

ORDINANCE NO. O-2019-024  
ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF MAGNOLIA,  
TEXAS, TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES  
2019

THE STATE OF TEXAS           §  
COUNTY OF MONTGOMERY   §  
CITY OF MAGNOLIA         §

WHEREAS, the City Council of the City of Magnolia, Texas (the "City"), authorized the publication of a notice of intention to issue certificates of obligation to the effect that the City Council would meet on November 12, 2019 to adopt an ordinance and take such other actions as may be deemed necessary to authorize the issuance of certificates of obligation (the "Certificates") payable from ad valorem taxation and from a limited pledge of a subordinate lien on the net revenues of the City's waterworks and sanitary sewer system, for the purpose of evidencing the indebtedness of the City for all or any part of the costs associated with the (i) construction, acquisition, renovation and equipment of improvements to the City water and sewer system, including the expansion of the Wastewater Treatment Plant, and (ii) the cost of professional services incurred in connection therewith; and

WHEREAS, such notice was published at the times and in the manner required by the Constitution and laws of the State of Texas and of the United States of America, respectively, particularly Subchapter C of Chapter 271, Texas Local Government Code; and

WHEREAS, Section 271.047(d), Texas Local Government Code provides that the City may not authorize the issuance of the Certificates if a bond proposition to authorize the issuance of bonds for the same purpose was submitted to the voters during the preceding three years and failed to be approved; and

WHEREAS, the City Council hereby finds that no such bond proposition was submitted to the voters of the City during the preceding three years; and

WHEREAS, no petition or other request has been filed with or presented to any official of the City requesting that any of the proceedings authorizing the Certificates be submitted to a referendum or other election;

WHEREAS, certain aspects of the City's Water & Sewer Rate Ordinance, namely the rates charged to charitable organizations, are the subject of pending litigation, but such litigation has not affected the day-to-day operations and billing for water and sewer services in the City; therefore,

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

1.     Recitals. It is hereby found and determined that the matters and facts set out in the preamble to this Ordinance are true and correct.

2. Definitions. Throughout this ordinance the following terms and expressions as used herein shall have the meanings set forth below:

“Act” means Subchapter C of Chapter 271, Texas Local Government Code.

“Business Day” means any day that is not a Saturday, Sunday, a day that Registrar is authorized by law or executive order to close, or a legal holiday.

“Certificate” or “Certificates” means the City of Magnolia, Texas, Tax and Revenue Certificates of Obligation, Series 2019 authorized in this Ordinance, unless the context clearly indicates otherwise.

“City” means the City of Magnolia, Texas.

“Code” means the Internal Revenue Code of 1986, as amended.

“Comptroller” means the Comptroller of Public Accounts of the State of Texas.

“Interest and Sinking Fund” means the interest and sinking fund for payment of the Certificates established by the City in Section 16 of this Ordinance.

“Interest Payment Date”, when used in connection with any Certificate, means May 1, 2020, and each November 1 and May 1 thereafter until maturity or earlier redemption.

“Initial Certificate” means the Initial Certificate authorized by Section 6(d).

“Issuance Date” means the date of the initial delivery of and payment for the Certificates.

“Ordinance” as used herein and in the Certificates means this ordinance authorizing the Certificates.

“Owner” means any person who shall be the registered owner of any outstanding Certificate.

“Purchaser” means the firm or syndicate that is the initial purchaser of a series of the Certificates, as specified in Section 20.

“Record Date” means, for any Interest Payment Date, the close of business on the 15th calendar day of the month next preceding such Interest Payment Date.

“Register” means the books of registration kept by the Registrar in which are maintained the names and addresses of and the principal amounts registered to each Owner.

“Registrar” means Zions Bancorporation, Houston, Texas, and its successors in that capacity.

3. Authorization. The Certificates shall be issued pursuant to the Act in fully registered form, without coupons, in the total authorized principal amount of \$11,255,000 for the purpose of evidencing the indebtedness of the City for all or any part of the costs associated with: (i) construction, acquisition, renovation and equipment of improvements to the City water and sewer system, including the expansion of the Wastewater Treatment Plant, and (ii) the cost of professional services incurred in connection therewith.

4. Designation, Date, and Interest Payment Dates. The Certificates shall be designated as the "CITY OF MAGNOLIA, TEXAS, TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2019", and shall be dated November 1, 2019. The Certificates shall bear interest at the rates set forth in Section 5 of this Ordinance from the later of the Issuance Date, or the most recent Interest Payment Date to which such interest has been paid or duly provided for, calculated on the basis of a 360-day year of twelve 30-day months, interest payable on each Interest Payment Date.

5. Initial Certificates; Numbers and Denominations. The Certificates shall be initially issued as one term certificate bearing the number, in the principal amount, and bearing interest at the rate set forth in the following schedule, and may be transferred and exchanged as set out in this Ordinance. The Certificates shall mature on November 1 in each of the years and in the amounts set out in such schedule. The Initial Certificate shall be numbered I-1 and all other Certificates, if any, shall be numbered in sequence beginning with R-1. Certificates delivered on transfer of or in exchange for other Certificates shall be numbered in order of their authentication by the Registrar, shall be in denominations of \$100,000 or integral multiples of \$5,000 in excess thereof, and shall mature on the same date and bear interest at the same rate as the Certificate or Certificates in lieu of which they are delivered.

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2034	\$11,255,000	2.250%



6. Execution of Certificates; Seal. (a) The Certificates shall be signed on behalf of the City by the Mayor and countersigned by the City Secretary, by their manual, lithographed, or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Certificates shall have the same effect as if each of the Certificates had been signed manually and in person by each of said officers, and such facsimile seal on the Certificates shall have the same effect as if the official seal of the City had been manually impressed upon each of the Certificates.

(b) If any officer of the City whose manual or facsimile signature shall appear on the Certificates shall cease to be such officer before the authentication of such Certificates or before the delivery of such Certificates, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Certificate shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Registrar's Authentication Certificate substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Registrar. In lieu of the executed Registrar's Authentication Certificate described above, the Initial Certificate delivered at the Issuance Date shall have attached hereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller, or by his duly authorized agent, which certificate shall be evidence that the Initial Certificate has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the City, and has been registered by the Comptroller.

(d) On the Issuance Date, the Initial Certificate, being a single certificate representing the entire principal amount of the Certificates, payable in stated installments to the Purchaser or its designee, executed by manual or facsimile signature of the Mayor and City Secretary of the City, approved by the Attorney General, and registered and manually signed by the Comptroller, shall be delivered to the Purchaser or its designee. If the Purchaser desires, it may retain the Initial Certificate in lieu of being issued definitive Certificates.

7. Payment of Principal and Interest. The Registrar is hereby appointed as the paying agent for the Certificates. The principal of the Certificates shall be payable, without exchange or collection charges, in any coin or currency of the United States of America which, on the date of payment, is legal tender for the payment of debts due the United States of America, upon their presentation and surrender as they become due and payable at the principal payment office of the Registrar in Houston, Texas. The interest on each Certificate shall be payable by check payable on the Interest Payment Date, mailed by the Registrar on or before each Interest Payment Date to the Owner of record as of the Record Date, to the address of such Owner as shown on the Register or by such other method acceptable to the Registrar, requested by, and at the risk and expense of, the registered Owner.

If the date for payment of the principal of or interest on any Certificate is not a Business Day, then the date for such payment shall be the next succeeding Business Day, with the same force and effect as if made on the original date payment was due.

8. Successor Registrars. The City covenants that at all times while any Certificates are outstanding it will provide a commercial bank or trust company organized under the laws of the United States or any state and duly qualified and legally authorized to serve as Registrar for the Certificates. The City reserves the right to change the Registrar on not less than sixty (60) days written notice to the Registrar, so long as any such notice is effective not less than sixty (60) days prior to the next succeeding principal or interest payment date on the Certificates. Promptly upon the appointment of any successor Registrar, the previous Registrar shall deliver the Register or copies thereof to the new Registrar, and the new Registrar shall notify each Owner, by United States mail, first class postage prepaid, of such change and of the address of the new Registrar. Each Registrar hereunder, by acting in that capacity, shall be deemed to have agreed to the provisions of this Section.

9. Special Record Date. If interest on any Certificate is not paid on any Interest Payment Date and continues unpaid for thirty (30) days thereafter, the Registrar shall establish a new record date for the payment of such interest, to be known as a Special Record Date. The Registrar shall establish a Special Record Date when funds to make such interest payment are received from or on behalf of the City. Such Special Record Date shall be fifteen (15) days prior to the date fixed for payment of such past due interest, and notice of the date of payment and the Special Record Date shall be sent by United States mail, first class postage prepaid, not later than five (5) days prior to the Special Record Date, to each affected Owner of record as of the close of business on the day prior to the mailing of such notice.

10. Ownership; Unclaimed Principal and Interest. The City, the Registrar and any other person may treat the person in whose name any Certificate is registered as the absolute Owner of such Certificate for the purpose of making payment of principal or interest on such Certificate, and for all other purposes, whether or not such Certificate is overdue, and neither the City nor the Registrar shall be bound by any notice or knowledge to the contrary. All payments made to the person deemed to be the Owner of any Certificate in accordance with this Section shall be valid and effectual and shall discharge the liability of the City and the Registrar upon such Certificate to the extent of the sums paid.

Amounts held by the Registrar which represent principal of and interest on the Certificates remaining unclaimed by the Owner after the expiration of three years from the date such amounts have become due and payable shall be reported and disposed of by the Registrar in accordance with the applicable provisions of Texas law including, to the extent applicable, Title 6 of the Texas Property Code, as amended.

11. Registration, Transfer, and Exchange. So long as any Certificates remain outstanding, the Registrar shall keep the Register at its principal payment office in Houston,



Texas, and, subject to such reasonable regulations as it may prescribe, the Registrar shall provide for the registration and transfer of Certificates in accordance with the terms of this Ordinance.

Each Certificate shall be transferable only upon the presentation and surrender thereof at the principal payment office of the Registrar in Houston, Texas duly endorsed for transfer, or accompanied by an assignment duly executed by the registered Owner or his authorized representative in form satisfactory to the Registrar. Upon due presentation of any Certificate in proper form for transfer, the Registrar shall authenticate and deliver in exchange therefor, within three (3) Business Days after such presentation, a new Certificate or Certificates, registered in the name of the transferee or transferees, in authorized denominations and of the same maturity and aggregate principal amount and bearing interest at the same rate as the Certificate or Certificates so presented.

All Certificates shall be exchangeable upon presentation and surrender at the principal payment office of the Registrar in Houston, Texas, for a Certificate or Certificates of like maturity and interest rate and in any authorized denomination, in an aggregate amount equal to the unpaid principal amount of the Certificate or Certificates presented for exchange. The Registrar shall be and is hereby authorized to authenticate and deliver exchange Certificates in accordance with the provisions of this Section. Each Certificate delivered in accordance with this Section shall be entitled to the benefits and security of this Ordinance to the same extent as the Certificate or Certificates in lieu of which such Certificate is delivered.

The City or the Registrar may require the Owner of any Certificate to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with the transfer or exchange of such Certificate. Any fee or charge of the Registrar for such transfer or exchange shall be paid by the City.

12. Mutilated, Lost, or Stolen Certificates. Upon the presentation and surrender to the Registrar of a mutilated Certificate, the Registrar shall authenticate and deliver in exchange therefor a replacement Certificate of like maturity, interest rate, and principal amount, bearing a number not contemporaneously outstanding. If any Certificate is lost, apparently destroyed, or wrongfully taken, the City, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Certificate has been acquired by a bona fide purchaser, shall authorize and the Registrar shall authenticate and deliver a replacement Certificate of like maturity, interest rate and principal amount, bearing a number not contemporaneously outstanding.

The City or the Registrar may require the Owner of a mutilated Certificate to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith and any other expenses connected therewith, including the fees and expenses of the Registrar.

The City or the Registrar may require the Owner of a lost, apparently destroyed or wrongfully taken Certificate, before any replacement Certificate is issued, to:

(1) furnish to the City and the Registrar satisfactory evidence of the ownership of and the circumstances of the loss, destruction or theft of such Certificate;

(2) furnish such security or indemnity as may be required by the Registrar and the City to save them harmless;

(3) pay all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Registrar and any tax or other governmental charge that may be imposed; and

(4) meet any other reasonable requirements of the City and the Registrar.

If, after the delivery of such replacement Certificate, a bona fide purchaser of the original Certificate in lieu of which such replacement Certificate was issued presents for payment such original Certificate, the City and the Registrar shall be entitled to recover such replacement Certificate from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Registrar in connection therewith.

If any such mutilated, lost, apparently destroyed or wrongfully taken Certificate has become or is about to become due and payable, the City in its discretion may, instead of issuing a replacement Certificate, authorize the Registrar to pay such Certificate.

Each replacement Certificate delivered in accordance with this Section shall be entitled to the benefits and security of this Ordinance to the same extent as the Certificate or Certificates in lieu of which such replacement Certificate is delivered.

13. Cancellation of Certificates. All Certificates paid in accordance with this Ordinance, and all Certificates in lieu of which exchange Certificates or replacement Certificates are authenticated and delivered in accordance herewith, shall be canceled and destroyed upon the making of proper records regarding such payment. The Registrar shall furnish the City with appropriate certificates of destruction of such Certificates.

14. Optional and/or Mandatory Redemption. The Certificates are subject to optional and/or mandatory redemption as set forth in the Form of Certificate in this Ordinance.

If the Purchaser is not the sole Owner of the Certificates, notice of any redemption identifying the Certificates to be redeemed in whole shall be given by the Registrar at least thirty days prior to the date fixed for redemption by sending written notice by first class mail, postage prepaid, to the Owner of each Certificate to be redeemed in whole or in part at the address shown on the Register. Such notices shall state the redemption date, the redemption price and the place at which Certificates are to be surrendered for payment. Any notice given as provided in this



Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice. By the date fixed for redemption, due provision shall be made with the Registrar for payment of the redemption price of the Certificates, plus accrued interest to the date fixed for redemption. When Certificates have been called for redemption in whole and due provision has been made to redeem the same as herein provided, the Certificates shall no longer be regarded as outstanding except for the purpose of receiving payment solely from the funds so provided for redemption, and the rights of the Owners to collect interest which would otherwise accrue after the redemption date on any Certificate called for redemption shall terminate on the date fixed for redemption.

15. Forms. The form of the Certificates, including the form of Registration Certificate of the Comptroller of Public Accounts, which shall be attached or affixed to the Initial Certificate, the form of the Registrar's Authentication Certificate, and the form of Assignment, shall be, respectively, substantially as follows, with such additions, deletions and variations as may be necessary or desirable and not prohibited by this Ordinance, including any legend regarding bond insurance if such insurance is obtained by the Purchaser:

(a) Form of Certificate.

UNITED STATES OF AMERICA  
STATE OF TEXAS  
COUNTY OF MONTGOMERY

REGISTERED  
NUMBER

\_\_\_\_\_

REGISTERED  
DENOMINATION  
\$ \_\_\_\_\_

CITY OF MAGNOLIA, TEXAS  
TAX AND REVENUE CERTIFICATES OF OBLIGATION  
SERIES 2019

INTEREST RATE:  
2.250%

MATURITY DATE:  
November 1, 2034

ISSUANCE DATE:  
November 21, 2019\_

REGISTERED OWNER:

PRINCIPAL AMOUNT:

DOLLARS

The City of Magnolia, Texas (the "City") promises to pay to the registered owner identified above, or registered assigns, on the maturity date specified above, upon presentation and surrender of this Certificate at Zions Bancorporation, N.A. (the "Registrar") at its principal



payment office in Houston, Texas, the principal amount identified above, payable in any coin or currency of the United States of America which on the date of payment of such principal is legal tender for the payment of debts due the United States of America, and to pay interest thereon at the rate shown above, calculated on the basis of a 360-day year of twelve 30-day months, from the later of the Issuance Date specified above, or the most recent interest payment date to which interest has been paid or duly provided for. Interest on this Certificate is payable by check on May 1 and November 1, beginning on May 1, 2020, mailed to the registered owner of record as of the close of business on the fifteenth calendar day of the month next preceding each interest payment date or by such other method acceptable to the Registrar, requested by, and at the risk and expense of, the registered owner.

THIS CERTIFICATE is one of a duly authorized issue of certificates of obligation dated November 1, 2019, aggregating \$11,255,000 (the "Certificates"), for the purpose of evidencing the indebtedness of the City for all or any part of the costs associated with the (i) construction, renovation or acquisition of (i) construction, acquisition, renovation and equipment of improvements to the City water and sewer system, including the expansion of the Wastewater Treatment Plant, and (ii) the cost of professional services incurred in connection therewith, issued in accordance with the Constitution and laws of the State of Texas, particularly Subchapter C of Chapter 271, Texas Local Government Code, and pursuant to an ordinance duly adopted by the City Council of the City (the "Ordinance"), which Ordinance is of record in the official minutes of the City Council.

THE CITY RESERVES THE RIGHT to redeem the Certificates prior to their stated maturity in whole or in part anytime at par plus accrued interest on the principal amounts called for redemption to the date fixed for redemption.

THE CERTIFICATES are subject to mandatory redemption prior to maturity in the amounts and on the dates set forth below, at a price equal to the principal amount to be redeemed plus accrued interest to the redemption date:

<u>Redemption</u> <u>Date</u>	<u>Principal</u> <u>Amount</u>
11/01/2020	\$640,000
11/01/2021	655,000
11/01/2022	665,000
11/01/2023	680,000
11/01/2024	700,000
11/01/2025	715,000
11/01/2026	730,000
11/01/2027	745,000
11/01/2028	765,000
11/01/2029	780,000
11/01/2030	800,000
11/01/2031	815,000
11/01/2032	835,000

11/01/2033	855,000	
11/01/2034	875,000	(maturity)

The particular Certificates to be redeemed shall be selected by lot by the Registrar by lot or other customary random selection method, on or before January 15 of each year in which such Certificates are to be mandatorily redeemed. The principal amount of Term Certificates to be mandatorily redeemed in each year shall be reduced by the principal amount of such Certificates that have been acquired by the City and delivered to the Registrar for cancellation or have been optionally redeemed and which have not been made the basis for a previous reduction.

NOTICE OF ANY REDEMPTION shall be given at least thirty (30) days prior to the date fixed for redemption by first class mail, addressed to the registered owner of each Certificate to be redeemed in whole at the address shown on the books of registration kept by the Registrar. When Certificates have been called for redemption, and due provision has been made to redeem the same, the principal amounts so redeemed shall be payable solely from the funds provided for redemption, and interest which would otherwise accrue on the amounts called for redemption shall terminate on the date fixed for redemption.

THIS CERTIFICATE is transferable only upon presentation and surrender at the principal payment office of the Registrar in Houston, Texas, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his authorized representative, subject to the terms and conditions of the Ordinance.

THE CERTIFICATES are exchangeable at the principal payment office of the Registrar in Houston, Texas for Certificates in the principal amount of \$100,000 or any integral multiple of \$5,000 in excess thereof, subject to the terms and conditions of the Ordinance.

THIS CERTIFICATE shall not be valid or obligatory for any purpose or be entitled to any benefit under the Ordinance unless this Certificate is either (i) registered by the Comptroller of Public Accounts of the State of Texas by registration certificate attached or affixed hereto or (ii) authenticated by the Registrar by due execution of the authentication certificate endorsed hereon.

THE REGISTERED OWNER of this Certificate, by acceptance hereof, acknowledges and agrees to be bound by all the terms and conditions of the Ordinance.

THE CITY has covenanted in the Ordinance that it will at all times provide a legally qualified registrar for the Certificates and will cause notice of any change of registrar to be mailed to each registered owner.

IT IS HEREBY certified, recited and covenanted that this Certificate has been duly and validly issued and delivered; that all acts, conditions and things required or proper to be performed, to exist and to be done precedent to or in the issuance and delivery of this Certificate have been performed, exist and have been done in accordance with law; and that annual



ad valorem taxes, within the limits prescribed by law, sufficient to provide for the payment of the interest on and principal of this Certificate, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in the City.

IT IS FURTHER certified, recited and represented that the surplus revenues, in an amount not to exceed \$10,000, to be derived from the operation of the City's waterworks and sanitary sewer system, after the payment of all operation and maintenance expenses thereof (the "Net Revenues"), are pledged to the payment of the principal of and interest on the Certificates; provided, however, that such pledge is and shall be junior and subordinate in all respects to the pledge of the Net Revenues to the payment of all outstanding obligations of the City and any obligation of the City, whether authorized heretofore or hereafter, which the City designates as having a pledge senior to the pledge of the Net Revenues to the payment of the Certificates. The City also reserves the right to issue, for any lawful purpose at any time, in one or more installments, bonds, certificates of obligation and other obligations of any kind payable in whole or in part from the Net Revenues, secured by a pledge of the Net Revenues that may be prior and superior in right to, on a parity with, or junior and subordinate to the pledge of the Net Revenues securing the Certificates.

IN WITNESS WHEREOF, this Certificate has been signed with the manual or facsimile signature of the Mayor and countersigned with the manual or facsimile signature of the City Secretary, and the official seal of the City has been duly impressed, or placed in facsimile, on this Certificate.

(AUTHENTICATION  
CERTIFICATE)

(SEAL)

CITY OF MAGNOLIA, TEXAS  


Mayor

  
City Secretary

(b) Form of Registration Certificate.

COMPTROLLER'S REGISTRATION CERTIFICATE:

REGISTER NO. \_\_\_\_\_

I hereby certify that this Certificate has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and that this Certificate has been registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS MY SIGNATURE AND SEAL this \_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts

(SEAL)

of the State of Texas

(c) Form of Registrar's Authentication Certificate.

AUTHENTICATION CERTIFICATE

It is hereby certified that this Certificate has been delivered pursuant to the Ordinance described in the text of this Certificate.

\_\_\_\_\_  
As Paying Agent/Registrar

By \_\_\_\_\_  
Authorized Signature  
Date of Authentication \_\_\_\_\_

(d) Form of Assignment.

ASSIGNMENT

For value received, the undersigned hereby sells, assigns, and transfers unto

\_\_\_\_\_  
(Please print or type name, address, and zip code of Transferee)

\_\_\_\_\_  
(Please insert Social Security or Taxpayer Identification Number of Transferee)  
the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints  
attorney to transfer said Certificate on the books kept for registration thereof, with full power of  
substitution in the premises.

DATED: \_\_\_\_\_

Signature Guaranteed:

\_\_\_\_\_  
NOTICE: Signature must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company

\_\_\_\_\_  
Registered Owner  
NOTICE: The signature above must correspond to the name of the registered owner as shown on the face of this Certificate in every particular, without any alteration, enlargement or change whatsoever.

16. Interest and Sinking Fund; Tax Levy. There is hereby established a separate fund of the City to be known as the "City of Magnolia, Texas, Tax and Revenue Certificates of Obligation, Series 2019 Interest and Sinking Fund" (the "Interest and Sinking Fund"), which



shall be kept separate and apart from all other funds of the City. The proceeds from all taxes levied, assessed and collected for and on account of the Certificates authorized by this Ordinance shall be deposited, as collected, in the Interest and Sinking Fund. While the Certificates or any part of the principal thereof or interest thereon remain outstanding and unpaid, there is hereby levied and there shall be annually assessed and collected in due time, form and manner, and at the same time as other City taxes are assessed, levied and collected, in each year, a continuing direct annual ad valorem tax, within the limits prescribed by law, upon all taxable property in the City, sufficient to pay the current interest on the Certificates as the same becomes due and to provide and maintain a sinking fund of not less than two percent of the principal amount of the Certificates or the amount required to pay each installment of principal of the Certificates as the same matures, whichever is greater, full allowance being made for delinquencies and costs of collection, and said taxes are hereby irrevocably pledged to the payment of the interest on and principal of the Certificates.

To pay the debt service coming due on the Certificates prior to receipt of the taxes levied to pay such debt service, there is hereby appropriated from current funds on hand, which are hereby certified to be on hand and available for such purpose, an amount sufficient to pay such debt service, and such amount shall be used for no other purpose.

17. Limited Pledge of Revenues. Pursuant to Chapter 1502, Texas Government Code, the revenues, in an amount not to exceed \$10,000, to be derived from the operation of the City's waterworks and sanitary sewer system, after the payment of all operation and maintenance expenses thereof (the "Net Revenues"), are hereby pledged to the payment of the principal of and interest on the Certificates as the same come due; provided, however, that such pledge is and shall be junior and subordinate in all respects to the pledge of the Net Revenues to the payment of all outstanding obligations of the City and any obligation of the City, whether authorized heretofore or hereafter, which the City designates as having a pledge senior to the pledge of the Net Revenues to the payment of the Certificates. The City reserves the right to issue, for any lawful purpose at any time, in one or more installments, bonds, certificates of obligation and other obligations of any kind payable in whole or in part from the Net Revenues, secured by a pledge of the Net Revenues that may be prior and superior in right to, on a parity with, or junior and subordinate to the pledge of Net Revenues securing the Certificates.

To pay the debt service coming due on the Certificates, there is hereby appropriated from current Net Revenues on hand, which are hereby certified to be on hand and available for such purpose, \$10,000.00, and such amount shall be used for no other purpose.

18. Application of Chapter 1208, Government Code. Chapter 1208, Government Code, applies to the issuance of the Certificates and the pledge of the taxes and revenues granted by the City under Sections 20 and 21 of this Ordinance, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Certificates are outstanding and unpaid such that the pledge of the taxes and revenues granted by the City under Sections 20 and 21 of this Ordinance is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the registered owners of the

Certificates the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

19. Further Proceedings. After the Initial Certificate has been executed, it shall be the duty of the Mayor and other appropriate officials and agents of the City to deliver the Initial Certificate and all pertinent records and proceedings to the Attorney General of the State of Texas, for examination and approval. After the Initial Certificate has been approved by the Attorney General, it shall be delivered to the Comptroller for registration. Upon registration of the Initial Certificate, the Comptroller (or the Comptroller's bond clerk or an assistant bond clerk lawfully designated in writing to act for the Comptroller) shall manually sign the Comptroller's Registration Certificate prescribed herein and the seal of said Comptroller shall be impressed, or placed in facsimile, thereon.

20. Sale. The sale and delivery of the Certificates to ZMFU II, Inc. ("the Purchaser") at a price of \$11,198,725 is hereby authorized, approved, ratified and confirmed, subject to the approving opinion as to the legality of the Certificates of the Attorney General of the State of Texas, and of Hunton Andrews Kurth LLP, Houston, Texas, Bond Counsel. It is hereby found and declared that the terms thereof are the most advantageous reasonably available to and in the best interests of the City. The Mayor and other appropriate officials of the City are hereby authorized to do any and all things necessary or desirable to satisfy the conditions set out therein and to provide for the issuance and delivery of the Certificates.

21. Covenants to Maintain Tax Exempt Status.

(a) Definitions. When used in this Section, the following terms have the following meanings:

"Code" means the Internal Revenue Code of 1986, as amended by all legislation, if any, enacted on or before the Issue Date.

"Computation Date" has the meaning stated in Section 1.148-1(b) of the Regulations.

"Gross Proceeds" has the meaning stated in Section 1.148-1(b) of the Regulations.

"Investment" has the meaning stated in Section 1.148-1(b) of the Regulations.

"Issue Date" for each series or sub-series of the Certificates or other obligations of the City is the respective date on which such series or sub-series of the Certificates or other obligations of the City is delivered against payment therefor.



“Net Sale Proceeds” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Nonpurpose Investment” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Proceeds” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Rebate Amount” has the meaning stated in Section 1.148-3 of the Regulations.

“Regulations” means the temporary or final Income Tax Regulations applicable to the Certificates issued pursuant to Sections 141 through 150 of the Code. Any reference to a section of the Regulations shall also refer to any successor provision to such section hereafter promulgated by the Internal Revenue Service pursuant to Sections 141 through 150 of the Code and applicable to the Certificates.

“Yield of”

(1) any Investment shall be computed in accordance with Section 1.148-5 of the Regulations, and

(2) the Certificates shall be computed in accordance with Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of or omit to use Gross Proceeds of the Certificates or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which, if made or omitted, respectively, would cause the interest on any Certificate to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City shall have received a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Certificate, the City shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the regulations and rulings thereunder, the City shall, at all times after the Issue Date of any Certificate and prior to the last stated maturity of the Certificates,

(i) exclusively own, operate, and possess all property the acquisition, construction, or improvement of which is to be financed directly or indirectly with

Gross Proceeds of the Certificates and not use or permit the use of such Gross Proceeds or any property acquired, constructed, or improved with such Gross Proceeds in any activity carried on by any person or entity other than a state or local government, unless such use is solely as a member of the general public, or

(ii) not directly or indirectly impose or accept any charge or other payment for use of Gross Proceeds of the Certificates or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with such Gross Proceeds other than taxes of general application and interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by section 141 of the Code and the regulations and rulings relating to section 141 of the Code, the City shall not use Gross Proceeds of the Certificates to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, Gross Proceeds are considered to be "loaned" to a person or entity if (1) property acquired, constructed or improved with Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes, (2) capacity in or service from such property is committed to such person or entity under a take or pay, output, or similar contract or arrangement, or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or such property are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the final stated maturity or final payment of the Certificates, directly or indirectly invest Gross Proceeds of the Certificates in any Investment (or use such Gross Proceeds to replace money so invested), if as a result of such investment the Yield of all Investments allocated to such Gross Proceeds whether then held or previously disposed of, exceeds the Yield on the Certificates.

(f) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Certificates to be federally guaranteed within the meaning of Section 149(b) of the Code and the regulations and rulings thereunder.

(g) Information Report. The City shall timely file with the Secretary of the Treasury the information required by Section 149(e) of the Code with respect to the Certificates on such forms and in such place as such Secretary may prescribe.

(h) Payment of Rebate Amount. Except to the extent otherwise provided in Section 148(f) of the Code and the regulations and rulings thereunder, the City shall:

(i) account for all Gross Proceeds of the Certificates (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments



thereof) and shall retain all records of such accounting for at least nine years after the final Computation Date. The City may, however, to the extent permitted by law, commingle Gross Proceeds of the Certificates with other money of the City, provided that the City separately accounts for each receipt and expenditure of such Gross Proceeds and the obligations acquired therewith,

(ii) calculate the Rebate Amount with respect to the Certificates not less frequently than each Computation Date, in accordance with rules set forth in Section 148(f) of the Code, Section 1.148-3 of the Regulations, and the rulings thereunder. The City shall maintain a copy of such calculations for at least three years after the final Computation Date,

(iii) as additional consideration for the purchase of the Certificates by the initial purchasers thereof and the loan of the money represented thereby, and in order to induce such purchase by measures designed to ensure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, pay to the United States the amount described in paragraph (2) above at the times, in the installments, to the place, in the manner and accompanied by such forms or other information as is or may be required by Section 148(f) of the Code and the regulations and rulings thereunder, and

(iv) exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (2) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time thereafter, including payment to the United States of any interest and any penalty required by the Regulations.

(i) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the regulations and rulings thereunder, the City shall not, at any time after the Issue Date of the Certificates and prior to the earlier of the final stated maturity or final payment of the Certificates, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Certificates not been relevant to either party.

(j) Not Hedge Bonds. The City will not invest more than fifty (50) percent of the Proceeds of the Certificates in Nonpurpose Investments having a guaranteed yield for four years or more. On the Issue Date, the City will reasonably expect that at least 85 percent of the Net Sale Proceeds of the Certificates will be used to carry out the governmental purpose of such series within three years after the Issue Date.

22. Qualified Tax-Exempt Obligations. The City hereby designates the Certificates as "qualified tax-exempt obligations" as defined in Section 265(b)(3) of the Code. With respect to such designation, the City represents the following: (a) that during the calendar year 2016, the City (including all entities which issue obligations on behalf of the City), has not designated nor

will designate obligations, which when aggregated with the Certificates will result in more than \$10,000,000 of “qualified tax-exempt obligations” being issued and (b) that the City has examined its financing needs for the calendar year 2019 and reasonably anticipates that the amount of bonds, leases, loans or other obligations, together with the Certificates and any other tax-exempt obligations heretofore issued by the City (plus those of all entities which issue obligations on behalf of the City) during the calendar year 2019, when the higher of the face amount or the issue price of each such tax-exempt obligation issued for the calendar year 2019 by the City is taken into account, will not exceed \$10,000,000.

23. Use of Proceeds. Proceeds from the sale of the Certificates shall, promptly upon receipt by the City, be applied as follows:

- (a) \$198,725 shall be used to pay costs of issuance of the Certificates.
- (b) \$11,000,000 shall be used for the purposes described in Section 3 of this Ordinance.
- (c) Any Certificate proceeds remaining after accomplishing the purposes set out in Section 3 of this Ordinance, including earnings on investments of such proceeds, shall be transferred to the Interest and Sinking Fund.

24. Sale Documents. The City hereby approves the form and content and distribution of the Term Sheet, the Bid Form and all other documents used in connection with the sale of the Certificates.

25. No Continuing Disclosure Undertaking. The City has not made an undertaking in accordance with Rule 15c2-12 of the Securities and Exchange Commission (the “Rule”) in connection with the issuance of the Certificates. The City is not, therefore, obligated pursuant to the Rule to provide continuing disclosure relating to the City or the Certificates in connection with the issuance of the Certificates.

26. Related Matters. The Mayor, the City Administrator, the City Secretary, the City’s Finance Officer, and other appropriate officials of the City are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms of this Ordinance.

27. Registrar. The form of agreement setting forth the duties of the Registrar is hereby approved, and the appropriate officials of the City are hereby authorized to execute such agreement for and on behalf of the City.

28. No Personal Liability. No recourse shall be had for payment of the principal of or interest on any Certificates or for any claim based thereon, or on this Ordinance, against any official or employee of the City or any person executing any Certificates.



29. Power to Revise Form of Documents. Notwithstanding any other provision of this Ordinance, the Mayor, City Secretary and other appropriate officials of the City are each hereby authorized to make or approve such revisions, additions, deletions and variations to this Ordinance, in the judgment of the Mayor, City Secretary and other appropriate officials of the City, and in the opinion of Bond Counsel to the City, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Ordinance, the Preliminary Official Statement, and the final Official Statement; provided, however, that any changes to such documents resulting in substantive amendments to the terms and conditions of the Certificates or such documents shall be subject to the prior approval of the City Council.

30. Open Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public, and that public notice of the time, place and purpose of said meeting was given, all as required by the Texas Open Meetings Act.

*[Signature page follows]*

PASSED AND APPROVED on the 12<sup>th</sup> day of November, 2019.



City of Magnolia, Texas

A handwritten signature in blue ink, appearing to read "TK", is written over a horizontal line.

Todd Kana, Mayor

ATTEST:

A handwritten signature in black ink, appearing to read "Lynne George", is written over a horizontal line.

Lynne George, TRMC, CPM, City Secretary

Signature Page to Ordinance Authorizing the Issuance of City of Magnolia, Texas, Tax and  
Revenue Certificates of Obligation, Series 2019