

1 [Lease Amendment - New Conservatory Theatre Center - 25 Van Ness Avenue, Lower Level -
2 Additional Five-Year Option - Rent Forgiveness - \$50,067.60]

3 **Resolution authorizing the Real Estate Division to approve a fourth amendment to the**
4 **lease to extend approximately 14,229 rentable square feet of space at 25 Van Ness**
5 **Avenue, Lower Level, to New Conservatory Theatre Center, a California non-profit**
6 **corporation, for a five-year period from October 1, 2028, through September 30, 2033,**
7 **and forgive rent between January 2021, through June 2021, in the amount of**
8 **\$50,067.60; and to authorize the Director of Property to enter into any extensions,**
9 **amendments, or modifications to the Lease that do not materially reduce the rent or**
10 **otherwise materially increase the obligations or liabilities to the City and are necessary**
11 **or advisable to effectuate the purposes of the Lease or this Resolution.**

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13 WHEREAS, 25 Van Ness Avenue, Assessor Parcel Block No. 0834, Lot No. 004, is a
14 building owned and operated by the City and County of San Francisco (“City”); and

15 WHEREAS, The lower level of 25 Van Ness Avenue contains space that is designed
16 for a theatrical use; and

17 WHEREAS, The New Conservatory Theatre Center, a California non-profit corporation
18 (“NCTC” or “Tenant”), has been providing quality live entertainment and children’s theatre and
19 classes from the lower level of 25 Van Ness Avenue since 1984, and City desires to have the
20 NCTC continue its operations in that location; and

21 WHEREAS, On October 20, 2018, the Mayor and Board of Supervisors approved
22 Resolution No. 327-18, on file with the Clerk of the Board of Supervisors in File No. 180769,
23 extending the Lease through September 30, 2023; and

24 WHEREAS, On February 25, 2020, Mayor London Breed proclaimed a state of
25 emergency in response to the spread of the novel coronavirus 2019 or COVID19; on March 3,

1 2020, the Board of Supervisors concurred in the February 25th Proclamation and in the
2 actions taken by the Mayor to meet the emergency; and

3 WHEREAS, To mitigate the spread of COVID19, on March 16, 2020, the Local Health
4 Officer issued Order No. C19-07 generally requiring individuals to stay in their homes
5 (“Shelter in Place”), and requiring businesses to cease many non-essential operations at
6 physical locations in the City and County of San Francisco; and

7 WHEREAS, The COVID-19 pandemic caused abrupt and serious impacts on the local
8 economy, on the operations of local businesses and nonprofit organizations, and on the job
9 security of employees; many of the affected businesses and other entities, including City
10 Administrator Office’s Real Estate Division tenants, experienced significant operating deficits
11 and hardships in paying rent for a variety of reasons, including reductions in income due to
12 lower customer demand, required closures, or limits on full-scale operations; many of these
13 entities faced unprecedented challenges to remain financially solvent during the public health
14 emergency; and

15 WHEREAS, The City Administrator determined that rent forgiveness, not just rent
16 deferral, is necessary to maintain rent revenues in the long-term, facilitate at-risk businesses
17 and nonprofit corporations to reopen when the Health Orders allow, and to continue to provide
18 the City with much needed entertainment, art, culture and small business services and
19 materials; unlike rent deferral, which changes the timing of rent payments that are due under
20 a lease but does not change the lease terms, rent forgiveness reduces or eliminates rent
21 payments that are due; and

22 WHEREAS, The City Administrator’s Office, Real Estate Division, leases space in City
23 owned buildings to dozens of tenants for a variety of business and recreational uses; in
24 response to the severe economic impacts on these tenants, on March 27, 2020, the City
25 Administrator issued a Memorandum, “City Policy Regarding Enforcement of Certain Tenant

1 Lease Obligations by City Departments from March 17, 2020 through April 30, 2020
2 (“Policy”),” which was updated on June 1, 2020, to extend the Policy through December 31,
3 2020, allowing City departments to (i) waive all late charges, default interest and associated
4 penalties and fees for any delinquent rent payments that were or are due for use of City
5 property within San Francisco City limits due to the impact of COVID-19, (ii) provide
6 resumption of normal timely rent payments on January 1, 2021, and (iii) payment of any rent
7 arrearages (including March 2020 – December 2020) in full no later than June 30, 2021; and

8 WHEREAS, On April 30, 2021, the Board of Supervisors approved and the Mayor
9 signed Ordinance No. 059-21, on file with the Clerk of the Board of Supervisors in File No.
10 210001, authorizing the City Administrator to amend three leases managed by the Real
11 Estate Division, including the New Conservatory Theater Center lease, to forgive rent for the
12 time period of April 2020 through December 2020; and

13 WHEREAS, Administrative Code, Section 23, and Charter, Section 9.118, requires the
14 Board of Supervisors to review and approve certain leases and amendments to those leases;
15 a change in the rent amount, including rent forgiveness, would require Board of Supervisors
16 approval under subsection (c) of Charter, Section 9.118 and Section 23.30 of Chapter 23; and

17 WHEREAS, NCTC’s sole business and only source of income was closed from March
18 2020 through June 2021 due to COVID19 Health Order restrictions, vaccination status of both
19 employees and the general public, and lack of ticket sales and classes; and

20 WHEREAS, NCTC suffered financial hardship caused by the COVID19 pandemic and
21 owes \$50,067.60 in rent for the time period of January 2021 through June 2021 when its
22 business was closed; and

23 WHEREAS, NCTC reopened in late October 2021 with live performances and
24 audiences; and

25

1 WHEREAS, NCTC has one five-year option extension remaining under the current
2 Lease, to extend its Lease for the time period from October 1, 2023, through September 30,
3 2028; and

4 WHEREAS, The Real Estate Division and NCTC desire to extend and amend the
5 current Lease to add another five-year extension option period from October 1, 2028, through
6 September 30, 2033, subject to adjustment of Base Rent as set forth in the Lease, Section 4.1
7 and in accordance with the provisions of the Lease, Section 26.1; now, therefore, be it

8 RESOLVED, That in accordance with the recommendation of the Director of
9 Property after consulting with the City Attorney, the Director of Property is hereby
10 authorized to take all actions, on behalf of the City, as Landlord, to execute a lease
11 amendment with the NCTC, as Tenant, for the lower level of 25 Ven Ness Avenue, the
12 Fourth Amendment to Performance Space Lease (the "Fourth Amendment"), substantially
13 in the form on file with the Clerk of the Board of Supervisors in File No. 220803; and, be it

14 FURTHER RESOLVED, That the Lease is amended to give Tenant an additional
15 5-year option to extend the Lease for a total of three (3) Extension Options, the first of
16 which Tenant exercised on October 1, 2018, to extend the Term to September 30, 2023, at
17 a rental rate to be adjusted at the beginning of each extension term in accordance with the
18 increase in the Consumer Price Index, subject to a minimum increase of 2% per year and a
19 maximum increase of 4% per year, as more particularly described in the Lease; and, be it

20 FURTHER RESOLVED, That the Board of Supervisors approves the outstanding
21 rent in the amount of \$50,067.60 is forgiven for the time period of January 2021 through
22 June 2021; and, be it

23 FURTHER RESOLVED, That other than the extension of the term, rent forgiveness,
24 and the sections of the Lease updated as set forth in the Fourth Amendment, the Lease, as
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