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 “Pensions: Beyond Our Ability to Pay,” 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 “Pensions: Beyond Our Ability to Pay” is on file with the Clerk of the Board of Supervisors in File No. 090876, 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. 2.1.1 and 4.1.1 as well as Recommendation Nos. 2.2.1, 2.2.2, 2.2.3 and 4.2.2 contained in the subject Civil Grand Jury report; and

WHEREAS, Finding No. 2.1.1 states: “The Jury has not found evidence that SFERS [San Francisco Employees' Retirement System] management has provided the oversight

Supervisor Mirkarimi
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necessary to identify anomalies in pension payouts and to report the occurrences of pension
spiking to the Retirement Board, the Mayor and the Board of Supervisors;” and

WHEREAS, Finding No. 4.1.1 states: “The Controllers report stated that this program
would be cost neutral to the City however, in a letter to the Director of Elections dated October
26th 2007, SFERS management wrote that: ‘While the initiative states that the program shall
be cost neutral, no cost analysis is to be conducted until April 15th 2011. In other words the
cost to administer the program has not been determined and the systems necessary to run it,
have not been developed. If the Board of Supervisors determines not to extend the DROP
[Deferred Retirement Option Program] based on this cost analysis no further DROP elections
will be allowed;’” and

WHEREAS, Recommendation No. 2.2.1 states: “A task force should be established to
evaluate a change to a defined-contribution (DC) plan for all new employees of the City and
County of San Francisco. By adopting a DC plan, the Mayor, BOS and SFERS can do more
to restore credibility to the public pension plans than any other action they can take;” and

WHEREAS, Recommendation No. 2.2.2 states: “Pension Spiking should be prohibited
altogether as an unfair and costly practice that benefits no one, except for the retiring
employee;” and

WHEREAS, Recommendation No. 2.2.3 states: “An independent investigation of
pension fund spiking should be initiated;” and

WHEREAS, Recommendation No. 4.2.2 states: “The City and SFERS should
determine the actual cost of running the program, to determine if the DROP program is
economically viable at this point;” 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. 2.1.1 and 4.1.1 as well as Recommendation Nos. 2.2.1, 2.2.2, 2.2.3 and 4.2.2 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 Recommendation Nos. 2.2.2 and 4.2.2 of the 2008-2009 Civil Grand Jury Report entitled “Pensions: Beyond Our Ability to Pay;” and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that it disagrees with Finding No. 2.1.1 and Recommendation 2.2.3 because the Board believes that SFERS is applying due diligence to prevent pension spiking. The Board also disagrees with Recommendation No. 2.2.1 because a working group created by the Mayor is already reviewing the City’s Defined-Benefit (DB) Pension Plan and evaluating alternative plans and options; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the Superior Court that regarding Finding No. 4.1.1, the Board of Supervisors intends to discharge its duty of reviewing a fiscal analysis of the DROP program in accordance with the timeline approved by San Francisco voters; 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.

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11/12/2009
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 “Pensions: Beyond Our Ability to Pay,” 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.