

ORDINANCE NO. 209

AN ORDINANCE approving and authorizing the creation of the City of Magnolia Community Development Corporation; approving the Corporation's Articles of incorporation and Bylaws; adopting and levying the sales and use tax authorized by Vernon's Ann. Civ. St., Article 5190.6, Section 4B, as amended; resolving other matters incident and related thereof; and providing an effective date.

WHEREAS, pursuant to and in accordance with the provisions of Vernon's Ann. Civ. St., Article 5190.6, Section 4B, as amended (the "Act") and an election held January 21, 1995, the City of Magnolia, Texas is authorized to create a corporation to act on the City's behalf to promote economic development within the City and the State of Texas in order to eliminate unemployment and underemployment and to promote and encourage employment and the public welfare of, for, and on behalf of the City, and for including, but not limited to land, buildings, equipment, facilities and improvements found by the board of directors of the City's Industrial Development Corporation To: (a) Be required or suitable for use for professional and amateur (including children's) sports, athletic, entertainment, tourist, public park purposes and events, ballparks, parks and park facilities, open space improvements, municipal buildings, roads, streets and water and sewer facilities and other related improvements that enhance any of those items; or (b) promote or develop new or expanded business enterprises, including a project to provide public safety facilities, streets and roads, drainage and related improvements, demolition of existing structures, general municipally owned improvements, as well as any improvements or facilities that are related to any of those projects and any other project that the board in its discretion determines promotes or develops new or expanded business enterprises; or (c) pay the principal of, interest on, and other costs relating to bonds or other obligations issued by the industrial development corporation to pay the costs of the projects or to refund bonds or other obligation issued to pay the costs of projects. Providing and financing projects under Section 4B of the Act; and

WHEREAS, the City Council of the City hereby finds and determines that the creation of the City of Magnolia Community Development Corporation (the "Corporation") should be approved and authorized and the Corporation's Articles of Incorporation and Bylaws approved; and

WHEREAS, the City Council further finds and determines that provision should be made for the imposition and levy of the sales and use tax authorized pursuant to the Act and approved by voters at the aforesaid election; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MAGNOLIA, TEXAS:

SECTION 1: The Articles of Incorporation of the Corporation attached hereto as Exhibit A and incorporated herein by reference as a part hereof for all purposes, are hereby approved and the City Council hereby authorizes the filing of the Articles of Incorporation with the Secretary of State of Texas in accordance with the Act.

SECTION 2: The bylaws of the Corporation attached hereto as Exhibit B and incorporated herein by reference as a part hereof for the purposes are hereby approved.

SECTION 3: There shall be and is hereby adopted and levied a sales and use tax within the City for the benefit of the Corporation at a rate of one-half of one percent on the sales of items at retail and a use tax at the same rate on the use, storage or other consumption within the City of tangible personal property purchased, leased or rented from a retailer during such time as such tax is effective within the City. Such tax shall be imposed, computed, administered, collected and remitted in accordance with V.T.C.A., Tax Code, Chapter 321, except as inconsistency with Section 4B of the Act. The effective date of the tax adopted and levied by this Ordinance and imposed by Section 4B of the Act is July 1, 1995, which is the first day the tax may be imposed after complying with the requirements of the Act and the Tax Code.


SECTION 4: In accordance with V.T.C.A., Tax Code, Section 321.405, the City Secretary has previously furnished the Comptroller of Public Accounts with the official results of the election held January 21, 1995 and the Comptroller has notified the City Secretary that such office is prepared for the administration of the tax.

SECTION 5: It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by V.T.C.A., Government Code, Chapter 551, as amended.

SECTION 6: This Ordinance shall be in force and effect from and after its passage on the date shown below and it is so ordained.

PASSED AND ADOPTED, THIS MARCH 14, 1995.

CITY OF MAGNOLIA, TEXAS


MAYOR

ATTEST:


CITY SECRETARY

CITY SEAL

ARTICLES OF INCORPORATION
OF
CITY OF MAGNOLIA COMMUNITY DEVELOPMENT CORPORATION

WE, THE UNDERSIGNED natural persons, not less than three in number, each of whom is a least 18 years of age and is a qualified elector of the City of Magnolia, Texas (the "City"), acting as incorporators of a public instrumentality and non-profit industrial development corporation (the "Corporation") under the Development Corporation Act of 1979, as amended, Article 5190.6 Vernon's Ann. Civ. S t., Sect. 4 B as amended (the "Act"), with the approval of the City Council, do hereby adopt the following Articles of Incorporation (the "Articles") for the Corporation:

ARTICLE ONE

The name of the Corporation is City of Magnolia Community Development Corporation.

ARTICLE TWO

The Corporation is a non-profit industrial development corporation under the Act and is governed by Section 4 B of the Act.

ARTICLE THREE

Subject to the provisions of these Articles, the period of duration of the Corporation is perpetual.

ARTICLE FOUR

The Corporation has no members and is a non-stock corporation.

ARTICLE FIVE

The purpose of the Corporation is to promote economic development within the City and the State of Texas in order to eliminate unemployment and underemployment, and to promote and encourage employment and the public welfare of, for, and on behalf of the City, and for parks, auditoriums, learning centers, open space improvements, athletic and exhibition facilities, and other related improvements and for maintenance and operating costs of the publicly owned and operated projects by developing, implementing, providing and financing projects under the Act and as defined in Section 4B of the Act.

In the fulfillment of its corporate purpose, the Corporation shall have the power to provide financing to pay the costs of projects through the issuance or execution of bonds, notes, and other forms of debt instruments, and to acquire, maintain, and lease and sell property, and interests therein, all to be done and accomplished on behalf of the City and for its benefit and to accomplish its public and governmental purposes as its duly constituted authority and public instrumentality pursuant to the Act and under, and within the meaning of, the Internal Revenue

Code of 1986, as amended, and the applicable regulations of the United States Treasury Department and the rulings of the Internal Revenue Service of the United States prescribed and promulgated thereunder. In the fulfillment of its corporate purpose, the Corporation shall have and may exercise the powers described in these Articles, together with all of the other powers granted to corporations that are incorporated under the Act and that are governed by Section 4 B thereof, and, to the extent not in conflict with the Act, the Corporation shall additionally have any may exercise all of the rights, powers, privileges, authorities, and functions given by the general laws of the State of Texas to nonprofit corporations under the Texas Non-Profit Corporation Act, as amended, Article 1396-1.01, et seq, Vernon's Ann. Civ. St., as amended.

The Corporation is a corporation having the purposes and powers permitted by the Act pursuant to the authority granted in Article III, Section 52-a of the TEXAS Constitution, but the Corporation does not have, and shall not exercise the powers of sovereignty of the City, including the power to tax (except for the power to receive and use the sales and use taxes specified in Section 4 B of the Act) and the police power, except that the Corporation shall have and may exercise the power of eminent domain when the exercise thereof is approved by the City Council. The Corporation, directors of the Corporation, the City creating the Corporation, members of the governing body of the City, employees of the Corporation and employees of the City shall not be and are not liable for damages arising from the performance of any governmental function of the Corporation or City. For purposes of the Texas Tort Claims Act (Subchapter A, Chapter 101, Texas Civil Practice and Remedies Code), the Corporation is a governmental unit and its actions are governmental functions.

No bonds, notes, or other debt instruments or other obligations, contracts, or agreements of the Corporation are or shall ever be deemed to be or constitute the contracts, agreements, bonds, notes or other debt instruments or other obligations, or the lending of credit, or a grant of the public money or things of value, of, belonging to, or by the State of Texas, the City, or any other political corporation, subdivision or agency of the State of Texas, or pledge of the faith and credit of any of them. Any and all of such contracts, agreements, bonds, notes and other debt instruments and other obligations, contracts and agreements shall be payable solely and exclusively from the revenues and funds received by the Corporation from the sources authorized by Section 4 B of the Act and from such other sources as may be otherwise lawfully available and belonging to the Corporation from time to time.

ARTICLE SIX

These Articles shall be amended in either one of the following methods:

- A. Pursuant to the powers of the City contained in the Act, the City Council, by resolution, may amend these Articles by filing amendments hereto with the Secretary of State as provided by the Act.
- B. The Board of Directors (the "Board") of the Corporation may file a written application with the City Council requesting approval of proposed amendments to these Articles specifying in such application the proposed amendments. If the City Council, by appropriate resolution, finds and determines that it is advisable that the proposed amendments be made, authorizes the same to be made and approves the form of the proposed amendments, the Board may proceed to amend these Articles in the manner provided by the Act.
- C. The Board shall not have any power to amend these Articles except in accordance with the procedures established in these Articles.

ARTICLES SEVEN

The address of the initial registered office of the Corporation is the City Hall, 510 Magnolia Street, Magnolia, TEXas 77355, and the name of its initial registered agent at such address is Mary McQuerry, City Secretary. This address shall also serve as the principal address of the Board.

ARTICLE EIGHT

The affairs of the Corporation shall be managed by a Board of Directors (the "directors") which shall be composed of seven (7) persons appointed by the City Council. Each of the directors shall be a resident of the City. The names and street address of the persons who are to serve as the initial directors are as follows:

<u>NAMES</u>	<u>ADDRESSES</u>
BILL CLOYD P.O. BOX 1129	MAGNOLIA, TEX 77355
THOMAS TIMMINS 226 AMARILLO	MAGNOLIA, TEX 77355
DONALD SORRELLS 511 KELLY	MAGNOLIA, TEX 77355
MARLA STEVENS P.O. BOX 780	MAGNOLIA, TEX 77355
JOHNNY BRUCE 311 ODESSA	MAGNOLIA, TEX 77355
JOE GREEN P.O. BOX 703	MAGNOLIA, TEX 77355
DAVE SUTHERLAND 180 PECAN	MAGNOLIA, TEX 77355

Each director shall hold office for the term for which the director is appointed unless sooner removed or resigned. Each director, including the initial directors, shall be eligible for reappointment. Directors are removable by the City Council at will and shall be appointed for a term of two (2) years, initial

terms of directors shall be provided by the Corporation's Bylaws. If a director is a member of the City Council and ceases to be a member of such, such event shall constitute an automatic resignation as a director and such vacancy shall be filled in the same manner as for other vacancies. Any vacancy of a director position occurring through death, resignation or otherwise shall be filled by appointment by the City Council, as provided by the Corporation's Bylaws, to hold office until the expiration of the vacating member's term.

ARTICLE NINE

The name and street address of each incorporator are:

<u>NAME</u>	<u>ADDRESS</u>
MAYOR JOHN BRAMLETT	P.O. BOX 609 MAGNOLIA, TEX 77355
LANE JAMISON	24710 BRAUTIGAM, MAGNOLIA, TEX. 77355
CITY SEC. MARY MCQUERRY	31319 CRIPPLE CREEK N. MAGNOLIA, TEX 77355

The initial bylaws of the Corporation shall be in the form and substance approved by the City Council in its Ordinance No. 190 approving these Articles. Such bylaws shall be adopted by the Corporation's board and shall, together with these Articles, govern the internal affairs of the Corporation until and unless amended in accordance with these Articles.

Neither the initial bylaws nor any subsequently effective bylaws of the Corporation may be amended without the consent and approval of the City Council. The Board shall make application to the City Council for the approval of any proposed amendments, but the same shall not become effective until or unless the same shall be approved by resolution adopted by the City Council.

ARTICLES TEN

The City Council may, in its sole discretion, and at any time, alter or change the structure, organization, programs or activities of the Corporation and it may terminate or dissolve the Corporation, subject to the provisions of these Articles.

The Corporation shall not be dissolved, and its business shall not be terminated, by act of the City Council, election by the voters as prescribed by the Act, or otherwise, so long as the Corporation shall be obligated to pay any bonds, notes, or other obligations and unless the collection of the sales and use tax authorized by Section 4 B of the Act is eligible for termination in accordance with the provisions of Section 4 B of the Act.

No action shall be taken in any manner or at any time that would

impair any contract, lease, right, or other obligation theretofore executed, granted, or incurred by the Corporation.

ARTICLE ELEVEN

No dividends shall ever be paid by the Corporation and no part of its net earnings remaining after payment of its expenses and other obligations shall be distributed to or inure to the benefit of its directors or officers, or any individual, private firm or private corporation of association.


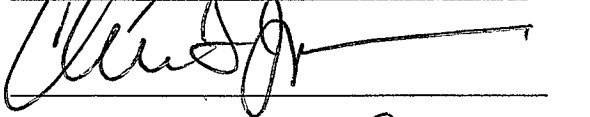
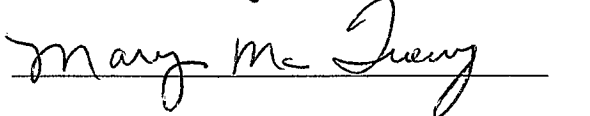
If the Corporation ever should be dissolved when it has, or is entitled to, any interest in any funds or property of any kind, real, personal or mixed, such funds or property or rights thereto shall not be transferred to private ownership, but shall be transferred and delivered to the City after satisfaction or provision for satisfaction of all debts, claims, and contractual obligations, including any contractual obligations granting rights of purchase of property of the Corporation.

No part of the Corporation's activities shall consist of the carrying on of propaganda or otherwise attempting to influence legislation, and the Corporation shall not participate in any political campaign of or in opposition to any candidate for public office.

ARTICLE TWELVE

The City has specifically authorized the Corporation by Ordinance 209 to act on its behalf to further the public purposes stated in said ordinance and in these ARTICLES and the City has by said Ordinance 209 approved the ARTICLES. A copy of said ordinance is on file among the permanent public records of the City and the Corporation.

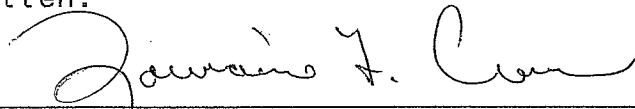
INCORPORATORS:

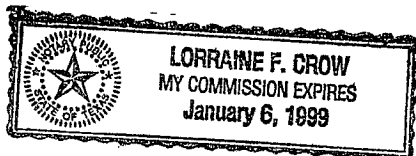
THE STATE OF TEXAS
COUNTY OF MONTGOMERY

I, the undersigned, a Notary Public of the State of Texas, do hereby certify that on this 16 day of June, 1995, personally appeared before me John Bramlett, Lane Jamison & Mary McQueeny, who, each being by me first sworn, severally declared that they are the persons who signed the foregoing document as incorporators, and that the statements therein contained are true and correct.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the date and year above written.



Notary Public in and for the State of Texas



BYLAWS
OF THE
MAGNOLIA COMMUNITY DEVELOPMENT CORPORATION

ARTICLE I
PURPOSE AND POWERS

SECTION 1. REGISTERED OFFICE AND REGISTERED AGENT.

The MAGNOLIA COMMUNITY DEVELOPMENT CORPORATION (THE "Corporation") shall have and continuously maintain in the State of Texas a registered office, and a registered agent whose office is identical with such registered office, as required by the Texas Non-Profit Corporation Act, and state law. The Registered Agent for the Corporation shall be the City Secretary, subject that the Board of Directors (the "Board") from time to time, may change the registered agent and/or the address of the registered office, subject to City Council approval, provided that such change is appropriately reflected in these Bylaws and in the Articles of Incorporation (the "Articles").

The registered office of the Corporation is located at 510 Magnolia Blvd., Magnolia, Texas 77355, and at such address is the Corporation, whose mailing address is P.O. Box 396, Magnolia, Texas 77355. Said address shall also serve as the principal office of the Magnolia Corporation and Board.

SECTION 2. PURPOSE.

The Corporation is incorporated as a non-profit corporation for the purposes set forth in the Articles the same to be accomplished on behalf of the City of Magnolia, Texas (the "City") as its duly constituted authority and instrumentality in accordance with the Texas Development Corporation Act of 1979, Article 5190.6, Section 4B Tex. Rev. Civ. Stat., Ann., as amended, (the "Act"), other applicable laws, and City of Magnolia Ordinance No. 209, including all permissible projects prescribed by the Act, and for parks, auditoriums, learning centers, open space improvement, athletic and exhibition facilities, and other related improvements and for maintenance and operating costs of the publicly owned and operated projects. The Corporation shall be a non-profit corporation as defined by the Internal Revenue Code 1986, as amended, and the applicable regulations of the United States Treasury Department and the ruling of the Internal Revenue Service of the United States prescribed and promulgated thereunder.

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SECTION 3. POWERS.

In the fulfillment of its corporate purpose, the Corporation shall be governed by the Act, and shall have all of the powers set forth and conferred in the Act, and in other applicable laws, subject to the limitations prescribed therein and herein and to the provisions thereof and hereof.

**ARTICLE II
BOARD OF DIRECTORS**

SECTION 1. NUMBER AND TERM OF OFFICE.

A. The property and affairs of the Corporation shall be managed and controlled by a Board and, subject to the restrictions imposed by law, by the Articles and there Bylaws, the Board shall exercise all of the powers of the Corporation.

B. The Board shall consist of seven (7) directors, each of whom shall be appointed by the City Council. Each of the directors shall be a resident of the City.

C. Four (4) members of the first Board shall serve terms of one (1) year and three (3) members shall serve terms of two (2) years. The respective terms of the initial directors shall be determined by the City Council. Thereafter, each successive member of the Board shall be appointed and serve for two (2) years or until a successor is appointed as hereinafter provided. Three (3) directors shall be persons who are not employees, officers of the City or members of the City Council.

D. Any director may be removed from office by the City Council at will. A vacancy of any director's position which occurs by reason of death, resignation, disqualification, removal, or otherwise, shall be filled by the City Council.

SECTION 2. VACANCIES AND RESIGNATION.

A vacancy in any position of director which occurs by reason of death, resignation, disqualification, removal, or otherwise, shall be filled as prescribed in Article II, Section 1. A vacancy in the office of President or Vice President which occurs by reason of death, resignation, disqualification, removal, or otherwise, shall be filled by *election by the *Board, from the remaining directors, for the unexpired portion of the term of that office.

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Any director may resign at any time. Such resignation shall be made in writing, addressed to the Mayor and the City Secretary, and shall take effect at the time specified therein, or if no time is specified, at the time of its receipt by the City Secretary.

SECTION 3. MEETINGS OF DIRECTORS.

For meetings of the Board of committees, notice thereof shall be provided and set forth in accordance with the Texas Open Meetings Act, Chapter 551 of the Texas Local Government Code. Any member of the Board, officers of the Corporation or Mayor, may have an item placed on the agenda by delivering the same in writing to the Secretary of the Board no less than three (3) calendar days prior to the date of the Board meeting. Each agenda of a Board meeting shall contain an item, titled "Citizens Forum", to allow public comment to be made by the general public concerning Board related matters. However, no official or formal action or vote may be taken on any comment made by citizens during Citizens Forum.

The annual meeting of the Board shall be on the 3rd Thursday in February of each year, at 6:00 p.m. The Board shall hold regular and special meetings, in the corporate limits of the City, at such place or places as the Board may from time to time determine, and in conformance with the Texas Open Meetings Act.

SECTION 4. QUORUM.

A quorum is a majority of the Board (being not less than four (4) members), and shall be present for the conduct of the official business of the Corporation. The Act of four (4) or more directors at a meeting at which a quorum is in attendance shall constitute the act of the Board and of the Corporation, unless the act of a greater number is required by these Bylaw, policies/procedures of the Board, City Council resolution/ordinance, or state law.

SECTION 5. CONDUCT OF BUSINESS.

A. At the meetings of the Board, matters pertaining to the business of the Corporation shall be considered in accordance with the rules of procedure as from time to time prescribed by the Board, the rules of procedures of the City Council shall be the rules of procedures for the Board.

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B. At all meetings of the Board, the President shall preside, and in the absence of the President, the Vice President.

C. The Secretary of the Corporation shall act as Secretary of all meetings of the Corporation, but in the absence of the Secretary, the presiding officer may appoint any person to act as Secretary of the meeting. The Secretary shall keep minutes of the transactions of the Board and committee meetings and shall cause such official minutes to be recorded in books kept for that purpose in the principal office of the Corporation.

SECTION 6. COMMITTEES OF THE BOARD.

An official committee of the Board shall consist of two (2) or more directors. It is provided, however, that all final official actions of the Corporation may be exercised only by the Board. Each committee so designated shall keep regular minutes of the transactions of its meetings and shall cause such minutes to be recorded in books kept for that purpose in the principal office of the Corporation.

SECTION 7. COMPENSATION OF DIRECTORS.

The directors, including the President and Vice President, shall not receive any salary or compensation for their services. However, directors may be reimbursed for their actual expenses incurred in the performance of their duties hereunder, including but not limited to the cost of travel, lodging and incidental expenses reasonably related to the corporate duties of the Board. Travel expenses incurred by directors for both regular and special meetings are not eligible for reimbursement.

ARTICLE III OFFICERS

SECTION 1. TITLES AND TERM OF OFFICE.

The President and Vice President shall be elected by the Board and shall serve a term of one (1) year. The respective terms of the initial President and Vice President shall be determined by the City Council. The President and Vice President shall continue to serve until their successors are appointed as provided in Article II, Section 1.

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SECTION 2. POWERS AND DUTIES OF THE PRESIDENT.

The President shall be the chief executive officer of the Corporation, and shall, subject to the authority of the Board and paramount authority and approval of the City Council, preside at all meetings of the Board, and absent any different designation by a majority of the Board, shall sign and execute all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, and notes in the name of the Corporation. In addition the President shall:

A. call both regular and special meetings of the Board and establish the agenda for such;

B. have the right to vote on all matters coming before the Board;

C. have the authority to appoint standing or study committees to aid and assist the Board in its business undertaking or other matters incidental to the operation and functions of the Board;

D. perform all duties incident to the office, and such other duties as shall be prescribed from time to time by the Board, subject to approval by the City Council;

E. appear before the City Council on a periodic basis to give a report on the status of activities of the Corporation; and

F. appear before the City Council, or be represented by his designee, regarding any item being considered by the City Council concerning the Corporation.

SECTION 3. VICE PRESIDENT.

The Vice President shall exercise the powers of the President during that officer's absence or inability to act. The Vice President shall also perform other duties as from time to time may be assigned by the President or the Board.

SECTION 4. ATTENDANCE.

Directors must be present in order to vote at any meeting. Regular attendance at the Board meetings is required of all directors. The following number of absences shall constitute the basis for replacement of a director. Three

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(3) consecutive unexcused absences from meetings of the Board shall cause the position to be considered vacant. In addition, the position of any director who has four (4) unexcused absences in twelve (12) month period shall also be considered vacant.

SECTION 5. CONFLICT OF INTEREST.

In the event that a director is aware that he has a conflict of interest or potential conflict of interest, with regard to any particular matter or vote coming before the Board, the director shall bring the same to the attention of the Board and shall abstain from discussion and voting thereof.

Any director shall bring to the attention of the Board any apparent conflict of interest or potential conflict of interest of any other director, in which case the Board shall determine whether a true conflict of interest exists before any further discussion or vote shall be conducted regarding that particular matter. The director about whom a conflict of interest question has been raised shall refrain from voting with regard to the determination as to whether a true conflict exists. Failure to conform to these requirements herein and policies as may be adopted by the Board is cause for dismissal from the Board by action of the City Council.

SECTION 6. IMPLIED DUTIES.

The Corporation is authorized to do that which the Board deems desirable, subject to City Council approval, to accomplish any of the purposes or duties set out or alluded to in the Articles, these Bylaws, and in accordance with State law.

SECTION 7. BOARD'S RELATIONSHIP WITH THE CITY

In accordance with state law, the Board shall be responsible for the proper discharge of its duties assigned herein. The Board shall determine its policies and directives within the limitations of the duties herein imposed by applicable laws, the Articles, these Bylaws, contracts entered into with the City, and budget and fiduciary responsibilities. Such policies and directives are subject to approval by the City Council. Any request for services made to the departments of the City shall be made by the Board or its designee in writing to the Mayor. The Mayor may approve such request for assistance from the

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Board when he finds such requested services are available within the City and that the Board has agreed to reimburse the City of such services so provided, as provided in Article III, Section 8 of these Bylaws.

SECTION 8. CONTRACTS FOR SERVICE.

The Corporation may, with approval of the City Council, contract with any qualified and appropriate person, association, corporation or governmental entity to perform and discharge designated tasks which will aid or assist the Board in the performance of its duties. However, no such contract shall ever be approved or entered into which seeks or attempts to divest the Board of its discretion and policy - making function in discharging the duties herein set forth. An administrative services contract shall be executed between the Board and the City Council for the services provided by the General Manager, Finance Manager, Secretary, and other City services/functions and compensated as provided for herein.

Subject to the authority of the Mayor under the Charter of the City, the Corporation shall have the right to utilize the services of the staff and employees of the Finance Department of the City, the staff and employees of the Parks and Recreation Department and other employees of the City, provided (i) that the Mayor approves of the utilization of such services, (ii) that the corporation shall pay, as approved by the Mayor, reasonable compensation to the City of such services, and (iii) the performance of such services does not materially interfere with the other duties of such personnel of the City. Utilization of the aforesaid city staff shall be solely by a contract approved by the City Council.

ARTICLE IV FUNCTION CORPORATE DUTIES AND REQUIREMENTS

SECTION 1. PRESIDENT OF THE BOARD

The President of the Board shall be the chief administrative officer of the Corporation and be in general charge of the properties and affairs of the Corporation, shall administer all work orders, requisitions for payment, purchase orders, contract administration/oversight, and other instruments or activities as prescribed by the Board in the name of the Corporation. The General Manager shall be an employee of the City.

The President of the board shall employ such full or part-time employees of the City and perform those duties as are assigned to them. These employees shall be compensated as prescribed in Article III, Section 8 of these Bylaws. The President of the Board shall have the authority, and subject to provisions of the City Charter and policies-procedure of the City, to hire, fire, direct, and control the work, as functionally appropriate, of such employees.

SECTION 2. FINANCE MANAGER.

The Vice-president shall be the finance manager. The Finance Manager shall have the responsibility to see to the handling, custody, and security of all funds and securities of the Corporation. When necessary or proper, the Finance Manager shall endorse and sign, on behalf of the Corporation, for collection or issuance, checks, notes and other obligations drawn upon such bank or banks or depositories as shall be designated by the City Council consistent with these Bylaws. The Finance Manager shall see to the entry in the books of the Corporation of full and accurate accounts of all monies received and paid out on account of the Corporation. The Finance Manager shall, at the expense of the Corporation, give such bond for the faithful discharge of the duties in such form and amount as the City Council shall require, by resolution. The Finance Manager shall be an employee of the City. The Finance Manager shall submit a monthly report to the Board, in sufficient detail, of all checks or drafts issued on behalf of the Corporation for the previous month. The Finance Manager shall provide a monthly financial report to the City Council concerning activities of the Corporation in a format consistent with other financial reports of the City.

SECTION 3. SECRETARY.

The Secretary shall keep the minutes of all meetings of the Board and committees in books provided for that purpose, shall give and serve all notices, shall sign with the President in the name of the Corporation, and/or attest the signature thereto, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Corporation, shall have charge of the corporate books, records, documents and instruments except the books of account and financial records and securities, and such other books and papers as the Board may direct, all of which shall at all reasonable times be open to public inspection upon application at the office of the Corporation during business hours, and shall in general perform all duties incident to the office of Secretary subject to the control of the Board. The Secretary shall endorse and countersign, on behalf of the

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Corporation, for collection of issuance, checks, notes and and other obligations in or drawn upon such bank or banks or depositories as shall be designated by the City Council consistent with these Bylaws. It will take two (2) signatures on all checks written, one being the Secretary and one being the Mayor. The Secretary shall be the Secretary of the City.

SECTION 4. EX-OFFICIO MEMBERS.

The City Council may appoint Ex-Officio members to the Board of Directors as it deems appropriate. These representatives shall have the right to take part in any discussion of open meetings, but shall not have the power to vote in the meetings. Ex-Officio members shall serve a term of one year. Ex-Officio members shall be required to take an Oath of Office and abide by, and be subject to, the City Code of Ethics.

SECTION 5. PARTICIPATION IN BOARD MEETINGS.

The General Manager, Secretary, Finance Manager, Mayor (or their respective designees), shall have the right to take part in any discussion of the Board, or committees thereof, including attendance of executive sessions, but shall not have the power to vote in any meetings attended.

SECTION 6. DUTIES OF THE BOARD

The Board shall develop a combined Community Development Capital Improvement Program, ("the CDCIP"), including maintenance and operation costs thereof, for the City which shall include and set forth short and long term goals. Such plan shall be approved by the City Council. The CDCIP developed by the Board shall be one that incorporates the Capital Improvement Plans of the City Parks and Recreation Department, the Library Department, an addresses cultural arts, senior citizens, and other similarly related community development needs within the financial constraints of revenues available to the Corporation. The Board shall conduct a public hearing concerning both the adoption and required annual updates to the CDCIP. A legal notice shall be advertised as determined by the Board, at least three (3) days, prior to the scheduled public hearing.

The Board shall review and update the CDCIP once a year to ensure the plan is up to date with current community needs and is capable of meeting Magnolia's community development needs. The Board shall expend, in accordance with State

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law and subject to City Council approval, the funds received by it for community development where such expenditures will have a benefit to the citizens of Magnolia. The Board shall make an annual report to the City Council including, but not limited to the following:

A. A review of the accomplishments of the Board in the area of community development; and

B. The activities of the Board for the budget year addressed in the annual report, together with any proposed change in the activity as it may relate to community development.

The required annual report shall be made to the City Council no later than March 1st of each year.

The Board shall be accountable to the City Council for all activities undertaken by it or on its behalf, and shall report on all activities of the Board, whether discharged directly by the Board or by any person, firm, corporation, agency, association or other entity on behalf of the Board.

SECTION 7. COMPONENTS OF THE CDCIP

The Board shall submit to the City Council for its approval, the CDCIP which shall include proposed methods and the expected costs of implementation, and cost of operations and maintenance of the projects. The plan shall include both short and long term goals for the community development of the City.

SECTION 8. ANNUAL CORPORATE BUDGET

At least ninety (90) days prior to October 1st, the Board shall prepare and adopt a proposed budget of expected revenues and proposed expenditures for the next ensuing fiscal year. The fiscal year of the corporation shall commence on October 1st of each year and end on September 30. The budget shall contain such classifications and shall be in such form as may be prescribed from time to time by the City Council. The budget proposed for adoption shall include the projected operating expenses, and such other budgetary information as shall be required by the City Council for its approval and adoption. The budget shall be considered adopted upon formal approval by the City Council.

SECTION 9. FINANCIAL BOOKS, RECORDS, AUDITS

The Finance Manager shall keep and properly maintain, in accordance with generally accepted accounting principles, complete financial books, records, accounts, and financial statements pertaining to its corporate funds, activities, and affairs.

The City shall cause the Corporation's financial books, records, accounts, and financial statements to be audited at least once each fiscal year by an outside, independent, auditing and accounting firm selected by the City Council. Such audit shall be at the expense of the Corporation.

SECTION 10. DEBT, DEPOSIT AND INVESTMENT OF CORPORATE FUNDS.

All proceeds from the issuance of bonds, notes or other debt instruments (the "Bonds") issued by the Corporation shall be deposited and invested as provide in the resolution, order, indenture, or other documents authorizing or relating to their execution or issuance and handled in accordance with the statue governing this Corporation, but no bonds shall be issued, including refunding bonds, by the Corporation without the approval of the City Council after review and comment by the City's bond counsel and financial advisor.

All monies of the Corporation shall be deposited, secured, and/or invested in the manner provided for the deposit, security, and/or investment of the public funds of the City, as authorized by the City Investment Policy. The Finance Manager shall designate the accounts and depositories to be created and designated for such purposes, and the methods of withdrawal of funds therefrom for use by and for the purposes of the Corporation upon the signature of the Finance Manager and the Secretary. The accounts, reconciliation, and investment of such funds and accounts shall be performed by the Department of Finance of the City. The Corporation shall pay reasonable compensation for such services as prescribed in Article III, Section 8, of these Bylaws. All checks must have 2 signatures one person from the Board, and the Mayor or City Secretary.

SECTION 11. EXPENDITURES OF CORPORATE MONEY

The monies of the Corporation, including sales and use taxes collected pursuant to the Act, the proceeds from the investment of funds of the Corporation, the proceeds from the sale of property, monies derived from the repayment of

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loans, rents received from the lease or use of property, the proceeds derived from the sale of bonds, and other proceeds may be expended by the Corporation for any of the purposes authorized by the Act, subject to the following limitations:

A. Expenditures from the proceeds of bonds shall be identified and described in the orders, resolution, indentures, or other agreements submitted to approved by the City Council.

B. Expenditures that may be made from a fund created from the proceeds of bonds, and expenditures of monies derived from sources other than the proceeds of bonds may be used for the purposes of financing or otherwise providing one or more projects, as defined in the Act. The specific expenditures shall be described in a resolution or order of the Board and shall be made only after the approval thereof by the City Council.

C. All other proposed expenditures shall be made in accordance with and shall be set forth in the annual budget required by these Bylaws or in contracts meeting the requirements of the Article.

No bonds, including refunding bonds, shall be authorized or sold and delivered by the Corporation unless the City Council shall approve such bonds.

SECTION 12. CONTRACTS.

As provided herein, the President and Secretary shall enter into any contracts or other instruments which the Board has approved and authorized in the name and on behalf of the Corporation. Such authority may be confined to specific instances or defined in general terms. When appropriate, the Board may grant a specific or general power of attorney to carry out some action on behalf of the Board, provided, however that no such power of attorney may be granted unless an appropriate resolution of the Board authorizes the same to be done.

ARTICLE V MISCELLANEOUS PROVISIONS

SECTION 1. SEAL

The Board may obtain a corporate seal which shall bear the words " Corporate Seal of the Magnolia Community Development Corporation" and the Board may thereafter use the corporate seal and corporate name; but these Bylaws

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shall not be construed to require the use of the corporate seal.

SECTION 2. APPROVAL OR ADVICE AND CONSENT OF THE CITY COUNCIL.

To the extent that these bylaws refer to any action, approval, advice, or consent by the City or refer to action, approval, advice or consent by the City Council, such action, approval, advice or consent shall be evidenced by a motion, resolution or ordinance duly passed by the City Council and reflected in the minutes of the City Council.

SECTION 3. INDEMNIFICATION OF DIRECTORS, OFFICERS AND EMPLOYEES.

As provided in the Act and in the Articles of Incorporation, the Corporation is, for the purposes of the Texas Tort Claims Act (Subchapter A, Chapter 101, Texas Civil Practices and Remedies Code), a governmental unit and its actions are governmental functions.

The Corporation shall indemnify each and every member of the Board, its officers and its employees, and each member of the City Council and each employee of the City, to the fullest extent permitted by law against any and all liability or expense, including attorneys fees, incurred by any of such persons by reason of any actions or omissions that may arise out of the functions and activities of the Corporation. This indemnity shall apply even if one or more of those to be indemnified was negligent or caused or contributed to cause any loss, claim, action or suit. Specifically, it is the intent of these Bylaws and the Corporation to require the Corporation to indemnify those named for indemnification, even for the consequences of the negligence of those to be indemnified which caused or contributed to cause any liability.

The Corporation must purchase and maintain insurance on behalf of any director, officer, employee, or agent of the Corporation, or on behalf of any person serving at the request of the Corporation as a Board member, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against that person and incurred by that person in any such capacity or arising out of any such status with regard to the Corporation, whether or not the Corporation has the power to indemnify that person

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against liability for any of those acts.

SECTION 4. GIFTS

The Board may accept on behalf of the Corporation any contribution, gift, bequest, or device for the general purpose or for any special purposes of the Corporation.

SECTION 5. CODE OF ETHICS

Each director, including the President and Vice President, its officers, employees, and agents shall abide by and be subject to the City Code of Ethics. The Code of Ethics shall be applicable to independent contractors of the Corporation, except to the extent that such independent contractor is not performing work on behalf of the Corporation.

SECTION 6. AMENDMENTS TO BYLAWS.

These Bylaws may be amended or repealed and new Bylaws may be adopted by an affirmative vote of four (4) of the authorized directors serving on the Board, subject to approval by the City Council. The City Council may amend these Bylaws at any time. Such amendments by the City Council will be duly passed and adopted by motion, resolution or ordinance duly reflected in the minutes of the City Council and, thereafter, duly noted to the Board.

SECTION 7. DISSOLUTION OF THE CORPORATION

Upon dissolution of the Corporation, titles to or other interest in any real or personal property owned by the Corporation at such time shall vest in the City of Magnolia.

**SECTION 8. APPLICABILITY OF CITY
POLICIES AND PROCEDURES.**

The City and approved city policies and procedures shall apply directly to the Corporation and the Board unless such charters, policies or procedures are superseded by state law or not related to the functions of the Board. The Board has the prerogative, subject to approval by the City Council, to adopt other policies and procedures in addition to or in place of those of the City.

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SECTION 9. EFFECTIVE DATE.

These Bylaws, having been approved by Ordinance 209 shall become effective upon the approval of such by the Board.