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2 **Office of the City Auditor**

3 **Interpretive Guidance on the Redistricting Process**

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6 **PART 1. Definitions.**

7 In this document:

- 8 (1) **PANEL** means the Applicant Review Panel.
- 9 (2) **COMMISSION** means the Independent Citizens Redistricting
- 10 Commission.
- 11 (3) **CITY AUDITOR** means the City Auditor or the City Auditor's designee.
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13 **PART 2. Interpretive Matters.**

14 **§ 1 Purpose.**

- 15 (A) Austin's charter now provides for the creation of ten geographical districts for the
- 16 election of council members. The charter requires that the districts be drawn by an
- 17 Independent Citizens Redistricting Commission. The charter further provides a
- 18 process for selection of the Commission that includes the creation of an Applicant
- 19 Review Panel for the purpose of reviewing the applications of applicants for the
- 20 Commission. The process for selecting the Panel and the Commission is to be
- 21 administered by the City Auditor. In outlining the process that must be undertaken
- 22 to select the members of the Panel and the Commission, the charter sets forth
- 23 qualifications for members of these bodies and identifies certain activities and
- 24 relationships that the charter describes as constituting conflicts of interest that
- 25 automatically disqualify an individual from serving on the Panel or the
- 26 Commission. However, some of the terms used to describe the qualifications and
- 27 conflicts of interest are ambiguous. This guidance is intended to provide
- 28 interpretations of these terms to support the purposes of the charter, to provide
- 29 transparency to the public, and to provide clarity for applicants.
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1 **§ 2 Interpretative Matters.**

2 (A) The City Auditor interprets the following terms and concepts as follows:

- 3 (1) The charter defines “qualified independent auditor” to mean “an auditor
4 who is currently licensed by the Texas Board of Public Accountancy and
5 has been a practicing independent auditor for at least five years prior to
6 appointment to the Applicant Review Panel.” For the purpose of this
7 requirement, a member of the Panel must be a certified public accountant
8 licensed in Texas, who has had at least five years of auditing experience at
9 some time in the certified public accountant’s career. Auditing experience
10 includes public practice, private entity, governmental, and not for profit
11 entity auditing experience. The five years of experience need not be
12 consecutive, and need not be immediately preceding the application by the
13 certified public accountant to serve on the Panel.
- 14 (2) The charter requires a member of the Commission to have been a voter
15 “continuously registered in the City of Austin for five or more years
16 immediately preceding the date of his or her appointment.” For the
17 purpose of this requirement, a non-student applicant for the Commission
18 was continuously registered in the City if the applicant was registered and
19 eligible to vote for city council during the prescribed period. Student
20 applicants for the Commission are required to be currently registered to
21 vote in the City of Austin. A person is eligible to vote for city council if
22 the person lives in the full or limited purpose jurisdictions of the City. A
23 person is not eligible to vote for city council if the person lives in the
24 City’s extraterritorial jurisdiction. The requirement applies regardless of
25 whether the applicant lives in a recently annexed area.
- 26 (3) The charter requires a member of the Commission, except the student
27 member(s), to have “voted in at least three of the last five City of Austin
28 general elections immediately preceding his or her application.” For this
29 requirement, the general election and the runoff, if any, are considered the
30 same election. An applicant voted in a City general election if the
31 applicant voted in either the first election or in the runoff, if any, in a year
32 in which a City general election was held. The applicable general
33 elections shall be listed on the application.
- 34 (4) As used in the charter, with respect to the qualifications of applicants to
35 the Panel and the Commission, the following terms have the following
36 meanings:
- 37 (a) “Bundle” means to raise money as an intermediary for a council
38 candidate by soliciting contributions on the candidate’s behalf.

- (b) "Campaign committee" in regard to an "officer, employee or paid consultant of a campaign committee" means a candidate or a specific purpose political committee supporting or opposing a candidate.
- (c) "Candidate" for elective office means a person whose name appeared on a ballot, or who was a declared write-in candidate, in a general or primary election. It does not mean a person who merely announced a candidacy or only filed campaign finance filings. This definition attempts to construe the term against ineligibility, avoid ambiguity and disputes of fact, and use the term in the way most commonly understood by a lay person.
- (d) "City" means Austin.
- (e) "City elective office" means the office of mayor and city council member.
- (f) "City employee" means an employee on the City payroll, including a temporary or part-time employee. The term does not include an independent contractor. This definition follows the definition in Section 2-7-2 of the City Code.
- (g) "City office," with respect to appointment, means a municipal court judgeship (including a substitute judgeship), and membership on a commission, committee, board, task force, or other City body appointed by the mayor or the city council. This definition follows the definition of "city official" in Section 2-7-2 of the City Code, excluding those City officials who are covered separately as City employees.
- (h) "Community college or university in the City of Austin" means a degree-granting post-secondary educational institution, accredited by a recognized accrediting agency under the Education Code, that grants one or more of the following: an associate's degree, a bachelor's degree, a master's degree, or a doctorate, and that regularly conducts classes where the instructor and two or more students are physically present in a physical location within Austin's city limits.
- (i) "Conclusive evidence" means written documentation that leaves no doubt
- (j) "Contribution," for purposes of calculating aggregate contributions to candidates for City elective office, includes all contributions to candidates for mayor and city council, and contributions to specific purpose political committees supporting or opposing those candidates.

- 1 (k) "County" refers to a county in which the City of Austin has territory.
- 2 (l) "County elective office" means an office that is voted on county-wide
- 3 or an office that is voted on by the voters of a precinct drawn by a
- 4 commissioners court.
- 5 (m) "Employee" with respect to a political party or campaign committee
- 6 means a person who was paid a salary by the political party or
- 7 campaign committee.
- 8 (n) "Local lobbyist" means a person required to register under Chapter 4-
- 9 8 of the City Code.
- 10 (o) "Non-competitively bid contract" means a contract which must be
- 11 awarded as provided in Section 252.043 of the Local Government
- 12 Code ("lowest responsible bidder" or "best value for the
- 13 municipality").
- 14 (p) "Officer" with respect to the "campaign committee of a candidate for
- 15 elective state, county or city office" means:
- 16 (i) the campaign treasurer of a candidate for an elective state,
- 17 county, or city office;
- 18 (ii) the campaign treasurer of a specific purpose political committee
- 19 that supported or opposed a candidate for an elective state,
- 20 county, or city office; or
- 21 (iii) an officer or director of an incorporated specific purpose
- 22 political committee, incorporated for liability purposes only
- 23 under Section 253.092 of the Texas Election Code, that
- 24 supported or opposed a candidate for an elective state, county,
- 25 or city office.
- 26 (q) "Officer" with respect to a political party means a precinct chair, a
- 27 county chair, or a member of a party executive committee under Title
- 28 10 of the Texas Election Code.
- 29 (r) "Paid Consultant" with respect to work done for a political party or
- 30 campaign committee means a person who was paid monetary
- 31 consideration for providing legal services, accounting services, public
- 32 relations services, statistical or polling services, or political or
- 33 campaign-related services or advice.

- 1 (s) "Paid Consultant" with respect to the three year ban on paid
2 consultancy with a council member, means having a "political or
3 professional contract" with a council member as defined in this
4 guidance.
- 5 (t) "Political or professional contract," in the context of a contract with a
6 council member, means a contract with a council member under
7 which, in return for consideration, a person provided expert advice or
8 personal services related to a council member's duties or to the council
9 member's service as a council member, or provided advice about the
10 conduct of campaign activities or holding office, or provided services
11 to a council member that would be reportable on the council member's
12 required campaign and officeholder filings under Title 15 of the Texas
13 Election Code; Article III, §8 of the Austin City Charter; or Chapter
14 2-2 of the Austin City Code. This does not include a contract solely
15 for the sale of goods.
- 16 (u) "Political party" means a political party that appeared on the ballot in
17 any of the last three general elections for state and county officers.
- 18 (v) "Professional contract," in the context of a contract with the City
19 means a non-competitively bid contract other than a contract solely
20 for the sale of goods.
- 21 (w) "State" means Texas.
- 22 (x) "State office" means an office held by a "state officer" as defined in
23 Section 572.002 of the Government Code.
- 24 (i) In the context of an appointment to a state office, "state office"
25 means: the office of Secretary of State, an office of a state
26 agency subject to appointment for a term of office specified by
27 the Texas Constitution or a statute of this state; an office subject
28 to appointment with the advice and consent of the senate; the
29 position of executive head of a state agency; or a state office
30 subject to election but filled by appointment because of a
31 vacancy or because the office is newly created.
- 32 (ii) In the context of candidacy or election to a state office, "state
33 office" means a seat in the legislature, an executive or judicial
34 office filled in a statewide election; a judgeship of a court of
35 appeals or of a district court; membership on the State Board of
36 Education; or the position of district attorney or criminal district
37 attorney.

1 (y) "Student" means a person actively enrolled in a community college or
2 university on the date of the person's application to the Commission.
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2 **PART 3. Process Matters.**

3 **§ 1** The City Auditor shall conduct an outreach program to alert the public to the
4 application process for the Panel and the Commission and to encourage a diverse pool
5 of applicants to submit applications.

6 (A) The City Auditor's outreach program shall, at a minimum, include all of the
7 following:

- 8 (1) Posting a description of the selection process on the City Auditor's Web
9 site indicating the key dates and deadlines for the application process,
10 including, but not limited to, when established, the period during which
11 the City Auditor shall accept applications.
- 12 (2) Producing outreach materials regarding the role of the Panel and
13 Commission, the eligibility and qualifications requirements for serving as
14 a Panel member or Commissioner, and the process for selecting Panel
15 members and Commissioners.
- 16 (3) Identifying community partners and requesting that they assist in
17 recruiting qualified applicants.
- 18 (4) Creating and distributing public service announcements and
19 advertisements regarding the application process for placement in local
20 media including specialty and social media.
- 21 (5) When an application form is available on the City Auditor's Web site,
22 widely publicizing both the availability of the application and the deadline
23 for its submission.
- 24

25 **§ 2 Overview of the Application Process.**

26 (A) The application process for both the Panel and the Commission consists of six
27 phases.

- 28 (1) In Phase I, an applicant must complete and submit an application form to
29 determine the applicant's eligibility to become a member of the applicant
30 pool for which the applicant is applying. The City Auditor shall review
31 each application for the two applicant pools and remove an applicant that
32 does not meet established qualification and conflict of interest
33 requirements for each respective pool. The City Auditor shall post the

names and status (qualified or unqualified) of all applicants to the Panel and the Commission on the City Auditor's website for public viewing.

- (2) In Phase II, the City Auditor shall hold a public meeting and randomly draw the names of three qualified applicants to serve as the Applicant Review Panel.
- (3) In Phase III, the City Auditor shall post on the City Auditor's Web site the names of all qualified Commission applicants and provide the applications to the Panel.
- (4) In Phase IV, the Panel shall select, according to the criteria set forth in the charter, a pool of the 60 most qualified applicants from the pool of qualified Commission applicants and submit this selected pool to the city council.
- (5) In Phase V, each city council member may strike up to one applicant from the pool of 60 applicants.
- (6) In Phase VI, the City Auditor shall hold a public meeting and randomly draw the names of eight applicants from those remaining after the Austin city council members have exercised their right to remove applicants. The eight applicants whose names are drawn by the City Auditor shall become the first eight members of the Independent Citizens Redistricting Commission.

§ 3 General Requirements.

- (A) This section applies to each phase of the application process for membership on the Panel and the Commission.
 - (1) An applicant must complete and submit the City Auditor's authorized application either by paper or electronically. Paper applications must be received in person or by mail at the City Auditor's office during normal working hours (8 a.m. – 5 p.m.). Electronic applications must be in permanent data file (PDF) format submitted by email.
- (B) Deadlines for the submission of application materials are final. The City Auditor will not consider application materials not timely received or that the City Auditor deems incomplete.

- 1 (C) The City Auditor may inquire about or seek additional information from an
2 applicant during any phase of the application process. Failure of an applicant to
3 respond to an inquiry may result in an application being found to be incomplete.
- 4 (D) An application filed with the City Auditor for the Panel or the Commission is a
5 government record. By filing an application with the City Auditor, a person attests
6 to the truth of the information stated in the record. An application for membership
7 on the Panel or the Commission filed with the City Auditor is made under oath by
8 the person filing the application regardless of the absence of verification,
9 including a signature. Each application must include a statement by the applicant
10 that the applicant has provided true, complete, and correct information.
- 11 (E) An application filed with the City Auditor is a public record, and is subject to
12 disclosure as provided by the Texas Public Information Act. Each applicant must
13 affirmatively consent to the public disclosure of all the information that the
14 applicant provides on the application, including, without limitation, the applicant's
15 contact email address.
- 16 (F) To enhance the transparency and security of the application process, the City
17 Auditor adopts the following application acceptance and custody procedures. The
18 City Auditor shall assign two or more senior members of the City Auditor's staff
19 to manage this process.
- 20
- 21 (1) All applications for the Panel and the Commission must be received by
22 the City Auditor in person, by mail, or via email at
23 district.applications@austintexas.gov.
- 24 (2) Applications will be received by the City Auditor using the following
25 process:
- 26 (a) Paper applications received in person will be date and time stamped
27 by City Auditor front office staff and placed in a dual key lock box
28 by the applicant.
- 29 (b) Paper applications received via mail will be opened by front office
30 staff in the presence of at least one other City Auditor employee.
31 City Auditor staff will date and time stamp each application received
32 by mail as received. Both staff members present when the mail is
33 opened shall initial the application, attach the opened envelope, and
34 immediately place it in the lock box.
- 35 (c) Applications received electronically will be printed out by noon on
36 each business day by the assigned senior staff members who will
37 provide the paper copy to City Auditor front office staff. City

Auditor front office staff shall stamp the printed applications as received and shall immediately place them in the lock box.

- (3) Access to the dual key lock box is restricted to the Applications Log Team (Deputy City Auditor and one City Auditor employee designated as backup by the City Auditor) and Applications Custody Team (an Assistant City Auditor designated by the City Auditor and one City Auditor employee designated as back up by the City Auditor). Each team will have keys to only one of the locks.
- (4) Members from each team, at least one primary, will remove all applications from the lock box at 3:00 pm each workday and log them into the applicable sheet in the Applications Log Spreadsheet for each body (Panel and Commission). When the applications are logged, the Log Team shall assign a Control Number to each application, which will serve as the unique identifier for review purposes until the random drawings. The Applications Log Spreadsheet will be stored in a restricted electronic folder, accessible only by the Deputy City Auditor and the Deputy City Auditor's back up. At the time of entry into the Applications Log Spreadsheet, the City Auditor staff member recording each application will ensure that the applicant has not previously applied for the same body. The City Auditor staff member recording the application shall stamp all duplicate applications as "Duplicate" so that review staff is aware in advance.
- (5) One member of the Applications Custody Team will then provide the hard copy applications to the Chief of Investigations or designated back up, to store in a secured area. Access to the applications will be restricted to the Chief of Investigations, an Assistant City Auditor designated by the City Auditor, and one additional City Auditor employee designated by the City Auditor as a backup.
- (6) In order to obtain applications for review purposes, designated City Auditor staff will be required to fill out a check in/check out log in the presence of either the Chief of Investigations or the designated Assistant City Auditor. City Auditor staff reviewing applications shall return the applications to the secured area by the end of the day. City Auditor staff reviewing applications may only remove applications to authorized work areas. The Chief of Investigations and the designated Assistant City Auditor shall review the check in/check out log to ensure all applications are returned.
- (7) City Auditor staff reviewing the applications shall first attach an application review sheet to each application. Review will consist of staff

1 verifying that each applicant completed all required sections of the
2 application and that the applicant's responses indicate compliance with all
3 qualifications and conflict of interest requirements.

4 (8) No later than the end of each week, the Chief of Investigations and the
5 designated Assistant City Auditor shall conduct a quality control review
6 of all applications reviewed that week to verify that the review result was
7 accurate. The Chief of Investigations or the designated Assistant City
8 Auditor shall then meet with a member of the Applications Log Team
9 with access to the Applications Log Spreadsheet to post a status for each
10 application reviewed (qualified or unqualified) as well as a justification
11 for the status (i.e., incomplete, duplicate application, conflict of interest,
12 etc). Updates of the spreadsheet will be posted to the 10-ONE website for
13 public viewing.

14 (G) Information provided by or about an applicant through an application or by any
15 other means is subject to verification or investigation by the City Auditor.

16
17 **§ 4 Phase I.**

18 (A) The City Auditor shall initiate Phase I of the application process by posting the
19 Panel and Commission application forms on the City Auditor's Web site as well
20 as placing paper applications in various public buildings such as libraries and
21 recreational centers.

22 (B) The Phase I application period must be at least 30 calendar days.

23 (C) The application forms are designed to solicit information from the applicant to
24 determine the applicant's eligibility to become a member of the respective
25 applicant pool. The forms are attached and incorporated in this guidance.

26 (D) The City Auditor shall review each application and remove from each applicant
27 pool any applicant who has not complied with the application process or is not
28 eligible to serve on the Panel or Commission due to either of the following:

29 (1) submitting an incomplete or untimely application.

30 (2) failing to satisfy the eligibility or conflict of interest requirements for
31 membership on the body.

32 (E) The City Auditor shall make a reasonable effort to notify each applicant who is
33 removed from an applicant pool. The applicant may ask for reconsideration as
34 provided in subsection (G).

1 (F) After reviewing all applications for both Panel and Commission for compliance
2 with minimum requirements and disqualifying conflicts of interest, an assigned
3 senior staff member shall prepare the final lists of qualified applicants for
4 each pool and the City Auditor shall certify these lists. Except as provided by
5 subsection (G) the certification of the City Auditor is final.

6 (G) Reconsideration

7 (1) An applicant who is excluded or removed from either applicant pool by
8 the City Auditor based on either of the following grounds, may seek
9 reconsideration of the decision by the City Auditor:

10 (a) failing to satisfy the eligibility or conflict of interest requirements
11 for serving as a member of the Panel, or Commission; or

12 (b) failing to comply with a procedural requirement of the application
13 process.

14 (2) All other decisions by the City Auditor, including, but not limited to,
15 decisions to exclude or remove applicants from an applicant pool, except
16 for the decisions described in subdivision (1) of this subsection are final at
17 the time the decisions are made, and an applicant may not seek
18 reconsideration of those decisions by the City Auditor.

19 (3) An applicant seeking reconsideration of a decision described in
20 subdivision (1) of this subsection must submit to the City Auditor a
21 written request for reconsideration that:

22 (a) is received by the City Auditor no later than 3 days prior to the
23 applicable drawing or the 10th calendar day after the date the notice
24 was posted that the applicant was being excluded or removed from
25 an applicant pool for any of the reasons stated in subdivision (1) of
26 this subsection, whichever is earlier;

27 (b) explains why the determination by the City Auditor was in error
28 and establishes, by conclusive evidence, that the applicant was
29 excluded or removed from an applicant pool erroneously; and

30 (c) contains an oath or affirmation by the applicant that the facts
31 alleged in the request for reconsideration are true and correct.

32 (4) A request for reconsideration that does not satisfy the requirements of this
33 section shall be denied by the City Auditor. On denial by the City Auditor
34 of a request for reconsideration, or on the expiration of the period for
35 filing a request for reconsideration without a request being received,

1 whichever occurs first, the decision of the City Auditor is final and the
2 applicant may not seek reconsideration of that decision.

- 3 (5) If the City Auditor determines that an applicant has, in a written request
4 for reconsideration, established by conclusive evidence that the applicant
5 was erroneously excluded or removed from an applicant pool, the City
6 Auditor shall place the applicant in that qualified applicant pool and the
7 applicant shall participate in the application process in the same manner as
8 if the applicant had not been excluded or removed.

9
10 **§ 5 Phase II: Random Drawing of the Three Applicant Review Panel Members**

- 11 (A) During Phase II of the application process, the City Auditor shall randomly draw
12 the names of three applicants from the qualified pool of Panel applicants. The City
13 Auditor shall conduct the random drawing at a public meeting using the following
14 procedures.
- 15 (B) Once the application review process is complete and the results have been
16 certified, two senior City Auditor staff members shall prepare the final list of
17 qualified Commission applicants for the Panel, which shall include the control
18 numbers. An assigned senior City Auditor staff member shall mark raffle balls
19 (ping pong balls) to represent each of the applicants. The Chief of Investigations
20 shall store the raffle balls in a secured area. On the date of the drawing, at least
21 two assigned senior staff members shall each, independently, conduct a
22 reconciliation of the final list to the raffle balls. The Chief of Investigations shall
23 store the prepared raffle balls in the locked filing cabinet until the random drawing
24 is to occur.
- 25 (C) At least two assigned senior staff members shall remove the raffle balls and
26 transport them to the public meeting at which the random drawing is to occur
27 where the staff members shall conduct a final reconciliation in public prior to the
28 drawing. As each applicant is verified, the City Auditor shall place the assigned
29 raffle balls inside the raffle barrel. When all raffle balls have been placed inside
30 the barrel, the City Auditor shall conduct the random drawing.
- 31 (D) The City Auditor shall vigorously rotate the raffle barrel so that the balls are
32 thoroughly mixed and select the three members as well as three alternates in the
33 event any of the applicants are not available or willing to serve on the Panel. The
34 number and name of the persons selected during the drawing shall be announced
35 and duly recorded.

- 36 (1) By drawing three alternates, the City Auditor hopes to save time in an
37 already tightly-timed process.

1 (2) As soon as practicable following the random drawing of the three
2 members of the Panel, the City Auditor shall notify the applicants of their
3 selection and post on the City Auditor's Web site the names of those
4 members.

5 (E) The three applicants drawn by the City Auditor who agree to serve are the
6 members of the Applicant Review Panel. If an applicant drawn is unwilling or
7 unable to serve on the Panel, one of the alternates selected in subsection (D) shall,
8 in the order drawn, take the place of the applicant unable to serve. If necessary,
9 the drawing process set forth in this section shall be repeated until three Panel
10 members are selected who are willing and able to serve.

11
12 **§ 6 Phase III: Publication of Names of Applicants in the Independent Citizens**
13 **Redistricting Commission Applicant Pool**

14 (E) After removing from the applicant pool those applicants who, based on their
15 applications, were not eligible to serve as members of the Commission because
16 the applicants did not satisfy the requirements or had conflicts of interest, the City
17 Auditor shall:

- 18 (1) post on the City Auditor's Web site a list of the names of the applicants
19 who have been placed in the qualified Commission applicant pool; and
20 (2) provide the Panel with the applications of those applicants.

21
22 **§ 7 Phase VI: Random Drawing of First Eight Members of the Independent**
23 **Citizens Redistricting Commission**

24 (A) After the Panel has reduced the Commission applicant pool to 60 applicants, and
25 after each council member has exercised or declined to exercise the council
26 member's right to strike an applicant, the City Auditor shall randomly draw the
27 names of eight applicants from the pool. The City Auditor shall conduct the
28 random drawing at a public meeting using the procedures described for the
29 drawing for the Panel. The eight applicants whose names are drawn by the City
30 Auditor shall become members of the Independent Citizens Redistricting
31 Commission.

32 (B) As soon as practicable following the drawing, the City Auditor shall:

- 33 (1) notify the applicants of their selection and post on the City Auditor's Web
34 site the names of the first eight members; and

1 (2) provide the eight Commissioners with the application materials of each of
2 the applicants remaining in the qualified Commission applicant pool.

3 (C) This is the end of the City Auditor's role in the selection process. Further
4 guidance regarding other parts of the redistricting process will be provided by
5 other City officials at a later date.
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CITY OF SAN JOSE
Redistricting Process Timeline
 January 18, 2013

Phase	Tasks	Final Dates
I	Auditor Initiates & Publicizes Process	Dec 2012 - Feb 2013
	Interpretive Guidance Comment Period	12/19/12 - 1/11/13
	Applications Go Live	1/18/2013
	Application Deadline	2/22/2013
	Auditor Issues Final List of Panel Candidates	*2/25/2013
II	Panel Drawing	2/27/2013
III	Auditor Creates Commission Pool & Provide Apps to Panel	*3/14/2013
IV	Panel Provides 60 to Council	5/16/2013
V	Council May Strike One Applicant Each	5/22/2013
VI	Commission Drawing (8)	5/22/2013
	8 Select 6 Remaining Members	**
	Commission Shall Adopt Final Plan	**
	Next Election Date	11/4/2014

* Done real time throughout application period

**According to the City Attorney, dates for other parts of the Redistricting Process will be provided by other City Officials at a later date