

ORDINANCE NO. 597

AN ORDINANCE OF THE CITY COUNCIL OF SOUTHLAKE, TEXAS, AUTHORIZING AND APPROVING THE CREATION OF THE SOUTHLAKE PARKS DEVELOPMENT CORPORATION; APPROVING THE CORPORATION'S ARTICLES OF INCORPORATION AND APPOINTING ITS INITIAL DIRECTORS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to the authority granted by the Development Corporation Act of 1979, Article 5190.6, Texas Revised Civil Statutes, as amended (the "Act"), this City Council finds it advisable to authorize the creation of a non-profit corporation (the "Corporation") to be named the Southlake Parks Development Corporation, to act on its behalf in financing, under the Act, eligible "projects" thereunder; and

WHEREAS, such projects are hereby deemed to be for the benefit of the public; and

WHEREAS, the Corporation may exercise such other powers for such purposes as may be consistent with the Act, and subject to the approved of the City Council from time to time; and

WHEREAS, the City of Southlake is an eligible city as defined by Section 4B of the Act; and

WHEREAS, the Corporation shall be governed by Section 4B of the Act, as now existing or as it may be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTHLAKE, TEXAS:

SECTION 1.

That the findings and declarations contained in the preambles of this Ordinance are incorporated herein as part of this Ordinance.

SECTION 2.

That this City Council hereby finds and determines that cooperative action with the Corporation will provide a means of financing needed public improvements within the City, consistent with the Act.

SECTION 3.

That this City Council hereby approves the Articles of Incorporation (the "Articles") for the Corporation in substantially the form attached hereto as Exhibit A and authorizes the filing of the Articles with the Secretary of State of Texas in accordance with the Act.

SECTION 4.

That this City Council hereby appoints those persons named in the Articles, each of whom on the date of his or her appointment is duly qualified in accordance with the Act, to serve as the initial members of the Board of Directors of the Corporation, such service to be at all times subject to the powers of the City Council under the Articles.

SECTION 5.

That it is intended that the Corporation be a duly constituted authority and instrumentality of the City, with the power to act on its behalf and to accomplish the public purposes of the City within the meaning of regulations and revenue rulings of the Treasury Department of the Internal Revenue Service of the United States promulgated under Section 103 and 115 of the Internal Revenue Code of 1986, as amended.

SECTION 6.

This ordinance shall be cumulative of all provisions of ordinances of the City of Southlake, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 7.

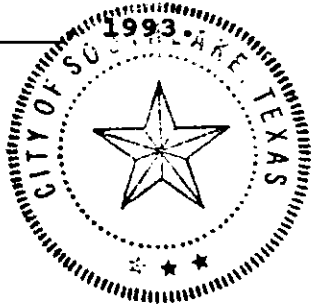
It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of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

any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 8.

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

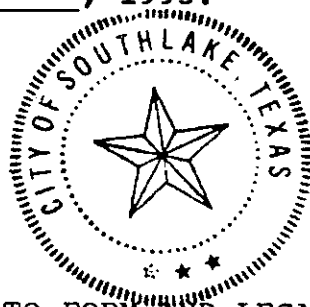
PASSED AND APPROVED ON FIRST READING ON THIS 2 DAY OF November



[Signature]
MAYOR

ATTEST:
[Signature]
CITY SECRETARY

PASSED AND APPROVED ON SECOND READING ON THIS 16 DAY OF November, 1993.



[Signature]
MAYOR

ATTEST:
[Signature]
CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:

[Signature]
City Attorney

Date: November 16, 1993

ADOPTED: November 16, 1993

EFFECTIVE: November 19, 1993

ARTICLES OF INCORPORATION
OF
SOUTHLAKE PARKS DEVELOPMENT CORPORATION

THE STATE OF TEXAS §
§
COUNTY OF TARRANT §
CITY OF SOUTHLAKE

WE, THE UNDERSIGNED natural persons, not less than three in number, each of whom is at least 18 years of age, and each of whom is a qualified elector of the City of Southlake, Texas (which is a duly established City under the Texas Constitution), acting as incorporators of a public instrumentality and nonprofit development corporation (the "Corporation") under the "Development Corporation Act of 1979", as amended, with the approval of the City Council of the City of Southlake, Texas (the "City") as evidenced by the Ordinance attached as Attachment "A" and made a part of these Articles for all purposes, do hereby adopt the following Articles of Incorporation for the Corporation:

ARTICLE ONE
NAME

The name of the Corporation is "Southlake Parks Development Corporation."

**ARTICLE TWO
AUTHORIZATION**

The Corporation is a nonprofit corporation, and is an industrial development corporation under the Development Corporation Act of 1979, Article 5190.6 Vernon's Texas Civil Statutes, (the "Act"), and shall be governed by Section 4B of said Act, as now existing or as may be amended.

**ARTICLE THREE
DURATION**

The period of duration of the Corporation is perpetual.

**ARTICLE FOUR
PURPOSE AND LIMITATIONS**

The Corporation is organized exclusively for the purposes of benefiting and accomplishing public purposes of, and to act on behalf of, the City, and the specific purposes for which the Corporation is organized, and may issue bonds on behalf of the City for the financing, development and operation of parks and recreation facilities. In particular, the Corporation shall have the authority to finance, develop, construct, maintain, and operate park and recreation facilities; and the authority to install park and recreation equipment and landscaping on park and recreation sites and facilities; and the authority to install and maintain utility lines, drainage lines, parking lots and roadways necessary and appurtenant to the park and recreation facilities to ensure that they are made available and useful to the citizens of the City of Southlake. The Corporation may finance and undertake any such

project, subject to the regulations and limitations set forth in Section 4B of the Act provided, however, that the Corporation may not undertake any specific project or type of general project that is outside the scope of park and recreational facilities as specifically set out in these Articles, unless the City Council shall first allow the voters to vote on a ballot proposition for or against that specific project or type of general project. The Corporation is authorized to issue bonds as permitted by the Act, provided, however, no bonds may be issued by the Corporation and no project may be financed with bond proceeds or other revenues of the Corporation unless such bonds or projects are first approved by the governing body of the City. The Corporation is a constituted authority and a public instrumentality within the meaning of the regulations of the United States Treasury Department and the rulings of the Internal Revenue Service prescribed and promulgated pursuant to Sections 103 and 141 of the Internal Revenue Code of 1986, as amended, and the Corporation is authorized to act on behalf of the City as provided in Articles of Incorporation. However, the Corporation is not a political subdivision or political corporation of the State of Texas within the meaning of its constitution and laws, including without limitation Article III, Section 52 of said constitution, and no agreements, bonds, debts or obligations of the Corporation are or shall ever be deemed to be the agreements, bonds, debts or obligations, or the lending of credit, or a grant of public money or thing of value, of or by the City, or any other political

corporation, subdivision or agency of the State of Texas, or a pledge of the faith and credit of any of them.

**ARTICLE FIVE
FINANCING**

(a) Before the consummation of the sale and delivery of any bonds, notes, or other forms of debt instruments, the Corporation shall obtain approval by the City Council.

(b) In the exercise of the powers of the Corporation, the Corporation may enter into loan, lease, trust, or other agreements as authorized by the Act that are necessary and appropriate to the fulfillment of the public purpose of the Corporation, all of which agreements, and the specific uses, and the methods of withdrawal and expenditure of the proceeds of the bonds, notes, or other debt instruments proposed to be issued by the Corporation, shall be stated and described in the proceedings authorizing the bonds, notes, or other debt instruments, and must be included as a part of the approval process of the City Council required above. In connection with the issuance of its obligations, the Corporation shall select bond counsel and financial advisors acceptable to the City Council and the City Manager.

(c) In the exercise of the powers of the Corporation, the Corporation may not enter into any loan, lease, trust, or other agreement the effect of which would grant, convey, transfer, mortgage, encumber, pledge or assign a security interest or any interest in any property owned by the City. Any agreement entered into by the Corporation shall contain language substantially to the

effect that any grant, conveyance, transfer, mortgage, encumbrance, pledge or assignment of property owned by the City is prohibited.

**ARTICLE SIX
MEMBERS**

The Corporation has no members and is a nonstock corporation.

**ARTICLE SEVEN
SALES TAX**

Upon receipt from the City of the proceeds of the sales and use tax imposed under Section 4B of the Act, the Corporation may use the proceeds as permitted by the Act as now existing or as may be amended.

**ARTICLE EIGHT
AMENDMENT**

These Articles of Incorporation may be amended at any time as provided in the Act, to make any changes and add any provisions which might have been included in the Articles of Incorporation in the first instance. Any amendment may be accomplished in either of the following manners:

(1) The members of the Board of Directors of the Corporation shall file with the governing body of the City a written application requesting approval of the amendments to the Articles of Incorporation, specifying in such application the amendments proposed to be made. The City Council shall consider such application and, if it shall, by ordinance, duly find and determine that it is advisable that the proposed amendments be made it shall

approve the form of the proposed amendments. The Board of Directors of the Corporation may then amend the Articles of Incorporation by adopting such amendment at a meeting of the Board of Directors and delivering said amendments to the Secretary of State; or

(2) The governing body of the City may, at its sole discretion, and at any time, amend these Articles of Incorporation and alter or change the structure, organization, programs or activities of the Corporation, or terminate or dissolve the Corporation (subject to the provisions of the Act, and subject to any limitation provided by the constitutions and laws of the impairment of contract entered into by the Corporation) by ordinance adopting the amendment to the Articles of Incorporation of the Corporation or articles of dissolution at a meeting of the governing body of the City, and delivering articles of amendment or dissolution to the Secretary of State, as provided in the Act. Restated Articles of Incorporation may be filed with the Secretary of State as provided in the Act.

ARTICLE NINE ADDRESS

The street address of the initial registered office of the Corporation is 667 North Carroll Avenue, Southlake, Texas 76092 and the name of its initial registered agent at that address is Curtis Hawk.

**ARTICLE TEN
BOARD OF DIRECTORS**

(a) The affairs of the Corporation shall be managed by a board of directors which shall be composed of seven persons appointed by the City Council of the City. The terms of the initial board of directors shall be as follows: Three (3) of the directors shall be appointed to terms expiring May 31, 1995 and four (4) of the directors shall be appointed to terms expiring May 31, 1996. Thereafter, the terms of directors shall be two (2) years, expiring on May 31 of odd numbered and even numbered years, respectively. Directors may be appointed to succeed themselves. Each director must be a resident of the City, and at least four (4) of the directors must be members of the City Council. The three (3) remaining directors must not be employees or officers of the City, or members of the City Council, and at least one of the three (3) remaining directors must be a member of the Southlake Park and Recreation Board. Any director who is a member of the City Council or the Southlake Park and Recreation Board shall cease to be a director at the time he or she ceases to be a member of the City Council or the Southlake Park and Recreation Board, but is eligible for reappointment. A majority of the entire membership of the board, including any vacancies, is a quorum. The board shall conduct all meetings within the boundaries of the City.

(b) The names and street addresses of the persons who are to serve as the initial directors and the dates of expiration of their initial terms as directors, are as follows:

<u>NAMES</u>	<u>ADDRESSES</u>	<u>EXPIRATION OF TERM</u>
<u>Gary Fickes</u>	155 <u>S. Kimball Ave</u> Southlake, Texas	5/31/96
<u>W. Ralph Evans</u>	315 <u>N. Shady Oaks</u> Southlake, Texas	5/31/96
<u>Stephen Apple</u>	2819 <u>Rainforest Ct.</u> Southlake, Texas	5/31/95
<u>Jon Michael Franks</u>	122 <u>Sam Bass Ridge Road,</u> Roanoke Southlake, Texas	5/31/95
<u>Janet Murphy</u>	1313 <u>N. White Chapel</u> Southlake, Texas	5/31/96
<u>David Yelton</u>	1346 <u>Lakeview</u> Southlake, Texas	5/31/96
<u>Larry Goldstein</u>	216 <u>Westwood</u> Southlake, Texas	5/31/95

Each director, is and must be, a qualified elector of the City. Each director, including the initial directors, shall be eligible for reappointment. Each director shall serve until a successor is appointed. Directors are removable by the City Council at any time without cause.

(c) The directors shall serve without compensation but, they shall be reimbursed for their actual expenses incurred in the performance of their duties as directors. Any vacancy occurring on the board of directors shall be filled by appointment by the City Council of a person who shall hold office until the expiration of the term. The officers of the Corporation shall be appointed by the board and shall include a president, secretary, and other officers that the City Council considers necessary.

(d) The board of directors shall elect a president, secretary and any other officers that the City Council considers necessary, to serve as executive officers of the Corporation, as more specifically provided in the Corporation's By-laws. The term of

each officer's office shall expire on May 31 of each year. The City Manager shall serve as executive director of the Corporation to provide administrative support services for the corporation.

(e) Meetings of the board of directors are subject to the Texas Open Meetings Act, Texas Government Code, Chapter 551, and the Corporation is subject to the Texas Open Records Act, Texas Government Code, Chapter 552.

**ARTICLE ELEVEN
INCORPORATORS**

The name and street address of each incorporator are:

<u>NAME</u>	<u>ADDRESS</u>	
<u>Gary Fickes</u>	<u>155 S. Kimball Avenue</u>	Southlake, Texas
<u>Janet Murphy</u>	<u>1313 N. White Chapel Blvd.</u>	Southlake, Texas
<u>David Yelton</u>	<u>1346 Lakeview</u>	Southlake, Texas

Each incorporator is a qualified elector of the City.

**ARTICLE TWELVE
CITY COUNCIL APPROVAL**

The City has specifically authorized the Corporation by ordinance to act on its behalf to further the public purposes stated in said Ordinance and these Articles of Incorporation, and the City has by said Ordinance, dated 11/16/93, approved these Articles of Incorporation.

**ARTICLE THIRTEEN
RESTRICTIONS**

No dividends shall ever be paid by the Corporation and no part of its net earnings remaining after payment of its expenses shall be distributed to or inure to the benefit of its directors or officers or any individual, firm, corporation or association, except in reasonable amounts for services rendered. Provided that if the board of directors determines that sufficient provision has been made for the full payment of the expenses, bonds and other obligations of the Corporation, then any net earnings of the Corporation thereafter accruing shall be paid to the City. In the event the Board of Directors of the Corporation shall determine that sufficient provision has been made for the full payment of the expenses, bonds and other obligations of the Corporation issued to finance its public purposes, then the Board of Directors shall convey such information to the governing body of the City and shall petition the Comptroller of Public Accounts to cease the levy and collection of the sales tax and any net earnings of the Corporation thereafter accruing shall be paid to the City. Regardless of any other provisions of these articles or the laws of the State of Texas, the Corporation shall not: (1) permit any part of the net earnings of the Corporation to inure to the benefit of any private individual (except that reasonable compensation may be paid for personal services rendered to or for the Corporation affecting one or more of its purposes); (2) carry on propaganda, or otherwise attempt to influence legislation; (3) participate in, or intervene in (including the publication or distribution of statements) any

political campaign on behalf of any candidate for public office; or (4) attempt to influence the outcome of any specific public election or to carry on, directly or indirectly, any voter registration drives.

ARTICLE FOURTEEN

If the Corporation is ever determined to be a private foundation within the meaning of Section 5.09(a) of the Internal Revenue Code of 1986, as amended (the "Code"), the Corporation:

(1) shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Code;

(2) shall not engage in any act of self-dealing as defined in Section 4941(d) of the Code;

(3) shall not retain any excess business holdings as defined in Section 4943(c) of the Code;


(4) shall not make any investments in such manner as to subject it to tax under Section 4944 of the Code; and

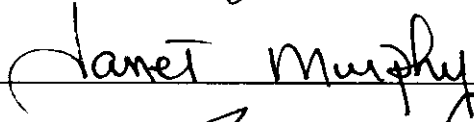
(5) shall not make any taxable expenditures as defined in Section 4945(d) of the Code.

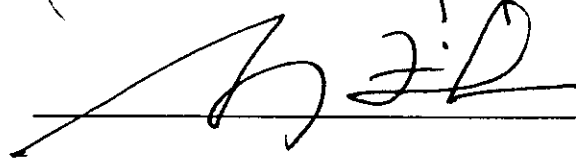
ARTICLE FIFTEEN DISSOLUTION

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 debts and claims.





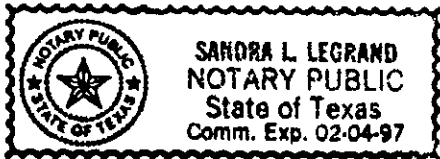


INCORPORATORS

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

I, the undersigned, a Notary Public, do hereby certify that on this 16th day of November, ~~1992~~¹⁹⁹³, personally appeared Gary Fickes, Janet Murphy, and David Yelton, who, each being by me first duly sworn, severally declared that they are the persons who signed the foregoing documents as incorporators, and that the statements therein contained are true.

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



Sandra L. LeGrand

Notary Public in and for
The State of Texas

Sandra L. LeGrand

Notary Name Typed or Printed

My Commission Expires:
2/4/97