



City of Garden Ridge

9400 Municipal Parkway
Garden Ridge, Texas 78266-2600
(210) 651-6632
Fax (210) 651-9638

AGENDA

SPECIAL CITY COUNCIL MEETING, AUGUST 27, 2012 AT 6:00 P.M.

The Garden Ridge City Council will meet in a regular session on Wednesday, August 27, 2012 at 6:00 p.m. in the City Council Chambers, 9400 Municipal Parkway, Garden Ridge, Texas. This is an open meeting, open to the public, subject to the Open Meetings Law of the State of Texas, and as required by law, notice is hereby posted on August 24, 2012 before 5:00 p.m., providing time, place, date and agenda thereof. The meeting facility is wheelchair accessible and accessible parking spaces are provided. Requests for accommodations or interpretative services must be made 48 hours prior to this meeting.

1. Call to Order
2. Roll Call
3. Citizen's Participation- 3 minute limit per citizen

Rules for Citizen's Participation:

The City Council welcomes citizen participation and comments at all of their Council Meetings. As a courtesy to your fellow citizens and out of respect to our elected officials, we must request that if you wish to speak, that you follow these guidelines.

- a. Direct your comments to the entire Council, not to an individual member, nor to the audience.
- b. Show the City Council the same respect and courtesy that you expect to be shown to you.
- c. Limit remarks to three (3) minutes.

*NOTE: The Texas Open Meetings Act permits a member of the public or a member of the governmental body to raise a subject that has not been included in the notice for the meeting. However, any discussion of the subject **must be limited** to a proposal to place the subject on the agenda for a future meeting and any response to a question posed to the Council is limited to either a statement of specific factual information or a recitation of existing policy. TEX. GOV'T CODE § 551.042.*

4. Public Hearings

The City Council will conduct Public Hearings to receive input into the following:

- a) Proposed 2013 Fiscal Year Budgets for the City of Garden Ridge
- b) Proposed 2012 Property Tax Rate of \$0.283246 for the City of Garden Ridge

5. Business Items

The City Council may discuss, consider and/or take possible action on the following items:

- a) Changes to the Proposed 2013 Fiscal Year Budgets for the City of Garden Ridge
- b) Proposed City of Garden Ridge Capital Improvement Plan for Water, Drainage and Street Projects to include prioritization of projects and funding options for plan and/or projects
- c) Announce the date, time and place of the second required Public Hearing scheduled for the proposed 2012 Property Tax Rate for the City of Garden Ridge (Wednesday, September 5, 2012, 6:00 p.m., City Council Chambers, 9400 Municipal Parkway, Garden Ridge, Texas)
- d) Announce the date, time and place for the City Council vote on the 2012 Tax Rate (Thursday, September 13, 2012, 6:00 p.m., City Council Chambers, 9400 Municipal Parkway, Garden Ridge, Texas)
- e) City Quarry Commission recommendations on amendments to Ordinance 34-072012 of the City of Garden Ridge, Texas prohibiting blasting, within the city limits; providing for limited exemption permit; establishing regulations pertaining to blasting; establishing criminal and civil penalties for violations; providing that this ordinance shall be cumulative; providing for severability; including a repealer clause; and declaring an effective date
- f) City Quarry Commission recommendation for the placement of and monitoring of one dust and one noise monitor and three ground monitors, further making notice to City Council that the Quarry Commission will advise Hanson and the City Council of any change and ten (10) days written notice for the placement of an additional ground monitor
- g) City Quarry Commission recommendation on request for Partial Exemption Permit for Orica USA and to include fee for Partial Exemption Permit
- h) City Quarry Commission recommendation for the approval of Austin Powder as a second blasting permittee, following the standard requirements needed for a Partial Exemption Permit

6. Adjournment

AGENDA NOTICES:

Decorum Required:

Any disruptive behavior, including shouting or derogatory statements or comments may be ruled out of order by the Presiding Officer. Continuation of this type of behavior could result in a request by the Presiding Officer that the individual leave the meeting, and if refused, an order of removal.

Action by Council Authorized:

The City Council may vote and/or act upon any item within this Agenda. The Council reserves the right to retire into executive session concerning any of the items listed on this Agenda, pursuant to and in accordance with Texas Government Code Section 551.071, to seek the advice of its attorney about pending or contemplated litigation, settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with the Open Meetings Act and may invoke this right where the City Attorney, the Mayor or a majority of the Governing Body deems an executive session is necessary to allow privileged consultation between the City Attorney and the governing body, if considered necessary and legally justified under the Open Meetings Act. The City Attorney may appear in person, or appear in executive session by conference call in accordance with applicable state law.

Executive Sessions Authorized:

This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

Attendance By Other Elected or Appointed Officials:

It is anticipated that members of other city board, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions and/or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions and/or committees of the City, whose members may be in attendance. The members of the boards, commissions and/or committees may participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that board, commission or committee subject to the Texas Open Meetings Act.


Shelley Goodwin, TRMC
City Secretary

This is to certify that I, Shelley Goodwin, posted this Agenda at 9:00 a.m. on August 24, 2012 on the bulletin board located at the entrance to the Garden Ridge City Hall, 9400 Municipal Parkway, Garden Ridge, Texas.


Shelley Goodwin, TRMC
City Secretary

August 27, 2012

To: Mayor Feibelman and City Council

From: City Administrator Cain

An error was found in an excel formula on the Public Facilities budget worksheet. The error decreases the department budget total by \$109,000 thus increasing the proposed 2013 Budget Carryover in General Fund to \$288,827. The attached General Fund Budget Summary and Public Facilities Budget pages reflect the correction.

General Fund
Budget FY 2013
3.5%

Projected Fund Balance 10/01/12:	\$ 944,361
<u>Budgeted Revenue:</u>	\$2,387,339
Available Funds:	\$3,331,700
<u>Budgeted Expenditures:</u>	
Administration	\$ 554,696
Library	\$ 28,449
Community Center	\$ 44,215
Municipal Court	\$ 65,635
Police	\$1,029,492
Public Facilities	\$ 376,025
Total Expenditures:	\$2,098,512
Subtotal Available Funds:	\$1,233,188
Transfer from Reserves into Capital Improvement Fund (Remainder of Hickory Bend Drainage Project)	\$ 197,672
Projected Total Available Funds at 9/30/13:	\$ 1,035,516

2013 Budget carryover to Reserves = \$288,827

(Fund consists of Operating Account, Money Market Account and Investment Account)

**CITY OF GARDEN RIDGE
GENERAL FUND FISCAL YER 2013
FUND 100 - FACILITIES**

BUDGET LINE ITEM DESCRIPTION	FY 2011 ACTUAL	Y-T-D 05/31/2012	FY 2012 AMENDMENT #1	FY 2013	BUDGET REQUEST EXPLANATION
PAYROLL GROSS	\$ 80,752	\$ 54,769	\$ 83,259	\$ 86,173	3.5% SALARY INCREASE
OVERTIME	\$ 2,125	\$ 3,674	\$ 1,700	\$ 4,500	
TEMP/SEASONAL EMPLOYEE	\$ -	\$ -	\$ -	\$ -	
CONTRACT LABOR	\$ 365	\$ -	\$ 250	\$ 250	
FICA	\$ 3,754	\$ 2,681	\$ 5,318	\$ 5,674	ADJUSTED FOR SALARY INCREASE
MEDICARE TAX	\$ 878	\$ 627	\$ 1,244	\$ 1,327	ADJUSTED FOR SALARY INCREASE
WORKER'S COMP INSURANCE	\$ 1,289	\$ 1,855	\$ 1,855	\$ 1,948	PROJECTED 5% INCREASE
HEALTH/DENTAL/VISION INSURANCE	\$ 7,961	\$ 6,581	\$ 10,001	\$ 11,442	PROJECTED 15% INC HEALTH INS/DENTAL INS INC/5% INC VISION INS
LIFE INSURANCE	\$ 145	\$ 116	\$ 183	\$ 183	
LONGEVITY	\$ 282	\$ 310	\$ 810	\$ 840	ADJUSTED FOR TENURE
CERTIFICATION PAY	\$ -	\$ -	\$ -	\$ -	
RETIREMENT	\$ 4,676	\$ 2,362	\$ 4,563	\$ 5,106	INCREASED RATE FOR 2013
TWC - UNEMPLOYMENT TX	\$ 403	\$ 592	\$ 522	\$ 522	
TOTAL - PAYROLL & BENEFITS	\$ 102,650	\$ 75,557	\$ 107,703	\$ 117,955	
BUILDING MAINTENANCE	\$ 15,699	\$ 4,088	\$ 12,500	\$ 12,500	
GROUND MAINTENANCE	\$ 1,934	\$ 2,661	\$ 3,000	\$ 3,500	INCREASED FOR MAINTENANCE NEEDS
ANIMAL CONTROL	\$ 8,750	\$ 2,947	\$ 8,000	\$ 8,000	
FORMER CITY COMPLEX MAINTENANCE	\$ -	\$ -	\$ -	\$ -	
PARKS MAINTENANCE	\$ 5,888	\$ 1,680	\$ 6,000	\$ 5,000	
PARK DONATION EXPENDITURE	\$ 453	\$ -	\$ -	\$ -	
PAUL DAVIS PARK UPGRADES	\$ -	\$ -	\$ -	\$ 85,000	BATHROOM UPGRADES
TOTAL - LEASE CONTRACTS	\$ 32,734	\$ 11,376	\$ 29,500	\$ 117,000	
AUTO INSURANCE	\$ 852	\$ 975	\$ 975	\$ 860	PROJECTED COST
TOTAL - INSURANCE	\$ 852	\$ 975	\$ 975	\$ 860	
PARK/ISLAND ELECTRICITY	\$ 1,461	\$ 749	\$ 1,500	\$ 1,500	
LANDSCAPE WATER	\$ 739	\$ 354	\$ 1,000	\$ 1,000	
UTILITIES	\$ 7,059	\$ 4,850	\$ 7,000	\$ 7,000	
CONTINGENCY	\$ 2,156	\$ 297	\$ 1,000	\$ 1,000	
UNIFORMS	\$ 3,264	\$ 2,278	\$ 4,000	\$ 4,000	
TRAINING/TRAVEL	\$ 792	\$ 225	\$ 1,200	\$ 1,200	
EQUIPMENT/EQUIPMENT MAINTENANCE	\$ 4,976	\$ 2,822	\$ 7,000	\$ 7,000	
EQUIPMENT RENTAL	\$ -	\$ 231	\$ 500	\$ 500	
TELEPHONE	\$ 1,522	\$ 736	\$ 1,500	\$ 1,500	
GASOLINE	\$ 12,496	\$ 6,886	\$ 9,000	\$ 11,000	INCREASED FUEL COST
OPERATIONAL MATERIALS	\$ 7,617	\$ 2,498	\$ 6,000	\$ 6,000	
SMALL HAND TOOLS	\$ 380	\$ 558	\$ 1,000	\$ 1,000	
SUPPLIES	\$ 953	\$ 609	\$ 1,000	\$ 1,000	
VEHICLE MAINTENANCE	\$ 4,772	\$ 2,804	\$ 8,000	\$ 8,000	
TOTAL - OPERATIONAL EXPENSES	\$ 48,187	\$ 25,297	\$ 49,700	\$ 51,700	

BUDGET LINE ITEM DESCRIPTION	LINE ITEM ACCT #	FY 2011 ACTUAL	Y-T-D 05/31/2012	FY 2012 AMENDMENT #1	FY 2013	BUDGET REQUEST EXPLANATION
FOREST WATERS CIRCLE REPAIR	55706	\$ 4,000	\$ -	\$ -		
CRACK SEALING	55701	\$ 20,000	\$ 20,000	\$ 20,000	20,000	
STREET IMPROVEMENT	55702	\$ 15,385	\$ 98,357	\$ 118,423	35,000	SEAL COAT GARDENIA BEND FROM AZALEA GATE TO PARADISE PASS
SIGN MAINTENANCE	55233	\$ 601	\$ 3,027	\$ 3,027	4,000	INCREASED FOR MANDATED SIGN UPGRADES
CULVERT MAINTENANCE	55704	\$ 1,589	\$ 90	\$ 16,694	25,000	MISC. DRAINAGE PROJECTS/NEEDS PERFORMED INHOUSE
TOTAL - STREETS/DRAINAGE		\$ 41,575	\$ 121,474	\$ 158,144	\$ 82,000	
CAPITAL PROJECTS EXPENSE	55405	\$ -	\$ -	\$ -		
CAPITAL EXPENDITURES	55400	\$ 3,602	\$ 3,602	\$ 3,602	7,500	REPLACE LARGE DUMP TRUCK - 1/4 SPLIT WITH WATER DEPARTMENT
TOTAL - CAPITAL EXPENDITURES		\$ 3,602	\$ 3,602	\$ 3,602	\$ 7,500	
TOTAL - FACILITIES		\$ 45,177	\$ 125,076	\$ 161,746	\$ 89,500	

August 22, 2012

To: Mayor Feibelman and City Council

From: City Administrator Cain

The attached are motions of recommendations made by the Quarry Commission to the City Council.

Motion 5a. and the second motion for 5e. pertain to City Council agenda item 5e).

Motion 5b. pertains to City Council agenda item 5f).

Motion 5d. pertains to City Council agenda item 5g).

First motion 5e. pertains to City Council agenda item 5h).

Motion 5f. will be placed on the September 5, 2012 City Council agenda.

**Motions of Recommendations made by the Quarry Commission
to City Council August 13, 2012**

- 5a.** Motion was made by Commissioner Holloway and seconded by Commissioner Holly to recommend to City Council the clarification of Ordinance 34-072012, Section 6, letter d, number i, by adding the word (Plaster) as noted: "Ground vibration shall not exceed the frequency based PPV limit of 70% of the USBM Z-Curve (Plaster) as recorded by any monitor designated by the Regulatory Authority." The motion passed unanimously. The recommendation will be presented to City Council on August 27, 2012.
- 5b.** Motion was made by Commissioner Holloway and seconded by Commissioner Warden to recommend to City Council to place one (1) each dust and noise monitor and three (3) ground monitors, further making notice to City Council that we will advise Hanson and the City Council of any change to that and written notice in ten (10) days to place another monitor. The motion passed unanimously. The recommendation will be presented to City Council on August 27, 2012.
- 5d.** Motion was made by Commissioner Holloway and seconded by Commissioner Morgan to recommend to City Council the approval of a Partial Exemption Permit for Orica, USA, Inc., with the following notations; that an abstract from the property owner and a letter stating that Hanson will continue to pay for the third-party monitoring, not Orica, is needed. It is further recommended that the permit fee to the City be set at \$175 plus an annual administration fee of \$5,167, for a total of \$5,342. The motion passed unanimously. The recommendation will be presented to City Council on August 27, 2012.
- 5e.** Motion was made by Commissioner Morgan and seconded by Commissioner Holloway to recommend to City Council the approval of Austin Powder as a second blasting permittee, following the standard requirements needed for a Partial Exemption Permit. The motion passed unanimously. The recommendation will be presented to City Council on August 27, 2012.
- 5e.** Motion was made by Commissioner Holloway and seconded by Commissioner Holly to recommend to City Council the change to Ordinance 34-072012, Section 10, by increasing the Interim Compliance Procedure period from 60 days to 90 days. The motion passed unanimously. The recommendation will be presented to City Council on August 27, 2012.
- 5f.** Motion was made by Commissioner Holloway and seconded by Commissioner Mudge to recommend to City Council the reappointment of Johnell Holly, James Morgan, and Jerry Warden as City Quarry Commissioners for a 2 year term of office expiring 9/30/12. The motion passed unanimously. The recommend will be presented to City Council on August 27, 2012.

**CITY OF GARDEN RIDGE, TEXAS
ORDINANCE 34-0872012**

AN ORDINANCE OF THE CITY OF GARDEN RIDGE TEXAS PROHIBITING BLASTING, WITHIN THE CITY LIMITS; PROVIDING FOR LIMITED EXEMPTION PERMIT; ESTABLISHING REGULATIONS PERTAINING TO BLASTING; ESTABLISHING CRIMINAL AND CIVIL PENALTIES FOR VIOLATIONS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING FOR SEVERABILITY; INCLUDING A REPEALER CLAUSE; AND DECLARING AN EFFECTIVE DATE

WHEREAS, the City Council finds it created the Quarry Commission of the City of Garden Ridge, Texas (hereafter the "Quarry Commission") to study and report on the operation of Excavation sites, Surface Mining Operations, and Blasting within and adjacent to the City of Garden Ridge, Texas;

WHEREAS, the City Council finds the Regulatory Authority, through its Quarry Commission has extensively studied Excavation sites, Surface Mining Operations, and Blasting both generally and within and adjacent to the City of Garden Ridge and the related impact Excavation sites, Surface Mining Operations and Blasting has on property value, development, the economy, employment, property taxes and the public and communities who live and work adjacent to such operations;

WHEREAS, the City Council finds the Regulatory Authority, through the Quarry Commission has received substantial local citizen input, substantial industry input, and has obtained advice and counsel from professional consultants in the industries related to and supporting Excavation sites, Surface Mining Operations, and Blasting, and its Quarry Commission developed recommendations presented to the City Council in the form of a local ordinance;

WHEREAS, the City Council finds the Regulatory Authority, through its Quarry Commission held numerous public meetings, sought input from professionals in the industry and the community, and considered all the information provided and available to the Regulatory Authority, including historical information related to operation and impact of Excavation sites, Surface Mining Operations, and Blasting (including but not limited to the achievable level of performance for Blasting activities) over the last several years, and after significant, complex and detailed deliberations, has formulated and presented information demonstrating that the impacts from non-permitted Blasting, particularly Air Blast and ground vibration (as measured by Peak Particle Velocity) are a public nuisance and there is a need for the City Council to pass this Ordinance, exercising its general police power and powers to control nuisances to protect and preserve the health, safety and general welfare of the public in connection with Excavation sites, Surface Mining Operations and Blasting;

WHEREAS, the City Council recognizes the related value of Excavation sites, Surface Mining Operations, and the ability to use Blasting techniques in certain development, demolition, and/or commercial activities;

WHEREAS, the City Council finds this Ordinance is enacted to address the need to reasonably balance the Regulatory Authority's obligations of protecting property interests and public safety of all impacted by Blasting in the operation of Excavation sites, Surface Mining Operations and the use of Blasting techniques in certain development, demolition and generally within the Municipal Limits, with the rights of the public to expect and receive protection of their property values, their property, public safety, health & welfare interests, environmental concerns with respect to particulate air quality (dust), water quality and quarry operational noise, including the quality of life within the City of Garden Ridge, Texas;

WHEREAS, the City Council finds the Quarry Commission presented comment for a proposed ordinance to the Planning & Zoning Commission to consider the land use elements of its recommendations to prohibit quarry operations that result in negative secondary impact on citizens' land use and to amend the Regulatory Authority's Zoning regulations;

WHEREAS, the City Council finds the Regulatory Authority conducted all necessary public hearings and all other acts necessary and has met all conditions precedent to the adoption and enforcement of this Ordinance, including publication upon its passage;

WHEREAS, the City Council finds that Excavation sites, Surface Mining Operations, and Blasting (including not only the use of Blasting for exploration and/or production and removal of Minerals, but for other development and construction related uses within the Municipal Limits) should be generally prohibited within the Municipal Limits, and only permitted otherwise under limited circumstances to be regulated by this Ordinance;

WHEREAS, the City Council finds and adopts the attached Blasting data demonstrates and supports the Blasting regulations set forth in this Ordinance and do not infringe on the rights of and/or improperly infringe upon any land use, or unreasonably interfere with any reasonable investment backed expectations of existing property owners regulated by this Ordinance. (See Attachment A – Blasting Data)

WHEREAS, the City Council finds the City of Garden Ridge, Texas possesses the police power of the state, which is delegated to cities by law, and hereby invokes such power to aid in the enforcement and the adoption this Ordinance.

WHEREAS, the City Council finds that this Ordinance, when considered by any City Commission and the City Council has done so in full and complete compliance with the Texas Open Meetings Act at properly posted and conducted public meetings.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF GARDEN RIDGE, TEXAS:

SECTION 1: CITY OF GARDEN RIDGE, ORDINANCE 34:

The City Council hereby revokes and repeals in its entirety the now existing Ordinance 34, and replaces it by the adoption of the regulations contained in this Ordinance which is effective upon adoption.

SECTION 2: DEFINITIONS

All technical industry words or phrases related to Excavation sites, Surface Mining Operations, and Blasting not specifically defined in this Ordinance shall have the meanings customarily attributable thereto by prudent and reasonable persons in the field of Excavation, Surface Mining and Blasting unless otherwise provided in this Ordinance. The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section.

Air Overpressure or Air Blast¹ is the airborne shock wave or acoustic transient generated by an explosion. As this air wave (measured in decibels (dBL)) contacts structures, it causes walls to vibrate.

Blasting¹ shall mean the firing of any Explosive Material that generates seismic waves and/or Air Blast. It does not include or apply to those explosives generally referred to as "fireworks", which is governed under a separate ordinance.

City Council means the City Council of the City of Garden Ridge, Texas comprised of the five council members and the Mayor, unless contrary to Texas law.

City Hall means 9400 Municipal Parkway, Garden Ridge, Texas 78266.

Decibel shall mean a unit of sound pressure commonly used to measure Air Blast from explosives.

Excavation means the act of digging, mining or otherwise removing Minerals. This term does not include site grading or other site development activity that has been reviewed and/or authorized by the City of Garden Ridge; or site preparation activities on land that is the subject of a then applicable development permit or agreement with the City of Garden Ridge.

Explosive Material¹ is a term which includes, but is not necessarily limited to, dynamite and other high explosives, slurries, water gels, emulsions, blasting agents, black powder, pellet powder, initiating explosives, or any other similar Blasting materials used in Excavation activities, as well as any detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters.

¹ See generally ISEE (International Society of Explosive Engineers), Blasters Handbook 18th Edition 2011.

Flyrock means the fragments of rock thrown and scattered during quarry blasting.

Frequency refers to how many waves occur within a second, which is measured in Hertz.

Hertz is a term used to express the frequency of ground vibrations and Air Blast; one hertz is one cycle per second.

Minerals shall mean shall include coal, lignite, uranium, clay, sand, hard rock, soil or other substances of value (commercial or otherwise), from natural deposits on or in the earth.

Municipal Limits means the municipal limits of the City of Garden Ridge, Texas.

NOISE

Noise shall mean any undesired sound, especially a statistically random and persistent disturbance that provokes strong discomfort on the part of those people experiencing the noise.

Noise Level is the weighted sound pressure level called sound level.

dBA is the term used to measure noise and involves quantifying both the rate (frequency in Hz) and intensity (pressure) relative to normal atmospheric pressure. People do not perceive all frequencies with same sensitivity and are more responsive to higher frequencies. A dBA sound level measurement weighs the various frequency components of sound as perceived by the human ear in order to yield a single number indicator of its relative intensity.

Partial Exemption Permit means a permit issued from the Regulatory Authority, for a single event or for continuing operations, for a maximum term of twelve (12) months, or that remaining to the end of the Regulatory Authority's Fiscal Year, to be renewed annually from fiscal year to fiscal year, permitting a person to conduct Blasting activities otherwise prohibited by this Ordinance.

Peak Particle Velocity (PPV) the measure of the intensity of ground vibration, specifically the velocity of motion of the ground particles as they are excited by the wave energy.

Permit Holder means any Person that has obtained a Partial Exemption Permit from the Regulatory Authority.

Person means any individual, corporation, partnership, joint venture, trust, unincorporated association or other entity or any other judicial entity or government, state or agency or political sub-division thereof.

Regulatory Authority shall mean the City of Garden Ridge, Texas.

Surface Mining means the mining of Minerals by Excavation or other commercial removal of the overburden lying above the natural deposit of Minerals and mining directly from the natural deposits that are exposed and those aspects of underground mining having significant effects on the surface.

Surface Mining Operation means those Surface Mining activities conducted at or near an Excavation site and concomitant with Surface Mining including extraction, storage, processing and shipping of minerals and reclamation of the land affected.

SECTION 3: BLASTING PROHIBITED.

All non-permitted Blasting within the Municipal Limits is a public nuisance and is prohibited.

Any violation of any state or federal law, rule or regulation related to Blasting now in effect or in effect at the time of the violation is additionally prohibited by this Ordinance.

SECTION 4: SCOPE AND APPLICABILITY:

1. Nothing contained herein is intended to, nor shall it be interpreted to mean, that future action of the Regulatory Authority is in any manner regulated, affected or constrained through the terms of this Ordinance; rather, all Regulatory Authority operations are specifically exempted from the provision of this Ordinance.

SECTION 5: PARTIAL EXEMPTION PERMITS - BLASTING

The City Council may, by the issuance of a Partial Exemption Permit to the owner of property or his designee seeking a Partial Exemption Permit, allow the person to engage in an activity contrary to the prohibitions contained in this Ordinance upon a finding of the following conditions:

1. Partial Exemption Permits may be issued for Blasting. Such permits may be issued by the City Council upon the finding of a complete application for a Partial Exemption Permit to conduct Blasting within the Municipal Limits as provided by this Ordinance. All applications for Partial Exemption Permits must be in the form as provided in Attachment B.
2. The City Council shall evaluate all information pertinent to the Partial Exemption Permit request exercising reasonable discretion to ensure the aspects contained in the findings of this Ordinance are adequately being remediated by the applicant. If the City Council finds inadequate remediation, it may deny the application or move to authorize the City to mediate with the applicant before taking final action on the application. The City Council will endeavor to make a determination with

regard to the Partial Exemption Permit within sixty (60) days of the receipt of the administratively complete petition. The decision of the City Council is final and not subject to appeal.

3. Any Partial Exemption Permit otherwise approved by the City Council is not valid unless any and all conditions are met and all fees, including any payments for third party monitoring pursuant to Section 6(1)(h), are paid in full.
4. Blasting with a Partial Exemption Permit must be conducted pursuant to the limitations and conditions provided for such Blasting in this Ordinance.
5. All quarry blasting and surface mining operations are to be in strict compliance with any and all local, state and federal regulations and permits with respect to environment including air quality, water quality and noise pollution.

SECTION 6: REGULATIONS ON BLASTING WITH PERMIT

1. All Blasting activity conducted by Partial Exemption Permit shall comply with the following regulations:
 - a) **Distance Requirements** - No blasting shall occur from either a distance of 500 feet from the nearest adjacent property line or the berm contour (for quarry operations) on the subject property from the nearest adjacent property line, whichever distance is greater unless the owner of the affected real property(s) issues written permission, which must be filed with the Regulatory Authority prior to the Blasting taking place, or the Permit Holder complies with Section 6(1)(c)(ii) and Section 6(1)(d)(ii). See Attachment D for berm contour coordinates.
 - b) **Timing** - No Blasting shall occur on Saturdays, Sundays and legal holidays. Blasting operations shall only occur between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday. The Permit Holder shall notify the Regulatory Authority, or its designee, at least 10 minutes prior to and after each Blast. In the case of circumstances resulting in a potential danger to public safety requiring the detonation of explosives outside this time period, notification and approval of the detonation outside this time limitation may be obtained from either the Chief of Police or City Administrator of the City of Garden Ridge, Texas. Each request and determination made shall be reported to the Quarry Commission.
 - c) **Air Blast Limit** -
 - i. Air Blast shall not exceed 122dB as recorded by any monitor designated by the Regulatory Authority.
 - ii. If written permission from the affected property owner(s) is not obtained pursuant to Section 6(1)(a), a Permit Holder may either

(i) request a variance to the minimum distance requirement from the Regulatory Authority or (ii) Air Blast shall not exceed 110dB as recorded by any monitor designated by the Regulatory Authority.

d) Ground Vibration Limit –

- i. Ground vibration shall not exceed the frequency based PPV limit of 70% of the USBM Z-Curve (*Plaster*) as recorded by any monitor designated by the Regulatory Authority. See Attachment C.
- ii. If written permission from the affected property owner(s) is not obtained pursuant to Section 6(1)(a), a Permit Holder may either (i) request a variance to the minimum distance requirement from the Regulatory Authority or (ii) Ground vibration shall not exceed the frequency based PPV limit of 40% of the USBM Z-Curve as recorded by any monitor designated by the Regulatory Authority. See Attachment C.

e) Air Particulate Limit – Air Particulates shall not exceed the lowest permissible limits as identified in any required state or federal permits obtained by the Permit Holder or its blaster. A copy of all such permits shall be filed with the Regulatory Authority upon any new or renewal application for Partial Exemption Permit(s).

f) Noise Limit – Noise shall not exceed 85 dBA. Noise in excess of 85 dBA, when monitored at the designated property line or a residence, shall constitute a noise level that is deemed reasonably calculated to disturb the peace and unreasonably offensive to the public. This noise limit does not apply to Air Blast.

g) Flyrock control – Flyrock traveling in the air or along the ground shall not be cast from the Blasting site beyond the area under the control of the operator.

h) Third-Party Monitoring – all Blasting shall be monitored by a third-party selected by the Regulatory Authority and paid for by the Permit Holder to accumulate data with respect to the seismographic, frequency and Air Blast effects of said Blasting activities. Additionally in order to monitor environmental effects of blasting and surface mining operations with respect to particulate air quality and operational noise, monitor(s) may be utilized at designated locations to take air samples and record noise levels during Permit Holder's operations.

- i. Single event blasting operations, such as pool excavations or basement excavations may be monitored at the discretion of the third-party consultant retained by the Regulatory Authority.
- ii. Any Blasting operations taking place beyond single events shall be regularly monitored and such monitoring shall be performed at a minimum of three and maximum of six different locations.

Additionally one noise monitor and one air particulate monitor may be utilized at designated locations. While the location of all monitoring devices will remain at the discretion of the Regulatory Authority, the Regulatory Authority, or its designee, will seek to recover, at least on a monthly basis, all data obtained from other than single event monitoring locations. In all cases, one of the monitoring locations shall be at the closest permissible real property line from each blast site.

1. A seismographic record including both particle velocity and vibration-frequency levels shall be maintained for each blast.
 2. Seismographs shall be self-triggering and capable of recording three mutually perpendicular components of ground motion time histories, in terms of velocity. Additionally, the units shall be capable of recording Air Blast levels and reporting the frequency as well as peak values for all vibration time histories.
 3. Seismographic units shall be calibrated annually to ensure the units are operating within the specifications.
 4. Air particulate monitor(s) shall be able to sample air on a continuous or intermittent basis and record air particulate size consistent with quarry operational air permitting requirements. Records documenting air quality compliance shall be made available to the Regulatory Authority upon request or upon application for renewal of Partial Exemption Permit(s). Permit Holders shall demonstrate compliance with air quality requirements.
 5. Noise monitor(s) shall be capable of monitoring and recording on a continuous or intermittent basis any noise level in excess of 80 dBA.
- iii. All monitoring data obtained by monitoring devices used to monitor Quarry Operations including Blasting Activities and environmental effects shall be posted for public inspection at City Hall and shall be available for inspection by the public. Data will be provided on a monthly basis and shall be posted at City Hall (if available electronic posting on the Regulatory Authority's internet site will satisfy this posting requirement.)
- i) **Proof of Insurance** – Permit Holder shall have in effect \$10,000,000 of insurance insuring against any loss or damage suffered by a third-party and shall provide to the Regulatory Authority all information necessary in order to verify insurance and that would allow a person to file a claim. The Regulatory Authority shall make the information available to any person wishing to file a claim.

- j) **Annual Fee** – Any Partial Exemption Permit issued is automatically revoked for lack of payment of the required fee, or for failure to comply with this section, including without limitation any required payments for third party monitoring pursuant to Section 6(1)(h). If the initial fee is not paid by the date the Partial Exemption Permit is issued and any subsequent renewal fee is not paid by the date of any subsequent renewal such revocation is automatic. If it is for the failure to comply with another provision of this section, a Permit Holder may obtain a 30 day extension upon request for Action at the next City Council meeting to discuss violation and request exemption from the revocation provision. If Permit Holder's Partial Exemption Permit expires, there is no refund of any fee paid and the Permit Holder must re-apply for a new Partial Exemption Permit should they wish to continue or resume Blasting activities within the Municipal Limits.
- k) **Inspection of Records** – as a condition of the Partial Exemption Permit, any Permit Holder shall allow the Regulatory Authority's designees to observe all Blasting activity to ensure compliance with this Ordinance and shall make all business records available for inspection to the Regulatory Authority, to the extent necessary to ensure compliance and enforcement of this Ordinance. Any request for records shall be fulfilled within 7 days of request. Failure to provide such access and/or inspection or records constitutes a voluntary surrender of any such Partial Exemption Permit effective upon the failure by the Permit Holder.
- l) Any real property owner who permits Blasting activities on their property in violation of this Ordinance violates this Ordinance and is held jointly and severally responsible for any such civil or criminal penalty, cost or fee, including attorney's fees expended in the pursuit of enforcing this Ordinance.

SECTION 7: ENFORCEMENT & INSPECTION

- 1. This Ordinance shall be enforced by the Regulatory Authority and its designated agencies or representatives through all means available by law.
- 2. The criminal provisions of this ordinance are abated until publication as required by law.

SECTION 8: PENALTIES

- 1. Violation of any provision of this Ordinance is a Class C misdemeanor and upon conviction shall be punished by a fine of \$500 per occurrence pursuant to Texas Local Government Code §54.001(a).
- 2. Violation of any provision of this Ordinance that affects fire safety, zoning or public health and sanitation, including dumping of refuse shall be subject to a fine

of \$2,000 upon conviction pursuant to Texas Local Government Code §54.001(b). Additional remedies and civil penalties may all be sought and assessed.

3. In the event any Permit Holder exceeds either the Air Blast or Ground Vibration limits set forth in Section 6(1)(c) and Section 6(1)(d) as recorded by any monitor designated by the Regulatory Authority (an "Excess Event"), three (3) times or more in any consecutive twelve (12) month period, such Permit Holder's Partial Exemption Permit(s) shall be automatically suspended as follows:
 - a. Seven (7) calendar days immediately after the third Excess Event;
 - b. Fourteen (14) calendar days immediately after the fourth Excess Event;
 - c. Twenty one (21) calendar days immediately after the fifth Excess Event;
 - d. Twenty eight (28) calendar days immediately after the sixth Excess Event and any subsequent Excess Events;

Permit Holder shall be issued a written suspension notice by the Regulatory Authority, which shall set forth each Excess Event during a consecutive twelve (12) month period and the applicable suspension period. Permit Holder's failure to comply with the suspension notice constitutes a voluntary surrender of any such Partial Exemption Permit effective upon the failure by the Permit Holder. In the event any Permit Holder has six or more Excess Events in any consecutive twelve (12) month period, the Regulatory Authority may seek to revoke a Partial Exemption Permit pursuant to Section 8(8). Any suspension of any Partial Exemption Permit is subject to Texas Local Government Code Chapter 54.003 proceedings.

4. Each section of this Ordinance violated constitutes a separate violation and each day a violation occurs is a separate violation.
5. The Regulatory Authority may immediately seek additional remedies at law, or in equity, to prevent or remedy a violation of this Ordinance.
6. Concurrent with any criminal prosecution, the Regulatory Authority may for any violation of this Ordinance, seek up to \$1,000 per day as a civil penalty for any violation of this Ordinance in addition to declaratory and injunctive relief in an action to enforce this Ordinance pursuant to Texas Local Government Code Chapter 54, as amended.
7. The Regulatory Authority may immediately seek additional remedies at law, or in equity, to prevent Blasting by any party who does not have a Partial Exemption Permit or is to blast in violation of this Ordinance.
8. The Regulatory Authority may revoke a Partial Exemption Permit where the Permit Holder has demonstrated a pattern of intentional or repeated non-administrative violations of this Ordinance. Any suspension of any Partial

Exemption Permit is subject to Texas Local Government Code Chapter 54.003 proceedings.

SECTION 9: SEVERABILITY

The provisions of this Ordinance are declared to be severable. If any section, sentence, clause, or phrase of the Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect; it being the legislative intent that this Ordinance shall remain in effect notwithstanding the validity of any part. In the event that changes are made to Texas Health & Safety Code §§ 342 or 343, or Texas Transportation Code § 683, the provisions of state law will govern in the event of a conflict.

SECTION 10: INTERIM COMPLIANCE PROCEDURES

This interim compliance procedure provision shall be effective for 60 90 days from adoption of this ordinance, at which time it shall expire. During this interim period, any permit issued under the prior Ordinance 34 shall remain in effect so long as the Permit Holder is attempting to come into compliance with this Ordinance; however, any blasting activity must be conducted in compliance with this Ordinance. Any pending blasting application submitted before the adoption of this ordinance may be approved by the City Administrator provided the application and its content is in substantial compliance with the applicable provisions of this Ordinance. Any such interim approval shall expire upon the expiration of this 60 day interim period and is not subject to extension.

SECTION 11: NOTICE

The City Secretary for the City of Garden Ridge, Texas is hereby directed to publish notice of this Ordinance as required by the laws of the State of Texas.

SECTION 12: FEES

All fees assessed in this Ordinance shall be determined by amending Ordinance No. 11 which is the Regulatory Authority's Fees ordinance and are subject to change without prior notice.

SECTION 13: EFFECTIVE DATE

This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

Passed and approved this ___ day of _____ 2012.

Jay F. Feibelman, Mayor

Attest:

Shelley Goodwin, City Secretary

ATTACHMENT C

RED LINE - 70% OF USBM Z-CURVE (*PLASTER*)

(Provided by - Vibra-Tech)



City of Garden Ridge

9400 Municipal Parkway
Garden Ridge, Texas 78266
(210) 651-6831
Fax: (210) 651-9638

Interim Blasting Permit

PERMIT NO. 4115 *July 26, 2012 - Sept. 1, 2012*

APPLICATION FOR BLASTING PERMIT

Application is hereby made to the City of Garden Ridge for a permit to conduct blasting operations in accordance with plans and specifications submitted herewith, or previously submitted, and in full conformity with provisions of all ordinances, regulations and laws pertaining to blasting operations whether specified herein or not. The location and other required data for the operation are as follows:

Street Number 21303 *From 2252 Garden Ridge Tr* 78266 Property Owner LEHIGH HANSON

Purpose of Blasting QUARRY

Proposed Date(s) of Blasting JULY 5, 2012

Contractor ORICA USA INC. Address 4939 N. LOOP 1604 W. SAN ANTONIO TX
78249-1348

Blaster BRAD MUNKINA Address 4939 N. LOOP 1604 W. SAN ANTONIO, TX
78249-1348

Blaster's Qualifications REFER TO ATTACHMENT
BLASTING IN QUARRY OPERATIONS SINCE DEC 1996 - PRESENT

Certificate of Insurance REFER TO ATTACHMENT

Manner of Use and Type of Explosive: ANFO, EMULSION, ELECTRONIC DETONATORS
- ALSO REFER TO ATTACHMENT

In making application for this permit, my signature hereto certifies that I am aware of Garden Ridge City Ordinance 34 and agree to the provisions therein, will provide a certificate of Insurance and that all personnel charged with the safe operation of this blasting proposal will comply with the provisions of the ordinance and other regulations pertinent to the safety of blasting operations.

Signature and Title of Applicant *[Signature]* OPERATIONS MANAGER

Permission is hereby granted to Orica USA Inc. to conduct blasting operations as stated above on the site indicated and on the specified date(s) indicated, in compliance with the ordinances and laws of the City of Garden Ridge, Comal County, Texas, and all applicable OSHA Regulations.

Signed and approved this 26th day of July 2012.

Nancy Cain
Signature of City Administrator/City Secretary

Blasting Permit Fee of \$ 175⁰⁰ received in cash or check #128



City of Garden Ridge

9400 Municipal Parkway
Garden Ridge, Texas 78266
(210) 651-6632
Fax: (210) 651-9638

July 25, 2012

Joseph A. Haid
Director of Operations
Orica USA, Inc.
4160 Fox Street
Denver, CO 80216-4837

Dear Mr. Haid,

In accordance with the Interim Compliance Procedures of Ordinance 34-072012 an interim blasting permit will be granted to Orica USA, Inc. to conduct blasting operations at the Lehigh Hanson-Servtex Quarry located in Garden Ridge, Texas upon receipt of a \$175 fee. The interim blasting permit shall expire on September 1, 2012 and is not subject to extension.

Orica's request for Partial Exemption Permit will be forwarded to the Garden Ridge Quarry Commission for consideration at their next scheduled meeting of August 13, 2012. The Quarry Commission's recommendation will be forwarded to the City Council for their consideration and you will be notified of the date the City Council will consider said request.

Should you have any questions concerning this matter please feel free to contact me.

Sincerely,


Nancy Cain
City Administrator



Orica USA Inc.
33101 East Quincy Avenue
Watkins, Colorado 80137
Tel: 303-268-5220
Fax: 303-458-3610
joe.haid@orica.com

July 24, 2012

City of Garden Ridge, Texas
Attn: City Administrator
8400 Municipal Parkway
Garden Ridge, Texas 78266

**RE: ORICA USA INC.'S REQUEST FOR PARTIAL EXEMPTION PERMIT TO CONDUCT
BLASTING PURSUANT TO ORDINANCE 34-052012 OF CITY OF GARDEN RIDGE, TEXAS**

Dear Nancy Cain:

Orica USA Inc. submits this letter for consideration of a Partial Exemption Permit to conduct blasting as defined in City of Garden Ridge, Texas Ordinance 34-052012.

As required by Ordinance 34-052012, the letter includes:

1) The name of the designee;

Orica USA Inc.

2) The name of the designee's representative for purposes of the application (if the designee is not a natural person);

Hector Urrea

3) Copies of any state or federal licenses and permits authorizing the Requestor to possess and use explosives.

Refer to Appendix 1.6

- LICENSE/PERMIT (18 U.S.C. CHAPTER 40, EXPLOSIVES)
- NOTICE OF CLEARANCE
 - o For individuals transporting, shipping, receiving, or possessing explosives materials,
- BLASTER'S PERMITS

4) Complete contact information, including name, address, phone number, facsimile number and e-mail address for the City's use in processing the application. The contact information provided shall be used for all communications in connection with the processing of the application and the operation;

Contact during the application process:

Name: Joe Haid
Address: 33101 East Quincy Avenue
Watkins, CO 80137
Phone #: 720-308-1675 (Cell)
Email: joe.haid@orica.com

Contact for blasts fired at the Lehigh Hanson – Servtex Quarry

Name: Hector Urrea
Address: 4939 Loop 1604 W
San Antonio, TX 78257
Phone #'s: 210-487-0913 (Cell)
210-492-1893 (Office)
Facsimile #: 210-492-1893
Email: hector.urrea4@orica.com

5) A full description of the designee's legal and factual relationship to the property(ies) upon which the Blasting shall be conducted;

Legal Name: Orica USA Inc.

Relationship: Explosives' Supplier to the Lehigh Hanson – Servtex Quarry

6) A detailed description of the operation to be conducted;

Blast Plan: Lehigh Hanson - Servtex Quarry

Benches

- Potential problem areas seen during face inspection will be profiled.
- Profiles will be dated and saved to digital media in case information is required later.
- The face height should be maintained at 90 ft or 50 ft depending on the bench. Hole depths will be set at three feet below the desired floor elevation.

- Any deviation in bench height of more than 5% should be reported to the quarry superintendent immediately and solutions discussed at that time. Any changes in bench height or actions taken to correct the bench height should be clearly noted in the blast report.
- Hole depths will be verified and checked against the drill logs. Drill logs will be attached to their respective blast reports. Any deviation in hole depth 5% or more as well as potential problems noted in the drill logs will be brought to the quarry superintendent's attention for discussion and resolution.
- If conditions on the bench pose a safety hazard the mine superintendent will be notified immediately so conditions and solutions can be discussed.

Timing and Patterns

- Blasts on the West and North West 50ft benches shall be a single row. Cut shots will be a single row.
- Multiple row blasts will be laid out on a staggered pattern.
- Patterns will be laid out by Orica personnel. If cracks from fault lines prohibit pattern layout or might create an unsafe drilling or loading condition, it will be immediately brought to the mine superintendent's attention so conditions and solutions can be discussed.
- Burden and spacing will be verified prior to blasting. If burden or spacing deviate from blast plan by two feet or more it should be reported to the quarry superintendent immediately and solutions discussed at that time.
- Any deviation from this plan should be discussed, approved by the quarry superintendent, and clearly noted in the comments section of the blast report. All factors should be considered and discussed prior to deviating from the blast plan.

Administrative

- Daily inventories and the use per day will be turned in to the quarry location manager. The quarry location manager will co-ordinate with Lehigh Hanson office personnel for purchase orders and invoices.
- Copies of the blast reports will be provided to the quarry administrative office and the Orica location manager within 24 hours of the blast.

Type of Explosives (Bulk Explosives and Initiation Systems)

- Bulk Ammonia Nitrate Prill and Fuel Oil (Blasting Agent)
- Bulk Emulsion Blend – Ammonia Nitrate Solution + Fuel Oil + Bulk Ammonia Nitrate Prill (Blasting Agent)
- Cast Boosters
- Electronic Detonator Assemblies

7) The period of time the anticipated use shall continue;

The period of time that Orica USA Inc. anticipates to perform blasting services at the Lehigh Hanson – Servtex Quarry is two (2) years based on an existing contract (i.e. with July 1, 2012 as the start date).

8) Any supplemental information requested and deemed pertinent by the City Administrator;

Not applicable at this time

9) Any supplemental information the designee deems pertinent prior to City Council consideration;

Proof of Insurance

- Refer Appendix 1.0 for the Certificate of Liability Insurance

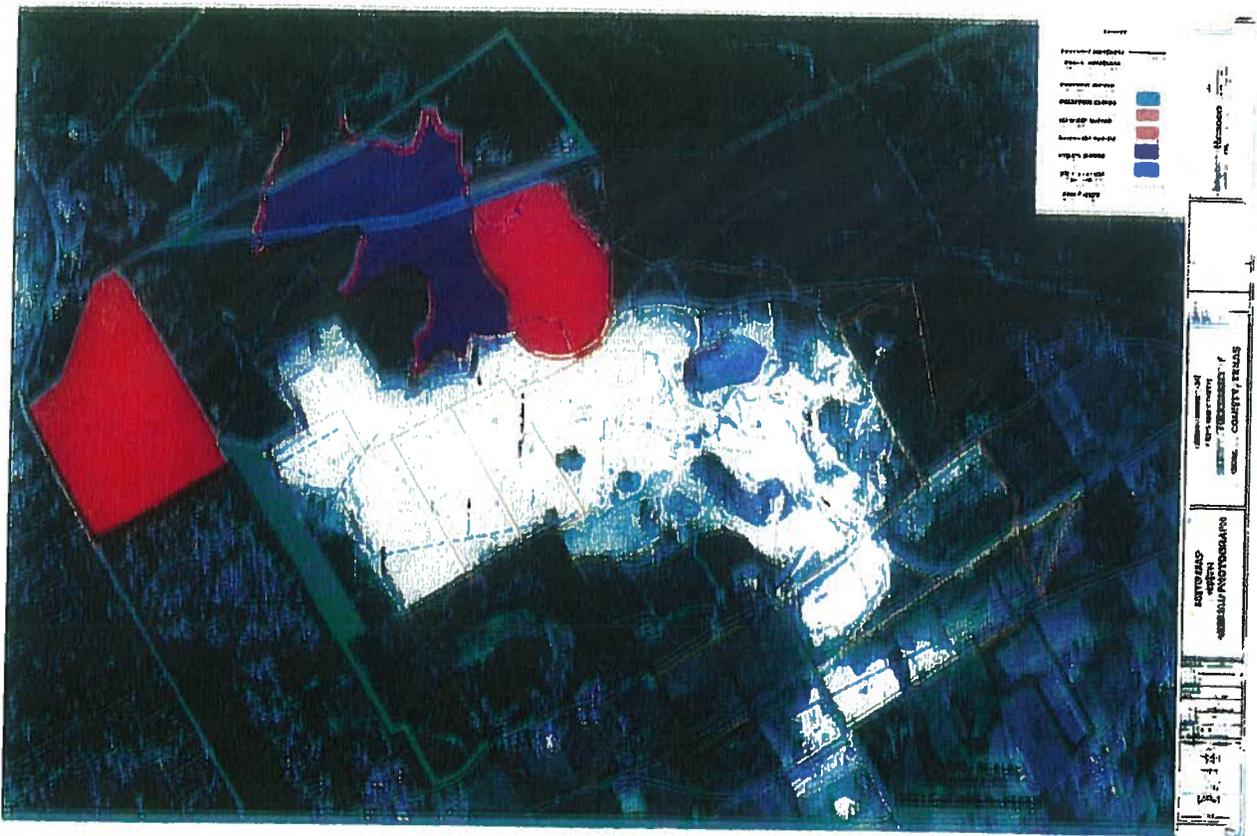
Monitoring

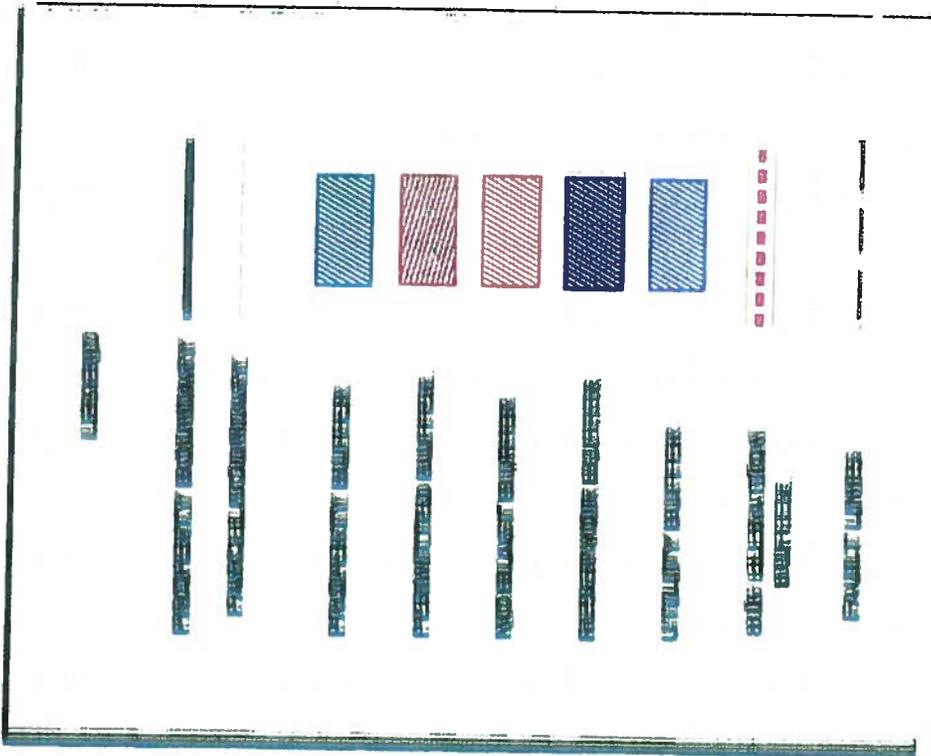
- A third party selected by the Regulatory Authority shall do the primary seismic monitoring.
- Orica will utilize the Site Law Model, a software modeling program, to predict a blast's PPV. The Site Law Model determines the minimum instantaneous charge weight for each shot prior to loading.
 - **Ground Vibration Limit** – Ground vibration shall not exceed the frequency based PPV limit of 70% of the USBM Z-Curve as recorded by any monitor designated by the Regulatory Authority. See Attachment C, which is contained in City of Garden Ridge, Texas Ordinance 34-072012 document. Attachment C is also found in Appendix 1.0 of this letter.
- Orica will utilize the following parameters as guidelines when detonating blasts at the Lehigh Hanson – Servtex Quarry.
 - Do not fire a blast when the wind is blowing from the east
 - Do not fire a blast when there is low cloud cover
 - Do not fire a blast when it is raining
 - Do not fire a blast when the wind speed is over 15 mph
- Note, the above guidelines may be modified and/or changed based on the knowledge gained over time from blasts fired at the Lehigh Hanson – Servtex Quarry operation. Analysis of ground vibration and air blast data recorded from the Lehigh Hanson – Servtex Quarry's blasts will provide a basis in the modification a guideline.
 - **Air Blast Limit** – Air Blast shall not exceed 122 dB as recorded by monitor designated by the Regulatory Authority.

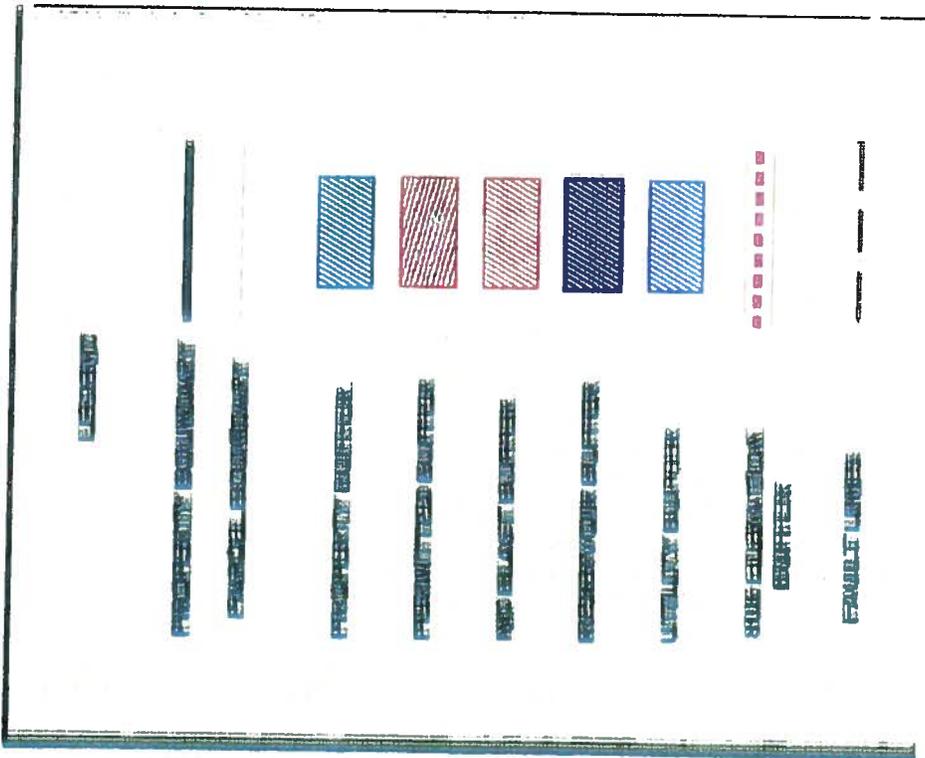
Also, included in this letter are the attachments identified below:

1) Identifying all real property where the activity of Blasting shall be conducted by street address (if any) and legal description. Any property not listed will not be included in any permit, if authorized. If multiple properties are to be considered, and some are not within the City limits, but is within the City's extra-territorial jurisdictional limits, please include each property in the list but designate the property with the comment: "ET J Property".

As per the July 6, 2012 letter from Nancy Cain - City Administrator, the attached aerial type map is being provided for the interim (temporary) permit. The July 6, 2012 letter from Nancy Cain can be found in Appendix 1.0.







3) If you are not the owner of the real property, a letter from the Owner executed before a notary, that they are the owner of the property and authorize blasting activities on the property.

Letter from the Owner

- Refer Appendix 1.0 for the letter from Hanson (provided for the interim/temporary permit)

4) Documentation and facts demonstrating that the Requestor's Blasting operation is going to be conducted in a manner that minimizes its related adverse impact on property value, other land use development, the economy, employment, property taxes and the public and communities who live and work adjacent to such land use. Please specifically list all steps taken, such as distance limitations related to adjacent properties, use of berms and any dust and noise remediation efforts, etc.

- The attached is being provided for the interim (temporary) permit
 - Lehigh Hanson Servtex will stay 500 ft off of the property line
 - Use water trucks to water haul road to minimize dust
 - Built the berm between the quarry and Trophy Oaks for noise and dust control
 - Monitor weather conditions to plan shots days and timing of when the shot is pulled
 - Refer to Section 9, of Attachment B – to Ordinance 34-052012

5) Documents and facts demonstrating efforts by designee to protect and mitigate the perceived negative adverse affects such activity has on real property values, public safety, health & welfare interests, including the quality of life within the City, neighboring properties and the public.

Refer to Section 9, of Attachment B – to Ordinance 34-052012

Orica is not able provide any documents and/or facts at the time of this application, until some blasts are loaded and fired by Orica personnel at the Lehigh Hanson –Servtex Quarry. Documents and facts will be submitted when data from the blasts are collected and analyzed.

6) Payment of the appropriate application fee, including any related City fees for monitoring blasting for each permitted Partial Exemption Permit site.

To be paid by Orica USA Inc. (to be done by Hector Urrea)

If you require any additional information or have any comments or questions to this letter, please do not hesitate to contact me at the address set forth above.

Thank you for your time, and we look forward to working with you on this matter.

Sincerely,

Joseph Haid
Director of Operations
US Mining, Quarry and Construction
Western Region

Appendix 1.0

LICENSE/PERMIT (18 U.S.C. CHAPTER 40, EXPLOSIVES)



DEPARTMENT OF THE TREASURY - BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

LICENSE/PERMIT (18 U.S.C. CHAPTER 40, EXPLOSIVES)

In accordance with the provisions of Title 18, United States Code, Chapter 40, Title 18, United States Code and the regulations issued thereunder (27 CFR Part 555) you may engage in the activity specified by this license/permit within the limitations of Chapter 40, Title 18, United States Code and the regulations issued thereunder, until the expiration date shown. See "WARNING" and "NOTICES" on back.

DIRECTOR OF CORRESPONDENCE TO: Christopher R. Row
 Chief, Federal Explosives Division
 224 Needy Road
 Martinsburg, West Virginia 26001
 Telephone: 1-800-544-4388

NAME: ORICA USA INC
 TYPE OF LICENSE OR PERMIT: 20-MANUFACTURER (HIGH EXPLOSIVES)
 CHIEF, FEDERAL EXPLOSIVES DIVISION: Christopher R. Row

PURCHASING OFFICER: [Signature]
 ORICA USA INC
 4838 L...
 AVENUE ATTN: OLIVER RAMIREZ
 WATKINS CO

EXPIRES: November 1, 2013
 ATF F 0400-14 Part 1 (0/00)

Appendix 1.0 (cont.)

- BLASTER'S PERMITS

City of San Antonio
 P.O. Box 139066
 San Antonio, TX 78283-3666

FIRELITE Trade License Application

Report Date 05/22/2012 04:02 PM

Submitted By

Page 1

App # 822888

Processed Date/Time 05/22/2012 15:40 By SG10861	Assoc. Information Priority HIGH PRIORITY <input type="checkbox"/> Expedite <input type="checkbox"/> # Pages 0 # Paper 0 <input type="checkbox"/> Bill Group <input checked="" type="checkbox"/> Auto Cancel
---	--

COMPONENT
 NEW PERMIT FRO BLASTER-QUARRY HANDLER

Project Name
 City Type
 Project Area

There are no records associated with this record.

Address: 4939 N 1804 W
 SAN ANTONIO TX 78157-0000

Location

There are no connections for this site

No Applications are linked to this Application

No Audits are linked to this Application

No Other Applications are associated to this Application

273740

There are no connections for this site

FIRE TECH LOGY FF
 BLASTER LICENSE FEE

Item	Amount	Total
FIRE TECH LOGY FF	6.60	
BLASTER LICENSE FEE	220.00	
Total	228.60	0.00

Appendix 1.0 (cont.)

- BLASTER'S PERMITS

From: SAFO Fire Marshal

210 207 7949

07/02/2012 16:19

FBI9 P.001/002

PERMIT

(442-189)

CITY OF SAN ANTONIO

CONTRACTOR'S

FIRE PREVENTION DIVISION

1901 SOUTH BRUNN STREET

SAN ANTONIO, TEXAS 78261

(210) 207-7949 FAX: (210) 207-7949



PERMIT NO.	PERMIT TYPE	BUSINESS/ORGANIZATION	APPLICATION DATE	ISSUE DATE	EXPIRATION DATE
8832	Explosives		04/13/12	04/13/12	04/13/13
<p>PERMIT HOLDER INFORMATION: BRAD A. MINIKIN 2101 N. BRUNN STREET (NEW BRUNN STREET)</p> <p>ADDITIONAL PERMIT INFORMATION: BLASTER RENEWAL FOR BRAD A. MINIKIN HRCA</p> <p>BY VIRTUE OF THE PROVISIONS OF THE ADOPTED 2012 INTERNATIONAL FIRE CODE AND THE ORDINANCES CUMULATED IN THE CITY CODE OF SAN ANTONIO, TEXAS, THE ABOVE NAMED APPLICANT AT THE ABOVE NAMED LOCATION, IS HEREBY GRANTED THIS PERMIT FOR:</p> <p style="text-align: center;">EXPLOSIVES BLASTER RENEWAL</p> <p>THIS PERMIT MUST BE KEPT POSTED ON THE PREMISES AT ALL TIMES AND IS ISSUED AND ACCEPTED ON CONDITION THAT ALL REGULATIONS NOW ADOPTED, OR MAY HEREAFTER BE ADOPTED, SHALL BE COMPLIED WITH.</p> <p>THIS PERMIT IS SUBJECT TO REVOCATION FOR ANY APPLICABLE FIRE CODE VIOLATIONS AND DOES NOT TAKE THE PLACE OF ANY LICENSE REQUIRED BY LAW AND IS NOT TRANSFERABLE.</p> <p>THE EXPLOSIVES BLASTER RENEWAL PERMIT IS UNASSIGNABLE AND NON-TRANSFERABLE AND NO PERSON SHALL OPERATE UNDER OR HAVE THE BENEFIT OF ANOTHER PERSON'S PERMIT.</p>					

APPROVED BY:

[Signature]

DATE:

9/15/12

R:\FIRE BUREAU\TSP\FICPERM.RPT

P.1.1

101421049221893

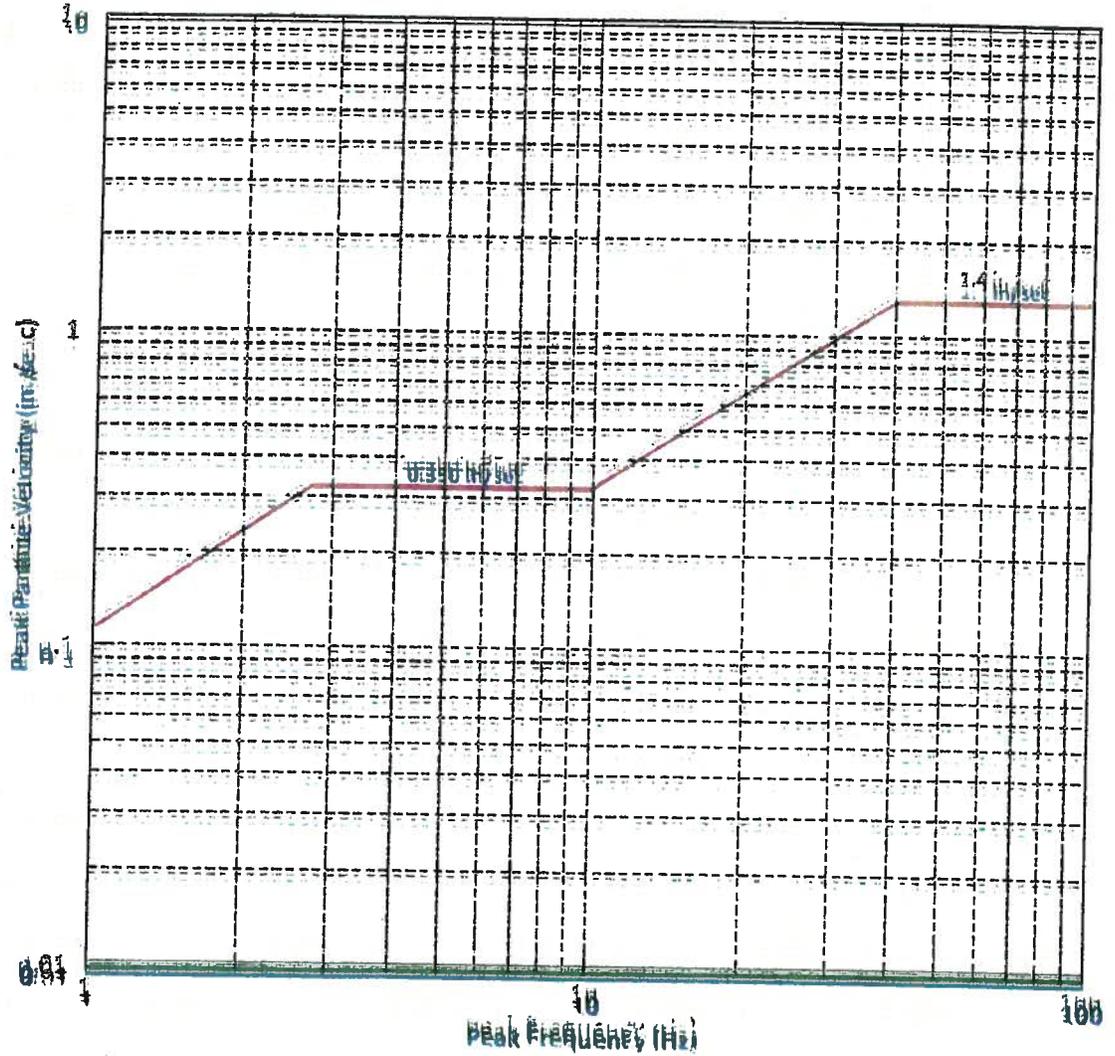
(800) 628-7417

JUL-2-2012 03:23P FROM: BRUCK ST RETREAT

Appendix 1.0 (cont.)

- ATTACHMENT C:
- Red Line = 70% of USBM Z = Curve (provided by Vibra-Tech)

GARDEN RIDGE QUARRY COMMISSION



Appendix 1.0 (cont.)

- July 6, 2012 letter, from Nancy Cain, City Administrator



City of Garden Ridge

9400 Municipal Parkway
Garden Ridge, Texas 78268
(210) 651-8632
Fax: (210) 651-9638

July 6, 2012

Joseph A. Haid
Director of Operations
Orica USA Inc.
4160 Fox Street
Denver, Colorado 80216-4837

Dear Mr. Haid,

As you are aware the City of Garden Ridge City Council passed and approved Garden Ridge Ordinance 34 on July 3, 2012 which prohibits blasting in the city's corporate limits but the ordinance does allow for a limited exemption permit for such operations. On June 29, 2012 Orica submitted a blasting permit application to the city and met with city officials on July 3rd to discuss the pending blasting permit. Ordinance 34 provides for an interim compliance procedure in which the City Administrator may approve a pending permit provided the application and its contents are in substantial compliance with the provisions of the ordinance. Such interim period will expire within 60 days of the adoption of the ordinance and is not subject to extensions.

In order to exercise the interim compliance procedure of Ordinance 34 Orica will need to follow the instructions and comply with the Request for Partial Exemption Permit to Conduct Blasting as denoted in Attachment B of said ordinance. Orica supplied some of the information requested in Attachment B on July 3, 2012 but there is additional information that will need to be supplied and reviewed prior to the issuance of an interim permit.

In review of the information submitted in relation to Attachment B (attached) it appears that item 3 has been satisfied. Although items 1, 2, and 4 were submitted on the Application for Blasting Permit these items should be included in a letter along with items 5, 6, 7 and 9. The City of Garden Ridge will exercise item 8 should they feel there is additional information needed during review for an Interim permit. In reference to page two of Attachment B items 1 and 2 in the detail identified can be satisfied for the interim permit by providing a map or aerial type photograph of the area but in the Request for Partial Exemption Permit process the requested detail must be provided. Other information required will be items 3, 4 and 5 on page 2 of Attachment B.

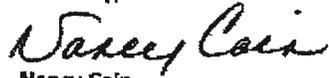
Item 6 will be satisfied with payment of the application fee of \$175 for the interim permit to blast in the City of Garden Ridge.

Appendix 1.0 (cont.)

- July 6, 2012 letter, from Nancy Cain, City Administrator (cont.)

A copy of Ordinance 34 including attachments has been attached for your review and convenience. Should you have any questions or need clarification concerning this matter please feel free to contact Nancy Cain, City Administrator.

Sincerely,



Nancy Cain
City Administrator

Attachments

Appendix 1.0 (cont.)

- RE: Hanson's use of Orica USA Inc. as a Blasting Contractor



Hanson Aggregates
South Texas
Service Plant
P.O. Box 311845
New Braunfels, TX 78131
Tel 210-650-7461
Fax 210-651-0075

July 19, 2012

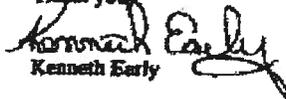
Ms. Nancy Cain
City Administrator
City of Garden Ridge
9500 Municipal Parkway
Garden Ridge, Texas 78266-2600

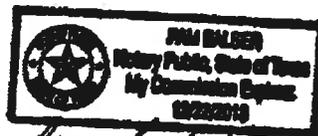
RE: Hanson's use of Orica USA Inc. as a Blasting Contractor

Ms. Cain

After going through in-depth review of the quarry's blasting requirements, Hanson has made the decision to contract with Orica USA Inc. The transition to Orica will begin with the city's issuance of a temporary blasting permit.

Thank you


Kenneth Early




07-19-12



Hanson Aggregates
South Texas
Servtex Plant
P.O. Box 311535
New Braunfels, TX 78131
Tel 210-698-7481
Fax 210-581-0079

August 21, 2012

Ms. Nancy Cain
City Administrator
City of Garden Ridge
9500 Municipal Parkway
Garden Ridge, Texas 78126-2600

RE: Hanson's payment for vibration monitoring

Ms. Cain

With the passage of the new Ordinance 34, Hanson Aggregates wants to retain payment for vibration monitoring as it does now rather than switching payment over to the blasting contractor.

Thank you,


Kenneth Early



August 8, 2012

To: City Quarry Commission

From: City Administrator Cain

RE: Partial Exemption Permit Fee

Ordinance 34, Section 12: Fees states that "All fees assessed in this Ordinance shall be determined by amending Ordinance No. 11 which is the Regulatory Authority's Fees ordinance and are subject to change without prior notice." The fee schedule of Ordinance 11 is attached as Exhibit A.

Attachment B of Ordinance 34 states "Payment of the appropriate application fee, including any related City fees for monitoring blasting for each permitted Partial Exemption Permit site."

Section 6, 1.h) states "all Blasting shall be monitored by a third-party selected by the Regulatory Authority and paid for by the Permit Holder ..."

In discussion with Orica representatives they have stated that Hanson desires to pay for the third-party monitoring as has been the past practice. It was my understanding from Orica that they desire for this arrangement to continue. I have recommended to Orica representatives that they obtain a letter from Hanson stating that Hanson will pay for third-party monitoring services and that a copy of said letter be submitted to the Quarry Commission during the Partial Exemption Permit process.

If so desired monitoring of dust and noise could become part of the third-party monitoring process during the Partial Exemption Permit process and costs for such included in the fees Hanson pays for third-party monitoring.

It is recommended that the city be reimbursed for their costs associated with activities resulting from blasts such as notification by blasting contractor before and after blasts, answering calls as a result of a blast, citizen blasts reports, follow up process with Quarry Commission on citizen blast reports and posting blast data to the city webpage. The Administration staff on an average spends 6 hours per week with these activities at an average hourly rate of \$16.56 for a total cost of \$5,167 annually.

It is recommended that the fee to the city for the Partial Exemption Permit be set at \$175 plus \$5,167 for a total permit fee of \$5,342 assuming that the third party monitoring services continue to be paid by Hanson.

SCHEDULE OF PERMIT & USER FEES -- EFFECTIVE May 3, 2006

Alarm / Security System	
Private Residence	\$ 75.00
Commercial Establishment	\$ 75.00
Service charge for each false alarm after 3 in any 12 month period	\$ 35.00
Service charge for each false robbery alarm received from a commercial robbery alarm system	\$ 100.00
Alcoholic Beverage	
Beer and/or wine off premises (annual permit)	\$ 35.00
Beer and/or wine on premises (annual permit)	\$ 60.00
Package Store (annual permit)	\$ 100.00
Mixed Beverage permit (annual permit)	\$ 100.00
Partial Exemption Permits	\$ 175.00
Fee Determined by City Council in accordance with Ordinance 34 in addition to fee attached hereto	plus fee determined by City Council
Business	
In-Home Permit (annual permit, see footnote)	\$ 15.00
Business Permit (annual permit required for all businesses except those having a valid in-home business permit --see footnote)	\$ 25.00
Park Reservation	
Pavilion	
Garden Ridge Residents	\$ 30.00
Non-Garden Ridge Residents	\$ 60.00
CLEAN UP DEPOSIT	\$ 50.00
BBQ Building	
Garden Ridge Residents	\$ 25.00
Non-Garden Ridge Residents	\$ 50.00
CLEAN UP DEPOSIT	\$ 150.00
Baseball Field	\$ 20.00
Volleyball Court	\$ 15.00
Horseshoe Pits	\$ 10.00
Satellite/Other TV Antenna (special use permit required)	\$ 50.00
Sign	
Annual fee required for each sign authorized based on an approved variance to the City sign ordinance	\$ 50.00
Permanent sign not requiring a variance	\$ 15.00
Soliciting	
One week permit (7 days)	\$ 10.00
One month permit (30 days, see footnote)	\$ 20.00
One month year (365 days, see footnote)	\$ 50.00
Additional permits for agents	\$ 5.00
NOTE: These permits are one-half the listed cost for individuals and/or companies already having a valid Business-in-home or Business permit for another business activity.	
Water Well	
"A" No service available from the Water Department	\$ 150.00
"B" Service available from the Water Department and City Council approves permit fee to be established by City Council on an individual basis.	

SECTION III. PERMITS. A City of Garden Ridge permit is required for the following listed activities or projects. Unless otherwise specified, permits issued by the City of Garden Ridge shall be valid for a period of one year from the date of issuance.

- A. **ALARM SYSTEM PERMIT.** Alarm System Special Use Permits will be applied for in accordance with the provisions outlined in City of Garden Ridge Ordinance 53. The Alarm System Permit fees specified in Ordinance 53 are superceded by the Schedule of Fees attached hereto.
- B. **ALCOHOLIC BEVERAGE PERMIT.** An annual Alcoholic Beverage Special Use Permit is required for any business or commercial entity involved in serving, providing or selling any alcoholic beverage in any business or commercial establishment in the City of Garden Ridge. An Alcoholic Beverage Special Use Permit will be issued only after a petition for such a permit is approved by the City Council.

Permit fees for an Alcoholic Beverage Special Use Permit are as outlined in the Schedule of Fees attached hereto and are due and payable as of January 10th of each year. The initial permit issued shall be valid from the date of issuance thru December 31st of the year in which it was issued. Each succeeding renewal will be for the following calendar year beginning on January 1st and ending on December 31st. Permit renewals will be applied for in December of each year and any permit not renewed prior to January 11th of the year following the expiration date on the permit will lapse.

- C. **PARTIAL EXEMPTION PERMITS.** Permits will be applied for in accordance with provisions outlined in City of Garden Ridge Ordinance 34. The Permit fees specified in Ordinance 34 are in addition to the Schedule of Fees attached hereto.
- D. **BUILDING PERMITS.** A Building Permit is required by any person, business, corporation, builder, commercial enterprise, entrepreneur, or contractor planning to construct a building, fence, wall, addition or modification to an existing structure, swimming pool, or any other construction project, excavation, layout or other activity associated with the construction project. All building and construction will be accomplished in accordance with the Building Code for the City of Garden Ridge, as specified in City of Garden Ridge Ordinance 19.

Building permits will be issued only after plans for the project have been reviewed and approved by the City Architect or, in the case of minor, non-residence construction projects, the City Building Inspector. Building permits will be issued only after the City Building Inspector has assured himself that all deed restrictions and City of Garden Ridge construction requirements have been satisfied.

Unless a variance has been applied for and approved by the Planning & Zoning Commission and the City Council of Garden Ridge, no building permit will be issued for construction on City property or in a City or utility easement or right-of-way.

Unless a variance has been applied for and approved by the Planning & Zoning Commission and the City Council of Garden Ridge, no building permit will be issued for construction in any water or storm drainage easement, be it private or public property. Since water or storm drainage easements are designed for the health, safety and welfare of all residents, variances for construction in said water or storm drainage easements will be approved only for reasons deemed to enhance their utility and usefulness to the community.

Building Permit fees specified in any other Ordinance are hereby superceded by the Schedule of Fees attached hereto. Building Permit fees are based on the following:

- (1) For construction of any house, residence, living (human habitation) quarters, guest or servant quarters, to include any attached structure such as a garage, patio, porch, carport, etc., the permit fee shall be computed at the specified rate per square foot of space, the total area to be determined by the City Architect at the time of building plans review and approval.