CITY OF ATLANTA
DEPARTMENT OF LAW

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August 16, 2024

Shannon K. Manigault
Inspector General
City of Atlanta Office of the Inspector General
185 Ted Turner Dr. SW
Suite 6200
Atlanta, Georgia 30303

Re: Response to Statements made in August 14, 2024 OIG Referral Letter

Dear Inspector General Manigault:

As I acknowledged previously, the Department of Law is in receipt of the above referenced Referral Letter dated August 14, 2024. Please let me first state that there are no provisions within the City of Atlanta Charter which require the recipients of an OIG referral letter to provide responses to the recommendations contained therein, whatsoever. This includes there being no requirement to provide a response within 30 days, no requirement to inform the OIG whether the recommendations have been accepted, and no requirement that where the recommendations have not been accepted that a written explanation be provided in the response.

Concerning the issuance of Final Decisions/Reports, the Charter at Section 8-101(h) provides that:

(h) Issuance of Final Decisions/Reports. At the conclusion of any investigation conducted under the jurisdiction of the Office of the Inspector General or the Ethics Office, the Inspector General or the Ethics Officer shall issue a final decision and report.

(1) Requirements of decision. As part of the final decision, the report shall include findings of fact and any law on which the decision is based, separately stated, and the effective date of the decision or order. Findings of fact shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Copies of the decision or order

shall be mailed to all parties of record by the Office of the Inspector General or the Ethics Office.

(2) Finality of decision. The decision shall be binding, subject to appeal to the Governing Board of the Office of the Inspector General and the Ethics Office as provided in this Article. Except as otherwise provided in this Article, only decisions issued at the conclusion of an investigation conducted in accordance with this section shall be subject to appeal to the Governing Board of the Office of the Inspector General and the Ethics Office.

Concerning a finding by the OIG of a violation, the Charter at Section 8-101(i) provides that:

(2) With regard to violations by employees, in addition to the remedies herein, the Office of the Inspector General or the Ethics Office may recommend any one or more of the disciplinary actions set forth in section 114-502. Where such employees are not subject to the jurisdiction of the Compliance Division of the Office of the Inspector General as set forth in this Article, such recommendations shall be furnished to the appointing authority of the subject employee.

(3) With regard to violations by persons other than officials or employees, in addition to the remedies in this section, the Office of the Inspector General or the Ethics Office may recommend to the Chief Procurement Officer any one or more of the following:

Nothing in these provisions governing the reports and recommendations of the OIG requires the recipients of such recommendations to provide any response thereto.

Again, nothing requires any response by the Department of Law, the Atlanta City Council, the Ethics Office, or the Departments within the Executive Branch of the government of the City of Atlanta to respond to the OIG's recommendations listed in the above referenced and attached Referral Letter. However, regarding the 12th recommendation contained in your August 14th letter which states as follows:

> *"City Council, Law, and Ethics collaborate to adopt internal City policies for lobbyists to increase transparency, including but not limited to a requirement that lobbyists identify themselves on City property."*

The Department of Law wishes to take this opportunity to provide more information regarding the state law applicable to lobbyists, and the City's recent efforts related thereto.

Georgia state law prohibits lobbying, as defined by state law, unless such a person is registered with the Georgia Government Transparency and Campaign Finance Commission, (the Commission), as a lobbyist (OCGA Secs. 21-5-70(5)(E), 21-5-71(a)(1)). This state law registration requirement applies to persons engaged in lobbying activity to promote or oppose the passage of any ordinance or resolution by the Atlanta City Council (OCGA Secs. 21-5-70(5)(E), 21-5-3(22)(G). State law also requires that each person required to register with the Commission as a lobbyist must display in a readily visible manner an identification card issued by the Commission while engaged in lobbying in any government facility, including municipal facilities (OCGA Secs. 21-5-71(g), 1611-220 (5)).

The General Assembly has authorized the Commission to investigate violations of and issue

penalties for the failure of such lobbyists to comply with state law applicable thereto including the requirement to display their Commission issued identification card within a municipal facility while working to promote or oppose the passage of any ordinance or resolution by the Atlanta City Council (OCGA Sec. 21-5-72). To enforce this requirement, the Commission is authorized to conduct a preliminary investigation into the merits of a written complaint by any person who believes that such a violation has occurred, verified under oath to the best information, knowledge, and belief by the person making such complaint. OCGA Sec. 21-5-6(b)(10)(A). Thus, state law currently provides that lobbyists register and identify themselves on City property.

Because the General Assembly has adopted an extensive statutory scheme to regulate lobbyists in the State of Georgia, including those who lobby at the municipal level, the City of Atlanta is preempted from enacting its own regulations. See Gebrekidan v. City of Clarkston, 298 Ga. 651, 654, 784 S.E.2d 373, 376–77 (2016). In light of this preemption, but in in accordance with a desire to ensure the state laws regarding lobbyist activities are properly enforced, in 2018 the Atlanta City Council adopted ordinance 18-O-1457 which amended the City of Atlanta Code of Ordinances to permit its individual members to direct the municipal clerk to prepare appropriate written complaints of lobbying violations to the Commission. This is currently codified at Section 2-50 of the City of Atlanta Code of Ordinances. The purpose of this ordinance was to encourage and empower its individual elected members of Council to report to the Commission suspected instances of persons who fail to display their Commission issued identification cards while engaged in lobbying to promote or oppose the passage of any ordinance or resolution by the Atlanta City Council in City of Atlanta facilities.

Contemporaneously, with its adoption of ordinance 18-O-1457 the City Council considered ordinance 18-O-1461 which would have 1) required the municipal clerk to create a repository of the state mandated lobbyist disclosure information, 2) required mandatory lobbyist law training for all city officials and employees, and 3) required to provide notice of lobbyist laws in all contract and source selection forms. However, 18-O-1461, did not pass and was filed.

Accordingly, in light of the state's preemption of the City enacting its own lobbyist registration and identification regulations and as the City of Atlanta has recently considered and taken action concerning lobbyist compliance with state laws, there is no need for the City Council, Law, and Ethics to collaborate to adopt internal City policies for lobbyists to increase transparency, including but not limited to a requirement that lobbyists identify themselves on City property.

I hope that this addresses the issues that your raised in your recommendation #12.

Sincerely,

Patrise Perkins-Hooker
City Attorney

Cc: City Council Members
Cabinet Level Positions copied on August 14, 2024 Letter