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1 **(2) Office of the Inspector General. Effective independent investigations,**
2 **inspections, evaluations, and reviews along with transparent and reliable**
3 **reporting in government serve to promote accountability, enhance the**
4 **effectiveness of government services to its citizens, and increase the public's**
5 **confidence in their government.**

6 **(B) Purpose. The Mayor and City Council share a duty to ensure that the**
7 **actions of public officials, employees, community-based organizations, and**
8 **contractors of the city are carried out in the most responsible manner**
9 **possible, and that city policies, budgets, goals, and objectives are fully**
10 **implemented. To accomplish this end, the city requires the services of**
11 **independent organizations to perform audits, investigations, and other**
12 **activities.**

13 **(C) Goals. The Accountability in Government Oversight Committee shall**
14 **oversee the City Auditor and the Inspector General, whose goals are to:**

15 **(1) Conduct performance audits, attestation engagements, non-**
16 **audit services, investigations, inspections, evaluations, reviews, and other**
17 **activities in an efficient, impartial, equitable and objective manner;**

18 **(2) Prevent, deter, and detect fraud, waste, and abuse and deter**
19 **criminal activity in city activities including all city contracts and partnerships;**

20 **(3) Propose ways to increase the city’s legal, fiscal and ethical**
21 **accountability to ensure that tax payers’ dollars are spent in a manner that**
22 **improves the economy and transparency of operations; and**

23 **(4) Carry out the activities of their offices through independence in**
24 **fact and appearance, audit, review, investigation, and interdiction.**

25 **§ 2-10-1-3. DEFINITIONS. For the purpose of this Ordinance, the following**
26 **definitions shall apply unless the context clearly indicates or requires a**
27 **different meaning.**

28 **ABUSE. The use of resources or exercise of authority that is contrary to**
29 **rule or policy, or knowingly inconsistent with any established mission or**
30 **objectives for the resource, or of the position held by the person exercising**
31 **the authority. Abuse does not necessarily involve fraud or illegal acts.**

32 **AGO COMMITTEE or COMMITTEE. The Accountability in Government**
33 **Oversight Committee.**

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1 **AUDIT** . Includes attestation engagements, performance audits, and non-
2 audit activities conducted by the Office of Internal Audit. For purposes of this
3 Ordinance, the term “audit” is used as a general descriptor for the work
4 performed by the Office of Internal Audit and is not intended to reflect a
5 specific level of assurance or professional service classification.

6 **AUDITEES**. Auditees are the city-related departments, programs,
7 activities, agencies, vendors, contractors or other city-related entities affected
8 by an audit. For purposes of this Ordinance, “auditee” is a general term used
9 to describe entities involved in engagements performed by the Office of
10 Internal Audit.

11 **ATTESTATION ENGAGEMENTS**. Attestation engagements are an
12 examination, review, or agreed-upon procedures engagement conducted
13 under the GAGAS attestation standards related to subject matter or an
14 assertion that is the responsibility of another party.

15 **BOARD OF ETHICS AND CAMPAIGN PRACTICES**. The Board of Ethics and
16 Campaign Practices created pursuant to the City Charter, Article XII, Code of
17 Ethics.

18 **CITIZENS' INDEPENDENT SALARY COMMISSION**. The Citizens'
19 Independent Salary Commission created pursuant to the City Charter, Article
20 XVIII, Citizens' Independent Salary Commission.

21 **CITY AUDITOR**. The head of the Office of Internal Audit created and
22 appointed pursuant to the Internal Audit Ordinance (ROA 1994, §§ 2-10-2-1 et
23 seq.).

24 **CONTRACTORS**. All city contractors, including community-based
25 organizations.

26 **EMPLOYEE**. All city employees, including full-time, part-time, and
27 appointed employees.

28 **FRAUD**. A knowing misrepresentation of the truth, or concealment of a
29 material fact to induce another to act to his or her detriment.

30 **FRAUDULENT FINANCIAL REPORTING**. Intentional misstatements or
31 omissions of amounts or disclosures in the financial statements to deceive
32 financial statement users which may include intentional alteration of

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1 accounting records, misrepresentation of transactions, or intentional
2 misapplication of accounting principles.

3 **GENERALLY ACCEPTED GOVERNMENT AUDITING STANDARDS (GAGAS).**
4 Professional standards issued by the US Government Accountability Office
5 (US GAO) for auditors of government entities, programs, and recipients of
6 federal funds that provide a framework for conducting high-quality audits with
7 competence, integrity, objectivity, and independence. GAGAS are often
8 referred to as the “Yellow Book.”

9 **INSPECTOR GENERAL.** The head of the Office of the Inspector General
10 created and appointed pursuant to the Inspector General Ordinance (ROA
11 1994, §§ 2-10-3-1 et seq.).

12 **INVESTIGATED PARTY.** A city-related department, program, activity,
13 agency, vendor, employee, contractor, or other city-related entity affected by
14 an investigation.

15 **INVESTIGATION.** A formal inquiry or systematic study conducted by the
16 Office of the Inspector General. A formal systematic study may include
17 inspections, evaluations, and reviews which are analyses of operations and
18 programs for the purposes of providing information for decision-making, and
19 making recommendations to improve programs, policies, or procedures.

20 **MISAPPROPRIATION OF ASSETS.** Theft of an agency’s assets, including
21 theft of property, embezzlement, or fraudulent payments.

22 **NON-AUDIT SERVICES.** Non-audit services are independent advisory or
23 consulting activities that are not conducted under GAGAS. These services
24 may include research, assistance, and other consultative work performed by
25 the Office of Internal Audit at the request of the Administration or City Council.

26 **OFFICIAL.** The Mayor, City Councilors, and appointed members of city
27 boards, commissions, or committees.

28 **PERFORMANCE AUDITS.** Performance Audits are engagements that
29 provide objective analysis, findings, and conclusions to assist management
30 and those charged with governance and oversight to, among other things,
31 improve program performance and operations, reduce costs, facilitate
32 decision making by parties with responsibility to oversee or initiate corrective
33 action, and contribute to public accountability. In a performance audit, the

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1 auditors measure or evaluate the subject matter of the audit and present the
2 resulting information as part of, or accompanying, the audit report. These
3 audits are performed in accordance with GAGAS.

4 **PUBLISHED REPORT.** A report that, unless otherwise prohibited, has been
5 presented to the AGO Committee, distributed in final form to the Mayor, Chief
6 Administrative Officer, and City Council, and is available to the public.

7 **PRINCIPLES AND STANDARDS FOR OFFICES OF INSPECTOR GENERAL.**
8 The framework of guidelines published by the Association of Inspectors
9 General (AIG) that outline the professional standards, qualifications, and
10 operational guidelines for independent and objective investigations and
11 inspections within government agencies, often referred to as the “Green
12 Book.”

13 **SPECIAL REQUESTS.** Exigent engagements not included in the annual
14 audit plan because the need for service was not foreseen when the audit plan
15 was adopted. Special requests for services may include performance audits,
16 attestation engagements, and non-audit services such as benchmarking and
17 best practices analyses requested by an official or the City Auditor, which are
18 initiated at the discretion of the City Auditor.

19 **WASTE.** The thoughtless or careless expenditure, mismanagement, or
20 abuse of resources to the detriment of the city.

21 **§ 2-10-1-4. CREATION OF THE AGO COMMITTEE; MEMBERSHIP.**

22 (A) The "Accountability in Government Oversight Committee" is created
23 as an independent oversight committee and shall oversee the City Auditor and
24 the Inspector General.

25 (B) Membership and Qualifications.

26 (1) The AGO Committee shall consist of five voting members who are
27 residents of the city.

28 (a) At least one member shall be a Certified Public Accountant or
29 Certified Internal Auditor or Certified Fraud Examiner.

30 (b) One member shall have a law enforcement or legal background.

31 (c) One AGO Committee member shall have a professional
32 management background.

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1 (2) To be independent in fact and appearance, the AGO Committee must
2 be free from conflicts of interest and not employed by the city, or in a direct
3 contractual relationship or similar business relationship with the city. No
4 member of the immediate family of the Office of Internal Audit or the Office of
5 the Inspector General personnel shall be a member of the AGO Committee.

6 (3) The Mayor and one City Councilor appointed annually by the City
7 Council President shall be nonvoting ex-officio members, shall receive all
8 communications directed to the AGO Committee, except for communications
9 regarding an investigation of an elected Official, and shall be notified of and
10 may attend or send a designee to all AGO Committee meetings, except for any
11 portion of a meeting that involves an investigation of an elected Official as
12 specified below in Section 2-10-1-5(G). The ex-officio City Council member
13 shall not participate in interviews of applicants seeking appointment as the
14 City Auditor or Inspector General.

15 (4) The AGO Committee members shall annually elect a Committee
16 Chair at the first meeting of the calendar year.

17 (C) Appointments. The AGO Committee members shall be appointed for
18 staggered terms of three years unless an appointment is to fill a vacancy. An
19 appointment to fill a vacancy shall be for the unexpired term. Terms shall
20 begin on the first day of September. As vacancies on the AGO Committee
21 occur, the City Council and Mayor shall alternatively appoint new members
22 with the City Council making the first appointment. All appointments shall be
23 subject to City Council approval. The existing AGO Committee members may
24 make recommendations to the Mayor and City Council for candidates to fill
25 vacancies on the AGO Committee. If either the Mayor or City Council fails to
26 name a replacement AGO Committee member within 60 days of the vacancy,
27 then the other body shall make the appointment.

28 (D) Removal of Members. The AGO Committee may recommend removal
29 of any member from office by an affirmative vote of a majority of the AGO
30 Committee after due notice (1) if such member has missed three consecutive
31 meetings or has been absent from more than 50% of the meetings held during
32 any 12 consecutive months; or (2) if such member has violated any law,
33 regulation, or charter provision; or (3) for other good cause such as the

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1 intentional failure to carry out the duties of the AGO Committee. The AGO’s
2 recommendation of removal shall be subject to final approval by the City
3 Council by an affirmative vote of a majority of all Councilors.

4 (E) Ethical Requirements. The AGO Committee and its members are
5 subject to the City Charter, Article XII, Code of Ethics. Committee members
6 shall not receive compensation for their service. Voting members of the
7 Committee shall not serve on any other city board, commission or task force.

8 (F) Staff. The Office of Internal Audit and/or Office of the Inspector
9 General shall provide support staff to the AGO Committee.

10 § 2-10-1-5. AGO COMMITTEE MEETINGS.

11 (A) The AGO Committee shall meet at least four times per year but may
12 also meet more frequently upon the call of the AGO Committee Chair or a
13 majority of its members.

14 (B) The AGO Committee is an independent oversight committee and not
15 a public board, commission or committee as specified by ROA 1994, §§ 2-6-1-1
16 et seq., and not subject to the Open Meetings Act. The AGO Committee is not
17 formed to formulate public policy nor has authority to formulate public policy
18 been delegated to the AGO Committee.

19 (C) The AGO Committee is prohibited from forming any subcommittees or
20 holding any meeting to discuss matters pertaining to AGO Committee
21 business without inviting all members, including ex officio members, to the
22 meeting.

23 (D) The AGO Committee shall adopt rules and regulations for its meetings
24 and operations, including standard operating procedures, the review of
25 reports, and oversight of the City Auditor and Inspector General.

26 (1) The AGO Committee, in consultation with the City Auditor and
27 Inspector General, shall annually review and update as appropriate its policies
28 and procedures to ensure that the AGO Committee is effectively
29 accomplishing its duties under this Ordinance. No later than August 31 each
30 year, the AGO Committee shall present its proposed policies and procedures
31 to the City Council for final approval. If the City Council determines that the
32 AGO Committee’s proposal fails to ensure the AGO Committee is effectively
33 accomplishing its duties, the City Council may make modifications as

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1 appropriate. Annual updates will become effective only upon final approval of
2 the City Council.

3 (2) Updates outside of the annual review will become effective only
4 upon a four-fifths (4/5) vote of the membership of the AGO Committee and
5 only upon final approval by the City Council, as submitted or as amended by
6 the Council.

7 (E) The AGO Committee may go into executive session as necessary to
8 discuss pending litigation or personnel matters.

9 (F) The Chief Administrative Officer and the Director of Council Services
10 or their respective designee, and their respective attorneys, may attend all
11 Committee meetings, except for any portion of a meeting that involves an
12 investigation of an elected Official as specified below in Section 2-10-1-5(G), or
13 interviews of applicants seeking appointment as the City Auditor or Inspector
14 General.

15 (G) If any elected Official is the subject of an investigation, then the ex
16 officio members or their designees and their attorneys shall not participate in
17 the portion of any meeting at which that particular investigation is being
18 discussed and they shall not have access to the investigative file while the
19 investigation is pending.

20 § 2-10-1-6. REVIEW OF REPORTS FROM THE CITY AUDITOR AND
21 INSPECTOR GENERAL.

22 (A) The AGO Committee shall provide independent oversight, protect
23 City Auditor and Inspector General independence, and enhance accountability
24 by receiving reports while monitoring corrective actions and
25 recommendations. The AGO Committee shall receive and acknowledge all
26 reports presented by the City Auditor and Inspector General at each meeting.
27 The AGO Committee's authority shall be limited to receipt and
28 acknowledgment of reports and its action on a report shall not constitute
29 approval or disapproval of findings, conclusions, or recommendations.

30 (B) Upon presentation of a report, the AGO Committee may make the
31 following motions: (1) receive and acknowledge the report; (2) receive and
32 acknowledge the report subject to the inclusion of a cautionary statement; or
33 (3) defer final consideration of the report to the next AGO Committee meeting

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1 at which the same office, either the Office of Internal Audit or the Office of the
2 Inspector General, is scheduled to present reports.

3 (1) Receipt and Acknowledgement. If the AGO Committee receives and
4 acknowledges the report without further comment, the City Auditor or
5 Inspector General shall publish the report.

6 (2) Receipt and Acknowledgement Subject to a Cautionary Statement. If
7 the AGO Committee receives and acknowledges the report but chooses to
8 provide feedback or other commentary on the report, the AGO Committee may
9 prepare a cautionary statement. If the AGO Committee provides a cautionary
10 statement to the City Auditor or Inspector General within fifteen (15) business
11 days after the AGO Committee meeting, the statement shall be included as the
12 first page(s) of all versions of the report, and the applicable office’s website
13 shall state that the report contains a cautionary statement from the AGO
14 Committee. Following the issuance of a cautionary statement, the City Auditor
15 or Inspector General may:

16 (a) Publish the Report. Publish the report no sooner than fifteen (15)
17 business days after the AGO Committee meeting but indicate on its website
18 and in the annual report to City Council that the AGO Committee issued a
19 cautionary statement regarding the report.

20 (b) Submit a Revised Report. Submit a revised report for
21 reconsideration by the AGO Committee no later than fifteen (15) business
22 days after receipt of the AGO Committee’s cautionary statement. The City
23 Auditor or Inspector General shall notify the AGO of their intent to submit a
24 revised report no later than three (3) business days after receipt of the
25 cautionary statement.

26 (c) Withdraw the Report. Withdraw the report at their sole discretion. If
27 the City Auditor or Inspector General elects to withdraw a report, they shall
28 notify the AGO Committee Chair in writing no later than fifteen (15) business
29 days after receipt of the AGO Committee’s cautionary statement. When a
30 report is withdrawn, it becomes a public record, but the report shall include a
31 prominent disclaimer stating that it was withdrawn by the City Auditor or
32 Inspector General and explaining the reason(s) for the withdrawal.

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1 (3) Deferral of Final Consideration. If the AGO Committee defers final
2 consideration on a report, it shall take a final vote on the report after
3 presentation at the next AGO Committee meeting at which the same office is
4 scheduled to present. Because AGO Committee meetings may include reports
5 from the City Auditor, the Inspector General, or both, a deferral applies only to
6 the next meeting at which the respective office presents reports. At the next
7 AGO Committee meeting following the meeting at which the report was
8 deferred, the AGO Committee shall either (1) receive and acknowledge the
9 report, or (2) receive and acknowledge the report subject to a cautionary
10 statement. The City Auditor or Inspector General shall then publish the report,
11 submit a revised report, or withdraw the report pursuant to the provisions of
12 this section.

13 (C) The usual requirements concerning AGO Committee review of reports
14 shall not apply when activities are provided by the City Auditor or Inspector
15 General at the request of the Citizens' Independent Salary Commission, the
16 Board of Ethics and Campaign Practices, the City Clerk's Office, or the City
17 Attorney's Office. The purpose of this exception is to maintain the rights and
18 duties of these entities to direct and limit the work performed.

19 (1) The City Auditor and the Inspector General may informally brief the
20 Committee as to the commitment of resources to any work assigned by the
21 Citizens' Independent Salary Commission, the Board of Ethics and Campaign
22 Practices, the City Clerk's Office, or the City Attorney's Office and the
23 progress being made toward the completion of the work conducted.

24 § 2-10-1-7. OVERSIGHT OF THE CITY AUDITOR AND INSPECTOR
25 GENERAL.

26 (A) The AGO Committee shall select candidates for City Auditor and
27 Inspector General in accordance with the Office of Internal Audit Ordinance
28 and Office of the Inspector General Ordinance.

29 (B) The AGO Committee shall prepare job descriptions and specify
30 qualifications for applicants. When a vacancy occurs, the AGO Committee
31 shall work with the Director of the Human Resources Department to advertise
32 for the position, develop the applicant search procedure, and make
33 recommendations to the City Council on the selection of the City Auditor and

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1 the Inspector General. The AGO Committee shall apply human resources best
2 practices to its applicant search relating to advertisement periods, job posting
3 locations, including with national industry-oriented groups or associations,
4 application review processes, interview processes, and contacting of
5 references and prior employers as may be recommended by the Director of
6 Human Resources or other reliable sources. The AGO Committee shall notify
7 all applicants that confirmation by the Council is contingent upon a successful
8 background investigation completed prior to their start date.

9 (C) The AGO Committee shall annually review salaries for the City Auditor
10 and the Inspector General. If after such review the AGO Committee determines
11 that a salary adjustment is warranted, the Chair of the AGO Committee shall,
12 by January 15 of each year, notify the Department of Finance and
13 Administrative Services and the Human Resources Department of any
14 proposed salary adjustment, which will be subject to budget sufficiency and
15 city personnel rules and regulations, and shall be commensurate and
16 competitive with salaries for comparable positions within the city and other
17 equivalent agencies in peer municipalities. Any salary adjustments proposed
18 by the AGO Committee shall be contingent upon the City Council approving
19 the budget appropriations necessary to fund the adjustment. The City Council
20 may also choose to adjust the salaries of the City Auditor and Inspector
21 General as part of the City's annual budget process.

22 (D) The City Auditor and the Inspector General shall inform the Chair of
23 the AGO Committee of any substantial vacation, sick, emergency, and other
24 leave.

25 (E) The AGO Committee shall not prohibit the City Auditor or the
26 Inspector General from initiating, carrying out or completing, and reporting on
27 the activities of their offices. The AGO Committee shall not direct the City
28 Auditor or Inspector General to engage any conduct that would violate this
29 Accountability in Government Ordinance, the Office of Internal Audit
30 Ordinance or the Inspector General Ordinance. The Committee may provide
31 the City Auditor and the Inspector General with guidance, priorities and
32 potential areas for investigations and audits. The Committee may also lend

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1 advice to the City Auditor and the Inspector General regarding technical
2 issues that may arise.

3 (F) Upon a majority vote, discipline of the City Auditor or the Inspector
4 General, as provided by the City’s Merit System and Personnel Policy, may be
5 recommended by the AGO Committee to the Human Resources Department.
6 The AGO Committee may recommend removal of the City Auditor or Inspector
7 General in accordance with the procedures outlined in Part 2: Office of Internal
8 Audit and Part 3: Office of the Inspector General.

9 **PART 2: OFFICE OF INTERNAL AUDIT**

10 § 2-10-2-1. SHORT TITLE. This Part 2 of the Accountability in Government
11 Oversight Ordinance may be cited as the “Internal Audit Ordinance.”

12 § 2-10-2-2. CREATION OF THE OFFICE OF INTERNAL AUDIT; RESOURCES;
13 STAFF.

14 (A) The Office of Internal Audit is created as an independent and non-
15 partisan office of city government. The Office of Internal Audit is not part of
16 the city's executive branch or the City Council. The City Auditor shall receive
17 oversight from the AGO Committee.

18 (B) The Office of Internal Audit shall employ such staff as necessary to
19 carry out its functions as prescribed by this Part, including but not limited to
20 the City Auditor, professional audit staff, and other staff as may be necessary,
21 at the discretion of the City Auditor. The City Auditor shall establish the
22 organizational structure appropriate for carrying out the responsibilities and
23 functions of the Office of Internal Audit.

24 (C) Office of Internal Audit staffing shall be subject to budget sufficiency
25 and city personnel policies and procedures. The City Auditor has sole
26 authority to recruit, hire, appoint, employ, promote, set compensation for,
27 discipline, or discharge the staff of the Office of Internal Audit in a manner
28 consistent with the Merit System Ordinance, the Grade Series Pay Plan, and
29 applicable personnel policies and procedures. The City Auditor shall establish
30 personnel procedures as deemed necessary for the efficient and effective
31 administration of the activities of the Office of Internal Audit.

32 (D) The Office of Internal Audit shall be funded from the General Fund.
33 Adequate funding shall be provided to uphold the ability of the Office of

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1 Internal Audit to carry out its duties and support its staff and operating
2 expenses. Upon adoption of the City’s annual budget, any positions funded
3 for the Office of Internal Audit shall be considered authorized for recruitment
4 and hiring, subject only to applicable personnel policies and procedures. The
5 Office of Internal Audit shall independently administer its own budget.

6 (E) The organization and administration of the Office of Internal Audit
7 shall be sufficiently independent to ensure that no external interference or
8 influence adversely affects the independence and objectivity of the Office of
9 Internal Audit. Neither the City Auditor nor any employee of the Office of
10 Internal Audit shall engage in any partisan political activities or the political
11 affairs of the city during work hours.

12 (F) The Office of Internal Audit shall comply with all city ordinances and
13 policies dealing with administrative functions including but not limited to
14 those dealing with personnel and procurement.

15 (G) The Office of the City Attorney shall advise and represent the Office
16 of Internal Audit. The Office of Internal Audit may select independent legal
17 counsel to advise and represent the Office, as needed, if the City Auditor
18 determines, in their sole discretion, that independent legal counsel is
19 necessary. The Office of Internal Audit may be responsible for paying costs
20 related to its decision to retain independent legal counsel.

21 (H) The Office of Internal Audit shall have sole authority over the content,
22 issuance, and timing of audit and non-audit services and reports, including
23 findings and recommendations. The Accountability in Government Oversight
24 Committee’s role with respect to the Office of Internal Audit is limited to
25 oversight functions as described in the Accountability in Government
26 Oversight Ordinance.

27 § 2-10-2-3. SELECTION, RETENTION, AND REMOVAL OF THE CITY
28 AUDITOR.

29 (A) Selection of the City Auditor.

30 (1) When a vacancy occurs, or when the term of the current City Auditor
31 is due to expire, the AGO Committee, through its staff, shall accept
32 applications from candidates, interview candidates, and shall submit to the
33 City Council the names of the three candidates that it finds to be the best

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1 qualified to be City Auditor indicating its ranking, and including a general
2 description of its selection process. The AGO Committee's recommendation to
3 the City Council shall be based on the candidates' integrity, capability for
4 strong management, and demonstrated ability in accounting, auditing,
5 financial analysis, law, management analysis, public administration,
6 investigation, criminal justice administration, or other closely related fields.
7 Experience, performance, certifications, and advanced degrees may also be
8 considered. If the AGO Committee is unable to identify three qualified
9 candidates within six months of the City Auditor position becoming vacant,
10 the AGO Committee may submit fewer names to the Council.

11 (2) If a current or prior city official, employee, or contractor is one of
12 the candidates recommended to the City Council for possible appointment,
13 the Committee shall submit to the City Council a statement describing its
14 assessment of possible conflicts or appearances of conflicts, if any, that may
15 result during the fulfillment of duties as City Auditor if that candidate is
16 appointed.

17 (3) The City Council shall appoint the City Auditor from the candidates
18 submitted by the AGO Committee. Should the Council decline to appoint from
19 the candidates submitted by the AGO Committee, the Council President shall
20 notify the AGO Committee that it must provide the Council with additional
21 candidates.

22 (4) In lieu of recommending candidates to the City Council, the AGO
23 Committee may recommend to the City Council the reappointment of the
24 incumbent City Auditor. Should the City Council decline to reconfirm the
25 incumbent City Auditor, the City Council President shall notify the AGO
26 Committee that it must provide the City Council with alternate candidates
27 pursuant to the provisions of this section.

28 (5) The selected candidate shall be appointed to a four-year term that
29 begins on the date confirmed by the City Council.

30 (6) Council confirmation of the City Auditor shall be contingent upon a
31 successful background investigation. Prior to their start date, the selected City
32 Auditor shall be fingerprinted and shall provide two fingerprint cards or the
33 equivalent electronic fingerprints to the Committee to obtain the candidate's

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1 Federal Bureau of Investigation record. Records and related information shall
2 be confidential and shall not be disclosed to anyone other than AGO
3 Committee members, unless otherwise required by law. The city shall pay for
4 the cost of obtaining the Federal Bureau of Investigation records.

5 (B) If a current or prior city employee or official is appointed to the
6 position of City Auditor, such person shall not audit or assist in the audit of
7 the department or agency where such person previously served or was
8 employed for a period of four years from the last day of such prior
9 employment or service. Any audits of such department or agency shall be
10 referred by the City Auditor to an independent third party auditor who shall
11 serve as an independent proxy for the City Auditor, vested with the full
12 authority of the City Auditor only for the purposes of the specific audit(s) so
13 assigned, and who shall report to the Committee relating to the audit in the
14 same manner as the City Auditor would under this ordinance.

15 (C) As a condition of retention, the City Auditor must obtain certification
16 as a Certified Public Accountant or Certified Internal Auditor through the
17 appropriate entity within two years of appointment. Other professional
18 certifications, such as Certified Fraud Examiner and Certified Information
19 Systems Auditor are recommended.

20 (D) The City Auditor may be removed from office as follows:

21 (1) For cause upon the recommendation by the AGO Committee by an
22 affirmative vote of four-fifths (4/5) of the members of the AGO Committee,
23 subject to approval by the City Council by an affirmative vote of two-thirds
24 (2/3) of the members of Council. For purposes of this section, cause may
25 include, but is not limited to, conduct that is inconsistent with obligations
26 under this ordinance, or otherwise inconsistent with responsibilities of the
27 position;

28 (2) Upon an affirmative vote of two-thirds (2/3) of the members of the
29 City Council; or

30 (3) Upon the City Council's decision to not reconfirm the incumbent
31 City Auditor.

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1 (E) If the City Auditor position is vacated, the next highest-ranking
2 individual in the Office of Internal Audit shall serve as Acting City Auditor
3 during the vacancy, subject to AGO Committee discretion.

4 § 2-10-2-4. CITY AUDITOR’S DUTIES AND AUTHORITY

5 (A) The scope of internal audit activities encompasses, but is not limited
6 to, objective examinations of evidence for the purpose of providing
7 independent assessments on the adequacy, quality, efficiency, and
8 effectiveness of governance, risk management, and control processes for the
9 city.

10 (B) Within one year of initial appointment, and on an annual basis
11 thereafter, the City Auditor shall promulgate regulations to establish
12 procedures for the Office of Internal Audit. Any such regulations and
13 procedures shall be developed and implemented in accordance with GAGAS
14 and applicable City policies.

15 (C) If the City Auditor detects apparent or potential violations of law or
16 apparent instances of misfeasance or nonfeasance by an official or auditee,
17 the City Auditor shall evaluate the matter in accordance with GAGAS,
18 including performing any additional procedures deemed necessary and
19 documenting the matter as required by professional standards.

20 (1) The City Auditor shall report any such irregularities in writing to the
21 AGO Committee.

22 (2) If the matter is believed to be criminal in nature, the City Auditor
23 shall promptly refer it to the appropriate prosecuting authority and notify the
24 Inspector General.

25 (3) The City Auditor shall consider appropriate disclosure in the audit
26 report, consistent with GAGAS and any legal or investigative restrictions.

27 (D) Upon request of the Mayor or City Council, the City Auditor shall
28 assist or provide resources to assist city departments in the review of state
29 and federal legislation, city ordinances, resolutions, rules, regulations and
30 policies pertaining to that particular city department or office.

31 (E) At an official’s special request, the City Auditor may initiate services
32 subject to the provisions of Section 2-10-2-8 (Special Requests; Audit Reports)
33 of this Ordinance. The City Auditor retains sole professional discretion to

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1 determine whether to accept the request and, if accepted, the scope, timing,
2 methodology, and reporting. The City Auditor shall evaluate special requests
3 for risk, independence threats, resource impact, and may defer or decline a
4 request that would impair independence or unreasonably interfere with
5 planned work.

6 (F) In cases where the City Auditor deems it appropriate, the City Auditor
7 may refer opportunities for increased efficiency or concerns about legal
8 compliance or other issues to any appropriate City official or entity, including
9 but not limited to, the Mayor, Chief Administrative Officer, Inspector General,
10 City Attorney, City Clerk, City Council, or Director of Council Services.

11 (G) The City Auditor shall not investigate complaints:

12 (1) that are under the jurisdiction of the Civilian Police Oversight Agency
13 or the Internal Affairs Division of the Albuquerque Police Department;

14 (2) related to matters that are under investigation by any state or federal
15 agency;

16 (3) alleging discrimination or retaliation based on the complainant's
17 status as a member of a protected class;

18 (4) alleging violation of a collective bargaining agreement, the Labor
19 Management Relations Ordinance, or otherwise relating to labor law matters;

20 (5) that are the subject of pending litigation;

21 (6) that allege an employee is violating City policies or personnel rules if
22 the alleged violation has not yet been reported to, or is not yet otherwise
23 known by, the employee's supervisor;

24 (7) based solely on disciplinary action taken by an employee's
25 supervisor; or

26 (8) based on allegations of retaliation under § 3-7-8 of the Whistleblower
27 Ordinance, the Inspector General Ordinance, or the Internal Audit Ordinance.

28 **§ 2-10-2-5. PERFORMANCE AUDITS AND ATTESTATION ENGAGEMENTS.**

29 (A) The City Auditor shall adhere to Generally Accepted Government
30 Auditing Standards (GAGAS) in conducting their work and will be considered
31 independent as defined by those standards. The Office of Internal Audit shall
32 maintain independence in both fact and appearance.

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1 (B) The activities of the Office of Internal Audit are subject to quality
2 assurance reviews in accordance with GAGAS by an appropriate professional
3 non-partisan objective group. A copy of the written report resulting from this
4 review shall be furnished to the AGO Committee.

5 (C) The City Auditor shall have the power to subpoena witnesses,
6 administer oaths and require the production of records subject to the New
7 Mexico Rules of Civil Procedure. In the case of a refusal to obey a subpoena
8 issued to any person, the City Auditor, through the City Attorney's Office or its
9 independent legal counsel, may make application to any District Court in the
10 state that shall have the jurisdiction to order the witness to appear before the
11 City Auditor and to produce evidence if so ordered, or to give testimony
12 regarding the matter in question.

13 (D) The City Auditor shall maintain a complete record of each
14 engagement conducted for a retention period of at least six (6) years,
15 beginning the date that the report is published, or longer if required by City
16 retention policy or other law. The record should include work papers and other
17 supportive material directly pertaining to the published report. Records may
18 be retained in electronic format.

19 § 2-10-2-6. OFFICE OF INTERNAL AUDIT; PUBLIC RECORDS;
20 CONFIDENTIALITY.

21 (A) The identity of a person making a report and associated allegations
22 directly to the City Auditor is confidential information and shall not be
23 disclosed without the written consent of the person unless otherwise required
24 by law.

25 (B) Audit files generated by the Office of Internal Audit are confidential
26 and shall not be divulged to any person or agency, except to the United States
27 Attorney, the New Mexico Department of Justice, the Second Judicial District
28 Attorney's Office, State Auditor, or any other bona fide law enforcement or
29 investigatory agency, or as otherwise required by law, until the report is
30 published or withdrawn, unless it is necessary for the City Auditor to make
31 such records public in the performance of their duties. Except to the extent
32 expressly authorized in this Ordinance, the Office of Internal Audit shall not
33 disclose the fact that it is conducting an audit before the audit is published or

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1 withdrawn and shall not make any comment to the media regarding an audit
2 while it is ongoing.

3 (C) The City Auditor shall maintain the confidentiality of any public
4 records that are made confidential by law and is subject to the same penalties
5 as the custodian of those public records for violating confidentiality statutes.
6 To the extent the City Auditor deems it necessary to include confidential
7 information in a report, the City Auditor shall redact that information from the
8 public version of the report.

9 (D) The City Auditor shall not access attorney-client privileged records
10 or files, including emails, unless written permission is granted by the holder of
11 the attorney-client privilege. If such records are inadvertently acquired, the
12 City Auditor shall disclose the acquisition to the affected attorney and destroy
13 the records within 30 days, unless the attorney otherwise grants permission to
14 retain them.

15 (E) Subject to the limitations of this section, prior to publishing a report or
16 audit, the City Auditor may share selected information with other city
17 departments if the information is needed for decision-making purposes;
18 otherwise, reports remain confidential until published or withdrawn, at which
19 time they become public record.

20 (F) Published and withdrawn reports are public records except that the
21 City Auditor shall delay the publication of reports when criminal conduct is
22 found and the Inspector General or appropriate law enforcement authority is
23 pursuing an investigation and release of the report might jeopardize further
24 investigation. An audit report that has been delayed pursuant to this section
25 shall be published promptly at the end of the condition giving rise to the delay.

26 (G) The City Auditor shall release a preliminary draft of an audit as
27 provided in section 2-10-2-8 of this ordinance.

28 (H) All workpapers that support audit findings become public after the
29 audit report is published or withdrawn, except for information that is
30 confidential or privileged by law.

31 § 2-10-2-7. ANNUAL AUDIT PLAN; SPECIAL REQUESTS.

32 (A) Prior to the beginning of each fiscal year, the City Auditor shall
33 submit an annual audit plan to the AGO Committee for review and comment.

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1 City officials shall be invited to recommend areas for inclusion in the plan. The
2 plan shall include the auditees scheduled for audit during the year, a
3 statement of the scope of the audit and the estimated time required to
4 complete the audit.

5 (B) The annual audit plan shall be transmitted to the City Council for
6 final approval as a resolution.

7 (C) The annual audit plan may be amended during the year after review
8 by the AGO Committee.

9 (D) In the selection of audit areas, the determination of audit scope and
10 the timing of audit work, the City Auditor should consult with federal and state
11 auditors and independent auditors so that the desirable audit coverage is
12 provided and audit effort may be properly coordinated.

13 (E) The City Auditor shall make reports at least quarterly to the
14 Committee on the status of the annual audit plan.

15 (F) Special Requests. In all cases, the City Auditor shall, within 48 hours
16 of implementation, notify the AGO Committee when a special request is being
17 undertaken.

18 § 2-10-2-8. OFFICE OF INTERNAL AUDIT REPORTS TO AGO COMMITTEE.

19 (A) All assurance activities, unless otherwise provided for under this
20 article, shall result in a written final report.

21 (B) The City Auditor shall provide a preliminary draft of the report to the
22 auditees and the Chief Administrative Officer for review and comment before it
23 is submitted to the AGO Committee. If the audit involves the City Council
24 and/or Council Services Department, the City Auditor shall provide the
25 preliminary draft report to the auditees and the Director of Council Services.

26 (1) The auditees, Chief Administrative Officer, Director of Council Services,
27 and any departments whose assistance is needed in order to accomplish any
28 audit recommendation, shall have 14 calendar days to provide a written
29 response to the City Auditor. Any responses provided within this timeframe
30 shall be included in the City Auditor's report submitted to the AGO Committee.

31 (2) The auditees' written response shall specify agreement with each of
32 the audit findings and recommendations or reasons for disagreement with
33 findings or recommendations. The auditees' written responses shall include

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1 auditees’ plans for implementing solutions to identified problems including
2 timetables to complete such activities.

3 (3) The auditees’ written response to the preliminary draft may be utilized
4 to amend the report if appropriate. If the preliminary audit report is amended,
5 the auditees will be given a copy of the amended draft, and the auditees will be
6 given up to 14 calendar days, as determined by the City Auditor and the
7 auditees, to respond to the amended draft of the audit report. Any responses
8 provided shall be included in the City Auditor’s report submitted to the AGO
9 Committee.

10 (C) The City Auditor shall submit copies of each report to the AGO
11 Committee for review. The reports shall be submitted to the AGO Committee at
12 least 14 calendar days before the meeting at which the reports are to be
13 presented and reviewed.

14 (D) The City Auditor shall submit a copy of each published report to each
15 member of the AGO Committee and shall retain a copy as a permanent record
16 for the retention period required by the city, beginning the date it became a
17 published report or longer if required by law.

18 (E) If appropriate, the report shall contain the professional opinion or
19 conclusions of the City Auditor.

20 (F) The City Auditor’s audit reports shall comply with reporting
21 requirements as defined by GAGAS.

22 (G) Auditees are responsible for developing, implementing, and
23 completing corrective action plans for recommendations they accept. While
24 recommendations are advisory in nature and management retains
25 responsibility for determining appropriate corrective actions, management
26 shall implement accepted corrective action plans within agreed-upon
27 timeframes and provide status updates as requested by the Office of Internal
28 Audit.

29 § 2-10-2-9. OFFICE OF INTERNAL AUDIT ANNUAL REPORTING.

30 (A) Within 60 days of the end of each fiscal year, the City Auditor shall
31 annually report to the City Council and the Mayor regarding the activities of
32 the Office of Internal Audit.

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1 (B) Within 60 days of the end of each fiscal year, the City Auditor shall
2 issue an annual report to the AGO Committee that separately lists all audits,
3 published reports, and other assistance efforts completed during the fiscal
4 year.

5 (C) The Internal Auditor shall notify members of the media and the
6 public of the issuance of the published report. The Office of Internal Audit
7 shall publish the annual report publicly on the website of the Office of Internal
8 Audit and shall provide copies of the annual report upon request.

9 § 2-10-2-10. CONTRACT AUDITORS, CONSULTANTS, AND EXPERTS.

10 (A) Upon notification to the AGO Committee, the City Auditor may obtain
11 the services of certified public accountants, qualified management
12 consultants, certified fraud examiners, forensic auditors or other professional
13 experts necessary to perform the functions of the Office of Internal Audit.

14 (B) Contractors performing such services shall not have any financial
15 interest in the affairs of the auditees, officials or employees.

16 (C) The City Auditor shall coordinate and monitor auditing performed by
17 persons under contract with the City Auditor.

18 (D) The Office of Internal Audit may be responsible for paying costs
19 related to its decision to enter into such contracts.

20 § 2-10-2-11. PENALTY; COOPERATION; RETALIATION PROHIBITED.

21 (A) All city officials, employees, and contractors shall provide the City
22 Auditor full and unrestricted access to all city offices, employees, records,
23 information, data, reports, plans, projections, matters, contracts, memoranda,
24 correspondence, electronic data, property, equipment and facilities and any
25 other materials within their custody, except investigative files of the Internal
26 Affairs Division of the Albuquerque Police Department and records containing
27 information protected by the attorney-client privilege. At the City Auditor's
28 request, an official, employee or contractor shall produce documents and
29 make themselves available for interviews.

30 (B) If an official, employee, vendor or contractor fails to produce requested
31 information, the City Auditor shall notify the AGO Committee and make written
32 request to the Chief Administrative Officer and/or Director of Council Services
33 for assistance in causing a search to be made and germane exhibits to be

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1 taken from any book, paper or record excepting personal property. The Chief
2 Administrative Officer and/or Director of Council Services shall require the
3 officials, employees, vendors, or contractors to produce the requested
4 information. In the event an official, employee, vendor, or contractor refuses to
5 comply, the City Auditor may utilize their subpoena power as provided herein.

6 (C) Every city contract, bid, proposal, application or solicitation for a city
7 contract and every application for certification of eligibility for a city contract
8 or program shall contain a provision stating that the contracting parties will be
9 subject to provisions of the Accountability in Government Ordinance.

10 (D) No person shall retaliate against, punish or penalize any other person
11 for complaining to, cooperating with or assisting the City Auditor in the
12 performance of their office.

13 (E) Each and every violation of this article is a criminal violation subject to
14 the provisions of ROA 1994, § 1-1-99.

15 (F) Any official or employee who violates the Accountability in
16 Government Ordinance may be subject to discipline as specified in city
17 ordinance, rules and regulations, or any applicable collective bargaining
18 agreement.

19 **PART 3: OFFICE OF THE INSPECTOR GENERAL**

20 **§ 2-10-3-1. SHORT TITLE.**

21 This Part 3 of the Accountability in Government Oversight Ordinance may
22 be cited as the "Inspector General Ordinance."

23 **§ 2-10-3-2. CREATION OF THE OFFICE OF THE INSPECTOR GENERAL;
24 RESOURCES; STAFF.**

25 (A) The Office of the Inspector General is created as an independent and
26 non-partisan office of city government. The Office of the Inspector General is
27 not part of the city's executive branch or the City Council. The Inspector
28 General shall receive oversight from the AGO Committee.

29 (B) The Office of the Inspector General shall employ such staff as
30 necessary to carry out its functions as prescribed by this Part, including but
31 not limited to the Inspector General, professional investigators, evaluators,
32 reviewers, contract specialists, and others staff as may be necessary at the
33 discretion of the Inspector General. The Inspector General shall establish the

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1 organizational structure appropriate for carrying out the responsibilities and
2 functions of the Office of the Inspector General.

3 (C) Office of the Inspector General staffing shall be subject to budget
4 sufficiency and city personnel policies and procedures. The Inspector General
5 has sole authority to recruit, hire, appoint, employ, promote, set compensation
6 for, discipline, or discharge the staff of the Office of the Inspector General in a
7 manner consistent with the Merit System Ordinance, the Grade Series Pay
8 Plan, and applicable personnel policies and procedures. The Inspector
9 General shall establish personnel procedures as deemed necessary for the
10 efficient and effective administration of the activities of the Office of the
11 Inspector General.

12 (D) The Office of the Inspector General shall be funded from the General
13 Fund. Adequate funding shall be provided to uphold the ability of the Office of
14 the Inspector General to carry out its duties and support its staff and
15 operating expenses. Upon adoption of the City's annual budget, any positions
16 funded for the Office of the Inspector General shall be considered authorized
17 for recruitment and hiring, subject only to applicable personnel policies and
18 procedures. The Office of the Inspector General shall independently
19 administer its own budget.

20 (E) The organization and administration of the Office shall be sufficiently
21 independent to ensure that no external interference or influence adversely
22 affects the independence and objectivity of the Office of the Inspector
23 General. Neither the Inspector General nor any employee of the Office of the
24 Inspector General shall engage in any partisan political activities or the
25 political affairs of the city during work hours.

26 (F) The Office of the Inspector General shall comply with all city ordinances
27 and policies dealing with administrative functions including but not limited to
28 those dealing with personnel and procurement.

29 (G) The Office of the City Attorney shall advise and represent the Office
30 of the Inspector General. The Office of the Inspector General may select
31 independent legal counsel to advise and represent the Office, as needed, if the
32 Inspector General determines, in their sole discretion, that independent legal

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1 counsel is necessary. The Office of the Inspector General may be responsible
2 for paying costs related to its decision to retain independent legal counsel.

3 (H) The Office of the Inspector General shall have sole authority over the
4 content, procedures, and timing of its investigations and reports, including
5 findings and recommendations. The Accountability in Government Oversight
6 Committee’s role with respect to the Office of the Inspector General is limited
7 to oversight functions as described in the Accountability in Government
8 Oversight Ordinance.

9 § 2-10-3-3. SELECTION, RETENTION, AND REMOVAL OF THE INSPECTOR
10 GENERAL.

11 (A) Selection of the Inspector General.

12 (1) When a vacancy occurs, or when the term of the current Inspector
13 General is due to expire, the AGO Committee, through its staff, shall accept
14 applications from candidates, interview candidates, and shall submit to the
15 City Council the names of the three candidates that it finds to be the best
16 qualified to be Inspector General indicating its ranking, and including a
17 general description of its selection process. The AGO Committee's
18 recommendation to the City Council shall be based on the candidates'
19 integrity, capability for strong management, and demonstrated ability in
20 accounting, fraud examination, financial analysis, law, management analysis,
21 public administration, investigation, criminal justice administration, or other
22 closely related fields. Experience, performance, certifications, and advanced
23 degrees may also be considered. If the AGO Committee is unable to identify
24 three qualified candidates within six months of the Inspector General position
25 becoming vacant, the AGO Committee may submit fewer names to the
26 Council.

27 (2) If a current or prior city official, employee, or contractor is one of the
28 candidates recommended to the City Council for possible appointment, the
29 Committee shall submit to the City Council a statement describing its
30 assessment of possible conflicts or appearances of conflicts, if any, that may
31 result during the fulfillment of duties as Inspector General if that candidate is
32 appointed.

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1 (3) The City Council shall appoint the Inspector General from the
2 candidates submitted by the AGO Committee. Should the Council decline to
3 appoint from the candidates submitted by the AGO Committee, the Council
4 President shall notify the AGO Committee that it must provide the Council with
5 additional candidates.

6 (4) In lieu of recommending candidates to the City Council, the AGO
7 Committee may recommend to the City Council the reappointment of the
8 incumbent Inspector General. Should the City Council decline to reconfirm the
9 incumbent Inspector General, the City Council President shall notify the AGO
10 Committee that it must provide the City Council with alternate candidates
11 pursuant to the provisions of this section.

12 (5) The selected candidate shall be appointed to a four-year term that
13 begins on the date confirmed by the City Council.

14 (6) Council confirmation of the Inspector General shall be contingent upon
15 a successful background investigation. Prior to their start date, the selected
16 Inspector General shall be fingerprinted and shall provide two fingerprint
17 cards or the equivalent electronic fingerprints to the Committee to obtain the
18 candidate's Federal Bureau of Investigation record. Records and related
19 information shall be confidential and shall not be disclosed to anyone other
20 than AGO Committee members, unless otherwise required by law. The city
21 shall pay for the cost of obtaining the Federal Bureau of Investigation records.

22 (B) If a current or prior city employee or official is appointed to the
23 position of Inspector General, such person shall not investigate or assist in
24 the investigation of the department or agency where such person previously
25 served or was employed for a period of four years from the last day of such
26 prior employment or service. Any investigations of such department or agency
27 shall be referred by the Inspector General to an independent third-party
28 investigator who shall serve as an independent proxy for the Inspector
29 General, vested with the full authority of the Inspector General only for the
30 purposes of the specific investigation(s) so assigned, and who shall report to
31 the Committee relating to the investigation in the same manner as the
32 Inspector General would under this ordinance.

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1 (C) As a condition of retention, the Inspector General must obtain
2 certification as a Certified Inspector General through the Association of
3 Inspectors General or appropriate successor entity within two years of
4 appointment. Other professional certifications, such as Certified Public
5 Accountant and Certified Fraud Examiner are recommended.

6 (D) The Inspector General may be removed from office as follows:

7 (1) For cause upon the recommendation by the AGO Committee by an
8 affirmative vote of four-fifths (4/5) of the members of the AGO Committee,
9 subject to approval by the City Council by an affirmative vote of two-thirds
10 (2/3) of the members of Council. For purposes of this section, cause may
11 include, but is not limited to, conduct that is inconsistent with obligations
12 under this ordinance, or otherwise inconsistent with responsibilities of the
13 position;

14 (2) Upon an affirmative vote of two-thirds (2/3) of the members of the City
15 Council; or

16 (3) Upon the City Council's decision to not reconfirm the incumbent
17 Inspector General.

18 (E) If the Inspector General position is vacated, the next highest-ranking
19 individual in the Office of the Inspector General shall serve as Acting
20 Inspector General during the vacancy, subject to AGO Committee discretion.

21 § 2-10-3-4. INSPECTOR GENERAL'S DUTIES AND AUTHORITY

22 (A) The Inspector General is authorized to investigate complaints of
23 fraud, waste, or abuse, except as limited in this ordinance. Unless otherwise
24 required, Inspector General investigations should be limited to complaints
25 alleging fraud, waste, or abuse. The Inspector General has a professional
26 obligation to only investigate matters within their authority. The Inspector
27 General also has the discretion to decline to conduct investigations, if they
28 believe such an investigation would be unwarranted, frivolous, or an
29 excessive use of City resources. Generally, the expenditure of City resources
30 when conducting an investigation should be commensurate with the
31 significance of the allegations contained in the complaint.

32 (B) Within one year of initial appointment, and on an annual basis
33 thereafter, the Inspector General shall promulgate regulations to establish

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1 procedures for the Office of the Inspector General. Any such regulations and
2 procedures shall be developed in accordance with the Principles and
3 Standards for Offices of Inspector General and applicable City policies.

4 (C) If the Inspector General detects apparent or potential violations of law
5 or apparent instances of misfeasance or nonfeasance by an official or
6 investigated party, the Inspector General shall evaluate the matter in
7 accordance with the Principles and Standards for Offices of Inspector General,
8 including performing any additional procedures deemed necessary and
9 documenting the matter as required by professional standards.

10 (1) The Inspector General shall report any such irregularities in writing to
11 the AGO Committee.

12 (2) If the matter is believed to be criminal in nature, the Inspector General
13 shall promptly refer it to the appropriate prosecuting authority and notify the
14 City Auditor.

15 (3) If the irregularity is found in response to a complaint filed under the
16 provisions of the Whistleblower Protection Act, the Inspector General shall
17 conduct an investigation in accordance with NMSA 1978, §§ 10-16C-1 et seq.,
18 the Whistleblower Protection Act.

19 (4) If the irregularity is found in response to a complaint filed under the
20 provisions of the Whistleblower Protection Ordinance, the Inspector General
21 shall conduct an investigation in accordance with the Whistleblower
22 Protection Ordinance.

23 (5) The Inspector General shall consider other disclosures as may be
24 appropriate, consistent with the Principles and Standards for Offices of
25 Inspector General and any legal or investigative restrictions.

26 (D) The Inspector General shall investigate allegations of improper
27 governmental action when authorized pursuant to the Whistleblower
28 Ordinance.

29 (E) The Inspector General shall receive and evaluate complaints referred
30 by any official, employee, contractor or the public and initiate an investigation
31 when deemed appropriate. The Inspector General may also initiate an
32 investigation when, in the course of performing their duties, they determine
33 that there is reason to believe that a City official, employee, or contractor has

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1 engaged in fraud, waste, or abuse and the conduct is within the Inspector
2 General’s jurisdiction pursuant to this section. Any such determination shall
3 be documented in writing and included in the investigation file.

4 (F) In cases where the Inspector General deems it appropriate, the
5 Inspector General may refer opportunities for increased efficiency or concerns
6 about legal compliance or other issues to any appropriate City official or
7 entity, including but not limited to the Mayor, Chief Administrative Officer, City
8 Auditor, City Attorney, City Clerk, City Council, or Director of Council
9 Services.

10 (G) Reports of fraud, waste, and abuse made by employees, public
11 officials, contractors, or members of the public may be made telephonically or
12 in writing through the hotline or website established by the Inspector General
13 for the confidential reporting of financial fraud, waste, and abuse in
14 government. Reports received or created by the Inspector General are
15 investigatory information and investigatory documentation in connection with
16 the Inspector General's duty to inspect or investigate the financial affairs and
17 transactions of the city, its departments, contractors, or vendors in whole or in
18 part.

19 (H) When required by law, the Inspector General shall provide information
20 that is either confidential and/or related to an Office of Inspector General case
21 that is not otherwise public. The Office of Inspector General shall work as
22 collaboratively as possible in fulfilling the duties and functions prescribed by
23 this ordinance. Notwithstanding any of the foregoing, the Inspector General
24 shall comply with all requirements for information from external audits or
25 reviews regarding the management of the office from a fiscal, management, or
26 non-case-related request.

- 27 (I) The Inspector General shall not investigate complaints:
- 28 (1) that are under the jurisdiction of the Civilian Police Oversight Agency or
 - 29 the Internal Affairs Division of the Albuquerque Police Department;
 - 30 (2) related to matters that are under investigation by any state or federal
 - 31 agency;
 - 32 (3) alleging discrimination or retaliation based on the complainant’s status
 - 33 as a member of a protected class;

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- 1 (4) alleging violation of a collective bargaining agreement, the Labor
- 2 Management Relations Ordinance, or otherwise relating to labor law matters;
- 3 (5) that are the subject of pending litigation;
- 4 (6) that allege that an employee is violating City policies or personnel rules
- 5 if the alleged violation has not yet been reported to, or is not yet otherwise
- 6 known by, the employee’s supervisor;
- 7 (7) based solely on disciplinary action taken by an employee’s supervisor;
- 8 (8) related to legislative actions, unless there is an alleged violation of the
- 9 Code of Ethics.

10 § 2-10-3-5. PERFORMANCE OF INVESTIGATIONS AND INSPECTIONS.

11 (A) The Inspector General shall evaluate any complaints or referrals

12 submitted to its office to determine whether it has jurisdiction to conduct an

13 investigation or inspection pursuant to this Ordinance and whether an

14 investigation or inspection is necessary or appropriate.

15 (B) The Inspector General's investigations, inspections, reviews, and

16 reports shall conform to the Principles and Standards for Offices of Inspector

17 General.

18 (C) The Office of the Inspector General's published reports shall be

19 subject to quality assurance peer reviews by an appropriate professional non-

20 partisan objective group every three to five years. A copy of the written report

21 resulting from this review shall be furnished to the AGO Committee and

22 posted on the website of the Inspector General.

23 (D) The Inspector General shall have the power to subpoena witnesses,

24 administer oaths and require the production of records subject to the New

25 Mexico Rules of Civil Procedure. In the case of a refusal to obey a subpoena

26 issued to any person, the Inspector General, through the City Attorney’s Office

27 or its independent legal counsel, may make application to any District Court in

28 the state that shall have the jurisdiction to order the witness to appear before

29 the Inspector General and to produce evidence if so ordered, or to give

30 testimony regarding the matter in question.

31 (E) The Inspector General shall maintain a complete file of each

32 investigation conducted for retention period of at least six (6) years, beginning

33 the date that the report is published, or longer if required by City retention

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1 policy or other law. The file should include work papers and other supportive
2 material directly pertaining to the investigation. Records may be retained in
3 electronic format.

4 § 2-10-3-6. OFFICE OF THE INSPECTOR GENERAL; PUBLIC RECORDS;
5 CONFIDENTIALITY.

6 (A) The identity of a person making a report and associated allegations
7 directly to the Inspector General is confidential information and shall not be
8 disclosed without the written consent of the person unless otherwise required
9 by law.

10 (B) Investigation files and investigation reports generated by the Office of
11 the Inspector General are confidential and shall not be divulged to any person
12 or agency, except to the United States Attorney, the New Mexico Department
13 of Justice, or the Second Judicial District Attorney's Office, State Auditor, or
14 any other bona fide law enforcement or investigatory agency, or as otherwise
15 required by law, until the report is published, unless it is necessary for the
16 Inspector General to make such records public in the performance of their
17 duties. Except to the extent expressly authorized in this Ordinance, the Office
18 of the Inspector General shall not disclose the fact that it is conducting an
19 investigation before the report of the investigation is published or withdrawn
20 and shall not make any comment to the media regarding an investigation while
21 it is ongoing.

22 (C) The Inspector General shall maintain the confidentiality of any public
23 records that are made confidential by law and shall be subject to the same
24 penalties as the custodian of those public records for violating confidentiality
25 statutes. To the extent the Inspector General deems it necessary to include
26 confidential information in a report, the Inspector General shall redact that
27 information from the public version of the report.

28 (D) The Inspector General shall not access attorney-client privileged
29 records or files, including emails, unless written permission is granted by the
30 holder of the attorney-client privilege. If such records are inadvertently
31 acquired, the Inspector General shall disclose the acquisition to the affected
32 attorney and destroy the records within 30 days, unless the attorney otherwise
33 grants permission to retain them.

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1 (E) Subject to the limitations of this section, the Inspector General may
2 share selected information not otherwise made confidential by law or this
3 ordinance with other city departments if the information is necessary to
4 prevent harm or loss to the city or its employees; otherwise, reports remain
5 confidential until published or withdrawn, at which time they become public
6 record.

7 (F) The Inspector General shall release a preliminary draft of an
8 investigation report as provided in section 2-10-3-7 of this ordinance.

9 (F) Published and withdrawn reports are public records except that the
10 Inspector General shall delay the publication of reports when criminal conduct
11 is found and the Inspector General or appropriate law enforcement authority is
12 pursuing an investigation and release of the report might jeopardize further
13 investigation. An investigation release that has been delayed shall be
14 published promptly at the end of the condition giving rise to the delay.

15 § 2-10-3-7. INSPECTOR GENERAL REPORTS TO THE AGO COMMITTEE.

16 (A) Each investigation, other than those resulting from assignment by the
17 Board of Ethics and Campaign Practices, shall result in a written final report.

18 (B) To facilitate a comprehensive management response, the Inspector
19 General shall provide a preliminary draft of the report to the investigated party
20 and the Chief Administrative Officer for review and comment before it is
21 submitted to the AGO Committee. If the investigation involves the City Council
22 and/or Council Services Department, the Inspector General shall provide the
23 preliminary draft report to the Director of Council Services.

24 (1) Following receipt of the preliminary draft report, the investigated party,
25 Chief Administrative Officer, Director of Council Services, and the
26 department(s) involved in the investigation, shall have 14 calendar days to
27 provide a written response to the Inspector General. Any responses provided
28 within this timeframe shall be included in the Inspector General's report
29 submitted to the AGO Committee.

30 (2) All recipients of preliminary draft reports must agree to restrict its use
31 and maintain the confidentiality of the information until the report is voted
32 upon by the AGO Committee. The Chief Administrative Officer or Director of
33 Council Services may share the investigation with other personnel only as

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1 necessary to prepare a response, and provided that such personnel must
2 agree to restrict its use and maintain the confidentiality of the information until
3 the report is voted upon by the AGO Committee.

4 (3) The Inspector General may utilize any comments to the preliminary draft
5 report may be utilized to amend their report if appropriate. If the preliminary
6 draft report is amended, the Inspector General will provide a copy of the
7 amended preliminary draft, and may, in their discretion, allow up to 14
8 calendar days, to respond to the amended preliminary draft of the report
9 before submission to the AGO Committee. Any additional responses provided
10 shall be included in the Inspector General’s report submitted to the AGO
11 Committee.

12 (C) The Inspector General shall submit copies of each report to the AGO
13 Committee and shall retain a copy as a permanent record. The reports shall be
14 submitted to the AGO Committee at least 14 calendar days before the meeting
15 at which the reports are to be reviewed.

16 (D) For the purpose of review during the report presentation, the AGO
17 Committee, at its sole discretion, may request and allow the attendance of city
18 personnel or investigated parties and may require disclosure, on a case-by-
19 case basis, of the full report submitted by the Inspector General to those
20 parties either before or during the meeting.

21 (E) After the report has been voted upon by the AGO Committee, the
22 Inspector General shall provide the investigated party, Chief Administrative
23 Officer, Director of Council Services, and the department(s) involved in the
24 investigation an opportunity to supplement or modify their response to the
25 report before the final report is published. Such responses shall be submitted
26 to the Inspector General no later than 3 business days from the date of the
27 AGO Committee’s vote.

28 (F) Following the publication or withdrawal of a report, the Inspector
29 General’s investigation on that matter is concluded, subject to any follow-up
30 on corrective action that may be required by the Inspector General. If
31 additional allegations are later received, a new investigation may be initiated.

32 (H) The Inspector General's investigation and inspection reports shall
33 conform to the Association of Inspectors General professional standards.

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1 **§ 2-10-3-8. OFFICE OF THE INSPECTOR GENERAL ANNUAL REPORTING.**

2 **(A) Within 60 days of the end of each fiscal year, the Inspector General**
3 **shall annually report to the Council and the Mayor regarding their activities**
4 **and investigations.**

5 **(B) Within 60 days of the end of each fiscal year, the Inspector General**
6 **shall issue a published report to the Committee that separately lists**
7 **investigations, published reports, and other assistance efforts completed**
8 **during the fiscal year.**

9 **(C) The Inspector General shall notify members of the media and the**
10 **public of the issuance of the published report. The Office of the Inspector**
11 **General shall publish the reports publicly on the website of the Office of the**
12 **Inspector General and provide copies of the published report upon request.**

13 **§ 2-10-3-9. CONTRACT INVESTIGATORS, CONSULTANTS, AND EXPERTS.**

14 **(A) Upon notification to the Committee, the Inspector General may obtain**
15 **the services of certified public accountants, qualified management**
16 **consultants, certified fraud examiners, forensic auditors or other professional**
17 **experts necessary to perform the functions of the Office of the Inspector**
18 **General.**

19 **(B) Contractors performing services for the Office of Inspector General**
20 **shall not have any financial interest in the affairs of the investigated party,**
21 **officials, or employees.**

22 **(C) The Inspector General shall coordinate and monitor the work performed**
23 **by persons under contract with the Inspector General.**

24 **(D) The Office of the Inspector General may be responsible for paying costs**
25 **related to its decision to enter into such contracts.**

26 **§ 2-10-3-10. PENALTY; COOPERATION; RETALIATION PROHIBITED.**

27 **(A) All city officials, employees, and contractors shall promptly notify the**
28 **Inspector General of every instance of theft or other disappearance of cash,**
29 **check, or property, of misfeasance or nonfeasance, defalcation, improper**
30 **governmental actions and non-compliance with federal and state law, city**
31 **ordinances and city rules and regulations of which they are aware.**

32 **(B) All city officials, employees, contractors, and offerors in a city**
33 **procurement process shall provide the Inspector General full and unrestricted**

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1 access to all city offices, employees, records, information, data, reports,
2 plans, projections, matters, contracts, memoranda, correspondence,
3 electronic data, property, equipment and facilities and any other materials
4 within their custody, except investigative files of the Office of Internal Affairs
5 of the Albuquerque Police Department and records containing information
6 protected by the attorney-client privilege. At the Inspector General’s request,
7 an official, employee, or contractor shall produce documents and make
8 themselves available for interviews.

9 (C) If an official, employee, vendor or contractor fails to produce the
10 requested information, the Inspector General shall notify the AGO Committee
11 and make written request to the Chief Administrative Officer and/or Director of
12 Council Services for assistance in causing a search to be made and germane
13 exhibits to be taken from any book, paper or record excepting personal
14 property. The Chief Administrative Officer and/or Director of Council Services
15 shall require the officials, employees, vendors or contractors to produce the
16 requested information. In the event an official, employee, vendor, or
17 contractor refuses to comply, the Inspector General may utilize their subpoena
18 power as provided herein.

19 (D) The Inspector General may require city officials, employees, and
20 contractors to provide updates regarding the implementation of any
21 recommendations made in a report.

22 (E) Every city contract, bid, proposal, application or solicitation for a city
23 contract and every application for certification of eligibility for a city contract
24 or program shall contain a statement that the contracting parties will be
25 subject to the provisions of the Inspector General Ordinance.

26 (E) No person shall retaliate against, punish or penalize any other person
27 for complaining to, cooperating with or assisting the Inspector General in the
28 performance of their office.

29 (F) Each and every violation of this article is a criminal violation subject to
30 the provisions of ROA 1994, § 1-1-99.

31 (G) Any official or employee who violates the Inspector General Ordinance
32 may be subject to discipline as may be specified in the city ordinance, rules
33 and regulations or any applicable collective bargaining agreement.

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1 SECTION 3. SEVERABILITY. If any section, paragraph, sentence, clause,
2 word or phrase of this Ordinance is for any reason held to be invalid or
3 unenforceable by any court of competent jurisdiction, such decision shall not
4 affect the validity of the remaining provisions of this Ordinance. The Council
5 hereby declares that it would have passed this Ordinance and each section,
6 paragraph, sentence, clause, word or phrase thereof irrespective of any
7 provision being declared unconstitutional or otherwise invalid.

8 SECTION 4. COMPILATION. SECTION 1 of this Ordinance amends, is
9 incorporated in, and is to be compiled as part of the Revised Ordinances of
10 Albuquerque, New Mexico, 1994. SECTION 2 of this Ordinance is to be
11 compiled as Article 10 in Chapter 2 of the Revised Ordinances of Albuquerque,
12 New Mexico, 1994, titled “Accountability in Government Ordinance (Internal
13 Audit and Inspector General).”

14 SECTION 5. EFFECTIVE DATE. This Ordinance takes effect five days after
15 publication by title and general summary.

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