



FOR THE RECORD

THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
SCOTT M. STRINGER

**Testimony of New York City Comptroller Scott M. Stringer
New York City Charter Review Commission 2019
September 27, 2018**

Thank you Chair Benjamin, and members of the commission, for the opportunity to testify this evening on this important topic.

As you know, change is the lifeblood of our great City, and our charter is the engine that helps our government adapt to new challenges -- not only today, but for years to come.

Unfortunately, we have not taken a comprehensive look at our charter for nearly 30 years, since the Supreme Court forced us to in 1989. And that's a long time.

Over the past thirty years, New York has witnessed enormous change, much of it good -- from diverse population growth, to new emerging job centers in all five boroughs, to our historic reduction in crime.

But there has also been an explosion of homelessness, a deterioration of our subway infrastructure, persistent inequality in our public schools, and a continuing disappearance of affordable housing.

Meeting these challenges in the 21st century will require new ideas and a new City Charter.

Without new ideas, our charter is an outdated set of rules and regulations, instead of the living, breathing document we need it to be. The engine of our City begins to slow, and that is unacceptable.

That's why I am pleased to share with you a report from my office called *A New Charter to Confront New Challenges*. It includes 65 ideas to improve the Charter.

This book isn't intended to be a comprehensive vision for tackling all of our problems.

But -- based on what I've learned as an Assemblyman, Borough President, and City Comptroller -- it offers a roadmap for facing challenges, implementing changes, and making city government better for everyone.

In our report, you will find ideas on how to create wealth in more of our neighborhoods, by helping to close the inequality gap and create more economic opportunity in all five boroughs.

You will find strategies on how to give communities a greater voice in land use decisions, and how to make sure our City engages in more long-term planning.

There are thoughts on housing, and steps we can take to fight back against scourges like lead paint and mold through strengthened inspections.

We tackle our City's archaic procurement process, which too often leaves front-line social service providers without the funds they need to operate.

And we take a deep dive into our City's capital budget, which right now is a black hole that emits almost no useful information.

These are just some of the ideas in our report. I know the commission will be hearing from many others with thoughtful ideas, but hopefully the suggestions we have outlined today can spark some discussion in the months ahead.

For now, I just want to thank every member of this commission for your service and I'm happy to answer any questions.



NEW YORK CITY COMPTROLLER
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FOR IMMEDIATE RELEASE
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Comptroller Stringer Proposes Sweeping Charter Reforms to Confront NYC's Modern Day Challenges

*Proposals tackle affordability crisis, land use, government transparency,
wealth creation in communities of color, and procurement reforms*

*Calls for Chief Diversity Officer in City Hall and at each City agency to
create more opportunity for minority and women owned businesses*

(New York, NY) — New York City Comptroller Scott Stringer today released a comprehensive new set of proposals, "A New Charter to Confront New Challenges," that outlines sixty-five recommended changes to the New York City Charter as the 2019 Charter Revision Commission holds its initial public hearings. Among those proposals, Comptroller Stringer is calling for a Chief Diversity Officer in every City agency, giving greater urban planning expertise to community boards, strengthening building code enforcement, and establishing procurement timeframes.

The Charter, which is the City's governing document, is undergoing its first full-scale review in nearly 30 years since the last major revision in 1989. Over three decades, the Charter has become increasingly ill equipped to support City-led solutions to modern day challenges – which this proposal aims to correct. Organized in three sections, "Creating a Fairer, More Equitable New York," "Building a 21st Century Government," and "Demanding Accountability & Transparency," the report details community-focused reforms designed to make the City more transparent, effective, and accountable.

"Since the last major charter revision nearly thirty years ago, New York City has grown by 1.2 million people and the world has changed around it, yet its charter is not prepared to meet the needs of today's challenges. The Charter Review Commission is an opportunity for us to build a better government that takes aim at our affordability crisis and builds a fairer City by giving a voice to New Yorkers," said **Comptroller Stringer**. "That's why we've put together a comprehensive set of reforms designed to build a stronger City that works for everyone, and to help New Yorkers have better engagement, transparency, and accountability from their government."

Creating a Fairer, More Equitable New York

One of the primary recommendations in Comptroller Stringer's proposal is the creation of the Chief Diversity Officer position inside the Mayor's cabinet and within each City agency, a role tasked with overseeing minority and women business enterprise (M/WBE) programs, tracking and measuring diverse talent, and encouraging M/WBEs to bid on City contracts.

New York City agencies spend almost \$20 billion a year on goods and services, yet the Comptroller's office has found that less than 5% of those contracts are awarded to M/BWE firms, thwarting the City's ability to fully invest in its businesses, build wealth in local communities, and foster competitive procurements that ensure taxpayer dollars are spent most efficiently.

"We've seen firsthand in the Comptroller's Office that a Chief Diversity Officer helps break down walls and transform how agencies invest in city businesses with an eye toward equity. Without this position, we perpetuate a system that fails to build wealth in communities that have historically been left behind. It's long past time for the City to build on its thriving economy with a Chief Diversity Officer in City Hall and at each agency," said **Comptroller Stringer**.

As New York City continues to confront an affordability crisis driven by a lack of affordable housing and a local government that too often fails to listen to the voices of residents feeling that crisis most acutely, reforms to local land use policy are urgently needed.

In order to better empower communities, encourage sound planning, and strengthen the overall Uniform Land Use Review Procedure (ULURP) process, Comptroller Stringer recommends the amended City Charter include the following:

- Require Community Boards to hire a full-time qualified urban planner with a degree in urban planning, architecture, real estate development, public policy or

similar discipline and include the necessary budget appropriations to fund this position;

- Create a new office of long-term planning that can help growing communities foresee infrastructure challenges down the road; and
- To provide the public with greater opportunity to weigh in on the metrics used in Environmental Impact Statements, the City Charter should be updated to create a public process for reviewing the City Environmental Quality Review framework.

Building a 21st Century Government

Despite the existence of a comprehensive building code and housing regulations designed to protect the health, safety, and welfare of New York City residents, too many New Yorkers are forced to live in buildings that are dilapidated, unsanitary, or unsafe. In its current structure, the Department of Buildings (DOB) is an agency in conflict with itself in that it both approves permits for construction and enforces construction codes. Similarly, the Department of Housing Preservation and Development (HPD) has to both finance and develop housing while enforcing housing standards.

To resolve this conflict, the Comptroller's office proposes creating a new Office of Inspection, which will be responsible for all building and housing inspection and remediation. Such responsibilities should be removed from the DOB and HPD so that they can focus more on their other respective responsibilities.

Demanding Accountability & Transparency

The City's budget and the accompanying financial plans are tools for maintaining sustainable spending and revenues, and ensuring accountability over the use of the public's money. Yet annual budget presentations lack critical information, limiting public participation and the Council's ability to carry out its Charter role in the budget process.

To provide more transparency in the budget process for elected officials and the public, the Comptroller's office finds an updated City Charter must be overhauled in order to improve transparency, accountability, and control in the City budget.

In particular, the City's capital budget, through which the City builds new schools, paves its streets, and ensures a clean and reliable water supply, needs a substantial overhaul so that the public can understand the cost and status of the capital projects that are vital to the City's future.

Suggested reforms include:

- Structuring the capital budget to allow the public to identify and understand the cost of individual capital projects;
- Providing better and more comprehensive information about the condition of capital assets; and
- Reporting on the changes in the cost and status of capital projects.

New York City relies on a network of non-profit services providers to help meet the needs of vulnerable residents, but thousands of these non-profits go unpaid for months and are forced to deliver services without a registered contract.

In order to ensure every City agency operates with efficiency and transparency, the City Charter should be amended to give each agency with an oversight role in the procurement process a timeframe to complete its task, similar to the explicit 30-day timeframe for contract registration required for the Comptroller's Office.

Beyond these recommendations, the report covers topics such as cybersecurity, adopting instant runoff voting, strengthening services for children citywide, and strengthening the campaign finance system, among others.

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NEW YORK CITY COMPTROLLER
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Bureau of Policy and Research



September 2018

A New Charter to Confront New Challenges

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CONTENTS

A LETTER FROM THE COMPTROLLER.....	7
CREATING A FAIRER, MORE EQUITABLE NEW YORK	9
Creating a Chief Diversity Officer.....	10
Giving Communities a Stronger Voice in Land Use Decisions	15
Empowering Community-Based Planning	15
Strengthen Community Boards with Urban Planning Expertise	15
Increase the Impact of Community Generated Plans	17
Create a Centralized Development Database	18
Update Fair Share Requirements.....	19
Reforming Land Use Agencies	20
Encourage Comprehensive Long-Term Planning.....	20
Create a New York City Land Bank.....	22
Reform the Landmarks Preservation Commission and Board of Standards and Appeals.....	24
Improving Environmental Impact Statements	25
Ensure Funding for Environmental Impact Statements.....	26
Improve the Metrics Used in Environmental Impact Statements.....	26
Release Environmental Impact Statements Sooner for Larger Projects	27
Strengthening the Uniform Land Use Review Procedure (ULURP)	28
Include Zoning Text Amendments in ULURP	28
Certain Licenses Provided by the City Should be Subject to ULURP	29
Restrict the City Planning Commission from Overruling Local Stakeholders in ULURP Voting.....	30
Disposal of City-Owned Air Rights Should be Subject to ULURP	31
The Disposal of Property through Local Development Corporations Should go through ULURP	32
Deed Restriction Removals Should be Covered by ULURP	33

Reporting Data on the City's Hiring of People with Disabilities.....	35
Eliminating the Phrase "Mental Retardation" from the City Charter.....	36
Performing an Annual Analysis of Pay Disparities in the Municipal Workforce.....	37
BUILDING A 21ST CENTURY GOVERNMENT	39
Reflecting the Importance of Cybersecurity in the City Charter.....	40
Protecting Tenants and Preventing Evictions through an Office of Inspection.....	42
Providing an Independent Budget for Independently Elected Officials	44
Adopting Instant Runoff Voting	46
Focusing Efforts to Address Food Insecurity.....	48
Centralizing and Strengthening Services for Children Citywide	50
Providing Quality, Affordable Child Care to Working Families.....	54
Eliminating the Commission on Public Information and Communication	56
Improving the Comptroller's Office Operations	57
Clarify the Comptroller's Electronic Fund Transfer Authority.....	57
Remove Uncertainty in the Selection of an Outside Auditor.....	58
Ensure Proper Oversight in the Creation of Component Units.....	58
Clarify the Comptroller's Duties by Eliminating References to the Board of Estimate	60
Clarify the Comptroller's Prevailing Wage Enforcement Responsibilities	61
Fix Inconsistencies in the Consideration of Claims Arising from Capital Construction Projects	62
Require Money Borrowed to Finance Housing Development to be Used for Housing Development.....	63
Remove the Charter's Reference to Debarred Contractors	64
Clarify and Improve the Authority of the Comptroller's Bureau of Contract Administration	64
Require the Inclusion of Certificates to Proceed for Capital Projects in Agency's Registration Submission Package	65

DEMANDING ACCOUNTABILITY & TRANSPARENCY	66
Reforming the Mayor’s Management Report	67
Improving the Budget to Make Better Resource Decisions	70
Improve the Capital Budget	70
The Budget Should Allow the Public to Identify and Understand the Cost of Individual Capital Projects	71
The Capital Budget Should Include Information about the State of Capital Assets	73
Provide Full Reporting on Capital Project Status and Cost.....	73
Improve the Information Available about the City’s Capital Assets	74
Increase Transparency, Accountability, and Control in the Expense Budget	74
Change the Definition of a Unit of Appropriation to Correspond More Closely to Programs	75
The Preliminary and Executive Expense Budgets Should Present Relevant Performance Information alongside the Financial Data for each Unit of Appropriation	76
Eliminate the Requirement for Separate Personal Services (PS) and Other than Personal Services (OTPS) Units of Appropriation	76
In the First Preliminary Budget after Charter Revision, the Mayor and Council should Jointly Determine the Units of Appropriation to be Included in each Major Agency.....	77
An Inclusive Budget Process throughout the Year.....	77
Require that any Financial Plan Changes be Accompanied by a Budget Modification Submitted to the Council within 30 days	78
Reforming the Procurement Process.....	79
Create a Standard Procurement Timeframe	79
Take Concrete Steps toward Transparency	80
Ensure Meaningful Oversight	81
Identify Potential Problems Earlier in the Process	82
Right to Object to Contracts That Appear to Materially Violate Federal, State, and City Law, Codes or Regulations	83
Ensure Consistency across Comptroller Functions	84

Clarify How to Determine Possible Corruption.....	85
Improve Efficiency to Save Taxpayer Money.....	86
Reform the Construction Contract Change Order Process.....	86
Ensure Emergency Preparedness.....	86
Publishing City Council-Obtained Data and Reports.....	89
Strengthening the Campaign Finance System.....	91
Prohibit Certain Political Appointees from Donating to the Campaign of their Employer.....	91
Only Provide Matching Funds in Competitive Elections.....	92
ENDNOTES	94



THE CITY OF NEW YORK
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To my fellow New Yorkers:

Change is the lifeblood of New York City. Our ability to adjust to new circumstances, confront new challenges, and reform the way we do business has been essential to the health and vitality of the nation's largest city. It has been nearly 30 years since New York last reviewed and made significant changes to the City Charter that regulates local government, and given the extraordinary changes that have transformed the city during this period, we are due for an update. The Charter Review Commission, created by City Council Int. No. 241-B, provides an opportunity for just such a holistic review.

Over the past thirty years, New York has experienced diverse population growth and robust revitalization in neighborhoods across the five boroughs, along with a historic reduction in crime. But there has also been an explosion of homelessness, deterioration of our subway infrastructure, persistent inequality in our public schools, and a continuing disappearance of affordable housing. Meeting all of these challenges in the 21st century will require new ideas and bold reforms to City policy, including to the City Charter.

For much of the city's history, changes to the Charter were rare events that occurred about once every generation, with gaps often spanning some thirty years between commissions.¹ Between 1898 and 1901, the City as we know it came into being through the adoption of a Charter that demarcated the City's boundaries, in addition to creating and dividing power between the Mayor, the Board of Estimate, the Borough Presidents, and the Municipal Assembly. Almost 30 years later, in 1936, the Charter was reformed to create a City Council with proportional representation and a City Planning Commission. And again, three decades later, in 1963, the Charter was reformed to make important changes to the City budget process.²

The last significant overhaul of the City Charter came in 1989, when New York City voters agreed to abolish the outdated Board of Estimate and transfer many of its powers over land use, contracts, and the budget to an expanded City Council and the Office of the Mayor. Since then, there have been seven separate Charter Review Commissions established (eight

counting the commission currently meeting). But these commissions have often had their own narrow, predetermined agendas—designed to stop particular proposals that the mayor wanted to keep off the ballot—and have not taken a comprehensive look at how our government has failed to keep up with changing times.

Four of these seven Charter Review Commissions since 1989 have resulted in ballot measures ultimately approved by voters, but while important, the reforms have been relatively modest. Specifically, in 1998, voters approved a Charter Review Commission recommendation designed to restrict corporate donations to candidates for City office.³ Voters next approved recommendations made by the 2001 Charter Review Commission to codify a number of City organizations that had been created by executive order in the City Charter along with other reforms including enhanced gun restrictions.⁴ The next year, voters adopted a recommendation requiring a mayoral vacancy to be filled by special election within 60 days, and in 2005, voters approved the creation of a code of conduct for administrative law judges and codified existing State balanced budget and audit requirements in the City Charter.⁵

In addition to these reforms, City officials and agencies have addressed many substantive issues over the years, often with laudable proposals. But all too often these initiatives have been reactive, launched on an issue-by-issue basis. They do not confront the larger question of whether our government’s current structure allows us to identify problems, implement needed changes and act with the urgency such issues often require. This is the principal challenge facing New York in 2018, as we embark on the charter revision process.

With this history in mind, I am pleased to present a set of 65 proposals to the 2019 Charter Review Commission for their consideration. These ideas are informed by my experience as New York City’s 44th Comptroller, responsible for rooting out waste, fraud, and abuse in local government, overseeing the City’s finances, and recommending ways to make our city more efficient, effective, and equitable, as well as my previous tenure as Manhattan Borough President and a State Assemblymember.

I hope you will find these proposals a good starting point for discussion, and I look forward to robust engagement with the public and the Charter Review Commission in the months ahead.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott M. Stringer". The signature is fluid and cursive, with the first name "Scott" being more prominent.

Scott M. Stringer
New York City Comptroller



CREATING A FAIRER, MORE EQUITABLE NEW YORK

Creating a Chief Diversity Officer

New York City's diverse communities are the cornerstone of our city's economy. Indeed, our city is home to 3.3 million foreign-born immigrants from 150 countries who make up almost 40 percent of the city's population and collectively earn about \$100 billion annually.⁶ What's more, the almost 540,000 minority-owned businesses and over 413,000 women-owned businesses who collectively employ over 600,000 New Yorkers create jobs and opportunities in every corner of the five boroughs.⁷ And, women, who make up almost half of the entire New York City workforce, collectively earn about \$100 billion annually.⁸ Embracing and investing in this diversity is critical to the foundations of our economy.

Despite these contributions, too many people in these communities still face daunting challenges. For instance, women in New York City are confronted with a persistent wage gap—the difference in average earnings between women and men—that is largest in highly paid occupations, and is most severe for women of color.⁹ Across the city, income inequality has grown more severe in the last decade while new job creation has been concentrated most heavily in low-wage industries.¹⁰ Younger New Yorkers, particularly Black and Hispanic residents, were hit hard by the 2008 recession, and the millennial generation is earning less than their counterparts who entered the job market in previous decades.¹¹ Finally, in many of the city's economically growing neighborhoods, people of color continue to face significant disparities in finding employment.¹²

Addressing these persistent challenges must be a significant focus of City government and the newly created City Charter Review Commission. For our city to reach its full potential, inclusion must be more than a buzzword. All New Yorkers, whether they have lived in our city for fifty days or fifty years, need to be able to realize their dreams in the city we all call home.

The City possesses a powerful tool to help address these disparities as the purchaser of goods and services. In Fiscal Year (FY) 2017, New York City spent \$21 billion of taxpayer money to procure items ranging from pens and paper to food, consulting and legal services. If used effectively, these dollars are a way that the City can help to create new businesses, grow job opportunities, and build wealth in communities across the five boroughs.

However, as the Office of the Comptroller has documented in each of the last four years, when the City purchases goods and services, very little of its business is done with women- or minority-owned firms (M/WBE's) covered by the City's M/WBE procurement program.¹³ Furthermore, the City's M/WBE program fails to reach the many businesses owned by historically disadvantaged groups not currently covered by the City's M/WBE

program, including businesses owned by people with disabilities, LGBTQ+ individuals, veterans, and Native Americans. As a result, the City is missing an opportunity to more fully invest in its businesses, build wealth in local communities, and foster competitive procurements that ensure taxpayer dollars are spent most efficiently.

The City's M/WBE program is governed by Local Law 1 of 2013, which as shown in Chart 1 below, establishes procurement goals in various categories based on race, gender, and business type. As this chart shows, for instance, the City has a goal of awarding 8 percent of its construction contracts to Black-owned businesses.

Chart 1: Procurement Goals under Local Law 1

Procurement Category	Construction	Professional Services	Standard Services	Goods
Black American (BA)	8%	12%	12%	7%
Asian American (AA)	8%	No Goal	3%	8%
Hispanic American (HA)	4%	8%	6%	5%
Women (W)	18%	17%	10%	25%

Source: Local Law 1 Target Spending Percent.

However, as a whole, the City is falling far short of these goals. Indeed, Chart 2 below documents that the City failed to reach a single one of these goals in FY 2017. In fact, since 2014 when the Comptroller's Office began its annual evaluation of the City's M/WBE program, the City has failed to reach any one of these goals in any single year.

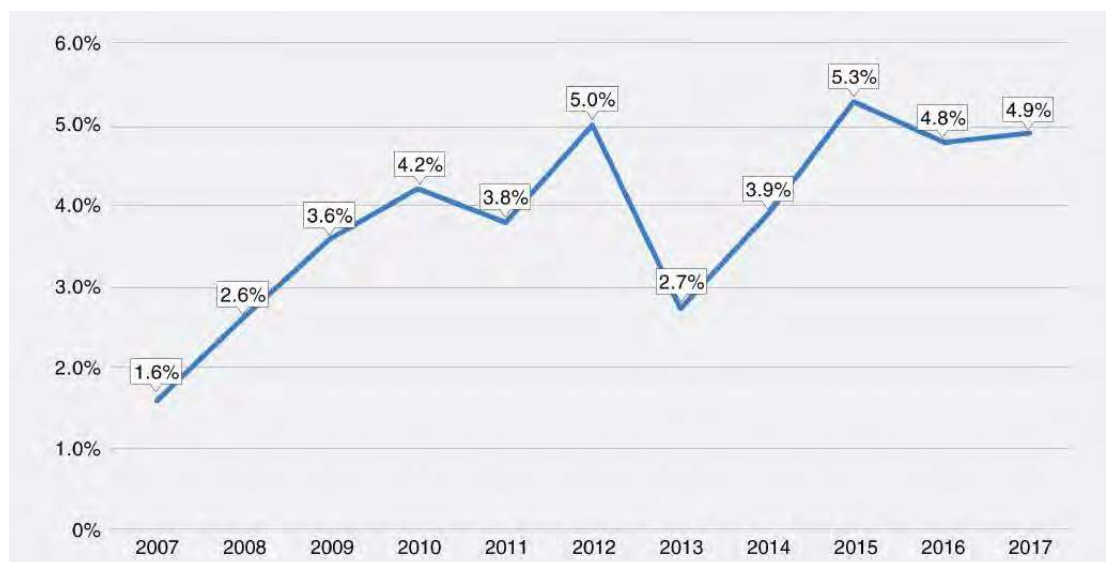
Chart 2: FY2017 NYC Performance in Meeting Local Law 1 Procurement Goals

Procurement Category	Construction	Professional Services	Standard Services	Goods
Black American (BA)	0.67%	0.88%	1.14%	1.17%
Asian American (AA)	3.03%	8.79%	2.47%	1.70%
Hispanic American (HA)	1.45%	1.76%	0.59%	1.62%
Women (W)	3.59%	3.95%	3.79%	6.26%

Source: New York City Comptroller's FY2017 Making the Grade report.

Consistent with the failure to achieve the goals set by Local Law 1, M/WBE firms have historically been awarded a very small share of City contracts. As shown in Chart 3 below, at no point in the last decade has the share of City procurement awarded to M/WBE's exceeded 5.3 percent, and in FY 2017 less than 5 percent of City contracts were awarded to women- and minority-owned businesses.

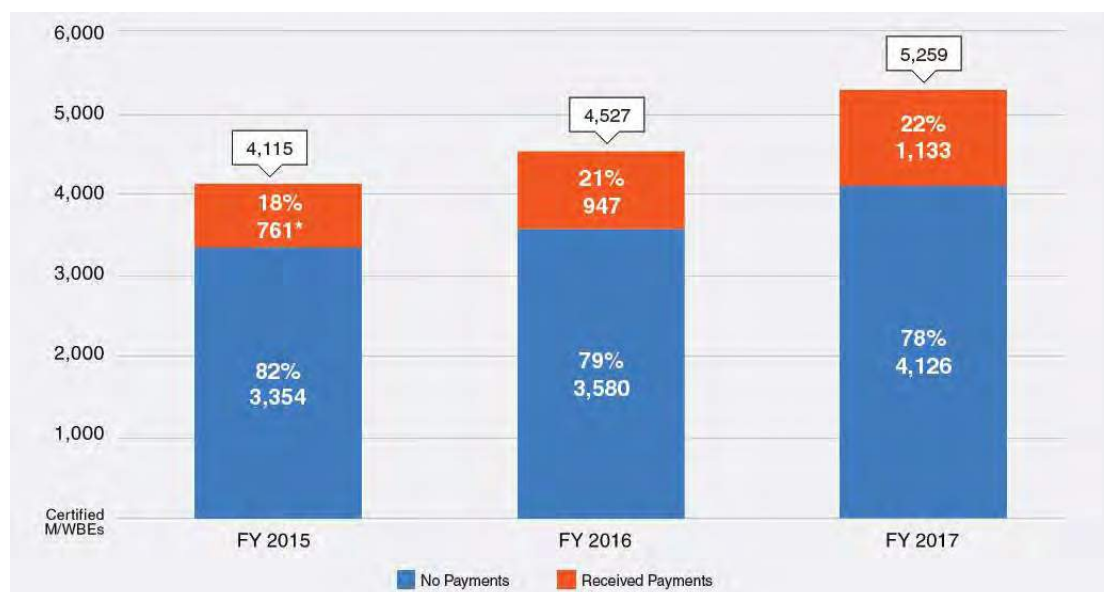
Chart 3: M/WBE Share of City Procurement, FY 2007 - FY 2017



Source: Mayor's Office of Contract Services Agency Procurement Indicators: Fiscal Years 2007 to 2017, and OneNYC: Minority and Women-Owned Business Enterprise Bulletin, Sept. 2015.

Similarly, while the City has made progress to increase the number of M/WBE firms who are “certified” with the City, little has been done to increase the share of these firms who actually receive City funds. Chart 4 documents that less than a quarter of M/WBE firms who certify with the City’s Department of Small Business Services received payments in each of the last three years.

Chart 4: Certified M/WBEs Receiving Spending: FY 2015, FY 2016, and FY 2017



Source: New York City Comptroller's FY2017 Making the Grade report.

In recent years, the Mayor has set new goals for the City's M/WBE program. The City's current goal is to award \$16 billion to M/WBEs by 2025, allocate 30 percent of contracts to M/WBEs by 2021, and grow the number of certified firms to 9,000 by 2019.¹⁴ While these commitments are laudable, given the historical challenges with this program, more structural reforms are needed to ensure that the M/WBE program reaches its important objectives.

Enhancements to the City Charter would help to bolster this program and eliminate barriers that have traditionally prohibited M/WBEs from being awarded a contract with New York City. Currently, under Section 1304 of the City Charter, the City's M/WBE program is housed in the Department of Small Business Services. That same section of the Charter requires each City agency head to implement an M/WBE program at their agency, and also requires them to designate a senior staff member to advise the agency head on the M/WBE program. In addition to these Charter mandates, as a matter of practice, this Mayor has appointed a senior advisor in the Mayor's Office to provide high-level support for the M/WBE program.

However, nothing in the City Charter requires that that Mayor's Office directly assist in the operation of the M/WBE program, and the lack of a Mayoral mandate means that the program may not consistently receive attention at the highest levels of government. Moreover, while agencies are required to make a senior executive responsible for advising the agency head on the program, the implementation of this requirement has been mixed.

To address this shortcoming, the City Charter should be amended to establish a position of Chief Diversity Officer (CDO) within the Office of the Mayor. The CDO would have responsibility for overseeing the entire M/WBE program across all City agencies by improving coordination, sharing best practices, promoting accountability, and ensuring compliance across City agencies so that the program is meeting the City's goals. The CDO would also ensure that the City's procurement program is reaching other communities, including people with disabilities, LGBTQ+ New Yorkers, veterans, and Native Americans.

In addition, the Charter should further be amended to require each City agency to designate an agency-level CDO who reports directly to the agency head and who also is accountable to the City's CDO. Where it has been properly structured, agency level CDO's have helped to improve their agency's M/WBE program. For instance, at the Department of Design and Construction, the creation of a well-resourced CDO has helped increase the agency's M/WBE spending by \$470 million.¹⁵ Similarly, in the Office of the Comptroller, the CDO has helped the agency almost double spending with M/WBEs to over 24 percent of its annual procurement spending in FY 2017. In the Comptroller's Office, the CDO is focused on implementing the agency's M/WBE program, and to that end is empowered to work

directly with department heads to inform procurement decisions, track agency spending, and conduct targeted outreach to current and prospective vendors during the procurement process. While the Comptroller's Office CDO would not report to the City's CDO given that the Comptroller's Office is independent of the mayoral administration, the responsibilities and duties of the Comptroller's CDO are a model that should be adopted across all City agencies.

Enshrining these policies in the City Charter would help ensure their success and sustainability. As the City's constitution, the Charter is a statement about the priorities of the local government and a foundation for its policies. By grounding oversight of the M/WBE program and executive employment disparities in the Mayor's Cabinet, and doing the same at each agency, these reforms would demonstrate the importance of women, people of color, and other historically disadvantaged groups having a seat at the table and provide a single venue for New Yorkers to hold City officials accountable for meeting their goals.

1

The City Charter should be amended to create the position of Chief Diversity Officer inside the Mayor's cabinet. The Chief Diversity Officer would be responsible for holding agencies accountable for effectively implementing their individual M/WBE programs, promoting best practices across agencies, and encouraging M/WBEs to bid on City procurement solicitations in addition to finding diverse talent for the City of New York. In addition, the CDO would ensure Citywide accountability for the inclusion of women and people of color.

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The City Charter should further be amended to clarify that each agency head should appoint an agency Chief Diversity Officer, whose full-time responsibility would be overseeing agency implementation of the M/WBE program, tracking and measuring diverse talent for the agency, and ensuring accountability for the inclusion of women and people of color.

Giving Communities a Stronger Voice in Land Use Decisions

Decisions about how our land is used is at the core of city government. With our city confronting an affordability crisis driven by a lack of affordable housing and a local government that too often fails to listen to the voices of local residents feeling that crisis most acutely, reforms to local land use policy are urgently needed. While many changes to land use regulations and the processes by which they are approved should be considered for reform—including ways to make the process more efficient, predictable, and responsive to community concerns—many of these changes would more appropriately occur through either agency regulations or changes to the zoning resolution. However, there are many steps that the City should take through reforming the Charter that will better empower communities, encourage sound planning, and strengthen the overall Uniform Land Use Review Procedure (ULURP) process.

Empowering Community-Based Planning

The following reforms would, in tandem, enhance the ability of local communities to make better informed planning decisions and ensure that the City includes the views of local stakeholders when making decisions that impact residents.

Strengthen Community Boards with Urban Planning Expertise

Community Boards were originally established as Community Planning Councils by Manhattan Borough President Robert F. Wagner in 1951 to conduct comprehensive community-based planning for the growth of the city. In 1975, the Charter Revision Commission extended Community Boards citywide, with 59 Community Boards representing the same number of districts. The Charter revision aimed to decentralize service delivery and make the new Community Boards into what Mayor John Lindsay had called “little city halls.” It ensured that service delivery, such as parks and sanitation, was coterminous with Community Boards, established district service cabinets, and officially created the district manager position. In addition, it gave Community Boards other advisory functions such as budget analysis, capital needs recommendations, oversight of City service delivery, and the creation of district needs assessments.

While the Charter laid the groundwork for local planning through the creation of ULURP (Uniform Land Use Review Procedure) and 197-a plans, it was not until the 1989 Charter Revision Commission that these powers were fully expanded. Specifically, the new Charter

required the City Planning Commission to define and adopt rules regarding the review of 197-a plans, gave Community Board representatives the right to attend meetings regarding the environmental impact of proposed land use proposals, and gave boards the power to make recommendations relating to the opening and closing of City facilities. And most importantly, the new structure highlighted the role of Community Boards in ULURP as the local focal point for responding to zoning changes.

Consequently, Community Boards were endowed with dual mandates of both focusing on service delivery for local residents and responding to land use planning issues in their districts. Historically, however, due to limited resources, proactive planning often took a back seat to service delivery.

Yet much has changed since Community Boards were first directed to oversee service delivery. Indeed, since that time, many other elected officials began to professionalize their operations, including through the creation of district offices and hiring of professional staff to respond to constituent needs. As a result, today, constituent services are effectively delivered by a host of government actors including City Council members and Assembly members who have full-time district offices. In addition, with the advent of 311 in 2003, New Yorkers have more places than ever to report noise complaints or get potholes filled.

Therefore, rather than continuing to focus on constituent services, Community Boards should be empowered to better fulfill their intended role as neighborhood planning bodies. As the current development boom reaches deeper into the boroughs, affordable housing has become increasingly scarce, and our transit system is bursting at the seams – neighborhood-based planning that takes the diverse needs of local communities into account is more essential than ever. With Community Boards working more as partners, the City might be more successful in gaining community buy-in for large re-zonings, siting shelters, and moving forward a host of other initiatives to help our city stay fair and affordable for the people who helped build the very neighborhoods that are now targets for development.

Community Boards, however, have historically lacked the resources, capacity and expertise to fulfill their community planning role in a consistently meaningful way. Indeed, community boards face challenges in their ability to adequately review and analyze land use matters due to a lack of resources and expertise. Most boards do not have trained urban planners on staff, and must therefore rely on their volunteer members to analyze land use proposals and to develop recommendations. And yet they are expected to argue their positions against \$800 an hour lawyers hired by major developers in front of the City Planning Commission.

As first proposed by Comptroller Stringer in 2010 when he was Manhattan Borough President, Community Boards should be required to have a full-time urban planner on staff to help shape future development on a local level and address the real needs of the neighborhood. The sole responsibility of this planner would be to support the board's analysis in developing recommendations on land use matters and to coordinate community-based planning activities. The expertise of the urban planner would better enable Community Boards to conduct comprehensive community planning, leveling the playing field between community boards and developers.

3

The City Charter should be amended to require that Community Boards hire a full-time qualified urban planner with a degree in urban planning, architecture, real estate development, public policy or similar discipline and include the necessary budget appropriations to fund this position. Community Boards require dedicated support and expertise to fulfill their purpose of conducting community-based planning.

Increase the Impact of Community Generated Plans

Currently, the only mechanism for community members to make their own planning decisions is found in section 197-A of the City Charter, which authorizes community boards to propose plans for the development, growth, and improvement of their local community. But, while the Charter allows these plans to be proposed, in reality they have been relatively rare. Indeed, since 1989 only 12 community board-generated 197-A plans have been approved and none since 2009.¹⁶

A major reason why 197-A plans have been infrequent is that they require significant time and resources for community boards, who often do not have the time, capacity, or expertise available to develop the plans. Other reforms discussed in this section, including providing each community board with an urban planner and creating an Independent Long-Term Planning Office that can work directly with community boards and other local stakeholders, will address these particular hurdles.

But, in addition to these reforms, the City Charter should be modified to ensure that community plans are meaningfully followed once implemented. To do so, the Charter should require that 197-A plans be submitted to all relevant City agencies, require the agencies to formally review, respond to, and integrate the plans as much as possible in their

policies. Further, if a City agency believes that it needs to take action that would depart from an approved 197-A plan, the agency should be required to justify that action in writing with an opportunity for the community board and public to respond. Finally, all ULURP actions should also require consideration of integrating 197-A plans when practicable and any inconsistencies should be formally justified in the application materials.

4

The City Charter should be amended to strengthen 197-A plans by not only requiring that agencies integrate the plans into their policies, but also that any deviation from the plan by either a private actor in public review or an agency should be justified in writing.

Create a Centralized Development Database

Following the City's land use decision making process is not a simple task, even for the most informed member of the public. Doing so requires a member of the public to have the time and knowledge needed to track the websites of multiple City agencies, read and understand complex City documents, and attend public hearings. For New Yorkers who are already overworked and may have family and other commitments, the amount of time and work it takes to engage in the City's land use processes is a deterrent to civic participation.

For instance, to determine when and where public discussions and relevant meetings are occurring that pertain to a project involving a "simple" ULURP action, a concerned citizen would need to review multiple information sources, including community board websites as well as those of the City Planning Commission and the City Council. A more complex approval process may also include multiple hearings at the Landmarks Preservation Commission or Board of Standards and Appeals. Further, if a member of the public wants to track the status of a challenge to whether a development is in compliance with the zoning code, that New Yorker must each day check an individual construction site's landing page on the Department of Buildings' website. This requires both knowledge of the process, awareness of the zoning challenge process and time to regularly check for an opportunity to comment.

To overcome these challenges, the City Charter should require that the City create and maintain a centralized website for the posting of public notices for hearings and meetings

on land use matters being considered by the City Planning Commission, Landmarks and Preservation Commission, Board of Standards and Appeals, Department of Buildings, and any other body making land use decisions. The hearings and/or meetings should be at minimum searchable by date, type of action, project name, and community district. Doing so would facilitate public participation in the land use process by making it easier for the public to obtain notices and other information about land use matters, track the status of a single project or multiple projects, and share their views, which will ultimately improve public participation and the outcomes of land use decisions.

5

The City Charter should be amended to require the Department of Information Technology and Telecommunications (DOITT) to maintain a website that allows the public to easily search for all land use matters under consideration in the City.

Update Fair Share Requirements

Section 203 of the New York City Charter requires that the City Planning Commission propose rules relating to the siting of city facilities, known as “Fair Share” rules. The intent of these rules are to ensure that City facilities are fairly distributed throughout the boroughs in order to ameliorate historic environmental inequities.

However, a 2017 report by the New York City Council found that the current fair share rules are failing to accomplish this goal. Indeed, according to the report, low-income communities and communities of color still see far more than their fair share of City facilities that are harmful or burdensome to the local community. In addition, the report found that data on City facilities is difficult to access, local community residents and community boards are often not aware of new facilities being sited in their community, and that there are few to no consequences or mitigation required if a facility is sited in contravention of fair share rules.¹⁷

Unfortunately, since the release of this report, little action has occurred by City agencies to reform their fair share analysis. In fact, no significant changes have been made to the rules since their creation in 1991.

As such, the City Charter should be modified to require that the City Planning Commission review and update fair share criteria every five years. As part of this process, any proposals

to update the criteria should be shared with community boards and borough presidents for comment and subject to a vote by the City Planning Commission. In addition, the Commission should utilize the newly proposed Independent Long-Term Planning Office, discussed in more detail below, to help analyze the concentration of City services to advise on the communities that are oversaturated and inappropriate for future facility sitings.

6

The City Charter should be amended to require that the City Planning Commission regularly review and update “fair share” requirements no less than every five years.

Reforming Land Use Agencies

The City’s land use process could be improved with the creation of new agencies focused on long-term planning and sustainably developing vacant City-owned property while also reforming the governance of existing agencies.

Encourage Comprehensive Long-Term Planning

Comprehensive planning is a basic tool used by local governments for assessing needs, providing a framework for growth and development, and informing public policy. For instance, in late 2017, the City of London released the “London Plan,” which serves as the “overall strategic plan for London.” To this end, the London Plan provides an “integrated economic, environmental, transport and social framework for the development of London over the next 20-25 years.”¹⁸

While used in London and elsewhere, this type of comprehensive planning is unfortunately lacking in New York City where responsibility for long-term planning is divided among multiple agencies and no single agency has the authority to direct another agency’s planning actions. Specifically, while discrete zoning and land use policies are developed and evaluated by the Department of City Planning and the City Planning Commission, other elements that are typical to comprehensive planning are handled separately by other City agencies. For example, most transportation planning is conducted by the Department of Transportation; the Department of Parks and Recreation is largely responsible for open space planning; economic development is under the purview of the Mayor’s Office and the Economic Development Corporation; and for the most part, the City’s housing policy is

set by the Department of Housing Preservation and Development. Furthermore, each individual agency is responsible for its own capital planning process in the 10-year capital plan. In addition to the work of these City agencies, outside actors like the Regional Plan Association provide context and support for infrastructure planning across the entire New York City region.

The lack of coordinated comprehensive long-term planning makes it difficult for communities across the City to engage with government agencies, evaluate future plans, and ensure that their priorities are reflected in planning decisions. Indeed, these gaps have created a crisis of confidence in many neighborhoods, where local residents no longer trust that government planners have a sufficient framework in place to synthesize community needs and concerns with a broader policy vision. As a result, when the City does undertake more comprehensive planning efforts, such as the large area rezoning plans for East New York or Jerome Avenue, the plans may be incomplete and unsuccessful because mayoral goals may not align with community priorities and inadequate mechanisms exist for integrating community input.

As a result, the City's current system of planning should be reformed to offer more support for the ability of communities, government representatives, and City agencies to evaluate and make intelligent decisions and to envision the larger purpose and cumulative impact of individual proposals. To do so, the City Charter should establish a new Independent Long-Term Planning Office (ILTPO), with a primary duty of generating a citywide comprehensive plan based on agency needs, citywide development goals, mayoral policies, borough presidents' Strategic Policy Statements, and community board plans. To be successful, the ILTPO should have the following features:

Independence – The independence of the ILTPO will provide it with the credibility necessary to establish a comprehensive plan while bringing together the perspectives of disparate agencies, similar to the existing Independent Budget Office (“IBO”). Like the IBO, the ILTPO would perform independent analysis for communities and elected officials. Funding for this organization should come from reductions of redundant staffing levels at City agencies, currently responsible for the production of the plans required by the City Charter that would no longer be necessary. The appointment of an ILTPO director should follow the same format as that for the IBO director, who is appointed by a committee of elected officials.

Dissemination of Information – In order to provide sufficient context for the development of a comprehensive citywide plan, City agencies must be mandated by the Charter to provide the ILTPO with information on existing conditions such as as-of-right developments; any known environmental, economic, social service, land use and zoning impacts; and long-term agency needs and goals. The ILTPO would use this information to

generate the citywide plan and to assist community boards in developing District Needs Statements and other community-based planning documents.

Ratification of comprehensive plan – To ensure that the comprehensive plan truly represents New York City’s interests and is formally adopted as policy, the ILTPO’s comprehensive plan must be ratified through a public review process. The Charter should establish a process similar to what exists currently in ULURP for reviewing and adopting the comprehensive citywide plan. Community boards and the borough presidents should have the power to review and make recommendations on the plan, and the City Council should have the authority to amend and adopt the plan. The mayor should review the plan and alter it as needed. As with ULURP, if the mayor alters any city council action, the Council should have the authority to overturn the mayoral changes with a vote by two-thirds of the city council.

7

The City Charter should be amended to establish an Independent Long-Term Planning Office to conduct comprehensive planning for the City of New York and the resulting plan should be ratified by the City Council through a public process.

Create a New York City Land Bank

Addressing New York City’s affordable housing crisis requires using all of the tools at the City’s disposal to build and preserve truly affordable housing. But, for too long the City has left a proven solution out of its toolkit by failing to turn vacant City-owned land and tax delinquent properties into permanently affordable housing.

According to a 2016 audit from the Comptroller’s Office, the City’s Department of Housing Preservation and Development controls more than a thousand vacant lots that could potentially be developed for affordable housing. The audit further found that 75 percent of these have been owned by the City for more than 30 years without being developed or otherwise disposed of.¹⁹ A follow up audit, released in 2018, found that these problems persist, despite the agency’s contention that it was in the process of transferring or disposing of many of these vacant lots.²⁰

To date, New York City’s primary strategy for developing affordable housing on city-owned lots has been to sell the property to a developer in exchange for a percentage of affordable units for a limited duration. While this model has facilitated the creation of

thousands of affordable units, the City loses leverage by transferring title, which weakens its ability to hold developers accountable and negotiate for deeper and permanent affordability.

For this reason, Comptroller Stringer has called on the City to create a new model based around the creation of a New York City Land Bank. Under this new model, the City would:

- Transfer property to a land bank that would be ‘seeded’ with City-owned vacant land to be developed into affordable housing.
- The land bank would then put together a package of subsidies and identify a developer, in most instances a non-profit, with whom to partner. Because these developers do not have the primary goal of making a profit, this partnership would allow for the creation of more housing for lower-income New Yorkers than the current system.
- Finally, instead of selling the land to a developer, the land bank would enter into a long-term lease with a developer, allowing the City to enforce affordability and ensure that the affordability is permanent.
- In addition to City-owned properties, the New York City Land Bank would also have the ability to target tax-delinquent vacant properties that it could seek to foreclose upon more quickly than the current system.

The Comptroller’s analysis of how a land bank could be used to develop vacant City-owned land found that a New York City Land Bank focused just on the City’s vacant lots and a smaller sub-set of vacant properties that have failed to pay taxes for multiple years could support the development of more than 57,000 units of permanently affordable units.²¹

Therefore, to realize these benefits, the City Charter should be changed to require the creation of a Land Bank with the mission of constructing permanent affordable housing on blighted city and privately-owned vacant properties.

8

The City Charter should be amended to create a New York City Land Bank.

Reform the Landmarks Preservation Commission and Board of Standards and Appeals

The decision on how to use land is among the most important functions of City government, requiring the input of diverse stakeholders across City government and the public. And yet, two City agencies with significant roles in land use decisions are overseen by appointed representatives that are accountable to only one public official. As described by Comptroller Stringer in 2010, these agencies are in need of governance reforms to increase their political independence and ensure they are a better able to respond to broader constituencies.

The Landmarks Preservation Commission (LPC) is responsible for designating landmarks and historic districts across the city and approving any modifications of landmarked structures or historic districts. The Commission consists of 11 members, all of whom are appointed by the mayor. According to the Charter, certain appointees are required to have certain qualifications (three architects, one qualified historian, one city planner or landscape architect, and one realtor) and must represent all five boroughs. While LPC has made important progress to eliminate its backlog in recent years and the Council has passed legislation establishing timelines under which LPC must consider landmark applications, accountability would improve with more systemic reforms.²²

The Board of Standards and Appeals (BSA) is responsible for issuing special permits, considering appeals to construction-related laws, and approving variances from the Zoning Code. Under the Charter, BSA is governed by five mayoral appointees who must include one planner, one architect, and one professional engineer. No more than two appointees can reside in any one borough. As with LPC, the Council recently adopted a number of reforms to increase transparency and improve operations of BSA.²³



Fortunately, the City Charter already provides an alternative governance structure for land use agencies through the City Planning Commission (CPC) that ensures mayoral control while building in additional layers of accountability. Under the Charter, the CPC is a thirteen-member body in which the chair and six commissioners are appointed by the mayor, one commissioner is appointed by the public advocate, and each borough president also makes one appointment. All commissioners other than the chair are subject to the advice and consent of the council and are chosen based on their “independence, integrity and civic commitment.” Adopting this type of governance structure can better ensure that there is robust public accountability across all City boards and commissions that oversee land use matters.

9

The City Charter should be amended to create new governance structures for the Landmarks Preservation Commission. While the majority of commissioners and board members should continue to be appointed by the mayor, the public advocate and each borough president should also be responsible for making appointments, as is done currently on the City Planning Commission.

10

The City Charter should be amended to create new governance structures for the Board of Standards and Appeals. While the majority of commissioners and board members should continue to be appointed by the mayor, the public advocate and each borough president should also be responsible for making appointments, as is done currently on the City Planning Commission.

Improving Environmental Impact Statements

Environmental Impact Statements (EIS) play a critical role in the City’s land use process. But these long, dense, and costly documents that explain the potential harms of a land use action and ways to limit those adverse impacts are too often inaccessible for the public. The changes discussed below would improve the way that EIS’s are used in the City’s land use decisions.

Ensure Funding for Environmental Impact Statements

Pursuant to section 201 of the New York City Charter, community boards, borough boards, borough presidents, and the land use committee of the city council may file for changes in zoning. This portion of the charter is essential for advancing community generated zoning plans. However, this authority is rendered moot for many of the bodies as state and city law requires that environmental reviews be conducted for any such proposal. These reviews can be expensive, costing millions of dollars that these bodies do not have the budget to pay for.

To address this shortcoming, the City Charter should require the creation of an environmental review fund that would allow these elected officials and boards to fulfill their mission. The funds could be dispersed by the Independent Long-Term Planning office, recommended above or, absent its creation, the City Council.

11

The City Charter should be amended to create an Environmental Impact Statement Review Fund, which would be managed by the Independent Long-Term Planning office or absent its creation the City Council. The Fund would disperse monies needed by a community board or borough president necessary to conduct an environmental review, which are prerequisites to their charter granted abilities to sponsor ULURPs.

Improve the Metrics Used in Environmental Impact Statements

The purpose of an EIS is to identify any adverse environmental impacts of a proposed land use action, which could include harms to the natural environment, displacement of local residents, or increased school crowding, and identify steps to mitigate those harms. However, historically, residents facing new development have raised concern that the metrics used to analyze potential environmental impacts are incorrect.

Currently, section 192(e) of the City Charter requires the City Planning Commission to oversee the implementation of laws relating to environmental reviews of actions taken by the City, which includes developing the types of metrics studied in EIS's. While these metrics are determined through the City's rule-making process that includes a public comment period, that process can be opaque and is generally controlled by the City agency issuing the rule.

To provide the public with greater opportunity to weigh in on the metrics used in EIS's, the City Charter should be updated to create a public process for reviewing the City Environmental Quality Review framework. This process should include public hearings in each borough and be held at least every five years. Furthermore, the City should establish a commission with members appointed by both the Mayor and the City Council to evaluate the metrics used in EIS's and any proposed changes to those metrics that result from public review.

12

The City Charter should be amended to require the City Planning Commission to regularly update the metrics used in Environmental Impact Statements based on the input of the public and a newly created commission of experts.

Release Environmental Impact Statements Sooner for Larger Projects

Currently, EIS's—which range from being a few hundred pages to thousands of pages—are released at the start of the ULURP process and, over the length of that process, are then converted from their draft form to their final form at the time of the City Planning Commission vote. Among the steps in the ULURP process that occur between the release of a draft EIS and the completion of the final EIS are a community board hearing and vote, borough president review, and a City Planning Commission hearing and vote. This whole process can last no more than 150 days, and for the community board at most 60 days.

While the process may provide a suitable amount of time for the public to review a draft EIS for a relatively standard project, this timeframe is inappropriate for major projects. For example, the Hudson Yards rezoning has an eight volume EIS that total over 6,600 pages while the East New York rezoning, which added less density than Hudson Yards, included an EIS that totaled over 5,200 pages with appendices. This is a significant amount of dense technical reading for both the average member of the public and elected stakeholders to read in a few months.

In order to allow the public and elected officials time to review and understand the potential impacts of major projects, any project that comprises at least 1.5 acres, the minimum size of a large-scale general development per the zoning resolution, the City Charter should mandate that draft EIS's pertaining to major projects be released at least 60 days prior to a ULURP application being certified by the City Planning Commission.

13

The City Charter should require that draft Environmental Impact Statements for major projects be released at least 60 days before a ULURP application may be certified by the City Planning Commission.

Strengthening the Uniform Land Use Review Procedure (ULURP)

The 1976 Charter Revision Commission established the Uniform Land Use Review Procedure (ULURP). At that time, however, the process was limited to zoning changes. Thirteen years later, as part of the 1989 Charter Revision, the list of actions subject to ULURP has been expanded in recognition of the impact that land use actions other than zoning changes have on the type, density, and height of development, as well as demands on City services. The 2019 Charter Revision Commission should once again use the opportunity to review and improve ULURP, including in the ways discussed below.

Include Zoning Text Amendments in ULURP

Zoning text establishes the rules for use and development of property within zoning districts designated on the zoning map, and as such, amendments to the zoning text present significant policy determinations that warrant public review. For example, the Zoning for Quality and Affordability text, which was described as “one of the most significant updates to the Zoning Resolution in decades,” affected building heights, density for affordable senior housing, reduced parking, and altered rules relating to building design and street frontage. While in this case the administration chose to follow a ULURP-like timeline in getting the text approved, they were not bound to adhere to that timeframe.

That is the case because under the current system, the City Charter only requires that the City Planning Commission notify community boards and borough boards of a text change and be provided with an opportunity to testify at a public hearing with as little as ten days' notice. While in practice the City Planning Commission typically shares proposed text amendments for 30 to 60 days with community boards, which affords the local community

board an opportunity to hold public hearings and vote on a proposed text change, they are not required to do so. However, text amendments could radically change the laws governing development and, therefore, should go through ULURP. Consequently, the City Charter should be revised to require full ULURP review for zoning text changes.

14

The City Charter should require full ULURP review for zoning text changes.

Certain Licenses Provided by the City Should be Subject to ULURP

Pursuant to section 197-c of the City Charter, acquisition of real property (other than office space) by the City is required to go through ULURP. Acquisition can include the purchase, condemnation, exchange or lease of any real property. However, this provision of the Charter does not include the issuance of licenses, which are valuable tools as they, unlike leases, can generally be entered into for a short period and canceled without penalty. Unfortunately, not including licenses in the ULURP review, can result in public review of important land use decisions being circumvented.

For example, in 2005, the Department of Sanitation received the approval to build a new sanitation garage in Brooklyn. Unfortunately, the funds were cut from the budget and work stopped on the new garage. In 2010, the Sanitation Department sought City approval through ULURP to maintain the existing garages at 525 Johnson Avenue and 145 Randolph Street. But, due to community opposition, the applications were withdrawn at the City Council. Since that time, and despite the Council declining to act on the applications, 8 years later the garages are still in use as a result of the use of licenses. Fortunately, the Department of Sanitation has committed to the Comptroller's Office to advance a new ULURP application for these two sites.

This process demonstrates that the licensing process can be used to circumvent the public review process and should be reformed. In order to provide City agencies continued flexibility in the use of temporary space, but to prevent abuse of a loophole, the City Charter should be modified to require that licenses lasting more than 5 years go through ULURP.

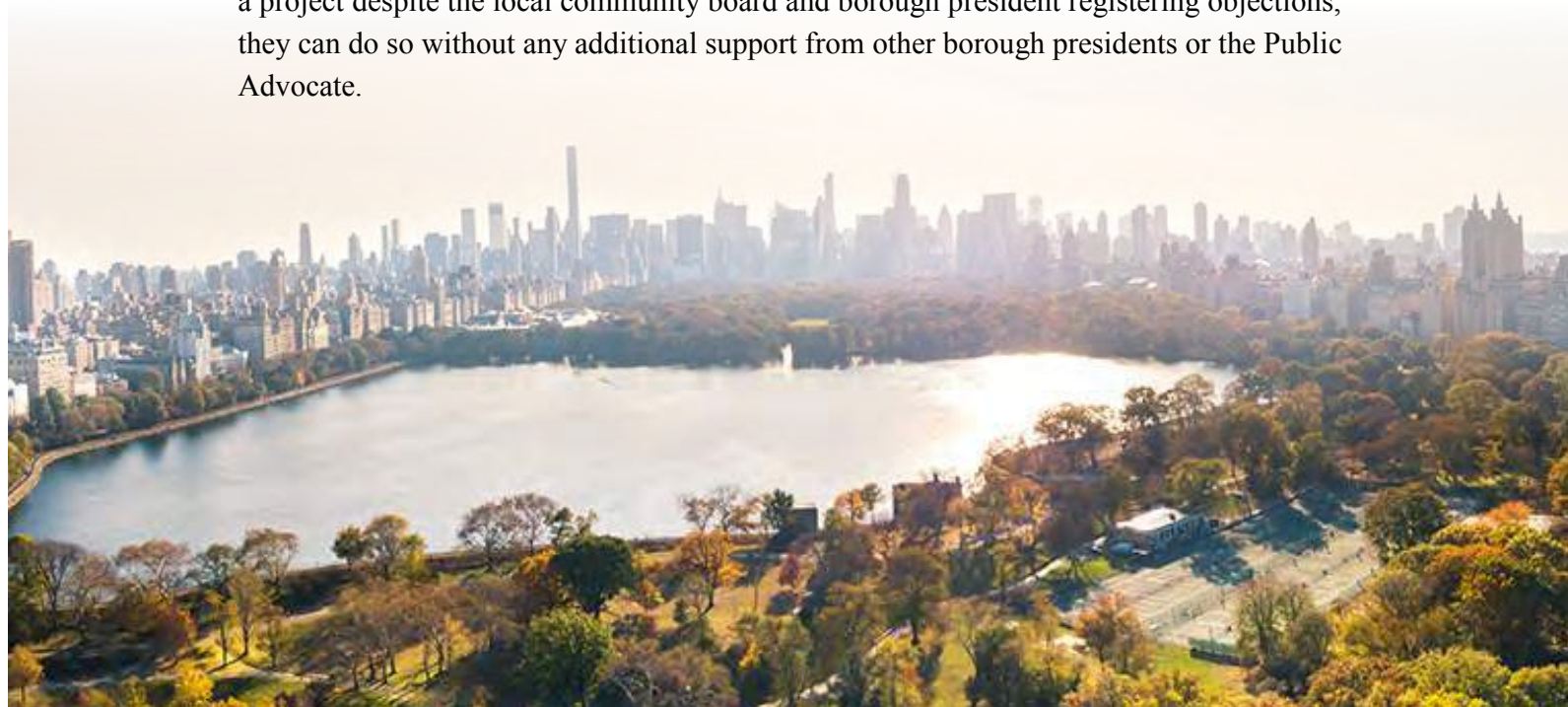
15

The City Charter should require that licenses lasting for more than five years be subject to ULURP review.

Restrict the City Planning Commission from Overruling Local Stakeholders in ULURP Voting

The City Charter provides that the community and borough perspective be significant factors in shaping land use outcomes for the mutual benefit of local communities and the city as a whole. To this end, the Charter provides community boards and borough presidents with the ability to make advisory recommendations on ULURP applications to the City Planning Commission, bringing in local perspectives to improve the projects. Furthermore, ULURP requires that the City Planning Commission provide a written explanation whenever it modifies or disapproves of a community board or borough president recommendation.

The City Planning Commission is a 13-member body composed of seven members selected by the Mayor, one member selected by each borough president, and one selected by the Public Advocate. As such, if the seven Mayoral appointees choose to move forward with a project despite the local community board and borough president registering objections, they can do so without any additional support from other borough presidents or the Public Advocate.



The important, beneficial role of the borough president and community board in improving land use actions should be strengthened to ensure serious consideration of their recommendations by citywide bodies and land use applicants. To that end, the City Charter should require that a supermajority of City Planning Commissioners—nine commissioners instead of seven—be needed to approve an application that has been disapproved by both the community board and borough president. This would require at least two non-mayoral appointees to vote in favor of the action to overcome the objections of the local community and borough. This voting system has a precedent in the Charter in the nine votes that are required to approve site selections for which the borough president and community board both have recommended disapproval and the borough president has identified an alternative site within the subject borough.

16

The City Charter should be amended to require that any City Planning Commission approval of an application that has previously been disapproved by the local community board and borough president be approved by a supermajority of commissioners.

Disposal of City-Owned Air Rights Should be Subject to ULURP

The disposition of air rights is similar to the disposition of City-owned land, but unlike the disposition of land, it is not subject to ULURP. The transfer of City-owned air rights usually results in new, larger developments that create demands on City services, increase intensity of land uses, and present significant policy issues. As such, when the City disposes air rights that it owns, that disposal should be covered by ULURP.

For example, the City had acquired a property at 35 East 4th Street for the Third Water Tunnel. During negotiations for acquisition, the City decided to sell air rights associated with 35 East 4th Street parcel to an adjacent property. Revenue derived from the transfer of these air rights was intended primarily to offset the acquisition costs for the tunnel site, and facilitate the creation of a new pocket park on the unused portion of the 35 East 4th Street parcel. No public review occurred for the sale of air rights. While the public was generally in favor of these benefits, the sale also resulted in the construction of a building at 39 East 4th Street that is larger than it otherwise could have been. While the local community was concerned about the size of the new proposed building, there was no opportunity to publicly weigh the impacts of selling the air rights.

The Charter Revision Commission should recommend that the disposition of City-owned air rights undergo full ULURP review and approval similar to the disposition of City-owned land. In order to regulate the City's disposition of air rights, mergers of City-owned zoning lots with privately owned zoning lots should be included in the list of actions requiring ULURP in section 197-c of the Charter.

17

The City Charter should require the disposal of City-owned air rights to go through ULURP.

The Disposal of Property through Local Development Corporations Should go through ULURP

New York City requires the acquisition and disposition of City-owned property to be subject to public review through ULURP. Entities that are controlled by New York City that are not city agencies, however, do not require such review. The amount of properties potentially purchased and sold through these entities without significant public review is antithetical to the intentions of the Charter.

The challenges this situation poses can be seen most clearly in the case of the New York City Economic Development Corporation (EDC), which manages 66 million square feet of real estate and nearly \$2.5 billion in City and non-City funds.²⁴ EDC's land use decisions are not necessarily subject to ULURP.

For example, in 2016 EDC purchased four sites in the Bronx as part of an effort to encourage their redevelopment, although there was not a specific plan for their use. To that end, two of the sites were purchased above their appraised value based on the justification that the sites could reach the appraised value if converted to market rate housing. However, using any of these four sites for housing will require a rezoning, meaning that if no rezoning occurs then the City will not be able to sell the sites at their purchase price and City funds could potentially be wasted. Critically, because these sites were purchased by EDC, no ULURP was needed and therefore no public review occurred that would enable a robust discussion of whether purchasing these sites was in the best interest of the City.²⁵

This entire process has occurred without community consultation through the normal public review process. To date, no ULURP has been filed for a rezoning. Simply put, the current process has resulted in an unclear development plan for properties purchased by

the City without public review that may require a rezoning, and could result in the City wasting tax dollars. The requirement that City acquisition of real property go through ULURP is specifically intended to prevent these types of scenarios.

As such, purchases of real property by local development corporations with affiliations to New York City should be required to go through the ULURP process.

18

The City Charter should require that land purchases by local development corporations with affiliations to New York City be subject to ULURP.

Deed Restriction Removals Should be Covered by ULURP

One of the ways that the City exercises the control of property that it has previously sold is by imposing a restriction on the use of that property in its deed. While the City allows the owner of that property to pay the City to remove that deed restriction, the action of removing the deed restriction in exchange for payment is not uniformly covered by ULURP. This shortcoming should be addressed by subjecting all deed restriction removals to ULURP.

Much has been written about the Rivington House deed restriction outlining the failures of the way the City removes or alters deed restrictions previously placed on properties by the City.²⁶ In response to these failures, the City Council has passed new legislation to make the review process more robust by requiring notice to local communities, a public hearing, and review by two deputy mayors, heads of agencies, and ultimately the mayor.²⁷ While this process is undoubtedly better than the previous process, it does not provide the same type of thorough review as is done through the ULURP process because it removes the length and depth of the public review normally associated with ULURP, does not provide the City Council with a vote on the project, and prevents the public from multiple chances to influence the ultimate decision.

Subjecting all deed restriction removals to ULURP would also reduce the ambiguity that currently exists when ULURP is actually required. Generally, if a property enters into ULURP for a restricted sale and the Council approves the restrictions, then a change in the deed restriction will likely need to go back through ULURP. However, generally, if the subject site goes through ULURP for an unrestricted sale then no ULURP is necessary to

remove the deed restriction. Addressing this inconsistency would ensure that all deed restriction removals would be considered in the same way.

Therefore, the City Charter should be modified to require all changes in deed restrictions to go through the ULURP modification process. Based on the existing rules that distinguish between major and minor changes to previously approved applications, this process would require major changes to go through a full ULURP, with approvals by the City Council.²⁸ However minor changes could be referred out to the community board and borough president, with a hearing and vote by the city planning commission.

19

The City Charter should stipulate that deed restriction removals be subject to ULURP.



Reporting Data on the City's Hiring of People with Disabilities

New York City is home to almost 1 million people with disabilities. Although laws protect them from discrimination, they continue to face economic challenges at much higher rates than people without disabilities.²⁹ Indeed, according to the Mayor's Office for People with Disabilities, median household income for disabled New Yorkers is only \$22,020 annually (compared to over \$55,000 annually for the total population). The poverty rate for people with disabilities is 31 percent (compared to 20 percent for the population overall).³⁰ A critical reason is that people with disabilities face persistent barriers in employment; in 2016 the employment rate of working-age people with disabilities in New York State in 2016 was only 33 percent.³¹

To provide greater employment opportunities for people with disabilities, in 2010 President Obama signed Executive Order 13548. It set a goal for the federal government of employing an additional 100,000 people with disabilities over 5 years.³² The Obama Administration announced in September 2016 that it had met this goal, hiring almost 110,000 part-time and full-time employees with disabilities between FY2011 and FY2015.³³

But it is unclear how much New York City as an employer recruits and hires people with disabilities in its own workforce. While the City Charter requires the Department of Citywide Administrative Services to publish an annual report on the government workforce—as part of efforts to ensure equal employment opportunities for women and people of color—the report provides no data on the number of municipal workers with disabilities. Including that information in the annual report would help the City evaluate its performance in employing people with disabilities and determine how it can adopt practices to become a better employer for all New Yorkers.

20

The City Charter should be amended to require that the Department of Citywide Administrative Services annual report on the City's equal employment practices include data on the City's hiring of people with disabilities.

Eliminating the Phrase "Mental Retardation" from the City Charter

In 2010, the U.S. Congress passed “Rosa’s Law,” which replaced the term “mental retardation” in various federal statutes with the phrase “intellectual disability.” This was done in light of the fact that the phrase “mental retardation” is “anachronistic, needlessly insensitive and stigmatizing, and clinically outdated.”³⁴ However, while the federal government has taken these steps, the City of New York has not done so. Currently, the term “mental retardation” appears multiple times in the City Charter, including seven times in Section 15 of the Charter and 12 times in Chapter 22. It also appears in multiple places in the City’s Rules and Administrative Code. The phrase should be removed and replaced in all places where it appears in City law, including the Charter.

21

The City Charter should be revised to replace the term “mental retardation” and its various iterations with the phrase “intellectual and/or developmental disability.” Similar changes should also be made to the Administrative Code and City Rules.



Performing an Annual Analysis of Pay Disparities in the Municipal Workforce

New York City's women are a powerful force in the local economy, making up about half of all workers and contributing almost \$100 billion in annual earnings to the economy. This is particularly true for the municipal workforce, where sixty percent of employees are women, with almost two-thirds being women of color. These official figures neglect the countless hours of unpaid work that New York City women put in every year caring for children, aging parents, and loved ones in addition to building their local communities.³⁵

And yet, as documented by the Comptroller's Office, New York City women continue to face a persistent gender wage gap that sees them earning less than their male counterparts, with harmful long-term consequences.³⁶ More recent research from the Comptroller's Office has documented the gender wage gap—the difference in average earnings between women and men—across occupation and race. Importantly, this analysis found that the gender wage gap is largest among the highest paying occupations and that the gender wage gap is most severely felt by women of color.³⁷ For instance, in 2016, Black women working full-time in New York City made 57 cents for every dollar paid to white, non-Hispanic men, or roughly \$32,000 less per year.³⁸ A recent analysis of City payroll data by the Public Advocate's Office highlighted that women in the municipal workforce are similarly underrepresented in higher-paying jobs, contributing to disparities in earnings across gender.³⁹

The City has recently adopted policies to confront the gender wage gap, including requirements that prohibit New York City employers (including the City itself) from asking prospective employees about their salary history. Still, more must be done to understand the extent of the City gender pay gap and develop thoughtful strategies to close it.

To this end, the City should evaluate municipal pay disparities each year, and publicize its findings. Currently, the City Charter authorizes the Department of Citywide Administrative Services to issue an annual report on the city government workforce and the equal employment policies of each city agency. But that report is not required to include an analysis of wage disparities within the City workforce. Requiring DCAS to conduct such an analysis, in consultation with the Human Rights Commission and other relevant agencies, would force the City to focus on these issues more aggressively and would bolster accountability.

The City Charter should be amended to require the Department of Citywide Administrative Services to include an analysis of wage disparities within the municipal workforce, disaggregated by gender and race, as part of its annual workforce profile report. In doing so, the Charter should require the agency to consult with the Commission on Human Rights and the Equal Employment Practices Commission.



A photograph of Philadelphia City Hall, a large, ornate, light-colored stone building with a prominent dome topped by a statue. The building features classical architectural elements like columns and arched windows. In the background, a modern skyscraper is visible. The sky is clear and blue. The text 'BUILDING A 21ST CENTURY GOVERNMENT' is overlaid in white, bold, sans-serif font. A small orange horizontal line is positioned below the word 'CENTURY'.

BUILDING A 21ST CENTURY GOVERNMENT

Reflecting the Importance of Cybersecurity in the City Charter

Thirty years ago, during the last major Charter Commission review, it was inconceivable that computer hackers could bring local government to its knees by striking at the City government's information technology system. But, today, that is very much a reality, and the dangers are very real.

In fact, we have already seen this firsthand in New York City, when in 2014, Russian hackers breached the systems of the Administration for Children Services.⁴⁰ While that breach was ultimately contained, the risks have only escalated since that time. For instance, in March 2018, Atlanta, Georgia had its city operations ground to a halt after being held hostage by a cybersecurity breach in which hackers effectively shut down government operations and demanded \$50,000 to restore services.⁴¹ Meanwhile, data security breaches at companies across the country have resulted in the theft of personal information of millions of Americans and cost the economy billions.⁴²

Governments and businesses across the country have responded to these threats by bolstering cybersecurity systems. To this end, in 2017, Mayor de Blasio issued Executive Order No. 28, establishing the New York City Cyber Command. Under this executive order, the Cyber Command is headed by a Chief Information Security Officer who reports directly to the First Deputy Mayor. Among other duties, the executive order empowers the Cyber Command to establish information security policies and standards, direct the response to any cybersecurity incidents that may occur, and ensure that City agencies comply with the appropriate security policies.⁴³

It is important that the Charter be responsive to the most pressing issues impacting City government, but given its age, our current City Charter is virtually silent on the subject of cybersecurity. To remedy this shortcoming, the City Charter should be reformed by enshrining the key pillars of Executive Order No. 28 in the Charter. Specifically, the Charter should require the Mayor appoint a Chief Information Security Officer responsible for developing and ensuring compliance with the City's information security standards and policies.

The City Charter should be amended to require that the Mayor designate a Chief Information Security Officer responsible for overseeing the City's cybersecurity operations, including developing the City's cybersecurity program, maintaining and testing that program, leading incident response, and training relevant City employees on ways to mitigate cybersecurity risks, among other duties.

Protecting Tenants and Preventing Evictions through an Office of Inspection

Despite the existence of a comprehensive building code and housing regulations designed to protect the health, safety, and welfare of New York City residents, too many New Yorkers are forced to live in buildings that are dilapidated, unsanitary, or unsafe. One reason is that the City agencies responsible for overseeing the safety of our buildings have multiple, competing responsibilities. Specifically, the Department of Buildings (DOB), has the responsibility of examining and approving building plans, issuing construction permits, and inspecting properties, while the Department of Housing Preservation and Development (HPD) both inspects buildings and helps finance affordable housing projects.

The resulting lack of sustained focus on inspections has allowed too many buildings to become unfit for any person to inhabit, particularly the most vulnerable New Yorkers. In 2016, for example, Comptroller Stringer analyzed DOB and HPD violations in buildings that were housing homeless families with children, arguably those most in need of safe and sanitary housing. The analysis found 18,704 open or active violations in these buildings. Violations were most apparent in the “cluster units,” which are privately owned buildings with at least one apartment housing a homeless family. Of these cluster buildings, 238 of 275 (over 85 percent) had at least one open or active immediately hazardous violation, as well as those that are such a threat to life or safety as to warrant immediate corrective action. Ninety-one of these buildings had more than 10 active immediately hazardous violations and 10 had complete or partial vacate orders, meaning that some or all of the building was too unsafe to inhabit. While the City has acted to address the conditions of many of these buildings, the fact that they were allowed to reach such conditions underscores the inadequacy of the existing inspection regime.

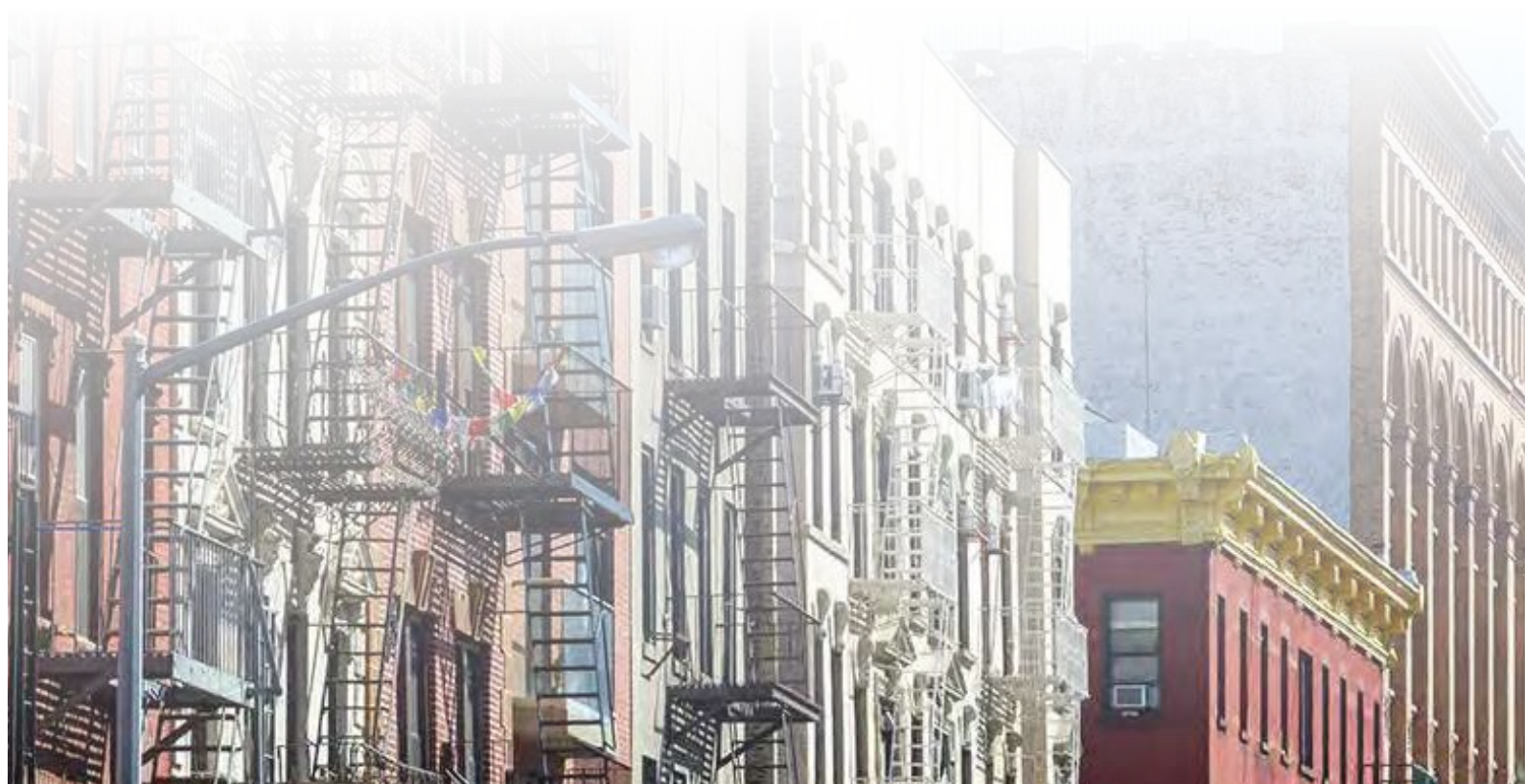
DOB and HPD are also falling short when it comes to stopping the tenant harassment that causes long-time residents to be displaced from their homes and communities and makes the city increasingly unaffordable.⁴⁴ Indeed, it has been well documented that landlords seeking to remove rent stabilized tenants from their units in order to convert those units to market rate housing often do so by allowing their buildings to become unfit to inhabit.⁴⁵ Recent policy changes by the City to enhance resources to prevent tenant harassment and strengthen penalties will help address these problems, but more comprehensive reforms are needed to truly focus City government on enforcement.⁴⁶

To that end, comprehensive reforms are needed to create a City agency focused on inspecting buildings and enforcing our building and housing codes. To do so, the inspection and enforcement functions currently housed in DOB and HPD should be moved into a new Office of Inspection. This Office would be solely focused on inspecting buildings and taking enforcement action to make sure that New York City residents live in housing that is safe, sanitary, and fit to inhabit.

An additional benefit of this proposal is that it will help focus the Department of Buildings on approving building and construction permits in a timely manner. As documented in the Comptroller's Red Tape Commission Report, the process of getting a building permit from the Department of Buildings is slow and torturous, delaying projects and raising costs.⁴⁷ Allowing the agency to focus on that task alone should help it carry out this function more responsibly, helping projects be completed on-time and on-budget.

24

The City Charter should be amended to create a new Office of Inspection, which will be responsible for all building and housing inspection and remediation. Such responsibilities should be removed from the Department of Buildings and Department of Housing Preservation and Development so that they can focus more on their other respective responsibilities.



Providing an Independent Budget for Independently Elected Officials

For independently elected officials to be effective they need to have the resources to adequately carry out their duties. At the same time, they must also be able to take positions free from the concern that those positions will negatively impact their funding levels in future years. In New York City, however, independently elected officials rely on the annual budget process for their resources each year. And, because that process is generally controlled by the mayor and the city council, it leaves their agencies open to funding cuts if they take positions at odds with the leadership in City Hall.

Independently elected officials perform a critical role in City government and provide a critical check on mayoral power. Borough Presidents, for instance, are responsible for a range of duties, involving analyzing and making recommendations concerning land use actions, including those proposed by the mayor. Similarly, the Comptroller's Office conducts independent audits of City agencies, ensures contracts are entered into appropriately, and settles claims filed against City agencies. Likewise, the Public Advocate provides the public with a voice outside of the mayoral administration in matters of city governance.

However, the ability to provide that independent voice is jeopardized when agency resources are slashed. What's more, even the threat of such action, real or perceived, may be enough to jeopardize independent operations.

There is precedent in the City Charter for providing agencies that are supposed to be independent of the Mayor with the ability to dictate their own budget. Specifically, the City Charter currently provides the Independent Budget Office (IBO) with funding equal to no less than ten percent of the Office of Management and Budget each year. In doing so, the provision ensures that IBO funding levels rise and fall in tandem with the resources available to the government overall, giving IBO the ability to carry out its duties without concern that its actions will jeopardize future funding levels.

Based on this precedent, the City Charter should provide independently elected officials with the ability to set their own budget. Concerns have been raised that providing independent agencies with guaranteed budgets weakens oversight of those agencies, and makes it difficult to increase or decrease budgets, should their mandate evolve.⁴⁸ These are important critiques that can be addressed with smart policy reforms.

To do so, the Charter should require that independently elected officials submit budgets directly to the City Council, but only allow the Council to amend those requests to ensure that they are reasonably consistent with overall funding changes across all City agencies or to reflect major changes in responsibility. So, for instance, if overall City agency funding was being reduced by 5 percent from the previous year, then the Council could also modify these budget requests similarly if the budget submission did not already do so.

25

The City Charter should be amended to provide City government offices headed by independently elected officials with the ability to set their own budgets. To do so, independently elected officials should submit their budgets directly to the City Council, who would be required to approve those submitted budgets so long as the submission is consistent with any changes in funding levels for all City agencies, unless there was a significant change in the responsibilities of the independently elected official that would also merit an increase or decrease in funding corresponding with those additional or lessened responsibilities.



Adopting Instant Runoff Voting

Voter turnout is a crucial barometer of public participation in government, and its evaluation of governmental performance. When residents go to the polls, they are telling government that they value democratic governance and believe government decisions matter. However, when a significant number of voters stay home on Election Day, their voices are not heard, and they send a message that participation in democratic government does not matter to them.

Based on this measurement, however, New York City government is failing in its obligations to the public. Indeed, in the November 2017 mayoral election, only 1.16 million out of more than 4.57 million actively registered voters—less than 26 percent of all registered voters—cast a ballot. This paltry turnout marked a new low for the city, down from 93 percent turnout in 1953. And, while turnout in the 2017 general election was an all-time low for a general election, it vastly exceeded turnout in the 2017 primary election, when only 12 percent of registered voters went to the polls.⁴⁹

Competitive elections require robust voter participation. While more comprehensive reforms to the election system are sorely needed, the City can start by doing away with the low-turnout, high-expense runoff election that takes place two weeks after the primary if no candidate for mayor, comptroller, or public advocate receives over 40 percent of the vote. Indeed, in the 2013 election for public advocate, the runoff vote that was required cost \$13 million and had turnout levels at less than one-third of the primary election held two weeks earlier.⁵⁰

Instant runoff voting, sometimes called ranked choice voting, addresses this challenge by requiring voters to rank candidates in their order of preference during the general election and counting votes in a way that negates the need for a separate runoff election. While there are multiple ways for counting ballots in this type of voting system, as this model has been discussed in the context of New York City, it would work as follows. In an initial count, any candidate receiving more than 50 percent of the vote would be declared the winner. However, if no candidate receives a majority of votes, the two candidates with the most votes would proceed to the next round of counting. The votes cast for the eliminated candidates are then recounted as votes for whichever of the two advancing candidates is ranked higher by each voter. Ultimately, the candidate who receives a majority wins and no runoff election is needed.

Instant runoff voting has been successfully adopted by a number of cities including Minneapolis and Oakland.⁵¹ Most recently, Maine began using instant runoff voting for

elections.⁵² The idea has been endorsed by good government and other advocacy groups in New York City, has been considered by multiple Charter Review Commissions, and discussed at length in the City Council.⁵³

With our city faced by a crisis of civic engagement and voter participation, it is time for the City to move forward with instant runoff voting. While ultimately enacting instant runoff voting for citywide offices may require a change in State law, the City should not wait to do its part to make instant runoff voting a reality.

26

The City Charter should be amended to eliminate runoff elections for citywide offices. In its place, the Charter should establish a system of instant runoff voting.



Focusing Efforts to Address Food Insecurity

Food and the eradication of hunger is one of the greatest challenges facing New York City. According to a report from Hunger Free America, between 2014 and 2016 almost 14 percent of New York City residents, or some 1.1 million people, were considered “food insecure.” This means that in one of the world’s richest cities, more than 1 million people could not consistently afford an adequate supply of healthy food. This demographic includes over 340,000 children, or almost 20 percent of all New York City’s youngsters. While the number of children experiencing food insecurity has fallen in recent years, food insecurity for seniors is on the rise.⁵⁴ Overall, as reported for 2015, New York City was facing a “meal gap”—meals missing from the table—of 224 million meals.⁵⁵

At the same time, obesity rates increased between 2010 and 2016 in the South Bronx and East/Center Harlem, despite holding steady citywide.⁵⁶ Not surprisingly, those neighborhoods with the most dire health indicators are also those where poverty is highest and incomes are the lowest.⁵⁷ These inequities extend into the very infrastructure of our city’s food delivery systems: While the total number of grocery stores across the city has grown in recent years, wealthier communities undeniably have more access to supermarkets and the fresh, healthy food options they provide than low-income communities.⁵⁸

The City currently coordinates much of its food policy through the Office of the Director of Food Policy, an office created by Mayor Bloomberg.⁵⁹ In addition, Local Law 52 of 2011 requires the Mayor’s Office of Long-Term Planning and Sustainability to publish an annual Food Metrics Report that analyzes the City’s efforts to combat food insecurity. These innovations have brought welcome attention to issues around food instability and local sustainability, but neither advancement has overcome a persistent lack of coordination between the City’s own food initiatives, or to engage other stakeholders outside of government who are committed to creating a healthier, more sustainable food environment for all New Yorkers.

Given the complexity of the problem and the multiplicity of public and private sector stakeholders involved in feeding New York including senior centers, schools, food banks, and more, the City would benefit from the establishment of a stronger coordinating body on food issues. Just as our municipal government oversees transportation, education, and sanitation, so too should it ensure that city residents have access to healthy and sustainable food. The creation of a well-resourced, mayoral agency charged with eliminating hunger

would bring more focus, resources, and expertise to the task of creating healthy, sustainable food options for every neighborhood in all five boroughs.

This newly formed Department of Food and Markets would be responsible for coordinating policy and programmatic changes across City agencies, including:

- Establishing a Food Policy Council designed to bring together diverse constituencies focused on eradicating hunger and creating a healthier, more sustainable food environment in all five boroughs.
- Creating a comprehensive New York City Food Plan that charts a multi-year strategy for removing inequities in our food system, and developing more robust metrics for measuring progress, similar to what cities like Los Angeles, London and Chicago have already done.
- Working with the State Department of Agriculture and Markets, the New York State Food Policy Council, and the United States Department of Agriculture to maximize resources and create more and stronger links between upstate farmers and downstate markets.
- Working with the Health Department to ensure that their goals are consistently conveyed throughout the city by promoting consumption of healthy food by City-funded entities and improving nutrition education in public schools.
- Fostering economic development by developing job incubator programs in conjunction with an urban agriculture education program to connect job training with the food industry.
- Promoting and identifying space for additional farmers markets and community gardens, and facilitating the development of rooftop agriculture through enhanced tax incentives and other strategies.

27

The City Charter should be reformed to create a Department of Food and Markets, which Comptroller Stringer also recommended in 2010. This Department could consolidate and better coordinate the City's food policy work that is currently scattered across multiple agencies. It could also promote food-related economic development opportunities, supporting both food retailers and growers while also helping build a stronger regional food economy.

Centralizing and Strengthening Services for Children Citywide

The economic stability, safety, and health of New York City's 1.8 million children should be City government's highest priority. But in recent years, City government has failed to adequately serve too many of our most vulnerable children.

The painful reality is that in a city with so much wealth, too many children grow up in challenging circumstances. Ample research shows that the economic uncertainty that comes from living in poverty or experiencing housing instability compromises children's development and ability to thrive. And yet, almost three in ten children in New York City live in households below the federal poverty level, while each night over 20,000 children go to sleep in a Department of Homeless Services shelter. Moreover, in 2016, almost 5,000 children under 6 tested positive for elevated blood lead levels, while the City's child welfare agency was placed under a State monitor following a series of failures.

Despite the persistence of poor outcomes, services targeted to children, including subsidized child care, summer camp, and after-school programming, have all too often ended up on the chopping block during annual budget negotiations.⁶⁰ New investments have been made in recent years, such as the expansion of universal pre-kindergarten; however, the extent of these problems indicate that much more progress and accountability are needed.

One of the reasons that the City has fallen short is due to inadequate coordination, communication, and planning across the multiple City agencies responsible for implementing children-related policies. These failures have been documented repeatedly in audits and investigations from the Comptroller's Office and other sources. For instance, a 2018 audit found that the City's Department of Education was failing to track and monitor the attendance of students living in Department of Homeless Services' shelters.⁶¹ Similarly, a 2016 investigation found that the City's Department of Homeless Services, Administration for Children's Services, and Department of Health and Mental Hygiene were failing to inspect child care centers located in family homeless shelters or share information that would help link children in shelters to child care services.⁶² Furthermore, investigations into the failure of the New York City Housing Authority (NYCHA) to comply with lead-paint requirements reveal that the Department of Health and Mental Hygiene did not consistently notify NYCHA when children living in NYCHA units tested positive for elevated blood lead levels.⁶³

While inter-agency coordination is inherently challenging, the fact that these types of problems are so common suggests that the structure of City government is not designed to effectively work across agencies on children's issues. Currently, multiple officials who report directly to the Mayor are responsible for the various agencies that work on children's issues. For instance, the Administration for Children's Services, Department of Health and Mental Hygiene, and Department of Homeless Services report to the Mayor through the Deputy Mayor for Health and Human Services; the Department of Education reports to the Mayor through the Chancellor; and the Department for Youth & Community Development and Pre-K expansion and After-School policy are overseen by the Deputy Mayor for Strategic Policy Initiatives. NYCHA and other agencies with oversight of the built environment report through the Deputy Mayor for Housing and Economic Development. While deputy mayors are the City officials best suited to ensure that agencies are coordinating, issues that require multiple agencies and multiple deputy mayors to address can be difficult to implement even in the best of circumstances.

Recognizing the challenge of coordinating work related to children across multiple agencies and among multiple deputy mayors, Mayor de Blasio created the NYC Children's Cabinet in 2014 to promote communication and share best practices among City agencies.⁶⁴ The NYC Children's Cabinet, currently chaired by the Deputy Mayor for Health and Human Services, includes commissioners and directors from 24 different City agencies and Mayoral offices and is overseen by an Advisory Board with some three dozen stakeholders representing academia, the judiciary, for-profit and non-profit sectors, all appointed by the mayor.⁶⁵ In the current configuration, the Cabinet has no legal, clearly-defined mandate or formal oversight apart from the Mayor, and has relatively few dedicated staff to carry out its worthy mission.

The shortcomings underscore the need for structural reforms to City government to improve inter-agency coordination and provide better oversight of services for children across the five boroughs.

In order to more effectively manage complex issues that cut across the work of multiple agencies, the City Charter establishes a number of offices within the Office of the Mayor focused on specific issues. Examples of these offices include the Office of Criminal Justice, the Office of Immigrant Affairs, and the Office of Nightlife. Similarly, prior to becoming a separate department, the Office of Veterans' Affairs was also an office housed inside the mayor's office.

Based on these models, the City Charter should be reformed to create an Office for Children. The Office for Children should be headed by an Executive Director appointed by the Mayor. Like the current NYC Children's Cabinet, a key goal of this office would be to bolster interagency communication and coordination. To do so, the Charter should require

that all relevant City agencies designate among director-level or more senior staff a children's liaison who would be responsible for working directly with the Office for Children. In addition, the Office would be responsible for helping to implement policies and programs impacting children while also ensuring a child-centered lens is applied to new policy developments. The Office would also be charged with helping to ensure that the budget for children's programs are adequate.

In order to facilitate these goals and bolster accountability, the Charter should also require that each year, the Office for Children issue a public report describing annual benchmarks City agencies must meet (both individually and collectively), tracking outcomes and evaluating the quality of existing services for children. The report would draw on both qualitative and quantitative methods as well as build on and consolidate those child-related performance indicators already outlined in the annual Mayor's Management Report. These include such indicators as immunization rates, blood lead levels, asthma-related medical visits, maltreatment in foster care, and rates of homelessness. Overarching benchmarks that relate to the quality of life for New York City children, including their economic security, safety, and health, and that cut across the work of multiple agencies should be included. The Office's Executive Director will have discretion to set these, in partnership with the Advisory Council (described below), but they may include indicators of poverty, residential segregation, food insecurity, and obesity. The Office's Executive Director must seek community input during the process of completing the report.

The Charter should supplement the Office for Children with a Children's Advisory Council that would be tasked with providing independent advice to the Mayor and City Council on how to improve policies and programs that impact children. Similar types of advisory bodies exist across City government, including both the Office of Nightlife and the then-Office of Veterans' Affairs. To promote its independence, the Children's Advisory Council should be modeled on the existing Nightlife Advisory Board for which a majority of members are appointed by the Council Speaker rather than the Mayor.

The City Charter should be amended to create an Office for Children, a new office within the Mayorality charged with facilitating coordination between agencies serving children and providing oversight of all children's services. The Executive Director of the Office, with the assistance of designated liaisons at every relevant City agency, will annually set benchmarks, track outcomes, and report on the quality of services for children. The City Charter should further be amended to create a Children's Advisory Council to provide independent analysis and recommendation to the Mayor and the City Council on ways to improve City policies relating to children.



Providing Quality, Affordable Child Care to Working Families

The City's affordability crisis extends beyond the lack of affordable housing. Indeed, one of the most significant expenses many families face is child care. Today in New York City, a spot in a child care center for an infant costs more than \$19,000, nearly three times more than one year of in-state tuition at the City University of New York, and 53.3 percent more than the cost of a spot for a four-year-old.⁶⁶

At the same time, a substantial body of research has established that a child's earliest years are the most critical to their development; 80 percent of brain development is complete by the time a child turns three.⁶⁷ Despite the importance of high-quality care for our youngest children, the City spends roughly five times more on child care and pre-kindergarten for three- and four-year-olds than on child care for children under three.⁶⁸

The expansion of universal pre-kindergarten has helped ensure that all four-year-olds in New York City have access to quality early childhood education, and the steps that have been taken to provide universal pre-kindergarten to three-year-olds will bring added relief to families across the boroughs. Still, working families with children under four are faced with the daunting task of trying to find quality care that meets their needs and that they can afford. Only one in seven children whose families are eligible for a subsidy to help pay for child care actually receives one.

Making our city more affordable for all families requires us to provide better solutions for families with young children. And while additional resources for child care are needed, there are also structural changes that can be made to City government to better serve families. Currently, the City's child care services are split between multiple agencies, including the Department of Education, which will soon oversee the City's EarlyLearn program, and the Administration for Children's Services, which previously oversaw EarlyLearn and administers child care vouchers.

These operations could be streamlined, and service delivery improved for families, if all public child care operations were consolidated under one office. Moving child care vouchers entirely out of the Administration for Children's Services will also provide the benefits of sharpening the agency's focus on protective services and improving oversight of subsidized child care quality.

The City Charter should be changed to create an Office of Child Care, a new office to oversee subsidized child care housed at the Department of Education. As part of doing so, provisions of the Charter that require the Administration for Children's Services to provide child care services should be removed, which will also help to better align that agency's focus on preventive and protective services.



Eliminating the Commission on Public Information and Communication

Section 1061 and 1062 of the Charter create the Commission on Public Information and Communication (COPIC) composed of representatives selected by the Public Advocate, the Corporation Counsel, certain City agencies, the president of WNYC, and a member of the City Council. Created in the 1989 Charter Review process, COPIC has a number of functions including educating the public about City-produced information, reviewing how the City provides information to the public, facilitating public access to City agencies, and making recommendations to improve City technology and data policies. In addition, COPIC is supposed to issue annual reports on data that City agencies possess that is publicly available and advise the City on how to improve public access to information.

However, COPIC rarely meets and has not been active in recent years. In fact, according to its twitter page, the Commission has not convened since March 2016 and has met on fewer than 10 occasions during its almost 30-year history.⁶⁹

Even if it had been active, however, the reality is that changes in the last thirty years have made COPIC obsolete. For instance, Local Law 11 of 2012, the City's open data law, requires City data to be published on a single website, and subsequent amendments to the law have required data to be kept up-to-date and for the City to publish data dictionaries for all data sets.⁷⁰ The Mayor's Office of Data Analytics, an office which did not exist in 1989, now publishes an annual report on the City's work to implement the open data law.⁷¹ Similarly, Local Law 103 of 2013 requires all public meetings to be webcast and archived on the agency website, improving public access to government meetings.⁷²

Consequently, based on its lack of activity and the reforms enacted since 1989, COPIC should be eliminated. To be sure, eliminating COPIC should not be taken as an excuse for the City to reduce public access to information. However, with all the changes that have been made, a separate commission like COPIC is outdated.

30

The City Charter should be amended to eliminate the Commission on Public Information and Communication.

Improving the Comptroller's Office Operations

In carrying out its official duties and functions, the Office of the Comptroller has identified a number of inconsistencies within our City's government that should be addressed as part of a comprehensive review of the City Charter. In some cases, these reforms are little more than technical clarifications to address inconsistencies in City and State law. In others, however, these proposals would either add to or subtract from the Comptroller's existing authority to improve the operations of City government and result in better outcomes for taxpayers.

Clarify the Comptroller's Electronic Fund Transfer Authority

In recent years, the City has moved from paying its vendors with paper checks to encouraging the use of electronic funds transfers. Doing so allows the City to make payments to vendors more quickly and guards against risks that checks are lost in the mail. This has allowed the City to modernize its operations, but the Charter has not kept up with these changes.

Currently, vendors doing business with the City are able to enroll and view the status of payments through the NYC Payee Information Portal, which is overseen by the Comptroller's Office. But to receive electronic payments, vendors must submit required documentation to the Department of Finance, after enrolling as a vendor with our Office. This creates additional work for vendors, making interaction with the City a frustrating process.

To improve this process, the power to approve electronic funds for vendors should be housed exclusively in the Comptroller's office. Doing so would make the Comptroller's Office the "one-stop-shop" for these vendors, making it easier to do business with the City.

31

The City Charter should be revised to provide the Comptroller's Office with the responsibility for approving vendors to receive electronic funds transfers.

Remove Uncertainty in the Selection of an Outside Auditor

The City Charter requires the City’s accounts to be audited annually by an outside auditor. However, the Charter’s mandate and the City’s procurement rules create an inconsistent structure in selecting that outside auditor.

Specifically, section 97 of the Charter creates an Audit Committee of officials who are required to “select a firm or firms of certified public accountants to perform the annual audit of the city’s accounts.” At the same time, the City’s Procurement Policy Board Rules require the creation of a separate Evaluation Committee, composed of individuals knowledgeable about the City’s finances, to review bid proposals and select an outside auditor.

In order to maintain a fair and competitive process that leads to the selection of the most experienced and qualified firm to do the job, there must be a clear distinction between the role of the Audit Committee and the Evaluation Committee. As a consequence, the Charter should be revised to clarify that the Audit Committee advises on the selection of the outside auditor. This change would ensure that the duties of each are well-defined without contradicting one another. When the Audit Committee selects an outside auditor different from the Evaluation Committee, this presents a challenge for the stakeholders of the audit as the City could end up working with a firm that may not be up to par whether in performance, organizational capacity or technical requirements.

32

The City Charter should be revised to indicate that the Audit Committee may advise on the selection of the firm or firms of certified public accountants to perform the annual audit of the City’s accounts. This will ensure that the individuals involved in the audit, and part of the bid proposal review and interview process governed by Citywide procurement rules, will be the only ones charged with the responsibility of selecting the City’s independent auditors.

Ensure Proper Oversight in the Creation of Component Units

The Comptroller’s Office is responsible for overseeing the City’s finances. In order to do so, it is critical that the Office provide accurate information to the public, including bondholders and other stakeholders who rely on a complete picture of the City’s finances when making decisions. However, gaps exist in the process by which the Comptroller’s

Office is informed about all entities that may be legally separate from the City, but create a financial benefit to the City and should thus be part of the City's financial statements. Without knowledge of these entities, it is difficult for the Comptroller to produce complete financial statements for the public.

Specifically, entities that are part of the City's financial reporting entity are known as Component Units. These organizations are part of the City's financial statements and in whole or in part rely on the City's resources, or City officials make up a majority of its governing body.

However, the Comptroller is not required to approve their creation, nor is the Comptroller's Bureau of Accountancy formally notified when they are established. The risk of missing or not including an entity that meets the requirement to be part of the City's reporting entity could be addressed if the Charter required that the Comptroller's Office approve the creation of an entity affiliated with the City that may have an impact on the City's audited financial statement.

33

The City Charter should be amended to require the Comptroller to approve the creation of any entity affiliated with the City of New York that could impact the City's audited financial statement prior to that entity being created.



Clarify the Comptroller's Duties by Eliminating References to the Board of Estimate

If good government is to mean anything, a municipality's governing laws on the books—available to all to review—should be readily accessible and reflect operative rules. The laws should *not* include decades-old arcana. Yet, almost 30 years after the Board of Estimate was found unconstitutional, the City Charter is still riddled with references to the Board of Estimate. That the Board of Estimate is still referenced in the Charter has created a lack of clarity as to the specific powers and duties of the Comptroller. The Charter should be revised in the following ways to address these weaknesses.

34

The City Charter should be amended to provide the Comptroller with the authority to cancel not-for-profit corporations' overdue real property taxes. Currently, the Comptroller's authority to do so is not spelled out in the Charter, but rather is the result of that power devolving from the power granted to the Board of Estimate. As a result, there is ambiguity regarding whether the Comptroller's Office or the Department of Finance has the authority to cancel such back taxes for non-profit corporations. In practice, the Department of Finance reviews requests to cancel tax assessments for the current tax year and previous tax year while the Comptroller reviews requests to cancel taxes assessed before the previous tax year. The Charter should formalize and clarify this practice.

35

The City Charter should be amended to clarify that the Comptroller's Office has the authority to settle illegal but equitable claims. On occasion, a vendor will perform work for the City when no contract for that service has been registered. If that vendor files a claim against the City for payment on the performance of their work not covered by a registered contract, the City could contend that the claim was invalid as a result of there not being a legal agreement between the City and the vendor. However, as a practice, the Comptroller's Office will settle such claims when there is no doubt that the City received the benefit of the work performed by the vendor. This power has devolved to the Comptroller from the Board of Estimate, but is not explicitly granted in the Charter. Amending the Charter to provide the Comptroller's Office with this explicit duty would add clarity.

Clarify the Comptroller's Prevailing Wage Enforcement Responsibilities

Currently, there is a significant discrepancy between state and local law in regard to the Comptroller's duties to audit and investigate City contractors and City financial assistance recipients for prevailing wage and living wage violations. While State law provides the Comptroller with this authority in the context of its prevailing wage law, a 2004 court decision stripped the authority from the Comptroller to audit, investigate, and take action against contractors for prevailing wage violations under City law. Addressing this discrepancy would ensure that the Comptroller's Office could effectively enforce local prevailing and living wage laws that are vital to the protection of working New Yorkers.

36

The City Charter should be amended to clarify that the Comptroller's Office has the power to audit and investigate City contractors and recipients of City financial assistance for prevailing and living wage violations under local law.

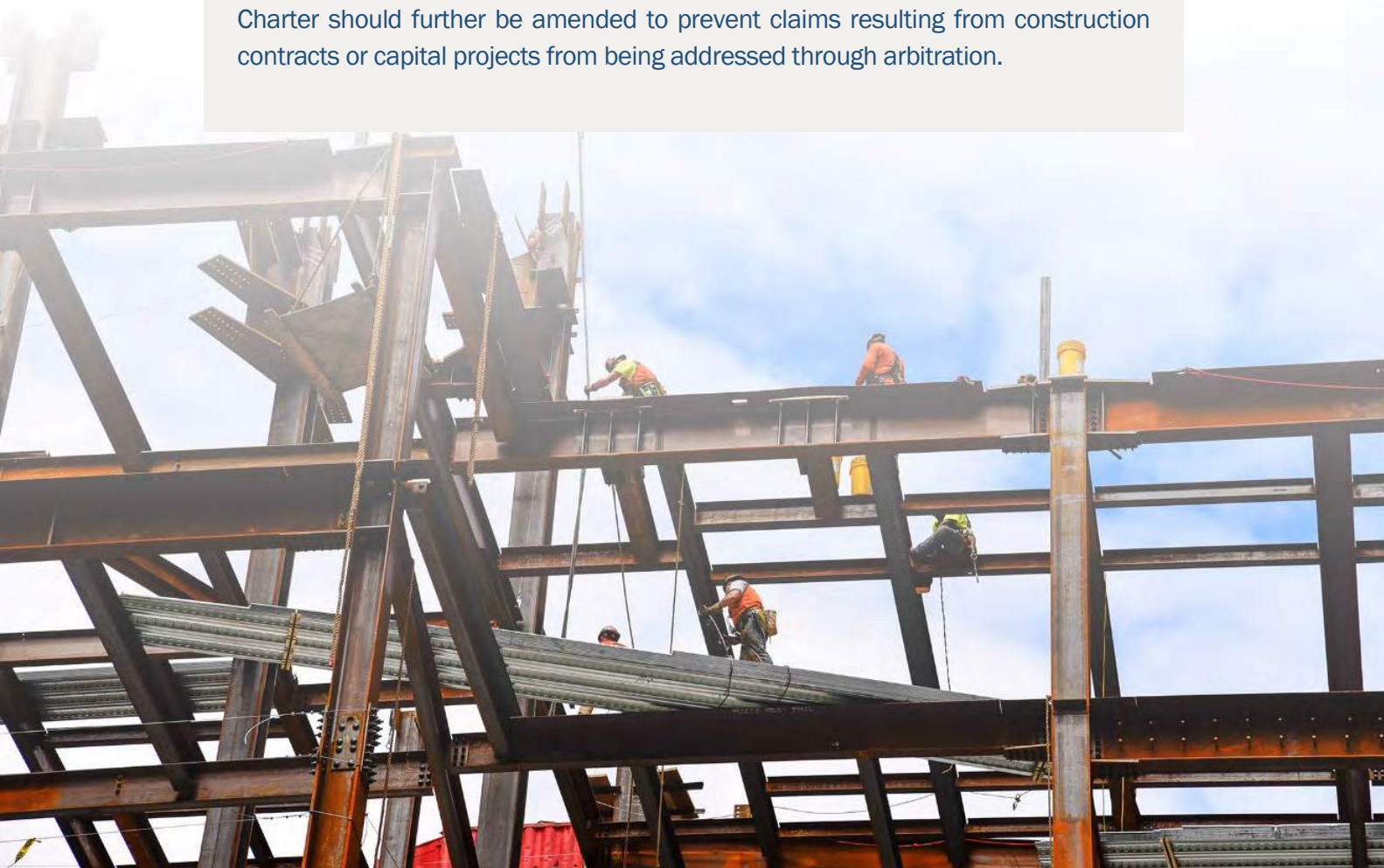


Fix Inconsistencies in the Consideration of Claims Arising from Capital Construction Projects

The City Charter currently provides the Comptroller's Office with the authority to settle and adjust claims against the City. This power includes claims filed as a result of disputes during contracts, including construction projects that are governed by the dispute resolution provisions in the Procurement Policy Board Rules. However, the Charter also permits the City to include provisions in contracts for capital construction projects authorizing the Comptroller's Office to submit disputes arising under such contracts to be settled through arbitration. This is inconsistent with both the City's Procurement Policy Board rules that provide for a specific dispute resolution process that does not include outside arbitration and the Comptroller's general authority to settle and adjust contract dispute claims. Addressing this inconsistency would clarify the Comptroller's authority and ensure alignment in government operations.

37

The City Charter should be amended to clarify that the Comptroller's authority to settle and adjust claims extends to claims filed as a result of contract disputes. The Charter should further be amended to prevent claims resulting from construction contracts or capital projects from being addressed through arbitration.



Require Money Borrowed to Finance Housing Development to be Used for Housing Development

A basic principle enshrined in the City Charter is that debt should not be used to finance the operating expenses of local government. However, in contravention of this principle, the City can and does borrow money, lends it for housing, secures the loan with a mortgage, sells the mortgage to a City-controlled entity (that in turn sells bonds to buy the loan), and then uses the sales proceeds for operating expenses. These transactions convert capital borrowing for housing into expense budget funding, and leaves two sets of taxable bonds outstanding for the same assets. While this appears legal under existing law, it is a poor use of City resources and a missed opportunity to increase funding for affordable housing, without further increasing the City's debt burden.

38

The City Charter should be amended to stipulate that proceeds from the sale of assets that were created or acquired with debt of the City (or of a City-controlled authority or local development corporation) be applied either to reduce the principal outstanding of such debt or to fund other City capital projects of comparable useful life.



Remove the Charter's Reference to Debarred Contractors

The City Charter should be updated to the remove language referring to the City's debarment of contractors. In 2001, the New York City Council repealed the City's power to debar contractors, yet the language which the City used to exercise this power still exists in the Charter. To ensure that the Charter is accurate and reflects the current state of the law, the language should be removed or replaced with language that refers solely to debarment actions taken by applicable New York State and federal agencies.

39

The City Charter should be amended to reflect that the City no longer has the authority to debar contractors.

Clarify and Improve the Authority of the Comptroller's Bureau of Contract Administration

A number of technical reforms to the City Charter would improve and clarify the authority of the Comptroller's Bureau of Contract Administration. First, the City Charter should be amended to include the definition of "registration," as currently codified in the Procurement Policy Board Rules. Doing so would provide clarity that the Charter is currently lacking. In addition, the City Charter should be amended to add the authority to issue accounting directives related to capital and expense encumbrance requests so that there is a standard set of rules for City agencies to follow when encumbering funds. Finally, as a condition to receiving City capital or expense funds, the City Charter should be amended to require non-mayoral entities to post their own procurement rules in a conspicuous location on their own websites. Doing so would ensure that the Comptroller's Office could understand the process by which City funds are expended.

40

The City Charter should be amended to clarify the authority of the Comptroller's Bureau of Contract Administration by defining the term registration, giving the Comptroller the authority to issue accounting directives around encumbrance requests, and requiring non-mayoral agencies to publicly disclose their procurement rules.

Require the Inclusion of Certificates to Proceed for Capital Projects in Agency's Registration Submission Package

The City Charter should be amended to codify the existing practice that City agencies present Certificates to Proceed for capital projects issued by the Office of Management and Budget at the time of registration. In addition to codifying existing practice, this change will help make sure the Comptroller can effectively carry out its responsibility to ensure that there is an appropriation of funds sufficient to pay a contract before registering.

41

The City Charter should be amended to require that City agencies provide Certificates to Proceed as part of their contract registration submission to the Comptroller.



An aerial photograph of Central Park in New York City, with the dense urban skyline of Manhattan in the background. The park's lush green trees and a winding path are visible in the foreground, while the city's skyscrapers, including the Freedom Tower, rise against a blue sky with scattered clouds. The text "DEMANDING ACCOUNTABILITY & TRANSPARENCY" is overlaid in large, white, bold, sans-serif capital letters. A small red horizontal line is positioned below the text, centered over the park area.

DEMANDING ACCOUNTABILITY & TRANSPARENCY

Reforming the Mayor's Management Report

One of the ways New York City government agencies disclose information about their operations, performance, and funding is through the Mayor's Management Report (MMR) and Preliminary Mayor's Management Report (PMMR). These reports, which are mandated by Section 12 of the City Charter, are required to be submitted by the Mayor to the Council and made publicly available by January 30th of each year for the PMMR and September 17th each year for the MMR. The Charter provides general guidelines as to the information that is to be included in these reports. Both reports are required to include program performance goals and metrics and an appendix detailing the relationship between program metrics and funding allocations. The full MMR includes additional details including a summary of agency rulemaking and procurement actions taken during the previous year. In addition, the City Council is required to hold a hearing on the PMMR by April 8th.

These reports ostensibly play an important role in the operations of City government by providing multiple constituencies with valuable information. For the public, the reports should be a source of comprehensive data about agency performance. For agency heads, the metrics in the report should show where the agency has been successful or fallen short of key goals and inform future policy and funding decisions. For the Mayor, the data in the report should identify areas of management strength and weakness, and for the City Council, the information should inform budgeting and oversight.

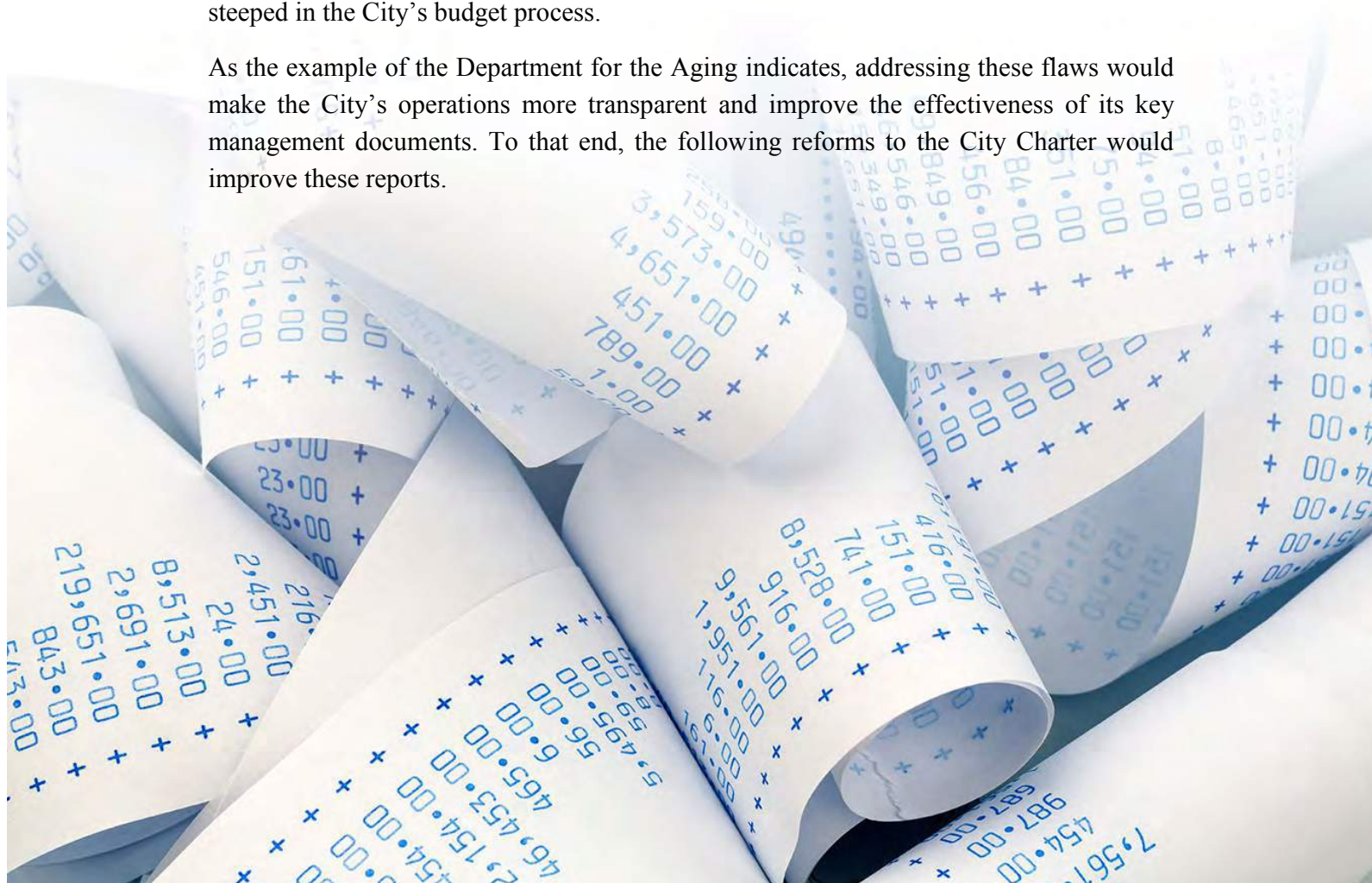
However, despite their potential significance, the effectiveness of the MMR and PMMR are limited. This is the case because they are not sufficiently aligned with the budget structure, and the performance metrics included in the report are not always the most useful for truly understanding program effectiveness. The Department for the Aging, the City's lead agency serving older New Yorkers, provides an instructive example of these shortfalls.

Currently, the MMR and PMMR section on the Department for the Aging includes 11 performance metrics that shed light on some of the agency's major activities including the number of meals served to seniors, overall senior center utilization rates, and the number of clients served by caregiver, case management, and homecare programs. However, in some cases these metrics provide relatively little useful information about the effectiveness of the given programs. For instance, case management is a program that provides services for seniors to ensure they can continue to live independently. In its current version, the

MMR and PMMR include only the number of case management hours provided and the number of clients receiving services, which, while interesting data points, do not explain whether the agency is providing these services effectively. The MMR and PMMR would provide more meaningful insight into the case management program if it included additional metrics like the ratio of caseworkers to clients, the amount of time clients had to wait to receive services, or the number of clients who requested but did not receive services in the fiscal year.

Similarly, the details about agency spending included in the MMR and PMMR are too vague to be meaningful. Currently, in disclosing budget information about Department for the Aging programs, the MMR and PMMR lump all of the agency's programs together in a single broad "unit of appropriation" titled "community programs." Units of Appropriation are the way that the City classifies programmatic spending, split between spending on the personnel required to operate the program and on non-personnel costs necessary to carry out the program. In theory, each unit of appropriation reflects a single program, but in practice this is not the case. As a result, it is impossible to determine from the MMR or PMMR how much money the City is spending on any of these given programs or how that funding relates to agency performance. While City budget documents do include specific funding amounts for these programs, determining those amounts requires wading through a 4,000-page document that is largely inaccessible to those not already steeped in the City's budget process.

As the example of the Department for the Aging indicates, addressing these flaws would make the City's operations more transparent and improve the effectiveness of its key management documents. To that end, the following reforms to the City Charter would improve these reports.



The background of the first section is a photograph of a city park. In the foreground, there are trees with yellow and orange autumn leaves. In the background, a tall, modern glass skyscraper is visible against a bright sky.

42

The City Charter should be revised to require that each year, concurrent with the publication of the PMMR, the Mayor's Office of Operations also submit a list of all indicators that it proposes be included in the MMR for the upcoming fiscal year to a new entity called the Performance Management Advisory Committee (PMAC) and post that list on its website. The PMAC would consist of representatives from the Mayor's Office of Management and Budget, the City Council, the Public Advocate, and the Comptroller. Within 30 days, the PMAC would hold a public hearing, and based on that hearing and its own expertise, recommend changes to the proposed indicators to the Council. The Council would be authorized to approve or reject any proposed PMAC submitted indicator within 30 days.

The background of the second section is a photograph of a park. It shows a large, leafy tree in the foreground and a fountain with multiple water jets in the background. The scene is brightly lit, suggesting a sunny day.

43

The City Charter should be reformed to require that each indicator included in the PMMR and MMR include the relevant expense budget Unit(s) of Appropriation most likely to influence the indicator. Currently, the Charter requires that the management reports include an appendix detailing the relationship between the performance goals and corresponding expenditures, but the management reports would be more effective if the relevant Unit(s) of Appropriation were included with each indicator.

The background of the third section is a photograph of a fountain in a park. The fountain has several tiers and multiple jets of water spraying upwards. In the background, there are trees and a building.

44

The City Charter should be modified to require the PMMR to be issued concurrently with the Preliminary Budget. Currently, the City Charter requires the Mayor to release the Preliminary Budget by no later than January 16th and the PMMR by no later than January 30th. Aligning these dates would make it easier to conduct more rigorous evaluations of spending levels and program results, encouraging more informed spending decisions.

Improving the Budget to Make Better Resource Decisions

The City's budget and the accompanying financial plans are tools for maintaining sustainable spending and revenues, and ensuring accountability over the use of the public's money. But the decisions that are made each year about the allocation of budgetary resources are also an expression of the City's values and priorities. The process of adopting and amending the City budget should therefore be an occasion for a robust and informed debate about how resources are raised and allocated to accomplish the City's objectives.

Unfortunately, the possibility of such a debate is hampered by an annual budget presentation that lacks critical information needed to evaluate the Mayor's budget proposals. It limits public participation and the Council's ability to carry out its Charter role in the budget process. The budget process can and should be improved to make budget decisions more open to informed participation by elected officials and the public. The following proposals are intended to provide more transparency in the budget process, without unduly constraining City agencies' ability to manage the budget once adopted.

Improve the Capital Budget

New York City owns and operates a vast public infrastructure, including over 1,300 schools, nearly 800 bridges, tunnels and related structures; 6,000 miles of roadway; 19 reservoirs; 14 wastewater treatment plants and 6,500 miles of water mains; over 1,900 parks covering more than 29,000 acres; hundreds of buildings such as police precinct houses, fire stations, senior centers, branch libraries, and hospitals; and thousands of vehicles such as garbage trucks, fire trucks and ambulances. This infrastructure is critical to the future growth and dynamism of the economy and makes the City a desirable place to live, work, and do business.

However, these capital assets – with a replacement cost estimated at \$134 billion – are in many cases over a century old, and are in continual need of maintenance, repair, and replacement.⁷³ At the same time, as the city changes and grows, new infrastructure needs arise. These issues are addressed through the City's capital budget. Each year, the City's spends between \$8 and \$10 billion in its capital budget to build new housing and schools, pave streets, and buy equipment.

Yet, shockingly, there is almost no information in the existing capital budget that would inform the public whether that money is being spent responsibly, efficiently, or effectively.

For instance, the capital budget does not state how much it would cost to keep our infrastructure in a state of good repair. Nor does it provide a dollar figure of how much it costs to pave a street, buy a fire truck, or build a school, let alone whether capital projects are being completed on-time and on-budget.

Take, for example, the City's vast network of parks that together make up almost 15 percent of New York City's land. The City's park system is a vital resource for all New Yorkers, providing a reprieve from the concrete and steel jungles that otherwise dominate the city's landscape. But many of our parks are old and in need of repair, averaging about 73 years old and many without a major renovation in 20 years. And yet, because of deficiencies in the capital budget, the Parks Department does not know the total amount of money needed to improve the infrastructure at each individual park or across the entire system.⁷⁴ According to a recent audit from the Comptroller's Office that reviewed 69 Parks Department capital projects, 40 percent were not completed on-time, resulting in almost \$5 million in extra cost, or 35 percent more than was originally budgeted.⁷⁵

Ensuring that the City's infrastructure is equipped to meet the needs of a rapidly changing city is of paramount importance. But, it is painfully clear that the current process is leaving us behind. With outstanding capital debt of \$86 billion, equal to about \$10,000 for every person in New York City, improving the capital budget is critical not only for strengthening the City's built environment but also for the City's fiscal future. The reforms discussed in more detail below will help to improve the capital budget to bring greater accountability and transparency into this critical area of City spending.

The Budget Should Allow the Public to Identify and Understand the Cost of Individual Capital Projects

Although the Charter talks about the capital budget in terms of "projects," in practice, capital budget lines – the equivalent of expense budget units of appropriation – often encompass multiple distinct projects, identified by a "project ID." For example, the Department of Transportation announced in 2017 a major project to rehabilitate the Brooklyn-Queens Expressway between Atlantic and Sands Avenues – including the so-called "triple cantilever" bridge – at an estimated cost of over \$1.9 billion. This major project, however, was initially not its own budget line for appropriation in the capital budget, but was rather just one project ID among more than five dozen in a single DOT capital budget line, "Improvements to Highway Bridges and Structures, Citywide."⁷⁶ Conversely, individual projects are sometimes funded from multiple budget lines, particularly when the funding includes allocations made by City Council members or Borough Presidents, or sometimes for different project phases, such as design and construction, making it difficult to account for total project spending. Major projects

warrant a separate budget line both for purposes of appropriation and for tracking of schedule and cost (discussed further below).

45

The City Charter should be amended to clarify that capital budget lines should correspond to a single capital project.



The Capital Budget Should Include Information about the State of Capital Assets

The City's capital budget does not include any non-financial information, meaning that important information on the condition of capital assets, such as an evaluation of their state of good repair, or the average age of assets relative to their useful lives are not reported, either in the broad capital budget categories known as Project Types, or at the budget line level. Although major capital program areas are classified in one of three "lifecycle categories" in the Ten-Year Capital Strategy – State of Good Repair, Programmatic Replacement, or Program Expansion – these categories are not carried down to the project type or budget line level where they would provide information that could help guide capital budget prioritization or measurement of the impact of capital spending.

46

The City Charter should require that each capital project be identified in the capital budget and capital commitment plan according to its lifecycle category. The capital budget and capital commitment plans should include evaluations of the condition of capital assets at the project type and, where appropriate, budget line levels. These should include measures of state of good repair, average asset age and expected remaining useful life, capacity, and similar measures. In addition, it should include cost measures, such as the number of lane-miles to be repaved or reconstructed, square footage of building construction or renovation, vehicle acquisition costs, and the like, none of which are currently reported in the capital budget.

Provide Full Reporting on Capital Project Status and Cost

Remarkably, there is currently no public reporting of the actual costs of capital projects, nor any useful information on the schedule of a project. The absence of this critical information decreases the usefulness of the capital budget.

47

The City Charter should require the capital budget and capital commitment plans to include reporting on budgeted (both original and modified) and actual costs, and the original and modified schedule for completion, by phase, for each capital project.

Improve the Information Available about the City's Capital Assets

The City's Asset Inventory Management System (AIMS) is intended to provide annual information on the investment necessary to maintain all "major portions" of the City's capital plant in a state of good repair, including condition assessments, maintenance schedules, recommendations, and necessary capital and expense budget funding. However, information in the system is limited. Specifically, only those capital assets having a replacement cost of at least \$10 million and a useful life of at least 10 years are included in the inventory and condition assessment. In addition, some important assets that otherwise meet those criteria are not included in AIMS for a variety of historical reasons – such as the East River Bridges, and the water and sewer system – while other important assets may be excluded because they fall below the threshold, including many buildings such as branch libraries, senior centers, fire houses, and EMS stations.

In addition, it is impossible to relate the recommendations in the annual AIMS report to proposed capital or expense budget expenditures. The report provides an estimate of funding required for state of good repair, as well as an "agency reconciliation" of "recently performed and planned activities." However, there is no link back to the capital budget at the budget line level, and no way to determine from the capital budget which budget lines are for state of good repair activities.

48

The City Charter should require that the AIMS report provide a more comprehensive assessment of the condition of the City's capital plan. In addition, the scope of what is covered in AIMS should be expanded to include more assets, by lowering the threshold to \$5 million and a 5-year useful life. Finally, the AIMS report should be organized by, or at a minimum identify, the capital budget line for each covered asset.

Increase Transparency, Accountability, and Control in the Expense Budget

The appropriation unit is the level at which the City Council appropriates funds in each agency budget. Every agency must have at least two units of appropriation: one for personal services – including the salaries, wages and benefits of city employees – and another for everything else, including contractual services, supplies, equipment, and other non-labor expenses.

The Charter requires that each unit of appropriation in the budget “represent the amount requested for a particular program, purpose, activity, or institution.” Budget participants and observers have long noted that current units of appropriation are often unduly broad and effectively contain more than one program. In addition, service level and performance data are not meaningfully linked to spending, even when they are available. This limits the public’s ability to evaluate the impact of spending and the Council’s ability to allocate funds effectively within the budget.

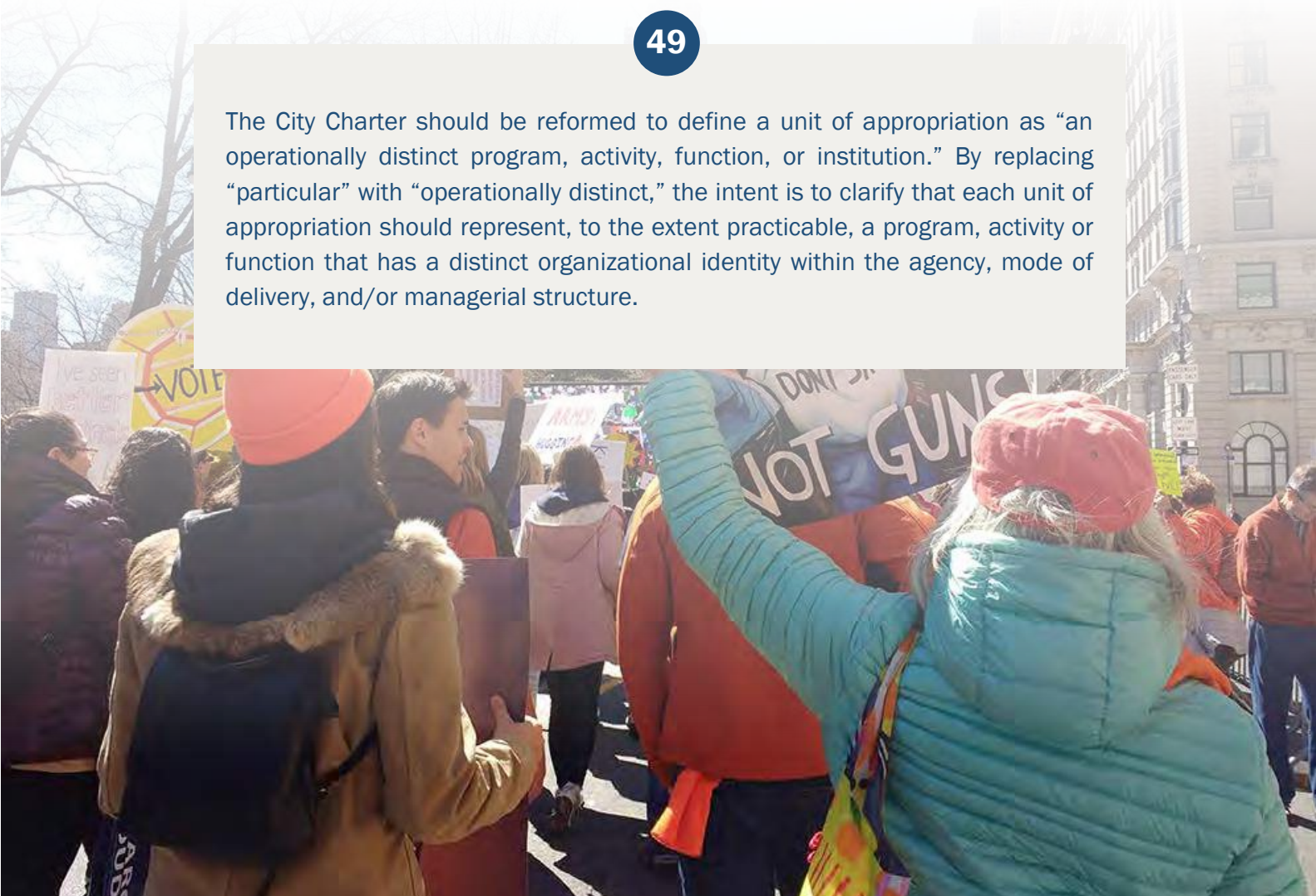
The following revisions to the Charter would better align the expense budget units of appropriation with program objectives, and also provide meaningful non-financial data, without hampering budget administration.

Change the Definition of a Unit of Appropriation to Correspond More Closely to Programs

Defining what constitutes a “particular program, purpose, etc.” has proven elusive, suggesting that the phrase itself needs reform. The Charter should therefore define unit of appropriation differently.

49

The City Charter should be reformed to define a unit of appropriation as “an operationally distinct program, activity, function, or institution.” By replacing “particular” with “operationally distinct,” the intent is to clarify that each unit of appropriation should represent, to the extent practicable, a program, activity or function that has a distinct organizational identity within the agency, mode of delivery, and/or managerial structure.



The Preliminary and Executive Expense Budgets Should Present Relevant Performance Information alongside the Financial Data for each Unit of Appropriation

Although the performance measures in the Mayor's Management Report (MMR) are nominally linked to units of appropriation, the linkage is often so broad as to be meaningless and requires a great deal of effort to research, since performance measures and budget information are presented separately. For instance, the Department of Correction reports 34 different performance measures in the MMR, in 3 different Service Areas and 8 Goals. The Department's budget, however, is structured into 4 units of appropriation – 2 for Administration (PS and OTPS), and 2 for Operations (PS and OTPS) of which the Operations PS unit of appropriation accounts by itself for 78.5% of FY 2017 spending. However, the MMR assigns all 34 indicators as applicable to all four units of appropriation.

It is increasingly common for state and local governments to present service level and performance information alongside budgetary information when the annual budget is prepared and presented.⁷⁷ New York City's budget process should do so as well.

50

The City Charter should require the preliminary and expense budgets to include performance data linked to each unit of appropriation.

Eliminate the Requirement for Separate Personal Services (PS) and Other than Personal Services (OTPS) Units of Appropriation

The current requirement that each unit of appropriation be for either PS or OTPS artificially divides programmatic spending. Costs for the same program are split between two units of appropriation, which makes evaluating the total cost – and cost-effectiveness – of a program difficult. Instead of dividing units of appropriation in this way, each unit of appropriation should include the full expenditure amount for a program, with PS and OTPS expenditures detailed separately within each unit of appropriation in the Departmental Estimates and Supporting Schedules, as is current practice.

51

The City Charter should require that units of appropriation include total spending, both Personal Services and Other than Personal Services, for each program.

In the First Preliminary Budget after Charter Revision, the Mayor and Council should Jointly Determine the Units of Appropriation to be Included in each Major Agency

Although the Charter gives the City Council the right to “increase, decrease, add or omit” any unit of appropriation, it is difficult to modify these units once they have been set. To avoid a situation where the executive branch unilaterally dictates the units of appropriation, the Council and the Mayor should together determine the units of appropriation to be included, prior to the first Preliminary budget after Charter revision.

52

The City Charter should require that the Mayor and Council jointly determine the units of appropriation included in the budget for key City agencies.

An Inclusive Budget Process throughout the Year

Responsible budgeting is a year-round exercise. After the budget for the year is adopted each June, the Mayor is obliged to update the budget estimates for the year (and the ensuing years of the financial plan) on a quarterly basis. These updates are necessary to reflect changing circumstances, more refined spending and revenue estimates based on experience during the year, new needs, and other factors. Just as with initial budget allocations, decisions on reallocations or reductions during the course of the fiscal year should reflect an open decision-making process, with opportunity for full participation by the public and the City Council.

Currently, this is often not the case. While the City Council has the power to approve or disapprove mid-year budget changes, when the Office of Management and Budget (OMB) submits a budget modification according to the process outlined in the Charter, in practice this does not always happen.⁷⁸ In years past, OMB has often waited until late in the fiscal year before submitting a modification, allowing months to pass before seeking the Council’s approval. This, in effect, deprives the Council of the opportunity to play the role in the budget process envisioned for it in the Charter, which has particularly been the case when OMB seeks mid-year spending reductions but attempts to avoid Council opposition or input. The following reform would give the Council and the public a greater say in budget decisions throughout the year.

Require that any Financial Plan Changes be Accompanied by a Budget Modification Submitted to the Council within 30 days

The quarterly financial plan often contains significant changes to current year City-funds spending and revenues, sometimes including agency budget cuts or other reallocations of funds that are not simply technical in nature. The Office of Management and Budget has waited until later in the fiscal year to seek the Council's approval for these changes, so that there is a significant period of time between submission of the financial plan and submission of a modification for Council action. This in effect limits the Council's participation in budgetary decision making as envisioned in the City Charter.

53

The City Charter should require that a budget modification reflecting financial plan changes be submitted to the Council within 30 days of submission of the financial plan. Doing so will provide the public and the City Council opportunity to review and approve (or disapprove) actions taken in response to changing fiscal circumstances.



Reforming the Procurement Process

Each year, New York City buys over \$25 billion worth of goods, services, and construction, making the City one of the largest procurement jurisdictions in the world. These procurements include supplies that are necessary for public safety such as fire trucks and rescue boats, social services such as after-school programs and senior centers, and the construction and infrastructure projects that make up the City's built environment. Despite the critical role procurement plays in keeping New York City running, our procurement process can be notoriously slow, bureaucratic, and opaque.

The pitfalls of the City's current procurement process may not be apparent to most New Yorkers, but the effects on their everyday lives can be profound. The continuity of crucial social services such as home care for older adults and homeless shelters for families in need is threatened each time a contract is stalled. Schools rely on contracts to provide lunches and school bus services for the City's students every day. The treatments that make tap water safe to drink, the salt that keeps roads safe during snowstorms, and the trucks that collect residential waste are all acquired via contracts. While City residents may only occasionally notice the consequences of major procurement shortcomings, City agencies and vendors constantly wrestle with a process that at best sacrifices speed for diligence and at worst fails to deliver the products and services it was established to obtain.

Outlined below are a number of proposals that would bring the City's procurement process up to date so that it can better meet the City's needs, demystify City contracting for residents and vendors, and maintain the requisite controls to ensure that the City is contracting with entities that possess the business integrity and capacity to justify the expenditure of taxpayer dollars. Overall, the proposals are intended to improve the current procurement system by increasing speed and efficiency, improving transparency, and ensuring accountability.

Create a Standard Procurement Timeframe

The slow pace of New York City procurement, specifically delayed contract awards, can cause construction projects to stall, leave non-profits without payment for services rendered, and ultimately drive up City costs as projects run over their contracted end dates. Yet, despite these concerns, the Comptroller's Office is the only agency in the City's procurement process that carries out its duties within a specified timeframe – namely, an explicit 30-day timeline for contract registration. All other oversight agencies involved in the process perform their tasks without mandated review periods.

Assigning each relevant City agency with a specific timeframe would help prevent the delay of required steps within the procurement process. The parties responsible for various stages of the oversight process include the Mayor's Office of Contract Services, the Corporation Counsel, the Department of Investigation, the Office of Management and Budget, and the Division of Labor Services within the Department of Small Business Services. These agencies perform a range of tasks from the relatively simple, such as calendaring of public hearings, to the more complex, such as conducting research that enables procuring agencies to determine the integrity, financial strength, and capacity of vendors.

In the interest of promoting efficiency, transparency, and cost savings, explicit timeframes should be implemented for all oversight agencies. The City Charter already authorizes the Procurement Policy Board (PPB) to create "time schedules which city officials shall be required to take the actions required..." but the language should be enhanced so that each agency with an oversight role in the procurement process has an explicit timeframe in which to complete its task, similar to the explicit 30-day timeline for contract registration required for the Comptroller's Office.

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The City Charter should be amended to give each agency with an oversight role in the procurement process an explicit timeframe to complete its task, as is already required of the Comptroller's Office for contract registration.

Take Concrete Steps toward Transparency

The City's procurement process needs to be reformed with an eye toward increasing transparency. There are many meaningful steps that could be taken that would allow City vendors as well as the general public to gain easy access to contracting information. One such step would be increasing public access to contract information. While the City makes open solicitation documents readily accessible through *The City Record* as required by the Procurement Policy Board, it does not go as far as other cities like Chicago, where vendor proposals in response to contract solicitations are publicly posted. The City of Chicago facilitates this easily by requiring vendors to submit two versions of their responses: one original and one containing redactions of proprietary information for publication. Adopting this model in New York would allow City residents to quickly access information about

how their tax dollars are being spent, and would help vendors to better understand the City's procurement needs.

Another more sweeping step would be for the City to create a transparent contract tracking system, allowing vendors to view the status of their contracts as they move through the various stages of review. Currently, with the exception of the Comptroller's transparency website, Checkbook NYC, that only makes data available when the agency submits contracts for registration, there is no consistent way for vendors to know what stage of review their contracts are in and how long that review might take. Vendors often complain of a "black hole" that occurs after signing a contract with an agency, when many months may go by without clear information about what is happening with their contract. It would be enormously helpful to vendors if they could go online and find out if their contract is under review at the Mayor's Office of Contract Services, the Law Department, or the Office of Management and Budget. If timeframes were implemented in conjunction with a tracking system – allowing vendors to learn which agency was reviewing their contract *and* how long the review would take – vendors would be better able to plan for future projects, manage their cash flow, and would likely achieve greater organizational stability.

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The City Charter should require the City to publish contract documents such as the scope of work to provide an extensive look at how taxpayer dollars are being spent, as well as create a public facing tracking system to bring additional transparency to the contracting process.

Ensure Meaningful Oversight

Before any City agency can enter into a contract, the City's existing procurement process requires that procurement decisions be reviewed by a number of parties outside the agency. However, only one of those layers of oversight, the Comptroller's registration process, takes place outside of the Mayor's purview. In registering a contract, the Comptroller's Office reviews the contract documents to make sure there are sufficient funds available to fulfill the contract, that the appropriate procedures were followed, that the contractor is in good standing, and that there was no corruption in the letting of the contract or with the

contractor itself. This review, while vital to protect taxpayers, takes place only after a City agency has executed a contract with a vendor, but before payments are made.

The Comptroller's review is constrained by a number of factors. Addressing these weakness in the procurement process through the reforms discussed below will better protect City residents, guard against corruption or abuse, and result in improved outcomes for all New Yorkers. These reforms not only ensure meaningful oversight, but also outline a process protected through a true system of checks and balances.

Identify Potential Problems Earlier in the Process

While the City Comptroller's contract registration function may have been designed to ensure that independent oversight takes place before a contract is legally implemented, in actuality, the Comptroller's review process occurs only after an agency has made a procurement decision. A more efficient and effective system would encourage City agencies to engage the Comptroller's Office earlier in the process to identify potential weaknesses and address any problems more proactively.

Importantly, this type of process has worked effectively at the State level. Specifically, New York State's contract registration process provides the State Comptroller with what is known at the State level as "pre-audit" authority to review a contract before it has been "approved." In contrast to the current process used by the City Comptroller, this "pre-audit" authority refers to the review of a contract package for registration purposes prior to execution by the applicable agency and vendor. This review focuses on the process used to enter into the agreement as well as the terms and conditions of the contract to ensure they are in the City's best interest. However, this review is not intended to slow the process down nor is it intended to usurp the business making decisions of the contracting agency. According to a 2014 report issued by the State Comptroller, this pre-audit authority is important because "uncovering problems after the fact is simply too late to have the most meaningful impact; at that point, taxpayer money has been spent, projects may have advanced and recovery is made difficult, and important programs and services could be negatively impacted."⁷⁹ The State Comptroller reports that based on this authority it was able to save State taxpayers over \$30 million in Fiscal Year 2017. What's more, this happened without slowing down the procurement process, with over 96 percent of contracts approved within 30 days during the fiscal year.⁸⁰

The experience of the State Comptroller suggests that reforming the City's procurement process by empowering the Comptroller's Office to review contracts prior to their execution will improve outcomes for taxpayers, contracting agencies, and vendors alike. Doing so would give the Comptroller the opportunity to identify potential errors or concerns in the contract selection and award process as well as in the contract itself upfront,

rather than through an audit after the agreement is registered and funds have been expended.

Mirroring the procurement process used at the State level would require the City to make more comprehensive reforms to its own procurement system. However, while more comprehensive reforms are considered, the Charter should be amended to make clear that the Comptroller's authority includes the ability to work with City agencies prior to that agency's execution of the contract and/or the performance of any work under that agreement.

56

The City Charter should be amended so that the Comptroller's review period begins before a contract is executed by the contracting agency.

Right to Object to Contracts That Appear to Materially Violate Federal, State, and City Law, Codes or Regulations

The Comptroller's obligation to register contracts is designed to ensure independent review of the mayoral administration's procurement decisions. Specifically, the Charter provides the Comptroller with the ability to object to the registration of a contract if the Comptroller's Office finds that the City does not have the funds to pay for the services it is buying, or certain necessary legal certifications have not been obtained from its Corporation Counsel.

In addition, the Charter authorizes the Comptroller's Office to object in writing to the registration of a contract if the office believes there was possible corruption in the letting of the contract or that the proposed vendor is engaged in corrupt activities. However, the Mayor may nevertheless require the Comptroller to register the contract even if the Comptroller has objected on those grounds.

While the Comptroller's role in the procurement process is to provide an independent check on the Mayoral agencies, the narrow circumstances under which the Comptroller can object to registering a contract limit that independent oversight. One way to enhance that oversight is to add additional authority in the Charter that would provide the Comptroller with the ability to object to contracts that appear to materially violate Federal, State, and City laws, codes, or regulations. For example, in 2012, the Comptroller objected to registering a contract for new taxi vehicles on the basis that the new vehicles were not wheelchair accessible and in violation of the American with Disabilities Act. In response,

rather than amending the contract, the City argued that the Comptroller had no basis in the Charter to make this objection.

Providing the Comptroller with greater authority to protect the City from entering into contracts that appear to materially violate Federal, State and City laws, codes or regulations could help ensure that adequate checks and balances are in place to safeguard the operation of City government.

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The City Charter should be amended to provide the Comptroller with the ability to object to the registration of a contract if a contract appears to materially violate Federal, State, and/or City laws, codes, or regulations.

Ensure Consistency across Comptroller Functions

Weaknesses in the City Charter can result in one part of the Comptroller's Office being required to take action that is inconsistent with City policies and directives that are set by another part of the Comptroller's Office in the exercise of its duties. For instance, the Comptroller both registers City contracts and also issues directives to City agencies on financial operations, such as controls that must be in place with respect to City funds and other accounting principles.

To remedy this situation, the City Charter should specify that the Comptroller's Office has the authority to require agencies to comply with other standards or policies set by the Comptroller relating to a particular procurement or contract action as a condition to registration. Doing so would ensure that City agencies adhere to a consistent set of policies and prevent the Comptroller's Office from acting in ways that do not adhere to the agency's own policies.

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The City Charter should enable the Comptroller's Office to enforce accounting and financial directives and policies set by the Office through the contract registration process.

Clarify How to Determine Possible Corruption

The City Charter specifies that the Comptroller may object to the registration of a contract if there is sufficient reason to believe there is possible corruption in the letting of the contract or that the proposed contractor is involved in corrupt activity. However, the Charter does not provide a definition of corruption or corrupt activity. As a result, this standard has been subject to different interpretations among previous Comptrollers.

Nevertheless, there are some general universally agreed upon factors that lead to a determination that there is a possibility of corruption that could be enumerated in the Charter. For instance, there could be a possibility of corruption if there is sufficient information to determine that a potential vendor may be providing favors or gifts to influence those responsible for overseeing the procurement award. Another example could be the intentional submission of false information on official City forms relating to a vendor's integrity or capacity. In one case, a New York Court reviewed and found proper the Comptroller's refusal to register a busing contract with a vendor based upon the submission of an apparently false sworn statement by the vendor's president regarding the entity's association with an individual who had been convicted of giving an unlawful gratuity to a school bus inspector.

Unfortunately, combatting corruption remains an issue for those responsible for overseeing the New York City procurement and contracts. To better guide that work, the Charter should be enhanced by providing additional clarity on the types of information and analyses that could be used to determine whether to object to a registration on grounds of corruption. Such guidance would provide a more solid foundation for the Comptroller's oversight work.

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The City Charter should be amended to articulate factors to be considered by the Comptroller's Office in determining whether there is sufficient reason to believe that there is possible corruption in the letting of a contract or that the proposed contractor is involved in corrupt activity.

Improve Efficiency to Save Taxpayer Money

An effective and efficient procurement process ensures that the City is able to get the best quality goods and services on-time and on-budget. When that process breaks down, however, it can add costs and result in poor service for the City and its residents. A number of reforms to the procurement process can be made that will ensure that taxpayer dollars are spent most efficiently.

Reform the Construction Contract Change Order Process

In Fiscal Year 2017 alone, the City spent \$3.6 billion on construction. However, the construction contractors who perform this work widely believe that slow processing of change orders, coupled with slow payment for extra and changed work, are major threats to project success and contractor viability. For example, a 2017 report from the Center for an Urban Future found that on average, City-managed construction projects for nonprofits experienced almost a year of delays as a result of the change order approval process, slowing down projects and increasing costs.⁸¹ The construction companies most impacted by these problems tend to be smaller firms that need uninterrupted cash flows to meet payrolls and sustain their businesses. The city could address this challenge were it to periodically undertake a comprehensive review of the change order process with a focus on making the process more efficient and effective for contractors and the City alike.

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The City Charter should be amended to require that the City periodically undertake a “top to bottom” review of the change order process and implement reforms that increase efficiency and cost effectiveness without adversely impacting construction timelines. Such reforms could include the implementation of standardized timeframes for change order reviews, approvals, funding, and payment, as well as the creation of a transparent change order tracking system for contractors to access in real time.

Ensure Emergency Preparedness

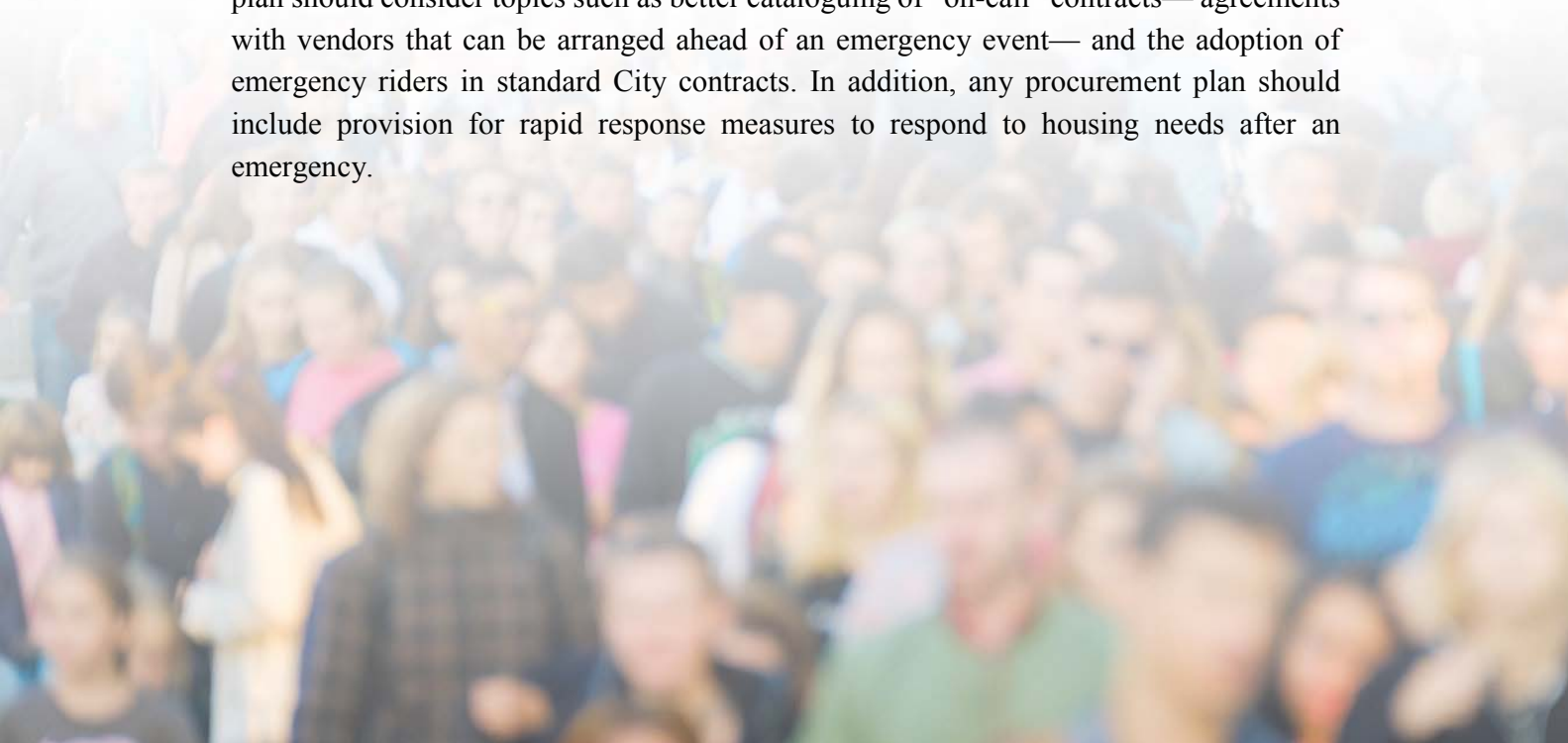
The procurement process plays a critical role in the City’s response to natural disasters and other emergencies. In non-emergency situations, the City’s procurement process appropriately involves a number of different reviews to make sure that taxpayer dollars are being spent wisely. When faced with emergencies like Superstorm Sandy, however, the

City may not have the ability follow the standard procurement process and instead may need to purchase goods and services much more rapidly. These “Emergency Purchases” operate under a unique set of procurement rules that provide agencies with greater flexibility to obtain needed supplies and services, but because they may sacrifice the safeguards in place for standard procurements in order to expedite critical purchases, the City may be more vulnerable to higher costs, waste, or abuse.

These risk are not merely hypothetical. For instance, in the aftermath of Sandy, the City entered into an emergency procurement for portable toilets that resulted in the City paying nearly double for a standard toilet and 120 percent more for an accessible toilet than it would have under the terms of a standard contract. Similarly, during the harsh 2013-2014 winter, the City used an emergency procurement to purchase additional road salt that cost about 285 percent more compared to a standard procurement contract.⁸² These examples, discussed in more detail in a separate report from the Comptroller’s Office, indicate that reforms to the City’s emergency procurement system are warranted.

Under the City Charter, emergency preparedness programs are overseen by the City’s Office of Emergency Management (OEM). Among other duties, OEM is responsible for developing emergency preparedness plans and coordinating with other City agencies. However, nothing in the Charter explicitly speaks to OEM’s responsibilities in the context of developing plans for emergency procurement.

To this end, Section 497 of the Charter should make clear that part of OEM’s responsibility is to lead the City in putting together a publicly available, comprehensive, and coordinated emergency procurement plan that takes into account the expertise of agency procurement officials, the Mayor’s Office of Contract Services, the Department of Citywide Administrative Services, and the Office of the Comptroller. The emergency procurement plan should consider topics such as better cataloguing of “on-call” contracts— agreements with vendors that can be arranged ahead of an emergency event— and the adoption of emergency riders in standard City contracts. In addition, any procurement plan should include provision for rapid response measures to respond to housing needs after an emergency.



In addition, the Charter should be amended to require that the details of every emergency procurement be posted and made available to the general public. Currently, the City Council receives notice of emergency procurement approvals, but releasing them more broadly would provide the public with important information relating to the emergency procurement practices of agencies and further accountability and transparency. Doing so would also help ensure that emergency procurements are only utilized to address an immediate need, rather than being abused to circumvent standard procurement procedures. Finally, the agency responsible for making the emergency procurement should be required to re-certify the ongoing need for an extended emergency procurement on a periodic basis to the Corporation Counsel and the Comptroller's Office.

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The City Charter should require the Office of Emergency Management, in coordination with other relevant agencies, to develop and publish a citywide emergency procurement plan that better addresses contract needs in advance of the next disaster.

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The City Charter should require that emergency procurements be posted publicly by the agency making the procurement and that the agency re-certify on a periodic basis the continued need for the emergency procurement.

Publishing City Council-Obtained Data and Reports

The City Council collects significant information about the operations of City government that is not consistently released to the public. Ensuring that more of this information becomes available will increase transparency, promote accountability, and lead to a better-informed public.

For example, in recent years, the City Council has been considering legislation to reform the regulation of mobile food vendors like food trucks and food carts.⁸³ However, although data that could better inform the public and other local policymakers about this issue is collected and reported to the Council by the Department of Health and Mental Hygiene, it is not widely released. Specifically, Section 17-325.2 of the City's Administration Code requires the Department of Health and Mental Hygiene to report data to the Council every year on the number of permits that have been suspended or revoked during the year. While this information could assist the public in understanding whether the law is being appropriately enforced, the data is not released by the Council or the agency to the public.

Similarly, during questioning at Council hearings, City agency leaders and other members of the public testifying at a hearing frequently tell members of the Council that they do not have a particular piece of information but will provide it subsequently. However, because that information is not discussed during the hearing or included in the formal testimony, it is not included in the hearing transcript that is eventually made publicly available on the Council's website. As a result, when the information is eventually shared with the Council it is generally not easily available to the public. These practices deny the public and other parts of government access to information that reveals important details about government policies and programs.



The City Charter should require the City Council to create and maintain a website that provides the public with access to reports provided to the Council as a result of either administrative or regulatory requirements as well as documents submitted to the Council in response to questions during a hearing. In doing so, the Council should do a thorough review of all reports required to be provided to the Council by City agencies and report to the public in real time as to the submission of those reports, linking to the text of the actual report wherever possible. Information subsequently provided to the Council as a response to a hearing question should be included in the official hearing record and both released on the Council's website in the reporting portal and appended to the transcript of the hearing itself.

Strengthening the Campaign Finance System

New York City's campaign finance program is a national model for effective public financing of elections. But it can be improved to ensure that candidates act ethically and appropriately in raising funds.

Prohibit Certain Political Appointees from Donating to the Campaign of their Employer

Section 2604 of the Charter and Conflict of Interest Board rules prohibit an elected official from soliciting their employees for donations to their political campaign or conditioning employment on donations. However, consistent with their first amendment rights, all public employees are allowed to donate should they choose to, and to have those donations matched under the City's campaign finance system.

Recognizing that employees' contributions to an employer's campaign creates the potential for conflicts of interest, other public entities have imposed limits on the ability of public servants to donate to such campaigns. At the state level, for example, members of public authority boards and State agency officers and officials who serve at the pleasure of the Governor are prohibited from making monetary contributions to the Governor or Lieutenant Governor's political campaigns.⁸⁴ Similarly, at the federal level, U.S. Senate ethics rules prohibit the staff of a Senator from donating to their employing member's political campaign.⁸⁵



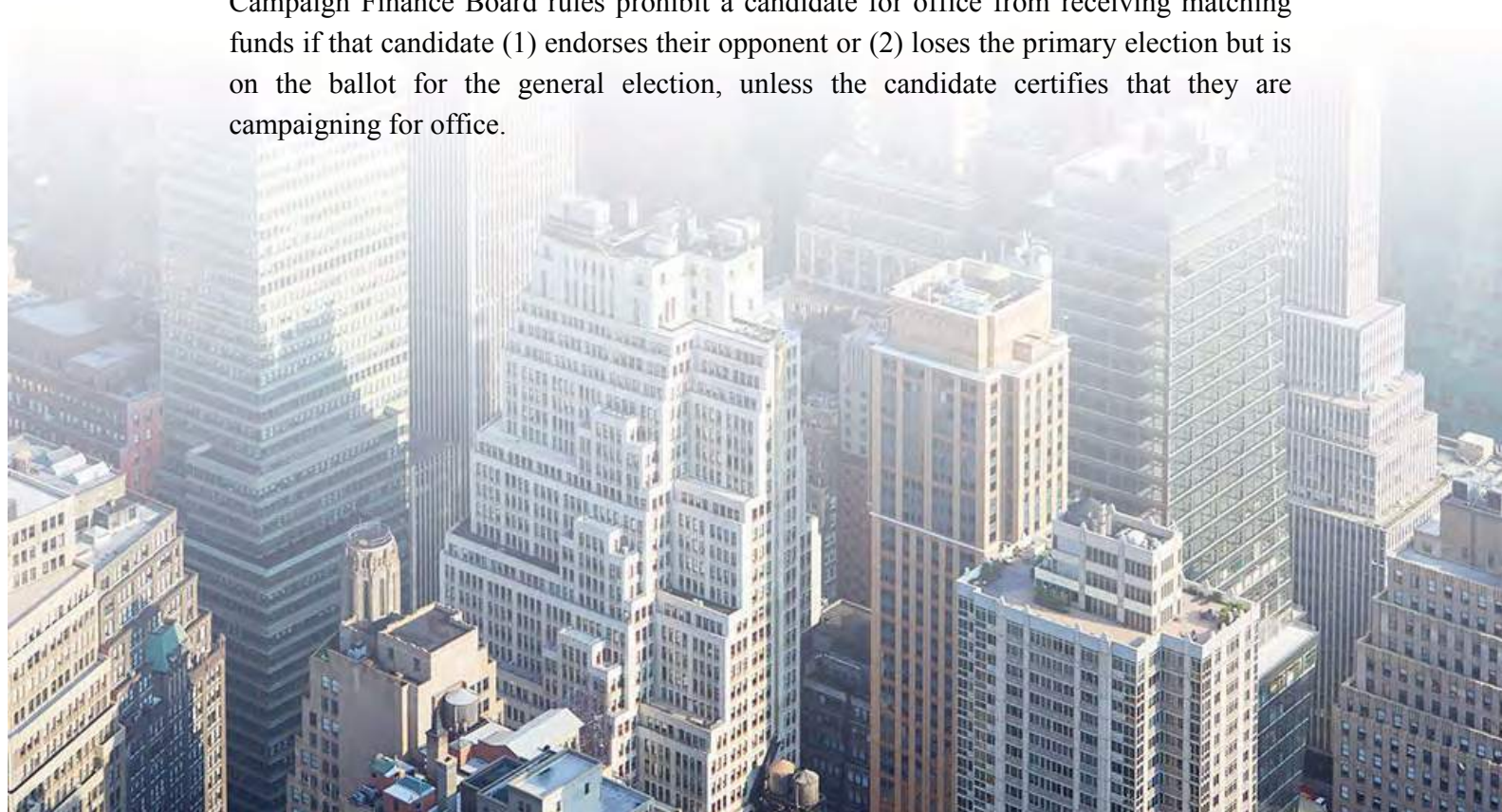
Similar reforms should be applied to high-level staff of elected officials in New York City. The City Charter's conflicts of interest provisions already impose heightened restrictions on Deputy Mayors, agency heads, and employees with "substantial policy discretion." They prohibit these individuals from soliciting political donations or serving as officials of political parties. The names of those employees are made public each year by the Conflicts of Interest Board.⁸⁶ To enhance public confidence, the Charter should further restrict these employees from donating to the political campaigns of elected officials who employ them.

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The City Charter should be amended to prohibit high-level staff from donating to the political campaign of the elected official to whom they ultimately report. This prohibition should apply to any person deemed to have substantial policy discretion under the existing provision of the City Charter and Conflicts of Interest Board rules.

Only Provide Matching Funds in Competitive Elections

The City's matching fund program is a good and important use of public dollars. But because public funds are limited, and a dollar spent in matching funds is a dollar that cannot be spent on some other public purpose, it is important that they be used wisely. Currently, Campaign Finance Board rules prohibit a candidate for office from receiving matching funds if that candidate (1) endorses their opponent or (2) loses the primary election but is on the ballot for the general election, unless the candidate certifies that they are campaigning for office.



In addition, the City's Administrative Code includes additional provisions designed to ensure that public funds are only used in competitive elections. To do so, candidates for office participating in the matching fund program are prohibited from receiving more than 25 percent of the maximum amount of public funds they are eligible to receive, unless their opponent meets certain criteria for competitiveness.⁸⁷ However, these rules are relatively easy to meet, and they do not ensure that public funds are being provided in legitimately competitive elections. For example, if an opponent has received endorsements from other elected officials or organizations with more than 250 members, or has appeared on television, radio, or in print media at least a dozen times in the prior year, then the election would be considered competitive, meaning that the candidate could receive additional public funds. Strengthening these provisions would ensure that public dollars are only being provided to candidates in truly competitive elections.

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The City Charter should be amended to ensure that the full amount of public matching funds are only provided to candidates in truly competitive elections. To do so, the Charter should more effectively define the circumstances in which candidates can receive over 25 percent of the maximum amount of matching funds they are eligible to receive.



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Gale A. Brower, Borough President

September 27, 2018

Testimony of the Manhattan Borough President for the Charter Revision Commission

Good Evening. Thank you to Gail Benjamin and to each Commissioner for taking on this enormous role – and welcome to Manhattan! I am delighted that the legislation I sponsored with the Speaker and Public Advocate calling for a Charter Revision Commission has resulted in this illustrious group coming together.

There is much to talk about; with my time today I will present an overview of those items I would like this Commission to consider. My full testimony will cover these items more thoroughly and it will be available next week. (I hope you will post all submitted testimony on your website so the public can access it.)

Real estate plays the most critical role in the physical shape of our city, so let me start with my suggestions for changing land use procedures, some of which were derived from the excellent work done by the Inclusive City Working Group.

Pre-planning must be built into ULURP. Input from community boards and elected officials must be considered before a project is certified. With pre-planning we can do more than merely react—we can shape a project.

Similarly, Borough Presidents should be allowed to submit amended applications with their ULURP recommendations when a city agency or local development corporation is the applicant or co-applicant, which would put important potential zoning changes in scope for the City Council. During the Inwood rezoning, everyone but DCP wanted storefront size limits. If I could have submitted an alternative application during ULURP these storefront size limits could have been adopted by the City Council.

There needs to be a citywide comprehensive plan every ten years. This planning process could distribute new development equitably across the city, rather than concentrate rezonings in communities of color.

Additionally, the Zoning Resolution itself should be reviewed every 10 years and this should include Use Group reform, as some uses and use restrictions are outdated and others need to be added.

For changes to special permits, such as the Two Bridges project, there must be a new ULURP for modifications that differ from what was presented during the initial ULURP. Also, the City Council must be solely authorized to determine whether a modification to a proposal is within the scope of the original application and the environmental review.

Lately we have seen a proliferation of super-tall buildings. Without getting into my own feelings about these, I recommend that at a minimum we make requests for zoning lot mergers, easement agreements, and development rights publically accessible through an online map portal.

I would also like to address the role of the Landmarks Preservation Commission. I appreciate the presence of architects and planners, but there must also be at least two trained preservationists on the commission. Commissioners should also receive a stipend (as do City Planning Commissioners).

Next I will turn to budgeting as another key part of governance.

In the last major charter revision, the New York City Council was given a robust role in setting spending priorities. But the Council does not currently have access to the “units of appropriation” that would enable it to make more informed decisions. By providing details of what the Council is being asked to approve—including a reconciliation of year-over-year changes—and by prohibiting an agency from categorizing all of its spending in one unit of appropriation, the Council could actually play a role in the most basic form of governance – determining exactly how and when the taxpayers’ money should be spent.

Similarly, requiring service-level information and performance measures for each unit of appropriation in the budget would add to transparency and, therefore, to more-informed decision making.

Lastly, with regard to budget matters, the Charter should require that the Mayor provide final revenue estimates earlier than is currently mandated. Then the

Charter would further empower the city's legislative body to make better informed decisions regarding the budget.

Our ability to govern is also determined by the independence of our oversight bodies. The Office of the Corporation Counsel provides legal guidance not only to the Mayor but to city government as a whole, including other elected officials and agency heads. The position of Corporation Counsel should not continue to be solely a Mayoral appointment. I recommend that the appointment of the Corporation Counsel require the advice and consent of the City Council. Similarly, the Mayor currently appoints all five members of the Conflicts of Interest Board and designates the Chair. As one of our most sensitive offices, we must never allow even a perception that the Board is unduly influenced by any sitting Mayor. Therefore, I recommend that the City Council appoint at least two members of the Conflicts of Interest Board.

The Civilian Complaint Review Board (CCRB) needs some changes in order to fulfill its role in ensuring the public has effective recourse when there are complaints about police conduct. The current Memoranda of Understanding (MOUs) that provide for the Administrative Prosecution Unit and that set forth the New York Police Department's (NYPD) duty to cooperate with the Board, need to be codified and made permanent.

Most importantly, the CCRB's budget should be 1% of the NYPD budget. By tying the two budgets, we ensure that as NYPD's resources grow or change, the CCRB is able to do the work needed to investigate and pursue new issues that arise.

I am a strong believer in our most local form of government: Community Boards. I have worked hard to make these bodies the best that they can be. My office has developed online applications and thorough and impartial interviewing practices. My advocacy has enabled the appointment of 16 and 17 year olds on the boards. We match appointments to the demographics of the neighborhood, and in my five years as Borough President we have had a 60% change in membership through robust outreach, natural turnover, and attention to attendance. And my office has instituted in-service training for board members on everything from land use to data science to parliamentary procedure.

Community Boards are our first line of OFFense in promoting neighborhood planning and our first line of DEfense in protecting neighborhoods from developers who seek only maximum profit from their work in our communities. Longtime members build up the knowledge and expertise that enable boards to negotiate effectively with very seasoned developers and lobbyists.

(This is why I oppose term limits for CB members and, should that measure pass on the ballot this fall, I urge this Commission to reverse this policy—which will only benefit developers, and not local communities or the city as a whole.)

Finally, in the 1989 Charter Revision, when the Board of Estimate was abolished, a funding formula for Borough Presidents to disburse capital funding to the community was established based on the land area and population of each borough. It's an important role, and my office has funded park renovations, street improvements, and other infrastructure projects. But according to a recent NYU study, Manhattan's population doubles each day as an additional 2 million commuters from the entire tri-state area flock to Manhattan and wear out its infrastructure. This dramatic daily population spike is not reflected in the funding formula for Borough Presidents, and it should be. We bear what is now a hidden cost to mitigate the impact on city infrastructure and provide amenities (from parks and pedestrian plazas to street safety improvements) that benefit millions of daily commuters and 60 million tourists per year.

Thank you for the opportunity to testify tonight. Again, I will submit my written, much longer testimony shortly.

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2019 Charter Revision Commission Written Testimony
September 27, 2018

Good evening. My name is Helen Rosenthal, I'm the City Council Member representing the 6th District in Manhattan and I chair the Council's Committee on Women.

I'd like to begin by thanking the Members of the Charter Revision Commission for their service, and for providing residents across the city with the opportunity to testify.

As the 2019 Charter Revision Commission continues its top to bottom review of the New York City Charter, I am pleased to submit two items for its consideration: 1) that the Charter formally adopt the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, also known as CEDAW, and 2) that the Charter identify mechanisms to hold the city accountable for its contract procurement process and thereby provide relief for the non-profit organizations with which the City "contracts" for vital government services.

Gender Equity

In my capacity as Chair of the Committee on Women, I've come to believe that the circumstances that are unique to women or under which women are particularly vulnerable are not considered a priority by our own New York City agencies. Through law making, we've made some strides, from providing menstrual products in the city's schools, jails, and homeless shelters, to passing anti-sexual harassment in the workplace laws.

This mission is in line with CEDAW's overarching purpose in eliminating all forms of discrimination against women. To begin, CEDAW defines discrimination as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

During my tenure as Chair, the Committee on Women has begun to identify issues which represent fundamental shortcomings of gender equity and justice for women in our own New York City government agencies.

At a September 6, 2018 City Council hearing on sexual violence in city jails¹, we heard testimony concerning the abysmal lack of support to survivors of sexual assault. While more than 500 complaints were filed from July of 2017 through June of 2018, one full year, not a single complaint was deemed fully substantiated. On its face, this is an unbelievable finding. The level of concern we have seen to date from DOC has been, bluntly, inadequate.

Earlier this year, I Chaired an oversight hearing regarding the NYPD's Special Victims Division². The hearing was in response to the New York City's Department of Investigation³ Report which showed chronic understaffing of the SVD, investigators who are overworked and inexperienced, and facilities that are unwelcoming and deficient. It's no surprise that rapes are thought to be underreported, by as much as 90%. After visiting the Manhattan SVD facility, It's a wonder that anyone would report their sexual assault. The NYPD doesn't understand that fundamentally, sexual assault is unlike homicide or narcotics. The NYPD's measure of success is to have fewer rapes-- which entirely misses the point about underreporting.

These are but two brief examples of the vulnerabilities that women in New York City continue to face. On the question of gender equity in general, we must also be mindful of transgender and gender non-conforming New Yorkers, who face similar discrimination and vulnerabilities.

If New York City were to adopt the CEDAW principles in its Charter, it would, for example, require DOC keep all of its inmates, visitors, and officers safe from sexual assault. It would require that the NYPD make the Special Victims Division a priority, and provide more investigators, more experienced detectives, needed to provide the services needed for a survivor, let alone justice.

Empowering the Equal Employment Practices Commission and requiring them to issue an annual Action Report, could be one way of achieving this goal.

As the Commission considers whether to adopt CEDAW into the Charter, it may look towards San Francisco for guidance. As part of the Cities for CEDAW campaign, the City of San Francisco formally adopted an ordinance reflecting the principles of CEDAW. In implementing these principles into its operations, San Francisco did the following:

1. Integrated gender equity as a human rights principle citywide. This included human rights training -- with a gender perspective -- for City departments.

¹

<https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3619421&GUID=0B9A8F89-F83F-445B-ADE5-D1759D734131&Options=&Search=>

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³ https://www1.nyc.gov/assets/doi/reports/pdf/2018/Mar/SVDRReport_32718.pdf

2. Performed gender analysis of City department budgets. This included specific recommendations for departments on how it can correct any identified deficiencies and integrate human rights principles.
3. Created a five-year Citywide Action Plan, which addressed how to integrate human rights principles into the City's operations.
4. Created a CEDAW Task Force to monitor the implementation of CEDAW.⁴

While I recommend that the Charter Revision Commission integrate CEDAW into its recommendations, I also caution that ultimately, the San Francisco model lost momentum. Within five years of ratifying CEDAW in its charter, the city's CEDAW taskforce stopped issuing reports or calls for accountability.

Procurement Reform

On procurement reform, we must first recognize that the City of New York relies on contracted nonprofit organizations to provide a vast range of essential services to more than 2.5 million vulnerable New Yorkers. These nonprofits are responsible for much of the City's early childhood education programming, homeless services, senior services, and mental healthcare. For over a decade, these services have been chronically underfunded, and providers are paid over a year after services have been provided. There is an urgent need for robust and meaningful procurement reform.

During my tenure as Chair of the Council's Committee on Contracts, the City was able to make some progress on procurement reform. One method was through the implementation of the HHS Accelerator and Passport, which helped streamline the procurement process for non-profit organizations that contract with the City.

Nonetheless, non-profits continue to struggle financially and operationally due to problems with the procurement process. The Charter Revision process provides a real opportunity for procurement reform. In looking towards solutions, I submit these primary means of procurement reform for the Commission to review:

Increase Transparency and Accountability

- Strengthen the Mayor's Management Report or Procurement Indicators Report by requiring reporting on late payments made by the City, by agency.
- Require the City to reimburse the interest payments that nonprofits must pay for loans taken out to cover the cost of providing government services. Payment must be made to any organization not paid within 30 days after work begins.
- Require that the Executive Budget include the status of fully funded capital projects, in order to provide clarity as to where those projects stand within the procurement process.

Comptroller

⁴ <https://sfgov.org/dosw/cedaw-ordinance>

- Ensure that contracts submitted to the Comptroller are subject to a 30 day limit for registration, and that this 30 day period is paused, not restarted, if a package is rejected and then re-submitted for consideration.
- Clarify the criteria for a comptroller to reject a contract. Require the Comptroller to publically report the reasons for rejecting contracts; and identify whether or not they are within the comptroller's charter allowed reasons for rejection.

Empower the Procurement Policy Board (PPB)

- Require that the Procurement Policy Board have public meetings at least four times per year.
- Provide the PPB with the authority to make changes to City procurement rules if these changes can help to expedite contract registration and payment.

There is an urgent need for robust and meaningful procurement reforms and I am hopeful that this Commission can identify ways to do so in the NYC Charter.

PS. As a cousin of procurement reform, the City must coordinate its agencies fiscal and physical inspections so as to NOT burden the non-profit organizations. Perhaps the Charter could require this coordination.

Thank you.