

1 [Lease Amendment - Oliver de Silva, Inc. - Sunol Valley Quarry Lease]

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3 **Resolution authorizing the General Manager of the San Francisco Public Utilities**  
4 **Commission to enter into an amendment to an existing quarry lease with Oliver de**  
5 **Silva, Inc., as Tenant, to add approximately 58 acres to the existing 308.5 leased**  
6 **premises located in the Sunol Valley, unincorporated Alameda County, with a term**  
7 **through the earlier of July 16, 2042, or completion of reclamation, pursuant to San**  
8 **Francisco Charter; adopting findings pursuant to the California Environmental Quality**  
9 **Act; and authorizing the General Manager of the San Francisco Public Utilities**  
10 **Commission to execute documents, make certain modifications, and take certain**  
11 **actions in furtherance of this Resolution for a potential increase in royalties due to**  
12 **increased production.**

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14 WHEREAS, The City and County of San Francisco (the "City") owns watershed  
15 property in the Sunol Valley in unincorporated Alameda County that is under the jurisdiction of  
16 the San Francisco Public Utilities Commission ("SFPUC"), portions of which the SFPUC  
17 leases to mining companies for sand and gravel quarrying operations; and

18 WHEREAS, The Sunol Valley watershed lands include a 308.5 acre parcel (the "Sunol  
19 Valley Site") that has been mined since the 1960s. Oliver de Silva, Inc. ("Tenant") currently  
20 mines the Sunol Valley Site pursuant to a lease dated March 29, 2010 (the "Lease")  
21 authorized under Surface Mining Permit number 30 ("Surface Mining Permit 30") which  
22 Alameda County issued in accordance with the provisions of the State Surface Mining and  
23 Reclamation Act (Public Resources Code section 2710 et seq.) and the Alameda County  
24 Surface Mining Ordinance (Alameda County General Code Chapter 6.80); and

1           WHEREAS, In 1992, the SFPUC commenced a watershed management planning  
2 process for watershed lands under its jurisdiction in Alameda County, which included the  
3 development of a Sunol Valley Resources Management Plan and the SFPUC’s selection of a  
4 preferred alternative for mining operations in the Sunol Valley; and

5           WHEREAS, On September 26, 2000, the SFPUC, after certification of a Final Program  
6 Environmental Impact Report, adopted the final Alameda Watershed Management Plan (the  
7 “Watershed Management Plan”) in Resolution No. 00-0229; and

8           WHEREAS, The preferred alternative for the Sunol Valley Resources Management  
9 Element of the Watershed Management Plan called for expanded mining at the Sunol Valley  
10 Site and other locations in Sunol Valley to further reclaiming the completed quarry  
11 excavations as water storage assets upon completion of mining and reclamation activities  
12 (Watershed Management Plan Preferred Mining Alternative); and

13           WHEREAS, On June 9, 2009, the SFPUC, by its Resolution No. 09-0095, approved  
14 the Lease with Tenant and authorized the General Manager to submit the Lease to the Board  
15 of Supervisors for approval under Charter Section 9.118; and

16           WHEREAS, The Board of Supervisors approved the Lease in Resolution No. 467-09  
17 dated November 24, 2009; and

18           WHEREAS, The approved Lease contemplated that Tenant would apply to Alameda  
19 County to secure the necessary approvals to expand mining onto an adjacent SFPUC-owned  
20 58 acre parcel (the “Expansion Premises”), to increase the permitted mining depth, and to  
21 extend the permitted mining term, consistent with the Watershed Management Plan Preferred  
22 Mining Alternative previously adopted by the SFPUC, to be memorialized in an amendment to  
23 the Lease between Tenant and the SFPUC (the “Lease Amendment”). The Lease  
24 Amendment is now before this Board of Supervisors for approval; and

1           WHEREAS, As provided in the Lease, Tenant submitted an application to revise  
2 Surface Mining Permit 30 (“Revised Surface Mining Permit 30”) to Alameda County, and  
3 applied for and pursued the required environmental review for such modifications under the  
4 California Environmental Quality Act (CEQA), the State Surface Mining and Reclamation Act,  
5 and the Alameda County Surface Mining Ordinance; and

6           WHEREAS, As provided in the Lease, SFPUC staff and Tenant engaged Sunol Valley  
7 stakeholders in discussions concerning the environmental impacts, mitigation measures,  
8 stakeholder interests and conservation programming with respect to Tenant’s expanded  
9 mining activities contemplated in Revised Surface Mining Permit 30; and

10           WHEREAS, As a result of stakeholder discussions and to address stakeholder  
11 concerns, Tenant entered into a conservation agreement with the Alameda Creek Alliance  
12 and the Center for Biological Diversity (Conservation Agreement) and an agreement with the  
13 community organization Save Our Sunol, which together call for improvements benefiting  
14 Alameda Creek in particular and the Sunol Valley area in general; and

15           WHEREAS, Save Our Sunol supports the Conservation Agreement and supports  
16 Revised Surface Mining Permit 30; and

17           WHEREAS, On July 16, 2012, the Alameda County Planning Commission, in its  
18 Resolution No. 12-14, acting as lead agency under CEQA, certified the Final Environmental  
19 Impact Report (FEIR) for Revised Surface Mining Permit 30 (the “Revised Surface Mining  
20 Permit 30 Project”), adopted CEQA findings and a Mitigation Monitoring and Reporting  
21 Program (MMRP), and approved the mining and reclamation plan as proposed in the Tenant’s  
22 application for Revised Surface Mining Permit 30, subject to certain Conditions of Approval  
23 set forth in Revised Surface Mining Permit 30. No appeal was filed from the certification of  
24 the FEIR or the approval of the Revised Surface Mining Permit 30 Project; therefore, the  
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1 Alameda County Board of Supervisors neither heard the matter, nor took any action. The  
2 State Clearinghouse Number for the FEIR is 2011102051; and

3 WHEREAS, The FEIR identifies mitigation measures to reduce both the permanent  
4 and temporary environmental impacts of the Revised Surface Mining Permit 30 Project to  
5 less-than-significant levels, and the Alameda County Planning Commission has approved and  
6 adopted these measures. With mitigation, no significant and unavoidable impacts would result  
7 from the Revised Surface Mining Permit 30 Project; and

8 WHEREAS, on May 17, 2013, the San Francisco Planning Department's  
9 Environmental Review Officer concurred with the SFPUC's Bureau of Environmental  
10 Management determination under CEQA Guidelines Section 15091 and 15096(h) that the  
11 Alameda County Planning Commission Findings in approving the Revised Surface Mining  
12 Permit 30 Project were sufficient for adoption by the SFPUC as a responsible agency under  
13 CEQA, and on May 28, 2013, the SFPUC adopted Resolution No. 13-0088 and approved the  
14 Lease Amendment and adopted the CEQA findings on file with the Clerk of the Board of  
15 Supervisors under File No. 130569 that are incorporated herein by this reference; and

16 WHEREAS, The SFPUC found that since the Alameda County Planning Commission  
17 approved the Revised SMP 30 Project and certified the related FEIR, there have been no  
18 substantial project changes and no substantial changes in project circumstances that would  
19 require major revisions to the FEIR due to the involvement of new significant environmental  
20 effects or an increase in the severity of previously identified significant impacts, and there is  
21 no new information of substantial importance that would change the conclusions set forth in  
22 the FEIR certified by Alameda County; and

23 WHEREAS, Copies of the proposed Lease Amendment and its exhibits, SFPUC  
24 Resolution No. 13-0088 approving the Lease Amendment and the SFPUC's CEQA findings,  
25 the Alameda County Planning Commission approval documents including the FEIR, Revised

1 Surface Mining Permit 30 and the MMRP, the May 17, 2013 Planning Department  
2 environmental review officer determination, and the Conservation Agreement, were made  
3 available for review by this Board of Supervisors and the public, and those files are  
4 considered part of the record on file with the Clerk of the Board of Supervisors under File No.  
5 130569; and

6 WHEREAS, This Board of Supervisors has reviewed and considered the information  
7 and findings contained in SFPUC Resolution No. 13-0088 approving the Lease Amendment  
8 and the SFPUC's CEQA findings, the Alameda County Planning Commission approval  
9 documents including the FEIR, Revised Surface Mining Permit 30 and the MMRP, the May  
10 17, 2013 Planning Department environmental review officer determination, and the  
11 Conservation Agreement; and

12 WHEREAS, The Revised Surface Mining Permit 30 Conditions of Approval provide that  
13 execution of the Lease Amendment by and between Tenant and the City, and approval of the  
14 Lease Amendment by the SFPUC and the San Francisco Board of Supervisors, are  
15 conditions to the effectiveness of the Revised Surface Mining Permit 30; and

16 WHEREAS, Charter Section 9.118(c) requires Board of Supervisor approval of leases  
17 having a term of ten or more years or anticipated revenues of One Million Dollars or more;  
18 now, therefore, be it

19 RESOLVED, That this Board of Supervisors finds that since the adoption of CEQA  
20 findings in SFPUC Resolution No. 13-0088, there have been no substantial project changes  
21 and no substantial changes in project circumstances that would require major revisions to the  
22 FEIR for the Revised Surface Mining Permit 30 Project due to the involvement of new  
23 significant environmental effects or an increase in the severity of previously identified  
24 significant impacts, and there is no new information of substantial importance that would  
25 change the conclusions set forth in the FEIR certified by Alameda County; and, be it

1 FURTHER RESOLVED, That this Board of Supervisors, as a responsible agency  
2 under CEQA, hereby adopts the CEQA Findings approved and incorporated in SFPUC  
3 Resolution No. 13-0088 for the same reasons set forth in the SFPUC's resolution and  
4 incorporated herein by this reference; and, be it

5 FURTHER RESOLVED, That the Board of Supervisors hereby approves the Lease  
6 Amendment in substantially the form of such agreement presented to this Board of  
7 Supervisors; and, be it

8 FURTHER RESOLVED, That this Board of Supervisors authorizes the General  
9 Manager of the SFPUC to enter into any additions, amendments or other modifications to the  
10 Lease Amendment that the General Manager, in consultation with the SFPUC and the City  
11 Attorney, determines are in the best interests of the SFPUC and the City, do not materially  
12 decrease the benefits to the SFPUC or the City, do not materially increase the obligations or  
13 liabilities of the SFPUC or the City, and do not authorize the performance of any activities  
14 without pursuing all required regulatory and environmental review and approvals, such  
15 determination to be conclusively evidenced by the execution and delivery of any such  
16 additions, amendments, or other modifications; and, be it

17 FURTHER RESOLVED, That the Board of Supervisors authorizes and urges the  
18 SFPUC General Manager and any other appropriate officers, agents or employees of the City  
19 to take any and all steps (including, but not limited to, the execution and delivery of any and all  
20 certificates, agreements, notices, consents and other instruments or documents), as they or  
21 any of them deems necessary or appropriate, in consultation with the City Attorney, in order to  
22 consummate the transaction under the Lease Amendment in accordance with this resolution,  
23 or to otherwise effectuate the purpose and intent of this resolution, such determination to be  
24 conclusively evidenced by the execution and delivery by any such person or persons of any  
25 such documents; and, be it

1            FURTHER RESOLVED, That the Board of Supervisors approves, confirms and ratifies  
2 all prior actions taken by the officials, employees and agents of the City with respect to the  
3 Lease Amendment.

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