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RE: Diversifying Agriculture and Addressing Food Justice alongside Continuing Inequalities on our Food Systems

Thank you for holding the April 13, 2021 hearing on the important issue of addressing racial inequities in food production and food access. It was wonderful to see so many viewpoints represented and heard during the day. We strongly support taking explicit action to remedy the continuing inequities of the food system and here highlight six actions to help achieve that goal: (1) direct resources to farmers who are Black, Indigenous, and People of Color (BIPOC), (2) pay BIPOC farmers for adopting healthy soils practices, (3) amend General Municipal Law § 103 to support values-based procurement, (4) strengthen New York State nutrition standards, (5) support farmworker rights and provide a path to farm ownership, and (6) support urban agriculture and community gardens.

1. Direct resources to BIPOC farmers.

New York should ensure that independent BIPOC producers have the resources they need to thrive. The state can do this by offering BIPOC producers technical assistance, grants, low-interest credit, access to equipment, and free legal and accounting services. These services should be provided by experts who are linguistically and culturally competent. In addition, all farmers require access to land and thus a top priority should be making affordable land available to BIPOC farmers. New York should work directly with BIPOC farmers to determine the best pathway to doing so. We support the nine solutions offered by Black Farmers United NYS, which include 400 acres of land access for Indigenous and Black farmers and earthkeepers in New York and New England and \$10 million in funding for farms and businesses in the Black community.¹ The state should work with BIPOC farmers to develop an action plan to implement these and other solutions.

¹ See Black Farmers United NYS, Our Solutions, <https://www.blackfarmersunited.org/our-solutions>.

2. Pay BIPOC farmers for adopting healthy soils practices.

The state should set aside specific funding and benefits for BIPOC farmers in all voluntary incentive programs that pay farmers to adopt conservation practices. Farmers can play a critical role in preserving New York’s environment and air, water, and soil resources. Conservation programs that provide grants and other funding to farmers who adopt healthy soils practices can and should be a part of New York’s strategy to build resilience to climate change impacts and achieve other environmental and climate goals.

New York’s Climate Leadership and Community Protection Act directs that disadvantaged communities receive 40% of overall benefits of spending on certain key climate, energy, and environmental investments. The Biden Administration has similarly committed to direct to disadvantaged communities 40% of certain climate and environmental Federal investments.² Similar set asides should be added to New York’s agricultural programs.

The Soil Health and Climate Resiliency Act (A5386, Lupardo / S4722, Hinchey), currently before the New York legislature, provides an opportunity for New York to effectuate this action. This bill would create a program to fund farmers who adopt healthy soils practices and would enshrine the Climate Resilient Farming Program into statute. We urge the enactment of this bill with an amendment to ensure that both programs have set asides of benefits for BIPOC farmers.

3. Amend General Municipal Law § 103 to support values-based procurement.

Local governments can play a critical role in supporting BIPOC farmers and food business owners by directing their purchasing to them. New York City alone serves 230 million meals annually across 11 agencies and other municipalities across the state also purchase a substantial number of meals. The Good Food Purchasing Program seeks to leverage this substantial buying power to advance food policy goals in five value areas: local economies, nutrition, valued workforce, animal welfare, and environmental sustainability.

However, cities are limited in adopting a values-based procurement policy by General Municipal Law § 103. This statute generally requires agencies to award contracts through a competitive bidding process to the “lowest responsible bidder” (not statutorily defined) or “on the basis of best value,” defined as:

[T]he basis for awarding contracts for services to the offerer which optimizes quality, cost and efficiency, among responsive and responsible offerers. Such basis shall reflect, wherever possible, objective and quantifiable analysis. Such basis may also identify a quantitative factor for offerers that are small businesses, certified minority- or women-owned business enterprises...or service-disabled veteran-owned business enterprises... to be used in evaluation of offers for awarding of contracts for services.

² Executive Order on Tackling the Climate Crisis at Home and Abroad (Jan. 27, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/>.

N.Y. State Fin. § 163(1)(j). New York’s highest court has held that under General Municipal Law § 103, there is “no support to the view that social policy goals may trump the competitive bidding statute.” *Council of City of New York v. Bloomberg*, 6 N.Y.3d 380, 392 (2006).

The legislature should thus amend General Municipal Law § 103 to allow, but not require, procuring agencies to incorporate labor, environmental, and animal welfare standards in their specifications. This is consistent with numerous Federal laws that allow the Federal government to consider various environmental factors in its purchasing.³ A more flexible state procurement law would allow New York City and other municipalities to adopt and fully implement the Good Food Purchasing Program, which would help address many inequities by increasing access to fresh, nutritious food; bettering working conditions and wages for frontline food workers; and increasing procurement from BIPOC-owned businesses.

4. Strengthen New York State nutrition standards.

Poor diet is a leading cause of death and disability in the country, and BIPOC communities disproportionately lack access to healthy foods and suffer diet-related disease.⁴ The consequences of poor diet were highlighted this past year by the links between diet-related conditions such as diabetes and increased risk of serious complications from COVID-19 contributing to Black individuals being hospitalized due to COVID-19 at much higher rates.⁵

The legislature can take steps towards addressing this disparity by passing the Healthy Food Service Guidelines for New York Act (S4644, Biaggi / A5682, Gottfried), which would direct the Department of Health to develop standards for healthier foods and beverages in all state facilities and state-supported programs. The bill mandates that food standards be consistent with the most recent federal Dietary Guidelines for Americans, including guidelines for sodium, whole grains, added sugars, saturated fat, cholesterol, and fiber; it also prohibits the offering of sugar-sweetened beverages and encourages plant-based whole foods. Passage of this bill will allow those who rely on state-supported food programs to access a healthier diet.

5. Support farmworker rights and provide a path to farm ownership.

Farmworkers in our nation are predominantly people of color (68%), about half are undocumented immigrants, and about 20% are migrants.⁶ They face numerous inequities including dangerous working conditions and low pay. It is thus essential that New York ensure

³ See Congressional Research Service, Environmental Considerations in Federal Procurement: An Overview of the Legal Authorities and Their Implementation (Jan. 7, 2013), <https://fas.org/sgp/crs/misc/R41297.pdf>;

⁴ Johnson, N. B. et al. (2014). CDC National Health Report: Leading Causes of Morbidity and Mortality and Associated Behavioral Risk and Protective Factors—United States, 2005–2013. Centers for Disease Control and Prevention. <https://www.cdc.gov/mmwr/preview/mmwrhtml/su6304a2.htm>.

⁵ Belanger, Matthew J., et al. (2020). Covid-19 and Disparities in Nutrition and Obesity, 338 N. Engl. J. Med. 69, <https://www.nejm.org/doi/full/10.1056/NEJMp2021264>.

⁶ See USDA ERS, Farm Labor, <https://www.ers.usda.gov/topics/farm-economy/farm-labor/#demographic>.

full implementation of the new rights for agricultural workers enshrined in the Farmworkers Fair Labor Protection Act, enacted in 2019. These rights include: the right to collectively bargain, one day of rest per week, overtime pay after 60 hours of work at 1.5 times the normal rate, disability and paid leave coverage, and other labor protections. Now that the law has been enacted, the state must make sure these rights are upheld in practice considering the practical difficulties of obtaining a collective bargaining agreement given the notoriously unlevel playing field for organized labor and the ongoing violations of rights faced by agricultural workers. The state must inform workers of these new rights and use its enforcement powers to hold violators accountable.

Furthermore, farmworkers should be given the resources needed to become farm and business owners. Farmworkers have vast knowledge and experience in food production yet face barriers to becoming farm owners themselves because of their vulnerable status. The state should work directly with farmworker communities to provide a pathway for farmworkers, including those who are undocumented and migrant, to achieve farm ownership.

6. Support urban agriculture and community gardens.

Urban agriculture and community gardens offer residents numerous health, social, cultural, and environmental benefits. Particularly for historically marginalized Black and Latinx communities, who often live in areas that lack access to greenspace and nutritious food options, community gardens and urban farms provide access to the outdoors and an opportunity for the community to grow its own fresh, healthy, and culturally appropriate foods. The state should provide increased funding and support for urban agriculture and community gardens. Land for urban agriculture and community gardens should be set aside and protected from development through the use of conservation easements and designations as parkland that allow such land to be protected as part of the public trust. The state should encourage cities to designate community gardens as “critical environmental areas” under the State Environmental Quality Review Act pursuant to 6 NYCRR § 617.14(g), which would afford them some additional protections from development.

Respectfully,

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