UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ANA FLORES, RENE FLORES, MARIA MAGDALENA HERNANDEZ, MAGALI ROMAN, MAKE THE ROAD NEW YORK, AND NEW YORK COMMUNITIES FOR CHANGE, Plaintiffs, v. TOWN OF ISLIP, ISLIP TOWN BOARD, SUFFOLK COUNTY BOARD OF ELECTIONS, Defendants.	Case No. 2:18-cv-03549 (GRB) (ST)

[~~PROPOSED~~] JOINT SETTLEMENT AGREEMENT AND CONSENT JUDGMENT

The Town of Islip is a geographical and political subdivision of the State of New York. Islip is governed by a Town Supervisor and four Town Council Members. The Supervisor and Council Members together constitute the Islip Town Board, which is vested with the powers of the Town. Council Members serve four-year terms, with the terms staggered so that two are elected every other year, in odd-numbered years. Council Members are elected using an at-large structure. The Suffolk County Board of Elections administers elections in Islip, including Islip Town Council elections.

Plaintiffs Ana Flores, Rene Flores, Maria Magdalena Hernandez, Magali Roman, Make the Road New York, and New York Communities for Change filed a complaint in this case on June 18, 2018. The complaint alleges that the at-large structure employed for Islip's Town Council elections violates Section 2 of the Voting Rights Act, 52 U.S.C. § 10301. The Defendants are the Town of Islip and the Islip Town Board (collectively, the "Islip Defendants"), and the Suffolk County Board of Elections ("BoE").

To avoid further litigation, Plaintiffs and the Defendants have agreed that this lawsuit should be resolved through the terms of this Consent Judgment, ordering replacement of the at-large system with councilmanic districts for the election of Town Council Members.

Under New York State law, approval through a public referendum is required to change Islip's electoral system from at-large to councilmanic districts. N.Y. Town Law § 85. In 2006, a referendum to that effect failed, resulting in continued use of the at-large system for electing Town Council Members pursuant to New York State law. Because Islip's at-large system is mandated by New York State law, the Court "must be certain that the [consent] decree 1) spring[s] from and serve[s] to resolve a dispute within the court's subject-matter jurisdiction, 2) come[s] within the general scope of the case made by the pleadings, and 3) further[s] the

objectives of the law upon which the complaint was based." *Kozlowski v. Coughlin*, 871 F.2d 241, 244 (2d Cir. 1989).

Under *Thornburg v. Gingles*, 478 U.S. 30 (1986), Plaintiffs must prove three preconditions to maintain a claim that an at-large electoral system is invalid under Section 2 of the Voting Rights Act. Then, the issue is whether, "based on the totality of circumstances," members of the minority group "have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice" when the at-large system is used for Islip Town Council elections. 52 U.S.C. § 10301(b).

The Court has found that the three preconditions are established in this case. First, Islip's Hispanic or Latino citizen voting-age population is "sufficiently large and geographically compact to constitute a majority in a single member district" if the Town is divided into four single-member districts. *Id*. at 38. Second, Hispanic or Latino voters in Islip are "politically cohesive" in elections for Town Council. *Id*. Third, the relevant majority group in 2020 in Islip votes "sufficiently as a bloc to enable it … usually to defeat the minority's preferred candidate[s]" for Town Council, as this precondition has been applied by the United States Court of Appeals for the Second Circuit. *Id*. at 38; *see Goosby v. Town Bd. of Town of Hempstead, N.Y.*, 180 F.3d 476, 493–94 (2d Cir. 1999).

The Court's findings that the *Gingles* factors are satisfied creates an "inference" that Section 2 is violated under the totality of circumstances test, *Pope v. Cty. of Albany*, 94 F. Supp. 3d 302, 343 (N.D.N.Y. 2015). Plaintiffs also have presented other evidence on the totality of circumstances.

To effectuate this Consent Judgment, Defendants Town of Islip and Islip Town Board stipulate that implementation of the at-large system for Islip Town Council elections violates Section 2 of the Voting Rights Act.

Consistent with the stipulation of the Islip Defendants, the Court's findings on the *Gingles* preconditions, and the inference from those preconditions, the Court finds and concludes that implementation of the at-large system for Islip Town Council elections violates Section 2 of the Voting Rights Act because, under that system, members of the Hispanic or Latino minority group in Islip have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.

Defendant BoE has stated on the record that it contests neither the stipulation by Defendants Town of Islip and Islip Town Board nor the Court's finding that implementation of the at-large system for Islip Town Council elections violates Section 2 of the Voting Rights Act. Defendant BoE has further stated on the record that it does not contest the relief set forth below.

Accordingly, it is hereby ORDERED, ADJUDGED, AND DECREED that:

1. Defendants are permanently enjoined from the use of an at-large election system in Islip Town Council elections, beginning with the regular Town Council elections in 2021.
2. In the regular Town Council elections in 2021, the two Town Council seats up for election will be filled through separate elections in District 1 and District 2, identified in the Districting Plan attached hereto as Exhibit A.
3. Prior to the regular Town Council elections in 2023, the Town Board will redraw the Town Council districts in accordance with paragraphs 4 and 5, below.

4. *First*, the difference between the most populous and least populous district will be no more than 10 percent of the ideal district size, based on total population under the 2020 decennial census.
5. *Second*, to the extent permissible under the United States Constitution, District 1 will continue to have a majority of Hispanic or Latino citizens of voting age, as defined and measured by the five-year American Community Survey data published by the United States Census Bureau. The Town Board will rely on the five-year data that is most recent as of the time of the redistricting.
6. In the regular 2023 Town Council elections, the two seats up for election will be filled through separate elections in Districts 3 and 4 identified in the Districting Plan, as modified by the redistricting performed on the basis of the 2020 census pursuant to paragraphs 3 through 5, above.
7. After the regular 2023 Town Council elections, Town Council seats up for election will continue to be filled through separate elections in the districts identified in the Districting Plan, as modified by the redistricting performed on the basis of the 2020 census pursuant to paragraphs 3 through 5, above, and each decennial census thereafter.
8. The Council Members elected in regular Town Council elections will serve staggered, four-year terms, as under the at-large system heretofore in effect.
9. Defendant Suffolk County Board of Elections will administer Town Council elections in compliance with the terms of this order and judgment.
10. Each party will bear its own fees, costs, and expenses, except as provided in paragraph 11, below.

11. The Town of Islip will pay Plaintiffs $900,000 in fees, costs, and expenses no later than forty-five days after this Consent Judgment has been executed by the Court and a separate document setting out the Court's judgment has been entered pursuant to Federal Rules of Civil Procedure 58 and 79.
12. This Court shall retain jurisdiction over this matter to enforce the provisions of this Consent Judgment.
13. All parties retain the right to seek future modification or dissolution of this Consent Judgment pursuant to applicable law, *see, e.g.*, *Rufo v. Inmates of Suffolk Cty. Jail*, 502 U.S. 367 (1992).

Dated: 10/14/2020

/s/ Gary R. Brown

The Honorable Gary R. Brown
United States District Judge

Dated: October 13, 2020

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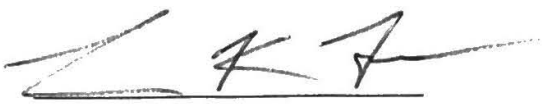

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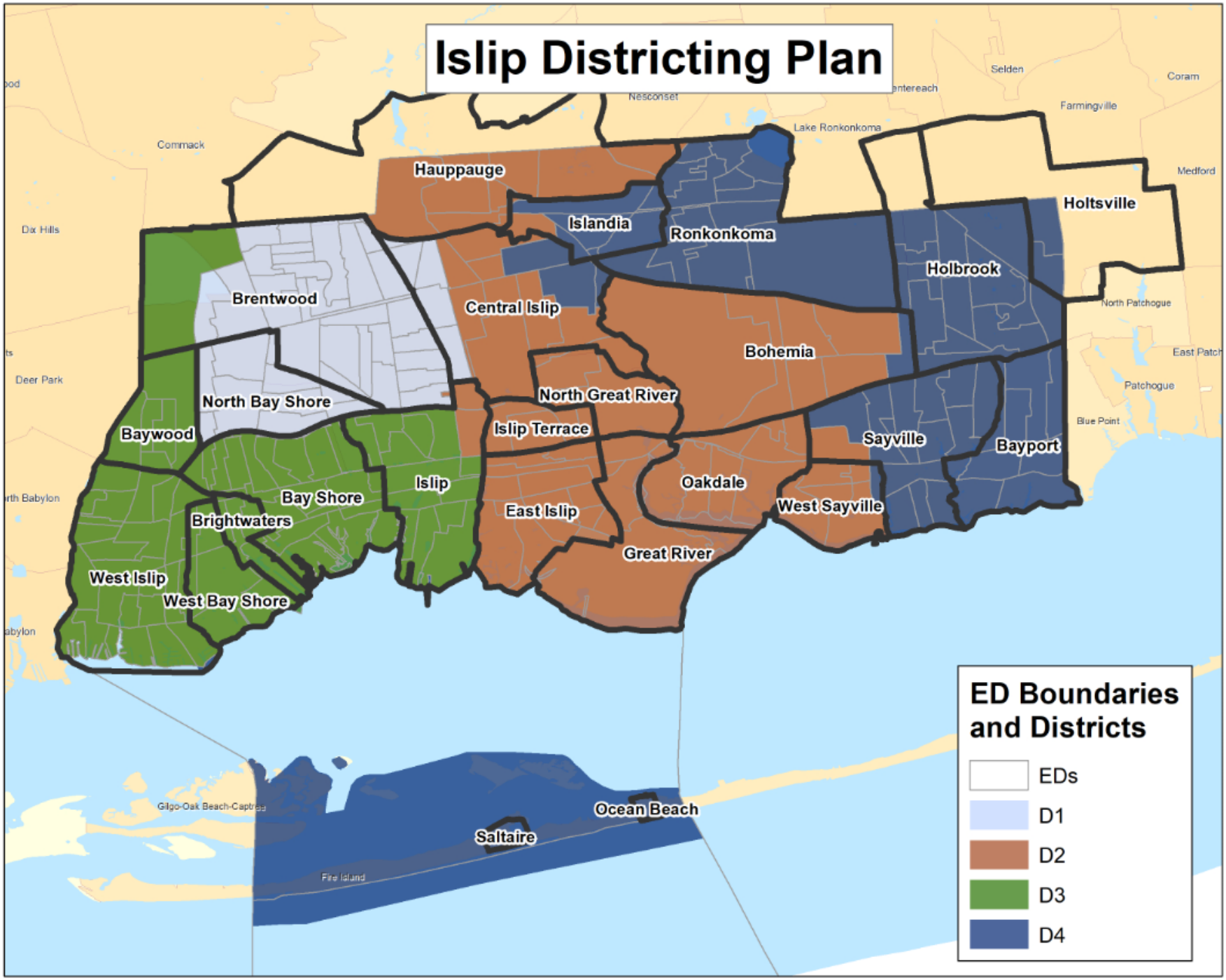
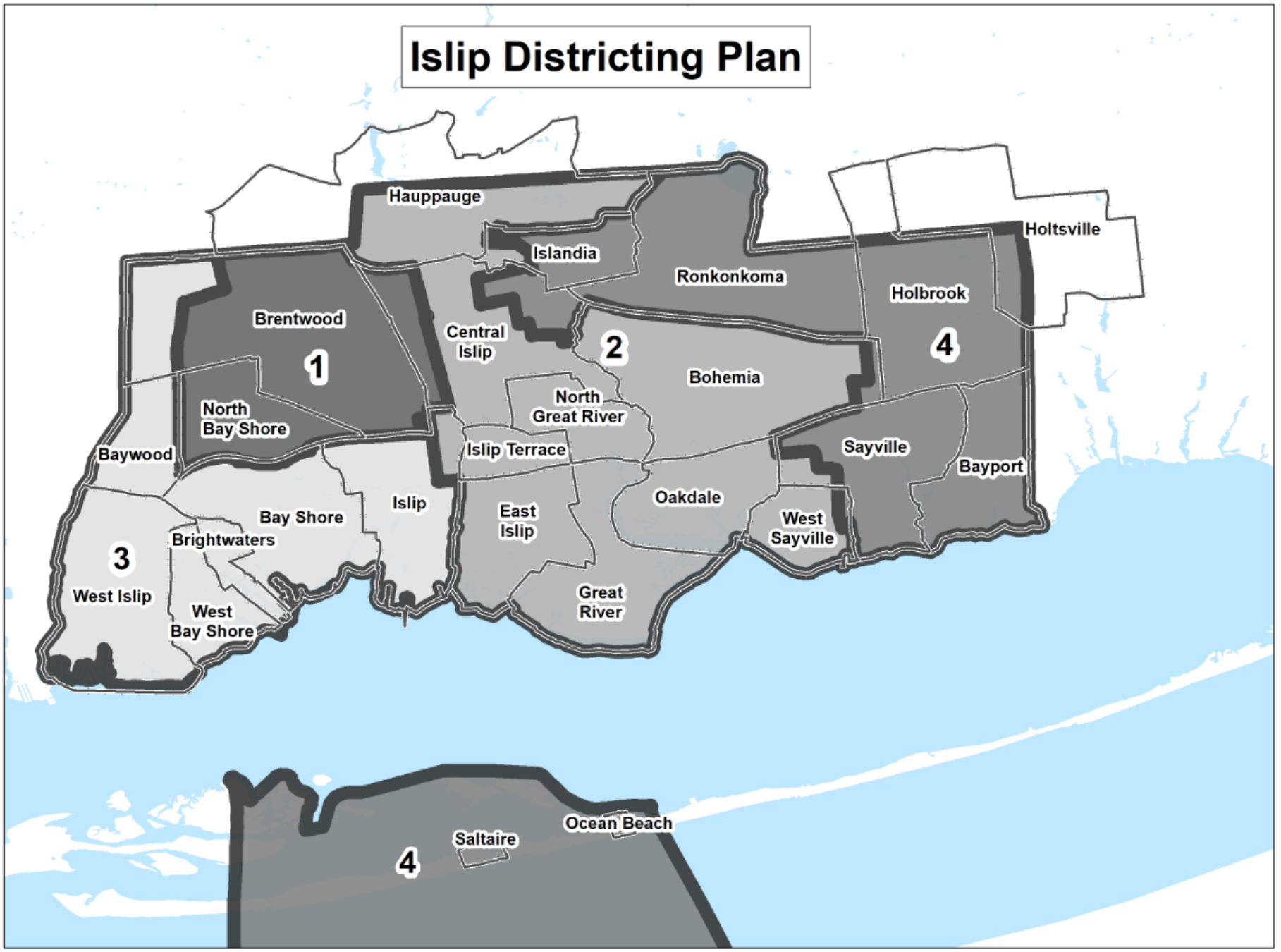
EXHIBIT A


Islip Districting Plan
Hauppauge
Islandia
Ronkonkoma
Holtsville
Holbrook
Brentwood
Central Islip
Bohemia
North Great River
North Bay Shore
Baywood
Islip Terrace
Sayville
Bayport
Islip
Oakdale
Bay Shore
Brightwaters
East Islip
West Sayville
Great River
West Islip
West Bay Shore
Ocean Beach
Saltaire
Fire Island
Gilgo-Oak Beach-Captree
Commack
Dix Hills
Deer Park
Nesconset
Lake Ronkonkoma
Selden
Farmingville
Coram
Medford
North Patchogue
Patchogue
Blue Point
ED Boundaries and Districts
EDs
D1
D2
D3
D4

[Version of Map for Printing in Black and White]



Islip Districting Plan Statistics

District	2010 Census Population	Deviation	% Deviation
1	88,096	4,210	5.0%
2	80,997	-2,889	-3.4%
3	86,630	2,744	3.3%
4	79,820	-4,066	-4.8%
Total	335,543	Total Deviation	9.8%
Ideal District Size	83,886		

Estimated Citizen-Voting Age Population Percentage
2014-2018 American Community Survey

District	Hispanic or Latino	Non-Hispanic Black	Non-Hispanic White
1	54%	20%	22%
2	13%	8%	76%
3	15%	9%	74%
4	9%	4%	82%

Town Council District Assignment for Each Election District

Election District	Town Council District
1	3
2	3
3	3
4	3
5	3
6	3
7	3
8	4
9	1
10	3
11	3
12	3
13	2
14	2
15	2
16	2
17	2
18	2
19	4
20	4
21	4
22	2
23	4
24	4
25	4
26	3
27	3
28	3
29	1
30	2
31	3
32	3
33	1
34	3
35	2
36	2
37	2
38	4
39	4
40	3
41	3
42	3
43	3
44	3
45	4
46	2
47	3
48	3
49	2
50	2

Election District	Town Council District
51	2
52	4
53	4
54	4
55	1
56	3
57	3
58	3
59	1
60	1
61	2
62	3
63	1
64	3
65	2
66	3
67	3
68	1
69	3
70	2
71	2
72	3
73	1
74	3
75	1
76	2
77	4
78	2
79	4
80	3
81	4
82	3
83	1
84	1
85	1
86	2
87	2
88	4
89	2
90	3
91	2
92	1
93	1
94	1
95	1
96	1
97	3
98	2
99	2
100	1

Election District	Town Council District
101	2
102	2
103	3
104	1
105	2
106	4
107	3
108	2
109	3
110	2
111	1
112	2
113	1
114	4
115	1
116	4
117	1
118	4
119	1
120	2
121	3
122	2
123	3
124	1
125	1
126	4
127	3
128	3
129	3
130	4
131	4
132	4
133	3
134	2
135	4
136	3
137	2
138	2
139	4
140	4
141	4
142	4
143	3
144	2
145	4
146	3
147	3
148	3
149	2
150	2

Election District	Town Council District
151	2
152	4
153	4
154	4
155	4
156	1
157	2
158	2
159	4
160	1
161	4
162	4
163	3
164	2
165	2
166	4
167	3
168	4
169	3
170	3
171	3
172	4
173	4
174	1
175	1
176	1
177	2
178	4
179	4
180	4
181	1
182	3
183	3
184	3
185	4
186	3
187	4
188	4
189	2
190	3
191	4
192	2
193	3
194	1
195	3
196	3
197	2
198	2
199	1
200	1

Election District	Town Council District
201	4
202	4
203	2
204	1
205	1
206	1
207	1
208	3
209	4
210	3
211	3
212	3
213	2
214	2
215	2
216	4
217	2
218	4
219	1
220	4
221	2
222	4
223	4
224	4
225	2
226	1

Election Districts in Each Town Council District

District 1	
9	113
29	115
33	117
55	119
59	124
60	125
63	156
68	160
73	174
75	175
83	176
84	181
85	194
92	199
93	200
94	204
95	205
96	206
100	207
104	219
111	226

District 2	
13	105
14	108
15	110
16	112
17	120
18	122
22	134
30	137
35	138
36	144
37	149
46	150
49	151
50	157
51	158
61	164
65	165
70	177
71	189
76	192
78	197
86	198
87	203
89	213
91	214
98	215
99	217
101	221
102	225

District 3	
1	82
2	90
3	97
4	103
5	107
6	109
7	121
10	123
11	127
12	128
26	129
27	133
28	136
31	143
32	146
34	147
40	148
41	163
42	167
43	169
44	170
47	171
48	182
56	183
57	184
58	186
62	190
64	193
66	195
67	196
69	208
72	210
74	211
80	212

District 4	
8	142
19	145
20	152
21	153
23	154
24	155
25	159
38	161
39	162
45	166
52	168
53	172
54	173
77	178
79	179
81	180
88	185
106	187
114	188
116	191
118	201
126	202
130	209
131	216
132	218
135	220
139	222
140	223
141	224