

TOWN OF VINCENT, ALABAMA
ORDINANCE NO. _____

_____, 2010

AN ORDINANCE (a) approving an amendment to the Comprehensive Plan of the Town of Vincent, Alabama by designating the future use of the Property described on the survey attached hereto as Exhibit A and commonly known as the "Vincent Hills Quarry" or the "White Rock Quarries Property" as "Industrial" and (b) changing the zoning district designation of such property, presently zoned "AG, Agricultural District" and "RR, Rural Residential District", to "Special District – Other Use (Industrial)" and establishing certain development, operating and environmental procedures and measures for such property for so long as such property or parts thereof shall be so zoned.

BE IT ENACTED AND ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF VINCENT, ALABAMA:

WHEREAS, White Rock Quarries, LLC ("Applicant") has applied to the Town of Vincent, Alabama (the "Town") to have the zoning district designation of its property described on the Survey attached hereto as Exhibit A and incorporated herein by reference (the "Property") changed from "AG, Agricultural District" and "RR, Rural Residential" to "Special District – Other Uses (Industrial)", to permit development, construction and operation of quarry and mining operations on the Property; and

WHEREAS, the Town Comprehensive Plan includes the Property within the Town property designated for future use as "Agricultural"; and

WHEREAS, the Town Planning Commission has unanimously recommended amending the Town's Comprehensive Plan and related Future Land Use map to designate the future land use of the Property as "Industrial" and changing the zoning district designation of the Property to Special District – Other Uses (Industrial); and

WHEREAS, the Mayor and Town Council have considered carefully (a) the existing future land use designations, the existing uses and zoning of properties adjacent and proximate to the Property, (b) the transportation facilities available to the Property and (c) the existence of a valuable limestone deposit underlying the Property, which if extracted will provide significant benefits to the Town and its citizens, and has determined that the proposed amendment of the Town's Comprehensive Plan designating the future use of the Property as "Industrial" is appropriate; and

WHEREAS, the Mayor and Town Council have considered carefully the Applicant's application, the proposed change of the zoning district designation of the Property, all data, materials and information presented with respect to the proposal by the Applicant and other proponents and opponents of the proposal and have determined that the proposed uses of the Property (a) present unique environmental, development, operational and design considerations, (b) are not expressly covered elsewhere in the Town's Zoning Regulations, and (c) are of such a nature to be considered generally incompatible with most other land usage; and

WHEREAS, the Town Council has determined that (a) the value and character of other properties in the Town adjacent to the Property will not be adversely impacted by the proposed zoning change; (b) the disposal of sewage using on-site septic facilities is appropriate for the Property and the proposed uses thereof; (c) the proposed uses and development of the Property are consistent with the Town's Comprehensive Plan as amended hereby; (d) the development, operating and environmental procedures and measures proposed to be utilized in connection with the proposed uses are appropriate and adequate to eliminate or effectively minimize any adverse impacts thereof and to maintain the high quality of public health and safety prevalent in the Town; (e) the proposed development and uses of the Property will provide economic, employment and other benefits and advantages to the Town and its citizens, including significant tax revenue; and (f) the public necessity, convenience, general welfare and good zoning practice warrant such amendment and Zoning district change, are in the best interest of the Town, and are consistent with the intent and purpose of the Town's Zoning Regulations to promote the public health, safety, morals and general welfare of the Town and citizens.

1. Amendment of Comprehensive Plan. The Comprehensive Plan of the Town and the Future Land Use Map portion thereof are hereby amended to include the Property within the Town lands designated for "Industrial" future use, as shown on Exhibit B hereto and incorporated herein by reference.

2. Zoning of Property. The zoning district of the Property is hereby changed from AG, Agricultural District and RR, Rural Residential District, as applicable, to Special District – Other Uses (Industrial).

3. Uses. The allowed uses of the Property are:

- (a) extraction from the ground by surface or subsurface mining or other means of chert, clay, gravel, limestone, rock, sand, soil, stone aggregate or other materials or minerals for commercial purposes, including quarry, surface and subsurface mining operations, manufacturing and fabrication of plant and mobile equipment, processing of product, crushing, loading, preparation, sizing, transportation, storage, sale and distribution of such materials and minerals;
- (b) development and construction of rail, road, walk, sewer or septic, water, electrical, communications and other infrastructure improvements, a quarry, crushing system, conveyor systems, water treatment system, wet suppression system, dust collection, sediment ponds, administrative office buildings, maintenance and storage buildings and other structures and improvements necessary or convenient to accommodate the uses described in paragraph 3(a);
- (c) maintaining existing houses on the Property for office/conference facilities and employee housing; and
- (d) maintaining existing agricultural uses on the Property until such time as the specific area of the Property is needed for the purposes described in paragraphs 3(a) and (b) above.

4. Development, Construction and Operation. The following requirements, regulations and standards shall be applicable to the development and operation of and construction on the Property with respect to the uses permitted under Sections 3(a) and (b) hereof:

- (a) Development and construction on the Property or parts thereof may occur and be commenced and completed in phases. A final Land Development Site Plan for development of each phase of development of the Property (each, a "Land Development Site Plan") shall be submitted to the Town Planning Commission for review and approval in accordance with all requirements of the Town Zoning Regulations and all regulating bodies having jurisdiction and shall be consistent in all material respects with the Master Plan attached hereto as Exhibit C (the "Master Plan"). Without limitation to the foregoing, separate Land Development Site Plans shall be submitted for the mining operation facilities and the water recirculation facility.
- (b) Parking, loading, yard and dimensional requirements set out in the Master Plan and in each applicable phase Land Development Site Plan shall be applicable to construction on and development of the Property. Without limitation to other requirements set out in any such plan: (i) the maximum permissible height of inhabitable structures (as defined in Article 3.2 of the Zoning Regulations for the Town of Vincent on the effective date hereof) on the Property shall be 100 feet measured from the surface of the ground surrounding the quarry pit; (ii) the maximum permissible height of habitable structures on the property shall be 45 feet measured from the surface of the ground surrounding the quarry pit and (iii) a twenty-five foot (25') setback shall be maintained from all boundaries of the Property.
- (c) Development of the Property shall be substantially as set forth in the Master Plan and shall be developed in accordance with each applicable phase Land Development Site Plan. The areas in which buildings may be constructed, areas which will be developed for parking and the proportionate amount of parking relative to the overall site, the location of roads, driveways and walks, points of ingress and egress, the location and height of walls, the areas for loading activities, the location and size of the initial quarry pit and future pit expansion, the location of berms, the location of the overburden storage area, the location of the water treatment area, the character and number of signs, the location and character of exterior lighting, and the character and extent of landscaping and planting shall be as set out in each phase Land Development Site Plan.
- (d) Notwithstanding anything to the contrary contained or implied in the Town Zoning Regulations, the period during which development of and construction upon the Property may be commenced shall be the latest of the following: (1) 5 years from the effective date of this Ordinance, (2) 2 years from the date the Property owner receives all necessary permits and approvals and the time period for appealing those permits and approvals has passed, or (3) 2 years after all litigation concerning the

zoning of the Property and litigation concerning all permits and approvals has concluded. Accordingly, the zoning of the Property as Special District – Other Use (Industrial) pursuant to this Ordinance shall not revert to any pre-existing zoning designation except upon application of the owner of the Property.

- (e) No hazardous materials as defined by the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9610 et seq. as amended) shall be stored or produced at the Property other than petroleum and oil products. If hazardous wastes migrate onto the Property from offsite sources, the Property owner shall comply with all applicable state and federal water regulations for the discharges of such water.
- (f) A fire hydrant shall be installed between the scale house and employee parking area indicated on the Master Plan during the development phase.
- (g) The Property owner shall comply with all applicable building and construction codes and all applicable local, state and federal rules, regulations and laws regarding the development, construction and operation of any use undertaking on the property.
- (h) The Property owner shall use Best Management Practices based on current technology, methods and procedures with regard to all environmental, regulatory and compliance regulations, rules and law.
- (i) The Property owner shall comply with all applicable environmental rules, regulations, and laws as they now exist or as they may be hereafter amended, promulgated, replaced or supplemented and shall acquire and maintain all applicable permits for any use undertaken on the Property.
- (j) The Property owner shall develop, operate and maintain the Property in full compliance with all applicable federal, state and local rules, regulations, and laws as they now exist or as they may be hereafter amended, promulgated, replaced or supplemented.
- (k) The Property owner shall maintain and submit all applicable compliance and regulatory reports and any other report required by law.
- (l) The Property owner shall comply with the following general development and operating requirements applicable to the Property:
 - (i) Berms shall be constructed around the Property and landscaped buffers shall be established between the Property and adjacent property pursuant to the Master Plan.
 - (ii) Berms around the Property shall be maintained as required by the Town of Vincent and Shelby County.
 - (iii) After the development phase is completed, the primary crusher for the quarry shall be situated approximately eighty (80) to ninety

(90) feet below the level of the ground surrounding the quarry pit to minimize noise.

- (iv) Strobe lights or other inaudible safety mechanisms shall be used at night on mobile equipment in lieu of an audible warning system to the extent allowed by the Mining Health and Safety Administration (MHSA) and applicable regulations.
- (v) High pressure low sodium directional light fixtures shall be used for exterior plant lighting on the Property.
- (vi) After the development phase, facility tours shall be conducted for groups of neighbors, public officials, students and teachers, including observation of a blast and various phases of the mining operation, at such reasonable times and frequency when such tours can be mutually scheduled and after completion of safety training and signing of waiver for damages.
- (vii) After the development phase is completed, all rail load-out activities shall occur in one or more enclosed buildings with operational controls to limit rail noise and primarily while trains are in motion. After the development phase, all trucks shall be loaded within a bermed area.
- (viii) All development and operations shall be conducted in accordance with all applicable federal, state, county and town statutes, laws, regulations, ordinances and rules.
- (ix) A reclamation bond in a reasonable amount and appropriate for similar mining activities shall be provided for the Property by the Property owner and any future owners of the Property using the property pursuant to this ordinance.
- (x) Trucks leaving the Property shall comply with all applicable state and federal weight limits.
- (xi) Operators of commercial trucks hauling product from the Property shall be informed that the single lane tunnel on Shelby County Road 62 shall not be used by such trucks.
- (xii) The existing railroad crossings along routes to be taken by the commercial trucks coming to or leaving the Property shall be evaluated to determine if upgrading is necessary under applicable local or state law, and if so, such crossings shall be so upgraded.
- (xiii) All laws applicable to construction of the new railroad spur planned to cross Shelby County Road 62 shall be complied with.

- (m) The Property owner shall comply with the following measures relative to blasting at the Property:
- (i) On-line notification shall be provided of days and time frames of production blasting schedules and personal notification of the same shall be provided to certain neighbors, upon request. Blasts shall not occur between 5:00 P.M. and 9:00 A.M., Central Time, or at any time on Sundays or on any of the following Federal Holidays: New Years Day, Martin Luther King, Jr. Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day. Production blasting schedules shall be altered as necessary to take into account strong wind conditions. Provided that access is granted to the Property owner in writing, Seismographs and/or strain gauges shall be installed at certain offsite locations on which structures are situated nearest to the Property so that a third party geotechnical engineering firm can measure production blasting events.
 - (ii) Electronic detonators, computer-controlled sequential blasting machines, drill logs, and laser profilers shall be used for production blasts.
 - (iii) A third party geotechnical engineering firm shall be retained to document and maintain the records of each production blast and a copy of results shall be maintained at the Property.
 - (iv) All blasts shall comply with all applicable local, state and federal laws.
 - (v) Blasting techniques utilized shall include placing blast materials in the rock rather than in the soil.
 - (vi) Any mobile equipment and all combustible materials other than blast agents shall be removed from the area within 200 feet of the blast source during scheduled production blasts.
 - (vii) A pre-production blast survey shall be performed of all accessible structures within 1.5 miles of the quarry pit. In addition, upon request of the owner of property further than 1.5 miles from the quarry pit but within a 2 mile radius of the center of the Property, a pre-production blast survey of such owner's property shall be performed, as illustrated on the Baseline Survey Areas Map attached as Exhibit D hereto and incorporated herein by reference (the "Baseline Survey Areas Map"). A production blast monitoring program shall be established as described below (the "Production Blast Monitoring Plan"), monitoring data from production blasting and complaints of production blasting damage to structures on

property with the Baseline Survey Area outlined on the Baseline Survey Areas Map.

- (viii) The Property owner shall maintain a Blast Damage Hotline for complaints by owners of structures within the area of the Baseline Survey Areas Map regarding production blast damage to such a structure.
- (ix) The Property Owner shall provide a response to all complaints received from the owner of a structure regarding possible blasting damage within the Baseline Survey Area pursuant to the following:
 - (A) Once information is received on the Blast Damage Hotline regarding alleged structural damage from blasting, the Property owner shall record and produce a written report of the complaint. A representative of Property owner shall attempt to contact the structure owner within 72 hours of receipt of the Hotline Report. An independent geotechnical consultant and an independent licensed general contractor shall be retained by the Property owner and such consultant, contractor and a representative of Property owner shall review the report within 7 days of receipt of the Hotline Report.
 - (B) Within 14 days of receipt of the Hotline Report, the consultant, the contractor and the representative of Property owner shall investigate the complaint and inspect the structure to determine whether there is structural damage that has been caused by production blasting on the Property. Without limitation, such determination shall include reviewing baseline data obtained prior to production blasting, data regarding each production blast since the date of the last production blast survey of the structure to the extent applicable, and information obtained during the inspection of the structure after the complaint.
 - (C) If the Property owner's production blasting caused the damage in question, the Property owner shall be responsible for repairing the structural damage.
- (n) The Property owner shall comply with the following measures relative to limiting dust leaving the Property:
 - (i) All conveyors and product transfer points shall be covered.
 - (ii) Wet suppression and dust collection systems shall be used at all conveyors, transfer points, crushers, and screen towers.
 - (iii) The wheels and undercarriages of all commercial trucks shall be rinsed prior to such trucks' leaving the Property.

- (iv) The entrance/exit road to the Property shall be paved and automated sprinkler systems shall be used.
 - (v) Dust shall be collected from dust suppression equipment associated with materials handling and loading and shall be used as recovered product or stored properly on the Property.
 - (vi) Mobile water-trucks shall be used during the initial development and operational phases as necessary to control dust.
 - (vii) The owner of the Property shall assure that all commercial trucks utilize tarps as they exit the Property with product.
 - (viii) All state and federal air permits necessary for operation of the Property shall be obtained and complied with.
 - (ix) After the development phase, product leaving the Property by train shall be loaded in an enclosed building using a wet dust suppression system.
- (o) The Property owner shall comply with the following measures relative to employment at the Property:
- (i) An employment policy shall be adopted and adhered to, which shall state as follows: "Our Company is firmly committed to complying with all state and federal laws regarding equal employment opportunity. As part of our ongoing business practices in the Town of Vincent, we will use good faith efforts to ensure that our workplace remains free of unlawful discrimination and to ensure that our workforce is diverse and representative of the local availability of qualified employees."
 - (ii) A comprehensive program to train new employees for employment at the Property shall be developed and implemented.
- (p) The Property owner shall comply with the following measures relative to water resources protection:
- (i) A pre-development inventory of water-supply wells shall be conducted of all properties within 1.5 miles of the quarry pit as shown on the Baseline Survey Areas Map, provided that access is granted to Property owner in writing. In addition, upon request of the owner of property further than 1.5 miles from the quarry pit but within a 2 mile radius of the center of the Property, the owner of the Property will conduct a pre-development inventory of water wells on such property. A copy of such pre-development water-supply well inventory shall be provided to the Vincent Water Board. After such inventory is completed, the Property owner shall determine 'sensitive areas' based on groundwater use and anticipated groundwater impact areas and shall determine the

depth to groundwater in existing wells surrounding the Property. A well monitoring program shall be established as described in the Groundwater Monitoring Plan attached hereto as Exhibit E and incorporated herein by reference (the "Groundwater Monitoring Plan"), monitoring both existing domestic/abandoned water supply wells and additional wells drilled by the Property owner outside of the Property provided that access is granted to Property owner pursuant to a written agreement.

- (ii) All complaints received from a resident regarding such resident's water well shall be provided a response pursuant to the Groundwater Monitoring Plan specifically:
 - (A) Step 1: In the event of a resident's complaint about their water well, a rapid in-house screening of the well and complaint shall be conducted to determine whether there actually is any damage or problems with the water level or quality. Baseline data obtained prior to mining will be used for this determination.
 - (B) Step 2: If there proves to be a problem, an independent, technically qualified firm, recognized as having expertise and experience and approved by the Town, shall investigate the well to determine if the problem(s) were caused by the quarry operations. If this screening determines that the quarry operation caused the problem, action shall be taken pursuant to Step 3.
 - (C) Step 3: Should the problem(s) be deemed to be the result of the quarry operations:
 - I. Within 24 hours, a temporary drinking water source shall be provided for any impacted residential household by supplying bottled water.
 - II. Within 24 hours, drinking water shall be provided for livestock if the impact affects an agricultural site.
 - III. Within 72 hours, intermediate water supplies shall be provided to an impacted residential site, which may be in the form of a temporary tank plumbed into a residential household site utilizing water supplied from the Vincent Water Board.
 - IV. Within 72 hours, an intermediate, alternative livestock drinking supply shall be provided to an impacted agricultural site, which may be accomplished using a water tank to supply livestock with water supplied by the Vincent Water Board or other acceptable surface water sources.

- V. A long-term solution shall be implemented to provide permanent, alternative water supplies for both domestic household water supply to residential sites and to livestock for agricultural sites by establishing either groundwater or public water supplies to an impacted site.
 - VI. The Property owner shall endeavor through the foregoing plan to minimize any impact of its operations upon groundwater resources and provide the best solution available in the event of a negative impact of such operations on groundwater resources.
- (iii) If the Town's water supply is impacted by activities at the Property, the owner of the Property shall work with the Town and the Vincent Water Board to remedy the situation either by location and drilling of a municipal water well, providing water from the quarry or by identifying alternative water sources or other measures agreed to by such owner, the Town, and the Vincent Water Board.
 - (iv) Baseline data shall be gathered from streams, springs and monitoring wells outside of the Property, from rainfall, streams and monitoring wells within the Property and from monitoring at Spring Creek. A pre-development hydrogeological evaluation and report shall be performed on Spring Creek. A stream monitoring gage shall be located along Spring Creek between the Property and the Town water supply to monitor its water levels. All water monitoring information shall be shared with the Vincent Water Board, the Town, and their consultants in a timely manner and access for independent monitoring shall be made available at any reasonable time to Vincent Water Board and Town representatives when accompanied by a Property owner representative. Vincent Water Board and Town representatives shall be given access to offsite monitoring sites, such as wells and gauging stations with in-site data collection devices or remote access monitoring devices, that are accessible only by the Property owner's representatives or third party experts, with proper supervision, insurance and MSHA training at reasonable times and accompanied by a Property owner representative.
 - (v) Water quality monitoring shall be included in Property owner's monitoring and reporting, using such parameters as the Property owner shall determine based on the pre-development water well inventory, including without limitation, monitoring in compliance with its stormwater and discharge permits.
 - (q) The Property owner shall comply with the following measures relative to subsidence monitoring at the Property:

- (i) After the development phase, a geophone shall be installed and monitored at the Town's water tank on Shelby County Highway 85, provided that the Town's Water Board grants written permission to the Property owner for such installation and monitoring.
- (ii) A pre-development subsidence inventory of property shall be conducted of all accessible properties within 1.5 miles of the quarry pit as shown on the Baseline Survey Areas Map. In addition, upon request of the owner of property further than 1.5 miles from the quarry pit but within a 2 mile radius of the center of the Property, a pre-development subsidence survey of such owner's property shall be performed, as described in the Subsidence Monitoring and Mitigation Plan attached hereto as Exhibit F and incorporated herein by reference (the "Subsidence Monitoring Plan") and as shown on the Baseline Survey Areas Map. Such subsidence inventory shall include commercial and industrial properties and railroads, and shall include visual observation along roadways, rail lines, industrial sites and private property to which Property owner has been granted access in writing.
- (iii) The owner of the Property shall respond to all complaints of subsidence pursuant to the Subsidence Monitoring Plan.
- (iv) A subsidence monitoring and notification plan shall be established for the rail lines adjacent to the Property.
- (v) Information regarding existing subsidence features on the Property gathered by the Property owner based on mapping and site work performed through the date hereof shall be made available for review by the Vincent Water Board and its consultants upon request. Additional existing subsidence features identified during the pre-operation subsidence surveys conducted in accordance with paragraph 4(l)(ii) shall also be provided to the Vincent Water Board upon request.
- (vi) After the development phase, a dedicated telephone line shall be established to receive from the community any complaints, any notices of concern, reports of subsidence incidents and requests of the owner of the Property for an examination of an area of concern. The contact information for such line shall be posted on a site-specific website for the Property. Such site-specific website shall be a database that can be accessed by Town officials and shall have as part of its purpose early warning and communication of a possible subsidence hazard. Immediate notification to the Shelby County Sheriff's Department, the Town, the Vincent Water Board and adjacent railroads shall be provided in the event that

subsidence or structure failure is observed by the Property owner on or near public roads or railroads.

- (r) The Property owner shall comply with the following measures relative to protection of wetlands, springs and water courses:
 - (i) A buffer shall be established between the Property boundary and jurisdictional wetlands on the Property as follows:

A 50 foot buffer around each of the 2 jurisdictional wetlands in the southern portion of the Property as indicated in the Master Plan and a 25 foot setback around the jurisdictional wetland in the northwest corner of the Property in the form of a berm between the jurisdictional wetland and the operating facility on the Property.
 - (ii) Open bottom culverts shall be used to cross any jurisdictional stream with mining activities, as will be more fully described in the Land Development Site Plan submitted for each phase of development.
 - (iii) Best Management Practices existing on the date hereof shall be used to the extent reasonable around all jurisdictional wetlands.
- (s) The Property owner shall comply with the following measures relative to prevention of water treatment pond sediment or petroleum products leaving the Property:
 - (i) A lower bench shall be excavated in the quarry pit and a sump shall be installed to collect and pump groundwater that enters the quarry and to store water that flows into the quarry during rain events at rates that exceed the pump capacity.
 - (ii) Above-ground storage tanks ("ASTs") shall be utilized to contain any fuels and other products typically used for operating equipment in accordance with a site specific SPCC Plan (spill prevention) that shall be prepared in accordance with 40 CFR 112.7 and an ADEM-issued NPDES permit.
 - (iii) Fuels and petroleum products shall be located at a higher elevation than the highest elevation within the quarry pit. Fuels and other petroleum products stored in containers exceeding 55 gallons shall be stored either in double-walled ASTs or within secondary containment structures large enough to contain 110% of the contents of the largest container in the secondary containment.
 - (iv) A series of cascading water treatment ponds shall be installed on the Property, consisting of smaller initial sediment ponds for primary treatment, followed by larger synthetically lined ponds for secondary treatment and storage.

- (v) Sediment removed from treatment ponds shall be dried in drying beds located in close proximity to the ponds, and upon drying, shall be moved to the overburden storage area or used for onsite construction and will not be stored near streams or rivers.
- (vi) Routine monitoring and sampling shall be conducted of discharges from treatment ponds in accordance with all applicable permits and regulations.
- (vii) A copy of the Property owner's Discharge Monitoring Reports that are submitted to the Alabama Department of Environmental Management (ADEM) shall be provided to the Town on a quarterly basis.

5. Duration, Applicability and Binding Effect. This Ordinance, including without limitation, the requirements, regulations and standards of Section 4 hereof, shall be effective and applicable to the Property only during such time as the Property shall be zoned Special District – Other Use (Industrial) in accordance herewith. This Ordinance shall be binding upon the Town and any party that may from time to time own the Property at the time any action regulated hereby is taken or failed to be taken in accordance with this Ordinance.

6. Severability. If any requirement, standard, regulation or other provision of Section 4 hereof shall, to any extent, be invalid or unenforceable, the remainder of this Ordinance shall not be affected thereby and shall be valid and remain in full effect.

Council Member _____ moved that Ordinance _____ be adopted, which motion was seconded by Council Member _____ and upon vote, the results were as follows:

AYES: _____

NAYS: _____

Adopted this _____ day of _____, 2010.

_____, Clerk
Town of Vincent, AL

_____, Mayor
Town of Vincent, AL