

200

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to authorize the County Judge to execute contract documents for acceptance of a grant of \$100,000 from the Texas Parks and Wildlife Department, Recreation Grants Branch for the Jacob's Well Natural Area and amend the budget accordingly.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	October 1, 2013	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A

AUDITOR REVIEW: BILL HERZOG

REQUESTED BY	SPONSOR	CO-SPONSOR
Hauff	CONLEY	N/A

SUMMARY

On July 31, 2012 the Commissioners Court authorized submission of a park grant application to the Texas Parks and Wildlife Department, Recreation Grants Branch for development of the Jacob's Well Natural Area. Elements included in the application for potential funding consisted of an outdoor classroom, environmental play scape, trails, interpretive signs, bird blinds, interpretive signs, picnic tables, benches, a rainwater collection system, bike racks, and native plant restoration.

The application was approved for funding of the maximum \$100,000 by the Texas Parks and Wildlife Commission on January 24, 2013. The required match of \$100,000 has been met through the value of the land acquired for the Natural Area. Land value will be determined by a required appraisal, and both cultural resource (archeological) and wildlife (endangered species) surveys will be necessary to meet requirements of the granting agency. Limited plans and specifications will also be prepared. A portion of these costs have been budgeted in the grant, and additional funding for these activities is available through Park Bond monies dedicated to the Jacob's Well Natural Area project.

FILED: 10 01 13  
HAYS COUNTY COMMISSIONERS' COURT  
Resolution # 28370 VOL V PG 253

TEXAS PARKS AND WILDLIFE DEPARTMENT

LOCAL LAND AND WATER CONSERVATION FUND – PROJECT AGREEMENT

Project Sponsor and Name: HAYS COUNTY Jacob's Well Natural Area

Project Number: 48-00-1122

Project Period: TPWD Approval Date to July 15, 2015

Total Project Cost: \$ 200,000.00

Approved State Funds: \$ 100,000.00

\* \* \*

PROJECT DESCRIPTION (SCOPE):

Hays County will acquire by donation (by waiver) 31.5 acres and develop Jacob's Well Natural Area to include an outdoor classroom pavilion, playscape, trails, interpretive signs kiosk, picnic tables, benches, wildlife/bird blinds, rainwater collection system, bike racks, and native plant restoration.

Jacob's Well Natural Area is located north-northwest of the City of Wimberley off Acacia Drive between Persimmon Drive and Woodacre Drive in southwestern Hays County, TX.

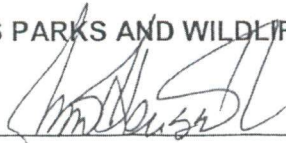
Pre-agreement costs approved as of December 14, 2010 in the amount not to exceed \$100,000 for land acquisition.

For and in consideration of the mutual covenants and benefits hereof, the Texas Parks and Wildlife Department ("Department") and the "Sponsor" hereby contract with respect to the above described project as follows:

1. The Sponsor is obligated to adhere to all requirements established for the Local Park Grant Program including program guidelines set out at 31 TAC Sec. 61.132-61.137.
2. No work on the project by the Sponsor shall commence until written notice to proceed has been received from the Department.
3. The Sponsor shall furnish the Department an annual report every August 1<sup>st</sup> for a period of five years following the project completion, providing to the satisfaction of the Department information regarding present and anticipated use and development of the project site.
4. The Sponsor shall install and maintain at the project site a permanent fund acknowledgment sign as prescribed by the Department.
5. All utilities at the project site shall be underground and approved by the Department.
6. The General Provisions dated February 2008 attached hereto are hereby made part of this agreement.
7. The Summary of Guidelines for Administration of Local Park Grant Program or LWCF Acquisition and Development Projects dated January 2008 attached hereto is hereby made part of this agreement.
8. The original application and supplemental documentation submitted by the sponsor are hereby made part of this agreement.
9. The Agreement is effective upon execution by the Department.

\* \* \*

**TEXAS PARKS AND WILDLIFE DEPARTMENT**

by 

Tim Hogsett, Director, Recreation Grants Branch  
Name and Title

8-28-13  
TPWD Approval Date

**HAYS COUNTY**

Political Subdivision (Sponsor)

by \_\_\_\_\_

The Honorable Bert Cobb, M.D., Hays Co. Judge  
Name and Title

N/A or  SAM, Date/Initials: 08/27/2013-re

Revised 01/2013

## ENVIRONMENTAL ADDENDUM

Project Name/Number: HAYS COUNTY Jacob's Well Natural Area, Project Number 48-001122

Pursuant to requirements of the National Environmental Policy Act of 1969 (Public Law 91-190) and the Endangered Species Act of 1973, as amended (Public Law 93-205), this addendum is hereby incorporated into the grant agreement.

**HAYS COUNTY** (sponsor) is hereby advised that based on the project description and when suitable habitat is present; these species could potentially be impacted by the proposed project: **Site location and subsequent development shall be sensitive and closely monitored for occurrences of the following federal and/or state listed species:**

### Water Resources

#### Ecologically Significant Stream Segment

TPWD has identified Ecologically Significant Stream Segments (ESSSs) throughout the state to assist regional water planning groups in identifying ecologically unique stream segments under Texas Administrative Code Title 31 357.8. Until approved by the legislature this is not a legal designation. The stream segments are identified through extensive review by TPWD staff and are determined to be ecologically important due to one or more of the following criteria: Biological function; hydrologic function; riparian conservation areas; high water quality/exceptional aquatic life/high aesthetic value; or threatened or endangered species/unique communities. Additional information on ESSS may be found at [http://www.tpwd.state.tx.us/landwater/water/environconcerns/water\\_quality/sigsegs/](http://www.tpwd.state.tx.us/landwater/water/environconcerns/water_quality/sigsegs/). The proposed project includes a portion of Cypress Creek which is considered to be an ESSS due to its Hydrological function (Edwards Aquifer Recharge Zone) as well as high water quality, exceptional aquatic life, and high aesthetic value.

**Recommendation:** If ground or water disturbing activities are to occur in or near an ESSS, every effort should be undertaken to preserve the biological, hydrological, aquatic life and aesthetic qualities that support the ESSS. Best management practices (BMPs) to avoid erosion, sedimentation, turbidity, stream bank, stream bed and vegetative disturbance should be developed and implemented to the greatest extent practicable. Such measures would include the use of double silt fencing in construction areas near the creek, avoiding clearing of stream bank and in-stream native vegetation, phasing work during dry periods, and siting equipment storage areas, valves, and pump stations beyond the floodplain of streams and rivers including ESSSs.

### Migratory Birds

Ground, vegetation, and old buildings in and around the project area may provide habitat for migratory birds. The project area is located within the Central Flyway for migratory birds. Fall and spring migrants use the region for temporary stops during travel between the northern and southern hemispheres. TPWD maintains the TPWD & Texas Partners in Flight Migratory Bird Ecoregional Checklist, at <http://www.tpwd.state.tx.us/huntwild/wild/birding/pif/ecoregions/>.

The Checklist contains a list of bird species that seasonally migrate through the Central Flyway and gives the time of year when birds may be found passing through or breeding in the area.

The Migratory Bird Treaty Act of 1918 (MBTA) prohibits taking, attempting to take, capturing, killing, selling/purchasing, possessing, transporting, and importing of migratory birds, their eggs, parts and nests, except when specifically authorized by the Department of the Interior.

Recommendation: TPWD recommends BMPs for avoiding harassment and harm to migratory birds be implemented. In accordance with the MBTA, TPWD recommends that vegetation removal and ground disturbing activities be phased to occur outside of the nesting season (March 15 to September 15) and impacts to spring and fall migrants be avoided. Construction noise that could harass nesting birds should be phased to occur outside of the nesting season as well. If federally-listed bird species protected by the MBTA are to be affected by the project, then coordination with the U.S. Fish and Wildlife Service (USFWS) would be required. Additional information regarding the MBTA may be obtained through the USFWS Region 2 Migratory Bird Permit Office at (505) 248-7882.

### Federally-Listed Species

#### Golden-cheeked Warbler (*Setophaga chrysoparia*)

There are four Texas Natural Diversity Database (TXNDD) records for the GCWA located within 5 miles of the proposed project. A printout of these occurrence records is attached for your reference.

The grant application describes vegetation in the project area as a mix of dense woodland, open woodland, and open grasslands. Common tree species include Ashe juniper, live, and red oak, which would provide suitable habitat for the federal and state-listed endangered Golden-cheeked Warbler (GCWA) and the Black-capped Vireo (BCVI). TPWD review of a predictive habitat model for the GCWA (Diamond, et al. 2007. *Range-wide Modeling of Golden-cheeked Warbler Habitat*. Section 6 Project E-72-R, Final Report, Texas Parks and Wildlife Department, Austin, Texas) indicates that suitable habitat for the federal and state-listed endangered GCWA may be present within the project limits.

#### Black-capped Vireo (*Vireo atricapilla*)

Suitable habitat for the BCVI consists of oak-juniper woodlands with a distinctive patchy, two-layered aspect; a shrub and tree layer with open, grassy spaces; and foliage reaching to ground level for nesting cover. According to the vegetation described in the grant application, suitable habitat for the BCVI may be present within the project limits.

The TXNDD is intended to assist users in avoiding harm to rare species or significant ecological features. Given the small proportion of public versus private land in Texas, the TXNDD does not include a representative inventory of rare resources in the state. Absence of information in the database does not imply that a species is absent from that area. Although it is based on the best data available to TPWD regarding rare species, the data from the TXNDD do not provide a definitive statement as to the presence, absence or condition of special species, natural

communities, or other significant features within your project area. These data are not inclusive and cannot be used as presence/absence data. This information cannot be substituted for on-the-ground surveys. The TXNDD is updated continuously based on new, updated and undigitized records; for questions regarding a record, please contact [txnidd@tpwd.state.tx.us](mailto:txnidd@tpwd.state.tx.us).

**Recommendation:** TPWD recommends a survey for suitable GCWA and BCVI habitat within the project limits and 300 feet outside of the project limits. Even if habitat for this species would not be directly impacted by vegetation removal, if nesting pairs are present in the surrounding vegetation they could be disrupted by noise and activity during construction. Because the definition of take in the Endangered Species Act (ESA) includes harming or harassing a listed species, this disturbance could constitute a violation of the ESA. If suitable habitat for the GCWA or the BCVI is present adjacent to the ROW, TPWD recommends Hays County perform surveys during the appropriate season to determine if the habitat is occupied by these species.

If nesting pairs are discovered within the project limits or within 300 feet of the project limits, TPWD recommends Hays County conduct project activities outside of the breeding and nesting season in any area where potential habitat may occur. The U.S. Fish and Wildlife Service (USFWS) should be contacted for species occurrence data, guidance, permitting, survey protocols, and mitigation for these federally listed species. Please note that disturbance within 300 feet of GCWA or BCVI habitat could still be considered take according to the ESA.

### State-listed Species

#### Texas horned lizard (*Phrynosoma cornutum*)

If present in the project area, the Texas horned lizard could be impacted by ground disturbing activities from construction. Horned lizards may hibernate on site in the loose soils few inches below ground during the cool months from September/October to March/April. Construction in these areas could harm hibernating lizards. Horned lizards are active above ground when temperatures exceed 75 degrees Fahrenheit. If horned lizards (nesting, gravid females, newborn young, lethargic from cool temperatures or hibernation) cannot move away from noise and approaching construction equipment in time, they could be affected by construction activities.

**Recommendation:** TPWD recommends that a pre-construction survey be conducted to determine if horned lizards are present in the project area. A useful indication that the Texas horned lizard may occupy the site is the presence of Harvester Ant (*Pogonomyrmex barbatus*) nests since Harvester Ants are the primary food source of horned lizards. The survey should be performed during the warm months of the year when the horned lizards are active. Fact sheets, including survey protocols and photos of the Texas horned lizard may be found on-line at [http://www.tpwd.state.tx.us/learning/texas\\_nature\\_trackers/horned\\_lizard/](http://www.tpwd.state.tx.us/learning/texas_nature_trackers/horned_lizard/) and at <http://www.tpwd.state.tx.us/huntwild/wild/species/thlizard/>.

If horned lizards are found on site, TPWD recommends contacting this office to develop plans to relocate them, particularly if there is likelihood that they would be harmed by project activities. To minimize impacts to the Texas horned lizard, TPWD recommends the use of the

best management practices described in the Texas Horned Lizard Watch – Management and Monitoring Packet, attached for your reference.

### State-listed Threatened

American Peregrine Falcon (*Falco peregrines anatum*)

Peregrine Falcon (*Falco peregrines*)

TPWD would like to point out that the Peregrine Falcon and American Peregrine Falcon are potential wintering migrants in Hays County. Peregrine Falcons arrive in northern breeding areas late April to early May and departure begins late August to early September. (See <http://www.natureserve.org/explorer/>).

**Recommendation:** TPWD recommends that construction crews be made aware of the potential for Peregrine Falcons to be in the area during the winter months and instructed to avoid any disturbance of Peregrine Falcons if they occur in the vicinity of the project.

### Rare Species (Species of Concern)

The project site may also contain suitable habitat for the following rare species listed in Hays County. For more information on listed species and their habitat the Annotated County List of Rare Species for Hays County can be found at <http://www.tpwd.state.tx.us/gis/ris/es/>. The Texas Natural Diversity Database (TXNDD) was also reviewed and occurrence records for the Blanco River Springs salamander, Bracted twistflower, and Warnock's coral-root were located within 5 miles of the proposed project.

#### **Animals:**

Blanco River Springs salamander (*Eurycea pterophila*)

Western Burrowing Owl (*Athene cunicularia hypugaea*)

Texas garter snake (*Thamnophis sirtalis annectens*)

Plains spotted skunk (*Spilogale putorius interrupta*)

#### **Plants:**

Bracted twistflower (*Streptanthus bracteatus*)\*

Hill Country wild-mercury (*Argythamnia aphoroides*)

Warnock's coral-root (*Hexalectris warnockii*)

\*Federal Candidate for Listing

**Recommendation:** The habitat descriptions for the species on the Hays County List should be reviewed to determine if potential habitat for these species is present on the project. If habitat is present, an on-the-ground survey by a qualified biologist should be conducted during the time of year when the species is most likely to be found.

1) General Comment (Trails along Creek Banks)

Trails along creek banks and lake shores should be set back far enough that they do not cause or exacerbate erosion of the banks, either from construction activities or long-term use. Pedestrian creek crossovers should be located in areas where vegetation removal or disturbance can be avoided or minimized. The crossovers should span the entire creek channel with the headwalls at or above the top of the bank in order to avoid destabilizing the bed and banks.

4) General Comment (Vegetation Disturbance)

Disturbance of native vegetation should be avoided or minimized during land alteration activities by using site planning and construction techniques designed to preserve existing native trees, shrubs, grasses and forbs, aquatic and wetland systems. Should any losses be deemed unavoidable, it is recommended that native plant species be used in mitigation and landscaped areas that are beneficial to fish and wildlife endemic to the area. Also, where possible, clearing of understory vegetation should be minimized because such vegetation provides habitat to small mammals and birds. Natural buffers contiguous to wetlands and aquatic systems should remain undisturbed, to preserve wildlife cover, food sources, travel corridors, and protect water quality of wetlands and waterways.

\* \* \* \* \*

Additional habitat related comments offer advise that may further reduce or avoid adverse impacts by implementing the appropriate actions in the Staff Comments and General Comments sections of the Environmental Resources Review memo attached.

\* \* \* \* \*

I have read this addendum and understand that the political subdivision (sponsor) which I represent will be responsible for compliance with the above as a result of receiving grant assistance from the Texas Parks & Wildlife Department. It is also understood that the Environmental Addendum is a part of the Project Agreement.

\_\_\_\_\_  
Signature of Official Authorized in Resolution

\_\_\_\_\_  
Date

**The Honorable Bert Cobb, M.D., Hays County Judge**  
\_\_\_\_\_  
Name and Title

TEXAS PARKS AND WILDLIFE DEPARTMENT  
CERTIFICATE OF LAND DEDICATION FOR PARK USE

*LAND AND WATER CONSERVATION FUND PROGRAM*

This is to certify that a permanent record shall be kept in the **HAYS COUNTY** public property records and be made available for public inspection to the effect that the property described in the scope of the Project Agreement for **HAYS COUNTY Jacob's Well Natural Area, Project Number 48-001122**, and the dated project boundary map made part of that Agreement, has been acquired or developed with Land and Water Conservation Fund assistance and that it cannot be converted to other than public recreation use without the written approval of the Texas Parks and Wildlife Department.

**HAYS COUNTY**

Political Subdivision

By

**The Honorable Bert Cobb, M.D., Hays Co. Judge**

Name and Title

Date



LOCAL PARK GRANT PROGRAM  
LAND AND WATER CONSERVATION FUND  
GENERAL PROVISIONS

Revised February 2008

I. Definitions

- A. The term "Department" as used herein means the Texas Parks & Wildlife Department or any representative delegated authority to act on behalf of the Department.
- B. The term "Project" as used herein means a single project which is the subject of this project agreement.
- C. The term "Sponsor" as used herein means the political subdivision which is party to the project agreement.
- D. The term "LPGP" as used herein means the Local Park Grant Program.
- E. The term "LWCF" as used herein means the Land and Water Conservation Fund.
- F. The term "Manual" as used herein means the Local Park Grant Programs Manual.

II. Continuing Assurances

- A. The parties to the project agreement specifically recognize that receipt of program assistance creates an obligation to maintain the property described in the project agreement consistent with the Manual, and the following requirements:
- B. The sponsor agrees that the property described in the project agreement and in the dated project boundary map made part of that agreement is being acquired or developed with program assistance, and that it shall not be converted to other than public recreation use but shall be maintained in public recreation in perpetuity, or for the term of the lease in the case of leased property.
- C. The sponsor agrees that the benefit to be derived by the State of Texas from the full compliance by the sponsor with the terms of this agreement is the preservation, protection, and the net increase in the quality of public recreation facilities and resources which are available to the people of the State, and such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished by the State by way of assistance under the terms of this agreement.
- D. The sponsor agrees that the property and facilities described in the project agreement shall be operated and maintained as prescribed by the Retention, Operation & Maintenance Responsibilities guidelines of the Manual.
- E. The sponsor agrees that a permanent record shall be kept and available for public inspection to the effect that the property described in the scope of the project agreement, and the dated project boundary map made part of that agreement, has been acquired or developed with program assistance and that it cannot be converted to other than public recreation use.

F. Nondiscrimination

The sponsor shall comply with Title VI of the Civil Rights Act of 1964, which in part,

- 1. prohibits discriminatory employment practices resulting in unequal treatment of persons who are or should be benefiting from the grant-aided facility.
- 2. prohibits discriminating against any person on the basis of residence.

III. Project Assurances

A. Applicable Circulars

The Sponsor shall comply with applicable regulations, policies, guidelines and requirements including State Uniform Grant and Contract Management Act, Federal Office of Management and Budget Circulars A-102 (Uniform administration requirements for grants-in-aid to State and Local governments), OMB A-87 (Cost principles applicable to grants and contracts with State and Local governments), and TRACS (Texas Review and Comment System) as they relate to the application, acceptance and use of State funds for grant assisted projects.

It is the responsibility of the grant sponsor to have a Single Audit done annually according to the Texas Single Audit Circular for state funded projects and according to OMB Circular A-133 for federally funded projects. A copy of this audit must be furnished to the Department when completed.

TEXAS RECREATION & PARKS ACCOUNT  
LAND AND WATER CONSERVATION FUND - GENERAL PROVISIONS-Continued

B. Project Application

1. The application for state assistance bearing the same project name as the agreement and associated documents is by this reference made a part of the agreement.
2. The sponsor possesses legal authority to apply for the grant and to finance and construct the proposed facilities. A resolution or similar action has been duly adopted or passed authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the sponsor to act in connection with the application and to provide such additional information as may be required.
3. The sponsor has the ability and intention to finance the non-State share of the costs for the project. Sufficient funds will be available to assure effective operation and maintenance of the facilities acquired or developed by the project.

C. Project Execution

1. The project period shall begin with the date of approval by the Parks and Wildlife Commission and shall terminate at the end of the stated or amended project period unless the project is completed or terminated sooner, in which event the project period shall end on the date of completion or termination.
2. The sponsor will cause work on the project to be commenced within a reasonable time after receipt of notification that funds have been approved and assure that the project will be prosecuted to completion with reasonable diligence.
3. The sponsor will require the facility to be designed to comply with the minimum requirements for accessibility for the handicapped in conformance with the Texas Architectural Barriers Act (Article 9102 - Texas Civil Statutes), and the Americans with Disabilities Act of 1990 (PL 101-336). The sponsor will be responsible for conducting inspections to ensure compliance with these specifications by the contractor.
4. The sponsor shall secure completion of the work in accordance with approved construction plans and specifications, and shall secure compliance with all Federal, State, and local laws and regulations.
5. In the event the project covered by the project agreement cannot be completed in accordance with the plans and specifications for the project, the sponsor shall bring the project to the point of recreational usefulness agreed upon by the sponsor and the Department.
6. The sponsor will provide for and maintain competent and adequate architectural and engineering supervision and inspection at the construction site to ensure that the completed work conforms with the approved plans and specifications.
7. The sponsor shall furnish quarterly progress status reports to the Department beginning with the date of Parks & Wildlife Commission approval.
8. The sponsor will comply with the provisions of: Executive order 11988, relating to evaluation of flood hazards; Executive Order 11288, relating to the prevention, control, and abatement of water pollution; Executive Order 11990, relating to the protection of wetlands; and the Flood Disaster Protection Act of 1973 (P.L. 93-234) 87 Stat. 975.
9. The sponsor will assist the Department in its compliance with the Texas Antiquities Code (Revised 9/1/87) by
  - (a) consulting with the Texas Antiquities Committee on the conduct of investigations, as necessary, to identify properties listed or eligible for listing as State Archeological Landmarks, and to notify the Department of the existence of any such properties, and by
  - (b) complying with all requirements established by the Department to avoid or mitigate adverse effects upon such properties.

D. Construction

Construction by the sponsor shall meet the following requirements:

1. Contracts for construction must be in compliance with the Local Government Code (<http://lo2.tlc.state.tx.us/statutes/lq.toc.htm>) Chapter 252 (for municipalities), Chapter 262 (for counties), and Chapter 375 (for municipal utility districts). Copies of all advertisements, bids and a copy of the contract shall be provided to the Department.
2. The sponsor shall inform all bidders on contracts for construction that program funds are being used to assist in construction.
3. Written change orders shall be issued for all necessary changes in the facility being constructed. Such change orders shall be submitted to the Department for review and, if approved, shall be made a part of the project file and should be kept available for audit.
4. The sponsor shall incorporate, or cause to be incorporated, into all construction contracts the following provisions:

TEXAS RECREATION & PARKS ACCOUNT  
LAND AND WATER CONSERVATION FUND - GENERAL PROVISIONS-Continued

During the performance of this contract, the contractor agrees as follows:

- (a) The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, gender, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, gender or national origin.
- (b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, or national origin.
- (c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the contractor's commitments under Section 202 of Executive Order No. 11246, as amended (3 CFR 169 (1974), and shall post copies of notices in conspicuous places available to employees and applicants for employment.
- (d) The contractor will comply with all provisions of Executive Order No. 11246, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor.
- (e) The contractor will furnish all information and reports required by Executive Order No. 11246, as amended, and by the rules, regulations, and order of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (f) In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246, as amended, or by rule, regulations, or order of the Secretary of Labor, or as otherwise provided by law.
- (g) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contract will take such action with respect to any subcontract or purchase order as the contracting agency may direct as means of enforcing such provisions, including sanctions for noncompliance: provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

E. Conflict of Interests

1. No official or employee of the State or local government who is authorized in his official capacity to negotiate, make, accept, or approve, or to take part in such decisions regarding a contract or subcontract in connection with this project shall have any financial or other personal interest in any such contract.
2. No person performing services for the State or local government in connection with this project shall have a financial or other personal interest other than his employment or retention by the State or local government, in any contract or subcontract in connection with this project. No officer or employee of such interest is openly disclosed upon the public records of the State, and such officer, employee or person has not participated in the acquisition for or on behalf of the Participant.

F. Project Costs

Project costs eligible for assistance shall be determined upon the basis of the criteria set forth by the Manual.

G. Project Administration

The sponsor shall promptly submit such reports and documentation as the Department may request.

H. Retention and Custodial Requirements for Records

1. Financial records, supporting documents, statistical records, and all other records pertinent to this grant shall be retained for a period of three years after final payment; except the records shall be retained beyond the three-year period if audit findings have not been resolved.
2. The retention period starts from the date of the final expenditures report for the project.
3. Microfilm copies are authorized in lieu of original records.

TEXAS RECREATION & PARKS ACCOUNT  
LAND AND WATER CONSERVATION FUND - GENERAL PROVISIONS-Continued

4. The Department, State Comptroller of Public Accounts, State Auditors Office, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the sponsor which are pertinent to a specific project for the purpose of making audits, examinations, excerpts and transcripts.

I. Project Termination

1. The Department may temporarily suspend program assistance under the project pending corrective action by the sponsor or pending a decision to terminate the grant by the Department.
2. The sponsor may unilaterally terminate the project at any time prior to the first payment on the project. After the initial payment, the project may be terminated, modified, or amended by the sponsor only by mutual agreement with the Department.
3. The Department may terminate the project in whole, or in part, at any time before the date of completion, whenever it is determined that the sponsor has failed to comply with the conditions of the grant. The Department will promptly notify the sponsor in writing of the determination and the reasons for termination, together with the effective date. Payments made to the sponsor or recoveries by the Department under projects terminated for cause shall be in accord with the legal rights and liabilities of the parties.
4. The Department or sponsor may terminate grants in whole, or in part, at any time before the date of completion, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portions to be terminated. The sponsor shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Department may allow full credit to the sponsor for the State share of the non-cancelable obligations, property incurred by the sponsor, pending written receipt of the determination and the reasons for termination, together with the effective date. Payments made to the sponsor or recoveries by the Department under projects terminated for cause shall be in accord with the legal rights and liabilities of the parties.
5. Termination either for cause or for convenience requires that the project in question be brought to a state of recreational usefulness agreed upon by the sponsor and the Department, or that all funds provided by the Department be returned.

J. Noncompliance

In the event that the sponsor does not comply with provisions as set forth in the grant project agreement and the Manual regarding both active project compliance and compliance at previously assisted grant sites, the following actions may be taken:

1. The Department may withhold payment to the sponsor;
2. The Department may withhold action on pending projects proposed by the sponsor;
3. If the above actions do not achieve program compliance, the Department may involve the State Attorney General's Office, pursuant to Section 24 of the Parks & Wildlife Code.

\* \* \* \* \*

**I have read the General Provisions and understand that the project sponsor which I represent will be responsible for compliance with the above conditions as a result of the receipt of grant assistance from the Texas Recreation & Parks Account Program or the Land and Water Conservation Fund. It is also understood that the General Provisions are part of the grant project agreement.**

Project Name and Number: HAYS COUNTY Jacob's Well Natural Area, Project Number 48-001122

\_\_\_\_\_  
Signature of Official Authorized in Resolution

The Honorable Bert Cobb, M.D., Hays Co. Judge  
Name and Title

\_\_\_\_\_  
Date

**SUMMARY OF GUIDELINES**  
**FOR ADMINISTRATION OF LOCAL PARK GRANT PROGRAM PROJECTS**  
(Revised January 2008)

The Texas Parks & Wildlife Commission, by authority of Chapters 13 and 24 of the Parks & Wildlife Code, has adopted Guidelines for Administration of Grant Acquisition and Development Projects, to read as follows:

It is the Commission's policy that the Department shall administer local projects in accord with the following guidelines, with interpretation of intent to be made to provide the greatest number of public recreational opportunities for citizens of Texas.

Approved projects shall be pursued in a timely manner by the sponsor, unless delays result from extraordinary circumstances beyond the sponsor's control. Failure to meet the following time frames may be grounds for the Department to initiate cancellation of the affected project in order to recommend reallocation of available funds to other projects, or to deny requests for additional grant funds for new projects:

ACTIVITY	TIME FRAME
Commission Approval	Begin 3-year project period (4-year max)
Grant Agreement Execution (Department & Sponsor)	As soon as possible after Commission approval
Pending Documentation such as: <ul style="list-style-type: none"> <li>• U.S. Army Corps of Engineers 404</li> <li>• TCEQ Permits</li> <li>• Environmental Resources Survey</li> <li>• THC Cultural Resources Survey and Clearance</li> <li>• TPWD Biological Consultations</li> <li>• ROW Abandonment</li> <li>• Lease/Joint-Use Agreement Execution, etc.</li> </ul>	Within 6 months of grant agreement date
Quarterly Status Reports (beginning with Commission approval)	On or before January 15 <sup>th</sup> , April 15 <sup>th</sup> , July 15 <sup>th</sup> and October 15 <sup>th</sup>
Appraisal Submission	As soon as possible after grant agreement date
Appraisal Approval	Within 6 months of appraisal submission
Land Acquisition	As soon as possible after appraisal approval
Construction Plan Submission	Within 6 months of land acquisition for projects involving acquisition, or Within 6 months of grant agreement date for development only projects.
Periodic Reimbursement Billings	Every 90 days <u>if possible</u> (minimum \$10,000 request)
Project Completion and Grant Close-Out	Within 3 years after Commission approval (but in no case after the 4 <sup>th</sup> fiscal year)

**SUMMARY OF GUIDELINES (Continued)**

The following criteria will be used to determine sponsor eligibility for additional funding:

- Funding history and previous performance
- All previously completed Department sponsored grant projects must be in compliance with all the terms of the Project Agreement under which they received assistance and all program guidelines; and
- For active grants, all required project documentation (such as appraisals, construction plans, quarterly status reports, and reimbursement requests) must be complete and have been received on schedule, if due; and
- All active projects which are at least two years old must be reimbursed for a minimum fifty percent of the approved grant amount; and
- The total of approved grant funds which have not been reimbursed may not exceed \$2 million for all active grant projects.

A grantee may also be considered to be "high risk" based on financial stability or non conforming management standards, requiring additional special conditions and restrictions as determined by grant management standards.

FAILURE TO MEET ANY ONE OF THE ABOVE CRITERIA MAY BE GROUNDS FOR DENYING NEW GRANT FUNDS. ASSESSMENT OF THE ABOVE CRITERIA IN CONJUNCTION WITH REQUESTS FOR NEW GRANTS WILL BE MADE PRIOR TO SUBMISSION OF FUNDING RECOMMENDATIONS TO THE PARKS AND WILDLIFE COMMISSION.

\* \* \* \* \*

I have read the "Summary of Guidelines for Administration of Local Park Grant Program Projects" and understand that the project sponsor, which I represent, will be responsible for compliance with the above conditions as a result of the receipt of grant assistance from the Local Park Grants Program. It is also understood that the "Summary of Guidelines for Administration of Local Park Grant Projects" is part of the grant Project Agreement.

\_\_\_\_\_  
Signature of Official Authorized in Resolution

\_\_\_\_\_  
Date

The Honorable Bert Cobb, M.D., Hays County Judge  
Name and Title

HAYS COUNTY Jacob's Well Natural Area, 48-001122  
Project Name and Number

U.S. Department of the Interior

Certifications Regarding Debarment, Suspension and  
Other Responsibility Matters, Drug-Free Workplace  
Requirements and Lobbying

Persons signing this form should refer to the regulations referenced below for complete instructions:

Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions - The prospective primary participant further agrees by submitting this proposal that it will include the clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. See below for language to be used or use this form certification and sign. (See Appendix A of Subpart D of 43 CFR Part 12.)

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions - (See Appendix B of Subpart D of 43 CFR Part 12.)

Certification Regarding Drug-Free Workplace Requirements - Alternate I. (Grantees Other Than Individuals) and Alternate II. (Grantees Who are Individuals) - (See Appendix C of Subpart D of 43 CFR Part 12)

Signature on this form provides for compliance with certification requirements under 43 CFR Parts 12 and 18. The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of the Interior determines to award the covered transaction, grant, cooperative agreement or loan.

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**PART A: Certification Regarding Debarment, Suspension, and Other Responsibility Matters-  
Primary Covered Transactions**

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CHECK  IF THIS CERTIFICATION IS FOR A PRIMARY COVERED TRANSACTION AND IS APPLICABLE.

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
  - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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**PART B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -  
Lower Tier Covered Transactions**

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CHECK  IF THIS CERTIFICATION IS FOR A LOWER TIER COVERED TRANSACTION AND IS APPLICABLE.

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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**PART C: Certification Regarding Drug-Free Workplace Requirements**

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CHECK  IF THIS CERTIFICATION IS FOR AN APPLICANT WHO IS NOT AN INDIVIDUAL.

**Alternate I. (Grantees Other Than Individuals)**

A. The grantee certifies that it will or continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about--
  - (1) The dangers of drug abuse in the workplace;
  - (2) The grantee's policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will --
  - (1) Abide by the terms of the statement; and
  - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted --
  - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a) (b), (c), (d), (e) and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

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Check \_\_\_ if there are workplaces on files that are not identified here.

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**PART D: Certification Regarding Drug-Free Workplace Requirements**

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CHECK \_\_\_ IF THIS CERTIFICATION IS FOR AN APPLICANT WHO IS AN INDIVIDUAL.

**Alternate II. (Grantees Who Are Individuals)**

- (a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;
- (b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to the grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

DI-2010  
June 1995  
(This form replaces DI-1953, DI-1954,  
DI-1955, DI-1956 and DI-1963)



**PART E: Certification Regarding Lobbying**  
**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

CHECK  IF CERTIFICATION IS FOR THE AWARD OF ANY OF THE FOLLOWING AND THE AMOUNT EXCEEDS \$100,000: A FEDERAL GRANT OR COOPERATIVE AGREEMENT; SUBCONTRACT, OR SUBGRANT UNDER THE GRANT OR COOPERATIVE AGREEMENT.

CHECK \_\_\_ IF CERTIFICATION FOR THE AWARD OF A FEDERAL LOAN EXCEEDING THE AMOUNT OF \$150,000, OR A SUBGRANT OR SUBCONTRACT EXCEEDING \$100,000, UNDER THE LOAN.

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

As the authorized certifying official, I hereby certify that the above specified certifications are true.

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL

The Honorable Bert Cobb, M.D., Hays County Judge

\_\_\_\_\_  
TYPED NAME AND TITLE

\_\_\_\_\_  
DATE

