

**RESOLUTION NO. 2012-75  
CALLING A SPECIAL ELECTION  
TO BE HELD ON TUESDAY, NOVEMBER 6, 2012**

A RESOLUTION CALLING A SPECIAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2012, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF THE METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY, TEXAS ("METRO") A PROPOSITION TO CONTINUE THE DEDICATION OF TWENTY-FIVE PERCENT (25%) OF METRO'S SALES AND USE TAX REVENUES FOR THE PERIOD OCTOBER 1, 2014 THROUGH DECEMBER 31, 2025, FOR PAYMENTS TO HARRIS COUNTY, THE CITY OF HOUSTON AND THE OTHER CITIES WITHIN ITS JURISDICTION FOR STREET IMPROVEMENTS AND RELATED PROJECTS, AS AUTHORIZED BY LAW, AND LIMITED RETENTION BY METRO, 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 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 extends through September 30, 2014 pursuant to approval by the voters of METRO at the election held on November 4, 2003 (the "2003 Election");

WHEREAS, as a part of the 2003 Election, METRO agreed that between November 1, 2009 and January 1, 2013, METRO would 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;

WHEREAS, the Board has decided to call and hold the Election (as hereinafter defined) for the purposes of obtaining voter approval to continue the dedication of twenty-five percent

(25%) of METRO's sales and use tax revenues through December 31, 2025, for street improvements, related projects and other facilities, as authorized by law and more particularly described in **Exhibit A**, which is hereby made a part of this resolution ("METRO's Street Improvement Dedication"), and limited retention by METRO, with no increase in the current rate of METRO's sales and use tax;

WHEREAS, the Election specifically seeks voter determination as to whether to continue METRO's Street Improvement Dedication for each METRO fiscal year during the period October 1, 2014 through December 31, 2025, calculated as follows: (1) an amount equal to twenty-five percent (25%) of the sales and use tax revenues collected by METRO during its fiscal year 2014, which is the period October 1, 2013 through September 30, 2014 (such amount, the "2014 Collection"), shall be paid to Harris County, the City of Houston and the other cities within METRO's jurisdiction; and (2) in any METRO fiscal year in which the amount of sales and use tax revenues collected by METRO is greater than the 2014 Collection, the 25% Street Improvement Dedication portion of such additional amount (the "Incremental Collection") shall be divided equally, with (a) 50% of the Incremental Collection being paid to Harris County, the City of Houston and the other cities within METRO's jurisdiction and (b) 50% of the Incremental Collection being retained by METRO. However, in any METRO fiscal year in which the amount of sales and use tax revenues collected by METRO is less than the 2014 Collection, the total payment made to Harris County, the City of Houston and the other cities within METRO's jurisdiction for that fiscal year shall be twenty-five percent (25%) of the sales and use tax revenues collected by METRO during such fiscal year (such amount, the "Adjusted Sales Tax Collection");

WHEREAS, the 2014 Collection, the 50% portion of any Incremental Collection, or the Adjusted Sales Tax Collection paid to Harris County, the City of Houston and the other cities within METRO's jurisdiction shall be allocated among such entities in substantially the same manner used by METRO as of the date of the Election;

WHEREAS, METRO seeks to increase its ridership and commits to use its 50% portion of any Incremental Collections for expanded bus service, bus shelters, Park & Ride facilities, bus transit centers, bus operating facilities, commercial paper debt payments and administrative expenses to support its efforts to increase ridership and bus revenue hours; and

WHEREAS, METRO further commits that if the voters decide to continue the METRO Street Improvement Dedication through December 31, 2025, METRO shall hold another election prior to December 31, 2025, seeking a local determination by voters regarding METRO's continuing support after December 31, 2025 for improvements of the types described in Section 451.065 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 Voters; and Hours.** An election (the "Election") shall be held on Tuesday, November 6, 2012, 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 voters 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 voters within the boundaries and service area of METRO the proposition (the "Proposition") as shown on **Exhibit B**, which is hereby made a part of this Resolution.

**Section 4. Voting System and Ballots.** Voting at the Election, and early voting therefor, 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 C**, which is hereby made a part of this Resolution.

**Section 5. Voting Precincts; Polling Places; Election Officers.** (a) 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 (i) 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 (ii) 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.** (a) 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.** (a) 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 Stan Stanart, or his 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, 1001 Preston, 4th Floor, Room 439, Houston, Texas, 77002, Attention: Early Voting.

(c) The Board hereby appoints John Oldham, 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, 301 Jackson Street, Richmond, Texas, 77469, Attention: Early Voting.

(d) The Board hereby appoints Debbie Hollan, 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 703, Hempstead, Texas, 77445, Attention: Early Voting.

(e) The Board hereby appoints Suzie Harvey, 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 Stan Stanart, or his 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 June Santerre, or her 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 Doris Butcher, or her designee (or the presiding judge as confirmed by Commissioners Court), 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 Dorothy Woodall, or her designee (or the presiding judge as confirmed by Commissioners Court), 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.** (a) 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:

	<u>Harris County</u>	<u>Fort Bend County</u>	<u>Waller County</u>	<u>Montgomery County</u>
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.

**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, Vietnamese and Chinese stating in substance the contents of this Resolution, shall be: (a) 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 (b) 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 and Spanish for use at each polling place and for early voting. In addition, in Harris County such materials shall also be printed in Vietnamese and Chinese. The presiding election judge for each voting precinct shall appoint a sufficient number of election clerks who are fluent in English and Spanish to serve the needs of the Spanish-speaking voters of each precinct in accordance with the requirements of the Election Code. In addition, in Harris County such judge shall also appoint a sufficient number of election clerks who are fluent in Vietnamese and Chinese to serve the needs of Vietnamese-speaking and Chinese-speaking voters.

**Section 14. Expression of METRO's Intent.** In calling the Election, METRO hereby expresses its intent to use the 50% portion of any Incremental Collection retained by METRO toward its efforts to increase ridership. The Board acknowledges the sound policy of paying down short term debt, expresses its intent to increase ridership and, thus, recognizes that expansion of the bus or related vehicular fleet and efficient use of such fleet to increase bus revenue hours, as well as an expanded bus shelter program, will support such objectives. The Board recognizes that satisfaction of such objectives described below will be subject to economic conditions, realization of sales tax projections and projections of operations and maintenance expenses. The Board expresses its intent to use the 50% portion of any Incremental Collection retained by METRO for the following purposes:

- (a) Increase bus revenue hours and acquire up to two hundred (200) additional buses;
- (b) Construction of up to one thousand (1000) additional bus shelters, the addition of Park & Ride facilities, bus transit centers, and bus operating facilities;
- (c) Paying down up to \$200 million of commercial paper issued by METRO, the proceeds of which were used to pay for (or refund payments for) METRO's Street Improvement Dedication as a result of the 2003 Election; and
- (d) Operation and maintenance costs associated with (a) - (c) described above.

**Section 15. Rebate, Area-Wide Projects and Administrative Cost Reductions.** By contract METRO rebates certain amounts of its sales and use taxes collected at Reliant Stadium, G.R. Brown Convention Center and Baybrook Mall. Additionally, METRO uses portions of its

sales and use taxes collected for area-wide projects (i.e. Motorists Assistance Program Services (MAPS), Expanded MAPS, radio systems, jurors transportation etc.). METRO also incurs certain administrative costs associated with the implementation of METRO Street Improvement Dedication. Prior to calculating the twenty-five percent (25%) for payments to Harris County, the City of Houston and the other cities within METRO's jurisdiction, METRO will deduct the cost of rebates, area-wide projects and administrative expenses reasonably incurred.

**Section 16. METRO's 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) METRO's Street Improvement Dedication will be in force and effect for the period October 1, 2014 through December 31, 2025 in accordance with the terms of such dedication, as described in **Exhibit B**;

(b) For the period October 1, 2014 through December 31, 2025, the 2014 Collection, the 50% portion of any Incremental Collection, or the Adjusted Sales Tax Collection paid to Harris County, the City of Houston and the other cities within METRO's jurisdiction shall be allocated among such entities in substantially the same manner used by METRO as of the date of the Election;

(c) METRO will hold another election prior to December 31, 2025, seeking a local determination by voters regarding METRO's continuing support after December 31, 2025 for improvements of the types described in Section 451.065 of the METRO Act;

(d) METRO will use its 50% portion of the Incremental Collection for costs related to its efforts to increase bus and related vehicular fleet ridership and for bus purchases, and operation and maintenance costs of additional service, bus shelters, Park & Ride facilities, bus transit centers, bus operating facilities, commercial paper debt payments and administrative costs; and

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

**Section 17. 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 18. 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 19.** **Effective Date.** This Resolution is effective immediately upon its passage and approval.

PASSED AND APPROVED THIS AUGUST 17, 2012.

ATTEST.

Secretary



Chairman

**LIST OF EXHIBITS:**

- Exhibit A – METRO's Street Improvement Dedication
- Exhibit B – Proposition
- Exhibit C – Ballot



## **EXHIBIT A**

### **METRO'S STREET IMPROVEMENT DEDICATION**

METRO's Street Improvement Dedication is a voter-approved dedication for the period October 1, 2014 through December 31, 2025 for use for street improvements and related projects located within the boundaries and service area of METRO and of the types permitted by Section 451.065 of the METRO Act and any other action permitted by the Texas Transportation Code which METRO approves, calculated as follows: (1) an amount equal to twenty-five percent (25%) of the sales and use tax revenues collected by METRO during its fiscal year 2014, which is the period October 1, 2013 through September 30, 2014 (such amount, the "2014 Collection") shall be paid to Harris County, the City of Houston and the other cities within METRO's jurisdiction; and (2) in any METRO fiscal year in which the amount of sales and use tax revenues collected by METRO is greater than the 2014 Collection, the 25% Street Improvement Dedication portion of such additional amount (the "Incremental Collection") shall be divided equally, with (a) 50% of the Incremental Collection being paid to Harris County, the City of Houston and the other cities within METRO's jurisdiction and (b) 50% of the Incremental Collection being retained by METRO. However, in any METRO fiscal year in which the amount of sales and use tax revenues collected by METRO is less than the 2014 Collection, the total payment made to Harris County, the City of Houston and the other cities within METRO's jurisdiction for that fiscal year shall be twenty-five percent (25%) of the sales and use tax revenues collected by METRO during such fiscal year (such amount, the "Adjusted Sales Tax Collection").

## **EXHIBIT B**

### **PROPOSITION**

#### **METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY, TEXAS**

SHALL THE METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY, TEXAS ("METRO") CONTINUE THE DEDICATION OF METRO'S SALES AND USE TAX REVENUES FOR PAYMENTS TO HARRIS COUNTY, THE CITY OF HOUSTON AND THE OTHER CITIES WITHIN ITS JURISDICTION 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, FOR THE PERIOD BEGINNING OCTOBER 1, 2014 THROUGH DECEMBER 31, 2025, CALCULATED AS FOLLOWS: (1) AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT (25%) OF THE SALES AND USE TAX REVENUES COLLECTED BY METRO DURING ITS FISCAL YEAR 2014, WHICH IS THE PERIOD OCTOBER 1, 2013 THROUGH SEPTEMBER 30, 2014 (SUCH AMOUNT, THE "2014 COLLECTION") SHALL BE PAID TO HARRIS COUNTY, THE CITY OF HOUSTON AND THE OTHER CITIES WITHIN METRO'S JURISDICTION; AND (2) IN ANY METRO FISCAL YEAR IN WHICH THE AMOUNT OF SALES AND USE TAX REVENUES COLLECTED BY METRO IS GREATER THAN THE 2014 COLLECTION, THE 25% STREET IMPROVEMENT DEDICATION PORTION OF SUCH ADDITIONAL AMOUNT (THE "INCREMENTAL COLLECTION") SHALL BE DIVIDED EQUALLY, WITH (A) 50% OF THE INCREMENTAL COLLECTION BEING PAID TO HARRIS COUNTY, THE CITY OF HOUSTON AND THE OTHER CITIES WITHIN METRO'S JURISDICTION AND (B) 50% OF THE INCREMENTAL COLLECTION BEING RETAINED BY METRO; HOWEVER, IN ANY METRO FISCAL YEAR IN WHICH THE AMOUNT OF SALES AND USE TAX REVENUES COLLECTED BY METRO IS LESS THAN THE 2014 COLLECTION, THE TOTAL PAYMENT MADE TO HARRIS COUNTY, THE CITY OF HOUSTON AND THE OTHER CITIES WITHIN METRO'S JURISDICTION FOR THAT FISCAL YEAR SHALL BE TWENTY-FIVE PERCENT (25%) OF THE SALES AND USE TAX REVENUES COLLECTED BY METRO DURING SUCH FISCAL YEAR (SUCH AMOUNT, THE "ADJUSTED SALES TAX COLLECTION").

**EXHIBIT C**

**BALLOT**

**METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY, TEXAS**

- ☐ FOR                      THE CONTINUED DEDICATION OF UP TO 25% OF  
METRO'S SALES AND USE TAX REVENUES FOR STREET  
IMPROVEMENTS AND RELATED PROJECTS FOR THE  
☐ AGAINST                PERIOD OCTOBER 1, 2014 THROUGH DECEMBER 31,  
2025 AS AUTHORIZED BY LAW AND WITH NO  
INCREASE IN THE CURRENT RATE OF METRO'S SALES  
AND USE TAX.