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.

APPROVED:

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
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.

March 05, 2015 Government Audit and Oversight Committee - RECOMMENDED.

March 17, 2015 Board of Supervisors - ADOPTED
Ayes: 10 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang and Yee
Excused: 1 - Wiener

File No. 150068

I hereby certify that the foregoing Resolution was ADOPTED on 3/17/2015 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

Date Approved: 3/26/15