

PRE-APPLICATION

N.J.A.C. 7:36-26.9

(Major disposals or diversions of parkland)

PRIOR TO SUBMITTING THE PRE-APPLICATION: Contact the appropriate County contact at the Office of Transactions and Public Land Administration, Public Land Compliance Section to arrange a pre-application conference to discuss the proposal and application requirements (*N.J.A.C. 7:36-26.7(a)1 and N.J.A.C. 7:36-26.9(a)*). Once the pre-application is complete it will be reviewed by the Section (*N.J.A.C. 7:36-26.9(f)1*).

A SCOPING HEARING MUST BE HELD PRIOR TO SUBMITTING THE PRE-APPLICATION: The notices for the hearing must meet the requirements to *N.J.A.C. 7:36-26.8*. Confirmation of the hearing must be provided as part of the pre-application package pursuant to *N.J.A.C. 7:36-26.8(c)1-3 and N.J.A.C. 7:36-26.8(e)*. Please review Attachment VII: Sample Public Notices and the Public Hearing Sign Guidance Document – available at <https://dep.nj.gov/otpla/forms/#compliance>.

THE COMPLETE PRE-APPLICATION MUST BE SUBMITTED AT LEAST 15 BUSINESS DAYS PRIOR TO THE SECOND THURSDAY OF THE MONTH: Completed pre-applications are reviewed by an internal review committee on the second Thursday of each month. The pre-application must be complete 15 business days before the review committee meets to be considered for review. Once the review committee meets, the applicant will be notified of the application status under *N.J.A.C. 7:36-26.9(g)*.

COMPLETION OF THE PREAPPLICATION IN NO WAY GRANTS ANY APPROVAL FOR THE PROPOSED DISPOSAL OR DIVERSION OF PARKLAND. (*N.J.A.C. 7:36-26.9(j)*)

Note: Please check our web site at <https://dep.nj.gov/otpla/forms/#compliance> for updated versions of this application form prior to filing the pre-application.

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Major Disposal/Diversion Pre-Application Requirements

- ☐ 1. **Description of the proposed disposal/diversion, including:**
- ☐ Block(s) and lot(s) information for the parkland proposed for disposal or diversion (*N.J.A.C. 7:36-26.9(d)1i*);
 - ☐ Acreage of the parkland proposed for disposal or diversion (*N.J.A.C. 7:36-26.9(d)1ii*);
 - ☐ Purpose of proposed disposal/diversion, including the intended future use and owner of the parkland proposed for disposal/diversion (*N.J.A.C. 7:36-26.9(d)1iii*);
 - ☐ A detailed description of how the proposed disposal/diversion will fulfill a compelling public need or yield a significant public benefit as defined at *N.J.A.C. 7:36-26.1(d)1* (*N.J.A.C. 7:36-26.9(d)1iv*);
 - ☐ A description of how the parkland is proposed to be disposed or diverted including (*N.J.A.C. 7:36-26.9(d)1v*);
 - ☐ The name of the prospective buyer, lessee or easement grantee;
 - ☐ A description of the type of legal interest to be conveyed, if any;
 - ☐ A description of any conditions or restriction on the intended use of the parkland;
 - ☐ If applicable, a copy of the draft lease or use agreement and statement of total compensation proposed to be received by the applicant for the lease of use agreement (*N.J.A.C. 7:36-26.9(d)1vi*);
 - ☐ If the proposed disposal/diversion involves the construction of a building or infrastructure on parkland, a set of plans and specifications for the construction (*N.J.A.C. 7:36-26.9(d)1vii*);
 - ☐ A general description of the natural features, history and current use of the parkland proposed to be disposed/diverted and of any parkland contiguous to or functionally related to the parkland proposed for disposal/diversion (*N.J.A.C. 7:36-26.9(d)1viii*);
 - ☐ A detailed description of any recreational facilities and/or activities to be affected by the proposed disposal/diversion of parkland and an explanation of how they will be affected (*N.J.A.C. 7:36-26.9(d)1ix*);

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2. Alternatives analysis:

A. Identify each alternative course of action that could be taken to fulfill the compelling public need or yield the significant public benefit to be derived from the project for which the disposal/diversion of parkland is proposed. (*N.J.A.C. 7:36-26.9(d)2i*) This identification must include all feasible, reasonable and available alternatives, including:

- ☐ All alternatives presented at the scoping hearing
- ☐ Any alternatives suggested by the public at the scoping hearing or in the written comments submitted during the public comment period
- ☐ The alternative of constructing the proposed project on the proposed replacement land (if applicable)
- ☐ A “no build” or “no action” alternative
- ☐ Any alternative involving private lands or other public lands
- ☐ Please also include a description of methods used to identify alternatives

B. For each alternative identified under A above, provide:

- ☐ A detailed description of the environmental impact of the alternative (*N.J.A.C. 7:36-26.9(d)2ii(1)*);
- ☐ A listing of all Department permits to construct or utilize the alternative (*N.J.A.C. 7:36-26.9(d)2ii(2)*);
- ☐ Information on whether the alternative involves any areas mapped as endangered or threatened species habitat, including a review of the Department’s Landscape Project Mapping (www.nj.gov/dep/fgw/ensp/landscape/index.htm) and a response from or evidence that a request for information has been filed with the Department’s Natural Heritage Database (c/o Office of Natural Lands Management, Mail Code 501-04, P.O. Box 420, Trenton, New Jersey 08625-0420) (*N.J.A.C. 7:36-26.4(d)2ii(3)*);
- ☐ An analysis of the overall cost of the alternative (*N.J.A.C. 7:36-26.9(d)2ii(4)*);
- ☐ A description of the timetable or schedule necessary to implement the alternative to the proposed disposal or diversion (*N.J.A.C. 7:36-26.9(d)2ii(5)*);
- ☐ If applicable, the estimated land acquisition or lease cost of the alternative (*N.J.A.C. 7:36-26.9(d)2ii(6)*);

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- ☐ Identification of any other zoning, land use, environmental or other constraints associated with the alternative and a description of all attempts undertaken to remove or adapt to such constraints (*N.J.A.C. 7:36-26.9(d)2ii(7)*);
- ☐ An explanation of the reasons for rejecting each alternative (*N.J.A.C. 7:36-26.9(e)*).
- ☐ 3. **Environmental Assessment Report** prepared in accordance with **Attachment I: Environmental Assessment Report Outline** (*N.J.A.C. 7:36-26.9(d)3*)
- ☐ 4. **Land Valuation Forms** using the form found at **Attachment II: Land Valuation Forms** (*N.J.A.C. 7:36-26.9(d)4 and N.J.A.C. 7:36-26.10(f)*)
- ☐ 5. **Preliminary Compensation Proposal** based on the requirements of *N.J.A.C. 7:36-26.10* and prepared in accordance with **Attachment III: Preliminary Compensation Proposals for Major Disposals or Diversions of Parkland** and **Attachment II: Value Statement** (*N.J.A.C. 7:36-26.9(d)5*)
- ☐ 6. A description of how the proposed project for which the disposal or diversion of parkland is proposed, and the proposed compensation, will support the State Development and Redevelopment Plan Goals and be consistent with the State Development and Redevelopment Plan's Policy Map and the Statewide Policies. (*N.J.A.C. 7:36 26.9(d)6*)
- ☐ 7. A **listing of all permits and approvals** required for the project (**Attachment IV: Permit/Approval Checklist**). (*N.J.A.C. 7:36 26.9(d)7*)
- ☐ 8. **Copy of the deed** for the proposed disposal or diversion area and replacement parcel(s). If the replacement parcel is not already owned by the applicant, please include a brief description of how the applicant intends to acquire the replacement parcel. (*N.J.A.C. 7:36 26.7(d)8*)
- ☐ 9. **Maps. (Attachment V: Map requirements; and VI: Sample Reference Map)** (*N.J.A.C. 7:36-26.9(d)9*)
- ☐ 10. **Confirmation of the scoping hearing:**
 - ☐ Proof of publication, mailings and postings of the notice of the scoping hearing required under *N.J.A.C. 7:36-26.8(c)1-3*. A template for the notice can be found in **Attachment VII: Sample Public Notice**. (*N.J.A.C. 7:36-26.8(e)1*);
 - ☐ A copy of the transcript of the scoping hearing (*N.J.A.C. 7:36-26.8(e)2*);
 - ☐ A summary of public comments made at the scoping hearing and/or provided in writing during the public comment period and the applicant's response to the public comments (*N.J.A.C. 7:36-26.8(e)3*);

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- ☐ Copies of written comments submitted as part of the record of the scoping hearing.
- ☐ 11. **Governing body resolution. (Attachment VIII: Resolution) (N.J.A.C. 7:36-26.9(d)11)**
- ☐ 12. **Please attach this cover sheet and the following checklists:**
- **Attachment II: Land Assessment Form**
 - **Attachment III: Preliminary Compensation Proposals for Major Disposals or Diversions of Parkland**
 - **Attachment IV: Permit/Approval Checklist**
 - **Attachment V: Map Requirements**
- ☐ 13. **Please provide the following copies:**
- **A digital copy of the entire application, including maps, in .pdf format**
 - **Items 1 - 3, 5, and 6 in Microsoft Word Format**
 - **Maps submitted under Item 9 in .pdf format**
 - **All other application material in .pdf format**
- Digital copies may be submitted on a Standard CD or DVD produced to be read by any CD-ROM drive.**

NOTES:

- The Department will notify the applicant as to whether the applicant may proceed with the final application. (N.J.A.C. 7:36-26.9(h))
- If authorized to proceed, the final application must be submitted to the Department 75 days prior to the meeting of the State House Commission. (N.J.A.C. 7:36-26.11(i))
- The final application must be deemed complete for public hearing purposes by the Department before the second public hearing on the application is scheduled. (N.J.A.C. 7:36-26.11(d))
- This package is also available at: <https://dep.nj.gov/otpla/forms/#compliance>

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ATTACHMENT I: ENVIRONMENTAL ASSESSMENT REPORT OUTLINE

I. A DESCRIPTION OF THE PROPOSED DISPOSAL OR DIVERSION

Include in this section a brief description of the project including the following:

- A. Title/name of proposed activity
- B. Preparer of Document
- C. Location maps with the site outlined on the following; USGS 7.5 Minute Quad, USDA Soils, County Road and Tax Map

II. A DESCRIPTION OF THE ENVIRONMENTAL CONDITIONS ON THE PARKLAND PROPOSED FOR DISPOSAL OR DIVERSION AND REPLACEMENT PARCELS (IF ANY) PRIOR TO THE IMPLEMENTATION OF THE PROJECT

Include a description of the existing environmental conditions on the parkland proposed for disposal or diversion and replacement parcels (if any) in each of the following areas:

- A. **Natural resources of the site and surrounding area** – Describe geological character, soil characteristics, topography, land form (i.e. wetlands, steep slopes, etc.), hydrological features, surface water classification and biological resources of the area including State and federal threatened and endangered species and critical habitats. (Please contact the NJ Natural Heritage Program and review the NJ DFW Landscape Project Mapping for the most recent information regarding threatened or endangered species)
- B. **Man-made resources** – Describe present site land use, adjacent land uses, access, the presence of any hazardous substances or waste, the presence of any underground storage tanks or structures, the presence of abandoned wells not properly sealed, transportation patterns, and zoning.
- C. **Human resources** – Describe cultural and social factors; park and recreational facilities; aesthetic features; historical, archeological, and architectural resources.

III. PROBABLE ENVIRONMENTAL IMPACTS TO THE PARKLAND AND REPLACEMENT PARCELS (IF ANY) IF THE PROPOSED DISPOSAL OR DIVERSION IS APPROVED

Identify and describe direct, indirect and cumulative impacts, beneficial and adverse, anticipated from the proposed disposal or diversion on all natural, man-made, human and economic resources during all aspects of site preparation, construction, and project operation. Using the existing parkland without the project as a basis for analyzing anticipated impacts, provide the following information:

- A. **Land:**
 - 1. Discuss the consistency of the proposed disposal or diversion with the following; the State Development and Redevelopment Plan, Regional and local land use plans and current zoning
 - 2. Discuss how the proposal will change the general character of the area; and

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3. Discuss whether the proposed action will result in the loss or alteration of any ecologically sensitive lands such as flood plains, steep slopes, wetlands, preserved farmland and dedicated open space or disturb any areas of contaminated soils.

B. Water:

1. Identify and discuss methods to be used to meet State water quality standards;
2. Discuss whether or not the proposed project will result in increased pollution or turbidity levels within a surface waterbody and, if so, what the effects will be downstream and upstream;
3. Discuss the beneficial and adverse effects of the proposed action on aquatic biota and habitats; and
4. Discuss the effects that the proposed action will have on surface and ground water quality and quantity and the basis of the determination.

C. Air:

1. For buildings and stationary sources of air pollutants, discuss whether the project will meet applicable emission standards and regulations contained in the State Air Pollution Control Code;
2. As applicable, discuss precautions taken to prevent noise problems; and
3. As applicable, discuss precautions taken to prevent odor problems.

D. Aquatic and Terrestrial Wildlife:

1. Discuss any loss (or gain) of wildlife habitat and its anticipated effect;
2. Discuss any impacts on State and federal threatened and endangered plants or animal species and critical habitat; and
3. Discuss any impacts to trees greater than 6" diameter at breast height (dbh).

E. Social and Economic:

1. Discuss how the project could affect historic, archaeological, or cultural resources on or eligible for the National or State Register of Historic Places;
2. Discuss how the proposed disposal or diversion would affect public access and public recreational facilities; and
3. Discuss how environmental justice was considered during the environmental decision making process. If an environmental justice analysis was done, provide information regarding status and/or findings of the analysis.

F. Solid Waste - Discuss methods for solid waste handling both during construction and subsequent operation.

G. Aesthetics - Discuss how the natural or present character of the area will be changed as a result of the proposed action.

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- H. **Sustainability** - (protecting the resources and systems that support us today so that they will be available to future generations) - Discuss actions taken during the environmental decision making process (siting, water efficiency, energy efficiency, material/resource use) to insure that the project is a sustainable development that will avoid or minimize negative impacts, strengthen positive ones, take advantage of environmental opportunities, and protect resources.
- I. **Cumulative Effects** - Discuss any cumulative effects of the proposed action.

IV. METHODS OF PROMOTING APPROPRIATE ENVIRONMENTAL DESIGN AND METHODS OF MITIGATING ADVERSE ENVIRONMENTAL IMPACTS ASSOCIATED WITH THE DISPOSAL OR DIVERSION

Discuss avoidance, remedial, protective, sustainable and mitigative measures to be taken as part of the proposed project in response to adverse environmental impacts. Mitigating measures refer to those methods used to ensure that the project is brought into compliance with all governing regulations including, but not limited to, air, water quality, noise control, solid waste, radiation, and land-use regulations. The discussion of avoidance, remedial, protective, sustainable and mitigative measures may include, but not be limited to, the following considerations:

(If any State or Federal permits/approvals have been applied for the following items please identify and **briefly** discuss any potential instances of noncompliance with State and/or Federal standards as well as the status of any permits before any regulatory agencies)

- A. Site location;
- B. Air quality through control apparatus and/or controlled combustion process;
- C. Water quality through treatment of wastewater and/or eutrophication control;
- D. Erosion and sedimentation control measures;
- E. Storm water runoff control measures from paved areas;
- F. Measures to conserve water;
- G. Noise control measures;
- H. Energy conservation measures;
- I. Traffic control measures;
- J. Recycling potential;
- K. Establishment of buffer zones, selective clearing, and/or landscaping;
- L. Protective measures for aquatic and terrestrial plants and animals;
- M. Architectural techniques to blend structures with the surrounding area;

V. AVOIDANCE OF ADVERSE ENVIRONMENTAL IMPACTS

Describe in detail those impacts which cannot be reduced to acceptable levels, their implications, and the reasons why the action is being proposed notwithstanding their effect.

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**ATTACHMENT II: LAND VALUATION FORMS
DIVERTED/DISPOSAL PARCEL(S)**

Please fill out each section completely. If any section is left blank, the form will not be reviewed. If a section is not applicable to the application please indicate "Not Applicable" or "N/A". A minimum of three comparable sales for the diverted/disposal parcel(s) will need to be provided.

If additional space is needed to adequately describe the parcel please use a separate page.

1. Parcel Information

Block(s) _____
Lot(s) _____
Acreage (by lot) _____
Vacant ☐ Improved* ☐

*If improved please describe all improvements on a separate page.

2. Zoning

Primary permitted uses _____
Minimum lot size _____

3. Interest

Fee ☐ Easement ☐ Fee and easement ☐
Type of easement _____
Temporary easement ☐ Permanent easement ☐

4. Environmental Constraints (list individual acreage encumbered by each constraint)

Wetlands	_____ ac.	C1 Streams	_____ ac.
Tidelands	_____ ac.	Steep Slopes	_____ ac.
Other	_____ ac.	Other	_____ ac.

5. Physical Constraints

Legal access _____
Landlocked _____

6. Value Information

Assessed Value _____ Director's Ratio _____

7. Estimated Market Value

Intended Use _____
Highest and best use _____

8. Tax Assessor Certification - I hereby certify that the information provided in this Land Valuation Form for both the Diverted/Disposal Parcel(s) is true and accurate.

Prepared by Tax Assessor (print name)

Signature

Date

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9. Comparable Sales

SALE #1

Date of Sale: _____ Book: _____ Page: _____

Location: _____

Block: _____ Lot: _____

Grantor: _____

Grantee: _____

Lot Size: _____

Sales Price: _____

Unit Value: _____

Zoning: _____

Highest & Best Use: _____

Verification: _____

SALE #2

Date of Sale: _____ Book: _____ Page: _____

Location: _____

Block: _____ Lot: _____

Grantor: _____

Grantee: _____

Lot Size: _____

Sales Price: _____

Unit Value: _____

Zoning: _____

Highest & Best Use: _____

Verification: _____

SALE #3

Date of Sale: _____ Book: _____ Page: _____

Location: _____

Block: _____ Lot: _____

Grantor: _____

Grantee: _____

Lot Size: _____

Sales Price: _____

Unit Value: _____

Zoning: _____

Highest & Best Use: _____

Verification: _____

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REPLACEMENT PARCEL(S)

Please fill out each section completely. If any section is left blank, the form will not be reviewed. If a section is not applicable to the application please indicate "Not Applicable" or "N/A". A minimum of three comparable sales for the replacement parcel(s) will need to be provided.

If additional space is needed to adequately describe the parcel please use a separate page.

1. Parcel Information

Block(s) _____
Lot(s) _____
Acreage (by lot) _____
Vacant ☐ Improved* ☐

*If improved please describe all improvements on a separate page.

2. Zoning

Primary permitted uses _____
Minimum lot size _____

3. Interest

Fee ☐ Easement ☐ Fee and easement ☐
Type of easement _____
Temporary easement ☐ Permanent easement ☐

4. Environmental Constraints (list individual acreage encumbered by each constraint)

Wetlands	_____ ac.	C1 Streams	_____ ac.
Tidelands	_____ ac.	Steep Slopes	_____ ac.
Other	_____ ac.	Other	_____ ac.

5. Physical Constraints

Legal access _____
Landlocked _____

6. Value Information

Assessed Value _____ Director's Ratio _____

7. Estimated Market Value

Intended Use _____
Highest and best use _____

8. Tax Assessor Certification - I hereby certify that the information provided in this Land Valuation Form for both the Diverted/Disposal Parcel(s) is true and accurate.

Prepared by Tax Assessor (print name)

Signature

Date

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9. Comparable Sales

SALE #1

Date of Sale: _____ Book: _____ Page: _____

Location: _____

Block: _____ Lot: _____

Grantor: _____

Grantee: _____

Lot Size: _____

Sales Price: _____

Unit Value: _____

Zoning: _____

Highest & Best Use: _____

Verification: _____

SALE #2

Date of Sale: _____ Book: _____ Page: _____

Location: _____

Block: _____ Lot: _____

Grantor: _____

Grantee: _____

Lot Size: _____

Sales Price: _____

Unit Value: _____

Zoning: _____

Highest & Best Use: _____

Verification: _____

SALE #3

Date of Sale: _____ Book: _____ Page: _____

Location: _____

Block: _____ Lot: _____

Grantor: _____

Grantee: _____

Lot Size: _____

Sales Price: _____

Unit Value: _____

Zoning: _____

Highest & Best Use: _____

Verification: _____

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**ATTACHMENT III: PRELIMINARY COMPENSATION PROPOSALS FOR MAJOR
DISPOSALS OR DIVERSIONS OF PARKLAND**

General Notes:

- As part of the application process, applicants are required to submit a preliminary compensation proposal as part of the pre-application and a final compensation proposal as part of the final application. A preliminary compensation proposal is based on estimates of the value and size of the proposed disposal or diversion and proposed replacement land (if any). As part of the final compensation proposal, the applicant is required to adjust its proposal to take into account the appraised value of the diverted and replacement parcels, the actual surveyed acreage of these lands and any easements or other relevant encumbrances identified through the title search.
- Replacement land is required for certain types of disposals or diversions of parkland, and is generally the method of compensation preferred by the Department. However, in many cases, the applicant may choose between replacement land, monetary compensation or a combination of both. If replacement land is offered, it must be at least equivalent in acreage to the parkland to be disposed of or diverted. If an easement is proposed to be disposed of or diverted from parkland, the ratio of the replacement land to the affected parkland can be 1:1, with either a subsurface easement or fee land as replacement. All other disposals or diversions of parkland are subject to a minimum 2:1 (or higher) replacement land/parkland ratio. However, if the applicant chooses to mix monetary compensation and replacement land, it may offer 1:1 replacement land and make up the difference between the 1:1 land and the minimum 2:1 (or higher) compensation ratio with cash compensation.

This attachment summarizes the requirements of N.J.A.C. 7:36-26.10 and is intended to serve as guidance for the preparation of preliminary and final compensation proposals. Please check the box next to the applicable preliminary compensation proposal category or categories:

☐ **1. Minimum Compensation Ratios for Replacement Land (taken from Table 1 at NJAC 7:36-26.10(g))**

If the applicant chooses to offer replacement land as the method of compensation the following conditions apply:

- The proposed replacement land must be determined to be eligible pursuant to *N.J.A.C. 7:36-26.10(d)2i-iii*.
- If replacement land is offered, it must be at least equivalent in acreage to the parkland to be disposed of or diverted. (*N.J.A.C. 7:36-26.10(d)3*)
- The proposed replacement land shall be of reasonably equivalent or superior quality and have a market value that is equal to or greater than the parkland proposed for disposal or diversion. (*N.J.A.C. 7:36-26.10(d)5 and 6*)
- If the proposed replacement land is inadequate to meet the market value and quality requirements mentioned above, the Department shall require the applicant to supplement its proposal with additional compensation in excess of that which would otherwise be required under Table 1. (*N.J.A.C. 7:36-26.10(d)7*)

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- The replacement lands shall be, to the extent possible, located in the same municipality in which the parkland proposed for disposal or diversion is located and shall not consist of land on which streets are shown on a subdivision plan as either offered for dedication or dedicated but not constructed. (*N.J.A.C. 7:36-26.10(d)8 and 9*)
- The proposed replacement land shall either be free of contamination by hazardous substances or shall be remediated to the Department's satisfaction prior to its dedication as parkland. (*N.J.A.C. 7:36-26.10(d)10*)
- The applicant is required to provide appraisals, surveys and title work for any proposed replacement land as part of the final application. (*N.J.A.C. 7:36-26.11(b)1, 2 and 3*) All technical reports must be prepared to the Department's specifications. In some circumstances, appraisal waivers may be available under *N.J.A.C. 7:36-26.10(l)*, if the applicant is willing to propose a higher compensation ratio than would otherwise be required.

The minimum acreage of the replacement land to be provided for a specific type of disposal or diversion of parkland shall be determined in accordance with the provisions outlined below or in Table 1 of *N.J.A.C. 7:36-26.10(g)*. (*N.J.A.C. 7:36-26.10(d)4*)

Subsurface easements:

Project Sponsor	Appraisals	Appraisal waiver	Notes: Applicant may offer either a surface easement to be used for recreation and conservation purposes or a fee simple interest in land.	Rule Citation: <i>N.J.A.C. 7:36-26.10(i)1</i>
Public	1:1	1:1		
Private	2:1	4:1		

Surface easements:

Project Sponsor	Appraisals	Appraisal waiver	Notes: Applicant may offer either a surface easement to be used for recreation and conservation purposes or a fee simple interest in land.	Rule Citation: <i>N.J.A.C. 7:36-26.10(i)1</i>
Public	1:1	2:1		
Private	4:1	6:1		

Other Diversions and disposals:

Project Sponsor	Appraisals	Appraisal waiver	Notes: - Appraisals must be submitted with the final application package, or; - An appraisal waiver must be obtained pursuant to <i>N.J.A.C. 7:36-26.10(l)</i> .	Rule Citation: <i>N.J.A.C. 7:36-26.10(j)1i</i> <i>N.J.A.C. 7:36-26.10(j)1ii</i>
Public	2:1	3:1		
Private	4:1	6:1		

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Legalization of past diversions and disposals:

Project Sponsor	Appraisals	Appraisal waiver	Notes:	Rule Citation:
Public	5:1	10:1	- The Department may/can take mitigating circumstances into account when determining appropriate compensation ratios. - An appraisal waiver cannot be obtained when legalizing a past "private" disposal or diversion.	<i>N.J.A.C. 7:36-26.10(j)3ii</i>
Private	20:1	N/A		<i>N.J.A.C. 7:36-26.10(j)3iv</i>

Please also include the following information in the preliminary compensation proposal when choosing to offer replacement land as compensation:

- Block(s) and lot(s) of any proposed replacement land(s) (*N.J.A.C. 7:36-26.10(d)1iv*); and
- The street address of the proposed replacement land(s), if available (*N.J.A.C. 7:36-26.10(d)1iii*); and
- The size of the proposed replacement land(s) in acres (for replacement land(s) larger than one acre) or square feet (for replacement land(s) smaller than one acre) (*N.J.A.C. 7:36-26.10(d)1iii and iv*); and
- A description of the proposed replacement land(s) (prepared by completing Section II of the Environmental Assessment, **Attachment I**, for each parcel) (*N.J.A.C. 7:36-26.10(d)1i*); and
- A description of the intended recreational and conservation use for the proposed replacement land(s) (*N.J.A.C. 7:36-26.10(d)1ii*); and
- Information sufficient for the Department to verify that the proposed replacement lands are eligible as replacement under *N.J.A.C. 7:36-26.10(d)2i-iii*; and
- A preliminary assessment report, prepared in accordance with the Technical Requirements for Site Remediation, *N.J.A.C. 7:26E*, for each proposed replacement parcel (*N.J.A.C. 7:36-26.9(d)5 and N.J.A.C. 7:36-26.10(d)10*); and

☐ **2. Minimum Compensation Ratios for Monetary Compensation (taken from Table 1 at NJAC 7:36-26.10(g))**

If monetary compensation is the chosen method of compensation the following conditions apply:

- No county or municipal open space tax funds levied under *N.J.S.A. 40:12-15.1* through 15.9 or other dedicated recreation and conservation funding sources may be used as monetary compensation. (*N.J.A.C. 7:36-26.10(e)2*)
- The applicant must provide confirmation that any proposed monetary compensation for the disposal or diversion of parkland can be transferred to the Department immediately after approval of the application or deposited into a dedicated account to be used only for purposes consistent with the approval. (*N.J.A.C. 7:36-26.10(e)5i and ii*)
- If the applicant is proposing to provide a combination of monetary compensation and replacement land, the compensation proposal must offer at least a 1:1 ratio of replacement land to land diverted or disposed (*N.J.A.C. 7:36-26.10(d)3*).

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- The Department can, at its discretion, require additional compensation to adequately compensate for impacts to surrounding parkland. (*N.J.A.C. 7:36-26.10(j)2iii*)
- If an applicant is proposing monetary compensation for parkland improvements, the applicant shall not utilize the monies for improvements that were already budgeted and/or approved by the applicant; and must complete the parkland improvements within one year of the date of approval of the application. (*N.J.A.C. 7:36-26.10(k)1i and ii*)
- If an applicant is proposing monetary compensation for land acquisition, the applicant shall, at least 30 days prior to each acquisition of replacement land, submit to the Department all outstanding pre-application and final application requirements pertaining to the replacement land for Department review and approval. In addition all replacement land must be acquired within two years of the date of the approval of the application. (*N.J.A.C. 7:36-26.10(k)2ii and iii*)
- If parkland improvements or land acquisitions, as approved by the State House Commission, are not completed within the time frames specified above, the Department may, upon 30 days' written notice, require that the applicant remit to the Department the full amount of the approved monetary compensation for deposit in the GSPT Fund. (*N.J.A.C. 7:36-26.10(k)3*)

The minimum amount of monetary compensation to be provided for a specific type of disposal or diversion of parkland shall be determined in accordance with the provisions outlined below or in Table 1 of *N.J.A.C. 7:36-26.10(g)*. (*N.J.A.C. 7:36-26.10(e)1*)

Subsurface easements:

Project Sponsor	Parkland improvements	Land acquisition	Notes: *\$2,500.00 minimum, even if a lesser amount is determined utilizing the listed ratios.	Rule Citation: <i>N.J.A.C. 7:36-26.10(i)2</i>
Public	2:1*	2:1*		
Private	10:1*	10:1*		

Surface easements:

Project Sponsor	Parkland improvements	Land acquisition	Notes: *\$2,500.00 minimum, even if a lesser amount is determined utilizing the listed ratios.	Rule Citation: <i>N.J.A.C. 7:36-26.10(i)2</i>
Public	4:1*	4:1*		
Private	10:1*	10:1*		

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Other diversions and disposals:

Project Sponsor	Parkland improvements	Land acquisition	Notes:	Rule Citation:
Public	4:1**	4:1**	- The size of parkland to be diverted or disposed must be less than 5 acres and must comprise less than 5% of the total parkland parcel. - **\$5,000.00 minimum, even if a lesser amount is determined utilizing the listed ratios. - If the disposal or diversion is classified as "private" monetary compensation can only be used for land acquisition and not for parkland improvements	<i>N.J.A.C. 7:36-26.10(j)2i</i>
Private	N/A	10:1**		<i>N.J.A.C. 7:36-26.10(j)2ii</i> <i>N.J.A.C. 7:36-26.10(j)1iv</i>

Legalization of past diversions and disposals:

Project Sponsor	Parkland improvements	Land acquisition	Notes:	Rule Citation:
Public	N/A	10:1***	- The Department may/can take mitigating circumstances into account when determining appropriate compensation ratios. - For "public" diversions or disposals, compensation cannot include monetary compensation to be used for parkland improvements. - For "private" diversions or disposals, compensation cannot include monetary compensation to be used for parkland improvements nor can an appraisal waiver be obtained. - ***\$10,000.00 minimum, even if a lesser amount is determined utilizing the listed ratios.	<i>N.J.A.C. 7:36-26.10(j)3ii</i>
Private	N/A	20:1***		<i>N.J.A.C. 7:36-26.10(j)3iii</i> <i>N.J.A.C. 7:36-26.10(j)3iv</i> <i>N.J.A.C. 7:36-26.10(j)3v</i>

At the time of the submittal of the preliminary compensation proposal, please also include in the proposal the following information when choosing to use monies for parkland improvements:

- A detailed description of the type, cost, location and intended use of any proposed parkland improvements (*N.J.A.C. 7:36-26.10(e)3i*);
- Drawings or plans of the parkland improvements (*N.J.A.C. 7:36-26.10(e)3ii*);
- A timetable or schedule for construction and confirmation that the portion of the project being funding by the compensation will be completed within one year of SHC approval of the disposal or diversion (*N.J.A.C. 7:36-26.10(e)3iii* and *N.J.A.C. 7:36-26.10(k)1ii*).

To the extent known at the time of the submittal of the preliminary compensation proposal, please also include in the proposal the following information when choosing to use monies for land acquisition:

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- Block(s) and lot(s) of any proposed replacement land(s) (*N.J.A.C. 7:36-26.10(d)1iv*); and
- The street address of the proposed replacement land(s), if available (*N.J.A.C. 7:36-26.10(d)1iii*); and
- The size of the proposed replacement land(s) in acres (for replacement land(s) larger than one acre) or square feet (for replacement land(s) smaller than one acre) (*N.J.A.C. 7:36-26.10(d)1iii and iv*); and
- A description of the proposed replacement land(s) (prepared by completing Section II of the Environmental Assessment, **Attachment I**, for each parcel) (*N.J.A.C. 7:36-26.10(d)1i*); and
- A description of the intended recreational and conservation use for the proposed replacement land(s) (*N.J.A.C. 7:36-26.10(d)1ii*); and
- Information sufficient for the Department to verify that the proposed replacement lands are eligible as replacement under *N.J.A.C. 7:36-26.10(d)2i-iii*; and
- A Preliminary Assessment Report, prepared in accordance with the Technical Requirements for Site Remediation, *N.J.A.C. 7:26E*, for each proposed replacement parcel (*N.J.A.C. 7:36-26.9(d)5 and N.J.A.C. 7:36-26.10(d)10*).

☐ **3. Minimum Compensation Ratios for a combination of Replacement Land and Monetary Compensation**

If the applicant chooses to provide compensation through a combination of replacement land and monetary compensation the following conditions apply:

- In no case shall the acreage of the replacement land be less than the acreage of the parkland to be disposed of or diverted. The ratio of the replacement land to the parkland proposed to be disposed of or diverted shall be at least 1:1. (*N.J.A.C. 7:36-26.10(d)3*)
- Additional monetary compensation offered beyond the minimum acreage compensation ratio noted above, must be sufficient to compensate in full for any shortfalls in the market value or quality of the proposed replacement land. (*N.J.A.C. 7:36-26.10(d)7*)
- All conditions outlined above in the “Minimum Compensation Ratios for Replacement Land” and the “Minimum Compensation Ratios for Monetary Compensation” must also be adhered to when combining both replacement land and monies into the preliminary compensation proposal.

☐ **4. Minimum Compensation for a Lease or Use Agreements**

If a lease or use agreement is determined by the Department to be a “Major Diversion under *N.J.A.C. 7:36-26.2(a) and (c)*, the following conditions apply to the lease or use agreement preliminary compensation proposal presented as part of the pre-application package:

- The compensation offered for a lease or use agreement must be determined, by the Department, to be fair and appropriate for the proposed activity. If it is determined to not be fair and appropriate, the Department shall specify the minimum amount of compensation that must be secured. (*N.J.A.C. 7:36-26.10(c)2i*)

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- All payments, rentals or other consideration received by the applicant from the lease or agreement shall be used by the applicant for its operating, maintenance or capital expenses related to its funded parkland or to its recreation program as a whole. (*N.J.A.C. 7:36-26.10(c)2ii*)

☐ **5. Minimum Compensation for a Loss of any Recreation or Conservation Facilities**

If a disposal or diversion, determined by the Department to be a “Major Disposal or Diversion” under *N.J.A.C. 7:36-26.2(a) and (c)*, will result in the loss of recreation or conservation facilities the following conditions apply to the preliminary compensation proposal presented as part of the pre-application package:

- The applicant is required to compensate for the loss of recreation or conservation facilities by providing replacement recreation and conservation facilities of reasonably equivalent usefulness, size, quality and location. The replacement facilities shall be in addition to any replacement land or monetary compensation proposed by the applicant. (*N.J.A.C. 7:36-26.10(c)3*)
- In order to determine if the replacement recreation and conservation facilities are of reasonably equivalent usefulness, size, quality and location, the applicant shall submit the information requested in *N.J.A.C. 7:36-26.10(e)3i - iii* with respect to the replacement of any of recreation or conservation facilities. (*N.J.A.C. 7:36-26.10(c)3*)

☐ **6. Minimum Compensation for Tree Replacement**

If a disposal or diversion, determined by the Department to be a “Major Disposal or Diversion” under *N.J.A.C. 7:36-26.2(a) and (c)*, will result in the removal of any tree with a diameter at breast height greater than six inches or the clear cutting of greater than 0.50 acre of trees, the following conditions apply to the preliminary compensation proposal presented as part of the pre-application package:

- The applicant shall include in the preliminary compensation proposal a tree replacement plan prepared pursuant to *N.J.A.C. 7:36-26.10(c)4* or offer monetary compensation at least equal to the costs that would be incurred with respect to such planting of the replacement trees. (*N.J.A.C. 7:36-26.10(c)4*)
- Provide confirmation that any proposed monetary compensation for tree removal will be transferred to the Department immediately after approval of the application for disposal or diversion of parkland or that a tree replacement plan will be implemented within a one year period following approval of the application. (*N.J.A.C. 7:36-26.10(k)1ii*)

Notes:

The Department will use the information in the preliminary compensation proposal and the value statement required under *N.J.A.C. 7:36-26.9(d)4 and N.J.A.C. 7:36-26.9(d)5* to determine the amount of compensation due for the proposed disposal or diversion of parkland. (*N.J.A.C. 7:36-26.9(i) and N.J.A.C. 7:36-26.10(f)1*)

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ATTACHMENT IV: PERMIT/APPROVAL CHECKLIST

This is a listing of any Federal, interstate, State and local approvals or permits required for the proposed project. Please include the application, permit, or docket number, the status of each permit or approval and the name and phone number of the contact at the Federal, interstate, State or local agency responsible for giving approval or permit issuance.

<input type="checkbox"/> Federal Approvals/Permits:	_____

<input type="checkbox"/> Federal Consistency Determination:	_____

<input type="checkbox"/> Interstate Approvals/Permits:	_____

<input type="checkbox"/> County/Municipal Approvals:	_____

State Approvals/Permits

<input type="checkbox"/> CAFRA	
Exemption Request:	_____
Individual Permit:	_____
General Permit:	_____
Permit by Rule:	_____
<input type="checkbox"/> D&R Canal Commission Certificate:	_____

<input type="checkbox"/> Dam Safety Permit:	_____

<input type="checkbox"/> Freshwater Wetlands	
Exemption:	_____
Individual Permit:	_____
Transition Area Waiver:	_____
Letter of Interpretation:	_____
General Permit (specify #):	_____
Open Water Fill Permit:	_____
<input type="checkbox"/> Highlands	
Resource Area Determination:	_____
Preservation Area Approval:	_____
HPAA with Waiver:	_____

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HPAA Emergency: _____
Pre- Application: _____

☐ Pinelands Certificate of Filing: _____

☐ Stream Encroachment
Waiver: _____
Permit: _____

☐ Tidal Wetlands (1970) Permit: _____

☐ Tidelands (Riparian) Conveyance: _____

☐ Upland Waterfront Development
Residential: _____
Commercial: _____

☐ Water Quality Certificate: _____

☐ Waterfront Development Permit
Individual: _____
Commercial: _____

☐ Jurisdictional Determination: _____

☐ Permit Modification (Specify # & type)

☐ Other: _____

I hereby certify that the information provided in this Permit/Approval Checklist is true and accurate.

Preparer of Application

Date

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ATTACHMENT V: MAP REQUIREMENTS

For all Pre-application submissions please submit the following (# of copies):

Location Maps (8½" x 11" in size):

- ☐ County Road Maps: Showing the proposed disposal/diversion parcel or area and the proposed compensation area **(1)**

Tax Maps (8½" x 11" or 11" x 17" in size):

- ☐ A) Showing the proposed disposal/diversion parcel(s)/area and any adjacent parkland; depict the entire park boundary and separately depict the proposed disposal/diversion area **(1)**
- ☐ B) Showing the proposed compensation parcel(s)/area and any adjacent parkland **(1)**

Aerial Site Maps* (11" x 17" or larger in size):

- ☐ A) A small scale site map showing the proposed disposal/diversion parcel(s) or area; depict the entire park boundary and separately depict the proposed disposal/diversion area **(1)**
- ☐ B) A small scale site map showing the proposed compensation (parcel(s)/area) and any adjacent parkland **(1)**

****If the Project is of such size/scale that the Aerial Site Map(s) also show the proposed disposal/diversion in relation to the proposed compensation, you do not need to include a large scale Reference Map requested below. If this is the case, please include 15 copies of the Aerial Site Map instead.****

Reference Map* (Attachment VI) (11" x 17" or larger in size):

- ☐ A large scale site map showing the proposed disposal/diversion in relation to the proposed compensation. Please include aerial imagery. **(1)**

If the proposed disposal or diversion will result in the loss of any development, additionally submit:

Park Facilities Maps (11" x 17"):

- ☐ A site plan showing all recreational facilities and identifying those facilities proposed to be removed **(1)**
- ☐ A site plan showing all proposed replacement recreational facilities **(1)**

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Mapping Notes:

- To the extent possible, please show the following on the Aerial Site Maps, Reference Map and Park Facilities Maps:
 - Tax map block and lot number(s) (current as of the date of request),
 - The owner(s) of record,
 - The approximate dimensions and area (in acres),
 - Existing improvements and easements,
 - Road rights-of-way,
 - Wetlands (as approved by DEP Land Use Regulation Program through issuance of a Letter of Interpretation or as shown on maps prepared by the Department under the Wetlands Act of 1970, N.J.S.A. 13:9A1 et seq., and the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B1 et seq. and available from the Department at <https://gisdata-njdep.opendata.arcgis.com/>),
 - Floodplains (as shown on the New Jersey State Flood Hazard Area maps prepared under the Flood Hazard Area Control Act, N.J.S.A. 58:16A50 et seq. and available from the Department at <https://gisdata-njdep.opendata.arcgis.com/> or as determined from other State or Federal mapping or from a site delineation), and
 - Tidelands (as determined from New Jersey Tidelands claim maps, conveyance overlays, and atlas sheets and available from the Department at <https://www.nj.gov/dep/gis/tidelandsshps.html>).
- The final application will require additional maps. In addition, if any of the above maps change for the final application they must be revised and resubmitted with the final application.
- Please utilize the most current digital color infrared (CIR) orthophotography of New Jersey for the Aerial Site Maps and Reference Map, available online at <https://njgin.nj.gov/njgin>. If the development of such maps is beyond your technological capabilities please substitute appropriately.
- In the event that you do not have access to a standard desktop GIS product that supports available imagery, such as ESRI's ArcView, freeware programs which allow viewing of the image files may be downloaded and installed to your computer. A list of open source GIS can be found at: <https://libguides.rutgers.edu/gis/opensourcegis>.
- The NJDEP also makes a web-based GIS application, NJ-GeoWeb, available at www.nj.gov/dep/gis/geoweb splash.htm.

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Attachment VI: Sample Reference Map



PROJECT NAME
SHC #

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
GREEN ACRES PROGRAM

YOUR COUNTY
YOUR MUNICIPALITY



1 inch = 400 feet

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ATTACHMENT VII: SAMPLE PUBLIC NOTICE

Pursuant to *N.J.A.C. 7:36-26.8(c)*, all public notices for a scoping hearing are required to include the following information:

- ☐ The name of the applicant and the date, time and location of the scoping hearing;
- ☐ A description of the proposed major disposal or diversion and a statement of the purpose for which it is proposed;
- ☐ The street address (if available), municipality, County, tax map block and lot and size of the property that is the subject of the proposed major disposal or diversion; and
- ☐ A statement inviting participation in the public hearing and notifying the public that, in the alternative, written comments may be submitted to the applicant during a public comment period that will close on a date that is two weeks after the scoping hearing date. The statement shall provide an address for submittal of written comments to the local government unit or nonprofit and shall require that copies of any written comments also be sent to:

New Jersey Department of Environmental Protection
Office of Transactions and Public Land Administration
Public Land Compliance Section
401 East State Street, 7th Floor
Mail Code 401-07, P.O. Box 420
Trenton, New Jersey 08625-0420
Attention: **(County Compliance Officer)**

Note: Please review the Sign Guidance Document – available at <https://dep.nj.gov/otpla/forms/#compliance> for information regarding the Public Notice Sign.

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The following is provided as a **Public Notice Template**. Please complete all areas indicated in bold and fill in any blanks as necessary. (N.J.A.C. 7:36-26.8(c))

Date

Adjacent Property Owner or Interested Party Name

Adjacent Property Owner or Interested Party Address

Adjacent Property Owner or Interested Party Block X, Lot X

Re: Project Name

Block & Lot of Diversion

City, Borough or Township of _____, _____ County, NJ

**Notice of Scoping Hearing on Proposed Diversion/Disposal of Green Acres
Encumbered Parkland**

CERTIFIED MAIL

Dear (Adjacent Property Owner or Name):

This letter is to provide you with written notification that the (Applicant), located at (Applicant's Address), will hold a public hearing to obtain comments regarding its intention to apply to the New Jersey Department of Environmental Protection, for the proposed major (disposal / diversion) of **(Name of parkland)** owned by (Landowner). The scoping hearing will be held **(date, time, and location)**. All interested parties are invited to attend and participate in the scoping hearing. In addition to oral comments presented during the hearing, written comments may be submitted to the agencies listed below. All written comments must be received within two weeks following the hearing by **(date)**.

The proposed parkland **(disposal/diversion)** would involve the **(description of disposal/diversion)** and would serve the following purpose **(description of the purpose of the disposal/diversion)**.

All written comments should be submitted to the **(Applicant)**, with copy to the Department, at the following addresses:

(Applicants Address)

New Jersey Department of Environmental Protection
Office of Transactions and Public Land Administration
Public Land Compliance Section
401 East State Street, 7th Floor
Mail Code 401-07, P.O. Box 420
Trenton, New Jersey 08625-0420
Attention: **(County Compliance Officer)**

Should you have any questions, please contact me at **(XXX) XXX-XXXX**.

Very truly yours,

(Project Manager, Municipal Official)

(Address)

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ATTACHMENT VIII: SAMPLE RESOLUTION

(insert: Local Unit)

RESOLUTION

(insert: #)

**RESOLUTION SUPPORTING THE STATE HOUSE COMMISSION
PRE-APPLICATION TO THE NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION FOR
*(insert: DESCRIPTION OF DISPOSAL/DIVERSION)***

WHEREAS, Block *(insert: #)*, Lot *(insert: #)* is part of the *(insert: Local Unit)* *(insert: Park name)* which is encumbered, as a condition of Green Acres funding, with restrictions against disposal or diversion from recreation and conservation uses by the New Jersey Department of Environmental Protection; and

WHEREAS, in conjunction with the proposed *(insert: project description)*, it is necessary to remove the Green Acres restrictions from a *(insert: size)* acre portion of *(insert: Park name)*; and

WHEREAS, the removal of Green Acres restrictions from parkland requires the approval of the Commissioner of the Department of Environmental Protection and the State House Commission pursuant to *N.J.A.C. 7:36-26*; and

WHEREAS, the *(insert: Local Unit)* wishes to apply for approval for *(insert: project description)* as a major disposal or diversion of parkland under *N.J.A.C. 7:36-26*; and

WHEREAS, as required by *N.J.A.C. 7:36-26.8*, the *(insert: Local Unit)* held a scoping hearing on *(insert date of scoping hearing)* to solicit public comment on the *(insert: disposal/diversion)* of parkland from *(insert: park name)* in connection with *(insert: project description)*;

WHEREAS, the next step in the application process for approval of a major disposal or diversion of parkland is the filing of a pre-application under *N.J.A.C. 7:36-26.9*; and

WHEREAS, in accordance with *N.J.A.C. 7:36-26.9(d)11*, it is necessary for *(insert: Local Unit)* to submit as part of the pre-application a Resolution endorsing the application to divert or dispose of parkland;

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NOW THEREFORE, BE IT RESOLVED by the (*insert: Local Unit governing body*) of the (*insert: Local Unit*), in the County of (*insert: County Name*), State of New Jersey as follows:

1. The (*insert: Local Unit*) endorses the filing of a pre-application for the (*insert: park name/description of disposal or diversion*) pursuant to N.J.A.C. 7:36-26;
2. The (*insert: Local Unit*) hereby finds that (*insert: park name/description of disposal or diversion*) would meet the minimum substantive criteria at N.J.A.C. 7:36-26.1(d) by (*insert: explanation of how project will fulfill a compelling public need or yield a significant public benefit*); and
3. The (*insert: Local Unit*) acknowledges that in order to obtain the approval of (*insert: park name/description of disposal or diversion*), all substantive and procedural requirements of N.J.A.C. 7:36-26 must be met, including compensation requirements at N.J.A.C. 7:36-26.10.

DATE: (*insert: date*)

(*insert: Local Unit Name*)

BY: _____
(*insert: Title*)

ATTEST: _____
(*insert: Title*)

BY: _____
(*insert: Title*)

ATTEST: _____
(*insert: Title*)