

RESOLUTION 2010-06
HIGHLANDS DEVELOPMENT CREDIT BANK
EXPANSION OF HIGHLANDS DEVELOPMENT CREDIT PURCHASE PROGRAM

WHEREAS, pursuant to Section 13.i of the Highlands Water Protection and Planning Act (Highlands Act), the Highlands Water Protection and Planning Council established the Highlands Development Credit Bank (Bank) by Resolution 2008-24 adopted on June 26, 2008; and

WHEREAS, Resolution 2008-24 establishes the functions of the Bank, including serving as a buyer and seller of Highlands Development Credits (HDCs); and

WHEREAS, pursuant to Resolution 2008-24, the activities of the Bank must be guided by the Highlands Regional Master Plan (RMP); and

WHEREAS, Policy 7C6 of the RMP requires that the Bank establish a program for the purchase of HDCs as soon as possible and Policy 7C7 states that the Bank “should seek to provide an opportunity for Sending Zone landowners to sell their HDCs in advance of the establishment of Receiving Zones;” and

WHEREAS, Objective 7C7b of the RMP mandates that the Bank’s HDC purchase program give “priority to landowners who can demonstrate unique and extenuating financial circumstances as a direct result of the Highlands Act;” and

WHEREAS, pursuant to Resolution 2009-05, the Bank adopted Operating Procedures for the Bank’s activities, including the purchase of HDCs; and

WHEREAS, the Operating Procedures authorize the Bank to acquire HDCs from property owners to:

1. Further the objectives of the Highlands Act and the Highlands Regional Master Plan; or
2. Alleviate a demonstrated extenuating financial circumstance; and

WHEREAS, the Operating Procedures define “extenuating financial circumstance” to mean:

1. The owner's equity in the land to which the HDCs are allocated is substantial in relation to the owner’s net worth; and
2. The owner is experiencing extraordinary financial hardship, including but not limited to imminent bankruptcy, extraordinary medical expenses, or loss of job;

WHEREAS, consistent with the policies established in the RMP and the requirements of the Bank’s Operating Procedures, the Bank instituted an initial HDC Purchase Program pursuant to Resolution 2009-06 to provide landowners who face an extenuating financial circumstance as determined by the Highlands Council with a means of selling their HDCs; and

WHEREAS, through this program, the Bank has begun acquiring HDCs from property owners that qualify for hardship consideration consistent with the terms set forth in Resolution 2009-6; and

WHEREAS, through the Bank’s processing of applications for hardship consideration, the Bank has determined that other circumstances warrant consideration for priority acquisition; and

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WHEREAS, the Bank desires to expand the HDC Purchase Program to include these circumstances as set forth below, which determinations shall be made by the Highlands Council as part of the HDC allocation process; and

WHEREAS, pursuant to the HDC Bank By-laws, a true copy of the Board's meeting minutes shall be prepared and forthwith delivered to the Highlands Council and no action taken at such meetings by the Board shall have effect until the Highlands Council's period of review has expired and the Governor's period of review for that Council meeting has expired pursuant to the following paragraph; and

WHEREAS, pursuant to the Highlands Act, at N.J.S.A. 13:20-5.j, no action authorized by the Highlands Council shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Council has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE, BE IT RESOLVED by the Highlands Development Credit Bank that:

1. The Bank hereby amends and expands its HDC Purchase Program which shall prioritize the purchase of HDCs in the following manner:
 - a. The Bank shall give first priority consideration to any property that satisfies both of the following criteria:
 - i. comprises a major Highlands development in the Preservation Area that would have qualified for an exemption pursuant to paragraph (3) of subsection a. of section 30 of the Highlands Act but for the lack of a necessary State permit as specified in subparagraph (b) or (c), as appropriate, of paragraph (3) of subsection a. of section 30 of the Highlands Act; and for which an application for such a permit had been submitted to the Department of Environmental Protection and deemed by the department to be complete for review on or before March 29, 2004; and
 - ii. which satisfies the extenuating financial circumstance criteria;
 - b. The Bank shall give second priority consideration to any parcel of land whose owner only satisfies the extenuating financial circumstance criteria;
 - c. The Bank shall give third priority consideration to any parcel of land that only satisfies the requirements of Sub-Paragraph (a)(i), above;
 - d. The Bank shall give fourth priority consideration to any parcel of land in the Preservation Area which received or was eligible for Exemption #3 (N.J.S.A. 13:20-28.a(3)) pursuant to the Highlands Act, and which exemption has or would have expired;
 - e. The Bank shall give fifth priority consideration to any parcel of land that is located within the Special Environmental Zone or High Value Agricultural Priority Area designated by the Highlands Council in the RMP, which owner of the parcel applied

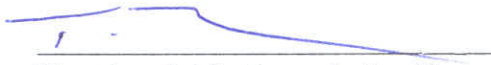
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for participation in a preservation program administered by the State or a local government unit (together "Public Agency") no earlier than August 10, 2004, and which application was rejected by the appropriate Public Agency or was deemed ineligible for participation based upon the requisite program's eligibility criteria;

- 1) where the parcel of land is located within the Special Environmental Zone, the property owner must forgo all development opportunities through a deed of easement to be eligible to participate in this priority category;
 - 2) where a portion of the parcel of land is located within the High Value Agricultural Priority Area, a majority of the parcel's existing agricultural lands must have both high and moderate agricultural value; and
- f. Within each of the priority levels set forth above, of paramount consideration for priority is the protection of parcels of land which are of significant ecological or agricultural importance consistent with the RMP.
2. The Executive Director, or her designee, is hereby authorized to continue the HDC Purchase Program consistent with this resolution, including the adoption or amendment of any necessary application form, the review of such applications, and the making of recommendations to the Bank for approval of HDC acquisitions.
 3. The Executive Director is authorized to provide public notice for the third round of HDC acquisition consideration at the next meeting of the HDC Bank.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Development Credit Bank at its regular meeting held on the 10th day of December, 2010.


 Theodore J. Maglione, Acting Chairman

<u>Vote on the Approval of this Resolution</u>	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Director Craft	_____	_____	✓	_____	_____	_____
Director Davis	_____	_____	✓	_____	_____	_____
Director Halpin	_____	_____	_____	_____	_____	✓
Director Klipstein	✓	_____	✓	_____	_____	_____
Director Maglione	_____	_____	✓	_____	_____	_____
Director Schrier	_____	_____	✓	_____	_____	_____
Director Siegel	_____	✓	✓	_____	_____	_____