

## RESOLUTION # 28

### 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, 2022, 2,811 farms covering 247,920 acres had been  
5 permanently preserved statewide, including 143 farms covering 15,722 acres in the  
6 Pinelands and 588 farms covering 48,091 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, the  
18 Farmland Preservation Program receives 31 percent; and

19           **WHEREAS**, 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 law 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 to 2024 the dual-

26 appraisal valuation eligibility for landowners in the New Jersey Highlands, which would have  
27 expired 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 anticipates making its 2023 appropriation recommendations in the spring of 2023; and

44 **WHEREAS**, with regard to the pace of the program, COVID-19 impacted  
45 preservation performance in fiscal years 2019, 2020, and 2021, where the year-to-year totals  
46 were not in line with SADC targets of 85 farms and 5,100 acres per year, however the total  
47 acres preserved in FY2021 increased to 3,463 acres, up from the 2,781 acres preserved in  
48 2020, and FY22 exceeded performance targets with 6,228 acres preserved; 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**, the Farmland Preservation Program will celebrate its 40th anniversary in  
72 2023, offering an opportunity to recognize all that has been accomplished over four decades  
73 through the successful partnership between the SADC, counties, municipalities, nonprofit  
74 entities, farmers and farmland owners and the continuous, strong support of New Jersey  
75 voters; and

76           **WHEREAS**, as a companion to the 40th anniversary celebration, the SADC has  
77 begun an effort to envision the future of the FPP and has established a “Future Program”  
78 subcommittee to ensure we continue to build on the progress to date, identify how conditions

79 have changed over time, and develop recommendation for future program enhancements;  
80 and

81 **WHEREAS**, the first action of the SADC’s Future Program subcommittee was to  
82 send a survey to all county, municipal and nonprofit program partners to gauge program  
83 performance and receive feedback and recommendations, and the next step will be for the  
84 SADC to widely circulate another survey aimed at the entire agricultural community, as well  
85 as the general public, to elicit additional ideas, opinions and recommendations to ensure  
86 future program success; and

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

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

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

101 **WHEREAS**, the establishment of a “municipal average” for valuing development  
102 potential in the Highlands may provide a more fair and just valuation of a farmland easement  
103 than appraisal methodology in highly regulated regions such as the Highlands and Pinelands  
104 where development potential comparable sales can no longer be found; and

105           **WHEREAS**, with the increase of CBT funding now available for stewardship  
106 activities, there will be an estimated \$3.929 million in FY2023 to fund the existing Deer  
107 Fencing Program (DFP) and Soil and Water Cost Share Program (S&W Program) in addition  
108 to new initiatives related to farmland soil resiliency; and

109           **WHEREAS**, since restarting its S&W Program utilizing CBT funds in 2017,  
110 approximately 286 S&W Program eligibility requests have been submitted, accounting for an  
111 estimated project need of approximately \$6.2 million; 144 projects have been funded with  
112 \$3.36 million in funding having been obligated, and 69 projects have been completed with  
113 \$1.14 million in funding expended; and

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

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

123           **WHEREAS**, the SADC's pilot program was largely focused on identifying and  
124 collecting the information it needs throughout the pilot program in order to be in a position to  
125 make recommendations to the Legislature at the program's conclusion; and

126           **WHEREAS**, the SADC – in consultation with New Jersey Farm Bureau – in June  
127 2017 established a Special Occasion Events Working Group that met to examine and make  
128 recommendations to the Committee regarding special occasion events as they relate to  
129 preserved farms – both wineries and other types of operations – as well as to Right to Farm  
130 protection; and

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

134           **WHEREAS**, the New Jersey State Board of Agriculture has expressed support for  
135 the approach to the Special Occasion Events issue that is embodied in S-757/A-2772, as  
136 adopted by the Senate following a conditional veto by the Governor, and the Assembly  
137 continues to debate the changes sought in the Governor’s conditional veto message, as it  
138 most accurately reflects the findings and recommendations arrived at through the pilot-  
139 program study; and

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

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

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

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

155           **WHEREAS**, it is imperative that succeeding generations or heirs to farmers who  
156 have preserved their farms, or new farmers and others who are considering purchasing a

157 preserved farm, fully understand all of the restrictions on that land embodied in the Deed of  
158 Easement signed by the farmer or person who preserved the land; and

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

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

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

172 **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 108<sup>th</sup> State  
173 Agricultural Convention, assembled in Atlantic City, New Jersey, on February 8-9, 2023, do  
174 hereby support the permanent protection of New Jersey's farmland through the Farmland  
175 Preservation Program.

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

180 **BE IT FURTHER RESOLVED**, that we support the structure of those plans including  
181 one-, five- and 10-year goals that target the preservation of 22,000 acres at a cost of \$242  
182 million in one year; 97,000 acres at a cost of \$1.07 billion over five years; and 181,000 acres  
183 at a total cost of \$199 billion over 10 years.

184                   **BE IT FURTHER RESOLVED**, that we support the SADC’s continued effort to  
185                   conduct outreach to all municipalities participating in the Municipal Planning Incentive Grant  
186                   program to continually assess municipal needs, provide tools and training to improve the  
187                   acquisition process at the local level, and to increase the engagement of municipal advisory  
188                   committees in the process.

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

193                   **BE IT FURTHER RESOLVED**, that we support the SADC’s continued efforts to  
194                   make it easier for farmers to access the land and information they need to be successful,  
195                   including coordinating the New Jersey Land Link website that assists farmers searching for  
196                   land and partnership/job opportunities, making available the SADC’s “Leasing Farmland in  
197                   New Jersey” guidebook that explains the factors farmers, as well as farmland owners, should  
198                   consider when entering into leasing agreements and supporting beginning and established  
199                   farmers through appropriate resource referral and through research on access-to-land farm  
200                   incubator models.

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



209           **BE IT FURTHER RESOLVED**, that the SADC and any appropriate appraisers use  
210 NRCS maps, ideally instead of NJDEP maps, to delineate wetlands for the purpose of  
211 establishing land values, as the NRCS maps in general are more accurate.

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

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

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

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

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

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

236                   **BE IT FURTHER RESOLVED**, that we support the Highlands Development Credit  
237 Bank's efforts to develop and adopt formal methodology to create and define Municipal  
238 Averages and their values to be used for the Farmland Preservation Program.

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

242                   **BE IT FURTHER RESOLVED**, that we request that the Highlands Development  
243 Credit Bank and the SADC establish a "Municipal Average Pilot Program" in the Highlands  
244 region so that the utilization of Municipal Averages in lieu of appraisals for farmland  
245 preservation applicants may be fully evaluated.

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

250                   **BE IT FURTHER RESOLVED**, that we join the New Jersey State Board of  
251 Agriculture in its support of S-757 as the legislation that best reflects the lessons learned  
252 from the pilot program and urge the Assembly to follow the Senate's lead in adopting the  
253 changes sought by the Governor in his conditional veto message regarding Special  
254 Occasion Events legislation, if the Assembly has not already done so by the time of this  
255 Convention.

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

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

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

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

274           **BE IT FURTHER RESOLVED**, that we support the SADC's Farmland Stewardship  
275 Deer Fencing Program, which as of December 1, 2021, had approved \$867,942 in grants on  
276 65 farms to install 69 miles of fencing on approximately 3,432 acres of high-value crops in  
277 order to protect them from damage caused by white-tailed deer, with \$368,000 in cost-share  
278 grant funding paid so far for 28 completed projects that installed about 28.5 miles of fencing  
279 on approximately 1,187 acres.

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

283           **BE IT FURTHER RESOLVED**, that the delegates urge the Legislature to create a  
284 consistent, streamlined process for applicants to CADBs, who cannot have their cases heard  
285 because of the lack of quorum due to conflicts of interest, to have their cases heard in a  
286 different jurisdiction, and that this process should include simple, consistent tests and  
287 guidelines to determine if conflicts of interest exist between applicants and members of the  
288 CADBs.

289                   **BE IT FURTHER RESOLVED**, that we support the work of the SADC and its  
290                   creation of a “Future Program” subcommittee to work with all agricultural stakeholders to  
291                   identify what changes to the Farmland Preservation Program are recommended to ensure  
292                   New Jersey preserves a sufficient land base to support a permanent agricultural industry in  
293                   the state.

294                   **BE IT FURTHER RESOLVED**,that New Jersey townships and or municipalities that  
295                   have existing Preserved Farms located in said townships and that have opted out of  
296                   “recreational and medical marijuana” production in those townships by CRC (Cannabis  
297                   Regulatory Commission) regulations, be assured and memorialized that those preserved  
298                   farms fall under the Township and Municipal jurisdiction and regulations in regard to  
299                   “recreational and medical marijuana” production.

300                   **BE IT FURTHER RESOLVED**, that the SADC, with regards to “recreational and  
301                   medical marijuana” adhere to the legislated rules by the CRC “recreational and medical  
302                   marijuana” cannot be considered for “Right to Farm Protection,” cannot be “Farm Assessed,”  
303                   cannot be considered “Commercial Farm” and that said products cannot be grown on a  
304                   “Preserved Farm”. CREAMM ACT, Public Law 2021, Chapter 16, C.24:61-7.3, page 44,  
305                   section e. (4) and also C.24:61-49, 37.b. (1) page 109, states, “In no case shall a clinical  
306                   registrant operate on a land that is valued, assessed, or taxed as an ‘agricultural or  
307                   horticultural use,’ pursuant to the “Farmland Assessment Act of 1964, “P.L.1964,c.48 (c.54:4-  
308                   23.1 et seq.)