

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

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

9
10 WHEREAS, The Board of Supervisors of the City and County of San Francisco
11 enacted Chapter 50 of the San Francisco Administrative Code, establishing the Nonprofit
12 Performing Arts Loan Program ("NPALP", or "Program") to make loans to nonprofit performing
13 arts organizations to rehabilitate or acquire performance spaces for the benefit of the public;
14 and

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

21 WHEREAS, In order to secure the NPALP loan to Thick Description, Art Space
22 Development Corporation ("Art Space"), as owner of the Theater Site, granted the City all of
23 Art Space's right, title, and interest in certain real property including the Theater Site, as well
24 as the improvements, rents, and profits from the real property and improvements at the
25

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

3 WHEREAS, In addition to the other improvements to the Theater Site, Thick
4 Description, while it occupied the Theater Site, added and installed various items of theater
5 fixtures and equipment (such items are collectively referred to herein as "Theater Equipment")
6 at the Theater Site; and

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

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

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

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

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

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

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

1 Space of \$50,000 to the City in no more than 100 consecutive monthly payments of \$500
2 each with the full balance to be transferred to the City on or before April 15, 2023, (3) a
3 commitment from Art Space to maintain the Theater Site as an active and viable public
4 theater space through December 31, 2034, with corresponding insurance requirements to
5 protect the City's interests, and (4) an agreement by Thick Description to release, indemnify,
6 and hold the City and Art Space harmless for any third party claims arising out of any liens or
7 encumbrances on the Theater Equipment, as provided in the proposed Settlement Agreement
8 and Release.
9

10 APPROVED:

RECOMMENDED:

11 DENNIS J. HERRERA
12 City Attorney

GRANTS FOR THE ARTS

13 
14 _____
BUCK DELVENTHAL
Deputy City Attorney

15 
16 _____
KARY SCHULMAN
Director of the Grants For the Arts Program

17 n:\govern\li2015\100553\00981730.doc
18
19
20
21
22
23
24
25

