



Resolution of the Township of Bernards

1 Collyer Lane, Basking Ridge, NJ 07920
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Resolution #2014-0186

Approving Settlement Agreement and Release (“Settlement Agreement”) by and between Bernards Township (“the Township”) and Millington Quarry, Inc. (“MQI”)

WHEREAS, MQI submitted a Rehabilitation Plan on or about October, 2011 (“2011 Rehabilitation Plan”) to the Bernards Township Planning Board (the “Board”) in accordance with Sections 4-9.5 and 4-9.6 of the Revised General Ordinances of the Township of Bernards (“the Quarry Ordinance”) with respect to the Millington Quarry property located at Stonehouse Road, Lot 6, Block 6001, 191. 21+ acres, Bernards Township, Somerset County, New Jersey (the “Property”);

WHEREAS, a dispute has arisen among the Township and MQI regarding the Board’s adoption of a report on May 7, 2013, entitled, “Report of the Bernards Township Planning Board to the Township Committee on the Review of the 2011 Millington Quarry Rehabilitation Plan” (“Planning Board Report”), which recommends certain conditions for approval of the 2011 Rehabilitation Plan submitted by MQI;

WHEREAS, disputes have also arisen among the Township and MQI concerning the provisions established in Township Resolution #080308 (“Resolution”), adopted on July 2, 2008, and Township Ordinance #2025, entitled “An Ordinance Amending Chapter IV Entitled ‘General Licensing’, Section 4-9 Entitled ‘Quarrying’ of the Revised General Ordinances of the Township of Bernards, to Add Subsection 20 to Section 4-9.5 Entitled ‘Rehabilitation of Quarry Property,’” which ordinance is now codified as Section 4-9.14 of the Revised General Township Ordinances (the “Fill Prohibition Ordinance”);

WHEREAS, an action entitled *Millington Quarry Inc. v. Township of Bernards, et al.*, SOM-L-475-08, was filed by MQI in Somerset County Superior Court regarding the Township’s interpretation and enforcement of the Quarry Ordinance and the Fill Prohibition Ordinance (together the “Actions”);

WHEREAS, MQI seeks a prompt and complete rehabilitation of the Property for a use permitted by Township zoning; and

WHEREAS, MQI and the Township have prepared a Settlement Agreement that sets forth the terms and conditions of the settlement, compromise, and release with prejudice of claims between and among the Township and MQI and those claims MQI has filed against the Board

related to the Planning Board Report, Resolution, Fill Prohibition Ordinance, the Quarry Ordinance, and the Actions in the manner set forth herein, which draft Settlement Agreement is a public document on file and available for release and inspection from the Township Clerk; and

WHEREAS, the Township Committee has determined the Settlement Agreement is in the best interests of the Township and furthermore avoids the time, expense and vexation and continuance of the disputes, controversy and Actions between the Township and MQI that have existed since 2008.

NOW, THEREFORE BE IT RESOLVED, in consideration of the premises and mutual agreements contained in the Settlement Agreement, the receipt and sufficiency of which the parties acknowledge, the Township Committee approves the Settlement Agreement and in accordance with Section 4-9.5a.5., the Township Committee has reviewed the Planning Board Report and approves the 2011 Rehabilitation Plan subject to the modifications, terms, and conditions with the consensual agreement of MQI as set forth in the Settlement Agreement.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Mayor and Township Clerk are authorized to execute and sign the Settlement Agreement.

Agenda and Date Voted: 04/29/2014

<p style="text-align: center;"><u>CERTIFICATION</u></p> <p>I hereby certify this is a true and exact copy of a resolution adopted by the Bernards Township Committee on 04/29/2014.</p> <hr/> <p style="text-align: center;">Denise Szabo, Municipal Clerk</p>
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