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MEMORANDUM

**To:** The Honorable City Council Members  
The Honorable Duval County School Board Members

**From:** Jason R. Teal, General Counsel *JRT*  
Mary Margaret Giannini, Assistant General Counsel *mng*

**Re:** Legal Guidance for Compliance with Federal Court Order in *Jacksonville Branch of the NAACP, et al v. City of Jacksonville, 3:22-cv-493-MMH-LLL*

**Date:** November 1, 2022

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This memorandum details the legal guideposts for the Jacksonville City Council to follow as it complies with the federal court Order issued on October 12, 2022, in the matter of *Jacksonville Branch of the NAACP, et al v. City of Jacksonville, 3:22-cv-493-MMH-LLL*. The Court directed the Council to redraw the City Council and School Board districts, commanding that “[a]ny interim remedial plan the City enacts must not use race as a predominant factor in the design of any district unless that use of race is narrowly tailored to comply with a constitutionally permissible compelling government interest.” The Court further ordered the Council to submit a new map to the Court no later than November 8, 2022.<sup>1</sup>

**Special Redistricting Committee Creation and Charge**

On October 18, 2022, and in response to the Court’s Order, City Council President Freeman issued a Memorandum creating a Special Redistricting Committee. He charged the Committee with obtaining legally permissible considerations for redistricting in accordance with state and federal law, and to prepare a remedial map for review by the City Council at a Special Council meeting scheduled for Friday, November 4, 2022.

Council President Freeman noticed four meetings of the Committee: Thursday, October 20, 2022 (11am – noon); Tuesday, November 1, 2022 (noon – 1:30 pm); Wednesday, November 2, 2022 (noon – 1:30 pm); Thursday, November 3, (noon – 1:30 pm). During these meetings, the Committee will review and evaluate draft maps presented by retained expert, Dr. Doug Johnson of National Demographics Corporation, and assisted by William Killingsworth, City of Jacksonville Planning and Development. The Committee will also receive feedback from citizens

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<sup>1</sup> A motion for a stay pending appeal has been filed, and the Office of General Counsel will update you on the status of that motion as it develops.

at these meetings, either through public comment, or through submissions to the [2022Redistricting@coj.net](mailto:2022Redistricting@coj.net) email account as being maintained and monitored by City Council staff. Council President Freeman also announced at the Thursday October 20, 2022 noticed Special Committee public meeting that a “Map Chat” Town Hall was scheduled for Thursday, November 3, 2022, from 5pm – 7pm.

### **Court Order**

In its 139-page Order of October 12, 2022, the federal court granted the Plaintiffs’ request for preliminary injunctive relief, immediately enjoining the City from using the district lines passed in Ordinance 2022-01-E in the March 2023 elections and beyond. The Court also ordered the City to enact and file with the Court no later than November 8, 2022, an interim remedial redistricting plan for use in all City Council and School Board elections held pending final judgment in the case. The City must also file with the Court no later than November 11, 2022, “all files, data, correspondence, transcripts, and analyses relating to the enactment process, not otherwise exempt from disclosure pursuant to Florida’s Public Records Laws, Florida Statutes § 119, *et seq.*”

The Court determined, in part, that the Plaintiffs demonstrated a substantial likelihood of success on the merits of their claim that Districts 2, 7, 8, 9, 10, 12 and 14 (challenged districts) were drawn for predominantly racial purposes in violation of the Fourteenth Amendment. The Court reasoned that because the Council started its 2021-22 redistricting process with the district lines drawn in 2011, the Council could not disentangle the demonstrated – while perhaps well-intentioned – racial goals associated with that earlier process, from its stated goals in the 2021-22 process. In essence, the race driven purposes of the 2011 redistricting process resulting in the 2011 lines, could not be extracted from the 2021-22 process starting from those same lines. The Court also determined that various Council member statements made throughout the redistricting process, whether during publicly noticed meetings or in other settings, demonstrated the Council’s intent to preserve the racial makeup of the challenged districts. Finally, the Court noted that despite receiving comments from the public regarding racial gerrymandering concerns, the Council did little to respond to that public feedback either by amending the district lines accordingly or demonstrating why the district boundaries were not unlawfully driven by racial considerations.

### **Legal Guidance**

Coupled with the guidance outlined in the Redistricting Process and Legal Analysis for Council and School Board Districts Memorandum of February 23, 2021, the Office of General Counsel generally advises that the Special Redistricting Committee and Council craft a map that complies with state and federal law, the City Charter, § 5.03, § 13.02-03, and Ordinance Code § 18.101 *et seq.*, and also addresses the concerns laid out in the Court’s October 12, 2022 Order.

More specifically, the new districts must:

- Be as nearly equal in population as possible in order to satisfy the “one person/one vote” requirement, meaning that there can be no larger a spread of 10% between the largest and smallest districts;
- Be arranged in as logical and compact a geographical pattern as possible;
- Be compact and contiguous so that the people of the City, and their varied economic, social and ethnic interests and objectives, are adequately represented in the Council;
- Take into consideration relevant public comment and feedback;
- Not be based on the preservation of the 2011 district lines;
- Not employ race as a predominant factor for any lines, unless accompanied with a showing that a compelling government purpose supports the use of race, and that that race was used in a narrowly tailored manner;
- Not be based on preserving “minority access districts” (Districts 7, 8, 9, and 10), unless accompanied by a demonstration that population numbers and geographic location of individuals in those districts satisfy the Supreme Court’s high standard of strict scrutiny analysis.

Finally, new districts may take into account:

- Honoring physical boundaries (roadways, water bodies, railroad tracks, etc.);
- Not pairing incumbents;
- Political makeup of a district (i.e, keeping a district Democratic or Republican).

The Council must also thoroughly document the process associated with creating an interim remedial plan and file this information with the Court. Examples of items that must be provided to the Court include:

- All agendas, meeting minutes, speaker cards, and transcripts of each Committee and Council meeting;
- Copies of the maps provided to the Committee for review, as well as the supporting underlying data;
- Copies of all changes to the maps provided to the Committee, as well as the supporting underlying data;
- All public feedback and process for distribution of feedback to the Committee and Council;
- All logs and summaries of public feedback and the Committee’s consideration of such feedback;
- All documents publicly filed relating to the interim remedial plan and process;
- All correspondence relating to the interim remedial plan and process not exempt from disclosure pursuant to Florida’s Public Records Laws.