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**INCORPORATED BY REFERENCE INTO
HIGHLANDS COUNCIL RESOLUTION 2012-14
ADOPTED MAY 17, 2012**

FINAL CONSISTENCY REVIEW AND RECOMMENDATIONS REPORT

**PETITION FOR PLAN CONFORMANCE:
TOWNSHIP OF HARMONY, WARREN COUNTY**

Prepared by the State of New Jersey Highlands Water Protection and
Planning Council in Support of the Highlands Regional Master Plan

APRIL 30, 2012

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INTRODUCTION

This Final Consistency Review and Recommendations Report (“Report”) has been prepared by the Staff of the Highlands Water Protection and Planning Council (“Highlands Council”). It provides review and recommendations for consideration by the Highlands Council as to the consistency of the Petition for Plan Conformance of the Township of Harmony, with the Highlands Regional Master Plan (RMP). The Report provides review and discussion of each component of the Petition for Plan Conformance, in the order in which they are set forth under submission guidelines provided to municipalities by the Highlands Council. It begins with a brief summary of Staff findings, displayed in a table format, to provide an at-a-glance overview of the results of Staff review.

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REPORT SUMMARY

Municipality: Township of Harmony

Date of Petition Submission: January 22, 2011

Date Deemed Complete: January 25, 2011

Conformance Area: Preservation Area

Staff Recommendation: Approve Petition with Conditions

Administrative Submittals	Meets Requirements	Conditions of Approval
1. Resolution or Ordinance	X	None
2. Record of Public Involvement	X	None
3. List of Current Planning and Regulatory Documents	X	None

Petition Components	Consistent	Conditions of Approval
1. Modules 1-2 Build-Out Report*	X	None
2. Module 3 Housing Element/Plan	X	See Section D.1
3. Module 4 ERI	X	See Section D.1
4. Module 5 Highlands Element	X	Follow-Up Required per Section B.4; D.1
5. Module 6 Land Use Ordinance	X	Follow-Up Required per Section B.5; D.1
6. Module 7 Petition	X	
a. Self-Assessment Report	X	None
b. Implementation Plan/Schedule	X	Follow-Up Required per Section B.6; D.1

*Completed by the Highlands Council in collaboration with the municipality prior to substantive review of the Petition.

Optional Submission Items	Submission Date	Status/Recommendation
1. RMP Updates	N/A	
2. Map Adjustments	N/A	
3. Center Designation Requests	N/A	
4. Highlands Redevelopment Area Designation Requests	N/A	

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A. REVIEW OF ADMINISTRATIVE SUBMITTALS

1. **Resolution.** The Resolution (#R:09-49) petitioning the Highlands Council for Plan Conformance was adopted by the Township Committee at its noticed public meeting of December 1, 2009. The document submitted is appropriately signed and certified by the Municipal Clerk to verify authenticity. The language of the Resolution relies upon the model provided by the Highlands Council. The Resolution clearly petitions the Highlands Council for Plan Conformance; conformance being proposed with respect to municipal lands located only in the Preservation Area (8,413 acres, 55% of the municipality).
2. **Record of Public Involvement.** The Petition includes appropriate documentation of the public process engaged in by the municipality with regard to the development of Petition materials and adoption of the Resolution petitioning the Highlands Council for Plan Conformance. The submission includes the following:
 - a. Copy of public meeting notice for a special meeting of the Planning Board held on November 23, 2009 to discuss Plan Conformance and Petition components, specifically including the draft Township Master Plan Highlands Element.
 - b. Copy of meeting agenda and meeting minutes associated with such Planning Board meeting.
 - c. Copy of public meeting notice for meeting of the Township Committee held on December 1, 2009 to discuss Plan Conformance and/or Petition components, and to adopt the Resolution petitioning the Highlands Council for Plan Conformance.
 - d. Copy of meeting agenda associated with such Township Committee meeting.
3. **List of Current Planning Documents.** The list of current municipal planning and regulatory documents is comprehensive and includes required dates of adoption, as applicable. Pursuant to Highlands Council Module 7 Municipal Plan Conformance Petition instructions, all of these documents should be available in the offices of the Highlands Council in Adobe pdf format. Staff review indicates that all of the required documents are available as required.

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B. REVIEW OF PLAN CONFORMANCE PETITION COMPONENTS

1. **Highlands Municipal Build-Out Report (Modules 1-2).** Consistent. The Highlands Municipal Build-Out Report fulfills the Highlands Act requirements to evaluate land use capability and includes a detailed evaluation of land based capacity, resource based capacity and utility based capacity. The Highlands Municipal Build-Out Report was completed by the Highlands Council in collaboration with the municipality prior to a finding of Administrative Completeness of the Petition. The date of the Highlands Municipal Build-Out Report is July 2009.

2. **Housing Element & Fair Share Plan (Module 3).** Consistent as submitted.

Introductory Advisory

The Highlands Council recognizes that the main component of the Council on Affordable Housing (COAH) Third Round rules was invalidated in 2010 and an appeal of that invalidation is pending in the New Jersey Supreme Court; that COAH's *Guidance for Highlands Municipalities that Conform to the Highlands Regional Master Plan* was invalidated by the Appellate Division of the Superior Court; that significant changes to State laws pertaining to the provision of affordable housing are being considered; that Governor Christie's Reorganization Plan No. 001-2011 (issued June 29, 2011) eliminated COAH and transferred its functions and duties to the Department of Community Affairs (DCA); and that the Appellate Division of the Superior Court invalidated the Governor's Reorganization Plan in a March 8, 2012 decision, reversing the abolition of COAH and the transfer of its function, powers and duties to the DCA. As required by the Highlands Act and the Fair Housing Act, COAH has the responsibility to determine affordable housing obligations and must take the Highlands Regional Master Plan into consideration in discharging this responsibility. Accordingly, the analysis provided below shall be considered subject to modification based on a resolution of the State's affordable housing policies, with the intent being to ensure that the municipality remains in compliance with all applicable statutes, rules, regulations, and requirements regarding affordable housing, at any given time, and maintains consistency with the RMP.

Highlands Council Review

Both the RMP and Highlands Council instructions concerning submission of Master Plan Housing Elements and Fair Share Plans, sought municipal participation in a three-step process, intended to culminate in the submission of fully developed affordable housing plans to both the Highlands Council and the Council on Affordable Housing (COAH) (or alternatively the Highlands Council and the Superior Court). This process was designed to assist municipalities in developing plans to address fair share housing obligations that are consistent with the RMP. For most Highlands municipalities, the deadline for submission to COAH was extended to June 8, 2010. The extended time allowance was intended to provide for completion of Highlands Municipal Build-Out Reports (see Modules 1-2, above) and incorporation of resulting information into fully developed affordable housing plans in accordance with Executive Order #114 (2008) and COAH's *Guidance for Highlands*

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Municipalities that Conform to the Highlands Regional Master Plan. This process also allowed for Highlands Council review of as yet unconstructed projects in municipal housing plans, for consistency with the RMP, whether the projects were proposed in compliance with Prior Round obligations or the Third Round rules.

The Township of Harmony provided all components required by the Highlands Council. The first submission was included as requested within the municipality’s Petition for Plan Conformance, while the remaining items were provided in accordance with the revised submission deadlines. Review of the final Housing Element and Fair Share Plan submission, adopted by the Land Use Board on June 7, 2010 follows. These findings constitute a preliminary analysis of the Housing Element and Fair Share Plan by the Highlands Council. Formal review will be conducted COAH or the Superior Court. These documents were filed with COAH on June 8, 2010. The final Housing Element and Fair Share Plan appear consistent with the requirements of the RMP.

a. Municipal Growth Projections. Municipal Growth Projections, estimated in the Highlands Municipal Build-Out Report for the Township (July 2009) are as follow:

- i.** Residential Growth (housing units): 247
- ii.** Non-Residential Growth (jobs): 0

b. Summary of Municipal Obligation. With the invalidation of COAH’s “Growth Share” methodology, the Municipal Fair Share Obligation cannot be fully determined at this time. Based on the information currently available, it would include at minimum, each of the components listed below.

- **Rehabilitation Share:** 3
- **Prior Round Obligation:** 47

In anticipation of an additional obligation to address the current housing cycle, municipal planning to address the local need for affordable housing is expected to continue.

c. Summary of Proposed Fair Share Plan. The Fair Share Plan proposes to address the municipal obligation by use of the mechanisms and/or development projects listed below. Where Affordable Housing Sites were included that have not yet been constructed, each was reviewed for consistency with the RMP using the on-line Highlands Council RMP Consistency Review Report tool.

- i. Rehabilitation Program:** Harmony has already satisfied its rehabilitation obligation of three (3) units through its participation in the Warren County Community Development program.

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ii. Fair Share Plan Housing Units:

- **Project 1:** National Church Residence - 21 credits applied to Harmony Township for its participation in the completed 82-unit National Church Residence development in Lopatcong Township.
- **Project 2:** “Pink House” (Block 9 Lots 72 & 73) - The Township purchased a three (3) unit apartment building located at 2830-2834 Belvidere Road. A deed restriction has been placed on the property such that all three (3) units will be rented as affordable for a period of 99 years. These units will be administered by the Northwest New Jersey Community Action Program (NORWESCAP).
- **Project 3:** Township Rental Duplex (Block 39, Lot 14) - The Township purchased a two-bedroom unit within a duplex building located at 1040 Third Avenue which has been deed restricted for rental housing for a period of 99 years. These units will be administered by NORWESCAP.
- **Project 4:** Habitat for Humanity Duplex (Block 43, Lot 28) - The Township purchased a lot for the construction of a duplex with two (2) affordable ‘for sale’ units by Habitat for Humanity. The building has been completed and the units are occupied.
- **Project 5:** American Developers Buy Downs – American Developers, the developer of an approved twenty-one (21) lot subdivision that has yet to be constructed, has agreed to purchase and deed-restrict two (2) existing homes to be resold to qualified low- or moderate-income households.
- **Project 6:** The Dowel Site (Block 37 Lot 4) is proposed for development of 13 units by Habitat for Humanity. Planning Area, Conservation Zone - Environmentally Constrained Subzone. The site consists of 185 acres. The project would be serviced by on-site septic systems at a gross density of 1 unit per 13.47 acres. It is expected that this project could be consistent with the RMP depending on the design of the development. However the development must be directed towards the previously disturbed portion of the property and clustered where possible to limits impacts to the existing agricultural uses and Highlands Resources. – *Note: The Dowel Site is no longer being proposed for affordable housing. Once the new affordable housing regulations are finalized, Harmony Township will need to amend their adopted Fair Share Plan to reflect this change.*

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- **Project 7:** ARC of Warren may develop a 4-bedroom group home. As the intent is to utilize an existing structure for this purpose, no RMP consistency issues are anticipated.
- **Project 8:** Ten Accessory Apartment units; specific locations not identified. The Township proposes to provide Accessory Apartments by conversion of existing residential homes served by individual on-site septic systems, whereby no increase in the number of bedrooms on any individual site would be permitted. The Plan includes proposed zoning regulations providing for these units. As each site is specifically identified, they will be reviewed for consistency with the RMP.
- **Project 9:** Transmix Site. Block 39, Lot 27. Proposed development of 5 new single family rental homes and one new 5-bedroom group home. The property consists of 79 acres located in the Planning Area, Conservation Zone and Conservation Zone – Environmentally Constrained Subzone. This project may be consistent with the RMP depending on site design; the development must be directed towards the previously disturbed portions of the property and clustered where possible to limit impacts to existing Highlands Resources.

d. Conditions/Requirements. Consistent with Plan Conformance requirements, goals and objectives have been incorporated reflecting those provided in the Highlands Council model Housing Element, from the Module 3 Instructions document.

3. Environmental Resource Inventory (Module 4). The proposed Township of Harmony Highlands Environmental Resource Inventory (ERI) is based on the Highlands Model ERI provided to municipalities by the Highlands Council. The document as now proposed (including modifications by the Highlands Council), contains all required Highlands ERI language and all applicable maps/exhibits, as necessary, to fully describe the Highlands Resources, Resource Areas, and Special Protection Areas located within the municipality. As such, the Highlands ERI is consistent with the RMP and the immediate mandatory requirements of Plan Conformance.

a. Deleted Sections The following figures of the model Highlands ERI are not relevant to the municipality and have thus been deleted from the municipal submission: Vernal Pools, Highlands Domestic Sewerage Facilities.

b. Revisions. Since the time of the Township’s last review, the Highlands Council has provided updated technical information within the narrative portion of the ERI as well as a new set of coinciding figures. The new figures are provided as a separate file from the Highlands ERI text, and replaces figures previously provided for the

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Highlands ERI. The old figures (with exception of any developed by the municipality) have been deleted to avoid confusion. Please note that the figures should not be incorporated with the MS Word® version of the text, as such mergers result in unmanageable file sizes and a significant loss in map clarity/resolution. The text and exhibits are best combined into a single pdf file once each component is in final form.

- 4. Master Plan Highlands Element (Module 5).** The proposed Township of Harmony Master Plan Highlands Element is based on the model Highlands Element provided to municipalities by the Highlands Council. The Township of Harmony Highlands Element as now proposed (including modifications by the Highlands Council), contains all required Highlands Element language and all applicable maps/exhibits, as necessary, to fully address the immediate mandatory requirements of Plan Conformance.

The specific components of the model Highlands Element are listed below. Where each is consistent with the Highlands Council model or otherwise satisfactorily addresses all RMP requirements for Plan Conformance, the heading or sub-heading indicates “Consistent.” Where any section of the model Highlands Element has been appropriately deleted due to non-applicability, the heading or sub-heading indicates “Not Applicable – Deleted.” Where modifications are required to complete the document, the heading or sub-heading indicates, “Modifications Required.” In that case, explanatory discussion and/or recommendations are provided. Where appropriate, discussion may summarize the issue and refer to detailed edits recommended by Staff within the document, itself.

- a. Policies, Goals & Objectives.** Consistent
 - i.** Preservation Area Goals. Consistent
 - ii.** Planning Area Goals. Not Applicable – Deleted
 - iii.** General Purposes of Zoning. Consistent
 - iv.** Relationship Between Highlands Act & MLUL. Consistent

- b. Land Use Plan Element.** Consistent
 - i.** Highlands Zones and Sub-Zones. Consistent however, please see minor modifications provided by the Highlands Council. (Note: Wildlife Management Sub-Zone and Lake Community Sub-Zone are not applicable and have been deleted.)
 - ii.** Land Uses. Consistent
 - iii.** Density and Intensity of Development. Consistent
 - iv.** Cluster Development. Consistent
 - v.** Land Use Inventory. Consistent
 - vi.** Redevelopment Planning. Consistent

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- c. Housing Plan Element.** Consistent. Please note Highlands Council insertion re Township completion of Third Round Housing Element and Fair Share Plan, and submission to COAH with a petition for substantive certification. Review and recommendations concerning the Housing Plan Element appear at item #2 above, Housing Element & Fair Share Plan.
- d. Conservation Plan Element.** Consistent

 - i.** Forest Resources. Consistent
 - ii.** Highlands Open Waters and Riparian Areas. Consistent
 - iii.** Steep Slopes. Consistent
 - iv.** Critical Habitat. Consistent
 - v.** Carbonate Rock. Consistent
 - vi.** Lake Management. Consistent
 - vii.** Water Resources Availability. Consistent
 - viii.** Prime Ground Water Recharge Areas. Consistent
 - ix.** Water Quality. Consistent
 - x.** Wellhead Protection. Consistent
 - xi.** Low Impact Development. Consistent
- e. Utility Services Plan Element.** Consistent The Township has supplied updated information relative to the Harkers Hollow service area which is served by Aqua New Jersey. This information has been incorporated into the Public Community Water Systems data.

 - i.** Preservation Area. Consistent
 - ii.** Planning Area. Not Applicable – Deleted
 - iii.** Planning & Preservation Areas. Consistent; items that are not applicable have been deleted.
- f. Circulation Plan Element.** Consistent
- g. Land Preservation/Stewardship Plan Element.** Consistent
- h. Agriculture Retention/Farmland Preservation Plan Element.** Consistent
- i. Community Facilities Plan Element.** Consistent
- j. Sustainable Economic Development Plan Element.** Consistent

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k. Historic Preservation Plan Element. Consistent

- i.** Historic, Cultural, and Archaeological Resources. Consistent, however please note that the selection of Alternative 2 in the section does not support the adoption of a historic overlay zone as indicated in the draft Highlands Area Land Use Ordinance (provided as part of the Municipal Response). To better support such intents, the municipality should consider retention of Alternative 1.
- ii.** Scenic Resources. Consistent

l. Development Transfer Plan Element. Inclusion of this Section is optional and the municipality has elected not to incorporate it at this time.

m. Relationship of Master Plan to Other Plans. Consistent

n. Appendices. Consistent. Please note Highlands Council replacement of SIC Codes with current North American Industry Classification System (NAICS) codes in Appendix C, Major Potential Pollutant Sources.

o. Exhibits. The list of Exhibits with modifications by the Highlands Council includes all that apply to the municipality. As to the exhibits themselves, please note that the Highlands Council has provided a new set based on updated information, which replaces those previously issued. The new exhibits are provided as a separate file from the Highlands Element text, and the old exhibits have been deleted to avoid confusion. Please note that the exhibits should not be incorporated with the MS Word® version of the text, as such mergers result in unmanageable file sizes and a significant loss in map clarity/resolution. The text and exhibits are best combined into a single pdf file once each component is in final form.

Please note that (former) Exhibit X, “Septic System Yield Map” has been determined unnecessary and has been deleted. Septic System Yield will be determined on a site-specific basis, using the Nitrate Dilution Model discussed in text.

5. Highlands Area Land Use Ordinance (Module 6). The proposed Township of Harmony Highlands Area Land Use Ordinance is based on the model Highlands Area Land Use Ordinance provided to municipalities by the Highlands Council. Since the time of issuance of the Model, the Highlands Council, with input from municipal professionals, has made certain revisions to the document to refine and simplify it for purposes of municipal implementation. The Township of Harmony Highlands Area Land Use Ordinance as proposed (including modifications by the Highlands Council), contains all required Highlands Area Land Use Ordinance language and all applicable maps/exhibits, as necessary, to fully address the immediate mandatory requirements of Plan Conformance.

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The specific components of the model Highlands Land Use Ordinance are listed below. Where each is consistent with the Highlands Council model or otherwise satisfactorily addresses all RMP requirements for Plan Conformance, the heading or sub-heading indicates “Consistent.” Where any section of the model Highlands Land Use Ordinance has been appropriately deleted due to non-applicability, the heading or sub-heading indicates “Not Applicable – Deleted.” Where modifications are required to achieve consistency or otherwise address Plan Conformance requirements, the heading or sub-heading indicates, “Modifications Required.” In that case, explanatory discussion and/or recommendations are provided. Where appropriate, discussion may summarize the issue and refer to detailed edits recommended by Staff within the document, itself.

- a. **Article 1. Title, Purpose, Scope.** Consistent. The municipality will address/incorporate the minor modifications made by the Highlands Council. Please see revised document text.
- b. **Article 2. Applicability.** Consistent. The municipality will address/incorporate the modifications made by the Highlands Council. Please see revised document text.
- c. **Article 3. Definitions.** Consistent. The municipality will address/incorporate the minor modifications made by the Highlands Council. Please see revised document text.
- d. **Article 4. Establishment of Highlands Area Districts.** Consistent. The municipality will address/incorporate the modifications made by the Highlands Council, inclusive of new map titles at Section 4.4. Municipal determination is also needed regarding Historic Resources provisions at Section 4.3.12 – retention is optional (see subsection f, following, item xi). Please see revised document text. (Note: Wildlife Management Sub-Zone and Lake Community Sub-Zone Not Applicable – Deleted.)
- e. **Article 5. Highlands Area Zone District Regulations.** Consistent. The municipality will address/incorporate the significant modifications made to the section by the Highlands Council. Please see revised document text.
- f. **Article 6. Highlands Area Resource Regulations.** Consistent
 - i. Forest Resources. Consistent
 - ii. Highlands Open Waters & Riparian Resources. Consistent
 - iii. Steep Slopes. Consistent
 - iv. Critical Habitat. Consistent
 - v. Carbonate Rock. Consistent
 - vi. Lake Management Area. Consistent

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- vii. Water Conservation & Deficit Mitigation. Consistent
 - viii. Prime Ground Water Recharge Areas. Consistent
 - ix. Wellhead Protection. Consistent
 - x. Agricultural Resources. Consistent
 - xi. Historic, Cultural & Archaeological Resources. Consistent, however the proposed retention of these provisions requires modification to the Master Plan Highlands Element as noted at B.4.k, above. .
 - xii. Scenic Resources. Consistent
- g. Article 7. Highlands Area General Regulations.** Consistent
- i. Affordable Housing. Consistent
 - ii. Low Impact Development. Consistent
 - iii. Conservation Restrictions. Consistent. The municipality will address/incorporate the modifications made by the Highlands Council. Please see revised document text.
 - iv. Stormwater Management. Consistent
 - v. Special Environmental Zone. Consistent
 - vi. Septic System Design and Maintenance. Consistent
 - vii. Public Water Systems. Not Applicable – Deleted
 - viii. Wastewater Collection and Treatment Systems. Not Applicable – Deleted
- h. Article 8. Planned Development Regulations.** Consistent
- i. **Article 9. Application Review Procedures & Requirements.** Consistent. The municipality will address/incorporate the modifications made by the Highlands Council. Please see revised document text.
 - j. **Article 10. Appeals, Waivers, Exceptions.** Consistent. The municipality will address/incorporate the modifications made by the Highlands Council. Please see revised document text.
 - k. **Article 11. Enforcement, Violations, Penalties.** Consistent
 - l. **Appendices.** Consistent. Please note Highlands Council replacement of SIC Codes with current North American Industry Classification System (NAICS) codes in Appendix D, Major Potential Pollutant Sources.

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- m. Exhibits.** The Exhibits, including the List of Exhibits and all in-text document references to Exhibits have been updated by the Highlands Council to include Highlands Council parcel-based maps, which indicate the locations and boundaries of each Highlands Area, Zone, Resource, Resource Area, and Special Protection Area. These Exhibits were not available when the Model Land Use Ordinance was initially provided by the Highlands Council for use in preparing Petitions, but are crucial to the regulatory function of the Highlands Area Land Use Ordinance. Please note that the revised maps have been provided in Adobe® pdf format, and should not be converted for insertion directly in the MSWord® version of the Ordinance. After adoption, they should accompany the Ordinance at all times, however, as an integral component of it – whether made available to the public in paper or electronic format. As provided currently, the maps are at a scale suited to printing on large plotters, for purposes of municipal reproduction and display (ensuring high-resolution detail).

6. Petition Submission Documents (Module 7).

- a. Municipal Self-Assessment Report.** The Municipal Self-Assessment Report consists of two components as listed herein. The Report accurately describes the status of municipal Plan Conformance to date, indicating both municipal accomplishments and the items that remain to be completed to fully achieve Plan Conformance.

 - i. Narrative Portion.** The Narrative Portion has been completed accurately for purposes of Plan Conformance.
 - ii. Spreadsheet Portion.** The Spreadsheet Portion has been completed accurately for purposes of Plan Conformance.
- b. Highlands Implementation Plan & Schedule.** The Highlands Implementation Plan and Schedule provides a template for future Plan Conformance activities. It is intended to indicate all outstanding items, both required and discretionary, along with estimated costs and timeframes for completion, for the municipality to achieve or exceed Plan Conformance with the Regional Master Plan.

As proposed by the municipality, the Highlands Implementation Plan and Schedule included all mandatory components required to achieve Plan Conformance and incorporated timeframe estimates associated with each mandatory element. The Highlands Implementation Plan and Schedule has been modified since first issued by the Highlands Council, however, and a revised version tailored with municipal information has been provided with this package. The revised document includes cost estimates for each activity and prioritizes implementation tasks with a particular focus on the first few months after Highlands Council approval of the Petition, through the 2012 State fiscal year and beyond.

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Recommended Highlands Council edits tailoring the revised document to the municipality (based on the Petition submittals) have been considered and included in the final version.

C. REVIEW OF OPTIONAL SUBMISSION COMPONENTS

1. **RMP Updates.** The Petition for Plan Conformance was not accompanied by any request for RMP Updates.
2. **Map Adjustments.** The Petition for Plan Conformance was not accompanied by any request for Map Adjustments.
3. **Highlands Center Designation Requests.** The Petition for Plan Conformance was not accompanied by any request for Highlands Center Designation.
4. **Highlands Redevelopment Area Designation Requests.** The Petition for Plan Conformance was not accompanied by any request for Highlands Redevelopment Area Designation.
5. **Other.** The Petition for Plan Conformance was not accompanied by any other requests for approvals, not listed above.

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D. STAFF RECOMMENDATIONS

On the basis of the comprehensive review completed and discussed in detail as described in the preceding Sections, which examined both sufficiency of administrative submittals and consistency of all substantive materials with the Highlands Regional Master Plan, Highlands Council Staff recommends that the Petition for Plan Conformance of the Township of Harmony, as currently proposed by the municipality, be approved with conditions as outlined below.

1. Approval with Conditions. Highlands Council Staff recommend that this Petition for Plan Conformance be approved by the Highlands Council. The approval should be conditioned upon satisfactory completion all items noted within Sections A through C of this Report (including all items addressed in the herein-referenced Highlands Council Staff-provided MSWord “Track-Changes” versions of the various Petition documents), and in addition, satisfaction of the below-listed requirements.

a. Adoption of Approved Checklist Ordinance. The municipality shall prepare and submit to the Highlands Council a draft “Checklist Ordinance” (model available) requiring that Development Applications be deemed incomplete by the reviewing board or applicable municipal authority, until or unless accompanied by: a) a Highlands Council Consistency Determination indicating that the application is consistent, or can and will be made consistent with the Regional Master Plan; or b) an NJDEP Highlands Applicability Determination indicating non-applicability. Upon receipt of Highlands Council approval, the Ordinance shall be prepared for purposes of public review and adoption by the municipal Governing Body. The Governing Body shall provide for and complete the adoption process, at the conclusion of which, a certified copy of the adopted Checklist Ordinance shall be provided to the Highlands Council with notice of its effective date. The process of ordinance adoption shall be conducted in accordance with all legal requirements and protocols pursuant to the New Jersey Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), and shall be guided by the timeframes set forth in the Highlands Council-approved Highlands Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Checklist Ordinance, the proposed changes shall be submitted for review by the Highlands Council prior to adoption by the Governing Body. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption at the municipal level.

Note: The Checklist Ordinance is intended as an interim protection measure only, and should be repealed at the time of adoption of an approved Highlands Area Land Use Ordinance (completion and adoption of which is set forth at 1.d., below).

b. Adoption of Approved Highlands ERI. The Highlands Environmental Resource Inventory (ERI) shall be completed in accordance with the requirements of Section

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B3 of this Report and submitted to the Highlands Council for final approval. Upon receipt of final Highlands Council approval, the ERI shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The municipal Environmental Commission (or Planning Board in the absence of an Environmental Commission) shall provide for and complete the required process of formal adoption of the ERI by the local Commission or Board. At the conclusion of the process, a certified copy of the adopted ERI shall be provided to the Highlands Council. The process of ERI adoption shall be conducted in accordance with all applicable legal requirements and protocols, and shall be guided by the timeframes set forth in the Highlands Council-approved Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the ERI, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the local Commission or Board.

- c. Adoption of Approved Master Plan Highlands Element.** The Master Plan Highlands Element shall be completed in accordance with the requirements of Section B4 of this Report and submitted to the Highlands Council for final approval. Upon receipt of final Highlands Council approval, the Highlands Element shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The municipal Planning Board shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Element by the municipal Planning Board. At the conclusion of the process, a certified copy of the adopted Highlands Element shall be provided to the Highlands Council. The process of Highlands Element adoption shall be conducted in accordance with all applicable legal requirements and protocols, and shall be guided by the timeframes set forth in the Highlands Council-approved Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Highlands Element, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the local Planning Board.
- d. Adoption of Approved Highlands Area Land Use Ordinance.** The Highlands Area Land Use Ordinance shall be completed in accordance with the requirements of Section B5 of this Report, and submitted to the Highlands Council for final approval. Upon receipt of final Highlands Council approval, the Highlands Area Land Use Ordinance shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. After the municipal Planning Board has adopted the Master Plan Highlands Element, the municipal Governing Body shall arrange for the required

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process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Area Land Use Ordinance by the municipal Governing Body. At the conclusion of the process, a certified copy of the adopted Highlands Area Land Use Ordinance shall be provided to the Highlands Council with notice of its effective date. The process of Highlands Area Land Use Ordinance adoption shall be conducted in accordance with all legal requirements and protocols pursuant to the New Jersey Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), and shall be guided by the timeframes set forth in the Highlands Council-approved Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Highlands Area Land Use Ordinance, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the Governing Body.

- i. Municipal Exemption Determinations.** As a component of the Highlands Area Land Use Ordinance, the Township shall provide for “Municipal Exemption Determinations” in accordance with NJDEP delegation in the Preservation Area. (NOTE: NJDEP currently does not have a delegation program, but has announced its intention to provide for one. Until formalized, the provisions in the Highlands Land Use Ordinance are provisional.) Such determinations (detailed within the current draft Ordinance) refer to the process of reviewing and making determinations concerning exemptions from the Highlands Act, which in turn, represent exemptions from the provisions of the Highlands Area Land Use Ordinance. The effective date of such provisions shall occur only after the municipality indicates readiness to proceed and receives written authorization from the Highlands Council or the NJDEP, respectively, granting it the authority to do so.
- ii. Highlands Council Information and Training Sessions.** Prior to the effective date of the Highlands Area Land Use Ordinance, municipal representatives (e.g., Land Use Administrators, Zoning Officials, Planners) shall attend information and training session(s) to be provided by the Highlands Council on the implementation and administrative procedures set forth within the Ordinance. Such sessions will provide detailed instruction on application processes and procedures, notice requirements, Highlands Council referrals and call-up provisions, decision-making and formal action, variances, waivers, exceptions, the implications of Preservation Area exemptions, and enforcement activities.
- e. Adoption of Updated Zoning Map.** The Township shall prepare an updated Municipal Zoning Map which shall be adopted immediately following or at the time

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of adoption of the Highlands Area Land Use Ordinance, to reflect the new overlay Highlands Zones and Sub-Zones. The adoption process shall mirror that outlined above for the Highlands Area Land Use Ordinance.

- f. Approval of Housing Element & Fair Share Plan.** The Housing Element and Fair Share Plan has been submitted for approval to the Council on Affordable Housing. The Highlands Council shall be copied on all related correspondence and kept apprised of the process as it unfolds. Any subsequent revision to the Housing Element and Fair Share Plan shall be provided to the Highlands Council for review and approval prior to implementation by the municipality. Until and unless the municipality secures final approval of a Highlands Council-approved (as RMP consistent) Housing Element and Fair Share Plan, this Plan Conformance component shall remain a conditionally approved item. (In recognition of significant changes in the applicable Housing Rules and State laws pertaining to the provision of affordable housing in the state of New Jersey, as discussed above, these requirements shall be considered subject to modification, with the intent being only to ensure that the municipality remains in compliance with all applicable statutes, rules, regulations and requirements regarding affordable housing, at any given time, and maintains consistency with the RMP, so as to protect the municipality from legal challenge.)
- g. Adoption of Ordinances Implementing Fair Share Plan.** Governing Body adoption of Ordinances required to implement the Fair Share Plan shall follow approval of the Housing Element and Fair Share Plan, in accordance with all requirements, as applicable, and all legal requirements and protocols pertaining thereto. Plan implementation and continued compliance with the final approved Fair Share Plan moreover, shall be a condition of continued Plan Conformance approval, subject to Highlands Council review and monitoring.
- h. Wastewater Management Plan (WMP).** The municipality shall prepare a Wastewater Management Plan working with the Highlands Council under Plan Conformance, for approval by the NJDEP. This plan will be in accordance with NJDEP Administrative Order 2010-03 and all applicable NJDEP rules and requirements.
- i. Adherence to Approved Highlands Implementation Plan & Schedule.** The municipality shall undertake to complete all remaining mandatory Plan Conformance activities listed in the Highlands Council-approved Highlands Implementation Plan & Schedule, in accordance with: a) the timeframes set forth therein, to the maximum extent feasible and practicable, or with such adjusted timeframes as may be authorized by the Highlands Council or otherwise mutually agreed by the municipality and the Highlands Council; and b) the availability of funding from the Highlands Council or, on a voluntary basis, by the municipality or other party, to ensure the satisfactory completion of each project or activity, or each

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phase of such project or activity, as appropriate. Non-mandatory Plan Conformance activities shall neither take precedence over nor shall impede the completion of mandatory items and shall be undertaken only as time and resources are available to support them.

i. Development/Approval of Implementation Plan Components.

Within the constraints above, all planning, regulatory, and resource management documents shall be prepared and provided to the Highlands Council for review and approval prior to formal adoption by the applicable municipal board, commission, or governing body.

ii. Adoption of Regulations Implementing Plan Components. All ordinances, rules, and regulations shall be prepared and provided to the Highlands Council for review and approval prior to formal adoption by the applicable municipal board, commission, or governing body.

iii. Mandatory Components. Specific mandatory components include development and implementation of the plans/programs/ordinances herein listed (once models have been provided by the Highlands Council, if applicable, and funding provided), all intended as municipal-wide, long-term initiatives unless specifically noted otherwise. Where applicable and appropriate, these will build upon any such plans, programs, or ordinances that have already been developed or adopted by the municipality. It is the explicit intention of the Highlands Council that such plans/programs be developed in a manner to ensure that implementation is both feasible and practicable, potentially involving assistance of outside agencies/organizations, working cooperatively for and with the municipality. In each case where the municipality will serve as lead, release of funds is contingent upon approval of a scope of work by the Highlands Council Executive Director.

- Habitat Conservation & Management Plan - Funding is proposed for development of a plan to identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts of public and private projects.
- Lake Restoration Management Plan
- Stormwater Management Plan (Updates Only)
- Land Preservation and Stewardship Program
- Agricultural Retention Plan - Funding is proposed for development of an Agricultural Retention Plan which will build on the work accomplished for the Township's 2008 Farmland Preservation Plan. The Township will investigate strategies devised to retain and sustain the agricultural economy of the municipality and the larger

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region. The Plan will outline implementation actions intended to support sustainable agriculture and ancillary businesses that are an important component of the local economy.

- Sustainable Economic Development Planning – Funding is proposed for development of a Sustainable Economic Development Plan for the Township. A component of the Plan will be an investigation of redevelopment opportunities throughout the Township.
- Septic System Management/Maintenance Plan
- Implementing ordinances associated with each of the above (long-term, as applicable). Please note also, that the (already adopted) Township Right to Farm ordinance requires review for consistency with the Right to Farm Act.

iv. Non-Mandatory Components: The Highlands Implementation Plan and Schedule also provides for certain non-mandatory components including development and implementation of the plans herein listed, all intended as municipal-wide, long-term initiatives unless specifically noted otherwise. Where applicable and appropriate, these will build upon any such plans, programs, or ordinances that have already been developed or adopted by the municipality. It is the explicit intention of the Highlands Council that such plans be developed in a manner to ensure that implementation is both feasible and practicable, potentially involving assistance of outside agencies/organizations, working cooperatively for and with the municipality. In each case where the municipality will serve as lead, release of funds is contingent upon approval of a scope of work by the Highlands Council Executive Director.

- Stream Corridor Protection/Restoration Plan – Funding is proposed for development of plans to protect/restore critical stream reaches in the Township.

j. Revisions/Amendments Subject to Highlands Council Approval. Any proposed revision or amendment to any of the aforementioned documents, or to any other document, plan, or other item approved by the Highlands Council as a component of Plan Conformance, shall be provided to the Highlands Council for review. In the event the Highlands Council staff determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the applicable municipal board, commission, or governing body. Any revision or amendment adopted without the approval of the Highlands Council may subject the municipality to revocation of Plan Conformance approval.

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E. MUNICIPAL RESPONSE PERIOD

The Highlands Council provided a Draft Consistency Review and Recommendations Report dated December 21, 2011, to the municipality on January 6, 2012. The Municipal Response Period expired on February 6, 2012. The municipality provided deliberative new, revised, supplemental, or amended materials, items, or information in support of the Petition for Plan Conformance, prior to expiration of that Period, for Highlands Council consideration.

The Municipal Response submittals included the items listed below, each described and discussed in relation to the matter of consistency with the Regional Master Plan and sufficiency to meet the requirements for Plan Conformance.

1. Summary Response Document – Listing of all proposed revision items; explanatory narrative; and inquiries to Highlands Council.
2. Harmony Township Draft Highlands Master Plan Element – Revisions addressed previous Highlands Council edits and proposed minor modifications bringing the document closer to completion and into full compliance with Plan Conformance requirements.
3. Harmony Township Draft Highlands Area Land Use Ordinance – Revisions addressed previous Highlands Council edits and proposed minor modifications bringing the document closer to completion and into full compliance with Plan Conformance requirements.

F. COMMENTS FROM THE PUBLIC

The Final Draft Consistency Review and Recommendations Report was posted to the Highlands Council website and made available (in paper format) at the Highlands Council offices in Chester, NJ, for review and comment by the general public.

Several comments were received during the period established by the Highlands Council for receipt of written public comment (March 27, 2012 – April 23, 2012). The comment/response document is attached to this document, at Appendix A.

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G. FINAL RECOMMENDATIONS

Based upon the comments received, the recommendations of Highlands Council Staff concerning the Petition for Plan Conformance of the Township of Harmony remain unchanged.

In conclusion, the Highlands Council Staff recommends that the Petition for Plan Conformance of the Township of Harmony, be approved with conditions; with all applicable conditions being those listed and discussed in Section D, above, and if applicable, as supplemented and/or modified by the revisions discussed herein, above.

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APPENDIX A

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

Petition for Plan Conformance

Township of Harmony, Warren County

Public Comment Period: March 28, 2012 – April 23, 2012

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PUBLIC COMMENTS RECEIVED

Written comments regarding Harmony’s Petition for Plan Conformance were accepted by the Highlands Council through the close of the Public Comment period on April 23, 2012. Comments were provided by the following individuals:

1. Erica Van Auken, on behalf of the Highlands Coalition
2. Helen Heinrich, on behalf of the New Jersey Farm Bureau

The comments are summarized below with Highlands Council responses provided.

PUBLIC COMMENT/RESPONSE SUMMARY

Comment: The New Jersey Highlands Coalition supports Harmony Township’s Petition for Plan Conformance. The Coalition appreciates the Township’s initiative to implement the non-mandatory Stream Corridor Restoration and Protection Plan. Further, the Coalition strongly urges the Township to consider conforming its Planning Area and points out that the Township has many valuable environmental and historic Highlands Resources – many of which are constrained – and should seriously consider conforming its Planning Area to address additional non-mandatory components of the Regional Master Plan. In general, the Coalition is looking forward to seeing what the Council and the Township are able to achieve through Plan Conformance.

Response: The Highlands Council acknowledges the Coalition’s support for Harmony’s Petition for Plan Conformance.

Comment: The New Jersey Farm Bureau expressed concern that since Harmony Township is only conforming for the Preservation Area, farms in the Planning Area may not receive the same priority level.

Response: The Highlands Council acknowledges the NJ Farm Bureau’s concern and has included, as part of the Highlands Implementation Plan and Schedule, funding for an Agricultural Retention Plan which would build on the work accomplished in the Township’s 2008 Farmland Preservation Plan. The Agricultural Retention Plan will be developed for the entire Township and is expected to investigate strategies for retaining and sustaining the agricultural economy of the municipality and the larger region. The Plan will also outline implementation actions intended to support sustainable agriculture and ancillary businesses that are an important component of the local economy.

Comment: The New Jersey Farm Bureau expressed support for the condition that the Township update its Right to Farm Act.

Comment: The New Jersey Farm Bureau expressed concern that the definitions of “farm” and “agricultural or horticultural development” in the draft Highlands Area Land Use Ordinance may not match those specified in the Highlands Regional Master Plan. Acknowledging that the same issues have been raised during previous public comments, the Bureau indicates that the Draft Land Use Ordinance at Section 6.10.3 does not have adequate protections for farm activities within the Township and the Ordinance refers a reader to Chapter 165 of the existing Harmony Zoning Code which is unavailable for review online.

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Response: Municipalities have certain discretion within the existing State statutes regarding agricultural developments. Please note that Article 3 of the draft Highlands Area Land Use Ordinance specifically includes Highlands Act definitions for “farm management unit” and “agricultural and horticultural development.” Section 6.10.3 applies only to those agricultural developments for which an exemption or exclusion does not apply. The municipality is permitted to set forth the uses and bulk requirements that apply and has properly done so by reference to the existing Township Zoning Code. Significantly, the section is prefaced by the caveat that applicability is limited solely “to the extent not in conflict with or overridden by other provisions of this [Highlands Area Land Use] Ordinance.” (Please note that the most recent version of the Township Code is available on-line at <http://www.ecode360.com/HA1060#HA1060>. The site may also be accessed via the Township’s website; a link is available on the home page at the bottom left.)

In addition to all Highlands Act exemptions, it should be noted that the Highlands Area Land Use Ordinance provides an important exclusion for agricultural and horticultural use and development, as follows (see § 2.1.1): “Unless specifically indicated otherwise, and in that case only to the specific extent indicated, the provisions of this Ordinance shall not apply to Agricultural or Horticultural Use and Development (as defined at § 3.2).” The provisions that are “specifically indicated otherwise,” consist primarily of those discussed in the Highlands Area Land Use Ordinance at § 6.10, regarding agricultural development that exceeds the thresholds of new impervious surfaces established by the Highlands Act.

Comment: The New Jersey Farm Bureau expressed a desire to ensure that municipal planners, working toward plan conformance, align local plans with the elements of the Regional Master Plan that are supportive of the agricultural industry.

Response: The Highlands Council acknowledges the New Jersey Farm Bureau’s comment and will work with Harmony Township’s planners to ensure all aspects of the Regional Master Plan are aligned with municipal actions.

Comment: The New Jersey Farm Bureau pointed out that there are many acres of prime soil located in the Preservation Area and hoped that when additional farmland preservation funds are available these properties would receive a high priority by the Township and the Warren County Agriculture Development Board.

Response: The Highlands Council acknowledges the New Jersey Farm Bureau’s comment and will share it with the appropriate entities.