



AGENDA ITEM

Public Utilities Commission

City and County of San Francisco



DEPARTMENT Real Estate Services AGENDA NO. 12

MEETING DATE May 28, 2013

Commission Action Type: Regular Calendar
Real Estate Agreement: Oliver de Silva Quarry Lease Amendment
Real Estate Director: Rosanna Russell

Authorize the General Manager to Execute an Amendment to a Quarry Lease between the SFPUC and Oliver de Silva, Inc., subject to approval by the Board of Supervisors

Summary of Proposed Commission Action:	Adopt Findings pursuant to the California Environmental Quality Act (CEQA); and Approve the terms and conditions, and authorize the General Manager to execute, upon approval by the Board of Supervisors (BOS) pursuant to Charter Section 9.118, the first amendment to the Quarry Lease dated March 29, 2010 (Lease) between the San Francisco Public Utilities Commission (SFPUC) and Oliver de Silva, Inc., a California corporation (ODS) for property located adjacent to Calaveras Road in the Sunol Valley, Alameda County (Revised Lease). The Revised Lease, among other things, confirms City’s consent to the terms and conditions of the revised mining permit to be issued by Alameda County and the Parties’ agreements regarding expanded mining and processing operations. The Revised Lease is consistent with the expectation of the Parties under the original 2010 Lease, and does not revise the rent structure of the Lease, though the Amendment does provide for the expansion of mining activities which will have a positive impact toward meeting SFPUC water storage objectives as well as on the total sum of royalties paid to the SFPUC.
Background:	The SFPUC, as landlord, and ODS, as tenant, entered into a Quarry Lease dated March 29, 2010 (Lease) for approximately 308.5 acres in Sunol Valley (Initial Premises). The Lease contemplated that ODS would seek the approvals necessary to expand mining into an adjoining 58 acre area (Expansion Premises) adjacent to Calaveras Road in the Sunol Valley and increase the depth of permitted mining, together the (Premises). Mining and reclamation operations within the Initial Premises are subject to the terms and conditions of Alameda County Surface Mining Permit 30 (Original SMP 30) issued to ODS’ predecessor, the Santa Clara Sand and Gravel Co. The Lease required

APPROVAL: _____

COMMISSION
SECRETARY

Donna Hood

ODS to seek revisions to the Original SMP 30 (Revised SMP 30) to authorize mining in the Expansion Premises, increasing the depth, and extending the expiration date of the permit as a prerequisite to the SFPUC and BOS consideration of the Revised Lease now before the Commission.

ODS applied to Alameda County for the transfer of Original SMP 30 from the Santa Clara Sand and Gravel Co., and following the transfer, sought and obtained approval of a Revised SMP 30 from Alameda County. Revised SMP 30 provides for, among other things, the expansion of ODS' mining operations to include the Expansion Premises, an increase in the depth of the mining, an extension of the permit term, and the installation and operation of an asphalt plant and a ready mix plant on the site. ODS applied for and obtained the required environmental review for such modifications to SMP 30 under the California Environmental Quality Act (CEQA). Alameda County acted as the lead agency for such CEQA review in accordance with the State Surface Mining and Reclamation Act (SMARA, Public Resources Code §§2710 et seq). Alameda County acts as lead agency for approval of mining operations on SFPUC lands in Alameda County because the county has an ordinance that implements SMARA, whereas San Francisco has no such ordinance because there are no surface mining operations within the City.

As companion measures to the Lease, ODS entered into a conservation agreement with the Center for Biological Diversity and the Alameda Creek Alliance and an agreement with Save Our Sunol (SOS), an organization representing the interests of the residents of Sunol. The agreements call for improvements benefiting Alameda Creek in particular and the Sunol Valley area in general. The SFPUC is not a party to these agreements. SOS supports the conservation agreement and supports the approval of Revised SMP 30.

The Lease, Revised Lease, and Revised SMP 30 are consistent with the SFPUC adopted Alameda Watershed Management Plan, including the Sunol Valley Resources Management Element.

The City must confirm in writing its consent to and approval of the final terms of Revised SMP 30 in order for the permit to be effective. In connection with City's approval of Revised SMP 30, the Lease requires ODS and SFPUC to agree on a Lease amendment establishing the following:

1. certain terms and conditions regarding the restoration of Alameda Creek;
2. a schedule for the performance of certain minimum required improvements on the Premises;
3. confirmation of the extension of the Lease term through the date that is the expiration date of Revised SMP 30, which is thirty (30) years following approval by Alameda County of ODS'

Application for Revised SMP 30; and

4. certain terms and conditions relevant to the operation of an asphalt plant and a ready mix plant included in Revised SMP 30.

As contemplated in the Lease, the Parties now wish to memorialize their agreements regarding Revised SMP 30 in the Revised Lease. Execution of the Revised Lease is subject to Board of Supervisors approval pursuant to Charter Section 9.118.

Key Terms:	Tenant:	Oliver de Silva, Inc.
	Purpose:	Memorialize the terms and conditions regarding Revised SMP 30 and other operations on the Premises.
	Premises:	Initial Premises of approximately 308.5 acres in Alameda County and adjoining Expansion Premises comprised of approximately 58 acres.
	Lease Term:	Thirty (30) years from the Revised SMP 30 Effective Date.

Environmental Review:

On July 16, 2012, under Resolution Number 12-14 the Alameda County Planning Commission certified the Final Environmental Impact Report (FEIR) for Revised SMP 30, adopted CEQA findings and a Mitigation Monitoring and Reporting Program, and approved the mining and reclamation plan under SMARA and the Alameda County surface mining ordinance as proposed in the Application for Revised SMP 30, subject to certain conditions of approval set forth in Revised SMP 30. The Bureau of Environmental Management has confirmed that since Alameda County's approval action, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the FEIR due to any new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the FEIR certified by Alameda County. On May 17, 2013, the environmental review officer (ERO) has concurred with this determination under CEQA Guidelines Section 15091 and 15096(h); and her memo of concurrence is attached. The attached draft resolution, including Attachment A thereto, includes responsible agency findings as defined under CEQA Guidelines Sections 15091 and 15096(h) for adoption by this Commission and the Board of Supervisors.

The FEIR is also available for review online at:
<http://www.acgov.org/cda/planning/landuseprojects/currentprojects.htm>
 The Alameda County custodian of records for the environmental review of the SMP 30 Project is Bruce Jensen, Senior Planner Alameda County, or his designee, 224 Winton Avenue, Room 111, Hayward,

	CA 94544.
Result of Inaction:	<p>Without ODS’s mining and reclamation activities as contemplated in the Revised Lease, the SFPUC would not achieve its water storage objectives and would lose a significant revenue stream from the mining expansion contemplated in Revised SMP 30.</p> <p>Instead, ODS would proceed to mine only the Initial Premises to a depth of 140 feet, as allowed under Original SMP 30, with the goal of extracting all mining products no later than June 1, 2021 and completing reclamation and restoration activities no later than June 1, 2023. ODS would be required to promptly submit an application to Alameda County to revise the Existing Reclamation Plan, and seek approval from Alameda County to construct certain minimum improvements, the cost of which the SFPUC would reimburse ODS through royalty credits. If the SFPUC and the BOS approve the Revised Lease, ODS will bear the cost of constructing the minimum improvements.</p>
Recommendation:	Approve the terms and conditions of the Revised Lease and authorize the General Manager to execute the Revised Lease, subject to BOS’ approval, pursuant to Charter Section 9.118.
Attachments:	<ol style="list-style-type: none"> 1. SFPUC Resolution 2. First Amendment to Quarry Lease and Exhibits A-K 3. City Planning Memorandum of Concurrence with SFPUC Bureau of Environmental Management Determination 4. Attachment A - CEQA Responsible Agency Findings, including Exhibit 1 - Mitigation Monitoring and Reporting Program (MMRP). 5. Alameda County approval documents for Revised SMP-30 6. Draft Environmental Impact Report and Technical Appendices 7. Final Environmental Impact Report