

## RESOLUTION # 19

### 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 1, 2021, 2,744 farms covering 242,608 acres had been  
5           permanently preserved statewide, including 136 farms covering 15,688 acres in the  
6           Pinelands and 570 farms covering 46,163 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 participate on a “first come, first  
31 served basis,” and is intended to assist municipalities who do not have enough base grant  
32 funding to 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 2021 approved an \$83.88 million appropriation  
40 request for FY2022, including \$4.5 million for the Municipal Planning Incentive Grant (PIG)  
41 Program, \$45.51 million for the State Acquisition Program, \$18 million for the County  
42 Planning Incentive Grant (PIG) Program, and \$440,240 for the Nonprofit Program; and

43 **WHEREAS**, with regard to the pace of the program, COVID-19 impacted  
44 preservation performance in fiscal years 2019, 2020, and 2021, where the year-to-year  
45 totals were not in line with SADC targets of 85 farms and 5,100 acres per year, however  
46 the total acres preserved in 2021 increased to 3,463 acres, up from the 2,781 acres  
47 preserved in 2020, and FY22 is projected to see more than 5,000 acres showing signs of  
48 strength returning to the program; and

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

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

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

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

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

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

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

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

81 **WHEREAS**, the Highlands Council has undertaken studies to determine the average

82 lot values by municipality in the Highlands region and has memorialized this work in the  
83 Highlands Regional Master Plan's TDR Technical Report and has estimated the number of  
84 lost lots by property tract in the Highlands Bank's TDR Estimator data base; and

85 **WHEREAS**, the establishment of a "municipal average" for valuing development  
86 potential in the Highlands may provide a more fair and just valuation of a farmland easement  
87 than appraisal methodology in highly regulated regions such as the Highlands and Pinelands  
88 where development potential comparable sales can no longer be found; and

89 **WHEREAS**, with the increase of CBT funding now available for stewardship  
90 activities, there is an estimated \$3.325 million in FY2022 to fund the existing Deer Fencing  
91 Program (DFP) and Soil and Water Cost Share Program (S&W Program) in addition to new  
92 initiatives related to farmland soil resiliency; and

93 **WHEREAS**, since restarting its S&W Program utilizing CBT funds in 2017,  
94 approximately 258 S&W Program eligibility requests have been submitted, accounting for an  
95 estimated project need of approximately \$4.0 million, and the SADC continues to make  
96 available previously appropriated funding for new soil and water conservation projects; and

97 **WHEREAS**, since the restarting of the S&W Program in 2017, 120 projects have  
98 been funded with \$2,7 million in funding having been obligated and 40 projects have been  
99 completed with \$555,000 funding having expended; and

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

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

109 **WHEREAS**, the SADC's pilot program was largely focused on identifying and

110 collecting the information it needs throughout the pilot program in order to be in a  
111 position to make recommendations to the Legislature at the program's conclusion; and

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

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

120 **WHEREAS**, the New Jersey State Board of Agriculture has expressed support for  
121 the approach to the Special Occasion Events issue that is embodied in S-2713, as it most  
122 accurately reflects the findings and recommendations arrived at through the pilot-program  
123 study; and

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

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

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

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

138 additional five years until June 30, 2024; and

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

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

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

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

156 **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 107<sup>th</sup> State  
157 Agricultural Convention, assembled in Atlantic City on February 9-10, 2022, do hereby  
158 support the permanent protection of New Jersey’s farmland through the Farmland  
159 Preservation Program.

160 **BE IT FURTHER RESOLVED**, that we urge the SADC to continue its Planning  
161 Incentive Grant (PIG) program, which to date has resulted in the development of 18 county  
162 comprehensive farmland preservation plans and 44 municipal plans that address strategies  
163 not only to preserve farmland but also to sustain agriculture as an industry.

164 **BE IT FURTHER RESOLVED**, that we support the structure of those plans including  
165 one-, five- and 10-year goals that target the preservation of 22,000 acres at a cost of \$242

166 million in one year; 97,000 acres at a cost of \$1.07 billion over five years; and 181,000 acres  
167 at a total cost of \$199 billion over 10 years.

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

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

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

185 **BE IT FURTHER RESOLVED**, that we urge the State Board of Agriculture and  
186 SADC to empanel a subcommittee or working group to examine the forces resulting in the  
187 decrease in acres preserved under the Farmland Preservation Program from 2015 to 2020;  
188 to gather information about the changing market within the development community and its  
189 resulting pressures on farmers to sell their land; to examine the appraisal process to ensure  
190 that each appraisal is prepared independently in order to truly achieve independent appraisal  
191 values for the highest and best use of each property; and to examine the issue of giving  
192 specific consideration to smaller farms in urbanized counties.

193 **BE IT FURTHER RESOLVED**, that the SADC and any appropriate appraisers use

194 NRCS maps, ideally instead of NJDEP maps, to delineate wetlands for the purpose of  
195 establishing land values, as the NRCS maps in general are more accurate.

196 **BE IT FURTHER RESOLVED**, that we encourage the SADC to establish  
197 stewardship requirements consistent with the original deed of easement, changed only by  
198 mutual consent, for preserved farmland, to ensure preserved farmland is properly  
199 maintained; and

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

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

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

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

216 **BE IT FURTHER RESOLVED**, that we urge the SADC to interpret its authorizing  
217 statutes and regulations as broadly and liberally as possible to maximize the flexibility  
218 afforded to owners of preserved farmland so that they remain financially viable and are able  
219 to compete with non-preserved farms on a level playing field.

220 **BE IT FURTHER RESOLVED**, that we support the Highlands Development Credit  
221 Bank's efforts to develop and adopt formal methodology to create and define Municipal

222 Averages and their values to 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 support the SADC’s efforts to learn as much  
231 as possible from the pilot program called for by P.L. 2014, Ch. 16, in order to help the  
232 Legislature evaluate at the end of the pilot program what worked and what might need  
233 improvement in the future.

234 **BE IT FURTHER RESOLVED**, that we join the New Jersey State Board of  
235 Agriculture in its support of S-2713 as the legislation that best reflects the lessons  
236 learned from the pilot program and, if it has not yet been passed and signed into law  
237 by the Governor by the time of this Convention, that we strongly urge that passage  
238 and signing into law.

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

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

247 **BE IT FURTHER RESOLVED**, that the delegates request that the SADC promulgate  
248 guidance documents for municipalities that have accepted farmland preservation funds  
249 regarding the proper and appropriate use of municipal agricultural advisory committees,

250 create the model ordinance that municipalities could adopt that will define the roles and  
251 functions of such committees, and perform accountability outreach to these municipalities to  
252 ensure they are properly interacting with their advisory committees on all pertinent issues.

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 as of December 1, 2021, approved \$867,942 in grants on 65  
259 farms to install 68 miles of fencing on approximately 3,311 acres of high-value crops in order  
260 to protect them from damage caused by white-tailed deer, with \$346,000 in cost-share grant  
261 funding paid so far for 26 completed projects that installed about 27 miles of fencing on  
262 approximately 1,129 acres.

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

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