



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

March 8, 2019

Mr. Mark Stueverant
Metro Public Works
Director

Ms. Monique Odom
Metro Parks and Recreation
Director

Mr. Scott Potter
Metro Water Services
Director

Ms. Talia Lomax-O'dneal
Metro Finance Department
Director

Ms. Michelle Hernandez-Lane
Metro Nashville Government
Purchasing Agent

Dear Mr. Sturtevant, Ms. Odom, Mr. Potter, Ms. Lomax-O'dneal, and Ms. Hernandez-Lane

COLLIER ENGINEERING, INC. INVESTIGATION – 2nd REVISED REPORT

This is an internal investigation report and should not be considered an audit report. Generally accepted government auditing standards were not used in the preparation of this report.

We conduct investigations and create reports using the Standards of the Association of Certified Fraud Examiners as a guide.

The Metropolitan Office of Internal Audit received a formal request from Mayor David Briley on May 7, 2018, to investigate the allegation that Collier Engineering, Inc. was improperly entertaining various officials within the Metropolitan Nashville Government. Several other complaints were also made related to Collier Engineering, Inc.'s working relationship with the Metropolitan Nashville Government. The final report on this matter was released on October 26, 2018, and discussed during the November 27, 2018, Metropolitan Nashville Audit Committee meeting. A revised report was released on January 24, 2019, and discussed during the February 12, 2019, Metropolitan Nashville Audit Committee meeting.

The attached second revised report includes Metropolitan Nashville Government's management responses, and corrective action plans to the investigation report recommendations and additional information requested by the Metropolitan Nashville Audit Committee.

After the February 12, 2019, Metropolitan Nashville Audit Committee meeting the Office of Internal Audit requested a legal opinion from the Metropolitan Nashville Government Department of Law concerning Allegation B, projects are being given to Collier Engineering, Inc. outside the scope of contracts when vendors are on contract for the same services. Based on the advice received from the Department of Law, we have revised our conclusion for this allegation to **substantiated**.

March 8, 2019

Collier Engineering, Inc. Investigation – Revised Report

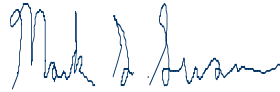
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Historically, the Metropolitan Nashville Government Purchasing Agent and Metropolitan Nashville Government departments believed contract 363266 could be used to provide **construction engineering and inspection services** for projects other than the Department of Public Works Paving Program.

We concur with the Metropolitan Nashville Government Chief Compliance Officer's March 1, 2019, directive that the scope of work for current and future purchase orders released against contract 363266 should be limited to services related to the Department of Public Works Paving Program.

Please contact me should you have any further questions concerning this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mark S. Swann', with a stylized, cursive script.

Mark S. Swann

Enclosure

cc: Honorable Mayor David Briley

Metropolitan Nashville Audit Committee

Jon Cooper, Director, Department of Law

Theresa Costonis, Attorney, Department of Law

Chad Collier, President, Collier Engineering, Inc.

Saul Solomon, Klein Solomon PLLC. , Attorney for Collier Engineering, Inc.



Date: October 26, 2018 (Revised March 8, 2019)

To: Mark Swann, Metropolitan Auditor

From: Seth Hatfield, Investigator

Subject: Collier Engineering, Inc. Investigation

Source of Allegation

The Mayor's Office received a complaint from an anonymous source. The complainant asserted that a vendor, Collier Engineering, Inc. had improperly entertained various officials within the Metropolitan Nashville Government. These Metropolitan Nashville Government officials were responsible for directing business to Collier Engineering, Inc. Several other complaints were also made related to Collier Engineering, Inc.'s working relationship with the Metropolitan Nashville Government. The complainant included documentation to support their assertions. On May 7, 2018, Mayor David Briley submitted a formal request for the Office of Internal Audit to conduct an independent investigation related to these allegations.

Investigators Assigned

Seth Hatfield, CPA, CIA, CFE
Laura Henry, CFE
Bill Walker, CPA, CIA, CFE (Quality Assurance)

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We conduct investigations and create reports using the Standards of the Association of Certified Fraud Examiners as a guide.

Purpose of Investigation

The Metropolitan Nashville Office of Internal Audit conducts internal investigations of potential violation of governance policies established for the Metropolitan Nashville Government or investigations of potential fraud, waste, and abuse. Investigation requests are received from the management of the Metropolitan Nashville Government or tips received from the Metropolitan Nashville Government fraud, waste, and abuse hotline.

Any findings or observations of potential fraud and other criminal acts would be referred to the 20th Judicial District Attorney Office, Metropolitan Nashville Police Department, or other appropriate agency. Any findings related to employee misconduct, waste, abuse; as well as process inefficiencies and

deficient internal controls would be forwarded to the management of the Metropolitan Nashville Government for corrective action.

The standard of “preponderance of the evidence” is used as a basis for substantiating or not substantiating an allegation. Key definitions used during investigations include:

- Preponderance of Evidence – A certain set of facts “more likely than not” occurred.
- Substantiated – The preponderance of the evidence collected during the investigation indicates that the incident occurred.
- Unsubstantiated - The evidence collected during the investigation indicates there was not a preponderance of the evidence to support the allegation or that the evidence collected during the investigation was conflicting or inconclusive.

The Metropolitan Nashville Office of Internal Audit discovery of evidence is primarily from Metropolitan Nashville Government’s personnel testimonial statements, financial and operations records, and information assets (computers, email, mobile phone, and so forth). Personal private information assets and financial and operations records will be reviewed when voluntarily provided by parties involved in an investigation or contractual audit clauses facilitate such reviews.

Background

A complainant alleges that preferential treatment or the appearance of preferential treatment has been given to Collier Engineering, Inc. by Metropolitan Nashville Government employees in exchange for entertainment and gifts.

Additional allegations include:

- Collier Engineering, Inc. receiving work outside of the scope of their contract.
- Collier Engineering, Inc. having invoices approved with little supporting documentation.
- Metropolitan Nashville Government’s Public Works requiring Google Fiber to work with Collier Engineering, Inc. in order to expedite permitting.
- A Metropolitan Nashville Government’s Public Works Paving Manager selecting which Collier Engineering, Inc. inspectors can work on Public Works projects.
- Collier Engineering, Inc. employees improperly being billed as project managers when they are not managing projects.
- An employee in the Metropolitan Nashville Government’s Procurement Office having a conflict of interest due to prior employment with Collier Engineering, Inc. and Metropolitan Nashville Government’s Public Works Department.

During the course of the investigation, our office became aware that Collier Engineering, Inc. possibly made mistakes on Metropolitan Nashville Public School sidewalks which resulted in repair costs being absorbed by the Metropolitan Nashville Government. This information was treated as an emergent allegation.

Collier Engineering, Inc. is currently providing engineering and project management services for the Metropolitan Nashville Government. Collier Engineering, Inc. has been awarded four five-year contracts since July 2015 including:

- Parks Project Management Contract 343097 (July 2015), estimated value \$8,500,000.
- Paving Program Management Contract 363266 (July 2015), estimated value \$35,000,000.
- Storm Water Engineering Services Contract 374887 (January 2016), estimated value \$10,000,000.
- Structural Testing, Special Inspection, and Geotechnical Services Contract 421433 (January 2018), estimated value \$5,000,000.

Between fiscal years 2010 and 2018 the Metropolitan Government of Nashville paid Collier Engineering, Inc \$48,754,888 (see Exhibit A).

Exhibit A – Payments made to Collier Engineering, Inc. by Fiscal Year

Fiscal Year	Amount
2010	\$ 3,263,869
2011	3,980,614
2012	2,893,246
2013	3,173,325
2014	3,227,379
2015	4,428,269
2016	6,567,013
2017	10,035,066
2018	11,186,109

Source: Metro Nashville's EnterpriseOne Financial Management System

The estimated value of the Paving Program Management Contract 363266 (July 2015) was increased from \$20 million to \$35 million on June 20, 2018. Exhibit B shows at the time of the increase in the estimated contract value the Public Works Paving Program could require in excess of \$15 million in construction, engineering, and inspection services (estimated at 20 percent of the paving program \$115 million unspent funds) if the potential unspent funds were fully executed.

Exhibit B – Metropolitan Nashville Government Roads and Streets Paving Program Budgeted, Forecasted, and Actual Expenditures Between Fiscal Years 2014 and 2020

		Collier Engineering Inc. Contract 363266 Five Year Term						
		/-----Forecast-----/		/-----CAFR-----/				
	Total	2020	2019	2018	2017	2016	2015	2014
Budget	212,000,000	35,000,000	35,000,000	35,000,000	35,000,000	20,000,000	32,000,000	20,000,000
Actual	96,441,155	0	0	4,975,192	29,370,737	18,526,939	24,892,370	18,675,917
Difference	<u>115,558,845</u>	35,000,000	35,000,000	30,024,808	5,629,263	1,473,061	7,107,630	1,324,083

Source: Metropolitan Nashville Government’s Comprehensive Annual Financial Report For the Year Ended June 30, 2018, Required Supplementary Information (page B-114) and Office of Internal Audit Forecast.

Applicable Policies, Laws, and Regulations

Relevant expectations for Metropolitan Nashville Government employee standards of conduct are reiterated in Mayor executive orders and Metropolitan Nashville Government Code of Law.

Then-Mayor Megan Barry’s Executive Order Number Five - Financial and Other Disclosures Highlights

Section 2 – Ethics, conflicts of interest, and acceptance of gifts on the part of employees of Metropolitan Government states:

- I. The maintenance of high standards of honesty, integrity, impartiality, and conduct by employees and agents of the Metropolitan Nashville Government is essential to the proper performance of government business and the maintenance of confidence by citizens in their government; and
- II. The *avoidance of misconduct and conflicts of interest on the part of employees* of the Metropolitan Nashville Government is indispensable to the maintenance of these standards.

- 1. Employee responsibilities. Each employee of the Metropolitan Nashville Government shall avoid any action, whether or not specifically prohibited by this order, departmental codes of ethics, or Metro Code of Law Section 2.222.020, which might result in, or *create the appearance of*:
 - a. Using a public office for private gain;
 - b. Giving preferential treatment to any person;
 - c. Impeding government efficiency or economy;
 - d. Losing complete independence or impartiality;
 - e. Making a Metropolitan Nashville Government decision outside of official channels; or
 - f. Affecting adversely the confidence of the public in the integrity of the Metropolitan Nashville Government.
- 5. Questions on interpretation of this order. When an employee is in doubt as to the proper interpretation of this order, he or she is expected to seek the advice of the Department Head or the Director of Law if time permits.

Metro Code of Law Section 2.222 Standards of Conduct, Disclosure of Interest, and Enforcement states:

2.222.010 – Definitions for standard of conduct.

(1) “Anything of value” includes any financial benefit, or other item that is pecuniary or compensatory in value to a person, including, but not limited to, any valuable act, advance, award, contract, compensation, contribution, deposit, emolument, employment, favor, fee, forbearance, fringe benefit, gift, gratuity, honorarium, loan, offer, payment, perquisite, privilege, promise, reward, remuneration, service, subscription, or the promise that any of these items will be conferred in the future.

(2) For purposes of the foregoing definition, the following do not constitute part of “Anything of Value:”

(b) Fees, expenses, or income, including those resulting in outside employment which are permitted and reported in accordance with applicable law;

2.222.020 – Standards of conduct.

(k) Employees shall not give reasonable basis by their conduct for the *impression that any person can improperly influence*, or unduly enjoy their favor in, the performance of their official duties, or that they are unduly affected by the kinship, rank, position or influence of any persons.

(n) Employees shall not *provide services for compensation, directly or indirectly*, to a person or organization who is requesting an approval, action, or determination from the Metropolitan Nashville Government.

(o) Employees shall not accept other employment or *engage in outside activities which might impair their independent judgment* in the performance of their public duty.

(s) If related in any way, directly or indirectly, to being an employee:

(1) *Shall not accept meals, beverages, food, promotional items, or hand-produced items of a value in excess of \$25 received from a single source in any calendar year; and*

(2) *Shall not accept free or discounted admissions, tickets, access to events or travel expenses from any single source of an aggregate value in any calendar year in excess of \$100, provided that an employee may accept from the sponsoring organization, on behalf of himself and a guest, free or discounted admissions, tickets or access of a face value in excess of \$100 if the event is generally recognized as an annual fundraising benefit sponsored by a non-profit organization.*

Metro Code of Law Section 4.48.030 Ethics in Public Contracting, General Standards of Ethical Conduct states:

Each employee of the Metropolitan Nashville Government shall avoid any action, whether or not specifically prohibited by this code, which might result in, or *create the appearance of*:

1. Using a public office for private gain;
2. Giving preferential treatment to any person;
3. Impeding government efficiency or economy;

4. Losing complete independence or impartiality;
5. Making a Metropolitan Nashville Government decision outside of official channels; or
6. Affecting adversely the confidence of the public in the integrity of the government.

Metro Code of Law Section 4.48.050 Employee Conflict of Interest states:

It shall be a breach of ethical standards for an employee to participate directly or indirectly in a procurement when the employee knows that:

1. The employee or any member of the employee's immediate family has a financial interest pertaining to the procurement;
2. Business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement; or
3. Any other person, business or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment involved in the procurement.

Department of Finance Procurement Division, Evaluation Committee / Review Board Member Agreement states:

As a member of the evaluation team or a resource person to the team, I acknowledge the importance of my undertaking and understand the following expectations for serving as a member: I can and will evaluate the proposal responses in a competent, conscientious, and unbiased manner.

Allegation, Facts, and Conclusions

Allegations

- A. There is preferential treatment or the appearance of preferential treatment being given to Collier Engineering, Inc. by Metropolitan Nashville Government employees in exchange for entertainment and gifts.
- B. Projects are being given to Collier Engineering, Inc. outside the scope of current contracts and when vendors are on contract for the same services.
- C. Collier Engineering, Inc. is submitting invoices with little supporting documentation, invoices are only being reviewed by Donald Reid, and employees who question the invoices are being taken out of the review process.
- D. Only inspectors that are on good terms with Donald Reid are allowed to inspect paving projects for Public Works.
- E. Public Works required Google Fiber to work with Collier Engineering, Inc. in order to expedite permitting.
- F. Collier Engineering, Inc. is billing time for Marty Szeigis and Benny Word as project management, but they are not managing projects.

- G. Terri Troup, Senior Procurement Officer, has a conflict of interest as she is a former employee of both Collier Engineering, Inc. and Public Works and is processing contract amendments for Collier Engineering, Inc.

Emergent Allegation

- H. Collier Engineering, Inc. made mistakes on Metropolitan Nashville Public School sidewalk projects that resulted in repair costs being absorbed by the Metropolitan Nashville Government.

Summary and Outcome of Investigation

- A. After a thorough review of the matters related to Collier Engineering, Inc. and various Metropolitan Nashville Government employees, it was determined that Metropolitan Nashville Government employees Donald Reid, Phillip Jones, Charles Boddie, Thomas Jones, Richard Taylor, and Ricky Swift were entertained in the Collier Engineering, Inc. suite at Bridgestone Arena. Collier Engineering, Inc. also indicated that Metropolitan Nashville Government employees Grant Anderson and Lindsay Taylor were entertained in their suite. No evidence showed that Collier Engineering, Inc. received a benefit from any of this entertainment.

The allegation that there is an **appearance** of preferential treatment being given to Collier Engineering, Inc. by Metropolitan Nashville Government employees in exchange for entertainment and gifts is **substantiated**.

The allegation that there is preferential treatment being given to Collier Engineering, Inc. by Metropolitan Nashville Government employees in exchange for entertainment and gifts is **unsubstantiated** because there is no evidence Collier Engineering, Inc. received a benefit in exchange for the entertainment.

- B. The allegation that projects are being given to Collier Engineering, Inc. outside the scope of current contracts and when vendors are on contract for the same services is **substantiated**.
- C. The allegation that Collier Engineering, Inc. is submitting invoices with little supporting documentation, invoices are only being reviewed by Donald Reid, and employees who question the invoices are being taken out of the review process is **unsubstantiated** because invoices were found to have sufficient documentation, controls around billing at Collier Engineering, Inc. were reviewed by an independent certified public accounting firm with no issues noted, and no evidence could be obtained to show that Donald Reid was removing employees from the review process within Public Works.
- D. The allegation that only inspectors that are on good terms with Donald Reid are allowed to inspect paving projects for Public Works is **unsubstantiated** because no evidence could be obtained that Donald Reid is selecting which inspectors are assigned by Collier Engineering, Inc. to Public Works paving projects.
- E. The allegation that Public Works required Google Fiber to work with Collier Engineering, Inc. in order to expedite permitting is **unsubstantiated** because no evidence was obtained that Public Works made it a requirement for Google Fiber to work with Collier Engineering, Inc. and no work was completed for Google Fiber by Collier Engineering, Inc.

- F. The allegation that Collier Engineering, Inc. is billing time for Marty Szeigis and Benny Word as project management, but they are not managing projects was **unsubstantiated** because work performed by Benny Word and Marty Szeigis can be classified as project management.

- G. The allegation that Terri Troup, Senior Procurement Officer, has a conflict of interest as she is a former employee of both Collier Engineering, Inc. and Public Works and is processing contract amendments for Collier Engineering, Inc. is **unsubstantiated** because prior employment with a contractor is not specified in the Metro Code of Law as a conflict of interest, and Terri Troup did not approve any of the purchase orders or contract amendments included with the allegations.

Emergent Allegation

- H. The allegation that Collier Engineering, Inc. made mistakes on Metropolitan Nashville Public School sidewalk projects that resulted in repair costs being absorbed by the Metropolitan Nashville Government is **unsubstantiated**. Although mistakes related to Americans with Disabilities standards were made by Collier Engineering, Inc., the square footage of rework represents a small percentage of the total installed square footage of sidewalks at Metropolitan Nashville Public Schools. Both Public Works and Collier Engineering, Inc. have agreed that Collier Engineering, Inc. will cover the costs of the rework.

Allegation A

There is preferential treatment or the appearance of preferential treatment being given to Collier Engineering, Inc. by Metropolitan Nashville Government employees in exchange for entertainment and gifts.

Facts

March 2018 NCAA Division 1 Men's Basketball Championship Tournament

- 1) Donald Reid, Public Works Paving Manager/Assistant Director, Phillip Jones, Public Works Special Project Manager, Thomas Jones, Public Works Technical Specialist 2, Ricky Swift, Metro Water Services Engineer 3, and Richard Taylor, Parks and Recreation Assistant Director, were pictured in the Collier Engineering, Inc. Suite 15 at Bridgestone Arena during the NCAA Division 1 Men's Basketball Championship Game 2 on March 16, 2018.
- 2) Charles Boddie, Public Works Human Resources Manager, and Thomas Jones were pictured in Collier Engineering, Inc. Suite 15 at Bridgestone Arena during the NCAA Division 1 Men's Basketball Championship Game 3 on March 17, 2018.
- 3) Testimonial evidence provided by Donald Reid, Phillip Jones, Thomas Jones, and Ricky Swift noted that the tickets for the NCAA Division 1 Men's Basketball Championship Game 2 on March 16, 2018, were purchased from Collier Engineering, Inc.
- 4) Testimonial evidence provided by Richard Taylor noted that he did not pay for his ticket at the NCAA Division 1 Men's Basketball Game 2 on March 16, 2018.
- 5) Testimonial evidence provided by Charles Boddie and Thomas Jones noted that the tickets for the NCAA Division 1 Men's Basketball Championship Game 3 on March 17, 2018, were purchased from Collier Engineering, Inc.
- 6) Testimonial evidence provided by Chad Collier, President/Co-Owner of Collier Engineering, noted that none of the Metropolitan Nashville Government employees in attendance at the NCAA Championship Games paid for their tickets.

April 2018 Nashville Predators Playoff Game 2

- 7) Donald Reid, Phillip Jones, and Ricky Swift were pictured in Collier Engineering, Inc. Suite 15 at Bridgestone Arena during the Nashville Predators Playoff Game 2 on April 15, 2018.
- 8) Donald Reid provided a canceled check written to Chad Collier for \$224.00 dated April 14, 2018, with "Predator's Tickets" on the memo line.
- 9) Phillip Jones provided a canceled check written to Chad Collier for \$450.00 date April 16, 2018, with "Hockey Playoff tickets" in the memo line.
- 10) Testimonial evidence provided by Ricky Swift and Chad Collier noted that Ricky Swift paid cash for his seat in the Collier Engineering Suite for the Predators Playoff Game.

Bridgestone Arena Suite Entertainment

- 11) Information provided by Collier Engineering, Inc. showed that Donald Reid, Thomas Jones, Grant Anderson, Lindsay Tayler, Phillip Jones, and Charles Boddie from Public Works attended events in the Collier Engineering, Inc. suite at least two times. Donald Reid and Phillip Jones each paid for one of those events.
- 12) Information provided by Collier Engineering, Inc. showed that Richard Taylor attended an event three times in the Collier Engineering, Inc. suite. Richard Taylor paid for one of those events.
- 13) Information provided by Collier Engineering, Inc. showed that Ricky Swift attended three events in Collier Engineering, Inc. suite. Ricky Swift paid for one of those events.
- 14) Information provided by Chad Collier noted that seats in the Collier Engineering, Inc. suite are valued at approximately \$133.40 for 2016-2017 and \$137.72 for 2017-2018.

April 2018 Drinks at Pasttime

- 15) Donald Reid, Lindsey Taylor, Technical Specialist 1, were pictured having drinks at Pasttime with Ben Collier, Vice President/Co-Owner of Collier Engineering, Inc. and Benny Shepherd, Jarrett Builders Vice President Asphalt Division, on April 13, 2018.
- 16) Lindsey Taylor, Technical Specialist 1, was pictured walking away from Ben Collier's vehicle with a blue gift bag on April 13, 2018.
- 17) Donald Reid was pictured walking away from Ben Collier's vehicle with what appears to be an envelope on April 13, 2018.
- 18) Testimonial evidence provided by Donald Reid noted he paid for his own drink ticket at Pasttime, but with cash and no receipt was retained.
- 19) Testimonial evidence provided by Lindsay Taylor noted that she paid for her own drink ticket at Pasttime, but with cash and no receipt was retained.
- 20) Testimonial evidence provided by Ben Collier noted that the meeting at Pasttime was used to discuss a fog seal product and that all drink tickets were paid separately.
- 21) Testimonial evidence provided separately by Lindsey Taylor and Ben Collier noted that the blue gift bag carried by Lindsay Taylor while walking away from Ben Collier's vehicle contained Nashville Predators towels that were given away for free at a previous Nashville Predators game that Lindsey Taylor was unable to attend.
- 22) Testimonial evidence provided by Donald Reid noted that he could not recall what was carried in his hand while walking away from Ben Collier's vehicle.
- 23) Testimonial evidence provided by Ben Collier noted that the envelope carried by Donald Reid while walking away from Ben Collier's vehicle contained Nashville Predators tickets.

May 2018 Lunch at Jack's Bar-B-Que

- 24) Donald Reid was pictured having lunch with Benny Word, Collier Engineering Senior Project Manager, at Jack's Bar-B-Que on May 4, 2018.
- 25) Testimonial evidence provided separately by Donald Reid and Benny Word noted that the lunch at Jack's Bar-B-Que was work-related and they each paid for their own meal tickets.

December 2017 Collier Engineering, Inc. Christmas Party Open House Entertainment

- 26) E-mails for Donald Reid, Phillip Jones, Richard Taylor, Ricky Swift, Thomas Jones, Lindsay Taylor, and Charles Boddie were reviewed. Invitations for the Collier Engineering, Inc. 2017 Christmas Party were located, but all other e-mail communications between the Metropolitan Nashville Government employees and Collier Engineering, Inc. employees were found to be work-related and professional.
- 27) Testimonial evidence provided by Ben Collier noted that the Collier Engineering, Inc. 2017 Christmas Party was an open house at their Brentwood office and was used as a way to engage with clients in a casual atmosphere. Ben Collier stated that food and drinks were provided at the Christmas Party.

Other Facts

- 28) Donald Reid and Phillip Jones were on the Review Board for Public Works Contract 363266 to provide professional engineering and technical services for the paving program management services.
- 29) Ricky Swift was on the Review Board for Metro Water Services Contract 374887 for preliminary and final design engineering services for stormwater projects.
- 30) Proposals submitted in response to Request for Proposals for engineering work are evaluated and scored by the Review Board members, but the Review Board does not ultimately award the contract. The Review Board submits three proposals with a recommendation to the Mayor for a final review and selection.
- 31) Two firms responded to the Request for Proposal for the Parks and Recreation Contract 343097 for planning, construction, engineering, inspection, and limited design for the effective management of park projects. Then-Mayor Karl Dean ultimately selected Collier Engineering, Inc.
- 32) Two firms responded to the Request for Proposal for Public Works Contract 363266. Collier Engineering, Inc. received the highest score and was ultimately selected by Then-Mayor Karl Dean.
- 33) Twelve firms responded to the Request for Proposal for Metro Water Services Contract 374887. Collier Engineering, Inc. received the second highest score. Then-Mayor Megan Barry ultimately awarded the contract to the three firms with the highest scores which included Collier Engineering, Inc.
- 34) All Metropolitan Nashville Government contracts with Collier Engineering, Inc. are indefinite delivery / indefinite quantity (IDIQ) contracts with an estimated value.

- 35) The Metropolitan Nashville Procurement Office was advised by the Metropolitan Nashville Department of Law that the estimated values of indefinite delivery / indefinite quantity contracts may be raised without a formal amendment.
- 36) The estimated value of Parks and Recreation Contract 343097 was increased from \$2 million to \$8.5 million and approved by Jeff Gossage, former Purchasing Agent, on March 7, 2016.
- 37) The estimated value of Public Works Contract 363266 was increased from \$20 million to \$35 million and approved by Michelle Lane, Purchasing Agent, on June 20, 2018. By September 2017, purchase order commitments encumbered \$19.9 million of the estimated \$20 million contract value, requiring an increase in the estimated contract value.
- 38) All purchase orders for Collier Engineering, Inc. must be reviewed and approved by the Metropolitan Nashville Purchasing Agent.
- 39) Donald Reid reviews all Collier Engineering, Inc. construction engineering and inspection invoices for the paving program before payment.
- 40) Collier Engineering, Inc. hired HHM Certified Public Accountants to conduct a review of billing practices and internal controls around billing. A copy of the final consulting report prepared by HHM Certified Public Accounts was delivered to the investigators on September 6, 2018.

Testimonial evidence provided by Jason Martin, Partner with HHM Certified Public Accountants, noted that no issues with the billing practices were identified and the internal control structure around billing at Collier Engineering, Inc. was found to be sufficient.

- 41) Testimonial evidence provided by Alita Clark, Collier Engineering, Inc. Chief Financial Officer / Accounting Manager, noted that she monitors all bank activity and no cash gifts have been given out by Collier Engineering, Inc.
- 42) Testimonial evidence provided by Chad Collier noted that ethics training was suggested by his attorney, Kelli Haas of Kelli Haas & Associates after she was made aware that Collier Engineering, Inc. was entertaining Metropolitan Nashville Government employees within their suite at Bridgestone Arena. The ethics training for Collier Engineering, Inc. was conducted by Bill Squires, Attorney with Kelli Haas & Associates, on May 6, 2018. The Microsoft PowerPoint slides for the ethics training were supplied to the investigators.

Discussion and Analysis

Pictures and testimonial evidence indicate that Donald Reid, Phillip Jones, Thomas Jones, Charles Boddie, Ricky Swift, and Richard Taylor attended at least one NCAA Championship Basketball game within the Collier Engineering, Inc. suite at Bridgestone Arena without paying for their tickets.

Pictures and testimonial evidence indicate that Donald Reid, Phillip Jones, and Ricky Swift attended Nashville Predators Game 2 within the Collier Engineering, Inc. suite at Bridgestone Arena and paid for their tickets.

Documentation provided by Collier Engineering, Inc. **indicated** that Donald Reid, Thomas Jones, Grant Anderson, Lindsay Taylor, Phillip Jones, Charles Boddie, Rick Taylor, and Ricky Swift all attended at least two events within the Collier Engineering, Inc. suite at Bridgestone Arena without paying for their tickets which were approximately valued between \$133.40 to \$137.72. An attempt was made to confirm this information with employees listed in the documentation due to inconsistencies with testimonial evidence received during the investigation. Donald Reid, Thomas Jones, and Charles Brodie denied not paying for any tickets. Phillip Jones and Ricky Swift confirmed that payment was made for one ticket, but not two other instances. Lindsay Taylor stated she has been in the Collier Engineering, Inc. suite, but has always entered Bridgestone Arena with her own tickets. Grant Anderson was unresponsive to contact requests.

Attendance at these events **is not in compliance with Metro Code of Law Section 2.222.020** which states that Metropolitan Nashville Government employees shall not accept free or discounted admissions, tickets, access to events or travel expenses from any single source of an aggregate value in any calendar year in excess of \$100.00.

Pictures and testimonial evidence indicate that Donald Reid and Lindsay Walker had drinks with Ben Collier at Pasttime after work hours. Donald Reid was pictured walking away from Ben Collier's vehicle with Nashville Predators tickets, and Lindsey Taylor was pictured walking away from Ben Collier's vehicles with a blue gift bag containing Nashville Predators towels.

A review of e-mails, procurement documents, and testimonial evidence produced no evidence that Collier Engineering, Inc. received a benefit from Metropolitan Nashville Government employees in exchange for the entertainment received by Collier Engineering, Inc.

Exhibit B shows at the time of the increase in the estimated contract value for Public Works contract 363266 for the Paving Program could require in excess of \$15 million in construction, engineering, and inspection services (estimated at 20 percent of the paving program \$115 million unspent funds) if the potential budgeted unspent capital funds were fully executed in fiscal years 2018, 2019, and 2020.

Public Works Contract 363266 Paving Program purchase order commitments totaled \$19.9 million by May 2018, necessitating an increase in the contract estimated value. The estimated value was increased from \$20 million to \$35 million and approved by Michelle Lane, Purchasing Agent, on June 20, 2018. Michelle Lane was not a participant of the entertainment and gifts provided by Collier Engineering, Inc.

Conclusion

The allegation that there is an **appearance** of preferential treatment being given to Collier Engineering, Inc. by Metropolitan Nashville Government employees in exchange for entertainment and gifts is **substantiated**.

The allegation that there is preferential treatment being given to Collier Engineering, Inc. by Metropolitan Nashville Government employees in exchange for entertainment and gifts is **unsubstantiated** because there is no evidence Collier Engineering, Inc. received any benefit in exchange for the entertainment.

Allegation B

Projects are being given to Collier Engineering, Inc. outside the scope of contracts and when vendors are on contract for the same services.

Background

Contract 363266

Provide Construction, Engineering, and Inspection (CEI) services, Roadway Pavement Analysis, Pavement Management Support and Related Services **for Metro Public Works Paving Office.**

Exhibit A – Tasks Details

Provide **Construction, Engineering, and Inspection (CEI) and related services for Metro annual paving, State Aid paving, pavement preservation, roadway reconstruction and intersection improvement work including but not limited to the associated 20% sidewalk repairs and curb ramp upgrades** as required to ensure compliance with ADA guidelines and acceptance by the Metro Department of Public Works and the Mayor's Office of Disability. There may be a need for limited roadway design as part of the roadway reconstruction or intersection improvement projects. **Traffic engineering analysis** will be required for pavement marking changes and bikeways.

Consultant will Collect ...**sidewalk data** (# of repairs, # curb ramps)...

The deliverables include:

Estimating quantities and costs for paving, roadway construction, **sidewalk repair** and curb ramps construction and bikeways striping.

Preparing typical section plans for paving projects, roadway construction projects, striping, construction traffic control, **sidewalk repair** and curb ramp, bike lane and bike shared route.

Incorporated in Contract Agreement 363266 by Reference to Solicitation Documentation – RFQ # 729085

Methodology / Business Plan - Explain the **inspection process** used by your firm on pavement, pavement preservation, and **sidewalk construction**, the documentation provided, the tests performed, and the quality control procedures.

Capacity to Perform Work – Number of employees and their years of **experience with the design and estimating of** paving projects, pavement preservation projects, **sidewalk projects**, bikeway and **other transportation design projects**.

Number of employees (team) and their years of **experience with the construction, engineering, and inspection (CEI)** of milling, paving, pavement preservation and **sidewalk construction** on city streets with a functional class of local, collectors, arterials and industrial.

Number of employees (team) and their years of **experience with performing field investigations to collect** roadway and **sidewalk distresses** such as base failures, surface failures, construction joint separation, etc.

More specifically, as part of these tasks, the successful bidder will be expected to actively participate in the following activities:

Project Inspections: ...Consultant shall also inspect utility adjustments, **sidewalk construction** and pavement marking installation.

Construction-Time Engineering Support:

Consultant will Collect ...**sidewalk data** (# of repairs, # curb rams)...

The deliverables include:

Estimating quantities and costs for paving, roadway construction, **sidewalk repair** and curb ramps construction and bikeways striping.

Preparing typical section plans for paving projects, roadway construction projects, striping, construction traffic control, **sidewalk repair** and curb ramp, bike lane and bike shared route.

Final quantities for roadway paving, bike lanes and markings, **sidewalk construction and repairs**.

Facts

- 1) A proposal to provide engineering and project management services necessary to provide field investigation for **traffic-related service** requests was submitted by Collier Engineering, Inc. to Donald Reid on January 20, 2017. Testimonial evidence provided separately by Donald Reid, Chad Collier, and Sharon Wahlstrom, Public Works Assistant Director – Finance and Accounting, noted that the proposal for traffic-related service requests was for Collier Engineering, Inc. to assist Public Works in resolving a backlog of service requests made by the public and some of the requests were related to Collier Engineering, Inc. projects.

Purchase order 400731 for the Traffic-Related Service Requests was approved on January 26, 2017, by Jeff Gossage, former Purchasing Agent.

- 2) A proposal for **right of way services** for High Capacity Corridors related to the Transit Improvement Program referendum was submitted from Collier Engineering, Inc. to Mark Sturtevant, Director of Public Works, on February 17, 2017. This proposal included survey, engineering, right of way research, property research, and project management services which involve High Capacity Transit Corridors identified by the Metropolitan Transit Authority.

Purchase order 404085 for Right of Way Services: High Capacity Transit Corridors was approved on March 20, 2017, by the Jeff Gossage, former Purchasing Agent.

- 3) A proposal for a pilot feasibility study for the use of **recycled glass in various construction applications** was submitted by Collier Engineering, Inc. to Donald Reid on June 21, 2017.

Purchase order 411693 for the Pilot Feasibility Study of Glass Recycling was **rejected** by Michelle Lane, Purchasing Agent, on July 7, 2017. Testimonial evidence provided by Michelle Lane noted that she did not believe the work proposed in purchase order 411693 was within the scope of Public Works Contract 363266.

- 4) A proposal to provide **sidewalk improvements and repair** was submitted by Collier Engineering, Inc. to Donald Reid on February 7, 2018.

Testimonial evidence provided separately by Donald Reid, Chad Collier, and Mark Sturtevant noted that the proposal for sidewalk improvements repairs was for Collier Engineering, Inc. to complete smaller sidewalk projects such as sidewalks around Metropolitan Nashville Public Schools and gaps in sidewalks around Metropolitan Nashville.

Purchase order 425274 was approved by Michelle Lane, Purchasing Agent, on February 20, 2018. Testimonial evidence provided by Michelle Lane noted that purchase order 425274 was approved because she believed the wording of the proposal for sidewalk improvements and repair to be within the scope of services for Public Works Contract 363266.

- 5) Public Works Contract 363266 states that Collier Engineering, Inc. is to “Provide Construction Engineering and Inspection (CEI) services, Roadway Payment Analysis, Pavement Management Support and **Related Services** for Metro Public Works Paving Office.”

Discussion and Analysis

A proposal submitted by a contractor is first reviewed by the department. A purchase order is created and approved at the department level and then submitted to the Purchasing Agent for final review and approval. One of the four alleged projects to be awarded to Collier Engineering, Inc. was rejected by the Purchasing Agent, and the work was not completed by Collier Engineering, Inc. It is not uncommon for multiple vendors to be on contract for the same services. This adds flexibility to the department and keeps one contractor from being overly burdened.

Four Collier Engineering, Inc. proposals were alleged to be outside of the scope of services included in Public Works Contract 363266. The scope of services for Public Works Contract 363266 can be considered broad as “related services” for paving projects could encompass a variety of tasks. Contract Exhibit A specifically cites **20% sidewalk repairs**, data collection, cost, and quantities estimating, and preparing typical section plans, along with **traffic engineering analysis**.

Solicitation documentation for RFQ# 729085 is incorporated in contract 363266 by reference. This solicitation requested responders to explain the inspection process for **sidewalk construction**, provide the number of employees and years of experience with the design and estimating **sidewalk projects** and **other transportation projects, experience with the construction, engineering, and inspection of sidewalk construction on city streets**.

Also, this solicitation states the successful bidder will be **expected to actively participate** in project inspection, construction-time engineering support, estimating quantities, and typical section plans for **sidewalk construction and repair**.

Historically, the Metropolitan Nashville Government Purchasing Agent and Metropolitan Nashville Government departments believed contract 363266 could be used to provide construction engineering and inspection services for projects other than the Department of Public Works Paving Program.

A March 5, 2019, the Metropolitan Nashville Government Department of Law concurred with the Metropolitan Nashville Government Chief Compliance Officer regarding the intent of the scope of work

for contract 363266. The Chief Compliance Officer stated the scope of work in the contract is defined, in the first instance, by the words "Department of Public Works" and "Paving Program."

Legal advice from the Department of Law indicates the services requested using purchase order 404085 for Right of Way Services: High Capacity Transit Corridors and purchase order 425274 for Sidewalk Work should not have been released against contract 363266.

Conclusion

The allegation that projects are being given to Collier Engineering, Inc. outside the scope of current contracts and when vendors are on contract for the same services is **substantiated**.

Recommendation

We concur with the Metropolitan Nashville Government Chief Compliance Officer's March 1, 2019, directive that the scope of work for current and future purchase orders released against contract 363266 should be limited to services related to the Department of Public Works Paving Program.

Allegation C

Collier Engineering, Inc. is submitting invoices with little supporting documentation, invoices are only being reviewed by Donald Reid, and employees who question the invoices are being taken out of the review process.

Facts

- 1) Five invoices from Metro Water Services Contract 374887, six invoices from Parks and Recreation Contract 343097, and nine invoices from Public Works Contract 363266 were reviewed to examine the sufficiency of supporting documentation included with invoices. Invoices contain a cover summary page, invoice detailing hours worked by job classification, extensive project summary information, and time sheets detailing the time charged by employee and job classification.
- 2) Testimonial evidence provided by Alita Clark, Collier Engineering, Inc. Chief Financial Officer / Accounting Manager, noted that time charged by employees is reviewed internally by the employee's direct supervisor, human resources, the accounting manager, and the program manager.
- 3) Collier Engineering, Inc. hired HHM Certified Public Accountants to conduct a consulting engagement to review billing practices and internal controls around billing.
- 4) The consulting report by HHM Certified Public Accountants noted that no exceptions were found in regards to employee time and employee rates billed to the Metropolitan Nashville Government and the internal control environment at Collier Engineering, Inc. was found to be supportive of accurate billings. The investigators met with Jason Martin and Greg Alford from HHM Certified Public Accountants to discuss the consulting report on July 27, 2018.
- 5) Five past and present Public Works employees were included with the allegations as individuals that could corroborate the allegations made against Collier Engineering, Inc. and Donald Reid. Three

employees were interviewed but did not have any information on Donald Reid removing Public Works employees from the review process. One employee agreed with the allegation that invoices from Collier Engineering, Inc. do not include sufficient supporting documentation while another disagreed with the allegation and stated that Collier Engineering, Inc. is thorough with their supporting documentation for invoices.

- 6) Testimonial evidence provided by Sharon Wahlstrom noted that the Public Works Finance Office relies on the Public Works lead project engineer to verify and sign off that work was completed by a contractor. Donald Reid is the Project Manager for Public Works Contract 363266.

Conclusion

The allegation that Collier Engineering, Inc. is submitting invoices with little supporting documentation, invoices are only being reviewed by Donald Reid, and employees who question the invoices are being taken out of the review process is **unsubstantiated** because invoices were found to have sufficient documentation, controls around billing at Collier Engineering, Inc. were reviewed by an independent certified accounting firm with no issues noted, and no evidence could be obtained to show that Donald Reid was removing employees from the review process within Public Works.

Allegation D

Only inspectors that are on good terms with Donald Reid are allowed to inspect paving projects for Public Works.

Facts

- 1) Collier Engineering, Inc. inspectors are onsite during Public Works paving jobs from the beginning to the end of each paving project which includes the milling, undercutting, and paving of roadways.
- 2) Testimonial evidence provided separately by Chad Collier and Ben Collier noted that inspectors are assigned based on qualifications and availability of inspectors and that Donald Reid may be consulted to gain a better understanding of the qualifications necessary for a given project.
- 3) Testimonial evidence provided by Donald Reid noted that he denied involvement in the selection of inspectors as assigning inspectors is a management decision of Collier Engineering, Inc.
- 4) Five past and present Public Works employees were included with the allegations as individuals that could corroborate the allegations made against Collier Engineering, Inc. and Donald Reid. Three employees were interviewed but did not have any knowledge of Donald Reid selecting Collier Engineering, Inc. inspectors for Public Works paving jobs.

Conclusion

The allegation that only inspectors that are on good terms with Donald Reid are allowed to inspect paving projects for Public Works is **unsubstantiated** because no evidence could be obtained that Donald Reid is selecting which inspectors are assigned to Public Works paving jobs.

Allegation E

Public Works required Google Fiber to work with Collier Engineering, Inc. in order to expedite permitting.

Facts

- 1) Testimonial evidence provided by Donald Reid noted that Google Fiber is currently coordinating with Public Works with the installation of cable lines under Metropolitan Nashville Government roadways and this allegation was in reference to a conversation between the Director of Public Works, Mark Sturtevant, and a representative of Google Fiber.
- 2) Testimonial evidence provided by Mark Sturtevant noted that Google Fiber was interested in retaining an outside firm to assist with the installation of cable lines and that Google Fiber received the impression that he was referring Collier Engineering, Inc., but this was due to a miscommunication.
- 3) Testimonial evidence provided by Chad Collier noted that he had a conversation with a Google Fiber representative about assisting them, but no agreement was reached, and no work was ever performed for Google Fiber by Collier Engineering, Inc.
- 4) Lewis Roberts, Jr, Metro Expansion Lead for Google Fiber, was contacted on September 24, 2018, to discuss the allegation. Mr. Roberts did not want to discuss the allegation before getting clearance from Google Fiber legal department. Mr. Roberts requested the investigator send an e-mail with information on the allegation that he could forward to the legal department. That e-mail was sent on September 24, 2018. On Monday, October 15, 2018, a representative from the Google Fiber legal team e-mailed the investigator and stated a call would be made during the week to obtain additional information before setting up an interview. As of Wednesday, October 24, 2018, Google Fiber has not made contact with this office regarding the allegation.

Conclusion

The allegation that Public Works required Google Fiber to work with Collier Engineering, Inc. in order to expedite permitting is **unsubstantiated** because no evidence was obtained that Public Works made it a requirement for Google Fiber to work with Collier Engineering, Inc. and no work was completed for Google Fiber by Collier Engineering, Inc.

Allegation F

Collier Engineering, Inc. is billing time for Marty Szeigis and Benny Word as project management, but they are not managing projects.

Facts

- 1) Collier Engineering, Inc. team qualifications submitted with proposals were reviewed. Benny Word has a Bachelor of Science in Civil Engineering from the University of Alabama at Birmingham but is not a licensed engineer. Benny Word's qualifications include his work as the Traffic Calming Program Manager for Public Works, his work with the Public Works Sidewalk Improvement Plan, and handling communication with Metropolitan Nashville Council members and their constituents.

Marty Szeigis' qualifications highlight his work with the Metropolitan Nashville Government as a liaison between Mayor Karl Dean's administration and the Metropolitan Nashville Council.

- 2) Marty Szeigis was employed by the Metropolitan Nashville Government from March 1, 2009, through September 18, 2015, in Mayor Karl Dean's administration.
- 3) A cursory review of Collier Engineering, Inc. invoices found that Benny Word is billed as a Senior Project Manager.
- 4) A cursory review of Collier Engineering, Inc. invoices did not find any instances where Marty Szeigis was billed as a Senior Project Manager.
- 5) Testimonial evidence provided by Marty Szeigis noted that the majority of his time is not billable, but occasionally his time will be billed as a Senior Project Manager when he is assisting a Collier Engineering, Inc. project team with Metropolitan Nashville Government processes.
- 6) Testimonial evidence provided by Benny Word noted that his role as a project manager is spent serving as the liaison between Public Works projects and the Metropolitan Nashville Council, the Mayor's Office, and the public.
- 7) The role of liaison is addressed in proposals submitted by Collier Engineering, Inc. For example, the proposal for sidewalk improvements and repair includes "Collier will provide the services needed to coordinate between the various Metro Departments, Metro Council, Neighborhood Organizations, the annual contractor, and various other stakeholders."
- 8) Collier Engineering, Inc. hired HHM Certified Public Accountants to conduct a review of billing practices and internal controls around billing.
- 9) Testimonial evidence provided by Jason Martin, Partner with HHM Certified Public Accountants, noted that Collier Engineering, Inc. job classifications were reviewed and were determined by the American Society of Civil Engineers.

Conclusion

The allegation that Collier Engineering, Inc. is billing time for Marty Szeigis and Benny Word as project management, but they are not management projects was **unsubstantiated** because work performed by Benny Word and Marty Szeigis can be classified as project management.

Allegation G

Terri Troup, Senior Procurement Officer, has a conflict of interest as she is a former employee of both Collier Engineering, Inc. and Public Works and is processing contract amendments for Collier Engineering, Inc.

Facts

- 1) Testimonial evidence provided by Terri Troup noted that she worked for Collier Engineering, Inc. from 1993 to 2003.

- 2) Terri Troup has been employed by the Metropolitan Nashville Government since July 1, 2003.
- 3) Terri Troup was employed by the Metropolitan Nashville Government Public Works Department from July 1, 2003, until her transfer to the Metropolitan Nashville Government Procurement Office on July 23, 2012.
- 4) Metro Code of Law Section 4.48.050 does not include prior employment with a contractor as a conflict of interest.
- 5) Purchase orders created by a Metropolitan Nashville departments will include the name of the Procurement Office buyer on the purchase order but are routed directly to the Purchasing Agent for approval.
- 6) All Metropolitan Nashville Government contracts with Collier Engineering, Inc. are indefinite delivery / indefinite quantity (IDIQ) contracts with an estimated value.
- 7) The Metropolitan Nashville Procurement Office was advised by the Metropolitan Nashville Department of Law that the estimated values of indefinite delivery / indefinite quantity contracts may be raised without a formal amendment.
- 8) The estimated value of Parks and Recreation Contract 343097 was increased from \$2 million to \$8.5 million and approved by Jeff Gossage, former Purchasing Agent, on March 7, 2016.
- 9) The estimated value of Public Works Contract 363266 was increased from \$20 million to \$35 million and approved by Michelle Lane, Purchasing Agent, on June 20, 2018.

Conclusion

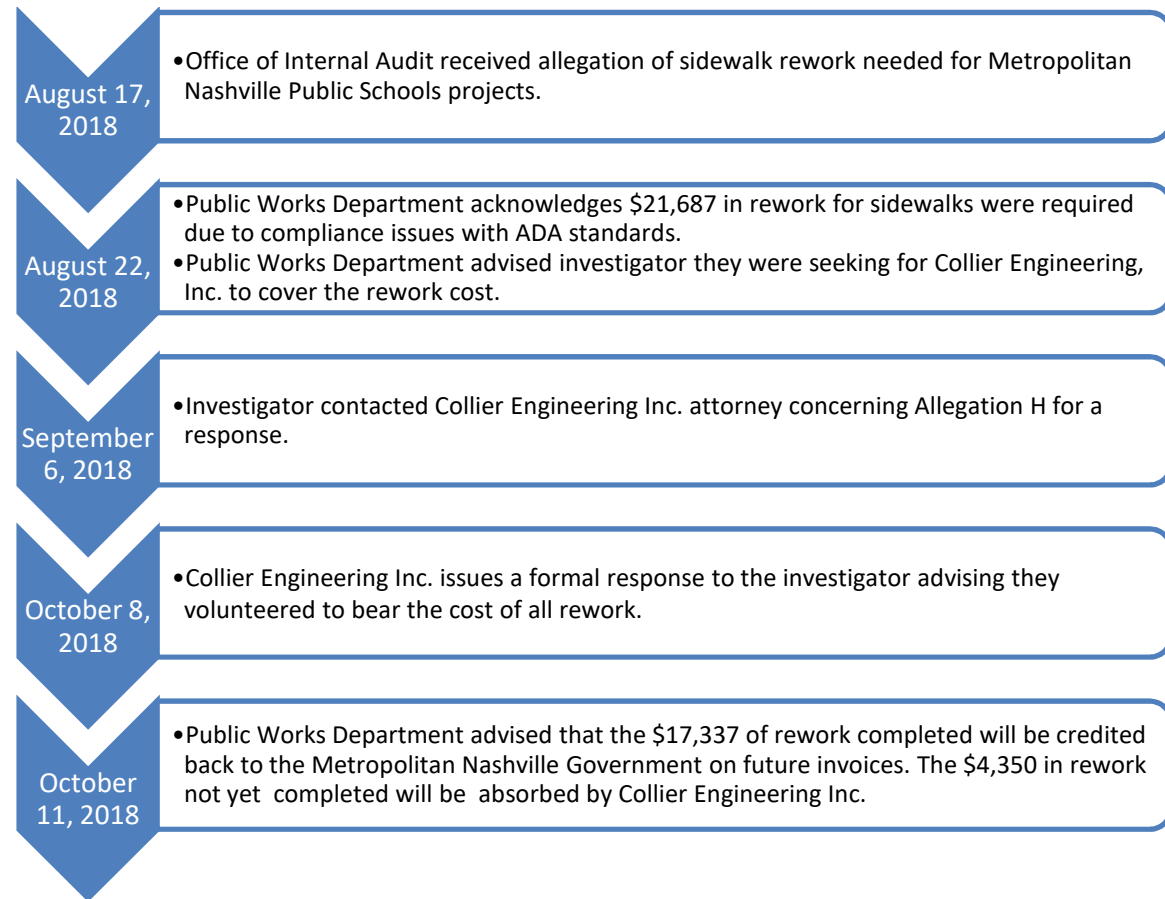
The allegation that Terri Troup, Senior Procurement Officer, has a conflict of interest as she is a former employee of both Collier Engineering, Inc. and Public Works and is processing contract amendments for Collier Engineering, Inc. is **unsubstantiated** because prior employment with a contractor is not specified in the Metro Code of Law as a conflict of interest, and Terri Troup did not approve any of the purchase orders or contract amendments included with the allegations.

Emergent Allegation H

Collier Engineering, Inc. made mistakes on Metropolitan Nashville Public School sidewalk projects that resulted in repair costs being absorbed by the Metropolitan Nashville Government.

Allegation Timeline

The sidewalk repair rework identified consists of 2,544 square feet of sidewalk. This consists of 2,034 square feet of sidewalk rework costing \$17,337 previously paid by the Public Works Department and 510 square feet of sidewalk rework not completed costing \$4,350.



Facts

- 1) Documentation provided by Donald Reid showed that rework was performed on sidewalks at five Metropolitan Nashville Public Schools. Rework totaling 2,034 square feet at the cost of \$17,337 was completed at three school sites. Two schools sites have rework that is yet to be completed. The estimated square footage for these sites is 510 square feet at an estimated cost of \$4,350. The total estimated cost of rework at school sites is \$21,687.
- 2) Rework on 329 square feet of sidewalk at Harpeth Valley Elementary at the cost of \$2,804 was invoiced and paid by Public Works.
- 3) An e-mail provided by Donald Reid from Chad Collier noted that the reason for the rework was due to the slope of the sidewalks not being compliant with the Americans with Disabilities Act. Americans with Disabilities guidelines require sidewalks for schools to have less than a 5 percent slope while right-of-way sidewalks maintained by Public Works require a slope of less than 8.3 percent.
- 4) A written response to this allegation was received on October 8, 2018. Collier Engineering, Inc. believes the root cause of the work not meeting Americans with Disabilities standards was the desire of Public Works and other parties to expedite the school sidewalk projects since there were long delays in respect to the Capital Sidewalks Program. It was agreed that Collier Engineering, Inc. would prepared layout "sketches" instead of full engineering plans. The engineering fees were 8

percent for these projects while the traditional fee is 15 percent. Collier Engineering, Inc. believes that forgoing the full engineering plans saved six to twelve months of time and approximately \$750,000.

- 5) Collier Engineering, Inc. has managed the installation of 79,552 square feet of sidewalks on school sites. A total of 2,034 square feet has been reworked at three school sites, and another estimated 510 square feet is to be reworked at two school sites. The total estimated square footage of rework is 2,544 square feet which represent 3.20 percent of the total installed square footage of sidewalks.
- 6) Collier Engineering, Inc. has agreed to bear the costs of the rework, but believe the percentage of rework to be within industry standards.
- 7) Donald Reid stated the cost of the rework would be reflected as a credit on the next school sidewalk invoice.

Discussion and Analysis

See 'Background' section for Allegation B on pages 14 – 15 for details of 'related' work in the agreement with Collier Engineering, Inc.

Conclusion

The allegation that Collier Engineering, Inc. made mistakes on Metropolitan Nashville Public School sidewalk projects that resulted in repair costs being absorbed by the Metropolitan Nashville Government is **unsubstantiated**. Although mistakes related to Americans with Disabilities standards were made by Collier Engineering, Inc., the square footage of rework represents a small percentage of the total installed square footage of sidewalks at Metropolitan Nashville Public Schools. Both Public Works and Collier Engineering, Inc. have agreed that Collier Engineering, Inc. will cover the costs of the rework.

Recommendations

- 1) The Metropolitan Nashville Governments' Director of Public Works, Director of Metro Water Services, and Director of Parks and Recreations should take appropriate administrative action to cure the appearance of preferential treatment being given to contractors. Administrative action should include reassigning involved personnel tasks so as they are not participating in Collier Engineering, Inc. related matters.
- 2) The Metropolitan Nashville Governments' Director of Public Works, Director of Metro Water Services, and Director of Parks and Recreations should provide training for employees on Metro Code of Law Sections 4.48.030 and 4.48.050 regarding ethics in public contracting and Metro Code of Law Section 2.222.020 general standards of ethical conduct, and conflict of interest.
- 3) Management of the Metropolitan Nashville Government Public Works Department should ensure that credit for all reworks for Metropolitan Nashville Public School Sidewalk Projects are received by Collier Engineering, Inc.
- 4) We concur with the Metropolitan Nashville Government Chief Compliance Officer's March 1, 2019, directive that the scope of work for current and future purchase orders released against contract 363266 should be limited to services related to the Department of Public Works Paving Program.

APPENDIX A – MANAGEMENT RESPONSES AND CORRECTIVE ACTION PLANS

Recommendation	Concurrence and Corrective Action Plan	Proposed Completion Date
<i>Recommendation for management of Public Works to:</i>		
<p>A.1 Take appropriate administrative action to cure the appearance of preferential treatment being given to contractors. Administrative action should include reassigning involved personnel tasks so as they are not participating in Collier Engineering, Inc. related matters.</p>	<p>Reject Due to:</p> <ul style="list-style-type: none"> Public Works has accepted and complied with the initial audit findings presented to the Audit Committee in November 2018. (Reference A2 and A3 below) Public Works believes the actions we have already taken (see below) are the appropriate response to the appearance of preferential treatment. Public Works would take the step of reassigning employees if anything of this type should reoccur in the future after the employee had already received documented counseling regarding this issue and received ethics training. The audit found no actual preferential treatment given to a contractor. Metro currently has procedures and processes designed to eliminate the possibility of preferential treatment. Contracts are awarded based on Procurement Code and procedures in accordance with Title IV using the RFP process. In accordance with applicable Civil Service Rules and Policies, reassignment of duties would be warranted if violations and related discipline occurred. Because the audit yielded no such violation that would trigger this process, the current actions appropriately address the findings in the audit. 	<p>N/A</p>
<p>A.2 Provide training for employees on Metro Code of Law Sections 4.48.030 and 4.48.050 regarding ethics in public contracting and Metro Code of Law Section 2.222.020 general standards of ethical conduct, and conflict of interest.</p>	<p>Accept: These employees, as well as all Public Works employees, have either completed or are scheduled to receive training from the Metro HR department that covers all the Codes and issues listed. These employees have also been individually counseled and have formal documentation in their employee file acknowledging such.</p>	<p><i>03/31/2019</i> For entire PW department employees.</p> <p>Affected employees completed training on 11/26/2018.</p>
<p>A.3 Ensure that credit for all reworks for Metropolitan Nashville Public School Sidewalk Projects are received by Collier Engineering, Inc.</p>	<p>Accept: Check from Collier Engineering for rework cost was received and deposited in November.</p>	<p><i>11/2018</i></p>

APPENDIX A – MANAGEMENT RESPONSES AND CORRECTIVE ACTION PLANS

Recommendation	Concurrence and Corrective Action Plan	Proposed Completion Date
<i>Recommendation for management of Metro Water Services to:</i>		
<p>B.1 Take appropriate administrative action to cure the appearance of preferential treatment being given to contractors. Administrative action should include reassigning involved personnel tasks so as they are not participating in Collier Engineering, Inc. related matters.</p>	<p>Accept: The assignment process for capital design projects is completed by an uninvolved employee. Projects are assigned on a rotating basis.</p> <p>Inspections conducted by Collier are assigned and monitored by an uninvolved employee.</p> <p>The Collier employee who had been in residence providing administrative support for SW projects has returned to the Collier Offices, reducing any appearance of preferential treatment.</p> <p>An advertisement for Financial Officer II closes 1-18-2019. Once a candidate is selected the need for the Collier employee will be eliminated.</p>	<p><i>3-15-2018</i></p>
<p>B.2 Provide training for employees on Metro Code of Law Sections 4.48.030 and 4.48.050 regarding ethics in public contracting and Metro Code of Law Section 2.222.020 general standards of ethical conduct, and conflict of interest.</p>	<p>Accept: All personnel involved in the RFP/ITB process and their supervisors have reread these code sections as well as the associated executive order.</p> <p>Additionally, Ethics training was conducted on December 13, 2018, by Terri Costonis (Legal) to our Process Owners Meeting which represents mid-level to senior management personnel.</p>	<p><i>Completed</i></p>

APPENDIX A – MANAGEMENT RESPONSES AND CORRECTIVE ACTION PLANS

<i>Recommendation for management of Parks and Recreations to:</i>		
<p>C.1 Take appropriate administrative action to cure the appearance of preferential treatment being given to contractors. Administrative action should include reassigning involved personnel tasks so as they are not participating in Collier Engineering, Inc. related matters.</p>	<p>Partially Accept: Appropriate administrative action has been taken to cure the appearance of preferential treatment being given to contractors.</p> <p>Corrective Action: The employee involved has been counseled with documentation placed in his personnel file and trained on Metro Code of Law Sections 4.48.030 and 4.48.050 regarding ethics in public contracting and Metro Code of Law Section 2.222.020 general standards of ethical conduct, and conflict of interest.</p> <p>Taking into consideration that the appearance of impropriety can be as negatively impactful as actual impropriety, the remorsefulness expressed by the employee for his error in judgment, the restitution made by the employee, the employee’s performance and years of service to Metro, appropriate corrective action has been taken.</p> <p>While it is not feasible to reassign the employee at this time, there are controls innate to the procurement process to mitigate the risk of impropriety and/or preferential treatment. The employee has not and will not solely select contractors. Individuals independent of the Parks department will oversee the procurement process/activities to ensure fairness.</p>	<p>11/05/2018</p>

APPENDIX A – MANAGEMENT RESPONSES AND CORRECTIVE ACTION PLANS

<p>C.2 Provide training for employees on Metro Code of Law Sections 4.48.030 and 4.48.050 regarding ethics in public contracting and Metro Code of Law Section 2.222.020 general standards of ethical conduct, and conflict of interest.</p>	<p>Accept: Metro Code of Law Section 2.222.020 general standards of ethical conduct, and conflict of interest was distributed to Parks staff both on July 6, 2018, and November 8, 2018. A training for senior staff employees on Metro Code of Law Sections 4.48.030 and 4.48.050 regarding ethics in public contracting and Metro Code of Law Section 2.222.020 general standards of ethical conduct and conflict of interest was conducted by the Metro Legal Department on November 8, 2018. Training for all appropriate staff will be ongoing.</p>	<p>12/31/2018 Ongoing</p>
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APPENDIX B – HHM CERTIFIED PUBLIC ACCOUNTANTS REVIEW OF COLLIER ENGINEERING, INC.'S BILLING PRACTICES AND INTERNAL CONTROLS AROUND BILLING

The HHM Certified Public Accountants review of Collier Engineering, Inc.'s billing practices and internal controls around billing begins on the next page. Permission for the inclusion of this report granted by Chad Colier, Collier Engineering Inc., and Saul Solomon, legal counsel for Collier Engineering Inc.

The accompanying exhibits for this report are available from the Metropolitan Nashville Office of Internal Audit upon request.

COLLIER ENGINEERING CO., INC.

CONSULTING REPORT

JULY 17, 2018



CERTIFIED PUBLIC ACCOUNTANTS

COLLIER ENGINEERING CO., INC.

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JULY 17, 2018

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CONSULTING REPORT

Ms. Kelli Haas, Attorney at Law
Kelli Haas & Associates
2550 Meridian Blvd., Suite 200
Franklin, Tennessee 37067

We have performed certain procedures as requested by legal counsel of Collier Engineering Co., Inc. (“Collier Engineering” or “Collier”) as detailed in our engagement letter dated June 6, 2018. This engagement was conducted in accordance with Statements on Standards for Consulting Services established by the American Institute of Certified Public Accountants.

Scope of Work:

Henderson Hutcherson & McCullough, PLLC (“HHM”) was engaged to perform specialized consulting services for Collier Engineering Co., Inc. to evaluate the accuracy of billings submitted to Metro Government of Nashville and Davidson County (“Metro Government”). Our processes included examining employee job classifications, Collier Engineering billing rates, and subcontractor billing rates/amounts. We also recomputed each invoice for accuracy.

In addition to examining billings, HHM reviewed the internal control environment of Collier Engineering Co., Inc. Our review of internal controls encompassed reviewing the Company’s overall entity structure, time keeping and billing processes, and contract/project approval processes.

HHM examined 25 invoices related to sub-projects under three contracts noted as Contract Purchase Agreement 363266 (“MPW”); Contract Purchase Agreement 374887 (“MSW”); and Contract Purchase Agreement 343097 (“Parks”). All contracts are included in this report as Exhibit A. Our procedures and findings are enumerated below.

Invoice Examination:

HHM reviewed the invoices detailed below. Our procedures included examining three attributes of each invoice which included, the number of hours billed, professional rates billed, and employee accuracy/classification. See Exhibit B for a sample of the full invoice packet selected for testing.

Contract Number	Invoice Number	Invoice Date	Invoice Amount
363266	03072017-A-09	11/16/2017	\$ 155,265.50
363266	03072017-A-01	03/30/2017	\$ 140,339.01
363266	03072017-A-04	06/20/2017	\$ 223,816.63
363266	03072017-A-08	10/26/2017	\$ 139,067.25
363266	03072017-A-07	09/20/2017	\$ 162,003.00

363266	03072017-A-06	08/17/2017	\$ 193,572.51
363266	03152017-CP-01	03/30/2017	\$ 40,952.50
363266	03072017-A-03	05/24/2017	\$ 183,993.13
323266	05052016-D-10	03/21/2017	\$ 37,260.00
363266	09222016-B-07	03/21/2017	\$ 46,860.63
363266	03072017-F-03	05/24/2017	\$ 12,762.50
363266	03072017-C-01	03/30/2017	\$ 40,973.13
363266	03072017-D-02	07/21/2017	\$ 69,519.13
363266	03072017-F-01	03/30/2017	\$ 11,044.25
363266	01202017-03	05/23/2017	\$ 122,522.49
363266	03152017-CP-03	05/24/2017	\$ 38,355.00
363266	03072017-A-05	07/14/2017	\$ 226,571.38
363266	03072017-C-05	03/24/2017	\$ 51,763.75
363266	03072017-A-11	01/18/2018	\$ 107,364.38
363266	03072017-B-05	03/24/2017	\$ 51,040.63
343097	1705-014	05/12/2017	\$ 21,394.00
343097	1708-124	08/10/2017	\$ 37,708.50
343097	1712-049	12/11/2017	\$ 3,943.00
374887	MWS-1701-081-D	01/11/2017	\$ 11,253.75
374887	MWS-1702-016-D	02/14/2017	\$ 71,850.00

Hours Billed:

For each invoice selected for testing, HHM traced the hours billed per employee to the source time reports noted within GeoTrack. GeoTrack serves as the Company's timekeeping system. See Exhibit C for an example of the invoice report reviewed.

No exceptions were noted.

Rates Billed:

Each contract stipulates the hourly rate to be charged by each Collier employee. For each 'Consultant Invoice' selected for testing, HHM agreed the professional personnel classification/rate to the original contract professional personnel classification/rate. See Exhibit D for an example of all invoices reviewed. HHM also reviewed the supporting invoice and/or time report submitted by each subcontractor.

No exceptions were noted.

Overall Invoice Review:

For each invoice reviewed, HHM agreed the detailed time reports (Exhibit C) to the invoice (Exhibit D). HHM recalculated each invoice to ensure that the invoice total was accurate. To recalculate each invoice, HHM multiplied employee hours by employee rates. The individual line items were then traced to the invoice summary page. Lastly, HHM computed the invoice summary page to ensure accuracy.

No exceptions were noted.

Employee Accuracy/Classification:

Each contract stipulates the classification of employees to be assigned to each project. Therefore, HHM haphazardly selected 15 employees from the invoices selected for testing and reviewed each employees' respective personnel file. Each personnel file was reviewed to ensure that each employee was appropriately classified by title and that each employee existed. Employees tested are noted as follows:

Employee	Employee ID Confirmed (1)	Position Confirmed (2)
Bonar, Travis	Yes	Yes
Campbell, Matt	Yes	Yes
Fowler, George	Yes	Yes
Hood, Kelley	Yes	Yes
Kimbrough, Noah	Yes	Yes
King, Charles	Yes	Yes
Lockett, Kori	Yes	Yes
Mangrum, Marlin	Yes	Yes
Manson, Mike	Yes	Yes
Posner, Bobby	Yes	Yes
Powell, Austin	Yes	Yes
Smithson, Brett	Yes	Yes
Stacks, Logan	Yes	Yes
Tekie, Selam	Yes	Yes
Turner, Brandy	Yes	Yes

- (1) HHM reviewed the personnel file and noted a completed I9 and driver's license for each employee tested.
- (2) HHM reviewed the personnel file and noted that employee's position agreed to the staff level/position included on the invoice.

Internal Control Review:

Our understanding of Collier Engineering's internal control environment served as a basis for evaluating the capacity of Collier Engineering to properly meet contract demands and accurately bill Metro Government for services performed. Our procedures focused on internal controls over the billing approval and review process. Our procedures and findings are noted as follows:

Organizational Structure:

HHM gained an understanding of Collier Engineering's project management structure, organizational hierarchy, and core competencies by professional staff level. HHM reviewed Collier Engineering's management structure as outlined on the Company's website (<https://collierengineering.com/our-team/>). It was noted that Collier Engineering uses the professional qualification guidelines set forth by the American Society of Civil Engineering for professional staff level classifications. Collier Engineering doesn't pay performance bonus to project managers for satisfactory job performance. This reduces the project managers' incentive to intentionally overstate professional hours worked on each project.

HHM interviewed Chad Collier, President, and Alita Clark, Chief Financial Officer/Accounting Manager to corroborate the information noted above. No inconsistencies were noted in Collier's organization structure, hierarchy, and core competencies.

HHM concludes that Collier Engineering's organizational structure supports the professional services being performed for Metro Government.

Contract Approval and Validity:

Prior to providing services to Metro Government, Collier Engineering agrees to the terms and conditions of each contract as outlined in Exhibit A. This was evidenced by both parties signing each contract (Exhibit A, page 19). All contracts are segmented into various projects, as stipulated by Metro Government. All projects are approved by Metro Government via a purchase order issued by a Metro Government purchasing agent.

Of the projects reviewed under the master contracts, HHM noted that all projects contained purchase orders issued by a Metro Government purchasing agent. HHM noted no instances in which amounts were billed for unapproved purchase orders.

Time Entering and Billing Submission

See Exhibits E and F for management's policies and procedures related to time documentation and invoicing. We noted that the main internal control involves participation by Alita Clark (CFO), Chad Collier (President), and Ben Collier (Vice President). Collier's standard practice involves the three individuals' final review and approval of all time and invoices prior to submission.

Paving contract 363266: Once invoices are prepared, including supporting documentation, Chad Collier meets with Don Reid, Metro Public Works Project Manager, to review all information. Don Reid then signs the invoice packet, authorizing approval for payment. See Exhibit D for an example of this approval.

HHM noted that all paving invoice packets were reviewed and signed by Don Reid.

Public works and parks contracts 343097 and 374887: All invoices are submitted online to Metro Payment Services for approval and payment.

HHM noted that all invoices were paid which signified approval of Metro Government.

Staff Interviews

HHM interviewed Jeff Stevens, Steve Brown, Ben Collier, and Michael Pavin. All individuals serve as project managers and corroborated Collier Engineering's internal control structure over project and time management noted in Exhibits E and F.

Internal Control Environment Assessment

Based on our review of Collier's internal control environment, HHM concludes that Collier has established and implemented a control environment that supports the proper time keeping and billing of services to Metro Government.

Summary and Conclusion:

Detailed below is a summary of our findings noted as part of our engagement:

- No exceptions were noted when testing employee time billed to Metro Government.
- No exceptions were noted when testing employee rates billed to Metro Government.
- All invoices selected for testing were properly supported by underlying time reports and supporting subcontractor invoices.

- Based on our review of employee files, Collier Engineering billed Metro Government for legitimate employees. No fake employees were billed to Metro Government.
- Collier Engineering does not pay bonuses to project managers for job performance, thus decreasing the incentive for project managers to inflate billings and job performance.
- Based on our review of Collier's internal control environment, Collier has implemented an environment that supports accurate billings to Metro Government.

HHM has not noted any significant issues that would indicate billing malfeasance on behalf of Collier Engineering.

This report is prepared for the information and use of Ms. Kelli Haas, Attorney at Law. Any use of this report for any other purpose is not permitted.

Memphis, Tennessee
July 17, 2018

*Henderson Hutcherson
& McCullough, PLLC*