

**ORDINANCE NO. O-2019-005**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
MAGNOLIA, TEXAS, CONSENTING TO A PETITION FOR THE  
CREATION OF MONTGOMERY COUNTY MUNICIPAL UTILITY  
DISTRICT NO. 174 IN MONTGOMERY COUNTY, TEXAS AND  
ESTABLISHING CONDITIONS APPLICABLE TO THE CREATION OF  
THE DISTRICT.**

\* \* \* \* \*

**WHEREAS**, on or about February 6, 2019, Magnolia Escondido, LLC, a Texas limited liability company (the "Petitioner"), acting pursuant to the provisions of Chapters 49 and 54, Texas Water Code, as amended, and V.T.C.A. Local Government Code, §42.042 did petition the City of Magnolia for consent to the creation of a municipal utility district including approximately 148.435 acres of land to be known as "Montgomery County Municipal Utility District No. 174" (the "District") which property is more particularly described in the Petition (the "Petition") attached hereto as **Exhibit "A"** and incorporated herein by reference; and

**WHEREAS**, the majority of the territory of the proposed District lies within the extraterritorial jurisdiction of the City of Magnolia, Texas (the "City") and the remainder of the territory of the proposed District is not within the corporate boundaries or extraterritorial jurisdiction of any other city; and

**WHEREAS**, the City Council has considered the Petition and is willing to consent to the creation of the District upon the terms and conditions hereinafter provided;

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MAGNOLIA, TEXAS, THAT:**

**Section 1.** All of the matters and facts set out in the preamble hereof are true and correct and are adopted as findings of the City Council.

**Section 2.** The Petition is hereby granted and the City Council of the City hereby consents to the creation of the District to be named MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 174 and the inclusion within the District of the territory described by the metes and bounds included in the Petition; provided, however, that such consent shall be subject to the conditions set forth in **Exhibit "B"** to this Ordinance and incorporated herein by reference. Subject to the provisions of this Ordinance, the District may be organized for such purposes as are set forth in the Petition and for the accomplishment of such purposes shall have

the powers permitted to districts organized under the terms and provisions of Article III, Section 52 and Article XVI, Section 59 of the Constitution of Texas and Chapters 49 and 54, Texas Water Code, together with all amendments and additions thereto.

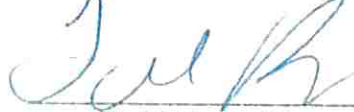
**Section 3. Effective Date.** This Ordinance shall be in force and effect from and after its passage on the date shown below.

**Section 4. Open Meetings.** It is hereby officially found and determined that this meeting was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by the Open Meetings Act, Chapter 551, Texas Government Code.

**PASSED AND APPROVED** this 12<sup>th</sup> day of February 2019.




CITY OF MAGNOLIA, TEXAS

  
Todd Kana, Mayor

ATTEST:

  
Lynne George, TRMC, CPM  
City Secretary

APPROVED AS TO FORM:

  
Leonard Schneider  
City Attorney

**Exhibit "A"**

**Petition for Consent to the Creation of Montgomery County  
Municipal Utility District No. 174**

## **Exhibit "B"**

### **Consent Conditions**

(a) To the extent authorized by law, the District will issue bonds only for the purpose of purchasing and constructing, or purchasing, or constructing, or otherwise acquiring water supply or distribution systems; wastewater collection, transportation, treatment or disposal systems; stormwater control or detention, drainage or flood protection systems; recreational facilities, parks and open space; fire protection or prevention facilities; emergency medical services or medical transport services facilities; law enforcement facilities; improvements related to economic development; roads or transportation; or other essential community, governmental or quasi-governmental improvements services facilities or functions which may be authorized to be provided by the District, or parts of such systems or facilities, and to make any and all necessary purchases, construction, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, right-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor, and to operate and maintain same, and to sell water, sanitary sewer, and any other services related to the above within or outside the boundaries of the District. Such bonds will expressly provide that the District reserves the right to redeem the bonds on any interest-payment date subsequent to the fifteenth (15) anniversary of the date of issuance or subsequent to any earlier date specified by the District, without premium and will be sold only after the taking of public bids therefor, and none of such bonds, other than refunding bonds, will be sold for less than 95% of par; provided that the net effective interest rate borne by such bonds will not exceed two percent (2%) above the highest average interest reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one-month period next preceding the date notice of the sale of such bonds is given, and that bids for the bonds will be received not more than forty-five (45) days after notice of sale of the bonds is given. The resolution authorizing the issuance of the District's bonds will contain a provision that any pledge of the revenues from the operation of the District's systems to the payment of the District's bonds will terminate when and if the City of Magnolia, Texas annexes the District, takes over the assets of the District and assumes all of the obligations of the District. Unless and solely to the extent as otherwise contemplated by the Utility Agreement (as defined below), no land located within the extraterritorial jurisdiction of the City of Magnolia will be added or annexed to the District until the City of Magnolia has given its written consent by resolution or ordinance of the City Council to such addition or annexation which consent will include these conditions.

(b) (1) The construction of the District's facilities and systems will be in accordance with the requirements set forth in the Utility Agreement (the "Utility Agreement") to be entered into between the City of Magnolia and Magnolia Escondido, LLC, on behalf of Proposed Montgomery County Municipal Utility District No. 174.

(2) Before the expenditure by the District of bond proceeds for the acquisition, construction or development of recreational facilities, the District shall obtain and maintain on file, from a registered landscape architect, registered professional engineer or a design professional allowed by law to engage in architecture, a certification that the recreational facilities, as constructed, conform to the applicable regulatory requirements of the Approving Bodies (as defined in the Utility Agreement).

(c) The District, its board of directors, officers, developers, and/or landowners will not permit the construction, or commit to any development within, the District that will result in a wastewater flow to the serving treatment facility which exceeds that facility's legally permitted average daily flow limitations or the District's allocated capacity therein.

(d) Prior to the sale of any lot or subdivided parcel of land, the owner or the developer of the land included within the limits of the District will comply with the applicable regulatory requirements of the Approving Bodies which govern platting of land.