

City of Houston, Texas, Ordinance No. 96-1337

**AN ORDINANCE DESIGNATING A CONTIGUOUS GEOGRAPHIC AREA WITHIN THE CITY OF HOUSTON (MEMORIAL HEIGHTS AREA) AS REINVESTMENT ZONE NUMBER FIVE, CITY OF HOUSTON, TEXAS; CREATING A BOARD OF DIRECTORS FOR SUCH ZONE; CONTAINING FINDINGS AND PROVISIONS RELATED TO THE FOREGOING SUBJECT; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.**

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WHEREAS, pursuant to Chapter 311 of the Texas Tax Code, the City may designate a contiguous geographic area within the City as a reinvestment zone if the area satisfies the requirements of certain sections of Chapter 311 of the Texas Tax Code; and

WHEREAS, the City has prepared a preliminary reinvestment zone financing plan, which provides that City of Houston ad valorem taxes are to be deposited into the tax increment fund, and that taxes of other taxing units may be utilized in the financing of the proposed zone; and

WHEREAS, the City provided notice to other taxing units levying taxes on property within the proposed zone of the public hearing on the creation of the proposed zone; and

WHEREAS, a notice of the December 18, 1996, public hearing on the creation of the proposed zone was published on December 11, 1996, in the Houston Chronicle, a newspaper of general circulation in the City; and

**WHEREAS**, Harris County, pursuant to Section 311.003, Texas Tax Code, has waived any applicable Texas Tax Code requirements that it receive sixty (60) days' notice of the public hearing on the creation of the proposed zone; and

**WHEREAS**, the Houston Independent School District, pursuant to Section 311.003, Texas Tax Code, has waived any applicable Texas Tax Code requirement that it receive sixty (60) days' notice of the public hearing on the creation of the proposed zone; and

**WHEREAS**, at the public hearing on December 18, 1996, interested persons were allowed to speak for or against the creation of the proposed zone, its boundaries, or the concept of tax increment financing; and

**WHEREAS**, evidence was received and presented at the public hearing in favor of the creation of the proposed zone under the provisions of Chapter 311, Texas Tax Code, and no one appeared or presented evidence in opposition to the creation of the proposed zone.

**WHEREAS**, no owner of real property in the proposed zone protested the inclusion of his property in the proposed zone;

**WHEREAS**, evidence was presented that an approximately 2.7515 acre tract included in the boundary description in the notice of hearing on the creation of the proposed zone should be excluded from the proposed zone; and

**WHEREAS**, the total appraised value of property in the proposed zone and all other reinvestment zones previously created by the City is approximately \$263,296,790; and

**WHEREAS**, the total appraised value of taxable real property in the City and in the industrial districts created by the City exceeds \$55,822,800,000; and

**WHEREAS**, the total appraised value of real property taxable by Harris County, in which the proposed zone is located, is approximately \$110,604,303,000; and

**WHEREAS**, the total appraised value of real property taxable by the Houston Independent School District, within those boundaries the proposed zone is located, is approximately \$40,193,783,000; and

**WHEREAS**, the total area within the proposed zone is approximately 88 acres, excluding property that is publicly owned; and

**WHEREAS**, none of the property in the proposed zone is used for residential purposes, as that term is defined in Section 311.006(d) of the Texas Tax Code;

**NOW, THEREFORE,**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**Section 1. Findings**

(a) That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct and are adopted as part of this Ordinance for all purposes.

(b) That the City Council further finds and declares that the proposed improvements in the zone will significantly enhance the value of all the taxable real property in the proposed zone and will be of general benefit to the City.

(c) That the City Council further finds and declares that the proposed reinvestment zone meets the criteria of Section 311.0031 of the Texas Tax Code because the area is within an enterprise zone created and designated under the provisions of Chapter 2303, Texas Government Code, and

(d) That the City Council finds that the proposed zone meets the criteria of Section 311.005 of the Texas Tax Code because the proposed zone is an area that substantially impairs or arrests the sound growth of the City, retards the provision of housing accommodations; constitutes an economic and social liability and is a menace to the public health, safety, morals and welfare in its present condition and use because of the presence of:

- (1) the predominance of defective or inadequate sidewalk and street layout;
- (2) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- (3) unsanitary or unsafe conditions;
- (4) the deterioration of site or other improvements;
- (5) the existence of conditions that endanger life or property by fire or other cause; and

(e) That City Council further finds and declares that the proposed zone meets the criteria of Section 311.005 of the Texas Tax Code because the area is predominantly open and, because of obsolete platting, deteriorating site improvements and other factors, substantially impairs or arrests the sound growth of the municipality; and

(f) That the City Council, pursuant to the requirements of Chapter 311, Texas Tax Code, further finds and declares:

- (1) That the proposed zone is a contiguous geographic area located wholly within the corporate limits of the City of Houston;
- (2) That less than ten percent of the property in the proposed zone is used for residential purposes, as the term "residential" is defined in Section 311.06(d).
- (3) That the total appraised value of taxable real property in the proposed zone, and in existing reinvestment zones, if any, does not exceed fifteen percent of the total appraised value of taxable real property in the City and in industrial districts created by the City;
- (4) That the proposed zone does not contain more than fifteen percent of the total appraised value of real property taxable by Harris County or in the Houston Independent School District;
- (5) That development or redevelopment within the boundaries of the proposed zone will not occur solely through private investment in the reasonably foreseeable future.

(e) That the City Council further finds and declares that the area to be included in the proposed zone is eligible for designation as a reinvestment zone because the proposed zone is located within the City's federally designated enterprise community which by state law is an

enterprise zone under Chapter 2303, Texas Government Code, and is eligible for designation as a reinvestment zone pursuant to Section 311.0031 of the Texas Tax Code.

**Section 2. Exception to Guidelines**

That the City hereby excepts the proposed zone from compliance with any City reinvestment zone guidelines established by the City pursuant to Resolution No. 90-203 that are applicable to the proposed zone and that the zone does not satisfy. Section 1 of Resolution No. 90-203 specifically authorizes the City Council to grant exceptions on a zone-by-zone basis.

**Section 3. Designation of the Zone**

That the City, acting under the provisions of Chapter 311, Texas Tax Code (the "Act"), including Section 311.005(a) and Section 311.0031, does hereby create and designate a reinvestment zone over the area described in Exhibit "A" and depicted in the map attached hereto as Exhibit "B." The area of the reinvestment zone is less than the proposed area of the zone for which public notice was given, the City Council having determined, after public hearing, to exclude that certain 2.7515 acre tract that is saved and excepted from the description of the reinvestment zone in Exhibit "A". The reinvestment zone shall hereafter be identified as Reinvestment Zone Number Five, City of Houston, Texas, (the "Zone").

**Section 4. Board of Directors**

That there is hereby created a Board of Directors for the Zone, which shall consist of seven (7) members. Positions One through Five on the Board of Directors shall be reserved for the City. Positions Six and Seven shall be reserved for other taxing units levying taxes within the

Zone, each of who may appoint one director. Any taxing unit that appoints a director shall be assigned a Board position number in the order the appointment is received by the City. Failure of a taxing unit to appoint a director by January 1, 1998, shall be deemed a waiver of the right to appoint a director, and the City shall be entitled to appoint persons to the position, which shall be filled as provided below. If more than two taxing units levying taxes within the Zone appoint a director, the number of directors on the Board of Directors shall be increased by one for each taxing unit above two that appoints a director to the board, provided, if more than four taxing units levying taxes within the Zone appoint a director, the number of directors on the Board of Directors shall be increased by two for each taxing unit above four that appoints a director to the board, provided, further, that the maximum number of directors shall not exceed fifteen (15). The City shall be entitled to appoint a person to one position of each of the two positions created as a result of more than four taxing units appointing directors, which position shall be filled as provided below.

The Mayor is hereby authorized to nominate and appoint the directors to Positions One through Five of the Board of Directors, any position unfilled on January 1, 1998, and any City position created by the appointment of a director by more than two taxing units levying taxes within the Zone, subject to the consent and approval of the City Council.

The directors appointed to odd-numbered positions shall be appointed for two year terms, beginning January 1, 1997, while the directors appointed to even-numbered positions shall be appointed to a one year term, beginning January 1, 1997. All subsequent appointments shall be

for two-year terms. The member of the Board of Directors appointed to Position Three is hereby designated to serve as the chair of the Board of Directors for a term beginning January 1, 1997, and ending December 31, 1997. Thereafter, the Mayor shall annually nominate and appoint, subject to City Council approval, the member to serve as chair for a term of one year beginning January 1 of the following year. The City Council authorizes the Board of Directors to elect from its members a vice chairman and such other officers as the Board of Directors sees fit.

The Board of Directors shall make recommendations to the City Council concerning the administration of the Zone. The Board of Directors shall prepare or cause to be prepared and adopt a project plan and a reinvestment zone financing plan for the Zone as described in Section 311.011, Texas Tax Code, and shall submit such plans to the City Council for its approval. The City hereby delegates to the Board of Directors all powers necessary to prepare and implement the project plan and reinvestment zone financing plan, subject to approval by the City Council, including the power to employ any consultants or enter into any reimbursement agreements payable solely from the Tax Increment Fund established pursuant to Section 7 of this Ordinance, subject to the approval of the Director of the Finance and Administration Department, that may be reasonably necessary to assist the Board of Directors in the preparation of the project plan and reinvestment zone financing plan and in the issuance of tax increment obligations.

**Section 5. Duration of the Zone**

That the Zone shall take effect on January 1, 1997, and termination of the operation of the Zone shall occur on December 31, 2016, or at an earlier time designated by subsequent ordinance,

or at such time, subsequent to the issuance of tax increment bonds, if any, that all project costs, tax increment bonds, and the interest on the bonds, have been paid in full.

**Section 6. Tax Increment Base**

That the Tax Increment Base for the Zone is the total appraised value of all real property taxable by the City and located in the Zone, determined as of January 1, 1996, the year in which the Zone was designated as a reinvestment zone (the "Tax Increment Base").

**Section 7. Tax Increment Fund**

That there is hereby created and established a Tax Increment Fund for the Zone which may be divided into subaccounts as authorized by subsequent ordinances. All Tax Increments, as defined below, shall be deposited in the Tax Increment Fund. The Tax Increment Fund and any subaccount shall be maintained at the depository bank of the City and shall be secured in the manner prescribed by law for Texas cities. The annual Tax Increment shall equal the amount by which the then-current appraised value of all taxable real property located in the Zone exceeds the Tax Increment Base of the Zone less any amounts that are to be allocated from the Tax Increment pursuant to the Act. All revenues from the sale of any tax increment bonds or other notes hereafter issued by the City, if any; revenues from the sale of property acquired as part of the tax increment financing plan, if any, and other revenues to be used in the Zone shall be deposited into the Increment Fund. Money shall be disbursed from the Tax Increment Fund only to pay project costs as defined by the Texas Tax Code, for the Zone, to satisfy the claims of holders of tax increments bonds or notes issued for the Zone, or to pay obligations incurred pursuant to

agreements entered into to implement the project plan and reinvestment zone financing plan pursuant to Section 311.001(b) of the Texas Tax Code.

**Section 8. Severability**

If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person to set circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining provisions of this Ordinance or their application to other persons or set of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or regulations connected herein shall become operative or fail by reason of any unconstitutionality, voidness or invalidity of any portion hereof, and all provisions of this Ordinance are declared severable for that purpose.

**Section 9. Open Meetings**

It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of the meeting of the City Council at which is Ordinance was adopted as posted at a place convenient and rapidly accessible at all times to the general public at the City Hall of the City for the Time required by law preceding its meeting, as required by the Open Meetings Law, Texas Government Code, ch. 551, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

**Section 10. Notices**

The contents of the notice of the public hearing, which hearing was held before the City Council on December 18, 1996, and the publication of said notice, are hereby ratified, approved and confirmed.

**Section 11. Emergency**

There exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days of its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 18<sup>th</sup> day of December, 1996.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

\_\_\_\_\_  
Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is DEC 24 1996



\_\_\_\_\_  
City Secretary

(Prepared by Legal Dept. LEONARD F. ALLEN)  
(DFM/dfm 12/18/96 Senior Assistant City Attorney)  
(Requested by Robert Litke, Director, Planning and Development Department)

## EXHIBIT "A"

### Legal Description

A Tract of land ("Tract") being approximately ~~87~~<sup>120</sup> acres starting at the intersection of the east R.O.W. line of Heights Boulevard, a 130' R.O.W. and the north R.O.W. line of Washington Avenue (80' R.O.W.) said intersection being the Point Of Beginning,

Thence, in an easterly direction along the northern R.O.W. line of Washington Avenue (also being the northern boundary line of the said Tract) to the point of intersection with the east R.O.W. line of Studemont Street, thence continuing in a easterly direction along the northern line of Washington Avenue a distance of approximately 785' to its intersection with the northerly extension of the east line of that certain 31.17 acres of land out of the John Austin Two League Grant, Abstract No. 1, described in general warranty deed from American Rice Inc., to Successor in Title American Rice, Inc., a Texas Corporation as recorded in Harris County Clerk's File No. L647116, located in the City of Houston, Harris County, Texas.

Thence, South 03° 06' 49" East, along the eastern boundary line of the above referenced 31.17 acres, a distance of approximately 2,270.81 feet to a point of intersection with the northern R.O.W. Line of Memorial Drive (120' R.O.W.)

Thence, in a westerly direction along the northern R.O.W. line of Memorial Drive (also being the southern boundary line of the said Tract) to the point of intersection with the east R.O.W. line of Heights Boulevard,

Thence, in a northerly direction along the eastern R.O.W. line of Heights Boulevard (also being the western boundary line of the said tract) to the Point Of Beginning.

SAVE AND EXCEPT, all that certain tract of land containing 2.7515 Acres (119,855.3 Square Feet) out of Lots 6,7 and 8, Block 3, Hollingsworth of the John Austin Survey, A-1, Houston, Harris County, Texas, being more particularly described by metes and bounds as follows:

Beginning at an "X" in concrete (set) at the S.E. corner of Butler Street (40' R.O.W.) and Studemont (100' R.O.W.) for the N.W. corner;

Thence, North 89°42'00" East along the south line of Butler Street, 241.74 feet to and I.R. (set) in the west line of a 50ft. R.O.W. T. & N.O. RR (GH&S.A. RR) for the N.E. corner;

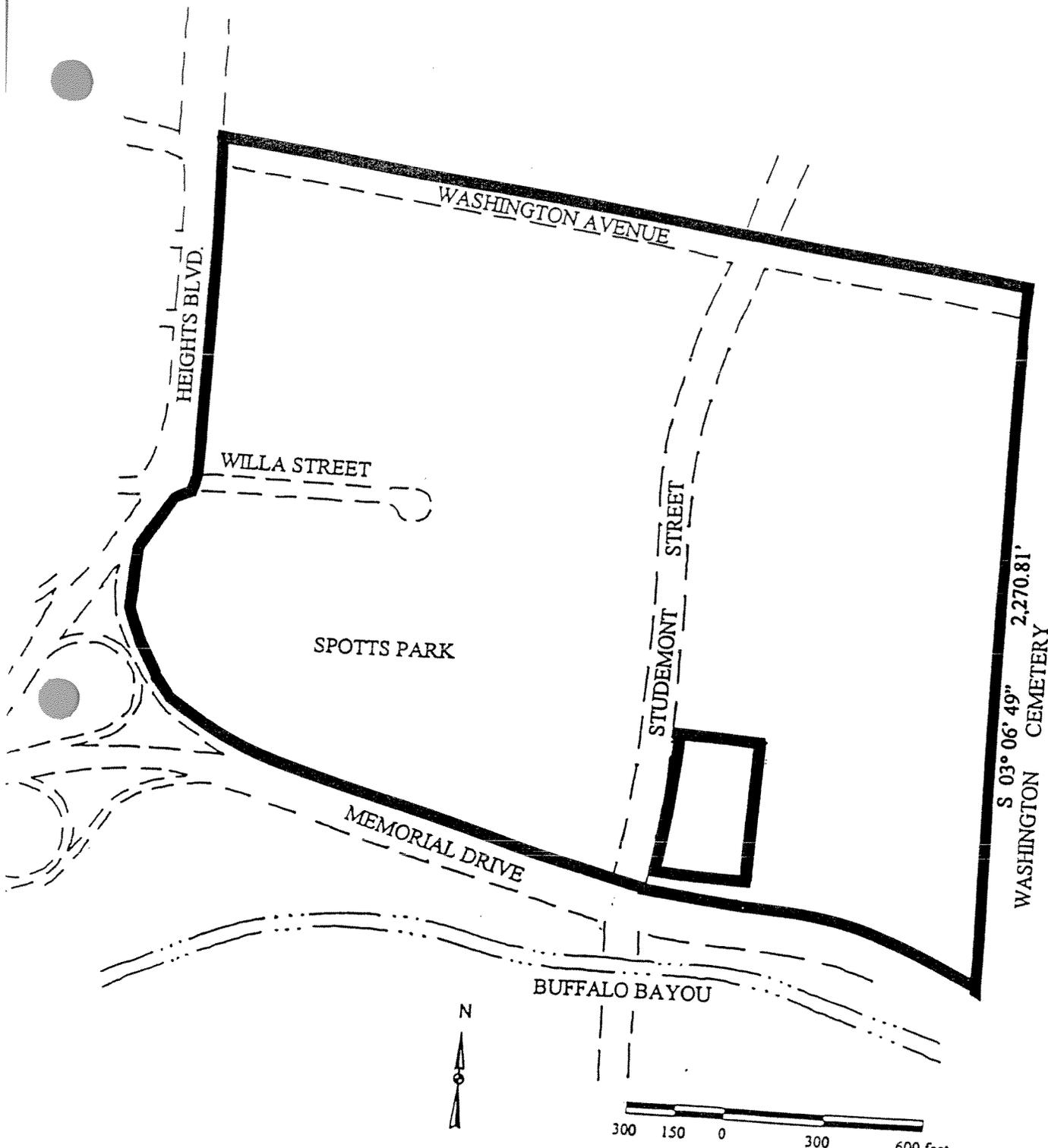
Thence, South 0°18'00" East along the west line of said T. & N.O. RR R.O.W. 466.20 feet to an I.R. (set) in the north line of a City of Houston Parks Department Tract for the S.E. corner;

Thence, North 85°18'00" West along the north line of the City of Houston Parks Department Tract, 284.53 feet to an I.R. (set) in the east line of Studemont for the S.W. corner;

Thence, in a northeasterly direction, along the east line of Studemont, a 2242.01 foot radius curve to the right (1=2 40'00") 104.34 feet to an I.R. (set) for the P.T. of a curve;

Thence, North 5°25'30" East along the east line of Studemont, 316.54 feet to an "X" in concrete (set) at the P.C. of a curve to the left;

Thence, in a northeasterly direction along the east line of Studemont, a 2392.01 feet (1=0 32'21") 22.51 feet to the Place Of Beginning.



S 03° 06' 49" 2,270.81'  
WASHINGTON CEMETERY

EXHIBIT "B"