

NO. 13-10235

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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MARIA FABELA; ALFONSO BALADEZ; AMELIA BALADEZ; MARIA  
BALADEZ; MARIA JACOBO; ANTONIO REYES; MARIA REYES; DIANA  
ROSAS; LETICIA TORRES; and JOSE VILLANEDA,

*Plaintiffs – Appellees,*

v.

CITY OF FARMERS BRANCH, TEXAS; HAROLD FROELICH, in His Official  
Capacity; DAVID KOCH, in His Official Capacity; BEN ROBINSON, in His  
Official Capacity; TIM SCOTT, in His Official Capacity; BILL GLANCY, in His  
Official Capacity; and JEFF FULLER, in His Official Capacity,

*Defendants – Appellants.*

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On Appeal from Civil Action No. in the United States District Court, Northern  
District of Texas 3:10-CV-1425-D, Dallas Division

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APPELLANTS' RECORD EXCERPTS

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ATTORNEYS FOR APPELLANTS

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9	Defendants' Notice of Appeal	USCA5 886-888	64

Respectfully submitted,

/s/ Kent D. Krabill

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document was served by certified mail on counsel of record on June 17, 2013.

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TAB 1

**RAMIREZ, EXH-ADM, CLOSED, APPEAL**

**U.S. District Court  
Northern District of Texas (Dallas)  
CIVIL DOCKET FOR CASE #: 3:10-cv-01425-D**

Fabela et al v. City of Farmers Branch Texas et al  
Assigned to: Chief Judge Sidney A Fitzwater  
Referred to:  
Demand: \$0  
Lead Docket: None  
Related Cases: None  
Cases in other court: None  
Cause: 28:1331 Federal Question: Other Civil Rights

Date Filed: 7/20/2010  
Jury Demand: None  
Nature of Suit: 441 Civil Rights: Voting  
Jurisdiction: Federal Question

**Plaintiff**

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V.

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*successors in office to Tim O'Hare and*  
*Michelle Homes)*  
*TERMINATED: 2/28/2013*

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*(Bill Glancy and Jeff Fuller*  
*are the successors in office to Tim*  
*O'Hare and Michelle Homes)*  
*TERMINATED: 2/28/2013*

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**David Koch, in his official capacities**

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**Ben Robinson, in his official capacities**

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**Jeff Fuller, in his official capacity**  
*(substituted as sucessor in office to*  
*Michelle Holmes pursuant to Federal*  
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<b>Filing Date</b>	<b>#</b>	<b>Docket Text</b>
7/20/2010		Magistrate Judge Ramirez chosen by random selection to handle matters that may be referred in this case. Unless exempted, attorneys who are not admitted to practice in the Northern District of Texas should seek admission promptly. Forms and Instructions found at <a href="http://www.txnd.uscourts.gov">www.txnd.uscourts.gov</a> . (ykp) (Entered: 7/22/2010)
7/20/2010 (p.18)	1	COMPLAINT against City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott filed by Maria Reyes, Leticia Torres, Antonio Reyes, Amelia Baladez, Maria Jacobo, Maria Fabela, Jose Villaneda, Maria Baladez, Diana Rosas, Alfonso Baladez. (Filing fee \$350; Receipt number DS042118) (ykp) (Entered: 7/22/2010)
7/20/2010 (p.29)	2	CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by Alfonso Baladez, Amelia Baladez, Maria Baladez, Maria Fabela, Maria Jacobo, Antonio Reyes, Maria Reyes, Diana Rosas, Leticia Torres, Jose Villaneda. (ykp) (Entered: 7/22/2010)
7/20/2010 (p.33)	3	Summons Issued as to City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott. (ykp) (Entered: 7/22/2010)

7/23/2010 (p.47)	4	Proof of Service for Subpoenas served on Harold Froelich, Michelle Holmes, David Koch, Ben Robinson, and Tim Scott on 7/20/2010. (axm) (Entered: 7/26/2010)
7/27/2010 (p.57)	5	SUMMONS Returned Executed as to City of Farmers Branch Texas; served on 7/21/2010; Tim O'Hare; served on 7/21/2010. (mfw) (Entered: 7/29/2010)
8/10/2010 (p.61)	6	CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott. (Heath, C) (Entered: 8/10/2010)
8/10/2010 (p.64)	7	MOTION to Dismiss filed by City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott (Heath, C) (Entered: 8/10/2010)
8/10/2010 (p.67)	8	Brief/Memorandum in Support filed by City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott re [7] MOTION to Dismiss (Heath, C) (Entered: 8/10/2010)
8/10/2010 (p.86)	9	Appendix in Support filed by City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott re [7] Motion to Dismiss. (Heath, C) Modified on 8/11/2010 (mfw). (Entered: 8/10/2010)
8/11/2010 (p.89)	10	Order for Scheduling Order Proposal: Proposed Scheduling Order due by 9/10/2010. (Ordered by Chief Judge Sidney A Fitzwater on 8/11/2010) (jrb) (Entered: 8/12/2010)
8/30/2010 (p.93)	11	Joint MOTION to Extend Time to Submit Scheduling Proposal filed by Alfonso Baladez, Amelia Baladez, Maria Baladez, City of Farmers Branch Texas, Maria Fabela, Harold Froelich, Michelle Holmes, Maria Jacobo, David Koch, Tim O'Hare, Antonio Reyes, Maria Reyes, Ben Robinson, Diana Rosas, Tim Scott, Leticia Torres, Jose Villaneda (Heath, C) (Entered: 8/30/2010)
8/30/2010	12	ELECTRONIC ORDER granting [11] Joint MOTION to Extend Time to Submit Scheduling Proposal. The Scheduling Proposal Due Date is extended through September 17, 2010. (Ordered by Chief Judge Sidney A Fitzwater on 8/30/2010) (Chief Judge Sidney A Fitzwater) (Entered: 8/30/2010)
8/31/2010 (p.96)	13	Unopposed MOTION to Extend Time File response to Defendants Motion to Dismiss filed by Alfonso Baladez, Amelia Baladez, Maria Baladez, Maria Fabela, Maria Jacobo, Antonio Reyes, Maria Reyes, Diana Rosas, Leticia Torres, Jose Villaneda (Veaser, Michael) Modified on 9/1/2010 (axm). (Entered: 8/31/2010)
8/31/2010 (p.99)	14	RESPONSE filed by Alfonso Baladez, Amelia Baladez, Maria Baladez, Maria Fabela, Maria Jacobo, Antonio Reyes, Maria Reyes, Diana Rosas, Leticia Torres, Jose Villaneda re: [7] MOTION to Dismiss (Veaser, Michael) Modified on 9/1/2010 (twd). (Entered: 8/31/2010)
9/1/2010	15	ELECTRONIC ORDER granting [13] Unopposed MOTION to Extend Time File response to Defendants Motion to Dismiss. To the extent that plaintiffs' motion has not been mooted by the filing of a response on August 31, 2010 [14], their motion

		is granted, and their response is now due no later than September 7, 2010. (Ordered by Chief Judge Sidney A Fitzwater on 9/1/2010) (Chief Judge Sidney A Fitzwater) (Entered: 9/1/2010)
9/14/2010 (p.124)	16	REPLY filed by City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott re: [7] MOTION to Dismiss (Heath, C) (Entered: 9/14/2010)
9/17/2010 (p.131)	17	Proposal for contents of scheduling and discovery order by Alfonso Baladez, Amelia Baladez, Maria Baladez, Maria Fabela, Maria Jacobo, Antonio Reyes, Maria Reyes, Diana Rosas, Leticia Torres, Jose Villaneda. (Veaser, Michael) (Entered: 9/17/2010)
9/22/2010 (p.134)	18	SCHEDULING ORDER: Amended Pleadings due by 3/15/2011. Discovery due by 12/1/2011. Joinder of Parties due by 3/15/2011. Motions due by 1/19/2012. Status Report due by 12/1/2011. (Ordered by Chief Judge Sidney A Fitzwater on 9/22/2010) (chmb) (Entered: 9/22/2010)
10/21/2010 (p.137)	19	ORDER: The clerk of court has advised the court that counsel for defendants may not have complied with the local counsel requirement of N.D. Tex. Civ. R. 83.10(a). (See Order) (Ordered by Chief Judge Sidney A Fitzwater on 10/21/2010) (chmb) (Entered: 10/21/2010)
10/22/2010 (p.139)	20	NOTICE OF LOCAL COUNSEL re: [19] Order filed by City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott (Heath, C) (Entered: 10/22/2010)
11/15/2010 (p.141)	21	MEMORANDUM OPINION AND ORDER denying [7] Motion to Dismiss filed by Tim Scott, Ben Robinson, Tim O'Hare, Harold Froelich, City of Farmers Branch Texas, David Koch, Michelle Holmes. (Ordered by Chief Judge Sidney A Fitzwater on 11/15/2010) (Chief Judge Sidney A Fitzwater) (Entered: 11/15/2010)
11/18/2010 (p.146)	22	ANSWER to [1] Complaint filed by City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott. Unless exempted, attorneys who are not admitted to practice in the Northern District of Texas should seek admission promptly. Forms and Instructions found at <a href="http://www.txnd.uscourts.gov">www.txnd.uscourts.gov</a> , or by clicking here: <a href="#">Attorney Information - Bar Membership</a> (Heath, C) (Entered: 11/18/2010)
7/20/2011 (p.150)	23	TRIAL SETTING ORDER: Trial set for two-week docket beginning June 18, 2012 before Chief Judge Sidney A. Fitzwater. (See Order) (Ordered by Chief Judge Sidney A Fitzwater on 7/20/2011) (chmb) (Entered: 7/20/2011)
8/10/2011 (p.155)	24	Unopposed MOTION to Extend Time for rebuttal expert witnesses to comply with Rule 26(a)(2) filed by City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott (Heath, C) (Entered: 8/10/2011)
8/10/2011	25	ELECTRONIC ORDER granting [24] Unopposed MOTION to Extend Time for rebuttal expert witnesses to comply with Rule 26(a)(2) filed by City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben

		Robinson, Tim Scott. The deadline for designation of rebuttal expert witnesses and for those witnesses to comply with Rule 26(a)(2) is extended from August 25, 2011 to September 6, 2011. (Ordered by Chief Judge Sidney A Fitzwater on 8/10/2011) (Chief Judge Sidney A Fitzwater) (Entered: 8/10/2011)
11/14/2011 (p.159)	26	NOTICE of Attorney Appearance by Gregory A Teeter and C. Dunham Biles on behalf of All Plaintiffs. (Teeter, Gregory) Modified on 11/14/2011 (svc). (Entered: 11/14/2011)
11/21/2011 (p.162)	27	Joint MOTION to Extend Time deadlines filed by Alfonso Baladez, Amelia Baladez, Maria Baladez, City of Farmers Branch Texas, Maria Fabela, Harold Froelich, Michelle Holmes, Maria Jacobo, David Koch, Tim O'Hare, Antonio Reyes, Maria Reyes, Ben Robinson, Diana Rosas, Tim Scott, Leticia Torres, Jose Villaneda (Heath, C) (Entered: 11/21/2011)
11/22/2011 (p.166)	28	ORDER EXTENDING DEADLINES: Discovery due by 1/31/2012. Motions due by 2/29/2012. Joint Status Report due by 1/31/2012. (Ordered by Chief Judge Sidney A Fitzwater on 11/22/2011) (skt) (Entered: 11/23/2011)
2/16/2012 (p.168)	29	Joint STATUS REPORT filed by Alfonso Baladez, Amelia Baladez, Maria Baladez, City of Farmers Branch Texas, Maria Fabela, Harold Froelich, Michelle Holmes, Maria Jacobo, David Koch, Tim O'Hare, Antonio Reyes, Maria Reyes, Ben Robinson, Diana Rosas, Tim Scott, Leticia Torres, Jose Villaneda. (Heath, C) (Entered: 2/16/2012)
5/31/2012 (p.171)	30	ORDER SETTING TRIAL AND PRETRIAL CONFERENCE. The nonjury trial of this case will commence on Monday, June 25, 2012 at 9:00 a.m. The court will conduct a telephonic pretrial conference on Friday, June 22, 2012 at 2:00 p.m. (Ordered by Chief Judge Sidney A Fitzwater on 5/31/2012) (Chief Judge Sidney A Fitzwater) (Entered: 5/31/2012)
5/31/2012		Hearing Modification: Hearings set per [30] Order. Nonjury Trial set for 6/25/2012 at 09:00 AM before Chief Judge Sidney A Fitzwater. Telephonic Pretrial Conference set for 6/22/2012 at 02:00 PM before Chief Judge Sidney A Fitzwater. (cea) (Entered: 5/31/2012)
6/14/2012 (p.172)	31	Proposed Findings of Fact by City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott. (Heath, C) (Entered: 6/14/2012)
6/21/2012 (p.190)	32	Witness List by City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott. (Heath, C) (Entered: 6/21/2012)
6/21/2012 (p.194)	33	Exhibit List by City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott. (Heath, C) (Entered: 6/21/2012)
6/21/2012 (p.198)	34	NOTICE of Attorney Appearance by Nathan Douglas Pearman on behalf of All Plaintiffs. (Pearman, Nathan) (Entered: 6/21/2012)



6/21/2012 (p.201)	35	First Amended Exhibit List by Alfonso Baladez, Amelia Baladez, Maria Baladez, Maria Fabela, Maria Jacobo, Antonio Reyes, Maria Reyes, Diana Rosas, Leticia Torres, Jose Villaneda. (Teeter, Gregory) Modified text on 6/22/2012 (skt). (Entered: 6/21/2012)
6/21/2012 (p.205)	36	First Amended Witness List by Alfonso Baladez, Amelia Baladez, Maria Baladez, Maria Fabela, Maria Jacobo, Antonio Reyes, Maria Reyes, Diana Rosas, Leticia Torres, Jose Villaneda. (Teeter, Gregory) Modified text on 6/22/2012 (skt). (Entered: 6/21/2012)
6/21/2012 (p.210)	37	MOTION TO EXCLUDE DEPOSITIONS filed by City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott (Heath, C) (Entered: 6/21/2012)
6/22/2012		ELECTRONIC Minute Entry for proceedings held before Chief Judge Sidney A Fitzwater: Telephonic Pretrial Conference held on 6/22/2012. The court conducted a telephonic pretrial conference with counsel. The nonjury trial will commence on Monday, June 25, 2012 at 9:00 a.m. The court imposed time limits of seven hours per side to present testimony. Additional time will be allowed for opening statements and closing arguments. After discussing general trial-related matters, the court considered and took under advisement defendants motion to exclude depositions or deposition excerpts and objections to exhibits under Fed. R. Civ. P. 32. Attorney Appearances: Plaintiff - Gregory A. Teeter and Nathan D. Pearman; Defense - C. Robert Heath. (Court Reporter: Not Recorded) (No exhibits) Time in Court - :46. (chmb) (Entered: 6/22/2012)
6/22/2012 (p.215)	38	PRETRIAL ORDER (Ordered by Chief Judge Sidney A Fitzwater on 6/22/2012) (chmb) (Entered: 6/22/2012)
6/22/2012 (p.222)	39	Supplemental Document by Alfonso Baladez, Amelia Baladez, Maria Baladez, Maria Fabela, Maria Jacobo, Antonio Reyes, Maria Reyes, Diana Rosas, Leticia Torres, Jose Villaneda. (Teeter, Gregory) (Entered: 6/22/2012)
6/22/2012 (p.227)	40	PROOF OF SERVICE of Subpoena Served on Tim O'Hare. (cea) (Entered: 6/22/2012)
6/22/2012 (p.230)	41	PROOF OF SERVICE of Subpoena Served on Ben Robinson. (cea) (Entered: 6/22/2012)
6/22/2012 (p.233)	42	PROOF OF SERVICE of Subpoena, Served on David Koch. (cea) (Entered: 6/22/2012)
6/22/2012 (p.236)	43	Designation of Deposition by Alfonso Baladez, Amelia Baladez, Maria Baladez, Maria Fabela, Maria Jacobo, Antonio Reyes, Maria Reyes, Leticia Torres, Jose Villaneda. (Pearman, Nathan) (Entered: 6/22/2012)
6/22/2012 (p.248)	44	Second Amended Witness List by Alfonso Baladez, Amelia Baladez, Maria Baladez, Maria Fabela, Maria Jacobo, Antonio Reyes, Maria Reyes, Diana Rosas, Leticia Torres, Jose Villaneda. (Pearman, Nathan) Modified on 6/25/2012 (skt). (Entered: 6/22/2012)



6/24/2012 (p.255)	45	Designation of Deposition by Alfonso Baladez, Amelia Baladez, Maria Baladez, Maria Fabela, Maria Jacobo, Antonio Reyes, Maria Reyes, Diana Rosas, Leticia Torres, Jose Villaneda. (Pearman, Nathan) (Entered: 6/24/2012)
6/24/2012 (p.278)	46	Designation of Deposition by Alfonso Baladez, Amelia Baladez, Maria Baladez, Maria Fabela, Maria Jacobo, Antonio Reyes, Maria Reyes, Diana Rosas, Leticia Torres, Jose Villaneda. (Pearman, Nathan) (Entered: 6/24/2012)
6/24/2012 (p.291)	47	Designation of Deposition by Alfonso Baladez, Amelia Baladez, Maria Baladez, Maria Fabela, Maria Jacobo, Antonio Reyes, Maria Reyes, Diana Rosas, Leticia Torres, Jose Villaneda. (Pearman, Nathan) (Entered: 6/24/2012)
6/24/2012 (p.301)	48	Second Amended Exhibit List by Alfonso Baladez, Amelia Baladez, Maria Baladez, Maria Fabela, Maria Jacobo, Antonio Reyes, Maria Reyes, Diana Rosas, Leticia Torres, Jose Villaneda. (Pearman, Nathan) Modified on 6/25/2012 (skt). (Entered: 6/24/2012)
6/25/2012 (p.306)	49	PROOF OF SERVICE of Subpoena as to Bob Phelps, Served on 6/22/2012. (cea) (Entered: 6/25/2012)
6/25/2012 (p.308)	50	PROOF OF SERVICE of Subpoena as to Tim Scott, Served on 6/22/2012. (cea) (Entered: 6/25/2012)
6/25/2012		ELECTRONIC Minute Entry for proceedings held before Chief Judge Sidney A Fitzwater: 1st day of Bench Trial begun on 6/25/2012. Opening statements. Testimony begins. Adjourned until Tuesday, June 26, 2012 at 9:00am. Attorney Appearances: Plaintiff - Gregory A. Teeter and Nathan D. Pearman; Defense - C. Robert Heath. (Court Reporter: Pamela Wilson) (Exhibits admitted) Time in Court - 5:38. (chmb) (Entered: 6/25/2012)
6/26/2012		ELECTRONIC Minute Entry for proceedings held before Chief Judge Sidney A Fitzwater: Bench Trial held on 6/27/2012. Testimony continued. Adjourned until Wednesday, June 27, 2012 at 9:00am. Attorney Appearances: Plaintiff - Gregory A. Teeter and Nathan D. Pearman; Defense - C. Robert Heath. (Court Reporter: Pamela Wilson) (Exhibits admitted) Time in Court - 5:29. (chmb) (Entered: 6/27/2012)
6/27/2012		ELECTRONIC Minute Entry for proceedings held before Chief Judge Sidney A Fitzwater: Bench Trial completed on 6/27/2012. Testimony completed. Closing arguments heard. Taken under advisement. Written order to follow. Attorney Appearances: Plaintiff - Gregory A. Teeter and Nathan D. Pearman; Defense - C. Robert Heath. (Court Reporter: Pamela Wilson) (Exhibits admitted) Time in Court - 3:54. (chmb) (Entered: 6/27/2012)
8/2/2012 (p.311)	51	MEMORANDUM OPINION AND ORDER. Following a bench trial, the court finds that the at-large system of electing members of the City Council of the City of Farmers Branch, Texas violates § 2 of the Voting Rights Act of 1965, 42 U.S.C. § 1973. Defendants are therefore ordered to submit, within 60 days of the date of this memorandum opinion and order, a plan to remedy the violation. (Ordered by Chief Judge Sidney A Fitzwater on 8/2/2012) (Chief Judge Sidney A Fitzwater) (Entered: 8/2/2012)

8/2/2012	52	ELECTRONIC ORDER terminating [37] MOTION TO EXCLUDE DEPOSITIONS filed by City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott. Motion addressed at trial and ruling made. (Ordered by Chief Judge Sidney A Fitzwater on 8/2/2012) (Chief Judge Sidney A Fitzwater) (Entered: 8/2/2012)
8/3/2012 (p.352)	53	NOTICE of Attorney Appearance by Gregory A Teeter on behalf of Alfonso Baladez, Amelia Baladez, Maria Baladez. (Teeter, Gregory) (Entered: 8/3/2012)
9/10/2012 (p.355)	54	Unopposed MOTION for Extension of Time to File Proposed Remedy filed by City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott (Heath, C) (Entered: 9/10/2012)
9/10/2012 (p.358)	55	ORDER granting [54] Unopposed MOTION for Extension of Time to File Proposed Remedy filed by City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott. (Ordered by Chief Judge Sidney A Fitzwater on 9/10/2012) (Chief Judge Sidney A Fitzwater) (Entered: 9/10/2012)
9/10/2012		Deadline Modification: per [55] Order on Motion for Extension of Time to File. Proposed Remedy due by 10/5/2012. (mcrd) (Entered: 9/11/2012)
10/5/2012 (p.359)	56	Presentation of Proposed Remedy filed by City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott. (Attachments: # (1) Exhibit(s), # (2) Exhibit(s)) (Heath, C) Modified on 10/9/2012 (skt). (Entered: 10/5/2012)
11/27/2012 (p.384)	57	ORDER requiring defendants to seek preclearance under § 5 of the Voting Rights Act, 42 U.S.C. § 1973c, of [56] proposed remedy or show cause in writing why they should not be required to seek and obtain preclearance. (Ordered by Chief Judge Sidney A Fitzwater on 11/27/2012) (Chief Judge Sidney A Fitzwater) (Entered: 11/27/2012)
12/19/2012 (p.407)	58	NOTICE of <i>Submission to DOJ</i> filed by City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott (Attachments: # (1) Exhibit(s)) (Heath, C) (Entered: 12/19/2012)
1/11/2013 (p.507)	59	ORDER RE PROPOSED JUDGMENT. Having considered Mr. Heath's January 9, 2013 letter to the court, the court concludes that it will assist the court and the parties in promptly entering a judgment before the February 19, 2013 deadline mentioned in his letter if the parties submit a proposed judgment for the court's consideration that has been agreed to as to form. After preclearance is received, the court will confirm with counsel that the judgment form is still correct as submitted. The court directs that the proposed judgment and any exhibits be submitted electronically (i.e., in the same manner as was Mr. Heath's letter). (Ordered by Chief Judge Sidney A Fitzwater on 1/11/2013) (Chief Judge Sidney A Fitzwater) (Entered: 1/11/2013)
1/31/2013 (p.508)	60	JUDGMENT in favor of Alfonso Baladez, Amelia Baladez, Antonio Reyes, Diana Rosas, Jose Villaneda, Leticia Torres, Maria Baladez, Maria Fabela, Maria Jacobo, Maria Reyes against City of Farmers Branch Texas, Ben Robinson, David Koch,

		Harold Froelich, Michelle Holmes, Tim O'Hare, Tim Scott. Pursuant to LR 79.2 and LCrR 55.2, exhibits may be claimed during the 60-day period following final disposition (to do so, follow the procedures found at <a href="http://www.txnd.uscourts.gov/CourtRecords">www.txnd.uscourts.gov/CourtRecords</a> ). The clerk will discard exhibits that remain unclaimed after the 60-day period without additional notice. (Clerk to notice any party not electronically noticed.) (Ordered by Chief Judge Sidney A Fitzwater on 1/31/2013) (Chief Judge Sidney A Fitzwater) (Entered: 1/31/2013)
2/5/2013 (p.529)	61	Department of Justice Voting Rights Act Section 5 Preclearance Letter sent by T. Christian Herren. (aaa) Modified on 2/7/2013 (alm). (Entered: 2/6/2013)
2/14/2013 (p.530)	62	MOTION for Attorney Fees , <i>Costs, and Expenses</i> filed by Alfonso Baladez, Amelia Baladez, Maria Baladez, Maria Fabela, Maria Jacobo, Antonio Reyes, Maria Reyes, Diana Rosas, Leticia Torres, Jose Villaneda with Brief/Memorandum in Support. (Pearman, Nathan) (Entered: 2/14/2013)
2/14/2013 (p.553)	63	Appendix in Support filed by Alfonso Baladez, Amelia Baladez, Maria Baladez, Maria Fabela, Maria Jacobo, Antonio Reyes, Maria Reyes, Diana Rosas, Leticia Torres, Jose Villaneda re [62] MOTION for Attorney Fees , <i>Costs, and Expenses including Biles and Finn Declarations</i> (Attachments: # (1) Appendix Pages 1-20, # (2) Appendix Pages 21-40, # (3) Appendix Pages 41-60, # (4) Appendix Pages 61-80, # (5) Appendix Pages 81-100, # (6) Appendix Pages 101-120, # (7) Appendix Pages 121-140, # (8) Appendix Pages 141-160, # (9) Appendix Pages 161-180, # (10) Appendix Pages 181-200, # (11) Appendix Pages 201-220, # (12) Appendix Pages 221-240, # (13) Appendix Pages 241-260, # (14) Appendix Pages 261-280, # (15) Appendix Pages 281-300, # (16) Appendix Pages 301-320, # (17) Appendix Pages 321-330) (Pearman, Nathan) (Entered: 2/14/2013)
2/28/2013 (p.886)	64	NOTICE OF APPEAL to the Fifth Circuit as to [60] Judgment,,, by City of Farmers Branch Texas, Harold Froelich, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott. Filing fee \$455, receipt number 0539-5149004. T.O. form to appellant electronically at <a href="#">Transcript Order Form</a> or US Mail as appropriate. Copy of NOA to be sent US Mail to parties not electronically noticed. (Heath, C) (Entered: 2/28/2013)
3/5/2013 (p.889)	65	Notice of Filing of Official Electronic Transcript of Bench Trial Proceedings held on 6/25/2012 before Judge Sidney A. Fitzwater. Court Reporter/Transcriber Pamela Wilson, Telephone number 214.662.1557. Parties are notified of their <u>duty to review</u> the transcript. A copy may be purchased from the court reporter or viewed at the clerk's office public terminal. If redaction is necessary, a <u>Redaction Request - Transcript</u> must be filed within 21 days. If no such Request is filed, the transcript will be made available via PACER without redaction after 90 calendar days. If redaction request filed, this transcript will not be accessible via PACER; see redacted transcript. The clerk will mail a copy of this notice to parties not electronically noticed. (275 pages) Redaction Request due 3/26/2013. Redacted Transcript Deadline set for 4/5/2013. Release of Transcript Restriction set for 6/3/2013. (pjw) (Entered: 3/5/2013)
3/5/2013 (p.1165)	66	Notice of Filing of Official Electronic Transcript of Bench Trial Vol 2 Proceedings held on 6/26/2012 before Judge Sidney A. Fitzwater. Court Reporter/Transcriber Pamela Wilson, Telephone number 214.662.1557. Parties are notified of their <u>duty to review</u> the transcript. A copy may be purchased from the court reporter or

		viewed at the clerk's office public terminal. If redaction is necessary, a <u>Redaction Request - Transcript</u> must be filed within 21 days. If no such Request is filed, the transcript will be made available via PACER without redaction after 90 calendar days. If redaction request filed, this transcript will not be accessible via PACER; see redacted transcript. The clerk will mail a copy of this notice to parties not electronically noticed. (265 pages) Redaction Request due 3/26/2013. Redacted Transcript Deadline set for 4/5/2013. Release of Transcript Restriction set for 6/3/2013. (pjlw) (Entered: 3/5/2013)
3/5/2013 (p.1431)	67	Notice of Filing of Official Electronic Transcript of Bench Trial Vol 3 Proceedings held on 6/27/2012 before Judge Sidney A. Fitzwater. Court Reporter/Transcriber Pamela Wilson, Telephone number 214.662.1557. Parties are notified of their <u>duty to review</u> the transcript. A copy may be purchased from the court reporter or viewed at the clerk's office public terminal. If redaction is necessary, a <u>Redaction Request - Transcript</u> must be filed within 21 days. If no such Request is filed, the transcript will be made available via PACER without redaction after 90 calendar days. If redaction request filed, this transcript will not be accessible via PACER; see redacted transcript. The clerk will mail a copy of this notice to parties not electronically noticed. (194 pages) Redaction Request due 3/26/2013. Redacted Transcript Deadline set for 4/5/2013. Release of Transcript Restriction set for 6/3/2013. (pjlw) (Entered: 3/5/2013)
3/7/2013 (p.1626)	68	RESPONSE AND OBJECTION filed by City of Farmers Branch Texas, Harold Froelich, Jeff Fuller, Bill Glancy, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott re: [62] MOTION for Attorney Fees , <i>Costs, and Expenses</i> (Heath, C) (Entered: 3/7/2013)
3/7/2013 (p.1642)	69	Appendix in Support filed by City of Farmers Branch Texas, Harold Froelich, Jeff Fuller, Bill Glancy, Michelle Holmes, David Koch, Tim O'Hare, Ben Robinson, Tim Scott re [68] Response/Objection, (Heath, C) (Entered: 3/7/2013)
3/8/2013		USCA5 Case Number 13-10235 in USCA for [64] Notice of Appeal, filed by Tim Scott, Ben Robinson, Tim O'Hare, Harold Froelich, City of Farmers Branch Texas, David Koch, Michelle Holmes. (axm) (Entered: 3/8/2013)
3/13/2013 (p.1651)	70	Transcript Order Form: re [64] Notice of Appeal, transcript requested by Tim O'Hare, Ben Robinson, Michelle Holmes, Jeff Fuller, City of Farmers Branch Texas, Tim Scott, David Koch, Bill Glancy, Harold Froelich for Bench Trial held on 06/25/2012 - 06/27/2012 before Judge Fitzwater. (Heath, C) (Entered: 3/13/2013)
3/19/2013 (p.1652)	71	<i>Agreed</i> MOTION for Extension of Time to File Response/Reply <i>Plaintiffs' Reply in Support of Their Application for Attorneys' Fees,. Costs, and Expenses</i> filed by Alfonso Baladez, Amelia Baladez, Maria Baladez, Maria Fabela, Maria Jacobo, Antonio Reyes, Maria Reyes, Diana Rosas, Leticia Torres, Jose Villaneda (Attachments: # (1) Exhibit(s) A) (Biles, C) (Entered: 3/19/2013)
3/20/2013	72	ELECTRONIC ORDER granting [71] Motion to Extend Time to File Reply. Plaintiffs shall have through March 28, 2013 to file their Reply in Support of their Application For Attorney's Fees, Costs, and Expenses. (Ordered by Chief Judge Sidney AFitzwater on 3/20/2013) (Chief Judge Sidney A Fitzwater) (Entered: 3/20/2013)

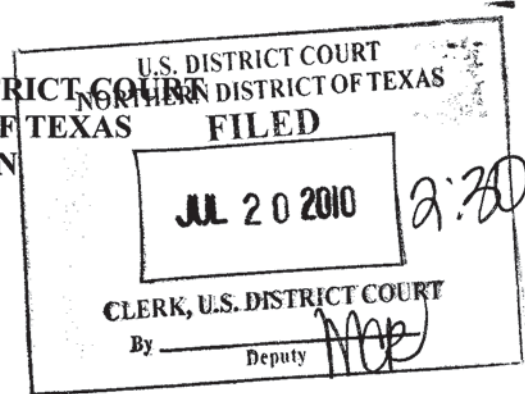
		3/20/2013)
3/20/2013		Hearing/Deadline Modification: Deadlines/hearings set per Order No. 72. Replies due by 3/28/2013. (ctf) (Entered: 3/20/2013)

TAB 2



ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION



MARIA FABELA, ALFONSO BALADEZ,  
AMELIA BALADEZ, MARIA BALADEZ,  
MARIA JACOBO, ANTONIO REYES,  
MARIA REYES, DIANA ROSAS,  
LETICIA TORRES, AND JOSE  
VILLANEDA,

Plaintiffs,

v.

CITY OF FARMERS BRANCH, TEXAS,  
AND TIM O'HARE, HAROLD  
FROELICH, MICHELLE HOLMES,  
DAVID KOCH, BEN ROBINSON, AND  
TIM SCOTT, in their official capacities,

Defendants.

CIVIL ACTION NO. \_\_\_\_\_

8-10CV1425-D

42118

**PLAINTIFFS' ORIGINAL COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF UNDER THE VOTING RIGHTS ACT OF 1965**

Plaintiffs Maria Fabela, Alfonso Baladez, Amelia Baladez, Maria Baladez, Maria Jacobo, Antonio Reyes, Maria Reyes, Diana Rosas, Leticia Torres, and Jose Villaneda ("Plaintiffs") file this Original Complaint for Declaratory and Injunctive Relief under the Voting Rights Act of 1965 against defendants the City of Farmers Branch, Texas ("Farmers Branch" or the "City"); Tim O'Hare, in his official capacities as Mayor of Farmers Branch and a member of the Farmers Branch City Council (the "City Council"); and Harold Froelich, Michelle Holmes, David Koch, Ben Robinson, and Tim Scott, each in his official capacity as a member of the City Council, on personal knowledge as to all allegations concerning Plaintiffs' activities, and information and belief as to all other allegations, as follows:

**PLAINTIFFS' ORIGINAL COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF UNDER THE VOTING RIGHTS ACT OF 1965**

presented to the court in the 2007 suit, would have allowed the plaintiffs in that suit to prevail. Notwithstanding the availability of this data, however, the City refuses to take the necessary steps to create an electoral system that does not discriminate against the City's Hispanic voters. Unless this Court directs the City to design a single-member electoral system, or, if appropriate, an alternative electoral system, such as one involving cumulative voting or limited voting, the current discriminatory Electoral System will continue. Accordingly, the Court should compel the City to correct this illegal system for electing the City Council and afford all of the residents of the City an opportunity to elect City Council members of their choice.

V.

**CLAIM**

A. **Violation Of Section 2 Of The Voting Rights Act Of 1965.**

30. Plaintiff hereby incorporates the allegations in the preceding paragraphs as if fully set forth herein.

31. Section 2 of the Voting Rights Act of 1965, as amended, prohibits any standard, practice, or procedure that results in the denial or abridgement of the right of minorities to vote. Specifically, it forbids any electoral system that denies Hispanics an equal opportunity to that afforded to other members of the electorate to elect representatives of their choice.

32. The City's entirely at-large Electoral System for electing the members of its City Council dilutes Hispanic voting strength and is not equally open to participation by the City's Hispanic voters. Further, the Electoral System results in Hispanics having less opportunity than some other voters to participate in the electoral process and to elect representatives of their choice.



TAB 3

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

MARIA FABELA, ALFONSO BALADEZ, \$  
 AMELIA BALADEZ, MARIA BALADEZ, \$  
 MARIA JACOBO, ANTONIO REYES, \$  
 MARIA REYES, DIANA ROSAS, \$  
 LETICIA TORRES, AND JOSE \$  
 VILLANEDA, \$

## Plaintiffs

**V.**

**CIVIL ACTION NO. 3:10-cv-01425-D**

**CITY OF FARMERS BRANCH, TEXAS, \$**  
**AND TIM O'HARE, HAROLD \$**  
**FROELICH, MICHELLE HOLMES, \$**  
**DAVID KOCH, BEN ROBINSON, AND \$**  
**TIM SCOTT, in their official capacities, \$**

## Defendants

## **DEFENDANTS' PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

## Background

1. Farmers Branch is a Texas home-rule city located in Dallas County, Texas. It is part of the greater Dallas area and is surrounded by the cities of Dallas, Irving, Carrollton, and Addison.

2. The 2010 population of the city, according to the decennial census, was 28,616.

3. Hispanics constitute 45.37 percent of the total population and 38.12 percent of the voting-age population. Non-Hispanic Whites or Anglos constitute 44.20 percent of the population and 51.13 percent of the voting-age population. Non-Hispanic Blacks and Non-Hispanic Asians each constitute between 4 and 5 percent of both the population and voting-age population.

90. Anglo voter cohesion is even less, measuring around 60 to 70 percent of Anglos voting for the Anglo candidate.

91. The trend over time in Farmers Branch is away from polarized voting.

92. The lack of Hispanic success in elections is a function of low concentrations of Hispanic voters combined with low cohesion among Hispanic voters.

93. The Anglo cross-over vote of 30-40 percent is higher than is typically seen in cases in which the evidence supports a finding that the majority group votes as a bloc usually to defeat the minority choice.

**III. The totality of the circumstances do not support a finding of vote dilution due to the use of an at-large election system.**

94. All of the proposed districts drawn by Mr. Ely have less than 60 percent the number of adult citizens as the average district in the rest of the city would.

95. This results in districts in which a person's vote has a significantly different weight depending on the district in which he or she resides.

96. The critical feature of any effort to draw a potential Hispanic-majority electoral district in Farmers Branch is the ability to pack the district with non-citizens.

97. It is not possible to draw a district in Farmers Branch that potentially has a Hispanic citizen-voting-age population majority unless the district is drawn to have an abnormally large number of non-citizens.

98. This reduces the number of potential voters in the district and thus reduces the number of voters required to constitute a majority.

99. Even so, using the most recent data, none of the four districts drawn by Mr. Ely has a Spanish surname registered voter majority.

## CONCLUSIONS OF LAW

1. A plaintiff bringing a challenge under section 2 of the Voting Rights Act (42 U.S.C. § 1973) to the use of an at-large election system must satisfy a three-part threshold test. Specifically, (1) the minority group of which the plaintiff is a member must be able to demonstrate that it is sufficiently large and geographically compact to be able to constitute a majority in a single-member district, (2) the minority group must be able to show that it is politically cohesive, and (3) the minority must be able to demonstrate that the white majority votes sufficiently as a bloc to enable it—in the absence of special circumstances, such as the minority candidate running unopposed—usually to defeat the minority’s preferred candidate. *Thornburg v. Gingles*, 478 U.S. 30, 50-51 (1986).

2. The burden of proving these threshold factors is on the plaintiff. *See, e.g., Thornburg v. Gingles*, 478 U.S. 30, 46, 48, 51 (1986).

3. Failure to satisfy any one of the three threshold criteria is fatal to the plaintiff’s case. *Campos v. City of Houston*, 113 F.3d 544, 547 (5<sup>th</sup> Cir. 1997).

4. If a plaintiff is able to satisfy the three-prong *Gingles* test, the court must then examine the totality of the circumstances to determine if the at-large system results in unequal electoral opportunity. *Johnson v. DeGrandy*, 512 U.S. 997, 1011 (1994).

5. In determining if the plaintiff satisfies the first prong of the *Gingles* test—*i.e.*, whether the minority group is sufficiently large and geographically compact to constitute a majority in a single-member district—the court must consider a district size based on the existing number of districts. *Holder v. Hall*, 512 U.S. 874, 885 (1994) (plurality); *Concerned Citizens for Equality v. McDonald*, 63 F.3d 413, 417 (5<sup>th</sup> Cir. 1995).

6. In Texas, only persons who are in the citizen voting-age population (*i.e.*, persons who are at least eighteen years of age and citizens of the United States) are potentially eligible to vote. TEX. ELEC. CODE § 11.002(1) & (2).

7. The protections provided by section 2 of the Voting Rights Act extend only to citizens of the United States. 42 U.S.C. § 1973; *Campos v. City of Houston*, 133 F.3d 544, 548 (5<sup>th</sup> Cir. 1997).

8. In determining whether the group to which the plaintiff belongs is sufficiently large to constitute a majority in a single-member district, the court “must consider the citizen-voting-age population of the group challenging the electoral practice . . . .” *Campos v. City of Houston*, 113 F.3d 544, 548 (5<sup>th</sup> Cir. 1997); *see also, Valdespino v. Alamo Heights Ind. Sch. Dist.*, 168 F.3d 848, 853 (5<sup>th</sup> Cir. 1999) (“this court has already determined what factors limit the relevant population in the district [when analyzing the first *Gingles* factor]: voting-age and citizenship”); *Perez v. Pasadena Ind. Sch. Dist.*, 165 F.3d 368, 372 (5<sup>th</sup> Cir. 1999) (“We have unequivocally held, however, that courts ‘must consider the *citizen* voting-age population of the group challenging the electoral practice when determining whether the minority group is sufficiently large and geographically compact to constitute a majority.’ . . . such a result is required by the plain language of Section 2.”).

9.”[W]ithout a strict showing of its probativeness, Spanish-surname data are disfavored, and census data based upon self-identification provides the proper basis for analyzing Section 2 vote dilution claims.” *Rodriguez v. Bexar County*, 385 F.3d 853, 866 n. 18 (5<sup>th</sup> Cir. 2004)

10. The first *Gingles* threshold requirement is a bright-line test. *Bartlett v. Strickland*, 129 S.Ct. 1231, 1246 1249 (2009); *Valdespino v. Alamo Heights Ind. Sch. Dist.*, 168 F.3d 848, 852 (5<sup>th</sup> Cir. 1999). That is, the minority group must be able to demonstrate that it can constitute

more than 50 percent of the citizen, voting-age residents of a proposed district. *Valdespino*, 168 F.3d at 852-53.

11. In order to demonstrate an injury caused by the use of the at-large election system and thus to demonstrate standing, the plaintiff must show that he is part of a geographically compact group of voting-age Hispanic citizens who could constitute a majority in a single-member district. *Thornburg v. Gingles*, 478 U.S. 30, 50, n. 17 (1986); *Salas v. Southwest Texas Junior College Dist.*, 964 F.2d 1542, 1544 (5<sup>th</sup> Cir. 1992); *Valdespino v. Alamo Heights Ind. Sch. Dist.*, No. SA-94-CA-688 (Sept. 1, 1995), *aff'd*, 105 F.3d 653 (table), No. 95-50719 (5<sup>th</sup> Cir., Dec. 12, 1996); *Hall v. Virginia*, 276 F.Supp.2d 528, 531 (E.D. Va. 2003), *aff'd on other grounds*, 385 F.3d 421 (4<sup>th</sup> Cir. 2004).

12. Any single-member district must satisfy one person—one vote requirements. *Reynolds v. Sims*, 377 U.S. 533 (1964).

13. There is no constitutional requirement that non-citizens be included in the population base when drawing single-member districts. *Burns v. Richardson*, 384 U.S. 73, 92, 94-95 (1966); *Chen v. City of Houston*, 206 F.3d 502, 526 (5<sup>th</sup> Cir. 2000). The question of whether districts should have equal numbers of persons or equal numbers of persons eligible to vote is a policy decision for the local jurisdiction in which the courts should not interfere. *Chen v. City of Houston*, 206 F.3d 502, 528 (5<sup>th</sup> Cir. 2000).

14. A districting scheme that effectively weighs the votes of residents of one district significantly more than the votes of residents of another district violates the Equal Protection clause. *Reynolds v. Sims*, 377 U.S. 533, 562-63 (1964).

15. Plaintiffs may not circumvent the first prong of *Gingles* by artificially reducing the number of minority group members necessary to constitute a majority in a district through

assuming a larger number of districts, and hence a smaller district population, than currently exists. *Concerned Citizens for Equality v. McDonald*, 63 F.3d 413, 417 (5<sup>th</sup> Cir. 1995). The same reasoning precludes attempted circumvention of *Gingles* by packing the district with non-citizens so that fewer citizens are required to establish a citizen-voting-age population majority.

16. The ultimate question under section 2 of the Voting Rights Act is whether

based on the totality of circumstances, it is shown that the political processes leading to nomination or election . . . are not equally open to participation by members of a [racial or language minority group] in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.

Voting Rights Act, § 2, 42 U.S.C. § 1973.

17. The focus of the inquiry is equality of political opportunity. *Johnson v. DeGrandy*, 512 U.S. 997, 1011 (1994).

18. Where it is necessary to create districts that are packed with abnormally high numbers of non-citizens if the plaintiff group is to be able to constitute a potential majority of citizens, then there is no denial of equal political opportunity.

Respectfully submitted,

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TAB 4



**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**MARIA FABELA, ALFONSO BALADEZ,  
AMELIA BALADEZ, MARIA BALADEZ,  
MARIA JACOBO, ANTONIO REYES,  
MARIA REYES, DIANA ROSAS,  
LETICIA TORRES, AND JOSE  
VILLANEDA,**

**Plaintiffs**

**v.**

**CITY OF FARMERS BRANCH, TEXAS,  
AND TIM O'HARE, HAROLD  
FROELICH, MICHELLE HOLMES,  
DAVID KOCH, BEN ROBINSON, AND  
TIM SCOTT, in their official capacities,**

**Defendants**

**CIVIL ACTION NO. 3:10-CV-1425-D**

**PRETRIAL ORDER**

Pursuant to the Court's Trial Setting Order and Local Rule 16.4, the plaintiffs and the defendants submit their Pretrial Order.

**SUMMARY OF CLAIMS AND DEFENSES**

**A. Plaintiffs' Summary of Claims**

1. The City of Farmers Branch's ("the City's") at-large election system violates section 2 of the Voting Rights Act. The Hispanic population in the City is sufficiently large and geographically compact to be able to constitute a citizen-voting-age majority in a single-member district. Nearly half of the City is Hispanic. Given its relative compactness, a single-member district can be drawn that contains a Hispanic citizen-voting-age majority. Notwithstanding that Hispanics comprise nearly half of the population of the City, no Hispanic has been elected to city

Total Voting Age Population	Total Citizen Voting Age Population	Total Non-Citizen Voting Age Population
21,776	16,700	5,076

Hispanic Voting Age Population	Hispanic Citizen Voting Age Population	Hispanic Non-Citizen Voting Age Population	Anglo Voting Age Population	Anglo Citizen Voting Age Population	Anglo Non-Citizen Voting Age Population
8,300	3,999	4,301	11,134	11,072	62
<i>Percent of Total Citizen VAP</i>	23.95%		<i>Percent of Total Citizen VAP</i>	66.30%	

Black Voting Age Population	Black Citizen Voting Age Population	Black Non-Citizen Voting Age Population	Anglo Voting Age Population	All Other Voting Age Population	All Other Non-Citizen Voting Age Population
976	854	122	1,366	775	591
<i>Percent of Total Citizen VAP</i>	5.11%		<i>Percent of Total Citizen VAP</i>	4.64%	

8. Between 2006 and 2010, the City passed three ordinances that related to illegal immigration.

9. The City passed Ordinance 2892 on November 13, 2006. A TRO was entered against Ordinance 2892 on January 11, 2007.

10. The City withdrew Ordinance 2892 and replaced it with Ordinance 2903 (the second ordinance) on January 22, 2007. A TRO was entered against Ordinance 2903 on May 21, 2007, and a preliminary injunction on June 19, 2007. Judge Lindsay declared Ordinance 2903 unconstitutional and entered final judgment on August 29, 2008.

11. City adopted third ordinance, Ordinance 2952, which has been enjoined as violating the United States Constitution.

#### **LIST OF CONTESTED ISSUES OF FACT**

12. Whether a lawful council district can be drawn in the City that includes a Hispanic citizen-voting-age majority;

TAB 5

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

MARIA FABELA, et al.,	§	
	§	
Plaintiffs,	§	
	§	Civil Action No. 3:10-CV-1425-D
VS.	§	
	§	
CITY OF FARMERS BRANCH,	§	
TEXAS, et al.,	§	
	§	
Defendants.	§	

MEMORANDUM OPINION  
AND ORDER

This lawsuit presents the question whether the at-large system of electing members of the City Council of the City of Farmers Branch, Texas (“Farmers Branch”) violates § 2 of the Voting Rights Act of 1965, 42 U.S.C. § 1973. Following a bench trial, and for the reasons that follow,<sup>1</sup> the court finds that it does.

I

Plaintiffs are Hispanic residents of Farmers Branch,<sup>2</sup> which is located in Dallas County, Texas. They bring this action under § 2 of the Voting Rights Act against Farmers Branch and several Farmers Branch public officials, in their official capacities.<sup>3</sup> Farmers

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<sup>1</sup>The court sets out in this memorandum opinion and order its findings of fact and conclusions of law. *See* Fed. R. Civ. P. 52(a)(1).

<sup>2</sup>Plaintiffs are Maria Fabela, Alfonso Baladez, Amelia Baladez, Maria Baladez, Maria Jacobo, Antonio Reyes, Maria Reyes, Diana Rosas, Leticia Torres, and Jose Villaneda.

<sup>3</sup>Defendants are Farmers Branch, Tim O’Hare, Harold Froelich, Michelle Holmes, David Koch, Ben Robinson, and Tim Scott.

Branch is governed by a City Council consisting of six members—a mayor and five council members—who are elected at-large, but run for specific seats. The Farmers Branch electoral system requires run-off elections when no candidate receives a majority of the vote for a particular seat. City Council members serve staggered three-year terms and are term-limited.

According to the last Decennial Census (“the Census”), in 2010 Farmers Branch had a population of 28,616, of whom 21,776 were of voting age (“VAP”). Hispanics comprised 45.37% of the city’s population and 38.12% of the voting age population (“VAP”). According to the five-year (2006-2010) American Community Survey (“ACS”), of the 8,300 adult<sup>4</sup> Hispanics in Farmers Branch, 3,999 were citizens and 4,301 were non-citizens.<sup>5</sup> Hispanics therefore comprised 23.95% of the citizen voting age population (“CVAP”), while Caucasians<sup>6</sup> comprised 66.30% of the CVAP.<sup>7</sup>

The Census formerly consisted of a “short form,” received by every household in the United States, and a “long form,” sent to approximately one in every six households. The “long form” obtained more information about a person, including citizenship status. The U.S. Census Bureau (“Census Bureau”) no longer uses the “long form” questionnaire and

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<sup>4</sup>Throughout this memorandum opinion and order, the term “adult” means a person age 18 or older and therefore eligible by age to vote.

<sup>5</sup>For purposes of this decision, it is irrelevant whether a non-citizen was present in Farmers Branch legally or illegally.

<sup>6</sup>Throughout this memorandum opinion and order, the term “Caucasian” means white persons who are neither Hispanic nor Latino.

<sup>7</sup>African-Americans comprised 5.11% of the CVAP, and all other races and ethnicities comprised the remaining 4.64%.

relies solely on ACS data to perform demographic sampling of the United States population. The ACS is the only source of data regarding citizenship produced by the Census Bureau. Unlike the Census, the ACS is not an actual population count; instead, the ACS estimates population by sampling approximately three million households annually. Although ACS data are released annually, the Census Bureau recommends using the three-year or five-year aggregations of ACS data when working with smaller populations due to the relatively small number of households surveyed.

Plaintiffs maintain that Farmers Branch's system of electing City Council members at-large denies Hispanic voters the opportunity to participate meaningfully in the electoral process and to elect representatives of their choice, in violation of § 2 of the Voting Rights Act.<sup>8</sup> "No Hispanic has been elected as a member of city council or mayor of the City under the at-large election system." Pretrial Order ¶ 5 (stipulation of fact). There have been at least four recent elections in which a Hispanic candidate has run for the City Council and lost, despite receiving a majority of the Hispanic vote.

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<sup>8</sup>Although plaintiffs challenge the Farmers Branch system of electing members of the City Council, and they often include the office of mayor when describing the composition of the City Council, plaintiffs do not suggest that the mayor should be elected by fewer than all eligible voters of Farmers Branch. *See* Tr. 1:14 (stating in plaintiffs' opening statement: "We're asking for one district, 1 out of 5."); and 18 (stating in plaintiffs' opening statement: "That's not why we're here, only that they be given the same opportunity to elect but one of five seats to Farmers Branch City Council."); *cf.* Pretrial Order ¶ 12 (listing as contested issue of fact "[w]hether a lawful council district can be drawn in the City that includes a Hispanic citizen-voting-age majority[.]").

## II

“In 1982 Congress substantially revised § 2 of the Voting Rights Act to clarify that a violation requires evidence of discriminatory effects alone, and to make clear that proof of discriminatory intent is not required to establish a violation of Section 2.” *Benavidez v. Irving Indep. Sch. Dist., Tex.*, 690 F.Supp.2d 451, 455 (N.D. Tex. 2010) (Fitzwater, C.J.) (“*Benavidez v. Irving ISD*”) (quoting *League of United Latin Am. Citizens # 4434 (LULAC) v. Clements*, 986 F.2d 728, 741 (5th Cir. 1993) (“*LULAC I*”) (internal quotation marks omitted). Section 2(b) now provides that the Act is violated if,

based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by [a class of persons of a certain race or color] in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: *Provided*, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

*Id.* (quoting 42 U.S.C. § 1973(b)).

In *Thornburg v. Gingles*, 478 U.S. 30 (1986), the Supreme Court first considered the 1982 amended version of § 2, setting out the current framework for analyzing § 2 cases.

To prevail on a § 2 claim, a plaintiff must first prove that (1) the minority group is “sufficiently large and geographically compact to constitute a majority in a single member district,” (2) the minority group “is politically cohesive,” and (3) “the white majority votes sufficiently as a bloc to enable it—in the absence of special circumstances, such as the minority candidate running

unopposed—usually to defeat the minority’s preferred candidate.”

*Benavidez v. Irving ISD*, 690 F.Supp.2d at 455 (citations omitted) (quoting *Gingles*, 478 U.S. at 50-51). “Failure to establish any one of the *Gingles* factors precludes a finding of vote dilution, because these circumstances are necessary preconditions for multimember districts to operate to impair minority voters’ ability to elect representatives of their choice.” *Id.* (quoting *LULAC I*, 986 F.2d at 743) (internal quotation marks and brackets omitted). “[The Fifth Circuit] has interpreted the *Gingles* factors as a bright line test.” *Id.* at 456 (brackets in original) (quoting *Valdespino v. Alamo Heights Indep. Sch. Dist.*, 168 F.3d 848, 852 (5th Cir. 1999)). “Each factor must be proved. Failure to establish any one of these threshold requirements is fatal.” *Id.* (quoting *Valdespino*, 168 F.3d at 852) (citations, brackets, and some internal quotation marks omitted)

If a plaintiff meets the threshold *Gingles* test, the court must then engage in a broader totality of the circumstances inquiry, considering whether the minority group has demonstrated that under the totality of the circumstances, its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.

*Id.* at 456 n.7 (quoting *LULAC I*, 986 F.2d at 747) (internal quotation marks omitted). In conducting this broad inquiry, a court must be “flexible in its totality inquiry and guided by factors drawn from the Senate Judiciary Committee report on the 1982 amendments to the Voting Rights Act and reference *Zimmer v. McKeithen*, 485 F.2d 1297 (5th Cir. 1973).” *Teague v. Attala Cnty., Miss.*, 92 F.3d 283, 292 (5th Cir. 1996) (citing *Gingles*, 478 U.S. at



44). “[T]he determination whether [an] at-large election scheme violates section 2 ‘depends upon a searching practical evaluation of the past and present reality’ and on a ‘functional view of the political process.’” *Westwego Citizens for Better Gov’t v. City of Westwego*, 946 F.2d 1109, 1120 (5th Cir. 1991) (“*Westwego III*”) (quoting *Gingles*, 478 U.S. at 45; *Westwego Citizens for Better Gov’t v. City of Westwego*, 872 F.2d 1201, 1204 (5th Cir. 1989) (“*Westwego I*”). These factors include:

1. the extent of any history of official discrimination in the state or political subdivision that touched the right of the members of the minority group to register, to vote, or otherwise to participate in the democratic process;
2. the extent to which voting in the elections of the state or political subdivision is racially polarized;
3. the extent to which the state or political subdivision has used unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against the minority group;
4. if there is a candidate slating process, whether the members of the minority group have been denied access to that process;
5. the extent to which members of the minority group in the state or political subdivision bear the effects of discrimination in such areas as education, employment and health, which hinder their ability to participate effectively in the political process;
6. whether political campaigns have been characterized by overt or subtle racial appeals; [and]
7. the extent to which members of the minority group have been elected to public office in the jurisdiction.

*Brewer v. Ham*, 876 F.2d 448, 451 n.4 (5th Cir. 1989) (quoting S. REP. NO. 417, 97th Cong., 2d. Sess., *reprinted in* 1982 U.S.C.C.A.N. 177 at 206-07); *see also Gingles*, 478 U.S. at 36-37. The following additional factors may also be probative in determining whether there is a voting rights violation:

- (1) whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group; and
- (2) whether the policy underlying the state or political subdivision's use of such voting qualification, prerequisite to voting, or standard, practice, or procedure is tenuous.

*Brewer*, 876 F.2d at 451 n.4 (quoting S. REP. NO. 417, 97th Cong., 2d. Sess., *reprinted in* 1982 U.S.C.C.A.N. 177 at 206-07); *see also Gingles*, 478 U.S. at 36-37. The existence of racially polarized voting and the extent to which minority group members have been elected to public office are the most important factors to be considered. *See Gingles*, 478 U.S. at 51 n.15. “If these two Senate factors are present, ‘the other factors . . . are supportive of, but not essential to, a minority voter’s claim.’” *Benavidez v. City of Irving, Tex.*, 638 F.Supp.2d 709, 732 (N.D. Tex. 2009) (Solis, J.) (“*Benavidez v. City of Irving*”) (ellipsis in original) (quoting *Gingles*, 478 U.S. at 51 n.15). The factors listed above, however, are “neither comprehensive nor exclusive;” “other factors may also be relevant and may be considered.” *Gingles*, 478 U.S. at 45.

Multimember districts and at-large election schemes . . . are not per se violative of minority voters’ rights. Minority voters who contend that the multimember form of districting violates § 2, must prove that the use of a multimember electoral structure operates to minimize or cancel out their ability to elect their preferred candidates.

*Benavidez v. Irving ISD*, 690 F.Supp.2d at 456 (ellipsis in original) (quoting *Gingles*, 478 U.S. at 48 (internal citations omitted). “A plaintiff must prove a § 2 violation by a preponderance of the evidence.” *Id.* (citing *League of United Latin Am. Citizens #4552*

(*LULAC*) v. *Roscoe Indep. Sch. Dist.*, 123 F.3d 843, 846 (5th Cir. 1997)).<sup>9</sup>

### III

#### A

Under the first prong of *Gingles*, plaintiffs must prove that the Hispanic population in Farmers Branch is “sufficiently large and geographically compact to constitute a majority in a single member district.” *LULAC I*, 986 F.2d at 742. To satisfy this requirement, plaintiffs must establish that there is a potential single member district (the “demonstration district”) in which a majority of the CVAP is Hispanic. *See id.* at 743; *Reyes v. City of Farmers Branch, Tex.*, 586 F.3d 1019, 1023 (5th Cir. 2009) (holding that only CVAP is relevant in evaluating first prong of *Gingles*). In *Bartlett v. Strickland*, 556 U.S. 1 (2009) (plurality opinion), the Supreme Court considered the “minimum-size question,” concluding that the majority-minority rule “relies on an objective, numerical test: Do minorities make up more than 50 percent of the voting age population in the relevant geographic area?” *Id.* at 18. “That rule provides straightforward guidance to courts and to those officials charged with drawing district lines to comply with § 2.” *Id.* This requirement is essential to demonstrate that “minority voters possess the *potential* to elect representatives.” *Gingles*, 478 U.S. at 50 n.17 (emphasis in original).

“The appropriate method of establishing the first [*Gingles*] factor is a ‘matter of fact’

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<sup>9</sup>Although the court does not repeat the preponderance of the evidence standard in this memorandum opinion and order, all of its findings of fact are based upon a preponderance of the evidence.

which the plaintiff must prove, but there is ‘no uniform method.’” *Westwego Citizens for Better Gov’t v. City of Westwego*, 906 F.2d 1042, 1046-47 (5th Cir. 1990) (“*Westwego II*”) (quoting *Brewer*, 876 F.2d at 452). “Because of frequent difficulties of proof and in light of the fact that vote dilution cases often become ‘prohibitively expensive,’ the Court [in *Gingles*] espoused a ‘flexible, fact intensive test.’” *Id.* at 1046 (quoting *Gingles*, 478 U.S. at 46, 73)); *see also Citizens for a Better Gretna v. City of Gretna, La.*, 834 F.2d 496, 502 (5th Cir. 1987) (*Gingles* “suggests flexibility in the face of sparse data[.]”).

Plaintiffs rely on the expert testimony of David Ely (“Ely”) to satisfy this element of *Gingles*.<sup>10</sup> Ely used data from the 2010 Census and from multiple years of the ACS to draw four illustrative districts. Each district’s Hispanic CVAP is greater than 50%. Defendants’ expert, Norfleet W. Rives, Ph.D. (“Dr. Rives”), confirmed that if Ely’s methodology and more recent ACS data are used, each illustrative district’s Hispanic CVAP is greater than 50%. The two experts’ Hispanic CVAP estimates are as follows:

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<sup>10</sup>“As is commonly the case in § 2 litigation, [plaintiffs’] claim turns on the expert witnesses’ factual testimony.” *Benavidez v. Irving ISD*, 690 F.Supp.2d at 457 n.9 (quoting the statement in *LULAC I*, 986 F.2d at 736, that “[a]s with all cases under the Voting Rights Act, this one is driven by the facts.”).

Hispanic CVAP Estimates	Illustrative District #1	Illustrative District #2	Illustrative District #3	Illustrative District #4
Ely	53.76%	55.23%	57.29%	51.99%
Dr. Rives	53.1%	52.9%	54.9%	53.7%

Ds. Ex. 33, Table 1; Ps. Ex. 1 at 8 and Ex. 4 at 3. Ely testified that each illustrative district satisfies the first *Gingles* prong and that any of the four could be the demonstration district. Defendants challenge these conclusions.

The Supreme Court has made clear that the 50%+ threshold<sup>11</sup> for the first prong of *Gingles* is a bright line test. Because both sides’ experts agree that Ely’s methodology creates four illustrative districts whose Hispanic CVAP is greater than 50%, the court must decide whether the data and methodology that Ely used to estimate the Hispanic CVAP are sufficiently reliable.<sup>12</sup>

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<sup>11</sup>By “50%+” the court means “more than 50 percent of the voting-age population in the relevant geographic area,” as *Bartlett* requires. See *Bartlett*, 556 U.S. at 18.

<sup>12</sup>In the Fifth Circuit, “Census figures are presumed accurate until proven otherwise. Proof of changed figures must be thoroughly documented, have a high degree of accuracy, and be clear, cogent and convincing to override the presumptive correctness of the prior decennial [C]ensus.” *Valdespino*, 168 F.3d at 853-54 (quoting district court opinion). In *Benavidez v. Irving ISD* this court held that the plaintiff had not met his burden of proof under this heightened evidentiary standard. But unlike the plaintiff in that case, the plaintiffs in this suit are not attempting to overcome the presumed accuracy of a census (here, the 2010 Census). And they are relying on a five-year (2005-2009) ACS in combination with the recent 2010 Census rather than, as in *Benavidez v. Irving ISD*, on a one year ACS in combination with the dated 2000 Census. See *Benavidez v. Irving ISD*, 690 F.Supp.2d at 458 (“Ely did not have access to any three-year or five-year data when he created his report, and thus relied only on the 2007 one-year ACS data.”). It is therefore unnecessary for the plaintiffs in this case to satisfy the heightened evidentiary standard set forth in *Valdespino*.

The parties dispute whether the ACS is entitled to the same presumption of accuracy as is the Census. Because plaintiffs’ evidence is sufficiently reliable to prove by a

B

To create the four illustrative districts, Ely relied on the 2010 Census to determine the population and VAP, broken down by race and Hispanic origin. And because the Census does not include citizenship information, to estimate CVAP, he relied on the citizenship estimates provided by the ACS. Although both the Census and the ACS are conducted and prepared by the Census Bureau, there are notable differences between the two.

First, the Census surveys the entire population of the United States, while the ACS provides estimates based on a relatively small number of surveys. Due to the sample size of the ACS, the Census Bureau cautions that annual ACS data are not reliable for populations smaller than 65,000. The Census Bureau does, however, aggregate ACS data from three- and five-year periods to create reliable data for smaller populations; therefore, the Census Bureau recommends using the published five-year ACS aggregation rather than the annual ACS for reliable data for geographic areas with 20,000 or fewer persons.

Second, the smallest geographic unit for which the Census provides data is the census block, which is approximately equivalent to a city block. The Census also provides data at the block group level, which is the aggregation of anywhere from a few census blocks to as many as over one hundred census blocks, and the census tract level, which is the aggregation of three to nine block groups. The ACS typically provides only citizenship data at the census

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preponderance of the evidence that at least one illustrative district's Hispanic CVAP is greater than 50%, the court need not decide whether the ACS is entitled to a presumption of accuracy.

tract level, but the United States Department of Justice requested a special tabulation of the citizenship data at the block group level. Ely used this special tabulation, in conjunction with data from the 2010 Census, to calculate Hispanic CVAP at the block group level.

Ely could not aggregate only whole block groups to create an illustrative district that would allow it to have equal population with the four other districts in Farmers Branch; four-block groups made the illustrative district too small, and five-block groups made it too large. It was therefore necessary for Ely to divide at least one block group into block levels so that he could include a portion of one block group in the illustrative district. To estimate the CVAP for each block in a block group, Ely apportioned the block group's CVAP evenly across the block group's population. In other words, Ely multiplied the CVAP in the block group by the proportion of the block group's total population contained in a particular block, and this calculation resulted in a CVAP estimate for each block. With this estimate, Ely then included and excluded blocks in the illustrative districts so that each illustrative district contained relatively the same population, i.e., one-fifth of the Farmers Branch population. Once the illustrative districts were created, Ely calculated a percentage point estimate of the Hispanic CVAP in each illustrative district. The point estimate is the most likely value given by the data and methodology, but, as an estimate, it is subject to a margin of error. Ely's calculations demonstrate that the Hispanic CVAP point estimate for each illustrative district is greater than 50%.

In addition to calculating the Hispanic CVAP for the four illustrative districts, plaintiffs have attempted to corroborate the Hispanic CVAP estimates by calculating the

number of Spanish surname registered voters (“SSRV”) in each illustrative district. According to both Ely and Dr. Rives, and as demonstrated in the following table, SSRV constitute nearly 50% of the illustrative districts’ registered voters:

SSRV	Illustrative District #1	Illustrative District #2	Illustrative District #3	Illustrative District #4
Ely	47.0%	45.6%	47.9%	50.3%
Dr. Rives	46.8%	45.4%	48.1%	49.9%

Ds. Ex. 33, Table 2; Ps. Ex. 4 at 2.

### C

Defendants acknowledge that Ely’s methodology results in a Hispanic CVAP greater than 50% in all four illustrative districts, but they argue that there are several methodological problems with Ely’s opinions that cause his Hispanic CVAP estimates to be unreliable. Defendants maintain that the ACS is unreliable when used for small geographic areas because the small sample size creates very large margins of error; combining data from the Census and the ACS is unreliable because they use different definitions of “resident” and because the Census measures populations on a certain day while the five-year ACS measures populations over the course of a five-year period; Ely’s method of apportioning citizens and non-citizens equally at the block level is inaccurate because non-citizens are often concentrated in certain areas, such as in rental housing; Hispanics consistently over-report citizenship by naturalization when responding to surveys; and the ACS significantly over-represents the number of Hispanics in Dallas County, as demonstrated by a comparison of



the 2010 ACS and 2010 Census data. Defendants also contend that SSRV data are unreliable because studies have shown that voter registration rolls are consistently inaccurate since, *inter alia*, voters who have moved from an area may not be removed from the voter registration rolls for several years.

Plaintiffs respond that defendants have not shown that Ely's Hispanic CVAP point estimates for the illustrative districts, which are all greater than 50%, are not the most likely Hispanic CVAP percentages, but instead only argue that the values are uncertain. Plaintiffs maintain that if Ely's estimates are the most likely Hispanic CVAP percentages, they have satisfied the first prong of *Gingles* by a preponderance of the evidence, because a point estimate above 50%—even with a large margin of error—proves that the Hispanic CVAP is more likely than not above the 50%+ threshold. Plaintiffs also contend that all of defendants' arguments about the uncertainty of the ACS are irrelevant because the SSRV data, which are not subject to a margin of error or the same methodological uncertainties as are the ACS data, corroborate the accuracy of Ely's Hispanic CVAP estimates.

#### D

The court finds that plaintiffs have proved that they can draw a demonstration district that contains greater than 50% Hispanic CVAP and have therefore satisfied the first prong of *Gingles*.<sup>13</sup>

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<sup>13</sup>Defendants advance several related arguments, including under the one-person, one-vote principle of the Equal Protection Clause, based on the underlying contention that, to achieve Hispanic CVAP of greater than 50%, plaintiffs must draw a district that is packed with non-citizens, thereby diluting the power of voters (including Hispanics) in the other

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districts. *See, e.g.*, Ds. Prop. Find. Fact No. 96 (“The critical feature of any effort to draw a potential Hispanic-majority electoral district in Farmers Branch is the ability to pack the district with non-citizens.”). In addition to their one-person, one-vote challenge, defendants maintain that this precludes plaintiffs from proving their § 2 claim. *See* Pretrial Order ¶ 2 (contending, in defendants’ summary of defense, that “under both the *Gingles* threshold test and the totality of the circumstances, the fact that any district the plaintiffs might be able to draw is composed primarily of non-citizens rather than Hispanic citizen-voting-age population precludes a finding of a violation of section 2 of the Voting Rights Act.”). And they argue that the failure of Farmers Branch to create a single member district composed of so many non-citizens does not violate § 2 of the Voting Rights Act. Defendants posit that “[t]he focus of the [Voting Rights Act] inquiry is [on] equality of political opportunity.” Ds. Prop. Concl. Law 17. And “[w]here it is necessary to create districts that are packed with abnormally high numbers of non-citizens if the plaintiff group is to be able to constitute a potential majority of citizens, then there is no denial of equal political opportunity.” *Id.* at 18. Defendants’ arguments are set out in the pretrial order in the single contested issue of law:

If there is a substantial disparity in the number of voting-age citizens among districts that have relatively equal overall populations, is that fact relevant to the *Gingles* inquiry? In particular: (1) can the first prong of the *Gingles* be satisfied when the district at issue achieves population balance by means of a substantially larger concentration of non-citizens than is present in other districts; (2) does the concentration of a large number of non-citizens in a district result in an equal protection violation under jurisprudence interpreting the one person-one vote rule; and (3) does the protection of the Voting Rights Act extend to a group that meets the geographically numerous test of *Gingles* but is composed primarily of non-citizens?

Pretrial Order ¶ 17 (contested issue of law).

The court disagrees with defendants’ positions. Regarding defendants’ one-person, one-vote challenge, among the options available to Farmers Branch to remedy a § 2 violation is to draw single-member districts based on total population. *See Chen v. City of Hous.*, 206 F.3d 502, 522-28 (5th Cir. 2000) (holding that courts should not interfere with sovereign’s decision to apportion electoral districts by total population or CVAP). In fact, in closing argument, defendants’ counsel stated that it is “permissible to do total population, which I agree is *the normal and customary way* of doing it.” Tr. 3:153 (emphasis added). Defendants have cited no case, and the court has found none, that has rejected a § 2 claim

Several aspects of Ely's data, methodology, and evidence are undisputed. First, both sides' experts, when using Ely's methodology, calculate the Hispanic CVAP point estimate of each of the four illustrative districts as greater than 50%. Ely testified, and defendants' experts did not contest, that a point estimate is the most likely Hispanic CVAP percentage in each illustrative district, as determined by Ely's data and methodology. Second, the evidence establishes that Ely used the most accurate data readily available to calculate the Hispanic CVAP point estimates. As the court has explained above, Ely calculated the Hispanic CVAP point estimates using population data from the presumptively reliable 2010 Census and Hispanic citizenship data from the five-year (2005-2009) ACS. The Census does not provide citizenship data, and the ACS is the only source of citizenship data collected by

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where the plaintiff satisfied the *Gingles* factors and the political subdivision had the option of remedying the § 2 violation through an electoral system that complied with the one-person, one-vote requirement of the Equal Protection Clause (e.g., districts based on total population).

And defendants' contentions that plaintiffs cannot prove a § 2 violation when it is necessary to include so many non-citizens in the demonstration district, and that Farmers Branch has no obligation under § 2 to create a single member district composed of so many non-citizens, must fail absent binding authority that either ground is a basis for rejecting a § 2 claim. Defendants attempt to argue by analogy that plaintiffs cannot satisfy the first prong of *Gingles*. In a proposed conclusion of law, they cite *Concerned Citizens for Equality v. McDonald*, 63 F.3d 413, 417 (5th Cir. 1995), for the proposition that a plaintiff "cannot circumvent the first prong of *Gingles* by artificially reducing the number of minority group members necessary to constitute a majority in a district through assuming a larger number of districts, and hence a smaller district population, than currently exists." Ds. Prop. Concl. Law No. 15. From this premise they argue that "[t]he same reasoning precludes attempted circumvention of *Gingles* by packing the district with non-citizens so that fewer citizens are required to establish a citizen-voting-age population majority." *Id.* But defendants do not cite any binding decision that holds that a plaintiff cannot satisfy the first prong of *Gingles* by including a particular number of non-citizens in the demonstration district.

the Census Bureau. Moreover, the five-year ACS is the most reliable version of the ACS for analyzing small populations. Although plaintiffs could perhaps have conducted their own survey in Farmers Branch (even to the point of going door-to-door and counting heads), the law recognizes that plaintiffs attempting to prove § 2 violations should be allowed flexibility; otherwise, many § 2 cases would be prohibitively expensive to prosecute. *See Westwego II*, 906 F.2d at 1046 (“Because of frequent difficulties of proof and in light of the fact that vote dilution cases often become ‘prohibitively expensive,’ the Court [in *Gingles*] espoused a ‘flexible, fact intensive test.’”); *see also Citizens for a Better Gretna*, 834 F.2d at 502 (*Gingles* “suggests flexibility in the face of sparse data[.]”). And defendants do not suggest that there are more reliable data sources regarding citizenship.<sup>14</sup>

Rather than dispute the application of Ely’s data to his methodology or adduce evidence that the Hispanic CVAP in Ely’s illustrative districts does not satisfy the 50%+ threshold, defendants attempt to impeach Ely’s data and methodology used to calculate the point estimates, contending on several grounds that they are not sufficiently reliable.

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<sup>14</sup>The court is not holding that, if plaintiffs use the most reliable data available or use the five-year ACS, they will necessarily satisfy the first prong of *Gingles*. But because the law recognizes the difficulties that can be encountered when attempting to prove voter dilution claims and permits flexibility in doing so, the fact that Ely relied on the most reliable form of readily available citizenship data is relevant in assessing his opinions and analyzing the first *Gingles* factor. Moreover, if the court were to hold in this case that the data on which plaintiffs rely are too unreliable to satisfy the first prong of *Gingles*—especially when strongly corroborated by actual SSRV counts—it would in effect foreclose vote dilution cases in small geographic areas that include non-citizens, or it would essentially require that plaintiffs develop their own proof (such as by door-to-door surveys), which could be prohibitively expensive and chill § 2 litigation.

Defendants rely primarily on the following contentions to challenge Ely's Hispanic CVAP estimates: there are high margins of error for the ACS data;<sup>15</sup> combining data from the ACS and Census is statistically problematic; and there are various errors and uncertainties in estimating the number, location,<sup>16</sup> and citizenship status of the Hispanic population.<sup>17</sup> None

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<sup>15</sup>Although defendants have adduced evidence of the high margins of error for the Hispanic CVAP estimates in the block groups that Ely used to draw the four illustrative districts, they have not provided evidence of the more pertinent margin of error, i.e., the margin of error for the Hispanic CVAP for a given illustrative district. Both sides' experts recognize that there is at least the potential for the margin of error to decrease once the block groups are aggregated into an illustrative district. Without evidence of the pertinent margin of error, the court is not persuaded that it is so great as to render the ACS data unreliable.

<sup>16</sup>Defendants attempt to show that Ely's method of proportionally allocating Hispanic CVAP at the block level is problematic. They have introduced evidence that, according to Ely's allocation method, several blocks either over- or under-allocate Hispanic CVAP. Blocks that have a greater SSRV total than total Hispanic CVAP likely under-allocate Hispanic CVAP; blocks that include apartment complexes likely over-allocate Hispanic CVAP because, according to defendants' evidence, rental housing typically has a higher non-citizen population than do single-family residences. Defendants argue that because Ely's methodology assumes a constant citizenship rate across the blocks, his inclusion of blocks with apartment complexes in the illustrative districts likely results in an overestimation of Hispanic CVAP in that district. As Dr. Rives testified, however, the blocks in the illustrative districts that have an SSRV greater than the Hispanic CVAP likely under-allocate the Hispanic CVAP in that block. Defendants have not adduced evidence that demonstrates that over-allocation occurs to a greater degree than does under-allocation. And to the extent that this can be inferred by the inclusion of several apartment complexes in the illustrative districts, defendants have not produced evidence that these allocation problems would reduce Ely's Hispanic CVAP point estimates below the 50%+ threshold.

<sup>17</sup>Defendants have not presented evidence that quantifies the degree to which the alleged uncertainties in the data affect Ely's Hispanic CVAP estimates. In other words, defendants have not adduced evidence that any of these alleged deficiencies reduces Ely's Hispanic CVAP point estimates below the 50%+ threshold. Instead, defendants advance several arguments that are intended to undermine the reliability of Ely's Hispanic CVAP point estimates and persuade the court that plaintiffs have failed to meet their burden of proof.

of these alleged statistical deficiencies, however, also applies to the SSRV data that plaintiffs rely on to corroborate the accuracy of Ely's Hispanic CVAP point estimates.<sup>18</sup> This is so because the SSRV data are a count of actual registered voters rather than an estimate based on a sample of the population;<sup>19</sup> therefore, the SSRV data do not have a margin of error. Additionally, Dr. Rives testified that the SSRV numbers "are basically counts of registered voters that have been coded to 2010 census blocks, so there . . . really is no estimation involved there." Tr. 2:147.<sup>20</sup> Because the number of SSRV can be calculated at the block level with precision, there is no uncertainty caused by having to proportionally allocate block

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<sup>18</sup>SSRV, of course, "is not the sole criteri[on] in the voting rights analysis," but it can be relevant in evaluating whether plaintiffs have satisfied the first prong of *Gingles*. See *Rollins v. Fort Bend Indep. Sch. Dist.*, 89 F.3d 1205, 1219 (5th Cir. 1996); see also *Rodriguez v. Bexar Cnty., Tex.*, 385 F.3d 853, 867 n.18 (5th Cir. 2004) ("[W]ithout a strict showing of [SSRV's] probativeness, Spanish-surname data are disfavored, and [C]ensus data based upon self-identification provides the proper basis for analyzing Section 2 vote dilution claims in the future."). The court is not relying solely or even primarily on SSRV data to find that plaintiffs have established the first *Gingles* factor. The court considers the SSRV data to be corroborative of Ely's Hispanic CVAP estimates because the SSRV data do not suffer from the same methodological problems that defendants argue make Ely's Hispanic CVAP estimates unreliable.

<sup>19</sup>Citing a PEW study, defendants argue that voter registration rolls are consistently inaccurate because voters who no longer live in the place in which they are registered can remain on voter registration rolls for years before being removed. Defendants have not adduced evidence, however, that Farmers Branch voter registration rolls are inaccurate. To the contrary, Dr. Rives testified, in effect, that Farmers Branch SSRV data are reliable, and he relies on the data in attempting to demonstrate that Ely's method of allocating Hispanic CVAP to the block level is problematic. The court therefore finds that the evidence of SSRV data is reliable in corroborating that the Hispanic CVAP is greater than 50% in each illustrative district.

<sup>20</sup>Because one must be a citizen to vote and the SSRV data are not a survey, defendants' evidence regarding Hispanics' over-reporting of citizenship by naturalization is irrelevant to the accuracy of the SSRV data.



group data among the blocks, as Ely did to estimate the Hispanic CVAP. Dr. Rives also assumes that the SSRV numbers are “solid” and “good counts” because the Farmers Branch voter registration rolls are “pretty clean.” *Id.* at 2:148 and 2:150. Furthermore, according to Ely and defendants’ expert, John Alford, Ph.D. (“Dr. Alford”), SSRV percentages in a given area are usually less than the Hispanic percentage of CVAP, because Hispanics typically register to vote at lower rates than do Caucasians. Therefore, if the SSRV percentage in each illustrative district is slightly lower than Ely’s Hispanic CVAP estimate, this would provide strong corroborating evidence that Ely’s estimate is reliable. The following table demonstrates that the evidence shows this to be the case:

	Expert	Illustrative District #1	Illustrative District #2	Illustrative District #3	Illustrative District #4
Hispanic CVAP	Ely	53.76%	55.23%	57.29%	51.99%
	Dr. Rives	53.1%	52.9%	54.9%	53.7%
SSRV	Ely	47.0%	45.6%	47.9%	50.3%
	Dr. Rives	46.8%	45.4%	48.1%	49.9%

Ds. Ex. 33, Table 1-2; Ps. Ex. 1 at 8 and Ex. 4 at 2-3. The SSRV data demonstrate that the methodological issues and high margins of error that defendants’ experts maintain cause Ely’s Hispanic CVAP estimates to be unreliable do not affect the accuracy of Ely’s Hispanic CVAP estimates to the degree defendants suggest. For example, according to Dr. Rives, illustrative district 4 has a Hispanic CVAP of 53.7% (using Ely’s data and methodology) and an SSRV of 49.9%. This is consistent with the testimony of both sides’ experts that the SSRV percentage is likely a few percentage points lower than the Hispanic CVAP

percentage; the court therefore finds that the SSRV data strongly corroborate the accuracy of the Hispanic CVAP estimates.

Plaintiffs have proved that, using the most accurate, readily-available data, a geographically compact demonstration district can be drawn in Farmers Branch in which Hispanics constitute more than 50% of the CVAP. The SSRV data corroborate the reliability of Ely's Hispanic CVAP point estimates. Accordingly, the court finds that plaintiffs have satisfied the first *Gingles* factor.<sup>21</sup>

#### IV

The court now considers the second and third prongs of *Gingles*, which, respectively, require plaintiffs to establish that Hispanics are “politically cohesive” and that “the white majority votes sufficiently as a bloc to enable it—in the absence of special circumstances, such as the minority candidate running unopposed—usually to defeat the minority’s preferred candidate.” *Gingles*, 478 U.S. at 51 (citations omitted).

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<sup>21</sup>The court recognizes that it is reaching a different result than did Judge O’Connor in *Reyes v. City of Farmers Branch*, 2008 WL 4791498 (N.D. Tex. Nov. 4, 2008) (O’Connor, J.), *aff’d*, 586 F.3d 1019 (5th Cir. 2009). But the plaintiffs in *Reyes* used different data and methodologies when attempting to prove the first *Gingles* factor; they did not use the five-year ACS, as did the plaintiffs in this case; and *Reyes* was decided before the 2010 Census was taken. The 2010 Census and the five-year ACS provide more recent population data for Farmers Branch. The different outcomes of *Reyes* and today’s case reflect nothing more than differences in the proof that the plaintiffs offered in the two trials and the reality that the number of Hispanic CVAP has grown in Farmers Branch since the period at issue in *Reyes*.



A

Racially polarized voting, i.e., “where there is ‘a consistent relationship between [the] race of the voter and the way in which the voter votes,’” is relevant to a vote dilution claim. *Id.* at 53 n.21 & 56 (alteration in original). It tends to prove that the “minority group members constitute a politically cohesive unit,” under the second *Gingles* prong, and that they are unable to elect representatives of their choice because, under the third *Gingles* prong, the majority group is “similarly politically cohesive” and votes “sufficiently as a bloc usually to defeat [their] preferred candidates.” *Id.* at 56; *Teague*, 92 F.3d at 287-88; *see also*, e.g., *Westwego I*, 872 F.2d at 1207 (“Evidence of racially polarized voting ‘is the linchpin of a section 2 vote dilution claim’ and is relevant to establishing [the second and third elements] in *Gingles*[.]”) (citations omitted). “[T]he extent of bloc voting necessary to demonstrate that a minority’s ability to elect its preferred representatives is impaired varies according to several factual circumstances, the degree of bloc voting which constitutes the threshold of legal significance will vary from district to district.” *Gingles*, 478 U.S. at 55-56.

A showing that a significant number of minority group members usually vote for the same candidates is one way of proving the political cohesiveness necessary to a vote dilution claim, and, consequently, establishes minority bloc voting within the context of § 2. And, in general, a white bloc vote that normally will defeat the combined strength of minority support plus white “crossover” votes rises to the level of legally significant white bloc voting. The amount of white bloc voting that can generally “minimize or cancel,” [minority] voters’ ability to elect representatives of their choice, however, will vary from district to district according to a number of factors, including the nature of the allegedly dilutive electoral mechanism; the presence or absence of other potentially dilutive electoral devices, such as

majority vote requirements, designated posts, and prohibitions against bullet voting; the percentage of registered voters in the district who are members of the minority group; the size of the district; and, in multimember districts, the number of seats open and the number of candidates in the field.

*Id.* at 56 (citations omitted).

## B

Plaintiffs' expert, Richard L. Engstrom, Ph.D. ("Dr. Engstrom"), presented data regarding four Farmers Branch City Council elections—in 2007, 2008, 2009, and 2011—because they are the most recent elections in which voters were presented with a Hispanic and non-Hispanic candidate. In each election, the Hispanic-preferred candidate lost. After receiving data from the Dallas County Elections Department regarding the names of voters who cast ballots, Ely used Spanish surnames to identify whether the votes were cast by Hispanics or non-Hispanics and provided this information to Dr. Engstrom. Dr. Engstrom then applied a statistical analysis called ecological inference ("EI"), which is accessible through R software ("EI in R"), to estimate the percentage of Hispanic and non-Hispanic voters who voted for the Hispanic candidate in each election.<sup>22</sup> His report offers the point

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<sup>22</sup>Although Dr. Engstrom originally used three widely-accepted methods of statistical analysis—EI, homogeneous precinct analysis ("HPA"), and ecological regression ("ER")—to analyze the election data for Farmers Branch in his 2011 report, the parties rely particularly on EI in R, which defendants' expert, Dr. Alford, used in his expert report and Dr. Engstrom relied on in his supplemental expert report. *See Benavidez v. City of Irving*, 638 F.Supp.2d at 723 ("HPA and ER were both approved in *Gingles* and have been utilized by numerous courts in Voting Rights Act cases. Recently, EI has been used to supplement evidence derived from HPA and ER.") (citations omitted). According to Dr. Engstrom, EI in R is the improved version of EI, which he describes as a superior statistical analysis. Dr. Engstrom explains that EI and EI in R are superior because (1) EI incorporates a "method of

estimate, which is “the best estimate produced by the statistical procedure” or “the most likely value,” Tr. 2:39, and the confidence interval,<sup>23</sup> which is “the range of estimates within which we can be 95 percent confident, statistically, that the true value of a group’s support for a candidate falls,” Ps. Ex. 21 at 2, *see also* Tr. 2:49. The results, using EI in R, are as follows:

Election		Percent of Hispanic Voters	Percent of Non-Hispanic Voters
Place 1, 2007: Galvez	Point Estimate	88.1%	2.0%
	95% Confidence Interval	77.2% - 94.6%	1.1% - 3.2%
Place 2, 2008: Rendon	Point Estimate	67.7%	30.0%
	95% Confidence Interval	10.6% - 93.3%	23.8% - 36.0%
Place 2, 2008: Rendon + Villarreal	Point Estimate	80.0%	30.5%
	95% Confidence Interval	27.4% - 97.6%	26.2% - 36.6%
Place 3, 2009: Villafranca	Point Estimate	54.1%	28.7%
	95% Confidence Interval	9.3% - 90.5%	20.6% - 33.5%
Place 2, 2011: Viveros	Point Estimate	72.0%	42.1%
	95% Confidence Interval	13.7% - 98.5%	37.4 - 48.6%

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bounds,” which limits the estimates between 0 and 100; (2) EI does not rely on an assumption of linearity but instead uses a maximum likelihood estimation; and (3) EI in R, specifically, provides accurate confidence intervals. Tr. 2:44-46.

<sup>23</sup>According to Dr. Engstrom, it is standard in the area of political science for confidence intervals to be set at 95%.

Ps. Ex. 21 at 5. Because there were two Hispanic candidates in the 2008 election—Ruben Rendon (“Rendon”) and Claudia Villarreal (“Villarreal”)—Dr. Engstrom analyzed Hispanic and non-Hispanic support only for Rendon, the favored Hispanic candidate of the two, and both Rendon and Villarreal. Additionally, plaintiffs presented several Hispanic witnesses who testified that they voted for the Hispanic candidate in at least some of these elections.

Although defendants’ expert, Dr. Alford, conducted a separate analysis using EI in R,<sup>24</sup> defendants acknowledge that “the results of their mathematical analysis [were] not significantly different.” Ds. Prop. Find. Fact (“Ds. FF”) No. 87. Because the disagreement lies instead in the legal significance of the data, the court will rely on Dr. Engstrom’s results to determine whether plaintiffs have met the second and third prong of the *Gingles* test.

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<sup>24</sup>Dr. Alford reported the following point estimates:

Election	Percent of Hispanic Voters	Percent of Non-Hispanic Voters
Place 1, 2007: Galvez	80.1%	4.2%
Place 2, 2008: Rendon	73.6%	30.5%
Place 3, 2009: Villafranca	72.7%	28.8%
Place 2, 2011: Viveros	64.7%	39.8%

Ds. Ex. 34 at 6. Because Dr. Alford’s report responds to Dr. Engstrom’s original report, which did not report support for Rendon *and* Villarreal in the 2008 election or the confidence intervals for his data, Dr. Alford also omitted this information.

C

Dr. Engstrom testified that the four elections together demonstrate that Hispanics in Farmers Branch are politically cohesive, and that non-Hispanics are also politically cohesive in their veto of the Hispanic preferred candidate. He emphasized that all of the *point estimates* for Hispanics who voted for Hispanic candidates are above 50% and that all of the *point estimates and the highest point in the confidence intervals* for non-Hispanics who voted for a Hispanic candidate are below 50%. The parties have stipulated that “[n]o Hispanic has been elected as a member of city council or mayor of the City under the at-large election system.” Pretrial Order ¶ 5.

Regarding the second prong, defendants propose as a finding of fact that “[t]he results [of the returns in municipal elections] suggested only moderate cohesion among Hispanic voters with 65 to 75 percent of Hispanic voters typically voting for the Hispanic candidate.” Ds. FF No. 88. Although Dr. Alford acknowledged in his trial testimony that the 2007 election was racially polarized and satisfied the second and third prongs, he maintained that the 2007 election should not be given great weight because it is the oldest, and the remaining elections of 2008, 2009, and 2011 suggest a pattern of only moderate cohesion among Hispanic and non-Hispanic voters. Dr. Alford focused particularly on the 2009 election. He opined that a split 50-50 vote demonstrated zero political cohesion, and that the closer the number was to 50%, the lower the political cohesion. Dr. Alford testified that the point estimate for Hispanic support of a Hispanic candidate in the 2009 election was low (54.1%), given that it was “below 60 percent,” “below 55 percent,” and “dangerously close to 50

percent.” Tr. 3:52.

Dr. Engstrom, on the other hand, opined that, although the 2009 election was less politically cohesive than were the other elections, it still demonstrated racially-polarized voting. This is because, unlike the first prong, which has an established bright-line test of 50%+, there is no cutoff for political cohesion. Moreover, Dr. Engstrom testified that it was the pattern, not the behavior in a single election, that determined whether political cohesion was established, and that the 2007, 2008, 2009, and 2011 elections together demonstrated a pattern of political cohesion in both Hispanic and non-Hispanic populations.

Defendants also question the reliability of the point estimates for Hispanic voting patterns. Dr. Alford opined that because the ranges of the confidence intervals were much larger in the 2008, 2009, and 2011 elections, he could not be certain that Hispanic and non-Hispanic voters were politically cohesive. For example, although the point estimates for the 2007 election (88.1%) and 2011 (72.0%) election appeared similar, Dr. Alford concluded that because the 2011 confidence intervals ranged from 13.7% to 98.5%, as compared to the 2007 confidence intervals, which ranged from 77.2% to 94.6%, the 2011 point estimate was not at “the same level of precision” and was less reliable than the 2007 point estimate. *Id.* at 3:25; *see also id.* at 3:45-47. Moreover, Dr. Alford maintained, because the confidence interval for the 2011 election extended below 50% (i.e., the point of zero political cohesion) to 13.7%, he was unable “as a social science matter” to conclude that the 2011 election established that Hispanics were politically cohesive. *Id.* at 3:26-27. In response, Dr. Engstrom explained that the confidence intervals for Hispanic voting patterns were “broader”

than for non-Hispanic voting patterns because, while there were more heavily non-Hispanic precincts, resulting in more efficient estimates, there were no heavily Hispanic precincts. *Id.* at 2:55-56.<sup>25</sup> He also emphasized that the point estimate was the “best estimate,” and so it was important that all of the point estimates for Hispanic voting in favor of Hispanic candidates were greater than 50% in the 2007, 2008, 2009, and 2011 elections.

Regarding the second prong, defendants also contend that “[non-Hispanic] voter cohesion is even less, measuring around 60 to 70 percent,” Ds. FF No. 90; “[t]he trend over time in Farmers Branch is away from polarized voting,” *id.* at No. 91; “[t]he lack of Hispanic success in elections is a function of low concentrations of Hispanic voters combined with low cohesion among Hispanic voters,” *id.* at No. 92; and “[t]he [non-Hispanic] cross-over vote of 30-40 percent is higher than is typically seen in cases in which the evidence supports a finding that the majority group votes as a bloc usually to defeat the minority choice,” *id.* at No. 93.<sup>26</sup> While Dr. Alford recognized in his testimony that none of the point estimates or

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<sup>25</sup>Similarly, Dr. Alford also questioned whether the data could accurately estimate whether Hispanics are politically cohesive, since there is no evidence regarding voting patterns in heavily Hispanic precincts, only less-concentrated Hispanic precincts. Although this may weaken the statistical analysis, it does not preclude a finding that Hispanics are politically cohesive. *See Perez v. Pasadena Indep. Sch. Dist.*, 958 F. Supp. 1196, 1222 (S.D. Tex. 1997) (while recognizing that the statistical analysis was weakened by “the absence of homogeneous ‘extreme’ Hispanic voting precincts,” holding that “Hispanics have voted cohesively”), *aff’d*, 165 F.3d 368 (5th Cir. 1999).

<sup>26</sup>In their proposed findings of fact and conclusions of law, defendants use the term “Anglo” when the evidence pertains not to Anglos but to non-Hispanics. The court will replace defendants’ references to “Anglo” with “non-Hispanic,” which is more accurate in the context presented.



points in the confidence intervals for non-Hispanic voters reached 50% or greater, he opined that “we clearly have evidence of [a] substantial crossover vote” by non-Hispanic voters for a Hispanic candidate. Tr. 3:28. Dr. Alford particularly highlighted that 42.1% of non-Hispanic voters voted for a Hispanic candidate in the 2011 election. Dr. Engstrom testified that while there was a higher degree of non-Hispanic crossover votes in the 2011 election, not even the highest point in the *confidence interval* was at majority level. Moreover, Dr. Engstrom opined that the 2011 election was a “post-litigation election,” which is a special circumstance under the *Gingles* threshold test. *Id.* at 2:93. According to Dr. Engstrom, after litigation is filed, “there’s potentially the opportunity to try to hurt the lawsuit by getting people to vote differently than they have in the past.” *Id.*<sup>27</sup>

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<sup>27</sup>Defendants assert that “[t]he lack of Hispanic success in elections is a function of low concentrations of Hispanic voters combined with low cohesion among Hispanic voters.” Ds. FF No. 92. Dr. Alford testified that, because Hispanics constitute a bare majority of CVAP in plaintiffs’ illustrative districts, it is unlikely that they will successfully elect their preferred candidates even with 88% political cohesion, such as in the 2007 election, because their votes will still result in less than a majority of total votes. He posits that the only way a Hispanic-preferred candidate can win is with the assistance of non-Hispanic crossover votes. In other words, Dr. Alford examines political cohesion under the second prong of *Gingles* in the context of the extent of Hispanic CVAP concentration under the first prong to determine whether Hispanics will be successful. The first and second prongs of *Gingles*, however, are separate considerations. Under the second prong, *Gingles* directs the court to examine whether Hispanics are politically cohesive because, “[i]f the minority group is not politically cohesive, it cannot be said that the selection of a multimember electoral structure thwarts distinctive minority group interests.” *Gingles*, 478 U.S. at 51. Thus the focus is whether Hispanics are politically cohesive in general, in order to determine whether the electoral system impedes their preferences, not whether their political cohesion is sufficiently high that it will guarantee a victory by the Hispanic-preferred candidate in the demonstration district. *Cf., e.g., League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 428 (2006) (“[T]he ultimate right of § 2 is equality of opportunity, not a guarantee of electoral success for minority-preferred candidates of whatever race.”) (quoting *Johnson v. De Grandy*, 512



D

The court finds that plaintiffs have proved racial bloc voting through statistical evidence from four elections<sup>28</sup> and testimony by witnesses regarding their voting, thus satisfying the second and third prongs of *Gingles*.<sup>29</sup> See *Westwego III*, 946 F.2d at 1118 (“Usually, plaintiffs in a vote dilution case will attempt to establish both the second and third

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U.S. 997, 1014 n.11 (1994)) (internal quotation marks omitted) .

Dr. Alford also testified that, even if plaintiffs’ illustrative districts were in place for the elections of 2008 through 2010 (but not 2007 or 2011), Hispanic voters still would not have been the majority of turned-out voters for the illustrative districts. Instead, Hispanic voters comprised, at most, 42.5% of turned-out voters. But “low minority voter turnout does not militate against finding a Section 2 violation.” *Benavidez v. City of Irving*, 638 F.Supp.2d at 725; see also *United States v. Blaine Cnty. Mont.*, 363 F.3d 897, 911 (9th Cir. 2004) (“[I]f low voter turnout could defeat a section 2 claim, excluded minority voters would find themselves in a vicious cycle: their exclusion from the political process would increase apathy, which in turn would undermine their ability to bring a legal challenge to the discriminatory practices, which would perpetuate low voter turnout, and so on. Thus, the district court did not err by rejecting low voter turnout as evidence of a lack of political cohesion.”). And Dr. Alford acknowledged that the low Hispanic voter turnout could have resulted from discouragement over prior election losses by their preferred candidate.

<sup>28</sup>It is sufficient under the circumstances for plaintiffs to have provided statistical evidence regarding four elections, given that these four are the most recent involving a Hispanic candidate. See *Campos v. City of Baytown, Tex.*, 840 F.2d 1240, 1245 (5th Cir. 1988) (stating that “the number of elections that must be studied in order to determine whether voting is polarized will vary according to pertinent circumstances,” and holding that “[t]he district court was warranted in its focus on those [five] races that had a minority member as a candidate”) (alteration omitted) (quoting *Gingles*, 478 U.S. at 57 n.25); see also *Westwego I*, 872 F.2d at 1208 n.7 (“[T]he evidence most probative of racially polarized voting must be drawn from elections including both black and white candidates.”).

<sup>29</sup>*Monroe v. City of Woodville, Miss.*, 897 F.2d 763, 764 (5th Cir. 1990) (per curiam) (stating that “[s]tatistical proof of political cohesion is likely to be the most persuasive form of evidence, although other evidence may also establish this phenomenon,” such as “lay testimony from members of the community on political cohesion”) (citing *Brewer*, 876 F.2d at 448, 453).

*Gingles* factors with statistical evidence of racial polarization of the electorate.”).

Plaintiffs have proved that Hispanic voters “vote along racial lines.” *Id.* at 1122. The point estimates, which are undisputedly the “best estimates” in the data, for Hispanic votes in favor of a Hispanic candidate establish a pattern of Hispanic bloc voting: 88.1% in the 2007 election,<sup>30</sup> 67.7% in the 2008 election, 80.0% in the 2008 election,<sup>31</sup> 54.1% in the 2009 election, and 72.0% in the 2011 election. The point estimates for the 2007, 2008, and 2011 elections establish overwhelming support by Hispanics for the Hispanic candidates. *Cf. Gingles*, 478 U.S. at 59 (“[B]lack voters’ support for black candidates was overwhelming in almost every election. In all but 5 of 16 primary elections, black support for black candidates ranged between 71% and 92%; and in the general elections, black support for black Democratic candidates ranged between 87% and 96%.”); *Clark v. Calhoun Cnty., Miss.*, 88 F.3d 1393, 1397 (5th Cir. 1996) (holding that “district court’s finding that racially polarized voting exists is beyond question” and pointing to evidence that, *inter alia*, “the black candidate received an estimated 71.6% of the black vote but only 7.8% of the white vote”). While the point estimate for the 2009 election (54.1%) is lower than the rest, “a pattern of racial bloc voting that extends over a period of time is more probative of a claim that a district experiences legally significant polarization than are the results of a single election.” *Gingles*, 478 U.S. at 57 (“[I]n a district where elections are shown usually to be polarized,

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<sup>30</sup>Although defendants suggest that the court ignore the 2007 election merely because it is older, the court declines, finding that a 2007 election is still probative.

<sup>31</sup>The percentages of 67.7% and 80.0% are derived from the same 2008 election.

the fact that racially polarized voting is not present in one or a few individual elections does not necessarily negate the conclusion that the district experiences legally significant bloc voting.”); *see also Teague*, 92 F.3d at 288 (“[T]he results of a couple of elections do not discount the presence of racial bloc voting[;] ... a showing that bloc voting is not absolute does not preclude a finding of racial polarization[;] . . . to be legally significant, racial polarization need only be the ‘usual’ pattern for a significant proportion of voters.”) (alterations omitted) (quoting *Gingles*, 478 U.S. at 57).<sup>32</sup> Moreover, in arguing that Hispanics are only *moderately* politically cohesive, defendants implicitly recognize that Hispanics are in fact politically cohesive to a certain extent. *See* Ds. FF No. 88.<sup>33</sup>

Plaintiffs have also established a pattern of non-Hispanic bloc voting. The point estimates for non-Hispanic votes in favor of Hispanic candidates at the last four elections never exceeded 50%, and in most years did not exceed even 33%: 2.0% in the 2007 election; 30.0% for one Hispanic candidate in the 2008 election, and 30.5% for the other Hispanic

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<sup>32</sup>Although defendants suggest that the point estimate in the remaining 2009 election (54.1%) demonstrates zero to low political cohesion because it is close to 50%, *Gingles* did not adopt a bright line test for determining when a minority group is politically cohesive, recognizing instead that “the threshold of legal significance will vary from district to district.” *Gingles*, 478 U.S. at 55-56.

<sup>33</sup>In making this determination, the court recognizes that the confidence intervals for Hispanic voting patterns are broad. Dr. Engstrom persuasively testified that this was because there were no data on precincts with a high concentration of Hispanic voters. There does not appear to be a solution to this problem, however, and defendants do not offer one. Moreover, it is undisputed that a point estimate is the “best estimate” for the data, and the court will therefore rely on these point estimates.

candidate in the 2008 election;<sup>34</sup> 28.7% in the 2009 election; and 42.1% in the 2011 election. *Cf. Gingles*, 478 U.S. at 59 (recognizing that district court had found “a substantial majority of white voters would rarely, if ever, vote for a black candidate” because, *inter alia*, “[i]n the primary elections, white support for black candidates ranged between 8% and 50%, and in the general elections it ranged between 28% and 49%”); *Campos v. City of Baytown, Tex.*, 840 F.2d 1240, 1249 (5th Cir. 1988) (holding that “the evidence was sufficient to show that the whites vote sufficiently as a bloc to overcome the minority votes plus the white ‘crossover’ vote” and noting three election results that are illustrative: “Mario Delgado received approximately 83% of the minority votes but only 37% of the Anglo vote and lost the election . . . . Tony Campos received 63% of the minority vote but only 29% of the white vote and lost the election . . . . Ruby Hardy received approximately 78% of the minority vote but only 3% of the white vote and lost the election.”). Moreover, none of the points within the confidence intervals reached majority level—the highest confidence interval is 48.6% for the 2011 election. Although defendants are correct that there was a substantial non-Hispanic crossover vote in the 2011 election (42.1%), “*Gingles* does not require total white bloc voting. Instead, it requires only that ‘white majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.’” *Campos*, 840 F.2d at 1249 (alteration in original) (quoting *Gingles*, 478 U.S. at 51). “[I]n general, a white bloc vote that normally will defeat the combined strength of minority support plus white ‘crossover’ votes

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<sup>34</sup>The 30% and 30.5% figures are derived from the same 2008 election in which two Hispanic candidates ran.

risers to the level of legally significant white bloc voting.’” *Gingles*, 478 U.S. at 56; *see also Rangel v. Morales*, 8 F.3d 242, 245 (5th Cir. 1993) (requiring “evidence of ‘a white bloc vote that normally will defeat the combined strength of minority support plus white “crossover” votes’”) (quoting *Gingles*, 478 U.S. at 56). Despite the 72.0% Hispanic vote and the 42.1% non-Hispanic crossover vote in favor of the Hispanic candidate in 2011, the Hispanic candidate still lost the election. Moreover, as plaintiffs point out, a special circumstance may explain the increased non-Hispanic crossover vote. In *Gingles* the Court stated that a district court “could properly consider to what extent ‘the pendency of this very litigation [might have] worked a one-time advantage for [minority] candidates in the form of unusual organized political support by white leaders concerned to forestall single-member districting.’” *Gingles*, 478 U.S. at 76 (alteration in original) (quoting *Gingles v. Edmisten*, 590 F. Supp. 345, 367 n.27 (E.D.N.C. 1984)); *see also Ruiz v. City of Santa Maria*, 160 F.3d 543, 556-57 (9th Cir. 1998) (per curiam) (holding that it was not necessary for plaintiff to demonstrate *intent* to thwart the vote dilution lawsuit, just that “a district court should cautiously view minority electoral success achieved after a vote dilution lawsuit is filed”).

Accordingly, the court finds that plaintiffs have satisfied the second and third prongs of *Gingles*.

V

Because plaintiffs have proved the threshold *Gingles* test factors, the court now turns to whether, under the totality of the circumstances, they have established that they “do not possess the same opportunities to participate in the political process and elect representatives of their choice enjoyed by other voters.” *LULAC II*, 999 F.2d at 849.

A

Plaintiffs assert that the following factors identified in *Gingles* establish a voting rights violation under the totality of the circumstances: (1) City Council elections are racially polarized; (2) Farmers Branch employs a place system, which can prevent bullet, or single-shot, voting; (3) Hispanics in Farmers Branch bear the effects of past discrimination due to hostile immigration ordinances that have hindered their ability to participate effectively in the political process; (4) overt and subtle racial appeals have been used in the City Council elections; (5) no Hispanic candidate has ever been elected to the City Council or as mayor in Farmers Branch; and (6) elected officials of Farmers Branch have not only been unresponsive to the needs of the Hispanic community, they have been consistently hostile, as shown by the passage of a resolution establishing English as an official language and the removal of Spanish literature from the public library and the Spanish channel from the Farmers Branch recreation center television.

Defendants do not specifically contest the factors on which plaintiffs rely. Instead, they assert on the following grounds that plaintiffs have not established a voting rights violation: (1) because plaintiffs drew their illustrative districts to include a substantial

number of non-citizens, the districts have fewer than 60% of the remaining districts' CVAP, resulting in a vote's receiving unequal weight across districts; (2) in 2007, 2008, 2009, and 2011, none of the illustrative districts received a majority of votes by individuals with Spanish surnames; and (3) the trend for Hispanic participation in elections in the illustrative districts is down.

B

“[I]t will be only the very unusual case in which the plaintiffs can establish the existence of the three *Gingles* factors but still have failed to establish a violation of § 2 under the totality of circumstances.” *Clark v. Calhoun Cnty., Miss.*, 21 F.3d 92, 97 (5th Cir. 1994) (quoting *Jenkins v. Red Clay Consol. Sch. Dist. Bd. of Educ.*, 4 F.3d 1103, 1135 (3d Cir. 1993)). This not such a “very unusual case.” Plaintiffs have proved a voting rights violation under the totality of the circumstances.

It is well-established that the existence of racially polarized voting and the extent to which minority group members have been elected to public office are the most important factors to be considered in a totality determination. *See Gingles*, 478 U.S. at 48 n.15. Both of these factors favor plaintiffs. Plaintiffs have proved that the City Council elections in 2007, 2008, 2009, and 2011 were moderately to highly racially polarized, because Hispanic candidates received support from an estimated 54.1% to 88.1% of Hispanic voters compared to only 2.0% to 42.1% of non-Hispanic voters. The parties have stipulated that “[n]o Hispanic has been elected as a member of city council or mayor of the City under the at-large election system.” Pretrial Order ¶ 5 (stipulation of fact).



Plaintiffs have also presented the testimony of Dr. Engstrom that Farmers Branch uses a place system instead of a pure at-large system. Under a pure at-large system, all candidates are “elected at-large at the same time,” and a voter can cast as many votes as seats. *See United States v. Blaine Cnty. Mont.*, 363 F.3d 897, 913 n.25 (9th Cir. 2004). This presents a minority group with the opportunity to elect its preferred candidate through bullet voting, which “refers to a voting practice in which voters are allowed to cast fewer than all of their votes,” *Westwego III*, 946 F.2d at 1113 n.3, thereby permitting a minority group to “concentrate their vote on electing one minority-preferred candidate, while the majority vote will be split among the majority candidates,” *see Blaine County*, 363 F.3d at 913 n.25. Under a place system, a candidate must “declare for a particular seat on a governmental body. The candidate then runs only against other candidates who have declared for that position. The voters then have one vote for that seat.” *Salas v. Sw. Tex. Jr. Coll. Dist.*, 964 F.2d 1542, 1544 n.1 (5th Cir. 1992) (quoting *Campos*, 840 F.2d at 1242 n.1). A place system “can, under certain circumstances, frustrate bullet voting.” *Gingles*, 478 U.S. at 39 n.6; *see also Salas*, 964 F.2d at 1544 n.1 (“[A numbered-post system] prevents the use of bullet, or single shot, voting.”) (quoting *Campos*, 840 F.2d at 1242 n.1). This factor weighs in favor of plaintiffs because it can enhance the difficulty faced by Hispanics in seeking access to the political process in Farmers Branch. *See Gingles*, 478 U.S. at 45.

Plaintiffs have established that the Farmers Branch City Council passed Resolution No. 2006-130, which “declar[es] English as the official language of the city of Farmers Branch.” Ps. Ex. 20. There is evidence of at least one proposal to eliminate foreign language



materials from the library. *See* Ps. Ex. 18 (Dep. of Ben Robinson (“Robinson”)) at 8 (stating that he was “not really sure” what became of the proposal to eliminate foreign language materials from the library).<sup>35</sup> And plaintiff Alfonso Baladez testified that he did not vote in the 2011 City Council election because he “gave up,”—“the people that [he] voted for were never elected. And there was nobody there representing the community, the Hispanic community.” Tr. 1:35. Although this testimony does not fall within one of the totality of the circumstances factors, it does suggest that the perception that the Farmers Branch at-large system dilutes the Hispanic vote hinders effective participation in the political process. Because the *Gingles* factors are “neither comprehensive nor exclusive,” and “other factors may also be relevant and may be considered” *Gingles*, 478 U.S. at 45, the court finds this

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<sup>35</sup>On June 21, 2012 defendants filed a motion to exclude depositions or deposition excerpts and objections to exhibits, under Fed. R. Civ. P. 32. Defendants requested the exclusion of five depositions: Ps. Ex. 15-19. Robinson’s deposition excerpts are contained in Ps. Ex. 18. One ground of defendants’ motion was that plaintiffs had violated N.D. Tex. Civ. R. 26.2(c) by designating the complete deposition of each witness, as opposed to the specific portions on which they intended to rely. Following a discussion of the motion during the pretrial conference, plaintiffs substituted new Ps. Exs. 15 and 17-19, composed of excerpts from the depositions. At trial, they moved to admit Ps. Exs. 15 and 17-19. Defendants objected based on relevance. The court overruled the relevance objection, holding that, after considering all of the evidence and the closing arguments, it would give the deposition testimony the weight it deserved. The court now concludes that Robinson’s deposition testimony (Ps. Ex. 18) is relevant within the meaning of Fed. R. Evid. 401 to plaintiffs’ voting rights claim because it bears on the totality of the circumstances.

Defendants also requested the opportunity to examine the deposition excerpts to confirm that they were consistent with the versions produced before trial. The court admitted the depositions “subject to the defendants[’] moving to strike an exhibit in whole or in part based on inaccurate designation, provided . . . that [defendants do so] before the plaintiffs rest.” Tr. 1:48. Defendants did not make such a motion.

also weighs in favor of plaintiffs' § 2 claim.<sup>36</sup>

Both sides proffer other arguments for or against a finding of a voting rights violation under the totality of the circumstances, but the court need not address them in detail.<sup>37</sup> The

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<sup>36</sup>Although plaintiffs also cite in support the removal of a Spanish language channel from the recreation center television, the testimony of Jose Galvez ("Galvez"), a Hispanic candidate at the 2007 City Council election, is the only probative source of this evidence. The court heard Galvez's testimony subject to defendants' objection. In a bench trial, it is permissible for the court to hear evidence that it later determines is inadmissible or immaterial. *See Harris v. Rivera*, 454 U.S. 339, 346 (1981) (holding that, in a bench trial, the court is presumed capable of hearing otherwise inadmissible evidence and disregarding that evidence when making decisions). The court now excludes the testimony under Fed. R. Civ. P. 26(a)(3)(B) and N.D. Tex. Civ. R. 26.2(b).

Fed. R. Civ. P. 26(a)(3)(A)(i) and (B) require the disclosure of a witness' name, address, and telephone number "at least 30 days before trial." N.D. Tex. Civ. R. 26.2(b) directs that "[a]t least 14 days before the scheduled trial date, the parties must file with the clerk and deliver to opposing parties and the court reporter, separate lists of exhibits and witnesses, except those offered solely for impeachment." Although the trial of this case was set to begin on Monday, June 25, 2012, plaintiffs did not identify Galvez as a trial witness until after the pretrial conference on Friday, June 22, 2012, long after the deadlines imposed by Fed. R. Civ. P. 26(a)(3)(B) and N.D. Tex. Civ. R. 26.2(b). Plaintiffs' justification for their failure to comply with the rules is that they had just recently learned of Galvez as a potential witness. But because he was the only Hispanic candidate for the City Council at the 2007 election, plaintiffs could have learned of his potential role as a witness, and timely designated him, had they exercised due diligence. The court therefore sustains defendants' objections to calling Galvez as a witness at trial, and it declines to consider his testimony in reaching its decision in this case.

<sup>37</sup>Although defendants raise under the totality of the circumstances that plaintiffs' proposed illustrative districts are drawn by packing the districts with non-citizens, the court has already rejected these arguments. *See supra* note 13.

The court also rejects defendants' argument that focuses on evidence that Hispanics, as identified using Spanish surnames, do not comprise the majority of voters in the illustrative districts. *See Benavidez v. City of Irving*, 638 F.Supp.2d at 725 ("[L]ow minority voter turnout does not militate against finding a Section 2 violation."). It is also irrelevant that, according to defendants, the trend in Hispanic participation in elections is down, given that plaintiffs have already established the threshold *Gingles* factors.

two most important—the existence of racially polarized voting and the extent to which minority group members have been elected to public office—support plaintiffs. And the other evidence the court has considered in § V(B) amply demonstrates that plaintiffs have satisfied their burden of proof. Plaintiffs have proved, under the totality of the circumstances, that Hispanics in Farmers Branch have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.

## VI

The court holds that the at-large system of electing members of the Farmers Branch City Council violates § 2 of the Voting Rights Act. Defendants are therefore ordered to submit, within 60 days of the date of this memorandum opinion and order, a plan to remedy the violation. *See Westwego III*, 946 F.2d at 1124 (“[I]t is appropriate to give affected political subdivisions at all levels of government the first opportunity to devise remedies for violations of the Voting Rights Act.”); *see also E. Jefferson Coal. for Leadership & Dev. v. Parish of Jefferson*, 703 F. Supp. 28, 29 (E.D. La. 1989) (“Only when the legislative plan is ‘uncorrectably invalid’ should the court consider a scheme submitted by a private litigant or formulate its own plan.”), *aff’d*, 926 F.2d 487 (5th Cir. 1991). The proposed remedy need not include the creation of one of plaintiffs’ proposed illustrative districts. *See Clark*, 21 F.3d at 95 (citing *Westwego III*, 946 F.2d at 1124). Plaintiffs may file objections to the

proposal within 30 days of the date it is filed with the clerk of court.<sup>38</sup>

**SO ORDERED.**

August 2, 2012.

  
SIDNEY A. FITZWATER  
CHIEF JUDGE

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<sup>38</sup>Of course, once the plan is approved, defendants must also comply with § 5 of the Voting Rights Act. “Section 5 of the Voting Rights Act requires that any change in a ‘standard, practice or procedure with respect to voting’ by a ‘covered jurisdiction’ . . . be submitted to the United States Attorney General for prior approval or ‘preclearance.’” *E. Jefferson Coal. for Leadership & Dev. v. Parish of Jefferson*, 926 F.2d 487, 490 n.1 (5th Cir. 1991) (quoting 42 U.S.C. § 1973c & 28 C.F.R. § 51.1 *et seq.* (1989)).

# TAB 6

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**MARIA FABELA, ALFONSO BALADEZ,  
AMELIA BALADEZ, MARIA BALADEZ,  
MARIA JACOBO, ANTONIO REYES,  
MARIA REYES, DIANA ROSAS,  
LETICIA TORRES, AND JOSE  
VILLANEDA,**

**Plaintiffs**

**v.**

**CITY OF FARMERS BRANCH, TEXAS,  
AND TIM O'HARE, HAROLD  
FROELICH, MICHELLE HOLMES,  
DAVID KOCH, BEN ROBINSON, AND  
TIM SCOTT, in their official capacities,**

**Defendants**

**CIVIL ACTION NO. 3:10-cv-01425-D**

**PRESENTATION OF PROPOSED REMEDY BY CITY OF FARMERS BRANCH**

Pursuant to this Court's Order of August 2, 2012, the City of Farmers Branch submits its plan to remedy the violation found by the Court in that Memorandum Opinion and Order. By submitting its proposed remedy, the City does not waive its contention that the existing at-large system complies with the Voting Rights Act or its right to challenge any ultimate judgment in this case.

The proposed remedy is set out in a resolution adopted by the City Council of the City of Farmers Branch on October 2, 2012, and is attached as Exhibit A. Hispanics constitute 54.39 percent of the proposed District 1's citizen-voting-age population. As indicated in the demographic charts attached to the council's resolution, Hispanics constitute 79.13 percent of

District 1's total population and 74.84 percent of its voting-age population. Tables providing this information for the city's proposed District 1 and the four districts submitted by the plaintiffs during the trial are found at Exhibit B.

Although the task before the Court is not to choose among potential competing remedies, *e.g.*, *Upham v. Seamon*, 456 U.S. 37 (1982); *United States v. Euclid City School Board*, 632 F. Supp. 2d 740, 750 (N.D. Ohio 2009) ("When evaluating a defendant's proposal, a court is not to inquire whether the defendants have proposed the very best available remedy, or even whether the defendants have proposed an appealing one"), it may be of assistance to the Court to know how the city's plan compares to the predominantly Hispanic districts presented by the plaintiffs in the course of the litigation. While the city's proposed District 1 has 54.39 percent Hispanic citizen-voting-age population, the four plans submitted by the plaintiffs during the trial of this cause had Hispanic citizen-voting-age population percentages of 53.05, 52.86, 54.9, and 53.68, respectively. Thus, the city's plan has a higher Hispanic citizen-voting-age population percentage than all but one of the plans submitted by the plaintiffs, and that plan was within about one-half of one percentage point of the Hispanic citizen-voting-age population of the city's plan. All calculations of Hispanic citizen-voting-age population are performed using the methodology used during the trial by the plaintiff's expert except that they are computed using the Department of Justice special tabulation based on the 2006-2010 American Community Survey. The plaintiff's expert's computations at trial were performed using the special tabulation based on the 2005-2009 American Community Survey, which is no longer the most current one.<sup>1</sup>

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<sup>1</sup> At trial the city challenged the accuracy of the methodology and data used in computing the citizen-voting-age population percentages. The city does not abandon those contentions but uses the methodology and data in its most current form to permit comparison. Computations using the Ely methodology and the 2006-2010 data were

The Spanish-surname-voter percentage in the city's plan is slightly lower than in the plaintiffs' proposals (43.07% compared to a range of 45.37%-49.89%). So long as the citizen-voting-age population is present, though, the potential exists to increase the percentage of Spanish-surname registered voters. Further, since Spanish-surname data do not necessarily correspond to Hispanic status, it is afforded reduced weight and may not accurately reflect actual Hispanic percentages. *Rodriguez v. Bexar County*, 385 F.3d 853, 866, n. 18 (5<sup>th</sup> Cir. 2004); *see also, Fabela*, 2012 WL at \*7, n.18 (Court does not rely solely or even primarily on SSRV data).

The city notes that given the staggered nature of the city council elections, District 1 would first be on the ballot in May 2013 so long as a final order is in place in time for that election cycle. If so, the district would be subject to election at the first available opportunity. The districts in the plan correspond to the existing council place numbers. Neither the incumbent in the current Place 1 nor any other incumbent member of the council resides in the proposed District 1, which means, assuming a residency requirement for candidate eligibility, that there will be no incumbent on the District 1 ballot in 2013.

Respectfully submitted,

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presented at trial by Dr. Rives and appear in the Court's Memorandum Opinion. *Fabela v. City of Farmers Branch*, 2012 WL 3135545 (N.D. Tex. Aug. 2, 2012), at \*6.



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**CERTIFICATE OF SERVICE**

I hereby certify that on October 5, 2012, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the Court. I have served counsel of record listed below via electronic transmission through the Court's ECF system:

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s/ C. Robert Heath  
C. Robert Heath

## EXHIBIT A

**RESOLUTION NO. 2012-071**

**A RESOLUTION OF THE CITY OF FARMERS BRANCH,  
TEXAS, COMPLYING WITH THE ORDER OF THE  
UNITED STATES DISTRICT COURT IN *FABELA v. CITY OF  
FARMERS BRANCH*, CIVIL ACTION NO. 3:10-CV-1425-D.**

**WHEREAS**, the City of Farmers Branch is a defendant in the case of *Fabela v. City of Farmers Branch*, No. 3:10-CV-1425-D in the United States District Court of the Northern District of Texas, which suit contends that the city's at-large election system violates section 2 of the Voting Rights Act, 42 U.S.C. § 1973, and

**WHEREAS**, the City contended and continues to contend that its election system does not violate the requirements of the Voting Rights Act, and

**WHEREAS**, the Court, in its Memorandum Opinion and Order dated August 2, 2012, held that "the at-large system of electing members of the Farmers Branch City Council violates § 2 of the Voting Rights Act" and further ordered the City "to submit . . . a plan to remedy the violation." *Fabela v. City of Farmers Branch*, 2012 WL 3135545, \*15 (N.D. Tex. Aug. 2, 2012), and

**WHEREAS**, this resolution is designed to approve a plan to be submitted to the Court in compliance with its order, and

**WHEREAS**, by approving a proposed remedy as ordered by the Court, the City does not waive its contention that its existing system is permissible under the Voting Rights Act or its right to challenge any ultimate judgment that its existing at-large election system violates the Voting Rights Act; now, therefore, be it

**RESOLVED**, that the City Council of the City of Farmers Branch, Texas, hereby approves the single-member districting plan set out in Exhibit A and reflected by the map, demographic tables, and block assignment file contained in that Exhibit, as its proposed remedy contemplated by the District Court's August 2, 2012, Order, and directs its attorneys to submit the plan to the District Court; and, be it further

**RESOLVED**, that in the plan existing council places will correspond to the single-member districts bearing the same number as the council place; and, be it further

**RESOLVED**, that, under the plan to be proposed, existing members of the City Council will continue to serve the terms for which they were elected, so that the voters will elect councilmembers from Districts 1 and 4 in May 2013, will elect the Mayor and the councilmember from District 2 in May 2014, and will elect councilmembers from Districts 3 and 5 in May 2015.

**DULY ADOPTED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH,  
TEXAS, ON THIS DAY, THE 2<sup>ND</sup> OF OCTOBER 2012.**

ATTEST:

  
Angela Kelly, City Secretary

APPROVED:

  
William P. Glancy, Mayor



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Data Source: Roads, Water and other  
features obtained from the 2010  
Tiger/line files, U.S. Census Bureau

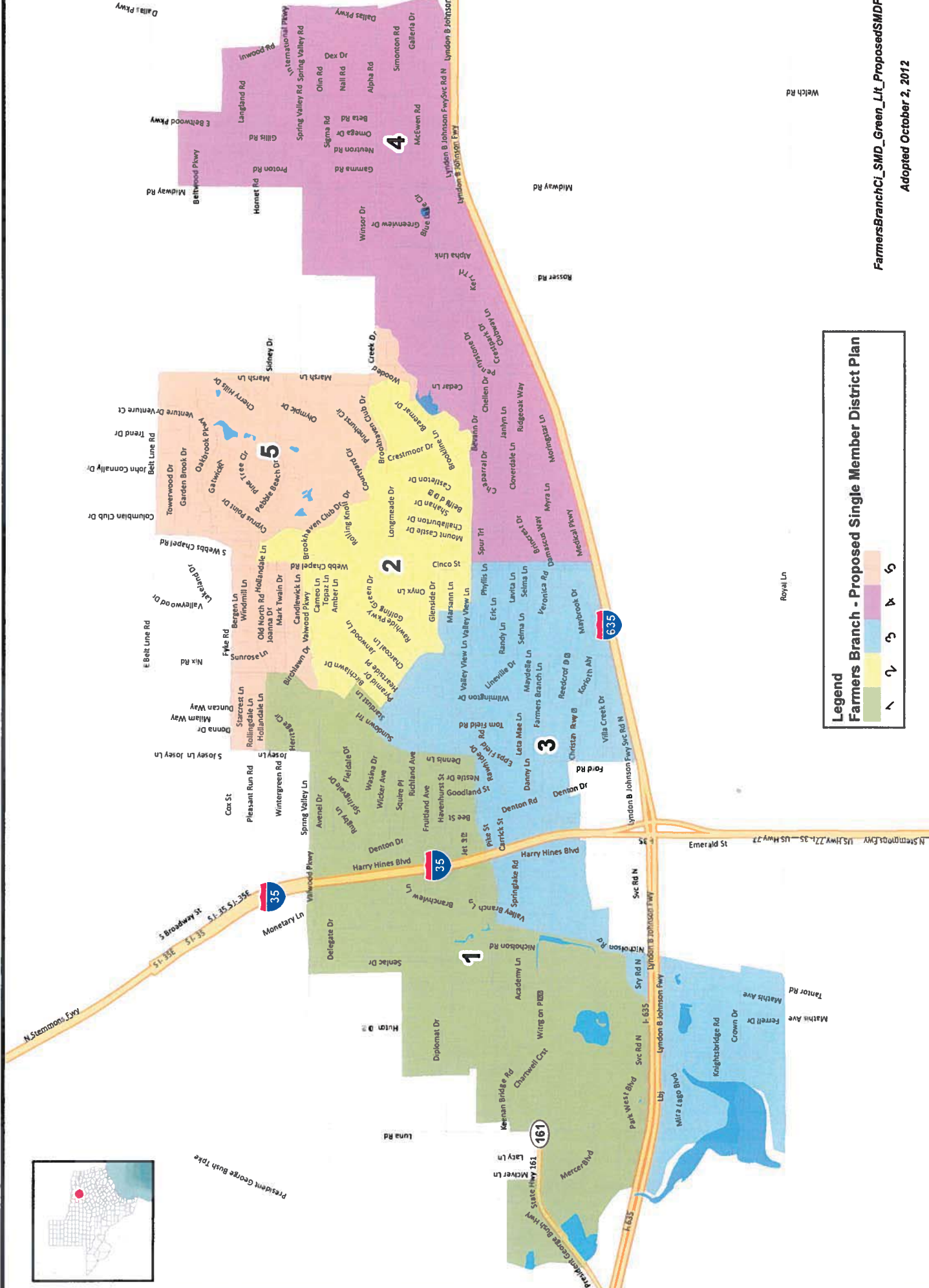
FarmersBranchCI\_SMD\_Green\_Lit\_ProposedSMDPlan  
Adopted October 2, 2012

# City of Farmers Branch Proposed Single Member District Plan

1.5 Miles  
0 0.375 0.75 1.5  
Coordinate System: GCS North American 1983;  
Datum: North American 1983; Created: 10/4/12

**Legend**  
Farmers Branch - Proposed Single Member District Plan

1	2	3	4	5
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## City of Farmers Branch

### Proposed Single Member District Plan

#### Summary 2010 Census Total and Voting Age Population

District	Persons	Deviation	Hispanic % of Total Population	Non-Hispanic Anglo % of Total Population	Non-Hispanic Black % of Total Population	Non-Hispanic Asian % of Total Population	Non-Hispanic Other % of Total Population
1	5,617	-1.85%	79.13%	16.09%	2.17%	1.57%	1.03%
2	5,871	2.59%	44.00%	51.12%	1.70%	1.65%	1.53%
3	5,582	-2.46%	36.55%	52.01%	4.05%	5.75%	1.65%
4	5,784	1.07%	26.37%	52.23%	9.30%	9.80%	2.30%
5	5,762	0.68%	41.50%	48.92%	5.10%	2.83%	1.65%
<b>Totals</b>	<b>28,616</b>		<b>45.37%</b>	<b>44.20%</b>	<b>4.47%</b>	<b>4.32%</b>	<b>1.64%</b>

Ideal Size = 28,616 / 5 = 5,723 per district.

Total Maximum Deviation = 2.59% - (-2.46%) = 5.05%

Some percentages may be subject to rounding error. Includes split block allocation.

District	Total VAP*		Hispanic % of Total VAP	Non-Hispanic Anglo % of Total VAP	Non-Hispanic Black % of Total VAP	Non-Hispanic Asian % of Total VAP	Non-Hispanic Other % of Total VAP
1	3,716		74.84%	20.53%	1.91%	1.83%	0.89%
2	4,468		36.44%	59.04%	1.50%	1.75%	1.28%
3	4,440		30.52%	57.39%	4.30%	6.40%	1.40%
4	4,793		21.78%	56.83%	9.26%	10.08%	2.04%
5	4,359		34.23%	56.46%	4.66%	3.12%	1.54%
<b>Totals</b>	<b>21,776</b>		<b>38.12%</b>	<b>51.13%</b>	<b>4.48%</b>	<b>4.82%</b>	<b>1.46%</b>

\*Voting Age Population

Some percentages may be subject to rounding error.

10/1/2012

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# City of Farmers Branch

## Proposed Single Member District Plan

Detailed 2010 Census Total and Voting Age Population

District	Persons	Ideal Size	Deviation	Hispanic	% of Total Hispanic Population	Anglo	% of Total Anglo Population	Black	% of Total Black Population	American Indian	% of Total American Indian Population	Asian	% of Total Asian Population	Hawaiian-Pacific Islander	% of Total Hawaiian-Pacific Islander Population	Other	% of Total Other Population	Two or More	% of Total Two or More Population
1	5,617	5,723	-1.85%	4,445	79.13%	904	16.09%	122	2.17%	19	0.34%	88	1.57%	0	0.00%	4	0.07%	35	0.62%
2	5,871	5,723	2.59%	2,583	44.00%	3,001	51.12%	100	1.70%	23	0.39%	97	1.65%	0	0.00%	10	0.17%	57	0.97%
3	5,582	5,723	-2.46%	2,040	36.55%	2,903	52.01%	226	4.05%	17	0.30%	321	5.75%	0	0.00%	11	0.20%	64	1.15%
4	5,784	5,723	1.07%	1,525	26.37%	3,021	52.23%	538	9.30%	14	0.24%	567	9.80%	2	0.03%	10	0.17%	107	1.85%
5	5,762	5,723	0.68%	2,391	41.50%	2,819	48.92%	294	5.10%	20	0.35%	163	2.83%	0	0.00%	2	0.03%	73	1.27%
<b>Totals</b>	<b>28,616</b>			<b>12,984</b>	<b>45.37%</b>	<b>12,648</b>	<b>44.20%</b>	<b>1,280</b>	<b>4.47%</b>	<b>93</b>	<b>0.32%</b>	<b>1,236</b>	<b>4.32%</b>	<b>2</b>	<b>0.01%</b>	<b>37</b>	<b>0.13%</b>	<b>336</b>	<b>1.17%</b>

Ideal Size = 28,616 / 5 = 5,723 per district.

Some percentages may be subject to rounding error. Includes split block allocation.

District	Total VAP*	Hispanic VAP	% of Total Hispanic VAP	Anglo VAP	% of Total Anglo VAP	Black VAP	% of Total Black VAP	American Indian VAP	% of Total American Indian VAP	Asian VAP	% of Total Asian VAP	Hawaiian-Pacific Islander VAP	% of Total Hawaiian-Pacific Islander VAP	Other VAP	% of Total Other VAP	Two or More VAP	% of Total Two or More VAP
1	3,716	2,781	74.84%	763	20.53%	71	1.91%	14	0.38%	68	1.83%	0	0.00%	1	0.03%	18	0.48%
2	4,468	1,628	36.44%	2,638	59.04%	67	1.50%	20	0.45%	78	1.75%	0	0.00%	6	0.13%	31	0.69%
3	4,440	1,355	30.52%	2,548	57.39%	191	4.30%	12	0.27%	284	6.40%	0	0.00%	8	0.18%	42	0.95%
4	4,793	1,044	21.78%	2,724	56.83%	444	9.26%	13	0.27%	483	10.08%	2	0.04%	6	0.13%	77	1.61%
5	4,359	1,492	34.23%	2,461	56.46%	203	4.66%	18	0.41%	136	3.12%	0	0.00%	2	0.05%	47	1.08%
<b>Totals</b>	<b>21,776</b>	<b>8,300</b>	<b>38.12%</b>	<b>11,134</b>	<b>51.13%</b>	<b>976</b>	<b>4.48%</b>	<b>77</b>	<b>0.35%</b>	<b>1,049</b>	<b>4.82%</b>	<b>2</b>	<b>0.01%</b>	<b>23</b>	<b>0.11%</b>	<b>215</b>	<b>0.99%</b>

\*Voting Age Population

Some percentages may be subject to rounding error.

10/12/2012

## City of Farmers Branch - 2010 Census VTD and Block Report

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

10/1/2012

District: Total Population: 5,617 5,723  
1 Ideal: Deviation:-1.9%

### 3 Precincts

		Population
Dallas County (Part)	481131400 (1400)	3,477
481131400 (1400)		0
481131502 (1502)		3,443
481131509 (1509)		34

### 53

		Population
Dallas County (Part)	481130137112000 (Block 2000)	2,140

#### 1500

481130137112000 (Block 2000)	80
481130137112001 (Block 2001)	39
481130137112002 (Block 2002)	1,210
481130137112003 (Block 2003)	504
481130137112004 (Block 2004)	0
481130137112005 (Block 2005)	81
481130137112006 (Block 2006)	0
481130137112007 (Block 2007)	0

#### 1503

481130139021013 (Block 1013)	93
481130139021016 (Block 1016)	0
481130139021017 (Block 1017)	0
481130139021018 (Block 1018)	0
481130139021019 (Block 1019)	0
481130139021020 (Block 1020)	0
481130139021021 (Block 1021)	0
481130139021022 (Block 1022)	0
481130139021023 (Block 1023)	0
481130139021024 (Block 1024)	133
481130139021025 (Block 1025)	0
481130139021026 (Block 1026)	0
481130139021027 (Block 1027)	0

#### 1504

481130140021027 (Block 1027)	0
481130140021037 (Block 1037)	0
481130140021041 (Block 1041)	0
481130140021043 (Block 1043)	0
481130140021044 (Block 1044)	0
481130140021045 (Block 1045)	0
481130140021046 (Block 1046)	0
481130140021048 (Block 1048)	0
481130140021049 (Block 1049)	0
481130140021050 (Block 1050)	0
481130140021051 (Block 1051)	0
481130140021055 (Block 1055)	0

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

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## City of Farmers Branch - 2010 Census VTD and Block Report

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

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481130140021056 (Block 1056)	0
481130140021057 (Block 1057)	0
481130140021058 (Block 1058)	0
481130140021059 (Block 1059)	0
481130140021060 (Block 1060)	0
481130140021061 (Block 1061)	0
481130140021062 (Block 1062)	0
481130140021063 (Block 1063)	0
481130140021068 (Block 1068)	0
481130140021069 (Block 1069)	0
481130140021070 (Block 1070)	0
481130140021071 (Block 1071)	0
481130140021072 (Block 1072)	0
481130140021073 (Block 1073)	0
481130140021074 (Block 1074)	0
481130140021075 (Block 1075)	0
481130140021076 (Block 1076)	0
481130140021096 (Block 1096)	0
481130140021097 (Block 1097)	0
481130140021099 (Block 1099)	0

Total Population: 5,871

5,723

District:

2

Ideal: Deviation: 2.59%

118

Dallas County (Part)

481130137122011 (Block 2011)

Population

5,836

1500

481130137122011 (Block 2011)	90
481130137122012 (Block 2012)	86

1501

481130137121010 (Block 1010)	0
481130137121011 (Block 1011)	0
481130137121014 (Block 1014)	0
481130137122000 (Block 2000)	0
481130137122007 (Block 2007)	0
481130137122008 (Block 2008)	0
481130137122013 (Block 2013)	0
481130138033006 (Block 3006)	159
481130138033007 (Block 3007)	20
481130138034000 (Block 4000)	0
481130138034001 (Block 4001)	0
481130138034002 (Block 4002)	44
481130138034003 (Block 4003)	37
481130138034004 (Block 4004)	155
481130138034005 (Block 4005)	38
481130138034006 (Block 4006)	0
481130138034011 (Block 4011)	0
481130139023000 (Block 3000)	0
481130139023005 (Block 3005)	0

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

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## City of Farmers Branch - 2010 Census VTD and Block Report

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

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481130139023006 (Block 3006)	0
481130139023009 (Block 3009)	0
481130139023010 (Block 3010)	0
481130139023012 (Block 3012)	0
481130139024000 (Block 4000)	0
1503	
481130139021000 (Block 1000)	0
481130139021001 (Block 1001)	0
481130139021002 (Block 1002)	0
481130139021003 (Block 1003)	0
481130139021004 (Block 1004)	0
481130139021005 (Block 1005)	168
481130139021006 (Block 1006)	0
481130139021007 (Block 1007)	0
481130139021008 (Block 1008)	103
481130139021009 (Block 1009)	94
481130139021010 (Block 1010)	68
481130139021011 (Block 1011)	99
481130139021012 (Block 1012)	109
481130139021014 (Block 1014)	65
481130139021015 (Block 1015)	0
481130139021031 (Block 1031)	91
481130139021032 (Block 1032)	108
481130139023001 (Block 3001)	7
481130139023002 (Block 3002)	0
481130139023003 (Block 3003)	133
481130139023004 (Block 3004)	121
481130139023007 (Block 3007)	129
481130139023008 (Block 3008)	138
481130139023011 (Block 3011)	125
481130139023013 (Block 3013)	0
481130139023014 (Block 3014)	32
481130139023015 (Block 3015)	89
481130139023016 (Block 3016)	79
481130139023017 (Block 3017)	110
481130139023018 (Block 3018)	74
481130139023019 (Block 3019)	66
481130139023020 (Block 3020)	39
481130139023025 (Block 3025)	0
481130139024001 (Block 4001)	0
481130139024002 (Block 4002)	0
481130139024003 (Block 4003)	26
481130139024004 (Block 4004)	47
481130139024005 (Block 4005)	29
481130139024009 (Block 4009)	258
481130139024010 (Block 4010)	0
481130139024011 (Block 4011)	35
481130139024012 (Block 4012)	54
481130139024013 (Block 4013)	93
481130139024014 (Block 4014)	117

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

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## City of Farmers Branch - 2010 Census VTD and Block Report

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

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481130139024019 (Block 4019)	60
481130139024024 (Block 4024)	47
1506	
481130138034007 (Block 4007)	0
481130138034008 (Block 4008)	74
481130138034009 (Block 4009)	6
481130138034010 (Block 4010)	41
481130138034012 (Block 4012)	12
481130138034013 (Block 4013)	31
481130138034014 (Block 4014)	62
481130138034015 (Block 4015)	8
481130138034016 (Block 4016)	27
481130138034017 (Block 4017)	4
481130138034018 (Block 4018)	11
481130138034019 (Block 4019)	58
481130138035004 (Block 5004)	26
481130138035005 (Block 5005)	45
481130138035008 (Block 5008)	90
481130138035009 (Block 5009)	136
481130138035010 (Block 5010)	23
481130138035011 (Block 5011)	16
481130138035012 (Block 5012)	28
481130138035013 (Block 5013)	44
481130138035014 (Block 5014)	42
481130138035015 (Block 5015)	45
481130138035016 (Block 5016)	73
481130138035017 (Block 5017)	62
481130138035018 (Block 5018)	87
481130138035019 (Block 5019)	20
481130138035020 (Block 5020)	51
481130138035021 (Block 5021)	32
481130138036000 (Block 6000)	97
481130138036001 (Block 6001)	133
481130138036002 (Block 6002)	113
481130138036003 (Block 6003)	215
481130138036004 (Block 6004)	130
481130138036005 (Block 6005)	113
481130138036006 (Block 6006)	125
481130138036007 (Block 6007)	98
481130138036008 (Block 6008)	63
481130138036009 (Block 6009)	84
481130138036010 (Block 6010)	69
481130139024006 (Block 4006)	0
481130139024007 (Block 4007)	0
481130139024008 (Block 4008)	0
481130139024020 (Block 4020)	0
481130139024021 (Block 4021)	0
481130139024022 (Block 4022)	0
481130139024023 (Block 4023)	0

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

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Bickerstaff Heath Delgado Acosta LLP

# City of Farmers Branch - 2010 Census VTD and Block Report

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

10/1/2012

District: Total Population: 5,582 5,723 Ideal: Deviation:-2.5%  
3

## 2 Precincts

		Population
Dallas County (Part)	481131505 (1505)	4,285
481131505 (1505)		3,551
481131511 (1511)		734

## 119

		Population
Dallas County (Part)	481130139021028 (Block 1028)	1,297
1503		

481130139021028 (Block 1028)	0
481130139021029 (Block 1029)	0
481130139021030 (Block 1030)	0
481130139021033 (Block 1033)	0
481130139022000 (Block 2000)	138
481130139022001 (Block 2001)	140
481130139022002 (Block 2002)	112

481130139022003 (Block 2003)	97
481130139022004 (Block 2004)	95
481130139022005 (Block 2005)	93
481130139022006 (Block 2006)	117
481130139022007 (Block 2007)	0
481130139022008 (Block 2008)	0
481130139022009 (Block 2009)	50
481130139022010 (Block 2010)	46
481130139022011 (Block 2011)	0
481130139022012 (Block 2012)	1
481130139022013 (Block 2013)	57
481130139023021 (Block 3021)	0
481130139023022 (Block 3022)	0
481130139023023 (Block 3023)	0
481130139023024 (Block 3024)	0
481130139024015 (Block 4015)	38
481130139024016 (Block 4016)	0
481130139024017 (Block 4017)	0
481130139024018 (Block 4018)	0
481130139024025 (Block 4025)	119
481130139024026 (Block 4026)	42

## 1504

481130140011028 (Block 1028)	0
481130140011029 (Block 1029)	0
481130140011030 (Block 1030)	0
481130140011031 (Block 1031)	0
481130140011032 (Block 1032)	0
481130140011033 (Block 1033)	0
481130140011034 (Block 1034)	0

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

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## City of Farmers Branch - 2010 Census VTD and Block Report

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

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481130140011037 (Block 1037)	0
481130140011050 (Block 1050)	0
481130140013000 (Block 3000)	0
481130140013001 (Block 3001)	0
481130140013002 (Block 3002)	0
481130140013003 (Block 3003)	0
481130140013004 (Block 3004)	0
481130140013005 (Block 3005)	0
481130140013006 (Block 3006)	0
481130140013007 (Block 3007)	0
481130140013008 (Block 3008)	0
481130140013009 (Block 3009)	0
481130140013010 (Block 3010)	0
481130140013011 (Block 3011)	0
481130140013012 (Block 3012)	6
481130140013013 (Block 3013)	27
481130140013014 (Block 3014)	65
481130140013021 (Block 3021)	41
481130140013022 (Block 3022)	11
481130140013023 (Block 3023)	0
481130140013024 (Block 3024)	0
481130140013025 (Block 3025)	0
481130140013026 (Block 3026)	0
481130140013027 (Block 3027)	0
481130140013028 (Block 3028)	2
481130140013029 (Block 3029)	0
481130140013030 (Block 3030)	0
481130140013031 (Block 3031)	0
481130140013032 (Block 3032)	0
481130140013033 (Block 3033)	0
481130140013034 (Block 3034)	0
481130140013035 (Block 3035)	0
481130140013036 (Block 3036)	0
481130140013037 (Block 3037)	0
481130140013038 (Block 3038)	0
481130140013039 (Block 3039)	0
481130140013040 (Block 3040)	0
481130140021036 (Block 1036)	0
481130140021038 (Block 1038)	0
481130140021039 (Block 1039)	0
481130140021040 (Block 1040)	0
481130140021042 (Block 1042)	0
481130140021047 (Block 1047)	0
481130140021077 (Block 1077)	0
481130140021081 (Block 1081)	0
481130140021082 (Block 1082)	0
481130140021083 (Block 1083)	0
481130140021084 (Block 1084)	0
481130140021085 (Block 1085)	0
481130140021086 (Block 1086)	0
481130140021087 (Block 1087)	0

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

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# City of Farmers Branch - 2010 Census VTD and Block Report

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

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481130140021092 (Block 1092)	0
481130140021093 (Block 1093)	0

## 1507

481130140011000 (Block 1000)	0
481130140011002 (Block 1002)	0
481130140011003 (Block 1003)	0
481130140011066 (Block 1066)	0
481130140011067 (Block 1067)	0
481130140011068 (Block 1068)	0
481130140011069 (Block 1069)	0
481130140014000 (Block 4000)	0
481130140014012 (Block 4012)	0
481130140014013 (Block 4013)	0
481130140014023 (Block 4023)	0
481130140014024 (Block 4024)	0
481130140014029 (Block 4029)	0
481130140014030 (Block 4030)	0
481130140014036 (Block 4036)	0
481130140014037 (Block 4037)	0

## 1510

481130140011006 (Block 1006)	0
481130140011056 (Block 1056)	0
481130140011060 (Block 1060)	0
481130140011061 (Block 1061)	0
481130140011062 (Block 1062)	0
481130140011063 (Block 1063)	0
481130140011064 (Block 1064)	0
481130140011065 (Block 1065)	0
481130140011070 (Block 1070)	0
481130140011071 (Block 1071)	0
481130140011072 (Block 1072)	0
481130140011073 (Block 1073)	0
481130140011074 (Block 1074)	0
481130140011075 (Block 1075)	0
481130140011076 (Block 1076)	0

Total Population: 5,784

5,723

District:

4

Ideal: Deviation: 1.1%

## 1 Precincts

Dallas County (Part)	481131508 (1508)
481131508 (1508)	

## Population

1,181
1,181

## 153

Dallas County (Part)	481130136163014 (Block 3014)
----------------------	------------------------------

## Population

4,603
-------

## 1506

481130136163014 (Block 3014)	0
------------------------------	---

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

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## City of Farmers Branch - 2010 Census VTD and Block Report

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Adopted on: October 2, 2012

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481130136163015 (Block 3015)	0
481130136163016 (Block 3016)	0
481130136163017 (Block 3017)	0
481130136163018 (Block 3018)	0
481130136163019 (Block 3019)	0
481130136163020 (Block 3020)	0
481130136163021 (Block 3021)	0
481130136163022 (Block 3022)	0
481130136163023 (Block 3023)	0
481130136163025 (Block 3025)	0
481130136163026 (Block 3026)	0
481130136163028 (Block 3028)	0
481130136163029 (Block 3029)	0
481130138035003 (Block 5003)	0
481130138035022 (Block 5022)	123
481130138035023 (Block 5023)	24
481130138035024 (Block 5024)	57
481130138035025 (Block 5025)	18
481130138035026 (Block 5026)	0
481130138061000 (Block 1000)	0
481130138061001 (Block 1001)	0
481130138061002 (Block 1002)	0
481130138061003 (Block 1003)	0
481130138061004 (Block 1004)	0
481130138061005 (Block 1005)	1,245
481130138061006 (Block 1006)	145
481130138061007 (Block 1007)	0
481130138061008 (Block 1008)	0
481130138061009 (Block 1009)	611
481130138061010 (Block 1010)	1
481130138061011 (Block 1011)	0
481130138061012 (Block 1012)	0
481130138061016 (Block 1016)	0
481130138061017 (Block 1017)	1
481130138061018 (Block 1018)	0
481130138061019 (Block 1019)	0
481130138061020 (Block 1020)	0
481130138061021 (Block 1021)	0
481130138061022 (Block 1022)	0
481130138061023 (Block 1023)	0
481130138061024 (Block 1024)	0
481130138061025 (Block 1025)	0
481130138061026 (Block 1026)	0
481130138061027 (Block 1027)	0
481130138061028 (Block 1028)	0
481130138062006 (Block 2006)	0
481130138062007 (Block 2007)	0
481130138062008 (Block 2008)	0
481130138062009 (Block 2009)	0
481130138062010 (Block 2010)	0
481130138062011 (Block 2011)	0

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

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## City of Farmers Branch - 2010 Census VTD and Block Report

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Adopted on: October 2, 2012

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481130138062014 (Block 2014)	0
481130138062015 (Block 2015)	0
481130138062016 (Block 2016)	0
481130138062018 (Block 2018)	0
481130138062019 (Block 2019)	0
481130138062020 (Block 2020)	0
481130138062021 (Block 2021)	0
481130138062022 (Block 2022)	0
481130138062023 (Block 2023)	0
481130138062024 (Block 2024)	0
481130138062025 (Block 2025)	0
481130138062026 (Block 2026)	0
481130138062027 (Block 2027)	0
481130138062028 (Block 2028)	0
481130138062029 (Block 2029)	0
481130138062030 (Block 2030)	0
481130138062031 (Block 2031)	0
481130138062032 (Block 2032)	0
481130138062033 (Block 2033)	0
481130138062034 (Block 2034)	0
481130138062035 (Block 2035)	0
481130138062036 (Block 2036)	0
481130138062037 (Block 2037)	0
481130138062038 (Block 2038)	0
481130138062039 (Block 2039)	0
481130138062040 (Block 2040)	0
481130138062041 (Block 2041)	0
481130138062042 (Block 2042)	0
481130138062043 (Block 2043)	0
481130138062044 (Block 2044)	0
481130138062045 (Block 2045)	0
481130138062046 (Block 2046)	0
481130138062047 (Block 2047)	0
481130138062048 (Block 2048)	0
481130138062049 (Block 2049)	0
481130138062050 (Block 2050)	0
481130138062051 (Block 2051)	0
481130138062052 (Block 2052)	390
481130138062053 (Block 2053)	0
481130138062054 (Block 2054)	0
481130138062055 (Block 2055)	0
481130138062056 (Block 2056)	0
481130138062057 (Block 2057)	0
481130138062058 (Block 2058)	0
481130138062059 (Block 2059)	0
481130138062060 (Block 2060)	0
481130138062061 (Block 2061)	0
481130138062062 (Block 2062)	0
481130138062063 (Block 2063)	0
481130138062064 (Block 2064)	0
481130138062067 (Block 2067)	0

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

GEOID: 481130138035008

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Bickerstaff Heath Delgado Acosta LLP



## City of Farmers Branch - 2010 Census VTD and Block Report

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

10/1/2012

481130138062068 (Block 2068)	0
481130138062072 (Block 2072)	0
481130138062073 (Block 2073)	0
481130138062078 (Block 2078)	0
481130138062079 (Block 2079)	0
481130138062080 (Block 2080)	0
1507	
481130138041000 (Block 1000)	0
481130138041001 (Block 1001)	0
481130138041002 (Block 1002)	0
481130138041003 (Block 1003)	33
481130138041004 (Block 1004)	0
481130138041005 (Block 1005)	0
481130138041006 (Block 1006)	0
481130138041007 (Block 1007)	216
481130138041008 (Block 1008)	44
481130138041009 (Block 1009)	0
481130138041010 (Block 1010)	16
481130138041011 (Block 1011)	31
481130138041012 (Block 1012)	17
481130138041013 (Block 1013)	112
481130138041014 (Block 1014)	65
481130138041015 (Block 1015)	126
481130138041016 (Block 1016)	164
481130138041017 (Block 1017)	0
481130138041018 (Block 1018)	0
481130138041019 (Block 1019)	0
481130138041020 (Block 1020)	0
481130138041021 (Block 1021)	0
481130138041022 (Block 1022)	0
481130138041023 (Block 1023)	0
481130138042000 (Block 2000)	0
481130138042001 (Block 2001)	32
481130138042002 (Block 2002)	64
481130138042003 (Block 2003)	0
481130138042004 (Block 2004)	24
481130138042005 (Block 2005)	58
481130138042006 (Block 2006)	117
481130138042007 (Block 2007)	61
481130138042008 (Block 2008)	58
481130138042009 (Block 2009)	80
481130138042010 (Block 2010)	97
481130138042011 (Block 2011)	60
481130138042012 (Block 2012)	54
481130138042013 (Block 2013)	51
481130138042014 (Block 2014)	79
481130138042015 (Block 2015)	91
481130138042016 (Block 2016)	39
481130138042017 (Block 2017)	121
481130138042018 (Block 2018)	78

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

GEOID: 481130138035008

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Bickerstaff Heath Delgado Acosta LLP

# City of Farmers Branch - 2010 Census VTD and Block Report

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

10/1/2012

1510

481130138041024 (Block 1024)

0

Total Population: 5,762

5,723

District:

5

Ideal: Deviation: 0.68%

85

Dallas County (Part)

481130137111000 (Block 1000)

Population

5,797

1500

481130137111000 (Block 1000)

72

481130137111001 (Block 1001)

57

481130137111002 (Block 1002)

38

481130137111003 (Block 1003)

534

481130137111004 (Block 1004)

0

481130137111005 (Block 1005)

0

481130137111006 (Block 1006)

0

481130137111007 (Block 1007)

98

481130137111008 (Block 1008)

78

481130137111009 (Block 1009)

76

481130137121000 (Block 1000)

66

481130137121002 (Block 1002)

89

481130137121003 (Block 1003)

71

481130137121004 (Block 1004)

80

481130137121005 (Block 1005)

80

481130137121006 (Block 1006)

116

481130137121007 (Block 1007)

92

481130137121008 (Block 1008)

74

481130137121009 (Block 1009)

27

481130137121012 (Block 1012)

119

481130137121013 (Block 1013)

77

481130137121015 (Block 1015)

47

481130137121016 (Block 1016)

131

481130137122001 (Block 2001)

196

481130137122002 (Block 2002)

104

481130137122003 (Block 2003)

149

481130137122004 (Block 2004)

112

481130137122005 (Block 2005)

145

481130137122006 (Block 2006)

178

481130137122009 (Block 2009)

84

481130137122010 (Block 2010)

70

481130137122014 (Block 2014)

28

1501

481130137121001 (Block 1001)

0

481130138031000 (Block 1000)

155

481130138031001 (Block 1001)

0

481130138031002 (Block 1002)

0

481130138031003 (Block 1003)

2

481130138031004 (Block 1004)

0

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

GEOID: 481130138035008

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Bickerstaff Heath Delgado Acosta LLP

## City of Farmers Branch - 2010 Census VTD and Block Report

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

10/1/2012

481130138031005 (Block 1005)	186
481130138031006 (Block 1006)	1
481130138031007 (Block 1007)	3
481130138031008 (Block 1008)	0
481130138031009 (Block 1009)	7
481130138031010 (Block 1010)	5
481130138031011 (Block 1011)	339
481130138031012 (Block 1012)	0
481130138031013 (Block 1013)	0
481130138031014 (Block 1014)	0
481130138031015 (Block 1015)	0
481130138031016 (Block 1016)	0
481130138031017 (Block 1017)	62
481130138031018 (Block 1018)	88
481130138031019 (Block 1019)	0
481130138031020 (Block 1020)	0
481130138032000 (Block 2000)	392
481130138032001 (Block 2001)	0
481130138032002 (Block 2002)	44
481130138032003 (Block 2003)	0
481130138032004 (Block 2004)	67
481130138032005 (Block 2005)	26
481130138032006 (Block 2006)	0
481130138032007 (Block 2007)	337
481130138032008 (Block 2008)	31
481130138032009 (Block 2009)	65
481130138032010 (Block 2010)	45
481130138032011 (Block 2011)	3
481130138032012 (Block 2012)	95
481130138032013 (Block 2013)	41
481130138033000 (Block 3000)	33
481130138033001 (Block 3001)	270
481130138033002 (Block 3002)	21
481130138033003 (Block 3003)	37
481130138033004 (Block 3004)	114
481130138033005 (Block 3005)	0
481130138033008 (Block 3008)	11
481130138033009 (Block 3009)	12
481130138033010 (Block 3010)	16
1506	
481130138035000 (Block 5000)	0
481130138035001 (Block 5001)	0
481130138035002 (Block 5002)	80
481130138035006 (Block 5006)	0
481130138035007 (Block 5007)	0
481130138061013 (Block 1013)	100
481130138061014 (Block 1014)	21
481130138061015 (Block 1015)	0

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

GEOID: 481130138035008

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## **EXHIBIT B**

City of Farmers Branch  
Proposed Single Member District Plan

Total, Voting Age and Citizen Voting Age Population with 2012 Spanish and Non-Spanish Surname Registered Voters

Proposed Single Member District Plan		Percent
Total Population	5,617	
Hispanic Population	4,445	79.13%
Non-Hispanic Population	1,172	20.87%
Total Voting Age Population	3,716	
Hispanic Voting Age Population	2,781	74.84%
Non-Hispanic Voting Age Population	935	25.16%
Total Citizen Voting Age Population	1,914	
Hispanic Citizen Voting Age Population	1,041	54.39%
Non-Hispanic Citizen Voting Age Population	873	45.61%
Total Registered Voters - April 2012	1,927	
Spanish Surname Registered Voters - April 2012	830	43.07%
Non-Spanish Surname Registered Voters - April 2012	1,097	56.93%
Number of Children (Under 18 )	1,901	
Number of Adult Non-Citizens	1,802	

Total, Hispanic and Non-Hispanic CVAP obtained from the ACS 2006-2010 Special Tabulation File.

City of Farmers Branch  
Plaintiffs' Districts 1 Through 4  
Total, Voting Age and Citizen Voting Age Population with 2012 Spanish and Non-Spanish Surname Registered Voters

Illustrative District 1			Percent
Total Population		5,724	
Hispanic Population		4,477	78.21%
Non-Hispanic Population		1,247	21.79%
Total Voting Age Population		3,786	
Hispanic Voting Age Population		2,788	73.64%
Non-Hispanic Voting Age Population		998	26.36%
Total Citizen Voting Age Population		2,128	
Hispanic Citizen Voting Age Population		1,129	53.05%
Non-Hispanic Citizen Voting Age Population		999	46.95%
Total Registered Voters - April 2012		1,777	
Spanish Surname Registered Voters - April 2012		832	46.82%
Non-Spanish Surname Registered Voters - April 2012		945	53.18%
Number of Children (Under 18)		1,938	
Number of Adult Non-Citizens		1,658	

Illustrative District 3			Percent
Total Population		5,722	
Hispanic Population		4,613	80.62%
Non-Hispanic Population		1,109	19.38%
Total Voting Age Population		3,710	
Hispanic Voting Age Population		2,840	76.55%
Non-Hispanic Voting Age Population		870	23.45%
Total Citizen Voting Age Population		2,073	
Hispanic Citizen Voting Age Population		1,138	54.90%
Non-Hispanic Citizen Voting Age Population		935	45.10%
Total Registered Voters - April 2012		1,571	
Spanish Surname Registered Voters - April 2012		756	48.12%
Non-Spanish Surname Registered Voters - April 2012		815	51.88%
Number of Children (Under 18)		2,012	
Number of Adult Non-Citizens		1,637	

Illustrative District 2			Percent
Total Population		5,720	
Hispanic Population		4,494	78.57%
Non-Hispanic Population		1,226	21.43%
Total Voting Age Population		3,750	
Hispanic Voting Age Population		2,781	74.16%
Non-Hispanic Voting Age Population		969	25.84%
Total Citizen Voting Age Population		2,153	
Hispanic Citizen Voting Age Population		1,138	52.86%
Non-Hispanic Citizen Voting Age Population		1,015	47.14%
Total Registered Voters - April 2012		1,642	
Spanish Surname Registered Voters - April 2012		745	45.37%
Non-Spanish Surname Registered Voters - April 2012		897	54.63%
Number of Children (Under 18)		1,970	
Number of Adult Non-Citizens		1,597	

Illustrative District 4			Percent
Total Population		5,767	
Hispanic Population		4,563	79.12%
Non-Hispanic Population		1,204	20.88%
Total Voting Age Population		3,830	
Hispanic Voting Age Population		2,858	74.62%
Non-Hispanic Voting Age Population		972	25.38%
Total Citizen Voting Age Population		2,010	
Hispanic Citizen Voting Age Population		1,079	53.68%
Non-Hispanic Citizen Voting Age Population		931	46.32%
Total Registered Voters - April 2012		1,794	
Spanish Surname Registered Voters - April 2012		895	49.89%
Non-Spanish Surname Registered Voters - April 2012		899	50.11%
Number of Children (Under 18)		1,937	
Number of Adult Non-Citizens		1,820	

TAB 7

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**MARIA FABELA, ALFONSO BALADEZ,  
AMELIA BALADEZ, MARIA BALADEZ,  
MARIA JACOBO, ANTONIO REYES,  
MARIA REYES, DIANA ROSAS,  
LETICIA TORRES, AND JOSE  
VILLANEDA,**

**Plaintiffs**

**v.**

**CITY OF FARMERS BRANCH, TEXAS,  
AND TIM O'HARE, HAROLD  
FROELICH, MICHELLE HOLMES,  
DAVID KOCH, BEN ROBINSON, AND  
TIM SCOTT, in their official capacities,**

**Defendants**

**CIVIL ACTION NO. 3:10-CV-1425-D**

**JUDGMENT**

This matter came on for trial before the court, and the court, after considering the testimony and arguments presented, entered its Memorandum Opinion and Order of August 2, 2012. In that Memorandum Opinion and Order, which constituted the court's findings and conclusions, the court found that the at-large system of electing members of the Farmers Branch City Council violates section 2 of the Voting Rights Act, 42 U.S.C. § 1973. The court ordered the defendants to develop a plan to remedy the violation, and the defendants timely presented a single-member district plan for the court's consideration. The court afforded the plaintiffs 30 days to file objections to the proposed plan, but no objections were filed. On November 27, 2012, the court ordered the defendants to seek preclearance of the proposed plan as required by section 5 of the Voting Rights Act, 42 U.S.C. § 1973c. Pursuant to the court's order and to



section 5 of the Voting Rights Act, the City of Farmers Branch submitted the plan to the Attorney General of the United States for his review. On January 31, 2013, the Attorney General, fulfilling his review duties under section 5 of the Voting Rights Act, indicated that he would not interpose an objection to the plan. Accordingly, it is

**ORDERED, ADJUDGED, AND DECREED** that:

1. The existing at-large election system of the City of Farmers Branch, Texas, is found to violate section 2 of the Voting Rights Act, 42 U.S.C. § 1973; and
2. The City of Farmers Branch, Texas, is directed to utilize the single-member district plan described in Attachment A to this Judgment for elections in 2013 and subsequent years, provided, however, that the City of Farmers Branch is not precluded from amending the plan set out in Attachment A to reflect annexations, deannexations, and population changes reflected in the decennial census. Provided, further, the City is not precluded from amending its election system pursuant to state law and the city charter so long as any amendment is consistent with the requirements of the Voting Rights Act; and
3. The plaintiffs, Maria Fabela, Alfonso Baladez, Amelia Baladez, Maria Baladez, Maria Jacobo, Antonio Reyes, Maria Reyes, Diana Rosas, Letica Torres, and Jose Villaneda, recover costs from the defendant, City of Farmers Branch, Texas; and
4. The question of attorney's fees is reserved for consideration pursuant to Rule 54(d)(2).

Done at Dallas, Texas January 31, 2013.

  
SIDNEY A. FITZWATER  
CHIEF JUDGE

AGREED AS TO FORM BY:

**BICKERSTAFF HEATH  
DELGADO ACOSTA LLP**

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Building One, Suite 300  
Austin, Texas 78746  
Telephone: (512) 472-8021  
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By: /s/ C. Robert Heath  
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Facsimile: (214) 397-0389

**BICKEL & BREWER**

1717 Main Street, Suite 4800  
Dallas, Texas 75201

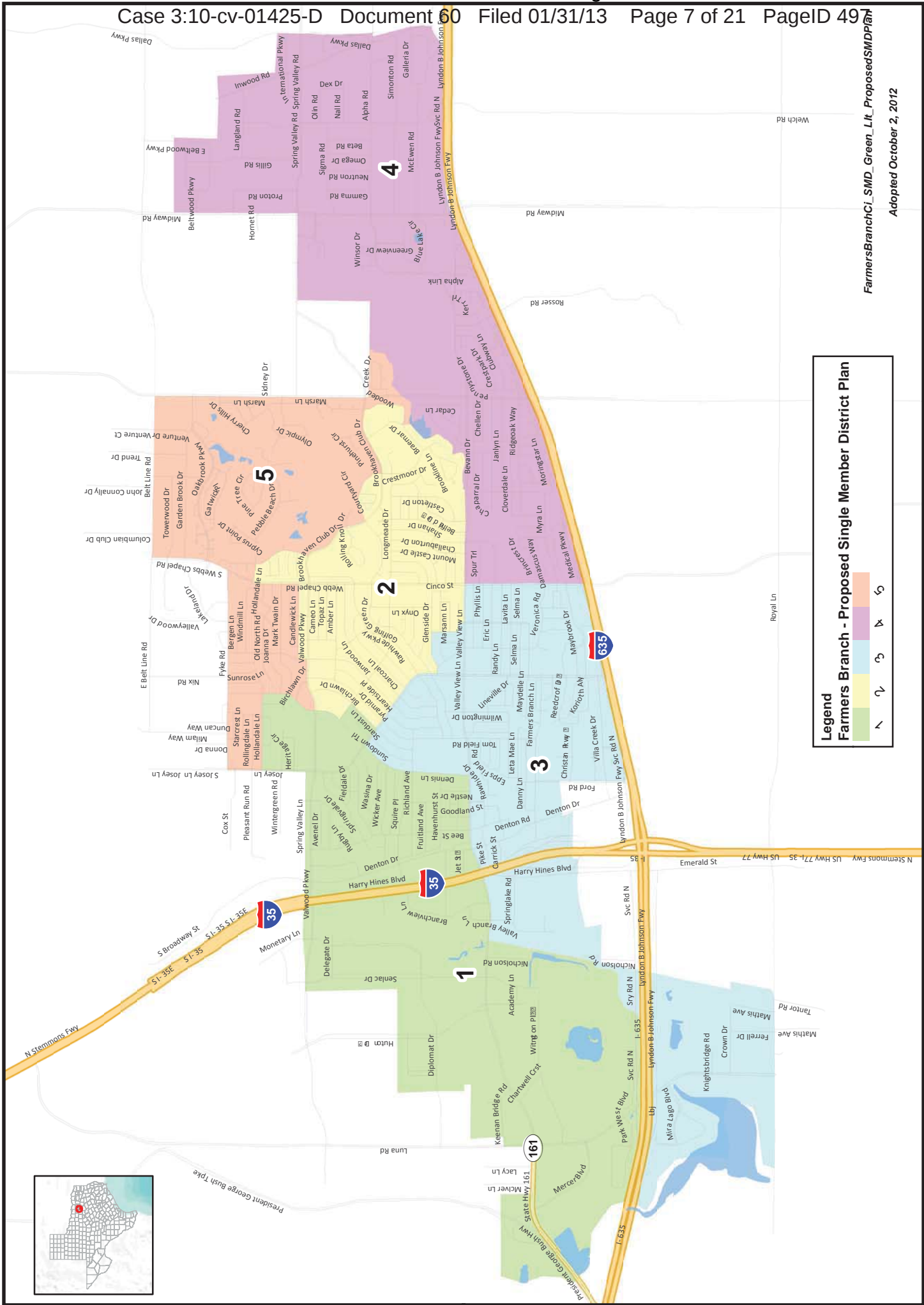
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## EXHIBIT A



© 2012 Bickerstaff Heath Delgado Acosta LLP  
Data Source: Roads, Water and other  
features obtained from the 2010  
Tiger/line files, U.S. Census Bureau

**City of Farmers Branch**  
**Proposed Single Member District Plan**

Coordinate System: GCS North American 1983;  
Datum: North American 1983; Created: 10/4/12

USCA5 514

## City of Farmers Branch

### Proposed Single Member District Plan

#### Summary 2010 Census Total and Voting Age Population

District	Persons	Deviation	Hispanic % of Total Population	Non-Hispanic Anglo % of Total Population	Non-Hispanic Black % of Total Population	Non-Hispanic Asian % of Total Population	Non-Hispanic Other % of Total Population
1	5,617	-1.85%	79.13%	16.09%	2.17%	1.57%	1.03%
2	5,871	2.59%	44.00%	51.12%	1.70%	1.65%	1.53%
3	5,582	-2.46%	36.55%	52.01%	4.05%	5.75%	1.65%
4	5,784	1.07%	26.37%	52.23%	9.30%	9.80%	2.30%
5	5,762	0.68%	41.50%	48.92%	5.10%	2.83%	1.65%
<b>Totals</b>	<b>28,616</b>		<b>45.37%</b>	<b>44.20%</b>	<b>4.47%</b>	<b>4.32%</b>	<b>1.64%</b>

Ideal Size = 28,616 / 5 = 5,723 per district.

Total Maximum Deviation = 2.59% - (-2.46%) = 5.05%

Some percentages may be subject to rounding error. Includes split block allocation.

District	Total VAP*		Hispanic % of Total VAP	Non-Hispanic Anglo % of Total VAP	Non-Hispanic Black % of Total VAP	Non-Hispanic Asian % of Total VAP	Non-Hispanic Other % of Total VAP
1	3,716		74.84%	20.53%	1.91%	1.83%	0.89%
2	4,468		36.44%	59.04%	1.50%	1.75%	1.28%
3	4,440		30.52%	57.39%	4.30%	6.40%	1.40%
4	4,793		21.78%	56.83%	9.26%	10.08%	2.04%
5	4,359		34.23%	56.46%	4.66%	3.12%	1.54%
<b>Totals</b>	<b>21,776</b>		<b>38.12%</b>	<b>51.13%</b>	<b>4.48%</b>	<b>4.82%</b>	<b>1.46%</b>

\*Voting Age Population

Some percentages may be subject to rounding error.

**City of Farmers Branch**  
Proposed Single Member District Plan  
Detailed 2010 Census Total and Voting Age Population

District	Persons	Ideal Size	Deviation	Hispanic Population	Anglo Population	Black Population	% of Total Black Population	American Indian Population	% of Total American Indian Population	Asian Population	% of Total Asian Population	Hawaiian- Pacific Islander Population	% of Total Hawaiian- Pacific Islander Population	Other Population	% of Total Other Population	Two or More Population	% of Total Two or More Population
1	5,617	5,723	-1.85%	4,445	79.13%	122	16.09%	19	0.34%	88	1.57%	0	0.00%	4	0.07%	35	0.62%
2	5,871	5,723	2.59%	2,583	44.00%	100	51.12%	23	0.39%	97	1.65%	0	0.00%	10	0.17%	57	0.97%
3	5,582	5,723	-2.46%	2,040	36.55%	226	52.01%	17	0.30%	321	5.75%	0	0.00%	11	0.20%	64	1.15%
4	5,784	5,723	1.07%	1,525	26.37%	538	52.23%	14	0.24%	567	9.80%	2	0.03%	10	0.17%	107	1.85%
5	5,762	5,723	0.68%	2,391	41.50%	294	48.92%	20	0.35%	163	2.83%	0	0.00%	2	0.03%	73	1.27%
<b>Totals</b>	<b>28,616</b>			<b>12,984</b>	<b>45.37%</b>	<b>1,280</b>	<b>4.47%</b>	<b>93</b>	<b>0.32%</b>	<b>1,236</b>	<b>4.32%</b>	<b>2</b>	<b>0.01%</b>	<b>37</b>	<b>0.13%</b>	<b>336</b>	<b>1.17%</b>

Ideal Size = 28,616 / 5 = 5,723 per district.

Some percentages may be subject to rounding error. Includes split block allocation.

District	Total VAP*	Hispanic VAP	Anglo VAP	% of Total Anglo VAP	Black VAP	% of Total Black VAP	American Indian VAP	% of Total American Indian VAP	Asian VAP	% of Total Asian VAP	Hawaiian- Pacific Islander VAP	% of Total Hawaiian- Pacific Islander VAP	Other VAP	% of Total Other VAP	Two or More VAP	% of Total Two or More VAP
1	3,716	2,781	763	20.53%	71	1.91%	14	0.38%	68	1.83%	0	0.00%	1	0.03%	18	0.48%
2	4,468	1,628	2,638	59.04%	67	1.50%	20	0.45%	78	1.75%	0	0.00%	6	0.13%	31	0.69%
3	4,440	1,355	2,548	57.39%	191	4.30%	12	0.27%	284	6.40%	0	0.00%	8	0.18%	42	0.95%
4	4,793	1,044	2,724	56.83%	444	9.26%	13	0.27%	483	10.08%	2	0.04%	6	0.13%	77	1.61%
5	4,359	1,492	2,461	56.46%	203	4.66%	18	0.41%	136	3.12%	0	0.00%	2	0.05%	47	1.08%
<b>Totals</b>	<b>21,776</b>	<b>8,300</b>	<b>11,134</b>	<b>51.13%</b>	<b>976</b>	<b>4.48%</b>	<b>77</b>	<b>0.35%</b>	<b>1,049</b>	<b>4.82%</b>	<b>2</b>	<b>0.01%</b>	<b>23</b>	<b>0.11%</b>	<b>215</b>	<b>0.99%</b>

\*Voting Age Population

Some percentages may be subject to rounding error.



**City of Farmers Branch - 2010 Census VTD and Block Report**

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

10/1/2012

District: Total Population: 5,617 5,723 Ideal: Deviation:-1.9%

**3 Precincts**

		Population
Dallas County (Part)	481131400 (1400)	3,477
481131400 (1400)		0
481131502 (1502)		3,443
481131509 (1509)		34

**53**

		Population
Dallas County (Part)	481130137112000 (Block 2000)	2,140
1500		
481130137112000 (Block 2000)		80
481130137112001 (Block 2001)		39
481130137112002 (Block 2002)		1,210
481130137112003 (Block 2003)		504
481130137112004 (Block 2004)		0
481130137112005 (Block 2005)		81
481130137112006 (Block 2006)		0
481130137112007 (Block 2007)		0

**1503**

481130139021013 (Block 1013)	93
481130139021016 (Block 1016)	0
481130139021017 (Block 1017)	0
481130139021018 (Block 1018)	0
481130139021019 (Block 1019)	0
481130139021020 (Block 1020)	0
481130139021021 (Block 1021)	0
481130139021022 (Block 1022)	0
481130139021023 (Block 1023)	0
481130139021024 (Block 1024)	133
481130139021025 (Block 1025)	0
481130139021026 (Block 1026)	0
481130139021027 (Block 1027)	0

**1504**

481130140021027 (Block 1027)	0
481130140021037 (Block 1037)	0
481130140021041 (Block 1041)	0
481130140021043 (Block 1043)	0
481130140021044 (Block 1044)	0
481130140021045 (Block 1045)	0
481130140021046 (Block 1046)	0
481130140021048 (Block 1048)	0
481130140021049 (Block 1049)	0
481130140021050 (Block 1050)	0
481130140021051 (Block 1051)	0
481130140021055 (Block 1055)	0

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

GEOID: 481130138035008

**City of Farmers Branch - 2010 Census VTD and Block Report**

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

10/1/2012

481130140021056 (Block 1056)	0
481130140021057 (Block 1057)	0
481130140021058 (Block 1058)	0
481130140021059 (Block 1059)	0
481130140021060 (Block 1060)	0
481130140021061 (Block 1061)	0
481130140021062 (Block 1062)	0
481130140021063 (Block 1063)	0
481130140021068 (Block 1068)	0
481130140021069 (Block 1069)	0
481130140021070 (Block 1070)	0
481130140021071 (Block 1071)	0
481130140021072 (Block 1072)	0
481130140021073 (Block 1073)	0
481130140021074 (Block 1074)	0
481130140021075 (Block 1075)	0
481130140021076 (Block 1076)	0
481130140021096 (Block 1096)	0
481130140021097 (Block 1097)	0
481130140021099 (Block 1099)	0

Total Population: 5,871

5,723

District:

**2**

Ideal: Deviation: 2.59%

**118**

Dallas County (Part)

481130137122011 (Block 2011)

**Population**

5,836

1500

481130137122011 (Block 2011)	90
481130137122012 (Block 2012)	86

1501

481130137121010 (Block 1010)	0
481130137121011 (Block 1011)	0
481130137121014 (Block 1014)	0
481130137122000 (Block 2000)	0
481130137122007 (Block 2007)	0
481130137122008 (Block 2008)	0
481130137122013 (Block 2013)	0
481130138033006 (Block 3006)	159
481130138033007 (Block 3007)	20
481130138034000 (Block 4000)	0
481130138034001 (Block 4001)	0
481130138034002 (Block 4002)	44
481130138034003 (Block 4003)	37
481130138034004 (Block 4004)	155
481130138034005 (Block 4005)	38
481130138034006 (Block 4006)	0
481130138034011 (Block 4011)	0
481130139023000 (Block 3000)	0
481130139023005 (Block 3005)	0

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

GEOID: 481130138035008

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# City of Farmers Branch - 2010 Census VTD and Block Report

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

10/1/2012

481130139023006 (Block 3006)	0
481130139023009 (Block 3009)	0
481130139023010 (Block 3010)	0
481130139023012 (Block 3012)	0
481130139024000 (Block 4000)	0
1503	
481130139021000 (Block 1000)	0
481130139021001 (Block 1001)	0
481130139021002 (Block 1002)	0
481130139021003 (Block 1003)	0
481130139021004 (Block 1004)	0
481130139021005 (Block 1005)	168
481130139021006 (Block 1006)	0
481130139021007 (Block 1007)	0
481130139021008 (Block 1008)	103
481130139021009 (Block 1009)	94
481130139021010 (Block 1010)	68
481130139021011 (Block 1011)	99
481130139021012 (Block 1012)	109
481130139021014 (Block 1014)	65
481130139021015 (Block 1015)	0
481130139021031 (Block 1031)	91
481130139021032 (Block 1032)	108
481130139023001 (Block 3001)	7
481130139023002 (Block 3002)	0
481130139023003 (Block 3003)	133
481130139023004 (Block 3004)	121
481130139023007 (Block 3007)	129
481130139023008 (Block 3008)	138
481130139023011 (Block 3011)	125
481130139023013 (Block 3013)	0
481130139023014 (Block 3014)	32
481130139023015 (Block 3015)	89
481130139023016 (Block 3016)	79
481130139023017 (Block 3017)	110
481130139023018 (Block 3018)	74
481130139023019 (Block 3019)	66
481130139023020 (Block 3020)	39
481130139023025 (Block 3025)	0
481130139024001 (Block 4001)	0
481130139024002 (Block 4002)	0
481130139024003 (Block 4003)	26
481130139024004 (Block 4004)	47
481130139024005 (Block 4005)	29
481130139024009 (Block 4009)	258
481130139024010 (Block 4010)	0
481130139024011 (Block 4011)	35
481130139024012 (Block 4012)	54
481130139024013 (Block 4013)	93
481130139024014 (Block 4014)	117

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

GEOID: 481130138035008

# City of Farmers Branch - 2010 Census VTD and Block Report

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

10/1/2012

481130139024019 (Block 4019)	60
481130139024024 (Block 4024)	47
1506	
481130138034007 (Block 4007)	0
481130138034008 (Block 4008)	74
481130138034009 (Block 4009)	6
481130138034010 (Block 4010)	41
481130138034012 (Block 4012)	12
481130138034013 (Block 4013)	31
481130138034014 (Block 4014)	62
481130138034015 (Block 4015)	8
481130138034016 (Block 4016)	27
481130138034017 (Block 4017)	4
481130138034018 (Block 4018)	11
481130138034019 (Block 4019)	58
481130138035004 (Block 5004)	26
481130138035005 (Block 5005)	45
481130138035008 (Block 5008)	90
481130138035009 (Block 5009)	136
481130138035010 (Block 5010)	23
481130138035011 (Block 5011)	16
481130138035012 (Block 5012)	28
481130138035013 (Block 5013)	44
481130138035014 (Block 5014)	42
481130138035015 (Block 5015)	45
481130138035016 (Block 5016)	73
481130138035017 (Block 5017)	62
481130138035018 (Block 5018)	87
481130138035019 (Block 5019)	20
481130138035020 (Block 5020)	51
481130138035021 (Block 5021)	32
481130138036000 (Block 6000)	97
481130138036001 (Block 6001)	133
481130138036002 (Block 6002)	113
481130138036003 (Block 6003)	215
481130138036004 (Block 6004)	130
481130138036005 (Block 6005)	113
481130138036006 (Block 6006)	125
481130138036007 (Block 6007)	98
481130138036008 (Block 6008)	63
481130138036009 (Block 6009)	84
481130138036010 (Block 6010)	69
481130139024006 (Block 4006)	0
481130139024007 (Block 4007)	0
481130139024008 (Block 4008)	0
481130139024020 (Block 4020)	0
481130139024021 (Block 4021)	0
481130139024022 (Block 4022)	0
481130139024023 (Block 4023)	0

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

GEOID: 481130138035008

**City of Farmers Branch - 2010 Census VTD and Block Report**

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

10/1/2012

District: Total Population: 5,582 5,723  
**3** Ideal: Deviation:-2.5%

**2 Precincts**

		Population
Dallas County (Part)	481131505 (1505)	4,285
481131505 (1505)		3,551
481131511 (1511)		734

**Population****119**

		Population
Dallas County (Part)	481130139021028 (Block 1028)	1,297
1503		
481130139021028 (Block 1028)		0
481130139021029 (Block 1029)		0
481130139021030 (Block 1030)		0
481130139021033 (Block 1033)		0
481130139022000 (Block 2000)		138
481130139022001 (Block 2001)		140
481130139022002 (Block 2002)		112
481130139022003 (Block 2003)		97
481130139022004 (Block 2004)		95
481130139022005 (Block 2005)		93
481130139022006 (Block 2006)		117
481130139022007 (Block 2007)		0
481130139022008 (Block 2008)		0
481130139022009 (Block 2009)		50
481130139022010 (Block 2010)		46
481130139022011 (Block 2011)		0
481130139022012 (Block 2012)		1
481130139022013 (Block 2013)		57
481130139023021 (Block 3021)		0
481130139023022 (Block 3022)		0
481130139023023 (Block 3023)		0
481130139023024 (Block 3024)		0
481130139024015 (Block 4015)		38
481130139024016 (Block 4016)		0
481130139024017 (Block 4017)		0
481130139024018 (Block 4018)		0
481130139024025 (Block 4025)		119
481130139024026 (Block 4026)		42

**1504**

481130140011028 (Block 1028)	0
481130140011029 (Block 1029)	0
481130140011030 (Block 1030)	0
481130140011031 (Block 1031)	0
481130140011032 (Block 1032)	0
481130140011033 (Block 1033)	0
481130140011034 (Block 1034)	0

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

GEOID: 481130138035008

**City of Farmers Branch - 2010 Census VTD and Block Report****Plan Name: Proposed Single Member District Plan****Adopted on: October 2, 2012**

10/1/2012

481130140011037 (Block 1037)	0
481130140011050 (Block 1050)	0
481130140013000 (Block 3000)	0
481130140013001 (Block 3001)	0
481130140013002 (Block 3002)	0
481130140013003 (Block 3003)	0
481130140013004 (Block 3004)	0
481130140013005 (Block 3005)	0
481130140013006 (Block 3006)	0
481130140013007 (Block 3007)	0
481130140013008 (Block 3008)	0
481130140013009 (Block 3009)	0
481130140013010 (Block 3010)	0
481130140013011 (Block 3011)	0
481130140013012 (Block 3012)	6
481130140013013 (Block 3013)	27
481130140013014 (Block 3014)	65
481130140013021 (Block 3021)	41
481130140013022 (Block 3022)	11
481130140013023 (Block 3023)	0
481130140013024 (Block 3024)	0
481130140013025 (Block 3025)	0
481130140013026 (Block 3026)	0
481130140013027 (Block 3027)	0
481130140013028 (Block 3028)	2
481130140013029 (Block 3029)	0
481130140013030 (Block 3030)	0
481130140013031 (Block 3031)	0
481130140013032 (Block 3032)	0
481130140013033 (Block 3033)	0
481130140013034 (Block 3034)	0
481130140013035 (Block 3035)	0
481130140013036 (Block 3036)	0
481130140013037 (Block 3037)	0
481130140013038 (Block 3038)	0
481130140013039 (Block 3039)	0
481130140013040 (Block 3040)	0
481130140021036 (Block 1036)	0
481130140021038 (Block 1038)	0
481130140021039 (Block 1039)	0
481130140021040 (Block 1040)	0
481130140021042 (Block 1042)	0
481130140021047 (Block 1047)	0
481130140021077 (Block 1077)	0
481130140021081 (Block 1081)	0
481130140021082 (Block 1082)	0
481130140021083 (Block 1083)	0
481130140021084 (Block 1084)	0
481130140021085 (Block 1085)	0
481130140021086 (Block 1086)	0
481130140021087 (Block 1087)	0

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

GEOID: 481130138035008



**City of Farmers Branch - 2010 Census VTD and Block Report**

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

10/1/2012

481130140021092 (Block 1092)	0
481130140021093 (Block 1093)	0

1507

481130140011000 (Block 1000)	0
481130140011002 (Block 1002)	0
481130140011003 (Block 1003)	0
481130140011066 (Block 1066)	0
481130140011067 (Block 1067)	0
481130140011068 (Block 1068)	0
481130140011069 (Block 1069)	0
481130140014000 (Block 4000)	0
481130140014012 (Block 4012)	0
481130140014013 (Block 4013)	0
481130140014023 (Block 4023)	0
481130140014024 (Block 4024)	0
481130140014029 (Block 4029)	0
481130140014030 (Block 4030)	0
481130140014036 (Block 4036)	0
481130140014037 (Block 4037)	0

1510

481130140011006 (Block 1006)	0
481130140011056 (Block 1056)	0
481130140011060 (Block 1060)	0
481130140011061 (Block 1061)	0
481130140011062 (Block 1062)	0
481130140011063 (Block 1063)	0
481130140011064 (Block 1064)	0
481130140011065 (Block 1065)	0
481130140011070 (Block 1070)	0
481130140011071 (Block 1071)	0
481130140011072 (Block 1072)	0
481130140011073 (Block 1073)	0
481130140011074 (Block 1074)	0
481130140011075 (Block 1075)	0
481130140011076 (Block 1076)	0

Total Population: 5,784

5,723

District:

4

Ideal: Deviation: 1.1%

**1 Precincts**

Dallas County (Part)	481131508 (1508)
481131508 (1508)	

**Population**

1,181
1,181

153

Dallas County (Part)	481130136163014 (Block 3014)
----------------------	------------------------------

**Population**

4,603

1506

481130136163014 (Block 3014)	0
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**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

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# City of Farmers Branch - 2010 Census VTD and Block Report

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

10/1/2012

481130136163015 (Block 3015)	0
481130136163016 (Block 3016)	0
481130136163017 (Block 3017)	0
481130136163018 (Block 3018)	0
481130136163019 (Block 3019)	0
481130136163020 (Block 3020)	0
481130136163021 (Block 3021)	0
481130136163022 (Block 3022)	0
481130136163023 (Block 3023)	0
481130136163025 (Block 3025)	0
481130136163026 (Block 3026)	0
481130136163028 (Block 3028)	0
481130136163029 (Block 3029)	0
481130138035003 (Block 5003)	0
481130138035022 (Block 5022)	123
481130138035023 (Block 5023)	24
481130138035024 (Block 5024)	57
481130138035025 (Block 5025)	18
481130138035026 (Block 5026)	0
481130138061000 (Block 1000)	0
481130138061001 (Block 1001)	0
481130138061002 (Block 1002)	0
481130138061003 (Block 1003)	0
481130138061004 (Block 1004)	0
481130138061005 (Block 1005)	1,245
481130138061006 (Block 1006)	145
481130138061007 (Block 1007)	0
481130138061008 (Block 1008)	0
481130138061009 (Block 1009)	611
481130138061010 (Block 1010)	1
481130138061011 (Block 1011)	0
481130138061012 (Block 1012)	0
481130138061016 (Block 1016)	0
481130138061017 (Block 1017)	1
481130138061018 (Block 1018)	0
481130138061019 (Block 1019)	0
481130138061020 (Block 1020)	0
481130138061021 (Block 1021)	0
481130138061022 (Block 1022)	0
481130138061023 (Block 1023)	0
481130138061024 (Block 1024)	0
481130138061025 (Block 1025)	0
481130138061026 (Block 1026)	0
481130138061027 (Block 1027)	0
481130138061028 (Block 1028)	0
481130138062006 (Block 2006)	0
481130138062007 (Block 2007)	0
481130138062008 (Block 2008)	0
481130138062009 (Block 2009)	0
481130138062010 (Block 2010)	0
481130138062011 (Block 2011)	0

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

GEOID: 481130138035008



# City of Farmers Branch - 2010 Census VTD and Block Report

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

10/1/2012

481130138062014 (Block 2014)	0
481130138062015 (Block 2015)	0
481130138062016 (Block 2016)	0
481130138062018 (Block 2018)	0
481130138062019 (Block 2019)	0
481130138062020 (Block 2020)	0
481130138062021 (Block 2021)	0
481130138062022 (Block 2022)	0
481130138062023 (Block 2023)	0
481130138062024 (Block 2024)	0
481130138062025 (Block 2025)	0
481130138062026 (Block 2026)	0
481130138062027 (Block 2027)	0
481130138062028 (Block 2028)	0
481130138062029 (Block 2029)	0
481130138062030 (Block 2030)	0
481130138062031 (Block 2031)	0
481130138062032 (Block 2032)	0
481130138062033 (Block 2033)	0
481130138062034 (Block 2034)	0
481130138062035 (Block 2035)	0
481130138062036 (Block 2036)	0
481130138062037 (Block 2037)	0
481130138062038 (Block 2038)	0
481130138062039 (Block 2039)	0
481130138062040 (Block 2040)	0
481130138062041 (Block 2041)	0
481130138062042 (Block 2042)	0
481130138062043 (Block 2043)	0
481130138062044 (Block 2044)	0
481130138062045 (Block 2045)	0
481130138062046 (Block 2046)	0
481130138062047 (Block 2047)	0
481130138062048 (Block 2048)	0
481130138062049 (Block 2049)	0
481130138062050 (Block 2050)	0
481130138062051 (Block 2051)	0
481130138062052 (Block 2052)	390
481130138062053 (Block 2053)	0
481130138062054 (Block 2054)	0
481130138062055 (Block 2055)	0
481130138062056 (Block 2056)	0
481130138062057 (Block 2057)	0
481130138062058 (Block 2058)	0
481130138062059 (Block 2059)	0
481130138062060 (Block 2060)	0
481130138062061 (Block 2061)	0
481130138062062 (Block 2062)	0
481130138062063 (Block 2063)	0
481130138062064 (Block 2064)	0
481130138062067 (Block 2067)	0

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

GEOID: 481130138035008

**City of Farmers Branch - 2010 Census VTD and Block Report****Plan Name: Proposed Single Member District Plan****Adopted on: October 2, 2012**

10/1/2012

481130138062068 (Block 2068)	0
481130138062072 (Block 2072)	0
481130138062073 (Block 2073)	0
481130138062078 (Block 2078)	0
481130138062079 (Block 2079)	0
481130138062080 (Block 2080)	0
1507	
481130138041000 (Block 1000)	0
481130138041001 (Block 1001)	0
481130138041002 (Block 1002)	0
481130138041003 (Block 1003)	33
481130138041004 (Block 1004)	0
481130138041005 (Block 1005)	0
481130138041006 (Block 1006)	0
481130138041007 (Block 1007)	216
481130138041008 (Block 1008)	44
481130138041009 (Block 1009)	0
481130138041010 (Block 1010)	16
481130138041011 (Block 1011)	31
481130138041012 (Block 1012)	17
481130138041013 (Block 1013)	112
481130138041014 (Block 1014)	65
481130138041015 (Block 1015)	126
481130138041016 (Block 1016)	164
481130138041017 (Block 1017)	0
481130138041018 (Block 1018)	0
481130138041019 (Block 1019)	0
481130138041020 (Block 1020)	0
481130138041021 (Block 1021)	0
481130138041022 (Block 1022)	0
481130138041023 (Block 1023)	0
481130138042000 (Block 2000)	0
481130138042001 (Block 2001)	32
481130138042002 (Block 2002)	64
481130138042003 (Block 2003)	0
481130138042004 (Block 2004)	24
481130138042005 (Block 2005)	58
481130138042006 (Block 2006)	117
481130138042007 (Block 2007)	61
481130138042008 (Block 2008)	58
481130138042009 (Block 2009)	80
481130138042010 (Block 2010)	97
481130138042011 (Block 2011)	60
481130138042012 (Block 2012)	54
481130138042013 (Block 2013)	51
481130138042014 (Block 2014)	79
481130138042015 (Block 2015)	91
481130138042016 (Block 2016)	39
481130138042017 (Block 2017)	121
481130138042018 (Block 2018)	78

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

GEOID: 481130138035008

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Bickerstaff Heath Delgado Acosta LLP

USCA5 526

**City of Farmers Branch - 2010 Census VTD and Block Report**

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

10/1/2012

1510

481130138041024 (Block 1024)

0

Total Population: 5,762

5,723

District:

**5**

Ideal: Deviation: 0.68%

**85**

Dallas County (Part)

481130137111000 (Block 1000)

**Population**

5,797

1500

481130137111000 (Block 1000)

72

481130137111001 (Block 1001)

57

481130137111002 (Block 1002)

38

481130137111003 (Block 1003)

534

481130137111004 (Block 1004)

0

481130137111005 (Block 1005)

0

481130137111006 (Block 1006)

0

481130137111007 (Block 1007)

98

481130137111008 (Block 1008)

78

481130137111009 (Block 1009)

76

481130137121000 (Block 1000)

66

481130137121002 (Block 1002)

89

481130137121003 (Block 1003)

71

481130137121004 (Block 1004)

80

481130137121005 (Block 1005)

80

481130137121006 (Block 1006)

116

481130137121007 (Block 1007)

92

481130137121008 (Block 1008)

74

481130137121009 (Block 1009)

27

481130137121012 (Block 1012)

119

481130137121013 (Block 1013)

77

481130137121015 (Block 1015)

47

481130137121016 (Block 1016)

131

481130137122001 (Block 2001)

196

481130137122002 (Block 2002)

104

481130137122003 (Block 2003)

149

481130137122004 (Block 2004)

112

481130137122005 (Block 2005)

145

481130137122006 (Block 2006)

178

481130137122009 (Block 2009)

84

481130137122010 (Block 2010)

70

481130137122014 (Block 2014)

28

1501

481130137121001 (Block 1001)

0

481130138031000 (Block 1000)

155

481130138031001 (Block 1001)

0

481130138031002 (Block 1002)

0

481130138031003 (Block 1003)

2

481130138031004 (Block 1004)

0

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

GEOID: 481130138035008

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Bickerstaff Heath Delgado Acosta LLP

USCAs 527

# City of Farmers Branch - 2010 Census VTD and Block Report

Plan Name: Proposed Single Member District Plan

Adopted on: October 2, 2012

10/1/2012

481130138031005 (Block 1005)	186
481130138031006 (Block 1006)	1
481130138031007 (Block 1007)	3
481130138031008 (Block 1008)	0
481130138031009 (Block 1009)	7
481130138031010 (Block 1010)	5
481130138031011 (Block 1011)	339
481130138031012 (Block 1012)	0
481130138031013 (Block 1013)	0
481130138031014 (Block 1014)	0
481130138031015 (Block 1015)	0
481130138031016 (Block 1016)	0
481130138031017 (Block 1017)	62
481130138031018 (Block 1018)	88
481130138031019 (Block 1019)	0
481130138031020 (Block 1020)	0
481130138032000 (Block 2000)	392
481130138032001 (Block 2001)	0
481130138032002 (Block 2002)	44
481130138032003 (Block 2003)	0
481130138032004 (Block 2004)	67
481130138032005 (Block 2005)	26
481130138032006 (Block 2006)	0
481130138032007 (Block 2007)	337
481130138032008 (Block 2008)	31
481130138032009 (Block 2009)	65
481130138032010 (Block 2010)	45
481130138032011 (Block 2011)	3
481130138032012 (Block 2012)	95
481130138032013 (Block 2013)	41
481130138033000 (Block 3000)	33
481130138033001 (Block 3001)	270
481130138033002 (Block 3002)	21
481130138033003 (Block 3003)	37
481130138033004 (Block 3004)	114
481130138033005 (Block 3005)	0
481130138033008 (Block 3008)	11
481130138033009 (Block 3009)	12
481130138033010 (Block 3010)	16
1506	
481130138035000 (Block 5000)	0
481130138035001 (Block 5001)	0
481130138035002 (Block 5002)	80
481130138035006 (Block 5006)	0
481130138035007 (Block 5007)	0
481130138061013 (Block 1013)	100
481130138061014 (Block 1014)	21
481130138061015 (Block 1015)	0

**Census block number 5002 is split between Districts 2 and 5. The block has 80 persons. 35 persons were allocated to District 2 and 45 persons were allocated to District 5. The district totals above reflect those adjustments. The block was split based upon the area proportion within each District.**

GEOID: 481130138035008

TAB 8



## U.S. Department of Justice

Civil Rights Division

TCH:RSB:MSR:AAO:par

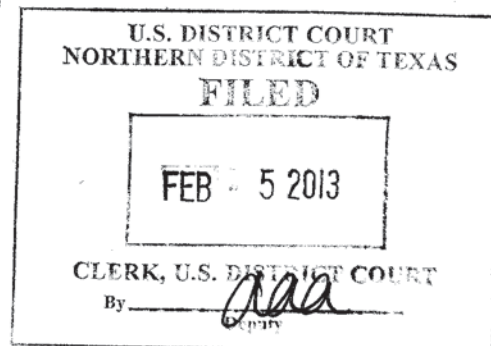
DJ 166-012-3

2012-5853

Voting Section - NWB  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

JAN 31 2013

C. Robert Heath, Esq.  
Bickerstaff Heath Delgado Acosta  
3711 South MoPac Expressway  
Building One, Suite 300  
Austin, Texas 78746



Dear Mr. Heath:

This refers to the change in the method of election from five council members elected at-large to five council members elected from single-member districts, the districting plan, and the implementation schedule for the City of Farmers Branch in Dallas County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submission on December 19, 2012; additional information was received through January 17, 2013.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

Because the Section 5 status of the changes is before the court in *Fabela v. City of Farmers Branch*, No. 3:10-CV-1425-D (N.D. Tex. Aug. 2, 2012), we are providing a copy of this letter to the court and counsel of record in that case.

Sincerely,

T. Christian Herren, Jr.  
Chief, Voting Section

TAB 9

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**MARIA FABELA, ALFONSO BALADEZ,  
AMELIA BALADEZ, MARIA BALADEZ,  
MARIA JACOBO, ANTONIO REYES,  
MARIA REYES, DIANA ROSAS,  
LETICIA TORRES, AND JOSE  
VILLANEDA,**

**Plaintiffs**

**V.**

**CITY OF FARMERS BRANCH, TEXAS,  
AND BILL GLANCY, HAROLD  
FROELICH, JEFF FULLER, DAVID  
KOCH, BEN ROBINSON, AND TIM  
SCOTT, in their official capacities,**

**Defendants**

**CIVIL ACTION NO. 3:10-cv-01425-D**

**NOTICE OF APPEAL**

Please take notice that all defendants, City of Farmers Branch, Texas and Bill Glancy, Harold Froelich, Jeff Fuller, David Koch, Ben Robinson, and Tim Scott, each in their official capacities,<sup>1</sup> appeal to the United States Court of Appeals for the Fifth Circuit the January 31, 2013 judgment (Dkt. No. 60) that:

- a. adjudged the existing at-large election system of the City of Farmers Branch, Texas in violation of Section 2 of the Voting Rights Act, 42 U.S.C. § 1973;
- b. ordered the City of Farmers Branch, Texas to utilize the single-member district plan described in Attachment A to the January 31, 2013 judgment; and
- c. ordered all plaintiffs to recover costs from the City of Farmers Branch, Texas.

---

<sup>1</sup> Bill Glancy and Jeff Fuller are the successors in office to Tim O'Hare and Michelle Holmes, who were named as defendants in their official capacity when the suit was filed. FED. R. CIV. P. 25(d).



Respectfully submitted,

C. ROBERT HEATH  
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DELGADO ACOSTA LLP**  
3711 S. MoPac Expressway  
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JOHN CLARK LONG IV  
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Facsimile: (214) 397-0389  
Email: [jlong@bickerstaff.com](mailto:jlong@bickerstaff.com)

By: s/ C. Robert Heath  
C. ROBERT HEATH

*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on February 28, 2013, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the Court. I have served counsel of record listed below via electronic transmission through the Court's ECF system:

William A. Brewer III  
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Dallas, Texas 75201

*Attorneys for Plaintiffs*

s/ C. Robert Heath  
C. Robert Heath

***United States Court of Appeals***  
FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE  
NEW ORLEANS, LA 70130

June 18, 2013

Mr. Kent Davis Krabill  
Lynn Tillotson Pinker & Cox, L.L.P.  
2100 Ross Avenue  
Suite 2700  
Dallas, TX 75201-0000

No. 13-10235, Maria Fabela, et al v. City of Farmers  
Branch, Texas, et al  
USDC No. 3:10-CV-1425

The following pertains to your record excerpts electronically  
filed on June 17, 2013.

Your record excerpts are filed but require corrections beyond the  
certificate of service that must be corrected within 14 days.

The following correction(s) is/are needed to your record excerpts  
(5<sup>TH</sup> CIR. R. 30).

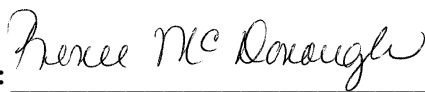
Optional contents exceed 40 page limitation. If you determine  
that the excessive optional pages are imperative, a motion is  
required.

Title on the record excerpts does not agree with the title of the  
case in compliance with 5<sup>TH</sup> CIR. R. 30.1.7(d). (See attachment)

Once you have prepared your sufficient record excerpts, you must  
email it to: **renee\_mcdonough@ca5.uscourts.gov** for review. If the  
record excerpts are in compliance, you will receive a notice of  
docket activity advising you that the sufficient record excerpts  
have been filed.

Sincerely,

LYLE W. CAYCE, Clerk

By:   
Renee S. McDonough, Deputy Clerk  
504-310-7673

cc: Mr. Charles Dunham Biles

Mr. William A. Brewer III  
Mr. Claude Robert Heath