[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.

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

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

Section 1. Findings.

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

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

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

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

SEC. 791. PUBLIC IMPROVEMENTS GIFT ACCEPTANCE AND PUBLIC DEDICATION.

*(a) **Definitions.***

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

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

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

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

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

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

(3) If the subject Public Improvements specified in Subsection (c)(1) result in expansion of sidewalk width outside of the Immediate Property Frontage and such sidewalk improvements meet all

the standard City requirements for sidewalk design and materials, then while the Department may accept such Public Improvements as a gift, then the fronting owner shall be solely responsible for such Improvements in accordance with Public Works Code Section 706.

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

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

issue a permit or permits to the fronting owner(s) if such fronting owner(s) consent to assume responsibility for the nonstandard design and materials or encroachments.

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

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

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

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

*(h) **Public Improvement Gift Maintenance Fund**. There is hereby created a Public Improvement Gift Maintenance Fund wherein all funds received under the provisions of this Section shall be deposited. All expenditures from the Fund shall be for administrative, engineering, legal, or technical work related to the maintenance of such improvements and equipment directly related to such*

maintenance, including but not limited to labor costs and any future construction associated with the Public Improvements. All such expenditures are hereby appropriated for said purposes.

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

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

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

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

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

By: _____
John D. Malamut
Deputy City Attorney

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