

1 Introduced by the Council President at the request of the Office of
2 General Counsel:

3
4 **ORDINANCE 2023-281**

5 AN ORDINANCE REGARDING SETTLEMENT OF PENDING
6 LITIGATION STYLED *JACKSONVILLE BRANCH OF THE*
7 *NAACP, ET AL., V. CITY OF JACKSONVILLE, ET AL.,*
8 CASE NO. 3:22-CV-493-MMH-LLL, UNITED STATES
9 DISTRICT COURT FOR THE MIDDLE DISTRICT OF
10 FLORIDA, REGARDING THE CITY COUNCIL'S
11 REDISTRICTING OF CITY COUNCIL AND SCHOOL BOARD
12 DISTRICT BOUNDARIES; APPROPRIATING \$100,000.00
13 FROM GENERAL FUND COUNCIL OPERATING CONTINGENCY
14 TO THE GCAD JUDGMENTS, CLAIMS, & LOSSES - OTHER
15 GENERAL GOVERNMENT SERVICES ACTIVITY TO PROVIDE
16 FUNDING FOR SETTLEMENT OF PENDING LITIGATION;
17 APPROVING AND RATIFYING A SETTLEMENT AGREEMENT
18 OUTLINING THE TERMS OF SETTLEMENT OF PLAINTIFFS'
19 CLAIMS, INCLUDING CLAIMS FOR ATTORNEYS' FEES AND
20 COSTS, IN THE PENDING LITIGATION AND APPELLATE
21 ACTIONS; AUTHORIZING THE GENERAL COUNSEL, OR HIS
22 DESIGNEE, TO TAKE FURTHER ACTION TO EFFECTUATE
23 THE SETTLEMENT AGREEMENT AND CONCLUDE THE
24 LITIGATION, INCLUDING DISMISSAL OF THE PENDING
25 APPELLATE ACTION, AND TO TAKE ACTIONS NECESSARY
26 TO CARRY OUT THE INTENT OF THIS ORDINANCE; UPON
27 THE SETTLEMENT AGREEMENT EFFECTIVE DATE,
28 APPROVING A REDISTRICTING PLAN REGARDING CITY
29 COUNCIL DISTRICTS, CITY COUNCIL GROUP AT-LARGE
30 DISTRICTS, AND SCHOOL BOARD DISTRICTS BASED ON
31 THE 2020 CENSUS DATA AND THE SETTLEMENT

1 AGREEMENT VIA AMENDMENT TO THE *CHARTER OF THE*
2 *CITY OF JACKSONVILLE* (THE "*CHARTER*"); AMENDING
3 THE *CHARTER* TO ATTACH DISTRICT BOUNDARY
4 DESCRIPTIONS FOR 14 CITY COUNCIL DISTRICT
5 BOUNDARIES AND 5 CITY COUNCIL GROUP AT-LARGE
6 RESIDENT AREA BOUNDARIES PURSUANT TO THE
7 SETTLEMENT AGREEMENT UPON THE SETTLEMENT
8 AGREEMENT EFFECTIVE DATE; AMENDING THE CITY
9 CHARTER TO DESIGNATE THE 7 SCHOOL BOARD
10 DISTRICTS PURSUANT TO THE SETTLEMENT AGREEMENT
11 UPON THE SETTLEMENT AGREEMENT EFFECTIVE DATE;
12 PROVIDING AN INDEX OF EXHIBITS; DIRECTING THE
13 OFFICE OF GENERAL COUNSEL TO FORWARD TO THE
14 COUNCIL DIRECTOR AND THE DUVAL COUNTY SCHOOL
15 BOARD CHAIRMAN WRITTEN NOTIFICATION OF THE
16 SETTLEMENT AGREEMENT EFFECTIVE DATE; DIRECTING
17 THE CHIEF OF LEGISLATIVE SERVICES TO SEND A COPY
18 OF THIS LEGISLATION TO MUNICODE UPON RECEIPT OF
19 WRITTEN NOTIFICATION FROM THE OFFICE OF GENERAL
20 COUNSEL OF THE SETTLEMENT AGREEMENT EFFECTIVE
21 DATE; REQUESTING ONE-CYCLE EMERGENCY PASSAGE;
22 PROVIDING A PROSPECTIVE EFFECTIVE DATE FOR THE
23 SETTLEMENT AGREEMENT; PROVIDING AN EFFECTIVE
24 DATE.

26 **WHEREAS**, on August 12, 2021, the U.S. Census Bureau published
27 the 2020 census data, including the census data for the City of
28 Jacksonville and Duval County; and

29 **WHEREAS**, on August 18, 2021, the City Council Special Committee
30 on Redistricting met to start the redistricting process required by
31 Sections 5.02 and 13.03 of the *Charter of the City of Jacksonville*

1 and Section 18 of the City of Jacksonville *Ordinance Code*; and

2 **WHEREAS**, on March 22, 2022, the City Council approved Ordinance
3 2022-001-E (the "Enacted Plan"), thereby enacting the Ordinance and
4 fulfilling its redistricting obligations under the *Charter of the*
5 *City of Jacksonville* and *City of Jacksonville Ordinance Code*; and

6 **WHEREAS**, the Jacksonville Branch of the NAACP and 13 other
7 plaintiffs subsequently filed suit against the City of Jacksonville
8 and the Duval County Supervisor of Elections in the Middle District
9 of Florida, Jacksonville Division, Case No. 3:22-cv-493-MMH-LLL
10 alleging that the Enacted Plan violated the Equal Protection Clause
11 of the Fourteenth Amendment and the *Charter of the City of*
12 *Jacksonville* (the "Litigation"); and

13 **WHEREAS**, on October 12, 2022, the District Court for the Middle
14 District of Florida (the "Court"), after considering the evidence
15 submitted alongside the preliminary injunction briefing, found it was
16 substantially likely that the Enacted Plan violated the Equal
17 Protection Clause, granted Plaintiffs' motion for a preliminary
18 injunction, enjoined the City and the Duval County Supervisor of
19 Elections from using the district lines in the Enacted Plan in the
20 March 2023 First Election and beyond, and ordered the City to draw
21 new district lines under an expedited timeframe; and

22 **WHEREAS**, on October 19, 2022, the City appealed the Court's
23 preliminary injunction order in the appeal styled *Jacksonville Branch*
24 *of the NAACP, et al. v. City of Jacksonville, et al.*, Case No. 22-
25 13544, United States Eleventh Circuit Court of Appeals (the
26 "Preliminary Injunction Appeal"); and

27 **WHEREAS**, on November 4, 2022, the City Council approved
28 Ordinance 2022-800-E, which set forth the new City Council and School
29 Board district boundaries drawn pursuant to the Court's preliminary
30 injunction order; and

31 **WHEREAS**, on November 18, 2022, Plaintiffs filed objections to

1 the district boundaries set forth in Ordinance 2022-800-E; and

2 **WHEREAS**, on December 19, 2022, the Court entered its remedial
3 order sustaining Plaintiffs' objections and ordering Defendants to
4 use Plaintiffs' Remedial Plan 3 ("P3"), one of the Plaintiffs'
5 proposed alternative interim remedies, beginning with the regular
6 2023 Council (first unitary election in March 2023) and 2024 School
7 Board elections; and

8 **WHEREAS**, the City appealed the District Court's Order
9 implementing P3 as the City's interim remedial redistricting plan in
10 the appeal styled *Jacksonville Branch of the NAACP, et al. v. City*
11 *of Jacksonville, et al.*, Case No. 22-14260, United States Eleventh
12 Circuit Court of Appeals (the "Remedial Map Appeal"); and

13 **WHEREAS**, on January 12, 2023, the City voluntarily dismissed the
14 Preliminary Injunction Appeal; and

15 **WHEREAS**, on March 24, 2023, the Court dismissed the claims of
16 Plaintiff Haraka Carswell from the Litigation; and

17 **WHEREAS**, the City Council district lines set forth in P3 were
18 used in the City's 2023 First Election (March 2023) and will be used
19 again in the May 2023 General Election; and

20 **WHEREAS**, if Plaintiffs are successful in any aspect of their
21 constitutional claim, they are entitled to an award for their
22 attorneys' fees and costs in prosecuting this claim; and

23 **WHEREAS**, even if the City is successful in the Remedial Map
24 Appeal, the appellate relief will most likely be to remand the matter
25 back to the District Court for continued prosecution of Plaintiffs'
26 complaint, including discovery, expert witness engagement, motions
27 practice and an adversarial trial, including the prospect for further
28 appeals; and

29 **WHEREAS**, it is anticipated that in continuing to contest these
30 matters the parties will continue to incur significant litigation
31 expenses in the district and appellate courts and will face uncertain

1 outcomes in resolving the material constitutional matter at issue in
2 the Litigation, which the parties wish to avoid; and

3 **WHEREAS**, all parties, through their respective
4 representatives, have reached a settlement, contingent on the
5 approval and ratification by the City Council pursuant to the
6 requirements of Chapter 112, *Ordinance Code*, and subsequent approval
7 by the District Court Judge; and

8 **WHEREAS**, the Council finds that it is in the best interests of
9 the City and its citizens that this Litigation be resolved without
10 resort to further litigation, costs, and expenses; now therefore

11 **BE IT ORDAINED** by the Council of the City of Jacksonville:

12 **Section 1. Recitals.** The recitals above are incorporated
13 herein by this reference.

14 **Section 2. Appropriation.** For the 2022-2023 fiscal year,
15 within the City's budget, there are hereby appropriated the indicated
16 sum(s) from the account(s) listed in subsection (a) to the account(s)
17 listed in subsection (b):

18 (The account information is attached hereto as **Exhibit 1** and
19 incorporated herein by this reference)

20 (a) Appropriated from:

21 See **Exhibit 1** \$100,000.00

22 (b) Appropriated to:

23 See **Exhibit 1** \$100,000.00

24 (c) Explanation of Appropriation - The funding above is an
25 appropriation from General Fund Council Operating
26 Contingency to the GCAD Judgments, Claims, & Losses - Other
27 General Government Services activity to pay funds in
28 settlement of litigation arising from redistricting,
29 including the Litigation, Preliminary Injunction Appeal,
30 and Remedial Map Appeal.

1 **Section 3. Purpose.** The purpose of the appropriation in
2 Section 2 is to fully resolve the Litigation, Preliminary Injunction
3 Appeal, and Remedial Map Appeal, including settling all Plaintiffs'
4 claims for attorneys' fees and costs in these matters, whereby, in
5 exchange for the City and Supervisor of Elections relinquishing their
6 rights to continue to litigate this matter before the trial court and
7 on appeal, and likewise agreeing to use P3 as the district map for
8 all future elections until the next decennial census redistricting
9 process, Plaintiffs agree to limit their claims to attorneys' fees
10 and costs to \$100,000.00, as further set forth in the Settlement
11 Agreement attached hereto as **Exhibit 2**.

12 **Section 4. Approval and Ratification of Settlement**
13 **Agreement.** There is hereby approved and ratified that certain
14 Settlement Agreement between the Jacksonville Branch of the NAACP,
15 Northside Coalition of Jacksonville, Inc., ACLU of Florida Northeast
16 Chapter, Florida Rising Together, Inc., Marcella Washington, Ingrid
17 Montgomery, Ayesha Franklin, Tiffanie Roberts, Rosemary McCoy, Sheila
18 Singleton, Eunice Barnum, Janine Williams, Dennis Barnum, the City
19 of Jacksonville, and the Duval County Supervisor of Elections in
20 substantially the form attached hereto as **Exhibit 2** and incorporated
21 herein by this reference. The full Settlement Agreement, including
22 its attached Exhibits 1, 2 and 3, are **On file** with the Office of
23 Legislative Services.

24 **Section 5. Further Action Authorized.** The General Counsel,
25 or his designee, is authorized to take such further action and to
26 execute all other documents necessary to effectuate the approved and
27 ratified Settlement Agreement and to conclude the Litigation. The
28 General Counsel, or his designee, is further authorized to make
29 technical (non-substantive) changes, changes required by the Court,
30 and changes that would carry out the purpose and the intent of this
31 Ordinance. Following the District Court's approval of the Settlement

1 Agreement, the General Counsel, or his designee, is authorized to
2 dismiss the Remedial Map Appeal.

3 **Section 6. Upon the Settlement Agreement Effective Date,**
4 **Charter of the City of Jacksonville** amended to approve and enact the
5 **Redistricting Plan set forth in the Settlement Agreement.** Upon the
6 Settlement Agreement Effective Date and in accordance with the terms
7 of the Settlement Agreement, the City Council District and City
8 Council Group At-Large Residence boundaries as set forth in **Exhibit**
9 **3**, shall be adopted.

10 (a) **14 City Council Districts.** The *Charter of the City of*
11 *Jacksonville* (the "*Charter*") is hereby amended by repealing and
12 removing Appendix 1 of the *Charter*, which defines the City Council
13 Districts based on Ordinance 2022-001-E, as described by legal
14 described by legal description, attached hereto as **Exhibit 4**, and,
15 pursuant to the Settlement Agreement, enacting and replacing same
16 with a new Appendix 1 of the *Charter* which defines the City Council
17 Districts based on the 2020 United States Census data and the
18 Settlement Agreement as described by legal described by legal
19 description, attached hereto as **Exhibit 5**.

20 (b) **5 City Council Group At-Large Residence Areas.** The *Charter*
21 is hereby amended by repealing and removing Appendix 1-A, which
22 defines the City Council Group At-Large Residence Areas based on
23 Ordinance 2022-001-E, as described by legal described by legal
24 description, attached hereto as **Exhibit 6**, and replacing same with
25 Appendix 1-A which defines the City Council Group At-Large Residence
26 Areas based on the 2020 United States Census data, as described by
27 legal described by legal description, attached hereto as **Exhibit 7**.

28 **Section 7. Upon the Settlement Agreement Effective Date,**
29 **Charter of the City of Jacksonville** amended to designate the seven
30 **School Board Districts.** Upon the Settlement Agreement Effective Date
31 and in accordance with the terms of the Settlement Agreement, the

1 School Board Districts shall be reapportioned as illustrated in
2 **Exhibit 8** attached hereto. The *Charter* is hereby amended by repealing
3 and removing Section 1 of Appendix 2 of the *Charter*, which defines
4 the Duval County School Board Districts based on Ordinance 2022-001-
5 E attached hereto as **Exhibit 9**, and, pursuant to the Settlement
6 Agreement, enacting and replacing same with a new Section 1 of
7 Appendix 2 of the *Charter* which defines the School Board Districts
8 based on the 2020 United States Census data and the Settlement
9 Agreement, attached hereto as **Exhibit 10**.

10 **Section 8. Index of Exhibits.** An index of the exhibits
11 referred to in this Ordinance are as follows:

12	Exhibit 1	Budget Transfer Form
13	Exhibit 2	Settlement Agreement, including its
14		Exhibit 1 of 3. The complete
15		Settlement Agreement, including its
16		Exhibits 1, 2, and 3, is On file with
17		Legislative Services
18		the Settlement Agreement
19	Exhibit 3	Redistricting Map - P3
20	Exhibit 4	Appendix 1- Ordinance 2022-001-E City
21		Council Districts (legal
22		descriptions)
23	Exhibit 5	Appendix 1- Redistricting Map City
24		Council Districts (legal
25		descriptions)
26	Exhibit 6	Appendix 1A- Ordinance 2022-001-E
27		City Council At-Large Residence Areas
28		(legal descriptions)
29	Exhibit 7	Appendix 1A- Redistricting Map At
30		Large Residence Areas (legal
31		descriptions)

1 Exhibit 8 Redistricting School Board District
2 Map

3 Exhibit 9 Appendix 2, Section 1 - Ordinance
4 2022-001-E School Board District
5 Designations

6 Exhibit 10 Appendix 2, Section 1 - Redistricting
7 School Board District Designations

8 **Section 9. Directing the Office of General Counsel to**
9 **forward the Council Director / Secretary and Duval County School**
10 **Board Chairman notification of the Settlement Agreement Effective**

11 **Date.** The Office of General Counsel is directed to notify the Council
12 Director / Secretary and the Duval County School Board Chairman in
13 writing of the Settlement Agreement Effective Date and along with a
14 copy of the Enacted Ordinance. The General Counsel Settlement
15 Agreement Effective Date correspondence will be included in
16 Miscellaneous Communications to the Jacksonville City Council and
17 satisfy the effective action of the Redistricting Ordinance and
18 trigger compliance with the Pos-Enactment of Redistricting provisions
19 of Section 18.112 of the City of Jacksonville *Ordinance Code*.

20 **Section 10. Directing the Chief of Legislative Services to**
21 **forward this Legislation to Municode upon receipt of written**
22 **notification from the Office of General Counsel of the Settlement**
23 **Agreement Effective Date.** Upon receipt of written notification from

24 the Office of General Counsel as to the Settlement Agreement Effective
25 pursuant to Section 12, the Chief of Legislative Services is directed
26 to forward this legislation to CivicPlus ("Municode").

27 **Section 11. Requesting One-Cycle Emergency Passage Pursuant**
28 **to Council Rule 4.901 (Emergency).** One-cycle emergency passage of
29 this legislation is requested. The nature of the emergency is that
30 the Litigation and Remedial Map Appeal engendered confusion and
31 uncertainty regarding the legal boundaries of City Council and School

1 Board Districts among voters, elected representatives, and candidates
2 in the March 2023 elections, and may continue to do so in the upcoming
3 May 2023 elections, and beyond. This legislation seeks to resolve
4 the Litigation and Remedial Map Appeal in an expeditious and efficient
5 manner thereby eliminating the citizenry's confusion and uncertainty,
6 while also bringing this ongoing and expensive litigation to a close.

7 **Section 12. Prospective Effective Date of the Settlement**
8 **Agreement.** The Settlement Agreement, and redistricting plan set
9 forth therein, shall become effective upon approval by the Court in
10 case number 3:22-cv-493-MMH-LLL (the "Settlement Agreement Effective
11 Date").

12 **Section 13. Effective Date.** This Ordinance shall become
13 effective upon signature by the Mayor or upon becoming effective
14 without the Mayor's signature.

15
16
17 Form approved:

18
19 /s/ Helen Roberson

20 Office of General Counsel

21 Legislation Prepared By: Helen Peacock Roberson

22 GC-#1561051-v2-Ordinance_Approving_Settlement_Agreement_final.DOCX