



**City of New Fairview
City Council
Regular Meeting
999 Illinois Lane
Monday, April 3, 2023, at 7:00 pm**

REGULAR SESSION

1. **Call to Order and Determination of Quorum**
2. **Pledge to the Flags.**
 - A. **United States of America**
 - B. **Texas Flag Honor the Texas Flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible.**
3. **Announcements & Special Recognitions:** The agenda shall provide a time when proclamations, recognitions, general reports, and updates may be presented by the City Council.
4. **City Administrator's Report:** The City Administrator's Report may provide information on status of current city projects and other projects affecting the City, meetings and actions of the city's boards and commissions, upcoming local community events, including but not limited to departmental operations and capital improvement project status. No action will be taken with respect to this report.
5. **Public Comment:** The City Council invites persons with comments or observations related to city issues, projects, or policies to briefly address the City Council. Anyone wishing to speak should sign-in with the City Secretary before the beginning of the City Council Meeting. In order to expedite the flow of business and to provide all citizens the opportunity to speak, there is a three-minute limitation on any person addressing the City Council. State law prohibits the City Council from discussing or taking action on any item not listed on the posted agenda.
6. **Consent Agenda:** All matters as Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. An item can be removed from the consent agenda by the City Administrator, Mayor, or any member of the City Council and will be considered after approval of the consent agenda.
 - A. **Approve the City Council Meeting minutes for March 20, 2023.**
7. **New Business:** All matters listed in New Business will be discussed and considered separately.
 - A. **Receive, consider, and act on the annual audit for Fiscal Year 2020-21.**
 - B. **Receive, consider, and act on a Resolution authorizing the city administrator to enter into an Agreement with Caprice Garcia for Municipal Judge of the New Fairview Municipal Court of Record.**

C. Receive, consider, and act on a Resolution authorizing the city administrator to enter into an Agreement with Antonio Gabilondo for Deputy City Attorney serving as a Municipal Prosecutor of the New Fairview Municipal Court of Record.

8. **Executive Session:** Recess to Executive Session to discuss matters relating to real property pursuant to §551.072, Texas Government Code; deliberation of economic development negotiations pursuant to §551.087, Texas Government Code; discuss personnel matters pursuant to §551.074, Texas Government Code; discuss IT network or critical infrastructure security pursuant to §551.089, Texas Government Code; and to consult with the City Attorney pursuant to §551.071, Texas Government Code. The Council may go into closed session at any time when permitted by Chapter 551, Texas Government Code or Chapter 418, Texas Tax Code. Before going into closed session, a quorum of the Council must be present, the meeting must be convened as an open meeting pursuant to proper notice, the presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551 or 418, Texas Government Code authorizing the closed session.
9. **Return to Open Session:** Discuss and take appropriate action, if any, resulting from the discussions conducted in Executive Session.
10. **Mayor & Council Member Announcements:** The City Council may hear or make reports of community interest provided no action is taken or discussed. Community interest items may include information regarding upcoming schedules of events, honorary recognitions, and announcements involving imminent public health and safety threats to the city. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

11. Adjournment

I, the undersigned authority, do hereby certify the above notice of the meeting of the City Council of New Fairview, is a true and correct copy of the said notice that I posted on the official posting place at New Fairview City Hall, FM 407, New Fairview, Texas, a place of convenience and readily accessible to the general public at all times, and on its website, said notice being posted this 31st day of March, 2023 at 5:00 PM at least 72 hours proceeding the meeting time.



Brooke Boller, City Secretary

SEAL:



This facility is wheelchair accessible; parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary at City Hall 817-638-5366 or fax 817-638-5369 or by email at citysecretary@newfairview.org for further information.



**City of New Fairview
City Council
Regular Meeting Minutes
Monday, March 20, 2023**

**CITY COUNCIL
Mayor John Taylor
Mayor Pro Tem Steven King
Place 1 Councilman Harvey Lynn Burger
Place 2 Councilman Peter Kozlowski
Place 3 Councilman Walter Clements
Place 5 Councilman Richard Greene**

**City Staff
John Cabrales Jr, City Administrator
Brooke Boller, City Secretary
Susan Greenwood, Assistant City Secretary
Roberta (Robin) Cross, City Attorney**

WORK SESSION

1. **Call to Order and Determination of Quorum (Work Session called to order by Mayor John Taylor at 7:00 pm; Roll Call with the above-mentioned names.)(Work Session recessed at 7:01pm and reopened at 8:03pm)**
2. Receive a report and hold a discussion regarding the reviewing of resumes for Municipal Court Judge and Municipal Court Prosecutor.
Court Administrator Susan Greenwood gave a final presentation on the Judges and Prosecutors answering any questions Council had. Council advised staff to move forward with Caprice Garcia as Judge and Antonio Gabilondo as Prosecutor.
3. Executive Session: Recess to Executive Session to discuss matters relating to real property pursuant to §551.072, Texas Government Code; deliberation of economic development negotiations pursuant to §551.087, Texas Government Code; discuss personnel matters pursuant to §551.074, Texas Government Code; discuss IT network or critical infrastructure security pursuant to §551.089, Texas Government Code; and to consult with the City Attorney pursuant to §551.071, Texas Government Code. The Council may go into closed session at any time when permitted by Chapter 551, Texas Government Code or Chapter 418, Texas Tax Code. Before going into closed session, a quorum of the Council must be present, the meeting must be convened as an open meeting pursuant to proper notice, the presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551 or 418, Texas Government Code authorizing the closed session.

4. Adjournment
Motion: Councilman Richard Greene
Second: Councilman Walter Clements
Vote: All in Favor
Result: Work session was adjourned at 8:22pm

REGULAR SESSION

1. Call to Order and Determination of Quorum (**Regular Session called to order by Mayor John Taylor at 7:02 pm; Roll Call with the above-mentioned names.**)
2. Pledge to the Flags.
 - A. United States of America
 - B. Texas Flag Honor the Texas Flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible.
3. Announcements & Special Recognitions: The agenda shall provide a time when proclamations, recognitions, general reports, and updates may be presented by the City Council.
 - A. Proclamation for Jim Estep
Mayor Joh Taylor read a proclamation to building inspector Jim Estep who retired after working for the City since 2011.
4. City Administrator's Report: The City Administrator's Report may provide information on status of current city projects and other projects affecting the City, meetings and actions of the city's boards and commissions, upcoming local community events, including but not limited to departmental operations and capital improvement project status. No action will be taken with respect to this report.
5. Public Comment: The City Council invites persons with comments or observations related to city issues, projects, or policies to briefly address the City Council. Anyone wishing to speak should sign-in with the City Secretary before the beginning of the City Council Meeting. In order to expedite the flow of business and to provide all citizens the opportunity to speak, there is a three-minute limitation on any person addressing the City Council. State law prohibits the City Council from discussing or taking action on any item not listed on the posted agenda.
6. Consent Agenda: All matters as Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. An item can be removed from the consent agenda by the City Administrator, Mayor, or any member of the City Council and will be considered after approval of the consent agenda.
 - A. Approve the City Council Meeting minutes for March 6, 2023.
 - B. Approval of the February 2023 Financial Reports.
Motion: Councilman Walter Clements
Second: Mayor Pro Tem Steven King
Vote: All in Favor
Result: Council minutes from March 6, 2023 and February 2023 Financial Reports were approved.
7. New Business: All matters listed in New Business will be discussed and considered separately.

- A. Receive, consider, and act on a Resolution authorizing the City Administrator to enter into an agreement with ATLAS Municipal Services, LLC for the City's plan review and building inspection services.
Motion: Councilman Richard Greene
Second: Mayor Pro Tem Steven King
Vote: For- Councilman Peter Kozlowski, Councilman Walter Clements, Mayor Pro Tem Steven King, Councilman Richard Greene
Against- Councilman Harvey Lynn Burger
Result: Council approved a Resolution authorizing the City Administrator to enter into an agreement with ATLAS Municipal Services, LLC for the City's plan review and building inspection services.
- B. Receive, consider, and act on a Resolution authorizing a Not-to-Exceed amount for the improvements to Wilson Court, Creasser Lane, Stewart Street, and the parking lot of the city park.
Motion: Councilman Richard Greene
Second: Councilman Walter Clements
Vote: All in Favor
Result: Council approved on a Resolution authorizing a Not-to-Exceed amount for the improvements to Wilson Court, Creasser Lane, Stewart Street, and the parking lot of the city park.
- C. Receive, consider, and act on a Resolution adopting a Strategic Plan for the City, including a Vision Statement, Mission Statement, Core Values, and Strategic Goals and Objectives.
Motion: Councilman Walter Clements
Second: Councilman Peter Kozlowski
Vote: All in Favor
Result: Council approved a Resolution adopting a Strategic Plan for the City, including a Vision Statement, Mission Statement, Core Values, and Strategic Goals and Objectives.
- D. Receive, consider, and act on an Ordinance adopting a revised Master Schedule of Fees for the City of New Fairview.
Motion: Councilman Walter Clements
Second: Councilman Richard Greene
Vote: All in Favor
Result: Council approved an Ordinance adopting a revised Master Schedule of Fees for the City of New Fairview.
8. Executive Session: Recess to Executive Session to discuss matters relating to real property pursuant to §551.072, Texas Government Code; deliberation of economic development negotiations pursuant to §551.087, Texas Government Code; discuss personnel matters pursuant to §551.074, Texas Government Code; discuss IT network or critical infrastructure security pursuant to §551.089, Texas Government Code; and to consult with the City Attorney pursuant to §551.071, Texas Government Code. The Council may go into closed session at any time when permitted by Chapter 551, Texas Government Code or Chapter 418, Texas Tax Code. Before going into closed session, a quorum of the Council must be present, the meeting must be convened as an open meeting pursuant to proper notice, the presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551 or 418, Texas Government Code authorizing the closed session.

- . § 551.071(1): Consultation with the City Attorney on a matter in which the duty of the

attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act regarding: Employment Agreement for John Cabrales, Jr.

· §551.074: (a) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee: Employment Agreement for John Cabrales, Jr.

Council left for Executive Session at 7:52pm

9. Return to Open Session: Discuss and take appropriate action, if any, resulting from the discussions conducted in Executive Session.

Council returned to Open Session at 8:01pm.

Motion: Mayor Pro Tem Steven King

Second: Councilman Walter Clements

Vote: All in Favor

Result: Council approved an amended two year employment agreement with John Cabrales Jr for City Administrator.

10. Mayor & Council Member Announcements: The City Council may hear or make reports of community interest provided no action is taken or discussed. Community interest items may include information regarding upcoming schedules of events, honorary recognitions, and announcements involving imminent public health and safety threats to the city. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

11. Adjournment

Motion: Councilman Richard Greene

Second: Councilman Walter Clements

Vote: All in Favor

Result: Regular Session was adjourned at 8:02 pm.

MINUTES APPROVED ON THIS, THE 3RD DAY OF APRIL 2023

John Taylor, Mayor

Brooke Boller, City Secretary



CITY COUNCIL AGENDA MEMO

Prepared By: John Cabrales Jr, City Administrator

April 3, 2023

Fiscal Year 2020-21 Annual Audit

DESCRIPTION:

Receive, consider, and act on the annual audit for Fiscal Year 2020-21.

BACKGROUND INFORMATION:

On October 18, 2021, the Council approved a professional services agreement with William C Spore, PC and MWH Group, PC to conduct the annual audit for the fiscal year ending on September 30, 2021 (Resolution 202110-01-188). The agreement maintained that Mr. Spore would prepare the balance sheet schedules and would then provide them to MWH Group to conduct the audit.

In prior years, the City Auditor was allowed to prepare and then audit the balance sheet schedules but changes to the governmental auditing standards require that if the auditor prepares the schedules and then audits them himself the auditor is required to submit his work papers to a third-party review prior to issuance of the audit report. Since Mr. Spore was a single member accounting firm, he recommended contracting with MWH Group to conduct the audit. The cost for preparing the balance sheet schedules for the FY 2020-21 annual audit is \$500 for Mr. Spore since he had already been contracted by the City to do a deep dive audit of the fiscal year. The MWH Group will conduct the FY 2020-21 audit for \$2,500.

Staff tried multiple times to make contact with Mr. Spore via telephone and email but never heard back from him. Staff was able to make contact with Ms. Valerie Halverson, CPA, with the MWH Group and she informed us they had heard from Mr. Spore but were still waiting on the balance sheet schedules for our City before they could begin the FY 2020-21 audit. He was also overdue in getting balance sheet schedules to them for other cities he is working on as well.

The City has tried again numerous times to get in contact with Mr. Spore, but he did not reply. As a result, staff asked MWH Group to submit a proposal to conduct the annual audit for the fiscal year ending on September 30, 2021. They will perform all the functions and reviews needed to conduct this annual audit, and Mr. Spore will not have any role in the audit.

On January 16, 2023, the City Council passed a Resolution (202301-06-113) authorizing the City Administrator to execute a Professional Services Agreement with MHW Group, PC in final form as approved by the City Attorney, to conduct the annual audit for the fiscal year ending on September 30, 2021. The audit was conducted by MHW Group and the report provides our residents, our bondholders, the City Council, staff and other interested parties with detailed information concerning the financial condition and activities of the government.

The Audit represents the entire financial position of the City, specifically for the fiscal year ending September 30, 2021. The document includes the independent auditor's opinion of management's representations within the annual report.

Representatives from MWH Group, PC, will be present at the City Council meeting to present the audit findings and to answer any questions that you might have. They will also begin the audit for Fiscal Year 2021-22 as soon as this audit is completed.

FINANCIAL CONSIDERATION:

The MWH Group fee for this audit service will be at their standard hourly rates plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.) except that they agree that their gross fee, including expenses, will be somewhere between \$7,500 - \$11,500.

RECOMMENDED MOTIONS:

I move to **Approve/Deny** the annual audit for Fiscal Year 2020-21.

ATTACHMENT(S):

1. Fiscal Year 2020-21 Audit Report

CITY COUNCIL AGENDA MEMO

Prepared By: Susan Greenwood, Municipal Court Administrator

April 3, 2023

Municipal Court Judge

DESCRIPTION:

Receive, consider, and act on a Resolution authorizing the city administrator to enter into an Agreement with Caprice Garcia for Municipal Judge of the New Fairview Municipal Court of Record.

BACKGROUND INFORMATION:

On February 20, 2023, the City Council approved Ordinance 2023-04-106 amending Chapter 2, "Administration and Personnel", Article 2.06, "Municipal Court", Division 1, "Generally", of the City of New Fairview Code of Ordinances, by repealing Division 1 in its entirety and adding a new "Division 1", establishing the Municipal Court as a Court of Record.

May 1, 2023, will be the first day the City becomes a Court of Record.

The City Council had a work session discussion on March 20, 2023, with resumes and quotes that were received for both the Municipal Court Judge and Municipal Court Prosecutor positions. Per the work session discussion, staff is requesting the City Council to approve authorizing the city administrator to enter into an Agreement with Caprice Garcia for Municipal Judge of the New Fairview Municipal Court of Record.

FINANCIAL CONSIDERATION:

The City agrees to pay Garcia for her services at the rate of six hundred dollars \$600.00 for each docket court session.

RECOMMENDED MOTIONS:

I move to **Approve/Deny** a Resolution authorizing the city administrator to enter into an Agreement with Caprice Garcia for Municipal Judge of the New Fairview Municipal Court of Record.

ATTACHMENT(S):

1. Contract for Caprice Garcia
2. Resolution 202304-01-124

**CITY OF NEW FAIRVIEW, TEXAS
CONTRACT FOR MUNICIPAL COURT JUDGE**

For and in consideration of the mutual terms, conditions and covenants therein contained, the following agreement is entered into by and between the City of New Fairview, Texas (hereinafter referred to as the "City") and Caprice Garcia (hereinafter referred to as "Garcia" or Judge"), and who may collectively be referred to as "the Parties".

WHEREAS, the City desires to contract with Caprice Garcia as Municipal Judge of the New Fairview Municipal Court for a term of (1) year, with such term commencing on May 1, 2023 and expiring on April 30, 2024; and

WHEREAS, Garcia desires to contract with the City to serve as the Municipal Court Judge for the City of New Fairview; and

NOW THEREFORE, for the mutual covenants and considerations described herein, the parties agree as follow:

1. **ROLE** Garcia agrees to serve as the Municipal Court Judge for quarterly court sessions during the term herein.
2. **EXPECTATIONS DURING TERM**. Caprice Garcia's services as Municipal Judge are on a per-docket basis, and Judge will be reasonably available to perform their role as Municipal Court Judge as requested by the City. Caprice Garcia's duties as a Magistrate are not currently required unless occurring in conjunction with the docket. Judge is expected to maintain their licensure with the State Bar of Texas in good standing and with the State Commission on Judicial Conduct and is required to provide their own robe. Judge Caprice Garcia is further required to spend a reasonable amount of time participating in judicial continuing legal education programs so as to enhance their abilities to perform as Municipal Court Judge and to enhance the stature of such duties
3. **BILLING AND COMPENSATION**: The City agrees to pay Garcia for her services at the rate of six hundred dollars (\$600.00) for each quarterly docket for court session actually convened, regardless of duration, which are not otherwise cancelled. There is no payment for court sessions cancelled prior to the scheduled date and time.
4. **TERM**: Subject to the terms of Paragraph 7, below, this Contract shall remain in full force and effect beginning May 1, 2023, and ending April 30, 2024, and may be renewed for two (2) additional one-year terms, or until 2026, as approved by the City Council, subject to the availability of funds in the City's budget process
5. **TERMINATION**: Garcia may be removed from office by the City at any time for incompetency, misconduct, malfeasance, unsatisfactory performance, or disability, or otherwise in accordance with applicable law (including, without limitation, or City ordinance), rule, or regulation. Garcia shall be required to provide at least thirty (30) days' notice of resignation.

6. NO HOLDOVER: The parties hereto agree that Garcia may only serve beyond the term of this Agreement upon the express authorization of the governing body of the City. The Parties agree that this provision shall control over any law, rule or regulation in conflict herewith.

7. INDEPENDENT CONTRACTOR: Caprice Garcia shall be an independent contractor to the City and shall not be an employee. This Contract does not create any partnership, joint venture, or relationship other than an independent contractor relationship. Caprice Garcia, nor her partners, Of Counsel attorneys, agents, or employees shall not be deemed to be an employee of the City for any purpose whatsoever, and Caprice Garcia shall not be eligible to participate in any benefit program provided by the City for its employees. Caprice Garcia shall be exclusively responsible for the payment of her own respective taxes, withholding payments, penalties, fees, fringe benefits, contributions to insurance and pension or other deferred compensation plans, including but not limited to worker's compensation and Social Security obligations, professional fees, or dues.

8. REMOVAL. Garcia may be removed from office by the City at any time for incompetency, misconduct, malfeasance, unsatisfactory performance, or disability, or otherwise in accordance with applicable law (including, without limitation, or City ordinance), rule, or regulation. Garcia shall be required to provide at least thirty (30) days' notice of resignation.

9. SIGNATORY AUTHORIZED. This Agreement is executed on behalf of the City by the City Administrator, who is authorized to execute this instrument by Council approval duly recorded in its minutes and by the Mayor.

10. APPLICATION OF LAWS: The terms, obligations, and requirements of this Agreement shall be construed in accordance with the laws of the State of Texas (without regard to the conflict of law provisions). The obligations and requirements of the parties hereto are performable in the City of New Fairview, Wise County, Texas, and venue for any dispute relating to this Agreement lies in Wise County, Texas

11. NOTICE: All notices required to be sent under this Contract shall be in writing and given by First Class U.S. Mail or Personal Delivery addressed:

To Caprice Garcia:

[REDACTED]
[REDACTED]
[REDACTED]

To: The City:
ATTN: John Cabrales Jr., City Administrator
City of New Fairview
999 Illinois Lane
New Fairview, TX 76078

Each Party shall have the continuing obligation to advise the other parties of any change of address.

12. ENTIRE AGREEMENT: This written authorization embodies the entire agreement between the Parties, and there are no other agreements, oral or written, with reference to this Contract. In case any one or more of the provisions contained in the Contract shall be held unenforceable, the remaining provisions contained herein shall not be impaired thereby.

13. AMENDMENTS: No change or modification to this Contract shall be valid unless made in writing and signed by both Parties.

14. EFFECTIVE DATE: The effective date of this Agreement is the date it is fully executed, with performance due thereafter commencing at the beginning of and during the term, as specified herein.

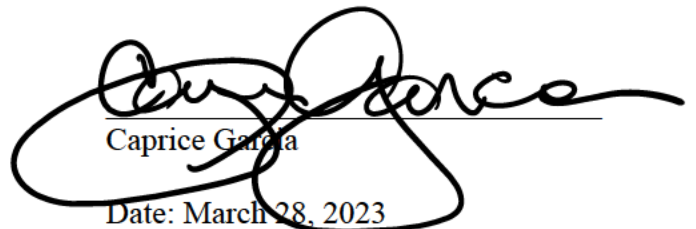
CITY OF NEW FAIRVIEW, TEXAS

John Cabrales Jr.
City Administrator

Date: _____

ATTEST:

Brooke Boller
City Secretary



Caprice Garcia
Date: March 28, 2023

**CITY OF NEW FAIRVIEW, TEXAS
RESOLUTION NO 202304-01-124**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS AUTHORIZING AND APPROVING THE INDEPENDENT CONTRACTOR AGREEMENT OF CAPRICE GARCIA TO SERVE AS MUNICIPAL JUDGE OF THE NEW FAIRVIEW MUNICIPAL COURT OF RECORD FOR THE CITY OF NEW FAIRVIEW; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of New Fairview, Texas is a Type A General Law City located in Wise and Denton Counties, Texas, and

WHEREAS, the City Council desires to appoint Caprice Garcia as its Municipal Court Judge, and

WHEREAS, the City and Caprice Garcia entered into an agreement for Municipal Judge Services, commencing on May 1, 2023, between the City and Caprice Garcia for the mutual benefit of the City, Caprice Garcia, and the community they serve;

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

SECTION 1. That the foregoing recitals are hereby found to be true and correct legislative findings of the City of New Fairview, Texas, and are fully incorporated into the body of this Resolution.

SECTION 2. Authorizes and approves the agreement with Caprice Garcia for the scope of the terms, conditions, and provisions set forth therein , attached hereto as “*Exhibit A*”

SECTION 3. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Resolution are severable, and if any phrase, clause, sentence, paragraph or section of this Resolution shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Resolution, since the same would have been enacted by the City Council without the incorporation of this Resolution of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4. That this Resolution shall become effective from and after its passage.

PASSED AND APPROVED by the City Council of the City of New Fairview, Texas on the 3rd day of April, 2023.

John Taylor, Mayor
City of New Fairview, Texas

ATTEST:

Brooke Boller, City Secretary
City of New Fairview, Texas

CITY COUNCIL AGENDA MEMO

Prepared By: Susan Greenwood, Municipal Court Administrator

April 3, 2023

Municipal Court Prosecutor

DESCRIPTION:

Receive, consider, and act on a Resolution authorizing the city administrator to enter into an Agreement with Antonio Gabilondo for Deputy City Attorney serving as a Municipal Prosecutor of the New Fairview Municipal Court of Record.

BACKGROUND INFORMATION:

On February 20, 2023, the City Council approved Ordinance 2023-04-106 amending Chapter 2, "Administration and Personnel", Article 2.06, "Municipal Court", Division 1, "Generally", of the City of New Fairview Code of Ordinances, by repealing Division 1 in its entirety and adding a new "Division 1", establishing the Municipal Court as a Court of Record.

May 1, 2023, will be the first day the City becomes a Court of Record.

The City Council had a work session discussion on March 20, 2023, with resumes and quotes that were received for both the Municipal Court Judge and Municipal Court Prosecutor positions. Per the work session discussion, staff is requesting the City Council to approve authorizing the city administrator to enter into an Agreement with Antonio Gabilondo for Deputy City Attorney serving as a Municipal Prosecutor of the New Fairview Municipal Court of Record.

FINANCIAL CONSIDERATION:

The City agrees to pay Antonio Gabilondo for his services at the rate of five hundred dollars \$500 per docket.

RECOMMENDED MOTIONS:

I move to **Approve/Deny** a Resolution authorizing the city administrator to enter into an Agreement with Antonio Gabilondo for Deputy City Attorney serving as a Municipal Prosecutor of the New Fairview Municipal Court of Record.

ATTACHMENT(S):

1. Contract for Antonio Gabilondo
2. Resolution 202304-02-125

**CITY OF NEW FAIRVIEW, TEXAS
CONTRACT FOR MUNICIPAL
PROSECUTOR SERVICES**

The Parties to this Contract for Municipal Prosecutor Legal Services are Antonio Gabilondo of Dallas, Texas, and the City of New Fairview, 999 Illinois Lane, New Fairview, TX 76078 (“the City”). Antonio Gabilondo and the City are referred to collectively herein as “the Parties.”

WHEREAS, the City desires to contract with Antonio Gabilondo under Code of Criminal Procedure, Section 45.201 to perform the services of a Deputy City Attorney serving as a Municipal Prosecutor representing the City of New Fairview; and

WHEREAS, Antonio Gabilondo desires to contract with the City to provide services as a Deputy City Attorney serving as a Municipal Prosecutor; and

NOW THEREFORE, for the mutual covenants and considerations described herein, the parties agree as follows:

1. **ROLE OF ANTONIO GABILONDO AND SCOPE OF WORK:** Antonio Gabilondo agrees to provide legal services to the City as the Deputy City Attorney serving as the primary Municipal Prosecutor, representing the City as Municipal Prosecutor in cases before the Municipal Court and in any appeals thereof. Antonio Gabilondo shall provide no other legal services to the City.
2. **QUALIFICATIONS AND PERFORMANCE:** Antonio Gabilondo shall provide competent, zealous legal services in a professional, skilled manner consistent with the Attorney’s responsibilities under the Texas Disciplinary Rules of Professional Conduct and the Texas Code of Criminal Procedure. Antonio Gabilondo must maintain the minimum qualifications to practice law in the state of Texas and must immediately inform the City Administrator and City Attorney of any change in the status of the Attorney’s licensure.
3. **FEES AND EXPENSES FOR MATTERS WITHIN THE SCOPE OF WORK:** The City agrees to pay Antonio Gabilondo for his services at the rate of five hundred dollars \$500 per docket.
4. **DESIGNATED DEPUTY CITY ATTORNEY:** Antonio Gabilondo shall be designated as “Deputy City Attorney” for the City for the purposes of only representing the City in Municipal Court and appeals and shall have no other responsibility to the City under this Contract.
5. **BILLING AND COMPENSATION:** Antonio Gabilondo shall be paid by the quarterly docket.
6. **TERM:** Subject to the terms of Paragraph 7, below, this Contract shall remain in full force and effect beginning May 1, 2023, and ending April 30, 2024, and may be renewed for two (2) additional one-year terms, or until 2026, as approved by the City Council, subject to the availability of funds in the City’s budget process.

7. TERMINATION: Either of the Parties may terminate this contract for any reason or for no reason by giving thirty (30) days written notice to the other party. Upon termination by either party, the City agrees to pay to Antonio Gabilondo all fees and expenses for services performed prior to the date of termination.

8. CONFLICTS: Antonio Gabilondo agrees not to undertake representation of any person or entity in a manner adverse to the City's legal interests during the term of the contract. Further, Antonio Gabilondo agrees that, to the best of his actual knowledge, Antonio Gabilondo, nor anyone in his firm who will be working on specific matters related to representation of the City, has personal, business, or financial interests or relationships which would cause a reasonable individual with knowledge of the relevant facts to question the integrity or impartiality of those who are or will be acting as legal advisors and representatives of the City. Antonio Gabilondo agrees to evaluate on an on-going basis whether, in his professional judgment, a conflict may become apparent or imminent. In the event that Antonio Gabilondo believes a conflict may develop, Antonio Gabilondo will immediately communicate with City Attorney, City Administrator and Court Clerk about the perceived potential conflict.

9. INDEPENDENT CONTRACTOR: Antonio Gabilondo shall be an independent contractor to the City and shall not be an employee. This Contract does not create any partnership, joint venture, or relationship other than an independent contractor relationship. Antonio Gabilondo, nor his partners, Of Counsel attorneys, agents, or employees shall not be deemed to be an employee of the City for any purpose whatsoever, and Antonio Gabilondo shall not be eligible to participate in any benefit program provided by the City for its employees. Antonio Gabilondo shall be exclusively responsible for the payment of his own respective taxes, withholding payments, penalties, fees, fringe benefits, contributions to insurance and pension or other deferred compensation plans, including but not limited to worker's compensation and Social Security obligations, professional fees, or dues.

10. SPECIAL TERMS: The City Attorney also has the authority to provide such backup or lead support for the provision of prosecutorial legal services to the City if it is in the best interests of the City to do so and with the approval of the City Administrator.

11. ASSIGNMENT: Antonio Gabilondo shall not assign or transfer his interest in this Contract.

12. APPLICATION OF LAWS: This Contract shall be interpreted, construed, and governed according to the laws of the State of Texas, with venue in Wise County for any dispute.

13. NOTICE: All notices required to be sent under this Contract shall be in writing and given by First Class U.S. Mail or Personal Delivery addressed:

To: Antonio Gabilondo:

[REDACTED]
[REDACTED]
[REDACTED]

To: the City:
ATTN: John Cabrales Jr., City Administrator
City of New Fairview
999 Illinois Lane
New Fairview, TX 76078

Each Party shall have the continuing obligation to advise the other parties of any change of address.

14. AGREEMENT: This written authorization embodies the entire agreement between the Parties, and there are no other agreements, oral or written, with reference to this Contract. In case any one or more of the provisions contained in the Contract shall be held unenforceable, the remaining provisions contained herein shall not be impaired thereby.

15. AMENDMENTS: No change or modification to this Contract shall be valid unless made in writing and signed by both Parties.

16. EFFECTIVE DATE: The effective date of this Agreement is the date it is fully executed, with performance due thereafter during the term as specified.

CITY OF NEW FAIRVIEW, TEXAS

John Cabrales Jr.
City Administrator

Date : _____

ATTEST:

Brooke Boller
City Secretary



Antonio Gabilondo

Date : 03-28-23

**CITY OF NEW FAIRVIEW, TEXAS
RESOLUTION NO 202304-02-125**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS AUTHORIZING AND APPROVING THE INDEPENDENT CONTRACTOR AGREEMENT OF ANTONIO GABILONDO AS DEPUTY CITY ATTORNEY, TO SERVE AS THE MUNICIPAL COURT PROSECUTOR OF THE NEW FAIRVIEW MUNICIPAL COURT OF RECORD FOR THE CITY OF NEW FAIRVIEW; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of New Fairview, Texas is a Type A General Law city, located in Wise and Denton County, Texas, and

WHEREAS, the City Council desires to appoint Antonio Gabilondo as its Deputy City Attorney to serve as the Municipal Court Prosecutor, and

WHEREAS, the City and Antonio Gabilondo entered into a one-year agreement, to serve as the Deputy City Attorney for prosecution in Municipal Court, for the mutual benefit of the City, Antonio Gabilondo, and the community they serve;

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

SECTION 1. That the foregoing recitals are hereby found to be true and correct legislative findings of the City of New Fairview, Texas, and are fully incorporated into the body of this Resolution.

SECTION 2. Authorizes and approves the agreement with Antonio Gabilondo for the scope of the terms, conditions, and provisions set forth therein, attached hereto as “*Exhibit A*”

SECTION 3. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Resolution are severable, and if any phrase, clause, sentence, paragraph or section of this Resolution shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Resolution, since the same would have been enacted by the City Council without the incorporation of this Resolution of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4. That this Resolution shall become effective from and after its passage.

PASSED AND APPROVED by the City Council of the City of New Fairview, Texas on the 3rd day of April, 2023.

John Taylor, Mayor
City of New Fairview, Texas

ATTEST:

Brooke Boller, City Secretary
City of New Fairview, Texas