



Inter-Departmental Communication

DATE: November 30, 1998

TO: Councilman Ronald E. Finley

FROM: Mark Funkhouser, City Auditor

SUBJECT: Morning Star Development Contract

The attached memorandum is in response to your request that we review the contract between the city and the Land Clearance for Redevelopment Authority regarding the Morning Star Family Life Center.

We will hold the memo for five days. During this period, please review the memo and call me if you have any questions. Unless you have already released its contents, we will send the memo to the Mayor, other members of the City Council, and the City Manager on December 7, 1998. At that time, it will be a public document.

MF:dj

Attachment



Inter-Departmental Communication

DATE: November 30, 1998

TO: Councilman Ronald E. Finley

FROM: Mark Funkhouser, City Auditor

SUBJECT: Morning Star Development Contract

On October 21, 1998, you asked me to review the contract between the city and the Land Clearance for Redevelopment Authority (LCRA) regarding the Morning Star Family Life Center. Our inquiry sought the answers to the following questions:

- What is the validity of the cost overrun on the project?
- Why did the project take so long?

CONCLUSION

The reasons for cost overruns and delays on this project are consistent with explanations provided by LCRA and City Planning and Development staff, and they appear to be reasonable. LCRA has performed the work requested by the city in the cooperative agreement for the project. Difficulties in acquiring the properties delayed the project for about a year. The owners rejected final offers that were sent to them in December 1996. The properties were awarded through condemnation proceedings in August 1997, and the property owners had finally vacated the properties by December 1997.

Costs were higher than anticipated for environmental remediation for asbestos and removal of underground storage tanks, architectural/engineering services related to demolition and environmental issues, and legal services related to condemnation proceedings. Expenses in these categories far exceeded budgeted amounts. The city did not have access to the properties when the project budget was prepared. Budgets for future acquisition projects might be more accurate if the initial agreement is for property acquisition only, and amounts for environmental remediation and demolition are estimated after the property is accessible.

Work continued on the project during periods when agreements between the city and LCRA had expired and after budgeted funds had been depleted. Additional funding and time for completion should have been obtained before additional work proceeded.

WORK PERFORMED

We interviewed City Planning and Development and LCRA staff involved with the project. We examined invoices submitted by LCRA and paid by the city, as well as invoices for completed work that LCRA has not submitted to the city for payment. We examined correspondence and other documents from City Planning and Development and LCRA files related to the project. We also developed a list of project activities and invoices to provide a timeline of events, which is included as Appendix A.

BACKGROUND

On November 27, 1995, the City Council passed Committee Substitute for Ordinance 951578, which reduced the appropriation for the Gregg Community Center project by \$180,000 and appropriated those funds for the Morning Star Family Life Center project.¹ The ordinance further authorized a cooperative agreement with LCRA for land acquisition. The LCRA chairman signed the cooperative agreement between the city and LCRA on January 18, 1996 and the director of City Planning and Development signed it on February 6, 1996. The time for performance was January 1, 1996 through January 31, 1997. Under the agreement, LCRA was to acquire properties and provide for demolition, environmental analysis/remediation, site survey, appraisal, and title work to prepare the properties for development. The agreement also included a project budget. On October 9, 1997, the City Council passed Ordinance 971446, which amended the cooperative agreement by extending the time for performance until April 30, 1998.

ANALYSIS

Project Costs. The total cost of the project to date is about \$250,000. The \$180,000 budgeted for the project was depleted in August 1998, with a partial payment for demolition work completed before May 14, 1998. LCRA has invoices for completed work totaling \$71,249 which have not been submitted to the city for payment. The first invoice was dated January 31, 1996, for legal work performed between January 20 and 22, 1996, and the most recent invoice was dated November 5, 1998, for demolition work completed during May and June 1998. About 65 percent of the total costs for this project were incurred during the two periods when the agreement had expired.²

Costs for environmental remediation, architectural/engineering services, and legal services far exceeded amounts initially budgeted. Demolition costs also were greater than the budgeted amount. City Planning and Development and LCRA staff told us that the property owners denied access to the properties, so the sites could not be evaluated for potential environmental hazards and other conditions that affect demolition costs. The initial budget allocations were developed before the properties were acquired. Costs were increased by the existence of environmental problems (underground storage tanks and asbestos tiles/pipe wrap), underground foundations, and debris from previously demolished buildings, as well as legal services related to condemnation proceedings. LCRA has invoices for work completed in excess of the project budget. According to LCRA staff, the contractors are waiting for payment. City Planning and Development staff

¹ Funds were obtained from the KCMAC Leasehold Revenue Capital Improvement Fund 1994B.

² Based on invoices for work performed March 12, 1997 through October 7, 1997, and May 4, 1998 through August 27, 1998.

told us that all work on the site has been completed according to scope. See Exhibit 1 for a comparison of project expenditures to the initial project budget.

Exhibit 1: Morning Star Development Project Expenditures

Budget Line Item	Paid Invoice Amounts	Unpaid Invoice Amounts ³	Actual Costs	Initial Budget	Variance (Bgt - Act)
Land Acquisition	\$89,164	\$4,600	\$93,764	\$108,000	\$14,236
Architectural, Engineering, Title, Appraisals, Environmental	50,404	18,081	68,484	14,500	(53,984)
Demolition, Clearance, Site Preparation, Construction	13,729	44,998	58,727	53,000	(5,727)
Legal Services	26,370	3,570	29,940	3,500	(26,440)
Miscellaneous	334	0	334	1,000	666
Totals	\$180,000	\$71,249	\$251,249	\$180,000	(\$71,249)

Sources: City Planning and Development Department and LCRA project files.

Project Timeline. The cooperative agreement between the city and LCRA for the Morning Star project was authorized by the City Council in November 1995 and approved by the city and LCRA in January-February 1996. By June 1998, the properties had been cleared and prepared for development. City Planning and Development staff told us that the work has been completed according to scope. Appendix A lists, by date, activities and invoices for the project between November 1995 and November 1998. The following paragraphs provide a brief review of activities during 1996, 1997, and 1998.

During 1996, LCRA submitted an Urban Renewal Plan for the project area, obtained appraisal services through a bid process, had the properties appraised, and made offers to the owners to acquire the properties. LCRA staff told us they submitted the first copy of the Urban Renewal Plan to the city in early 1996 and re-submitted another copy in June 1996.

In 1997, time spent on the project was almost exclusively in attempts to obtain the properties at 2700 Prospect and 2704 Prospect. In May 1997, condemnation proceedings were initiated, and the order confirming condemnation and vesting title was awarded in August 1997. Between October and December 1997, LCRA obtained bids and executed contracts for environmental and demolition work. It was not until December 1997 that the tenants vacated the premises. Much of the work for which invoices were submitted during 1997 occurred without the benefit of a valid cooperative agreement, which expired on January 31, 1997 and was not amended until October 9, 1997. The amended agreement extended the time for performance to April 30, 1998.

Project work in 1998 consisted of environmental surveys of the properties (which found asbestos and underground storage tanks), demolition, site preparation, and finalizing settlements with property owners. In February 1998, LCRA notified City Planning and Development that they expected to find asbestos at the site. By March 1998, asbestos tile and pipe wrap had been removed, and underground storage tanks were removed by May 1998. Demolition at the site was completed in June 1998, almost two months after the expiration of the amended agreement.⁴ The

³ The most recent invoice was dated November 5, 1998.

⁴ Under the amended agreement LCRA could have requested a two month extension from the director of City Planning and Development; however, this was not done.

last relocation payment occurred in July 1998, although legal and architectural/engineering services continued through August 1998.

Communications. City Planning and Development prepared weekly updates for third district councilmembers on the status of projects in their district. These communications included information on the Morning Star project. LCRA and City Planning and Development staff agreed that LCRA staff reviewed these reports and offered comments and corrections. We reviewed a number of these reports in LCRA files, dated August 1997 through August 1998. A report in March 1998 estimated that an additional \$15,000 would be needed to complete the Morning Star project. By April 1998, the estimated cost overrun had increased to \$50,000.

LCRA sent a memo to the director of City Planning and Development (with copies to the third district councilmembers) in April 1998, stating that additional time and funds would be needed to complete the project, due to environmental remediation and increased legal fees. In June 1998, LCRA sent a memo to third district councilmembers which estimated that \$75,000 would be needed to complete the project. In July 1998, City Planning and Development staff responded to a request from the third district councilmembers to review project expenditures. Staff reported that demolition, environmental remediation, and legal services contributed to the project's cost overrun. In August 1998, the chairman of LCRA sent a memo to Councilmember Finley describing project cost overruns and estimating that the cost to complete the project would be \$77,300.

Communications from LCRA informed city staff and third district councilmembers about time delays and cost overruns on the project, but LCRA proceeded with the project and incurred costs when no agreement was in force and additional funding had not been obtained.

cc: Mayor Emanuel Cleaver II
Members of the City Council
Robert Collins, City Manager
Vicki Noteis, Director, City Planning and Development
Michael Duffy, Chairman, LCRA
John Crawford, Executive Director, LCRA

Appendix A: List of Morning Star Development Project Activities and Invoices.

Activity Or Invoice Date	Activity or Nature of Work	Payee	Invoice Amount	Work Performance Dates	Invoice Paid
11/27/95	City Council passes Ordinance 951578 appropriating funding and authorizing cooperative agreement between city and LCRA.				
01/01/96	Cooperative Agreement between City and LCRA begins.				
01/24/96	Approval of Cooperative Agreement for Morning Star Redevelopment.				
01/31/96	Legal services	King Hershey	\$ 233.34	1/20-22/96	Yes
02/28/96	Approval of contract for title services for Morning Star.				
02/28/96	Approval of the Modification to Linwood Prospect URP to allow tracts to the acquisition category in Morning Star Area.				
06/14/96	Morning Star Urban Renewal Plan transmitted to the city (2nd time).				
07/12/96	Relocation services contract signed.				
07/15/96	Publication for bid proposals for appraisals.				
07/17/96	Bid advertisement	KC Star	193.32	7/17/96	Yes
07/24/96	Approval of Appraisal services for two (2) parcels in Morning Star Project, Metropolitan Appraisal Company.				
07/31/96	Legal services/copies	King Hershey	39.50	7/24-25/96	Yes
08/29/96	Appraisal	Metropolitan Appraisal	2,500.00	Not stated	Yes
08/30/96	Appraisals received by LCRA from appraisers.				
09/15/96	Approval of offers to purchase 2700 & 2704 Prospect Morning Star Project.				
09/23/96	Planning, Zoning, and Economic Development Committee				
09/30/96	Photocopies	King Hershey	4.50	9/27/96	Yes
10/04/96	Ed Wilson and Early Brown (VFW Board Members) requested 30-day extension to meet with American Legion Board to discuss issues of acquisition and relocation. Entire board had to approve Offer to Purchase.				
11/25/96	Approval of final offers to purchase two (2) properties in the Linwood Prospect URP: Morning Star Project.				
12/10/96	Final offers to purchase mailed to property owners of record.				
01/14/97	Newsome appraisal received and sent to LCRA appraiser to review Newsome appraisal.				
01/21/97	Appraisal	Metropolitan Appraisal	300.00	Not stated	Yes

01/28/97	Results of Metropolitan Appraisal Company's review outlined errors in the Newsome appraisal for the American Legion Property.				
01/31/97	Cooperative Agreement expires				
02/18/97	Contacted VFW stating flawed appraisal, it was reviewed and LCRA's offer of \$42,000 was still in force.				
03/04/97	W. Brown asked if he received letter. Yes, meeting with Mr. Newsome to revise.				
03/31/97	Legal services/copies	King Hershey	1,036.00	3/12-31/97	Yes
04/30/97	Legal services/copies	King Burke	3,062.50	4/1-30/97	Yes
05/05/97	Petition for Condemnation of Real Estate.				
05/16/97	Answer of Randall J. Landes, City Treasurer for Kansas City, Missouri.				
05/16/97	Answer of Virgil Coon, Director of Finance for Jackson County, Missouri.				
05/22/97	Entry of Appearance/Clinton Adams, Jr. on behalf of Defendant Roulette-Hill Stevenson Post #573, Department of Missouri, The American Legion.				
05/27/97	Entry of Appearance/Leland H. Corley on behalf of Defendant Gross & Hishaw Corporation.				
05/31/97	Legal services/copies	King Burke	1,860.50	5/1-28/97	Yes
06/06/97	Order of Condemnation and Appointing Condemnation Commissioners.				
06/06/97	Amended Order of Condemnation and Appointing Condemnation Commissioners.				
06/30/97	Legal services/copies	King Burke	4,312.83	6/3-28/97	Yes
07/18/97	Commissioners' Report				
07/18/97	Order Approving Commissioners' Report.				
07/25/97	Notice of Filing Commissioners' Report.				
07/29/97	Condemnation	2700 Prospect	45,000.00	7/18/97	Yes
07/29/97	Condemnation	2704 Prospect	12,000.00	7/18/97	Yes
07/29/97	Condemnation	Condemnation Commissioners' Fees	4,500.00	7/18/97	Yes
07/31/97	Legal services/copies	King Burke	3,145.05	7/2-29/97	Yes
07/31/97	Memo from City Planning and Development to Councilmembers Finley and Williams-Neal indicating that the cooperative agreement with LCRA had expired and no additional work should be initiated until the agreement is amended and the time of performance extended. LCRA received a copy of this memo.				

08/04/97	Exceptions to Report of Commissioners As to 2704 Prospect Tract (filed by Gross & Hishaw Corporation).				
08/06/97	Exceptions to Commissioners' Report for the 2700 Prospect Tract (filed by Roulette-Hill Stevenson Post #573, Department of Missouri, the American Legion).				
08/13/97	Plaintiffs' Exceptions to Commissioners' Report.				
08/13/97	Monies paid into Court.				
08/13/97	Issued 90-day Notice to Vacate Premises.				
08/15/97	Notice of Payment Award.				
08/22/97	Order Confirming Condemnation and Vesting Title.				
08/31/97	Legal services/copies	King Burke	3,761.25	8/4-29/97	Yes
09/18/97	Title work	ATI Title	44.00	9/18/97	Yes
09/30/97	Legal services/copies	King Burke	485.05	9/2-29/97	Yes
10/07/97	Bid notice	KC Star	140.40	10/7/97	Yes
10/07/97	Advertise for Phase I environment and demolition.				
10/09/97	City Council passes Ordinance 971446 amending cooperative agreement between city and LCRA (extends time for performance).				
10/14/97	Pre-bid conference				
10/17/97	Phase I environmental and demolition bids due.				
10/22/97	Inspections and hearings	Metropolitan Appraisal	600.00	7/7-17/97	Yes
10/31/97	Professional services	Continental Consulting	9,201.55	6/97-10/97	Yes
10/31/97	Legal services/copies	King Hershey	1,285.00	10/3-31/97	Yes
11/06/97	Demolition Contract signed.				
11/13/97	Relocation payments	Davis, Roberts, Davis, Whilhite	10,500.00	11/13/97	Yes
11/30/97	Professional services	Continental Consulting	1,395.28	11/97	Yes
11/30/97	Legal services/copies	King Hershey	1,587.75	11/3-28/97	Yes
12/02/97	Relocation payments	Nowick & Security Safe	2,264.00	12/2/97	Yes
12/02/97	Relocation payments	Nowick & Olathe Moving	10,200.00	12/2/97	Yes
12/31/97	Professional services	Continental Consulting	1,427.77	12/97	Yes
12/31/97	Legal services/copies	King Hershey	3,214.12	12/1-29/97	Yes
01/07/98	Relocation payments	Hishaw & Quarries	1,500.00	11/11/97	Yes
01/27/98	All tenants out of properties.				
01/31/98	Professional services	Continental Consulting	2,669.54	1/98	Yes
01/31/98	Legal services/copies	King Hershey	575.50	1/2-31/98	Yes
02/05/98	Received Phase I environmental report.				
02/10/98	Environmental services	AAA Environmental Service	1,700.00	Not stated	Yes

02/12/98	Memo from LCRA to City Planning and Development indicating that the Phase I environmental contract had been awarded and that they expected to find asbestos at the site.				
02/13/98	Commence demolition/ Notice to Proceed.				
02/20/98	Memo from LCRA to City Planning and Development estimating that \$15,000 and additional time may be needed to complete the project. Memo also indicated that there might be asbestos on the site.				
02/25/98	Environmental services	AAA Environmental Service	80.00	Not stated	Yes
02/28/98	Professional services	Continental Consulting	2,722.24	2/98	Yes
02/28/98	Legal services	King Hershey	337.50	2/2-5/98	Yes
03/05/98	LCRA Board approves Phase II bid				
03/06/98	Kingston Notifies City for 20-day Notice requested & granted 10-day Notice.				
03/10/98	In the 3rd District Project Report from City Planning and Development it was noted that LCRA foresees a shortfall of approximately \$15,000.				
03/13/98	Relocation payments	Property & Relocation Services	3,200.00	3/98	Yes
03/18/98	Asbestos abatement	Sunburst Group, Inc	19,207.00	Not stated	Yes
03/18/98	Kingston completed asbestos monitoring.				
03/31/98	Environmental services	Kingston Environmental	927.25	Not stated	Yes
03/31/98	Professional services	Continental Consulting	3,732.96	3/98	Yes
03/31/98	Legal services/copies	King Hershey	1,166.64	3/9-13/98	Yes
04/07/98	In the 3rd District Project Report from City Planning and Development it was noted that LCRA foresees a shortfall of approximately \$50,000. Underground Storage Tanks suspected at site.				
04/10/98	Memo from LCRA to City Planning and Development estimating that additional time and \$50,000 may be needed to complete the project. Environmental (asbestos and storage tanks) and legal issues related to acquisition noted as cause.				
04/30/98	Professional services	Continental Consulting	3,896.25	4/98	Yes
04/30/98	Legal services	King Hershey	262.50	4/17-27/98	Yes
04/30/98	Amended Cooperative Agreement Expires.				
05/14/98	Demolition	Kaw Valley Wrecking	13,728.91	to 5/14/98	Yes
05/22/98	Environmental services	Kingston Environmental	9,730.00	5/4-22/98	No

05/31/98	Professional services	Continental Consulting	5,967.00	5/98	No
05/31/98	Legal services	King Hershey	375.00	5/12-21/98	No
06/11/98	<i>Kaw Valley finishes all phases of demolition.</i>				
06/14/98	Demolition	Kaw Valley Wrecking	35,237.00	to 6/14/98	No
06/23/98	<i>Memo from LCRA to Councilmembers Finley and Williams-Neal estimating that an additional \$75,000 is needed to complete the project. Recent discovery of a buried foundation and construction debris has increased costs.</i>				
06/23/98	<i>In the 3rd District Project Report from City Planning and Development it was noted that one property owner settled at no additional costs and the other might settle for an additional \$6,000.</i>				
06/29/98	Relocation payments	City Planning	1,600.00	6/98	No
06/30/98	Professional services	Continental Consulting	1,605.82	6/98	No
06/30/98	Legal services/copies	King Hershey	1,386.38	6/2-30/98	No
07/06/98	<i>Memo from LCRA Sr. Planner to LCRA Chairman outlining and estimating cost overruns totaling \$71,800.</i>				
07/21/98	<i>Memo from LCRA senior planner to LCRA Chairman outlining and estimating cost overruns totaling \$77,300.</i>				
07/21/98	Relocation payments	Roulette-Hill Stevenson Post	3,000.00	7/15/98	No
07/22/98	<i>Memo from City Planning and Development to Councilmembers Finley and Williams-Neal summarizing project expenditures and that demolition, clearance, environmental remediation, and Legal services contributed significantly to cost overruns.</i>				
07/22/98	<i>In the 3rd District Project Report from City Planning and Development it was noted that the final property owner settled for \$3,000.</i>				
07/31/98	Professional services	Continental Consulting	153.20	7/98	No
07/31/98	Legal services/copies	King Hershey	1,542.50	7/1-15/98	No
08/03/98	<i>Memo from LCRA Chairman to Councilman Finley outlining and estimating cost overruns totaling \$77,300.</i>				
08/31/98	Professional services	Continental Consulting	624.60	8/98	No
08/31/98	Legal services/research	King Hershey	266.16	8/6-27/98	No
11/05/98	Demolition	Kaw Valley Wrecking	9,761.09	5/98-6/98	No
Total Project Costs			\$251,248.75		

Source: City Planning and Development Department and LCRA project files.

Note: Date entries in **bold** indicate beginning and ending dates for cooperative agreement between city and LCRA.