

MEMORANDUM OF UNDERSTANDING
BETWEEN
STATE PLANNING COMMISSION
AND
REGIONAL CENTER PARTNERSHIP OF SOMERSET COUNTY, INC.

This Memorandum of Understanding (MOU), dated _____, 2012 is hereby entered into by and between the New Jersey State Planning Commission (the “Commission”) and the Regional Center Partnership of Somerset County, Inc., a regional planning entity, comprising: the Township of Bridgewater, the Borough of Raritan and Borough of Somerville, (the “Petitioner” or “Partnership”) to set forth terms for achieving regional plan consistency with the State Development and Redevelopment Plan (the “State Plan”) and qualifying for plan endorsement.

WHEREAS, the Petitioner has, pursuant to N.J.A.C. 5:85-7, submitted a petition for Plan Endorsement to the Office for Planning Advocacy, successor to the Office of Smart Growth, (referred to herein as the “Office” or “OPA”); and

WHEREAS, the Partnership has directed the Somerset County Planning Director (the “Director”) to coordinate efforts of the Partnership in achieving Plan Endorsement, including granting the Director authority to negotiate terms of this agreement with OPA on behalf of the Partnership; and

WHEREAS, the Commission evaluates petitions on the basis of the consistency of plans with the goals, policies and strategies of the State Plan, and is authorized to enter into an agreement in the form of a Memorandum of Understanding (MOU) that includes the attached Action Plan (which incorporated by reference) so that a petitioner’s plan may be found to achieve consistency with the State Plan and Plan Endorsement by the Commission; and

WHEREAS, the Petitioner, as part of its regional planning strategy, has a designated Regional Center, which was set to expire on January 7, 2008, and which was partially extended pursuant to the Permit Extension Act until December 31, 2010, and further extended pursuant to an amendment to the Permit Extension Act until June 30, 2013; and

WHEREAS, the Petitioner wishes to establish an interim center pursuant to N.J.A.C. 5:85-7.15(c) as it works through the attached Action Plan to achieve Plan Endorsement; and

WHEREAS, the Petitioner and the Commission wish to enter into an MOU that specifically sets forth requirements for Petitioner and actions by State agencies and attached Action Plan, to achieve State Plan consistency, including establishing the boundaries of an interim center; and

WHEREAS, entering into this MOU is strictly voluntary.

Accordingly, in recognition of the forgoing the parties hereby agree as follows:

1. OPA and relevant State agencies have reviewed the petition and supporting documentation to evaluate that information and determine any actions necessary for the Petitioner to take in order to be found consistent with the goals and policies of the State Plan.
2. OPA has prepared a negotiated Action Plan, attached hereto and marked as **EXHIBIT A**, which sets forth the actions for State agencies and Petitioner to take in order to achieve Plan Endorsement, including the timeframe(s) for completion of those requirements and the steps to be taken by relevant State agencies to review and support the Petitioner's petition for Plan Endorsement. OPA and SPC recognize that completion of the Action Plan items may be contingent on the availability of State funding to accomplish said Action Plan items.
3. OPA, relevant State agencies and the Petitioner have negotiated the boundaries of an interim regional center, attached hereto as **EXHIBIT B**, to be designated by the Commission upon issuance of a Certificate of Eligibility within 10 days of receipt of a fully executed MOU and Action Plan.
4. The negotiated boundaries are based on the Somerset Regional Center Strategic Master Plan and its maps, which establish a coordinated, integrated land use framework for the Regional Center, including: greenway protection and enhancement; economic and neighborhood revitalization; and brownfield and Superfund site clean-up, restoration and re-use efforts by the three Regional Center municipalities.
5. The Somerset Regional Center Strategic Master Plan and future development acknowledge existing environmental constraints within the center including rivers, streams, flood plains and floodways along with threatened and endangered species and their habitat.
6. The Partnership and OPA acknowledge that the Somerset Regional Center boundary contemplated in this agreement includes some areas that are environmentally constrained including the floodway and floodplain. Inclusion of these areas in the Regional Center Boundary is not in any way meant to encourage land disturbances or development in environmentally constrained areas. Permits will not be granted by the State of New Jersey for projects that do not comply with local, county, state or federal rules that address these environmental constraints, particularly the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq. and its implementing rules at N.J.A.C. 7:13. et seq. The Flood Area Control Act and its implementing rules are specifically

mentioned because certain land disturbances in the Floodway and Floodplain are prohibited.

Procedures for determining if a proposed project area is located in a stream's floodway or floodplain are defined in the Flood Hazard Area Control Act Rules. N.J.A.C. 7:13-3.2. The Federal Emergency Management Agency (FEMA) Flood Insurance Maps show the stream's floodway limits and have profiles showing the 10, 50, 100 and 500 year intensity storms. If the stream in question has a Federal Study, then their review must include a review of the floodway limits and profiles and the NJ Flood Hazard Area Elevation. The Partnership and OPA acknowledges that Flood Hazard Area Control Act permits must be secured by the applicant/property owner/developer prior to any disturbance in these areas as described in detail in the implementing rules.

7. The interim center shall remain designated for two years from the date of receipt of a Certificate of Eligibility indicating that the revised interim center boundary is approved by the Commission, and provided that the Petitioner continues making progress in following the attached Action Plan.
8. All deadlines contained in the attached Action Plan were reached through voluntary agreement between the petitioner and the SPC and may only be amended for good cause shown at the discretion of the Director of OPA.
9. In the event the Petitioner fails to meet the timelines agreed to in the attached Action Plan, the Petitioner's Plan Endorsement petition will be evaluated based on the current State Plan as of the date of the default.
10. In the event that the failure to meet the timelines agreed to in the Action Plan is the result of the failure of a State agency to take a necessary action or complete a review of the Petitioner's submitted documents within the time specified by the Action Plan, the Petitioner will be granted a reasonable extension of the deadline by the Director of OPA contained in the Action Plan impacted by said failure.

Bridgewater Township, Raritan Borough or Somerville Borough may, at any time, respectively remove itself from the agreements contained in this MOU or petition upon submission of a resolution by the Bridgewater Township governing body, the Raritan Borough governing body or the Somerville Borough governing body, or by letter from the Petitioner, to the State Planning Commission and no other documentation will be required.

The terms of this MOU and the attachments hereto are hereby agreed to between the Commission and the Petitioner.

Petitioner (*name, title*)

Date: _____

Attest

State Planning Commission

Date: _____

Attest