



**Edwin M. Lee, Mayor**  
**Mohammed Nuru, Director**

**Bruce R. Storrs, City and County Surveyor**

**DPW Order No: 185497**

**Determination to recommend that the Board of Supervisors approve legislation authorizing the Director of Property to agree to acquire and accept the State of California's relinquishment of the sidewalks along portions of Van Ness Avenue, between Lombard Street and Market Street, and portions of South Van Ness Avenue, between Market Street and Plum Street, and all its right, title, and interest to the underlying real property (if any and without warranty), except as otherwise excepted and reserved by the State of California; authorizing the placement of such sidewalks and real property, upon acquisition, under the jurisdiction of the Department of Public Works; authorizing agreement to waive the required 90-days' notice of intention to relinquish set forth in California Streets and Highways Code Section 73; authorizing the Director of Public Works to amend an existing Delegated Maintenance Agreement with the State of California regarding shared maintenance of portions of Van Ness Avenue and maintenance cost allocation, upon relinquishment of the sidewalks; and waiving fees and bonding requirements for the State of California that would be otherwise applicable to excavation permits.**

WHEREAS, As described herein and discussed in greater detail in the proposed ordinance ("Van Ness Sidewalks Ordinance") and the General Plan Referral transmitted with this order, the State of California ("Caltrans") desires to relinquish to the City and County of San Francisco ("City"), at no cost to the City and without warranty, all of Caltrans' right, title, and interest in and to portions of sidewalks along Van Ness Avenue (between Lombard Street and Market Street), portions of sidewalks along South Van Ness Avenue (between Market Street and Plum Street), and the real property underlying such sidewalks (together the "Van Ness Sidewalks"), as depicted in the set of maps titled "Right of Way Relinquishment, REL. NO. 56130"; and

WHEREAS, Caltrans currently exercises regulatory jurisdiction over the portions of Van Ness Avenue designated as U.S. Highway 101, including authority to control encroachments within the State highway right-of-way; and

WHEREAS, Presently, Caltrans has sole authority to approve and issue permits for activities on State highway right-of-way, and Caltrans does not issue encroachment permits to allow building structures (e.g., bay windows, cornices, and decorative features extending beyond the surface of a building) to extend into the State highway right-of-way; and

WHEREAS, Pursuant to the Agreement for Maintenance of State Highways in the City of San Francisco, dated as of July 2, 2009 ("Delegation Agreement") and approved by the City on June



10, 2009, pursuant to Board of Supervisors Resolution No. 209-09, Caltrans previously delegated to the City certain maintenance responsibilities over the State Highways located within the City's jurisdiction as authorized pursuant to the California Streets and Highways Code, including maintenance of the Van Ness Sidewalks; and

WHEREAS, Pursuant to the Delegation Agreement, the City currently performs certain maintenance of the Van Ness Sidewalks consistent with the Municipal Code, and Caltrans reimburses the City for such maintenance work according to the Delegation Agreement; however, the City has not been delegated authority to grant building structures permission to extend into the State highway right-of-way; and

WHEREAS, The Van Ness Area Plan of the General Plan (as amended pursuant to Ordinance No. 144-13, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 130508) contains a variety of urban design objectives and policies that are difficult to implement without authorizing encroachment upon the sidewalks along Van Ness Avenue, including: encouraging development which "reinforces topography and urban pattern, and defines and gives variety to the avenue" (Van Ness Plan, Urban Design Objective 5), encouraging a regular street wall and harmonious building forms along Van Ness Avenue (Van Ness Plan, Urban Design Policy 5.2), encouraging full lot development resulting in a maximum number of dwelling units (Van Ness Plan, Urban Design Policy 5.5), designing exterior facades which complement and enhance significant works of architecture along Van Ness Avenue (Van Ness Plan, Urban Design Policy 6.1), and differentiating bases of buildings and incorporating detail at ground level through variety in materials, color, texture, and architectural projections (Van Ness Plan, Urban Design Policy 6.4); and

WHEREAS, The Van Ness Area Plan of the General Plan also contains multiple streetscape objectives and policies that are difficult to implement without authorizing encroachment upon the sidewalks along Van Ness Avenue, including: creating an attractive street and sidewalk space which contributes to the transformation of Van Ness Avenue into a residential boulevard (Van Ness Plan, Streetscape Objective 8), requiring sponsors of major renovation or new development projects to improve and maintain the sidewalk space abutting their properties according to the guidelines contained in the Van Ness Plan (Van Ness Plan, Streetscape Policy 8.1), planting and maintaining trees within the sidewalk space and the median strip (Van Ness Plan, Streetscape Policy 8.2), providing attractive street furniture at convenient locations and intervals throughout the length of the street (Van Ness Plan, Streetscape Policy 8.9), and placing new or replacement bus shelters between the trees along the tree line of the sidewalk and attaching benches to the ground and located between the trees along the tree line of the sidewalk adjacent to bus stops (Van Ness Plan, Streetscape Policy 8.9); and

WHEREAS, The City has adopted policies such as the Better Streets Plan, which took effect on January 16, 2011 pursuant to Ordinance No. 310-10, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 101193, and the City remains engaged in implementing the Better Streets Plan and other efforts to revitalize neighborhoods and activate spaces along streets and sidewalks throughout the City;

WHEREAS, City residents have expressed significant interest in revitalizing and activating the sidewalks along Van Ness Avenue; and



WHEREAS, In a letter to Caltrans dated June 14, 2016, Public Works formally requested to initiate discussions regarding the terms of a no-cost transfer of the Van Ness Sidewalks from Caltrans to the City; and

WHEREAS, In a letter to Public Works dated August 19, 2016, Caltrans stated the State of California “wishes to relinquish” the Van Ness Sidewalks and requested a Board of Supervisors resolution accepting the relinquishment and the City’s agreement to waive the 90-days’ notice of “Intention to Relinquish” requirement set forth in California Streets and Highways Code Section 73; and

WHEREAS, Caltrans proposes to relinquish to the City all of Caltrans’ right, title, and interest in and to the Van Ness Sidewalks, at no cost to the City and without warranty, after the Board of Supervisors approves the Van Ness Sidewalks Ordinance, and following approval of the relinquishment by the California Transportation Commission (“CTC”) by way of a resolution (“CTC Resolution”); and

WHEREAS, It is anticipated that if the Van Ness Sidewalks Ordinance is enacted in December 2017, the CTC will consider passage of the CTC Resolution in January 2017, and after passage of the CTC Resolution, the relinquishment of Caltrans’ right, title, and interest in and to the Van Ness Sidewalks to the City will become effective upon the recordation of a certified copy of the approved CTC Resolution by the City Assessor-Recorder; and

WHEREAS, In General Plan Referral, Case No. 2016-014961GPR, dated November 22, 2016, the Planning Department found that Caltrans’ proposed relinquishment of the Van Ness Sidewalks to the City is, on balance, consistent with the General Plan and the eight priority policies of Planning Code Section 101.1; and

WHEREAS, In General Plan Referral, Case No. 2016-014961GPR, the Planning Department also determined the actions contemplated in this order qualify for a Categorical Exemption from environmental review under CEQA Guidelines Section 15060(c) and 15378; and

WHEREAS, Caltrans’ relinquishment of the Van Ness Sidewalks to the City would facilitate implementation of the Better Streets Plan and the multiple General Plan objectives and policies discussed in the General Plan Referral and in this order, activation of the Van Ness Sidewalks, and streamlining Public Works’ permitting of activities on or about the Van Ness Sidewalks.

NOW THEREFORE BE IT ORDERED THAT:

The Director recommends that the Board of Supervisors adopt the Van Ness Sidewalks Ordinance and recommends that such ordinance: (i) authorize the Director of Property to accept the Van Ness Sidewalks and place the Van Ness Sidewalks in the jurisdiction of Public Works, (ii) authorize the Director of Public Works to approve any amendments to the Delegated Maintenance Agreement contemplated or required to conform with this ordinance, (iii) authorize the Director of Property to accept the Van Ness Sidewalks and place the Van Ness Sidewalks in the jurisdiction of Public Works, (iv) authorize the Director of Public Works to approve any amendments to the Delegated Maintenance Agreement contemplated or required to conform with this ordinance and the approved CTC Resolution, (v) authorize waiver of the requirement that Caltrans provide the City 90-day notice regarding the relinquishment of the Van Ness Sidewalks pursuant to California Streets and Highways Code Section 73, and (vi) authorize waiver of all



permit fees and bonding requirements associated with construction work that Caltrans or its contractors perform on the Van Ness Sidewalks following the effective date of relinquishment of the Van Ness Sidewalks.

The preceding recommendation is based on the Director's review and approval of the following documents either attached hereto or referenced herein:

1. Draft California Transportation Commission Resolution that has been reviewed and modified by the City Attorney's Office.
2. Caltrans Maps titled "Right of Way Relinquishment, REL. NO. 56130" (dated August 2016), Sheets 1 through 9.

The Director recommends the Board of Supervisors approve all actions set forth herein and heretofore taken by the Officers of the City with respect to the Van Ness Sidewalks Ordinance. The Director further recommends the Board of Supervisors authorize the Mayor, Clerk of the Board, Director of Property, County Surveyor, and Director of Public Works to take any and all actions which they or the City Attorney may deem necessary or advisable in order to effectuate the purpose and intent of the Van Ness Sidewalks Ordinance.

12/1/2016

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**X** Bruce R. Storrs

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Storrs, Bruce  
City and County Surveyor  
Signed by: Storrs, Bruce

**X** Mohammed Nuru

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Nuru, Mohammed  
Director  
Signed by: Nuru, Mohammed

