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November 10, 2015

OPINION COMMITTEE

FILE # RQ-0028-KP  
I.D. # 47864

Via Email: [Opinion.Committee@texasattorneygeneral.gov](mailto:Opinion.Committee@texasattorneygeneral.gov)

Via CMRRR: 7011-3500-0002-5322-6524

Office of the Attorney General

Attention Opinion Committee

PO Box 12548

Austin, Texas 78711-2548

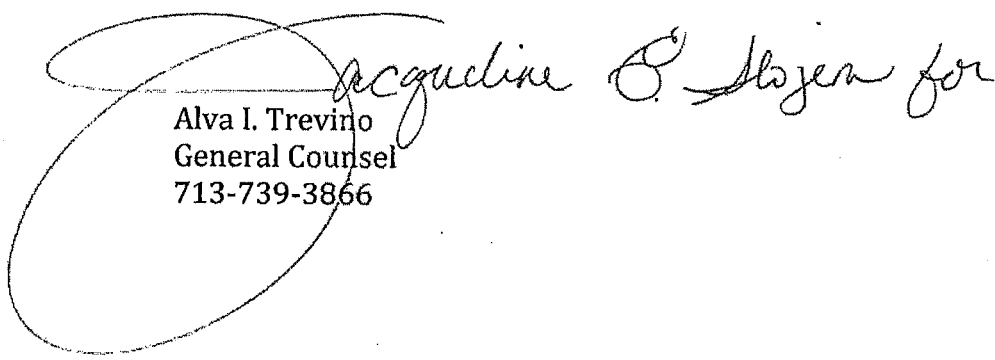
Re: Legal Brief from Metropolitan Transit Authority of Harris County, Texas  
Request for Opinion RQ-0028-KP - Senator Robert L. Nicholas

Dear Attorney General:

Enclosed herein please find the Metropolitan Transit Authority's Legal Brief as it relates to Senator Robert L. Nicholas's Request for an Opinion from your office.

Please call me with any questions or concerns,

Best regards,

  
Alva I. Trevino  
General Counsel  
713-739-3866

**Metropolitan Transit Authority of Harris County, Texas**

1900 Main • P.O. Box 61429 • Houston, Texas 77208-1429

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THE STATE OF TEXAS

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TO THE OFFICE OF

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TEXAS ATTORNEY GENERAL

COUNTY OF HARRIS

§

RQ-0028-KP

**LEGAL BRIEF FROM THE METROPOLITAN TRANSIT AUTHORITY  
RELATING TO RQ-0028-KP**

Senator Robert L. Nicholas has submitted RQ-0028-KP, a request for an opinion from your office concerning the Metropolitan Transit Authority's ("METRO") participation in a project ("Post Oak Project") sponsored by the Uptown Development Authority/TIRZ 16 and the City of Houston wherein METRO would provide buses for a dedicated bus lane on Post Oak Boulevard in Houston, Texas. As Senator Nichols mentions in his request, in a 2003 election, voters within METRO approved the issuance of bonds for light rail service, improved bus service, and other transit matters. The ballot in that election referenced future light rail lines, including the construction of a 4.4-mile light rail line on Post Oak Boulevard. Senator Nichols' request seeks an opinion on the following question: "*Given the fact that voters authorized light rail on Post Oak instead of BRT, would METRO's involvement as described herein be illegal in that it would violate the contract METRO entered into with the voters via the 2003 referendum?*"

**I. SUMMARY**

METRO's limited participation in the Post Oak Project does not violate its "contract with the voters" arising from the 2003 referendum because (1) METRO's bus service on Post Oak Boulevard (whether in a street or dedicated bus lane) is statutorily authorized and consistent with its legislative mission and its long history of routing buses on Post Oak Boulevard; (2) the specific terms of METRO's 2003 contract with the voters are clearly spelled out in Section 14 of the Notice of Special Election – requiring light rail on Post Oak Boulevard is not one of the

terms of the voter contract, nor is there any mention of a prohibition of bus service in a dedicated lane on Post Oak Boulevard; and (3) the case law on contract construction requires that the plain language of a contract is controlling and it is not proper to imply terms into a contract that are not expressly set forth.

## II. METRO'S AUTHORITY TO PROVIDE TRANSIT SERVICES

In May 1973, the Texas Legislature passed legislation that authorized the creation of a rapid transit authority in the Houston area.<sup>1</sup> On August 12, 1978, the voters of Houston and Harris County approved a ballot measure creating METRO.

METRO is a “governmental unit,” a “public political entity and corporate body that exercises public and essential governmental factors.”<sup>2</sup> As a mass transit system, METRO is charged with the responsibility of providing comprehensive, coordinated, mass public transportation utilizing buses, railways, and other modes of transportation. Pursuant to State law, METRO has the authority to construct, operate, and maintain a mass transit authority system;<sup>3</sup> and for this purpose, Texas courts have recognized METRO’s broad powers to provide transit services.<sup>4</sup> METRO is “authorized to exercise powers necessary for the creation and maintenance of a mass transit system, including the right to levy and collect taxes, issue tax and revenue bonds, and promulgate penal regulation relating to the use of the transit system.”<sup>5</sup>

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<sup>1</sup> See Act of May 21, 1973, 63rd Leg. R.S. Ch. 141, 1973 Tex. Gen. Laws 302, codified at Tex. Transp. Code § 451.001-665 (Vernon 1999).

<sup>2</sup> Tex. Transp. Code Ann § 451.052(a)(c) (Vernon 2011).

<sup>3</sup> Tex. Transp. Code § 451.052(a)(c) (Vernon 2011).

<sup>4</sup> *City of Houston v. Todd*, 41 S.W.3d 289, 295 (Tex. App.—Houston [1st Dist.] 2001, pet. denied).

<sup>5</sup> *City of Humble v. Metro. Transit Auth.*, 636 S.W.2d 484, 491 (Tex. App.—Austin 1982, writ ref’d n.r.e.).

Using this statutory authority, METRO provides both extensive bus service and light rail service within its jurisdiction. The Post Oak Boulevard area, known as Uptown, is a vibrant, expanding commercial area with significant transportation needs. METRO has provided continuous bus services on Post Oak for several decades. To meet the new growing mobility problems on Post Oak Boulevard and in the Uptown area, the Uptown Development Authority/TIRZ 16 and the City of Houston have decided to construct and utilize a dedicated bus lane and have asked METRO to provide bus service on these lanes. Since METRO has statutory authority to “contract with any person” to provide transit services<sup>6</sup> and recognizing the mobility problems of the area, METRO has agreed to assist by continuing its bus service within the dedicated bus lanes, if they are developed.

Nothing in State law prohibits METRO from providing bus service on Post Oak Boulevard in the street or in a dedicated bus lane, and nothing prohibits METRO’s participation in the Post Oak Project. State law gives METRO broad powers to carry out its purpose to provide transit services.<sup>7</sup> As will be shown below, nothing in the 2003 referendum or its contract with the voters prohibits METRO’s buses from utilizing a dedicated bus lane on Post Oak Boulevard.

### **III. 2003 ELECTION: CONTRACT WITH THE VOTERS**

In the 1990s, METRO began to develop a plan known as METROSolutions, which was intended to increase transit options in the METRO service area by adding new rail and bus lines

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<sup>6</sup> Tex. Transp. Code Ann § 451.055(a) (Vernon 2011).

<sup>7</sup> Tex. Transp. Code Ann § 451.054(a) (Vernon 2011).

and by making contributions to street improvements.<sup>8</sup> In August 2003, METRO called a special election to get voter approval on several matters.<sup>9</sup>

First, METRO needed voter authorization to issue bonds in an amount not to exceed \$640,000,000 for the acquisition, construction, repair, equipping, improvement or extension of METRO's transit authority system. Second, METRO sought voter approval of the planning and construction of additional light rail lines and bus service expansion (called METRORAIL). Third, voters were asked to approve the continued use of 25% of METRO's sales and use tax revenues for street improvements and mobility projects. There were legal reasons why METRO sought voter approval for each of the three.

Voter approval to issue the bonds (long term debt) was required by state law and METRO was required to use the bond proceeds for the announced purposes. The \$640,000,000 has long ago been spent, and the bond proceeds were used as promised for light rail construction, bus purchases, and general improvements to the transit authority system.<sup>10</sup>

Voter approval of the planning and construction of additional light rail lines and bus service expansions was needed for only one reason: to satisfy the City Charter provisions of the City of Houston.<sup>11</sup> METRO did not need voter approval to construct light rails, but it was required to get City of Houston approval to utilize rail on Houston's city streets. The Houston City Charter, as amended in 2001, requires voter approval before the City of Houston can give

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<sup>8</sup> *Scarborough v. Metro. Transit Auth. of Harris Cnty.*, 326 S.W.3d 324, 327 (Tex. App.—Houston [1st Dist.] 2010, pet. denied).

<sup>9</sup> See Exhibit A, Notice of Special Election, METRO, Resolution No. 2003-93, for November 4, 2003.

<sup>10</sup> See Exhibit B, Affidavit by Tom Lambert.

<sup>11</sup> See Exhibit C, City Charter, City of Houston, Section 21. This provision prohibits METRO from constructing, maintaining, or operating a rail system on City streets unless the majority of voters have approved the construction of the rail system.

consent to METRO to utilize rail lines on city streets.<sup>12</sup> The 2003 election served as consent for purposes of the City of Houston Charter.

Voter approval was also sought to cement the continued use in future years of 25% of sales and use tax revenues for street improvements and mobility projects as METRO had previously done for several prior years.

Texas courts have recognized that expressed terms in an election order can become a “solemn contract” with the voters.<sup>13</sup> Aware of this, METRO took the very unusual step to make certain that the terms of its contract with the voters were spelled out and were clear for all. METRO put the actual terms of its contract with the voters in its election notice and on the ballot.<sup>14</sup> In a heading numbered as Section 14--**METRO Agreement With the Voters**, METRO tells the voters what will be the terms of its contract with the voters. This section reads “*if a majority of the voters in the Election approve the Proposition, the following agreements will be binding on METRO and will constitute contracts with the voters in accordance with their terms and may not be repealed, altered or rescinded by any succeeding Board without voter approval at a subsequent election.*” **Right beneath** this proclamation are eight different contract terms--the content of the aforementioned contract with the voters.<sup>15</sup> These voter contract terms are set out below:

- (a) *The aggregate principal amount of bonds, notes or other obligations of METRO that are payable, in whole or in part, from seventy-five percent (75%) of METRO's sales and use tax revenues and are issued pursuant to the authority granted at this Election will never exceed \$640,000,000;*

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<sup>12</sup> Exh. A, Notice of Special Election. The eleventh WHEREAS explains the need for voter approval of the proposed rail lines to satisfy City Charter requirements. Also, in Section 14(c), METRO acknowledges that approval of the rail lines is for the purpose of meeting the City Charter requirement.

<sup>13</sup> *Fletcher v. Howard*, 39 S.W. 2d 32, 34 (Tex. 1931).

<sup>14</sup> See Exh. A, Notice of Special Election, Section 14.

<sup>15</sup> See Exh. A, Notice of Special Election, Section 14.

- (b) *Proceeds of the bonds, notes or other obligations authorized at the Election will be used to acquire, construct, repair, equip, improve or extend METRO's transit authority system, including the METRO Solutions Plan, provided that the only portions of METRORail for which such proceeds may be used are new segments included in Phase II of METRORail, as more particularly described in Exhibit A-4;*
- (c) *Approval of the Proposition at the Election constitutes approval of the METRO Solutions Plan, including the extensions and segments of METRORail and the construction of the METRORail and Commuter Line Components thereof for purposes of the city charter of the City of Houston;*
- (d) *METRO will not undertake the construction of any new segment of Phase II of METRORail with proceeds of the bonds, notes or other obligations authorized at the Election without first obtaining approval of the segment for federal capital assistance under applicable federal law and regulations or the commitment of a substantial amount of private funds;*
- (e) *METRO's Street Improvement Dedication will be in force and effect through September 30, 2014, in accordance with the terms of such dedication, as described in Exhibit B;*
- (f) *Between November 1, 2009 and January 1, 2013, METRO will call an election seeking a local determination by voters regarding METRO's continuing support after September 30, 2014 for improvements of the types described in Section 451.065 of the METRO Act;*
- (g) *Prior to November 1, 2009, METRO will not call any other election seeking voter approval to authorize METRO to issue bonds, notes or other obligations to provide any rail facilities other than Commuter Line Component, as more particularly described in Exhibit A-8 and depicted in Exhibit A-9, which are hereby made a part of this Resolution; and*
- (h) *METRO will not implement any increase in the rate of its currently existing, previously voted one percent (1%) sales and use tax.*

Nowhere in Section 14, the actual voter contract, is there any requirement for rail only on Post Oak Boulevard or a prohibition against using a dedicated bus lane. Section 14(c) even makes it clear that approval of METRO Solution Plan (new light rail routes and expanded bus service) by the voters is "for purposes of the City Charter of the City of Houston."<sup>16</sup>

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<sup>16</sup> See Exh. A, Notice of Special Election, Section 14(c).

Subsection (b) of Section 14 pertains to rail on Post Oak and says only that METRO “may,” if it so chooses, utilize some portion of the \$640 million in bond funds authorized by the special election to pay for construction lines listed on Exhibit A-4 to Resolution 2003 - 77, including approximately 4.4 miles along Post Oak Boulevard. *Id.* at p.4 § 14(b) (emphasis added) and p.6 Exh. A-4. Under no reasonable reading could the word “may” be deemed to create an obligation on the part of METRO to build light rail on Post Oak Boulevard or exclude the use of a dedicated bus line.

The voter contract terms of the 2003 referendum are clear, precise, and exact. As such, these terms must be interpreted as written. There is no legal reading of these terms that suggests that METRO’s plan to provide buses for the Post Oak Project violates the terms of the contract from the 2003 referendum.

#### IV. CONTRACT INTERPRETATION

The idea of a contract with the voters arising out of elections is well established in Texas case law.

- When voters approve a specific project, “the proceeds of the bond issue are ‘earmarked’ with the character of a trust fund which may not be diverted to another purpose or project. Op. Tex. Att’y Gen. No. GA-0156, 2004 WL 367365, at \*6 (2004) (citing *Black v. Strength*, 246 S.W. 79 (Tex. 1922)).
- It is the rule that where voters have voted bonds relying on a prior order or pledge of the governing body that the proceeds would be used for a certain project “the governing body must not ‘arbitrarily ignore or repudiate such order or pledge.’” *Hudson v. San Antonio Indep. Sch. Dist.*, 95 S.W.2d 673, 675 (Tex. 1936).
- Texas courts have held that the express terms of the order calling an election, at which voters are asked to approve financial undertakings of a governmental body relating to the purposes for which funds shall be used, become a **solemn contract** with the voters who are entitled to receive substantially all of the benefits and security of that contract. Op. Tex. Att’y Gen. No. JC-0400 (August 1, 2001).



As your office is aware, voter contract cases, like the ones cited above, typically arise out of bond elections and allegations of a variance in spending bond proceeds that differ from the projects promised.<sup>17</sup> In these voter contract cases, Texas courts are required to determine what the terms of the voter contract actually are and then determine if a contract violation has occurred. METRO's 2003 contract is much easier to discern because METRO set forth the contract terms in Section 14. As a result, this contract must be interpreted based on its **own terms**.

Texas courts have uniformly held that contract construction is based on the expressed terms of the contract itself. "The purpose of contract construction is to ascertain the intent of the parties to the contract as expressed in the agreement." *Sun Oil Co. v. Madeley*, 626 S.W.2d 726, 727–28 (Tex. 1981). "Contract terms are given their plain, ordinary, and generally accepted meanings." *Valence Operating Co. v. Dorsett*, 164 S.W.3d 656, 662 (Tex. 2005). "Every clause is presumed to have some effect." *Heritage Res., Inc. v. NationsBank*, 939 S.W.2d 118, 121 (Tex. 1996). "The courts will enforce an unambiguous instrument as written." *Sun Oil*, 626 S.W.2d at 727–28.

Indeed, in *Rodriquez v. Villareal*, the Houston Court of Appeals cautions against finding "implied restraints" and holds that the Court is "not authorized to rewrite provisions the parties could have included." 314 S.W.3d 636, 642 (Tex. App.—Houston [14th Dist.] 2010, no pet.).

METRO asks that your office make no "implied term" for its contract with the voters and interpret only the contract terms as they are expressed. By its clear language, the Notice of Special Election does not prohibit METRO's use of buses on a dedicated bus lane on Post Oak.

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<sup>17</sup> Senator Nichols' request does not suggest or imply that METRO inappropriately spent its bond proceeds. As shown in Exhibit B, Affidavit by Tom Lambert, all bond proceeds have been spent and these bond funds were used as promised in the 2003 election.

METRO further cautions that one must not read into this voter contract a rail-only requirement for transit on Post Oak when one doesn't exist in the actual contract terms as found in Section 14.

**V. COMMENT ON PRIOR OPINION REQUEST**

The last paragraph of Senator Nichols' request letter references a prior opinion request from Harris County Attorney Vince Ryan (RQ-1217-GA) that was subsequently withdrawn. The two requests are entirely different.

To clarify, the facts that gave rise to RQ-1217-GA (County Attorney Vince Ryan) and the facts surrounding Senator Nichols' request are both about Post Oak Boulevard, but differ on the questions presented. RQ-1217-GA from Harris County Attorney Vince Ryan (now withdrawn) was an inquiry into the legality of METRO's chairman signing a letter for bus service on Post Oak Boulevard. That letter had an affirmation that could be interpreted as **preventing** a light rail line on Post Oak Boulevard. Thus, the basis for the request before it was withdrawn. Here, Senator Nichols' request relates to a dedicated bus lane and whether the voters' contract from 2003 prohibits METRO from participating in a dedicated bus lane.

**VI. CLOSING**

After your examination of the Notice of Special Election - Section 14, and after review of METRO's legal authority to provide bus and rail services, we respectfully request that, if your office decides to issue an opinion, you find that METRO has the authority to participate in the Post Oak Project utilizing a dedicated bus lane and such participation is not a violation of the terms of the 2003 election contract with the voters.

**Exhibit A**

# NOTICE OF SPECIAL ELECTION

## METRO

METROPOLITAN TRANSIT AUTHORITY  
OF HARRIS COUNTY, TEXAS

(Portions of Harris, Fort Bend, Waller and Montgomery Counties)

NOTICE IS HEREBY GIVEN that a Special Election will be held on Tuesday, November 4, 2003, within and throughout the boundaries and service area of the Metropolitan Transit Authority of Harris County, Texas ("METRO"), in accordance with the following Resolution Nos. 2003-93 and 2003-77, passed and approved by the Board of METRO on August 18, 2003 and August 28, 2003, respectively, as amended on September 22, 2003.

\* \* \*

### RESOLUTION NO. 2003-93

A RESOLUTION APPROVING, ADOPTING, RATIFYING AND CONFIRMING RESOLUTION NO. 2003-77 CALLING A SPECIAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2003, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED ELECTORS OF THE METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY, TEXAS ("METRO") A PROPOSITION TO AUTHORIZE METRO TO ISSUE BONDS, NOTES AND OTHER OBLIGATIONS PAYABLE, IN WHOLE OR IN PART, FROM SEVENTY-FIVE PERCENT (75%) OF METRO'S SALES AND USE TAX REVENUES FOR THE ACQUISITION, CONSTRUCTION, REPAIR, EQUIPPING, IMPROVEMENT OR EXTENSION OF METRO'S TRANSIT AUTHORITY SYSTEM, INCLUDING THE METRO SOLUTIONS TRANSIT SYSTEM PLAN, AS DESCRIBED HEREIN, WHICH INCLUDES BUS SERVICE EXPANSIONS AND CONSTRUCTION OF EXTENSIONS OF METRO'S RAIL SYSTEM KNOWN AS "METRORAIL," TO APPROVE SUCH PLAN AND CONSTRUCTION OF THE METRORAIL AND COMMUTER LINE COMPONENTS THEREOF, AND TO DEDICATE TWENTY-FIVE PERCENT (25%) OF METRO'S SALES AND USE TAX REVENUES THROUGH SEPTEMBER 30, 2014, FOR STREET IMPROVEMENTS AND MOBILITY PROJECTS, AS AUTHORIZED BY LAW AND WITH NO INCREASES IN THE CURRENT RATE OF METRO'S SALES AND USE TAX; AND MAKING OTHER PROVISIONS RELATED TO THE SUBJECT

WHEREAS, at a Special Meeting held on August 18, 2003, the Board of METRO deliberated, approved and adopted Resolution No. 2003-77, which called a Special Election to be held on Tuesday, November 4, 2003 for the purpose of seeking authorization to issue bonds, notes and other obligations for implementation of METRO's transit authority system, securing approval of the METRO Solutions Plan and construction of METRORail and METRO's continued funding of General Mobility Projects through September 30, 2014; and

WHEREAS, the Board's approval and adoption of such resolution included the proposition and ballot to be submitted to the qualified electors within the boundaries and service area of METRO; and

WHEREAS, the Board deems it appropriate to approve, adopt, ratify and confirm Resolution 2003-77 without substantive change or modification;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY, TEXAS THAT:

Section 1. The Board hereby approves, adopts, ratifies and confirms Resolution No. 2003-77, in the form attached hereto as Attachment I, and affirms its decision to call a Special Election to be held on November 4, 2003 for the purpose of submitting to the qualified electors of the Metropolitan Transit Authority of Harris County, Texas ("METRO") a proposition to authorize METRO to issue bonds, notes and other obligations payable, in whole or in part, from seventy-five percent (75%) of METRO'S sales and use tax revenues for the acquisition, construction, repair, equipping, improvement or extension of METRO'S transit authority system, including the METRO Solutions Transit System Plan, as described therein, which includes bus service expansions and construction of extensions of METRO's rail system known as "METRORail," to approve such plan and construction of the METRORail and commuter line components thereof, and to dedicate twenty-five percent (25%) of METRO's sales and use tax revenues through September 30, 2014, for street improvements and mobility projects, as authorized by law and with no increase in the current rate of METRO's sales and use tax.

Section 2. This resolution is effective immediately upon passage.

PASSED this 28th day of August, 2003 APPROVED this 28th day of August, 2003

ATTEST:

  
Arthur L. Schechter, Chairman

  
Rosa Gonzalez, Assistant Secretary

\* \* \*

ATTACHMENT I

PAGE 1

RESOLUTION NO. 2003-77  
CALLING A SPECIAL ELECTION  
TO BE HELD ON TUESDAY, NOVEMBER 4, 2003

A RESOLUTION CALLING A SPECIAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2003, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED ELECTORS OF THE METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY, TEXAS ("METRO") A PROPOSITION TO AUTHORIZE METRO TO ISSUE BONDS, NOTES AND OTHER OBLIGATIONS PAYABLE, IN WHOLE OR IN PART, FROM SEVENTY-FIVE PERCENT (75%) OF METRO'S SALES AND USE TAX REVENUES FOR THE ACQUISITION, CONSTRUCTION, REPAIR, EQUIPPING, IMPROVEMENT OR EXTENSION OF METRO'S TRANSIT AUTHORITY SYSTEM, INCLUDING THE METRO SOLUTIONS TRANSIT SYSTEM PLAN, AS DESCRIBED HEREIN, WHICH INCLUDES BUS SERVICE EXPANSIONS AND CONSTRUCTION OF EXTENSIONS OF METRO'S RAIL SYSTEM KNOWN AS "METRORAIL," TO APPROVE SUCH PLAN AND CONSTRUCTION OF THE METRORAIL AND COMMUTER LINE COMPONENTS THEREOF, AND TO DEDICATE TWENTY-FIVE PERCENT (25%) OF METRO'S SALES AND USE TAX REVENUES THROUGH SEPTEMBER 30, 2014, FOR STREET IMPROVEMENTS AND MOBILITY PROJECTS, AS AUTHORIZED BY LAW AND WITH NO INCREASE IN THE CURRENT RATE OF METRO'S SALES AND USE TAX; AND MAKING OTHER PROVISIONS RELATED TO THE SUBJECT

STATE OF TEXAS §  
METROPOLITAN TRANSIT AUTHORITY  
OF HARRIS COUNTY, TEXAS §

WHEREAS, the Metropolitan Transit Authority of Harris County, Texas ("METRO") was created pursuant to Chapter 141, Acts of the 63rd Legislature of the State of Texas, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes, as amended, now codified as Chapter 451, Transportation Code, as amended (the "METRO Act")); and was confirmed at a confirmation and tax election held on August 12, 1978, in accordance with the METRO Act;

WHEREAS, METRO has, among others, the power to acquire, construct, complete, develop, own, operate and maintain a transit authority system, as defined in the METRO Act, and all powers necessary or convenient to carry out and effectuate the purposes and provisions of the METRO Act;

WHEREAS, since its confirmation METRO has developed and undertaken various plans and programs to provide its transit authority system (collectively, the "Prior Plans"), some of which are continuing and will continue for several years into the future;

WHEREAS, one of the Prior Plans is Phase I of a new rail system known as METRORail, which phase is an approximate 7.5-mile segment of light rail that extends from the University of Houston-Downtown to south of Reliant Park and is scheduled to commence operations in January 2004;

WHEREAS, in addition to the Prior Plans, METRO has developed a comprehensive plan that provides for increased bus routes, expanded Park & Ride service, buses, new Park & Ride lots, transit centers, shelters and other bus-related facilities and extensions and new segments of METRORail and other rail-related facilities (as more particularly described in Exhibit A, which is hereby made a part of this Resolution, the "METRO Solutions Transit System Plan" or "METRO Solutions Plan");

WHEREAS, METRO has forwarded the METRO Solutions Plan to the Houston-Galveston Area Council ("HGAC") for inclusion in its Metropolitan Transportation Plan (MTP) and Transportation Improvement Program (TIP) and will continue to support and cooperate with the long-range planning program (the 100% solution plan) being developed by HGAC for all modes of surface transportation;

WHEREAS, since February 1, 1988 and as authorized by the METRO Act, the Board of METRO (the "Board") has dedicated approximately twenty-five percent (25%) of METRO's sales and use tax revenues for street improvements, mobility projects and other facilities located within its boundaries and service area of the types permitted by Section 451.065 of the METRO Act, which dedication contractually extends through September 30, 2009;

WHEREAS, the Board has determined to continue the dedication of twenty-five percent (25%) of METRO's sales and use tax revenues through September 30, 2014, for use for street improvements, mobility projects and other facilities (as more particularly described in Exhibit B, which is hereby made a part of this Resolution, "METRO's Street Improvement Dedication"), which the Board estimates will provide an additional \$774 million for such purposes during the period October 1, 2009 through September 30, 2014 and a total of approximately \$1.597 billion for such purposes during the period October 1, 2003 through September 30, 2014;

WHEREAS, the Board finds and determines that (i) the proceeds of bonds, notes or other obligations are needed to acquire, construct, repair, equip, improve or extend METRO's transit authority system, including the METRO Solutions Plan, and (ii) the issuance of bonds, notes or other obligations is necessary, appropriate and the best available financing method to provide the METRO transit authority system at the earliest practicable date for the residents within the boundaries and service area of METRO;

WHEREAS, the Board finds and determines that the only portions of METRORail for which proceeds of bonds, notes or other obligations will be used pursuant to voter approval at the Election (as hereinafter defined) are new segments included in Phase II of METRORail, as more particularly described in Exhibit A-4;

WHEREAS, the city charter of the City of Houston provides that the Houston City Council shall not grant any permission, consent or authorization required by METRO in connection with the construction, maintenance or operation of all or part of a rail system unless METRO previously has conducted an election at which a majority of the METRO voters who participated in the election approved construction of the rail system;

WHEREAS, the Board finds that it is appropriate and in the best interests of METRO to call an election to determine the voters' will on the construction of the METRORail and Commuter Line Components of the METRO Solutions Plan and METRO's Street Improvement Dedication;

WHEREAS, the Board has determined that it is necessary and appropriate to call and hold the Election for the purposes of obtaining voter approval of the authorization of METRO to issue bonds, notes and other obligations payable, in whole or in part, from seventy-five percent (75%) of METRO's sales and use tax revenues, in an aggregate principal amount not to exceed \$640,000,000 for the acquisition, construction, repair, equipping, improvement or extension of METRO's transit authority system, including the METRO Solutions Plan, which includes bus service expansions and construction of extensions and new segments of METRO's rail system known as "METRORail," together with voter approval of such plan and construction of the METRORail and Commuter Line components thereof, and the dedication of twenty-five percent (25%) of METRO's sales and use tax revenues through September 30, 2014, for street improvements, mobility projects and other facilities, as authorized by law and with no increase in the current rate of METRO's sales and use tax; and

WHEREAS, the Board expressly recognizes and determines that the aggregate principal amount limitation contained in the Election bond authorization does not apply to bonds, notes or other obligations that have a term not more than five (5) years and that are issued by METRO under the authority of Section 451.362 of the METRO Act;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY, TEXAS THAT:

Section 1. Findings. All of the recitals contained in the preambles of this Resolution are adopted and incorporated herein as the official findings and determinations of the Board.

Section 2. Call of Election; Date; Eligible Electors; and Hours. An election (the "Election") shall be held on Tuesday, November 4, 2003, which date is one of the uniform election dates specified in and permitted by the Texas Election Code (the "Code"). The Election shall be held within and throughout the boundaries and service area of METRO. All resident, qualified electors within such boundaries and service area shall be entitled to vote. The Board hereby finds that holding the Election on a uniform election date is in the public interest. The hours during which the polling places are to be open at the Election shall be from 7:00 o'clock a.m. to 7:00 o'clock p.m.

Section 3. Proposition. At the Election there shall be submitted to the resident, qualified electors within the boundaries and service area of METRO the proposition (the "Proposition") as shown on Exhibit C, which is hereby made a part of this Resolution.

Section 4. Voting System and Ballots. Voting at the Election, and early voting therefore, shall be by the use of lawfully approved voting systems and ballots as specified in Section 6. The preparation of the necessary equipment and the official ballots for the Election shall conform to the requirements of the Election Code and the METRO Act so as to permit the voters to vote "FOR" or "AGAINST" the Proposition, which shall be set forth on the ballots in substantially the form as shown on Exhibit D, which is hereby made a part of this Resolution.

Section 5. Voting Precincts; Polling Places; Election Officers. Except as otherwise provided herein, the voting precincts for the Election are hereby established and designated as follows: Each voter must vote in the precinct in which the voter resides and only resident, qualified voters are entitled to vote. For METRO voters residing within the boundaries of Harris County, Fort Bend County, Waller County or Montgomery County, the precincts, polling places (including temporary branch polling places) and precinct judges for the Election shall be as arranged by the President and Chief Executive Officer of METRO (the "President") or any other officer of METRO designated by the President (the President or any such designee, each an "Authorized Representative") or specified in one or more supplemental election resolutions that will be adopted by the Board and made a part of this Resolution.

(b) If required, additional or alternative election judges for the voting precincts and the temporary branch polling places may be appointed in writing by Authorized Representative. In the event that any of the Authorized Representatives shall determine from time to time that one or more of the polling places hereby established and designated shall become unavailable or unsuitable for such use, or it would be in METRO's best interests to relocate a polling place, or the precinct judges or assistant judges hereby appointed or hereinafter designated shall become unqualified or unavailable, each Authorized Representative is hereby authorized to designate and appoint in writing substitute polling places, precinct judges or assistant judges, giving such notice as is required by the Election Code and as deemed sufficient.

Section 6. Voting. Voting in the Election, including early voting by personal appearance, shall be by the respective voting system adopted by the Commissioners Court of Harris County, Texas, Fort Bend County, Texas, Waller County, Texas or Montgomery County, Texas, as applicable, for use in elections held by any such county. Each voter desiring to vote in favor of the Proposition shall indicate on his ballot "FOR" the Proposition, and each voter desiring to vote against the Proposition shall indicate on his ballot "AGAINST" the Proposition. Voting shall be in accordance with the Election Code.

(b) The Election shall be conducted in compliance with the Election Code, except as modified by the METRO Act, and shall be administered by such person or persons designated as an elections administrator for each respective county (each "Elections Administrator") pursuant to the contracts with the Board.

Section 7. Early Voting. Early voting, both by personal appearance and by mail, will be in accordance with the Election Code. Early voting by personal appearance will be conducted at the locations (including temporary branch polling places) and during the dates and times arranged by an Authorized Representative or specified in one or more supplemental election resolutions that will be adopted by the Board and made a part of this Resolution.

(b) The Board hereby appoints Beverly Kaufman, or her designee, as the early voting clerk for voters residing in Harris County. The mailing address to which ballot applications and ballots voted by mail may be sent is as follows: Clerk for Early Voting, P.O. Box 1525, Houston, Texas, 77001, Attention: Early Voting.

(c) The Board hereby appoints Steve Raborn, or his designee, as the early voting clerk for voters residing in Fort Bend County. The mailing address to which ballot applications and ballots voted by mail may be sent is as follows: Clerk for Early Voting, Fort Bend County, 309 South 4th Street, Suite 624, Richmond, Texas, 77469, Attention: Early Voting.

(d) The Board hereby appoints Lela Loewe, or her designee, as the early voting clerk for voters residing in Waller County. The mailing address to which ballot applications and ballots voted by mail may be sent is as follows: Clerk for Early Voting, Waller County, 836 Austin Street, Room 217, Hempstead, Texas, 77445, Attention: Early Voting.

(e) The Board hereby appoints Linda Garner, or her designee, as the early voting clerk for voters residing in Montgomery County. The mailing address to which ballot applications and ballots voted by mail may be sent is as follows: Clerk for Early Voting, Montgomery County, 225 Collins Street, Conroe, Texas 77301, Attention: Early Voting.

(f) The Board hereby appoints Beverly Kaufman, or her designee, as the presiding judge of the special early voting ballot board for voters residing in Harris County to count and return early voting ballots in accordance with the Election Code. The presiding judge shall appoint two election clerks, and such judge and clerks shall constitute the special early voting ballot board and shall perform the duties set forth for such board in the Election Code.

(g) The Board hereby appoints Steve Raborn, or his designee, as the presiding judge of the special early voting ballot board for voters residing in Fort Bend County to count and return early voting ballots in accordance with the Election Code. The presiding judge shall appoint two election clerks, and such judge and clerks shall constitute the special early voting ballot board and shall perform the duties set forth for such board in the Election Code.

(h) The Board hereby appoints Lela Loewe, or her designee, as the presiding judge of the special early voting ballot board for voters residing in Waller County to count and return early voting ballots in accordance with the Election Code. The presiding judge shall appoint two election clerks, and such judge and clerks shall constitute the special early voting ballot board and shall perform the duties set forth for such board in the Election Code.

(i) The Board hereby appoints Linda Garner, or her designee, as the presiding judge of the special early voting ballot board for voters residing in Montgomery County to count and return early voting ballots in accordance with the Election Code. The presiding judge shall appoint two election clerks, and such judge and clerks shall constitute the special early voting ballot board and shall perform the duties set forth for such board in the Election Code.

Section 8. Conduct of Election. The Election shall be conducted in each Election precinct by election officers, including the

precinct judge appointed hereunder and assistant judge or clerk, in accordance with the conditions of one or more contracts between or among METRO, Harris County, Fort Bend County, Waller County, Montgomery County and others, the Election Code and the Constitution and laws of the State of Texas and the United States of America. The pay for precinct judges, alternate judges and clerks for the Election shall be in accordance with the Election Code and as designated, respectively, by Harris County, Fort Bend County, Waller County or Montgomery County.

Section 9. Delivery of Voted Ballots; Counting; Tabulation; Canvassing of Returns; Declaring Results. The election officers shall deliver the ballot containers to a designated drop-off station as ordered by the Harris County Clerk, the Fort Bend County Clerk, the Waller County Clerk or the Montgomery County Clerk, as applicable. The following persons are hereby appointed to serve in the indicated offices at the respective central counting station of each county:

	Harris County	Fort Bend County	Waller County	Montgomery County
Manager:	Same as Harris County	Same as Fort Bend County	Same as Waller County	Same as Montgomery County
Tabulation Supervisor: (assistants optional)	Same as Harris County	Same as Fort Bend County	Same as Waller County	Same as Montgomery County
Central Counting Station:	Same as Harris County	Same as Fort Bend County	Same as Waller County	Same as Montgomery County
Judge:	Same as Harris County	Same as Fort Bend County	Same as Waller County	Same as Montgomery County

(b) Both the manager and the judge may appoint clerks to assist at the central counting station. After the completion of his or his responsibilities under the Election Code, including the counting of the voted ballots and the tabulation of the results, the judge shall make a written return of the Election results to METRO in accordance with the Election Code. The Board shall canvass the returns and declare the results of the Election.

(c) In the event the Proposition is authorized at the Election, all matters relating to the issuance of such bonds within the terms of the Proposition shall be determined by the Board, and such bonds may be issued at one time, or in installments from time to time as the Board may determine.

Section 10. Training of Election Officials. Pursuant to the Election Code, public schools of instruction for all election officers shall be held by Harris County, Fort Bend County, Waller County and Montgomery County.

Section 11. Notice of Election. Notice of the Election, in English, Spanish and Vietnamese, stating in substance the contents of this Resolution, shall be published once a week for three consecutive weeks in The Houston Chronicle, the first such publication to be made not less than twenty-one (21) days before the date of the Election; and posted on the bulletin board used by the Board to post notices of the Board's meetings no later than the twenty-first (21st) day before the date of the Election.

Section 12. Authority of the Authorized Representatives. The Authorized Representatives shall have the authority to take, or cause to be taken, all actions reasonable and necessary to insure that the Election is fairly held and returns properly counted and tabulated for canvass for the canvass of the election returns in accordance with state law.

Section 13. Multilingual Materials. The election materials enumerated in the Election Code shall be printed in English, Spanish and Vietnamese for use at each polling place and for early voting. The presiding election judge for each voting precinct shall appoint a sufficient number of election clerks who are fluent in English, Spanish and Vietnamese to serve the needs of the Spanish-speaking and Vietnamese-speaking voters of each precinct in accordance with the requirements of the Election Code.

\* Section 14. METRO Agreements with the Voters. As authorized by Section 451.072 of the METRO Act and other applicable law, the Board hereby declares that, if a majority of the voters voting at the Election approve the Proposition, the following agreements will be binding on METRO and will constitute contracts with the voters in accordance with their terms and may not be repealed, altered or rescinded by any succeeding Board without voter approval at a subsequent election:

(a) The aggregate principal amount of bonds, notes or other obligations of METRO that are payable, in whole or in part, from seventy-five percent (75%) of METRO's sales and use tax revenues and are issued pursuant to the authority granted at this Election will never exceed \$640,000,000;

(b) Proceeds of the bonds, notes or other obligations authorized at the Election will be used to acquire, construct, repair, equip, improve or extend METRO's transit authority system, including the METRO Solutions Plan, provided that the only portions of METRORail for which such proceeds may be used are new segments included in Phase II of METRORail, as more particularly described in Exhibit A-4;

(c) Approval of the Proposition at the Election constitutes approval of the METRO Solutions Plan, including the extensions and segments of METRORail and the construction of the METRORail and Commuter Line Components thereof for purposes of the city charter of the City of Houston;

(d) METRO will not undertake the construction of any new segment of Phase II of METRORail with proceeds of the bonds, notes or other obligations authorized at the Election without first obtaining approval of the segment for federal capital assistance under applicable federal law and regulations or the commitment of a substantial amount of private funds;

(e) METRO's Street Improvement Dedication will be in force and effect through September 30, 2014, in accordance with the terms of such dedication, as described in Exhibit B;

(f) Between November 1, 2009 and January 1, 2013, METRO will call an election seeking a local determination by voters regarding METRO's continuing support after September 30, 2014 for improvements of the types described in Section 451.065 of the METRO Act;

(g) Prior to November 1, 2009, METRO will not call any other election seeking voter approval to authorize METRO to issue bonds, notes or other obligations to provide any rail facilities other than Commuter Line Component, as more particularly described in Exhibit A-8 and depicted in Exhibit A-9, which are hereby made a part of this Resolution; and

(h) METRO will not implement any increase in the rate of its currently existing, previously voted one percent (1%) sales and use tax.

Section 15. Authorization to Execute. The Chairman is authorized to execute and the Secretary of METRO is authorized to attest this Resolution on behalf of the Board; and each Authorized Representative is authorized to do all other things legal

and necessary in connection with the holding and consummation of the Election, including entering into contracts with other public officials and private parties for the conduct and administration of the Election.

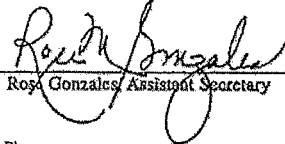
Section 16. Notice of Meeting. The Board officially finds, determines, recites and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution is adopted was posted on a bulletin board located at a place convenient to the public for a least 72 hours preceding the scheduled time of the meeting as required by the Open Meetings Law, Chapter 551, Texas Government Code, as amended; and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter thereof was discussed, considered and formally acted upon.

Section 17. Effective Date. This Resolution is effective immediately upon its passage and approval.

PASSED AND APPROVED THIS August 18, 2003.

ATTEST:

  
Arthur L. Schechter, Chairman

  
Rosa Gonzalez, Assistant Secretary

**LIST OF EXHIBITS:**

- Exhibit A - Description of METRO Solutions Transit System Plan
- Exhibit A-1 - Depiction of METRO Solutions Transit System Plan
- Exhibit A-2 - Depiction of Bus Component
- Exhibit A-3 - Depiction of METRORail Component
- Exhibit A-4 - Description of Phase II of METRORail
- Exhibit A-5 - Depiction of Phase II of METRORail
- Exhibit A-6 - Description of Later Phases of METRORail (exclusive of Phase I and Phase II)
- Exhibit A-7 - Depiction of Later Phases of METRORail (exclusive of Phase I and Phase II)
- Exhibit A-8 - Description of Commuter Line
- Exhibit A-9 - Depiction of Commuter Line
- Exhibit B - METRO's Street Improvement Dedication
- Exhibit C - Proposition
- Exhibit D - Ballot

**EXHIBIT A  
DESCRIPTION OF  
METRO SOLUTIONS TRANSIT SYSTEM PLAN**

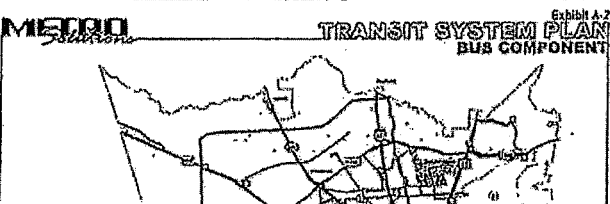
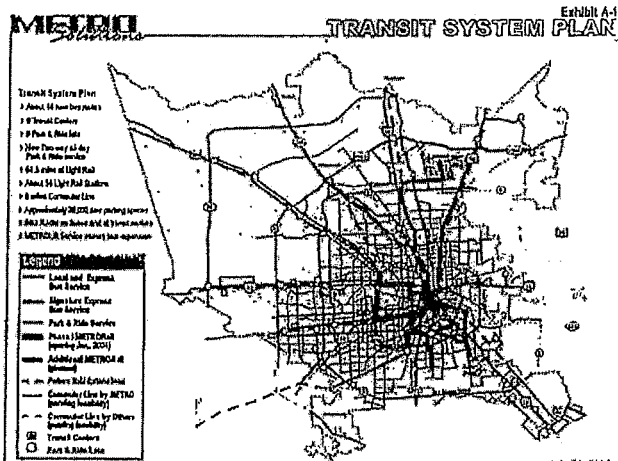
The METRO Solutions Transit System Plan (also known as the METRO Solutions Plan), as depicted in Exhibit A-1 attached hereto, consists of the following Components:

1. A Bus Component, as depicted in Exhibit A-2 attached hereto, generally consisting of the following:
  - a. Approximately forty-four (44) new local, signature express, express and Park & Ride bus routes throughout the METRO service area;
  - b. Approximately nine (9) new transit centers in the vicinity of the Central Business District, Texas Medical Center, Gulfgate Center, Hobby Airport, Westpark/South Rice, University of Houston Central Campus, Texas Southern University, Willowbrook Mall and Town & Country Mall;
  - c. Expansion and new parking at approximately four (4) transit centers;
  - d. An increase in miles of Park & Ride service from 108 miles to approximately 250 miles by expansion from one-way reversible to two-way service in all major freeway corridors;
  - e. Approximately nine (9) new Park & Ride facilities in the vicinity of Gulf Freeway/ Clear Lake, Hobby Airport, Westpark/Beltway 8, US 290/Barker Cypress, US 290/Fairfield, Katy Freeway/Grand Parkway, US 59/Atascocita, South Freeway/ Airport and Fannin/Bellfort; and
  - f. Approximately 400 buses.

Final details and implementation schedule for the Bus Component will be based upon demand and completion of the project development process, including community input.

2. A METRORail Component, as depicted in Exhibit A-3 attached hereto, generally consisting of the following 64.8 miles of light rail:

- a. Phase II of METRORail, consisting of approximately 39.7 miles of light rail, associated vehicles and facilities, as described in Exhibit A-4 and depicted in Exhibit A-5, both as





attached hereto; and  
 b. Later Phases of METRORail (exclusive of Phase I and Phase II), consisting of approximately 25.1 miles of light rail, associated vehicles and facilities, as described in Exhibit A-6 and depicted in Exhibit A-7, both as attached hereto.  
 (Phase I of METRORail, which is the approximate 7.5 mile segment of light rail that extends from the University of Houston-Downtown to south of Reliant Park is a Prior Plan and is not a part of the METRO Solutions Plan.)

3. A Commuter Line Component, as described in Exhibit A-8 and depicted in Exhibit A-9, both as attached hereto.

4. A System-Wide Component consisting of certain elements such as the following: METROLift expansion commensurate with bus service expansions; approximately 20,000 new parking spaces; accommodations for bicycles such as bike racks on all buses; and rehabilitation, renovation and expansion of existing transit centers, Park & Ride facilities and METRO support facilities and equipment.

Elements of the System-Wide Component of the METRO Solutions Plan may be modified in the same manner as the Bus Component of the METRO Solutions Plan.

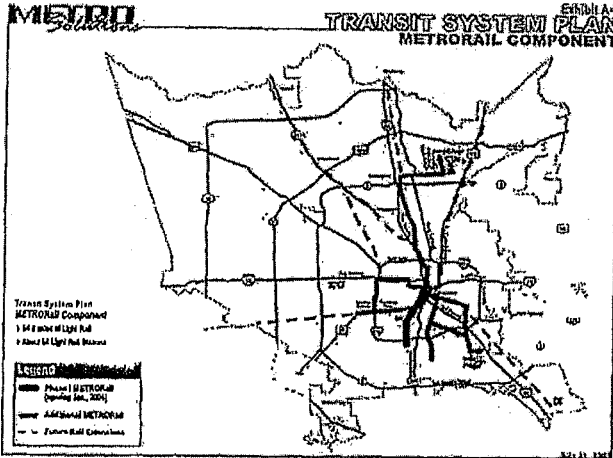
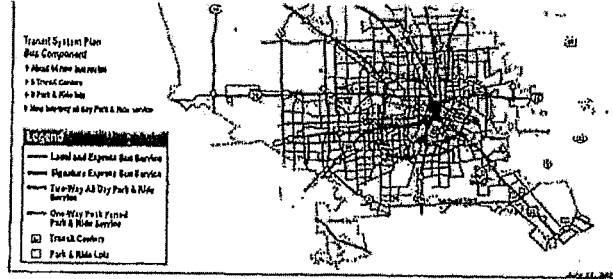


EXHIBIT A-4  
 METRORail PHASE II

METRORail Phase II generally consists of the following light rail segments or lines, including associated vehicles and facilities:

**North Hardy**

- Approximately 5.4 miles from University of Houston-Downtown through the Near Northside neighborhoods to Northline Mall, serving Downtown, Moody Park, and Houston Community College at Northline. This segment or line will have approximately 4 stations.

**Southeast**

- Approximately 9.9 miles through Downtown serving the University of Houston Central Campus, Texas Southern University and Palm Center ending at Griggs at the South Loop 610, including an approximate 1.5-mile connection into Downtown and an approximate 2.8-mile branch to the Sunnyside community along Cullen to Bellfort. These extensions, including the Sunnyside branch, will have approximately 13 stations.

**Harrisburg**

- Approximate 6-mile branch off the Southeast line that extends east from Dowling through the East End to the Magnolia Transit Center, then turning southward and extending to the Gulfgate Center and the Gulfgate area. This segment or line will have approximately 4 stations.

**Westpark**

- Approximately 6.6 miles westward from the Wheeler station on Phase I METRORail to the Hillcroft Transit Center, serving Greenway Plaza, West University, Bellaire and the Uptown/Galleria area. This segment or line will have approximately 4 stations.

**Uptown/West Loop**

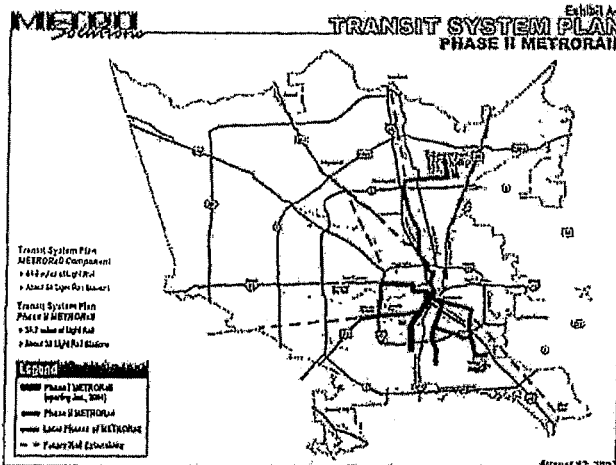
- Approximately 4.4 miles north from Westpark along Post Oak Blvd. and the West Loop 610 to the Northwest Transit Center. Serves the Galleria and Uptown businesses on Post Oak Boulevard. This segment or line will have approximately 7 stations.

**Inner Katy**

- Approximately 7.4 miles westward from Downtown tying into the Uptown/West Loop line at the Northwest Transit Center. Serves Washington Avenue and the Heights areas. This segment or line will have approximately 6 stations.

**Note:**

Final scope, length of rail segments or lines and other details, together with implementation schedule, will be based upon demand and completion of the project development process, including community input. The METRO Solutions Bus Component Park & Ride in the vicinity of Hobby Airport will be deferred until a later phase of the Southeast segment or line.



**EXHIBIT A-6  
LATER PHASES OF METRORail (AFTER PHASE II)**

Later phases will complete the METRORail Component of the METRO Solutions Plan and serve both airports. Later Phases of METRORail (after Phase II) generally consist of the following light rail segments or lines, including associated vehicles and facilities:

**North Hardy**

- Approximately 16.5 miles from Northline Mall to Greenspoint and then to Bush IAH Airport. This segment or line will have approximately 8 stations.

**Southeast**

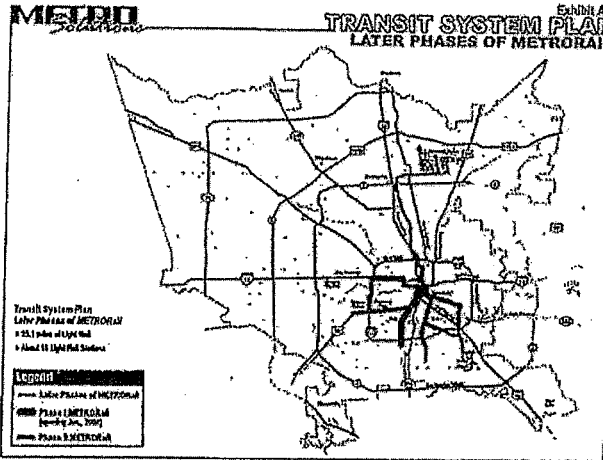
- Approximately 7.2 miles from Griggs at South Loop 610 to a Park & Ride in the vicinity of Hobby Airport, with an extension of the Sunnyside branch from Bellfort to Airport Boulevard. These extensions, including the Sunnyside branch, will have approximately 5 stations.

**Harrisburg**

- Approximately 1.4 miles off the Southeast line that extends east from the Magnolia Transit Center, then turning southward to the Gulfgate Center and the Gulfgate area. From Gulfgate Center it will pass by the Gulfgate Transit Center and continue southward to tie into the Southeast line in the vicinity of Telephone Road. This segment or line will have approximately 3 stations.

**Note:**

Final scope, length of rail segments or lines and other details, together with implementation schedule, will be based upon demand and completion of the project development process, including community input.



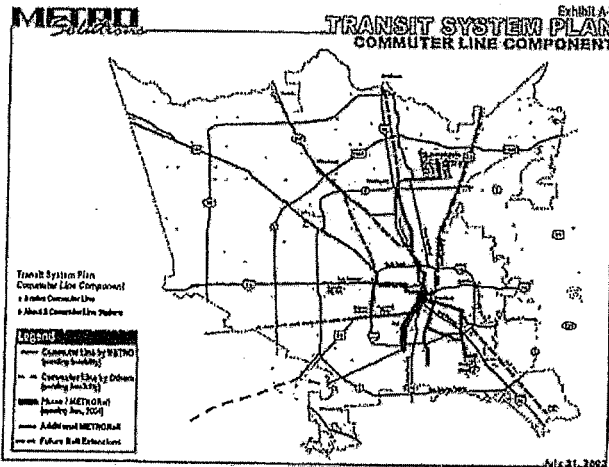
**EXHIBIT A-8  
COMMUTER LINE**

The Commuter Line Component of the METRO Solutions Plan generally consists of the following rail segments or lines, including associated vehicles and facilities:

- US 90A. Approximately 8 miles in the METRO service area of an approximate 25-mile commuter rail line following the Union Pacific line parallel to US 90A extending from the Fannin South Park & Ride at the southern end of the Phase I METRORail line and extending southwest to Fort Bend County, serving southwest Houston, Missouri City, Stafford, Sugar Land, Richmond and Rosenberg. METRO's commuter rail investment to be implemented in conjunction with the companion Fort Bend County commuter rail element.
- US 290. Harris County to study the feasibility of a 38-mile commuter rail line using the Union Pacific line parallel to the Northwest Freeway (US 290) from West Loop 610 to the Harris County limit at Waller. Serves the rapidly growing northwest area and will provide connections to Uptown/Galleria and Downtown, via METRORail.
- Other commuter rail corridors within the METRO service area as are found to be feasible through consultation with other agencies

**Note:**

Final scope, length of rail segments or lines and other details, together with implementation schedule, will be based upon demand and completion of the project development process, including community input.



**EXHIBIT B  
METRO'S STREET IMPROVEMENT DEDICATION**

METRO'S Street Improvement Dedication is a voter-approved dedication of twenty-five percent (25%) of its sales and use tax revenues through September 30, 2014, for use for street improvements and mobility projects. The improvements and projects must be located within the boundaries and service area of METRO and be of the types permitted by Section 451.065 of the METRO Act.

**EXHIBIT C  
PROPOSITION**

METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY, TEXAS

SHALL THE METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY, TEXAS ("METRO"), BE AUTHORIZED TO ISSUE BONDS, NOTES AND OTHER OBLIGATIONS PAYABLE, IN WHOLE OR IN PART, FROM SEVENTY-FIVE PERCENT (75%) OF METRO'S SALES AND USE TAX REVENUES, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED SIX HUNDRED FORTY MILLION DOLLARS (\$640,000,000) FOR THE ACQUISITION, CONSTRUCTION, REPAIR, EQUIPMENT, IMPROVEMENT OR EXTENSION OF METRO'S TRANSIT AUTHORITY SYSTEM, INCLUDING THE METRO SOLUTIONS TRANSIT SYSTEM PLAN (AS DESCRIBED IN EXHIBITS A AND A-1 OF METRO RESOLUTION NO. 2003-77 AND THE OFFICIAL NOTICE OF ELECTION, WHICH ARE INCORPORATED HEREIN), WHICH INCLUDES BUS SERVICE EXPANSIONS (INCLUDING NEW BUSES, BUS ROUTES, TRANSIT CENTERS AND PARK & RIDE FACILITIES) AND CONSTRUCTION OF EXTENSIONS AND NEW SEGMENTS OF METRO'S RAIL SYSTEM KNOWN AS "METRORAIL," SHALL SUCH PLAN AND CONSTRUCTION OF THE METRORAIL AND COMMUTER LINE COMPONENTS THEREOF (INCLUDING APPROXIMATELY 64.8 MILES OF LIGHT RAIL AND 8 MILES OF COMMUTER LINE, AS DESCRIBED IN EXHIBITS A AND A-3 THROUGH A-9 OF SUCH RESOLUTION AND THE OFFICIAL NOTICE OF ELECTION, WHICH ARE SPECIFICALLY INCORPORATED HEREIN AND GENERALLY SUMMARIZED BELOW), BE APPROVED, AND SHALL TWENTY-FIVE PERCENT (25%) OF METRO'S SALES AND USE TAX REVENUES THROUGH SEPTEMBER 30, 2014, BE DEDICATED FOR STREET IMPROVEMENTS AND RELATED PROJECTS, AS AUTHORIZED BY LAW AND WITH NO INCREASE IN THE CURRENT RATE OF METRO'S SALES AND USE TAX, WHICH BONDS, NOTES OR OTHER OBLIGATIONS MAY BE ISSUED IN VARIOUS SERIES OR ISSUES, MAY BE SOLD AT ANY PRICE OR PRICES, SHALL MATURE SERIALLY OR OTHERWISE NOT MORE THAN FORTY (40) YEARS FROM THEIR DATE OR DATES AND BEAR INTEREST AT SUCH RATE OR RATES (FIXED, VARIABLE, FLOATING, ADJUSTABLE OR OTHERWISE) AS SHALL BE DETERMINED BY THE BOARD OF METRO WITHIN ITS DISCRETION AT THE TIME OF ISSUANCE, BUT NOT TO EXCEED THE MAXIMUM RATE NOW OR HEREAFTER AUTHORIZED BY LAW, ALL AS AUTHORIZED BY THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, INCLUDING PARTICULARLY (BUT NOT BY WAY OF LIMITATION) SECTIONS 451.352(c) AND 451.072 OF THE TEXAS TRANSPORTATION CODE, TOGETHER WITH ALL AMENDMENTS AND ADDITIONS THERETO, AND OF THE UNITED STATES OF AMERICA?

\*\*\*\*\*

The following summary lists the components and segments of METRORAIL and Commuter Line, as described in Exhibits A and A-3 through A-9 of such Resolution and the Official Notice of the Election, and is a part of the Ballot and the Proposition being submitted to the voters at the Election. The segments marked \* are expected to be completed by the end of 2012 utilizing the proceeds of the \$640 million of bonds, if approved at the Election.

- |  |   |
|--|---|
| 1. North Hardy:  | 3. Harrisburg:  |
| * (a) UH-Downtown to Northline Mall                            | * (a) Dowling to Magnolia Transit Center                                    |
| (b) Northline Mall to Greenspoint                              | (b) Magnolia Transit Center to Gulfgate Center                              |
| (c) Greenspoint to Bush IAH Airport                            | (c) Gulfgate Center to Telephone Road                                       |
| 2. Southeast:  | 4. *Westpark - Wheeler Station to Hillcroft Transit Center                  |
| * (a) Downtown/Bagby to Dowling                                | 5. Uptown/West Loop - Westpark to the Northwest Transit Center              |
| * (b) Dowling to Griggs/610                                    | 6. Inner Katy - Downtown/Bagby to Northwest Transit Center                  |
| (c) Griggs/610 to Park & Ride in the vicinity of Hobby Airport | 7. Southwest Commuter Line - Fannin South Park & Ride to Harris County Line |
| (d) Sunnyside: Southeast Transit Center to Bellfort            |   |

**EXHIBIT D  
BALLOT  
METROPOLITAN TRANSIT AUTHORITY  
OF HARRIS COUNTY, TEXAS**

FOR       AGAINST

AUTHORIZATION OF METRO TO ISSUE BONDS, NOTES AND OTHER OBLIGATIONS PAYABLE, IN WHOLE OR IN PART, FROM 75% OF METRO'S SALES AND USE TAX REVENUES IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$640,000,000 FOR METRO'S TRANSIT AUTHORITY SYSTEM, INCLUDING THE METRO SOLUTIONS TRANSIT SYSTEM PLAN (AS DESCRIBED IN EXHIBITS A AND A-1 OF METRO RESOLUTION NO. 2003-77 AND THE OFFICIAL NOTICE OF ELECTION, WHICH ARE INCORPORATED HEREIN), WHICH INCLUDES BUS SERVICE EXPANSIONS (INCLUDING NEW BUSES, BUS ROUTES, TRANSIT CENTERS AND PARK & RIDE FACILITIES) AND CONSTRUCTION OF EXTENSIONS AND NEW SEGMENTS OF METRO'S RAIL SYSTEM KNOWN AS "METRORAIL," APPROVAL OF SUCH PLAN AND CONSTRUCTION OF ALL SEGMENTS OF THE METRORAIL AND COMMUTER LINE COMPONENTS (INCLUDING APPROXIMATELY 64.8 MILES OF LIGHT RAIL AND 8 MILES OF COMMUTER LINE, AS DESCRIBED IN EXHIBITS A AND A-3 THROUGH A-9 OF SUCH RESOLUTION AND THE OFFICIAL NOTICE OF ELECTION, WHICH ARE SPECIFICALLY INCORPORATED HEREIN AND GENERALLY SUMMARIZED BELOW), AND DEDICATION OF 25% OF METRO'S SALES AND USE TAX REVENUES THROUGH SEPTEMBER 30, 2014, TO STREET IMPROVEMENTS AND RELATED PROJECTS AS AUTHORIZED BY LAW, AND WITH NO INCREASE IN THE CURRENT RATE OF METRO'S SALES AND USE TAX.

\*\*\*\*\*

The following summary lists the components and segments of METRORAIL and Commuter Line, as described in Exhibits A and A-3 through A-9 of such Resolution and the Official Notice of the Election, and is a part of the Ballot and the Proposition being submitted to the voters at the Election. The segments marked \* are expected to be completed by the end of 2012 utilizing the proceeds of the \$640 million of bonds, if approved at the Election.

- |  |   |
|--|---|
| 1. North Hardy:  | 3. Harrisburg:  |
| * (a) UH-Downtown to Northline Mall                            | * (a) Dowling to Magnolia Transit Center                                    |
| (b) Northline Mall to Greenspoint                              | (b) Magnolia Transit Center to Gulfgate Center                              |
| (c) Greenspoint to Bush IAH Airport                            | (c) Gulfgate Center to Telephone Road                                       |
| 2. Southeast:  | 4. *Westpark - Wheeler Station to Hillcroft Transit Center                  |
| * (a) Downtown/Bagby to Dowling                                | 5. Uptown/West Loop - Westpark to the Northwest Transit Center              |
| * (b) Dowling to Griggs/610                                    | 6. Inner Katy - Downtown/Bagby to Northwest Transit Center                  |
| (c) Griggs/610 to Park & Ride in the vicinity of Hobby Airport | 7. Southwest Commuter Line - Fannin South Park & Ride to Harris County Line |
| (d) Sunnyside: Southeast Transit Center to Bellfort            |   |

**Exhibit B**

Section 21. - METRO rail system projects.

City Council shall not hereafter grant any permission, consent, or authorization required by the Metropolitan Transit Authority of Harris County (METRO) in connection with the construction, maintenance, or operation of all or part of a rail system unless METRO previously has conducted an election at which a majority of the METRO voters who participated in the election approved construction of the rail system. Such City permission, consent, or authorization shall not be subject to any election under this Charter. The construction, maintenance, or operation of the rail system project described in Ordinance 2000-1028 shall not be subject to any election by the City or METRO under this section or any other section of this Charter.

(Added by amendment November 6, 2001)

**Exhibit C**

## AFFIDAVIT OF THOMAS C. LAMBERT

THE STATE OF TEXAS §  
§  
COUNTY OF HARRIS §

I, Thomas C. Lambert, being duly sworn, do hereby depose and say:

1. I am over 21 years of age, of sound mind, and competent to make this affidavit. I have personal knowledge of the facts stated herein, and they are true and correct.

2. I am the President and Chief Executive Officer of the Metropolitan Transit Authority of Harris County, Texas ("METRO") and give this affidavit testimony in that capacity.

3. METRO has been advised by representatives of the City of Houston, Harris County Improvement District No. 1, and the Uptown Development Authority/TIRZ 16 of those entities' joint plan to construct dedicated bus rapid transit lanes on Post Oak Boulevard (the "Post Oak Project").

4. METRO is not in charge of or responsible for the Post Oak Project but has expressed support for the project and a willingness to provide busses on its dedicated bus rapid transit lanes.

5. Any buses that METRO ultimately supplies for operation on the dedicated lanes of the Post Oak Project, if and when it is completed, will be procured with sales tax dollars.

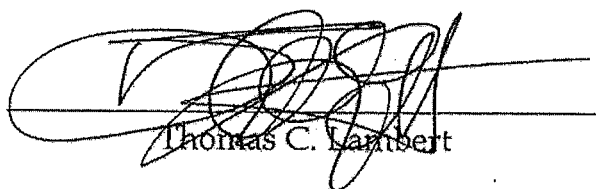
6. METRO has provided bus service on Post Oak Boulevard for several decades. It serves as a critical corridor for transit in the Uptown area. Presently, METRO provides sixteen peak buses on Route 33 Post Oak from the Hempstead Transit Center to Bellaire Transit Center. On weekdays, there are 79 trips southbound and 78 northbound. In October 2015, Route 33 Post Oak averaged 2,291 weekday boardings.

7. I have reviewed Exhibit A of METRO's brief to the Attorney General. Exhibit A is a copy of Resolution 2003-93, calling for a special election.

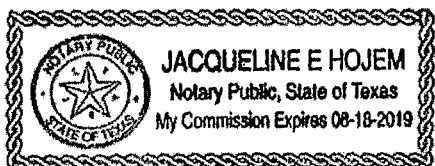
8. The special election noticed by METRO Resolution No. 2003-93 resulted in voter approval of \$640 million in bond fund capacity for METRO transit projects.

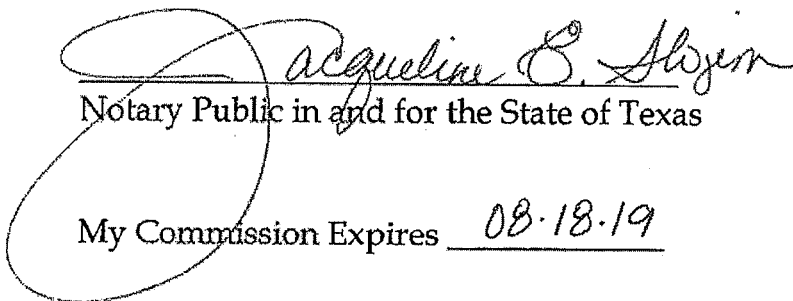
9. The entirety of the bond issuance capacity created by the special election noticed in Resolution No. 2003-93 was long ago exhausted. The bond proceeds were spent in accordance with the election's authorization, for the acquisition, construction, repair, equipping, improvement or extension of METRO's Transit Authority System. There is no remaining capacity to issue bonds to pay for any buses METRO may procure for operation on the Post Oak Project's dedicated lanes. If additional buses are obtained for a Post Oak dedicated lane, it will not be from the 2003 authorized bond proceeds.

Further affiant sayeth not.

  
Thomas C. Lambert

10<sup>th</sup> SUBSCRIBED and SWORN TO before me by Thomas C. Lambert on this  
     day of November, 2015, to certify which witness my hand and official seal.



  
Notary Public in and for the State of Texas  
My Commission Expires 08-18-19