



WILLIAMSON COUNTY
PURCHASING DEPARTMENT
301 SE INNER LOOP - SUITE 106
GEORGETOWN, TEXAS 78626

<http://www.williamson-county.org/Purchasing>

REQUEST FOR PROPOSAL (RFP)

Suitable Properties for Conserving Endangered Species and Providing Open Space

PROPOSAL NUMBER: 11WCP1003

INITIAL RFP SUBMITTALS TO BE RECEIVED ON OR BEFORE:
March 15, 2011 – 3:00 PM

SUBMITTALS WILL BE PUBLICLY ACKNOWLEDGED: March 15, 2011 – 3:00 PM

Due to an open-ended deadline, RFP submittals will be accepted after the initial March 15, 2011 date. This RFP will stay open until Williamson County determines to close it.

PROPOSAL SUBMISSION

DEADLINE: Proposals must be received in the Williamson County Purchasing Department **at or before Tuesday, March 15, 2011 at 3:00 PM**. Proposals will be publicly opened at 3:00 pm or soon thereafter in the Williamson County Purchasing Department.

METHODS: Sealed proposals may be hand-delivered or mailed to the *Williamson County Inner Loop Annex, Purchasing Department, Attn: Jonathan Harris, 301 SE Inner Loop, Suite 106, Georgetown, Texas 78626*.

LOCATION DIRECTIONS: Please see page 18 of this document for a map and directions to the Williamson County Inner Loop Annex.

FAX/EMAIL: Facsimile and electronic mail transmittals will not be accepted.

PROPOSAL REQUIREMENTS

SUBMITTAL: One (1) CD and Ten (10) individually bound copies of the candidate's proposal are required (1 original and 9 copies) and consist of the COMPLETED AND SIGNED Proposal Form and any other required documentation. The response must be marked "original" or "copy". **All copies should have the same attachments as the original.**

SEALED: All proposals must be returned in a sealed envelope with the proposal name, number, opening date and time clearly marked on the outside. If an overnight delivery service is used, the proposal name, number, opening date and time must be clearly marked on the outside of the delivery service envelope.

LEGIBILITY: Proposals must be legible and of a quality that can be reproduced.

LATE PROPOSAL: Proposals received after submission deadline will not be opened and will be considered void and unacceptable. Williamson County is not responsible for lateness of mail, courier service, etc.

RESPONSIBILITY: It is expected that a prospective proposer will be able to affirmatively demonstrate proposer's responsibility. A prospective proposer should be able to meet the following requirements:

- a) have adequate financial resources, or the ability to obtain such resources as required;
- b) be able to comply with the required or proposed delivery schedule;
- c) have a satisfactory record of performance;
- d) be otherwise qualified and eligible to receive an award.

Williamson County may request representation and other information sufficient to determine proposer's ability to meet these minimum standards listed above.

AWARD

THIRTY DAYS: Awards should be made approximately thirty (30) days after the proposal opening date. Results may be obtained by contacting the Purchasing Contact.

REJECTION OR ACCEPTANCE: No more than one proposal will be awarded for any item, single department or area. Proposals may be rejected for some items, departments or areas, even though awards are made for others. The convenience of having a single source for similar items will be taken into consideration together with price in determining the lowest and best proposal.

It is understood that the Commissioners Court of Williamson County, Texas, reserves the right to accept or reject any and/or all proposals for any or all materials and/or services covered in this proposal request, and to waive informalities or defects in the proposal or to accept such proposal it shall deem to be in the best interest of Williamson County. In determining the overall best proposal, the County may exercise either (or both) of the following options granted to local government's under the Texas Local Government Code.

Option 1 – TLGC § 271.905. This option allows the County to consider a proposer's principal business location in determining the overall lowest and best proposal.

Option 2 – TLGC § 271.907. This option allows the County to evaluate proposals and give preference to goods and/or services of a vendor that demonstrates that the vendor meets or exceeds any and all state or federal environmental standards, including voluntary standards, relating to air quality. If the proposal being submitted will have an effect on air quality for Williamson County (as it relates to any state, federal, or voluntary air quality standard), then the proposer should provide information in narrative form indicating the anticipated air quality impact. Proposers are expected to meet all mandated state and federal air quality standards.

CONTRACT: This Proposal, when properly accepted by Williamson County, shall constitute a contract equally binding between the successful Proposer and Williamson County.

The successful proposer may be required to sign an additional agreement containing terms necessary to ensure compliance with the proposal.

CONTRACT ADMINISTRATION: Under the Contract, Gary Boyd, Project Director, (512) 260-4226, shall be

the contract administrator with designated responsibility to ensure compliance with the requirements of the Agreement, such as but not limited to, acceptance, inspection and delivery. The contract administrator will serve as liaison between Williamson County Commissioners Court and the successful Proposer.

PROPOSAL CONTACTS

Any questions, clarifications or requests for general information should be directed to the contacts listed below. Every effort will be made to answer questions within 24 hours of receiving them.

TECHNICAL CONTACT:

Gary Boyd, Project Director
350 Discovery Blvd, Suite 207
Cedar Park, TX 78613
512-260-4226
gboyd@wilco.org

PURCHASING CONTACT:

Jonathan Harris
Assistant Purchasing Agent
301 SE Inner Loop, Suite 106
Georgetown, TX 78626
512-943-1692
joharris@wilco.org

MISCELLANEOUS

FOB DESTINATION: All of the items listed are to be Free On Board to final destination (FOB Destination) with all transportation charges if applicable to be included in the price, unless otherwise specified in the Request for Proposal. The title and risk of loss of the goods shall not pass to the County until receipt and acceptance takes place at the FOB point.

FIRM PRICING: The price must be good from the date of proposal opening for a fixed period of time. Unless the proposal expressly states otherwise, this period shall be until the end of the initial term. Proposals which do not state a fixed price, or which are subject to change without notice, will not be considered. The Court may award a Contract for the period implied or expressly stated in the best proposal.

ESTIMATED QUANTITIES: The estimated quantity of each item listed in the notice is only an estimate -- the actual quantity to be purchased may be more or less. The County is not obligated to purchase any minimum amount, and the County may purchase any reasonable amount greater than the estimate for the same unit price. Any limit on quantities available must be stated expressly in the proposal.

FUNDING: Funds for payment have been provided through the Williamson County budget approved by Commissioners Court for the October 1, 2010 thru September 30, 2011 fiscal year.

SALES TAX: Williamson County is by statute, exempt from the State Sales Tax and Federal Excise Tax.

STATEMENTS: No oral statement of any person shall modify or otherwise change, or affect the terms, conditions, plans and/or specifications stated in the various Proposal Packages and/or Proposal Instructions/Requirements.

DELIVERY: The delivery time and location for the commodity and/or service covered by this proposal shall be as stated in the various proposal packages.

PURCHASE ORDER: If required by the Williamson County Purchasing Department a purchase order(s) may be generated to the successful proposer for products and/or services. If a purchase order is issued the purchase order number must appear on all itemized invoices and/or requests for payment.

PAYMENT: Payment shall be made by check from the County upon satisfactory completion and acceptance of items and submission of the Invoice to the ordering department for work specified by this Contract Document. All payments owed will be paid no later than thirty (30) days after the goods or services are received OR the date that the invoice is received by the Auditor's Office whichever is later. As a minimum, invoices shall include:

- (1) Name, address, and telephone number of Vendor and similar information in the event the payment is to be made to a different address
- (2) County contract, Purchase Order, and/or delivery order number
- (3) Identification of items or service as outlined in the contract
- (4) Quantity or quantities, applicable unit prices, total prices, and total amount
- (5) Any additional payment information which may be called for by the contract

Payment inquiries should be directed to the Auditor's Office, Accounts Payable Department: Donna Baker, (512) 943-1558.

STATEMENTS: No oral statement of any person shall modify or otherwise change, or affect the terms, conditions, plans and/or specifications stated in the various Proposal Packages and/or Proposal Instructions/Requirements.

CONFLICT OF INTEREST: No public official shall have interest in a contract, in accordance with Vernon's Texas

Codes Annotated, Local Government Code Title 5, Subtitle C, Chapter 171.

As of January 1, 2006 Vendor's are responsible for complying with Local Government Code Title 5, Subtitle C, Chapter 176. Additional information may be obtained from the County website at the following link: <http://www.wilco.org/CountyDepartments/Purchasing/ConflictOfInterestDisclosure/tabid/689/language/en-US/Default.aspx>

The Williamson County Conflict of Interest Statement is located on Page 16 of this RFP. This form must be completed, signed, and submitted with your Proposal.

ETHICS: The proposer shall not accept or offer gifts or anything of value nor enter into any business arrangement with any employee, official or agent of Williamson County.

DOCUMENTATION: Proposer shall provide with this response, all documentation required by this request for proposal. Failure to provide this information may result in rejection of the proposal.

TERMINATION FOR CAUSE: In the event of breach or default of this contract or any other additional agreement containing terms necessary to ensure compliance with the Proposer's proposal, Williamson County reserves the right to enforce the performance of this contract or any additional agreement by any manner prescribed by law or deemed to be in the best interest of Williamson County. At Williamson County's sole discretion, the Proposer may be given a reasonable opportunity to cure its breach or default prior to Williamson County's termination under this provision. Williamson County's option to offer time to cure a default or breach shall, however, in no way be construed as negating the basis for termination for non-performance.

TERMINATION FOR CONVENIENCE: Williamson County may terminate this contract and/or any additional agreement containing terms necessary to ensure compliance with the Proposer's proposal, for convenience and without cause or further liability, upon thirty (30) days written notice to Proposer. In the event Williamson County exercises its right to terminate without cause, it is understood and agreed that only the amounts due to Proposer for goods, commodities and/or services provided and expenses incurred to and including the date of termination, will be due and payable. No penalty will be assessed for Williamson County's termination for convenience.

SILENCE OF SPECIFICATIONS: The apparent silence of these specifications as to any detail or to the apparent omission from it of a detailed description concerning any

point, shall be regarded as meaning that only the best practices are to prevail. All interpretations of these specifications shall be made on the basis of this statement.

COMPLIANCE WITH LAWS: The successful proposer shall comply with all applicable federal, state and local laws and regulations pertaining to the practice of the profession and the execution of duties under this proposal including the TEXAS HAZARD COMMUNICATION ACT and THE WILLIAMSON COUNTY HAZARD COMMUNICATION PROGRAM POLICY.

PROPRIETARY INFORMATION: All material submitted to the County becomes public property and is subject to the Texas Open Records Act upon receipt. If a Proposer does not desire proprietary information in the proposal to be disclosed, each page must be identified and marked proprietary at time of submittal. The County will, to the extent allowed by law, endeavor to protect such information from disclosure. The final decision as to what

information must be disclosed, however, lies with the Texas Attorney General. Failure to identify proprietary information will result in all unmarked sections being deemed non-proprietary and available upon public request.

WORKER'S COMPENSATION

This contract contemplates services that do not require worker's compensation insurance coverage. However, if it becomes necessary that the bidder provide services related to the project such as delivering equipment or materials, an amended contract will be executed which fully complies with the Texas Labor Code and the Texas Worker's Compensation Commission requirements.

Introduction

In 2008, the U.S. Fish and Wildlife Service (the “Service”) issued to Williamson County and the Williamson County Conservation Foundation (“Foundation”) an Endangered Species Act permit (referred to as the “Williamson County Regional Habitat Conservation Plan” or “RHCP”) authorizing the County ‘take’ of four federally-listed species: the golden-cheeked warbler, black-capped vireo, Bone Cave harvestman, and Coffin Cave mold beetle (collectively, the “Covered Species”). (**Take** - From Section 3(18) of the Federal Endangered Species Act: "The term 'take' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Harm may include habitat modification that impacts a listed species through impairment of essential behavior (e.g., nesting or reproduction).

The RHCP also benefits non-listed species, including the Georgetown salamander, which is a candidate for listing under the Endangered Species Act. Hereafter, the golden-cheeked warbler, black-capped vireo, Bone Cave harvestman, Coffin Cave mold beetle, and Georgetown salamander will be collectively referred to as the “Priority Species.”

The County and the Foundation can, pursuant to the RHCP, authorize persons and entities engaged in lawful activities within the County to take the Covered Species through a participation process. In exchange for providing take authorization, Williamson County must acquire property containing habitat for the Covered Species. The County has already acquired several preserves benefitting the Covered Species, as well as the Georgetown salamander.

The purpose of this Request for Proposals (“RFP”) is, primarily, to enlist the help of landowners in creating additional Covered Species preserves. Specifically, the County and the Foundation are seeking landowners willing to propose conservation transactions that are mutually beneficial to both the County and the landowner. The County and the Foundation could leverage these acquisitions to seek additional funding for conservation through the Endangered Species Act section 6 grants program. In addition, Williamson County could also seek to provide to its citizens access to open space and low-impact parkland, where such access does not diminish the value of Priority Species habitat, and where the landowner is willing to allow such access. For additional information concerning the Foundation and the RHCP, please visit <http://www.williamson-county.org/CountyDepartments/ConservationFund/tabid/518/language/en-US/Default.aspx>.¹

How does my property qualify?

To qualify for consideration, the property under consideration must be located in Williamson County and have at least one of the following attributes:

- For property containing habitat suitable for the golden-cheeked warbler, the property must contain at least 500 acres or, if the property does not contain at least 500 acres, is adjacent to golden-cheeked warbler habitat already under permanent conservation such that the entire conserved area will be equal to or exceed 500 acres.
- For property containing habitat suitable for the black-capped vireo, the property must contain at least 250 acres, or if the property does not contain at least 250 acres, is adjacent to black-capped vireo habitat already under permanent conservation and active management for the black-capped vireo such that the entire conserved area will be equal to or exceed 250 acres.
- For property containing one or more caves containing habitat for the Bone Cave harvestman and/or Coffin Cave mold beetle, at least 40 acres of undeveloped property.

¹ **The County and the Foundation may, in the future, issue new rounds of RFPs similar to this RFP.

- For property containing or contributing to habitat suitable for the Georgetown salamander, sufficient property to protect the occupied habitat and/or to materially contribute to the preservation of the watershed of such habitat.

In addition to the factors above, the County will also consider:

- Whether the proposed property is buffered by undeveloped surrounding lands;
- Whether other preserve lands or conservation easements are contiguous to the proposed property;
- The availability – on the proposed conservation property or on nearby or adjacent lands – for future expansion of the habitat conservation area and/or other park uses;
- Ability of the proposed property to serve multiple purposes, such as Priority Species preserve and low-impact parkland;
- Price; and
- Whether the proposed conservation property is subject to imminent development pressure.

Landowners will be expected to utilize the form of special warranty deed or the form of conservation easement, as applicable, attached to this RFP and available at: <http://www.williamson-county.org/CountyDepartments/ConservationFund/tabid/518/language/en-US/Default.aspx>.

More detailed criteria are described in the application package and related evaluation factors. Review of applications will be conducted by the Williamson County Conservation Foundation and staff, with assistance from outside technical consultants and advisors. The Foundation, in its discretion, will make recommendations to the Commissioners Court for possible acquisition of qualifying property or properties.

How do I apply?

Please complete the enclosed application and submit one original and nine copies to:

Gary Boyd, Project Director
Williamson County Conservation Foundation
350 Discovery Boulevard #207
Cedar Park, Texas 78613

APPLICATION FOR CONSERVATION FUNDING

Williamson County

SECTION I

1. Name of Applicant/Landowner

_____ -

2. Contact Information

Name: _____

Title: _____

Address: _____

Phone: _____ email: _____

SECTION II

Please provide the following information, using additional space as needed.

1. Property Location

Address and Legal Description (*Please attach legal description of the property*)

Williamson County CAD Parcel ID

2. Property Summary

Number of acres owned: _____

Number of acres proposed for protection:

Transaction type (Conservation easement, conveyance of fee title, or other property interests):

Public recreational access offered (not required):

Existing Structures/Facilities:

Current use: _____

Anticipated future use: _____

Public land or protected properties adjacent or nearby:

Estimated closing date:

3. Narrative Description of Property and Conservation Values

Provide a narrative description of the proposed property and describe how it will address Williamson County's priorities as listed in the RFP (e.g., habitat for golden-cheeked warbler, black-capped vireo, Bone Cave harvestman, Coffin Cave mold beetle, and/or Georgetown salamander). Specifically, we are interested in as much information as is available concerning the occupancy of the property by any of the Covered Species and the status and condition of that habitat on the property. Habitat assessments, species survey reports, and similar documentation are welcome.

4. Opportunities or Threats

Does the proposed project provide a conservation or preservation opportunity which would be lost if funding is not awarded at this time? Please describe the nature and immediacy of the opportunity or threat.

5. Property Use and Management

Describe the landowner's current use of the property and any plans for the property if it remains in current ownership. What is its management history and current condition?

6. Donations or Endowments

Does the seller plan to donate all or a portion of the property to Williamson County? Is the seller offering land stewardship or an endowment to pay conservation management costs?

SECTION III

Please provide the following information, using additional space if necessary.

What is the estimated value of the property or conservation easement to be conveyed?

Basis for Estimate (appraisal, WCAD value, owner/realtor/land trust estimate, etc)

Are other public funding sources likely to be used? YES ____ NO____

Are private sources of matching funds anticipated? YES ____ NO____

Estimate of leverage ratio produced by combination of matching funds and land value donation, if any. (Example: If an easement is worth \$1 million and the request is for \$250,000 the County's funds are being matched 1:3)

APPLICATION ATTACHMENTS

Please include the following items with the completed application form:

- a. Site Location Map: Identify the site location of the proposed acquisition on a Williamson County map. If possible, provide a digital copy as well.
- b. Property Boundary Map: On a USGS section map or other map of sufficiently large scale, identify the boundaries of the proposed project and scan of same. If building sites will be reserved please identify their proposed locations and approximate size. Similarly, if lands are excluded or will be subdivided, please indicate.
- c. Color Photos: Provide at least six (6) color photos of the property proposed for acquisition, showing important terrain, waterfront, man-made features, access roads, waterways, habitat type, aquifer features or other elements that make the property a good candidate for funding (please include an aerial view, if available).
- d. Property Title, Survey, or Environmental Site Assessment: Provide if available.

NOTE:

Applications will be reviewed for eligibility and completeness by Williamson County Conservation Foundation staff. The applicant may be contacted during this review for clarification. Applicants may be invited to provide a brief presentation before the Foundation regarding their proposed project. A site tour for the Foundation members and staff and other County personnel Court may also be part of the process and will be scheduled for a mutually agreeable date and time.

Landowner: _____

By: _____

Name: _____

Title: _____

Date: _____

Evaluation Factors

The following evaluation factors may be used to evaluate a property to be considered by the Williamson County Conservation Foundation and Williamson County. Proposed properties reviewed under these factors will protect and enhance wildlife habitats in the County, as well as provide the County's citizens with additional open space. Public access to the proposed properties will be considered.

Before a property can be evaluated, it must be in an area identified as containing habitat suitable for one or more Priority Species.² Habitat suitability must have been determined by the Williamson County Conservation Foundation or a biologist qualified to perform endangered species surveys. For purposes of this RFP, "qualified biologist" means any biologist holding an Endangered Species Act section 10(a)(1)(A) permit for the relevant species. In addition, the property owner must be willing to sell the property, or an interest in the property such as a conservation easement, and must be able to convey clear title.

Williamson County and the Williamson County Conservation Foundation seek donations of land value and/or matching monies in order to leverage public funds.

The evaluation factors are only part of the evaluation process. Biologists and other experts may be called in to evaluate further the property. Once projects and properties have been evaluated, the Foundation will recommend to the County those projects the Foundation determines, in its discretion, should be considered by the Commissioners Court.

Please be aware that nothing in the RFP is intended to bind the Foundation or the County to actually acquire any property or conservation easement. Likewise, the applicant is not bound to sell the property or conservation easement. This project is subject to funds being available.

The following page contains evaluation factors which may be used by the Foundation in evaluating proposals.

² Priority Species are: the golden-cheeked warbler, black-capped vireo, Bone Cave harvestman, Coffin Cave mold beetle, and Georgetown salamander.

1. Conservation Opportunity for Priority Species.

- Size of the total property. Please see minimum criteria described in the RFP.
- Amount of species habitat on the property.
- Contiguity of the habitat.
- Quality of the habitat.
- Demonstrated occupancy by one or more Priority Species.
- Existing development threats.
- Number of Priority Species present or benefitted.
- Whether the property itself, or adjacent to already conserved properties, would constitute a karst faunal area as that term is defined in the RHCP.
- Surrounding land uses.

2. Recreation and Open Space Opportunities.

- Willingness of landowner to allow public access.
- Consistency with conservation goals.
- Configuration appropriate to public access (e.g., proximity to public roads, presence of areas of non-habitat)
- Other recreational opportunities (e.g., kayaking)
- Aesthetic considerations

3. Cost and Terms.

- Cost of property or proposed conservation easement.
- Degree of voluntary contribution by landowner.
- Third party funding sources proposed by landowner.
- Any proposed deviations from required terms of Special Warranty Deed or Conservation Easement, as applicable.

Length of Proposal

Although there is not a page limit for submitted proposals, to save natural resources including paper, and to allow County staff to efficiently evaluate all submitted responses, Williamson County requests that responses be orderly, concise, but comprehensive in providing the requested information. Please limit additional, non-requested information.

Please provide your proposal using:

- 8 ½" x 11" pages, inclusive of any cover letter or supporting materials
- The least amount of plastic/laminate or other non-recyclable binding materials
- Single-sided printing, 11-point font size or larger

Content of Submission Documents

All proposals received by the designated date and time will be evaluated based on the vendor responses to the following criteria. Proposals should contain:

1. The completed Application for Conservation Funding
2. All requested Application Attachments
3. A Signed and completed Williamson County Proposal Form
4. Signed and completed Williamson County Conflict of Interest Statement
5. Though not a requirement, the completed Williamson County Advertising Questionnaire

Evaluation/Selection Criteria

All responses received by the designated date and time will be evaluated based on the vendor responses to the submitted Application for Conservation Funding and any of its submitted Application Attachments. Other information may also be taken into consideration when that information potentially provides additional benefit to the County.

Selection Process

Proposers are advised that the selection committee, at its option, may recommend a contract/agreement strictly on the basis of the initial proposals submitted, or in addition, may have interviews with proposers to determine its final recommendation(s).

Contract/Agreement Award

Recommendation(s) for Contract/Agreement Award will be made to the Williamson County Commissioners Court after the overall best proposal(s) is/are determined.

Respondent's Acceptance

By submitting a proposal, the proposer certifies that he/she has fully read and understands the request for proposals(RFP) and has knowledge of the scope and quality of the services to be furnished and intends to adhere to the provisions described herein.

Texas Public Information Act

The County considers all information, documentation and other materials requested to be submitted in response to this solicitation to be of a non-confidential and/or non-proprietary nature and therefore shall be subject to public disclosure under the Texas Public Information Act (Texas Government Code, Chapter 552.001, et seq.) after a contract is awarded.

Respondents are hereby notified that the County strictly adheres to all statutes, court decisions, and opinions of the Texas Attorney General with respect to disclosure of RFP and responding proposal information.

Commitment

Respondent understands and agrees that this RFP and responding proposal is issued predicated on anticipated requirements for the County and that the County has made no representation, written or oral, that any such requirements be furnished under a Contract arising from this Proposal response. Furthermore, Respondent recognizes and understands that any cost borne by the Respondent which arises from Respondent's performance hereunder shall be at the sole risk and responsibility of Respondent.

Williamson County Advertising Questionnaire

The Williamson County Purchasing Department is continually looking for efficient ways to notify vendors regarding our bids, proposals, and requests for qualifications, and wants to know how vendors are finding out about County projects. Though not a requirement, please answer and submit the following short survey with your RFP response. Thank you in advance for your feedback.

My company/firm was made aware of the upcoming project by:

- | | |
|---|------------------|
| a. An ad in the Austin American Statesman newspaper | _____Yes _____No |
| b. An ad in the Williamson County Sun newspaper | _____Yes _____No |
| c. An email notification from the County | _____Yes _____No |
| d. The County Purchasing Department website | _____Yes _____No |
| e. County Department or Employee | _____Yes _____No |
| f. Plan room(s)
Name of Plan Room(s)_____ | _____Yes _____No |
| g. Texas Comptroller, Electric State Business Daily | _____Yes _____No |
| h. Other:_____ | _____Yes _____No |

Any additional advertising suggestions?



WILLIAMSON COUNTY CONFLICT OF INTEREST STATEMENT

I hereby acknowledge that I am aware of the Local Government Code of the State of Texas, Section 176.006 regarding conflicts of interest and will abide by all provisions as required by Texas law.

Printed name of person submitting form:

Name of Company:

Date:

Signature of person submitting form:

Notarized:

Sworn and subscribed before me

by: _____

on _____
(date)

WILLIAMSON COUNTY PROPOSAL FORM
**Suitable Properties for Conserving Endangered
Species and Providing Open Space**

PROPOSAL NUMBER: 11WCP1003

NAME OF PROPOSER: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Email Address: _____

Telephone: (_____) _____ Fax: (_____) _____

The undersigned, by his/her signature, represents that he/she is authorized to bind the proposer to fully comply with the terms and conditions of the attached Request for Proposal, Specifications, and Special Provisions for the amount(s) shown on the accompanying proposal sheet(s). By signing below, you have read the entire document and agreed to the terms therein.

Signature of Person Authorized to Sign Proposal

Date: _____

Printed Name and Title of Signer: _____

DO NOT SIGN OR SUBMIT WITHOUT READING ENTIRE DOCUMENT

THIS FORM MUST BE COMPLETED, SIGNED, AND RETURNED WITH PROPOSAL

Williamson County Inner Loop Annex

Address:

**301 SE Inner Loop
Georgetown, TX 78626**

Directions:

From South (Austin, Round Rock)

Take IH-35 Northbound

Exit 259

Stay on frontage road for approximately 2 miles

At stop sign, go right on Inner Loop

Just past Snead Drive, the Inner Loop Annex is on the left

Main entrance is on the side of the building by the flagpoles

From North (Georgetown, Jarrell)

Take IH-35 Southbound

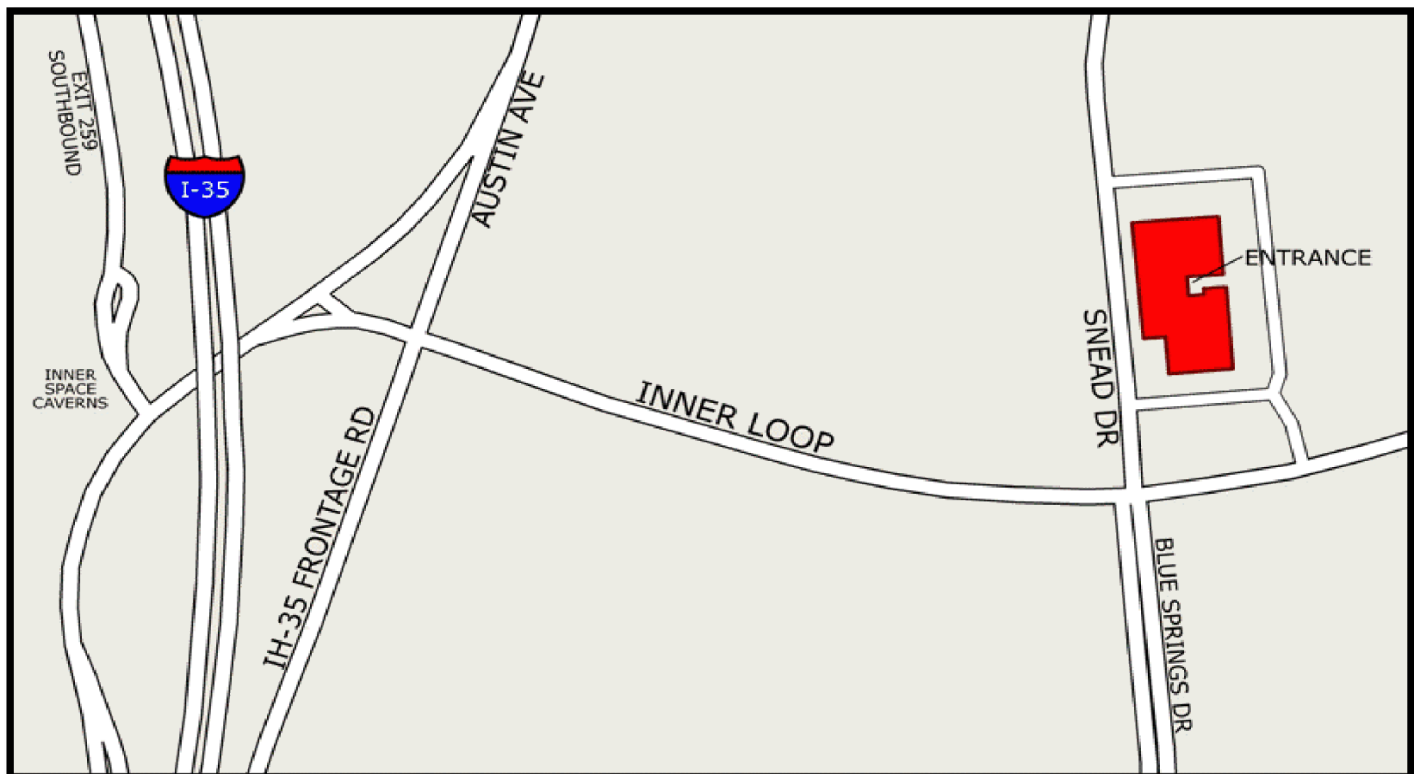
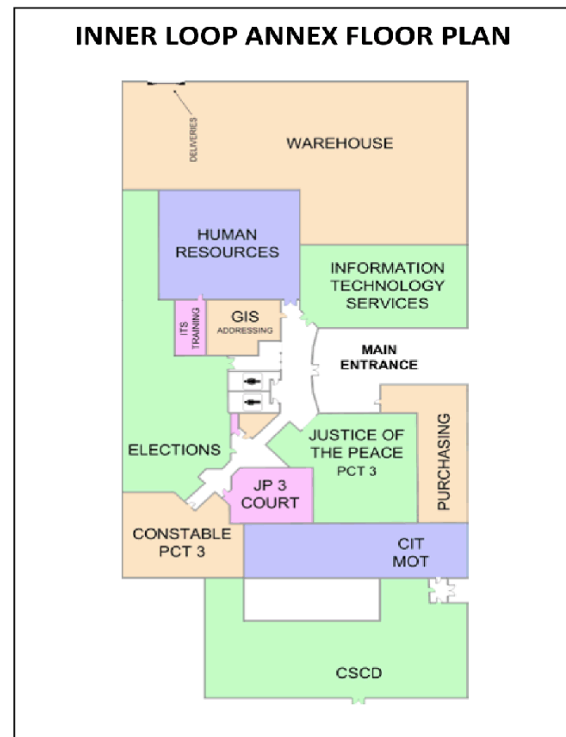
Exit 259

At stop sign, go left under the overpass

At stop stay straight onto Inner Loop

Just past Snead Drive, the Inner Loop Annex is on the left

Main entrance is on the side of the building by the flagpoles



CONTRACT DOCUMENT

The successful proposer(s) shall be required to execute a formal contract at Williamson County's offices in Georgetown, Texas. Said contract shall be in the same form as the contract which begins on the following page. The only anticipated changes in the contract will be to include additional exhibits, to fill in blanks to identify the contractor, and terms relating to the compensation, or to revise the contract to accommodate corrections, changes in the scope of services, or changes pursuant to addenda issued. **Proposers should raise any questions regarding the terms of the contract, or submit requested changes in said terms, in the form of written questions or submittals.** Because the signed contract will be substantively and substantially derived from the attached contract, each proposer is urged to seek independent legal counsel as to any questions about the terms, conditions or provisions contained in the attached contract before submitting a proposal. Again, the attached contract contains important legal provisions and is considered part and parcel of this request for proposals. Failure or refusal to sign aforesaid contract shall be grounds for Williamson County to revoke any award which has been issued, forfeit proposal security, if applicable, and possibly select another proposer.

CONSERVATION EASEMENT

This CONSERVATION EASEMENT ("Conservation Easement") is executed to be effective as of the ____ day of _____, 20__, by and between _____, a _____ ("Grantor"), and WILLIAMSON COUNTY, TEXAS ("Grantee").

R E C I T A L S:

- A. Grantor is the sole-owner in fee simple of that certain tract of real property located in Williamson County, Texas, comprising ____ (____) acres, more or less, as more particularly described on Exhibit A attached hereto and made a part hereof (hereafter, the "Property").
- B. Grantee is a political subdivision of the State of Texas.
- C. The Property is a significant natural area that qualifies as a "...relatively natural habitat of fish, wildlife, or plants, or similar ecosystem," as that phrase is used in P.L. 96541, 26 USC 170(h)(4)(A)(ii), as amended, and in regulations promulgated thereunder. Specifically, the Property includes habitat for native wildlife, including certain species listed as threatened or endangered under the federal Endangered Species Act, 16 U.S.C. § 1531, et seq. (the "ESA"), or under consideration for listing as threatened or endangered pursuant to that law. [insert one or more applicable provisions here – see below].
- Specifically, the Property includes habitat for native wildlife, including certain species of endangered karst invertebrates ("KI"), which include the Bone Cave harvestman (*Texella reyeisi*) and Coffin Cave mold beetle (*Rhadine Persephone*).
 - Specifically, the Property includes habitat for native wildlife, including habitat suitable for the endangered black-capped vireo ("BCVI")/golden-cheeked warbler ("GCWA").
 - In addition, the Property contains features suitable for/may constitute a portion of the watershed benefiting the Georgetown salamander, a candidate for listing under the ESA.
- (Collectively, the "Conserved Species").
- D. Grantee is the permittee under an ESA section 10(a)(1)(B) incidental take permit (the "Permit"), which authorizes take of the Conserved Species. Pursuant to the Permit, Grantee must purchase or otherwise acquire habitat suitable for the Conserved Species.
- E. Grantee has determined that the Property is a significant natural area that supports habitat important for all of the [breeding season life cycle requirements of the GCWA and/or BCVI including breeding, feeding, sheltering, nesting, and foraging] [life cycle requirements of the KI/Georgetown salamander] of the Conserved Species. In addition, the Property possesses one or more significant natural, ecological, and aesthetic values for conservation purposes which are of importance to the parties hereto, to the people of Williamson County, and to the people of the State of Texas, and which include, but are not necessarily limited to, natural resource, ecological, and scientific values, including wildlife and plant resources, and the Property is a natural area which qualifies as a "relatively natural habitat of fish, wildlife, or plants, or similar ecosystem", as that phrase is used in Section 170(h)(4)(A)(ii) of the Internal Revenue Code of

1986, as amended (collectively, the “Conservation Values”).

- F. Grantor now desires to grant and convey this Conservation Easement, including the related rights set forth herein, to Grantee.
- G. Grantor further intends to convey to Grantee the right of ingress, egress, and access to the Property to allow Grantee to conduct the activities set forth in the Management Plan (defined below).
- H. The Grantor and Grantee have the common purpose of conserving the Property for the benefit of the Conserved Species in perpetuity, and the State of Texas has authorized the creation of conservation easements pursuant to Chapter 183 of the Texas Natural Resource Code and Grantor and Grantee wish to avail themselves of the provisions of that law.

DEFINITIONS

“BCVI” means the black-capped vireo (*Vireo atricapilla*) a listed endangered species (52 Fed. Reg. 37420).

“Conservation Easement” means this conservation easement granted to Williamson County to conserve biological resources and to impose certain restrictions with respect to the Property (defined below).

“Easement Documentation Report” means the condition of the Property as described in Easement Documentation Report attached as Exhibit B.

“ESA” means the Federal Endangered Species Act (16 U.S.C. § 1531 et seq.) and all regulations promulgated pursuant to the ESA.

“GTS” means the Georgetown salamander, (*Eurycea naufragia*), a spring adapted salamander designated as a candidate as of October 30, 2001 (66 Fed. Reg. 54808)

“GCWA” means the golden-cheeked warbler (*Dendroica chrysoparia*), a listed endangered species (55 Fed. Reg. 53,153).

“KI” means one or more of the following karst or cave invertebrates:

- (a) Bone Cave Harvestman (*Texella reyes*), a troglobitic harvestman that was originally listed under *Texella reddelli* (53 Fed. Reg. 36029).

- (b) Coffin Cave Mold Beetle (*Batrisodes texanus*), a troglobitic pselaphine beetle. It was originally listed under *Texamaurops reddelli* (53 Fed. Reg. 36029), then taxonomically split into two species (*Texamaurops reddelli* and *Batrisodes texanus*) (58 Fed. Reg. 43818).

“Property” means the tract of real property situated in Williamson County, Texas, containing approximately _____ acres and described on Exhibit A.

“Service” means the United States Fish and Wildlife Service.

“Third Party Beneficiary” means the Service.

NOW, THEREFORE, for and in consideration of the facts recited above, of Ten and No/100 (\$10.00), and the mutual covenants, terms, conditions, and restrictions contained herein, the Grantor hereby grants, bargains, sells, and conveys unto Grantee a conservation easement in perpetuity over the Property as set forth in this Conservation Easement.

Purposes. The Purposes of this Conservation Easement includes the following: to ensure that the Property will be managed for long-term conservation of and use by the Conserved Species, including without limitation, management and related activities conducted on the Property by Grantee pursuant to the Management Plan; to ensure the Property will be retained forever predominantly in its natural, scenic, and open space condition; to protect native plants, animals, or plant communities on the Property, and to prevent any use of the Property that will impair or interfere with these Conservation Values or interests of the Property, while allowing for traditional uses on the Property that are compatible with and not destructive of the Conservation Values of the Property, such as limited recreational use and limited grazing.

The Grantor intends that this Conservation Easement will restrict the use of the Property to only such activities as are consistent with the purpose of this Conservation Easement. Grantor will not perform, nor knowingly allow others to perform, any act on or affecting the Property that is inconsistent with the purposes of this Conservation Easement. However, unless specified below, nothing in this Conservation Easement shall require Grantor to take any action to restore the condition of the Property after any act of God or other event over which Grantor had no control. Grantor understands that nothing in this Conservation Easement relieves Grantor of any obligation or restriction on the use of the Property imposed by law.

Grantor's Obligations.

Grantor will comply with the terms of this Conservation Easement and cooperate with the Grantee and Third Party Beneficiary in the protection of this Property.

Grantor will repair and restore changes to the Property that degrade or harm the Conservation Values of the Property caused by the Grantor, Grantor's guests, tenants, lessees, representatives, or agents.

Grantor shall undertake all reasonable actions to prevent the unlawful entry and trespass by persons whose activities may degrade or harm the Conservation Values of the Property.

Unless exempt from payment of taxes, Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority.

To the extent allowed by law, Grantor and successors in interest shall be allowed to apply for currently existing designations or exemptions with regard to taxation or assessment of the Property or which may be enacted in the future. This Conservation Easement shall be without prejudice to Grantors' and successors' in interest rights to receive such designations.

Prohibited Uses. Any activity on or use of the Property inconsistent with the Purpose of this Conservation Easement and associated Management Plan is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited, except as provided in Section 4 below:

Construction. *There shall be no placement or construction of structures or other improvements on or above the Property; including without limitation a tennis court or other recreational court or field, landing strip, building, mobile home, swimming pool, signs, asphalt or concrete pavement, billboard or other advertising display, antenna, utility pole, golf course, tower, conduit line, or sodium vapor light.*

Surface or Subsurface Alteration. *There shall be no ditching, draining, construction of dikes, filling, excavating, dredging, mining, drilling, extracting or exploring for or removing topsoil, sand, gravel, rock, minerals or other materials, on or below the surface of the Property unless the Grantee and Third Party Beneficiary give prior written consent.*

Vegetation Alteration. *There shall be no use of bulldozers, root plowing, and/or chaining unless the Grantee and Third Party Beneficiary give prior written consent. All vegetation alteration will be in accordance with guidelines set forth in the Management Plan, if any. Grantor must not introduce or allow non-native vegetation onto the Property.*

Chemicals. *The use of pesticides or biocides, including but not limited to insecticides fungicides, rodenticides, and herbicides is prohibited, except as expressly allowed in the Management Plan or approved by Grantee and Third Party Beneficiary in writing.*

Dumping. *There shall be no storage or dumping of ashes, trash, garbage, or other unsightly or offensive material, hazardous substance, or toxic waste, nor any placement of underground storage tanks in, on, or under the Property; there shall be no changing of the topography through the placing of soil or*

other substance or material such as landfill or dredging spoils.

Soils and Hydrology. *There shall be no use on the Property or activity that causes or is likely to cause soil degradation, erosion, or siltation. Alteration, depletion, extraction or pollution of surface water, natural water courses, lakes, ponds, marshes, subsurface water, or any other water bodies on the Property is prohibited. Grantor shall not transfer, encumber, lease, sell or otherwise sever such rights from title to the Property itself without the written approval of the Grantee and Third Party Beneficiary.*

Vehicles. *There shall be no operation of dune buggies, motorcycles, or all-terrain vehicles on the Property unless otherwise specified herein or in the Management Plan.*

Subdivision. *The Property may not be divided, partitioned, or subdivided except as a unit containing the entire Property in order to segregate it from the remainder of Grantor's property. The Property, for the benefits of this Conservation Easement, shall remain as an undivided approximately ____ acre tract in perpetuity.*

Density. *Neither the Property nor any portion of it shall be included as part of the gross area of other property not subject to this Conservation Easement for the purposes of determining density, lot coverage, or open space requirements under otherwise applicable laws, regulations, or ordinances controlling land use and building density. No development rights that have been encumbered or extinguished by this Conservation Easement shall be transferred to any other lands pursuant to a transferable development rights scheme, cluster development arrangement, or otherwise.*

Commercial Activity. *Except as provided in Section 4.7, there shall be no commercial or industrial use of, or activity on, the Property unless written approval is obtained from both the Grantee and Third Party Beneficiary.*

Easement. *Except as provided in this Conservation Easement, Grantor must not grant or convey any easements under or across the Property, including, but not limited to, access easements and utility easements, except such easements already in existence or pursuant to imminent exercise of or power of eminent domain by an entity holding such power.*

Grantor's Reserved Rights. *The Grantor hereby reserves the following rights:*

Transfer. The right to sell, give, mortgage, lease, or otherwise convey the Property, provided such conveyance is subject to the terms of this Conservation Easement.

Diseased Trees. The right to cut, trench, and remove diseased or dead trees, shrubs, or plants, subject to the prior written approval of the Grantee, prior notice to Third Party Beneficiary, or in accordance with guidelines set forth in the Management Plan, if any.

Grazing. The right to graze only cattle, bison/buffalo, and/or horses on the Property. Grazing will only be allowed at a stocking level consistent with recommended standards of the Texas Cooperative Extension Service (TCES) for sound range management of comparable land in Williamson County, Texas. However, if there is biological information that supports a lower level of ranch management than recommended by TCES, the Grantor, Grantee, and Third Party Beneficiary will review that information and come to agreement prior to initiation of cattle, bison/buffalo, or horse grazing on the Property. If Property contains habitat suitable for GCWA and/or BCVI and cattle, bison/buffalo, or horse grazing occurs on the Property between March 1st and September 1st when BCVI and GCWA are present, then brown-headed cowbirds (*Molothrus ater*) will be trapped in accordance with the Management Plan guidelines on cowbird trapping, if any, and Grantor will bear the obligation for payment of any and all costs and expenses for such trapping. No grain or feed shall be stored or distributed on the Property. If grain is used during the BCVI and/or GCWA breeding season, if applicable, then brown-headed cowbirds will be trapped in accordance with the Management Plan guidelines on cowbird trapping, if any. Grantor will be allowed to install and use watering stations for livestock and/or wildlife as needed, but only as approved by the Grantee and Third Party Beneficiary. No level of grazing or construction to support grazing activities may be allowed that would negatively impact the Conservation Values of the Property.

Roads. The right to repair, replace, and improve existing roadways in accordance with guidelines set forth in the Management Plan, if any, and to maintain roads or trails necessary on the Property for the execution of the Management Plan. Any new roads or trails must be approved by the Grantee and Third Party Beneficiary and shall not negatively impact the Conservation Values of the Property.

Hunting. *The right to remove nonnative animals at any time, but only in a manner that does not negatively impact the Conservation Values of the Property, and all other hunting in accordance with applicable laws and regulations.*

Recreational/Commercial Uses. *The right to use the Property for recreational purposes, including horseback riding, hiking, wildlife photography, bicycling, and bird watching, provided these activities follow limitations as described herein and/or in the Management Plan and are done in a manner to not impact the Conserved Species, Conserved Species habitat, or the other Conservation Values of the Property, and follow all applicable state and Federal game laws. Notwithstanding the foregoing, there shall be no recreational caving use on the Property.*

Fencing. *The right to construct and maintain fencing in accordance with the Management Plan.*

Vehicles. *The use of vehicles shall be limited to existing roads, fencelines, and trails accessing photo blinds or observation decks. All terrain vehicles may be used off existing trails to access photography blinds/observation decks, monitor grazing animals, inspect fence lines, and monitor species status and habitat condition. Use of all vehicles will be performed in a manner to avoid impact to the Conservation Species and their habitat.*

General. *All rights, title, interest in, and use of the Property not specifically granted to Grantee and Third Party Beneficiary in this Conservation Easement is retained by Grantor.*

Grantee's Rights and Access Easement.

Right of Access to Property for Management Plan Activities and Enforcement. *To accomplish the purpose of this Conservation Easement, Grantor hereby further conveys to Grantee the right of ingress, egress, access, and entry to the Property at all reasonable times for the purposes of (a) conducting any and all activities on the Property pursuant to the Management Plan, including without limitation, inspecting, managing, monitoring, and conducting fire ant treatments; (b) inspecting the Property to determine if the Grantor is complying with the covenants and purposes of this Conservation Easement; (c) conducting surveys and other scientific observations or studies, copies of which studies shall be provided Grantor upon written request by Grantor; (d) enforcing the terms of this Conservation Easement; and (e)*

taking any and all actions with respect to the Property, as may be necessary or appropriate, with or without order of court, to remedy or abate violations hereof. For purposes of Section 5.1(a)-(c), at least seventy-two (72) hours prior written notice to Grantor shall be provided, and entry onto the Property shall occur during daylight hours and regular business days. Grantee agrees to use best efforts to coordinate any and all entry onto the Property so that the number of total entries onto the Property is minimized. Notwithstanding the foregoing sentence, for purposes of Section 5.1(d)-(e), notice shall be provided and entry onto the Property shall be conducted pursuant to Section 15.

Third Party Beneficiary's Rights. The Service is a third party beneficiary of the rights of Grantee under this Conservation Easement, including the right to enforce compliance by Grantor with the terms and provisions of this Conservation Easement, and the rights and remedies granted to Grantee under this Conservation Easement.

Discretionary Consent. The Grantee's and Third Party Beneficiary's consent for activities otherwise prohibited in this Conservation Easement, or for any activities requiring Grantee's and Third Party Beneficiary's consent, may be given under the following conditions and circumstances. If, owing to unforeseen or changed circumstances, any of the activities listed in this Conservation Easement are deemed desirable by all the Grantor, the Grantee, and Third Party Beneficiary, the Grantee and Third Party Beneficiary may, in their sole discretion, give permission for such activities, subject to the limitations herein. Such requests for permission, and permission for activities requiring the Grantee's and Third Party Beneficiary's consent, shall be in writing and shall describe the proposed activity in sufficient detail to allow the Grantee and Third Party Beneficiary to judge the consistency of the proposed activity with the purpose of this Conservation Easement. The Grantee and Third Party Beneficiary may give their permission only if they determine, in their sole discretion, that such activities (1) do not violate the purpose of this Conservation Easement and (2) either enhance or do not impair any conservation interests associated with the Property. Notwithstanding the foregoing, the Grantee and Third Party Beneficiary and Grantor have no right or power to agree to any activities that would result in the termination of this Conservation Easement or to allow any residential, commercial or industrial structures or any commercial or industrial activities on the Property, except as outlined in this Conservation Easement.

Habitat Management. The habitat on the Property will be managed for the benefit of the Conserved Species, in accordance with the Management Plan.

Public Access. Except as otherwise provided in this Conservation Easement, nothing contained in this Conservation Easement shall give or grant to the public or any party other than Grantor, Grantee and Third Party Beneficiary a right to enter upon or to use the Property or any portion thereof.

Alternate Public Access Provision

9. Public Access. Grantor has agreed to allow limited public access to the Property in accordance with the terms and conditions set forth in the Public Access Management Plan attached hereto as Exhibit C.

Costs and Liabilities. Except as otherwise provided in this Agreement or the Management Plan, including without limitation the Grantee's obligation to conduct or pay for operation and maintenance of the Property as more particularly described in the Management Plan, the Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property, including the maintenance of comprehensive general liability insurance coverage. Grantee shall maintain its own general liability insurance coverage.

To the extent allowed by law, each party agrees to release, hold harmless, defend and indemnify the other from any and all liabilities including, but not limited to, injury, losses, damages, judgments, costs, expenses and fees that the indemnified party may suffer or incur as a result of or arising out of the activities of the other party on the Property.

Taxes. The Grantor shall pay any real estate taxes or other assessments levied on Grantor's interest in the Property. If the Grantor becomes delinquent in payment of taxes or assessments, so that a lien is created against the Property and public notice of sale is posted and written notice thereof is given to Grantor, the Grantee, at its option, shall, after written notice to the Grantor, have the right to purchase and acquire the Grantor's interest in the Property by paying funds to discharge the lien or delinquent taxes or assessments, or to take such other actions as may be necessary to protect the Grantee's interest in the Property and to assure the continued enforceability of this Conservation Easement.

Title. The Grantor covenants and represents that the Grantor is the sole owner and is seized of the Property in fee simple and has good right to grant and convey this Conservation Easement, and that the Grantee shall have the use of and enjoy all of the benefits derived from and arising out of this Conservation Easement. This conveyance is subject to all easements, rights of way, reservations, mineral severances, covenants, conditions, restrictions, and other title exceptions of record which affect the Property, as described on Exhibit D. The Grantor shall provide notice to Grantee and to Third party Beneficiary in the event that title to the Property is transferred.

Hazardous Waste. To the best of Grantor's knowledge without diligent inquiry, Grantor covenants, represents and warrants to the Grantee that no hazardous substance or toxic waste exists nor has been generated, treated, stored, used, disposed of, or deposited in or on the Property, and that there are no underground storage tanks located on the Property.

Grantee's and Third Party Beneficiary's Remedies. If the Grantee or Third Party Beneficiary become aware of a violation of the terms of this Conservation Easement, the Grantee or Third Party Beneficiary shall give notice to the Grantor, at the Grantor's last known address, of such violation via certified mail, return receipt requested, and request corrective action sufficient to abate such violation and to restore the Property to its previous condition. Grantor agrees that the Easement Documentation Report shall be deemed to provide objective information concerning the Property's condition at the time of this grant. Failure by the Grantor to abate the violation and take such other corrective action as may be requested by the Grantee and Third Party Beneficiary within thirty (30) days after receipt of such notice shall entitle the Grantee or Third Party Beneficiary to bring an action at law or equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement; to require the restoration of the Property to its previous condition; to enjoin the non-compliance by ex parte, temporary or permanent injunction in a court of competent jurisdictions, and/or to recover any actual damages arising from the noncompliance. Such damages, when recovered, must be applied by the Grantee to corrective action on the Property. If the court or arbitration process determines that the Grantor has failed to comply with this Conservation Easement, the Grantor shall reimburse the Grantee for any reasonable costs of enforcement, including costs of restoration, mediation, arbitration, court costs and reasonable attorney's fees.

Emergency Enforcement. *If the Grantee or Third Party Beneficiary, in their reasonable discretion, determine that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property, the Grantee or Third Party Beneficiary may pursue remedies under this paragraph with prior notice to the Grantor by personal communication, telephone, or as otherwise described herein, but without waiting for the period for cure to expire.*

Failure to Act or Delay. *The Grantee and Third Party Beneficiary do not waive or forfeit the right to take action as may be necessary to ensure compliance with this Conservation Easement and associated Management Plan by any prior failure to act and the Grantor hereby waives any defenses of*

waiver, estoppel or laches with respect to any failure to act or delay by the Grantee and Third Party Beneficiary, their successors or assigns, in acting to enforce any restriction or exercise any rights under this Conservation Easement.

Violations Due to Causes Beyond Grantor's Control. *Nothing herein shall be construed to entitle the Grantee or Third Party Beneficiary to institute any enforcement proceedings against the Grantor for any changes to the Property due to causes beyond the Grantor's control, such as changes caused by fire, flood, storm, earthquake or the unauthorized wrongful acts of third persons. In the event of violations of this Conservation Easement caused by the unauthorized wrongful acts of third persons, Grantor agrees to give Grantee and Third Party Beneficiary timely notice of such acts as soon as Grantor becomes aware of such, and, upon request by the Grantee, to join in any suit or, at the election of the Grantor, to appoint the Grantee as its attorney-in-fact for the purposes of pursuing enforcement action.*

Dispute Resolution. If a dispute arises between Grantor, Grantee and/or Third Party Beneficiary, and if said dispute cannot be settled through direct discussions, the parties agree to first endeavor to settle the dispute in an amicable manner by mediation under the Commercial Mediation Rules of the American Arbitration Association, before resorting to arbitration. Thereafter, to the extent allowed by law any unresolved controversy shall be settled by arbitration in accordance with Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the decision tendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Notwithstanding the mediation and arbitration requirements of this Section 16, for any violation of the terms of this Conservation Easement that might cause temporary or permanent damage to the Conservation Values of the Property, the provisions of Section 14 regarding injunctive relief for Grantee and Third Party Beneficiary shall control over this Section 15.

Parties Subject to Easement. The covenants agreed to and the terms, conditions, and restrictions imposed by this grant shall not only be binding upon the Grantor but also its lessees, agents, personal representatives, successors and assigns, and all other successors to Grantor in interest and shall continue as a servitude running in perpetuity with the Property.

Subsequent Transfers. The Grantor agrees that the terms, conditions, restrictions and purposes of this grant or reference thereto will be inserted by the Grantor in any subsequent deed or other legal

instrument by which the Grantor divests either the fee simple title or possessory interest in the Property.

Merger. The Grantor and the Grantee agree that the terms of this Conservation Easement shall survive any merger of the fee and easement interest in the Property.

Assignment. The parties hereto recognize that the benefits of this easement are in gross and assignable. Any assignment shall be to a qualified organization and holder, as those terms are defined in Section 170(h)(3) of the IRC of 1986 and Chapter 183 of the Texas Natural Resources Code, that is organized and operated primarily for one of the conservation purposes specified in Section 170(h)(3) of the IRC and committed to hold the easement solely for the conservation purposes that the contribution was originally intended to advance. Grantor and Third Party Beneficiary must give written approval of the organization prior to assignment.

If Grantee ever ceases to exist or no longer qualifies under Section 170(h) of the IRC Code, or applicable state law, upon motion of Grantor, Grantee, Third Party Beneficiary, or an interested third party, a court of competent jurisdiction shall transfer this Conservation Easement and associated Management Plan to another qualified organization having similar purposes that agrees to assume the responsibilities imposed by this Conservation Easement and associated Management Plan. In the event that Grantee is unable to fulfill its responsibilities as the holder of this Conservation Easement and associated Management Plan, Grantee will attempt to cooperate with Grantor and Third Party Beneficiary to identify and select a substitute organization that is acceptable to Grantor and Third Party Beneficiary.

If the Grantee ceases to exist or no longer qualifies to hold the conservation easement, the Grantee shall notify the Third Party Beneficiary. Notwithstanding anything herein to the contrary, the parties acknowledge and agree that Grantee shall be required to comply with instructions from the Third Party Beneficiary. Furthermore, the parties acknowledge and agree that nothing contained herein shall bind the Third Party Beneficiary regarding the nature of such instructions.

Eminent Domain. Whenever all or part of the Property is taken in exercise of eminent domain by public, corporate, or other authority so as to abrogate the restrictions imposed by this Conservation Easement, the Grantor and the Grantee shall join in appropriate actions at the time of the taking to recover the full value of the taking and all incidental or direct damages resulting from it to the extent allowed by law, and the proceeds shall be divided in accordance with the proportionate value of the Grantee's and Grantor's interests, as provided in Treasury Regulation Section 1.170A-14(g)(6), and Grantee's proceeds shall be used as specified above. All expenses incurred by the Grantor and the Grantee in such action shall be paid out of the recovered proceeds.

Miscellaneous Provisions.

Severability. *If any provision of this Conservation Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Easement and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid shall not be affected thereby.*

Successors and Assigns. *The term "Grantor" shall include the Grantor and the Grantor's heirs, executors, administrators, successors and assigns and shall also mean the masculine, feminine, corporate, singular or plural form of the word as needed in the context of its use. The term "Grantee" shall include Williamson County, Texas, and its successors and assigns.*

Rerecording. *The Grantee is authorized to record or file any notices or instruments appropriate to assure the perpetual enforceability of this Conservation Easement; and Grantor appoints the Grantee its attorney-in-fact for the purpose of filing, recording and rerecording, if necessary, any instrument pursuant to this Conservation Easement. Without limiting the foregoing, the Grantor agrees to execute any such instruments upon request.*

Captions. *The captions herein have been inserted solely for convenience of reference and are not a part of this Conservation Easement and shall have no effect upon construction or interpretation.*

Counterparts. *The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.*

Legislative Changes. *All references to state and Federal laws shall be applicable to similar successor provisions as may be hereinafter enacted from time to time.*

Notices. *The following notices required in this Conservation Easement shall be sent by registered or certified mail to the addresses below or to such address as may be hereafter specified by notice in writing.*

- a. Notice of Change of Address of Parties
- b. Notice of Change of Ownership of Property

- c. Notice to Review or Request to Amend Management Plan
- d. Notice of Violation
- e. Notice of Tax Delinquency
- f. Notification of Cessation of Grantee
- g. Extinguishment of Easement
- h. Amendment of Easement

Grantor, Grantee, and Third Party Beneficiary agree to send updated contact information for notice to the other parties within thirty (30) days of change of such information, or change of ownership of the Property. If a response to a notice provided under this Section 22.7 is required, the Grantor, Grantee, and Third Party Beneficiary agree to respond within thirty (30) days of receipt of the notice. All other notices and communication between Grantor, Grantee and Third Party Beneficiary may be conducted in writing or via telephone, and all parties agree to respond within a reasonable amount of time.

Interpretation. This Conservation Easement shall be interpreted under the laws of the State of Texas, resolving any ambiguities and questions for the validity of specific provisions so as to give maximum effect to its conservation purposes.

If to Grantor: [INSERT NAME, ADDRESS, PHONE and FAX here]

with a copy to: _____

Attn: _____
Phone: _____
Fax: _____

If to Grantee: WILLIAMSON COUNTY, TEXAS
Attn: County Judge
Phone: (512) 943-1550
Fax: (512) 943-1662

with a copy to: SHEETS & CROSSFIELD, L.L.P.
309 E. Main
Round Rock, Texas 78664
Attn: Charlie Crossfield, Esq.
Phone: (512) 255-8877
Fax: (512) 255-8986

If To Third Party Beneficiary: U.S. Fish and Wildlife Service
Austin Ecological Services Field Office
10711 Burnett Road, Suite 200
Austin, Texas 78758
Attn: Field Supervisor
Phone: (512)490-0057
Fax: (512)490-0974

Federal Appropriations. The duties of the Third Party Beneficiary to carry out its obligations pursuant to this Conservation

Easement and associated Management Plan shall be subject to the availability of appropriated funds.

Amendment. This Conservation Easement may not be amended, modified, or rescinded except upon written consent by the Grantor, Grantee, and Third Party Beneficiary.

Costs of Enforcement. If Grantee and/or the Third Party Beneficiary prevails in any action to enforce this Conservation Easement, any costs incurred in enforcing the terms of this Conservation Easement against Grantor, including, but not limited to, costs of suit and attorney's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Conservation Easement shall be borne by Grantor. Grantor shall be entitled to the costs of enforcement if it prevails in any action it brings or is brought by Grantee and/or the Third Party Beneficiary, to the extent otherwise allowed by law.

Endangered Species Act. Grantor and Grantee each acknowledge that all activities accomplished or permitted under this Conservation Easement and associated Management Plan (or in general) must comply with all appropriate local, state, and Federal statutes including, but not limited to, the ESA.

Federal Interest, Non-discrimination. So long as the Property is managed by Williamson County for the purpose for which it was acquired, Williamson County is subject to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and Title IX of the Education Amendments of 1972. Further, Williamson County agrees, to the extent required by law, that no individual will be turned away or otherwise denied access to or benefit from any program on the Property or activity that is directly associated with a program on the Property on the basis of race, color, national origin, age and sex (in educational activities) or disability.

Effective Date. As attested by the signature of its authorized representative, Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Conservation Easement. This Conservation Easement is to be effective as of the date of the last required signature.

Conservation Easement Governing Document. In the event of any conflict between any term or provision of this Conservation Easement and the Management Plan, the Conservation Easement controls.

GRANTOR:

By: _____

Name: _____

Title: _____

Date: _____

GRANTEE:

WILLIAMSON COUNTY

By: _____

Name: _____

Title: _____

Date: _____

Exhibits:

Exhibit A – Property Description

Exhibit B – Easement Documentation Report

Exhibit C – Public Access Management Plan

Exhibit D – Permitted Exceptions

STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

 This instrument was acknowledged before me on this ____ day of _____, 20__, by
_____, on behalf of _____.

Notary Public
My Commission Expires: _____

STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

 This instrument was acknowledged before me on this ____ day of _____, 20__, by
_____, on behalf of WILLIAMSON COUNTY, TEXAS.

Notary Public
My Commission Expires: _____