

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

Acting Commission Secretary, Public Utilities Commission