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City of Houston Ordinance No. 2009-_____

AN ORDINANCE DETERMINING THE POPULATION OF THE CITY AND THE POPULATION OF EACH OF THE COUNCIL DISTRICTS ~~AND DETERMINING THAT THE POPULATIONS OF THE EXISTING CITY COUNCIL DISTRICTS ARE NOT MATERIALLY UNBALANCED FOR PURPOSES OF ARTICLE V, SECTION 3 OF THE CITY CHARTER;~~ MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EMERGENCY.

* * *

WHEREAS, the City relies on population data, including estimates of population, for various purposes other than redistricting; and

WHEREAS, estimates of the City's population show significant growth since the 2000 federal decennial census; and

WHEREAS, Article V, Section 3 of the City Charter provides that in each year during which a City General Election is to be held the City Council shall conduct an investigation and requires the City Council to determine the population of the City and the population of each of the districts from which District Council Members are to be elected; and specifically in connection with possible redistricting requirements; and

WHEREAS, Article V, Section 3 of the City the Charter also requires that the City Council determine whether distribution of the City's population among the various districts is materially unbalanced since, if a material imbalance existed, City Council would be required to draw new districts to overcome such imbalance, and to obtain preclearance of such redrawn districts pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c;

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and “the best available data” be used by City Council when doing so; and

~~WHEREAS, City Council district boundaries were materially balanced based upon the 2000 Census, pursuant to Ordinance No. 2003-341, adopted on April 9, 2003, Ordinance No. 2005-665, adopted on May 24, 2005, and Ordinance No. 2007-538, adopted on May 2, 2007~~ federal voting rights laws and the case law that has interpreted it require a very high standard for data that is used in redistricting; and

WHEREAS, the “best available data” for the purpose of the Charter requirement is the only data that permits the City to comply with the federal law and the voting rights of its citizens, and that is the federal decennial census count; and

~~WHEREAS, the City Council has been advised by the Planning Department that the population of the City, and of each Council district, is as shown on Exhibit A attached to this Ordinance, and that annexations of territory by the City since May 2, 2007, have been mostly uninhabited and have not materially affected the populations of the City or the Council districts and that such Council districts remain balanced as to population as required by law and the Charter of the City~~ has consistently relied upon the official decennial census count in redistricting because the courts have found it to be reliable for the full decennial period; **NOW, THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the Preamble of this Ordinance are determined to be true and correct and are hereby adopted.

Section 2. The City Council finds, ~~based upon its investigation and the expert~~

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~~advice of the Planning Department, that determines that the population stated in Exhibit A attached to this Ordinance and incorporated herein is the “best available data” to determine the population of the City and of various City Council districts is as stated in Exhibit A attached to this Ordinance, and that the distribution of the population among the Council districts has not changed since June 13, 2001, and is not materially unbalanced. under and in the context of Article V, Section 3 of the City Charter.~~

Section 3. If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

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Section 4. The City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 5. There exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this ___ day of _____, 2009.

APPROVED this ___ day of _____, 2009.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is _____.

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City Secretary

Prepared by Legal Dept. _____
TBC ~~01/20/09~~ 02/11/09 Senior Assistant City Attorney
Requested by Director of Planning and Development
L.D. File No. _____