

## RESOLUTION # 13

### FARMLAND PRESERVATION

1           **WHEREAS**, the purpose of the Farmland Preservation Program is to preserve the  
2 state's agricultural land base, helping to ensure the continued viability of New Jersey's  
3 agricultural industry; and

4           **WHEREAS**, as of October 10, 2019, 2,639 farms covering 236,107 acres had been  
5 permanently preserved statewide, including 135 farms covering 15,602 acres in the  
6 Pinelands and 553 farms covering 45,520 acres in the Highlands, which contribute not only  
7 to a secure land base for agricultural operations, but also to a host of other quality-of-life  
8 benefits, such as an increase in the total number of acres of open space in New Jersey, at  
9 both the local and statewide level; and

10           **WHEREAS**, preserved farmland remains privately managed and continues to  
11 contribute tax revenue to municipal budgets while demanding very little in public services;  
12 and

13           **WHEREAS**, legislation was signed in June 2016 that allocates preservation funding  
14 from the Constitutional dedication of a portion of the Corporate Business Tax (CBT) that was  
15 approved by voters and provides a stable funding source through the Corporate Business  
16 Tax (CBT) that does not rely upon repeatedly asking voters to approve bond referenda; and

17           **WHEREAS**, of the total funding annually available for preservation programs through  
18 FY2019, the Farmland Preservation Program receives 31 percent; and

19           **WHEREAS**, new legislation was signed into law supplementing and amending the  
20 "Preserve New Jersey Act" in order to implement the CBT revenue dedication for State fiscal  
21 year 2020 and beyond; and

22           **WHEREAS**, the bill retained the existing 31-percent allocation for the Farmland  
23 Preservation Program, authorized additional funding for stewardship activities, raising the  
24 percentage from 3 to 4 percent, amended the definition of "stewardship activity" to include  
25 projects that improve the resiliency of farmland soils, and also extended the dual-appraisal

26 valuation eligibility for landowners in the New Jersey Highlands, which would have expired  
27 on June 30,2019; and

28 **WHEREAS**, the State Agriculture Development Committee (SADC) is updating the  
29 Municipal PIG program rules to include the creation of a “Competitive Grant Pool” of funding  
30 accessible by all participating municipalities, which can compete on a “first-come, first served  
31 basis,” and is intended to assist municipalities who do not have enough base grant funding to  
32 cover the costs for a particular farm preservation project; and

33 **WHEREAS**, amendments to the “Preserve New Jersey Act” allow qualified farms  
34 preserved through Highlands Development Credit and Pinelands Development Credit  
35 programs access to SADC stewardship funding, including irrigation systems, strip cropping  
36 systems, terrace systems, stream protection, forest tree plantations, forest tree stand  
37 improvements, animal waste control, permanent drainage systems, deer fencing and more,  
38 at the same priority level as farms permanently preserved through the SADC; and

39 **WHEREAS**, SADC in September 2019 approved a \$59.5 million appropriation  
40 request for FY2020, including \$ \$5 million for the Municipal Planning Incentive Grant (PIG)  
41 Program, \$25.6 million for the State Acquisition Program, \$22 million for the County Planning  
42 Incentive Grant (PIG) Program, \$1.35 million for the Nonprofit Program and \$500,000 for  
43 municipal and county Planning Assistance Grants; and

44 **WHEREAS**, the year-to-year increases in total farmland preserved through programs  
45 overseen by the SADC, with the exception of an up-tick in 2018 compared to 2017, have  
46 declined from an increase of 6,542 acres in 2015 compared to 2014, to an increase of 3,607  
47 acres in 2019 compared to 2018; and

48 **WHEREAS**, this may be the result of more emphasis placed on county and municipal  
49 planning incentive processes that may result in larger year-to-year increases in preserving  
50 farmland once those processes mature, or may be a result of moving from a funding  
51 mechanism based on periodic bond issues to the stable funding through the CBT; and

52           **WHEREAS**, it would be helpful for the State Board and the delegates to this  
53           Convention to better understand those statistics and their relationship to the long-term goals  
54           of the Farmland Preservation Program in SADC; and

55           **WHEREAS**, it is the understanding of the delegates to this Convention that recent  
56           appraisal values on prospective farmland preservation properties have decreased, and, if  
57           that is an accurate trend, it would help both the SADC and the State Board to understand the  
58           underlying cause of this drop; and

59           **WHEREAS**, numerous farmers whose land was being examined for preservation  
60           have complained that multiple appraisers have come to view their properties at the same  
61           time, which brings the danger of “comparing notes” instead of each appraiser independently  
62           arriving at their own conclusions as to the value of the land; and

63           **WHEREAS**, farmers also are reporting that the pressure to buy their land has shifted  
64           from residential developers to those seeking to build warehouses in response to the growing  
65           popularity of on-line shopping, as well as the nation’s economic resurgence and recent  
66           dredging of New Jersey ports resulting in additional movement of goods through ports in and  
67           around New Jersey, and the need to have multiple distribution centers to serve those  
68           additional customers quickly; and

69           **WHEREAS**, there exists a need, going forward, to better understand what impacts  
70           will result from that shift in the types of development sectors seeking to buy farmland,  
71           including zoning and traffic-planning issues; and

72           **WHEREAS**, it is imperative to help farmers on preserved land to implement  
73           beneficial soil and water conservation and soil resiliency practices and to limit damage to  
74           their crops from wildlife, especially from New Jersey’s large white-tailed deer population,  
75           whose densities can exceed more than ten times the land’s carrying capacity; and

76           **WHEREAS**, the Highlands Water Protection and Preservation Act (the “Highlands  
77           Act”) modified Section 13c of the Agricultural Retention and Development Act to include  
78           “if...the Highlands Water Protection and Planning Council has established a development

79 transfer bank,,the municipal average of the value of the development potential of property in  
80 a sending zone established by the bank may be the value used by the board in determining  
81 the value of the development easement” in lieu of two appraisals; and

82 **WHEREAS**, the Highlands Council has undertaken studies to determine the average  
83 lot values by municipality in the Highlands region and has memorialized this work in the  
84 Highlands Regional Master Plan’s TDR Technical Report and has estimated the number of  
85 lost lots by property tract in the Highlands Bank’s TDR Estimator data base; and

86 **WHEREAS**, the municipal average of the value of development potential has never  
87 been used in the Highlands and may provide a more fair and just valuation of a farmland  
88 easement than appraisal methodology in highly regulated regions such as the Highlands and  
89 Pinelands where development potential comparable sales can no longer be found; and

90 **WHEREAS**, with the increase of CBT funding now available for stewardship  
91 activities, there is an estimated \$2.34 million in FY2020 to fund the existing Deer Fencing  
92 Program (DFP) and Soil and Water Cost Share Program (S&W Program) in addition to new  
93 initiatives related to farmland soil resiliency; and

94 **WHEREAS**, since re-starting its S&W Program utilizing CBT funds in 2017,  
95 approximately 97 S&W Program applications have been submitted, accounting for an  
96 estimated project need of approximately \$2.75 million, and the SADC continues to make  
97 available previously appropriated funding for new soil and water conservation projects; and

98 **WHEREAS**, since the restarting of the S&W Program in 2017, 42 projects have been  
99 funded and \$790,000 in funding has been obligated, with nine projects having been  
100 completed and \$180,000 in grant funding having been paid; and

101 **WHEREAS**, it is essential that the availability of preserved farmland for agricultural  
102 purposes remain the central impetus behind preserving such land, yet the SADC must also  
103 be open to flexibility when farmers on preserved land present new ideas in New Jersey’s  
104 ever-changing agricultural make-up, and thus be willing to update its views as to what  
105 encompasses allowable agricultural uses of preserved farmland; and

106           **WHEREAS**, P.L. 2014, Ch. 16, signed into law in July 2014, allows wineries to  
107           conduct special occasion events on preserved farmland under certain conditions under a  
108           pilot program which was extended through March 2020 by legislation enacted in May 2018;  
109           and

110           **WHEREAS**, the SADC's pilot program is largely focused on identifying and collecting  
111           the information it needs throughout the pilot program in order to be in a position to make  
112           recommendations to the Legislature at the program's conclusion; and

113           **WHEREAS**, the SADC in June 2018 issued an interim report on the pilot program for  
114           winery special occasion events, which was forwarded to the Legislature and Governor, and  
115           summarized the information the SADC had thus far collected under the pilot program and the  
116           agency's observations to date; and

117           **WHEREAS**, the SADC – in consultation with New Jersey Farm Bureau – in June  
118           2017 established a Special Occasion Events Working Group that continues to meet to  
119           examine and make recommendations to the Committee regarding special occasion events  
120           as they relate to preserved farms – both wineries and other types of operations – as well as  
121           to Right to Farm protection; and

122           **WHEREAS**, it also is essential that restrictions on which types of crops can be grown  
123           on preserved lands in specific areas (e.g., the Pinelands) must include flexibility to enable  
124           the farmer to continue farming if disease, pests or economic conditions render obsolete the  
125           limited number of crops allowed to be produced in those areas; and

126           **WHEREAS**, a Superior Court judge ruled that a Hunterdon County farmer had  
127           violated the state's Agriculture Retention and Development Act (ARDA) by excavating 14  
128           acres of preserved farmland to build a greenhouse; and

129           **WHEREAS**, the judge in that case also cautioned the SADC that a lack of adopted  
130           standards regarding excavating for the establishment of greenhouses or other farm buildings  
131           could leave the SADC vulnerable in similar future cases; and

132           **WHEREAS**, the dual-appraisal valuation provision – which allows appraisals for  
133           farmland preservation acquisitions in the Highlands to be based on either current zoning and  
134           environmental laws and regulations or those in effect as of January 2004, whichever yields  
135           the higher value – was scheduled to expire on June 30, 2019 and has been extended an  
136           additional five years until June 30, 2024; and

137           **WHEREAS**, in order to ensure adequate farmer representation and participation at  
138           all SADC meetings, it is imperative that substitute farmer members be afforded the ability to  
139           cast votes when they are standing in for members; and

140           **WHEREAS**, it is imperative that succeeding generations or heirs to farmers who  
141           have preserved their farms, or new farmers and others who are considering purchasing a  
142           preserved farm, fully understand all of the restrictions on that land embodied in the Deed of  
143           Easement signed by the farmer or person who preserved the land; and

144           **WHEREAS**, Deeds of Easement need to be interpreted by the SADC in the broadest  
145           context to account for the ways in which the changing face of agriculture in New Jersey may  
146           render certain elements of those Deeds no longer desirable for the greater good of the  
147           agricultural industry; and

148           **WHEREAS**, in response to requests from the agricultural community for long-term  
149           leases to promote viability, the SADC in May 2018 entered into a long-term lease -- up to 12  
150           years – with a tenant farmer who submitted the successful bid to farm an 87-acre preserved  
151           farm in Hunterdon County that the SADC purchased in fee simple as part of an agricultural  
152           leasing pilot project; and

153           **WHEREAS**, municipalities are required to create and populate municipal agricultural  
154           advisory committees, as a requirement to accepting farmland preservation monies, under the  
155           Planning Incentive Grant Program, and should be encouraged to create such committees  
156           whenever farmland preservation is taking place within that municipality; however, these  
157           committees are largely being under-used with a need for additional guidance or model  
158           ordinances.

159           **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 105<sup>th</sup> State  
160           Agricultural Convention, assembled in Atlantic City, New Jersey, on February 5-6, 2020,  
161           support the permanent protection of New Jersey's farmland through the Farmland  
162           Preservation Program.

163           **BE IT FURTHER RESOLVED**, that we urge the SADC to continue its Planning  
164           Incentive Grant (PIG) program, which to date has resulted in the development of 18 county  
165           comprehensive farmland preservation plans and 45 municipal plans that address strategies  
166           not only to preserve farmland but also to sustain agriculture as an industry.

167           **BE IT FURTHER RESOLVED**, that we support the structure of those plans including  
168           one-, five- and 10-year goals that target the preservation of 24,000 acres at a cost of \$296  
169           million in one year; 107,000 acres at a cost of \$1.20 billion over five years; and 203,000  
170           acres at a total cost of \$2.22 billion over 10 years.

171           **BE IT FURTHER RESOLVED**, that we support the SADC's continued effort to  
172           conduct outreach to all municipalities participating in the Municipal Planning Incentive Grant  
173           program to continually assess municipal needs, provide tools and training to improve the  
174           acquisition process at the local level, and to increase the engagement of municipal advisory  
175           committees in the process.

176           **BE IT FURTHER RESOLVED**, that we urge the Department to work with New Jersey  
177           Farm Bureau and other agricultural organizations to increase education of the public about  
178           the economic differences between preserved farmland, which is privately managed, and  
179           publicly owned and managed open space.

180           **BE IT FURTHER RESOLVED**, that we support the SADC's continued efforts to  
181           make it easier for farmers to access the land and information they need to be successful,  
182           including coordinating the NJ Land Link website that assists farmers searching for land and  
183           partnership/job opportunities, making available the SADC's "Leasing Farmland in New  
184           Jersey" guidebook that explains the factors farmers, as well as farmland owners, should  
185           consider when entering into leasing agreements and supporting beginning and established

186 farmers through appropriate resource referral and through research on access-to-land farm  
187 incubator models.

188 **BE IT FURTHER RESOLVED**, that we urge the State Board of Agriculture and  
189 SADC to empanel a subcommittee or working group to examine the forces resulting in the  
190 decrease in acres preserved under the Farmland Preservation Program from 2015 to 2020,  
191 to gather information about the changing market within the development community and its  
192 resulting pressures on farmers to sell their land, and the practice of allowing multiple  
193 appraisers to simultaneously visit a farm under consideration for enrollment in the program,  
194 and to examine the issue of giving specific consideration to smaller farms in urbanized  
195 counties.

196 **BE IT FURTHER RESOLVED**, that we encourage the SADC to establish  
197 stewardship requirements for preserved farmland to ensure preserved farmland is properly  
198 maintained and whenever publicly or privately owned preserved land is taken out of active  
199 agricultural use, the land must be maintained so that invasive species weeds, or other  
200 weeds, don't go to seed and spread to nearby farms, and this will reduce the use of  
201 herbicides on nearby fields

202 **BE IT FURTHER RESOLVED**, that we support continued discussion by the SADC's  
203 Deed of Easement Subcommittee to help clarify provisions of the deed of easement so that it  
204 is interpreted and enforced consistently and fairly across the state.

205 **BE IT FURTHER RESOLVED**, that we urge the SADC to continue to create plain-  
206 language documents that detail the sections of a Deed of Easement that an heir or  
207 prospective purchaser of a preserved farm should review to understand all of the restrictions  
208 and opportunities that come with the land.

209 **BE IT FURTHER RESOLVED**, that we urge the SADC to acknowledge that the  
210 limitations set forth in the Deed of Easement are fixed at the time each landowner signs the  
211 Deed of Easement and may not be unilaterally amended by regulations adopted by the  
212 SADC.



213           **BE IT FURTHER RESOLVED**, that we encourage the SADC to continue re-  
214 examining its list of what activities are permitted on preserved lands and to expand, where  
215 appropriate, the types of activities that can be permitted, provided they are consistent with  
216 the goals of the Farmland Preservation Program.

217           **BE IT FURTHER RESOLVED**, that we urge the SADC to interpret its authorizing  
218 statutes and regulations as broadly and liberally as possible to maximize the flexibility  
219 afforded to owners of preserved farmland.

220           **BE IT FURTHER RESOLVED**, that we request that the Highlands Council develop  
221 and adopt formal methodology to create and define Municipal Averages and their values to  
222 be used for the Farmland Preservation Program.

223           **BE IT FURTHER RESOLVED**, that we urge the SADC to use the municipal average  
224 of the value of the development potential as determined by the Highlands Council in lieu of  
225 appraisals when a Highlands easement sale applicant so requests.

226           **BE IT FURTHER RESOLVED**, that we request that the Highlands Development  
227 Credit Bank and the SADC establish a “Municipal Average Pilot Program” in the Highlands  
228 region so that the utilization of Municipal Averages in lieu of appraisals for farmland  
229 preservation applicants may be fully evaluated.

230           **BE IT FURTHER RESOLVED**, that we urge the SADC to craft workable standards  
231 for excavating and storing topsoil on-site for the creation of agricultural structures on  
232 preserved farmland, and for remediation of the soil after the structure has served its  
233 usefulness, and to provide reasonable guidance to landowners undertaking these projects,  
234 bearing in mind the recent conversations and research of the Soil Disturbance Sub-  
235 Committee of the State Board of Agriculture.

236           **BE IT FURTHER RESOLVED**, that we support the SADC’s efforts to learn as much  
237 as possible from the pilot program called for by P.L. 2014, Ch. 16, in order to help the  
238 Legislature evaluate at the end of the pilot program what worked and what might need  
239 improvement in the future.

240           **BE IT FURTHER RESOLVED**, that we urge the SADC to continue creating plain-  
241 language guidance documents regarding all the issues involved in farmland preservation,  
242 and to conduct outreach about those documents to those who have preserved their farms,  
243 those considering preservation, or those considering the purchase of a preserved farm,  
244 through avenues such as real-estate professionals, municipal planning and land-use offices,  
245 property auction houses and other appropriate entities.

246           **BE IT FURTHER RESOLVED**, that we urge the State Board of Agriculture to work  
247 diligently to keep farmer appointments to the SADC current at all times.

248           **BE IT FURTHER RESOLVED**, that the delegates request that the SADC promulgate  
249 guidance documents for municipalities that have accepted farmland preservation funds  
250 regarding the proper and appropriate use of municipal agricultural advisory committees and  
251 create the model ordinance that municipalities could adopt that will define the roles and  
252 functions of such committees.

253           **BE IT FURTHER RESOLVED**, that we support the SADC's agricultural leasing pilot  
254 project to offer a long-term lease on a preserved farm that the SADC owns in fee simple and  
255 to explore the feasibility of creating an incubator model on a portion of the farm to provide  
256 opportunities to new and beginning farmers.

257           **BE IT FURTHER RESOLVED**, that we support the SADC's Farmland Stewardship  
258 Deer Fencing Program, which in the first and second funding rounds of the pilot program,  
259 approved \$696,094 in grants on 47 farms to install 51 miles of fencing on approximately  
260 2,719 acres of high-value crops in order to protect them from damage caused by white-tailed  
261 deer, with \$200,000 in cost-share grant funding paid so far for 13 completed projects that  
262 installed about 16 miles of fencing on approximately 764 acres.

263           **BE IT FURTHER RESOLVED**, that we support the concepts embodied in pending  
264 legislation (A1052/S256) to create farmer alternate voting members on County Agriculture  
265 Development Boards.

266                   **BE IT FURTHER RESOLVED**, that we urge the Highlands Council to develop and  
267                   adopt a formal methodology to create and define Municipal Averages and their values to be  
268                   used for the Farmland Preservation Program.

269                   **BE IT FURTHER RESOLVED**, that we request that the Highlands Council and the  
270                   SADC establish a “Municipal Average Pilot Program” in the Highlands region so that the  
271                   utilization of Municipal Averages in lieu of appraisals for farmland preservation applicants  
272                   may be fully evaluated.

273                   **BE IT FURTHER RESOLVED**, that we urge the SADC to consider using the  
274                   municipal average of the value of the development potential as determined by the Highlands  
275                   Council in lieu of appraisals when a Highlands easement sale applicant so requests.

276