

1 [Consent to Property Transfer - Regents of the University of California - Mission Bay South Owner Participation Agreement]

2 **Resolution consenting to the transfer of Block Nos. 33 and 34 in the Mission Bay South Plan Area to the**
3 **Regents of the University of California, as a tax exempt entity, for the future development of up to**
4 **500,000 gross square feet in the Mission Bay South Redevelopment Project Area; and making**
5 **environmental findings under the California Environmental Quality Act.**
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7 WHEREAS, The Board of Supervisors by Motion No. 98-132 (October 19, 1998) under
8 the California Environmental Quality Act (CEQA) affirmed certification of the Final Subsequent
9 Environmental Impact Report for the Mission Bay North and South Redevelopment Plans
10 (FSEIR) and by Resolution No. 854-98, adopted CEQA findings, including a statement of
11 overriding considerations and a Mission Bay mitigation monitoring and reporting program
12 ("Mission Bay MMRP") in support of various approval actions taken by the Board to implement
13 the Mission Bay North and Mission Bay South Redevelopment Plans. Resolution No. 854-98
14 is on file with the Clerk of the Board in File No. 140423 and incorporated in this Resolution by
15 this reference; and

16 WHEREAS, The Board of Supervisors approved and adopted, by Ordinance No. 335-
17 98 (November 2, 1998), the Mission Bay South Redevelopment Plan (the "South Plan") for the
18 Mission Bay South Redevelopment Project Area (the "South Plan Area"); and

19 WHEREAS, The former Redevelopment Agency of the City and County of San
20 Francisco ("Agency" or "Redevelopment Agency") approved, by Resolution No. 193-98, the
21 Mission Bay South Owner Participation Agreement (the "South OPA") and related documents
22 between Catellus Development Corporation, a Delaware corporation, and the Agency.
23 FOCIL-MB, LLC, a Delaware limited liability company ("FOCIL" or "Owner" or "Master
24 Developer"), entered into an Assignment, Assumption and Release Agreement, dated
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1 November 22, 2004, under which FOCIL assumed the rights and obligations of the prior
2 owner under the South OPA; and

3 WHEREAS, Subsequent to the certification of the FSEIR, the Agency and Planning
4 Department have issued nine addenda to the FSEIR to address proposed changes to the
5 Mission Bay project, none of which identify any substantial new information or new significant
6 impacts or a substantial increase in the severity of previously identified significant effects that
7 alter the conclusions reached in the FSEIR as a result of proposed changes to the Mission
8 Bay project. When referenced below, the FSEIR refers to the 1998 FSEIR and addenda; and,

9 WHEREAS, The South OPA has been amended four times and when referenced
10 below, the South OPA shall be deemed to incorporate such amendments; and

11 WHEREAS, State law dissolved redevelopment agencies on February 1, 2012 and
12 established successor agencies to fulfill the remaining obligations of the former agencies, Cal.
13 Health & Safety Code, Sections 34170 et seq. (“Redevelopment Dissolution Law”); and

14 WHEREAS, The Redevelopment Dissolution Law required creation of an oversight
15 board to each successor agency (“Oversight Board”), which has authority to review and
16 approve any amendment to an enforceable obligation, such as the South OPA Amendment,
17 as defined below, if it finds that the amendment would be in the best interests of the affected
18 taxing entities; further, the California Department of Finance (DOF) must receive notice and
19 information about all Oversight Board actions, which do not take effect until DOF has either
20 not requested additional review within five business days of the notice or requested additional
21 review and approved the action within 40 days of its request for additional review (“DOF
22 Approval”); and

23 WHEREAS, In accordance with Redevelopment Dissolution Law, the Board of
24 Supervisors, as the legislative body of the successor agency, established by Ordinance 215-
25 12, the Successor Agency Commission for the Successor Agency to the Redevelopment

1 Agency of the City and County of San Francisco (the “Successor Agency,” also commonly
2 known as the Office of Community Investment and Infrastructure, or "OCII"), and delegated to
3 the Successor Agency Commission, among other powers, the authority to act in place of the
4 Redevelopment Agency to implement, modify, enforce and complete surviving redevelopment
5 projects, including, without limitation, three major integrated, multiphase revitalization projects,
6 which are the Mission Bay North and Mission Bay South Projects, the Hunters Point
7 Shipyard/Candlestick Point Project, and the Transbay Redevelopment Project (collectively,
8 the “Major Approved Development Projects”), and which are subject to enforceable
9 obligations requiring the implementation and completion of those projects. The Mission Bay
10 South Project encompasses the South Plan Area; and

11 WHEREAS, On January 24, 2014, DOF finally and conclusively determined that the
12 South OPA is an enforceable obligation pursuant to Health and Safety Code, Sections
13 34177.5(i); and

14 WHEREAS, With respect to the Major Approved Development Projects, Ordinance
15 215-12 granted the Successor Agency Commission authority to approve all contracts and
16 actions related to the assets transferred to or retained by the Successor Agency, including,
17 without limitation, the authority to exercise land use, development and design approval
18 authority for the Major Approved Development Projects; and

19 WHEREAS, The authority of the Successor Agency Commission, with respect to the
20 Major Approved Development Projects includes the authority to approve amendments to
21 enforceable obligations as allowed under Redevelopment Dissolution Law, subject to any
22 required approval by the Oversight Board and DOF, consistent with applicable enforceable
23 obligations; and

24 WHEREAS, The Regents of the University of California (the “Regents”) is under
25 contract to purchase Block Nos. 33 and 34 of the South Plan Area from Bay Jarcaranda No.

1 3334 LLC (“Current Owner”), and intends to expand the facilities of the University of California
2 at San Francisco (UCSF) in the South Plan Area by constructing a project on Block Nos. 33
3 and 34 that is consistent with the uses allowed under the South Plan and the allocation of
4 square footage for the site contemplated by the FSEIR. While the Regents has not identified
5 the final use of Block Nos. 33 and 34, the Regents is purchasing from the Current Owner the
6 right to construct 500,000 gross square feet of development and all parking spaces allocable
7 to Block Nos. 33 and 34 under the South Plan, South OPA, and related documents (which
8 may not exceed 1.0 parking spaces for each 1,000 square feet of gross floor area); and

9 WHEREAS, Under the State Constitution, the Regents is exempt from local land use
10 and redevelopment regulations and from local property taxes, where the Regents uses
11 property in furtherance of its educational purposes, as it intends to do with Block Nos. 33 and
12 34. However, the Regents is subject to third party contractual obligations that run with the
13 land, such as the South OPA; and

14 WHEREAS, Block Nos. 33 and 34 are subject to the South Plan and the South OPA.
15 Under Section 14.7(a) of the South OPA, prior to transfer of property to a tax exempt entity
16 such as the Regents, the tax exempt entity or the party transferring the property to the tax
17 exempt entity is required to enter into an agreement for payment in lieu of taxes (“PILOT
18 Agreement”) equal to the full amount of the property taxes that would have been assessed
19 against the property notwithstanding such ownership by a tax exempt entity, or the written
20 consent of the City and the Successor Agency in their respective sole discretion; and

21 WHEREAS, To effectuate the provisions of Section 14.7 of the South OPA, FOCIL has
22 entered into and recorded a PILOT Agreement that is applicable to Block Nos. 33 and 34 and
23 binding on its successors-in-interest to the property that requires any transferee of the
24 property to obtain the consent of the Successor Agency and the City to transfer the property
25 to a tax-exempt entity free of the PILOT Agreement; and

1 WHEREAS, On April 29, 2014, after holding a duly noticed public hearing and
2 consistent with its authority under Redevelopment Dissolution Law and Ordinance 215-12, the
3 Successor Agency Commission conditionally approved, by Resolution No. 30-2014, a
4 Memorandum of Understanding (“MOU”) between OCII and the Regents, a fifth amendment
5 to the South OPA between OCII and FOCIL (“South OPA Amendment”), and a Release
6 Agreement and Covenant Regarding Assumption of the South OPA with the Regents and the
7 Current Owner (“Release Agreement”). The Successor Agency Resolution No. 30-2014 is on
8 file with the Clerk of the Board of Supervisors in File No. 140423 and incorporated in this
9 Resolution by this reference; and

10 WHEREAS, Under the terms of the MOU, OCII agreed to release the Regents from
11 certain obligations under the South Plan, South OPA and the PILOT Agreement and agreed
12 to release the Current Owner from the obligations under the PILOT Agreement, conditioned
13 on the Regents’ agreement to, among other things, (a) make an affordable housing payment
14 (“Affordable Housing Payment”) to OCII of \$10.2 million, which exceeds the tax increment that
15 OCII would have received from Block Nos. 33 and 34 if owned and developed by a taxable
16 entity; (b) enter into an agreement with FOCIL regarding infrastructure (“Infrastructure
17 Agreement”) and make an infrastructure payment of \$21.9 million (“Infrastructure Payment”)
18 to FOCIL, which is comparable to the tax increment that OCII would have received from Block
19 Nos. 33 and 34 for infrastructure purposes if owned and developed by a taxable entity; (c) pay
20 the special taxes under the community facility districts that the Block Nos. 33 and 34 are part
21 of; (d) abide by certain requirements under the South Plan in developing Block Nos. 33 and
22 34, including without limitation, agreeing to abide by the permitted land uses, height, setback,
23 bulk, and development intensity controls for the site in the Redevelopment Plan; and (e)
24 provide an agreement assuming obligations under the South OPA and related Plan
25 Documents and a tax allocation promissory note in connection with any future transfer of

1 Block Nos. 33 and 34 or use of Block Nos. 33 and 34 for purposes other than the Regents
2 educational mission. To implement certain of the terms of the MOU, FOCIL and OCII will
3 enter into the South OPA Amendment and OCII, the Regents and Current Owner will enter
4 into a Release Agreement; and

5 WHEREAS, Under the terms of the South OPA Amendment, OCII and FOCIL
6 agreed, among other things, (a) to suspend the requirement that a transferee assume all
7 of the transferor's obligations under the South OPA with respect to transferred property;
8 (b) that OCII will consent to the transfer of Block Nos. 33 and 34 by the Current Owner to
9 the Regents, subject to the requirements of the MOU being met; (c) to release the
10 Current Owner from certain obligations under the South OPA pertaining to Block Nos. 33
11 and 34; and (d) that FOCIL will apply the Infrastructure Payment toward the cost of
12 infrastructure that would otherwise be reimbursable from the Successor Agency from tax
13 increment, all conditioned on OCII's receipt of the Affordable Housing Payment and
14 FOCIL's receipt of the Infrastructure Payment and execution of the MOU and
15 Infrastructure Agreement by the applicable parties; and

16 WHEREAS, Under the terms of the Release Agreement, OCII agreed to, (a) suspend
17 the effects of the South Plan, the South OPA, and other Plan documents so long as and
18 to the extent that Block Nos. 33 and 34 are used in furtherance of UCSF's educational
19 mission; and, (b) consent to the termination of the existing PILOT Agreement. The
20 Release Agreement provides that the South Plan, South OPA and other Plan Documents
21 will "spring back" into effect if Block Nos. 33 and 34 are not used for such purposes, and
22 at OCII's request the Regents will then provide an agreement assuming the obligations
23 under such documents together with a tax allocation promissory note and a new PILOT
24 Agreement. Because the City's consent is required under the South OPA for any
25 transfers that are not subject to a PILOT Agreement, the Successor Agency

1 Commission's approval of the Release Agreement was conditioned on approval by the
2 Board of Supervisors of the transfer to the Regents of Block Nos. 33 and 34; and

3 WHEREAS, The South OPA Amendment and Release Agreement (the "Agreements")
4 will allow the acquisition of the Regents' of Block Nos. 33 and 34 to proceed. The acquisition
5 and subsequent development of Block Nos. 33 and 34 will provide significant public benefits
6 to OCII, the City, and other taxing agencies, including: (a) an Affordable Housing Payment
7 that exceeds the amount of tax increment that would have been collected if Block Nos. 33 and
8 34 were developed by a taxable owner; (b) immediately available funds for the production of
9 affordable housing and infrastructure, thereby accelerating the completion of development
10 under the South Plan, the South OPA, and related enforceable obligations; and (c) the likely
11 consolidation of UCSF's operations and relocation from remote locations in San Francisco,
12 thereby potentially returning these other properties to the City tax rolls and generating new
13 general fund revenues to the City and tax revenues for the other taxing agencies. The
14 Agreements do not propose any new capital expenditures by OCII or any change in OCII's
15 overall method of financing the redevelopment of the South Plan Area. Rather, the
16 Agreements will accelerate the completion of development under the South Plan and the
17 South OPA; and

18 WHEREAS, Since the MOU, South OPA Amendments and Release Agreements
19 together provide that OCII will release the Regents from certain obligations under the South
20 Plan, South OPA and the PILOT Agreement and release the Current Owner from the
21 obligations under the PILOT Agreement, conditioned on the Regents' agreement to, among
22 other things, make an affordable housing payment ("Affordable Housing Payment") to OCII of
23 \$10.2 million, in a related action, the Board of Supervisors, in its capacity as the legislative
24 body of the Successor Agency by Resolution No. 30-2014, on file with the Clerk of the Board
25 in File No. 140423, is asked to consent to the terms of the MOU, South OPA Amendments

1 and Release Agreement as they relate to the Affordable Housing Payment in lieu of a PILOT
2 Agreement that is designed to avoid any material change in the South OPA obligations to
3 provide affordable housing; and

4 WHEREAS, Consent by the Board of Supervisors to the transfer of Block Nos. 33 and
5 34 is an undertaking pursuant to and in furtherance of the South Plan in conformance with
6 CEQA Guidelines Section 15180; and

7 WHEREAS, The Budget and Finance Committee of the Board of Supervisors held a
8 public hearing on May 14, 2014, on the proposed transfer of Block Nos. 33 and 34 to the
9 Regents. The hearing has been closed. The Board has considered the report and
10 recommendations of the Successor Agency and the FSEIR, including the various addenda
11 thereto in accordance with CEQA, and the CEQA Findings, including without limitation the
12 statement of overriding considerations and Mission Bay MMRP that it previously adopted in
13 Resolution No. 854-98, and all evidence and testimony for and against the proposed transfer
14 of Block Nos. 33 and 34 to the Regents; now, therefore, be it

15 RESOLVED, That the Board has reviewed and considered the CEQA Findings,
16 including the statement of overriding considerations and the Mission Bay MMRP that it
17 previously adopted in Resolution No. 854-98, and hereby adopts these CEQA Findings in
18 support of the transfer of Block Nos. 33 and 34 to the Regents. The Board additionally finds
19 that: (a) consent to the transfer of Block Nos. 33 and 34 to the Regents does not require major
20 revisions in the FSEIR due to the involvement of new significant environmental effects or a
21 substantial increase in the severity of previously identified significant effects; (b) no substantial
22 changes have occurred with respect to the circumstances under which the project analyzed in
23 the FSEIR will be undertaken that would require major revisions to the FSEIR due to the
24 involvement of new significant environmental effects, or a substantial increase in the severity
25 of effects identified in the FSEIR; and (c) no new information of substantial importance to the

1 project analyzed in the FSEIR has become available which would indicate that (1) the transfer
2 of Block Nos. 33 and 34 to the Regents will have significant effects not discussed in the
3 FSEIR; (2) significant environmental effects will be substantially more severe; (3) mitigation
4 measures or alternatives found not feasible which would reduce one or more significant
5 effects have become feasible; or (4) mitigation measures or alternatives which are
6 considerably different from those in the FSEIR will substantially reduce one or more significant
7 effects on the environment; and, be it

8 FURTHER RESOLVED, That the Board of Supervisors conditionally consents, under Section 14.7 (a)
9 (iii) of the South OPA, to the transfer of Block Nos. 33 and 34 to the Regents subject to approval of the South
10 OPA Amendment by the Oversight Board and DOF and in accordance with the terms of the MOU, South OPA
11 Amendment and Release Agreement on file with the Board in File No. 140423.

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