Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2008-2009 Civil Grand Jury Report entitled “Nonprofits, The Good, The Bad, The Ugly,” and urging the Mayor to cause the implementation of accepted findings and recommendations through department heads and through the development of the annual budget.

WHEREAS, Under California Penal Code Section 933 et seq., the Board of Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior Court on the findings and recommendations contained in Civil Grand Jury Reports; and

WHEREAS, In accordance with Penal Code Section 933.05(c), if a finding or recommendation of the Civil Grand Jury addresses budgetary or personnel matters of a county agency or a department headed by an elected officer, the agency or department head and the Board of Supervisors shall respond if requested by the Civil Grand Jury, but the response of the Board of Supervisors shall address only budgetary or personnel matters over which it has some decision making authority; and

WHEREAS, The 2008-2009 Civil Grand Jury Report entitled “Nonprofits, The Good, The Bad, The Ugly” is on file with the Clerk of the Board of Supervisors in File No. 090844, which is hereby declared to be a part of this resolution as if set forth fully herein; and

WHEREAS, The Civil Grand Jury has requested that the Board of Supervisors respond to Finding Nos. 4, 7, 8, 9, 11, 12, 13 and 14 as well as Recommendation Nos. 7, 8, 9, 10, 13 and 15 contained in the subject Civil Grand Jury report; and

WHEREAS, Finding No. 4 states: “The magnitude of money and the lack of tracking and coordination of grants provide a potential for abuse in the allocation of grants;” and
WHEREAS, Finding No. 7 states: "Sole Source Waivers issued are tracked by number of waivers issued to a department and not to whom the waivers were given or for what purpose;" and

WHEREAS, Finding No. 8 states: "Targeted Addbacks to the city budget are taking place, even though they are against Procurement Rules: City Charter (2.114. Non Interference in Administration);" and

WHEREAS, Finding No. 9 states: "Targeted Addbacks are often a result of lobbying by special interest groups;" and

WHEREAS, Finding No. 11 states: "Targeted Addbacks negate the expertise of the city departments;" and

WHEREAS, Finding No. 12 states: "Targeted Addbacks do not follow the budget amendment process established by the City Charter and circumvent the regular competitive solicitation processes that City departments must follow, sometimes causing departments [to] enter sole source contracts;" and

WHEREAS, Finding No. 13 states: "Targeted Addbacks impede the ability of city departments to hold nonprofit contractors accountable for poor performance. (Partnering with Nonprofits in Tough Times: Recommendations from SF Community Based Task Force, April 2009);" and

WHEREAS, Finding No. 14 states: "The Board of Supervisors has violated the Charter by making direct contracting decisions through targeted Addbacks. Through this procedure, the Board of Supervisors has continued the longstanding practice of allocating some City funds directly to specific contractors;" and

WHEREAS, Recommendation No. 7 states: "The practice of targeted Addbacks should be stopped;" and

Supervisor Mirkarimi
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WHEREAS, Recommendation No. 8 states: “The City Charter (2.114. Non-Interference in Administration) should be enforced to prevent district supervisors from directing funds to specific nonprofits through circuitous means. (For example, naming a street where a nonprofit exists or specifying a service offered only by a specific nonprofit);” and

WHEREAS, Recommendation No. 9 states: “The Supervisors can have a greater role, in the process, by submitting budget proposals and funding priorities during a department's normal budget preparation process, e.g. hearings, commissions and/or citizen advisory committee meetings rather than last-minute adjustments through the targeted add-back process;” and

WHEREAS, Recommendation No. 10 states: “To comply with the San Francisco Charter and encourage the use of competitive processes, and to strengthen the requirements for the content of City contracts, the Board of Supervisors should no longer direct funds toward specific City contracts or contractors through the targeted addback process or otherwise;” and

WHEREAS, Recommendation No. 13 states: “The Nonprofit Review/Appellate Panel should be given the directive to study the compliance rate on joint monitoring within and among all City departments and to make recommendations to bring compliance to 100%;” and

WHEREAS, Recommendation No. 15 states: “The Board of Supervisors should give the Nonprofit Review/Appellate Panel responsibility for developing a monitoring and performance measurement system based on a taxonomy of nonprofit outcomes for human and health services’ programs provided by nonprofits and their indicators as developed by the Urban Institute/The Center for What Works or a similar system;” and

WHEREAS, In accordance with Penal Code Section 933.05(c), the Board of Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior
Court on Finding Nos. 4, 7, 8, 9, 11, 12, 13 and 14 as well as Recommendation Nos. 7, 8, 9, 10, 13 and 15 contained in the subject Civil Grand Jury report; now, therefore, be it

RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the Superior Court that it agrees with Finding No. 4 and Recommendation No. 9 of the 2008-2009 Civil Grand Jury Report entitled “Nonprofits, The Good, The Bad, The Ugly;” and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that it disagrees with Finding No. 7 because the Office of Contract Administration’s (OCA) standard waiver request form already requires departments to identify vendors and to describe the products or services to be sole sourced. The Board also disagrees with Recommendation No. 13 because the Controller’s Office is already studying the compliance rate on joint monitoring within and across City departments; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 15 requires further analysis; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the Superior Court that regarding Finding Nos. 8, 9, 11, 12, 13 and 14 and Recommendation Nos. 7, 8 and 10, the Board of Supervisors adds programmatic funding to the City’s annual budget in major policy areas, such as public safety, transportation and affordable housing, but it leaves administration of such funding to the Mayor and his/her department heads in accordance with the San Francisco Municipal Code and City Charter; and, be it

FURTHER RESOLVED, That the Board of Supervisors urges the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.
Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2008-2009 Civil Grand Jury Report entitled "Nonprofits, The Good, The Bad, The Ugly," and urging the Mayor to cause the implementation of accepted findings and recommendations through department heads and through the development of the annual budget.

November 24, 2009 Board of Supervisors - ADOPTED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

I hereby certify that the foregoing Resolution was ADOPTED on 11/24/2009 by the Board of Supervisors of the City and County of San Francisco.