

CHAPTER 7.0 - SECTION 4(f) EVALUATION

As discussed in Section 3.4 of this document, the introduction of Light Rail Transit (LRT) or Bus Rapid Transit (BRT)-Convertible through or directly adjacent to an historic district could affect the feeling and setting of that historic district. In addition, acquisition of individual properties that date from the period of significance and that generally retain integrity of design, materials, workmanship and location could also be considered an adverse effect on the overall character of the historic district. Therefore, an individual Section 4(f) evaluation was been prepared.

7.1 LEGAL AND REGULATORY CONTEXT

The following sections highlight the relevant legislation, rules, and policies that define Section 4(f) procedures and the actions regarding these resources.

7.1.1 Section 4(f) of the U.S. DOT Act of 1966 (49 U.S.C. 303)

Projects using U.S. Department of Transportation (DOT) funds or requiring a license from its agencies must meet the requirements of Section 4(f) of the DOT Act of 1966 [49 U.S. Code (U.S.C.) 303]. Section 4(f) declares it a national policy to make a special effort to preserve the natural beauty of the countryside, including parks and recreation land, wildlife and waterfowl refuges, and historic sites. Section 4(f) prohibits the Secretary of Transportation from approving projects that require the use of significant publicly owned parks, recreation areas, or wildlife and waterfowl refuges, or any significant historic site protected under Section 4(f) unless a determination is made that:

- (1) There is no feasible and prudent alternative to such use, and
- (2) The project includes all possible planning to minimize harm to the property resulting from such use.

When such resources are affected, the documentation of no feasible or prudent alternative and planning to minimize harm is included in the Federal environmental document. A Section 4(f) "use" occurs:

- (1) When land is permanently incorporated into a transportation facility;
- (2) When there is a temporary occupancy of land that is adverse in terms of the statute's preservationist purposes as determined by the [length of occupancy, scope of work, anticipated permanent adverse physical impact of the occupancy of land, and possibility of restoration to the resource's original condition prior to occupancy];
or
- (3) When there is a constructive use of land {23 Code of Federal Register (CFR) 771.135 [p]}.

Permanent Acquisition: The physical and permanent procurement of a protected resource for use by a transportation project is known as an actual or direct use.

Temporary Use: Short-term, temporary use (e.g., for a construction easement) of a Section 4(f) resource would not constitute a use under Section 4(f) as long as the following conditions are met: occupancy of the resource is temporary (i.e., shorter than the construction period for the entire project) and there is no change in ownership; changes or

effects to the resource are minimal; there are no permanent adverse impacts resulting from the temporary use; and there is a documented agreement between relevant jurisdictions regarding temporary use of the resource.

Constructive Use: A constructive use occurs when a project does not incorporate land from a protected resource but when the project generates impacts due to proximity (e.g., noise or visual impacts) and these impacts are so severe that they impair preservation or utilization of the protected resource. Constructive use occurs when the project negatively affects the purposes for which the resource is of value to the public (i.e., its activities, features, or attributes). In other words, a constructive use determination considers the present use of the resource by the public as well as the attributes that made the resource valuable in the first place. Constructive use resulting from increased noise applies only when the protected resource is “noise sensitive” and derives some of its value and use from its relatively quiet setting. To constitute a constructive use, the noise increase must not only be detectable to the human ear [i.e., greater than two to three decibels A-weighting (dBA)] and exceed the Federal Transit Administration (FTA) abatement criteria, but it must be severe enough to impair enjoyment of the Section 4(f) resource. Constructive use based on visual intrusion occurs when there is substantial impairment to the features, setting, or attributes of a protected resource when those features, setting, or attributes are important contributing elements to the value of the resource.

7.1.1.1 Department of Transportation Environmental Impact and Related Procedures, Final Rule, Section 771.135 (f)

A determination of whether a resource is used under Section 4(f) is also subject to consideration of 23 CFR Section 771.135(f) of the DOT guidelines for preparation of environmental documents. This section states that certain properties are excluded from Section 4(f) evaluation because they are already in use for transportation purposes; the project contemplates the restoration, rehabilitation, or maintenance of these properties; and the project will not adversely affect the historic qualities of these properties. Section 771.135(f) states:

“The Administration may determine that Section 4(f) requirements do not apply to restoration, rehabilitation, or maintenance of transportation facilities that are on or eligible for the National Register, when:

such work would not adversely affect the historic qualities of the facility that caused it to be on or eligible for the National Register, and the State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP) have been consulted and have not objected to the Administration finding in paragraph (f)(1) of this section.”

7.1.1.2 Department of Transportation Section 4(f) Policy Paper

The U.S. DOT, via the Federal Highway Administration (FHWA), issued its *Section 4(f) Policy Paper* in 1987 (revised in 1989) to “provide guidance on the applicability of Section 4(f) to various types of land.” As a DOT agency, and absent of its own specific policy statement, FTA projects are also subject to this policy guidance. The policy addresses 22 land uses and related issues, as reflected in the following list:

1. Use of Land.
2. Public Parks, Recreation Areas, and Wildlife and Waterfowl Refuges.

3. Historic Sites.
4. Historic Bridges and Highways.
5. Archeological Resources.
6. Public Multiple-Use Land Holdings.
7. Late Designation.
8. Wild and Scenic Rivers.
9. Fairgrounds.
10. School Playgrounds.
11. Bodies of Water.
12. Trails.
13. Bikeways.
14. Joint Development (Park with Highway Corridor).
15. "Planned" Facilities.
16. Temporary Occupancy of Highway Right-of-Way.
17. Tunneling.
18. Wildlife Management Areas.
19. Air Rights.
20. Access Ramps (in accord with Section 147).
21. Scenic Byways.
22. Temporary Construction Easements.

7.1.1.3 Section 6009(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users

Section 6009(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), amended existing Section 4(f) legislation [49 U.S.C. 303], to simplify the processing and approval of projects that have only de minimis impacts on lands protected by Section 4(f). This revision provides that once the U.S. DOT determines that a transportation use of Section 4(f) property, after consideration of any impact avoidance, minimization, and mitigation or enhancement measures, results in a de minimis impact on that property, an analysis of avoidance alternatives is not required and the Section 4(f) evaluation process is complete. The agencies with jurisdiction must concur in writing with the determination. For historic properties, the de minimis criteria are defined as "no adverse affect" or no "historic properties affected" under Section 106 of the National Historic Preservation Act. The de minimis criteria for parks, recreation areas, and wildlife and waterfowl refuges were not clearly defined in the law but are generally minor impacts not adversely affecting the activities, features or attributes of the Section 4(f) resource.

7.1.2 Section 6(f) of the Land and Water Conservation Fund Act

Section 6(f) of the Land and Water Conservation Fund Act (Public Law 88-578) requires that recreation land acquired or developed with assistance under this section remain in use exclusively for public outdoor recreation. It may not be converted to other uses without the approval of the National Park Service.

7.1.3 Texas Parks and Wildlife Code

Chapter 26 of the Texas Parks and Wildlife Code was established to protect parks, recreation and scientific areas, wildlife refuges, and historic sites from being used or taken by state or local agencies for public projects. Chapter 26 applies to all Metropolitan Transit Authority of Harris County, Texas (METRO) projects. Section 26.001 of Chapter 26 provides that:

(a) A[n] [agency] of this state may not approve any program or project that requires the use or taking of any public land designated and used prior to the arrangement of the program or project as a park, recreation area, scientific area, wildlife refuge, or historic site, unless the [agency], acting through its duly authorized governing body or officer, determines that:

- (1) There is no feasible and prudent alternative to the use or taking of such land; and
- (2) The project includes all reasonable planning to minimize harm to the land, as a park, recreation area, scientific area, wildlife refuge, or historic site, resulting from the use or taking.

Chapter 26 is similar to Section 4(f) of the Department of Transportation Act of 1966 in its requirements, except that the Texas law requires a public hearing on any taking of public parkland. Section 26.001 states that:

- (b) A finding required by Subsection (a) of this section may be made only after notice and a hearing as required by this chapter.
- (c) The governing body or officer shall consider clearly enunciated local preferences, and the provisions of this chapter do not constitute a mandatory prohibition against the use of the area if the findings are made that justify the approval of a program or project.

Chapter 26 excludes parks, recreation areas, or wildlife refuges in certain cases. Section 26.004 provides that a department, agency, board, or political subdivision having control of the public land is not required to comply with this chapter if:

- (1) The land is originally obtained and designated for another public use and is temporarily used as a park, recreation area, or wildlife refuge pending its use for the originally designated purpose;
- (2) The program or project that requires the use or taking of the land being used temporarily as a park, recreation area, or wildlife refuge is the same program or project for which the land was originally obtained and designated; and
- (3) The land has not been designated by the department, agency, political subdivision, county, or municipality for use as a park, recreation area, or wildlife refuge before September 1, 1975.

7.1.4 Antiquities Code of Texas

The Antiquities Code of Texas (Texas Natural Resources Code of 1977, Title 9, Heritage, Chapter 191) establishes the Texas Historical Commission (THC) as the legal custodian of all cultural resources, historic and prehistoric, within the public domain of the State of Texas (Section 191.051). The authority of the THC extends to designation and protection of State Archeological Landmarks, which can be historic buildings and structures, shipwrecks, or archeological sites. Section 191.092(a) of the Antiquities Code states that State Archeological Landmarks include:

Sites, objects, buildings, artifacts, implements, and locations of historical, archeological, scientific, or educational interest, ...as well as archeological sites of every character that are located in, on, or under the surface of any land belonging to the State of Texas or to any county, city, or political subdivision of the state are state archeological landmarks and are eligible for designation.

The law contends that a structure or building has historical interest if it:

- (1) Was the site of an event that has significance in the history of the United States or the State of Texas;
- (2) Was significantly associated with the life of a famous person;
- (3) Was significantly associated with an event that symbolizes an important principle or ideal;
- (4) Represents a distinctive architectural type and has value as an example of a period, style, or construction technique; or
- (5) Is important as part of the heritage of a religious organization, ethnic group, or local society [Section 191.092(b)].

Part II of Title 13 of the Texas Administrative Code includes a chapter governing the practice and procedure of the THC (13 TAC 26). Section 26.7 of this chapter states that a historic structure can be designated a state archeological landmark if it: (1) is publicly or privately owned and listed in the National Register of Historic Places (NRHP); and (2) meets one of the following six eligibility criteria:

- (A) Is associated with events that have made a significant contribution to the broad patterns of our history;
- (B) Is associated with the lives of persons significant in our past;
- (C) Is important to a particular cultural or ethnic group;
- (D) Is the work of a significant architect, master builder, or craftsman;
- (E) Embodies the distinctive characteristics of a type, period, or method of construction, possesses high aesthetic value, or represents a significant and distinguishable entity whose components may lack individual distinctions; or
- (F) Has yielded or may be likely to yield information important to the understanding of Texas culture or history.

Owner consent for designation of publicly owned properties is not required. Once a resource is considered a State Archeological Landmark, it may not be removed, altered, damaged, or destroyed without a contract or a permit issued for that purpose by the THC. Once this permit is issued, the THC will grant, at maximum, a one time extension beyond the original time frame for the required investigations.

7.2 PROPOSED ACTION

The proposed action is the implementation of high capacity transit service in the form of guided rapid transit (GRT) within the University Corridor from the Hillcroft Transit Center to the vicinity of the University of Houston (UH)-Central Campus (see Figure 2-6). The GRT is generally proposed to be at-grade in City of Houston street right-of-way and METRO-owned right-of-way along Westpark Drive with limited sections of elevated structure. One of the alternatives under consideration, the Richmond/U.S. 59/Westpark (Kirby) alternative, would be on a structure elevated over the outside shoulder of the westbound U.S. 59 freeway or frontage road from Revere Street to Montrose Boulevard.

7.3 EXISTING SECTION 4(f) RESOURCES

As cited in Section 3.5, there are five parks adjacent to the alignment alternatives. None of the Build Alternatives would directly impact parklands. Indirect impacts are not anticipated to have a substantial negative effect on the parks, their functions, or characteristics. Additionally, the construction and operation of the proposed fixed guideway project would

not have any substantial negative effect on the development of any linear, neighborhood, or pocket parks proposed in the project vicinity. The Traction Power Substations (TPSSs) would not be located in any of the parks.

The Danny Jackson Bark Park is located along Westpark Drive, east of Interstate Highway (IH-)610. Per the License Agreement between METRO and Harris County (See Appendix F in Volume 2), the activities that currently take place there are temporary. The land used for the bark park was purchased by METRO for transportation use and is not dedicated park land. This land does not constitute a Section 4(f) involvement because the land has never been officially designated as a park, local officials (i.e., METRO) with jurisdiction over the land have determined that its major purpose or function is not a park or recreation facility, and current recreational activities are temporary, incidental, and secondary uses of the land.

No recreation areas or wildlife or waterfowl refuges that are protected under the regulating legislation were identified in the study corridor. Therefore, the only Section 4(f) properties of potential concern to this project are historic resources.

7.3.1 Historic Architectural Resources

A survey of architectural resources within the Area of Potential Affect (APE) was conducted (see Section 3.4.2). In accordance with 36 CFR 800, METRO corresponded on October 17, 2006, with THC to establish the APE and potential historic resource study area and THC concurred on November 16, 2006, (see letters in Appendix D in Volume 2). Five properties previously listed or determined eligible for the National Register of Historic Places (NRHP) lie within the APE, according to records and files of the THC and the City of Houston.

- Sterling-Berry House (#0379), 4515 Yoakum Boulevard (listed in the NRHP 1983) adjacent to the Richmond/U.S. 59/Westpark alignment alternative.
- Houston Negro Hospital (#0086), 3204 Ennis Street (listed in the NRHP 1982) is adjacent to the Wheeler (Ennis/Elgin/Eastwood Transit Center) alignment alternative.
- Houston Negro Hospital School of Nursing Building (#0087), Ennis Street at Holman Avenue (listed in the NRHP 1982) is on a parcel adjacent to the Wheeler (Ennis/Elgin/Eastwood Transit Center) alignment alternative.
- Third Ward West Historic District (0001), approximately bounded by Gray Street, Scott Street, St. Emanuel Street, and Alabama Street, (determined eligible for listing in the NRHP 2006) encompasses parcels adjacent to the Alabama (U.S. 59/Alabama/UH), Wheeler (Ennis/Elgin/Eastwood Transit Center), and Wheeler (Ennis/Alabama/UH) alignment alternatives. The exact boundaries of the district are currently being defined in coordination with THC.
- Third Ward (East) Historic District (#0002), approximately bounded by IH-45, Leek Street, Elgin Street, and Scott Street (determined eligible for listing in the NRHP 2006) encompasses parcels adjacent to the Wheeler (Ennis/Elgin/Eastwood Transit Center) and Wheeler (Ennis/Alabama/UH) alignment alternatives. The exact boundaries of the district are currently being defined in coordination with THC.

The historic resources survey identified 673 properties 50 years old or older within the APE. Of these, three individual resources are considered eligible (see letter from THC dated June 12, 2007, in Appendix D in Volume 2):

- The Sandman Building (#0579), 2111-2115 Richmond Avenue, 1958, NRHP Criterion C.

- Southwestern Bell Telephone (#0552), 1308 Richmond Avenue, 1946, NRHP Criteria A and C.
- HISD Contemporary Learning Center (#0650), 1906 Cleburne Street, 1925, NRHP Criterion C.

Using the study area methodology approved by the SHPO, there are two eligible historic districts that include properties located within the APE.

- Third Ward South Neighborhood (#0003) bounded by Alabama Street, Ennis Street, Blodgett Street, and Dowling Street, 1930-1940.
- Richmond Avenue Modern Commercial District (#0004), bounded by Buffalo Speedway, Colquitt Street, Eastside Street, and Portsmouth Street.

7.4 USE OF SECTION 4(f) RESOURCES

Of the listed and eligible historic resources subject to Section 4(f), impacts to NRHP eligibility of these historic districts would occur in all alignment alternatives for the Build Alternatives.

The proposed GRT alignment alternatives generally run along existing streets and little new right-of-way is required for construction of the fixed guideway or stations. Acquisition and physical destruction and/or removal of potential historic properties would occur with any of the Build Alternatives. The proposed GRT alignment alternatives could result in the change of a portion of the property's use from residential landscape to transportation route. The effect or impact on the resource discussed would be the same for both Build Alternatives (LRT and BRT-Convertible) unless otherwise noted. Appendix F in Volume 2 includes the Historic Survey Forms for the historic structures that would be impacted by the Build Alternatives.

In Segment I (Hillcroft Transit Center to Wesleyan) no impacts to Section 4(f) properties are anticipated. In Segment II (Wesleyan to Main Street), both the Richmond/Westpark (Cummins) and the Richmond/Westpark (Greenway Plaza) alternative alignments would require approximately 720 square feet (seven parking spaces) of property from The Sandman Building (#0579) located at 2111-2115 Richmond Avenue. However, preliminary discussions with THC indicate this would not be considered an adverse impact because there is nearby on-street parking and the property would be near a station. Final determination will be made by THC based on the historic property and determination of affect reports.

Additionally, in Segment II, the Richmond/U.S. 59/Westpark alignment alternative would place the GRT on new elevated structure immediately adjacent to Sterling-Berry House (#0379). The introduction of an elevated structure in such proximity to the building would cause direct impacts to the NRHP property because it would impair its integrity of feeling, setting and association.

In Segment III (Main Street to Eastwood Transit Center), both the Alabama (U.S. 59/Alabama/UH) and Wheeler (Ennis/Alabama/UH) alignment alternatives would impact the potential Third Ward West Historic District. These two alternative alignments would displace one property and require right-of-way from three to 14 properties that are of historic-age and potentially contributing to the district. The Wheeler (Ennis/Elgin/Eastwood Transit Center) and Wheeler (Ennis/Alabama/UH) alignment alternatives would impact the potential Third

Ward South Historic District. These two alternative alignments would displace two properties and require right-of-way from 17 properties that are of historic-age and potentially contributing to the district. Table 7-1 summarizes these structures which would constitute a direct use of this NRHP eligible structures or contributing structures. This also constitutes a direct use of this Section 4(f) property.

**Table 7-1
Potential Section 4(f) Impacts in Segment III**

Address	Use	Property Potentially Contributing to:	Amount of Property to be Acquired (square feet)*	Alabama (U.S. 59/Alabama/UH)	Wheeler (Ennis/Eigin/Eastwood)	Wheeler (Ennis/Alabama/UH)
3717 Alabama Street (#0020)	Commercial	Third Ward West Historic District	Whole	X		X
3201 Alabama Street (#0114)	Residential	Third Ward West Historic District	372	X		X
3207 Alabama Street (#0115)	Residential	Third Ward West Historic District	154	X		X
3209 Alabama Street (#0116)	Residential	Third Ward West Historic District	72	X		X
3215 Alabama Street (#0117)	Residential	Third Ward West Historic District	1	X		
2202 Alabama Street (#0175)	Residential	Third Ward West Historic District	355	X		
2206 Alabama Street (#0176)	Residential	Third Ward West Historic District	486	X		
2210 Alabama Street (#0177)	Residential	Third Ward West Historic District	547	X		
2212 Alabama Street (#0178)	Residential	Third Ward West Historic District	732	X		
2218 Alabama Street (#0179)	Residential	Third Ward West Historic District	682	X		
2222 Alabama Street (#0180)	Residential	Third Ward West Historic District	751	X		
2302 Alabama Street (#0181)	Residential	Third Ward West Historic District	695	X		
2306 Alabama Street (#0182)	Residential	Third Ward West Historic District	693	X		
2310 Alabama Street (#0183)	Residential	Third Ward West Historic District	919	X		
3802 Live Oak Street (#0184)	Religious	Third Ward West Historic District	258	X		
3002 Isabella Street (#0191)	Residential	Third Ward South Neighborhood	789			X
2917 Wheeler Street (#0216)	Residential	Third Ward South Neighborhood	Whole		X	X
2401 Wheeler Street (#0260)	Residential	Third Ward South Neighborhood	129		X	X
2405 Wheeler Street (#0261)	Residential	Third Ward South Neighborhood	351		X	X
2411 Wheeler Street (#0262)	Residential	Third Ward South Neighborhood	570		X	X
2415 Wheeler Street (#0263)	Residential	Third Ward South Neighborhood	747		X	X
2421 Wheeler Street (#0264)	Residential	Third Ward South Neighborhood	550		X	X
2505 Wheeler Street (#0265)	Residential	Third Ward South Neighborhood	497		X	X
2509 Wheeler Street (#0266)	Residential	Third Ward South Neighborhood	467		X	X
2513 Wheeler Street (#0267)	Residential	Third Ward South Neighborhood	438		X	X
2517 Wheeler Street (#0268)	Commercial	Third Ward South Neighborhood	160		X	X
2406 Wheeler Street (#0279)	Commercial	Third Ward South Neighborhood	Whole		X	X
2412 Wheeler Street (#0280)	Residential	Third Ward South Neighborhood	309		X	X
2414 Wheeler Street (#0281)	Residential	Third Ward South Neighborhood	532		X	X
2418 Wheeler Street (#0282)	Residential	Third Ward South Neighborhood	533		X	X
2422 Wheeler Street (#0283)	Residential	Third Ward South Neighborhood	550		X	X
2506 Wheeler Street (#0284)	Residential	Third Ward South Neighborhood	651		X	X
2508 Wheeler Street (#0285)	Residential	Third Ward South Neighborhood	487		X	X
2512 Wheeler Street (#0286)	Residential	Third Ward South Neighborhood	265		X	X
2520 Wheeler Street (#0287)	Residential	Third Ward South Neighborhood	148		X	X

Source: Hicks & Company, 2007; Carter & Burgess, 2007

* Based on April 2007 conceptual engineering (see Appendix E in Volume 2)

7.5 AVOIDANCE ALTERNATIVES

Avoidance alternatives were considered to avoid impacting the historic resources within the study area. From June to December 2006, METRO identified and evaluated 55 potential alignment alternatives (see Section 2.1.2). This technical work is documented in the *Engineering Summary Report for the University Line Alternative Alignments*, December 2006, which is available for review at METRO.

7.5.1 No Build Alternative

While the No Build Alternative would not impact any Section 4(f) property, it does not improve mobility, accessibility, and system linkages. The University Corridor would continue to increase in population and employment with limited traffic capacity on existing streets and highways resulting in increased travel time, delays, and air pollution. The communities within the study area are looking for opportunities to increase the potential for economic development and its associated benefits. More information may be found in Chapter 1 Purpose and Need and Chapter 2 Alternatives Considered.

7.5.2 Shared Lane Concept

During the development of conceptual alternatives from June to December 2006, about half of the conceptual alignment alternatives included shared lane alternatives. Specifically, the GRT vehicles would operate in a traffic lane with other vehicles. The primary reason for considering shared lane alternatives was to reduce potential impacts on adjacent properties, including historic properties. In response to input received from elected officials and the public that traffic was a key concern. The shared lane alternatives were eliminated because they would not improve mobility because the GRT vehicles would be traveling in already congestion corridors and would not decrease travel times or improve air quality.

7.5.3 Other Alternative Alignments

Two east alternatives were considered early in the evaluation of alternatives and subsequently eliminated from further consideration. The Elgin (U.S. 59/Alameda/Elgin/Eastwood Transit Center) alternative would begin at Wheeler Station on METRORail Red line; east on Wheeler Street at-grade in the center of the street; northeast at U.S. 59 S and under freeway structure; north on Alameda Road/Crawford Street; east on Elgin Street terminating at the Eastwood Transit Center. Stations would be at Wheeler/Main, Houston Community College (HCC), Dowling Street, Briley Street (Riverside), UH-Central Campus (Elgin Street at Scott Street), UH-Central Campus (Entrance #17); and Eastwood Transit Center. The Elgin alternative was eliminated because it would not directly serve Texas Southern University (TSU) or Cuney Homes. This alternative would also miss higher population densities in the Third Ward. In addition to these issues, the Elgin alternative would likely impact historic-age properties in the NRHP-eligible Third Ward West Historic District because of the limited right-of-way on Crawford Street (80 feet) between U.S. 59 and Elgin Street and on Elgin Street (80 feet) between Alameda Road and Ennis Street. In addition, the Eldorado Ballroom at 2310 Elgin Street (southwest corner of Elgin Street and Dowling Street) has the potential to be individually eligible for the NCHP. The Dowling Street station would likely impact this property.

An alternative that would run on Blodgett Street instead of Wheeler Street was proposed during the Scoping process. The Blodgett alternative would begin at Wheeler Station on METRORail Red line; south on Main Street at-grade in the center of the street; east on Blodgett Street to Ennis Street; north on Ennis Street to Elgin Street terminating at the Eastwood Transit Center. Stations would be at Wheeler/Main, Alameda Road, Dowling

Street, Eagle Street (TSU); Briley Street (Riverside), UH-Central Campus (Elgin Street at Scott Street), UH-Central Campus (Entrance #17); and Eastwood Transit Center. This alternative was eliminated because viable alternatives existed that responded to community concerns. In addition to this issue, the Blodgett alternative would likely impact historic-age properties in the NRHP-eligible Third Ward West Historic District because of the limited right-of-way on Blodgett Street (80 feet) between Main Street and Ennis Street. In addition, the Institute of Dental Science at 1018 Blodgett Street may be individually eligible for the NRHP and could be impacted by an alignment on Blodgett Street.

Other potential east-west streets in this area present similar issues with limited right-of-way (50 to 80 feet), community opposition to the use of primarily residential streets and historic-age properties in identified or proposed NRHP-eligible historic districts adjacent to these streets.

7.5.4 Design Alternatives

For most of the alignments, the Build Alternatives would use METRO-owned Westpark right-of-way and existing roadway right-of-way to reduce impacts to historic properties. The existing street right-of-way varies from a minimum of 60 feet on portions of Alabama Street to a maximum of 130 feet on Elgin Street. As stated in Section 2.2.3.4, the right-of-way required for the Build Alternatives would vary depending on whether the alignment of the fixed guideway would be at-grade or elevated. Where right-of-way is constrained and there would be no station, the minimal 26-foot cross section would be used instead of the wider, at-grade variations requiring 34 to 40-foot cross section. Along most of the alignment alternatives, there are historic resources on both sides of the street. If the alignment were shifted to avoid historic impacts on one side of the street, the historic resources on the other side would be impacted.

7.6 MEASURES TO MINIMIZE HARM

As mentioned in Section 7.5.3, measures to minimize harm to Section 4(f) properties have been considered. A Memorandum of Agreement (MOA) would be implemented to establish measures to avoid, minimize, or mitigate any adverse effects to historic properties with concurrence and consultation among METRO, FTA, SHPO, and ACHP. Mitigation for Section 4(f) impacts may include:

- METRO is currently researching information on the Third Ward West Historic District as part of commitments made in the MOA with THC and included in the Record of Decision for METRO Southeast Corridor GRT. The University Corridor would also impact the historic district. As soon as METRO has submitted the nomination form to the THC, the THC may make the nomination form available to a third person to complete the nomination process.
- Efforts to ensure that the design and construction related to the project that may have an effect on historic properties would be designed to be compatible with affected historic properties and conform to the guidance contained in the Secretary of the Interior's Standards and Guidelines for Treatment of Historic Properties.
- Development of plans in consultation with the SHPO and submission to the SHPO for comment prior to construction.

7.7 AGENCY COORDINATION

As the Federal lead agency/grantor for the proposed project, the FTA is legally responsible for compliance with the National Historic Preservation Act (NHPA) and Section 4(f) of the

Transportation Act. All activities conducted by METRO are on behalf of, and subject to approval of, the FTA. Appendix D in Volume 2 includes the project correspondence with THC.

METRO has undertaken and continues consultation with agencies with regulatory review over the Section 4(f) resources in the corridor. These agencies are the City of Houston and SHPO. The SHPO has administrative responsibilities over the historic resources that are listed or eligible for listing in the NRHP. These administrative responsibilities include Section 106 of the NHPA and the Antiquities Code of Texas. Section 106 requires that every Federal agency “take into account” the proposed action effects on historic properties; this occurs through a consultation process with the SHPO.

METRO understands and is committed to agency consultation throughout the project development process to fulfill Section 4(f) of the Transportation Act, Section 106 of the NHPA, and Chapter 26 of the Texas Parks and Wildlife Code. This consultation will ensure that the on-going design refinement process continues to avoid impacts to the parks and historic resources along the alignment. Consultation has also taken place with groups that have an interest in these resources, including the community. Chapter 11 of this document includes a summary of public and agency coordination for the project.

7.8 CONCLUSION

The purpose of this Section 4(f) evaluation is to demonstrate that there is no feasible and prudent alternative to the use of Section 4(f) properties. The transit improvements in the University Corridor are needed as shown in Chapter 1. Measures to minimize harm have been incorporated into the planning process. The impact to Section 4(f) properties depends on the alternative alignment selected for the project. Coordination and consultation between FTA, METRO, SHPO, and City of Houston is on-going.