

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 June 30, 2018, 2,591 farms covering 232,500 acres had been
5 permanently preserved statewide, including 156 farms covering 18,311 acres in the
6 Pinelands and 544 farms covering 43,739 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 will be necessary to maintain or establish new
20 allocations among all the conservation programs from FY2020 forward; and

21 **WHEREAS**, the State Agriculture Development Committee (SADC) in July 2018
22 approved a \$23.8 million appropriation request for FY2019, including \$15 million for the
23 Municipal Planning Incentive Grant (PIG) Program, \$3.3 million for the State Acquisition
24 Program, and \$1.59 million for the Nonprofit Program; and

25 **WHEREAS**, that funding is urgently needed to enable New Jersey to continue to
26 preserve farmland, which is the land most vulnerable to development; and

27 **WHEREAS**, it is imperative to help farmers on preserved land to implement required
28 soil and water conservation practices and to limit damage to their crops from wildlife,
29 especially from New Jersey's large white-tailed deer population; and

30 **WHEREAS**, the SADC is authorized to allocate up to 3 percent of its annual CBT
31 funding to stewardship activities, which would total an estimated \$709,830 in FY2019, and
32 the SADC's appropriations request would direct the majority of that funding to a planned
33 second round of cost-sharing grants under the SADC's Deer Fencing Program (DFP), and
34 any remaining funds would be allocated to the SADC's Soil and Water Cost Share Program
35 (S&W Program); and

36 **WHEREAS**, since re-starting its S&W Program utilizing CBT funds in 2017,
37 approximately 80 S&W Program applications have been submitted, accounting for
38 approximately \$1.8 million in total project eligibility, and the SADC continues to make
39 available previously appropriated funding for new soil and water conservation projects in
40 FY2019; and

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

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

50 **WHEREAS**, the SADC’s pilot program is largely focused on identifying and collecting
51 the information it needs throughout the pilot program in order to be in a position to make
52 recommendations to the Legislature at the program’s conclusion; and

53 **WHEREAS**, the SADC in June 2018 issued an interim report on the pilot program for
54 winery special occasion events, which was forwarded to the Legislature and Governor, and
55 summarized the information the SADC had thus far collected under the pilot program and the
56 agency’s observations to date; and

57 **WHEREAS**, the SADC – in consultation with New Jersey Farm Bureau – in June
58 2017 established a Special Occasion Events Working Group that continues to meet to
59 examine and make recommendations to the Committee regarding special occasion events
60 as they relate to preserved farms – both wineries and other types of operations – as well as
61 to Right to Farm protection; and

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

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

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

72 **WHEREAS**, the dual-appraisal valuation provision – which allows appraisals for
73 farmland preservation acquisitions in the Highlands to be based on either current zoning and
74 environmental laws and regulations or those in effect as of January 2004, whichever yields
75 the higher value – is scheduled to expire on June 30, 2019; and

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

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

83 **WHEREAS**, Deeds of Easement need to be interpreted by the SADC in the broadest
84 context to account for the ways in which the changing face of agriculture in New Jersey may
85 render certain elements of those Deeds no longer desirable for the greater good of the
86 agricultural industry; and

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

92 **WHEREAS**, municipalities are required to create and populate municipal agricultural
93 advisory committees, as a requirement to accepting farmland preservation monies, under the
94 Planning Incentive Grant Program, and should be encouraged to create such committees
95 whenever farmland preservation is taking place within that municipality; however, these
96 committees are largely being under-used and un-used in the absence of any guidance
97 language or model ordinances.

98 **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 104th State
99 Agricultural Convention, assembled in Atlantic City, New Jersey, on February 6-7, 2019,
100 support the permanent protection of New Jersey's farmland through the Farmland
101 Preservation Program.

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

106 **BE IT FURTHER RESOLVED**, that we support the structure of those plans including
107 one-, five- and 10-year goals that target the preservation of 24,000 acres at a cost of \$275
108 million in one year; 107,000 acres at a cost of \$1.18 billion over five years; and 203,000
109 acres at a total cost of \$2.17 billion over 10 years.

110 **BE IT FURTHER RESOLVED**, that we support the SADC's 2018 effort to conduct
111 outreach to all 47 municipalities participating in the Municipal Planning Incentive Grant
112 program to assess municipal needs, provide tools and training to improve the acquisition
113 process at the local level, and to increase the engagement of municipal advisory committees
114 in the process.

115 **BE IT FURTHER RESOLVED**, that we urge the Legislature to extend the dual
116 appraisal valuation process beyond June 30, 2019 for farms in the Highlands region to
117 compensate landowners adversely impacted by the Highlands Water Protection Planning
118 Act.

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

123 **BE IT FURTHER RESOLVED**, that we support the SADC's continued efforts to
124 make it easier for farmers to access the land and information they need to be successful,
125 including coordinating the NJ Land Link website that assists farmers searching for land and
126 partnership/job opportunities, making available the SADC's "Leasing Farmland in New
127 Jersey" guidebook that explains the factors farmers, as well as farmland owners, should

128 consider when entering into leasing agreements and supporting beginning farmers through
129 appropriate resource referral and through research on access-to-land farm incubator models.

130 **BE IT FURTHER RESOLVED**, that we strongly encourage the SADC to institute a
131 requirement that preserved farmland be kept in agricultural enterprise and production (where
132 feasible and permissible) in accordance with all provisions of the Deed of Easement, rather
133 than available for agricultural production, to ensure these lands continue to contribute to New
134 Jersey's agricultural industry, and further we encourage the SADC to establish stewardship
135 requirements for preserved farmland to ensure preserved farmland is properly maintained.

136 **BE IT FURTHER RESOLVED**, that we support continued discussion by the SADC's
137 Deed of Easement Subcommittee to help clarify provisions of the deed of easement so that it
138 is interpreted and enforced consistently and fairly across the state.

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

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

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

151 **BE IT FURTHER RESOLVED**, that we urge the SADC to interpret its authorizing
152 statutes and regulations as broadly and liberally as possible to maximize the flexibility
153 afforded to owners of preserved farmland.

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

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

164 **BE IT FURTHER RESOLVED**, that we urge the SADC to create plain-language
165 documents regarding all the issues involved in farmland preservation, and to conduct
166 outreach about those documents to those who have preserved their farms, those considering
167 preservation, or those considering the purchase of a preserved farm, through avenues such
168 as real-estate professionals, municipal planning and land-use offices, property auction
169 houses and other appropriate entities.

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

172 **BE IT FURTHER RESOLVED**, that the delegates request that the SADC promulgate
173 guidance documents for municipalities that have accepted farmland preservation funds
174 regarding the proper and appropriate use of municipal agricultural advisory committees and
175 create the model ordinance that municipalities could adopt that will define the roles and
176 functions of such committees.

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

181 **BE IT FURTHER RESOLVED**, that we support the SADC’s Farmland Stewardship
182 Deer Fencing Program, which in the first funding round of the pilot program, approved
183 \$465,122 in grants on 32 farms to install 35 miles of fencing on approximately 1,776 acres of
184 high-value crops in order to protect them from damage caused by white-tailed deer, whose
185 densities can exceed more than ten times the land’s carrying capacity.

186 **BE IT FURTHER RESOLVED**, that we support the concepts embodied in pending
187 legislation (A1052/S256) to create farmer alternate voting members on County Agriculture
188 Development Boards.

189 **BE IT FURTHER RESOLVED**, that we urge the Highlands Council to develop and
190 adopt a formal methodology to create and define Municipal Averages and their values to be
191 used for the Farmland Preservation Program.

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

195 **BE IT FURTHER RESOLVED**, that we request that the Highlands Council and the
196 SADC establish a “Municipal Average Pilot Program” in the Highlands region so that the
197 utilization of Municipal Averages in lieu of appraisals for farmland preservation applicants
198 may be fully evaluated.