

City of Houston Ordinance No. 97-873

AN ORDINANCE APPROVING AND AUTHORIZING AN INTERLOCAL AGREEMENT BETWEEN THE CITY, REINVESTMENT ZONE NUMBER TWO, CITY OF HOUSTON, TEXAS AND MIDTOWN REDEVELOPMENT AUTHORITY FOR CERTAIN PUBLIC INFRASTRUCTURE IMPROVEMENTS; MAKING VARIOUS FINDINGS AND PROVISIONS RELATING TO THE SUBJECT; AND DECLARING AN EMERGENCY.

* * * *

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

Section 1. The City Council hereby approves and authorizes the contract, agreement or other undertaking described in the title of this Ordinance, in substantially the form as shown in the document which is attached hereto and incorporated herein by this reference. The Mayor is hereby authorized to execute such document and all related documents on behalf of the City of Houston. The City Secretary is hereby authorized to attest to all such signatures and to affix the seal of the City to all such documents.

Section 2. The Mayor is hereby authorized to take all actions necessary to effectuate the City's intent and objectives in approving such agreement, agreements or other undertaking described in the title of this ordinance, in the event of changed circumstances.

Section 3. The City Attorney is hereby authorized to take all action necessary to enforce all legal obligations under said contract without further authorization from Council.

Section 4. 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 after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 9th day of July, 1997.

APPROVED this _____ day of _____, 19____.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is JUL 15 1997

[Handwritten Signature]

City Secretary

(Prepared by Legal Dept. *[Handwritten Signature]*)
(LKH:dp 06/25/97) Sr. Assistant City Attorney

(Requested by Richard Lewis, Director, Finance & Administration)
(L.D. File No.)

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AYE	NO	
✓		MAYOR LANIER
••••	••••	COUNCIL MEMBERS
✓		HUEY
✓		YARBROUGH
✓		WONG
✓		BONEY
✓		TODD
✓		DRISCOLL
✓		KELLEY
✓		FRAGA
✓		CASTILLO
✓		SAENZ
✓		ROACH
✓		SANCHEZ
✓		BELL
✓		ROBINSON
CAPTION	ADOPTED	

CAPTION PUBLISHED IN DAILY COURT
REVIEW
DATE: JUL 15 1997

*approved by Cit
Ord. 97-873*

EXHIBIT C

038194

INTERLOCAL AGREEMENT

Between

THE CITY OF HOUSTON, TEXAS

and

REINVESTMENT ZONE NUMBER TWO, CITY OF HOUSTON, TEXAS

and

MIDTOWN REDEVELOPMENT AUTHORITY

August 27 1997

INTERLOCAL AGREEMENT

I. PARTIES

A. Introduction

THIS INTERLOCAL AGREEMENT ("Agreement") is made by and between the CITY OF HOUSTON, TEXAS ("City"), a municipal corporation and home-rule city of the State of Texas principally situated in Harris County, acting by and through its governing body, the City Council; REINVESTMENT ZONE NUMBER TWO, CITY OF HOUSTON, TEXAS, a reinvestment zone created by the City of Houston pursuant to Chapter 311 of the Texas Tax Code ("Midtown Zone"), acting by and through its Board of Directors; and the MIDTOWN REDEVELOPMENT AUTHORITY, a not-for-profit local government corporation, organized and existing under the laws of the State of Texas (the "Authority"), acting by and through its board of directors. This Agreement is made pursuant to Chapter 791 of the Texas Government Code.

B. Addresses

The initial addresses of the parties, which one party may change by giving written notice of its changed address to the other parties, are as follows:

City: Director of Public Works and
Engineering Department
or Designee
City of Houston
P. O. Box 1562
Houston, Texas 77251

Midtown Zone: Reinvestment Zone Number Two,
City of Houston, Texas
Bienville Building
3401 Louisiana Street, Suite 355
Houston, Texas 77002

Midtown Authority: Midtown Redevelopment Authority
Bienville Building
3401 Louisiana Street, Suite 355
Houston, Texas 77002

C. Index

The City, the Midtown Zone, and the Authority hereby agree to the terms and conditions of this Agreement. This Agreement consists of the following sections:

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D. Parts Incorporated

All of the above described sections and documents are hereby incorporated into this Agreement by this reference for all purposes.

IN WITNESS WHEREOF, the City, the Midtown Zone and the Authority have made and executed this Agreement in multiple copies, each of which is an original.

CITY OF HOUSTON

Mayor

Date

ATTEST/SEAL:

City Secretary

Date

COUNTERSIGNED:

City Controller

Date

APPROVED:

Director

Date

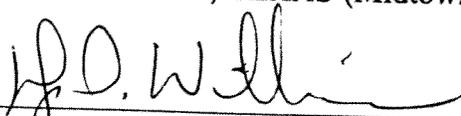
Department of Public Works and Engineering

APPROVED AS TO FORM:

Sr. Assistant City Attorney Date

L.D. No.

REINVESTMENT ZONE NUMBER TWO,
CITY OF HOUSTON, TEXAS (Midtown Zone)



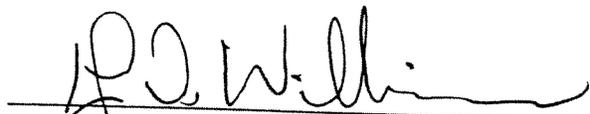
By: Doug O. Williams Date 6-23-97
Title: Chairman, Board of Directors

ATTEST/SEAL:



By: Nicole P. Cao Date
Title: Secretary, Board of Directors

MIDTOWN REDEVELOPMENT AUTHORITY



By: Doug O. Williams Date 6-23-97
Title: Chairman, Board of Directors

ATTEST/SEAL:



By: Nicole P. Cao Date
Title: Secretary, Board of Directors

II. BACKGROUND

By Ordinance No. 94-1345, dated December 14, 1994, the City created the Midtown Zone for the purposes of redevelopment in the Midtown Area. By Resolution No. 95-96, dated June 28, 1995, the City approved the creation of the Midtown Redevelopment Authority whose purpose is to promote the common good and general welfare of the Midtown Area, to promote, develop, encourage and maintain employment, commerce and economic development in Houston and to perform the other purposes described in its Articles of Incorporation. By Ordinance No. 95-1322 the City expanded the boundaries of the Midtown Zone.

By Ordinance No. 96-389, the City approved an agreement between the City, the Midtown Zone and the Authority (the "Midtown Agreement"), pursuant to which the Authority is authorized to perform certain activities relating to the development and redevelopment of the Midtown Zone as described in the Midtown Agreement, including the authority to enter into agreements with "Developer/Builders," as that term is defined in the Midtown Agreement. On May 28, 1997, by Ordinance No. 97-600, the City approved the Project Plan and Reinvestment Zone Financing Plan (the "Plans") for the Midtown Zone. The Plans include the reconstruction of certain streets and other infrastructure improvements within the Midtown Zone.

The Midtown Zone and the Authority have entered into that certain Development Agreement dated June 23, 1997, with Jefferson at Oak Place, L.P. ("JPI"), an affiliate of JPI Texas Development, Inc., and a "Developer/Builder" as that term is defined in the Midtown Agreement, pursuant to which the parties have made certain agreements with respect to the development and financing of certain infrastructure improvements to serve areas in the Midtown Zone including the apartments and ancillary parking to be known as Jefferson at Oak Place (the

"Project") within the Midtown Zone. Expedited construction of certain street, water, sewer and drainage improvements will facilitate the timely construction of the Project.

In consideration of the agreement of the City to complete the Public Works on an accelerated schedule in order to better serve the Project, the Midtown Zone desires to participate in the cost of the design and construction of the Public Works as described herein.

The City, through its Public Works and Engineering Department, plans to design and construct certain public infrastructure improvements (the "Public Works") in the vicinity of the Project. The Public Works will be designed and constructed in two phases. Phase One consists of street reconstruction, related water mains, sanitary and storm sewers west of Bagby between Webster and McGowen. A portion of Phase One consists of the reconstruction of McIlhenny from Bagby to Baldwin and Baldwin from McIlhenny to Bremond. Phase Two consists of partial street reconstruction and related water mains, sanitary and storm sewers between Webster and Pierce.

It is currently anticipated that the McIlhenny and Baldwin reconstruction portion of Phase One should begin on or about ⁸⁻¹⁵⁻⁹⁷ ~~July 1, 1997~~, and should be substantially complete on or about ⁹⁻¹⁵⁻⁹⁷ ~~July 30, 1997~~. Based on information provided by the engineering firm retained to design the Public Works, Phase One street reconstruction is currently scheduled to commence construction on or about October 1, 1997, with substantial completion scheduled on or about February 28, 1998. Partial reconstruction of Hadley, Bradley and Oak Court relevant to access to the Project as part of Phase Two will be programmed for early completion, which may occur on or about December 1, 1997. Construction of Bremond between Bagby and Oak Court will be scheduled for substantial completion as soon thereafter as practical.

For and in consideration of the mutual promises, covenants, obligations and benefits of this Agreement, the City, the Midtown Zone and the Authority contract and agree as follows:

III. OBLIGATIONS OF THE CITY

A. Construction of Public Works

The Parties acknowledge that the City has not let a contract or approved a change order for any Public Works and that such approval is a condition precedent to the commencement of construction of the Public Works. Upon satisfaction of all conditions precedent, the City will construct the Public Works in accordance with the design standards and competitive bidding procedures applicable to similar public infrastructure improvements constructed by the City. The City will endeavor to cause the construction of the Public Works to occur in accordance with the currently estimated construction schedule set forth in Section II of this Agreement, but failure of the City to achieve any construction start date or substantial completion date stated therein shall not constitute a breach of this Agreement.

Notwithstanding the foregoing, the City shall not be required to begin construction of any Public Works until both of the following conditions are satisfied:

1. The issuance by the City of a building permit for the Project; and
2. Commencement of construction of the Project by JPI, which shall be evidenced by receipt by the City of a letter from Bank United, JPI's construction lender, that the construction loan for the Project has closed.

B. Ownership and Maintenance of Public Works

Upon completion of the Public Works, the City shall assume ownership of the Public Works. All maintenance and repairs will be the responsibility of the City.

IV. OBLIGATIONS OF MIDTOWN ZONE AND THE AUTHORITY

Upon completion of the Public Works, the Midtown Zone and the Authority shall pay to the City the total of \$403,400, payable in three equal installments of \$134,466.67 each, with one installment to be made on July 1 in each of the years 2005, 2006 and 2007. The Midtown Zone and the Authority will reflect each of these payments in the appropriate annual budget the Authority is required to submit to the City Council pursuant to the Midtown Agreement. Each installment payment shall be made solely from monies paid to the Authority from the tax increment fund established by the City for the Midtown Zone pursuant to the Midtown Agreement and only to the extent that money is available on the installment payment date.

VII. MISCELLANEOUS

A. Agreement Term

This Agreement shall become effective as of the date it is countersigned by the City Controller.

B. Enforcement

The City Attorney, or his designee, shall have the right to enforce all legal rights and obligations under this Agreement without further authorization. The Midtown Zone and the Authority covenant to provide to the City Attorney all documents and records that the City Attorney deems necessary to assist in determining compliance with this Agreement.

C. Notices

All notices required or permitted hereunder shall be in writing and shall be deemed delivered on the earlier of the date of actual receipt or the third day following deposit in a United

States Postal Service post office or receptacle with proper postage affixed (certified mail, return receipt requested) addressed to the respective other party at the address prescribed in Section I of this Agreement or at such other address as the receiving party may have theretofore prescribed by notice to the sending party.

D. Assignment

No party hereto shall make, in whole or in part, or in law or otherwise, any assignment of this Agreement or any obligation hereunder without the prior written consent of the other parties hereto.

E. Governing Law

This Agreement is subject to all laws of the State of Texas, the City Charter and Ordinances of the City of Houston, the laws of the federal government of the United States of America and all rules and regulations of any regulatory body or officer having jurisdictions. Any action to enforce or interpret this Agreement shall be brought in the court of appropriate jurisdiction in Houston, Harris County, Texas. Should any provision of this Agreement require judicial interpretation, the City, the Midtown Zone and the Authority hereby agree and stipulate that the court interpreting or considering the same shall not apply the presumption that the terms hereof shall be construed against the party who prepared the same, it being agreed that all parties hereto have participated in the preparation of this Agreement and that each party had full opportunity to consult legal counsel of choice before the execution of this Agreement.

F. Third Party Beneficiary

This Agreement shall not bestow any rights upon any third party, but rather shall bind and benefit the City, the Midtown Zone and the Authority only.

G. Severability

In the event any term, covenant or condition herein contained shall be held to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other term, covenant or condition herein contained, provided that such invalidity does not materially prejudice either the City, the Midtown Zone or the Authority in their respective rights and obligations contained in the valid terms, covenants or conditions hereof.

H. Entire Agreement

This Agreement merges the prior negotiations and understandings of the parties hereto and embodies the entire agreement of the parties, and there are no other agreements, assurances, conditions, covenants (express or implied) or other terms with respect to the covenants, whether written or verbal, antecedent or contemporaneous, with the execution hereof.

I. Written Amendment

Unless otherwise provided herein, this Agreement may be amended only by written instrument duly executed on behalf of each party.

J. Non-Waiver

Failure of any party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.

K. Successors

This Agreement shall bind and benefit the parties and their legal successors. This Agreement does not create any personal liability on the part of any officer or agent of the City, the Midtown Zone or the Authority.

L. No Waiver of Immunity

No party hereto waives or relinquishes any immunity or defense on behalf of itself, its trustees, officers, employees, and agents as a result of its execution of this Agreement and performance of the covenants contained herein.

REQUEST FOR COUNCIL ACTION

SUBJECT: An Ordinance Authorizing an Interlocal Agreement between the City, Reinvestment Zone Number Two, City of Houston, Texas (Midtown) and Midtown Redevelopment Authority for certain public infrastructure improvements

Category #

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Agenda Item #

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FROM (Department or other point of origin):

Department of Public Works and Engineering

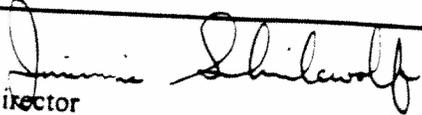
Origination Date
6/25/97

Agenda Date

JUL 09 1997

JUL 11 1997

DIRECTOR'S SIGNATURE:



Jimmie Schindewolf, P.E., Director

Council District affected:
I- Castillo, D-Boney

For additional information contact:

Richard C. Scott, P.E.
Phone: (713) 754-0739

Date and identification of prior authorizing Council action:

See Below

RECOMMENDATION: (Summary)

Approve an ordinance that authorizes an Interlocal Agreement between the City of Houston, Reinvestment Zone Number Two, City of Houston, Texas, (Midtown) and Midtown Redevelopment Authority for certain public infrastructure improvements.

Amount and Source of Funding: None required at this time.

F&A Budget:

SPECIFIC EXPLANATION:

By Ordinance Number 94-1345, dated December 14, 1994, the City created the Midtown Zone for the purposes of redevelopment in the Midtown Area. By Resolution Number 95-96, dated June 28, 1995, the City approved the creation of the Midtown Redevelopment Authority whose purpose is to promote the common good and general welfare of the Midtown Area, to promote, develop, encourage and maintain employment, commerce and economic development in Houston and to perform other purposes described in its Articles of Incorporation. By Ordinance Number 96-389, the City approved an agreement between the City, the Midtown Zone and the Authority (the "Midtown Agreement") pursuant to which the Authority is authorized to perform certain activities related to the development and redevelopment of the Midtown Zone, including the authority to enter into agreements with "Developer/Builders," as that term is defined in the Midtown Agreement. On May 28, 1997, by Ordinance Number 97-600 the City approved the Project Plan and Reinvestment Zone Financing Plan ("The Plans") for the Midtown Zone. The Plans include the reconstruction of certain streets and other infrastructure improvements within the Midtown Zone.

The Midtown Zone and the Authority have entered into an agreement with Jefferson at Oak Place, L.P. ("JPI") an affiliate of JPI Texas Development, Inc., (a "Developer Builder") pursuant to which the parties have made certain agreements with respect to the development and financing of certain infrastructure improvements to serve areas in the Midtown Zone including the apartments and ancillary parking to be known as Jefferson at Oak Place (the "Project"). The project consists of approximately 419 apartments.

REQUIRED AUTHORIZATION

CUC NUMBER

F&A Director:

Other Authorization:

Other Authorization:

Richard C. Scott, P.E.

Technical Director/City Engineer

Date 6/25/97

Subject: An Ordinance Authorizing an Interlocal Agreement between the City, Reinvestment Zone Number Two, City of Houston, Texas (Midtown) and Midtown Redevelopment Authority for certain public infrastructure improvements.

Originator's
Initials

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The infrastructure improvements include the following:

- Phase One consists of street reconstruction, related water mains, sanitary and storm sewers west of Bagby between Webster and McGowen. A portion of Phase One consists of the reconstruction of McIlhenney from Bagby to Baldwin and Baldwin from McIlhenney to Bremond.
- Phase Two consists of partial street reconstruction and related water mains, sanitary and storm sewers between Webster and Pierce.

To complete the construction of the infrastructure improvements on an accelerated schedule in order to better serve the Project, the Midtown Zone will pay to the City the total of \$403,400 which includes the design costs of all improvements and 50% of the costs of new water and sanitary sewer lines. The proposed agreement provides for Midtown to make this payment in three equal installments in the years 2005, 2006 and 2007. In addition to this participation, the Midtown Zone will construct or cause to be constructed improvements to public areas adjacent to the Project including crushed granite or concrete sidewalks, perimeter landscaping and under planting beneath existing trees along with automatic irrigation, antique style park benches and fence, and antique style pedestrian street lighting.

Upon approval of this agreement, contracts for design and subsequent construction of the infrastructure improvements will be submitted to City Council for approval.

cc: Dan Jones, Agenda Director
Jimmie Schindewolf, P.E., Chief of Staff
Richard Lewis, Finance and Administration Director
Gene Locke, City Attorney
Anna Russell, City Secretary

File No.