

**CITY OF OAKLAND**  
*Agenda Report*

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

TO: Office of the City Administrator  
ATTN: Deborah Edgerly  
FROM: Public Works Agency and Community and Economic Development Agency  
DATE: November 16, 2004

2004 NOV 10 PM 5: 24

RE: SUPPLEMENTAL REPORT ON THE RESOLUTION AUTHORIZING THE CITY ENGINEER TO ENTER INTO A SUBDIVISION IMPROVEMENT AGREEMENT WITH DESILVA GROUP, INC. FOR CONSTRUCTION OF CERTAIN IMPROVEMENTS IN CONNECTION WITH "TRACTS 7351 AND 7493", LEONA QUARRY PROJECT; FIXING THE AMOUNT OF THE SECURITY TO GUARANTEE THE FAITHFUL PERFORMANCE OF SUCH AGREEMENT AND ADOPTING PLANS AND SPECIFICATIONS

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**SUMMARY**

On October 26, 2004, the Public Works Committee heard a resolution to authorize the Director of Public Works to enter into a Subdivision agreement with DeSilva Group, Inc. (Subdivider) for construction of certain improvements in connections with Tract Maps 7351 and 7493, fixing the amount of the security to guarantee the faithful performance of such agreement and adopting the plans and specifications relating to the Final Map for Tracts 7351 and 7493.

At that meeting, the Committee took action to forward the Resolution to the full Council on November 16, 2004, with the stipulation that certain elements of the existing approved Storm Water Pollution Prevention Plan (SWPPP) and any recommendations required by the City or the State Regional Water Quality Control Board (Regional Board) be fully implemented on or before November 16, 2004. The Committee indicated that if such conditions were not satisfied by November 16, 2004, the resolution should be returned to the Committee at its December 14, 2004 for further action. The Committee further requested staff to provide a supplemental report to City Council's Public Works Committee at its December 14, 2004 meeting to respond to several issues, including the following:

- Overall status of the project;
- Explanation of how the engineer's estimate was utilized in determining the amount of security for the onsite public improvements;
- Status of Geologic Hazard Abatement District (GHAD) and implementation schedule;
- Stipulate that storm drainage and sanitary sewer construction will not be halted;
- Response to project issues raised in a letter from the National Heritage Institute dated October 25, 2004.

The Committee also directed staff to revise the resolution to clarify that approval of the Final Map will require a separate Council Action. Staff has implemented the Committee requests. On November 2, 2004, the Regional Board issued a letter finding Desilva Group, Inc. to be out of compliance with their NPDES Permit and directing the subdivider to meet compliance by November 15, 2004. The status of compliance with the SWPPP and requirements of the Regional Board as of November 16, 2004 were not known at the time this Supplemental Report was written, and staff will report on that compliance at the November 16, 2004 Council Meeting.

Staff asks that the City Council accept the supplemental report and status update and take appropriate action on the resolution.

Item # \_\_\_\_\_  
City Council  
11/16/04

## KEY ISSUES

Completion of the provisions of the approved SWPPP is required under the Conditions of Approval, the Contractor's National Pollution Discharge Elimination System (NPDES) Permit and City of Oakland NPDES Permit to minimize erosion and sediments in Chimes Creek and the City's storm drainage system.

### Action Taken by Staff:

Prior to the October 26, 2004 Committee meeting, the City issued a series of field orders and letters directing the contractor to comply with various elements of the approved SWPPP and conditions of approval. Staff also facilitated a series of field meetings with the Regional Board, DeSilva Gates, Inc., (Contractor) and consultants prior to October at which the proposed SWPPP was reviewed and discussed. After the October rains, staff requested from the Contractor, a revised SWPPP to include additional onsite measures to be implemented. Staff and the City's consultants have reviewed the plans to ensure compliance with the project conditions of approval.

Staff has also sent a letter to the Contractor requiring him to complete the existing approved SWPPP related work before November 16, 2004. A copy of the letter to DeSilva Gates Construction is attached (Attachment "A"). Staff has continued to work with the Subdivider, Contractor, Regional Board and the consultants to mitigate issues arising from the revised SWPPP related work.

In addition, staff has modified the resolution to indicate that the construction of the drainage and sanitary sewer improvements will not be postponed, and revised the resolution language to reflect authorizing the City Engineer or his designee to enter into agreement with DeSilva Group, Inc instead of the Director of Public Works. This change is required to maintain consistency with the Oakland Municipal Code Subdivision requirements.

### Status of the SWPPP Work:

As of November 9, 2004, the Contractor had implemented the following measures toward compliance with the SWPPP and other applicable conditions of approval on or before the November 16, 2004 deadline:

- Installed the straw mix and tackifier on most of the disturbed building pad areas.
- Completed installation of gravel blanket on most of the exposed roadways as called for in the SWPPP.
- Continued work on the storm drainage and sanitary sewer systems and any major conditions identified by the Regional Board.

Staff recommends approval of the resolution contingent upon the Subdivider completing the provisions of the existing approved SWPPP and any recommendations from Regional Board.

### Monitoring Effort:

City staff, City consultants, and the Subdivider's consultants are monitoring compliance with the SWPPP requirements. Staff anticipates updated status reports by November 15, 2004 from both the Subdivider's and City's consultants on the implementation of the adopted conditions of approval and the approved SWPPP.

Staff will determine whether the Contractor has met the requirements and report its findings and recommendations orally at the November 16 Council meeting.

## SUSTAINABLE OPPORTUNITIES

Economic: The project will offer employment opportunities to Oakland residents.

Environmental: The Subdivider will be required to adhere to best management practices during project construction. Measures to control erosion, contamination of storm water runoff, dust, noise, and heavy equipment emissions will be required. In addition, alternate pipe materials in lieu of PVC pipe will be required for construction of storm drain mains and sanitary sewer mains. Completion of the SWPPP elements will improve the water quality.

Social Equity: The project will improve the aesthetics of the area, protect and stabilize the slopes.

**RECOMMENDATION AND RATIONALE**

The Subdivider has agreed to complete all of the provisions in the existing approved SWPPP and any other recommendations provided by the Regional Board before November 16, 2004. Staff recommends that the City Council accept this report and authorize staff to negotiate and enter into a subdivision improvement agreement in compliance with the Subdivision Map Act and City Ordinances. After staff presents the oral status report on compliance with the approved SWPPP and adopted conditions of approval and the Council finds that the contractor has complied with the stipulations of the Public Works Committee in forwarding this item to the full Council, staff recommends that the Council accept this report and adopt the attached resolution. However, if it is found that the contractor has not complied with the requirements, staff will recommend that the resolution be returned to the Public Works Committee for further consideration.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council accept this report.

Respectfully submitted,

Respectfully submitted,

**RAUL GODINEZ II, P.E.**  
Director, Public Works Agency

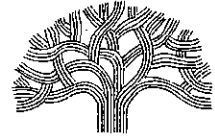
**CLAUDIA CAPPIO**  
Director of Development  
Community & Economic Development Agency

Reviewed by:  
Fuad Sweiss, P.E.  
Engineering Design & Right-of-Way Manager

Prepared by:  
Marcel Uzegbu, P.E.  
CIP Coordinator, PWA

APPROVED AND FORWARDED TO  
THE CITY COUNCIL:

**OFFICE OF THE CITY ADMINISTRATOR**



PUBLIC WORKS AGENCY • 250 FRANK H. OGAWA PLAZA • SUITE 4344 • OAKLAND, CALIFORNIA 94612-2033  
Project Delivery Division (510) 238-3051  
FAX (510) 238-6633  
TDD (510) 238-3254

DeSilva Gates Construction  
P.O. Box 2909  
Dublin, Ca 94568

November 9, 2004

Attention: Kent Peyton, Project Manager

RE: Leona Quarry Development Project

Mr. Kent Peyton:

On October 19, 2004, at the regular weekly progress meeting for the Leona Quarry Development project, you were directed to install the temporary gravel blanket over the roadways of the project, and complete the erosion and sediment control measures for the upper bowl area as required under your approved SWPPP.

At the October 26, 2004 Public Works Committee meeting, the committee also required completion of the SWPPP provisions and any items recommended by the State Regional Water Quality Control Board by November 15, 2004.

Those measures include, but are not limited to:

- Installation of the straw mix and tackifier on the upper bowl area.
- Installation of the gravel blanket on all roadways as called for in the SWPPP.
- Continue work on the storm drainage and sanitary sewer system and any major conditions identified by the State Water Quality Control Board.

You are also directed to submit to the City a revised SWPPP for review and approval before November 15, 2004.

You are hereby directed to implement no later than November 15, 2004 all the erosion and sediment control measures contained in the SWPPP, or including any approved revisions to the SWPPP, and the items contained in State Water Resources Control Board non-compliance letter dated November 2, 2004. Failure to comply with this request will result in a fine of \$5,000 per day for each day that you are out of compliance with the SWPPP beyond November 15, 2004.

Please contact me at (510) 238-6606 if you have any questions about this letter.

Sincerely,

RONALD WARD, P.E.  
Project Delivery Supervisor  
Public Works Agency

Cc: Michael Neary, PWA  
David Lau, PWA

Marcel Uzegbu, PWA  
Jun Osalbo, PWA

Fuad Sweiss, PWA

# OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

FILED Faiz  
OFFICE OF THE CITY CLERK  
OAKLAND

C. N. 2004 NOV 10 PM 5:24

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

(REVISED) RESOLUTION AUTHORIZING THE CITY ENGINEER TO ENTER INTO A SUBDIVISION IMPROVEMENT AGREEMENT WITH DESILVA GROUP, INC. FOR CONSTRUCTION OF CERTAIN IMPROVEMENTS IN CONNECTION WITH "TRACTS 7351 AND 7493", LEONA QUARRY PROJECT; FIXING THE AMOUNT OF THE SECURITY TO GUARANTEE THE FAITHFUL PERFORMANCE OF SUCH AGREEMENT AND ADOPTING PLANS AND SPECIFICATIONS

**WHEREAS**, on the 17<sup>th</sup> day of February 2004, the City Council of the City of Oakland approved vesting tentative map of a proposed real estate subdivision entitled "Tract 7351", (Leona Quarry subdivision project), Oakland, Alameda County, California;" and

**WHEREAS**, on February 3, 2004, the City Council certified a Subsequent Environmental Impact Report for the project; and

**WHEREAS**, the Subdivider desires to postpone completion of certain required improvements for said proposed subdivision to a time subsequent to the recordation of the final map thereof; and

**WHEREAS**, the Subdivider is required to complete all public improvements (including water, sanitary sewer, storm drainage, gas, electric, street, sidewalk, and curb and gutter, wheelchair ramps, street lights) for each phase, and

**WHEREAS**, the construction of the drainage and sewerage related public improvements are to continue and not be postponed; and

**WHEREAS**, the actions authorized by this Resolution will not involve any new or more severe significant impacts, there are no substantial changes with respect to the circumstances under which the project was approved that involve new or substantially more severe significant environmental impacts, and no significant new information has come to light that would indicate new or more significant impacts, or substantially different or feasible mitigation measures the project sponsor refuses to adopt; now, therefore, be it

**RESOLVED:** That the Council of the City of Oakland consents to the postponement of the construction of such improvements, and the City Engineer or his designee is hereby authorized and empowered to enter into an agreement with the

Subdivider for the construction of those certain improvements set forth in the approved plans and specifications therefor, filed in the Office of the City Clerk on November 15, 2004, said work to be completed on or before the 20th day of May 2006; provided, however, the date for completion of such improvements may be extended by the City Council upon recommendation of the City Engineer or his designee; and be it

**FURTHER RESOLVED:** That said Subdivider shall, at the time of the execution of said agreement, file with the City Clerk a surety bond, in the sum of eight million, one hundred sixty-seven thousand five hundred eighty-four dollars (\$8,167,584) being the estimated cost of said improvements, guaranteeing the faithful performance of such agreement and shall at said time file with the City Clerk an additional surety bond in the sum of four million eighty three-thousand, seven hundred ninety-two dollars (\$4,083,792), securing payment to the contractor, his subcontractors and all persons renting equipment or furnishing labor and materials to them or post such other security as is provided in Section 66499, et. seq. of the Government Code; and be it

**FURTHER RESOLVED:** That the engineer's estimate, plans and specifications prepared by Carlson Barbee, and Gibson, Inc. for the Subdivider, and approved by the City Engineer or his designee and filed in the Office of the City Clerk on the 15<sup>th</sup> day of November 2004, for the above-mentioned improvements are hereby approved and adopted as the cost estimate, plans and specifications for such proposed improvements.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2004

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN AND  
PRESIDENT DE LA FUENTE

NOES-  
ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
CEDA FLOYD  
City Clerk and Clerk of the Council  
of the City of Oakland, California