



FINAL REPORT OF THE
2018 NEW YORK CITY
CHARTER REVISION COMMISSION



September 6, 2018*

* This report reflects non-substantive technical changes made subsequent to the Commission's September 4, 2018 meeting in accordance with the resolution adopted at that meeting. It also includes a copy of that resolution, as Appendix C.

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Executive Summary

During his State of the City address on February 13, 2018, Mayor Bill de Blasio announced his intent to appoint a Charter Revision Commission. On April 12, the Mayor appointed Cesar A. Perales as Chair and 14 other distinguished and diverse Commissioners, whose professional biographies are provided in the Introduction.

The Charter Revision Commission is charged with reviewing the entire New York City Charter, soliciting public input, and issuing a report outlining findings and recommendations to amend or revise the Charter. Consistent with this charge, the Commission sought to provide New Yorkers from diverse communities across the five boroughs a range of opportunities to meaningfully participate in the public outreach and engagement process. New Yorkers did not disappoint: they provided a wide variety of comments and ideas for the Commission to consider.

The Commission held its first public meeting on April 19, and subsequently hosted an initial round of public hearings that included one in each of the five boroughs. The Commission also began receiving—and continued to receive throughout the process—many comments, including in multiple languages, by email, paper mail, telephone, social media channels, and its website. Commission staff met with representatives of various organizations, advocacy and good government groups, City agencies, elected officials, and Commissioners and staff members of prior commissions.

The majority of comments fell within five broad policy areas: municipal elections, campaign finance, civic engagement, community boards, and the districting process. Consequently, at its May 31 meeting, the Commission passed a resolution directing the staff to plan issue forums to hear from experts and practitioners on specific topics. Issue forums were held on June 12 on voting and elections, June 14 on campaign finance, June 19 on community boards and land use, and June 21 on civic engagement and districting.

Commissioners and staff also hosted events to reach New Yorkers in their communities. The Commission heard from students at Bay Ridge's P.S. 264, community members at Queens Library in Jackson Heights, nearly a hundred veterans at an event hosted by the NYC Veterans Alliance and FDNY American Legion Post 930, and members of the public at GrowNYC's Grand Army Plaza Greenmarket.

Following this initial cycle of hearings, forums, and events, staff released the 2018 Preliminary Staff Report on July 17. The report focused on the issue

areas investigated by the Commission—campaign finance, municipal elections, civic engagement, community boards, the districting process, and themes and proposals from City agencies—as well as other topics that were raised by the public but that staff recommended should be reserved for future consideration. A series of five more public hearings, one in each of the five boroughs, was then held to solicit public comment regarding the report. Commissioners and staff also heard from the public at a tele-town hall joined by over 4,000 listeners, a Twitter town hall, a table at the St. George Greenmarket in Staten Island, and a roundtable discussion with students from New York City’s Summer Youth Employment Program.

At its August 14 meeting, the Commission passed a resolution directing the staff to prepare a final report, ballot questions, and abstracts reflecting proposals focused on campaign finance, civic engagement, community boards, and language access, and to recommend that a future Charter Revision Commission or legislative body consider additional proposals.

After careful review and consideration of the record, the Commission’s proposed Charter amendments to be presented to the voters at the November 2018 general election are as follows. Further detail on the proposed amendments can be found in the abstracts that will accompany the ballot questions, and in this final report.

Campaign Finance

The Commission proposes to amend the City’s campaign finance system in order to address persistent perceptions of corruption associated with large campaign contributions, boost incentives for campaigns to reach out to small donors, and create more opportunities for candidates to run diverse types of campaigns without the need to rely on large donors.

If adopted by the voters, these amendments would:

Significantly lower contribution limits for City elected offices. The maximum total amount a participating candidate (i.e., a candidate who chooses to participate in the City’s public financing program) may accept from a contributor per election cycle would be reduced from \$5,100 to \$2,000, for candidates for Mayor, Public Advocate, or Comptroller; from \$3,950 to \$1,500, for candidates for Borough President; and from \$2,850 to \$1,000, for candidates for the City Council. The maximum total contribution to a non-participating candidate (that is, a candidate who does not participate in the City’s public financing program) would be reduced from \$5,100 to \$3,500, for candidates for Mayor, Public Advocate, or Comptroller; from \$3,950 to \$2,500, for candidates

for Borough President; and from \$2,850 to \$1,500, for candidates for the City Council.

Strengthen small dollar public matching for candidates who participate in the City's public financing program. Currently, participating candidates, who meet certain qualifying thresholds, are eligible to receive public matching funds at a rate of \$6 in public funds for every \$1 in matchable contributions, up to the first \$175 per contributor. The proposed Charter amendment would increase the match to \$8 in public funds for every \$1 in matchable private contributions, up to the first \$250 per contributor to candidates for Citywide office and up to the first \$175 per contributor to candidates for Borough President or City Council. The amendment would also ease a requirement that candidates for Mayor, Comptroller, or Public Advocate must meet to qualify for matching funds.

Increase the total amount of public matching funds available to such candidates. The proposed amendment would increase the cap on the total amount of public matching funds that a participating candidate may receive, per election, from 55% to 75% of the expenditure limit for the office being sought.

Allow such candidates to access public matching funds earlier in the election year. Under current law, participating candidates who meet the qualifying thresholds for receipt of public funds ("qualifying candidates") are eligible for an initial small disbursement of public funds in June of the election year. The vast majority of public funds are not disbursed until two weeks after petitions for the primary ballot are filed, which is typically in early August of the election year, about five to six weeks before the primary. The proposed amendment would allow qualifying candidates to receive public matching funds in February and April of the election year, in addition to June, August, and beyond, and would remove monetary limits on the pre-August distribution of funds. However, in order to receive any disbursement of public funds prior to August of the election year, qualifying candidates would have to attest to the need for the funds and demonstrate that they have a viable opponent, or that they are running against an identified opponent in an open election.

All of these amendments would apply to participating candidates who choose to have the amendments apply to their campaigns, beginning with the 2021 primary election. The amendments would then apply to all candidates beginning in 2022.

Civic Engagement

The Commission proposes establishing the Civic Engagement Commission, a new Charter entity dedicated to enhancing civic participation and strengthening democracy in New York City. The Civic Engagement Commission would consist of 15 members: eight appointed by the Mayor, including at least one member from the largest political party and at least one member from the second largest political party; two appointed by the Speaker of the City Council; and one appointed by each Borough President. The Mayor would designate a Chair from among his or her appointees, who would also serve as the Executive Director and be charged with the organization and staffing of the office.

The Civic Engagement Commission would be authorized and directed to implement a Citywide participatory budgeting program established by the Mayor, no later than the City Fiscal Year beginning July 1, 2020; establish a program for providing language interpreters at poll sites in New York City, to be implemented for the general election in 2020; support and partner with community-based organizations, institutions, and civic leaders in the public and private sectors in their civic engagement efforts; consider the language access needs of limited-English-proficient New Yorkers in developing and implementing its programs and services; and partner with City agencies to increase awareness of and access to City services, assist them in promoting civic engagement initiatives, and develop strategies to centralize public information about opportunities for civic engagement.

The Mayor would be authorized to transfer to the Commission, by executive order, any directly related powers and duties currently being performed by the Mayor's Office or any department whose head is appointed by the Mayor.

Finally, the Civic Engagement Commission would be required to annually report on participatory budgeting, poll site language assistance, and any other information it deems relevant.

These amendments would take effect on April 1, 2019.

Community Boards

The Commission proposes the following amendments to the Charter, in order to help make community boards more reflective of the communities they represent and more effective in that representation:

Term limits. The Commission proposes term limits for community board members, who currently serve for two-year terms without limit, to create opportunities for new voices and leaders on all community boards. Members appointed or reappointed on or after April 1, 2019, would be limited to serving four consecutive two-year terms. However, members appointed or reappointed for a term commencing on April 1, 2020, could be reappointed for up to five consecutive two-year terms, in order to prevent a heavy turnover of community board membership in 2027 and 2028. Appointments made for terms commencing after April 1, 2020, would be subject to four consecutive two-year term limits. These term limits would be prospective only; terms served before April 1, 2019, or April 1, 2020, would not count toward the term limits that start on those dates. Members who have served for the maximum number of consecutive terms would not be barred from re-appointment after one full term out of office.

Appointment process. The Commission proposes several changes intended to bring more uniformity and transparency to the process of appointing members to community boards and to encourage diversity in appointments. The proposed amendments would require Borough Presidents to seek out persons of diverse backgrounds for appointment to community boards and make applications available on their websites. The proposal would also add new application and reporting requirements related to these appointments, including an annual report disclosing information about membership and the recruitment and selection process.

More resources. The Commission proposes requiring the Civic Engagement Commission, if the voters approve creating such an entity, to provide additional resources to community boards, including access to urban planning professionals and language access resources, in order to enable the boards to more effectively meet their Charter responsibilities.

The amendments relating to term limits and the appointment process would take effect on January 1, 2019. The amendments related to resources provided by the Civic Engagement Commission would take effect on April 1, 2019, but only if the ballot questions relating to community boards and the Civic Engagement Commission are both adopted by the voters.

Issues for Future Consideration

The Districting Process

The Commission also received a considerable volume of public comments about the districting process. After every decennial census, the Mayor and the City Council must appoint a 15-member Districting Commission to draw City

Council district lines to accommodate changes in population. The next districting plan will take effect in 2023, and the Commission heard a variety of proposals relating to the process by which district lines are drawn. These proposals can be sorted into four themes: i) promoting political independence and diversity in the Districting Commission's appointment process; ii) ensuring transparency and public participation; iii) protecting the City's minority communities after the loss of the Voting Rights Act's pre-clearance mechanism; and iv) counteracting a potential undercount in the 2020 U.S. Census.

The Commission heard compelling testimony that this is an issue in need of urgent attention. However, after careful consideration of the above public proposals, the Commission has determined that further research, outreach, and analysis is needed before recommending any of these proposals be submitted to the voters. Given the testimony received in this process, the Commission urges future Commissions to take up the analysis of this issue in order to present to the voters an amendment designed to effectuate a fair and independent districting process for all New Yorkers.

Ranked Choice Voting

The Commission also received a considerable volume of public comment about ranked choice voting. Members of the public and various City elected officials urged the Commission to consider proposing a Charter amendment implementing ranked choice voting (otherwise known as "instant runoff voting"), which permits voters to rank multiple candidates on their ballots in order of preference.

After careful consideration of these proposals, the Commission believes that further research, outreach, and analysis is appropriate before presenting any such proposal to the voters. The Commission recommends that a future Charter Revision Commission or other legislative body study the important and complex questions these proposals raise about representation in our local democracy and consider presenting future ballot proposals or passing legislation to address them.

Election Modernization

Based on input from experts, advocates, and members of the public, the Commission has determined that a significant way to increase voter turnout in the City is to reform regressive State election laws that impose significant barriers to participation. The Commission strongly supports State legislation in the areas of electronic poll books, no-excuse absentee voting, same-day

registration, pre-registration of 16- and 17-year-olds, and the streamlining of the functions of the New York City Board of Elections.

Structure of Government and Community Concerns

In furtherance of its mandate to review the entire Charter, the Commission scrutinized the functions and processes of City government and the balance of power between the City's elected officials. The Commission also reviewed the health and structure of City government, viewed from the perspective of the communities and groups who submitted comments to the Commission. Although this Commission is not submitting ballot proposals relating to these topics, the final section of this report discusses many of these themes, which served as valuable guides in this Commission's review of the Charter.

Part I: Introduction

About the Commission

During his State of the City Address on February 13, 2018, Mayor Bill de Blasio announced his intent to appoint a Charter Revision Commission. On April 12, 2018, the Mayor appointed Cesar A. Perales as Chair, and 14 other distinguished and diverse leaders from civic, academic, and professional communities to the Commission. The Commission has reviewed the entire New York City Charter to identify areas for potential revision.

The Commissioners

Cesar Perales, Chair. Chair Perales’s appointment follows a 50-year career in public service and advocacy. Most recently, he served as New York State’s Secretary of State, where he was directly involved in the State’s economic development, government efficiency, local government services, and anti-poverty efforts. He is also the co-founder of the Puerto Rican Legal Defense Fund (PRLDEF). In 1981, as President and General Counsel of PRLDEF, he initiated successful litigation against the City Council districting that was found to be in violation of the Voting Rights Act. Previously, Perales successfully sued to require New York City to provide language assistance at the ballot box—a requirement that was subsequently made an amendment to the national Voting Rights Act. He was also a Deputy Mayor under Mayor David Dinkins and previously served in President Carter’s administration as Assistant Secretary for the United States Department of Health and Human Services.

Rachel Godsil, Vice Chair. Vice-Chair Godsil is a Professor of Law and Chancellor’s Scholar at Rutgers Law School and is the co-founder and director of research for the Perception Institute, a national consortium of social scientists, law professors, and advocates focusing on the role of the mind sciences in law, policy, and institutional practices. She collaborates with social scientists on empirical research to identify the efficacy of interventions to address implicit bias and racial anxiety. Godsil is also a former Chair of the Rent Guidelines Board, and worked previously as an Assistant United States Attorney for the Southern District of New York and as an Associate Counsel at the NAACP Legal Defense and Educational Fund.

Carlo A. Scissura, Secretary. Secretary Scissura is a lifelong New Yorker and President and CEO of the New York Building Congress. Before his time at the Building Congress, Scissura spent years as a public servant in Brooklyn—working as the President and CEO of the Brooklyn Chamber of

Commerce and as Chief of Staff and General Counsel to Brooklyn Borough President Marty Markowitz.

Larian Angelo. Larian Angelo is a Senior Fellow at the CUNY Institute for State and Local Governance (ISLG). Prior to joining the ISLG, she served in City government for 27 years as First Deputy Director at the NYC Office of Management and Budget (OMB), Vice-President for Administration at Guttman Community College, Deputy Director for Education and Intergovernmental Relations at OMB, and Finance Director at the New York City Council. Angelo holds a Ph.D in economics.

Deborah N. Archer. Deborah N. Archer is an Associate Professor of Clinical Law at the NYU School of Law. She was previously an Assistant Counsel at the NAACP Legal Defense and Educational Fund where she litigated at the trial and appellate levels in cases involving affirmative action in higher education, employment discrimination, school desegregation, and voting rights. Archer additionally served as a Marvin H. Karpatkin Fellow with the American Civil Liberties Union, where she was involved in federal and state litigation on issues of race and poverty. Archer previously served as a mayoral appointee to the New York City Civilian Complaint Review Board.

Kyle Bragg. Kyle Bragg is 32BJ SEIU's Secretary-Treasurer. A member of the 165,000-member 32BJ for more than 30 years, Kyle serves as trustee of several 32BJ funds and as chair of the union's social and economic justice committee. He is a member of the executive board of the two million-member national SEIU and of the National African-American Caucus of SEIU, and serves on the international union's first Racial Justice Task Force. Bragg also serves as a member of Community Board 13 in Queens.

Marco A. Carrión. Marco A. Carrión is the Commissioner of the Mayor's Community Affairs Unit, working to connect City Hall to communities across the City, especially in the outer boroughs. Before serving as Commissioner, Carrión was the Political and Legislative Director for the New York City Central Labor Council, Chief of Staff to New York State Senator Gustavo Rivera, and Director of New York City Intergovernmental Affairs to Governor David Paterson, and worked for the AFL-CIO in Washington, D.C.

Una Clarke. Una Clarke serves as President of Una Clarke Associates, a consulting firm specializing primarily in education management, political consulting, and small business services. Previously, Clarke served as a New York City Council Member, representing Brooklyn's 40th Council District for 10 years starting in 1991. Clarke sponsored more than 300 pieces of legislation on issues including child welfare, education, health and mental health,

economic development, public safety, and transportation. Clarke is currently a CUNY Trustee.

Angela Fernandez. Angela Fernandez is the Executive Director and Supervising Attorney of Northern Manhattan Coalition for Immigrant Rights, a community-based legal services and advocacy organization for low-income immigrants. She also serves on the New York City Civilian Complaint Review Board. She has 20 years of experience in law, media, non-profit management, government, policy development, and advocacy. Her prior government experience includes working as District Chief of Staff to U.S. Representative José Serrano and as a staff aide to U.S. Senator Bill Bradley.

Sharon Greenberger. Sharon Greenberger is the 10th President and CEO of the YMCA of Greater New York, a New York City non-profit organization serving over 500,000 children, adults, and seniors annually through programs and services focused on empowering youth, improving health, and strengthening community. Prior to joining the YMCA in July 2015, Greenberger served as the Senior Vice President, Facilities and Real Estate, at New York-Presbyterian Hospital and the Chief Operating Officer for the New York City Department of Education.

Dale Ho. Dale Ho is the Director of the American Civil Liberties Union's Voting Rights Project where he supervises the ACLU's voting rights litigation and advocacy work nationwide. Ho has active cases in over a dozen states throughout the country. He has litigated cases under the federal Voting Rights Act and the National Voter Registration Act. Ho is also an adjunct professor of law at the NYU School of Law.

Mendy Mirocznik. Mendy Mirocznik is the president of C.O.J.O. of Staten Island, a borough-wide civic organization dedicated to providing services to those less fortunate, including housing and a food pantry which provides hundreds of hot meals to fixed-income seniors. Mirocznik is also a member of Community Board 2.

Annetta Seecharran. Annetta Seecharran is the Executive Director of Chhaya Community Development Corporation, which works with New Yorkers of South Asian origin to advocate for and build economically stable, sustainable, and thriving communities. She has worked for 25 years to improve conditions for marginalized communities, including previously leading South Asian Youth Action and serving as Director of Policy for United Neighborhood Houses.

John Siegal. John Siegal is a partner at BakerHostetler where he handles litigations, arbitrations, and appeals for clients in the financial

services, media, and real estate industries. He also serves on the New York City Civilian Complaint Review Board. Siegal's public service experience also includes working as an Assistant to Mayor David N. Dinkins and as a Capitol Hill staff aide to Senator (then Congressman) Charles E. Schumer.

Wendy Weiser. Wendy Weiser directs the Democracy Program at the Brennan Center for Justice at the NYU School of Law. Her program focuses on voting rights and elections, money in politics and ethics, redistricting and representation, government dysfunction, rule of law, and fair courts. She founded and directed the program's Voting Rights and Elections Project, directing litigation, research, and advocacy efforts to enhance political participation and prevent voter disenfranchisement across the country.

The Commission Staff

Matt Gewolb, Executive Director. Matt Gewolb is the Commission's Executive Director and Counsel. Gewolb is the Assistant Dean and General Counsel of New York Law School, where he advises the Dean and President, members of the Board, and the senior administration on significant policy, management, and legal issues. He was previously the Legislative Director of the New York City Council. He is the former Director of Government Programs and Lecturer-in-Law at Columbia Law School and an adjunct professor at Fordham Law School, where he teaches Law of the City of New York.

Christine Billy, General Counsel and Deputy Executive Director for Legal Affairs. Christine Billy is the Commission's General Counsel and Deputy Executive Director for Legal Affairs. She comes to the Commission from the Bureau of Legal Affairs at the New York City Department of Sanitation. She previously served as Senior Counsel in the New York City Law Department's Legal Counsel Division. Billy holds a J.D. from Harvard Law School, an M.Phil from the University of Dublin, Trinity College, and a B.A. from Yale University. After clerking for the Honorable John T. Noonan on the U.S. Court of Appeals for the Ninth Circuit, she joined the law firm of Arnold & Porter, LLP. Billy is the co-author of the award-winning book, *Mariners at War: An Oral History of World War II* (2008). She is an adjunct professor at the NYU School of Law.

Candice Cho, Chief of Staff and Special Counsel. Candice Cho is Chief of Staff and Special Counsel of the Commission. She is also the Deputy Chief of Staff of the New York City Law Department. She previously served as an Assistant Corporation Counsel in the Legal Counsel Division and the Law Department's first Corporation Counsel Clerk (now Fellow). She has degrees from Columbia Law School and Harvard University.

Joshua Sidis, Deputy Executive Director for Operations. Joshua Sidis is Deputy Executive Director for Operations for the Commission. He comes to the Commission from the Mayor's Office of Operations, where he is a Senior Advisor and manages Intergovernmental Affairs, External Affairs, and Communications. Prior to his time at Operations, Sidis worked as an organizer and Operations administrator for the Public Advocate's Office. Prior to joining government, Sidis owned a small business in Brooklyn.

Jorge Montalvo, Deputy Executive Director for Policy and Commissioner Affairs. Jorge Montalvo is Deputy Executive Director for Policy and Commission Affairs. Prior to joining the Commission staff, Montalvo spent more than a decade in senior managerial and policy making positions in state government, including as Deputy Secretary of State for Economic Opportunity, Associate Commissioner at the State Office for Temporary and Disability Assistance, and Director of Policy for the State Consumer Protection Board. Montalvo was the Founder and Inaugural Director of the New York State Office for New Americans—the first state-level immigrant integration office created by statute in the country. Montalvo also led the Empire State Poverty Reduction Initiative, a first-of-its-kind community effort to fight poverty in 16 localities throughout the State. Before his state government service, Montalvo managed corporate relations and volunteerism efforts for New York City's 2012 Olympic Bid and served in Mayor Bloomberg's economic development agency. Montalvo graduated from Dartmouth College with a degree in chemistry and spends his weekends teaching free GED and SAT prep classes to youth in the South Bronx.

Aaron Bloom, Deputy General Counsel. Deputy General Counsel Aaron Bloom comes to the Commission from the New York City Law Department, where he is a Senior Counsel in the Appeals Division, handling appeals in state and federal court on a diverse range of issues. Before joining the Appeals Division, Bloom was a Senior Counsel in the Law Department's Affirmative Litigation Division, and prior to that served as an attorney for the Natural Resources Defense Council and the law firm Debevoise & Plimpton. Bloom is a graduate of Harvard Law School, and clerked in federal district court in Brooklyn for then-Chief Judge Edward R. Korman.

Ingrid Gustafson, Senior Counsel and Assistant General Counsel. Assistant General Counsel Ingrid Gustafson also comes to the Commission from the New York City Law Department's Appeals Division, where she is a Senior Counsel. Gustafson is a past recipient of the New York City Bar's Municipal Affairs Award (as are several of her colleagues on the Commission

staff) and is a graduate of Harvard College and Harvard Law School, where she was an Editor of the Harvard Law Review.

Additional Commission Staff. The Commission also relies on additional core staff, including: Kwame Akosah, Senior Counsel; Laurie Davidson, Senior Director of Outreach and Engagement; Torrey Fishman, Senior Policy Advisor; Sabrina Fong, Associate Director for Operations; Essence Franklin, Associate Advisor for Outreach and Engagement; John Jurenko, Senior Director of Intergovernmental Affairs; Steven Newmark, Senior Policy Advisor; Michael Smilowitz, Senior Counsel; Emily Sweet, Senior Counsel; Bruce Thomas, Executive Assistant and Policy Advisor; Mary Van Noy, Senior Policy Advisor; and Hannah Wikforss-Green, Student Intern.

The New York City Law Department. The New York City Law Department, under the leadership of Corporation Counsel Zachary W. Carter, has served as counsel to the Commission. The Commission staff would like to thank Stephen Louis, Spencer Fisher, Martha Alfaro, Andrea Fastenberg, Noah Kazis, Eric Phillips, Marta Ross, Steve Goulden, Steve Ackerman, Rebecca Lipman, Richard Dearing, Jane Gordon, Jonathan Pines, Shruti Raju, and Zac Smith for their many historical and legal insights. The Commission would also like to thank Muriel Goode-Trufant, Stuart Smith, Mal Higgins, Dawn Besthoff, Sam Moriber, Loris Smith, Lucia Magalhaes, Jonathan Pinn, Motte Araf, Ken Majerus, Amrita Barth, Isabel Galis-Menendez, Nicholas Jarcho, Max Colmers, and many others for the important assistance they provided throughout this process.

Introduction to the New York City Charter and the Charter Revision Commission

The New York City Charter sets out the structure, powers, and responsibilities of New York City's government. The current Charter is intended to be a "short-form" document that sets forth the governing structure of the City's powers and processes. Most of the legal provisions setting forth agency programs, regulations imposed on persons and businesses, and other details of City government are not in the Charter, but are contained in the Administrative Code, or in rules promulgated by City agencies.

A Charter Revision Commission is charged with reviewing the entire Charter, holding hearings to solicit public input, and issuing a report outlining findings and recommendations to amend or revise the Charter. Proposed Charter amendments drafted by the Commission are presented to the voters and, if adopted, become law.

Overview of the Charter Revision Process

First adopted in 1897 and in effect in 1898, the New York City Charter defines the organization, functions, and essential procedures and policies of City government. It sets forth the institutions and processes of the City's political system and broadly defines the authority and responsibilities of City agencies and elected officials.

In the United States, the legal authority of city governments is derived from the states in which they are located. In New York, municipalities have broad authority to structure how they operate by virtue of the Home Rule provisions of the State Constitution and the Municipal Home Rule Law (MHRL). The Charter, along with the State Constitution, the MHRL, and other state statutes, provides the legal framework within which the City may conduct its affairs.

Unlike the United States Constitution, which is rarely amended, the City's Charter is a fluid document that has regularly been amended. There are four ways to amend the Charter:

1. Local law (either with or without a referendum);
2. State law;
3. Petition (with referendum); and
4. Charter Revision Commission (with referendum).

As a result, the Charter contains both provisions of state law and provisions of local law.

A Charter Revision Commission can be established in several ways, including by the Mayor. Section 36(4) of the MHRL permits the Mayor to establish a Charter Revision Commission in New York City consisting of between 9 and 15 members. The Mayor selects the chair, vice-chair, and secretary of the commission. All commissioners must be residents of New York City and may hold other public offices or employment.

Pursuant to MHRL § 36, a Charter Revision Commission shall review the entire Charter and put any proposals for its amendment before the voters. A Charter Revision Commission may propose changes that could be adopted through regular local law as well as changes that, if enacted by the City Council, would require approval in a mandatory voter referendum, such as Charter amendments that would: (1) affect elective officers in various ways; (2) transfer powers from mayoral agencies to non-mayoral agencies (or vice versa);

(3) change the method of nominating, electing, or removing an elective officer; (4) change the term of an elective office; (5) affect the public bidding and letting process; or (6) remove restrictions on disposition of City property.

A Charter Revision Commission may propose a broad set of amendments that essentially “overhauls” the entire Charter, or may narrowly focus its proposals on certain areas. The proposed amendments must be within the City’s local legislative powers as set forth in the State Constitution and the MHR. They may be submitted to voters as one question, a series of questions, or alternatives.¹

Charter Revision Commissions are temporary and are limited by MHR § 36(6)(e). A commission expires on the day of the election at which amendments prepared by such commission are presented to the voters. However, if a commission fails to submit any amendments to the voters, the commission expires on the day of the second general election following the commission’s creation. The last Charter Revision Commission was appointed by Mayor Michael Bloomberg in 2010.

Public Outreach and Engagement

An important principle guiding the work of this Commission is the need for meaningful participation by diverse communities throughout the five boroughs. The Commission staff has used an array of approaches to connect with, and engage, members of the public, and to ensure that the Commission’s process is open and accessible, including:

- Livestreaming every Commission meeting, hearing, and issue forum and posting video immediately after the event to the Commission’s website and YouTube channel. Video has also been rebroadcast on NYCTV’s channel 74.
- Publishing public notices in the City Record, as well as advertising in community and ethnic papers, and utilizing an extensive e-mail list of good government groups, community-based organizations, every community board, as well as City, State, and federal elected officials. All notices were translated into multiple languages, including all covered Voting Rights Act languages: Arabic, Bengali, Simplified Chinese, French, Haitian Creole, Korean, Polish, Russian, Spanish, and Urdu.
- Producing digital flyers and draft emails for organizations with large distribution lists for the purpose of redistribution.

- Sending media advisories to a list of over 3,000 people at least twice per public event.
- Providing ASL interpreters and L.O.O.P. devices at every meeting, hearing, and issue forum, and holding all events in accessible spaces.
- Providing Spanish language assistance at every meeting, hearing, and issue forum, and making listening devices available in additional languages upon request.
- Using social media accounts on Twitter (@nyccharter) and Facebook (facebook.com/nyccharter).
- Providing multiple channels for the public to submit comments and testimony, including a web portal on our website, www.nyc.gov/charter; an email address, comments@charter.nyc.gov; a hotline, 212-386-5350; and a mailing address, Charter Revision Commission, 1 Centre St., New York, NY, 10007.
- Engaging in direct outreach to New Yorkers by holding multiple community forums and tabling events, including targeted efforts to engage youth, immigrant New Yorkers, and veterans.

Meetings, Hearings, and Additional Engagement

The Commission held its first public meeting on April 19, 2018. Chair Perales introduced the Commissioners and stressed the Commission’s goal of ensuring extensive public opportunities to participate in the Charter revision process. The agenda also included a presentation on the history of the Charter and a description of its contents.

The Commission subsequently hosted an initial round of public hearings, one in each of the five boroughs, to solicit suggestions from New Yorkers. The first was held at McKee High School in Staten Island on April 25; the next hearing was at Bronx Community College on April 30, followed by a hearing at the Flushing branch of the Queens Public Library on May 3. The Commission held a fourth hearing at the Brooklyn Botanic Garden on May 7. The initial round of hearings finished on May 9 at the New York Public Library, Stephen A. Schwarzman Building, in Manhattan.

The Commission received many additional comments and recommendations through its web portal, email, paper mail, phone calls, and social media engagement. The Commission staff also met with organizations, advocacy and good government groups, practitioners, representatives of

businesses, City agencies, elected officials, as well as Commissioners and staff members from prior Commissions.

New Yorkers provided a wide variety of proposals for consideration by the Commission. However, the majority of the comments fell within five broad policy areas: municipal elections in New York City, campaign finance, civic engagement, community boards, and the districting process. The Commission met on May 31 at the Pratt Institute in Manhattan, where members discussed and passed a resolution directing the staff to plan issue forums to hear from experts and practitioners on specific topics.

The first of four issue forums was held on June 12 at 125 Worth St., where Commissioners—and the public—heard expert testimony on election administration, voter participation, and voting access. At the second issue forum, held on June 14 at NYU Law School’s D’Agostino Hall, the Commission heard testimony on campaign finance. The third issue forum, held on June 19 at the Pratt Institute’s Manhattan campus, focused on community boards and land use. The fourth issue forum, held on June 21, again at D’Agostino Hall, focused on civic engagement and districting.

Along with the expert issue forums, Commissioners and staff engaged in community-based events to reach New Yorkers in their communities. Commissioner Dr. Una Clarke and Commission staff had a lively conversation with after-school program students at Bay Ridge’s P.S. 264 about revisions to the City Charter and the importance of civic engagement. Meanwhile, Commissioner Annetta Seecharran and Commission staff held an event at the Queens Library, Jackson Heights. Community members from all over the borough provided input to the Commission on a range of topics including community boards, the importance of civic engagement, and the land use process.

In addition, three Commissioners—Dr. Una Clarke, Kyle Bragg, and Marco Carrión—joined an event hosted by the NYC Veterans Alliance and FDNY American Legion Post 930, which was attended by nearly a hundred New York City veterans as well as the New York City Department of Veterans Services. The Commissioners heard directly from veterans about the special role they play in the City as well as the challenges they face. Staff also participated in GrowNYC’s Grand Army Plaza Greenmarket in Brooklyn. Staff spoke with dozens of New Yorkers, answered questions about the Charter revision process, took comments on the Charter, and publicized upcoming public hearing dates.

Following the completion of this initial cycle of hearings, forums, and events, the Chair requested that the staff prepare a preliminary report and recommendations on the several issue areas that were discussed by the public and examined by the experts invited to testify before the Commission. This report was intended to serve as the basis for further discussion and action by the Commission. On July 17, the staff released the 2018 Preliminary Staff Report.

The Preliminary Staff Report was divided into several parts that corresponded with the issue areas investigated by the Commission, namely, campaign finance, municipal elections, civic engagement, community boards, the districting process, and themes and proposals from City agencies. Each part included recommendations from the staff regarding next steps for the Commission's consideration, including areas for further study or specific proposals to focus on. Also included were other topics that had been raised by the public and experts alike, but that staff felt should be reserved for future consideration.

After the release of the 2018 Preliminary Staff Report, a series of five more public hearings, one in each borough, was held to solicit public comment regarding the report. Hearings were held on July 23 at NYU's Vanderbilt Hall in Manhattan; on July 24 at Hostos Community College in the Bronx; on July 25 at St. Francis College in downtown Brooklyn; on July 26 at Queens Borough Hall; and on July 31 at McKee High School in Staten Island.

Additionally, on August 9, Dr. Una Clarke and Vice Chair Rachel Godsil hosted a tele-town hall, taking questions and comments from members of the public for an hour by telephone. More than 4,000 people listened to the broadcast, and interpretation of the proceedings was provided to several dozen speakers of Bengali, Mandarin, Cantonese, Spanish, and Korean. The following day, Commissioners Annetta Seecharran and Kyle Bragg, along with Commission staff, held a Twitter town hall. Other outreach events included an event at the St. George Greenmarket in Staten Island and a round table discussion with students from the City's Summer Youth Employment Program, which was facilitated by Commissioner Deborah Archer and focused on how young people can have a voice in government.

Throughout this process, in addition to oral and written testimony received at the public hearings, the Commission continued to receive comments through its web portal, email, paper mail, phone calls, and social media. Public comments received by the Commission are available on the Commission's website at www.nyc.gov/charter.

On August 14, the Commission met and passed a resolution directing the staff to prepare a final report, ballot questions, and abstracts reflecting proposals focused on campaign finance, civic engagement, community boards, and language access, and to recommend that a future Charter Revision Commission or legislative body consider additional proposals.

¹ N.Y. MUN. HOME RULE LAW § 36(5)(b).

Part II: Proposed Amendments to the Charter

A. Campaign Finance

Thirty years after its creation as a bold response to a wave of public corruption scandals, New York City’s campaign finance system is widely regarded as a success. Consisting of contribution limits, disclosure requirements, and public matching funds on the “small dollar” portion of donations to candidates who agree to spending limits, the system has survived legal challenges and boasts a long track record of high participation rates, including among election winners.

As the City has grown and changed, so too has the campaign finance system. Over time, reforms have eliminated many of the types of campaign contributions that historically helped create opportunities for and the appearance of corruption, including corporate contributions, large “doing business” and lobbyist contributions, and the gargantuan individual contributions that were possible—and for many elections still are possible—under state law. And, by multiplying the value of small contributions through public matching, the system has increased the participation of small donors and made them an integral part of the financing of campaigns while at the same time enabling candidates to run competitive campaigns that focus on a diverse range of donors, not only those who can afford the maximum contributions.

These goals, which have always animated the City’s campaign finance system and have guided its continual evolution, now prompt this Commission to propose what it hopes is the system’s next major step forward. The Commission proposes Charter amendments that would (a) significantly lower contribution limits, (b) strengthen small dollar public matching for candidates who choose to participate in the City’s public financing program, (c) increase the total amount of public matching funds available to such candidates, and (d) allow such candidates to access public matching funds earlier in the election year. The proposed reforms take direct aim at persistent perceptions of corruption associated with large campaign contributions, while simultaneously boosting incentives for campaigns to reach out to small donors and creating more opportunities for candidates to run diverse types of campaigns without the need to rely on large donors.

Summary of Proposed Charter Amendments

Significantly Reducing Contribution Limits

As became evident during the Commission’s public hearings, many members of the public, representatives of good government groups, and elected officials believe that the current limits on campaign contributions are set at too high a level and give rise to opportunities for, and the perception of, corruption. Currently, the maximum total amount a donor may give to a candidate per election cycle (that is, including both the primary and general elections) is (a) \$5,100 to candidates for the offices of Mayor, Public Advocate, and Comptroller (“Citywide offices”); (b) \$3,950 to candidates for Borough President; and (c) \$2,850 to candidates for the City Council.¹ These limits apply both to candidates who participate in the City’s voluntary public financing program (“participating candidates”) and those who do not (“non-participating candidates”).

The Commission now proposes the following new, substantially reduced contribution limits. The maximum total amount a donor may give to a *participating* candidate per election cycle would be \$2,000 to candidates for Citywide offices (Mayor, Public Advocate, or Comptroller); \$1,500 to candidates for Borough President; and \$1,000 to candidates for the City Council. The maximum total contribution to a *non-participating* candidate would be \$3,500 to Citywide candidates; \$2,500 to Borough President candidates; and \$1,500 to City Council candidates. The proposed amendments would not alter existing prohibitions and limits based on the identity of the contributor, including the prohibition on contributions from corporations, LLCs, and partnerships, and the existing limits on contributions from lobbyists and those doing business with the City.² Additionally, all contribution limits would continue to be indexed to inflation.

The table below sets forth the current and proposed new limits:

Office	Current Limit	Proposed Limit (Participants)	Proposed Limit (Non-participants)
Citywide offices	\$5,100	\$2,000	\$3,500
Borough President	\$3,950	\$1,500	\$2,500
City Council	\$2,850	\$1,000	\$1,500

The impetus for these reductions is to address the persistent perception of corruption associated with large campaign contributions—a perception that can lead to public cynicism and disengagement at a time when restoring faith

in government institutions and fostering civic engagement are so vital to our City, State, and nation. As discussed in Section II.A of the Preliminary Staff Report, media reports, public polling, and testimony before the Commission all illustrate that there remains a perception among City residents that government officials grant improper favors to donors who can give the large campaign contributions still permissible under our campaign finance system. The Commission heard additional testimony to this effect in the second round of borough hearings held after the Preliminary Staff Report was issued.³ Meanwhile, the local and national media continues to be saturated with coverage describing public corruption trials and convictions.

As described in the Preliminary Staff Report, the Commission received various thoughtful and creative proposals to reduce contribution limits. The Commission considered these proposals as well as other variants. In doing so, the Commission received assistance from the New York City Campaign Finance Board (CFB), the City's independent expert agency in this area. The Commission also retained nationally recognized campaign finance expert Michael J. Malbin, a Professor of Political Science at SUNY Albany and co-founder and Executive Director of the Campaign Finance Institute (now part of the National Institute on Money in State Politics), along with Brendan Glavin, a data analyst with the Campaign Finance Institute. Both CFB and Professor Malbin provided valuable, data-driven analysis of various campaign finance proposals, including the proposed Charter amendments.

The Commission's aim has been to set contribution limits at levels that will severely reduce any appearance of, or opportunity for, corruption associated with legal campaign donations. At the same time, the Commission has been mindful that the limits must be high enough to enable candidates to raise the funds they need to communicate effectively with voters and run competitive campaigns, whether or not they participate in the voluntary public financing program.

The Commission believes that the proposed contribution limits meet these objectives. The contribution limits for both participating and non-participating candidates eliminate the largest contributions currently allowed under the campaign finance system, directly addressing a primary source of the appearance of corruption. At the same time, the limits enable both participants and non-participants to run competitive campaigns and communicate effectively with voters.

Analysis of campaign finance data from past elections shows that participants will be able to run competitive campaigns and effectively communicate their message to voters under the proposed limits. Although the

proposed limits for participants are lower than for non-participants—thus going further towards the amendment’s anti-corruption goals—participants, unlike non-participants, are eligible for significant public matching funds.

In addition, available information shows that the proposed limits will not inhibit non-participants from running competitive campaigns and communicating effectively with voters. For example, an analysis of contributions made to competitive candidates in the 2013 and 2017 elections shows that only a small percentage of donors made contributions above the proposed limits. For City Council, only 3.4% of donors gave above the proposed limits; for Borough President, only 5.9%; for Comptroller and Public Advocate, only 5.5%; and for Mayor, only 7.7%.⁴ Further, the proposed contribution limits for non-participants fall comfortably within the range of contribution limits established by other large cities. Los Angeles’s limits are currently \$800 per election for City Council candidates and \$1,500 per election for Mayoral candidates; San Antonio’s limits are \$500 per election cycle for City Council candidates and \$1,000 for Mayoral candidates; San Francisco’s limits are \$500 per candidate per election; Philadelphia’s limits are \$3,000 per candidate per calendar year; Chicago’s limits, which are set by state law, are \$5,600 per candidate per election cycle; and Houston’s limits are \$5,000 per candidate per election cycle.⁵

By contrast, the limits for candidates participating in the public financing program are closer to the lower end of limits set by other large cities. These additional reductions further the goal of restricting the large donations most likely to be associated with *quid pro quo* corruption or its appearance.

Strengthening Small Dollar Matching

Strong small dollar public matching is a key component of the existing campaign finance system, and the public matching ratio has been repeatedly amended and refined over time. Indeed, since the adoption of the campaign finance system, the matching ratio has been steadily increased, from its original dollar for dollar match, to a 4-to-1 match, to the present 6-to-1 match. Currently, participating candidates, who agree to expenditure limits and must meet certain qualifying thresholds, are eligible to receive public matching funds at a rate of \$6 in public funds for every \$1 in matchable contributions, up to the first \$175 per contributor.⁶ Thus, a \$100 contribution is currently matched with \$600 in public funds, generating a total of \$700 for the candidate, and a \$250 contribution is matched with \$1,050 in public funds (6:1 for the first \$175) for a total of \$1,300.

The proposed Charter amendments would increase the public match to \$8 in public funds for every \$1 in matchable private contributions, up to the first \$250 per contributor to candidates for Citywide offices, and up to the first \$175 per contributor to candidates for Borough President or City Council. Thus, a \$100 contribution to any candidate would be matched with \$800 in public funds, generating a total of \$900 for the candidate. A \$250 contribution, by contrast, would be matched somewhat differently depending on the office sought: a \$250 donation to a candidate for City Council or Borough President would be matched with \$1,400 in public funds (8:1 on the first \$175) for a total of \$1,650, and a \$250 donation to a Mayoral candidate would be matched with \$2,000 in public funds (8:1 on the first \$250) for a total of \$2,250. The availability of a public match on a larger amount of funds (\$250 instead of \$175) for participating candidates for Citywide offices reflects the fact that competitive campaigns for these offices are more expensive, and thus generally require greater expenditures, than for Borough President and City Council. The proposed amendments would not alter existing laws that render certain contributions “un-matchable” (that is, ineligible for public matching), such as contributions from lobbyists and those doing business with the City.⁷

The table below sets forth the current and proposed matching formulas:

Office	Current Match	Proposed Match
Citywide offices	6:1 on first \$175	8:1 on first \$250
Borough President	6:1 on first \$175	8:1 on first \$175
City Council	6:1 on first \$175	8:1 on first \$175

The proposed stronger public match helps to achieve several key goals of the campaign finance system related to reducing opportunities for corruption or its appearance. When a \$250 donation to a participating Citywide candidate is worth \$2,250 and a maximum \$2,000 donation is worth \$4,000, there would be little reason for the public to perceive that the larger donation will buy the donor special treatment. Two \$250 contributions would be worth more than the maximum donation. The same would be true at the Borough President and City Council levels under this proposal.

In addition, strengthening the match further enables participating candidates to campaign without needing to rely on the largest donations, which encourages the strongest candidates to run, regardless of their financial connections, thus potentially expanding voter choice. Relatedly, the enhanced match gives candidates strong incentives to fundraise from a more diverse economic range of their constituents. Indeed, as described in Section II.A of the Preliminary Staff Report, the Commission heard compelling testimony from

Council Member Carlos Menchaca that the 6:1 match helped him pursue a fundraising strategy in which very small donors—including those who could give only \$10—played an integral role. Menchaca reported that the strong match energized small donors and made them feel empowered to join the campaign. The Commission anticipates that further strengthening the match as proposed in these Charter amendments will amplify that effect.

Finally, strengthening the matching formula helps to maintain incentives for candidate participation in the public financing program. The matching formula preserves a reasonable, yet appealing, balance between the benefits of participation in the public financing program and its burdens, including expenditure limits, strict disclosure and documentation requirements, and, under the present proposal, lower contribution limits for participants than non-participants.

The proposed amendments would also modify an aspect of how candidates for Citywide office qualify for public matching funds. To qualify for public funds, candidates currently must raise matchable contributions totaling at least certain threshold dollar amounts (differing by office), counting only the first \$175 per donor. Thus, to qualify for public funding as a candidate for Mayor, a candidate currently must raise \$250,000 in matchable contributions, counting only the first \$175 per donor. Similarly, to qualify for public funding as a candidate for Public Advocate or Comptroller, a candidate currently must raise \$125,000 in matchable contributions, counting only the first \$175 per donor.

The proposed amendments would not alter the monetary thresholds, but would permit candidates for Citywide offices to count the first \$250 per donor, tracking the change in the matching formula for those offices. This adjustment prevents the unnecessary administrative complexity that would result from relying on different contribution amounts in each context. It also would make it somewhat easier for candidates for Citywide offices to qualify for public funds. No change to the qualifying thresholds for City Council or Borough President candidates is needed because the matchable portion of a contribution will remain \$175 for those candidates.

Raising the Cap on Public Funds

Under current law, the total amount of public matching funds that a participating candidate may receive, per election, is capped at 55% of the expenditure limit applicable to participating candidates for the office being sought.⁸ As a result of the current 55% “public funds cap,” candidates must

raise a significant proportion of their funds from private donations alone to reach the spending limit.

The proposed amendments would increase the public funds cap from 55% to 75% of the expenditure limit. Thus, based on the current expenditure limits, which are indexed to inflation and which these amendments would not alter, the maximum amount of public matching funds available to candidates would increase as shown in the table below:⁹

Office	Expenditure Limit	Current Public Funds Cap (55% of Expenditure Limit)	Proposed Public Funds Cap (75% of Expenditure Limit)
Mayor	\$7,286,000	\$4,007,300	\$5,464,500
Comptroller or Public Advocate	\$4,555,000	\$2,505,250	\$3,416,250
Borough President	\$1,640,000	\$902,000	\$1,230,000
City Council	\$190,000	\$104,500	\$142,500

As summarized in Section II.A of the Preliminary Report, experts and public commenters have consistently expressed concern that the current 55% public funds cap disadvantages candidates who choose to rely on small donors as compared with well-funded non-participating candidates or participating candidates who rely less heavily on small donors. These candidates may hit the public funds cap well before they raise sufficient funds to reach the spending limit, leaving them without any public matching funds to complete their fundraising. Indeed, a candidate for Mayor needs to raise over \$3,000,000 in private funds under a 55% cap to reach the spending limit.

The Commission’s proposal to raise the public funds cap to 75% of the expenditure limit for the office being sought aims to eliminate—or, at the very least, significantly reduce—this disincentive to small dollar fundraising. A public funds cap set at 75% of the expenditure limit will make it much less likely that participating candidates—even those who rely heavily on small donors—will see their public funds end prematurely.

The Commission has not proposed to raise the public funds cap higher than 75% of the expenditure limit for practical reasons. As an initial matter, it is in the nature of a public matching system that public matching funds are tied to private contributions and thus, candidates will always need to raise a certain percentage of private funds. Moreover, a 75% cap will ensure that campaigns reserve sufficient non-public funds for legitimate expenditures for

which public funds may not be used—a concern raised by the Campaign Finance Board and Citizens Union in cautioning against setting the public funds cap too high.¹⁰

Making Public Funds Available Earlier

Under current law, participating candidates are eligible to receive an initial disbursement of public matching funds in mid-June of the election year if they meet the qualifying thresholds for receipt of public funds and certify that they intend to meet all requirements to have their names on the ballot for the primary or general election.¹¹ However, that disbursement is limited to \$250,000 for candidates for Mayor, \$125,000 for candidates for Comptroller and Public Advocate, \$50,000 for Borough President candidates, and \$10,000 for City Council candidates.¹² This small disbursement represents less than 5% of the total public funds a Mayoral candidate could potentially receive, for example (under the new public funds cap proposed by this Commission). The remaining public funds are not disbursed until two weeks after petitions for the primary ballot are filed, which is typically in early August of the election year, just five to six weeks before the primary.¹³

As noted in Section II.A of the Preliminary Staff Report, the late timing of the distribution of the vast majority of public funds may pose significant challenges to candidates who participate in the public financing program—especially those who choose to rely heavily on small donors and public matching funds to finance their campaigns, and who thus may not have significant stores of private contributions to spend before public funds are disbursed. The proposed campaign finance amendments discussed above aim to enable candidates to run competitive campaigns even if they choose to focus exclusively on small donors. But the lack of significant disbursement of public funds earlier in the election cycle could impede progress toward that goal, as candidates may still feel the need to rely on larger donors to finance their campaigns before substantial amounts of public funds are disbursed. As Reinvent Albany testified in urging the Commission to make more public funds available earlier, “campaigns begin at least several months before Election Day, not six weeks.”¹⁴

Accordingly, the proposed Charter amendments would make public matching funds available to qualifying candidates earlier in the election cycle. In addition to the existing payment dates in June and August, candidates would be eligible for public fund payments in February and April of the election year. The amendments also would remove the limit on the amount of public funds candidates could receive prior to August.

While it is unlikely that a candidate who qualifies for public funds will fail to get on the ballot,¹⁵ in order to guard against the unlikely potential payment of public funds to candidates who do not seriously pursue a campaign, the proposed amendments would leave in place the existing requirement that candidates who receive a public funds payment before the ballot is set must repay any funds received if they fail to submit petitions to get on the ballot, or if they otherwise fail to actively campaign.¹⁶ Other existing repayment provisions would also remain in effect.¹⁷

Additionally, to protect against the possible payment of funds to unopposed candidates, the proposed amendments would preclude qualifying candidates from receiving any disbursement of public funds prior to August of the election year unless they submit a certified statement, with supporting documentation, attesting to their need for the funds and demonstrating that they meet provisions in the current law that require candidates seeking more than a certain amount of public funds to show that they have a viable opponent or that they are running against an identified opponent in an open election.¹⁸

Other Considerations

Cost

Some level of increased public cost is inherent in the campaign finance reforms set forth in the proposed Charter amendments. By reducing maximum contributions, strengthening the public match, and increasing the public funds cap, the proposed amendments would likely make candidates more reliant on public matching funds. Analysis of campaign contribution data from 2013 and 2017 suggests that the proposed amendments may increase the total amount of public funds disbursed to all candidates by about 47% per election cycle.¹⁹

Since the total public funding cost varies widely by election cycle, the dollar amount of a 47% increase could also vary. In 2013—a particularly heavy year for public funding—roughly \$38 million in public funds was disbursed.²⁰ A 47% increase would have meant an additional roughly \$18 million in public funds for that four-year cycle. By contrast, in 2017, roughly \$18 million in public funds was disbursed.²¹ For that four-year cycle, then, a 47% increase would have meant an additional roughly \$8.5 million in public funds. Thus, it is reasonable to estimate that the proposed amendments would increase public costs by roughly \$8.5 to \$18 million per four-year election cycle. This represents approximately \$1 to \$2 per City resident per year, and roughly 0.01% to 0.02% of the City's annual operating budget. These figures do not include special elections or the extra City Council-only elections that occur once every 20 years.

It bears emphasizing, however, that this increase in cost is directly linked to the goals of the campaign finance system: to reduce opportunities for, and the appearance of, corruption associated with large campaign contributions and, through matching funds, to incentivize small donor outreach and make it possible for candidates to run competitive campaigns without the need to rely on the largest donors. The Commission strongly believes that the increased costs associated with the proposed amendments are an important and worthwhile investment in the public's faith in the integrity of our political process.

Implementation

The proposed campaign finance Charter amendments would apply to participating candidates who choose to have the amendments apply to their campaigns beginning with the 2021 primary election. The amendments would then apply to all candidates beginning in 2022.

Specifically, the proposed Charter amendments would be applicable to campaigns of participating candidates beginning with the 2021 primary elections, and would apply to contributions received on or after January 12, 2019. However, because some candidates seeking office in the 2021 election cycle have already begun fundraising under the current system, participating candidates campaigning in that election cycle would be allowed to choose whether to raise funds under the current or new (post-amendment) contribution limit, matching formula, qualifying threshold, public funds cap, and disbursement schedule.

The choice would have to be made when the candidate submits a certification electing to participate in the public financing program. Candidates who submitted a certification prior to January 12, 2019 would be required to file an amended certification indicating their choice by January 15, 2021. Candidates who intend to participate in the public financing program would also be required to file a non-binding statement indicating to the Campaign Finance Board their expected choice at the time of filing of their first disclosure report, which may occur before they file their certification. Candidates who have already filed their first disclosure report prior to January 12, 2019 would be required to file this non-binding statement no later than July 15, 2019. Requiring candidates to declare their expected choice to the Campaign Finance Board prior to officially entering the public financing program will allow the Board to more accurately track early contributions and provide guidance to candidates based on their expected choice.

Those candidates who choose to operate under the new system would be allowed to retain any campaign contributions received prior to January 12, 2019, to the extent such contributions comply with the law as it currently stands, and such contributions would be eligible for public matching under the old matching formula. Non-participating candidates would be subject to the pre-amendment contribution limits through the 2021 election cycle.

The new system would apply to all candidates, and all contributions, beginning in 2022.

Severability

The proposed Charter amendments include a provision explaining how the Commission intends them to be enforced if certain portions are declared legally invalid or unenforceable. The provision states the Commission's intention that if the new contribution limits or matching formula for any office is invalid or unenforceable, all contribution limits, matching formulas, qualifying thresholds, and the disbursement schedule, should revert to the current, pre-amendment system, but the new public funds cap should remain in effect.

Conclusion

The Commission is confident that, taken together, the provisions of the proposed Charter amendments would have a substantial and important effect on the financing of elections in the City. These proposed amendments would eliminate the large contributions that create opportunities for *quid pro quo* corruption or its appearance. They would also strengthen the City's public financing program by increasing public funding and thus enabling candidates to run diverse types of campaigns, including campaigns that rely primarily on small dollar donations. As a result, instead of campaigns, especially at the Mayoral level, being financed primarily by the largest donors (and thereby feeding a perception of corruption), the sources of campaign funding will likely be more balanced, with smaller donors and the public funds attributable to them playing a larger role.

From its inception, the City's campaign finance system has performed a critical role in preventing corruption and the appearance of corruption, and has thus played an essential part in the functioning of the City's democracy. The Commission strongly believes that these proposed Charter amendments would enhance the campaign finance system's ability to carry out that role going forward.

¹ See N.Y.C. ADMIN. CODE §§ 3-703(1)(f), (7), 3-719(2)(b); *Limits and Thresholds: 2021 Citywide Elections*, N.Y.C. CAMPAIGN FIN. BD., www.nycffb.info/candidate-services/limits-thresholds/2021/ (last visited August 24, 2018).

² See N.Y.C. ADMIN. CODE §§ 3-702(3), (18)(a), 3-703(1)(l), (1-a), 3-719(2)(b); N.Y.C. CHARTER ch. 46, § 1052(a)(13).

³ One commenter condemned what he viewed as a “quid pro quo” in which “you help me get my project passed and the people that are paying me will donate for your reelection.” July 23, 2018 CRC Hearing, at 70-71 (Statement of Adam Jacobs). Others made similar comments, referring to perceptions of “pay-to-play” corruption involving large campaign donations, and that the “fix is in” from real estate industry money, which some commenters viewed as “controlling our elected officials.” *Id.* at 55 (Statement of Allison Greenberg on behalf of Human Scale NYC); *id.* at 73 (Statement of John Day); *id.* at 17-20, 23 (Statement of Council Member Ben Kallos); July 26, 2018 CRC Hearing, at 18 (Statement of Erwin Figueroa).

⁴ See Modeling Candidates as Non-Participants Spreadsheet, prepared by Michael J. Malbin and Brendan Glavin, Campaign Finance Institute [on file with the Commission]. Additionally, it is notable that at the Citywide level, virtually all competitive non-participating candidates in recent years have self-funded their campaigns. Such candidates, of course, will not be affected by the decrease in contribution limits.

⁵ 2018 Contribution and Expenditure Limits, L.A. CITY ETHICS COMM’N, https://ethics.lacity.org/wp-content/uploads/2018/05/CPIAdjustment_3.1.18.pdf (last visited July 11, 2018); SAN ANTONIO, TEX., CODE OF ORDINANCES pt. II, ch. 2, art. VII, div. 2, § 2-302; S.F., CAL., CAMPAIGN AND GOVERNMENTAL CONDUCT CODE § 1.114(a); CITY OF PHIL. BD. OF ETHICS, PHIL. CAMPAIGN FINANCE LAW FAQ (May 2018), www.phila.gov/ethicsboard/campaignfinance/Documents/Campaign%20Finance%20FAQs.pdf; 10 ILL. COMP. STAT. 5/1-1; HOUS., TEX., CODE OF ORDINANCES § 18-38.

⁶ See N.Y.C. ADMIN. CODE §§ 3-703, 3-705(1)-(2).

⁷ See N.Y.C. ADMIN. CODE §§ 3-702(3)(a)-(i), 3-703(1-a), 3-213(c)(1), 3-719(2)(b).

⁸ N.Y.C. ADMIN. CODE § 3-705(2)(b).

⁹ See N.Y.C. Admin. Code § 3-706; *Limits and Thresholds: 2021 Citywide Elections*, N.Y.C. CAMPAIGN FIN. BD., www.nycffb.info/candidate-services/limits-thresholds/2021/.

¹⁰ Written Testimony from Rachel Bloom, Dir. Pub. Policy & Programs, Citizens Union, to N.Y.C. Charter Revision Comm’n 1 (June 14, 2018); Issue Forum on Campaign Finance, N.Y.C. Charter Revision Comm’n 76-77 (June 14, 2018) (statement of Rachel Bloom, Dir. of Pub. Policy & Programs, Citizens Union); *id.* at 121 (statement of N.Y.C. Campaign Fin. Bd.).

¹¹ N.Y.C. Admin. Code § 3-703(1)(a), (2)(b).

¹² N.Y.C. Admin. Code § 3-703(2)(b).

¹³ N.Y.C. Admin. Code § 3-703(1)(a).

¹⁴ Written Testimony of Alex Camarda, Senior Policy Advisor, Reinvent Albany, to N.Y.C. Charter Revision Comm’n, 2 (July 25, 2018); June 14, 2018 CRC Forum at 98 (statements of Amy Loprest, Executive Director, NYC Campaign Finance Board, and Frederick Shaffer, Chairman, NYC Campaign Finance Board).

¹⁵ According to the Campaign Finance Board, in 2013 and 2017 no candidate who raised sufficient funds to qualify for public funds tried but failed to get onto the ballot. *See* Email from Amanda Melillo, Dep. Dir. of Public Affairs, CFB, to Aaron Bloom, Dep. Gen. Counsel, CRC (11:22 AM, Aug. 16, 2018); Written Testimony of Amy Loprest, Exec. Dir., CFB, to the New York City Council Committee on Government Operations (May 2, 2016) (regarding Intro. 986-2015, enacted as Local Law 168 of 2016).

¹⁶ N.Y.C. Admin. Code § 3-710(3)(b).

¹⁷ For example, if a candidate has been disqualified from the ballot or their petitions have been declared invalid, then they may not spend further public funds except to pay for qualified expenditures incurred before the disqualification date, and must otherwise return any remaining public funds. N.Y.C. Admin. Code § 3-709(7). A candidate who got on the ballot by fraud must repay all of the public funds received. N.Y.C. Admin. Code § 3-710(3)(b). And if a candidate’s total private and public funds exceed the candidate’s total expenditures in all covered elections held that same calendar year, the candidate must use those excess funds to reimburse the public funds they received. N.Y.C. Admin. Code § 3-710(2)(c).

¹⁸ N.Y.C. Admin. Code § 3-705(7)(b)-(c).

¹⁹ CFB, Spreadsheet: Cost Estimate Overview (Aug. 16, 2018) [on file with the Commission].

²⁰ CFB, Data Summary: NYC Campaign Finance Program, Slide 8 (June 12, 2018).

²¹ *Id.*

Proposed Charter Amendment Text

Section 1. Subdivision a of section 1052 of the New York city charter is amended by adding seven new paragraphs 16 through 22 to read as follows:

16. Statement of purpose. Because the city's campaign finance program performs a critical role in preventing corruption and the appearance of corruption, it is essential to the functioning of the city's democracy as codified in this charter. Therefore, it is appropriate for key components of the program to be established in the charter, which codifies the core elements of the city's governmental structure, while other details of the program remain in the administrative code. Paragraphs 17 through 22 of this subdivision fulfill this purpose

17. (a) Notwithstanding any other provision of law, the maximum contributions set forth in subparagraph (b) of this paragraph shall replace the maximum contributions set forth in subparagraphs (i), (ii) and (iii) of paragraph (f) of subdivision 1 of section 3-703 of the administrative code and shall be applied to the same extent and in the same manner and subject to the same restrictions as described in this section and chapter 7 of title 3 of the administrative code.

(b) A. For participating candidates, the maximum contributions shall be as follows:

- i. For the office of mayor, public advocate or comptroller, \$2,000;
- ii. For borough president, \$1,500; and
- iii. For member of the city council, \$1,000.

B. For non-participating candidates, the maximum contributions shall be as follows:

i. For the office of mayor, public advocate or comptroller, \$3,500;

ii. For borough president, \$2,500; and

iii. For member of the city council, \$1,500.

(c) The maximum contributions described in subparagraph (b) of this paragraph shall be adjusted by the campaign finance board on March 1, 2022 and every four years thereafter, in accordance with the process described in subdivision 7 of section 3-703 of the administrative code, except that any reference to calendar year 2015 in subdivision 7 of section 3-703 of such code shall be read as a reference to calendar year 2019.

(d) Any reference in this charter, the administrative code or any other local law to the contribution limits set forth in subparagraphs (i), (ii) and (iii) of paragraph (f) of subdivision 1 of section 3-703 of the administrative code shall be deemed a reference to subparagraph (b) of this paragraph.

18. Notwithstanding any other provision of law, the threshold for eligibility for public funding for participating candidates in a primary or general election, or special election to fill a vacancy, shall be in the case of: (i) mayor, not less than \$250,000 in matchable contributions comprised of sums up to \$250 per contributor including at least 1,000 matchable contributions of \$10 or more; and (ii) public advocate and comptroller, not less than \$125,000 in matchable contributions comprised of sums of up to \$250 per contributor including at least 500 matchable contributions of \$10 or more. The thresholds for eligibility for public funding for participating candidates for the offices of mayor, public advocate or comptroller described in this paragraph shall

replace the thresholds for eligibility for public funding for participating candidates for the offices of mayor, public advocate or comptroller set forth in subparagraphs (i) and (ii) of paragraph (a) of subdivision 2 of section 3-703 of the administrative code and shall be applied to the same extent and in the same manner and subject to the same restrictions as described in this section and chapter 7 of title 3 of the administrative code. Any reference in this charter, the administrative code or any other local law to the thresholds for eligibility for public funding for participating candidates for the offices of mayor, public advocate or comptroller set forth in subparagraphs (i) and (ii) of paragraph (a) of subdivision 2 of section 3-703 of the administrative code shall be deemed a reference to this subdivision.

19. Notwithstanding any other provision of law, if the threshold for eligibility is met, the participating candidate's principal committee shall receive payment for qualified campaign expenditures of: (i) \$8 for each \$1 of matchable contributions, up to \$2,000 in public funds per contributor, obtained and reported to the campaign finance board in accordance with the provisions of this section and chapter 7 of title 3 of the administrative code, with respect to any participating candidate for nomination for election or election to the office of mayor, public advocate or comptroller; and (ii) \$8 for each \$1 of matchable contributions, up to \$1,400 in public funds per contributor, obtained and reported to the campaign finance board in accordance with the provisions of this section and chapter 7 of title 3 of the administrative code, with respect to any participating candidate for nomination for election or election to the office of borough president or member of the city council.

The formula for determining public matching funds for matchable contributions described in this paragraph shall replace the formula for determining public matching funds for matchable contributions set forth in paragraph (a) of subdivision 2 of section 3-705 of the administrative code and shall be applied to the same extent and in the same manner and subject to the same restrictions as described in this section and chapter 7 of title 3 of the administrative code. Any reference in this charter, the administrative code or any other local law to the formula for determining public matching funds for matchable contributions set forth in paragraph (a) of subdivision 2 of section 3-705 of the administrative code shall be deemed a reference to this paragraph.

20. (a) Notwithstanding any other provision of law, in no case shall the principal committee of a participating candidate receive public funds pursuant to paragraph 19 of this subdivision in excess of an amount equal to 75 percent of the expenditure limitation provided in subdivision 1 of section 3-706 of the administrative code for the office for which such candidate seeks nomination for election or election, as adjusted by the campaign finance board pursuant to paragraph (e) of subdivision 1 of section 3-706 of the administrative code. The percentage of the expenditure limitation at which public funds are capped pursuant to this subparagraph shall be applied to the same extent and in the same manner and subject to the same restrictions as described in this section and chapter 7 of title 3 of the administrative code. Any reference in this charter, the administrative code or any other local law to the percentage of the expenditure limitation at which public funds

are capped set forth in the first sentence of paragraph (b) of subdivision 2 of section 3-705 of the administrative code shall be deemed a reference to this subparagraph.

(b) Notwithstanding any other provision of law, to be eligible for the disbursement of optional public financing occurring prior to two weeks after the last day to file designating petitions for a primary election, in addition to satisfying the requirements of section 3-703 of the administrative code and all other applicable requirements of this section and chapter 7 of title 3 of the administrative code, the participating candidate shall demonstrate that at least one of the conditions set forth in paragraph (b) or (c) of subdivision 7 of section 3-705 of the administrative code is satisfied, as determined by the campaign finance board. The participating candidate seeking such monies shall submit a certified signed statement attesting to the need for such public funds and identifying the condition or conditions set forth in paragraph (b) or (c) of subdivision 7 of section 3-705 of the administrative code that apply and supporting such statement with relevant documentation. The board shall be authorized to verify the truthfulness of any certified statement submitted pursuant to this subparagraph and of any supporting documentation and shall post such certified statements and supporting documentation on its website.

(c) This paragraph shall supersede paragraph (b) of subdivision 2 of section 3-705 of the administrative code in its entirety and paragraph (b) of subdivision 2 of section 3-705 of the administrative code shall hereinafter have no force and effect.

21. Notwithstanding any other provision of law, no monies shall be paid to participating candidates in a primary or general election any earlier than February

15 in the year such election is scheduled to be held. Any reference in this charter, the administrative code or any other local law to the earliest date by which monies shall be paid to participating candidates in a primary or general election set forth in subdivision 5 of section 3-709 of the administrative code shall be deemed a reference to this paragraph. Notwithstanding any other provision of law, for the disbursement of optional public financing occurring prior to two weeks after the last day to file designating petitions for a primary election the campaign finance board shall schedule a minimum of three payments on February 15, April 15 and June 15 in the year such election is scheduled to be held, or as soon after each such date as is practicable.

22. The provisions of paragraphs 16 through 21 of this subdivision shall take effect in accordance with the provisions of paragraph (1) of subdivision l of section 1152.

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

l. (1) (a) Except as otherwise provided in this paragraph, the amendments to the charter adding paragraphs 16 through 22 of subdivision a of section 1052, approved by the electors on November 6, 2018, shall take effect on January 12, 2019, and thereafter shall control as provided with respect to all the powers, functions and duties of officers, agencies and employees, except as further specifically provided in other sections of this charter.

(b) Officers and employees of the city shall take any actions as are necessary and appropriate to prepare for the implementation of such amendments prior to January 12, 2019.

(c) With respect to candidates seeking office in any covered election held prior to the primary election held in the year 2021, such amendments shall not apply and the law as in effect prior to January 12, 2019 shall govern.

(d) (i) Candidates seeking office in covered primary, run-off primary, and general elections held in the year 2021 who intend to participate in the voluntary system of campaign finance reform described in this section and chapter 7 of title 3 of the administrative code shall file with the campaign finance board a non-binding written statement declaring whether they intend to select the terms, conditions, and requirements for contribution limits and for the provision of public matching funds, including those pertaining to the matching formula, qualifying threshold, public funds cap, and distribution schedule, under Option A or Option B provided in clause (iii) of this subparagraph. Such statement shall be made on the date of the filing of the first disclosure report required pursuant to section 3-703 of the administrative code, provided that candidates who intend to participate in such system who filed such first disclosure report prior to January 12, 2019 shall file such non-binding written statement with the campaign finance board no later than July 15, 2019, and provided further that such non-binding written statement shall not be required if a candidate has already complied with clause (ii) of this subparagraph as of the date of the filing of the first disclosure report. Failure to file the statement

required pursuant to this clause (i) shall not be deemed to preclude a candidate from choosing to participate in the voluntary system of campaign finance reform described in this section and chapter 7 of title 3 of the administrative code pursuant to paragraph (c) of subdivision 1 of section 3-703.

(ii) Participating candidates seeking office in covered primary, run-off primary, and general elections held in the year 2021, shall state in the written certification filed pursuant to paragraph (c) of subdivision 1 of section 3-703 of the administrative code, whether they agree to the terms, conditions, and requirements for contribution limits and for the provision of public matching funds, including those pertaining to the matching formula, qualifying threshold, public funds cap, and distribution schedule, under Option A or Option B provided in clause (iii) of this subparagraph, provided that participating candidates who filed such certification prior to January 12, 2019 shall file an amended certification with such information with the campaign finance board no later than January 15, 2021.

(iii) Option A. The contribution limitations and public matching funds provisions, including those pertaining to the matching formula, qualifying threshold, public funds cap, and distribution schedule, as in effect on and after January 12, 2019.

Option B. The contribution limitations and public matching funds provisions, including those pertaining to the matching formula, qualifying threshold, public funds cap, and distribution schedule, as in effect prior to January 12, 2019.

(e) For participating candidates and their principal committees seeking office in covered primary, run-off primary, and general elections held in 2021, the campaign

finance board shall administer and enforce the contribution limitations and public matching funds provisions, including those pertaining to the matching formula, qualifying threshold, public funds cap, and distribution schedule in accordance with whether the participating candidate has chosen Option A or Option B pursuant to subparagraph (d) of this paragraph.

(f) For nonparticipating candidates and their authorized committees seeking office in the general election held in 2021 or any covered election held prior thereto, the contribution limitations as in effect prior to January 12, 2019 shall remain applicable.

(g) With respect to candidates seeking office in any covered election held after the general election in 2021, the contribution limitations and public matching funds provisions, including those pertaining to the matching formula, qualifying threshold, public funds cap, and distribution schedule, shall apply as in effect on and after January 12, 2019.

(h) The campaign finance board shall promulgate rules necessary to implement the provisions of this paragraph, which shall include provisions addressing contributions made prior to January 12, 2019, provided that: (i) candidates who received eligible contributions prior to January 12, 2019 shall not be required to refund such eligible contributions or any portion thereof solely by reason of electing Option A as set forth in subparagraph (d) of this paragraph; and (ii) eligible contributions received prior to January 12, 2019 shall be subject to the matching

formula in effect prior to such date, regardless of whether the participating candidate chooses Option A or Option B.

(i) If any provision of paragraph 17 or 19 of subdivision a of section 1052 shall be finally adjudged by any court of competent jurisdiction to be invalid or otherwise cannot be implemented, all provisions of paragraphs 16 through 22 of subdivision a of section 1052, except for subparagraph (a) of paragraph 20 of subdivision a of section 1052, together with provisions of this section authorizing or mandating the application of such provisions to candidates in any election, shall be without any further force and effect and, at such time, section 1052 and chapter 7 of title 3 of the administrative code, as such provisions existed immediately prior to January 12, 2019 shall be reinstated, except to the extent such provisions are modified, altered or superseded by subparagraph (a) of paragraph 20 of subdivision a of section 1052, and in that event such subparagraph shall apply to all participating candidates.

Ballot Proposal

Question # 1: Campaign Finance

This proposal would amend the City Charter to lower the amount a candidate for City elected office may accept from a contributor. It would also increase the public funding used to match a portion of the contributions received by a candidate who participates in the City's public financing program.

In addition, the proposal would make public matching funds available earlier in the election year to participating candidates who can demonstrate need for the funds. It would also ease a requirement that candidates for Mayor, Comptroller, or Public Advocate must meet to qualify for matching funds.

The amendments would apply to participating candidates who choose to have the amendments apply to their campaigns beginning with the 2021 primary election, and would then apply to all candidates beginning in 2022.

Shall this proposal be adopted?

Abstract

This proposal would amend the City Charter to lower the amount that a candidate for City elected office may accept from a contributor. It would also increase the public funding used to match a portion of the contributions received by a candidate who participates in the City's public financing program. In addition, the proposal would make public matching funds available earlier in the election year to participating candidates who can demonstrate need for the funds. It would also ease a requirement that candidates for Mayor, Comptroller, or Public Advocate must meet to qualify for matching funds.

Contribution Limits. Currently, the maximum total amount a candidate may accept from a contributor per election cycle (including both the primary and general elections) is (a) \$5,100 for candidates for Mayor, Public Advocate, or Comptroller ("Citywide offices"); (b) \$3,950 for candidates for Borough President; and (c) \$2,850 for candidates for the City Council. These limits apply both to candidates who choose to participate in the public financing program ("participating candidates") and to those who do not ("non-participating candidates") and are indexed to inflation.

Under the proposed Charter amendments, these contribution limits would be reduced. The maximum total amount a *participating* candidate may accept from a contributor per election cycle would be \$2,000 for candidates for

Mayor, Public Advocate, or Comptroller; \$1,500 for candidates for Borough President; and \$1,000 for candidates for the City Council. The maximum total amount a *non-participating* candidate may accept from a contributor per election cycle would be \$3,500 for candidates for Mayor, Public Advocate, or Comptroller; \$2,500 for candidates for Borough President; and \$1,500 for candidates for the City Council. The proposed contribution limits for participating candidates are lower than those for non-participating candidates because only participating candidates are eligible to receive public matching funds. The proposed amendment would not alter existing prohibitions and limits based on the identity of the contributor, including the prohibition on contributions from corporations, LLCs, and partnerships, and the limits on contributions from lobbyists and those doing business with the City. Additionally, all contribution limits would continue to be indexed to inflation.

Office	Current Limit	Proposed Limit (Participants)	Proposed Limit (Non-participants)
Citywide offices	\$5,100	\$2,000	\$3,500
Borough President	\$3,950	\$1,500	\$2,500
City Council	\$2,850	\$1,000	\$1,500

Public Funds Matching Formula. Currently, participating candidates, who meet certain qualifying thresholds, are eligible to receive public matching funds at a rate of \$6 in public funds for every \$1 in matchable contributions, up to the first \$175 per contributor. Thus, a \$500 contribution is currently matched with \$1,050 in public funds (6 x \$175), generating a total of \$1,550 for the candidate.

Under the proposed Charter amendments, the public match would be increased to \$8 in public funds for every \$1 in matchable private contributions, up to the first \$250 per contributor to candidates for Citywide office and up to the first \$175 per contributor to candidates for Borough President or City Council. Thus, a \$500 contribution to a candidate for Citywide office would be matched with \$2,000 in public funds (8 x \$250), generating a total of \$2,500 for the candidate, and a \$500 contribution to a candidate for Borough President or City Council would be matched with \$1,400 (8 x \$175) for a total of \$1,900. The proposed amendment would not alter existing laws that render certain contributions ineligible for public matching, such as contributions from lobbyists and those doing business with the City.

Office	Current Match	Proposed Match
Citywide offices	6:1 on first \$175	8:1 on first \$250

Borough President	6:1 on first \$175	8:1 on first \$175
City Council	6:1 on first \$175	8:1 on first \$175

Maximum Amount of Public Funds (“Public Funds Cap”). Under current law, the total amount of public matching funds that a participating candidate may receive, per election, is capped at 55% of the expenditure limit applicable to participating candidates for the office being sought. Under the proposed amendments, the cap on the total amount of public matching funds that a participating candidate may receive, per election, would be increased from 55% to 75% of the expenditure limit for the office being sought. Thus, based on the current expenditure limits, which are indexed to inflation and which these amendments do not alter, the maximum amount of public matching funds available to candidates would increase as shown in the table below:

Office	Current Public Funds Cap (55% of Expenditure Limit)	Proposed Public Funds Cap (75% of Expenditure Limit)
Mayor	\$4,007,300	\$5,464,500
Comptroller or Public Advocate	\$2,505,250	\$3,416,250
Borough President	\$902,000	\$1,230,000
City Council	\$104,500	\$142,500

Qualifying Thresholds. To qualify for public funds, participating candidates currently must raise matchable contributions totaling at least certain threshold dollar amounts (differing by office), counting only the first \$175 per donor. The proposed amendments would not alter the monetary thresholds, but would permit candidates for Citywide offices to count the first \$250 per donor, tracking the change in the matching formula for those offices. This would make it somewhat easier for candidates for Citywide offices to qualify for matching funds.

Timing of Disbursement of Public Funds. Under current law, participating candidates who meet the qualifying thresholds for receipt of public funds (“qualifying candidates”) are eligible for an initial disbursement of public funds in June of the election year. That disbursement is limited to \$250,000 for candidates for Mayor, \$125,000 for candidates for Comptroller and Public Advocate, \$50,000 for candidates for Borough President, and \$10,000 for candidates for City Council. The remaining public funds are not disbursed until two weeks after petitions for the primary ballot are filed, which

is typically in early August of the election year, about five to six weeks before the primary.

The proposed amendments would allow qualifying candidates to receive public matching funds in February and April of the election year, in addition to June, August, and beyond, and would remove the monetary limits on the pre-August distribution of funds. However, qualifying candidates would not be eligible to receive any disbursement of public funds prior to August of the election year unless they submit a certified statement attesting to the need for the funds and demonstrating that they meet provisions in the current law that require candidates seeking more than a certain amount of public funds to show that they have a viable opponent or that they are running against an identified opponent in an open election.

Implementation. The proposed Charter amendments regarding campaign finance would apply to participating candidates who choose to have the amendments apply to their campaigns beginning with the 2021 primary election. The amendments would then apply to all candidates beginning in 2022. Those candidates who choose to operate under the post-amendment system for the 2021 primary and general elections will be allowed to retain any campaign contributions received prior to January 12, 2019, to the extent such contributions complied with the pre-amendment law, and such contributions would be eligible for public matching under the pre-amendment law.

B. Civic Engagement

In the face of declining levels of public trust, confidence, and participation in civic institutions and activities, New Yorkers contribute to civic life in ways that demonstrate a deep connection to each other and their communities. They run for office, donate to candidates, serve on community boards, engage in participatory budgeting, volunteer in significant numbers for local religious organizations, march for issues they care deeply about, and speak at public hearings, including before this Commission.

The City's efforts to harness this energy and promote the civic engagement of its residents are many and varied. The Board of Elections of the City of New York (BOE), the Campaign Finance Board (CFB), the Voter Assistance Advisory Committee (VAAC), and multiple City agencies work to promote meaningful participation in elections held in the City. Beyond the ballot box, the Mayor's Office, City agencies, the City Council, community boards, and others in City government seek to engage residents, whether through volunteerism, service, participatory budgeting, or other means, including through the Mayor's recently announced DemocracyNYC initiative. These efforts are described in greater detail in Sections II.B and II.C of the Preliminary Staff Report.

The Charter does not explicitly address civic engagement beyond voting, whether through establishment of a dedicated structure or otherwise. The lack of a centralized, considered approach stands in contrast to testimony received by the Commission on the importance of understanding civic engagement as a continuum of opportunities for participating in the civic life of the City, one in which opportunities interact with and reinforce each other. A decentralized approach has also led to gaps and overlaps in the City's efforts, and missed opportunities to "meet New Yorkers where they are."¹ The City can and should do more to strengthen the connection between New Yorkers and their local government, and to sustain and improve our local democracy.

Summary of Proposed Charter Amendments

Establishment of a Civic Engagement Commission

The Commission proposes establishing a new Civic Engagement Commission to enhance the civic participation of all New Yorkers, in order to promote civic trust and strengthen local democracy. If approved by the voters, this amendment, and the others described in this section, would take effect on April 1, 2019.

The Civic Engagement Commission would consist of 15 members. The Mayor would appoint eight members, including at least one member from the largest political party and at least one member from the second largest political party, as determined by the highest and next highest total number of registered voters in the City; the Speaker of the City Council would appoint two members; and each Borough President would appoint one member. The Mayor, Speaker, and Borough Presidents would be required to consider candidates who are representative of, or have experience working with, immigrants, individuals with limited English proficiency, people with disabilities, students, youth, seniors, veterans, community groups, good government groups, civil rights advocates, and categories of residents that are historically underrepresented in or underserved by City government.

Members of the Civic Engagement Commission, who must be residents of the City, would be prohibited from serving as an officer of a political party or being a candidate for nomination or election to the office of Mayor, Public Advocate, Comptroller, Borough President, or City Council Member. Members, except for the Chair, would serve four-year terms, except that initial appointees, whose terms commence on April 1, 2019, would serve terms ranging from two to four years in order to stagger subsequent appointments and promote operational continuity.

The Mayor would designate a Chair from among his or her appointees to the Civic Engagement Commission. The Chair, a full-time position, would also serve as the Executive Director and be charged with the organization and staffing of the office. The Chair would not be appointed for a term, but, following the model of other agencies, like the City Planning Commission, would serve at the pleasure of the Mayor.

In recommending the creation of the Civic Engagement Commission, the Commission acknowledges the strong public sentiment that it is important to explicitly embed the values of civic participation in the Charter, and to move toward focusing, integrating, and expanding the City's efforts to engage all its residents in civic life. The Commission was particularly persuaded by the potential of a new structure to efficiently leverage existing City resources and to bring to bear to the project of civic participation new resources—both the targeted efforts of the new Civic Engagement Commission, as well as the untapped energy, creativity, and diverse experiences of New Yorkers. Moreover, the presence on the proposed Civic Engagement Commission of Mayoral and non-Mayoral appointees, who are subject to additional prohibitions related to their involvement in electoral politics, ensures a degree of independence from politics and mitigates the risk of politicization.

Powers and Duties of the Civic Engagement Commission

The Civic Engagement Commission would be charged with developing and implementing initiatives, and partnering with public and private entities, to support and encourage all New Yorkers to meaningfully participate in civic life. Specifically, subject to appropriation, the Civic Engagement Commission would have the following powers and duties:

- Implement a Citywide participatory budgeting program to be established by the Mayor;
- Provide—in consultation and coordination with the Department of City Planning (DCP), other relevant City agencies, and Borough Presidents—training and assistance to community boards, as described in Section II.C of this report;
- Support and partner with community-based organizations, institutions, and civic leaders in the public and private sectors in their civic engagement efforts;
- Consider the language access needs of New Yorkers with limited English proficiency in developing and implementing its programs and services;
- Establish, in consultation with the Mayor’s Office of Immigrant Affairs (MOIA), DCP, and the City BOE, a program for providing language interpreters at poll sites in the City in order to facilitate voting by New Yorkers with limited English proficiency; and
- Partner with City agencies to increase awareness of and access to City services and public engagement processes, assist City agencies in developing and promoting civic engagement initiatives, and develop strategies to centralize public information about opportunities for civic engagement.

Furthermore, the Mayor would be authorized to transfer to the Civic Engagement Commission, by executive order, any directly related powers and duties currently being performed by the Mayor’s Office or any department whose head is appointed by the Mayor. Heads of Mayoral agencies would be required to cooperate with the Civic Engagement Commission in the development and implementation of its initiatives and assist the Civic Engagement Commission in carrying out its functions.

The Commission is hopeful that directing the Civic Engagement Commission to partner with those outside of, and within, City government will

strengthen the connections between New Yorkers and their local government. First, the Civic Engagement Commission would be charged with supporting the significant work already being done by numerous community-based organizations, institutions, and leaders across the public and private sectors. These entities and individuals engage New Yorkers through their efforts to develop civic leaders, encourage civic literacy, protect public spaces, and reach out to youth and students, among other initiatives. Supporting these efforts is critical, not only to the project of civic engagement but to ensuring that the work of the Civic Engagement Commission is itself culturally relevant and connected to those it serves, especially those who have been historically underrepresented or underserved by City government and its processes.

Second, the Civic Engagement Commission would have the opportunity to serve as a clearinghouse for information about civic participation in New York City. By partnering with and being a resource to City agencies, the Commission could help streamline the civic engagement efforts of other agencies and also share best practices for reaching wider audiences, such as through the use of creative services; media campaigns, including social media; partnerships with the City's schools, hospitals, service enrollment centers, and senior centers; 311; and other tools to leverage existing City infrastructure to reach a wide cross-section of City residents.

Finally, the Civic Engagement Commission would serve as a launch pad for new and innovative initiatives, two of which are described in further detail below: participatory budgeting and language assistance at poll sites.

Participatory Budgeting

More than 1,500 cities across the globe, including large cities such as Paris and Chicago, have instituted a form of participatory budgeting, a process that allows community members to help decide how to spend money allocated in a public budget.² In New York City, residents have engaged in participatory budgeting since 2011 in Council districts where Council Members have chosen to participate; last year, over 100,000 New Yorkers across all five boroughs and 31 Council districts voted to recommend how to spend more than \$40 million of the City's capital budget.³ Building on this success, Mayor de Blasio announced in his 2018 State of the City address that the City would allocate \$2,000 to each public high school for students to decide how to use.⁴

The Commission's proposal would establish New York City's first Citywide participatory budgeting program. The Mayor would be charged with establishing a program to be implemented no later than the fiscal year beginning on July 1, 2020, whereby City residents would identify and express

their preferences among local City projects to be considered for inclusion in the executive budget. The Civic Engagement Commission would develop and implement the program, assisted by an advisory committee established to make recommendations regarding, for example, best practices for outreach and education and technological tools for promoting robust participation. The Civic Engagement Commission would also be required to establish multiple methods for public participation, including through public meetings and online tools, and to work with various City offices and agencies to identify and implement measures that would promote participation by a wide range of residents, including non-citizens, immigrants, youth, students, seniors, veterans, people living with disabilities, and individuals with limited English proficiency.

Participatory budgeting is a potentially powerful tool for engaging those not typically active in civic decision-making, such as non-citizens or youth who are ineligible to vote. Expanding participatory budgeting will give residents of all communities—not just those in Council districts with participating Council Members—the opportunity to have a say on how their tax dollars are spent.

Language Assistance at Poll Sites

Approximately 23% of all New Yorkers—over 1.8 million people—and approximately 49% of immigrant New Yorkers are limited English proficient (LEP), meaning that they speak English less than “very well” and have a limited ability to read, speak, and write in English.⁵ The Commission received several public comments about the need to expand the City’s language access services so that LEP New Yorkers can fully participate in the City’s civic life, including nearly one-hundred signed letters written in Bengali, Chinese, and Korean, asking the Commission to take on this issue.

The right to vote is one of the most important rights in our democracy, and the Commission heard testimony about the need to ensure that LEP New Yorkers can fully exercise that right. Jerry Vattamala of the Asian-American Legal Defense and Education Fund (AALDEF) testified about the importance of the Voting Rights Act’s language protections for the City’s Asian-American communities,⁶ and proposed that the City expand language services to more communities not already protected by the Act.⁷ Perry Grossman of the New York Civil Liberties Union (NYCLU) urged the Commission to treat the Voting Rights Act’s protections as a “floor [and] not a ceiling,”⁸ and Susan Lerner of Common Cause/NY spoke about the need for language interpreters to assist underserved LEP voters on Election Day.⁹

The Legal Framework for Language Access in Voting

The Voting Rights Act contains several provisions that protect voters who require language assistance at the polls. Section 203 of the Act requires New York City to provide information and assistance to potential and registered voters in various languages depending on the county. In the five counties that comprise New York City, the following languages are covered:

- Bengali: Queens.
- Chinese*: Kings, New York, and Queens.
- Korean: Queens.
- Spanish: Bronx, Kings, New York, and Queens.¹⁰

The New York City Board of Elections (BOE) meets these obligations, in part, by translating ballots and written materials and employing poll workers to serve as interpreters at poll sites on Election Day.¹¹ In the covered counties, the BOE provides these services at poll sites with large concentrations of LEP eligible voters who speak a particular covered language.¹² The BOE relies on American Community Survey data and a surname analysis of registration records to target poll sites for these services.¹³

Section 208 of the Voting Rights Act requires jurisdictions to allow blind, disabled, or illiterate voters to bring a person of their choosing into the poll site to assist with reading and casting a ballot.¹⁴ While Section 208's text does not explicitly mention limited-English-proficient or non-English-speaking voters, courts have applied its protections to these voters as well.¹⁵ New York State has expanded Section 208's protections to all elections in New York,¹⁶ and the BOE has trained poll workers to comply with these mandates.¹⁷

The City also has several initiatives to assist LEP voters. For example, in 2017, MOIA conducted a pilot project in which it offered Russian and Haitian Creole poll site interpreters for LEP voters in some communities in Brooklyn, with a plan to expand the project this year.

Poll Site Assistance Program

To promote New Yorkers' ability to exercise their fundamental right to vote, the Commission is proposing that the new Civic Engagement Commission administer a program for providing language interpreters at poll sites for

* This language category includes Mandarin and Cantonese.

limited-English-proficient voters (the “Poll Site Assistance Program” or “Program”). Modeled after MOIA’s 2017 pilot project, the Program would provide interpreters to assist LEP voters in the Designated Citywide Languages as defined in Administrative Code § 23-1102, enacted by Local Law 30 of 2017. The key elements of this proposal are explained below:

Designated Citywide Languages. The Designated Citywide Languages are a ranking of the top ten most widely spoken languages in the City based on Census and Department of Education data. As of 2017, the Designated Citywide Languages are as follows, in order of ranking:

1. Spanish
2. Chinese*
3. Russian
4. Bengali
5. Haitian Creole
6. Korean
7. Arabic
8. Urdu
9. French
10. Polish

These languages are spoken by approximately 86% of the LEP population in New York City.¹⁸ The proposal would allow the Civic Engagement Commission to provide interpreter services in additional languages, so long as the additional language is spoken by more LEP eligible voters (based on census data) than the lowest ranked Designated Citywide Language, and has a significant concentration of speakers around at least one poll site. The Designated Citywide Languages are subject to change according to the Local Law 30 methodology.

Voting Rights Act Languages. The Commission heard testimony from AALDEF about the need for language assistance in Voting Rights Act languages in counties not covered by the Act.¹⁹ To address these concerns, the

* This language category includes Mandarin and Cantonese.

Commission's proposed Poll Site Assistance Program would supplement the BOE's existing language access services under the Voting Rights Act. To that end, the Civic Engagement Commission would be authorized to provide interpreters in languages covered by the Voting Rights Act (i.e. Bengali, Cantonese, Korean, Mandarin, and Spanish), but only in counties where assistance for that language is not mandated by the Act. Therefore, the Civic Engagement Commission would be authorized to provide, for example, Spanish in Staten Island and Bengali in the Bronx, because the Voting Rights Act does not require assistance in those languages in those counties. However, the Civic Engagement Commission would not be authorized to provide the Program's services at a poll site where the BOE has stated an intention to provide the same service in the same language. This approach expands language assistance without encroaching upon, disturbing, or duplicating the BOE's existing legal mandates.

Language Accessibility Advisory Committee. AALDEF also testified that advisory groups are essential to ensure that language assistance services are responsive to the needs of language minority communities.²⁰ Therefore, the Commission's proposal would include creation of a Language Accessibility Advisory Committee (LAAC) that would advise the Civic Engagement Commission's language access services for LEP voters. In selecting members of the LAAC, the Commission would be required, to the extent practicable, to select members with fluency in each of the Designated Citywide Languages. The Commission would also be required to consider whether individuals have expertise in language accessibility or experience working with LEP individuals within the City, and to seek out individuals from diverse backgrounds to serve on the LAAC.²¹ The LAAC is modeled after a successful California law and policy that permitted counties to create advisory groups to advise election officials on language access in elections.²² Like the California model, the LAAC would advise the Civic Engagement Commission on its language accessibility services, by providing expertise on interpreter training and language accessibility issues, promoting language accessibility initiatives, and responding to the Civic Engagement Commission's questions regarding language access.

Poll Site Interpreters. The Program's interpreters would assist voters who request their services at poll sites, as permitted under Section 208 of the Voting Rights Act and the state Election Law.²³ As in the MOIA pilot project, the Program's interpreters would assist LEP voters by i) answering questions that relate to the voting process, ii) translating BOE written voting materials including the voter's ballot, and iii) providing interpretation services inside the poll site. The Civic Engagement Commission would consult with MOIA and

LAAC on hiring and training interpreters, and ensure interpreters are trained to comply with BOE staff directions and the State Election Law.

Poll Site Targeting Methodology. The Civic Engagement Commission would be required to develop a methodology to target poll sites where the Program's services would be provided. The methodology would be created in consultation with MOIA, the Law Department, and the Department of City Planning (DCP). The methodology would be required to be based on objective criteria, as deemed relevant by the Civic Engagement Commission, such as American Community Survey (ACS) data; the locations of poll sites and the boundaries of election districts; information related to voter turnout; or other information, such as a surname analysis of BOE registration records, if deemed appropriate by the Civic Engagement Commission. The Commission would solicit public feedback, including holding at least one public hearing on the proposed methodology, before publishing the final methodology on its website.

The Program's methodology is modeled after the BOE's targeting methodology, which uses these same datasets when targeting poll sites for Section 203 compliance.²⁴ To account for demographic changes, the data underlying the methodology would be updated at least twice a decade using the latest ACS data on eligible voters who are LEP and speak the languages covered by the Program. All changes to the poll sites covered under the Program would be published online.

Public Feedback. In addition to consulting with the LAAC and engaging in community outreach functions, the Civic Engagement Commission would build into the Program best practices to ensure interpreter performance tracking, timely response to public complaints, and the ability to adjust the Program to meet community needs in order to properly allocate agency resources.

Implementation. The Civic Engagement Commission would implement the Program no later than the general election in 2020 to ensure that the Program is available for what will likely be the next high turnout election.

Reporting

The Civic Engagement Commission would be required to annually report on its activities by September 30 of each year, starting in 2021. The report would be submitted to the Mayor and the Speaker of the City Council, and posted on the Civic Engagement Commission's website.

The report would include the following information for the previous fiscal year:

- Participatory budgeting: the number of participants, disaggregated by borough, and any voluntarily disclosed demographic information about participants in aggregated and anonymized form; the number of projects selected for recommendation, disaggregated by borough; a description of the public outreach tools; any recommended changes to the program; and any other relevant information;
- Poll site interpreters: the locations of poll sites at which interpreters were provided, the languages provided, the number of individuals who utilized such language interpretation services, disaggregated by poll site, and any recommended changes;
- Resources for community boards, as described in Section II.C of this report; and
- Any other information deemed relevant by the Civic Engagement Commission.

¹ June 21, 2018 CRC Forum at 62 (statement of DeNora Getachew, Exec. Dir., Generation Citizen).

² *PB Map & Process List*, PARTICIPATORY BUDGETING PROJECT, <https://www.participatorybudgeting.org/pb-map/> (last visited Aug. 26, 2018).

³ N.Y.C. COUNCIL, PARTICIPATORY BUDGETING IN N.Y.C. 2017-2018 RULEBOOK 1-2, https://www.dropbox.com/s/hq4jlf5y3zxlmw/PBNYC%20201718_%28Rulebook%29_English_%20Singal%20Pages_2.pdf?dl=0.

⁴ Josh Lerner, *Mayor Launches Participatory Budgeting in All NYC High Schools*, PARTICIPATORY BUDGETING PROJECT (Feb. 14, 2018), <https://www.participatorybudgeting.org/mayor-launches-participatory-budgeting-nyc-high-schools/>.

⁵ *2012-2016 American Community Survey 5-Year Estimates*, U.S. CENSUS BUREAU, https://factfinder.census.gov/bkmk/table/1.0/en/ACS/16_5YR/S0501/1600000US3651000 (last visited Aug. 25, 2018).

⁶ June 12, 2018 CRC Forum at 51 (statement of Jerry Vattamala, Dir. Democracy Program, AALDEF), https://www1.nyc.gov/assets/charter/downloads/pdf/06_12_18_NYC_Charter_Commission_Hearing.pdf#page51.

⁷ *Id.* at 51 (statement of Jerry Vattamala, Dir. Democracy Program, AALDEF).

⁸ *Id.* at 13 (statement of Perry Grossman, Voting Rights Project Attorney, NYCLU).

⁹ *Id.* at 26 (statement of Susan Lerner, Exec. Dir., Common Cause/NY.).

¹⁰ Voting Rights Act Amendments of 2006, Determinations Under Section 203, 81 Fed. Reg. 87532 (Dec. 5, 2016), <https://www.federalregister.gov/documents/2016/12/05/2016-28969/voting-rights-act-amendments-of-2006-determinations-under-section-203>.

¹¹ Meeting of the Commissioners of Elections in the City of New York, N.Y.C. Bd. of Elec. 6-7 (Feb. 11, 2014), <http://vote.nyc.ny.us/downloads/pdf/documents/boe/minutes/2014/021114%20meet.pdf>.

¹² *Id.* at 7-8.

¹³ *Id.*

¹⁴ 52 U.S.C. § 10508.

¹⁵ *See, e.g.*, Consent Order, U.S. v. Miami-Dade County, No. 02-21698 (S.D. Fla. 2002); *see also Cases Raising Claims Under Section 208 of the Voting Rights Act*, U.S. DEP'T OF JUSTICE, www.justice.gov/crt/cases-raising-claims-under-section-208-voting-rights-act (last visited Aug. 25, 2018).

¹⁶ N.Y. ELEC. LAW § 8-306.

¹⁷ N.Y.C. BD. OF ELEC., CHINESE AND KOREAN LANGUAGE VOTING ASSISTANCE PROGRAM CHINESE LANGUAGE ACCESS PLAN 7-8 (Dec. 18, 2007) (on file with author).

¹⁸ MAYOR'S OFFICE OF IMMIGRANT AFFAIRS & MAYOR'S OFFICE OF OPERATIONS, LOCAL LAW 30 REPORT 14-23 (2018), <https://www1.nyc.gov/assets/immigrants/downloads/pdf/moia-report-LL30-june-2018.pdf>.

¹⁹ “We have also apprised the Board of a demonstrated need for Bengali language assistance at targeted poll sites in the Bronx and Brooklyn. Now, the Board is not covered under Section 203 for Bengali language assistance in those boroughs. But if there was a way that, through some type of language in the Charter that could require the Board to provide language assistance ... that would be extremely helpful.” June 12, 2018 CRC Forum at 52 (statement of Jerry Vattamala, Dir. Democracy Program, AALDEF), <https://www1.nyc.gov/assets/charter/downloads/pdf/CRC-Report-July-2018.pdf#page52>.

²⁰ *Id.*

²¹ *See* CAL. SEC'Y OF STATE'S LANGUAGE ACCESSIBILITY ADVISORY COMMITTEE, COUNTY LANGUAGE ACCESSIBILITY ADVISORY COMMITTEE TOOLKIT 3 (Aug. 2017), <http://elections.cdn.sos.ca.gov/laac/guide-create-local-laac.pdf> (outlining important diversity criteria).

²² *Id.*

²³ N.Y. ELEC. LAW §8-306(1)-(2).

²⁴ Meeting of the Commissioners of Elections in the City of New York, N.Y.C. Bd. of Elec. 6-8 (Feb. 11, 2014), <http://vote.nyc.ny.us/downloads/pdf/documents/boe/minutes/2014/021114%20meet.pdf>.

Proposed Charter Amendment Text

Section 1. Chapter 10 of the New York city charter is amended by adding a new section 225-a to read as follows:

§ 225-a. Citywide participatory budgeting. The mayor shall, consistent with this charter and other applicable law, establish a program to be implemented no later than the fiscal year beginning on July 1, 2020, to promote the participation of residents in identifying and expressing preferences among recommendations for local projects in their communities, and shall consider such projects for inclusion in the executive budget. The council, borough presidents, community boards, and city agencies shall, to the extent practicable, coordinate with the mayor and the civic engagement commission in implementing such program established pursuant to this section and section 3202.

§ 2. The New York city charter is amended by adding a new chapter 76 to read as follows:

Chapter 76. Civic Engagement Commission

§ 3200. Civic engagement commission. There shall be a civic engagement commission, the purpose of which is to enhance civic participation in order to enhance civic trust and strengthen democracy in New York city, including through the commission's own initiatives and partnership with public and private entities related to civic service, volunteerism, stewardship of public spaces, civic education, participatory budgeting, participation in community boards, civic organizations and community groups, and other related activities, and to support and encourage New Yorkers to meaningfully participate in civic life.

§ 3201. Membership of the commission. a. The commission shall consist of 15 members. The mayor shall appoint eight members, one of whom shall be designated by the mayor as its chair and shall serve as such at the pleasure of the mayor, and provided further that at least one of the mayor's appointees shall be enrolled in the political party that, based on the most recent data available as of 30 days before the initial date of the term for which the member is serving, had the highest total number of registered voters in the city, and at least one shall be enrolled in the political party that, based on the most recent data available as of 30 days before the initial date of the term for which the member is serving, had the next highest total number of registered voters in the city. The speaker of the city council shall appoint two members. Each borough president shall appoint one member. In appointing members to the commission, the mayor, speaker and borough presidents shall consider individuals who are representative of, or who have experience working with, immigrants, limited English proficient individuals, people with disabilities, students, youth, seniors, veterans, community groups, advocacy groups that seek to promote transparency and accountability in government or protect civil rights, and groups or categories of residents that have been historically underrepresented in or underserved by city government and its processes.

b. The first members, other than the chair, shall be appointed to serve as follows:

1. Three members appointed by the mayor for a term of two years;

2. Four members appointed by the mayor for a term of four years. Such members shall include at least one member who is enrolled in the political party that, based on the most recent data available thirty days before the initial date of the term for which the member is serving, had the highest total number of registered voters in the city, and at least one member who is enrolled in the political party that, based on the most recent data available thirty days before the initial date of the term for which the member is serving, had the next highest total number of registered voters in the city;

3. One member appointed by the speaker for a term of two years;

4. One member appointed by the speaker for a term of four years;

5. One member appointed by each of the borough presidents for a term of three years.

The first term shall commence on April 1, 2019. Thereafter, each member other than the chair shall be appointed by the mayor, the speaker, or a borough president, according to the original manner of appointment, for a term of four years. Upon expiration of the term of a member, if the appointing official shall fail to appoint a member within 120 days of the expiration of such term, the member whose term has expired shall be deemed appointed for an additional term of four years. In case of a vacancy, a member shall be appointed to serve for the remainder of the unexpired term according to the original manner of appointment of the member whose seat has become vacant. Each member shall be a resident of the city. No member shall serve as an officer of a political party, or be a candidate for nomination for election or

election to the office of mayor, public advocate, comptroller, borough president or member of the city council. Except with respect to the position of chair, no person shall be ineligible for membership on the commission because such person holds any other public office, employment or trust, nor shall any person be made ineligible to hold or forfeit such person's right to hold any public office, employment or trust by reason of such appointment.

c. The chair shall also serve as executive director. The chair and executive director shall have charge of the organization of the commission's office and have authority to employ, assign and superintend the duties of such officers and employees as may be necessary to carry out the provisions of this chapter. The chair and executive director shall devote his or her full time to the position and shall be entitled to compensation for the position.

d. The other members of the commission shall not be entitled to compensation for their service to the commission but shall be compensated for expenses actually and necessarily incurred in the performance of their duties, and provided further that a city employee may continue to receive regular compensation for city employment.

e. A majority of the whole number of members of the commission then in office shall constitute a quorum for the transaction of any business. The commission shall have power to act by a majority of its members.

§ 3202. Jurisdiction, powers and duties of the commission. a. The commission shall, subject to appropriation, have the power and duty to:

1. Citywide participatory budgeting. Implement any program established by the mayor acting in accordance with section 225-a to promote the participation of residents in identifying and expressing preferences among recommendations for local projects to be considered for inclusion in the executive budget. In developing a plan for implementation of such program, the commission shall:

(a) Provide opportunities for public participation throughout the city;

(b) Coordinate with borough presidents, community boards and other city agencies and elected officials to the extent practicable, in the development and implementation of such program;

(c) Establish a participatory budgeting advisory committee, which shall provide recommendations to the commission regarding the development and implementation of such program, which may include recommendations regarding best practices for outreach and education, use of technological tools to promote participation by a wide range of residents, reporting of demographic information, and methods to promote efficiency and equity in the administration of such program. In selecting the members of such committee, the commission shall consider whether individuals have knowledge and experience in the planning and management of city projects or in participatory budgeting; or are representative of or have experience working with immigrant communities, limited English proficient individuals, people with disabilities, youth, students, seniors, veterans, community groups, or groups or categories of residents that have been historically underrepresented in or underserved by city government and its processes. Any action or recommendation of

the participatory budgeting advisory committee shall be solely advisory in nature and shall have no binding effect on the commission or any other city agency.

(d) Establish multiple methods of public participation, which shall include but need not be limited to public meetings, online tools and other forms of community involvement;

(e) Establish that any resident of New York city at least 16 years of age shall be eligible for participation in such program regardless of immigration status, provided that the commission may promulgate rules establishing a minimum age requirement lower than 16 years and any restrictions the commission deems appropriate for the protection of minors;

(f) In consultation with the mayor's office of immigrant affairs, the mayor's office for people with disabilities, the department of youth and community development, the department for the aging, and the department of veteran services, identify and implement measures, including but not limited to staff training, community outreach, and language assistance tools, to promote participation in the program by a wide range of residents, including non-citizens, members of immigrant communities, residents under the age of 18 that are eligible to participate in the program pursuant to this section and the rules of the commission, students, seniors, veterans, people with disabilities, and limited English proficient individuals.

2. Community partnerships. Develop new initiatives to support and partner with community-based organizations, institutions and civic leaders in the public and private sectors in their civic engagement efforts, which may include, among other

activities, leadership skills development, stewardship of public spaces, youth and student engagement, civic education, and outreach to seniors, veterans, immigrant communities, groups or categories of residents that have been historically underrepresented in or underserved by city government and its processes, and communities and neighborhoods throughout the city.

3. Language access. Develop a plan to consider the language access needs of limited English proficient individuals in the development and implementation of the commission's programs and services, consistent with the requirements of section 23-1102 of the administrative code. Except with respect to services provided pursuant to paragraph 4 of this subdivision, the commission shall be deemed a covered agency pursuant to section 23-1101 of the administrative code.

4. Poll site language assistance program. (a) Subject to appropriation and after consultation with the mayor's office of immigrant affairs and the department of city planning, establish a program for providing language interpreters at poll sites throughout New York city for the purpose of facilitating participation by limited English proficient individuals in voting in elections held in the city. To the extent practicable, the commission shall consult and coordinate with the board of elections of the city of New York in the development and implementation of the program established pursuant to this paragraph.

(b) The commission shall establish a language assistance advisory committee to provide recommendations for the development and implementation of the program established pursuant to this paragraph and assist the commission's efforts to promote

public education and awareness regarding the program. To the extent practicable, there shall be at least one member of the committee with fluency in each of the designated citywide languages. In selecting the members of such committee, the commission shall also consider whether individuals have expertise in language accessibility or experience working with limited English proficient individuals within the city, and shall seek out individuals from diverse backgrounds. Any action or recommendation of the language assistance advisory committee shall be solely advisory in nature and shall have no binding effect on the commission or any other city agency.

(c) On or before January 1, 2020, the commission shall develop and make available on its website a proposed methodology, or proposed methodologies, to determine the poll sites and languages covered by such program, consistent with the following:

i. The commission shall determine which poll sites are likely to have a significant concentration of limited English proficient speakers of designated citywide languages, as such term is defined in section 23-1101 of the administrative code, based on neutral criteria, which shall include consideration of the following information, where available, provided that the commission shall not be required to include any particular category of information in its methodology if, after consideration, it determines that such category should not be included:

A. Relevant data from the most recent American Community Survey from the United States census bureau;

B. The locations of poll sites and the boundaries of election districts;

C. Information related to voter turnout;

D. Such other information as deemed appropriate by the commission, which may include the results of a surname analysis of registered voters;

ii. Notwithstanding any other provision of this paragraph, the commission shall not provide interpreter assistance in a language covered by the voting rights act in a jurisdiction where such language has been determined to be a covered language pursuant to such law;

iii. Notwithstanding any other provision of this paragraph, the commission shall not provide interpreter assistance at a poll site where the board of elections of the city of New York has stated an intention to provide the same service in the same language;

iv. The commission may make a determination to provide interpreters in any language that is not deemed a designated citywide language, as such term is defined in section 23-1101 of the administrative code, where: (A) the number of limited English proficient speakers of such language within New York city is greater than the number of limited English proficient speakers of the lowest ranking designated citywide language, based on United States census data, as determined by the department of city planning and the office of the language services coordinator, and (B) at least one poll site is likely to have a significant concentration of limited English proficient speakers of such language.

(d) On or before April 1, 2020, the commission shall publish a final methodology to determine the poll sites and languages covered by such program after accepting public comments for at least 30 days and conducting at least one public hearing on the methodology proposed pursuant to subparagraph (c) of this paragraph.

(e) Subject to appropriation, the commission shall implement such program no later than the general election held in 2020.

(f) On or before September 1, 2022 and at least every five years thereafter, the commission shall review the final methodology established pursuant to subparagraph (d) of this paragraph and the poll sites and languages covered by such program and, after consultation with the mayor's office of immigrant affairs and the department of city planning, shall update such methodology and such poll sites and languages as deemed appropriate by the commission in accordance with the criteria described in clauses i through iv of subparagraph (c) of this paragraph, after consideration of newly available United States census data or other relevant data, provided that the commission shall also consider the degree to which interpreter services provided pursuant to this paragraph were utilized at each covered poll site in previous elections. The commission shall publish any updates to such methodology or to the poll sites and languages covered by such program on the commission's website.

(g) In consultation with the mayor's office of immigrant affairs, the commission shall promulgate rules establishing minimum standards and training requirements for individuals who provide interpreter assistance pursuant to this paragraph, which shall include at a minimum, a requirement that such individuals shall comply with

all applicable laws, including prohibitions on electioneering, and shall comply with all lawful orders from staff of the board of elections of the city of New York.

(h) The commission shall develop a plan to notify the public of the languages and poll sites covered by the program established pursuant to this paragraph in advance of each election at which such services will be offered and shall utilize strategies to promote public education and awareness regarding the program.

(i) The commission shall develop a process to monitor and timely respond to public complaints regarding the program.

(j) Any interpreter services performed by the commission or agent thereof pursuant to this paragraph shall not be construed to supplant, replace, or satisfy any obligations or responsibilities of the board of elections of the city of New York.

(k) Nothing in this paragraph or the administration or application thereof shall be construed to create a private right of action on the part of any person or entity against the city or any agency, official, or employee thereof;

5. Partnerships with city agencies. Conduct programming in partnership with other city agencies to increase awareness of and access to city services and public engagement processes, create tools to assist city agencies in developing and promoting civic engagement initiatives, and develop strategies to centralize public information about opportunities for civic engagement in the city and to make such information accessible to all city residents, including strategies for outreach to groups or categories of residents that have been historically underrepresented in or underserved by city government and its processes;

b. Reporting. No later than September 30, 2021, and by September 30 of each year thereafter, the commission shall submit to the mayor and the speaker of the council and shall make available on the commission's website a report that shall include the following information for the previous fiscal year, or as otherwise specified:

1. With respect to the citywide participatory budgeting program established pursuant to section 225-a and paragraph 1 of subdivision a of this section:

(a) The number of individuals who participated in the program, disaggregated by borough, and any voluntarily disclosed demographic information about participants, as deemed appropriate by the commission, reported in aggregate and anonymized form;

(b) The number of projects selected for recommendation, disaggregated by borough;

(c) A description of the public outreach tools employed to promote participation in the program;

(d) Any recommendations for changes to enhance participation or other aspects of the program;

(e) Such other information that the commission deems relevant.

2. The locations of poll sites at which interpreters were provided pursuant to paragraph 4 of subdivision a of this section, the languages provided, and the number of individuals who utilized such language interpretation services, disaggregated by

poll site, as well as any recommended changes to better serve the needs of limited English proficient voters; and

3. Any other information the commission deems relevant.

c. Nothing in this chapter shall be construed to limit the authority or powers of the voter assistance advisory committee, the campaign finance board or the board of elections of the city of New York or the enforcement of applicable laws or rules promulgated or enforced by such agencies.

d. Additional powers and duties. Notwithstanding any inconsistent provision of law, the mayor shall be authorized to assign by executive order any powers and duties performed by the executive office of the mayor, any other office of the mayor or any department the head of which is appointed by the mayor to the civic engagement commission, where such powers and duties are directly related to the mission of the civic engagement commission as described in section 3200 or otherwise in this chapter. The mayor may withdraw or modify any such order at any time.

§ 3204. Cooperation of mayoral agencies. Heads of mayoral agencies shall cooperate to the extent practicable with the civic engagement commission in the development and implementation of its initiatives to strengthen civic engagement in New York city and shall offer assistance as practicable to the commission in the carrying out of the functions stated in this chapter.

§ 3. Section 1152 of the New York city charter is amended by adding a new subdivision 1, paragraph (2) to read as follows:

1. (2) (a) The amendments to the charter adding section 225-a and chapter 76, approved by the electors on November 6, 2018, shall take effect on April 1, 2019, and thereafter shall control as provided with respect to all the powers, functions and duties of officers, agencies and employees, except as further specifically provided in other sections of this charter.

(b) Officers and employees of the city shall take any actions as are necessary and appropriate to prepare for the implementation of such amendment prior to April 1, 2019.

Ballot Proposal

Question # 2: Civic Engagement Commission

This proposal would amend the City Charter to:

Create a Civic Engagement Commission that would implement, no later than the City Fiscal Year beginning July 1, 2020, a Citywide participatory budgeting program established by the Mayor to promote participation by City residents in making recommendations for projects in their communities;

Require the Commission to partner with community based organizations and civic leaders, as well as other City agencies, to support and encourage civic engagement efforts;

Require the Commission to establish a program to provide language interpreters at City poll sites, to be implemented for the general election in 2020;

Permit the Mayor to assign relevant powers and duties of certain other City agencies to the Commission;

Provide that the Civic Engagement Commission would have 15 members, with 8 members appointed by the Mayor, 2 members by the City Council Speaker and 1 member by each Borough President; and

Provide for one of the Mayor's appointees to be Commission Chair and for the Chair to employ and direct Commission staff.

Shall this proposal be adopted?

Abstract

This proposal would establish a new Civic Engagement Commission in order to enhance civic participation, promote civic trust, and strengthen democracy in New York City. The Commission would consist of 15 members. Of the 15 members, the Mayor would appoint eight members, including at least one member from the largest political party and at least one member from the second largest political party; the Speaker of the City Council would appoint two members; and each Borough President would appoint one member. The Mayor, Speaker, and Borough Presidents would be required to consider candidates who are representative of, or have experience working with, immigrants, individuals with limited English proficiency, people with disabilities, students, youth, seniors, veterans, community groups, good government groups, civil rights advocates, and categories of residents that are

otherwise historically underrepresented in or underserved by City government.

Members of the Commission, who must be residents of the City, would be prohibited from serving as an officer of a political party or being a candidate for nomination or election to the office of Mayor, Public Advocate, Comptroller, Borough President, or City Council Member. Commissioners other than the Chair, who would serve at the pleasure of the Mayor, would serve four-year terms, except that initial appointees, whose terms would commence on April 1, 2019, would serve terms ranging from two to four years. This ensures that terms of members end in different years, with the purpose of preventing wholesale turnover of the commission and promoting continuity.

The Mayor would designate a Chair, who would also serve as the Executive Director, from among his or her appointees to the Civic Engagement Commission. The Chair/Executive Director would be charged with the organization and staffing of the office.

The Civic Engagement Commission would have, subject to appropriation, the following powers and duties:

- Implement a Citywide participatory budgeting program established by the Mayor, to be implemented no later than the Fiscal Year beginning on July 1, 2020, and establish a participatory budgeting advisory committee;
- Develop new initiatives to support and partner with community-based organizations, institutions, and civic leaders in the public and private sectors in their civic engagement efforts;
- Develop a plan to consider the language access needs of limited English proficient New Yorkers in developing and implementing its programs and services;
- Establish a program for providing language interpreters at poll sites in New York City to be implemented in the 2020 general election and a language assistance advisory committee to provide recommendations for such program; and
- Partner with New York City agencies to increase awareness of and access to City services, assist the agencies in developing and promoting civic engagement initiatives, and develop strategies to centralize public information about opportunities for civic engagement.

The Commission would also be required to annually report on participatory budgeting, poll site language assistance, and any other information it deems relevant.

The Mayor would be authorized to transfer to the Commission, by executive order, any directly related powers and duties currently being performed by the Mayor's Office or any department whose head is appointed by the Mayor. Heads of Mayoral agencies would be required to cooperate with and offer assistance to the Commission in carrying out its functions.

If approved by the voters, these amendments would take effect on April 1, 2019.

C. Community Boards

More than 50 years after their addition to the Charter, community boards remain a vital way for New Yorkers to participate in the civic life of their neighborhoods. The City's 59 community boards—one for each community district—discuss, vote, and advise on land use matters, liquor licenses, traffic safety, and other issues affecting the day-to-day lives of those who reside and work in their communities. They also contribute a uniquely local perspective to decision-making at the City level with respect to the budget, land use, and the delivery of services.

Members of community boards, as well as other members of the public, elected officials, academics, good government groups, and experts, provided extensive testimony and comment on community boards. The Commission heard about the significant contributions of New Yorkers who volunteer their time, skills, and energy to their local communities. The Commission also heard that some community boards do not always live up to their potential to transmit and amplify the voices of all members of the community. Some of these perspectives, as well as the Charter provisions regarding the appointment and qualifications of community board members, are summarized in Section II.D of the Preliminary Staff Report.

Summary of Proposed Charter Amendments

The Commission proposes the following amendments to the Charter in order to help make community boards more reflective of the communities they represent and more effective in that representation. These amendments, if approved by the voters, would become effective on January 1, 2019, except that the amendments requiring the proposed Civic Engagement Commission to provide resources to community boards would take effect April 1, 2019.

Better Representation Through Term Limits

Under the Charter, members of community boards are appointed by Borough Presidents, with input from Council Members and community groups. Members serve staggered two-year terms, without limit to the number of terms.¹

The Commission received a large volume of testimony and comment on the question of term limits, including from Borough Presidents and current and former community board members. After careful consideration of the record and arguments in favor of and against term limits, the Commission proposes limiting appointment of community board members to four consecutive two-year terms. Members who previously served for the maximum

number of consecutive terms would not be barred from re-appointment after one full term out of office. This term limit would be effective for appointments or reappointments on or after April 1, 2019, and terms served before this date would not count toward the limit. A limit of five consecutive two-year terms would be permitted for a single class of community board members appointed or reappointed for terms commencing on April 1, 2020, for the purposes of staggering implementation of the provision and preventing a situation in which half of the members of a community board would reach their limit in 2027 and the other half in 2028.

A limit of four consecutive two-year terms would be consistent with the term limits for elected City officials. The Mayor, Public Advocate, Comptroller, Borough President, and Council Members may each serve in their positions for a total of two consecutive full terms, or generally eight years, as codified by a Charter amendment adopted by the voters on a ballot proposal from the 2010 Charter Revision Commission.²

The adoption of term limits by the voters, this time for appointees to community boards, would create an opportunity for new voices on all community boards, while allowing boards to continue benefiting from the institutional knowledge and memory of experienced members. As some community board members testified, some community boards already experience a consistent level of turnover among their members, leading to boards that change as their communities do and that feature a healthy balance of new and veteran members. But, according to other community board members and the Borough President of Brooklyn, the absence of term limits has created opportunities for, at times, the repeated re-appointment of the same members for long periods, even decades. As a result, not all community boards reflect, in membership or leadership, the diversity of the communities they serve. This disparity becomes particularly pronounced as the demographics of communities change over time, leading to boards that are perceived as being out of step with the needs and desires of their communities. For example, one member of the public testified about a community board that voted against allowing a nonprofit organization to build a new health clinic that would have served low-income immigrants in the community, because of concerns about parking availability.³

All community boards should be able to take advantage of the full range of human resources in the communities they serve. As one member of the public put it, “term limits ensure that new ideas are given a platform to be evaluated, fresh voices are given the opportunity to be heard, and new leaders are given the opportunity to serve their communities.”⁴ Term limits present an

opportunity for Borough Presidents to recruit and enlist those who have not been traditionally engaged in the work of community boards, and for all community boards to act as training grounds for nurturing new civic leaders. New members and leaders bring diverse backgrounds, experiences, and perspectives to the table, leading to decision-making that is informed, creative, responsive, and rigorously tested. Inclusive decision-making may also strengthen public confidence in community boards, and attract more interest among potential applicants who see community boards as a place where all are welcome.

At the same time, this proposal would allow experienced members to continue contributing to community boards in critical ways. The Commission believes that its recommendation, as crafted, responds to and allays the concern expressed by the Borough Presidents of Manhattan, Queens, Staten Island, and the Bronx and some community board members that establishing term limits could lead to a “brain drain.”⁵ Terms served prior to the effective date would not count toward the limit and implementation of the limit would be staggered, creating an eight-to-ten year transitional period during which longer-serving members could help train or mentor newer members. Experienced members who are term-limited could continue to serve in a non-voting capacity, including by participating in meetings and discussions, serving on committees, and sharing their expertise. They may also be reappointed after a full term out of office to serve another eight years. Finally, any potential loss of institutional knowledge and expertise could be offset by providing additional professional resources, particularly on complex matters such as land use, as described below.

A More Uniform and Transparent Appointment Process

The Charter provides for the nomination and appointment of community board members. For each community district, the Borough President appoints up to 50 members, at least half of whom must be nominated by the Council Members whose Council districts include any part of the community district. Council Member nominees must be appointed in proportion to the share of the Council district population represented by each Council Member. The Borough President must also “assure adequate representation from the different geographic sections and neighborhoods within the community district,” and “consider whether the aggregate of appointments fairly represents all segments of the community.”⁶

Members must meet certain limited, at times broadly defined qualifications. They must reside in the City⁷ and maintain a residence, business, professional, or “other significant interest” in the community

district.⁸ Not more than 25% of the appointed members may be City employees,⁹ and none may be employees of the Borough President or nominating Council Member.¹⁰ Members must be at least 16 years old,¹¹ and no more than two members of each community board shall be less than 18 years of age.¹²

Recruitment and application practices vary across boroughs, and information about these processes is not always easily accessible to the public. All five boroughs permit submission of paper applications, and, as of August 2018, four Borough Presidents post paper applications online and three Borough Presidents provide for online application and submission.¹³ The applications vary in content and form; for example, the Borough Presidents of Manhattan and Staten Island require applicants to explain their interest in serving on a community board.¹⁴ Information on how applicants are recruited and selected to serve on community boards, and the composition of community boards, is not readily available.

The Commission proposes several changes to the process of recruiting, selecting, and appointing community board members.

First, Borough Presidents would be charged with seeking, beyond geographic diversity, persons of diverse backgrounds—including with regard to race, ethnicity, gender, age, disability status, sexual orientation, and language—to apply for appointment to community boards.

Second, Borough Presidents would be required to make applications for community board membership available on their websites and to seek certain information on applications. At a minimum, Borough Presidents would be required to seek information related to the applicant's identity (name, age, and address); interest in the community district; qualifications (work and education history, special skills, professional licenses, and any other relevant experience); past service on a community board; optional demographic information, which applicants could volunteer to provide; and "any additional information that the borough president determines to be relevant or necessary to the application process." Borough Presidents would also be required to seek a statement describing the applicant's interest, certain relevant disclosures with regard to City employment and conflicts of interest, and a certification that the applicant meets all requirements for the position and will abide by conflicts of interest laws. The Department of Information Technology and Telecommunications (DOITT) would be required to provide assistance to Borough Presidents in developing this application and making it readily accessible online.

Third, Borough Presidents would be required to publish an annual report disclosing information about community board membership and the recruitment and selection process. Starting in 2019, each Borough President would be required to submit, by July 1 of each year (covering the previous calendar year), the report to the Mayor and the Speaker of the City Council and make it available on the Borough President's website. Specifically, the report would include the number of vacant community board member positions, the number of applicants for open positions, the number of applicants interviewed, and the names of community board members and their dates of appointment or reappointment, length of service, and nominating Council Member or party and community board leadership positions, if any. The report would also include demographic information about community board members that was voluntarily disclosed, in aggregated and anonymized form, for each community board; the Borough President's plan for recruiting candidates and filling vacancies, including a description of outreach efforts and methods used to seek a diverse and inclusive pool of candidates; a general description of the evaluation criteria used to select members; and any tools used in the selection process, such as a screening panel.

The Commission believes that these reforms, taken together, provide greater transparency and uniformity in the process for appointing members to community boards, while preserving sufficient flexibility for Borough Presidents in exercising their appointment authority. The Commission heard testimony that aspects of the current process are sometimes opaque and inconsistent across boroughs, which creates a perception among some members of the community that the process is not fair or merit-based. This perception detracts from public confidence in community boards and discourages new applicants.

Requiring Borough Presidents to affirmatively seek out persons of diverse backgrounds would enlarge the pool of potential applicants, which could be particularly helpful for those community boards plagued by vacancies. Requiring Borough Presidents to make applications available on their websites is a simple, low cost, and effective way of making it easier for potential applicants to pursue their interest and of equalizing access to the opportunity to serve on community boards. Finally, annual reporting ensures that Borough Presidents are equipped with helpful and relevant information in making appointments, and provides a window through which the public may better understand, and have confidence in, the process for recruiting, evaluating, and selecting applicants for community board membership.

More Resources for Community Boards

The Charter directs several City entities and officials to support community boards in their work. City agencies, the Department of City Planning (DCP), Borough Presidents, and the Conflicts of Interest Board are required to provide, in various contexts, information, assistance, and training to community boards.¹⁵ Community boards are also authorized to use the services of professional staff and consultants, as appropriate, and other assistants as required.¹⁶ Nevertheless, the Commission received many comments expressing the view that the current level of support is inadequate, and that the lack of support frustrates the ability of community boards to effectively meet their Charter responsibilities.¹⁷

The Commission proposes providing additional support to community boards, with a focus on the areas of land use, language assistance, and technology. The Civic Engagement Commission proposed by the Charter Revision Commission would be required—in consultation and coordination with DCP, other relevant City agencies, and with the Borough Presidents to the extent practicable—to provide additional resources and training to community boards, subject to appropriation. Specifically, the Civic Engagement Commission would be directed to identify qualified firms, professional staff members, or consultants to provide urban planning or other technical assistance related to land use, and to administer a program for providing such services to community boards upon request. The Civic Engagement Commission would also be directed, in consultation with the Mayor’s Office of Immigrant Affairs (MOIA), to identify and provide services requested by community boards to address the needs of limited English proficient individuals. Finally, the Civic Engagement Commission would be required to develop and provide training and other assistance to community boards, which may include but need not be limited to assistance in utilizing technological tools and assistance in developing uniform meeting procedures.

The Civic Engagement Commission would be required to include in its annual report a description of the categories of resources made available and the number of community boards that utilized these categories, disaggregated by borough, and any recommended changes to better serve the boards’ needs.

Furthermore, DOITT would be directed to provide assistance and support to community boards, which would in turn be required to maintain websites that provide adequate public notice of upcoming meetings, minutes from past meetings for the past twelve months, and contact information.

The Commission's decision to focus on resources connected to land use reflects the importance of the role of community boards in the development of community based plans and in the Uniform Land Use Review Procedure (ULURP), the public review process for considering certain land use proposals.¹⁸ As the Commission heard at its public hearings, in order for community board members to effectively advise on land use matters, they must be able to understand a host of complex and nuanced issues and to work across the table from experienced real estate developers, lobbyists, and technical advisors. Accordingly, the Charter requires DCP and the Borough Presidents to provide assistance with respect to land use matters to community boards, which, in practice, includes training and orientation of new members and, in DCP's case, making staff members available to answer day-to-day questions from community boards, as they arise.

The Charter also assigns to DCP, the Borough Presidents, and community boards discrete roles in ULURP,¹⁹ and there are times when they may have valid differences of opinion regarding ULURP applications. The Civic Engagement Commission, if created, would be well-positioned to provide community board members with access to the kind of independent expertise necessary to understand and evaluate the impact of land use proposals in their community. As a multi-member body containing appointees of the Mayor, City Council, and Borough Presidents and lacking a formal role in ULURP, the Civic Engagement Commission would have no institutional stake in the merits of any particular land use proposal. It would be required to identify qualified firms, professional staff members, or consultants who, likewise, do not have a stake in the land use matter for which they would be assisting a community board. It would also be required to seek to ensure that resources are accessible to all community boards and administered in a neutral and impartial manner, to seek to ensure that community boards may direct providers in a manner consistent with their needs and objectives, and to give community boards a way to provide feedback regarding these resources. Moreover, providing resources upon request, subject to appropriation, would be a cost-effective way to respond to unmet needs. Community boards are not uniform in these needs, which may depend on the level of land use activity in the community district and the density of professional skills available.

In addition to providing resources related to land use, the Commission proposes providing language assistance and technological resources to community boards in order to ensure that their work is visible, accessible, and inclusive. The City is home to 3.1 million immigrants—nearly 38% of the City's population—who speak more than 150 languages, and certain neighborhoods have particularly high concentrations of immigrant residents.²⁰ Making

language assistance available to community boards would assist them in ensuring that their work is accessible to and inclusive of all New Yorkers in their community districts, including those with limited English proficiency. Finally, although nearly all community boards have websites, the websites vary in content and how frequently they are updated. Equipping all community boards with the resources to maintain and update a website, along with other technological tools and resources, would allow interested members of a community to stay informed and get involved.

¹ N.Y.C. CHARTER § 2800(a).

² CHARTER § 1138.

³ May 3, 2018 CRC Hearing, at 59-60 (statement of John Cho), <https://www1.nyc.gov/assets/charter/downloads/pdf/meeting-transcript-20180503.pdf>.

⁴ E-mail from Taehoon Kim, Greater Flushing Chamber of Commerce, to N.Y.C. Charter Revision Comm’n (July 18, 2018, 15:05 EST).

⁵ Letter from Gale A. Brewer, Manhattan Borough President, Ruben Diaz, Jr., Bronx Borough President, Melinda Katz, Queens Borough President, and James Oddo, Staten Island Borough President, to Cesar Perales, Chair, N.Y.C. Charter Revision Comm’n (Aug. 21, 2018).

⁶ CHARTER § 2800(a).

⁷ N.Y. PUB. OFF. LAW § 3(1).

⁸ CHARTER § 2800(a).

⁹ *Id.*

¹⁰ CHARTER §§ 1135, 2604(b)(3).

¹¹ PUB. OFF. LAW § 3(1).

¹² CHARTER § 2800(a).

¹³ *See Community Boards*, MANHATTAN BOROUGH PRESIDENT, <http://manhattanbp.nyc.gov/html/community-boards/community-boards.shtml> (last visited Aug. 30, 2018) (containing information regarding the online portal for 2018 cycle Manhattan community board applicants); Manhattan Community Board 2018 Application, <http://manhattanbp.nyc.gov/downloads/pdf/CBApplication2018-singlepage-8pg.pdf> (electronic copy of paper application document for 2018 cycle Manhattan community board applicants); Queens Community Board Membership Application, <http://www.queensbp.org/wp-content/uploads/2015/12/Community-board-membership-application-2015.pdf> (electronic copy of paper application featured on the Queens Borough

President's website); Application for Staten Island Community Board Membership, www.statenislandusa.com/uploads/8/9/8/7/89877849/community_board_application.pdf (electronic copy of paper application document featured on the Staten Island Borough President's website); *Application for Staten Island Community Board Membership*, STATEN ISLAND BOROUGH PRESIDENT, <https://www.statenislandusa.com/cbapplication.html> (last visited Aug. 30, 2018) (online portal for Staten Island community board applicants); *Community Board Membership Application*, OFFICE OF THE BROOKLYN BOROUGH PRESIDENT, <http://www.brooklyn-usa.org/community-board-membership-application/> (last visited Aug. 30, 2018) (online portal for Brooklyn community board applicants); Brooklyn Community Board Membership Application, <http://www.brooklyn-usa.org/wp-content/uploads/2018/05/2019-Community-Board-Application-Hard-Copy.pdf> (paper-based application document featured on the Brooklyn Borough President's website).

¹⁴ See Manhattan Community Board 2018 Application, <http://manhattanbp.nyc.gov/downloads/pdf/CBApplication2018-singlepage-8pg.pdf> (electronic copy of paper application document for 2018 cycle Manhattan community board applicants); Application for Staten Island Community Board Membership, www.statenislandusa.com/uploads/8/9/8/7/89877849/community_board_application.pdf (electronic copy of paper application document featured on the Staten Island Borough President's website).

¹⁵ CHARTER § 2800(e) (City agencies); *id.* § 191(b)(5) (Department of City Planning); *id.* § 82(9), (12) (Borough Presidents); *id.* § 2603(b) (Conflicts of Interest Board). See also N.Y.C. CHARTER REVISION COMM'N, 2018 PRELIMINARY STAFF REPORT, at 89-90 (2018), <https://www1.nyc.gov/assets/charter/downloads/pdf/CRC-Report-July-2018.pdf>.

¹⁶ CHARTER § 2800(f), (g).

¹⁷ N.Y.C. CHARTER REVISION COMM'N, at 89-91 (2018).

¹⁸ CHARTER §§ 197-a, 197-c, 197-d.

¹⁹ See *id.* §§ 197-c, 197-d.

²⁰ N.Y.C. MAYOR'S OFFICE OF IMMIGRANT AFFAIRS, STATE OF OUR IMMIGRANT CITY 9, 13 (Mar 2018) https://www1.nyc.gov/assets/immigrants/downloads/pdf/moia_annual_report_2018_final.pdf.

Proposed Charter Amendment Text

Section 1. Section 82 of the New York city charter is amended by adding a new subdivision 17 to read as follows:

17. a. No later than July 1, 2019, and by July 1 of each year thereafter, each borough president shall submit to the mayor and the speaker of the council and shall make available on the borough president's website a report in a format that is searchable and downloadable that shall include the following information for the previous calendar year, or as otherwise specified:

(i) The names of persons serving in community board member positions in the previous calendar year, disaggregated by community district, including the first date of appointment, dates of reappointment, if any, length of service, nominating council member or other nominating party, and community board leadership positions, if any;

(ii) Demographic information about community board members voluntarily disclosed pursuant to clause (v) of subparagraph 1 of paragraph b of this subdivision for each community board in an aggregate form that is anonymized, provided, however, that age shall be reported in 10 year age ranges, and provided further that no information shall be required to be reported pursuant to this subparagraph if such information may be withheld from disclosure pursuant to article 6 of the New York public officers law;

(iii) The number of vacant community board member positions within the borough, disaggregated by community district;

(iv) A description of the borough president's recruitment plan for filling vacant community board member positions, including:

(a) A description of outreach efforts to publicize community board member openings; and

(b) The particular methods used to seek out candidates for membership from diverse backgrounds, including with regard to race, ethnicity, gender, age, disability status, sexual orientation, language, geographic residence, and other characteristics the borough president deems relevant to promoting diversity and inclusion of under-represented groups and communities within community boards;

(v) The number of applicants for open community board member positions received, disaggregated by community district;

(vi) The number of persons interviewed for open community board member positions, disaggregated by community district;

(vii) A general description of the evaluation criteria followed in the selection process;

(viii) Any particular tools employed by such borough president in the selection process, such as the use of a screening panel;

b. 1. Each borough president shall make available on the borough president's website an application for community board member positions, which shall include, but not be limited to, the following information regarding the applicant:

(i) Name and address;

(ii) Residence, business, professional or other significant interest in the community district;

(iii) Past service on a community board, including prior appointment dates and number and length of prior terms served;

(iv) Age, if less than 18 years old, or a certification that the applicant is at least 18 years old;

(v) The option to provide additional demographic information, including age, gender, race, ethnicity, sexual orientation, disability status, languages spoken, or other demographic information the applicant chooses to disclose, together with a notification that such information will be made public in aggregate and anonymized form as provided in subparagraph (ii) of paragraph a of this subdivision;

(vi) Work and education history, special skills, and professional licenses;

(vii) Relevant professional, civic or community involvement experience;

(viii) Disclosure of city employment as such term is used in subdivision (a) of section 2800;

(ix) Disclosure of potential conflicts of interest;

(x) Statement describing the applicant's interest in the community board member position;

(xi) A certification that the applicant meets all requirements for the position of community board member pursuant to subdivision a of section 2800 and section 1135 and any other applicable law and, if appointed, will abide by all applicable conflicts of interest laws; and

(xii) Any additional information that the borough president determines to be relevant or necessary to the application process.

2. The department of information technology and telecommunications shall provide assistance to borough presidents in developing such an application and making the application readily accessible to the public online.

§ 2. Subdivision a of section 2800 of the New York city charter, as amended by chapter 251 of the laws of 2014, is amended to read as follows:

a. For each community district created pursuant to chapter sixty-nine there shall be a community board which shall consist of (1) not more than fifty persons appointed by the borough president [for staggered terms of two years], at least one-half of whom shall be appointed from nominees of the council members elected from council districts which include any part of the community district, and (2) all such council members as non-voting members. The number of members appointed on the nomination of each such council member shall be proportional to the share of the district population represented by such council member. The city planning commission, after each council redistricting pursuant to chapter two-A, and after each community redistricting pursuant to section twenty-seven hundred two, shall determine the proportion of the community district's population represented by each council member. Copies of such determinations shall be filed with the appropriate borough president, community board, and council member. Members appointed to community boards shall be appointed to serve staggered terms of two years. One-half of the members appointed to any community board shall serve for a term of two years

beginning on the first day of April in each odd-numbered year in which they take office and one half of the members appointed to any community board shall serve for a term of two years beginning on the first day of April in each even-numbered year in which they take office. Members shall serve until their successors are appointed but no member may serve for more than sixty days after the expiration of his or her original term unless reappointed by the borough president, and provided further that no person shall be eligible to be appointed as a community board member if that person has previously held such appointment for four or more consecutive full terms that commenced on or after April 1, 2019, unless one full term or more has elapsed since that person last held such office; provided however, that in the case of a community board member appointed or re-appointed for a term that commenced on April 1, 2020, the borough president may appoint such member for up to five consecutive terms commencing on such date. Not more than twenty-five percent of the appointed members shall be city employees. No more than two members shall be less than eighteen years of age. No person shall be appointed to or remain as a member of the board who does not have a residence, business, professional or other significant interest in the district. The borough president shall assure adequate representation from the different geographic sections and neighborhoods within the community district. In making such appointments, the borough president shall consider whether the aggregate of appointments fairly represents all segments of the community. The borough president shall seek out persons of diverse backgrounds, including with regard to race, ethnicity, gender, age, disability status, sexual

orientation, language, and other characteristics the borough president deems relevant to promoting diversity and inclusion of under-represented groups and communities within community boards, to apply for appointment. Community boards, civic groups and other community groups and neighborhood associations may submit nominations to the borough president and to council members.

§ 3. Paragraph (21) of subdivision d of section 2800 of the New York city charter, as added by a vote of the electors on November 7, 1989, is amended and a new paragraph (22) is added to read as follows:

(21) Conduct substantial public outreach, including identifying the organizations active in the community district, maintaining a list of the names and mailing addresses of such community organizations, and making such names and, with the consent of the organization, mailing addresses available to the public upon request; and

(22) With assistance and support from the department of information technology and telecommunications, maintain a website that provides adequate public notice of upcoming meetings, minutes from past meetings for the past twelve months, and contact information for the board.

§ 4. The New York city charter is amended by adding a new section 3203 to read as follows:

§ 3203. Assistance to community boards. a. Subject to appropriation, the civic engagement commission shall provide assistance and training to community boards, in consultation and coordination with the department of city planning and other

relevant city agencies and with borough presidents to the extent practicable, including but not limited to:

1. Identifying qualified firms, professional staff members or consultants to provide urban planning or other technical assistance related to land use who do not otherwise have an interest in land use proposals with respect to which they are providing assistance, and administering a program for providing such services to community boards upon request. In administering such a program, the commission shall, to the extent practicable: seek to ensure that available resources are accessible to all community boards and that such resources are administered in a neutral and impartial manner; seek to ensure that such resources are provided in a manner that allows community boards to direct any provider of professional services in a manner that is consistent with their needs and objectives; and provide a mechanism for community boards to provide feedback regarding resources provided pursuant to this paragraph;

2. To the extent practicable, in consultation with the mayor's office of immigrant affairs, identifying and providing services requested by community boards to address the needs of limited English proficient individuals, including but not limited to staff training, community outreach, and language assistance tools; and

3. Developing and providing training and other assistance to community boards, which may include but need not be limited to assistance in utilizing technological tools and assistance in developing uniform meeting procedures.

b. Reporting. The commission shall include in its annual report a description of the categories of resources made available to community boards pursuant to this section and the number of community boards that utilized each category of resources, disaggregated by borough, as well as any recommended changes to better serve the needs of community boards.

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

l. (3)(a) The amendments to the charter amending section 82 and subdivisions a and d of section 2800, approved by the electors on November 6, 2018, shall take effect on January 1, 2019, and thereafter shall control as provided with respect to all the powers, functions and duties of officers, agencies and employees, except as further specifically provided in other sections of this charter.

(b) Officers and employees of the city shall take any actions as are necessary and appropriate to prepare for the implementation of such amendment prior to such date.

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

l. (4) The amendments to the charter adding section 3203, approved by the electors on November 6, 2018, shall take effect on April 1, 2019, and thereafter shall control as provided with respect to all the powers, functions and duties of officers, agencies and employees, except as further specifically provided in other sections of this charter. Officers and employees of the city shall take any actions as are necessary

and appropriate to prepare for the implementation of such amendment prior to such date.

Ballot Proposal

Question #3: Community Boards

This proposal would amend the City Charter to:

Impose term limits of a maximum of four consecutive full two-year terms for community board members with certain exceptions for the initial transition to the new term limits system;

Require Borough Presidents to seek out persons of diverse backgrounds in making appointments to community boards. The proposal would also add new application and reporting requirements related to these appointments; and

If Question 2, “Civic Engagement Commission,” is approved, require the proposed Civic Engagement Commission to provide resources, assistance, and training related to land use and other matters to community boards.

Shall this proposal be adopted?

Abstract

The City’s community boards are advisory bodies with a formal role designated by the City Charter in various matters, including land use. This Charter amendment would: (a) impose term limits of a maximum of four consecutive full two-year terms for community board members with certain exceptions for the initial transition to the new term limits system; (b) require Borough Presidents to seek out persons of diverse backgrounds in making appointments to community boards and set forth application and reporting mandates related to such appointments; and (c) require the proposed Civic Engagement Commission to provide resources, assistance, and training related to land use and other matters to community boards.

Term Limits. Community board members are appointed by the Borough Presidents, with input by City Council Members and community groups. For each community district, the Borough President appoints up to 50 community board members for staggered two-year terms. The Charter does not currently impose term limits for community board members. This proposal would limit appointment of community board members to four consecutive two-year terms, starting with terms for which appointments or reappointments are made on or after April 1, 2019. However, members appointed or reappointed for a term commencing on April 1, 2020, could be reappointed for up to five consecutive two-year terms, in order to prevent a heavy turnover of community board membership in 2027 and 2028. Appointments made for terms

commencing after April 1, 2020, would be subject to four consecutive two-year term limits. These term limits would be prospective only; terms served before April 1, 2019, or April 1, 2020, would not count toward the term limits that start on those dates. Additionally, members who have served for the maximum number of consecutive terms would not be barred from re-appointment after one full term out of office.

Appointment Process. The Charter provides for the nomination and appointment of community board members. Under the Charter, the Borough President must assure adequate representation from the different geographic sections and neighborhoods within the community district, and consider whether the aggregate of appointments fairly represents all segments of the community. Members must reside in the City and maintain a residence, business, professional, or other significant interest in the community district. Not more than 25% of the appointed members may be City employees, and none may be employees of the Borough President or nominating City Council Member. Members must be at least 16 years old, and no more than two members of each community board shall be less than 18 years of age.

This proposal would require Borough Presidents to seek out persons of diverse backgrounds, including with regard to race, ethnicity, gender, age, disability status, sexual orientation, and language, as well as other factors which the Borough President may consider important in promoting diversity and inclusion of underrepresented groups and communities on community boards, to apply for appointment to community boards.

This proposal would also require Borough Presidents to make available on their websites applications for community board membership, and require the applications to request certain information regarding the applicant: name; address; residence, business, professional or other significant interest in the community district; past service on a community board; age; work and education history, special skills, and professional licenses; relevant professional, civic, or community involvement experience; an option to provide additional demographic information that the applicant chooses to disclose; and any additional information that the Borough President determines is relevant or necessary to the application process. The application would also be required to include a statement describing the applicant's interest in the position, disclosures of City employment and potential conflicts of interest, and a certification that the applicant meets all requirements for the position and will abide by all applicable conflicts of interest laws.

Additionally, this proposal would require Borough Presidents, starting on July 1, 2019 and annually thereafter, to submit to the Mayor and Speaker

of the City Council, and make available on Borough President websites, a report disclosing information about community board membership and the recruitment and selection process. The report would include: the number of vacant community board member positions, the number of applicants for open community board member positions, the number of applicants interviewed, and the names of members and their dates of appointment or reappointment, length of service, nominating City Council Member or other nominating party, and community board leadership positions, if any. The report would also include demographic information about community board members that was voluntarily disclosed, in aggregated and anonymous form; the Borough President's plan for recruiting candidates and filling vacancies, including outreach efforts and methods used to promote a diverse and inclusive pool of candidates; a general description of the evaluation criteria used by the Borough President to select members; and any tools used by the Borough President to promote objectivity in the selection process.

Assistance and Training. This proposal would require the proposed Civic Engagement Commission, subject to appropriation and in consultation and coordination with the Department of City Planning, other relevant City agencies, and the Borough Presidents to the extent practicable, to provide assistance and training to community boards beyond the forms of assistance now provided by City agencies. The Civic Engagement Commission would be required to identify qualified firms, professional staff members, or consultants to provide urban planning and other technical assistance related to land use matters, and to administer a program for providing such services to community boards upon request. It would be required, to the extent practicable, to ensure that these forms of assistance are provided impartially to all community boards, in a manner consistent with their needs and objectives, and to provide a means for community boards to give feedback regarding the assistance provided to them. The Civic Engagement Commission would also be required, in consultation with the Mayor's Office of Immigrant Affairs, to identify and provide services requested by community boards to address the needs of limited English proficient individuals, such as staff training and language assistance tools. This element of the proposal would only become effective if this ballot question and the ballot question establishing the Civic Engagement Commission are both approved.

This proposal would also require community boards to maintain websites that provide adequate public notice of upcoming meetings, minutes from past meetings for the previous twelve months, and contact information. The Department of Information Technology and Telecommunications (DOITT) would be required to provide technical assistance and support to community

boards in maintaining websites and assistance to the Borough Presidents in making community board applications available online.

Effective Date. These amendments would take effect on January 1, 2019, except that the amendments requiring a proposed Civic Engagement Commission to provide resources to community boards would take effect on April 1, 2019.

Part III: Issues for Future Consideration

A. The Districting Process

After every decennial census, the Mayor and the City Council must appoint a 15-member Districting Commission to draw City Council district lines to accommodate changes in population. The next districting plan will take effect in 2023, and the Commission considered a variety of proposals relating to the process by which district lines are drawn. These proposals can be sorted into four themes: i) promoting political independence and diversity in the Districting Commission's appointment process; ii) ensuring transparency and public participation; iii) protecting the City's minority communities after the loss of the Voting Rights Act's pre-clearance mechanism; and iv) counteracting a potential undercount in the 2020 U.S. Census.

The Appointment Process

The Commission received proposals to change the way that members are appointed to the City's Districting Commission.

Conflicts of Interest

Commenters proposed modifications to the existing conflicts of interest laws. Currently, the Charter bars City employees, lobbyists (as defined by federal, state, or local law), and officers of any political party from serving on the Districting Commission.¹ Commenters have proposed additional requirements, such as: barring former elected officials or party officers, imposing stricter residency rules, limiting the amount of money an appointee may contribute to City candidates, banning the appointment of persons whose family members have a conflict of interest, and restricting a commissioner's post-service political activities and City employment.² The Brennan Center for Justice and Common Cause proposed making the Districting Commission's staff members, including the Executive Director, legal counsel, and technical mapmakers, covered by the conflicts of interest rules.³

An Independent Districting Commission

The Commission received proposals for an "independent districting commission" designed to reduce the influence of elected officials over the districting process. In general, independent districting commissions are comprised of individuals who are neither legislators nor other public officials and who are selected after a screening process conducted by an independent body.⁴ Currently two states (Arizona and California) use independent commissions to draw congressional and state districts.⁵

New York City currently uses what is known as a “political appointee commission,” which is a districting commission directly selected by elected officials from both major political parties.⁶ Under current law, the Mayor and the City Council appoint the 15-member Districting Commission. Under § 50(a) of the Charter, the delegations of the first and second largest political parties in the New York City Council appoint a total of eight Districting Commission members (five and three, respectively). The other seven Commission members are appointed by the Mayor such that no single political party can make up most of the members on the Commission.

Critics contend that the current law creates a perceived or actual conflict of interest because elected officials can use their appointment power to manipulate the line-drawing process to their benefit. To promote independence, some commenters have proposed moving the commissioner selection process into a body such as the City Bar Association or the Campaign Finance Board.⁷ That body would screen applicants for conflicts of interests and create a pool of qualified persons. Some number of commissioners would be selected by the body at random from the pool of qualified persons, and others would be selected by elected officials like the Mayor and the City Council delegations of the two largest political parties.⁸ However, these schemes would need to be reviewed for consistency with the requirement in Article IX of the State Constitution that the City’s appointed officers, such as a Districting Commission, be appointed by other local officials.

Independent districting commissions in other jurisdictions can serve as a model for how such a system could work in New York City. In California, for example, members of the public may apply to serve on the districting commission, and an independent government agency creates a pool of qualified applicants and screens for potential conflicts of interest.⁹ Once the applicant pool is constituted, lawmakers are then permitted to strike some applicants.¹⁰ After receiving such objections, the agency appoints the commissioners by randomly selecting from the remaining applicants: ten persons split equally between the two largest political parties, and four persons who are affiliated with neither party.¹¹ Arizona’s appointment process is similar to California’s.¹²

Minority Representation on the Districting Commission

The Commission received some comments about ways to ensure diversity among the Districting Commission’s members. The Charter has provisions meant to ensure that racial, ethnic, and language minorities are represented on the Districting Commission. Under § 50(b)(1) of the Charter, some of the Districting Commission’s members must be members of the ethnic, racial, and language minority groups that are protected by the Voting Rights Act,

although this provision was invalidated by a federal court in *Ravitch v. City of New York*, No. 90 Civ. 5752 1992, U.S. Dist. LEXIS 11481 (S.D.N.Y. Aug. 3, 1992). Nonetheless, the 2013 Districting Commission counted 9 of its 15 commissioners as members of these minority groups.¹³ In his testimony to the Commission, Professor John Flateau suggested additional criteria for diversity, such as age, religion, gender, or sexual orientation.¹⁴ Kathay Feng of Common Cause urged the Commission to consider screening applicants for demographic and geographic diversity, as is done in California.¹⁵ However, any such proposals would need to be reviewed in light of the court’s decision in *Ravitch*.

Transparency and Public Participation

Several commenters proposed changes that would promote transparency and public engagement during the districting process.

Transparency

With respect to transparency, there were proposals to restrict communications between the Districting Commission and City officeholders. For example, Reinvent Albany proposed barring all non-public communications between the Districting Commission and officeholders, party officials, lobbyists, and their staff and employees.¹⁶ The Charter presently places no restrictions on commissioner communications. Some jurisdictions do restrict these so-called “*ex parte*” communications. In Oakland, for example, the districting commission is required to disclose all communications that occur outside public hearings.¹⁷ Sacramento prohibits all communications about districting outside of public meetings or the public comment process.¹⁸ Experts argue that limiting *ex parte* communications can help ensure that the Districting Commission’s business is conducted in view of the public, and suppress undue influence by incumbent politicians.¹⁹

Public Participation and Outreach

Some commenters proposed ways to ensure that the public has a meaningful opportunity to participate and offer feedback during the districting process. Under the Charter, the Districting Commission must have at least one public hearing before submitting its proposed plan to the City Council, and must make the proposed plan available to the public at least one month in advance of that hearing.²⁰ Past Districting Commissions have gone beyond the Charter’s minimum requirements. For example, the 2013 Districting Commission held three rounds of public hearings in all five boroughs, and provided draft districting plans for public inspection prior to some meetings.²¹ The 2013 Districting Commission also notified the public about the time and

location of hearings on its website, through newspaper advertisements, radio, television, e-mail, and postings in public buildings.²² All hearing notices were translated into Bengali, Chinese, Korean, Russian, and Spanish,²³ and public hearings featured interpreters for Spanish, Chinese, and American Sign Language, as well as other languages on request.²⁴ In its testimony, Common Cause/NY praised some of these practices and proposed that they be required of future Districting Commissions.²⁵

Other commenters proposed requiring Districting Commissions to share draft plans with the public and provide data and reports explaining their line drawing choices. Currently, the Charter only requires that the Commission publicly disclose the final plan that will be submitted to the City Council for approval.²⁶ The 2013 Districting Commission went beyond these minimum standards and made available to the public a draft plan, two revised plans, and the final plan.²⁷ On its website, the Districting Commission posted all proposed districting plans, City demographic data, alternative plans submitted by the public,²⁸ as well as software for members of the public to create their own districting plans.²⁹ At the end of its process, the Districting Commission submitted a “Staff Memorandum” explaining the final plan’s district lines, along with an extensive “Pre-Clearance Submission” containing an expert analysis on the plan’s impact on racial, ethnic, and language minorities.³⁰ Commenters proposed codifying these practices for future Districting Commissions, while ensuring that the public has adequate time to review proposed plans and any accompanying reports.³¹

Districting Criteria

The Commission heard testimony regarding the criteria the Districting Commission must follow when drawing district lines. Members of the public proposed changes to these criteria in the areas of population deviation and protections for communities of interest, and proposed new criteria to ensure lines are not drawn to favor or hurt particular candidates.

Population Deviation

Some commenters have proposed lowering the percentage of permissible population deviation between City Council districts. Under § 52(1)(a) of the Charter, the difference in population between the least populous district and the most populous district must be no more than 10% of the average district size. For current City Council districts, the difference between the least and most populous district is 9.82% of the average district size.³² Some commenters have proposed a maximum deviation of 6% or 5%.³³ According to the National Conference on State Legislatures (NCSL), 22 states have a districting plan in

their lower legislative chamber with a deviation of 6% or less,³⁴ including Florida (3.98%), California (0.45%), and New Jersey (5.20%). The New York State Assembly has a population deviation of 7.94%.³⁵

Experts have noted costs and benefits associated with rigid population deviation rules. On the one hand, a rigid rule may better promote the goal of equal representation and, in some cases, make it harder to give a political advantage to some voters by systematically under-populating districts.³⁶ On the other hand, such rules may make it harder for some minority groups to elect representative of their choice, depending on the size of their communities.³⁷

Prohibitions on Incumbent Protection

Members of the public have proposed new districting criteria that would bar the Districting Commission from drawing lines to help or hurt particular incumbents or candidates. Currently, the Charter prohibits drawing lines to diminish the power of a particular political party,³⁸ but it does not prohibit drawing lines to help or hurt particular candidates. One proposal is to prohibit the consideration of a single candidate's residence in the creation of districts.³⁹ To enforce this rule, some states bar the use of any data that would reveal the addresses of incumbent legislators.⁴⁰ However, experts have warned that barring these data may be difficult to enforce.⁴¹ Moreover, a map drawn without candidate residence data might cause significant disruption as some incumbents could be drawn out of their current districts.

Protecting Minorities After *Shelby County*

The upcoming 2023 New York City districting cycle will be the first since the U.S. Supreme Court in *Shelby County v. Holder* rendered inert the Voting Rights Act's "preclearance" requirement. Under the preclearance mechanism, the City, among other covered jurisdictions, was required to submit its districting plans to the U.S. Department of Justice (DOJ) to determine whether the changes would have the effect of denying or abridging the right to vote on account of race, color, or language minority group.

The Commission heard several concerns from members of the public about the loss of preclearance and what it would mean for minority representation in the City Council.⁴² To effectuate through the Charter some of the important policy goals underlying the Voting Rights Act and the former DOJ preclearance requirement, various approaches could be considered, all aimed at affording minority voters an opportunity to elect their preferred candidates, as described below.

Evaluating Impacts on Minority Communities

One possible approach would be to use the Charter to restore aspects of the former preclearance regime under the Voting Rights Act. That regime required the City to conduct an analysis showing that the enacted district lines have “neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color or membership in a language minority group.”⁴³

Under the DOJ regulations, a “preclearance submission” would include: i) a copy of the enacted district lines;⁴⁴ ii) a statement explaining how the proposed district lines differ from the prior district lines;⁴⁵ iii) a statement of the anticipated effect on members of racial or language minority groups;⁴⁶ and iv) demographic information related to the total and voting age population of the jurisdiction before and after the change, by race and language group.⁴⁷ Other criteria are contained in 28 CFR Part 51.

In New York City, this “preclearance submission” was produced by the Districting Commission, and the 2013 Districting Commission did its analysis by taking the then-current district map (enacted in 2003) and comparing it to its district map. A political scientist conducted the analysis and concluded that the 2013 map “provide[d] the same number of ‘ability to elect’ districts as the [2003 map],” including an effective “opportunity to elect” district for Asian Americans, and an additional majority-Black district.⁴⁸

An affirmative requirement that future commissions conduct this same analysis could be adopted in the Charter. The analysis could be conducted by a nationally recognized expert with a background in Voting Rights Act enforcement, presumably retained by the Districting Commission or another agency.

It should be noted, however, that there may be differences between the former preclearance process and the process envisioned by these proposals. Obtaining preclearance from the Department of Justice or a court under the Voting Rights Act protected the City from litigation claiming any violation of the standard for preclearance. It is not clear whether new “preclearance” proposals could create similar certainty for the City, or whether they would lead to litigation uncertainty that could delay new district lines.

Effective Representation

The Commission heard complaints that City Council district lines have been drawn to “dilute” the voting power of minority residents, particularly the Asian-American community in Flushing.⁴⁹ In response to these concerns, the

Commission received comments offering various approaches to assisting minority communities who are seeking effective representation.

Specifically, the Brennan Center for Justice and Common Cause suggested Charter language that would encourage Districting Commissions to create “crossover” or “coalition” districts.⁵⁰ These are districts that can help a smaller minority group elect a candidate of their choice with support from other voters who tend to support the same candidates.⁵¹ Currently the Charter does not expressly provide for such districts. Some states require that these districts be drawn wherever possible. Illinois, for example, recently enacted the “Illinois Voting Rights Act” which requires legislative districts to be drawn to create crossover and coalition districts.⁵² The legislation was intended to improve the state’s districting process after the Chinese-American community in Chicago was carved up into several districts in the 2010 districting cycle.⁵³ How the above changes would affect New York City’s minority communities is difficult to predict. To make an assessment, an expert would need to model potential district lines to see how they would impact different communities.

Another possible method to accomplish this goal is a “right of action” for voters to challenge City Council district lines. The Commission examined models in California and Washington, where so-called “State Voting Rights Acts” have been enacted. These Acts provide a framework for voters in a protected class to bring an action in state court against “at-large” districts in local political subdivisions,⁵⁴ and fill in gaps in the federal Voting Rights Act, including by loosening the criteria by which a minority group may challenge a district.⁵⁵

Although New York City does not have at-large districts, some mechanisms in these state schemes may be transferable to the City’s system. One such mechanism in the Washington Voting Rights Act allows voters in minority communities to issue an administrative complaint against a locality’s district lines. Voters challenging district lines must make two allegations: i) that elections in the challenged political subdivision are “racially polarized”; and ii) members of a “protected class” do not have an equal opportunity to elect candidates of their choice as a result of dilution or abridgment of voting rights.⁵⁶ Once the locality receives the complaint, they must work with the voters and their community in good faith to remedy the alleged harms, usually by negotiating new district lines.⁵⁷ The locality can then go to court and get an order acknowledging that the remedy corrected the violation, which immunizes the district from challenge for four years.⁵⁸ If the locality fails to seek an order after 180 days, the voters can file an action in state court challenging the district.⁵⁹

The Commission also received proposals to strengthen minority protections through changes to the Charter's districting criteria. Under § 52(1)(b) of the Charter, district lines must be drawn to ensure fair representation for the "racial and language minority groups" protected under the Voting Rights Act. The Brennan Center for Justice and Common Cause suggested expanding this criterion to include other language minority groups not currently protected by the Voting Rights Act.⁶⁰

Counteracting a 2020 Census Undercount

Members of the public expressed concern about the upcoming 2020 Census and the possibility of a significant undercount in New York City. Concern was expressed that the inclusion of a citizenship question in the Census will especially discourage non-citizens, regardless of immigration status, from responding and exacerbate an undercount.⁶¹ Such an undercount would likely disproportionately impact the City's immigrant communities, and make it harder for the next Districting Commission to draw district lines that fully capture their numbers.⁶²

In response to this concern, the Commission considered ways to supplement or adjust federal Census data to correct for an undercount. One such proposal would permit the City to adjust federal Census figures using statistical methods and reliable data.⁶³ However, research by Commission staff in this area has not revealed a reliable and sufficient means of accomplishing these goals, and further review of legal issues surrounding the use of other data would be required.

Recommendations for the Future

A fair and independent districting process is critical to a well-functioning local democracy. The Commission heard compelling testimony that this is an issue in need of urgent attention. However, after careful consideration of the above public proposals, the Commission has determined that further research, outreach, and analysis is needed before recommending any of these proposals be submitted to the voters. Reform in this area must be done in collaboration with local communities, including communities of color, elected officials, political parties, former members of Districting Commissions, experts, and other important stakeholders, and must also ensure the timely completion of the districting process. Moreover, any proposals must be evaluated by experts to determine their impacts on racial, ethnic, and language minority communities in the City. The Commission notes and appreciates that advocacy groups working in this area have engaged seriously and thoughtfully in this

sort of evaluation, helping to lay the groundwork for further governmental analysis.

Given the testimony received in this process, the Commission urges future Commissions to take up the analysis of this issue in order to present to the voters an amendment designed to effectuate a fair and independent districting process for all New Yorkers.

¹ N.Y.C. CHARTER § 50(a)(5).

² See Written Testimony from Common Cause/NY, to N.Y.C. Charter Revision Comm'n (June 21, 2018); E-Mail from Amy Torres, Dir. of Policy, Chinese-American Planning Council, Inc., to N.Y.C. Charter Revision Comm'n (May 30, 2018); Written Testimony from Reinvent Albany, to N.Y.C. Charter Revision Comm'n (July 23, 2018); Written Testimony from John L. Flateau, Prof. Medgar Evers College, to N.Y.C. Charter Revision Comm'n (June 21, 2018).

³ See Proposed Charter Amend. from Common Cause & Brennan Ctr. for Justice, to N.Y.C. Charter Revision Comm'n (July 31, 2018).

⁴ *Glossary of Terms*, BRENNAN CTR. FOR JUSTICE, <https://www.brennancenter.org/glossary-terms> (last visited Aug. 28, 2018).

⁵ *50 State Guide to Redistricting*, BRENNAN CTR. FOR JUSTICE (2018), https://www.brennancenter.org/sites/default/files/publications/2018_05_50States_FINALinteractive.pdf.

⁶ *Who Draws the Maps? Legislative and Congressional Redistricting*, BRENNAN CTR. FOR JUSTICE (June 1, 2018), <https://www.brennancenter.org/analysis/who-draws-maps-states-redrawing-congressional-and-state-district-lines>.

⁷ See Written Testimony from Common Cause/NY, to N.Y.C. Charter Revision Comm'n (June 21, 2018); Written Testimony from Reinvent Albany, to N.Y.C. Charter Revision Comm'n (July 23, 2018).

⁸ *Id.*

⁹ Under California's law, an applicant has a conflict of interest if in the last ten years he or she (or an immediate family member) has held elected or appointed office, ran for federal or state office, worked for a political party or campaign committee, served on a political party's central committee, registered as a lobbyist, worked as paid legislative staff, or contributed two thousand dollars or more to any federal, state, or local candidate. CAL. GOV'T CODE § 8252(a).

¹⁰ CAL. GOV'T CODE § 8252(e).

¹¹ *FAQ*, STATE OF CALIFORNIA, <https://wedrawthelines.ca.gov/faq/> (last visited Aug. 28, 2018).

¹² *Frequently Asked Questions*, AZ. INDEP. REDISTRICTING COMM’N, <https://www.azredistricting.org/About-IRC/FAQ.asp> (last visited Aug. 28, 2018).

¹³ N.Y.C. 2012-13 DISTRICTING COMM’N, SUBMISSION FOR PRECLEARANCE 4-5 (March 22, 2013), <https://www1.nyc.gov/assets/districting/downloads/pdf/submissionPDF.pdf>.

¹⁴ Written Testimony from John L. Flateau, Prof. Medgar Evers College, to N.Y.C. Charter Revision Comm’n (June 21, 2018).

¹⁵ June 21, 2018 CRC Forum, at 118 (statement of Kathay Feng, Exec. Dir., Cal. Common Cause), https://www1.nyc.gov/assets/charter/downloads/pdf/06_21_18_charterrevisioncomission.pdf#page118; CAL. GOV’T CODE § 8252(d).

¹⁶ Written Testimony from Reinvent Albany, to N.Y.C. Charter Revision Comm’n (July 23, 2018).

¹⁷ Oakland CHARTER § 220(I).

¹⁸ Sacramento CHARTER § 176(d).

¹⁹ JUSTIN LEVITT, BRENNAN CTR. FOR JUSTICE, A CITIZEN’S GUIDE TO REDISTRICTING 77 (2010), <http://www.brennancenter.org/sites/default/files/legacy/CGR%20Reprint%20Single%20Page.pdf>.

²⁰ N.Y.C. CHARTER § 51(b).

²¹ In the first round the 2013 Districting Commission gathered public input prior to devising their own plan, and made a “preliminary plan” available to the public prior to the second round of hearings. The third round of hearings was used to solicit public input on their “revised plan.” N.Y.C. 2012-13 DISTRICTING COMM’N, at 16-19.

²² *Id.* at vi, 9, 15.

²³ *Id.* at vi.

²⁴ *Id.* at vii.

²⁵ *See* Written Testimony from Common Cause/NY, to N.Y.C. Charter Revision Comm’n (June 21, 2018).

²⁶ N.Y.C. CHARTER § 51.

²⁷ N.Y.C. 2012-13 DISTRICTING COMM’N, at 25-29.

²⁸ *Id.* at 10.

²⁹ *Id.* at 12.

³⁰ N.Y.C. DISTRICTING COMM’N, <https://www1.nyc.gov/site/districting/index.page> (last visited Aug. 28, 2018).

³¹ *See* Proposed Charter Amend. from Common Cause & Brennan Ctr. for Justice, to N.Y.C. Charter Revision Comm’n (July 31, 2018); *see also* Written Testimony from John L. Flateau, Prof. Medgar Evers College, to N.Y.C. Charter Revision Comm’n (June 21, 2018).

³² N.Y.C. 2012-13 DISTRICTING COMM'N, FEB. REVISED DISTRICT PLAN 7-24 (Feb. 4, 2013), https://www1.nyc.gov/assets/districting/downloads/pdf/Feb6_memo.pdf.

³³ Proposed Charter Amend. from Common Cause & Brennan Ctr. for Justice, to N.Y.C. Charter Revision Comm'n (proposing 6%); Written Testimony from Reinvent Albany, to N.Y.C. Charter Revision Comm'n (July 23, 2018) (proposing 5%); Written Testimony from John L. Flateau, to N.Y.C. Charter Revision Comm'n (June 21, 2018) (proposing 5%); Written Testimony from Brooklyn Borough President Eric Adams, to N.Y.C. Charter Revision Comm'n (July 25, 2018) (proposing 5%).

³⁴ *2010 Redistricting Deviation Table*, NAT'L CONFERENCE OF STATE LEGISLATURES (Feb. 8, 2018), <http://www.ncsl.org/research/redistricting/2010-ncsl-redistricting-deviation-table.aspx>.

³⁵ *Id.*

³⁶ JUSTIN LEVITT, BRENNAN CTR. FOR JUSTICE, A CITIZEN'S GUIDE TO REDISTRICTING 45 (2010), <http://www.brennancenter.org/sites/default/files/legacy/CGR%20Reprint%20Single%20Page.pdf>.

³⁷ *Id.*

³⁸ N.Y.C. CHARTER § 52(1)(f).

³⁹ Proposed Charter Amend. from Common Cause & Brennan Ctr. for Justice, to N.Y.C. Charter Revision Comm'n (July 31, 2018); Written Testimony from Reinvent Albany, to N.Y.C. Charter Revision Comm'n (July 23, 2018).

⁴⁰ *See, e.g.*, Iowa Code § 42.4(5).

⁴¹ JUSTIN LEVITT, at 65.

⁴² *See, e.g.*, June 21, 2018 CRC Forum, at 127-30 (statement of John L. Flateau, Prof. Medgar Evers College).

⁴³ 52 U.S.C. § 10304.

⁴⁴ 28 C.F.R. § 51.27.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ 28 C.F.R. § 51.28(a)(1).

⁴⁸ N.Y.C. 2012-13 DISTRICTING COMM'N, SUBMISSION FOR PRECLEARANCE 116 (March 22, 2013), <https://www1.nyc.gov/assets/districting/downloads/pdf/submissionPDF.pdf>.

⁴⁹ June 21, 2018 Forum, at 121-22 (statement of James Hong, former co-Director, MinKwon Ctr. for Community Action), https://www1.nyc.gov/assets/charter/downloads/pdf/06_21_18_charterrevisioncomission.pdf.

⁵⁰ *Id.*

⁵¹ JUSTIN LEVITT, at 47.

⁵² 10 ILL. COMP. STAT. 120/5-5.

⁵³ Sophia Tareen, *Quinn signs Chinatown redistricting legislation*, VICTORIA ADVOCATE (March 7, 2011), https://www.victoriaadvocate.com/news/business/quinn-signs-chinatown-redistricting-legislation/article_d7751edb-df21-51fe-b128-2d2a019df570.html.

⁵⁴ CAL. ELEC. CODE § 14032; WASH. REV. CODE § 29A.92.005.

⁵⁵ Paige A. Epstein, *Addressing Minority Vote Dilution Through State Voting Rights Acts* (U. Chi. L. Sch. Pub. L. & Legal Theory, Working Paper No. 474, 2014), https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1918&context=public_law_and_legal_theory.

⁵⁶ WASH. REV. CODE § 29A.92.030(1).

⁵⁷ WASH. REV. CODE § 29A.92.060; WASH. REV. CODE § 29A.92.070.

⁵⁸ WASH. REV. CODE § 29A.92.070.

⁵⁹ WASH. REV. CODE § 29A.92.080.

⁶⁰ Proposed Charter Amend. from Common Cause & Brennan Ctr. for Justice, to N.Y.C. Charter Revision Comm'n (July 31, 2018).

⁶¹ N.Y.C. CHARTER REVISION COMM'N, PRELIMINARY STAFF REPORT 103 (2018), <https://www1.nyc.gov/assets/charter/downloads/pdf/CRC-Report-July-2018.pdf>.

⁶² *Id.*

⁶³ Proposed Charter Amend. from Common Cause & Brennan Ctr. for Justice, to N.Y.C. Charter Revision Comm'n (July 31, 2018).

B. Ranked Choice Voting

Ranked choice voting (otherwise known as “instant runoff voting”) was a commonly proposed change to election administration heard by the Commission. The Commission received a significant number of comments from members of the public and advocates about the reform, some version of which was also endorsed by various City elected officials, including ten City Council Members, the Comptroller, the Public Advocate, and the Brooklyn Borough President.¹

Ranked choice voting works by allowing voters to rank multiple candidates on their ballots in order of preference. In most jurisdictions, ranked choice votes are tallied using what is known as the “bottom-up” approach. Under this approach, every voter’s first choice is tallied up and if no candidate receives more than 50% of the vote, then the candidate with the fewest votes is eliminated and the voters who selected that candidate as their first choice have their votes added to the totals of their second-choice candidate. This process repeats until a single candidate receives more than 50% of the votes and thus wins the election.² Section II.B of the Preliminary Staff Report describes other possible ranked choice voting models.

Twelve cities and six states, including Maine and San Francisco, currently use some form of ranked choice voting.³ However, over the last decade, some cities have chosen to repeal their ranked choice voting schemes.⁴ The justifications for repeal vary from concerns about cost and voter confusion,⁵ to political considerations unique to those jurisdictions.⁶

After carefully considering the many comments and proposals it has received, the Commission has declined to propose ranked choice voting for New York City’s municipal elections due to significant open questions related to how the practice would impact voters, as well as operational risks associated with implementation. The Commission proposes that a future Commission, or the City Council, continue to study these open questions.

Benefits

The Commission heard from advocates about several benefits of ranked choice voting. First, many advocates contend that the practice upholds majority rule more reliably than typical plurality voting. In plurality voting elections, a candidate can win with less than 50% of the vote because an electoral majority can split its vote across other candidates.⁷ Advocates have expressed particular concern about the third-party “spoiler effect,” where two like-minded candidates split their base of support, allowing a candidate

without majority support to win.⁸ Advocates argue that ranked choice voting will avoid this phenomenon and ensure that there are more majority winners because the winning candidate in ranked choice voting elections is usually the one with majority support when matched against the other candidates.⁹

Advocates also contend that ranked choice voting incentivizes candidates to reach out to more voters and communities and to avoid negative campaigning. Rob Richie of FairVote testified that the practice would encourage candidates to “aggressively pursue[]” voters who may prefer another candidate to try to become the voters’ second or third choice.¹⁰ This phenomenon recently occurred in the San Francisco mayoral race, in which two competing candidates cross-endorsed one another in a coordinated effort to win more second-choice votes.¹¹ Indeed, advocates argue that ranked-choice voting incentivizes this kind of cooperative campaign behavior and suppresses negative campaigning, which in turn increases voter satisfaction and participation.¹²

Additionally, advocates cite the potential cost-savings of ranked choice voting, which would allow the City to dispense with its runoff election.¹³ For example, an analysis conducted by the Fiscal Policy Institute concluded that ranked choice voting could eliminate several costs associated with the 2013 runoff election, including expenses related to poll workers, ballot printing, and transporting voting equipment.¹⁴ Advocates also argue that City primary runoffs have low voter turnout and should be eliminated in favor of a ranked choice voting election.¹⁵ Indeed, over the last decade, primary runoff elections have had much lower turnout compared to the first-round primary.¹⁶ Ranked choice voting could help avoid the consistent turnout drop-off seen in these elections. Ending the runoff election for Citywide primaries would also help the BOE avoid the significant operational challenge of holding a second election two weeks after the primary.¹⁷

Risks and Concerns

Despite its various benefits, the Commission has declined to propose ranked choice voting for New York City’s municipal elections due to significant open questions related to how the practice would impact voters, as well as operational risks associated with implementation.

Impacts on Communities of Color. The Commission has concerns about the potential effects of ranked choice voting on the power of minority voters in the City. Advocates argue that ranked choice voting has promoted effective representation for communities of color, citing jurisdictions where minority candidates have won more races since its adoption.¹⁸ However, it is

unclear whether minority candidates would make similar gains in the City in light of the City’s unique political and demographic conditions. Moreover, there are concerns about some of the tradeoffs associated with ranked choice voting, and whether they will disproportionately impact the City’s minority communities. For example, some researchers have found significant “ballot exhaustion”¹⁹ in some ranked choice voting elections. These researchers theorize that voters exhaust their ballots because local elections tend to be low-information elections, and it is challenging for voters to rank multiple candidates when they do not have significant information about them.²⁰ The Commission does not yet have the data needed to ensure that these negative effects do not disproportionately affect communities of color. Indeed, when comparing San Francisco’s ballot error rates since the adoption of ranked choice voting, one researcher found that the practice exacerbated turnout disparities between groups who are likely to vote and those who are not—including minority voters.²¹ These potential risks indicate a need to fully understand ranked choice voting’s impacts on the City’s minority voters.

Voter Frustration and Confusion. Ranked choice voting, like any significant change to our elections, carries a risk of creating confusion or frustration among some of the City’s voters. Researchers have found that San Francisco voters in ranked choice voting elections were more likely to make “ballot errors,” or errors that result in the disqualification of the voter’s ballot.²² The rates of error were comparable to elections with high voter confusion due to poorly designed ballots or overly complex voting tasks.²³ Ranked choice voting advocates agree that proper ballot design is necessary to ensure that voters rank candidates correctly.²⁴ The Center for Civic Design has tested various ranked choice voting ballot designs and found that voters who have less experience with ranked choice voting struggle when they are required to rank large numbers of candidates.²⁵ Advocates suggest that governments adopting ranked choice voting engage in voter education to help voters develop strategies for ranking candidates and understand how winners are selected.²⁶ The Commission was unable to determine how large a voter education operation would be necessary to ensure that voters are not confused and frustrated by any new system. Rob Richie of FairVote told the Commission that new expenditures for voter education are “optional” and that current outlays may suffice.²⁷

Adopting New Technologies. The Commission has concerns about the City’s ability to acquire the technology necessary to conduct ranked choice voting elections. Currently, New York City uses the same voting machines used in Maine and Minneapolis, where ranked choice voting is already conducted. However, for these machines to tabulate ranked choice voting

ballots, new software will be required. Under state law, voting machine software in New York State must be certified by the State Board of Elections before it can be implemented.²⁸ It is unclear if the State Board of Elections would approve the software necessary to conduct a ranked choice voting election. The State Board is not bound by the Charter, and its decisions in this area are made by its Republican and Democratic commissioners.²⁹ If these commissioners are unable to reach a majority consensus or determine not to approve the software, the City would potentially be barred from adopting the software, or might be required to challenge the State Board's action or inaction.³⁰ Moreover, there are open questions about the City's ability to conduct ranked choice voting elections without this software. Doing so would carry inherent risks in terms of the operational capacity of poll-workers and BOE staff to conduct the count manually. Therefore, the Commission recommends that the Council or a future Charter Revision Commission study this issue to understand the full scope of risk and resolve any open questions.

Other Operational Risks. The Commission also has concerns about the New York City Board of Election's capacity to conduct ranked choice voting elections. The Commission heard testimony raising concerns about the BOE's administration of elections under the current scheme, including allegations concerning: poor or inconsistent language accessibility,³¹ poor poll-worker training,³² and failure to follow current Charter mandates.³³ This testimony raises questions about operational challenges the BOE may face if it were to implement an election change as far reaching and complex as ranked-choice voting. One specific concern relates to post-election audits. Under state law, the BOE is required to audit some voting machines after each election.³⁴ It is unclear how such an audit could be conducted in a ranked choice voting election consistent with state law or acceptable quality control standards, particularly given existing uncertainty about what technologies would be used to conduct ranked choice voting. Whether the BOE and its staff can resolve these issues and other operational challenges is a significant open question, and errors in administration could undermine public confidence in the election system.

¹ Press Release, FairVote, NYC Elected Officials and Advocates Call for Instant Runoff (May 1, 2018), www.fairvote.org/nyc_elected_officials_and_advocates_call_for_instant_runoff_voting; *see also* Letter from Brad Lander, Council Member, N.Y.C. Council, et al., to N.Y.C. Charter Revision Comm'n (May 25, 2018).

² *Single-Winner Ranked Choice Voting*, RANKED CHOICE VOTING RESOURCE CTR., https://www.rankedchoicevoting.org/single_seat (last visited Aug. 29, 2018).

³ *Where Ranked Choice Voting is Used*, RANKED CHOICE VOTING RESOURCE CTR., https://www.rankedchoicevoting.org/where_used (last visited Aug. 29, 2018).

⁴ *Id.*

⁵ Janet Urquhart, *Aspen's instant runoff voting quick but confusing*, THE ASPEN TIMES (May 6, 2009), <https://www.aspentimes.com/news/aspens-instant-runoff-voting-quick-but-confusing/>; *Instant runoff voting hits a nerve*, THE ASPEN TIMES (FEB. 25, 2009), <https://www.aspentimes.com/news/instant-runoff-voting-hits-a-nerve/>.

⁶ Lynne McCrea, *Burlington Voters Repeal Instant Runoff Voting*, VT. PUB. RADIO (March 3, 2010), <https://vprarchive.vpr.net/vpr-news/burlington-voters-repeal-instant-runoff-voting/>.

⁷ *Ranked Choice Voting / Instant Runoff*, FAIRVOTE, <http://www.fairvote.org/rcv#rcvbenefits> (last visited Aug. 29, 2018).

⁸ *Id.*

⁹ *Id.*

¹⁰ June 12, 2018 CRC Forum, at 85 (statement of Rob Richie, CEO, FairVote), https://www1.nyc.gov/assets/charter/downloads/pdf/06_12_18_NYC_Charter_Commission_Hearing.pdf.

¹¹ Dominic Fracassa, *Jane Kim, Mark Leno team up against London Breed in SF mayor's race*, SAN FRANCISCO CHRONICLE (May 10, 2018), www.sfchronicle.com/bayarea/article/Jane-Kim-Mark-Leno-team-up-against-London-Breed-12905048.php.

¹² *Campaign Civility*, FAIRVOTE, http://www.fairvote.org/research_rcvcampaigncivility (last visited Aug. 29, 2018); *see also* May 9, 2018 CRC Hearing, at 56 (statement of Sol Erdman, President, Center for Collaborative Democracy), www1.nyc.gov/assets/charter/downloads/pdf/meeting-transcript-20180509.pdf#page=56; Letter from Brad Lander, Council Member, N.Y.C. Council, et al., (May 25, 2018).

¹³ *See* May 7, 2018 CRC Hearing, at 65 (statement of Brad Lander, Council Member), https://www1.nyc.gov/assets/charter/downloads/pdf/05_07_18_nyc_charter_commission_public_hearing.pdf#page=65; May 7, 2018 CRC Hearing, at 48 (statement of Tim Hayes), http://www1.nyc.gov/assets/charter/downloads/pdf/05_07_18_nyc_charter_commission_public_hearing.pdf#page=48; E-Mail from Alice Underwood, FairVote, to N.Y.C. Charter Revision Comm'n (Aug. 1st, 2018).

¹⁴ DAVID DYSSEGAARD KALLICK & JONAS SHAEND, FISCAL POLICY INST., RANKED CHOICE VOTING: SAVING MONEY WHILE IMPROVING ELECTIONS (June 28, 2018), <http://fiscalpolicy.org/wp-content/uploads/2018/06/RankedChoiceVoting-FPI-Brief.pdf>.

¹⁵ E-Mail from Janet McDowell, to N.Y.C. Charter Revision Comm'n (Aug. 6th, 2018); E-Mail from Alan Detmeister, to N.Y.C. Charter Revision Comm'n (July 12th, 2018); E-Mail from Seth Silverman, to N.Y.C. Charter Revision Comm'n (May 10th, 2018); E-Mail from Aaron Travis, to N.Y.C. Charter Revision Comm'n (July 18th, 2018); April 30, 2018 CRC Hearing, at 41 (statement of Grace Ramsey, FairVote), <http://www1.nyc.gov/assets/charter/downloads/pdf/meeting-transcript-20180430.pdf>.

¹⁶ In the 2013 Democratic Primary for Public Advocate, 530,089 total votes were cast compared to 202,647 total votes in the subsequent runoff election. In the 2009 Democratic Primary for Public Advocate, 366,917 total votes were cast compared to 233,206 total votes in the subsequent runoff election. In the 2009 Democratic Primary for Comptroller, 371,018 total voters were cast compared to 241,206 total votes in the subsequent runoff election. See *Certified Election Results*, N.Y.C. BD. OF ELECTIONS, <http://www.vote.nyc.ny.us/html/results/results.shtml> (last visited Aug 29, 2018).

¹⁷ N.Y.C. BD. OF ELECTIONS, RECOMMENDED REVISIONS IN THE NEW YORK STATE ELECTION LAW 49 (2018), http://vote.nyc.ny.us/downloads/pdf/forms/boe/Publications_n_Forms/2018_Recommended_Revisions_to_NYS_Election_Law.pdf#page=49.

¹⁸ Written Testimony from Rob Richie, CEO, FairVote, to N.Y.C. Charter Revision Comm'n (Aug. 2018); Written Testimony from Ranked Choice Voting Resource Ctr., to N.Y.C. Charter Revision Comm'n (Aug. 1, 2018).

¹⁹ Ballot exhaustion occurs when a voter does not provide a full list of ranked choices, and, as a result, the voter's ballot is not counted in the final round of tabulation because the voter's chosen candidate or candidates were eliminated in previous rounds. CRAIG BURNETT & VLADIMIR KOGAN, *BALLOT (AND VOTER) "EXHAUSTION" UNDER INSTANT RUNOFF VOTING: AN EXAMINATION OF FOUR RANKED-CHOICE ELECTIONS* 8 (2014), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2519723.

²⁰ *Id.* at 8, 19.

²¹ Jason McDaniel, *Ranked Choice Voting Likely Means Lower Turnout, More Errors*, CATO UNBOUND (Dec. 13, 2016), <https://www.cato-unbound.org/2016/12/13/jason-mcdaniel/ranked-choice-voting-likely-means-lower-turnout-more-errors>.

²² *Id.*

²³ *Id.*

²⁴ Written Testimony from Rob Richie, FairVote (Aug. 2018); Written Testimony from Ranked Choice Voting Resource Ctr. (Aug. 1, 2018).

²⁵ CTR. FOR CIVIC DESIGN, *RECOMMENDATIONS FOR INTRODUCING RANKED CHOICE VOTING BALLOTS* 4 (July 2018), <https://civicdesign.org/wp-content/uploads/2017/07/Introducing-RCV-Ballots-18-0803-FNAL.pdf>.

²⁶ Written Testimony from Rob Richie, FairVote (Aug. 2018); CTR. FOR CIVIC DESIGN, at 7 (July 2018).

²⁷ Written Testimony from Rob Richie, FairVote (Aug. 2018).

²⁸ N.Y. ELEC. LAW § 7-200.

²⁹ N.Y. ELEC. LAW § 3-100.

³⁰ *Id.*

³¹ June 12, 2018 CRC Forum, at 49 (statement of Jerry Vattamala, Dir. Democracy Program, AALDEF), https://www1.nyc.gov/assets/charter/downloads/pdf/06_12_18_NYC_Charter_Commission_Hearing.pdf.

³² June 12, 2018 CRC Forum, at 40 (statement of Catherine Gray, co-President, League of Women Voters of N.Y.C.), https://www1.nyc.gov/assets/charter/downloads/pdf/06_12_18_NYC_Charter_Commission_Hearing.pdf.

³³ June 12, 2018 CRC Forum, at 27, 34 (statement of Susan Lerner, Exec. Dir., Common Cause/NY), https://www1.nyc.gov/assets/charter/downloads/pdf/06_12_18_NYC_Charter_Commission_Hearing.pdf.

³⁴ N.Y. ELEC. LAW § 9-211.

C. Election Modernization

The Need for Reform at the State Level

A primary focus of this Commission has been to find ways to encourage New Yorkers to participate in civic life. One of the most fundamental ways that residents can engage is through voting. It has been often observed that the City suffers from low voter turnout rates. Based on input from experts, advocates, and members of the public, the Commission has determined that some of the reasons for the City's lagging turnout are regressive State election laws that impose significant barriers to participation. These barriers impact all City voters, but disproportionately affect the City's immigrant communities, communities of color, and other populations.¹

New York State has largely failed to adopt voter friendly reforms that would create a more robust and inclusive democracy. The State lacks early voting, same-day registration, and electronic poll books—reforms that have been successful in increasing participation in other jurisdictions.² Additionally, the State has failed to act on reforms that could bring tens or hundreds of thousands of new voters into the process, such as automatic voter registration, pre-registration for 16- and 17-year-olds, voting rights restoration for people with criminal convictions, and online voter registration for all eligible voters.³

Over the years, several bills have been introduced in the New York State legislature that would enact some of these important reforms. The Commission strongly supports the following pieces of legislation that were introduced in the 2018 legislative session:

- Electronic Poll Books, S02788 (Akshar) / A05547 (Cusick): Authorizes counties to adopt the use of computer generated registration lists, sometimes known as “electronic poll books.”
- No-Excuse Absentee Voting, S00840 (Comrie) / A07623 (Vanel): Allows voters to vote with an absentee ballot by mail without having to provide an excuse — in effect permitting early voting by mail.
- Permits Same-Day Registration, S02478 (Gianaris) / A10420 (Lavine): Amends the New York State Constitution to allow for registration less than ten days before Election Day.
- Pre-Registration of 16- and 17-Year-Olds, S01661 (Carlucci) / A09609 (Lavine): Permits person of 16 and 17 years of age to “pre-register” to vote in advance of their 18th birthday.

- Streamlines New York City Board of Elections Functions, S06877 (Krueger): Empowers the BOE’s Executive Director and Deputy Executive Director to take on more day-to-day operations to make overall Board functions more efficient.

These reforms, and other similar proposals, have been endorsed by institutions, organizations, agencies, and elected officials throughout the City and the State, including the New York State Bar Association,⁴ the New York City Comptroller and other state and local elected officials,⁵ the New York City Voter Assistance Advisory Committee,⁶ the Mayor’s Democracy NYC initiative,⁷ and the statewide Let NY Vote coalition.⁸ The 2018 Charter Revision Commission joins with these groups in urging New York State to finally enact these important reforms.

¹ See N.Y.C. CHARTER REVISION COMM’N, PRELIMINARY STAFF REPORT 49-56 (2018), <https://www1.nyc.gov/assets/charter/downloads/pdf/CRC-Report-July-2018.pdf>.

² *Id.*

³ *Id.*

⁴ See generally N.Y. STATE BAR ASSOC., SPECIAL COMMITTEE ON VOTER PARTICIPATION FINAL REPORT 5 (Jan. 25, 2013), <http://www.nysba.org/voterreport/#page=11>.

⁵ See generally N.Y.C. COMPTROLLER, BARRIERS TO THE BALLOT: VOTING REFORM IN NEW YORK CITY (Apr. 2016), http://comptroller.nyc.gov/wp-content/uploads/documents/reform_the_vote_report.pdf.

⁶ N.Y.C. CAMPAIGN FIN. BD., 2017-2018 VOTER ASSISTANCE ANNUAL REPORT 53 (Apr. 2018), <http://www.nyccfb.info/pdf/VAAC-2018.pdf#page=63>.

⁷ *DemocracyNYC*, N.Y.C. OFFICE MAYOR, <https://www1.nyc.gov/office-of-the-mayor/democracy.page> (last visited Aug. 27, 2018).

⁸ *Make Noise*, LET NY VOTE, <https://letnyvote.org/> (last visited Aug. 27, 2018).

D. Structure of Government

Summary

Municipal Home Rule Law § 36(5)(a) requires a Charter Revision Commission to review the entire Charter. Recent Charter Revision Commissions have fulfilled this mandate by scrutinizing the functions and processes of City government and the balance of power between the City’s elected officials. This Commission similarly conducted a “vertical” review, analyzing the text of the Charter with respect to the various institutions of City government. Additionally, as discussed more fully below in Section III.E, this Commission conducted a “horizontal” review—a review of the health and structure of City government, viewed from the perspective of the communities and groups who submitted input to the Commission.

This Commission’s “vertical” review of the Charter was guided by the comments it received from government officials and officers, experts, and the public. In addition to comments related to the subjects discussed in Sections II.A through II.C of this report, and other topics previously addressed in the Preliminary Staff Report,¹ this Commission received a variety of insightful comments concerning the structure of City government. However, most of these comments proposed modest structural changes, such as establishing existing agencies in the charter, combining existing offices, or changing the appointment structure of agencies and boards.² The receipt of very few comments proposing drastic structural changes suggests that the overall structure of City government—largely the product of the work of the 1989 Charter Revision Commission—remains effective.

This Section discusses proposals concerning three areas that affect nearly every other facet of government: **procurement, budget, and conflicts of interest law**. Although this Commission will not submit ballot proposals relating to these topics, the themes underlying these proposals served as valuable guides in this Commission’s review of the Charter.

Procurement

Summary

Procurement, which includes the purchase of goods, services, and construction, accounted for about one quarter of all City expenditures in fiscal year 2017.³ Much of the authority over individual procurement actions is held by the Mayor, acting through the Mayor’s Office of Contract Services (MOCS).⁴ Authority over Citywide procurement policy is entrusted to the Procurement Policy Board (PPB), which is comprised of three mayoral appointees and two

appointees of the Comptroller, and is authorized to promulgate rules implementing the City's procurement-related Charter provisions.⁵

Several other government officials and agencies also play a role within the procurement process. For example, the City Charter gives the Comptroller the authority to review and "register" contracts, and Borough Presidents must monitor service contracts in their respective boroughs and issue recommendations regarding their renewal.⁶

In the past several decades, good government groups and other procurement stakeholders have identified lengthy procurement cycle-times as a matter of concern.⁷ Delays in procurement frustrate the ability of City agencies to deliver critical services to residents and may also disrupt the ability of contractors to begin work.

This Commission did not receive proposals advocating for a fundamental restructuring of the City's procurement system. Rather, procurement-related proposals recommended updates and refinements to the bureaucratic processes that allegedly obstruct the procurement workflow. This theme resonates with a broader trend throughout the City. MOCS is currently in the process of a multi-stage effort to reform the City's procurement workflow, and has begun its efforts by converting the City's vendor database—formerly a paper-based system known as "VENDEX"—into an all-electronic system, known as "PASSPort."⁸

MOCS submitted a noteworthy proposal to eliminate or to amend the contract public hearing requirement.

Public Hearings

Under the Charter, with certain exceptions, the City must conduct a public hearing before entering into any contract with a value exceeding \$100,000.⁹ MOCS proposed that the Charter's contract public hearing requirement be eliminated or, in the alternative, that the dollar value of a contract that triggers the hearing requirement be increased.

Contract public hearings draw few attendees, and even fewer attendees provide testimony.¹⁰ Because these public hearings typically occur during working hours on weekdays, attempts by the public to attend may be frustrated by their various other obligations. These public hearings are believed to impose a burden upon the procurement workflow; however, this Commission has not conducted a data analysis of the cycle-time impact of public hearings.¹¹

Skepticism regarding the public hearing's value is not new. Since this provision was included in the Charter in 1989, critics and policymakers have seized on the contract public hearing as an obstruction to the procurement process. A common criticism is that hearings occur so late in the procurement process that a change in agency action based on public comment would be burdensome.¹²

The 2001 Charter Revision Commission staff recommended that the City require only written comments for contracts between \$100,000 and \$500,000, given the infrequency of public comment, but the 2001 Commission members did not reach consensus regarding a procurement proposal.¹³ In the early 2000s, the City enacted legislation making minor revisions to limit the burden of these hearings, but did not attempt to eliminate them.¹⁴ This Commission recommends that future Charter Revision Commissions review the degree to which technological innovations could improve or replace the current public hearing process to allow for greater efficiency and greater public input.

Independent Budgets

Summary

The Commission received several proposals to establish independent budgets for agencies. This subsection describes: (1) the typical manner in which departmental budgets are established; (2) the existing independent budget schemes among City agencies; and (3) a description of the requests for independent budgets that this Commission received.

The Procedure for Establishing the Annual Budget

The Charter establishes a multi-step process for developing the City's budget for each fiscal year that includes a role for nearly every major political body. Each year, after consultation with community boards and consideration of community board input, each City department must submit to the Mayor an estimate of its upcoming budgetary needs.¹⁵ In January, the Mayor releases a preliminary budget for the upcoming fiscal year, and in February, the Mayor reviews the community boards' responses.¹⁶ In February and March, borough boards hold hearings and issue budget priorities, the Borough Presidents and City Council propose modifications and issue recommendations, the City Council also holds hearings, and the Independent Budget Office (IBO) issues a report analyzing the preliminary budget.¹⁷ After reviewing this discourse and consulting with the Borough Presidents, the Mayor must release the Executive Budget and an accompanying "Budget Message" in April.¹⁸ In May, the Borough Presidents provide input on the Executive Budget and its responsiveness to their previous recommendations, IBO provides an analysis

of the Executive Budget, and the Council holds Executive Budget hearings, which representatives from community boards and borough boards participate in.¹⁹ In late May or early June, the Council issues amendments to the budget, which the Mayor may veto, and which the Council may in turn override by a two-thirds majority.²⁰ Finally, the Mayor, the Comptroller, and the City Clerk must certify the adopted budget.²¹

Existing Agencies with Independent Budgets

Currently, only one agency receives an independent budget that is calculated in reference to another agency's appropriations, such that a minimum level of appropriations for the agency is set as a function of another agency's appropriations. The Charter provides that the appropriations for the IBO must not be less than 10% of the appropriations for the Office of Management and Budget.²² Currently, New York State Education Law § 2590-u(2) increases this amount to a cumulative 12.5%. According to Chairperson Frederick A.O. Schwarz, Jr. and Executive Director Eric Lane of the 1989 Charter Revision Commission, this provision was added "because we could foresee a future mayor and speaker, each jealous of their monopoly on budget information and analysis, seeking to eliminate an independent and respected rival source."²³

The Charter also provides the Campaign Finance Board (CFB) with a notable budget protection. CFB is authorized to submit its budget estimate directly into the Mayor's Executive Budget without revision.²⁴ CFB's budget estimates are then adopted pursuant to the same procedures as "are applicable to the operating budget of the council."²⁵ This Charter provision was added by the 1998 Charter Revision Commission, which concluded that "the nonpartisan character of the [CFB] is essential to its credibility" and that the "area where the current Charter leaves [CFB] vulnerable to political pressure is in the adoption of its budget and, specifically, the budget for the Voter Guide."²⁶ The 1998 Charter Revision Commission crafted this budget provision to "insulate the [CFB] from this pressure."²⁷

Requests for Independent Budgets

Commenters addressing this Commission have requested independent budgets for the Equal Employment Practices Commission (EEPC) and community boards, among other government bodies.²⁸ These proposals generally resemble the IBO's model: tying EEPC's budget to 10% of the Comptroller's budget, and tying community board budgets to 1% of the entire City budget or 65% of the Borough Presidents' allocation.²⁹ There was also a proposal to guarantee 1% of the City budget for allocation via participatory

budgeting.³⁰ This Commission did not receive any proposals resembling the CFB model.

Rationales for the establishment of independent budgets largely fell into two categories. Those who proposed such a budget provision for EEPC stressed the need for independence of this institution, among various other operational needs. By contrast, those who advocated for independent budgets for community boards and participatory budgeting appeared interested in using budget guarantees to further entrench these institutions in City government.³¹

The question of independent budgeting has arisen repeatedly in the last decade.³² In 2009, then-Public Advocate Betsy Gotbaum introduced legislation before the City Council to establish the budgets of agencies, including the Conflicts of Interest Board (COIB) and the Public Advocate's Office, as a percentage of the expense budget of the City.³³ The 2010 Charter Revision Commission also received proposals for tying the budget for "the so-called oversight entities—the D.A.s, COIB, EEPC, CCRB, DOI, Public Advocate and Comptroller" to the budget of another larger or core function.³⁴ The 2010 Charter Revision Commission stated that the potential benefits of tying funding to other variables would be to protect against "possibly politically motivated budget cuts" and to ensure that the budget will "reflect significant fluctuations in the economy and evade distortions over time."³⁵

But the 2010 Charter Revision Commission also found that there were arguments against establishing independent budgets for agencies. First, establishing independent budgets decreases the potential for public input and careful decision-making in the budget process.³⁶ Not every budgetary decision that an agency regards as unfavorable will be motivated by political maneuverings. Indeed, most difficult budgetary decisions are a sober calculus based on the scarcity of the City's resources. These decisions are carried out through the City's lengthy and thorough budget process, described above, which allows for funding decisions to be made transparently. This open and deliberative process allows for monies to be allocated to the most effective agencies, promoting accountability for both agencies and participants in the budget process.

Second, independent budgets of the type that have been proposed have the unintended consequence of amplifying the effects of anomalous changes in spending, and frustrating the City's attempts to reallocate spending in response to unforeseen events. During a recession, City revenues and spending may drop significantly, forcing the City to temporarily consolidate its spending on core functions, such as ensuring public safety. A natural disaster might

similarly force the City to reallocate spending towards relief efforts. And even without the creation of independent budgets, there is already less flexibility in the budget than many may realize. As the 2010 Charter Revision Commission observed, only a fraction of the City’s budget is available for discretionary allocation—much of the City’s budget is committed to debt service, consists of state and federal funds that must be spent on specific programs, or must be spent on pension and employee benefits.³⁷

Conflicts of Interest Board (COIB)

Summary

Following a string of public corruption scandals, the 1988 Charter Revision Commission created COIB (replacing the Board of Ethics),³⁸ which is currently comprised of five mayoral appointees, each selected based on their “independence, integrity, civic commitment and high ethical standards” and upon advice and consent of the City Council.³⁹ COIB is tasked under the Charter with interpreting and enforcing the prohibitions on conflicts of interest codified in Charter § 2604 and administering the City’s annual financial disclosure requirements for some public employees.⁴⁰ In carrying out these obligations, COIB is authorized to promulgate rules, to issue advisory opinions, to receive complaints, to impose penalties for non-compliance, to conduct trainings for all public employees, to issue compliance waivers in limited instances, and to appoint staff to carry out these duties.⁴¹

This Commission received a variety of comments concerning COIB, which largely fall into three topic areas: (1) scope of jurisdiction; (2) consolidation and restructuring of COIB; and (3) refocusing attention on community board member conflicts of interest.

Scope of Jurisdiction

Expanding the scope of COIB’s jurisdiction in the context of political activities was a theme of the proposals of two good government groups. Reinvent Albany expressed concern regarding the applicability of conflicts of interest laws to volunteer fundraisers for City-affiliated not-for-profits.⁴² Common Cause offered recommendations regarding the applicability of the City’s conflicts of interest laws to the New York City Board of Elections.⁴³

Reinvent Albany expressed concern that COIB’s restrictions on non-profit fundraising by City officials are too complex and too permissive. Similarly, Reinvent Albany also expressed concern regarding the role of volunteer fundraisers, who are exempt from the City’s conflicts of interest laws. It is not clear that it would be beneficial to take the significant step to

impose the restrictions of the conflicts of interest laws on volunteers. It is not immediately clear which volunteers, if any, could be subject to the strictures of the conflicts of interest laws. Further, some of the strictures of the City's conflicts of interest law are tiered based on the type of an employee's involvement with the City.⁴⁴ How volunteers would be incorporated into this framework is a nuanced question that would require significant study.

Regarding the Common Cause proposal, Corporation Counsel opinions suggest that the City's conflicts of interest laws already apply to the Board of Elections,⁴⁵ with limited exceptions where state law and the New York State Constitution prohibit applicability.⁴⁶

Consolidation

Second, several commenters recommended combining COIB, CFB, and the City Clerk's Office, among others, into a single super-agency focused on government ethics,⁴⁷ or modifying the appointment structure of COIB due to an alleged "history of ... deference" in granting executive waivers.⁴⁸ The 2002 and 2010 Charter Revision Commissions considered modifications to the appointment structure of COIB, but observed that granting other elected officials the authority to appoint COIB members could potentially politicize COIB and diffuse political accountability.⁴⁹ Considering that the advice and consent requirement of the City Charter already provides for some degree of independence for COIB, and considering the insufficiency of input regarding this proposal, this Commission defers this proposal for future Charter Revision Commissions.

This Commission defers consideration of proposals to combine the City's various ethics agencies. While consolidation could provide some efficiencies of scale, not all ethics agencies are well suited to be combined. There are distinct advantages to isolating COIB, as consolidation could potentially dampen its capacity to oversee the staff of other oversight agencies.

Community Board Conflicts of Interests

Finally, members of the public recommended Charter revisions to refocus scrutiny on conflicts of interest violations occurring within specific community boards.⁵⁰ The Charter establishes a framework for preventing conflicts of interests in City government, but it does not dictate enforcement priorities. The direction of enforcement priorities is better suited for administrative decision-making than codification in the Charter.

¹ Many comments related to land use or public safety, topics that this Commission considered in detail in this Commission’s Preliminary Report. See N.Y.C. CHARTER REVISION COMM’N, 2018 PRELIMINARY STAFF REPORT 111-17 (2018), <https://www1.nyc.gov/assets/charter/downloads/pdf/CRC-Report-July-2018.pdf>.

² This Commission received proposals to establish the Mayor’s Office of Data Analytics, NYC Opportunity, Mayor’s Office of People with Disabilities, and NYC 311 as entities in the Charter. See *id.* at 109. This Commission also received proposals to aggregate the Office of Payroll Administration and Financial Information Services Agency.

³ See 9 R.C.N.Y. § 1-01(e); 2017 M.O.C.S. AGENCY PROCUREMENT INDICATORS 4 (providing the Citywide total of procurement expenditures in fiscal year 2017); *Revenue & Expenditure Summary*, N.Y.C. INDEP. BUDGET OFFICE, <http://www.ibo.nyc.ny.us/RevenueSpending/RevandExpSummary.xls> (last visited Aug. 30, 2018) (setting forth fiscal year 2017 expenditures).

⁴ N.Y.C. Exec. Order no. 121 (Aug. 11, 2008).

⁵ N.Y.C. CHARTER § 311.

⁶ CHARTER §§ 328, 333.

⁷ See, e.g., CITIZEN’S BUDGET COMM’N, NO SMALL CHANGE: OPPORTUNITIES FOR STREAMLINING PROCUREMENT IN NEW YORK CITY (Feb. 11, 2002), http://www.cbcny.org/sites/default/files/report_procurement_02112002.pdf.

⁸ See *About/Go to PASSPort*, MOCS, <https://www1.nyc.gov/site/mocs/systems/about-go-to-passport.page> (last visited Aug. 30, 2018).

⁹ CHARTER § 326(a). The Charter provides for several exceptions to this requirement. Accelerated procurements, procurements conducted through competitive sealed bidding, emergency procurements, and procurements for which a public hearing would risk the disclosure of litigation strategy are exempted from the public hearing requirement. For contracts not exceeding \$1,000,000 in value, the City is not required to conduct a hearing if “no individual requests an opportunity to speak.” The Charter also provides that contracts not exceeding \$10,000,000 in value that “do not differ materially in terms and conditions, as defined by the [PPB], from contracts currently held by the city where the parties to such contracts are the same” may be exempted from hearings by PPB Rule. *Id.* § 326.

¹⁰ See 2016 MOCS AGENCY PROCUREMENT INDICATORS 21; 2014 MOCS AGENCY PROCUREMENT INDICATORS 17; 2013 MOCS AGENCY PROCUREMENT INDICATORS 16; 2012 MOCS AGENCY PROCUREMENT INDICATORS 80.

¹¹ See Joseph A. Cosentino, Jr., Note, *New York City’s Procurement System: Reversing the Cycle of Corruption and Reactionary Reform*, 42 N.Y. L. SCH. L. REV. 1183, 1191-95 (1998).

¹² See *id.*; CONSTANCE CUSHMAN, PPB, STORMY SEAS: “A SHIP WITHOUT A CAPTAIN” FOUR YEARS LATER 29, 37, 39-40 (1993); Janna J. Hansen, Note, *Limits of Competition: Accountability in Government Contracting*, 112 YALE L.J. 2465, 2498-99 (2003).

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- ¹³ 2001 N.Y.C. CHARTER REVISION COMM’N, MAKING OUR CITY’S PROGRESS PERMANENT: AN OVERVIEW 90-91, 94-95 (2001), https://www1.nyc.gov/assets/charter/downloads/pdf/2001_final_report.pdf.
- ¹⁴ N.Y.C. Local Law no. 8 § 1 (June 13, 2002); N.Y.C. LOCAL LAW NO. 19 § 1 (June 3, 2004).
- ¹⁵ CHARTER §§ 230-231.
- ¹⁶ *Id.* §§ 236, 238.
- ¹⁷ *Id.* §§ 241, 245-247. In contrast to this general process, the Council submits its own operating budget, which the Mayor “shall include ... in the executive budget without revision[.]” *Id.* § 243.
- ¹⁸ *Id.* §§ 244, 249-250.
- ¹⁹ *Id.* §§ 251-253.
- ²⁰ *Id.* §§ 254-255.
- ²¹ *Id.* § 256.
- ²² *Id.* § 259(b).
- ²³ Frederick A.O. Schwarz, Jr. & Eric Lane, *The Policy and Politics of Charter Making: The Story of New York City’s 1989 Charter* (pt. 2), 42 N.Y. L. SCH. L. REV. 775, 903 (1998).
- ²⁴ CHARTER § 1052(c).
- ²⁵ *Id.*
- ²⁶ 1998 N.Y.C. CHARTER REVISION COMM’N, REPORT OF THE NEW YORK CITY CHARTER REVISION COMMISSION 13-14 (Aug. 20, 1998), https://www1.nyc.gov/assets/charter/downloads/pdf/1998_final_report.pdf.
- ²⁷ *Id.*
- ²⁸ June 19, 2018 CRC Forum, at 75-76 (statement of Rachel Bloom, Dir. of Pub. Policy & Programs, Citizens Union), https://www1.nyc.gov/assets/charter/downloads/pdf/hearing_20180619.pdf; July 26, 2018 CRC Hearing, at 52 (statement of Bill Meehan), www1.nyc.gov/assets/charter/downloads/pdf/07_26_18_CharterRevision_Hearing.pdf; Written Testimony from Susan Lerner, Exec. Dir., Common Cause N.Y., to N.Y.C. Charter Revision Comm’n (June 19, 2018); *see also* TOM ANGOTTI, LAND USE AND THE NEW YORK CITY CHARTER 26 (Aug. 10, 2010), <http://www.hunter.cuny.edu/ccpd/repository/files/charterreport-angotti-2.pdf>.
- ²⁹ Written Testimony from Susan Lerner (June 19, 2018); ANGOTTI, at 26 (Aug. 10, 2010).

³⁰ June 21, 2018 CRC Forum, at 73-74, 84-86 (statements of Noel Hidalgo, Exec. Dir., BetaNYC, and Brad Lander, Council Member, N.Y.C.), https://www1.nyc.gov/assets/charter/downloads/pdf/06_21_18_charterrevisioncomission.pdf; *see also* May 9, 2018 CRC Hearing 74-76 (Melissa Appleton, Project Manager, Participatory Budgeting Project), <https://www1.nyc.gov/assets/charter/downloads/pdf/meeting-transcript-20180509.pdf> (calling for “at least” one percent to of the City’s budget to be allocated to participatory budgeting).

³¹ *See, e.g.*, June 21, 2018 CRC Forum, 84-86 (statement of Brad Lander); Written Testimony from Susan Lerner (June 19, 2018).

³² Aaron Holmes, *Independent Budgeting a Little-Used Practice for City Watchdog Agencies*, GOTHAM GAZETTE (June 3, 2016), <http://www.gothamgazette.com/city/6373-independent-budgeting-a-little-used-practice-for-city-watchdog-agencies>.

³³ *See* N.Y.C. Council, Intro. no. 1099 (2009) (also proposing to establish a budget guarantee resembling the CFB model for the Comptroller’s Office); *see also* N.Y.C. Council, Intro. no. 95 (2010); N.Y.C. Council, Intro. no. 1045 (2009).

³⁴ 2010 N.Y.C. CHARTER REVISION COMM’N, FINAL REPORT OF THE 2010 NEW YORK CITY CHARTER REVISION COMMISSION 90 (AUG. 23, 2010), https://www1.nyc.gov/assets/charter/downloads/pdf/final_report_of_the_2010_charter_revisi_on_commission_9-1-10.pdf. Earlier Charter Revision Commissions have also considered this question with respect to COIB. 2003 N.Y.C. CHARTER REVISION COMM’N, ENHANCING ACCESS, OPPORTUNITY & COMPETITION: A BLUEPRINT FOR REFORM 156-57 (Sept. 4, 2003), https://www1.nyc.gov/assets/charter/downloads/pdf/final_report2003.pdf; 2002 N.Y.C. CHARTER REVISION COMM’N, THE CITY IN TRANSITION: INTERIM SUCCESSION AND THE MAYORALTY 114-16 (Sept. 3, 2002), https://www1.nyc.gov/assets/charter/downloads/pdf/2002_final_report.pdf.

³⁵ 2010 N.Y.C. CHARTER REVISION COMM’N, at 90-91 (AUG. 23, 2010).

³⁶ *Id.* at 91.

³⁷ *Id.* (estimating this fraction of discretionary spending is one third of the total budget). More routine anomalies may also cause unintended windfalls under a system based on parametric spending guarantees. The 2010 Charter Revision Commission cited an illustration of this phenomenon, in which OMB’s operational costs increased due to an increase in federal stimulus funds. This increase in OMB’s appropriations caused a corresponding surge in IBO’s budget—even though IBO’s duties and expenses did not appreciably change. *Id.* at 92.

³⁸ 1988 N.Y.C. CHARTER REVISION COMM’N, THE REPORT: DECEMBER 1986-NOVEMBER 1988, at 26-30 (1988), https://www1.nyc.gov/assets/charter/downloads/pdf/1986-1988_final_report.pdf.

³⁹ *See* CHARTER § 2602(a)-(b).

⁴⁰ *Id.* § 2603(d).

⁴¹ *Id.* §§ 2602(g), 2603, 2604(e), 2606.

⁴² Written Testimony from Alex Camarda, Reinvent Albany, to N.Y.C. Charter Revision Comm’n 2-3 (Apr. 25, 2018).

⁴³ See June 12, 2018 CRC Forum, at 29-30 (statement of Susan Lerner, Exec. Dir., Common Cause/NY),

https://www1.nyc.gov/assets/charter/downloads/pdf/06_12_18_NYC_Charter_Commission_Hearing.pdf.

⁴⁴ For example, “regular employees” are subject to a stricter set of restrictions than the broader category of all “public servants.” See CHARTER §§ 2601, 2604.

⁴⁵ N.Y.C. Corp. Counsel, Opinion Letter no. 11-90, at 64-65 (Dec. 20, 1990).

⁴⁶ N.Y.C. Corp. Counsel, Opinion Letter no. 2-96 (Sept. 17, 1996).

⁴⁷ May 9, 2018 CRC Hearing, at 48-49 (statement of Alex Camarda).

⁴⁸ May 7, 2018 CRC Hearing, at 32 (statement of Susan Lerner),

https://www1.nyc.gov/assets/charter/downloads/pdf/05_07_18_nyc_charter_commission_public_hearing.pdf.

⁴⁹ 2010 N.Y.C. CHARTER REVISION COMM’N, at 77 (AUG. 23, 2010); 2002 N.Y.C. CHARTER REVISION COMM’N, at 116-17 (Sept. 3, 2002).

⁵⁰ See, e.g., E-mail from Philip Condon to N.Y.C. Charter Revision Comm’n (July 12, 2018, 15:23 EST); May 7, 2018 CRC Hearing, at 136-38 (statement of Alicia Boyd, Movement to Protect the People).

E. Community Concerns and the Charter

Summary

As illustrated in the preceding sections, the Commission conducted a “vertical” review of the Charter and the fundamental institutions of City government. This Commission also conducted a “horizontal” review of how the Charter relates to various communities and groups whose constituents testified before or submitted comments to the Commission. These groups include advocates for the adoption of principles derived from the Convention on the Elimination of Discrimination against Women (CEDAW), veterans groups, groups advocating for people with disabilities, immigrant communities, groups concerned with the needs of homeless people, and groups concerned with the needs of incarcerated and formerly incarcerated people.

In some instances, these comments suggested changing Charter language that reflects outdated views. In other instances, these comments offered critiques of the government’s responsiveness to the needs of particular groups. Many of these comments did not relate to a single governmental function; rather, these comments often related to a constellation of interrelated issues affecting these communities.

CEDAW

During its second round of borough hearings, this Commission heard many comments from representatives of the NYC4CEDAW Steering Committee. Many of these commenters recommended that the City integrate provisions based on CEDAW principles into the Charter. CEDAW is an international treaty registered by the United Nations General Assembly in 1981 that has been ratified or otherwise adopted by 189 countries.¹ CEDAW establishes a definition of discrimination against women and establishes a framework to achieve gender equality and to prevent political, economic, and social discrimination, particularly discrimination relating to matters of employment, health, education, and domestic life.² The text of CEDAW does not appear to contain discrete provisions regarding the allocation of power or obligations for a local government, but instead “provides a theoretical and analytical tool to enable local governments to assess their actions through a gender lens.”³

Many commenters urged this Commission to resolve “that all city programs, all city funding, and all city employment utilize gender-based tools and techniques to assess the impact on women and gender.”⁴ More specific recommendations included adopting the methodology known as “gender

budgeting,”⁵ focusing efforts and resources on promoting economic justice and preventing gender-based violence,⁶ and considering the proposals put forth by this Commission through the lens of CEDAW principles.⁷ Some CEDAW proponents recommended this Commission adopt an intersectional approach, recommending that this Commission “assess gender[,] race[,] discrimination[,] and equality where they converge rather than separately and address the intersection of these with other identities including but not limited to sexual orientation, religion, ability, ethnicity, nationality, class, age[,] and legal status.”⁸ In its submission to this Commission, the NYC4CEDAW Act Coalition submitted a proposal for the creation of an agency to oversee a review of City government and its governing laws to address instances of gender discrimination based on the principles of CEDAW.⁹

This Commission regards these recommendations as valuable contributions to its work, but, due to time constraints, will defer this matter for consideration by future Commissions. Because this Commission understands that many CEDAW principles are abstract and broad, future Commissions considering CEDAW should carefully review the implications of adoption of these principles, and the best methods of integrating them within the City’s existing structures and processes, prior to fashioning a proposal for voters.

Veterans

This Commission also heard testimony advocating that this Commission revise the Charter to assist those returning from their military service. These comments varied considerably: some called for inclusion of veterans issues in the City’s Social Indicators Report, for employment protections for veterans, and for expansion of the City’s minority and women owned business enterprise program to include veteran owned businesses.¹⁰ Others called for veterans to receive protected status if incarcerated,¹¹ and called for local businesses to provide small accommodations to veterans returning to the City in recognition of their service.¹² But these comments shared a fundamental similarity in that they underscore the importance of recognizing the experience of veterans after returning from serving their country and the contributions they make to our City.

The City’s Department of Veterans’ Services (DVS) also offered proposals to this Commission, recommending that the City expand the definition of the term “veteran” in Charter § 3101 to include veterans of all types, periods of service, and discharge statuses. DVS also recommended that the City amend § 3103 of the Charter to provide additional administrative and technical support and increased autonomy to the City’s Veterans Advisory Board.

In connection with the Commission's proposed Civic Engagement Commission, the experience of veterans would be required to be considered both in appointments to the Civic Engagement Commission itself, and in its outreach efforts.

People with Disabilities

The Commission repeatedly heard testimony about the need for City government to be responsive to people with disabilities. Susan Dooha, Executive Director of the Center for Independence of the Disabled, New York, testified to the Commission regarding the difficulties that people with disabilities face in the City. Particularly, Dooha observed that inadequate transportation, unemployment, and lack of accessibility in spaces like schools and health facilities are enduring problems in New York City. These fundamental quality of life issues—transportation and accessibility—undermine people with disabilities' opportunities for civic engagement. Making ballot materials available in braille or other formats, making poll sites fully accessible, and including people with disabilities as stakeholders in future civic engagement efforts are the types of changes Dooha proposed to facilitate civic participation.¹³ Relatedly, this Commission heard that many district managers struggle to find accessible spaces for community board meetings.¹⁴

With respect to these barriers to civic participation, the Civic Engagement Commission proposed by this Commission will be charged broadly with a duty to further investigate ways to facilitate civic engagement for all of the City's residents.

This Commission also received proposals from the Mayor's Office for People with Disabilities (MOPD) and the Mayor's Office of Operations advocating for the establishment of MOPD as a Charter agency. In 1990, MOPD was established by executive order to serve as a liaison and advocate for people with disabilities with respect to other facets of City government.¹⁵ MOPD also proposed a wide variety of edits to the Charter to increase the City's responsiveness and recognition of people with disabilities, including numerous edits to the text of the Charter to require: (1) consideration of people with disabilities and accessibility concerns in various reports, plans, and substantive requirements; (2) consultation with MOPD on certain issues; (3) representation by MOPD or others representing people with disabilities on certain committees; and (4) mandating disability awareness training for all City employees.

Immigrant Communities

Facilitating the inclusion of immigrant communities and ensuring that immigrant communities receive adequate representation were prominent themes in the testimony received by this Commission, particularly in the context of the Commission's inquiries into civic engagement and districting. Regarding the engagement of immigrant communities, Professor Elizabeth OuYang, an expert invited to deliver testimony to this Commission, stressed the importance of community-based organizations, including religious organizations, in strengthening civic participation within immigrant communities.¹⁶ OuYang also stressed the need for a corresponding involvement of immigrant communities in the democratic decision-making process.¹⁷ Suggestions for engaging immigrant communities from other commenters included a proposal to establish an African Commission to address the needs of African immigrants in the City.¹⁸

Commenters also expressed great interest in language access for voters, a theme discussed earlier in this report and which disproportionately affects immigrant communities. Regarding the provision of language access services outside the context of elections, both the Mayor's Office of Immigrant Affairs (MOIA) and the Mayor's Office of Operations recommended transferring the office of the language services coordinator established under Charter § 15(c) from the Mayor's Office of Operations to MOIA, which currently coordinates the City's language access activities.

Language access and augmented civic engagement for immigrant populations are prominent themes incorporated into this Commission's proposals.

Homelessness

This Commission also received comments relating to homelessness in the City. The topic of homelessness arose as a theme both during discussions of the land use decision-making process and in comments relating to at-risk populations. This Commission heard the concerns of representatives of advocacy groups for people with disabilities¹⁹ and people reentering society following incarceration.²⁰ These groups both identified homelessness as an issue intersecting with their respective groups' needs.

With respect to land use matters, commentators asked this Commission to consider incorporating a right to housing into the City Charter,²¹ and modifying the Uniform Land Use Review Procedure (ULURP) to give a greater voice to homeless people, who may benefit from new development. As Jessica

Katz, Executive Director of the Citizens Housing Planning Council, observed “[c]urrently the only people who don't have a vote in the ULURP process ... are those who may someday live in the new housing proposed ... [T]here are 60,000 homeless people in New York City and they do not ... attend Community Board meetings.”²² The Civic Engagement Commission, if adopted by the City’s electors, will be an entity that would be well positioned to help the City’s homeless population access the political discussions that could potentially affect their lives.

The Incarcerated Population

In its Preliminary Report, this Commission described testimony it received regarding matters relating to criminal justice and public safety, particularly comments relating to the composition and powers of the Civilian Complaint Review Board, the creation of an independent special prosecutor’s office for police misconduct, and the disclosure of police disciplinary records.²³

As noted above, this Commission also received testimony concerning issues faced by incarcerated veterans and the housing needs of people reentering society. This Commission also received comments recommending that the City decrease its expenditures on law enforcement and incarceration, and establish a “Commission for Peace” to provide volunteer preventative services as a substitute to promote peacefulness in the City.²⁴ This Commission has also focused its efforts on exploring ways to promote volunteerism, and although the Civic Engagement Commission will not focus on crime prevention, the Civic Engagement Commission’s goal of promoting a harmonious society and constructive political discourse overlaps in some respects with the contemplated goals of the Commission for Peace.

Conclusion

This Commission is grateful for the many thoughtful concerns and creative solutions shared by the public and experts throughout this process. These comments helped this Commission better understand the relationship between the City and the intersecting needs of its communities. While this Commission was not able to explore every proposal it received, this Commission believes that the Civic Engagement Commission’s implementation of participatory budgeting, partnership with community-based organizations, and facilitation of government access will empower many of the groups described above, giving them a more pronounced role in the democratic decision-making process.

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- ¹ *Convention on the Elimination of All Forms of Discrimination Against Women*, U.N., https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en#1 (last visited Aug. 30, 2018).
- ² *Convention on the Elimination of Discrimination Against Women*, G.A. Res. 34/180 (Dec. 18, 1979), https://treaties.un.org/doc/Treaties/1981/09/19810903%2005-18%20AM/Ch_IV_8p.pdf.
- ³ July 31, 2018 CRC Hearing, at 35 (statement of Elizabeth Irwin, Int'l Fed. Of Bus. & Prof'l Women), https://www1.nyc.gov/assets/charter/downloads/pdf/07_31_18_charter_staten_island_hearing.pdf.
- ⁴ *See, e.g., id.* at 36; July 24, 2018 CRC Hearing, at 46 (statement of Yvonne O'Neil, NYC4CEDAW Steering Comm.), https://www1.nyc.gov/assets/charter/downloads/pdf/07_24_18_NYC_Charter_Commission_Revision_Hearing.pdf.
- ⁵ July 26, 2018 CRC Hearing, at 83-85 (statement of Yvonne O'Neil), www1.nyc.gov/assets/charter/downloads/pdf/07_26_18_CharterRevision_Hearing.pdf.
- ⁶ July 31, 2018 CRC Hearing, at 40-43 (statement of Sevonna Brown, Assistant Exec. Dir., Black Women's Blueprint).
- ⁷ *See, e.g.,* July 26, 2018 CRC Hearing, at 88-91 (statement of Sheila Katzman, Chair, NYC4CEDAW).
- ⁸ July 31, 2018 CRC Hearing, at 23 (statement of Sheila Katzman).
- ⁹ *See* E-mail from Sheila Katzman, Chair, NYC4CEDAW, to Christine Billy, Gen. Counsel, N.Y.C. Charter Revision Comm'n (Aug. 28, 2018, 15:09 EST).
- ¹⁰ E-mail from Kristen Rouse, NYC Veterans All., to N.Y.C. Charter Revision Comm'n (July 16, 2018, 8:41 EST).
- ¹¹ E-mail from Susan Park to N.Y.C. Charter Revision Comm'n (Aug. 2, 2018, 11:25 EST).
- ¹² E-mail from Viviana DeCohen, Counselor, Mercy College Veterans, to N.Y.C. Charter Revision Comm'n (July 9, 2018, 16:26 EST).
- ¹³ June 21, 2018 CRC Forum, at 49-55, 61-64 (statement of Susan Dooha, Exec. Dir., Ctr. For Independence of the Disabled, NY), https://www1.nyc.gov/assets/charter/downloads/pdf/06_21_18_charterrevisioncomission.pdf.
- ¹⁴ June 19, 2018 CRC Forum, at 31 (statement of Ebenezer Smith, Dist. Manager, Cmty. Bd. 12 Manhattan), https://www1.nyc.gov/assets/charter/downloads/pdf/hearing_20180619.pdf.

¹⁵ See N.Y.C. Exec. Order no. 17 (Sept. 7, 1990). A predecessor organization to the Mayor's Office for People with Disabilities dates to 1973. See N.Y.C. Exec. Order no. 81 (June 29, 1973).

¹⁶ June 21, 2018 CRC Forum, at 32-34 (statement of Elizabeth OuYang, Adjunct Professor, Columbia Univ.).

¹⁷ *Id.* at 34-35.

¹⁸ Apr. 30, 2018 CRC Hearing, at 65-66 (statement of Engado Aboiuz, African Advisory Council), <https://www1.nyc.gov/assets/charter/downloads/pdf/meeting-transcript-20180430.pdf>.

¹⁹ See June 21, 2018 CRC Forum, at 51-52, 63-64 (statement of Susan Dooha).

²⁰ See Apr. 25, 2018 CRC Hearing, at 53-54 (statement of Harry Timberland, True 2 Life), <https://www1.nyc.gov/assets/charter/downloads/pdf/meeting-transcript-20180425.pdf>.

²¹ Written Testimony from Cristina Gonzalez et al., Women of Color for Progress, to N.Y.C. Charter Revision Comm'n 2 (May 9, 2018); E-mail from Oksana Mironova, Housing Policy Analyst, Cmty. Serv. Society, to N.Y.C. Charter Revision Comm'n (May 24, 2018, 12:58 EST).

²² June 19, 2018 CRC Forum, at 97 (statement of Jessica Katz, Exec. Dir., Citizen Hous. & Planning Council).

²³ N.Y.C. CHARTER REVISION COMMISSION, 2018 PRELIMINARY STAFF REPORT 111-12 (2018), <https://www1.nyc.gov/assets/charter/downloads/pdf/CRC-Report-July-2018.pdf>.

²⁴ See Apr. 30, 2018 CRC Hearing, at 31-32 (statement of Saf Musa Morala); E-mail from Sheikh Musa Drammeh, Chairman, N.Y. Peace Coal., to N.Y.C. Charter Revision Comm'n (May 1, 2018, 00:10 EST).

Appendix A: Public Engagement Events

FIRST ROUND OF PUBLIC HEARINGS

Borough	Location	Date
Staten Island	McKee High School, 290 St. Marks Pl., 10301	April 25, 2018
Bronx	Bronx Community College, 2155 University Ave., 10453	April 30, 2018
Queens	Queens Library, 41-17 Main St., 11355	May 3, 2018
Brooklyn	Brooklyn Botanic Garden, 1000 Washington Ave., 11225	May 7, 2018
Manhattan	New York Public Library, 476 5 th Ave., 10018	May 9, 2018

SECOND ROUND OF PUBLIC HEARINGS

Borough	Location	Date
Manhattan	NYU Vanderbilt Hall, 40 Washington Square South, 10012	July 23, 2018
Bronx	Hostos Community College, 120 East 149 th St., 10451	July 24, 2018
Brooklyn	St. Francis College, 180 Remsen St., 11201	July 25, 2018
Queens	Queens Borough Hall, 120-55 Queens Blvd., 11424	July 26, 2018
Staten Island	McKee High School, 290 St. Marks Pl., 10301	July 31, 2018

COMMUNITY EVENTS

Event	Location	Date
Youth Event with Bay Ridge Beacons and Commissioner Clarke	371 89 th St., 11209 (Brooklyn)	June 20, 2018
Commissioner in Your Borough Event with Commissioner Seecharran	3551 81 st St., 11372 (Queens)	June 21, 2018
Veterans Event with American Legion, Veterans of Foreign Wars, NYC Department of Veterans Services, and Commissioners Bragg, Carrión, and Clarke	New York City Fire Museum, 278 Spring St., 10013 (Manhattan)	July 11, 2018
Grand Army Plaza Greenmarket	Grand Army Plaza, 11238 (Brooklyn)	July 14, 2018
St. George Greenmarket	St. Marks Place & Hyatt Street, 10301 (Staten Island)	July 21, 2018
Youth Event with NYC Summer Enrichment Program and Commissioner Archer	2 Lafayette St., 10007 (Manhattan)	July 23, 2018
Community and Ethnic Media Roundtable with Errol Louis and Commissioners Carrión, Clarke, and Fernandez	The Made in NY Media Center by IFP, 30 John St., 11201 (Brooklyn)	August 16, 2018

TELE-TOWN HALL

Community Event
<p>WHO: Vice-Chair Godsil and Commissioner Clarke</p> <p>WHEN: August 9, 2018</p> <p>WHAT: 4,512 New Yorkers listening in and asking their questions in six languages – English, Bengali, Mandarin, Cantonese, Spanish, and Korean.</p>

TWITTER TOWN HALL

Community Event
<p>WHO: Commissioners Bragg and Seecharan</p> <p>WHEN: August 10, 2018</p> <p>WHAT: 4,249 New Yorkers engaging with the 2018 Charter Revision Commission on Twitter and over half a million impressions on Twitter.</p>

ISSUE FORUMS

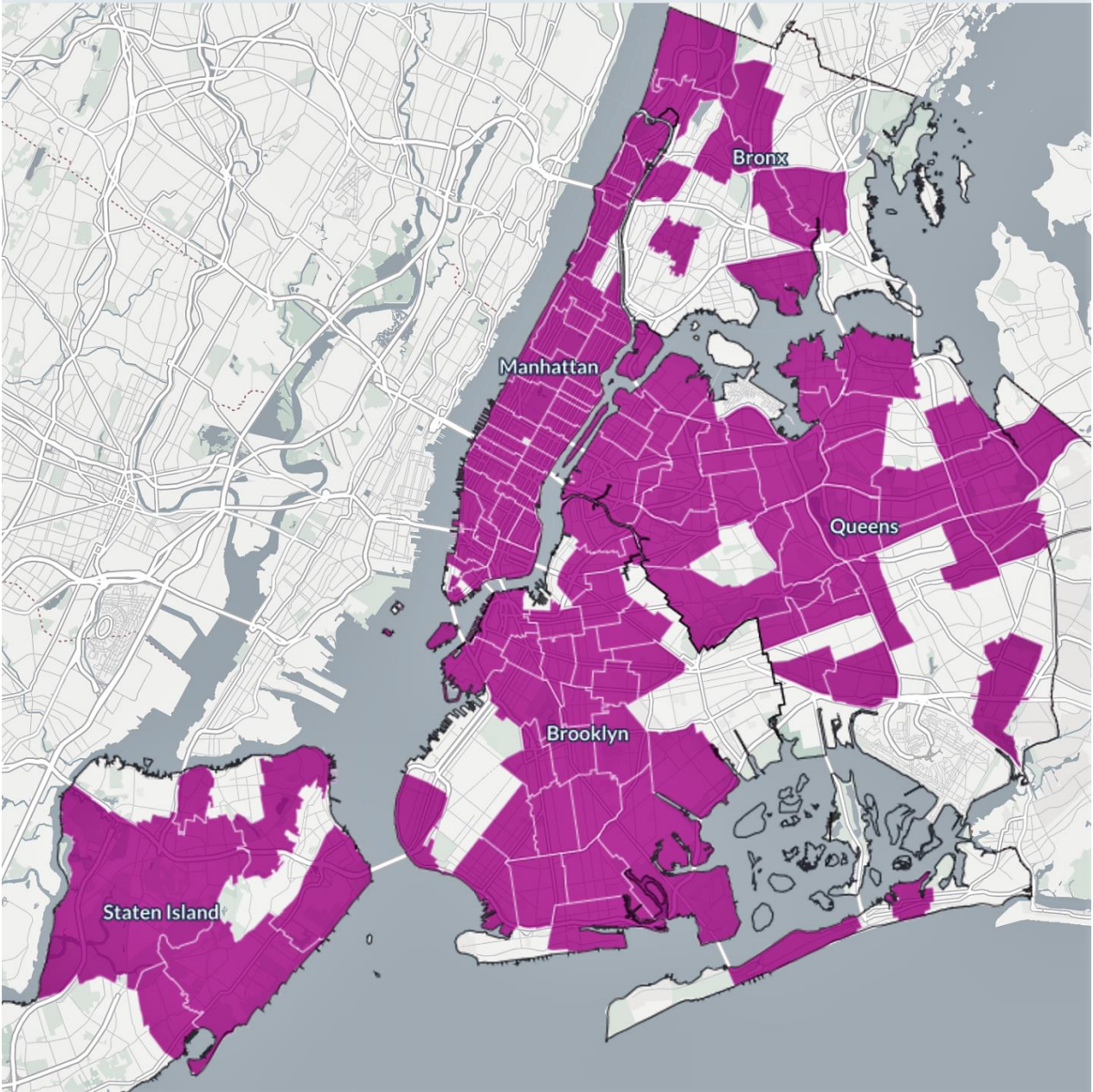
Topic		Date
Election Administration, Voter Participation, and Voting Access	125 Worth St., 10013	June 12, 2018
Campaign Finance	NYU School of Law, D’Agostino Hall, 108 West 3 rd St., 10012	June 14, 2018
Community Boards and Land Use	Pratt Institute, 144 West 14 th St., 10011	June 19, 2018
Civic Engagement and Independent Redistricting	NYU School of Law, D’Agostino Hall, 108 West 3 rd St., 10012	June 21, 2018

PUBLIC MEETINGS

Public Meeting	Location	Date
Public Meeting #1	125 Worth St., 10013	April 19, 2018
Public Meeting #2	Pratt Institute, 144 West 14 th St., 10011	May 31, 2018
Public Meeting #3	Pratt Institute, 144 West 14 th St., 10011	July 17, 2018
Public Meeting #4	Pratt Institute, 144 West 14 th St., 10001	August 14, 2018
Public Meeting #5	New York Historical Society, 170 Central Park West, 10024	September 4, 2018

Appendix B: Public Comments by Zip Code

SPRING AND SUMMER 2018



***Includes all zip codes provided by individuals and organizations at the time they submitted comments.**

**Appendix C: September 4, 2018
Resolution of the New York City Charter
Revision Commission**



1 Centre Street
New York, NY 10007

Cesar Perales
Chair

Rachel Godsil
Carlo A. Scissura
Larian Angelo
Deborah N. Archer
Kyle Bragg
Marco A. Carrión
Una Clarke
Angela Fernandez
Sharon Greenberger
Dale Ho
Mendy Mirocznik
Annetta Seecharran
John Siegal
Wendy Weiser

**RESOLUTION OF
THE NEW YORK CITY CHARTER REVISION COMMISSION**

dated September 4, 2018, 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 sixth, two thousand and eighteen, and the adoption of a report relating thereto.

Resolved, that pursuant to Section 36 of the Municipal Home Rule Law, three 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 seventh, two thousand and eighteen; 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 electors of the City of New York at the general election to be held on November sixth, two thousand and eighteen; 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 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 Commission by a vote of 12-0, with 3 not present,



Cesar Perales, Chair



Una Clarke, Commissioner



Larian Angelo, Commissioner



Dale Ho, Commissioner



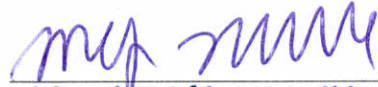
Deborah Archer, Commissioner



Angela Fernandez, Commissioner



Rachel Godsil, Vicechair
Commissioner



Mendy Mirocznik
Commissioner



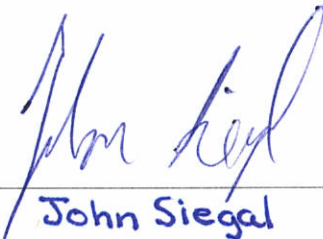
Carlo Scissura, Secretary
Commissioner

, Commissioner



Annetta Seecharran
Commissioner

, Commissioner



John Siegal
Commissioner

, Commissioner



Wendy Weiser
Commissioner

