

# 2024 CHARTER REVISION COMMISSION

## AMENDED PROPOSED FINAL REPORT





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## **Executive Summary**

On May 21, 2024, Mayor Eric Adams announced the 2024 Charter Revision Commission and appointed Carlo Scissura, as chair, and 12 other community leaders to serve on the Commission. The Mayor charged the Commission with reviewing the entire Charter to ensure that it works efficiently and is responsive to all New Yorkers. The Mayor also asked the Commission to examine, in particular, whether the Charter should be amended to promote public safety and fiscal responsibility.

Following a review of the entire Charter of the City of New York, public feedback, expert testimony, research, and investigation, the Commission has decided to present the following proposed amendments to the voters of the City of New York at the November 5, 2024 general election:

### **Clean Streets**

In the first ballot question, the Commission proposes an amendment to expand and clarify the Department of Sanitation's (DSNY) authority to keep the City clean.

Today, the Charter gives DSNY the power to clean some, but not all, City property. This incomplete grant of jurisdiction complicates City efforts to clean certain City properties, like center medians. The amendment would enable DSNY, at the Mayor's direction, to clean any City-owned property.

Likewise, in an effort to promote the containerization of trash and the resultant benefits for cleanliness and public health, DSNY has promulgated several rules that limit the amount of time that non-containerized garbage spends on City streets. The Charter, however, does not expressly charge DSNY with the mandate to promote containerization. The amendment would clarify that DSNY has the authority to regulate the way refuse is set out for collection, including by requiring the use of containers.

Finally, despite the fact that the Office of Street Vendor Enforcement is housed within DSNY, the Charter does not expressly grant DSNY enforcement authority over vending that occurs on City property other than streets and sidewalks, such as in parks. The amendment would extend DSNY enforcement authority over street vendors to other types of City property, not just streets and sidewalks.

### **Fiscal Responsibility**

In the second ballot question, the Commission proposes an amendment to improve how the City assesses the fiscal impact of proposed local laws and address certain outdated and inefficient budget deadlines.

First, to promote consideration of the cost of proposed laws, the Commission is proposing changes to the Charter section requiring Fiscal Impact Statements. At present, the City Council typically publishes Fiscal Impact Statements only when proposed legislation is on the eve of adoption. As a result, much of the public discussion around legislation—and much of the legislative work to craft a bill—occurs without the benefit of a Fiscal Impact Statement and the cost estimate that it contains. By requiring a Fiscal Impact Statement earlier in the legislative process, prior to a public hearing on a proposed local law, this amendment would encourage greater consideration of the fiscal repercussions of proposed laws. An updated Fiscal Impact Statement—before a proposed law is voted on by the full Council—would also be required in order to give legislators and the public a final assessment of the fiscal impact of proposed legislation. The proposed amendment would require that Fiscal Impact Statements for proposed local laws contain two estimates, one from the Council and one from the Office of Management and Budget, to foster a more detailed and substantive examination of fiscal impacts. This proposal is informed by considerable testimony from experts and good government groups calling for changes to the Fiscal Impact Statement process.

This amendment would also update several budget-related deadlines in the Charter. To ensure that new mayoral administrations are afforded adequate time to compose a preliminary budget, the amendment would extend the deadline for the preliminary budget from January 16<sup>th</sup> to February 1<sup>st</sup> in years following a mayoral election. In those same years, the proposed amendment would alter related deadlines to accommodate the February 1<sup>st</sup> preliminary budget. Lastly, this amendment would extend the deadline for submission of the executive budget for the ensuing fiscal year from April 26<sup>th</sup> to May 1<sup>st</sup> to ensure the executive budget reflects valuable information about tax collections and revenues obtained at the April 15<sup>th</sup> tax deadline.

### **Public Safety**

In the third ballot question, the Commission proposes an amendment to promote public input and deliberation in the consideration of local laws respecting public safety.

At present, the requirements for passage of legislation relating to public safety do not differ from the requirements for passage of legislation on other matters. The Commission heard substantial testimony from the public and stakeholders expressing concern that the present process for consideration of public-safety measures does not afford sufficient opportunities for input and review. Allowing for additional opportunities for public input in the Council's consideration of public safety legislation is intended to enable more careful deliberation and ensure that affected communities across the City are heard when legislation touches upon this important area.

Specifically, the amendment would establish additional procedural requirements for the Council's consideration of proposed local laws respecting the public safety operations of three City agencies: the Police Department, the Department of Correction, and the Fire Department. Prior to a vote by the full

Council on a covered public safety proposal, the Council would be required to give an additional notice to the public, the Mayor, and the commissioner of each affected agency at least 30 days in advance of a vote. During the period between the notice and the ultimate vote, the Mayor and affected agencies would be permitted to hold one or more additional public hearings on the proposal in order to solicit additional public input. These hearings could include, where appropriate, public hearings in the outer boroughs in order to facilitate input from impacted communities.

### **Capital Planning**

In the fourth ballot question, the Commission proposes an amendment to improve the City's capital planning process by promoting transparency and ensuring the City collects critical information.

The City engages in regular capital planning to determine how to invest in its infrastructure. Drawing on a recommendation by Comptroller Brad Lander, this proposal would promote transparency by ensuring that the City publishes more information about the state of repair for facilities. It would also ensure that the Department of City Planning and the Office of Management and Budget consider City facility conditions and maintenance needs, together with other factors such as geographic distribution, impact on resiliency, and the criticality of an asset to an agency's function or mission, when developing the Ten-Year Capital Strategy.

### **MWBEs and Modernization**

In the fifth and final ballot question, the Commission proposes an amendment to update several Charter provisions to improve City government operations.

To support Minority and Women-Owned Business Enterprises (MWBEs), this amendment that would establish the Chief Business Diversity Officer (CBDO) in the Charter and provide that the CBDO will serve as the point of contact for MWBEs, evaluate the efficacy of the City's policies to address disparities in procurement, and propose needed changes to City policy.



Next, the amendment would empower the Mayor to give the office that processes film permits—the Mayor’s Office of Media and Entertainment (MOME)—the power to issue those permits.

Lastly, the amendment would combine two Charter-created boards that share the same mission: ensuring the effective functioning of the municipal archives.

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The Commission has decided to put these five amendments to voters, while leaving the rest of the Charter unchanged. As explained further below, the proposed amendments emerged from compelling testimony to the Commission and address important issues facing the City. The Commission determined that other components of the Charter do not warrant revision at this time. Many portions of the Charter are fundamentally sound. Other portions are better revised through the ordinary legislative process, or require further consideration before reforms can be proposed. The Commission was also mindful of the risk of overburdening voters with too many proposals. To that end, the Commission endeavored to limit the number of proposed amendments put to the public in order to promote careful deliberation. At the conclusion of this report is a more thorough discussion of key parts of the Charter left unchanged and the reasons for leaving these parts unchanged.

## **The Commission**

### **Background**

The Charter of the City of New York functions as the local constitution and sets out the structure, powers, and responsibilities of New York City’s government. The Charter establishes the institutions and processes of the City’s political system and broadly defines the authority and responsibilities of City agencies and elected officials, including the Mayor, the City Council, the Comptroller, Borough Presidents, and the Public Advocate.

The Charter may be amended in several ways, including through a charter revision commission established pursuant to the Municipal Home Rule Law (MHRL). Section 36 of the MHRL permits the Mayor to create a commission to revise the Charter.<sup>1</sup> It empowers the Mayor to appoint between nine and fifteen members to such a commission.<sup>2</sup> It provides that a commission shall review the entire Charter, and it authorizes a commission to recommend a revision of the Charter in full, or to propose one or more amendments.<sup>3</sup> Proposals to amend the Charter are then presented to the voters of New York City for approval.<sup>4</sup>

Mayors have frequently established charter commissions to examine our City’s governing document. For example, in 2018 then-Mayor Bill de Blasio established a charter revision commission, which went on to – among other things – recommend the creation of the Civic Engagement Commission to enhance popular participation in the governance of New York City.<sup>5</sup>

On May 21, 2024, Mayor Eric Adams announced the 2024 Charter Revision Commission and appointed Carlo Scissura, as chair, and 12 other community leaders to serve on the Commission. On June 24, 2024, the staff of the Commission released a preliminary report summarizing the work of the Commission to that point and recommending certain areas for further consideration, including fiscal responsibility and public safety.<sup>6</sup> On June 26, 2024, the Commission adopted the recommendations

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<sup>1</sup> MHRL § 36(4).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at § 36(5)(a).

<sup>4</sup> *Id.* at § 36(5)(b).

<sup>5</sup> Charter Revision Commission, *Final Report of the 2018 New York City Charter Revision Commission* (Sep. 6, 2018).

<sup>6</sup> Charter Revision Commission, *Preliminary Report of the 2024 New York City Charter Revision Commission* (June 24, 2024).

of the staff and recommended pursuit of amendments on a number of topics.<sup>7</sup> Following further review of the Charter, public hearings, expert testimony, and discussion, this final report—detailing the work of the Commission and the proposals it will put before the voters of the City—follows.

## Public Outreach and Public Participation

From its creation, the Commission engaged in a robust public outreach campaign to solicit ideas from the diverse communities and stakeholders that make up New York City. These efforts included:

- Live webcasts of all Commission hearings and meetings;
- Publication of hearing notices, press releases, transcripts, resolutions, archived video, and other materials on the Commission’s website: [www.nyc.gov/charter](http://www.nyc.gov/charter);
- Public hearings at accessible locations in each borough both during the day and in the evening in an effort to provide multiple opportunities for the public to address the Commission in person;
- Virtual public testimony during all public hearings to allow New Yorkers to have their voice heard in whichever way best fit their schedule;
- Translation and interpretation services at all hearings and public meetings;
- Television interviews, community newspaper op-eds, and an ethnic and community roundtable discussion with the Chair to raise awareness of public hearings;
- Work with elected officials and community organizations to spread the word about Commission hearings; and
- Acceptance of written testimony.

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<sup>7</sup> Resolution of the Charter Revision Commission (June 26, 2024).

Through these channels, the Commission solicited and heard feedback from members of the public, elected officials, community-based organizations, City agencies,<sup>8</sup> experts, and other stakeholders.

A wide-range of proposals and ideas—touching virtually every facet of New York City government—were raised by the public and considered by the Commission. Throughout its work, the Commission heard a pronounced interest in reforms concerning fiscal responsibility, public safety, government modernization, and electoral reform.

## The Commissioners

The following distinguished New Yorkers served as members of the Commission.

### **Carlo Scissura (Chair)**

Carlo Scissura has participated in two Charter Revision Commissions in the past. Scissura currently serves as president and CEO of the New York Building Congress, a position he has held since January 2017. Previously, Scissura was president and CEO of the Brooklyn Chamber of Commerce. Prior to joining the Brooklyn Chamber, Scissura served as both chief of staff and general counsel to Brooklyn Borough President Marty Markowitz for nearly five years.

### **Dr. Hazel N. Dukes (Vice Chair)**

Dr. Hazel N. Dukes is president of the NAACP New York State Conference. She is also a member of the NAACP National Board of Directors, a member of the NAACP Executive Committee, and an active member of various NAACP board subcommittees. Dr. Dukes is a woman of great strength and courage whose dedication

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<sup>8</sup> See Appendix F for a digest of Charter reform ideas proposed by City agencies to the Commission.

to human rights and equality is exemplified by her role linking business, government, and social causes. Additionally, Dr. Dukes serves as the president of the Hazel N. Dukes & Associates Consultant Firm, specializing in the areas of public policy, health, and diversity.

**Ken Ngai (Secretary)**

Ken Ngai is a well-respected law enforcement professional with more than 20 years of experience protecting public safety in New York City. He has an extensive background in high-risk global financial crimes, undercover narcotics investigations, counter terrorist financing, and cyber environments. Ngai is an expert in identifying financial crime patterns, risk assessment, and enterprise risk management, as well as identifying trends and emerging threats to address and mitigate risks.

**Kyle Bragg**

Kyle Bragg served for four decades at the Service Employees International Union (SEIU), Local 32BJ, and retired as president after serving in that position since 2019. He now serves as a trustee of several 32BJ funds and as chair of the union's social and economic justice committee. He is also a member of the executive board of the National African American Caucus of SEIU and serves on the international union's first Racial Justice Task Force.

**Reverend Herbert Daughtry, Sr.**

Reverend Herbert Daughtry, Sr. is a civil rights activist who hails from a family that has produced five generations of church leaders. He serves as the national presiding minister of the House of the Lord Churches, headquartered in Brooklyn. With more than 60 years of involvement in church and community service, Reverend Daughtry Sr. has earned the title of "The People's Pastor."

**Ruben Díaz, Jr.**

Ruben Díaz, Jr. represented his hometown and the people of the Bronx for more than two decades, serving in the state Legislature for seven terms and serving as Bronx borough president for three terms. During his career in public service, Díaz Jr. championed a “New Bronx” agenda on economic development, housing, education, and public safety.

**Lorraine Grillo**

Lorraine Grillo began her public service career as a community relations specialist at the New York City School Construction Authority, serving in several senior roles in the authority before being appointed as CEO and president in 2014. Grillo served as senior advisor to Mayor Bill de Blasio for COVID-19 recovery and as commissioner of the New York City Department of Design and Construction from July 2018 until December 2021. She most recently served as First Deputy Mayor to Mayor Adams.

**Christopher B. Lynch**

Christopher B. Lynch is a lifelong public servant. For the last decade, he has worked as a substitute teacher with the New York City Department of Education. Previously, he served for over 20 years with the New York City Department of Correction’s Health Management Division, retiring as a captain.

**Stephanie McGraw**

Stephanie McGraw is the founder and CEO of We All Really Matter (WARM), a domestic violence awareness organization founded in 2010 out of her own vicious cycle of abuse. Through her journey, McGraw yearned to see service providers working through an inclusive, culturally competent lens. By establishing WARM, she became the first Black woman to create a domestic violence agency in Harlem. The organization now operates citywide and has expanded to provide economic empowerment services in Ghana and throughout Africa.



## **Max Rose**

Max Rose is the vice chairman of The Soufan Group, a global intelligence and security consultancy, and chairman and CEO of Pontis Partners, a strategic advisory firm for private companies and nonprofits. A former congressman from New York's 11th District, Rose proudly represented Staten Island and South Brooklyn in the U.S. House of Representatives from 2019-2020. Rose was commissioned in the U.S. Army in 2010 as an infantry officer and still serves in the U.S. Army Reserve as a major.

## **Jackie Rowe-Adams**

Jackie Rowe-Adams worked tirelessly with youth and seniors as a music specialist with the New York City Department of Parks and Recreation from 1986 until her retirement in late 2021. After losing two sons to gun violence, Rowe-Adams co-founded Harlem Mothers Stop Another Violent End, an organization instituted to end the dreaded scourge of violence in the Harlem community. She has received numerous awards and citations for her social activism. She is a life-long resident of Harlem.

## **Bishop Gerald G. Seabrooks**

Bishop Gerald G. Seabrooks is the pastor of the Rehoboth Cathedral, a purpose-driven ministry located in the heart of Bedford-Stuyvesant, Brooklyn. Bishop Seabrooks has actualized "the holistic approach" by serving humanity both spiritually and socially. He is also currently employed as a licensed guidance counselor and pedagogue by the New York City Department of Education. He previously served as the executive vice president of a prestigious community multi-service corporation for over 25 years.

## **Rabbi Chaim Steinmetz**

Rabbi Chaim Steinmetz is the senior rabbi of Congregation Kehilath Jeshurun in New York. A much sought-after speaker and teacher with over three decades of

experience in the rabbinate, Rabbi Steinmetz has mastered the art of presenting the timeless wisdom of ancient texts in a contemporary way.

## The Commission Staff

### **Diane Savino (Executive Director)**

Diane Savino currently serves as senior advisor at City Hall with a focus on state and city legislative issues. Born and raised in Astoria, Queens, Savino began her career in public service as a caseworker for New York City's Child Welfare Administration, providing direct assistance to abused and neglected children. She is the former vice president of the Social Service Employees Union Local 371. In 2004, she was elected to represent the 23rd Senatorial District, which encompasses the North and East Shores of Staten Island and portions of Southern Brooklyn, including Bensonhurst, Brighton Beach, Coney Island, Dyker Heights, Gravesend, and Sunset Park. As state senator, Savino authored numerous laws protecting hard-working New Yorkers, including the first in the nation Domestic Workers' Bill of Rights and the Wage Theft Prevention Act.

### **Ed Kiernan (General Counsel)**

Ed Kiernan currently serves as senior counsel in the Office of City Hall Chief Counsel. He has previously served as special counsel in the Mayor's Office of Appointments and as a legislative project manager at the New York City Department of Buildings. He has also worked in the State Senate and in the City Council before working at the New York City Department of Juvenile Justice (now called the New York City Administration for Children's Services). Kiernan holds a J.D. from New York Law School and a B.A. and MPA from New York University.

### **Robert Cataldo (Chief of Staff)**

Robert Cataldo currently serves as a Senior Legislative Representative for the Mayor's Office of City Legislative Affairs. In this role, Robert manages the

legislative priorities for the Mayor's office for key agencies, such as the Department of Buildings, NYCHA and the Department of Environmental Protection. Prior to joining the administration, Robert served as Chief of Staff to New York State Senator Diane J. Savino for 18 years. During his tenure in the Senate, Robert was able to help secure millions of dollars in budget priorities for the Senator, managed a large diverse staff, and created and built large community events that continue to this day.

**Frank Dwyer (Communications Director)**

Frank Dwyer currently serves as Chief of Staff to the Deputy Mayor of Communications. He has previously served as Deputy Commissioner for Public Information for the New York City Department of Correction. Prior to that, he served as Deputy Commissioner of Public Information and External Affairs at the Fire Department, City of New York. Dwyer worked at WNBC and NY1 news prior to his service in city government. He holds a B.A. in Communications and English from Iona University.

**Marc Heinrich (Senior Counsel)**

Marc Heinrich currently serves as a Senior Advisor in the Mayor's Office of Policy & Planning. He has previously worked as a Senior Policy Advisor to former Mayor Bloomberg and Policy Director to then-Governor Bullock on their respective presidential campaigns. He also worked as a Senior Business Analyst at McKinsey & Company. Heinrich holds a J.D. from Harvard Law School and a B.A. from Columbia University.

**Sabrina Hassan (Deputy General Counsel)**

Sabrina Hassan currently serves as Supervising Associate General Counsel at the New York City Department of Health and Mental Hygiene. She previously served several years as Senior Counsel in multiple divisions of the New York City Law Department, including through 2022 in the Legal Counsel Division. Hassan

spent the first decade of her legal career as a patent litigator. She holds a J.D. from the University of Virginia School of Law and a B.A. from the College of William & Mary.

**James Bristow (Special Counsel)**

James Bristow currently serves as Senior Assistant Director and Counsel for Intergovernmental Relations in the Mayor's Office of Management and Budget. He previously worked as a political science researcher under former U.S. Secretary of Health, Education, and Welfare Joseph Califano. Prior to that he served as the law clerk to the Chief of Operations of the Maryland Legal Aid Bureau. Bristow holds a J.D. from the University of Maryland and a B.A. from the University of South Carolina Honors College.

**Ivy Chiu (Special Counsel)**

Ivy Chiu currently serves as a Legislative Project Manager at the New York City Department of Buildings. She previously worked as an Administrative Enforcement Unit attorney in the New York City Department of Buildings. Chiu holds a J.D. from Fordham Law School and a B.A. from New York University.

**Krista Ashbery (Senior Advisor)**

Krista Ashbery currently serves as the Assistant Deputy Commissioner for Strategic Initiatives at the New York City Police Department. She has previously worked as the Deputy Chief of Staff to the Police Commissioner, Executive Director of Capital Planning and Oversight within the Management and Budget Bureau, and held legal advisor and project management positions related to policy and program development, facilities management, and crime victim support, among others. Ashbery holds a J.D. from Brooklyn Law School and a B.A. from Muhlenberg College.

**Michael Clarke (Senior Advisor)**

Michael Clarke currently serves as a Senior Policy Advisor for the Deputy Mayor of Public Safety. He has previously worked as the Director of Legislative Affairs for the NYPD. He has also worked as Special Counsel for the Mayor's Office of Criminal Justice and as an Assistant District Attorney for the Office of the Special Narcotics Prosecutor. Clarke holds a J.D. from St. John's University School of Law and a B.A. from the Catholic University of America.

**Ryan Merola (Senior Advisor)**

Ryan Merola currently serves as Chief of Staff and Deputy Commissioner of External Affairs for the New York City Department of Sanitation. Previously, he served as the Chief of Staff for the Department of Information Technology and Telecommunications, and in several positions at the New York City Police Department. Ryan staffed the 2010 Charter Revision Commission. He holds a J.D. from Brooklyn Law School and a B.A. from CUNY Brooklyn.

**Jonas Neri (Senior Advisor)**

Jonas Neri currently serves as a Legislative Representative within the Mayor's Office of State Legislative Affairs, where he is the chief liaison for the Administration to the various branches of New York State Government on housing, economic and workforce development, consumer protection, and finance. Prior to joining the Mayor's Office, Jonas served as the legislative director for one of New York's top lobbying firms. He has been recognized in City & State as a "40 Under 40 Rising Star." Jonas holds a B.A. from the University at Albany's Rockefeller College of Public Affairs & Policy.

**Pablo Ponce de Leon (Senior Advisor)**

Pablo Ponce de Leon currently serves as a Policy Advisor in the Office of the First Deputy Mayor. He previously worked as an Analyst at HR&A Advisors. Ponce

de Leon holds an M.Arch from Princeton University and a B.A. from Yale University.

**Bonny Tsang (Senior Advisor)**

Bonny Tsang currently serves as Chief of Staff to the Deputy Mayor for Operations Meera Joshi. Bonny has previously worked as a consultant for Deloitte Consulting LLP's Government and Public Service practice, the NYC Department of Transportation, and the NYC Campaign Finance Board. She has a MPP from Harvard University's Kennedy School of Government and a B.A. from University of Pennsylvania.

**Alex Tymkiv (Senior Advisor)**

Alex Tymkiv currently serves as an Intergovernmental Coordinator at the New York City Fire Department. He previously worked as a Legislative and Communications Director for the City Council. He holds a B.A. from CUNY Brooklyn College.

**Jasmine Wright Greene (Assistant Counsel)**

Jasmine Wright Greene currently serves as an Assistant Corporation Counsel at the New York City Law Department. She has previously served as a law clerk and senior paralegal at the Law Department in the Municipal Finance Division. Greene holds a J.D. from St. John's University School of Law and a B.A. from the State University of New York at Stony Brook.

**LeeAnn Wharton (Special Assistant)**

LeeAnn Wharton currently serves as the Director of Briefing in the Mayor's Office of the Chief of Staff. Previously she served as the Special Assistant to the First Deputy Mayor. She had also worked at the MTA under the New York City Transit Authority and the New York Public Interest Research Group. Wharton holds a B.A. from Brooklyn College.



**Chloe West (Policy Advisor)**

Chloe West currently serves as a Policy Advisor for the Gun Violence Prevention Taskforce in the Office of the First Deputy Mayor. She has interned for Rep. Marilyn Strickland (WA-10) and has extensive research experience. She holds a B.A. from Washington University in St. Louis.

**Eden Ayala (Legal Intern)**

Eden Ayala currently serves as a Legal Fellow in the Office of Policy & Planning. She has previously worked as an intern at Paul, Weiss and in the district office of NYS Assemblymember Marcela Mitaynes. Ayala is a J.D. candidate at Boston University School of Law and holds a B.A. from Hunter College.

**Hamza Suhail (Legal Intern)**

Hamza Suhail currently serves as a Legal Intern in the Mayor's Office of Chief Counsel. He has previously served as a Legal Fellow in the Mayor's Office of Chief Counsel and has worked in both litigation and transactional law firms. Suhail is a J.D. candidate at St. John's University School of Law and holds a B.A. from Queens College.

**New York City Law Department**

The New York City Law Department has served as counsel to the Commission. The Commission would like to thank Spencer Fisher, Martha Alfaro, Benjamin Miller, Rachel Kane, Ian Sinclair, and Ashley Iodice for their insight and assistance.<sup>9</sup>

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<sup>9</sup> The Commission also wishes to acknowledge and thank the many other City employees, across City government, that assisted the Commission in its work and in the preparation of this final report.

## Commission Records

All of the Commission’s public documents—including its preliminary report, press releases, translations of Commission materials, and other notices—as well as recordings of all the Commission’s public hearings, may be found online at [nyc.gov/charter](http://nyc.gov/charter).

A review of the ballot proposals the Commission has decided to put to voters follows. Ballot questions, explanatory abstracts, and the text of proposed Charter amendments are included as appendices to this report.

## Ballot Question #1: Clean Streets

In the first ballot question, the Commission proposes an amendment to expand and clarify the Department of Sanitation’s authority to keep the City’s streets clean.

At its founding, New York City lacked a comprehensive plan for waste management and street cleaning. The City’s Plan of 1811 created a streetscape without alleyways that otherwise could have facilitated waste storage.<sup>10</sup> As the City grew, widespread problems emerged: Pearl Street was literally paved with discarded oyster shells,<sup>11</sup> Collect Pond and other water sources became sites of frequent cholera outbreaks,<sup>12</sup> and by the mid-19<sup>th</sup> Century discarded horse carcasses were a common site on the streets.<sup>13</sup>

The City began providing sanitation services in 1881 with the creation of the New York City Department of Street Cleaning.<sup>14</sup> The newly-formed department’s mission was to address sordid street conditions and organize the collection of waste set out by residents.<sup>15</sup> Over the next century, the City’s handling of residential waste

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<sup>10</sup> New York City Department of Sanitation, *The Future of Trash Waste Containerization Models and Viability in New York City* (Apr. 2023), at 25.

<sup>11</sup> Brad Dunn and Daniel Hood, *New York: The Unknown City* (Arsenal Pulp Press, 2004), at 113.

<sup>12</sup> Tricia Kang, “What Lies Beneath: A History of Collect Pond,” Tenement Museum. <https://www.tenement.org/blog/what-lies-beneath-a-history-of-collect-pond/#:~:text=By%201800%2C%20the%20Pond%20was,with%20debris%2C%20dirt%20and%20trash.>

<sup>13</sup> David Rosner, “Portrait of an Unhealthy City: New York in the 1800s,” *Coalition to Ban Horse-Drawn Carriages*. <https://www.banhdc.org/archives/ch-hist-portrait.html>.

<sup>14</sup> Benjamin Miller, *Fat of the Land: Garbage of New York – the Last Two Hundred Years* (Basic Books, 2000), at 69.

<sup>15</sup> *Id.* at 69-71; Weill Cornell Medicine Office of Energy and Sustainability, *Waste & Recycling*, <https://sustainability.weill.cornell.edu/waste-management-recycling/brief-history-new-york-city->

went through many changes—from a movement to incinerators in the early and mid-1900s, to the use of landfills inside and outside the City in the mid- to late-1900s, to the comprehensive solid waste and reuse approach that emerged in the early 2000s.<sup>16</sup>

Removing waste from the City’s streets and sidewalks was a key focus of one of DSNY’s earliest commissioners, Colonel George Waring, who set out to combat unsanitary conditions and public health problems spread by filth on the streets.<sup>17</sup> While the types of unsanitary conditions confronting New Yorkers have changed significantly since the nineteenth century, street and sidewalk cleaning continues to be a core focus of sanitation crews. Today, crews continue to manually remove litter from sidewalks and other street infrastructure, as well as travel the City’s streets in mechanical brooms to vacuum litter along the curb line.<sup>18</sup>

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[recycling#:~:text=In%201881%2C%20the%20New%20York,New%20York%20City%20Police%20Department.](#)

<sup>16</sup> Robin Kaiser-Schatzline, “The History of New York, Told Through Its Trash,” *New Yorker*, April 24, 2021, <https://www.newyorker.com/books/page-turner/the-history-of-new-york-told-through-its-trash>; Max Galka, “What does New York do with all its trash? One City’s waste — in numbers,” October 27, 2016, <https://www.theguardian.com/cities/2016/oct/27/new-york-rubbish-all-that-trash-city-waste-in-numbers>; “Free Streets at Last,” *New York Times*, Jul. 28, 1895. <https://timesmachine.nytimes.com/timesmachine/1895/07/28/106066139.html?pageNumber=28>.

<sup>17</sup> George E. Warring, *Street Cleaning and The Disposal of a City’s Waste* (Doubleday & McClure co., 1897), at 1. Jennifer Lee, “He Cleaned the Streets, and Left the Presidency to Others,” *New York Times*, Oct. 1, 2009. <https://archive.nytimes.com/cityroom.blogs.nytimes.com/2009/10/01/he-cleaned-the-streets-and-left-the-presidency-to-others/>.

<sup>18</sup> NYC Department of Sanitation, *What We Do*, <https://www.nyc.gov/site/dsny/what-we-do/what-we-do.page>.

At present, the Charter charges DSNY with, among other duties, all responsibilities “relating to the cleanliness of the streets.”<sup>19</sup> But it defines the “street” in a way that includes some, but not all City property.<sup>20</sup> The result is that many center medians and the perimeters of City-owned property do not fall within DSNY’s core ambit. Likewise, the Charter gives other City agencies, such as the Departments of Transportation and Parks and Recreation, separate responsibility for cleaning City property within their respective domains.<sup>21</sup> This segmentation of cleaning responsibilities serves valuable ends, but it also can lead to uncertainty and suboptimal results when there is ambiguity about which agency should attend to particular public spaces.<sup>22</sup> And to the public, jurisdictional distinctions between agencies are largely meaningless. New Yorkers just want their public spaces to be clean.

Past administrations have grappled with this jurisdictional challenge. In the Koch Administration, a 1983 memorandum from then-Deputy Mayor Nathan Leventhal set out to resolve jurisdictional issues and resultant operational shortfalls.<sup>23</sup> The memorandum, which was sent to all Community Boards, attempted to delineate each agency’s responsibility to clean City property. The memo also

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<sup>19</sup> N.Y.C. Charter § 753.

<sup>20</sup> *Id.* at § 755.

<sup>21</sup> *Id.* at §§ 533, 2903

<sup>22</sup> Joshua Goodman, Deputy Commission for Public Affairs and Customer Experience, Department of Sanitation, *Charter Revision Commission Bronx Public Hearing* (July 11, 2024) (testimony).

<sup>23</sup> Deputy Mayor Nathan Leventhal, “Assignments of Jurisdiction for Cleaning Certain City Properties” (January 17, 1983), [https://dsny.cityofnewyork.us/wp-content/uploads/2021/11/Cleaning\\_Assignment\\_of\\_Jurisdiction\\_Levnthl\\_1983.pdf](https://dsny.cityofnewyork.us/wp-content/uploads/2021/11/Cleaning_Assignment_of_Jurisdiction_Levnthl_1983.pdf).

cautioned that many agencies would struggle to meet the responsibilities assigned in the memo.<sup>24</sup>

In November 2022, the Adams Administration launched its Get Stuff Clean program, the first effort to alter the approach set out in the Leventhal memo.<sup>25</sup> Get Stuff Clean replaced the memo's guidance in favor of giving DSNY the charge and resources to perform supplemental cleaning of some City property under the jurisdiction of Parks and Transportation. DSNY is the agency with the core competency for cleaning. Amending the Charter to authorize the Mayor to confer greater responsibility on DSNY to clean City properties as needed is intended to help keep the City clean.

The Charter also assigns DSNY the responsibility for, and control over, all functions and operations of the City relating to the disposal of waste.<sup>26</sup> And it gives the DSNY Commissioner the power to adopt regulations controlling the use of sidewalks and gutters by abutting owners and occupants with respect to sweepings, garbage, refuse, or rubbish, and the power to issue violations for failure to comply with such regulations punishable by fine, imprisonment or civil penalty.<sup>27</sup>

In recent years, in an effort to promote the containerization of trash and the resultant benefits for cleanliness and public health, DSNY has promulgated several rules that limit the amount of time that non-containerized refuse spends on City

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<sup>24</sup> *Id.*

<sup>25</sup> Office of the Mayor, "Mayor Adams Consolidates Citywide Cleaning Functions to 'Get Stuff Clean,' Announces \$14.5 Million in new Funding for Clean Streets and Parks," *The Official Website of the City of New York*, Nov. 10, 2022, <https://www.nyc.gov/office-of-the-mayor/news/824-22/mayor-adams-consolidates-citywide-cleaning-functions-get-stuff-clean-14-5-million#/0>.

<sup>26</sup> N.Y.C. Charter § 753(a)(1-5).

<sup>27</sup> *Id.* at § 753(d).



streets.<sup>28</sup> In short, DSNY is limiting the placement of garbage bags on the sidewalk. The Charter, however, does not expressly name, among the powers of the Commissioner, the authority to specify the containers that may be used for refuse.

So too, despite the fact that the Office of Street Vendor Enforcement is housed within DSNY, the Charter does not expressly grant DSNY concurrent enforcement authority over vending that occurs on City property other than its streets and sidewalks, such as in parks that at present can only be performed by NYPD or Parks enforcement.<sup>29</sup>

Both Councilmember Francisco Moya and DSNY provided compelling testimony to the Commission in favor of the proposed reforms.<sup>30</sup> More importantly, New Yorkers have expressed a desire for cleaner streets, including cleaner sidewalks and alternative solutions to the placement of garbage bags on the sidewalk.<sup>31</sup> Updating the Charter to clarify and expand DSNY responsibilities could help promote these important objectives.

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<sup>28</sup> See e.g., 16 RCNY 1-02.1 (limiting the time solid waste and recyclable materials can be placed on the curbside); 16 RCNY 1-02.5 (requiring waste be placed in lidded containers).

<sup>29</sup> N.Y.C. Charter § 13-e.

<sup>30</sup> Francisco Moya, City Council Member, *Charter Revision Commission Bronx Public Hearing* (July 11, 2024) (testimony); Joshua Goodman, Deputy Commission for Public Affairs and Customer Experience, Department of Sanitation, *Charter Revision Commission Bronx Public Hearing* (July 11, 2024) (testimony).

<sup>31</sup> Melissa Kravitz Hoeffner, “All NYC businesses are now required to bin their trash instead of throwing it on the sidewalk,” *Timeout*, Sept. 20, 2023, <https://www.timeout.com/newyork/news/nyc-food-establishments-now-need-to-bin-their-trash-instead-of-throwing-it-on-the-sidewalk-080123>; Emily Badger and Larry Buchanan, “The absurd problem of New York City trash,” *The New York Times*, Mar. 02, 2024, <https://www.nytimes.com/interactive/2024/03/02/upshot/nyc-trash-rules.html>.

## **Proposed Amendment to the Charter**

The Commission proposes an amendment to clarify the Department of Sanitation's mandate and facilitate its efforts to keep streets and other city property clean:

- **City-owned property & cleanliness violations**

- The amendment would enable DSNY, at the Mayor's direction, to clean any city-owned property and allow DSNY to enforce all laws, rules, and regulations related to the cleanliness of streets, sidewalks, and exteriors of real property of the City.

- **Containerization**

- The amendment would clarify that DSNY can regulate containers used to dispose garbage. Currently, the Charter does not explicitly reference this mandate.

- **Street Vendors**

- The amendment would extend DSNY enforcement authority over Street Vendors to other types of City property, not just streets and sidewalks. The authority would be concurrent with agencies already authorized to enforce vending rules.

## Ballot Question #2: Fiscal Responsibility

The current Charter-mandated process for preparing, adopting, and managing the City budget in large measure reflects decisions made by the 1989 Charter Revision Commission, which proposed to voters a highly structured framework for determining how the City would raise revenue and fund expenses.<sup>32</sup> At its core, the framework New Yorkers approved requires the Mayor to submit to the City Council for its review a proposed annual budget for the City, and it requires the Council to adopt an annual budget before the beginning of each fiscal year.<sup>33</sup>

Within that simple design, however, is a complex series of steps, involving not only the Mayor and the Council but other elected and unelected stakeholders. For example, the process provides that multiple iterations of the annual budget must be submitted by the Mayor to the Council throughout the fiscal year.<sup>34</sup> The Mayor's Office of Management and Budget (OMB) prepares and submits multi-year capital plans to the Mayor and City Council.<sup>35</sup> Future revenues are projected, and actual

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<sup>32</sup> Office of the New York City Comptroller Scott M. Stringer, *A New Charter to Confront New Challenges* (Sep. 2018); Michael A. Cardozo, *Reflections on the 1989 Charter Revisions*, 58 N.Y.L. Sch. L. Rev. 85 (2013).

<sup>33</sup> N.Y.C. Charter §§ 225 (budgetary responsibilities of the Mayor, the Director of Management and Budget and the Comptroller), 249 (by April 26 the Mayor submits a proposed executive budget for the ensuing fiscal year to the Council), 254 (Council's authority to alter the budget submitted by the Mayor in specified ways).

<sup>34</sup> *Id.* at §§ 236 (in January the Mayor submits a preliminary budget for the ensuing fiscal year to the Council), 249, 254, 258 (Mayor issues an update of the 4-year financial plan after the budget has been adopted).

<sup>35</sup> *Id.* at §§ 213 (preliminary capital budget), 214 (executive capital budget), 215, 248 (10-year capital strategy).

revenues are compared with past estimates.<sup>36</sup> Borough presidents and community boards weigh in on borough and community priorities.<sup>37</sup> The Comptroller reports on the health of the City's finances.<sup>38</sup> And the Council holds dozens of hearings on various drafts and reports relating to the City's annual budget.<sup>39</sup> Each of these steps is meant to ensure that the budgetary process is deliberative, that the City is following sound accounting practices,<sup>40</sup> and that the public is afforded an opportunity for meaningful review.

As part of its review, the Commission has heard a wide range of ideas designed to improve the budget process and promote fiscal responsibility. Ultimately, it has determined that two ideas should be forwarded to the voters this election: one addressing the fiscal impacts of proposed local laws, and one addressing certain outdated and inefficient budget deadlines.

## Fiscal Impacts

As part of the second ballot question, the Commission proposes an amendment to improve how the City assesses the fiscal impacts of proposed local laws.

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<sup>36</sup> *Id.* at §§ 229 (revenue reports of the Mayor and Comptroller), 237 (Independent Budget Office report on revenues and expenditures).

<sup>37</sup> *Id.* at §§ 245 (Borough President recommendations to the Mayor), 251 (Borough President responses to the executive budget).

<sup>38</sup> *Id.* at §§ 232 (Comptroller's report on capital debt and obligations), 233 (Comptroller's report on state of the City's finances).

<sup>39</sup> In fact, the annual budgeting process requires many more steps and actions than the above list and is detailed across several chapters of the City's Charter, most notably in Chapter 10.

<sup>40</sup> Cardozo, 58 N.Y.L. Sch. L. Rev. 85.

The Charter requires that each year the Mayor propose, and the City Council adopt, a balanced budget.<sup>41</sup> The budget, which encapsulates the joint budgetary priorities of both the Council and the Mayor, serves two primary purposes. First, it provides a comprehensive and predictable structure to the City's expenditures and revenue over the fiscal year. Second, it promotes sound fiscal management. A balanced municipal budget has been required since 1975 when the New York State Financial Emergency Act for the City of New York ("FEA") was enacted.<sup>42</sup> This requirement was subsequently enshrined in the City Charter by referendum in 2005 to memorialize the fiscal controls placed on the City under the FEA.<sup>43</sup>

While reviewing and approving the City's budget is arguably the most significant legislative action taken by the Council each year, its legislative reach extends well beyond the annual budget process. The Council has the power by majority vote to pass proposed legislation on many diverse issues, and it frequently exercises this power with legislation that affects municipal operations, including City services and benefits. From the moment approved legislation is presented to the Mayor, the Mayor has 30 days to decide whether to sign the legislation into law, veto it, or allow it to lapse into effect.<sup>44</sup> Should the Mayor choose to veto the

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<sup>41</sup> The schedule in the Charter reflects an expectation that the budget will be adopted by the start of the subsequent fiscal year, or July 1<sup>st</sup>. N.Y.C. Charter §§ 225, 226.

<sup>42</sup> N.Y. N.Y.S. Financial Emergency Act for the city of N.Y. § 2-a, Chapter 868 of the Laws of 1975, as amended.

<sup>43</sup> N.Y.C. Charter § 258; Cardozo, *Reflections on the 1989 Charter Revisions*, 58 N.Y.L. Sch. L. Rev. 85; New York City Charter Revision Commission, *2005 Ballot Questions* (Aug. 2, 2005); N.Y. N.Y.S. Financial Emergency Act for the city of N.Y. , Chapter 865 of the Laws of 1975.

<sup>44</sup> N.Y.C. Charter § 37(b).

legislation, the City Council has the power to override a veto by a vote of two thirds of the body.<sup>45</sup>

City Council legislation frequently affects the City budget. In view of this reality, the Charter requires that no local law may be voted on by the Council, or a committee of the Council, unless it is accompanied by a Fiscal Impact Statement.<sup>46</sup> These statements, which are pursuant to Council Rule prepared by the Finance Division of the City Council, detail the City Council's estimate of the fiscal impact of a law on City revenues and expenditures.<sup>47</sup> The Charter provides that a Council Committee may request information from City agencies to assist it in preparing a fiscal statement, and that agencies must promptly furnish this information to the Council.<sup>48</sup> The Charter further provides that Fiscal Impact Statements must identify the sources of information used in its preparation, but it does not dictate the process or establish a methodology for formulating the statements, nor require that statements be validated by an independent body.<sup>49</sup> And there is no Charter-mandated difference in treatment between legislation that is accompanied by a Fiscal Impact Statement predicting an impact, and legislation where the Fiscal Impact Statement predicts no impact.

Further, the Council typically publishes Fiscal Impact Statements only when proposed legislation is on the cusp of adoption as a law.<sup>50</sup> As Richard Lee—Finance

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<sup>45</sup> *Id.*

<sup>46</sup> *Id.* at § 33.

<sup>47</sup> N.Y.C. Council Rule 6.50 (providing for Council finance division review).

<sup>48</sup> N.Y.C. Charter § 33(a).

<sup>49</sup> *Id.* at § 33.

<sup>50</sup> It is common practice for a Fiscal Impact Statement to be formulated in the week leading up to a legislative introduction's passage, and not earlier. This is largely because the final text of the

Director of the City Council—testified, the Council “begin[s] the process . . . when the bill is essentially finalized.”<sup>51</sup> This means that much of the public debate around a law—including the Council’s public hearing on the proposed bill—occurs in the absence of the Fiscal Impact Statement.<sup>52</sup>

Moreover, these statements may underestimate actual cost. For example, many bills impose reporting requirements that, while estimated to have zero cost, require significant staffing resources. Consider Local Law 38 of 2022, which created additional reporting requirements for the emergency assistance grant program. The Fiscal Impact Statement estimated it would have \$0 in fiscal impact.<sup>53</sup> However, OMB reports that its implementation required an estimated 175 hours per year of staff time (including some overtime) for reporting alone. Additionally, upgrades to the HRA service protocol and tracking system were anticipated at a cost of \$4.1 million to operationalize and implement the legislation’s requirements. Indeed, the

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legislation is typically finalized a week prior to the full Council Stated Meeting at which the full Council intends to pass the legislation — due in part to requirements that a bill be in its final form at least 7 days (not including Sundays) prior to the full Council vote. Thus, relevant costs are typically only presented in the calendar week during which the Stated Meeting of the City Council is scheduled so that the Council can vote on the proposed legislation. N.Y.C. Charter § 36.

<sup>51</sup> Richard Lee, Finance Director of the New York City Council, *Charter Revision Commission Bronx Public Hearing* (July 11, 2024) (testimony).

<sup>52</sup> For example, the Council’s initial Committee hearing for the bill that became Local Law No. 71 of 2021 was held on September 15, 2020, but the fiscal note for the bill was not published until May 26, 2021, the same day as Committee’s second and final public hearing on the legislation, and only one day before its passage on May 27, 2021. The Fiscal Impact Statement for this legislation predicted that the additional expenditures required for implementation would be \$75 million in year one, increasing to \$270 million in year five. Fiscal Impact Statement, Proposed Int. No. 146-C.

<sup>53</sup> Fiscal Impact Statement, Proposed Int. No. 2081-A.

Council often passes legislation that it estimates will have “no impact,” only for the City to find that the costs of implementation are substantial.<sup>54</sup> This practice stands in tension with testimony before the Commission recognizing that “all legislation costs money.”<sup>55</sup>

Thus, while the annual budget is intended to fund the operations of the City throughout the fiscal year, legislation passed outside of the budget process impacts the use of tax revenues and governmental expenditures. Where legislation with a fiscal impact is passed, it falls on City agencies and the Office of Management and Budget to determine how to fund new obligations that were not accounted for when the fiscal year began. In such cases, additional revenues or savings generated from other areas of the City budget are needed to carry out the legislation.<sup>56</sup> Fiscal monitors and bond rating agencies have expressed concern that local legislation imposing fiscal impacts not accounted for in the annual budget represents a potential risk to the City’s finances.<sup>57</sup>

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<sup>54</sup> For example, Local Law 46 of 2023—which requires the establishment of a marine debris disposal and vessel surrendering office—was predicted to have no fiscal impact despite the bill requiring the establishment of a new office. And, following passage, \$1 million in funding was subsequently added to the budget to fund this office.

<sup>55</sup> Jason Otaño, General Counsel of the New York City Council, *Charter Revision Commission Bronx Public Hearing* (July 11, 2024) (testimony).

<sup>56</sup> For an example of testimony regarding how unaccounted expenditures demand additional revenues or savings, see Budget Director Jacques Jiha, *Preliminary Hearing at Committee on Finance* (Mar. 4, 2024) (testimony), at 58.

<sup>57</sup> Office of State Comptroller, *Review of the Financial Plan of the City of New York* (May 2024), at 28-34; Moody’s Investors Service, *Credit Opinion for the City of New York* (Feb. 22, 2024), at 2; Fitch Ratings, *Fitch Rates New York City, NY’s \$1.28B Ser D, E & F GO Bonds ‘AA’; Outlook Stable* (Mar. 22, 2024), at 9.



The Commission heard from numerous budget experts on this topic, including Kathryn Wylde, president and CEO of Partnership for New York City. In her testimony, Ms. Wylde advocated for meaningful independent analysis and public discussion of both the fiscal and economic impacts of legislation prior to passage, as well as application of the disciplined annual budget process to any legislation with a significant budget impact.<sup>58</sup> Ms. Wylde proposed that the Charter be amended to involve the Independent Budget Office (IBO), OMB, and Council Finance Division in the formulation of a Fiscal Impact Statement. Ms. Wylde suggested that the Fiscal Impact Statement for a proposed law be published in advance of the first hearing on a proposal, and that the existing Fiscal Impact Statement requirement is inadequate as it does not consider the financial impact on the City's residents and economy.

Similarly, the New York City Citizens Budget Commission (CBC) proposed earlier publication of Fiscal Impact Statements to promote appropriate consideration of fiscal needs in the legislative process, that the IBO produce an independent fiscal impact statement or validate the Council's assessment for programs that would cost more than \$100 million per fiscal year, and that Fiscal Impact Statements disclose whether costs can actually be accommodated within the City's budget.<sup>59</sup> CBC further suggested that high cost legislative initiatives should take effect only once funds are modified into the budget or negotiated at budget adoption.<sup>60</sup>

Citizens Union acknowledged problems with the existing fiscal impact statement process but opposed amending the Charter to require earlier fiscal impact

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<sup>58</sup> Kathryn Wylde, President and CEO of Partnership for New York City, *Charter Revision Commission Fiscal Responsibility Forum & Manhattan Public Hearing* (June 13, 2024) (testimony).

<sup>59</sup> Andrew S. Rein, President of Citizens Budget Commission, *Charter Revision Commission Manhattan Public Hearing* (July 8, 2024) (testimony).

<sup>60</sup> *Id.*

statements or further specify what Fiscal Impact Statements should include.<sup>61</sup> Instead, Citizens Union recommended that the Fiscal Impact Statement process be improved by the Council through changes to its own rules.<sup>62</sup> And in contrast to CBC—which called for giving the IBO a formal role in fiscal impact statements—Citizens Union cautioned against “involving outside agencies in an element of the legislative task” because it might confer an unintended “veto power” over Council legislation and lead to further delays in lawmaking.<sup>63</sup>

Jason Otaño, General Counsel of the New York City Council, testified in opposition to reforming the Charter’s treatment of Fiscal Impact Statements. He cautioned against changes that would give the Executive Branch a “de facto veto” of proposed legislation by allowing the Executive Branch to withhold information needed for a Fiscal Impact Statement and thereby prevent legislation from moving forward.<sup>64</sup> He also testified that requiring Fiscal Impact Statements earlier in the legislative process would “deter the work of the legislative body” and cause a “chilling effect on the exchange of ideas.”<sup>65</sup>

After considering these and other views, the Commission is presenting to voters changes intended to improve the assessment of fiscal impacts in the legislative process. First, the proposed amendment would require that a Fiscal Impact Statement be developed prior to a public hearing on a proposed law. At present, because Fiscal Impact Statements are typically published only when proposed legislation is to be

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<sup>61</sup> Amaury Dujardin, Policy Manager at Citizens Union, Charter Revision Commission Public Hearing – Manhattan (July 8, 2024) (testimony).

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> Jason Otaño, General Counsel of the New York City Council, *Charter Revision Commission Bronx Public Hearing* (July 11, 2024) (testimony).

<sup>65</sup> *Id.*

voted on at committee, much of the public discussion around legislation—and much of the legislative work to craft a bill—occurs without the benefit of a Fiscal Impact Statement. By requiring a Fiscal Impact Statement earlier in the legislative process, this amendment may encourage greater consideration of the fiscal repercussions of proposed laws. The Commission disagrees with the Council’s assertion that an earlier assessment of Fiscal Impact Statements will “chill” the exchange of ideas.<sup>66</sup> Instead, the Commission believes that an earlier assessment will enrich public dialogue by ensuring that debate on a proposed measure is grounded in fiscal reality. In addition, a second Fiscal Impact Statement—before a proposed law is voted on by the full Council—would be required in order to give legislators and the public another assessment of the fiscal impacts of proposed legislation.<sup>67</sup>

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<sup>66</sup> Jason Otaño, General Counsel of the New York City Council, *Charter Revision Commission Bronx Public Hearing* (July 11, 2024) (testimony).

<sup>67</sup> Currently, Fiscal Impact Statements are prepared prior to a vote by the Council Committee. N.Y.C. Charter § 33(b). As described in the body text of this report, under these amendments Fiscal Impact Statements would be prepared (1) prior to a public hearing and then (2) prior to a vote by the full Council. The latter Fiscal Impact Statement is tied to a vote by the full Council, rather than a vote by a Council Committee, in order to reduce potential disruptions to the Council’s present aging practices. A requirement that a Fiscal Impact Statement be prepared prior to a vote by a Council Committee, paired with a new requirement that the Council give the Office of Management and Budget notice of its intent to prepare a Fiscal Impact Statement, may have had the unintended effect of delaying some Council Committee votes. Instead, under the proposed amendment, the Council would be required to give the Office of Management and Budget eight days’ notice of the Council’s intent to formulate a Fiscal Impact Statement in advance of a vote by the full Council. This eight-day requirement is consistent with the Charter-mandated requirements for passage of local laws. N.Y.C. Charter § 36 (“No local law shall be passed until it shall have been in its final form and upon the desks of the council members at least seven calendar days, exclusive of Sundays, prior to its final passage....”).

Second, the proposed amendment would require that Fiscal Impact Statements for proposed local laws—whether prior to a public hearing or before the full Council vote—contain two estimates: one from the Council and one from the Office of Management and Budget. At present, the Charter does not specify who should develop Fiscal Impact Statements, but in practice the Council formulates them internally. And though the Charter requires agency heads to furnish information to the Council for the purpose of formulating Fiscal Impact Statements, the Charter does not give the Executive Branch a formal role in estimating the fiscal impact of a proposed local law. This is so even though the Council and City agencies sometimes disagree about the likely impacts of proposed local laws. By requiring that Fiscal Impact Statements contain both an estimate by the Council and one by the Office of Management and Budget, the proposed amendment should facilitate a more detailed and substantive examination of fiscal impacts in the legislative process. At the same time, the amendment would avoid any danger of unduly impeding the legislative process by providing that if the Office of Management and Budget does not provide its estimate in a timely manner, the Council would be permitted to move forward without delay.<sup>68</sup>

Finally, to ensure that these requirements are not barriers to prompt consideration of proposed laws when necessary, these requirements would be made waivable by a mayoral message of necessity.

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<sup>68</sup> In his July 11, 2024 testimony before the Commission, Jason Otaño, General Counsel of the New York City Council, cautioned against changes that would give the Executive Branch a “de facto veto” of proposed legislation by allowing the Executive Branch to withhold information needed for a Fiscal Impact Statement and thereby prevent legislation from moving forward. The Commission is mindful of this concern, and its proposal allows the Council to proceed with legislation without delay where the Office of Management and Budget does not timely provide its estimate.

## Budget Modernization

As part of the second ballot question, the Commission also proposes an amendment to update several budget-related deadlines in the Charter to promote efficiency and ensure that the Charter-mandated process reflects modern realities.

First, to ensure that new mayoral administrations are afforded adequate time to compose a preliminary budget, the amendment would extend the deadline for the preliminary budget from January 16<sup>th</sup> to February 1<sup>st</sup> in years following a mayoral election. Section 236 of the Charter currently requires the Mayor to submit to the Council a preliminary budget for the next fiscal year not later than January 16<sup>th</sup>. Complying with this deadline is a tall order in any year, given its proximity to the winter holidays. But it is especially difficult when there has been a change in mayoral administrations. New Mayors enter office on January 1<sup>st</sup>, giving them just over two weeks to prepare a budget. Recognizing this challenge, the Council and Mayor have historically extended the deadline for submitting the preliminary budget when a new Mayor enters office.<sup>69</sup> For much the same reason, the New York State Constitution extends the deadline for submittal of the Governor's executive budget in "each year following . . . the election of governor and lieutenant governor."<sup>70</sup> Amending the Charter to extend the deadline in all years following a mayoral election will align the Charter with this prudent practice. The amendment would also extend certain related deadlines. In years following a mayoral election, the deadline for the mayor to submit a preliminary certificate on capital debt and obligations would be extended from January 16<sup>th</sup> to February 1<sup>st</sup>.<sup>71</sup> So too, in years following a mayoral election,

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<sup>69</sup> See Local Law 74 of 2001; Local Law 156 of 2013; and Local Law 52 of 2022.

<sup>70</sup> N.Y. Const. article VII, § 2

<sup>71</sup> N.Y.C. Charter § 235.

the deadline for the Independent Budget Office to report on revenues and expenditures would be extended from February 1<sup>st</sup> to February 15<sup>th</sup>.<sup>72</sup>

Second, to promote a well-formulated executive budget, this amendment would extend the deadline for submission of the executive budget for the next fiscal year from April 26<sup>th</sup> to May 1<sup>st</sup>.<sup>73</sup> The Charter presently requires the Mayor to submit an executive budget for the ensuing fiscal year by April 26<sup>th</sup>. That date falls shortly after the April 15<sup>th</sup> tax deadline, which is important for purposes of assessing tax collections and predicting revenues.<sup>74</sup> A short extension of the executive budget deadline—to May 1<sup>st</sup>—is intended to promote a more accurate executive budget. The amendment would accordingly extend the deadline for Borough President recommendations on the executive budget from May 6<sup>th</sup> to May 13<sup>th</sup>.<sup>75</sup>

### **Proposed Amendment to the Charter**

The Commission proposes an amendment to improve the assessment of fiscal impacts in the legislative process and update certain budget deadlines.

#### **- Earlier Assessment of Fiscal Impacts**

- The amendment would require that a Fiscal Impact Statement be prepared prior to a public hearing on a proposed local law. In addition, an updated Fiscal Impact Statement would be required prior to a vote on a proposed local law. An existing requirement for Fiscal Impact Statements prior to a vote by a Council Committee would be eliminated.

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<sup>72</sup> *Id.* § 237.

<sup>73</sup> *Id.* § 249.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.* § 251.

- **Requiring Both Executive and Legislative Branch Assessments**

- The amendment would require that Fiscal Impact Statements for proposed local laws contain estimates from both the City Council and the Mayor's Office of Management and Budget.
- The Council would be required to give the Office of Management and Budget eight days' notice before holding a public hearing or a full Council vote on a proposed local law to allow the Office of Management and Budget time to develop and submit its estimate, and to allow councilmembers sufficient time to consider each estimate.
- If the Office of Management and Budget has received adequate notice from the Council, but has not provided its estimate in a timely manner, the Council need not wait to move forward with a public hearing or full Council vote.

- **Budget Modernization**

- The amendment would extend the deadline for the preliminary budget from January 16<sup>th</sup> to February 1<sup>st</sup> in years following a mayoral election, extend the deadline for the mayor to submit a preliminary certificate on capital debt and obligations from January 16<sup>th</sup> to February 1<sup>st</sup> in years following a mayoral election, and extend the deadline for the Independent Budget Office to report on revenues and expenditures from February 1<sup>st</sup> to February 15<sup>th</sup> in years following a mayoral election.
- The amendment would also extend the deadline for submission of the executive budget from April 26<sup>th</sup> to May 1<sup>st</sup>, and extend the deadline for Borough President recommendations on the executive budget from May 6<sup>th</sup> to May 13<sup>th</sup>.

## Ballot Question #3: Public Safety

In the third ballot question, the Commission proposes an amendment to promote public input and deliberation in the consideration of proposed local laws respecting public safety.

One of the most basic obligations of government is to protect public safety. The history of New York City, in particular, underscores that the fortunes of the City as a whole are inextricably linked to its ability to protect the public and maintain public confidence in law enforcement. Today, after decades of progress, New York City is one of the safest big cities in America. Nevertheless, New Yorkers continue to identify crime and public safety as top issues of concern.<sup>76</sup>

Under the Charter, several mayoral agencies are charged with duties to protect public safety. The Charter provides for the Police Department and charges it with the core obligation to “preserve the public peace, prevent crime, [and] detect and arrest offenders.”<sup>77</sup> It provides for the Department of Correction, which is responsible for the care and custody of those imprisoned or detained.<sup>78</sup> And it provides for the Fire Department, which is granted the “sole and exclusive power and authority to extinguish fires at any place within the jurisdiction of the city” and the power and authority to operate the City’s emergency medical services.<sup>79</sup>

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<sup>76</sup> See, e.g., Rebecca C. Lewis, “Siena poll: New Yorkers are still worried about crime,” *City & State New York*, July 12, 2023, <https://www.cityandstateny.com/politics/2023/07/siena-poll-new-yorkers-are-still-worried-about-crime/388402/> (noting that New Yorkers consistently express concerns about crime and public safety in public polling).

<sup>77</sup> N.Y.C. Charter §§ 431, 435.

<sup>78</sup> *Id.* at §§ 621, 623.

<sup>79</sup> *Id.* at § 487(b), (f).



In addition to these uniformed agencies, the Charter charges a number of additional mayoral agencies and offices with critical public safety functions. These include the Office of Emergency Management (OEM), responsible for “coordinat[ing] the City’s response to all emergency conditions” including “severe weather,” “natural disasters,” and “acts of terrorism,”<sup>80</sup> and the Office of Criminal Justice, to “advise and assist the mayor” in carrying out “criminal justice programs and activities.”<sup>81</sup> Other Charter-created entities also serve public safety functions, such as the Civilian Complaint Review Board, which is granted “authority to investigate allegations of police misconduct.”<sup>82</sup>

The City Council, as the legislative body of the City, also plays an important part in public safety. The Council’s role in the budgetary process helps determine the resources available to the City’s public-safety agencies.<sup>83</sup> The Council also frequently passes legislation bearing upon the agencies responsible for public safety, or which may promote or inadvertently impair public safety.<sup>84</sup>

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<sup>80</sup> *Id.* at §§ 495, 497. OEM was formally adopted into the Charter by referendum at the November 6, 2001 General Election. *See* Charter Revision Commission, *Final Report from the 2001 Charter Revision Commission* (2001), at 73-79.

<sup>81</sup> N.Y.C. Charter § 13.

<sup>82</sup> *Id.* at § 440(a).

<sup>83</sup> *See, e.g.,* N.Y.C. Charter §§ 247, 253 (requiring City Council to hold hearings and make recommendations related to the budget).

<sup>84</sup> *See, e.g.,* Local Law No. 23 of 2024 (requiring NYPD to share body-worn camera footage with DOI within 10 days of DOI’s request); Local Law No. 20 of 2024 (requiring NYPD to report when an individual denies consent to a search); Local Law No. 25 of 2024 (requiring NYPD to disclose donations of \$1 million or more); Local Law No. 26 of 2024 (requiring NYPD to report their justifications for a vehicle stop).

After proposed legislation is introduced, it is given an introduction (commonly referred to as “intro”) number, published on the Council website and assigned to a committee.<sup>85</sup> Before proposed legislation is passed by the Council, there is typically a public hearing in front of the committee to which the bill is assigned, and notice of such a hearing is provided at least 72 hours in advance.<sup>86</sup> At this hearing, representatives of the Administration and members of the public may provide testimony on proposed legislation.<sup>87</sup> In general, at least 7 calendar days (exclusive of Sundays) prior to taking a vote, proposed legislation must be in its final form and laid upon the desk of each Council Member, which the Charter provides may be accomplished by electronic means.<sup>88</sup> In practice, this means that proposed legislation may go from introduction, to a public hearing, to passage by the Council in less than two weeks.

The Commission heard considerable testimony expressing concern about the Council’s passage of legislation pertaining to public safety with limited opportunities for public input or consultation with experts, affected agencies, and

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<sup>85</sup> See N.Y.C. Council Rule 5.110, *Legislative Tracking* (requiring local laws be published online); N.Y.C. Council Rule 6.00, *Preparation and Presentation of Papers*; N.Y.C. Council Rule 6.30 (assigning intro numbers in chronological order of introduction), *Papers Referred to Committee*; *Change of Reference* (referring intros to vote by a committee). According to N.Y.C. Council Rule 7.00, the Committee on Public Safety has oversight over the Police Department, civilian complaint Review Board, mayor’s Office of Criminal Justice, courts, legal services, District Attorneys, and the Office of the Special Narcotics Prosecutors. N.Y.C. Council Rule 7.0, *Appointment-a*.

<sup>86</sup> See N.Y.C. Council Rule 7.60(a) (granting the committee chairperson authority to “call public hearings on any matters referred to such committee”); N.Y.C. Council Rule 7.50(d) (requiring 72 hours’ notice in advance of a hearing).

<sup>87</sup> N.Y.C. Council Rule 7.60(a).

<sup>88</sup> See N.Y.C. Charter § 36.

critical stakeholders. Multiple members of the public expressed frustration with the opportunities for public comment on a measure that became Local Law 43 of 2024, which requires the NYPD to document common and low-level encounters with members of the public.<sup>89</sup> Officials from public safety agencies<sup>90</sup> and unions representing public safety professionals<sup>91</sup> testified that the Council has passed legislation without sufficient consultation or discussion with agencies. One testified that critical stakeholders are frequently unaware of proposed public safety legislation before formal introduction and are afforded only limited opportunities to provide input after introduction, and further that the absence of consultation and deliberation

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<sup>89</sup> See, e.g., Yiatin Chu, Charter Revision Commission Public Hearing (June 5, 2024) (testimony); Statement of Commissioner Bragg, Charter Revision Commission Public Hearing (June 6, 2024); Jean Han, Charter Revision Commission Public Safety Forum & Brooklyn Public Hearing (June 20, 2024) (testimony).

<sup>90</sup> See Howard Singer, Deputy Chief of Staff of NYC Department of Correction, Charter Revision Commission Public Safety Forum & Brooklyn Public Hearing (June 20, 2024) (testimony); Bob Barrows, Deputy Commissioner of Strategic Initiatives for NYPD, Charter Revision Commission Public Safety Forum & Brooklyn Public Hearing (June 20, 2024) (testimony); Jason Shelly, Assistant Commissioner for External Affairs at FDNY, Charter Revision Commission Public Safety Forum & Brooklyn Public Hearing (June 20, 2024) (testimony); Carolina Chavez, First Deputy Director of Mayor's Office of Criminal Justice, Charter Revision Commission Public Safety Forum & Brooklyn Public Hearing (June 20, 2024) (testimony).

<sup>91</sup> See Patrick Hendry, President of the Police Benevolent Association, Charter Revision Commission Public Safety Forum & Brooklyn Public Hearing (June 20, 2024) (testimony); Benny Boscio, Jr., President of the Correction Officers' Benevolent Association, Charter Revision Commission Public Safety Forum & Brooklyn Public Hearing (June 20, 2024) (testimony); Andrew Quinn, General Counsel of the Sergeants Benevolent Association, Charter Revision Commission Public Safety Forum & Brooklyn Public Hearing (June 20, 2024) (testimony).

in public safety matters may contribute to the passage of legislation that heightens risks to public safety and endangers public safety professionals in particular.<sup>92</sup>

At present, the requirements for passage of legislation relating to public safety do not differ from the requirements for passage of legislation on other matters. Requiring additional opportunities for input and review in the Council’s consideration of public safety legislation could enable more careful deliberation and ensure that affected communities across the City are heard when legislation touches upon this important area. At the same time, the preservation of public safety sometimes requires expedited action by the Council. Measures to promote deliberation on topics of public safety must, therefore, account for the need to act with speed when necessary.

Citizens Union, for its part, testified against requiring additional public input in the consideration of public safety legislation. Citizens Union argued that Council “public safety legislation receives similar public input opportunities as other laws on other issues.”<sup>93</sup> The Commission, however, heard compelling testimony calling for *more* robust opportunities for consultation and public input in public safety legislation than other bills, given the central importance of public safety to the City. Citizens Union also argued that additional requirements are unnecessary because the Council generally affords sufficient and meaningful opportunities for input and deliberation in public safety legislation.<sup>94</sup> But if the Council *typically* affords the public sufficient time and opportunity to engage with proposed public safety

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<sup>92</sup> Boscio, *supra* (citing an absence of consultation in the passage of Local Law 42 of 2024, which prohibits correction officers from implementing punitive segregation or from handcuffing inmates while transporting them to and from court appearances).

<sup>93</sup> Amaury Dujardin, Policy Manager at Citizens Union, Charter Revision Commission Public Hearing – Manhattan (July 8, 2024) (testimony).

<sup>94</sup> *Id.*

legislation, it does not in every case. Changes to the Charter may help ensure that sufficient input is provided in every case.

In view of these considerations, the Commission is presenting to voters an amendment intended to promote public input, consultation, and deliberation in public safety legislation. Specifically, the amendment would establish additional procedural requirements for the Council's consideration of proposed local laws respecting the public safety operations of three City agencies: the Police Department, the Department of Correction, and the Fire Department.

Prior to a vote by the full Council on a covered public safety proposal, the Council would be required to give an additional notice to the public, the Mayor, and the commissioners of affected agencies at least 30 days in advance of a vote. During the period between the notice and the vote, the Mayor and affected agencies would be permitted to hold one or more additional public hearings on the proposal in order to solicit additional public input. These hearings could include, where appropriate, public hearings in the outer boroughs in order to facilitate input from impacted communities.

These requirements would be new to the Charter and, if approved, should help promote careful consideration and participation by the public, affected agencies, and experts. At the same time, they would be consonant with Council best practice in the consideration of local laws, including well-publicized public hearings. Indeed, the Commission endeavored to promote additional opportunity for public input without unduly burdening the Council's important legislative role. Moreover, to ensure that these additional procedures would not prove a barrier to the prompt passage of public safety legislation when required, and that noncontroversial or technical proposals may proceed without undue delay, these additional procedures would be waivable by the Mayor.

**Why does this amendment apply to legislation respecting the Police Department, Department of Correction, and Fire Department and not other agencies?**

As discussed above, many Charter-mandated entities play a role in public safety, and even agencies without a core public safety mandate sometimes implement policies that affect public safety. It follows that a proposal to promote deliberation and input in public safety legislation could reasonably apply to proposals affecting scores of agencies, from the Office of Emergency Management to the Civilian Complaint Review Board and beyond.

Nevertheless, the Commission is proposing that additional procedural requirements apply to proposals affecting only the Police Department, Department of Correction, or Fire Department for several reasons. For one, the weight of testimony heard by the Commission on this topic focused on the absence of consideration and public input in Council passage of measures affecting these agencies.<sup>95</sup> For another, in the Commission's judgment, these agencies perform the core functions—on crime and emergency response—that New Yorkers most have in mind when they express concerns about public safety. Finally, the Commission is mindful that additional requirements on Council action are novel, and prudence militates in favor of applying new requirements to a limited set of agencies. In the future, application of these procedures could be expanded if they prove to play a salutary role.

**What kinds of proposed local laws respect public safety operations?**

Under the Commission's proposal, not every proposed local law affecting the Police Department, Department of Correction, or Fire Department is subject to

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<sup>95</sup> *See supra*.

enhanced procedural requirements. Instead, the proposed amendments apply to laws respecting the public safety operations of these three agencies.

At its core, this amendment is intended to ensure that, in the future, proposals such as Local Law 43 of 2024, which requires the NYPD to report on common and low-level encounters with members of the public, and Local Law 42 of 2024, which prohibits correction officers from implementing punitive segregation or from handcuffing inmates while transporting them to and from court appearances, benefit from enhanced deliberation and public consideration. The Commission heard considerable testimony expressing concern about the process leading up to the Council’s passage of these measures,<sup>96</sup> which undoubtedly affect the public safety operations of the affected agencies. Both Local Laws 42 and 43 directly regulate how uniformed officers perform core public safety functions: interactions with the public in the course of official duties; documentation of interactions with the public in the course of official duties; and practices that protect the safety of correctional officers, detainees, and other persons in the care and custody of the City. These subjects are at the heartland of public safety operations, and this amendment would help ensure that legislation touching upon these important subjects receives additional public input and review.

Other proposals respecting the Police Department, Department of Correction, or Fire Department will not be subject to additional requirements. For example, measures defining private conduct as unlawful, or changing the penalties for engaging in prohibited private conduct, are not intended to trigger enhanced procedural requirements—these measures may affect public safety, but are less likely to directly affect the public safety operations of an agency. It follows that a measure increasing the penalties for littering, or effectuating changes to fire safety

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<sup>96</sup> *See supra*.

requirements in the fire code, will not require additional public review. So too, proposed local laws that are not targeted at the operations of the three covered agencies, but rather affect the general operations of all or many City agencies, are not subject to these enhanced procedural requirements. Thus, a law respecting the accessibility of all City-operated websites, for example, would not trigger enhanced procedural requirements simply because it applies to the Police Department to the same extent that it applies to another agency not covered by the proposed amendments. In addition, the proposed amendments do not alter the procedures that accompany Council action related to the Charter-mandated budget process, including adoption of the annual budget.<sup>97</sup>

### **Proposed Amendment to the Charter**

The Commission proposes an amendment to promote public input and deliberation in the consideration of local laws respecting public safety.

**- Applicability:**

- The amendment would add new procedures required for consideration of local laws respecting the public safety operations of three City agencies: the Police Department, the Department of Correction, or the Fire Department.

**- Procedures:**

- If the Council intends to proceed to a vote by the full Council on a covered public safety proposal, the Council would be required to give an additional notice to the public, the Mayor, and the commissioner of each affected agency at least 30 days prior to final vote. The Mayor and

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<sup>97</sup> N.Y.C. Charter § 254 (Council's authority to alter the budget submitted by the Mayor in specified ways).



affected agencies could use the time between such notice and the vote to hold one or more additional public hearings on the proposal.

- **Waiver:**

- The Mayor would have authority to waive these additional procedural requirements.

## Ballot Question #4: Capital Planning

In the fourth ballot proposal, the Commission proposes an amendment to improve the City’s Ten-Year Capital Strategy by promoting transparency and ensuring the City collects critical information to inform capital planning.

Capital planning is the process through which the City budgets for long-term infrastructure investments. To help guide these investments—and balance priorities ranging from the maintenance and modernization of existing infrastructure to fiscal responsibility, geographic distribution, climate-readiness, and economic growth—the City publishes a Ten-Year Capital Strategy every other year that plans improvements to the City’s infrastructure projects.<sup>98</sup>

The Charter includes several sections devoted to capital planning. The City’s Ten-Year Capital Strategy, defined by section 215, is prepared jointly by the Mayor’s Office of Management and Budget and the New York City Department of City Planning and is issued by the Mayor, as mandated by sections 228 and 248 of the Charter.<sup>99</sup> Section 204 additionally requires the Mayor to annually prepare the Citywide Statement of Needs.<sup>100</sup> The Statement of Needs provides information on the state of repair of city facilities, including details for proposed new facilities, significant expansions, or planned reductions.<sup>101</sup> Similarly, section 1110-a of the City Charter requires “a capital plant inventory,” which is an inventory of major City facilities and infrastructure, including details like current replacement cost, remaining useful life, an assessment of their conditions, and a schedule of

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<sup>98</sup> See New York City’s Ten-Year Capital Strategy for Fiscal Year 2024, <https://tycs.planning.nyc.gov/>.

<sup>99</sup> N.Y.C. Charter §§ 215, 228, 248.

<sup>100</sup> *Id.* at § 204.

<sup>101</sup> *Id.*

maintenance activities needed for upkeep. Yet the Charter does not explicitly link all of these sections. Nor does it explain that the Ten-Year Capital Strategy should emerge from these capital planning exercises.

Comptroller Brad Lander submitted testimony recommending several charter amendments to the Charter Revision Commission.<sup>102</sup> One proposal related to modernizing the City’s approach to infrastructure assessment, capital planning, and budgeting.<sup>103</sup> The Comptroller recommended explicitly linking infrastructure assessments and the Ten-Year Capital Strategy and identifying certain factors, such as the level of deterioration of an asset, that should be considered in the Ten-Year Capital Strategy.<sup>104</sup> These changes would, as the Comptroller mentioned, modernize the City’s capital planning and provide additional transparency regarding the criteria for how infrastructure investments are determined.<sup>105</sup>

In November of 2023, Mayor Eric Adams and the Comptroller released the City’s first comprehensive capital projects tracker, which allows users to view the status and budget of all capital projects from major agencies.<sup>106</sup> The Mayor also

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<sup>102</sup> Office of the New York City Comptroller Brad Lander, “Comptroller Lander Proposes Charter Revisions to Better Manage New York City’s Finances,” *New York City Comptroller Brad Lander*, June 7, 2024, <https://comptroller.nyc.gov/newsroom/comptroller-lander-proposes-charter-revisions-to-better-manage-new-york-citys-finances/>.

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> Office of the Mayor, “Mayor Adams, Comptroller Lander Bring Transparency and Accountability Into Capital Process with City’s First Comprehensive Capital Projects Tracker,” *The Official Website of the City of New York*, Nov. 1, 2023, <https://www.nyc.gov/office-of-the-mayor/news/837-23/mayor-adams-comptroller-lander-bring-transparency-accountability-capital-process-with>.

recently released the largest ever Ten-Year Capital Strategy, a plan that prioritizes transportation, housing, environmental protection, and schools.<sup>107</sup> Additionally, the Mayor has committed to increasing efficiency and fiscal responsibility throughout the capital budgeting process by convening the Capital Process Reform Task Force, which includes the Comptroller, the construction industry, labor unions, minority- and women-owned businesses and enterprises (MWBE) firms, and others.<sup>108</sup> As the Mayor has stated on several occasions, improvements to capital planning are especially important now, as critical infrastructure is further strained by extreme temperatures and weather associated with climate change.<sup>109</sup>

To improve the Charter-mandated capital planning process, the Commission is proposing a series of related changes. First, the proposed amendment would promote transparency by requiring the Statement of Needs to incorporate additional information on City facilities, such as a facility's useful life and its most recent

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<sup>107</sup> Samar Khurshid, "Promising Projects Faster and Cheaper, Adams Administration Pursues Capital Construction Reforms," *Gotham Gazette*, Feb. 14, 2024, <https://www.gothamgazette.com/city/11807-nyc-capital-construction-reforms-mayor-adams>.

<sup>108</sup> *Ibid.*

<sup>109</sup> See e.g., Office of the Mayor, "Mayor Adams Breaks Ground on Battery Coastal Resilience to Protect Lower Manhattan From Sea Level Rise and Storm Surge, Calls for Regular Federal Funding for Climate Infrastructure," *The Official Website of the City of New York*, May 6, 2024, <https://www.nyc.gov/office-of-the-mayor/news/355-24/mayor-adams-breaks-ground-battery-coastal-resilience-protect-lower-manhattan-sea-level#:~:text=Under%20the%20Adams%20administration%2C%20the,Resiliency%20climate%20adaptation%20capital%20investments>; Office of the Mayor, "Mayor Adams Highlights Improvements to Public Space Following Appointment of City's First-Ever Chief Public Realm Officer," *The Official Website of the City of New York*, June 13, 2024, <https://www.nyc.gov/office-of-the-mayor/news/468-24/mayor-adams-highlights-improvements-public-space-following-appointment-city-s-first-ever>.

condition assessment, whenever practicable. Second, it would require the Ten-Year Capital Strategy to incorporate information about the City's capital needs based on information collected through the Statement of Needs and the capital plant inventory described above. Third, it would formalize some of the criteria used to evaluate infrastructure investments in the Ten-Year Capital Strategy, including the level of deterioration, impact on resiliency, and the importance of an asset to an agency's function or mission. Finally, the proposed amendment would change the release date for the Ten-Year Capital Strategy to January to coincide with the preliminary budget plan and update the deadline for the City Planning Commission hearing on the preliminary Ten-Year Capital Strategy to reflect the City's actual capital planning calendar. Together, the Commission intends these changes to improve capital planning and help ensure that future generations of New Yorkers benefit from world-class infrastructure.

### **Proposed Amendment to the Charter**

The Commission proposes an amendment to improve capital planning and promote transparency in infrastructure needs.

- **Expanding the Citywide Statement of Needs to include additional pertinent details.**
  - The amendment would promote transparency by requiring the Citywide Statement of Needs to incorporate additional, more detailed information such as facility conditions and the estimated useful life for City facilities.
- **Formalizing the link between the Ten-Year Capital Strategy, Statement of Needs, and the inventory of City facilities.**

- The amendment would require the Ten-Year Capital Strategy to consider the information collected by the City for the Statement of Needs and annual inventory of its capital facilities and infrastructure.
- **Codifying the factors considered when planning the Ten-Year Capital Strategy.**
  - The Amendment would codify certain factors often used when evaluating investments in infrastructure, such as the level of deterioration, how critical a facility is to agency operations, impact on resiliency, and the geographic distribution of City facilities.
- **Aligning certain Ten-Year Capital Strategy deadlines with the release of the City's preliminary budget.**
  - The Amendment would change the release date of the ten-year capital strategy to January to coincide with the January budget plan and the deadline for the associated City Planning Commission hearing to better match the City's actual capital planning calendar.

## Ballot Question #5: MWBEs and Modernization

The New York City Charter has existed in a variety of forms for over a century.<sup>110</sup> As the 2010 Charter Revision Commission noted, the Charter was amended over 100 times between 1989 and 2010, variously by local law, referenda, and state law.<sup>111</sup> As a result, it is no surprise that agencies and the public have identified inconsistencies and outdated policies that, in the Commission’s view, warrant revision.

### Minority and Women-Owned Business Enterprises

As part of the fifth ballot proposal, the Commission proposes an amendment to formalize the role of the Chief Business Diversity Officer (CBDO) and enumerate the Officer’s responsibilities.

New York City is one of the most diverse cities in the United States.<sup>112</sup> It also has a deep and complex history of confronting—and overcoming—injustice in many forms. Today, New York’s government reflects a commitment to lift up and support historically marginalized communities. One important piece of this effort is the City’s Minority and Women-owned Business Enterprises (MWBE) office, which works to expand access to government contracts and provide support services to grow businesses.

The MWBE office concept dates back to the 1989 Charter Revision Commission. The 1989 Commission oversaw some of the most significant changes

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<sup>110</sup> Charter Revision Commission, *Final Report of the 2010 Charter Revision Commission* (Aug. 23, 2010), at 14.

<sup>111</sup> *Id.*

<sup>112</sup> NBC New York Staff, “These 2 Tri-State Cities are Among the Most Diverse in the US, Study Says” *NBC New York*, Apr. 17, 2023, <https://www.nbcnewyork.com/news/local/these-2-tri-state-cities-are-among-the-most-diverse-in-us-study-says/4248482/>.

to the City Charter since its inception.<sup>113</sup> Along with sweeping changes to the City's governing structure, voters also approved several initiatives the Commission had recommended to promote equal opportunity and compliance with nondiscrimination laws.<sup>114</sup> One of these initiatives was the creation of the Office of Economic and Financial Opportunity, which was designed to "assist, guide and monitor City agencies" in "establish[ing] reasonable measures and procedures to assure the meaningful participation" of MWBEs in city contracts."<sup>115</sup> During deliberations, however, visions for the role of the Office of Economic and Financial Opportunity varied considerably among the commissioners: Some envisioned a vehicle to promote community-based not-for-profits;<sup>116</sup> others saw an entity that would help minority and women-owned business enterprises (MWBEs) navigate the City's contracting process.<sup>117</sup>

In 1991, the Council passed and Mayor David Dinkins signed legislation merging the nascent Office of Economic and Financial Opportunity and other entities into the Department of Business Services and renaming it the Division of Economic and Financial Opportunity ("DEFO").<sup>118</sup> The following year, the City commissioned a consultant to perform a disparity study to assess the City's

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<sup>113</sup> Frederick A.O. Schwarz Jr. and Eric Lane, *The policy and politics of Charter making: the story of New York City's 1989 Charter*, 42 N.Y.L. Sch. L. Rev. 723, 729 (1998).

<sup>114</sup> Charter Revision Commission, *Final Report of the New York City Charter Revision Commission* (March 1990), at 26.

<sup>115</sup> *Id.*

<sup>116</sup> See Apr. 25, 1989 Pub. Meeting, *supra*, at 40-46, 51-57.

<sup>117</sup> Frederick A.O. Schwarz Jr. and Eric Lane, *The policy and politics of Charter making: the story of New York City's 1989 Charter*, 42 N.Y.L. Sch. L. Rev. 723, 729 (1998).

<sup>118</sup> Local Law No. 61 of 1991.



utilization of MWBEs relative to their availability in the market.<sup>119</sup> When that study identified underutilization of MWBEs in many areas of procurement, the Department of Business Services promulgated regulations that required agencies to adopt measures including utilization goals for some contracts.<sup>120</sup> The regulations sunset by their own terms during the Giuliani Administration.<sup>121</sup>

Toward the end of the Giuliani Administration, the City Council commissioned a new disparity study.<sup>122</sup> Based on the study's finding that the City was underutilizing minority and women owned business enterprises relative to their availability, the Council enacted and Mayor Bloomberg signed Local Law 129 of 2005, which established aspirational Citywide MWBE utilization goals,<sup>123</sup> and a requirement that each agency adopt MWBE utilization goals.<sup>124</sup> Mayor de Blasio continued to prioritize City support for and utilization of MWBEs. The Mayor designated a Deputy Mayor to also serve as Director of the City's MWBE program, appointed a Senior Advisor to prioritize these issues, and created the Mayor's Office

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<sup>119</sup> Nat'l Econ. Research Assocs., *The Utilization Of Minority- And Women-Owned Business Enterprises By The City Of New York* (1992) at 75.

<sup>120</sup> See Staff Of Comm. On Econ. Dev. & Comm. On Women's Issues, N.Y.C. Council, *Report of the Infrastructure Division and the Human Services Division, Oversight: Strategies for Improving City's Programs for Minority and Women Owned Businesses* (Comm. Print Feb. 23, 2000), at 7.

<sup>121</sup> Randy Kennedy, "Giuliani Defends His Decision on Issuing City Contracts," *The New York Times*, Mar. 24, 1997, <https://www.nytimes.com/1997/03/24/nyregion/giuliani-defends-his-decision-on-issuing-city-contracts.html>.

<sup>122</sup> See MGT Consulting Group "City of New York Disparity Study," May 2018, <https://www1.nyc.gov/assets/mwbe/business/pdf/NYC-Disparity-Study-Report-final-published-May-2018.pdf>.

<sup>123</sup> See Local Law No. 129 of 2005 § 3 (codified as amended at Admin. Code § 6-129(d)(1)).

<sup>124</sup> See *id.* (codified as amended at Admin. Code § 6-129(d)(2)-(3)).

of MWBE in 2016.<sup>125</sup> The City Council continued to hold hearings on, and pass legislation addressing, this important issue.<sup>126</sup> The de Blasio Administration also added resources across City agencies and set ambitious goals for MWBE certification, achieving their goal of 9,000 City-certified MWBEs.<sup>127</sup>

Despite significant accomplishments over the years to support MWBEs, the City has faced criticism for failing to increase MWBE participation in its procurement to a greater extent.<sup>128</sup> To address access issues and promote utilization of MWBEs, Mayor Adams created the first ever Chief Business Diversity Officer (CBDO) and secured important legislative changes for the City's MWBE program in the 2023 Albany legislative session.<sup>129</sup>

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<sup>125</sup> Office of the Mayor, "Mayor de Blasio Announces Bold New Vision for the City's M/WBE Program," *The Official Website of New York City*, Sep. 18, 2016, <https://www.nyc.gov/office-of-the-mayor/news/775-16/mayor-de-blasio-bold-new-vision-the-city-s-m-wbe-program#/0>; Bill de Blasio, Exec. Order No. 24 (December 16, 2016).

<sup>126</sup> See e.g., Local Law No. 109 of 2016; Local Law No. 12 of 2018; Local Law No. 176 of 2019.

<sup>127</sup> Office of the Mayor, "De Blasio Administration Reaches Milestone Goal of 9,000 City-Certified M/WBEs," *The Official Website of New York City*, July 8, 2019, <https://www.nyc.gov/office-of-the-mayor/news/333-19/de-blasio-administration-reaches-milestone-goal-9-000-city-certified-m-wbes>.

<sup>128</sup> See e.g., The Black Institute, *Not Good Enough: The Myth of 'Good Faith and Best Efforts' Report on Minority- and Women-owned Businesses*. April 2015.; Office of the New York City Comptroller Brad Lander, "NYC Comptroller's Annual M/WBE Report Shows City Agencies Continuing to Fall Woefully Short of Needed Progress," *New York City Comptroller Brad Lander*, Feb. 14, 2024, <https://comptroller.nyc.gov/newsroom/comptrollers-annual-m-wbe-report-shows-city-agencies-continuing-to-fall-woefully-short-of-needed-progress/>.

<sup>129</sup> Office of the Mayor, "Mayor Adams Makes Major Investments in Mayor's Office of Minority and Women-Owned Business Enterprises," *The Official Website of New York City*, Feb. 16, 2023, <https://www.nyc.gov/office-of-the-mayor/news/118-23/mayor-adams-makes-major-investments->

Since then, Mayor Adams has issued several executive orders to strengthen the MWBE office and empower the CBDO to further support MWBEs.<sup>130</sup> There has been meaningful progress to celebrate. In Fiscal Years 2022 and 2023, the City awarded over \$6 billion in total contracts to MWBE firms, an increase from the \$4.21 billion awarded in Fiscal Year 2021.<sup>131</sup>

MWBEs still face significant challenges. Navigating the complex procurement process can be difficult for businesses and leaders that have historically not participated to a significant extent in government procurements. Mayor Adams

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[mayor-s-office-minority-women-owned-business](#); Office of the Mayor, “Mayor Adams’ Statement of 2023 State Legislative Session,” *The Official Website of New York City*, June. 23, 2023, <https://www.nyc.gov/office-of-the-mayor/news/449-23/mayor-adams-of-2023-state-legislative-session>.

<sup>130</sup> See e.g., Office of the Mayor, “Mayor Adams Makes Major Investments in Mayor’s Office of Minority and Woman-Owned Business Enterprises,” *The Official Website of the City of New York*, Feb. 16, 2023, <https://www.nyc.gov/office-of-the-mayor/news/118-23/mayor-adams-makes-major-investments-mayor-s-office-minority-women-owned-business>; Office of the Mayor, “Mayor Adams Issues Executive Order Creating More Streamlined and Accountable Minority and Women-Owned Business Enterprises Program,” *The Official Website of the City of New York*, Aug. 8, 2023, <https://www.nyc.gov/office-of-the-mayor/news/578-23/mayor-adams-issues-executive-order-creating-more-streamlined-accountable-minority-and>.

<sup>131</sup> Office of the Mayor, “Mayor Adams Announces \$50 Million Initiative to Reduce Barriers and Support Minority-Owned Developers to Build More Affordable Housing,” *The Official Website of the City of New York*, Mar. 4, 2024, <https://www.nyc.gov/office-of-the-mayor/news/162-24/mayor-adams-50-million-initiative-reduce-barriers-support-minority-owned#/0>; OneNYC, *M/WBE Reports Archive*, <https://www.nyc.gov/site/mocs/opportunities/m-wbe-reports.page#:~:text=Purchase%20Reports%20Archive-,OneNYC%20M/WBE%20Reports,-Mayor%20Eric%20Adams>.

created the CBDO to establish a clear point of contact, but the CBDO's role and responsibilities are not outlined in the Charter.

Members of the public, including MWBE-certified business owners, field experts, and elected officials, provided extensive testimony in support of formalizing and strengthening the City's MWBE office. Several MWBE-certified contractors highlighted the significant impact the MWBE program had on their businesses and emphasized the additional positive impact and opportunities for other MWBEs that would result from providing more support to the office.<sup>132</sup>

Michael Garner, the current CBDO, and Magalie Austin, who formerly ran the city-wide MWBE program, both testified in favor of centralizing the MWBE office to enhance its efficiency and scope.<sup>133</sup> Additionally, NYS Assemblymember Rodneyse Bichotte Hermelyn, Chair of the Subcommittee on Oversight of MWBEs, provided oral testimony on the historical achievements of the City's MWBE Office and stressed the importance of formalizing the office to ensure the continued promotion of equal opportunity, inclusivity, and diversity.<sup>134</sup>

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<sup>132</sup> See e.g., Samuel Padilla, Private Citizen, *Charter Revision Commission Hearing – Queens* (Jun. 26, 2024) (testimony); Rohan Defreitas, Private Citizen, *Charter Revision Commission Hearing – Queens* (Jun. 26, 2024) (testimony); Edward Perry, Private Citizen, *Charter Revision Commission Hearing – Queens* (Jun. 26, 2024) (testimony); Ana Diaz, Private Citizen, *Charter Revision Commission Hearing – Brooklyn* (Jun. 27, 2024) (testimony).

<sup>133</sup> Michael Garner, Chief Business Diversity Officer for NYC, *Charter Revision Commission Hearing – Queens* (Jun. 26, 2024) (testimony); see also Michael Garner, Chief Business Diversity Officer for NYC, *Charter Revision Commission Hearing – Brooklyn* (Jun. 27, 2024) (testimony); Magalie Austin, Executive Deputy Commissioner at Department of Design and Construction, *Charter Revision Commission Hearing – Queens* (Jun. 26, 2024) (testimony).

<sup>134</sup> Rodneyse Bichotte Hermelyn, NYS Assemblymember and Chair of the Subcommittee on Oversight of MWBEs, *Charter Revision Commission Hearing – Brooklyn* (Jun. 27, 2024) (testimony).

To advance the City’s work in this critical area, the Commission is proposing an amendment that would cement the role of the CBDO in the Charter and clarify the central role of the CBDO in the formulation of MWBE policy. The proposed amendment would provide the CBDO with the power to propose policies, legislation, and rules to promote MWBEs and ensure citywide prioritization of MWBEs.

Beyond the recommendation that the Commission is putting to voters, many members of the Commission are enthusiastic about the prospect of creating a new, stand-alone MWBE agency. With the assistance of city agencies, a future charter revision commission should explore this proposal and assess anticipated costs and savings associated with a new department. As part of that analysis, a future commission should also consider which responsibilities, such as MWBE certification and reporting, might be provided to the new agency and which might remain at existing agencies.

## Film Permitting

As part of the fifth ballot proposal, the Commission proposes an amendment to give the Mayor the power to grant film permitting authority to employees of the Mayor’s Office of Media and Entertainment.

New York City’s film and television legacy can be traced back to the birth of the motion picture industry in the New York/New Jersey area when some of the earliest productions, such as *Herald Square* filmed in 1896 by Thomas Edison’s production company, were filmed on public streets.<sup>135</sup> The City issues more than

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<sup>135</sup> Michael Pollak, “The First Film Shot in New York,” *The New York Times*, Apr. 18, 2015, <https://www.nytimes.com/2015/04/19/nyregion/the-first-film-shot-in-new-york-city.html>.

11,000 permits annually<sup>136</sup> for film and television productions, which in turn contribute more than \$82 billion to New York City's economy—a testament to the City's appeal and the success of municipal government in supporting the industry.<sup>137</sup>

A cornerstone of the film and television industry's success is a suite of services that the City government provides to coordinate film shoots in one of the most dynamic and densely populated areas in the world. That includes a robust and streamlined production permitting system. Currently, the City's authority to issue film permits is granted to the Commissioner of Small Business Services (SBS) pursuant to Charter section 1301(1)(r) and Administrative Code section 22-205.<sup>138</sup> The current permitting regime is the result of decades of transformation, most recently through Mayor Adams' reorganization of the Mayor's Office of Media and Entertainment (MOME).<sup>139</sup>

Although Mayor La Guardia courted companies to relocate from California to New York City, formal efforts to support the film industry did not begin in earnest until 1947 when Mayor William O'Dwyer established an office of film coordination.<sup>140</sup> Consolidating economic development and film permitting under the leadership of one individual was programmatically consistent in the early days of filming, but as productions grew in number and complexity, these responsibilities developed from a part-time responsibility of the Commissioner to a dedicated office.

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<sup>136</sup> Mayor's Office of Media and Entertainment, *New York City Film & Television Industry Economic Impact Study 2021* (2021), at 14.

<sup>137</sup> *Id.*

<sup>138</sup> There are two sections numbered 22-205 in the Administrative Code; the relevant section is located in Chapter 2 of Title 22.

<sup>139</sup> Eric Adams, Exec. Order No. 21 (July 21, 2022).

<sup>140</sup> Fred Keefe, Spencer Klaw, and E.J. Kahn, Jr., "Coordination," *The New Yorker*, Jan. 3, 1948, <https://www.newyorker.com/magazine/1948/01/03/coordination>.

By the 1960s, the process for securing the necessary permits for filming had become more complex: producers had to obtain a permit for each day of production and secure approval from the Police Department, Highways Department, Traffic Department, and others.<sup>141</sup> Based on the structure and disparate functions of many of these Departments, productions might have been required to secure up to 50 permits for a single project.<sup>142</sup> Local Law 44 of 1962 established a streamlined permit process. Mayor John Lindsay's Executive Order 10 of 1966 further streamlined the permitting process by eliminating antiquated agency endorsement requirements and removing City officials' power to censor films shot in public locations.<sup>143</sup> Film production boomed in New York City. During Mayor Lindsay's two terms, 366 movies were shot in New York City and permits generated a robust revenue stream of \$20 million to the City.<sup>144</sup>

Further reform and refinement happened across succeeding Administrations. For example, Mayor Abraham Beame created the Mayor's Advisory Council on Motion Pictures with its own director; a 1991 Charter Amendment placed the film permitting authority under SBS;<sup>145</sup> and in 2008, SBS promulgated the first film regulations.<sup>146</sup> In 2010, MOME was established, with staffing and administrative technical support being provided by the Department of Information Technology and Telecommunications (now OTI).<sup>147</sup> Over the course of this history, the media and

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<sup>141</sup> *Id.*

<sup>142</sup> John Lindsay, Exec. Order No. 10 (May 31, 1966).

<sup>143</sup> *Id.*

<sup>144</sup> Ellen Stern, "How to Make a Movie in New York" *New York Magazine*, Year-End Issue 1975 at 55.

<sup>145</sup> Local Law No. 61 of 1991.

<sup>146</sup> *See id.*

<sup>147</sup> Eric Adams, Exec. Order No. 3 (Jan. 19, 2022).

entertainment business—and MOME’s responsibilities—have grown. The early structure of the film business, which depended on theaters to screen and distribute media from feature films to newsreels has been succeeded by new modes of media distribution, including television broadcasting, cable networks, and digital entertainment. The provision of staff and administrative technical support of MOME within OTI<sup>148</sup> works well because it allows MOME to take advantage of its television and radio network relationships and leverage OTI’s extensive procurement infrastructure.<sup>149</sup> The arrangement is also beneficial because OTI holds the licenses granted by the Federal Communications Commission for television, radio, and internet franchise agreements.<sup>150</sup>

One source of inefficiency, however, is that the Charter grants the authority to issue film permits only to SBS.<sup>151</sup> As a result, in order to effectively discharge their duties, the Commissioner of MOME must be an employee of SBS. In addition, the permitting power lies with the MOME Commissioner only, and not with MOME employees. This structure creates operational challenges for MOME when it does not have a sitting Commissioner, for example, during a time of leadership transition or in case of incapacitation due to a medical emergency. MOME’s employees are knowledgeable experts who are qualified to assess and process film permits on their merits. They already conduct most of the work necessary to approve permits via meetings, briefings, and recommendations to MOME’s Commissioner. The 11,000 film permits issued by the Office each year are a crucial component in supporting

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<sup>148</sup> Michael Bloomberg, Exec. Order No. 138 (July 26, 2010).

<sup>149</sup> *Id.*

<sup>150</sup> *Id.*

<sup>151</sup> N.Y.C. Charter § 1301(1)(r).



the City’s economy, creating over 185,000 jobs, either directly or indirectly.<sup>152</sup> Therefore, it is important to make film permitting as efficient as possible. Granting the Mayor the ability to designate agencies other than SBS with the power to issue permits would enable the Mayor to empower MOME employees to issue film permits and continue operations during times of transition.

The Commission heard testimony from the Deputy Commissioner for the Film Office, a division of MOME, explaining the benefits that this additional flexibility would provide for film permitting authority.<sup>153</sup> The Deputy Commissioner testified that MOME’s employees are knowledgeable experts who are qualified to assess and process film permits on their merits.<sup>154</sup> The Deputy Commissioner also highlighted potential issues during mayoral transitions when the Commissioner role is not filled, and explained the operational benefits this change would enable given the office’s considerable workload.<sup>155</sup>

## Duplicative Archive Review Boards

In the final part of the fifth ballot proposal, the Commission proposes an amendment to consolidate two duplicative City archive review boards into a single entity.

The City Charter establishes many advisory boards, often with reporting requirements that may no longer be necessary or relevant to New Yorkers.

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<sup>152</sup> Mayor’s Office of Media and Entertainment, *New York City Film & Television Industry Economic Impact Study 2021* (2021), at 14, [nyc.gov/assets/mome/pdf/FilmTV\\_report\\_091521.pdf](https://nyc.gov/assets/mome/pdf/FilmTV_report_091521.pdf).

<sup>153</sup> Kwame Amoaku, Deputy Commissioner for the Film Office, Mayor’s Office of Media and Entertainment, Charter Revision Commission Hearing – Brooklyn (June 8, 2024) (testimony).

<sup>154</sup> *Id.*

<sup>155</sup> *Id.*

Recognizing that reporting requirements can be onerous, section 1113 of the Charter established a Report and Advisory Board Review Commission to periodically review advisory boards and reporting requirements to recommend changes that improve efficiencies.<sup>156</sup> Section 1113 emphasizes the importance of reducing unnecessary bureaucracy by waiving reporting or commission requirements when suitable.<sup>157</sup>

Some Charter sections create advisory boards with overlapping, redundant, or missing missions. One such redundancy is the existence of both the Archival Review Board<sup>158</sup> and the Archives, Reference and Research Advisory Board.<sup>159</sup> The Archival Review Board is tasked with preparing an annual report “reviewing the archival processing of any city papers.”<sup>160</sup> The Archives, Reference and Research Board, in turn, is required to prepare an annual report regarding the “development of municipal archives, reference and research services in the government and administration of the city.”<sup>161</sup> These very similar, and often indistinguishable, missions and responsibilities could easily be performed by the same Board, achieving efficiencies and saving City resources.

Pauline Toole, Commissioner of the Department of Records and Information Services (DORIS), the agency responsible for maintaining the City archives, testified that consolidation of these two advisory boards would result in efficiencies

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<sup>156</sup> N.Y.C. Charter § 1113.

<sup>157</sup> *Id.*

<sup>158</sup> *Id.* at § 3005.

<sup>159</sup> *Id.* at § 3009.

<sup>160</sup> *Id.* at § 3005.

<sup>161</sup> *Id.* at § 3009.

for DORIS.<sup>162</sup> The Commissioner emphasized that DORIS employees draft the reports that each board issues, DORIS employees schedule and take minutes at board meetings, and that board meetings primarily consist of reports from DORIS staff on archival processing, public programs and outreach strategies.<sup>163</sup> The Commissioner also testified that the boards have recently been meeting together in recognition of the redundant nature of holding separate meetings.<sup>164</sup> Members of both boards crafted a proposal to consolidate their functions into one entity in 2019 and again in January 2022.<sup>165</sup>

### **Proposed Amendment to the Charter**

The Commission proposes an amendment to promote support for MWBEs and modernize two aspects of municipal government.

- **Formalize the role of the Chief Business Diversity Officer and clarify responsibilities.**
  - The amendment would formally establish the Chief Business Diversity Officer and their responsibilities in the Charter.
- **Grant the Mayor power to confer permitting authority on employees of the Mayor's Office of Media and Entertainment (MOME).**
  - The amendment would give the Mayor the power to grant MOME employees, who are employed under the Office of Technology and Innovation, the authority to issue permits.

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<sup>162</sup> Pauline Toole, Commissioner of the Department of Records and Information Services, Charter Revision Commission Hearing - Manhattan (July 8, 2024) (testimony).

<sup>163</sup> *Id.*

<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

- **Consolidate duplicative archive review boards.**
  - The Amendment would consolidate the Archival Review Board with the Archives, Reference and Research Board, due to their similar missions.

## Issues for Future Consideration

The following issues were the subject of significant interest by members of the public, or among members of the Commission, but—in the view of the Commission—require further study, are not within the Commission’s authority, or for other reasons should be reserved for the future.

### Elections

In 2019, at the recommendation of a prior charter revision commission, voters approved a significant change to the way in which local elections for Mayor, Public Advocate, Comptroller, Borough President, and City Council are conducted.<sup>166</sup> Starting in 2021, primary and special elections for these offices are now determined through a process known as ranked-choice voting (RCV). Under the RCV system, voters have the opportunity to rank up to five candidates in order of preference. If a candidate receives a majority of first-choice votes, that candidate wins. If no candidate receives a majority of first-choice votes, then the candidate who received the fewest first-choice votes is eliminated, and voters who had marked that eliminated candidate as their first choice have their vote transferred to their next ranked choice, if any. This process repeats until only two candidates remain and the candidate with the most votes wins the election. The adoption of RCV by the voters in 2019 was the culmination of years of study and consideration by multiple charter revision commissions. Indeed, commissions explored the idea of RCV in 2003,

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<sup>166</sup> Charter Revision Commission, *Final Report of the 2019 Charter Revision Commission* (Aug. 2, 2019), at 22-34.

2010, and 2018, but 2019 was the first time a ballot proposal on the issue was submitted to voters.<sup>167</sup>

Prior to 2021, the City used different election systems for local offices. Most municipal elections used a traditional “plurality” or “first-past-the-post” system, in which voters would select one candidate for each race and the candidate with the most votes would win.<sup>168</sup> Primary elections for Mayor, Comptroller, and Public Advocate would use a hybrid plurality system, which involved a run-off election between the top two candidates if no candidate received more than 40% of the total vote.<sup>169</sup>

The shift to ranked-choice-voting was intended to have a number of benefits. By eliminating the need for run-off elections, it would save the City money and allow the same voters who participated in the primary to determine the winning candidate without the need to participate in a separate election a short time later.<sup>170</sup> So too, it would allow voters to “vote their true preferences” at the ballot, rather than cast a “strategic” vote for a candidate that is less desirable in an attempt to prevent a

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<sup>167</sup> Charter Revision Commission, *Final Report of the 2018 New York City Charter Revision Commission* (Sep. 6, 2018), at 107-112; Charter Revision Commission, *Preliminary Staff Report and Recommendations to the Chair of the 2010 Charter Revision Commission* (July 9, 2010), at 28-34.

<sup>168</sup> Charter Revision Commission, *Final Report of the 2019 Charter Revision Commission* (Aug. 2, 2019), at 22.

<sup>169</sup> *Id.*

<sup>170</sup> *Id.* at 24. 2019 estimates for the cost of a citywide election predicted that eliminating primary runoff elections would save \$16 million in election administration costs per election. New York City Office of Management and Budget, *February 2019 Financial Plan Detail Fiscal years 2019-2023*, at E-85.

third undesirable candidate from winning.<sup>171</sup> It would help eliminate “vote splitting”—that is, when like-minded candidates divide support, allowing another candidate out-of-step with the electorate to prevail.<sup>172</sup> And, it was hoped, it would encourage candidates to seek votes outside their assumed natural support base—and even reduce negative campaigning.<sup>173</sup> At the same time, the 2019 Commission heard testimony expressing several concerns about the proposed reforms, including the need to perform extensive voter education, as well as the potential effect of RCV on racial, ethnic, and language minority voters.<sup>174</sup>

New York City’s experiment with RCV is still in its early stages. In an encouraging sign, the 2021 primary election saw 26.5% of New Yorkers turn out to vote, making it the mayoral primary with the highest turnout in decades.<sup>175</sup> 88.3% of voters ranked more than one candidate in at least one race.<sup>176</sup> 89.3% of Democrats ranked multiple unique candidates in at least one race, while 56.6% of Republicans did so.<sup>177</sup> In the 2021 Democratic mayoral primary, 46.2% of Democrats utilized all five of their ranks,<sup>178</sup> although 13% of voters ranked only one mayoral candidate.<sup>179</sup>

The Commission has heard a pronounced interest in election-related reforms. Among other suggestions, the Commission has heard testimony concerning the role of political parties in the electoral process, including proposals to adopt so-called

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<sup>171</sup> *Id.* at 25.

<sup>172</sup> *Id.*

<sup>173</sup> *Id.* at 28.

<sup>174</sup> *Id.* at 26-27.

<sup>175</sup> New York City Campaign Finance Board, *Voter Analysis Report: 2021-2022* (2022), at 2.

<sup>176</sup> *Id.* at 7.

<sup>177</sup> *Id.*

<sup>178</sup> *Id.* at 85.

<sup>179</sup> *Id.*

“open primaries” and “nonpartisan elections.” For example, Susan Lerner, the Executive Director of Common Cause/New York, testified about the views of New York’s “unaffiliated” voters – those who are not registered as members of any political party – and unaffiliated voters’ desire for electoral reforms that would reduce the importance of party registration in the political process.<sup>180</sup>

The City currently holds “closed” primary elections for all City offices.<sup>181</sup> In closed primary elections, voters registered with a political party may participate in their party’s primary and select a nominee to the general election.<sup>182</sup> As a result, voters that are not registered with a qualified political party cannot participate in the selection of nominees for offices like the Mayor, the Comptroller, Borough Presidents, and Council Members.<sup>183</sup> An “open primary,” by contrast, is a primary election system where any voter, regardless of their political affiliation, may choose to vote in any party’s primary election.<sup>184</sup> For instance, a registered independent can participate in the Democratic primary if they wish.<sup>185</sup> Importantly, voting in a particular party’s primary does not entail registering in that party. Several states, including Michigan and South Carolina, use this system.<sup>186</sup>

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<sup>180</sup> Susan Lerner, Executive Director of Common Cause/New York, *Charter Revision Commission Government and Election Reform Forum & Hearing - Bronx* (June 17, 2024) (testimony).

<sup>181</sup> Board of Elections in the City of New York, *About NYC Elections*, <https://vote.nyc/page/nyc-elections>.

<sup>182</sup> *Id.*

<sup>183</sup> *Id.*

<sup>184</sup> See C. Alan Carrillo, *I Pledge Allegiance to the Party: Reclaiming the Associational Rights of Independent Voters in Open Primaries*, 24 Wash. & Lee J. Civil Rts. & Soc. Just. 563, 570 (2018).

<sup>185</sup> *Id.*

<sup>186</sup> Mich. Comp. Laws Ann. § 168.531; S.C. Code Ann. § 7-9-10.



Another alternative is the “nonpartisan election.”<sup>187</sup> In a nonpartisan election, all candidates for a particular office compete without separate party primaries. Some states, such as California and Alaska, hold a multi-party primary where all candidates, regardless of party, compete on a single ballot and top-ranked candidates advance to the general election.<sup>188</sup> In California, the top two vote-getters advance to the general election<sup>189</sup> (as in run-off elections for citywide offices in New York City prior to 2021), while in Alaska, the top four vote-getters advance to the general election.<sup>190</sup> Some jurisdictions have eliminated the primary process altogether for certain elections, with all candidates competing in a single election.<sup>191</sup> In New York City, this method is employed in special elections, which occur when an elected office becomes vacant before the end of a term.<sup>192</sup> In these special elections, all candidates – irrespective of party – compete in a single election, and voters can rank up to five candidates in order of preference.<sup>193</sup>

The concept of nonpartisan elections has been evaluated by several past Charter Commissions.<sup>194</sup> The 2003 Charter Revision Commission proposed the

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<sup>187</sup> Nancy Northup, *Local Nonpartisan Elections, Political Parties and the First Amendment*, 87 Colum. L. Rev. 1677, 1683 (1987).

<sup>188</sup> National Conference of State Legislatures, *State Primary Election Types*, <https://www.ncsl.org/elections-and-campaigns/state-primary-election-types#multi>.

<sup>189</sup> Cal. Elec. Code § 9083.5.

<sup>190</sup> Alaska Stat. Ann. § 15.25.100.

<sup>191</sup> Nancy Northup, *Local Nonpartisan Elections, Political Parties and the First Amendment*, 87 Colum. L. Rev. 1677, 1683 (1987).

<sup>192</sup> NYC Votes, *Types of Elections*, <https://www.nycvotes.org/why-vote/types-of-elections/>.

<sup>193</sup> Board of Elections in the City of New York, *Ranked choice voting*, <https://vote.nyc/page/ranked-choice-voting>.

<sup>194</sup> Charter Revision Commission, *Nonpartisan Elections Preliminary Options and Recommendations* (June 26, 2003), at i.

establishment of nonpartisan elections for the offices of Mayor, Public Advocate, Comptroller, Borough President, and City Council Member.<sup>195</sup> Under this recommendation, there would have been a single primary election open to all voters, and the top two candidates from this primary would advance to the general election.<sup>196</sup> However, this proposal was rejected by voters.<sup>197</sup> The idea of implementing nonpartisan elections was revisited in the final report of the 2010 Charter Revision Commission but was ultimately left for future consideration.<sup>198</sup>

Advocates for these reforms argue that the current primary system excludes many registered voters from meaningful participation in the electoral system.<sup>199</sup> They argue that adoption of open primaries or nonpartisan elections would address the sense of disenfranchisement by non-Democratic registered voters, given that, for many district and citywide offices, winning the Democratic party primary is tantamount to winning the general election. They also argue that such a change would align New York City local elections with primary elections in many other states.<sup>200</sup>

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<sup>195</sup> Charter Revision Commission, *Enhancing Access, Opportunity & Competition: A Blueprint for Reform Final Report* (Sep. 4, 2003), at 57-82.

<sup>196</sup> *Id.*

<sup>197</sup> Jonathan P. Hicks and Michael Cooper “The 2003 Election: City Charter; City Votes Down An Effort To End Party Primaries,” *New York Times*, Nov. 5, 2003, <https://www.nytimes.com/2003/11/05/nyregion/the-2003-election-city-charter-city-votes-down-an-effort-to-end-party-primaries.html>.

<sup>198</sup> Charter Revision Commission, *Final Report of the 2010 New York City Charter Revision Commission*. (Aug. 23, 2010), at v.

<sup>199</sup> See, e.g., Frank Morano, *Charter Revision Commission Public Hearing - Queens* (June 5, 2024) (testimony).

<sup>200</sup> See *supra*.

While these and other electoral-reform proposals may have substantial merit, the staff recommends that they be deferred to a future commission for further study and consideration. Given the recent adoption of RCV by the voters, New Yorkers have participated in only one election cycle where citywide offices were decided using this system. Further experience with RCV in New York City, and evidence from related reforms around the country, will illuminate whether additional changes to improve the operation of local democracy are appropriate.

## Additional Budget Proposals

As already discussed, the Charter contains myriad provisions concerning our City's finances and budget.<sup>201</sup> These sections govern the cycle of revenues and expenditures for the City and provide transparency and certainty concerning the City's finances.

In addition to the infrastructure proposal discussed earlier in this report, the Comptroller offered several other suggestions.<sup>202</sup> He recommended a policy governing the rainy-day fund for the City, changes concerning regular efficiency reviews and long-term savings targets, including shifting liability for judgments and claims against the City to agencies when they are responsible, and codifying the long-standing practice of not having debt service exceed 15 percent of City tax revenues.

While these proposals reflect shared priorities of the Commission, they warrant further research, additional stakeholder convenings, and careful deliberation

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<sup>201</sup> See e.g., N.Y.C. Charter Ch. 6, 9, 10, 58.

<sup>202</sup> Office of the New York City Comptroller Brad Lander, "Comptroller Lander Proposes Charter Revisions to Better Manage New York City's Finances," *New York City Comptroller Brad Lander*, June 7, 2024, <https://comptroller.nyc.gov/newsroom/comptroller-lander-proposes-charter-revisions-to-better-manage-new-york-citys-finances/>.

by a future commission. The Comptroller’s recommendation did not suggest the appropriate formula or what the formula-driven policy would be—a critical issue that would require further study and consideration. An assessment of peer cities and best practices will also be important to this work. Similarly, the Comptroller suggested that the Charter establish long-term savings targets but did not include formulas or guidance for how to establish these targets. A similar intensive study should be completed for setting these long-term savings targets and shifting liability, which could have significant consequences for the City’s financial wellbeing and allocation of resources. Lastly, there was no consensus among the Commission members and staff as to the wisdom of codifying the long-standing practice of debt service not exceeding 15 percent of City tax revenues.

The Commission also heard testimony regarding the City’s procurement process. The Comptroller suggested mandating timeframes for each stage of the contracting process, as recommended by the report Mayor Adams and the Comptroller jointly released, “A Better Contract for New York: A Joint Task Force to Get Nonprofits Paid on Time.”<sup>203</sup> Specifically, the Comptroller recommended that the Procurement Policy Board (PPB) set these timelines. Others, including the Independent Budget Office, have drawn the Commission’s attention to reforms aimed at speeding up the procurement process and reducing late payments to vendors.<sup>204</sup>

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<sup>203</sup> Office of the Mayor, “Mayor Adams and Comptroller Lander Announce new Reforms to cut Red Tape, Make it Easier for Nonprofits to get Paid on Time.” *The Official Website of the City of New York*, July 20, 2023, <https://www.nyc.gov/office-of-the-mayor/news/525-23/mayor-adams-comptroller-lander-new-reforms-cut-red-tape-make-it-easier-for>.

<sup>204</sup> Testimony of Louisa Chafee, Director of the Independent Budget Office (June 13, 2024).

Any policy respecting procurement timelines would need to account for the multitude of contract types that the City enters into as well as the logistical complexities in establishing legally mandated timelines for the varied types of approvals that may occur. Fortunately, this important work is already being done by the Mayor’s Office of Contract Services (MOCS) and the PPB. Local Law 169 of 2023 requires the City to study and report on procurement process time schedules.<sup>205</sup> By October 1, 2024, the City’s Chief Procurement Officer will submit a report and include recommendations for the PPB.<sup>206</sup> The PPB is then required to review the report and establish time schedules for each step of the procurement process.<sup>207</sup> In view of this ongoing work, Charter amendments addressing this same issue are best deferred.

## Public Bonds

Section 1122 of the City Charter requires “each officer of the city who has possession of or control over any funds of the city” to secure a bond “in such sum as may be fixed and with sureties to be approved by the comptroller.” In practice, however, the Comptroller has not fixed sums and sureties, and as a result this provision is generally inoperative. However, the City’s Administrative Code contains bond requirements for various officials, including for example the Comptroller and the Corporation Counsel.<sup>208</sup> Section 11 of the New York Public Officers Law details the procedural requirements for such bonds.

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<sup>205</sup> Local Law No. 169 of 2023 (relating to a study, report, and rulemaking regarding procurement process time schedules).

<sup>206</sup> *Id.*

<sup>207</sup> *Id.*

<sup>208</sup> *See e.g.*, Admin. Code § 3-301 (requiring the Comptroller to execute a bond); Admin. Code § 7-101 (requiring the Corporation Counsel to execute a bond).

The surety bond requirement was created over one hundred fifty years ago to ensure the “faithful performance of the duties” of each office.<sup>209</sup> Records dating back to 1872 offer evidence of surety bonds being obtained for City elected officials.<sup>210</sup> The requirement was implemented at a time when concerns around financial impropriety among elected officials were more salient. Even as recently as 1932, Mayor Walker resigned following serious concerns relating to the use of unaccounted City funds for personal expenditures.<sup>211</sup>

Government administration has become more professionalized since Mayor Walker’s malfeasance. Elected officials no longer have personal or direct access to city funds and there are many checks and safeguards in place to protect against improper withdrawals. These and other safeguards arguably render the bond requirement less necessary than it was in the past. In addition, it is the City, and not the individual elected officials, that bears the cost of obtaining the required bonds.<sup>212</sup>

Although the rationale for the bond requirement has diminished, officers who fail to procure and file a bond can face consequences.<sup>213</sup> As a result, the bond requirement can serve as an unnecessary distraction from the important work of government. A future commission should determine whether Charter change or state legislation (or both) is the most effective means of achieving this reform.

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<sup>209</sup> N.Y.C. Charter § 1122.

<sup>210</sup> N.Y.C. Department of Records and Information Services: Surety bonds issued for New York City public officials circa 1872 to 1882, <https://a860-collectionguides.nyc.gov/repositories/2/accessions/4845>.

<sup>211</sup> Herbert Mitgang, “The Downfall of Jimmy Walker: Judge Seabury Cleans Up New York,” *The Atlantic*, Oct. 1962, <https://www.theatlantic.com/magazine/archive/1962/10/the-downfall-of-jimmy-walker-judge-seabury-cleans-up-new-york/658851/>.

<sup>212</sup> See N.Y. Pub. Off. Law § 11(1).

<sup>213</sup> See *id.* at § 30(1)(h).

## Waterfront Permitting

Throughout New York City's history, the development of New York's waterfront has been critical to its growth. Recognizing the importance of the waterfront for economic development, the City created the Department of Docks in 1870, and gave it the authority to repair and construct wharves and piers.<sup>214</sup> The Department and its powers changed over subsequent years before its final iteration as the Department of Ports and Trade (1986-1991).<sup>215</sup>

In connection with the dissolution of the Department of Ports and Trade in 1991 and transfer of its responsibilities, the Charter and Administrative Code were amended to provide the Department of Business Services the exclusive authority to regulate and issue work permits and certificates of completion for all construction related to improvement or maintenance within its jurisdiction along the city's 520-mile coastline.<sup>216</sup> The jurisdiction of the Department, now named the Department of Small Business Services, includes work performed on private property being used for maritime purposes and all work on City-owned waterfront property, including

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<sup>214</sup> Laws of the State of New York, Passed at the Ninety-Third Session of the Legislature, 1870, Article 14, §99. Of the Department of Docks, <https://babel.hathitrust.org/cgi/pt?id=nyp.33433090741947&view=1up&seq=404>.

<sup>215</sup> Kenneth R. Cobb, "New York's Working Waterfront," NYC Department of Records & Information Services, July 24, 2020, <https://www.archives.nyc/blog/2020/7/24/new-yorks-working-waterfront>.

<sup>216</sup> N.Y.C. Charter § 1301(2)(b); Admin. Code Title 22; New York City Department of City Planning, *New York City: A City of Water*, <https://www.nyc.gov/site/planning/planning-level/waterfront/nyc-city-of-water/nyc-city-of-water.page>.

marine waste transfer stations owned by the Department of Sanitation and park buildings located on waterfront parcels.<sup>217</sup>

For privately-owned waterfront property, the New York City Department of Buildings (DOB) oversees permitting for non-maritime structures, while SBS handles permitting for maritime structures, such as piers and seawalls and all structures on city-owned waterfront property.<sup>218</sup> This division of permitting responsibilities complicates comprehensive administrative oversight. Revising the Charter to consolidate waterfront permitting responsibilities in DOB could simplify and rationalize the City’s approach.

## “Sanctuary City” Laws

The Commission has heard considerable testimony calling on the Commission to propose an amendment to change so-called “sanctuary city” laws—a term that is often used to refer to policies respecting information-sharing and cooperation between the City and federal authorities. But the term “sanctuary city” has also been a source of public confusion. Accordingly, it is important to clarify and enhance public understanding around this issue to sharpen public dialogue.

This area of law has been the subject of frequent and iterative action by both the Executive and Legislative Branches, as well as rulings by the Judicial Branch. In 1989, then Mayor Koch issued an executive order (EO No. 124, which is no longer in effect), which declared that information about people’s immigration status should not be transmitted by City employees to federal immigration authorities unless the

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<sup>217</sup> NYC Small Business Services, *Waterfront Permits*, <https://www.nyc.gov/site/sbs/businesses/waterfront-permits.page>.

<sup>218</sup> *Id.*



individual “is suspected ... of engaging in criminal activity” or certain other exceptions applied.<sup>219</sup>

In 2003, Mayor Bloomberg issued two executive orders (EO Nos. 34 and 41, which are still in effect) that, among other things, ordered that the policy of the Police Department is not to inquire about immigration status of any crime victims, witnesses, or other people approaching the police seeking assistance.<sup>220</sup> Those executive orders also directed NYC law enforcement not to ask about a person’s immigration status unless investigating illegal activity other than mere status as an undocumented alien.<sup>221</sup> The Bloomberg executive orders did not restrict NYC law enforcement from cooperating with federal immigration authorities as to individuals suspected of criminal activity; to the contrary, they mandated that police officers and officers of the Department of Correction “shall continue to cooperate with federal authorities in investigating and apprehending aliens suspected of criminal activity.”<sup>222</sup>

Local laws enacted by the City Council in 2011, and expanded from 2014 through 2018, imposed new limitations.<sup>223</sup> These laws prevent NYC from cooperating with federal immigration authorities by dictating that “No city

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<sup>219</sup> Executive Order No. 124 of 1989, revoked by Executive Order No. 34 of 2003.

<sup>220</sup> Executive Order No. 34 of 2003, as amended by Executive Order No. 41 of 2003.

<sup>221</sup> *Id.*

<sup>222</sup> *Id.*

<sup>223</sup> Admin. Code § 9-131, added in 2011 and amended in 2014, 2017, and 2018, restricts the Department of Correction’s authority to honor a civil immigration detainer; Admin. Code § 14-154, added in 2014 and amended in 2017 and 2018, restricts NYPD’s authority to honor a civil immigration detainer; Admin. Code § 9-205, added in 2017, restricts the Department of Probation’s authority to honor an immigration detainer; Admin. Code § 10-178, *infra*, was added in 2017.

resources, including, but not limited to, time spent by employees, officers, contractors, or subcontractors while on duty, or the use of city property, shall be utilized for immigration enforcement.”<sup>224</sup> Subject to very narrow exceptions (such as honoring judicial warrants obtained by federal immigration authorities), city personnel are not allowed to assist immigration authorities.<sup>225</sup>

Separately, a 2018 New York State appellate court ruling interpreted New York State law as prohibiting local law enforcement from holding and detaining individuals pursuant to ICE detainers and administrative warrants.<sup>226</sup> That court ruling is binding state-wide, including on New York City, unless and until New York State’s legislature amends state law or the New York’s highest court says otherwise.

The Commission is also mindful that the City has in recent years seen an extraordinary influx of migrants. At the time of writing, over 208,000 migrants have arrived in New York City, leading to an explosion in the City’s shelter population and related expenditures. The arrival of migrants has led to renewed focus on so-called sanctuary city policies—and, at times, a conflation of sanctuary city policies and other city policies respecting new arrivals.

In view of the repeated executive and legislative actions in this area, judicial construction of relevant state law, and the ongoing and fluid challenges posed by the

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<sup>224</sup> Admin Code § 10-178.

<sup>225</sup> The local law recognizes that NYC law enforcement can cooperate with federal law enforcement agencies in cases and investigations not “primarily intended to further immigration enforcement.” Admin. Code § 10-178(e) (“Nothing in this section shall prohibit city officers and employees from performing their duties in accordance with state and local law by, including, but not limited to: [] participating in cooperative arrangements with city, state, or federal law enforcement agencies that are not primarily intended to further immigration enforcement . . .”).

<sup>226</sup> *People ex rel. Wells v. DeMarco*, 168 A.D. 3d 31 (2d Dept 2018).

influx of new arrivals to the City, the Commission does not believe a ballot question concerning this important area is appropriate at this time.

## Resident Feedback

The Citizens Budget Commission (CBC) proposed that the Charter be amended to require the City to periodically conduct and publish a statistically valid resident feedback survey and report.<sup>227</sup> CBC suggested that such a survey could include findings at the community district level, and across major demographic categories, in order to improve the City’s understanding of quality-of-life concerns and views on local service delivery. These findings could, in turn, inform decisions about municipal operations and the City budget.

Receiving feedback on policy priorities directly from New Yorkers is important for policymaking. In December 2022, Mayor Adams shared the results of NYC Speaks, the largest public policy survey in New York City government history.<sup>228</sup> The report represented feedback from over 62,000 New Yorkers and 3 million data points that highlighted major public policy priorities such as housing and public safety.<sup>229</sup>

Future commissions should explore the benefits and drawbacks of formalizing NYC Speaks or other surveys in the Charter.

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<sup>227</sup> Andrew S. Rein, President of Citizens Budget Commission, *Charter Revision Commission Fiscal Responsibility Forum & Manhattan Public Hearing* (June 13, 2024) (testimony).

<sup>228</sup> Office of the New York City Mayor Eric Adams, *Mayor Adams Releases Community Driven “NYC Speaks Action Plan”* (Dec. 2022).

<sup>229</sup> *Id.*

## Support for Community Boards

The commission has received extensive testimony advocating for community board reform from a diverse array of stakeholders, including members of the public, current and former community board members, and elected officials. Proposals covered a wide range of issues, including occasionally conflicting recommendations concerning term limits, eligibility requirements, districting, and the scope of community board authority.<sup>230</sup> Bronx Borough President Vanessa Gibson proposed that the Department of Citywide Administrative Services expand its authority to handle community board training and Equal Employment Opportunity matters.<sup>231</sup> Manhattan Borough President Mark Levine submitted written testimony emphasizing the need for the Commission to clearly define the support provided to community boards within the Charter while also advocating for increased resources.<sup>232</sup> Brooklyn Borough President Antonio Reynoso testified that his office is unequipped to provide adequate support to community boards and proposed the creation of an Office of Community Boards dedicated to fulfilling this role.<sup>233</sup>

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<sup>230</sup> See e.g. Written Testimony of Robert L. Bieder (Jun. 12, 2024), Written Testimony of the Community Board Reform Task Force (Jul. 3, 2024); Roxanne Delgado, *Charter Revision Commission Government and Election Reform Forum & Hearing - Bronx* (Jun. 17, 2024) (testimony); Antonio Reynoso, Brooklyn Borough President, *Charter Revision Commission Public Safety Forum & Hearing - Brooklyn* (Jun. 20, 2024) (testimony); Vanessa Gibson, Bronx Borough President, *Charter Revision Commission Hearing – Bronx* (Jul. 11, 2024) (testimony).

<sup>231</sup> Vanessa Gibson, Bronx Borough President, *Charter Revision Commission Hearing – Bronx* (Jul. 11, 2024) (testimony).

<sup>232</sup> Written Testimony of Mark Levine, Manhattan Borough President (Jun. 13, 2024).

<sup>233</sup> Antonio Reynoso, Brooklyn Borough President, *Charter Revision Commission Public Safety Forum & Hearing - Brooklyn* (Jun. 20, 2024) (testimony).

In 2018, New York City voters approved several ballot initiatives proposed by the 2018 Charter Revision Commission to promote civic engagement and improve community boards.<sup>234</sup> These reforms included creating the Civic Engagement Commission (CEC), whose responsibilities include assisting and training community boards.<sup>235</sup> Section 3203 of the Charter authorizes the CEC to support community boards by providing technical assistance, identifying qualified consultants, and offering training and resources for limited English proficient community members.<sup>236</sup> The Charter also requires the CEC to produce an annual report outlining the resources provided to community boards, their usage, and any recommended changes to better serve their needs.<sup>237</sup> Voters further approved several changes to community board structure, including new term limits.<sup>238</sup>

Community boards help engage New Yorkers in local governance. Though they exercise only advisory powers, Community Boards offer a significant local perspective on municipal decision-making. The recency of the 2018 reforms, as well as the diverse (and divergent) recommendations received by the Commission on this topic, underscore the need for further analysis. The Commission recommends that future commissions study structural changes to the Charter that would further define the appropriate role for Community Boards and support Community Boards in serving that end.

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<sup>234</sup> Sarah Almukhta et al., “New York Election Results” *The New York Times*, May 15, 2019, <https://www.nytimes.com/interactive/2018/11/06/us/elections/results-new-york-elections.html>.

<sup>235</sup> Charter Revision Commission, *Final Report of the 2018 New York City Charter Revision Commission*, (Sep. 6, 2018), at 47.

<sup>236</sup> N.Y.C. Charter § 3203.

<sup>237</sup> *Id.*

<sup>238</sup> Charter Revision Commission, *Final Report of the 2018 New York City Charter Revision Commission*, (Sep. 6, 2018), at 75.

## Appendix A – Clean Streets

### Ballot Question

#### *Cleaning Public Property*

This proposal would amend the City Charter to expand and clarify the Department of Sanitation’s power to clean streets and other City property and require disposal of waste in containers.

Voting “Yes” will expand and clarify the Department of Sanitation’s power to clean streets and other City property and require disposal of waste in containers. Voting “No” leaves laws unchanged.

### Abstract

The Department of Sanitation (DSNY) is responsible for the cleanliness of New York’s streets and the disposal of waste. The current Charter grants the DSNY Commissioner the power to adopt regulations relating to the use of sidewalks for disposal of refuse and to issue violations for failure to comply with such regulations punishable by fine, imprisonment, or civil penalty. The Charter currently does not expressly set forth any requirement to containerize refuse—even though DSNY has issued several rules that limit the amount of time that non-containerized refuse spends on City streets. The current Charter also does not provide DSNY with jurisdiction over certain property, such as parks and highway medians. Additionally, while the Office of Street Vendor Enforcement is housed within DSNY, the Office does not have the authority to enforce vending on certain City properties, such as in parks.

The proposed amendments would clarify that DSNY has jurisdiction to clean all City property at the Mayor’s direction. The proposed changes would also clarify that DSNY has the authority to ensure that street vendors comply with sanitation

requirements not just on the streets but on other City-owned properties. Lastly, this proposal would expressly recognize DSNY's authority to regulate the proper placement of bags of refuse on the sidewalk, including by requiring that waste be placed in containers.

## Proposed Charter Amendment Text

Section 1. Subdivision a of section 753 of the New York city charter, as amended by local law number 68 for the year 2023, is amended to read as follows:

a. Except as otherwise provided by law, the commissioner shall have charge and control of and be responsible for all those functions and operations of the city relating to the cleanliness of the streets and the disposal of waste, including, without limitation, the following:

(1) the sweeping, cleaning, sprinkling, flushing, washing and sanding of the streets;

(2) the removal and disposition of ashes, street sweepings, garbage, refuse, rubbish and waste;

(3) the removal of ice and snow from the streets;

(4) the removal of encumbrances from the streets and the storage or disposal of such encumbrances; [and]

(5) plans, design, construction, operation, alteration, repair, maintenance, replacement, enlargement and regulation of the use of incinerators, landfills and other plants, facilities and equipment necessary for or useful for performing the functions and exercising the powers and duties enumerated in this section;

(6) the manner in which garbage, refuse, rubbish or waste may be set out for collection, including, to the extent practicable, ensuring that garbage, refuse, rubbish, or waste are not placed directly on the street or sidewalk; and

(7) upon designation by the mayor, the cleaning of any other city-owned property.

§ 2. Section 753 of the New York city charter is amended by adding a new subdivision g to read as follows:

g. Upon designation by the mayor, the department of sanitation shall have the authority to enforce any laws, rules and regulations in force in the city as they relate to the cleanliness of streets, sidewalks, and the exterior of city-owned real property. Such authority shall be in addition to and not in place of the authority of any other agency responsible for such enforcement.

§ 3. Section 13-e of the New York city charter, as added by local law number 18 for the year 2021, is amended to read as follows:

§ 13-e. Office of street vendor enforcement. There shall be an office of street vendor enforcement, which shall consist of enforcement agents who are specially trained in local laws and rules related to vending on the streets and sidewalks of the city of New York. The office of street vendor enforcement shall be fully operational on or before September 1, 2021 and shall commence enforcement activities on or before such date. Such enforcement activities shall, at a minimum, include a sufficient number of street patrols to inspect or examine the vending activities of at least 75 percent of applicable permittees or licensees on an annual basis. For the purposes of this section, the term "applicable permittees or licensees" means persons issued full-term or temporary permits pursuant to section 17-307 of the administrative code, or persons issued licenses to vend pursuant to sections 17-307 or 17-307.1 of the administrative code, or licenses issued pursuant to section 20-456 of the administrative code. The mayor may establish such office in the executive office of the mayor, within any other office in the executive office of the mayor, or within any department, the head of which is appointed by the mayor. Such office shall have the power and duty to:



a. enforce all local laws and rules related to vending on the streets and sidewalks and in parks of the city of New York, other than such local laws and rules related to food safety, including, but not limited to: section 16-118, subchapter 2 of chapter 3 of title 17, section 18-146, subchapter 27 of chapter 2 of title 20, and chapter 1 of title 24 of the administrative code; article 89 of the health code; and any rules of the city of New York implementing such laws;

b. focus its enforcement efforts on areas including, but not limited to, areas adjacent to retailers that dedicate substantial floor area to the sale of fresh fruits and vegetables, and any other areas identified by the department of transportation or department of parks and recreation as excessively congested and featuring a high level of complaints about vendor activity, if any;

c. collaborate with the department of small business services to provide training, outreach and education to all street vendors on entrepreneurship and compliance with all applicable local laws and regulations, as well as solicit feedback from the street vendor community;

d. receive all complaints related to street vending on the streets and sidewalks of the city of New York from the 311 service center or from any other means; and

e. engage in such other activities related to enforcement of laws related to vending on the streets and sidewalks and in parks of the city of New York, or related to improving compliance with such laws, as may be designated by the mayor. For the purposes of this section, "excessively congested" areas include, but are not limited to, areas where pedestrian volume regularly approaches or exceeds the capacity of the sidewalk.

§ 4. Section 1152 of the New York city charter is amended by adding a new subdivision o, paragraph (1) to read as follows:

o. (1) The amendments to the charter amending section 13-e and subdivision a of section 753 and adding a new subdivision g to section 753, approved by the electors on November 5, 2024, shall take effect immediately upon certification that the electors have approved such amendments to the charter.

## Appendix B – Fiscal Responsibility

### Ballot Question

#### *Additional Estimates of the Cost of Proposed Laws and Updates to Budget Deadlines*

This proposal would amend the City Charter to require fiscal analysis from the Council before hearings and votes on laws, authorize fiscal analysis from the Mayor, and update budget deadlines.

Voting “Yes” would amend the City Charter to require additional fiscal analysis prior to hearings and votes on local laws, and update budget deadlines. Voting “No” leaves laws unchanged.

### Abstract

This proposal would require additional analysis of the fiscal impacts of proposed local laws. The proposal would also update certain budget timelines.

First, the amendment would require the Council to estimate the cost of proposed laws prior to a public hearing by a Council committee and prior to a full vote of the Council. It would also require the Council to provide an opportunity for the Mayor’s Office of Management and Budget to submit its own estimate in a timely manner.

Currently, the Charter requires a Fiscal Impact Statement before a vote on a local law by a Council Committee and before a vote by the full Council. It does not specify who should develop those Statements, but in practice the Council formulates them. This amendment would codify the Council’s role. It would also move the Fiscal Impact Statement requirement earlier in the legislative process by requiring them before public hearings. Further, as noted above, the amendment would ensure that the Mayor, acting through the Office of Management and Budget, has an opportunity to submit financial estimates. As a result, Fiscal Impact Statements

would, with this amendment, generally contain two estimates: one from the Council itself, and one from the Mayor. Specifically, the amendment would require that the Council give eight days' notice to the Mayor (unless the Mayor waives the notice) before holding a public hearing or a full Council vote on a proposed local law, allowing the Office of Management and Budget to provide its own financial estimate. However, if that office has not responded at least three days before the hearing or vote, the Council could still move forward with such hearing or vote.

Second, this amendment would update several budget-related deadlines in the Charter, with the intention of reflecting modern practices. In particular, it would give new mayoral administrations more time to compose a preliminary budget by extending the deadline for the preliminary budget from January 16<sup>th</sup> to February 1<sup>st</sup> in years following a mayoral election. There is precedent for this: recognizing that the existing January 16<sup>th</sup> deadline can be difficult for a new administration to meet, on past occasions the City Council has passed local laws that extend the deadline for submitting the preliminary budget when a new Mayor enters office. The proposed amendment would similarly update related budget deadlines to accommodate the new preliminary budget deadline: in years following a mayoral election, the deadline for the Mayor to submit a preliminary certificate on capital debt and obligations would be extended from January 16<sup>th</sup> to February 1<sup>st</sup>, and the deadline for the Independent Budget Office to report on revenues and expenditures would be extended from February 1<sup>st</sup> to February 15<sup>th</sup>.

Likewise, with the intention of promoting a more accurate executive budget, this amendment would extend the deadline for submitting the executive budget from April 26<sup>th</sup> to May 1<sup>st</sup>. The Charter presently requires the Mayor to submit an executive budget on April 26<sup>th</sup>. That date falls shortly after the April 15<sup>th</sup> tax deadline, which gives the City relevant information about tax collections. A short extension of the executive budget deadline—to May 1<sup>st</sup>—would give the Office of

Management and Budget more time to determine likely revenue. The amendment would accordingly extend the deadline for Borough President recommendations on the executive budget from May 6<sup>th</sup> to May 13<sup>th</sup>.

## Proposed Charter Amendment Text

Section 1. Section 33 of the New York city charter, as added by a vote of the electors at a general election held on November 7, 1989, is amended to read as follows:

a. No public hearing on a proposed local law shall be held by a council committee, and no proposed local law [or budget modification] shall be voted on by [a council committee or] the council, unless[ it]: (i) the council committee, the council, or the speaker has provided no fewer than 8 days' notice of such hearing or the council's intent to vote on such proposed local law, as applicable, to the director of management and budget, provided that such notice shall not be required if the mayor shall have certified as to the necessity for the immediate passage of such local law; and (ii) such proposed local law is accompanied by a fiscal impact statement containing the information set forth in subdivision [b] c of this section.

b. No proposed budget modification shall be voted on by a council committee or the council unless such budget modification is accompanied by a fiscal impact statement containing the information set forth in subdivision c of this section.

c. A fiscal impact statement required by subdivision a of this section shall contain estimates from the council and the office of management and budget, provided, however, that an estimate from the office of management and budget shall not be required where such office has not provided such estimate to the council at least 3 days before a hearing or vote subject to such subdivision a. A fiscal impact statement required by subdivision b of this section need only contain an estimate from the council. Each such estimate in a fiscal impact statement shall: indicate the

fiscal year in which the proposed law or modification would first become effective and the first fiscal year in which the full fiscal impact of the law or modification is expected to occur; and contain an estimate of the fiscal impact of the law or modification on the revenues and expenditures of the city during the fiscal year in which the law or modification is to first become effective, during the succeeding fiscal year, and during the first fiscal year in which the full fiscal impact of the law or modification is expected to occur.

[c.] d. All agency heads shall promptly provide to any council committee any information that it requests to assist it in preparing a fiscal impact statement.

[d.] e. Each estimate contained in a fiscal impact statement shall identify the sources of information used in its preparation.

[e.] f. If [any of] the estimate [or estimates] contained in [the] a fiscal impact [statements are] statement is inaccurate, such [inaccuracies] inaccuracy shall not affect, impair, or invalidate the local law or budget modification.

§ 2. Section 235 of the New York city charter, as added by a vote of the electors at a general election held on November 7, 1989, is amended to read as follows:

§ 235. Preliminary certificate of the mayor on capital debt and obligations. No later than the sixteenth day of January, or in any calendar year immediately following the election of a mayor, the first day of February, the mayor shall submit to the council, the comptroller, the borough presidents and the city planning commission and publish a preliminary certificate setting forth the maximum amount of debt and reserves which, in the mayor's opinion, the city may soundly incur for capital projects during the ensuing fiscal year and during each of the following three fiscal years, and the maximum amount of appropriations and expenditures for capital projects which the city, given such maximum amount of debt and reserves, may

soundly make during each such fiscal year. At any time up to the submission of the executive capital budget to the council, the mayor may amend such preliminary certificate. Any such amendments shall be submitted to the council, the comptroller, the borough presidents and the city planning commission, and published forthwith in the City Record.

§ 3. Section 236 of the New York city charter, as amended by local law number 218 for the year 2017, is amended to read as follows:

Not later than the sixteenth day of January, or in any calendar year immediately following the election of a mayor, the first day of February, the mayor shall submit to the council and publish a preliminary budget for the ensuing fiscal year. Copies of such budget shall be provided to the council, borough presidents, each community board and borough board, the city planning commission, and the department of city planning. A copy of such preliminary budget shall also be provided to the council not later than the sixteenth day of January, or in any calendar year immediately following the election of a mayor, the first day of February, in both a human-readable format or spreadsheet and in a non-proprietary format or spreadsheet that permits automated processing and renders such data capable of being downloaded in bulk or any other format mutually agreed upon between the mayor and the council.

§ 4. Section 237 of the New York city charter, as added by a vote of the electors at a general election held on November 7, 1989, is amended to read as follows:

§ 237. Report of independent budget office on revenues and expenditures. On or before the first day of February, or in any calendar year immediately following the election of a mayor, the fifteenth day of February, the director of the independent

budget office shall publish a report, for the ensuing fiscal year, with respect to expected levels of revenues and expenditures, taking into account projected economic factors and the proposals contained in the preliminary budget submitted by the mayor for such fiscal year. Such report shall also include a discussion of city budget priorities, including alternative ways of allocating the total amount of appropriations, expenditures and commitments for such fiscal year among major programs or functional categories taking into account how such alternative allocations will meet major city needs and effect balanced growth and development in the city.

§ 5. Subdivision a of section 249 of the New York city charter, as amended by local law number 218 for the year 2017, is amended to read as follows:

a. Not later than the [twenty-sixth] first day of [April] May, the mayor shall submit to the council (1) a proposed executive budget for the ensuing fiscal year, and (2) a budget message, both of which, along with any accompanying reports and schedules, shall be printed forthwith. Copies of such proposed executive budget, budget message and any accompanying reports and schedules shall also be provided to the council not later than the [twenty-sixth] first day of [April] May in both a human-readable format or spreadsheet and in a non-proprietary format or spreadsheet that permits automated processing and renders such data capable of being downloaded in bulk or any other format mutually agreed upon between the mayor and the council.

§ 6. Section 251 of the New York city charter, as added by a vote of the electors at a general election held on November 7, 1989, is amended to read as follows:



§ 251. Borough president recommendations on the executive budget. Not later than the [sixth] thirteenth day of May, each borough president shall submit to the mayor and the council a response to the mayor's executive budget. Such response shall indicate which of the recommended appropriations submitted by the borough president pursuant to section two hundred forty-five, which were not included by the mayor in the executive budget, should be considered by the council for inclusion in the budget. Any appropriations recommended in this manner for inclusion in the budget shall be accompanied by recommendations for offsetting reductions in other appropriations within the borough. Any such increases or reductions must be stated separately and distinctly and refer each to a single object or purpose.

§ 7. Section 1152 of the New York city charter is amended by adding a new subdivision o, paragraph (2) to read as follows:

o. (2) The amendments to the charter amending sections 33, 235, 236, 237, 251, and subdivision a of section 249, approved by the electors on November 5, 2024, shall take effect immediately upon certification that the electors have approved such amendments, provided, however, that the amendments to section 33 shall apply only to proposed local laws for which a public hearing or vote of the council is held after the effective date.

## Appendix C – Public Safety

### Ballot Question

#### *More Notice and Time Before Votes on Public Safety Legislation*

This proposal would require additional public notice and time before the City Council votes on laws respecting the public safety operations of the Police, Correction, or Fire Departments.

Voting “Yes” will require additional notice and time before the Council votes on laws respecting public safety operations of the Police, Correction, or Fire Departments. Voting “No” leaves laws unchanged.

### Abstract

This amendment would establish additional procedural requirements before the Council votes on proposed local laws respecting the public safety operations of three City agencies: the Police Department, Department of Correction, or Fire Department.

Prior to a vote by the full Council on a covered public safety proposal, the Council would be required to give an additional notice to the public, the Mayor, and the commissioner of each affected agency at least 30 days in advance of such vote. The Mayor and affected agencies could use the period between such notice and such vote to hold one or more additional public hearings on the proposal in order to solicit additional public input. The Mayor could waive the additional procedures imposed by this amendment.

### Proposed Charter Amendment Text

Section 1. Chapter 2 of the New York city charter is amended by adding a new section 33-a to read as follows:

§ 33-a. Local laws relating to public safety.

a. No proposed local law relating to the public safety operations of the police department, the fire department, or the department of correction shall be voted on by the council unless the council has provided to the public, the mayor and the commissioner of each such department written notice of the council's intent to vote on the proposed local law no sooner than thirty days following such notice. During the period between the provision of notice and a vote on the proposed local law, the mayor or any such commissioner may hold one or more public hearings to solicit additional public comment on such proposed local law, provided, however, that nothing in this section shall limit the authority of the mayor or any commissioner to hold public hearings at other times.

b. The speaker may perform functions assigned to the council pursuant to subdivision a of this section.

c. The requirements of subdivision a shall not prevent the council or a council committee from amending the proposed local law prior to voting on it, and such amendments shall not require additional notices as long as the notice required by subdivision a has been provided.

d. The mayor may waive in writing any requirement imposed by this section.

§ 2. Section 1152 of the New York city charter is amended by adding a new subdivision o, paragraph (3) to read as follows:

o. (3) The amendments to the charter adding section 33-a, approved by the electors on November 5, 2024, shall take effect immediately upon certification that the electors have approved such amendments.

## Appendix D – Capital Planning

### Ballot Question

#### *Capital Planning*

This proposal would amend the City Charter to require more detail in the annual assessment of City facilities, mandate that facility needs inform capital planning, and update capital planning deadlines.

Voting “Yes” would require more detail when assessing maintenance needs of City facilities, mandate that facility needs inform capital planning, and update capital planning deadlines. Voting “No” leaves laws unchanged.

#### Abstract

The City engages in regular capital planning to determine how to invest in its infrastructure. As part of that assessment, information about the City’s infrastructure is collected and shared through several documents, including the annual Citywide Statement of Needs, the annual inventory of city facilities, and the bi-annual Ten-Year Capital Strategy. All three documents provide information about the City’s existing infrastructure and planned investments. However, the Charter does not explicitly require the City, when developing the Statement of Needs, to look at maintenance and repair. Nor does it require the City, its Ten-Year Capital Strategy, to consider its official facility inventory or Statement of Needs.

The proposed amendments would require that the City, when assessing significant City facility expansions and reductions in its annual Statement of Needs, also collect information related to maintenance needs, like the condition, function, and estimated useful life of all City facilities, to the extent practicable. The amendments would also require that the Department of City Planning and the Office of Management and Budget, when developing the Ten-Year Capital Strategy,

consider City facility conditions and maintenance needs, together with other factors such as geographic distribution, impact on resiliency, and the importance of facilities for agency operations. The amendments would change the date that the Ten-Year Capital Strategy is due from November 1<sup>st</sup> to align with the date for the City's preliminary budget, which is currently January 16<sup>th</sup>. The amendments would similarly change the date for the public hearing associated with the Ten-Year Capital Strategy to accommodate the later date for the initial submission.

## Proposed Charter Amendment Text

Section 1. Subdivision a of section 204 of the New York city charter, as added by a vote of the electors at a general election held on November 7, 1989, is amended to read as follows:

a. Each year not later than the fifteenth day of November, the mayor shall submit to the council, borough presidents, borough boards and community boards a citywide statement of needs concerning city facilities prepared in accordance with the criteria established pursuant to section two hundred three. Copies of the statement shall also be made available to the public in the main branch of the public library in each borough. The statement shall identify by agency and program: (1) all new city facilities and all significant expansions of city facilities for which the mayor or an agency intends to make or propose an expenditure or to select or propose a site during the ensuing two fiscal years and (2) all city facilities which the city plans to close or to reduce significantly in size or in capacity for service delivery during the ensuing two fiscal years. To the extent practicable, the statement shall also identify for each city facility its condition, function, location, estimated useful life, and whether such facility would enable or benefit from related capital investments in other city facilities.

§ 2. Section 215 of the New York city charter, as added by a vote of the electors at a general election held on November 7, 1989, is amended to read as follows:

a. For the purposes of this section, the term “ten-year capital strategy” means the report issued by the mayor in accordance with this section and pursuant to section two hundred forty-eight. Such strategy shall be informed by the citywide statement of needs and the capital plant inventory required by sections two hundred four and one thousand one hundred ten-a, respectively.

[a.] b. The ten-year capital strategy shall be issued by the mayor pursuant to section two hundred forty-eight after (i) submission of a preliminary strategy by the department of city planning and the office of management and budget pursuant to section two hundred twenty-eight, and (ii) submission of a report on the preliminary strategy by the city planning commission following a public hearing, pursuant to section two hundred thirty-four.

[b.] c. Contents of ten-year capital strategy. Each ten-year capital strategy shall include:

(1) a narrative describing the strategy for the development of the city's capital facilities for the ensuing ten fiscal years; the factors underlying such strategy including goals, policies, constraints, assumptions, and [the criteria for assessment of] the city's capital needs; the anticipated sources of financing for such strategy; and the implications of the strategy, including possible economic, social and environmental effects;

(2) tables presenting the capital commitments estimated to be made during each of the ensuing ten fiscal years, by program category and agency. Where relevant the anticipated sources of financing for particular categories and projects shall be specified; and

(3) a map or maps which illustrate major components of the strategy as relevant.

[c.] d. In the preparation of the preliminary ten-year capital strategy, the department of city planning and office of management and budget shall consider: (i) the strategic policy statements of the mayor and the borough presidents pursuant to section seventeen, (ii) relevant citywide, borough and community plans adopted pursuant to section one hundred ninety seven-a, [and] (iii) the reports pursuant to section two hundred fifty-seven comparing the most recent ten-year capital strategy with the capital budgets and programs adopted for the current and previous fiscal years, and (iv) the city's capital needs, as informed by the citywide statement of needs and the capital plant inventory required by sections two hundred four and one thousand one hundred ten-a, respectively, including but not limited to city facility and capital plant conditions and deterioration, geographic distribution, impact on agency function or mission, impact on resiliency, and relevant federal or state conditions or requirements.

§ 3. Section 228 of the New York city charter, as added by a vote of the electors at a general election held on November 7, 1989, is amended to read as follows:

Not later than the [first] day [of November] the preliminary budget is published pursuant to section two hundred thirty-six in each [even] odd-numbered year, the director of management and budget and the director of city planning shall jointly submit to the mayor, the council, the borough presidents and the city planning commission a draft ten-year capital strategy prepared in accordance with the provisions of section two hundred fifteen.

§ 4. Section 234 of the New York city charter, as added by a vote of the electors at a general election held on November 7, 1989, is amended to read as follows:

Not later than the sixteenth day of [January] March in each odd-numbered year, the city planning commission shall submit to the mayor, the borough presidents and the council a report containing its comments on the draft ten-year capital strategy submitted in accordance with section two hundred twenty-eight of this chapter, including such recommendations as it deems appropriate. The city planning commission, in the preparation of such report, shall, upon adequate public notice, hold a public hearing at which interested organizations and individuals may express their opinions regarding the draft ten-year capital strategy.

§ 5. Subdivision o of section 1152 of the New York city charter, as added by a vote of the electors at a general election held on November 7, 1989, is amended by adding a new subdivision o, paragraph (4) to read as follows:

o. (4) The amendments to the charter amending subdivision a of section 204, and sections 215, 228, and 234, as approved by the electors on November 5, 2024, shall take effect on April 1, 2025.



## Appendix E – MWBEs and Modernization

### Ballot Question

*Minority and Women-Owned Business Enterprises (MWBEs), Film Permits, and Archive Review Boards*

This proposal would amend the City Charter to establish the Chief Business Diversity Officer (CBDO), authorize the Mayor to designate the office that issues film permits, and combine archive boards.

Voting “Yes” would establish the CBDO to support MWBEs, authorize the Mayor to designate the office that issues film permits, and combine two boards. Voting “No” leaves laws unchanged.

### Abstract

This amendment would revise several provisions in the Charter.

First, to support minority and women-owned business enterprises (MWBEs), this amendment would establish the Chief Business Diversity Officer (CBDO) in the Charter. It would also provide that the CBDO will serve as the point of contact for MWBEs, evaluate the efficacy of the City’s policies to address disparities in procurement, and propose needed changes to city policy.

Second, this amendment would empower the Mayor to give the office that processes film permits—the Mayor’s Office of Media and Entertainment (MOME)—the power to issue those permits. At present, the City Charter only gives the power to issue permits for film and television to the Department of Small Business Services. As a result, to discharge its film permitting duties and perform its mission to strengthen New York City’s creative economy, the Commissioner of MOME is an employee of the Department of Small Business Services. Other MOME employees do not have the ability to grant film and television permits if the

Commissioner is unable to fulfill their duties or if the position is temporarily vacant. The proposed amendment would empower the Mayor to designate another City agency to grant these permits, allowing the Mayor to designate MOME and ensure other MOME employees can exercise this authority when appropriate.

Third, this amendment would combine two Charter-created boards that focus on review of municipal archives. Under the current Charter, the City must maintain both the Archival Review Board and the Archives, Reference and Research Advisory Board. These boards have similar missions and annual reporting mandates. This proposed amendment would combine the Archival Review Board and the Archives, Reference and Research Board into one body, the Municipal Archives and Library Advisory Board, in an effort to promote efficiency and save City resources. This proposed amendment would take effect immediately.

## Proposed Charter Amendment Text

Section 1. Section 20-h of the New York city charter as added by local law 215 for the year 2019 Question 3, is amended to read as follows

[Office of minority and women-owned business enterprises.] Chief business diversity officer

a. *Definitions.* As used in this section, the following terms have the following meanings:

Agency M/WBE officer. The term "agency M/WBE officer" means a deputy commissioner or other executive officer designated pursuant to subdivision f of section 6-129 of the administrative code.

[Director. The term "director"] Chief business diversity officer. The term “chief business diversity officer” means the holder of the position defined under paragraph (14) of subdivision c of section 6-129 of the administrative code.

EBE. The term "EBE" means an emerging business enterprise certified in accordance with section 1304.

M/WBE. The term "M/WBE" means a minority or women-owned business enterprise certified in accordance with section 1304.

Office. The term "office" means the office of [minority and women-owned business enterprises.] the chief business diversity officer.

b. Notwithstanding any provision to the contrary contained in section 6-129 of the administrative code, the [director] chief business diversity officer shall report directly to the mayor.

c. The mayor shall establish an office of [minority and women-owned business enterprises] the chief business diversity officer within any office of the mayor. The head of such office shall be [either the director or an individual who shall report directly to the director] the chief business diversity officer.

d. The office shall perform the following duties:

1. Monitor agencies' compliance with section 1304 of the charter and section 6-129 of the administrative code, and assist the [director] chief business diversity officer in carrying out [the director's] their duties under section 6-129 of the administrative code;
2. Promote agencies' use of authority under other state and city laws, including but not limited to sections 311 and 324 of the charter, to promote opportunities for small businesses, including M/WBEs and EBEs, to participate in city procurements;
3. Work with agency staff, including agency M/WBE officers, to facilitate [M/WBE] participation of M/WBEs and EBEs in city procurement opportunities;

[3.] 4. Facilitate communication between M/WBEs and EBEs, other members of the public and agencies to address [M/WBE-related] concerns related to such business enterprises;

[4.] 5. Assist in the development of policies, maintain oversight and help expand agency programming relating to M/WBEs and EBEs across all city agencies, and in the implementation of mentor programs for small businesses pursuant to section 1309 of the charter;

[5.] 6. Carry out outreach and education efforts regarding programs and opportunities for M/WBEs and EBEs to engage in city procurement, including efforts to encourage eligible firms to certify as M/WBEs and EBEs with the city;

[6.] 7. Establish and maintain relationships with the public to promote government procurement opportunities for M/WBEs and EBEs; and

[7.] 8. Other duties as the mayor may assign.

e. The head of each agency shall cooperate with and furnish to the office such information and assistance as may be required in order for the office to perform its duties.

§ 2. Section 20-h of the New York city charter is amended by adding new subdivision (f) to read as follows:

f. The chief business diversity officer for the city shall serve as the principal liaison for minority- and women-owned business enterprises. The chief business diversity officer will make recommendations concerning policy, legislation, and regulations relating to minority and women owned business enterprises and emerging business enterprises. Agencies shall coordinate with the chief business

diversity officer on matters related to minority and women-owned business enterprises and emerging business enterprises. The chief business diversity officer will also periodically review agency procurement data and relevant research (i) to recommend any changes in the ethnic or gender categories of firms eligible to be certified based on data demonstrating that they have been underutilized in city procurements relative to their availability in the relevant market, (ii) to evaluate the effectiveness of policies and programs for addressing disparities in procurement across the city, and (iii) to propose any necessary adjustments to city policies based on such review.

§ 3. Paragraph r of subdivision 1 of section 1301 of the New York city charter is amended to read as follows:

r. to issue permits for the taking of motion pictures, and for the taking of photographs and for the use or operation of television cameras and/or any other transmitting television equipment in or about city property, or in or about any street, park, marginal street, pier, wharf, dock, bridge or tunnel within the jurisdiction of any city department or agency or involving the use of any city owned or maintained facilities or equipment. Upon designation of the mayor, this function may be performed by another department or unit therein.

§ 4. Section 3005 of the New York city charter, as added by local law number 22 for the year 2003, is amended to read as follows

[Archival review] Municipal archives and library advisory board  
There shall be in the department a library and archival review advisory board consisting of nine members. All appointed members of the board shall be residents

of the city. Three members of the board shall be appointed by the speaker. The commissioner shall serve ex officio as chair of the board. The mayor shall appoint five additional members, including at least one professional archivist, one librarian and one public historian. The remaining members appointed by the mayor and the speaker shall be representative of community interests and consideration should be given to appointing members with experience in community engagement, media, cultural institutions and education. Members other than the commissioner shall serve for terms of three years, provided that of those members first taking office, two shall be appointed for one year, three for two years and three for three years. For the members first taking office, the mayor and speaker will each appoint one member for a one-year term and one member for a two-year term; the speaker will appoint one member for a three-year term and the mayor will appoint three members for a three-year term. Members shall serve until successors are appointed and a member shall not be removed from office except by the person or persons who appointed such member or for cause by the mayor. Vacancies in appointed membership of the board shall be filled by appointment by whosoever was responsible for such original appointment. Members of the board, other than the chair, shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties, following the policies of the agency. The board shall meet once every 120 days or upon the request of any of its members and shall consult with the commissioner with respect to subdivisions one and two of section 3004 of this chapter. [an archival review board which shall consist of five members; two of whom shall be appointed by the speaker, two of whom shall be appointed by the mayor, and one of whom shall be the commissioner, who shall serve ex officio as chairperson of the board. At least one such appointment shall be a professional archivist and at least one other such appointment shall be a professional historian. The members of the commission, other than the chair, shall be appointed within 30

days of the effective date of this section and shall be entitled to reasonable expenses. All appointed members of the commission shall be residents of the city. Members shall serve for terms of four years from such date of appointment. Vacancies in appointed membership of the board shall be filled by appointment by whosoever was responsible for such original appointment. The board shall meet once every 90 days or upon the request of any of its members.] Any member of such board shall have complete access, during work hours, to inspect and review any appraisal, organization, processing or archiving of city records in the custody of an entity with which an agreement has been entered into for the purpose specified in subdivision five of section 3003. Such board may request and receive from the department, assistance and data as may be necessary for the proper execution of its powers and duties. Such board shall render annually to the mayor a report [reviewing] regarding the development of municipal archives, reference and research services in the government and administration of the city including the archival processing of any city papers during the year for which the report has been written.

§ 6. The heading of section 3007 of the New York city charter, as amended by referendum of the voters in November 1988, is amended to read as follows:

Departmental [libraries] collections.

§ 7. Section 3009 of the New York city charter is REPEALED.

**Section 3009: [repealed]** [Archives, reference and research advisory board.]

§ 8. Subdivision o of section 1152 of the New York city charter is amended by adding a new paragraph (5) to read as follows:

o. (5) The amendments to the charter adding sections 20-h, paragraph r of subdivision 1 of section 1301, and sections 1072, 3005, 3007, and 3009, approved by the electors on November 5, 2024, shall take effect immediately upon certification that the electors have approved such amendments.



## Appendix F – Agency Proposals

In addition to public outreach, the Commission has also sought the input of the heads of City agencies. Many agencies submitted suggestions to amend provisions of the Charter relating to their agencies in an effort to improve service delivery and remove roadblocks that may, at times, stymie agency initiatives. Suggestions included:

- The Department of Sanitation (DSNY) proposes expanding DSNY's jurisdiction to include cleaning services in parks and enforcement authority against vendor operations.
- The Mayor's Office of Media and Entertainment (MOME) recommends moving the formal authority to issue film permits from SBS to MOME, who already issue these permits in practice.<sup>239</sup>
- NYC Service, within the Mayor's Office, suggests formalizing processes between the public and agencies and mayoral offices to increase accountability. For example, agencies and mayoral offices should develop online portals to solicit public feedback and report or publish such feedback.
- The Department of Health & Mental Hygiene (DOHMH) recommends several administrative reforms to address diversity concerns in healthcare. DOHMH also recommended the Charter be amended to require docketing of judgments from the Environmental Control Board and the Health Tribunal if it is not already required. DOHMH further

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<sup>239</sup> N.Y. Charter § 1301(1)(r).

highlighted several Charter provisions that should be rephrased to delineate the Board of Health versus the Department's responsibilities.

- The Office of Labor Relations (OLR) encourages the limitation of unfunded mandates that impact collective bargaining.
- The Department of Environmental Protection (DEP) advocates lifting the cap on the number of deputy commissioners DEP can appoint.<sup>240</sup>
- The Mayor's Office of Climate and Environmental Justice (MOCEJ) proposes consolidating environmental responsibilities within a single entity and imposing emissions reduction requirements on tenants of city-owned property. MOCEJ also suggests exempting acquisitions from ULURP and competitive processes if the acquisition is for flood protection or has already undergone an environmental review.
- The Department of Consumer and Worker Protection (DCWP) recommends expanding DCWP's authority to demand business ownership information for businesses under investigation.<sup>241</sup>
- The Department of Buildings (DOB) seeks to streamline the code revision process: allowing DOB to amend technical provisions of the NYC Construction Codes by rule, establishing a separate code for existing buildings, and moving jurisdiction of the waterfront from SBS to DOB. DOB also recommends the Charter clarify that a non-licensed commissioner can designate either a First Deputy or Deputy Commissioner who is a licensed professional engineer or registered architect. Finally, DOB proposes clarifications to the adjudication

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<sup>240</sup> N.Y.C. Charter § 1402.

<sup>241</sup> N.Y.C. Charter § 2203.

process, allowing service by electronic mail and requiring time limits for OATH decisions.

- The Department of Social Services/Human Resource Administration (DSS/HRA) also supports restrictions on unfunded mandates. DSS/HRA suggests local laws requiring expenditures of more than \$1 million or 10% of agency's City Funds budget should require specific budget appropriations to fund enactment.
- The Department of Small Business Services (SBS) seeks to clarify the agency's functions by removing the Public Utility Service<sup>242</sup> and codifying the Mayor's Small Business Advisory Commission into the Charter.
- The Business Integrity Commission (BIC) proposes moving the regulation of private towing companies from DCWP to BIC.
- The Department of Correction (DOC) also supports limitations on unfunded mandates by requiring consultation with entities on safety, operational, and fiscal challenges. DOC proposes clarifying the chain of authority to assign authority to the First Deputy Commissioner if the Commissioner is absent. DOC also suggests revising the agency's duties to remove agency authority over prisoners requiring hospital care while awaiting arraignment.<sup>243</sup>
- The Mayor's Office of Talent and Workforce Development (WKDEV) recommends formalizing the creation of its office into the Charter.
- The Mayor's Office of Contract Services (MOCS) recommends removing the public hearing requirement for contracts with a value of

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<sup>242</sup> N.Y.C. Charter § 1306.

<sup>243</sup> N.Y.C. Charter §§ 622-625.

\$100,000 or more in value in an effort to grant flexibility, streamline the procurement process, and adapt to inflation.<sup>244</sup> As an alternative, MOCS suggests the Procurement Policy Board determine the threshold for public hearings.

- The Office of the Chief Medical Examiner (OCME) suggests amending the Charter to specify OCME as the lead agency in any mass fatality event and classify OCME vehicles as emergency response vehicles.

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<sup>244</sup> N.Y.C. Charter § 326(a).

## Appendix G – Draft July 25, 2024 Resolution



### **DRAFT RESOLUTION OF THE NEW YORK CITY CHARTER REVISION COMMISSION<sup>245</sup>**

dated July 25, 2024, in relation to the filing with the City Clerk of proposals revising the city charter and questions therefor for the purpose of having the same submitted to the electors of the City at the general election held November fifth, two thousand and twenty-four, and the adoption of a report relating thereto.

Resolved; that pursuant to Section 36 of the Municipal Home Rule Law, five proposals to amend the charter of the City of New York with the appropriate ballot questions and the amendments to be effected upon the approval of such questions are attached hereto, to be filed with the City Clerk of the City of New York on or before September twenty-ninth, two thousand and twenty-four; and be it further

Resolved, that the City Clerk of the City of New York shall take such action as may be required by law to provide for the submission of the said revisions to the

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<sup>245</sup> At the time of publication of this report, this draft resolution has not been adopted by the Commission. Upon adoption of a resolution by the Commission, this report will updated.

electors of the City of New York at the general election to be held on November fifth, two thousand and twenty-four; and be it further

Resolved, that the Commission hereby adopts the report that is attached hereto; and be it further

Resolved, that the Commission hereby authorizes and delegates to the Chair, the Executive Director and other staff, and the Office of the Corporation Counsel the duty and power to take all necessary and/or appropriate actions to effectuate the placement of the questions on the ballot in accordance with section 36 of the Municipal Home Rule Law, including but not limited to the consolidation of amendments and changes presented to the Commission today into the relevant text, inclusion of non-substantive technical changes to the documents attached hereto, the finalization of ballot abstracts pursuant to law, substantially in the form attached hereto, the preparation of other material to be appended to the final report including documentation memorializing the proceedings of the commission, and other materials relevant to the Commission's deliberations, and the defense or commencement of litigation to effectuate such placement on the ballot, and to provide for such publication and other publicity as may be appropriate to ensure that the public is adequately informed about the proposals, including in reliance on the resources of the Office of the Mayor and other City agencies.

The foregoing resolution was adopted by the New York City Charter Revision by a vote of \_\_\_\_\_ in favor, \_\_\_\_\_ opposed, with \_\_\_\_\_ not present.

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Carlo Scissura, Chair

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Dr. Hazel N. Dukes, Vice Chair

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Ken Ngai, Secretary

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Kyle Bragg, Commissioner

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Rev. Herbert Daughtry, Sr.,  
Commissioner

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Ruben Diaz, Jr., Commissioner

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Lorraine Grillo, Commissioner

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Christopher B. Lynch, Commissioner

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Stephanie McGraw, Commissioner

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Max Rose, Commissioner

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Jackie Rowe-Adams, Commissioner

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Bishop Gerald G. Seabrooks,  
Commissioner

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Rabbi Chaim Steinmetz, Commissioner