STATE OF NEW YORK
DEPARTMENT OF AGRICULTURE AND MARKETS

In the Matter of Compelling Compliance with the Provisions of Section 305-a(1) of the Agriculture and Markets Law

ORDER

TO: Hon. Cosmo A. Giunta, Supervisor
Town of Gates
1605 Buffalo Road
Rochester, NY 14624

WHEREAS, the Department, upon receipt of Gates Fruit Farm's Agriculture and Markets Law (AML) Section 305-a review request, has undertaken a review of the Town of Gates Zoning Code and its administration as relates to Gates Fruit Farm; and

WHEREAS, the Department found that Gates Fruit Farm is a farm operation located within Monroe County Agricultural District No. 5 and the Department has jurisdiction under AML §305-a; and

WHEREAS, the Department has conducted an investigation, including a site visit, and has reviewed submissions and correspondence and accompanying materials from the farm operation and Henry Stewart, Esq., attorney for Gates Fruit Farm, and reviewed correspondence together with accompanying materials submitted by the Town's Director of Public Works/Highway Superintendent, Kurt Rappazzo; and

WHEREAS, by its April 20, 2023 Interim Determination, and its Final Determination, dated August 1, 2024, the Department found that the Town of Gates Zoning Code, and its administration, unreasonably restricts Gates Fruit Farm's farm operation, which is located within a county adopted, State certified agricultural district; and

WHEREAS, the Town of Gates did not submit information demonstrating any public health or safety threat in connection with its: requiring Gates Fruit Farm to complete a site plan and/or a Storm Water Pollution Prevention Plan ("SWPPP") to plant fruit trees, its exclusion of animal husbandry and limiting Gate Fruit Farm's number of chickens, and its requiring an annual chicken permit; and

WHEREAS, the Department has issued its Final Determination, ruling that the Town of Gates local law and its administration violate Section 305-a(1) of the Agriculture and Markets Law; it is hereby

ORDERED, pursuant to the provisions of Section 36 of the Agriculture and Markets Law, that the Town of Gates immediately comply with the provisions of Section 305-a(1) of the Agriculture and Markets Law; and it is further

ORDERED, that this Order shall take effect immediately upon the service of a certified copy thereof on the Town Supervisor of the Town of Gates; and it is further

ORDERED, that the Town of Gates shall notify the Department within ten business days of the service of the Final Determination and Order whether the Order is accepted and will be obeyed.

Dated and Sealed this 11th
day of December, 2024
at Colonie, NY

RICHARD A. BALL
Commissioner of Agriculture and
Markets of the State of New York