

**State of Minnesota  
Office of the State Auditor**



**Patricia Anderson  
State Auditor**

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**NORTHSTAR CORRIDOR PROJECT  
SPECIAL REVIEW**

February, 2006

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Through financial, compliance, and special audits, the State Auditor oversees and ensures that local government funds are used for the purposes intended by law and that local governments hold themselves to the highest standards of financial accountability.

The State Auditor performs approximately 250 financial and compliance audits per year and has oversight responsibilities for over 4,300 local units of government throughout the state. The office currently maintains five divisions:

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## NORTHSTAR CORRIDOR PROJECT SPECIAL REVIEW

February, 2006

### EXECUTIVE SUMMARY

#### **Report Summary:**

The State Auditor's Office conducted a review of the contractual practices relating to the Northstar Commuter Rail Project. In addition, we reviewed procurement card procedures relating to the Project.

The Northstar Corridor is an 82-mile transportation Corridor that runs along highways 10 and 94 from downtown Minneapolis to the St. Cloud/Rice area. The Northstar Corridor Development Authority (NCDA) is a joint powers board made up of counties, regional railroad authorities, cities, and townships along the Corridor. Part of NCDA's focus is the implementation of the Northstar Commuter Rail Project within the Corridor. Anoka County is responsible for managing NCDA's funds and contracts for services.

Through our review, we found that the Anoka County Regional Railroad Authority (ACRRA) has also been involved in contracts relating to the Northstar Corridor project. ACRRA is a component unit of Anoka County.

Our review was limited to contracts for lobbying, legal, and communications services from 2000 to May 2005. From January 1, 2000 to May 2005, NCDA and ACRRA spent a combined \$4.3 million on these services. NCDA received \$6.4 million in grant funds from the Minnesota Department of Transportation, which reimbursed some of its costs, including costs for some of the services we reviewed.

#### Contracting Procedures

Both NCDA and ACRRA have contracts for legal, lobbying, and communications services. Some of the contractors had contracts with only NCDA or ACRRA. However, some of the contractors had contracts with both NCDA and ACRRA.

Four contractors had agreements with both NCDA and ACRRA. In several instances, three of the contractors invoiced NCDA and ACRRA for the same services performed.

In all three of these cases, the contractor was paid on a monthly fee, not on an hourly basis. We are unaware of any agreement between NCDA and ACRRA indicating that they are splitting the cost of these contractors. Nor did we find that the two entities always received separate discernable work products under the contracts.

Contracts with only NCDA or ACRRA, were generally sound with adequate monitoring procedures. However, we found a few instances of contracts with vague definitions of duties. In addition, some of the contracts were not signed by the parties.

### Procurement Cards

As part of our review, we also looked at the use of procurement cards for the Northstar Project. Specifically, we reviewed the procurement card history of employees who had charges relating to the Northstar Project.

Through our review, we found that NCDA and ACRRA are spending funds on meal expenses. The manner in which the meals were documented made it difficult to determine whether the expenditures truly served a public purpose.

From January 1, 2000 to May 2005, the Executive Director of the Northstar Project had over \$8,000 of charges for meal meetings. Most of these meals were at restaurants within the Twin Cities Metropolitan Area.

The documentation for many of these meals included vague descriptions of the purpose of the meetings, and only initials of the attendees. In addition, only summary receipts were provided to document the expenditures.

### **Key Recommendations:**

- NCDA and ACRRA should, where practicable, avoid both contracting for the same or similar service relating to the Northstar Project. Where possible, NCDA and ACRRA should have one contract with its contractors and share the results between them.
- If NCDA and ACRRA have separate retainer contracts with the same contractor, they should coordinate to ensure the contractor is not overcompensated.
- Where practical, NCDA and ACRRA should clearly define the duties of its contractors to ensure they are getting the services for which they contracted.
- For enforceability, all contracts and amendments should be authorized and signed by all parties before any payments are made.
- All reimbursement requests for meals should clearly state the specific purpose/topic of the meeting.
- All receipts for meals should include the full name of the meeting attendees and the entity they represent.
- A detailed receipt should be required before approving payment of procurement card purchases.





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## NORTHSTAR CORRIDOR PROJECT SPECIAL REVIEW

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The State Auditor's Office conducted this review in response to concerns we received regarding contracts let in association with the Northstar Commuter Rail Project.

Specifically, we reviewed consulting contracts between the Northstar Corridor Development Authority (NCDA) and the Anoka County Regional Railroad Authority (ACRRA) and contractors they hired to perform legal, lobbying, and communications services. In addition, we reviewed the use of selected Anoka County procurement cards for expenses relating to the Northstar Commuter Rail Project.

Based on our review, we believe that NCDA and ACRRA's contracting procedures are good; however, we believe some minor improvements can be made. We found that Anoka County procurement cards were used to purchase numerous meals for employees. We also believe that both entities should closely monitor their employees' use of procurement cards.

### **I. Background of NCDA and Northstar Commuter Rail Project**

The Northstar Corridor is an 82-mile transportation Corridor that runs along highways 10 and 94 from downtown Minneapolis to the St. Cloud/Rice area. The Minnesota Department of Transportation (Mn/DOT) and the Northstar Corridor Development Authority (NCDA) studied transportation options for the Corridor. After analyzing all possibilities, they recommended Northstar Commuter Rail as the best transportation alternative for the Corridor.<sup>1</sup>

NCDA's goal is to have the railway operational by 2009.<sup>2</sup> They project the capital costs of the project to be \$289 million (funding to be provided would include 50% federal, 33% state, and 17% local).

The NCDA is a joint powers board made up of counties, regional railroad authorities, cities, and townships along the Corridor. The stated purpose of the NCDA is to "analyze the feasibility and environmental impacts of integrated transportation improvements along the Highway 10 Corridor, including highway improvements, commuter and freight

<sup>1</sup> <http://www.mn-getonboard.com/about.cfm>

<sup>2</sup> [http://www.mn-getonboard.com/about\\_facts.cfm](http://www.mn-getonboard.com/about_facts.cfm)

rail, recreational trails, safety and related land issues.<sup>3</sup> Representation on the NCDA is as follows:

- Anoka County
- Anoka County Regional Railroad Authority
- Benton County
- Benton County Regional Railroad Authority
- Hennepin County Regional Railroad Authority
- Morrison County
- Morrison County Regional Railroad Authority
- Sherburne County
- Sherburne County Regional Railroad Authority
- City of Anoka
- City of Becker
- City of Big Lake
- City of Blaine
- City of Clear Lake
- City of Columbia Heights
- City of Coon Rapids
- City of Elk River
- City of Fridley
- City of Minneapolis
- City of Ramsey
- City of Rice
- City of St. Cloud
- City of Sauk Rapids
- City of Spring Lake Park
- Becker Township
- Big Lake Township
- Clear Lake Township
- Haven Township
- Langola Township
- St. Cloud Metro Transit Commission<sup>4</sup>

The NCDA was formed in 1997 by a joint powers agreement.<sup>5</sup> Each member unit is to have a representative and an alternate to serve on the NCDA.<sup>6</sup> NCDA has an executive

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<sup>3</sup> Joint Powers Agreement Establishing the Northstar Corridor Development Authority at Article I.

<sup>4</sup> [http://www.mn-getonboard.com/about\\_representatives.cfm](http://www.mn-getonboard.com/about_representatives.cfm). The following entities were eligible to join NCDA when it was formed but are not members of NCDA: St Cloud/Stearns County Regional Railroad Authority, Hennepin County, Stearns County, City of Sartell, City of Ramsey, Sauk Rapids Township, Watab Township. See Joint Powers Agreement Establishing the Northstar Corridor Development Authority.

committee consisting of five members responsible for approving invoices within approved contract amounts, addressing personnel issues and performing other duties set forth in NCDA's bylaws.<sup>7</sup> The current Project Director is Mr. Tim Yantos, who is also the Deputy Anoka County Administrator.

The following dues have been paid to NCDA since 2000:

<b>Dues Paid to NCDA<sup>8</sup></b>						
	<b>Benton County</b>	<b>Sherburne County</b>	<b>Hennepin County</b>	<b>Anoka County</b>	<b>Morrison County</b>	<b>Total</b>
2000	\$16,175	\$24,846	\$29,004	\$129,976	N/A	<b>\$200,001</b>
2001	\$19,407	\$29,811	\$34,800	\$155,949	N/A	<b>\$239,967</b>
2002	\$59,500	\$89,750	\$109,750	\$481,000	N/A	<b>\$740,000</b>
2003	\$89,836	\$171,363	\$175,188	\$776,972	\$15,034	<b>\$1,228,393</b>
2004	\$86,282	\$210,792	\$178,727	\$808,603	\$5,000	<b>\$1,289,404</b>
2005 <sup>9</sup>	\$15,000	\$1,799,718	\$1,711,528	\$7,526,754	N/A	<b>\$11,053,000</b>
<b>Total</b>	<b>\$286,200</b>	<b>\$2,326,280</b>	<b>\$2,238,997</b>	<b>\$9,879,254</b>	<b>\$20,034</b>	<b>\$14,750,765</b>

Anoka County is responsible for managing NCDA's funds and contracts for services.<sup>10</sup> We were informed that Anoka County's accounting and financial management policies and procedures apply to NCDA.

The Anoka County Regional Railroad Authority (ACRRA) has also been involved in contracts relating to the Northstar Corridor project. ACRRA is a component unit of Anoka County.<sup>11</sup> The ACRRA is governed by a seven-member board consisting of the Anoka County Commissioners, and has the power to levy taxes, issue bonds, and enter into contracts. ACRRA was established for the preservation and improvement of local rail service. Although it is legally separate from the County, the activity of the ACRRA is included in Anoka County's financial records as the Regional Railroad Authority Special

<sup>5</sup> Joint Powers Agreement Establishing the Northstar Corridor Development Authority.

<sup>6</sup> Joint Powers Agreement Establishing the Northstar Corridor Development Authority at VI § 1 A.

<sup>7</sup> Joint Powers Agreement Establishing the Northstar Corridor Development Authority at VI § 3.

<sup>8</sup> Information provided by Anoka County. All numbers have been rounded to the nearest dollar.

<sup>9</sup> Through October 2005.

<sup>10</sup> Agreement for Financial Management Services Northstar Corridor Development Authority, 1997; Amendment No. 1 to the Agreement for Financial Management Services Northstar Corridor Development Authority, 2001; and Amendment No. 1 to the Agreement for Financial Management Services Northstar Corridor Development Authority, 2005. Anoka County is the fiscal agent for NCDA. The NCDA is included in Anoka County's financial records as an agency fund. An agency fund is a type of fiduciary fund used "to report assets held in a trustee or agency capacity for others and therefore cannot be used to support the government's own programs." GASB Statement No. 34, paragraph 69.

<sup>11</sup> A component unit is a legally separate organization that a primary government must include as part of its financial reporting entity for fair presentation in conformity with GAAP. It is important to underscore that component units, by definition, must be legally separate entities.

Revenue Fund because ACRRA's governing body is substantively the same as the governing body of Anoka County.<sup>12</sup>

ACRRA is the lead agency in efforts to develop major transportation initiatives in Anoka County, including the Northstar commuter rail line running through Anoka County from Big Lake to Minneapolis, as well as transit hubs at Northtown and in Columbia Heights, and several park and ride lots. Anoka County is responsible for the accounting and monitoring of the ACRRA.

Due to the \$11 million increase in the amount of dues paid to NCDA, the State Auditor's Office reviewed the various contracts and supporting documents for contract approval, contract language, invoices, and use of RFP's. Our findings are included in this report.

Mn/DOT distributes state and federal funds to NCDA. Mn/DOT's Northstar Project Office monitors all NCDA contracts that utilize federal and state funds for the Northstar Project. Such contracts include consulting, engineering, studies, design, legal contracts relating to the development of the Project, and contracts relating to public involvement. Mn/DOT monitors the contracts, the requests for reimbursements, and supporting documents (i.e. invoices). Mn/DOT contracts are reimbursement type contracts. Contracts for lobbying and advocacy services cannot be funded with federal money. They are not, therefore, monitored or reviewed for compliance by Mn/DOT. From January 1, 2000 through May 15, 2005, Mn/DOT distributed \$6,414,809.64 to NCDA for the Northstar Project. See below for annual distributions:

<b>Mn/DOT Payments to NCDA</b>	
<b>Year</b>	<b>Amount</b>
2000	\$1,990,291
2001	\$1,641,915
2002	\$1,194,233
2003	\$238,460
2004	\$965,823
2005	\$384,087
<b>Total</b>	<b>\$6,414,809</b>

Mn/DOT and NCDA are currently handling all of their contracts that do not involve lobbying services by using federal contract procedures even if they are locally funded, because some of the expenditures may be eligible for federal funds in the future. Mn/DOT informed us that it has begun monitoring all NCDA's contracts that could possibly be reimbursed by federal funds in the future.

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<sup>12</sup> Anoka County Comprehensive Annual Financial Report Year Ended December 31, 2004, at p. 26.

Our review was limited to contracts for lobbying, legal, and communications services from 2000 to May 2005. NCDA and ACRRA have spent over \$4 million on these activities since January 2000.

## II. Effective Contract Management

Both Northstar Corridor Development Authority (NCDA) and Anoka County Regional Railroad Authority (ACRRA) have spent over \$4 million of public funds on lobbying, legal, and communications services for the Northstar Project. Portions of some of these contracts were reimbursed through grant funds from Mn/DOT.<sup>13</sup> The chart below shows the funds used on these various services.

### NCDA and ACRRA Total Payments made for Lobbying, Legal, and Communication Services\*

Vendors	2000	2001	2002	2003	2004	2005**	Total
<b>LOBBYING SERVICES</b>							
<b>FEDERAL LEVEL</b>							
Capital Partnerships, Inc.	\$ 61,000.00	\$ 65,001.00	\$ 77,479.00	\$ 68,725.00	\$ 88,997.00	\$ 21,775.00	\$ 382,977.00
Mullenholz, Brimsek and Belair	\$ 43,750.01	\$ 61,249.99	\$ 71,666.63	\$ 71,166.59	\$ 79,916.62	\$ 20,916.66	\$ 348,666.50
<b>STATE LEVEL</b>							
Best and Flanagan	\$ -	\$ -	\$ -	\$ -	\$ 21,073.00	\$ 7,725.00	\$ 28,798.00
Government and Enterprise Services	\$ 25,000.00	\$ 41,000.00	\$ 45,500.00	\$ -	\$ -	\$ -	\$ 111,500.00
Messierli & Kramer	\$ 69,681.08	\$ 59,310.91	\$ 85,722.58	\$ 75,000.00	\$ 92,475.00	\$ 19,859.47	\$ 402,049.04
	\$ 199,431.09	\$ 226,561.90	\$ 280,368.21	\$ 214,891.59	\$ 282,461.62	\$ 70,276.13	\$ 1,273,990.54
<b>LEGAL SERVICES</b>							
<b>BNSF NEGOTIATIONS</b>							
Felhaber, Larson, Fenlon & Vogt, P.A.	\$ 6,651.59	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,651.59
Greene Espel	\$ -	\$ -	\$ -	\$ 18,943.10	\$ 118,423.44	\$ 91,331.06	\$ 228,697.60
Harkins Cunningham	\$ 33,871.93	\$ 67,381.42	\$ -	\$ -	\$ -	\$ -	\$ 101,253.35
Robert Kessler	\$ 37,320.18	\$ 40,498.12	\$ 4,956.66	\$ 8,498.83	\$ -	\$ -	\$ 91,273.79
<b>RELATED TO LAND USE AND ENVIRONMENTAL SERVICES</b>							
Lindquist and Vennum	\$ 33,778.10	\$ 19,842.41	\$ -	\$ -	\$ -	\$ -	\$ 53,620.51
	\$ 111,621.80	\$ 127,721.95	\$ 4,956.66	\$ 27,441.93	\$ 118,423.44	\$ 91,331.06	\$ 481,496.84
<b>COMMUNICATIONS</b>							
Himle Horner, Inc.	\$ 8,148.71	\$ 388,889.66	\$ 693,204.71	\$ 569,635.09	\$ 499,309.79	\$ 90,982.02	\$ 2,250,169.98
Jill Brown	\$ 118.12	\$ 100.20	\$ 198.75	\$ 12,799.13	\$ 35,962.47	\$ 17,632.59	\$ 66,811.26
Gordon Voss	\$ 2,507.50	\$ 3,527.50	\$ 2,613.75	\$ -	\$ -	\$ -	\$ 8,648.75
McCarron & Associates	\$ -	\$ -	\$ -	\$ 11,351.47	\$ 21,289.01	\$ 1,598.59	\$ 34,239.07
Northwoods Advertising	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Shandwick	\$ 266,192.24	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 266,192.24
	\$ 276,966.57	\$ 392,517.36	\$ 696,017.21	\$ 593,785.69	\$ 556,561.27	\$ 110,213.20	\$ 2,626,061.30
<b>Total</b>	\$ 588,019.46	\$ 746,801.21	\$ 981,342.08	\$ 836,119.21	\$ 957,446.33	\$ 271,820.39	\$ 4,381,548.68

\* Source: Vendor payment histories provided by the entities.

\*\*Through May 2005.

<sup>13</sup> It is our understanding that a substantial portion of the following contracts were paid or were reimbursable with grant funds from Mn/DOT: 2000-2001 contracts with Felhaber, Larson, Fenlon & Vogt, P.A.; 2005 payments to Greene Espel (NCDA has indicated that it will be requesting the earlier payments be reimbursed by grant funds); 2000-2001 contracts with Harkins Cunningham; 2000-2001 contracts with Robert Kessler; 2000-2001 contracts with Himle Horner; 2005 contract with Northwoods Advertising; and 2000 contract with Shandwick.

Like all public entities, both NCDA and ACRRA must ensure that proper contract management procedures are used to protect these public funds. Many of the entities' contract management procedures were sound. However, there are a few instances where both entities can improve their contract management procedures.

Effective contract management principles seek to provide a process that is open, fair, and as objective as possible, to avoid actual or perceived favoritism or wrongdoing.<sup>14</sup> As with all public spending, governmental entities must be held to a high standard regarding the purpose and cost-effectiveness of contract expenditures.<sup>15</sup>

From time to time, governmental entities need to hire consultants with specific technical or professional training. Generally, competitive bids are not required for these professional services contracts, although the governmental entity may choose to use competitive bidding. More commonly, governmental entities use requests for proposals (RFPs) to find a consultant. With an RFP, the entity advertises a request for services, and the interested professionals submit proposals describing what they will do and what it will cost.

General consensus exists regarding effective contract management principles that should be followed by agencies entering into consultant contracts. For example, before hiring a consultant, the League of Minnesota Cities suggests that the governmental entity answer the following questions:<sup>16</sup>

- Are current employees capable of performing the job?
- Are there alternatives to hiring an outside consultant, such as an advisory task force, or similar consultant work on similar problems for other governmental entities?
- What is the nature of the problem for which a consultant is necessary? For example, the League of Minnesota Cities recommends that a city council should be able to draft a brief statement (100 words or less) to describe what the consultant is to accomplish, or the matter should be discussed further.
- Can the decision to hire a consultant be justified to taxpayers?<sup>17</sup>

The Minnesota Legislative Auditor has identified similar effective contracting principles for state agencies entering into professional/technical contracts.<sup>18</sup> When selecting the

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<sup>14</sup> See Office of Legislative Auditor, Evaluation Report #03-02 (Professional/Technical Contracting, January 2003), at page 28, available at: <http://www.auditor.leg.state.mn.us/ped/2003/pe0302.htm> . See also February 2005 Update to the 2003 Evaluation Report.

<sup>15</sup> *Id.*

<sup>16</sup> See League of Minnesota Cities, Handbook for Minnesota Cities, Chapter 24, Section VII, available at <http://www.lmnc.org/handbook/chapter24.pdf>.

<sup>17</sup> *Id.* at page 24-32.

<sup>18</sup> See Office of Legislative Auditor, Evaluation Report #03-02 (Professional/Technical Contracting, January 2003), at pages 28 - 31.

contractor, the Legislative Auditor also includes the need for the agency to ensure that there is no employee or organizational conflict of interest.<sup>19</sup> After assessing the need for the contract and selecting the contractor, the Legislative Auditor has identified contracting principles associated with the writing, executing, monitoring, and closing of the contract.<sup>20</sup> These include:

- Clearly define roles, responsibilities, and performance expectations of the contractor and agency staff.
- Identify a variety of tools to monitor contract and contractor performance.
- Link payment to the satisfactory completion of specific contract tasks or services, which should be spread throughout the life of the contract.
- Periodically evaluate the progress of the contract and determine if it is prudent to continue.<sup>21</sup>

State statutes incorporate many of these same safeguards for state agencies entering into professional and technical services contracts.<sup>22</sup> For example, state agencies wanting to hire a consultant must be able to provide a description of why the proposed contract is necessary, performance measures or other tools that will be used to monitor and evaluate contract performance, and the agency's plans to notify those who may be able to respond to the solicitation.<sup>23</sup>

As this brief review shows, there is general consensus regarding the steps that should be used by all types of governmental entities when hiring consultants.

Both NCDA and ACRRA have contracts for legal, lobbying, and communications services relating to the Northstar Project. Some of the contractors have contracts with only NCDA or ACRRA. However, some of the contractors have contracts with both NCDA and ACRRA.

Overall, the contracts are sound and contain adequate contract monitoring procedures. However, we believe NCDA and ACRRA can take some additional steps, as is typical in this kind of review, to ensure that their contracts are monitored effectively.

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<sup>19</sup> *Id.* at pages 29 and 36.

<sup>20</sup> *Id.* at page 29. Table 2.1 provides a summary of 18 contracting principles for state agencies.

<sup>21</sup> *Id.*

<sup>22</sup> The Department of Administration's Materials Management Division has a Professional/Technical Services Contract Manual that is available at: <http://www.mmd.admin.state.mn.us/mn05001.htm>. The manual walks agencies through the contracting process, and could be used by any public entity.

<sup>23</sup> *See* Minn. Stat. § 16C.08.

A. Contracts with both NCDA and ACRRRA

The State Auditor's Office reviewed four instances where NCDA and ACRRRA had the same contractors. We reviewed separate NCDA and ACRRRA contracts with:<sup>24</sup>

- Himle Horner, Inc.
- Capital Partnerships, Inc.
- Messerli and Kramer, P.A.
- Mullenholz, Brimsek, & Belair.

Our review of these contracts revealed that:

- NCDA and ACRRRA are both paying these contractors for similar work.
- All the contracts have Tim Yantos, Executive Director of the Northstar Project, as the liaison between the entities and the contractors;
- There is no evidence that NCDA and ACRRRA are splitting the costs of the contracts;
- The invoices and contracts did not contain evidence to ensure the Northstar Project was not being billed twice for the same services.

In three of the four instances, NCDA and ACRRRA were both paying retainer fees for the same or similar work, without any agreement to suggest the entities were simply splitting costs. Additionally, there is nothing that shows that NCDA and ACRRRA always received separated discernable work products as a result of their individual contracts. Having each entity approve its own contract amount makes it difficult to track the total amount of funds being spent on the Northstar Project for these services. It also makes it difficult to determine if services are being duplicated between the two entities.

1. *Himle Horner*

Both NCDA and ACRRRA had contracts with Himle Horner Incorporated (Himle Horner). The State Auditor's Office reviewed contracts between Himle Horner and NCDA dating back to late 2000. We have also reviewed contracts between Himle Horner and ACRRRA dating back to 2001.

Under both sets of contracts, Himle Horner was to provide public information and involvement activities for the entities. More details on NCDA's and ACRRRA's contracts with Himle Horner can be found at Exhibits A, A-1, A-2.

NCDA and ACRRRA have paid the following amounts to Himle Horner under these contracts:

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<sup>24</sup> We did not review whether other NCDA members had additional contracts with these contractors.



<b>NCDA &amp; ACRRA Payments to Himle Horner<sup>25</sup></b>							
	2000	2001	2002	2003	2004	2005	<b>Total</b>
NCDA	\$8,149	\$317,882	\$349,194	\$462,719	\$466,867	\$90,982	<b>\$1,695,793</b>
ACRRA	\$0	\$71,007	\$344,011	\$106,916	\$32,443	\$0	<b>\$554,377</b>
<b>Total</b>	<b>\$8,149</b>	<b>\$388,889</b>	<b>\$693,205</b>	<b>\$569,635</b>	<b>\$499,310</b>	<b>\$90,982</b>	<b>\$2,250,170</b>

The State Auditor's Office reviewed the invoices sent to NCDA and to ACRRA from Himle Horner. The invoices gave a detailed work description for the Himle Horner employees, the hours they worked, and the rate charged.

A large amount of the services performed by Himle Horner related to media/event planning and preparation. Other examples of services performed by Himle Horner include:

- Attending NCDA or executive board meetings and preparation for those meetings;
- Preparing and updating opinion leader and supporter databases;
- Legislative updates;
- Drafting opinion leader updates;
- Preparing Op-ed pieces;
- Preparing general advertisements including billboard, buttons, and stickers;
- Organize, maintain, and sort news clips and "Clipbook;"
- Maintain the Northstar website.

From 2000 to May 2005, NCDA and ACRRA have paid over \$2.25 million to Himle Horner for these activities. The services performed are similar for both entities.

## 2. *Capital Partnerships*

Both NCDA and ACRRA have contracted with Capital Partnerships, Inc. (Capital Partnerships) for federal lobbying services. ACRRA has had a contract with Capital Partnerships since 1997.<sup>26</sup> NCDA has had a contract with Capital Partnerships since 1999.<sup>27</sup> All the contracts were on a retainer or set monthly fee basis.

Over the years, Capital Partnerships scope of services was very similar for both NCDA and ACRRA. Although some of the specific defined duties are different, all Capital Partnerships' duties under both contracts related to the advancement of the Northstar

<sup>25</sup> Information obtained from vendor payment histories through May 2005 provided by the entities. All numbers have been rounded.

<sup>26</sup> ACRRA Agreement with Capital Partnerships Inc., December 10, 1997.

<sup>27</sup> NCDA Agreement with Capital Partnerships Inc., January 1, 1999.

Corridor Project. A more detailed breakdown of the contracts can be found at Exhibits B, and B1.

From January 2000 to May 2005, NCDA and ACRRRA made the following payments to Capital Partnerships.

<b>NCDA &amp; ACRRRA Payments to Capital Partnerships<sup>28</sup></b>							
	2000	2001	2002	2003	2004	2005	<b>Total</b>
NCDA	\$28,000	\$35,001	\$34,983	\$32,065	\$40,415	\$6,437	<b>\$176,901</b>
ACRRRA	\$33,000	\$30,000	\$42,496	\$36,660	\$48,582	\$15,338	<b>\$206,076</b>
<b>Total</b>	<b>\$61,000</b>	<b>\$65,001</b>	<b>\$77,479</b>	<b>\$68,725</b>	<b>\$88,997</b>	<b>\$21,775</b>	<b>\$382,977</b>

Some of the duties specified under the contracts varied between the two entities. However, it appears Capital Partnerships billed both the entities for mostly the same services.<sup>29</sup> We reviewed all Capital Partnership's invoices submitted to NCDA and ACRRRA from January 2000 to May 2005. Our review showed that many of the invoices had the same services performed for each entity.<sup>30</sup>

### 3. *Messerli and Kramer*

Both NCDA and ACCRA have had contracts with Messerli & Kramer, P.A. (Messerli & Kramer) to provide government relations services relating to the Northstar Corridor project since November 4, 1999.<sup>31</sup>

Pursuant to the contracts, Messerli & Kramer was to provide the following services for both NCDA and ACCRA:

- Developing a strategy to maximize potential funding sources;

<sup>28</sup> Information obtained from vendor payment histories through May 2005 provided by the entities. All numbers have been rounded. While during some of the years the entities may have paid more than the contract amount this appears to be due to payments being made for a prior years contract after the end of a calendar year. However, it does not appear that either entity went over the contracted amount.

<sup>29</sup> See e.g. June 1, 2004 invoices from Capital Partnerships to NCDA and ACRRRA. Both invoices indicated that Capital Partnerships performed the following services: 1) provided five periodic updates on the progress of the House and Senate to convene a Conference Committee between SAFETEA and TEA-LU. Just before the Memorial Day recess the Senate named Conferees and the House will name their conferees in early June. 2) Monitored the impact of Northstar's key congressional supporters of the events in the Minnesota legislature in not, to this point, funding Northstar. Support continues to be high. 3) Conducted extensive research to document project in federal New Rail Starts pipeline, which complete for scarce federal resources with Northstar.

<sup>30</sup> See e.g. *id.*

<sup>31</sup> NCDA Agreement for with Messerli & Kramer, P.A. November 4, 1999, and ACRRRA Agreement for with Messerli & Kramer, P.A. October 26, 1999.

- Meeting with key decision makers at the Minnesota Department of Transportation, Metropolitan Council, the Legislature, the Governor’s Office, and any agency, individual or entity that may provide funding assistance;
- Assisting in any manner necessary to secure a financial commitment from the State for the Northstar Corridor; and
- Closely monitoring all potential funding initiatives.

Both entities paid Messerli & Kramer on a retainer fee arrangement. A breakdown of the retainer amounts can be found at Exhibit C. From 2000 to May of 2005, the authorities have paid the following amounts to Messerli & Kramer:

<b>NCDA &amp; ACRRRA to Messerli &amp; Kramer<sup>32</sup></b>							
	2000	2001	2002	2003	2004	2005	<b>Total</b>
NCDA	\$34,681	\$34,311	\$35,723	\$35,000	\$34,675	\$6,344	<b>\$180,734</b>
ACRRRA	\$35,000	\$25,000	\$50,000	\$40,000	\$57,800	\$13,516	<b>\$221,316</b>
<b>Total</b>	<b>\$69,681</b>	<b>\$59,311</b>	<b>\$85,723</b>	<b>\$75,000</b>	<b>\$92,475</b>	<b>\$19,860</b>	<b>\$402,050<sup>33</sup></b>

The majority of the invoices sent to NCDA and ACCRA indicated that the same services were performed under both contracts.<sup>34</sup> The services included attending committee meetings, meeting with legislators, monitoring legislative sessions, and monitoring legislative bills.

The NCDA and ACRRRA did not have any arrangement indicating that the services performed by Messerli & Kramer were being split among the entities. It appears that both entities were paying for Messerli & Kramer to perform the same services.

#### 4. *Mullenholz, Brimsek & Belair*

Both NCDA and ACRRRA contracted with Mullenholz, Brimsek & Belair (Mullenholz) for public affairs work. The State Auditor’s Office reviewed contracts between Mullenholz and NCDA dating back to 1999. We reviewed contracts between ACRRRA and Mullenholz dating back to 2000.

Under the contracts, Mullenholz was to perform the same services for both NCDA and ACRRRA. The services related to developing a funding strategy and coordinating legislative efforts. A more detailed breakdown of the services can be found at Exhibit D.

<sup>32</sup> Information obtained from vendor payment histories through May 2005 provided by the entities. The numbers have been rounded.

<sup>33</sup> While during some of the years the entities may have paid more than the contract amount this appears to be due to payments being made for a prior years contract after the end of a calendar year. However, it does not appear that either authority went over the contracted amount.

<sup>34</sup> See e.g. April 11, 2005 invoices to NCDA and ACRRRA from Messerli & Kramer.

Both entities paid Mullenholz on a retainer fee arrangement. During these contracts, the entities paid the following amounts to Mullenholz:

<b>NCDA &amp; ACRRRA Payments to Mullenholz, Brimsek &amp; Belair<sup>35</sup></b>							
	2000	2001	2002	2003	2004	2005 <sup>36</sup>	<b>Total</b>
NCDA	\$31,250	\$32,083	\$30,000	\$27,500	\$35,000	\$5,579	<b>\$161,412</b>
ACRRRA	\$12,500	\$29,167	\$41,667	\$43,666	\$44,917	\$15,337	<b>\$187,254</b>
<b>Total</b>	<b>\$43,750</b>	<b>\$61,250</b>	<b>\$71,667</b>	<b>\$71,166</b>	<b>\$79,917</b>	<b>\$20,916</b>	<b>\$348,666</b>

The State Auditor's Office reviewed the payments made under each contract. We found no evidence that the entities paid more than the contract amount. However, after September of 2000, most of the descriptions of services performed was the same for both entities.<sup>37</sup>

5. Conclusion/Recommendations

The State Auditor's Office questions why in some instances NCDA and ACRRRA were being billed for the same services by some of their contractors. The identical invoice work descriptions give the appearance that NCDA and ACRRRA are each paying for the same services. In addition, we did not find that NCDA and ACRRRA always received a separate discernable work product for their individual contracts. Also, the contract and billing procedures of the two entities leaves open the question of whether the Northstar Project was paying twice for the same services.

We found numerous examples where Capital Partnerships, Messerli & Kramer, and Mullenholz, sent invoices to both NCDA and ACRRRA that contained the same service description and the same number of hours performed. The invoices appear to be charging both entities for the exact same services. We question why both entities, which work so closely together on this project and have designated the same person as liaison for the contracts, would both pay for the same services.

There is no evidence from the contracts or the invoices that NCDA and ACRRRA are merely splitting the costs of these services. If NCDA and ACRRRA's contracts with these vendors are merely a cost-sharing mechanism, the arrangement should be

<sup>35</sup> Information obtained from vendor payment histories through May 2005 provided by the entities. Although we reviewed contracts in effect prior to 2000, our review focused on payments made after January 1, 2000.

<sup>36</sup> Totals through May 2005.

<sup>37</sup> See e.g. February 28, 2005 invoices from Mullenholz to NCDA and ACRRRA. Both invoices described the activities as "Discuss TEA-21 and FY 2006 appropriations with Congressional offices. Work w/ Northstar on preparation of TEA-21 and FY 2006 request documents. Transmit TEA-21 request forms to Congressional offices. Advise Congressional office of developments at the Minnesota legislature."

explained in either an agreement between the two entities, or within each contract between the contractors and NCDA and ACRRA.

Our review of the Himle Horner contracts did not reveal similar concerns. The contracts called for Himle Horner to be compensated on an hourly basis for the services it performed. Our review of the invoices from Himle Horner did not reveal any instances of NCDA and ACRRA both being billed for the same services.

Another concern we have is that the duplicate NCDA and ACRRA contracts masks the actual costs of the project. To determine the amount of public funds spent for professional services, one has to review payments made by the two separate entities.<sup>38</sup> This arrangement makes it difficult to follow the amount of public funds expended on the Northstar Project.

We recommend that wherever possible, all contracts relating to the Northstar Corridor Project be funded through one entity, NCDA. In the alternative, if NCDA and ACRRA have separate retainer contracts with the same contractor, they should coordinate to ensure the contractor is not overcompensated.

We recommend that the two entities consult with each other to determine if they can enter into one contract with the contractor or if one entity can enter into the contract and share the results with the other entity. Such an arrangement would encourage efficient cooperation between the entities, may save public funds, and should prevent the Northstar Project from paying twice for the same work product.

We also recommend that where NCDA and ACRRA each have a retainer agreement contract with the same contractor to perform the same or similar services, the entities have documentation, whether in the contract itself or in the invoices, that ensures that the two entities are each receiving a separate discernable benefit that from the other paying entity.

#### *B. Other Contracts*

The State Auditor's Office also reviewed other professional service contracts for the Northstar Project entered into by either NCDA or ACRRA individually. We reviewed contracts for lobbying, legal, and communications services. We reviewed the following NCDA and ACRRA contracts:

- ACRRA contract with Jill Brown (Communications)<sup>39</sup>
- ACRRA contracts with Best & Flanagan (Lobbying)<sup>40</sup>

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<sup>38</sup> In addition, there may be other members of NCDA that have contracts for similar services relating to the advancement of the Northstar Project. Any such contracts, if they exist, would make it even more difficult to determine the total costs of the Project.

<sup>39</sup> More information on this contract can be found at Exhibit E.

- ACRRRA contracts with Government & Enterprise Services (Lobbying)<sup>41</sup>
- ACRRRA contracts with Gordon O. Voss (Lobbying)<sup>42</sup>
- NCDA contracts with Felhaber, Larson, Fenlon & Vogt P.A (Legal)<sup>43</sup>
- NCDA contracts with Greene Espel, PLLP (Legal)<sup>44</sup>
- NCDA contracts with Harkins Cunningham (Legal)<sup>45</sup>
- NCDA contracts with Robert Kessler (Legal)<sup>46</sup>
- NCDA contracts with Lindquist and Vennum (Legal)<sup>47</sup>
- NCDA contracts with McCarron and Associates (Communications)<sup>48</sup>
- NCDA contracts with North Woods Advertising (Communications)<sup>49</sup>
- NCDA contracts with Shandwick (Communications).<sup>50</sup>

Our review focused on contract management procedures including:

- Clear definition of duties;
- Billing practices;
- Contract monitoring;
- Conflict of interests provisions; and
- Assignment of duties.

NCDA and ACRRRA have spent \$4,381,549 on the contracts listed above. Overall, we found that the contracts contain provisions that help ensure effective management. However, we offer the following recommendations to further improve these contracts.

### *1. Definition of Duties*

In some of the contracts we reviewed, the definition of duties to be provided by the contractors was vague.<sup>51</sup> For example, in the NCDA contract with McCarron and Associates, the contractor was to provide the following services:

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<sup>40</sup> More information on this contract can be found at Exhibit F.

<sup>41</sup> More information on this contract can be found at Exhibit G.

<sup>42</sup> More information on this contract can be found at Exhibit H.

<sup>43</sup> More information on this contract can be found at Exhibit I.

<sup>44</sup> More information on this contract can be found at Exhibit J.

<sup>45</sup> More information on this contract can be found at Exhibit K.

<sup>46</sup> More information on this contract can be found at Exhibit L.

<sup>47</sup> More information on this contract can be found at Exhibit M.

<sup>48</sup> More information on this contract can be found at Exhibit N.

<sup>49</sup> More information on this contract can be found at Exhibit O.

<sup>50</sup> More information on this contract can be found at Exhibit P.

<sup>51</sup> See e.g., ACRRRA Agreement with Jill C. Brown, December 11, 2001, ACRRRA with Government & Enterprise Services, February 8, 2000, at Exhibit A, Consulting Agreement with Gordon O. Voss, May 1, 2000 and ACRRRA Agreement with Gordon O. Voss for consulting services, and NCDA Agreement for with McCarron, January 9, 2003 at Exhibit A.

- Policy and strategic advisory services relating to the development of the Northstar Corridor commuter rail project.
- Liaison and communications activities with NCDA member and potential member units of government.
- Public outreach.
- Attend meetings and provide such other advisory services as may be requested by the NCDA chair, Executive Committee or Authorized Representative.<sup>52</sup>

This description does not provide a detailed explanation of specific services and specific expected results NCDA was to receive. Without a clear definition of duties, it is difficult for the entities to determine if they are getting the services they intended. If there was ever a dispute over whether services were performed as intended, the entities would have a difficult time showing what they were suppose to receive.

However, some of the contracts provide a detailed explanation of the services and results the entities were to receive.<sup>53</sup> For example both the contracts with North Woods Advertising and Shandwick gave very detailed descriptions of the work those consultants were to perform.<sup>54</sup> The contracts explained in detail the work to be performed, as well as the expected results.<sup>55</sup>

We recognize that there are some instances where a broad definition of duties is needed to maintain flexibility in the contracts. However, the State Auditor's Office recommends that, where practical, both entities define the duties of their contractors as specifically as possible.

## 2. *Conflicts of Interest Provisions*

It is important that NCDA and ACRRA continue to include conflicts of interest provisions in their contracts. Two of the contracts we reviewed did not contain a conflict of interest clause, the contract with Jill Brown and the contract with Gordon Voss. We recommend that the entities put conflict of interest clauses in all their contracts with consultants. These clauses will clearly inform the consultants of the public entities conflict of interest requirements.

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<sup>52</sup> NCDA Agreement with McCarron, January 9, 2003 at Exhibit A.

<sup>53</sup> ACRRA Agreement with Best & Flanagan, LLP, January 1, 2005, Exhibit A, Consulting Agreement with Gordon O. Voss, May 1, 2000 and ACRRA with Gordon O. Voss for consulting services, NCDA Agreement with Harkins Cunningham, Attorneys-At-Law, May 6, 1999 at Exhibit A, NCDA Agreement with Robert L. Kessler, Attorneys-At-Law, May 6, 1999, at Exhibit A, NCDA Agreement with Lindquist and Vennum, September 2, 1999 at Exhibit A, NCDA Agreement for with North Woods Advertising, November 6, 2003 at Exhibit A, and NCDA Agreement for with Shandwick May 6, 1999 at Exhibit A.

<sup>54</sup> NCDA Agreement for with North Woods Advertising, November 6, 2003 at Exhibit A, and NCDA Agreement for with Shandwick May 6, 1999 at Exhibit A.

<sup>55</sup> NCDA Agreement for with North Woods Advertising, November 6, 2003 at Exhibit A, and NCDA Agreement for with Shandwick May 6, 1999 at Exhibit A

### 3. *Liaison Reports*

The State Auditor was pleased with the requirement that the contractors provide reports to a NCDA or ACRRA liaison. In all the contracts, Tim Yantos was to act as the liaison between the contractor and NCDA or ACRRA. The State Auditor's Office recommends that NCDA and ACRRA continue to require their contractors to report to the liaison. These reports allow the liaison and the governing boards to monitor the work being done, and to determine whether their objectives are being met.

### 4. *Requests for Proposals*

Some of the contracts indicated they were the result of a request for proposal (RFP) by either NCDA or ACRRA. Both entities should continue to use an RFP process whenever possible, including when renewing contracts. A RFP process that is open, fair, and objective, allows public entities to receive the best value.

### 5. *Contract and Amendment Signatures*

Some of the contracts and contract amendments were not signed before payment was made. For enforceability, we recommend that all contracts and amendments be authorized and signed by all parties before any payments are made.

### 6. *Conclusions/Recommendations*

Generally, NCDA and ACRRA are using sound contract management procedures. We recommend that all their contracts:

- Contain clear definitions of duties;
- Continue to contain conflicts of interest provisions;
- Clearly define who is the staff liaison, and require monthly reports of specific work performed;
- Go through a RFP process where appropriate; and
- Be signed by all parties before payments are made.

## **III. Procurement Cards**

As part of our review, we also looked at the use of procurement cards for the Northstar Project. Specifically, we reviewed the procurement card history of the following employees who had charges relating to the Northstar Project:

- Executive Director of the Northstar Project
- Anoka County Public Information Specialist
- Anoka County Division Manager for Public Services



The procurement card is a credit card based program used to purchase low value items and services.<sup>56</sup> The procurement card promotes better service by allowing the cardholder to obtain goods and services quickly and conveniently.<sup>57</sup> It also reduces the amount of paperwork needed to obtain, and make payment on, those goods.<sup>58</sup>

Through our review, we found that NCDA and ACRRA are spending funds on meal expenses. The manner in which the meals were documented made it difficult to determine whether the expenditures truly served a public purpose.

Procurement cards are issued to employees of Anoka County. As previously stated, Anoka County is the fiscal agent for NCDA and ACRRA. Therefore, any expenditures made on County procurement cards for the Northstar Project are governed by the County's policies.

The County's policies authorize the following meal and refreshment expenditures:

- For staff and volunteers while performing duties on Election Day;
- For staff involved in the transport of those who are in-custody, incarcerated or otherwise under the control of county employees;
- As a courtesy to the public, elected officials of other jurisdictions, business partners or others who may attend scheduled meetings of the County Board or its committees;
- For a breakfast, lunch or dinner meeting of the County Board, its committees, or any of its members, County Elected Officials, County Local Officials and attendant staff, when meetings must be scheduled over meal periods as a matter of practicality or to accommodate schedules;
- When part of a structured agenda for a departmental meeting, conference, workshop or other meeting and the official or employee has been authorized to attend;
- For County sponsored meetings, conferences or workshops where participants include County and non-County attendees, a registration fee may or may not have been charged;
- At meetings (such as division or department wide quarterly meetings, senior staff or management meetings, county-wide or division/department wide meetings for all managers, supervisors, etc.) when the refreshment and/or meals are necessary to sustain the flow of the meeting and to retain the attention of the attendees;

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<sup>56</sup> Anoka County Procurement Card Purchasing Program User Manual, at 1.

<sup>57</sup> Anoka County Procurement Card Purchasing Program User Manual, at 2.

<sup>58</sup> Anoka County Procurement Card Purchasing Program User Manual, at 2.

- For meetings by County officials and/or employees with associates from other jurisdictions or with business partners, if authorized by the Division manager or department head, and for a specific purpose.<sup>59</sup>

From 2003 to July 2005, the procurement cards for the employees we reviewed were used to pay for numerous meals. The procurement card bills were then paid by either NCDA or ACRRA as determined by the card holder. For the employees we reviewed, the total amounts spent on meals within the Twin Cities area were.<sup>60</sup>

<b>Total Procurement Card Charges for Meals Within the Twin Cities Area<sup>61</sup></b>				
Employee	2003	2004	2005 <sup>62</sup>	<b>Total</b>
Executive Director	\$2,487.00	\$3,890.00	\$2,051.00	<b>\$8,428.00</b>
Public Information Specialist	\$122.00	\$15.00	\$0.00	<b>\$137.00</b>
Division Manager	\$126.00	\$72.00	\$321.00	<b>\$519.00</b>

It appears that public funds are routinely being used to pay for meals for NCDA and ACRRA employees. For example from January 2003 to July 28, 2005, we counted approximately 222 meal meetings within the Twin Cities Area on the Executive Director's procurement card charged to the NCDA and the ACRRA.<sup>63</sup> From January 1, 2003 to July 28, 2005, an employee for the State of Minnesota would have had 659 working days. That means that there was a meal charged on the Executive Director's procurement card approximately every third working day.<sup>64</sup> This percentage would be more if vacation and sick days were taken into account.

The majority of the 222 meal meetings on the Executive Director's procurement card indicated that meal meetings were held "to accommodate schedule." The State Auditor's Office recommends that NCDA and ACRRA make every effort to schedule meetings during regular working hours at an office, rather than meeting at a restaurant and incurring meal expenses. The entities should also ensure that meal meetings are truly needed to accommodate schedules of the attendees. The person approving the

<sup>59</sup> Anoka County Financial Policies, at p. 48.

<sup>60</sup> We counted charges in the following cities: Anoka, Blaine, Bloomington, Brooklyn Center, Brooklyn Park, Coon Rapids, Fridley, Minneapolis, New Brighton, Roseville, and St. Paul.

<sup>61</sup> Procurement card histories were provided to us by Anoka County.

<sup>62</sup> 2005 amounts are through July 2005.

<sup>63</sup> An additional 37 meals were charged to the Anoka County HRA during that time.

<sup>64</sup>  $222/659 = 34\%$ . We counted six days in which two or more meals were charged on the Executive Director's procurement card. See Cardholder Activity Report and Expense Statement for the Executive Director of the Northstar Project, July 31, 2003, April 1, 2004, April 2, 2004, August 30, 2004, October 28, 2004, and May 24, 2005. This would bring the actual ratio of days charging a meal to work days down slightly.

expenditures should ensure that they are truly needed.<sup>65</sup> The approving party should also ensure that the expenditures conform to the County's policies on procurement card use.

In the Executive Director's example, all the meal meetings included other people. The State Auditor's Office was unable to determine who else was present at these meetings because the attendees were only identified by initials. In addition, very few of Executive Director's charges included a detailed receipt. Instead, a summary receipt was turned in which only indicated the total amount spent on the meal. Based on the dollar amounts on the individual expenditures, it appears that the procurement card was used to pay for the meals of all the individuals in attendance.

In contrast, the receipts associated with the Public Information Specialist's and the Division Manager's procurement cards included the names of the other attendees at the meal meetings. Most of their charges included detailed receipts.

During our review of the detailed receipts that were provided to us, we noticed that meal meetings were paid by NCDA, on procurement cards, for NCDA's contractors. For example, a May 19, 2005, entry on the Division Manager's procurement card indicated a meal at Oceanaire Seafood Room in Washington D.C. The purpose of the meeting with NCDA's federal consultants was to discuss congressional meetings. Among the attendees listed at the meeting were, employees from Capital Partnerships, Mullenhoff, Brimsek & Belaire, McCarron and Associates and the Anoka County Division Manager. The total of this bill was \$320.07. All these contractors, however, had clauses in their contracts that charged the entities for their expenses, which would include meals.

Most of the meals purchased on the Executive Director's procurement card were at restaurants in Anoka, Coon Rapids, Minneapolis, and St. Paul.<sup>66</sup> Only a few were out of town. In contrast, most of the meals purchased on the Public Information Specialist's and the Division Manager's procurement cards were at restaurants outside the Twin Cities metropolitan area.

Based on our review of the use of County procurement cards we recommend that:

- All reimbursement requests for meals clearly state the specific purpose/topic of the meeting.
- All receipts for meals include the full name of the meeting attendees and the entity they represent.
- The County requires a detailed receipt before approving payment of procurement card purchases. A public entity cannot properly track expenditures without

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<sup>65</sup> Procurement charges are to be approved by the employee's manager for payment.

<sup>66</sup> We counted 97 meals charged to the Executive Director's procurement card at restaurants in Anoka. The Executive Director works at the Anoka County Government Center located in Anoka.

receiving a detailed receipt to ensure that the purchases were for a proper public purpose.<sup>67</sup>

- The entities avoid unnecessary meetings in which their contractors need to be reimbursed for meals.

We have previously provided Anoka County with advice relating to procurement card procedures. In the State Auditor's Office audit of Anoka County for the year ended December 31, 2002, we included the following comment on the County's use of procurement cards:

The County Board and other specifically authorized County officials are required by law to audit and allow claims against the County. Without adequate documentation, it is impossible for the County to determine that the amounts charged on the procurement cards are for a public purpose. In the case of employee meal reimbursements, adequate documentation is needed to determine whether the meals exceed the county's meal allowance and complied with other aspect of the County's travel policies.

Internal Revenue Service regulations require that meal reimbursements be included in taxable income when an employee is not in overnight status. It appears that at least three of seven transactions included meals where the employee was not in overnight status. We saw no indication that these amounts were included in the employees' income.

The County's procurement card policy requires employees to submit back-up documentation to support procurement card transactions. We recommend the County more closely monitor the documentation submitted by its employees to ensure that it adequately describes and supports the transactions made. In addition, we recommend that employee meal reimbursements made through procurement card transactions be included in taxable income when the employee is not in overnight status.<sup>68</sup>

In its response to this audit comment, Anoka County informed us that it was reminding employees holding procurement cards they need to identify all persons, including themselves, attending, and the purpose of the meeting.

During our current review, we were provided with a November 7, 2003 interoffice memorandum dealing with the County's use of procurement card transactions.<sup>69</sup> The memorandum acknowledged our 2002 comments, and called for all procurement

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<sup>67</sup> Especially for restaurant purchases, a detailed receipt is needed so a public entity can be sure public funds are not being spent on alcohol.

<sup>68</sup> Anoka County Management and Compliance Report for the Year Ended December 31, 2002, Schedule 1 at p.3.

<sup>69</sup> November 7, 2003, memorandum from Anoka County Accountant.

cardholders to provide receipts and justifications for all food establishment purchases including:

- The purpose of the charge or reason for the meeting; and
- A listing of all person, including the cardholder, for the charges listed.<sup>70</sup>

The memorandum requested a detailed description for the meetings, including:

- What was the purpose of the meeting; and
- The main topic of discussion.<sup>71</sup>

The memorandum stressed that “for restaurant meetings, it is imperative that you include the purpose of the meeting, again providing the topic may help.”<sup>72</sup>

In a hand written note on the copy of the memorandum we received, the accountant makes clear that a more detailed description of the issues is needed than “HRA issues and RRA issues.”<sup>73</sup> In addition, the accountant stresses that names should be included, not just initials.<sup>74</sup>

All employees should follow the accountant’s recommendations which are based on our 2002 audit findings. Card holders should:

- Provide more detail of the purpose of the meeting;
- Provide detailed receipts; and
- The names of those attending should be included with the receipts.

These procedures will help in determining whether public funds were properly used.

#### **IV. Conclusion**

The State Auditor’s Office is not commenting on the Northstar Commuter Rail Project itself. The decision of what projects a public entity funds is a matter of public policy left to its elected officials and public employees. The role of the State Auditor’s Office is to ensure that public entities spend public funds in a responsible manner to meet their goals.

Therefore, the State Auditor’s Office is recommending that the NCDA and ACRRA review the recommendations in this report to more closely monitor their contracts relating

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<sup>70</sup> November 7, 2003, memorandum from Anoka County Accountant.

<sup>71</sup> November 7, 2003, memorandum from Anoka County Accountant.

<sup>72</sup> November 7, 2003, memorandum from Anoka County Accountant.

<sup>73</sup> November 7, 2003, memorandum from Anoka County Accountant.

<sup>74</sup> November 7, 2003, memorandum from Anoka County Accountant.

to the Northstar Project. The entities should be sure that they are working together to meet their common objective at minimum expense.

In addition, NCDA and ACRRA should ensure that public funds are being used responsibly in regards to meals for their employees. Public funds should only be used for meal meetings when necessary.

The State Auditor's Office thanks Anoka County and their staff for their assistance in this matter.

**Background of NCDA and ACRRA Contracts with Himle Horner Incorporated**

**NCDA**

We reviewed contracts between NCDA and Himle Horner Incorporated (Himle Horner) in effect since November 2, 2000.<sup>1</sup> Generally, all the contracts required Himle Horner to provide public information services for NCDA, to enhance visibility and support for the Northstar Project, and to assist lobbyists in their communication efforts.<sup>2</sup> The services to be performed were defined in each of the contracts.<sup>3</sup> A sample of the services Himle Horner was to provide can be found at Exhibit A1.

All the contracts between NCDA and Himle Horner were paid on an hourly basis with a maximum contract amount set for each contract and amendment.<sup>4</sup> The contract maximums for each year were as follows:

Year	NCDA
2000	\$40,000 <sup>5</sup>
2001	\$250,000
2002	\$500,000 <sup>6</sup>
2003	\$600,000
2004	\$450,000
2005	\$500,000
Total	\$2,340,000

In all the contracts we reviewed between NCDA and Himle Horner, Mr. Tim Yantos, was the authorized representative of NCDA and the liaison with Himle Horner.<sup>7</sup> Mr. Yantos is NCDA's Executive Director, ACRRA's Executive Director, the Northstar Project Director and Deputy Anoka County Administrator. Mr. Yantos was to instruct Himle Horner to perform the various services described in the agreement.<sup>8</sup> Himle Horner was to

<sup>1</sup> Mn/DOT monitored and provided grant funds for an early contract between NCDA and Himle Horner until 2001.

<sup>2</sup> See, e.g., NCDA Agreement for Professional Services with Himle Horner Incorporated, January 8, 2004, at Exhibit A.

<sup>3</sup> NCDA's December 7, 2000 Agreement with Himle Horner did not include an explanation of services to be performed; however, the contract contains the same contract number as a November 2, 2000 contract that did include an explanation of services. NCDA Agreement for Professional Services with Himle Horner, dated December 7, 2000 and November 2, 2000, at Exhibit A.

<sup>4</sup> See, e.g., NCDA Agreement with Himle Horner, November 2, 2000, at C. Himle Horner was also to be reimbursed for out-of-pocket expenses for direct costs.

<sup>5</sup> NCDA's November 2, 2000 Agreement with Himle Horner was effective for the time period November 2, 2000 through December 31, 2000.

<sup>6</sup> \$500,000 is the contract maximum for a contract that began September 6, 2001 and ended December 31, 2002. NCDA Agreement for Professional Services with Himle Horner, September 6, 2001. NCDA also had another contract that was in effect for all of 2001. NCDA Agreement for Professional Services with Himle Horner, December 7, 2000.

<sup>7</sup> See, e.g., NCDA Agreement with Himle Horner dated December 2, 2004, at B.4.

<sup>8</sup> *Id.*

submit oral or written reports on its progress in completing its work as requested by Mr. Yantos or the NCDA's administrative team.<sup>9</sup> All reports, invoices and other materials prepared pursuant to the agreements were to be sent to Mr. Yantos.<sup>10</sup>

All NCDA's contracts with Himle Horner contained conflict of interest provisions.<sup>11</sup>

### ACRRA

ACRRA had two separate contracts with Himle Horner during the time period 2001 to 2004. Under the first contract, Himle Horner was to provide the following services for ACRRA:

1. Professional services for public information and public involvement relating to the Northstar Corridor and other rail and transit programs of the ACRRA.
2. Develop strategies and public information tools for the furtherance of such projects as requested by the ACRRA's Authorized Representative.<sup>12</sup>

Under this contract, ACCRA was to reimburse Himle Horner on an hourly basis with a maximum contract amount.<sup>13</sup> The contract was amended four times extending the time of services out to December 31, 2004 and increasing the contract maximum to a total of \$190,000.<sup>14</sup>

In addition to this contract, ACRRA entered into another contract with Himle Horner in July 2002.<sup>15</sup> Under this contract, NCDA authorized an agreement with ACRRA to provide \$95,000 to the ACRRA to provide public information services relating to the Northstar Commuter Rail project.<sup>16</sup>

The July 2002 contract was to reimburse Himle Horner on an hourly basis up to \$320,000.<sup>17</sup> The July 2002 contract contained a detailed list of services Himle Horner was to provide and a budgeted breakdown of the cost of those services.<sup>18</sup> The services Himle Horner was to provide are spelled out in Exhibit A2. The July 2002 contract was extended to June 30, 2003.<sup>19</sup>

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<sup>9</sup> *Id.* at B.5.

<sup>10</sup> *Id.* at B.4

<sup>11</sup> *Id.* at H.9.

<sup>12</sup> *See* ACRRA Agreement for Professional Services with Himle Horner, March 13, 2001 at Exhibit A.

<sup>13</sup> *Id.* at C.1 and C.2.

<sup>14</sup> *See* ACRRA Amendments No. 1-4 to the Agreements for Professional Services with Himle Horner, dated December 5, 2003, December 6, 2002, December 11, 2001 and July 10, 2001.

<sup>15</sup> *See* ACRRA Agreement for Professional Services with Himle Horner, July 9, 2002.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at C.1 and C.2.

<sup>18</sup> *Id.* at Exhibits A and B.

<sup>19</sup> *See* ACRRA Amendment No. 1 to the Agreement for Professional Services with Himle Horner, December 6, 2002.



## Exhibit A

In all the contracts we reviewed between ACRRA and Himle Horner, Mr. Tim Yantos was the authorized representative of ACRRA and the liaison with Himle Horner.<sup>20</sup> Mr. Yantos was to instruct Himle Horner to perform the various services described in the agreement.<sup>21</sup> Himle Horner was to submit reports on its progress in completing its work as requested by Mr. Yantos.<sup>22</sup> All reports, invoices and other materials prepared pursuant to the agreement were to be sent to Mr. Yantos.<sup>23</sup>

All ACRRA's contracts with Himle Horner contained conflict of interest provisions.<sup>24</sup>

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<sup>20</sup> ACRRA Agreements for Professional Services with Himle Horner dated March 13, 2001 and July 9, 2002, at B.4.

<sup>21</sup> *Id.*

<sup>22</sup> ACRRA Agreements for Professional Services with Himle Horner dated March 13, 2001, at B.5. The ACRRA Agreements for Professional Services with Himle Horner dated July 9, 2002, at B.5. authorized reports to be requested by Mr. Yantos or by ACRRA's Administrative Team.

<sup>23</sup> ACRRA Agreements for Professional Services with Himle Horner dated March 13, 2001 and July 9, 2002, at B.4.

<sup>24</sup> ACRRA Agreements for Professional Services with Himle Horner dated March 13, 2001 and July 9, 2002, at H.9.

**Duties of Himle Horner Inc. in March 10, 2005 contract with NCDA<sup>1</sup>**

**I. Contract Objectives**

For the period of January 1, 2005 through December 31, 2005, Himle Horner will continue to aggressively communicate public information and promote public involvement in the Northstar Commuter Rail Project. In order to accomplish those objectives, Himle Horner will:

- a. Provide strategic counsel to the project management team on communication and public affairs issues.
- b. Keep corridor residents and project supporters informed about the benefits and progress of the Northstar Commuter Rail Project, the Authority's proposal to the 2005 Legislature and activities within the 2005 legislative session.
  - i. Key audiences will include project supporters, new and established residents within designated project configuration, and other Minnesotans with an interest in transportation issues.
- c. Continue to support discussion of the project among state opinion leaders, news media and various interest groups.
- d. Prepare and make materials available to assist lobbyists as they communicate with policymakers as they consider policy options for the project.
- e. Provide strategy and materials to respond to questions and issues raised by the media, opinion leaders and other interested parties.
- f. Continue to aggressively promote public involvement.

To accomplish these objectives, the tasks identified below will be implemented during the course of this contract. The individual tasks may be modified by the Authority depending on the status of funding for the NCDA.

**II. Consultant Duties**

- a. Strategic Counsel – Provide strategic counsel to the project management team on public information, communications and public affairs strategy.
  - i. Attend NCDA strategy meetings, as needed, to assist in development of public affairs and communications programs.
  - ii. Attend monthly NCDA Executive Committee and Board meetings to report on communication activities.
  - iii. Serve as strategic counsel to NCDA Executive Director and other members of the Northstar project management team.
  - iv. As requested, manage research projects to assist the NCDA Executive Director in developing project strategy and communicate the results of that research to key audiences.

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<sup>1</sup> NCDA Agreement for Professional Services with Himle Horner, December 2, 2004, at Exhibit A.

- b. Public Outreach and Communication – Keep corridor residents and project supporters informed about the features, benefits and status of the Northstar Commuter Rail project.
  - i. Update and maintain information distribution databases
  - ii. Enhance and maintain opinion leader databases.
  - iii. Produce 6-8 supporter updates/notifications.
  - iv. Produce at least 4 opinion leader update mailings.
  - v. Provide materials/information for power point presentations with new project information for public presentations.
  - vi. Manage regular web site updates with timely information for the public on the project.
  - vii. Keep supporters engaged in the project and assist them with information should they want to communicate on behalf of Northstar.
  - viii. Develop new opportunities and venues for supporters to communicate their support for the project.
  - ix. Work with other public communications consultants to identify new supporters and engage them in project discussions.
  - x. Work with other public communications consultants to communicate information about the project to new corridor residents.
  - xi. Assist NCDA in their outreach/cooperative efforts with business leaders.
  - xii. Assist NCDA with requests from individuals or citizens support/action groups.
  - xiii. Provide assistance to the NCDA in organizing “Day at the Capitol” activities.
- c. Other Public Communications Activities: Respond to questions and criticism from interested parties.
  - i. Redraft key project informational materials to reflect changes in the project scope.
  - ii. Regularly update information kit material and the Northstar Web site as new information becomes available.
  - iii. Reprint materials, if needed.
  - iv. Assist NCDA in bringing interested parties into the corridor to understand the transportation challenges facing the region.
  - v. Develop strategy to respond to questions and criticism about the project.
  - vi. Develop materials, as needed, to respond to questions and criticism.
- d. News Media and Opinion Leaders – Continue to support discussion of the project among state opinion leaders, news media and various interest groups, providing public communication materials with information about the features, benefits and status of the Northstar project.
  - i. Regularly update media kit.
  - ii. Arrange media interviews/tours for Northstar spokespersons.

## Exhibit A1

- iii. Prepare 8-10 news releases/media updates
- iv. Prepare 3-5 opinion pieces for distribution.
- v. Record and distribute at least 6 radio actualities.
- vi. Arrange visits with editorial boards and the capitol press corps for NCDA representatives as legislative activity occurs.
- vii. Respond to media requests.
- viii. Track news clips and distributes them to individuals identified by the NCDA.
- ix. Update the web site with timely information for access by the media and opinion leaders.
- x. Coordinate other media activity as needed.
- e. Public Affairs Information – Provide materials to assist lobbyists in their communication efforts, as requested, including:
  - i. Background information for newly elected legislators.
  - ii. Support materials for use during the 2005 legislative session.
  - iii. PowerPoint presentation for use by the lobbying team.
  - iv. Respond to requests for information from public officials.

**Duties of Himle Horner Inc. in July 9, 2002 contract with ACRRRA<sup>1</sup>**

On behalf of the Northstar Corridor Development Authority, the Anoka County Regional Rail Authority will implement a communications plan aimed at informing and involving the public about the Northstar Commuter Rail Project.

During the balance of 2002, the consultant will:

- Keep the general public informed about the project and the NCDA's decision to continue to pursue state and federal funding. Communications efforts will now include residents of Central Minnesota who may use Northstar in addition to the traditional corridor residents. A greater level of communication to residents of Greater Minnesota is also required.
- Aggressively promote public involvement.
- Provide information to candidates running for various public offices so they can make informed decisions about the project.
- Develop effective coalitions with other transportation supporters across Minnesota.

To accomplish these objectives, the following tasks must be implemented during the course of this contract.

1. Public Communication
  - a. Maintain information distribution database.
  - b. Enhance and maintain opinion leader database.
  - c. Re-group database into new legislative districts.
  - d. Produce 5 Updates.
  - e. Produce 5 Updates for opinion leaders.
  - f. Draft updated power point presentation.
  - g. Retain project coordinator to make presentations, staff displays, personally drop literature, etc.
  - h. Identify new supporters.
  - i. Conduct telephone supporter identification if necessary.
  - j. Obtain resolutions of support from third parties.
2. Candidate Communication
  - a. Draft letter/info kit and distribute to all legislative candidates and Minnesota House and Senate leadership.
  - b. Develop an outline of future candidate updates.
  - c. Supply questions about the Northstar project to organizers of candidate forums.
  - d. Mail letters to successful candidates following the primary and general elections.
3. Transportation Coalition
  - a. Continue discussions with the Minnesota Chamber with a goal of inclusion of the Northstar project in the chamber's legislative agenda.

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<sup>1</sup> ACRRRA Agreement for Professional Services with Himle Horner, July 9, 2002, at Exhibit A.

- b. Develop materials for use in meetings with other potential coalition members such as AARP, etc.
- c. Coordinate communications efforts with other members of a coalition.
- 4. Materials
  - a. Design and implement a slightly revised look for selected materials.
  - b. Regularly update information kit material as new information appears.
  - c. Redraft brochure and print.
  - d. Re-print window stickers.
  - e. Inventory existing materials – determine need for re-prints.
  - f. Reprint information request cards.
- 5. Corridor Resident Newsletter
  - a. Produce one newsletter to be distributed to the entire corridor in September.
- 6. Web Site
  - a. Redesign home page.
  - b. Update with new information as it becomes available.
  - c. Provide for interested party registration.
  - d. Promote Northstar links from other sites.
- 7. Billboards
  - a. Place billboards between September 5 and November 5
- 8. News Media
  - a. Produce media kit.
  - b. Track news clips and distribute.
  - c. Produce 7-12 news releases/media updates.
  - d. Record and distribute at least two radio actualities.
  - e. Arrange all aspects of media tour for Northstar spokespersons in Greater Minnesota in August.
  - f. Arrange corridor and capitol press corps media visits in August – September, and November.
  - g. Write 2 op-ed pieces, one for each metro and non-metro audiences.
  - h. Develop letter to editor effort.
  - i. Develop outline of possible media story pitches/timing.
  - j. Write and distribute one Northstar feature article.
- 9. Research
  - a. Develop and implement corridor poll update.
  - b. Communicate poll results.
  - c. Identify issues that need fresh issue research over summer/fall and recommend who should do it.
- 10. Other Communications
  - a. Draft and distribute pre-written newsletter stories.
  - b. Draft and distribute commuter rail success stories.
- 11. Provide Ongoing Strategy Development and Public Information Advisory Series

**Background of NCDA and ACRRRA Contracts with Capital Partnerships**

We reviewed contracts between NCDA and ACRRRA with Capital Partnerships, Inc. (Capital Partnerships) dating back to 1997.

The initial contract we reviewed between NCDA and Capital Partnerships was entered into on January 1, 1999 and was in effect from that date until December 31, 1999.<sup>1</sup> The contract was amended twice to extend to December 31, 2001.<sup>2</sup> From January 1, 2002 to December 31, 2004, NCDA had three contracts with NCDA all calling for the same services relating to Northstar.<sup>3</sup> The most recent contract between NCDA and Capital Partnerships is from January 1, 2004 to December 31, 2005.<sup>4</sup>

ACRRRA entered into a contract with Capital Partnerships on December 10, 1997.<sup>5</sup> The contract was amended six times to extend its length for another year through December 31, 2004.<sup>6</sup> On December 3, 2004, ACRRRA contracted with Capital Partnerships for services through December 31, 2005.<sup>7</sup>

In all the contracts, Capital Partnership’s main focus was to work on obtaining federal funds for the Northstar Rail Project. The most recent contracts we reviewed call for Capital Partnerships to perform the same duties for both NCDA and ACRRRA.<sup>8</sup> The specific duties of these contracts are at Exhibit B1.

Under both NCDA and ACRRRA contracts Capital Partnerships was to be paid on a set monthly basis for the following annual amounts:

<b>Retainer Amounts for Capital Partnerships from NCDA and ACRRRA</b>		
<b>Year</b>	<b>NCDA</b>	<b>ACRRRA</b>
1998	NA	\$60,000
1999	\$30,000	\$30,000
2000	\$30,000	\$30,000
2001	\$35,000	\$30,000
2002	\$35,000	\$40,000
2003	\$35,000	\$44,000

<sup>1</sup> NCDA Agreement with Capital Partnerships, January 1, 1999 at I.

<sup>2</sup> NCDA Amendment to the Agreement with Capital Partnerships, December 9, 1999 at 1, and NCDA Amendment to the Agreement with Capital Partnerships, November 2, 2000 at 1.

<sup>3</sup> NCDA Agreement with Capital Partnerships, December 6, 2001 at Exhibit A, and NCDA Agreement with Capital Partnerships, November 3, 2002 at Exhibit A, and NCDA Agreement with Capital Partnerships, December 4, 2003 at Exhibit A.

<sup>4</sup> NCDA Agreement with Capital Partnerships, December 2, 2004.

<sup>5</sup> ACRRRA Agreement with Capital Partnerships, December 10 1997.

<sup>6</sup> ACRRRA Amendments to Agreement with Capital Partnerships, December 4, 1998, December 14, 1999, December 12, 2000, December 11, 2001, December 6, 2002, and December 5, 2003.

<sup>7</sup> ACRRRA Agreement with Capital Partnerships, December 7, 2004.

<sup>8</sup> NCDA Agreement with Capital Partnerships, December 2, 2004, at Exhibit A, and ACRRRA Agreement with Capital Partnerships, December 3, 2004 at Exhibit A. Aside from one service listed in the ACRRRA contract, the scope of services in the contracts are identical.

## Exhibit B

2004	\$37,500	\$45,000
2005	\$38,625	\$46,350
<b>Total</b>	<b>\$241,125</b>	<b>\$325,350</b>

In all the contracts we reviewed between NCDA and ACRRRA and Capital Partnerships, Mr. Yantos, the Northstar Project Director and Deputy Anoka County Commissioner, was the authorized representative of NCDA and ACRRRA and the liaison with Capital Partnerships.<sup>9</sup> Mr. Yantos was to instruct Capital Partnerships to perform the various services described in the agreement.<sup>10</sup> Capital Partnerships was to submit reports on its progress in completing its work as requested by Mr. Yantos. All reports, invoices and other materials prepared pursuant to the agreement were to be sent to Yantos.<sup>11</sup>

Three of the contracts we reviewed were not signed by any party.<sup>12</sup> In addition, one of the amendments to ACRRRA's contract was not signed.<sup>13</sup>

All NCDA's and ACRRRA's contracts with Himle Horner contained conflict of interest provisions.<sup>14</sup>

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<sup>9</sup> See e.g. ACRRRA Agreement with Capital Partnerships, December 3, 2004 at B (3). The 1999-2002 NCDA contracts also list Paul McCarron as an Authorized Representative.

<sup>10</sup> See e.g. *id.*

<sup>11</sup> See e.g. *id.* at B(4).

<sup>12</sup> NCDA Agreements with Capital Partnerships, December 4, 2003, and December 2, 2004. ACRRRA Agreement with Capital Partnerships, December 3, 2004.

<sup>13</sup> ACRRRA Amendment to the Agreement with Capital Partnerships, December 5, 2003.

<sup>14</sup> See e.g. ACRRRA Agreement with Capital Partnerships, December 3, 2004 at H (6).



**Services Capital Partnerships to Provide to NCDA and ACRRRA<sup>1</sup>**

- I. Development of Funding Strategy: Provide advice to the NCDA members and ACRRRA on how additional federal funds to the Northstar Corridor project can be identified, accessed and acquired, including but not limited to planning, engineering, design and construction funds.
  - A. Work with the NCDA and ACRRRA to appropriate federal funds for the Northstar Corridor for fiscal years 2005 and 2006.<sup>2</sup>
  - B. Work with the NCDA and ACRRRA on a federal legislative strategy to designate transit New Rail Start funds for the Northstar Corridor through the Twin Cities Transitways project or through some other entity.
  - C. Work with the ACRRRA to secure the reauthorization of the Northstar Commuter Rail Project in the next surface transportation funding bill.<sup>3</sup>
- II. Work with the Federal Transit Administration (FTA) to:
  - A. Establish the Northstar Corridor in the FTA's list of funding priorities sent to Congress in 2005.
  - B. Identify the elements needed to direct earmarked transit capital funds expeditiously to the project.
  - C. Implement a process to place either the Twin Cities Transitways project or the Northstar project in line to receive a Full Funding Grant Agreement (FFGA).
- III. Coordination of Legislative Efforts: Provide key legislators and staff with appropriate information and technical/political guidance regarding the proposed highway project and its funding needs as follows:
  - A. Attend Congressional Committee hearings as appropriate.
  - B. Assist Coalition members and staff in preparing for meetings with Members of Congress or testifying at hearings.
  - C. Organize Washington visits on behalf of the project for Northstar and ACRRRA representatives.
  - D. Meet/Coordinate with local government lobbyists as directed by the NCDA and ACRRRA.
  - E. Draft brief summaries of key meetings/hearings as appropriate.
  - F. Work with the NCDA and ACRRRA on agreed upon assignments that would advance the mission of the NCDA and ACRRRA where feasible and appropriate.
  - G. Follow-up on meetings with NCDA and ACRRRA members and staff to ensure that information needs are adequately addressed.
  - H. Prepare any necessary correspondence with Members of Congress or other federal officials.

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<sup>1</sup> NCDA Agreement for with Capital Partnerships Inc., December 2, 2004, at Exhibit A, and ACRRRA Agreement with Capital Partnerships Inc., December 3, 2004 at Exhibit A.

<sup>2</sup> The ACRRRA contracts is worded "to secure federal appropriations . . ."

<sup>3</sup> This service appears in the ACRRRA contract, but not the NCDA contract.

**Background of NCDA and ACRRA Contracts with  
Messerli & Kramer, P.A.**

We reviewed contracts between Messerli & Kramer, P.A. (Messerli & Kramer), and NCDA and ACRRA dating back to 1999. Messerli & Kramer had separate contracts with each entity. Both the NCDA and the ACRRA contracts called for the following services:

- Developing a strategy to maximize potential funding sources;
- Meeting with key decision makers at the Minnesota Department of Transportation, Metropolitan Council, the Legislature, the Governor’s Office, and any agency, individual or entity that may provide funding assistance;
- Assisting in any manner necessary to secure a financial commitment from the State for the Northstar Corridor; and
- Closely monitoring all potential funding initiatives.<sup>1</sup>

NCDA and ACRRA each agreed to pay Messerli & Kramer monthly retainer fees, plus allowable direct expenses.<sup>2</sup> Over the course of the contracts, Messerli & Kramer were to be paid the following retainer amounts:<sup>3</sup>

Year	NCDA	ACRRA
1999	\$35,000	\$65,000
2000		
2001	\$35,000	
2002	\$35,000	\$45,000
2003	\$35,000	\$50,000
2004	\$37,500	\$52,500
2005	\$38,625	\$54,075
<b>Total</b>	<b>\$216,125</b>	<b>\$266,575</b>

Mr. Tim Yantos is NCDA’s Executive Director, ACRRA’s Executive Director, the Northstar Project Director and Deputy Anoka County Administrator. Under the contracts, Mr. Yantos was the authorized representative of NCDA and ACRRA, and the liaison with Messerli & Kramer.<sup>4</sup> Mr. Yantos was to instruct Messerli & Kramer to

<sup>1</sup> Exhibit A to NCDA Agreements for Professional Services with Messerli & Kramer dated December 2, 2004, December 4, 2003, November 7, 2002, December 6, 2001 and November 4, 1999; and Exhibit A to ACRRA Agreements for Professional Services with Messerli & Kramer dated December 3, 2004 and October 26, 1999. The language in Exhibit A to the contracts describing the services is identical.

<sup>2</sup> NCDA Agreements for Professional Services with Messerli & Kramer dated December 2, 2004, December 4, 2003, November 7, 2002, December 6, 2001 and November 4, 1999, at C; NCDA Amendment No. 1 to the Agreement for Professional Services with Messerli & Kramer dated November 2, 2000; ACRRA Agreements for Professional Services with Messerli & Kramer dated December 3, 2004 and October 26, 1999, at C; and Amendments to ACRRA Agreements for Professional Services with Messerli & Kramer dated December 11, 2001, December 6, 2002, and December 5, 2003.

<sup>3</sup> *Id.*

<sup>4</sup> NCDA Agreements for Professional Services with Messerli & Kramer dated December 2, 2004, December 4, 2003, November 7, 2002, December 6, 2001 and November 4, 1999, at B.3; and ACRRA

## Exhibit C

perform the various services described in the agreement.<sup>5</sup> Messerli & Kramer was to submit oral or written reports on its progress in completing its work as requested by Mr. Yantos.<sup>6</sup>

Three of the contracts we were provided for review were not signed by any party.<sup>7</sup>

All NCDA's and ACRRA's contracts with Messerli & Kramer contained conflict of interest provisions.<sup>8</sup>

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Agreements for Professional Services with Messerli & Kramer dated December 3, 2004 and October 26, 1999, at B.3. Mr. Paul McCarron was included as an additional authorized representative on the December 6, 2001 and November 4, 1999 NCDA Agreements with Messerli & Kramer, and on the October 26, 1999 ACRRA Agreement with Messerli & Kramer. The October 26, 1999 ACRRA Agreement identifies Mr. McCarron as ACRRA's Chair.

<sup>5</sup> NCDA Agreements for Professional Services with Messerli & Kramer dated December 2, 2004, December 4, 2003, November 7, 2002, December 6, 2001 and November 4, 1999, at B.3; and ACRRA Agreements for Professional Services with Messerli & Kramer dated December 3, 2004 and October 26, 1999, at B.3.

<sup>6</sup> *Id.* at B.4.

<sup>7</sup> NCDA Agreements for Professional Services with Messerli & Kramer dated December 4, 2003, and December 2, 2004. ACRRA Agreement for Professional Services with Messerli & Kramer dated December 3, 2004.

<sup>8</sup> NCDA Agreements for Professional Services with Messerli & Kramer dated December 2, 2004, December 4, 2003, November 7, 2002, December 6, 2001 and November 4, 1999, at H.7; and ACRRA Agreements for Professional Services with Messerli & Kramer dated December 3, 2004, at H.6, and October 26, 1999, at H.7.

**Background of NCDA and ACRRRA contracts with  
Mullenholz, Brimsek & Belair**

We reviewed contracts between Mullenholz, Brimsek & Belair (Mullenholz) and both NCDA and ACRRRA dating back to 1999.

Under the contracts, Mullenholz was to perform the same services for both NCDA and ACRRRA. The services to be provided were defined as:

- Development of Funding Strategy: Provide advice to the NCDA and ACRRRA members on how additional federal funds for the Northstar Corridor project can be sourced, accessed and acquired, including but not limited to, planning, engineering, design and construction funds.
- Coordination of Legislative Efforts: Provide key legislators and staff with appropriate information and technical/political guidance regarding the Northstar Corridor project and its funding needs:
  - Attend Committee hearings as appropriate;
  - Assist Coalition members and staff in preparing for meetings with Members of Congress or testifying at hearings;
  - Organize Washington visits on behalf of the project for Northstar Representatives;
  - Meet/coordinate with local government lobbyists as directed by the NCDA and ACRRRA;
  - Draft brief summaries of key meetings/hearings as appropriate;
  - Work with the NCDA and ACRRRA in agreed upon assignments that would advance the mission of the NCDA and ACRRRA where feasible and appropriate, in conjunction with the Twin Cities Transitways Project;
  - Follow-up on meetings with NCDA and ACRRRA members and staff to ensure that information needs are adequately addressed;
  - Prepare any necessary correspondence with members of Congress or other federal officials;
  - Advise and assist the NCDA and ACRRRA in establishing a base of funding in the House and Senate annual appropriation process;
  - Assist the NCDA and ACRRRA to positively influence the inclusion of funding for the Northstar Corridor in the House and Senate appropriations bills;
  - Provide a summary of the congressional actions to the NCDA and ACRRRA at the completion of the appropriations process.<sup>1</sup>

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<sup>1</sup> See e.g. ACRRRA Agreement with Mullenholz, December 14, 1999, Exhibit A, and NCDA Agreement with Mullenholz, January 1, 1999, Exhibit A.

## Exhibit D

In exchange for these services, Mullenholz was to be paid a retainer fee in the following amounts:

<b>Year</b>	<b>NCDA</b>	<b>ACRRA</b>
1999	\$30,000	NA
2000	\$25,000	\$25,000
2001	\$30,000	\$30,000
2002	\$30,000	\$40,000
2003	\$30,000	\$44,000
2004	\$32,500	\$45,000
2005	\$33,475	\$46,350
<b>Total</b>	<b>\$210,975</b>	<b>\$230,350</b>

In all the contracts we reviewed between NCDA and Mullenholz, Mr. Tim Yantos, was the authorized representative of NCDA and the liaison with Mullenholz.<sup>2</sup> Mr. Yantos is NCDA's Executive Director, ACRRA's Executive Director, the Northstar Project Director and Deputy Anoka County Administrator. Mr. Yantos was to instruct Mullenholz to perform the various services described in the agreement.<sup>3</sup> Mullenholz was to submit oral or written reports on its progress in completing its work as requested by Mr. Yantos or the NCDA's administrative team.<sup>4</sup> All reports, invoices and other materials prepared pursuant to the agreements were to be sent to Mr. Yantos.<sup>5</sup>

Two of the contracts we reviewed were not signed by any party.<sup>6</sup>

All NCDA's and ACRRA's contracts with Mullenholz contained conflict of interest provisions.<sup>7</sup>

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<sup>2</sup> See, e.g., NCDA Agreement with Mullenholz dated December 2, 2004, at B. 3. Paul McCarron is also listed as an Authorized Representative for NCDA for 1999-2002 and in the 2000 ACRRA contract which was extended by amendment through 2004.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at B.4.

<sup>5</sup> *Id.* at B.4

<sup>6</sup> NCDA Agreement with Mullenholz. December 2, 2004. ACRRA Agreement with Mullenholz, December 3, 2004.

<sup>7</sup> See e.g. NCDA Agreement with Mullenholz, December 2, 2004 at H(6), ACRRA Agreement with Mullenholz, December 3, 2004 at H(6).

**Background of ACRRA's Contract with Jill C. Brown**

ACRRA entered into a contract with Jill C. Brown (Brown) in December of 2001. Under the contract Brown was to provide public relations consulting services as requested by ACRRA.<sup>1</sup> There was no other explanation of what services Brown was to perform.

The contract commenced on January 1, 2002 and terminated December 31, 2002.<sup>2</sup> The contract was authorized by ACRRA on December 11, 2001.<sup>3</sup> The contract states an hourly rate for Brown of \$53.00, with a contract maximum of \$5,000.<sup>4</sup> The contract requires Brown to present itemized billing to ACRRA for payment.<sup>5</sup>

The contract was amended four times extending its terms through 2005.<sup>6</sup> The maximum compensation for the amended contract was increased to \$115,000, at an hourly rate of \$58.90 per hour.<sup>7</sup>

As of May 2005, the ACRRA had paid \$66,811.26 under the contracts with Brown keeping ACRRA within the contracted amount.

The contract with Brown did not explain who would assign her work or whom she was to report to.

The contract with Brown did not contain specific conflict of interest provisions.

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<sup>1</sup> See ACRRA Agreement with Jill C. Brown, December 11, 2001, at II.

<sup>2</sup> See ACRRA Agreement with Jill C. Brown, December 11, 2001 at I.

<sup>3</sup> See ACRRA Agreement with Jill C. Brown, December 11, 2001.

<sup>4</sup> See ACRRA Agreement with Jill C. Brown, December 11, 2001 at III.

<sup>5</sup> See ACRRA Agreement with Jill C. Brown, December 11, 2001 at IV.

<sup>6</sup> See ACRRA Amendment No. 1 to the Agreement for with Jill C. Brown, December 6, 2002; ACRRA Amendment No. 2 to the Agreement for with Jill C. Brown, November 12, 2003; and ACRRA Amendment No. 4 to the Agreement for with Jill C. Brown, December 3, 2004.

<sup>7</sup> ACRRA Amendment No. 4 to the Agreement for with Jill C. Brown, December 3, 2004 at § 2. One amendment authorized an increase in the contract mid-year. See ACRRA Amendment No. 3 to the Agreement for with Jill C. Brown, October 12, 2004.

**Background on ACRRA's Contracts with Best & Flanagan**

ACRRA entered into an agreement with Best & Flanagan, LLP (Best & Flanagan) on January 1, 2005.

The contract included an exhibit listing the following services to be performed by Best & Flanagan:

- Attend hearings and meetings with legislators and state administrators. Times, dates, people in attendance and a brief recap of each meeting will be recorded and submitted monthly with the monthly invoice to ACRRA.
- Attend staff or other meetings as needed or as requested by the ACRRA or staff. Times, dates, people, in attendance and a brief recap of each meeting will be recorded and submitted monthly with a monthly invoice to ACRRA.
- Provide legislators, legislative staff, and administration staff with requested information.
- Coordinate with ACRRA the participation and testimony in legislative hearings or essential meetings by ACRRA officials, administrators or staff.
- Furnish legislative analysis and briefings regarding assigned issues and legislation to the ACRRA Board and other individuals as directed by the ACRRA.
- Monitor and track all relevant legislative updates to the ACRRA Board.
- Prepare and submit bi-monthly legislative updates to the ACRRA while the Minnesota Legislature is in session. These updates will be submitted by mail or email while the Legislature is in session.
- Provide a summary on assigned issues and legislation to the ACRRA at the completion of the Legislative session. This summary will be submitted in a timely fashion after the Legislature adjourns.
- During the interim, legislative activities shall be coordinated with the ACRRA. Any activities undertaken on behalf of the ACRRA will be reported on in the same manner during the Legislative session.<sup>1</sup>

The contract called for Best & Flanagan to be reimbursed for all work and expenses in a fixed lump sum of \$23,175 for 2005.<sup>2</sup> Payment was to be made in 12 equal installments pursuant to invoices submitted to ACRRA.<sup>3</sup>

As of May 2005, ACRRA had paid \$28,798 to Best & Flanagan.

Mr. Tim Yantos is NCDA's Executive Director, ACRRA's Executive Director, the Northstar Project Director and Deputy Anoka County Administrator. Under the contract, Mr. Yantos was the authorized representative of ACRRA and the liaison with Best & Flanagan.<sup>4</sup> Mr. Yantos was to instruct Best & Flanagan to perform the various services

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<sup>1</sup> ACRRA Agreement with Best & Flanagan, January 1, 2005, Exhibit A.

<sup>2</sup> ACRRA Agreement with Best & Flanagan, January 1, 2005 at C (1).

<sup>3</sup> ACRRA Agreement with Best & Flanagan, January 1, 2005 at D (1).

<sup>4</sup> ACRRA Agreement with Best & Flanagan, January 1, 2005 at B (3).

## Exhibit F

described in the agreement.<sup>5</sup> Best & Flanagan was to submit reports on its progress in completing its work as requested by Mr. Yantos.<sup>6</sup> All notices, requests, demands, and other communications under the contract were to be sent to Mr. Yantos.<sup>7</sup>

Although the contract was approved in December 2004 and was set to begin in January 2005, ACRRA was making payments to Best & Flanagan without a contract.<sup>8</sup> It appears that in 2004, ACRRA paid Best & Flanagan \$21,073 without a contract in place.

The copy of the contract provided to this office was not signed by either party.

The contract contained a conflict of interest provision.<sup>9</sup>

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<sup>5</sup> ACRRA Agreement with Best & Flanagan, January 1, 2005 at B (3).

<sup>6</sup> ACRRA Agreement with Best & Flanagan, January 1, 2005 at B (4).

<sup>7</sup> ACRRA Agreement with Best & Flanagan, January 1, 2005 at H (5).

<sup>8</sup> The contract provides that the “agreement is entered into as of the 1<sup>st</sup> day of January, 2005, notwithstanding the date of the signatures of the parties. . .” *See* ACRRA Agreement with Best & Flanagan, January 1, 2005.

<sup>9</sup> ACRRA Agreement with Best & Flanagan, January 1, 2005 at H (6).



**Background on ACRRA's Contracts with Government & Enterprise Services**

ACRRA contracted with Government & Enterprise Services on February 8, 2000.<sup>1</sup> Government & Enterprise Services was to provide “professional and consulting services to the ACRRA, which are necessary to complete the work described [in an attached exhibit].”<sup>2</sup> Government & Enterprise Services was to:

Work with the Northstar Corridor Development Authority (“NCDA”), the Minnesota Department of Transportation (“Mn/DOT”) and the Metropolitan Council to assist in communications and the facilitation of the development of the Northstar Corridor Commuter Rail Project by the NCDA and Mn/DOT.<sup>3</sup>

The chair was authorized to enter into the contract on February 8, 2000 by the ACRRA.<sup>4</sup> The contract with Government & Enterprise Services was to end on December 31, 2000.<sup>5</sup> However, on December 12, 2000 ACRRA entered into an amendment (Amendment 1) to the original contract extending it until December 31, 2001.<sup>6</sup> Amendment 1 was signed by ACRRA representatives on January 22, 2001.<sup>7</sup>

Amendment 1 changed the scope of services to:

[Government & Enterprise Services] will work with [ACRRA], under the direction of the Division Manager of the Anoka County Governmental Services Division or her designee to:

1. Provide heavy involvement with Metropolitan Council activities including monitoring meeting activities of:
  - a. the full Metropolitan Council;
  - b. development of the Transportation Policy Plan; and
  - c. rail committee and transportation committees
2. Act as liaison with MnDOT Commissioner and his office;
3. Monitor report on the activities of the newly formed Major Transportation Projects Group; and
4. Provide advice as needed.<sup>8</sup>

Finally, on December 11, 2001, ACRRA entered into another amendment (amendment 2) to extend the original contract to December 31, 2002.<sup>9</sup> Amendment 2 did not have any changes in the services by Government & Enterprise Services.

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<sup>1</sup> ACRRA Agreement with Government & Enterprise Services, February 8, 2000.

<sup>2</sup> ACRRA Agreement with Government & Enterprise Services, February 8, 2000 at B (1).

<sup>3</sup> ACRRA Agreement with Government & Enterprise Services, February 8, 2000 at Exhibit A.

<sup>4</sup> ACRRA Agreement with Government & Enterprise Services, February 8, 2000.

<sup>5</sup> ACRRA Agreement with Government & Enterprise Services, February 8, 2000.

<sup>6</sup> Amendment 1 to ACRRA Agreement with Government & Enterprise Services, December 12, 2000.

<sup>7</sup> Amendment 1 to ACRRA Agreement with Government & Enterprise Services, December 12, 2000. Amendment 1 was signed by Paul McCarron, Chair of ACRRA.

<sup>8</sup> Amendment 1 to ACRRA Agreement with Government & Enterprise Services, December 12, 2000 at 2-3.

## Exhibit G

The contract called for Government & Enterprise Services to be compensated at \$2,500 per month for a contract maximum of \$30,000, including expenses. Amendment 1 and 2 raised the compensation to \$3,500 per month for a contract maximum of \$114,000.<sup>10</sup> Over the length of the contracts, ACRRA paid Government & Enterprise Services \$111,500.

Mr. Tim Yantos is NCDA's Executive Director, ACRRA's Executive Director, the Northstar Project Director and Deputy Anoka County Administrator. Under the contracts, Mr. Yantos was the authorized representative of ACRRA and the liaison with Government & Enterprise Services.<sup>11</sup> Mr. Yantos was to instruct Government & Enterprise Services to perform the various services described in the agreement.<sup>12</sup> Government & Enterprise Services was to submit reports on its progress in completing its work as requested by Mr. Yantos.<sup>13</sup> All reports, invoices and other materials prepared pursuant to the agreement were to be sent to Yantos.<sup>14</sup>

All ACRRA's contract with Government & Enterprise Services contained conflict of interest provisions.<sup>15</sup>

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<sup>9</sup> Amendment 2 to ACRRA Agreement with Government & Enterprise Services, December 11, 2001.

<sup>10</sup> Amendment 1 to ACRRA Agreement with Government & Enterprise Services, December 12, 2000 at 1-2, and Amendment 2 to ACRRA Agreement with Government & Enterprise Services, December 11, 2001 at 1-2.

<sup>11</sup> ACRRA Agreement with Government & Enterprise Services, February 8, 2000 at B (3).

<sup>12</sup> ACRRA Agreement with Government & Enterprise Services, February 8, 2000 at B (3).

<sup>13</sup> ACRRA Agreement with Government & Enterprise Services, February 8, 2000 at B (4).

<sup>14</sup> ACRRA Agreement with Government & Enterprise Services, February 8, 2000 at D (5).

<sup>15</sup> ACRRA Agreement with Government & Enterprise Services, February 8, 2000 at 6.

**Background on ACRRA's Contracts with Gordon O. Voss**

We reviewed two separate contracts between ACRRA and Gordon O. Voss (Voss) dating back to 2000.

ACRRA entered into a consulting agreement with Voss to begin on May 1, 2000 and continue until modified or canceled.<sup>1</sup> The scope of services for the contract was as follows:

[Voss] shall perform services for the ACRRA, including work on behalf of the ACRRA to consult and facilitate the development of a strategy for funding and implementing the Northstar Corridor commuter rail project. Specific tasks shall be defined, scheduled and coordinated on the ACRRA's behalf by Paul McCarron, Chair, or his designee. [Voss] is an independent contractor and not an employee of the ACRRA. The workplace shall be the [Voss's] office.<sup>2</sup>

ACRRA entered into another contract with Voss to begin on September 11, 2001.<sup>3</sup> The contract, by amendment, was in effect until December 21, 2002.<sup>4</sup> The scope of services for the contracts and amendments remained unchanged.

The original agreement provided for Voss to be paid at an hourly rate of \$85 with appropriate travel expenses for a maximum of \$5,000.<sup>5</sup> The second contract increased the contract maximum to \$10,000.<sup>6</sup> Over the life of the contracts, ACRRA paid Voss \$8,648.75.

The contract and its amendments did not contain any provisions relating to who was to assign work, or conflicts of interest.

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<sup>1</sup> Consulting Agreement with Voss, May 1, 2000.

<sup>2</sup> Consulting Agreement with Voss, May 1, 2000.

<sup>3</sup> ACRRA Agreement with Voss September 11, 2001.

<sup>4</sup> Amendment 1 to ACRRA Agreement with at 1.

<sup>5</sup> Consulting Agreement with Voss, May 1, 2000.

<sup>6</sup> ACRRA Agreement with Voss, September 11, 2001.

### Background on NCDA's Contracts with Felhaber, Larson, Fenlon & Vogt P.A.

In May 1999, NCDA entered into a legal services contract with Felhaber, Larson, Fenlon & Vogt, P.A. (Felhaber).<sup>1</sup> The contract indicates that it was approved by NCDA on May 6, 1999.<sup>2</sup> The term of the contract was from May 14, 1999 to December 31, 2000.<sup>3</sup>

The duties Felhaber was to provide were described as:

1. Representation of NCDA in negotiations with BNSF.
2. Development and drafting of all necessary agreements with BNSF, including but not limited to an advanced planning and preliminary engineering agreement, a construction and capital improvements agreement and potentially an operating agreement.
3. Advise the NCDA on matters relating to railroad law and regulation.
4. Advise the NCDA on matters relating to NEPA requirements and the development of an Environmental Impact Statement.
5. Advise the NCDA on matters relating to FTA regulations and federal procurement requirements.
6. Provide legal services as requested by the NCDA and its authorized representatives.<sup>4</sup>

Felhaber was to receive \$195 per hour for all work and services provided.<sup>5</sup> NCDA was also required to pay Felhaber's expenses including; facsimile transmissions, long-distance phone tolls, mileage, parking, meals and travel costs.<sup>6</sup> The amount paid to Felhaber was not to exceed \$50,000.<sup>7</sup> On December 9, 1999, NCDA amended the contract to increase the maximum compensation to \$80,000.<sup>8</sup>

Over the life of the contracts and the amendment, NCDA paid Felhaber \$6,651.59 for services under the contract.<sup>9</sup>

Mr. Tim Yantos is NCDA's Executive Director, ACRRA's Executive Director, the Northstar Project Director and Deputy Anoka County Administrator. Under the contracts, Mr. Yantos was the authorized representative of NCDA and the liaison with Felhaber.<sup>10</sup> Mr. Yantos was to instruct Felhaber to perform the various services described in the agreement.<sup>11</sup> Felhaber was to submit reports on its progress in

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<sup>1</sup> NCDA Agreement for Legal Services with Felhaber, May 6, 1999.

<sup>2</sup> NCDA Agreement for Legal Services with Felhaber, May 6, 1999.

<sup>3</sup> NCDA Agreement for Legal Services with Felhaber, May 6, 1999 at A.

<sup>4</sup> NCDA Agreement for Legal Services with Felhaber, May 6, 1999 at Exhibit A.

<sup>5</sup> NCDA Agreement for Legal Services with Felhaber, May 6, 1999 at C (1).

<sup>6</sup> NCDA Agreement for Legal Services with Felhaber, May 6, 1999 at C (1).

<sup>7</sup> NCDA Agreement for Legal Services with Felhaber, May 6, 1999 at C (2).

<sup>8</sup> NCDA Amendment 1 to the agreement for Legal Services with Felhaber, December 9, 1999 at 1 (2).

<sup>9</sup> Most of the payments were reimbursed with federal grant fund through Mn/DOT.

<sup>10</sup> NCDA Agreement for Legal Services with Felhaber, May 6, 1999 at B (4).

<sup>11</sup> NCDA Agreement for Legal Services with Felhaber, May 6, 1999 at B (4).

## Exhibit I

completing its work as requested by Mr. Yantos.<sup>12</sup> All reports, invoices and other materials prepared pursuant to the agreement were to be sent to Yantos.<sup>13</sup>

The contract contained a conflict of interest provision.<sup>14</sup>

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<sup>12</sup> NCDA Agreement for Legal Services with Felhaber, May 6, 1999 at B (5).

<sup>13</sup> NCDA Agreement for Legal Services with Felhaber, May 6, 1999 at B (4&5).

<sup>14</sup> NCDA Agreement for Legal Services with Felhaber, May 6, 1999 at H (9), p.8.

**Background on NCDA's Contracts with Greene Espel, PLLP**

NCDA entered into two contracts with Greene Espel, PLLP (Greene Espel). The contracts, which extend over different time frames, call for similar services. The original contract was made on November 6, 2003.<sup>1</sup> NCDA approved the contract on November 6, 2003.<sup>2</sup> The contract's term was from November 6, 2003 to March 30, 2004.<sup>3</sup> The term was later extended to May 15, 2004, by an amendment.<sup>4</sup> The contract was signed by the NCDA chair on December 4, 2003.<sup>5</sup>

Greene Espel was to provide the following services pursuant to the contract:

1. Represent the NCDA in negotiations with BNSF.
2. Develop and draft all necessary documents relating to the progress of negotiations.
3. Provide weekly progress reports to the Minnesota Department of Transportation, as requested by the NCDA's authorized representative (Tim Yantos).
4. Provide progress reports, as requested, to the NCDA, its Executive Committee and other elected officials, the Commissioner of Transportation and the Governor.
5. Provide research and related legal services, as requested by the NCDA or its authorized representative.<sup>6</sup>

The contract amendment did not contain any signatures, however it states that the NCDA approved the amendment on April 1, 2004.<sup>7</sup>

Greene Espel was to charge an hourly rate ranging from \$115 to \$285 depending on who was providing the services.<sup>8</sup> Greene Espel was also to be reimbursed for third party duplicating for large projects, travel expenses, courier deliveries to non-clients, international long distance calls and extraordinary electronic research.<sup>9</sup> However, the total fees and expenses were not to exceed \$100,000 for this contract.<sup>10</sup>

According to the second contract, on March 25, 2004 the NCDA issued a request for proposal (RFP) for legal services for commuter rail negotiations for the Northstar Corridor commuter rail project.<sup>11</sup> As a result of the RFP, NCDA entered into the second

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<sup>1</sup> NCDA Agreement for Legal Services with Greene Espel, November 6, 2003.

<sup>2</sup> NCDA Agreement for Legal Services with Greene Espel, November 6, 2003.

<sup>3</sup> NCDA Agreement for Legal Services with Greene Espel, November 6, 2003.

<sup>4</sup> NCDA Amendment No. 1 to the Agreement for Legal Services with Greene Espel, April 1, 2004.

<sup>5</sup> NCDA Agreement for Legal Services with Greene Espel, November 6, 2003.

<sup>6</sup> NCDA Agreement for Legal Services with Greene Espel, November 6, 2003, Exhibit A.

<sup>7</sup> NCDA Amendment No. 1 to the Agreement for Legal Services with Greene Espel, April 1, 2004.

<sup>8</sup> NCDA Agreement for Legal Services with Greene Espel, November 6, 2003, at C (1).

<sup>9</sup> NCDA Agreement for Legal Services with Greene Espel, November 6, 2003, at C (1).

<sup>10</sup> NCDA Agreement for Legal Services with Greene Espel, November 6, 2003, at C (2).

<sup>11</sup> NCDA Agreement for Legal Services with Greene Espel, May 6, 2004.

## Exhibit J

contract with Greene Espel.<sup>12</sup> The term of the new contract was May 15, 2004 to December 31, 2006.<sup>13</sup>

The contract allowed Greene Espel to subcontract some of its work to Maslon, Edelman, Borman & Brand, LLP (Maslon).<sup>14</sup> The duties of Greene Espel and Maslon were defined as:

1. Negotiate agreements with the BNSF for final design, the construction and operation of the Northstar Commuter Rail project, as well as other related agreements.
2. Develop and draft all necessary agreements and negotiating documents.
3. Provide research and other related legal services, as requested by the NCDA or its authorized representative, including research and legal services related to railroad usage rights, construction, risk and liability allocation and management and operations.
4. Provide progress reports to the NCDA, its Executive Committee, and other elected officials, the Commissioner of Transportation, the Minnesota Department of Transportation, the Attorney General's office, and the Governor, as requested.
5. Provide such other legal services as may be requested by the NCDA, as needed to further the project.

In order to accomplish the scope of work, it is anticipated that the firms will generally allocate responsibility for the provision of services as described below. The parties acknowledge, however, that this allocation of responsibility may be altered as negotiations proceed. The following is not intended to limit the services to be provided.

Greene Espel, PLLP, will assume primary responsibility for the following:

1. Negotiate remaining capital improvements required for Phase I and Phase II.
2. Negotiate key aspects of the Construction and Operating Agreements and other related documents and agreements.
3. Coordinate internal and external communications regarding the progress of the negotiations, including internal negotiations status reports, written reports, presentations to the NCDA Board and Executive Committee, communications with BNSF documenting progress and maintaining momentum, and communications with media as requested by the NCDA.

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<sup>12</sup> NCDA Agreement for Legal Services with Greene Espel, May 6, 2004.

<sup>13</sup> NCDA Agreement for Legal Services with Greene Espel, May 6, 2004 at A.

<sup>14</sup> NCDA Agreement for Legal Services with Greene Espel, May 6, 2004 at Exhibit A.

## Exhibit J

Maslon, Edelman, Borman & Brand, LLP, will assume primary responsibility for the following:

1. Analyze, structure and negotiate the financial components of the project.
2. Analyze, structure and negotiate real estate and facilities acquisitions.
3. Document the set of agreements required for this project.
4. Provide legal expertise in the following areas: real estate law, construction law, environmental law, insurance law, tax law and employment law.<sup>15</sup>

Under this contract Greene Espel was to charge an hourly rate ranging from \$165 to \$325 depending on who was providing the services.<sup>16</sup> Greene Espel was also to be reimbursed for direct costs incurred to the extent that they were reasonable and are properly allocable to the project, including travel, lodging, long-distance telephone, postage, deliveries, photographic work.<sup>17</sup> However, the total fees and expenses were not to exceed \$200,000 for this contract.<sup>18</sup>

As of April 2005, Greene Espel collected \$228,697.60 under both contracts with NCDA.<sup>19</sup>

The contracts between NCDA and Greene Espel called for Mr. Tim Yantos, the Northstar Project Director and Deputy Anoka County Commissioner, to be the authorized representative of ACRRA and the liaison with Greene Espel.<sup>20</sup> Mr. Yantos was to instruct Greene Espel to perform the various services described in the agreement.<sup>21</sup> Greene Espel was to submit reports on its progress in completing its work as requested by Mr. Yantos.<sup>22</sup> All reports, invoices and other materials prepared pursuant to the agreement were to be sent to Mr. Yantos.<sup>23</sup>

The contracts contained a conflict of interest provisions.<sup>24</sup>

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<sup>15</sup> NCDA Agreement for Legal Services with Greene Espel, May 6, 2004 at Exhibit A.

<sup>16</sup> NCDA Agreement for Legal Services with Greene Espel, May 6, 2004 at Exhibit A.

<sup>17</sup> NCDA Agreement for Legal Services with Greene Espel, May 6, 2004 at C (1).

<sup>18</sup> NCDA Agreement for Legal Services with Greene Espel, May 6, 2004 at C (1).

<sup>19</sup> It is our understanding that payments made in 2005 have been reimbursed to NCDA with federal grant funds through Mn/DOT. We have also been informed that NCDA will be seeking reimbursement, through grant funds of payments made in 2003 and 2004.

<sup>20</sup> See e.g., NCDA Agreement for Legal Services with Greene Espel, November 6, 2003, at B (4).

<sup>21</sup> See e.g., NCDA Agreement for Legal Services with Greene Espel, November 6, 2003, at B (4).

<sup>22</sup> See e.g., NCDA Agreement for Legal Services with Greene Espel, November 6, 2003, at B (5).

<sup>23</sup> See e.g., NCDA Agreement for Legal Services with Greene Espel, November 6, 2003, at B (4).

<sup>24</sup> See e.g., NCDA Agreement for Legal Services with Greene Espel, November 6, 2003, at H (9), p. 7.



**Background on NCDA's Contracts with Harkins Cunningham**

On May 6, 1999 NCDA contracted with Harkins Cunningham, Attorneys At Law (Harkins Cunningham) of Washington DC.<sup>1</sup> The term of the contract was from May 14, 1999 to December 31, 2000. The terms of the contract were extended to December 31, 2001 by a contract amendment.<sup>2</sup>

Harkins Cunningham was to provide the following services:

1. Representation of NCDA in negotiations with BNSF.
2. Development and drafting of all necessary agreements with BNSF, including but not limited to an advanced planning and preliminary engineering agreement, a construction and capital improvements agreement and potentially an operating agreement.
3. Advise the NCDA on matters relating to railroad law and regulation.
4. Advise the NCDA on matters relating to NEPA requirements and the development of an Environmental Impact Statement.
5. Advise the NCDA on matters relating to FTA regulations and federal procurement requirements.
6. Provide legal services as requested by the NCDA and its authorized representatives.<sup>3</sup>

Harkins Cunningham was to charge an hourly rate between \$25 for legal assistants and document clerks to \$370 for work done by attorney Paul A. Cunningham.<sup>4</sup> NCDA would also reimburse Harkins Cunningham for expenses for third party duplicating for large projects, travel expenses, courier delivers to non-clients, international long distance calls and extraordinary electronic research.<sup>5</sup> The contract maximum for was \$50,000.<sup>6</sup> On December 19, 1999, the contract maximum was increased to \$290,000. On November 2, 2000 it was increased again to \$540,000.<sup>7</sup> From 2000 to 2001, NCDA paid \$101,253.35 to Harkins Cunningham.<sup>8</sup>

Mr. Tim Yantos is NCDA's Executive Director, ACRRA's Executive Director, the Northstar Project Director and Deputy Anoka County Administrator. Under the contracts, Mr. Yantos was the authorized representative of NCDA and the liaison with Harkins Cunningham.<sup>9</sup> Mr. Yantos was to instruct Harkins Cunningham to perform the

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<sup>1</sup> NCDA Agreement with Harkins Cunningham, May 6, 1999.

<sup>2</sup> NCDA Amendment No. 2 to the Agreement with Harkins Cunningham, November 2, 2000. Amendment No. 2 was signed by the NCDA chair on February 6, 2001.

<sup>3</sup> NCDA Agreement with Harkins Cunningham, May 6, 1999 at Exhibit A.

<sup>4</sup> NCDA Agreement with Harkins Cunningham, May 6, 1999 at C (1). The hourly rates were increased to a range of \$40-\$410 in Amendment No. 2.

<sup>5</sup> NCDA Agreement with Harkins Cunningham, May 6, 1999 at C (1).

<sup>6</sup> NCDA Agreement with Harkins Cunningham, May 6, 1999 at C (2).

<sup>7</sup> NCDA Amendment No. 1 to the Agreement with Harkins Cunningham, December 9, 1999 at 1, and NCDA Amendment No. 2 to the Agreement with Harkins Cunningham, November 2, 2000.

<sup>8</sup> We were informed that most of the funds paid under this contract were later reimbursed to NCDA with federal grant funds through Mn/DOT.

<sup>9</sup> NCDA Agreement with Harkins Cunningham, May 6, 1999 at B (4).

## Exhibit K

various services described in the agreement.<sup>10</sup> Harkins Cunningham was to submit reports on its progress in completing its work as requested by Mr. Yantos.<sup>11</sup> All reports, invoices and other materials prepared pursuant to the agreement were to be sent to Yantos.<sup>12</sup>

The contract contained a conflict of interest provisions.<sup>13</sup>

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<sup>10</sup> NCDA Agreement with Harkins Cunningham, May 6, 1999 at B (4).

<sup>11</sup> NCDA Agreement with Harkins Cunningham, May 6, 1999 at B (5).

<sup>12</sup> NCDA Agreement with Harkins Cunningham, May 6, 1999 at B (4).

<sup>13</sup> NCDA Agreement with Harkins Cunningham, May 6, 1999 at H (9), p.8.

**Background on NCDA's Contract with Robert Kessler**

On May 6 1999, NCDA contracted with Robert Kessler, Attorney at Law (Kessler) for legal services.<sup>1</sup> The contract was signed by the NCDA chair on August 19, 1999.<sup>2</sup> The term of the contract was from May 14, 1999 to December 31, 2000.<sup>3</sup> The contract was later extended to December 31, 2001.<sup>4</sup>

Kessler was to provide the following services:

1. Representation of NCDA in negotiations with BNSF.
2. Development and drafting of all necessary agreements with BNSF, including but not limited to an advanced planning and preliminary engineering agreement, a construction and capital improvements agreement and potentially an operating agreement.
3. Advise the NCDA on matters relating to railroad law and regulation.
4. Advise the NCDA on matters relating to NEPA requirements and the development of an Environmental Impact Statement.
5. Advise the NCDA on matters relating to FTA regulations and federal procurement requirements.
6. Provide legal services as requested by the NCDA and its authorized representatives.<sup>5</sup>

Kessler was to be paid at an hourly rate of \$250.<sup>6</sup> NCDA would also reimburse Kessler for expenses for facsimile transmission, long-distance phone tolls, mileage, parking, meals and travel costs.<sup>7</sup> The contract maximum was \$50,000 for the initial contract.<sup>8</sup> However, the contract maximum was increased to a total of \$65,000 in December of 1999 and then to a total of \$115,000 in November 2000.<sup>9</sup>

From January 1, 2000 to May 2005, Kessler had been paid \$91,273.79 from its contracts with NCDA.<sup>10</sup> However, these payments were made from ACRRA accounts, not NCDA's.

Mr. Tim Yantos is NCDA's Executive Director, ACRRA's Executive Director, the Northstar Project Director and Deputy Anoka County Administrator. Under the contracts, Mr. Yantos was the authorized representative of NCDA and the liaison with

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<sup>1</sup> NCDA Agreement for Legal Services with Kessler, May 6, 1999.

<sup>2</sup> NCDA Agreement for Legal Services with Kessler, May 6, 1999.

<sup>3</sup> NCDA Agreement for Legal Services with Kessler, May 6, 1999.

<sup>4</sup> NCDA Amendment No. 2 to the Agreement for Legal Services with Kessler, November 2, 2000.

<sup>5</sup> NCDA Agreement for Legal Services with Kessler, May 6, 1999, at Exhibit A.

<sup>6</sup> NCDA Agreement for Legal Services with Kessler, May 6, 1999 at C (1).

<sup>7</sup> NCDA Agreement for Legal Services with Kessler, May 6, 1999 at C (1).

<sup>8</sup> NCDA Agreement for Legal Services with Kessler, May 6, 1999 at C (2).

<sup>9</sup> NCDA Amendment No. 1 to the Agreement for Legal Services with Kessler, December 9, 1999, and NCDA Amendment No. 2 to the Agreement for Legal Services with Kessler, November 2, 2000.

<sup>10</sup> It is our understanding that the majority of the funds spent under this contract were reimbursed to NCDA with federal grant funds through Mn/DOT.

## Exhibit L

Kessler.<sup>11</sup> Mr. Yantos was to instruct Kessler to perform the various services described in the agreement.<sup>12</sup> Kessler was to submit reports on its progress in completing its work as requested by Mr. Yantos.<sup>13</sup> All reports, invoices and other materials prepared pursuant to the agreement were to be sent to Yantos.<sup>14</sup>

The contract contained a conflict of interest provision.<sup>15</sup>

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<sup>11</sup> NCDA Agreement for Legal Services with Kessler, May 6, 1999 at B (4).

<sup>12</sup> NCDA Agreement for Legal Services with Kessler, May 6, 1999 at B (4).

<sup>13</sup> NCDA Agreement for Legal Services with Kessler, May 6, 1999 at B (5).

<sup>14</sup> NCDA Agreement for Legal Services with Kessler, May 6, 1999 at B (4).

<sup>15</sup> NCDA Agreement for Legal Services with Kessler, May 6, 1999 at H (9), p. 7.

**Background on NCDA's Contract with Lindquist and Vennum**

On September 2, 1999, NCDA contracted with Lindquist and Vennum for legal services for the performance of land use and environmental services.<sup>1</sup> According to the contract, a request for qualifications (RFQ) was issued in July 1999, Lindquist and Vennum responded and NCDA approved the contract.<sup>2</sup> The term of the contract was from September 2, 1999 to February 29, 2000.<sup>3</sup> The contract was eventually extended to December 31, 2001.<sup>4</sup>

The initial contract called for Lindquist and Vennum to provide the following services:

1. Prepare an inventory and description of alternative protective devices/official controls.
2. Examine and prepare a discussion of statutory authority for the enactment of the various devices/official controls and any potential legal constraints, limitations or problems regarding implementation.
3. Develop, with involvement of the advisory committee, model official controls (likely a moratorium and a transit overlay zoning district).
4. Develop enactment process descriptions and model resolution(s).
5. Presentation regarding land use control implementation documents.<sup>5</sup>

The contract was later amended to add the following tasks for the year 2000:

1. General Environmental and Land Use Assistance to Executive Team and Board including:
  - Review and assist with preparation of letters, reports, resolutions in connection with the Northstar Corridor Project EIS;
  - Interaction with accessory agency staff including Mn/DOT, Anoka County, MN Environmental Quality Board regarding environmental review issues;
2. Development of communications for submission to EQB and Federal Transit Administration with regard to land acquisition and/or independent project development for securing necessary environmental clearances;
3. Work with member cities, towns and counties regarding land acquisition and development within the Corridor to avoid potential adverse impacts on project EIS or subsequent implementation tasks;

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<sup>1</sup> NCDA Agreement with Lindquist and Vennum, September 2, 1999.

<sup>2</sup> NCDA Agreement with Lindquist and Vennum, September 2, 1999.

<sup>3</sup> NCDA Agreement with Lindquist and Vennum, September 2, 1999 at A.

<sup>4</sup> NCDA Amendment No. 2 to Agreement with Lindquist and Vennum, November 2, 2000. Amendment No. 2 was approved by NCDA on November 2, 2000 and was signed by NCDA chair on June 7, 2001.

<sup>5</sup> NCDA Agreement with Lindquist and Vennum, September 2, 1999 at Exhibit A.

## Exhibit M

4. Work with cities and towns within the Corridor in connection with the development and adoption of station area moratoriums and supplemental land use planning programs; assistance regarding legal issues relating to administration of station area moratoriums;
5. Development of transit overlay zoning ordinance for adoption by cities and towns within the Northstar Corridor with particular reference to station areas; and
6. Provide assistance as requested regarding general legal needs of the NCDA and the provision of advice regarding the Board's environmental and land use authority and constraints.<sup>6</sup>

Lindquist and Vennum was to be compensated at an hourly rate of between \$110 for legal assistant work to \$200 for senior attorney work.<sup>7</sup> The contract maximum was initially \$10,000 but was then raised to \$180,000.<sup>8</sup> In addition, Lindquist and Vennum was to be reimbursed for out-of-pocket expenses for direct costs necessary to complete the work, including expenses such as facsimile transmissions, long-distance phone tolls, mileage, parking, meals and travel costs.<sup>9</sup> In 2000 and 2001, NCDA paid Lindquist and Vennum \$53,620.51 under the contracts.

Mr. Tim Yantos is NCDA's Executive Director, ACRRA's Executive Director, the Northstar Project Director and Deputy Anoka County Administrator. Under the contracts, Mr. Yantos was the authorized representative of NCDA and the liaison with Lindquist and Vennum.<sup>10</sup> Mr. Yantos was to instruct Lindquist and Vennum to perform the various services described in the agreement.<sup>11</sup> Lindquist and Vennum was to submit reports on its progress in completing its work as requested by Mr. Yantos.<sup>12</sup> All reports, invoices and other materials prepared pursuant to the agreement were to be sent to Mr. Yantos.<sup>13</sup>

The contract contained a conflict of interest provision.<sup>14</sup>

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<sup>6</sup> NCDA Amendment No. 1 to Agreement with Lindquist and Vennum, December 9, 1999.

<sup>7</sup> NCDA Agreement with Lindquist and Vennum, September 2, 1999 at C (1).

<sup>8</sup> NCDA Agreement with Lindquist and Vennum, September 2, 1999 at C (2), and NCDA Amendment No. 1 to Agreement with Lindquist and Vennum, December 9, 1999 at 1, and NCDA Amendment No. 2 to Agreement with Lindquist and Vennum, June 7, 2001 at 2.

<sup>9</sup> NCDA Agreement with Lindquist and Vennum, September 2, 1999 at C (1).

<sup>10</sup> NCDA Agreement with Lindquist and Vennum, September 2, 1999 at B (4).

<sup>11</sup> NCDA Agreement with Lindquist and Vennum, September 2, 1999 at B (4).

<sup>12</sup> NCDA Agreement with Lindquist and Vennum, September 2, 1999 at B (5).

<sup>13</sup> NCDA Agreement with Lindquist and Vennum, September 2, 1999 at B (4).

<sup>14</sup> NCDA Agreement with Lindquist and Vennum, September 2, 1999 at H (9), p. 8.

**Background on NCDA's Contract with McCarron and Associates**

We reviewed three separate contracts between NCDA and McCarron and Associates (McCarron) dating back to 2003.

On January 9, 2003, NCDA entered into an agreement with McCarron to provide professional services relating to the Northstar Corridor Project.<sup>1</sup> The term of this contract was from January 1, 2003 to December 31, 2003.<sup>2</sup>

Under the agreement, McCarron was to provide the following services:

1. Policy and strategic advisory services relating to the development of the Northstar Corridor commuter rail project.
2. Liaison and communications activities with NCDA member and potential member units of government.
3. Public outreach.
4. Attend meetings and provide such other advisory services as may be requested by the NCDA Chair, Executive Committee or Authorized Representative.<sup>3</sup>

For McCarron's work, NCDA was to pay McCarron a retainer of \$20,000 in 12 equal monthly installments.<sup>4</sup> In addition, McCarron was to be reimbursed for his expenses incurred while performing the services under the contract.<sup>5</sup>

On December 4, 2003, NCDA entered into a contract with McCarron to assist NCDA in its funding goals for the Northstar Corridor Project.<sup>6</sup> The contract added "media outreach activities" to the list of duties in the original contract.<sup>7</sup> The terms of the contract was from January 1, 2004 to December 31, 2004.<sup>8</sup>

McCarron was to be paid a retainer amount of \$23,000 over 12 months for this contract.<sup>9</sup> McCarron's expenses were covered in the retainer fee.<sup>10</sup>

Finally, on December 2, 2004 NCDA entered into an additional agreement with McCarron to assist NCDA in achieving its Northstar Corridor Project funding goals.<sup>11</sup>

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<sup>1</sup> NCDA Agreement with McCarron, January 9, 2003.

<sup>2</sup> NCDA Agreement with McCarron, January 9, 2003 at I.

<sup>3</sup> NCDA Agreement with McCarron, January 9, 2003 at Exhibit A.

<sup>4</sup> NCDA Agreement with McCarron, January 9, 2003 at III A.

<sup>5</sup> NCDA Agreement with McCarron, January 9, 2003 at III A.

<sup>6</sup> NCDA Agreement with McCarron, December 4, 2003.

<sup>7</sup> NCDA Agreement with McCarron, December 4, 2003 at Exhibit A.

<sup>8</sup> NCDA Agreement with McCarron, December 4, 2003.

<sup>9</sup> NCDA Agreement with McCarron, December 4, 2003 at B (2).

<sup>10</sup> NCDA Agreement with McCarron, December 4, 2003 at B (2).

<sup>11</sup> NCDA Agreement with McCarron, December 2, 2004. NCDA authorized its Chair to negotiate and execute an agreement on December 2, 2004.

## Exhibit N

The copy of the contract we reviewed was not signed by either party. The term of the agreement was from January 1, 2005 to December 31, 2005.<sup>12</sup>

McCarron was to provide the following services:

1. Advisor to the NCDA Chairperson on local and state governmental issues.
2. Media spokesperson for the Authority, meet with media statewide to discuss Northstar issues.<sup>13</sup>

McCarron was to be paid a retainer amount of \$25,000 to be paid over 12 months.<sup>14</sup> McCarron's expenses were covered in the retainer fee.<sup>15</sup>

From 2003 to March 2005, NCDA had paid McCarron \$34,239.07. This amount is under the contract maximums for the McCarron contracts.

Mr. Tim Yantos is NCDA's Executive Director, ACRRA's Executive Director, the Northstar Project Director and Deputy Anoka County Administrator. Under the contracts, Mr. Yantos was the authorized representative of NCDA and the liaison with McCarron.<sup>16</sup> Mr. Yantos was to instruct McCarron to perform the various services described in the agreement.<sup>17</sup> McCarron was to submit reports on its progress in completing its work as requested by Mr. Yantos.<sup>18</sup> All reports, invoices and other materials prepared pursuant to the agreement were to be sent to Yantos.<sup>19</sup>

All three contracts contained a conflict of interest<sup>20</sup>

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<sup>12</sup> NCDA Agreement with McCarron, December 2, 2004.

<sup>13</sup> NCDA Agreement with McCarron, December 2, 2004 at Exhibit A.

<sup>14</sup> NCDA Agreement with McCarron, December 2, 2004 at B (1).

<sup>15</sup> NCDA Agreement with McCarron, December 2, 2004 at B (2).

<sup>16</sup> NCDA Agreement with Paul McCarron, January 9, 2003 at II C, and NCDA Agreement with McCarron, December 4, 2003 at A (3), and NCDA Agreement with McCarron, December 2, 2004 at A (3).

<sup>17</sup> NCDA Agreement with Paul McCarron, January 9, 2003 at II C, and NCDA Agreement with McCarron, December 4, 2003 at A (4), and NCDA Agreement with McCarron, December 2, 2004 at A (4).

<sup>18</sup> NCDA Agreement for Legal Services with McCarron, January 9, 2003 at IID, and NCDA Agreement with McCarron, December 2, 2005 at A (4).

<sup>19</sup> NCDA Agreement with Paul McCarron, January 9, 2003 at II C, and NCDA Agreement with McCarron, December 4, 2003 at A (3), and NCDA Agreement with McCarron, December 2, 2004 at A (3).

<sup>20</sup> NCDA Agreement with Paul McCarron, January 9, 2003 at VIII F, and NCDA Agreement with McCarron, December 4, 2003 at G (6), and NCDA Agreement with McCarron, December 2, 2004 at G (6).



**Background on NCDA's Contracts with North Woods Advertising**

On November 6, 2003, NCDA contracted with North Woods Advertising (North Woods) to perform public information services for the Northstar Project.<sup>1</sup> According to the contract, NCDA issued a Request for Proposals (RFP) for public information services.<sup>2</sup> On November 6, 2003, NCDA selected North Woods as best meeting the needs of NCDA as set forth in the RFP and based on an evaluation of written proposal and oral interviews.<sup>3</sup>

The term of the initial contract with North Woods was from November 6, 2003 to December 31, 2004.<sup>4</sup> The term was later extended to December 31, 2005.<sup>5</sup>

Incorporated into the contract was a four page "scope of services" defining the duties of North Woods as well as eight pages of budget information for the project.<sup>6</sup> Among the services North Woods was to provide were:

- Northstar Commuter Rail News Updates which included postcards and website updates;
- Northstar Commuter Coach Survey which included the printing, distribution and retrieval of questionnaires. In addition to tabulation and reporting of the results;
- Public Meetings with corridor residents and potential riders; and
- Communication and Publicity for/at Public Meetings which included press relations and flyers, legal notices, posters, and comment cards.<sup>7</sup>

NCDA was to pay North Woods in accordance with the budget it prepared for the project.<sup>8</sup> The contract maximum for the project was \$245,285 plus expenses.<sup>9</sup> From January 1, 2000 to May 2005, NCDA has not made any payments to North Woods.<sup>10</sup>

Mr. Tim Yantos is NCDA's Executive Director, ACRRA's Executive Director, the Northstar Project Director and Deputy Anoka County Administrator. Under the contracts, Mr. Yantos was the authorized representative of NCDA and the liaison with North Woods.<sup>11</sup> Mr. Yantos was to instruct North Woods to perform the various services described in the agreement.<sup>12</sup> North Woods was to submit monthly reports summarizing

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<sup>1</sup> NCDA Agreement for Professional Services with North Woods, November 6, 2003.

<sup>2</sup> NCDA Agreement for Professional Services with North Woods, November 6, 2003.

<sup>3</sup> NCDA Agreement for Professional Services with North Woods, November 6, 2003.

<sup>4</sup> NCDA Agreement for Professional Services with North Woods, November 6, 2003, at A.

<sup>5</sup> NCDA Amendment No. 1 to the North Woods contract, December 2, 2004.

<sup>6</sup> NCDA Agreement for Professional Services with North Woods, November 6, 2003 at Exhibit A.

<sup>7</sup> NCDA Agreement for Professional Services with North Woods, November 6, 2003 at Exhibit A

<sup>8</sup> NCDA Agreement for Professional Services with North Woods, November 6, 2003 at C (1).

<sup>9</sup> NCDA Agreement for Professional Services with North Woods, November 6, 2003 at C (1).

<sup>10</sup> The contract is also being monitored by Mn/DOT as it is eligible to receive federal grant funds.

<sup>11</sup> NCDA Agreement for Professional Services with North Woods, November 6, 2003 at B (5).

<sup>12</sup> NCDA Agreement for Professional Services with North Woods, November 6, 2003 at B (5).

## Exhibit O

the progress made on each task listed in the “scope of services.”<sup>13</sup> All reports, invoices and other materials prepared pursuant to the agreement were to be sent to Yantos.<sup>14</sup>

The contract contained a conflict of interest provision.<sup>15</sup>

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<sup>13</sup> NCDA Agreement for Professional Services with North Woods, November 6, 2003 at B (2).

<sup>14</sup> NCDA Agreement for Professional Services with North Woods, November 6, 2003 at B (5).

<sup>15</sup> NCDA Agreement for Professional Services with North Woods, November 6, 2003 at G (9).

**Background on NCDA's Contract with Shandwick**

We reviewed two separate contracts between NCDA and Shandwick. On May 6, 1999, NCDA contracted with Shandwick to assist with public information and public involvement in Major Investment Study and the Environmental Impact Statement for the Northstar Corridor.<sup>1</sup> According to the contract, on February 26, 1999 NCDA issued a Request for Proposals (RFP) for public involvement and public information services.<sup>2</sup> Shandwick submitted a response and was selected by NCDA as best meeting the needs set forth in the RFP.<sup>3</sup>

The term of the agreement was from May 14, 1999 to December 31, 2000.<sup>4</sup>

The contract contained the detailed work description from Shandwick's response to the RFP. The work description called for Shandwick to perform the following duties:

- Develop a detailed public involvement and public information work plan;
- Conduct necessary research needed to develop the work plan;
- Implement recommended work plan for public involvement;
- Implement recommended work plan for public information;
- Evaluate the impact of the public involvement and public information activities, on an on-going basis;
- Maintain a record of public comments and public involvement activities throughout the project;
- Prepare a final report documenting the public information strategies used including public information materials developed, distribution strategies used, and audiences reached; and
- Develop a recommendation for continued public involvement and public information in 2001.<sup>5</sup>

The description of services provided further detail for each of the services mentioned above. It also included timetables and budgets for each of the tasks it was to perform.<sup>6</sup>

The contract was later amended to include additional services including:

- Public information activities;
- Public involvement activities; and
- Other activities including project management and recommendations for 2001 work plan.<sup>7</sup>

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<sup>1</sup> NCDA for Professional Services with Shandwick May 6, 1999. The contract was signed by the NCDA Chair on October 21, 1999.

<sup>2</sup> NCDA Agreement for Professional Services with Shandwick May 6, 1999.

<sup>3</sup> NCDA Agreement for Professional Services with Shandwick May 6, 1999.

<sup>4</sup> NCDA Agreement for Professional Services with Shandwick May 6, 1999.

<sup>5</sup> NCDA Agreement for Professional Services with Shandwick May 6, 1999 at Exhibit A.

<sup>6</sup> NCDA Agreement for Professional Services with Shandwick May 6, 1999 at Exhibit A.

<sup>7</sup> NCDA Amendment No. 2 to the Agreement for Professional Services with Shandwick June 1, 2000.

The additional services were not as detailed as the initial contract.

Shandwick was to be reimbursed at hourly rates ranging from \$35 for intern work to \$250 for work by the chairman.<sup>8</sup> The contract maximum was initially \$200,000 but was later raised by a contract amendment to \$358,128.65.<sup>9</sup>

On June 18, 2000, NCDA entered into an additional contract with Shandwick. This contract was for Shandwick to assist with a public information demonstration project for the Northstar Corridor.<sup>10</sup> The term of the contract was from June 18, 2000 to August 31, 2000.<sup>11</sup>

Under the contract, Shandwick was to perform the following media relations activities for the Northstar Corridor Train Demonstration:

- Preplanning activities;
- Media Relations activities including drafting press release and on-site coordination; and
- Drafting talking points for NCDA spokespeople.<sup>12</sup>

The contract included a breakdown of the costs of each activity.

The contract was to be billed at the same hourly rate as the other contract between Shandwick and NCDA. The contract maximum was \$15,000.

In 2000, NCDA paid \$ 266,192.24 under the contracts.<sup>13</sup>

Mr. Tim Yantos is NCDA's Executive Director, ACRRA's Executive Director, the Northstar Project Director and Deputy Anoka County Administrator. Under the contracts, Mr. Yantos was the authorized representative of NCDA and the liaison with Shandwick.<sup>14</sup> Mr. Yantos was to instruct Shandwick to perform the various services described in the agreement.<sup>15</sup> Shandwick was to submit reports on its progress in

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<sup>8</sup> NCDA Agreement with Shandwick May 6, 1999 at C (1).

<sup>9</sup> NCDA with Shandwick May 6, 1999 at C (2), and NCDA Amendment No. 1 to the Agreement for with Shandwick February 3 2000, and NCDA Amendment No. 2 to the Agreement with Shandwick June 1, 2000,

<sup>10</sup> NCDA Agreement with Shandwick June 18, 2000.

<sup>11</sup> NCDA Agreement with Shandwick June 18, 2000.

<sup>12</sup> NCDA Agreement with Shandwick June 18, 2000 at Exhibit A.

<sup>13</sup> We were informed that the majority of the funds spent for this contract were reimbursed to NCDA with federal grant funds through Mn/DOT.

<sup>14</sup> NCDA Agreement with Shandwick May 6, 1999 at B (4). NCDA Agreement with Shandwick June 18, 2000 at B (4).

<sup>15</sup> NCDA Agreement with Shandwick May 6, 1999 at B (4). NCDA with Shandwick June 18, 2000 at B (4).

## Exhibit P

completing its work as requested by Mr. Yantos.<sup>16</sup> All reports, invoices and other materials prepared pursuant to the agreement were to be sent to Yantos.<sup>17</sup>

Both contracts contained conflict of interest provisions.<sup>18</sup>

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<sup>16</sup> NCDA Agreement with Shandwick May 6, 1999 at B (5). NCDA Agreement with Shandwick June 18, 2000 at B (5).

<sup>17</sup> NCDA Agreement with Shandwick May 6, 1999 at B (4). NCDA Agreement with Shandwick June 18, 2000 at B (4).

<sup>18</sup> NCDA Agreement with Shandwick May 6, 1999 and June 18, 2000 at H (9).

# COUNTY OF ANOKA

## OFFICE OF COUNTY ADMINISTRATION

GOVERNMENT CENTER  
2100 3RD AVENUE • ANOKA, MINNESOTA 55303-2265  
(763) 323-5700

February 6, 2006

Ms. Patricia Anderson  
Office of the State Auditor  
State of Minnesota  
Suite 500  
525 Park Street  
St. Paul, MN 55103-2139

Dear Ms. Anderson:

On behalf of the Northstar Corridor Development Authority (“NCDA”) and the Anoka County Regional Railroad Authority (“ACRRA”), we are writing to offer our response to the draft Northstar Corridor Project Review (“Report”), prepared by your office and which will be released on February 6, 2006. We have carefully reviewed the Report and have offered detailed comments regarding the draft to your staff. The purpose of this letter is to formally respond to the Report’s key recommendations.

Overall, we are very pleased that you found that the NCDA’s and ACRRA’s contracts were generally sound with adequate monitoring procedures. We fully understand that as elected officials, we are stewards of the public trust and must closely monitor expenditures of public funds and provision of services by contractors. Our Boards have determined that the Northstar Rail Project is a critical public project that will help in meeting our transportation goals; and we believe that the expenditures made to date have been made responsibly and have in fact resulted in significant progress over the last five years.

Our response to your key recommendations is as follows:

1. **Recommendation:** NCDA and ACRRA should avoid both contracting for the same or similar service relating to the Northstar Project. Where possible, NCDA and ACRRA should have one contract with its contractors and share the results between them.

**Response:** The NCDA and ACRRA are two separate legal entities. Each has the legal authority to enter into contracts. Each has its own board of elected officials. Benton County Commissioner Duane Grandy currently chairs the NCDA. Anoka County Commissioner Dan Erhart currently chairs the ACRRA. While there is some commonality of interest between the two boards, it is not complete commonality. In other words, ACRRA has some legislative interests that are not shared by the NCDA. Separate contracts ensure that the independent interests of the two boards are represented at the State Legislature and in Congress.

These contracts are consistent with the practice among organizations that have a common interest in matters before the legislature or Congress. They enter into "retainer" contracts that do not provide for an hourly fee. When a contractor is attending a hearing of interest to a number of clients, it is unrealistic to divide the time spent between clients on an hourly basis. It is common, however, to advise all clients that they were in attendance at the hearing.

We agree that when services are required that are appropriate for an hourly fee based contract, such a contract basis should be utilized. Full value was received from the contracts under consideration. We will work to insure that when retainer contracts are used, contractors will address the unique aspects of their work under the contract in their invoicing.

2. **Recommendation:** Where practical, NCDA and ACRRRA should clearly define the duties of its contractors to ensure they are getting the services for which they contracted.

**Response:** We concur that, when practicable, duties of contractors should be defined as specifically as possible; and we will continue to work to be as clear as possible in the drafting of scopes of work for our contractors. This is particularly important when contractors are billing by the hour and charged with delivering a specific work product. However, it is not always possible with respect to the contracts to provide information to legislators or Congressmen so that informed decisions can be made. It is difficult to accurately gauge, at the beginning of a year, what direction the State Legislature or the Congress might take. Consequently, the activities associated with the legislative process must be continuously adjusted to meet the situation. If contracts are too specific we would be constantly amending contracts. And, as time is of the essence in many cases, the processing time for an amendment would preclude timely action by contractors.

3. **Recommendation:** For enforceability, all contracts and amendments should be authorized and signed by all parties before any payments are made.

**Response:** The ACRRRA and the NCDA follow Anoka County's Financial Policies which require authorization and signature prior to payments being made. The NCDA and ACRRRA will continue to make every effort to comply with this provision of the Anoka County Financial Policies.

4. **Recommendations:**

- All reimbursement requests for meals should clearly state the specific purpose/topic of the meeting.
- All receipts for meals should include the full name of the meeting attendees and the entity they represent.
- A detailed receipt should be required before approving payment of procurement card purchases.

**Response:** The Anoka County Financial policies contain a section related to Procurement Cards (Appendix L), and these policies address the above listed concerns. It is our responsibility to ensure compliance with our policy. The Division Manager of Finance and Central Services will undertake a new training initiative for employees so that Anoka's employees fully understand and comply with the County's policies.

February 6, 2006

Page 3

Thank you for your review and recommendation. If you have any questions, please call.

Sincerely,

Duane Grandy, Chair  
Northstar Corridor Development Authority

Dan Erhart, Chair  
Anoka County Regional Railroad Authority

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