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Testimony before the 2019 Charter Revision Commission

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Good evening, I am Andrew Rein, President of the Citizens Budget Commission (CBC). CBC is a nonpartisan, nonprofit think tank that promotes constructive change in the finances and services of New York State and New York City governments. Thank you for the opportunity to testify.

The current City Charter provides a strong budgeting and financial management framework that has served the city well. New York City has produced nearly 40 balanced budgets and regained and maintained good standing in municipal credit markets since this framework was enshrined in the New York State Financial Emergency Act for the City of New York (FEA), and subsequently incorporated in the Charter. With this backdrop, CBC recommends this Commission exercise caution when proposing changes to the City's fiscal management structures and processes.

CBC supports two proposals that would strengthen this framework by allowing the City to better prepare for economic downturns and to meet future obligations. Otherwise, CBC recommends the current framework remain intact. Furthermore, as this Commission considers changes to the City's long-term land use and capital planning processes, two enhancements would be beneficial. Finally, the Commission should strongly consider putting its proposals, assuming they are diverse, before the voters as discrete proposal groups rather than as a single ballot question.

Charter Amendments That Would Improve the City's Long Run Financial Management

Creating and permitting the use of a Rainy Day Fund (RDF) would be a significant improvement to the City's Charter-defined financial management framework. A recession comparable to the prior two would result in New York City facing cumulative tax revenue shortfalls of \$15 billion to \$20 billion over three years. During prior recessions, New York City cut services and increased taxes to balance the budget. Had a well-structured RDF been in place, the City would have been able to draw on resources set aside during periods of economic growth to mitigate some of the service reductions and counterproductive tax increases.

The Charter should be amended to exclude from its balanced budget requirements a deficit that is funded by an RDF that adheres to the sound principles laid out in CBC's recent report [To Weather a Storm](#), appended to this testimony. In order to ensure the RDF is funded adequately and used properly, the Charter should include the following parameters:

- The RDF should have a target size sufficient to ameliorate the most damaging impacts of tax revenue losses due to a recession. The target size should be sufficient to cover an estimated two-year budget gap resulting from recession-driven revenue shortfalls and spending growth that would be significantly lower than historical averages.
- Minimum annual deposits into the RDF should be required during periods of economic growth. While the sum of these deposits might not reach the target size during most economic recoveries, they should be sufficiently large to accumulate a substantial RDF. Deposit requirements should be designed to capture more revenue in years of faster tax revenue growth, while still allowing sufficient revenue to fund City services.
- Withdrawals should be allowed only during an economic contraction or a severe emergency, which should be precisely defined; there should be a cap on the share of the RDF that can be withdrawn in the first year.

Modifying the Charter to create and allow for the use of an RDF is necessary but not sufficient. The City should work with the State to amend the FEA to permit use of an RDF. Furthermore, rules specifying the RDF target size, minimum deposit amount and timing, and withdrawal limits should be adopted in local law. CBC's [To Weather a Storm](#) includes recommendations for establishing an RDF and defining its specific parameters. While the needed changes to State law and City administrative code are outside of the purview of this Commission, a Charter amendment is essential and is a critically important first step to create momentum for this needed change.

Complementing the RDF, CBC recommends the Charter be amended to properly structure the Retiree Health Benefits Trust (RHBT), which is now imprudently considered a de facto RDF. Establishing the RHBT in the Charter can prevent its use as a de facto RDF by (1) requiring annual deposits of at least the current year cost (or PAYGO) of the relevant retiree health benefits plus some percentage, or the normal cost of those benefits, and (2) limiting RHBT disbursements to PAYGO. This proposal is a beneficial companion to the RDF proposal and would help ensure the RHBT is able to accrue resources for current obligations to be paid in the future.

Including the RDF and RHBT proposals on the ballot would empower voters to support prudent, long-term fiscal management for New York City.

Elements of the Budgeting Framework That Should Not Be Amended

Three proposals before this Commission would change the current budgetary powers, discretion, and shared decision-making framework. CBC recommends:

- The Commission should not propose to modify the process and timeline for estimating non-property tax revenues, since the current framework has served the City well by reducing risk of overestimation while allowing for substantial growth in spending over time;

- The Commission should not propose to create independent or formula budgets for certain offices, since they would not ensure these offices' independence and would undercut the City Council and Mayor's role in setting budgetary priorities; and
- The Commission should not propose to narrow the Mayor's power to impound funds. While CBC understands the impetus behind the proposal, this power rarely has been an impediment to good financial management and changing it may yield unforeseen negative consequences.

Planning Document Coordination and Alignment

The Preliminary Staff Report recommends the Commission consider Charter amendments to clarify how the City's various land use and capital budget documents relate to one another. While the Staff Report did not include in its document list the capital asset inventory required by Charter Section 1110-a, any proposal the Commission pursues to improve the City's land use and capital planning documents should include expanding the Charter-defined components of the capital asset inventory to include all assets that meet capital financing eligibility criteria, currently \$35,000 and a five-year useful life, that are owned by an agency or authority that the City controls. In addition, if the Commission seeks to align the various planning documents, it also should require the capital budget Borough President allocations to align with the City's 10-year capital strategy.

Presentation to Voters

New York State's Municipal Home Rule Law empowers Charter Revision Commissions to present proposed amendments as a single ballot question or in two or more parts.ⁱ Since the Commission has a broad mandate and may present a diverse set of proposals, CBC recommends the Commission consider presenting them as discrete groups of like proposals so that voters can consider the worthiness of each.

Conclusion

The Charter mandated financial management structures generally have served the city well and should for the most part remain intact. However, establishing the RDF and the RHBT, and making the City's capital inventory comprehensive would be important improvements.

ⁱ Article 3, Section 26(5)(b) of the Municipal Home Rule Law of New York.