


MIAMIBEACH

OFFICE OF THE CITY ATTORNEY
RAUL J. AGUILA, CITY ATTORNEY

COMMISSION MEMORANDUM

To: Mayor Dan Gelber
Members of the City Commission
Jimmy L. Morales, City Manager
Date: November 14, 2018

cc: Rafael E. Granado, City Clerk

From: Raul J. Aguila, City Attorney 

Subject: **City Attorney's recommendations regarding the proposed Office of Inspector General**

At the October 26, 2018 Finance and Citywide Projects Committee ("FCWPC") meeting, the Chairman and Members of the FCWPC continued their discussion regarding the City's proposed creation of an Office of Inspector General ("OIG"). The discussion focused on the Audit Committee's recommendations regarding the OIG, which are set forth in the October 26, 2018 FCWPC memorandum, attached as Exhibit "A" hereto.

Following an extensive discussion, the FCWPC adopted a motion to:

- (i) accept the recommendation of the Audit Committee to merge the Office of Internal Audit into the proposed OIG;
- (ii) amend the qualifications for the Inspector General position to require significant operational/audit experience with at least five (5) years in the public sector;
- (iii) recommend that counsel to the OIG be provided by the City Attorney's Office, except in instances of an express legal conflict, in which case the City Attorney would select outside counsel for the OIG; and
- (iv) recommend requiring a five-sevenths (5/7) affirmative vote of the City Commission to reduce the OIG's annual budget.

In addition to the above specific motions, Chairman Arriola requested that, prior to placing the proposed OIG Ordinance on a City Commission meeting agenda for First Reading, the City Attorney, City Manager, and Chief Financial Officer develop individual recommendations regarding the OIG, including, without limitation, the proposed Ordinance, the Inspector General position, and the potential consolidation of the City's Office of Internal Audit with the new OIG. The Committee requested that these matters be heard as a discussion item at the November 14, 2018 City Commission meeting.

Of course, all of the above is predicated on the approval of the City ballot question creating the OIG, which measure is on the November 6, 2018 ballot.

As directed, my recommendations are as follows. For ease of reference, the latest draft of the OIG Ordinance as Exhibit "B" to this memorandum.

1. Office of Internal Audit

The City Commission should discuss whether to retain the Office of Internal Audit, or whether such office will be completely absorbed into the newly created OIG. Currently, the Office of Internal Audit reports and is accountable to the City Manager; hence, it not only receives its assignments and instructions from the City Manager's Office, but its employees are hired, supervised, and fired by the City Manager. If Internal Audit were to be absorbed into the OIG, the office and its employees would not report or be accountable to the City Manager but, rather, the Inspector General. Similarly, as the OIG has been structured as an "independent body," the Inspector General, as a newly created City Charter officer, would determine which investigations, audits, reviews, and oversight of municipal matters to perform. (See OIG Ordinance, at Section 2-276(a)). Therefore, the Inspector General, and not the City Manager, would have oversight and control of Internal Audit staff.

2. Legal counsel

Since the proposed Inspector General is evolving into more of an independent auditor position (as distinguished from the Miami-Dade County OIG or Broward County OIG, where the Inspector General positions are filled by attorneys who oversee investigators and auditors), I strongly agree with the FCWPC's recommendation that, if a non-attorney is appointed to serve as Inspector General, counsel to the OIG should be provided by the City Attorney's Office ("CAO"). The CAO is staffed by attorneys with extensive experience in procurement matters, all manners of transactions, and other areas of law, which could assist the OIG. For the CAO to provide counsel to the OIG would also generate significant cost savings to the City. Furthermore, in the event of an express legal conflict, as determined by the City Attorney or the Miami-Dade County Ethics Commission, the CAO would retain outside counsel for the OIG. In no event, however, should the OIG have the ability to retain legal counsel on its own. Subsection (d)(15) of the Ordinance should therefore be amended to clarify that the OIG may obtain the services of Independent Private Sector Inspectors General (IPSIG) or other professional services, "except for legal services."

3. Section 2-276(b)(2), "Appointment"

With regard to the Audit Committee's proposed change to the City Attorney's role on the Ad Hoc Inspector General Selection Committee ("Selection Committee"), I recommend that the City Attorney continue to be listed as a regular, voting member. The City Attorney is in the best position to ensure that candidates for the Inspector General position understand City processes, the City Code, and State laws applicable to City government. I do agree, however, that if the Inspector General's role is to be more focused on accountability, oversight, and internal controls (i.e. more auditor functions), then it may be prudent for the attorney and citizen at-large positions on the Selection Committee to be filled by individuals with financial or accounting experience, with emphasis in the public sector.

4. Section 2-276(d), "Functions, authority, and powers"

Under Subsection (d), entitled "Functions, authority, and powers," the City Commission may wish to identify certain **express** duties for the OIG to perform, as has been contemplated in prior discussions. For example, the Ordinance could expressly require the OIG to provide oversight over the proposed 2018 General Obligation Bond Program (if the bonds are approved by the City's voters on November 6, 2018). Similarly, the City Commission may desire to prioritize the order of assignments given to the OIG; namely,

that the OIG shall give precedence to assignments given to it by the City Commission. Further, if the intent is that the Office of Internal Audit is to be absorbed by the OIG, further analysis by the City Manager and CFO, and additional direction from the City Commission, will be required.

5. Section 2-276(d)(3) and (d)(11), relating to ethical and criminal investigations

Again, since the shift in the OIG's focus will be geared toward tasks traditionally related to auditing functions, and ethical and criminal investigations would be referred to the Miami-Dade County Ethics Commission and State Attorney's Office, respectively, there is no need to give the OIG power to require reports from the City Commission, as it is the City Manager and the respective City departments who are charged under the City Charter with the day-to-day operation of City government. Additionally, given that any ethical or criminal investigations would be referred to the respective authorities, I recommend amending or deleting Subsection (d)(11), which specifies that the Inspector General "may investigate any matter involving an allegation of employee or officer misconduct."

6. Prioritization of audits

If the Office of Internal Audit is to be absorbed into the OIG, then the OIG's power to "report and recommend whether a particular project, program, contract, or transaction is, or was, necessary" should be as directed by the City Commission. Direction by the City Commission will be critical, particularly in the initial stages of the development of the OIG, while still protecting the OIG's independence (i.e. the City Commission cannot prescribe the means or manner by which the OIG oversees such projects, programs, contracts, or transactions). Subsection (d)(13) should therefore be amended to reflect that the OIG must give precedence to matters referred to it by the City Commission.

7. Section 2-276(e), "Physical facilities and staff"

Consistent with Recommendation No. 2 herein, Section 2-276(e)(2) should be amended, to clarify that the Inspector General's authority to appoint, employ, or remove OIG staff shall not apply to employees of the City Attorney's Office and outside counsel, which should remain within the jurisdiction of the City Attorney.

8. Section 2-276(g), "Budget"; and Section 2-276(i), "Removal"

Consistent with the budgetary approval process for all other City departments, the City Commission may want to consider whether the budget for the OIG should be approved by majority, rather than five-sevenths (5/7) vote. In the event of budgetary constraints in future years, the City Commission may not wish to tie its hands. Likewise, in order to be consistent with provisions applicable to other City Charter officers, the City Commission may want to consider subjecting the Inspector General to removal by majority vote (and not a five-sevenths (5/7) vote) of the City Commission.

Should you have any questions regarding the proposed OIG, or the City Attorney's recommendations set forth herein, please do not hesitate to contact me.

COMMITTEE MEMORANDUM

TO: Members of the Finance & City Wide Projects Committee

FROM: Jimmy L. Morales, City Manager

DATE: October 26, 2018

SUBJECT: DISCUSSION REGARDING THE OFFICE OF THE INSPECTOR GENERAL

Background

At the July 27, 2018 Finance & Citywide Projects Committee, an item was discussed regarding the potential addition of an auditor position to the Office of Internal Audit (IA) as recommended by the Audit Committee. As part of the discussion on this item, the proposed staffing level for the new Office of the Inspector General (OIG) was discussed as well as potential synergies between the two functions. The Finance Committee invited the Audit Committee to review the overall staffing plan of the two functions and bring back recommendations to a future meeting.

The current proposed staffing for the OIG is five full-time positions including the Inspector General, an attorney, an investigator, and two clerical employees, with an annual budget of \$1.1 million. The appointment, reappointment, term, functions, and powers of the OIG will be established by Ordinance if the OIG is approved by the voters on November 6, 2018.

Analysis

The Audit Committee met on August 29, 2018 and September 26, 2018, to discuss the staffing levels of the IA and the OIG as well as the potential consolidation of the two functions into a single department under the leadership of the new Inspector General position.

The Audit Committee felt that consolidation of the two functions made sense for the following reasons:

- There is clear overlap between the two areas and efficiencies and synergies could be realized through consolidation
- The consolidated group would provide more resources which could be reorganized to fit the mission of the OIG
- The current activities of IA would be more independent and elevated under a separate office like the OIG
- There may be cost savings anticipated from the consolidation of the two functions

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Through consolidation, the following staffing changes to the OIG are recommended:

Current	Proposed
Inspector General	Merge with the currently vacant Internal Audit Director position
Attorney	Workload could be accommodated by Outside Counsel or support from the City Attorney's Office
Investigator	Investigator
Clerical position	Leverage existing clerical position in Internal Audit and add a Contract Compliance Auditor
Clerical position	Construction Auditor
	Performance/Process Improvement position (could be an external resource)
5 new positions	4 new positions

Other recommendations of the Audit Committee to the Ordinance (*see attachment*) creating the OIG are below:

Section 2-276 Office of the Inspector General (a), Created and established

The Committee recommended that the word "revenues" is added to the following statement to clarify that audits would include both revenues and expenditures: "The City of Miami Beach Office of Inspector General is hereby created....including City contracts, programs, projects, and revenues and expenditures..."

Section 2-276 Office of the Inspector General (b) Minimum Qualifications

The Committee recommended the following proposed amendments: 1) adding a senior position in a consulting or accounting firm (or similar position in a private corporation or in the public sector) with at least five (5) years of public sector experience; 2) adding supervisory experience (e.g., a senior corporate executive position in a major firm, or managing a department of a public agency) with at least five (5) years of public sector experience; 3) adding a former Inspector General; 4) move (b)(1)(b) ("has managed and completed complex investigations involving allegations of fraud, theft, deception, and conspiracy") to (b)(1)(a), to make (b)(1)(b) one of a list of qualifications, rather than a mandatory qualification; and 5) adding certain additional requirements such as experience in process improvement, contract monitoring, etc.

Section 2-276 Office of the Inspector General (b) (2) Appointment

The Committee recommended the following changes: (d) listing the City Attorney as a non-voting member; (e) clarifying that the representative of the City's Audit Committee on the Selection Committee shall be selected by the Audit Committee; (f) a representative of the Florida Government Finance Officer Association (FGFOA); (g) an Inspector General from a State agency or other municipality or County in Florida or County; and (i) a representative of the International City/County Management Association (ICMA).

Section 2-276 Office of the Inspector General (b) (3) Term

The Committee recommended that language be added that clarifies the timeframe needed to appoint an Inspector General if the acting Inspector General was no longer available. For example, a sixty (60) day period to start the search and a ninety (90) day period to convene the Selection Committee.

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Section 2-276 Office of the Inspector General, (g) Budget

The Committee recommended that a clause be added to this section that reads that any reduction from one year to the next in the budget of the OIG will require a 5/7s vote of the City Commission.

Conclusion

Staff is seeking further direction from the Finance & Citywide Projects Committee regarding the recommendations of the Audit Committee that include consolidation of the Office of Inspector General and the Office of Internal Audit, changes to staffing, and amendments to the Ordinance creating and establishing the Office of Inspector General.

Attachment

Draft Ordinance creating the Office of Inspector General v.6-29-18

JLM/JW

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ADMINISTRATION," BY AMENDING ARTICLE IV, ENTITLED "OFFICERS AND EMPLOYEES," BY CREATING DIVISION 5, ENTITLED "OFFICE OF INSPECTOR GENERAL," TO CREATE THE CITY OF MIAMI BEACH OFFICE OF INSPECTOR GENERAL; ESTABLISH THE MINIMUM QUALIFICATIONS, APPOINTMENT, AND TERM OF OFFICE; ESTABLISH AN AD HOC INSPECTOR GENERAL SELECTION COMMITTEE; PROVIDE FOR A CONTRACT OF EMPLOYMENT; DEFINE THE FUNCTIONS, AUTHORITY, AND POWERS OF THE OFFICE; PROVIDE FOR PHYSICAL FACILITIES AND STAFFING; ESTABLISH A PROCEDURE FOR ISSUANCE OF REPORTS AND RECOMMENDATIONS; PROVIDE FOR AN ANNUAL BUDGET; REQUIRE ANNUAL REPORTING; PROVIDE FOR REMOVAL OF THE INSPECTOR GENERAL; PROVIDE FOR THE AMENDMENT OR REPEALER OF THIS ORDINANCE; AND PROVIDE FOR ABOLITION OF THE OFFICE; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach (the "City") is committed to high standards of ethics, transparency, and accountability; and

WHEREAS, Section (A)(18) of the Citizens' Bill of Rights declares that "[t]he public's confidence and trust in City of Miami Beach operations and government must meet the most demanding ethical standards and demonstrate the highest level of achievement in its adherence to ethics laws. City of Miami Beach officials and employees are agents of the people and hold their positions for the benefit of the public—as public servants, they are to observe in their official acts a high standard of conduct and to discharge faithfully the duties of their office regardless of personal considerations and interests, recognizing that promoting the public interest and maintaining the respect of the people in their government must be of foremost concern. In upholding the values of accountability and responsibility, all city officials and employees shall abide by applicable codes of ethical conduct, and be subject to all penalties provided for in such regulations"; and

WHEREAS, City Charter Section 2.03 authorizes the City Commission to "investigate the official acts and conduct of any City official, and by similar investigations may secure information upon any matter"; and

WHEREAS, on November 6, 2018, the City's voters approved an amendment to the City Charter, creating Article IX, which creates the City of Miami Beach Office of Inspector General; provides the Office of Inspector General with the power to subpoena witnesses, administer oaths, and require production of records, in order to conduct its investigations; and provides that the Inspector General's appointment, term, functions, authority, and powers shall be further established by ordinance; and

Exhibit "B"

WHEREAS, the purpose of the Office of Inspector General is to identify efficiencies, and to detect, investigate, and prevent fraud, waste, mismanagement, misconduct, and abuse of power in the City of Miami Beach; and

WHEREAS, in light of the policies stated above, the Mayor and City Commission now desire to implement the provisions of the newly created Article IX of the City Charter, entitled "Office of Inspector General," by adopting the City Code amendments set forth herein.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. That Division 5, entitled "Office of Inspector General," of Article IV, entitled "Officers and Employees," of Chapter 2, entitled "Administration," of the Miami Beach City Code, is hereby created to state as follows:

**CHAPTER 2
ADMINISTRATION**

* * *

Article IV. Officers and Employees

* * *

Division 5. Office of Inspector General

* * *

Sec. 2-276. Office of Inspector General.

(a) Created and established. The City of Miami Beach Office of Inspector General is hereby created as an independent body to perform investigations, audits, reviews, and oversight of municipal matters including City contracts, programs, projects, and expenditures, in order to identify efficiencies, and to detect, investigate, and prevent fraud, waste, mismanagement, misconduct, and abuse of power. For purposes of this section, the Office of Inspector General shall be referred to as the *Office*. The Inspector General shall head the Office. The organization and administration of the Office shall be sufficiently independent to assure that no interference or influence external to the Office adversely affects the independence and objectivity of the Inspector General.

(b) Minimum qualifications, appointment, and term of office.

(1) Minimum qualifications. The Inspector General shall be a person who:

(a) has at least ten (10) years of cumulative experience in any one, or in any combination of, the following professions or fields:

(i) federal, state, or local law enforcement officer;

(ii) federal or state court judge;

(iii) federal, state, or local government attorney; and/or

- (iv) progressive supervisory experience in an investigative public agency similar to an inspector general's office;
 - (b) has managed and completed complex investigations involving allegations of fraud, theft, deception, and conspiracy;
 - (c) has demonstrated the ability to work with local, state, and federal law enforcement agencies and the judiciary;
 - (d) has a four-year degree from an accredited institution of higher learning;
 - (e) has not been employed by the City (in any capacity other than as the City's Inspector General, or as a member of the Inspector General's staff) during the two (2) year period immediately prior to appointment;
 - (f) has not been found guilty of or entered a plea of nolo contendere to any felony, or any misdemeanor involving a breach of public trust; and
 - (g) has not been subject to any finding of a violation, or any other enforcement action, by the Miami-Dade County Commission on Ethics and Public Trust, or the Florida Commission on Ethics.
- (2) Appointment. The Inspector General shall be appointed by the Ad Hoc Inspector General Selection Committee (hereinafter referred to as the Selection Committee). Before any appointment by the Selection Committee shall become effective, the appointment must be approved, at the next regularly scheduled City Commission meeting after the appointment, by a majority vote of the City Commission. In the event that the appointment is not approved by the City Commission, the appointment shall become null and void, and the Selection Committee shall promptly make a new appointment, which shall likewise be submitted for approval by the City Commission. The Selection Committee shall be composed of seven (7) members selected as follows:
- (a) The State Attorney in and for the Eleventh Judicial Circuit of Florida;
 - (b) The Miami-Dade County Inspector General;
 - (c) The Chairperson of the Miami-Dade Commission on Ethics and Public Trust;
 - (d) The City Attorney;
 - (e) The Chairperson of the City's Audit Committee;
 - (f) An attorney, licensed to practice in the State of Florida, with at least five (5) years of experience representing a local government in Miami-Dade County, who shall be appointed by the City Commission; and
 - (g) One (1) member to be appointed by the City Commission as a citizen at-large, who shall be a resident of Miami Beach.

The members of the Selection Committee shall elect a chairperson who shall serve as chairperson until the Selection Committee's appointment of the Inspector General is approved by the City Commission. The Selection Committee shall select the Inspector General from a list of qualified candidates submitted by the City Manager's designee, who shall be the City's Human Resources Director.

- (3) Term. The Inspector General shall be appointed for a term of four (4) years. In case of a vacancy in the position of Inspector General, the City Commission shall promptly appoint the deputy inspector general, assistant inspector general, or other Office management personnel as Interim Inspector General until such time as a successor Inspector General is appointed, in the manner described in subsection (b)(2) above. Any successor appointment made by the Selection Committee as provided in subsection (b)(2) shall be for a full four-year term.

At least 30 days prior to the expiration of each term, the City Commission may, by majority vote, re-appoint the Inspector General to another term. In the event that the City Commission fails to reappoint the Inspector General, the City Commission shall reconvene the Selection Committee to appoint an Inspector General, in the manner described in subsection (b)(2). Nothing herein shall be construed to prevent the incumbent Inspector General from submitting his or her name as a candidate to be considered for selection and appointment.

- (4) Staffing of Selection Committee. The City Manager's designee, who shall be the Human Resources Director, shall provide staffing to the Selection Committee; shall advertise, as necessary, the acceptance of resumes for the position of Inspector General; and shall provide the Selection Committee with a list of qualified candidates. The Human Resources Director shall also be responsible for ensuring that background screening investigations are conducted on any candidate selected for interview by the Selection Committee. The results of the background screening investigations shall be provided to the Selection Committee prior to the interview of candidates.

- (c) Contract. The City Attorney shall negotiate a contract of employment with the Inspector General, except that before any contract shall become effective, the contract must be approved by a majority vote of the City Commission.

- (d) Functions, authority, and powers.

- (1) The Office shall have the authority to make investigations of City affairs and the power to review past, present, and proposed City programs, accounts, records, contracts, and transactions.
- (2) The Inspector General shall be authorized to conduct any reviews, audits, inspections, investigations, or analyses relating to departments, offices, boards, activities, programs, and agencies of the City.
- (3) The Office shall have the power to require reports from the City Commission, City Manager, City departments, City agencies, boards, and committees, and City officers and employees, regarding any matter within the jurisdiction of the Inspector General.

- (4) The Office shall, subject to the provisions in subsections (d)(4)(a) and (d)(4)(b) below, have the power to subpoena witnesses, administer oaths, and require the production of records. In the case of a refusal to obey a subpoena issued to any person, the Inspector General may make application to any circuit court of this state which shall have jurisdiction to order the witness to appear before the Inspector General and to produce evidence if so ordered, or to give testimony related to the matter in question.
- (a) Prior to issuing a subpoena, the Inspector General shall notify the State Attorney and the U.S. Attorney for the Southern District of Florida. The Inspector General shall not interfere with any ongoing criminal investigation of the State Attorney and/or the U.S. Attorney for the Southern District of Florida, where the State Attorney and/or the U.S. Attorney for the Southern District of Florida has explicitly notified the Inspector General in writing that the Inspector General's investigation is interfering with an ongoing criminal investigation.
- (b) The subpoena power set forth in this subsection (d)(4) shall not extend to subpoenas to law enforcement officers in connection with investigations of complaints against them.
- (5) The Office shall have the power to report and/or recommend to the City Commission and City Manager whether a particular project, program, contract, or transaction is, or was, necessary and, if deemed necessary, whether the method used for implementing the project or program is, or was, efficient both financially and operationally. Any review of a proposed project or program shall be performed in such a manner as to assist the City Commission and City Manager in determining whether the project or program is the most feasible or efficient solution to a particular need or problem. Monitoring of an existing project or program may include reporting whether the project is on time, within budget, and in conformity with plans, specifications, and applicable law.
- (6) The Office shall have the power to analyze the need for, and the reasonableness of, proposed change orders.
- (7) The Inspector General may, on a random basis, perform audits, inspections, and reviews of all City contracts.
- (8) The Inspector General is empowered to conduct investigations that may result in referrals to law enforcement agencies and/or criminal investigations. Where the Inspector General detects corruption or fraud, the Inspector General shall notify the appropriate law enforcement agencies. Subsequent to notifying the appropriate law enforcement agency, the Inspector General may assist the law enforcement agency in concluding the investigation. When the Inspector General detects a violation of any of the ordinances within the jurisdiction of the Miami-Dade County Commission on Ethics and Public Trust (hereinafter referred to as the *Ethics Commission*), the Inspector General will refer the matter to the Ethics Commission.
- (9) As applicable to the City's procurement of goods and services, the Inspector General shall have the power to audit, investigate, monitor, oversee, inspect, and review the operations, activities, performance, and procurement process (including, but not limited to, project design, establishment of bid specifications, bid submittals, contract

performance, and other activities) of a bidder or contractor and its officers, agents, employees, and lobbyists, and/or any such related activities of City staff and elected officials, in order to ensure compliance with contract specifications and to detect corruption and fraud.

- (10) The Inspector General may review, audit, or investigate any expenditure of City funds.
 - (11) The Inspector General may investigate any matter involving an allegation of employee or officer misconduct.
 - (12) The Inspector General shall be notified in writing prior to any meeting of a selection committee where any matter relating to the procurement of goods or services by the City is to be discussed. The notice required by this subsection (d)(12) shall be given to the Inspector General as soon as possible after a meeting has been scheduled, but in no event later than twenty-four (24) hours prior to the scheduled meeting. The Inspector General may, at the Inspector General's discretion, attend all City meetings relating to the procurement of goods or services as provided herein, and, in addition to the exercise of all powers conferred by this section, may pose questions and raise concerns consistent with the functions, authority, and powers of the Inspector General. An audio tape recorder shall be utilized to record all selection committee meetings.
 - (13) The Inspector General shall have the power to review and investigate any complaint filed by a member of the City Commission, the City Manager, or any member of the public, regarding City expenditures, projects, programs, contracts, transactions, officers, or employees.
 - (14) The Inspector General may exercise any of the powers contained in this section upon the Inspector General's own initiative.
 - (15) The Inspector General shall have the authority, subject to budgetary allocation by the City Commission, to retain and coordinate the services of Independent Private Sector Inspectors General (IPSIG) or other professional services, as required when, in the Inspector General's discretion, he or she concludes that such services are needed to perform the duties and functions enumerated in subsection (d) herein. Any such retention and/or procurement of services shall be coordinated through the City's Procurement Department.
- (e) Physical facilities and staff.
- (1) The City Manager shall provide the Office with appropriately located office space and sufficient physical facilities together with necessary office supplies, equipment and furnishings to enable the Office to perform its functions.
 - (2) The Inspector General shall have, subject to budgetary allocation by the City Commission, the power to appoint, employ, and remove such assistants, employees, and personnel, and establish personnel procedures as deemed necessary for the efficient and effective administration of the activities of the Office.

- (f) Procedure for finalization of reports and recommendations which make findings as to the person or entity being reviewed or inspected. Notwithstanding any other provision of this section, whenever the Inspector General concludes a report or recommendation which contains findings as to the person or entity being reported on, or who is the subject of the recommendation, the Inspector General shall provide the affected person or entity a copy of the report or recommendation, and such person or entity shall have ten (10) working days to submit a written explanation or rebuttal of the findings before the report or recommendation is finalized, and such timely submitted written explanation or rebuttal shall be attached to the finalized report or recommendation. The requirements of this subsection (f) shall not apply when the Inspector General, in conjunction with the State Attorney and/or U.S. Attorney, determines that supplying the affected person or entity with such report will jeopardize a pending criminal investigation.
- (g) Budget. The Inspector General's budget is subject to annual approval of the City Commission. Within sixty (60) days of appointment, the Inspector General shall submit a proposed annual budget to the City Commission covering the remainder of the City's fiscal year in which the Inspector General is appointed. In each subsequent City fiscal year, the Inspector General shall submit a proposed budget to the City Commission in accordance with the City's regular budget process. Each proposed budget shall include a reasonable estimate of operating and capital expenditures of the Office of Inspector General. The City Commission shall provide sufficient funds, as determined by the City Commission, for the Inspector General to carry out his or her duties in an efficient manner.
- (h) Reporting. The Inspector General shall annually prepare and submit to the City Commission a written report concerning the work and activities of the Office including, but not limited to, statistical information regarding the disposition of closed investigations, audits, and other reviews.
- (i) Removal. The Inspector General may be removed from office upon the affirmative vote of five-sevenths (5/7) of the members of the City Commission.
- (j) Amendment or repealer. Any amendment to this section which, whether through amendment, exemption, repeal, or otherwise, reduces the powers and duties of the Office of Inspector General, or creates less stringent standards or regulations, shall require the affirmative vote of five-sevenths (5/7) of the members of the City Commission.
- (k) Abolition of the Office. Notwithstanding the provisions of subsection (j), the Office is created pursuant to Article IX of the City Charter and, therefore, the Office may only be abolished upon approval by a majority vote of the City's voters voting in a Citywide referendum.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect on _____.

PASSED and **ADOPTED** this _____ day of _____, 2018.

ATTEST:

Rafael E. Granado
City Clerk

Dan Gelber
Mayor

(Sponsored by Mayor Dan Gelber, and Co-Sponsored by the City Commission)

Underline denotes additions
~~Strike-through~~ denotes deletions