 MR. O'BRIEN: Is that the Court's --

9 THE COURT: Sure. Bring the next witness in,
10 please.

11 MR. O'BRIEN: What time will we have our next break?

12 THE COURT: Noon.

13 MR. O'BRIEN: Thank you.

14 THE BAILIFF: Good morning. If you come towards me,
15 please. You can bring your water, if you'd like, ma'am. You
16 can bring your water, if you'd like.

17 THE WITNESS: Oh, thanks.

18 THE COURT: Ms. Cavallari, good morning. Please
19 raise your right-hand and face my clerk.

20 (Whereupon, the Court Clerk placed Ms. Joanne
21 Cavallari under oath.)

22 THE WITNESS: I do.

23 THE CLERK: Thank you.

24 THE COURT: Joanne Cavallari. J-O-A-N-N-E,
25 C-A-V-A-L-L-A-R-I.

26
27 CROSS-EXAMINATION (776)
28

1 BY MR. O'BRIEN:

2 Q. One second. I am going to get organized, Ms.
3 Cavallari.

4 My name is Patrick O'Brien and I represent
5 Brooktrails Township and we've met once before, haven't we?

6 A. Yes, we have.

7 Q. Prior to meeting with -- or excuse me, strike
8 that -- subsequent to my taking your deposition, had you met
9 with anybody else besides your attorney regarding this case?

10 A. No.

11 Q. Have you met with Emmitt Jones?

12 A. Oh, I am sorry. Yes, I have.

13 Q. Why do I ask the question, if I know the answer?

14 A. I am sorry. I am a little nervous I have to
15 admitted. It's kind of scary.

16 Q. That's okay, so I am.

17 A. It's kind of scary.

18 Q. One of the things that we will try to do, which we
19 were horrible in the deposition is not talk over each other
20 in. I am already in trouble with the court reporter.

21 When did you meet with Emmitt Jones?

22 A. I don't remember exactly. I am trying to remember
23 if it was before or -- I met with Emmitt Jones a couple of
24 times at Willits City Hall conference room. I am sorry. I
25 just don't remember the date. And I don't remember if it was
26 before or after the deposition or the timing of that.

27 Q. Who is Emmitt Jones?

28 A. He's a CPA from Ukiah College, Professor at

1 Mendocino College.

2 MR. O'BRIEN: Just for the record, just as to Ms.
3 Cavallari, calling Ms. Cavallari under 776.

4 THE COURT: Very good.

5 BY MR. O'BRIEN:

6 Q. Emmitt Jones is an expert that works for the City of
7 Willits, correct?

8 A. I believe he's engaged by the City of Willits.

9 Q. To work on this case?

10 A. Yes, as an consultant.

11 Q. Did he meet with you regarding his work on this
12 case?

13 A. Yes.

14 Q. What did Mr. Jones and you talk about?

15 A. Some adjustments that Brooktrails had been
16 requesting credits toward past billings.

17 Q. Were some of the things you talked about similar to
18 the things you and I talked about in your deposition?

19 A. Yes, same subject matter.

20 Q. Did you tell them that you believe Brooktrails
21 should get some credits?

22 A. There were some items that we agreed Brooktrails
23 should get credits for.

24 Q. One of those is engineering, right?

25 A. Yes.

26 Q. Did you tell him you believed Brooktrails should get
27 credits for some of the administration allocations?

28 MR. BARTOLOTTA: Objection, vague.

1 THE COURT: Overruled. If you understand, you may
2 answer.

3 THE WITNESS: Repeat the question.

4 MR. O'BRIEN: Can you read the question back,
5 please?

6 (Whereupon, the record was read back.)

7 THE WITNESS: Didn't tell him that. We looked at
8 the administration allocations in more detail to see what was
9 included in those allocations.

10 MR. O'BRIEN:

11 Q. And when did you leave the City of Willits?

12 A. I left there in September of 2013.

13 Q. From -- did you and Mr. Jones only look or look at
14 records from the time that you were finance director or did
15 you look at records after 2013?

16 A. Both. And prior to me being finance director as
17 well.

18 Q. Did Mr. Jones tell you what any of his opinions are?

19 A. Yes.

20 Q. Let's go a little bit -- let's talk about your
21 background so everybody understands who you are.

22 You started with your work at the city -- excuse me
23 -- at the Town of Brooktrails, when did you first work for
24 Brooktrails?

25 A. I started there in August of 1998.

26 Q. And what did you do at Brooktrails in August of
27 1998?

28 A. I was hired as secretary, administrative assistant

1 to the general manager.

2 Q. And how long did you work for Brooktrails?

3 A. Almost ten years.

4 Q. So from August of 1998 to 2008, you worked for
5 Brooktrails?

6 A. Yes.

7 Q. And as part of your responsibilities at Brooktrails,
8 did you deal with or review invoices received from the City of
9 Willits?

10 A. Yes.

11 Q. And did you also review audits received from the
12 City of Willits?

13 A. Yes.

14 Q. Did you also write correspondence to the City of
15 Willits?

16 A. Yes.

17 Q. And did some of that correspondence contain your
18 frustrations regarding the accounting practices of the City of
19 Willits?

20 A. I can remember one letter. I don't think I did that
21 on a regular basis.

22 Q. Do you recall what the one letter you can remember
23 addressed?

24 A. It was a letter to Mark Johnson. He had provided
25 some information to help me reconcile one of the city's audit
26 report to the billing statement, and I couldn't get the number
27 to reconcile. So I was frustrated and I wrote him a letter
28 asking for more information.

1 Q. You were also frustrated with the timing of the
2 audit you were receiving during that -- during 2000 to 2008
3 from the City of Willits, weren't you?

4 A. Well, I didn't get involved with the finance
5 department at Brooktrails until 2003. Actually, beginning of
6 2004, so.

7 Q. So from --

8 A. That was the extent of my dealings with them.

9 Q. So from 2004 until 2008, were you frustrated at the
10 timing of the audits, meaning the audits being late on a
11 regular basis that you received from the City of Willits?

12 A. Yes. I was frustrated by that.

13 Q. And why do you need -- strike that -- when you
14 worked at Brooktrails, why did you need to receive timely
15 audits?

16 A. Well, our auditor requested that -- he would include
17 in Brooktrails audit, whether we either owed Brooktrails
18 money -- I mean, whether we were either owed the city money
19 or the city, we had overpaid. So we would either want to
20 record it as a liability or as an asset or a receivable.

21 And because he was not able to do that, he would
22 have to qualify the audit and include a statement that he was
23 making this based on estimates.

24 Q. So you received, because Willits was late in getting
25 you the audits and the information that was required pursuant
26 to the contract, you would, your auditor would issue qualified
27 audits?

28 A. I believe there were some qualified audits, at least

1 related to the sewer fund.

2 Q. If you have a qualified audit, does it make more
3 difficult to obtain financing, for instance?

4 A. I am not sure.

5 Q. Do you remember any specific instance where
6 Brooktrails had difficulty with their bank because they were
7 receiving qualified audits?

8 A. I know they had difficulty with the bank, I am not
9 sure it was the audit.

10 Q. You don't have any information one way or the other
11 on that one?

12 A. No.

13 Q. You also couldn't set your rates appropriately for
14 your customers if you didn't have the audit from Willits,
15 correct?

16 A. I was not involved in the rate setting process. My
17 boss was.

18 Q. Is it your understanding while you were -- strike
19 that -- what was your position from 2003 to 2008 while you
20 were at Brooktrails?

21 A. Finance assistant.

22 Q. And Brooktrails, did you have -- did you participate
23 at all in the rate setting process?

24 A. Well, I helped Mike with his budget. And his budget
25 was what he used to base the rates on, so I would say yes, I
26 was involved.

27 Q. And in order to set the rate properly, you'd need to
28 have audited financials from the City of Willits, correct?

1 A. I would help.

2 Q. Because that's what you set the sewer rate based on,
3 correct?

4 A. That's part of it. But there are always a lot of
5 other components that go into the rate setting, like your
6 direct cost for your employees and the costs of maintaining
7 your sewer collection system.

8 Q. Sure.

9 A. So it wasn't just that.

10 Q. Sure.

11 A. There were a lot of components to the process.

12 Q. Sure. If you didn't get the audit from Willits,
13 then you were missing one of those major components, correct?

14 A. Yes.

15 Q. And that made it more difficult to set rates, right?

16 A. Yes.

17 Q. Do you recall during this time period that at one
18 point you hadn't received the 2005 audit for over two years?

19 A. Yes, I think that's true.

20 Q. And do you recall that when you did receive it, it
21 resulted in you and Mike Chapman having to raise rates by ten
22 percent in 2008 when you received the audit?

23 A. I don't remember that.

24 Q. And that's the kind of thing you try to avoid when
25 you're in finance in a small town, right, this big jump in
26 rate?

27 A. Yes.

28 Q. Because then you have irritated customers at your

1 board meetings, right?

2 A. Yes.

3 Q. And it also hurts their pocketbook?

4 A. Yes.

5 Q. A lot of people up at Brooktrails on fixed income?

6 A. I don't know.

7 Q. There are some?

8 A. I don't know.

9 Q. Do you live at Brooktrails?

10 A. I do.

11 Q. Are there a lot of senior citizen in Brooktrails?

12 A. I really don't know. Honest, I am telling you the
13 truth.

14 Q. Fair enough. Fair enough.

15 A. I don't know.

16 Q. I believe you. I believe you.

17 Now, we talked a little bit about this a minute ago
18 while you were finance director of Brooktrails, you dealt with
19 both Brooktrails collection system, correct?

20 A. Yes.

21 Q. You have to say yes or no, remember like the same as
22 at the deposition.

23 A. I am sorry. Yes.

24 Q. Their collection system and, also, their treatment
25 of their waste, which was handled on a contract basis through
26 Willits, right?

27 A. Yes.

28 Q. And as far as your collection system, there was no

1 contract with Willits with regard to you dealing with your
2 collection system, right?

3 A. Right.

4 Q. That's the pipe in the ground at Brooktrails, right?

5 A. Yes.

6 Q. That connect up to your shower, for instance?

7 A. Yes.

8 Q. And so Brooktrails was 100 percent responsible for
9 all of those pipes, right?

10 A. Within Brooktrails, yes.

11 Q. Right. And Willits was 100 percent responsible for
12 all of their pipes within Willits, correct?

13 A. Yes.

14 Q. And at Brooktrails, I like that we're at both
15 places. This is great.

16 While you were at Brooktrails, you billed all your
17 customers based on their usage of both the collection systems
18 and the plant, correct?

19 A. Yes.

20 Q. Willits didn't help you issue your utility bills,
21 correct?

22 A. Correct.

23 Q. You did your own billing?

24 A. Yes, we did.

25 Q. And likewise, Willits was supposed to do their own
26 billing, correct?

27 A. Yes.

28 Q. You didn't expect while you were a finance assistant

1 at Brooktrails, that Willits was going to send you bills,
2 including payment for their billing people, right?

3 A. Right.

4 Q. If you knew that was happening, you would have said
5 something, right?

6 A. I would have said something.

7 Q. Likewise, Brooktrails has had an ongoing inflow and
8 infiltration program, right?

9 A. I am not sure.

10 Q. Do you know what inflow and infiltration is?

11 A. Yes, I do.

12 Q. You were helpful during the period 2004, at least to
13 2008, you helped with the budget, right?

14 A. I did.

15 Q. Do you recall a plan, a specific plan being in place
16 up at Brooktrails to try to tighten up their collection system
17 to decrease I & I?

18 A. I know they were discussing ways to do that. I
19 remember a sealing project around all the manholes or a good
20 number of manholes.

21 Q. And that was to stop inflow from the -- through
22 manhole, right?

23 A. Yes.

24 Q. And that was an ongoing project?

25 A. I don't remember how long it went on.

26 Q. Who was in charge of it?

27 A. I believe -- I remember Doug Paulson was one of
28 their utility workers and he needed to be the lead person on

1 that working with Robert Malice, the utility director.

2 Q. So we know at least Brooktrails during that time
3 that you were there, you knew a little bit about what was
4 going on with trying to fix I & I, correct?

5 A. Yes.

6 Q. Do you recall seeing specific line items in
7 Brooktrails budgets for correcting I & I?

8 A. Nothing that I remember specifically.

9 Q. Or it would have been just in the normal sewer
10 budget?

11 A. You know, I just don't recall it.

12 Q. Okay. Did Brooktrails ever employ outside people to
13 do rate studies?

14 A. I -- while I was there, the rates were set by the
15 general manager, by means of his budget. I don't recall them
16 having an outside consultant help them with rate studies.

17 Q. The City of Willits did employ outside people to
18 help with the rate studies, right?

19 A. Yes.

20 Q. And when you were at Brooktrails, you never charged
21 the City of Willits for your efforts or for the costs of
22 setting the Brooktrails rates, correct?

23 A. Correct.

24 Q. Those relate to only Brooktrails citizens?

25 A. Correct.

26 Q. And likewise, Willits shouldn't be charging
27 Brooktrails for their rate studies or whatever costs they have
28 in setting their rates, correct?

1 A. Correct.

2 Q. Now, you have had a lot of training as a finance
3 manager for a municipality, correct?

4 A. A lot of training and experience.

5 Q. Yeah, I remember.

6 Can you tell us, just in the last three years what
7 kind of training you've received to help you understand your
8 duties as finance director?

9 A. I attend an annual conference every year from the
10 California Society of Municipal Finance Officers. It's a
11 two-day training session, where there's different topics
12 discussed in different rooms.

13 I've also gone to the National Government Office
14 Association training sessions.

15 Q. Do you have any certifications as a finance
16 director?

17 A. I have some certificates in my file related to the
18 training I've taken.

19 Q. Where do you work now?

20 A. City of Cloverdale.

21 Q. And you've work there from 2013 when you left
22 Willits?

23 A. Yes.

24 Q. So Brooktrails, Willits, Cloverdale covers a long
25 period of time for you?

26 A. Yes.

27 Q. And in all three positions, you had responsibilities
28 for finance, right?

1 A. Yes.

2 Q. Let's talk a little bit about your time at Willits.
3 You said, I think you left Brooktrails in 2008?

4 A. Yes.

5 Q. What did you first do for the City of Willits?

6 A. I came in as senior accountant, primarily to work on
7 payroll and to catch up on their general ledger and get their
8 audits on time.

9 Q. And you actually completed a couple of audits fairly
10 quickly, didn't you?

11 A. I think I did three in two years.

12 Q. That helped get the City of Willits back on track a
13 little bit?

14 A. Yes.

15 Q. We appreciate it.

16 A. Thank you.

17 Q. Now, as senior accountant, you didn't spend very
18 much time working on sewer plant issues, right?

19 A. No, I worked mostly, I did the biweekly payroll, so
20 one week was payroll, the next week, I would spend trying to
21 get the general ledger caught up to date.

22 Q. When you say payroll, that applies to all the
23 departments in the city, correct?

24 A. Yes.

25 Q. Right?

26 A. Yes.

27 Q. You weren't doing that just specifically for the
28 sewer plant, right?

1 A. Right.

2 Q. It was payroll for the city?

3 A. Correct.

4 Q. Same thing with the general ledger?

5 A. Correct.

6 Q. And as finance director, I seem to remember you
7 telling me you spent about 50 percent of your year doing
8 budgets and the other 50 percent audits?

9 A. Yeah, that's the general description of it, yes.

10 Q. And it went that way year after year, six months and
11 six months, right?

12 A. Yes.

13 Q. And I think I remember you telling me as finance
14 director, other than your general supervisory duties for the
15 city, you didn't spend a lot of time dealing with the sewer
16 plant, correct?

17 A. Yes, correct.

18 Q. And just to close the loop, you had a -- under you
19 when you were -- strike that.

20 Let's back up and lay the foundation.

21 In 2008, you became the senior accountant for the
22 City of Willits, right?

23 A. Yes.

24 Q. And your duties included, I think you said, payroll
25 and also general ledger work?

26 A. Yes.

27 Q. Did you also assist with budgeting?

28 A. Yes.

1 Q. And assist with the audits?

2 A. Yes.

3 Q. Any other major tasks you did as senior accountant?

4 A. I worked with them on the finances for the sewer
5 treatment project through USDA.

6 Q. As senior accountant?

7 A. Yes, we had to gather documents and provide them to
8 the city manager.

9 Q. Do you recall when that was?

10 A. No. Not exactly. It could have been after I was --
11 I was only senior accountant for eight months. So I don't
12 recall where we were at in the USDA process at any certain
13 time. But it was a long process to get that loan approved
14 and --

15 Q. And when did you become finance director?

16 A. In August of 2008.

17 Q. And as finance director, you're basically the CFO
18 for the city, correct?

19 A. Correct.

20 Q. We had the CEO in here earlier?

21 A. Yes.

22 Q. You're responsible for maintaining all the finances
23 for the City of Willits as the finance director, correct?

24 A. Yes.

25 Q. You report to the city council or do you report to
26 the city manager?

27 A. City manager.

28 Q. And she reports to the city council?

1 A. Correct.

2 Q. Do you -- would you agree with this statement that
3 as finance director for the City of Willits, that you would
4 make your best effort to follow best management practices as
5 they relate to the municipal finances?

6 A. Yes.

7 Q. Do you understand what best practices or best
8 management practices means?

9 A. Yes.

10 Q. It's discussed in your training seminars, correct?

11 A. Yes, yes.

12 Q. And everybody always strives -- strike that.
13 City officials strive to comply with best practices,
14 right?

15 A. Yes.

16 Q. With regard to finance, can you just describe for me
17 what best practices means?

18 A. Generally accepted accounting principles, what they
19 call GAP. Methods that are used by the majority of government
20 agencies. Methods that have been developed by people like the
21 Government Finance Officers Association. Standard practices.

22 Q. Does it also mean treating your job duties with the
23 highest level of integrity possible?

24 A. Yes.

25 Q. And the highest level of honesty possible, is that
26 the best practices?

27 A. Yes.

28 Q. You want to be honest when you report to the city

1 manager, right?

2 A. Yes.

3 Q. And you want to honest when you're reporting to the
4 citizens of Willits?

5 A. Yes.

6 Q. Same thing when you're billing Brooktrails or when
7 you work for the City of Willits of best practice would be
8 honesty when you're dealing with Brooktrails, correct?

9 A. Yes.

10 Q. And to ensure that the bills that you send to
11 Brooktrails are accurate, right?

12 A. Yes.

13 Q. That's a best practice, accuracy, correct?

14 A. Yes.

15 Q. One of the best practices for the City of Willits
16 also to try to adhere to the terms of the contracts they have
17 with other parties?

18 A. Yes.

19 Q. Including Brooktrails?

20 A. Yes.

21 Q. But the best practice to make sure that you're
22 adhering to the clauses and the sections of the contract that
23 you have with Brooktrails, right?

24 A. Yes.

25 Q. Do you recall -- you've reviewed the contract
26 between Willits and Brooktrails, right?

27 A. Yes.

28 Q. On a number of occasions, correct?

1 A. Correct.

2 Q. And you have a pretty good understanding of what it
3 says, correct?

4 A. Yes.

5 Q. And we have copies available, we can look at, we're
6 going to be talking about it during our time here.

7 Do you recall the time limits that is put on Willits
8 to provide Brooktrails with an annual audit every year?

9 A. The contract says October 1st, after the close of
10 the fiscal year.

11 Q. And while either the time -- during the time you
12 were at Brooktrails, which takes us all the way back to 1998
13 until the time you left in 2013, did Willits ever deliver
14 Brooktrails an audit by October --

15 A. No.

16 Q. -- after the fiscal year?

17 A. No. Not that I remember.

18 Q. In some cases, it was up to two years late, correct?

19 A. I believe the 2005 audit was about two years late.
20 I think we received it in July of 2007, so not quite two years
21 late.

22 Q. And it was delivered with the 2006 audit, which was
23 about a year late, right?

24 A. I don't -- my recollection is that the 2005 audit
25 was done prior to me starting work for the City of Willits.
26 But the 2006 and the 2007, I thought were delivered together,
27 but I could be wrong.

28 Q. You might be right. Those were delivered in 2008?

1 A. I remember two of them came at once, because one
2 year wasn't quite as difficult to get caught up as the other.
3 So we engaged the auditor to just come one time and look at
4 everything else while he was there.

5 Q. Another section of the contract, between Willits and
6 Brooktrails that we talked about with Ms. Moore, was the
7 metering at the sewer plant. Right?

8 A. Yes.

9 Q. Now, Brooktrails has its own meter, correct?

10 A. Yes.

11 Q. And that meter has generally always worked, right?

12 A. As far as I know.

13 Q. It's been fairly accurate?

14 A. I don't know about the accuracy. I can't vouch for
15 that.

16 Q. Okay. Are you aware of lengthy or problems over a
17 long periods of time with regard to the inflow meter at the
18 plant?

19 A. Yes.

20 Q. And part of the contract -- you understand how
21 Brooktrails is supposed to be billed, correct?

22 A. Yes.

23 Q. And the method, the primary method to allocate or to
24 figure out how much Brooktrails is supposed to pay every year
25 is a ratio between Brooktrails meter readings and the City of
26 Willits meter readings, correct?

27 A. Yes.

28 Q. And you have to have both to even figure out what

1 percentage Brooktrails is supposed to pay, right?

2 A. Yes.

3 Q. And without one meter, you really can't figure out
4 what that percentage is, right?

5 A. Yes.

6 Q. Do you recall when the meter stopped working at the
7 sewer plant, Willits sewer plant?

8 A. I believe it was when I was working for Brooktrails,
9 but I don't remember exactly when.

10 Q. Does 2001, 2002 ring a bell?

11 A. That sounds right. I am not positive.

12 Q. At some point, at -- strike that.

13 After the meter broke and I am talking about the
14 sewer plant meter because Brooktrails' meter was still
15 working, right?

16 A. I think so.

17 Q. Okay. After the sewer plant meter broke, did the
18 City of Willits or do you remember the City of Willits ever
19 sending Brooktrails a letter with the suggestion as to what
20 percentage should be used?

21 A. I don't know who suggested what. I remember seeing
22 a letter where they proposed to use an average over a few
23 years period of time.

24 Q. I bet you recall what that number was?

25 A. 23.62 percent.

26 Q. Bingo.

27 We have some binders up here that are full of
28 documents for you to look at. I am sure you're excited to see

1 them. First one I am looking for is Exhibit 90. There you
2 go. Start there.

3 MR. BARTOLOTTA: Mr. O'Brien, the number?

4 MR. O'BRIEN: We're going to start at 90, which has
5 already been marked and then we're going to move on to 96,
6 when we talk about that one.

7 MR. BARTOLOTTA: Thank you.

8 BY MR. O'BRIEN:

9 Q. Just review that for a second. When you're done,
10 let me know, okay?

11 A. Okay.

12 Okay.

13 Q. So this -- do you recognize Ross Walker's signature
14 at the end of that letter?

15 A. Yes.

16 Q. And you worked with Mr. Walker for a long time,
17 right?

18 A. Only about six months.

19 Q. Oh, a short time?

20 A. A short time.

21 Q. But he also corresponded with you when you worked at
22 Brooktrails?

23 A. Not with me directly. Mostly with Mike Chapman.

24 Q. Do you recognize this as an official letter from
25 City of Willits to Brooktrails?

26 A. Yes.

27 MR. BARTOLOTTA: Objection. Lacks foundation.

28 BY MR. O'BRIEN:

1 Q. That's the City of Willits letterhead?

2 A. Yes.

3 Q. We've confirmed that's Ross Walker's signature on
4 the back, right?

5 A. Yes.

6 Q. Do you recall seeing this letter back in 2005?

7 A. I've seen this letter before.

8 Q. And the letter is -- strike that.

9 MR. O'BRIEN: I'd like to move this letter into
10 evidence. Do you have an objection?

11 MR. BARTOLOTTA: Yes. Still lacks foundation.
12 Hearsay.

13 THE COURT: Overruled on that ground, and it can be
14 admitted. 90 is admitted.

15 (Whereupon, Exhibit 90 was admitted.)

16 MR. O'BRIEN: Thank you.

17 BY MR. O'BRIEN

18 Q. And what exhibit number is that, again? It's 90,
19 right?

20 A. Yes.

21 Q. So Exhibit 90 is a letter from the City of Willits
22 to Brooktrails and it basically explains that the city is
23 proposing to use an average of 23.62 for some period of time
24 because the meters are broken, right?

25 A. Yes.

26 Q. And if you turn to page 96, I think, tab 96, but my
27 document is missing, familiarize yourself with tab 96.

28 A. Okay.

1 Q. And attached to tab 96 there's a proposed -- and I
2 hate to say this, this is going to get even more confusing --
3 it's a proposed Fourth Amendment, right?

4 A. Yes.

5 Q. And this amendment was never signed, correct?

6 A. I don't know.

7 Q. What does this Fourth Amendment suggest, what is
8 Brooktrails suggesting in this Fourth Amendment?

9 A. That they establish the 23.62 percent as a temporary
10 allocation percentage.

11 Q. For how many years?

12 A. Until July 1st, 2007.

13 Q. And then Brooktrails suggested that after July 1st,
14 2007, that the city would take the next 12 months of meter
15 readings when the meters were fixed and apply that percentage
16 retroactivity, correct?

17 A. I think that's what paragraph four is saying.

18 Q. Okay. And is that -- do you recognize that letter?

19 A. It don't really remember this letter.

20 Q. Do you recognize the signature on that letter?

21 A. Yes.

22 Q. And does that appear to be the signature of Mike
23 Chapman?

24 A. Yes.

25 Q. Is that Brooktrails Township's letterhead?

26 A. Yes.

27 MR. O'BRIEN: Your Honor, I'd like to move this
28 exhibit in as well.

1 MR. BARTOLOTTA: Objection, hearsay.

2 THE COURT: It is at this point. Again, I think
3 we're going to hear from these folks, but this has the same
4 missing component as the documents referred to during
5 Ms. Moore's testimony.

6 MR. O'BRIEN: I understand, your Honor.

7 THE COURT: Sustained for now.

8 BY MR. O'BRIEN:

9 Q. Ms. Cavallari, you were the finance director of the
10 City of Willits in 2011, correct?

11 A. Yes.

12 MR. O'BRIEN: Lee, I am going to put -- however,
13 discuss number seven, tab number seven of the second
14 accounting binder now.

15 THE COURT: Let's take this opportunity to take a
16 break and you can have it all set to go at 12:25 when we
17 return.

18 Ladies and gentlemen, I know it's a short lunch
19 break, shorter than yesterday. It's going to be 25 minutes.
20 In the past I've been asked to provide directions or some
21 direction to places where you can get food and I may be
22 pointed out Bill's Market over there.

23 For next week and future reference, the Mexican
24 restaurant over there has indicated that if your order is
25 received during our morning break, it will be ready for you at
26 noon. If you're interested in one man's opinion, it's
27 excellent there. But with that kick back.

28 Just for now, just please remember the admonishment

1 and be ready to go at 12:25, and we'll be finished at 1:30
2 today.

1 THE COURT: We're back on the record in
2 Brooktrails versus City of Willits, and parties and counsel
3 are present, all of our jurors are present. Ms. Cavalleri
4 is still on the stand, still under oath and ready for
5 continuing 776 exam. And whenever you're ready,
6 Mr. O'Brien.

7 MR. O'BRIEN: Yes, your Honor.

8 Mr. Bartolotta, we'll be looking -- just so
9 everybody is on the same page -- in the accounting invoice
10 binder. We're going to look at the actual amounts for June
11 30th, 2010. It should be tab 6.

12 MR. BARTOLOTTA: Thank you.

13 MR. O'BRIEN: And in the budget binder, just so I
14 don't have to break it up, in the budget binder we'll be
15 looking at tab 8, which is the 2010/2011 budget.

16 MR. BARTOLOTTA: Thank you.

17 MR. O'BRIEN: I'd like to publish the invoice
18 first to the jury, your Honor.

19 THE COURT: Any legal objection?

20 MR. BARTOLOTTA: No objection.

21 THE COURT: It may be.

22 BY MR. O'BRIEN:

23 Q Ms. Cavalleri, I think you have a binder in front
24 of you, and I know we were speaking about a letter when we
25 had lunch, but we're going to talk more about that later,
26 okay?

27 A Okay.

28 Q So just keep that right in front of you.

1 Perfect.

2 This is a budget that was sent from Willits to
3 Brooktrails in 2010, correct?

4 A I'm not sure when it was sent.

5 Q Is it for the period -- I'm sorry. You're right.
6 Was it for the period ending June 30th, 2010?

7 A Yes.

8 Q And it would have been sent some time past that?

9 A Yes.

10 Q And were you finance director when this bill was
11 sent?

12 A Yes.

13 Q And just for foundation, the bill -- the whole
14 time you were finance director, the invoices always took
15 this form, didn't they?

16 A Yes.

17 Q Okay. And when you were at Brooktrails prior to
18 2008, when you saw these invoices they still were always in
19 this same format, correct?

20 A Yes.

21 Q And in this case we're going to be talking for
22 the period of 2004/5 to the present. The invoices always
23 had the same form, basic form during that time, correct?

24 A Yes.

25 Q And sometimes they might have different documents
26 behind them, but the operational expenses always used this
27 format, correct?

28 A Yes.

1 Q And so we've looked at various years, but the
2 format is always going to be the same.

3 I'd like you again, because I want to make sure
4 we all understand how these things work so we can talk about
5 them, I'd like to go through some questions about this
6 invoice with you, okay?

7 A Okay.

8 Q And as the director of finance for Willits, you
9 were the person ultimately responsible for this invoice,
10 correct?

11 A Yes. I created it. I generated the invoice.

12 Q Okay. So you actually personally prepared this
13 invoice --

14 A Yes.

15 Q -- every year?

16 A Yes.

17 Q Okay. And did you do anything to check the
18 supporting documents that made up this invoice?

19 A The supporting documents were from the audited --
20 those numbers all came from the audited financial
21 statements.

22 Q So you would check the audited financial
23 statement and put these numbers in, correct?

24 A Yes.

25 Q And did the auditor actually audit the amounts
26 within the sewer operations account?

27 A Yes.

28 Q Did the auditor ever see these bills?

1 A I think he did, but he didn't -- he was not
2 engaged to prepare them, but he had seen them.

3 Q And he was not engaged to audit them either, was
4 he?

5 A No, he was not.

6 Q And the City of Willits specifically told him
7 that they did not engage him to audit these bills, right?

8 MR. BARTOLOTTA: Objection, calls for hearsay.

9 THE COURT: If you know.

10 THE WITNESS: I don't know whether they said
11 anything to him or not.

12 BY MR. O'BRIEN:

13 Q Do you recall sending a letter when you were the
14 finance director of the City of Willits to Brooktrails
15 reminding them that the bills were not audited by your
16 outside auditor?

17 A Yes -- no. The bills are not something that
18 would be audited. The bills are -- the numbers on the bill
19 come from audited financial statements, but the bills
20 themselves are just mathematics. There's nothing to audit.

21 Q And what -- did you, when you were creating these
22 bills, other than pulling the numbers off of the audited
23 financials did you do anything independently to verify these
24 numbers were accurate?

25 A Prior to the audit I did, yes.

26 Q What did you do?

27 A I reviewed transaction registers from the general
28 ledger to make sure that invoices and expenses were properly

1 coded to the correct accounts.

2 Q Was one of the things you looked for to make sure
3 that these departments weren't receiving expense invoices or
4 expense transactions that should have properly gone to a
5 different fund?

6 A Yes.

7 Q Did you do, when you were creating this bill,
8 anything to check whether the administration amount was
9 correct, other than look at the audit?

10 A I'm not sure. I took the numbers off the audit
11 to create the bills, so I reviewed all the transactions
12 prior to having the auditor come in. So I would say yes.

13 Q And the administration account is made up of
14 allocations, correct?

15 A Yes.

16 Q So did you do anything to review, for instance,
17 how much time any of the directly allocated positions were
18 spending on sewer fund taxes?

19 A No.

20 Q So you just took the department's, or whoever
21 created the budget, word for that, right?

22 A Right. We -- yeah.

23 Q You didn't specifically track the time, for
24 instance, that anyone of the directly allocated positions
25 was spending at the sewer plant?

26 A I never did a time study.

27 Q And you also didn't look at the number of
28 transactions that it took to account for or administer any

1 one of the sewer accounts within the sewer fund, right?

2 A I don't think at this time. I'm not sure if this
3 was before or after that change in methods of allocating
4 administration costs.

5 Q And you mean because at some point you hired a
6 professional independent firm to do allocations for you,
7 right?

8 A Yes.

9 Q But those people never looked at the direct, even
10 to this day they still don't look at the directly allocated
11 positions, correct?

12 MR. BARTOLOTTA: Objection, lacks foundation.

13 THE COURT: If you know, you can answer.

14 THE WITNESS: No, I don't think they -- I don't
15 know what you mean by "looked at" the directly allocated
16 positions. I'm not -- that's not clear to me what you mean
17 by that.

18 BY MR. O'BRIEN:

19 Q Let's talk about this administration number. I'm
20 going to publish the administration number from 2010/11,
21 okay?

22 MR. BARTOLOTTA: Yes.

23 BY MR. O'BRIEN:

24 Q So my understanding, and correct me if I'm wrong,
25 because you're the finance expert for the City of Willits,
26 the sewer administration fund had directly allocated
27 positions, right?

28 A Yes.

1 Q And then in this year, and this is prior to
2 Matrix, it also had put into its account an overhead charge,
3 right?

4 A Yes.

5 Q And my understanding is this \$246,000 overhead
6 charge in this year was a city-wide allocation which was
7 intended to allocate the general funds services accounts to
8 all of the remaining funds and accounts?

9 A Yes.

10 Q Is that correct?

11 A I would say so.

12 Q And what you were talking about a minute ago is I
13 believe the following year in 2011, 2012, you hired an
14 independent outside expert firm to do that allocation for
15 you, right?

16 A Yes.

17 Q And when they did the allocation, they came in
18 and they looked at everything, right, and looked at
19 transactions, where people were working, all those things to
20 make sure that the benefit received by the fund getting the
21 allocation was equal to or close to -- as close as possible
22 or equal to the amount they were being allocated, right?

23 MR. BARTOLOTTA: Objection, lacks foundation,
24 calls for speculation.

25 THE COURT: At this point on foundational
26 grounds, sustained, but that doesn't mean the area is
27 foreclosed.

28 ////

1 BY MR. O'BRIEN:

2 Q Do you understand just as a good business
3 practice when you're doing allocations that the idea behind
4 doing an allocation is billing a specific fund or account
5 for benefits received?

6 A Yes.

7 Q That's accepted by best practices and by GAAP,
8 too, right?

9 A Yes.

10 Q And so you understood that when you hired Matrix
11 to come in and do this calculation for you, that that's what
12 they would try to do, correct, match the cost to the
13 benefit?

14 A Right. It's an estimate, but they did -- yes,
15 they had a formula that they used to estimate it as closely
16 as possible.

17 Q And we'll look at the report in a minute. But
18 it's 100 pages long, right?

19 A It's -- yes, it's long.

20 Q Exhaustive process?

21 A I don't do the process, so I provide them with
22 the information.

23 Q And you did e-mail back and forth with them many,
24 many times providing them information, right?

25 A What's "many, many times"?

26 Q 163 times in two and a half years, if you want
27 specifics?

28 A If you say so. I exchanged e-mails with them to

1 provide them with information to prepare the reports, yes.

2 Q And what I'm trying to get at, and I think we
3 talked about this a lot in your deposition, is that Matrix
4 does a very thorough detailed analysis of the costs in order
5 to match it up with the benefits, right?

6 A Yes.

7 Q Okay. And that's why you hired them, right?

8 A Yes.

9 Q And you went before the City Council and you told
10 the City Council this is a better way, right?

11 A Yes.

12 Q And you recommended that they hire Matrix every
13 year, right?

14 A I did.

15 Q To do that allocation, correct?

16 A Yes.

17 Q So when we look up this sheet, up to regular
18 employees, this is also an allocation, correct? The payroll
19 portion of the sewer administration fund is -- in addition
20 to the overhead allocation, is also a administrative
21 allocation, correct?

22 A Not completely. Some of that number would
23 include people that directly work for the sewer department,
24 so it's not all an allocation.

25 Q While you were at the City of Willits, did
26 anybody directly work -- "directly" meaning as an employee
27 of the sewer administration department?

28 A No.

1 Q So there were no employees directly working for
2 the city administration department -- the sewer
3 administration?

4 A Their salaries were cost-shared between different
5 funds.

6 Q That's what I'm getting at.

7 A Yes, okay.

8 Q So the \$92,000 we see here on this budget, which
9 is the projected actual for 2010, that was all allocated
10 percentages of city-wide staff members being allocated to
11 the administration fund, correct?

12 A Yes.

13 Q And similarly, the number we see down here in
14 overhead, the 246,000 for overhead in that year is also
15 allocations of parts of salaries for city-wide employees,
16 correct?

17 A Yes.

18 Q So both of those items are administrative
19 allocations, correct?

20 A Yes.

21 Q For the purposes of our discussion and for this
22 trial we're calling the allocation, which we'll call the
23 city-wide allocation, we're calling that the overhead
24 allocation, the other one we're calling the staffing
25 allocation, just because it's easier to understand that way
26 and for no better reason, okay?

27 With regard to the staffing allocation under
28 sewer administration, the idea that you tried to employ was

1 that all of these allocated positions would directly benefit
2 the sewer fund, correct?

3 A Yes.

4 Q And it had to be some different type of benefit
5 to the sewer fund than that which you already were
6 allocating through the city-wide or the overhead allocation,
7 right?

8 A Yes.

9 Q So the overhead allocation gives the sewer fund
10 part of the finance director's salary, right?

11 A There was a point in time when we -- well, when I
12 was doing it, yes.

13 Q Okay. So looking back to the budget, the
14 \$246,000 allocation included part of the city finance
15 director's salary, correct?

16 A I believe so. Having not seen where the number
17 comes from in any document here, I would say yes.

18 Q Yeah, prior to Matrix that's how you did it,
19 right?

20 A Yes.

21 Q Okay. And then the city came back to the sewer
22 fund and put more of that same person's salary into the
23 fund, correct?

24 A Yes.

25 Q And that served to drive up the administrative
26 costs of the sewer fund, right?

27 A Yes.

28 Q Which is fine as long as there was a benefit

1 received, correct?

2 A Yes.

3 Q Okay. Utility billing coordinator. The utility
4 billing coordinator, it looks like in '09/10, 25 percent of
5 that salary went to the sewer admin, and the following year
6 nothing went, and then we looked at budgets in later years
7 where it reappears and it's billed again to the sewer fund.

8 What did the utility billing coordinator do for
9 the City of Willits?

10 A Primarily monthly water bills.

11 And there was one correction I made in my
12 deposition, which I'm hoping they informed you of, was that
13 they did an annual calculation of the sewer bill. The sewer
14 charges in Willits are billed with the county property tax
15 statement. So I have two monthlies and one annual, so I get
16 confused.

17 But the utility billing clerk would have to sit
18 down with the county tax roll and look at each individual
19 assessor's parcel number to determine the correct sewer
20 charge for that parcel, so she also did that.

21 Q And when you said it in your deposition, I
22 already knew it wasn't true, so I didn't put any stock in
23 it, okay?

24 A I realized it on the way home.

25 Q All right. So we know what the utility billing
26 clerk does. He or she sends out the water bills and the
27 sewer bills also, right?

28 A Yes.

1 Q For the citizens of the City of Willits, correct?

2 A Yes.

3 Q And the utility billing clerk does no work for
4 the sewer plant, correct?

5 A Correct.

6 Q Only works --

7 A Well, other than the billing of the septic
8 haulers.

9 Q So you have multiple accounts in the sewer fund,
10 right?

11 A Yes --

12 Q You have --

13 A -- multiple accounts.

14 Q You have sewer operations?

15 A Those are departments.

16 Q I know. I say "accounts," other people say
17 "departments."

18 A Yes. It's departments.

19 Q I'll use "departments," your word. It's better.
20 There's multiple departments in the sewer fund,
21 right?

22 A Yes.

23 Q One of them is the sewer plant which is called
24 sewer operations, right?

25 A Yes.

26 Q And that's supposed to only contain costs that
27 benefit the sewer plant, correct?

28 A Yes.

1 Q And same thing with the sewer maintenance
2 department which is also the collection system, right?

3 A That's right.

4 Q And again that account, whether Brooktrails is
5 paying a part of it or not, should really only have costs in
6 it that are benefitting the collection system, correct?

7 A Correct.

8 Q And there's also a septic receiving account or
9 department, correct?

10 A There is.

11 Q You set it up?

12 A Yes.

13 Q You set it up the year after the budget we're
14 looking at in 2011/2012, right?

15 A I think so.

16 Q And you set it up to capture the expenses that
17 are associated with septic receiving, right?

18 A Yes.

19 Q The sewer plant -- getting back to what we were
20 talking about. The sewer plant is only supposed to pay for
21 expenses that benefit the sewer plant, right?

22 A Yes.

23 Q And the utility billing clerk doesn't benefit the
24 sewer plant, does it?

25 A No.

26 Q Okay. So in the years where this utility billing
27 coordinator was billed the sewer administration, right, and
28 then ultimately sewer administration in this year was split

1 70 percent, 30 percent plant maintenance, Brooktrails paid a
2 percentage of the utility billing clerk that year, didn't
3 they?

4 A Yes.

5 Q And that was wrong, correct?

6 A I agree with that.

7 Q And the city should reimburse Brooktrails for
8 every time they did that, right?

9 A Yes.

10 Q That would be the honest thing to do, correct?

11 A That would be the right thing to do.

12 Q Has the city or did the city notice this error at
13 any time while you were finance director?

14 A It was never brought up.

15 Q And if it was brought up, you would have told the
16 City Council, hey, we need to fix this, right?

17 MR. BARTOLOTTA: Objection, calls for
18 speculation.

19 THE COURT: Based on your own practices and
20 experience, you may answer the question. Overruled.

21 THE WITNESS: I would have discussed it with
22 the city manager. I wouldn't have taken something directly
23 to the City Council, but it would have been a discussion I
24 would have with the city manager.

25 BY MR. O'BRIEN:

26 Q You would have told the city manager we made a
27 mistake, we need to fix it, and we need to issue a credit to
28 Brooktrails, right?

1 A Yes.

2 Q That would be the best practice, right?

3 A Yes.

4 Q And you would have done that with any of your
5 customers, right?

6 A Yes.

7 Q I'm sure if it came up with bills for sewer and
8 water, if there was a mistake you would fix it and give the
9 customer credit, correct?

10 A Yes.

11 Q So as we look at the 2010 bill, I wanted to draw
12 this back to the letters we were looking at a minute ago,
13 footnote number 4. Can you read that for a sec to yourself
14 and we'll talk about it?

15 A Okay.

16 Q Footnote number 4 refers to a letter that
17 supposedly was sent from the district to the city confirming
18 an agreement on February 8th, 2005, that the city, I guess
19 indefinitely, could bill Brooktrails at a rate of 23.62
20 percent, right?

21 A I don't know about the "indefinitely" part of
22 that statement, but --

23 Q Okay. Well, we know --

24 A Could you repeat your question?

25 Q Let me rephrase it, because I think you're right.
26 I mischaracterized this document, I think.

27 For the years 2005 until when you left in 2013,
28 did that note always appear on the bottom of the bills?

1 A I believe it did.

2 Q Okay. And so not indefinitely, but at least for
3 nine years that note appeared on the bottom of the bill and
4 that was to tell everybody that received this bill, whether
5 it was the auditor, or Brooktrails, or the people of
6 Willits, or any other person, that we should not worry about
7 the contract clause regarding apportionment based on meter
8 because there's been an agreement between the parties, and
9 we're using 23.62 percent until further notice, right?

10 A Yes.

11 Q Okay. And --

12 A Can I just say that "until further notice," that
13 statement is specific to this billing period. It has no
14 time before or after. So to keep saying "indefinite," or
15 trying to make it sound indefinite, it was everybody's
16 intention to bring this back to actuals when the meters were
17 repaired. It was never intended to be indefinite.

18 Q Okay. And the meters weren't repaired any time
19 while you worked there, right?

20 A Not while I worked there. Well, let me --

21 Q Did --

22 A Let me back up. We believed they were working
23 right before I left. When the treatment plant was nearing
24 completion, it looked like the meters were working
25 correctly. We were keeping track of readings for -- I don't
26 think we ever got a full 12 months, but I believe that the
27 meters were repaired when the plant was in construction. I
28 just don't remember exactly when that was.

1 Q I have an e-mail from you to Mike Fallon that I
2 think will refresh your recollection.

3 A Oh.

4 Q We'll look at that in a minute. But is it your
5 understanding they're still having problems with the meter
6 up in Willits?

7 A That's what I've heard.

8 Q Okay. And have you seen the 2014 bill to know
9 whether that statement still exists on the 2014 bill?

10 A No, I don't know.

11 Q Okay. We can look at it in a second.

12 Do you -- have you ever seen the letter from the
13 district to the city dated February 8, 2005?

14 A I don't remember.

15 Q Do you know if that letter exists?

16 A I don't know.

17 Q So the only two letters -- you had seen one of
18 the two letters that I put in front of you earlier today,
19 right?

20 A The February 1st letter?

21 Q Yep.

22 A Yes.

23 Q Okay. And you'd seen the response by
24 Brooktrails, correct?

25 A I don't remember.

26 Q The one we just looked at with the agreement
27 attached?

28 A The Number 96.

1 Q Number 96.

2 A That was in August, so this is saying February.

3 Q Right. Are you aware of any other letter on
4 February 8th that exists?

5 A I don't remember.

6 Q All right. Did you follow the agreement that
7 Brooktrails laid out in the Exhibit Number 96 once you
8 believed the meters were repaired?

9 A This is related to the 23.62 percent?

10 Q That's right.

11 A I don't think -- I don't think I prepared the
12 bill. I don't remember. It's too hard to remember. Give
13 me the question again.

14 Q What I'm asking you is based on Exhibit Number 6,
15 which is the only --

16 A 96.

17 Q -- 96, which is the only agreement, even though
18 it's unsigned, that we have that was sent from Brooktrails
19 to Willits regarding using 23.62 percent, it says -- I think
20 you said earlier it says that once the meters are repaired,
21 the city will take the next 12 months, an average of the
22 next 12 months, and use that percentage to retroactively
23 adjust Brooktrails' bills?

24 A That's what this says.

25 Q That's what that letter says. And that's the
26 only letter that we have anywhere from Brooktrails to
27 Willits that discusses the 23.62 percent.

28 A Okay.

1 Q So what I'm asking you is when in 2012 you
2 thought the meters were fixed again did you take 12 months,
3 average it, and retroactively credit or charge Brooktrails
4 based on that number?

5 A No, this agreement was never signed.

6 Q Okay. And there's no other agreement that you
7 know of that was signed with regard to the 23.62 percent,
8 right?

9 A Not that I know of.

10 Q You've never seen one, right?

11 A I haven't seen one.

12 Q Okay. So -- and certainly this note where it
13 says it's a letter from the district to the city doesn't
14 refer to the February 1st letter, does it?

15 A It doesn't appear to.

16 Q An agreement couldn't be formed by the city
17 saying, do you mind if we do this, right? That's just an
18 offer, isn't it?

19 MR. BARTOLOTTA: Objection, calls for a legal
20 conclusion.

21 THE COURT: It does. Sustained. It's
22 argumentative as phrased as well.

23 BY MR. O'BRIEN:

24 Q So the letter sent from Ross Walker to Mike
25 Chapman could not be considered the agreement that's
26 referred to in the invoice every year, correct?

27 MR. BARTOLOTTA: Objection, calls for a legal
28 conclusion.

1 THE COURT: Sustained.

2 BY MR. O'BRIEN:

3 Q Do you believe the February 1st letter from Ross
4 Walker to Mike Chapman is the letter that's referred to in
5 the city's bill?

6 A I don't know.

7 Q Well, let's look at the note, because you verify
8 this note every year when you sent the bill out, right?

9 A I didn't verify the note. I saw that the note
10 was there. I left it there because I made the assumption
11 that people knew what the note was in reference to.

12 Q So you would have assumed if your predecessor was
13 using best practices they would have verified that the
14 information they were putting on this bill was accurate,
15 right?

16 A Yes.

17 Q And if it wasn't accurate, it wouldn't have been
18 a best practice, would it have?

19 A No.

20 Q It would have been dishonest frankly, right?

21 MR. BARTOLOTTA: Objection, argumentative.

22 THE COURT: It is. Sustained.

23 BY MR. O'BRIEN:

24 Q Assuming that the Brooktrails bill -- excuse
25 me -- the Brooktrails agreement that they sent back to the
26 city is the only agreement and that the city billed us based
27 on that agreement for the following 10 years, did you ever
28 think when the meters were fixed to take the next 12 months,

1 think about what the average was, and retroactively adjust
2 the bills?

3 A I would have no reason to do that.

4 THE CLERK: Marking Exhibit 344 for the record.

5 (Plaintiff's Exhibit 344 was
6 marked for identification.)

7 BY MR. O'BRIEN:

8 Q I'm going to bring you this exhibit, and I'm
9 going to look over shoulder because we only have one copy.
10 I'm showing you now Exhibit 344, and it appears to be an
11 e-mail from you, correct?

12 A Yes.

13 Q To Mike Fallon. Who is Mike Fallon?

14 A He was the interim manager for Brooktrails after
15 Mike Chapman left.

16 Q And what were you trying to convey to Mike Fallon
17 in sending this e-mail?

18 A The meter readings at the plant and at the
19 Brooktrails meter for these three months.

20 Q And then there's a couple -- there's a couple
21 attachments, and one of the attachments is a longer set of
22 meter readings, correct?

23 A Yes.

24 Q And it appears that the meters started working
25 again in August of 2011; isn't that right?

26 A It looks like it.

27 Q And you have 12 months of meter readings there,
28 correct?

1 A August to July.

2 Q 12 months, right?

3 A Yes.

4 Q So if you wanted to, and if you wanted to try to
5 comply with the letter that's Exhibit Number 96, you could
6 have taken Brooktrails' flow from those 12 months, and I'll
7 represent to you that's 19 percent, and retroactively
8 applied it to all those years you used 23.62 as a place
9 holder, couldn't you have?

10 MR. BARTOLOTTA: Objection, calls for
11 speculation, lacks foundation, argumentative.

12 THE COURT: It's overruled.

13 And if you have the question in mind, you may
14 answer it.

15 THE WITNESS: Well, we're talking about something
16 that was never agreed to by the parties, when we're looking
17 at this fourth amendment about going back 10 years. It was
18 my understanding that the parties had agreed to the 23.62
19 percent. I had never heard about going back 10 years and
20 adjusting the percentage. No one had ever brought that up
21 to me.

22 BY MR. O'BRIEN:

23 Q Well, we've asked the city to bring in --

24 MR. BARTOLOTTA: Is this a question?

25 BY MR. O'BRIEN:

26 Q Yeah, it is a question.

27 We've asked the city to bring in as part of our
28 request today a copy of this agreement that's referred to

1 every year in the invoice. And you didn't bring it with
2 you, did you?

3 A No.

4 Q Okay. And Ms. Moore didn't know where it was.

5 MR. BARTOLOTTA: Your Honor --

6 MR. O'BRIEN: And, Counsel, you don't have it, do
7 you?

8 MR. BARTOLOTTA: Objection, and ask the side
9 comments not be allowed.

10 THE COURT: Please just ask a question, not give
11 a recapitulation of anyone else's testimony.

12 MR. O'BRIEN: I apologize, your Honor.

13 MR. CROWLEY: Your Honor, may we approach?

14 THE COURT: No. Let's just move on, please.

15 BY MR. O'BRIEN:

16 Q Sure. So you didn't bring it with you today,
17 though, right?

18 A No.

19 Q And you don't know if it even exists, correct?

20 A I don't know.

21 Q You've never seen it?

22 A I don't remember.

23 Q The point of all this, I guess, is that we do
24 have the meter readings for the following 12 months,
25 correct; that if we wanted to we could make the adjustment
26 as required by 96, correct?

27 A It's not required. As required.

28 Q Well, assuming that agreement --

1 A If you want, you could certainly do the
2 mathematics if you chose to do the mathematics.

3 Q Thank you. And you sent this to Mike Fallon,
4 right?

5 A I believe so.

6 Q To provide him with information about what was
7 going on at the plant, correct?

8 A To provide him with meter readings.

9 Q And because he was entitled to it, correct,
10 pursuant to the contract?

11 A I'd have to look at the contract to see what he
12 was entitled to. It was an open communication we were
13 trying to establish by providing the meter readings every
14 month so that they could see them, we could see them,
15 everybody knew what they were.

16 Q And that's a true and correct copy of your
17 e-mail, right?

18 A It appears to be.

19 MR. O'BRIEN: I'd like to move that e-mail into
20 evidence.

21 MR. BARTOLOTTA: Your Honor, may we approach?

22 THE COURT: Yes.

23 (Counsel approached the bench.)

24 MR. BARTOLOTTA: I have no objection to moving
25 that into evidence.

26 THE COURT: It will be received. That is what
27 number again, Counsel?

28 MR. BARTOLOTTA: 344.

1 MR. O'BRIEN: He's right.

2 (Plaintiffs' Exhibit No. 344
3 received into evidence.)

4 BY MR. O'BRIEN:

5 Q Did you also check the general journals in the
6 administration account to make sure there weren't erroneous
7 charges?

8 A I would have reviewed them, yes.

9 Q Do you recall in our deposition we talked -- your
10 deposition we talked about some rate studies that were done
11 by the City of Willits?

12 A I don't remember.

13 Q Do you recall the City of Willits employing
14 outside people to do rate studies?

15 A They did.

16 Q Okay. Do you know where -- if those rate studies
17 were charged to the sewer administration fund and ultimately
18 to Brooktrails?

19 A I would think they were. I would think the sewer
20 fund would have had a share in that cost.

21 Q And really the sewer maintenance department
22 should have gotten that cost, correct?

23 A Well, all of the sewer, the whole sewer
24 department, the whole sewer fund.

25 Q So the sewer rate studies didn't benefit
26 Brooktrails, did they?

27 A No.

28 Q Those were only to prepare rates for the City of

1 Willits customers, right?

2 A Right.

3 Q So Brooktrails shouldn't be paying any share of
4 your rate studies, right?

5 A No, they shouldn't.

6 Q So if the rate studies ended up in the sewer
7 administration account, 70 percent of that would have gone
8 into the plant and Brooktrails would have paid 23.62 percent
9 of that, right?

10 A Yes.

11 Q So they would have ended up paying part of
12 the City of Willits rate studies?

13 A They would have.

14 Q And that's wrong, right?

15 A I think that's true. I don't think they should
16 pay for that.

17 Q And if that happened, they should get a credit,
18 right?

19 A Yes.

20 Q Do you recall a rotary fan press?

21 A Yes.

22 Q And we talked about in your deposition, the fact
23 that a rotary fan press was purchased in 2008, do you recall
24 that conversation?

25 A Yes.

26 Q And Brooktrails was charged for it, and they paid
27 that, right?

28 A It was on their schedule, so I think they did pay

1 for that.

2 Q And then ultimately you received grant funds,
3 right?

4 A Yes.

5 Q And you reimbursed Brooktrails?

6 A I left before the billing statement was done for
7 that fiscal year, but I wrote a letter telling them that
8 they had a credit due.

9 Q And we talked about that in the deposition that
10 we hadn't received the credit yet but we knew we were due
11 it?

12 A It would come with your 2013 and '14 audit and
13 billing statement.

14 Q And so the rotary fan press was part of the old
15 plant, right?

16 A Um, it was purchased before they started
17 constructing the second phase of the project. It was a
18 piece of equipment that was needed before they started
19 building the project, but it was originally, I believe,
20 going to be a component of the new plant. It's just they
21 needed it soon.

22 Q And they used it for the old plant until the new
23 plant came on line, right?

24 A Yes.

25 Q So the old plant had a rotary fan press and that
26 same rotary fan press was used for the new plant, correct?

27 A Yes.

28 Q So if somebody showed us a picture of a shiny new

1 rotary fan press, and associated that with the new plant or
2 some sort of upgrade to the new plant, well, that same exact
3 press existed at the old plant too, right?

4 A I don't know. I don't have that much information
5 on the piece of machinery. I only dealt with the dollars.

6 Q There's also blowers at the plant now, right?

7 A I think there is.

8 Q Do you know what the blowers do?

9 A Not exactly.

10 Q Okay. Then I'm not going to ask you any more
11 questions about them then.

12 A They make a lot of noise.

13 Q Do they? I haven't heard them.

14 There's another allocation on this bill, I
15 believe, and that's the sewer engineering department,
16 correct?

17 A Yes.

18 Q And sewer engineering -- there are no sewer
19 engineers, are there?

20 A In the world? In Brooktrails?

21 Q We're going to meet some in this trial. There
22 are sewer engineers. There are no sewer engineers that work
23 for the City of Willits, correct?

24 A I don't think so.

25 Q Okay. And so yet you still had a sewer
26 engineering department, right?

27 A We had an engineering department -- yes, we did.

28 Q You had a city engineering department and then a

1 sewer engineering department, right?

2 A We had an engineering department in the -- in
3 each enterprise fund.

4 Q Okay. And you allocated money from the city
5 engineering department to the fund engineering departments,
6 correct?

7 A Yes.

8 Q Did you keep any records to verify how much time
9 the city engineers were spending on each one of the funds?

10 A There would be time sheets, but we didn't do time
11 studies on them, so I don't think we had records of their
12 actual time spent on them.

13 Q Those time sheets don't actually show where the
14 engineer was working, correct?

15 A No. He didn't keep track of his time on a
16 day-to-day basis.

17 Q The sewer engineers -- so there's no way for us
18 to verify this number 77,759. There's no way for to us
19 verify whether or not the sewer fund was really receiving
20 that quantity of benefit, right?

21 A I would say that's right.

22 Q Because no records were kept, right?

23 A Well, there's more than just salaries in there,
24 there's other expenses too, but I don't know -- they kept
25 records.

26 Q You didn't keep records of the payroll, though,
27 right?

28 A The payroll was based on percentages that were

1 used in the budget.

2 Q All right. But there's no specific records that
3 support the percentages, right?

4 A Not that I know of.

5 Q Okay. The sewer engineer is also billed in 2010
6 100 percent to the sewer plant, right?

7 A Yes.

8 Q And we talked about this in our deposition -- in
9 your deposition, didn't we?

10 A Yes.

11 Q And the sewer engineer spent time working on both
12 the sewer plant and on the collection system, correct?

13 A Correct.

14 Q And yet 100 percent of his time or their time or
15 whoever they are's time was billed to the plant, right?

16 A Yes.

17 Q And that's not right, is it?

18 A I think it's something that should have been
19 reviewed.

20 Q Do you think it's correct?

21 A I don't think it's correct.

22 Q And you know it's correct, right? You know those
23 engineers spent time on the collection system every year,
24 right?

25 A I don't know really exactly what they did. I
26 know there was a lot of effort put into the building of that
27 sewer treatment plant.

28 Q And the sewer treatment plant is built now,

1 right?

2 A I think so.

3 Q It was built when you left, wasn't it?

4 A I think it was. I think we did the notice of
5 completion prior to me leaving, but it was probably pretty
6 close to the same time.

7 Q And yet both the 2013 and the 2014 bills to
8 Brooktrails still have 100 percent of engineering going to
9 the plant?

10 A I didn't do either one of those bills.

11 Q Do you believe the city credited Brooktrails for
12 the engineering that was incorrectly billed to the sewer
13 fund?

14 MR. BARTOLOTTA: Objection, calls for a legal
15 conclusion.

16 THE COURT: No, that's overruled.

17 If you have an opinion, I would permit you to
18 give it.

19 THE WITNESS: I think they should get a credit
20 back for a portion of the engineering costs, yes.

21 BY MR. O'BRIEN:

22 Q And you don't know what that portion would be,
23 right?

24 A No.

25 Q And you don't know that there was any records
26 that would tell us what that portion should be, right?

27 A That's right.

28 Q And so there's no way for us to come up with what

1 percentage we're owed back, correct?

2 A I don't know. I just think it's something that
3 the parties should have discussed and reviewed and come up
4 with a method to keep track of things if it was an issue.

5 Q Well, we're here today, obviously, and we have
6 these overbillings or what we contend are overbillings and
7 we need to try to figure it out, and you were in charge of
8 the books and records or at least of the departments
9 during --

10 MR. BARTOLOTTA: Objection, your Honor, there's
11 no question.

12 MR. O'BRIEN: There is a question. I promise
13 there's a question.

14 THE COURT: Again, without recapitulation of the
15 witnesses' former testimony or of other evidence, please
16 just go straight forward with a question.

17 BY MR. O'BRIEN:

18 Q You were in charge of the books and records with
19 2008 to 2013 for the finance department, correct?

20 A Yes.

21 Q And you would be probably the person that would
22 know the most about whether or not there's any records that
23 we could find to try to figure out which part of engineering
24 Brooktrails owes and what part they don't owe, correct?

25 A I think you could ask the engineering department
26 what records they have.

27 Q And they might have timecards or some other
28 records that they might have that should show us that?

1 A They might.

2 Q Anybody else that you can think of?

3 A Not offhand.

4 Q So if they don't have records, then there would
5 be no way for us to go backwards and figure it out, right?

6 A I don't know if there would be a way to do that
7 or not.

8 Q Hopefully we can figure out going forward,
9 correct?

10 A That would be nice.

11 Q So as we look back at this bill, at this point we
12 can't find it, but we don't know whether or not number 4
13 note is correct, right?

14 A I don't know.

15 Q We know that the engineering charge is incorrect,
16 right?

17 A Yes.

18 Q We know that the administration charge is at
19 least partially incorrect as well, right, because it has the
20 utility billing clerk in there?

21 A Yes.

22 Q And we also know that the 23.62 percent is not
23 right because there was no meters, right?

24 A There was no meters; that's true.

25 Q And so the only thing at this point we haven't
26 talked about and that we don't know is incorrect is the
27 operations costs itself, right?

28 A Repeat that question for me, please.

1 Q The only item that Brooktrails was billed --
2 Brooktrails was billed part of the operations costs, right?

3 A Yes.

4 Q Part of the administration costs, 70 percent,
5 right?

6 A Yes.

7 Q 100 percent of the engineering, right?

8 A Yes.

9 Q And they were supposed to be billed based on a
10 ratio of the actual flow between their meter and the sewer
11 plant, right?

12 A Yes.

13 Q So of the one, two, three, four items that make
14 up Brooktrails' bill, we know as we stand here today in this
15 courtroom three of those items are actually incorrect,
16 right, on this bill?

17 A I don't know if "incorrect" is the right word.
18 At least for that percentage. Because, like I said, we -- I
19 believed for many years that that percentage was agreed to,
20 so to me that's not incorrect. I think there are some
21 justifiable adjustments that should be made to
22 administration and engineering for sure, but I don't know
23 about -- I don't know what you could do about the
24 percentage. My belief was that it was agreed to.

25 Q In your understanding of the agreement between
26 these two parties, did you understand that the contract
27 between Brooktrails and Willits could only be amended in
28 writing and with a resolution of both public entities?

1 MR. BARTOLOTTA: Objection, calls for a legal
2 conclusion.

3 THE COURT: It does, as to her understanding and
4 its relevance, so sustained on both bases.

5 BY MR. O'BRIEN:

6 Q As CEO of the City of Willits, do you have -- as
7 CEO -- or you said city manager is the CEO of the city,
8 right?

9 A Yes.

10 Q CFO. I'm sorry. You're the city finance
11 director.

12 As the city finance director, do you have an
13 understanding of how the City of Willits can enter into or
14 amend a contract?

15 A Yes.

16 Q And is that done by a resolution of the City
17 Council?

18 A Normally.

19 Q And do you know -- if that's how the previous
20 amendments to the contracts between Brooktrails and Willits
21 had occurred?

22 A I think so.

23 Q So is it your understanding that the only way to
24 amend the contract between Brooktrails and Willits was for
25 the City Council and the Brooktrails Township to pass
26 resolutions?

27 MR. BARTOLOTTA: Objection, calls for a legal
28 conclusion.

1 THE COURT: It does, sustained.

2 BY MR. O'BRIEN:

3 Q Have you ever seen any resolution, either by
4 Brooktrails or by the City of Willits, which confirms an
5 amendment to the contract allowing Willits to bill on a flat
6 rate of 23.62 percent?

7 A I haven't seen one, no.

8 Q Have you ever heard of one?

9 A No.

10 Q So putting aside the 23.62 percent for right now,
11 we're left with three dollar figures that were billed to
12 Brooktrails, right?

13 A Three dollar figures?

14 Q Engineering, administration and operations,
15 right?

16 A Okay, yes.

17 Q And two of them are either -- are somewhat
18 incorrect, right?

19 A Yes.

20 Q Okay.

21 THE CLERK: Marking 345 for the record.

22 (Plaintiff's Exhibit 345 was
23 marked for identification.)

24 BY MR. O'BRIEN:

25 Q Ms. Cavalleri, I've just given you what's marked
26 as Plaintiff's Exhibit 345, and I understand this to be a
27 worksheet that was used by the City of Willits to do that
28 city-wide overhead allocation that we talked about earlier,

1 prior to Matrix; is that right?

2 A Yeah, this was the formula.

3 Q And if we look at this formula, and I'll -- and
4 you continued to use this formula until you hired Matrix,
5 correct?

6 A Yes.

7 Q And it was used backwards for a number of years
8 as well, correct?

9 A I don't know what you mean.

10 MR. BARTOLOTTA: Objection, vague.

11 BY MR. O'BRIEN:

12 Q And also you probably weren't there, so you
13 wouldn't know. I'll withdraw the question.

14 The idea of this allocation was to take the city
15 administration costs and allocate them to the funds; is that
16 right?

17 A Yes.

18 Q And ultimately the allocations would then appear
19 in the audits and in the bills and be billed to Brooktrails,
20 correct?

21 A Yes.

22 Q Part of them?

23 A Part of them.

24 Q And the idea, if I understand this type of
25 city-wide allocation, is you're trying to take the city
26 services from the general fund, right?

27 A Yes.

28 Q And what do those include?

1 A Um, City Council, city general administration,
2 finance and accounting, city attorney, personnel, elections
3 and planning and code enforcement.

4 Q So prior to Matrix, those parts of the general
5 fund you wanted to split out across the rest of the city's
6 business, right?

7 A Yes.

8 Q Because theoretically the rest of the city's
9 operations are benefitting from those services, right?

10 A Yes.

11 Q And then you hired Matrix, and they did it a
12 little different, correct?

13 A Correct.

14 Q Much more comprehensive, I guess, right?

15 A Yes.

16 Q So prior to Matrix, looks like what you did was
17 you took the budgets -- you took the overall number of
18 administration you had to allocate, correct; in this case,
19 \$837,029, right?

20 A Yes.

21 Q And then you figured out what percentage of the
22 total city budget each fund or department had, right?

23 A Yes.

24 Q And then you spread out the \$837,000 based on the
25 percentage that each operation had, right?

26 A Yeah, it was based on the revenues in the fund.

27 Q If you'll turn to page 2.

28 A Um, I kind of need to -- well, I'm not sure this

1 example that you've given me, I'm not sure where these
2 numbers flow into the financial statements or budgets. So I
3 don't know if this exact calculation was used or if this is
4 just an example of the formula. I don't know.

5 Q So you're not sure if this is the actual overhead
6 allocation?

7 A Exactly, yeah.

8 Q Okay. And we can bring worksheets and audits
9 back at another time on Tuesday and talk more about the
10 details. But the idea of this worksheet, if it were the
11 worksheet, is that it would spread out those city-wide
12 dollars to the appropriate funds, right?

13 A Yes.

14 Q And rather than looking at the spreadsheet, we'll
15 talk generally about that, when you're taking those items
16 that we talked -- that you just talked about: City Council,
17 general admin, finance, city attorney, personnel, elections,
18 and I think you said planning and code, right?

19 A Yep.

20 Q When you combine that and come up with a number,
21 you should be hitting -- strike that -- you should be
22 allocating to all of the other departments in the city,
23 right?

24 A Yes.

25 Q Okay. One of the big departments in the city is
26 the police department, right?

27 A Yes.

28 Q And they have a large portion of the city budget,

1 correct?

2 A Yes.

3 Q Another one would be the swimming pool, right?

4 A Oh, they don't have much of a budget for the
5 swimming pool. It's only open a couple months a year.

6 Q We see it right here their budget is 50,000 a
7 year?

8 A Yeah, it's not much.

9 Q It's not much, but they should be getting
10 something, right?

11 A Sure.

12 Q Okay. And the parks should get some admin too,
13 right?

14 A Yeah.

15 Q So the idea is if police and parks and the
16 swimming pool and all the other, what I'll call general fund
17 operations, if they get their fair share, then you can
18 spread out the remainder across the enterprise funds, right;
19 sewer, water, airport, those kind of things, right?

20 A Okay. The remainder. Yeah. Okay. I just --
21 that's why I'm having a problem with looking at this,
22 because my recollection is that 30 percent of those overhead
23 costs remained in the general fund and 70 percent were
24 spread out to the enterprise funds.

25 Q That's how you did it when you did it?

26 A That's how I did it.

27 Q And I think I have one of your allocations to
28 show you.

1 A So I don't know if this is a budget worksheet or
2 what. I don't know what this is.

3 Q What does it say at the top? What does AUP mean?

4 A Oh, agreed-upon procedures. June 30, '08,
5 overhead allocation.

6 Q Right. And you didn't do this overhead
7 allocation, right?

8 A I don't know. I don't remember.

9 Q Okay. But --

10 A I don't know where it came from, so I don't know
11 if I did it or not. I did a lot. I just don't remember
12 everything.

13 Q We obtained all these documents from the city,
14 but your understanding of overhead allocations is that
15 something like 30 percent, which you just said you used,
16 would go to the police department and whatnot, correct?

17 A It would stay in the general fund and not get
18 spread to the enterprise funds.

19 Q And what's troubling you about this allocation is
20 that 100 percent of the dollars are being only given to the
21 special funds, correct?

22 A Yes.

23 Q And nothing is given to the police department,
24 for example?

25 A Well, nothing remained in the general fund. We
26 didn't allocate the costs to the general fund departments.
27 We simply just didn't spread it out to the enterprise funds.
28 We left it in those departments that it originated in:

1 Administration, city clerk or, you know, general admin,
2 finance. We just left it there. We didn't put it into the
3 other general fund departments when we did the math.

4 Q So if this is an allocation for 2008 for
5 overhead, it's wrong; is that correct?

6 A There's no right or wrong. It's just -- it's an
7 estimate. There's different ways to come up with estimates
8 to allocate costs. There's no right or wrong. It's: Does
9 it make sense? Is it a logical way to spread the costs or
10 is it not?

11 Now, if you're saying the general fund should
12 have retained some of those expenses, I agree with that
13 statement.

14 Q It would not comply with GAAP, it would not
15 comply with best practices. It would be an improper way of
16 allocating city-wide administration if you don't allocate to
17 general --

18 MR. BARTOLOTTA: Objection, your Honor.

19 BY MR. O'BRIEN:

20 Q -- to general fund services, right?

21 MR. BARTOLOTTA: Argumentative.

22 THE COURT: Sustained.

23 BY MR. O'BRIEN:

24 Q It wouldn't be correct to not give the police
25 department. Strike that. That's a double negative. I'll
26 object to it.

27 It would be incorrect to not allocate to the
28 police department, correct? Allocate admin to the police

1 department, correct?

2 A There's no right or wrong. There's no incorrect
3 or correct. There's no GAAP statement that tells you how to
4 make the estimate.

5 Q Well --

6 A There's no best practice that gives you the
7 instructions on how to do it. There is a federal guideline
8 called OMB-87, which we've talked about, but there's no set
9 rules on how to do this.

10 Q Well, OMB-87 is a set rule, correct?

11 A Well, it is if you're working with federal funded
12 grant or state grant programs, then you need to use the 0887
13 rules.

14 Q And the City of Willits works with federal
15 agreement and federal bargaining programs, don't they?

16 A They do now.

17 Q So the City of Willits has to comply with OMB-87,
18 correct?

19 A I don't know if we have to comply with OMB-87 or
20 not.

21 Q When you say we --

22 A Even --

23 THE COURT REPORTER: Whoa, whoa. Everybody's at
24 once.

25 MR. O'BRIEN: Is this a good time to break? It's
26 a good time for us.

27 THE COURT: Why don't we clarify that last
28 question and answer.

1 BY MR. O'BRIEN:

2 Q I think I just said, when you say "you," you mean
3 Willits, not Cloverdale, correct?

4 A Yes, I mean Willits.

5 Q That was all.

6 THE COURT: All right. With that, ladies and
7 gentlemen, we will take our weekend recess at this time.
8 Please remember the admonition not to form or express any
9 opinion about the case, talk to anyone about it, let anyone
10 read anything about at this time and not use the Internet
11 for any purpose related to it.

12 We should be able to start with you right on
13 Tuesday morning, which is the 24th of March at 8:30. And
14 please try to be prompt. We do need to start right on time.
15 I will do everything I can to keep faith with you that we're
16 all ready to go, but we need to have everybody here.

17 So we'll see you back March 24th, 8:30. Have a
18 good weekend.

19 (Jury leaves the courtroom.)

20 MR. O'BRIEN: Can we talk about one thing very
21 quickly?

22 THE COURT: Does this need to be on the record?

23 MR. O'BRIEN: It probably should be.

24 THE COURT: Okay.

25 MR. O'BRIEN: We asked in our notice to appear
26 for Adrienne Moore to bring the letter, the February 1st
27 letter, if it exists. She came here this morning and she
28 hadn't been shown the notice to appear such that she could

1 respond to questions about that.

2 Counsel and I met and conferred outside, and he
3 said it doesn't exist, the letter doesn't exist. And I
4 said, well, we need to get that on the record with the jury.

5 Can you please inform Joanne Cavalleri that the
6 letter doesn't exist so I can ask her that question. And
7 you saw what happened when I asked her the question. So we
8 either need to bring Adrienne Moore back to comply with her
9 notice to appear, or we need a statement on the record to
10 the jury that the letter doesn't exist, because it's been
11 asked for in many different ways from the city, and I don't
12 even know what --

13 MR. BARTOLOTTA: And we've never produced it
14 because it doesn't exist.

15 MR. CROWLEY: And alls we want, your Honor, is to
16 clarify that when Adrienne Moore testified, she said, "I
17 seem to recall seeing it," or words that effect.

18 MR. O'BRIEN: That's correct.

19 MR. CROWLEY: And so all we want, and I think
20 there's a stipulation between the parties, that the letter
21 referenced in that footnote does not exist.

22 MR. BARTOLOTTA: I think that's accurate, your
23 Honor.

24 THE COURT: All right. I will permit that
25 stipulation to be presented to the jury in that fashion
26 then.

27 MR. CROWLEY: We can prepare it or the Court can
28 just say --

1 THE COURT: Why don't you put it in the language
2 that you all agree to, and then we'll look at that Tuesday
3 morning.

4 MR. O'BRIEN: Have a great weekend.

5 THE COURT: You too.

6

7 (Whereupon the proceedings in this
8 matter were concluded.)

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1 STATE OF CALIFORNIA)
) ss
2 COUNTY OF SONOMA)

3
4
5 CERTIFICATE OF OFFICIAL REPORTER
6
7

8 I, BARRIE L. HART, C.S.R. #6954, hereby certify:

9 THAT on Friday, March 20, 2015, at the hour of
10 8:30 a.m. thereof, I reported in shorthand writing the
11 proceeding had in the matter of Brooktrails Township versus
12 City of Willits, No. SCV-253175.

13 THAT I thereafter caused my said shorthand
14 writing to be transcribed into longhand typewriting.

15 THAT the foregoing pages 846-904 and 971 through
16 1017 constitute and are a full, true, correct and accurate
17 transcription of my said shorthand writing and a correct and
18 verbatim record of the proceedings so had and taken, as
19 aforesaid.

20 DATED this 21st day of March, 2015.
21
22

23 _____
24 BARRIE L. HART, CSR 6954
25
26
27
28

REPORTER'S CERTIFICATE

COUNTY OF SONOMA)
) SS:
STATE OF CALIFORNIA)

I, Malinda K. Hentz, an Official Court Reporter of the Superior Court of the State of California, County of Sonoma, do hereby certify that I correctly reported the within-entitled matter and that the foregoing is a full, true and correct transcript of my shorthand notes of the testimony and other oral proceedings had in the said matter.

Dated this 21th day of March, 2015 at Santa Rosa, California.

Malinda K. Hentz, CSR No. 12393