

**LEGISLATIVE DIGEST**

(5/21/2013, Substituted)

[Public Works Code - Public Improvements as Gifts]

**Ordinance amending the San Francisco Public Works Code, by adding Section 791, to allow the Director of the Department of Public Works, subject to specified requirements, to accept certain public improvements as public gifts and dedicate such improvements to public use; and making environmental findings.**

Existing Law

Administrative Code Sections 98.1 et seq. set forth the City's Better Streets Policy and establish the Better Streets Plan as the governing document for the design and dimensions of all pedestrian and streetscape elements. Administrative Code Section 1.52 provides that when any portion of a roadway or street of at least one continuous block has been constructed in accordance with City standards as certified by the City Engineer, the Board of Supervisors by Ordinance shall accept the street for City maintenance and liability purposes, subject to the exception discussed below. San Francisco also follows this process when there are portions of newly constructed street or roadway portions of less than one block or other public works or improvements in the public right-of-way constructed to City standards and placed under the jurisdiction of the Department of Public Works for City maintenance and liability purposes. Administrative Code Section 1.52 and Public Works Code Section 706 place the duty on a property owner to keep the public sidewalk adjacent to the owner's property in good repair and condition. Administrative Code Section 10.100-305 establishes a \$10,000 limit on administrative acceptance of gifts to the City. Gifts above that value require approval of the Board of Supervisors via Resolution.

Amendments to Current Law

This legislation would add Public Works Code Section 791 to create a streamlined process for the Director of the Department of Public Works (DPW) to permit the construction of and accept public improvements designed in accordance with the Better Streets Plan and City standards as gifts to the City even if the cost for such improvements exceeds the administrative gift acceptance level of \$10,000. The Ordinance would apply primarily to public improvements, such as sidewalk widening, pedestrian bulb-outs, and street medians, constructed outside of the owner's/permittee's property frontage and would be limited to those improvements within DPW's permitting jurisdiction. The legislation would specify that if the owner/permittee constructs any pedestrian bulb-out as part of this program, DPW would: (1) assume the maintenance of the additional sidewalk area associated with the bulb-out that extends beyond the existing or expanded official sidewalk width and (2) delineate the division

of maintenance responsibility between the City and the adjacent property owner on its official sidewalk width maps. The owner/permittee would remain responsible for all other public improvements within his or her immediate property frontage in accordance with the Public Works Code. If the permittee constructs a widened sidewalk outside of his or her property frontage that meets the City's standard sidewalk design parameters and constitutes the new official sidewalk width, then property owners adjacent to the expanded sidewalk are responsible for this area in accordance with Public Works Code Section 706. If all or a portion of the public improvements outside of the owner's/permittee's property frontage do not meet City standards or constitute encroachments, such as street furniture, then the DPW Director is authorized to reject this portion of the gift and address these improvements through the applicable permit program in the Public Works Code.

The Ordinance also would delegate to the DPW Director the authority to dedicate such improvements for public use, designate them for public right-of-way purposes, and accept them for City maintenance and liability without further Board of Supervisors action. The Ordinance would provide that any public gift of such improvements include a maintenance endowment of at least 20% of the construction cost of the improvements though the DPW Director would have the authority to reduce this endowment to no less than 10% of the cost. This endowment would be placed in a public improvement gift maintenance fund to be used exclusively for maintenance and other City actions directly connected with the improvements.

#### Background Information

This legislation is intended to facilitate and simplify the process for property owners to construct public improvements outside of their immediate property frontage in order to enhance pedestrian-friendly public amenities in a neighborhood. It also provides a convenient approach for property owners to construct such improvements in lieu of paying City impact fees, which otherwise would have been set aside for similar City-constructed public improvements at a later date. Consequently, this Ordinance allows for the more efficient and expedient neighborhood delivery of public improvements that are consistent with the City's Better Streets Plan, neighborhood plans, and streetscape design standards.