

CONSENT CALENDAR
Agenda Item No.: 6b
CC Mtg.: 12/06/2011

DATE: November 28, 2011

TO: Mayor and City Council Members

FROM: Evert W. Palmer, City Manager

SUBJECT: **RESOLUTION NO. 8939 - A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE STONERIDGE QUARRY PERTAINING TO A PER TON FEE AND ACCESS THROUGH THE ANNEXATION AREA FOR STONERIDGE QUARRY TRUCKS**

BACKGROUND / ISSUE

The County of Sacramento has approved an application by Teichert for a new hard rock mining quarry south of the Sphere of Influence (SOI) in the unincorporated area of the county. Other quarries are proposed in the same vicinity, with one application pending before the Sacramento County Board of Supervisors (Board). The Board is scheduled to hear the application of Stoneridge Quarry on December 7, 2011. There are no active applications for other two potential quarries in this area. The City has been very concerned over the impact on roads in the SOI from quarry truck traffic. The City has been actively engaging in discussions with the County of Sacramento, Stoneridge Quarry, Teichert, and other stakeholders regarding the quarry operations and quarry trucks originating south of the City. This process has been going on for nearly 2 (two) years with the goal of arriving at an acceptable Truck Management Plan (TMP) for truck use of the roadway system in the various jurisdictions. City staff believes the parties to the TMP have reached agreement and that a TMP plan could be presented to the Board for approval as early as December 14, 2011.

The City continues to have concerns over quarry truck traffic and how to mitigate the environmental and "quality of life" impacts on the SOI area. The quarry operators also have concerns regarding a guaranteed truck route to U.S. Highway 50 through the SOI. Staff believes the TMP that is presently being reviewed will be acceptable and will provide a funding source by way of a \$.12 per ton fee that is paid by the quarry operators for all material that is produced at the quarries. As Stoneridge is scheduled to be heard by the Board prior to the TMP, City staff and Stoneridge have discussed and negotiated an agreement that would provide partial funding for roadway improvements and maintenance by a \$.12 cents per ton fee and an adjustment factor for the first 24 years, in exchange for guaranteed truck access to U.S. Highway 50. When the TMP is adopted, the terms of the TMP would be applicable; however, the City has concerns over approval of the Stoneridge project before an appropriate funding source for roadway impacts is approved. Should the proposed Stoneridge Agreement be approved by the City Council, the City would be committing not to bring a legal action on the Stoneridge quarry approval, and if a legal

action were filed by the City, or any of the SOI landowners, then the funding obligation by Stoneridge would cease.

POLICY / RULE

The City Council for the City of Folsom sets policy direction for the City, approves contracts and settlement agreements pertaining to litigation against or initiated by the City.

ANALYSIS

Adequate funding is essential to mitigate the environmental and quality of life issues that will result from quarry trucks travelling through the SOI in route to U.S. Highway 50. The ability of the City to control truck traffic and mitigating impacts in its jurisdiction is an important element to building a quality community in the SOI for decades to come. The Teichert quarry approval did not provide for any additional funding for roadway impacts beyond certain CEQA mitigation impacts. The City has contended through the TMP process that a funding source was necessary to improve roadways which will be used by quarry trucks through the SOI. The TMP process will address the funding source and the appropriate split of the revenue generated between Sacramento County, Rancho Cordova and the City of Folsom based on the volumes of truck traffic using the roadway.

The quarry operators seek assurance that they will have a guaranteed, direct and continuous route to U.S. Highway 50 over time since they will be paying a cents per ton fee to help pay for the improvements. As the City controls its roadways and will need to alter routes based on uses that build out over time, it is important for the City to maintain the ability to modify routes provided the guaranteed access is provided by Prairie City Road, Scott Road or future construction of other roads south of the freeway.

The proposed Agreement provides assurance that Stoneridge will pay the City of Folsom a per ton fee over the life of the quarry to be used for roadways upon which the Stoneridge quarry trucks will travel. The per ton fee starts at \$.12 per ton and is adjusted every eight years to reflect the value of \$.12 at year eight, sixteen and twenty- four years. The Agreement provides that the fee would be evaluated based on the extent of work done on roadway projects, the amount of revenue generated, maintenance costs and other funding sources secured. The Agreement contemplates a future reduction in the fee when improvements are completed and maintenance needs and cost are determined. The Agreement provides that this fee is not a replacement for CEQA mitigation that might be required by other development projects in the SOI.

Outlined below are the key terms of the proposed Agreement:

1. The Agreement outlines the key terms of the associated with the cents per ton fee and guaranteed access to U.S. Highway 50. A follow up agreement will provide additional details on implementation.
2. If the County does not approve a TMP, Stoneridge will pay 12 cents per ton to Folsom for the life of the permit, subject to adjustments, in exchange for access through the SOI to Highway 50 based on all material produced at the quarry.

3. The City of Folsom will guarantee Stoneridge access to U.S. Highway 50 through the SOI. Access through the SOI must be direct and continuous along Prairie City Road, Scott Road or any future Oak Avenue extension, though Folsom can specify and manage routing. Any future annexation by Folsom would also provide this guaranteed access.
4. The 12 cents per ton fee will be distributed to Folsom based on the number of quarry truck trips estimated to travel through the SOI as provided for in the Stoneridge Traffic Impact Study, which equates to approximately 70% of the Stoneridge truck trips. The percentage of distribution may vary in the future and adjustments may be warranted.
5. The 12 cents per ton fee will be adjusted over time to assure that the value of \$.12 is the same as it is today in future years. It will be recalculated every eight years through year 24.
6. Beginning on the twenty fourth (24th) year that the fee is in place, there shall be an evaluation of the amount of the per ton fee every ten (10) years thereafter. The evaluation of the per ton fee shall be based on the following factors: (1) The total amount of per ton fees collected to date; (2) The total amount of per ton fees that have been expended to date; (3) The roadway improvements that have been constructed; (4) The roadway improvements that still need to be constructed; (5) The maintenance costs associated with the roadway improvements; and (6) The amount of funding toward roadway improvements by non-quarry contributors.
7. The 12 cents per ton fee shall only be used for the purpose of designing, planning, financing, constructing and maintaining quality of life improvements related to quarry truck traffic within the City of Folsom.
8. If the City enters into any agreement with another quarry operator that is less than \$.12 a ton, then the Stoneridge fee will be reduced accordingly.
9. In the event the County ultimately adopts a TMP that is less than 12 cents per ton, Stoneridge will pay Folsom the difference between the TMP fee and 12 cents per ton.
10. If Folsom or any of the SOI Landowners challenge the Stoneridge Quarry project, any agreement to pay 12 cents per ton would terminate.
11. The City of Folsom agrees not to oppose the quarry.

Staff has evaluated the proposal and believes it will generate sufficient revenue, along with other funding sources to build appropriate roadways and other improvements to mitigate the quarry truck traffic. While it would be optimal to have the TMP in place, the scheduling does not allow for that. The City believes it is in its best interest to assure that an adequate funding source from Stoneridge is contractually committed to before Stoneridge receives approval from the Sacramento Board of Supervisors.

FINANCIAL IMPACT

The amount of revenue generated by the cents per ton fee will be dependent on the volume of material produced by the quarry. Other sources of funding will be necessary to complete the truck related road projects in the SOI.

ENVIRONMENTAL REVIEW

This Agreement does not constitute a "project" as defined by CEQA. This Agreement is solely to identify a future revenue stream. Roadway or other similar projects associated with physical improvements to land will receive the CEQA analysis and approval as required by law.

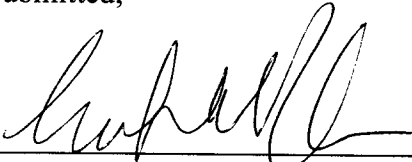
ATTACHMENTS

1. Resolution No. 8939 - A Resolution Of The City Council Authorizing The City Manager To Execute An Agreement With The Stoneridge Quarry Pertaining To A Per Ton Fee And Access Through The Annexation Area For Stoneridge Quarry Trucks
2. A proposed agreement between the City of Folsom and Stoneridge Quarry

RECOMMENDATION / CITY COUNCIL ACTION

Staff recommends approval of Resolution No. 8939 - A Resolution Of The City Council Authorizing The City Manager To Execute An Agreement With The Stoneridge Quarry Pertaining To A Per Ton Fee And Access Through The Annexation Area For Stoneridge Quarry Trucks

Submitted,



Evert W. Palmer, City Manager

Attachment 1

RESOLUTION NO. 8939

**A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE CITY
MANAGER TO EXECUTE AN AGREEMENT WITH THE STONERIDGE
QUARRY PERTAINING TO A PER TON FEE AND ACCESS THROUGH THE
ANNEXATION AREA FOR STONERIDGE QUARRY TRUCKS**

RESOLUTION NO. 8939

A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE STONERIDGE QUARRY PERTAINING TO A PER TON FEE AND ACCESS THROUGH THE ANNEXATION AREA FOR STONERIDGE QUARRY TRUCKS

WHEREAS, the City of Folsom has an annexation application pending before the Local Area Planning Commission (LAFCo) with respect to approximately 3600 acres south of U.S. Highway 50; and

WHEREAS, Stoneridge Quarry has an application for land use entitlements pending before the Sacramento County Board of Supervisors (Board) to operate a hard rock mining quarry; and

WHEREAS, the Stoneridge Quarry application is presently scheduled to be heard by the Board of Supervisor on December 7, 2011; and

WHEREAS, the City of Folsom and other jurisdictions have expressed concern about quarry truck traffic emanating from the proposed quarries south of the Sphere of Influence (SOI) area and the impacts on the roads and community in the SOI; and

WHEREAS, Stoneridge Quarry, Teichert, Sacramento County, the City of Rancho Cordova, and others have been participating in ongoing discussions to arrive at an acceptable Truck Management Plan (TMP) that will provide funding for roadway impacts caused by quarry trucks and provide for guaranteed access to U.S. Highway 50 for quarry trucks; and

WHEREAS, the TMP process is nearing conclusion, but will not be complete in order to be heard by the County Board of Supervisors prior to the date the Stoneridge quarry entitlements are to be heard by the Board; and

WHEREAS, Stoneridge and the City have negotiated an agreement that would provide for a \$.12 per ton fee to be paid by Stoneridge for all material generated by the quarry in order to partially mitigate impacts from the Stoneridge quarry trucks, some fee adjustments over time, and a guarantee by the City that Stoneridge quarry trucks would have access to U.S. Highway 50 through the SOI as outlined in the proposed agreement; and

WHEREAS, the City and Stoneridge seek to have an agreement in place prior to the matter being heard by the Board of Supervisors in light of the fact that the TMP will not be approved.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Folsom authorizes the City Manager to execute an agreement with the Stoneridge Quarry pertaining to a per ton fee and guaranteed access through the SOI/Annexation area for Stoneridge Quarry containing the terms set forth in the Agreement attached to this Resolution as Exhibit 1.

PASSED AND ADOPTED this 6th day of December, 2011, by the following roll-call vote:

AYES: Council Member(s):

NOES: Council Member(s):

ABSENT: Council Member(s):

ABSTAIN: Council Member(s):

Andrew J. Morin, MAYOR

ATTEST:

Christa Saunders, CITY CLERK

Attachment 2

**A PROPOSED AGREEMENT BETWEEN THE CITY OF FOLSOM AND
STONERIDGE QUARRY**

**AGREEMENT BY AND BETWEEN
CITY OF FOLSOM AND
STONERIDGE**

This Agreement (“Agreement”) is entered into as of _____, by and between the City of Folsom, a municipal corporation (“Folsom”) and Angelo G. Tsakopoulos and Katherine Tsakopoulos, the property owners and applicants for the Stoneridge Quarry Project (collectively “Stoneridge”). Folsom and Stoneridge are sometimes hereinafter referred to individually as “Party” and collectively as “Parties”.

RECITALS

WHEREAS, under the facilitation of Sacramento County, the City of Folsom, the City of Rancho Cordova (“Rancho Cordova”), Stoneridge, other existing and potential future quarry operators and other interested parties have been attempting for a considerable period of time to agree upon an East Sacramento Regional Aggregate Mining Truck Management Plan (“TMP”) in order to address beyond nexus quality of life impacts associated with quarry truck traffic in the eastern area of Sacramento County; and

WHEREAS, the Stoneridge Quarry project approvals are scheduled to be heard by the County Board of Supervisors on December 7, 2011; and

WHEREAS, in order to finalize a TMP, the parties engaged in the process must agree on the design and funding components that will ultimately be considered by the County Board of Supervisors; and

WHEREAS, while not yet complete, the parties to the TMP process are currently working to finalize a TMP proposal which would provide funding to Folsom, Rancho Cordova and Sacramento County in order to construct roadway improvements to address quality of life impacts associated with quarry truck traffic within these jurisdictions; and

WHEREAS, it is currently anticipated that the County TMP will be presented to the County Board of Supervisors for consideration on December 14, 2011; and

WHEREAS, this Agreement has been presented to the City Council for the City of Folsom and it has authorized execution of the Agreement; and

WHEREAS, in the event that the TMP is not approved on December 14, 2011, or thereafter, it is the intent of the Parties that they will enter into an agreement provides for the payment of a per ton fee to construct roadway improvements in exchange for quarry truck access through the area south of the City of Folsom and Highway 50, as depicted on Exhibit A (“Folsom SOI Area”); and

WHEREAS, the Parties desire to set forth their conceptual intentions prior to negotiation by the Parties of a binding agreement for the payment of a per ton fee to construct roadway improvements in exchange for Stoneridge quarry truck access through the Folsom SOI Area.

THEREFORE, the Parties hereby enter into this Agreement in order to memorialize their agreements reached to date and their intentions to enter into a more detailed, specific and binding TMP agreement in the event that a TMP is not adopted by the Sacramento County Board of Supervisors, which intentions shall include, but are not limited to, the following conceptual understandings:

TERMS AND UNDERSTANDINGS

1. Any such agreement will include provisions that substantially provide as follows:
 - A. Per Ton Fee: In the event that the County does not approve a TMP, Stoneridge will pay 12 cents per ton to Folsom for the life of the permit in exchange for access through the SOI to Highway 50. The per ton fee is based on all material produced and sold by the Stoneridge Quarry facility to be approved by the County Board of Supervisors as referenced above. Aggregate material shall include raw materials sold or transferred to affiliates or subsidiaries for the production of concrete, asphalt or other products. Asphalt oil, water, cement or other ingredients and recycled materials from outside sources shall not be included in the tonnage measured. The per ton fee shall apply to all future owners or operators of Stoneridge Quarry.
 - B. Quarry Truck Distribution: The total aggregate tonnage subject to the 12 cents per ton fee will be based on the number of quarry truck trips estimated to travel through the SOI as provided for in the Stoneridge Traffic Impact Study, which equates to 70% of the Stoneridge truck trips. The percentage of distribution may vary in the future and adjustments may be warranted.
 - C. Adjustment of the Per Ton Fee: The 12 cents per ton fee will be established as a percentage of the value of a ton of aggregate as of the date that the first Work Authorization Permit is issued for any quarry project within the boundaries of the Truck Management Plan area (the "Adjustment Factor"). In recognition of the fact that the value of a ton of aggregate may fluctuate, the 12 cents per ton fee will be adjusted every eight years for the first twenty four (24) years that the fee is in place by applying the Adjustment Factor to the then current value of a ton of aggregate, provided that, in no event will the adjustment be more than one cent per year (e.g. eight cents in any adjustment period). The fee and the adjustment shall apply to all of the quarries located in the Truck Management Plan area boundaries.

Beginning on the twenty fourth (24th) year that the fee is in place, there shall be an evaluation of the amount of the per ton fee every ten (10) years thereafter. The evaluation of the per ton fee shall be based on the following factors: (1) The total amount of per ton fees collected to date; (2) The total amount of per ton fees that have been expended to date; (3) The roadway improvements that have been constructed; (4) The

roadway improvements that still need to be constructed; (5) The maintenance costs associated with the roadway improvements; and (6) The amount of funding toward roadway improvements by non-quarry contributors. The results of the per ton fee evaluation may result in a reduction to the per ton fee. In the event that the roadway improvements have not been completed by the fiftieth (50th) year that the fee is in place, the per ton fee will be reduced to an amount necessary to provide for ongoing maintenance of the improvements that were previously constructed. The parties will address the final decision making process for future modifications of the per ton fee in a subsequent agreement.

- D. Quarry Truck Access: The City of Folsom will guarantee Stoneridge access to U.S. Highway 50 through the SOI. Access through the SOI must be direct and continuous along Prairie City Road, Scott Road or any future Oak Avenue extension, though Folsom can specify routing. The City of Folsom may manage and determine the appropriate route or multiple routes, which may be modified or restricted over time for use by through quarry trucks, provided the guaranteed access above remains in place. Access as provided is guaranteed so long as the per ton fee is paid to the City. There shall be no limit on the volume of Stoneridge quarry truck trips, up to the maximum permitted amount of production, that may travel through the SOI.
 - E. Roadway Improvements: The 12 cents per ton fee must be used for roadway improvements related to quality of life impacts associated with Stoneridge quarry truck traffic in the SOI. The Per Ton Fee paid to the City shall only be used for the purpose of designing, planning, financing, constructing and maintaining quality of life improvements related to quarry truck traffic within the City of Folsom. The improvements may include, but are not limited to improvements, sound wall extensions, landscape buffers and right of way acquisition. Roadway improvements along Prairie City Road will be coordinated with the County.
 - F. Full Consideration: Stoneridge will not be subject to any further cost or mitigation for trucks traveling through the SOI, except as provided herein.
 - G. Reduced Per Ton Fee: Any reduced fees or less restrictive conditions that are imposed or agreed to by the City on other quarry operators in exchange for quarry truck access through the SOI will be applicable to Stoneridge.
 - H. CEQA Mitigation and Conditions of Approval: Nothing in this Agreement or the TMP agreement approved by the County Board of Supervisors shall supplant the CEQA Mitigation Measures or the Conditions of Approval for the Stoneridge quarry project, the mitigation measures in the SOI approval or future approval of projects in the SOI.
 - I. Future Annexation: Folsom will provide access through any future annexed land.
2. The following provisions of this Agreement apply regardless of whether the County adopts a TMP:

- A. Reduced County TMP Fee: In the event the County ultimately adopts a TMP that is less than 12 cents per ton, Stoneridge will pay Folsom the difference between the TMP fee and 12 cents per ton.
- B. Terms of the TMP: Stoneridge and Folsom agree that they will support inclusion of the same or substantially similar terms to be included in the TMP approved by the County.
- C. Covenants Not To Sue: Stoneridge covenants not to file any litigation in connection with the Folsom SOI. Folsom covenants not to file any litigation in connection with the Stoneridge project.
- D. Project Opposition: Folsom agrees it will not oppose the Stoneridge Quarry project.
- E. Agreement Termination: If Folsom or any of the SOI Landowners, as depicted on Exhibit A, challenge the Stoneridge Quarry project, any agreement to pay 12 cents per ton would terminate.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the first date written above:

CITY OF FOLSOM,
A municipal corporation

By: _____
Evert Palmer
City Manager

Approved as to form:

By: _____
Bruce C. Cline
City Attorney

STONERIDGE

By: _____
Angelo G. Tsakopoulos

By: _____
Katherine Tsakopoulos