

TO: Caroline Armstrong, Green Acres Program

DATE: August 19, 2016

RE: Hudson County, North Bergen Township  
Braddock Park (Block 437.02, Lot 1)  
Pre-K School Trailers Diversion of Green Acres-Encumbered Parkland  
State House Commission (SHC) #s 0900005, 0908003  
Response to "April 12, 2016, Pre-Application Completeness Review, Part 1"

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This response to the Green Acres Program staff's initial review of the application SHC # 0900005 and SHC # 0908003 has been prepared jointly by Hudson County and North Bergen Township. The applicants have been requested to provide additional information as documented below. We understand that Green Acres Program staff will review the enclosed response with the original pre-application, and identify any remaining information that must be submitted to deem the application complete.

Responses follow Green Acres Program staff's format, with Green Acres's comment list in *italics*.

1. *Existing and proposed diversion – The diverted area as mapped appears to consist of approximately 1.17 acres, comprising exclusively the existing Pre-K school trailers. However, there are several other areas of concern that may increase the size of the diversion, as noted herein:*

**RESPONSE:** The diverted area, consisting of 1.17 acres, is comprised of the existing Pre-K school trailers and the existing paved access way in front of the Temporary Classroom Units (TCUs). More information clarifying each of the areas of concern raised is detailed in the responses that follow.

- a. *Tot Lot – There is a fenced off tot lot, immediately adjacent to the parking lot closest to the school trailers, which we understand is used for school purposes. If it is unavailable for general public use, it must be considered part of the diversion and justification must be provided as to why it cannot be a shared park facility.*

**RESPONSE:** The Tot Lot, identified on the Diversion Site Survey submitted with the original application as "Play Area," is a fenced-off area measuring approximately 0.086 acres. The Tot Lot has been and will continue to remain available for general public use as a shared park facility when preschool is not in session, and therefore, it should not be considered part of the diversion. Current access to the Tot Lot is consistent with other amenities within the Township's lease hold at Braddock Park, such as the athletic field and spectator viewing stands. The Tot Lot was built and equipped by the North Bergen Board of Education (hereinafter referred to as the "Board"). The Board has maintained and improved the play equipment on the parcel and will continue to do so to ensure park amenities remain in a good state of repair for preschool and general public use. The Board provides for general public use of the Tot Lot as a shared park facility.

- b. *Septic holding tank and future sewer connection – The Pre-application references a septic holding tank serving the school trailers and located outside of the diverted property. (Environmental Assessment Report, Diverted Property, p. 2 of 28) Please submit information showing the location of the holding tank. It appears that this tank must be included as part of the diversion, unless there is official documentation that the tank is used not only for school purposes, but also park purposes. The Pre-application makes reference to shared use of the tank being the intent in the future, but we need more information before*

*making a determination about this structure. Similarly, the application notes that future plans are to make a direct connection to the North Bergen MUA sewer system, to benefit both the Pre-School facility and the track and field facility adjacent to it. Please provide official documentation (such as, for example, an adopted wastewater management plan) demonstrating that the septic holding tank and any future sewer connection located outside of the diverted area will benefit not only the school facility but also park facilities. Otherwise, these areas must be included in the application for a diversion (and the Land and Water Conservation Fund conversion application).*

**RESPONSE:** What was previously referred to as a septic holding tank should be more accurately referred to as a pump station wet well. The pump station wet well which pre-exists the placement of the Pre-K Temporary Classroom Units (TCUs) at Braddock Park, is located within North Bergen Township's leasehold at Bruin Stadium. The wet well is located directly to the west of the track oval, adjacent to the existing restroom structures which serve the soccer and football fields, track oval and exercise trail. The wet well is regularly maintained by the North Bergen Department of Parks and Recreation. The location of the wet well is indicated on the "County Park Brochure Amenities Map" attached in Appendix A. The station which receives park recreation as well as Pre-K sewage flow is already directly connected to the municipal sewer on Bergenline Avenue. When the level in the tank gets to a pre-set depth, a pump sends all flow out of a force main which extends from the field, across a parking lot, the park road, and a green area to discharge into the main on Bergenline Avenue. At no point in time is there any discharge into the soil or groundwater. Accordingly, the engineer for the North Bergen MUA has provided official documentation in the form of a "Sewer Connection Confirmation Letter" and "Wastewater Management Plan," both attached in Appendix B.

- c. *Paved Driveway/Walkway - The existing paved area in front of the school trailers appears to be intended exclusively for school use and must therefore be included in the diverted area. It is difficult to tell from the maps submitted with the Pre-application whether the diverted area is inclusive of this paved area.*

**RESPONSE:** The existing paved access way in front of the school trailers serves as a walking path and provides vehicular access at appropriate times for maintenance or emergency vehicles. This path is included in the diverted 1.17 acre area as defined in the original pre-application submittal. The walkway directly in front of the Tot Lot provides access to the Tot Lot, which is available for general public use, and is therefore not included in the diversion. A "Revised Diversion Map" is attached in Appendix C to clarify the boundaries of the diverted area, inclusive of the paved area in front of the school trailers.

- d. *Permanent modular school – If a permanent modular school is under consideration, please confirm that the footprint would not necessitate additional diverted property.*

**RESPONSE:** A permanent modular school is not under consideration. The Board is pursuing a joint effort with North Bergen Township and the County of Hudson to purchase or lease the Hudson County High Tech High School (HCST) properties in North Bergen (Block 458.01 Lot 1 and Block 458 Lot 1). A resolution from the Hudson County Board of Chosen Freeholders authorizing a "Memorandum of Understanding" between HCST, the Board and the Township is enclosed with this response in Appendix D to demonstrate that the parties are working together to evaluate the feasibility of purchasing or leasing the HCST site once the scheduled relocation of the high school to Secaucus is completed. The anticipated date of occupancy is September 2018. Both the County of Hudson and the Township have engaged independent agencies to complete appraisals, cost estimates, feasibility studies and other preliminary tasks associated

with determining the viability of this proposal as the quickest and most cost effective alternative to remaining at Braddock Park.

- e. *Entrance drive* – Please confirm whether there are plans to widen the entrance drive to the parking lot that the school personnel currently use. If so, please indicate the reason for said widening and whether it is for school use and/or for park users. If for school use solely or principally, this improvement will be considered a diversion and must be added to the proposed diverted area.

**RESPONSE:** The entrance drive to the parking lot is utilized by school personnel and visitors, as well as other park users and those accessing the sports amenities within the Township’s leasehold, such as the track, field, bleachers, tot lot, and soccer fields. It is therefore not considered part of the proposed diverted area. The Board provides personnel in this driveway while the Pre-K is in session in order to create a safe environment for personnel, students, parents and other visitors to the Pre-K facility. In addition, the Township provides paid crossing guards to facilitate the flow of pedestrian and vehicle traffic entering and exiting the area. To date, no incidents or accidents have been reported. The Board has no plans to widen the entrance drive as it provides adequate access to the parking lot for Pre-K drop-off/pick-up and other recreational amenities available for general public use within the Township’s leasehold. To ensure the safety of Pre-K students and personnel, the paved access way in front of the TCUs is reserved solely for the use of buses, cars with handicap plates, and emergency vehicles. Documentation about the safety procedures policing the entrance drive, in the form of a “Letter to Pre-K Parents,” is enclosed with this response in Appendix E.

- f. *Proposed replacement land* – While the scope of the proposed diversion should not exceed the minimum area actually needed for (and exclusively used by) the current school facilities, please be reminded that any increase in the proposed diverted area will require additional compensation. To that end, this office will have comments on the proposed replacement land, but withholds comment at this time until the items in this email are adequately addressed and a site visit to inspect the proposed replacement land is conducted.

**RESPONSE:** No additional parkland diversion is under consideration.

2. *Alternatives Analysis* – Please provide a full alternatives analysis for each of the below alternatives, referring to the Pre-application requirements and to the Green Acres rules for guidance on content (N.J.A.C. 7:36-26.9(e)). Additional comments specific to each alternative are noted below.

**RESPONSE:** A full alternatives analysis for each of the listed alternatives is enclosed with this response. Responses to the additional comments specific to each alternative are included below. A “Letter from the Board’s Counsel” regarding the alternatives considered is enclosed in Appendix F.

- a. *Alternatives raised by the public* – Our rules require the applicants to provide a complete analysis of all alternatives raised by the public during the scoping hearing and the two week written public comment period following the scoping hearing. The Pre-application states that none of the alternatives raised by the public were found to be either feasible, reasonable or available but only provides cursory information about four such sites. A full analysis of all alternatives suggested by the public must be completed in order to demonstrate why they are neither feasible, reasonable nor available. Please provide the information required for the alternatives analysis as outlined in the Diversion Pre-application form and our rules governing what constitutes “not feasible,” “not reasonable,”

or “not available” to ensure that your responses are complete and contain the requisite information (N.J.A.C. 7:36-26.9(e)).

**RESPONSE:** A full analysis of all alternative sites suggested by the public is enclosed in order to demonstrate why they are not feasible, reasonable and/or available.

b. 64th Street, Block 205 Lot 30 – The cost analysis comparing school construction on Block 205 Lot 30, together with three additional parcels (Block 205 Lots 25, 78 and 81) to the school construction at Braddock Park needs further clarification, as follows:

i. *The immediate capital cost to relocate to 64th Street is estimated to be \$13 million versus \$0 at Braddock Park. Please explain why the school trailers could not be relocated to 64th Street, eliminating the need for incurring \$13 million in immediate capital costs. Please note that it was our understanding that the TCUs are not safe to relocate due to their age and by association, presumably, their condition, but if that is the case, this information must be clarified and further explained in writing.*

**RESPONSE:** The relocation of the TCUs is not feasible as per NJAC 7:36-26.9(e)1i as this task cannot be carried out using sound engineering principles and practices and not reasonable as per NJAC 7:36-26.9(e)2iii as moving the units would cause extraordinary operational or safety problems. The TCUs have been in service beyond the normal life expectancy for this type of structure. Therefore, relocating them to another site is not feasible. The TCUs were originally located in North Bergen in August 2001 and are currently 15 years old. TCUs are typically leased for five years with an anticipated life span that is based upon salvageable components such as the roof, unit ventilation system, T1-11 sheathing, floor framing and steel under carriage, windows, doors, and other features. Depreciation charts indicate 80% depreciation of mobile units after the 15th year of use, after which the value of salvageable components remains at 20%. Major components of the TCUs have had to be repaired within the last five years, consistent with the depreciation projections and to ensure safe occupancy. As the TCUs have aged beyond their useful life, relocation of the units is not advisable. Further, many of the alternative sites raised are too narrow or small to accommodate TCUs, including the placement of single units, while also providing for essential facilities such as administrative and school nurse offices as are required by New Jersey Department of Education standards. As described in the enclosed “Alternatives Analysis,” the existing footprint of TCUs in Braddock Park cannot be replicated on any of the alternative sites or replacement parcels.

ii. *Please clarify whether the \$13 million is inclusive of a projected New Jersey Schools Development Authority (NJSDA) grant (which the North Bergen Board of Education (BOE) had applied for in 2013 according to correspondence from Grace Lynch on October 10, 2013) and if so, the amount of the grant. If it is not inclusive, please explain why you do not build in an assumption regarding an NJSDA grant or debt service aid in lieu of a grant, for the 64th Street site (or any other alternative site, for that matter).*

**RESPONSE:** The \$13 million capital cost to relocate to 64th Street is not inclusive of a grant from the New Jersey Schools Development Authority (NJSDA). There is no available NJSDA grant and no assurance of debt service to be applied to any calculation. The Board submitted a schematic Project Application on September 4, 2013 for consideration under the New Jersey Department of Education’s (NJ DOE) Grant Allocation 4 for School Facilities Projects in Regular Operating Districts (ROD Grants). The Project Application included the opportunity to request grant funding and the Board requested same for the construction of a new early childhood center at the 64th Street Rec Center site. The application scope and budget concerned only the construction of the

new building, with costs for land acquisition of adjacent parcels and site improvements to be filed under separate applications. As per the State's guidelines for ROD Grants, projects submitted for review were prioritized by the NJ DOE and ranked as Level 1, Level 2 or Level 3 projects. Due to limited funding available for disbursement in ROD Grant Allocation 4, not all levels were funded. Under the State's guidelines for ROD Grants, the proposed early childhood center was considered a Level 2 project. No Level 2 projects were funded under ROD Grant Allocation 4. To clarify the lack of funding for Level 2 projects, the Board contacted Dr. Gail Petricek of the New Jersey Department of Education's Office of School Facilities and Finance. Dr. Petricek confirmed that Level 2 projects in districts eligible for ROD Grants were not funded and that the NJ DOE did not send correspondence to Level 2 applicants notifying them that funding was not available. For these reasons, the Board did not build in an assumption of an NJSDA grant or debt service aid in lieu of a grant for the 64th Street site, or any alternative site.

- iii. *The Pre-application notes that of the \$13 million projected capital cost, \$4 million would be needed to acquire, remediate and develop land for parking and also to restore the Braddock Park site. Is the \$5.5 million in capital costs (not accounting for the NJSDA grant) associated with the construction of a permanent school at Braddock Park inclusive of not only development but also of any potential site remediation needed in connection with school construction?*

**RESPONSE:** No, the \$5.5 million in capital costs associated with the construction of a permanent school at Braddock Park is inclusive of development only. Costs for site clearing, acquisition, remediation, bringing in utilities, and developing properties for parking would not be necessary at the Braddock Park site. It is important to note that the cost analysis comparing school construction at Block 205 (Lots 25, 30, 78 and 81) is no longer applicable as the 64th Street site is no longer feasible or reasonable as an alternative. The potential sites for parking and vehicular access that would make the site a feasible and reasonable alternative are no longer available for acquisition. The Board is pursuing a joint effort with North Bergen Township and the County of Hudson to purchase or lease the Hudson County High Tech High School (HCST) properties in North Bergen (See Appendix D – "Memorandum of Understanding"). Both the County of Hudson and North Bergen Township have engaged independent agencies to complete appraisals, cost estimates, feasibility studies and other preliminary tasks associated with determining the viability of this proposal as the quickest and most cost effective alternative to remaining at Braddock Park.

- iv. *The cost of replacement land (based on its fair market value under the standards in our rules) should be included in the capital costs associated with remaining at Braddock Park.*

**RESPONSE:** At the time of the initial site feasibility studies and pre-application, the complete costs for replacement land were not developed. Such costs will be considered. According to Township records, the purchase price of the replacement property at 1811 Paterson Plank Road was \$1,675,000 as of September 24, 2014. The appraised value and purchase price of the replacement property on River Road is \$730,000. The 14th Street Viaduct property was located within the existing county-owned right-of-way, and its use as replacement land was the result of innovative incorporation of open space development during the reconstruction of the 14th Street Viaduct. There were no costs associated with acquiring this land as it was already owned by the County. Therefore, the total estimated cost of remaining at Braddock Park, inclusive of capital construction costs and acquisition costs for replacement land measuring 3.37 acres is \$7.905 million.

- v. *The Pre-application identifies the additional cost of bussing Pre-K school children to the 64th Street site. It is our understanding that busses are currently provided*

for transportation to the existing Pre-K school trailers. This existing cost should be factored into the Braddock Park equation as well to level the playing field.

**RESPONSE:** Bussing will be necessary at all potential sites considered. The additional consideration given to bussing costs estimated at \$96,000 annually is no longer being factored into the costs detailed in the alternatives analysis.

- vi. *Please forward copies of the schematic plans that had been previously reviewed by the BOE for siting the trailers and a permanent structure at the 64th Street location and determined to be unworkable.*

**RESPONSE:** For reasons noted above, development on this site is no longer considered feasible as land required is no longer available. As such, the schematics which described placement of several new TCUs at Block 205 Lot 30, are no longer applicable. Copies of the schematic plans that had been previously reviewed by the Board for siting the trailers and a permanent structure at the 64th Street location and determined to be unworkable are attached in Appendix G as "64th Street Schematic Plans."

- vii. *Members of the public have informed this office of some possible safety concerns at Braddock Park in the vicinity of the school trailers. These concerns include an encampment of close to a dozen individuals, discovery of two dead bodies in nearby park areas, issues pertaining to tree limbs having fallen on electrical wires serving the school trailers, causing a fire, and a narrow entrance road lacking sidewalks. Since safety issues were identified with respect to the 64th Street site as a principal basis for deeming it not feasible, reasonable or available, we would expect an equivalent analysis of safety concerns raised by the public concerning Braddock Park in the vicinity of the school trailers.*

**RESPONSE:** The North Bergen Police Department has been consulted in an effort to clarify the safety concerns at Braddock Park in the vicinity of the school trailers raised by members of the public. To address each of the items noted:

- **Encampment:** The referenced encampment no longer exists. The encampment was not on or near the diversion parcel. It was located downhill, beyond a border fence, and behind undergrowth that has since been removed. Before and after photographs of the site are enclosed in Appendix H as "Encampment Photos." To date, no other encampments have been reported in Braddock Park near the diverted parcel.
- **Discovery of Two Dead Bodies:** Chief of Police Robert J. Dowd of the North Bergen Police Department delivered testimony at the scoping hearing held on November 5, 2014 as part of this Diversion process. The transcript of the public meeting was enclosed with the original pre-application submittal. According to the testimony provided by Chief Dowd "a homeless gentleman passed away of natural causes, from what I am told, froze to death, and died probably of a combination of some alcohol and other things, in a wooded area, not inside Bruin Stadium, in a wooded area in the park..." (page 91). "I asked the Department Bureau of Criminal Investigations to do an analysis of violent crime in that area of the last five years, you will be happy to know the answer is zero. Zero incidents of violent crime inside that stadium in the last five years. The--it's probably zero even longer than that..." (page 91). "The fenced in location allows safety and security for a very vulnerable population, four and five year olds" (page 92).

The Chief further explained safety measures at the site during his testimony: “there are school board security on-site. North Bergen police department school resource officer unit routinely patrols the area (sic)...The area currently has a state-of-the-art CCTV camera... ...The totality of the location, the safeguards and the staff allow the Board of Education and the Police Department to deter criminal activity... I believe it is very safe” (page 92-93).

As per the testimony provided by Chief Dowd, no violent crimes posing a safety issue to young children or other park goers have been reported to have occurred in or around the Pre-K site. The discovery of a dead body was confirmed to be of natural causes, and not the result of violent crime in the vicinity of the preschool. Around the same time, a second dead body was discovered and the Hudson County Sherriff’s Office determined the cause of death to be self-inflicted. Documentation of these claims is provided by the North Bergen Police Department in Appendix I as “Letter from North Bergen Police Department.”

- Downed Tree Limbs: In late October 2012, Hurricane Sandy made landfall in New Jersey. During the storm, limbs from trees located beyond the perimeter fence near the Pre-K fell onto electrical wires, resulting in a fire. The Pre-K was not occupied at the time as the Board closed all Township schools in advance of the storm as a safety precaution. Following Hurricane Sandy, the Board replaced two trailers and repaired damage to paving, fencing, the Tot Lot and landscaping features. Braddock Park suffered the loss of many trees, including established trees, during Sandy.

According to testimony provided by Chief Dowd at the scoping hearing, “...the fire was a result of Super Storm Sandy...It was one of a multitude of fires that occurred in the township...that fire was the result of a snapped power line that landed on the roof of that trailer... but for the introduction of a high voltage wire, that would have never happened” (page 91).

Following Hurricane Sandy, undergrowth between trees was cut down and/or removed from the slope outside the perimeter fence, between the Pond and the Township’s leasehold perimeter fence (behind the Pre-K trailers).

- Entrance Road: The entrance road linking the shared parking lot to the park drive is staffed during school drop-off and pick-up hours to facilitate the flow of vehicular and pedestrian traffic during drop-off and pick-up hours. There is pedestrian safety signage at the site to alert motorists to the presence of pedestrians. Pre-K staff, parents, and school buses utilize the entrance road during these hours. The Township of North Bergen provides paid crossing guards to facilitate the flow of pedestrian and vehicle traffic entering and exiting the area.
- c. Block 205 Lots 1 and 22- My March 22, 2013 correspondence to Mr. Pianese indicated that the Green Acres Program approved the removal of Block 205 Lot 30 from the North Bergen Township Recreation and Open Space Inventory (ROSI) based on submission of factual data demonstrating the Township had conveyed the property to the North Bergen Board of Education prior to its listing on the ROSI, and has not held any legal interest in the property ever since its sale. The letter further noted that Block 205 Lot 22, also owned by the BOE, did not appear to have been encumbered with Green Acres restrictions, despite its appearing on multiple ROSIs recorded by North Bergen Township in connection with various Green Acres Program funding applications. According to the deed transferring

ownership of property (which at the time consisted of today's Block 205, Lots 1, 22, 30 and 622.07) from North Bergen Township to the BOE (DB 3179 PG 973), only a building and the underlying land (corresponding either to the Recreation Center or else to the adjacent building) were excepted out. That same deed also reserves the rights of public ingress and egress through today's Block 205 Lots 1 and 622.07, both of which were additionally listed on numerous Township ROSIs, as well as Lot 22. Assuming the Township could successfully pursue a ROSI amendment for Lots 1, 22, and 622.07 (exclusive of the building on Lot 22 that was excepted out if used for public recreation/conservation purposes) as it did for Lot 30, please provide an alternatives analysis demonstrating whether use of Block 205, Lots 30 and 22 and if needed, Lots 1 and 622.07, is a feasible, reasonable or available alternative, including taking into account whether the loss of a ballfield (serving the Lincoln School?) could be offset by the existing fields across the street on property held by the Township (Block 221 Lot 10). Please be sure to take into consideration whether acquisition of Lots 25, 78 and 81 (which was considered by the BOE prior to submission of the diversion Pre-application) in conjunction with Block 205 Lot 30 or any other parcel could be avoided by pursuing this alternative. To this end, a prior concept plan, prepared by Grace Lynch and dated 12-29-11, shows a layout consisting of Lots 30, 22, along with a portion of Lot 81 and part of Lot 67 as a possible alternative. Please re-analyze this alternative, documenting why it is neither feasible, reasonable, nor available today (again, in the context of how those terms are defined in our rules.)

**RESPONSE:** The ballfield located at 64th Street (Block 205 Lot 30) is not a reasonable alternative. Block 205 Lot 30 is not reasonable as per NJAC 7:36-26.9(e)2v as it would create unique problems, specifically the loss of irreplaceable community resources. The field at Block 205 Lot 30 and the fields across the street at Block 221 Lot 10 are heavily utilized by the North Bergen Parks & Recreation Department as the site of regularly scheduled practices and games necessary for organized youth athletic programming. The field at Block 205 Lot 30 and fields across the street at Block represent half (3 of 6) baseball/softball fields located within North Bergen and half (1 of 2) soccer fields located within North Bergen. There are more than 8,000 children ages 5 to 16 in North Bergen that are eligible to participate in Township recreation programs who would be negatively impacted by the reduction in public health benefits resulting from removal of the athletic fields. Other park features located at Block 205, including a play area and dog run, are frequented by many of the more than 62,000 residents of North Bergen Township. Removal of this heavily utilized and fully developed community facility would result in an adverse impact of an extraordinary magnitude on public health, especially for the 24% of North Bergen youth who live below the federal poverty line. Construction of a preschool at this location would constitute an extraordinary burden to the community.

- d. Hudson County High Tech High School properties, Block 458.01, Lot 1 and Block 458 Lot 1 – Please provide information on the scheduled relocation of the Hudson County High Tech High School to Secaucus and analyze the alternative of relocation of the Pre-K school to a portion of the current properties associated with the Hudson County High Tech High School in N. Bergen (or alternatively, relocating other school children there and moving the Pre-K school into newly available space at one or more of the existing school facilities).

**RESPONSE:** The HCST campus located at 85th Street and Tonnelle Avenue in North Bergen is in full operation and it was not available as an alternative at the outset of the Diversion Pre-Application process in 2013. Since that time, HCST initiated a design/build contract for a new facility at a site in neighboring Secaucus, with occupancy anticipated by September 2018. This timeline is dependent upon construction requirements for the new facility.

Since the filing of the Pre-App, the Board initiated negotiations with the HCST, with the support of the County of Hudson, to investigate and review the HCST North Bergen site and facilities to

evaluate the appropriateness of a lease and/or acquisition of all or part of the site, in recognition of its potential home for North Bergen High School serving students enrolled in grades 10 through 12. The goal of this alternative would be to renovate the existing HCST building in a more cost effective and timely manner than undertaking new construction. If relocation of the 10 to 12 grade population to the HCST is feasible, the existing North Bergen High School facility could serve as a middle school serving students in grades 6 through 9 and the early childhood population could be housed throughout other facilities owned and operated by the North Bergen School District (the District), subsequent to the relocation of middle and high school students. Renovations to the HCST site will be required as part of this alternate plan. This alternative is consistent with the Board's Long Range Facilities Plan as submitted and accepted by the NJ DOE. Any amendments would be subject to review by the NJ DOE.

- e. *Dispersing Pre-K school children amongst the existing North Bergen Township grammar schools and high school – Please analyze the availability of space within the existing school facilities and/or grounds to accommodate the pre-school children.*

**RESPONSE:** The District currently operates at a deficit with respect to available classroom space. Dispersing Pre-K school children amongst the existing North Bergen Township grammar schools and high school is not a feasible alternative as it would bring about unresolvable logistical problems as per NJAC7:36-26.9(e)1ii Space is not available within the existing school facilities and grounds that could accommodate preschool children without vacating K-12 students to other facilities not currently owned or leased by the District.

To address the deficit of classroom space, the District has sought to acquire available properties adjacent to its existing facilities and has added to their plant through construction and leased facilities. The District has recently constructed major additions at or directly adjacent to four elementary schools (Lincoln Early Childhood Annex, Franklin Annex, Kennedy School and McKinley) and leased a third facility as an annex to Fulton School at Polk Street. Concurrent to the establishment of kindergarten programming at Lincoln Annex, the District renovated classrooms in each existing elementary school for kindergarten use.

The Board has investigated use of properties and facilities adjacent to schools as they become available, such as the house of worship located at 300 75th Street, directly across from Fulton Elementary School, and the "Crib World" property on 53rd Street near Franklin School. The house of worship property is not available as it was recently acquired by a new owner for religious purposes. Also, the house of worship site is not feasible as per NJAC 7.36-26.9(e)1i due to the size of existing rooms, layout of the interior spaces, and extensive renovations that would be required to comply with state regulations for educational facilities (NJAC 6A:26-6.4). The "Crib World" property is not feasible as per NJAC 7.36-26.9(e)1i due to the size of the property, which would not provide for construction compliant with NJAC 6A:26-6.4.

Further additions or expansion will require substantial costs incurred by the District for land acquisition.

- f. *Properties proposed in response to the RFQ/RFP previously issued by the BOE – It appears that the RFQ/RFP calling for the lease of a full Pre-K facility, issued by the BOE in 2012 requested construction/leasing not only for a school but also for a library and community center. Please explain why the BOE cannot issue a revised RFQ limiting the proposal to a Pre-K school. In addition, please document whether the responders provided*

*cost/lease payments based on a Pre-K school without the library and community center, or for just the school.*

**RESPONSE:** Costs submitted in response to the RFQ/RFP were far in excess of estimated construction costs of the Board undertaking a project by conventional bid process. The Board and Township proposed to share library and community spaces to mitigate expenses to establishing a preschool at a leased site. The intent was to program school functions in library and community spaces during the traditionally underutilized daytime hours and to allow the general public to utilize the library and community spaces during evenings and weekends. Shared use of parking at the site would function similarly. Removing the Township from the process would not reduce costs to the Board for the same type of project. Reducing the scope by eliminating the library and community elements would result in higher costs per square foot to the Board for the Pre-K facility as the Township would no longer leverage funding.

- g. 54th & Tonnelle Avenue – Please provide detailed information obtained through the feasibility study leading to the conclusions that this site was neither feasible, reasonable or available (as those terms are defined in our rules.)*

**RESPONSE:** At approximately 0.78 acres, the “Crib World” property located at 54th Street and Tonnelle Avenue (Block 183, Lot 20.02) does not provide adequate space for the construction of a preschool. It is not feasible as per NJAC 7.36-26.9(e)1i as it cannot be carried out using sound engineering principles and practices and current construction methods, technologies and practices. According to the State of New Jersey’s educational facility planning standards (NJAC 6A:26), the area allowance per full time equivalent student must be at least 125 feet for preschool through grade five. This would require a facility totaling at least 25,000 square feet to house the existing levels of Pre-K enrollment in North Bergen. Further pursuant to the State’s educational facility planning standards for school facilities housing preschool students (NJAC 6A:26-6.4), “preschool classrooms shall be no higher than the second floor of a school facility” and the facility is required to have “100 square feet of outdoor play space for each child.” Measuring approximately 100 feet wide by 330 feet deep, or 33,000 square feet, and accounting for required setbacks, emergency access roads, parking, and other spatial allowances, the Crib World site is not feasible for the construction of a preschool that meets the State’s requirements for such facilities. It is also not reasonable as per NJAC 7.36-26.9-e.2.iii. as it would cause extraordinary operational or safety problems, specifically with respect to required site setbacks, emergency access, parking, and outdoor play areas.

As the site does not provide adequate space for the construction of a preschool, it is not reasonable for the Board to consider cost and logistics of acquisition, demolition, construction, and service to a facility that would be undersized. The other adjacent properties near Franklin School (directly across 54th Street from the Crib World site), which have been an integral part of the earlier schematic layout, are not available as per NJAC 7.36-26.9(e)3ii as they are not considered reasonably acquirable through condemnation.

- h. Additional sites raised by the public following the Scoping Hearing public comment period – Please analyze the possibility of relocating the Pre-K school facility to 1706 Paterson Plank Road and 1 Daffy’s Way, both presumably for sale.*

**RESPONSE:** The property at 1706 Paterson Plank Road is not feasible as per NJAC 7.36-26.9(e)1i as the required site area for parking, play area, emergency access, and set-backs is not available at this location. The lot size and narrow configuration result in small buildable area that

would not comply with the State's requirements for preschool facilities (NJAC 6A:26-6.4). More information is enclosed with the attached alternatives analysis.

The property at 1 Daffy's Way is best suited for commercial development and is not feasible as per NJAC 7.36.-26.9(e)1i as construction of a preschool at this location would bring about unresolvable logistical problems. The location is remote from residential neighborhoods, and it has no viable pedestrian access.

- i. *Proposed replacement land* – Please analyze the alternative of relocating the Pre-K school facility to the proposed replacement properties in North Bergen Township.

**RESPONSE:** The property at 1811 Paterson Plank Road (Block 27, lot 27), measuring approximately 1.53 acres, is not a feasible location for the preschool as per NJAC 7.36-26.9(e)1i due to the size and configuration of the property, which fronts on a busy road. Half of the site is steeply sloped and not suitable for construction. The area required for the building footprint alone (assuming two stories as per NJAC 6A:26-6.4) is approximately 0.5 acres, without considering vehicular/pedestrian circulation, play area, and required side yard and front yard site setbacks. It is not reasonable for the Board to consider the cost and logistics of acquisition, demolition, construction, and service to a facility that would be undersized and non-compliant with the State's requirements for preschool construction.

The 0.70 acres along River Road in North Bergen (Block 437, lots 2.01 and 2.02) is not a feasible location for the preschool as per NJAC 7.36-26.9(e)1i due to the size and configuration of the property. The narrow site, which fronts on a busy road, does not provide enough area for the basic footprint of a preschool as per NJAC 6A:26-6.4, nor would it accommodate the required setbacks, drop off areas, parking, emergency access, walkways, and other features that are necessary at the site.

More information on the determination that the proposed replacement properties are not feasible, reasonable or available is included in the attached alternatives analysis.

- j. *NJSDA Funding* - It is our understanding that there are \$12.6 million in NJSDA funds for grants offered to but not yet executed by North Bergen Township, as well as \$2 million associated with already-executed grants. Please indicate whether the Township BOE intends to accept these grant funds and if so, how much if any will go toward offsetting the more than \$8 million in capital funds needed to address existing health/safety needs at the Township's seven school plants serving more than 7,500 children (exclusive of the pre-schoolers) noted in the Pre-application. If so, how will that impact funding availability for addressing Pre-K school needs on any of the alternative sites?

**RESPONSE:** The New Jersey Schools Development Authority (NJSDA) designates certain categories of work as priorities for each grant cycle (such as life safety repairs, accessibility, systems replacements, and additions). NJSDA funds only a portion of each approved project, leaving the North Bergen School District responsible for the local share of grant projects and responsible for the full cost of projects that do not fit the designated categories.

The Board applied for more than 30 Level 1 NJSDA grants in the four rounds of grants for Regular Operating Districts (ROD grants) offered between 2008 and 2014. NJSDA awarded a total of 27 Section 15 Grants to the North Bergen School District for Level 1 projects. These grants were awarded to the Board and there are 21 Level 1 grant projects completed or in progress, collectively totaling \$14 million in overall construction budgets, primarily for building envelope and

life safety improvements. At this time, the Board has submitted documentation to reach “executed” status on all 21 of these grants for Level 1 projects.

The recent grant offerings from NJSDA did not include grant funding for construction of a new early childhood facility. The Board submitted a schematic Project Application on September 4, 2013 for consideration under the NJ DOE Grant Allocation 4 for School Facilities Projects in Regular Operating Districts. The Project Application included the opportunity to request grant funding and the Board requested same for the construction of a new early childhood center at the 64th Street Rec Center site. The application scope and budget concerned only the construction of the new building, with costs for land acquisition of adjacent parcels and site improvements to be filed under separate applications. As per the State’s guidelines for ROD Grants, projects submitted for review were prioritized by the NJ DOE and ranked as Level 1, Level 2 or Level 3 projects. Due to limited funding available for disbursement in ROD Grant Allocation 4, only Level 1 projects were funded. Under the State’s guidelines for ROD Grants, the proposed early childhood center was considered a Level 2 project. No Level 2 projects in districts eligible for ROD Grants were funded under ROD Grant Allocation 4. To clarify the lack of funding for Level 2 projects, the Board contacted Dr. Gail Petricek of the New Jersey Department of Education’s Office of School Facilities and Finance. Dr. Petricek confirmed that Level 2 projects were not funded and that the NJ DOE did not send correspondence to Level 2 applicants notifying them that funding was not available. For these reasons, there is no grant funding available to the Board for the preschool facility.

- k. *Municipal Funding – It has come to our attention by a member of the public and a news article that North Bergen Township has been operating in recent years with a budget surplus. Please explain why funding cannot be transferred to the Board of Education to help offset costs associated with constructing a Pre-K school facility.*

The Township of North Bergen’s budgetary utilization and regeneration of surplus is one of the key elements that Moody’s Investors Service cites as its core reason for the Township’s strong financial position that allows for a favorable Aa3 underlying rating of the Township’s outstanding debt. Such bond rating enables Township taxpayers to save hundreds of thousands of dollars when the Township sells its debt. Since the marketplace is attracted to the Aa3 rating, multiple bidders participate in the Township’s bonds and notes sales, which provide for even more interest savings for the taxpayers.

Maintaining a current fund balance of about 10% of current fund revenues, and replenishing as close to all of the amount of surplus that was utilized in the prior year’s budget, are prudent fiscal practices. Such efforts not only sustain the Township’s excellent credit rating and debt service savings, but also allow for stable municipal property taxes with minimal increases over time. Residents of the Township of North Bergen receive the highest quality of services while not experiencing significant spikes or increases in the local tax rate. Additionally, level tax rates contribute towards the Township’s tax collection rate of nearly 98%, which aides in the very important regeneration of already utilized surplus in the budget.

Monies cannot be transferred to the Board because of the impact that such a depletion to the Township’s fund balance would have on its financial stability, and therefore its taxpayers. As stated above, the Township strives to annually utilize only an amount of fund balance that can reasonably be expected to be replenished. Any amount utilized for other than Township budget purposes would never be replenished and therefore could create a permanent deficit in the Township’s cash position. The only way to cure such a deficit would be to substantially raise local property taxes. Further, such depletion of the Township’s fund balance would result in decreasing

the amount of monies available for the Township to anticipate in its budget in subsequent fiscal years, resulting in multiple year local property tax increases.

The utilization of surplus within a local municipality's budget should be treated conservatively. Conservative budgeting not only saves the Township's taxpayers money during bond and note sales, and avoid potential downgrades from Moody's, but also provides for unexpected factors that maintain stable local property tax. With this in mind, transferring monies to the Board is not a viable fiscal option. A "Letter from the Township's Chief Financial Officer" is enclosed with this response in Appendix J.

- 1. Please be reminded that a comprehensive alternatives analysis for each of the above alternatives should be submitted, addressing the provisions outlined in the Diversion Pre-application and in N.J.A.C. 7:36-26.9(e). Upon review of the resubmitted alternatives analysis, the Green Acres Program reserves the right to engage an expert to evaluate the alternatives analysis, if deemed necessary, in accordance with N.J.A.C. 7:36-26.9(f).*

**RESPONSE:** A comprehensive alternatives analysis for each of the mentioned alternatives is enclosed as an attachment to this response.

- 3. Mitigating Circumstances – In accordance with the Green Acres Program rules, an applicant seeking to legalize past diversions or disposals may request a reduction in the applicable replacement land requirements found in Table 1 due to mitigating circumstances (N.J.A.C. 7:36-26.10(j)3ii). Our review of the Pre-application (under the section describing the Preliminary Compensation Proposal) indicates that the applicants have not adequately documented such mitigating circumstances. In order for the applicable ratio of five acres of replacement land for every acre of diverted property to be reduced, you must submit acceptable justification qualifying as mitigating circumstances that would warrant having diverted the property without the prior approval by the DEP Commissioner or State House Commission.*

**RESPONSE:** The ratio was established and potential properties discussed with the County, North Bergen Township, North Bergen Board of Education, and Green Acres representatives at the discussions prior to and at the meeting in Trenton, November 2013. It was generally agreed during multiple meetings between Green Acres, the County, the Township and the Board that the replacement land would meet a 3:1 ratio. There are several mitigating circumstances that informed the agreement upon a 3:1 ratio of replacement land. First, the diversion property was fulfilling a compelling public use by providing preschool services in a low-income community. This activity was mandated by the New Jersey Department of Education and the subject parcel was one of few options available at the time for the temporary placement of TCUs to be operational with half-day preschool by the State's deadline. Also, Hudson County is the sixth most densely populated county in the United States with 14,610 residents per square mile of land area. There is not a significant amount of available open space to develop into parkland to meet the required ratio. There are also historic industrial uses of properties throughout Hudson County, resulting in significant environmental contamination challenges at any parcel of available land. Further, as part of the New York Metropolitan Area, the real estate market in Hudson County is highly competitive. These last two mitigating circumstances make the availability and affordability of land extremely cumbersome for the development of parkland consistent with the State's ratio for diversion replacement parcels.