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**Appendix I**  
**Active FTA Letters of No**  
**Prejudice**

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## Appendix I — Active FTA Letters of No Prejudice

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### ***FTA Pre-Award Authority***

The Federal Transit Administration (FTA) has developed two processes that allow grant recipients to incur costs using non-federal resources in advance of grant approval. These expenditures may subsequently be reimbursed using federal funds (or used as credit toward the required non-federal share) after a grant is approved. These provisions are generally referred to as ‘pre-award authority’.

It is important to note that exercising pre-award authority involves considerable risk. There is no guarantee federal funds will be available or awarded for reimbursement and costs incurred must meet all federal planning, environmental, and procurement requirements, (as if federal grant funds are being used) as well as any program-specific requirements that may exist. All expenditures made under pre-award authority are subject to audit and potential disallowance.

### ***Automatic Pre-award Authority***

In cases where FTA has determined specific pre-approval is not necessary, recipients may incur costs under ‘automatic’ pre-award authority. The list of eligible activities and conditions precedent for the use of automatic pre-award authority is revised each year and published in the Federal Register as part of FTA’s annual notice of funding apportionments.

Automatic pre-award authority is generally restricted to activities where (1) substantial certainty surrounds the availability of future federal funds, such as 5307 formula funds, or (2) the recipient is pursuing funding support under a process where significant FTA involvement/oversight is involved (e.g. New Starts/Small Starts).

While FTA has continually expanded the list of eligible programs and activities which qualify for automatic pre-award authority, funds transferred from the highway account (CMAQ/STP/etc.) are currently not covered by these provisions.

### ***Letter of No Prejudice (LONP)***

In all other cases, specific FTA approval is required before expenses may be incurred using non-federal resources. The approval document issued by FTA is a Letter of No Prejudice (LONP).

LONPs must meet the same conditions as automatic pre-award authority and will only be issued following completion of the environmental review process.

LONPs are intended to allow *time-sensitive critical-path* project activities to occur using local funds in advance of federal grant funds being available for reimbursement. As such, LONPs expire after a specific period of time, generally limited to five years.

Given this purpose and significant constraints, LONPs are most valuable when a significant local project investment is imminent **and** federal funds are likely to be available to continue project implementation within the five-year period covered by the LONP.

If local funds are not available to make an investment in the project, or if federal funds are not likely to be available within five years of the local investment, an LONP provides little or no value.

The following examples illustrate situations where LONPs are appropriate:

- **Long-lead items:** The time required to procure certain long-lead items, such as transit vehicles or proprietary equipment, may necessitate initiating these activities prior to grant approval.
- **Final design:** A recipient may wish to undertake engineering and design activities upon the completion of environmental review so construction may begin immediately upon grant approval.

### ***Documentation of LONPs in the RTP and TIP***

Project sponsors within the Houston-Galveston region have made greater use of FTA pre-award authority, particularly Letters of No Prejudice, over the past few years. In order to ensure the planning requirement conditions for LONP issuance are being satisfied, H-GAC issued a memorandum to transit funding recipients in the region detailing a new process for the treatment of LONPs in the TIP and RTP.

Under this new process, proposed LONPs which represent multi-year capital programs will be considered for inclusion in the RTP. As is the case for roadway projects, documentation of financial responsibility will be required to support the inclusion of an LONP project in the RTP.

As local funding commitments are made or federal grant funds are secured to implement the LONP project, the funded scope elements will be programmed in the TIP. In addition, active and proposed LONPs will be included in an appendix to the TIP for the purpose of facilitating federal approvals and authorizations.



U.S. Department  
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**Federal Transit  
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819 Taylor St. Room 14A02  
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817-978-0550  
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November 16, 2020

Thomas C. Lambert  
President and Chief Executive Officer  
Metropolitan Transit Authority of Harris County  
1900 Main Street, Houston, Texas 77002

Re: Approval of Authority to Incur Costs Prior to Grant Approval – Houston METRO: Design only for 56-Airline/Montrose & 54-Scott Bus Operations Optimized System Treatments (BOOST) Corridors

Dear Mr. Lambert:

The Federal Transit Administration (FTA) has completed its review of the letter and supporting documentation from Houston METRO dated November 5, 2020 requesting a Letter of No Prejudice (LONP) allowing it to proceed to incur costs for design only on the 56-Airline/Montrose & 54-Scott Bus BOOST Corridors in Houston, Texas. The LONP request includes design costs in an amount not to exceed \$4,794,729. The complete proposed project will implement a more efficient, reliable, and frequent transit service. The project could include elements such as: stop optimization/consolidation/relocation/far side boarding, near-level boarding, 2-door boarding, new shelters, accessibility enhancements, stop beacons, safe crossings, sidewalks, transit signal priority preemption, enhanced passenger information, and bus-only lanes where feasible. This project is currently listed in the Houston-Galveston Area Council Transportation Improvement Program and the State Transportation Improvement Program. This project has also been environmentally cleared on June 2, 2020.

This approval allows Houston METRO to incur costs for the project described above and retains the project's eligibility for future FTA grant assistance. As with all pre-award authority, all Federal requirements must be met prior to incurring costs in order to retain eligibility of the costs for future FTA grant assistance. The authority to incur costs provided in this letter does not constitute an FTA commitment that future Federal dollars will be approved for this project. This LONP expires five years from the date of approval.

Please contact Ronisha Hodge, FTA Region 6 Community Planner at 817-978-0576 or [Ronisha.Hodge@dot.gov](mailto:Ronisha.Hodge@dot.gov), with any questions you may have.

Sincerely,

11/16/2020

X Gail Lyssy

Signed by: GAIL C LYSSY

Gail Lyssy  
Regional Administrator



U.S. Department  
of Transportation  
**Federal Transit  
Administration**

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February 24, 2021

Edmund Petry  
Director, System and Capital Planning  
Metropolitan Transit Authority of Harris County (METRO)  
P.O. Box 61429  
Houston, Texas 77208

Re: Approval of Authority to Incur Costs Prior to Grant Award

Dear Mr. Petry:

The Federal Transit Administration (FTA) has completed its review of the letter from METRO dated February 10, 2021 requesting a Letter of No Prejudice allowing it to proceed to incur costs for the Northline Transit Center (TC). This project will construct a new transit center with a parking garage. It will be located on the east side of Fulton Street (between Rebecca and Julia Streets) across from an existing transit center and within the METRORail Red Line Corridor. The project will be a four story parking structure with approximately 500 parking spaces and an enclosed space to be used for a variety of tenants such as METRO Ridestore, METRO Police, and route supervisors. The total project cost is \$40,373,428.

This approval allows METRO to incur costs for the project described above and retains the project's eligibility for future Federal Transit Administration grant assistance. As with all pre-award authority, all Federal requirements must be met prior to incurring costs in order to retain eligibility of the costs for future FTA grant assistance. This authority to incur costs provided in this letter does not constitute an FTA commitment that future Federal dollars will be approved for this project. This Letter of No Prejudice (LONP) expires five years from the date of this approval. Any request to extend this LONP must be received by FTA in advance of its expiration.

Please contact Ronisha Hodge at 817-978-0576 or [ronisha.hodge@dot.gov](mailto:ronisha.hodge@dot.gov) with any questions you may have about proceeding under the authority to incur costs provided in this letter.

Sincerely,

A handwritten signature in black ink that reads "Gail Lyssy".

Gail Lyssy  
Regional Administrator



U.S. Department  
of Transportation  
**Federal Transit  
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October 22, 2021

Thomas C. Lambert  
President and Chief Executive Officer Metropolitan  
Transit Authority of Harris County  
1900 Main Street, Houston, Texas 77002

Re: Approval of Authority to Incur Costs Prior to Grant Approval – Houston METRO: Design and Construction for 82-Westheimer Bus Operations Optimized System Treatments (BOOST) Corridor

Dear Mr. Lambert:

The Federal Transit Administration (FTA) has completed its review of the letter and supporting documentation from Houston METRO, dated September 9, 2021, requesting a Letter of No Prejudice (LONP) allowing it to proceed to incur costs for design and construction on the 82-Westheimer BOOST Corridor in Houston, Texas. The LONP request includes design and construction costs in an amount not to exceed \$32,959,660.

This approval allows Houston METRO to incur costs for the project described above that may be eligible for future FTA grant assistance. As with any pre-award authority, all Federal requirements must be met prior to incurring costs in order to retain eligibility of the costs for future FTA grant assistance. The authority to incur costs provided in this letter does not constitute an FTA commitment that future Federal funding will be approved for this project. This LONP expires five years from the date of this approval. Any request to extend this LONP must be received by FTA in advance of its expiration.

Please contact Ronisha Hodge, FTA Region 6 Community Planner at 817- 978-0576 or Ronisha.Hodge@dot.gov, with any questions you may have.

Sincerely,

**DONALD R  
KOSKI**

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DONALD R KOSKI  
Date: 2021.10.22  
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Donald R. Koski  
Acting Regional Administrator



U.S. Department  
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**Federal Transit  
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January 31, 2022

Clint Harbert, AICP  
Vice President - System and Capital Planning  
Metropolitan Transit Authority of Harris County  
1900 Main Street, Houston, Texas 77002

Re: Approval of Authority to Incur Costs Prior to Grant Approval – Houston METRO: Purchase of twenty (20) battery electric buses, ten (10) battery electric cutaway buses and related charging equipment.

Dear Mr. Harbert:

The Federal Transit Administration (FTA) has completed its review of the January 26, 2022 letter and supporting documentation from Houston METRO requesting a Letter of No Prejudice (LONP) to allow it to incur costs for the purchase of twenty (20) battery electric heavy-duty buses, ten (10) battery electric cutaway buses, and related charging equipment in Houston, Texas. The LONP request is for an amount not to exceed \$29,193,000. This project is currently listed in the Houston-Galveston Area Council Transportation Improvement Program and the State Transportation Improvement Program. Based on the supporting documentation provided by Houston METRO, FTA has determined that this project qualifies for a Categorical Exclusion under NEPA per 23 CFR 771.118(c).

FTA approves Houston Metro's request. This approval allows Houston METRO to incur costs for the project described above and retains the project's eligibility for future FTA grant assistance. As with any pre-award authority, all Federal requirements must be met prior to incurring costs in order to retain eligibility of the costs for future FTA grant assistance. The authority to incur costs provided in this letter does not constitute a FTA commitment that future Federal dollars will be approved for this project. This LONP expires five years from the date of this approval. Any request to extend this LONP must be received by FTA in advance of its expiration.

Please contact Ronisha Hodge, FTA Region 6 Community Planner at 817-978-0576 or [Ronisha.Hodge@dot.gov](mailto:Ronisha.Hodge@dot.gov), with any questions you may have about proceeding under the authority to incur costs provided in this letter.

Sincerely,

**GAIL C  
LYSSY**

Digitally signed by GAIL C  
LYSSY  
Date: 2022.01.31  
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Gail Lyssy  
Regional Administrator





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March 23, 2022

Clint B. Harbert, AICP  
Vice President – System & Capital Planning  
Metropolitan Transit Authority of Harris County  
1900 Main Street, Houston, Texas 77002

Re: Approval of Authority to Incur Costs Prior to Grant Approval – Houston METRO: Construction only for 56-Airline/Montrose & 54-Scott Bus Operations Optimized System Treatments (BOOST) Corridors

Dear Mr. Harbert:

The Federal Transit Administration (FTA) has completed its review of the letter and supporting documentation from Houston METRO dated February 25, 2022 requesting a Letter of No Prejudice (LONP) allowing it to proceed to incur costs for construction only on the 56-Airline/Montrose & 54-Scott Bus BOOST Corridors in Houston, Texas. The LONP request includes construction costs for the 56-Airline/Montrose corridor in an amount not to exceed \$19,695,203 and the 54-Scott corridor in an amount not to exceed \$15,896,305. The complete proposed project will implement a more efficient, reliable, and frequent transit service. These projects include elements such as: stop optimization/consolidation/relocation/far side boarding, near-level boarding, 2-door boarding, new shelters, accessibility enhancements, stop beacons, safe crossings, sidewalks, transit signal priority preemption, enhanced passenger information, and bus-only lanes where feasible. This project is currently listed in the Houston-Galveston Area Council Transportation Improvement Program and the State Transportation Improvement Program. These projects have also been environmentally cleared on June 2, 2020. FTA has approved this request.

This approval allows Houston METRO to incur costs for the projects described above and retains the project's eligibility for future FTA grant assistance. As with all pre-award authority, all Federal requirements must be met prior to incurring costs in order to retain eligibility of the costs for future FTA grant assistance. The authority to incur costs provided in this letter does not constitute an FTA commitment that future Federal dollars will be approved for this project. This LONP expires five years from the date of approval.

Please contact Ronisha Hodge, FTA Region 6 Community Planner at 817-978-0576 or [Ronisha.Hodge@dot.gov](mailto:Ronisha.Hodge@dot.gov), with any questions you may have.

Sincerely,

GAIL C  
LYSSY

Gail Lyssy  
Regional Administrator

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Date: 2022.03.23  
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