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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE REPLACING IN FULL TITLE 16, TULSA REVISED ORDINANCES, “GENERAL SERVICES DEPARTMENT (REPEALED)” WITH NEW TITLE 16 “OVERSIGHT AND MONITORING OF POLICE DEPARTMENT” CONTAINING CHAPTER 1, SECTIONS 100 THROUGH 104, CREATING THE OFFICE OF INDEPENDENT MONITOR AND CHAPTER 2, SECTIONS 200 THROUGH 208, CREATING THE CITIZEN OVERSIGHT BOARD; ESTABLISHING SEVERABILITY; AND REQUIRING REPEAL OF CONFLICTING ORDINANCES.

BE IT ORDAINED BY THE CITY OF TULSA:

*Section 1. That Title 16, Tulsa Revised Ordinances, previously titled “General Services Department (REPEALED)” be and the same is now replaced in full by the enactment of a new Title 16, titled “Oversight and Monitoring of Police Department” to read as follows:*

**“TITLE 16 OVERSIGHT AND MONITORING OF POLICE DEPARTMENT**

**CHAPTER 1. OFFICE OF THE INDEPENDENT MONITOR**

**Section 100. Office of the Independent Monitor.**

- A. The Office of the Independent Monitor (OIM) for the City of Tulsa shall consist of a full-time Monitor with appropriate professional, support staff, and, if applicable, contract services. For purposes of this title, 'Monitor' means the head of the Office of the Independent Monitor.
- B. The OIM shall actively monitor certain investigations of Tulsa Police Department (TPD) personnel; make recommendations regarding policy issues; provide independent community engagement, outreach, and initial complaint filing assistance in line with best practices and as outlined in this title, and address other issues of concern to the members of the Citizen Oversight Board (COB) created pursuant to Section 201 of this title, the Mayor or Chief of Police.
- C. The Monitor shall establish standards of professional conduct and a comprehensive training program for its own staff in order to review and evaluate whether completed TPD internal investigations have been properly conducted and to make recommendations concerning potential changes in policy, processes and training. Such policy-level recommendations to the Mayor and Chief of Police are non-binding, and management consideration and potential adoption of all or part(s) of such recommendations is pursuant to and in conformance with the Management Rights and Responsibilities set forth and retained pursuant to Article 2 of the Collective Bargaining Agreement between the City and Lodge #93 Fraternal Order of Police

regarding the right to manage the affairs of TPD in all respects including, but not limited to, the introduction of new, improved, or different methods and techniques of TPD operation or change in existing methods and techniques concerning supervision, discipline, use of force, and other policies; rules, regulations and orders; hiring; training; community relations; and the complaint process;

- D. The OIM shall provide policy guidance including, but not limited to, evaluations of community policing strategies employed by the City of Tulsa, best practices from other cities around the country, and other policy objectives as determined by the Mayor, City Council, or Chief of Police.

**Section 101. Appointment, qualifications, of Monitor and staff.**

- A. The position of Monitor is created to serve in the classified service pursuant to the City Charter and consistent with the City's Personnel Policies and Procedures Section 100, the Mayor shall appoint the Monitor with the assistance of the Personnel Director, the Office of Human Resources and other City personnel designated by the Mayor.
- B. Prior to the appointment of any person to the position of Monitor, the Mayor will appoint a screening committee to initially interview and evaluate candidates for the position. The screening committee shall consist of the following six (6) persons:
  - 1. The chairperson of the COB, who shall be the chairperson of the screening committee;
  - 2. A member of City Council as selected by a majority of the City Council;
  - 3. A current or retired judge as selected by the Mayor subject to approval by a majority of the City Council;
  - 4. The Personnel Director;
  - 5. A person selected by the Mayor, subject to approval by a majority of the City Council, with extensive knowledge of internal police investigations or the monitoring of internal police investigations but who has never been employed by the TPD; and
  - 6. A sworn peace officer selected by the Mayor, subject to approval by a majority of the City Council, who is employed by the TPD. The screening committee's term shall expire upon the selection of the Monitor.
- C. The Personnel Director shall advertise the position of Monitor and certify all applicants meeting the requirements of the position pursuant to the City Charter and consistent with the City's Personnel Policies and Procedures Section 100. The Personnel Director shall present the names of all certified candidates to the screening committee.
- D. The screening committee shall forward to the Mayor the names of a minimum of three (3), but no more than five (5) candidates, for the position of Monitor.

- E. The Mayor shall appoint the Monitor from the list of names provided by the screening committee unless the Mayor decides not to appoint any of those candidates, in which case the Mayor shall request the screening committee to provide additional names.
- F. Deputy Monitors and support staff of the OIM shall be appointed in accordance with the City Charter to serve in the classified service, from candidates certified by the Human Resources Department pursuant to the City Charter and the City's Personnel Policies and Procedures Section 100.
- G. Neither the Monitor, nor any employees of the Monitor's office, shall be or have formerly been employees or reserve officers of the TPD or have any immediate family formerly or currently serving in the TPD, nor shall have served as a peace officer within the Tulsa Metropolitan Statistical Area (MSA) within the last ten years.

**Section 102. Mandatory oversight by the Office of the Independent Monitor.**

- A. The OIM shall actively monitor any criminal investigation of the incidents set forth below when the investigation is conducted by the TPD. For criminal investigations conducted by the District Attorney or law enforcement agencies of any other jurisdiction, the OIM shall actively monitor and participate in such investigations to the extent permitted by the agency. In addition, the OIM shall actively monitor and review TPD Internal Affairs Section investigations of incidents concerning TPD sworn personnel, including reserve officers, as follows:
  - 1. Any shooting or use of deadly force involving TPD sworn personnel, whether duty related or not;
  - 2. Any in-custody death;
  - 3. Any duty-related incident during which, or as a result of which, anyone dies;
  - 4. Any use of force by TPD sworn personnel resulting in a complaint to the Police Department made by either the person upon which force was utilized or by their personal legal representative;
  - 5. Any incident whether or not duty related, in which TPD sworn personnel, including reserve officers, are under investigation for, or charged by any jurisdiction with a felony;
  - 6. Any incident, whether or not duty-related, in which TPD sworn personnel including reserve officers, are under investigation for, or charged with, any felony crime set forth in Title 21 Oklahoma Statutes, as they may be amended from time to time; or
  - 7. Any incident, whether or not duty-related, in which TPD sworn personnel, including reserve officers, are under investigation for, or charged by, any jurisdiction with a misdemeanor or local law violation in which a use of force (defined as assaulting, beating,

striking, fighting, or inflicting violence on a person) or threatened use of force is an element of the offense.

- B.** In addition, the OIM shall monitor any other internal investigation of possible misconduct by TPD sworn personnel when requested to do so by the Mayor. Within three (3) business days of determining to monitor an investigation or of receiving the request from the Mayor, the OIM shall advise the Chief of Police and the TPD Internal Affairs Section only that the OIM will monitor the completed investigation pursuant to this paragraph.
- C.** The TPD Internal Affairs Section shall forward to the OIM: Within three (3) business days of opening a new internal investigation, summary information regarding that investigation and the nature of the inquiry, allegations or complaint.
- D.** The Chief of Police, upon receipt of a report of completed Internal Affairs Section investigation, shall deliver or cause to be delivered the completed Internal Affairs Section report to the OIM within three (3) business days.
- E.** Upon receipt of the completed Internal Affairs Section report from the Chief of Police, the OIM shall have access to all TPD investigative reports, interviews, evidence and evidence summaries concerning such completed report.
- F.** The OIM, upon receipt of the completed Internal Affairs Section investigation report from the Chief of Police and the documentation, reports and evidence set forth in Subsection 102.E, above, shall undertake review and evaluation of the investigation, and no later than ten (10) business days thereafter shall provide the OIM's written evaluation and monitoring report regarding such Internal Affairs Section investigation to the Chief of Police.
- G.** The Chief of Police shall withhold any determination and decisions regarding the Internal Affairs Section investigation and the subject personnel until the Chief has reviewed and considered the OIM written evaluation and monitoring report, provided that such OIM written evaluation and monitoring report is provided to the Chief on or before the ten (10) business day period contemplated by Subsection 102.F, above. The Chief shall review the OIM evaluation and written report, and recommendations, if any, contained therein. If the OIM evaluation and report recommends additional investigatory action, the Chief may request such action be taken by the Internal Affairs Section and subsequent to such action taken, proceed to make any determinations and decisions regarding the investigation and personnel. If the OIM's evaluation and written report is not received within the time period allowed in this chapter, the Chief shall proceed to make any determinations and decisions regarding the investigation and personnel based upon the Internal Affairs Section investigative report.

### **Section 103. Public reporting by the Monitor.**

- A.** No later than September 30<sup>th</sup> of each year, the Monitor shall submit an annual public report to the Mayor, City Council, and the COB, setting forth the work of the OIM during the prior fiscal year; identifying trends regarding: complaints and investigations of TPD sworn personnel, including, but without identifying specific persons; information regarding TPD sworn

personnel who were the subject of multiple complaints; complainants who filed multiple complaints; issues that were raised by multiple complaints; and making recommendations regarding the sufficiency of investigations and potential changes to policies, rules, and training.

- B. The report shall present information in statistical and summary form, without identifying specific persons except to the extent that incidents involving specific persons have otherwise been made public by the City.
- C. In addition to the annual report, the OIM shall publish a status report, which shall be available to the public and which shall include, among other things, patterns relating to complaints, and recommendations regarding the sufficiency of investigations. Based upon an analysis of this information and other information available to the Monitor, the OIM shall make timely recommendations to the Mayor and Chief of Police regarding policy issues.
- D. The Monitor may submit additional public reports to the Mayor, City Council, and the COB throughout the year about matters within the duties of the OIM.

#### **Section 104. Confidentiality.**

- A. The Monitor, the OIM and its staff, and all persons authorized to act on their behalf who are engaged in the administrative oversight and review process regarding TPD investigative and internal policies and procedures, shall have access to both the confidential law enforcement investigative and internal personnel investigation records and reports to the extent necessary to perform their duties and responsibilities. In addition, the OIM shall not become the custodian of any such law enforcement or internal personnel records and the OIM shall not be allowed access to documents protected by the attorney-client privilege or the attorney work product privilege. All deliberations and recommendations learned by any of those persons or groups during the exercise of their duties shall be confidential and not disclosed to the public unless and until included in and published in a report made pursuant to Section 103.
- B. The Monitor, the OIM and its staff, and all consultants and experts retained by the Monitor and OIM, shall treat all documents and information made available for review by the Monitor regarding specific investigations or officers as confidential except to the extent needed to carry out their duties and shall not at any time provide, disclose, or release TPD, Internal Affairs Section, or any other personnel investigative documents, or any information contained therein.
- C. During the administrative oversight and review of any TPD or other matter, the Monitor, the OIM and its staff, and all consultants and experts retained by the Monitor and OIM, shall not discuss with any person or group, including the members of the COB, the status, or facts, or circumstances of any criminal investigation, other than reporting the fact that a criminal investigation has not been completed and any anticipated date by which a criminal investigation may be completed.

## **CHAPTER 2. CITIZEN OVERSIGHT BOARD**

**Section 201. The Citizen Oversight Board.**

- A.** There is hereby created the Citizen Oversight Board (COB) pursuant to Article XII, Section 4 of the Amended Charter of the City of Tulsa which provides, in full, as follows:

‘Boards and commissions may be created by ordinance to serve and function in an advisory capacity. The members of boards and commissions shall serve without compensation.’

- B.** The role and responsibility of the COB shall be to:

- 1.** Assess the effectiveness of the Office of Independent Monitor (OIM);
- 2.** Make policy-level recommendations to the Mayor and Chief of Police concerning the Management Rights and Responsibilities set forth and retained pursuant to Article 2 of the Collective Bargaining Agreement between the City and Lodge #93 Fraternal Order of police regarding discipline, use of force, and other policies; rules; hiring; training; community relations; and the complaint process;
- 3.** Address other issues of concern identified by the community, members of the COB, the OIM, the Chief of Police, the City Council or the Mayor; and
- 4.** Exercise such other powers and duties as are set forth in this chapter.

**Section 202. Appointment and qualifications of Citizen Oversight Board members.**

- A.** The COB shall consist of eleven (11) members, who shall be residents of the City of Tulsa appointed by the Mayor subject to confirmation by the City Council, nine of which shall be comprised of one member from each of the nine City Council Districts, and the remaining two members shall be at-large appointments.
- B.** No officer or employee of the City, nor any currently serving officer of any other law enforcement agency in the State, shall be appointed to the COB.
- C.** Neither the members of the COB nor any of their immediate family members (defined as husband, wife, son, daughter, mother, father, step-son, step-daughter, step-mother, step-father, grandmother, grandfather, brother, sister, domestic partner, and in-laws) shall have ever been employed by the TPD.
- D.** The members of the COB should reflect the diversity of the City of Tulsa, including the ethnic, racial, and socioeconomic constitution of the population, as well as the City’s diverse professional backgrounds, experience, and expertise of its citizens.
- E.** The members of the COB shall not be compensated except for any previously approved and necessary personal expenses incurred in connection with the work of the COB.

- F. The members of the COB shall participate in an appropriate training program to be established by the COB working with the OIM so that COB members shall possess the applicable knowledge to perform their duties.

### **Section 203. Terms and vacancies.**

- A. The terms of the nine members of the COB comprised of one member from each of the nine City Council Election Districts shall commence on the first Monday in December in the year 2019 and shall expire as follows: the term of office for members from Election Districts 1, 4, and 7 shall serve for a term of one (1) year and shall expire on the first Monday in December 2020; thereafter the members from Election Districts 1, 4, and 7 shall serve for a term of three (3) years. The term of office for members from Election Districts 2, 5, and 8 shall be for a term of two (2) years and shall expire on the first Monday in December in the year 2021; thereafter the members from Election District 2, 5, and 8 shall serve for a term of three (3) years. The term of office for members from Election Districts 3, 6, and 9 and shall be for a term of three (3) years and shall expire on the first Monday in December in the year 2022; thereafter the members from Election Districts 3, 6, and 9 shall be for a term of three (3) years.
- B. The terms of the two at-large COB members shall be for three years commencing on the first Monday in December in the year 2019.
- C. Any vacancy occurring during the term of any COB member shall be filled by appointment by the Mayor and confirmed by City Council pursuant and subject to the requirements of Article XII, Section 11 of the Amended Charter of the City of Tulsa.
- D. In the event of vacancies on the COB, appointments to fill such vacancies shall be for the remainder of the unexpired terms. A member of the COB shall have vacated his or her position on the Board if such member fails to attend three (3) consecutive meetings; provided that a vacancy so created shall not prohibit the reappointment of such member to the COB.
- E. Each COB member shall continue to serve in such capacity until the member's successor has been duly appointed.

### **Section 204. Officers.**

The COB shall annually elect from among its members a chairperson and a vice-chairperson, who shall serve in such capacities until their successors are duly elected. In case of a vacancy in either of these positions, the COB shall elect a successor who shall serve the unexpired balance of the predecessor's term.

### **Section 205. Meetings of the Citizen Oversight Board.**

- A. The COB, with staff support provided by the OIM, shall conduct at least three (3) meetings annually for public comment, including a meeting to be held not later than thirty (30) calendar days after the issuance of the COB's annual report and shall from time to time meet with citizens' groups to learn of citizens' concerns and to inform the citizens of relevant information

regarding the activities of the TPD, the OIM, and the COB. After consideration of citizen accessibility factors, the COB shall schedule all meetings under this subsection at times and dates as convenient as possible for citizen attendance.

- B. The COB shall meet at least ten times per year with a representative or representatives of the OIM.
- C. The COB shall meet at least quarterly in public with the Chief of Police and shall meet with any other City personnel on an as-needed basis to discuss any issues of concern and to discuss and formulate and make policy recommendations for ways that the police department and its officers can improve its relationships with the citizens.
- D. The COB shall fix the time and place of its meetings.
- E. The COB shall maintain records of its meetings, which records shall be available to the public.
- F. All meetings of the COB shall be subject to the provisions of the Oklahoma Open Meetings Act.

#### **Section 206. Interaction between the Office of Independent Monitor and the Citizen Oversight Board.**

The OIM shall inform the COB of the status of police department investigations and the actions of the OIM and the Monitor in monitoring, reviewing and evaluating those investigations.

- A. The COB shall establish both qualitative and quantitative criteria for evaluating the effectiveness of the OIM.
- B. In determining whether the Office of Independent Monitor is effectively monitoring police investigations, the COB shall receive regular reports from the Office of Independent Monitor and may request to review appropriate documents and reports necessary to carry out the COB's duties and responsibilities. However, the COB shall not become the custodian of any such law enforcement or internal personnel investigative records and the COB shall not be allowed access to documents protected by the attorney-client privilege or the attorney work product privilege. The COB shall make recommendations to the Mayor and Chief of Police regarding the performance and effectiveness of the OIM and the Monitor and assist with public engagement and feedback.
- C. The OIM shall provide staff support to the COB.

#### **Section 207. Reports of the Citizen Oversight Board.**

- A. The COB shall furnish an annual public report to the Mayor and City Council regarding the COB's assessment of the work of the OIM; the COB's activities during the preceding year; concerns expressed by citizens; the COB's assessment of the police department's investigative



processes and recommendations for ways that TPD can improve its relationships with the citizens.

- B. The COB’s annual report shall be furnished concurrently with the OIM’s annual report to the Mayor and City Council.
- C. In addition to the annual report, the COB may furnish additional reports, to the Mayor and City Council, which shall be available to the public and which shall include, but not be limited to, patterns relating to complaints and recommendations regarding the sufficiency of investigations, if any.
- D. Upon request of the COB, the Mayor shall consider contracting with independent consultants to assist the COB in assessing the effectiveness of the OIM and the Monitor, and in preparing the COB’s annual report and any other reports.

**Section 208. Rules.**

The COB shall publish and make available to the public such procedural rules as it may adopt for the conduct of its business.”

*Section 2. SEVERABILITY CLAUSE: If any section, sentence, clause or phrase of this ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance or any part thereof*

*Section 3. REPEAL OF CONFLICTING ORDINANCES. That all ordinances or parts of ordinances in conflict herewith be and the same are now expressly repealed.*

ADOPTED, by the Council on this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

\_\_\_\_\_  
Chair of the Council

OFFICE OF THE MAYOR

Received by the Mayor: \_\_\_\_\_, at \_\_\_\_\_.  
Date Time

G.T. Bynum, Mayor

By: \_\_\_\_\_  
Secretary

APPROVED by the Mayor of the City of Tulsa, Oklahoma: \_\_\_\_\_,  
Date

at \_\_\_\_\_.  
Time

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
City Attorney