

Township of West Milford

Passaic County, New Jersey

~ Resolution 2024 – 355 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE SALE OF CERTAIN LANDS AND PROPERTIES PURSUANT TO A LITIGATED MATTER AND WHICH ARE NO LONGER NEEDED FOR PUBLIC USE

WHEREAS, the Township of West Milford (“The Township”) is the owner of certain lands and premises within the Township of West Milford; and

WHEREAS, contamination was discovered in an earthen berm on the Township’s property known hereinafter as “the compost area” and which is located at Block and Lots 6002/28.03 and 6002/18.02, as well as a small portion of berm extending onto land owned by B&B Organic Waste Recycling, LLC (herein after “B&B”) and located on lot 6002/29; and

WHEREAS, The Township later filed a complaint in Superior Court Passaic County (PAS-C-101-20) but that matter was dismissed in furtherance of the Township and B&B negotiating settlement and agreeing to cooperate to remediate the discovered contamination; and

WHEREAS, upon coordination with and under the supervision of the New Jersey Department of Environmental Protection (“NJDEP”), the Township has agreed to sell the affected blocks and lots, along with additional lots adjacent to the affected area to B&B who shall be responsible for remediating the contamination to the satisfaction of the NJDEP; and

WHEREAS, the affected land on lots 28.03 and 18.02 already had limited market value, due to being on top of a capped land fill and having no practical means of access; and

WHEREAS, B&B owns adjacent land to the compost area, and has the only practical access to the property; and

WHEREAS, B&B agrees to take on the task of remediating the environmental issues of such land to NJDEP satisfaction and assume all costs and risks of such remediation and the ongoing maintenance; and

WHEREAS, the goal of such remediation and sale is to allow B&B to subdivide 280 Marshall Hill Road into two separate properties and enterprises, consisting of a proposed garden center to the north and a mulch yard in the south, and then combine each lot with a property no longer needed for public use and currently designated within an area of redevelopment, so as to have a coordination for the management of storm water runoff for all of the properties involved; and

WHEREAS, the parties have worked diligently together to develop this resolution and have consented to dismiss the litigation known as Township of West Milford v. B&B et al, Docket No. PAS-C-101-20 but noting that such action may be reinstated if the parties are unable to implement the land sale and remediation approach that has been contemplated; and

WHEREAS, the parties wish to enter into an agreement to effectuate the remediation and sale of the following property in accordance with the land sale agreement on file in the Clerk’s Office as “Exhibit A” and which incorporates Map Exhibits, and further agree to enter into rider agreements as may be necessary, depending upon any unforeseen circumstances and/or as to remediation efforts; and

WHEREAS, B&B agrees to pay the sum of \$225,000, and the Township agrees to provide a right of first refusal for identified properties located on the Map Exhibits (Exhibit 1); and

WHEREAS, the Township agrees to the staggered payment for such properties so as to allow B&B to immediately dedicate funds to the remediation effort.

NOW THEREFORE BE IT RESOLVED, by the Township Council of the Township of West Milford as follows:

1. The Township of West Milford hereby directs the Township Administrator to take any action needed to enter into the above-described land sale agreement, and to take any future in actions necessary in contemplation of the sale, remediation and subdivision of the property and subject to final legal and administrative approvals.
2. The Township Council of the Township of West Milford further authorizes the Township Administrator to undertake any actions necessary as directed by the NJDEP with regard to B&B's remediation efforts.

The resolution shall take effect immediately.

Adopted: October 16, 2024

Adopted this 16th day of October, 2024
and certified as a true copy of an original.

William Senande, Township Clerk