ORDINANCE NO. 839-C.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA PROVIDING FOR THE ELECTION OF MEMBERS OF THE CITY COUNCIL BY FIVE DISTRICTS, ESTABLISHING THE BOUNDARIES AND IDENTIFICATION NUMBER OF EACH DISTRICT, ESTABLISHING THE ELECTION ORDER OF EACH DISTRICT AND ADDING CHAPTER 9, "DISTRICT ELECTIONS" TO TITLE 2 OF THE CITY OF PACIFICA MUNICIPAL CODE

WHEREAS, on August 20, 2018, the City of Pacifica received a letter from Kevin Shenkman alleging that the City's at large election system violated the California Voting Rights Act; and

WHEREAS, to date, no city has successfully litigated a CVRA challenge and such litigation can be costly and burdensome to cities; and

WHEREAS, California Government Code section 34886, effective January 1, 2016, permits the City Council of any city to change the City's method of election by ordinance to a "by-district" system in which each member of the City Council is elected only by the voters in the district in which the candidate resides; and

WHEREAS, under the provisions of California Elections Code section 10010, a city that changes from an at-large city council method of election to a by-district city council method of election requires a total of five public hearings, which includes at least two public hearings regarding potential voting district boundaries prior to the release and consideration of any draft voting district maps, and two public hearings following the release of draft voting district map(s); and

WHEREAS, at a regular meeting held on September 24, 2018, the City Council adopted Resolution No. No. 44-2018, to begin the process of transitioning to a district based election system and adopting the schedule for public hearings to conform to the requirements of California Elections Code section 10010; and

WHEREAS, thereafter, at regular meetings held on October 8, 2018 and October 22, 2018, respectively, pursuant to California Elections Code section 10010(a)(1), the City Council held public hearings where the public was invited to provide input regarding the composition of the City's voting districts before any draft maps were drawn, and the City Council considered and discussed the same; and

WHEREAS, thereafter, at special meeting on November 17, 2018 and November 29, 2018, respectively, pursuant to California Elections Code Section 10010(a)(2), the City Council held public hearings where the public was invited to provide input regarding the content of the draft maps that had been released at least seven (7) days before each meeting, and the proposed sequence of elections, and the City Council considered and discussed the same; and

WHEREAS, at the special meeting on November 29, 2018, the City Council directed staff to draft an ordinance conforming to the voting district map known as Map 505 and putting the Council districts 1 and 4 on the 2020 ballot, and the Council districts 2, 3, and 5 on the 2022 ballot; and

WHEREAS, at a regular meeting held on December 10, 2018, the City Council held a final public hearing on the proposal to establish district boundaries, reviewed additional public input, formally selected the voting district map 505b and the election sequence attached to, incorporated in, and set forth in this Ordinance, which was introduced for a first reading; and

WHEREAS, throughout the foregoing process, the City engaged in a significant amount of public outreach and engagement above and beyond the public hearings and other procedures required by California Elections Code section 10010, including, but not limited to, two public workshops; and

WHEREAS, the purpose of this Ordinance is to enact, pursuant to California Government Code section 34886, an ordinance providing for the election of members of the City Council of the City of Pacifica by-district in five single-member districts as reflected in voting district map 505b in this Ordinance and to implement the guarantees of Section 7 of Article 1 and of Section 2 of Article II of the California Constitution.

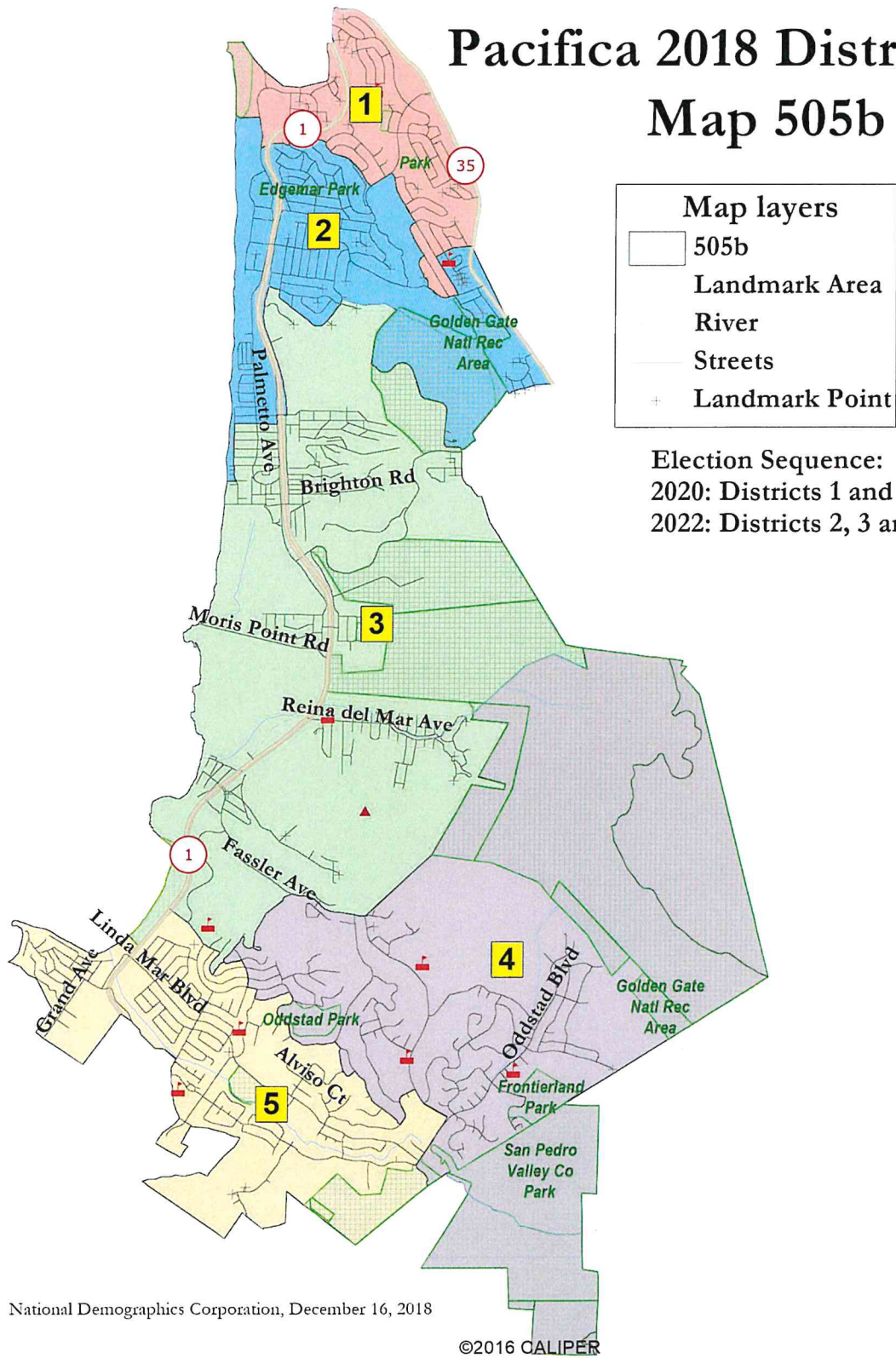NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFICA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. **Code Amendment.** Title 2, "Administration" of the Pacifica Municipal Code is hereby amended by adding Chapter 9, "District Elections" to the existing title to read as follows:

"Chapter 9. - District Elections.

2-9.01 Declaration of Purpose. The City Council of the City of Pacifica hereby declares that the change of method of electing members of this Council hereby enacted is being made in furtherance of the California Voting Rights Act of 2001.

2-9.02 City Council Districts Established. Five City Council districts are hereby established in the City of Pacifica. The boundaries and identifying number of each district shall be as described on the Council District Map included and incorporated below:

Pacifica 2018 Districting Map 505b

Map layers
☐ 505b
Landmark Area
River
Streets
+ Landmark Point

Election Sequence:
2020: Districts 1 and 4
2022: Districts 2, 3 and 5

National Demographics Corporation, December 16, 2018

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2-9.03 Election of Members of the City Council by District.

a.   Following the effective date of this ordinance and upon the commencement of "by district" elections in the order established in section 2-9.04 of this Chapter, Members of the City Council shall be elected "by District" as defined in California Government Code Section 34871 or any successor statute. No term of any Member of the City Council that commenced prior to the effective date of this Ordinance shall be affected by the adoption of this Ordinance.

b.   Registered voters signing nomination papers or voting for a Member of the City Council shall be residents of the geographical area making up the district from which the Member is to be elected.

c.   The terms of the office of each Member elected to the City council shall remain four (4) years and the term limits shall be in conformance with Pacifica Municipal Code section 2-8.04.

2-9.04 Commencement of District Elections. Commencing with the general municipal election in November of 2020 and thereafter the voters in districts 1 and 4 shall elect Members of the City Council by district for full four (4) year terms. At the general municipal election in 2022 and thereafter, the voters in districts 2, 3, and 5 and shall elect Members of the City Council by district for full four (4) year terms.

Pursuant to Elections Code Section 21606, the term of office of any council member who has been elected and whose term of office has not expired shall not be affected by any change in the boundaries of the district from which he or she was elected."

Section 2.   Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The Council of the City of Pacifica hereby declares that it would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

Section 3.   California Environmental Quality Act (CEQA) Determination.

Adoption of this Ordinance is exempt from environmental review as the adoption of this Ordinance does not qualify as a "project" pursuant to Public Resource Code section 21065 and CEQA Guidelines Sections 15320, 15378 and 15061(b)(3) since it can be seen with certainty that there is no possibility that adoption of the Ordinance would cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Section 4.   Effective Date.

This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code section 36937.

Section 5.   Publication; Certification.

The City Clerk shall attest to the adoption of this Ordinance and cause the same to be published in accordance with State law.

PASSED AND ADOPTED this 17th day of December 2018, by the following vote:

AYES: Keener, Vaterlaus, Digre, O'Neill, Martin
NOES:
ABSTAIN:
ABSENT

John Keener, Mayor

ATTEST:

Sarah Coffey, City Clerk

APPROVED AS TO FORM:

For Michelle Marchetta Kenyon, City Attorney