

**ORDINANCE No.**

**186847 As Amended**

\*Create a local improvement district to construct street, sidewalk, stormwater and water main improvements in the SW 45th Ave and California St Local Improvement District (Hearing; Ordinance; C-10048)

The City of Portland ordains:

**Section 1. The Council finds:**

1. The Council adopted Resolution No. 37087 on September 17, 2014, declaring its intent to initiate local improvement district formation proceedings and establishing the name of the local improvement district as the SW 45th Avenue & California Street Local Improvement District. In the event of any finding or any directive within this Ordinance conflicting with Resolution No. 37087 involving this local improvement district, the finding or directive within this Ordinance shall prevail.
2. The record related to the adoption of Resolution No. 37087 is incorporated into the record of this Ordinance except that no part of the record of Resolution No. 37087 shall be considered a remonstrance for purposes of Section 17.08.070 of City Code nor for purposes of Section 9-403 of the City Charter.
3. A separate Ordinance to amend a previously-approved street vacation for SW 46th Avenue and SW Florida Street was introduced to Council on September 17, 2014. A motion to amend directive c(2) to add to first sentence "or as a condition of approval of a conditional use review approval for St. Luke Church was moved by Commissioner Fritz and was seconded by Commissioner Fish, but no vote was taken on the motion. The proposed amended street vacation Ordinance was continued to September 15, 2014 concurrent with the Formation Hearing for this LID. Formation of this LID will provide assurance of performance under Section 17.24.055 of City Code for this street vacation previously approved by Council on February 29, 2012 with the passage of Ordinance No. 185174 per its pending amendment under consideration by Council.
4. Resolution No. 37087 approved by Council on September 17, 2014 approved an expansion of the LID scope to include water main improvements to SW California Street and installation of a new fire hydrant at the intersection of SW 46th Avenue and Florida Street. Formation of this LID will provide assurance of performance under Section 17.24.055 of City Code for the conditions established by Portland Fire & Rescue per directive b.5 of Ordinance No. 185174 approved by Council on February 29, 2012; this particular condition is not proposed for amendment by the amending street vacation ordinance first considered by Council on September 17, 2014.

5. The City Auditor mailed notice of the October 15, 2014 local improvement district formation hearing on October 8, 2014 to the owners of the benefited properties within the proposed SW 45th Avenue & California Street Local Improvement District. The property owners were notified of the time and location of the hearing conducted by Council, the total estimated project costs, the right and manner to object to the formation of the SW 45th Avenue & California Street Local Improvement District, the deadline and procedure for filing remonstrances against the formation of the SW 45th Avenue & California Street Local Improvement District, and the amount of the estimated future assessment on benefited properties as set forth in Exhibit A (attached to the original only). The deadline to submit written remonstrances was at 5:00 PM on October 8, 2014.
6. Notices of the local improvement district formation hearing were posted within the SW 45th Avenue & California Street Local Improvement District on September 30, 2014.
7. The Local Improvement District Administrator published notice of the October 15, 2014 local improvement district formation hearing in the Daily Journal of Commerce on September 29 and October 1, 2014.
8. The general character and scope of the improvement for the south side of SW Vermont Street is to construct new curb, stormwater planters, sidewalk and street trees as shown in Exhibit B. The improvements will be constructed on the south side of SW Vermont Street from 103 feet east of the east right-of-way line of SW 46th Avenue to 100 feet west of the west right-of-way line of SW 46th Avenue plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer.
9. The general character and scope of the improvement for the west side of SW 45th Avenue is to construct new curb, stormwater planters, sidewalk, southbound bicycle lane and street trees as shown in Exhibit B. The improvements will be constructed on the west side of SW 45th Avenue from 83 feet north of the north right-of-way line of SW Florida Street to the north right-of-way line of SW California Street; plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer.
10. The general character and scope of the improvement for the north side of SW California Street is to construct new stormwater planters, sidewalk and street trees as shown in Exhibit B. The improvements will be constructed on the north side of SW California Street from the west right-of-way line of SW 45th Avenue to the east right-of-way line of SW 46th Avenue terminating at the west end with a cul-de-sac, curb and sidewalk; plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer, except that such transition work will not include the optional work described in Finding No. 11 of this Ordinance.

11. The scope of the LID does not currently include a sidewalk or trail from the SW 46th & California intersection to SW 49th Ave. intersection. However, such work may be added to the LID and will not require a hearing or notification under Section 17.08.080 of City Code if Extra Work Agreement(s) are voluntarily signed to fund this work.
12. Widths, alignments and lengths of the project may be modified during the preparation of plans and specifications by the City Engineer.
13. Right-of-way acquisition is not anticipated for this project, except for placement of a new storm sewer along SW California Street and an unnamed north-south private driveway between SW 46th Avenue and SW 49th Avenue. Two (2) St. John Fisher properties as identified in Exhibits A and F are being included within the LID boundary for purposes of acquiring property rights related to construction of this new stormwater sewer, but are being exempted from assessment, and are not included for purposes of constructing the work addressed in Finding No. 11 of this Ordinance, unless such work is funded through voluntary execution of Extra Work Agreement(s).
14. The boundaries of the SW 45th Avenue & California Street Local Improvement District shall include the properties as shown in Exhibit C.
15. The Local Improvement District Administrator's estimated cost of designing, constructing and financing the improvements is \$717,756.10 as shown in Exhibit D. The Local Improvement District Administrator's estimate is based on the Engineer's Estimate as contained in Exhibit E. The Local Improvement District Administrator's level of confidence in the cost estimate for this project as of the filing date of this Ordinance is "Low" per Exhibit A of Resolution No. 36430 adopted by Council on July 26, 2006 given that project specifications are preliminary. The estimated amount of the future assessment for the SW 45th Avenue & California Street Local Improvement District is \$628,600.31 with funding of overhead costs provided by the Portland Bureau of Transportation in the estimated amount of \$89,155.79.
16. The Local Improvement District Administrator has analyzed the financial feasibility of the SW 45th Avenue & California Street Local Improvement District and has made a finding that the collective bonding capacity of properties within it is sufficient so as to minimize the City of Portland's financial risk associated with this project. The collective real market valuation of the properties included in the SW 45th Avenue & California Street Local Improvement District is at least \$11,729,170 for a future minimum estimated valuation to estimated assessment ratio of 18.7 : 1.
17. The remonstrance level is evaluated in Exhibit F. Council retains jurisdiction over the formation of the SW 45th Avenue & California Street Local Improvement District because the total remonstrance level is less than the 60% threshold established by Section 9-403 of the City Charter. Any remonstrance received against LID formation will be incorporated into the record of this Ordinance by amendment on October 15, 2014.

18. The parcels of land within the SW 45th Avenue & California Street Local Improvement District will receive special benefit from the project in the amounts set forth in Exhibits A and F.
19. The Council has considered the remonstrances made by owners of properties to be benefited by the SW 45th Avenue & California Street Local Improvement District project, and adopts the summary of remonstrances and findings as set forth in Exhibit G.
20. Per Section 17.24.055 of City Code, Council approval of the LID will serve as a guarantee that physical improvements to the public right-of-way will be built along SW Vermont Street, SW 45th Avenue, and SW California Street. The LID will build the public infrastructure improvements as part of a public capital improvement (CIP) project with a financial guarantee consisting of the LID liens in lieu of bonding, cash deposits or other financial guarantee. The LID in turn ensures that those conditions that are related to street, sidewalk and stormwater improvements required as a part of the revised street vacation Ordinance amending Ordinance No. 185174 approved by Council on February 29, 2012 will be met.
21. Per Section 17.24.055 of City Code, Council approval of the LID will serve as a guarantee that a new water main will be installed in SW California Street and a new fire hydrant will be installed at the SW 46th & Florida intersection.
22. There are other street vacation conditions will have to be met outside of the LID process and prior to recording of the revised ordinance which includes previously required conditions:
  - a. Consolidation of historically platted lot lines that will lose all of their legal street frontage; and
  - b. Installing a sprinkler system in the main church building; and
  - c. Readdressing the property currently addressed as 6812 SW 46th Avenue and potentially the property address as 6835 SW 46th Avenue to have SW California Street addresses; and
  - d. Working with the Portland Water Bureau to move existing water facilities and to accept ownership of any abandoned facilities; and
  - e. Dedicating additional property to the City as public right-of-way for a new cul-de-sac turnaround and a potential future sidewalk or trail on SW California Street; however, this dedication area has been identified and preparation of documents to accept this dedication is anticipated on a timeline approximately concurrent with formation of this LID.

23. A site visit on September 19, 2014 with survey staking completed by St. Luke confirmed that a row of trees along the south side of the St. Luke property can likely remain after construction of the new stormwater sewer. Every effort will be made to save most or all of these trees; however in the event that some trees need to be removed from what is now private property, neither this LID nor St. Luke nor St. John Fisher will be required to make payment to the Tree Preservation and Planting Fund notwithstanding Section 17.40.060 of City Code.
24. Assessments for local improvement districts are not subject to the property tax limitation established by Article XI, Section 11b of the Oregon Constitution.
25. Pursuant to City Code, assessment for the SW 45th Avenue & California Street Local Improvement District will be imposed by a separate and subsequent ordinance.

NOW, THEREFORE, the Council directs:

- a. The SW 45th Avenue & California Street Local Improvement District is hereby created as shown in Exhibit C and the SW 45th Avenue & California Street Local Improvement District includes the properties to be benefited in the amounts identified in Exhibits A and F.
- b. The properties owners' estimated share of costs is as shown in Exhibit F. Costs for any necessary utility relocation shall be allocated per Subsection 17.16.100 of City Code as well as per the Final Procedures for Allocation of Utility Relocation Costs adopted on June 5, 2002.
- c. The properties shall be assessed on a square footage basis, with area in the environmental protection ("p") overlay zone exempted from assessment, reflecting that this environmental overlay allows development only in unusual circumstances.
- d. The City Engineer shall prepare plans and specifications for the improvement.
- e. The City Engineer shall arrange for construction of the local improvement project.
- f. Procurement Services within the Bureau of Internal Business Services shall advertise for bids, prepare a contract, and award the contract through a competitive bid process. The improvements may be constructed in whole or in part by the City of Portland, or the City of Portland may seek bids for any portion of the SW 45th Avenue & California Street Local Improvement District project. The manner in which the improvements are constructed is at the sole discretion of the City Engineer.
- g. The City Auditor shall obtain interim financing to pay for SW 45th Avenue & California Street Local Improvement District project costs prior to bonding.

- h. The Local Improvement District Administrator is authorized to negotiate Extra Work Agreements to finance, design and construct sanitary service extension to properties included within the LID boundary not currently served by sanitary sewer provided that:
  - i. The Chief Engineer of the Bureau of Environmental Services has determined the additional work to be technically feasible; and
  - ii. The Extra Work Agreement has been approved as to form by the City Attorney.
- i. The Local Improvement District Administrator is authorized to negotiate voluntary Extra Work Agreement(s) with owners of properties which will be specially benefitted by trail or sidewalk improvements as part of a complete pedestrian connection on a SW California Street alignment from SW 45th Avenue to SW 49th Avenue, requiring right-of-way dedications from the St. Luke property with State ID #1S1E19AA 2500 and from the St. John Fisher property with State ID #1S1E19AA 4000. Such Extra Work Agreement(s) will not constitute a major change in scope under Section 17.08.080 of City Code and will not require an additional Council hearing between passage of this Ordinance and the Final Assessment Hearing. Execution of such Extra Work Agreement(s) is authorized provided that:
  - i. The City Engineer has determined the additional work to be technically feasible; and
  - ii. The necessary right-of-way to complete the pedestrian connection from the SW 46th & California Street intersection to SW 49th Avenue has been obtained or will be obtained concurrent with execution of Extra Work Agreement(s); and
  - iii. The Extra Work Agreement(s) has or have been approved as to form by the City Attorney.
- j. The Council directs the Local Improvement District Administrator to initiate local improvement district formation proceedings for a separate and subsequent LID upon recording of waivers of remonstrance for both the St. Luke property with State ID #1S1E19AA 2500 and the St. John Fisher property with State ID #1S1E19AA 4000, unless the necessary right-of-way has been acquired and Extra Work Agreement(s) for this LID have been executed for either or both properties to fund the sidewalk or trail. Execution of such Extra Work Agreement(s) as part of this LID will constitute assurance of performance under Section 17.24.055 of City Code.

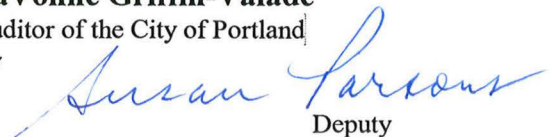
- k. The Bureau of Transportation is authorized to incur expenditures for this project and the City Auditor is authorized to reimburse such expenditures from the Local Improvement District Fund.
- l. Subsequent to the adoption of the LID Formation Ordinance and in consideration for Council approval of this LID, PBOT staff are hereby directed to recommend to the Hearings Officer a requirement to improve the trail or sidewalk when the combined building square footage of properties owned by St. Luke as of the adoption date of this Ordinance are increased by 5,000 or more square feet; or more than 50% of the existing parking lot surface area is repaved, whichever comes first.

Section 2. The Council declares that an emergency exists because of the public safety needs of getting the sidewalks done as quickly as possible; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council, **OCT 15 2014**

Commissioner Steve Novick  
Prepared by: Andrew Aebi:slg  
Date Prepared: October 16, 2014

**LaVonne Griffin-Valade**  
Auditor of the City of Portland  
By

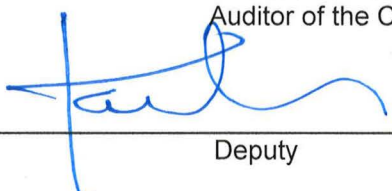
  
Deputy



1066

Agenda No. **18 6847** **As Amended**  
**ORDINANCE NO.**  
 Title

\* Create a local improvement district to construct street, sidewalk, stormwater and water main improvements in the SW 45th Ave and California St Local Improvement District (Hearing; Ordinance; C-10048)

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| <p><b>INTRODUCED BY</b><br/>         Commissioner/Auditor:<br/> <b>COMMISSIONER STEVE NOVICK</b></p>  | <p>CLERK USE: DATE FILED <u>OCT 09 2014</u></p>   |
| <p><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - Hales</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety – Novick <i>CW</i></p>   | <p style="text-align: right;">LaVonne Griffin-Valade<br/>Auditor of the City of Portland</p> <p>By:  Deputy</p> |
| <p><b>BUREAU APPROVAL</b></p> <p>Bureau: Bureau of Transportation<br/>         Art Pearce, Manager<br/>         Policy, Planning and Projects<br/>         Other: Greg Jones <i>GP</i></p> <p>Prepared by: Andrew Aebi:slg <i>AA 9/30/14</i><br/>         Date Prepared: September 26, 2014</p> | <p><b>ACTION TAKEN:</b></p>   |
| <p><b>Financial Impact &amp; Public Involvement Statement</b><br/>         Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>   |   |
| <p><b>Portland Policy Document</b><br/>         If "Yes" requires City Policy paragraph stated in document.<br/>         Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>  |   |
| <p><b>Council Meeting Date</b><br/> <b>October 15, 2014</b></p>   |   |
| <p><b>City Auditor Office Approval:</b><br/>         required for Code Ordinances</p>   |   |
| <p><b>City Attorney Approval:</b><br/>         required for contract, code, easement, franchise, comp plan, charter</p>   |   |

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|---|
| <b>AGENDA</b>   |
| <p><b>TIME CERTAIN</b> <input checked="" type="checkbox"/></p> <p><b>Start time: 9:30</b></p> <p><b>Total amount of time needed: 30 Min</b><br/>         (for presentation, testimony and discussion)</p> |
| <p><b>CONSENT</b> <input type="checkbox"/></p>  |
| <p><b>REGULAR</b> <input type="checkbox"/></p> <p><b>Total amount of time needed:</b> _____<br/>         (for presentation, testimony and discussion)</p>   |

| FOUR-FIFTHS AGENDA | COMMISSIONERS VOTED AS FOLLOWS: |      |      |
|--------------------|---------------------------------|------|------|
|                    |                                 | YEAS | NAYS |
| 1. Fritz           | 1. Fritz                        | ✓    |      |
| 2. Fish            | 2. Fish                         | ✓    |      |
| 3. Saltzman        | 3. Saltzman                     | ✓    |      |
| 4. Novick          | 4. Novick                       | ✓    |      |
| Hales              | Hales                           | ✓    |      |