

**MEMORANDUM OF AGREEMENT
BETWEEN
THE STATE AGRICULTURE DEVELOPMENT COMMITTEE
AND
THE PINELANDS COMMISSION**

This Memorandum of Agreement is made between the New Jersey Pinelands Commission and the State Agriculture Development Committee.

WHEREAS, the purpose of this Agreement is to set forth the procedures to be followed and the responsibilities of each of the signatories with respect to the purchase and retirement of PDCs allocated to lands being subjected to farmland development easements by the SADC;

WHEREAS, the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-1.1 et seq.) adopted pursuant to the Pinelands Protection Act, P.L. 1979, c. 111 (C.13:18A-1 et seq.) allocates Pinelands Development Credits (hereinafter "PDCs") to certain lands in the Preservation Area District, the Agricultural Production Area and the Special Agricultural Production Area of the Pinelands Area (N.J.A.C. 7:50-4.71 et seq.); and

WHEREAS, the Pinelands Commission issues Letters of Interpretation as to its determination of the number of PDCs allocated to an individual parcel pursuant to N.J.A.C. 7:50-4.71 et seq.; and

WHEREAS, the State Agriculture Development Committee (hereinafter "SADC") was established pursuant to the Right to Farm Act, P.L. 1983, c.31 (N.J.S.A. 4:1C-11 et seq.) to promote the interests of productive agriculture and farmland retention; and

WHEREAS, SADC is authorized to acquire farmland and farmland development easements and all of the appurtenant non-agricultural development rights and development credits and to provide cost share grants to Counties to acquire farmland, farmland development easements and non-agricultural development rights and development credits within the Pinelands; and

WHEREAS, the State of New Jersey has appropriated monies for the purchase of Pinelands Development Credits for Fiscal Years 2000 and 2001; and

WHEREAS, the Pinelands Commission has entered into a Memorandum of Agreement with the New Jersey Department of Environmental Protection and the Pinelands Development Credit Bank, attached hereunto as Appendix A, which requires the Pinelands Commission to prepare a spending plan for the purchase of Pinelands Development Credits for submission to the Commissioner of the Department of Environmental Protection for its submission to and for the approval of the Director of the Division of Budget and Accounting, Department of Treasury; and

WHEREAS, the SADC and the Commission desire to establish a program whereby the Commission

shall provide the SADC with up to four million dollars that was transferred to the Pinelands Commission in fiscal year 2001 pursuant to the spending plan that was submitted by the DEP to Treasury, as set forth more fully in Appendix A, to fund the purchase and retirement of PDCs allocated to lands being SADC or being subjected to farmland development easements by the SADC.

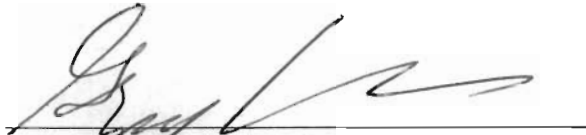
NOW, THEREFORE, the parties agree to the following:

1. For Fiscal Year 2002, the SADC shall initially allocate the sum of up to \$9.0 million to be used to purchase farmland and farmland development easements within the Pinelands for farmland to which PDCs are allocated pursuant to the provisions of the Pinelands Comprehensive Management Plan (CMP) at N.J.A.C. 7:50-5.41 et seq. To the extent authorized by the spending plan prepared pursuant to Appendix A, the Pinelands Commission shall make up to \$4 million from Fiscal Year 2001 available to purchase the PDCs allocated to farms for which the SADC is acquiring the development easements.
2. The number of PDCs allocated to each farm selected by the SADC for preservation shall be determined by the Commission in accordance with the provisions of the CMP at N.J.A.C. 7:50-5.41 et seq.
3. Farmland development easements within the Pinelands for farmland to which PDCs are allocated pursuant to the provisions of the CMP shall be acquired by the SADC pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq. and the regulations promulgated thereunder.
4. The purchase price for the PDCs applicable to each farmland development easement to be paid by the Commission shall be determined pursuant to the provisions of the CMP at N.J.A.C. 7:50-5.54.
5. The amount of funds to be provided to the SADC by the Commission to pay for the PDCs for each farmland preservation easement shall not exceed the value of the PDCs as determined by the Commission.
6. In the event that a landowner agrees to accept an amount less than the value of the farmland development easement applicable to his farm as certified by the SADC, the difference between the certified value and the accepted amount shall be shared by the SADC and the Commission in proportion to the certified value of the farmland development easement and the value of the PDCs.
7. No PDC that is acquired or obtained in connection with the acquisition of a development easement on farmland by the State, using constitutionally dedicated moneys in whole or in part or with monies appropriated for the Pinelands Development Credit Purchase Program established pursuant to the CMP at N.J.A.C. 7:50-5.51 et seq., shall be transferred, sold, conveyed, redeemed or otherwise used in any way. All such Pinelands development credits

shall be retired permanently.


8. Title to be conveyed to the SADC on all farmland development easements shall be consistent with SADC requirements governing title and closing procedures as set forth in N.J.S.A. 13:8C-1 et seq. and N.J.S.A. 4:1C et seq.
9. For all transactions utilizing monies contributed by the Commission for the purchase and retirement of PDCs, the SADC shall review the easement to be placed upon the property to ensure that the easement contains the restrictions necessary to comply with the requirements of the CMP at N.J.A.C. 7:50-5.47 in addition to the restrictions required by the Agriculture Retention and Development Act. For these transactions, the easement to be placed upon the property from which PDCs are purchased by the SADC shall be in favor of the SADC and the State of New Jersey, Pinelands Commission and shall be expressly enforceable by both entities.
10. Funds for the purchase of PDCs for each farmland development easement shall be transferred from the Commission to the SADC at least 15 days prior to closing of title by the SADC. Such funds shall be provided in the form of a check payable to the SADC. If the closing of title does not occur within 30 days of receipt of the funds, the SADC shall return the funds to the Commission.
11. Farmland development easements within the Pinelands Area for which PDCs are allocated in accordance with the provisions of the CMP, to be acquired pursuant to this MOA shall be subject to prior approval of the Garden State Preservation Trust.
12. The acquisition of farmland development easements within the Pinelands Area for which PDCs are allocated in accordance with the provisions of the CMP, pursuant to this MOA shall be subject to the appropriation of funds for each acquisition by the New Jersey Legislature and approval by the Governor. The proportionate share of any lands from which PDCs are purchased by the SADC with monies appropriated by the State of New Jersey for the Pinelands Development Credit Purchase Program shall be attributed to the Department of Environmental Protection as preserved farmland.
13. The SADC shall provide notice to the Pinelands Commission and the Pinelands Development Credit Bank of all PDCs retired in accordance with this MOA. The notice to the Pinelands Development Credit Bank shall include: a copy of the Letter of Interpretation allocating the PDCs to the parcel in question; the name of the property owner; and the acreage that is subject to a development easement.
14. In accordance with N.J.S.A. 13:18A-5(h) and N.J.S.A. 4:1C-4(f), this MOA shall take effect subsequent to the Governor's approval of the Minutes of the Commission and SADC authorizing the entry of this MOA and upon signature of the authorized representatives of the parties.

15. None of the up to 4 million dollars being provided hereunder to SADC for the retirement of PDC's from the monies transferred to the Pinelands Commission in fiscal year 2001 for this purpose may be used to satisfy any local matching funds requirement.
16. This agreement shall remain in effect unless amended by formal action by all parties. Any amendment will take effect subsequent to the Governor's approval of the Minutes of the Commission and SADC authorizing the entry of this MOA and upon signature of the authorized representatives of the parties.



Gregory Romano, Executive Director
State Agriculture Development Committee

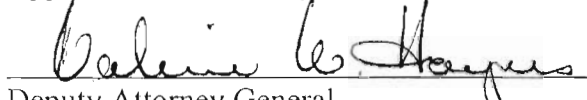
Date: 9-28-01



Annette M. Barbaccia, Executive Director
New Jersey Pinelands Commission

Date: 10/9/01

Approved as to form by:



Deputy Attorney General
State of New Jersey

Date: 10/9/01

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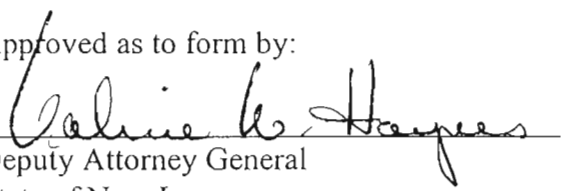
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