

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Andrico Penick, Director, Real Estate Division  
Mohammed Nuru, Director, Public Works

FROM: Linda Wong, Assistant Clerk  
Budget and Finance Committee

DATE: December 19, 2019

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Budget and Finance Committee has received the following proposed legislation, introduced by Supervisor Walton on December 10, 2019:

**File No. 191262**

**Ordinance authorizing the Director of Property to acquire and accept the State of California's relinquishment of all its right, title, and interest in the sidewalk, roadway, and other right-of-way improvements and real property comprising a portion of State Highway Route 101 located northeast of the Bayshore Boulevard overcrossing and southwest of the intersection of Third Street and Meade Avenue; authorizing the placement of such sidewalk, roadway, and other right-of-way improvements and real property, upon acquisition, under the jurisdiction of Public Works; authorizing additional official City actions required to complete the State's relinquishment of such sidewalk, roadway, and other right-of-way improvements and real property; waiving the required 90-days notice of intention to relinquish set forth in State law; adopting the Planning Department's determination that such acquisition is consistent with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting the Planning Department's determination under the California Environmental Quality Act.**

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: [linda.wong@sfgov.org](mailto:linda.wong@sfgov.org).

c: David Steinberg, Public Works  
Jeremy Spitz, Public Works

1 [Real Property Acquisition - Highway Offramp Improvements and Real Property - Southwest  
2 of Third Street and Meade Avenue]

3 **Ordinance authorizing the Director of Property to acquire and accept the State of**  
4 **California's relinquishment of all its right, title, and interest in the sidewalk, roadway,**  
5 **and other right-of-way improvements and real property comprising a portion of State**  
6 **Highway Route 101 located northeast of the Bayshore Boulevard overcrossing and**  
7 **southwest of the intersection of Third Street and Meade Avenue; authorizing the**  
8 **placement of such sidewalk, roadway, and other right-of-way improvements and real**  
9 **property, upon acquisition, under the jurisdiction of Public Works; authorizing**  
10 **additional official City actions required to complete the State's relinquishment of such**  
11 **sidewalk, roadway, and other right-of-way improvements and real property; waiving the**  
12 **required 90-days notice of intention to relinquish set forth in State law; adopting the**  
13 **Planning Department's determination that such acquisition is consistent with the**  
14 **General Plan, and the eight priority policies of Planning Code, Section 101.1; and**  
15 **adopting the Planning Department's determination under the California Environmental**  
16 **Quality Act.**

17 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
18 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
19 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
20 **Board amendment additions** are in double-underlined Arial font.  
21 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
22 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
23 subsections or parts of tables.

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

25 Section 1. General Findings.

1 (a) The Department of Public Works (“Public Works”) and the Bayview Hill  
2 Neighborhood Association have engaged in planning efforts with neighborhood residents in  
3 southeast San Francisco and have collaborated to design streetscape improvements along  
4 the highway offramp near the intersection of Third Street and Meade Avenue, including but  
5 not limited to lighted gateway signage and right-of-way improvements and hardscaping, and  
6 landscape improvements, including but not limited to an irrigation system and tree plantings.  
7 The proposed streetscape and landscape improvements will be installed by Public Works and  
8 are intended to demarcate and beautify a prominent physical entrance to the Bayview-Hunters  
9 Point neighborhood, revitalizing a vacant lot that is currently underutilized and overgrown with  
10 vegetation.

11 (b) The State of California, acting by and through its Department of Transportation  
12 (“Caltrans”), exercises regulatory jurisdiction over State Highway Route 101 (“Highway 101”),  
13 including a portion that Caltrans has now proposed to relinquish to the City: a portion of  
14 sidewalk, roadway, and other right-of-way improvements and real property comprising a  
15 portion of the highway offramp located southwest of the intersection of Third Street and  
16 Meade Avenue and northeast of the Bayshore Boulevard overcrossing (the “Bayshore  
17 Offramp Improvements and Property”), which is depicted in Sheets 1 and 2 of the Caltrans  
18 map titled “Right of Way Relinquishment, REL. NO. 56146,” dated as of August 2019, on file  
19 with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and incorporated herein by  
20 reference. Presently, Caltrans has sole authority to approve and issue permits for activities  
21 on the State highway right-of-way, and Caltrans does not issue encroachment permits to allow  
22 decorative features within the boundaries of the State highway right-of-way.

23 (c) Pursuant to the Agreement for Maintenance of State Highways in the City of San  
24 Francisco approved by the City and County of San Francisco (“City”) on June 10, 2009,  
25 pursuant to Board of Supervisors Resolution No. 209-09, and as amended on October 27,

1 2011 ("Delegated Maintenance Agreement"), Caltrans delegated to the City certain  
2 maintenance responsibilities over the State Highways located within the City's jurisdiction as  
3 authorized pursuant to the California Streets and Highways Code, including maintenance of  
4 signals and safety lighting that are part of the Bayshore Offramp Improvements and Property.  
5 Pursuant to the Delegated Maintenance Agreement, the City currently performs certain  
6 maintenance of the Bayshore Offramp Improvements and Property, and Caltrans reimburses  
7 the City for such maintenance work. However, the City has not been delegated authority to  
8 authorize the construction of streetscape and landscape improvements on Highway 101 under  
9 the Delegated Maintenance Agreement. A copy of the Delegated Maintenance Agreement is  
10 on file with the Clerk of the Board of Supervisors in File No. 090630.

11 (d) The City has adopted policies such as the Better Streets Plan, which took effect on  
12 January 16, 2011 pursuant to Ordinance No. 310-10, and the City continues to implement the  
13 Better Streets Plan and other efforts to revitalize neighborhoods and activate spaces along  
14 streets and sidewalks throughout the City. City residents and neighborhood stakeholders  
15 have expressed much interest in revitalizing and activating the right-of-ways around the  
16 Bayshore Offramp Improvements and Property.

17 (e) Caltrans has now proposed to relinquish to the City, at no cost to the City and  
18 without warranty, all of Caltrans' right, title, and interest in and to the Bayshore Offramp  
19 Improvements and Property after the City enacts this ordinance, and following approval of the  
20 relinquishment by the California Transportation Commission ("CTC") by way of a resolution.  
21 The City agrees to provide Caltrans with 90 days' prior notice of any proposed changes to the  
22 configuration of the two-lane roadway portion of the Third Street roadway portion of the  
23 Bayshore Offramp Improvements and Property. Subject to the City's authority under the City  
24 Charter, the City will endeavor to protect the continuity of the operation of Highway 101 and  
25 the northbound offramp portion of the Bayshore Offramp Improvements and Property while

1 the portion of Highway 101 abutting the Bayshore Offramp Improvements and Property  
2 remains in operation as a State Highway.

3 (f) A copy of the proposed California Transportation Commission ("CTC") resolution  
4 ("CTC Resolution") and of the other documents required to effectuate the State's  
5 relinquishment and the City's acceptance of the Bayshore Offramp Improvements and  
6 Property are on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_. It is  
7 anticipated that the CTC will consider passage of the CTC Resolution in 2020. After passage  
8 of a resolution in substantial conformance with the proposed CTC Resolution, the  
9 relinquishment of Caltrans' right, title, and interest in and to the Bayshore Offramp  
10 Improvements and Property to the City shall become effective upon the recordation of a  
11 certified copy of the approved CTC Resolution by the City Assessor-Recorder ("Effective Date  
12 of Relinquishment").

13 Section 2. Environmental and General Plan Findings.

14 (a) The Planning Department has determined that the actions contemplated in this  
15 ordinance qualify for a categorical exemption under the California Environmental Quality Act  
16 (California Public Resources Code Sections 21000 et seq.). Said determination is on file with  
17 the Clerk of the Board of Supervisors in File No. \_\_\_\_ and is incorporated herein by reference.  
18 The Board of Supervisors adopts this determination as its own.

19 (b) In the above-referenced determination on file with the Clerk of the Board of  
20 Supervisors in File No. \_\_\_\_, the Planning Department also determined that the actions  
21 contemplated in this ordinance are consistent, on balance, with the City's General Plan and  
22 eight priority policies of Planning Code Section 101.1. The Board adopts this determination  
23 as its own.

24 Section 3. Authorizing Director of Property to Accept the Bayshore Offramp  
25 Improvements and Property.

1 (a) Caltrans has offered to relinquish, without warranty, all of its right, title, and interest  
2 in and to the Bayshore Offramp Improvements and Property to the City.

3 (b) In DPW Order No. \_\_\_\_\_, which is on file with the Clerk of the Board of  
4 Supervisors in File No. \_\_\_\_\_ and is incorporated by reference herein, Public Works  
5 has recommended that the Board of Supervisors authorize the Director of Property to accept  
6 the Bayshore Offramp Improvements and Property and place the Bayshore Offramp  
7 Improvements and Property under the jurisdiction of Public Works.

8 (c) In addition, in DPW Order No. \_\_\_\_, Public Works has recommended that the  
9 Board of Supervisors approve any amendments to the Delegated Maintenance Agreement  
10 contemplated or required to conform to this ordinance and the approved CTC Resolution.

11 (d) In DPW Order No. \_\_\_\_, Public Works has also recommended that the Board of  
12 Supervisors authorize waiver of the requirement that Caltrans provide the City 90-days' notice  
13 regarding the relinquishment of the Bayshore Offramp Improvements and Property pursuant  
14 to California Streets and Highways Code Section 73.

15 (e) The Board of Supervisors hereby accepts and approves Public Works'  
16 recommendation in DPW Order No. \_\_\_\_ and authorizes: (1) waiver of the requirement that  
17 Caltrans provide the City 90-days' notice regarding the relinquishment of the Bayshore  
18 Offramp Improvements and Property pursuant to California Streets and Highways Code  
19 Section 73, (2) the Director of Property to accept all of Caltrans' right, title, and interest in and  
20 to the Bayshore Offramp Improvements and Property upon the CTC's approval of a resolution  
21 in substantial conformance with the proposed CTC Resolution, (3) the Director of Property to  
22 place the Bayshore Offramp Improvements and Property under the jurisdiction of Public  
23 Works upon the Effective Date of Relinquishment, and (4) the Director of Public Works to  
24 amend the Delegated Maintenance Agreement, as may be contemplated or required, to  
25 conform with this ordinance upon the Effective Date of Relinquishment.

1 Section 4. Additional Requested Official Actions.

2 (a) In accordance with the recommendation of the Director of Public Works and the  
3 Director of Property, the Board of Supervisors hereby authorizes the Director of Property to  
4 accept all of Caltrans' right, title, and interest in and to the Bayshore Offramp Improvements  
5 and Property and to enter into any agreements, such as but not limited to easement  
6 agreements, and agree to any waivers and indemnities of the State of California that are  
7 determined to be appropriate by the Director of Property in consultation with the City  
8 Attorney's Office in a form approved by the City Attorney's Office.

9 (b) Upon acquisition of the Bayshore Offramp Improvements and Property, the Board  
10 of Supervisors dedicates the Bayshore Offramp Improvements and Property for public use,  
11 designates these areas for street and roadway purposes, and authorizes the placement of the  
12 Bayshore Offramp Improvements and Property under Public Works' jurisdiction. After the City  
13 acquires the Bayshore Offramp Improvements and Property, the City shall become  
14 responsible for liability, maintenance, and repair of the Bayshore Offramp Improvements and  
15 Property.

16 (c) After the City acquires the Bayshore Offramp Improvements and Property, the City  
17 will provide Caltrans with 90 days' prior notice of any proposed changes to the configuration of  
18 the two-lane roadway portion of the Bayshore Offramp Improvements and Property. Subject  
19 to the City's authority under the City Charter, the City will endeavor to protect the continuity of  
20 the operation of Highway 101 and the northbound offramp portion of the Bayshore Offramp  
21 Improvements and Property while the portion of Highway 101 abutting the Bayshore Offramp  
22 Improvements and Property remains in operation as a State Highway.

23 (d) Upon enactment of this ordinance, the Clerk of the Board of Supervisors shall send  
24 four certified copies of this ordinance to Caltrans at an address to be provided by the Director  
25 of Public Works.

1 (e) Upon the CTC's approval of a resolution in substantial conformance with the  
2 proposed CTC Resolution, the Director of Property, on behalf of the City, is hereby authorized  
3 to and shall accept and have recorded by the County Clerk, or shall agree to Caltrans' request  
4 for the County Clerk's recordation of, a certified copy of the resolution approved by the CTC  
5 and one or more relinquishment maps for the relinquishment of all of Caltrans' right, title, and  
6 interest in and to the Bayshore Offramp Improvements and Property to the City.

7 (f) Furthermore, upon the CTC's approval of a resolution in substantial conformance  
8 with the proposed CTC Resolution, the Director of Property, on behalf of the City, is hereby  
9 authorized to take any and all steps (including, but not limited to the execution and delivery of  
10 any and all deeds, leases, certificates, notices, consents, instructions, and documents) as the  
11 Director of Property, in consultation with the City Attorney's Office, deems necessary or  
12 appropriate to complete the relinquishment of all of Caltrans' right, title, and interest in and to  
13 the Bayshore Offramp Improvements and Property to the City.

14 (g) Within 30 days of the Effective Date of Relinquishment, a copy of the recorded  
15 CTC resolution shall be delivered to the Clerk of the Board of Supervisors.

16 Section 5. Effective Date. This ordinance shall become effective 30 days after  
17 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
18 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
19 of Supervisors overrides the Mayor's veto of the ordinance.

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21 APPROVED AS TO FORM:  
22 DENNIS J. HERRERA, City Attorney

23 By:   
24 CHRISTOPHER T. TOM  
25 Deputy City Attorney

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