

LEGISLATIVE DIGEST

[Real Property Acquisition - Sidewalks Along Portions of Van Ness Avenue and South Van Ness Avenue]

Ordinance authorizing the Director of Property to agree to acquire and accept the State of California's relinquishment of all its right, title, and interest in and to the sidewalks along portions of Van Ness Avenue (between Lombard Street and Market Street), portions of South Van Ness Avenue (between Market Street and Plum Street), and 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 Public Works; authorizing additional official City actions required to consummate the relinquishment of the sidewalks, as defined herein; 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; waiving fees and bonding requirements for the State of California that would be otherwise applicable to excavation permits; waiving the required 90-days' notice of intention to relinquish set forth in California Streets and Highways Code, Section 73; 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.

Existing Law

Generally, the Department of Public Works (DPW) regulates specified activities on the dedicated public right-of-way in accordance with the Public Works Code and other Municipal Codes. The public right-of-way consists of streets, sidewalks, ways and other public places as further defined in Public Works Code Sections 2.4.4(t) and 244. The State of California, acting by and through its Department of Transportation ("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. 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. The Van Ness Area Plan of the General Plan contains a variety of urban design and 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) and encouraging full lot development resulting in a maximum number of dwelling units (Van Ness Plan, Urban Design Policy 5.5).

Amendments to Current Law

Caltrans desires to relinquish to the 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 real property underlying such sidewalks, if any (together the "Van Ness Sidewalks"). This ordinance is the first step of a multiple-step process required to effectuate the relinquishment of sidewalks from Caltrans to the City pursuant to California Streets and Highways Code Section 73. This ordinance would authorize the Director of Property to agree to acquire and accept the State of California's relinquishment of all its right, title, and interest in and to the Van Ness Sidewalks, subject to an easement granting Caltrans certain rights to construct, maintain, replace, remove and renew existing State-owned facilities located in the Van Ness Sidewalks, including electrical, signal, signage, and other State Highway appurtenances. In addition, the ordinance would: (1) authorize the placement of the Van Ness Sidewalks and real property (if any), upon acquisition by the City, under the jurisdiction of the Department of Public Works; (2) authorize the Director of Public Works to amend an existing Delegated Maintenance Agreement with Caltrans regarding shared maintenance of portions of Van Ness Avenue and maintenance cost allocation, upon relinquishment of the sidewalks; (3) authorize additional official City actions required to consummate the relinquishment of the Van Ness Sidewalks; (4) waive fees and bonding requirements for the State of California that would be otherwise applicable to excavation permits; (5) waive the required 90-days' notice of intention to relinquish set forth in California Streets and Highways Code Section 73; (6) adopt 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 (7) adopt the Planning Department's determination under the California Environmental Quality Act.

After the enactment of this ordinance, the California Transportation Commission ("CTC") would need to adopt a resolution authorizing the relinquishment of State Highway Right-of-Way consistent with this ordinance. The relinquishment of the Van Ness Sidewalks would become effective only upon the recordation of a certified copy of the approved CTC resolution authorizing the relinquishment of the Van Ness Sidewalks. In order for the CTC resolution to be recorded, it must be accompanied by a certificate of acceptance executed by the City's Director of Property.

Background Information

The purpose of this ordinance is to facilitate implementation of the Better Streets Plan and the multiple General Plan objectives and policies discussed in greater detail in this ordinance and the corresponding General Plan Review and DPW Order, activation of the Van Ness Sidewalks, and streamlining of Public Works' permitting of activities on or about the Van Ness Sidewalks.

n:\legana\as2016\1700144\01153683.docx