

GUIDELINES FOR THE SUBMITTAL AND EVALUATION OF PROPOSALS FOR DEVELOPMENT OF THE COTTON BELT CORRIDOR

I. INTRODUCTION

The North Central Texas Council of Governments, acting as the Responsible Governmental Entity under Chapter 2267 of the Texas Government Code on behalf of certain cities along the Cotton Belt Corridor, and in cooperation with Dallas Area Rapid Transit and the Fort Worth Transportation Authority acting under Chapter 452 of the Texas Transportation Code,¹ (jointly the “Procurers” and respectively individually “COG,” “DART” and “The T”), each asserting its authority to act under Texas law, adopt these local guidelines for the purpose of encouraging private investment within the Cotton Belt Corridor, facilitating financing and providing the Procurers with the greatest possible flexibility to contract with the private sector to provide public services.

The Guidelines are developed and adopted in accordance with and subject to the provisions of the Interlocal Cooperative Agreement for Procurement Activities Related to the Development of Passenger Rail Service on the Cotton Belt Corridor, such agreement having been authorized by DART in Resolution No. 120174 dated December 11, 2012, by The T on January 23, 2013, and by COG on November 19, 2012 (the “ILA”). The Guidelines expire upon the expiration or termination of the ILA.

The Guidelines are intended to:

1. Furnish interested Private Entities with a fair and uniform framework within which to submit Proposals;
2. Establish a fair and transparent evaluation and selection process for Proposals in accordance with Texas law; and
3. Comply with the statutory requirements set forth in Chapter 2267 of the Texas Government Code mandating Responsible Governmental Entities adopt and make publicly available guidelines that are reasonable and structured to encourage competition for the Project.

A. DECLARATION OF PURPOSE

The Procurers' purpose is to work cooperatively with Private Entities to encourage the design, construction, operation and maintenance of passenger rail services in the Cotton Belt Corridor and encourage consistent and compatible private and public development and economic activity in the cities along the Cotton Belt Corridor.

¹ DART also acts pursuant to the DART Procurement Regulations, as amended.

Consistent with the legislative and statutory purposes set forth in Texas law, these Guidelines are based on the following:

1. There is a public need for timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, and operation of passenger rail service in the Cotton Belt Corridor;
2. Existing methods of procurement for the design, construction, improvement, renovation, expansion, equipping, maintenance, operation, and implementation of the Project may not be sufficient;
3. Adequate funding to develop the Cotton Belt Corridor for the benefit of the citizens of the Dallas/Fort Worth Metroplex is not now available from the Procurers nor expected in the near term to be available, and there is evidence that contractual relationships between the Procurers and Private Entities or other persons might meet these needs by improving the schedule for delivery, lowering the cost, and providing other benefits to the public;
4. Financial incentives exist under state and federal tax laws and other laws that encourage the Procurers to enter into contractual relationships with Private Entities or other persons to develop the Project; and
5. Authorizing Private Entities or other persons to develop all or a portion of the Cotton Belt Corridor may serve the public safety, benefit, and welfare of the Procurers and cities along the Cotton Belt Corridor by making the projects available to the public in a more timely or less costly fashion.

B. PUBLIC PRIVATE PARTNERSHIPS AND COTTON BELT CORRIDOR

The Project represents a Qualifying Project within the meaning of such term as set forth in Subtitle F, Chapter 2267 of the Texas Government Code.

Private entities should note that The T is pursuing, along with other interested local governments, its TEXRail project. The TEXRail project is a 47 mile corridor that overlaps with some of the Project and that seeks to bring commuter rail services from southwest Fort Worth to Grapevine and DFW Airport by the end of 2016. While The T is a Procurer of the Project, TEXRail is a separate project, funded by sales tax collected by The T, and by Grapevine, Tarrant County, COG, Texas Department of Transportation and an envisioned FTA New Starts Grant.

A Public-Private Partnership (“PPP” or “P3”) is a contractual agreement or agreements between a public agency and a Private Entity entered into for the purpose of timely delivery of services or facilities in a cost-effective manner that might not otherwise be possible using traditional sources of public financing. Through this contractual agreement, the assets and professional skills of each sector (public and private) are shared to deliver a service or facility or both for the use of the general public.

NOTWITHSTANDING THE USE OF THE WORDS “PARTNERSHIP,” “PUBLIC PRIVATE PARTNERSHIP” OR OTHER WORDS OF SIMILAR IMPORT IN THESE GUIDELINES, THE RELATIONSHIP BETWEEN THE PROCURERS AND ANY PRIVATE ENTITY SHALL NOT CONSTITUTE A PARTNERSHIP UNDER COMMON LAW OR TEXAS STATE LAW. SUCH WORDS ARE USED IN ORDER TO MAINTAIN NOMENCLATURE SIMILAR TO THE ACT. THE PROCURERS HAVE NO RESPONSIBILITY OR OBLIGATION TO ANY PRIVATE ENTITY SUBMITTING A PROPOSAL EXCEPT AS ARE STATED IN THESE GUIDELINES OR IN AN INTERIM AGREEMENT OR COMPREHENSIVE AGREEMENT. EXPRESSLY, NO PARTNERSHIP IS I) FORMED BY THE SUBMISSION OF A PROPOSAL TO COG, DART, THE T OR ANY JURISDICTION DESIGNATED IN THE ACT OR II) UPON EXECUTION OF AN INTERIM AGREEMENT OR COMPREHENSIVE AGREEMENT.

C. DESIGNATED CONTACT

Procurers have collectively appointed a single Designated Contact for administrative purposes for Private Entities who are considering submission of a Proposal for the Cotton Belt Corridor as follows:

Physical Address:

John Adler
Vice President, Procurement
Dallas Area Rapid Transit
1401 Pacific Avenue
Dallas, TX 75202
(214)749-2753
E-mail address: jadler@dart.org

Mailing Address:

John Adler
Vice President, Procurement
Dallas Area Rapid Transit
PO Box 660163
Dallas, TX 75266-7235

The Designated Contact is available by appointment only, Monday – Friday between 0900 and 1600, CST. All submittals, correspondence and communication by a Private Entity subsequent to submittal of a Proposal shall be directed to the Designated Contact who shall be responsible for ensuring transmittal to all other Procurers.

Upon receipt of a Proposal, representatives of the Procurers will establish a regular schedule of meetings with a Proposer. At such meetings, the Proposer and Procurers shall have an opportunity to address questions, concerns and clarifications.

II. DEFINITIONS

Unless otherwise specified, whenever the following terms are used in these Guidelines, they have the meanings set forth below:

“Act” means the *Public and Private Facilities and Infrastructure Act*, S.B. 1048, 82nd Legislature, as codified in Chapter 2267 of the Texas Government Code.

“Affected Jurisdiction” means a jurisdiction in which all or a part of the Project is located.

“Competing Proposal” means a Proposal submitted by a Private Entity in response to a RFP.

“Comprehensive Agreement” means the comprehensive agreement between the Contracting Person and the Procurers that defines the final terms and conditions for the Project.

“Competition Phase” means the phase of the procurement commencing with the issuance of a RFP and ending with award of an Interim or Comprehensive Agreement or cancellation of the procurement.

“Conceptual Phase” means the initial evaluation phase of the procurement to determine whether the Unsolicited Proposal should be accepted for consideration by Procurers as established in the Act and as further described in these Guidelines.

“Contracting Person” means an individual, person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, or other business entity that enters into a Comprehensive or Interim Agreement with the Procurers for the Project.

“Cotton Belt Corridor” means that certain 62 mile stretch of railroad right-of-way stretching from Plano on the east to southwest Fort Worth on the west as further described on Exhibit A hereto. Note that Dallas Area Rapid Transit owns approximately 44.5 miles of the right of way, subject to the terms of certain trackage rights agreements, The T intends to own approximately two and one half miles from Fort Worth to Tower 60, and other private entities own the remainder of the right of way.

“FTA” means Federal Transit Administration

“Interim Agreement” means an agreement, before or in connection with the negotiation of the Comprehensive Agreement, authorized by these Guidelines between the Procurers and a Contracting Person.

“Life-Cycle Cost Analysis” means an analysis that calculates cost of an asset over its entire life span and includes the cost of planning, designing, constructing, operating, maintaining, rehabilitating, replacing, estimates of sufficient capital improvement reserves, and when applicable, salvaging the asset. Although one Proposal may have a lower initial construction

cost, it may not have the lowest life cycle cost once operations, maintenance, replacement and salvage value are considered.

“Private Entity” means any individual person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, or other business entity, including a “Proposer” that submits an Unsolicited Proposal or a “Respondent” that submits a Competing Proposal in response to a RFP.

“Project” means i) the planning, designing, development, improvement, financing, leasing, acquisition, procurement, installation, construction or expansion of the rail and associated infrastructure in the Cotton Belt Corridor in connection with passenger rail operations, ii) acquisition, operation and maintenance of vehicles and facilities for the purpose of providing passenger rail service in the Cotton Belt Corridor and iii) the plan for and implementation of associated economic development in those cities which contain portions of the Cotton Belt Corridor within their boundaries.

“Proposal” means an Unsolicited Proposal or Competing Proposal submitted by a Private Entity to the Procurers and the Affected Jurisdictions, as further described in these Guidelines and the Act.

“Proposer” means a Private Entity that submits an Unsolicited Proposal.

“Request for Proposal” or “RFP” means a written document that is issued by the Procurers seeking Competing Proposals from Private Entities for the Project.

“Respondent” means a Private Entity that submits a Competing Proposal.

“Revenue” means all revenue, income, earnings, user fees, lease payments, or other service payments that support the Project, including money received as a grant or otherwise from the federal, state, or local government, or other governmental entity, or any agency or instrumentality of any governmental entity in aid of the Project.

“Service Contract” means a contract between a governmental entity and a Contracting Person for the delivery of services to be provided as a part of the Project in exchange for service payments or other consideration.

“Service Payment” means a payment to a Contracting Person under a Service Contract.

“Unsolicited Proposal” means a submission outlining a plan for the Project initiated by a Private Entity for consideration and approval by Procurers. All Proposals received absent issuance of a Request for Proposal shall be treated as an Unsolicited Proposal, including any submission which results from any general publicity of the Procurer's needs or discussions with Procurers regarding needs in the Cotton Belt Corridor that encourage Private Entities to submit Proposals.

“User Fee” means a rate, fare, fee, or other charge imposed by or on behalf of a governmental entity or a Contracting Person for the use of all or part of a Cotton Belt Corridor under a Comprehensive Agreement.

III. GENERAL PROVISIONS

A. OVERVIEW

The P3 procurement process for an Unsolicited Proposal, as implemented under these Guidelines, requires a two-part process that consists of 1) an initial Conceptual Phase; and 2) a Competition Phase following the Conceptual Phase. The Conceptual Phase and the Competition Phase shall each seek specific information on a Private Entity's qualifications and experience, financial capacity and resources, Project characteristics, Project financing, anticipated public support or opposition, Project benefit, value, community impacts, plans for compliance with Disadvantaged, Minority and Woman Owned Business Program, and other matters as more specifically described in Sections IV, V and VI of these Guidelines.

Private Entities may use innovative financing methods, including the imposition of User Fees or Service Payments, in its Proposal. Private Entities may envision the creation of various taxing authorities and statutory financing schemes in furtherance of the Project. In the creation of any such legislative vehicles, Private Entities should be mindful of the policies and roles of DART and The T as providers of mass transit services, including rail, in the region.

Proposals may include in-kind contribution by the Private Entity.

As further described in Sections IV, V and VI, Proposals should provide a description of the Proposer's capabilities to complete the Project and the benefits that the Proposer believes are derived by the Procurers and cities along the Cotton Belt Corridor. Project benefits are those occurring during the construction, renovation, expansion or improvement phase and during the life cycle of the Project. Any Proposal submitted to the Procurers must include a comprehensive scope of work and a financial plan with sufficient detail to allow an analysis by the Procurers of the technical and financial feasibility of the Project.

The passenger rail component of the Project contains at least four elements – design, build, operate and maintain. Proposals shall clearly identify those elements that the Proposer expects to perform and those elements that the Procurers are expected to perform. The Proposal shall identify the funding supporting each element through the life of the Project. Any contingencies in the adequacy of the funding shall also be identified.

The qualifications, capabilities, resources and other attributes of a Private Entity and its whole team shall be carefully examined for the Project.

Knowing that the Procurers will rely upon information received in a Proposal, Private Entities shall be held strictly accountable for representations and information provided regarding their qualifications, experience or other contents of their Proposals, including all specific aspects of

proposed plans to be performed by the Private Entity.

The Procurers have identified the following initial assumptions related to the Project:

1. An operating subsidy will be necessary to support passenger rail operations and maintenance;
2. The Project infrastructure and rolling stock shall be turned over to DART and The T in a state of good repair as such term is defined in federal regulations following expiration or termination of the Comprehensive Agreement;
3. Trackage rights issues will be resolved by the Private Entity;
4. The Project will be compatible with DART Board Resolution Nos. 060177, 080114 and 120113, COG Board Resolution dated November 19, 2012 regarding Cotton Belt rail project and The T Resolution No. _____; and
5. All funds used to design, build, operate, acquire and maintain the Project will be derived from sources other than DART and The T unless otherwise identified.

Proposer should be mindful of these initial assumptions and consider each as it formulates its Proposal. Should Proposer wish to offer alternate assumptions, Proposer shall clearly identify and explain its reasons for such changes.

Private Entities are advised that a certain level of design related to the Project has been conducted by DART. Other information related to the Cotton Belt Corridor and rail service in the Corridor has been developed by The T and COG. Private Entities are directed to the Designated Contact should they need copies of such information.

THESE GUIDELINES DO NOT COMMIT THE PROCURERS TO ACCEPT ANY PROPOSAL, TO ENTER INTO AN INTERIM OR COMPREHENSIVE AGREEMENT OR TO PROCEED WITH THE PROCUREMENT DESCRIBED HEREIN. THE PROCURERS SHALL NOT BE LIABLE FOR ANY COST INCURRED BY PRIVATE ENTITIES IN PREPARING, SUBMITTING OR PRESENTING A PROPOSAL.

The DART Procurement Regulations (“DPR”) shall apply to a Proposal to the extent these Guidelines, the Request for Proposals or state or federal law, as applicable, fail to address a portion of the procurement process, including any protest. If a conflict exists between the Act and the DPR, the Act shall control. A Private Entity is directed to the Designated Contact identified above to obtain a copy of the DART Procurement Regulations.

DART shall retain all its right, title and interest in the Cotton Belt Corridor. The Procurers will not entertain Proposals which seek conveyance of DART's interest in the Cotton Belt Corridor. No liens will be placed on the Cotton Belt Corridor, nor will the Cotton Belt Corridor be pledged as collateral for any loan related to the Project. A lease

of the Cotton Belt Corridor by a Contracting Party and creation of a lien on the leasehold interest would be permitted by the Procurers.

Construction shall be performed in accordance with DART standards and practices. Operations shall be provided in accordance with DART operating procedures. Copies of each may be requested through the Designated Contact.

The Procurers reserve the right to add to, delete or amend any of the requirements or criteria established in these Guidelines. Any such material additions, deletions or amendments shall be subject to approval of the Boards of Directors of DART, COG and The T.

Any information contained herein or provided by Procurers is not warranted by the Procurers or their officers, directors, agents, employees and consultants and none of them shall have any liability in connection with such information, all of which liability is expressly waived by a Proposer submitting a Proposal. The furnishing of this information by the Procurers and/or their officers, directors, agents, employees and consultants shall not create or be deemed to create any obligations or liability upon the Procurers for any reasons whatsoever and each Proposer submitting a Proposal by expressing its interest and responding to these Guidelines expressly agrees that such Proposer submitting a Proposal has not relied upon the foregoing information and that it shall not hold the Procurers or their officers, directors, agents, employees and consultants liable or responsible for it in any manner whatsoever.

B. PROPOSAL REVIEW FEES

Any Proposer submitting an Unsolicited Proposal shall pay a preliminary review fee to the Procurers in the total amount of Two Hundred Thousand and No/100 Dollars (\$200,000.00) at the time it submits such Proposal to the Procurers, by check, money order, or electronic transfer. The fee shall be divided with \$100,000 made payable to DART and \$100,000 made payable to COG as the Responsible Governmental Entity. The Procurers shall review the Unsolicited Proposal in accordance with Section VII of these Guidelines. If an Unsolicited Proposal is summarily rejected during preliminary review, the review fee shall be returned to the Proposer; otherwise, the review fee is non-refundable.

Private Entities submitting Competing Proposals shall pay a proposal review fee in the amount and manner specified in the Request for Proposals.

The Procurers may, at their discretion, engage professional advisors, attorneys, engineers, architects or planners and other consultants having appropriate experience to analyze Proposals and to negotiate Interim Agreements and Comprehensive Agreements. The Procurers intend to seek reimbursement of all fees of any financial advisors, attorneys, engineers, architects, planners or other consultants or advisors engaged by the Procurers to complete the evaluation of the Proposal and advise on the Interim and Comprehensive Agreement. To the extent that Procurers have unreimbursed expenses related to engagement of such consultants, the Private Entity shall pay the amount of such unreimbursed expenses to date at i) the time that Procurers notify the Private Entity, in writing, of the intention to pursue an Interim Agreement with that Private Entity, ii) upon execution of an Interim Agreement and iii) upon execution of a

Comprehensive Agreement. At its option and consistent with the terms of an Interim or Comprehensive Agreement, the Contracting Person may have such reimbursed expenses included in any financing obtained by a Contracting Person.

C. TEXAS PUBLIC INFORMATION ACT.

The Procurers are subject to the Texas Public Information Act, Chapter 552, Texas Government Code. Information collected, assembled, or maintained by the Procurers in connection with the transaction of official business is public information subject to disclosure upon written request unless it falls within a specific exemption to the Texas Public Information Act. The Office of the Texas Attorney General determines whether information may be withheld, not the Procurers. In the event that Procurers receive a request for public information that would include documents submitted by a Private Entity pursuant to these Guidelines, Procurers will be required to produce the requested documents to the requestor unless a possible exception exists, in which case Procurers must produce the documents to the Texas Attorney General and ask the Attorney General for a decision that the information falls within the exception. The Private Entity will be notified in the event an Attorney General decision is requested and will have an opportunity to submit to the Attorney General its written arguments that one or more exceptions to the Public Information Act apply to the requested information. The Procurers make no commitment to appeal any decision of the Attorney General directing the release of all or part of a Proposal.

Private Entities should be aware that Chapter 2267 of the Texas Government Code and Section 552.153 of the Texas Public Information Act do NOT apply to DART or to The T and that all requests for public information to DART or The T will be handled pursuant to provisions of the Texas Public Information Act which are applicable to DART and The T.

IV. UNSOLICITED PROPOSAL PREPARATION AND SUBMISSION

To the greatest extent possible, any Unsolicited Proposal shall be sufficient to convey the experience and capability of the Proposer and each member of the team, the overall quality and character of the Project, as well as the financial and implementation strategies to ensure successful completion of the Project. All Unsolicited Proposals for the Project must be in conformance with these Guidelines.

One signed paper original and one hard copy and one electronic copy on CD or DVD shall be HAND-DELIVERED to:

Vice President, Procurement
Dallas Area Rapid Transit
1401 Pacific Avenue
Dallas, Texas 75202

and

One signed paper original and one hard copy and one electronic copy on CD or DVD shall be HAND-DELIVERED to:

Director of Transportation
North Central Texas Council of Governments
616 Six Flags Drive, Centerpoint Two
Arlington, Texas 76011

and

One signed paper original and one hard copy and one electronic copy on CD or DVD shall be HAND-DELIVERED to:

President/Executive Director
The Fort Worth Transportation Authority
1600 East Lancaster Avenue
Fort Worth, TX 76102

At the same time, one hard copy and one electronic copy on CD or DVD of the Unsolicited Proposal shall also be submitted by Proposer to all Affected Jurisdictions as defined herein and in accordance with the Act.

The Procurers and Affected Jurisdictions will not accept an Unsolicited Proposal by fax, email or other electronic transmittal.

Each submission of the Unsolicited Proposal shall be labeled:

UNSOLICITED PROPOSAL FOR THE COTTON BELT PROJECT

The Proposer accepts all responsibility for proper delivery of its Unsolicited Proposal in accordance with these Guidelines and the Act.

All Unsolicited Proposals must be organized in the manner outlined in Section VI and submitted with the applicable Review Fee. No page limitation is imposed and thoroughness is encouraged. The signed original copy shall contain original signatures and shall be marked **“ORIGINAL”** on the cover letter.

A Proposer should identify those portions of a Proposal that the Proposer considers to be trade secrets or confidential commercial, financial, or proprietary information. Such information should be clearly marked **“CONFIDENTIAL”** and the basis of the claim of confidentiality should be stated. Data so identified will be maintained as a protected record, to the extent permitted by law. Blanket statements regarding the confidentiality of information may not be sufficient to protect the confidentiality of information submitted. A Proposer is encouraged to seek counsel regarding any information it seeks to keep confidential.

In no event shall the Procurers be liable to a Private Entity or Private Entity team member for the disclosure of any materials or information submitted in response to these Guidelines or a Request for Proposals.

V. COMPETING PROPOSALS

The process for requesting and receiving Competing Proposals will be initiated by the Procurers following the Conceptual Phase by issuance of an RFP. Procurers shall issue a RFP seeking Competing Proposals for the Project. The RFP shall delineate the content of the Competing Proposal. A Proposer should expect to provide the information identified in Section VI and other information that the Procurers believe would be helpful in evaluating the Competing Proposal. The RFP shall detail the process for submitting a Competing Proposal. The deadline for responses shall be set forth in the RFP. The Procurers intend to allow sufficient time to enable robust competition. Evaluation will be accomplished in accordance with the criteria, if any, contained in the RFP and the criteria contained in Section VII. An Unsolicited Proposal shall be supplemented to the extent an RFP seeks information not already provided by such Proposer to the Procurers. Procurers reserve the right to include additional requirements in any RFP that may be issued.

VI. PROPOSAL FORMAT

A. IN GENERAL

Proposals shall be submitted in sealed envelopes or boxes in the following format:

1. Pages shall be numbered and organized by paginated table of contents corresponding to the tabbed sections identified below.
2. The Proposal should be organized in the following order with tabbed sections, as further described in this Section VI. All Proposals, at a minimum, shall provide the information specified in these Guidelines to the extent it is pertinent to the Proposal.

TAB 1: Cover Letter and Executive Summary

TAB 2: Proposer and Team

TAB 3: Qualifications

TAB 4: Proposal Details

TAB 5: Project Analyses

TAB 6: Financial Analyses

TAB 7: Community Impact

TAB 8: Disadvantaged, Minority and Woman-Owned Business Enterprise Program

TAB 9: Miscellaneous/Addenda

IF AN ITEM OF REQUESTED OR REQUIRED INFORMATION IS NOT INCLUDED, A BRIEF EXPLANATION AS TO WHY IT IS NOT INCLUDED SHALL BE PROVIDED. DELAY, MODIFICATION OR WAIVER OF PARTICULAR ITEM MAY BE

CONSIDERED BY PROCURERS.

3. The contents shall be printed on 3-hole punched 8 1/2" x 11" paper (except A/E drawings and renderings).
4. Drawings shall be printed no larger than 36" x 54".
5. Supplemental materials in alternate formats may be allowed to describe the Proposal in more detail.

ONCE A PROPOSER HAS SUBMITTED A PROPOSAL, THE PROCUREMENT IS CONSIDERED ACTIVE AND THE PROPOSER IS BOUND TO LIMIT CONTACT TO THE DESIGNATED CONTACT.

B. TAB 1: COVER LETTER AND EXECUTIVE SUMMARY

Provide a cover letter, signed by the authorized representative(s) of the Proposer, including the information detailed below:

1. Identify the Proposer or consortium of Private Entities who will be directly involved in the Project.
2. Identify the principal(s) and include the title(s), mailing address, phone number and email address for each.
3. Identify the person(s) in charge of negotiations, key personnel who will be involved in decision making, and the representative(s) authorized to sign a Proposal and any agreements on behalf of the Proposer.
4. Identify any potential conflicts of interest and any persons known to the Proposer who would be obligated to disqualify themselves from participation in any transaction arising from or in connection with the Project.
5. Proposer Contact Information:
 - a. Physical address (if a consortium, include the address of each partner or member) and designate a single point of contact;
 - b. Mailing address (if a consortium, include the address of each partner or member); and
 - c. Primary phone and facsimile number.
6. Include a three (3) to five (5) page Executive Summary that highlights the key components of the Project, including but not limited to, a description of the Proposer, its qualifications and experience with similar projects, highlights of the Proposal, roles and functions of the Proposer and, if any, the Procurer(s) in the life of the Project,

timelines, implementation of Disadvantaged, Minority and Woman Owned Business Enterprise Program goals, community impact and benefits and financial assumptions and financial analysis of the Project with particular emphasis on overall cost, Revenue, along with capital and operating expenses, debt financing and payment schedule.

C. TAB 2: PROPOSER AND TEAM

1. Identify the legal structure of the Proposer or consortium of private entities and its members or principals making the Proposal including the legal form of the Proposer that is proposed to enter into the Interim Agreement and Comprehensive Agreement, if selected.
2. To the extent the Proposer is created for purposes of the Proposal, and for each member thereof, provide proof of authority to do business in Texas and, as applicable, a certificate of good standing from the Texas Comptroller of Public Accounts and a certificate of fact (existence) from the Texas Secretary of State.
3. As pertinent, identify the Team making up the Proposer:
 - a. To the extent not already given under B above, provide a list of all key team members, including the company name, primary contact, title, address, telephone, and email of each key team member and any selected or prospective professional or consultant which may include, but are not limited to analysts, architects, engineers, contractors, legal counsel, marketing firms and real estate brokerage and property management firms and, to the extent not readily identifiable, the roles that each will play;
 - b. Identify the firms that will perform construction as well as the firms, if any, that will provide operations and maintenance support once the Project is in revenue service. Additionally, if real estate development, either in the form of land development or building development is proposed, identify the firm(s) that will be associated with these undertakings;
 - c. Identify those firms to be utilized in the Disadvantaged, Minority and Woman Owned Business Enterprise Program compliance;
 - d. Provide an organizational chart that clearly illustrates the team and identifies the role of each team member, including design professional, consultant or major contractor(s) or subcontractor(s), participating in the Project; and
 - e. Describe the management structure of each team member, partner and any prospective professional, consultant or major contractor(s) or subcontractor(s).

BECAUSE THE TEAM MAKE-UP IS CRITICAL TO EVALUATION, ALL KEY MEMBERS OF THE PROPOSER'S OR RESPONDENT'S TEAM, INCLUDING MAJOR CONTRACTORS OR SUBCONTRACTORS AND CONSULTANTS AND GUARANTORS

MUST BE IDENTIFIED IN THE PROPOSAL. THOSE IDENTIFIED KEY MEMBERS MAY NOT BE SUBSTITUTED OR REPLACED ONCE THE PROCURERS HAVE DETERMINED THAT A PROPOSAL WILL BE EVALUATED, WHETHER IN THE CONCEPTUAL PHASE OR COMPETITION PHASE, WITHOUT THE WRITTEN APPROVAL OF THE PROCURERS.

D. TAB 3: QUALIFICATIONS

The Proposer must provide relevant, demonstrable experience that is similar in nature, complexity, scope and scale to the Project. The Proposal shall clearly distinguish the experience of the Proposer (including joint venture partners) from that of consultants and other team members. The experience of other team members in public-private partnership projects, if any, should also be identified. To substantiate experience and ability to perform, the following information shall be provided:

1. Describe the length of time in business, business focus and ongoing contractual engagements of the Proposer or team.
2. Provide experience of each team member and resumes of proposed key personnel.
3. For the Proposer and each major contractor or subcontractor on the team, provide a statement listing five to ten (5-10) prior representative projects within the past five (5) years and contact information related to each. The list should highlight projects similar in scope, size and operational characteristics to the Project, including public-private partnerships or passenger rail projects and the most recent projects of the Proposer and major contractors and subcontractors. For each project identified, provide at least the following information:
 - a. Client's name, project name, brief summary of the project, and project location, including primary contact name, address, telephone number, and e-mail address. If the project was a public works project, identify the affected jurisdiction, including references and contact information, involved in each project;
 - b. The role in the project, the project description including year completed, type, size, transportation aspects if any, program of uses and any available photographs and plans;
 - c. A summary of the results including details regarding completion on budget and in compliance with design, land use, service and other standards. The performance schedule from contract to completion and operation and maintenance, if any, should also be included;
 - d. A description of public involvement, opposition to the project and challenges or obstacles, if any, arising from such opposition, and how such opposition was addressed; and

- e. Identify any unforeseen issues related to the project, if any, and how those issues were addressed.
4. At least three financial references (name, title, entity, telephone number and contractual relationship) that can be contacted with respect to current and past project experience.
 5. A qualification statement that reviews all relevant information regarding technical qualifications and capabilities, resources and business integrity of the Proposer and major contractors and subcontractors, including but not limited to, bonding capacities and insurance coverage. Bonding capacities shall be demonstrated in a letter from the Proposer's surety(ies). Bonding capacities shall be sufficient for the Project and in conformance with the Act. The qualification statement shall include mandatory disclosure by the Proposer for the past five (5) years of any of the following conduct:
 - a. Bankruptcy filings;
 - b. Liquidated damages;
 - c. Fines, assessments or penalties;
 - d. Judgments or awards in contract disputes;
 - e. Contract defaults and/or contract terminations;
 - f. License revocations, suspensions and/or other disciplinary actions;
 - g. Prior debarments or suspensions by a governmental entity;
 - h. Denials of prequalification or findings of non-responsibility;
 - i. Safety past performance data, including fatality incidents;
 - j. Experience ratings;
 - k. Modification ratings;
 - l. Recordable injury rate;
 - m. Workday incidence rate;
 - n. Alleged violations of any federal, state or local civil law;
 - o. Alleged violations of any federal, state or local criminal law;
 - p. Criminal indictments or investigations;

- q. Legal claims filed by or against the Proposer; and
- r. Claims on payment and performance bonds.

* The Procurers reserve the right to request a copy of all notices of default, termination, claims of damage received on projects, and claims against performance and payment bonds, received within the past five years.

- 6. For the Proposer and each major contractor or subcontractor that will perform construction or design activities or operations and maintenance services, provide a sworn certification by an authorized representative of each attesting to the fact that it is not currently debarred or suspended by any federal, state or local government entity.

E. TAB 4: PROPOSAL DETAILS

Provide substantive definition of the Project including, but not limited to, design elements, environmental/community impacts, operational feasibility, capital and operating costs and other considerations for the conceptual design of any facilities, guideways, track elements, stations, terminals, yards, shops or other infrastructure planned or proposed. A conceptual plan for the provision and operation of passenger rail services shall also be included. A conceptual plan for each real estate development opportunity, describing the nature of the anticipated land uses to be developed and the likely timeframe within which they will be constructed as well as the estimated value of the land and constructed improvements upon completion shall be provided. The conceptual design for facilities, including passenger stations shall include at a minimum, concept drawings and station area plans that collectively illustrate the location, size, and context of the facilities planned or programmed in the Cotton Belt Corridor.

To the greatest extent possible the Project definition must describe and include the items listed below. Conceptual drawings should also be included where appropriate to clarify and provide context.

1. Project Definition

- a. Describe the conceptual design for the corridor that will serve as the basis for the Project;
- b. Describe any conceptual design options that are being proposed beyond the base alignment;
- c. Private Entities may suggest deviations from any work previously developed, considered or provided by Procurers. If deviations are proposed, sufficient conceptual detail and explanation shall be provided by the Proposers including, but not limited to, purpose and need justifications, rationale for the deviations, potential environmental impacts to the community, changes to Project schedule, Project funding and likelihood of community acceptance or reaction to the deviation;

- d. Describe and document the existing environmental setting and any environmental conditions in the Cotton Belt Corridor that may affect or influence the conceptual design;
- e. Provide details and specific information as to how you will address the following significant design elements:
 - i. North Dallas area alignment
 - ii. DART Red Line interface
 - iii. DART Green Line interface
 - iv. Rail/freight interface in downtown Carrollton
 - v. Station location in the vicinity of North Lake/Coppell
 - vi. DFW/Orange Line interface
 - vii. TRE interface
 - viii. TEXRail station location and interface with the Orange Line at DFW Airport
 - ix. TEXRail downtown station location in Ft. Worth
 - x. TEXRail station locations – all other
 - xi. Maintenance facility
- f. Discuss the horizontal and vertical alignment providing additional details on the following and identify with a drawing:
 - i. Those portions of the Project that would be at grade, below grade and above grade
 - ii. Street modifications
 - iii. Use of Quiet Zones
 - iv. Freight track evaluation and adjustment
- g. Existing right-of-way conditions, including trackage rights;
- h. Station locations. Recommendations for targeted or specific station locations within the Project limits. Recommendations shall be identified and mapped;

- i. Utility design and relocation. Utility relocation may be discussed as a plan or approach for identifying and relocating utilities within, crossing or adjacent to the corridor;
- j. Trackwork and structures:
 - i. Track cross-sections will be prepared for the mainline and the vehicle maintenance and storage facility depicting the type of trackwork (ballast track, ballasted bridge or direct fixation bridge). The cross-sections will indicate the stationing of the type of track structure for the length of the alignment. Special sections may be warranted to fully define the track structure to the neighboring terrain or property to facilitate good cost estimating;
 - ii. Prepare conceptual drawings of special trackwork for the line and vehicle maintenance and storage facility. Anticipated special trackwork standards include yard turnouts, main track turnouts, main track ballasted and direct fixation double crossovers and restraining rails; and
 - iii. Prepare a scaled preliminary trackwork schematic or "track chart" for track layouts showing locations of crossovers, turnouts, at-grade crossings, structures, gauntlet tracks at the stations, crossings with protection device types and special trackwork following the operating concepts developed. This schematic will serve as the key coordination document among the trackwork, train control, traction power and operations planning disciplines.
- k. Signals/systems/communications:
 - i. Positive Train Control
 - ii. Safety and Security Certification
 - iii. System Integration
- l. Vehicle Storage and Maintenance Facility (VSMF):
 - i. Describe where the rail vehicle fleet will be inspected, maintained, repaired, cleaned and stored. If more than one site is anticipated describe and map the locations and the services that will be provided at each;
 - 1. Describe the type of facility or facilities that will be needed
 - 2. Determination of the type of VSMF (e.g., light or heavy repair facility)
 - 3. Type of building
 - 4. Facilities for washing and cleaning
 - ii. Determination of location of major, mid-life overhauls;

- iii. Develop conceptual designs for the maintenance and storage facility, service and inspection shops, repair shops, maintenance-of-way (MOW) facility storage yard and related operational dispatch facility for the Project;
- m. Rail vehicles
 - i. Describe the type of rail vehicle that will be utilized for the Project and how it will relate to the other considerations in the design concept.
 - ii. Determination of fleet size
 - iii. Determination of dimensions of rail vehicle
 - iv. Compliance or non-compliance with DART Board Resolution Nos. 060177 and 080114, and DART policies related to rail vehicle
- n. Implementation strategy for the Project.
 - i. Plans for coordination with federal, state and local agencies;
 - ii. Plans for public involvement, including meetings, mailings, web based services, etc.; and
 - iii. Plans for coordination with railroad companies which will be consulted for operational considerations.
- o. Provide an annotated listing of permits and approvals from any federal, state, or local agencies

2. Operating Plans

- a. Rail
 - i. The conceptual operating plan shall outline operational aspects of the passenger rail service to be offered on the Cotton Belt Corridor including, without limitation, service, headways and the other factors critical to the implementation and continuation of passenger rail service in the Cotton Belt Corridor.
 - ii. Ridership shall be evaluated with analysis provided on an annual basis over the life of the Project and a determination whether passenger volumes comply with DART loading and other standards.
 - iii. Provide the initiation, construction phasing, completion and opening of passenger rail service including major milestones and the proposed major responsibilities and timeline for activities to be performed by the Procurers and the Proposer.

- iv. Identify any schedule or operating dependencies for DART, The T or DCTA in order to accommodate planned operations. Evaluations of the impact upon ridership of DART, The T and DCTA shall be provided

- b. Bus

The Proposer shall include any assumptions for bus service and ADA services by others in support of the Project. If bus services or ADA services are assumed, passenger loading and other policies of the transit service providers must be met. The bus operating plans shall also indicate contributions to any ridership estimates to the Project passenger rail services and any DART, The T or DCTA system ridership gains or losses. Operating characteristics will be summarized for the operating plans.

3. Conceptual Design of Facilities and Stations

The Proposer shall provide conceptual design of prototypical station (plan, computer aided model, aerial sketch, photomontage, etc.). The prototypical designs will include architectural and structural definitions for stations that clearly illustrate the relationship of the station to the Cotton Belt Corridor. Such prototype will indicate passenger boarding areas, ticketing and operations areas, generalized bus and auto circulation, pedestrian access and linkages to adjacent land uses. Sufficient detail shall be provided to substantiate a capital cost estimate for the station and related facilities. Station design should be based on comparable at-grade stations along the Denton County Transportation Authority (DCTA) and Trinity Railway Express (TRE) corridors.

Basic layout for stations will be illustrated at not less than half-size drawing of 1" - 80' scale on 11x17 paper.

4. Project Schedule

A Project schedule illustrating the major phases, tasks, milestones, and deliverables shall be provided. An annotated Gantt Chart (project timeline) may be used and should provide sufficient detail for all proposed phases of the Project to be clearly understood. However, since Gantt Charts typically are insufficient to show complex task relationships and are not suitable for a network diagram or master schedule, consideration may be given to other forms to illustrate the schedule. Major phases include preliminary engineering, environmental reviews, community involvement, final design, funding, legislative action construction, revenue service and other special phases.

5. Terms, Special Conditions and Other Considerations

This Section is reserved for a description of any special conditions the Proposer may offer to, or request from the Procurers.

- a. State the terms offered and any contingencies requested by the Proposer.
- b. To the extent the Proposer has identified federal, state, or local funding sources, include a description of such sources.
- c. Identify any terms or conditions to be included as part of the negotiation process.
- d. Include discussion of any trades or swaps of property, special legislation, amendments to service or financial plans adopted by Procurers or other related actions required to facilitate the Project.

F. TAB 5: PROJECT ANALYSES

In this Section include the Project analyses that support the business case of the Project.

The Project Analysis Section shall be categorized into three sub-tabbed sections as follows:

1. Location and Site Analysis.

- a. The Proposer must acknowledge that it will be responsible for surveying the Cotton Belt Corridor, and identifying and resolving any encroachments that impact the plans for rail operations and/or development. A Proposer shall provide information addressing encroachments and the mitigation proposed based upon Cotton Belt Corridor information made available by The T, DART and COG.
- b. Discuss how the impact of the topology, water table and other geographic and geologic conditions impact the Project and development opportunities along the Cotton Belt Corridor.

2. Real Estate Market and Competitive Analysis.

- a. Provide a market study covering three decades of market demand and estimated absorption rates per decade for a future conceptual mix of retail, residential, office and other commercial uses that supports the revenue assumptions and viability of the value capture assumptions of the private property components of the Project. The study should indicate feasibility through a forecast of the supply and demand relationship, including but not limited to, geospatial data and geographic information, demographic and psychographic data, traffic and rail passenger counts, rent levels, ad valorem tax levels, market value of real estate within close proximity of stations as the Project progresses, revenue assumptions from federal, state and local sources, absorption rates, and identify underserved trade areas for the project type. Include any supporting due diligence studies, analyses, or reports.
- b. Submit independently generated market demand and absorption information for any specialized or non-standardized use.

- c. Provide an explanation of how the Project will complement or comply with the Procurers' goal of encouraging development, including development of underdeveloped and underutilized properties, implementation and continuation of passenger rail service, and participating in cash flow performance by entering into the Project with the Proposer.

3. Regulatory and Business Analysis

- a. Describe the Project business arrangements, particularly the terms and conditions for use of DART and The T owned right-of-way and other facilities (i.e. performance based infrastructure, participation rent, concessions, parking management agreements, service agreements, etc.). Proposer should identify whether a lien is expected upon a leasehold of the right-of-way.
- b. Identify risk factors and methods for mitigating these factors including a description of methods and remedies associated with any financial default.
- c. To the extent not otherwise identified, specify and fully describe any work, activities or service required or otherwise proposed to be performed by the Procurers as part of the Proposal, and the compensation to be paid for such work, activities or service, and any resources required from the Procurers.
- d. Describe any Service Contracts or Service Payments envisioned as part of the Project.
- e. Describe the proposed method and timing for securing property interests, including necessary trackage rights, required for the Project.
- f. Describe the process and timing for handback of infrastructure and rolling stock to DART and The T.
- g. Identify how public safety will be provided for rail passengers both while aboard and while waiting for service. Identify any need for DART and/or The T to provide public safety and the anticipated terms and conditions of that support.
- h. Identify any federal, state or local legislative or rulemaking initiatives necessary for the Proposal and the expected timeline for approval of such initiatives.
- i. Identify any regulatory requirements which must be addressed prior to commencement of rail service and the plans to timely meet such requirements.
- j. Identify any formal steps or actions necessary by cities along the Cotton Belt Corridor to support funding of the Project and, to the extent known, the timing of any such action.
- k. Identify those requirements for federal funding, should federal funds be a component of the Project, and how the Proposer will comply with such

requirements. An example of such requirements would be Buy America requirements of the FTA.

1. Identify how compliance with applicable requirements of the following civil rights laws will be achieved: Americans with Disabilities Act of 1990, the Affirmative Action dictates of Executive Order 11246, Title VI and Title VII of the Civil Rights Act of 1964 and any Department of Transportation and/or Department of Justice regulations implementing such laws.

G. TAB 6: FINANCIAL ANALYSES

The Proposer will provide a thorough and comprehensive financial model supporting the Project in hard copy and digitally in Microsoft Excel format. Included in the Financial Analysis will be total capital expenditure estimates, ongoing annual operational and maintenance costs and periodic capital replacement and debt service costs, both principal and interest, for the duration of the life of the Project. The Proposer shall list all assumptions made in the financial model including the use of grant funds and all revenue sources from wherever derived as well as the specific type and amounts of contractual revenues, tax increment financing, assessments, impact fees or new ad valorem taxes and any other funds that will be required to fund the Project. Without limiting these general requirements, Procurers specifically request the following information:

1. Identify the method of construction financing of the Project including a brief explanation of the approach and type of financial structure used to finance the Project, including identification of sources and amounts of debt and equity, and public subsidies and incentives, if any. If a new special purpose governmental entity such as a Municipal Management District, Public Improvement District, or other form of entity is deemed to be essential, include sufficient information detailing the financial obligations that this new entity will be required to assume initially and over the life of the term of the Initial Agreement and Comprehensive Agreement. For such special purpose entity, include information detailing the governance and duration of the entity, and the power and authority of the district to raise financing and to conduct rail operations in the Cotton Belt Corridor and elsewhere.
2. Demonstrate access to financial resources such as the ability to raise equity and secure debt capital for the Project in a professional and timely manner. To demonstrate financial resources, each Proposal must provide the information listed below:
 - a. Pending Projects: For the Private Entity and each equity member, joint venture or partner of the Private Entity, a listing and description of all pending projects under enforceable funded contracts, including the status, project development schedule, financing method, sources, and amounts, and financial commitments required of such entity.
 - b. Reports and Audited Financial Statements:

- i. Provide the most recent credit report or Dun & Bradstreet report and audited financial statements (including balance sheets, income statements, statements of changes in cash flow and notes to the financial statements) for the past three (3) fiscal years of each Private Entity or consortium of private entities and each member or partner with an equity interest of ten (10%) percent or greater. If audited financial statements for an entity are not available, provide unaudited financial statements for the entity, certified as true, correct and accurate by the chief financial officer or treasurer of the entity. All financial statements must be in U.S. dollars, prepared in English and prepared in accordance with U.S. GAAP. If financial statements are not available in U.S. dollars, the Proposal shall include summaries of the income statements and balance sheets for the applicable periods, converted to U.S. dollars by a certified public accountant and the basis for rates should be disclosed. If financial statements are prepared in a language other than English, translations of all financial statement information must be included with the original financial information. If financial statements are prepared in accordance with principles other than U.S. GAAP, the Proposal shall include a letter from the certified public accountant of the applicable entity, discussing the areas of the financial statements that would be affected by a conversion to U.S. GAAP.
- ii. If Financial Statements of a parent company or affiliate company (“Financially Responsible Party”) are provided to demonstrate financial capability of the Private Entity or equity owners of the Private Entity, an appropriate letter from the Financially Responsible Party must be provided confirming that it will financially support all the obligations of the Private Entity or equity owner of the Private Entity with respect to the Project.
- iii. The Private Entity shall also provide a letter from the chief financial officer or treasurer of each entity providing financial statements that provides information on any material changes in financial position of such entity, any parent organizations and any materially relevant subsidiaries, for the past three years or anticipated in the next reporting period.
- iv. Provide a letter from the chief financial officer or treasurer of the entity or the certified public accountant for each entity for which financial information is submitted, identifying all off balance sheet liabilities in excess of \$25 million dollars in the aggregate, including any projects with negative cash flows, the amount of developer's recourse debt, any non-performing loans, and the amount of guarantees and contingent liabilities and other off balance sheet liabilities.
- v. If the Private Entity is publicly traded, include as part of the electronic copy (searchable PDF format on CD), the stock exchange and trading symbols and a copy of the most recent 10K.

- c. Funding Source Action: Disclose whether any funding sources or financial institutions have threatened to take or have taken adverse action against the Private Entity or any of its equity members, partners or joint venturers, such as loan acceleration, foreclosure, or terminating or restricting the use of funds, anytime during the past five years.
3. Describe the plan for the Project development, financing and operation of the Project showing the anticipated schedule by year and when funds will be required and how such funds will be applied to capital and operating and maintenance costs. The plan should show both economic development components as well as the capital expenses and operational and maintenance expenses, including debt service associated with rail operations. The plan should also demonstrate revenue to provide the operating subsidy, if any, associated with the passenger rail operations. Proposer should specifically address proposed allocation of regional fares associated with region-wide fares as well as proposed transfer fares for passengers transferring from the Project's train service to a train or bus service of the linking transit agencies. As part of the plan, Proposers shall account for planned headways and interactions with existing rail operations conducted by DART, The T or the Denton County Transit Authority and those railroads with trackage rights. Vehicle procurement, including vehicle type and number, shall be addressed along with useful life anticipated for the vehicles and the need for replacement vehicles, if any.
4. Describe the type and amount of the projected ad valorem property taxes, assessments, hotel occupancy taxes, User Fees, lease payments, or Service Payments over the term of any applicable Interim or Comprehensive Agreement and the methodology and circumstances for changes to the User Fees, ad valorem taxes, assessments, hotel occupancy taxes, lease payments, and other service payments over time. Note that DART does not anticipate making availability payments or other forms of contributions within the current twenty-year timeframe of its Twenty Year Financial Plan and possibly longer. Contributions from The T should be consistent with and not exceed those financial obligations The T is representing it proposes to accept in regard to the New Starts Full Funding Grant Agreement it is currently pursuing.
5. Explain the financing plan of the Project including the identity of each debt and equity source(s), the amount of debt and equity to be used to capitalize the likely Project, and the relationships (e.g., outside lender, parent company, etc.). Include each of the following:
 - a. Contact information for identified funding sources and confirmation from same of their interest in and willingness to consider provision of debt and equity for the Project in the amounts specified, if any.
 - b. The sources and anticipated amounts of working capital to cover operating costs and to adequately maintain operations from start-up through completion and operations until turnover to the Procurers.

- c. Letters from lending institutions, not more than three months old that demonstrate the existence of liquid assets or suitable unencumbered lines of credit to carry out the pre-Project activities that will be required under the Interim Agreement. Evidence of the Proposer's liquid assets or some acceptable form of equity, shall be equal to the equity requirements of the prospective construction lender.
6. Sources and estimated amounts of all other funds needed to meet the remaining net obligations of the Project funding requirements not otherwise covered by other revenue sources over the life of the Project, approvals necessary to secure such funds and the status of such approvals.
7. Provide a discounted cash flow analysis in hard copy and digitally in Microsoft Excel format, based upon total Project term, for the duration of the Project life cycle, including but not limited to: estimates of capital costs, operating expenses, capital reserves including replacement, net operating income, debt service, equity distributions, disposition benchmarks, and calculations of net present value and internal rate of return.
 - a. Include a sensitivity analysis depicting the impacts due to escalations of expenses and revenue growth, and changes in financing terms or interest rates.
 - b. Include in a separate exhibit a list of underlying assumptions of all Revenue, capital, debt, interest rate, cost of living and other escalators, operating expenditures and explain the methodology used for such assumptions incorporated in the plan.
 - c. Indicate any planned refinancing(s) and which party or parties bear the risk if the refinancing does not occur. Indicate the proposed party or parties that would receive the benefit of any cost savings from planned and unplanned refinancing, e.g. whether the savings go to the Procurers, would be shared and to what extent, or would be retained for the benefit of the Contracting Person.
 - d. If the Proposer has chosen an underwriter(s), provide a breakout of the fees to any underwriting firm(s) and a description of the type of debt securities the firm(s) are prepared to purchase. Also, specify the term of the commitment and the conditions precedent to closing. Be specific as to tax-exempt, taxable, floating rate, fixed rate, etc. If the Proposer has not yet chosen an underwriter(s), the Procurers reserve the right to have input into the selection of that underwriter(s).
 - e. Include a direct comparison of and explanation of differences in the Proposal financial plan with the specific availability payment financial model prepared by IMG on behalf of DART, including a direct comparison of the Proposer's financial estimates to the public sector comparator option described in the IMG model (available to a Proposer through the Designated Contact).

- f. Identify the manner in which various sources of funding will be applied to various capital, debt service and operating expenditure requirements, with explicit attention to identification of which revenue sources are non-recurring and explicit attention to associating non-recurring revenue sources and contributions with non-recurring capital or non-operating expenses and, finally, which and when recurring revenue streams will be applied and in what estimated amounts to recurring operating expenditures and other recurring non-operating expenditures.
 - g. Additional material and information as the Procurers deem appropriate
8. Using FTA capital cost estimating techniques and Standard Cost Categories, provide a Project budget detailing any anticipated land acquisition(s), the anticipated pre-Project costs, and hard and soft costs from construction through life of the Project. A brief description of the contingencies and add-on factors meeting the following definitions should be used:
- a. Design Contingency – A design contingency is added to the civil cost in the estimate to cover possible changes in unit costs that may occur as selected projects progress through the various stages of design development.
 - b. Construction Contingency – A contingency is added to the construction cost estimate to cover the expense of unforeseen costs incurred by contractors during construction.
 - c. Add-On Allowance – An add-on allowance to address typical soft costs is added to the construction costs. This covers the administrative cost of planning, support services, insurance, preliminary and final design, project management and construction management that are needed to construct a project. All elements of the soft costs must be identified and included in the detail.
 - d. Real Estate (Right-of-Way) – This does not include the right-of-way presently owned by DART, and generally represents the land typically needed for stations and other facilities. An add-on for non-DART owned railroad right-of-way should be accounted for depending on the level of freight activity. This cost per mile could be applied towards trackage rights or purchase of privately owned railroad corridors.
 - e. Environmental – An additional factor to cover potential environmental mitigation over and above what is included in the basic civil design.
 - f. Vehicles – a cost for vehicles should be included.
 - g. Maintenance Facility – Assumptions for a new maintenance facility or expansion

of any existing facility should be included.

H. TAB 7: COMMUNITY IMPACT

1. Identify the community benefits, including the economic impact and tax revenues, the Project will have on the Procurers and the cities along the Cotton Belt Corridor.
2. Estimate the number of jobs generated for area residents and level of pay and fringe benefits of such jobs.
3. Project the number and value of subcontracts generated for area subcontractors.
4. Identify any anticipated public support or opposition for the Project, including any Affected Jurisdictions. Support from the public or Affected Jurisdictions should be demonstrated through resolutions of organizations, letters, or other official communications.
5. Identify any anticipated social, economic, environmental, including noise, and transportation impacts of the Project measured against the design concept, land use and building policies, design standards and any applicable ordinances of cities along the Cotton Belt Corridor and DART. Specify the strategies or actions to mitigate identified impacts of the Project. Note that in addressing environmental concerns, Private Entities should be aware of DART Board Resolution Nos. 060177 and 080114. All information, evaluations and reporting shall be in accordance with the most recent FTA guidance available.
6. To the extent a Proposer has information related to the environmental areas listed below, the Proposer should address the approach to each such area and associated cost, if not addressed in Sec. H.5 above.
 - Land Use and Zoning
 - Social, Economic, Neighborhood and Community Services
 - Environmental Justice
 - Displacements/Relocations
 - Soils, Geology
 - Ecosystems
 - Water Resources
 - Noise and Vibration
 - Electromagnetic Radiation
 - Air Quality
 - Hazardous and Regulated Materials
 - Historic, Archeological and Cultural Resources
 - Public Parklands
 - Traffic and Transportation

- Visual and Aesthetics
- Energy
- Safety and Security
- Cumulative Impacts
- Construction Impacts
- Airport Impacts

7. Any additional information as the Procurers may reasonably request.

I. TAB 8: DISADVANTAGED, MINORITY AND WOMAN-OWNED BUSINESS ENTERPRISE PROGRAM

As required by the Federal Transit Administration (FTA), DART and The T have adopted Disadvantaged Business Enterprise Programs (DBE). Specific DBE goals, applicable to this Project, may be established for the Project. The DBE Program requirements can be found in 49 CFR, Part 26.

Pursuant to Chapter 452 of the Texas Transportation Code, DART and The T have adopted Minority and Woman-Owned Business Enterprise Programs (M/WBE). DART and The T establish contract specific goals under the Program.

Any Proposal must address how the goals formulated by DART and The T, as may be applicable to the Project, will be implemented.

Specific goals are set on a contract-by-contract basis.

DART’s goals on past DART rail construction projects have ranged from 36 to 50 percent. Past participants on DART projects have exceeded the established goals.

J. TAB 9: MISCELLANEOUS/ADDENDA

Use this Section to present additional information such as letters of recommendation, letters of interest from prospective lenders or tenants, additional information concerning the Project team, and other information that supports the Proposal.

VII. EVALUATION AND SELECTION CRITERIA

A. EVALUATION OF PROPOSALS

The Procurers may, at their sole discretion, determine the disposition of any Unsolicited Proposal. The Procurers may determine, in their sole discretion, to seek additional information or clarification regarding an Unsolicited Proposal or reject the Unsolicited Proposal. Within the timelines set by the Act, any Affected Jurisdictions receiving a copy of the Proposal in accordance with the Act may determine what support, if any, to provide and if the Proposal shall be rejected or presented to their Council at any regular or special meeting, in open or

executive session, as may be legally appropriate.

NOTWITHSTANDING ANY OTHER PROVISION OF THESE GUIDELINES, THE PROCURERS RESERVE THE RIGHT AT ANY AND ALL TIMES PRIOR TO ENTERING INTO AN INTERIM AGREEMENT TO REJECT ANY PROPOSAL FOR ANY REASON IN THEIR SOLE DISCRETION. THE DECISION TO ENTER INTO AN INTERIM AGREEMENT OR COMPREHENSIVE AGREEMENT WILL REQUIRE APPROVAL OF THE BOARDS OF THE T, COG AND DART. ANY OF THE PROCURERS CAN WITHDRAW FROM THE PROCUREMENT PROCESS AT ANY TIME PRIOR TO THE EXECUTION OF AN AGREEMENT.

Any discussions between the Procurers and any Private Entity(ies) related to any Proposal shall not limit the ability of the Procurers to later determine to use standard procurement procedures for the Project.

B. EVALUATION CRITERIA

The following factors shall be considered in conducting a full evaluation of Proposals. For Competing Proposals, additional evaluation criteria may also be contained in the RFP and must also be provided by the Proposers of any Unsolicited Proposal. The evaluation shall be conducted based upon the information contained in the Proposal, as may be supplemented through discussions.

1. Qualifications and Experience

- a. Experience working with the public sector on public-private real estate development and transportation projects of similar size, scope and complexity;
- b. The availability of necessary public and private personnel, logistical resources, sufficient insurance capabilities, representation by Private Entity's sureties of sufficient bonding capacity, and the ability to complete the Project in a timely and professional manner;
- c. Demonstrated record of successful past performance on projects of similar size and scope, including timeliness of project delivery, compliance with plans and specifications, quality of workmanship, cost-control and project safety;
- d. Demonstrated compliance with applicable laws, codes, standards, regulations, and agreements on past projects;
- e. Leadership structure;
- f. Project manager's experience;
- g. Management and operational plans;

- h. Financial condition and capacity;
- i. Economic development opportunities; and
- j. Recommendations of cities along the Cotton Belt Corridor.

2. Project Characteristics

Factors to be considered in evaluating the Proposal will include the following, if applicable:

- a. Project scope, scale and timing;
- b. Determination that the timing of the Project is consistent with the needs and project schedules of the Procurers and cities along the Cotton Belt Corridor;
- c. Conformance with DART construction and operating standards and practices;
- d. Technical and financial feasibility of the Project based upon data and reports submitted in conformance with Sections IV, V and VI and discussions with the Private Entity, if any;
- e. Technology, including rolling stock envisioned;
- f. Conformity to laws, regulations, and standards;
- g. Environmental impacts;
- h. Condemnation impacts;
- i. Federal, state and local permits; and
- j. Maintenance plans, state of good repair plans and associated funding commitments.

3. Project Cost And Financing

Factors to be considered in evaluating whether the proposed financing allows adequate access to the necessary capital to finance the Project include:

- a. Total Project cost and cost benefit to the Procurers and the cities along the Cotton Belt Corridor;
- b. Financing costs, including both principal and cumulative interest, and the absolute cost of the impact on the debt or debt burden of the Procurers and cities along the Cotton Belt Corridor;

- c. Financial plan, including overall feasibility and reliability of plan; the Private Entity's past performance with similar plans and similar projects; the degree to which the Private Entity has conducted due diligence investigation and analysis of proposed financial plan and the results of any such inquiries or studies;
- d. Estimated Project cost and Life-Cycle Cost Analysis;
- e. Project affordability, taking into consideration estimated financial commitments on the part of landowners, property owners, participating municipal and county entities and the transit authorities, and the impact of such estimated financial burdens, including the impact to total ad valorem tax ratios (calculated as the percentage represented by dividing total of all applicable property taxes supporting such financial commitments by the total assessed value for each affected municipality); and
- f. The identity, credit history, past performance of any third party that will provide financing for the Project and the nature, amount, and timing of the associated commitment, as applicable.

IN THE EVENT THAT ANY PORTION OF THE PROJECT IS FINANCED THROUGH THE ISSUANCE OF OBLIGATIONS THAT ARE DEEMED TO BE TAX SUPPORTED DEBT OF THE PROCURERS OR CITIES ALONG THE COTTON BELT CORRIDOR, OR IF FINANCING THE PROJECT MAY IMPACT THE PROCURERS' DEBT RATING OR FINANCIAL POSITION OF PROCURERS OR THE CITIES ALONG THE COTTON BELT CORRIDOR, PROCURERS AND THE IMPACTED CITIES MAY, AT THEIR OPTION, SELECT THEIR OWN FINANCE TEAM, SOURCE, AND FINANCING VEHICLE.

4. Community Impact.

Factors to be considered in evaluating the Project's community impact include:

- a. Community benefits, including the economic impact the Project will have on the Procurers and cities along the Cotton Belt Corridor in terms of tax revenue, the number of jobs generated and level of pay and fringe benefits of such jobs;
- b. Stakeholder input;
- c. Community support or opposition, or both;
- d. The Private Entity's plans to address Disadvantaged, Minority, Woman-Owned Business Enterprise goals and to employ local residents;
- e. Compatibility with existing and planned facilities; and
- f. Compatibility with local, regional, and state economic development efforts.

5. Other Factors

Other factors that may be considered by the Procurers in the evaluation and selection of Proposals include:

- a. The general reputation, industry experience, and financial capacity of the Private Entity;
- b. The proposed design of the Project;
- c. Opportunity cost of taking an alternative action;
- d. For Unsolicited Proposals, other criteria that the Procurers deem appropriate; and
- e. Other criteria set forth in the Request for Proposals.

VIII. DISCUSSIONS

Discussions are oral or written exchanges between the Procurers and the Proposer or Respondent, as applicable, with the intent of allowing the Proposer or Respondent to revise its Proposal. Discussions may include oral presentations, clarifications and negotiations. Discussions may be requested by the Proposer or Respondent and shall be conducted at the discretion of the Procurers after receiving an Unsolicited or Competing Proposal. If discussions are conducted, the Procurers may request revisions to the Proposal from Private Entities.

The primary objectives of discussions are to assure mutual understanding of the requirements, allow the Procurers to point out and the Private Entities to address Proposal deficiencies and significant weaknesses, and to maximize the Procurers' ability to obtain best value. The Procurers, at their sole discretion, shall determine whether or not discussions shall be conducted.

Prior to conducting discussions, the Procurers may eliminate the lowest ranking Proposals from further consideration, based on the evaluation criteria stated in these Guidelines or in the RFP.

IX. INTERIM AND COMPREHENSIVE AGREEMENTS

Prior to entering a Comprehensive Agreement, an Interim Agreement may be entered into that permits a Contracting Person to perform project-related activities that may or may not be compensable, on such terms and conditions set forth in such Interim Agreement. Any Interim or Comprehensive Agreement shall define the rights and obligations of the Procurers and the Contracting Person with regard to the Project. Each of the Boards of The T, COG and DART shall approve or disapprove any Interim Agreement entered into pursuant to these Guidelines. Approval by all three Boards is necessary for approval of an Interim Agreement. Each of the Boards of the T, COG and DART shall approve or disapprove a Comprehensive Agreement. Approval by all three Boards is necessary for approval of a Comprehensive Agreement.

The Procurers shall have no liability related to the Project prior to entering into a Comprehensive Agreement, except as the Procurers may have expressly agreed in the Interim Agreement. DART and/or The T may assign their contractual rights and obligations set forth in an Interim and Comprehensive Agreement to a Local Government Corporation to be formed at DART and/or The T's sole discretion. In the event that such a Local Government Corporation is formed, the Contracting Person shall look solely to such Local Government for fulfillment of the contractual terms and obligations and expressly releases the Procurers from such fulfillment.

The Contracting Person may commence the Project ONLY following the execution of an Interim or Comprehensive Agreement, as appropriate, between the Private Entity and the Procurers. The Proposer shall not pursue any legislative vehicle which would attempt to grant the Proposer any right to commence Project activities, including rail operations, in the Cotton Belt Corridor absent execution by the Procurers of an Interim and Comprehensive Agreement.

A. REPRESENTATIVE INTERIM AGREEMENT TERMS

The scope of an Interim Agreement is to be negotiated between Procurers and the Contracting Person and may include but is not limited to:

1. Project planning, development and schedule;
2. Design and engineering;
3. A comprehensive geotechnical investigation of subsurface conditions at the Cotton Belt Corridor site. The risk of inadequate geotechnical investigation or improper interpretation of the results of the geotechnical investigation, will be allocated to the Contracting Party in the Comprehensive Agreement;
4. Environmental analysis and mitigation;
5. Surveying;
6. Ascertaining the availability of financing for the Project through financial and revenue analysis;
7. The timing of the negotiation of the Comprehensive Agreement;
8. Any other provisions related to any aspect of the Project that the parties deem appropriate prior to the execution of a Comprehensive Agreement; and
9. If Federal funding is anticipated for any portion of the Project, then all contract requirements set forth in FTA Circular 4220.1.F and any other required federal clauses shall be included in the Agreement.

B. REPRESENTATIVE COMPREHENSIVE AGREEMENT TERMS

The Comprehensive Agreement shall define the rights and obligations of the Procurers and the Contracting Person with regard to the Project. The terms of the Comprehensive Agreement shall meet minimum statutory requirements and be negotiated to address the specifics of the Project and shall include, but not be limited to, the following:

1. The delivery of performance and payment bonds in conformance with the Act or letters of credit in connection with the Project;
2. The review and approval of plans and specifications for the Project including rail operations, infrastructure and vehicles;
3. The rights of the Procurers to inspect the Cotton Belt Corridor during construction and upon completion to ensure compliance with the Comprehensive Agreement;
4. The maintenance of a policy or policies of comprehensive general liability insurance or self-insurance in form and amount satisfactory to the Procurers and reasonably sufficient to insure coverage of the Project and of the tort liability to the public and employees, and to enable the continued operation of the Project;
5. The Procurers' monitoring of the practices of the Contracting Person to ensure proper maintenance and continued state of good repair as required by FTA;
6. The terms under which the Contracting Person shall reimburse the Procurers for services provided;
7. Default and termination provisions including termination for convenience;
8. Identification of the process, standards, security and other requirements for handback of the Project to DART and The T in a state of good repair whether at expiration of the Comprehensive Agreement or through termination;
9. In addition to 8 above, the policy and procedures that shall govern the rights and responsibilities of the Procurers and the Contracting Person in the event that the Comprehensive Agreement is terminated prior to the end of its term, either through default or for convenience, including the conditions regarding the assumption of the duties and responsibilities of the Contracting Person by the Procurers and the transfer of property or other interests of the Contracting Person to the Procurers or their assigns;
10. The Contracting Person shall provide guarantees and loan commitments, if appropriate;
11. The terms under which the Contracting Person shall submit financial statements prepared in accordance with generally accepted accounting principles on a periodic

basis but generally not less than annually during the life of the Project;

12. The mechanism by which User Fees, ad valorem property tax, assessments, hotel occupancy tax, lease payments, or Service Payments, if any, may be established from time to time. The need and methodology for increasing such amounts during the life of the Project shall be identified. Any fares for use of passenger rail service shall be set and maintained in conformance with state law;
13. A copy of any Service Contract, if any;
14. Public safety and security plans for the Cotton Belt Corridor;
15. Classifications according to reasonable categories for assessment of User Fees, if any;
16. The terms and conditions for use of DART and T owned right of way and other facilities;
17. The terms and conditions under which existing site conditions will be assessed and addressed, including identification of the responsible party for conducting the assessment and taking necessary remedial action;
18. The terms and conditions for addressing any needed utility and pipeline relocation along the Cotton Belt Corridor to enable the Project;
19. A periodic reporting procedure that incorporates a description of the impact of the Cotton Belt Corridor on the Procurers and the cities along the Cotton Belt Corridor;
20. Terms and conditions of the details of rail operations and service to be provided including any requests to DART, and The T to adjust service to accommodate rail service on the Cotton Belt Corridor;
21. Timelines for economic development activities along the Cotton Belt Corridor;
22. Subcontracting plans including fulfillment of any Disadvantaged, Minority, and Woman-Owned Business Enterprise goals.
23. Confirmation that all conditions precedent to award of the Comprehensive Agreement have been fully satisfied and other arrangements such as passage of special legislation, execution of agreements for creation of TIF districts, conveyance of real property, commitment to make contractual revenue payments for express periods of time, landowner or development agreements for contributions in aid of construction and other necessary agreements, conditions, or circumstances that must be completed or already have occurred prior to execution of the Comprehensive Agreement.
24. Identification of the phases, if any, in which the Project will be undertaken.

25. If Federal funding is anticipated for any portion of the Project, then all contract requirements set forth in FTA Circular 4220.1F and any other required federal clauses shall be included in the Comprehensive Agreement.
26. Any changes in the terms of the Comprehensive Agreement shall be added to the Comprehensive Agreement only by written amendment; and
27. Other requirements that the Procurers deems appropriate.

C. ADDITIONAL PROVISIONS - COMPREHENSIVE AGREEMENT

Depending on the nature of the Project, the Procurers may require the following be addressed in the Comprehensive Agreement:

1. The Contracting Party will assume single-point responsibility and liability for all planning, designing, financing, constructing, operating, and maintaining the Cotton Belt Corridor.
2. The Procurers encourage the Contracting Party to propose a formula for the mutual sharing of cost savings realized during construction by virtue of value engineering initiatives, guaranteed maximum price with saving sharing provisions, trade allowances or otherwise. Mutually agreed upon terms for the sharing of such savings will be incorporated into the Comprehensive Agreement.
3. The Procurers may enter into Comprehensive Agreements with Private Entities that have formed business associations such as joint ventures, limited partnerships and limited liability companies. However, the Procurers may require that one or more of the principal members of the business association provide a performance guaranty of all obligations undertaken in the Comprehensive Agreement. This requirement is in addition to the statutory requirement for posting a performance bond. Private Entities interested in entering Comprehensive Agreements must be willing to provide this security if their Proposal is submitted as part of a business association or other entity that limits the liability of its members, owners or partners.
4. Parties submitting Proposals understand that representations, information and data supplied in support of, or in connection with Proposals play a critical role in the competitive evaluation process and the ultimate selection of a Proposal by the Procurers. Accordingly, as part of the Comprehensive Agreement, the Contracting Person and its team members shall certify that all material representations, information and data provided in support of or in connection with a Proposal are true and correct. Such certifications shall be made by authorized individuals who have knowledge of the information provided in the Proposal. In the event that material changes occur with respect to any representations, information and data provided for the Proposal, the Contracting Person shall immediately notify the Procurers of same. Any violation of this

Section of the Comprehensive Agreement shall give the Procurers the right to terminate the Comprehensive Agreement, withhold payment or other consideration due, and seek any other remedy available under the law.

PROCURERS EXPRESSLY RESERVE THE RIGHT TO ADD TO OR MODIFY THE CRITERIA SET FORTH ABOVE IN NEGOTIATING A COMPREHENSIVE AGREEMENT.

D. RIGHT TO PROTEST

1. Any interested party who is aggrieved or adversely affected in connection with the proposed award of an Interim or Comprehensive Agreement may file a protest with DART and may appeal any adverse decision in accordance with the provisions of the DART Procurement Regulations, Chapter 10, Administrative Remedies.
2. By submission of a Proposal, the Proposer or Respondent agrees to exhaust its administrative remedies under Chapter 10 of the DART Procurement Regulation or the Disputes Clause of any resulting Interim or Comprehensive Agreement prior to seeking judicial relief of any type in connection with any matter related to these Guidelines, the award of any Interim or Comprehensive Agreement, and any dispute under the Interim or Comprehensive Agreement. Proposer or Respondent further agrees that venue lies in Dallas County should judicial relief be sought after exhaustion of administrative remedies.

X. NOTICE, POSTING AND HEARING REQUIREMENTS

A. PUBLIC NOTICE OF DECISION TO ACCEPT PROPOSALS FOR CONSIDERATION

Not later than the 10th day after the date the Procurers accept a Proposal for consideration, the Procurers shall post public notice of the Proposal in accordance with the Act.

Trade secrets, financial records, or other designated records of the Contracting Person that are confidential and excluded from disclosure under law may not be posted or made available for public inspection.

This Section applies to any accepted Proposal regardless of whether the process of bargaining results in an Interim or Comprehensive Agreement.

B. HEARING, NOTICE AND ACCESS TO INTERIM OR COMPREHENSIVE AGREEMENTS

In addition to the other posting requirements, during the Proposal review process, at least thirty (30) days prior to entering into an Interim or Comprehensive Agreement, the Procurers shall hold a public hearing on the Proposal.

Once the negotiation phase for an Interim or a Comprehensive Agreement is complete and a decision to award has been made by the Procurers, the Procurers shall make the Interim or Comprehensive Agreement and related records available for public inspection in the following manner:

Posting the agreement on the DART website or by another manner considered appropriate by the Procurers to provide maximum notice to the public of the opportunity to inspect the Proposal including a summary of the proposed Interim or Comprehensive Agreement, the location where a redacted copy of the proposed Interim or Comprehensive Agreement is available for public inspection, and the designated contact person.

Any inspection under this Section is subject to reasonable restrictions to ensure the security and integrity of the records.

C. USE OF PUBLIC FUNDS

The Procurers' constitutional and statutory requirements as they apply to appropriation and expenditure of public funds apply to any Interim or Comprehensive Agreement. Accordingly, the processes and procedural requirements associated with the expenditure or obligation of public funds shall be incorporated into any Interim or Final Agreement.

D. APPLICABILITY OF LAWS

The laws of the United States and the State of Texas are incorporated in these Guidelines by reference for all purposes. Compliance by each Private Entity is mandatory.

E. GOVERNING PROVISIONS

In the event of any conflict between these Guidelines and any federal or state statutory or administrative authority, the terms of the respective statutory or administrative authority shall control.

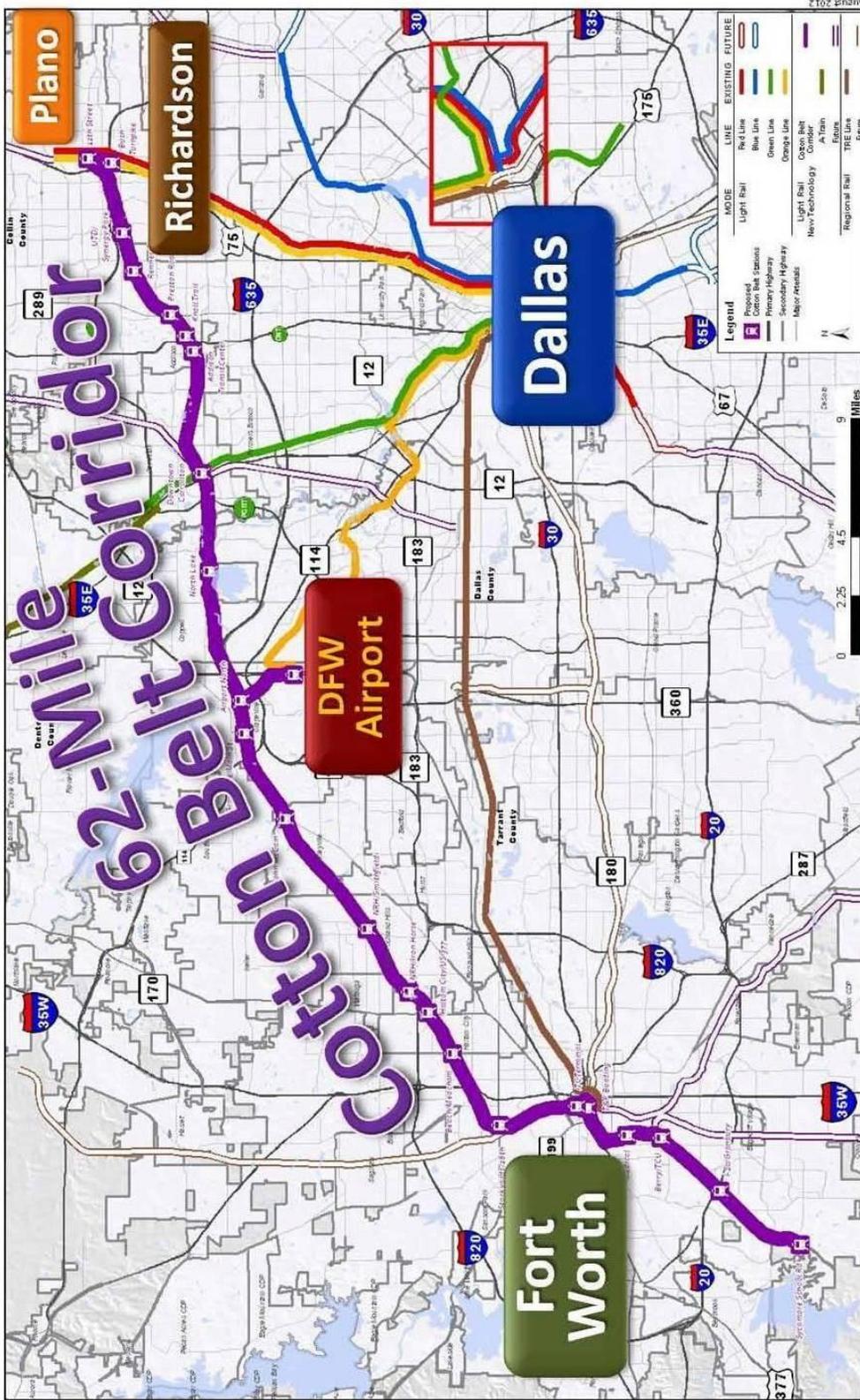


EXHIBIT "A"