

ORDINANCE NO. 891-C.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA
AMENDING SECTION 3-17.03 (ADMINISTRATION) OF CHAPTER 17 (HOTEL BUSINESS
IMPROVEMENT DISTRICT) WITHIN TITLE 3 (FINANCE) OF THE PACIFICA MUNICIPAL
CODE TO REMOVE PROVISION FOR ALLOCATION OF FUNDS WITHIN THIRTY DAYS
AND TO REPLACE THE PACIFICA CHAMBER OF COMMERCE AS
THE MANAGING AGENCY OF THE BID WITH THE CITY OF PACIFICA**

WHEREAS, pursuant to California Streets and Highways Code sections 36500 et. seq., the City Council of the City of Pacifica adopted Ordinance No. 714-C.S. in 2004, creating the Pacifica Hotel Business Improvement District and levying an annual assessment of \$1.00 per room per day of occupancy on the hotels in the City; and

WHEREAS, the Pacifica Hotel Business Improvement District ("BID") has been operating and levying an annual assessment of \$1.00 per room per day of occupancy on the hotels in the City continuously since 2004; and

WHEREAS, Ordinance No. 714-C.S. is codified in Pacifica Municipal Code ("PMC") Chapter 17, "Hotel Business Improvement District" within Title 3, "Finance"; and

WHEREAS, at a meeting of the BID on February 3, 2023, a majority of the BID hotel representatives voted for option two and expressed their desire to: 1) continue the assessment at the current rate, 2) for the City of Pacifica to assume the role of the Managing Agency for the BID moving forward, and 3) for the City to safeguard the assessed funds until the BID decides how it would like to proceed; and

WHEREAS, at a City Council meeting on May 8, 2023, the Council considered various options relating to the BID including dissolving the BID, continuing the assessment but changing the BID governance structure, and continuing with the current assessment and governance structure; and

WHEREAS, based on the recommendation of the majority of BID members and staff's recommendations, the Council adopted a Resolution of Intention (Resolution No. 45-2023) to amend the City's Municipal Code to remove provision for allocation of funds within thirty days and transition the Managing Agency role of the BID to the City of Pacifica; and

WHEREAS, pursuant to Streets and Highways Code section 36523(b) the City Clerk mailed each business owner in the territory of the BID a complete copy of the Resolution of Intention on May 15, 2023, within seven days of adopting the Resolution of Intention; and

WHEREAS, the City Clerk mailed to each business in the BID a joint notice of the public meeting and public hearing along with a copy of the Resolution of Intention in accordance with Streets and Highways Code section 36523.5 and Government Code sections 54954.6(a)(2) and 54954.6(c) by May 26, 2023; and

WHEREAS, no earlier than ten days after the mailing of the joint notice, the City Council held one public meeting on June 12, 2023, at which the City Council allowed public testimony regarding the proposed amendment in accordance with Government Code sections 54954.6(a)(1) and 54954.6(c)(1); and

WHEREAS, no earlier than forty-five days after mailing the joint notice, and no earlier than seven days after the public meeting, the City Council held a public hearing on July 10, 2023, in accordance with Government Code sections 54954.6(a)(2), 54954.6(c)(1)); and

WHEREAS, the City Council conducted a duly noticed public hearing pursuant to the Resolution of Intention and Streets and Highways Code section 36500 et seq., on July 10, 2023, at 7:00 p.m., or as soon thereafter as practicable, at City Council Chambers at 2212 Beach Boulevard, Pacifica, California and heard and considered all oral and written protests and considered all correspondence, staff reports and other materials presented; and

WHEREAS, at the conclusion of the public hearing, the Clerk did note for the record that written protests meeting the requirements of Section 36524 of the Streets & Highways Code from the owners of businesses in the BID did not total more than fifty percent (50%).

NOW, THEREFORE, the City Council of the City of Pacifica does ordain as follows:

Section 1. Recitals. The City Council of the City of Pacifica does hereby find that the above referenced recitals are true and correct and material to the adoption of this Ordinance.

Section 2. Amendment. Section 3-17.03 (Administration) of Chapter 17 (Hotel Business Improvement District) within Title 3 (Finance) of the Pacifica Municipal Code is hereby amended by repealing and replacing Section 3-17.03, in its entirety to read as follows:

“Sec. 3-17.03. Administration.

- (a) The funds will be collected by the City of Pacifica on the same schedule as, but independently from, the collection of transient occupancy taxes. Funds shall be allocated from the City to the district annually.
- (b) The cost to establish the district shall be paid by the Pacifica Chamber of Commerce and will be reimbursed by funds from the district.
- (c) The Pacifica City Council is designated as the managing agency for district related activities and Pacifica City staff shall provide staffing and administration for the managing agency.
- (d) The Pacifica City Council appoints an Advisory Committee consisting of, but not limited to, one representative from each of the hotels, the managing director of the Pacifica Chamber of Commerce and Visitor Center, and one representative from the Chamber of Commerce Board of Directors.”

Section 3. Compliance with CEQA. The City Council hereby finds that the action to adopt this Ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21000, et seq. and the CEQA Guidelines (14 Cal. Code Regs. §§ 15000 et. seq.), including without limitation, Public Resources Code section 21065 and California Code of Regulations 15378 as this is not a “project” that may cause a direct, or reasonably foreseeable indirect, physical change in the environment.

Section 4. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it should have

adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 5. Publication. The City Clerk is hereby ordered and directed to certify the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published in accordance with State law.

Section 6. Effective Date. This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law.

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PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on the 14th day of August, 2023, by the following vote:

AYES, Councilmembers: *Beckmeyer, Brör, Bigstycck, Bokes, Vaterlaus*

NOES, Councilmembers: *n/a*

ABSENT, Councilmembers: *n/a*

ABSTAIN, Councilmembers: *n/a.*

Tygerjas Twyrls Bigstycck
Tygerjas Twyrls Bigstycck, Mayor

ATTEST:

Sarah Coffey

Sarah Coffey, City Clerk

APPROVED AS TO FORM:

Michelle Kenyon

Michelle Kenyon, City Attorney