Oliver De Silva, Inc., Complied With Its Sunol Valley Aggregate Quarry Lease for January 2015 Through June 2018 and a Few Improvements Can Strengthen the Lease Administration

San Francisco Public Utilities Commission

AUDITS DIVISION

June 25, 2019

City & County of San Francisco
Office of the Controller
City Services Auditor

About the Audits Division

The City Services Auditor (CSA) was created in the Office of the Controller through an amendment to the Charter of the City and County of San Francisco (City) that was approved by voters in November 2003. Within CSA, the Audits Division ensures the City's financial integrity and promotes efficient, effective, and accountable government by:

- Conducting performance audits of city departments, contractors, and functions to assess efficiency and effectiveness of service delivery and business processes.
- Investigating reports received through its whistleblower hotline of fraud, waste, and abuse of city resources.
- Providing actionable recommendations to city leaders to promote and enhance accountability and improve the overall performance and efficiency of city government.

Team:
Winnie Woo, Senior Auditor

Consultant:
Sjoberg Evashenk Consulting, Inc.

For more information please contact:

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Audit Authority

CSA conducted this audit under the authority of the San Francisco Charter, Section 3.105 and Appendix F, which requires that CSA conduct periodic, comprehensive financial and performance audits of city departments, services, and activities.

Statement of Auditing Standards

This performance audit was conducted in accordance with generally accepted government auditing standards. These standards require planning and performing the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. CSA believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

OFFICE OF THE CONTROLLER
CITY AND COUNTY OF SAN FRANCISCO

Ben Rosenfield
Controller

Todd Rydstrom
Deputy Controller

June 25, 2019

San Francisco Public Utilities Commission
525 Golden Gate Avenue, 13th Floor
San Francisco, CA 94102

Mr. Harlan Kelly, Jr., General Manager
San Francisco Public Utilities Commission
525 Golden Gate Avenue, 13th Floor
San Francisco, CA 94102

Dear Commission President, Commissioners, and Mr. Kelly:

The City and County of San Francisco's San Francisco Public Utilities Commission (SFPUC) coordinates with the Office of the Controller's City Services Auditor Division (CSA) to conduct periodic compliance audits of Public Utilities Commission (commission) tenants. CSA engaged Sjoberg Evashenk Consulting, Inc. (SEC) to audit selected tenants to determine whether they complied with the reporting, payment, and other selected provisions of their leases or other agreements.

CSA presents the attached report for the compliance audit of Oliver De Silva, Inc. (ODS), prepared by SEC. ODS has a lease agreement (lease) with the commission to use the Sunol Valley Aggregate Quarry located in Alameda County, California to operate a gravel quarry.

Reporting Period: January 1, 2015, through June 30, 2018

Royalty Paid: $8,397,581

Results:

ODS reported gross revenues of $55,753,441 and paid $8,397,581 in royalty due to SFPUC. Due to misclassification of product types, ODS overpaid $82,329 in royalty. Despite some inaccuracies in the calculation of royalties, the audit found that ODS generally complied with its obligations under the lease. However, the audit found four areas for improvement to the accuracy of the royalty calculations and SFPUC's lease oversight process.

The report includes six recommendations for SFPUC to improve compliance with the lease. The responses of SFPUC and ODS are attached to this report. CSA will work with the departments to follow up every six months on the status of the open recommendations made in this report.

CSA appreciates the assistance and cooperation of SFPUC and ODS staff involved in this audit. For questions about the report, please contact me at tonia.lediju@sfgov.org or 415-554-5393 or CSA at 415-554-7469.

Respectfully,

Tonia Lediju, PhD
Chief Audit Executive

cc: Board of Supervisors
Budget Analyst
Civil Grand Jury
Citizens Audit Review Board
City Attorney
Mayor
Public Library

City and County of San Francisco

Office of the Controller – City Services Auditor

San Francisco Public Utilities Commission:

Oliver De Silva, Inc. Complied With Its Lease Agreement for 2015-2018 But a Few Improvements Can Strengthen its Lease Monitoring

June 2019

SJOBERG EVASHENK
CONSULTING, INC

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Executive Summary

Purpose of the Audit

Oliver De Silva (ODS), Inc., entered into Lease L-4074 (Lease) with San Francisco Public Utilities Commission (SFPUC) on March 29, 2010 to operate a gravel quarry on city property in Sunol, Alameda County. As required by Lease L-4074 (Lease), the City Services Auditor assessed whether (1) ODS complied with the reporting requirements and payment obligations contained in the Lease as it relates to the reporting of gross revenues and payment of rent and royalties and (2) whether SFPUC complied with the relevant requirements for administering and monitoring the Lease for the audit period covering January 1, 2015 through June 30, 2018.

Highlights

Pursuant to the Lease, ODS is required to remit to SFPUC monthly base rent payments and a royalty payment of 15 percent of the gross revenues that exceed the revenue threshold covered by the base rent. SFPUC is responsible for monitoring the performance of ODS under the Lease, including ensuring compliance and receiving and reviewing remittance of royalty payments.

ODS complied with the reporting requirements and payment obligations of the Lease, and SFPUC complied with relevant requirements for administering and monitoring the Lease. However, ODS did not always calculate royalties accurately, resulting in overpayments of $82,329 during the audit period. Four factors contributed to the overpayments:

- ODS Did Not Always Calculate Royalties Accurately
- The Lease Did Not Always Align With Existing Practices
- Certain Royalty Calculations Are Cumbersome
- Annual Remittance Review Process Can be Improved

ODS improved the reporting of royalties calculation since 2017, as 86 percent of the inaccuracies occurred in 2015 and 2016.

Recommendations

This report includes six recommendations designed to improve compliance with the provisions of the Lease. Recommendations include that the SFPUC should:

- Credit or negotiate with ODS the resolution of the $82,329 in royalties overpayment.
- Review the Lease with ODS by September 30, 2019 to ensure terms reflect current business practices and product offerings.
- Require ODS to notify SFPUC of new products sold on a regular basis, and work with ODS to develop reporting and calculating royalty procedures for new products.
- Review products sold annually by ODS to ensure product list reported reflects actual product sales.
- Clarify the calculation for low sales data to ensure accurate reporting of revenues and submittal of royalty payments.
- Revise its annual review process to include a year-end true-up of low sales calculations, sale reversals, adjustments, or other anomalies.

INTRODUCTION

Audit Authority

The Office of the Controller (Controller) has authority under the San Francisco Administrative Code, Chapter 10, Article 1, Section 10.6-2, to audit, at regular intervals, all leases of city-owned real property where rent of $500,000 or more a year is to be paid to the City and County of San Francisco (City). In addition, the City Charter provides the Controller, City Services Auditor (CSA), with broad authority to conduct audits. This audit was conducted under these authorities, and pursuant to an audit plan agreed to by the Controller and the San Francisco Public Utilities Commission (SFPUC). Sjoberg Evashenk Consulting, Inc. conducted this audit on behalf of CSA under these authorities.

Background

The City, through SFPUC as landlord, and Oliver De Silva (ODS), Inc., as tenant, entered into Lease L-4074 (Lease) on March 29, 2010, and was amended on August 16, 2013. The Lease allows ODS to use the Sunol Valley Aggregate Quarry located in Alameda County, California to operate a gravel quarry. The initial term of the Lease was set to expire on June 1, 2021 and was amended to extend the term to July 16, 2042, or upon completion of reclamation, whichever comes first.

The Lease requires ODS, during each Lease Year, to remit to SFPUC monthly base rent payments as well as a royalty payment of 15 percent of the gross revenues that exceed the revenue threshold covered by the base rent. The Lease also requires ODS to deliver monthly statements to SFPUC listing ODS gross revenues and, for materials moved from the quarry, the tonnage of each product sold for the previous calendar month.

ODS is a vertically integrated construction firm where the firm sells a portion of the material extracted from the Sunol Valley Aggregate Quarry to third parties and utilizes a portion of the materials by ODS at its construction sites. During the test period, there were roughly $55 million in ticket sales, of which approximately 59 percent represented third party sales and 41 percent of the ticket sales represented intracompany sales, or materials retained by ODS for its construction projects.

Objective and Scope

The scope of this performance audit included the reporting of products sold, associated gross revenues, and the payment of rent and royalties between January 1, 2015 through June 30, 2018 (audit period).

The objectives of this audit were to determine whether:

1. ODS' system of internal control over operational activities and revenues was adequate and that its financial data used to calculate monthly rent and royalty payments were reliable;
2. ODS product pricing and sales were reported accurately under the terms of the Lease;
3. ODS complied with the terms of the Lease to operate Sunol Valley Aggregate Quarry as it relates to payment of rent and royalty payments;
4. ODS utilized the premises of the quarry solely for permitted uses under the terms of the Lease; and
5. SFPUC effectively managed the Lease as it relates to accepting and reviewing rent and royalty payments.

Methodology

To conduct the audit, the auditors:

- Reviewed the Lease and applicable regulatory requirements, and conducted interviews of ODS and SFPUC personnel.
- Assessed ODS' internal controls over sales activities and compared receipts reported to the SFPUC to amounts recorded in ODS' records (enterprise management system, monthly billing spreadsheets, annual ticket sales summaries, and annual statements of gross revenue).
- Conducted a current weigh and price review at the quarry weigh station to verify each amount was certified with the necessary information stated in Section 12715 of the California Department of Food and Agriculture Division of Measurement Standards, and compared the pricing and tonnage reports match the figures used in the Royalty Analysis.

- Recalculated all royalty payments owed to SFPUC using ticket sales during the test period. The auditors then compared the recalculated royalty payment due to the actual payment ODS remitted to determine any over/under payments.

- Completed an onsite visit of quarry premises and conducted interviews with staff, reviewed information system codes (product codes) as it relates to their business activities to determine if any revenue was produced on site, and determined whether there was any evidence that suggested non-quarry related activities were conducted.

- Reviewed the tools and internal controls used by SFPUC to track and review revenue reports and royalty payments submitted by ODS.

Statement of Auditing Standards

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

AUDIT RESULTS

Summary

ODS complied with the Lease reporting requirements and payment obligations. SFPUC also complied with the relevant requirements for administering and monitoring the Lease. ODS's royalty calculations were materially accurate for the audit period, however, the audit found that ODS overpaid SFPUC a total of $82,329. Despite some inaccuracies in the calculation of royalties, the audit found that ODS generally complied with its obligations under the Lease. ODS' system of internal control over operational activities and revenues were adequate, its financial data used to calculate monthly rent and royalty payments were reliable. ODS' product pricing and sales have been reported accurately under the terms of the Lease, and ODS has utilized the premises of the quarry solely for permitted uses under the terms of the Lease. In addition, SFPUC has effectively managed the Lease as it relates to accepting rent and royalty payments. However, the audit revealed four findings that present opportunities to improve the accuracy of the royalty calculations and SFPUC's oversight of royalties received.

Finding 1: ODS Submitted Its Gross Revenues Reports and Paid Rent and Royalties in Accordance to Lease but Did Not Always Calculate Royalties Accurately

For the period January 1, 2015 and June 30, 2018, ODS reported $55,753,441 in gross revenue and paid $8,397,581 in royalties. ODS paid royalties in a timely manner and based on the reported revenue in accordance to the Lease however it calculated royalties incorrectly from misclassification of product type. ODS overreported $1,215,393 in gross revenue and overpaid SFPUC a total of $82,329—less than one percent of the $8.3 million in royalties remitted to SFPUC. As shown in Exhibit A, most of the overpayment occurred between 2015 and 2016 totaling $70,772, or 86 percent of the total overpayment. ODS has since improved its payment calculation and the reporting process between 2017 and 2018, with a reduction in overpayments to roughly $12,000 over the two years primarily due to reducing the misclassification of product categories.

EXHIBIT A **Gross Revenue and Royalty Calculation: January 1, 2015 to June 30, 2018[1]**

Year	Gross Revenue (Reported)	Gross Revenue (Auditor Calculation)	Royalty Due (Auditor Calculation)	Actual Payment (Provided by SFPUC)	Over/Under Payment
2015	$13,291,465	$12,877,972	$1,944,934	$1,993,720	$48,786
2016	$15,230,510	$15,094,443	$2,297,147	$2,319,133	$21,986
2017	$18,864,953	$18,482,058	$2,820,171	$2,829,743	$9,572
2018[2]	$8,366,514	$8,083,575	$1,253,000	$1,254,985	$1,985
Total	**$55,753,441**	**$54,538,048**	**$8,315,252**	**$8,397,581**	**$82,329**

Notes:
[1] Figures have been rounded to the nearest dollar.
[2] Partial Year Calculation for 2018 (from January 1, 2018- June 30, 2018)

Source: ODS Monthly Payment Remittance

Exhibit B shows the sales by product category, there were inaccuracies, often immaterial, associated with each product category during the audit period.

EXHIBIT B **Royalty Calculation by Product: January 1, 2015 to June 30, 2018**[1]

Product Categories	Royalty Percentage	Royalty Due (Auditor Calculation)	Total Over/ Under Payment	Percentage Difference
Sand	35.1%	$ 2,920,091	$ 31,852	1%
Asphalt Aggregates	34.6%	$ 2,879,492	$ 39,007	1%
Concrete Aggregates	18.6%	$ 1,544,513	$ 296,542	19%
Drain Rock	7.0%	$ 579,244	$ (314,463)	-54%
Base Rock	3.9%	$ 326,375	$ 2,019	1%
Fill, Silt, Dirt	0.5%	$ 42,934	$ (2,519)	-6%
Other Aggregates	0.3%	$ 22,602	$ 29,891	132%
Total	100.0%	**$ 8,315,252**	**$82,329**	**1%**

Note:
[1]Figures have been rounded to the nearest dollar.

Source: ODS Monthly Payment Remittance

Royalty payments for the two largest product categories accounting for nearly 70 percent of royalties, Asphalt Aggregates and Sand, were generally calculated correctly with a one percent miscalculation rate of total royalties.

However, the audit found that most of the miscalculations resulted from the misclassification of products sold. For instance, ODS sold two types of “Sand” products, Sand Asphalt and Sand Concrete between January 2015 and January 2017 but the Lease lists only one product category in the “Sand” Category. ODS used the higher sand price and applied it to each sand product. In doing so, ODS remitted a payment larger than what was required. This resulted in an incorrect cost basis upon which the “Sand” category was calculated.

Similarly, most of the inaccuracies associated with the Drain Rock and Concrete Aggregates product categories resulted from ODS misclassifying and misreporting Drain Rock as Concrete Aggregates between January 2015 and January 2017.

Recommendation

1. The San Francisco Public Utilities Commission should credit or negotiate with ODS the resolution of the $82,329 in royalty overpayment.

Finding 2: The Lease Did Not Always Align With Existing Practices

The Lease defines specific sales product categories, including those listed in Exhibit B, and authorizes ODS to extract such materials from the quarry, set market prices, and sell the materials either to itself or to the public. The Lease also requires ODS to price these products on a per-ton basis, and to pay royalties on all revenues received through the sale of these products.

This audit found two instances in which ODS' business practice was not adequately addressed in the Lease. Both relate to products sold and the product categories described in the Lease. The first, described above, relates to Sand products. The Lease lists only one "Sand" product category even though ODS actually sold different "Sand" products under two categories.

Likewise, ODS sells additional products not defined in the Lease, such as Bioswale, which is an amalgam of materials extracted from the quarry and other materials not subject to the Lease currently categorized as an 'Other Product' offering. The product is priced by ODS on a per-ton basis. While the Lease requires ODS to pay royalties on all materials extracted from the quarry, it does not define the calculation for the portion of the revenue received through the sale of mixed materials, such as Bioswale, that can be attributable to the materials extracted from the quarry.

ODS estimates that approximately 40 percent of the total volume sold is comprised of materials extracted from the quarry. However, they are unable to provide an exact ratio and SFPUC is unable to validate the calculation. Both ODS and SFPUC acknowledge that the Lease does not address the sale of products such as Bioswale, or the calculation of royalties for such products, and have determined that the current approach is reasonable. There is a certain amount of risk associated with including additional product offerings not included in the Lease including potential impacts on accuracy of royalty remittance and tonnage reporting.

Recommendations

The San Francisco Public Utilities Commission should:

2. Review the Lease with ODS by September 30, 2019 to ensure terms reflect current business practices and product offerings. Amend the lease as deemed necessary.
3. Require ODS to notify SFPUC of new products sold on a regular basis, and work with ODS to develop reporting and calculating royalty procedures for new categories that may result.

4. Review and confirm products sold annually by ODS to ensure product list reported in monthly revenue reports is accurate and reflects actual product sales.

Finding 3: Certain Royalty Calculations Are Cumbersome and Can be Streamlined

The Lease requires ODS to pay royalties based on revenues from ticket sales. Because 41 percent of ODS' ticket sales represented intracompany sales, for which SFPUC cannot determine the market rate for the materials sold, the Lease requires ODS to apply the market rate reflected by its third-party sales in a given month to determine the revenue attributable to its intracompany sales.

According to the Lease, if at least five percent of product sales, by category, in a given month were third-party transactions, ODS could use this data to determine the market value of its intracompany sales. Given that 59 percent of its sales are to third-party entities, there is a reasonable basis upon which to establish a reasonable market value of intracompany sales.

However, for a small number of products sold—less than one percent of total ticket sales—there are very few third-party sales. To ensure there is a reasonable basis to determine true market value of intracompany sales, the Lease requires ODS to calculate the market rate utilizing prior month sales. Exhibit C shows the calculation stipulated in the Lease for the specific products.

Exhibit C **Royalty Calculation Using Market Rate for Low Sales Products**

Monthly Sales to Total Sales	Duration of Sales	Required Sales Data Needed for Review	Other Requirements
> 5 percent	In 3 of prior 6 months	Prior 6 months	None
< 5 percent	In 3 of prior 6 months	Prior 24 months	ODS must identify each month in which third-party sales exceeded five percent of total sales, and determine the average sales price, weighted according to tonnage sold, and escalated by 0.75 percent every three months, until the next month where sales to third-parties exceed 5 percent of total sales.

Source: Lease Agreement

This audit reviewed samples of "low third party sales" activities and ODS' calculation of royalties utilizing the above method, and found that this methodology contributed to numerous instances of inaccurate royalty calculations while accounting for less than one percent of total royalties due. The cumbersome Lease requirement to calculate market value of a very small subset of product sales, and differing interpretations of this requirement by ODS and SFPUC resulted in the calculation errors. Clarifying and simplifying the Lease language for such sales could improve the accuracy of ODS' remittances and improve the efficiency of SFPUC's oversight of such calculations.

Recommendation

5. The San Francisco Public Utilities Commission should clarify and simplify the calculation for low sales data to improve the accuracy of reporting of Lease revenues and submittal of royalty payments. Possible approaches could include looking at industry data, materiality threshold, or using the previous year's sales price.

Finding 4: SFPUC's Annual Remittance Review Process Can be Improved

SFPUC monitors ODS's compliance of the Lease and reviews the royalty remittances through the following three processes:

- Reviews ODS's sales data and royalty calculations on a monthly basis for mathematical accuracy and reasonableness, and verifies the bank wire transfer from ODS to SFPUC to ensure the wired amount matches the royalty payment stated on the monthly reports.
- Monitors ODS' compliance with Lease provisions using a compliance and performance matrix, which tracks all Lease requirements—including Lease terms, rent adjustments, taxes due, etc.
- Reviews ODS's annual report of gross revenues and tonnage of each product sold to ensure the annual report reconciles to the monthly report sales reports.

Overall, we found this level of oversight sufficient in providing reasonable assurance to ODS' compliance with Lease obligations. However, the audit identified few areas where SFPUC can improve its oversight process. SFPUC's annual review was nearly identical to the monthly payment remittance process and adds minimum value. Modifying the current year-end reporting requirement to include a broader review can improve efficiencies and enhance SFPUC's oversight in the following three ways:

Current Annual Review Practice Weaknesses	Proposed Annual Review Process/Procedure	Improvement
Current review process does not enable SFPUC or ODS to identify potential inaccuracies in royalty calculations that occur as a result of transactions that occur in one month but are reversed or adjusted in a following month. Such occurrences can cause minor inaccuracies in the calculation of royalties over the course of the year.	Revise Lease to require ODS to recalculate royalties after taking into account all known reversals and adjustments at year-end to derive a more accurate royalty amount. For instance, this could include requiring ODS to submit an annual revenue report with all known adjustments accounted for and this report should be certified by its chief financial officer.	A year-end true up of all sales data and royalty payments could more accurately reflect payments that may have been missed during the monthly reporting cycle, including sales reversals or adjustments from previous months. A certified annual report provides SFPUC assurance that gross revenue is accurately reported and reconciled.
The calculation methodology of third-party low sales data to determine market value is a cumbersome and inefficient process.	Revise Lease to allow for alternative approaches, such as basing the market rate on prior year sales data with the intent to true-up at year-end based on the entire year's sales activity.	Streamline the calculation of low-sales transactions throughout the year by reducing the number of times low sales data transactions is calculated.
Lease requires ODS to use third-party sales data to calculate the market value of intracompany sales, which makes up 41 percent of total sales. Inherent risk may occur where ODS could set third-party product prices below market to reduce overall royalty payments. There is no indication that this has occurred, and SFPUC has conducted price reviews in the past and found no problems. The risk, however, remains.	Compare third-party sales rates against neighboring quarries to ensure rates are set at a reasonable rate.	Mitigates potential risks of setting prices below market values.

Recommendation:

6. The San Francisco Public Utilities Commission should revise its annual review process to include a year-end true-up of low sales calculations, sale reversals, adjustments, or other anomalies impacting monthly sales reports to improve the accuracy of revenue reporting. In doing so, consider implementing the following:

    a. Requiring ODS to submit a certified annual revenue report by the chief financial officer.

    b. Determining alternative approaches for the calculation of third-party low sales data for market value, such as basing the market rate on prior year sales data with the intent to true-up at year-end based on the entire year's sales activity.

c. Comparing third-party sales rates against industry market data to ensure rates are set at a reasonable rate for low sales products.

ATTACHMENT A: SFPUC RESPONSE

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May 17, 2019

Tonia Lediju, Audit Director
Office of the Controller, City Services Auditor Division
City Hall, Room 476
One Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Subject: Management's Response to San Francisco Public Utilities Commission: Oliver De Silva, Inc. Complied with Its Lease Agreement for 2015-2018 But a Few Improvements Can Strengthen its Lease Monitoring

Dear Ms. Lediju,

Thank you for providing us the opportunity to review the results of the report, on *San Francisco Public Utilities Commission: Oliver De Silva, Inc. Complied with Its Lease Agreement for 2015-2018 But a Few Improvements Can Strengthen its Lease Monitoring*, prepared by the Controller's Office, City Services Auditor and Sjoberg Evashenk Consulting.

We appreciate the time your staff dedicated to this audit and are pleased the report noted the SFPUC complied with the relevant requirements for administering and monitoring the lease. We have fully concurred with all six of the recommendations. These recommendations are consistent with the findings of the SFPUC's own review of Oliver De Silva's royalties conducted prior to this audit.

The SFPUC Real Estate Services is committed to further enhancing its lease administration and oversight processes by incorporating the report recommendations going forward.

If you have any questions or need additional information, please contact me at (415) 554-1600.

Sincerely,

Harlan L. Kelly, Jr.
General Manager

cc: Michael Carlin, Deputy General Manager
Eric Sandler, AGM Business Services/CFO
Charles Perl, Deputy Chief Financial Officer
Rosanna Russell, Real Estate Director

Recommendations and Responses

Audit: Oliver De Silva, Inc.

For each recommendation, the responsible agency should indicate in the column labeled ***Agency Response*** whether it concurs, does not concur, or partially concurs and provide a brief explanation. If it concurs with the recommendation, it should indicate the expected implementation date and implementation plan. If the responsible agency does not concur or partially concurs, it should provide an explanation and an alternate plan of action to address the identified issue.

Recommendation	Agency Response	CSA Use Only Status Determination*
1. Credit or negotiate with ODS the resolution of the $82,329 in royalty overpayment.	☒ Concur ☐ Do Not Concur ☐ Partially Concur The SFPUC concurs and will allow ODS to credit their next monthly payment of royalties.	☒ Open ☐ Closed ☐ Contested
2. Review the Lease with ODS by September 30, 2019 to ensure terms reflect current business practices and product offerings.	☒ Concur ☐ Do Not Concur ☐ Partially Concur The SFPUC concurs that the current lease language does not address the sale of new products and the related royalty calculation. New lease language will be negotiated to provide ODS with the flexibility to offer new products and calculate royalties associated with them.	☒ Open ☐ Closed ☐ Contested
3. Require ODS to notify SFPUC of new products sold on a regular basis, and work with ODS to develop reporting and calculating royalty procedures for new categories that may result.	☒ Concur ☐ Do Not Concur ☐ Partially Concur The SFPUC concurs and will require ODS to notify SFPUC of new products sold and will work with ODS to develop reporting and royalty calculation procedures for new products consistent with the new lease language addressed in Recommendation #2 above.	☒ Open ☐ Closed ☐ Contested
4. Review products sold annually by ODS to ensure product list reported reflects actual product sales.	☒ Concur ☐ Do Not Concur ☐ Partially Concur The SFPUC concurs and will review products sold annually by ODS to ensure the product list reported reflects the actual product sales.	☒ Open ☐ Closed ☐ Contested

** Status Determination based on audit team's review of the agency's response and proposed corrective action.*

Recommendation	Agency Response	CSA Use Only Status Determination*
5. Clarify the calculation for low sales data to ensure accurate reporting of revenues and submittal of royalty payments.	☒ Concur ☐ Do Not Concur ☐ Partially Concur The SFPUC concurs. SFPUC and ODS will clarify the calculation for low sales data using an agreed upon proxy for the price of products with low sales data to ensure accurate reporting of revenues and submittal of royalty payments.	☒ Open ☐ Closed ☐ Contested
6. Revise its annual review process to include a year-end true-up of low sales calculations, sale reversals, adjustments, or other anomalies.	☒ Concur ☐ Do Not Concur ☐ Partially Concur The SFPUC concurs. SFPUC and ODS will develop a more meaningful year-end true-up of annual sales data.	☒ Open ☐ Closed ☐ Contested

** Status Determination based on audit team's review of the agency's response and proposed corrective action.*

ATTACHMENT B: OLIVER DE SILVA RESPONSE

Oliver de Silva, Inc.
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925-828-7999

June 11, 2019

Tonia Lediju
Chief Audit Executive
City Hall, Room 476
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San Francisco, CA 94102

RE: SFPUC: Oliver de Silva Lease Agreement Audit

Dear Ms. Lediju,

Reference is made to the revised PUC Quarry Audit Report emailed by Sjoberg Evashenk Consulting to Oliver DeSilva (ODS) on June 10, 2019. ODS concurs with this version of the six recommendations.

Please feel free to call with any questions.

Very truly yours,

James B Sum

Jim Summers
Vice President

CC: George Skiles, Sjoberg Evashenk Consulting
Chris Hallum, Oliver de Silva
Kevin Billeci, Oliver de Silva
Anthony Bardo, SFPUC