

THE STATE OF TEXAS §
§
COUNTY OF WILLIAMSON §

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I.

PURPOSE OF AGREEMENT AND GOALS OF RHCP.

A. Purpose of Agreement

The Interlocal Cooperation Agreement (the "Agreement") is entered into pursuant to the Interlocal Cooperation Act, Tex. Government Code, Chapter 79 to allow the Foundation to manage and administer the RHCP pursuant to the terms and conditions stated herein.

B. RHCP Goals

The goals of the locally approved RHCP are as follows:

- (a) to ensure protection of the habitat of the species of concern in Williamson county by acquiring and setting aside public preserves the best remaining habitat,
- (b) to manage the habitat preserve system so as to continue to support viable populations of the species of concern,
- (c) to obtain and hold a permit under Section 10(a) of the Act,
- (d) to provide adequate revenue to ensure the goals of the RHCP are met,
- (e) to provide a mechanism for public and private entities to proceed with capital improvements, project in compliance with the Act.

II.

MANAGEMENT OF RHCP

A. RHCP Program Administration

The County, through the adoption of the RHCP, is now committed to the long-term avoidance, minimization and mitigation of RHCP impacts. Many elements of the RHCP will require consistent and thorough administrative procedures and assurances that the RHCP will be sufficiently funded and staffed to administer the RHCP in all aspects of the commitments detailed in the RHCP documents. Program implementation includes not just a 30-year commitment over the life of section the Permit, but a commitment to manage the endangered species preserves in perpetuity.

B. Foundation Responsibility

Pursuant to Section 5.2 of the RHCP, the Management of the RHCP will be the responsibility of the County through the Foundation with advisement and consent of the Service. As such, by signing this agreement, the County hereby designates the Foundation as the Management entity for RHCP. The duties listed in Section 5.2 are in part, as follows:

- (a) Administer RHCP budget and finances, including development of annual operating/financial plan.
- (b) Enter into formal agreements (Participation Agreements) with the plan participants to ensure compliance with RHCP permit conditions.
- (c) Identify and acquire laws for new karst and bird preserves with the County and for enhancement of existing conservations.
- (d) Prepare management monitoring plans for preserves.
- (e) Establish and manage mitigation programs.
- (f) Maintain an active and functional Adaptive Management System and implement new management actions.
- (g) Report to the Service on a timely basis on the acquisition and management of preserve levels, development approvals and participant involvement.
- (h) Administer a research program, including creation and maintenance of computerized database to manage information gathered through research and monitoring programs.
- (i) Report to the County on a quarterly basis of all Foundation activities.

III.

COUNTY RESPONSIBILITIES

The Service has issued a section 10(a)(1)(B) incidental take permit to Williamson County through the RHCP. As the permit holder, the County acknowledges the ultimate responsibility for achieving all of the goals listed on the RHCP. To accomplish these goals, the County will ensure that the Foundation will hire plan administrators and appropriate staff and ensure that these positions will be funded and equipped to a level that is sufficient to meet plan needs. The County, through the Foundation, may outsource biological and other science-related services needed for plan administration on an as-needed basis.

IV.

PARTICIPATION PROCESS

A. Eligibility Standards

- (a) Any party within Williamson County desiring to undertake activities included within the RHCP may be eligible for participation.
- (b) All participation is voluntary. Those choosing not to participate can either seek individual permits from the Service or develop independent strategies for compliance that may or may not adhere to RHCP methodologies.
- (c) While participation in the RHCP is encouraged, the County, through the Foundation, reserves the right to decide to allow participation in the RHCP when that participant, in the judgment of the County and the Foundation, would not be consistent with the goals and objectives of the Plan, or might cause there to be insufficient mitigation available for anticipated County infrastructure needs.

B. Participation Procedures

The procedures for participation within the RHCP are outlined in Section 6.2 of the RHCP. The Foundation agrees to comply with all of the provisions of Section 6.2, which are attached hereto as Exhibit "A".

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be signed, sealed and attested in duplicate by their duly authorized officers, as of the Effective Date.

WILLIAMSON COUNTY

By: _____ Date: _____
Honorable Dan A. Gattis, County Judge

WILLIAMSON COUNTY CONSERVATION FOUNDATION

By: _____ Date: _____

CHAPTER 6 – PARTICIPATION PROCESS

6.1 ELIGIBILITY STANDARDS

Any party within Williamson County desiring to undertake activities covered by this RHCP within an area that contains potential habitat for endangered karst invertebrates, golden-cheeked warblers, or black-capped vireos may be eligible for participation.⁷⁷ Potential habitat areas are defined as follows:⁷⁸

- Karst invertebrates: Karst Zone designated in Figure 3-1.
- Golden-cheeked warbler: Woodlands determined to be potential warbler habitat by a Service-permitted biologist during an on-site habitat assessment per TPWD (2006) standards.
- Black-capped vireo: Early successional mixed forest-shrub land determined to be potential vireo habitat by a Service-permitted biologist during an on-site habitat assessment per TPWD (1987) standards.

Participation in the RHCP will be voluntary. Those choosing not to participate can either seek individual permits from the Service or develop independent strategies for compliance that may or may not adhere to the methodologies developed in this plan. The purpose of this RHCP is to offer landowners and the regulated community an option for compliance with the Endangered Species Act that requires less time and money and provides greater certainty for both landowners and species recovery than obtaining Service approval or compliance on an individual basis. While participation in the plan will be encouraged as a rule, the County reserves the right to decline to allow participation in the plan when that participation, in the judgment of the County, would not be consistent with the biological goals and objectives of the plan or might cause there to be insufficient mitigation available for anticipated County infrastructure needs.

Participation in the RHCP does not alleviate the need for applicants to secure other local, State, or Federal approvals and authorizations. For instance, applicants with projects occurring over the Edwards Aquifer Recharge Zone, Transition Zone, or Contributing Zone, must obtain approval for their activities from the TCEQ under 30 TAC 213 in addition to complying with the terms and conditions of the RHCP.

6.2 PARTICIPATION PROCEDURES

All entities, whether public or private, desiring to participate in the RHCP for take coverage will be subject to participation procedures detailed in this section. Those wishing to participate in the

⁷⁷ While HCPs typically apply to projects that lack a Federal nexus, RHCP participation will be available for projects (including those of non-federal governmental entities) that have other federal nexi (e.g., Clean Water Act section 404 permit application).

⁷⁸ Unlike most karst habitat, songbird habitat is likely to undergo successional changes over the 30-year life of the RHCP. Every five years, the woodland habitats having the potential to support golden-cheeked warblers and/or black-capped vireos will be recalculated on the basis of updated aerial photographs.

RHCP must submit a completed participation application⁷⁹ to the Foundation, along with an application fee,⁸⁰ and any additional materials required by Sections 6.2.1–6.2.3 below. Once the required form, materials, and fee have been submitted to the Foundation, and the Foundation has completed any necessary assessments and evaluations,⁸¹ the Foundation will issue a “Determination Letter” that describes the amount of authorized take. In addition, the Determination Letter will state the applicant’s cost of participation in the RHCP and the period within which the Determination Letter will remain effective.

Applicants who elect to participate in the RHCP will enter into a Participation Agreement with Williamson County (the Permittee). By entering into the Participation Agreement, the applicant agrees to be bound by and comply with the applicable terms of the Permit, and in return, benefits from the authorizations granted by the Permit. In each Participation Agreement, the Service shall be named as a third-party beneficiary with the right to enforce all terms of the Participation Agreement. Once the applicant has signed the Participation Agreement, the applicant must return it to the appropriate Foundation personnel for the Foundation’s signature. The Permittee will submit a copy of each fully executed Participation Agreement to the Service promptly after all signatures have been obtained.

Once all required signatures have been obtained, the Foundation will issue to the applicant, now a “participant,” a Certificate of Inclusion. Certificates of Inclusion will only cover take of species covered by the RHCP, and no mitigation credit for development or Certificates of Inclusion may be provided for property located outside the jurisdictional boundaries of Williamson County; provided, however, that the County will be entitled, at its discretion, to resell any Hickory Pass Ranch conservation credits it may own to third parties for use under separate Service authorizations outside of Williamson County. As a condition of participating in the RHCP, each participant will be required to record its Certificate of Inclusion in the Real Property Records of Williamson County and to designate the specific tracts of land to which they apply. A copy of the recorded Certificate of Inclusion must be posted at the relevant property site during any activities affecting the habitat of species addressed in the Certificate of Inclusion. For example, for a participant whose Certificate of Inclusion covers impacts to golden-cheeked warbler or black-capped vireo habitat, the Certificate of Inclusion must be posted from the time vegetation clearing begins until the construction is completed. For residential development, “completed construction” means that all roads and utilities are completed to the extent they meet all applicable legal or other requirements and have obtained all requisite approval—governmental or otherwise. For commercial, industrial, and multi-family developments, completed construction means that buildings are suitable for occupancy. It is not anticipated that Certificates of Inclusion are transferable except to subsequent owners of the property to which the Certificates of Inclusion apply.

⁷⁹ The participation application form will be available on the Foundation’s Web site, and hard copies will be available at the RHCP office.

⁸⁰ The application fee may be adjusted from time to time and will take into consideration the cost of any assessments or evaluations necessary for participation.

⁸¹ Appendix C provides an example of the an analysis of impacts and mitigation that was completed for a 5-mile-long extension of Ronald Reagan Boulevard between FM 2338 and State Highway 195 in the North Williamson County KFR.

So long as the Permit remains in effect and a participant is in compliance with its Participation Agreement, that participant shall be deemed to have with respect to the participant's property covered by the Participation Agreement, the full benefits and authorities of this Permit. In the event that the Service may seek to suspend, terminate, or revoke the Permit for reasons not the fault of a participant, and that participant is in compliance with the terms of its Participation Agreement, the Service shall seek to craft a remedy that does not affect that participant's rights, benefits, and responsibilities under the Permit prior to suspending, terminating, or revoking the Permit. If it is not practicable to craft such a remedy and the Service suspends, terminates, or revokes the Permit, the Service will process for issuance to any such participant a permit conferring the same rights, benefits, and responsibilities with respect to the participant's property as provided under the Permit, without additional requirements or conditions beyond those applicable to the participant under its Participation Agreement. Additionally, the Service agrees that a breach by a participant of its obligations under a Participation Agreement will not be considered a violation by the Permittee or any other participant of this Permit. In the event a participant has materially breached its Participation Agreement and, after reasonable notice and opportunity to cure, such participant fails to cure, remedy, rectify, or adequately mitigate the effects of such breach, then the County, Foundation, or Service may terminate that participant's Participation Agreement.

The Foundation will provide to the Service the Participation Agreement form and the Certificate of Inclusion form for its review and approval prior to issuance of any participation.

The following sections summarizing participation procedures present separate scenarios for potential take of the covered karst invertebrates (Bone Cave harvestman and Coffin Cave mold beetle), golden-cheeked warbler, and black-capped vireo. It is possible that during the development of certain properties more than one of the covered species could be involved.

6.2.1 Karst Invertebrates

The RHCP will provide coverage for incidental take by plan participants of two of the covered karst invertebrate species (Bone Cave harvestman and Coffin Cave mold beetle) for any project occurring within the following three KFRs: North Williamson County, Georgetown, and McNeil Round Rock. As stated earlier, no take is anticipated for Tooth Cave ground beetle, nor will take be permitted through this RHCP within the Cedar Park KFR, the only KFR in Williamson County where the Tooth Cave ground beetle is currently known to occur. Any person or persons planning to engage in activities that will lead to land disturbances within the three aforementioned KFRs may elect to enroll in the RHCP and will participate by paying a per-acre fee for the amount of Karst Zone habitat disturbed and additional fees for potential impacts to caves occupied by covered species (or, in special cases, land in lieu of cash payments; see below).

Pursuant to this RHCP, an individual or entity planning an activity that may potentially disturb karst habitat in the North Williamson, Georgetown, or McNeil/Round Rock KFRs can mitigate for take of Bone Cave harvestman and Coffin Cave mold beetle that could result from the activity as follows. First, the plan participant will have a Geologic Assessment prepared in accordance with TCEQ standards (TCEQ 2004). If that assessment discloses the presence of

caves with potential habitat for listed species, a presence/absence karst survey must also be prepared to Service standards (USFWS 2006; see also Appendix D, or as subsequently amended). At least three cave surveys must be conducted, each separated by one week. Unless otherwise authorized by the Service, surveys may not occur during February and August because these months are typically low-activity periods for the cave fauna (USFWS 2006). If either the Bone Cave harvestman or the Coffin Cave mold beetle is detected during the surveys, the cave will be mapped to the extent possible to delineate its footprint. Knowledge of the cave's footprint is needed for project planning purposes and for determining potential project impacts to the cave.

The plan participant will then submit a conceptual development plan,⁸² along with the results of the Geologic Assessment and presence/absence karst survey, to the Foundation for review, verification of findings,⁸³ and assessment of potential take. The Foundation review will be performed by a Service-permitted karst invertebrate scientist at the expense of the participant, costs of which will be determined in advance based on the number of caves found on the property. After a timely review (30 days) of the participant's proposal and supporting documents, the Foundation will provide the participant with an assessment of the participation (mitigation) fee required to be covered by the terms of the Permit. The fee will be based on the total number of acres of karst present and the assessed project potential to impact listed karst species.

In some cases a participant may satisfy mitigation requirements by providing land in lieu of cash payments, but only if acquisition of that land by the County contributes to fulfillment of RHCP objectives. In such cases, land values will be verified by appraisals acceptable to the County.

6.2.1.1 Mitigation Fees for Impacts to Karst Habitat

A \$100/acre participation fee will be charged for all land disturbed by participants in the Williamson County Karst Zone as delineated in Figure 3-1,⁸⁴ and verified with each participant's conceptual development plan. The \$100/acre fee provides mitigation for any and all incidental impacts to the Bone Cave Harvestman and Coffin Cave mold beetle that may occur on a participant's property other than those in the immediate vicinity of a known species-occupied cave as described below in Section 6.2.1.2.

One of the fundamental principles of Endangered Species Act section 10(a)(1)(B) is that the incidental take permit is supposed to allow a landowner *certainly* about the kinds of activities that can be legally conducted on his or her land now and in the future. The primary reason for the RHCP fee assessment of \$100/acre for impacts to karst habitat is to provide compensation for

⁸² The conceptual development plan will at a minimum include property boundary, spine infrastructure and development envelope, and recharge features identified during the Geologic Assessment. The plan submittal will be in Auto CADD or Microstation format.

⁸³ Due to the technical nature of karst presence/absence surveys, the Foundation will have on-staff or under contract Service-approved and -permitted karst biologists to implement and/or verify the presence/absence surveys. Verification of findings may require cave site visits.

⁸⁴ The \$100/acre Karst Zone fee will not be charged in addition to the higher cave-specific fees described in Section 6.2.1.2 for the specific impacts covered by those fees.

the previously undetected voids containing the listed species that are discovered and impacted during construction and to provide participants with certainty on how to proceed in the event previously undetected voids and/or mesocaverns are encountered during the land disturbance/construction process. Many karst features, such as solution cavities and caves, are not identified during the Geologic Assessment because they exhibit little or no surface expression, but are discovered by excavation during the construction phase of a project. This plan anticipates that up to one species-occupied cave per year will be discovered by an RHCP participant and impacted during the construction phase of development. The RHCP participation fee provides certainty that if and when listed karst species are found in the previously undetected void, under most circumstances⁸⁵ that void may be closed according to TCEQ guidelines (see following paragraph) and development may proceed, with listed species take if any, being covered by the RHCP. No additional fees would be assessed.

Discovering previously undetected voids is especially common during utility trenching (TCEQ 2004). TCEQ guidelines provide instructions as to how the various types of features must be treated (TCEQ 2004) to ensure that water quality and the stability of the utility installation are protected. The guidelines describe two strategies for dealing with unanticipated features, depending on the feature's extent and significance. Small, isolated solution cavities may be filled with concrete according to the guidelines. If more extensive voids are exposed, TCEQ must be contacted. Currently, such voids are usually isolated from construction while certain precautions are taken, such as double wrapping electrical conduit or hanging pipes from the void's ceiling, before the feature is covered over and construction at the feature's location proceeds.

In addition to providing mitigation for impacts to previously undetected voids that may be occupied by listed species, the Karst Zone fee will mitigate for potential impacts to known species-occupied caves resulting from disturbance more than 345 feet from the cave's footprint.

6.2.1.2 Participation Fees for Impacts to Species-Occupied Caves

Additional fees will be paid based on two levels of disturbance to caves containing listed karst species as presented in Figure 4-2 and explained in Chapter 4, Section 4.2.3.1. For those projects with unusually low impervious cover, or for caves that have especially large and extensive footprints, or caves that have suffered previous encroachment,⁸⁶ impacts and fees will be assessed on a case-by-case basis. If the cave or caves do not contain listed species as determined by the karst survey, the additional fees will not apply. Participation fees for impacts to listed species are based on a charge for assumed impact and/or take that increases with increased proximity of disturbance to the cave. The two levels of disturbance and associated fee structure are summarized below.

⁸⁵ The possibility exists that a previously undetected void discovered during project construction could be of sufficient size and extent that it is impossible to effectively close per TCEQ standards such that the planned development would no longer be possible.

⁸⁶ For example, Inner Space Caverns, an important cave for the Coffin Cave mold beetle as well as other troglobites,, already has Interstate 35 over the cave footprint. Additional impacts to the cave by encroaching development may not be held to the same standards as would be applied to a cave that had no previous impacts, but would be assessed based on the level of additional disturbance to the cave ecosystem.

Impact Zone A. Take is assessed for any disturbance that occurs within a band of surface habitat extending from a radial projection 50–345 feet⁸⁷ from the cave footprint based on the cave map (see Section 4.2.3.1 in Chapter 4 and Section 6.2.1, above). This band is identified as “Impact Zone A” on Figure 6-1. Proposed disturbance within this impact zone will be assessed a participation fee of \$10,000/disturbed acre. This fee does not apply when impacts also occur within Impact Zone B; i.e., within 50 feet of a species-occupied cave footprint (see below).

Impact Zone B. Disturbance within 50 feet of the cave footprint is assumed to have destroyed the long-term viability of the cave ecosystem (see Chapter 4, Section 4.2.3.1). This area is identified as “Impact Zone B” on Figure 6-1. Because the potential for loss of endangered species is highest in this zone, impacts in the zone are assessed the highest participation fee. A flat fee of \$400,000 will be assessed for any incursion within 50 feet of a species-occupied cave footprint. This fee covers all impacts within 345 feet of the cave footprint; no additional fees are charged to mitigate for impacts to that area.

Figure 6-1 illustrates the total participant fee levies for a representative situation. The landowner in this example is developing property that includes 179 acres of Karst Zone and two species-occupied caves. The landowner will be assessed a fee of \$100/acre to mitigate for potential impacts to covered species in the Karst Zone. Because landowners will not be charged both the Karst Zone mitigation fee and a cave-specific fee for the same affected area, the landowner in this example will be assessed a Karst Zone fee for approximately 155 acres, or \$15,500 (155 acres equals the 179 acres in the Karst Zone minus approximately 24 acres for impacts associated with Impact Zones A and B around Caves #1 and #2). For impacts to Cave #1, the landowner will be assessed a flat fee of \$400,000 because residential lots and a road will encroach into Impact Zone B. For impacts to Cave #2, a portion of Impact Zone A will be developed but Impact Zone B will be avoided. Assessed fees for impacts to Cave #2 will be \$10,000/acre for the 2.3 acres disturbed in Impact Zone A, or \$23,000. All mitigation fees together will total \$438,500.

Note that a portion of Impact Zone A of Cave #1 is located on adjacent property. In this example, Cave #1 is now considered destroyed; thus, the adjacent landowner would not be responsible for any future impacts to the portions of Impact Zone A on his property. Assume, however, an alternative scenario in which the depicted development plan called for some encroachment into Impact Zone A of Cave #1, but no impacts within 50 feet of the cave footprint (i.e., no effects to Impact Zone B). If that were the case, and the adjacent property were to be developed by a participant in the RHCP, that participant would be required to mitigate for any impacts to the cave as stipulated in the plan. To assist with identification of cases where impact zones cross property boundaries, the Foundation will maintain a GIS database of compliance projects covered by the RHCP that will be made available to the Service.

⁸⁷ The distance of 345 feet represents 100 percent of the cricket foraging area per findings of Taylor et al. (2005).

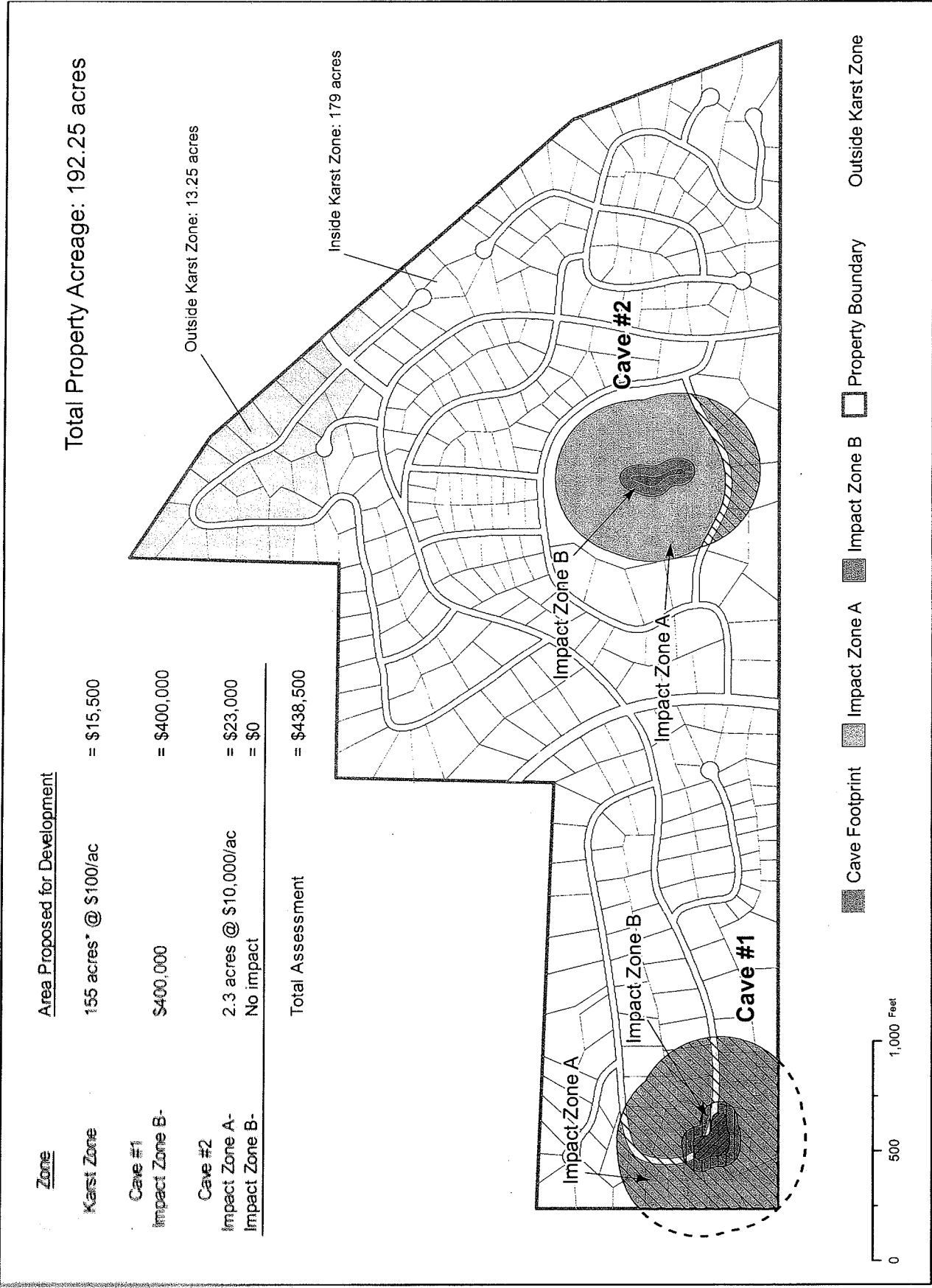


Figure 6-1. Kasrt participation diagram scenario.

*155 acres = 179 acres less 24 acres of impact around Caves #1 and #2.

6.2.2 Golden-cheeked Warbler

Pursuant to this RHCP, an individual or entity planning an activity that may potentially disturb golden-cheeked warbler habitat in Williamson County can mitigate for take of this species. The Foundation will establish the level of expected take after a review of the proposed development activities and the habitat assessment, or the presence/absence survey if one has been performed. If the RHCP participant chooses not to conduct a presence/absence survey, the level of take and mitigation will be based on the amount and quality of potential warbler habitat affected by development activities. If a presence/absence survey is conducted (one year) and no warblers are detected, no mitigation will be required. If warblers are detected during the presence/absence survey, mitigation for the affected occupied habitat⁸⁸ will be required, normally at a 1:1 ratio (see Section 5.4.1.3 for an explanation of exceptions). Costs for the habitat assessment will be at the participant's expense and will normally not exceed one person per day for each 40 acres (16 hectares) of habitat. This assessment will be done in a timely (30 days) fashion.

Plan participants whose activities will affect potential golden-cheeked warbler habitat will pay a per-acre fee based on the amount of potential golden-cheeked warbler habitat present and impacted by development. The RHCP defines direct impacts as those areas where potential or occupied habitat is actually destroyed or significantly modified. For this RHCP, mitigation for direct impacts will normally be valued on a 1 to 1 ratio, where for every acre of habitat destroyed one acre of mitigation will be required (see Section 5.4.1.3 for an explanation of exceptions). Indirect impacts are those impacts that occur in warbler habitat adjacent to destroyed or modified habitat; these impacts will be assessed at 50 percent of the value of direct impacts for a distance of 250 feet (76.2 meters) from the edge of the direct impacts. As with karst impacts, on a case-by-case basis, the Foundation may allow a participant to set aside potential or occupied warbler habitat in lieu of mitigation fees when the set-aside habitat contributes to RHCP objectives. All land-in-lieu-of-fee transactions will be at the discretion of the Foundation. The Foundation will provide the plan participant an assessment of the participation fee required in order for the participant to be covered by the terms of the Permit. The participation fee⁸⁹ for take of golden-cheeked warbler habitat is \$7,000/acre in the first year fees are charged and increasing by an estimated \$500/acre each year for as long as the mitigation credits last (see Figure 6-2 for an example from Year 2 of the plan).⁹⁰

⁸⁸ Generally, all contiguous woodlands having the characteristics of potential habitat will be considered occupied if any portion of such woodlands are found to be occupied by warblers during a survey.

⁸⁹ These fees are based on the current going rate of Hickory Pass Ranch Conservation Bank credits and a small handling fee to accommodate Foundation costs.

⁹⁰ For specific County projects requiring golden-cheeked warbler mitigation, the County will reserve the right to utilize Hickory Pass Ranch credits already purchased from the Hickory Pass Ranch Conservation Bank on a first come, first served basis until such credits are exhausted.

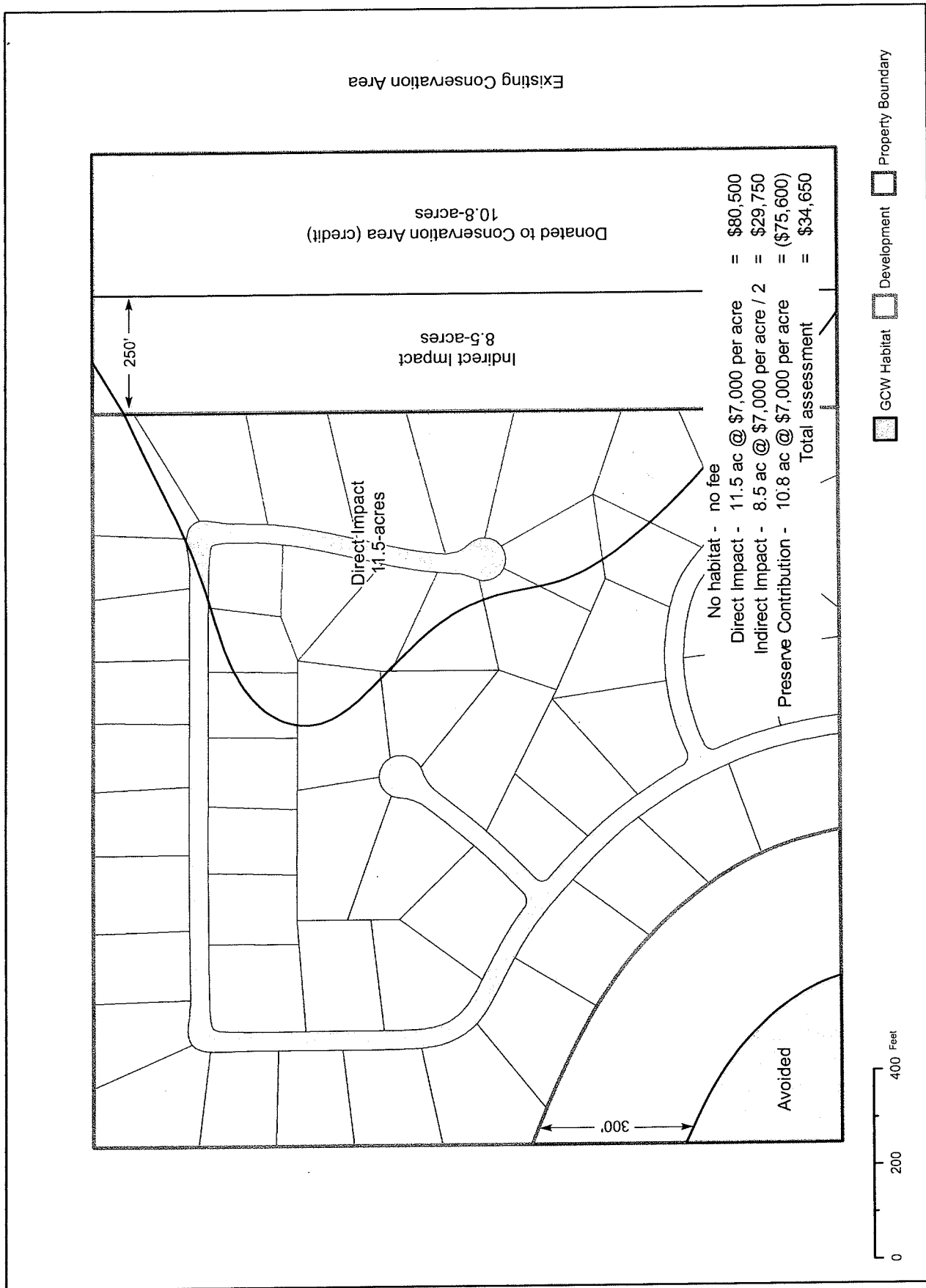


Figure 6-2. Example of golden-cheeked warbler RHCP participation fees.

In the example illustrated in Figure 6-2, the participant's property contains golden-cheeked warbler habitat and abuts an established conservation area⁹¹ for the warbler. As shown in the figure, the participant has decided to develop a portion of the habitat on his property, avoid a portion of the habitat, and dedicate a portion of the habitat to the neighboring conservation area.

Also in this example, the participant opted not to have bird surveys done (bird surveys may result in lower participation fees but may also significantly delay project construction). A fee was assessed for the warbler habitat to be destroyed (direct impact) and for the habitat to be left intact within 250 feet of the destroyed habitat (indirect impact). No fee was assessed for the avoided habitat because no development will take place within 300 feet of that habitat. For the habitat dedicated to the conservation area, the participant received a per-acre credit equal to the per-acre participation fee.

As discussed previously in Chapter 5, Section 5.4.1.3, during the first several years of the RHCP, the mitigation for the disturbance of warbler habitat in Williamson County will occur by the Foundation's purchase of mitigation credits from the Service-approved Hickory Pass Ranch Conservation Bank in adjacent Burnet County, as well as credits available due to the acquisition of in-county preserves such as the Whitney Tract. The RHCP proposes a mitigation ratio normally of 1 acre preserved for every 1 acre of impact to occupied and/or suitable golden-cheeked warbler habitat throughout the Williamson County RHCP plan area (see Section 5.4.1.3 for an explanation of exceptions to the 1:1 ratio).

6.2.3 Black-capped Vireo

Pursuant to this RHCP, an individual or entity planning an activity that may potentially disturb black-capped vireo habitat in Williamson County as delineated in Chapter 3, Figure 3-6 can mitigate for take of this species by paying a per acre fee for direct impacts to vireo habitat. The Foundation will establish the level of expected take on a project-by-project basis after a review of the development activities proposed and the status of the vireo habitat on the subject property. The Foundation biologists will review the preliminary plat or conceptual development plan, compare this with the habitat maps, and visit the site for verification of the amount of habitat expected to be impacted. Costs for this assessment will be at each participant's expense and will normally not exceed one person per day for each 40 acres (16 hectares) of habitat. This assessment will be done in a timely (30 days) fashion.

Plan participants whose activities will affect black-capped vireo habitat will pay a per-acre fee based on the amount of black-capped vireo habitat potentially impacted (*occupied* habitat if presence/absence surveys confirm the presence of vireos; *potential* habitat if surveys are not conducted). The Foundation will provide the RHCP participant an assessment of the participation fee required in order for the participant to be covered by the terms of the Permit. The participation fee for take of black-capped vireo habitat will normally be calculated on a

⁹¹ For the purposes of this RHCP a golden-cheeked warbler conservation area is defined as a block of protected potential or occupied warbler habitat at least 250 acres (101 hectares) in size that is under Service-approved, long-term management for the benefit of the warbler. This minimum size is based on findings of Coldren (1998) (see the discussion of habitat quality and patch size in Section 3.2.2.1.1).

1:1 ratio and will start at \$5,000/acre, subject to change as costs change (see Section 5.5.1.3 for an explanation of exceptions to the 1:1 ratio).