

**AGENDA
SPECIAL CITY COUNCIL MEETING
CITY OF BANNING
BANNING, CALIFORNIA**

June 6, 2016
6:00 p.m.

Banning Civic Center
Council Chambers
99 E. Ramsey St.

I. CALL TO ORDER

- Roll Call – Councilmembers Franklin, Miller, Moyer, Peterson, Mayor Welch

II. PUBLIC COMMENTS – *On Items Not on the Agenda*

A five-minute limitation shall apply to each member of the public who wishes to address the Mayor and Council on a matter not on the agenda. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public. (Usually, any items received under this heading are referred to staff or future study, research, completion and/or future Council Action.) (See last page. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.

III. PUBLIC HEARING

1. Public Hearing regarding City Council Elections by Districts. 1
(Staff Report – Anthony R. Taylor, City Attorney)

Recommendations:

- A) **Receive public testimony regarding electoral districts for city council elections, with or without a mayor elected at-large;**
- B) **Provide direction to staff regarding any action to be taken;**
and
- C) **Approve a budget adjustment of \$21,000 for National Demographics consultants, Inc. to continue to provide services under their existing contract for this matter.**

IV. ADJOURNMENT

Pursuant to amended Government Code Section 54957.5(b) staff reports and other public records related to open session agenda items are available at City Hall, 99 E. Ramsey St., at the office of the City Clerk during regular business hours, Monday through Friday, 7 a.m. to 5 p.m.

The City of Banning promotes and supports a high quality of life that ensures a safe and friendly environment, fosters new opportunities and provides responsive, fair treatment to all and is the pride of its citizens.

NOTICE: Any member of the public may address this meeting of the Mayor and Council on any item appearing on the agenda by approaching the microphone in the Council Chambers and asking to be recognized, either before the item about which the member desires to speak is called, or at any time during consideration of the item. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. No member of the public shall be permitted to "share" his/her five minutes with any other member of the public.

Any member of the public may address this meeting of the Mayor and Council on any item which does not appear on the agenda, but is of interest to the general public and is an item upon which the Mayor and Council may act. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. No member of the public shall be permitted to "share" his/her five minutes with any other member of the public. The Mayor and Council will in most instances refer items of discussion which do not appear on the agenda to staff for appropriate action or direct that the item be placed on a future agenda of the Mayor and Council. However, no other action shall be taken, nor discussion held by the Mayor and Council on any item which does not appear on the agenda, unless the action is otherwise authorized in accordance with the provisions of subdivision (b) of Section 54954.2 of the Government Code.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office (951) 922-3102. **Notification 48 hours prior to the meeting** will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.02-35.104 ADA Title II]



**CITY OF BANNING
CITY COUNCIL**

TO: Banning Mayor & City Council

**FROM: Anthony R. Taylor, City Attorney
Julie Hayward Biggs, Special Counsel**

DATE: June 6, 2016

SUBJECT: Second Public Hearing regarding City Council Elections by Districts

RECOMMENDATION:

- A) Receive public testimony regarding electoral districts for city council elections, with or without a mayor elected at-large.
- B) Provide direction to staff regarding any action to be taken at the public hearing concerning district elections.
- C) Approve a budget adjustment of \$21,000 for National Demographics Consultants, Inc. to continue to provide services under their existing contract for this matter.

DISCUSSION:

The City has received requests from members of the public beginning in January 2016 to study the option of creating electoral districts for city council elections, with or without a mayor elected at-large. In response to requests from members of the public, the City engaged a consultant, National Demographics Consultants, Inc. ("NDC"), to analyze this matter.

After the City engaged NDC, a lawsuit was filed on March 30, 2016, entitled *Cassadas, et al. v. City of Banning*, Riverside Superior Court, Case No. 1603770, alleging violations of the California Voting Rights Act of 2001 for the City not having district elections of council members. The City has filed an answer with the Court denying the allegations in that lawsuit. The City continues to deny the allegations in that lawsuit. This staff report is written separately from that lawsuit to respond in an open and transparent fashion to requests by members of the public for a public hearing concerning district elections for council members.

The City's goal is to ensure that all residents of the City of Banning have open access to the electoral system so that full and open participation continues to encourage election of qualified and committed community leaders on the City Council.

The first public hearing was held in this matter on May 24, 2016. A PowerPoint presentation that included proposed district election maps was presented to the City Council and the public at that time by NDC. A copy of that PowerPoint presentation is attached to this staff report as Exhibit A.

ANALYSIS:

Pursuant to Government Code Section 34886, the City Council is required to hold three public hearings to potentially adopt an ordinance for the district election of members of the City Council with either five electoral districts or four electoral districts with a mayor elected at-large for either a two or four year term.

At the second public hearing on June 6, 2016, the City Council will be asked to further consider and discuss the demographic information and maps presented during the first public hearing on May 24, 2016 and any other proposed maps that may be presented by members of the public. The Council is requested to take further public testimony relating to the proposed maps and consider election by district options in general.

Election by district systems permitted under Government Code Section 34886 include the option of creating five electoral districts or creating four electoral districts with a mayor elected at-large. If five districts are selected as the option the Council wishes to pursue, then the Mayor would be selected by the Council in the same manner that the Mayor is now selected. If the Council wishes to establish four electoral districts with a mayor elected at-large, then the Council will also need to consider whether the term of office for the Mayor should be two years or four years.

If consensus is reached on any of the issues relating to establishment of an election by-district system, with or without a mayor elected at large, and on electoral district maps, then an ordinance can be presented to the Council either on an urgency basis to be effective immediately, or for introduction and first reading. Under Government Code Section 36934, ordinances may be introduced for first reading at either a regular or a special public meeting but may only be finally enacted at a regular public meeting of the City Council held at least five days after approval of introduction and first reading of the ordinance.

If there is any substantive change required to be made to the proposed ordinance at its second reading, then the ordinance will need to be re-introduced for first reading and adopted at a regular meeting held at least five days after its re-introduction and approval of first reading.

A more expedited process is provided by law for adopting an urgency measure. An urgency measure requires a finding of a genuine urgency and adoption of the ordinance by a 4/5ths vote of the Council under the provisions of Election Code 36934 and 36937. This matter could be considered as an urgency item if the Council decides to make the change to district elections for the November 2016 election. While State law allows until July 1, 2016 to make that change, the County Registrar of Voters has requested all district election maps by June 7, 2016, or as soon thereafter as possible, to implement those district election maps for the November 2016 election.

Additionally, the Council is also requested to consider a budget adjustment for NDC's contract. By way of background, NDC's contract was approved for an initial amount of \$8,000 on March 22, 2016. That contract provided for additional work to be done as requested by the City. Specifically, NDC has performed and they are continuing to perform services under their approved contract with the City in addition to the \$8,000 approved budget amount. NDC is requesting an additional \$21,000 for services provided to the City including preparing maps and presentation materials and for presenting the options for district elections at three public hearings.

OPTIONS:

1. Receive public testimony and provide direction to staff concerning proceeding forward with district elections of council members or not proceeding forward with the same.
2. Direct staff to proceed forward with the third public hearing, or alternatively direct staff to not proceed forward with any further public hearings.

FISCAL IMPACT:

Unknown at this time, other than the proposed budget adjustment to NDC of \$21,000, as described above.

ATTACHMENTS:

Exhibit A: PowerPoint presentation from May 24, 2016.

PREPARED BY:


Anthony R. Taylor, City Attorney

REVIEWED BY:


Michael Rock, City Manager

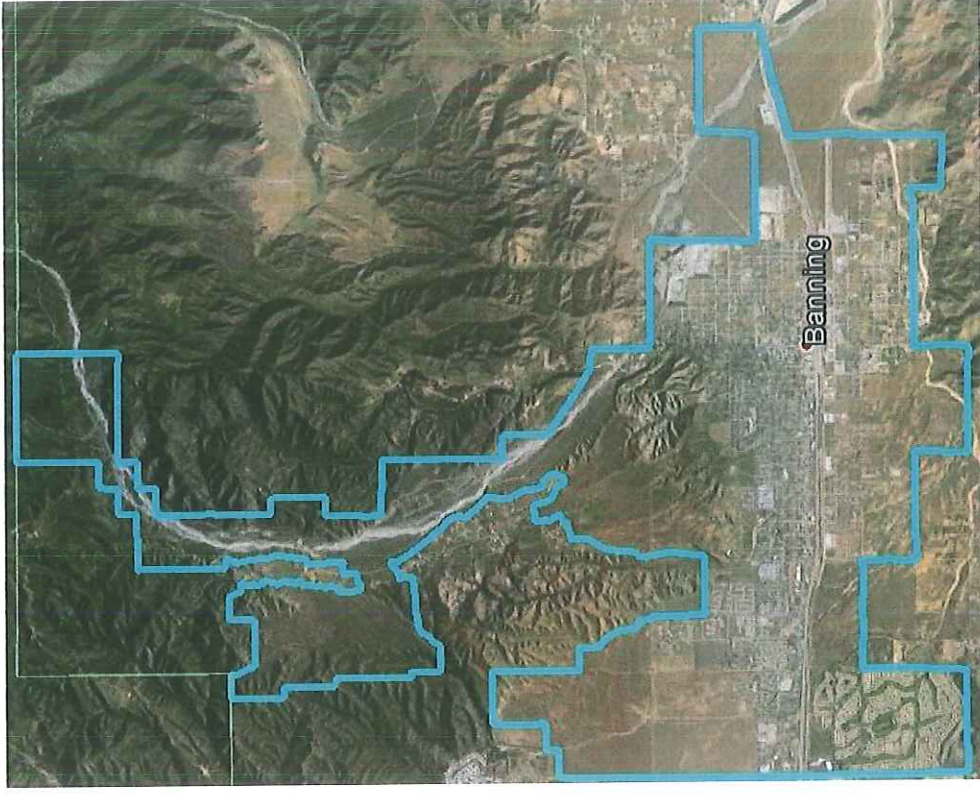
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Exhibit “A”

Draft Districting Maps

Power Point Presentation from
May 24, 2016 Council Meeting

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City of Banning Draft Districting Maps

Douglas Johnson, President
National Demographics Corporation (NDC)

May 24, 2016

The California Voting Rights Act

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- Signed into law by Gov. Gray Davis in 2002
- Made it much easier (relative to the Federal VRA) for plaintiffs to win
 - Eliminates two of the federal law's 4 tests that a jurisdiction must fail to be in violation of the law
- Cases are expensive, and losing decisions came with huge financial penalties. So jurisdictions are switching to the “safe harbor” (by-district elections) for financial reasons

The California Voting Rights Act

3

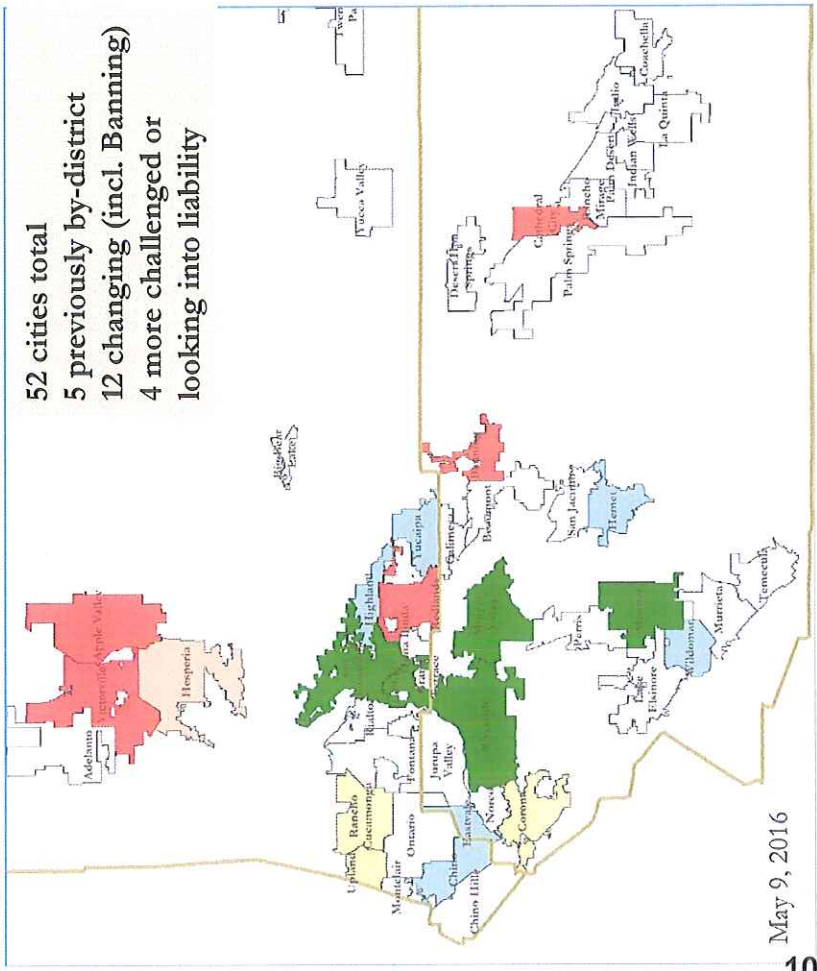
- Switched (or in the process of switching) as a result of CVRA:
 - At least 137 school districts
 - 27 Community College Districts
 - 38 cities
 - 1 County Board of Supervisors
 - 8 water and other special districts.
- Key decisions & settlements
 - Only Palmdale has gone to trial on the merits (the city lost)
 - Key settlements:
 - Palmdale: \$4.5 million
 - Modesto: \$3 million
 - Anaheim: \$1.1 million
 - Whittier: \$1 million
 - Santa Barbara: \$600,000
 - Tulare Hospital: plaintiff attorneys paid \$500,000
 - Madera Unified: plaintiff attorneys asked for \$1.8 million, but received about \$170,000
 - Hanford Joint Union Schools: \$118,000
 - Merced City: \$42,000
 - Placentia: \$20,000

March 28, 2016

Inland Empire CVRA Action

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- Green:** By-District
- Blue:** Changing for 2016 by ordinance or court order
- Yellow:** Change will be on 2016 ballot
- Red:** Not yet declared response to threat
- Orange:** Making change for 2018



City	2010 Census	City	2010 Census
Riverside	303,871	Yucaipa	51,367
San Bernardino	209,924	Cathedral City	51,200
Fontana	196,069	Palm Desert	48,445
Moreno Valley	193,365	Palm Springs	44,552
Rancho Cucamonga	165,269	San Jacinto	44,199
Ontario	163,924	Coachella	40,704
Corona	152,374	La Quinta	37,467
Victorville	115,903	Beaumont	36,877
Murrieta	103,466	Montclair	36,664
Temecula	100,097	Wildomar	32,176
Rialto	99,171	Adelanto	31,765
Jurupa Valley	94,927	Banning	29,603
Hesperia	90,173	Norco	27,063
Hemet	78,657	Desert Hot Springs	25,938
Chino	77,983	Twentynine Palms	25,048
Menifee	77,519	Loma Linda	23,261
Indio	76,036	Barstow	22,639
Chino Hills	74,799	Blythe	20,817
Upland	73,732	Yucca Valley	20,700
Apple Valley	69,135	Rancho Mirage	17,218
Redlands	68,747	Grand Terrace	12,040
Perris	68,386	Canyon Lake	10,561
Eastvale	53,563	Calimesa	7,879
Highland	53,104	Big Bear Lake	5,019
Colton	52,154	Indian Wells	4,958
Lake Elsinore	51,821	Needles	4,844

May 9, 2016

City Demographics

May 24, 2016

Demographic Summary

Since 2000, the number of Latino registered voters in the City has doubled.

Sources:
2010 Census;
California Statewide; Database
Census 2010-2014 American Community Survey

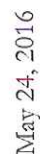
May 24, 2016

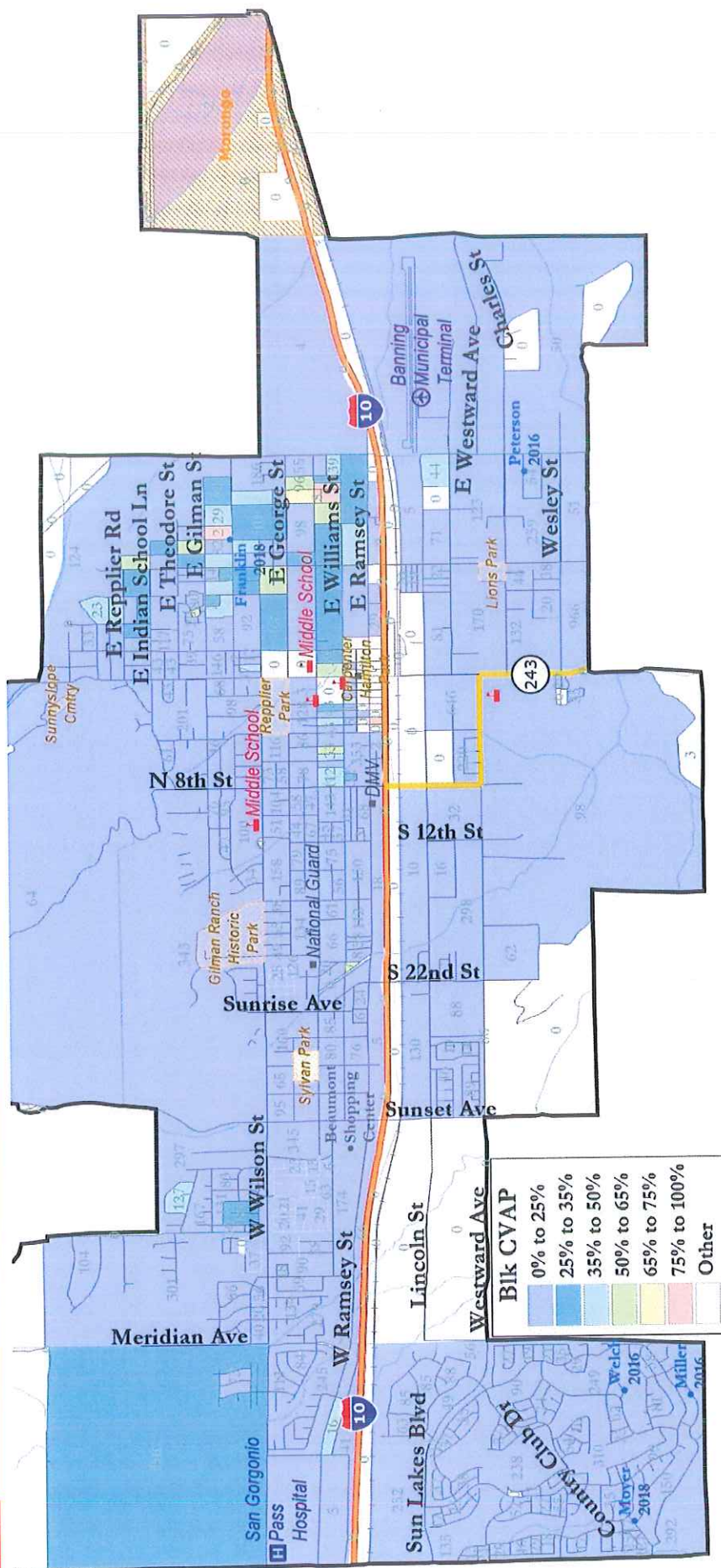
City of Banning

Race/Ethnic Profile	2010	Percent	2000	Percent
Total Population	29,603		23,562	
Latino	12,181	41%	7,119	30%
NH White	12,858	43%	12,354	52%
NH Black/African-American	2,192	7%	1,997	8%
NH Native American	503	2%	506	2%
NH Asian-American	1,618	5%	1,290	5%
NH Pacific Islander	58	0%	23	0%
NH Other	43	0%	104	0%
NH Multi-Race	150	1%	169	1%
Voting Age Population total	22,826		17,332	
VAP Latino	7,859	34%	4,190	24%
VAP NH White	11,614	51%	10,620	61%
VAP NH Black/African-American	1,627	7%	1,270	7%
VAP NH Native American	364	2%	332	2%
VAP NH Asian-American	1,202	5%	751	4%
VAP NH Pacific Islander	43	0%	16	0%
VAP NH Other	33	0%	74	0%
VAP NH Multi-Race	84	0%	79	0%
Citizen VAP total	22,074		15,595	
CVAP Latino	5,671	26%	2,958	19%
CVAP NH White	13,180	60%	10,460	67%
CVAP NH African-American	1,927	9%	1,241	8%
CVAP NH Asian & Pacific Islander	1,083	5%	418	3%
CVAP Other (incl. Nat. Amer. & Pac. Isl.)	213	1%	519	3%
Voter Registration (Nov. 2014)	12,303		10,767	
Latino Reg	3,003	24%	1,556	14%
Asian-Surnamed Reg.	172	1%	118	1%
Filipino-Surnamed Reg.	89	1%	58	1%
Voters Casting Ballots (Nov. 2014)	6,687	54%		
Latino voters	1,034	15%		
Asian-Surnamed voters	71	1%		
Filipino-Surnamed voters	34	1%		
Voters Casting Ballots (Nov. 2012)	9,100	136%		
Latino voters	1,696	25%		
Asian-Surnamed voters	104	2%		
Filipino-Surnamed voters	57	1%		



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NDC Districting Criteria

National Demographics Corporation

Federal Laws

- ☐ Equal Population
- ☐ Federal Voting Rights Act
- ☐ No Racial Gerrymandering

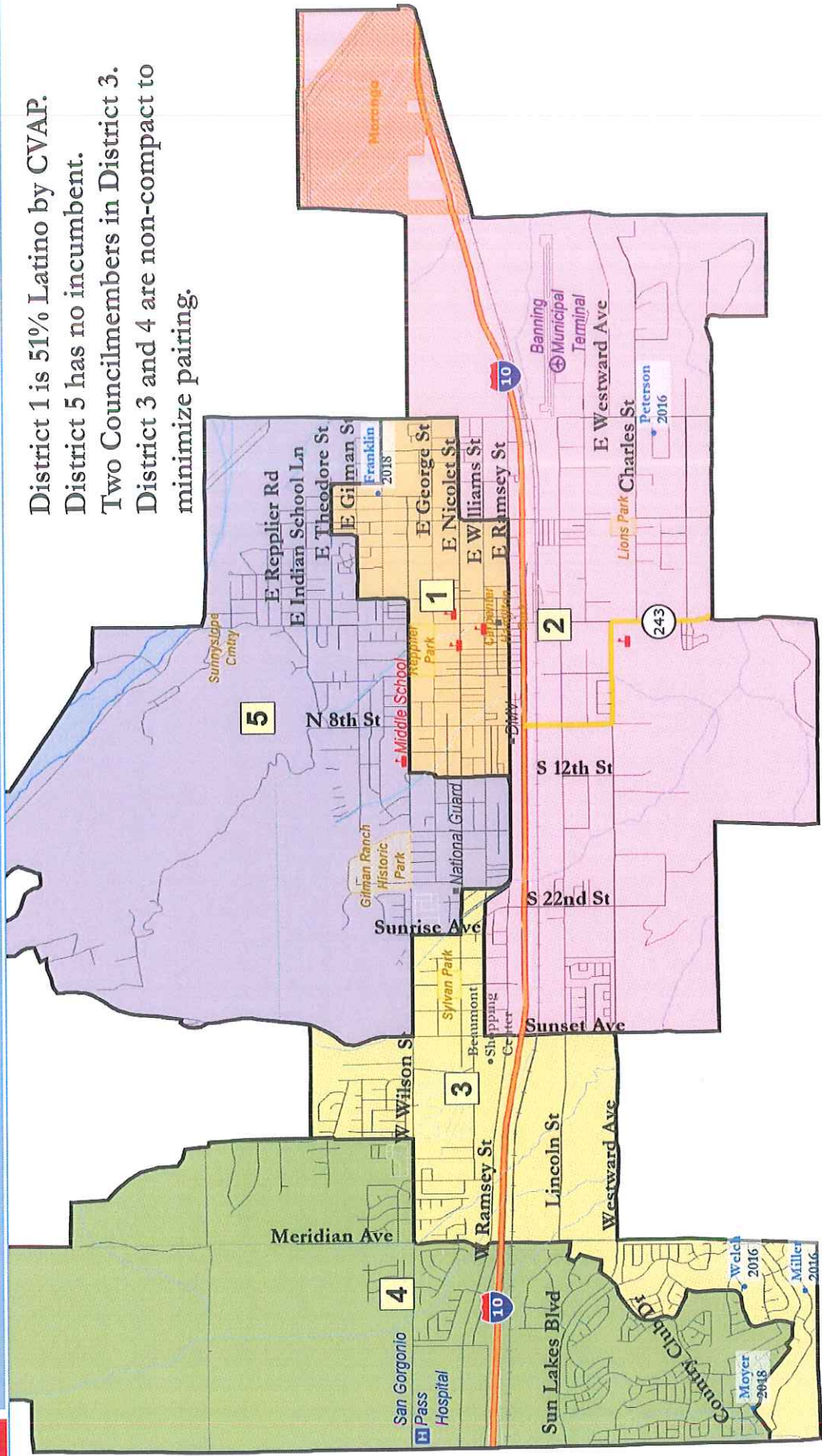
Traditional Redistricting Principles

- ☐ Communities of interest
- ☐ Compact
- ☐ Contiguous
- ☐ Visible (Natural & man-made) boundaries
- ☐ Respect voters' choices
- ☐ Planned future growth

5-District Draft A

11

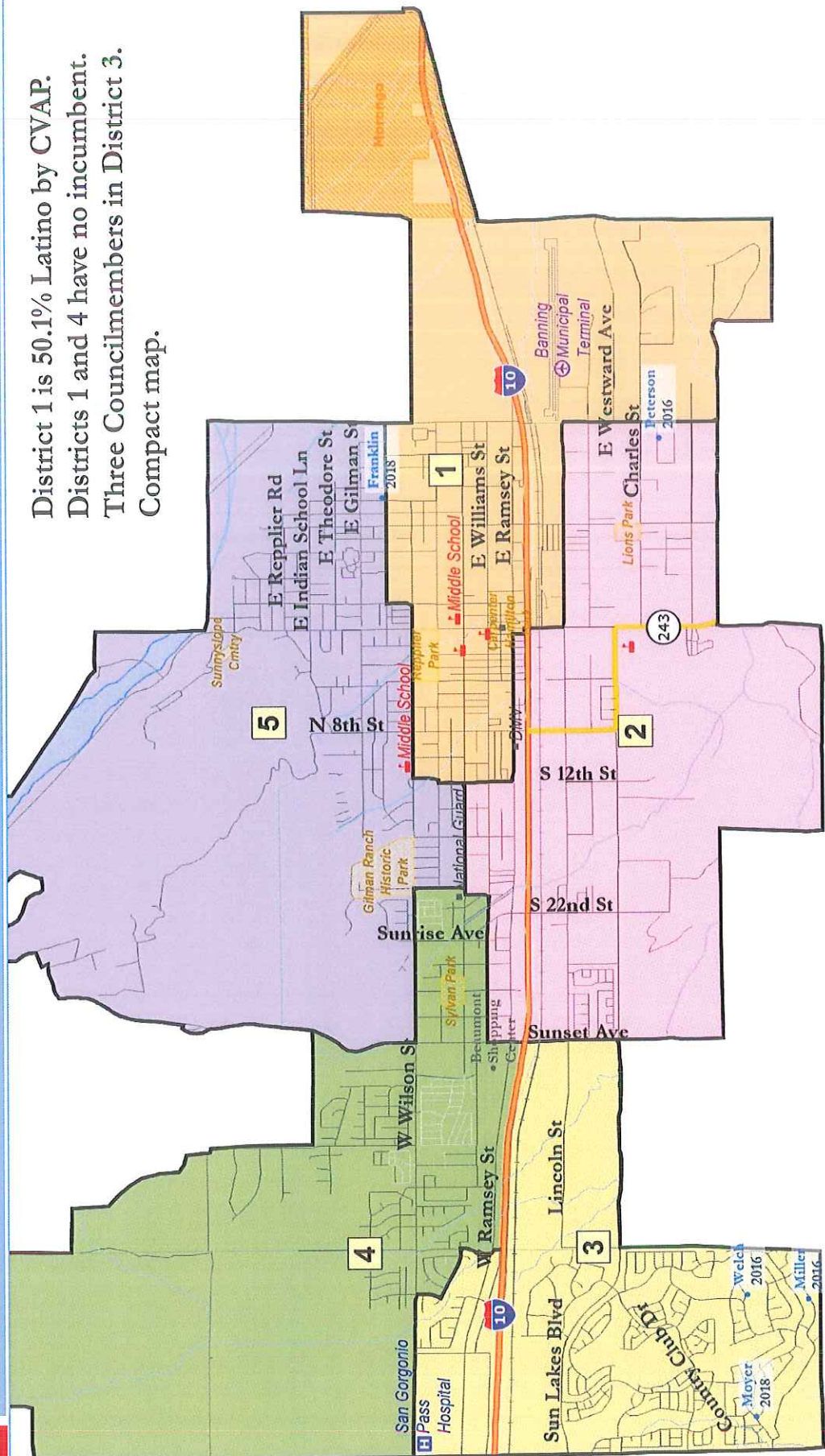
District 1 is 51% Latino by CVAP.
District 5 has no incumbents.
Two Councilmembers in District 3.
District 3 and 4 are non-compact to minimize pairing.



5-District Draft B

12

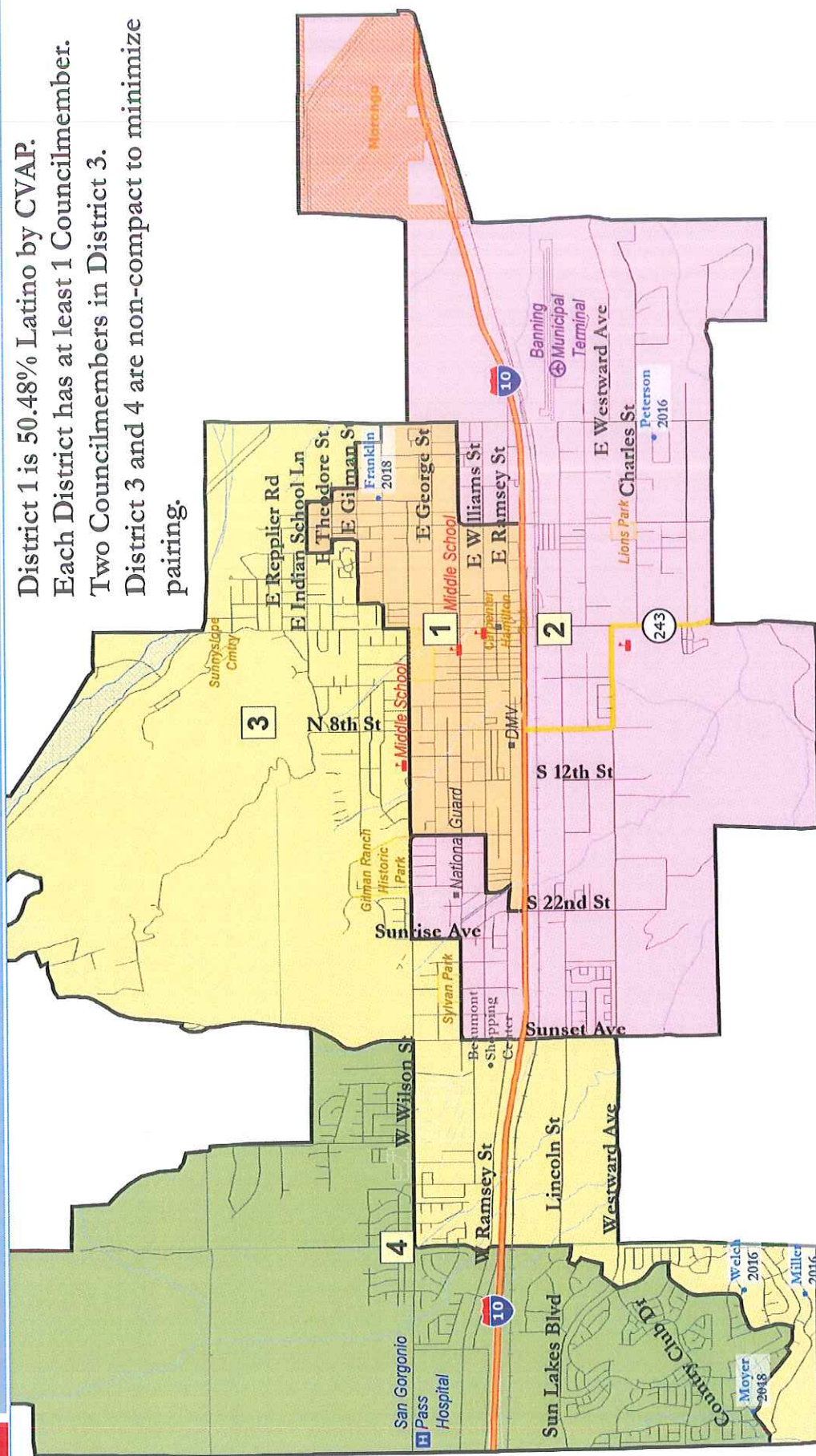
District 1 is 50.1% Latino by CVAP.
Districts 1 and 4 have no incumbent.
Three Councilmembers in District 3.
Compact map.





13

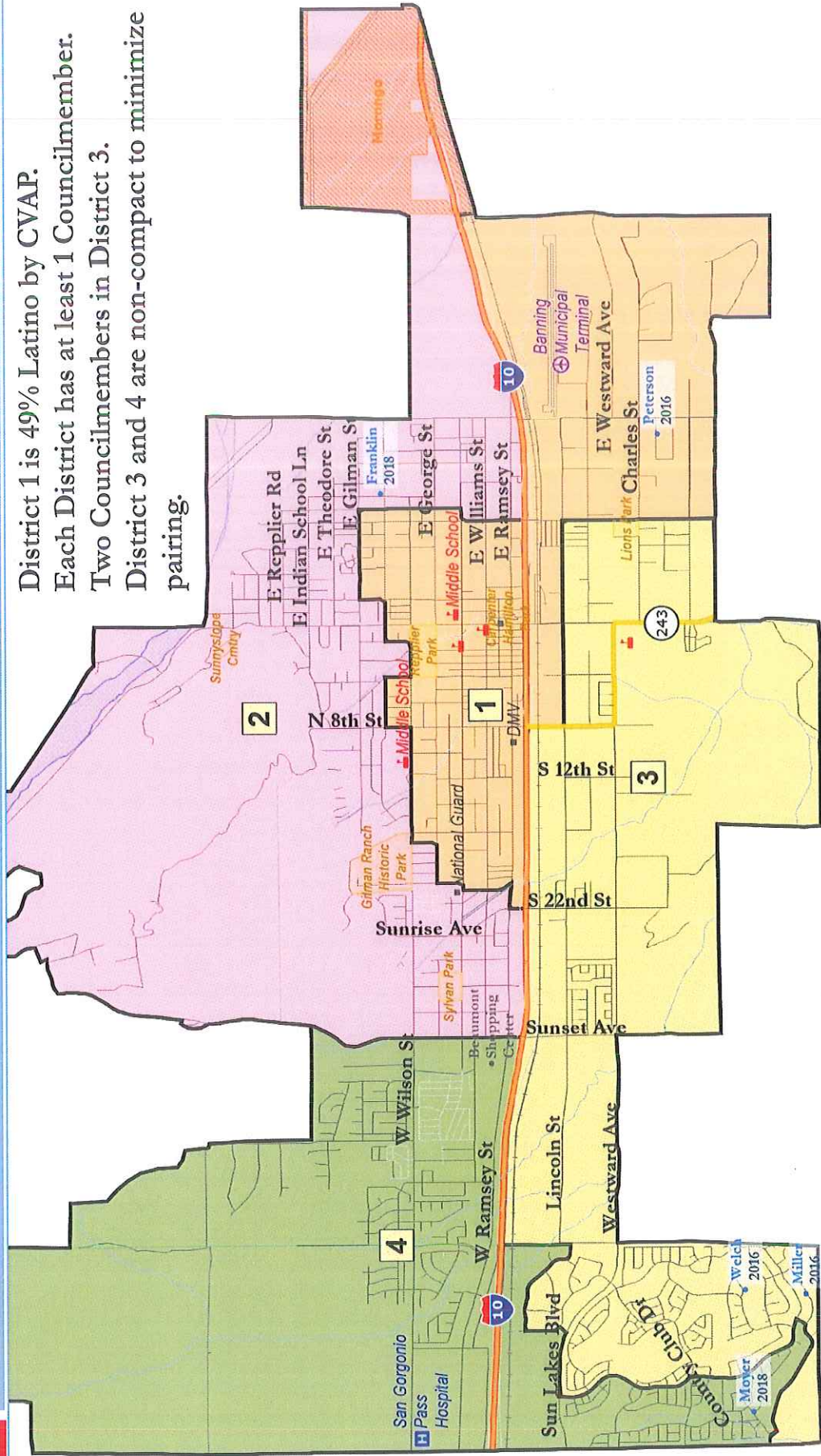
District 1 is 50.48% Latino by CVAP. Each District has at least 1 Councilmember. Two Councilmembers in District 3. District 3 and 4 are non-compact to minimize pairing.



4-District Draft B

14

District 1 is 49% Latino by CVAP.
Each District has at least 1 Councilmember.
Two Councilmembers in District 3.
District 3 and 4 are non-compact to minimize pairing.



Next Steps

15

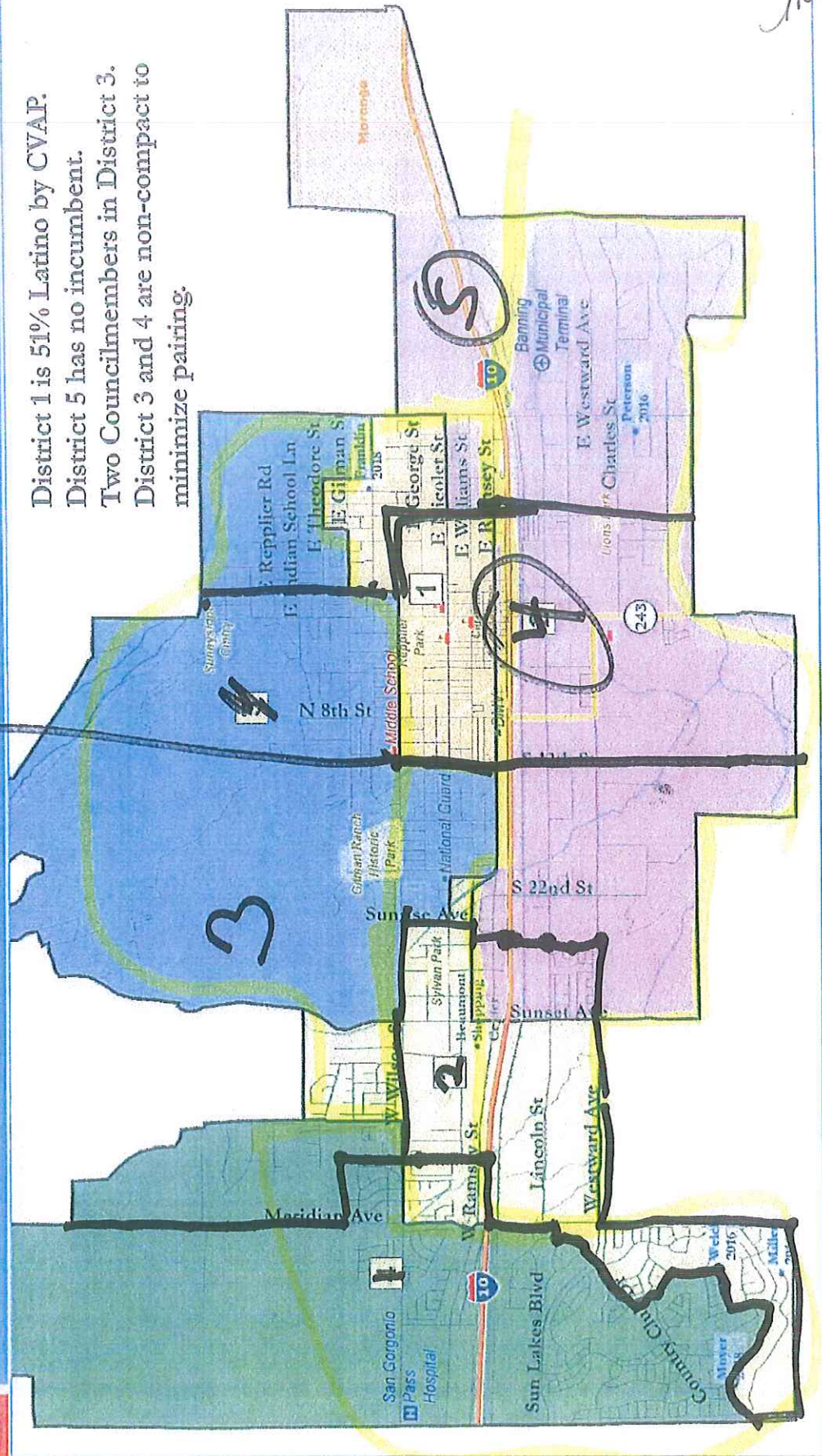
- ❑ Public Hearing on draft maps
- ❑ Direction on any desired map changes, tests and/or revisions

Maps Received by the City Clerk

5-District Draft A

11

District 1 is 51% Latino by CVAP.
District 5 has no incumbent.
Two Councilmembers in District 3.
District 3 and 4 are non-compact to minimize pairing.



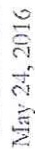
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May 24, 2016



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- District 1 is 51% Latino by CVAP.
 District 5 has no incumbent.
 Two Councilmembers in District 3.
 District 3 and 4 are non-compact to
 minimize pairing.

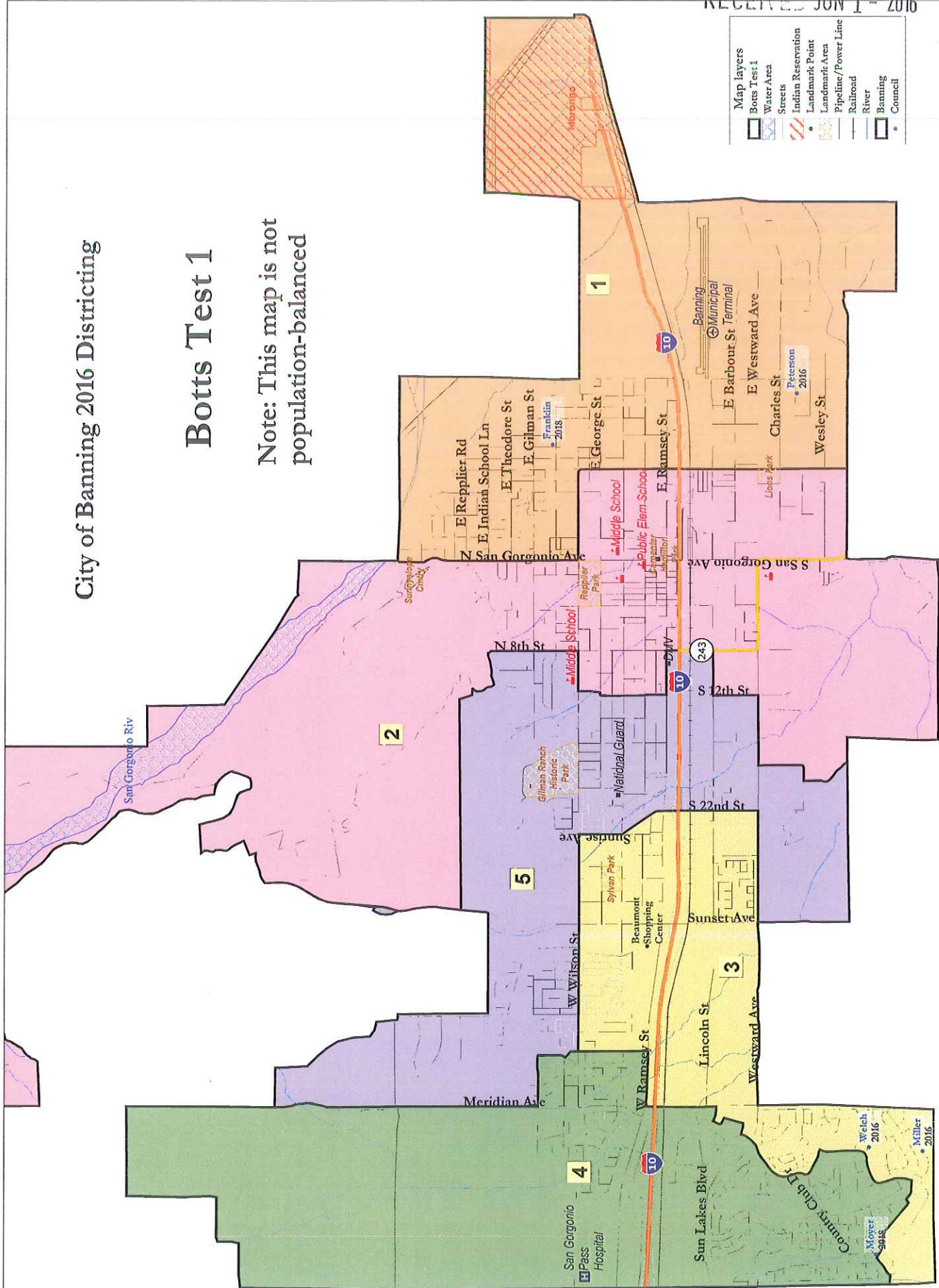


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City of Banning 2016 Districting

Botts Test 1

Note: This map is not population-balanced



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City of Banning - Botts Test 1							
District		1	2	3	4	5	Total
	Total Pop	5,196	8,057	5,166	5,995	5,189	29,603
	Deviation from ideal	-725	2,136	-755	74	-732	2,891
	% Deviation	-12.24%	36.08%	-12.75%	1.25%	-12.36%	48.83%
Total Pop	% Hisp	54%	54%	29%	17%	48%	41%
	% NH White	21%	27%	61%	73%	39%	43%
	% NH Black	16%	9%	3%	4%	5%	7%
	% Asian-American	6%	7%	4%	4%	5%	5%
Voting Age Pop	Total	3,409	5,784	4,481	5,391	3,761	22,826
	% Hisp	48%	50%	23%	14%	41%	34%
	% NH White	25%	32%	68%	78%	45%	51%
	% NH Black	18%	9%	3%	3%	5%	7%
Citizen Voting Age Pop	% Asian-American	6%	7%	4%	4%	6%	5%
	Total	2,852	5,015	4,650	5,813	3,744	22,074
	% Hisp	38%	39%	18%	8%	35%	26%
	% NH White	35%	40%	74%	83%	52%	60%
Voter Registration (Nov 2014)	% NH Black	21%	12%	3%	5%	8%	9%
	% Asian/Pac.Isl.	10%	11%	8%	7%	9%	6%
	Total	1,653	1,964	2,617	3,735	2,334	12,303
	% Latino	39%	38%	16%	12%	32%	24%
Voter Turnout (Nov 2014)	% Asian-Surnamed	2%	1%	2%	1%	1%	1%
	% Filipino-Surnamed	0%	1%	1%	1%	1%	1%
	Total	605	724	1,723	2,573	1,062	6,687
	% Latino	29%	29%	10%	9%	22%	15%
Voter Turnout (Nov 2012)	% Asian-Surnamed	1%	1%	1%	1%	1%	1%
	% Filipino-Surnamed	0%	0%	1%	1%	0%	1%
	Total	966	1,175	2,122	3,263	1,575	9,100
	% Latino	34%	32%	13%	9%	26%	19%
ACS Pop. Est.	% Asian-Surnamed	1%	1%	1%	1%	1%	1%
	% Filipino-Surnamed	0%	1%	1%	1%	1%	1%
	Total	5,019	8,346	5,459	6,492	5,383	30,700
	age0-19	37%	29%	15%	7%	25%	22%
Age	age20-60	51%	55%	38%	25%	53%	45%
	age60plus	12%	16%	46%	67%	22%	33%
Immigration	immigrants	20%	19%	15%	11%	16%	16%
	naturalized	38%	37%	49%	69%	38%	44%
Language spoken at home	english	62%	60%	74%	85%	67%	70%
	spanish	33%	34%	19%	8%	28%	25%
	asian-lang	4%	5%	4%	3%	3%	4%
	other lang	1%	1%	2%	3%	2%	2%
Language Fluency	Speaks Eng. "Less than Very Well"	17%	15%	11%	7%	13%	12%
Education (among those age 25+)	hs-grad	62%	63%	65%	66%	65%	64%
	bachelor	3%	6%	11%	13%	8%	9%
	graduatedegree	5%	4%	8%	10%	4%	7%
Child in Household	child-under18	36%	30%	13%	4%	24%	18%
Work (percent of pop age 16+)	employed	46%	45%	32%	23%	48%	38%
	Commute on Public Transit	0%	1%	2%	3%	2%	1%
Household Income	income 0-25k	40%	31%	25%	23%	30%	28%
	income 25-50k	22%	30%	35%	36%	33%	32%
	income 50-75k	20%	19%	20%	21%	16%	19%
	income 75-200k	18%	19%	19%	19%	20%	19%
	income 200k-plus	0%	1%	1%	2%	1%	1%
Housing Stats	single family	81%	87%	92%	96%	91%	90%
	multi-family	19%	13%	8%	4%	9%	10%
	vacant	16%	12%	9%	9%	10%	11%
	occupied	84%	88%	91%	91%	90%	89%
	rented	57%	47%	26%	14%	38%	33%
	owned	43%	53%	74%	86%	62%	67%
Total and Voting Age population data from the 2010 Decennial Census.							
Voter Registration and Turnout data from the California Statewide Database.							
Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2010-2014 American Community Survey 5-year data.							

Smith Map 1



City of Banning - Smith Map 1							
District		1	2	3	4	5	Total
	Total Pop	5,814	5,792	5,973	5,858	6,166	29,603
	Deviation from ideal	-107	-129	52	-63	245	374
	% Deviation	-1.81%	-2.18%	0.88%	-1.06%	4.14%	6.32%
Total Pop	% Hisp	58%	49%	8%	37%	53%	41%
	% NH White	31%	30%	86%	48%	23%	43%
	% NH Black	5%	9%	2%	5%	15%	7%
	% Asian-American	3%	10%	3%	6%	5%	5%
Voting Age Pop	Total	4,064	4,312	5,898	4,424	4,128	22,826
	% Hisp	52%	46%	8%	32%	47%	34%
	% NH White	36%	34%	86%	55%	28%	51%
	% NH Black	5%	9%	2%	5%	16%	7%
Citizen Voting Age Pop	% Asian-American	4%	9%	3%	6%	6%	5%
	Total	3,424	3,915	6,528	4,610	3,597	22,074
	% Hisp	47%	31%	5%	23%	40%	26%
	% NH White	42%	45%	88%	62%	37%	60%
Voter Registration (Nov 2014)	% NH Black	8%	12%	3%	9%	17%	9%
	% Asian/Pac.Isl.	6%	14%	7%	9%	8%	6%
	Total	1,679	1,521	4,586	2,514	2,003	12,303
	% Latino	38%	37%	8%	28%	37%	24%
Voter Turnout (Nov 2014)	% Asian-Surnamed	1%	2%	1%	1%	2%	1%
	% Filipino-Surnamed	1%	1%	0%	1%	0%	1%
	Total	620	684	3,432	1,241	710	6,687
	% Latino	27%	30%	6%	20%	27%	15%
Voter Turnout (Nov 2012)	% Asian-Surnamed	1%	1%	1%	1%	1%	1%
	% Filipino-Surnamed	1%	1%	0%	1%	0%	1%
	Total	1,094	894	4,150	1,779	1,183	9,100
	% Latino	31%	35%	7%	22%	32%	19%
ACS Pop. Est.	% Asian-Surnamed	1%	1%	1%	1%	1%	1%
	% Filipino-Surnamed	1%	1%	0%	1%	0%	1%
	Total	5,762	6,080	6,640	6,124	6,094	30,700
	% Latino	30%	26%	2%	19%	36%	22%
Age	age0-19	30%	26%	2%	19%	36%	22%
	age20-60	54%	57%	14%	51%	51%	45%
	age60plus	16%	16%	83%	30%	13%	33%
Immigration	immigrants	21%	20%	11%	12%	18%	16%
	naturalized	34%	36%	83%	41%	40%	44%
Language spoken at home	english	57%	58%	88%	77%	64%	70%
	spanish	40%	33%	5%	18%	32%	25%
	asian-lang	2%	8%	3%	3%	3%	4%
	other lang	1%	1%	4%	2%	1%	2%
Language Fluency	Speaks Eng. "Less than Very Well"	18%	15%	5%	10%	15%	12%
Education (among those age 25+)	hs-grad	64%	61%	66%	66%	63%	64%
	bachelor	5%	8%	14%	10%	4%	9%
	graduatedegree	3%	4%	12%	5%	6%	7%
Child in Household	child-under18	31%	29%	2%	15%	35%	18%
Work (percent of pop age 16+)	employed	49%	38%	15%	49%	50%	38%
	Commute on Public Transit	1%	1%	2%	3%	0%	1%
Household Income	income 0-25k	36%	26%	21%	28%	37%	28%
	income 25-50k	36%	29%	37%	30%	22%	32%
	income 50-75k	14%	24%	22%	16%	19%	19%
	income 75-200k	14%	19%	17%	25%	21%	19%
Housing Stats	income 200k-plus	0%	1%	2%	1%	1%	1%
	single family	85%	83%	98%	93%	85%	90%
	multi-family	15%	17%	2%	7%	15%	10%
	vacant	15%	10%	9%	7%	15%	11%
	occupied	85%	90%	91%	93%	85%	89%
	rented	56%	45%	12%	25%	51%	33%
	owned	44%	55%	88%	75%	49%	67%
Total and Voting Age population data from the 2010 Decennial Census.							
Voter Registration and Turnout data from the California Statewide Database.							
Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2010-2014 American Community Survey 5-year data.							