

1 [Public Works Code - Public Improvements as Gifts]

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

7 NOTE: Additions are *single-underline italics Times New Roman*;
8 deletions are ~~*strike-through italics Times New Roman*~~.
9 Board amendment additions are double-underlined;
10 Board amendment deletions are ~~strike-through normal~~.

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11 Be it ordained by the People of the City and County of San Francisco:

12 Section 1. Findings.

13 (a) Consistent with the Better Streets Policy of Administrative Code Sections 98.1 et
14 seq., the Better Streets Plan, Neighborhood Plans, and streetscape design standards, the
15 Board of Supervisors finds that it is in the public interest to encourage property owners to
16 voluntarily construct and install public improvements outside of the frontage of the owner’s
17 property on the City’s public right-of-way. This legislation provides a mechanism to
18 accomplish this and simplify the existing permitting scheme.

19 (b) The Planning Department has determined that the actions contemplated in this
20 ordinance comply with the California Environmental Quality Act (California Public Resources
21 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
22 Supervisors in File No. 130251 and is incorporated herein by reference.

23 Section 2. The San Francisco Public Works Code is hereby amended by adding
24 Section 791, to read as follows:

25

1 **SEC. 791. PUBLIC IMPROVEMENTS GIFT ACCEPTANCE AND PUBLIC**

2 **DEDICATION.**

3 **(a) Definitions.**

4 “Immediate Property Frontage” refers to that portion of the public right-of-way from the back
5 of curb to the adjacent property line for the length of the entire property.

6 “Public Improvements” shall be defined as physical improvements to the public right-of-way
7 intended to promote pedestrian and bicycle safety, to provide increased sidewalk area for pedestrians,
8 and to promote environmentally sound street design, and to enhance the aesthetic appeal of streets.
9 Such improvements include, but shall not be limited to, sidewalk widening, sidewalk widening at
10 corners, medians, raised pedestrian crossings, and bicycle facilities, and are generally described in the
11 Better Streets Plan or its successor document, Neighborhood Plans, or neighborhood streetscape plans.

12 **(b) Gift Acceptance of Public Improvements.** Notwithstanding the limit on administrative
13 acceptance of public gifts in Administrative Code Section 10.100-305, the Director of Public Works is
14 authorized to accept as gifts on behalf of the City and County of San Francisco certain Public
15 Improvements within the Department’s permitting and maintenance jurisdiction subject to the
16 limitations as set forth in this Section 791. Such gift acceptance is subject to all other laws, rules, and
17 regulations governing acceptance of public gifts. All such gifts shall be made by an irrevocable offer of
18 dedication.

19 **(c) Location of Public Improvements and Consistency with Applicable Plans.**

20 (1) The subject Public Improvements shall be located on the public right-of-way outside of the
21 Immediate Property Frontage of the property owner and be consistent with the Better Streets Plan or
22 applicable Neighborhood Plan or neighborhood streetscape plan. Generally, such Public
23 Improvements shall be within 500 feet of the Immediate Property Frontage.

24 (2) Notwithstanding the locational requirement of Subsection (c)(1) above, a gift of Public
25 Improvements also may be made if the owner constructs a sidewalk bulb-out within the Immediate

1 Property Frontage. Such sidewalk bulb-out shall satisfy all other provisions of this Section. Any such
2 gift shall be applicable only to that additional portion of sidewalk necessary to construct the sidewalk
3 bulb-out in relation to the: (a) then existing official sidewalk width if the sidewalk width remains
4 unchanged within the Immediate Property Frontage or (b) new official sidewalk width if the sidewalk
5 width within the Immediate Property Frontage has been expanded. With the exception of that
6 additional portion of sidewalk necessary to construct the sidewalk bulb-out as set forth above, the
7 property owner shall be solely responsible for such Improvements in accordance with Public Works
8 Code Section 706. In such instances, the Department of Public Works official maps shall delineate the
9 division of responsibility between the City and the property owner.

10 (3) If the subject Public Improvements specified in Subsection (c)(1) result in expansion of
11 sidewalk width outside of the Immediate Property Frontage and such sidewalk improvements meet all
12 the standard City requirements for sidewalk design and materials, then while the Department may
13 accept such Public Improvements as a gift, then the fronting owner shall be solely responsible for such
14 Improvements in accordance with Public Works Code Section 706.

15 (4) Notwithstanding the requirement of Subsection (c)(3) above, a gift of Public Improvements
16 may include a sidewalk bulb-out outside of the Immediate Property Frontage. Any such gift shall be
17 applicable only to that additional portion of sidewalk necessary to construct the sidewalk bulb-out in
18 relation to the: (a) then existing official sidewalk width if the sidewalk width remains unchanged
19 outside of the Immediate Property Frontage or (b) new official sidewalk width if the sidewalk width
20 outside the Immediate Property Frontage has been expanded and such sidewalk improvements meet all
21 the standard City requirements for sidewalk design and materials. With the exception of that
22 additional portion of sidewalk necessary to construct the sidewalk bulb-out as set forth above, the
23 fronting owner shall be solely responsible for such Improvements in accordance with Public Works
24 Code Section 706. In such instances, the Department of Public Works official maps shall delineate the
25 division of responsibility between the City and the fronting owner.

1 (5) If the subject Public Improvements to be located on the sidewalk portion of the public right-
2 of-way outside of the Immediate Property Frontage of the property owner are not improvements that
3 meet all the standard City requirements for design and materials or are comprised of any form of
4 encroachment, including street furniture, then the Director, in his or her discretion, may decline to
5 accept all or a portion of such Public Improvements as a gift. In such instances, the Director may
6 process the permitting and approval of such Public Improvements in accordance with applicable
7 provisions of the Public Works Code and may issue a permit or permits to the property owner if the
8 property owner assumes permit responsibility for the nonstandard design and materials or
9 encroachments. In such instances, the Director also may process the permitting and approval of such
10 Public Improvements in accordance with applicable provisions of the Public Works Code and may
11 issue a permit or permits to the fronting owner(s) if such fronting owner(s) consent to assume
12 responsibility for the nonstandard design and materials or encroachments.

13 (d) **Limitation of Gift Acceptance to Department of Public Works Jurisdiction.** The Public
14 Improvements subject to the gift acceptance shall be only those improvements within the Department's
15 permitting and maintenance jurisdiction. Public Improvements that fall within the maintenance
16 jurisdiction of other departments shall not be subject to the terms of this Section.

17 (e) **Public Improvements Subject to All Other Applicable City Approvals.** The Public
18 Improvements shall be subject to all City Department reviews, approvals, and permitting that otherwise
19 would apply to such projects.

20 (f) **Departmental Approval by Street Improvement Permit.** The Department shall approve
21 such Public Improvements pursuant to a street improvement permit as set forth in Public Works Code
22 Article 2.4 for accepted streets or Article 9 for unaccepted streets and said permit shall be
23 accompanied by security as required by the Department. Said permit may be combined with other
24 Departmental permits associated with the subject project.

1 (g) Gift to Include Cost of Maintenance. The gift for such Public Improvements shall be
2 accompanied by a maintenance endowment of at least 20% of the estimated cost of construction of the
3 Improvements as determined by the City Engineer; provided, however, that the Director may reduce
4 the cost of this endowment, but in no case shall the reduction be less than 10% of the cost of
5 construction of the Improvements. The Department shall deposit all such maintenance funds into a
6 public improvement gift maintenance account.

7 (h) Public Improvement Gift Maintenance Fund. There is hereby created a Public
8 Improvement Gift Maintenance Fund wherein all funds received under the provisions of this Section
9 shall be deposited. All expenditures from the Fund shall be for administrative, engineering, legal, or
10 technical work related to the maintenance of such improvements and equipment directly related to such
11 maintenance, including but not limited to labor costs and any future construction associated with the
12 Public Improvements. All such expenditures are hereby appropriated for said purposes.

13 (i) Acceptance and Dedication of Public Improvements. The Board of Supervisors delegates
14 authority to the Director of Public Works to accept and dedicate the Public Improvements for public
15 use, designate them for any or all public street and roadway purposes, and accept the Improvements
16 for City maintenance and liability purposes once the City Engineer has determined that the Public
17 Improvements have been constructed according to City standard and the satisfaction of the Department
18 and are ready for their intended use.

19 (j) DPW Regulations. In addition to the requirements set forth in this Section, the Director
20 may adopt such orders, policies, regulations, rules, or standard plans and specifications as he or she
21 deems necessary in order to preserve and maintain the public health, safety, welfare, and convenience.
22 Such orders, policies, regulations, or rules may include, but are not limited to, permit application
23 materials, site conditions, accessibility of sidewalks and streets, submission of as-built plans as a
24 precondition to acceptance. When such orders, policies, regulations or rules will affect the operations
25 and enforcement of the Municipal Transportation Agency, the Director of the Department of Public

1 Works shall consult with and provide an opportunity to comment to the Municipal Transportation
2 Agency prior to adoption of such orders, policies, regulations, or rules.

3 Section 3. Effective Date. This ordinance shall become effective 30 days from the
4 date of passage.

5 Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to
6 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
7 punctuation, charts, diagrams, or any other constituent part of the Public Work Code that are
8 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
9 Board amendment deletions in accordance with the "Note" that appears under the official title
10 of the legislation.

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13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By: _____
16 John D. Malamut
17 Deputy City Attorney

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