

File No. 240782

Committee Item No. 3

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

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Committee: Budget and Finance Committee Date September 11, 2024

Board of Supervisors Meeting Date \_\_\_\_\_

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- PUC Resolution No. 24-0161 6/25/2024
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Completed by: Brent Jalipa Date September 5, 2024

Completed by: Brent Jalipa Date \_\_\_\_\_

1 [Authorization of Payment - Payments to Oliver De Silva, Sunol AgPark, and Alameda County  
2 Related to UUT Charges Collected on Electric Bills - \$754,141]

3 **Resolution authorizing payments to two San Francisco Public Utilities Commission**  
4 **customers of \$101,825 to Oliver De Silva, and \$340 to Sunol AgPark, and \$651,976 to**  
5 **Alameda County for Utility User Taxes (UUT) collected between June 2018 and January**  
6 **2024 for electric bills.**

7  
8 WHEREAS, The San Francisco Public Utilities Commission (SFPUC) has jurisdiction  
9 over and operates and maintains the City and County of San Francisco’s municipal electric  
10 distribution and service facilities; and

11 WHEREAS, SFPUC is responsible for collecting applicable Utility Users Taxes (UUT)  
12 from its electric customers; and

13 WHEREAS, In June 2018, Pacific Gas and Electric Co. transferred the Oliver De Silva  
14 and Sunol AgPark electric service accounts at the Sunol Valley Aggregate Quarry to SFPUC,  
15 which were SFPUC’s first electric service accounts in Alameda County not directly providing a  
16 service of the City and County of San Francisco; and

17 WHEREAS, Upon becoming the electric service provider to Oliver De Silva, SFPUC  
18 started collecting Utility Users Taxes from Oliver De Silva at the City and County of San  
19 Francisco rate of 7.5% instead of the Alameda County rate of 6.5%; and

20 WHEREAS, Upon becoming the electric service provider to Sunol AgPark, SFPUC  
21 started collecting Utility Users Taxes at the City and County of San Francisco rate of 7.5%  
22 instead of finding that Sunol AgPark, as a government entity, was exempt from the UUT; and

23 WHEREAS, SFPUC remitted a total of \$754,167 in Utility Users Taxes collected from  
24 Oliver De Silva and Sunol AgPark to the San Francisco Treasurer and Tax Collector, of which  
25 \$651,976 should be paid to Alameda County; and

1           WHEREAS, Oliver De Silva overpaid its Utility Users Taxes in the amount of \$101,825;  
2 and Sunol AgPark was mistakenly charged Utility Users Taxes in the amount of \$340; and

3           WHEREAS, The SFPUC authorized resolution of this matter on June 25, 2024, in  
4 Resolution No. 24-0161; now, therefore, be it

5           RESOLVED, That the Board of Supervisors authorizes payment of up to \$101,825 from  
6 the General Fund to Oliver DeSilva for the overpaid Utility User Taxes; and, be it

7           FURTHER RESOLVED, That the Board of Supervisors authorizes payment of up to  
8 \$340 from the General Fund to Sunol AgPark for the mistakenly charged Utility User Taxes;  
9 and, be it

10          FURTHER RESOLVED, That the Board of Supervisors authorizes payment of up to  
11 \$651,976 from the General Fund to Alameda County for the Utility User Taxes incorrectly  
12 remitted to the City and County of San Francisco Treasurer and Tax Collector instead of the  
13 County of Alameda Treasurer-Tax Collector; and, be it

14          FURTHER RESOLVED, The Controller is authorized to record transfers between funds  
15 and adjust the accounting treatment of sources and uses appropriated in this Resolution as  
16 necessary to conform with Generally Accepted Accounting Principles and other requirements.

17          APPROVED:

18          DAVID CHIU  
19          City Attorney

20          \_\_\_\_\_  
21          /s/ CHRISTOPHER CHOU  
22          Deputy City Attorney

<b>Item 3</b> <b>File 24-0782</b>	<b>Department:</b> San Francisco Public Utilities Commission
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**EXECUTIVE SUMMARY**

**Legislative Objectives**

- The proposed resolution would approve payments totaling \$754,141 to refund Utility Users Taxes that were incorrectly charged to SFPUC customers in Alameda County. The resolution includes payments from the General Fund to three entities.

**Key Points**

- SFPUC owns land in unincorporated Alameda County that is used as a sand and gravel quarry. The Sunol Valley Aggregate Quarry is operated by the DeSilva Group, under a lease from SFPUC to Oliver De Silva. In addition, SFPUC leased a portion of the land to the Alameda County Resource Conservation District, a government entity that operates organic farms (the farms in SFPUC land are known as Sunol AgPark). SFPUC has been collecting Utility Users Tax from these Hetchy Power customers and remitting it to the San Francisco Treasurer-Tax Collector when it should have gone to Alameda County, which has a lower tax rate. In addition, the Alameda County Resource Conservation District is exempt from this tax.
- The error was identified when Oliver De Silva reported being overcharged, prompting an internal review of all Hetchy Power accounts that revealed further incorrect billing for the Alameda County Resource Conservation District. This misapplication occurred due to SFPUC staff’s unfamiliarity with handling electric service accounts outside of San Francisco County and lack of financial procedures to correctly collect the applicable Utility Users Tax. The SFPUC is updating its meter to billing procedures and guidelines to ensure that staff check and apply the correct Utility User Tax rates.
- The proposed resolution would authorize payments as follows: \$101,825 to Oliver De Silva, \$340 to Sunol AgPark, and \$651,976 to Alameda County.

**Fiscal Impact**

- The total repayment amount of \$754,141 will be deducted from FY 2024-25 Utility User Tax revenues, which are budgeted at \$110.7 million this fiscal year.

**Recommendation**

- Approve the proposed resolution.

**MANDATE STATEMENT**

City Charter Section 1.101 states that all powers not vested in a City officer by the City Charter are exercised by the Board of Supervisors.

**BACKGROUND**

The Hetch Hetchy Water and Power Enterprise is responsible for water and power delivery to San Francisco from Yosemite National Park and surrounding areas. According to the enterprise’s FY 2022-23 audited financial statement, 61 percent of Hetchy Power is provided to municipal customers and 39 percent is sold to CleanPowerSF and other wholesale electricity customers. As part of the billing process, SFPUC collects Utility User Taxes on behalf of its customers and remits it to the proper taxing entities. According to Nancy Hom, SFPUC Chief Financial Officer, the majority of Hetchy Power customers are in San Francisco.

SFPUC owns land in unincorporated Alameda County that is used as a sand and gravel quarry. The Sunol Valley Aggregate Quarry is operated by the DeSilva Group, under a lease from SFPUC to Oliver De Silva. In addition, SFPUC leased a portion of the land to the Alameda County Resource Conservation District, a government agency that operates organic farms (the farms in SFPUC land are known as Sunol AgPark). Because the land is owned by the SFPUC, tenants are eligible to receive Hetch Hetchy Power.

In 2017, the Alameda County Resource Conservation District became a Hetchy Power customer. In 2018, Oliver De Silva also became a Hetchy Power customer. Prior to that time, they were PG&E electric customers. These were the first SFPUC electric service accounts in Alameda County, on SF-owned land.

Upon taking over these accounts, the SFPUC began collecting Utility Users Taxes (UUT) at the San Francisco rate of 7.5%, instead of the applicable Alameda County rate of 6.5% and transferred the revenue to the San Francisco Treasurer-Tax Collector rather than to Alameda County. This misapplication occurred due to SFPUC staff’s unfamiliarity with handling electric service accounts outside of San Francisco County and lack of financial procedures to correctly collect the applicable Utility Users Tax. As a result, Oliver De Silva was overcharged \$753,801 at the San Francisco rate, while they should have been billed \$651,976 at Alameda County’s 6.5% rate. This resolution intends to refund Oliver De Silva the difference and provide authorization to pay Alameda County the \$651,976 it is owed. In addition, as a government entity outside of San Francisco, the Alameda County Resource Conservation District should not have paid \$340 in San Francisco Utility User Tax.

The error was brought to light when Oliver De Silva notified SFPUC of the overcharge, prompting an internal review of all Hetchy Power accounts. An internal review revealed that SFPUC should not have been collecting the UUT at the San Francisco rate and remitting it to the San Francisco Treasurer and Tax Collector since the properties are in Alameda County. The internal review uncovered incorrect charges to the Alameda County Resource Conservation District in error as well.

SFPUC adopted Resolution No. 24-0161 on June 25, 2024, authorizing the proposed repayment to correct these errors.

According to Jeremy Spitz, Policy and Government Affairs Manager for the San Francisco Public Utilities Commission, the SFPUC is updating its meter to billing procedures and guidelines to ensure that staff check and apply the correct UUT.

### **DETAILS OF PROPOSED LEGISLATION**

The proposed resolution would approve payments totaling \$754,141 to refund Utility Users Taxes that were incorrectly charged to SFPUC customers in Alameda County. The resolution includes payments from the General Fund to three entities.

- \$101,825 to Oliver De Silva to cover the overpaid UUT at the incorrect San Francisco rate.
- \$340 to Sunol AgPark, which was mistakenly charged UUT despite its exempt status as a government entity.
- \$651,976 to Alameda County, which should have received the tax revenue instead of San Francisco.

The resolution also authorizes the Controller to process the necessary fund transfers and ensure compliance with standard accounting practices.

### **FISCAL IMPACT**

The total repayment amount of \$754,141 will be deducted from FY 2024-25 Utility User Tax revenues, which are budgeted at \$110.7 million this fiscal year.

### **RECOMMENDATION**

Approve the proposed resolution.

# **PUBLIC UTILITIES COMMISSION**

City and County of San Francisco

RESOLUTION NO. 24-0161

WHEREAS, The San Francisco Public Utilities Commission (SFPUC) has jurisdiction over and operates and maintains the City and County of San Francisco's municipal electric distribution and service facilities; and

WHEREAS, SFPUC's Power Enterprise (Power) is responsible for collecting applicable Utility Users Taxes from its customers; and

WHEREAS, Oliver De Silva, Inc. operates the Sunol Valley Aggregate Quarry in Alameda County, pursuant to a lease from the SFPUC; and

WHEREAS, Sunol AgPark, comprised of eight, small-scale organic farms producing fresh food and flowers for diverse Bay Area communities, is owned by the SFPUC and managed through a partnership agreement with the Alameda County Resource Conservation District; and

WHEREAS, In June 2018, Pacific Gas and Electric Co. transferred the Oliver De Silva and Sunol AgPark electric service accounts at the Sunol Valley Aggregate Quarry to Power; and

WHEREAS, Upon becoming the electric service provider to Oliver De Silva, Power started collecting Utility Users Taxes from Oliver De Silva at the City and County of San Francisco rate of 7.5% instead of the Alameda County rate of 6.5%; and

WHEREAS, Upon becoming the electric service provider to Sunol AgPark, Power started collecting Utility Users Taxes at the City and County of San Francisco rate of 7.5% instead of finding that Sunol AgPark was exempt from the Alameda County UUT; and

WHEREAS, SFPUC collected a total of \$754,167 in Utility Users Taxes from Oliver De Silva and Sunol AgPark, of which \$651,976 should be paid to Alameda County; and

WHEREAS, Oliver De Silva overpaid its Utility Users Taxes in the amount of \$101,825; and

WHEREAS, Sunol AgPark overpaid Utility Users Taxes in the amount of \$340; and

WHEREAS, The SFPUC will seek Board of Supervisors' approval of payments to Oliver De Silva and Sunol AgPark from the General Fund; and

WHEREAS, This action does not constitute a "project" under the California Environmental Quality Act Guidelines section 15378 because there would be no direct or indirect physical change in the environment; now, therefore, be it

RESOLVED, This Commission finds that the SFPUC erred by requiring Sunol AgPark to pay Utility Users Taxes and Oliver De Silva to pay Utility Users Taxes in the amount of 7.5 % instead of the Alameda County Utility User Tax rate of 6.5% and by remitting the taxes to the City and County of San Francisco Treasurer and Tax Collector instead of the County of Alameda Treasurer-Tax Collector; and be it

FURTHER RESOLVED, That this Commission hereby authorizes the General Manager of the SFPUC to seek Board of Supervisors approval to pay Oliver De Silva \$101,825 for overpaid Utility Users Taxes; and be it

FURTHER RESOLVED, That this Commission hereby authorizes the General Manager of the SFPUC to seek Board of Supervisors approval to pay Sunol AgPark \$340 for mistakenly charged Utility Users Taxes; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager of the SFPUC to seek Board of Supervisors authorization to pay \$651,976 to Alameda County for Utility User Taxes it should have received; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager of the SFPUC to seek Board of Supervisors approval for the General Fund to fund these payments since the erroneous Utility Users Tax payment was remitted to the General Fund; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager of the SFPUC to execute such documents as may be necessary to effectuate these authorizations, and to enter into any amendments or modifications to such documents that the General Manager determines, in consultation with the City Attorney, are in the best interest of the SFPUC, do not materially increase the obligations or liabilities of the SFPUC or materially diminish the benefits to the SFPUC, are necessary or advisable to effectuate the purposes and intent of the resolution, and are in compliance with all applicable laws, including the City Charter.

*I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of June 25, 2024.*

*Cirilo Espinoza*

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*Acting Commission Secretary, Public Utilities Commission*





**San Francisco  
Water Power Sewer**

Services of the San Francisco Public Utilities Commission

**FROM: Jeremy Spitz, Policy and Government Affairs**

**DATE: July 22, 2024**

**SUBJECT: [Authorization of Payment - Payments to Alameda County  
and two SFPUC customers related to UUT charges  
collected on electric bills- \$754,141]**

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Please see attached a proposed Resolution authorizing payments of \$101,825 to Oliver De Silva, \$340 to Sunol AgPark, and \$651,976 to Alameda County for Utility User Taxes collected between June 2018 and January 2024.

The following is a list of accompanying documents:

- Proposed Resolution (Word Doc Version)
- SFPUC Resolution No. 24-0161 (PDF Version)

Please contact Jeremy Spitz at [jspitz@sflower.org](mailto:jspitz@sflower.org) if you need any additional information on these items.

**London N. Breed**  
Mayor

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Vice President

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Commissioner

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Commissioner

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