

1 [Board response to the 2008-2009 Civil Grand Jury Report entitled “Nonprofits, The Good,
2 The Bad, The Ugly”]

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 **“Nonprofits, The Good, The Bad, The Ugly,” 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.**

8
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 “Nonprofits, The Good,
19 The Bad, The Ugly” is on file with the Clerk of the Board of Supervisors in File No. 090844,
20 which is 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. 4, 7, 8, 9, 11, 12, 13 and 14 as well as Recommendation Nos. 7, 8, 9, 10, 13
23 and 15 contained in the subject Civil Grand Jury report; and

24 WHEREAS, Finding No. 4 states: “The magnitude of money and the lack of tracking
25 and coordination of grants provide a potential for abuse in the allocation of grants;” and

1 WHEREAS, Finding No. 7 states: “Sole Source Waivers issued are tracked by number
2 of waivers issued to a department and not to whom the waivers were given or for what
3 purpose;” and

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

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

9 WHEREAS, Finding No. 11 states: “Targeted Addbacks negate the expertise of the city
10 departments;” and

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

15 WHEREAS, Finding No. 13 states: “Targeted Addbacks impede the ability of city
16 departments to hold nonprofit contractors accountable for poor performance. (Partnering with
17 Nonprofits in Tough Times: Recommendations from SF Community Based Task Force, April
18 2009);” and

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

23 WHEREAS, Recommendation No. 7 states: “The practice of targeted Addbacks should
24 be stopped”; and

25

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

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

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

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

18 WHEREAS, Recommendation No. 15 states: “The Board of Supervisors should give
19 the Nonprofit Review/Appellate Panel responsibility for developing a monitoring and
20 performance measurement system based on a taxonomy of nonprofit outcomes for human
21 and health services’ programs provided by nonprofits and their indicators as developed by the
22 Urban Institute/The Center for What Works or a similar system;” 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. 4, 7, 8, 9, 11, 12, 13 and 14 as well as Recommendation Nos. 7, 8, 9,
2 10, 13 and 15 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 Finding No. 4 and Recommendation No. 9 of the 2008-2009
5 Civil Grand Jury Report entitled “Nonprofits, The Good, The Bad, The Ugly;” and, be it

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

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

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

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