

1 [Board response to the 2008-2009 Civil Grand Jury Report entitled “Pensions: Beyond Our  
2 Ability to Pay”]

3 **Resolution responding to the Presiding Judge of the Superior Court on the findings**  
4 **and recommendations contained in the 2008-2009 Civil Grand Jury Report entitled**  
5 **“Pensions: Beyond Our Ability to Pay,” and urging the Mayor to cause the**  
6 **implementation of accepted findings and recommendations through department heads**  
7 **and through the development of the annual budget.**

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

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

18 WHEREAS, The 2008-2009 Civil Grand Jury Report entitled “Pensions: Beyond Our  
19 Ability to Pay” is on file with the Clerk of the Board of Supervisors in File No. 090876, which is  
20 hereby declared to be a part of this resolution as if set forth fully herein; and

21 WHEREAS, The Civil Grand Jury has requested that the Board of Supervisors respond  
22 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  
23 contained in the subject Civil Grand Jury report; and

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

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

3 WHEREAS, Finding No. 4.1.1 states: “The Controllers report stated that this program  
4 would be cost neutral to the City however, in a letter to the Director of Elections dated October  
5 26<sup>th</sup> 2007, SFERS management wrote that: ‘While the initiative states that the program shall  
6 be cost neutral, no cost analysis is to be conducted until April 15<sup>th</sup> 2011. In other words the  
7 cost to administer the program has not been determined and the systems necessary to run it,  
8 have not been developed. If the Board of Supervisors determines not to extend the DROP  
9 [Deferred Retirement Option Program] based on this cost analysis no further DROP elections  
10 will be allowed;” and

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

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

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

20 WHEREAS, Recommendation No. 4.2.2 states: “The City and SFERS should  
21 determine the actual cost of running the program, to determine if the DROP program is  
22 economically viable at this point;” and

23 WHEREAS, in accordance with Penal Code Section 933.05(c), the Board of  
24 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior  
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1 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  
2 and 4.2.2 contained in the subject Civil Grand Jury report; now, therefore, be it

3 RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the  
4 Superior Court that it agrees with Recommendation Nos. 2.2.2 and 4.2.2 of the 2008-2009  
5 Civil Grand Jury Report entitled "Pensions: Beyond Our Ability to Pay;" and, be it

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

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

16 FURTHER RESOLVED, That the Board of Supervisors urges the Mayor to cause the  
17 implementation of accepted findings and recommendations through his/her department heads  
18 and through the development of the annual budget.

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