

The City of Rockport, Texas

Submission of Redistricting Plan **Under Section 5 of the Voting Rights Act**

September 30, 2011

**BICKERSTAFF HEATH
DELGADO ACOSTA LLP
3711 S. MoPac Expressway
Building One, Suite 300
Austin, Texas 78746**

Bickerstaff Heath Delgado Acosta LLP

3711 S. MoPac Expressway Building One, Suite 300 Austin, Texas 78746 (512) 472-8021 Fax (512) 320-5638 www.bickerstaff.com

September 30, 2011

Via Federal Express

The Honorable T. Christian Herren, Jr.
Chief, Voting Section
Civil Rights Division
United States Department of Justice
Room 7254-NWB
1800 G Street, NW
Washington, DC 20006

RE: Submission under Section 5 of the Voting Rights Act of the **City of Rockport, Texas** 2011 Redistricting of City Councilmember Wards

Dear Mr. Herren:

On behalf of the City of Rockport, Texas (hereinafter, "City"), I hereby submit the following changes affecting voting for consideration pursuant to 42 U.S.C. § 1973c.

The City seeks preclearance of its ordinance adopting proposed changes to its councilmember ward boundaries. The changes to the councilmember wards were a result of population changes identified in the 2010 Census.

In compliance with 28 C.F.R. Part 51, I am supplying the following information on behalf of the City of Rockport, Texas:

SECTION 51.27

(a) A copy of any ordinance, enactment, order, or regulation embodying the change affecting voting for which section 5 preclearance is being requested.

A copy of the City of Rockport City Council ordinance adopting the boundary changes for its councilmember wards is attached to this submission as **Exhibit A**.

(b) A copy of any ordinance, enactment, order, or regulation embodying the voting standard, practice, or procedure that is proposed to be repealed, amended, or otherwise changed.

A copy of the City Council ordinance adopting the existing councilmember wards is attached to this submission as **Exhibit B**.

(c) A statement that identifies with specificity each change affecting voting for which section 5 preclearance is being requested and that explains the difference between the submitted change and the prior law or practice. If the submitted change is a special referendum election and the subject of the referendum is a proposed change affecting voting, the submission should specify whether preclearance is being requested solely for the special election or for both the special election and the proposed change to be voted on in the referendum.

The change alters the boundaries of the single-member councilmember wards. As explained in the preamble to the City Council ordinance adopting the changes, the modification in the boundaries was necessary to correct a population imbalance among the various wards as reflected by an analysis of PL 94-171 data from the 2010 Census. The difference in population and demographics between the newly adopted and current wards is shown in the following tables. A map showing the new wards is found at **Exhibit C**, and a map of the prior wards is attached as **Exhibit D**. In addition, tables showing more detailed information, including the actual numbers of individuals in each demographic category for the new wards and prior wards, are found at **Exhibits E** and **F**, respectively.

A list of census blocks comprising each new single-member ward is provided in **Exhibit L**.

Benchmark Plan – Total 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	2,469	5.56%	19.20%	75.98%	1.22%	2.11%	1.50%
2	2,829	20.95%	34.18%	60.73%	2.12%	0.92%	2.09%
3	1,463	-37.45%	8.54%	87.83%	0.62%	1.30%	1.71%
4	2,596	10.99%	12.94%	81.12%	0.58%	4.24%	1.19%
Totals	9,357		20.33%	74.65%	1.22%	2.21%	1.62%

Adopted Plan – Total 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	2,325	-0.60%	29.59%	65.42%	2.11%	0.65%	2.32%
2	2,337	-0.09%	29.65%	65.98%	1.33%	2.05%	1.03%
3	2,314	-1.07%	11.75%	84.66%	0.69%	1.17%	1.73%
4	2,381	1.80%	10.46%	82.44%	0.76%	4.91%	1.43%
Totals	9,357		20.33%	74.65%	1.22%	2.21%	1.62%

Benchmark Plan – Voting Age Population

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	2,089		16.28%	79.27%	1.20%	1.82%	1.44%
2	2,207		29.81%	65.16%	1.99%	0.95%	1.99%
3	1,298		6.63%	90.06%	0.54%	1.31%	1.54%
4	2,116		10.16%	84.36%	0.52%	3.88%	1.09%
Totals	7,710		16.85%	78.44%	1.13%	2.05%	1.52%

Adopted Plan – Voting Age Population

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	1,909		25.46%	69.62%	1.89%	0.68%	2.30%
2	1,774		25.87%	69.39%	1.47%	2.20%	1.01%
3	1,978		9.40%	87.36%	0.61%	1.16%	1.52%
4	2,049		8.20%	85.90%	0.63%	4.05%	1.22%
Totals	7,710		16.85%	78.44%	1.13%	2.05%	1.52%

(d) The name, title, mailing address, and telephone number of the person making the submission. Where available, a telefacsimile number and an email address for the person making the submission also should be provided.

The person making the submission is Cindy J. Crosby at the law firm of Bickerstaff Heath Delgado Acosta LLP, 3711 S. MoPac Expressway, Building One, Suite 300, Austin, Texas 78746, phone (512) 472-8021, fax (512) 320-5638, and e-mail at ccrosby@bickerstaff.com.

(e) The name of the submitting authority and the name of the jurisdiction responsible for the change, if different.

The name of the submitting authority is the City of Rockport, Texas.

(f) If the submission is not from a State or county, the name of the county and State in which the submitting authority is located.

The City is located in Aransas County, Texas.

(g) Identification of the person or body responsible for making the change and the mode of decision (e.g., act of State legislature, ordinance of city council, administrative decision by registrar).

The changes to the councilmember wards were adopted by the City of Rockport City Council by ordinance dated September 27, 2011.

(h) A statement identifying the statutory or other authority under which the jurisdiction undertakes the change and a description of the procedures the jurisdiction was required to follow in deciding to undertake the change.

The proposed changes in councilmember wards were necessitated by population shifts disclosed by the 2010 Census which resulted in population imbalances among the wards that exceeded the ten percent maximum deviation acceptable under the one person-one vote requirement of the United States Constitution.

The City is a home-rule municipality under Texas law, specifically under the authority granted by Article XI, Section 5 of the Texas Constitution. As a home-rule municipality, the City is authorized to prepare or amend a charter to be submitted to the qualified voters of the municipality for approval.¹ State law provides that once a charter is recorded it is considered a public act, courts must take judicial notice of them, and no proof is required of their provisions.²

Section 3.01 (Number, Selection and Term) of the City's charter provides in relevant part:

- (1) The legislative and governing body of the City will consist of a Mayor and four Councilpersons and will be known as the City Council of Rockport.

¹ Tex. Loc. Govt. Code § 9.003.

² *Id.* at § 9.008(b).

- (a) The Mayor will be elected at large; one Councilperson shall be elected from each of four (4) Wards; all elected officials shall serve two (2) year terms unless removed from office through the provisions of this Charter.
- (b) All members of the City Council, other than the Mayor, shall be elected under the Ward System the boundaries which are defined by ordinance and which may be amended as population changes warrant.

Further, Section 34-26 (Electoral Wards) of the City's code of ordinances provides that the City shall be divided into four electoral wards for electoral purposes.

A copy of the applicable charter and code provisions are attached as **Exhibit G**.

In addition, to initiate the redistricting process, the City of Rockport City Council adopted a resolution establishing redistricting criteria to be followed in developing and evaluating potential plans and in adopting a final plan. A copy of the Criteria Resolution is attached hereto as **Exhibit H**. The City of Rockport City Council also adopted a resolution containing guidelines for the public to follow in submitting proposed plans. A copy of the Guidelines Resolution is attached hereto as **Exhibit I**.

(i) The date of the adoption of the change affecting voting.

The changes to councilmember ward were adopted by the City Council of the City of Rockport, Texas by ordinance dated September 27, 2011.

(j) The date on which the change is to take effect.

The ordinance is intended to become effective upon preclearance for application to the May 2012 general election. February 4, 2012 is the first day that city council member candidates may file to run in the May 2012 election. Accordingly, the new city council wards will go into effect on the later of February 4, 2012 or when preclearance is obtained.

(k) A statement that the change has not yet been enforced or administered, or an explanation of why such a statement cannot be made.

The change has not yet been enforced or administered.

(l) Where the change will affect less than the entire jurisdiction, an explanation of the scope of the change.

The change affects the entire jurisdiction.

(m) A statement of the reasons for the change.

The proposed changes in councilmember wards were necessitated by population shifts disclosed by the 2010 Census. Because of population changes over the past decade, the existing councilmember wards now have a total maximum deviation (*i.e.*, as between the most populous and least populous ward, measured in reference to the ideal ward size) of 58.4%. This means the existing plan is subject to challenge under the one person-one vote principle, because of a maximum deviation exceeding ten percent, which the Courts have recognized as *prima facie* constitutional. Under the proposed plan, the total maximum deviation is reduced to 2.86%.

(n) A statement of the anticipated effect of the change on members of racial or language minority groups.

There is no anticipated material effect on members of racial or language minority groups. Ward 2 has a total Hispanic population proportion of 34.18% and a voting age Hispanic population proportion of 29.81%. Ward 2 was the most over-populated ward at 20.95% over the ideal ward size and needed to lose population in order to comply with the ten percent maximum deviation rule. Under the proposed plan, Ward 2's total Hispanic population proportion decreases to 29.65%, and the Hispanic voting age population proportion decreases to 25.87%.

Ward 1's total Hispanic and voting age population increased under the proposed plan. Currently Ward 1's total Hispanic population proportion is 19.20% and is increased to 29.59%. Ward 1's voting age Hispanic population proportion is currently 16.28% and is increased to 25.46% under the proposed plan.

Mr. Leo Villa, the current councilmember for Ward, 2 is a Hispanic male. He has extensive knowledge and experience of his ward and general City matters as he has held the current council seat for ten years as of May 2012. Mr. Villa participated throughout the redistricting process and was in agreement with and supported the changes to his ward, as well as the other proposed changes shown in the proposed map. As further explained in the response to section 51.28(f) below, the City provided extensive notice to the public of the proposed process, and discussed redistricting at both regular Council meetings and workshops; however, no member of the public appeared or provided comment in support of or opposition to the proposed changes to the ward boundaries or demographic changes.

Under both the current and proposed plans, Wards 3 and 4 have majority total and voting age Anglo populations.

(o) A statement identifying any past or pending litigation concerning the change or related voting practices.

There is no past or pending litigation concerning the change or related voting practices.

(p) A statement that the prior practice has been precleared (with the date) or is not subject to the preclearance requirement and a statement that the procedure for the adoption of the change has been precleared (with the date) or is not subject to the preclearance requirement, or an explanation of why such statements cannot be made.

The prior redistricting plan was precleared on March 12, 2002. Further, the City received preclearance of annexations on April 9, 2007, July 27, 2010, and February 3, 2011. A copy of the previous preclearance letters for the redistricting and annexations are attached at **Exhibit J**.

SECTION 51.28

(a) Demographic information

(1) Total and voting age population of the affected area before and after the change, by race and language group.

This information is provided in **Exhibits F** and **E**.

(2) The number of registered voters for the affected area by voting precinct before and after the change, by race and language group.

Data on registration by race is not collected or available in Texas, although it is possible to determine the approximate number of persons who are registered voters who have Spanish surnames. The information for Aransas County, the county in which the City of Rockport is located, is reported by the Texas Secretary of State four county election precincts, and is attached as **Exhibit K**.

(3) Any estimates of population, by race and language group, made in connection with the adoption of the change.

No census blocks were split within the city limits of the City. Census blocks were split along the exterior city limit boundaries due to differences in the City's boundaries and census block structure. Population was assigned proportionately where census blocks were split at the city limit boundaries.

A list of census blocks comprising each new single-member ward is provided in **Exhibit L**.

(b) Maps

Maps, including shapefiles, are attached to this submission as exhibits and are also provided on a CD for your convenience and review.

(1) The prior and new boundaries of the voting unit or units.

Maps depicting the current and the newly adopted councilmember wards are attached hereto as **Exhibits D** and **C**, respectively.

(2) The prior and new boundaries of voting districts.

County election (voting precincts) were not changed or effected by the change. Aransas County is responsible for the configuration of county election precincts under Chapter 42 of the Texas Election Code.

(3) The location of racial and language minority groups.

Maps showing the location of relative concentrations of Hispanic and African-American residents (total population) within the City are attached as **Exhibit M**.

(4) Any natural boundaries or geographical features that influenced the selection of boundaries of the prior or new units.

All of the adjustments to the boundaries of the territories constituting the four (4) councilmember wards are based on 2010 Census Geography as depicted on the latest TIGER files available from the Census Bureau. The precise boundaries of the census blocks utilized to build the councilmember wards in many instances follow highways, county roads, city streets, and other geographic features, all as depicted in the 2010 TIGER files and as further depicted in the attached map of the proposed councilmember wards at **Exhibit C**.

(5) The location of prior and new polling places.

The changes do not affect polling places. Aransas County is responsible for establishing county election precincts and polling places.

(6) The location of prior and new voter registration sites.

The changes do not affect voter registration sites, which are administered by Aransas County.

Additional maps and demographic information

(c) Annexations

Not applicable.

(d) Election returns

Election returns for the past ten years are attached as **Exhibit N**.

(e) Language usage

Not applicable.

(f) Publicity and participation

From the outset of the redistricting process, the City of Rockport City Council took steps to ensure the full participation of all interested persons and groups. The City Council instituted an open process to redistrict the councilmember wards. At a City Council meeting held on August 16, 2011, the City's redistricting counsel presented a preliminary demographic report showing the results of the 2010 Census as they related to the existing councilmember wards. This presentation highlighted the need to redistrict resulting from population imbalances among the wards that exceeded the ten percent maximum deviation acceptable under the one person-one vote requirement of the United States Constitution. In addition, at the August 16, 2011 City Council meeting, the City Council was provided with a summary of its obligations under the Voting Rights Act and an overview of the *Shaw v. Reno* jurisprudence. The City Council adopted a resolution establishing redistricting criteria to be followed in developing and evaluating potential plans and in adopting a final plan. A copy of the Criteria Resolution is attached hereto as **Exhibit H**. The City of Rockport City Council also adopted a resolution containing guidelines for the public to follow in submitting proposed plans. A copy of the Guidelines Resolution is attached hereto as **Exhibit I**. The presentation and the City Council's deliberations on the matters were detailed in the minutes of the meeting which are included herein as **Exhibit O**.

After consultation with the councilmembers the City's redistricting counsel prepared an illustrative plan for consideration by the City Council. "Illustrative Plan 1" was designated for publicity and public comment by the City Council on September 6, 2011. Copies of Illustrative Plan 1 and the demographic tables are included in **Exhibit P**. Illustrative Plan 1 reduced the total maximum population deviation between the councilmember wards from 58.4% to only 2.86%.

The City posted notice of the public hearing on its website and published notice in the local newspaper, in both English and Spanish. The City's website also maintained a copy of the map and report for Illustrative Plan 1 from its designation through the public hearing date. Copies of the notice of the public hearing are attached at **Exhibit Q**. The City also sent notice of the public hearing to a list of over one hundred community contacts. Copies of the letter and lists of community contacts are enclosed at **Exhibit R**.

After publicizing the proposed plan and providing notice of the public hearing, a public hearing was held on September 13, 2011. At that time, Illustrative Plan 1

was presented to the public for the purpose of receiving public comment. No member of the public attended the public hearing. No comments or alternative proposed plans were received from the public during the entire process. The agenda and minutes for the public hearing are attached at **Exhibit S**.

On September 27, 2011, the City Council met in open session at a meeting posted in accordance with the Texas Open Meetings Act, and after discussion, adopted Illustrative Plan 1 as the City's new districting plan. A draft of the minutes of the meeting is attached at **Exhibit O**. The City Council is scheduled to approve the September 27th meeting minutes at their regular meeting on October 29, 2011.

(1) Copies of newspaper articles discussing the proposed change.

Copies of newspaper articles discussing the proposed change are attached at **Exhibit T**.

(2) Copies of public notices that describe the proposed change and invite public comment or participation in hearings and statements regarding where such public notices appeared; (e.g., newspaper, radio, or television, posted in public buildings, sent to identified individuals or groups).

A copy of the public notice of the public hearing which was published in a local newspaper and posted on the City's website is attached as **Exhibit Q**. Copies of the agendas of the City Council meetings or workshops at which the redistricting plan was discussed and/or adopted, are attached as **Exhibit U**.

(3) Minutes or accounts of public hearings concerning the proposed change.

Minutes of the City Council meetings at which the proposed redistricting plan was discussed and/or adopted are attached as **Exhibit O**. Minutes of the public hearing are attached at **Exhibit S**.

(4) Statements, speeches, and other public communications concerning the proposed change.

There were no statements, speeches, or other public communications concerning the proposed change other than those made at the public meetings as reflected in the minutes of those public meetings.

(5) Copies of comments from the general public.

There were no written or oral statements, speeches, or other public communications concerning the proposed change.

(6) Excerpts from legislative journals containing discussion of a submitted enactment, or other materials revealing its legislative purpose.

Not applicable.

(g) Availability of the Submission

Attached as **Exhibit V** is a copy of the public notice which will be posted at the City of Rockport City Hall stating the availability of the preclearance submission for public inspection. A complete duplicate copy of the submission is available for public inspection during normal business hours at the City of Rockport City Hall, Rockport, Texas.

(h) Minority Group Contacts

Minority group contacts who can be expected to be familiar with the proposed changes or who have been active in the redistricting process are set out in **Exhibit W**.

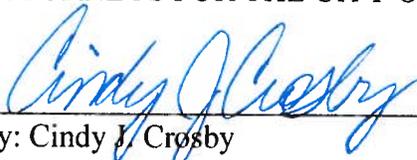
It has been the purpose of this submission to provide available relevant information that will be helpful to the Department without unduly burdening the record. Please let me know if there is any underlying data or other information that the Department would find helpful when reviewing this submission.

Thank you for your assistance and consideration.

Respectfully submitted,

BICKERSTAFF HEATH DELGADO ACOSTA LLP
3711 S. MoPac Expressway
Building One, Suite 300
Austin, Texas 78746
(512) 472-8021
(512) 320-5638 (FAX)

ATTORNEYS FOR THE CITY OF ROCKPORT, TEXAS


By: Cindy J. Crosby

cc: Irma Parker, City Secretary