MEMORANDUM

TO: Oversight Board

FROM: Tiffany Bohee
      Executive Director

SUBJECT: Adopting environmental review findings pursuant to the California Environmental Quality Act and conditionally approving as being in the best interest of the taxing entities a Fifth Amendment to the Mission Bay South Owner Participation Agreement with FOCIL-MB, LLC, a Delaware limited liability company, related to the purchase by the Regents of the University of California of Blocks 33 and 34, bounded by 16th Street to the north, Illinois Street to the east, Mariposa to the south, and Third Street to the west, for future development of up to 500,000 gross square feet; Mission Bay South Redevelopment Project Area

EXECUTIVE SUMMARY

Blocks 33 and 34 comprise a vacant, 3.8-acre parcel located in the Mission Bay South Redevelopment Project Area ("Mission Bay South"), as shown on Exhibit A. Under the Mission Bay South Redevelopment Plan ("South Redevelopment Plan"), Blocks 33 and 34 have a land use designation of Commercial Industrial.

The Regents of the University of California (the "Regents") is under contract with Bay Jacaranda No. 3334 LLC ("Current Owner"), an affiliate of salesforce.com, to purchase Blocks 33 and 34 to expand the facilities of the University of California at San Francisco ("UCSF") in Mission Bay by constructing up to 500,000 gross square feet of primarily allowed uses, such as office space.

Blocks 33 and 34 are subject to the South Redevelopment Plan and the Mission Bay South Owner Participation Agreement ("South OPA") between Office of Community Investment and Infrastructure ("OCII"), as Successor Agency to the former San Francisco Redevelopment Agency ("Former Redevelopment Agency"), and FOCIL-MB, LLC ("FOCIL"), the master developer for Mission Bay South. Additionally, as required by the South OPA, Blocks 33 and 34 are subject to a Tax Payment Agreement ("PILOT Agreement"), which requires any tax exempt-entity, such as UCSF, to (i) pay special taxes assessed by any community facility district and (ii) make certain payments in lieu of property taxes to the Former Redevelopment Agency, and now OCII. Under the State Constitution, UCSF is exempt from local land use and redevelopment regulations and from local property taxes, where UCSF uses property in furtherance of its educational purposes, as it intends to do with Blocks 33 and 34. However, UCSF is subject to third party contractual obligations that run with the land, such as the South OPA and PILOT Agreement.

To facilitate the acquisition of Blocks 33 and 34 by the Regents, the Current Owner, FOCIL, and the Regents wish to obtain a release from OCII of the Regents from certain obligations under the
South Redevelopment Plan, the South OPA and the PILOT Agreement relating to the Blocks 33 and 34, and a release of the Current Owner from the obligations under the existing PILOT Agreement.

Under the terms of a proposed Memorandum of Understanding between OCII and the Regents ("MOU") (see Exhibit B), OCII's release of the Regents from those certain obligations under the South Redevelopment Plan, South OPA and the PILOT Agreement and the release of the Current Owner from the obligations under the existing PILOT Agreement would be conditioned on the Regents’ agreement to, among other things, (i) make an affordable housing payment to OCII of $10.2 million, which exceeds the tax increment that OCII would have received from Blocks 33 and 34 if owned and developed by a taxable entity; (ii) enter into an agreement with FOCIL regarding infrastructure and make an infrastructure payment of $21.9 million to FOCIL, which is comparable to the tax increment that OCII would have received from Blocks 33 and 34 for infrastructure purposes if owned and developed by a taxable entity; (iii) pay the special taxes under the community facility districts that the Blocks 33 and 34 are part of; (iv) to abide by certain requirements under the South Redevelopment Plan in developing the Blocks 33 and 34, and (v) provide an agreement assuming obligations under the South OPA and related Plan documents and a tax allocation promissory note in connection with future transfers of Blocks 33 and 34.

In order to effectuate certain provision of the MOU, OCII and FOCIL must enter into a fifth amendment to the South OPA, by which, among other things, OCII and FOCIL will consent to the transfer of Blocks 33 and 34 by the Current Owner to the Regents, and release the Current Owner from certain obligations under the South OPA pertaining to Blocks 33 and 34, conditioned on the receipt of the affordable housing payment and the infrastructure payment and execution of the MOU and FOCIL infrastructure agreement ("Fifth Amendment", see Exhibit C). Additionally, OCII, the Current Owner, and the Regents must enter into a release and covenant agreement, whereby OCII will agree to release Current Owner from obligations under the South OPA and the PILOT Agreement, and will suspend the effects of the South Redevelopment Plan, the South OPA, and other South Redevelopment Plan documents so long as Blocks 33 and 34 are used in furtherance of UCSF’s educational mission ("Release Agreement", see Exhibit D). The Release Agreement also provides that the South Redevelopment Plan, South OPA and other documents will spring back into effect if Blocks 33 and 34 are not used for such purpose.

The MOU, Fifth Amendment, and Release Agreement were approved by the Commission on Community Investment and Infrastructure (the "Commission") on April 29, 2014. The Commission’s approval of the Fifth Amendment is conditioned upon Oversight Board approval and its determination that the amendment is in the best interests of the taxing entities, and then the California Department of Finance’s subsequent review and approval of the Oversight Board’s action. Acquisition and development of Blocks 33 and 34 by the Regents pursuant to the terms described above will provide significant public benefits to OCII, the City and County of San Francisco ("City"), and other taxing entities, including (i) a payment for the production of affordable housing that exceeds what would be collected in the form of property tax increment if Blocks 33 and 34 were developed by a taxable owner and (ii) acceleration of the completion of the Mission Bay South affordable housing program and in the winding down of the
redevelopment project generally. In addition, the proposed transfer of UCSF facilities from existing leased space throughout the City to Blocks 33 and 34 could result in increased property tax payments to the taxing entities of $16.2 million (net present value) should taxable entities take over these spaces.

As part of its actions on September 17, 1998, establishing the Mission Bay Redevelopment Project Areas, the former Redevelopment Agency Commission ("Former Agency Commission") certified the Final Subsequent Environmental Impact Report ("FSEIR") (Resolution No. 182-98) and adopted findings under the California Environmental Quality Act ("CEQA") (Resolution No. 183-98). This FSEIR includes by reference a number of addenda. OCII staff has reviewed the MOU, Fifth Amendment and Release Agreement and found them to be within the scope of the Project analyzed in the FSEIR and addenda and no additional environmental review is needed.

Staff recommends conditional approval of the environmental findings pursuant to CEQA and approval of the Fifth Amendment to the Owner Participation Agreement, subject to approval from California Department of Finance.

BACKGROUND

South Redevelopment Plan, Owner Participation Agreement, and Related Documents

On September 17, 1998, by Resolution No. 190-98, the Former Agency Commission approved the South Redevelopment Plan. The South Redevelopment Plan, together with the related Redevelopment Plan for the Mission Bay North Redevelopment Project, provides for a mixed-use development with (i) up to approximately 6,400 housing units north and south of Mission Creek, with up to 29% of the units being affordable; (ii) an approximately 43-acre biomedical research and educational campus site for UCSF and new hospital; (iii) other land uses designated for private development, including retail space, a mix of research and development space, light manufacturing and other commercial space suitable for biotechnology users, and a hotel; and (iv) about 49 acres of public open space, public facilities, including a school and police/fire station, and other public amenities.

On September 17, 1998, by Resolution No. 193-98, the Former Agency Commission authorized execution of the South OPA and related documents between the former Mission Bay Master Developer, Catellus Development Corporation ("Catellus"), and the Former Redevelopment Agency to implement the South Redevelopment Plan. OCII subsequently assumed the rights and responsibilities of the Mission Bay master developer from Catellus in 2004. The South OPA has been amended as follows: (i) a First Amendment, approved by the Former Agency Commission on February 17, 2004 (Resolution No. 23-2004); (ii) a Second Amendment, approved by the Former Agency Commission on November 1, 2005 (Resolution No. 177-2005); (iii) a Third Amendment, approved by the Commission on May 21, 2013 (Resolution No. 16-2013) and the Oversight Board on June 10, 2013 (Resolution No. 5-2013); and (iv) a Fourth Amendment, approved by the Commission on June 4, 2013 (Resolution No. 28-2013) and the Oversight Board on June 10, 2013 (Resolution No. 6-2013).
The South OPA requires FOCIL to construct the public infrastructure directly related to each of the major phases of development under the South Redevelopment Plan. Under the OPA and the related Mission Bay South Tax Increment Allocation Pledge Agreement, between the Former Agency and the City ("Pledge Agreement"), OCII is obligated to reimburse FOCIL for the direct and indirect costs of constructing the infrastructure. The Pledge Agreement also dedicates approximately 20% of the total property tax increment generated by development in Mission Bay to implement the affordable housing program contemplated by the South Redevelopment Plan.

With approval from a successor agency’s oversight board and the California Department of Finance ("DOF"), a successor agency may continue to implement “enforceable obligations” — existing contracts, bonds, leases, etc. — which were executed prior to the suspension of redevelopment agencies’ activities on June 28, 2011, the date that Assembly Bill 26 was approved. The South OPA and Pledge Agreement were finally and conclusively determined to be enforceable obligations by DOF on January 24, 2014 (http://www.sfredevelopment.org/Modules/ShowDocument.aspx?documentID=6125).

**Process for Amending Existing Obligations**

Redevelopment Dissolution Law authorizes the Oversight Board to approve amendments to enforceable obligations if it finds that the amendments would be in the best interest of the taxing entities. (Cal. Health & Safety Code Section 34181(e)). Therefore, the approval of the Fifth Amendment is conditioned upon Oversight Board approval of the amendment and its determination that the amendment is in the best interests of the taxing entities, and then DOF’s subsequent review and approval of the Oversight Board’s action.

**UCSF**

As part of the original negotiations in 1998, the City and Catellus donated 43 acres to the UCSF to build a new research campus in Mission Bay South and to help create a catalyst for Mission Bay’s emerging bio-technology cluster. UCSF is a leading public medical research, teaching, and clinical institution and is the second largest employer in San Francisco. Under the State Constitution, UCSF is exempt from local planning, zoning and redevelopment regulations when using its property in furtherance of its educational purposes. It is also exempt from paying local property taxes.

In 2005, UCSF gained site control of Blocks 36-39 from Catellus in Mission Bay South for the construction of a new Medical Center serving children, women and cancer patients. UCSF later purchased another private Mission Bay parcel, Block X-3, for the Medical Center.

At the time that UCSF acquired Blocks 36 to 39 from Catellus, UCSF also entered into a Memorandum of Understanding ("Medical Center MOU") with the Former Redevelopment Agency, committing UCSF to certain design review requirements for the Medical Center and to address the loss of property taxes and the impact on the construction of affordable housing in Mission Bay, among other things. This Medical Center MOU was later amended to reflect UCSF’s purchase of Block X-3.
Blocks 33 and 34 Site

Blocks 33 and 34, which are currently owned by an affiliate of salesforce.com, comprise a vacant, 3.8-acre parcel bounded by 16th Street to the north, Illinois Street to the east, Mariposa to the south, and Third Street to the west (see Exhibit A). Under the South Redevelopment Plan, Blocks 33 and 34 have a land use designation of Commercial Industrial, which allows for a wide range of office, retail, laboratory and manufacturing uses. Medical clinics are permitted as a secondary use if certain criteria are met.

Blocks 33 and 34 are subject to the PILOT Agreement, which was recorded against the property by FOCIL in 2010 to effectuate the provisions of the Second Amendment to the South OPA. The Second Amendment to the South OPA was approved in conjunction with UCSF’s acquisition of Blocks 36-39 for the Medical Center. In order to minimize the adverse financial impact on completion of affordable housing and infrastructure projects in Mission Bay South that could result from any future claim of an exemption from property taxes, the Second Amendment prohibits FOCIL from transferring any property in Mission Bay South to a tax exempt entity without first: (i) obtaining a contractual commitment from the tax exempt entity to make a payment in lieu of taxes equal the full amount of taxes that would otherwise have been assessed; (ii) itself entering into such an agreement; or (iii) obtaining the written consent of the Former Redevelopment Agency and the City. The existing PILOT Agreement satisfies this prohibition by requiring any tax-exempt entity, such as the Regents, to (i) pay special taxes assessed by any community facility district and (ii) make certain payments in lieu of property taxes to the Former Redevelopment Agency.

DISCUSSION

The Regents is under contract to purchase Blocks 33 and 34 to expand the UCSF campus. The purchase includes the right to construct 500,000 gross square feet of development, up to 500 parking spaces, and one tower up to 160-feet in height and with a tower floor plate of up to 20,000 square feet above the Base Height (as such term is defined in the South Design for Development). While UCSF has not identified the final use for Blocks 33 and 34, it is generally proposing to develop the project with office and retail uses, which are principal uses permitted in the Commercial Industrial land use district under the Redevelopment Plan. UCSF will not construct any secondary uses, such as clinics for outpatient care, as defined in the Redevelopment Plan for the Commercial Industrial land use district without Executive Director approval in accordance with Section 302 of the Redevelopment Plan, following additional CEQA review as necessary, nor will it develop the site with a use that is not consistent with the South Redevelopment Plan.

Blocks 33 and 34 are subject to the South Redevelopment Plan, as well as the South OPA and the PILOT Agreement, which are recorded against the property, binding against the Current Owner, and generally require the Current Owner to transfer the property subject to those agreements. To facilitate the acquisition of Blocks 33 and 34 by the Regents, the Current Owner, FOCIL, and the Regents have requested OCII’s release of the Regents from certain obligations under the South Redevelopment Plan, South OPA and the PILOT Agreement to reflect that the Regents is exempt from local land use and redevelopment regulations and from local property
taxes, where the Regents uses property in furtherance of UCSF’s educational purposes, as it intends to do with Blocks 33 and 34. Accordingly, the Regents’ acquisition of Blocks 33 and 34 could reduce the amount of tax increment generated in the South Plan Area, and thereby OCII’s ability to increase, improve and preserve affordable housing and reimburse FOCIL for infrastructure costs without additional agreements to off-set the loss of property taxes. To avoid any negative impacts to the Mission Bay affordable housing and infrastructure programs, OCII has negotiated the following agreements with UCSF as a condition to releasing UCSF from the South Redevelopment Plan, South OPA, and the PILOT Agreement.

**Memorandum of Understanding**

The terms under which OCII would release the Regents from certain obligations of the South Redevelopment Plan, the South OPA and the PILOT Agreement are documented in the MOU between OCII and the Regents (see Exhibit B). These terms include:

1) A one time, up-front lump sum payment from the Regents to OCII in the amount of $10.2 million for the construction of affordable housing in Mission Bay South ("Affordable Housing Payment");

2) A one-time, up-front payment from the Regents to FOCIL in the amount of $21.9 million for a share of the costs of infrastructure for Blocks 33 and 34 ("Infrastructure Payment");

3) Payment by the Regents and/or UCSF of the special taxes authorized by Community Facilities District No. 5, which funds the maintenance of parks and open space in Mission Bay South, and Community Facilities District No. 6, which helps fund infrastructure costs in Mission Bay South;

4) UCSF’s commitment to work cooperatively with OCII regarding land use and planning issues on the Blocks 33 and 34 in a manner consistent with the South Redevelopment Plan and Mission Bay South Design for Development; and

5) UCSF’s commitment to extend its local hiring and workforce development programs to Blocks 33 and 34 and pay prevailing wages for all construction work.

As noted above, the Affordable Housing Payment and Infrastructure Payment are lump-sum payments rather than the annual payments in lieu of taxes required under the PILOT Agreement. OCII hired ALH Urban and Regional Economics ("ALH Economics"), a real estate economics firms, to conduct an independent analysis of the of the tax increment that would be generated by UCSF’s proposed acquisition and development of Blocks 33 and 34 through 2043, which is the last date that OCII can collect tax increment to pay affordable housing and infrastructure bonds. ALH Economics’ scope included (i) review of a similar analysis prepared by Economic and Planning Systems on behalf of UCSF to identify major parameters and evaluate their reasonableness, (ii) independent research to develop key assumptions, such as land and building valuation and discount rate, and (iii) an independent calculation of an estimate of the net present value ("NPV") of tax increment that would be generated. The results of this analysis, provided as Exhibit E, are an NPV calculation of $39.8 million. The Affordable Housing Payment of
$10.2 million is 25.6% of the total amount, which exceeds the 20% (or approximately $7.96 million) OCII would have received from the Blocks 33 and 34 if owned and developed by a taxable entity. FOCIL independently analyzed potential loss of tax increment available for infrastructure reimbursement. According to FOCIL, the $21.9 million Infrastructure Payment is roughly equal to the NPV of the amount FOCIL would have received for infrastructure from Blocks 33 and 34.

**Proposed Fifth Amendment to the South OPA and Proposed Release Agreement**

In order to effectuate certain provision of the MOU, OCII and FOCIL must enter into the Fifth Amendment by which, among other things, OCII and FOCIL will consent to the transfer of Blocks 33 and 34 by the Current Owner to the Regents subject to the requirements of the MOU being met, and release the Current Owner from certain obligations under the South OPA pertaining to Blocks 33 and 34, conditioned on the receipt of the Affordable Housing Payment and the Infrastructure Payment and execution of the MOU and FOCIL Infrastructure Agreement. Section 2 of the Fifth Amendment requires that the Infrastructure Payment shall be applied toward the cost of infrastructure in Mission Bay South required under the Mission Bay South Infrastructure Plan and that FOCIL will not have any right to receive any additional reimbursement from OCII from tax increment or any other source for the infrastructure that the Infrastructure Payment will fund. As a result, the overall amount of tax increment ultimately received by FOCIL during the life of the South OPA will be reduced by the $21.9 million Infrastructure Payment.

Additionally, OCII, the Current Owner, and the Regents must enter into the proposed Release Agreement, whereby OCII will agree to suspend the effects of the South Redevelopment Plan, the South OPA, and other South Redevelopment Plan documents so long as Blocks 33 and 34 are used in furtherance of UCSF’s educational mission, and OCII must consent to the termination of the existing PILOT Agreement. The Release Agreement provides that the South Redevelopment Plan, South OPA and other documents will “spring back” into effect if Blocks 33 and 34 are not used for such purposes, and at OCII’s request the Regents will then provide an agreement (by either the Regents or the transferee of the property) assuming the obligations under such documents together with a tax allocation promissory note and a new PILOT Agreement. The Fifth Amendment and Release Agreement are provided as Exhibits C and D, respectively.

**Findings – Compliance with Redevelopment Dissolution Law**

Consistent with Redevelopment Dissolution Law, approval of the Fifth Amendment is conditioned upon Oversight Board approval and its determination that the amendment is in the best interests of the taxing entities. Approval of the Fifth Amendment, in conjunction with the MOU and the Release Agreement (collectively, the “Agreements”), will allow the acquisition of the Regents’ of Blocks 33 and 34 to proceed. The acquisition and subsequent development of Blocks 33 and 34 will provide significant public benefits to OCII, the City, and other taxing agencies, including: (1) an Affordable Housing Payment that exceeds the amount of tax increment that would have been collected if Blocks 33 and 34 were developed by a taxable owner, thereby reducing the need for the use of tax increment funds for the production of affordable housing and (2) immediately available funds for the production of affordable housing
and infrastructure, thereby accelerating the completion of development under the South Redevelopment Plan, the South OPA, and related enforceable obligations.

In addition, UCSF anticipates that development of Blocks 33 and 34 will allow for the likely consolidation of UCSF’s operations and relocation from remote locations in San Francisco. These remote locations are leased spaces, with leases set to expire in 2018 and 2022. For leased space, UCSF receives a property tax exemption, which effectively reduces the property taxes paid for the associated buildings. UCSF estimates that if taxable entities take over these spaces, then the return of these properties to the City tax rolls could generate new general fund revenues to the City and tax revenues for the other taxing agencies. The net present value of these revenues is an estimated $16.2 million.

OCII engaged ALH Economics to review UCSF’s analysis of property tax revenues. This analysis is provided as Exhibit F. ALH concurred with UCSF’s net present value estimate of $16.2 million. Additionally, ALH estimated the potential distribution of the $16.2 million to the various taxing entities, as shown in the table on the next page.

The Agreements do not propose any new capital expenditures by OCII or any change in OCII’s overall method of financing the redevelopment of Mission Bay South. Rather, the Agreements will accelerate the completion of development under the South Redevelopment Plan and the South OPA. Specifically, staff estimates that the Affordable Housing Payment of $10.2 million allows for potentially two affordable housing projects, which total approximately 235 units, to be funded in Mission Bay South in the next five years, rather than only one project during that same timeframe.

Citizens Advisory Committee

The Mission Bay Citizens Advisory Committee (“CAC”) discussed the Regents’ acquisition of Blocks 33 and 34 at its meeting of March 13, 2014. The CAC was supportive of the acquisition, and asked that it be involved with the design of the project as it moves forward.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

As part of its actions on September 17, 1998 establishing the Mission Bay North and South Redevelopment Project Areas, the Former Agency Commission certified the FSEIR, adopted CEQA findings, adopted a series of mitigation measures, and established a comprehensive system for mitigation monitoring. The Board of Supervisors, the Planning Commission, and various City departments adopted similar findings and mitigation monitoring plans.

Copies of the full four-volume FSEIR were distributed to the Former Agency Commission prior to the 1998 certification and adoption of the environmental findings. Copies of the FSEIR were subsequently made available to members of the Oversight Board as part of their June 11, 2012 meeting, and are also available for review at OCII’s offices.
Distribution of Property Tax Revenues Potentially Generated by UCSF's Consolidation on Blocks 33-34

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<th>Taxing Entity</th>
<th>Property Tax Share (NPV)</th>
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<td>City and County of San Francisco</td>
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<td>General Fund</td>
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<td>General Obligation Bonds Debt Service</td>
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<td>Library Preservation Fund</td>
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<td>Other Taxing Entities</td>
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<td><strong>Total</strong></td>
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Source: ALH Economics

1 1500 Owens Street, one of the leased properties analyzed, is located in Mission Bay South. Therefore, it also generates property tax increment that accrues to OCII.
OCII staff has reviewed the proposed MOU, Fifth Amendment, and Release Agreements and has considered and reviewed the FSEIR and addenda. OCII staff finds the Agreements to be within the scope of the project analyzed in the FSEIR and subsequent addenda and no additional environmental review is required pursuant to State CEQA Guidelines Sections 15180, 15162, and 15163.

**NEXT STEPS**

As previously noted, the Commission conditionally approved the Agreements on April 29, 2014. The Commission’s approval was conditioned on approval by San Francisco Board of Supervisors, the Oversight Board, and DOF. The Agreements will be presented in May to the San Francisco Board of Supervisors, acting as the legislative body of OCII since the Affordable Housing Payment provisions of the Fifth OPA Amendment, MOU and Release Agreement are considered a material change to the Mission Bay affordable housing program. The San Francisco Board of Supervisors will also act as the legislative body of the City with respect to the required City consent to the transfer of Blocks 33 and 34 without a PILOT Agreement.

Under Redevelopment Dissolution Law, Oversight Board approval of the Fifth Amendment to the South OPA, an enforceable obligation, is required. Upon approval by the Oversight Board, the OPA Amendment will be referred to DOF for approval. DOF has a 5 day period to request a review of an Oversight Board action, and then 40 days from the date of that request to either approve the Oversight Board’s action or return it to the Oversight Board for reconsideration. Provided that the Oversight Board approves the Fifth Amendment, DOF’s review period would be concluded by late June.

Once all regulatory bodies have approved the Agreements, the Regents will have until October 1, 2014 to close escrow and make the Affordable Housing Payment and Infrastructure Payment.

**STAFF RECOMMENDATION**

Staff recommends: (1) conditional approval of the Fifth Amendment to the Mission Bay South Owner Participation Agreement.

*(Originated by Christine Maher, Development Specialist)*

[Signature]

Tiffany J. Bohee
Executive Director
Exhibits:
A. Mission Bay Location Map
B. Memorandum of Understanding
C. Fifth Amendment to the Mission Bay South Owner Participation Agreement
D. Release Agreement and Covenant Regarding Assumption of the Mission Bay South Owner Participation Agreement
E. ALH Economics’ NPV Study of Property Taxes for Blocks 33 and 34
F. ALH Economics’ NPV Study of Assessed Values for Leased Spaces Returned to Tax Rolls after UCSF Leases Expire and Occupants Relocated to Blocks 33 and 34