



November 2, 2021

Notice is hereby given of a Regular Meeting of Nacogdoches City Council to be held on the above date in the City Council Chambers of City Hall, 202 E. Pilar Street, Nacogdoches, Texas, beginning at 5:30 p.m. for the purpose of considering the following agenda items.

Some City Council Members may attend via videoconference but a quorum of the City Council and the Presiding Officer will be present at the above-stated physical location. The meeting will be streamed live at <https://www.nactx.us/21> There will be an opportunity for the public to comment on agenda items either by teleconference or in person in Council Chambers.

Members of the public who wish to submit comments on a listed agenda item must contact the City Secretary's office by email at vinsonj@nactx.us or by calling 936-559-2506 and providing their name, telephone number and relevant agenda item upon which they wish to speak. All requests to make comments must be received by 12:00 p.m. on November 2, 2021. For all timely requests received, staff will call the submitted phone numbers directly during the meeting when the corresponding item comes up for comment. NOTE: The incoming phone call from City staff will be an unfamiliar number.

**PLEASE LIMIT PRESENTATIONS TO THREE MINUTES
(UNLESS PRIOR APPROVAL IS OBTAINED)**

1. CALL TO ORDER.
2. PLEDGE OF ALLEGIANCE.
3. OPEN FORUM. Open Forum is an opportunity for citizens to speak about items not listed on the agenda. In order to address City Council please complete the Open Forum Form and submit it to the City Secretary prior to the start of the meeting. In accordance with the Texas Open Meetings Act, City Council shall not discuss, deliberate, or make any decisions on items discussed during Open Forum. Comments are limited to 3 minutes per person. Open Forum is limited to the first 5 citizens who submit an Open Forum Form.
4. ITEMS TO BE REMOVED FROM CONSENT AGENDA.
5. CONSENT AGENDA: Items included under Consent Agenda require little or no deliberation by Council. Approval of Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations as reflected in the minutes of this meeting.
 - A. Consider approval of minutes from October 19, 2021 regular meeting. (City Secretary)
 - B. Consider approval of an agreement by and between the City of Nacogdoches and the Nacogdoches Convention and Visitors Bureau which outlines the terms by which employees of the CVB are employees of the City and thereby subject to the policies and guidelines established by the City. (Convention and Tourism Director)
 - C. Consider approval of an interlocal agreement between the City of Nacogdoches

and Nacogdoches County relating to emergency mass notification system purchase and usage. (I.T. Manager)

- D. Consider approval of a contract by and between the City of Nacogdoches and Drewery Construction Co., Inc. for the 2021 Martin Luther King, Jr. Boulevard Paving Project in a not to exceed amount of \$64,925.00 (Assistant Director of Public Works).
6. REGULAR AGENDA: City Council will receive staff recommendations and public input on the following items, and may deliberate and take formal action on the item.
- A. Receive and discuss Initial Assessment regarding whether redistricting is required for City Council member districts considering the new 2020 census data; and, if so, discuss and consider a resolution adopting criteria for use in the 2021 redistricting process, and a resolution adopting guidelines for public participation in the redistricting process. (City Manager)
 - B. Receive an update and hold a discussion regarding the 87th Texas Legislative Session and subsequent Special Sessions. (City Manager/Kelly Barnes, HillCo Partners)
 - C. Receive a report, hold a discussion, and give staff direction regarding the establishment of an advisory Comprehensive Plan Review Committee and Downtown Master Plan Review Committee. (City Manager)
 - D. Receive a report, hold a discussion, and give staff direction on purging uncollectible fines and cases. (City Attorney)
 - E. Consider approval of a Public Forum/Public Comment Policy for City Council meetings. (City Attorney)
7. EXECUTIVE SESSION:
- A. Deliberation regarding Economic Development negotiations under Government Code Section 551.087 as follows:
 - 1. Discuss or deliberate regarding commercial or financial information the City has received from business projects the City body seeks to have locate in the City of Nacogdoches and with which the City is conducting economic development negotiations.
8. ADJOURN.



Jan Vinson, City Secretary



This agenda is posted as required under G. C. Section 551.041. For more information or a copy of the Open Meetings Act, please contact Attorney General of Texas at 1-800-252-8011; City Secretary at 936/559-2506 or visit City of Nacogdoches web site at www.nactx.us.

CERTIFICATION

I certify the notice of meeting was posted in the directory outside of City Hall, 202 E. Pilar Street, Nacogdoches, Texas on October 28, 2021 at 8 a.m. and remained posted until meeting convened.

Jan Vinson, City Secretary



City Council Meeting

Date: November 2, 2021

Agenda Item: 5.A.

PRESENTER: Jan Vinson, City Secretary

ITEM/SUBJECT: Consider approval of minutes from October 19, 2021 regular meeting. (City Secretary)

SUMMARY/BACKGROUND:

FINANCIAL:

No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Not Applicable

CITY CONTACT: Jan Vinson, City Secretary
vinsonj@nactx.us
936-559-2506

ATTACHMENTS: 1. Minutes



Regular Session
Nacogdoches City Council
October 19, 2021 – 5:30 p.m.
City Council Room – City Hall
202 East Pilar Street

DRAFT

City Council present in person: Mayor Jimmy Mize, Council Members Roy Boldon, Jay Anderson and Kathleen Belanger. **Present by videoconference:** Amelia Fischer

1. Called to order at 5:31 p.m.
2. Pledge of Allegiance.
3. No one spoke during Open Forum.
4. Council Member Roy Boldon requested that item 5.B be pulled for discussion.
5. **CONSENT AGENDA:** Items included under Consent Agenda require little or no deliberation by Council. Approval of Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations as reflected in the minutes of this meeting.
 - A. Minutes from October 12, 2021 regular meeting.
 - B. Consider an Interlocal Cooperative Contract between Texas State University and the City of Nacogdoches to conduct controlled buy/stings of tobacco.
 - C. Consider approval of an Indefinite Deliverable Indefinite Quantity contract by and between the City of Nacogdoches and Cox Contractors for Annual Concrete Maintenance Services in a not to exceed total budgeted amount of \$130,000.00.

Council Member Kathleen Belanger moved approval of Consent Agenda Items 5.A and 5.C; motion duly seconded by Council Member Jay Anderson and carried by unanimous vote.

Item 5. B - Assistant Chief Dan Taravella stated the controlled buy/stings are not state mandated and the City has participated in this interlocal contract off and on for many years. This program is to check compliance of retailers who sell tobacco products.

Council Member Boldon expressed concerns about recruiting students ages 15-17 to buy tobacco products. Discussions also included revenue received from the tobacco stings, terms and conditions of the contract and data received from the sting operations.

Council Member Roy Boldon moved approval of Consent Agenda Items 5.B; motion duly seconded by Council Member Jay Anderson and carried by unanimous vote.

6. REGULAR AGENDA:

- A. Consider purchase of five (5) new Police vehicles.

Assistant Police Chief Dan Taravella stated the Police Department normally purchases six (6) vehicles every year to replace older vehicles. This year the budget only allowed the purchase of five (5) vehicles which will be three (3) marked Chevy Tahoes, one (1) marked Ford F150 truck and one (1) unmarked Ford F150 truck. The total cost of these five (5) vehicles is \$278,554.23.

Neal Slaten, Owner of Tipton Ford Lincoln, spoke during public comment. He asked City Council to shop Nac first to support the business owners in the City. Mr. Slaten said many city governments in Texas have adopted ordinances that state, "The desire to use the city's spending power to promote fiscal responsibility and maximize the amount of citizen tax dollars that remain in the local economy for the benefits of its citizens."

Assistant Chief Taravella discussed the bid process and state contracts. He recently contacted all the vehicle dealerships in Nacogdoches to discuss the process of procuring vehicles for the Police Department.

Minutes unofficial until approved by City Council

City Manager Mario Canizares stated that the City’s purchasing has been decentralized to the departments. The City has hired a Procurement Coordinator which will create a centralized procurement function which should alleviate these types of issues. Mr. Canizares stated the City does believe in shopping local when there is a local option.

City Council discussed shopping local, strengthening the local economy, next steps for procurement officer, ordinances and policies regarding buying locally.

Mr. Slaten said Tipton Ford Lincoln could provide the police vehicles in the future and provide the same service the state contract provides.

Council Member Kathleen Belanger moved approval; motion duly seconded by Council Member Roy Boldon and carried by unanimous vote.

B. Consider a resolution joining the State of Texas and Texas Political Subdivisions’ Opioid Abatement Fund Council and Settlement Allocation Term Sheet.

City Attorney Steve Kirkland stated this is request from the Texas Attorney General for the City of Nacogdoches to join them in their settlement against the Opioid manufacturers and distributors. The City’s portion of the settlement would be approximately \$250,000 which should be distributed over the next three years, according to the Attorney General’s Office. The City can spend the settlement monies on programs that have a nexus to the Opioid epidemic which could include interdiction, treatment, intervention and prevention.

Council Member Jay Anderson moved approval; motion duly seconded by Council Member Amelia Fischer and carried by unanimous vote.

7. Executive Session was not held.

8. Adjourned 6:47 p.m.

ATTEST:

Mayor Jimmy Mize
City Council
City of Nacogdoches

Jan Vinson, City Secretary



City Council Meeting

Date: November 2, 2021

Agenda Item: 5.B.

PRESENTER: Sherry Morgan, Executive Director at Nacogdoches Convention & Visitors Bureau

ITEM/SUBJECT: Consider approval of an agreement by and between the City of Nacogdoches and the Nacogdoches Convention and Visitors Bureau which outlines the terms by which employees of the CVB are employees of the City and thereby subject to the policies and guidelines established by the City. (Convention and Tourism Director)

SUMMARY/BACKGROUND: The Nacogdoches Convention and Visitors Bureau (CVB) is a 501c6 non-profit charged with the marketing and promotion of Nacogdoches as an historic tourist destination. Through a separate agreement with the City of Nacogdoches, Nacogdoches CVB receives 72.5% of remitted hotel occupancy tax to fund its marketing and promotional efforts.

The original agreement was approved on September 5, 2017 which created the Department of Conventions and Tourism whereby the CVB director and staff became City employees and are compensated as such by the City.

The term of this renewal will be from November 7, 2021 and remain in effect for a period of one year and be renewable for an additional year if agreed upon by the City and the CVB. The CVB director and staff will continue to be considered City employees subject to oversight by the City, the director and staff generally perform the duties traditionally provided by the executive director and support staff of the CVB. Pursuant to this agreement, the City provides salary and other benefits (health insurance, retirement, etc) to the director and staff as is customary for the other City employees. The CVB will compensate the City in an amount which equals the actual cost incurred by the City for salaries and related expenses, and benefits directly associated with the services the executive director and staff provided to the CVB.

The terms of this renewal are the same as those of the prior year's contract with the notable exception of the 3-year subsidy arrangement previously provided due to pandemic-induced lost revenue.

FINANCIAL:

Item is budgeted:

Account No.: 01.559.76

Account Name: *General Fund Contributions from CVB*

Amount: \$327,805.00

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Not applicable

CITY CONTACT: Sherry Chaney Morgan, Convention and Tourism Director
sherry@visitnacogdoches.org
936-564-7351

ATTACHMENTS: 1. Agreement

ARTICLE IV Compensation

The Director and Staff will be City employees and will be paid as such by the City. The City will provide salary and other benefits (health insurance, retirement, etc.) to the Director and Staff as is customary for other City employees.

CVB will pay compensation to the City, which equals the actual costs incurred by the City for salary, related expenses and benefits directly associated with the services the Director and Staff provide to CVB. The City shall deliver a monthly invoice for said compensation to CVB, which CVB agrees to pay within thirty days of receipt.

Additionally CVB will provide Director and Staff use of its leased office space in the Charles Bright Visitor Center building located at 200 E. Main Street or at another location of comparable size at the discretion of CVB. CVB will provide compensation to the City for convention, tourism and hotel industry related travel expenses and associated dues, as well as provide computers, telephones, and all other required office equipment and supplies as needed for the Director and Staff for the performance of duties required under this Agreement.

Outside of the fixed monthly payments to the City, CVB will have no other financial obligation to Director and Staff, unless Director and/or Staff and CVB enter into an ancillary agreement which is approved by the City.

The City will maintain complete and accurate records of all payrolls, expenditures, disbursements, and other items charged to CVB for a minimum of 4 years from the date of the termination of this Agreement. All such records will be clearly identifiable, and the City will allow CVB or its designated representatives to inspect, examine, copy, and audit all such records during regular business hours with 24 hours' written notice.

ARTICLE V Performance Evaluation

CVB is vested with the ability to advise the City on any given action to be taken in regard to the hiring, overall job performance or termination of the Director and/or Staff; however, the final authority as to employment rests with the City. It is expressly understood by and between the City and CVB that the City will retain the ultimate authority to hire and terminate the Director and/or Staff.

ARTICLE VI Termination

Either the City or CVB may terminate this Agreement, with or without cause, upon ninety (90) days written notice to the other party.

ARTICLE VIII

Relationship of Parties

The relationship of CVB and the City shall be that of independent contractors as to all services performed hereunder. The doctrine of respondeat superior shall not apply as between the City and CVB, its officers, agents, servants, employees, contractors, and subcontractors, and nothing herein shall be construed as creating a partnership or joint enterprise between the City and CVB.

Other than the terms specifically set forth herein, nothing in this Agreement shall allow or authorize CVB to bind or obligate the City as to any expense, obligation, duty or incentive.

ARTICLE IX

Miscellaneous

Non-Waiver

It is expressly understood and agreed that, in the execution of this Agreement, no party waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions.

Venue

Each party to this Agreement agrees if legal action is brought under this Agreement, exclusive venue shall lie in Nacogdoches County, Texas.

Governing Law

The validity of this Agreement and of any of its terms or provisions, as well as rights and duties of the parties hereunder, shall be governed by the laws of the State of Texas.

Severability

In case any one or more of the minor provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Notice

Notices shall be written and mailed by certified mail or hand delivered to the chief executive officer of each party or such party's office.

Modification

This Agreement may be amended or modified by mutual agreement of the parties hereto in writing to be attached to and incorporated into this Agreement.

Headings

The headings of sections or paragraphs of this Agreement are for convenience purposes only and in no way control, contradict or limit contents of such sections or paragraphs.

Assignment

CVB may not assign this Agreement without prior written consent of City.

Open Records

CVB understand this Agreement and the services provided herein may subject all or part of CVB's records to the Texas Public Information Act, but only to the extent required by law.

Authority to Execute

The individuals executing this Agreement on behalf of the respective parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

NACOGDOCHES CONVENTION AND
VISITORS BUREAU,
a non-profit corporation

By: _____
CHAY RUNNELS
Chairman of the Board of Directors

Date Signed: _____

CITY OF NACOGDOCHES,
a municipal corporation

By: _____
Mario Canizares
City Manager

Date Signed: _____



City Council Meeting

Date: November 2, 2021

Agenda Item: 5.C.

PRESENTER: Michael Donnell, I.T. Manager

ITEM/SUBJECT: Consider approval of an interlocal agreement between the City of Nacogdoches and Nacogdoches County relating to emergency mass notification system purchase and usage. (I.T. Manager)

SUMMARY/BACKGROUND: City and County staff intend to enter into a Services Agreement with a private vendor to establish a shared mass notification system. This Agreement is designed to align the interests of the City and County to combine resources for a mutually beneficial service to the community. The County will enter into an agreement with Sam Asher Computer services ("Hyper-Reach"), and the City will become a user of that system. In this interlocal, the City will pay a portion of the yearly fee which will be billed directly from Sam Asher Computer services at \$7,000 annually. This system will replace the existing Blackboard connect mass notification system that the City currently uses.

FINANCIAL:

Item is budgeted:

Account No.: 01.17.620.10

Account Name: *Fire Dept. IT Maintenance*

Amount: \$4,750.00

Account No.: 30.35.620.10

Account Name: *Utility Billing IT Maintenance*

Amount: \$4,750.00

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Community Engagement/Diverse Environment

CITY CONTACT: Michael Donnell, I.T. Manager
donnellm@nactx.us
936-559-2531

ATTACHMENTS: 1. Interlocal Agreement

**INTERLOCAL AGREEMENT FOR
MASS NOTIFICATION SYSTEM
(County of Nacogdoches & City of Nacogdoches)**

THE STATE OF TEXAS

COUNTY OF NACOGDOCHES

THIS INTERLOCAL AGREEMENT ("Agreement") is made and entered into by and between Nacogdoches County ("County"), a political subdivision of the State of Texas, and the City of Nacogdoches, Texas ("City"), a municipal corporation within Nacogdoches County, (collectively, the "Parties") for establishing the use of a mass notification system.

RECITALS

WHEREAS, Texas Government Code, Chapter 791, the Texas Interlocal Cooperation Act, provides that one or more public agencies may contract with each other for governmental functions and services, including police protection services; public health and welfare; administrative functions; and other governmental functions in which the contracting Parties are mutually interested, in order to provide a governmental function or service that each Party to the contract is authorized to perform individually;

WHEREAS, the Parties intend to engage a third party, Sam Asher Computing Services, Inc. ("Asher"), to establish a comprehensive alert system for the benefit of its citizens; and

WHEREAS, the Parties intend to coordinate a warning protocol, in part, through access to Asher's Hyper-Reach notification system for certain disasters and other similar events;

NOW, THEREFORE in consideration of the above recitals, mutual benefits and promises each to the other made herein, the Parties named above do hereby agree as follows:

PUBLIC PURPOSE

The Parties intend to enter into a Services Agreement with a private vendor to establish a mass notification system. This Agreement is designed to align the interest of the City and County and combine resources for a mutually beneficial service to the community.

Scope of Interlocal Cooperation

Joint Use of Notification System. County shall enter into the Services Agreement with Sam Asher Computing Services, Inc. (a/k/a Hyper-Reach or "Asher") as attached (or materially similar to) in Exhibit 1 to provide the mass notification contemplated by this Interlocal Agreement.

Party Payment(s) to Third Party Vendor for Notification Services. It is agreed by the Parties that the annual fee for the notification system shall be shared as follows:

- a. The City agrees to pay directly to Asher \$7,000 annually, out of the current available funds, for the use of the mass notification system.

- b. The County agrees to pay Asher \$6,500 annually, out of the current available funds, for the use of the mass notification system.

Warning Protocol Coordination. The Parties shall use their best efforts towards the development of a consolidated warning protocol using the Hyper-Reach Notification System provided by Asher. The protocol is not valid without the mutual consent of Nacogdoches County Judge and the City Manager as determined by their signatures. The consolidated warning protocol may be changed at any time with the mutual consent of the County Judge and the City Manager (or their respective, specifically named designees).

It is anticipated by the Services Agreement that Asher will bill each Party individually and payment shall be made by the parties on or before the invoice due date.

The Parties acknowledge that the Service agreement with Asher automatically renews in absence of a thirty (30) days written notice of termination from County to Asher. Therefore, in the event the City opts to not renew its participation in the Hyper-Reach notification system, it shall immediately notify the County and no later than the deadline set forth in the Termination Clause below.

GENERAL PROVISIONS

Severability Clause. The Parties intend for the various provisions of this Agreement to be severable so the invalidity, if any, of one or more sections of this Agreement shall not affect the validity of the remaining provisions of the Agreement.

Authority to Contract. Each power has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement.

Joint Venture and Agency. Nothing in this Agreement shall at any time be construed so as to create the relationship of employer and employee, principal and agent, partnership, or joint venture as between Nacogdoches County and City. Neither party shall have any authority to incur any obligation or bind or commit the other party to any agreement, contract, or commitment or to waive, modify, or amend any rights of either party under any agreement, contract, or commitment, except as expressly authorized in writing by other party. Neither party shall in any manner be answerable or accountable for: (i) any violation by the other party of any federal, state or local laws, regulations, ordinances, rules or orders; or (ii) for any injury, loss or damage arising from or out of any act or omission of the other party.

Termination. This Agreement may be terminated by either party without cause by tender of a sixty (60) day written notice in order to accommodate the thirty (30) day notice of termination to Asher, a third-party vendor.

Notice. Any notice required under the provisions of this Agreement shall be in writing and delivered in person or deposited in the U.S. Mail, registered or certified, return receipt requested.

Limitation of Liability. By entering into this Agreement, neither party waives sovereign immunity defenses or any other limitation of liability. No provision of this agreement is intended to modify or waive any provision of the Texas Tort Claims Act, as amended. The City agrees to accept full responsibility for the acts, negligence and/or omissions of all City employees, agents, subcontractors and/or contract laborers and for all persons doing work under a contract or agreement with the City.

Dispute Resolution. The Parties acknowledge and agree that, in the event of a dispute, each may avail itself of alternate dispute resolutions as authorized by sec. 791.015 of the Gov't Code.

Entire Agreement. This Agreement represents the entire agreement of the parties and supercedes any verbal or written representations of, to or by the parties to each other.

Amendment. If the Parties desire to modify this Agreement during or after the initial term, any modifications may be either incorporated herein by a written amendment or set forth in an entirely new written agreement. Any modifications must be properly approved and signed by authorized representatives of the Parties.

DATED to be effective this the 26th day of October, 2021.

NACOGDOCHES COUNTY, TEXAS

By: [Signature] 10/26/21
Nacogdoches County Judge

Attest: [Signature] 10/26/21
Nacogdoches County Clerk

CITY OF NACOGDOCHES, TEXAS

By: _____
Mayor, City of Nacogdoches

Attest: _____
City Secretary

Hyper-Reach Services Agreement

This agreement made this 27th day of September, 2021

Between: **Hyper-Reach**
3300 Monroe Avenue, Suite # 317
Rochester, NY 14618
Phone: 585.586.0020
Fax: 585.586.4511

(Hereinafter “**Asher**”)

And

Client: **Nacogdoches County, TX**

Address: 101 W. Main Street
Nacogdoches, TX 75961

Contact person: **Ms. Tara Triana**

Office: 936-560-7871
E-mail: ttriana@co.nacogdoches.tx.us
(Hereinafter “**Client**”)

Whereas Asher provides technical services

And Client wishes to retain the services of Asher

Therefore Client retains Asher to:

1) Service

Provide access to Hyper-Reach notification system, which enables the Client to instantly send messages via multiple channels to any number of recipients. Hyper-Reach service will commence on the activation date indicated below, or two (2) weeks after the signing of this agreement and receiving set up data. The system will be available to the Client 24 hours a day, seven (7) days a week from and after that date.

2) Deliverables

- Access to Hyper-Reach website for account creation and management, contact list management, and reviewing reports.
- Access to the Hyper-Reach IVR system to initiate campaigns, record messages and review reports.
- Access to the Hyper-Reach Launch App via iOS or Android device

Hyper-Reach Services Agreement

- Access to the Accu-Reach Targeting Tool with Google maps
- Access to IPAWS (WEA from cell towers)
- Automated Weather Alerts

3) Performance

The system will make up to seven (7) attempts (if necessary) to contact each recipient. The system is currently scaled to deliver approximately 50,000 30-second messages per hour, and over 50,000 SMS (text) per hour. Capacity is based on a population of 100,000 and may be increased if necessary.

4) Cost of Services

Services provided to Client shall be billed according to the following:

Service Description	Cost	Notes
Standard Notification System with Accu-Reach Targeting tool.	Included with Package Pricing	Includes web access, maintenance, security, upgrades, and web training.
Automated Weather Alerts	Included with Package Pricing	Automated service to alert the public of severe weather warnings. (based on community signup)
Mapping	Included with Package Pricing	Google maps integrated with landline phone data and GIS mapping.
IPAWS functionality	Included with Package Pricing	Functionality will be activated once Client is certified by FEMA and Hyper-Reach has your credentials.
On-Site Training (OPTIONAL)	\$600 (plus travel)	In-person on-site training.
	Package Pricing	
Emergency Mass Notification County of Nacogdoches: City of Nacogdoches: (to be billed individually)	\$ 6,500 <u>\$ 7,000</u> \$13,500 Annually	Package Includes: ☐ Hyper-Reach ☐ Community Signup ☐ IPAWS alerts ☐ Automated Weather Alerts (based on community signup) ☐ Accu-Reach Targeting Tool ☐ Web Training ☐ Unlimited minutes

Hyper-Reach Services Agreement

5) Payments

Charges shall be paid to Asher within 30-day terms, net from date of invoice. Any overdue invoice shall be subject to a one and one-half percent (1.5%) late charge for each full or part month during which payment is outstanding. Client is responsible for all taxes and processing fees associated with payment.

6) Term

This agreement shall be valid for 1 year. Unless canceled by written notice from either party at least 30 days prior to termination, it will renew thereafter with the same terms.

7) Default

Upon default of payment, Asher reserves the right to discontinue further service to Client. Asher reserves further the right to discontinue Client access to previously developed information until payment in full of all arrears (including late charges, collection costs, attorney fees etc.) shall have been made. Asher is not responsible for any damages to Client resulting from such suspension, discontinuation or termination of service.

8) Confidentiality

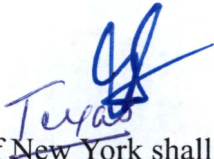
Asher and Client each acknowledge that in the course of carrying out the terms of this agreement, each may have necessary or incidental access to the business affairs, trade secrets, client lists, proprietary information and operating systems of the other ("Confidential Information"). Each party agrees that it shall maintain as confidential, all such Confidential Information and shall treat such Confidential Information with at least the same degree of care as it would its own most highly confidential information. Neither party shall obtain any ownership or other rights to the trademarks, proprietary information or Confidential Information of the other. Neither party shall in any way use or disseminate any such Confidential Information (save as may during the term of this agreement enter the public domain) and shall exact a similar confidentiality covenant from each of its own employees who may have access to the Confidential Information of the other. Each party acknowledges that an action of damages may not suffice to compensate the aggrieved party of breach of confidentiality and each party does hereby consent to the making of a mandatory restraining or injunctive order against it in such event upon the application of the other, in addition to any other relief available at law or in equity.

Hyper-Reach Services Agreement

9) Disclaimer

Asher shall take all commercially reasonable actions and precautions to ensure that Client gets commercially valuable services. Save as aforesaid, Asher makes no warranty to Client with respect to the services and disclaims all other warranties express or implied including but without limitation any implied warranty fitness for any particular purpose. Save as specifically set out herein, Asher will not be responsible for any incidental, special or consequential damage sustained or suffered by Client in any way arising out of or referable to the services referred to in this agreement.

10) Jurisdiction

Asher and Client agree that the laws of the State of  shall govern the terms of this agreement for all purposes, but Asher reserves the right to determine the final venue. In the event of any dispute, the successful party shall receive its court costs and attorney's fee and/or collection costs in full, from the unsuccessful party.

11) Notice

Any notice to be given by either Asher or Client to the other shall be effective only when made in writing addressed to the other party at the address or facsimile number noted above and shall be effective on the day next following the receipt of such notice by the other. Fax messages shall be deemed received on the day they are sent and mailed correspondence, shall be deemed received on the second day following the date of mailing. Confirmed fax transmissions shall be binding upon the parties for all purposes of this agreement.

12) Entire agreement

This agreement constitutes the entire agreement between parties. No alteration or amendment shall be effective unless in writing and executed by both parties. In particular, no oral statement or representation made by either party or any representation shall be effective unless reduced to writing and incorporated into this agreement.

IN WITNESS WHEREOF this agreement has been executed by the parties as of the day and date on page one (1) of this document.

Hyper-Reach Services Agreement

Estimated Activation Date: 11/1/2021

Sam Asher Computing Services Inc.

per: _____

I have authority to bind the corporation

Print Name

Title

Date

County of Nacogdoches, TX

Client company name

per: _____

I have authority to bind the corporation

Greg Sowe II
Print Name

County Judge
Title

10-26-21
Date

Note: this agreement is not binding until signed by an officer of Asher Group.



City Council Meeting

Date: November 2, 2021

Agenda Item: 5.D.

PRESENTER: Case Opperman, Public Works Asst Director

ITEM/SUBJECT: Consider approval of a contract by and between the City of Nacogdoches and Drewery Construction Co., Inc. for the 2021 Martin Luther King, Jr. Boulevard Paving Project in a not to exceed amount of \$64,925.00 (Assistant Director of Public Works).

SUMMARY/BACKGROUND: On October 25, 2021, the City received bids for the 2021 Martin Luther King, Jr. Boulevard Paving Project. Two (2) contractors submitted bids as follows:

<i>Drewery Construction Co, Inc.</i>	\$ 64,925.00
L.S. Equipment Co., Inc.	\$ 148,435.00

This bid included a bid addendum which established revised quantities in a revised Bid Form. The bid from L.S. Equipment was submitted using the original quantities on the original Bid Form and is considered a bid irregularity. This irregularity did not affect the outcome of the low bid process.

This project will include paving improvements on Martin Luther King, Jr. Boulevard between the eastern edge of the Union Pacific Railroad Right-of-Way and the Cedar Street intersection west of University Drive. The existing pavement will be milled up and inlaid with a 5"-thick asphalt surface installed in two lifts. This thicker asphalt section will hold up better to the frequent truck traffic seen in the area and will hopefully allow for longer pavement life in that street section. Scheduled work will be coordinated between the City, contractor and Pilgrim's Pride to ensure that the most efficient schedule is utilized for all parties. It is anticipated to finish construction within this calendar year. Improvements will be funded by the CIP Annual Street Rehab budget.

Drewery Construction is a qualified and experienced paving contractor who has successfully completed many projects for the City. It is recommended that the base bid for this project be awarded to Drewery Construction Co., Inc. in the amount of \$64,925.00.

FINANCIAL:

Item is budgeted:

Account No.: 01.86 680.30

Account Name: *Annual Street Rehab*

Amount: \$ 250,000

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Infrastructure

CITY CONTACT: Case Opperman, Assistant Director of Public Works
oppermanc@nactx.us
936-559-2515

ATTACHMENTS: 1. 2021 MLK Paving Bid Tab

City of Nacogdoches
2021 Martin Luther King, Jr. Blvd. Paving Project

				Drewery Construction Co., Inc.		L.S. Equipment Co., Inc.	
Item	Quan	Unit	Description	Unit Price	TOTAL	Unit Price	TOTAL
1.	1,100	SY	Mill existing pavement and base to depth of 3" in accordance with <i>TxDOT Standard Specifications for Construction of Highways, Streets and Bridges</i> , Item 354, latest edition; including haul and disposal to locations as directed by City	\$14.85	\$16,335.00	\$25.00	\$27,500.00 *\$34,225.00
2.	363	tons	5" inlay, Type C hot mix asphaltic concrete, installed in two (2) lifts including tack coat of SS-1 @ 0.10 gal/SY, herbicide treatment, vegetation removal, all materials & labor; complete, in place	\$130.00	\$47,190.00	\$225.00	\$81,675.00 *\$101,700.00
3.	7	SY	Asphalt street patching (full depth, 6" asphalt), including all sawcuts, subgrade preparation, full depth Type D hot mix asphaltic concrete, haul and disposal, all materials & labor; complete, in place	\$200.00	\$1,400.00	\$1,390.00	\$9,730.00 *\$12,510.00
BASE BID TOTAL				\$64,925.00		\$118,905.00 *\$148,435.00	

* Bid Irregularity: Bid Addendum 1 established revised quantities in a revised Bid Form. Bid submitted using quantities on original Bid Form.

PRESENTER: Mario Canizares, City Manager

ITEM/SUBJECT: Receive and discuss Initial Assessment regarding whether redistricting is required for City Council member districts considering the new 2020 census data; and, if so, discuss and consider a resolution adopting criteria for use in the 2021 redistricting process, and a resolution adopting guidelines for public participation in the redistricting process. (City Manager)

SUMMARY/BACKGROUND: Every 10 years, local governments (including city councils, county commissioner's courts and school district boards) use new census data to re-establish the boundaries for their districts. The resulting council district boundaries must be balanced in population in accordance with state and federal rules governing the redistricting process, to reflect population growth or decline and other demographic changes. This process is important in ensuring that each city council member and district has equal voter representation through equal, or equivalent, population counts.

The City has contracted with Bickerstaff Heath Delgado Acosta LLP (the Firm), to provide redistricting services. These services include an initial assessment (consisting of post-census initial data analysis), as well as developing redistricting plans, and public input, deliberation, and adoption of a final plan. The City is also working with Nacogdoches ISD to coordinate public presentations of the redistricting plans prior to final adoption.

The Firm will present and discuss their findings and recommendations as outlined in the attached initial assessment report with the City Council. If the city council districts are determined to be out of balance, the Firm will outline the City's obligations, and produce a timeline for completing the remainder of the redistricting process.

FINANCIAL:

No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Community Engagement/Diverse Environment

CITY CONTACT: Mario Canizares, City Manager
canizaresm@nactx.us
936-559-2501

ATTACHMENTS:

1. Initial Assessment
2. Resolution - Criteria Adoption
3. Resolution - Guidelines Adoption
4. PowerPoint

October 14, 2021

Mayor Jimmy Mize and City Council Members
City of Nacogdoches City Hall
202 East Pilar Street
Nacogdoches, TX 75961

Re: *Initial Assessment considering 2020 Census data*

Dear Mayor Mize and City Council Members:

This is the Initial Assessment letter for the City of Nacogdoches. Our review of the recently released 2020 Census population and demographic data for the City shows that the City's councilmember districts are sufficiently out of population balance that you should redistrict. We are prepared to meet with the City Council on November 2, 2021, to review the Initial Assessment and to advise the City Council on how to proceed to redistrict the City councilmember districts to bring them into population balance for use in the 2022 election cycle.

This letter presents a brief overview of basic redistricting principles to assist you in preparing for our presentation on the Initial Assessment. We also set out in the attachments (Attachment H) suggested posting language for the meeting at which the Initial Assessment will be presented. Note that this posting language includes agenda items for the adoption of redistricting criteria and guidelines. These are matters that should be addressed early in the redistricting process to enable us to proceed efficiently. We will be working with you to develop the appropriate language for your adoption of redistricting criteria and guidelines.

In redistricting the councilmember districts, the City will need to be aware of the legal standards that apply. We will review these principles in detail with the City Council at the presentation on the Initial Assessment. There are three basic legal principles that govern the redistricting process: (i) the "one person-one vote" (equal population) principle; (ii) the non-discrimination standard of Section 2 of the Voting Rights Act; and (iii) the *Shaw v. Reno* limitations on the use of race as a factor in redistricting. These principles are discussed in detail in the attachments to this letter, which we urge you to read and review carefully.

The process we have outlined for the redistricting process and the policies and procedures that we are recommending the Council adopt will ensure that the City adheres to these important legal principles and that the rights of protected minority voters in the political subdivision are accorded due weight and consideration.

The "One Person – One Vote" Requirement: Why You Should Redistrict

The "one person-one vote" requirement of the United States Constitution requires that members of an elected body be chosen from districts of substantially equal population and applies to city councils. Exact equality of population is not required, but a "total maximum deviation" of no more than ten percent in total population between the most populated and the least populated city

councilmember districts based on the most recent census should be achieved. This maximum deviation of ten percent constitutes a rebuttable presumption of compliance with the one person-one vote requirement. If a city's councilmember districts do not fall within the ten percent maximum deviation, the city is at substantial risk of being sued for violation of one person-one vote standards.

The population and demographics of all the current City councilmember districts are presented in here and in Attachment A.

The tables in Attachment A show that the total population of the City on April 1, 2020, was 32,131 persons. This represents a decrease in population from 32,996 persons on April 1, 2010, or approximately 2.62 percent. The ideal City councilmember district should now contain 8,033 persons (total population / 4 single-member districts).

Councilmember district 1 has the largest population, which is approximately 4.57 percent above the size of the ideal district (or 367 people). District 2 has the smallest population, which is approximately 8.54 percent below the size of the ideal district (or 686 people). The total maximum deviation between the four existing councilmember districts for the City, therefore, is 13.11 percent. This total maximum deviation exceeds the standard of ten percent that generally has been recognized by the courts as the maximum permissible deviation. Accordingly, the City should redistrict to bring its City councilmember districts within the ten percent range permitted by law.

Section 2 of the Voting Rights Act: Avoiding discrimination claims

Section 2 of the federal Voting Rights Act prohibits any voting standard, practice, or procedure – including new redistricting plans – that have the effect of discriminating against a protected minority group. The principles of Section 2's nondiscrimination mandate are discussed in Attachment C.

The data in the Population Tables in Attachment A as well as the data in the maps in Attachment B, which show the geographic distribution of the primary minority groups in the City, will also be important in assessing the potential for Voting Rights Act Section 2 liability. (See Attachment C for a discussion of Section 2.)

Shaw v Reno: Additional equal protection considerations

As noted above, in order to comply with Section 2, the City must consider race when drawing districts. The 1993 Supreme Court case *Shaw v. Reno*, however, limits how and when race can be a factor in the districting decisions. Thus, local governments must walk a legal tightrope, where the competing legal standards must all be met. The *Shaw v. Reno* standard requires that there be a showing that (1) the race-based factors were used in furtherance of a "compelling state interest" and (2) their application be "narrowly tailored," that is, they must be used only to the minimum extent necessary to accomplish the compelling state interest. (*Shaw v. Reno* is discussed in Attachment C.) We will guide the City through proper application of this principle.

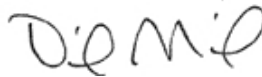
Adoption of redistricting criteria and public participation guidelines

At the presentation of the Initial Assessment we will recommend certain “traditional” redistricting criteria that the City may require all redistricting plans to follow. These criteria generally track the legal principles that the courts and the Department of Justice have found to be appropriate elements in sound redistricting plans. We will also recommend certain public participation guidelines that the City may wish to adopt to ensure fair and adequate public participation in the redistricting process, and that any comments or proposed plans submitted by members of the public are written, clear, and complete, and the submitter provides contact information.

Once redistricting guidelines and criteria are adopted and the City Council gives instructions about how it would like plans to be developed considering this Initial Assessment and the applicable legal standards, we can begin to assist the City in the development of plans for consideration.

We hope this Initial Assessment discussion is helpful to you and that it will guide the City Council as it executes the redistricting process. We look forward to meeting with the Council to review this Initial Assessment and to answer any questions you may have concerning any aspect of that process. Please feel free to call me in the interim as we prepare for the presentation and let me know if there is any additional information you may require.

Sincerely,

A handwritten signature in dark ink, appearing to read 'D. Méndez', with a stylized flourish at the end.

David Méndez

Encl.

ATTACHMENT A
INITIAL ASSESSMENT POPULATION TABLES

Demographics Report - Summary 2020 Census Total Population

Plan Last Edited on: 9/27/2021 5:04:40 PM

District	Persons	Ideal Size	Deviation	Hispanic % of Total Population	Non-Hispanic White % of Total Population	Non-Hispanic Black % of Total Population	Non-Hispanic Asian % of Total Population	Non-Hispanic Other % of Total Population
1	8,400	8,033	4.57%	18.81%	28.38%	47.79%	0.99%	4.05%
2	7,347	8,033	-8.54%	38.36%	34.23%	23.44%	0.94%	3.05%
3	8,313	8,033	3.49%	9.79%	67.69%	15.57%	2.59%	4.37%
4	8,071	8,033	0.48%	15.96%	60.81%	16.66%	2.18%	4.40%

Ideal Size: 8,033

Total Population: 32,131

Overall Deviation: 13.11%

Some percentages may be subject to rounding errors.

Demographics Report - Summary 2020 Census Voting Age Population

Plan Last Edited on: 9/27/2021 5:04:40 PM

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	6,264		16.43%	32.95%	46.22%	0.85%	3.58%
2	5,253		32.91%	39.48%	23.85%	1.07%	2.68%
3	6,898		9.44%	70.61%	13.73%	2.55%	3.67%
4	7,253		15.65%	63.39%	15.29%	1.90%	3.76%

* VAP - Voting Age Population

Some percentages may be subject to rounding errors.

City of Nacogdoches Council Districts - 2021 Initial Assessment

Demographics Report - Detailed 2020 Census Total Population

Plan Last Edited on: 9/27/2021 5:04:40 PM

District	Persons	Ideal Size	Deviation	Hispanic	Hispanic % of Total Population	ANGLO	Non-Hispanic Anglo % of Total Population	Black	Black % of Total Population	Asian	Asian % of Total Population	AM Indian Native	IND / NAT % TOT Pop.	Haw Pac. Isl.	HAW/ PAC % of Total Pop.	Other	Other % of Total Pop.	Two or More Races	Two or More Races % Tot Pop
1	8,400	8,033	4.57%	1,580	18.81%	2,384	28.38%	4,014	47.79%	83	0.99%	22	0.26%	0	0.00%	42	0.50%	276	3.29%
2	7,347	8,033	-8.54%	2,818	38.36%	2,515	34.23%	1,722	23.44%	69	0.94%	26	0.35%	0	0.00%	19	0.26%	179	2.44%
3	8,313	8,033	3.49%	814	9.79%	5,627	67.69%	1,294	15.57%	215	2.59%	26	0.31%	3	0.04%	41	0.49%	293	3.52%
4	8,071	8,033	0.48%	1,288	15.96%	4,908	60.81%	1,345	16.66%	176	2.18%	22	0.27%	0	0.00%	20	0.25%	313	3.88%

Ideal Size: 8,033

Total Population: 32,131

Overall Deviation: 13.11%

Some percentages may be subject to rounding errors.

Demographics Report - Detailed 2020 Census Voting Age Population

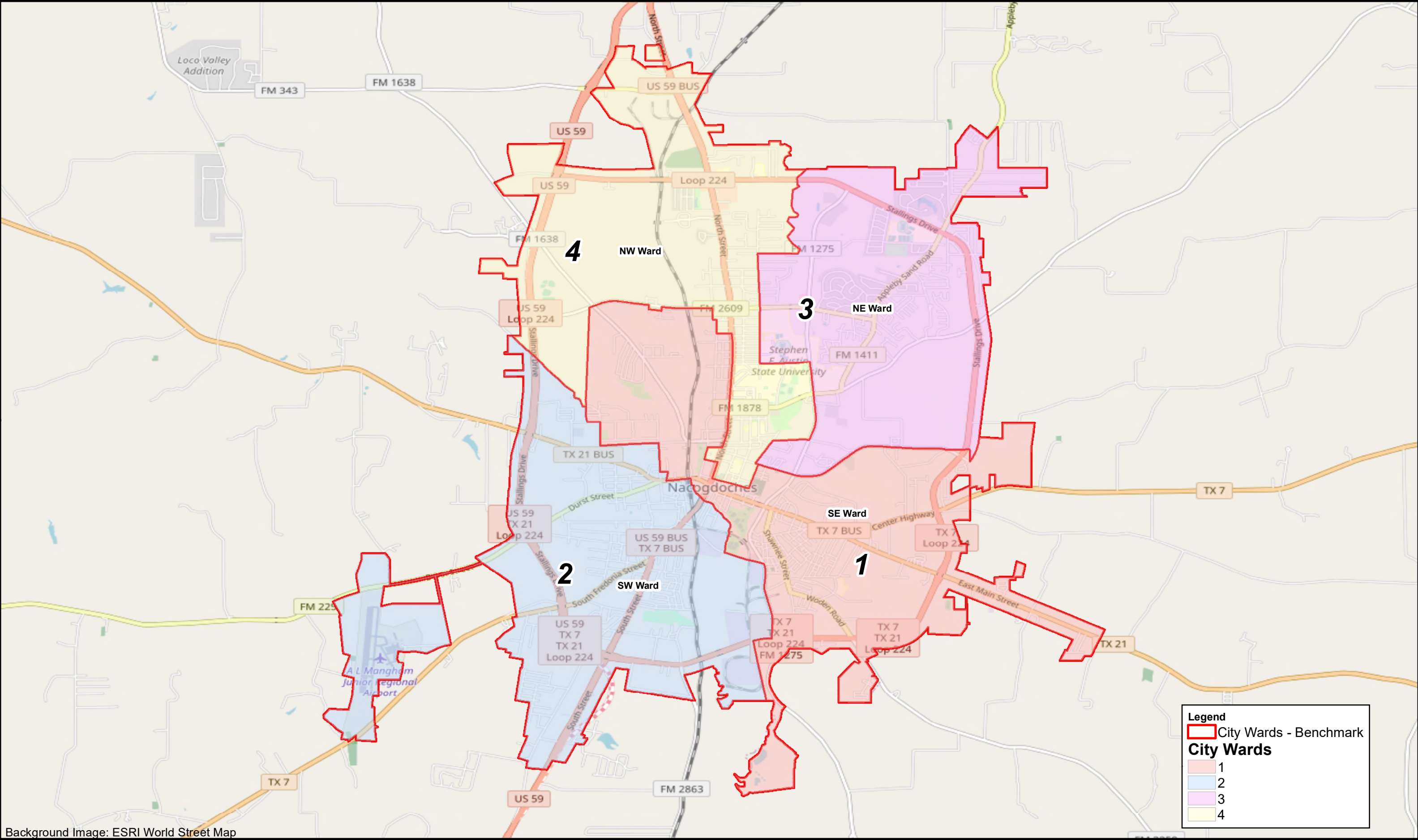
Plan Last Edited on: 9/27/2021 5:04:40 PM

District	Total VAP	Hispanic VAP	% Hispanic VAP	Anglo VAP	% Anglo VAP	Black VAP	% Black VAP	Asian VAP	% Asian VAP	AM IND NATIVE VAP	% AM IND NATIVE VAP	HAW/PAC VAP	% HAW/PAC VAP	Other VAP	% Other VAP	Two or More Races VAP	% Two or more VAP
1	6,264	1,029	16.43%	2,064	32.95%	2,895	46.22%	53	0.85%	19	0.30%	0	0.00%	23	0.37%	182	2.91%
2	5,253	1,729	32.91%	2,074	39.48%	1,253	23.85%	56	1.07%	22	0.42%	0	0.00%	9	0.17%	110	2.09%
3	6,898	651	9.44%	4,871	70.61%	947	13.73%	176	2.55%	23	0.33%	3	0.04%	28	0.41%	199	2.88%
4	7,253	1,135	15.65%	4,598	63.39%	1,109	15.29%	138	1.90%	16	0.22%	0	0.00%	16	0.22%	241	3.32%

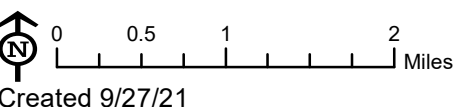
* VAP - Voting Age Population

Some percentages may be subject to rounding errors.

ATTACHMENT B
MAPS



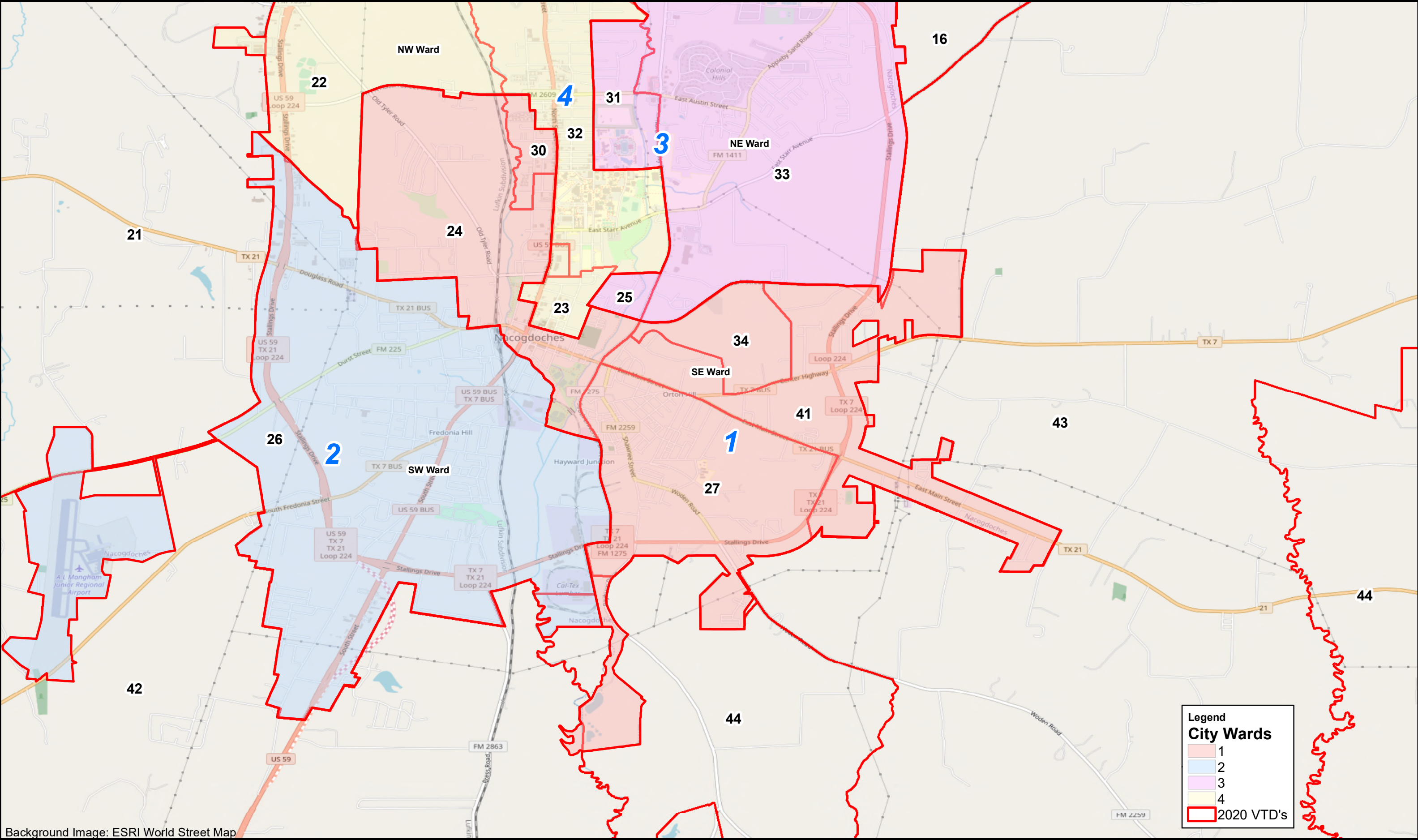
Background Image: ESRI World Street Map



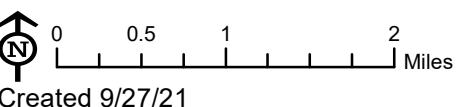
City of Nacogdoches Wards 2021 Initial Assessment

© 2021 Bickerstaff Heath Delgado Acosta LLP
Data Source: Roads, Water and other
features obtained from the 2020
Tiger/line files, U.S. Census Bureau





Background Image: ESRI World Street Map

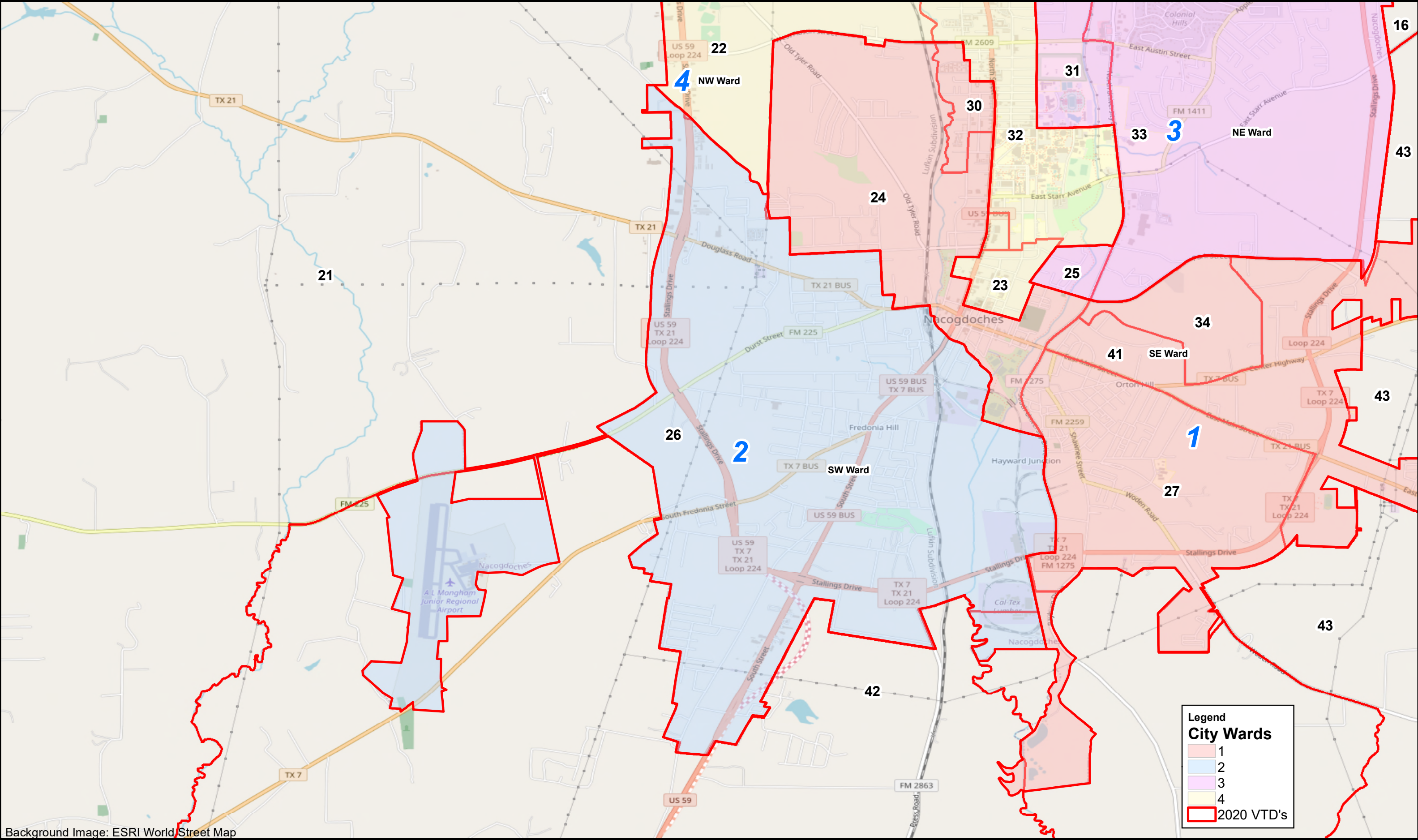


Created 9/27/21

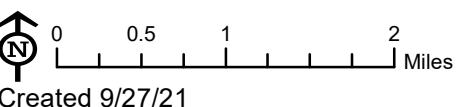
City of Nacogdoches SE Ward 2021 Initial Assessment

© 2021 Bickerstaff Heath Delgado Acosta LLP
Data Source: Roads, Water and other
features obtained from the 2020
Tiger/line files, U.S. Census Bureau





Background Image: ESRI World Street Map

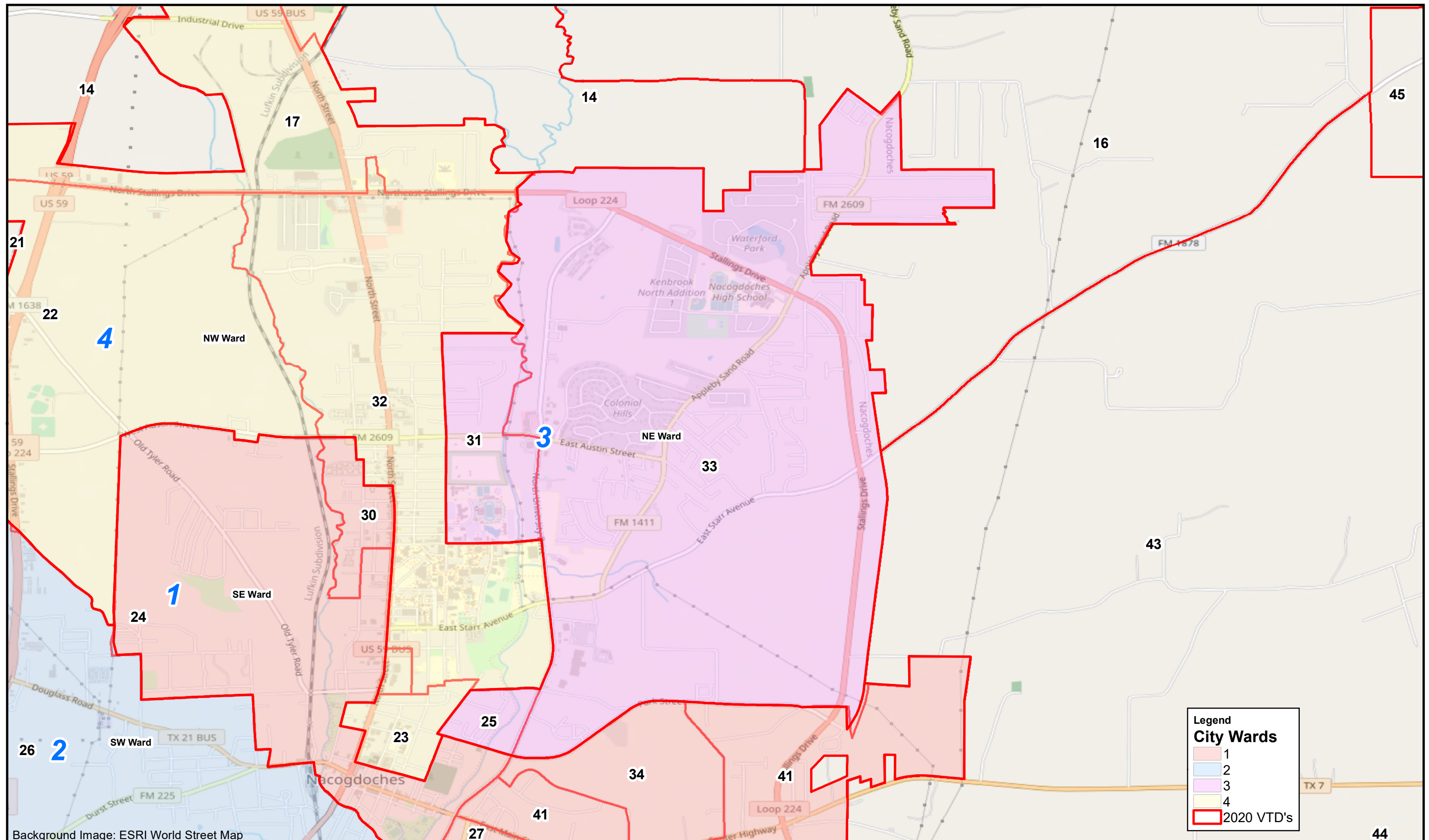


Created 9/27/21

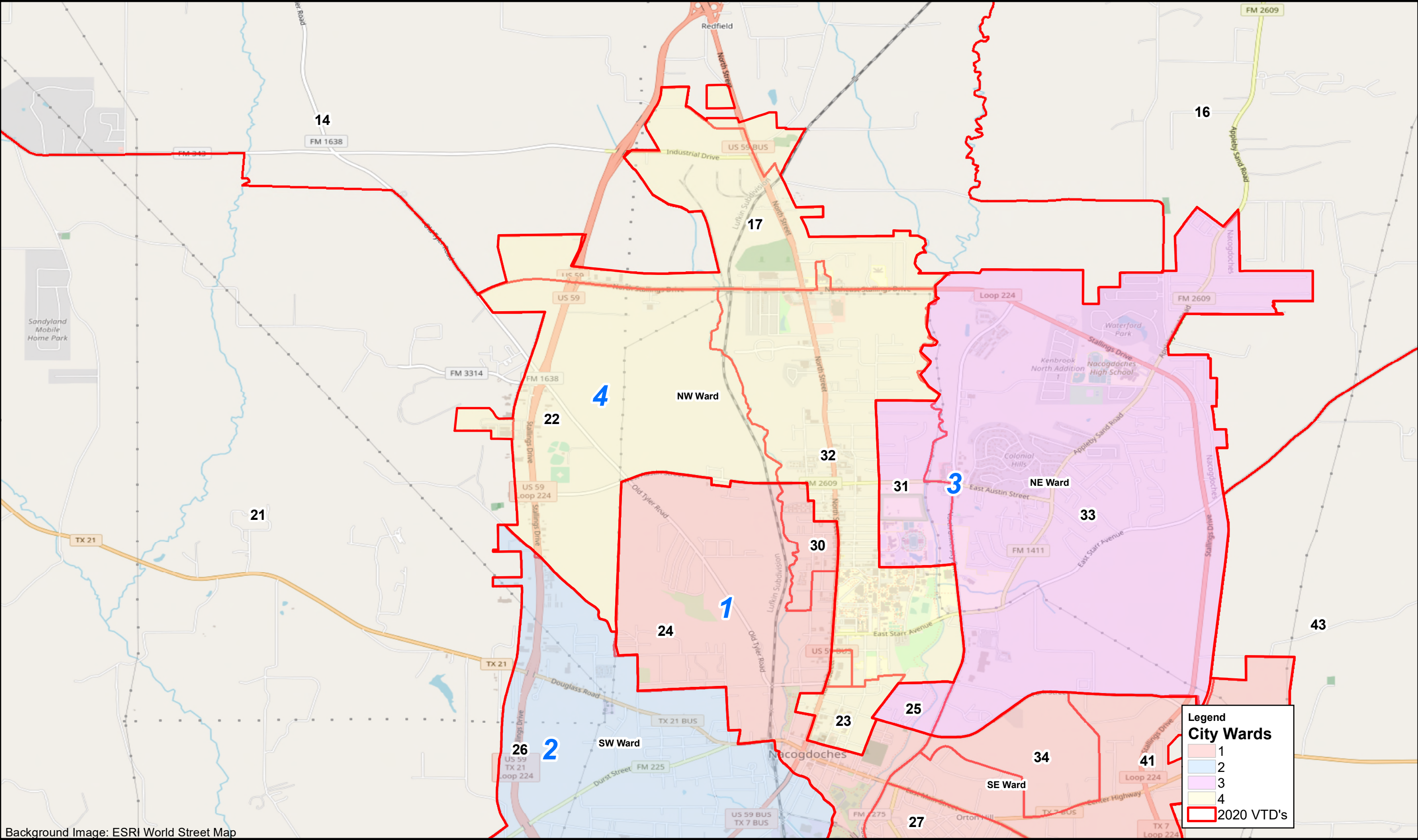
City of Nacogdoches SW Ward 2021 Initial Assessment

© 2021 Bickerstaff Heath Delgado Acosta LLP
Data Source: Roads, Water and other
features obtained from the 2020
Tiger/line files, U.S. Census Bureau

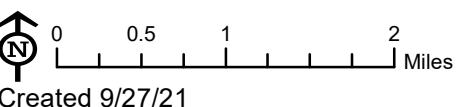




City of Nacogdoches NE Ward 2021 Initial Assessment



Background Image: ESRI World Street Map

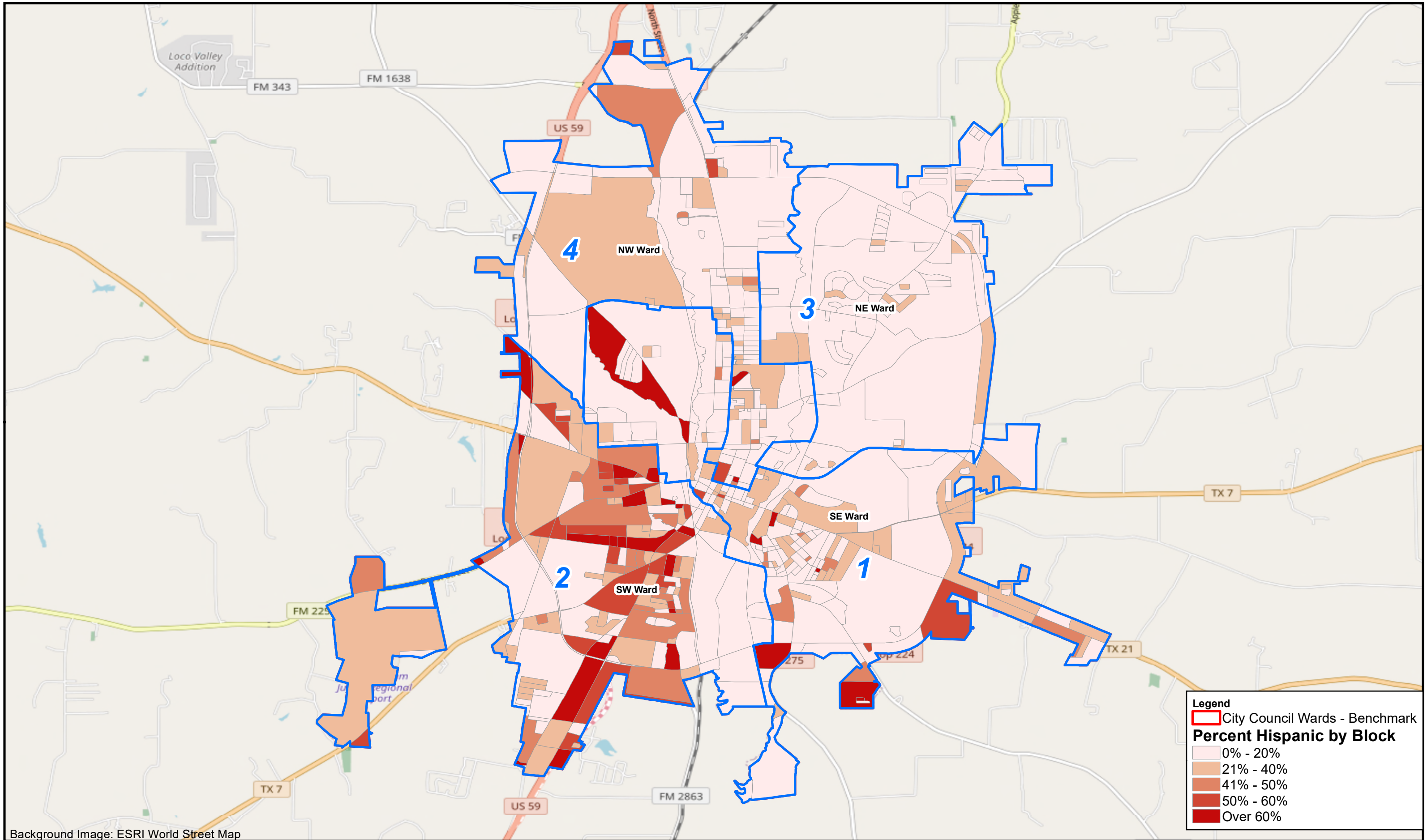


Created 9/27/21

City of Nacogdoches NW Ward 2021 Initial Assessment

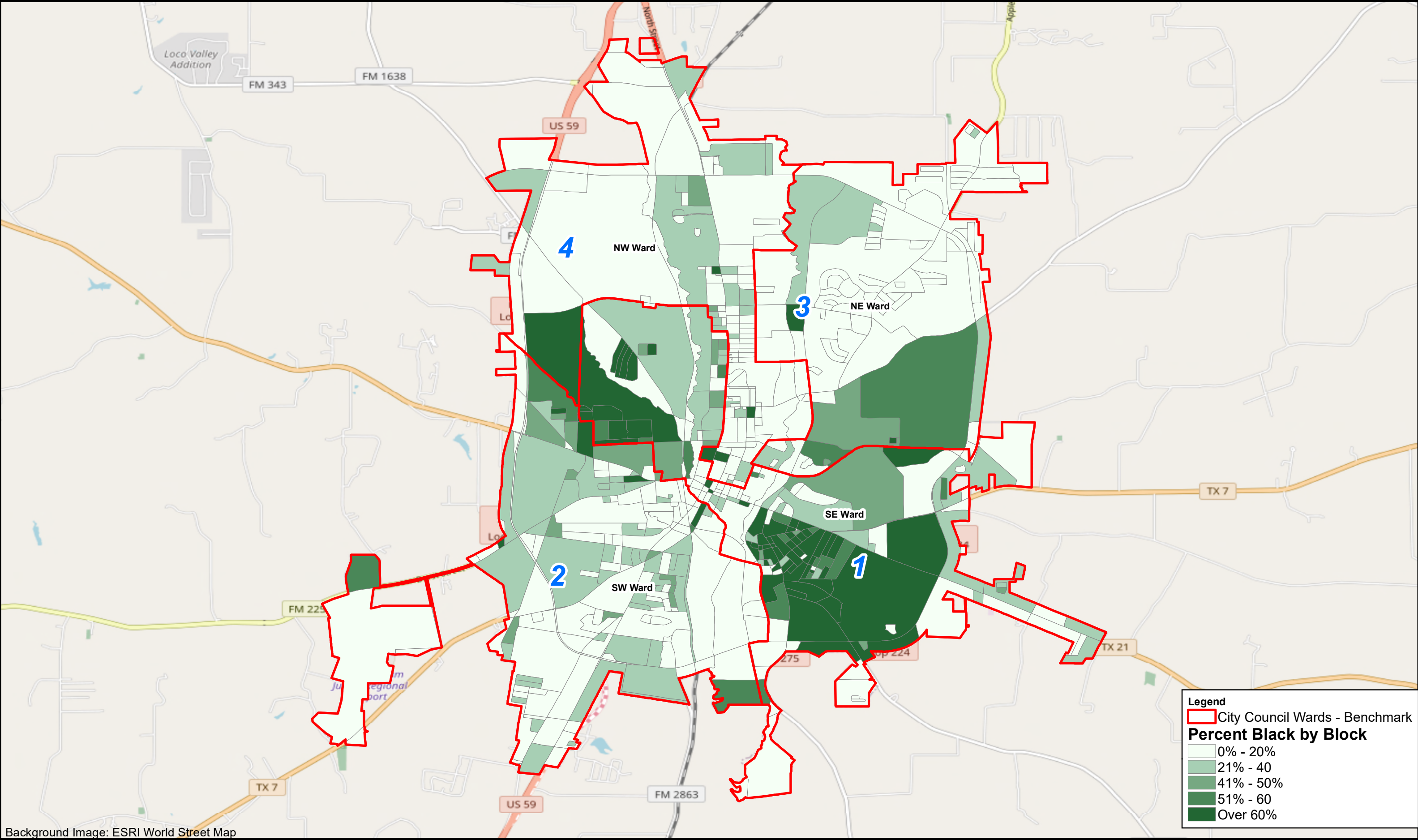
© 2021 Bickerstaff Heath Delgado Acosta LLP
Data Source: Roads, Water and other
features obtained from the 2020
Tiger/line files, U.S. Census Bureau



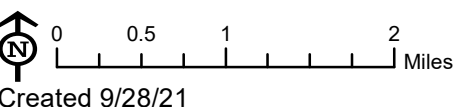


Background Image: ESRI World Street Map

City of Nacogdoches 2021 City Council Wards Percent Hispanic by 2020 Census Block



Background Image: ESRI World Street Map



City of Nacogdoches City Council Wards Percent Black by 2020 Census Block

© 2021 Bickerstaff Heath Delgado Acosta LLP
Data Source: Roads, Water and other
features obtained from the 2020
Tiger/line files, U.S. Census Bureau



ATTACHMENT C
LEGAL PRINCIPLES

LEGAL PRINCIPLES GOVERNING THE REDISTRICTING PROCESS

There are three basic legal principles that govern the redistricting process: (i) the “one person-one vote” (equal population) principle; (ii) the non-discrimination standard of Section 2 of the Voting Rights Act; and (iii) the *Shaw v. Reno* limitations on the use of race as a factor in redistricting. In addition, although it will not apply to the 2021 redistricting, Section 5 of the Voting Rights Act, which applied a “retrogression” standard to minority group populations in specific districts, may be helpful as a tool to analyze potential Section 2 issues regarding a proposed new plan.

The terminology of redistricting is very specialized and includes terms that may not be familiar, so we have included as Attachment D to this Initial Assessment letter a brief glossary of many of the commonly-used redistricting terms.

The “One Person – One Vote” Requirement: Why You Redistrict

The “one person-one vote” requirement of the United States Constitution requires that members of an elected body be drawn from districts of substantially equal population. This requirement applies to the single-member districts of “legislative” bodies such as commissioners courts and other entities with single-member districts such as school boards or city councils.

Exact equality of population is not required for local political subdivisions. However, they should strive to create districts that have a total population deviation of no more than 10 percent between their most populated district and the least populated district. This 10 percent deviation is usually referred to as the “total maximum deviation.” It is measured against the “ideal” or target population for the governmental entity based on the most recent census. The 10 percent standard is a rebuttable presumption of compliance with the one person-one vote requirement.

A governing body is therefore required to determine whether the populations of its single-member districts (including school board trustee districts) are within this 10 percent balance based on 2020 Census population data. If the population deviation among the districts exceeds the permissible 10 percent total maximum deviation, the entity must redistrict, that is, redraw the boundaries of the individual districts so that the total populations of all the new districts are within the permissible 10 percent limit. A hypothetical example of how deviation is calculated is given in Attachment E.

Generally, redistricting will use the Census Bureau’s recently released population data for the 2020 Census in drawing new redistricting plans – the so-called “PL 94-171” data. In any legal challenge to a new plan, it is this data that likely would be applied. Although several types of population data are provided in the PL 94-171 files, redistricting typically is based upon total population.

Official Census data should be used unless the governmental entity can show that better data exists. The court cases that have dealt with the question have made it clear that the showing

required to justify use of data other than Census data is a very high one – impossibly high at a time so close to the release of new Census data. As a practical matter, therefore, we recommend that entities use the 2020 Census data in their redistricting processes. We have based the Initial Assessment on PL 94-171 total population data; the relevant data are summarized in Attachment A.

In the redistricting process, each governmental entity will use a broad spectrum of demographic and administrative information to accomplish the rebalancing of population required by the one person-one vote principle. The charts provided with this report not only show the total population of the entity but also give breakdowns of population by various racial and ethnic categories for the entity as a whole and for each single-member district.

Census geography

These single-member population data are themselves derived from population data based on smaller geographical units. The Census Bureau divides geography into much smaller units called “census blocks.” In urban areas, these correspond roughly to city blocks. In more rural areas, census blocks may be quite large. Census blocks are also aggregated into larger sets called “voting tabulation districts” or “VTDs,” which often correspond to county election precincts.

For reasons concerning reducing the potential for *Shaw v. Reno*-type liability, discussed below, we recommend using VTDs as the redistricting building blocks where and to the extent feasible. In many counties this may not be feasible.

Census racial and ethnic categories

For the 2020 Census, the Census Bureau recognized over 100 combinations of racial and ethnic categories and collected and reported data based on all of them. Many of these categories include very few persons, however, and will not therefore have a significant impact on the redistricting process. The charts that accompany this report include only eight racial and ethnic categories that were consolidated from the larger set. The entire population of the entity is represented in these charts. These eight categories are the ones most likely to be important in the redistricting process.

The 2020 Census listed 6 racial categories. Individuals were able to choose a single race or any combination of races that might apply. Additionally, the Census asks persons to designate whether they are or are not Hispanic. When the Hispanic status response is overlaid on the different possible racial responses, there are over 100 possible different combinations. The Census tabulates each one separately.

If this information is to be usable, it must be combined into a smaller number of categories (of course, having the same overall population total). For purposes of analyzing Voting Rights Act Section 2 issues, discussed below, DOJ indicated in a guidance document issued on September 1, 2021, that it would use the following rules for determining Hispanic and race population numbers from the 2020 Census data:

- persons who selected “Hispanic” are categorized as Hispanic, no matter what race or races they have designated; all others will be classified as non-Hispanic of one or more races; *e.g.*, Hispanic-White and Hispanic-African-American are both classified as Hispanic;
- persons who did not select “Hispanic” and who designated a single race will be classified as members of that race; *e.g.*, White, African-American, Asian, etc.;
- persons who did not select “Hispanic” and who designated themselves as belonging to a single minority race and as White will be classified as members of the minority race; *e.g.*, Asian+White will be classified as Asian; and
- persons who did not select “Hispanic” and who designated themselves as belonging to more than one minority race will be classified as “other multiple race;” *e.g.*, White+Asian+Hawaiian or African-American+Asian. This category is expected to be small.

We will also consider data called “voting age population” (or “VAP”) data. It is similarly classified in eight racial and ethnic categories. This information is provided for the limited purpose of addressing some of the specific legal inquiries under the Voting Rights Act that are discussed below. Voting age population is the Census Bureau’s count of persons who identified themselves as being eighteen years of age or older at the time the census was taken (*i.e.*, as of April 1, 2020).

In addition to this population and demographic data, the entity will have access to additional information that may bear on the redistricting process, such as county road miles, facility locations, registered voter information, incumbent residence addresses, etc.

Section 2 of the Voting Rights Act – No Discrimination Against Minority Groups

Section 2 of the Voting Rights Act, 52 U.S.C. §10301, forbids a voting standard, practice, or procedure from having the effect of reducing the opportunity of members of a covered minority to participate in the political process and to elect representatives of their choice. In practical terms, this non-discrimination provision prohibits districting practices that, among other things, result in “packing” minorities into a single district in an effort to limit their voting strength. Similarly, “fracturing” or “cracking” minority populations into small groups in a number of districts, so that their overall voting strength is diminished, can be discrimination under Section 2. There is no magic number that designates the threshold of packing or cracking. Each plan must be judged on a case-by-case basis. Failure to adhere to such Section 2 standards could invite a challenge in court by a protected minority group or even by the Department of Justice.

In previous redistricting cycles, “preclearance” was required under Section 5 of the Voting Rights Act before a new plan (or any other change of any kind to voting standards, practices or procedures) could be implemented. Section 5 will not apply in the 2021

redistricting cycle, but as we discuss below, the Section 5 “retrogression” standard can be a useful tool to identify potential Section 2 issues with a proposed new plan.

The Supreme Court has defined the minimum requirements for a minority plaintiff to bring a Section 2 lawsuit. There is a three-pronged legal test the minority plaintiff must satisfy – a showing that: (1) the minority group’s voting age population is numerically large enough and geographically compact enough so that a district with a numerical majority of the minority group can be drawn (a “majority minority district”); (2) the minority group is politically cohesive, that is, it usually votes and acts politically in concert on major issues; and (3) there is “polarized voting” such that the Anglo majority usually votes to defeat candidates of the minority group’s preference. *Thornburg v. Gingles*, 478 U.S. 30 (1986). In the federal appellate Fifth Circuit, which includes Texas, the minority population to be considered is *citizen* voting age population. In certain cases, a minority group may assert that Section 2 requires that the governmental body draw a new majority minority district. The governing body must be sensitive to these Section 2 standards as it redistricts.

In considering changes to existing boundaries, a governmental entity must be aware of the location of protected minority populations within its single-member districts for the purpose of ensuring that changes are not made that may be asserted to have resulted in “packing,” or in “fracturing” or “cracking” the minority population for purposes or having effects that are unlawful under Section 2. The thematic maps included in Attachment B depict the locations of Hispanic and African-American (and if applicable, Asian) population concentrations by census block; they are useful in addressing this issue. Voting age population (VAP) data is useful in measuring potential electoral strength of minority groups in individual districts.

Shaw v. Reno Standards – Avoid Using Race as the Predominant Redistricting Factor

The modern era of redistricting began in the 1960’s when the Supreme Court determined that districting plans were subject to judicial review and that they must conform to one-person, one-vote principles. This was followed in short order by the passage of the Voting Rights Act in 1965, which along with the Fourteenth Amendment, required jurisdictions to ensure that districts were not racially discriminatory. Accordingly, to avoid liability in voting rights suits, governments were highly conscious of race when drawing districts and fashioned districts to reflect racial and ethnic housing patterns.

In 1993, the United States Supreme Court decided *Shaw v. Reno*, a case that contained a district that was so extremely irregular on its face that race was the predominant consideration in its creation to the exclusion of traditional districting principles and without sufficiently compelling justification. The Court held that the district was a racial gerrymander that violated the Equal Protection Clause of the Fourteenth Amendment.

The *Shaw* opinion subjects governmental bodies undertaking the redistricting process to a delicate balancing act. The governmental body must consider race when drawing districts if it is to comply with the requirements of the Voting Rights Act; however, if race is the

predominant consideration in the process, the governmental body may be subject to a racial gerrymandering claim.

Where racial considerations predominate in the redistricting process to the subordination of traditional (non-race-based) factors, the use of race-based factors is subject to the “strict scrutiny” test. To pass this test requires that there be a showing that (1) the race-based factors were used in furtherance of a “compelling state interest” and (2) their application be “narrowly tailored,” that is, they must be used only to the minimum extent necessary to accomplish the compelling state interest. Compliance with the anti-discrimination requirements of section 2 of the Voting Rights Act is a compelling state interest.

The following principles have emerged in the post-*Shaw* environment to guide the redistricting process:

- race may be considered;
- but race may not be the predominant factor in the redistricting process to the subordination of traditional redistricting principles;
- bizarrely-shaped districts are not unconstitutional *per se*, but the bizarre shape may be evidence that race was the predominant consideration in the redistricting process;
- if race is the predominant consideration, the plan may still be constitutional if it is “narrowly tailored” to address compelling governmental interest such as compliance with the Voting Rights Act; and
- if a plan is narrowly tailored, it will use race no more than is necessary to address the compelling governmental interest.

While race will almost always be a consideration, the better course, if possible under the circumstances, is that racial considerations not predominate to the subordination of traditional redistricting criteria, so that the difficult strict scrutiny test is avoided.

Adherence to the *Shaw v. Reno* standards will be an important consideration during the redistricting process. One way to minimize the potential for *Shaw v. Reno* liability is to adopt redistricting criteria that include traditional redistricting principles and that do not elevate race-based factors to predominance.

Section 5 of the Voting Rights Act – Preclearance and Retrogression

Preclearance will not be required

In prior redistricting cycles, Section 5 of the Voting Rights Act, 52 U.S.C. § 10304, required all “covered jurisdictions” identified in the applicable Department of Justice (DOJ) regulations to “preclear” any changes to voting standards, practices, or procedures before they

may become legally effective. Texas was a “covered jurisdiction,” so all local governments in the state, as well as the State itself, were required to preclear any voting change, including their redistricting plans. This included changes to any single-member district lines (including school board trustee district lines). Section 5 applied not only to changes in single-member district lines, but also to changes in election precincts and in the location of polling places. For counties, Section 5 applied not only to commissioners’ precincts, but also to JP and constable precincts, even though these latter are not subject to the one person-one vote requirement (since these are not “representative,” *i.e.*, “legislative” officials).

In the 2013 case *Shelby County v. Holder*, 133 S. Ct. 2612 (2013), the U.S. Supreme Court invalidated Section 4 of the Voting Rights Act until Congress corrected some deficiencies. This is the section that, in effect, defines which states and local jurisdictions are subject to Section 5 preclearance requirements. Congress has not made the required corrections, so Section 5 will not apply to any jurisdiction this redistricting cycle. Nonetheless, the legal standard applied to preclearance under Section 5, “retrogression”, can be useful to identify potential Section 2 discrimination issues in a proposed new districting plan.

Retrogression standard

In past redistricting cycles, Section 5 review involved considering whether a proposed new districting plan had a retrogressive effect. The issue is whether the net effect of the proposed new plan would be to reduce minority voters’ ability to elect their preferred candidates when the plan is compared to the prior benchmark plan. In other words, does the new districting plan result in a reduction of the minority group’s ability to elect?

To determine if retrogression exists, it is necessary to compare a proposed plan against a benchmark, typically the *prior* district boundary plan, but considered using the *new* 2020 Census population and demographic data.

Voting age population data (“VAP”) – the Census count of persons eighteen years of age or older at the time the Census was taken (*i.e.*, as of April 1, 2020). It is a measure of the number of people old enough to vote if they are otherwise eligible to do so. Since the retrogression inquiry focuses on whether a minority group’s overall voting strength has been reduced, and VAP is a more direct measure of voting strength than total population, VAP should be considered in the retrogression analysis, not just total population.

In combination with a balanced consideration of the other applicable redistricting criteria, the entity’s governing body will need to consider the effects of any changes to the benchmark measures that its proposed plan produces. Because of changes in population and the need to comply with one person-one vote principles, sometimes it may be impossible to avoid drawing a retrogressive plan. But if a proposed new plan is retrogressive, careful consideration should be given before adopting it.

Since retrogression was the test by which redistricting plans were measured under Section 5 of the Act and that section is no longer operative, retrogression is no longer the standard. Nevertheless, a jurisdiction that draws a plan that is retrogressive may increase the

chance that it will be sued under Section 2. Thus, it may be beneficial to avoid retrogression where possible even though the plan will not be required to be submitted to the Department of Justice for Section 5 review under that test.

Adoption of Redistricting Criteria

Adoption of appropriate redistricting criteria – and adherence to them during the redistricting process – is potentially critical to the ultimate defensibility of an adopted redistricting plan. Traditional redistricting criteria that the governing body might wish to consider adopting include, for example:

- use of identifiable boundaries;
- using whole voting precincts, where possible and feasible; or, where not feasible, being sure that the plan lends itself to the creation of reasonable and efficient voting precincts;
- maintaining communities of interest (*e.g.*, traditional neighborhoods);
- basing the new plan on existing districts;
- adopting districts of approximately equal population;
- drawing districts that are compact and contiguous;
- keeping existing representatives in their districts; and
- narrow-tailoring to comply with the Voting Rights Act and *Shaw v. Reno*..

There may be other criteria that are appropriate for an individual entity's situation, but all criteria adopted should be carefully considered and then be followed to the greatest degree possible. A copy of a sample criteria adoption resolution is provided as Attachment F. You may wish to include additional criteria; or determine that one or more on that list are not appropriate. We will discuss with you appropriate criteria for your situation.

Requirements for Plans Submitted by the Public

You should also consider imposing the following requirements on any plans proposed by the public for your consideration: (1) any plan submitted for consideration must be a complete plan, that is, it must be a plan that includes configurations for all districts and not just a selected one or several. This is important because, although it may be possible to draw a particular district in a particular way if it is considered only by itself, that configuration may have unacceptable consequences on other districts and make it difficult or impossible for an overall plan to comply with the applicable legal standards; and (2) any plan submitted for consideration must follow the adopted redistricting criteria.

ATTACHMENT D

GLOSSARY

GLOSSARY

Census blocks, census block groups, census VTDs, census tracts – Geographic areas of various sizes recommended by the states and used by the Census Bureau for the collection and presentation of data.

Citizen voting age population (CVAP) – Persons 18 and above who are citizens. This is a better measure of voting strength than VAP; however, the relevant citizenship data will need to be developed.

Compactness – Having the minimum distance between all parts of a constituency.

Contiguity – All parts of a district being connected at some point with the rest of the district.

Cracking – The fragmentation of a minority group among different districts so that it is a majority in none. Also known as “fracturing.”

Fracturing – See “cracking.”

Homogeneous district – A voting district with at least 90 percent population being of one minority group or of Anglo population.

Ideal population – The population that an ideal sized district would have for a given jurisdiction. Numerically, the ideal size is calculated by dividing the total population of the political subdivision by the number of seats in the legislative body.

Majority minority district – Term used by the courts for seats where an ethnic minority constitutes a numerical majority of the population.

One person, one vote – U.S. Constitutional standard articulated by the U.S. Supreme Court requiring that all legislative districts should be approximately equal in size.

Packing – A term used when one particular minority group is consolidated into one or a small number of districts, thus reducing its electoral influence in surrounding districts.

Partisan gerrymandering – The deliberate drawing of district boundaries to secure an advantage for one political party.

PL 94-171 – The Public Law that requires the Census Bureau to release population data for redistricting. The data file, referred to as “PL 94-171”, was supposed to be released by April 1, 2021, although due to technical issues it was not released until August, is reported at the block level, and contains information on:

- Total population
- Voting age population
- By Race
- By Hispanic origin

Racial gerrymandering – The deliberate drawing of district boundaries to secure an advantage for one race.

Retrogression – The Section 5 standard (not applicable in this redistricting cycle) that considered whether a proposed new districting plan made it less likely a protected minority group could elect candidates of the group’s choice.

Section 2 of the Voting Rights Act – The part of the federal Voting Rights Act that protects racial and language minorities from discrimination in voting practices by a state or other political subdivision.

Section 5 of the Voting Rights Act – The part of the federal Voting Rights Act that required certain states and localities (called “covered jurisdictions”) to preclear all election law changes with the U.S. Department of Justice (“DOJ”) or the federal district court for the District of Columbia before those laws may take effect. Not applicable this redistricting cycle.

Shaw v. Reno – The first in a line of federal court cases in which the U.S. Supreme Court held that the use of race as a dominant factor in redistricting was subject to a “strict scrutiny” test under the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution. This case and the line of Supreme Court cases that follows it establishes that race should not be used as a predominant redistricting consideration, but if it is, it must be used only to further a “compelling state interest” recognized by the courts and even then must be used only as minimally necessary to give effect to that compelling state interest (“narrow tailoring”).

Spanish surnamed registered voters (SSRV) – The Texas Secretary of State publishes voter registration numbers that show the percentage of registered voters who have Spanish surnames. It is helpful to measure Hispanic potential voting strength, although it is not exact.

Total population – The total number of persons in a geographic area. Total population is generally the measure used to determine if districts are balanced for one person, one vote purposes.

Voting age population (VAP) – The number of persons aged 18 and above. DOJ requires this to be shown in section 5 submissions. It is used to measure potential voting strength. For example, a district may have 50 percent Hispanic total population but only 45 percent Hispanic voting age population.

Voter tabulation district (VTD) – A voting precinct drawn using census geography. In most instances, especially in urban areas, VTDs and voting precincts will be the same. In rural areas, it is more likely they will not be identical.

ATTACHMENT E
HYPOTHETICAL POPULATION DEVIATION CALCULATION

Hypothetical Population Deviation Calculation

Consider a hypothetical political subdivision with four districts and a total population of 40,000. The “ideal district” for this political subdivision would have a population of 10,000 (total population / number of districts). This is the target population for each district. The deviation of each district is measured against this ideal size.

Suppose the latest population data reveals that the largest district, District A, has 11,000 inhabitants. The deviation of District A from the ideal is thus 1000 persons, or 10 percent. Suppose also that the smallest district, District D, has 8000 inhabitants; it is underpopulated by 2000 persons compared to the ideal size. It thus has a deviation of –20 percent compared to the ideal size. The *maximum total deviation* is thus 30 percent. Since this is greater than the 10 percent range typically allowed by the courts for one person-one vote purposes, this hypothetical subdivision must redistrict in order to bring its maximum total deviation to within the legally permissible limits.

The following table illustrates this analysis:

<u>District</u>	<u>Ideal district</u>	<u>District total pop.</u>	<u>Difference</u>	<u>Deviation</u>
A	10,000	11,000	1000	+ 10.0 percent
B	10,000	10,750	750	+ 7.5 percent
C	10,000	10,250	250	+ 2.5 percent
D	10,000	8,000	- 2000	- 20.0 percent
Totals:	40,000	40,000	net= 0	net= 0 percent

Total maximum deviation = difference between most populous and least populous districts = 10 percent + 20 percent = 30 percent.

ATTACHMENT F
ILLUSTRATIVE REDISTRICTING CRITERIA RESOLUTION

ILLUSTRATIVE REDISTRICTING CRITERIA RESOLUTION

(Here is an example of what the body of a resolution or ordinance adopting redistricting criteria might contain, but not including the footnotes. They are only included here by way of explanation to you of some of the criteria.)

The City Council will observe the following criteria, to the greatest extent possible, when drawing district boundaries:

1. Easily identifiable geographic boundaries should be followed.
2. Communities of interest should be maintained in a single district, where possible, and attempts should be made to avoid splitting neighborhoods.
3. Districts should be composed of whole voting precincts. Where this is not possible or practicable, districts should be drawn considering county election precincts. Avoid splitting census blocks unless necessary.
4. Although it is recognized that existing districts will have to be altered to reflect new population distribution, any districting plan should, to the extent possible, be based on existing districts.
5. Districts must be configured so that they are relatively equal in total population according to the 2020 federal census. In no event should the total population deviation between the largest and the smallest district exceed ten percent as compared to the ideal district size.
6. Districts should be compact and composed of contiguous territory. Compactness may contain a functional,¹ as well as a geographical, dimension.
7. Consideration may be given to the preservation of incumbent-constituency relations by recognition of the residence of incumbents and their history in representing certain areas.
8. The plan should be narrowly tailored to avoid racial gerrymandering in violation of *Shaw v. Reno*.

¹ Functional compactness is a sometimes-controversial notion that has appeared in some cases. Basically, the concept is that compactness is not simply a matter of geography but can include considerations such as (1) the availability of transportation and communication, (2) the existence of common social and economic interests, (3) the ability of the districts to relate to each other, and (4) the existence of shared interests. We do not anticipate that we will rely heavily on functional compactness, but there may be instances in which it comes into play. For example, we might be able to draw a very geographically compact district by including land on both sides of a river. If, however, the nearest bridge is several miles away, our geographically compact district may not be functionally compact. Saying that compactness has a functional dimension gives us flexibility to address this type of situation.

9. The plan should not fragment² a geographically compact minority community or pack³ minority voters in the presence of polarized voting so as to create liability under the Voting Rights Act.

The Council will review all plans considering these criteria and will evaluate how well each plan conforms to the criteria.

Any plan submitted by a citizen to the Council for its consideration should be a complete plan — *i.e.*, it should show the full number of districts and should redistrict the entire city. The Council may decline to consider any plan that is not a complete plan.

All plans submitted by citizens, as well as plans submitted by staff, consultants, and members of the Council should conform to these criteria.

² Fragmenting or fracturing occurs when a geographically compact area of minority voters is split into two or more districts when, if the area had been put in a single district, minority voters would have had greater voting strength.

³ Packing refers to concentrating excessively large numbers of minority voters in a single district. For example, if a district is drawn to be 90 percent African-American, that group's influence may be limited to that single district when, if it had been split, the group might have had an opportunity to elect candidates of their choice in two districts.

ATTACHMENT G
ILLUSTRATIVE REDISTRICTING GUIDELINES RESOLUTION

ILLUSTRATIVE REDISTRICTING GUIDELINES RESOLUTION

(Here is an example of what the body of a resolution or ordinance adopting redistricting guidelines for public participation might contain.)

The following guidelines are to be followed by each person submitting a redistricting plan for consideration or submitting comments:

1. Proposed plans must be submitted in writing and be legible. If a plan is submitted orally, there is significant opportunity for misunderstanding, and it is possible that errors may be made in analyzing it. The City Council wants to be sure that all proposals are fully and accurately considered.
2. Any plan must show the total population and voting age population for African-Americans, Hispanics, Asians, and Anglo/Other for each proposed district, based on the 2020 Census Data. If a plan is submitted without a population breakdown, the Council may not have sufficient information to give it full consideration.
3. Plans should redistrict the entire entity, so the Council may consider the effect of any plan on the entire city. All plans are subject to the Voting Rights Act, which protects various racial and language minorities. Thus, as a matter of federal law, the Council will be required to consider the effect of any proposal on multiple racial and ethnic groups. If a plan does not redistrict the entire [county, city, district], it may be impossible for the Council to assess its impact on one or more protected minority groups.
4. Plans should conform to the criteria the Council will be using in drawing the precincts.
5. Comments must be submitted in writing and be legible, even if the person also makes the comments orally at a public hearing.
6. Persons providing comments and those submitting proposed plans must identify themselves by full name and home address and provide a phone number and, if available, an email address. The Council may wish to follow up on such comments or obtain additional information about submitted plans.
7. All comments and proposed plans must be submitted to the City Council [by the close of / no later than __ days before] the public hearing.

This resolution shall be effective upon passage by the City Council.

ATTACHMENT H
SUGGESTED INITIAL ASSESSMENT AGENDA ITEM LANGUAGE

SUGGESTED INITIAL ASSESSMENT AGENDA ITEM LANGUAGE

Here is suggested language for the agenda item for receiving the Initial Assessment and for adopting the two suggested resolutions (criteria, guidelines).

Receive Initial Assessment regarding whether redistricting is required considering the new 2020 census data; and, if so, consider adoption of criteria to apply to development of new districting plans, and guidelines for public participation in the redistricting process.

If your practice is to specifically post executive session items, you may wish to use this language:

Executive Session. The City Council may go into executive session pursuant to Texas Government Code section 551.071 to receive advice from legal counsel regarding the City's redistricting obligations.

**CITY OF NACOGDOCHES, TEXAS
RESOLUTION NO. 1282-11-21**

A RESOLUTION ADOPTING CRITERIA FOR USE IN 2021 REDISTRICTING PROCESS.

WHEREAS, this City Council has certain responsibilities for redistricting under federal and state law including but not limited to Amendments 14 and 15 to the United States Constitution, U.S.C.A.; section 2 of the Voting Rights Act, 52 U.S.C.A. §10301; and Tex. Gov't Code Ann. §§ 2058.001 and 2058.002; and

WHEREAS, a review of the 2020 census data reveals that a population imbalance exists among the City's councilmember districts requiring redistricting of those districts; and

WHEREAS, it is the intent of the City to comply with the Voting Rights Act and with all other relevant law, including *Shaw v. Reno* jurisprudence; and

WHEREAS, a set of established redistricting criteria will serve as a framework to guide the City in the formulation and consideration of districting plans; and

WHEREAS, redistricting criteria will provide the City a means by which to evaluate proposed plans; and

WHEREAS, redistricting criteria will assist the City in its efforts to comply with all applicable federal and state laws;

NOW, THEREFORE, be it resolved and ordered by the City Council of the City of Nacogdoches, Texas, that: the City, in its adoption of a redistricting plan for councilmember districts, will adhere to the following criteria to the greatest extent possible when establishing new councilmember district boundaries:

To the extent practicable:

1. Easily identifiable geographic boundaries should be followed.
2. Communities of interest should be maintained in a single district, and attempts should be made to avoid splitting neighborhoods.
3. Councilmember districts should be composed of whole voting precincts. Where this is not possible or practicable, districts should be drawn considering county election precincts. Avoid splitting census blocks unless necessary.
4. Although it is recognized that existing districts will have to be altered to reflect new population distribution in the City, any districting plan should be based on existing districts.
5. Districts must be configured so that they are relatively equal in total population according to the 2020 federal census. In no event should the total population

deviation between the largest and the smallest district exceed ten percent as compared to the ideal precinct size.

6. The districts should be compact and composed of contiguous territory. Compactness may contain a functional, as well as a geographical, dimension.
7. Consideration may be given to the preservation of incumbent-constituency relations by recognition of the residence of incumbents and their history in representing certain areas.
8. The plan should be narrowly tailored to avoid racial gerrymandering in violation of *Shaw v. Reno*.
9. The plan should not fragment a geographically compact minority community or pack minority voters in the presence of polarized voting or otherwise discriminate against protected groups so as to create liability under the Voting Rights Act.

The City Council will review all plans considering these criteria and will evaluate how well each plan conforms to the criteria.

Any plan submitted to the City Council by a citizen for its consideration should be a complete plan—*i.e.*, it should include all 4 councilmember districts and should redistrict the entire City. The City Council may decline to consider any plan that is not a complete plan.

All plans submitted by citizens, as well as plans submitted by staff, consultants, and members of the City Council should conform to these criteria.

This resolution shall be effective upon passage by the City Council.

PASSED AND APPROVED, this ____ day of _____, 2021, by a vote of ____ (ayes) to ____ (nays) of the City Council of the City of Nacogdoches, Texas.

CITY OF NACOGDOCHES

By: _____
JIMMY MIZE, Mayor

ATTEST:

APPROVED AS TO FORM:

Jan Vinson, City Secretary

Steven Kirkland, City Attorney

**CITY OF NACOGDOCHES, TEXAS
RESOLUTION NO. 1283-11-21**

A RESOLUTION ADOPTING GUIDELINES FOR PERSONS SUBMITTING SPECIFIC REDISTRICTING PROPOSALS AND PROVIDING COMMENTS.

WHEREAS, this City Council has certain responsibilities for redistricting the City's councilmember districts under federal and state law including but not limited to Amendments 14 and 15 to the United States Constitution, U.S.C.A. and Section 2 of the Voting Rights Act, 52 U.S.C.A. §10301; and Tex. Gov't Code Ann. §§ 2058.001 and 2058.002; and

WHEREAS, it is necessary to provide for the orderly consideration and evaluation of redistricting plans which may come before the Council; and

WHEREAS, these guidelines relate to persons who have specific redistricting plans they wish the Council to consider; and

WHEREAS, the Council also welcomes any comments relevant to the redistricting process;

NOW, THEREFORE, be it resolved and ordered by the City Council of the City of Nacogdoches, Texas, that: the City, that, in order to make sure that any comments regarding the redistricting process and any redistricting plan that might be submitted are of maximum assistance to the Council in its decision-making process, the Council hereby sets the following guidelines to be followed by each person submitting a comment or a redistricting plan for consideration:

1. Proposed plans must be submitted in writing and be legible. If a plan is submitted orally, there is significant opportunity for misunderstanding, and it is possible that errors may be made in analyzing it. The Council wants to be sure that all proposals are fully and accurately considered.
2. Any plan must show the total population and voting age population for African-Americans, Hispanics, Asians, and Anglo/Other for each proposed council district based on the 2020 Census Data. If a plan is submitted without a population breakdown, the Council may not have sufficient information to give it full consideration.
3. Plans should redistrict the entire City. The Council will be considering the effect of any plan on the entire City. Any plan is subject to the Voting Rights Act, which protects various racial and language minorities. Thus, as a matter of federal law, the Council will be required to consider the effect of any proposal on multiple racial and ethnic groups. If a plan does not redistrict the entire City, it may be impossible for the Council to assess its impact on one or more protected minority groups.
4. Plans should conform to the redistricting criteria the Council will be using in drawing the trustee districts.

5. Comments must be submitted in writing and be legible, even if the person also makes the comments orally at a public hearing.
6. Persons providing comments and those submitting proposed plans must identify themselves by full name and home address and provide a phone number and, if available, an email address. The Council may wish to follow up on such comments or obtain additional information about submitted plans.
7. All comments and proposed plans must be submitted to the City Council by the close of the public hearing.

This resolution shall be effective upon passage by the City Council.

PASSED AND APPROVED, this ____ day of _____, 2021, by a vote of ____ (ayes) to ____ (nays) of the City Council of the City of Nacogdoches, Texas.

CITY OF NACOGDOCHES

By: _____
JIMMY MIZE, Mayor

ATTEST:

APPROVED AS TO FORM:

Jan Vinson, City Secretary

Steven Kirkland, City Attorney

City of Nacogdoches 2021 Redistricting

Initial Assessment

BICKERSTAFF HEATH DELGADO ACOSTA LLP

**3711 S. MoPac Expressway
Building One, Suite 300
Austin, Texas 78746
(512) 472-8021**

www.bickerstaff.com

Plan Development Elements (Subject to Charter Amendment)

Initial Assessment

Adopt plan criteria, guidelines

Develop illustrative plan(s)

Public comment / hearing

Analyze comments

Adopt final plan

Implementation



Redistricting Timeline

- ☐ **Initial Assessment** **November 2, 2021**
- ☐ **1st Drawing Workshop** **November 16, 2021**
- ☐ **2nd Drawing Workshop** **December 6, 2021**
- ☐ **Public Presentations** **January 5 and 6, 2022**
- ☐ **Final Adoption** **January 18, 2022**

REDISTRICTING

Applicable Law

Three Principles, plus

**“One person – one vote”
(equal population)**

**Voting Rights Act § 2
(nondiscrimination)**

***Shaw v. Reno*
(limits use of race)**

**Plus, as diagnostic tool:
Voting Rights Act § 5
(retrogression)**

Redistricting

One Person - One Vote

- U.S. Constitution – single-member districts must have *approximately equal populations*
- Rule of thumb: **total deviation < 10%**
 - Compare most populous and least populous districts to “ideal”-sized district
 - Add both departures from ideal together

<u>District</u>	<u>Ideal district</u>	<u>District total pop.</u>	<u>Difference</u>	<u>Deviation</u>
A	10,000	11,000	1000	+ 10.0 percent
B	10,000	10,750	750	+ 7.5 percent
C	10,000	10,250	250	+ 2.5 percent
D	10,000	8,000	- 2000	- 20.0 percent
Totals:	40,000	40,000	net= 0	net= 0 percent

Total maximum deviation = difference between most populous and least populous districts = 10 percent + 20 percent = 30 percent.

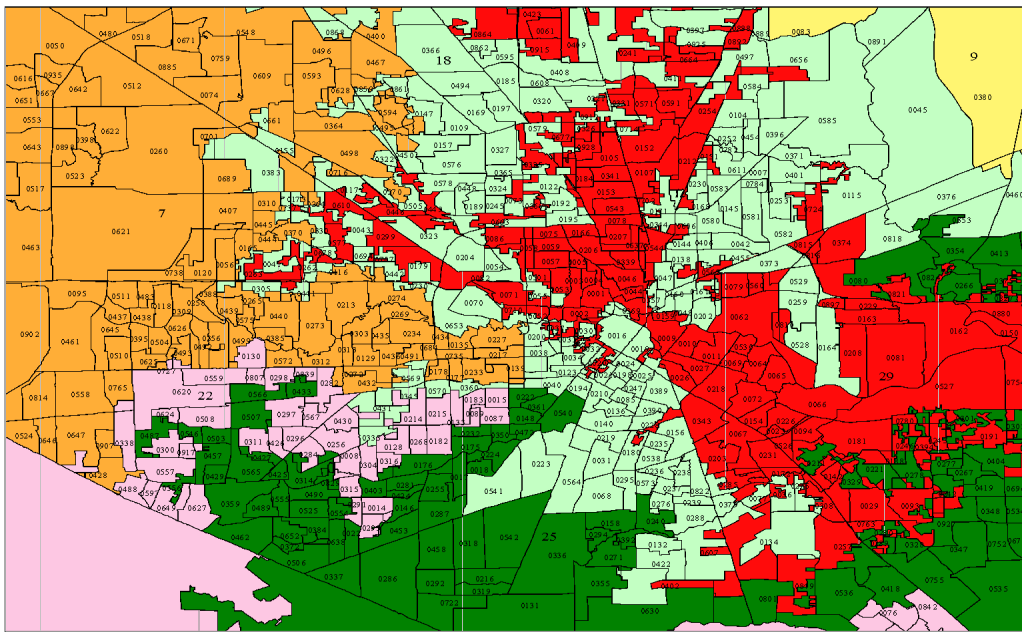
Example Deviation Calculation

Section 2 of the Voting Rights Act

- No discrimination on basis of race or language minority status
- Generally, avoid *cracking or packing*
- *Cracking or fracturing* is dividing minority voters to fragment their voting power.
- *Packing* is concentrating minority voters when dividing them would permit the group to elect their candidates of choice in more than one district
- Other practices can also violate Section 2

Redistricting Standards under Shaw-Reno Line of Cases

- Usually, race may not be the predominant factor to the subordination of traditional districting principles
- But it is OK to be aware of race and to consider race *to satisfy Section 2 and Section 5*
- To “narrowly tailor,” use race no more than necessary
- Bizarrely-shaped districts not unconstitutional per se
 - Bizarre shape may be evidence that race predominated



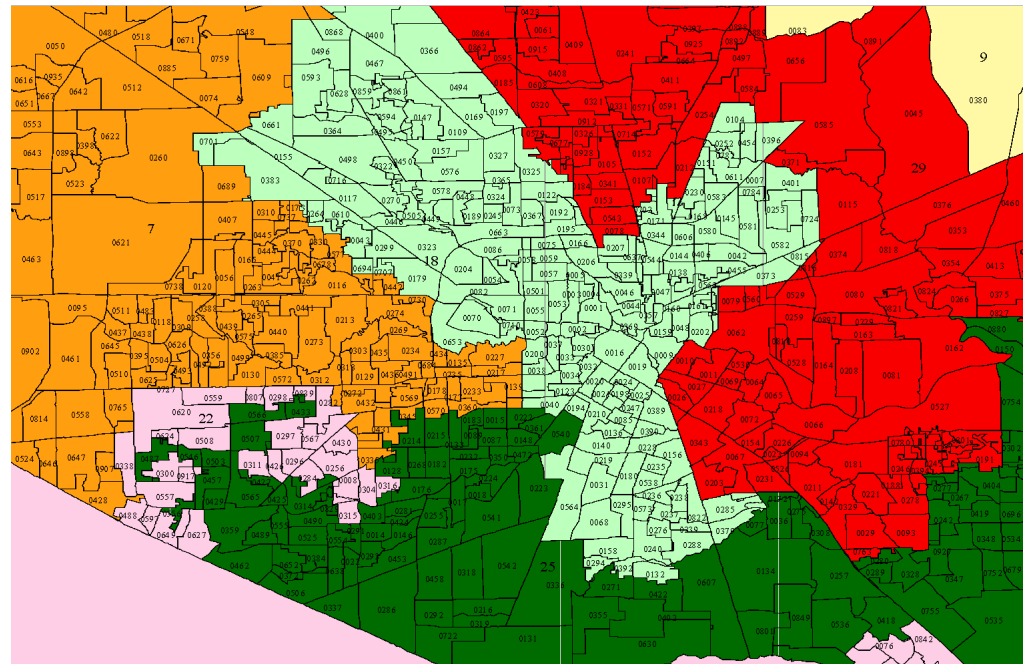
Central Harris County
PLANC657

Texas Legislative Council
11/13/08
v091100

Bush v. Vera

AFTER

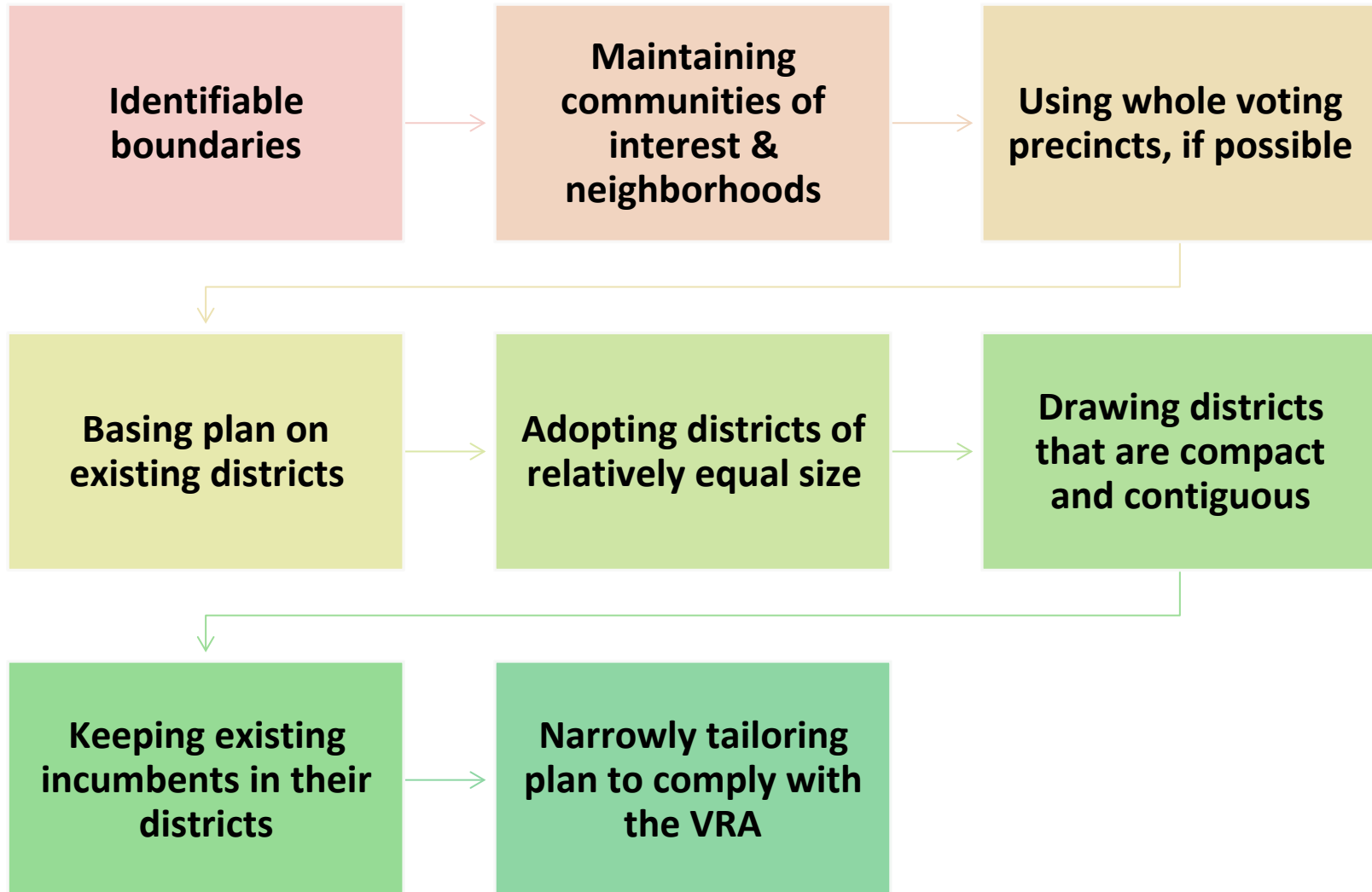
BEFORE



Central Harris County
PLANC746

Texas Legislative Council
11/13/08
v091100
v091100

Adopt Criteria

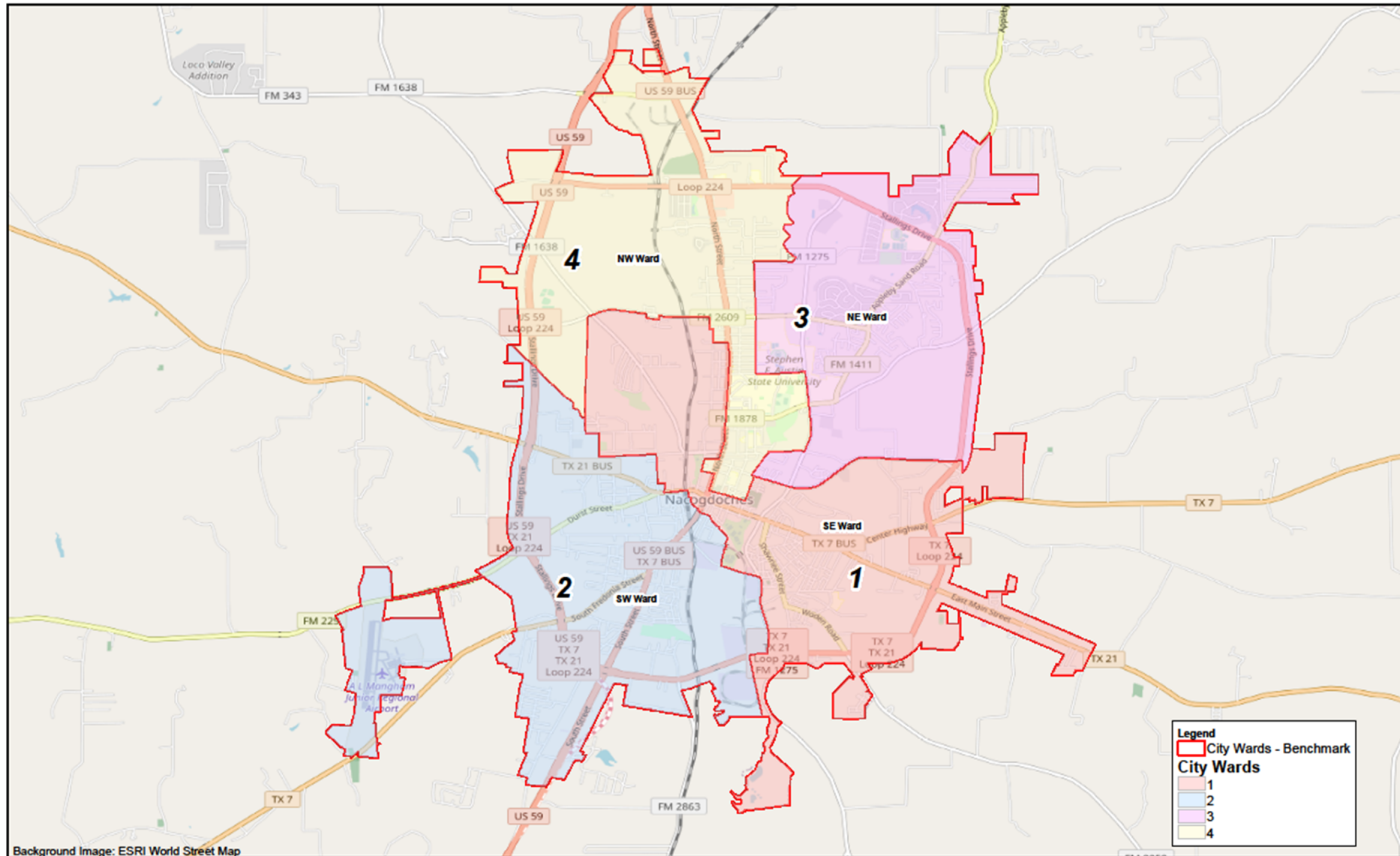




CITY OF NACOGDOCHES

2011 Benchmark with 2020 Census Data

Current Wards



City of Nacogdoches Wards 2021 Initial Assessment

City of Nacogdoches

Overall Deviation For Current Council Districts

Using 2020 Census Data

City of Nacogdoches Council Districts - 2021 Initial Assessment



Demographics Report - Summary 2020 Census Total Population

Plan Last Edited on: 9/27/2021 5:04:40 PM

District	Persons	Ideal Size	Deviation	Hispanic % of Total Population	Non-Hispanic White % of Total Population	Non-Hispanic Black % of Total Population	Non-Hispanic Asian % of Total Population	Non-Hispanic Other % of Total Population
1	8,400	8,033	4.57%	18.81%	28.38%	47.79%	0.99%	4.05%
2	7,347	8,033	-8.54%	38.36%	34.23%	23.44%	0.94%	3.05%
3	8,313	8,033	3.49%	9.79%	67.69%	15.57%	2.59%	4.37%
4	8,071	8,033	0.48%	15.96%	60.81%	16.66%	2.18%	4.40%

Ideal Size: 8,033

Total Population: 32,131

Overall Deviation: 13.11%

Some percentages may be subject to rounding errors.

City of Nacogdoches
Overall Deviation For Current Council Districts
Using 2020 Census Data



City of Nacogdoches Council Districts - 2021 Initial Assessment

Demographics Report - Summary 2020 Census Voting Age Population

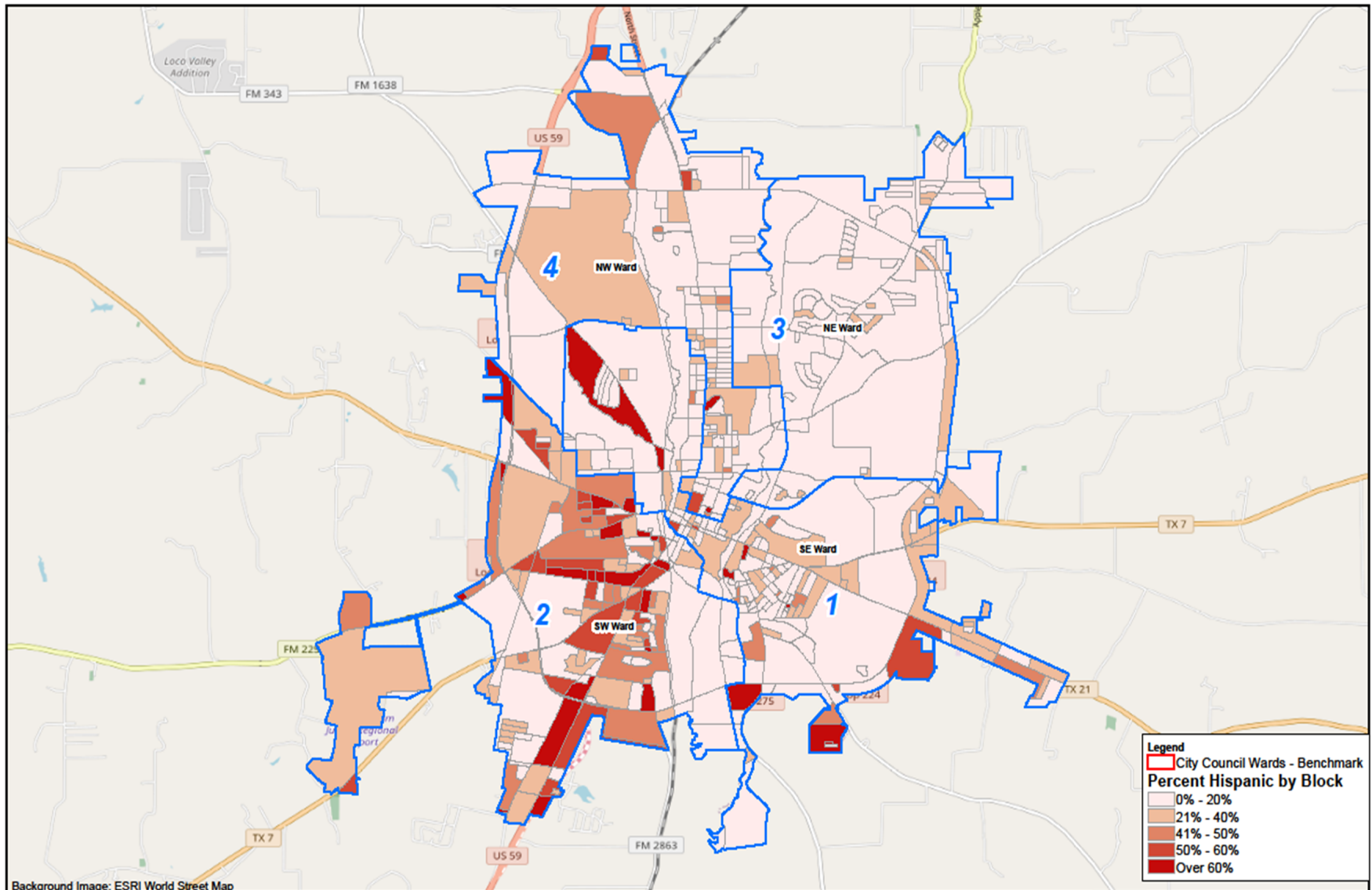
Plan Last Edited on: 8/27/2021 5:04:40 PM

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	6,264		16.43%	32.95%	46.22%	0.85%	3.58%
2	5,253		32.91%	39.48%	23.85%	1.07%	2.68%
3	6,898		9.44%	70.61%	13.73%	2.55%	3.67%
4	7,253		15.65%	63.39%	15.29%	1.90%	3.76%

* VAP - Voting Age Population

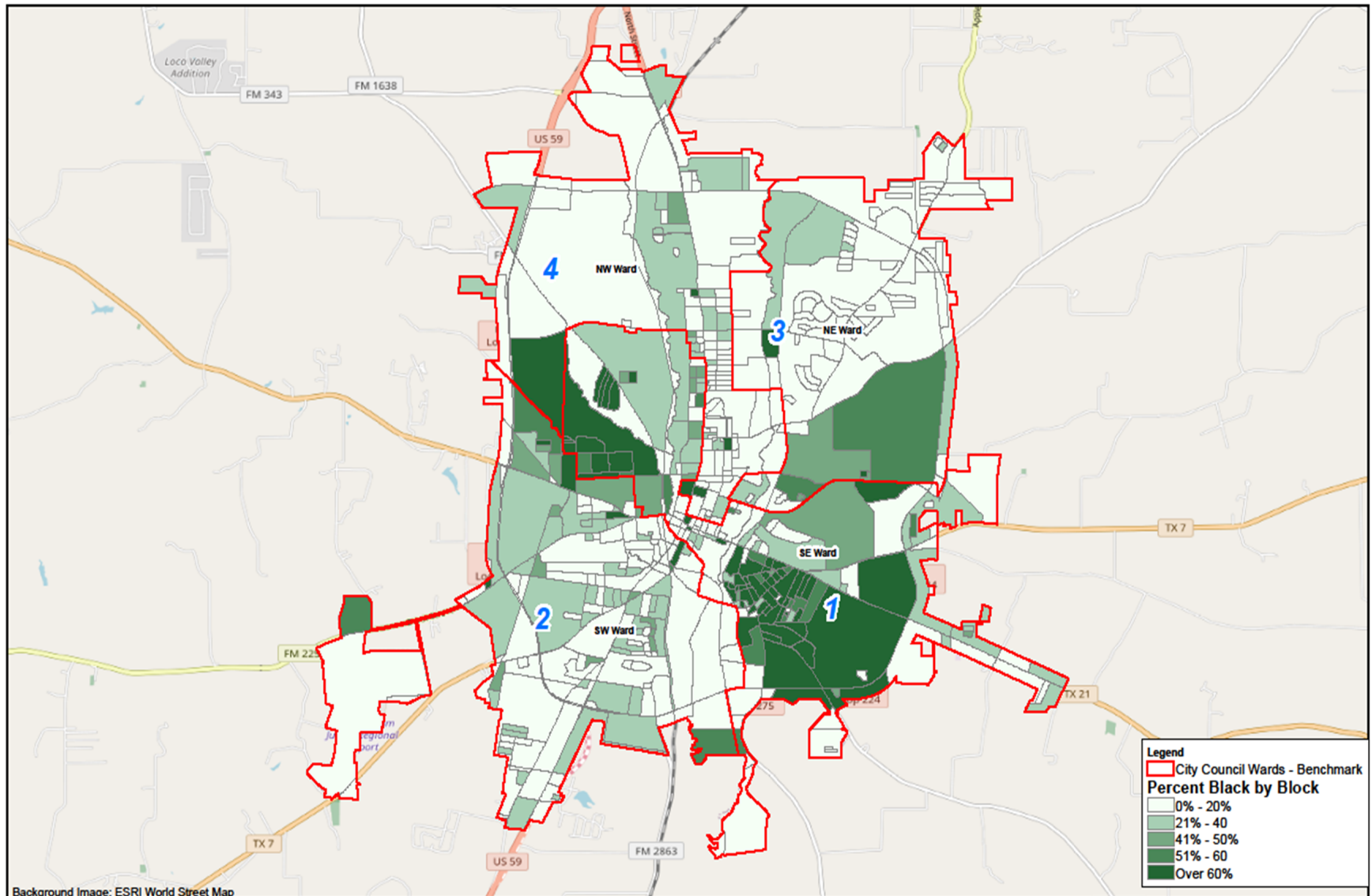
Some percentages may be subject to rounding errors.

Hispanic Thematic Map



**City of Nacogdoches 2021 City Council Wards
Percent Hispanic by 2020 Census Block**

African-American Thematic Map



0 0.5 1 2 Miles
Created 9/28/21

City of Nacogdoches City Council Wards
Percent Black by 2020 Census Block

© 2021 Bickerstaff Heath Delgado Acosta LLP
Data Source: Roads, Water and other
features obtained from the 2020
Tigerline files, U.S. Census Bureau



Plan Development Elements (Subject to Charter Amendment)

Initial Assessment

Adopt plan criteria, guidelines

Develop illustrative plan(s)

Public comment / hearing

Analyze comments

Adopt final plan

Implementation



Redistricting Timeline

- | | |
|------------------------------------|-----------------------|
| ✓ Initial Assessment | November 2, 2021 |
| ☐ 1 st Drawing Workshop | November 16, 2021 |
| ☐ 2 nd Drawing Workshop | December 6, 2021 |
| ☐ Public Presentations | January 5 and 6, 2022 |
| ☐ Final Adoption | January 18, 2022 |

City of Nacogdoches 2021 Redistricting

Initial Assessment

BICKERSTAFF HEATH DELGADO ACOSTA LLP

**3711 S. MoPac Expressway
Building One, Suite 300
Austin, Texas 78746
(512) 472-8021**

www.bickerstaff.com



City Council Meeting

Date: November 2, 2021

Agenda Item: 6.B.

PRESENTER: Mario Canizares, City Manager

ITEM/SUBJECT: Receive an update and hold a discussion regarding the 87th Texas Legislative Session and subsequent Special Sessions. (City Manager/Kelly Barnes, HillCo Partners)

SUMMARY/BACKGROUND: Kelly Barnes of HillCo Partners will be present to provide the City Council with a brief overview of the 87th Legislative Session and the subsequent special sessions. The 87th Legislative Session (Regular) convened on January 12, 2021 and adjourned May 31, 2021. A regular session of the Legislature lasts 140 days. At the conclusion of the Regular Session, Governor Abbott reconvened the Legislature for three additional special sessions to address a number of issues that could not be completed during the Regular Session.

Mr. Barnes will provide a presentation on the work that HillCo Partners has done for Nacogdoches regarding advocacy with state agencies and the session regarding local control, budget, economic development, electricity reliability, property taxes, and redistricting. The presentation will be brief to allow plenty of time for questions from the City Council.

FINANCIAL:

No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Economic Development

CITY CONTACT: Mario Canizares, City Manager
canizaresm@nactx.us
936-559-2501

ATTACHMENTS: 1. PowerPoint

HillCo Partners Presentation to the City of Nacogdoches

NOVEMBER 2, 2021



State Agency Assistance

- Texas Department of Emergency Management (TDEM)
 - Assisted city in meetings with TDEM to manage COVID funds appropriately and determine if expenditures were allowable or not.
- Texas Commission on Environmental Quality (TCEQ)
 - Assisted city during February winter storm in conversations with the executive director to get water treatment facility back up and running.
- Texas Department of Agriculture (TDA)
 - Assisted in obtaining meetings with executive staff at TDA to review the city's request for Revolving Loan Funds (RLF) that had been delayed.
- Texas Alcoholic Beverage Commission (TABC)
 - Assisted city and local businesses as COVID restrictions changed to make sure establishments could stay open and comply with agency directives.

2021 Legislative Session

- The 87th Texas Legislature Regular Session began on January 12, 2021 and concluded on May 31, 2021.
- There were a total of 3 special sessions which finally concluded on October 19, 2021.
- The first special session the Democrats broke quorum to defeat election related legislation which prompted a second special session. The third special session was primarily focused on redistricting.

2021 Legislative Session

- Economic Development
 - No new Chapter 313 agreements will be allowed starting December 1, 2022 and the Comptroller's office will most likely stop taking applications Summer of 2022.
 - Alcohol to go (House Bill 1024) Authorizes restaurants with a mixed beverage permit to sell alcohol to go with a food order.
 - Broadband (HB 5) legislation passed that creates the Broadband Development Office under the Texas Comptroller to identify short and long term goals for the state as well as determine which areas are in the highest need for broadband infrastructure.
- Electricity
 - SB 3 Establishes a Texas Energy Reliability Council (TERC) for monitoring critical infrastructure, meeting human needs, and enhancing communications across industries including designating critical infrastructure.
- Property Taxes
 - SJR 2 proposes to increase the homestead exemption on ISD tax abatement from 25,000 to 40,000. This will be on the May ballot.

2021 Legislative Session

- Budget

- ARPA Funding (SB 8) was passed during the 3rd special session.
 - \$7.2 billion to replenish the Unemployment Compensation Fund
 - \$2 billion to deploy healthcare surge staffing, purchase therapeutic drugs, and support regional infusion centers;
 - \$500 million for broadband expansion
 - \$400 million to address critical staffing needs for nursing facilities, assisted living centers, home health agencies, intermediate care facilities, community attendants, and emergency medical services;
 - \$75 million in one-time grants for rural hospitals;
 - \$325 million for construction projects at institutions of higher education
 - \$200 million to provide grants to support the tourism industry; and
 - \$100 million to support Texas food banks, including \$5 million for home-delivered meals, to serve high numbers of Texans experiencing food insecurity

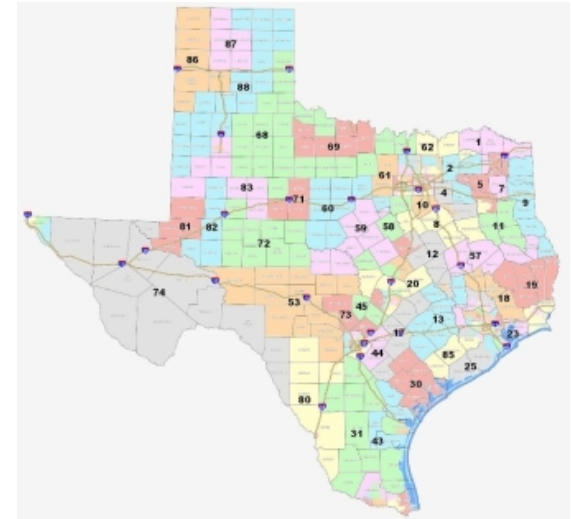
- Local Control

- Camping Ban (House Bill 1925) prohibits a political subdivision from designating a property to be used by homeless individuals to camp unless the Texas Department of Housing and Community Affairs (TDHCA) approves a plan to designate the property for that purpose and prohibits the TDHCA from approving such a plan if the proposed property under the plan is a public park.

2021 Legislative Session

Redistricting

- Census data was delivered to the state in September to begin the once a decade process of drawing new districts for the Legislature, Congress, and the State Board of Education (SBOE).
- Texas gained two new Congressional seats due to a large population increase.
- Nacogdoches will change Congressional districts and have new counties a part of the overall districts for the State House and Senate. If the current legislative delegation is re-elected, you would be represented by:
 - State House- Travis Clardy
 - State Senate- Robert Nichols
 - U.S. House- Pete Sessions



Questions?

If further information is helpful, always feel free to contact me at:

Kelly Barnes, HillCo Partners

kbarnes@hillcopartners.com

512-480-8962 (office)

PRESENTER: Mario Canizares, City Manager

ITEM/SUBJECT: Receive a report, hold a discussion, and give staff direction regarding the establishment of an advisory Comprehensive Plan Review Committee and Downtown Master Plan Review Committee. (City Manager)

SUMMARY/BACKGROUND: Since December 2020, the staff has presented a list of long-range studies and strategies that would assist the City in creating long-term, strategic action-plans to help further current and future planning, engineering and economic development efforts. Based on input received from City Council in January 2021, staff was provided direction to move forward with the advancement of these initiatives, including conducting the procurement process of the following two proposals: hiring a consultant to create a Downtown Master Plan; and, hiring a consultant to update the City's Comprehensive Plan.

The Downtown Master Plan would create a vision for downtown Nacogdoches and act as a framework for future ordinances and initiatives with strategies to help reinvigorate the downtown area. This plan would also include a market analysis to explore how much, and what type of new retail, entertainment, and housing exists, and might be needed in the years ahead. A strategic plan for downtown was last completed in 1974.

The Comprehensive Plan update would include a review of current conditions of land uses, recommend future land uses, a future transportation plan, and implementation strategies. The update would include a study of the proposed I-69 Corridor which would include more specific future land use, utility, and design suggestions. The update would also incorporate a housing needs assessment, which would include a review of the City's current housing stock and project housing needs for the near and long term. The Comprehensive Plan was last updated in 2003.

On May 18th, City Council recommended that the City establish two committees to work on the studies. The committees would work directly with the staff and the consultant at the beginning and throughout the study period. Public forum sessions were held on Monday, June 7, 2021 and Tuesday, June 8, 2021. The attendance at the meetings drew approximately 165 and 155 people respectively. Many good questions were presented by the attendees. A survey was also created to allow for additional input from the community. The survey and committee application were made available on the City's website. On June 15th, staff presented the City Council with the survey results and feedback received at the public forums.

On August 24, 2021, a special called meeting of the City Council was held to introduce the selected consultant, DTJ Design, for both long range studies. During this meeting, staff also presented some information regarding the committee process. The meeting for November 2, is to discuss and receive input from the City Council regarding the process for the strategic studies, the committee's responsibilities, the committee's governance, the committee makeup, and any remaining discussion items and next steps. Based on the input received from City Council, staff would present a resolution for the December 7 meeting for the City Council's consideration to

formally appoint the committees for the strategic studies.

FINANCIAL:

No financial impact associated with this item.

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Downtown Entertainment and Destination District; Neighborhood Revitalization and Attainable Housing; Community Engagement/Diverse Environment; Infrastructure; I-69 Development; Economic Development.

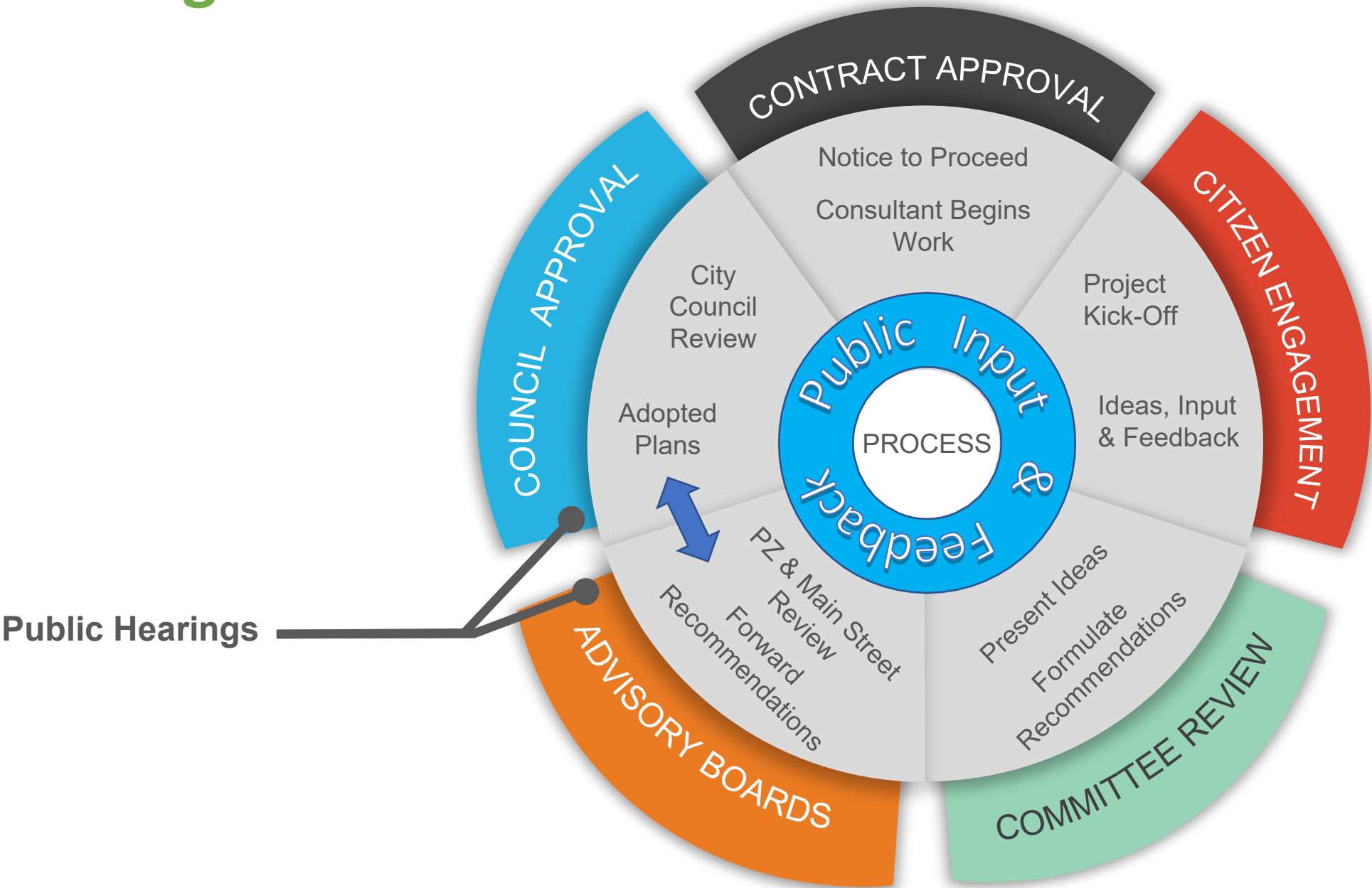
CITY CONTACT: Mario Canizares, City Manager
canizaresm@nactx.us
936-559-2501

ATTACHMENTS: 1. Committees for Strategic Studies - 11.02.2021
2. Steering Committees Resolution



**Advisory Committees for:
Downtown Master Plan
&
Comprehensive Land Use Plan
November 2, 2021**

Strategies Process



Committee Responsibilities

- Maintain regular attendance at meetings, staying engaged, and being participatory.
- Represent and stay connected with the community in the planning process.
- Provide guidance and direction to staff and consultant at crucial steps in the process.
- Reviewing and making recommendations on plan elements.
- Serve as hosts and facilitate at public events when needed.
- Recruit hard-to-reach populations to share input and participate in the engagement process.
- Maintain decorum at all times.

Committee Governance

- City Council appoints the Members, a Chair and a Vice Chair of each committee.
- Meetings are open to the public.
- A quorum is a simple majority to conduct business.
- Council members serve as resources and are voting members of the committees.
- *For recommending policy or plan elements to the next level:*
 - *Option 1: consensus required to move forward.*
 - *Option 2: a simple majority vote of members present.*
 - *Option 3: 2/3 vote of members present.*
- Final drafts are forwarded to the respective Advisory Boards (i.e. Planning & Zoning Commission and/or Main Street Committee)
- Committees will sunset at the end of the process.

Committee Makeup:

Comprehensive Plan Review Committee – 16 persons

- Up to 2 City Council Members, NISD Rep, Planning & Zoning Commission Member, SFA Rep, NEDCO Board Rep, and 10 from the community

Downtown Master Plan Review Committee– 15 persons

- Up to 2 City Council Members, Nac Main Street Rep, NHLPC Rep, CVB Board Rep, and 10 from the community
- All committee meetings would be open to the public
- All committee members appointed by City Council

Comprehensive Plan Review Committee

- Council Members: Up to two members
- Jimmy Mize: Ed Pool and Juan Gonzales
- Roy Boldon: James Montoya and Mable Cannings
- Amelia Fischer: Denise McDonald and Michara DeLaney-Fields
- Jay Anderson: Paul Jackson and Sydney Register
- Kathleen Belanger: Brad Maule and Larry King
- SFASU Rep: Carrie Charley
- NISD Rep: Jacob Lusk
- P&Z Commission: Ken Deppisch
- NEDCO Rep: Steele Wright

Downtown Master Plan Review Committee

- Council Members: Up to two members
- Jimmy Mize: Susie Patterson and Ramsey Parr
- Roy Boldon: Mario Torres and G.W. Neal
- Amelia Fischer: Evelyn Saucedo and Anne Kelly
- Jay Anderson: John Anderson and Jeff Abt
- Kathleen Belanger: Ben Sullivan and Laura Culpepper
- Main Street Rep: Miles McCall
- HLPC Rep: Perky Beisel
- CVB Rep: John McLaren

Discussion and Next Steps

- City Council direction regarding the Committees
 - Proceed as presented
 - Suggest changes

Next Steps:

- Present names and resolution to City Council for approval on 12/7.
- Formal notification of those selected and thank yous sent to those not selected.
- Bring committees together to meet with staff and consultant.
- Get to work!



Q&A
Thank You!

RESOLUTION NO: _____

RESOLUTION OF THE CITY OF NACOGDOCHES, TEXAS, PROVIDING FOR THE CREATION OF ADVISORY COMMITTEES TO GUIDE THE CITY IN THE PLANNING PROCESS FOR THE COMPREHENSIVE LAND USE PLAN AND THE DOWNTOWN MASTER PLAN; ESTABLISH VOTING STANDARDS FOR THE COMMITTEES RELATED TO DEVELOPMENT OF THE PLANS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council wishes to appoint two ad hoc, advisory committees called the Comprehensive Plan Review Committee and the Downtown Master Plan Review Committee (the “Committees”) to guide the city in development of the two plans; and

WHEREAS, the City Council will appoint sixteen members to serve on the Comprehensive Plan Review Committee and fifteen members to serve on the Downtown Master Plan Review Committee, with each council member and the mayor appointing two City Council Members to each; and

WHEREAS, the City Council will appoint a chair and vice chair for the Committees at a future meeting; and

WHEREAS, the Committees will be assisted by an outside consultant qualified in city planning, who will facilitate processes for review of existing plans, collecting and collating ideas and vision from the community, development of the new plans, coordinating input from citizens and presentation of the final plans all in collaboration with city staff. The consultant and staff will report regularly to the City Council and interact with the Planning & Zoning Commission (the “P&Z”) and the Main Street Advisory Board on related issues; and

WHEREAS, the Committees will act as a community sounding boards for the Plans and provide input and feedback on policy recommendations from the Planning & Zoning Commission and the Main Street Commission. The Committees will also act as advisors and ambassadors of the planning process; and

WHEREAS, it is the intent that all policies in the Comprehensive Land Use Plan are reached by consensus or broad acceptance, such that a _____ vote of the members present for the Committee and a simple majority vote of the members present for the Planning & Zoning Commission is required on each policy before it moves forward as a recommendation to City Council; and

WHEREAS, it is the intent that all policies in the Downtown Master Plan are reached by consensus or broad acceptance, such that a _____ vote of the members present for the Committee and a simple majority vote of the members present for the Main Street Advisory Board is required on each policy before it moves forward as a recommendation to City Council; and

WHEREAS, the work of the Committees is complex and knowledge is cumulative, regular attendance and continuity of Committee members is critical to the effective performance of each member; and

WHEREAS, the Committees and this resolution will sunset at the conclusion of the associated planning process, as determined by the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NACOGDOCHES, TEXAS, THAT:

Section I. The City Council hereby forms an ad hoc committee of sixteen residents of the city of Nacogdoches called the Comprehensive Plan Review Committee to guide the city during the current plan review and amendment process, such members to be appointed by the City Council.

Section II. The City Council hereby forms an ad hoc committee of fifteen residents of the city of Nacogdoches called the Downtown Master Plan Committee to guide the city during the current plan review and amendment process, such members to be appointed by the City Council.

Section III. Any member of the Committee may be removed with or without cause by the appointing council member. Committee meeting attendance shall be reported to the City Council. After the first meeting date of the Committee, if a Committee member is no longer willing to serve, or is removed, that Committee member shall not be replaced.

Section IV. The Committee members shall act as a community sounding board for the Plans and provide input and feedback on policy recommendations from the Planning & Zoning Commission and the Main Street Advisory Board. The Committee will also act as advisors to and ambassadors of the planning process.

Section V. All policies of the Plans must be supported by a vote of _____ of the members present of the Committee associated with that plan and a simple majority of the members present for the Planning & Zoning Commission for the Comprehensive Land Use Plan and the Main Street Advisory Board for the Downtown Master Plan before the policy moves forward as a recommendation to the City Council.

Section VI. The Committee and this Resolution will sunset at the conclusion of the planning process associated with this Resolution, as determined by the City Council.

Section VII. This Resolution is effective upon adoption.

PASSED AND APPROVED THE __ DAY of _____ 2021

Jimmy Mize, MAYOR

ATTEST:

Jan Vinson, CITY SECRETARY

APPROVED AS TO FORM:

Steven Kirkland, CITY ATTORNEY



City Council Meeting

Date: November 2, 2021

Agenda Item: 6.D.

PRESENTER: Steven Kirkland, City Attorney

ITEM/SUBJECT: Receive a report, hold a discussion, and give staff direction on purging uncollectible fines and cases. (City Attorney)

SUMMARY/BACKGROUND: The City Attorney will provide an overview of current collection procedures, and a process to purge uncollectible fines and cases.

FINANCIAL:
Not Applicable

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES
Not Applicable

CITY CONTACT: Steven Kirkland, City Attorney
kirklands@nactx.us
(936) 559-2503

ATTACHMENTS:



City Council Meeting

Date: November 2, 2021

Agenda Item: 6.E.

PRESENTER: Steven Kirkland, City Attorney

ITEM/SUBJECT: Consider approval of a Public Forum/Public Comment Policy for City Council meetings. (City Attorney)

SUMMARY/BACKGROUND: At the City Council meeting of September 12, 2021, the City Attorney reviewed the process by which the City currently manages the public comment portion and the open forum portion of City Council meetings.

At the direction of City Council, staff created the Public Forum/Public Comment Policy and amended the Open Forum sign in form. This policy lays out rules and process for citizens to speak during the Open Forum section of the agenda and during public comment on a listed agenda item.

FINANCIAL:

No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Community Engagement/Diverse Environment

CITY CONTACT: Steven Kirkland, City Attorney
kirklands@nactx.us
936-559-2503

ATTACHMENTS:

1. Public Comment and Open Forum Policy Final Draft
2. Open Forum Form Final Draft



City Council Meeting Public Forum/Public Comment Policy

City Council welcomes public participation during City Council meetings. The public is allowed to address City Council during the open forum and public comment portions of a posted City Council meeting.

The Open Forum section of a City Council Meeting agenda gives the public the opportunity to speak on items on the Consent Agenda or items not on the posted agenda.

Public comment is allowed on each agenda item, prior to any vote on the matter up for consideration. Public comment must be limited to the specific subject matter being considered by City Council under that agenda item.

In order for City Council to properly consider each matter brought to it by the citizens, speakers must observe the following rules:

- Anyone wishing to speak during the Open Forum section of the agenda must complete the Open Forum form and submit it to the City Secretary prior to the meeting being called to order.
- Anyone speaking during open forum or during public comment on an agenda item will be asked to come to the podium and state their name and address for the record. Only one person may speak at any one time and only the person who has been called by the Mayor will be allowed to speak.
- Members of the public who wish to participate in public comment via teleconference on an agenda item must contact the City Secretary by noon on the day of the City Council meeting and provide their name, phone number and relevant agenda item upon which they wish to speak.
- Speakers should address their comments to City Council as a whole, not to individual members or to other members of the public
- **Comments are limited to three (3) minutes per person. or Comments during the open forum portion of the City Council meeting are limited to one (1) minute per person. Comments during the regular agenda portion of the meeting are limited to three (3) minutes per person.** A timer will be visible to the speaker and will begin counting down to zero once the speaker begins. When the time has expired, the speaker should stop and be seated. The Mayor may allow a speaker to wrap up or ask City Council to vote to extend additional time to a speaker.
- Per the Open Meetings Act City Council cannot deliberate or take action on items that are not on the posted agenda. If a member of the public inquires about a subject that is not on the agenda during Open Forum or public comment, the Council may:

- 1) Have the item placed on a future agenda for action; or
 - 2) Recite existing policy in response to the inquiry; or
 - 3) Refer the item to staff for study or response.
- Disruptive comments are prohibited. Discussion of personalities, profanity, defamation, personal attacks and verbal abuse are not allowed. Any speaker who violates this rule will be cautioned to stop. If the speaker continues in the disruptive comment, they may be removed from the meeting. .
 - No person attending any City Council meeting shall delay the proceedings or refuse to obey the order of the presiding officer.

Approved by City Council on _____, 2021

NACOGDOCHES CITY COUNCIL OPEN FORUM

(COMPLETE THIS FORM TO SPEAK ON CONSENT AGENDA ITEMS OR ITEMS NOT LISTED ON TONIGHT'S AGENDA)

The Nacogdoches City Council welcomes public comments at regularly scheduled meetings. In addition to public comment on agenda items, the City Council offers an open forum whereby citizens may comment on governance issues over which the City of Nacogdoches has domain. Pursuant to the instructions and rules of procedure set forth below, citizens may address City Council during the "Open Forum" listed on the agenda.

Instructions and Rules of Procedure:

1. In order to address the City Council during the Open Forum portion of the agenda, you must first complete this form and give it to the City Secretary prior to the start of the meeting. Forms will not be accepted after the meeting starts.
2. Please remember to step to the podium when you are recognized by the Mayor and state your name and address before beginning your presentation. If speaking on behalf of an organization or other group, identify the group represented.
3. Speakers' time may not be pooled or given to other speakers.
4. All presentations by citizens are limited to no more than three (3) minutes.
5. ~~In order to ensure that meetings are conducted in an efficient manner, the number of citizens who may speak during the Open Forum is limited to the first five (5) citizens who submit fully completed participation forms. Presentations will be made in the order completed participation forms are received.~~
6. If you have written remarks or printed material you wish to present to the City Council, please furnish them to the City Secretary.
7. Speakers should address all remarks to the City Council as a whole, not to individual members.
8. All persons who complete a Citizen Open Forum Participation Form, whether or not allowed to speak, may submit written comments or exhibits to the City Secretary.
9. In accordance with the Texas Open Meetings Act, unless an item is on the agenda, members of the City Council ~~shall~~ will not discuss, deliberate, or make any decisions since-on the topic of your presentation. ~~is not a specific posted agenda item.~~
10. Please be respectful, No shouting, name calling or cursing is allowed at City Council meetings. Purposefully disrupting a public meeting is a violation of state law, and may result in the offending party being made to leave the meeting and can lead to criminal charges.

CITIZEN OPEN FORUM PARTICIPATION FORM

Please print the following information:

Name: _____ Today's Date: _____

Home Address: _____ Zip Code: _____

Phone: _____ Email: _____

Subject to be Addressed: _____

PLEASE RETURN THIS FORM TO THE CITY SECRETARY PRIOR TO THE START OF THE MEETING.

Passed and approved February 16, 2016, 2021.



City Council Meeting

Date: November 2, 2021

Agenda Item: 7.A.

PRESENTER:

ITEM/SUBJECT: Deliberation regarding Economic Development negotiations under Government Code Section 551.087 as follows:

1. Discuss or deliberate regarding commercial or financial information the City has received from business projects the City body seeks to have locate in the City of Nacogdoches and with which the City is conducting economic development negotiations.

SUMMARY/BACKGROUND:

FINANCIAL:

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

CITY CONTACT:

ATTACHMENTS: