

City of Houston, Texas, Ordinance No. 2003-1258

AN ORDINANCE DESIGNATING A CONTIGUOUS GEOGRAPHIC AREA WITHIN THE CITY OF HOUSTON GENERALLY BOUNDED BY QUITMAN STREET ON THE NORTH, U.S. HIGHWAY 59 ON THE EAST, INTERSTATE HIGHWAY 10 ON THE SOUTH, AND INTERSTATE HIGHWAY 45 ON THE WEST (HARDY/NEAR NORTHSIDE AREA) AS A REINVESTMENT ZONE FOR TAX INCREMENT FINANCING PURPOSES PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE; 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.

* * * * *

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 for the creation of a proposed reinvestment zone within a contiguous area of the City known as the Hardy/Near Northside area (the "proposed zone"), 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, prior to November 19, 2003 provided written notice of the City's intention to create the proposed zone, complying with the requirements of Section 311.003, Texas Tax Code, to the governing body of all taxing units levying taxes on property within the proposed zone; and

WHEREAS, a notice of the November 19, 2003, public hearing on the creation of the proposed zone was published on November 10, 2003, 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 the requirement that it receive notice of the City's intention to create the proposed zone sixty (60) days before 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 the requirement that it receive notice of the City's intention to create the proposed zone sixty (60) days before public hearing on the creation of the proposed zone; and

WHEREAS, at the public hearing on November 19, 2003, 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 person appeared or presented evidence against the creation of the proposed zone, its boundaries or the concept of tax increment financing; and

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

WHEREAS, the City has provided all information, and made all presentations, given all notices and done all other things required by Chapter 311, Texas Tax Code, or other law as a condition to the creation of the proposed zone; and

WHEREAS, the total appraised value of taxable real property in the proposed zone and all other reinvestment zones previously created by the City is approximately

\$8,718,648,126; and

WHEREAS, the total appraised value of taxable real property in the City and in the industrial districts created by the City is approximately \$108,368,837,580; and

WHEREAS, the total appraised value of real property taxable by Harris County, in which the proposed zone is located, is approximately \$151,838,250,000; and

WHEREAS, the total appraised value of real property taxable by the Houston Independent School District, within whose boundaries the proposed zone is located, is approximately \$58,328,892,171; and

WHEREAS, the total area within the proposed zone is approximately 219.86 acres, excluding property that is publicly owned; and

WHEREAS, approximately 13.6 acres of the property in the proposed zone is currently 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 findings and recitals 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 and requirements of Section 311.005 of the Texas

Tax Code because the proposed zone substantially impairs and 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, or welfare in its present condition and use because of the presence of:

- (1) A substantial number of substandard, slum, deteriorated, or deteriorating structures;
- (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; and
- (5) The predominance of defective or inadequate sidewalk or street layout.

(d) 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 within the meaning of Section 311.006(d), Texas Tax Code;
- (3) That the total appraised value of taxable real property in the proposed zone, and in the City's existing reinvestment zones, does not exceed fifteen percent of the total appraised value of taxable real property in the City and in the 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 the Houston Independent School District; and

(5) That development or redevelopment of the property within the boundaries of the proposed zone will not occur solely through private investment in the reasonably foreseeable future.

Section 2. Exception to Guidelines

That the City hereby excepts the proposed zone from compliance with any City tax increment 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, including Section 311.005(a), does hereby designate as a reinvestment zone, and create and designate a reinvestment zone over, the area described in Exhibit "A" and depicted in the map attached hereto as Exhibit "B" to promote the redevelopment of the area. The reinvestment zone shall hereafter be named for identification as Reinvestment Zone Number *___¹, 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

¹Sequential number of Reinvestment Zone to be inserted by City Secretary upon adoption of ordinance in accordance with Chapter 311, Tax Code.

taxing units levying taxes within the Zone, each of whom 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, 2005, 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, 2005, 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 a two year term, beginning January 1, 2004, while the directors appointed to even-numbered positions shall be appointed to a one year term, beginning January 1, 2004. All subsequent appointments shall be for two-year terms. The Mayor shall annually nominate and appoint, subject to City Council approval, a 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 adopted 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, pursuant to Section 311.010(a) of the Texas Tax Code, hereby authorizes the Board of Directors to exercise all of the City's powers necessary to administer, manage or operate the Zone and to prepare the project plan and reinvestment zone financing plan, including the power to employ consultants, legal counsel and financial advisors, or enter into any reimbursement agreements with consultants, legal counsel and financial advisors payable solely from the Tax Increment Fund established pursuant to Section 7 of this Ordinance that may be reasonably necessary or convenient to assist the Board of Directors in the administration, management or operation of the Zone and the preparation of the project plan and reinvestment zone financing plan or to implement the project plan and reinvestment zone financing plan. All such consultant contracts shall be subject to the approval of the Director of Planning and Development, who shall approve such contracts if they conform to the terms and conditions of City contracts of substantially the same or similar scope for similar services, and shall provide that (i) the Zone will not pay any consultant for services that are determined to be an ineligible project cost under the Act and (ii) the consultant shall repay the Zone for any payment made by the Zone to the consultant that is determined to be an ineligible project cost.

To expedite the elimination of contamination in the Zone at the earliest possible time thereby minimizing potential health hazards, upon creation of the Zone, developers or owners of contaminated property within the Hardy Yard who begin to remediate their contaminated property or contamination of other property attributable to their property prior to entering into a development agreement with the Zone and prior to the approval of the final project plan and reinvestment zone financing plan will not be prejudiced in their ability to be reimbursed from Tax Increments for costs associated with remediation of contaminated property that are incurred after creation of the Zone if: (i) the Director of Planning and Development authorizes the developer or property owner to commence such remediation; (ii) the remediation of that contaminated property is included in the final project plan and reinvestment zone financing plan as one of the purposes for which Zone Tax Increments may be used; (iii) a development agreement authorizing the use of Tax Increments to pay such remediation costs is later approved by the Board of Directors of the Zone and the City, or by the board of directors of a redevelopment authority created by the City; (iv) the development agreement does not obligate the Zone to reimburse the developers or property owners from any source of funds other than the Tax Increment of the contaminated property; and (v) the development agreement is approved by the Director of Planning and Development. Any reimbursement to the Hardy Partners for cleanup of the 43-acre Hardy Yard will be limited to the difference between commercial standard cleanup and residential standard cleanup, which is estimated to be \$1.2 million, and capped at \$1.5 million.

Notwithstanding the foregoing, the Board of Directors shall not be authorized to issue bonds, impose taxes or fees, exercise the power of eminent domain or give final approval to the project plan and reinvestment zone financing plan. The Board of Directors of the Zone may not exercise any power granted to the City by Section 311.008 of the Texas Tax Code, without additional authorization from the City.

Section 5. Duration of the Zone

That the Zone shall take effect immediately upon the passage and approval of this Ordinance, and termination of the operation of the Zone shall occur on December 31, 2033, 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 thereon, have been paid in full, in accordance with Section 311.017 of the Texas Tax Code.

Section 6. Tax Increment Base

That the Tax Increment Base of the City or any other taxing unit participating in the Zone for the Zone is the total appraised value of all real property taxable by the City or other taxing unit participating in the Zone and located in the Zone, determined as of January 1, 2003, the year in which the Zone is 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 funds of Texas cities. The annual Tax Increment shall equal the property taxes levied and collected by the City and any other taxing unit participating in the Zone for that year on the captured appraised value, as defined by the Act, of real property located in the Zone that is taxable by the City or any other taxing unit participating in 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, notes or other obligations hereafter issued for the benefit of the Zone by the City, if any; revenues from the sale of property acquired as part of the project plan and reinvestment zone financing plan, if any; and other revenues to be used in the Zone shall be deposited into the Tax Increment Fund. Prior to the termination of the Zone, 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 and achieve their purpose pursuant to Section 311.010(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 inoperative 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 this Ordinance was adopted was posted at a place convenient and readily accessible at all times to the

general public at the City Hall of the City for the time required by law preceding this 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 have 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. 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 17th day of December, 2003.

APPROVED this _____ day of _____, 2003.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is DEC 2 3 2003.

Ann Russell
 City Secretary

(Prepared by Legal Dept. ^{DPA} *Clark Hodson Joch* Assistant City Attorney) *51*
 (CSL/csl 12/4/2003)
 (Requested by Robert Litke, Director, Planning and Development Department)
 L.D. No. 0610200177002
 U:\TIRZ'S\Hardy\Creation\Near Northside Tirz Creation Ordinance-6.wpd

AYE	NO	2003-1258
✓		MAYOR BROWN
....	COUNCIL MEMBERS
	✓	TATRO
✓		GALLOWAY
	ABSENT DUE TO BEING ILL	GOLDBERG
✓		EDWARDS
✓		WISEMAN
✓		ELLIS
✓		KELLER
✓		VASQUEZ
✓		ALVARADO
✓		PARKER
✓		QUAN
✓		SEKULA-GIBBS
✓		BERRY
✓		ROBINSON
CAPTION	ADOPTED	

MAY 017 Rev. 7/02

CAPTION PUBLISHED IN DAILY COURT
 REVIEW
 DATE: DEC 2 3 2003

**EXHIBIT A
BOUNDARY DESCRIPTION
OF THE ZONE**

County:Harris
Project:Hardy Yard
M.S.G. No.:031055
Job Number:319-MB

BEGINNING at the intersection of the easterly right-of-way line of Maffitt Street and the northerly right-of-way line of Brooks Street for the easterly northeast corner of the herein described boundary;

THENCE, in a southerly direction, along the easterly right-of-way line of said Maffitt Street, and its projection, to its intersection with the southerly right-of-way line of Providence Street for the southeasterly corner of the herein described boundary;

THENCE, in a westerly direction, along the southerly right-of-way line of said Providence Street, to its intersection with the northerly right-of-way line of IH-10 for an angle point of the herein described boundary;

THENCE, generally in a westerly direction, along said northerly right-of-way line of IH-10, to its intersection with the northeasterly right-of-way line of IH-45;

THENCE, in a northwesterly direction, along the northeasterly right-of-way line of said IH-45, to its intersection with the extension of the northwesterly right-of-way line of Paschall Street for the westerly northwest corner of the herein described boundary;

THENCE, in a northeasterly direction, along the extension of the northwesterly right-of-way line of said Paschall Street, crossing White Oak Bayou, to the southwesterly line of the Lee Elementary School tract as recorded in Volume 275, Page 410, Volume 307, Page 52, and Volume 591, Page 208, Harris County Deed Records;

THENCE, in a southeasterly direction, along the southwesterly line of said Lee Elementary School tract, to the south corner of said Lee Elementary School tract;

THENCE, in a northeasterly direction along the southeasterly line of said Lee Elementary School tract, to the northwesterly right-of-way line of said Paschall Street;

THENCE, in a northeasterly direction, along the northwesterly right-of-way line of said Paschall Street, to its intersection with the northeasterly right-of-way line of Thomas Street for the westerly northeast corner of the herein described boundary;

THENCE, in a southeasterly direction, along the northeasterly right-of-way line of said Thomas Street to its intersection with the northwesterly right-of-way line of Gargan Street for an inner corner of the herein described boundary;

THENCE, in a northeasterly direction, along the northwesterly right-of-way line of said Gargan Street to its intersection with the southwesterly right-of-way line of Keene Street for an inner corner of the herein described boundary;

THENCE, in a northwesterly direction, along the southwesterly right-of-way line of said Keene Street to its intersection with the northwesterly right-of-way line of Henry Street for the northerly northwest corner of the herein described boundary;

THENCE, in a northeasterly direction, along the northwesterly right-of-way line of said Henry Street to its intersection with the northeasterly right-of-way line of Freeman Street for the middle northeast corner of the herein described boundary;

THENCE, in a southeasterly direction, along the northeasterly right-of-way line of said Freeman Street to its intersection with the northwesterly right-of-way line of the aforesaid Brooks Street for an inner corner of the herein described boundary;

THENCE, in a northeasterly direction, along the northwesterly right-of-way line of said Brooks Street to an angle point;

THENCE, in an easterly direction, along the northerly right-of-way line of said Brooks Street to the POINT OF BEGINNING and describing a TIRZ BOUNDARY.

