

RESOLUTION # 6

SOIL PROTECTION ON PRESERVED FARMLAND

1 **WHEREAS**, the Agricultural Retention and Development Act (ARDA) was written and
2 enacted in order to strengthen and support the agricultural and horticultural industry in New
3 Jersey, both through the preservation of the land base and by encouraging a positive
4 agricultural business climate; and

5 **WHEREAS**, the State Agriculture Development Committee (SADC) previously
6 presented a draft rule regarding soil disturbance on preserved farms that was met with
7 serious concern by Convention delegates, who directed the Department and State Board to
8 form an ad hoc sub-committee on the issue, with the focus on how a rule on soil disturbance
9 could impact the state's agricultural industries; and

10 **WHEREAS**, that sub-committee created a set of recommendations to the SADC to
11 guide the development of any future attempt to address the issue of soil disturbance, with the
12 primary focus being on the concept that the purchase of the "development rights" of a
13 preserved farm does not include purchasing the "agricultural development rights"; and

14 **WHEREAS**, in the wake of that sub-committee's work, SADC has revisited the issue
15 with an eye toward "soil protection," and has compiled new recommendations for a draft rule;
16 and

17 **WHEREAS**, the SADC's authority to assert if and/or when instances of excessive soil
18 disturbance have occurred on deed-restricted farmland, was the subject of a case before the
19 State Supreme Court, with the Court ruling in favor of the SADC; and

20 **WHEREAS**, while the standard deed of easement does include language requiring
21 soil conservation and the continued agricultural use of the land, it must also be
22 acknowledged that the deed of easement explicitly allows for "the construction of any new
23 buildings for agricultural purposes" and "the right to construct any roadway necessary to
24 service crops, bogs, agricultural buildings or reservoirs."

25 **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 105th State
26 Agricultural Convention, assembled in Atlantic City, New Jersey, on February 5-6, 2020, do
27 hereby commend the ad hoc Soil Disturbance Committee for its work regarding the prior
28 proposed soil disturbance rule and its commitment to remain available for discussions of any
29 future proposed rules addressing the issue of soil protection.

30 **BE IT FURTHER RESOLV ED**, that we urge the SADC to continue availing itself of
31 all opportunities and forums to present to agricultural groups the new proposed Soil
32 Protection standards under consideration.

33 **BE IT FURTHER RESOLVED**, that we urge the SADC to adhere to the explicit
34 language of the entire deed of easement when seeking to reconcile the competing statutory
35 goals embodied in the language of documents guiding the preservation program regarding
36 the protection of the land base and the encouragement of a positive agricultural business
37 climate.

38 **BE IT FURTHER RESOLVED**, that we urge the SADC to acknowledge that the
39 limitations set forth in the deed of easement are fixed at the time each landowner signs the
40 deed of easement, and thus may not be unilaterally amended.