

1 [Declaration of Restrictions - ARE-SAN FRANCISCO NO. 15 OWNER, LLC - 1450 Owens
2 Street - Initial Annual Payment to City \$72,000]

3 **Resolution approving a Declaration of Restrictions with the ARE-SAN FRANCISCO**
4 **NO. 15 OWNER, LLC (“Owner) to establish a no-build zone on a portion of property**
5 **owned by the City and County of San Francisco, adjacent to the Owner’s property at**
6 **1450 Owens Street, intended for future public park uses, providing for annual**
7 **payments in the initial amount of \$72,000 with 3% annual increases, to the City from**
8 **Owner in exchange for such restrictions for a term effective on January 1, 2024,**
9 **through in perpetuity unless terminated by the City, as defined in the Declaration of**
10 **Restrictions; and authorizing the Director of Property to execute any amendments,**
11 **make certain modifications and take certain actions that do not materially increase the**
12 **obligations or liabilities to the City, do not materially decrease the benefits to the City**
13 **and are necessary or advisable to effectuate the purposes of the Declaration of**
14 **Restrictions or this Resolution.**

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16 WHEREAS, The City and County of San Francisco (the “City”), owns certain real
17 property located in San Francisco described as a portion of “State Trust Parcel 2,” which
18 includes a portion of “Street Vacation SV-35” shown on the “Map of Mission Bay” filed in Book
19 Z of Maps at Pages 97 through 119, in the Office of the County Recorder of the City and
20 County of San Francisco (the “Burdened Parcel”), which are within a portion of a proposed
21 park commonly identified as Park P7 in District 6, Mission Bay South; and

22 WHEREAS, ARE-SAN FRANCISCO NO. 15 OWNER, LLC (“Owner”) owns real
23 property adjacent to the Burdened Parcel in Mission Bay South, described as Lot 17 of Final
24 Map No. 4375 filed in Book CC of Survey Maps at Pages 123 through 131, in the Office of the
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1 County Recorder of the City and County of San Francisco and commonly identified as 1450
2 Owens Street (the “Benefitted Parcel”) that abuts the Burdened Parcel; and

3 WHEREAS, The Successor Agency to the Redevelopment Agency of the City, this
4 Board of Supervisors, and the City’s Planning Commission issued certain approvals and
5 entitlements, including compliance with CEQA, for Owner to build a seven-story mixed use life
6 science building on the Benefitted Parcel (the “Building”); and

7 WHEREAS, In order to allow the Building to abut the lot line between the Burdened
8 Parcel and the Benefitted Parcel and satisfy requirements of the San Francisco Building
9 Code, the City, acting in its proprietary capacity, proposes to impose certain open space
10 restrictions on the Burdened Parcel for the benefit of the Benefitted Parcel in the form of a
11 Declaration of Restrictions by and between the City and Owner (the “Declaration of
12 Restrictions”); and

13 WHEREAS, The Declaration of Restrictions establishes a no-build zone area on a
14 portion of the Burdened Parcel that applies to a 24-foot wide portion of the future Park P7
15 adjacent to the Benefitted Parcel; and

16 WHEREAS, The Declaration of Restrictions requires an annual payment from Owner to
17 the City in the amount of \$72,000 opined to be at or above fair-market value by the Director of
18 Property; and

19 WHEREAS, The annual payment is to increase each year by 3% unless such increase
20 is waived by the Director of Property; and

21 WHEREAS, A copy of the Declaration of Restrictions is on file with the Clerk of the
22 Board of Supervisors in File No. 231278; now, therefore, be it

23 RESOLVED, That in accordance with the recommendation of the Director of Property
24 (the “Director”), the Board of Supervisors approves the Declaration of Restrictions in
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1 substantially the form presented to the Board, and authorizes the Director to enter into the
2 Declaration of Restrictions with the Owner; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director to
4 execute, deliver, and record any documents that are necessary or advisable to execute and
5 record the Declaration of Restrictions and to accept the funds from the Owner, and complete
6 the transactions contemplated herein; and, be it

7 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director to enter
8 into any amendments or modifications to Declaration of Restrictions (including without
9 limitation, the exhibits) that the Director determines, in consultation with the City Attorney and
10 the General Manager of the Recreation and Park Department, are in the best interest of the
11 City, do not materially increase the obligations or liabilities of the City or materially decrease
12 the benefits to the City, are necessary or advisable to effectuate the purposes of the
13 Declaration of Restrictions or this resolution, and are in compliance with all applicable laws;
14 and, be it

15 FURTHER RESOLVED, That all actions authorized and directed by this Resolution and
16 heretofore taken are ratified, approved and confirmed by this Board of Supervisors; and, be it

17 FURTHER RESOLVED, That within thirty (30) days of the Declaration of Restrictions
18 being fully executed by all parties, the Director of Property shall provide the final agreement to
19 the Clerk of the Board for inclusion into the official file.

20 Recommended:
21

22 By: /s/ _____
23 ANDRICO Q. PENICK
24 Real Estate Division
25 Director of Property