File No. 130000	Board Item			<u> </u>
COMMITTEE/BOAR	D OF SUP	ERVI	SORS	3
AGENDA PACKE				
Committee: Government Audit and Ov	versight	Date N		
Board of Supervisors Meeting		Date _	mach	17,2015
Cmte Board				
Motion Resolution Ordinance Legislative Digest Budget and Legislative Youth Commission Rep Introduction Form Department/Agency Cov MOU Grant Information Form Grant Budget Subcontract Budget Contract/Agreement Form 126 – Ethics Command Award Letter Application Public Correspondence	ort ver Letter and/		ort	
OTHER (Use back side if addition	onal space is r	needed	)	
Completed by: Erica Major	Date_	Februa	ary 27, 2	2015

[Settlement of Unlitigated Claim - Thick Description and Art Space Development Corporation - City to Receive \$50,000]

Resolution approving the settlement of an unlitigated claim in favor of the City for repayment of a Nonprofit Performing Arts Loan Program Loan to Thick Description; under the settlement, Thick Description will transfer theater fixtures and equipment to the theater site at 1695-18th Street, Art Space Development Corporation ("Art Space") will pay \$50,000 to the City, and Art Space will maintain the theater site as an active and viable public theater space through December 31, 2034.

WHEREAS, The Board of Supervisors of the City and County of San Francisco enacted Chapter 50 of the San Francisco Administrative Code, establishing the Nonprofit Performing Arts Loan Program ("NPALP", or "Program") to make loans to nonprofit performing arts organizations to rehabilitate or acquire performance spaces for the benefit of the public; and

WHEREAS, Under a November 5, 1999 Loan Agreement, the City provided a NPALP loan of \$200,000 to Thick Description, a California nonprofit corporation and performing-arts organization and lessee of the Theater Site, for renovation and improvement of the Theater Site at 1695 18th Street, a loan that Thick Description was unable to repay in full. Instead, Thick Description repaid a portion of the loan, \$13,822.56, and did not timely exercise its rights to participate in the City's 2006 loan forgiveness program; and

WHEREAS, In order to secure the NPALP loan to Thick Description, Art Space
Development Corporation ("Art Space"), as owner of the Theater Site, granted the City all of
Art Space's right, title, and interest in certain real property including the Theater Site, as well
as the improvements, rents, and profits from the real property and improvements at the

Theater Site under a Deed of Trust and Assignment of Rents, also dated November 5, 1999 and recorded with the San Francisco County Assessor-Recorder's Office; and

WHEREAS, In addition to the other improvements to the Theater Site, Thick

Description, while it occupied the Theater Site, added and installed various items of theater

fixtures and equipment (such items are collectively referred to herein as "Theater Equipment")

at the Theater Site; and

WHEREAS, The renovation and improvement of the Theater Site was completed in December 1999, and the Theater Site has been available for public use since that time; and

WHEREAS, Since early December 2009, following Thick Description's departure from the Theater Site, Art Space has continued to use the Theater Equipment at the Theater Site; and

WHEREAS, Thick Description confirmed and warranted that it has no other assets to pay its debts to the City and agreed that Thick Description would transfer the Theater Equipment in exchange for forgiveness of the remaining Loan amount; and

WHEREAS, The City has a strong public interest in keeping the Theater Equipment at the Theater Site and to maintain the Theater Site as an active and viable public theater space; and

WHEREAS, The Director of the Grants for the Arts Program and the Director of the Bureau of Delinquent Revenue Collections have recommended settlement of the outstanding loan on the terms described in the Settlement Agreement; and

WHEREAS, Thick Description and Art Space have agreed to the terms of the Settlement Agreement; now, therefore, be it

RESOLVED, That pursuant to Administrative Code, Section 10.24, the Board of Supervisors hereby authorizes the City Attorney to settle and compromise the claim by (1) transfer of Thick Description's Theater Equipment to the Theater Site, (2) a payment from Art

Space of \$50,000 to the City in no more than 100 consecutive monthly payments of \$500 each with the full balance to be transferred to the City on or before April 15, 2023, (3) a commitment from Art Space to maintain the Theater Site as an active and viable public theater space through December 31, 2034, with corresponding insurance requirements to protect the City's interests, and (4) an agreement by Thick Description to release, indemnify, and hold the City and Art Space harmless for any third party claims arising out of any liens or encumbrances on the Theater Equipment, as provided in the proposed Settlement Agreement and Release.

Λ	D	D	D	1	ıV.	Έ		٠
$\boldsymbol{\Gamma}$		Г	1	u	v	_	┙	٠.

DENNIS J. HERRERA

City Attorney

BUCK DELVENTHAL Deputy City Attorney RECOMMENDED:

**GRANTS FOR THE ARTS** 

KARY SCHULMAN

Director of the Grants For the Arts Program

n:\govern\li2015\100553\00981730.doc

I EGISLATION RECEIVED CHECKLINT File Number (if applicable) Date Legislation for Introduction (NEW) ▶▶▶ Legislation Clerk Legislation Pending in Committee (AMENDED) **▶▶▶** Committee Clerk Legislation for Board Agenda (AMENDED) ▶▶▶ Dep Clerk, Legislative Div Supervisor, Mayor, and Departmental Submittals **Grant Ordinance** [ ] Legislation: Original and 2 hard copies and 1 electronic copy in word format [ ] Signature: Department Head, Mayor or the Mayor's designee, plus the Controller 1 1 Back-up materials: 2 full sets (see below) and 1 electronic copy in pdf format\* I 1 Cover letter (original and 1 hard copy) [ ] Grant budget/application [ ] Grant information form, including disability checklist [ ] Letter of Intent or grant award letter from funding agency [ ] Contract, Leases/Agreements (if applicable) [ ] Ethics Form 126 (if applicable)\*Word format [ ] E-Copy of legislation/back-up materials: Sent to BOS.Legislation@sfgov.org Ordinance [ ] Legislation: Original and 2 hard copies and 1 electronic copy in word format City Attorney (For Settlement of Lawsuits - City Attorney, Department [ ] Signature: Head, Controller, Commission Secretary) [ ] Back-up materials: 2 hard copies (see below) and 1 electronic copy in pdf format [ ] Cover letter (original and 1 hard copy) [ ] Settlement Report/Agreement (for settlements) [ ] Other (Explain) [ ] E-Copy of legislation/back-up materials: Sent to BOS.Legislation@sfgov.org **Grant Resolution** [ ] Legislation: Original and 2 hard copies and 1 electronic copy in word format [ ] Signature: Department Head, Mayor or the Mayor's designee, plus the Controller [ ] Back-up materials: 2 hard copies (see below) and 1 electronic copy in pdf format\* [ ] Cover letter (original and 1 hard copy) [ ] Grant budget/application [ ] Grant information form, including disability checklist 1 Letter of Intent or grant award letter from funding agency [ ] Contract, Leases/Agreements (if applicable) [ ] Ethics Form 126 (if applicable)\*Word format [ ] E-Copy of legislation/back-up materials: Sent to BOS.Legislation@sfgov.org Resolution Legislation: Original and 2 hard copies and 1 electronic copy in word format Signature: None (Required for Settlement of Claims - City Attorney, Department). Head, Controller, Commission Secretary) **Pack-up materials:** 2 full sets (see below) and 1 electronic copy in pdf format Cover letter (original and 1 hard copy) Settlement Report/Agreement (for settlements) [ ] Other (Explain) E-Copy of legislation/back-up materials: Sent to BOS.Legislation@sfgov.org

Clerk's Office/Forms/Legislation Received Checklist (6/2013) for more help go to: sfbos.org/about the board/general/legislative process handbook

Name and Telephone Number