

## RESOLUTION # 36

### SOIL DISTURBANCE ON PRESERVED FARMLAND

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

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

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

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

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

23           **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 104<sup>th</sup> State  
24 Agricultural Convention, assembled in Atlantic City, New Jersey, on February 6-7, 2019, do  
25 hereby commend the ad hoc Soil Disturbance Committee for its work regarding the prior

26 proposed soil disturbance rule and its commitment to remain available for discussions if  
27 future proposed rules address the issue of soil disturbance.

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

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