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Inspector General of NC Mary Morton
Office of the Inspector General
1507 Mail Service Center
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Re: NCDOT Contract with I77 Mobility Partners (Cintra Infraestructuras) is invalid due to pending lawsuits and convictions against Ferrovial Agromán and Ferrovial S.A. in Spain and the United States. Ferrovial is Cintra's parent company.

Also, the Louis Berger Group (LBG), the Lead Design Firm on the project has been debarred by the World Bank until February 2016 and it continues to be debarred by the Asian Development Bank (since 2006). Additionally, LBG has been accused and convicted of major fraud and corruption by the US Attorney's Office as reported by the FBI. The firm wasted millions of dollars in tax payer money and put our troops in harm's way in Afghanistan.

Please cancel the contract for the I-77 HOT lanes and investigate the NCDOT's proposal process for corruption as well.

Dear Inspector General Morton,

Over the past few years, my husband, Cornelius Commissioner Dave Gilroy, many business leaders, politicians, the Widen I-77 (no tolls) group and the majority of the 1.5 million citizens in Iredell and North Mecklenburg have been fighting against the proposed NCDOT toll lanes project with I-77 Mobility Partners (Cintra with Ferrovial Agromán as the financially responsible party). These special lanes will create elite and unequal access to public roads. Only the wealthy will be able to afford to use the HOT lanes while the rest of the citizens will be discriminated against and forced to wait in traffic. The tolls during peak times could be up to \$20 one way.

I have discovered in Spanish court documents and newspapers (I teach Spanish at a local university) that Ferrovial Agromán, the construction division of Cintra's parent company Ferrovial, S.A. is a criminal organization with a plethora of lawsuits, convictions, and grievances against it. This is relevant because they are the financially responsible party in the contract. **I will argue that the contract signed by the NCDOT with Cintra Infraestructuras (AKA I-77 Mobility Partners) is completely invalid and should be cancelled immediately.**

In addition, I will discuss the World Bank's debarment of the Louis Berger Group (LBG) based in New Jersey and the criminal indictments from the U.S. Attorney's Office. Cintra/Ferrovial and LBG are companies that **should be banned from doing business in North Carolina.**

According to page 879 Exhibit 19-B of the Form of the Financial Close Certificate of the Comprehensive Agreement signed by the NCDOT and I-77 Mobility Partners (Cintra/Ferrovial Agroman) on June 26, 2014, the following statements must prevail in order for the contract to be valid (Also, the recent financial closings (May 2015) needed to take this information into account and any new pending litigation needed to come forward and be disclosed):

Note: I-77 Mobility Partners (Cintra) is the Developer.

8. There is no action, suit, proceeding, investigation or litigation pending and served on Developer which challenges Developer's authority to execute, deliver or perform, or the validity or enforceability of, the CA Documents, the Initial Funding Agreements, the Project Trust Agreement, the Security Agreement or the Lender's Direct Agreement, or which challenges the authority of the Developer official executing the CA Documents, Initial Funding Agreements, the Project Trust Agreement, the Security Agreement or the Lender's Direct Agreement; and Developer has disclosed to NCDOT any pending and un-served or threatened action, suit, proceeding, investigation or litigation with respect to such matters of which Developer is aware. [Note: If any such action, suit, investigation or litigation is pending or served, disclose the nature and circumstances of such action, suit, investigation or litigation]

This contract with Cintra/Ferrovial should be stopped immediately pending further investigation. I will later highlight just a few of the lawsuits and pending charges against Ferrovial.

This contract is invalid and could be potentially terminated without any financial ramifications for the State of North Carolina if any **one** of these statements prevails (I believe that all 3 are true):

1. These lawsuits and convictions challenge Cintra/Ferrovial Agroman's ability to execute the agreements listed above. On page 293 of the agreement, Ferrovial Agromán is the Financially Responsible Party and any lawsuits past or present impact its ability to execute the agreement. This company is like a house of cards with all the lawsuits against it.
2. Cintra/Ferrovial should have disclosed to the NCDOT any pending and un-served or threatened action, suit, proceeding, investigation, etc. If these are not listed out and attached to the contract, the entire agreement is invalid and should be stopped.
3. If the nature and circumstances of any action, suit, etc. is not described in detail, the entire contract would also be invalid. This can be easily verified by an investigation of the NCDOT documents.

Ms. Morton, as I mentioned previously, there are a plethora of convictions, lawsuits, investigations, etc. against Ferrovial Agromán and the parent Ferrovial S.A. Here are just a few that were never disclosed to the local politicians and senators voting for this toll road project:

1. **Case of bribing CDC Political Party in Barcelona, Spain in order to be awarded over 1 billion euros worth of public contracts.**

Ferrovial Agromán was accused of one of the largest cases of bribery and fraud in Catalonia's history with bribes in excess of 6 million euros. In a 37 page court document dated June 14, 2013 in Barcelona (I have this document from Barcelona in a PDF format), Attorney Emilio Sánchez Ullé (from the Anti-Corruption and Organized Crime division of the Ministry of Justice) details how Ferrovial paid "illegal commissions" to "individuals with sufficient political influence on the agencies in charge of awarding large-scale public contracts." **This includes the Line 9 Metro project worth 890,000,000 and the City of Justice (Barcelona) project that is estimated at around 263,035,900 euros.**

This was a landmark case in which Ferrovial used the "Palau de la Música" concert hall in Barcelona to funnel these illegal bribes to the politicians. They pretended to be a sponsor of the arts. The money arrived at the CDC in 3 ways: 1. Cash disbursements to CDC treasurers Carles Torrent and Daniel Osácar (2000-2007) 2. False documentation (2005-2009). Five companies charged Palau for nonexistent work or services. 3. There was an agreement between Palau and the Trias Fargas Foundation.

Finally, on May 28, 2015, on the same evening that business leaders in Cornelius, NC joined forces at the Waltrip Racing World in Cornelius, North Carolina to strategize about fighting the tolls, all the major Spanish newspapers announced the judge's indictment against Ferrovial. He concluded that Ferrovial Agromán was responsible for paying millions of dollars in kickbacks to the CDC through the Palau de la Música to be awarded the public contracts. The ex Ferrovial executive Pedro Buenaventura is still waiting to be sentenced. This is a pending action and a continuous black mark on Ferrovial as a corporation. It will certainly impact the corporation financially.

2. Pending: new investigations of bribery of Adif executives (state owned company that manages the AVE, high speed railway line) by Ferrovial.

On December 15, 2014, the newspaper *El Periódico de Catalunya* noted that a court in Alcalá de Henares (Madrid) opened up a case to investigate Ferrovial bribing executives at Adif during the construction of the high speed Ave train from Madrid to the French border. This investigation was lodged after an ex Ferrovial officer named Vicente S filed a complaint in March of 2013 about bribery. Vicente S. worked for Ferrovial from 2006-2011. He described the gifts, cash, and elaborate feasts awarded to Adif executives in exchange for Ferrovial being able to overbill the government on various projects.

3. Ferrovial was sentenced and made to pay 7 million euros to 200 homeowners in Madrid for poorly constructed homes.

On January 26, 2014, the First District Court Number 73 of Madrid ordered Ferrovial to pay 7 million euros to 200 homeowners for homes that the judge felt left little to be desired. The homes were built deficiently with problems of noise and odor. The experts said it was like a

commune where everyone could hear each other. (Source: *Cadena Sur*). The judge also noted that the sentence also included moral damages (this relates to mental anguish, suffering, etc.) imposed by Ferrovial.

4. Ferrovial was sentenced to repair 37 of the 48 homes in a building in Mérida, Spain.

The First District Court Number 2 in Mérida Spain, ordered Ferrovial to repair 37 homes in a building located on la Calle Platón (Platon Street). There were abnormalities in the flooring, carpentry, and tiling. Also, the picture in the publication really spoke volumes about the poor quality of Ferrovial's work. (Source: *El Periódico Extremadura*, March 19, 2014)

5. Class Action Lawsuit was filed in Texas against Ferrovial Agromán for damage from I-635 LBJ Express's deep excavation and construction (Source: Pendley, Baudin, Coffin, LLP Attorneys at Law website, April 2, 2015)

Chris Cowan, from Dallas' The Cowan Law Firm, one of the attorneys who filed the lawsuit stated, "Trinity Infrastructure and Ferrovial Agroman were notified more than a year ago of the homeowners' serious foundation and structural damage caused by the removal of the soil providing lateral support to the neighborhood. Sadly, they failed to take measures to prevent such destruction during excavation, much less come back and do the right thing and repair these homes."

6. Rafael del Pino, owner of Ferrovial, S.A. was forced to pay 200 million euros to the Treasury in Spain to avoid going to jail for tax evasion charges.

This was noted in all major newspapers across Spain and the world including the Spanish publication *El Diario* on June 14, 2013. Rafael del Pino sent money to Holland over several years to avoid paying taxes on his dividends. This speaks volumes about the corrupt way in which Ferrovial is run. If Ferrovial Agroman, the construction division of Ferrovial S.A. is financially responsible for the Cintra contract (Aka I77 Mobility Partners), it is troublesome to know about the corrupt nature of its owner.

In addition to these disturbing lawsuits and convictions against Ferrovial, the Louis Berger Group (LBG) based in New Jersey was selected as the Lead Design Firm on the 1-77 HOT lanes project with Cintra Infraestructuras. This firm is an international disgrace. It has defrauded US taxpayers out of millions of dollars and it put our military in harm's way in Afghanistan. On November 5, 2010 Louis Berger agreed to pay one of the largest fines of any war-zone contractor (\$69.3 million in civil and criminal penalties). In an article dated November 21, 2010, *McClatchydc* describes how a Haitian whistleblower named Harold Salomon was manipulated:

In his first interview, Harold Salomon said he believed the New Jersey firm hired him because they believed he would be an easy prey. Mr. Salomon also thought that the Louis Berger executives calculated that as a Haitian immigrant he would not uncover their defrauding of U.S. Taxpayers.

The article also notes that “Salomon was asked to lie and misrepresent financial data to the Pentagon’s Defense Contract Audit Agency. He also found a financial journal entry that was accompanied by a card that stated, “Do not show to auditors.”

After winning the whistleblower’s case, Mr. Salomon donated part of his settlement to the American Haitian Association for Medical, Economic, and Educational Support. He founded this non profit to help struggling Haitians.

On October 20, 2011 the FBI placed the following press release from the US Attorney’s Office on its website:

“The former president and CEO of New Jersey-based international engineering consulting company Louis Berger Group Inc. (LBG) surrendered to the FBI this morning to face a six-count indictment alleging he led a scheme to intentionally overbill the United States in connection with hundreds of millions of dollars in overseas reconstruction contracts over a nearly 20-year period, U.S. Attorney for the District of New Jersey Paul J. Fishman announced.”

On December 12, 2014, the FBI included the updated press release from the US Attorney’s Office:

“The CEO of Louis Berger group pleaded guilty to conspiring to defraud the U.S. Agency for International Development (USAID) with respect to billions of dollars in contracts over a nearly 20-year period.” U.S. Attorney Fishman went on to say, “Derish Wolff admitted today that he enriched himself and his company with money intended for important reconstruction projects in Afghanistan and Iraq. This type of conduct cheats the American taxpayers.”

This dishonesty was not just the work of one man. The press release also notes:

“From at least 1990 to July 2009, LBG, through Wolff and other former executives, intentionally overbilled USAID. The scheme to defraud the government was carried out by numerous LBG employees at the direction of Wolff.”

It is also implausible to believe North Carolina state procurement laws would accept the Louis Berger Group since it was also debarred from the World Bank as well as the Asian Development Bank for corruption in Vietnam. In a press release dated February 4, 2015, the World Bank announced:

“The Louis Berger Group (LBG) has been debarred for one year for engaging in corrupt practices under two Bank-financed projects in Vietnam. The company made corrupt payments to government officials under the Third Rural Transport and Da Nang Priority Infrastructure Investment Projects.”

Additionally, on January 16, 2015 the United States Senate Committee on Foreign Relations wrote about the major fraud and bribery charges against the Louis Berger Group and International Relief and Development on their website. They discussed US Senator Bob Corker’s letter (also written on January 16, 2015) to the USAID and they printed it in full. Here are some of the highlights of his letter:

“In 2006, the Asian Development Bank debarred the company (Louis Berger Group) after discovering significant integrity deficiencies in consulting services LBG was hired to fulfill. These included forging signatures on documentation, falsifying documentation, and replacing proposed consultants with less qualified candidates without prior notification.”

The letter also cites a specific example of a highway constructed by LBG between Kabul and Kandahar in Afghanistan. Senator Corker discusses terrible problems with quality and LBG’s failure to comply with the contract:

“Projects like these by LBG were so mismanaged and produced such dismal results that, at one point, the U.S. Ambassador to Afghanistan wrote a letter to USAID stating that “these problems are now beginning to interfere with the credibility of the U.S. Mission in Afghanistan, and require immediate corrective action.”

In conclusion, the cases mentioned above represent just the tip of the iceberg. This contract needs to be terminated immediately and a deep investigation into the NCDOT should take place right away. It is clear that either:

1: The NCDOT was grossly negligent and it failed to investigate Ferrovia/Cintra and also the Louis Berger Group. It did not do its homework for an important project that will impact the lives of NC citizens for the next 50 years.

Or

2. The NCDOT deliberately concealed criminal information and manipulated the outcome of the vote on this toll lane project. Politicians would not have voted for this project if they were aware of all of the criminal proceedings against Ferrovia/Cintra and the Louis Berger Group. If this is the case, a criminal investigation into the NCDOT should take place immediately. The entire organization would need to be

restructured and top individuals should be removed from the NCDOT. Criminal hearings against NCDOT officials should take place. Also, the NCDOT stated that all bidders dropped out of the process and they only had one bid by March 31, 2014.

The second point obviously would be the most devastating. **In either case, the contract with Cintra Infraestructuras (I77 Mobility Partners) should be terminated.**

Finally, Governor McCrory has allowed the contract to continue without any investigation into this corrupt Spanish organization that will be part of our lives for the next 50 years. They are not even respected in Spain. Newspaper articles state that companies like Ferrovial are not wanted on Spanish soil. Also, they believe that the firm should not be awarded any public works for the next 20 to 25 years after bribing politicians in order to be awarded public contracts that were valued at over 1 billion euros.

I would like very much to discuss this with you. I can be reached on my cell phone at 704-301-6497 after August 7th or via email: dianegilroy@yahoo.com. The 1.5 million residents in our region are counting on your high integrity, honesty, and deep sense of social justice. Please work swiftly to terminate a contract that is invalid. By accepting this contract, Governor McCrory is condoning corruption and the bribery of politicians to win public contracts. He has also accepted companies that have purposefully defrauded tax payers out of millions of dollars. We know that you will step in and clean up this terrible mess that has been bestowed upon the beautiful state of North Carolina. I am looking forward to your response.

Most sincerely,

Diane Elizabeth Gilroy, M.B.A, M.A.