VULCAN MATERIALS CO

FORM 8-K
(Current report filing)

Filed 06/15/11 for the Period Ending 06/14/11

Address 1200 URBAN CENTER DRIVE
BIRMINGHAM, AL 35242

Telephone 2052983000
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SIC Code 1400 - Mining & Quarrying of Nonmetallic Minerals (No Fuels)
Industry Construction - Raw Materials
Sector Capital Goods
Fiscal Year 12/31
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): June 14, 2011

VULCAN MATERIALS COMPANY
(Exact name of registrant as specified in its charter)

1200 Urban Center Drive
Birmingham, Alabama 35242
(Address of principal executive offices)

(205) 298-3000
Registrant's telephone number, including area code:

Not Applicable
(Former name or former address if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligations of the registrant under any of the following provisions:

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
d) Exhibits.

The following exhibits are incorporated by reference into the Registration Statement as exhibits thereto and are filed as part of this Current Report:


4.1 Fourth Supplemental Indenture, dated as of June 14, 2011, between Vulcan Materials Company and Wilmington Trust Company, as Trustee.

5.1 Opinion of Lowenstein Sandler PC.

5.2 Opinion of Sullivan & Cromwell LLP.

23.1 Consent of Lowenstein Sandler PC (included as part of Exhibit 5.1).

23.2 Consent of Sullivan & Cromwell LLP (included as part of Exhibit 5.2).
SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant had duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Vulcan Materials Company

Date: June 14, 2011

By: /s/ Robert A. Wason IV

Name: Robert A. Wason IV
Title: Senior Vice President, General Counsel

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Ladies and Gentlemen:

Vulcan Materials Company, a New Jersey corporation (the “Company”), proposes, subject to the terms and conditions stated herein, to issue and sell to the Underwriters named in Schedule I hereto (the “Underwriters”) an aggregate of (i) $500,000,000 principal amount of 6.5% Senior Notes due 2016 and (ii) $600,000,000 principal amount of 7.5% Senior Notes due 2021 (together, the “Securities”).

1. The Company represents and warrants to, and agrees with, each of the Underwriters that:

   (a) An “automatic shelf registration statement” as defined under Rule 405 under the Securities Act of 1933, as amended (the “Act”), on Form S-3 (File No. 333-147796) in respect of the Securities has been filed by the Company with the Securities and Exchange Commission (the “Commission”) not earlier than three years prior to the date hereof; such registration statement, and any post-effective amendment thereto, became effective on filing; and no stop order suspending the effectiveness of such registration statement or any part thereof has been issued under the Act and no proceeding for that purpose has been initiated, or to the knowledge of the Company has been threatened by the Commission, and no notice of objection of the Commission to the use of such registration statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Act has been received by the Company (the base prospectus filed as part of such registration statement, in the form in which it has most recently been filed with the Commission on or prior to the date of this Agreement, is hereinafter called the “Basic Prospectus”; any preliminary prospectus (including any preliminary prospectus supplement) relating to the Securities filed with the Commission pursuant to Rule 424(b) under the Act is hereinafter called a “Preliminary Prospectus”; the various parts of such registration statement, including all exhibits thereto and any prospectus supplement relating to the Securities that is filed with the Commission and deemed by virtue of Rule 430B under the Act to be part of such registration statement, each as amended at the time such part of the registration statement became effective, are hereinafter collectively called the “Registration Statement”; the Basic Prospectus, as amended and supplemented immediately prior to the Applicable Time (as defined in Section 1(c) hereof), is hereinafter called the “Pricing Prospectus”; the form of the final prospectus relating to the Securities filed with the Commission pursuant to Rule 424(b) under the Act in accordance with Section 5(a) hereof is hereinafter called the “Prospectus”; any reference herein to the Basic Prospectus, the Pricing Prospectus, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include the documents incorporated by reference therein pursuant to Item 11 and Item 12 of Form S-3 under the Act, as of the date of such prospectus; any reference to any amendment or supplement to the Basic Prospectus, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include any post-effective amendment to the Registration Statement, any prospectus supplement relating to the Securities filed with the Commission pursuant to Rule 424(b) under the Act and any documents filed under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and incorporated by reference into such Basic Prospectus, Preliminary Prospectus or Prospectus, in each case after the date of the Basic Prospectus, such Preliminary Prospectus, or the Prospectus, as the case may be; any reference to any amendment to the Registration Statement shall be deemed to refer to and include any annual report of the Company filed pursuant to Section 13(a) or 15(d) of the Exchange Act after the effective date of the Registration Statement that is incorporated by reference in the Registration Statement; and any “issuer free writing prospectus” as defined in Rule 433 under the Act relating to the Securities is hereinafter called an “Issuer Free Writing Prospectus”);
(b) No order preventing or suspending the use of any Preliminary Prospectus or any Issuer Free Writing Prospectus has been issued by the Commission, and each Preliminary Prospectus, at the time of filing thereof, conformed in all material respects to the requirements of the Act and the Trust Indenture Act of 1939, as amended (the “Trust Indenture Act”) and the rules and regulations of the Commission thereunder, and did not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with information furnished in writing to the Company by an Underwriter through the Representatives expressly for use therein;

(c) For the purposes of this Agreement, the “Applicable Time” is 2:30 p.m. (Eastern time) on the date of this Agreement; the Pricing Prospectus as supplemented by the final term sheets prepared and filed pursuant to Section 5(a) hereof and the Issuer Free Writing Prospectuses, if any, identified on Schedule II(a) hereto, taken together (collectively, the “Pricing Disclosure Package”) as of the Applicable Time, did not include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and each Issuer Free Writing Prospectus, if any, listed on Schedule II(b) hereto does not conflict with the information contained in the Registration Statement, the Pricing Prospectus or the Prospectus and each such Issuer Free Writing Prospectus, as supplemented by and taken together with the Pricing Disclosure Package as of the Applicable Time, did not include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to statements or omissions made in the Pricing Prospectus or an Issuer Free Writing Prospectus in reliance upon and in conformity with information furnished in writing to the Company by an Underwriter through the Representatives expressly for use therein;
(d) The documents incorporated by reference in the Pricing Prospectus and the Prospectus, when they became effective or were filed with the Commission, as the case may be, conformed in all material respects to the requirements of the Act or the Exchange Act, as applicable, and the applicable rules and regulations of the Commission thereunder, and when read together with the other information in the Registration Statement, the Pricing Disclosure Package and the Prospectus, at the respective times the Registration Statement and any amendments thereto became effective, as of the Applicable Time, at the date of the Prospectus and at the Time of Delivery (as defined below), did not and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; any further documents so filed and incorporated by reference in the Prospectus or any further amendment or supplement thereto, when such documents become effective or are filed with the Commission, as the case may be, will conform in all material respects to the requirements of the Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with information furnished in writing to the Company by an Underwriter through the Representatives expressly for use therein; and no such documents were filed with the Commission since the Commission’s close of business on the business day immediately prior to the date of this Agreement and prior to the execution of this Agreement, except as set forth on Schedule II(c) hereto;

(e) The Registration Statement conforms, and the Prospectus and any further amendments or supplements to the Registration Statement and the Prospectus will conform, as of the applicable effective date as to the Registration Statement and as of the applicable filing date and as of the Time of Delivery as to the Prospectus, in all material respects to the requirements of the Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder and do not and will not, as of the applicable effective date as to each part of the Registration Statement and as of the applicable filing date as to the Prospectus and any amendment or supplement thereto, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with information furnished in writing to the Company by an Underwriter through the Representatives expressly for use therein or to any statements in or omissions from the Statement of Eligibility of the Trustee under the Indenture;

(f) Neither the Company nor any of its subsidiaries has sustained since the respective dates of the latest audited financial statements included or incorporated by reference in the Pricing Prospectus and the Prospectus any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, which is material to the Company and its subsidiaries taken as a whole otherwise than as set forth or contemplated in the Pricing Prospectus and the Prospectus (exclusive of any amendment or supplement thereto); and, since the respective dates as of which information is given in the Registration Statement, the Pricing Prospectus and the Prospectus, there has not been any material change in the capital stock or long term debt (which is debt with a maturity of a year or more) of the Company or any of its significant subsidiaries (as defined in Rule 1-02(w) of Regulation S-X) (“Significant Subsidiaries”) or any material adverse change in or affecting the business, management, financial position, shareholders’ equity, results of operations, or to the knowledge of the Company in the business prospects, of the Company and its subsidiaries taken as a whole, otherwise than as set forth or contemplated in the Pricing Prospectus and the Prospectus (exclusive of any amendment or supplement thereto);
(g) (i) The Company and its Significant Subsidiaries have good and valid title to all of the properties and assets reflected in the financial statements included or incorporated by reference in the Pricing Prospectus and Prospectus, subject to no lien, mortgage, pledge, charge or encumbrance of any kind except those reflected in such financial statements or which are not material in nature or amount; and (ii) the Company and its Significant Subsidiaries use or occupy their leased properties under valid and binding leases; except in (i) and (ii) as would not individually or in the aggregate have a material adverse effect on the business, consolidated financial position, shareholders’ equity, results of operations, or to the knowledge of the Company in the business prospects, of the Company and any of its subsidiaries taken as a whole (a “Material Adverse Effect”);

(h) The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of New Jersey, with corporate power and authority to own its properties and conduct its business as described in the Pricing Prospectus and the Prospectus, and has been duly qualified as a foreign corporation for the transaction of business and is in good standing under the laws of each other jurisdiction in which such qualification is required, except where the failure to so qualify or be in good standing would not result in a Material Adverse Effect; and each Significant Subsidiary of the Company has been duly organized and is validly existing as a corporation or other organization in good standing under the laws of the jurisdiction in which it is chartered or organized;

(i) The Company has as of March 31, 2011, an authorized capitalization as set forth in the Pricing Prospectus and the Prospectus and all of the issued shares of capital stock of the Company have been duly and validly authorized and issued and are fully paid and non-assessable;

(j) The Securities have been duly authorized and, when issued and delivered pursuant to this Agreement and the Indenture, will have been duly executed, authenticated, issued and delivered and will constitute valid and legally binding obligations of the Company entitled to the benefits provided by Indenture between the Company and Wilmington Trust Company, as Trustee, filed as Exhibit 4.1 to the Company’s Current Report on Form 8-K on December 11, 2007, as supplemented by the Fourth Supplemental Indenture, to be dated June 14, 2011, between the Company and the Trustee (together, the “Indenture”), under which they are to be issued; the Indenture has been duly authorized by the Company and duly qualified under the Trust Indenture Act and, constitutes a valid and legally binding instrument, enforceable in accordance with its terms, except as (i) the enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting the enforcement of creditors’ rights generally and (ii) rights of acceleration and the availability of other remedies may be limited by equitable principles of general applicability;
The issue and sale of the Securities and the compliance by the Company with all of the provisions of the Securities, the Indenture and this Agreement and the consummation of the transactions herein and therein contemplated will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject, except for such conflicts, breaches, violations or defaults that would not individually or in the aggregate have a Material Adverse Effect, nor will such action result in any violation of any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its subsidiaries or any of their properties, except for such violations that would not individually or in the aggregate have a Material Adverse Effect, nor will such action result in any violation of the provisions of the Certificate of Incorporation or By-laws of the Company; and no material consent, approval, authorization, order, registration or qualification of or with any such court or governmental agency or body is required for the issue and sale of the Securities or the consummation by the Company of the transactions contemplated by this Agreement or the Indenture except such as have been or will have been prior to the Time of Delivery, obtained under the Act and the Trust Indenture Act and such consents, approvals, authorizations, registrations or qualifications as may be required under state securities or Blue Sky laws in connection with the purchase and distribution of the Securities by the Underwriters;

Neither the Company nor any of its Significant Subsidiaries is in violation of its Certificate of Incorporation or By-laws (or other organizational documents) or in default in the performance or observance of any obligation, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party or by which it or any of its properties may be bound, except for defaults that would not have a Material Adverse Effect;

The Securities and the Indenture will conform in all material aspects to the descriptions thereof in the Pricing Prospectus and the Prospectus;

Other than as set forth in the Pricing Prospectus and the Prospectus, there are no legal or governmental proceedings pending to which the Company or any of its subsidiaries is a party or of which any property of the Company or any of its subsidiaries is the subject which, if determined adversely to the Company or any of its subsidiaries, would individually or in the aggregate have a Material Adverse Effect; and, to the Company’s knowledge, no such proceedings are threatened or contemplated by governmental authorities or threatened by others;

The Company is not and, after giving effect to the offering and sale of the Securities and the application of the proceeds thereof, will not be an “investment company”, as such term is defined in the Investment Company Act of 1940, as amended (the “Investment Company Act”);

Other than as set forth in the Pricing Prospectus and the Prospectus, the property, assets and operations of the Company and its Significant Subsidiaries comply in all material respects with all applicable federal, state and local law, common law, doctrine, rule, order, decree, judgment, injunction, license, permit and regulation relating to environmental matters (the “Environmental Laws”), except to the extent that failure to comply with such Environmental Laws would not have a Material Adverse Effect; to the knowledge of the Company, none of the property, assets or operations of the Company and its Significant Subsidiaries is the subject of any federal, state or local investigation evaluating whether any remedial action is needed to respond to a release into the environment of any substance regulated by, or form the basis of liability under, any Environmental Laws (a “Hazardous Material”), or is in contravention of any Environmental Law that would have a Material Adverse Effect; neither the Company nor any subsidiary has received any notice or claim, nor are there pending or, to the Company’s knowledge, threatened lawsuits against them with respect to violations of an Environmental Law or in connection with the release of any Hazardous Material into the environment that would reasonably be expected to have a Material Adverse Effect; and neither the Company nor any subsidiary has any contingent liability in connection with any release of Hazardous Material into the environment, that is material with respect to the Company and its subsidiaries taken as a whole;
(q) (A) (i) At the time of filing the Registration Statement, (ii) at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) of the Act (whether such amendment was by post-effective amendment, incorporated report filed pursuant to Section 13 or 15(d) of the Exchange Act or form of prospectus), and (iii) at the time the Company or any person acting on its behalf (within the meaning, for this clause only, of Rule 163(c) under the Act) made any offer relating to the Securities in reliance on the exemption of Rule 163 under the Act, the Company was a “well-known seasoned issuer” as defined in Rule 405 under the Act; and (B) at the earliest time after the filing of the Registration Statement that the Company or another offering participant made a bona fide offer (within the meaning of Rule 164(h)(2) under the Act) of the Securities, the Company was not an “ineligible issuer” as defined in Rule 405 under the Act;

(r) Deloitte & Touche LLP, who have expressed its opinion with respect to certain financial statements of the Company and the Company’s internal control over financial reporting, all included or incorporated by reference in the Registration Statement, Pricing Prospectus and Prospectus, was and will be an independent registered public accounting firm with respect to the Company as of the Applicable Time and the Time of Delivery, as required by the Act and the applicable rules and regulations of the Commission thereunder;

(s) The Company maintains a system of internal control over financial reporting (as such term is defined in Rule 13a-15(f) under the Exchange Act) that complies with the requirements of the Exchange Act and has been designed by the Company’s principal executive officer and principal financial officer, or under their supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. The Company’s internal control over financial reporting is effective and the Company is not aware of any material weaknesses in its internal control over financial reporting;

(t) This Agreement has been duly authorized, executed and delivered by the Company.

(u) Since the date of the latest audited financial statements of the Company included or incorporated by reference in the Pricing Prospectus and the Prospectus, there has been no change in the Company’s internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company’s internal control over financial reporting; and

(v) The Company maintains disclosure controls and procedures (as such term is defined in Rule 13a-15(e) under the Exchange Act) that comply with the requirements of the Exchange Act; such disclosure controls and procedures have been designed to ensure that material information relating to the Company and its subsidiaries is made known to the Company’s principal executive officer and principal financial officer by others within those entities; and such disclosure controls and procedures are effective.
Other than as set forth in the Pricing Prospectus and the Prospectus, no executive officer or director of the Company or any of its Significant Subsidiaries is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the “FCPA”), including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any “foreign official” (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA.

The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines issued, administered or enforced by any governmental agency (collectively, the “Money Laundering Laws”) and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company, threatened.

Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or affiliate of the Company or any of its subsidiaries is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department (“OFAC”); and the Company will not directly or, to the best knowledge of the Company, indirectly use the proceeds of the offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC.

2. Subject to the terms and conditions herein set forth, the Company agrees to issue and sell to each of the Underwriters, and each of the Underwriters agrees, severally and not jointly, to purchase from the Company (i) at a purchase price of 98.5% of the aggregate principal amount thereof, plus accrued interest, if any, from June 14, 2011 to the Time of Delivery hereunder, the aggregate principal amount of 6.5% Notes due 2016, set forth opposite the name of such Underwriter in Schedule I hereto and (ii) at a purchase price of 98.5% of the aggregate principal amount thereof, plus accrued interest, if any, from June 14, 2011 to the Time of Delivery hereunder, the aggregate principal amount of 7.5% Notes due 2021, set forth opposite the name of such Underwriter in Schedule I hereto.

3. Upon the authorization by you of the release of the Securities, the several Underwriters propose to offer the Securities for sale upon the terms and conditions set forth in the Prospectus.

4. (a) The Securities to be purchased by each Underwriter hereunder will be represented by one or more definitive global Securities in book-entry form which will be deposited by or on behalf of the Company with The Depository Trust Company (“DTC”) or its designated custodian. The Company will deliver the Securities to the Representatives, for the account of each Underwriter, against payment by or on behalf of such Underwriter of the purchase price therefor by wire transfer of Federal (same-day) funds to the account specified by the Company to the Representatives at least twenty-four hours in advance, by causing DTC to credit the Securities to the respective accounts of the Representatives at DTC. The Company will cause the certificates representing the Securities to be made available to the Representatives for checking at least twenty-four hours prior to the Time of Delivery (as defined below) at the office of DTC or its designated custodian (the “Designated Office”). The time and date of such delivery and payment shall be 9:30 a.m., New York City time, on June 14, 2011 or such other time and date as the Representatives and the Company may agree upon in writing. Such time and date are herein called the “Time of Delivery.”
(b) The documents to be delivered at the Time of Delivery by or on behalf of the parties hereto pursuant to Section 8 hereof, including the cross-receipt for the Securities and any additional documents requested by the Underwriters pursuant to Section 8(l) hereof, will be delivered at the offices of Cahill Gordon & Reindel LLP, 80 Pine Street, New York, New York 10005 (the “Closing Location”), and the Securities will be delivered at the Designated Office, all at the Time of Delivery. A meeting will be held at the Closing Location at 4:00 p.m., New York City time, on the New York Business Day next preceding the Time of Delivery, at which meeting the final drafts of the documents to be delivered pursuant to the preceding sentence will be available for review by the parties hereto. For the purposes of this Section 4, “New York Business Day” shall mean each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in New York City are generally authorized or obligated by law or executive order to close.

5. The Company agrees with each of the Underwriters:

(a) To prepare the Prospectus in a form approved by you and to file such Prospectus pursuant to Rule 424(b) under the Act not later than the Commission’s close of business on the second business day following the date of this Agreement; to make no further amendment or any supplement to the Registration Statement, the Basic Prospectus or the Prospectus prior to the Time of Delivery which shall be disapproved by you in your reasonable judgment promptly after reasonable notice thereof; to advise you, promptly after it receives notice thereof, of the time when any amendment to the Registration Statement has been filed or becomes effective or any amendment or supplement to the Prospectus has been filed and to furnish you with copies thereof; to prepare final term sheets, containing a description of the Securities, substantially in the forms attached as Schedules III-1 and III-2 hereto, and to file such term sheets pursuant to Rule 433(d) under the Act within the time required by such Rule; to file promptly all other material required to be filed by the Company with the Commission pursuant to Rule 433(d) under the Act; to file within the required time periods all reports and any definitive proxy or information statements required to be filed by the Company with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the date of the Prospectus and for so long as the delivery of a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is required under the Act in connection with the offering or sale of the Securities; to advise you, promptly after it receives notice thereof, of the issuance by the Commission of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus or other prospectus in respect of the Securities, of any notice of objection of the Commission to the use of the Registration Statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Act, of the suspension of the qualification of the Securities for offering or sale in any jurisdiction, of the initiation or threatening of any proceeding for any such purpose, or of any request by the Commission for the amending or supplementing of the Registration Statement or the Prospectus or for additional information; and, in the event of the issuance of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus or other prospectus or suspending any such qualification, to promptly use its best efforts to obtain the withdrawal of such order; and in the event of any such issuance of a notice of objection, promptly to take such steps including, without limitation, amending the Registration Statement or filing a new registration statement, at its own expense, as may be necessary to permit offers and sales of the Securities by the Underwriters (references herein to the Registration Statement shall include any such amendment or new registration statement);
(b) if required by Rule 430B(h) under the Act, to prepare a form of prospectus in a form approved by you and to file such form of prospectus pursuant to Rule 424(b) under the Act not later than may be required by Rule 424(b) under the Act; and to make no further amendment or supplement to such form of prospectus which shall be disapproved by you promptly after reasonable notice thereof;

(c) promptly from time to time to take such action as you may reasonably require to qualify the Securities for offering and sale under the securities laws of such jurisdictions as you may reasonably require and to maintain such qualification so as to permit the continuance of sales and dealings therein in such jurisdictions for as long as may be necessary to complete the distribution of the Securities up to one year from the date hereof, provided that in connection therewith the Company shall not be required to qualify as a foreign corporation or to file a general consent to service of process in any jurisdiction or to qualify as a foreign corporation or as a broker or dealer in securities in any jurisdiction in which it is not so qualified or to subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject;

(d) to furnish the Underwriters with (i) electronic copies of the Prospectus prior to 3:00 p.m., New York City time, on the New York Business Day next succeeding the date of this Agreement and from time to time, and (ii) written copies of the Prospectus prior to 10:00 a.m., New York City time, on the second New York Business Day next succeeding the date of this Agreement and from time to time, in such quantities as you may reasonably request, and if the delivery of a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is required at any time prior to the expiration of nine months after the time of issue of the Prospectus in connection with the offering or sale of the Securities and if at such time any event shall have occurred as a result of which the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made when such Prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is delivered, not misleading, or, if for any other reason it shall be necessary during such same period to amend or supplement the Prospectus or to file under the Exchange Act any document incorporated by reference in the Prospectus in order to comply with the Act, the Exchange Act or the Trust Indenture Act, to notify you and upon your request to file such document and to prepare and furnish without charge to each Underwriter and to any dealer in securities as many written and electronic copies as you may from time to time reasonably request of an amended Prospectus or a supplement to the Prospectus which will correct such statement or omission or effect such compliance; and in case any Underwriter is required to deliver a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) in connection with sales of any of the Securities at any time nine months or more after the time of issue of the Prospectus, upon your request but at the expense of such Underwriter, to prepare and deliver to such Underwriter as many written and electronic copies as you may request of an amended or supplemented Prospectus complying with Section 10(a)(3) of the Act;

(e) to make generally available to its securityholders as soon as practicable, but in any event not later than sixteen months after the effective date of the Registration Statement (as defined in Rule 158(c) under the Act), an earnings statement of the Company and its subsidiaries (which need not be audited) complying with Section 11(a) of the Act and the rules and regulations of the Commission thereunder (including, at the option of the Company, Rule 158);
(f) During the period beginning from the date hereof and continuing to and including the later of the Time of Delivery and such earlier time as you may notify the Company, not to offer, sell, contract to sell, pledge, grant any option to purchase, make any short sale or otherwise dispose, except as provided hereunder of, any securities of the Company that: (i) mature more than one year after such Time of Delivery, (ii) bear the same rate as the securities and (iii) are otherwise substantially similar to the Securities;

(g) To pay the required Commission filing fees relating to the Securities within the time required by Rule 456(b)(1) under the Act without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r) under the Act; and

(h) To use the net proceeds received by it from the sale of the Securities pursuant to this Agreement in the manner specified in the Pricing Prospectus and the Prospectus under the caption “Use of Proceeds.”

6.

(a) (i) The Company represents and agrees that, other than the final term sheets prepared and filed pursuant to Section 5(a) hereof, without the prior consent of the Representatives, it has not made and will not make any offer relating to the Securities that would constitute a “free writing prospectus” as defined in Rule 405 under the Act;

(ii) each Underwriter represents and agrees that, without the prior consent of the Company and the Representatives, other than the final term sheets prepared and filed pursuant to Section 5(a) hereof, it has not made and will not make any offer relating to the Securities that would constitute an Issuer Free Writing Prospectus or any other free writing prospectus that would be required to be filed with the Commission; and

(iii) any such free writing prospectus the use of which has been consented to by the Company and the Representatives (including the final term sheets prepared and filed pursuant to Section 5(a) hereof) is listed on Schedule II(a) or Schedule II(b) hereto, as applicable;

(b) The Company has complied and will comply with the requirements of Rule 433 under the Act applicable to any Issuer Free Writing Prospectus, including timely filing with the Commission or retention where required and legending; and

(c) The Company agrees that if at any time following issuance of an Issuer Free Writing Prospectus any event occurred or occurs as a result of which such Issuer Free Writing Prospectus would conflict with the information in the Registration Statement, the Pricing Prospectus or the Prospectus or would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances then prevailing, not misleading, the Company will give prompt notice thereof to the Representatives and, if requested by the Representatives, will prepare and furnish without charge to each Underwriter an Issuer Free Writing Prospectus or other document which will correct such conflict, statement or omission; provided, however, that this representation and warranty shall not apply to any statements or omissions in an Issuer Free Writing Prospectus made in reliance upon and in conformity with information furnished in writing to the Company by an Underwriter through the Representatives expressly for use therein.

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7. The Company covenants and agrees with the several Underwriters that the Company will pay or cause to be paid the following: (i) the fees, disbursements and expenses of the Company’s counsel and accountants in connection with the registration and sale of the Securities under the Act and all other expenses in connection with the preparation, printing, reproduction and filing of the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, any Issuer Free Writing Prospectus and the Prospectus and amendments and supplements thereto and the mailing and delivering of copies thereof to the Underwriters and dealers; (ii) the cost of printing or producing any Agreement among Underwriters, this Agreement, the Indenture, the Blue Sky Memorandum, closing documents (including any compilations thereof) and any other documents in connection with the offering, purchase, sale and delivery of the Securities; (iii) all reasonable expenses in connection with the qualification of the Securities for offering and sale under state securities laws as provided in Section 5(c) hereof, including the reasonable fees and disbursements of counsel for the Underwriters in connection with such qualification and in connection with the Blue Sky survey; (iv) any fees charged by securities rating services for rating the Securities; (v) the filing fees incident to, and the reasonable fees and disbursements of counsel for the Underwriters in connection with, any required review by the Financial Industry Regulatory Authority, Inc. of the terms of the sale of the Securities; (vi) the cost of preparing the Securities; (vii) the fees and expenses of the Trustee and any agent of the Trustee and the fees and disbursements of counsel for the Trustee in connection with the Indenture and the Securities; and (ix) all other costs and expenses incident to the performance of its obligations hereunder which are not otherwise specifically provided for in this Section. It is understood, however, that, except as provided in this Section and Sections 9 and 12 hereof, the Underwriters will pay all of their own costs and expenses, including the fees of their counsel, transfer taxes on resale of any of the Securities by them, and any advertising expenses connected with any offers they may make.

8. The obligations of the Underwriters to purchase and pay for the Securities hereunder shall be subject, in their discretion, to the condition that all representations and warranties and other statements of the Company herein are, at and as of the Time of Delivery, true and correct, the condition that the Company shall have performed all of its obligations hereunder theretofore to be performed, and the following additional conditions:

(a) The Prospectus shall have been filed with the Commission pursuant to Rule 424(b) under the Act within the applicable time period prescribed for such filing by the rules and regulations under the Act and in accordance with Section 5(a) hereof; the final term sheets contemplated by Section 5(a) hereof, and any other material required to be filed by the Company pursuant to Rule 433(d) under the Act, shall have been filed with the Commission within the applicable time periods prescribed for such filings by Rule 433; no stop order suspending the effectiveness of the Registration Statement or any part thereof shall have been issued and no proceeding for that purpose shall have been initiated or threatened by the Commission and no notice of objection of the Commission to the use of the Registration Statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Act shall have been received by the Company; no stop order suspending or preventing the use of the Prospectus or any Issuer Free Writing Prospectus shall have been initiated or threatened by the Commission; and all requests for additional information on the part of the Commission shall have been complied with to your reasonable satisfaction;

(b) Cahill Gordon & Reindel LLP, counsel for the Underwriters, shall have furnished to you such written opinion or opinions, dated such Time of Delivery, with respect to such matters as you may reasonably request, and such counsel shall have received such papers and information as they may reasonably request to enable them to pass upon such matters, and may rely upon the opinion of New Jersey counsel with respect to matters of New Jersey law;

(c) Bob Wason, Esq., General Counsel, for the Company shall have furnished to you his written opinion dated the Time of Delivery, in form and substance satisfactory to you, to the effect set forth in Annex II(A) hereto, and he may rely upon the opinion of New Jersey counsel with respect to matters of New Jersey law;
(d) Lowenstein Sandler PC, special New Jersey counsel for the Company, shall have furnished to you their written opinion, dated the Time of Delivery, in form and substance satisfactory to you, to the effect set forth in Annex II(B) hereto;

(e) Sullivan & Cromwell LLP, counsel for the Company, shall have furnished to you their written opinion, dated the Time of Delivery, in form and substance satisfactory to you, to the effect set forth in Annex II(C) hereto, and such counsel may rely upon the opinion of New Jersey counsel with respect to matters of New Jersey law;

(f) On the date of the Prospectus at a time prior to the execution of this Agreement, at 9:30 a.m., New York City time, on the effective date of any post effective amendment to the Registration Statement filed subsequent to the date of this Agreement and also at the Time of Delivery, Deloitte & Touche LLP shall have furnished to you a letter or letters, dated the respective dates of delivery thereof, in form and substance satisfactory to you, to the effect set forth in Annex I hereto (the executed copy of the letter delivered prior to the execution of this Agreement are attached as Annex I(A) hereto and forms of letters to be delivered on the effective date of any post-effective amendment to the Registration Statement, and as of the Time of Delivery are attached as Annex I (B) hereto);

(g) (i) Neither the Company nor any of its subsidiaries shall have sustained since the date of the latest audited financial statements of the Company included or incorporated by reference in the Pricing Prospectus and the Prospectus any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, which is material to the Company and its subsidiaries taken as a whole, otherwise than as set forth or contemplated in the Pricing Prospectus and the Prospectus (exclusive of any amendment or supplement thereto), and (ii) since the respective dates as of which information is given in the Pricing Prospectus and the Prospectus there shall not have been any material change in the capital stock or long term debt (which is debt with a maturity of a year or more) of the Company or any of its subsidiaries or any material change in or affecting the business, business prospects, management, or consolidated financial position, shareholders’ equity or results of operations of the Company and its subsidiaries taken as a whole, otherwise than as set forth or contemplated in the Pricing Prospectus (exclusive of any amendment or supplement thereto), the effect of which, in any such case described in clause (i) or (ii), is in your judgment so material and adverse as to make it impracticable or inadvisable to proceed with the public offering or the delivery of the Securities on the terms and in the manner contemplated in the Prospectus;

(h) On or after the Applicable Time (i) no downgrading shall have occurred in the rating accorded the Company’s debt securities by any “nationally recognized statistical rating organization”, as that term is defined by the Commission for purposes of Rule 436(g)(2) under the Act, and (ii) no such organization shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of any of the Company’s debt securities;

(i) On or after the Applicable Time there shall not have occurred any of the following: (i) a suspension or material limitation in trading in securities generally on the New York Stock Exchange; (ii) a suspension or material limitation in trading in the Company’s securities on the New York Stock Exchange; or (iii) a general moratorium on commercial banking activities declared by either Federal or New York, Alabama or New Jersey State authorities or a material disruption in commercial banking or securities settlement or clearance services in the United States; (iv) the outbreak or escalation of hostilities involving the United States or the declaration by the United States of a national emergency or war or (v) the occurrence of any other calamity or crisis or any change in financial, political or economic conditions in the United States or elsewhere, if the effect of any such event specified in clause (iv) or (v) in your judgment makes it impracticable or inadvisable to proceed with the public offering or the delivery of the Securities on the terms and in the manner contemplated in the Prospectus;
The Company shall have complied with the provisions of Section 5(d) hereof with respect to the furnishing of prospectuses on the New York Business Day next succeeding the date of this Agreement; and

The Company shall have furnished or caused to be furnished to you at the Time of Delivery certificates of officers of the Company satisfactory to you as to the accuracy of the representations and warranties of the Company herein at and as of such time, as to the performance by the Company of all of its obligations hereunder to be performed at or prior to such time, as to the matters set forth in subsections (a) and (h) of this Section and as to such other matters as you may reasonably request.

9.  
   (a) The Company will indemnify and hold harmless each Underwriter against any losses, claims, damages or liabilities, joint or several, to which such Underwriter may become subject, under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, any Issuer Free Writing Prospectus or any “issuer information” filed or required to be filed pursuant to Rule 433(d) under the Act, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse each Underwriter for any legal or other expenses reasonably incurred by such Underwriter in connection with investigating or defending any such action or claim within 30 days after receipt of invoicing for such expense; provided, however, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, or any Issuer Free Writing Prospectus, in reliance upon and in conformity with written information furnished to the Company by any Underwriter through the Representatives expressly for use therein.

   (b) Each Underwriter will indemnify and hold harmless the Company against any losses, claims, damages or liabilities to which the Company may become subject, under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, or any Issuer Free Writing Prospectus, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus or any such amendment or supplement thereto, or any Issuer Free Writing Prospectus, in reliance upon and in conformity with written information furnished to the Company by such Underwriter through the Representatives expressly for use therein; and will reimburse the Company for any legal or other expenses reasonably incurred by the Company in connection with investigating or defending any such action or claim within 30 days after receipt of invoicing for such expenses.
Promptly after receipt by an indemnified party under subsection (a) or (b) above of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such subsection, notify the indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party shall not relieve it from any liability which it may have to any indemnified party otherwise than under such subsection (except to the extent that the indemnifying party is materially prejudiced by reason of such failure). In case any such action shall be brought against any indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), provided, however, such indemnified party shall have the right to employ its own counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such indemnified party, unless: (i) the employment of such counsel has been specifically authorized in writing by the indemnifying party; (ii) the indemnifying party has failed promptly to assume the defense and employ counsel reasonably satisfactory to the indemnified party; or (iii) the named parties to any such action (including any impleaded parties) include both such indemnified party and the indemnifying party or any affiliate of the indemnifying party, and such indemnified party shall have reasonably concluded that either (x) there may be one or more legal defenses available to it which are different from or additional to those available to the indemnifying party or such affiliate of the indemnifying party or (y) a conflict may exist between such indemnified party and the indemnifying party or such affiliate of the indemnifying party (it being understood, however, that the indemnifying party shall not, in connection with any one such action or separate but substantially similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the fees and expenses of more than one separate firm of attorneys (in addition to a single firm of local counsel) for all such indemnified parties, which firm shall be designated in writing by the Representatives and that all such reasonable fees and expenses shall be reimbursed as they are incurred). Upon receipt of notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party under such subsection for any legal expenses of other counsel or any other expenses, in each case subsequently incurred by such indemnified party, in connection with the defense thereof other than reasonable costs of investigation. No indemnifying party shall, without the written consent of the indemnified party, effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified party is an actual or potential party to such action or claim) unless such settlement, compromise or judgment (i) includes an unconditional release of the indemnified party from all liability arising out of such action or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of any indemnified party.
(d) If the indemnification provided for in this Section 9 is unavailable to or insufficient to hold harmless an indemnified party under subsection (a) or (b) above in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering of the Securities. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law or if the indemnifying party was materially prejudiced as a result of the failure by the indemnified party to give the notice required under subsection (c) above, then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Company on the one hand and the Underwriters on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Company bear to the total underwriting discounts and commissions received by the Underwriters, in each case as set forth in the table on the cover page of the Prospectus. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company on the one hand or the Underwriters on the other and the parties’ relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this subsection (d) were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this subsection (d). The aggregate amount paid or payable by an indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this subsection (d), no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters’ obligations in this subsection (d) to contribute are several in proportion to their respective underwriting obligations and not joint.

(e) The obligations of the Company under this Section 9 shall be in addition to any liability which the Company may otherwise have and shall extend, upon the same terms and conditions, to each person, if any, who controls any Underwriter within the meaning of the Act and each broker-dealer affiliate of any Underwriter; and the obligations of the Underwriters under this Section 9 shall be in addition to any liability which the respective Underwriters may otherwise have and shall extend, upon the same terms and conditions, to each officer and director of the Company and to each person, if any, who controls the Company within the meaning of the Act.

10. (a) If any Underwriter shall default in its obligation to purchase the Securities which it has agreed to purchase hereunder, you may in your discretion arrange for you or another party or other parties to purchase such Securities on the terms contained herein. If within thirty six hours after such default by any Underwriter you do not arrange for the purchase of such Securities, then the Company shall be entitled to a further period of thirty six hours within which to procure another party or other parties satisfactory to you to purchase such Securities on such terms. In the event that, within the respective prescribed periods, you notify the Company that you have so arranged for the purchase of such Securities, or the Company notifies you that it has so arranged for the purchase of such Securities, you or the Company shall have the right to postpone the Time of Delivery for a period of not more than seven days, in order to effect whatever changes may thereby be made necessary in the Registration Statement or the Prospectus, or in any other documents or arrangements, and the Company agrees to file promptly any amendments or supplements to the Registration Statement or the Prospectus which in your opinion may thereby be made necessary. The term “Underwriter” as used in this Agreement shall include any person substituted under this Section with like effect as if such person had originally been a party to this Agreement with respect to such Securities.
(b) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by you and the Company as provided in subsection (a) above, the aggregate principal amount of such Securities which remains unpurchased does not exceed one eleventh of the aggregate principal amount of all the Securities, then the Company shall have the right to require each non-defaulting Underwriter to purchase the principal amount of Securities which such Underwriter agreed to purchase hereunder and, in addition, to require each non-defaulting Underwriter to purchase its pro rata share (based on the principal amount of Securities which such Underwriter agreed to purchase hereunder) of the Securities of such defaulting Underwriter or Underwriters for which such arrangements have not been made; but nothing herein shall relieve a defaulting Underwriter from liability for its default.

(c) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by you and the Company as provided in subsection (a) above, the aggregate principal amount of Securities which remains unpurchased exceeds one eleventh of the aggregate principal amount of all the Securities, or if the Company shall not exercise the right described in subsection (b) above to require non-defaulting Underwriters to purchase Securities of a defaulting Underwriter or Underwriters, then this Agreement shall thereupon terminate, without liability on the part of any non-defaulting Underwriter or the Company, except for the expenses to be borne by the Company and the Underwriters as provided in Section 7 hereof and the indemnity and contribution agreements in Section 9 hereof; but nothing herein shall relieve a defaulting Underwriter from liability for its default.

11. The respective indemnities, agreements, representations, warranties and other statements of the Company and the several Underwriters, as set forth in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement, shall remain in full force and effect, regardless of any investigation (or any statement as to the results thereof) made by or on behalf of any Underwriter or any controlling person of any Underwriter, or the Company, or any officer or director or controlling person of the Company, and shall survive delivery of and payment for the Securities.

12. If this Agreement shall be terminated pursuant to Section 10 hereof, the Company shall not then be under any liability to any Underwriter except as provided in Sections 7 and 9 hereof; but, if for any other reason, the Securities are not delivered by or on behalf of the Company as provided herein, the Company will reimburse the Underwriters through you for all out of pocket expenses approved in writing by you, including reasonable fees and disbursements of counsel, reasonably incurred by the Underwriters in making preparations for the purchase, sale and delivery of the Securities, but the Company shall then be under no further liability to any Underwriter except as provided in Sections 7 and 9 hereof.

13. In all dealings hereunder, you shall act on behalf of each of the Underwriters, and the parties hereto shall be entitled to act and rely upon any statement, request, notice or agreement on behalf of any Underwriter made or given by you jointly.

All statements, requests, notices and agreements hereunder shall be in writing, and if to the Underwriters shall be delivered or sent by mail, telex or facsimile transmission to you as the representatives (the “Representatives”) in care of each of: (a) Merrill Lynch, Pierce, Fenner & Smith Incorporated, One Bryant Park, New York, New York, 10036, Attention: High Grade Transaction Management/Legal and (b) Goldman, Sachs & Co., 200 West Street, New York, New York 10282, Attention: Registration Department; and if to the Company shall be delivered or sent by mail, telex or facsimile transmission to the address of the Company set forth in the Registration Statement, Attention: Secretary; provided, however, that any notice to an Underwriter pursuant to Section 9(c) hereof shall be delivered or sent by mail, telex or facsimile transmission to such Underwriter at its address set forth in its Underwriters’ Questionnaire, or telex constituting such Questionnaire, which address will be supplied to the Company by you upon request. Any such statements, requests, notices or agreements shall take effect upon receipt thereof.
In accordance with the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), the Underwriters are required to obtain, verify and record information that identifies their respective clients, including the Company, which information may include the name and address of their respective clients, as well as other information that will allow the underwriters to properly identify their respective clients.

14. This Agreement shall be binding upon, and inure solely to the benefit of, the Underwriters, the Company and, to the extent provided in Sections 9 and 11 hereof, the officers and directors of the Company and each person who controls the Company or any Underwriter, and their respective heirs, executors, administrators, successors and assigns, and no other person shall acquire or have any right under or by virtue of this Agreement. No purchaser of any of the Securities from any Underwriter shall be deemed a successor or assign by reason merely of such purchase.

15. Time shall be of the essence of this Agreement. As used herein, the term “business day” shall mean any day when the Commission’s office in Washington, D.C. is open for business.

16. The Company acknowledges and agrees that (i) the purchase and sale of the Securities pursuant to this Agreement is an arm’s-length commercial transaction between the Company, on the one hand, and the several Underwriters, on the other, (ii) in connection therewith and with the process leading to such transaction each Underwriter is acting solely as a principal and not the agent, fiduciary or financial advisor of the Company, (iii) no Underwriter has assumed an advisory or fiduciary responsibility in favor of the Company with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising the Company on other matters) or any other obligation to the Company except the obligations expressly set forth in this Agreement and (iv) the Company has consulted its own legal and financial advisors to the extent it deemed appropriate. The Company agrees that it will not claim that the Underwriters, or any of them, has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Company, in connection with such transaction or the process leading thereto.

17. It is understood and agreed among the parties hereto that the Representatives are primarily responsible for managing the offering of the Securities. Further, the Company confirms that, pursuant to its agreement with the other Underwriters, no such other Underwriter is or will be primarily responsible for managing the offering of the Securities.

18. This Agreement supersedes all prior agreements and understandings (whether written or oral) between the Company and the Underwriters, or any of them, with respect to the subject matter hereof.

19. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

20. The Company and each of the Underwriters hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

21. This Agreement may be executed by any one or more of the parties hereto in any number of counterparts, each of which shall be deemed to be an original, but all such respective counterparts shall together constitute one and the same instrument.
22. Notwithstanding anything herein to the contrary, the Company is authorized to disclose to any persons the U.S. federal and state income tax treatment and tax structure of the potential transaction and all materials of any kind (including tax opinions and other tax analyses) provided to the Company relating to that treatment and structure, without the Underwriters, imposing any limitation of any kind. However, any information relating to the tax treatment and tax structure shall remain confidential (and the foregoing sentence shall not apply) to the extent necessary to enable any person to comply with securities laws. For this purpose, “tax structure” is limited to any facts that may be relevant to that treatment.

If the foregoing is in accordance with your understanding, please sign and return to us seven counterparts hereof, and upon the acceptance hereof by you, on behalf of each of the Underwriters, this letter and such acceptance hereof shall constitute a binding agreement between each of the Underwriters and the Company. It is understood that your acceptance of this letter on behalf of each of the Underwriters is pursuant to the authority set forth in a form of Agreement among Underwriters, the form of which shall be submitted to the Company for examination upon request, but without warranty on your part as to the authority of the signers thereof.

Very truly yours,

VULCAN MATERIALS COMPANY

By: /s/ Daniel F. Sansone

Name: Daniel F. Sansone
Title: Executive Vice President and Chief Financial Officer
Accepted as of the date hereof:

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED

GOLDMAN, SACHS & CO.,

By: /s/ Stephen Treger
(MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED)
Name: Stephen Treger
Title: Managing Director

By: /s/ Goldman, Sachs & Co.
(GOLDMAN, SACHS & CO.)
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<th>7.5% Senior Notes due 2021</th>
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<td>Goldman, Sachs &amp; Co.</td>
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<td>Mizuho Securities USA, Inc.</td>
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<td>The Williams Capital Group, L.P.</td>
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<td><strong>600,000,000</strong></td>
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SCHEDULE II

(a) Issuer Free Writing Prospectuses included in the Pricing Disclosure Package:
   None.

(b) Issuer Free Writing Prospectuses not included in the Pricing Disclosure Package:
   None.

(c) Additional Documents Incorporated by Reference:
   None.
This pricing term sheet relates only to the securities described below and should only be read together with the Preliminary Prospectus Supplement, subject to completion, dated May 31, 2011, relating to these securities and supersedes the information in the Preliminary Prospectus Supplement to the extent inconsistent with the information in the Preliminary Prospectus Supplement. This pricing term sheet is qualified in its entirety by reference to the Preliminary Prospectus Supplement. Other information presented in the Preliminary Prospectus Supplement, including financial information, is deemed to have changed to the extent affected by the changes described herein. Capitalized terms not defined herein have the meanings assigned to them in the Preliminary Prospectus Supplement.

**Vulcan Materials Company**

6.5% Notes due 2016

**Change in Size of Offering:**

The aggregate principal amount of notes to be issued in the offering increased from $1,000,000,000 to $1,100,000,000. The increased amount of $100,000,000 will be used to repay outstanding debt of the Company as described in the Preliminary Prospectus Supplement.

<table>
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<tr>
<th><strong>Issuer:</strong></th>
<th>Vulcan Materials Company</th>
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<tr>
<td><strong>Title of Security:</strong></td>
<td>6.5% Notes due 2016</td>
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<td><strong>Yield to Maturity:</strong></td>
<td>6.5%</td>
</tr>
<tr>
<td><strong>Benchmark Treasury:</strong></td>
<td>1.750% due 5/31/2016</td>
</tr>
<tr>
<td><strong>Spread to Benchmark Treasury:</strong></td>
<td>+488 bps</td>
</tr>
<tr>
<td><strong>Price to Public:</strong></td>
<td>100%</td>
</tr>
<tr>
<td><strong>Coupon Dates:</strong></td>
<td>June 1 and December 1</td>
</tr>
<tr>
<td><strong>First Coupon Date:</strong></td>
<td>December 1, 2011</td>
</tr>
<tr>
<td><strong>Trade Date:</strong></td>
<td>June 3, 2011</td>
</tr>
<tr>
<td><strong>Settlement Date:</strong></td>
<td>June 14, 2011 (T+7)</td>
</tr>
</tbody>
</table>

We expect that delivery of the notes will be made to investors on or about June 14, 2011, which will be the seventh business day following the date of this pricing term sheet (such settlement being referred to as “T+7”). Under Rule 15c6-1 under the Exchange Act, trades in the secondary market are required to settle in three business days, unless the parties to any such trade expressly agree otherwise. Accordingly, purchasers who wish to trade notes prior to the delivery of the notes hereunder on the date hereof or on the next three succeeding business days will be required, by virtue of the fact that the notes initially settle in T+7, to specify an alternate settlement arrangement at the time of any such trade to prevent a failed settlement. Purchasers of the notes who wish to trade the notes prior to their date of delivery hereunder should consult their advisors.
Maturity Date: December 1, 2016
Make Whole Call: At any time at a discount rate of Treasury plus 50 bps
Use of Proceeds: The net proceeds of the offering will be used as set forth in the Preliminary Prospectus Supplement.
CUSIP: 929160 AQ2
ISIN: US929160AQ22
Joint Book-Running Managers: Merrill Lynch, Pierce, Fenner & Smith Incorporated
Goldman, Sachs & Co.
SunTrust Robinson Humphrey, Inc.
Senior Co-Managers: Morgan Keegan & Company, Inc.
U.S. Bancorp Investments, Inc.
Co-Managers: BB&T Capital Markets, a division of Scott & Stringfellow, LLC
Banco Bilbao Vizcaya Argentaria, S.A.
Mizuho Securities USA, Inc.
The Williams Capital Group, L.P.

The issuer has filed a registration statement (including a prospectus) with the SEC for the offering to which this communication relates. Before you invest, you should read the prospectus in that registration statement and other documents incorporated by reference in the registration statement and filed with the SEC for more complete information about the issuer and this offering. You may get these documents for free by visiting EDGAR on the SEC Web site at www.sec.gov. Alternatively, the issuer, any underwriter or any dealer participating in the offering will arrange to send you the prospectus if you request it by calling Merrill Lynch, Pierce, Fenner & Smith Incorporated toll-free at 1-800-294-1322 or Goldman, Sachs & Co. toll-free at 1-866-471-2526.
Note: A securities rating is not a recommendation to buy, sell or hold securities and may be subject to revision or withdrawal at any time.

Any disclaimers or other notices that may appear below are not applicable to this communication and should be disregarded. Such disclaimers were automatically generated as a result of this communication being sent via Bloomberg or another email system.
This pricing term sheet relates only to the securities described below and should only be read together with the Preliminary Prospectus Supplement, subject to completion, dated May 31, 2011, relating to these securities and supersedes the information in the Preliminary Prospectus Supplement to the extent inconsistent with the information in the Preliminary Prospectus Supplement. This pricing term sheet is qualified in its entirety by reference to the Preliminary Prospectus Supplement. Other information presented in the Preliminary Prospectus Supplement, including financial information, is deemed to have changed to the extent affected by the changes described herein. Capitalized terms not defined herein have the meanings assigned to them in the Preliminary Prospectus Supplement.

Vulcan Materials Company

7.5% Notes due 2021

Change in Size of Offering:

The aggregate principal amount of notes to be issued in the offering increased from $1,000,000,000 to $1,100,000,000. The increased amount of $100,000,000 will be used to repay outstanding debt of the Company as described in the Preliminary Prospectus Supplement.

Issuer: Vulcan Materials Company

Title of Security: 7.5% Notes due 2021

Principal Amount: $600,000,000

Coupon: 7.5%

Yield to Maturity: 7.5%

Benchmark Treasury: 3.125% due 5/15/2021

Spread to Benchmark Treasury: +449 bps

Price to Public: 100%

Coupon Dates: June 15 and December 15

First Coupon Date: December 15, 2011

Trade Date: June 3, 2011

Settlement Date: June 14, 2011 (T+7)

We expect that delivery of the notes will be made to investors on or about June 14, 2011, which will be the seventh business day following the date of this pricing term sheet (such settlement being referred to as “T+7”). Under Rule 15c6-1 under the Exchange Act, trades in the secondary market are required to settle in three business days, unless the parties to any such trade expressly agree otherwise. Accordingly, purchasers who wish to trade notes prior to the delivery of the notes hereunder on the date hereof or on the next three succeeding business days will be required, by virtue of the fact that the notes initially settle in T+7, to specify an alternate settlement arrangement at the time of any such trade to prevent a failed settlement. Purchasers of the notes who wish to trade the notes prior to their date of delivery hereunder should consult their advisors.
The issuer has filed a registration statement (including a prospectus) with the SEC for the offering to which this communication relates. Before you invest, you should read the prospectus in that registration statement and other documents incorporated by reference in the registration statement and filed with the SEC for more complete information about the issuer and this offering. You may get these documents for free by visiting EDGAR on the SEC Web site at www.sec.gov. Alternatively, the issuer, any underwriter or any dealer participating in the offering will arrange to send you the prospectus if you request it by calling Merrill Lynch, Pierce, Fenner & Smith Incorporated toll-free at 1-800-294-1322 or Goldman, Sachs & Co. toll-free at 1-866-471-2526.

Note: A securities rating is not a recommendation to buy, sell or hold securities and may be subject to revision or withdrawal at any time.

Any disclaimers or other notices that may appear below are not applicable to this communication and should be disregarded. Such disclaimers were automatically generated as a result of this communication being sent via Bloomberg or another email system.
VULCAN MATERIALS COMPANY

and

WILMINGTON TRUST COMPANY,
Trustee

FOURTH SUPPLEMENTAL INDENTURE

Dated as of June 14, 2011

to

SENIOR DEBT INDENTURE

Dated as of December 11, 2007

6.50% Notes due 2016
7.50% Notes due 2021
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## ARTICLE TWO
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EXHIBIT A Form of 2016 Notes A-1

EXHIBIT B Form of 2021 Notes B-1

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FOURTH SUPPLEMENTAL INDENTURE, dated as of June 14, 2011 (this “Supplemental Indenture”), between Vulcan Materials Company, a corporation duly organized and existing under the laws of the State of New Jersey, having its principal office at 1200 Urban Center Drive, Birmingham, Alabama 35242 (the “Company”), and Wilmington Trust Company, a corporation duly organized and existing under the laws of the State of Delaware, as trustee (the “Trustee”).

WHEREAS, the Company executed and delivered the senior debt indenture, dated as of December 11, 2007, to the Trustee (as heretofore supplemented, the “Indenture”), to provide for the issuance of the Company’s notes or other evidences of indebtedness (the “Securities”), to be issued in one or more series;

WHEREAS, pursuant to the terms of the Indenture, the Company desires to provide for the establishment of two new series of its notes under the Indenture to be known as its “6.50% Notes due 2016” (the “2016 Notes”) and “7.50% Notes due 2021” (the “2021 Notes”), the form and substance of each such series and the terms, provisions and conditions thereof to be set forth as provided in the Indenture and this Supplemental Indenture;

WHEREAS, the Board of Directors of the Company on May 13, 2011 and June 3, 2011, the Finance Committee thereof on May 27, 2011, and the Pricing Committee appointed by the Finance Committee on May 31, 2011 and June 3, 2011, have duly adopted resolutions, and through such resolutions have duly authorized (i) the issuance of the 2016 Notes and the 2021 Notes, and (ii) the proper officers of the Company to execute any and all appropriate documents necessary or appropriate to effect each such issuance;

WHEREAS, this Supplemental Indenture is being entered into pursuant to the provisions of Article Two and Section 901(7) of the Indenture;

WHEREAS, the Company has requested that the Trustee execute and deliver this Supplemental Indenture; and

WHEREAS, all things necessary to make this Supplemental Indenture a valid agreement of the Company, in accordance with its terms, and to make each of the 2016 Notes and the 2021 Notes, each when executed by the Company and authenticated and delivered by the Trustee or an authentication agent, the valid obligations of the Company, have been performed, and the execution and delivery of this Supplemental Indenture has been duly authorized in all respects;

NOW THEREFORE, in consideration of the premises and the purchase and acceptance of each of the 2016 Notes and the 2021 Notes by the Holders thereof, and for the purpose of setting forth, as provided in the Indenture, the forms and terms of each of the 2016 Notes and the 2021 Notes, the Company covenants and agrees, with the Trustee, as follows:
ARTICLE ONE
DEFINITIONS

Section 101. Definition of Terms.

Unless the context otherwise requires:

(a) each term defined in the Indenture has the same meaning when used in this Supplemental Indenture;

(b) the singular includes the plural and vice versa; and

(c) headings are for convenience of reference only and do not affect interpretation.

“Change of Control” means the occurrence of any of the following: (1) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any “person” (as that term is used in Section 13(d)(3) of the Exchange Act) (other than the Company or one of its subsidiaries) becomes the beneficial owner (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of more than 50% of the Voting Stock of the Company or other Voting Stock into which the Voting Stock of the Company is reclassified, consolidated, exchanged or changed, measured by voting power rather than number of shares; (2) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or more series of related transactions, of all or substantially all of the assets of the Company and the assets of its subsidiaries, taken as a whole, to one or more Persons (other than the Company or one of its subsidiaries); or (3) the first day on which a majority of the members of the Board of Directors of the Company is composed of members who are not Continuing Directors. Notwithstanding the foregoing, a transaction will not be deemed to involve a Change of Control if (1) the Company becomes a direct or indirect wholly-owned subsidiary of a holding company and (2)(A) the direct or indirect holders of the Voting Stock of such holding company immediately following that transaction are substantially the same as the holders of the Voting Stock of the Company immediately prior to that transaction or (B) immediately following that transaction no person (other than a holding company satisfying the requirements of this sentence) is the beneficial owner, directly or indirectly, of more than 50% of the Voting Stock of such holding company.

“Continuing Directors” means, as of any date of determination, any member of the Company’s Board of Directors who (1) was a member of such Board of Directors on the date of this Supplemental Indenture or (2) was nominated for election, elected or appointed to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board of Directors at the time of such nomination, election or appointment (either by a specific vote or by approval of the Company’s proxy statement in which such member was named as a nominee for election as a director, without objection to such nomination).
“Investment Grade” means a rating of Baa3 or better by Moody’s (or its equivalent under any successor rating categories of Moody’s); a rating of BBB- or better by S&P (or its equivalent under any successor rating categories of S&P); and the equivalent investment grade credit rating from any additional Rating Agency or Rating Agencies selected by the Company.

“Moody’s” means Moody’s Investors Service, Inc.

“Rating Agency” means in respect of any series of Securities (a) each of Moody’s and S&P; and (b) if either of Moody’s or S&P ceases to rate the Securities of such series or fails to make a rating of the Securities of such series publicly available for reasons outside of the Company’s control, a “nationally recognized statistical rating organization” within the meaning of Section 3(a)(62) under the Exchange Act, selected by the Company and certified by the Company’s Board of Directors as a replacement agency for the agency that ceased such rating or failed to make it publicly available.

“S&P” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business.

“Voting Stock” of any specified “person” (as that term is used in Section 13(d)(3) of the Exchange Act) as of any date means the capital stock of such person that is at the time entitled to vote generally in the election of the board of directors of such person.

ARTICLE TWO
GENERAL TERMS AND CONDITIONS OF THE 2016 NOTES

Section 201. Designation and Principal Amount.

There is hereby authorized and established a series of Securities under the Indenture, designated as the “6.50% Notes due 2016”, which is not limited in aggregate principal amount. The aggregate principal amount of the 2016 Notes to be issued shall be as set forth in any Company Order for the authentication and delivery of the 2016 Notes, pursuant to Section 303 of the Indenture.

Section 202. Maturity.

The Stated Maturity of principal for the 2016 Notes will be December 1, 2016.

Section 203. Further Issues.

The Company may from time to time, without the consent of the Holders of the 2016 Notes, issue additional notes of that series. Any such additional notes will have the same ranking, interest rate, maturity date and other terms as the 2016 Notes. Any such additional notes, together with the 2016 Notes herein provided for, will constitute a single series of Securities under the Indenture.

Section 204. Form and Payment.

Principal of, premium, if any, and interest on the 2016 Notes shall be payable in U.S. dollars.
Upon the original issuance, the 2016 Notes will be represented by one or more Global Securities registered in the name of Cede & Co., the nominee of the Depository Trust Company (“DTC”). The Company will issue the 2016 Notes in denominations of $2,000 and integral multiples of $1,000 in excess thereof and will deposit the Global Securities with DTC or its custodian and register the Global Securities in the name of Cede & Co.

If (a) the Depositary is at any time unwilling or unable to continue as depositary or ceases to be a registered clearing agency and, in either case, a successor depositary is not appointed by the Company within 90 days of notice thereof, (b) an Event of Default has occurred with regard to the 2016 Notes and has not been cured or waived, or (c) the Company at any time and in its sole discretion determines not to have the 2016 Notes represented by Global Securities, the Company may issue the 2016 Notes in definitive form in exchange for such Global Securities. In any such instance, an owner of a beneficial interest in 2016 Notes will be entitled to physical delivery in definitive form of 2016 Notes, equal in principal amount to such beneficial interest and to have 2016 Notes registered in its name as shall be established in a Company Order.

The 2016 Notes will bear interest (computed on the basis of a 360-day year consisting of twelve 30-day months) from June 14, 2011 at the rate of 6.50% per annum, payable semiannually; interest payable on each Interest Payment Date will include interest accrued from June 14, 2011, or from the most recent Interest Payment Date to which interest has been paid or duly provided for; the Interest Payment Dates on which such interest shall be payable are June 1 and December 1, commencing on December 1, 2011; and the record date for the interest payable on any Interest Payment Date is the close of business on May 15 or November 15 (whether or not such day is a Business Day), as the case may be, next preceding the relevant Interest Payment Date.

The 2016 Notes shall be issuable in denominations of $2,000 and integral multiples of $1,000 in excess thereof.

The 2016 Notes are subject to redemption at the option of the Company as set forth in the form of 2016 Note attached hereto as Exhibit A.
Section 210. Change of Control.

(a) Upon the occurrence of a 2016 Change of Control Repurchase Event (as defined below), unless the Company has exercised its right to redeem all 2016 Notes in accordance with the redemption terms as set forth in the 2016 Notes or has defeased the 2016 Notes as set forth in the 2016 Notes, the Company shall make an irrevocable offer to each Holder of 2016 Notes to repurchase all or any part (equal to or in excess of $2,000 and in integral multiples of $1,000) of the aggregate principal amount of 2016 Notes repurchased plus accrued and unpaid interest, if any, on the 2016 Notes repurchased to, but not including, the date of repurchase.

(b) Within 30 days following any 2016 Change of Control Repurchase Event or, at the Company’s option, prior to any Change of Control, but in either case, after the public announcement of such Change of Control, the Company shall mail, or shall cause to be mailed, to each Holder of 2016 Notes, with a copy to the Trustee, a notice:

(i) describing the transaction or transactions that constitute or may constitute the 2016 Change of Control Repurchase Event;

(ii) offering to repurchase all 2016 Notes tendered;

(iii) setting forth the payment date (the “2016 Change of Control Payment Date”) for the repurchase of the 2016 Notes, which date will be no earlier than 30 days and no later than 60 days from the date such notice is mailed;

(iv) if mailed prior to the date of consummation of the Change of Control, stating that the offer to repurchase is conditioned on a 2016 Change of Control Repurchase Event occurring on or prior to the 2016 Change of Control Payment Date specified in such notice;

(v) disclosing that any 2016 Note not tendered for repurchase will continue to accrue interest; and

(vi) specifying the procedures for tendering 2016 Notes.

(c) The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act, and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the 2016 Notes as a result of a 2016 Change of Control Repurchase Event. To the extent that the provisions of any securities laws or regulations conflict with the 2016 Change of Control Repurchase Event provisions of the 2016 Notes, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the 2016 Change of Control Repurchase Event provisions of the 2016 Notes by virtue of such conflict.

(d) On the repurchase date following a 2016 Change of Control Repurchase Event, the Company shall, to the extent lawful:

(i) accept for payment all 2016 Notes or portions thereof properly tendered pursuant to such offer;
Upon receipt of the required funds, the Paying Agent will promptly distribute to each Holder of 2016 Notes properly tendered the purchase price for such 2016 Notes deposited with the Paying Agent by the Company, the Company will execute and the Authenticating Agent, upon the execution and delivery by the Company of such 2016 Notes, will promptly authenticate and deliver (or cause to be transferred by book-entry) to each Holder a new 2016 Note equal in principal amount to any unpurchased portion of any 2016 Notes surrendered; provided that each new 2016 Note will be in a principal amount of an integral multiple of $1,000.

The Company shall not be required to make an offer to repurchase the 2016 Notes upon a 2016 Change of Control Repurchase Event if a third party makes such an offer in the manner, at the times and otherwise in compliance with the requirements for an offer made by the Company and such third party purchases all 2016 Notes properly tendered and not withdrawn under its offer. In addition, the Company shall not repurchase any 2016 Notes if there has occurred and is continuing on the 2016 Change of Control Payment Date an Event of Default in respect of any series of notes under the Indenture, other than a default in the payment of all or any portion of the aggregate purchase price in respect of all 2016 Notes or portions thereof properly tendered in connection with a Change of Control Repurchase Event.

Solely for purposes of this Section 210 in connection with the 2016 Notes, the following terms shall have the following meanings:

“2016 Below Investment Grade Ratings Event” means that on any day commencing 60 days prior to the first public announcement by the Company of any Change of Control (or pending Change of Control) and ending 60 days following consummation of such Change of Control (which period will be extended following consummation of a Change of Control for up to an additional 60 days for so long as either of the Rating Agencies has publicly announced that it is considering a possible ratings change), the 2016 Notes are downgraded to a rating that is below Investment Grade by each of the Rating Agencies (regardless of whether the rating prior to such downgrade was Investment Grade or below Investment Grade).

“2016 Change of Control Repurchase Event” means the occurrence of both a Change of Control and a 2016 Below Investment Grade Ratings Event.
Section 211. Appointment of Agents.

Citibank, N.A. will initially be the Security Registrar and Paying Agent for the 2016 Notes and will act as such only at its offices (a) for Securities transfer purposes and for purposes of presentment and surrender of Securities for the final distributions thereon, at Citibank, N.A., 111 Wall Street, 15th Floor, New York, New York 10005, Attention: 15th Floor Window and (b) for all other purposes, at Citibank, N.A., 388 Greenwich Street, 14th Floor, New York, New York, 10013, Attention: Global Transaction Services, Vulcan Materials Company; or any other address that the Securities Registrar and Paying Agent may designate with respect to itself from time to time by notice to the Trustee, the Company and the Holders.

Section 212. Securities Filings.

(a) Notwithstanding that the Company is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act or is otherwise required to report on an annual and quarterly basis on applicable forms pursuant to rules and regulations promulgated by the Commission, so long as the 2016 Notes are outstanding (unless defeased in a legal defeasance), the Company will (x) file with the Commission (unless the Commission will not accept such filing), and (y) make available to the Trustee and, upon written request, the Holders of the 2016 Notes, without cost to any such Holder, from the date that the 2016 Notes are issued:

   (i) within the time periods specified by the Exchange Act (including all applicable extension periods), an annual report on Form 10-K (or any successor or comparable form) containing the information required to be contained therein (or required in such successor or comparable form); and

   (ii) within the time periods specified by the Exchange Act (including all applicable extension periods), a quarterly report on Form 10-Q (or any successor or comparable form) containing the information required to be contained therein (or required in such successor or comparable form).

(b) In the event that the Company is not permitted to file its annual or quarterly reports with the Commission pursuant to the Exchange Act, the Company shall nevertheless make available such Exchange Act reports to the Trustee and the Holders of the 2016 notes as if the Company was subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act within the time periods specified by the Exchange Act (including all applicable extension periods), which requirement may be satisfied by posting such reports on the Company’s website within the applicable time periods specified in Sections 212(a)(i) and (a)(ii) above.

(c) Notwithstanding the foregoing, the availability of the reports referred to in Sections 212(a)(i) and (a)(ii) above on the Commission’s Electronic Data Gathering, Analysis and Retrieval system (or any successor system, including the Commission’s Interactive Data Electronic Application system) and the Company’s website within the applicable time periods specified in Sections 212(a)(i) and (a)(ii) above will be deemed to satisfy the delivery obligations under this Section 212.
(d) Delivery of reports, information and documents to the Trustee and, if applicable, to the Security Registrar and Paying Agent is for informational purposes only and their respective receipt of such reports shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company’s or any other Person’s compliance with any of its covenants under the Indenture, the Supplemental Indenture or the 2016 Notes (as to which the Trustee, Security Registrar and Paying Agent are entitled to rely exclusively on Officers’ Certificates). None of the Trustee, the Security Registrar or Paying Agent shall be obligated to monitor or confirm, on a continuing basis or otherwise, the Company’s or any other Person’s compliance with the covenants described herein or with respect to any reports or other documents filed under the Indenture or the Supplemental Indenture.

ARTICLE THREE
GENERAL TERMS AND CONDITIONS OF THE 2021 NOTES

Section 301. Designation and Principal Amount.

There is hereby authorized and established a series of Securities under the Indenture, designated as the “7.50% Notes due 2021”, which is not limited in aggregate principal amount. The aggregate principal amount of the 2021 Notes to be issued shall be as set forth in any Company Order for the authentication and delivery of the 2021 Notes, pursuant to Section 303 of the Indenture.

Section 302. Maturity.

The Stated Maturity of principal for the 2021 Notes will be June 15, 2021.

Section 303. Further Issues.

The Company may from time to time, without the consent of the Holders of the 2021 Notes, issue additional notes of that series. Any such additional notes will have the same ranking, interest rate, maturity date and other terms as the 2021 Notes. Any such additional notes, together with the 2021 Notes herein provided for, will constitute a single series of Securities under the Indenture.

Section 304. Form and Payment.

Principal of, premium, if any, and interest on the 2021 Notes shall be payable in U.S. dollars.

Section 305. Global Securities.

Upon the original issuance, the 2021 Notes will be represented by one or more Global Securities registered in the name of Cede & Co., the nominee of DTC. The Company will issue the 2021 Notes in denominations of $2,000 and integral multiples of $1,000 in excess thereof and will deposit the Global Securities with DTC or its custodian and register the Global Securities in the name of Cede & Co.
Section 306. Definitive Form.

If (a) the Depositary is at any time unwilling or unable to continue as depositary or ceases to be a registered clearing agency and, in either case, a successor depositary is not appointed by the Company within 90 days of notice thereof, (b) an Event of Default has occurred with regard to the 2021 Notes and has not been cured or waived, or (c) the Company at any time and in its sole discretion determines not to have the 2021 Notes represented by Global Securities, the Company may issue the 2021 Notes in definitive form in exchange for such Global Securities. In any such instance, an owner of a beneficial interest in 2021 Notes will be entitled to physical delivery in definitive form of 2021 Notes, equal in principal amount to such beneficial interest and to have 2021 Notes registered in its name as shall be established in a Company Order.

Section 307. Interest.

The 2021 Notes will bear interest (computed on the basis of a 360-day year consisting of twelve 30-day months) from June 14, 2011 at the rate of 7.50% per annum, payable semiannually; interest payable on each Interest Payment Date will include interest accrued from June 14, 2011, or from the most recent Interest Payment Date to which interest has been paid or duly provided for; the Interest Payment Dates on which such interest shall be payable are June 15 and December 15, commencing on December 15, 2011; and the record date for the interest payable on any Interest Payment Date is the close of business on June 1 or December 1 (whether or not such day is a Business Day), as the case may be, next preceding the relevant Interest Payment Date.

Section 308. Authorized Denominations.

The 2021 Notes shall be issuable in denominations of $2,000 and integral multiples of $1,000 in excess thereof.

Section 309. Redemption.

The 2021 Notes are subject to redemption at the option of the Company as set forth in the form of 2021 Note attached hereto as Exhibit B.

Section 310. Change of Control.

(a) Upon the occurrence of a 2021 Change of Control Repurchase Event (as defined below), unless the Company has exercised its right to redeem all 2021 Notes in accordance with the redemption terms as set forth in the 2021 Notes or has defeased the 2021 Notes as set forth in the 2021 Notes, the Company shall make an irrevocable offer to each Holder of 2021 Notes to repurchase all or any part (equal to or in excess of $2,000 and in integral multiples of $1,000) of such Holder’s 2021 Notes at a repurchase price in cash equal to 101% of the aggregate principal amount of 2021 Notes repurchased plus accrued and unpaid interest, if any, on the 2021 Notes repurchased to, but not including, the date of repurchase.
Within 30 days following any 2021 Change of Control Repurchase Event or, at the Company’s option, prior to any Change of Control, but in either case, after the public announcement of such Change of Control, the Company shall mail, or shall cause to be mailed, to each Holder of 2021 Notes, with a copy to the Trustee, a notice:

(i) describing the transaction or transactions that constitute or may constitute the 2021 Change of Control Repurchase Event;

(ii) offering to repurchase all 2021 Notes tendered;

(iii) setting forth the payment date (the “2021 Change of Control Payment Date”) for the repurchase of the 2021 Notes, which date will be no earlier than 30 days and no later than 60 days from the date such notice is mailed;

(iv) if mailed prior to the date of consummation of the Change of Control, stating that the offer to repurchase is conditioned on a 2021 Change of Control Repurchase Event occurring on or prior to the 2021 Change of Control Payment Date specified in such notice;

(v) disclosing that any 2021 Note not tendered for repurchase will continue to accrue interest; and

(vi) specifying the procedures for tendering 2021 Notes.

The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act, and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the 2021 Notes as a result of a 2021 Change of Control Repurchase Event. To the extent that the provisions of any securities laws or regulations conflict with the 2021 Change of Control Repurchase Event provisions of the 2021 Notes, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the 2021 Change of Control Repurchase Event provisions of the 2021 Notes by virtue of such conflict.

On the repurchase date following a 2021 Change of Control Repurchase Event, the Company shall, to the extent lawful:

(i) accept for payment all 2021 Notes or portions thereof properly tendered pursuant to such offer;

(ii) deposit with the Paying Agent an amount equal to the aggregate purchase price in respect of all 2021 Notes or portions thereof properly tendered; and

(iii) deliver or cause to be delivered to the Trustee the 2021 Notes properly accepted, together with an Officers’ Certificate of the Company stating the aggregate principal amount of 2021 Notes or portions thereof being repurchased by the Company.
Upon receipt of the required funds, the Paying Agent will promptly distribute to each Holder of 2021 Notes properly tendered the purchase price for such 2021 Notes deposited with the Paying Agent by the Company, the Company will execute and the Authenticating Agent, upon the execution and delivery by the Company of such 2021 Notes, will promptly authenticate and deliver (or cause to be transferred by book-entry) to each Holder a new 2021 Note equal in principal amount to any unpurchased portion of any 2021 Notes surrendered; provided that each new 2021 Note will be in a principal amount of an integral multiple of $1,000.

The Company shall not be required to make an offer to repurchase the 2021 Notes upon a 2021 Change of Control Repurchase Event if a third party makes such an offer in the manner, at the times and otherwise in compliance with the requirements for an offer made by the Company and such third party purchases all 2021 Notes properly tendered and not withdrawn under its offer. In addition, the Company shall not repurchase any 2021 Notes if there has occurred and is continuing on the 2021 Change of Control Payment Date an Event of Default in respect of any series of notes under the Indenture, other than a default in the payment of all or any portion of the aggregate purchase price in respect of all 2021 Notes or portions thereof properly tendered in connection with a Change of Control Repurchase Event.

Solely for purposes of this Section 310 in connection with the 2021 Notes, the following terms shall have the following meanings:

"2021 Below Investment Grade Ratings Event" means that on any day commencing 60 days prior to the first public announcement by the Company of any Change of Control (or pending Change of Control) and ending 60 days following consummation of such Change of Control (which period will be extended following consummation of a Change of Control for up to an additional 60 days for so long as either of the Rating Agencies has publicly announced that it is considering a possible ratings change), the 2021 Notes are downgraded to a rating that is below Investment Grade by each of the Rating Agencies (regardless of whether the rating prior to such downgrade was Investment Grade or below Investment Grade).

"2021 Change of Control Repurchase Event" means the occurrence of both a Change of Control and a 2021 Below Investment Grade Ratings Event.

Section 311. Appointment of Agents.

Citibank, N.A. will initially be the Security Registrar and Paying Agent for the 2021 Notes and will act as such only at its offices (a) for Securities transfer purposes and for purposes of presentment and surrender of Securities for the final distributions thereon, at Citibank, N.A., 111 Wall Street, 15th Floor, New York, New York 10005, Attention: 15th Floor Window and (b) for all other purposes, at Citibank, N.A., 388 Greenwich Street, 14th Floor, New York, New York, 10013, Attention: Global Transaction Services, Vulcan Materials Company; or any other address that the Securities Registrar and Paying Agent may designate with respect to itself from time to time by notice to the Trustee, the Company and the Holders.
Section 312. Securities Filings.

(a) Notwithstanding that the Company is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act or is otherwise required to report on an annual and quarterly basis on applicable forms pursuant to rules and regulations promulgated by the Commission, so long as the 2021 Notes are outstanding (unless defeased in a legal defeasance), the Company will (x) file with the Commission (unless the Commission will not accept such filing), and (y) make available to the Trustee and, upon written request, the Holders of the 2021 Notes, without cost to any such Holder, from the date that the 2021 Notes are issued:

(i) within the time periods specified by the Exchange Act (including all applicable extension periods), an annual report on Form 10-K (or any successor or comparable form) containing the information required to be contained therein (or required in such successor or comparable form); and

(ii) within the time periods specified by the Exchange Act (including all applicable extension periods), a quarterly report on Form 10-Q (or any successor or comparable form) containing the information required to be contained therein (or required in such successor or comparable form).

(b) In the event that the Company is not permitted to file its annual or quarterly reports with the Commission pursuant to the Exchange Act, the Company shall nevertheless make available such Exchange Act reports to the Trustee and the Holders of the 2021 notes as if the Company was subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act within the time periods specified by the Exchange Act (including all applicable extension periods), which requirement may be satisfied by posting such reports on the Company’s website within the applicable time periods specified in Sections 312(a)(i) and (a)(ii) above.

(c) Notwithstanding the foregoing, the availability of the reports referred to in Sections 312(a)(i) and (a)(ii) above on the Commission’s Electronic Data Gathering, Analysis and Retrieval system (or any successor system, including the Commission’s Interactive Data Electronic Application system) and the Company’s website within the applicable time periods specified in Sections 312(a)(i) and (a)(ii) above will be deemed to satisfy the delivery obligations under this Section 312.

(d) Delivery of reports, information and documents to the Trustee and, if applicable, to the Security Registrar and Paying Agent is for informational purposes only and their respective receipt of such reports shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company’s or any other Person’s compliance with any of its covenants under the Indenture, the Supplemental Indenture or the 2021 Notes (as to which the Trustee, Security Registrar and Paying Agent are entitled to rely exclusively on Officers’ Certificates). None of the Trustee, the Security Registrar or Paying Agent shall be obligated to monitor or confirm, on a continuing basis or otherwise, the Company’s or any other Person’s compliance with the covenants described herein or with respect to any reports or other documents filed under the Indenture or the Supplemental Indenture.
ARTICLE FOUR
FORMS OF NOTES

Section 401. Form of 2016 Notes.

The 2016 Notes and the Trustee’s Certificate of Authentication to be endorsed thereon are to be substantially in the form set forth in Exhibit A hereto.

Section 402. Form of 2021 Notes.

The 2021 Notes and the Trustee’s Certificate of Authentication to be endorsed thereon are to be substantially in the form set forth in Exhibit B hereto.

ARTICLE FIVE
ORIGINAL ISSUE OF NOTES


The 2016 Notes may, upon execution of this Supplemental Indenture, be executed by the Company and delivered to the Trustee for authentication, and the Trustee shall, upon Company Order, authenticate and deliver such 2016 Notes as in such Company Order provided.


The 2021 Notes may, upon execution of this Supplemental Indenture, be executed by the Company and delivered to the Trustee for authentication, and the Trustee shall, upon Company Order, authenticate and deliver such 2021 Notes as in such Company Order provided.

ARTICLE SIX
MISCELLANEOUS

Section 601. Ratification of Indenture.

The Indenture, as supplemented by this Supplemental Indenture, is in all respects ratified and confirmed, and this Supplemental Indenture shall be deemed part of the Indenture in the manner and to the extent herein and therein provided; provided that the provisions of this Supplemental Indenture apply solely with respect to the 2016 Notes and the 2021 Notes.

Section 602. Trustee Not Responsible for Recitals.

The recitals herein contained are made by the Company and not by the Trustee, and the Trustee assumes no responsibility for the correctness thereof. The Trustee makes no representation as to the validity or sufficiency of this Supplemental Indenture.
Section 603. Governing Law.

This Supplemental Indenture, each 2016 Note and each 2021 Note shall be governed by and construed in accordance with the laws of the State of New York.

Section 604. Separability.

In case any one or more of the provisions contained in this Supplemental Indenture, the 2016 Notes or the 2021 Notes shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Supplemental Indenture or of the notes, but this Supplemental Indenture and the 2016 Notes and the 2021 Notes shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein or therein.

Section 605. Counterparts.

This Supplemental Indenture may be executed in any number of counterparts each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.
IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed, all as of the day and year first above written.

VULCAN MATERIALS COMPANY

By: /s/ Robert A. Wason, IV  
Name: Robert A. Wason, IV  
Title: Senior Vice President and General Counsel

WILMINGTON TRUST COMPANY,  
as Trustee

By: /s/ Michael G. Oller, Jr.  
Name: Michael G. Oller, Jr.  
Title: Assistant Vice President

Acknowledged:

CITIBANK, N.A.,  
as initial Authenticating Agent, Paying Agent, Security Registrar and Calculation Agent

By: /s/ John Hannon  
Name: John Hannon  
Title: Vice President

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VULCAN MATERIALS COMPANY
6.50% NOTE DUE 2016

No. $ 

CUSIP No. 929160 AQ2

Vulcan Materials Company, a corporation duly organized and existing under the laws of New Jersey (herein called the “Company”, which term includes any successor Person under the Indenture hereinafter referred to), for value received, hereby promises to pay to CEDE & CO., or registered assigns, the principal sum of $___________ Dollars on December 1, 2016, and to pay interest thereon from June 14, 2011, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, semi-annually on June 1 and December 1 in each year, commencing December 1, 2011 at the rate of 6.50% per annum, until the principal hereof is paid or made available for payment, and (to the extent that the payment of such interest shall be legally enforceable) at the rate of 6.50% per annum on any overdue principal and premium and on any overdue installment of interest. The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in such Indenture, be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, which shall be the May 15 or November 15 (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date. Any such interest not so punctually paid or duly provided for will forthwith cease to be payable to the Holder on such Regular Record Date and may either be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Trustee, notice whereof shall be given to Holders of Securities of this series not less than 10 days prior to such Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities of this series may be listed, and upon such notice as may be required by such exchange, all as more fully provided in said Indenture.
Payment of the principal of (and premium, if any) and interest on this Security will be made at the office or agency of the Company maintained for that purpose in New York, New York, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

Reference is hereby made to the further provisions of this Security set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee or an authentication agent on its behalf referred to on the reverse hereof by manual signature, this Security shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

A-2
IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated: ____________________________

VULCAN MATERIALS COMPANY

By: ______________________________

Attest: ____________________________

A-3
TRUSTEE’S CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

WILMINGTON TRUST COMPANY,
as Trustee

By: ______________________________________
    Authorized Officer

or

WILMINGTON TRUST COMPANY,
as Trustee

By: CITIBANK, N.A., as Authenticating Agent

By: ______________________________________
    Authorized Officer

A-4
This Security is one of a duly authorized issue of securities of the Company (herein called the “Securities”), issued and to be issued in one or more series under a Senior Debt Indenture, dated as of December 11, 2007 (herein called the “Indenture”), as supplemented by the Fourth Supplemental Indenture, dated as of June 14, 2011, between the Company and Wilmington Trust Company, as Trustee (herein called the “Trustee”, which term includes any successor trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Trustee and the Holders of the Securities and of the terms upon which the Securities are, and are to be, authenticated and delivered. This Security is one of the series designated on the face hereof.

The Securities are subject to redemption upon not less than 30 days’ nor more than 60 days’ notice by mail, at any time, as a whole or in part, at the election of the Company, at a redemption price equal to the greater of (i) one hundred percent (100%) of the principal amount of the Securities and (ii) the sum of the present values of the remaining scheduled payments of principal and interest (exclusive of interest accrued to the Redemption Date) on the Securities discounted to the Redemption Date on a semiannual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate (as defined below), plus 50 basis points, and plus accrued and unpaid interest, if any, on the Securities being redeemed to the Redemption Date, but interest installments whose Stated Maturity is on or prior to such Redemption Date will be payable to the Holders of such Securities, or one or more Predecessor Securities, of record at the close of business on the relevant Record Dates referred to on the face hereof, all as provided in the Indenture.

The Independent Investment Banker (as defined below) will calculate the Redemption Price.

“Treasury Rate” means, with respect to the Securities on any Redemption Date, the rate per annum equal to the semiannual equivalent yield to maturity of the Comparable Treasury Issue, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such Redemption Date.

“Comparable Treasury Issue” means the United States Treasury security selected by the Independent Investment Banker as having a maturity comparable to the remaining term of the Securities to be redeemed that would be used, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity with the remaining term of those Securities.

“Comparable Treasury Price” means, with respect to the Securities on any Redemption Date, (i) the average of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) on the third Business Day preceding such Redemption Date, as set forth in the daily statistical release (or any successor release) published by the Federal Reserve Bank of New York and designated “Composite 3:30 p.m. Quotations for U.S. Government Securities” or (ii) if such release (or any successor release) is not published or does not contain such prices on such Business Day, (a) the average of the Reference Treasury Dealer Quotations for such Redemption Date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations, or (b) if the Trustee obtains fewer than four such Reference Treasury Dealer Quotations, the average of all such quotations.
“Independent Investment Banker” means one of the Reference Treasury Dealers appointed by the Trustee as directed by the Company.

“Reference Treasury Dealer Quotations” means, with respect to each Reference Treasury Dealer and the Securities on any Redemption Date, the average, as determined by the Trustee, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Trustee by such Reference Treasury Dealer at 5:00 p.m. on the third Business Day preceding such Redemption Date.

“Reference Treasury Dealer” means each of Merrill Lynch, Pierce, Fenner & Smith Incorporated and Goldman, Sachs & Co., and their respective successors; provided, however, that if any of the foregoing shall cease to be a primary U.S. Government securities dealer in New York City (a “Primary Treasury Dealer”), the Company shall replace that former dealer with another Primary Treasury Dealer.

In the event of redemption of this Security in part only, a new Security or Securities of this series and of like tenor for the unredeemed portion hereof will be issued in the name of the Holder hereof upon the cancellation hereof.

If an Event of Default with respect to Securities of this series shall occur and be continuing, the principal of the Securities of this series may be declared due and payable in the manner and with the effect provided in the Indenture.

The Indenture contains provisions for defeasance at any time of (i) the entire indebtedness of the Company on this Security and (ii) certain restrictive covenants and other covenants and the related Events of Default, upon compliance by the Company with certain conditions set forth therein, which provisions apply to this Security. In addition, upon the Company’s exercise of the option provided in Section 1301 of the Indenture to obtain a covenant defeasance with respect to this Security, the Company shall be released from its obligations under Section 210 of the Fourth Supplemental Indenture (in addition to the Sections provided in Section 1303 of the Indenture) with respect to this Security on and after the date the applicable conditions set forth in Section 1304 of the Indenture are satisfied.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of a majority in principal amount of the Securities at the time Outstanding of each series to be affected. The Indenture also contains provisions permitting the Holders of specified percentages in principal amount of the Securities of each series at the time Outstanding, on behalf of the Holders of all Securities of such series, to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon this Security.
Except as set forth in Article Thirteen of the Indenture, no reference herein to the Indenture and no provision of this Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and any premium and interest on this Security at the times, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Security is registrable in the Security Register, upon surrender of this Security for registration of transfer at the office or agency of the Company in any place where the principal of and any premium and interest on this Security are payable, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed by, the Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Securities of this series and of like tenor, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Securities of this series are issuable only in registered form without coupons in denominations of $2,000 and multiples of $1,000 thereof. As provided in the Indenture and subject to certain limitations therein set forth, Securities of this series are exchangeable for a like aggregate principal amount of Securities of this series and of like tenor of a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Security is registered as the owner hereof for all purposes, whether or not this Security be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

All terms used in this Security which are defined in the Indenture shall have the meanings assigned to them in the Indenture.
VULCAN MATERIALS COMPANY

7.50% NOTE DUE 2021

Vulcan Materials Company, a corporation duly organized and existing under the laws of New Jersey (herein called the “Company”, which term includes any successor Person under the Indenture hereinafter referred to), for value received, hereby promises to pay to CEDE & CO., or registered assigns, the principal sum of Dollars on June 15, 2021, and to pay interest thereon from June 14, 2011, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, semi-annually on June 15 and December 15 in each year, commencing December 15, 2011 at the rate of 7.50% per annum, until the principal hereof is paid or made available for payment, and (to the extent that the payment of such interest shall be legally enforceable) at the rate of 7.50% per annum on any overdue principal and premium and on any overdue installment of interest. The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in such Indenture, be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, which shall be the June 1 or December 1 (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date, and upon such notice as may be required by such exchange, all as more fully provided in said Indenture.
Payment of the principal of (and premium, if any) and interest on this Security will be made at the office or agency of the Company maintained for that purpose in New York, New York, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

Reference is hereby made to the further provisions of this Security set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee or an authentication agent on its behalf referred to on the reverse hereof by manual signature, this Security shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.
IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated: ____________________________

VULCAN MATERIALS COMPANY

By: ________________________________

Attest: ______________________________

B-3
TRUSTEE’S CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

WILMINGTON TRUST COMPANY,  
as Trustee

By:  
       _____________________________  
              Authorized Officer

or

WILMINGTON TRUST COMPANY,  
as Trustee

By:  CITIBANK, N.A., as Authenticating Agent

By:  
       _____________________________  
              Authorized Officer

B-4
This Security is one of a duly authorized issue of securities of the Company (herein called the “Securities”), issued and to be issued in one or more series under a Senior Debt Indenture, dated as of December 11, 2007 (herein called the “Indenture”), as supplemented by the Fourth Supplemental Indenture, dated as of June 14, 2011, between the Company and Wilmington Trust Company, as Trustee (herein called the “Trustee”, which term includes any successor trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Trustee and the Holders of the Securities and of the terms upon which the Securities are, and are to be, authenticated and delivered. This Security is one of the series designated on the face hereof.

The Securities are subject to redemption upon not less than 30 days’ nor more than 60 days’ notice by mail, at any time, as a whole or in part, at the election of the Company, at a redemption price equal to the greater of (i) one hundred percent (100%) of the principal amount of the Securities and (ii) the sum of the present values of the remaining scheduled payments of principal and interest (exclusive of interest accrued to the Redemption Date) on the Securities discounted to the Redemption Date on a semiannual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate (as defined below), plus 50 basis points, and plus accrued and unpaid interest, if any, on the Securities being redeemed to the Redemption Date, but interest installments whose Stated Maturity is on or prior to such Redemption Date will be payable to the Holders of such Securities, or one or more Predecessor Securities, of record at the close of business on the relevant Record Dates referred to on the face hereof, all as provided in the Indenture.

The Independent Investment Banker (as defined below) will calculate the Redemption Price.

“Treasury Rate” means, with respect to the Securities on any Redemption Date, the rate per annum equal to the semiannual equivalent yield to maturity of the Comparable Treasury Issue, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such Redemption Date.

“Comparable Treasury Issue” means the United States Treasury security selected by the Independent Investment Banker as having a maturity comparable to the remaining term of the Securities to be redeemed that would be used, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity with the remaining term of those Securities.

“Comparable Treasury Price” means, with respect to the Securities on any Redemption Date, (i) the average of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) on the third Business Day preceding such Redemption Date, as set forth in the daily statistical release (or any successor release) published by the Federal Reserve Bank of New York and designated “Composite 3:30 p.m. Quotations for U.S. Government Securities” or (ii) if such release (or any successor release) is not published or does not contain such prices on such Business Day, (a) the average of the Reference Treasury Dealer Quotations for such Redemption Date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations, or (b) if the Trustee obtains fewer than four such Reference Treasury Dealer Quotations, the average of all such quotations.
“Independent Investment Banker” means one of the Reference Treasury Dealers appointed by the Trustee as directed by the Company.

“Reference Treasury Dealer Quotations” means, with respect to each Reference Treasury Dealer and the Securities on any Redemption Date, the average, as determined by the Trustee, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Trustee by such Reference Treasury Dealer at 5:00 p.m. on the third Business Day preceding such Redemption Date.

“Reference Treasury Dealer” means each of Merrill Lynch, Pierce, Fenner & Smith Incorporated and Goldman, Sachs & Co., and their respective successors; provided, however, that if any of the foregoing shall cease to be a primary U.S. Government securities dealer in New York City (a “Primary Treasury Dealer”), the Company shall replace that former dealer with another Primary Treasury Dealer.

In the event of redemption of this Security in part only, a new Security or Securities of this series and of like tenor for the unredeemed portion hereof will be issued in the name of the Holder hereof upon the cancellation hereof.

If an Event of Default with respect to Securities of this series shall occur and be continuing, the principal of the Securities of this series may be declared due and payable in the manner and with the effect provided in the Indenture.

The Indenture contains provisions for defeasance at any time of (i) the entire indebtedness of the Company on this Security and (ii) certain restrictive covenants and other covenants and the related Events of Default, upon compliance by the Company with certain conditions set forth therein, which provisions apply to this Security. In addition, upon the Company’s exercise of the option provided in Section 1301 of the Indenture to obtain a covenant defeasance with respect to this Security, the Company shall be released from its obligations under Section 310 of the Fourth Supplemental Indenture (in addition to the Sections provided in Section 1303 of the Indenture) with respect to this Security on and after the date the applicable conditions set forth in Section 1304 of the Indenture are satisfied.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of a majority in principal amount of the Securities at the time Outstanding of each series to be affected. The Indenture also contains provisions permitting the Holders of specified percentages in principal amount of the Securities of each series at the time Outstanding, on behalf of the Holders of all Securities of such series, to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon this Security.
Except as set forth in Article Thirteen of the Indenture, no reference herein to the Indenture and no provision of this Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and any premium and interest on this Security at the times, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Security is registrable in the Security Register, upon surrender of this Security for registration of transfer at the office or agency of the Company in any place where the principal of and any premium and interest on this Security are payable, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed by, the Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Securities of this series and of like tenor, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Securities of this series are issuable only in registered form without coupons in denominations of $2,000 and multiples of $1,000 thereof. As provided in the Indenture and subject to certain limitations therein set forth, Securities of this series are exchangeable for a like aggregate principal amount of Securities of this series and of like tenor of a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Security is registered as the owner hereof for all purposes, whether or not this Security be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

All terms used in this Security which are defined in the Indenture shall have the meanings assigned to them in the Indenture.
Re: Vulcan Materials Company Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as special New Jersey counsel for Vulcan Materials Company, a New Jersey corporation (the “Company”), in connection with the Registration Statement on Form S-3 (Registration No. 333-174609) filed with the Securities and Exchange Commission (the “Registration Statement”), together with the form of prospectus, dated May 31, 2011 (the “Base Prospectus”) included therein, and the proposed sale pursuant to a preliminary prospectus supplement, dated May 31, 2011 (the “Pricing Prospectus”), to the Base Prospectus, and the prospectus supplement, dated June 3, 2011, filed pursuant to Rule 424 promulgated under the Securities Act of 1933, as amended (the “Act”) (together with the Base Prospectus and the Pricing Prospectus, the “Prospectus”), and the Underwriting Agreement, dated June 3, 2011, among the Company and the underwriters named therein (the “Underwriting Agreement”) by the Company of (i) $500,000,000 aggregate principal amount of 6.5% Senior Notes due 2016 and (ii) $600,000,000 aggregate principal amount of 7.5% Senior Notes due 2021 (together, the “Securities”). We have represented the Company in connection with certain transactions on matters relating to New Jersey corporate law, but do not generally represent the Company nor act as the Company’s regular outside counsel.

In connection with rendering the opinions contained in this letter, we have examined originals or copies certified or otherwise identified to our satisfaction of only the following documents:

(a) the Registration Statement;

(b) the Prospectus;

(c) the Senior Debt Indenture, dated as of December 11, 2007 (the “Base Indenture”), together with the Fourth Supplemental Indenture, dated as of June 14, 2011 (together with the Base Indenture, the “Indenture”) between the Company and Wilmington Trust Company, as Trustee (the “Trustee”), relating to the Securities;
(d) the Underwriting Agreement;

(e) the Officer’s Certificate of the Company dated as of even date herewith (the “Officer’s Certificate”); and

(f) a certificate of standing relating to the Company from the Treasurer of the State of New Jersey, dated June 13, 2011 (the “Good Standing Certificate”).

Upon the basis of such examination and subject to each of the qualifications referred to herein, we advise you that, in our opinion:

1. The Company is a corporation duly incorporated and validly existing in good standing under the laws of the State of New Jersey.

2. The Indenture pursuant to which the Securities are being issued has been duly authorized, executed and delivered by the Company.

3. The Securities have been duly authorized, executed and delivered by the Company. ¹

4. The issue and sale of the Securities and the compliance by the Company with the provisions of the Securities, the Indenture and the Underwriting Agreement and the consummation of the transactions therein contemplated will not result in any violation of (a) the provisions of the Certificate of Incorporation or By-Laws of the Company or (b) any New Jersey law applicable to the Company.

This opinion letter is based upon the customary practice of lawyers who regularly give, and lawyers who regularly advise opinion recipients regarding, opinions of the kind rendered in this opinion letter. For the avoidance of doubt, our opinions do not cover any federal or state securities laws, other antifraud laws and fraudulent transfer laws, tax laws, the Employee Retirement Income Security Act of 1974, antitrust laws or any law that is applicable to the Company, the Underwriting Agreement or the transactions contemplated thereby in the manner set forth therein solely as part of a regulatory regime applicable to the Company or its affiliates due to its or their status, business or assets, nor do our opinions cover the laws of any jurisdiction (including the laws of the State of New Jersey) wherein any holder of the Securities may be located which limit rates of interest that may be charged or collected by such holder.

¹We have assumed that the Securities will be delivered electronically in the same manner as the Underwriting Agreement and Indenture are being delivered. If that assumption is not correct, please advise.
The opinions expressed herein relate only to laws which are specifically referred to in this letter and to which, in our experience, are normally applicable to transactions of the type contemplated by the Underwriting Agreement. We have not undertaken any research for purposes of determining whether any parties to any agreement or any of the transactions which may occur in connection with the Underwriting Agreement are subject to any law or other governmental requirement that is not generally applicable to transactions of the type provided for in the Underwriting Agreement.

In rendering the opinions contained herein, we have, with your approval, relied without investigation or independent verification on (i) information obtained from public officials and officers of the Company, (ii) factual information provided to us in the Officer’s Certificate, the Registration Statement, and the Prospectus and (iii) representations in the Underwriting Agreement by the Company and the Underwriters. We have assumed without investigation that the information upon which we have relied is accurate and does not omit disclosures necessary to prevent such information from being misleading. We have also not conducted a search of any electronic databases or the dockets of any court, administrative or regulatory body, agency or other filing office in any jurisdiction or otherwise attempted to independently verify any information or assumptions contained herein.

We have assumed that the Underwriting Agreement, the Indenture and the transactions contemplated thereby were duly authorized, executed and delivered by each party thereto other than the Company, and that the Underwriting Agreement, the Indenture and the transactions contemplated thereby constitute the valid and binding obligation of each party thereto, including the Company, enforceable against each such party, including the Company, in accordance with its terms. Other than as expressly set forth in Paragraph 4 above, we have also assumed that at the time thereof and at all times subsequent thereto, such executions, deliveries, performances and transactions by the Company and by each other party thereto, did not, does not now, and will not violate, result in a breach of, conflict with, or (with or without the giving of notice or the passage of time or both) entitle any party to terminate or call a default under any term of any contract, agreement, instrument, lease, license, arrangement or understanding to which the Company, any Underwriter, or any such other party is or becomes a party or to which any of them or any of their respective properties, assets or security holders are or will be subject, and none of such Underwriters and none of such other parties is subject to any impediment to which contracting parties generally are not subject.
We have further assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to original documents of documents submitted to us as certified, facsimile, conformed, electronic or photostatic copies and the authenticity of the originals of such copies. We have assumed that with respect to each offer, issuance, sale and delivery by the Company of Securities pursuant to the Underwriting Agreement and each purchase of such shares by the Underwriters (a) except for the corporation laws (but not the 'blue sky' laws or securities laws as to which we do not opine) of the State of New Jersey as applicable to the Company, at the time thereof and at all times subsequent thereto such offer, issuance, sale, delivery, and purchase, the execution, delivery and performance of the Underwriting Agreement and of the other documents relating thereto or delivered in connection therewith, and the consummation of the transactions contemplated by any thereof, as to the Company, any Underwriter or any other party thereto, did not violate, result in a breach of, or conflict with any law, rule, regulation, order, judgment, or decree, in each case whether then or subsequently in effect; (b) at the time thereof and at all times subsequent thereto, the persons authorizing each such offer, issuance, sale, delivery, purchase, execution, performance or transaction for the Company, for any Underwriter or for any such other party did not violate any fiduciary or other duty owed by them; and (c) no event has taken place subsequent to any such offer, issuance, sale, delivery, purchase, execution, performance or transaction or will take place which would cause any such offer, issuance, sale, delivery, purchase, execution, performance or transaction not to comply with any such law, rule, regulation, order, judgment, decree or duty, or which would permit the Company, any Underwriter, or any such other party at any time thereafter to cancel, rescind, or otherwise avoid any such offer, issuance, sale, delivery, purchase, execution, performance, transaction or document. In rendering the foregoing opinions, we have assumed without investigation that no party to the Underwriting Agreement at any time from the execution thereof until immediately after the closing contemplated thereby has been in violation of, or in default in complying with any provision thereof and that all conditions to the consummation of the transactions contemplated thereby shall have been satisfied at or prior to such closing.

In rendering the opinion set forth in Paragraph 1 above as to the good standing of the Company, we have relied exclusively on the Good Standing Certificate and our opinion in that Paragraph is given solely as of the date and time of such certificate.

We have assumed the solvency of the Company. In addition, we are expressing no opinion in Paragraph 4 above, insofar as performance by the Company of its obligations under the Underwriting Agreement is concerned, as to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors’ rights.

In rendering the opinions set forth in Paragraphs 2 and 3 above as to the execution of the Indenture and the Securities by the Company, we have relied solely on the Officer’s Certificate. In rendering the opinion set forth in Paragraphs 2 and 3 above as to the delivery by the Company of the Indenture and the Securities, we have assumed with your permission that (a) the laws governing such delivery are substantially similar to the laws of the State of New Jersey and (b) electronic transmission of the Indenture and the Securities has been authorized by the parties to the Indenture and the Securities for purposes of delivery.
Our advice on each legal issue addressed in this letter represents our opinion as to how that issue would be resolved were it to be considered by the highest court of the jurisdiction upon whose law our opinion on that issue is based. The manner in which any particular issue would be treated in any actual court case would depend in part on facts and circumstances particular to the case, and this letter is not intended to guarantee the outcome of any legal dispute.

The opinions contained herein are limited to the laws of the State of New Jersey as of the date of this letter and we are expressing no opinion as to the effect of the laws of any other jurisdiction.

We hereby consent to the filing of copies of this letter as an exhibit to the Registration Statement and to references to us in the prospectus forming a part of the Registration Statement under the caption “Legal Matters.” In giving this consent, we do not thereby admit that we are within the category of persons whose consent is required under Section 7 of the Act and the rules and regulations thereunder. This letter speaks as of its date, and we undertake no (and hereby disclaim any) obligation to update this letter.

Very truly yours,

/s/ LOWENSTEIN SANDLER PC
In connection with the registration under the Securities Act of 1933 (the “Act”) of $500,000,000 aggregate principal amount of 6.50% Notes due 2016 (the “2016 Notes”) and $600,000,000 aggregate principal amount of 7.50% Notes due 2021 (the “2021 Notes”, and together with the 2016 Notes, the “Notes”) of Vulcan Materials Company, a New Jersey corporation (the “Company”), we, as your special counsel, have examined such corporate records, certificates and other documents, and such questions of law, as we have considered necessary or appropriate for the purposes of this opinion.

Upon the basis of such examination, we advise you that, in our opinion, the Notes will constitute valid and legally binding obligations of the Company, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors’ rights and to general equity principles.

The foregoing opinion is limited to the Federal laws of the United States and the laws of the States of New York and New Jersey, and we are expressing no opinion as to the effect of the laws of any other jurisdiction. With respect to all matters of New Jersey law, we have relied upon the opinion, dated June 14, 2011, of Lowenstein Sandler PC, and our opinion is subject to the same assumptions, qualifications and limitations with respect to such matters as are contained in such opinion of Lowenstein Sandler PC.
Also, we have relied as to certain factual matters on information obtained from public officials, officers of the Company and other sources believed by us to be responsible, and we have assumed that the indenture relating to the Notes has been duly authorized, executed and delivered by the Trustee thereunder, an assumption which we have not independently verified. We hereby consent to the filing of this opinion as an exhibit to the Registration Statement and to the references to us under the heading “Validity of Securities” in the prospectus contained therein. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Act.

Very truly yours,

/s/ SULLIVAN & CROMWELL LLP