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Report of the Task Force for the Promotion of Public Trust: City of Atlanta

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**Report of the
*Task Force for the
Promotion of Public Trust***

City of Atlanta

October 14, 2019

Honorable Leah Ward Sears, Chair

Executive Summary

The Task Force for the Promotion of Public Trust was formed out of a desire by the Mayor and Atlanta City Council to strengthen the City's ethical environment and analyze the City's existing resources pertaining to oversight and investigations currently divided among a number of City agencies. The Task Force was also asked to assess the role of the City's Independent Compliance Office, a new investigative office created by Ordinance earlier this year. The mandate of the Task Force was to juxtapose an analysis of the operational roles of the multiple offices in Atlanta responsible for investigations, ethics, oversight, audit, contracting and transparency; study best practices from other cities; and hold public hearings. Having conducted that extensive research over the course of the past five months, the Task Force has concluded its work. In this Report we finalize our mission by making recommendations that Atlanta set the right tone from the top, in conjunction with the establishment of a more centralized and effective enforcement agency that can hold all City officials and those doing business with the City, accountable.

As part of our work, the Task Force heard from the City officials responsible for integrity and oversight, the Inspectors General of Philadelphia and Baltimore, and a national municipal integrity expert. The Task Force also received input from members of the public, reviewed relevant materials including City and State laws, and vigorously discussed during five public meetings perceived strengths and weaknesses in the City's current ethics and compliance landscape.

As a result, the Task Force recommends that the City create an independent Inspector General's Office with the jurisdiction and power to identify and investigate fraud, waste, corruption, abuse and misconduct. The City should consolidate the various existing investigative functions performed by the City Attorney's Office Compliance Unit, the newly created Independent Compliance Officer, and the Ethics Office under the new Inspector General.

To be effective, the Inspector General's Office should have:

- Broad jurisdiction to seek out fraud, waste, abuse, corruption, and misconduct and have the authority to initiate its own investigations;
- A fixed term of appointment and removal only for cause;
- Budgetary protection;
- Direct subpoena power; and
- The ability to keep investigations confidential and to protect whistleblowers from retaliation.

The Task Force recommends, in addition to the creation of an Inspector General, that the City strengthen the current ethics, transparency and compliance framework in a number of ways. First, the Ethics Officer and Independent Compliance Officer should have direct subpoena power and not need to go to the Board of Ethics and Independent Compliance to have subpoenas discussed in a public meeting. Second, the Ethics Officer and Independent Compliance Officer should have the ability, depending on the type of investigation, to keep the fact of their investigation

confidential and not need to notify the subject of the investigation at an early stage. Third, the City should enhance its existing whistleblower ordinance to provide an enforcement mechanism for the prohibition on retaliation against whistleblowers. Fourth, the current city offices charged with investigations should better coordinate their activities, clarify roles and responsibilities among themselves and to the city workforce, and ensure that investigations of high-ranking officials are executed with independence.

The Task Force is pleased that Mayor Bottoms and Council President Moore have embraced the Task Force's lead recommendation to create an independent Inspector General's Office with the ability to investigate fraud, waste, abuse, corruption and misconduct. We urge the Mayor and City Council to move swiftly to draft legislation and seek any necessary approvals from the state government to empower an IG with the powers discussed in this report. Atlanta is a great City with dedicated public servants. It is time we move past the corruption scandals and be recognized for the vibrant culture, economy and people that make this City great.

BACKGROUND

In February 2019, the Mayor and Atlanta City Council established by Resolution the *Task Force for the Promotion of Public Trust* (“Task Force”) to gain expert and public input on the City’s efforts to prevent fraud, public corruption and abuse by City officials and employees, as well as others interacting with the City.¹ (See Appendix 1, Atlanta City Council Resolution 19-R-3148). The Resolution establishing the Task Force defined its purpose as evaluating the efficacy of the City’s current legislative and administrative policies and procedures related to ethics, transparency, and compliance, and to survey national models of government and corporate transparency, ethics, and compliance in order to make written recommendations to the Mayor, the Council President and the Atlanta City Council for meaningful reforms in these areas.²

The Task Force consists of twelve appointed members: five appointed by the Mayor,³ five appointed by the City Council,⁴ and two appointed by the City Council President.⁵ The members include former prosecutors, members of academia, former local government attorneys, residents of the City of Atlanta, and former judges. The Task Force is chaired by retired Georgia Supreme Court Justice Leah Ward Sears.

In March 2019, the City of Atlanta expanded the Ordinance that established the Board of Ethics, by reconstituting it as the *Board of Ethics and Independent Compliance*. (See Appendix I 2, Atlanta City Council Ordinance 19-O-1038). In so doing, the City created the Independent Compliance Office (ICO) which is charged with investigating and taking remedial action concerning: (a) allegations of waste, fraud and abuse throughout the City of Atlanta government; and (b) actions of certain officials and employees concerning alleged violations of the Personnel Code, the Procurement and Real Estate Code, and the Transparency Code. In June 2019, the City allocated \$800,000 to the ICO for Fiscal Year 2020; the Independent Compliance Officer who will head the ICO has not yet been appointed. The ICO is to become an additional oversight entity in the City of Atlanta. The other existing offices that perform investigative, audit, and ethics roles include the City Auditor, Ethics Office, Compliance Unit of the City Attorney’s Office, Human Resources, and Chief Transparency Officer. One of the main functions of the Task Force is to assess the role of the newly established ICO and determine the context and role it will/should play within the City’s oversight landscape.

¹ The Task Force is one of the most recent steps taken by the City to promote integrity and examine ways to make City government more open and accessible. Other reforms have included establishing a Chief Transparency Officer; creating Open Checkbook, which publishes the city’s expenditures; and creating an Independent Compliance Officer.

² The City has experienced several public corruption cases in recent years that involved, *inter alia*, bribery, fraud, and tax evasion in connection with City contracts against, among others, senior City officials, construction company executives, and the Director of the Office of Contract Compliance.

³ Retired Georgia Supreme Court Justice Leah Ward Sears, O.V. Brantley, Lawton Jordan, Former State Representative Joe Wilkinson, Dr. Robert Franklin, Jr.

⁴ Michael Sterling, Linda DiSantis, Paul Zucca, Retired U.S. District Court Judge Duffey, and Derek Alphan.

⁵ Don Penovi and MaryAnne Gaunt.

MEMBERS OF THE TASK FORCE FOR THE PROMOTION OF PUBLIC TRUST

- The Honorable Leah Ward Sears, Retired Chief Justice, Georgia Supreme Court. Justice Sears is a partner in the business litigation and appellate practice at Smith, Gambrell & Russell LLP. Before returning to private practice, she enjoyed 17 years of distinguished service on the Georgia Supreme Court, including four years as Chief Justice. Justice Sears is Chair of the Task Force for the Promotion of Public Trust.
- Derek Alphan works in the municipal government practice at Hilliard Starkey Law, with a particular emphasis on assisting clients throughout the Metropolitan Atlanta area with vendor registrations and/or local government minority/female business-owned certifications. Before private practice, he served as a law professor and Special Counsel to the City of Atlanta Law Department.
- O.V. Brantley formerly served as County Attorney for DeKalb and Fulton Counties and Deputy City Attorney for the City of Atlanta. She is a certified mediator with an emphasis on resolving disputes arising in a governmental setting.
- Linda DiSantis formerly served as City Attorney for the City of Atlanta and in a variety of legal and compliance roles at UPS. After leaving the City Attorney's Office, she served as General Counsel of CARE USA and founded the DiSantis Law Firm.
- The Honorable William S. Duffey, Jr. served as a United States District Judge for the Northern District of Georgia for 14 years. He also served as the United States Attorney for the Northern District of Georgia.
- Dr. Robert M. Franklin, Jr. is a Professor of Moral Leadership at Candler School of Theology at Emory University, and is a Senior Advisor to the President of Emory University, serving on the President's Leadership Council. He is former Director of the Religion Department at the Chautauqua Institution and the author of three books on religion and African-American history.
- MaryAnne Gaunt served as Associate Director of the Principals Center, an educational development program at Georgia State University, until 2014. She is a former Board Member and Vice-Chair of the Atlanta City Ethics Board, and a member of the Board of Trustees for the Atlanta Fulton County League of Women Voters.
- Lawton Jordan is a lawyer at Williams Teusink LLC where his practice focuses on real estate and business transactions. Mr. Jordan previously served on the Georgia Government Transparency and Campaign Finance Commission (formerly the Ethics Commission).
- Don Penovi is a finance, audit and controls professional with wide-ranging experience in risk-based financial and compliance audits, including working for Coca-Cola Enterprises for 28 years. He previously served as Chair and Vice-Chair of the City of Atlanta Audit Committee for eight years. Mr. Penovi also serves as Vice-Chair of the Task Force for the Promotion of Public Trust.

- Michael T. Sterling is a co-founder and partner at Dreyer Sterling, LLC. Before founding his firm, he served as Senior Advisor to Mayor Kasim Reed and served as an Assistant United States Attorney for the Northern District of Illinois.
- Joseph Wilkinson, Jr. from 2001-2017 represented the 52nd District in the Georgia House of Representatives, where he chaired the Ethics Committee and served on the Economic Development and Tourism, Health and Human Services, and Insurance Committees. He also served on the Georgia House Judiciary Committee as an Ex-Officio member. He was appointed to Chair the Jekyll Island State Park Authority Board of Directors by Governor Kemp in July 2019.
- Paul Zucca is the Executive Vice President of Operations for Del Mar Enterprises, Inc. He has extensive volunteer experience, including serving for the past 11 years as a member of the Atlanta Elected Officials Compensation Commission and as President of the Grant Park Neighborhood Association.

Introduction – The Right Tone Must Be Set By All City Leaders and Managers

The Atlanta Task Force for the Promotion of Public Trust, which was implemented to develop strategies and solutions where needed to strengthen the City of Atlanta’s regulations pertaining to transparency, ethics, and compliance, has now completed its important job. As noted above, the City has already taken steps to strengthen transparency and ethics in government. The Task Force met with dedicated officials and leaders from the City of Atlanta. The work of their respective departments benefits the public every day.

Throughout five public meetings in a little over five months, the Task Force listened to the presentations of 10 subject matter expert witnesses. The Task Force additionally received input from members of the public, were provided reams of relevant documents, including city and state statutes, ordinances and other relevant reading material, and listened to the reflections of the dozen Task Force Members.

Showing commitment and support from the top, we were fortunate to hear from, Mayor Keisha Lance Bottoms and City Council President Felicia Moore, who addressed the Task Force during its public meetings. Mayor Bottoms charged the Task Force with taking “a fresh look” at the City’s integrity framework and asked us to provide “solid recommendations” for further steps City officials can take “to inspire confidence in [Atlanta’s] government.” (May 14, 2019, Task Force meeting). She said, “I’ve quickly seen in my almost 18 months as Mayor, it matters not if we’ve done all of these great things on behalf of our community if people don’t trust us and if they don’t believe that we are operating with utmost integrity.’ *Id.* Council President Moore provided input at several public sessions including, *inter alia*, the legislative history of the Ordinance creating the Independent Compliance Office. She explained that its primary purpose was to make sure people are adhering to the City Charter, the City Code, and other regulations and laws, and create an office that can hold people accountable. (May 2019 meeting). Council President Moore also said the reason she wanted there to be an independent compliance function was that “we

needed someone who would despite the fact that there's a Council or a Mayor, be able to enforce the laws without feeling pressure from the Mayor or from the Council.” (June 2019 meeting).

The presentations and materials provided to the Task Force over five months were not only impressive but revealed that improvements can and should continue to be made to enhance efficiency and reduce redundancy concerning ethics, compliance and transparency regulations currently in place in Atlanta City government. Although there appear to be some gaps in enforcement that appear to exist, gaps that must be closed (especially as to enforcement actions against the City’s top officials, when necessary), it seems that there are enough regulations in place to ensure that those who do business with Atlanta City government, or who work for the City, do right by Atlanta and her citizens.

With that said, it is important to point out a key element, which, if missing, is something that all the efforts of the Task Force and others will never be able to fix: namely, that the right tone for ethical leadership must be set at the top by all of the City’s leaders, managers, and supervisors. Said another way, it doesn’t matter how much effort is made to ensure that a rigorous system of accountability exists, in order to strengthen public trust in government, the City’s leaders (meaning, collectively, all of its managers, officers, supervisors, appointed and elected officials) must set high expectations for ethical behavior and follow through on that commitment at every turn. After all, investigations, audits, and reviews, for the most part, are about dealing with issues after the fact.

The Task Force has learned about proactive tools including training requirements and ethics opinions that are in place, and that’s good. But it is the collective tone from the top that ultimately sets a government’s guiding values and ethical climate. Properly fed and nurtured, the tone at the top is the foundation upon which the culture of any enterprise, including a city government, is built. It’s the glue that will hold any government together. To be clear, while there are examples of public corruption cases as a backdrop to the creation of this Task Force, the Task Force is not pointing a critical finger at any particular public servant or employee, past or present, as that is not the Task’s Force’s mandate. The members of the Task Force unequivocally believe, however, that without a commitment to a culture of ethical behavior from the top, which must be a consistently communicated critical part of every city leader’s expectations, it will be impossible to maintain an ethical work environment no matter how many Task Forces are created or investigations and audits are undertaken.

While in a democracy everyone has their ideas regarding what qualities a good, ethical leader should have, there are at least a few key attributes that should be easy for everyone to agree on. The first is integrity. Whenever a man or woman in a position of power has integrity at the top of their list of ethical standards, they will tend to act for the greater good of others. They won't behave in a selfish manner that only benefits their self-interest and personal gain.

Honesty is important too, but it is often the hardest quality for a leader to live up to, because honesty often involves giving answers to questions that few people want to hear. That also means that a person's popularity can be impacted, albeit for good reason. Nevertheless, we need honest leaders who will not lie to protect others who don't value honesty as much as they do. .

Accountability is also high on the list of needed attributes since it is difficult to ask other people to admit when they've made a mistake when a leader isn't willing to do the same.

Finally, there is courage. Perhaps the most important quality is courage because it takes an enormous amount of courage of conviction to take charge of difficult situations, which could potentially put a person's career at risk if they are willing to do what is right, even in the face of enormous pressure or temptation.

Leaders who adopt and maintain these qualities have what it takes to be ethical leaders.

Nothing undermines the respect others have for a leader more than hypocrisy. For this reason, all of Atlanta City government's leaders must be conscious of the signals they send and the tone they set. Like a bell in a church steeple or a clock tower, which is always hung from the structure's highest peak for everyone down below to hear, the tone for ethics, compliance, and transparency in Atlanta City government must be set at the top by all of its leaders.

WITNESS TESTIMONY

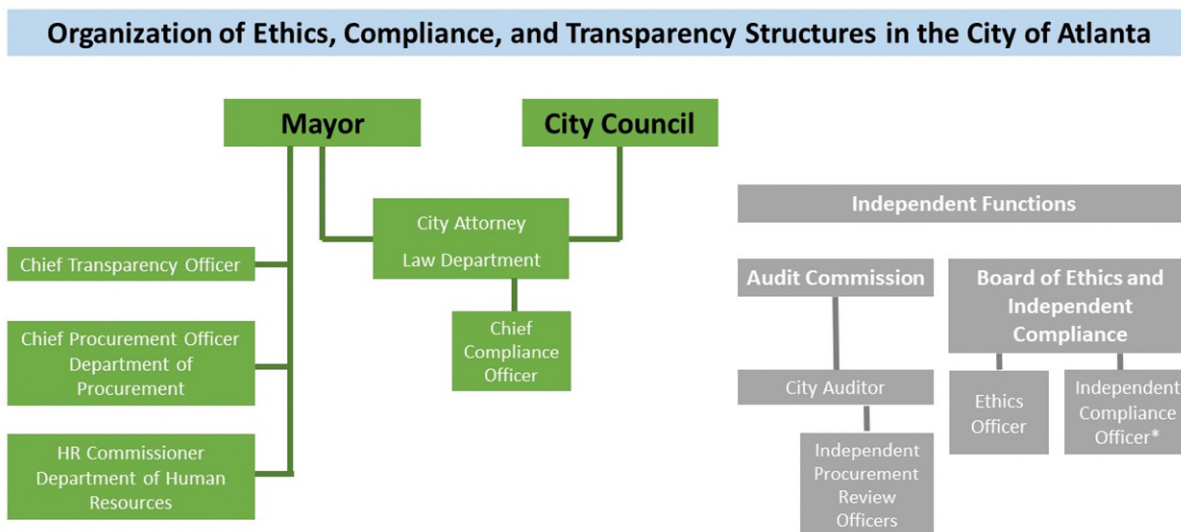
As has been noted, to accomplish its mandate, the Task Force held five public meetings between May and October 2019. Ten subject matter experts presented testimony and materials to the Task Force, which were extensively discussed at the public meetings. The Task Force also reviewed the City's charter, relevant laws, policies, and procedures, and studied the integrity structures of other cities. At each of the meetings, members of the public were also provided the opportunity to make comments, enabling the Task Force to consider their input in developing its recommendations. The City Attorney's Office supported the work of the Task Force by providing legal guidance on the City's ethical and oversight structure and legal framework. The Municipal Integrity Practice of Bloomberg Associates, a pro bono municipal consulting firm, led by Rose Gill Hearn, the former Commissioner of New York City's Department of Investigation, facilitated the work of the Task Force.

The Task Force heard from witnesses who fell roughly into three categories. The first category consisted of the heads of departments or units in the City of Atlanta that have a role relating to audits, investigations, oversight, compliance, discipline, ethics training or enforcement. The second category was a municipal integrity expert from a research center - Jennifer Rodgers, the former Director of the Center for Advancement of Public Integrity (CAPI), a non-profit center dedicated to helping public integrity professionals more effectively identify and combat public corruption. The third category consisted of two current municipal practitioners - the Inspectors General from Philadelphia and Baltimore.

1. City of Atlanta Officials

These witnesses have oversight of contracts and contractors, City personnel and departments, those receiving City funds and/or doing business with the City. These witnesses included: the City Attorney, City Auditor, Compliance Officer of the City Attorney's Office, Ethics Officer, Interim Human Resources Commissioner, Chief Transparency Officer, and Chief Procurement Officer. Each made an informative presentation outlining the jurisdiction, duties, and

operations of their respective offices. Given the Task Force’s mission to examine the new ICO and its relation to the existing offices that have integrity-related mandates, the City of Atlanta witnesses were asked to focus on the legislation creating the ICO; how the ICO’s jurisdiction and duties fit within the ethics and transparency landscape of the existing functions within the City’s other offices; how the ICO would fill gaps in the investigative and enforcement framework; where there were areas of overlap with the duties of the City Auditor, Ethics Office, and City Attorney Compliance Unit; and how these offices would coordinate responsibilities to avoid duplication. The organizational chart below sets forth the City’s existing offices with integrity-related functions.



*Independent Compliance Officer role has been funded; appointment has not yet been made.

Below is a summary of the presentations made by the City of Atlanta official witnesses responsible for oversight, audit, and ethics functions.

Nina Hickson, City Attorney

Nina Hickson has served as City Attorney since July 2018. The City Attorney’s Office has approximately 97 budgeted employees and represents the City of Atlanta in a wide range of commercial transactions; litigates all matters on behalf of the City of Atlanta; defends city officials and employees in civil litigation arising from the performance of their official duties; provides written legal opinions on questions of law connected with the City’s interests; drafts specific legislation; and provides relevant training. (The City Attorney’s Office was involved with the drafting of the legislation that created the ICO.) The City Attorney is appointed by the Mayor and is confirmed by the Council, and reports to both the Mayor and Council. Previously, Ms. Hickson was the Ethics Officer for the City of Atlanta for four years, and General Counsel and Vice President of the Atlanta Beltline, Inc.

Ms. Hickson’s presentation focused on Ordinance No. 19-0-1038, the legislation that created the Independent Compliance Office and expanded the composition and duties of the Ethics

Board (in existence since at least 1984), now the *Board of Ethics and Independent Compliance*.⁶ She set forth the purpose of the ICO as follows:

- To increase the City's commitment to transparency and compliance.
- To ensure that the City and its employees are conducting business in a manner that is honest, transparent, lawful, and in the sole interests of its residents.
- To further the City's responsibility of compliance with applicable laws, and prevention of fraud, abuse, and corruption within the agencies of City government.

The Independent Compliance Office is governed by the Board of Ethics and Independent Compliance. The Independent Compliance Officer will be appointed by a vote of a majority of the members of the Board of Ethics and Independent Compliance, subject to confirmation by a majority of the Atlanta City Council and approval by the Mayor. The Independent Compliance Officer shall serve a term of five years. In June 2019, the City allocated \$800,000 to the ICO for Fiscal Year 2020. The ICO has jurisdiction, *inter alia*, to investigate and take remedial action regarding:

- The performance and financial operation of all departments, offices, boards, activities, and agencies of the City, as referred by the City Auditor where perceived deficiencies have been identified.
- Reports of Independent Procurement Officers referred from the City Auditor where perceived deficiencies are identified.
- Allegations of waste, fraud, and abuse by city departments, offices, and boards.

The ICO's duties include educating and training employees; investigating allegations and recommending disciplinary, punitive or other specific adverse action against defined employees; monitoring, evaluating and acting upon information reported by a City employee or from the City's Integrity Hotline; and referring suspected violations to law enforcement authorities.

The Board of Ethics and Independent Compliance has subpoena power to conduct its mandated functions and investigations. Pursuant to § 2-806 of the City of Atlanta Code of Ordinances, the Board of Ethics and Independent Compliance is charged with conducting investigations into alleged violations of the Ethics Code and matters under the jurisdiction of the Independent Compliance Officer. The Code grants the Board subpoena power "to compel any person to appear, give sworn testimony, or produce documentary or other evidence." Failing to respond to a subpoena of the Board of Ethics and Independent Compliance may result in penalties which can include one or more of 1) a sanction of up to \$1,000, 2) public reprimand,

⁶ Members of the Board of Ethics and Independent Compliance are appointed by the Mayor and City Council. They are nominated by legal, regulatory, business, civic, and educational groups. The legislation creating the Independent Compliance Office in 2019, Ordinance 19-O-1038, expanded the membership of the Board from seven to eleven members and added Independent Compliance to its function. The Board of Ethics and Independent Compliance holds public meetings monthly, on the third Thursday of the month.

and/or 3) prosecution by the city solicitor in municipal court and, if convicted, a fine of up to \$1,000 per violation and up to six months imprisonment. City Code § 2-806, § 2-807.⁷

The Ethics Office conducts preliminary investigations, but subpoenas must be authorized and issued by the Board. (*see* Atlanta City Code § 2-806(4)). According to the Ethics Officer, the request for a subpoena is triggered in instances where, during an investigatory process, a determination has been reached that there are no other means of obtaining the necessary testimony, documentary or other evidence. When a subpoena is necessary, the process involves an appearance by the Ethics Officer before the Board of Ethics and Independent Compliance at one of the Board's regular meetings, where the subpoena is requested citing City Code § 2-806(4) and the Georgia Administrative Procedure Act (O.C.G.A. § 50-13-13, *et seq.*). The subpoena, which must be issued by a majority vote of the Board, is served by the Ethics Office on the party subpoenaed.

City Attorney Nina Hickson testified about the purpose of the ICO: to further the City's commitment to transparency and to investigate and take remedial action concerning allegations of fraud, waste, and abuse. She noted that the subpoena power for the ICO is the same as for the Ethics Office and requires a vote of the Board of Ethics and Independent Compliance at a public meeting. The legislation broadens the range of issues that go to the Board of Ethics and Independent Compliance, previously confined to violations of the Code of Ethics, to now include cases involving fraud, waste, abuse and other violations of the City Code. She discussed the confidentiality issues with the ICO because matters and investigations before the Board of Ethics and Independent Compliance are subject to disclosure under the Georgia Open Records Act.

Jabu Sengova, City Ethics Officer

Jabu Sengova discussed the work of the City's Ethics Office. Ms. Sengova was appointed Ethics Officer in February 2017. Before her appointment, Ms. Sengova served for eight years as the City's Associate Ethics Officer. Established in 2003, the Ethics Office is an independent agency within City government headed by the Ethics Officer. The Office currently has eight full-time funded positions. The Ethics Officer is appointed by and reports to the Board of Ethics and Independent Compliance.

The Ethics Office staff provides ethics training to City officials and employees; gives advice on conflicts of interest and gift rules; investigates ethics complaints; prosecutes violations of the Code of Ethics; and manages the financial disclosure system and filing of reports. The Ethics Office oversees the City of Atlanta's ethics and compliance hotline (known as the "*Integrity Line*") and determines which office should investigate the various matters reported.⁸ The Ethics Office keeps for investigation some of the complaints made to the hotline, and refers others for review to the City Auditor's Office, Compliance Unit of the City Attorney's Office, Human Resources Dept., etc. *See* Appendix 3, Chart listing jurisdiction by office over various types of complaints, from

⁷ The Municipal Court's enforcement powers are limited to the territorial limits of the City. Thus, we are informed by the City Attorney's Office that subpoenas for relevant records and evidence cannot be enforced beyond the geographical jurisdiction bounds of the City of Atlanta. Atlanta City Charter § 4-39(1). This would, therefore, be a limitation for an IG office's subpoena power.

⁸ The City of Atlanta officials who testified before the Task Force indicated that there will continue to be one hotline for the City, the existing Integrity Line, not a separate hotline for the new ICO.

Ms. Sengova's presentation to the Task Force. The chart does not list the types of matters sent to the ICO because the ICO has not yet started operations. Notably, the chart reflects some overlap among the existing offices for some types of cases. Presumably, there will be additional overlap when the ICO is up and running. The City official witnesses collectively said that they could resolve instances where there is overlapping jurisdiction.

In her testimony before the Task Force, Ms. Sengova explained how complaints that come in through the Integrity Line or other channels are assigned, depending on the nature of the complaint:

- The Ethics Office generally investigates complaints relating to violations of the Ethics Code, including conflicts of interests, gifts, and misuse of city property.
- If the complaint might involve a crime, it is referred to law enforcement.
- Complaints involving an operational issue within a department (potholes, etc.) are referred to the relevant department for investigation and resolution. The department is asked to report back on any action taken so the Ethics Office can close out the complaint.
- The majority of complaints pertain to City personnel and/or human resources matters, and are referred to the relevant department and/or the City's Department of Human Resources (HR). Depending on the nature of the complaint; however, HR, the Ethics Office, or the City Attorney's Compliance Unit may retain or have concurrent jurisdiction.

For complaints falling within the Ethics Office's jurisdiction, the Ethics Office *notifies the subject of a complaint by the next business day*. The complainant may remain anonymous.⁹ The Ethics Office conducts a preliminary investigation¹⁰ and can recommend dismissal, settlement or a finding of probable cause to refer to the Ethics Board. If the Board finds probable cause, it holds an enforcement hearing to determine if there has been a violation of the Ethics Code. If there has been a violation, the Board assesses fines, sanctions or both. If the Board determines there was no violation, it dismisses the matter. Several examples of cases that the Ethics Office has handled include: a City employee who provided private services to establishments he inspected; soliciting and accepting free meals from City contractors; soliciting a contribution to a City employee's personal activity from someone who does business with that employee's department, and; misuse of City funds to send political emails.

⁹ Given that subjects of complaints are notified about the fact of and source of a complaint, the Task Force also explored whether there was whistleblower protection in the City. According to the City Attorney's Office, the City's Code of Ethics prohibits retaliation against City officials and employees for reporting a suspected violation but does not provide any enforcement for violations. Atlanta City Code § 2-823. While the City Code does not itself provide a remedy for victims of retaliation, the Georgia Whistleblower Act provides a right of action for public employees subjected to retaliation for reporting violations of, or noncompliance with, the law. The adequacy of whistleblower safeguards is discussed further in the Recommendation section of this Report.

¹⁰ O.C.G.A. § 45-1-4, et seq.

Ms. Sengova testified that the ICO could play a key role in partnering with law enforcement agencies to combat fraud and corruption and to aggressively pursue financial recovery. She noted that her office, and the other entities in Atlanta's oversight framework, would need to work with the ICO to define their duties and responsibilities and to clarify the jurisdiction of each office.

Rhonda Sadler-Collins, Director, Compliance Unit of the City Attorney's Office

Rhonda Sadler-Collins presented on the work of the Compliance Unit of the City Attorney's Office. She held the position of Director since earlier 2019, and before that, Ms. Sadler-Collins served for over three years as an Assistant City Attorney. Prior to that, she served for three years in the City Auditor's Office.¹¹

The Compliance Unit was created in approximately 2003 based on broad investigative jurisdiction granted to the Law Department by Atlanta City Code §2-401. The Compliance Unit has approximately four positions. As described by Ms. Sadler-Collins during her testimony, the Compliance Unit is responsible for proactively evaluating, reviewing and improving compliance standards and processes within the City of Atlanta, with a focus on preventing and reducing liability related to the City of Atlanta's compliance with federal, state and local laws and regulations. The Compliance Unit also conducts investigations of wrongdoing, depending on the nature of the complaint, by City officials, employees, departments, or vendors arising from the Integrity Line or other sources. The Compliance Unit is sometimes called upon to investigate sensitive matters pertaining to high ranking City officials, (and in some cases so is the Ethics Office and HR).

Examples of cases that the Compliance Unit has handled include fraud, procurement irregularities, workplace violence, and falsification of city records. The Compliance Unit refers matters to law enforcement when a) the allegation is criminal on its face, or b) its investigation reveals potentially criminal activity.¹²

Ms. Sadler-Collins highlighted the express authority given to the ICO to investigate allegations related to elected officials and employees appointed by elected officials, and the independence of the new ICO role because the ICO can only be removed for cause by a vote of the majority of the Board of Ethics and Independent Compliance.

¹¹ After her testimony before the Task Force in June 2019, Rhonda Sadler-Collins recently left to pursue a new position. The new City Compliance Director is Shalanda M.J. Miller, who previously served as Supervisory Senior Counsel in the City Attorney's Office. Before joining the City, Ms. Miller worked as an Associate Magistrate Court Judge in Fulton County and a Staff Attorney in Fulton and Clayton Counties.

¹² The Compliance Unit might investigate allegations related to City contracts that could ripen into allegations of bribes or kickbacks; referrals to law enforcement would be made of such matters.

Amanda Noble, City Auditor

Amanda Noble described the work of the City Auditor and Audit Committee. The Audit Committee is an independent oversight body which is organizationally outside the reporting line of those responsible for areas subject to audit. The Audit Committee appoints the City Auditor to a five-year term.¹³ Ms. Noble has held the position of City Auditor since June 2017. Before that, she served for 12 years as Atlanta's Deputy City Auditor and was an audit manager for the City of Kansas City, Missouri.

The City Auditor's Office has approximately 19 employees, and conducts performance and financial audits of all departments, offices, boards, activities, and agencies of the City to evaluate:

- Compliance with applicable laws
- Efficient, effective and economical use of resources
- Achieving mandated missions
- Financial and other reporting is complete and accurate
- Indicators of fraud, abuse or illegal acts

Beginning in 2018, the City Auditor's Office is also responsible for reviewing all contract solicitations with an aggregate value over \$1,000,000 for completeness, conflicts of interest or other areas of potential deficiency, through an Independent Procurement Review Process.

In Fiscal Year 2019, the City Auditors Office released ten audit reports, closed 47 audit recommendations, completed four investigations, completed its pilot Independent Procurement Review, and published an annual report about the full range of the office's activities. Several examples of audits conducted by the City Auditor's Office include Atlanta Police Department Fleet Acquisition and Maintenance, Fire Hydrant Inspection and Maintenance, and Procurement: Expired Contracts and Cooperative Agreements.

Ms. Noble provided some thoughts about the role of the newly formed ICO as it relates to the Auditor's Office. She stated that she sees the expanded Board of Ethics and Independent Compliance as a potentially useful resource to the City Auditor's Office concerning, among other things, enforcement. Specifically, the City Auditor's Office does not have any enforcement authority, and so Ms. Noble posited that the Board could enforce the findings included in her office's audit reports. She also noted that complaints, whether through the Integrity Line or other means, are currently coordinated among, and referred to the different City oversight entities, including the City Auditor, and she believed that the ICO's role in investigating complaints could

¹³ The City Audit Committee is comprised of five voting members, including the Mayor or Mayor's appointee, the Council President or her appointee, and three at-large members. The at-large members must be City residents with auditing experience and hold professional certifications as a public accountant, internal auditor, or management accountant. At-large members are appointed by the City Council to a four-year term.

be incorporated into that process in a way that avoids duplication. Ms. Noble also noted the independence of the new ICO, given it is situated outside departments it oversees.

Jeffrey Norman, Interim Commissioner, Department of Human Resources

Jeffrey Norman presented on the role his department plays in investigating allegations of wrongdoing by City employees. The Department of Human Resources (HR) carries out its mission by screening new hires for conflicts and background issues; training new employees on city policies and procedures; promulgating policies and procedures outlining the rules for City of Atlanta employees; coordinating with Labor Relations; participating in and coordinating employee performance evaluations; investigating allegations of misconduct; and supporting the administration of disciplinary actions. The City's HR Department has approximately 153 employees. Examples of matters that the HR Department investigates include wage and hour issues, theft of time, and sexual harassment allegations. The testimony by City officials also indicated that HR may have concurrent jurisdiction over a matter under investigation with the Ethics Office or the Compliance Unit.

Kristen Denius, Chief Transparency Officer

Chief Transparency Officer Kristen Denius presented before the Task Force on the work of her office, recently created in 2018. Prior to her appointment as Chief Transparency Officer, Ms. Denius served in the City Attorney's Office, advising on Georgia Open Records Act requests for approximately ten years and working in other capacities for eight years.

The Chief Transparency Officer (CTO) is appointed by the Mayor and confirmed by the Council, and is expected to serve for at least three years. The CTO's role is to ensure the City's full compliance with the requirements of the Georgia Open Records Act ("GORA") by implementing a comprehensive compliance plan; to train City officials and employees on GORA requirements; and to investigate allegations of non-compliance with the GORA. The type of matters that the CTO might be called upon to investigate are narrow in subject, and include non-compliance with the Georgia Open Records Act.¹⁴ The CTO's office may in the future be receiving funding for additional personnel.

David Wilson, Chief Procurement Officer, Department of Procurement

Chief Procurement Officer David Wilson spoke at the third Task Force meeting about the work of the Department of Procurement (DOP) to make City contracting more ethical, transparent and fiscally responsible. To advance this mission, DOP has centralized its activities; cooperated with the Independent Procurement Review Office reviews conducted by the City Auditor; added the City ethics pledge as a required form in all solicitations, and instituted mandatory annual ethics

¹⁴ In her testimony, Ms. Denius noted that she began working with the City's Department of Procurement to search for software solutions to meet the Code requirement that the City create an open records website. She stated she sees this as an opportunity for the City to simplify its open-record process and make it more user-friendly, both for the public to access records and for City employees to comply with open records requests.

training for all DOP personnel. Mr. Wilson has been in his position for over one year, and before that he worked for 20 years in procurement for the United States Air Force. DOP currently has approximately 65 staff members, with funding for additional positions.

2. Municipal Integrity Expert Jennifer Rodgers, Former Director of Columbia Law School Center (CAPI)

In addition to hearing from the leaders of the City's offices with ethics, compliance, investigative or oversight functions, the Task Force invited a municipal integrity expert from the Center for the Advancement of Public Integrity (CAPI) at Columbia Law School to present a landscape assessment of the integrity frameworks in other cities. CAPI is a non-profit research center dedicated to helping public integrity professionals more effectively identify and combat public corruption. All of CAPI's work is publicly available on its website: law.columbia.edu/capi.

Former Executive Director Jennifer Rodgers summarized the key features of Inspector General Offices in seven cities, including jurisdiction, independence, investigative powers, and confidentiality. The Task Force engaged in a meaningful dialogue about the current integrity/oversight structures in Atlanta, and how our City's ecosystem in Atlanta compares to these other jurisdictions to inform their recommendations.

Three of CAPI's research projects are particularly relevant to the Task Force's work. First, CAPI's Landscape Assessment provides an overall view of what types, and how many of each type, of oversight institutions exist at the local, state, and federal levels in the United States. CAPI's survey discovered more than one thousand state and local oversight offices in the United States. While the majority of these are comptrollers responsible for fiscal oversight, there are also approximately 140 Inspector General offices and approximately 120 Ethics Commissions.

Ethics Commissions and Inspectors General are the most relevant models for combatting general kinds of governmental corruption, like bribery, self-dealing, and conflicts of interest, so they are likely of most interest to the Task Force. Ethics Commissions typically advise government employees and others, like vendors, who fall under the city's ethics code about issues like whether they can take gifts, whether they can hold a second job, or whether something that came up in the course of their job might pose a conflict of interest. Ethics Commissions often conduct training on these topics and adjudicate disputes involving these and other non-criminal violations of the ethics code and laws. Ethics Commissions can sometimes issue fines and impose other forms of discipline in connection with such violations and may conduct simple investigations as part of the adjudication process.

Inspectors General are different in that they fulfill a quasi-criminal function, which makes them a stronger kind of watchdog. An IG's mandate is usually to root out fraud, waste, and abuse or corruption, and they do so by conducting robust and complex investigations, often on their own initiative. An IG's office will also often make criminal referrals for prosecution and then continue to work on the criminal case through its resolution.

The second CAPI project relevant to the Task Force's work is the 50 State Oversight Survey, also available on its website here: <https://www.law.columbia.edu/capi-map>. For each of the 50 states, plus Washington D.C. and the federal government system, CAPI has prepared a

report describing that state's history of public corruption, the state's public integrity institutions, the state's ethics laws and codes, and representative legal cases. In addition to the reports, the project contains a clickable map, where one can compare states on a variety of criteria, such as their public integrity laws, and features of their integrity institutions. For example, one can learn what kind of oversight bodies different states have, what investigative powers those offices have, what kinds of legal protections are in place, and much more. (See Appendix 2, Screenshots of the 50 State Oversight Survey homepage and selected comparative categories represented in the interactive tool.)

Ms. Rodgers was asked to draw some comparisons among municipal Inspector General Offices in an effort to explore what features are most likely to lead to the ability to successfully carry out their duties. She looked at seven municipal Inspector General Offices in the following cities: Detroit, Chicago, New Orleans, New York, Baltimore, Washington D.C., and Miami-Dade. She also drew upon a third CAPI project, its Municipal Integrity Practitioner Toolkit, which provides guidance on the important features that a municipal integrity agency should have to be effective in combatting waste, fraud, abuse, and corruption. The Toolkit, which Ms. Rodgers showed to the Task Force, is available here: https://www.law.columbia.edu/sites/default/files/microsites/public-integrity/best_practices_in_municipal_oversight.pdf

While these seven offices differ significantly in terms of size and resources, there are important similarities. First, all seven IGs have broad jurisdiction: to seek out fraud, waste, and abuse or corruption. All can initiate their own investigations, all can take anonymous reports, and all have some form of whistleblower protections. These features are very important because of the quasi-criminal nature of an Inspector General's work, some of which will end up in criminal proceedings: the investigation and its sources must be able to be protected and kept confidential for the work to succeed.

In terms of investigative powers, all seven IG offices have subpoena power, meaning that they can acquire more than just the materials legally belonging to the City. Subpoena power encompasses information held by third parties, such as banks and other private businesses, and individuals not employed by the City. Six of the seven also have an important feature, which is that City employees and vendors are not only required to cooperate with any IG investigation but are required to affirmatively report wrongdoing of which they become aware.

Concerning accountability measures, all seven of the offices possess important accountability safeguards, like dual reporting. Dual reporting means that in all seven offices, information about the IG's work is required to be provided in some fashion to two branches of government. That is, many offices have the IG directly report to the executive branch (often the Mayor's office), and also reporting periodically to the City Council or one of its committees. Having two branches oversee the work of the IG helps to answer the question of "who is watching the watchdog" which is so important in terms of proper accountability. All of the IG offices also have public reporting requirements.

These seven IG offices also have important independence features, such as a strong legal basis of creation. All were created under either their city's charter or by legislation, instead of by

Executive Order, which can be undone if another Mayor less supportive of anti-corruption work decides to do so. These IG offices also carry removal protections, so that the IG cannot be fired at will. Appointment protections are also in place at these seven offices, meaning that there is some sort of dual appointment structure, either with an executive appointment and legislative confirmation, or a joint appointment with the two branches, guarding against an IG who lacks independence. Lastly, two of these offices – Chicago and Miami-Dade – have independent funding. In Chicago, the IG’s budget is fixed as a percentage of the overall City budget, and in Miami-Dade, the IG receives a set percentage of the dollar amount of county contracts. These fixed funding regimes allow the IG office an additional measure of independence, ensuring that its budget cannot be slashed as retaliation for its actions. Notably, many of the other five IG offices explored here have some sort of budgetary protection in the form of a budgeting process that involves both the executive and legislative branches, although their budget is not fixed.

Successful IG offices must be imbued with adequate enforcement powers to get the job done. Corruption investigations are complex and challenging, and the tools that these seven offices have are vital to fulfilling the mandate of an IG. Equally important, however, is independence. If an oversight office is expected to investigate powerful people for corruption crimes, it absolutely must be protected from interference. Without these two things - enforcement tools, and independence - it would be difficult for any IG to succeed.

In terms of Atlanta’s Independent Compliance Office, Ms. Rodgers said that it appears the ICO has been given the duties, responsibilities, and mission of an Inspector General - namely to fight fraud, waste, abuse, and corruption - without having been given the powers and independence safeguards that are the hallmarks of successful IGs. Ms. Rodgers said she believes it will be very challenging for the ICO to fulfill its mission as the office is currently envisioned. She has never seen an IG-type office as part of either an Ethics Commission/Board, or, in the case of the Compliance Unit, as part of a City Legal Department. IGs and Ethics Commissions/Boards have different functions and purposes (as do IGs and law departments), and at least some of those functions work at cross-purposes to one another, making it unlikely in her view that an IG could effectively function without being an independent office more akin to an IG office.

3. Inspectors General Witnesses

The Task Force also heard from two current municipal practitioners. The Inspectors General from Philadelphia and Baltimore presented on the respective work of their offices. They discussed their jurisdiction, duties, and how they coordinate with other parts of City government with ethics, transparency and investigative functions.

Inspector General Amy Kurland, City of Philadelphia

Amy Kurland testified about the establishment of a new integrity system and expansion of the Philadelphia Office of the Inspector General following the election of Mayor Michael Nutter in 2008.

In providing some history and context, Ms. Kurland pointed out that more than 100 years ago, Lincoln Steffens described Philadelphia as “corrupt and contented” in his book *Shame of the*

Cities. More recently, fueled by periodic prosecutions and convictions of corrupt public officials, the City has contended with a similar reputation – a place where citizens and businesses relied on the corruption of City officials for access to municipal services and public contracts. In 2007, Philadelphia’s voters made it clear that they were ready for a change. Mayor Michael Nutter was elected on a platform of restoring honesty and integrity to City government and he brought an ethics team directly into the executive branch. He created a Chief Integrity Officer to proactively address ethics issues. And he greatly expanded the Office of Inspector General by appointing Kurland, a former federal prosecutor, as IG, separating the office from the Mayor’s office, giving it its own budget and operational independence.

Unlike Atlanta’s new ICO, the Philadelphia IG office (OIG) operates under an Executive Order and thus has jurisdiction only over the executive branch— City employees, companies doing business with the City, non-profits receiving City funds, recipients of City grants, tax incentives and loans, and quasi-governmental agencies. It does not have jurisdiction over the legislative or judicial branches of City government. The OIG has subpoena power— it can compel testimony and demand documents. The Executive Order has several important provisions: all City employees and organizations under the OIG’s jurisdiction must cooperate with the OIG; all City employees must report misconduct and all OIG matters must remain confidential. These features are staples of other municipal IG programs/offices as well.

The mission of the Philadelphia OIG is to boost confidence in government by rooting out fraud, corruption, and misconduct among City employees and those doing business with the City. The OIG focuses on six main areas.

1. Criminal Investigations

Most importantly, the OIG does not refer criminal conduct to law enforcement but rather invites law enforcement to work jointly with the OIG. Ms. Kurland explained that when an arm of City government discovers wrongdoing and handles it, citizens have confidence that their government can police itself. The OIG investigates cases of fraud by City employees, by contractors who overbill and by management of non-profits who have embezzled City funds. The IG also testifies at sentencings to describe the impact the crime had on the City. For example, if there was a theft of \$1 million, Ms. Kurland would explain what the City could have done with those funds— hiring more police officers, repairing recreation centers, keeping libraries open. This powerful testimony usually results in judges ordering restitution.

2. Administrative Investigations

Employee misconduct constitutes a large part of the OIG work. Investigations include theft of time, misuse of city property, unauthorized secondary employment and failure to properly supervise. The OIG receives complaints through a hotline, walk-ins, web complaints and referrals. Following an investigation, if the allegation is founded, the OIG issues a report and recommends discipline. The appointing authority must report back to the OIG within 30 days as to its actions.

3. Contract Compliance and Minority Business Fraud

The OIG contract compliance unit handles investigations such as fraudulent invoices, embezzlement, forged instruments, and manipulated bids. Many of these investigations result in settlement agreements, compliance agreements, debarments, and suspensions. In the minority business area, the OIG investigates companies that use pass-through minority businesses and misrepresent minority participation.

4. Policy Recommendations

Following most investigations, whether they are criminal, administrative or contract cases, the OIG looks back to the department to discover flaws in the system that allowed the fraud or corruption to occur. The OIG works together with the department and makes recommendations to prevent problems going forward. Often the recommendations include better controls and oversight, training, separation of duties, or reorganization of the department.

5. Integrity Officers

The OIG Integrity Officer (IO) program is essential to successful investigations. IOs in every department are chosen by the IG, take an oath of confidentiality and report to the IG, not to their department heads, regarding OIG matters. They assist the IG office in investigations by obtaining documents, making witnesses available and referring complaints.

6. Prevention

Ms. Kurland explained that while discovering wrongdoing and punishing the wrongdoer is important, it is equally important to prevent misconduct from occurring in the first place. The Philadelphia OIG conducts numerous corruption prevention training in individual departments, city-wide and for vendors. The IG speaks to all new employees in an onboarding program and most of the OIG staff is involved in community outreach events. The OIG strongly believes in positive

reinforcement. The IG presents an annual integrity award to a City employee and sends letters signed by the Mayor to employees who report attempted bribes. The Mayor's letters are part of the important messaging from the top that the City values honest employees and recognizes and awards integrity.

Inspector General Isabel Mercedes Cumming, City of Baltimore

Isabel Cumming testified about the operation of the Inspector General's office in Baltimore, which is an independent office authorized under the City Charter. The Inspector General is appointed by an advisory board that consists of the Mayor, the City Solicitor, Comptroller, City Council President, a member of the City Council appointed by the City Council President, and the two Law Deans of the Maryland Law Schools. The Inspector General serves a term of six years and may be removed from office only by an affirmative vote of at least four members of the advisory board for misconduct in office, persistent failure to perform the duties of the office and conduct prejudicial to the proper administration of justice.

Ms. Cumming described the mission of the Baltimore IG (OIG) as promoting efficiency, accountability, and integrity in City government. Her office is responsible for investigating complaints of fraud, financial waste, and abuse, and her jurisdiction covers all Baltimore City government elected officials, employees, contractors and recipients of City funding.

Ms. Cumming emphasized the importance of the OIG's subpoena power. Her office may issue and enforce a subpoena to require any person to appear under oath as a witness or the production of any information, document, report, record, account, or other material.

The Baltimore OIG has investigated individuals in almost all branches of City government. The office maintains a hotline to receive complaints, and in the last eighteen months, complaints have risen from 70 per year to 70 per month. Cumming also speaks to all new employees every month and participates in community outreach events.

Ms. Cumming provided several examples of investigations her office has conducted.

1. Following a hotline complaint from a City Councilmember, an OIG investigation established that an officer of the Retirement Savings Plan Board approved over \$200,000 in retirement forfeiture funds to renovate an office without following proper procedures. The Mayor and the Board of Trustees concurred with the OIG's findings and two employees of the Board were terminated from City employment.
2. In another investigation at the Department of Public Works' Bureau of Solid Waste, the OIG found that City employees received unearned overtime and meal allowances. The OIG also found several potential OSHA violations at one of the facilities.
3. The OIG also investigated the Chief Investment Officer for the City and found that he did not live in Baltimore City or even in Maryland. He was only in his office for about one week a month and the office had no telework policy. Additionally, the OIG discovered that his partner in a private business was also the Chairman of the Board for the Retirement system, a partnership never disclosed to the city. The Chief Investment Officer was terminated from employment in Baltimore City.

PUBLIC COMMENTS HEARD BY THE TASK FORCE FOR THE PROMOTION OF PUBLIC TRUST

In keeping with the commitment of the Task Force for the Promotion of Public Trust to transparency and accessibility to all Atlantans, and in accordance with the Georgia Open Meetings Act, each meeting of the Task Force was open to the public and was streamed live on the ATL26 website.¹⁵ Each meeting included time on the agenda for members of the public to comment on the proceedings of the Task Force. Comments were made verbally or through notecards provided at every meeting. Commenters could choose to either identify themselves or remain anonymous. The questions and comments received by the Task Force reflected some of the thoughts, viewpoints, and concerns of Atlantans about integrity issues in the City. Several examples of the questions and comments that were taken under advisement are below:

- **Question/Comment:** Thank you Mayor and City Council for having this Task Force. I like the fact that the Task Force asked questions about the [new ICO] legislation and overlap. I hope this will continue to be transparent and inclusive. I hope our concerns as citizens will be taken seriously. Enough is enough. It is time to earn the trust of our citizenship, also community input matters.
- **Question/ Comment:** New employees are engaged [with ethics training] during orientation, but are longer-term employees ever engaged? Will employees be *retrained* for future changes and developments?
- **Question/ Comment:** Do auditor recommendations come with a timeline and/or consequences for failure to comply?
- **Question/Comment:** What will be the process to answer citizens' questions? What is the process when the City Charter is violated? Will you investigate complaints brought to you by citizens? My fear is that many of these complaints may look political on the surface and will be ignored. Can you promise to look into these complaints in-depth, and not push them aside for perceived political leaning?
- **Question/ Comment:** How can the Task Force examine whether there are cracks in the system if it can't examine the violations that have occurred that the system failed to prevent or respond to? How many elected officials or department heads have been fined in the last five years?

¹⁵ www.atlantaga.gov/government/channel-26/watch-channel-26-live

Recommendations of the Task Force for the Promotion of Public Trust

1. Pass a City ordinance creating an Inspector General's Office: the IG Model

Having heard from City witnesses, a national expert in the municipal integrity field, and practicing Inspectors General, the Task Force believes that the Inspector General model is a best practice and would be the most successful model in Atlanta to identify and investigate fraud, waste, abuse, corruption, and misconduct.¹⁶ An Inspector General must have the power and responsibility to investigate wide-ranging types of misconduct, and the independence to do so without any political influence. Atlanta should follow the lead of cities such as Detroit, Chicago, New Orleans, New York, Baltimore, Washington D.C., and Miami-Dade, among others, all of which have Inspectors General established by law to operate independently. At their request, the Task Force had a presentation from the IG for the City of Baltimore. Atlanta, which is similar in size to Baltimore, could create an Inspector General office that is equally effective and valuable in its outcomes.¹⁷ Atlanta could also draw from the Philadelphia Inspector General model, which operates independently and successfully. The Philadelphia IG is appointed by and subject to removal by the Philadelphia Mayor only for cause.

The first proposal the Task Force makes is that the Mayor's Office and Atlanta City Council enact an Ordinance to effectively rename the newly created ICO the Office of the Inspector General. In making this recommendation, it is our view that the IG office would replace the existing ICO, Ethics Office, and Compliance Unit of the Law Department. The City's investigative operations would run more smoothly if the existing offices were merged into the new IG office.¹⁸ Issues of overlapping jurisdiction among those three offices (Ethics, ICO, and Compliance) that were of some concern to the Task Force, would also be resolved by a merger into a combined IG office rather than continuing to allocate incoming complaints among them.¹⁹

As Jennifer Rodgers noted, in terms of Atlanta's new Independent Compliance Office, the ICO has been given the duties, responsibilities, and mission of an Inspector General -- namely to identify and investigate fraud, waste, abuse, corruption, and misconduct, but without having been given some of the powers and independence safeguards that are the hallmarks of successful IG offices. These powers and safeguards may be added to the current ICO Ordinance, but we believe

¹⁶ The creation of an independent agency such as an IG office to assume investigative and disciplinary powers would appear to require a City Charter amendment. See O.C.G.A. § 36-35-6, Limitation on Home Rule Powers. Municipal Charters can be amended in two ways: (1) through Local Act of the General Assembly or (2) through Home Rule Amendment. However, Home Rule Amendment may not be used to effect changes to the composition of the governing authority. O.C.G.A. § 36-35-3.

¹⁷ One outcome should also be prevention by training and proactive detection of departmental procedural vulnerabilities.

¹⁸ Should legal impediments make that recommendation impossible, the Task Force has several additional proposals for strengthening existing investigatory functions in the City, discussed *infra*. However, the Task Force feels that the establishment of an IG office is the correct path forward, and therefore, requires a thorough analysis, legal review, debate, and effort.

¹⁹ This recommendation is not intended to suggest that the City Attorney's Office cede its investigators other than those in the Law Department's Compliance Unit.

that creating an IG office in Atlanta, with all of the investigatory resources necessary is more consistent with best practices nationwide to address fraud, waste, abuse, corruption and misconduct. Thus, we recommend that the City pass an ordinance creating an Inspector General's Office.²⁰ The following powers and indicia of independence are necessary components for inclusion in a law establishing a successful IG office, some of which are already present in Atlanta's ICO Ordinance.

Jurisdiction

First, an Atlanta IG office must have broad jurisdiction to seek out fraud, waste, abuse, corruption and misconduct, and must have authority to initiate its own investigations. An IG's investigations can be more robust and multifaceted when the IG can make his or her own decisions as to what investigations would have the greatest impact. Broad jurisdiction on the part of the IG can ensure a more ethical City government in all branches and departments and more accountability for wrongful conduct. Under City Code § 2-826(c), the Atlanta ICO is already given broad jurisdiction and power in terms of topics and areas that may be investigated, as well as categories of individuals who may be investigated.²¹ That broad jurisdiction, we propose, should be transferred to the IG office we recommend be established.

Term of Appointment and Removal

An IG must have a fixed term of appointment and specific provisions for removal. A fixed-term assures that the IG will have independence. The term should not be concurrent with the Mayor's term. Further, removal of the IG should only be for cause, which would have to be established at a hearing. This appointment and removal process is an important feature of independence and should be included in an IG office that Atlanta establishes. The ICO currently has features similar to these.

Budgetary Protections and Resources

There should be a fixed budget or some type of guaranteed funding for the IG. A fixed funding regime allows the IG office a measure of independence so that its budget cannot be slashed as retaliation for its investigations and the office cannot be eliminated altogether. For example, the budget for the Miami-Dade County IG is set by ¼ of 1% of all county contracts. We recommend that Atlanta include a measure of protection for the budget of an IG office. Additionally, the IG must have sufficient funds to operate successfully.

²⁰ The consolidation should mean that new IG office take over the ethics/corruption prevention training function from the Ethics Office as well as the Ethics Officer's investigations. Advisory Opinions issues by the Board would continue. Assistance should be provided to the Board, for example, someone could be assigned to assist the Board from the IG Office.

²¹ Specifically, the broad topics that may be investigated include: (1) the performance and financial operations of all departments, offices, boards, activities and agencies of the city; (2) deficiencies perceived by the City Auditor; (3) allegations of waste, fraud or abuse by departments, offices, boards, activities and agencies of the city. Moreover, the ICO has jurisdiction over a broad class of officials and employees: City elected officials and their employees; members of City boards, authorities, commissions, etc. with City representation; City hearing officers, among others.

Subpoena Power

The power to issue subpoenas is essential to an IG's success. The process by which subpoenas are issued is also a pivotal issue to be addressed. An IG must be able to acquire more than just the materials legally belonging to the City – although that reach is extensive and can cover much of what is needed in many cases. Subpoena power typically goes beyond that and encompasses information held by third parties, such as banks and other private businesses and individuals not employed by the City. The IG ideally should be able to move expeditiously and confidentially with the issuance of subpoenas, and so that power should be included in an IG office in Atlanta.²²

Confidentiality – No Notification Provision, Strengthen City Whistleblower Protection Statute

Confidentiality is probably the most important feature of an IG investigation. Most IG offices have specific confidentiality requirements, which protect subjects of investigations as well as witnesses, and prevent investigations from being compromised. We recommend that Atlanta establish an IG office that ensures such confidentiality so that reputations and investigations are protected to the fullest extent possible – while also providing due process and a thorough review of allegations. The Task Force understands that its concern and recommendation that more confidentiality be attached to investigations must be juxtaposed with the State's sunshine laws. Nonetheless, we urge City officials to infuse an IG office with greater confidentiality than currently exists with respect to investigations by the Ethics Office and the ICO. As several of the subject matter witnesses testified, including the IG practitioners from other cities, the current Ordinance's requirement of disclosure is the opposite of the best practice of non-disclosure.

We have also reviewed the State's Inspector General Executive Order, which makes reference to Open Records exemptions in pending investigations for that office based on the fact that the State IG office is a law enforcement agency. *See* Ga. Exec. Order No. 01.03.13.02 (Jan. 13, 2003) section 4(b). Based upon the State IG provisions, it appears that a City IG may be considered a law enforcement or regulatory agency such that its pending investigative materials would be exempt from disclosure under the Georgia Open Records Act, O.C.G.A. Section 50-18-72(a)(4). Accordingly, in connection with the IG office that the City creates, we recommend that it be designated as a law enforcement or regulatory agency, based on the comparable provisions governing the State IG.²³

In Atlanta, City Code §§ 2-836(d) (9) and (10) require that the subject of an investigation be notified of the alleged violation and whether the report is anonymous or made by an individual. Both of the sitting IGs, the municipal integrity subject matter expert, and various Task Force

²² Because the Municipal Court's enforcement powers are limited to the territorial limits of the City, subpoenas for relevant records and evidence cannot be enforced beyond the geographical jurisdiction bounds of the City of Atlanta. Atlanta City Charter § 4-39(1).

²³ The IG for the State of Georgia was created on January 13, 2003, by Executive Order. It has the authority to investigate complaints of fraud, waste, abuse and corruption in all executive branch agencies, departments, commissions, authorities and any entity of state government that is headed by an appointee of the Governor.

members were concerned that the notification requirement would harm the work of any IG investigation. As stated above, the requirement of notification gives rise to several issues ranging from the potential for compromising an investigation to protecting the individual who makes the report against retaliation. While § 2-823 contains a “no retaliation” provision, it is toothless. This is not a whistleblower protection statute, but rather a simple statement not to retaliate. Without significant protection for individuals who come forward with information, it would be extremely difficult to encourage people to cooperate with an IG investigation or even to report misconduct in the first place.

The ordinance should have the opposite of a notification provision – there should be a confidentiality provision as it relates to allegations that are open for investigation.²⁴ A confidentiality provision mitigates the occurrence of whistleblower retaliation because no one knows where the information came from.

We also recommend that Council enact a Whistleblower protection ordinance for anyone who reports municipal corruption, with real penalties for retaliation against whistleblowers.²⁵ If the City of Atlanta were to expand the existing Whistleblower Act by creating an enforcement mechanism, then those allegations themselves would become another category of cases that the City would need to investigate. As such, the City would have to decide where those cases would be investigated (IG, ICO, or Ethics Office).

Other Provisions that Facilitate Ethics, Oversight, and Investigations: Must Cooperate, Be Truthful, and Report Wrongdoing

The following additional provisions also would be extremely helpful to an IG office, and so the Task Force recommends that the following items be considered for inclusion in the proposed IG law.

1. Establish a “Must cooperate” provision.

City employees and those doing business with the City should have an affirmative duty to cooperate with the IG so long as that is not in violation of an individual’s constitutional rights. The requirement to cooperate is helpful in that it prompts people to come forward, and it is sometimes critical when witnesses are reluctant to provide information, come to interviews and/or produce documents.

²⁴ Even though preliminary investigations remain confidential, substantiated allegations, of course, are made known to the subject and if appropriate, to the public. Investigators routinely speak to the subject of the allegations and give the subject due process and an opportunity to respond or rebut the allegations. Unsubstantiated allegations should remain confidential because those types of allegations can substantially damage an individual’s reputation.

²⁵ Other municipalities that have such enforcement mechanisms for their whistleblower protections, including New York City (N.Y.C. Admin. Code §12-113) and Philadelphia (Exec. Order No. 9-17).

2. “Must be truthful” provision.

Similarly, City employees and those doing business with the City should have a duty to provide truthful information to the IG. Should an individual lie to an IG investigator, this provision would provide another violation for which the individual could be disciplined or prosecuted if it is substantiated that the evidence contradicts the subject’s statement.

3. “Must report” provision

City employees and those doing business with the City should also have an affirmative duty to report fraud, waste, abuse, corruption or misconduct. This provision not only ensures a robust reporting system, but it protects employees from disapproval of their colleagues in allowing them to say they had no choice but to report.

In sum, establishing through legislation, via a process to be determined by the Mayor’s Office and City Council, an Inspector General’s office with the independent features, powers and indicia described above, one that centralizes the other existing City investigative offices into it (Compliance Unit, Ethics and ICO), is the unanimous recommendation and outcome of the Task Force pursuant to its five months of review.²⁶

2. Changes to Existing Investigatory Agencies

As stated above, the Task Force thinks that the IG model is best for the City. Regardless of whether there are legal impediments to establishing an IG structure, we believe the current ICO and other ethics and oversight legislation should be amended so that these agencies can collectively operate with maximum powers and independence. Some of the necessary indicia of independence present in many IG offices, such as broad jurisdiction and terms of appointment and removal, are already well established in the Atlanta ICO Ordinance. However, some amendments would have to be made, such as, allow for subpoena power to be delegated from the Ethics and Independent Compliance Board directly to the ICO (and, by extension, to the Ethics Officer). Additionally, and as importantly, the ICO statute would have to be amended to require confidentiality. City employees should be obligated to report wrongdoing and, in tandem with that, the City

²⁶ Other cities have established successful IG offices by Executive Order, as has the State of Georgia discussed previously. For example, the City of Baltimore created its IG office by Executive Order and it is now permanently established by statute and is protected by the City Charter. The Philadelphia IG office was also established by Executive Order, and it has unfettered access to City records, databases and employees. Additionally, all City contracts contain provisions requiring contractors to cooperate with the IG. With an Executive Order IG, the Mayor can emphasize to departments the requirement to cooperate with the IG, support and enforce the IG’s recommendations and ensure the IG’s budget. By Executive Order, the Philadelphia IG even has a successful *Integrity Officer Program* that assigns an employee in each Mayoral agency to be an Integrity Officer under the supervision of the IG, with a requirement that such matters be kept confidential from their supervisors. The City Attorney in Atlanta has advised that under the limitations on executive orders imposed by Section 2-182 of the Atlanta City Code, an Executive Order may not be feasible as a means to create an IG.

whistleblower statute, which currently provides no remedies for substantiated violations for retaliation, must be amended to provide restorative remedies in substantiated cases. We address these items more specifically as follows.

Notably, one reason not to merge the City's investigative offices but rather to keep the Compliance Office separate and within the Department of Law, is the ability to maintain a higher degree of confidentiality for investigative materials through the protections afforded by the attorney-client privilege and attorney work-product doctrine. Specifically, we are advised by the City's Law Department that the communications and work product of an Independent Compliance Office and the Ethics Office would not be covered by these protections since there would be no attorney-client relationship, whereas the Compliance Unit is part of the Law Department. Public disclosure of investigative materials would be governed by the Georgia Open Records Act, which provides only narrow exemptions from disclosure while the investigation is pending. *See* O.C.G.A. Sections 50-18-72(4) and (8).

Jurisdiction

As previously mentioned, City Code § 2-826(c) provides the Atlanta ICO with broad investigatory jurisdiction. Thus, an analysis of the ICO's authority, including as compared to other cities, shows no expansion or amendments appear to be necessary at this time.

As the Task Force learned from the City witnesses, the Compliance Unit is sometimes called upon to investigate sensitive matters pertaining to high ranking City officials. The Ethics Office and/or HR may also conduct such investigations on occasion. Some of those matters may be investigated concurrently by more than one of these offices. When it comes to the investigation of high-ranking members of departments, offices or elected officials, the City should provide greater clarity as to how such matters are investigated. These matters must also be investigated with the greatest degree of independence and investigative tools, to instill public confidence that such investigations can be unimpeded and impactful.

Term of Appointment and Removal

Section 2-826(a) provides for a five-year term for the ICO subject to confirmation by a majority of Council and approval by the Mayor. And because the statute also provides for the removal of the ICO only for cause, there is assurance that the ICO cannot be fired at will for conducting an unpopular investigation. We don't believe any further amendments are necessary for this section.

Budgetary Protections and Resources

The Atlanta statute is silent about the permanence of the ICO's budget. As explained above, for the ICO to operate effectively as an IG, there should be measures in place to guarantee that the ICO has the funds necessary to do its job. We recommend that the statute be amended to include some type of fixed budget or guaranteed funding to ensure independence, to the extent legally permissible.

Subpoena Power

The Board of Ethics has been able to issue subpoenas on behalf of the Ethics Officer, and now the expanded Board of Ethics and Independent Compliance can issue subpoenas for the Independent Compliance Officer via a multi-step process that involves coming before the Board. However, because the power of issuance is with the Board, not the Officers, that gives rise to several issues not consistent with best practices in other City IG offices.

The public nature of the request to the Board and the needed authorization by the Board creates problems. First, subpoenas are usually issued early in an investigation and allegations may be unfounded, with the matter closed as unsubstantiated. Investigations should not be public at that time – confidentiality is necessary to protect the subject from unfounded allegations. A subject's reputation can be ruined should the public become aware of an investigation that turns out to be meritless.

Additionally, investigations could be compromised if they become public before completion. Undercovers could be put in danger, documents could be destroyed or deleted, and/or false documents created, stories lined up by witnesses, or pressure applied to make a witness alter the information they know or have to provide.

As one of the Task Force members pointed out, timing is also an issue if the ICO must go to the Board to request a subpoena. The ICO would have to wait until the Board is sitting and it may be essential to get the subpoena quickly. It may be time-consuming to go to the Board with many subpoena requests. And, revealing the details of investigations in order to set forth the basis for issuance, is a potential issue.

The ordinance should be amended to allow the ICO (and the Ethics Officer) to move expeditiously and confidentially with the issuance of subpoenas, which are a core, staple tool for investigations.

Confidentiality – Eliminate Notification Provision, Strengthen City Whistleblower Protection Ordinance

Sections 2-826(d) (9) and (10) require that the subject of an investigation be notified of the alleged violation and whether the report is anonymous or made by an individual. As stated above, this provision must be eliminated. The notification requirement gives rise to several issues ranging from the potential for compromising an investigation to protecting the individual who makes the report against retaliation. Confidentiality is one of the most significant features of any IG or ICO investigation.

We also recommend that Council enact a Whistleblower protection ordinance for anyone who reports municipal corruption with real penalties for retaliation against whistleblowers.

Other Provisions that Facilitate Ethics, Oversight, and Investigations:
Must cooperate, be truthful, and report wrongdoing

While the Atlanta Ordinance governing the ICO lays out the duties and responsibilities of the ICO, there is no section describing duties and responsibilities of others to the ICO. To the extent the Mayor's Office and Council can impose duties on City employees, City contractors, others receiving funding from the City and doing business with the City, the provisions previously described as those that facilitate the work of an IG office, (must cooperate, must report wrongdoing, and must be honest) should explicitly be added to any amendments made to the ICO Ordinance, and those provisions should extend to the City's other offices that conduct audits and investigations.

**Additional Recommendations for Improving
Operations among Existing City Audit and Investigative Offices**

Due to the number of offices in the City of Atlanta with investigative functions, and the existence of some overlap that was revealed during the Task Force proceedings, and given the sharing of a hotline, and the potential for some lack of clarity from the overlapping jurisdictions and missions - the various offices within the City of Atlanta with investigatory roles, e.g., Law Department Compliance Unit, Audit, Ethics, Procurement, HR and Transparency (and soon the ICO), should have regularized coordination meetings (quarterly or monthly if necessary) regarding the division of matters and any issues pertaining to overlap or disagreement as to which office is handling what matters. At such meetings, the offices can assist one another, partner/share information and resources where possible, and foster cooperation. These meetings are not uncommon among investigative agencies and would not, where appropriate, be done in a way that compromises the confidentiality of individual cases.

All the various ethics offices should issue annual reports discussing their respective activities during the year to the fullest degree possible. The Compliance Unit of the City Attorney's Office should publish its own annual report, separate from and independent of the City Attorney's annual report.

Conclusion

In Atlanta, both the Office of the President of City Council and the Office of the Mayor have demonstrated their commitment to a government that functions without fraud, abuse, waste, corruption or misconduct and that will hold accountable those who engage in this misconduct. All members of the Task Force agree that, based on history and recent and current corruption cases and investigations, the City needs an IG office that is empowered to go wherever the evidence may lead, including to the highest level, without fear or favor, and let the chips fall where they may.

If there are legal impediments to creating an IG office, the City's ICO Ordinance should be strengthened to mirror an IG office with the powers, independence, authority, and potent

investigative tools, to the greatest extent possible. Additionally, the other investigative and accountability functions in the City agencies and departments should be transferred to this new IG. Adequate funding, resources, and efforts should be dedicated to enact a fully independent, self-sustaining IG office.

After the City undertakes the effort involved in setting up the newly created Inspector General, the statute should provide requirements for the person selected for the position of Inspector General. For example, the new Inspector General should have at least five years of law enforcement experience as a matter of minimum objective criterion. The IG should also be selected without regard to political affiliation, but based on integrity, capability for strong leadership, and demonstrated ability in auditing, financial analysis, law, management analysis, public administration, investigations or criminal justice administration. These criteria are contained in the "Principles and Standards for Offices of Inspector General," published by the Association of Inspectors General, May 2004, pg. 5.

The Task Force believes that in order to restore trust in Atlanta City government, an aggressive, ambitious and bold response is needed now. Hence, the recommendation for the creation of an independent Inspector General. No lesser fallback position should be pursued. And while there may be legal impediments to overcome to achieve that end, the possibility of legal obstacles are not insurmountable. Besides, doing something that's good and right isn't always easy. But it's always worth it in the end.

The Task Force wishes to thank several people who have helped with the production of this Report. They include Susan Garrett of the City Attorney's Office; Danielle Burnette of Smith, Gambrell & Russell LLP (SGR); SGR and Lorna Roberts of the City Attorney's Office for periodically providing office space and administrative support; Jaime Lavin and Jane Bartman of Bloomberg Associates; and IG Isabel Mercedes Cumming from Baltimore and IG Amy Kurland from Philadelphia.

19-R-3148

A RESOLUTION BY COUNCILMEMBER

MARCI COLLIER OVERSTREET

ESTABLISHING THE CITY OF ATLANTA TASK FORCE FOR THE PROMOTION OF PUBLIC TRUST, IN ACCORDANCE WITH SECTION 3-401 OF THE CITY OF ATLANTA CHARTER, TO BE CHARGED WITH EVALUATING THE EFFICACY OF THE CITY OF ATLANTA'S CURRENT LEGISLATIVE AND ADMINISTRATIVE POLICIES AND PROCEDURES RELATED TO ETHICS, TRANSPARENCY, AND COMPLIANCE, WITH SURVEYING NATIONAL MODELS OF GOVERNMENT AND CORPORATE TRANSPARENCY, ETHICS, AND COMPLIANCE, AND WITH MAKING WRITTEN RECOMMENDATIONS TO THE MAYOR AND THE ATLANTA CITY COUNCIL FOR MEANINGFUL REFORMS IN THESE AREAS; TO PROVIDE THAT THE TASK FORCE FOR THE PROMOTION OF PUBLIC TRUST SHALL BE COMPRISED OF RESIDENTS OF THE CITY OF ATLANTA AND LEADERS EXPERIENCED IN GOVERNMENT OR CORPORATE ETHICS, COMPLIANCE AND TRANSPARENCY, AND SHALL BE FACILITATED BY A PROFESSIONAL EXPERIENCED IN WORKING WITH GOVERNMENTS TO DEVELOP INNOVATIVE STRATEGIES AND IMPLEMENTING SOLUTIONS TO COMPLEX CHALLENGES; TO ESTABLISH THAT THE TASK FORCE FOR THE PROMOTION OF PUBLIC TRUST SHALL HOLD NO FEWER THAN FOUR PUBLIC MEETINGS, AND SHALL MAKE ITS REPORT TO THE MAYOR AND THE ATLANTA CITY COUNCIL NO LATER THAN FOUR MONTHS FROM THE FIRST MEETING THEREOF; AND FOR OTHER PURPOSES.

WHEREAS, the Mayor and the Atlanta City Council desire to further the City of Atlanta's commitment to transparency, ethics, and compliance, in order to provide its citizens with the assurance that the City and its officials and employees are performing their official duties in a manner that is honest, transparent, lawful, and in the best interest of the City and its citizens; and

WHEREAS, the Mayor and the Atlanta City Council also wish to develop new and more effective legislative and administrative policies and procedures related to transparency, ethics, and compliance, including to the structures thereof, for the more effective prevention of fraud, public corruption and abuse by the City, and its officials and employees; and

WHEREAS, the Mayor and the Atlanta City Council recognize the need to develop these new policies and procedures thoughtfully, lawfully and with expert and resident input; and

WHEREAS, Section 3-401 of the Charter of the City of Atlanta authorizes the Atlanta City Council to create a task force provides by resolution, to consist of a group of persons that study a particular subject or work on an issue, and to make resulting recommendations to the City Council regarding further actions by Council to achieve a definitive objective; and

WHEREAS, in furtherance of its commitment to transparency, ethics and compliance, and to promote public trust in City of Atlanta government, the Atlanta City Council wishes to establish a task force in accordance with Section 3-401 of the City of Atlanta Charter to be comprised of residents of the City of Atlanta along with leaders experienced in government or corporate ethics and compliance and transparency, and facilitated by a professional experienced in working with governments to develop innovative strategies and implementing solutions to complex challenges; and

WHEREAS, the task force shall be known as the City of Atlanta Task Force for the Promotion of Public Trust, and shall be charged with evaluating the efficacy of the City's current legislative and administrative policies and procedures related to ethics, transparency, and compliance, with surveying national models of government and corporate transparency, ethics, and compliance, and with making written recommendations to the Mayor, the Council President, and the Atlanta City Council for meaningful reforms in these areas; and

WHEREAS, these recommended reforms may include but shall not be limited to those of the City's legislative and administrative policies and procedures concerning ethics, transparency, and compliance; and

WHEREAS, the Task Force for the Promotion of Public Trust shall hold no fewer than four public meetings and shall make its report to the Mayor, the Council President, and the Atlanta City Council no later than four months from the first meeting thereof.

NOW THEREFORE, BE IT RESOLVED BY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that in accordance with Section 3-401 of the Atlanta City Charter, there is hereby established a temporary City of Atlanta Task Force for the Promotion of Public Trust, consisting of the following 12 members:

Two (2) former prosecutors, preferably federal, one appointed by the Atlanta City Council and one by the Mayor;

Two (2) recognized professors or members of academia with emphasis in the professionals in the areas of government or corporate transparency, compliance, or ethics, one appointed by the Atlanta City Council and one appointed by the Mayor;

Two (2) former local government attorney with experience in a City or County law department, one appointed by the Atlanta City Council and one by Mayor;

Two (2) residents of the City of Atlanta, one appointed by the Atlanta City Council and one appointed by the Mayor;

Two (2) former Judges one appointed by the Atlanta City Council and one appointed by the Mayor.

Two (2) members appointed by the Council President from any of the five professional categories listed above (i.e. former federal prosecutor, recognized professors or members of academia, former local government attorneys, City residents and/or former judges.)

BE IT FURTHER RESOLVED, from the members appointed as set forth in this Resolution, the Chair of the City of Atlanta Task Force for the Promotion of Public Trust shall be appointed by the Mayor and the Vice Chair shall be appointed by the Atlanta City Council President.

BE IT FURTHER RESOLVED, that the Task Force for the Promotion of Public Trust shall be facilitated by a Bloomberg Associate from the Municipal Integrity Group experienced in working with governments to develop innovative strategies and implementing solutions to complex challenges, appointed by the Mayor.

BE IT FURTHER RESOLVED, that the Task Force for the Promotion of Public Trust shall be staffed and supported by the City Attorney (or a designee), City Auditor (or a designee), City of Atlanta Ethics Officer (or a designee), one Council Staff Member and one Mayor's office staff member.

BE IT FURTHER RESOLVED, that the purpose of the Task Force for the Promotion of Public Trust shall be to evaluate the efficacy of the City's current legislative and administrative policies and procedures related to ethics, transparency, and compliance, and to survey national models of government and corporate transparency, ethics, and compliance, and to make written recommendations to the Mayor, the Council President, and the Atlanta City Council for meaningful reforms in these areas.

BE IT FURTHER RESOLVED, that the Task Force for the Promotion of Public Trust shall have no fewer than four (4) public meetings held in accordance with the Georgia Open Meetings Act.

BE IT FURTHER RESOLVED, that the Task Force for the Promotion of Public Trust shall conduct its first meeting within two weeks of the appointment of all of the members and the facilitator thereof.

BE IT FURTHER RESOLVED, that the Task Force shall conduct no less than four (4) meetings.

BE IT FURTHER RESOLVED, that all four (4) meetings shall provide opportunity for public comment.

BE IT FINALLY RESOLVED, that the Task Force for the Promotion of Public Trust shall make written recommendations to the Mayor, the Council President, and the Atlanta City Council for meaningful reforms in the areas of ethics, transparency and compliance, no later than four months from the first meeting thereof and shall terminate automatically 30 days following the presentation of its recommended reforms.

AN ORDINANCE BY COUNCILMEMBERS

JENNIFER N. IDE, MATT WESTMORELAND, J.P. MATZIGKEIT, AMIR R. FAROKHI, DUSTIN HILLIS, ANDRE DICKENS, HOWARD SHOOK, NATALYN M. ARCHIBONG, CARLA SMITH, AND MARCI COLLIER OVERSTREET

AS SUBSTITUTED BY FINANCE/EXECUTIVE COMMITTEE

AN ORDINANCE TO AMEND THE CITY OF ATLANTA CODE OF ORDINANCES PART II (CODE OF ORDINANCES – GENERAL ORDINANCES), CHAPTER 2 (ADMINISTRATION), ARTICLE VII (OFFICERS AND EMPLOYEES), DIVISION 2 (STANDARDS OF CONDUCT) TO EXPAND THE COMPOSITION OF AND RENAME THE BOARD OF ETHICS SUCH THAT IT SHALL BE THE BOARD OF ETHICS AND INDEPENDENT COMPLIANCE; TO ESTABLISH THE POSITION OF THE INDEPENDENT COMPLIANCE OFFICER, ITS JURISDICTION, AND DUTIES AND RESPONSIBILITIES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta desires to increase its commitment to transparency, compliance, and other factors that would provide its citizens with the assurance that the City and its employees are conducting business in a manner that is honest, transparent, lawful, and in the sole interests of its residents; and

WHEREAS, the prevention of non-compliance with applicable law, fraud, corruption and abuse in the agencies of city government is a responsibility of the city; and

WHEREAS, it is the desire of the City of Atlanta to expand the composition of, and rename the City of Atlanta board of ethics such that it shall be known as the board of ethics and independent compliance; and

WHEREAS, the board of ethics and independent compliance shall consist of 11 members, which in addition to the incumbents of the current board of ethics, shall include members experienced in auditing, fraud examination, accounting, and prosecutorial procedures; and

WHEREAS, the board of ethics and independent compliance shall appoint and shall have purview over the independent compliance officer and matters under its jurisdiction; and

WHEREAS, it is the desire of the City of Atlanta to establish the position of the independent compliance officer which shall have the authority to investigate and take remedial action concerning allegations of waste fraud and abuse throughout the City of Atlanta government, actions of certain officials and employees concerning alleged violations of the Personnel Code, the Procurement and Real Estate Code, and the Transparency Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS as follows:

SECTION 1: That Chapter 2, Article VII, Division 2, be amended so that it shall read as follows (with permanent deletions in strikethrough font and permanent additions in underline font):

DIVISION 2. – ETHICS AND INDEPENDENT COMPLIANCE / STANDARDS OF CONDUCT

SECTION 2: That Chapter 2, Article VII, Division 2, Sections 2-802 through 2-807, be amended so that they shall read as follows (with permanent deletions in strikethrough font and permanent additions in underline font):

Sec. 2-802. - Purpose.

It is the purpose of this division to:

- (1) promote the objective of protecting the integrity of the government of the city by prohibiting any official or employee from engaging in any business, employment or transactions, from rendering services or from having contractual, financial, or personal interests, direct or indirect, which are in conflict with or which would create the justifiable impression in the public of conflict with the proper discharge of the official or employee's official duties or the best interest of the city or which would tend to impair independence or objectivity of judgment or action in the performance of official duties; and
- (2) ~~It is also the purpose of this division to~~ require disclosure of the assets and income of elected officials and certain employees so that the public may review actual and potential conflicts of interest; and
- (3) ~~It is also the purpose of this division to~~ monitor contractors of the City of Atlanta for any conflicts of interest; and
- (4) ~~Finally, it is the purpose of this division to~~ provide for an orderly and fair process for raising and addressing ethical questions and for disciplining those officials and employees and other persons who violate these standards of conduct; and
- (5) reasonably ensure that the city, and its officials and employees are complying with all applicable laws, rules and regulations, and internal policies and procedures; and
- (6) to provide and enforce standards of practice related to the performance and financial operation of the city following allegations of waste, fraud and abuse.

Sec. 2-803. - Reporting violations.

Any person who witnesses or becomes aware of a violation of this division may complain of that violation as follows:

- (1) By appearing before a judge of the municipal court, the city solicitor or the solicitor's assistant and swearing out a complaint for the violation. Upon signing the complaint, under oath, a warrant may be issued by the municipal court for the accused to appear and answer the charges; or
- (2) By communicating with the ethics officer or the independent compliance officer. Where a complaint is communicated anonymously to the ethics officer or the independent compliance officer, such complaint shall be made in good faith, and with veracity and sufficient specificity so as to provide the ethics officer with salient and investigable facts. The ethics officer or independent compliance officer may require the anonymous complaint to be made in a

manner and form that is intended only to obtain relevant facts related to the alleged violation of this division, and that is not designed to reveal the identity of the complainant; or

(3) By filing a sworn written complaint with the ethics officer, independent compliance officer, or the board of ethics and independent compliance, as described in this division. All written complaints to be considered by the board of ethics and independent compliance and the ethics officer or independent compliance officer shall contain the following if applicable:

a. The name and address of the person or persons who file the complaint.

b. The sworn verification and signature of the complainant.

c. The name and address of the party or parties against whom the complaint is filed, and if such party is a candidate and the office being sought.

d. A clear and concise statement of acts upon which the complaint is based along with an allegation that such facts constitute one or more violations of law under the jurisdiction of the board of ethics and independent compliance.

e. A general reference to the statutory provision(s) of the Code within the jurisdiction of the board of ethics and independent compliance allegedly violated.

f. Any further information which might support the allegations in the complaint including, but not limited to, the following:

1. The name and address of all other persons who have firsthand knowledge of the facts alleged in the complaint; and

2. Any documentary evidence that supports the facts alleged in the complaint.

(4) Preliminary action on complaint. Upon receipt of a complaint whether by the ethics officer or independent compliance officer or by the ~~ethics~~ board, the ethics officer, the independent compliance officer, or the secretary of the ~~ethics~~ board shall send a written notice to the subject of the complaint by the next business day. Both this notice and any subsequent documents are subject to the Georgia Open Records Act.

(5) Defective complaint. Upon receipt of a written, non-anonymous complaint which does not conform to the applicable requirements of paragraph (3) of this section, the ethics officer, or the independent compliance officer, shall by letter acknowledge receipt of the complaint and advise complainant of the defect in the complaint and that the complaint will not be considered by the board ~~of ethics~~ unless the defect is corrected.

Sec. 2-804. - Board of ethics and independent compliance.

(a) There is hereby continued in existence an independent board of ethics and independent compliance to consist of ~~seven~~ eleven members, all of whom shall be known for their personal integrity and all of whom shall be residents of and domiciled in the city. It is further urged that the members of the board of ethics and independent compliance shall reflect the diversity

of the city with regard to race, color, creed, religion, gender, marital status, parental status, familial status, sexual orientation, national origin, gender identity, age and disability. At all times, at least ~~three~~ five members shall be attorneys licensed to practice law in the State of Georgia.

- (b) Appointments to the independent board of ethics and independent compliance shall be made by the mayor and city council, the governing authority of the City of Atlanta. Nominations to the board may be made by the following organizations:
 - (1) The Atlanta Bar Association may nominate one member, chosen from the attorney members of the association;
 - (2) The Gate City Bar Association may nominate one member, chosen from the attorney members of the association-;
 - (3) The Atlanta Business League may nominate one member, chosen from the organizations that are members of the league, which member shall not be an attorney;
 - (4) The Metro Atlanta Chamber of Commerce may nominate one member from the organizations that are members of the chamber, which member shall not be an attorney;
 - (5) The Atlanta-Fulton County League of Women Voters may nominate one member, which member shall not be an attorney-;
 - (6) The Atlanta Planning Advisory Board may nominate one member, which member shall not be an attorney nor an officer of a neighborhood planning unit-;
 - (7) The seven major universities/colleges within the city (Georgia State University, Georgia Institute of Technology, Clark Atlanta University, Emory University, Morehouse College, Morris Brown College, and Spelman College) may collectively nominate one member- ;
 - (8) The National Association of State Auditors, Comptrollers, and Treasurers, may nominate one member, chosen from the members of the association;
 - (9) The Association of Certified Fraud Examiners may nominate one member, chosen from the members of the association, which member shall be an attorney;
 - (10) The Georgia Society of Certified Public Accountants may nominate one member, chosen from the members of the society, which member shall not be an attorney;
 - (11) The Prosecuting Attorneys Council of Georgia may nominate one member, chosen from the attorney members thereof, which member shall have experience as a prosecuting attorney.
- (c) The members shall each serve for terms of three years; without compensation. The members shall elect a chair and develop their own organization internally.
- (d) The position of a member of the board shall be deemed vacated:
 - (1) Upon the expiration of his or her term;

- (2) Upon the death of a member or the disability or incapacity of a member for more than 90 days;
 - (3) Upon the written resignation of the member, tendered to the board ~~of ethics~~;
 - (4) By the member ceasing to be a resident of the city; or
 - (5) Upon removal of the member for good cause by a majority vote of the board ~~of ethics~~;
 - (6) Nominees for the board of ethics and independent compliance, the independent compliance officer, and the ethics officer shall be subject to an education and employment background check as well as a criminal history check. Nominees shall execute all releases necessary for the department of personnel and human resources and the department of police to accomplish the same. If the nominee is determined to have committed a felony, the nomination shall be withdrawn.
- (e) Members shall be prohibited from engaging in city election political activities and from making campaign contributions to candidates in city elections during their terms as board members. Violations of this subsection may be punished by removal from board membership by a majority vote of the members.
- (f) The board ~~of ethics~~ shall:
- (1) Elect a chair by majority vote of the serving members. Each chair will serve a one-year term and shall be eligible to serve as chair in successive years.
 - (2) Elect a vice-chair to preside in the absence of the chair. The vice-chair will serve a one-year term and shall be eligible to serve as vice-chair in successive years.
 - (3) Elect a secretary to provide administrative assistance to the board.
 - (4) Hold regular monthly meetings at City Hall. Such meetings shall be televised. All meetings of the board shall be conducted as required by the Georgia Open Meetings Act.
 - (5) Conduct its business only with a quorum. A majority opinion of the members sitting at any hearing shall govern as to decisions of the board. In no event shall a decision of the board be voted upon by fewer than four members.
 - (6) Be free to contract for the services of a competent court reporter to take down statements, testimony and discussions at its meeting or to use in lieu thereof a competent person adept at shorthand reporting and/or mechanical transcribing devices, whichever method is from time to time desired by the board, such services to be paid for by the city.
 - (7) Maintain all records in the office of the ethics officer, or the office of the independent compliance officer, as required by the Georgia Open Records Act.
 - (8) Report, as appropriate, suspected ethical and criminal violations to state or federal law enforcement agencies.

- (9) Notify the ethics officer or the independent compliance officer of any report of an alleged violation of the code of ethics or of matters under the jurisdiction of the independent compliance officer received by the board.
 - (10) Establish procedures to notify the subject of any report of an alleged violation of the code of ethics or of matters under the jurisdiction of the independent compliance officer as required by the Georgia Open Records Act.
- (g) The city shall pay all administrative costs, including those specifically stipulated in this section, pertaining to the operation of the board ~~of ethics~~.
 - (h) The board shall have the authority to prescribe rules and regulations pursuant to this division to administer the financial disclosure process and to issue opinions under this division. The board shall prescribe appropriate financial disclosure forms, instructions and methods of disclosure as required to comply with the requirements of disclosure of income and financial interests found at section 2-814.
 - (i) Except as otherwise provided in this division, the meetings of the board will be governed by Robert's Rules of Order.
 - (j) The board shall render an ethics advisory opinion based upon a real or hypothetical set of circumstances, when requested in writing by anyone who is an official or employee of the city or a member of a board, council, committee or commission who is personally involved in a matter requiring interpretation of the ethics code. Any person requesting an opinion in accordance with this section who has made a full and complete disclosure of all relevant facts shall be entitled to rely on the opinion or finding of the board ~~of ethics~~ as a guide to the conduct of such person in the person's relations to and with the city. Compliance with the opinion or finding of the board ~~of ethics~~ shall serve in mitigation in any proceedings against such person for violation of this division. Advisory opinions based upon current law shall be maintained as required by the Georgia Open Records Act.
 - (k) The board ~~of ethics~~ shall have the authority to investigate any alleged violation of the code of ethics as follows:
 - (1) Upon a sworn written complaint by any person in a form prescribed by the board;
 - (2) Upon the request of the ethics officer; or
 - (3) Upon the determination by a majority of the board that any matter should be investigated.
 - (l) The board shall have the authority to investigate any alleged violation under the jurisdiction of the independent compliance officer as follows:
 - (1) Upon a sworn written complaint by any person in a form prescribed by the board;
 - (2) Upon the request of the independent compliance officer; or
 - (3) Upon the determination by a majority of the board that any matter should be investigated.

Sec. 2-805. - Ethics officer.

- (a) There is hereby created as a full time salaried position an ethics officer for the city. The city ethics officer must be an active member of the Georgia Bar Association in good standing with five years' experience in the practice of law. The ethics officer shall be appointed by a majority of the members of the board of ethics for a period of five years, subject to confirmation by a majority of the council and approval by the mayor. Removal of the ethics officer before the expiration of the designated term shall be for cause by a majority vote of the members of the board of ethics.
- (b) ~~The ethics officer need not be a resident of the city at the time of his or her appointment, but he or she shall reside in the city within six months of such appointment and continue to reside therein throughout such appointment~~ Reserved.
- (c) The ethics officer shall not be involved in partisan or nonpartisan political activities or the political affairs of the city.
- (d) The duties of the ethics officer shall include, but not be limited to, the following:
 - (1) Educating and training all city officials and employees to have an awareness and understanding of the mandate for and enforcement of ethical conduct and advising of the provisions of the code of ethics of the city;
 - (2) Maintaining the records of the board of ethics as required by the Georgia Open Records Act;
 - (3) Meeting with the board of ethics;
 - (4) Advising officials and employees regarding disclosure statements and reviewing same to ensure full and complete financial reporting;
 - (5) Urging compliance with the code of ethics by calling to the attention of the board of ethics any failure to comply or any issues, including the furnishing of false or misleading information, that the ethics officer believes should be investigated by the board so that the board may take such action as it deems appropriate;
 - (6) Monitoring, evaluating and acting upon information obtained from an "ethics hotline" which shall be a city telephone number for the receipt of information about ethical violations. Each complaint, as of the time it is reported, whether by telephone or otherwise, shall be deemed to be a separate pending investigation of a complaint against a public officer or employee as provided by the Georgia Open Records Act;
 - (7) Notifying the subject of a report of any alleged violation of the ethics code, whether the report is anonymous, made by an identified individual or is written. Such notice shall be given in writing, by facsimile or hand delivery, to the subject of the complaint at the same time and in the same form that any disclosure of information is required by the Georgia Open Records Act;
 - (8) Notifying the board of ethics of any report of an alleged violation of the ethics code received by the ethics officer;

- (9) Reporting, as appropriate, suspected ethical violations to the city board of ethics and independent compliance;
- (10) Reporting, as appropriate, suspected criminal violations to state or federal law enforcement agencies; and
- (11) Filing with the board, the mayor and the council each January a written report describing the activities of the ethics officer in carrying out the goals of his or her office and the code of ethics and reporting on the ethical health of the city.

Sec. 2-806. - Investigations and hearings.

The board ~~of ethics~~ shall conduct investigations into alleged violations of the ethics code and of matters under the jurisdiction of the independent compliance officer, hold hearings and issue decisions as prescribed below:

- (1) The proceedings of the board and records shall be open unless otherwise permitted by state law.
- (2) Upon request of the board ~~of ethics~~, the city attorney, or any attorney representing the city attorney's office, or in the event of a conflict, any attorney who shall be selected by a majority of the board and who will provide pro bono services to the board, shall advise the board of ethics.
- (3)
 - a. Preliminary investigation of complaint. The ethics officer or the independent compliance officer, shall conduct a preliminary investigation of any complaint and provide a written report to the board ~~of ethics~~ discussing the ~~ethics~~ officer's findings and recommend to the board ~~of ethics~~ whether there is probable cause for belief that this division, or any matters under the jurisdiction of the independent compliance officer ~~has~~ have been violated warranting a formal hearing.
 - b. If the board determines after the preliminary investigation of a complaint that there does not exist probable cause for belief that this division has been violated, the board shall so notify the complainant and the subject of the investigation. If the board determines after a preliminary investigation of the complaint that there does exist probable cause for belief that this division, or any matters under the jurisdiction of the independent compliance officer ~~have~~ has been violated, the board shall give notice to the person involved to attend a hearing to determine whether there has been such a violation ~~of this division~~.
- (4) For use in proceedings under this division, the board shall have the power to issue subpoenas to compel any person to appear, give sworn testimony, or produce documentary or other evidence. Any person who fails to respond to such subpoenas may be subjected to the penalties set forth in section 2-807 of this division.
- (5) All hearings of the board pursuant to this section shall be as follows:
 - a. All testimony shall be under oath, which shall be administered by a member of the board. Any person who appears before the board shall have all of the due

process rights, privileges and responsibilities of a witness appearing before the courts of this state. Any person whose name is mentioned during a proceeding of the board and who may be adversely affected thereby may appear personally before the board on such person's own behalf or may file a written sworn statement for incorporation into the record to be made part of all proceedings pursuant to this subsection.

b. The board's decision shall be governed by a preponderance of the evidence standard.

c. At the conclusion of proceedings concerning an alleged violation, the board shall immediately begin deliberations on the evidence and proceed to determine by a majority vote of members present whether there has been a violation of this division. The findings of the board concerning a violation and the record of the proceedings shall be made public by the board as soon as practicable after the determination has been made.

Sec. 2-807. - Violations; appeals.

(a) Any intentional violation of this division, a matter under the jurisdiction of the independent compliance officer, or the furnishing of false or misleading information to the board ~~of ethics~~, or the ethics officer, the independent compliance officer, or the failure to follow an opinion rendered by the board or the failure to comply with a subpoena issued by the board pursuant to this division shall subject the violator to any one or more of the following:

(1) Administrative sanction of not more than \$1,000.00 assessed by the board ~~of ethics~~;

(2) Public reprimand by the board ~~of ethics~~; and

(3) Prosecution by the city solicitor in municipal court and, upon conviction, to a fine of up to \$1,000.00 per violation and up to six months imprisonment, whether the official or employee is elected or appointed, paid or unpaid. Nothing in this section shall be interpreted to conflict with state law. An action for violation of this division or the furnishing of false or misleading information or the failure to comply with a subpoena issued by the board must be brought within two years after the violation is discovered.

(b) With regard to violations by employees, in addition to the remedies in paragraph (a) the board may recommend any one or more of the disciplinary actions set forth in section 114-502.

(c) With regard to violations by persons other than officials or employees, in addition to the remedies in paragraph (a) the board may recommend to the purchasing director any one or more of the following:

(1) Suspension of a contractor; and

(2) Disqualification or debarment from contracting or subcontracting with the city.

(d) The decision of the board after a hearing shall be final; provided, however, that such proceeding shall be subject to review by writ of certiorari to the superior court of the county.

The board's designee shall be authorized to acknowledge service of any such writ and shall, within the time provided by law, certify and cause to be filed with the clerk of the superior court a record of the proceedings before the board, the decision of the board and the notice of the board's final actions.

- (e) The value of any gratuity transferred or received in breach of the provisions of this division may be recovered from either the receiving official or employee or the person or entity providing the gratuity, for deposit in the City of Atlanta General Fund.
- (f) All violations of this division shall be prosecuted in accordance with chapter 62, article II, division 2 of this Code.

SECTION 3: That Chapter 2, Article VII, Division 2, Section 2-810, Subsection (b), be amended so that it shall read as follows (with permanent deletions in strikethrough font and permanent additions in underline font):

Sec. 2-810. - Representation after separation from employment.

- (b) There shall be a presumption, subject to case-by-case review by the Atlanta Board of Ethics and Independent Compliance, the independent compliance officer, or the ethics officer, that the appearance of a former official or employee of the city before any city agency on behalf of a public entity as defined in section 2- 801 is not a violation of this section.

SECTION 4: That Chapter 2, Article VII, Division 2, Section 2-813, Subsection (b) (19) be amended so that it shall read as follows (with permanent deletions in strikethrough font and permanent additions in underline font):

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Sec. 2-813. - Disclosure of interests.

(b) The officials and employees covered by this section shall be as follows:

(19) City ethics officer and independent compliance officer;

SECTION 5: That Chapter 2, Article VII, Division 2, Section 2-814, Subsections (b)(19), (f), and (g) be amended so that they shall read as follows (with permanent deletions in strikethrough font and permanent additions in underline font):

Sec. 2-814. - Disclosure of income and financial interests.

(b) The following officials and employees shall be required to file annual statements disclosing information set forth in subsection (a) of this ordinance:

(19) City ethics officer, associate ethics officer, ~~and~~ all employees of the ethics office, and City independent compliance officer, associate independent compliance officer, and all employees of the independent compliance office;

(f) The ethics officer shall prepare and forward to the board ~~of ethics~~ a report of all persons required to file under this section, those who have complied with the filing requirements, those who have filed a late or incomplete statement, and those who have failed to file a disclosure statement. The ethics officer shall be responsible for collecting all administrative sanctions levied by the board ~~of ethics~~ under this section for deposit to the City of Atlanta General Fund.

~~(g) For the year 2002 only: A list of employees to be provided by the chief operating officer pursuant to paragraph (e) of this section shall be provided within five days after this ordinance is signed by the mayor. Because the board of ethics will not have had sufficient time to prescribe a new financial disclosure form as provided in section 2-804(h) of this division, copies of the current disclosure form must be distributed as required by paragraph (e) no later than ten days after receipt of the list of employees. Every official and employee required to file an annual disclosure statement must do so within 35 days after this ordinance is signed by the mayor.~~

SECTION 6: That Chapter 2, Article VII, Division 2, Section 2-820, Subsection (d) be amended so that it shall read as follows (with permanent deletions in strikethrough font and permanent additions in underline font):

Sec. 2-820. - Incompatible interests.

(d) Commissioners, deputy commissioners, department heads, chief operating officer, deputy chief operating officers, chief of staff, deputy chiefs of staff, bureau directors, and employees of the office of the mayor who report directly to the mayor shall not engage in any private employment or render any services for private interests for remuneration, regardless of whether such employment or service is compatible with or adverse to the proper discharge of the official duties of such employee. However, the employees named in this paragraph may engage in private employment or render services for private interests only upon obtaining prior written approval from the board ~~of ethics~~ in accordance with this paragraph. The board ~~of ethics~~ shall review each request individually and provide written approval or disapproval

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of the notification within 30 days. All requests for approval of outside employment shall state the type and place of employment, the hours of work, and the employer's name and address. City employment shall remain the first priority of the employee, and if at any time the outside employment interferes with city job requirements or performance, the official or employee shall be required to modify the conditions of the outside employment or terminate either the outside employment or the city employment. This paragraph shall not apply to single speaking engagements or to participation in conferences or on professional panels; provided, however, that any expense reimbursements received for such engagements must be reported in accordance with section 2-815.

SECTION 7: That Chapter 2, Article VII, Division 2, Section 2-823, be amended so that it shall read as follows (with permanent deletions in strikethrough font and permanent additions in underline font):

Sec. 2-823. - Protection for reporting of violations.

Officials and employees are encouraged to report suspected ethical violations to the ethics officer or the independent compliance officer. No official or employee shall use or threaten to use any official authority or influence to discourage, restrain or interfere with any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the board of ethics information relating to a an ethics violation or investigation under this division or under the jurisdiction of the independent compliance officer. No official or employee shall use or threaten to use any official authority or influence to effect any action as a reprisal against an official or employee who reports, initiates a complaint, or otherwise brings to the attention of the board of ethics information relating to a board investigation or a violation of this division or of a matter under the jurisdiction of the independent compliance officer ~~an ethics violation~~.

SECTION 8: That Chapter 2, Article VII, Division 2, Section 2-824, be amended so that it shall read as follows (with permanent deletions in strikethrough font and permanent additions in underline font):

Sec. 2-824. - Effective date and interim provisions.

The ~~ethics~~ board members serving on ~~June 8, 2002~~ February 1, 2019 are authorized to remain office through the conclusion of the terms to which they were appointed and to continue to discharge their official duties and responsibilities through such time as the new ethics and independent compliance board is constituted. ~~administer the ethics code until August 5, 2002, or such other time as the new ethics board is constituted.~~ The four additional members of the board of ethics and independent compliance who may be nominated and appointed pursuant to the amendments contained in 19-O-1038 shall, following their appointments serve for terms of three years. The appointments of members in accordance with 19-O-1038 shall in no way affect the terms of the members serving on February 1, 2019.

SECTION 9: That Chapter 2, Article VII, Division 2, be amended to add a new Section 2-826 which shall read as follows:

Sec. 2-826. – Independent Compliance Officer / Jurisdiction / Training.

- (a) There is hereby created as a full time salaried position an independent compliance officer for the city. The independent compliance officer must be an active member of the Georgia

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Bar Association in good standing with at least five years' experience in the practice of law. The independent compliance officer shall be appointed by a majority of the members of the board of ethics and independent compliance for a period of five years, subject to confirmation by a majority of the council and approval by the mayor. Removal of the independent compliance officer before the expiration of the designated term shall be for cause by a majority vote of the members of the board of ethics and independent compliance.

- (b) The independent compliance officer shall not engage in city election political activities and may not make campaign contributions to candidates in city elections during their term. A violation of this subsection shall constitute cause for removal as described in this section.
- (c) *Jurisdiction.* The independent compliance officer shall have the non-exclusive jurisdiction to investigate and take appropriate action regarding:
 - (1) The performance and financial operation of all departments, offices, boards, activities and agencies of the city as referred by the city auditor upon the city auditor's determination that perceived deficiencies discovered during the city auditor's official duties indicate the presence of waste, fraud, and or abuse;
 - (2) Matters under the purview of Independent Procurement Review as referred by the city auditor upon the city auditor's determination that perceived deficiencies discovered during such review indicate the presence of waste, fraud or abuse;
 - (3) Allegations of waste, fraud, or abuse by departments, offices, boards, activities and agencies of the city the independent compliance officer determines independently to be appropriate, or properly referred as outlined in this section;
 - (4) Allegations of violations of Chapter 2, Article X; of Chapter 3; or Chapter 114 of the City Code of Ordinances against the following classes of officials and employees:
 - i. Elected officials;
 - ii. Employees appointed or hired directly by an elected official;
 - iii. Members of any city boards, authorities, commissions, etc. having city representation, whether created or appointed to by the city, and any employees thereof; and
 - iv. Hearing officers.
- (d) *Duties and Responsibilities.* The duties of the independent compliance officer shall include, but not be limited to, the following:
 - (1) Educating and training employees and officials in matters under the jurisdiction of the independent compliance officer as approved by the Atlanta City Council pursuant to this division;
 - (2) Maintaining applicable records of the board of ethics and independent compliance as required by the Georgia Open Records Act;
 - (3) Meeting with the board of ethics and independent compliance;

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- (4) Investigating allegations against and recommending specific disciplinary, punitive, or other adverse action, authorized by this division or Chapter 114 of the City Code of Ordinances, to be taken against the classes of officials and employees specified in and in accordance with subsection (c) of this section;
- (5) Forwarding allegations, reports, and factual determinations regarding violations of laws, rules, regulations, and internal policies related to matters under the jurisdiction of the independent compliance officer to the disciplinary/appointing authority of any officials or employees not specified in subsection (c) of this section, for action in accordance with Chapter 114 of the City of Atlanta Code of Ordinances;
- (6) Conducting investigations into matters under the jurisdiction of the independent compliance officer referred by the ethics officer, the board of ethics and independent compliance, the mayor, the Atlanta City Council, and the city auditor;
- (7) Monitoring, evaluating and acting upon information obtained from an "independent compliance hotline" which shall be a city telephone number for the receipt of information about violations of matters under the jurisdiction of the independent compliance officer, or by an employee of the city pursuant to Section 3-508 of the City Charter. Each complaint, as of the time it is reported, whether by telephone or otherwise, shall be deemed to be a separate pending investigation of a complaint against a public officer or employee as provided by the Georgia Open Records Act;
- (8) Urging compliance with laws, rules, regulations, and internal policies related to matters under the jurisdiction of the independent compliance officer by calling to the attention of the board of ethics and independent compliance any failure to comply or any issues, including the furnishing of false or misleading information, that the independent compliance officer believes should be investigated by the board so that the board may take such action as it deems appropriate;
- (9) Notifying the subject of a report of any alleged violation of a law, rule, regulation, or internal policy related to matters under the jurisdiction of the independent compliance officer, whether the report is anonymous, made by an identified individual or is written. Such notice shall be given in writing, by facsimile or hand delivery, to the subject of the complaint at the same time and in the same form that any disclosure of information is required by the Georgia Open Records Act;
- (10) Notifying the board of ethics and independent compliance of any report of an alleged violation of a law, rule, regulation, or internal policy related to a matter under the jurisdiction of the independent compliance officer received by the independent compliance officer;
- (11) Reporting, as appropriate, suspected violations of a law, rule, regulation, or internal policy related to a matter under the jurisdiction of the independent compliance officer to the board of ethics and independent compliance;
- (12) Reporting, as appropriate, suspected criminal violations to the local, state or federal law enforcement agency with proper jurisdiction; and

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- (13) Reporting, as appropriate, suspected ethical violations of this division to the ethics officer;
 - (14) Issuing reports which provide recommended standards of practice to the applicable departments, offices, and boards of city government following a determination by the city auditor of deficiencies;
 - (15) Filing with the board of ethics and independent compliance, the mayor, and the council each January a written report describing the activities of the independent compliance officer in carrying out the goals of their office and those of the board.
- (e) *Training.* The independent compliance officer shall include in its annual report filed with the board of ethics and independent compliance, the mayor, and the council each January in accordance with this section, a determination of area(s) of greatest concern on which the independent compliance officer proposes to conduct training during the calendar year of the report for approval by the council.

SECTION 10: That all ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict only.

SECTION 11: That except as otherwise provided herein, that the amendments in this Ordinance shall be effective immediately.

SECTION 12: That the Municipal Clerk is instructed to retain all legislative history references in the codified version of Chapter 2, including Editor's notes, and shall not delete any such references, but shall amend them to include this ordinance.

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3. Jurisdiction for Integrity Line Complaints by Subject Matter

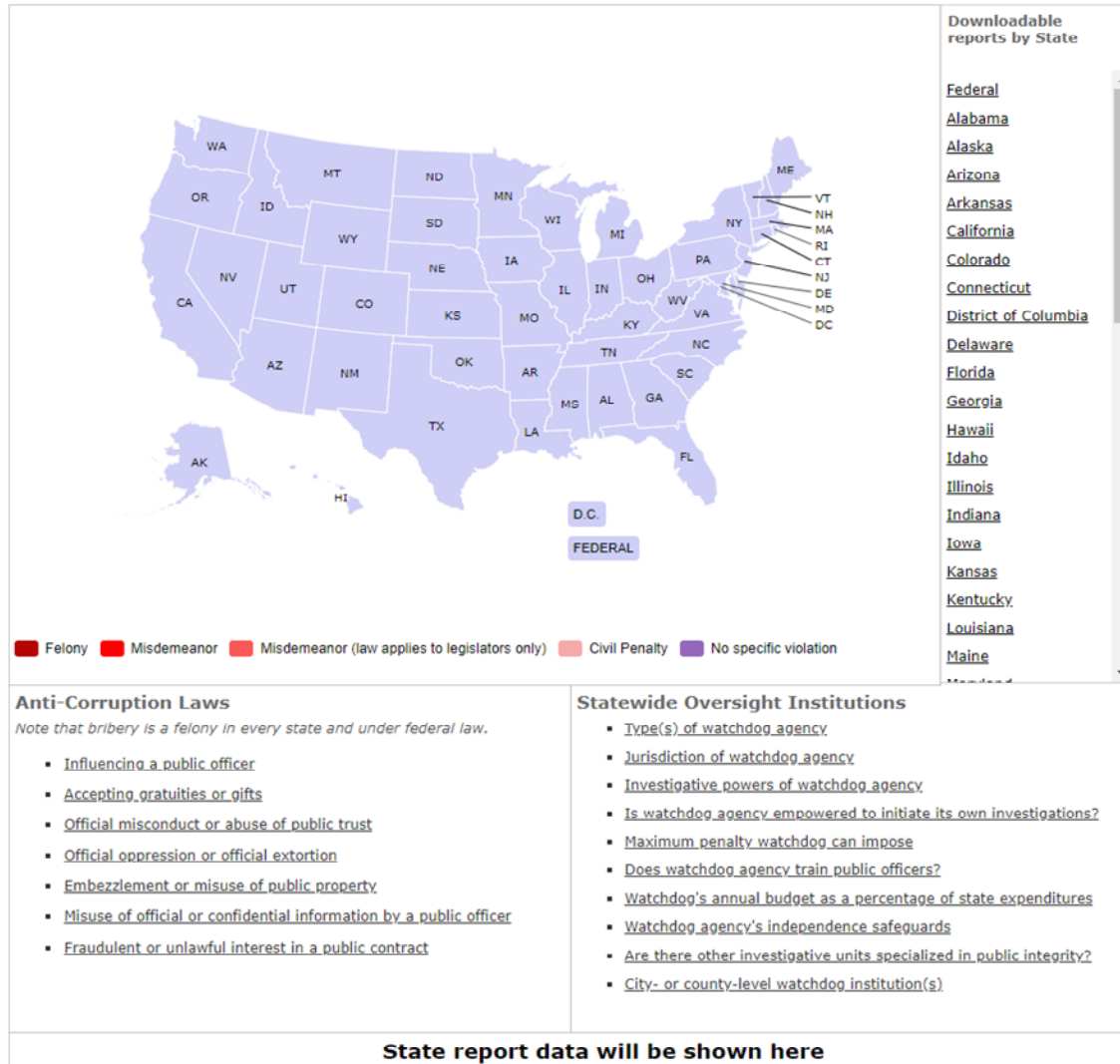
| Audit | Compliance | Ethics | Joint Jurisdiction (includes HR referrals) |
|---|--|--|---|
| <ul style="list-style-type: none"> Abuse Accounting & audit irregularities Waste | <ul style="list-style-type: none"> Fraud Sexual Harassment Substance abuse Workplace violence or threats | <ul style="list-style-type: none"> Conflicts of Interests Gifts Misuse of City Property | <ul style="list-style-type: none"> Falsification of city records Fraud Sexual Harassment Fraudulent insurance claims Kickbacks Misuse of city credit cards Policy issues Release of confidential information Retaliation against whistleblowers Theft of cash Theft of goods and services Theft of time Wage & hour issues |
| (Ethics Office Presentation to Task Force at June 18, 2019 Meeting) | | | |

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4. Nationwide perspective from the *Center for the Advancement of Public Integrity at Columbia Law School*

U.S. Anti-Corruption Oversight: A State-by-State Survey

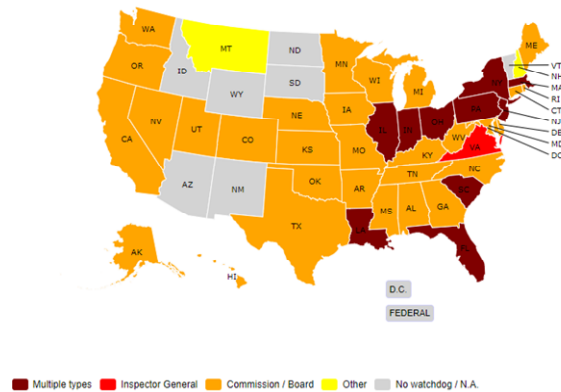
Please click on a state, either on the map or on the adjacent list, to download our report. You may also click on a category in the lists below the map to compare anti-corruption laws and institutions across each state.



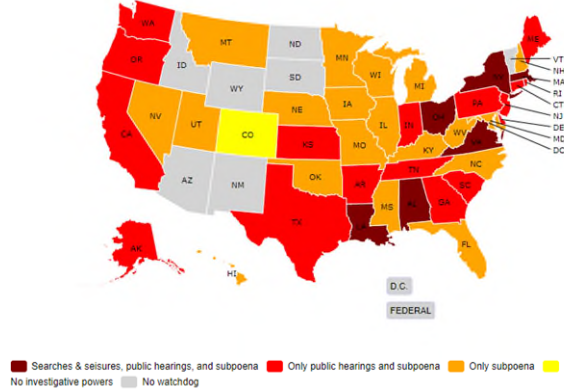
The Survey's research revealed some common denominators and categories, i.e., approximately seven types of anti-corruption laws and 10 different types of statewide oversight institutions. Comparative categories include **types of watchdog agencies** (e.g. Inspector General, Commission) and **investigative powers of watchdog agencies** (see below).

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Types of Watchdog Agencies



Investigative Powers of Watchdog Agencies



The downloadable reports on oversight and enforcement of public integrity are available for all 50 states, DC, and the federal government. Each jurisdiction's report provides information on the local transparency and corruption context, existing oversight structures, and public integrity laws; lists and summarizes any illustrative cases; and offers CAPI's analysis and conclusions on that jurisdiction's oversight and risks.