

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

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5 **ORDINANCE 2023-281-E**

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

1 THE 2020 CENSUS DATA AND THE SETTLEMENT
2 AGREEMENT VIA AMENDMENT TO THE *CHARTER OF THE*
3 *CITY OF JACKSONVILLE* (THE "*CHARTER*"); AMENDING
4 THE *CHARTER* TO ATTACH DISTRICT BOUNDARY
5 DESCRIPTIONS FOR 14 CITY COUNCIL DISTRICT
6 BOUNDARIES AND 5 CITY COUNCIL GROUP AT-LARGE
7 RESIDENT AREA BOUNDARIES PURSUANT TO THE
8 SETTLEMENT AGREEMENT UPON THE SETTLEMENT
9 AGREEMENT EFFECTIVE DATE; AMENDING THE CITY
10 CHARTER TO DESIGNATE THE 7 SCHOOL BOARD
11 DISTRICTS PURSUANT TO THE SETTLEMENT AGREEMENT
12 UPON THE SETTLEMENT AGREEMENT EFFECTIVE DATE;
13 PROVIDING AN INDEX OF EXHIBITS; DIRECTING THE
14 OFFICE OF GENERAL COUNSEL TO FORWARD TO THE
15 COUNCIL DIRECTOR AND THE DUVAL COUNTY SCHOOL
16 BOARD CHAIRMAN WRITTEN NOTIFICATION OF THE
17 SETTLEMENT AGREEMENT EFFECTIVE DATE; DIRECTING
18 THE CHIEF OF LEGISLATIVE SERVICES TO SEND A COPY
19 OF THIS LEGISLATION TO MUNICODE UPON RECEIPT OF
20 WRITTEN NOTIFICATION FROM THE OFFICE OF GENERAL
21 COUNSEL OF THE SETTLEMENT AGREEMENT EFFECTIVE
22 DATE; REQUESTING ONE-CYCLE EMERGENCY PASSAGE;
23 PROVIDING A PROSPECTIVE EFFECTIVE DATE FOR THE
24 SETTLEMENT AGREEMENT; PROVIDING AN EFFECTIVE
25 DATE.

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

30 **WHEREAS**, on August 18, 2021, the City Council Special Committee
31 on Redistricting met to start the redistricting process required by

1 Sections 5.02 and 13.03 of the *Charter of the City of Jacksonville*
2 and Chapter 18 of the *City of Jacksonville Ordinance Code*; and

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

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

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

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

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

1 **WHEREAS**, on November 18, 2022, Plaintiffs filed objections to
2 the district boundaries set forth in Ordinance 2022-800-E; and

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

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

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

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

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

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

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

30 **WHEREAS**, it is anticipated that in continuing to contest these
31 matters the parties will continue to incur significant litigation

1 expenses in the district and appellate courts and will face uncertain
2 outcomes in resolving the material constitutional matter at issue in
3 the Litigation, which the parties wish to avoid; and

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

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

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

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

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

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

21 (a) Appropriated from:

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

23 (b) Appropriated to:

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

25 (c) Explanation of Appropriation - The funding above is an
26 appropriation from General Fund Council Operating
27 Contingency to the GCAD Judgments, Claims, & Losses - Other
28 General Government Services activity to pay funds in
29 settlement of litigation arising from redistricting,
30 including the Litigation, Preliminary Injunction Appeal,
31 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 the legal
14 description, attached hereto as **Exhibit 4**, and, pursuant to the
15 Settlement Agreement, enacting and replacing same with a new Appendix
16 1 of the *Charter* which defines the City Council Districts based on
17 the 2020 United States Census data and the Settlement Agreement as
18 described by the legal description, attached hereto as **Exhibit 5**.

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

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

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

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

- | | | |
|----|-----------|---------------------------------------|
| 11 | Exhibit 1 | Budget Transfer Form |
| 12 | Exhibit 2 | Settlement Agreement, including its |
| 13 | | Exhibit 1 of 3. The complete |
| 14 | | Settlement Agreement, including its |
| 15 | | Exhibits 1, 2, and 3, is On file with |
| 16 | | Legislative Services |
| 17 | | the Settlement Agreement |
| 18 | Exhibit 3 | Redistricting Map - P3 |
| 19 | Exhibit 4 | Appendix 1- Ordinance 2022-001-E City |
| 20 | | Council Districts (legal |
| 21 | | descriptions) |
| 22 | Exhibit 5 | Appendix 1- Redistricting Map City |
| 23 | | Council Districts (legal |
| 24 | | descriptions) |
| 25 | Exhibit 6 | Appendix 1A- Ordinance 2022-001-E |
| 26 | | City Council At-Large Residence Areas |
| 27 | | (legal descriptions) |
| 28 | Exhibit 7 | Appendix 1A- Redistricting Map At |
| 29 | | Large Residence Areas (legal |
| 30 | | descriptions) |
| 31 | Exhibit 8 | Redistricting School Board District |

1 Map

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

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

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

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

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

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

26 **Section 11. Requesting One-Cycle Emergency Passage Pursuant**
27 **to Council Rule 4.901 (Emergency).** One-cycle emergency passage of

28 this legislation is requested. The nature of the emergency is that
29 the Litigation and Remedial Map Appeal engendered confusion and
30 uncertainty regarding the legal boundaries of City Council and School
31 Board Districts among voters, elected representatives, and candidates

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

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

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

14
15 Form approved:

16
17 /s/ Mary E. Staffopoulos

18 Office of General Counsel

19 Legislation Prepared By: Helen Peacock Roberson

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