

Hudson County, North Bergen Township  
Braddock Park Pre-K School Trailers (Block 437.02 Lot 1) and EMS Building (Block 103, Lots 107 & 127) Diversion of Green Acres-Encumbered Parkland  
State House Commission (SHC) File #s 0900005, 0908003 Pre-Application Completeness Review

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## **RESPONSE TO NJDEP'S JANUARY 31, 2023 PRE-APPLICATION COMPLETENESS REVIEW ON BEHALF OF HUDSON COUNTY AND TOWNSHIP OF NORTH BERGEN**

### **Executive Summary**

Governor Phil Murphy has proposed expansion of full-day, high-quality preschool to all three- and four- year-old children in the State which creates not only a compelling public need for this diversion but also will yield a significant public benefit by improving the delivery of essential services to the public.

The North Bergen Board of Education ("NBBOE") conducted an extensive search for appropriate property upon which to build a pre-school which provides enough space to meet all the educational facility criteria established by the New Jersey Department of Education ("NJDOE") and the NBBOE. The NBBOE is now on target by September of 2023 to relocate 3 out of 5 preschools to their neighborhood schools in conformance with NJDOE policies, but have been unable to locate an alternative to the Braddock Park site for the Horace Mann, Robert Fulton, and the Academic, Career, and Essential Skills (ACES) preschool students.

The Applicants considered alternative properties suggested in the context of the 2016 and 2021 pre-applications along with others previously suggested by New Jersey Department of Environmental Protection ("DEP") and the public, and additional properties that have been reviewed and re-examined by noted experts in the education and construction industries applying both NJDEP regulations and NJDOE building standards cited herein. It has been concluded that none of the properties were and are not now reasonable, feasible, or available as those terms are defined under the Green Acres regulations as sites for a town-wide preschool facility nor are any of the considered properties reasonable, feasible or available now for a neighborhood school within the NBBOE School Districting Map area that would serve the remaining Mann, Fulton, and ACES preschool students.

The Applicants have responded to and provided information for all other DEP requests for information including schematics showing plans for a permanent facility to be built on the existing footprint of the proposed diverted area of Braddock Park.

In addition, the Applicants propose herein to provide an additional .355 acres of replacement property to meet the 5:1 ratio as stated in N.J.A.C. 7:36-26.10(g) under Table 1. The additional replacement property proposed is not within the appropriate NBBOE District Mapping area nor would it meet NJDOE educational facilities and construction standards.

### **Summary of Applicable NJDOE Regulations**

Throughout this Response, there are references to certain NJDOE standards found in applicable regulations. For ease of review, we hereby provide a summary of those regulations.

N.J.A.C. 6A:26-6.4 is entitled **“Educational Facility Planning Standards for School Facilities Housing Preschool Students”** and serves to provide a list of requirements for the design of preschool classrooms within school facilities. The preschool classrooms requirements are different from school facilities for older students. The requirements include: (a) preschool classrooms cannot be higher than the second floor, (b) there must be minimum square footage of space per child in each preschool classroom pursuant to the “facilities efficiency standards” provided in section (h) of this regulation, (c) each preschool classroom must have an attached toilet room designed to be handicapped accessible and with features sized for use by the preschool students, (d) apart from the toilet room, each preschool classroom must have an additional sink with the rim no greater than 26 inches from the floor, (e) each preschool classroom must have a resilient floor covering, (f) each preschool classroom must be equipped with a water fountain and must be designed to modulate interior noise and minimize exterior noise, and (g) an outdoor play area at least 100 square feet for each child using the space at one time. Less relevant to our submission, this regulation also describes requirements for electrical power and communications requirements, lighting requirements, plumbing requirements, and storage requirements.

N.J.A.C. 6A:26-7.1 is entitled **“Approval of the Acquisition of Land”** and describes the process in which a school district can seek approval for land acquisition for purposes of school facility development. A school district may obtain voter approval for funding of land acquisition prior to NJDOE approval. A school district must obtain approval from the NJDOE for the acquisition of land in connection with a school facilities project (defined as the “acquisition, demolition, construction, improvement, repair, alteration, modernization, renovation, reconstruction or capital maintenance of all or any part of a school facility...”). The request for approval must include (a) a written request with a statement signed by the BOE President and Chief School Administrator indicating the immediate and ultimate proposed uses of the site to be acquired, (b) a map of the school district showing the location of the land, existing schools, attendance area to be served and the number of students who live in the attendance area, (c) data regarding the impact of the acquisition on racial balance within the school district’s public schools; (d) a full detailed appraisal of the market value of the property prepared by a licensed professional; (e) a title report on the property prepared by a reputable title insurer evidencing that title is good and marketable; (f) feasibility study evidencing that the school-district-owned land within the attendance area to be served by the school is not available suitable or sufficient to be used for school purposes but only if the school district must seek approval for a new acquisition of land; and (g) evidence that the school district has not agreed to indemnify the seller of the land for the costs arising from environmental remediation, acquired the land in its as is condition or acquired the land under terms and condition that would invalidate the statutory immunity of the school district from liability for remediation costs.

N.J.A.C. 6A:26-7.3 is entitled **“Approval for the acquisition of existing facilities”** and states that if a district board of education is planning to acquire an existing facility through purchase, gift,

lease or otherwise must comply with all procedures and rules pertaining to the appropriation and use of capital funds as required under N.J.A.C. 18A:20-4 and 4.2. The district Board of Education must also apply for approval from NJDOE for purposes of sufficiency of the facility.