

**MAYOR GUAJARDO'S VERIFIED MOTION FOR
RECUSAL AND DISQUALIFICATION**

NOW COMES, Paulette M. Guajardo and counsel to submit this verified motion for disqualification and recusal in this trial proceeding.

1. Under Texas Rule of Civil Procedure 18(b) a person serving as a judge “must” recuse themselves from any proceeding in which the “judge has personal knowledge of disputed evidentiary facts concerning the proceeding” and they “must” disqualify themselves in any proceeding in which “the judge knows that, individually or as a fiduciary, the judge has an interest in the subject matter in controversy.” Tex. R. Civ. P. 18b. This rule requiring disqualification or recusal applies to “any trial court other than a statutory probate court or justice court” and therefore applies to this case. Tex. R. Civ. P. 18a. The actions taken by a judge who has personal knowledge of disputed facts are void. *State v. Haworth*, 533 S.W.3d 484, 487 (Tex. App. 2017); *Kniatt v. State*, 239 S.W.3d 910, 921 (Tex. App. 2007).

2. A right to an impartial judge is a core tenant of the American judicial system, and when a conflicted judge presides over a matter it violates due process under the United States Constitution. *Commonwealth Coatings Corp. v. Cont'l Cas. Co.*, 393 U.S. 145, 150 (1968); *Tumey v. State of Ohio*, 273 U.S. 510, 535 (1927); *In re Murchison*, 349 U.S. 133, 139 (1955); *Caliste v. Cantrell*, 937 F.3d 525, 531 (5th Cir. 2019). “[A]ny tribunal permitted by law to try cases and controversies not only must be unbiased but also must avoid even the appearance of bias.”

Commonwealth Coatings, 393 U.S. at 150. When a judge stands to benefit from their adjudication it is a “dual role” that creates an unconstitutional defect. *Caliste*, 937 F.3d at 531.

3. This impeachment commenced on April 14, 2026, with Aye votes from Council Members Vaughn, Hernandez, Campos, Paxson, and Cantu. Council Members Barrera and Scott voted Nay. Mayor Guajardo and Council Member Roy abstained. Resolution 033904.

4. The impeachment allegations concern city council agenda items in which Council Members Barrera, Hernandez, Campos and Roy, among others, participated on February 20, 2024, and April 23, 2024. Enactment No: 033350.

5. The allegations claim that the agenda items discussed were fraudulent and the mayor induced city council to rely on the fraudulent items.

6. Accordingly, what was discussed about the agenda items with each city council member who considered them and the reasons each council member cast their votes the way they did are disputed material facts essential for the impeachment trial to show the elements of fraud. Therefore, each council member who considered the agenda items on February 20, 2024, and April 23, 2024, have “personal knowledge of disputed evidentiary facts concerning the proceeding” and they must recuse themselves from the matter under Texas Rule of Civil Procedure 18b.

7. In addition, each council member who voted Yay or Nay on the February 20 and April 23 items have staked an individual and official position on the appropriateness of those items. Those votes create an interest in the agenda item, and they will be individually or personally vindicated in the outcome of the impeachment vote about those agenda items. Yay voters have an interest in seeing their vote upheld while an impeachment would validate a council members Nay vote. For that reason, all council members who voted for or against the agenda items must disqualify themselves from the impeachment trial under Texas Rule of Civil Procedure 18b.

8. The same principles of fairness underly the rule prohibiting witnesses from serving as jurors. In the American legal system, parties are entitled to a fair and impartial jury. *Cortez ex rel. Est. of Puentes v. HCCI-San Antonio, Inc.*, 159 S.W.3d 87, 94 (Tex. 2005). If a juror has an interest in the matter, it can be inferred that the juror will not act with impartiality and is biased. *Id.* Under Texas Government Code § 62.105, a person is disqualified to serve as a juror in a particular case if he: “(1) is a witness in the case; (2) is interested, directly or indirectly, in the subject matter of the case...(4) has a bias or prejudice in favor or against a party in the case.” “Persons with knowledge of material facts may be disqualified as a ‘witness in the case’ ‘because they are likely to decide a case based on what they personally saw or heard rather than on what they see and hear in court.’” *Siller v. LPP Mortg., Ltd.*, 264

S.W.3d 324, 330 (Tex. App. 2008). Due process protections prohibit a biased person from serving as a juror. “The responsibility of the court, however, is to secure for all of the parties the fair, unbiased and impartial jury which the administration of justice requires and to which the parties are entitled. *Hicks v. Mickelson*, 835 F.2d 721, 725 (8th Cir. 1987).

9. The adopted Rules of Procedure in this proceeding state that, “[e]xcept for the admission of hearsay evidence, the technical rules of evidence for court proceedings shall not apply.” Texas Rule of Evidence 605 is not a “technical” rule of evidence like hearsay exceptions, but, rather, is a general rule “concerned with the appearance of impartiality.” *Bradley v. State ex rel. White*, 990 S.W.2d 245, 248 (Tex. 1999), citing, *Hensarling v. State*, 829 S.W.2d 168, 170 (Tex. Crim. App. 1992). Rule 605 commands that “[t]he judge presiding at the trial may not testify in that trial as a witness. No objection need be made in order to preserve this point.” TEX. R. EVID. 605. In *Bradley*, the Texas Supreme Court found that two alderman were disqualified under Rule 605 from sitting “in judgment” over a removal trial because they were also witnesses. *Id.* at 249-50.

10. As explained above all, council members who participated in the February 20, 2024 and April 23, 2024 council meetings are witnesses who have an interest in the outcome of the impeachment and have a bias in favor or against a party in the matter, therefore they are prohibited by Texas Government Code §

62.105, Texas Rule of Evidence 605, *Bradley v. State ex rel. White*, and the U.S. Constitution from serving as jurors.

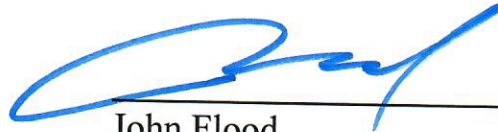
In conclusion, all council members who took part in the consideration of the subject matter of the impeachment trial must recuse and/or disqualify themselves from the impeachment trial.

VERIFICATION

STATE OF TEXAS

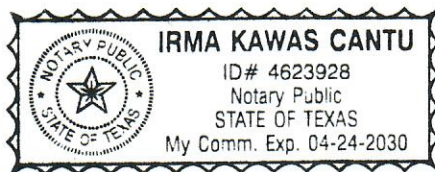
COUNTY OF NUECES

My name is John Flood. I am over eighteen years of age, of sound mind, and fully competent to make this verification. I have read the foregoing document and the facts stated within paragraphs 3, 4, 5 and 9 of this Motion for Recusal and Disqualification are within my personal knowledge and are true and correct and the facts within paragraphs 6, 7 and 10 are true and correct on information and belief based upon the reasonable factual inferences from the facts in paragraphs 3, 4 and 5.



John Flood

SUBSCRIBED AND SWORN this 5th day of May 2026, to certify which witness my hand and seal of office.





Notary Public

Respectfully submitted,

/s/ John Flood

John Flood
819 N. Upper Broadway
Corpus Christi, Texas 78401
(361) 654-8877
(361) 654-8879 Fax
john@floodtriallawyers.com
Irma@floodtriallawyers.com

Ben Stephens
State Bar No. 24098472
Ben.Stephens@huschblackwell.com
Kate David
State Bar No. 24045749
Kate.David@huschblackwell.com
Sandy Hellums-Gomez
State Bar No. 24036750
Sandy.Gomez@huschblackwell.com

HUSCH BLACKWELL LLP
600 Travis, Suite 2350
Houston, Texas 77002
T: 713.647.6800
F: 713.647.6884
F: 361.654.8879

Stephen Dockery
Texas Bar No. 24120265
Email: stephen@floodandflood.com
Flood & Flood
914 Preston, Suite 800
Houston, TX 77002
(713) 223-8877

Fax (713) 223-8879

**ATTORNEYS FOR
PAULETTE M. GUAJARDO**

CERTIFICATE OF COMPLIANCE WITH RULE 18a

In compliance with Texas Rule of Civil Procedure 18a this recusal motion is 1) verified; 2) lists several grounds for recusal and disqualification under Rule 18b; 3) is not based solely on the judge's rulings in the case; 4) and states with detail and particularity facts that are within the affiants personal knowledge that would be admissible in evidence and if proven would be sufficient to justify a recusal or disqualification. The motion is timely filed and submitted before the tenth day before trial.

/s/ John Flood

John Flood

CERTIFICATE OF SERVICE

I hereby certify that on May 5, 2026, I electronically filed the foregoing document with the City Secretary via email.

/s/ John Flood

John Flood