FILE NO. 250068

ORDINANCE NO. 43-25

[Settlement of Lawsuit - Hotel Des Arts, LLC]

Ordinance authorizing settlement of the lawsuit filed by Hotel Des Arts, LLC against the City and County of San Francisco; the lawsuit was filed on June 14, 2023, in the Northern District of California, Case No. 3:23-cv-02933; entitled <u>Hotel Des Arts, LLC v.</u> <u>City and County of San Francisco, et al</u>; the lawsuit challenges 2023 amendments to the Residential Hotel Unit Conversion and Demolition Ordinance (Board File No. 220815, Ordinance No. 36-23) that define Tourist or Transient use as a stay of less than 30 days and establish a two-year amortization period; material terms of the settlement require the City to permit the conversion of the existing 38 Residential Hotel Rooms at Assessor's Parcel Block No. 0287, Lot No. 020, also known as 447 Bush Street, currently operated as the Hotel des Arts, to Tourist Hotel Rooms under Administrative Code Chapter 41 in exchange for conversion of 27 Group Housing rooms and associated amenities at 412-422 Hayes and seven Group Housing rooms and associated amenities at 319-321 Ivy Street to Residential Hotel Rooms, subject to Administrative Code, Chapter 41.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Pursuant to Charter Section 6.102(5), the Board of Supervisors hereby authorizes the City Attorney to settle the action entitled <u>Hotel Des Arts, LLC v. City and</u> <u>County of San Francisco, et al</u>, Northern District of California, Case No. 3:23-cv-02933 by the payment of \$0 and conversion of the existing 38 Residential Hotel Rooms at Block 0287, Lot 020, also known as 447 Bush Street, currently operated as the Hotel des Arts, to Tourist Hotel Rooms under Administrative Code Chapter 41 in exchange for conversion of 27 group

City Attorney BOARD OF SUPERVISORS 1

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housing rooms and associated amenities, including kitchens, bathrooms, and laundry facilities, at 412-422 Hayes and seven group housing rooms and associated amenities, including kitchens, bathrooms, and laundry facilities, at 319-321 lvy Street to Residential Hotel Rooms subject to Administrative Code Chapter 41.

The lawsuit challenges 2023 amendments to the Residential Hotel Unit Conversion and Demolition Ordinance (Board File No. 220815, Ord. No. 36-23) that define Tourist or Transient use as a stay of less than 30 days and establish a two-year amortization period.

Section 2. The above-named action was filed in the Northern District of California on June 14, 2023, and the following parties were named in the lawsuit: Plaintiff Hotel Des Arts, LLC, a Delaware limited liability company; defendants City and County of San Francisco and San Francisco Board of Supervisors.

Section 3. The Board of Supervisors authorizes the City Attorney's Office, the Department of Building Inspection and other applicable City officials to take all actions reasonably necessary to perform the City's obligations under the Settlement Agreement. This settlement is subject to and effective on the effective date of the Planning Code amendment authorizing the change of use of the residential hotel rooms into tourist hotel rooms at the Hotel Des Arts, and other associated amendments, in Board File No. 250069.

APPROVED AS TO FORM AND RECOMMENDED:

DAVID CHIU City Attorney

/s/ Austin Yang AUSTIN YANG Chief Land Use Deputy

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RECOMMENDED:

DEPARTMENT OF BUILDING INSPECTION

/s/ PATRICK O'RIORDAN DIRECTOR

City Attorney BOARD OF SUPERVISORS



File Number: 250068

Date Passed: March 25, 2025

Ordinance authorizing settlement of the lawsuit filed by Hotel Des Arts, LLC against the City and County of San Francisco; the lawsuit was filed on June 14, 2023, in the Northern District of California, Case No. 3:23-cv-02933; entitled Hotel Des Arts, LLC v. City and County of San Francisco, et al; the lawsuit challenges 2023 amendments to the Residential Hotel Unit Conversion and Demolition Ordinance (Board File No. 220815, Ordinance No. 36-23) that define Tourist or Transient use as a stay of less than 30 days and establish a two-year amortization period; material terms of the settlement require the City to permit the conversion of the existing 38 Residential Hotel Rooms at Assessor's Parcel Block No. 0287, Lot No. 020, also known as 447 Bush Street, currently operated as the Hotel des Arts, to Tourist Hotel Rooms under Administrative Code Chapter 41 in exchange for conversion of 27 Group Housing rooms and associated amenities at 412-422 Hayes and seven Group Housing rooms and associated amenities at 412-421 Hotel Rooms, subject to Administrative Code, Chapter 41.

March 06, 2025 Government Audit and Oversight Committee - RECOMMENDED

March 18, 2025 Board of Supervisors - PASSED, ON FIRST READING

Ayes: 11 - Chan, Chen, Dorsey, Engardio, Fielder, Mahmood, Mandelman, Melgar, Sauter, Sherrill and Walton

March 25, 2025 Board of Supervisors - FINALLY PASSED

Ayes: 9 - Chan, Chen, Dorsey, Engardio, Fielder, Mahmood, Mandelman, Melgar and Sherrill Excused: 2 - Sauter and Walton File No. 250068

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 3/25/2025 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo Clerk of the Board

Daniel Lurie Mayor

4.3.2025

Date Approved