

STATE OF TEXAS §
COUNTY OF TRAVIS §

**LOCAL TRANSPORTATION PROJECT
ADVANCE FUNDING AGREEMENT**
For an _____ Project
(Off State System)

THIS Local Project Advance Funding Agreement (LPAFA) is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State", and the _____, acting by and through its duly authorized officials, hereinafter called the "Local Government."

WITNESSETH

WHEREAS, a Master Agreement between the Local Government and the State has been adopted and states the general terms and conditions for transportation projects developed through this LPAFA; and,

WHEREAS, the Texas Transportation Commission passed Minute Order _____ that provides for the development of, and funding for, the project describe herein; and,

WHEREAS, the Governing Body of the Local Government has approved entering into this LPAFA by resolution or ordinance dated _____, which is attached hereto and made a part hereof as Attachment A for development of the specific project which is identified in the location map shown as Attachment B.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

AGREEMENT

1. The period of this LPAFA is as stated in the Master Agreement, without exception.
2. Termination of this LPAFA shall be under the conditions as stated in the Master Agreement, without exception.
3. Amendments to this LPAFA shall be made as described in the Master Agreement, without exception.
4. Scope of Work.
The scope of work for this LPAFA is described as _____

_____.
5. Right of Way and Real Property shall be the responsibility of the Local Government, as stated in the Master Agreement, without exception.
6. Adjustment of utilities will be provided by the Local Government as required and as stated in the Master Agreement without exception.
7. Environmental Assessment and Mitigation will be carried out as stated in the Master Agreement, without exception.

8. Compliance with Texas Accessibility Standards and ADA will be as stated in the Master Agreement, without exception.
9. Architectural and Engineering Services will be provided by the State, as stated in the Master Agreement, without exception. The State is responsible for performance of any required architectural or preliminary engineering work. The Local Government may review and comment on the work as required to accomplish the public purposes of the Local Government. The State will cooperate fully with the Local Government in accomplishing these local public purposes to the degree permitted by State and Federal law.
10. Construction Responsibilities will be carried out by the State, as stated in the Master Agreement, without exception.
11. Project Maintenance will be undertaken as provided for in the Master Agreement, without exception.
12. Local Project Sources and Uses of Funds
 - a. Project Cost Estimate: A Project Cost Estimate is provided in Attachment C. Any work done prior to federal authorization will not be eligible for reimbursement. It is the Local Government's responsibility to verify with the State that the Federal Letter of Authority has been issued for the work covered by this Agreement.
 - b. A Source of Funds estimate is also provided in Attachment C. Attachment C shows the percentage and absolute dollar amount to be contributed to the project by federal, state, and local sources.
 - c. The Local Government is responsible for all non-federal and non-state funding, including all project cost overruns, unless provided for through amendment of this agreement.
 - d. After execution of this LPAFA, but prior to the performance of any work by the State, the Local Government will remit a check or warrant made payable to the "Texas Department of Transportation " in the amount specified in Attachment C as the local contribution for Preliminary Engineering. The Local Government will pay at a minimum its funding share for this estimated cost of preliminary engineering as stated in the Local Project Sources and Uses of Funds provision of the Master Agreement.
 - e. Sixty (60) days prior to the date set for receipt of the construction bids, the Local Government shall remit its remaining financial share for the State's estimated construction oversight and construction costs and any others costs owing.
 - f. In the event the State determines that additional funding is required by the Local Government at any time during the development of the Project, the State will notify the Local Government in writing. The Local Government will make payment to the State within thirty (30) days from receipt of the State's written notification.
 - g. If any existing or future local ordinances, commissioners court orders, rules, policies, or other directives, including but not limited to outdoor advertising billboards and storm water drainage facility requirements, are more restrictive than State or Federal Regulations, or if any other locally proposed changes, including but not limited to plats or replats, result in increased costs, then any increased costs associated with the ordinances or changes will be paid by the local government. The cost of providing right of way acquired by the State shall mean the total expenses in acquiring the property interests either through negotiations or eminent domain proceedings, including but not limited to expenses related to relocation, removal, and adjustment of eligible utilities.
 - h. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this

contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds.

- 13. Document and Information Exchange. The Local Government agrees to electronically deliver to the State all general notes, specifications, contract provision requirements and related documentation in a Microsoft® Word or similar document. If requested by the State, the Local Government will use the State's document template. The Local Government shall also provide a detailed construction time estimate including types of activities and month in the format required by the State. This requirement applies whether the Local Government creates the documents with its own forces or by hiring a consultant or professional provider.
- 14. Incorporation of Master Agreement Provisions. This LPAFA incorporates all of the governing provisions of the Master Advance Funding Agreement (MAFA) in effect on the date of final execution of this LPAFA, unless such MAFA provision is specifically excepted herein.
- 15. Insurance. If this agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.
- 16. Signatory Warranty. The signatories to this agreement warrant that each has the authority to enter into this agreement on behalf of the party represented.

IN TESTIMONY HEREOF, the parties hereto have caused these presents to be executed in duplicate counterparts.

THE LOCAL GOVERNMENT

By: _____
(Signature)

Title: _____

Date: _____

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: _____
Janice Mullenix
Director of Contract Services Section
Office of General Counsel
Texas Department of Transportation

Date: _____

CSJ: XXX-XX-XXXX

Project Name: _____

ATTACHMENT A

**RESOLUTION OF LOCAL GOVERNMENT
APPROVING THIS LPAFA**

ATTACHMENT B
PROJECT LOCATION MAP

ATTACHMENT C

PROJECT BUDGET ESTIMATE AND SOURCE OF FUNDS

Description	Total Estimate Cost	Federal Participation	State Participation	Local Participation		
				Prior to EDC (20%)	EDC Adjustment 61.5% (-)	Actual Participation
		80%	EDC Adjustment 61.5% (+)			
Land (no cash contribution)						
Utilities (no cash contribution)						
Environmental (no cash contribution)						
Preliminary Engineering	0	\$0.00	0	0	0	0
Construction	0	0	0	0	0	0
SUBTOTAL	0	0	0	0	0	0
Direct State Costs (including plan review, inspection and oversight)	0	0	0	0	0	0
Indirect State Costs (no local participation required except for service projects)	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0
<i>First Payment due prior to PS&E by State</i>	<i>N/A</i>					0
<i>Second payment due 60 days prior to the project letting</i>	<i>N/A</i>					0

Total participation required from the local government = \$XXXXXXXXXX



CONTRACTUAL AGREEMENT FOR RIGHT OF WAY PROCUREMENT - LOCAL GOVERNMENT

County: Federal Project No: ROW CSJ No:
 District: Highway:

This Agreement by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the State, and _____, Texas, acting by and through its duly authorized official pursuant to an Ordinance or Order dated the _____ day of _____, 2005Ag, hereinafter called the Local Government, shall be effective on the date of approval and execution by and on behalf of the State.

WHEREAS, the State has deemed it necessary to make certain highway improvements on Highway No. _____ from _____ to _____, and which section of highway improvements will necessitate the acquisition of certain right of way; and

WHEREAS, it is agreed such right of way purchase shall be a joint effort of the State and the Local Government;

NOW, THEREFORE be it agreed that acquisition of such right of way shall be in accordance with the terms of this agreement and in accordance with the Texas Department of Transportation Right of Way Manual and all applicable Federal and State laws governing the acquisition policies for acquiring real property. The State hereby authorizes and requests the Local Government to proceed with acquisition and the State agrees to reimburse the Local Government for its share of the cost of such right of way, providing such acquisition and reimbursement are accomplished according to the provisions outlined herein and agreed to by both parties hereto.

Location Surveys and Preparation of Right of Way Data: The State, without cost to the Local Government, will do the necessary preliminary engineering and title investigation in order to supply to the Local Government the data and instruments necessary to obtain acceptable title to the desired right of way.

Determination of Right of Way Values: The Local Government agrees to make a determination of property values for each right of way parcel by methods acceptable to the State and to submit to the State's District Office a tabulation of the values so determined, signed by the appropriate Local Government representative. Such tabulations shall list the parcel numbers, ownership, acreage and recommended compensation. Compensation shall be shown in the component parts of land taken, itemization of improvements taken, damages (if any) and the amounts by which the total compensation will be reduced if the owner retains improvements. This tabulation shall be accompanied by an explanation to support the determined values, together with a copy of information or reports used in arriving at all determined values. Such work will be performed by the Local Government at its expense without cost participation by the State. The State will review the data submitted and may base its reimbursement on the values which are determined by this review. The State, however, reserves the right to perform at its own expense any additional investigation deemed necessary, including supplemental appraisal work by State employees or by employment of fee appraisers, all as may be necessary for determination of values to constitute the basis for State reimbursement. If at any stage of the project development it is determined by mutual agreement between the State and Local Government that there should be waived the requirement that the Local Government submit to the State property value determinations for any part of the required right of way, the Local Government will make appropriate written notice to the State of such waiver, such notice to be acknowledged in writing by the State. In instances of such waiver, the State by its due processes and at its own expense will make a determination of values to constitute the basis for State reimbursement.

Negotiations: The State will notify the Local Government as soon as possible as to the State's determination of value. Negotiation and settlement with the property owner will be the responsibility of the Local Government without participation by the State; however, the Local Government will notify the State immediately prior to closing the transaction so that a current title investigation may be made to determine if there has been any change in the title. The Local Government will deliver properly executed instruments of conveyance which, together with any curative instruments found to be necessary as a result of the State's title investigation, will properly vest good and indefeasible title in the State for each right of way parcel involved. The Local Government will also deliver to the State an owner's policy of title insurance for each parcel, except as otherwise specifically approved by the State. Upon payment to the property owner of the agreed purchase price, the Local

Government is authorized and directed to secure for the **State** possession of each parcel in accordance with all applicable Federal and **State** laws governing relocation assistance, notices to vacate and forcible detainer. The costs incidental to negotiation, recording the right of way instruments, and securing possession of the parcels will be the responsibility of the **Local Government**. The cost of title insurance, closing services and all costs of relocation assistance as authorized by applicable Federal and **State** laws will be the responsibility of the **State**.

Administrative Settlements: After the offer has been delivered to the property owner, and prior to the Commissioners' Hearing, the property owner may deliver one written counteroffer ("Administrative Settlement Proposal") to the **Local Government**. The **Local Government** will evaluate the Administrative Settlement Proposal and make a recommendation of approval or disapproval to the **State** through the **State's** appropriate District Office. The District Office will then submit the Administrative Settlement Proposal, together with the **Local Government** and District recommendations, to the **State** Right of Way Division office for final approval in accordance with current **State** procedures. The **State's** approval of the Administrative Settlement Proposal is only for purposes of closing the purchase of the property prior to the Special Commissioners' Hearing. In the event a closing of the purchase does not occur prior to the hearing, the **State's** approval is automatically, without further action, withdrawn, and the **State** will participate only in the original approved value. In the event the **State** does not approve the Administrative Settlement Proposal, and the **Local Government** elects to purchase the property at a value greater than the original approved value, the **State's** participation in the purchase price will apply only to the original approved value, and the **Local Government** will pay one hundred percent (100%) of the costs which exceed the original approved value, even if the applicable county qualifies as an economically disadvantaged county.

Condemnation: Condemnation proceedings will be initiated at a time selected by the **Local Government** and will be the **Local Government's** responsibility at its own expense except as hereinafter indicated. The **Local Government** will obtain from the **State** without cost current title information and engineering data at the time condemnation is to be initiated. Except as hereinafter set forth the **Local Government** will concurrently file condemnation proceedings and a notice of lis pendens for each case in the name of the **State**, and in each case so filed the judgment of the court will decree title and possession to the property condemned to the **State**. The **Local Government** may, as set forth herein under "Excess Takings" and where it is determined to be necessary, enter condemnation proceedings in its own name. Property acquired in the **Local Government's** name for the **State** must comply with requirements set forth in the engineering data and title investigation previously furnished to the **Local Government** by the **State** at such time as the **Local Government** conveys said property to the **State**.

Court Costs, Costs of Special Commissioners' Hearings and Appraisal Expense: Court costs and costs of Special Commissioners' hearings assessed against the **State** or **Local Government** in condemnation proceedings conducted on behalf of the **State** and fees incident thereto will be paid by the **Local Government**. Such costs and fees, with the exception of recording fees, will be eligible for ninety percent (90%) **State** reimbursement under the established reimbursement procedure provided such costs and fees are eligible for payment by the **State** under existing law. Where the **Local Government** uses the **State's** appraisers employed on a fee basis in Special Commissioners' Hearings or subsequent appeals, the cost of the appraiser for updating the report, for preparing new reports, preparing for court testimony and appearing in court to testify in support of the appraisal will be paid direct by the **Local Government**, but will be eligible for ninety percent (90%) **State** reimbursement under established procedure provided prior approval for such appraiser has been obtained from the **State**. The fee paid the appraiser by the **Local Government** shall be in accordance with the fee schedule set forth in the appraiser's contract for appraisal services with the **State**.

Excess Takings: In the event the **Local Government** desires to acquire land in excess of that requested by the **State** for right of way purposes, the **State's** cost participation will be limited to the property needed for its purposes. If the **Local Government** elects to acquire the entire property, including the excess taking, by a single instrument of conveyance or in one eminent domain proceeding, the property involved will be acquired in the name of the **Local Government** and that portion requested by the **State** for right of way will be separately conveyed to the **State** by the **Local Government**. When acquired by negotiation, the **State's** participation will be based on the **State's** approved value of that part of the property requested for right of way purposes, provided that such approved value does not exceed actual payment made by the **Local Government**.

When acquired by condemnation, the **State's** participation will be in the proportionate part of the final judgment amount computed on the basis of the relationship of the **State's** approved value to the **State's** predetermined value for the whole property.

Improvements: Property owners will be afforded an opportunity in the negotiations to retain any or all of their improvements in the right of way taking. In anticipation of the owner desiring to retain improvements, the State's approved value will include the amounts by which the upper limit of State participation will be reduced for the retention. It is further agreed that the upper limit for the State's participation in the Local Government's cost for an improved parcel will be reduced as shown in the State's approved value where the owner retains an improvement which is to be moved by either the Local Government or the owner. In the event improvements which are, in whole or part, a part of the right of way taking are not retained by the owner, title is to be secured in the name of the State.

The State will participate in the acquisition of a structure severed by the right of way line if the part of the house, building or similar structure which lies outside the right of way cannot be reconstructed adequately or there is nothing but salvage left, provided that the State's value is established on this basis and provided that title to the entire structure is taken in the name of the State. The State shall dispose of all improvements acquired. The net revenue derived by the State from the disposition of any improvements sold through the General Services Commission will be credited to the cost of the right of way procured and shared with the Local Government.

Relocation of Utilities: If the required right of way encroaches upon an existing utility located on its own right of way and the proposed highway construction requires the adjustment, removal or relocation of the utility facility, the State will establish the necessity for the utility work. State participation in the cost of making the necessary change, less any resulting increase in the value to the utility and less any salvage value obtainable, may be obtained by either the "actual cost" or "lump sum" procedures. Reimbursement under "actual cost" will be made subsequent to the Local Government's certification that the work has been completed and will be made in an amount equal to ninety percent (90%) of the eligible items of cost as paid to the utility owner. The "lump sum" procedure requires that the State establish the eligibility of the utility work and enter into a three-party agreement with the owners of the utility facilities and the Local Government, which sets forth the exact lump sum amount of reimbursement as approved in such agreement. The utility will be reimbursed by the Local Government after proper certification by the utility that the work has been done, said reimbursement to be based on the prior lump sum agreement. The State will reimburse the Local Government in an amount equal to ninety percent (90%) of the firm commitment as paid to the utility owner. The foregoing is subject to the provision that the individual lump sum approved value shall not exceed \$20,000, except as specifically approved by the State. In those cases where a single operation is estimated to exceed \$20,000, the transaction will be brought to the attention of the State for determination of proper handling based upon the circumstances involved. Such utility firm commitment will be an appropriate item of right of way. The adjustment, removal or relocation of any utility line on publicly owned right of way by sufferance or permit will not be eligible for State reimbursement. The term "utility" under this agreement shall include publicly, privately and cooperatively owned utilities.

Fencing Requirements: The Local Government may either pay the property owner for existing right of way fences based on the value such fences contribute to the part taken and damages for an unfenced condition resulting from the right of way taking, in which case the estimated value of such right of way fences and such damages will be included in the recommended value and the approved value, or the Local Government may do the fencing on the property owner's remaining property.

Where the Local Government performs right of way fencing as a part of the total right of way consideration, neither the value of existing right of way fences nor damages for an unfenced condition will be included in the recommended value or the approved value. State participation in the Local Government's cost of constructing right of way fencing on the property owner's remainder may be based on either the actual cost of the fencing or on a predetermined lump sum amount. The State will be given credit for any salvaged fencing material and will not participate in any overhead costs of the Local Government.

If State participation is to be requested on the lump sum basis, the State and the Local Government will reach an agreement prior to the actual accomplishment of the work as to the necessity, eligibility and a firm commitment as to the cost of the entire fencing work to be performed. The foregoing is subject to the provision that the lump sum approved cost shall not exceed \$20,000, except as specifically approved by the State. In the event the cost of the fencing is estimated to exceed \$20,000, the transaction will be brought to the attention of the State for determination of proper handling based upon the circumstances involved.

Reimbursement: The State will reimburse the Local Government for right of way acquired after the date of this agreement in amount not to exceed ninety percent (90%) of the cost of the right of way acquired in accordance with the terms and

provisions of this agreement. The **State's** reimbursement will be in the amount of ninety percent (90%) of the **State's** predetermined value of each parcel, or the net cost thereof, whichever is the lesser amount. All requests by the **Local Government** for reimbursement shall comply with the then current reimbursement submission requirements set forth in the Texas Department of Transportation Right of Way Manual.

If condemnation is necessary and title is taken as set forth herein under the section entitled "Condemnation", the participation by the **State** shall be based on the final judgment, conditioned upon the **State** having been notified in writing prior to the filing of such suit and upon prompt notice being given as to all action taken therein. The **State** shall have the right to become a party to the suit at any time for all purposes, including the right of appeal at any stage of the proceedings. All other items of cost shall be borne by the **State** and the **Local Government** as provided in other sections of this agreement.

If a lump sum fencing or utility adjustment agreement has been executed, the **State** will reimburse the **Local Government** in the amount of ninety percent (90%) of the predetermined lump sum cost of the right of way fencing or utility adjustment.

If the **Local Government** prefers not to execute a lump sum agreement for either fencing or utility adjustments, the **State** will reimburse on the actual cost of such fencing or adjustments. The **Local Government's** request for reimbursement will be supported by a breakdown of the labor, materials and equipment used.

Inspection of Books and Records: The **Local Government** shall maintain all books, papers, accounting records and other documentation relating to costs incurred under this agreement and shall make such materials available to the **State** and, if federally funded, the Federal Highway Administration (FHWA) or their duly authorized representatives for review and inspection at its office during the contract period and for four (4) years from the date of completion of work defined under this agreement or until any impending litigation, or claims are resolved. Additionally, the **State** and FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this agreement for the purpose of making audits, examinations, excerpts, and transcriptions. The **State** auditor may conduct an audit or investigation of any entity receiving funds from the **State** directly under this agreement or indirectly through a subcontract under this agreement. Acceptance of funds directly under this agreement or indirectly through a subcontract under this agreement acts as acceptance of the authority of the **State** auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds.

General: It is understood that the terms of this agreement shall apply to new right of way authorized and requested by the **State** which is needed and not yet dedicated, in use or previously acquired in the name of the **State** or **Local Government** for highway, street or road purposes. This agreement shall also apply, with regard to any existing right of way, to outstanding property interests not previously acquired and to eligible utility adjustments not previously made, as authorized and requested by the **State**.

It is further understood that if unusual circumstances develop in the right of way acquisition which are not clearly covered by the terms of this agreement, such unusual circumstances or problems will be resolved by mutual agreement between the **State** and the **Local Government**.

LOCAL GOVERNMENT

By: _____

Title: _____

Date: _____

EXECUTION RECOMMENDED:

District Engineer, District

THE STATE OF TEXAS

Executed and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: _____

John P. Campbell, P.E.
Director, Right of Way Division

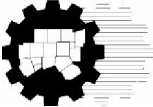
Mobility 2025: The Metropolitan Transportation Plan, Amended April 2005

Intelligent Transportation Systems



Legend

- Mobility Assistant Patrols
- Communication Systems
- Advanced Traffic Management
- TxDOT Transportation Management Center (TMC)
- City Transportation Management Center
- Transit Management Center



North Central Texas
Council of Governments
Transportation

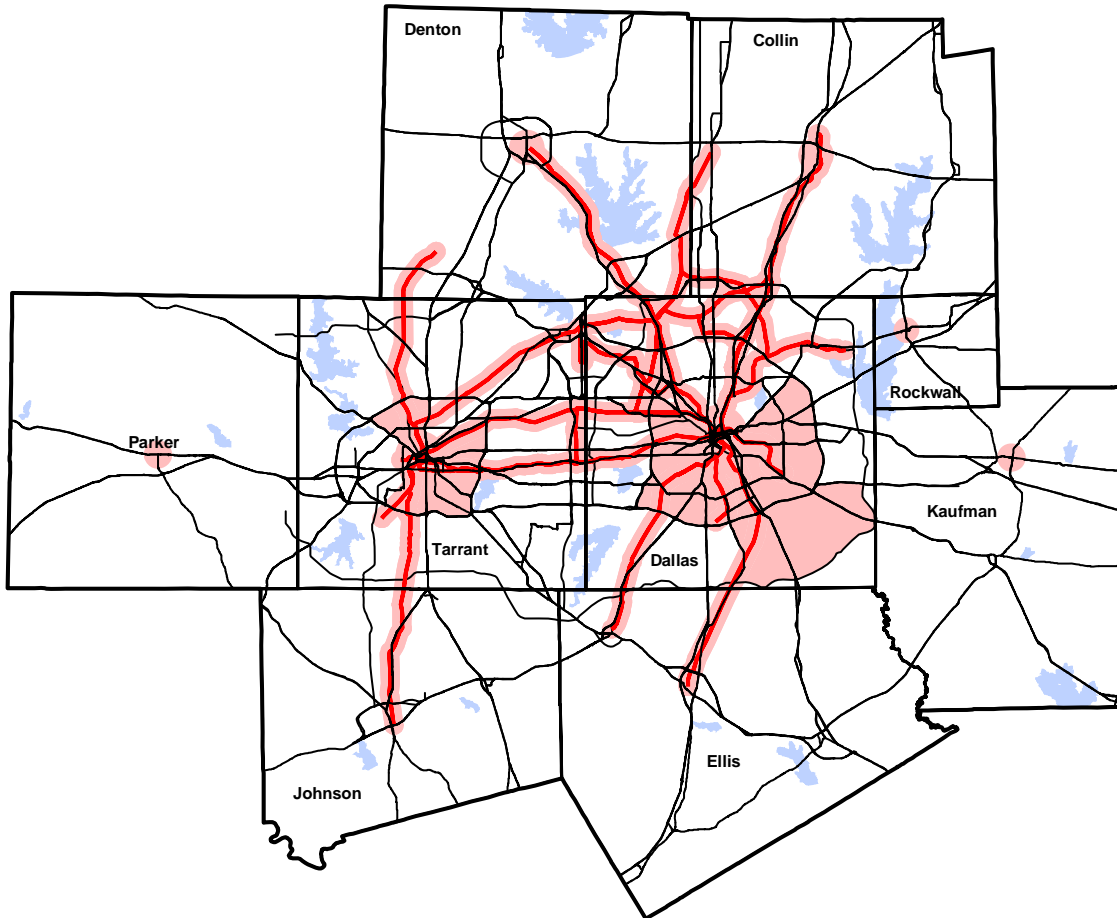


As Amended: April 14, 2005

2005 Sustainable Development Call for Projects

Sustainable Development Areas of Interest

Approved by Regional
Transportation Council
October 13, 2005



Sustainable Development Areas of Interest

Legend

-  Sustainable Development Focus Areas
-  Major Roadways
-  Mobility 2025 Rail System
-  Dallas-Fort Worth Nine County Nonattainment Area
-  Major Lakes

Focus Areas

Rail: Walking Distance to Current or Potential Future Station Location

Infill: Developed Area With a Concentration of Unemployed Persons, High Emitting Vehicles, or Low Income Households

Infill: Historic Downtowns With Multiple Contiguous Street Block Frontage of Pedestrian-Oriented Developments



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