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Highlands TDR Receiving Zone Feasibility Grant Program Overview

Receiving zones under the Highlands Transfer of Development Rights (TDR) Program are voluntary. Only if a municipality desires to establish a receiving zone will one be designated by the Highlands Council through a municipal petition process. To aid municipalities in the assessment of whether establishing a receiving zone may be feasible, the Highlands Council created a \$1 million TDR Receiving Zone Feasibility Grant Program in the spring of 2007. After 2010 amendments to the Highlands Act, any municipality in the State is eligible to serve as a voluntary receiving zone. Participation in the grant program requires a commitment by a municipality to fully evaluate the feasibility and desirability of designating a receiving zone, but does not obligate a municipality to establish such a zone.

The Highlands Act provides municipalities with a number of benefits where they agree to designate a receiving zone. For Highlands municipalities that conform to the Regional Master Plan and establish a receiving zone which provides for a minimum residential density of five (5) dwelling units per acre (or its non-residential equivalent), the Highlands Act permits the municipality to:

- Charge up to \$15,000 per unit impact fee for all new development within the voluntary receiving zone;
- Receive up to \$250,000 in an enhanced planning grant to offset the planning and other related costs of designating and accommodating voluntary receiving zones;
- Receive a grant to reimburse the reasonable costs of amending municipal development regulations to accommodate voluntary receiving zones;
- Receive legal representation by the State in actions challenging municipal decisions regarding TDR, provided that certain pre-requisites are met; and
- Receive priority status in for any State capital or infrastructure programs.

Municipalities outside of the Highlands Region but within the seven Highlands counties are entitled to the same benefits above except for legal representation and priority status. Importantly, municipalities outside the Region must receive a certificate of eligibility for plan endorsement from the State Planning Commission to participate in the Highlands TDR Program. This certificate is received at the early stages of the endorsement process. Also, for Preservation Area or Planning Area municipalities that choose not to conform to the Regional Master Plan, the Highlands Council has separate authority to provide financial and technical assistance to implement participation in the Highlands TDR Program. Additionally, such authority may be used to provide financial and

technical assistance to those municipalities that choose not to satisfy the five (5) dwelling unit per acre threshold and instead seek to designate a receiving zone with a lower residential density.

Individual amounts for work under the grant are capped at \$25,000 for Phase 1 (Feasibility Study), but may be increased with authorization by the Highlands Council upon a demonstration of a particularized need. Through September 2011, twelve municipalities have been awarded grants under the program while several others are currently preparing applications. The municipalities awarded grants under the program are Bogota Borough, Chester Borough, City of Clifton, Town of Clinton, Town of Hackettstown, Harmony Township, Hopatcong Borough, Long Hill Township, Lopatcong Township, Oakland Borough, Tewksbury Township and Washington Borough.

A number of discrete tasks must be conducted by a municipality under the Phase 1 grant:

- **Task 1** Conduct an assessment of existing water supply and wastewater infrastructure capacity in the municipality to determine whether the municipality has the ability to support additional residential and/or non-residential development, and if so, where that development may be located. Where the Highlands Council has gathered such information through the municipal build out process, that information should be used. If the municipality does not have sufficient existing infrastructure capacity to support new growth, identify the issues that must be addressed to provide additional infrastructure capacity.
- **Task 2** Select one or more potential receiving zones for assessment and provide discussion of why that zone(s) was selected, and the criteria used in making the selection.
- **Task 3** Provide a description of the physical characteristics of each potential receiving zone, including current development within the zone; utilities provided to the zone; public transportation access to the zone; identification of any properties in, or eligible for inclusion on the National Register of Historic Places based on a review of State Historic Preservation Office records; and identification of streams corridors/buffers, wetlands, 100-year floodplains, T&E habitat, steep slopes, forest and woodlands, existing open space, and important soils/recharge areas within the potential zone and within one (1) mile of the potential zone. Also, provide a description of the types and extent of development currently permitted by the municipality's zoning ordinance and development regulations within the potential receiving zone.
- **Task 4** Conduct a real estate assessment of the potential receiving zone, including a discussion of the highest and best use of the zone, unit costs of various development types, and land values within the potential receiving zone.
- **Task 5** Devise at least two conceptual development scenarios for the potential receiving zone based upon the results of the infrastructure capacity assessment and real estate assessment describing the type and number of additional units (including commercial and mixed use if appropriate) above base density that is acceptable to the municipality. Also, provide an estimate of the project value of the two conceptual development scenarios.
- **Task 6** Submit a draft Phase 1 report to the Highlands Council with all information required above, and meet with Highlands Council staff to discuss report results and address any comments of staff.

Upon receipt of the grant application, the Highlands Council Staff will review the application and make a recommendation to the Highlands Council for approval and award of the grant. Upon executing the grant agreement, the municipality is entitled to receive half of the grant amount. The

remainder of the grant will be provided on a reimbursement basis upon submission of the final Phase 1 report and acceptance by the Highlands Council. If the results of Phase 1 indicate that a proposed receiving zone may be feasible and the municipality desires to proceed, then the Highlands Council may award a grant to complete an impact analysis and development scenario evaluation required during Phase 2.

In order to fulfill the resource protections contemplated by the Highlands Act, the Legislature realized that there must be various mechanisms to preserve environmentally sensitive lands in the Highlands Region. TDR is one of those tools. Successful implementation of the Highlands TDR Program will ensure that additional growth is properly planned and help support ongoing regional land preservation needs. For specific questions regarding the Highlands TDR Receiving Zone Feasibility Grant Program, please contact Jeffrey P. LeJava, TDR Program Administrator at (908) 879-6737 or by e-mail at jeff.lejava@highlands.state.nj.us. For general questions concerning the Highlands TDR Program and/or the Regional Master Plan, please contact Eileen Swan, Executive Director at (908) 879-6737 or by e-mail at eileen.swan@highlands.state.nj.us