**RESOLUTION # 28**

**FARMLAND PRESERVATION**

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

**WHEREAS,** in October 2023, the Farmland Preservation Program celebrated surpassing the preservation of 250,000 acres of New Jersey’s farmland, comprising 2,847 farms, of which 148 farms covering 16,508 acres are in the Pinelands and 595 farms covering 48,231 acres are in the Highlands, contributing not only to a secure land base for agricultural operations, but also a host of other quality-of-life benefits; and

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

**WHEREAS,** of the total funding annually available for preservation programs through the 2016 dedication of a portion of the Corporate Business Tax (CBT), the Farmland Preservation Program receives 31 percent; and

**WHEREAS,** the “Preserve New Jersey Act” retained the existing 31 percent allocation for the Farmland Preservation Program, authorized additional funding for stewardship activities, raising the percentage from 3 to 4 percent, amended the definition of “stewardship activity” to include projects that improve the resiliency of farmland soils, and also extended to 2024 the dual-appraisal valuation eligibility for landowners in the New Jersey Highlands, which would have expired on June 30, 2019; and

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

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

**WHEREAS,** due to sufficient fund balances among all existing county and municipal Farmland Preservation Program participants, in September 2023 the SADC approved a $117.3 million appropriation request for FY2024, including $500,000 for a new Municipal Planning Incentive Grant (PIG) Program applicant, $115 million for the State Acquisition Program, and $1.7 million for the Nonprofit Program; and

**WHEREAS,** the pace of the program has slowed from an annual average of acquisition by over 6,500 acres per year in 2011-2015 period, to approximately 4,500 acres per year since that time, and short of SADC targets of 6,000 acres per year; and

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

**WHEREAS,** the Farmland Preservation Program (FPP) celebrated its 40th anniversary in 2023, offering an opportunity to recognize all that has been accomplished over four decades through the successful partnership between the SADC, counties, municipalities, nonprofit entities, farmers and farmland owners and the continuous, strong support of New Jersey voters; and

**WHEREAS,** as a companion to the 40th anniversary celebration, the SADC has begun an effort to envision the future of the FPP and has established a “Future Program” subcommittee to ensure it continues to build on the progress to date, identify how conditions have changed over time, and develop recommendation for future program enhancements; and

**WHEREAS,** the composition of SADC and State Board of Agriculture subcommittees should include a member from New Jersey Farm Bureau, NJAES and at least one industry/farmer leader with knowledge/expertise about the subcommittee task. This will increase the industry's input for a broader perspective and the efficiency of the work of the subcommittee; and

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

**WHEREAS,** the foremost issue raised by SADC partners through its survey is a perception that easement values are too low to attract many landowners to the program, and in response, Legislation (A-4729/S-3279) has been passed by both houses of the Legislature and sent to the Governor’s desk for signing into law that enables the SADC to establish a formula-based easement value to be offered to landowners, in addition to a traditional appraisal-based easement offer; and

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

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

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

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

**WHEREAS,** with the increase of CBT funding now available for stewardship activities, there is enough funding to cover current demand on all existing Deer Fencing Program (DFP) applications for preserved farms and Soil and Water Cost Share Program (S&W Program) activities, in addition to new initiatives related to farmland soil resiliency, with approximately $1.119 million in FY2024 to fund uncommitted future projects; and

**WHEREAS,** since restarting its Soil & Water (S&W) Program utilizing CBT funds in 2017, approximately 379 S&W Program eligibility requests have been submitted, accounting for an estimated project need of approximately $8.8 million; 172 projects have been funded with $3.79 million having been obligated, and 75 projects have been completed with $1.14 million expended; and

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

**WHEREAS,** P.L. 2014, Ch. 16, signed into law in July 2014, allowed wineries to conduct special occasion events on preserved farmland under certain conditions under a pilot program, which, on February 3, 2023 the Governor signed into law, authorizing the owner or operator of preserved farmland to hold up to 26 special occasion events each calendar year, subject to receiving prior approval from the entity which holds the Farmland Preservation Program easement on the farm, known as the “grantee”; and which has now expired; and

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

**WHEREAS,** the Supreme Court ruled that a Hunterdon County farmer had violated the state’s Agriculture Retention and Development Act (ARDA) in the way he excavated soil to build a greenhouse; and

**WHEREAS,** the state Supreme Court ruling in the case of a Hunterdon County farmer cautioned that the SADC’s lack of adopted “standards” regarding excavating for the establishment of greenhouses or other farm buildings could leave the SADC vulnerable in similar future cases; and

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

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

**WHEREAS,** deeds of easement need to be interpreted by the SADC in the broadest context to reflect the changing face of agriculture in New Jersey; and

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

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

**NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 109th State Agricultural Convention, assembled in Atlantic City, New Jersey, on February 7-8, 2024, do hereby support the permanent protection of New Jersey’s farmland through the Farmland Preservation Program and congratulate the SADC and the entire Farmland Preservation Program on their collective 40 years of work to preserve over 250,000 acres of farmland.

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

**BE IT FURTHER RESOLVED,** that we support the structure of those plans including one-, five- and 10-year goals that target the preservation of 17,000 acres at a cost of $193 million in one year; 77,000 acres at a cost of $886 million over five years; and 147,000 acres at a total cost of $1.63 billion over 10 years.

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

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

**BE IT FURTHER RESOLVED**, that we join the State Board of Agriculture in urging the Legislature to pass, and the Governor to sign, an extension of the Highlands “dual appraisal” provision which is set to expire in June 2024; and

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

**BE IT FURTHER RESOLVED,** that we support continued discussion by the SADC’s Deed of Easement Subcommittee to help clarify provisions of the deed of easement so that each is interpreted and enforced consistently and fairly, acknowledging that each original deed of easement may be different from others., and that limitations set forth in the Deed of Easement are fixed at the time each landowner signs the Deed of Easement and may not be unilaterally amended by regulations adopted by the SADC.

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

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

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

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

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

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

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

**BE IT FURTHER RESOLVED,** that we support the SADC’s Farmland Stewardship Deer Fencing Program, which as of November 1, 2023, had approved $572,588 in grants on 43 farms to install 41 miles of fencing on approximately 1,854 acres of high-value crops in order to protect them from damage caused by white-tailed deer and other wildlife, with $437,295 in cost-share grant funding paid so far for 35 completed projects that installed about 35 miles of fencing on approximately 1,613 acres.

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

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

**BE IT FURTHER RESOLVED,** that we support the work of the SADC and its creation of a “Future Program” subcommittee to work with all agricultural stakeholders to identify what changes to the Farmland Preservation Program are recommended to ensure New Jersey preserves a sufficient land base to support a permanent agricultural industry in the state. SADC subcommittees should include a member from NJFB, NJAES and at least one industry/farmer leader with knowledge about the committee task. This will increase the range of input and efficiency of the work of the subcommittee.

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

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

**BE IT FURTHER RESOLVED**, that we urge SADC to expand the current Stewardship Grant Program and develop a grant program to assist farmer owners to afford to update their farms to meet the unfunded mandates imposed by policy, legislation and newly imposed/enforced regulations such as fire code safety standards, proposed new well regulations etc. at a 3-to-1 or 1-to-1 ratio.

**BE IT FURTHER RESOLVED**, that we as delegates recognize and reaffirm the legislative intent as expressed in passage of the Agriculture Retention and Development Act and the Right to Farm Act in 1983 and earlier “blueprint” reports as retention and development statutes and urge the SADC and all its partners to work collaboratively in the spirit of that legislative intent.

**BE IT FURTHER RESOLVED**, that the SADC should explore lowering the land-use (tillable acreage) requirement and consider container growing (greenhouses) for farmlands considering preservation in urban/suburban counties, as many small farms in urban counties produce a higher volume per acre than larger farms, but because tillable acreage is so high, virtually no urban farms can meet the requirements, leading to the counties spending the full amount to preserve farmland, and county commissioners can be left with the impression that, without state funding, the property is not worth preserving.

**BE IT FURTHER RESOLVED**, that the SADC, with regard to recreational and medical marijuana, considers cannabis an agricultural crop and that growing cannabis on a preserved farm is permitted under the deed of easement, and the growing of cannabis on a preserved farm, whether grown outdoors and/or indoors, must still comply with applicable CRC regulations and the CREAMM Act.