

Members for Audit Advisory Board

Board Member Name Home Address City, State Zip Code	Home Phone Work Phone	Employer Occupation Email Address	Appointed Expires Reappointed
Arendt, Barbara 1601 Woodsvie Street Lincoln, NE 68502	(402) 423-3036 (402) 475-7447	Cruises, Plus Travel Agency Owner barbara@inebraska.com	2/28/2008 3/2/2009
Blome, Todd 5540 S. 74 th Street Lincoln, NE 68516	(402) 488-3307 (402) 483-7781	BMG CPA's CPA tblome@bmgcpas.com	2/29/2008 3/1/2009
Bowen, Steve 8934 Lammle Circle Lincoln, NE 68526	(402) 610-8880 (402) 464-1877	Willmar Electric Service Electrical Contractor steve@spbowen.com	2/28/2008 3/1/2010
Justus, Michael 805 Manes Court Lincoln, NE 68505-2021	(402) 483-4706 (402) 472-7109	University of Nebraska Director of Internal Audit mdjustus@aol.com	2/25/2008 3/1/2010
Mastera, Jim 6515 Saltgrass Road Lincoln, NE 68521	(402) 477-6574 (402) 432-7545	Cornhusker Bank Retired Banker jim@masterahome.com	2/25/2008 3/2/2011
Pallesen, Charles M. Jr. "Chuck" 2727 Royal Court Lincoln, NE 68502	(402) 423-6047 (402) 474-6900	Cline Williams Wright Johnson & Oldfather Attorney cpallesen@clinewilliams.com	2/29/2008 3/1/2011



07-155

Introduce: 9-24-07

ORDINANCE NO. 19007

1 AN ORDINANCE amending Title 4 of the Lincoln Municipal Code relating to
2 Boards and Commissions by adding a new Chapter 4.66, creating the City Audit Advisory Board,
3 setting forth definitions, creating the membership of the Board and the length of terms and removal,
4 setting forth the duties and powers of the Board, establishing meetings and rules, providing for
5 staffing, providing for audit coordination and a custodian of records, laying out the ground rules for
6 access to information, providing for an auditee's response, and setting out the process for selecting
7 a contract auditor.

8 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:
9 Section 1. That Title 4 of the Lincoln Municipal Code be amended by adding a new
10 section numbered 4.66.010 to read as follows:

11 **4.66.010 Policy.**

12 The City of Lincoln recognizes the importance of periodically reviewing its operations in
13 order to ensure an efficient and appropriate use of its resources to fulfill the City's obligations under
14 the law and to meet the needs of the community. In furtherance thereof, the City is desirous of
15 establishing a mechanism to secure audits of City offices, departments, agencies, and other
16 governmental organizations subject to a City audit. The purpose of such audits is to review (1) the
17 performance, efficiency, and effectiveness of any or all offices, departments, agencies, and other
18 governmental organizations in which the City has a role; (2) the adequacy of management and
19 financial accounting systems and controls; and (3) the accuracy of management and financial
20 records, statements, and reports within the jurisdiction of the City Council and/or Mayor.

21 Section 2. That Title 4 of the Lincoln Municipal Code be amended by adding a new
22 section numbered 4.66.020 to read as follows:

(9-7-07)

1 **4.66.020 Definitions.**

2 For the purpose of this chapter, the following words shall have the following meanings:

3 Auditee shall mean the City office, department, agency, or other governmental organization
4 subject to a City audit who is the object of a contract audit as specified in the City's contract with
5 the contract auditor.

6 Board shall mean the City Audit Advisory Board unless otherwise specified.

7 Board audit report shall mean the written report created by the Board which shall include
8 the final audit report, any written response by the auditee, a separate listing, if any, of irregularities
9 or failures to comply with legal or administrative policies, and the Board's recommendations.

10 Contract administrator shall mean the City official charged with administering the contract
11 with the contract auditor. The Director of Finance shall be the contract administrator, provided,
12 however, if the Finance Department is specifically named in the contract as the auditee, the Mayor
13 shall designate another City employee as Contract Administrator for that contract audit.

14 Contract audit shall mean an audit performed pursuant to this chapter and shall be any one
15 or combination of a financial audit, a performance audit, an internal audit, or operational review.

16 Contract auditor shall mean the person with whom the City contracts to perform a contract
17 audit under this chapter.

18 Custodian of records shall mean the City Clerk.

19 Final audit report shall mean the report created by the contract auditor following his or her
20 audit. No working papers shall be attached or otherwise disseminated by the contract auditor as part
21 of a final audit report or otherwise.

22 Financial audit shall mean an audit designed to address questions of accounting and
23 reposting of financial transactions, including commitments, authorizations, and receipt and
24 disbursement of funds. The purpose is to verify that sufficient controls over cash and cash-like assets
25 exist and that adequate processes controls over the acquisition and use of resources exist. Financial

1 audits shall be conducted in accordance with auditing standards generally accepted in the United
2 States of America and the standards applicable to financial audits contained in the Generally
3 Accepted Government Auditing Standards (GAGAS) maintained by the federal Government
4 Accountability Office (GAO). For purposes of this chapter, financial audit, does not include the
5 external independent audit required in Article IV, Section 8 of the City Charter.

6 **Internal audit** shall mean an independent appraisal of operations to assess the effectiveness
7 of internal administrative and accounting controls and help ensure conformance with managerial
8 policies. Internal audits shall be conducted in accordance with the Standards for the Professional
9 Practice of Internal Auditing (SPPIA) as promulgated by the Institute of Internal Auditors.

10 **Operational review** shall mean an objective and systematic examination of evidence to
11 evaluate the City's conformity with plans and resource allocations, organizational structure,
12 operating procedures, process controls, and to evaluate whether the auditee is operating efficiently,
13 economically, and effectively to maximize the desired results.

14 **Performance audit** shall mean an objective and systematic examination of evidence for the
15 purpose of providing an independent assessment of the performance of a government organization,
16 program, activity, or function in order to provide information to improve public accountability and
17 facilitate decision making by parties with responsibility to oversee or initiate corrective action.
18 Performance audits shall be conducted in accordance with the Generally Accepted Government
19 Auditing Standards (GAGAS) maintained by the federal Government Accountability Office (GAO).

20 **Selection committee** shall mean the Chair of the City Council and the two City Council
21 members who serve on the Internal Auditing Review Committee. In the event the Council Chair is
22 one of the two City Council representatives on the Internal Auditing Review Committee, the third
23 member of the selection committee shall be a City Council member as designated by the Chair of
24 the City Council. ~~The unanimous agreement of the selection committee is required for any action~~
25 ~~of the selection committee.~~ **Two affirmative votes are required for action.**

Amended 10-8-07

1 Working papers shall mean those documents containing evidence to support the contract
2 auditor's findings, opinions, conclusions and judgments.

3 Section 3. That Title 4 of the Lincoln Municipal Code be amended by adding a new
4 section numbered 4.66.030 to read as follows:

5 **4.66.030 City Audit Advisory Board Established; Membership; Term; Removal.**

6 The City Audit Advisory Board (Board) is hereby established. The Board shall consist of
7 six members and shall be comprised as follows:

8 (a) Three members shall be appointed by the Mayor. At least one of the Mayor's three
9 appointees shall hold a certificate as a public accountant or internal auditor, or have a degree,
10 certificate, or experience showing specialized knowledge in the area of conducting performance
11 audits.

12 (b) Three members shall be appointed by the City Council. At least one of the City
13 Council's three appointees shall hold a certificate as a public accountant or internal auditor, or have
14 a degree, certificate, or experience showing specialized knowledge in the area of conducting
15 performance audits.

16 The term of service on the Board shall be three years. Initially, one of the Mayor's and City
17 Council's appointees shall serve for one year; one of the Mayor's and City Council's appointees
18 shall serve for two years; and one of the Mayor's and City Council's appointees shall serve for three
19 years. The Mayor and City Council shall designate, upon making the appointments, which of their
20 respective appointees will fill which length initial term. Upon expiration of the initial terms,
21 appointments thereafter shall be for a period of three years. No person shall serve greater than three
22 terms on the Board.

23 Board members may be removed from office by their appointing entity (Mayor or City
24 Council) for malfeasance or nonfeasance of office or for any cause that renders the member
25 ineligible to office or incapable or unfit to discharge the duties thereof. Violation of Section

1 4.66.090(b) of the Lincoln Municipal Code, or any other provision of this chapter, shall be grounds
2 for immediate removal from the Board.

3 Section 4. That Title 4 of the Lincoln Municipal Code be amended by adding a new
4 section numbered 4.66.040 to read as follows:

5 **4.66.040 Duties and Powers.**

6 As authorized in this chapter, the Board shall advise the City Council on matters relating to
7 financial audits, internal audits, performance audits, and operational reviews as provided for in this
8 chapter. However, the Board shall not review or recommend an audit of the performance of any
9 particular employee and shall not infringe upon the authority of the Personnel Board, Personnel
10 Director, a Department head, Mayor, or City Council with respect to personnel matters. Nothing
11 in this chapter shall confer upon the Board or the City any authority to audit governmental
12 organizations not otherwise subject to City audit.

13 The Board shall have the following responsibilities:

14 (a) When directed to do so by resolution of the City Council, determine whether an audit,
15 as suggested in Council's resolution, is appropriate and desirable. In order to make this
16 determination, the Board may consult with departments heads to familiarize themselves with
17 information necessary to make an informed decision on whether and what type of contract audit
18 should be conducted. If the Board determines that such an audit is not appropriate and desirable, the
19 Board shall forward such decision in writing to the City Council.

20 If the Board concludes that such an audit is appropriate and desirable, the Board shall
21 determine what the scope of such audit should be. In recommending the scope of the audit, the
22 Board shall pay particular attention to the anticipated cost to the City for such audit including, but
23 not limited to, the cost of gathering or providing access to records that may be requested by the
24 contract auditor. The Board's recitation of the scope of the audit shall include:

1 (1) Identification of the auditee including, if applicable, what particular function
2 or activity of the auditee should be audited;

3 (2) Whether the contract audit should be a financial audit, an internal audit, a
4 performance audit, an operational review, or any combination thereof;

5 (3) The time span to be covered by the audit; and

6 (4) Whether the contract auditor should be the State Auditor of Public Accounts,
7 or whether the City should pursue a private contractor to serve as contract auditor.

8 The Board shall transmit the scope of the audit, in writing, to the City Purchasing
9 Agent.

10 (b) Evaluate the adequacy of management and financial accounting systems and controls
11 based on the final audit report and any written response thereto furnished by the auditee;

12 (c) Appraise and verify the accuracy of management and financial records, statements
13 and reports based on the final audit report and any written response thereto furnished by the auditee;

14 (d) Report to the Mayor and the City Council, in the form of a board audit report, within
15 sixty days of receiving the final audit report. The Board audit report shall be simultaneously
16 transmitted to the Mayor and the City Council. Three copies of the Board audit report shall be
17 placed on file with the City Clerk for public examination. The board audit report shall include:

18 (1) The Board's findings, based on the final audit report and the response of the
19 auditee as to whether:

20 (i) Activities and programs are being conducted and funds expended in
21 compliance with applicable laws;

22 (ii) Revenues are being properly collected, deposited and accounted for;

23 (iii) Resources are adequately safeguarded, controlled and used in an
24 effective and efficient manner; and/or

1 (iv) There are adequate operating and administrative procedures and
2 practices, systems or accounting internal control systems and internal management controls which
3 have been established by management;

4 (2) A copy of the final audit report and auditee's response thereto;

5 (3) A separate listing, if any, of irregularities or failures to comply with legal or
6 administrative policies; and

7 (4) The Board's recommendations.

8 Section 5. That Title 4 of the Lincoln Municipal Code be amended by adding a new
9 section numbered 4.66.050 to read as follows:

10 **4.66.050 Meetings and Rules.**

11 The Chair shall conduct meetings of the Board. Such meetings shall be subject to the open
12 meetings laws of the City Charter and statutes of the State of Nebraska. The Board shall meet as
13 necessary to conduct its business. The Board shall keep minutes of its meetings which shall
14 document all resolutions, motions, and determinations of the Board and shall be kept on file in the
15 office of the City Clerk.

16 A quorum of the Board shall be four members. Four affirmative votes are required for any
17 final action of the Board.

18 The Board may adopt such rules, bylaws, and procedures as it deems appropriate to carry out
19 the purposes and goals of this chapter, in accordance with the City Charter, Lincoln Municipal Code,
20 and relevant state or federal law.

21 Section 6. That Title 4 of the Lincoln Municipal Code be amended by adding a new
22 section numbered 4.66.060 to read as follows:

23 **4.66.060 Board Staff.**

24 Clerical assistance shall be provided to the Board at City cost as deemed necessary by the
25 Mayor.

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The contract with the contract auditor shall include language requiring the contract auditor to retain all working papers or other documents gathered or created in the course of conducting the audit for a period of ten years. During and after that ten-year period, the contract auditor may not disseminate such information except as required by law. The contract shall further require that upon receipt of a request for such information, in the form of a public record request, subpoena, or otherwise, the contract auditor shall, within one working day of receiving such request, forward such request to the City Attorney and shall not fulfill the request. At the end of the ten years, the contract auditor shall destroy all such documents, working papers, and information, in whatever form, by shredding, incinerating, wiping, or otherwise rendering such data unrecoverable, and shall confirm such destruction in writing to the City Clerk; provided, however, that the City may require an extension of the ten year period as may be reasonable prior to destruction of the material. Nothing in this section is intended to prohibit the contract auditor and the City from agreeing to reasonable terms for access to such data by the City.

1 for an internal audit shall contain language that such audit be performed in accordance with the
2 Standards for the Professional Practice of Internal Auditing as promulgated by the Institute of
3 Internal Auditors.

4 The contract with the contract auditor shall require the contract auditor to prepare a final
5 audit report and to simultaneously furnish such report to the Board, the auditee, the Mayor, and City
6 Council.

7 The contract with the contract auditor shall include language which identifies the scope of
8 the audit and which specifies the auditee. The contract shall also specify the type of audit to be
9 performed under this chapter.

10 Section 8. That Title 4 of the Lincoln Municipal Code be amended by adding a new
11 section numbered 4.66.080 to read as follows:

12 **4.66.080** **Audit Coordination.**

13 Prior to contracting with a contract auditor for a particular audit, consideration shall be given
14 to audits, whether contract audits or otherwise, which have been previously performed, are ongoing,
15 or are scheduled for future performance in order to minimize duplication of efforts with respect to
16 auditing particular City activities, functions, offices, departments, agencies, and other governmental
17 organizations subject to City audit.

18 Section 9. That Title 4 of the Lincoln Municipal Code be amended by adding a new
19 section numbered 4.66.090 to read as follows:

20 **4.66.090** **Records.**

21 (a) The custodian of records for all records received or created by the Board shall be the
22 City Clerk.

23 (b) Neither the Board nor any member thereof shall, by their own initiation or pursuant
24 to a request, release, disclose, disseminate, or otherwise provide any document, record, or material
25 in whatever form, except as required in this chapter. Any and all requests made of the Board or a

1 Board member for such material shall, within one day of receipt of a request, be forwarded to the
2 City Attorney.

3 Section 10. That Title 4 of the Lincoln Municipal Code be amended by adding a new
4 section numbered 4.66.100 to read as follows:

5 **4.66.100 Access to Information.**

6 (a) All officers and employees of the City of Lincoln shall, upon request by a contract
7 auditor, furnish access to all documents, records, or materials of or belonging to the City of Lincoln,
8 or copies thereof, regardless of the form in which they were created or stored, within the custody
9 of or under the control of the officer or employee. In the event the officer or employee of the City
10 believes that furnishing particular access to the contract auditor would violate an applicable policy
11 or law of the City, including policies relating to the dissemination of information, or would conflict
12 with federal or state law, such officer or employee shall refrain from providing access to the contract
13 auditor and shall immediately notify his or her department head and the City Attorney of the request.

14 In the event the City Attorney believes that provision of the requested information would
15 violate a City policy or applicable city, state, or federal rule, regulation or law, or if the City
16 Attorney believes the requested information is subject to withholding under the Public Records Act
17 or that the City is prohibited from making the requested disclosure, the City Attorney shall indicate
18 as much in writing to the contract auditor and such information shall be disclosed to the contract
19 auditor in a de-identified or redacted form. If the information provided by the City Attorney is not
20 acceptable to the contract auditor, the contract auditor may notify the Mayor that there is a question
21 as to what information should be made accessible and the Mayor, in consultation with the City
22 Attorney, shall determine what records or information shall be provided the contract auditor.

23 (b) Beginning January 1, 2008, all contracts subsequently entered into by the City for
24 the purchase of services or goods shall contain language requiring that such contractor make

1 available to a contract auditor copies of all financial and performance related records and materials
2 germane to the city contract, as allowed by law.

3 (c) In addition to other restrictions on the dissemination of working papers and
4 documents provided elsewhere in this chapter, neither the contract auditor nor the Board or any
5 individual member thereof may disclose any information received during an audit that is considered
6 proprietary in nature or confidential by any local, state, or federal law or regulation.

7 Section 11. That Title 4 of the Lincoln Municipal Code be amended by adding a new
8 section numbered 4.66.110 to read as follows:

9 **4.66.110 Auditee's Response.**

10 The auditee shall have thirty days after receipt of the final audit report to provide the Board
11 with a written response to such final audit report. The auditee's response shall include:

12 (a) Whether the auditee agrees or disagrees with the final audit report;

13 (b) Reasons for any disagreement with the final audit report;

14 (c) Recommendations or plans for implementing solutions to issues identified in the final
15 audit report as requiring attention;

16 (d) A reasonable time table for the completion of such activities;

17 (e) A reasonable estimate of the costs associated with completion of such activities.

18 Section 12. That Title 4 of the Lincoln Municipal Code be amended by adding a new
19 section numbered 4.66.120 to read as follows:

20 **4.66.120 Selecting a Contract Auditor; Process.**

21 (a) Upon receipt of an audit scope from the Board, if the Board recommended pursuing
22 a contract with the State Auditor of Public Accounts (State Auditor), the Purchasing Agent shall
23 contact the State Auditor and negotiate a contract to perform the audit as scoped by the Board. Upon
24 reaching agreement on contract terms with the State Auditor, the Purchasing Agent shall forward
25 such proposed contract to the City Council for action along with a recommendation of approval or

1 rejection. If the Purchasing Agent is unable to reach agreement with the State Auditor as to the
2 terms of a contract, or if the State Auditor is unwilling or unable to serve as contract auditor, the
3 Purchasing Agent shall report as much to the Board and selection committee. The selection
4 committee shall then review the scope prepared by the Board and determine whether:

5 (1) Such proposed audit shall be abandoned; or

6 (2) Such proposed audit shall be pursued in accordance with (b) below, in which
7 case the selection committee shall forward the audit scope to the Purchasing Agent with directions
8 that the Purchasing Agent proceed in accordance with (b). below; or

9 (3) Such proposed audit shall be further pursued with the State Auditor, in which
10 case the selection committee shall direct the Purchasing Agent to reopen negotiations with the State
11 Auditor.

12 (b) Upon receipt of the audit scope from the Board, or pursuant to (a)(2), above, the
13 Purchasing Agent shall proceed in accordance with either b(1) or b(2) below, depending upon the
14 anticipated cost of the contract audit at issue. The anticipated cost means the total amount to be paid
15 the contract auditor, and does not include the cost to the City of submitting to the contract audit.

16 (1) If the anticipated cost of the contract audit is less than \$30,000.00, the
17 Purchasing Agent shall secure and record at least three informal quotes, if practical, from persons
18 qualified to perform the contract audit. The Purchasing Agent shall rank the responders based on
19 their overall ability to perform the contract audit; performance record for timeliness; performance
20 record for compliance with this code; reputation for professionalism; current workload with the City;
21 any other specialized qualification which a responder might possess which would be of benefit to
22 the project, such as familiarity with the particular activity being audited; and cost of services.

23 The Purchasing Agent shall negotiate a contract with the first ranked responder,
24 consistent with the scope provided by the Board. The negotiated contract, which shall be signed by
25 the would-be contract auditor, shall be forwarded to the City Council for consideration.

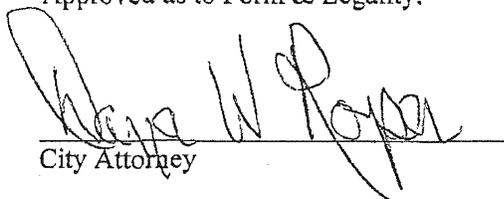
1 (2) If the anticipated cost of the contract audit is greater than \$30,000.00, the
2 Purchasing Agent shall prepare and advertise a request for proposals for publication. Upon receipt
3 of valid responses to the request for proposals, the Purchasing Agent shall forward such responses
4 to the selection committee. The Chair of the City Council shall provide copies of the responses to
5 members of the selection committee. No member of the selection committee shall further
6 disseminate such responses, or otherwise disclose the contents of such responses until such time as
7 a contract for the anticipated audit has been either accepted or rejected by the City Council as a
8 whole.

9 (c) Upon receipt of the proposals pursuant to (b)(2) above, the selection committee shall
10 evaluate the proposals, negotiate with the responders as necessary, and select the proposal which
11 best serves the City's interests. The selection committee shall forward the selected proposal and
12 contract terms to the City Council for action. If the selection committee does not believe any of the
13 proposals meet the needs of the City, they may forward all proposals to the City Council with a
14 written recommendation that all proposals be rejected.

15 Section 13. That Sections 1 through 12 hereof shall be codified in the Lincoln
16 Municipal Code as Chapter 4.66 entitled City Audit Advisory Board.

17 Section 14. That this ordinance shall take effect and be in force from and after its
18 passage and publication according to law.

See further Council Proceedings
on next page.

Approved as to Form & Legality:

City Attorney

Introduced by:

AYES: Camp, Cook, Eschliman,
Marvin, Spätz, Svoboda; NAYS:
None; ABSENT: Emery.

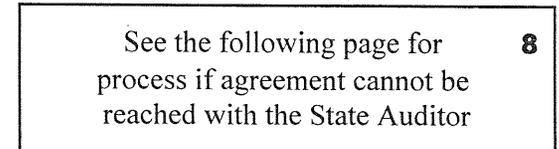
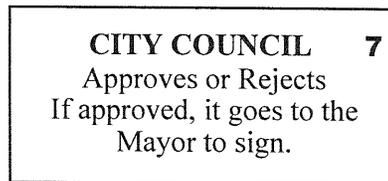
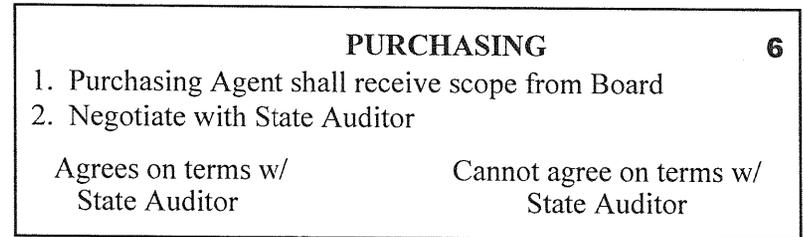
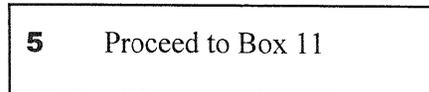
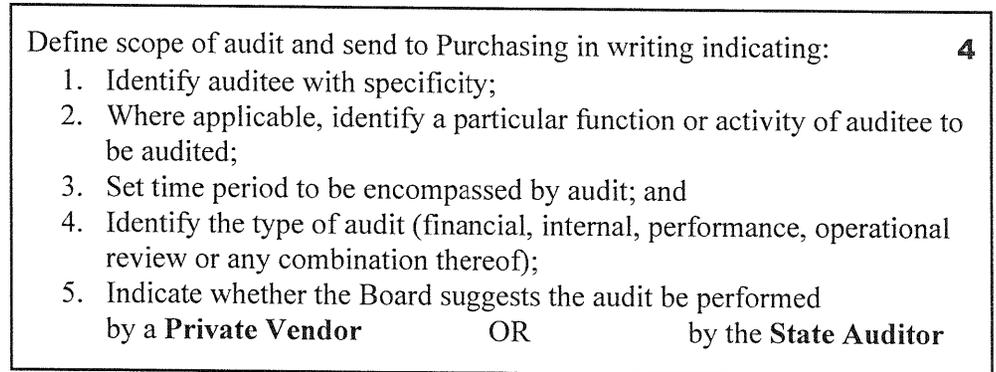
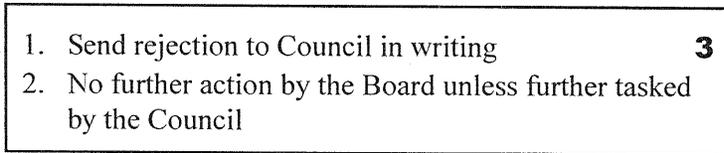
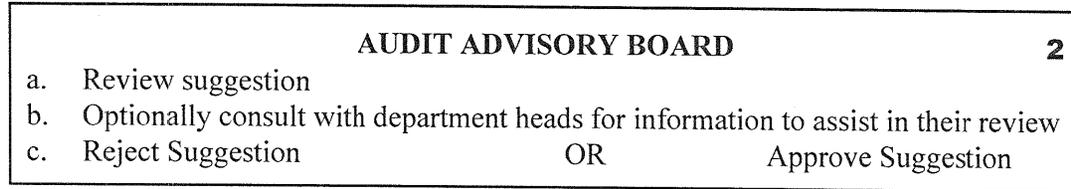
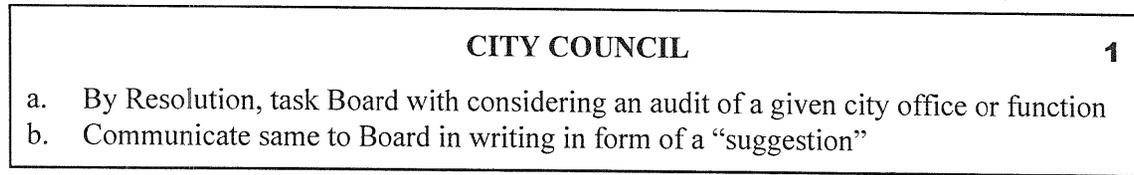
Approved this 11th day of Oct., 2007:

Mayor

(9-7-07)

PASSED
OCT - 8 2007
BY CITY COUNCIL

AUDIT ADVISORY BOARD PROCESS



If agreement cannot be reached with the State Auditor:

Report to the Board and Selection Committee that an agreement could not be reached **9**



SELECTION COMMITTEE 10

The Selection Committee shall:

1. Review scope
2. Determine if audit should be
 - A. Abandoned; or
 - B. Forwarded to the Purchasing Agent with directions that he either do an RFP or negotiate with a private vendor per §4.66.120(b); or
 - C. Forwarded to Purchasing Agent with directions that he reopen negotiations with State



PURCHASING 11

Proceed per §4.66.120(b)

If anticipated cost of audit is:
UNDER \$30,000 OVER \$30,000



If anticipated cost of the audit is under \$30,000, the Purchasing Agent shall secure and record three (3) informal quotes and negotiate a contract with the responder who best serves the City's needs. Send negotiated contract to City Council for action. **12**



CITY COUNCIL 14

Approves or Rejects
If approved, it goes to the Mayor to sign.

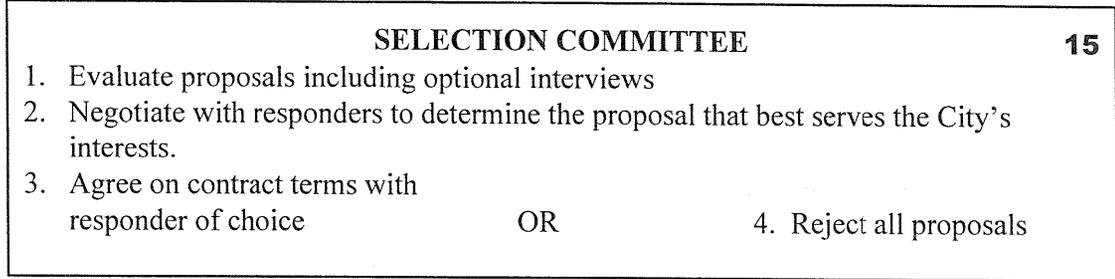


If the anticipated cost of the audit is over \$30,000, the Purchasing Agent shall: **13**

1. Send out RFP and a sample contract
2. Receive RFP responses
3. Forward valid responses to the Selection Committee



Proceed to Box 15



Forward contract, approved by Law, Purchasing, and signed by Contractor, to City Council for Action

Process Ends

CITY COUNCIL
Approves or Rejects
If approved, it goes to the Mayor to sign.

CONTRACT AUDITOR

- a. Perform audit
- b. Create a final audit report
- c. Simultaneously transmit final report to Board, Auditee, Mayor, and City Council

BOARD

- a. Respond to Final Audit Report within 60 days
- b. Board report should include:
 - (1) The Board's findings, based on the final audit report and the response of the auditee as to whether:
 - (i) Activities and programs are being conducted and funds expended in compliance with applicable laws;
 - (ii) Revenues are being properly collected, deposited and accounted for;
 - (iii) Resources are adequately safeguarded, controlled and used in an effective and efficient manner; and/or
 - (iv) There are adequate operating and administrative procedures and practices, systems or accounting internal control systems and internal management controls which have been established by management;
 - (2) A copy of the final audit report and auditee's response thereto;
 - (3) A separate listing, if any, of irregularities or failures to comply with legal or administrative policies; and
 - (4) The Board's recommendations.

AUDITEE

- a. Respond to Final Audit Report within 30 days
- b. Forward Auditee's Response to Board:
 - (a) Whether the auditee agrees or disagrees with the final audit report;
 - (b) Reasons for any disagreement with the final audit report;
 - (c) Recommendations or plans for implementing solutions to issues identified in the final audit report as requiring attention;
 - (d) A reasonable time table for the completion of such activities;
 - (e) A reasonable estimate of the costs associated with completion of such activities.



Article IV

Sec. 8. Council Powers and Duties. The council shall be composed of seven members who shall be elected and known as council members. The four (4) district council members shall be elected by the people of the district in which they reside on a nonpartisan basis and the other (3) three council members shall be elected by the people on an at-large nonpartisan basis, and all council members shall serve for a term of four (4) years.

All legislative powers of the city shall be exclusively vested in the council and shall be exercised by it in the manner and subject to the limitations set forth in this charter. The council shall have the power to pass, amend, and repeal any and all ordinances and other enactments necessary or proper to execute or carry into effect any of the provisions of this charter or any of the powers herein granted, except as otherwise provided in this charter.

The council shall have the power to conduct investigations concerning any subject upon which it may legislate or the operations of any department, board, or commission engaged in the administration of city affairs. For the purposes of conducting such investigations it may employ counsel, accountants, engineers, other experts and employees. In conducting such investigations, the council shall have the power to administer oaths, subpoena witnesses, and compel the production of any books and records pertinent to such investigation. Any person who shall fail to appear in response to subpoena or shall refuse to answer any question or produce any books and records pertinent to such investigation, or shall knowingly give false testimony therein, shall be guilty of a misdemeanor and shall be subject to such penalties as may be fixed by ordinance, which the council is hereby authorized to pass, and to such other penalties as may be provided by law.

Prior to the end of each fiscal year, the council shall contract with a certified public accountant to make, as of the end of the fiscal year, an independent audit of all city funds and accounts in accordance with accepted auditing practices. The audit report shall be submitted to the council, and a copy shall be filed with the mayor immediately upon its receipt. Three (3) copies of the audit report shall be filed in the city clerk's office as a public record.

In addition to exercising its general legislative, investigatory, and audit powers, the council shall make or confirm appointments as provided by the charter, adopt and budget, set the tax levy, equalize taxes and assessments, and take such other actions as it deems necessary and as are consistent with this charter. (Amendment of May 1, 1979; effective June 30, 1979; prior amendment of May 10, 1966).

Sec. 9. Chairman and Vice Chairman of Council. The council shall, on the second Monday following each general election, elect by majority vote one of its members as chairman of the council and one of its members as vice chairman of the council. The chairman shall preside at all meetings of the council and he shall serve as acting mayor during any period in which the mayor is absent from the city or is unable to serve. The vice chairman shall preside at meetings of the council during any period in which the chairman is absent from the city or is unable to serve. During any period in which both the mayor and the chairman are absent from the city or are unable to serve, the vice chairman shall serve as acting mayor. The chairman of the council shall possess all of the rights, duties and responsibilities of a councilman and he shall be entitled to vote on any matter brought before the council notwithstanding the fact that he shall be serving as chairman. (Amendment of November 3, 1970).

Sec. 11. Council Meetings. The term of the councilmen and the mayor shall commence on the second Monday following the general city election, and they shall meet in the city hall on that day to take office and to organize for the purpose of carrying out their assigned duties. Thereafter the council shall hold at least one regular meeting in each week on such days and at such times as the council may prescribe in its rules.

Special meetings of the council may be called from time to time by the mayor or any two councilmen, who shall give notice of such special meetings in such manner as the council may prescribe in its rules.

Four members of the council shall constitute a quorum for the transaction of any business, and four affirmative votes shall be required to pass any measure or to transact any business unless it is provided to the