



City of Bellaire

ORDINANCE NO. 20-003

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS AUTHORIZING THE CITY MANAGER AND THE CITY CLERK OF THE CITY OF BELLAIRE, TEXAS, TO EXECUTE AND ATTEST, RESPECTIVELY, A *FIRST AMENDMENT TO THE SECOND AMENDED AND RESTATED CONGESTION MITIGATION/TRAFFIC MANAGEMENT AGREEMENT* WITH THE METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY, TEXAS (METRO), IN A FORM AS ATTACHED HERETO AND MARKED EXHIBIT "A," FOR THE PURPOSE OF EXTENDING THE TERM OF THE AGREEMENT TO SEPTEMBER 30, 2040.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS:

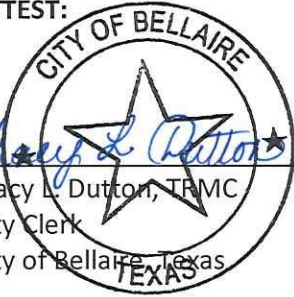
THAT the City Manager and City Clerk of the City of Bellaire, Texas, are hereby authorized to execute and attest, respectively, a *First Amendment to the Second Amended and Restated Congestion Mitigation/Traffic Management Agreement* with METRO, in a form as attached hereto and marked Exhibit "A," for the purpose of extending the term of the Agreement from December 31, 2025, to September 30, 2040.

PASSED, APPROVED, and ADOPTED this 27th day of January 2020.


SIGNED:

Andrew S. Friedberg
Mayor
City of Bellaire, Texas

ATTEST:


Tracy L. Dutton, TPMC
City Clerk
City of Bellaire, Texas

APPROVED AS TO FORM:



Alan P. Petrov
City Attorney
City of Bellaire, Texas

EXHIBIT A

First Amendment to the Second Amended
And Restated Congestion Mitigation/
Traffic Management Agreement

THE STATE OF TEXAS §
COUNTY OF HARRIS §

FIRST AMENDMENT TO
THE SECOND AMENDED AND RESTATED CONGESTION
MITIGATION/TRAFFIC MANAGEMENT AGREEMENT

THIS FIRST AMENDMENT to the SECOND AMENDED AND RESTATED CONGESTION MITIGATION/TRAFFIC MANAGEMENT AGREEMENT (“Third Amendment”) is made by and between the METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY, TEXAS (“METRO”), a body corporate and politic, existing and operating pursuant to Chapter 451, TEXAS TRANSPORTATION CODE, and the CITY OF BELLAIRE, TEXAS (“CITY”), a home-rule municipal corporation under the laws of the State of Texas.

RECITALS

WHEREAS, pursuant to Section 451.065 of the Texas Transportation Code and other applicable law, METRO has administered a program for participation with other governmental entities for development of Eligible Transportation Projects (as defined in the hereinafter defined Agreement) in the METRO service area; and

WHEREAS, pursuant to METRO Resolution 99-104, METRO executed a Congestion Mitigation/Traffic Management Agreement (as amended from time to time, the “Agreement”) with the CITY to provide a base level of funds to the CITY to undertake Eligible Transportation Projects, the term of which was originally set to expire on September 30, 2009; and

WHEREAS, pursuant to METRO Resolutions 2003-77, 2003-93 and 2004-6, and the successful passage of METRO’s election on November 4, 2003 which, represented voter approval of the continued dedication by METRO of 25% of its sales and use tax revenues for street improvements, mobility projects, as authorized by law, through September 30, 2014, METRO executed an amendment to the Agreement to extend the term of the Agreement to September 30, 2014 (the “First Amendment”); and

WHEREAS, pursuant to METRO Resolutions 2012-75 and 2012-111, and the successful passage of METRO’s election on November 6, 2012 which, represented voter approval of the continued dedication by METRO of up to 25% of its sales and use tax revenues for street improvements and related projects, as authorized by law, through December 31, 2025, METRO executed an amendment and restatement of the Agreement to further extend the term of the Agreement to December 31, 2025 (the “Second Amendment”); and

WHEREAS, in accordance with METRO Resolutions 2019-71 and 2019-123, and the successful passage of METRO’s election on November 5, 2019 which, obtained voter approval of the continued dedication by METRO of up to 25% of its sales and use tax revenues through September 30, 2040 for street improvements, mobility projects and other facilities and services authorized by Section 451.065 of the Texas Transportation Code and other applicable law, the parties wish to enter into this Third Amendment to extend the term of the Agreement to September 30, 2040.

NOW, THEREFORE, for and in consideration of the foregoing recitals and the mutual promises, obligations, covenants and benefits contained herein, the CITY and METRO agree as follows:

AGREEMENT

1. Section 2 (Definitions and Terms) of the Agreement contains the following definitions:

(a) "Available Sales and Use Tax Revenues" shall mean all sales and use tax revenues of METRO (net of collection costs imposed by the State of Texas), except sales and use tax revenues that are, subsequent to the Effective Date, dedicated by state or federal law to be used by a county, political subdivision or municipality other than the CITY or METRO. Specifically, such term includes all such revenues collected or otherwise attributable to the period commencing October 1, 2014 and ending December 31, 2025.

(e) "Term of this Agreement" or "Term" shall mean the period of time beginning on the Commencement Date and ending on December 31, 2025, or an earlier date if this Agreement is terminated pursuant to the provisions hereof."

Said definitions will be hereby amended to state as follows:

(a) "Available Sales and Use Tax Revenues" shall mean all sales and use tax revenues of METRO (net of collection costs imposed by the State of Texas), except sales and use tax revenues that are, subsequent to the Effective Date, dedicated by state or federal law to be used by a county, political subdivision or municipality other than the CITY or METRO. Specifically, such term includes all such revenues collected or otherwise attributable to the period commencing on the Commencement Date and ending at the end of the Term of this Agreement.

(e) "Term of this Agreement" or "Term" shall mean the period of time beginning on the Commencement Date and ending on September 30, 2040, or an earlier date if this Agreement is terminated pursuant to the provisions hereof."



2. This Third Amendment shall take immediate effect after it is duly executed by the CITY and METRO. From and after the date that this Third Amendment takes effect, all other terms and conditions of the Agreement not modified by this Third Amendment shall remain in full force and effect. The terms of the Agreement, as modified by the First Amendment, the Second Amendment and this Third Amendment, contain the entire agreement between the CITY and METRO with respect to the matters addressed herein and therein.

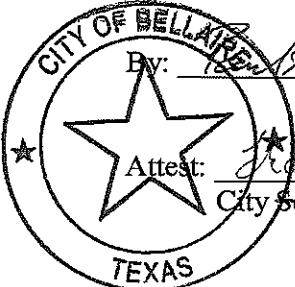
[Signature page follows]

a. It has on the 27th day of January, 2020, been executed on behalf of the CITY by Paul A. Hofmann, City Manager.

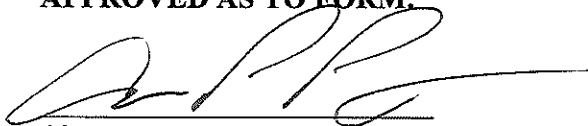
b. It has on the 26th day of December, 2019, been executed on behalf of METRO by its President & CEO, Thomas C. Lambert, and attested by its Assistant Secretary, pursuant to Resolution 2019-123 of its Board of Directors authorizing such execution.

CITY OF BELLAIRE, TEXAS

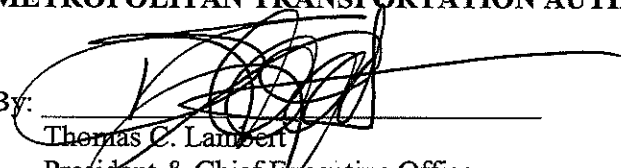
By: 
Attest: 
City Secretary Clerk



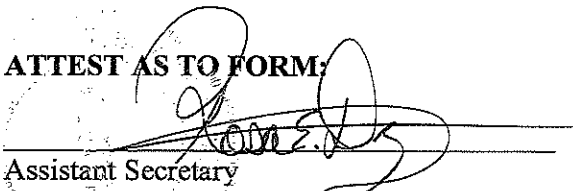
APPROVED AS TO FORM:


City Attorney

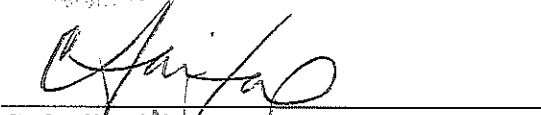
METROPOLITAN TRANSPORTATION AUTHORITY OF HARRIS COUNTY, TEXAS

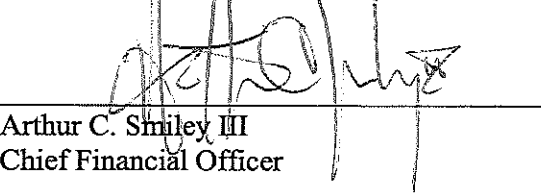
By: 
Thomas C. Lambert
President & Chief Executive Officer

ATTEST AS TO FORM:


Assistant Secretary

APPROVED AS TO FORM:


Cydonii Fairfax
Executive Vice President & General Counsel


Arthur C. Smiley III
Chief Financial Officer