

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Hilary Baum
Address: 54 54 Palisade Ave Bx NY 10471
I represent: Baum Forum
Address: 54 54 Palisade Ave Bx NY 10471

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 462 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: PAULA Z. SEGAL
Address: 140 Franklin Ave. 4C Brooklyn
I represent: myself
Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Daniel Bowman Simon
Address: _____
I represent: myself
Address: _____

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 452-2011 Res. No. _____

in favor in opposition

Date: 2/28/11

(PLEASE PRINT)

Name: Hannah Cielle
Address: 9 Fishkill Farm Rd Hopewell Jct
I represent: American Farmland Trust NY
Address: 112 Spring St. Saratoga Springs NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. 627

in favor in opposition

Date: 2/28/11

(PLEASE PRINT)

Name: DAVID MARANO
Address: 128 MARINE AVE
I represent: _____
Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: Feb 28, 2001

(PLEASE PRINT)

Name: Triada Stamps
Address: _____
I represent: Food Bank for NYC
Address: 39 Bway, 10th Fl.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)
Name: THOMAS FORSTER

Address: _____

I represent: SCHOOL FOOD FOCUS

Address: 301 DEAN ST #2 BRKLN

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[]

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: 2/28/11

(PLEASE PRINT)
Name: JAKE LUCE

Address: Deputy Chief of Staff

I represent: MOGS

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[]

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: 2/28/11

(PLEASE PRINT)
Name: Marina Osorio

Address: Senior Environmental Analyst

I represent: MOGS

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 452 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Mark Izman

Address: _____

I represent: Natural Resources Defense Council

Address: 40 West 20th St NYC 10011

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 452 Res. No. _____

in favor in opposition

Date: 2/28/11

(PLEASE PRINT)

Name: KENNETH JAFFE

Address: below

I represent: SLOPE FARM & CORNELL GRASSLAND

Address: 2227 Tompkins Rd. E. Vol 102th NY TEAM
13457

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 452 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Christina Grace

Address: 55 Hansen Pl. Brooklyn 11217

I represent: NYS Dept. of Agriculture

Address: D

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**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

461

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

Name: Arden Down (PLEASE PRINT)

Address: 969 Park Ave

I represent: Women's City Club of NY

Address: 703 ~~St~~ 7th Ave

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 461 Res. No. _____

in favor in opposition

Date: 2/28/11

Name: Bonny Betancourt (PLEASE PRINT)

Address: _____

I represent: American Chemistry Council

Address: 99 Washington Ave Albany NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 452 Res. No. _____

in favor in opposition

Date: 2/28/11

Name: James Subudju (PLEASE PRINT)

Address: 579 Greene Ave Apt un. 3

I represent: WEACT

Address: _____

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**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Hannah Bernhardt

Address: _____

I represent: myself

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 461 Res. No. 628

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Ken DIAMONDSTONE

Address: 200 Clinton St #5K Bklyn 11201

I represent: Brooklyn Solid Waste Advisory Board

Address: _____

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without hard clamshell casings, plastic bindings, air bubble wrap or wire ties. All of Amazon's Frustration Free packages are designed to be opened without a knife or box cutter. Amazon works directly with manufacturers who sell on Amazon.com. In addition, Amazon has software which designs packaging based on weight and size.

Another likely resource may be the office of Congressman Anthony Weiner of New York who in 2009 introduced legislation calling on the EPA to reduce wasteful packaging by 30% in ten years for items purchased by the Federal Government.

A very significant resource would be the consulting firm MBDC (McDonough Braungart Design Chemistry) which has created the "Cradle to Cradle" designation for many products in many industries including packaging. They have often been consultant to those industries as well as governments including the City of Chicago, US Air Force and the Federal EPA regarding various environmental metrics and sustainability of packaging.

It would be our hope that during this process of creating packaging regulations, that the Committee also evaluate the toxicity of the materials used in packaging, energy expended to produce it, waste pollution created in the manufacturer of the packaging and overall carbon footprint of the packaging material and add those metrics to your decision making. We are therefore requesting that proposed into 461 and resolution 628 be amended to include those additional metrics.

Establishing parameters for packaging will likely have an enormous impact on the manufacturers of the 1,000's of items this City procures. It will accelerate the movement toward Extended Producer Responsibility which holds manufactures responsible for the cost of the waste they produce rather than forcing the municipality and taxpayer to shoulder those burdens.

Finally, we want to briefly mention our support of intro 452 and resolution 627 regarding the purchase of food from the New York region. It is our belief that such local producers, as opposed to big agribusiness, greatly reduce the amount of wasteful packaging in the transport of their products.

Thank you.

Testimony on Monday, February 28, 2011 of the Brooklyn Solid Waste Advisory Board before the Committee on Contracts regarding Intro 461 and Resolution 628

Good afternoon members of the committee and thank you for the opportunity to testify on behalf of the Brooklyn Solid Waste Advisory Board (BSWAB). My name is Ken Diamondstone, chair of the Brooklyn SWAB, an entity that was established by the City Council under local law 19 of 1989 and charged with the role of bringing informed community voices regarding waste and recycling to the attention of public officials.

I want to assure you of our strong support for intro 461 and resolution 628 and hope that the result of this critical effort will be a comprehensive set of mandatory policy guidelines for DCAS, the purchasing arm of the City.

Equally important will be to find a way to implement and enforce these regulations on Mayoral Agency purchasing agents, the majority of whose contracts are considered "micro" under \$5,000 or "small" under \$100,000.

Such purchases are currently exempt from certain Environmentally Preferable Purchasing requirement that the City Council promulgated under Local Law 121 of 2005. While purchasing agents are urged to follow EPP guidelines by the Mayor's office of Contract Services for "micro" and "small purchases," they are not obligated to do so. It is our hope they will not be exempt from any new packaging requirements since between 82 – 93% of all City purchase orders fall into the two categories of "Micro or Small."

The BSWAB admittedly has little expertise in packaging regulations but today we would like to suggest several useful resources available to the committee to help undertake this effort. We note that many nations, states and cities have prepared the way with their own best practices for packaging. Canada, England and many European countries have current regulations which regulate packaging.

It may be useful to refer to the California Product Stewardship Council (CPSC) for its standards and to Amazon.com regarding their "Frustration Free Packaging." Frustration Free Packaging is certified recyclable, comes

without hard clamshell casings, plastic bindings, air bubble wrap or wire ties. All of Amazon's Frustration Free packages are designed to be opened without a knife or box cutter. Amazon works directly with manufacturers who sell on Amazon.com. In addition, Amazon has software which designs packaging based on weight and size.

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**New York City Council Committee on Contracts
Public Hearing Regarding Intro No. 461
Establishing Packaging Reduction Guidelines
for Contractors with City Agencies**

February 28, 2011

Good afternoon Chairperson Mealy and Councilmembers. My name is Ashley Carlson and I am the Director of Packaging for the Plastics Division at American Chemistry Council. Our association represents American plastic producers in New York and across the country. ACC strongly supports packaging policies based on life-cycle thinking that lead to environmental benefits such as reduced greenhouse gas emissions, and energy and waste reduction. ACC appreciates this opportunity to share its experience and knowledge regarding plastic packaging and recycling data used by manufacturers in their decision making processes. We congratulate New York City's recent initiative in expanding the recycling for rigid plastic containers, and for current efforts to thoughtfully reduce unnecessary packaging wherever possible. We support efforts to reduce, reuse and recycle. At the same time, we remind the Committee that packaging also serves a vital role in protecting products for both consumers and merchants. This consideration appears to currently be considered in the proposed legislation, and must not be lost.

Protecting the safety and integrity of the product are among the important aspects of sustainable packaging. This can have significant health and safety implications for the people who use products, as packaging helps protect delicate electronics from damage; personal care products from adulteration; and foods from spoilage and contamination.

Many companies are proactively pursuing packaging minimization goals. For example, Kraft® switched its classic Miracle Whip® jar from glass to plastic and by doing so, decreased the fuel consumption of their delivery trucks by 87,000 gallons annually because the switch allowed six more pallets of product to fit on each truckload, thereby reducing the number of trucks on the road. There is also less breakage compared to glass¹. Similarly, Peter Pan® reduced the percentage of plastic in its jars by 12 percent, eliminating enough plastic to fill more than 24 garbage trucks each year with solid waste².

Additionally, the recycling of plastic packaging is steadily increasing in the United States. A leading recycling research organization released an update to its 2009 Non-Bottle Rigid Recycling Report and announced an increase in non-bottle rigid plastic recycling by 33% from 2008 and 47% since 2007³. ACC applauds NYC's efforts to increase recycling, especially its recent decision to expand its recycling infrastructure to include rigid plastic packaging and its successful retailer plastic bag take-back program launched in 2008. ACC encourages NYC to consider choosing packaging materials that can be recycled within the city's current recycling infrastructure whenever possible, while also recognizing that some packages that cannot yet be recycled in NYC may still have a smaller lifecycle footprint than alternative packages by using much less material in the first place.. With respect to compostable packages, a preference for compostable packaging should only be adopted if there is an ability to actually collect it and take it to an industrial composting facility. At this time, there does not appear to be the means to provide composting collection for packaging in NYC.

Thank you for your time and consideration of our position, and the information we have provided to you today.

Ashley Carlson, Director of Packaging
ACC Plastics Division

For more information, please contact ACC's Northeast Region office at (518) 432-7835.

¹ Plastics News, June 20, 2008.

² Packaging Digest, November 1, 2009.

³ 2009 Non-bottle Rigid Report, Moore Recycling, February 2010,

http://www.americanchemistry.com/s_plastics/sec_content.asp?CID=1593&DID=11690



**Statement of the Natural Resources Defense Council
Before the New York City Council Committee on Contracts
Re: Intro 452 and Resolution 627 –Boosting Procurement of Local Food
February 28, 2011**

Good Afternoon, my name is Mark A. Izeman and I am a Senior Attorney and Director of the New York Program for the Natural Resources Defense Council (NRDC). NRDC is a national environmental organization that has worked for four decades on environmental and public health issues in the New York region. And for many years, NRDC has specifically worked at the national and regional levels on food and agricultural issues, including presenting annual “Growing Green” awards to honor farmers, business leaders and other promoters of sustainable food. My NRDC colleagues Johanna Dyer and Ellie Tarlow join me today at this hearing.

We would like to commend the Council for addressing the important issue of local food and for introducing legislation to help protect and promote New York’s regional food supply. My brief statement today will focus on Councilmember Brewer’s Intro 452 and Councilmember Rose’s Resolution 627. In brief, Intro 452 seeks to establish guidelines and accountability among City agencies with respect to procurement of food products grown, produced, harvested, or processed in New York State. And Resolution 627 calls upon the State Legislature to amend New York General Municipal Law to extend local food preferences to food products from “the New York region,” including New Jersey, Connecticut, Vermont and New Hampshire.

(NRDC, which has also worked for decades on solid waste issues in New York, plans on submitting separate testimony on Intro 461 and Resolution 628 relating to reducing the amount and toxicity of packaging in the City.)

In short, NRDC is supportive of Intro 452 and Resolution 627 because we believe there are compelling environmental, economic and public health benefits from boosting the supply of local food into the City. We would like, however, to offer two suggestions for strengthening these bills before they are finalized. First, we respectfully suggest that the guidelines for procuring local food in Intro 452 include standards of sustainability --- so that we are not just increasing the amount of local food into the City, but also the amount of *sustainably grown local food*. And, second, we urge the Council to consider adding concrete targets for the quantity of sustainable, local food purchased by City agencies.

Before explaining our rationale for these legislative enhancements, we wanted to briefly highlight the key advantages of using the City's immense institutional budget for meals – as Quinn's office has noted, it is second only to that of the United States military – and how the City's purchasing power can bring about positive change in our economy, our health and our environment.

Economic Benefits: If the City were to leverage its purchasing power to promote an increase in the demand for local food, there would be tremendous opportunity for local farmers and food producers to increase their sales, create new jobs, and promote economic growth. Currently, less than 20 percent of New York State's farms make more than \$100,000 annually, and farmers in New York earn roughly half as much per acre as farmers do nationally. Increasing demand of local food would not only promote growth in our agricultural industry, but also would have a multiplier effect on job opportunities in New York at large: for every job created in the food manufacturing industry, two additional jobs are created in the economy, and for every job on New York's dairy farms an additional 1.24 jobs are created.

Health Benefits: Increasing the City's purchasing of local food may also have significant health benefits for New Yorkers. A 2005 report showed that fruit and vegetables lose nutrients each day after they have been harvested -- and after only three days, they have lost 40 percent of their nutritional value. Since local food is usually sold relatively soon after being harvested, it may have more nutritional value than its industrial farm equivalent that has often spent days or longer being shipped across country. And even though New York has the potential to supply this local, healthy food, and it is ranked in the top five in the country in growing more than a dozen different fruits and vegetables, 3.3 million New Yorkers still lack access to fresh food according to the New York City Food Bank. This problem is strikingly apparent in the New York City school system: in the 2008-2009 school year, nearly half of children in kindergarten through eighth grade were found to be overweight or obese. Since school meals provide some children with their only consistent access to nutritional food, increasing the amount of healthy, local food purchased by the Department of Education source could have immediate health advantages.

Environmental Benefits: Finally, increasing food purchasing from regional farms may also have significant environmental benefits. New York loses 70 acres of farmland every day and, over the last 60 years, a million acres in our foodshed has been buried under cement and asphalt. By supporting these farms and increasing our purchasing of regional food, we can help to preserve important undeveloped farmland that protects our landscape, natural resources, and habitats for wildlife. This is particularly relevant in the unfiltered New York watershed of the Catskills region, where well-managed farms can serve an important environmental role in acting as a buffer from development.

Turning back to the two food bills now before the Committee, we wanted to elaborate on our two recommendations. To reap the full benefits of local food, it is critical that we work to promote food that is not merely local, but is also sustainably produced and sourced. This is a complicated and nuanced topic, and we look forward to working with the Council to strengthen

this legislation moving forward. Many other local governments are already working to incorporate sustainability standards into their food procurement policies, and NRDC is currently conducting research on such efforts by other cities and regions that we would be happy to share with you and your staff. To cite one example, in San Francisco, city departments entering into lease agreements or permitting food vendors must either issue requirements for the sale of healthy and *sustainably produced* foods or give preferences to businesses who sell such food. And all San Francisco departments and agencies purchasing food for events or meetings using city funds are required, to the maximum extent possible, to purchase foods that are healthy, locally produced and, also importantly, sustainably certified.

Our second suggestion – to add in concrete purchasing targets - relates less to food in particular than to our past experience in New York City with environmentally related legislation. As the Committee is aware, one of the most significant environmental laws ever passed by the Council was its landmark recycling law of 1989 (Local Law 19). The inclusion of specific numerical recycling levels helped ensure that the Department of Sanitation devoted the necessary resources and commitment to advance what is now the nation's largest municipal recycling program. While we have not yet fully met the recycling levels set forth in that original bill – and which the Council amended last year with new 10-year goals – there is little question that we would not have made the progress we did without some benchmarks to measure success. To its credit, Intro 452 takes the first step in this direction by requiring an annual reporting of the overall quantity and dollar amount of local (New York State) food purchased by each agency. But to help ensure that the final law enacted by the Council is a full success, we believe the Council should incorporate new language into Intro 452 that set forth measurable targets for slowly increasing year by year the amount of sustainable, local food purchased by the City.

In summary, we applaud the City Council for seeking to increase local food purchasing and consumption in New York. And NRDC stands ready to work with you to help strengthen the proposals by integrating concrete purchasing and sustainability standards.

Thank you again for the opportunity to testify today.



Ken Jaffe

Slope Farms

2227 Turnpike Road, E. Meredith, NY 13757

phone 607-746-6303 or 917-543-0169

slopefarms@delhitel.net

www.slopefarms.com

Statement to the Committee on Contracts
New York City Council
February 28, 2011

Food Policy & Agricultural Policy

My name is Ken Jaffe. I own and operate Slope Farms, in the Western Catskills, where we raise beef, almost all of which is eaten by NYC residents. Our beef is grass fed. I was invited here because of work I have did with NYC SchoolFood, providing local beef which was served for the first time to about 15,000 public school children as a one-time event last October.

I am a member of Cornell's Grassland Utilization Work Team, which recently issued its report *Green Grass, Green Jobs*¹, to increase livestock production on underutilized grassland in NY State and develop a regional food system. I am also on Board of Directors of the not for profit CADE—Center For Agricultural Development and Entrepreneurship in Oneonta, which provides expert technical assistance to farmers, new small scale livestock processing facilities, and distributors of local food. CADE has been instrumental in the creation and expansion new livestock processing facilities in that will allow more local meats to reach NYC. Current work by CADE that is needed by processing plants to open for business or to expand is threatened with an abrupt end by proposed state budget cuts that would on March 31 eliminate the Farm Viability Institute, one of CADES major funders.

I am a Brooklyn boy, turned farmer, a product of NYC public schools. Before farming, I practiced primary care medicine in Brooklyn for 25 years. While studying public health at Columbia I became very interested in the relationship between farming practices, in particular grazing livestock, and human health. I like to think of sustainable agriculture as applied public health.

I applaud the extraordinary efforts of the City Council and Council President Quinn to envision an impressive and serious set of goals for NYC's food future, and take steps to make that vision happen. This morning I came from Meredith in Delaware County in the snowy Western Catskills to show the support of upstate livestock farmers for the actions that NYC is making. I made the trip because Food Policy is Agricultural Policy, and because creating the system you are envisioning requires work on the whole system, and coordination between upstate and downstate.

I support the local laws being discussed today as important steps toward those goals, but would like to comment and make suggestions concerning Int. No. 452, "Local Law to amend the administrative code of the city of New York, in relation to the purchase of New York State food", in particular its provisions on goal setting and pricing. I'd also like to comment on the leverage that city agency purchasing can have on regional agriculture.

¹ Green Grass, Green Jobs: Increasing Production on Underutilized Grasslands in NY State
<http://www.smallfarms.cornell.edu/pages/projects/workteams/GU/Report.pdf>

Most of what I have to say come from the point of view of a beef producer, but my sense is that farmers of other types of meat or produce would make similar points.

We sell 90% of our beef wholesale to NYC---to butcher shops, restaurants, and food coops. Last year we shipped over 150 steers to NYC which makes us one of the largest producers of the local beef eaten in NYC, including both grass fed or grain fed producers. I don't say that because it makes me important in any way, just the opposite. Our "large" market share of local beef represents a miniscule fraction of beef consumed in NYC. All local beef consumed in NYC represents about one tenth of 1 % of the 800,000 beef animals consumed. This gives some idea of where we are, but also some sense of how even modest city purchasing can do a lot to expand regional food systems.

The meat producing capacity of NY State grasslands represents an enormous opportunity for providing local meats to NYC. Citing data from the Agricultural Census, Cornell's *Green Grass Green Jobs* report identifies 3 million acres of pastureland which is unused or under used. Three million acres is enough grassland to produce all the beef eaten in NYC---without the Midwest, without feedlots and their environmental damage, without subsidized corn and soybeans, without antibiotics in animal feed or hormone implants in animals. The presence of this unused pasture is so important for NY City food systems and NY State Agriculture, yet so surprising to most people, that it take some time to grapple with. It also has huge implications when envisioning a food future for NYC and the steps that the City can take to get there.

NY State has vast amounts of grassland which is the envy of beef producers nationwide. Our grasslands are so productive because we have good soils, but mostly because we have abundant reliable rainfall. Cattle grow fat on our lush, nutritious pasture. We can produce between 10 and 50 times as much beef per acre as Midwestern and southwestern states. This large unused resource exists because of the loss of 90% of dairy farms which used to graze their cattle, and the change to confinement dairy where cows are indoors, and do not graze the now fallow pasture.

A transition from dairy to grass based meat production is occurring upstate, but NY State lacks important parts of the marketplace that exist in traditional beef areas of the Midwest---enough skilled beef farmers, a good distribution system, and a culture of beef farming, and a liquid market for purchase and sale. But we do have great grass, close proximity to the huge northeastern market, and growing farmer and consumer interest. For instance, last month over 200 people attend a Cornell Cooperative Extension conference on grass based beef production in Albany County. Most of the attendees were farmers wanting to learn production techniques.

But what almost all of these farmers lack is certainty of a market, and for most of them direct marketing is not a realistic path to a sustainable business. Most of these farmers were dairy farmers, and can apply much of their deep knowledge to beef production. But they need to know they have a market. And they need to know that the market price will reflect the cost of producing meat that possesses public health benefits, smaller environmental costs, and a net negative carbon footprint.

The farmer needs to know that they will have a market if they make a decision to invest in breeding a cow today, to produce a calf that will be born in the beginning of 2012, but will not be ready for market until 2014. They need to have some certainty that there will be buyers at a price that can sustain them in farming, and will reflect the fact that they are producing a product which is of higher value than feedlot beef. They need to know that consumers and policy makers understand that

feedlot beef is artificially cheap because the price at the supermarket does not reflect the human health costs of antibiotics in feed, and hormones implants, and the environmental cost of pollution of air and water.

This brings me to my two suggestion concerning Int. No. 452. The first has to do with goal setting by city agency purchasers and the multiplier effect that agency purchasing will have on local food availability throughout the city. The second concerns the need for pricing to realistically reflect the value and costs embedded in the food products being produced, including the cost to produce food which creates saving on the health and environmental externalities.

Concerning goal setting in purchasing policy.

The goals for local purchasing in the proposed law appear too weak as written. The wording of the proposed purchasing a law is “to make best efforts to purchase New York state food.”_ Maybe I’m being pessimistic, but that does not sound like a mandate for action.

The city should have overall goals, but should ask agency purchasers to set specific goals for the percentage of food purchased locally. This would be far more powerful, and would tell farmers how serious you are, so they know they can scale up production. Pursuing specific modest goals by city purchasers can have an impact far beyond size of the actually purchases.

I’ll give an example of the leverage that a modest specific purchasing goal can produce. Last fall we sold about 3000 lbs of Slope Farms local ground beef to SchoolFood for an event for National School Lunch week. It was cooked into a delicious meat sauce over whole grain pasta by SchoolFood chef and chefs from Wellness in the Schools. This beef represented about 9 cows. It was a onetime event. If each of the 850,000 children were served 2 ounces of local beef once a week during the school year—hardly a lot of beef for each child----that would be around 10,000 cattle. At present, that’s not possible locally. The cattle are not yet there, the farmers are not yet there, neither the slaughter facilities nor the distribution are n up to scale. The current system of local production and distribution is artisanal. Production can occur on small farms, but the distribution cannot be artisanal to feed a city.

Set a goal. Say 5%. For SchoolFood that’s 500 cattle. You have suddenly increased the consumption of local beef in NYC by around 50%. Farmers will know you are serious. They will know there is a market. They will expand herds. They will invest in better genetics. Slaughter facilities will scale up. Distribution will get more serious. Prices will come down.

Set a goal, as was done by the Illinois General Assembly Task Force in 2009.² They set a goal of 20% local purchases by 2020. But I’d say a smaller percent with a shorter time frame would be more meaningful.

By setting and meeting even a modest percentage goal for procurement, the city will help create a regional farming production and distribution system that can interact with institutional customers, and deliver consistent product in quantity to large purchasers. Other large scale buyers, like supermarkets chains, will then be able to step up and find local beef for their stores. But you need to set goals and work with farmers to get there.

² Local Food, Farms & Jobs: Growing the Illinois Economy, 2009
<http://www.foodfarmsjobs.org/>

A specific goal is an investment in creating a food production and distribution infrastructure that can provide food for the whole city. It's like the investing in a road, or building a bridge to larger scale production of local food for NYC.

Concerning cost of procurement

My second comment concerns cost, and the contradiction between the statements the FoodWorks report about the relationship between cost and quality, and the proposed regulation on cost.

FoodWorks, p 50³ says what we all know is true: "The cost per calorie for healthier foods is higher than for unhealthy foods." As a purchaser the city has to decide which what type of food it wants to buy.

It is also true that meat produced with subsidies in CAFOs with poor environmental practices is cheaper, but with costs ultimately paid by taxpayers. Locally produced meat is almost all produced outside of the feedlot (CAFO) system, without taxpayer subsidy and with much smaller environmental costs. The Proposed law Int. No. 452 states: "(3)(b) (4)(c) The guidelines established pursuant to this section shall be implemented only to the extent that they do not result in an increase in expenditure for agencies." If the goal is to purchase healthier meat, we have a bit of an arithmetic problem.

In terms of the pricing of meat, industrial production in feedlots carries health care costs from drug resistant bacteria caused by the routine use of massive amounts of antibiotics in animal feed, and serious costs to the environment in terms of water and air pollution. The FDA recently stated that 29,000,000 lbs of antibiotics was fed to meat producing livestock in 2009.⁴ That's one tenth of a pound of antibiotics fed to meat animals for each man woman and child in the US. Routine use of antibiotics and hormones in cattle makes them grow 15-20% faster, so the meat is cheaper to produce and cheaper to purchase. The purchase price of meat does not reflect the added health care costs, but the city or other taxing entities ultimately do pay for those costs if purchasing feedlot beef.

The US FDA,⁵ following the lead of the WHO, and essentially every public health and infectious disease entity, is proposing the elimination of routine use of antibiotics in animal feed. But current purchase of meat by city agencies is almost certainly from factory farmed animals that are fed antibiotics.

Almost all local beef is produced without antibiotics and a somewhat higher meat cost, but a lower health care cost. You really cannot have it both ways. If you will only pay for feedlot beef (or pork or

³ FoodWorks: A Vision to Improve NYC's Food System, 2010

http://council.nyc.gov/html/food/files/foodworks_fullreport_11_22_10.pdf

⁴ Antimicrobials Sold or Distributed for Use in Food-Producing Animals, FDA, HHS, 2009

<http://www.fda.gov/downloads/ForIndustry/UserFees/AnimalDrugUserFeeActADUFA/UCM231851.pdf>

⁵ The Judicious Use of Medically Important Antimicrobial Drugs in Food-Producing Animals, FDA, 2010

<http://www.fda.gov/downloads/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/UCM216936.pdf>

chicken) you will get the drug resistant bacteria along with your purchase. You just end up putting that cost in the budget for the Health and Hospitals Corp or Medicaid.

The Report of the Pew Commission on Industrial Farm Animal Production⁶ quantifies the costs of CAFO that are underwritten by taxpayers, including \$1.5 to \$3 billion/year for “public health costs from overuse of antibiotics in livestock”

Table ES-1. CAFO Costs Underwritten by U.S. Taxpayers 1

Public Health Costs from Overuse of Antibiotics in Livestock	\$1.5 billion – \$3.0 billion/year
Cost to Distribute and Apply Manure to Fields	\$1.16 billion/year
Reduction in Property Values	\$26 billion (total loss)
Remediation of Leakage from Manure Storage Facilities (Swine and Dairy)	\$4.1 billion (total cost)
Grain Subsidies for Livestock Feed	\$3.86 billion/year
EQIP Subsidy	\$100 million – \$125 million

There are other costs of feedlot meat as well. Economists at Tufts Global Development and Environmental Institute⁷ looked at the total cost of crop subsidies and environmental impact related to CAFO production of pork. Between 1997 and 2005 they found that crop subsidies cost taxpayers more than \$22 per animal per year, and environmental cost another \$8/year. None of these costs would be included in the price of pork purchased by city agency procurers, but the cost is paid by taxpayers anyway.

There is a disconnect between the cost provision in the proposed new law and FoodWorks' health and environmental goals. It is a little like saying that you'd like to serve milk without bacterial contamination, but won't pay for pasteurization.

My suggestion concerning pricing is that the proposed law include wording which allow the price paid for food by city agencies to reflect production techniques that lower the food's environmental or health care costs.

In summary, I feel that the goals of FoodWorks and Int No. 452 are excellent, but the law is weakened in two critical details. Firstly, the absence of specific goals for increase local purchasing will tend to minimize the impact of the law. Even modest but clear goals will be powerful in relation to current regional food system, and will have very meaningful impact on the creation of a larger scale system that will benefit the city as a whole. Secondly, the cost restrictions will hamper purchasing local products by not recognizing and paying for the Council's stated public health and environmental goals. By combining realistic pricing with modest but clear purchasing goals the incremental budget impact should be quite small, but the positive impact on the creation of a regional food system that can feed the city will be large.

^{6,7} Putting Meat on the Table: Industrial Farm Animal Production in America, The Pew Charitable Trusts and Johns Hopkins Bloomberg School of Public Health, 2009
<http://www.ncifap.org/bin/e/j/PCIFAPFin.pdf>

⁷ Feeding at the Trough, Global Development and Environmental Institute, Tufts Univ., 2007
<http://www.ase.tufts.edu/gdae/Pubs/rp/PB07-03FeedingAtTroughDec07.pdf>

I'd like to take an additional moment to address the largest current threat to our regional food system: pollution from hydrofracking for methane gas in NY and Pennsylvania. I hope you all read the important article in yesterday's New York Times⁸ which describe in detail the unchecked pollution of surface waters and rivers with radioactivity and other cancer causing agents released by gas drilling activity.

Agriculture is at particular risk. There is extensive scientific literature documenting that the rise in ozone levels seen out west caused by gas drilling will create serious reduction of crops yields in plant species critical to NY Agriculture, including clover, grapes, and soybeans and many others. There are increasing reports from Pennsylvania of livestock poisoning and reproductive problems caused by animals drinking from streams and ponds and eating grasses contaminated by spills and dumping of toxic frack fluids. Livestock are at particular risk because they are largely drinking from ponds and streams which are at high risk of contamination. The Times is displaying documents showing that toxic residues beyond safe levels for humans have shown up in food fish. These are likely to appear in livestock as well from exposure to frack water contaminated with radioactive substances and carcinogenic hydrocarbons.

Purchasers of regional food have already expressed caution about the buying local foods from areas with gas drilling. The Park Slope Food Coop, with 18,000 members, one of the city's largest purchasers of local food has published an open letter to this effect.⁹ Yesterday's article in the Times makes it clear how judicious the Coop's position is. We cannot have a regional food system without safe food that consumers can trust.

NYC was early to understand the risks of hydrofracking, and as taken strong steps to protect its watershed against pollution.¹⁰ It is important that NYC understands the threat to its food shed as well. Gas drilling is proposed in essentially all of southern NY State west of the Hudson. This encompasses the majority of the most productive agricultural land in NY State---NYC's Food Shed. I ask you to take the same strong steps to protect your food as you have taken to protect your water.

Thank you for the opportunity to address you today.

Kenneth Jaffe, MD
Slope Farms
Meredith, NY

⁸ Drilling Down: Regulation Lax as Gas Wells' Tainted Water Hits Rivers, NY Times 2/27/11,
http://www.nytimes.com/2011/02/27/us/27gas.html?_r=1&hp

⁹ Open Letter to the Members of the New York State Senate and Assembly, Governor Patterson, and Governor Elect Cuomo, Park Slope Food Coop, 2010
<http://catskillcitizens.org/learnmore/PARK%20SLOPE%20FOOD%20COOP%20LETTER.pdf>

¹⁰ Final Impact Assessment Report: Impact Assessment of Natural Gas Production in the NYC Water Supply Watershed, NYC DEP, 2009
http://www.nyc.gov/html/dep/pdf/natural_gas_drilling/12_23_2009_final_assessment_report.pdf



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NEW YORK CITY COUNCIL
SUBJECT: BANNING THE USE OF STYROFOAM WITH REGARD TO FOOD
PRODUCTION, STORAGE, AND DELIVERY
250 Broadway, 16th Floor Committee Room
February 28, 2011
TESTIMONY BY ARDEN DOWN
ENVIRONMENT & INFRASTRUCTURE CHAIR
WOMEN'S CITY CLUB OF NY

Thank you for the opportunity to testify on this very important issue "**Packaging Production and Design**". My name is Arden Down, and I am the Chair of the Environment & Infrastructure Committee of the Women's City Club of New York. The Women's City Club, or WCC, is a nonprofit, nonpartisan, multi-issue organization that has been working since 1915 to shape public policy to improve the lives of New Yorkers. One of our many key objectives is to ensure sustainable development for New York City.

WCC urges enactment of a law requiring that **materials used in food production, storage, and delivery containers be recyclable** or biodegradable. Made from oil, polystyrene foam is non-renewable, non-biodegradable, and non-recyclable. Polystyrene foam food service ware ends up in landfills, waterways or the ocean. It can break into pieces, which are often mistaken for food and ingested by marine animals, birds, and fish. Medical studies suggest that chemicals in polystyrene foam can cause cancer and can leach into food or drinks.

850,000 Styrofoam school lunch trays are discarded daily in New York City. The food in our public schools is served on the Styrofoam trays allowing chemicals to leach into the food eaten daily by our children. Requiring that food not be packaged or served in Styrofoam, but solely in containers and on school lunch trays made of recyclable material (or of washable, reusable material), would directly decrease the amount of dangerous chemicals we and our children ingest.

In conclusion, the Women's City Club of New York urges the Council to pass legislation that all Styrofoam used in food packaging and delivery including take-out containers and school lunch trays be made of recyclable materials. The passage of this legislation will be an important step toward a sustainable future in which waste material is minimized and the health of our citizens is more stringently protected.

Thank you.



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Testimony prepared by

Triada Stampas

for the

New York City Council Committee on Contracts

on

**Introductions 452 and 461 of 2011, and
Resolutions 627 and 628 of 2011**

February 28, 2011

on behalf of

Food Bank For New York City

INTRODUCTION

Good morning. The Food Bank appreciates the opportunity to present testimony today to the New York City Council Committee on Contracts today regarding legislation to change the City's food procurement policies to maximize the purchase of New York State and regional food, as well as to encourage more environmentally sustainable practices.

First, we would like to acknowledge the continued commitment of the Council under the leadership of Speaker Quinn to addressing the problem of food poverty in New York City. The Food Bank commends the City Council's ongoing efforts to ensure all city residents have both financial and geographic access to affordable, nutritious food.

The Food Bank For New York City works to end hunger through a range of programs and services that increase access to nutrition, education and financial empowerment. We warehouse and distribute food to approximately 1,000 emergency and community food programs citywide; provide food safety, networking and capacity-building workshops; manage nutrition education programs for schools and emergency food programs; operate food stamp outreach and education programs; coordinate the largest

Earned Income Tax Credit (EITC) volunteer tax preparation program in the country; and conduct research and develop policy to inform community and government efforts to end hunger throughout the five boroughs.

As the main supplier of food to food pantries and soup kitchens in New York City, the Food Bank For New York City distributed more than 14 million pounds of fresh produce last year to approximately 1,000 emergency and community food programs citywide. We are proud to note that approximately 2 million pounds of the food we distributed was grown in New York State, and more from regional sources. Working with the New York State Department of Agriculture and Markets and the Food Bank Association of New York State, we have developed partnerships with New York State farmers in Orange County and beyond to ensure that the food pantries and soup kitchens in our network are able to provide the 1.4 million New Yorkers we collectively serve with access to fresh, healthy food.

In addition, we routinely recycle wooden pallets, as well as any plastic and cardboard packaging in which our food is delivered. In this fiscal year alone, we have recycled more than 20,000 wooden pallets.

While the Food Bank strongly supports local and regional food purchasing, we are concerned that without amendment, the legislation being considered today, Introduction 452, could result in a decrease in the amount of food procured by the City of New York for food pantries and soup kitchens that rely on the Emergency Food Assistance Program (EFAP) – leaving an emergency food network already struggling to meet unprecedented need with even less. Consistent with the intent of the legislation, we ask that Int. 452 be amended to ensure that a New York State food purchasing mandate safeguard against a diminishment in the quantity of food provided by EFAP.

EFAP, a \$10.2 million City-funded program that supplies food to approximately 500 New York City food pantries and soup kitchens, is the second largest single source of food in the emergency food network. The Department of Citywide Administrative Services (DCAS) contracts for EFAP food purchases through a competitive bidding process. Both the food purchasing and distribution are directed by the Human Resources Administration (HRA). Unlike food procurement for our schools, prisons, hospitals and senior centers, which is based on an estimate of the number of meals and/or people to be served year-to-year, EFAP's funding for food is a fixed amount that has remained flat for at least the past eight years.

Although we know that DCAS and HRA have made efforts to leverage as much food as possible through EFAP, we have seen the same EFAP dollars buy less and less food as food costs have climbed. Since fiscal year (FY) 2003, wholesale food costs have risen approximately 33 percent.¹ The number of pounds of EFAP food procured annually in that time has dropped 27 percent, from approximately 13.5 million pounds in FY 2003 to 9.5 million last year.

In the meantime, the proportion of New Yorkers experiencing difficulty affording food has increased 48 percent.² Nearly half of food pantries and soup kitchens across the city

¹ Preliminary figure based on Producer Price Index, Jun. 2002-Jan. 2011. Bureau of Labor Statistics, U.S. Department of Labor.

² *NYC Hunger Experience 2010: Less Food on the Table*. Food Bank For New York City.

last year reported having had to turn people away for lack of food.³ Even as demand has increased, rising food costs have whittled away 25 percent of EFAP's buying power.

While it is clear the intent of the current legislative language is to ensure that NYS food purchasing does not make providing food to people more expensive for City agencies, it may not adequately protect the ability of EFAP to provide food for as many people as possible. We believe that with a relatively minor change in the language, this legislation will ensure that EFAP can provide nutritious NYS food for low-income New Yorkers who rely on food pantries and soup kitchens without compromising the City's ability to secure the most food for the dollar. We would give our full support to such a bill and will work with you to realize it.

Thank you.

³ *NYC Hunger Experience 2009: A Year in Recession*. Food Bank For New York City.



American Farmland Trust

"...we can build a better food system for our growing city – one that provides healthy, affordable food for all New Yorkers in our growing population, while supporting our local and regional economy and mitigating environmental impacts. In short, our food system will be better able to respond to the needs of New Yorkers today and in the years to come.

- Foodworks: A Vision to Improve New York City's Food System, November 2010.

Good afternoon. My name is Hannah Geller. I am pleased to be here to present testimony on behalf of American Farmland Trust (AFT). AFT is a national, nonprofit membership organization dedicated to the protection and stewardship of our nation's farmland. AFT's New York State Office, located in Saratoga Springs, has been working to protect New York's farmland for more than 20 years.

First, I would like to congratulate Speaker Quinn and members of the New York City Council for your attention to the critical role that our farm and food system can play in enhancing our economy, environment and public health. The *Foodworks* report that you issued in 2010 describes a progressive agenda for creating farm and food jobs, improving public health and protecting farmland and the environment.

This progressive agenda is highly consistent with Governor Cuomo's *Farm NY* policy agenda. In his proposed FY 2011-12 State Budget, Governor Cuomo has identified food and agribusiness as one of six key industry sectors for economic development and has stopped the disproportionate cuts made to New York's Farmland Protection Program – the state's primary vehicle for saving farmland from being lost to real estate development.

During his first days in office, Governor Cuomo reissued Executive Order No. 39: *Establishing State Policies for the Promotion of Sustainable Local Farms and the Protection of Agricultural Lands*. This Executive Order calls for state agencies and authorities to promote and expand demand for the State's agricultural products, including locally grown food, and to take steps to protect the New York's valuable agricultural land.

I am here today to speak in support of Bill 0452-2011, which is an important step in implementing the *Foodworks* agenda by strengthening relationships between New York City's residents, who are in need of better access to nutritious food and food jobs, and New York State's farmers, who are in need of the substantial market that New York City provides.

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Strengthening Food and Agribusiness Opportunities in New York

The growing, processing, buying and selling of food has traditionally formed the foundation of all economies, and New York is no exception. New York's farms generated \$4.7 billion in economic activity in 2009 and serve as the cornerstone of the state's \$31 billion farm and food industry. Farms and farm-related businesses are major employers in New York State, directly employing well over 100,000 individuals. Further, farms support other local businesses. In 2007, New York farmers spent approximately \$3.5 billion on supplies and services, putting money back into local, rural economies and creating roughly three and a half off-farm jobs for every on-farm job.

But agriculture is often overlooked by mainstream economic development programs. As a result, we don't adequately protect farmland or invest in our farm and food businesses. Over the last 25 years, New York State has lost half a million acres of farmland to subdivisions, strip malls and other scattered development. The state continues to lose a farm to development every three and a half days.

Losing the Land Needed to Grow Our Food Supply

The loss of farms and farmland in New York is a major threat to our regional food security. According to research from Cornell University, New York's active farmland is capable of feeding only 6 million of the state's 19 million residents. 83 percent of the fruits, vegetables and dairy products produced in New York State are grown on land near cities lying directly in the path of sprawling development.

Farmers are uncertain of their businesses' economic viability, which adds to the temptation, and often need, to sell their land for development. As described in the New York City Council's FoodWorks report, "in 2007, only 63 percent of farms earned a positive net farm income...in 1950, farmers received 41 percent of the food dollar, while in 2006, they received only 19 percent." This is an important reason why many farmers are nearing retirement and the next generation is not eagerly rushing to fill their places. Again, according to the FoodWorks report, nationally, "less than two percent of our population is employed in farming and of those, many are nearing retirement, with farmers six times more likely to be over the age of 65 than under the age of 35."

As our economy recovers from the recession, farmers will feel more and more pressure from developers to sell their land for higher and higher prices. Once a farm has been developed into suburban housing, it is exceedingly difficult and expensive to restore the land to suitable farmland. It is imperative that farming be economically viable so that future generations see a future in farming, rather than in selling farmland for development.

Keeping Food Dollars in New York

One important way New York City could help stem the loss of farmland is by passing Bill 0452-2011, Purchase of New York State Food. According to some estimates, New York City residents spend \$30 billion on food annually. The City serves approximately 217 million meals and snacks per year through its schools, hospitals, jails, senior meals, and other programs. Taking steps to target more of these dollars to farms in New York would benefit not only New York farmers and food businesses but also a new generation of people looking to enter farming in New York.

- Establish that when a state contract for purchase of food or food products is to be awarded to the lowest responsible bidder, an otherwise qualified bidder who will fulfill the contract through the use of locally produced agricultural products may be given preference over other bidders. This is provided that the cost included in the bid of locally produced agricultural products is not more than 10 percent greater than the cost included in a bid that is not for locally produced agricultural products.
- When resources are available, support the development of 1) a system for state agencies and state owned facilities that purchase food and food products to identify the percentage of locally produced agricultural products purchased throughout the fiscal year; and 2) track and report locally produced agricultural products purchased on an annual basis.
- Encourage state 'Requests for Applications' (RFAs) to include bonus points to applicants that include 'buying local' initiatives.

We have already begun to see the benefits of New York City's efforts to buy fruits, vegetables and other foods grown in New York. For example, Champlain Valley Specialties, which secured a contract to provide New York City Schools with individually packed apple slices, created 70 new jobs in Keeseville, New York and infused the local economy with several million dollars. Another desirable result of this particular initiative was the increased consumption of apples among schoolchildren served Champlain Valley specialty apples.

Purchasing food grown in New York also helps sustain the farms that are critical allies in protecting water quality and the environment. Since 1997, New York City has worked with

Bill 0452-2011 proposes a series of steps to maximize the purchase of New York state food. It requires that guidelines be developed for city agencies on purchasing New York state food, publishing these guidelines and training agency personnel on implementing them and annually reporting the overall quantity and dollar amount of food each agency purchased in the preceding fiscal year that was grown or processed in New York.

The State of New York's Council on Food Policy has recommended actions at the state level that is highly consistent with measures proposed in Bill 0452-2011. The Council's 2009 report to former Governor David Paterson recommends:

- Set a goal that by 2020, 20 percent of all food and food products purchased by state agencies and state-owned facilities shall be local food products when feasible. This includes facilities for persons with mental health and developmental disabilities, correctional facilities, and public universities.
- Support and encourage the goal that by 2020, 10 percent of food and food products purchased by entities funded in part or in whole by state dollars and which spend more than \$25,000 per year on food or food products for its students, residents, or clients shall be local food when feasible. This includes, but is not limited to, public schools, child care

farmers, the Watershed Agricultural Council and others to protect thousands of acres of watershed land and implement conservation practices on thousands more acres to keep unfiltered drinking water clean that is consumed each day by more than 9 million New York City and upstate residents. Earlier this month, New York City announced an agreement to provide more than \$100 million in funding toward an array of programs to continue to limit water pollution in the city's drinking watershed. Complimentary actions, such as passage of Bill 0452-2011, strengthen economic opportunities for watershed farmers and increase the likelihood that they will continue to farm and continue their legacy as strong environmental stewards.

New Yorkers cannot afford to lose any more farms, which play a crucial role in creating jobs, protecting the environment, and improving public health. We urge your support of Bill 0452-2011 as an important step towards a stronger, more sustainable farm and food system in New York.

We look forward to working with you in support of this legislation. Please contact American Farmland Trust by emailing newyork@farmland.org, visiting our website at www.newyork.farmland.org or calling our office at 518-581-0078.

Testimony of School Food FOCUS to New York City Council
Hearing of the Committee on Contracts
Presented by Thomas Forster, Policy Advisor, School Food FOCUS
February 28, 2011

Chairwoman Dealy and Members of the City Council, it is my great privilege and honor to speak to you about proposed legislation to improve the quality of school food in New York city today.

My key points are that:

- School food purchasing policies have shifted to encourage the procurement of healthier foods and to purchase these foods from local and regional sources where possible.
- The federal government now gives states, local governments and schools flexibility and support to achieve both goals.
- NY City and state procurement policy is in conformity with the new federal guidelines.
- Leadership, transparency and accountability across city agencies are essential to increase local and regional procurement of whole and minimally processed foods for NYC schools and other public institutional feeding programs.
- Opportunities for sourcing more healthful food locally and regionally need to be included in future requests for bids for NYC school food contracts.
- Because of the tremendous scale involved, institutional purchasing changes in NY City can create the needed market “pull” to make healthier foods—and economic development vehicles—available to schools and other institutions throughout NY State.
- Local government/business/community partnership is key to making sustainable procurement practices for healthy school meals a reality for all New York children.

It has often been said that there are still local and state procurement policy barriers in New York, making it difficult for New York to conform to the new federal procurement flexibility available since the 2008 Farm Bill was passed. School Food FOCUS, a program of Public Health Solutions, recently analyzed state and municipal procurement policy, and relevant laws and regulations, with support from attorneys at the Harrison Institute of Georgetown Law School.. This analysis concluded that “there are no legal barriers to applying a geographic preference in compliance with federal rules in New York”. The legal analysis is presented with this testimony.

As experience in New York shows, even when the policy is right, the challenges for school food change in large districts require a combination of leadership, transparent and strategic planning, and resources for implementation. These three elements can be promoted through enabling policy from City Council. As the new federal flexibility

shows, when leadership from the top cares, things can change. If leadership has other priorities, change may at best lag, at worst be blocked.

School Food FOCUS is a growing network of 29 large districts collectively serving well over 4 million meals a day across the US. FOCUS helps these districts with strategies to procure more healthful, more sustainably produced and regionally sourced food so children may perform better in school and be healthier in life. New York is the largest of the FOCUS districts, which include Chicago, Boston, Denver, Detroit, Seattle, Atlanta, Baltimore and many others.

Based on learning from the New York SchoolFood Plus project a number of years ago, School Food FOCUS today brings together school food service professionals and their chosen partners to research, plan and implement changes that bring about a healthier school meal. The district partner in New York is City Harvest. The FOCUS national office is led by executive director Toni Liquori. One central element of this work is a revolving "School Food Learning Lab" where one large school district at a time receives intense research and planning support for a year and a half to make significant change. Lab cities building on the New York model include Saint Paul, Denver and now Chicago. In these districts outcomes have included:

- Partnering with non-profit and business communities to identify barriers and opportunities to increase volume of seasonally available, regionally sourced and locally produced foods—including fruit, vegetables, dairy and meat.
- Working within existing vendor contracts and/or changing contract language to encourage local/regional sourcing
- Retraining food service personnel to utilize fresh and minimally processed foods
- Marked increases in the procurement of local and regional whole or minimally processed foods

In conclusion, the proposed legislation from the City Council addresses key needs to streamline procurement for healthier foods including administering preferences for local and regional sources of SchoolFood products.

FOCUS recommendations to the City Council, in keeping with FoodWorks goals and strategies, are to provide or seek:

Enabling policy, which is definitely needed to transparently plan, coordinate, and streamline implementation of sustainable procurement practices in the Department of Education and Office of School Food, such as that proposed by City Council.

Strategic leadership for change from the Mayor's office and the DOE to move New York SchoolFood procurement practices to the next level, especially in the procurement of contracts for the supply of food to all the city's child nutrition programs, which include school meals, after school and summer meals, and early childcare meals.

Resources to manage change. School Food Focus is cognizant of the current budgetary environment and the pressures to keep costs down. Nevertheless, it

should be possible to make at least modest changes in how school food is procured without causing undue budgetary burdens. Such changes would be a welcomed step to taking the nation's largest school food system under central management toward the goal of significantly improving the quality of its school meals. Steps to procure healthier, local and fresher food will result in benefits to New York children, and to farmers and businesses of the state and region.

Thank you very much for this opportunity to address you today. We look forward to continuing to work together for the health of our children, our city and our region.

**ANALYSIS OF NEW YORK STATE LAWS ON GEOGRAPHIC PREFERENCE
IN THE PROCUREMENT OF SCHOOL FOOD**

The FEDERAL FRAMEWORK: The 2008 Farm Bill¹ allows institutions receiving funding under the federal child nutrition programs to apply a geographic preference to the purchase of unprocessed locally grown and locally raised agricultural products “to the maximum extent practicable and appropriate.”² The administering federal agency, the United States Agriculture Department (USDA), defines unprocessed as *de minimis* handling and preparation of the product.³ USDA prohibits the use of processing methods that add significant value and alter the inherent character of the agricultural product.⁴ Under USDA regulations, states cannot mandate that institutions apply a geographic preference, but rather the institution operating a child nutrition program has the option to apply a geographic preference. An institution also has the discretion to define the area for a geographic preference as long as it does not “exclude bidders from outside the designated geographic area or otherwise unnecessarily restrict competition.”⁵

Federal regulations also require School Food Authorities (SFAs) to follow their own state and local procurement rules except where those rules are inconsistent (i.e., less restrictive) than the federal requirements when using food service account funds^{6,7} SFAs must determine whether it is appropriate to use the formal or informal method of procurement. Informal procurement methods (small purchase or simplified acquisition threshold) are appropriate for the procurement of goods costing no more than \$100,000, or a lesser amount specified by state or local requirements. Federal regulations require a free and open competitive process in which all suppliers are “on a level playing field” with the same opportunity to compete. A free and open competitive process applies even though an SFA may decide to directly contact potential competitive sources rather than advertise the bid. When using the informal procurement method, written specifications requiring price quotes are necessary to compare bidders in determining which is the most responsive and responsible. Formal procurement methods include competitive sealed bids (invitation for bid) or competitive proposals (request for proposals).

¹ Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, section 4302 (amending the Richard B. Russell National School Lunch Act, 42 U.S.C. § 1758(j))

² *Id.*

³ Geographic Preference Option for the Procurement of Unprocessed Agricultural Products in Child Nutrition Programs, 75 Fed. Reg. 74, 20316 (proposed, April 19, 2010) (to be codified at 7 CFR Parts 210, 215, 220, 225, and 226).

⁴ *Id.* at 20317.

⁵ *Id.*

⁶ Food service account funds include state and federal reimbursements, as well as local funds obtained from paying students, a la carte sales, adult meals, subsidies, etc.

⁷ 7 C.F.R. §§ 3016 and 3019.

1. THE GENERAL PROCUREMENT REQUIREMENTS WITHIN NEW YORK WITH REGARD TO SCHOOL FOOD

New York General Municipal Law (GML) Section 103 generally requires local public entities, including municipal corporations and school districts, to solicit bids for commodity purchases over \$20,000 and to award contracts to the lowest responsible bidder. The objective of this section of the law is to “assure prudent and economical use of public moneys” and “to facilitate the acquisition of ... commodities of maximum quality at the lowest possible cost.”⁸ In addition, General Municipal Law 104-b requires the governing boards of political subdivisions and districts to promulgate procurement policies and procedures for goods and services that are not required to be procured pursuant to GML 103. In New York City, GML 104-b provides that the Procurement Policy Board has the authority to promulgate these policies and procedures by rule.

Over the last 30 years, New York has passed and updated several laws attempting to provide authorization and encouragement for New York farm products when public entities purchase food. This in-state preference of New York products began with schools and spread to state agencies and local municipal governments. At first these laws authorized the government to provide limited preferences for purchases. Several years ago, New York amended the GML⁹ and the State Finance Law,¹⁰ which governs the purchasing by state agencies, to explicitly allow food contracts for state and local entities to incorporate an in-state preference for New York food. Specifically, solicitation specifications may require provisions that mandate that all or some of the required food products are grown, produced or harvested in New York or that any processing of such food products take place in facilities located with New York.

2. GEOGRAPHIC PREFERENCE OPTIONS FOR FOOD PURCHASES IN NEW YORK - New York State Finance Law, Section 165.4a and GML, Section 103, Subdivisions 8-a, 9 and 10

New York State Finance Law, Section 165.4a contains special provisions for the purchase of available New York food products for state agencies and GML 103.8-a, 9 and 10 provide guidance for local governments and school districts when contracting for the purchase of New York food products. Both laws state that solicitation specifications can require provisions mandating that all or some of the required food products are grown, produced, or harvested in New York or that any processing of such food products take place in facilities located in New York.¹¹

⁸General Municipal Law Section 100-a.

⁹NY GML Section 103 subsection 8-a.

¹⁰NY State Finance Law Section 165 subsection 4.

¹¹ Pursuant to the FoodWorks Report issued by City Council Speaker Christine Quinn on November 22, 2010, legislation to amend the Administrative Code of the city of New York as it relates to the purchase of New York state food is being introduced. Proposed Administrative Code section 6-130.b will require the city's Chief Procurement Officer to encourage agencies to make their best efforts to purchase New York State food, defined as food products that are grown, produced, harvested or processed in facilities located within New York state, by requiring that guidelines be developed, published and implementation monitored

3. HOW DOES NEW YORK'S GEOGRAPHIC PREFERENCE OPTION OR REQUIREMENT WORK?

Finance Law Section 165.4 – State Agency Purchasing

New York State Finance Law, Section 165, Subsection 4, contains special provisions for the purchase of available New York food products by **state level agencies**. When state agencies contract for the purchase of food products for state facilities and institutions, the law allows solicitation specifications to require provisions mandating that all or some of the required food products are grown, produced or harvested in New York state, or that any processing of such food products take place in facilities located in New York. The statute requires the Commissioner of Agriculture and Markets (the "Commissioner") to determine what food products are beneficial to include under the statute and to promulgate and forward a list of such food products to the appropriate agencies. In addition, the statute requires the Commissioner to ascertain the periods of time each year that those food products are available in sufficient quantity for competitive purchasing. The Commissioner must also forward that information to the purchasing agencies.

The statute outlines the process for agencies purchasing New York food products. First, the purchasing agency advises the Commissioner as to its required quantity of each food product on the list so that the Commissioner may determine whether there are sufficient quantities of the food product to satisfy the purchasing agency's requirements. If the food products are available in sufficient quantities, the purchasing agency may include in its solicitation a requirement that all or some of those food products are grown, produced or harvested in New York, or that any processing of such products take place in facilities located in New York. If the Commissioner determines that there are insufficient quantities of food products to fulfill the agency's purchasing needs, the purchasing agency can issue a solicitation that does not require that all of some of those food products are grown, produced or harvested in New York, or processed in facilities located within the state.

The law further provides that if the purchasing agency receives no offers meeting the requirement that all or some of the food products be grown, produced, harvested or processed be from New York, it may waive the provisions. In addition, the Commissioner of Agriculture and Markets, the Commissioner of Economic Development and any individual agency can waive the in-state provisions if there is a determination that the

to encourage procurement of such food , in accordance with the process set forth in GML section 103, subdivision 8-a.

Under the Administrative Code provision, each year city agencies will be required to report to the City Council Speaker on their efforts to implement the food purchasing guidelines, including the percentage and dollar amount of food each agency purchased that was grown or produced in New York. The guidelines will not require a price preference for New York state food, and will not apply to emergency procurements or small purchases pursuant to section 315 and 314 of the Charter, respectively.

specifications requiring the purchasing of New York state products have a deleterious economic impact.¹²

GML 103

GML section 103 subdivisions 8-a 9, and 10, the local government and board of education/school district equivalents to State Finance Law, Section 165 subsection 4, contains similar provisions.

GML 103.8-a – Political Subdivisions

Specifically, GML 103.8-a (a) provides that a political subdivision may require provisions mandating that the essential components of food products are grown, produced or harvested in New York, or that any processing of such food products take place in facilities located within the state when contracting for food. The statute gives the Commissioner the authority to determine which food products apply under the statute, and requires the promulgation of a list of applicable food products. The Commissioner also has to ascertain the time of year the listed foods are available in sufficient quantity for competitive purchasing.

Under the statute, the political subdivision with the advice of the Commissioner, specifies the percentage of each food product required to be grown, produced, harvested or processed within New York. If such food products are not available in sufficient quantity for purchasing or for processing, the political subdivision can waive the specifications until bidding occurs for the next contract for such food product. In the event a political subdivision receives no acceptable bids or the Commissioners of Agriculture and Markets and Economic Development determine that there will be a deleterious economic impact with the specifications, it may waive the provisions and award the contract in accordance with other applicable statutes.

GML 9 and 10 – Boards of Education/School Districts

General Municipal Law Section 103, subsections 9 and 10 provide guidance for New York school districts in purchasing school food.¹³

¹² New York State Procurement Bulletin, Discretionary Purchasing Guidelines for State Level Financing (revised effective October 13, 2010) applicable to purchases up to \$50,00 (or in some circumstances not relevant here, up to \$85,000 or \$200,000) for services and commodities made under the State Finance Law, Section 163, which do not meet an Agency's needs from Preferred Sources or an Office of General Services Centralized Contract, provides at Section IV that an Agency may purchase within a 15 day period without formal competitive bidding up to \$10,000 for each of the categories of fresh eggs, fresh fruit and fresh vegetables from a New York State grower, producer or association of growers and producers (9 NYCRR Section 250.2(i)). The Guidelines require the Agency to determine that the price is reasonable and comparable to current market prices. Section V of the Guidelines further provide that to comply with the requirements of State Finance Law, Section 165, subdivision 4, agencies are encouraged to include provisions in their solicitations which encourage vendors to fulfill the requirements of any contract awarded with products that are grown, produced, harvested or processed, in whole or in part, in New York State.

¹³ The statute as originally enacted, in 1986, made the process used by school districts to purchase produce directly from local farmers too cumbersome for food service directors to use. After passage of the Farm to School legislation in 2002, schools became interested in using the provisions of GML Section 103, but

GML 103.9 provides that a Board of Education, on behalf of its school district, may separately purchase eggs, livestock, fish, dairy products (excluding milk)¹⁴, juice, grains and species of fresh fruit and vegetables directly from New York producers or growers, or associations of producers and growers consisting of ten or fewer farm owners/operators who have combined to fill the order of a school district. School districts may request to the Commissioner of Education to purchase from larger associations where volume requirements make it difficult to meet the needs of larger school districts. A school district, in any fiscal year, may not expend the amount equal to 20 cents multiplied by the total number of days in the school year multiplied by the total enrollment of such school district.

Under the statute, the Commissioner of Education, in consultation with the Commissioner of Agriculture and Markets, must promulgate regulations to ensure that the prices paid by a district do not exceed the prices paid for comparable local farm products available to districts through their usual purchasing practices. The statute further provides that all producers and growers wanting to sell to school districts be able to readily access the applicable information. Under the law, when more than one producer or grower seeks to sell the same product to a district all producers or growers must have an equitable opportunity to do so in a manner similar to the usual purchasing practices of the districts.

GML 103.10 provides that a Board of Education, on behalf of its school district, may separately purchase milk directly from licensed milk processors employing less than 40 people. A school district, in any fiscal year, may not expend an amount equal to 25 cents multiplied by the total number of days in the school year multiplied by the total enrollment of such school district. The Commissioner of Education is to promulgate regulations ensuring that the prices paid by a school district do not exceed the market value of such items, and that all licensed processors wanting to sell to a school district have an equal opportunity.

4. WHAT ARE THE LEGAL BARRIERS TO APPLYING A GEOGRAPHIC PREFERENCE IN COMPLIANCE WITH FEDERAL RULES IN NEW YORK?

There are no legal barriers to applying a geographic preference in compliance with applicable federal rules in New York.¹⁵ The federal rules permit schools and other

found them to be confusing, problematic and outdated. New York amended the law in 2004, to make it easier for interested schools to reach out to local farmers and provide evenhanded opportunities for sales, while also preventing favoritism or overspending by school districts.

NY Laws, Article 2, Section 16, subdivision 5-b (Agriculture and Markets Law) and NY Laws, Article 7, Section 305, subdivision 31 (Education Law) provide that the Commissioner of Agriculture and Markets in cooperation with the Commissioner of Education shall have the power to establish a farm to school program to facilitate and promote the purchase of New York farm products by schools and other educational institutions under the jurisdiction of the Department of Education.

¹⁴ Milk is treated separately in GML Section 103, subsection 10, *infra*.

¹⁵ Executive Order No. 39, signed by former Governor David Paterson on November 4, 2010, sets forth the policy of the State of New York with regard to the promotion of sustainable local farms and the protection

institutions to extend a preference to regional farmers in procuring school food. New York law allows a Board of Education, on behalf of its school district, to purchase a variety of food products directly from the New York producers or growers.

The New York State Education Department (NYSED) has promulgated memoranda tracking the USDA's rules addressing the geographic preference option under child nutrition programs. This month, the NYSED posted on its website a USDA guidance (Questions and Answers) on geographic preferences, <http://portal.nysed.gov/portal/page/pref/CNKC/IntDocs/9BCA0847322C5B79E04400151735DB24>. In a memorandum dated July 21, 2008, the NYSED informed food service directors and managers that effective October 1, 2008, institutions and state agencies receiving funds through child nutrition programs are permitted to apply a geographic preference when procuring unprocessed locally grown or raised agricultural products. The memorandum reiterates that institutions responsible for the procurement of such items have the discretion to determine how to implement a geographic preference. It further notes that while federal provisions allow institutions to grant an advantage to local growers, such a grant of authority does not eliminate the requirement for free and open competition consistent with the purchasing institutions' obligation to be a responsible steward of federal funds.

http://portal.nysed.gov/portal/page/pref/CNKC/GEN_INFO_PAGE_PP/PROCUREMENT/ApplyingGeographicPreferencesinProcurements_000.htm .

In another memorandum to food service directors and managers dated December 15, 2009, the NYSED updated the definition of "unprocessed" to mirror the USDA's proposed regulation on a geographic preference option.

<http://portal.nysed.gov/portal/page/pref/CNKC/NeedToKnow/GeographicPreferencefortheprocurementofUnprocessedAgriculturalProductsinthecnps.htm> .

CONCLUSION

New York's laws and regulations addressing procurement are in accord with federal regulations related to USDA child nutrition funding. GML 103.9-10 permit a Board of Education to apply a geographic preference when purchasing local food products. The NYSED frequently issues memoranda to school food directors and managers advising them on how they can apply those preferences and remain in compliance with changes in the interpretation of the federal rules.

of agricultural lands. The Executive Order provides that it shall be the goal of the state to achieve the significant environmental, health and economic benefits from expanding production of, and demand for, locally grown food, defined as food products that are grown or processed within the borders of New York State. To achieve this goal, each State agency is directed to take actions, where feasible and without increased cost or burden, and as consistent with current law, to increase the proportion of their total food purchases comprised of locally grown food. Although local governments and school districts do not fall within the jurisdiction of the Executive Order, they are specifically encouraged to "review their policies and practices concerning protection of agricultural lands and local food for the purpose of achieving goals similar to those of the Executive Order."



School Food FOCUS

Programs at a Glance

School Food FOCUS leverages the knowledge and procurement power of large school districts to make school meals nationwide more healthful, sustainable and regionally sourced. Funded by the W.K. Kellogg Foundation and launched in late 2008, the FOCUS initiative – grounded in programs such as the School Food Learning Lab, FOCUS Policy, and FOCUS Knowledge – aims to transform food systems to the direct benefit of children, farmers, regional economies, and the environment.

School Food Learning Lab

The Learning Lab engages selected school districts in collaborative research to discover methods for transforming food options. Each lab brings school food service professionals and their district partners together with research and technical assistance to study and work on specific procurement goals. The Learning Lab helps districts make needed changes—setting them up for long-term, continual transformation and catalyzing changes in mindset, relationships, and perceptions of what is possible. The Labs also create valuable learning experiences and transmit emerging practices to the school districts participating in FOCUS.

FOCUS Policy

The Policy program works with stakeholders to develop recommendations on issues relevant to large school districts, framing these priorities in alliance with a wide range of school food, nutrition, health, and farm to school groups, to inform policymakers about opportunities for improvement. FOCUS Policy works directly with USDA by monitoring and assisting in the implementation of both existing programs and recommended policies, and fosters the direct participation of FOCUS stakeholders in advocating for their own interests.

FOCUS Knowledge

Those in the trenches of school food have traditionally lacked a common ground or network to support learning and the leveraging of practices among large, primarily urban school districts. To fill this gap, FOCUS Knowledge engages stakeholders in collaborative processes and communications that support systemic change. In addition to an annual meeting and School Food Showcases, FOCUS facilitates a Google Group and conducts webinars, hosts virtual and in-person gatherings, issues a regular newsletter and other updates, and produces a series of educational materials to accelerate knowledge-sharing among stakeholders. News, procurement change successes and lessons learned are also shared well beyond FOCUS via public relations and outreach.



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Acting Commissioner

**New York City Council Contracts Committee Hearing on
Int. 452 to encourage the purchase of New York state food by NYC agencies
Testimony of Christina Grace, Manager, Urban Food Systems Program**

Good afternoon. My name is Christina Grace. I am here today representing the New York State Department of Agriculture & Markets and Acting Commissioner Darrel Aubertine. Thank you for the opportunity to speak with you about the importance of proposed Local Law 452 and how to move forward to implement such a law with the goal to institutionalize local procurement within New York City agencies.

First, thank you Council Members Brewer, Cabrera, Foster, James, Lander, Palma, Rodriguez, Rose and Williams for your leadership on this issue.

New York is home to over 36,000 farms, which return almost \$4.4 billion to the state's economy. Yet, from 1982 to 2007, the state lost close to 4,500 farms. Local procurement is essential to reversing this trend and fostering a vibrant agricultural economy. In fact, Governor Cuomo has made expanding access to locally grown food a central part of his agricultural economic development program. Local agricultural economies are known to have one of the highest economic multiplier rates of all industries. Local procurement also minimizes the time and distance foods travel from farm to plate resulting in fresher, more nutritious food and a lower environmental impact.

Both New York State Finance Law, Section 165.4a, which covers special provisions for the purchase of available New York food products, and General Municipal Law, Section 103, Subdivision 8-a, which provides guidance for local governments when letting contracts for the purchase of food products, specify that solicitation specifications may mandate that all or some of a municipality's required food products are grown, produced, or harvested in New York State, or that any processing of such food products take place in facilities located in New York State. General Municipal Law specifies that the commissioner of agriculture and markets shall determine those food products for which the requirements of this subdivision are deemed beneficial and promulgate a list of such food products and the availability of these products. There is a simple list of product categories and availability attached to our testimony.

Since 2004, the Department has partnered closely with SchoolFood on local procurement. Our local procurement efforts have involved replacement of existing products and new product development. We have had far greater success with new product development because in creating unique products, we have been able to limit competition for local producers. This recognizes that SchoolFood's existing distributors have vested relationships and currently no incentive to

preference local. When price and quality are perceived as equal, distributors are likely to choose existing suppliers, no matter where the product is from. Building local preference into contracts will address this. Despite the current challenges, there have been many local procurement success stories, for example:

- Individually-packed apple slices from Champlain Valley Specialties, resulting in increased consumption of apples in NYC schools; millions of dollars and more than 70 jobs for Keeseville, NY. Because the apple slices have been purchased on contract and through the USDA Department of Defense Fresh program, the producer had the income security to invest in business expansion.
- Upstate Farms Yogurt, developed to meet SchoolFood's strict nutritional requirements, is also a contracted product. Without NYC, the product line would not exist and it is now used at schools around the country.
- Vegetarian egg rolls produced at Water Lilies Foods in Queens include Orange County carrots, cabbage and scallions seasonally from Dagele Brothers Farm.
- Milk in NYC schools comes from New York dairy farms and is processed at Elmhurst Dairy, creating jobs right here in Queens.

We have secured sources for a wide variety of fresh and frozen vegetables and fruits. We have been working on cut-bagged romaine for years. Despite these efforts, we have barely scratched the surface. Through the SchoolFood Plus research we learned that as much as \$12-\$15 million per year or 10% of DOE food procurement (not including dairy purchases) could be produced in the region. This is equivalent to what approximately 100 New York farms sell in a year.

State Support for Local Procurement

Governor Cuomo is taking significant steps to support local procurement initiatives. The Governor's "Share NY Food" Program promotes partnerships between local farmers and local institutions to encourage the distribution of local farm foods to schools, hospitals, nursing homes, prisons and other institutions. The Governor's budget proposals establish the framework through which food policies included in his FARM-NY policy plan can be delivered. Collectively entitled "Share NY Food," this initiative systematically removes existing barriers to commerce by expanding access to programs currently restrictive or unavailable to farm and food operations. Components of his strategy will help NYC agencies increase opportunities for local procurement by:

- Amending the Healthy Food/Healthy Communities portion of Empire State Development Corporation's (ESDC) Upstate Agricultural Economic Development Fund to make farmers' markets and other non-traditional markets eligible for funding under this program. These markets are important vehicles for the delivery of locally-produced, nutritious foods in underserved and other communities.
- Authorizing the Department to facilitate the creation of a revolving loan fund to support agricultural programs. In consultation with partner agencies, and farm and food policy stakeholders, opportunities will be created to expand innovative food outlets like Community Supported Agriculture (CSA), mobile vendors and other non-traditional markets.
- Amending the Department's Farmers' Market Grant Program to include the purchase of equipment as eligible for grant funding. This long-sought capability will increase the

number of markets offering wireless Electronic Benefits Transfer (EBT), which in turn increases access to locally-grown, nutritious food to consumers. Our existing Farmers' Market EBT program – administered by the Department in conjunction with OTDA and the Farmers' Market Federation of New York – has been instrumental in creating such access across the state by providing wireless technology, market scrip, technical assistance, fee support, promotion and training to participants. This initiative has grown from just \$3,000 in food stamp sales in 2002 to \$883,000 in 2009, and yet less than half of our 450 farmer's markets currently offer EBT.

The Governor also supports the development of a NYC Wholesale Farmers Market and the redevelopment of the Hunts Point Terminal Market to improve access to institutional quantities of locally-grown produce and other foods to the NYC market. We are working to revitalize and expand this local asset that is important to the health of our people, communities, and economy.

Next Steps for NYC

So how does New York City scale up local procurement in response to existing state law and Intro. 452. Begin by considering local procurement a process. Focus early efforts on the largest opportunities, for example, SchoolFood, Health and Hospitals Corp., NYC Department of Corrections, and CUNY. Despite real and perceived barriers to local sourcing, so much more can be done today within the existing infrastructure if local preference language is included in NYC contracts.

- Include New York preference language in the RFP process for food service management companies and food distributors and the resulting contracts with these vendors. Amend existing contracts to include geographic preference language as well. There are terrific examples where this has been done, for example, the state of Rhode Island; City of St. Paul, MN and Albany, NY. Expertise is available to support this through the NYS Department of Agriculture & Markets, SchoolFood Focus and National Farm to School.
- Break produce out of broadline bids and contract with a specialty produce distributor (s). This will increase local procurement and the overall quality of the produce served by SchoolFood. This recommendation is specific to SchoolFood. We can make more specific recommendations case by case with more information about the city's broad set of food service and food distributor contracts.
- Contract directly for minimally-processed produce, including frozen fruits and vegetables.
- Any successful local procurement strategy should include solid reporting. We commend the bill's authors for including concrete steps to track and encourage regional food procurement.

In closing, please let us know how we can help. We are available to provide expertise and assist city agencies and their vendors in identifying sources for the wide range of foods available from New York. We look forward to working with you to increase the city's local procurement efforts.

Thank you.

New York State Foods Reference List

(Revised May 2007)

Promulgated Pursuant to Section 165(4) of the State Finance Law and Section 103(8-a) of the General Municipal Law

New York State Department of Agriculture and Markets

Fresh Fruits and Vegetables

This list represents the approximate time of availability for New York State fruits and vegetables. This list is not intended to indicate relative volumes available.

Fruits

Availability

Apples	July 15	-	May
Cherries (sweet)	June 15	-	July 15
Cherries (sour)	July 15	-	August 15
Grapes	August 15	-	October
Melons	August	-	October
Peaches	July 15	-	September 15
Pears	August 15	-	November
Plums	September 15	-	October
Strawberries	June	-	July 15

Vegetables

Asparagus	May 15	-	June 15
Beans	July	-	October 15
Beets	June 15	-	November
Bok Choy	August	-	October
Broccoli	June	-	October
Brussels Sprouts	August	-	November
Cabbage	June	-	February
Carrots	July	-	April
Cauliflower	July	-	December 15
Celery	July 15	-	November 15
Corn	July 15	-	October 15
Cucumbers	July 15	-	October 15
Eggplant	July 15	-	October 15
Garlic	August	-	April
Greens (Swiss Chard, Kale)	July	-	October
Leeks	July	-	October
Lettuce	May	-	October
Onions	July	-	April
Peas	June	-	July
Peppers	July 15	-	October 15
Potatoes	July	-	April
Pumpkins	September 15	-	October
Spinach	June 15	-	October 15



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Director

**Testimony of Jake Luce, Deputy Chief of Staff, and Maria Osorio, Senior Environmental Analyst
Mayor's Office of Contract Services, Before the City Council Committee on Contracts:
Intro 452 (Purchase of New York State Food) and Intro 461 (Packaging Reduction)**

February 28, 2011

Good afternoon Chair Mealy and members of the Contracts Committee. I am Jake Luce, Deputy Chief of Staff at the Mayor's Office of Contract Services (MOCS). With me is Maria Osorio, Senior Environmental Analyst in our office. I will be offering testimony on behalf of Mayor Michael R. Bloomberg, on Intro 452, relating to the purchase of New York State food, and Maria will provide the Administration's testimony on Intro 461, relating to packaging reduction.

The City of New York buys food for multiple purposes, and in several different ways. Let me highlight a few of the largest categories of food purchasing, both direct and indirect:

- We often buy food as a commodity, such as when the Department of Citywide Administrative Services (DCAS) executes contracts for meat or produce. DCAS purchases such commodities on behalf of other agencies, most notably for the Department of Correction (DOC) to feed inmates, the Administration for Children's Services (ACS) to feed juveniles in detention, and the Human Resources Administration (HRA) to supply non-perishable items to food pantries as part of the Emergency Food Assistance Program. Typically separate purchases are made for each specific type of goods one of these agencies may need, such as frozen vegetables.
- In other instances, we have service contracts for which the primary purpose of the contract is to supply food, an example being the Department of Homeless Services (DHS) contract with Maramont Corp. for catered meals for use in the family shelter system. Typically DHS enters into a few large contracts on a citywide basis, including contracts to meet special dietary needs. Another example of this type of service contract is the City Council-funded contract between the Department of Youth and Community Development (DYCD) and City Harvest, for the purchasing of food to supply food pantries.



- In still other instances, agencies contract with non-profit organizations to provide human services, and as part of the program the non-profits purchase food to be provided to the program's clients. One example is child care programs funded by ACS, which include food for the children served.
- The Department for the Aging (DFTA) provides food for senior citizens using both of the above models. Its contracts for home-delivered meals have the provision of food as the principal purpose of the contract, and its senior citizen center contracts have food services as one component ancillary to the primary service. In either case, DFTA does not purchase food directly, but contracts with non-profit organizations that purchase and serve the food.
- In addition to these examples, various agencies also make small purchases of food, in connection with activities such as catering for a public event. These purchases are made in accordance with the Comptroller's Directive 6 regarding meals and other miscellaneous agency expenses.
- Finally, we would note that there are substantial food purchases made by agencies that are not under the jurisdiction of MOCS, such as the Department of Education and the Health and Hospitals Corporation.

As the examples above indicate, the City purchases everything from canned food to fresh produce to fully-prepared meals, in amounts large and small, using nearly all of the different "procurement methods" available under the Procurement Policy Board (PPB) rules.

The goal of our procurement system is to see that the City receives the best value for the taxpayer dollar, while ensuring the integrity and responsibility of our business partners, the transparency and fairness of our practices, and, where appropriate, to find opportunities to leverage our buying power to achieve the City's goals. One goal to which both the Council and the Administration are committed is to make sure that the City purchases food in a way that provides healthy nutrition and supports the local economy.

In furtherance of that shared goal, Intro 452 directs the City Chief Procurement Officer (CCPO) to develop guidelines for City agencies that will encourage agencies to make best efforts to purchase food produced or processed in New York State in accordance with New York State's General Municipal Law



(GML). MOCS would fulfill this mission by comprehensively analyzing the various ways in which the City purchases food, and developing a program to encourage the purchase of New York State food where feasible, cost-effective, and sustainable. The City's program would target the list of foods grown and processed in New York State, as published by the New York State Department of Agriculture and Markets, pursuant to subsection 8-a of GML § 103. This list identifies the specific foods to which the procurement preference may be applied, and the approximate times of the year in which each type of product is available. For instance, milk is listed as available from New York State producers year-round, whereas apples are available from state orchards from July through May.

Before closing I would like to focus on the reporting provisions of Intro 452. As you know, and as demonstrated by the various statutory reports we provide each year, most of which are then also included in our Annual Procurement Indicators report, MOCS is committed to providing robust data that offers transparency into City purchasing and ensures accountability with regard to compliance with all applicable mandates.

We share the Council's goal of extending that data-driven approach to measure the City's progress in purchasing New York State food. However, we have some concerns about the feasibility of the reporting requirement as currently drafted. As of today, food sourcing information is not captured for any of our procurements. As drafted, Intro 452 would require the City to provide detail on the sourcing of food during the current fiscal year, prior to the establishment of this program. This is not feasible. In addition to the large commitment of staff resources that would be needed to identify (after-the-fact) which contracts included food, we would have to obtain data from contractors, which they may well not have (i.e., the geographic source of the produce they sold to the City) and that their contracts would not have required them to ascertain or provide.

More fundamentally, the reporting requirements as drafted require an unrealistic level of detail. The City's Financial Management System (FMS) contains information on all the contracts we enter into.



However, many of our food-related contracts are for “baskets” of goods, rather than one specific product. For example, imagine a \$100,000 contract for the purchase of both apples and oranges. Although we might know that all the apples came from New York State and all the oranges came from Florida, FMS does not break out the percentage of the total quantity or total dollar value of the \$100,000 purchase was made up of apples, and what percentage was made up of oranges. Further, apples might come by the case, while oranges might come by the pound, which makes it difficult to compare them by quantity in addition to price. This gives new meaning to the cautionary adage about "comparing apples to oranges."

In the end, we can certainly work with you to devise workable reporting requirements, such that we would be able to identify City contracts that involved the purchase of New York State food, even if the precise amount of each commodity is not readily ascertainable. While some additional data can perhaps be manually collected from City agencies and/or our vendors, we are also mindful of creating undue burdens. Agency resources are strained in the current budget environment, and the data collection challenges are particularly difficult for social services agencies and their providers. Many of our food suppliers are small businesses, and they, along with our non-profit providers, are ill-equipped to handle new data collection burdens. To reiterate, as we work together to finalize this legislation, we will provide the Council with information as to the current availability of data regarding food sourcing, and will work with you to craft more flexible language on reporting that will increase the amount of relevant data made available to the public, without creating reporting obligations that discourage participation by smaller suppliers or adding undue costs to City agencies.

Thank you for the opportunity to offer testimony today. I will now ask my colleague Maria Osorio to discuss Intro 461. At the conclusion of her testimony, we would be happy to answer any questions you may have.



Good afternoon Chair Mealy and members of the Contracts Committee. I am Maria Osorio, Senior Environmental Analyst at MOCS. Following the passage of Local Law 118 of 2005, Mayor Bloomberg designated Marla Simpson, the CCPO and Director of the Mayor's Office of Contracts, as the City's Director of Environmental Purchasing, so I am pleased to be here on her behalf to discuss the Administration's position on the Intro. 461.

Intro 461, relating to product packaging reduction, would enhance our Environmentally Preferable Purchasing Program (EPP), which is premised on five local laws signed into law in 2005:

- Local Law 118 established the position of Director of Citywide Environmental Purchasing, with a mandate to establish new purchasing standards and to report to the Council on an annual basis.
- Local Law 119 created procurement standards to achieve minimum energy and water efficiency, based on the United States Department of Energy's Energy Star or Energy Management Program (FEMP). LL 119 also addresses the use of energy-efficient products.
- Local Law 120 designated procurement standards to reduce the amount of hazardous materials contained in certain products containing hazardous materials.
- Local Law 121 established procurement standards to ensure minimum recycled and recovered materials content for certain goods, based on those set by the United States Environmental Protection Agency's Comprehensive Procurement Guidelines (CPG). LL 121 also addressed the City's use of printers and copiers.
- Local Law 123 required the City to conduct a pilot program to assess the feasibility of using green cleaning products, and to develop appropriate standards based on the results of such pilot.

Single-use transportation and product packaging includes various types of packaging such as pallets, boxes, wraps, and slip sheets. Packaging can be made of materials such as corrugated cardboard, fiberboard, metals, plastics, and wood. Although packaging serves the essential function of protecting, containing and preserving a product, it does contribute to the City's waste stream. The addition of the requirements of Intro 461 would assist the City in better managing and minimizing waste produced through the purchase of goods.



As the City's chief goods purchaser, DCAS' Division of Municipal Supply Services establishes Citywide requirement contracts for frequently purchased commodities. As reported in the MOCS Annual Procurement Indicators Report for Fiscal Year 2010, DCAS awarded over \$144 million worth of contracts for such EPP goods as paper products, electronics, lighting products, plumbing and architectural coatings.

Since the 1990's, DCAS has included standard language in its contracts in support of packaging reduction and reuse. All competitive sealed bids administered by DCAS have included the following provision: "Whenever practicable, packaging shall eliminate waste; reduce waste by weight, volume and toxicity without substituting a material that is not recyclable; and should contain recycled content." This provision allows DCAS to continue its commitment to identify and procure products which contain recycled content, minimize waste, conserve energy, and are less toxic. MOCS will work with DCAS and the Office of Long-Term Planning and Sustainability to develop a packaging reduction program that will create clear standards for minimizing the waste stream and encouraging vendors to consider eliminating excess packaging and switch to reusable packaging. In addition, to effectively implement Intro 0461-2011, MOCS would recommend clarifying the terms "reusable" and "recyclable" and eliminating the term "compostable." By establishing "best management practices" for waste reduction, we can develop guidelines for packaging alternatives that will not compromise product safety or quality.

Similar to the current EPP local laws, certain procurements would be exempt from Intro. 461, such as products purchased prior to the effective date of this law, small purchases, emergency procurements, federally and state funded procurements, and intergovernmental purchases. In addition, to ensure compliance with the General Municipal Law, any product for which there are fewer than three manufacturers that produce such a product in a quantity and time period necessary to meet the City's need will be exempt from this proposed law. Similarly, if the contracting agency finds that inclusion of this specification will hinder the agency's ability to obtain the highest quality product at the lowest possible price through competitive procurement, that product will be exempt from this proposed law.



MOCS is finalizing draft amendments to the City's EPP rules (Chapter 11 of Title 43 of the Rules of the City of New York) to implement the green cleaning pilot results and to institute other EPP program expansions. If practicable, we will include these new provisions with these pending amendments.

In conclusion, we thank you for the opportunity to discuss Intro 461 as a possible addition to the City's ongoing efforts to promote environmental sustainability and procurement reform. My colleagues and I are available to answer any questions you may have.



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READ INTO RECORDS

Testimony before the New York City Council Contracts Committee on
Int. No. 452, 461 and Res. No. 627, 628

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Chair of Environmental Studies

February 28, 2011

I strongly urge the Contracts Committee to approve Int. No. 452 and 461 and Resolutions 627 and 628. The legislation, if enacted, will help to support regional farmers and processing businesses and will make food distribution more efficient and environmentally sound. In particular, Int. No. 452 will stimulate changes to the procurement process that will result in sustainable economic growth for the region, the protection of open space through the support of productive agricultural land uses (including in New York's watershed), the creation of food industry jobs in and around New York City, and reduced waste disposal costs for food shipped to NYC. All of these impacts will help to advance the sustainability goals of PlaNYC 2030 and improve the city's economic health. The legislation is also an important component of Speaker Quinn's groundbreaking FoodWorks initiative.

Although the current version of Int. No. 452 would have substantial positive effects on procurement, the legislation could be strengthened substantially with the following key changes:

- (1) City agencies, in addition to the city chief procurement officer, should be affirmatively required to make best efforts to purchase New York State food, *including through menu planning* that creates greater opportunities to incorporate New York State food in the meals served by agencies. In considering which food to source for meals served by the City, items that are produced only in other regions should be minimized, while regionally produced items in season should be maximized.
- (2) The city chief procurement officer should be required to develop guidelines that will *increase the percentage* of (and not merely "maximize") New York State food purchased by agencies each year. These guidelines should include recommended changes to both menu design (i.e., item specifications) and the procurement process itself, with the goal of increasing the percentage of New York State food that is solicited in the bidding process and facilitating the identification of New York State food in task orders so that progress toward the goals of the legislation can be tracked effectively.
- (3) The annual report required to be submitted to the Council should include a plan to revise specification and purchasing practices that will enable agencies to procure a greater

percentage of New York State food in the year following the submission of the annual report.

With respect to Int. 461, I recommend strengthening the legislation in two key respects:

- (1) Converting packaging to reusable, recyclable, and compostable material will have little impact on the waste stream unless systems are in place to reuse, recycle, and compost this material. Thus, the legislation should direct the Department of Sanitation to assist agencies in the development of systems to minimize the disposal of and maximize the reuse, recycling, and composting of packaging. At present, for example, there are no comprehensive systems in place for agencies to systematically compost packaging.
- (2) The director of citywide environmental purchasing in conjunction with the office of long term planning should be required to not only recognize contractors that comply with packaging reduction guidelines but should also report on the percentage of contractors complying with such guidelines.
- (3) The legislation should include an affirmative requirement that the percentage of packaging that is reusable, recyclable or compostable be increased on an annual basis, and the director of citywide environmental purchasing should be required to report on progress in increasing reusable, recyclable or compostable packaging.

In conclusion, the adoption of these bills and resolutions demonstrates that the Council is a leader in advancing the sustainability of the food system and in reducing the impacts of the product distribution process. These measures are good for New York's environment, beneficial for the region, and key to our city's economic competitiveness.