

**APPLICATION FOR REINCORPORATION OF
THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF BAYOU LA BATRE
AS BAYOU LA BATRE INDUSTRIAL DEVELOPMENT AUTHORITY**

TO THE JUDGE OF PROBATE OF MOBILE COUNTY, ALABAMA:

The undersigned reincorporators propose to reincorporate The Industrial Development Board of the City of Bayou La Batre (the "Board") as an industrial development authority pursuant to the provisions of Chapter 92A, Title 11, *Code of Alabama*, 1975.

Each of the reincorporators is a member of the Board and a resident of Mobile County, Alabama, as follows:

Billy Ladnier

P. O. Box 475

Bayou La Batre, Alabama 36509

Cleveland Rodriquez

Cleveland Rodriquez, P. O. Box 1
Bayou La Batre, Alabama 36509

Terri Sue Smith

13391 North Wintzell Avenue

Bayou La Batre, Alabama 36509

The reincorporators request that the Mobile County Commission, as governing body of Mobile County, Alabama, adopt a resolution declaring the expediency of reincorporating the Board as an industrial development authority, approving this written application and authorizing the undersigned reincorporators to proceed with the proposed reincorporation by filing for record articles of reincorporation in accordance with the provisions of Chapter 92A, Title 11, *Code of Alabama*, 1975. Attached to this application as Exhibit A is the form of Articles of Reincorporation of the proposed authority.

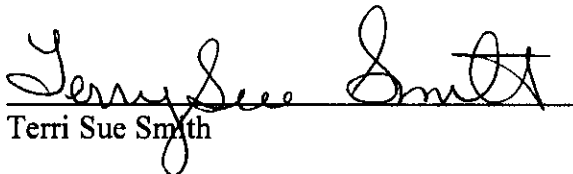
IN WITNESS WHEREOF, the undersigned reincorporators have hereunto subscribed their signatures to this application for reincorporation this 16th day of August, 2006.



Billy Ladnier



Cleveland Rodriquez

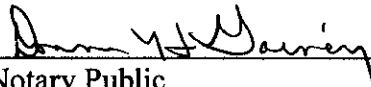


Terri Sue Smith

STATE OF ALABAMA)
MOBILE COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Billy Ladnier, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 16th day of August, 2006.



Notary Public

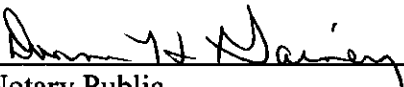
[SEAL]

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: June 14, 2009
My commission expires: BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF ALABAMA)
MOBILE COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Cleveland Rodriquez, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 16th day of August, 2006.



Notary Public

[SEAL]

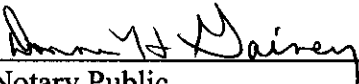
NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: June 14, 2009
My commission expires: BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF ALABAMA)

MOBILE COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Terri Sue Smith, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 16th day of August, 2006.



Notary Public

[SEAL]

My commission expires: **NOTARY PUBLIC STATE OF ALABAMA AT LARGE**
MY COMMISSION EXPIRES: June 14, 2009
BONDED THRU NOTARY PUBLIC UNDERWRITERS

Exhibit A

ARTICLES OF REINCORPORATION

OF

BAYOU LA BATRE INDUSTRIAL DEVELOPMENT AUTHORITY

TO THE JUDGE OF PROBATE OF MOBILE COUNTY, ALABAMA:

This is to certify that, for the purpose of reincorporating The Industrial Development Board of the City of Bayou La Batre (the "Board") as an industrial development authority pursuant to the provisions of Chapter 92A, Title 11, *Code of Alabama* (1975), the undersigned incorporators, each a member of the Board and a resident of Mobile County, Alabama, do hereby make, adopt, and file the following Articles of Reincorporation:

**ARTICLE I
NAME**

The name of the corporation (hereinafter referred to as the "Authority") shall be:

Bayou La Batre Industrial Development Authority

**ARTICLE II
PERIOD**

The existence and duration of the Authority shall be perpetual.

**ARTICLE III
PURPOSES**

The purposes for which the Authority is formed are:

A. To engage in the solicitation and promotion of industry, industrial development and other concerns and to induce such enterprises to locate, expand, improve their operations, or remain in: (1) that portion of Mobile County, Alabama which is located within the corporate limits of the City of Bayou La Batre existing on the date of filing these Articles of Reincorporation with the Judge of Probate of Mobile County, Alabama (the "Present Bayou La Batre City Limits"), or (2) that portion of Mobile County, Alabama which lies outside of the Present Bayou La Batre City Limits but which lies within a 25 mile radius thereof (excluding that portion which lies within the corporate limits of another city or town in Mobile County, Alabama).

B. The transaction of any or all lawful business for which authorities may be incorporated under the provisions of Chapter 92A, Title 11, *Code of Alabama* (1975) as the same may be amended from time to time.

ARTICLE IV POWERS

The powers of the Authority are and shall be those provided by Section 11-92A-12, *Code of Alabama* (1975) as the same may be amended from time to time, including but not limited to, the power:

A. To have succession by its corporate name until dissolved as provided herein or by operation of law;

B. To institute and defend legal proceedings in any court of competent jurisdiction and proper venue;

C. To have and to use a corporate seal and to alter the seal at its pleasure;

D. To establish a fiscal year;

E. To sell and issue its bonds for any of the purposes authorized in Section 11-92A-12, *Code of Alabama* (1975).

F. To anticipate by the issuance of its bonds the receipt of any revenues that may be appropriate by or to the Authority;

G. To pledge the proceeds of such appropriations as security for the payment of the principal of and interest on its bonds;

H. To make surveys and other analyses to determine suitable locations for prospective industries;

I. To make surveys and other analyses to determine the availability of labor and to classify such labor in terms of skills and educational levels;

J. To assist other public persons in the survey and analyses of their industrial resources and needs;

K. To make grants of money to other public persons and to any organization which is described in Section 501(c)(3) of the Internal Revenue Code of 1986, as in effect from time to time, or as recodified, or any corresponding provision of any future revenue law;

L. To accept gifts, grants, bequests, or devises;

M. To accept grants of money from public persons and to enter into binding agreements with those entities, with or without consideration;

N. To enter into leases or other agreements with any person;

O. To require and/or accept lease payments or other compensation to or for the Authority or other public persons in lieu of sales, use, mortgage, lease, ad valorem, and/or other taxes;

P. To accept donations of money or real or personal or mixed property;

Q. To invest in bank deposits, U. S. Treasury bills, projects, instruments, real, personal, or mixed property, and such other investments as the Board of Directors may from time to time determine to be appropriate and convenient to accomplish any purpose for which the Authority is organized, including works of internal improvement, interests in private or corporate enterprises, loans of money or credit to individuals, associations or corporations, or the lending of the Authority's credit, granting of public money or things of value in aid of or to any individual, association, or corporation whatsoever, or becoming a stockholder in any such corporation, association, or company by issuing bonds or otherwise even though such might be in violation of Section 93 or Section 94 of the Constitution of Alabama of 1901 if done by the state, a county, city, town, or other subdivision of the state, notwithstanding the fact that any such investment or action may involve the expenditure or appropriation of funds received from a public person. In particular, but not by way of limitation, the Authority may invest its funds (from whatever source) in the stock, bonds, debentures, notes, or other securities issued by any person locating a project in Mobile County, Alabama, may enter into contracts or options (including contracts or options for the sale or lease of property) to any such person at less than arms' length and at bargain rates, purchase prices, rents, or the like, and make direct grants of money, property, or services (from whatever source) to any such person for the purpose of inducing any such person to locate a project in Mobile County, Alabama;

R. To appoint and employ such employees, staff members, attorneys, agents, fiscal agents, underwriters, issuers of letters of credit, depositories, banks, trustees, paying agents, transfer agents, remarketing agents, marketing agents, rating agencies, insurers of its securities, guarantors of its securities, providers of other forms of credit enhancement for its securities, and the like as the Authority may require or deem appropriate for the carrying out of its corporate purposes and the exercise of its powers;

S. To acquire real property for the purpose of establishing one or more than one industrial parks; to improve such industrial parks, including the improvement of such parks by the construction of roads, curbing, gutters, drainage, sewerage, utilities, railroad spurs, docks, harbors, ports, grading, and the like; to construct, for its own account or the account of others, improvements thereon, including any project, for the purpose of leasing or selling the same to any person, including the power to lease or sell the same for its own account at a profit, or to construct the same to constitute an inducement for any person to locate and operate a project in such industrial park, even though such person may not have been identified at the time such improvement may be constructed;

T. To exercise all powers granted hereunder in such manner as the Authority may determine to be consistent with the purposes of Alabama statutes, notwithstanding that as a consequence of the exercise of such powers the Authority engages in activities that may be deemed "anticompetitive" within the contemplation of the antitrust laws of the State of Alabama or of the United States; and

U. To enter into such contracts, agreements, options, leases, deeds, and other instruments, and to take such other actions as may be necessary or convenient to accomplish any purpose for which the Authority is organized or to exercise any power expressly granted by statute.

**ARTICLE V
PRINCIPAL OFFICE**

The location and street address of the principal office of the Authority shall be Bayou La Batre City Hall, Bayou La Batre, Alabama 36509, Attention: Bayou La Batre Industrial Development Authority. The principal office may be changed to another site within the boundaries of Mobile County by resolution of the Board of Directors duly filed with the Judge of Probate of Mobile County, Alabama.

**ARTICLE VI
INCORPORATORS**

The names and addresses of the incorporators are as follows:

NAME	ADDRESS
Billy Ladnier	_____ Bayou La Batre, Alabama _____
Cleveland Rodriquez	_____ Bayou La Batre, Alabama _____
Terri Sue Smith	_____ Bayou La Batre, Alabama _____

**ARTICLE VII
DIRECTORS**

A. The business and affairs of the Authority shall be managed under the direction of a Board of Directors and all powers shall be exercised by or under authority of the Board except as may be otherwise provided in these Articles of Reincorporation or by statute. In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized:

1. To adopt By-Laws, not inconsistent with state law, making provisions for its actions, or alter, amend, or repeal the By-Laws; provided, however, that the Board of Directors may not alter, amend, or repeal any by-law establishing what constitutes a quorum at its meetings, or any by-law which was adopted by the Board of Directors and specifically provides that it cannot be altered, amended or repealed by the Board of Directors.

2. To take any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof without a meeting, if a written consent thereto is signed by all the members of the Board or of such committee, as the case may be, and such

written consent is filed with the minutes of proceedings of the Board or committee. Action taken under this section is effective when the last director or committee member signs the written consent, unless the consent specifies a different effective date.

B. The Board of Directors shall have a chairman, vice chairman, secretary, and treasurer, to be elected by the Board of Directors. The offices of secretary and treasurer may, but need not, be held by the same person. A majority of the directors shall constitute a quorum for the transaction of business. No director shall draw any salary for any service rendered or for any duty performed as director. The duties of chairman, vice chairman, secretary and treasurer shall be such as are customarily performed by such officers and as may be prescribed by the Board of Directors from time to time.

C. Directors must be residents of Mobile County, Alabama. If any director ceases to be a resident, such person shall cease to be a director and such position shall remain vacant until a successor is appointed in accordance with these Articles of Reincorporation.

D. The number of directors constituting the initial Board of Directors of the Authority shall be seven (7). Such initial members shall consist of those persons serving on the Board of Directors of The Industrial Development Board of the City of Bayou La Batre on the date immediately preceding the date on which these Articles of Reincorporation are filed with the Judge of Probate of Mobile County, Alabama (the "Filing Date"). Such initial members shall hold office until the next regularly scheduled meeting of the City Council of the City of Bayou La Batre, Alabama after the Filing Date or until their successors shall have been appointed in accordance with Article VII, paragraph F, herein.

E. Upon the expiration of the term of any initial member, all appointments shall be for a period of four (4) years.

F. All directors shall serve until their successors are duly appointed or until they cease to be qualified. Vacancies on the Board of Directors shall be filled by appointment through appropriate resolution by the City Council of the City of Bayou La Batre, Alabama, but any person appointed to fill a vacancy shall serve only for the unexpired portion of the term. In the event any uncertainty arises as to the terms of office of the directors, the governing body of the City of Bayou La Batre, Alabama may clarify such term by adoption of an appropriate resolution or by execution of an appropriate certificate, and such term of office shall be as so clarified.

G. Notice of any meeting of the members of the Board of Directors shall be as provided in the By-Laws or, if the By-Laws make no provision for such notice, then as determined in the discretion of the Chairman of the Board of Directors. Notice of any meeting may be waived by any director before, at, or after the meeting and may be communicated by letter, telegraph, telex, telecopy or similar means. Attendance at any meeting for any purpose other than to protest the holding of the meeting shall constitute waiver of notice.

H. A majority of the directors shall constitute a quorum for the transaction of business, but any meeting of the Board of Directors may be adjourned from time to time by a majority of the directors present, or may be so adjourned by a single director if such director is

the only director present at such meeting. No vacancy in the membership of the Board of Directors shall impair the right of a quorum to exercise all the powers and perform all the duties of the Board. The Board shall hold regular meetings at such times as may be provided in the By-Laws of the Authority, and may hold other meetings at any time and from time to time upon such notice as may be required by the By-Laws of the Authority or, if the By-Laws make no provision for such notice, then as determined in the discretion of the Chairman of the Board of Directors, and must, upon call of the Chairman of the Authority or a majority of the total number of directors, hold a special meeting. Any matter on which the Board of Directors is authorized to act may be acted upon at any regular, special, or called meeting. At the request of any director, the vote on any question before the Board of Directors shall be taken by yeas and nays and entered upon the record. All resolutions adopted by the Board of Directors shall constitute actions of the Authority.

I. The Board of Directors may act by a written consent signed by all directors, which consent shall have the same effect as unanimous action taken at a duly held meeting of the Board of Directors, a quorum being present. Directors may also meet by telephone conference or may attend a meeting by any two-way telephonic communication system or the like.

J. All proceedings had and done by the Board of Directors shall be reduced to writing by the secretary of the Authority and shall be signed by at least two (2) directors of the Authority present at the proceedings. Copies of such proceedings when certified by the secretary of the Authority under the seal of the Authority shall constitute prima facie evidence of the matters and things therein certified.

K. Any Director may be impeached and removed from office only in the same manner and on the same grounds provided in Section 175 of the Constitution of Alabama, 1901 and the general laws of the state for impeachment and removal of the officers mentioned in said Section 175.

ARTICLE VIII BY-LAWS

The initial By-Laws of the Authority shall be adopted by the Board of Directors. The power to alter, amend, or repeal the By-Laws or adopt new By-Laws shall be vested in the Board of Directors and shall be exercised in such manner as shall be set forth in the By-Laws and consistent with these Articles of Reincorporation.

ARTICLE IX INDEMNIFICATION AND LIMITATION OF LIABILITY

A. The directors, officers, agents and employees of the Authority may not be sued for their actions in behalf of the Authority except for actions that are known by such person to be unlawful or are performed with reckless disregard for the lawfulness of such action.

The Authority shall indemnify a director or officer who was successful, on the merits or otherwise, in the defense of any proceeding (which, for the purposes of this Article IX shall include threatened, pending or completed actions, suits or other proceedings, whether civil, criminal, administrative or investigative, and whether formal or informal), or of any claim, issue

or matter in such proceeding, where he or she was a party because he or she is or was a director or officer of the Authority, against reasonable expenses incurred in connection therewith, notwithstanding that he or she was not successful on any other claim, issue or matter in any such proceeding.

B. Indemnification permitted under this section is limited to reasonable expenses incurred in connection with the proceeding. No such indemnification shall apply in the case of any director or officer impeached and/or removed from office.

C. The Authority may purchase and maintain insurance, or furnish similar protection (including but not limited to trust funds, self-insurance reserves, or the like), on behalf of an individual who is or was a director, officer, employee, or agent of the Authority, or who, while a director, officer, employee, or agent of the Authority, is or was serving at the request of the Authority as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture trust, employee benefit plan, or other enterprise, against liability asserted against or incurred by him or her in that capacity or arising from his or her status as a director, officer, employee, or agent.

ARTICLE X AMENDMENT

These Articles of Reincorporation may be amended at any time and from time to time in the following manner:

A. The Board of Directors shall adopt a resolution proposing an amendment to the Articles, which amendment shall be set forth in full in the said resolution and which may include any matters that might have been included in the original articles.

B. After the adoption by the Board of Directors of a resolution proposing an amendment to the articles, the Chairman and the Secretary of the Authority shall sign and file with the Mobile County Commission a written application in the name and on behalf of the Authority, under its seal, requesting such governing body to adopt a resolution approving the proposed amendment and accompanied by a copy of the resolution adopted by the Board of Directors proposing the amendment to the Articles.

C. The Mobile County Commission, as promptly as may be practicable after the filing of the application shall review the application and shall adopt a resolution either denying the application or approving and authorizing the proposed amendment.

D. Following the adoption of a resolution approving the proposed amendment by the Mobile County Commission, the Chairman and the Secretary of the Authority shall sign and file for record in the office of the Probate Judge a certificate in the name and on behalf of the Authority, under its seal, reciting the adoption of resolutions by the Board and by the Mobile County Commission in setting forth the proposed amendment.

E. Once such certificate has been filed and recorded by the Probate Judge, the amendment shall become effective.

**ARTICLE XI
TRANSFER OF ASSETS AND ASSUMPTION OF LIABILITIES**

The Authority shall possess all assets, rights, immunities, and franchises of the Board, including all property, whether real, personal and mixed, and all debts due the Board. These assets are taken and deemed to be transferred to and vested in the Authority by operation of law without any further act or deed by the Board, the Authority, or any other party. Title to any real estate or interest therein held by the Board shall be deemed transferred to the Authority and shall not revert or be in any way impaired by reason of the reincorporation of the Board as the Authority. In addition, the Authority shall assume all liabilities and obligations of the Board, whether or not presently known.

**ARTICLE XII
DISSOLUTION OF AUTHORITY; DISTRIBUTION OF ASSETS ON DISSOLUTION**

A. Any time when no bonds of the Authority are outstanding, the Authority may be dissolved by the adoption by its Board of Directors of a resolution recommending its dissolution and the approval of such dissolution by the Mobile County Commission and the adoption of a resolution to the effect that the Mobile County Commission concurs.

B. Upon the dissolution, the Chairman and Secretary of the Authority shall execute articles of dissolution reciting that such resolutions have been adopted and that the Authority has been dissolved. The articles of dissolution shall be filed with the Probate Judge.

C. Upon dissolution of the Authority, title to all of its property shall be vested in the City of Bayou La Batre, Alabama.

IN WITNESS WHEREOF, the undersigned incorporators have hereunto subscribed their signatures to these Articles of Reincorporation this _____ day of _____, 2006.

Billy Ladnier

Cleveland Rodriquez

Terri Sue Smith

This document prepared by:
Alex B. Leath, III
BALCH & BINGHAM LLP
1901 Sixth Avenue North, Suite 2600
Birmingham, Alabama 35203

State of Alabama-Mobile County
I certify this instrument was filed on:
September 1, 2006 @ 2:59:40 PM
TOTAL AMOUNT \$0.00
2006067194
Don Davis, Judge of Probate

STATE OF ALABAMA
PROBATE COURT OF MOBILE COUNTY
Incorporation/Amendment/Dissolution Certificate

I, **Don Davis**, as Probate Judge in and for Mobile County, Alabama, do hereby certify that the forgoing Articles, duly signed and verified pursuant to the provisions of Alabama Statute, have been received and recorded in this office and are found to comply with law in such matters. Accordingly, the undersigned Probate Judge, by the authority so vested, hereby issues this Certificate.

Given under My Hand and Official Seal of the Probate Court of Mobile County, Alabama this **Friday, September 01, 2006**



Don Davis, Probate Judge
Mobile County, Alabama

Recorded at Book: 6036
Page: 1404
Clerk: PCRC09

