



THE H&K GROUP
A Family of Companies
DIVERSIFIED STRENGTH... FROM THE GROUND UP!
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September 24, 2012

Hilltown Township Board of Supervisors
13 West Creamery Road
P.O. Box 260
Hilltown, PA 18927

Re: Request for Amendment to Township Agreement
Haines & Kibblehouse, Inc.
Blooming Glen Quarry
Hilltown Township, Bucks County

Dear Members of the Board:

On August 25, 2005 Hilltown Township (Township) and Haines & Kibblehouse, Inc. (H&K) entered into an Agreement with regard to mining operations at both, H&K Materials and Blooming Glen Quarry. One of the conditions of the existing Agreement is that mining operations, excluding reclamation, at the Blooming Glen Quarry would cease fifteen (15) years following the date of the signing of the Agreement, i.e. August, 2020.

As a result of the economic downturn across the country and, in this case, the materials and construction industry, production has sharply declined and projections for the future reveal that the available reserves at Blooming Glen Quarry will not be exhausted by the 2020 deadline. Based upon the investment made in the operation and projected reclamation costs it will be impractical for Blooming Glen Quarry to abandon available reserves. Therefore, under the current 2020 deadline, Blooming Glen Quarry will have to make operational adjustments to ensure that all available reserves are depleted by the 2020 deadline. At this time, it has been determined that additional trucking would need to be added to the operation in order to extract all available reserves and ship them to the H&K Materials operation by the 2020 deadline.

H&K believes that there is an alternate solution to the additional trucking that will be mutually beneficial to both the Township and H&K. The solution is outlined in the following proposed Amendments to the Agreement, dated August 25, 2005:

- 1) **Duration of Mining** – Blasting, crushing and other processing of stone will be extended, at the Blooming Glen Quarry, from its scheduled termination date of August, 2020 to December 31, 2045. This additional time will allow the available reserves to be depleted at Blooming Glen Quarry without amendment to the current operation, i.e. increased trucks.
- 2) **Quarry Fee** – Currently H&K pays the Township \$0.10/ton of stone mined and sold from the Blooming Glen Quarry. H&K will increase the Fee to the Township from \$0.10/ton to \$0.35/ton for 1B and 2B stone mined and sold from Blooming Glen Quarry. This tonnage will include all Blooming Glen Quarry 1B and 2B used for making concrete and asphalt at any H&K sites. Based upon past production for these materials this increase would equate to an increase to the annual Quarry Fee of approximately \$40,000.00.
- 3) **Material Discount to Township** – Currently H&K provides the Township a 5% discount on stone, sand, asphalt and concrete purchased. As of January 1, 2013, H&K will increase said discount to 10%.
- 4) **Annual Quarry Fee Cap** – Currently the Quarry Fee is calculated annually, i.e. March 15, for the preceding year, paid within 45 days upon a mutually agreed upon amount and there is no minimum annual quarry fee. Commencing on January 1, 2013, the minimum annual Quarry Fee will be \$100,000.00 for any given calendar year. The Quarry Fee will be paid in quarterly payments of \$25,000.00 on January 15, April 15, July 15 and October 15.

- 5) **Route 152/Hilltown Pike Intersection** – H&K will provide the cost of the traffic signal and related road improvements and arrange, pending contractor availability, to have said improvements completed in accordance with Permit No. 61-3617 by the December 7, 2012 Permit expiration date.
- 6) **Water Impoundment/Recreation Lake** – The current Agreement stipulates that the Blooming Glen Quarry would be reclaimed with the importation of clean fill until such time approximate original grades were established. H&K proposes to amend this reclamation plan to provide a water impoundment/recreational lake to cover an approximate area of 10 acres with an approximate average depth of 30 feet subject to variable water table and static water conditions. H&K will construct a boat ramp, rough grading around the perimeter of the lake to support future recreation uses, a fishing pier and shall provide a paved parking area to accommodate 30 motor vehicles with paved access driveway connecting the parking area to the Township's Forrest Road Park property. In addition, an 8 feet wide loop walking trail will be rough graded, stoned and paved. These aforementioned improvements are illustrated on Rendering Drawing included in Attachment A.
- 7) **Dispute Committee** – The current Agreement stipulates that resolution by the Dispute Committee shall require unanimous consent and approval by all members of that particular Dispute Committee. H&K proposes to change the “unanimous” consent to “majority” consent.

H&K believes that the above proposal will allow the available reserves within the Blooming Glen Quarry to be depleted without addition or adjustment to the current operation while providing added benefit to the Township.

We respectfully request that we be placed on the Agenda for the upcoming October 22, 2012 Board of Supervisors meeting to formally present the above outlined proposal and introduce a Draft Addendum to the Agreement, included in Attachment B.

Should either Member of the Board have any questions regarding the above, please do not hesitate to contact me directly at (610) 222-3515 (office) or (484) 576-0210 (cellular).

Sincerely,

THE H&K GROUP®



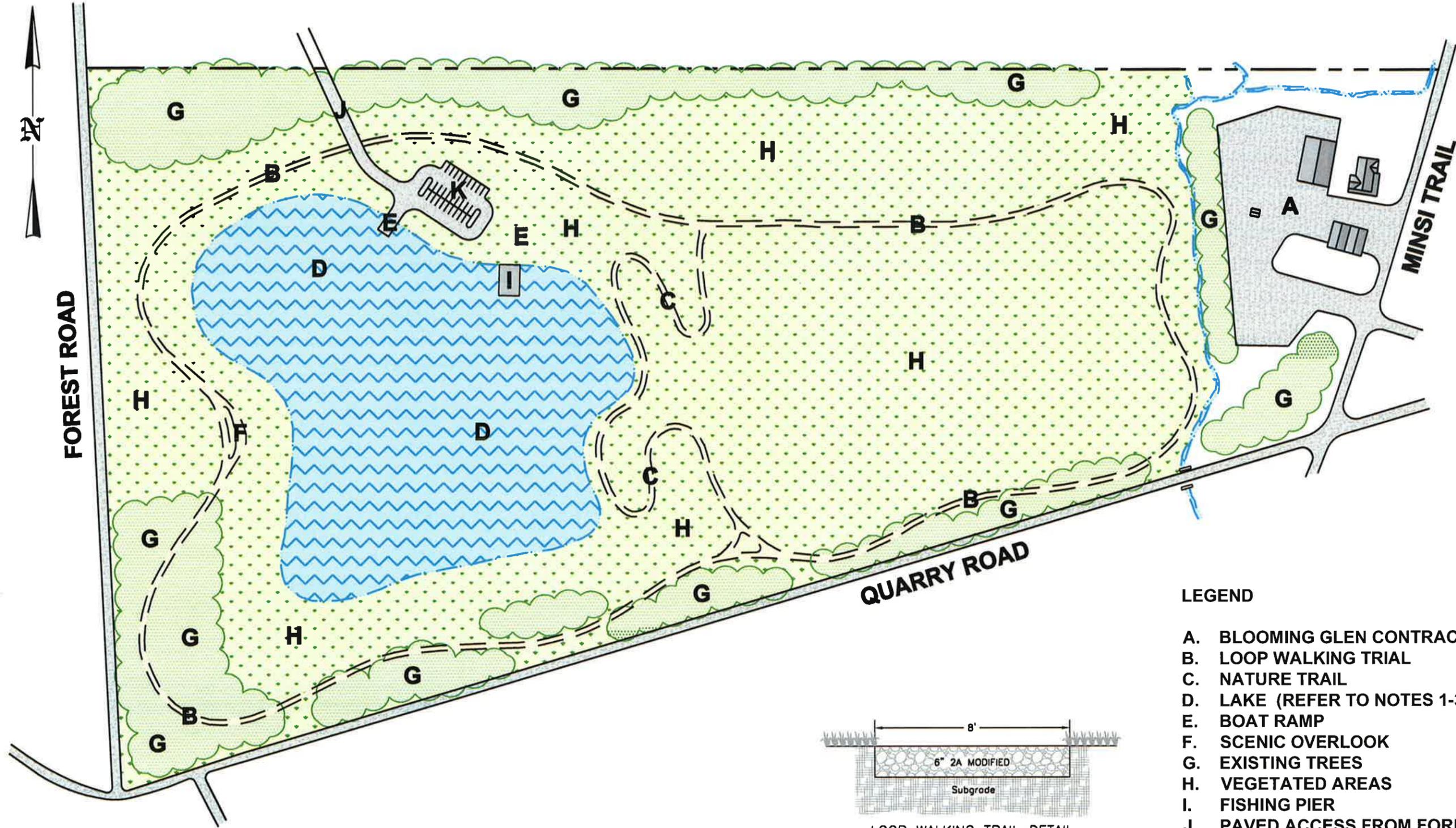
Scott S. Drumbore, P.E.
Mgr., Engineering & Environmental Services Division

SSD/ld

cc: John B. Haines, IV
John R. Kibblehouse, Sr.
File B-002E/6000-3005

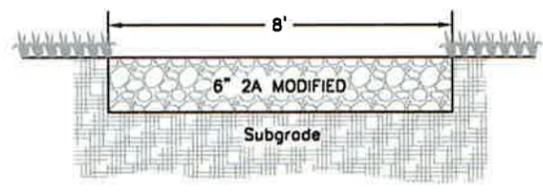
Attachment A

Drawing name: Y-9-PROJECTS/BLOOMING GLEN QUARRY/Municipal Business Agreement Addendum 2012, Addendum 2012.09.24 Trp. Meeting/3002E-ATT-A.dwg Plotted on: Sep 24, 2012 - 9:25am



LEGEND

- A. BLOOMING GLEN CONTRACTORS, INC.
- B. LOOP WALKING TRIAL
- C. NATURE TRAIL
- D. LAKE (REFER TO NOTES 1-3)
- E. BOAT RAMP
- F. SCENIC OVERLOOK
- G. EXISTING TREES
- H. VEGETATED AREAS
- I. FISHING PIER
- J. PAVED ACCESS FROM FOREST ROAD PARK
- K. PAVED PARKING AREA (30 SPACES)



LOOP WALKING TRAIL DETAIL
Not To Scale

NOT TO SCALE

NOTES:

1. LAKE WATER SURFACE AREA = ± 10 ACRES
2. LAKE WATER SURFACE ELEVATION = ± 385' MSL
3. LAKE BOTTOM ELEVATION = ±355' MSL
4. TOTAL AREA TO BE DEDICATED TO THE TOWNSHIP UPON COMPLETION OF QUARRY RECLAMATION = ±52 ACRES

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THE **HK** GROUP
ENGINEERING & ENVIRONMENTAL
Services Division

2052 Lucan Road • P.O. Box 196 • Skippack, PA 19474 • (610) 584-8500

BLOOMING GLEN QUARRY
 A Division of Haines & Kibblehouse, Inc.

ATTACHMENT A

DRAWN BY: E.D.S.	DATE: 9/04/2012	DRAWING NO. ©
CHECKED & APPROVED BY: S.S.D.		B002E-ATT-A

Attachment B

ADDENDUM TO THE AGREEMENT BETWEEN
THE TOWNSHIP OF HILLTOWN AND HAINES & KIBBLEHOUSE, INC., CONCERNING
THE BLOOMING GLEN QUARRY TRACT

This Addendum (“Addendum”) to the Agreement between the Township of Hilltown, and Haines & Kibblehouse, Inc., dated August 25, 2005 (the “Base Agreement”) is made and entered into this ___ day of _____, 2012, by and between the Township of Hilltown, (the “Township”), having offices at 13 W. Creamery Road, P.O. Box 260, Hilltown, Bucks County, Pennsylvania 18927, and Haines & Kibblehouse, Inc., (“H&K”), a Pennsylvania corporation having a principal office located at 2052 Lucon Road, Skippack, Montgomery County, Pennsylvania. Collectively, the Township and H&K shall be referred to as “Parties” and individually as “Party”.

RECITALS/ BACKGROUND OF AMENDMENT

1. WHEREAS, the Parties entered into the Base Agreement concerning the Blooming Glen Existing Quarry Tract, the Rice Tract, and certain other parcels in order to resolve various disputes and litigation between the Parties which lead the Parties to seek an amicable resolution of the litigation and the Parties’ disagreements concerning the uses to be allowed and related zoning matters; and
2. WHEREAS, the Parties now desire to amend the Base Agreement with regard to the Blooming Glen Existing Quarry Tract (Tax Parcel Number 15029040) and the Rice Tract (Tax Parcel Number 15029041-001) (collectively, the “Blooming Glen Quarry Tract”).

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and of other good and valuable consideration, the receipt and sufficiency of which are acknowledged, and of the mutual agreements and covenants hereinafter set forth and intending to be legally bound, the Parties agree as follows:

- 1 ***Incorporation of Recitals.*** The above Recitals are expressly incorporated herein as if fully set forth and made a part of this Addendum.
- 2 ***Definitions.*** Except to the extent modified by this Amendment, defined terms in this Amendment shall be as defined and used in the Base Agreement.
- 3 ***Quarrying Fee.*** The Parties wish to amend the Base Agreement concerning certain fees and charges. Paragraph 27.2 of the Base Agreement provides, *inter alia*, that H&K will pay to the Township a Quarrying Fee of Ten Cents (\$0.10) per ton of stone mined and sold from the Blooming Glen Quarry Tract. The Parties now agree to amend said provision; and effective as of January 1, 2013, H&K agrees to pay the Township a Quarrying Fee of Thirty Five Cents (\$0.35) per ton of Pennsylvania Department of Transportation classification 1B

and 2B stone mined and sold from the Blooming Glen Quarry Tract; and said stone tonnage shall include all Blooming Glen Quarry stone used for the making of concrete and asphalt by H&K at any site. The Parties agree that no fines, overburden or non-stone materials other than Grade 1B and 2B stone shall be used to calculate the amount of weight for the purposes of this calculation. The provisions of this Sub-Paragraph shall only apply to the Blooming Glen Quarry Tract and the Parties agree that the provisions of this Sub-Paragraph shall not apply to the H&K Existing Quarry Tract and the Murphy Tract.

- 4 ***Discount to Township for Materials Purchased from H&K.*** Paragraph 25 of the Base Agreement provides that “H&K shall receive a credit against any and all monies that may become due the Township under this Agreement for such materials provided to the Township at a rate equal to H&K’s posted/published prices less five percent (5%).” The Parties agree that as of January 1, 2013, H&K shall receive a credit against any and all moneys that may become due the Township under this Agreement for such materials (stone, sand, asphalt and concrete) provided to the Township at a rate equal to H&K’s posted/published prices less ten percent (10%).

- 5 ***Annual Quarry Fee Cap.*** Commencing January 1, 2013, Quarrying Fees paid to Township by H&K shall not be less than One Hundred Thousand Dollars (\$100,000.00) for any given calendar year. Said Quarrying Fees shall be paid in quarterly payments of Twenty Five Thousand Dollars (\$25,000.00) on January 15, April 15, July 15, and October 15 of each calendar year with the exception of any quarterly payment that may be due from January 1, 2013 through the execution date of this Addendum by all Parties which shall not be due until forty-five (45) days after the Township executes this Addendum and adopts the appropriate resolutions with no appeals outstanding. Any late payment shall accrue interest at a rate of 5% annually. All consistent provisions of Paragraph 27 of the Base Agreement shall apply as to the reconciliation of amounts with any excess Quarrying Fees over and beyond the annual Quarrying Fees cap to be paid by February 28th of the following year; and the audit procedure contained within the Base Agreement shall apply to said calculation.

- 6 ***Route 152 and Hilltown Pike Intersection.*** Paragraph 29 of the Base Agreement requires that should a traffic light be deemed necessary by the Pennsylvania Department of Transportation at the Southern intersection of Route 152 in Hilltown Pike, H&K, “at H&K’s own expense, will provide the cost of such traffic light as necessary to meet traffic conditions.” The Parties agree that H&K will at its cost make such upgrades and other road improvements as required by Permit No. 61-3617 issued by the Pennsylvania Department of Transportation, including the installation of the required traffic light at this intersection. Said Permit No. 61-3617 has been extended in time until December 7, 2012. Attached hereto and incorporated herein as Exhibit A is the Permit No. 61-3617 and the extension letter of the Pennsylvania Department of Transportation dated December 13, 2011 issued by Louis R. Belmonte, District Traffic Engineer (the “Approved Highway Occupancy Permit Plans”). In the event that completion of work by H&K is not accomplished by the December 7, 2012 deadline, the Township will make application for either an extension or apply for a new

permit in order to coordinate the estimated time of installation by H & K as set forth herein; and H & K agrees to comply with the Permit conditions as issued by PennDOT for said installation site if Permit No. 61-3617 is not extended further in time.

- 7 ***Duration of Mining.*** H&K shall be allowed to conduct non-coal surface mining at the Blooming Glen Quarry Tract to the full extent permitted by the Pennsylvania Department of Environmental Protection until December 31, 2045 when H & K shall discontinue blasting as well as crushing and other processing of stone. Notwithstanding anything contained in the Base Agreement and/or this Addendum to the contrary, there shall be no time limitation for any reclamation activities called for by the Base Agreement. Notwithstanding any provisions of the Base Agreement to the contrary and or any other time limitations placed upon the reclamation, H&K will continue to import clean fill to the Blooming Glen Quarry Tract until it has substantially reached the configuration depicted in Exhibit B attached hereto which identifies the ultimate water impoundment/recreation lake therein depicted; and as further identified and described within Paragraph 7 hereof. H&K agrees that it shall not export, sell or transport any clean fill from the Blooming Glen Quarry Tract.

- 8 ***Water Impoundment/Recreation Lake.*** The original Base Agreement provided that the Blooming Glen Quarry Tract would be reclaimed by the import of clean fill until such time that the quarry pit was filled to the approximate original grades. The parties hereby amend said provision to provide for the ultimate configuration of the Blooming Glen Existing Quarry Tract to be a water impoundment/recreation lake pursuant to Exhibit B attached hereto. Said configuration provides for the intended water impoundment/recreation lake to cover an approximate area of ten (10) acres with an approximate average depth of thirty (30) feet subject to variable water table and static water conditions at any given time. For access to said water impoundment/recreation lake, H&K agrees to install an appropriate and adequate ramp for the use of boats for emergency purposes as depicted upon Exhibit B. H&K further agrees to provide for the area surrounding the water impoundment/recreation lake to be rough graded in suitable fashion for future installation of the recreation improvements as depicted on Exhibit B. The Township shall be responsible for all other activities and work associated with the installation of the future recreation improvements. In addition to the boat ramp, H&K shall install a fishing pier, shall provide a paved parking area accommodating thirty (30) motor vehicles with a paved access driveway from the existing parking area of the Township's Forrest Road Park property; and shall provide the grading, gravel base and final paving for the eight (8) foot wide loop walking trail as shown on Exhibit B.

- 9 ***Cessation of Blasting, Crushing and Other Processing of Stone at the Blooming Glen Quarry Tract.*** Parties agree that H&K will discontinue blasting as well as crushing and other processing of stone at the Blooming Glen Quarry Tract by December 31, 2045.

- 10 ***Dispute Committee.*** Paragraph 32 of the Original Agreement provides for the creation of a Dispute Committee; and the parties hereto agree to amend said Dispute Committee

provisions to delete the requirement under Paragraph 32.3 that any decision or resolution by the Dispute Committee shall require unanimous consent and approval by all members of that particular Dispute Committee. This language is hereby amended to require majority consent and approval by members of that particular Dispute Committee.

- 11 **All Other Terms and Conditions.** All other terms and conditions of the Base Agreement unless specifically modified by this Addendum shall remain unchanged, and shall continue in full force and effect and remaining binding upon the Parties.
- 12 **Counterparts.** This Addendum may be executed in counterparts, and all of the counterparts shall be deemed a complete and binding agreement.
- 13 **Township Resolutions.** The Township hereby certifies that it has approved this Addendum pursuant to either Resolution or Ordinance, duly and validly enacted under the laws of the Commonwealth of Pennsylvania prior to the execution of this Addendum. This Addendum shall not be effective unless and until the Board of Supervisors of the Township adopts the appropriate legislative measure.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed the day and year first above written.

ATTEST:

TOWNSHIP OF HILLTOWN

Township Secretary

Chairman

Vice Chairman

Supervisor

HAINES & KIBBLEHOUSE, INC.

Attest: _____

BY: _____

(Seal)