

MIAMI BEACH

OFFICE OF THE CITY ATTORNEY

RAUL AGUILA, CITY ATTORNEY

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber
Members of the City Commission
Jimmy L. Morales, City Manager

FROM: Raul J. Aguila, City Attorney *Raul Aguila*

DATE: February 13, 2019 **Second Reading / Public Hearing**

SUBJECT: 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 THAT THE INSPECTOR GENERAL SHALL SERVE AS THE CITY'S INTERNAL AUDITOR; 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.

Pursuant to the request of the Mayor and City Commission, the above-referenced Ordinance is hereby submitted for consideration on Second Reading / Public Hearing at the February 13, 2019 City Commission meeting. Pursuant to the City Commission's direction on January 16, 2019, the Ordinance has been revised for Second Reading to (i) amend the composition of the Selection Committee; (ii) reflect that the Inspector General may be removed by majority vote of the City Commission; and (iii) remove the five-sevenths (5/7) voting requirement to adopt any amendment to the Ordinance that would reduce the powers of the Inspector General or create a less stringent standard or regulation.

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; establishes the functions of the office; provides the 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.

Following the November election, the City Commission held a discussion at its meeting on December 12, 2018, to consider the recommendations of the Finance and Citywide Projects Committee ("FCWPC"), the City Manager, and the City Attorney regarding the proposed Office of Inspector General (the "OIG"). After the discussion, the City Commission adopted a motion to, in pertinent part, accept various recommendations of the FCWPC, and direct the City Attorney to prepare and place a revised draft Ordinance on the January 16, 2019 City Commission meeting agenda.

The attached Ordinance amends Chapter 2 of the City Code, entitled "Administration," to create the Office of Inspector General and to implement the provisions of the newly-adopted City Charter amendment. The Ordinance includes the following provisions:

- Minimum qualifications, appointment, and term of office – Section 2-276(b)
- Creation of an Ad Hoc Inspector General Selection Committee – Section 2-276(b)(2)
- Contract of employment for the Inspector General – Section 2-276(c)
- Functions, attorney, and powers of the OIG (including the power to subpoena witnesses, administer oaths, and require production of records) – Section 2-276(d)
- Inspector General's duties as the City's Internal Auditor – Section 2-276(e)
- Inspector General duties associated with the City's General Obligation Bond Program – Section 2-276(f)
- Physical facilities and staffing for the OIG – Section 2-276(g)
- Procedure for issuance of reports and recommendations – Section 2-276(h)
- Annual budget – Section 2-276(i)
- Reporting requirements – Section 2-276(j)
- Removal of the Inspector General – Section 2-276(k)
- Amendment or repealer of the OIG Ordinance – Section 2-276(l)
- Abolition of the Office – Section 2-276(m)