

RESOLUTION # 11

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 December 18, 2020, 2,692 farms covering 239,156 acres had
5 been permanently preserved statewide, including 136 farms covering 15,688 acres in the
6 Pinelands and 555 farms covering 44,988 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) has updated 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 2020 approved a \$57.15 million appropriation
40 request for FY2021, including \$11.5 million for the Municipal Planning Incentive Grant (PIG)
41 Program, \$23.3 million for the State Acquisition Program, \$12 million for the County Planning
42 Incentive Grant (PIG) Program, and \$3.76 million for the Nonprofit Program; and

43 **WHEREAS**, the year-to-year increases in total farmland preserved through programs
44 overseen by the SADC, with the exception of an up-tick in 2018 compared to 2017, have
45 declined from an increase of 7,524 acres in 2015 compared to 2014, to an increase of 4,204
46 acres in 2019 compared to 2018; and

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

50 **WHEREAS**, it is the understanding of the delegates to this Convention that recent
51 appraisal values on prospective farmland preservation easements have decreased, and, if

52 that is an accurate trend, it would help both the SADC and the State Board to understand the
53 underlying cause of this drop; and

54 **WHEREAS**, numerous farmers whose land was being examined for preservation
55 have complained that multiple appraisers have come to view their properties at the same
56 time, which brings the danger of “comparing notes” instead of each appraiser independently
57 arriving at their own conclusions as to the value of the land, and also has been the subject of
58 complaints that some state appraisers are demanding independent appraisers use only the
59 comparable-value properties that they supply and not seek others; and

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

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

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

73 **WHEREAS**, the Highlands Water Protection and Preservation Act (the “Highlands
74 Act”) modified Section 13c of the Agricultural Retention and Development Act to include
75 “if...the Highlands Water Protection and Planning Council has established a development
76 transfer bank, the municipal average of the value of the development potential of property in
77 a sending zone established by the bank may be the value used by the board in determining
78 the value of the development easement” in lieu of two appraisals; and

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

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

87 **WHEREAS**, with the increase of CBT funding now available for stewardship
88 activities, there is an estimated \$2.253 million in FY2021 to fund the existing Deer Fencing
89 Program (DFP) and Soil and Water Cost Share Program (S&W Program) in addition to new
90 initiatives related to farmland soil resiliency; and

91 **WHEREAS**, since restarting its S&W Program utilizing CBT funds in 2017,
92 approximately 132 S&W Program applications have been submitted, accounting for an
93 estimated project need of approximately \$2.7 million, and the SADC continues to make
94 available previously appropriated funding for new soil and water conservation projects; and

95 **WHEREAS**, since the restarting of the S&W Program in 2017, 53 projects have been
96 funded and 22 projects have been completed with \$1.5 million in funding having been
97 obligated or expended; and

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

103 **WHEREAS**, P.L. 2014, Ch. 16, signed into law in July 2014, allows wineries to
104 conduct special occasion events on preserved farmland under certain conditions under a

105 pilot program which was extended through March 2020 by legislation enacted in May 2018;
106 and

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

110 **WHEREAS**, the SADC – in consultation with New Jersey Farm Bureau – in June
111 2017 established a Special Occasion Events Working Group that met to examine and make
112 recommendations to the Committee regarding special occasion events as they relate to
113 preserved farms – both wineries and other types of operations – as well as to Right to Farm
114 protection; and

115 **WHEREAS**, the Working Group concluded its work and the SADC issued a final
116 report on the pilot program for winery special occasion events to the Legislature and
117 Governor in March of 2020; and

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

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

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

128 **WHEREAS**, the dual-appraisal valuation provision – which allows appraisals for
129 farmland preservation acquisitions in the Highlands to be based on either current zoning and
130 environmental laws and regulations or those in effect as of January 2004, whichever yields

131 the higher value – was scheduled to expire on June 30, 2019 and has been extended an
132 additional five years until June 30, 2024; and

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

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

140 **WHEREAS**, Deeds of Easement need to be interpreted by the SADC in the broadest
141 context to reflect the changing face of agriculture in New Jersey; and

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

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

153 **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 106th State
154 Agricultural Convention, assembled through a virtual platform hosted in Trenton, New
155 Jersey, in accordance with COVID-19 pandemic recommendations, on February 17, 2021,
156 support the permanent protection of New Jersey’s farmland through the Farmland
157 Preservation Program.

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

162 **BE IT FURTHER RESOLVED**, that we support the structure of those plans including
163 one-, five- and 10-year goals that target the preservation of 24,000 acres at a cost of \$273
164 million in one year; 106,000 acres at a cost of \$1.17 billion over five years; and 199,000
165 acres at a total cost of \$213 billion over 10 years.

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

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

175 **BE IT FURTHER RESOLVED**, that we support the SADC's continued efforts to
176 make it easier for farmers to access the land and information they need to be successful,
177 including coordinating the New Jersey Land Link website that assists farmers searching for
178 land and partnership/job opportunities, making available the SADC's "Leasing Farmland in
179 New Jersey" guidebook that explains the factors farmers, as well as farmland owners, should
180 consider when entering into leasing agreements and supporting beginning and established
181 farmers through appropriate resource referral and through research on access-to-land farm
182 incubator models.

183 **BE IT FURTHER RESOLVED**, that we urge the State Board of Agriculture and
184 SADC to empanel a subcommittee or working group to examine the forces resulting in the

185 decrease in acres preserved under the Farmland Preservation Program from 2015 to 2020;
186 to gather information about the changing market within the development community and its
187 resulting pressures on farmers to sell their land; to examine the appraisal process to ensure
188 that each appraisal is prepared independently in order to truly achieve independent appraisal
189 values for the highest and best use of each property; and to examine the issue of giving
190 specific consideration to smaller farms in urbanized counties.

191 **BE IT FURTHER RESOLVED**, that the SADC and any appropriate appraisers use
192 NRCS maps, in addition to NJDEP maps, to delineate wetlands for the purpose of
193 establishing land values.

194 **BE IT FURTHER RESOLVED**, that we encourage the SADC to establish
195 stewardship requirements consistent with the original deed of easement and changed only
196 by mutual consent, for preserved farmland to ensure preserved farmland is properly
197 maintained and whenever publicly or privately owned preserved land is taken out of active or
198 being available for agricultural use, the land must be maintained so that invasive species
199 weeds, or other weeds, don't go to seed and spread to nearby farms, and this will reduce the
200 use of herbicides on nearby fields.

201 **BE IT FURTHER RESOLVED**, that we support continued discussion by the SADC's
202 Deed of Easement Subcommittee to help clarify provisions of the deed of easement so that
203 each is interpreted and enforced consistently and fairly, acknowledging that each original
204 deed of easement may be different from others.

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 so that they remain financially viable and are able
220 to compete with non-preserved farms on a level playing field.

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

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

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

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

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

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

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

249 **BE IT FURTHER RESOLVED**, that the delegates request that the SADC promulgate
250 guidance documents for municipalities that have accepted farmland preservation funds
251 regarding the proper and appropriate use of municipal agricultural advisory committees,
252 create the model ordinance that municipalities could adopt that will define the roles and
253 functions of such committees, and perform accountability outreach to these municipalities to
254 ensure they are properly interacting with their advisory committees on all pertinent issues.

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

259 **BE IT FURTHER RESOLVED**, that we support the SADC's Farmland Stewardship
260 Deer Fencing Program, which in the third funding round of the pilot program, approved
261 \$755,656 in grants on 52 farms to install 51 miles of fencing on approximately 2,719 acres of
262 high-value crops in order to protect them from damage caused by white-tailed deer, with

263 \$275,000 in cost-share grant funding paid so far for 19 completed projects that installed
264 about 21.5 miles of fencing on approximately 1,100 acres.

265 **BE IT FURTHER RESOLVED**, that we support the concepts embodied in pending
266 legislation (A-1565/No Senate Version Yet) to create farmer alternate voting members on
267 County Agriculture Development Boards.

268 **BE IT FURTHER RESOLVED**, that the delegates direct the SADC to create a
269 consistent, streamlined process for applicants to CADBs, who cannot have their cases heard
270 because of the lack of quorum due to conflicts of interest, to have their cases heard in a
271 different jurisdiction, and that this process should include simple, consistent tests and
272 guidelines to determine if conflicts of interest exist between applicants and members of the
273 CADBs.