

## **RESOLUTION 2012-20**

### **HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL: AUTHORIZING EXECUTION OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL AND THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**WHEREAS**, the Highlands Water Protection and Planning Act (Highlands Act) has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council); and

**WHEREAS**, pursuant to Section 6.g of the Highlands Act, the Highlands Council is empowered to “enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the council or to carry out any power, duty, or responsibility expressly given in” the Highlands Act; and

**WHEREAS**, pursuant to Sections 8 and 9 of Highlands Act, the Highlands Council adopted the Regional Master Plan (“RMP”) for the entire Highlands Region including both the Preservation Area and the Planning Area consistent with the goals and all standards of the Highlands Act; and

**WHEREAS**, pursuant to Section 30 of the Highlands Act, the Legislature created seventeen categories of development or land use activity that are deemed exempt from the provisions of the Highlands Act, the RMP, any rules or regulations adopted by the NJDEP pursuant to the Act, or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit to specifically conform them with the RMP; and

**WHEREAS**, pursuant to Section 30 of the Highlands Act, all seventeen exemptions are applicable to development in the Preservation Area while fifteen exemptions are applicable to development in the Planning Area (exemptions #3 and #17 relate to “major Highlands development” which by definition, pertains only certain development projects in the Preservation Area); and

**WHEREAS**, pursuant to Section 34 of the Highlands Act, the NJDEP adopted the Highlands Rules at N.J.A.C. 7:38 and incorporated all seventeen statutory exemptions for the Preservation Area along with application and review requirements; and

**WHEREAS**, pursuant to Section 8 of the Highlands Act, the Highlands Council incorporated the seventeen exemptions in Objective 7F1a of the RMP and specified, in Objective 7F1e, that exemptions #3 and #17 are limited to specified development projects in the Preservation Area; and

**WHEREAS**, Objective 7F1g of the RMP specifies that “Highlands municipalities and counties may not issue Highlands Act exemption determinations. Delegation of Highlands Act exemption determinations, in the Highlands Region, may be authorized for conforming municipalities and counties through specific delegation approvals issued by the Highlands Council and the NJDEP;” and

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**COUNCIL AND THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL**  
**PROTECTION**

**WHEREAS**, Sections 14 and 15 of the Highlands Act create the conformance process whereby municipalities in the Highlands Region bring master plans and development regulations into conformance with the goals, requirements, and provisions of the RMP; and

**WHEREAS**, the Highlands Council and the NJDEP collaboratively examined the seventeen Highlands Act exemptions and discussed which of these were appropriate to delegate to conforming municipalities; and

**WHEREAS**, on March 5, 2012, Jim Rilee, Highlands Council Chairman, and Bob Martin, NJDEP Commissioner, announced an agreement whereby the authority to make and issue formal exemption determinations for seven (7) of the seventeen exemptions, specifically exemptions #1, 2, 4, 5, 6, 7 and 8, may be delegated to those municipalities where a Petition for Plan Conformance has been approved or approved with conditions by the Highlands Council regarding the Preservation Area, Planning Area or both (“conforming municipalities”), and where such municipalities, by ordinance, establish appropriate procedures and requirements governing the review and issuance of such determinations; and

**WHEREAS**, the Highlands Council and the NJDEP shall establish a cooperative and collaborative process to delegate authority to conforming municipalities to review and issue exemption determinations for Highlands Act exemptions #1, 2, 4, 5, 6, 7 and 8 in accordance with the requirements of the Highlands Act; and

**WHEREAS**, the Highlands Council and the NJDEP shall collaboratively develop and implement a Highlands Exemption Training Program for conforming municipalities, for which grant funding for the reasonable costs for municipal participation in the Highlands Exemption Training Program shall be provided by the Highlands Council in accordance with the Highlands Act.

**NOW, THEREFORE, BE IT RESOLVED**, that the Highlands Council hereby finds that the MOU properly effectuates the Highlands Act and the RMP, and furthermore hereby authorizes its Chairman and Executive Director to make any necessary, minor, non-substantive amendments, in keeping with this resolution and direction of the Highlands Council, to properly effectuate the intent of the Highlands Council, and thereafter to execute the MOU on behalf of the Highlands Council.

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#### CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its meeting held on the 19<sup>TH</sup> day of July, 2012.

  
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 Jim Rilee, Chairman

**Vote on the Approval of  
This Resolution**

	Motion	Second	Yes	No	Abstain	Absent
Councilmember Alstede						✓
Councilmember Carluccio				✓		
Councilmember Dougherty						✓
Councilmember Dressler						✓
Councilmember Francis	✓		✓			
Councilmember Holtaway		✓	✓			
Councilmember James			✓			
Councilmember Mengucci			✓			
Councilmember Richko				✓		
Councilmember Sebetich			✓			
Councilmember Tfrank			✓			
Councilmember Visioli			✓			
Councilmember Vohden			✓			
Councilmember Walton			✓			
Chairman Rilee			✓			