

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 13-0088

WHEREAS, The City and County of San Francisco (City), by and through the San Francisco Public Utilities Commission (SFPUC), and Oliver de Silva, Inc. (ODS) entered into that certain Quarry Lease dated March 29, 2010 (Lease) for Premises comprised of the Initial Premises of approximately 308.5 acres, located adjacent to Calaveras Road in the Sunol Valley, Alameda County; and

WHEREAS, The Lease contemplated that ODS would apply to Alameda County to secure the necessary approvals for the expansion of mining onto an adjacent SFPUC owned 58 acre parcel (Expansion Premises), an increase in the permitted mining depth, and an extension of the permitted mining term; and

WHEREAS, The Initial Term of the Lease commenced on December 15, 2010; and

WHEREAS, In its preparation and adoption of the Sunol Resources Management Element of the Alameda Watershed Management Plan in September 2000, the SFPUC weighed the competing land uses in the Sunol Valley area and selected, as a preferred alternative, the development of water storage assets at this strategically important juncture of the City's water system, and determined that the mining and reclamation activities contemplated in the Lease are responsible and appropriate vehicles to achieve this water storage objective; and

WHEREAS, Mining of the Initial Premises is presently subject to the terms and conditions of the existing Surface Mining Permit 30 (Original SMP 30), which permitted the original operator, Santa Clara Sand and Gravel Co., to mine the Site subject to the terms and conditions of such permit, through its current expiration date of June 1, 2021, or the date the Site is finally reclaimed, whichever comes first; and

WHEREAS, As provided in the Lease, ODS applied to Alameda County for the transfer of Original SMP 30 from the prior operator, and following the transfer, submitted an application for Revised SMP 30 to Alameda County, and applied for and pursued the required environmental review for such modifications under the California Environmental Quality Act (CEQA), the state Surface Mining and Reclamation Act (SMARA), and the Alameda County Surface Mining Ordinance; and

WHEREAS, On July 16, 2012, the Alameda County Planning Commission, in its Resolution No. 12-14, acting as lead agency under CEQA, certified the Final Environmental Impact Report (FEIR) for Revised SMP 30, adopted CEQA findings and a Mitigation Monitoring and Reporting Program (MMRP), and approved the mining and reclamation plan as proposed in the Application for Revised SMP 30, subject to certain Conditions of Approval set forth in Revised SMP 30. No appeal was filed from the certification of the FEIR or the approval of the Revised SMP 30 Project; therefore, the matter was not heard by, nor was any action taken by the Alameda County Board of Supervisors. The State Clearinghouse Number for the FEIR is 2011102051; and

WHEREAS, The FEIR identifies mitigation measures to reduce both permanent and temporary environmental impacts of the SMP 30 Project to less-than-significant levels and the Alameda County Planning Commission has approved and adopted these measures. With mitigation, no significant and unavoidable impacts would result from the SMP 30 Project; and on May 17, 2013, the environmental review officer concurred with the Bureau of Environmental Management determination under CEQA Guidelines Section 15091 and 15096(h); and the Alameda County Planning Commission Findings; and

WHEREAS, Revised SMP 30 allows for the mining of the Expansion Premises, the operation of asphalt and ready mix plants, approves the proposed extended operating hours, provides for mining to a

minimum depth of 225 feet and up to approximately 400 feet, and approves a revised reclamation plan that is expected ultimately to yield a water storage capacity of approximately 27,000 acre-feet upon completion of mining and reclamation activities; and

WHEREAS, As provided in the Lease, Commission staff and ODS have engaged Sunol Valley stakeholders in discussions concerning the environmental impacts, mitigation measures, stakeholder interests and conservation programming with respect to ODS's expanded mining activities contemplated in Revised SMP 30; and

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

WHEREAS, SOS supports the Conservation Agreement and supports Revised SMP 30; and

WHEREAS, The Lease anticipates that in connection with City's approval of Revised SMP 30, ODS and SFPUC would agree on an amendment to the Lease establishing certain terms and conditions regarding the restoration of Alameda Creek, establishing a schedule for the performance of certain minimum required improvements, confirming the extension of the Lease term through the date that is the expiration date of Revised SMP 30, and incorporating into the Lease certain terms and conditions relevant to the asphalt or ready mix plants included in Revised SMP 30 (the Revised Lease); and

WHEREAS, The Revised SMP 30 Conditions of Approval provide that execution of a revised lease for Revised SMP 30 by and between ODS and City, and approval of the Revised Lease by the SFPUC and the San Francisco Board of Supervisors, are conditions to the effectiveness of the Revised SMP 30; and

WHEREAS, The Revised Lease shall serve as the revised lease required as a prerequisite to the effectiveness of Revised SMP 30, as well as the Required Lease Modification and Processing Amendment contemplated by the Lease in connection with Revised SMP 30; and

WHEREAS, The SFPUC intends to continue temporary use of part of the Expansion Premises as a staging area for SFPUC's contractors in connection with certain proposed water system improvement projects in Sunol Valley and the vicinity; and

WHEREAS, The Revised Lease provides, among other matters, that if SFPUC requires portions of the Expansion Premises for construction staging after December 31, 2013, the General Manager of SFPUC (the "General Manager) and ODS shall negotiate in good faith to establish an allocation of Expansion Premises space between ODS and SFPUC; and

WHEREAS, As result of the good faith negotiations, City and ODS desire to amend certain of the provisions of Section 2.3 of the Lease regarding City's reservation of part of the Expansion Premises for a staging area for SFPUC's contractors; now therefore be it

RESOLVED, That this Commission finds that since the Alameda County Planning Commission approved Revised SMP 30 and certified the related Final Environmental Impact Report (FEIR), there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the FEIR due to the involvement of 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, which is sufficient for purposes of approving the Revised Lease by the SFPUC in its capacity as a responsible agency under CEQA; and be it

FURTHER RESOLVED, That this Commission finds and adopts the responsible agency findings recited in Attachment A to this Resolution as required under CEQA and the CEQA Guidelines

Section 15091 and 15096(h), including the Mitigation Monitoring and Reporting Plan (MMRP); and be it

FURTHER RESOLVED, That this Commission hereby approves the attached Revised Lease and authorizes the General Manager of the SFPUC to forward the completed Revised Lease to the Board of Supervisors for its consideration as required by City Charter Section 9.118; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager to enter into any additions, amendments or other modifications to the Revised Lease that the General Manager, in consultation with the Commercial Land manager and the City Attorney, determines are in the best interests of the SFPUC and the City, do not materially decrease the benefits to the SFPUC or the City, do not materially increase the obligations or liabilities of the SFPUC or the City, and do not authorize the performance of any activities without pursuing all required regulatory and environmental review and approvals, such determination to be conclusively evidenced by the execution and delivery of any such additions, amendments, or other modifications; and be it

FURTHER RESOLVED, That upon approval by the Board of Supervisors this Commission hereby authorizes and directs the General Manager to execute the Revised Lease on behalf of the SFPUC.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of May 28, 2013.



Secretary, Public Utilities Commission