

**AGENDA ITEM 36**

Discuss property damage claims (EXECUTIVE SESSION as per VTCA Govt. Code sec 551.071 consultation with attorney.)

No action was taken in Executive Session.

**COMMISSIONERS' COURT RECONVENED FROM EXECUTIVE SESSION AT 11:26 A.M. ON TUESDAY, FEBRUARY 19, 2002.**

**AGENDA ITEM 37**

Discuss and take appropriate action on real estate.

No action was taken on this agenda item.

**AGENDA ITEM 38**

Discuss and take appropriate action on Oakwood Center in Granger.

Moved: **Commissioner Limmer**

Seconded: **Judge Doerfler**

Motion: To purchase the Oakwood Center in Granger at a price no higher than \$1,075,000.00.

Vote: 3 – 0. **Commissioner Hays was absent from the dais.**

**AGENDA ITEM 39**

Discuss and take appropriate action on property damage claims.

This agenda item addresses vehicle damage claims against URS.

Moved: **Commissioner Heiligenstein**

Seconded: **Judge Doerfler**

Motion: That no action be taken, emphasizing the position that the County is not liable unless negligent, and in this situation there was no negligence.

Vote: 3 – 0. **Commissioner Hays was absent from the dais.**

**AGENDA ITEM 40**

Comments from commissioners.

**Commissioner Heiligenstein** reminded the court that there is a CUC meeting this Thursday, and that several State Representatives have been invited to attend the meeting.

**COMMISSIONERS' COURT RECESSED AT 11:28 A.M. ON TUESDAY, FEBRUARY 19, 2002.**

**COMMISSIONERS' COURT RECONVENED AT 1:30 P.M. ON TUESDAY, FEBRUARY 19, 2002.**

**AGENDA ITEM 41**

Road Bond Work Session.

Road Bond Manager **Mike Weaver** of Prime Strategies addressed the court with an overview of the status of the road bond projects.

**Alan Glen** of Smith, Robertson, Elliott & Glen discussed mitigation alternatives and the existing letter of understanding with the U.S. Fish & Wildlife Service.

**Steve Paulson** of Athabasca Consulting, Inc. discussed karst funds and how they work, and gave an overview of a typical karst management plan.

Attorney **Charlie Crossfield** addressed the court concerning the role of a 501(c)3 non-profit corporation for karst fund management.

Moved: **Commissioner Hays**

Seconded: **Commissioner Limmer**

Motion: To authorize Alan Glen to submit the draft of the Williamson County Karst Fund Agreement to U.S. Fish & Wildlife for their review and comment.

Vote: **3 – 0. Commissioner Heiligenstein was absent from the dais.**

**Dan Wegmiller** of First Southwest Company discussed funding scenarios for road projects and bond sales.

< Attachment >

**Williamson County Commissioners Court  
Road Bond Program Worksession  
Tuesday, February 19, 2002**

1. Introduction and overview of status, *Michael J. Weaver, Prime Strategies, Inc.*
2. Bond sale status - timetable, road and park bond amounts, debt service, *Dan Wegmiller, First Southwest Company*
3. Review of Approach to Road Approvals/Mitigation, *Alan M. Glen, Smith, Robertson, Elliott & Glen*
  - a. Alternatives considered
  - b. Existing Letter of Understanding (LOU) with US Fish & Wildlife Service
  - c. Description of Section 7 and Section 10 processes
4. Status of Karst Conservation Effort, *Steve Paulson, Athabasca Consulting, Inc.*
  - a. Overview of how karst fund will work
  - b. List of caves identified for potential management enhancement/credit
  - c. Overview of typical karst management plan
  - d. Spread sheet of typical karst management costs/endowment need
  - e. Review need for new cave acquisition in addition to management of existing caves
5. Q&A

02/19/2002

| PROJECT  | Engineer         | DESIGN            |                  | CONSTRUCTION (ORIGINAL) |                    | CONSTRUCTION (REVISED) |                  | PROGRESS - ACTION ITEMS - REMARKS  |
|--|------------------|-------------------|------------------|-------------------------|--------------------|------------------------|------------------|--|
|  |                  | START DATE        | FINISH DATE      | START DATE              | FINISH DATE        | START DATE             | FINISH DATE      |  |
| Cedar Hollow at SH 29  | Haynie           | -                 | -                | -                       | -                  | -                      | -                | Project completed.   |
| Chandler Road Phase I - (FM1460 - CR110) Phase II - (CR110 FM1660) | Dennison         | 3/21/01<br>2/1/02 | 3/1/02<br>8/1/02 | 3/1/02<br>7/1/02        | 9/2/02<br>12/27/02 | 9/1/02<br>11/1/02      | 9/2/03<br>5/1/03 | Met with Kymn Cole and Jerry Fuhs regarding property line determination for Avery/Nelson tracts. Nelson property going to condemnation - forcing moving the Phase 1 date to September. May combine both Phase 1 and 2 into one construction package if date slips any further.   |
| CR 137 (County Line to FM 1660)                                    | Pate             | 6/18/01           | 4/4/02           | 9/2/02                  | 7/1/03             | 9/2/02                 | 7/1/03           | Public meeting to be held on February 27th on-site @ 5:30. Septic field is active and is pump-fed. Owner has a contractor trying to determine a new location for the field. Pate will obtain estimated cost of design and construction of relocated field. Should have the reports back soon.  |
| CR 175 (FM 1431 to CR 176)   | Baker-Aiken      | 12/28/01          | 5/2/03           | 6/18/02                 | 10/15/03           | 7/22/02                | 11/15/03         | Submit 75% plans by end of Feb. 2002. Anticipating ROW acquisition be completed by Mar 2002. To set up another utility coordination meeting by end of Feb. Investigating how to integrate waterline in park/road construction.   |
| CR 200 (CR 201 to Lasky Creek)                                     | KC               | 12/1/001          | 6/28/02          | 10/1/02                 | 1/31/03            | 10/2/02                | 2/3/03           | PER to be completed by 2/15/02.  |
| CR 214 (SH 29 to Rolling Hills Rd.)                                | Carber & Burgess | 6/1/01            | 3/1/02           | 3/3/03                  | 9/28/03            | 3/3/03                 | 7/18/03          | 90% complete. Coordination with Huggins-Seller at the intersection of CR 214 & SH 29 is complete. Still on hold.   |
| CR 214A (realignment at FM 1889)                                   | Huggins - Seller | 12/17/01          | 7/17/02          | 2/3/03                  | 8/4/03             | 2/3/03                 | 8/4/03           | Commissioner Boatright is considering options. It may be that we complete the original 214 project with improved intersection on both sides of SH 29 and ask the City of Liberty Hill to reserve ROW for a future 214A or re-alignment of FM 1889 whichever the case may be. I will be meeting with the Commissioner Monday at 3:30pm. Field survey not started. |
| CR 276 (Parmer Lane to Bagdad Rd.)                                 | Makore - Wheeler | 5/1/01            | 8/22/02          | 6/3/02                  | 3/3/03             | 10/2/02                | 7/9/03           | Preliminary Engineering Report will be complete by late March.   |
| CR 300/CR 301 (FM 972 to FM 971)                                   | Pate             | 12/4/01           | 4/8/02           | 7/1/02                  | 5/1/03             | 7/24/02                | 12/10/02         | PER for CR 300/CR 326 intersection submitted for review/80% plans for CR 300 submitted for review. Diamond Surveying submitted request for title reports about 2 weeks ago - has received nothing back yet. Diamond advised the surveys can be done in a few days to a week once the reports are received. Advised Sheets & Crossfield of the Diamond schedule.  |
| CR 368/369 (CR 101 to CR 366)                                      | Haynie           | 3/5/01            | 12/28/01         | 1/15/02                 | 7/1/02             | 3/4/02                 | 8/18/02          | Bid opening was held 2/14. Eleven (11) bids submitted. Apparent low bid, Camp Excavation @ \$1,038,731.80. Second low bid @ \$1,050,723. High bid @ \$1,449,621.74. Anticipate March 5 court date for award. Haynie preparing Work Authorization to perform Construction Observation.  |

| PROJECT  | Engineer         | DESIGN     |             | CONSTRUCTION (ORIGINAL) |             | CONSTRUCTION (REVISED) |             | PROGRESS - ACTION ITEMS - REMARKS   |
|--|------------------|------------|-------------|-------------------------|-------------|------------------------|-------------|---|
|  |                  | START DATE | FINISH DATE | START DATE              | FINISH DATE | START DATE             | FINISH DATE |   |
| CR 412 (FM 619 to CR 421)  | Inland CMI       | 2/2/01     | 2/1/02      | 5/2/02                  | 11/18/02    | 5/15/02                | 11/29/02    | 75% complete. Will submit 90% plans for review on 2/18/02.  |
| Georgetown Inner Loop - FM 2338 to D.B. Woods (Project 1): Cedar Breaks              | PBS&J            | 9/18/00    | 1/18/02     | 4/1/02                  | 9/15/03     | 4/15/02                | 9/26/03     | Modified front end documents and sent out amendment. Prebid meeting on Feb 20. Advertisement date 2/13/02. Addendum to issued this week to incorporate General Conditions.  |
| Georgetown Inner Loop - D.B. Woods Reconstruction - Middle Fork to SH 28 (Project 2) | PBS&J            | 9/1/00     | 10/31/02    | 11/18/01                | 7/1/02      | 1/23/02                | 10/1/02     | HNTB is providing construction observation services. B&R construction observer contract on court agenda for the 19th. Contractor has completed 4 of 5 cross drainage culverts. No safety and treatments (S.E.T.) installed. Upstream S.E.T.'s on two (2) culverts in conflict with City waterline. PBS&J developing solution. Erosion Control devices in place. Work is progressing as scheduled. |
| Georgetown Inner Loop - SH 28 to FM 2243: D.B. Wood Reconstruction (Project 3)       | Sieger & Bizzell | 2/2/01     | 1/2/02      | 2/1/02                  | 4/2/03      | TBA                    | TBA         | Construction plans have been completed and all permits in place; waiting on right-of-way.   |
| Georgetown Inner Loop - FM 2243 to IH-35 (Project 4)                                 | HDR              | 8/1/01     | 6/28/02     | -                       | -           | -                      | -           | Continue to develop corridor improvements for environmental assessment. Continue to review traffic data and perform traffic analysis. Implemented TransCad program. HDR will provide Aci with a corridor for constraints mapping. Aci to prepare work authorization. Need a determination on splitting environmental work between Aci and HDR (if desired).                                       |
| Georgetown Inner Loop - 2338 to Shell Road: Shell Road Realignment (Project 5)       | PBS&J            |            | ON HOLD     | -                       | -           | -                      | -           | On hold.  |
| Georgetown Inner Loop (East) - SH 28 to FM 971 (Segment 2): FM 971 to IH 35          | Sieger & Bizzell | 9/30/01    | 6/28/02     | 5/1/02                  | 2/3/03      | 9/2/02                 | 8/5/03      | Segment 1: Construction plans 80%, geotechnical drilling to start within two weeks dependent on weather and access. Working with TXU and LCRA concerning transmission line and easements, preparing row maps and staking row. Have field notes on 4 tracts to Sheets & Crossfield. Segment 2: Ongoing coordination meetings with City of Georgetown.  |
| Lakeline Blvd. (Lyndhurst to Parmer Lane)  | Carter & Burgess | 11/2/01    | 10/1/02     | 1/2/03                  | 2/28/04     | 1/2/03                 | 2/25/04     | 2-7-02 Met with Robert Wurach to determine project status/direction. 2-7-02 Called landowner Mrs. Savage to see where they were at concerning signing the donation contract sent by the County. She indicated there were several things she and her lawyer wanted to be revised before signing. Ms. Savage has provided a list of revisions to the County. Discussions underway with attorneys.   |
| McNeil Road (County Line/McNeil Cutoff to proposed SH 45)                            | Gray Jarrell     | 4/3/01     | 7/1/02      | 8/1/02                  | 2/2/04      | 8/1/02                 | 2/2/04      | Review of 30% plans completed, waiting on selection of preferred alignment. Continue to coordinate with Pata and SBC for necessary relocation of fiber optic at SH 45/ McNeil Rd interchange. Need direction on how stormwater will be handled on Austin White Lime property (re: Round Rock stormwater detention).   |

| PROJECT  | Engineer         | DESIGN     |                  | CONSTRUCTION (ORIGINAL)               |                   | CONSTRUCTION (REVISED) |                   | PROGRESS - ACTION ITEMS - REMARKS  |
|--|------------------|------------|------------------|---------------------------------------|-------------------|------------------------|-------------------|--|
|  |                  | START DATE | FINISH DATE      | START DATE                            | FINISH DATE       | START DATE             | FINISH DATE       |  |
| Parmer Lane<br>South<br>(FM 1431 to FM 2243)<br>(FM 2243 to SH 29)                         | TC&B             | 5/8/01     | 2/3/03<br>8/2/03 | 5/1/02<br>8/5/02                      | 2/3/03<br>7/18/03 | 5/1/02<br>10/1/02      | 2/4/03<br>9/15/03 | Phase I: 80% plan review to TC&B on 2/15/02. Work continues on PS&E, retaining walls, and signal warrants at FM 1431 and FM 2243. Met with one property owner to discuss a median opening to his property. Awaiting direction as to whether illuminate FM 1431, CR 272, and FM 2243 intersections. Awaiting direction on adding lanes to FM 1431, FM 2243, and SH 29. Phase II: 90% schematics are complete awaiting final review.   |
| Parmer Lane<br>North (SH 29 to FM 2338)  | PBS&J            | 3/26/01    | 12/31/02         | 3/3/03                                | 9/3/04            | 3/3/03                 | 9/3/04            | Continue to develop preferred alignment. Survey on obscured areas continues. PBS&J will accompany Geddoch and Environmental Consultants on their field work. Continue to finalize traffic study at intersections at FM 3405 and FM 2338. County Engineer meeting with property owners.   |
| Pond Springs<br>Road/Turtle Rock<br>Road   | WHM/ Huggins     | 11/8/01    | 3/1/02           | 11/8/01                               | 3/1/02            | 1/3/02                 | 4/30/02           | Waiting on delivery of signal poles for installation (first of April). Meeting held Feb. 13 with WHM, Joe England, Austin Bridge & Road, HNTB & City of Austin to confirm traffic signal equipment requirements, electrical power meter & billing arrangement. Final Striping. Ty II only, complete north of Turtle Rock. South of Turtle Rock striped with temp. tabs. TxDOT will maintain tabs and install permanent striping south of Turtle Rock when Culvert Headwall are complete. WHM will prepare CO to incorporate signal requirements and striping adjustments.                            |
| River Bend Oaks<br>Subdivision   | Haynie           | 5/2/01     | 11/9/01          | 1/8/02                                | 4/4/02            | 3/1/02                 | 5/14/02           | Bids opened 1/17. Problems with obtaining easements. Design altered to reduce number of easements in late January. Easements should be obtained by the end of February. Will issue notice of award at that time.   |
| SH 29 at FM 1869<br>(Traffic Signal)   | Huggins - Sailer | 3/2/01     | 12/20/01         | 4/1/02                                | 7/12/02           | 5/1/02                 | 8/20/02           | PS&E package resubmitted to TxDOT. Joe England and Huggins-Sailer met with Bubba Needham and resolved the signal issue. The design is now satisfactory to the engineers and the state. Joe will go ahead and prepare payment to TxDOT under Master Funding Agreement and take into account the removal of the flashing light which is not in the standard bid-cost package for contractors on the revolving list. It will have to be a change-order to the standard construction work authorization. It no longer stops SH 29 and create a difficult stacking dilemma for a future signal at CR 214. |
| US 79 (CR 110 to Millam County Line)<br>Section 1 (CR 100 to Hubbo)<br>Section 2 (Hubbo to | Carter & Burgess | 4/9/01     | 2/3/03           | 3/14/2003<br>Subject to TxDOT funding | 6/4/04            | 3/14/03                | 6/4/04            | Submitted Section 1 revised schematic to TxDOT for review and requested CSJ on whole corridor. Commission has met. Continued development of schematic from Hubbo to Taylor. Met with Martinez, Wright and Mendez to discuss the intersection of CR 136 and US 79 (Hubbo Bypass). Met with Pale Engineering to discuss the intersection of CR 119 and US 79.  |
| Wyoming Springs<br>South (FM 620 to McNeil Road)   | Baker-Auklen     | 2/1/02     | 6/27/02          | 3/13/03                               | 3/24/04           | 3/13/03                | 3/24/04           | Approved at CAMPO meeting on February 11. Baker-Auklen presented 5 alternative alignments to Commissioner Heiligenstein for review. Preliminary survey indicated environmental features that may affect current alignment. Awaiting results of environmental review.   |
| Wyoming Springs<br>North (FM 1431 to Sam Bass Road/Brushy Creek)                           | Haynie           | 8/2/01     | 6/21/02          | 3/1/02                                | 8/30/02           | 9/3/02                 | 3/4/03            | ROW under review by Commissioner. Engineer preparing contract amendment for Phase 2.   |
| Hubbo By Pass<br>(CR 136 - CR 110)   | Pale             | 6/25/01    | 12/31/02         | -                                     | -                 | 3/3/03                 | 12/5/03           |  |

02/19/2002

| PROJECT   | Engineer | DESIGN     |                    | CONSTRUCTION (ORIGINAL) |             | CONSTRUCTION (REVISED) |                    | PROGRESS - ACTION ITEMS - REMARKS  |
|---|----------|------------|--------------------|-------------------------|-------------|------------------------|--------------------|--|
|   |          | START DATE | FINISH DATE        | START DATE              | FINISH DATE | START DATE             | FINISH DATE        |  |
| CR 118 (Hump By Pass - US 79)                                   | Pate     | 1/1/02     | 7/15/02            | 11/1/02                 | 5/1/03      | 11/1/02                | 5/1/03             | Pate Engineers, Inc. met with Carter & Burgess on 2/4/2002 and discussed the alignment/intersection of US 79 and CR 118. Pate continues to coordinate with Carter & Burgess on the proposed intersection improvements.               |
| Bridge Replacements (CR 406, CR 390 & CR 427) (CR 351 & Cr 434) | HDR      | 11/14/01   | 2/15/02<br>6/14/02 | -                       | -           | 4/15/02<br>8/2/02      | 10/14/03<br>5/2/03 | CR 406 - Survey complete, begin to develop horizontal and vertical alignments. CR 390 - survey complete, working on survey files. CR 427 - Awaiting survey ROE's. CR 351 - Awaiting on few survey ROE's. CR 434 - Finalizing survey. |
| CR 258  |          |            |                    |                         |             |                        |                    | Scheduling project Kick-off Meeting.   |

John C. Doerfler  
County Judge  
Williamson County



WILLIAMSON COUNTY COURTHOUSE  
710 MAIN, SECOND FLOOR  
GEORGETOWN, TEXAS 78626  
PHONE (512) 943-1550  
FAX (512) 943-1662

June 20, 2001

Mr. David C. Frederick  
U.S. Fish and Wildlife Service  
Austin Ecological Services Field Office  
10711 Burnett Road, Suite 200  
Austin, Texas 78758

Re: Williamson County Road Program

Dear Mr. Frederick:

As you are aware, in November of 2000 the citizens of Williamson County (the "County") authorized the issuance of \$350 million in general obligation bonds for the purpose of expansion and improvement of the road and highway system in Williamson County through a wide variety of projects (collectively the "Road Program"). Williamson County intends to implement the various projects comprising the Road Program in a manner consistent with the requirements of the Endangered Species Act (ESA) and other applicable federal and state environmental laws and regulations.

To that end, Williamson County representatives began discussions with you and other personnel of the U.S. Fish and Wildlife Service (USFWS) several months ago to identify Road Program opportunities and constraints presented by the ESA and to establish an efficient procedure whereby the County and USFWS could evaluate, process, and approve Road Program projects under the ESA. This letter, although legally non-binding, is intended to reflect the understandings reached between the County and USFWS regarding the review and processing of those few Road Program projects that may cause unavoidable impacts to listed species.<sup>1</sup> The County has greatly appreciated the assistance provided by you and your staff, and looks forward to maintaining a positive working relationship into the future.

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<sup>1</sup> Listed species that may be impacted include: Golden-cheeked warbler (*Dendroica chrysoparia*); Black-capped vireo (*Vireo atricapillus*); Bone Cave harvestman (*Texella reyesi*); Coffin Cave mold beetle (*Batrises texanus*); and Tooth Cave ground beetle (*Rhadine persephone*).

The County and USFWS have agreed to the following actions, procedures, and understandings:


1. Cooperative Review of Regional Opportunities and Constraints. The County has retained the environmental consulting firm of ACi to review on a regional scale the ESA opportunities and constraints presented by the projects comprising the Road Program. This involves identifying important areas of species' habitat, recovery status and needs of key species, areas of potential project impacts, and mitigation opportunities. The County and USFWS agree to work cooperatively in completing this review and to utilize the information gathered to assist in project planning and approvals and to identify key areas for potential preservation to provide mitigation for project impacts and to further species' recovery objectives.
  2. Project-Specific Review. USFWS will cooperate with the County in evaluating potential species impacts of specific projects and opportunities and alternatives for avoidance, minimization, and mitigation of such impacts.
  3. Project-Specific Consultation and Permitting. With respect to projects where species' impacts cannot be practicably avoided, USFWS will, to the fullest extent practicable, expedite project approval through appropriate ESA mechanisms, which may include, without limitation, consultations pursuant to ESA Section 7(a)(2) or incidental take permitting pursuant to ESA Section 10(a).
  4. Preservation Program. In order to provide a means to mitigate potential project impacts and to foster species conservation and recovery, USFWS and the County will cooperate with respect to the acquisition of important species habitat. This will include identification of biological value for potential future credit and long-term operations and maintenance needs. The County and USFWS are particularly interested in utilizing conservation bank agreements as a mechanism to establish and maintain the mitigation values of areas to be preserved and the terms upon which such mitigation values may be utilized by the County. It is contemplated that such conservation bank agreements may grant the County, or its designee conservation banker, the ability to utilize the credits created in connection with future County projects or to sell such credits to third parties, such as private developers and other governmental entities, requiring mitigation for actions separately authorized by USFWS.
  5. Funding Limitations. USFWS and the County recognize that while the County does have some funding available for acquisition and preservation of important endangered species habitat, that funding is limited. Accordingly, USFWS and the County will cooperate in seeking other sources of funding, which may include federal or state grants and third-party participation.
  6. Agency Coordination. The County and USFWS will work together to assure proper coordination with other appropriate federal and state agencies, including without limitation the EPA, U.S. Army Corps of Engineers, TNRCC, and Texas Parks and Wildlife Department (TPWD). USFWS will discuss all agency coordination in
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advance with appropriate County representatives. Given the nature of the issues presented and certain provisions of state law, coordination with TPWD is considered particularly important to the success of this effort.

7. State Law Compliance. The County and USFWS are familiar with the provisions of Chapter 83 of the Texas Parks and Wildlife Code, which establishes certain procedures and requirements applicable to ESA permitting by a Texas municipality or County. The parties acknowledge that at this time the County is not seeking to implement a "regional habitat conservation plan" within the meaning of Section 83.011 of the Texas Parks and Wildlife Code. Rather, the County will seek, as necessary or appropriate, individual "permits" for those Road Program projects that will require ESA authorization. Nevertheless, the County stresses that it is vitally interested in addressing species' conservation in a regional context and that, wherever practicable, project alternatives and mitigation will be designed to provide regional benefits.

8. Timeliness. USFWS acknowledges that there are significant traffic and safety needs in Williamson County to be addressed in part through Road Program projects and USFWS agrees that, to the fullest extent practicable, it will work expeditiously with the County to process project reviews, consultations, and permits.

Williamson County welcomes this opportunity to work with USFWS. The County requests that USFWS concur with the objectives and goals set out in this letter by providing its signature below.

  
The Hon. John C. Doerfler  
County Judge

Concurred on June 21, 2001

U.S. FISH AND WILDLIFE SERVICE

By: William Seawell

Name: WILLIAM SEAWELL

Title: ASSISTANT FIELD SUPERVISOR

**D R A F T****WILLIAMSON COUNTY KARST  
CONSERVATION FUND AGREEMENT****between****U.S. Fish and Wildlife Service****and****[Foundation]**

This WILLIAMSON COUNTY KARST CONSERVATION FUND AGREEMENT (the "Agreement") is made to be effective as of \_\_\_\_\_, 2002, by and between the U.S. FISH AND WILDLIFE SERVICE (the "Service") and the \_\_\_\_\_ (the "Foundation") to establish the Williamson County Karst Conservation Fund (the "Fund").

**1.0 PURPOSES AND OBJECTIVES**

This Agreement is entered into between the Service and the Foundation for the purposes of creating a fund for the conservation and recovery of certain listed karst invertebrates in Williamson County, Texas (the "Species," as more particularly defined below), and a mechanism to provide mitigation of impacts to such Species authorized by other actions of the Service. The Foundation will manage the Fund for these purposes in coordination with the Service. The Fund will accept private and/or public funds to be used for conservation and recovery of the Species. Conservation and recovery actions to be funded may include, without limitation, funding and/or direct implementation of karst preserve acquisition (through fee title, conservation easement, or other legal mechanism); operation, management, monitoring, and adaptive management of karst preserves so acquired or of other karst areas currently lacking an established, operations, management, and adaptive management program; monitoring, scientific study, and public education.

**2.0 AUTHORITY**

This Agreement is entered into under the authority of the Fish and Wildlife Coordination Act, 16 U.S.C. §§ 661-666c, the Fish and Wildlife Act of 1956, 16 U.S.C. § 742(f) et seq., and the Endangered Species Act of 1973, 16 U.S.C. § 1531 et seq., as amended ("ESA"), which authorizes the Service to provide assistance to, and cooperate with, State and private organizations in activities that provide for the management, conservation, and protection of fish, wildlife, and plant resources. Under the ESA, the Service is responsible for the listing and recovery of listed wildlife, and cooperating with State and Federal agencies to achieve recovery of listed species. In addition, pursuant to Section 6 of the ESA, the Service is authorized to enter into cooperative agreements with any State that establishes and maintains an adequate and active program for the conservation of endangered species and threatened species.

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After consideration of all relevant circumstances, USFWS has determined that the establishment of the Williamson County Karst Conservation Fund pursuant to this Agreement is not a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act and applicable regulations, and therefore that preparation of an environmental assessment or environmental impact statement is not required. Any activity using Conservation Credits under this Agreement will be subjected to appropriate separate environmental review, including consultation and/or permitting under Sections 7 and/or 10 of the Endangered Species Act.

**3.0 PARTIES****3.1 U.S. Fish and Wildlife Service**

The U.S. Fish and Wildlife Service is the principal Federal agency responsible for conserving, protecting, and enhancing fish, wildlife, and plants and their habitats for the continuing benefit of the American people. The Service manages the 93-million-acre National Wildlife Refuge System that encompasses more than 535 national wildlife refuges. The Service also operates 66 national fish hatcheries, 64 fishery resource offices, and 78 ecological services field stations. The Service enforces Federal wildlife laws, including the ESA. The U.S. Fish and Wildlife Service's mission is working with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people.

**3.2 Foundation**

The Foundation is a non-profit Texas corporation formed for the purpose of creating, operating, and maintaining the Williamson County Karst Conservation Fund and implementing associated Conservation Actions. The Foundation closely coordinates its activities with Williamson County, which has entered into a letter of understanding with the Service dated June 20, 2001, outlining procedures for reviewing, authorizing, and mitigating potential impacts of Williamson County projects on species listed as endangered or threatened under the ESA.

**4.0 DEFINITIONS**

The following terms as used in the Agreement shall have the meanings set forth below:

"Agreement" means this Agreement and all exhibits attached hereto.

"Conservation Action" shall have the meaning set forth in Section 5 below.

"Conservation Credit" means a unit of exchange for compensatory mitigation created under

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this Agreement through the implementation of Conservation Actions. Conservation Credits will be available for conveyance to Williamson County and third parties on such terms as the Parties may determine for the purposes of mitigating impacts to the Species authorized by separate action of the Service.

“Conservation Easement” means a conservation easement established to conserve biological resources, and which imposes certain habitat management obligations with respect to the property described therein.

“Consultation” means any conferences or consultations, formal or informal, conducted among one or more federal agencies, the Service, and/or applicants pursuant to Section 7 of the ESA (16 U.S.C. § 1536).

“Credit Purchaser” refers to any third-party purchaser of one or more Conservation Credits.

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

“Habitat Conservation Plan” and “HCP” mean conservation plans and/or incidental “take” permits prepared and/or issued pursuant to Section 10(a) of the ESA (16 U.S.C. § 1539(a)).

“Parties” shall mean the Foundation and the Service.

“Service” means the United States Fish and Wildlife Service, an agency of the United States Department of Interior.

“Service Area” means Williamson County, Texas. Within the Service Area, impacts to the Species may be mitigated through the use of Conservation Credits consistent with this Agreement. Impacts occurring outside the Service Area can be mitigated through the use of Conservation Credits only with the prior written approval of the Service.

“Species” means karst invertebrate species listed as endangered under the ESA and occurring in Williamson County, Texas, including currently the Bone Cave harvestman (*Texella reyesi*), Coffin Cave mold beetle (*Batrisodes texanus*), Tooth Cave ground beetle (*Rhadine persephone*), and such other species as the Service and the Foundation from time to time agree in writing should be added to the list of species covered by this Agreement.

**5.0 TERM OF AGREEMENT**

This Agreement shall become effective upon being executed by the Parties. This Agreement shall remain in effect, unless sooner terminated in accordance with Section 10 hereof, for

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five (5) years; provided, however, that obligations with respect to specific Conservation Actions will continue, in some instances perpetually, in accordance with the agreement of the Parties specific to such Conservation Actions pursuant to Section 6 hereof.

**6.0 CONSERVATION ACTIONS**

The Foundation and the Service will cooperatively identify Conservation Actions that the Foundation may wish to undertake for the benefit of the Species and the creation of Conservation Credits. Conservation Actions can include, without limitation, funding and/or direct implementation of karst preserve acquisition (through fee title, conservation easement, or other legal mechanism); operation, management, and adaptive management of karst preserves so acquired or of other karst areas currently preserved, but lacking an established, operations, management, and adaptive management program; monitoring, scientific study, and public education; and funding of environmental-constraints mapping, survey reports, and drafting of contracts and agreements. At such time as the Foundation agrees to take a Conservation Action approved by the Service, the Service and the Foundation will enter into a memorandum of agreement specifying the nature of the Conservation Action, the duration of the Foundation's obligations with respect to the Conservation Action, the number, type, and Species applicability of Conservation Credits created by the Conservation Action, and such other terms and conditions relating to the Conservation Action to which the Parties may agree. The Foundation will be responsible for keeping detailed, well-ordered records of the various Conservation Actions it may undertake and shall provide to the Service written reports regarding the status of all Conservation Actions at least annually.

**7.0 CONSERVATION CREDITS**

As a result of the benefits accruing to the Species and their habitats due to Conservation Actions undertaken by the Foundation, the Service shall acknowledge the creation of Conservation Credits for the use, sale, or assignment of the Foundation to mitigate impacts to the Species authorized by a Consultation or HCP. The Service shall accept utilization by the Foundation or Credit Purchasers of Conservation Credits as providing mitigation to the Species addressed in any Consultations or HCPs in the Service Area. The Service agrees to honor the number, type, and value of Conservation Credits, conveyed or purchased pursuant to this Agreement. Amendments or changes to the number, type, and value of Conservation Credits conveyed or purchased under this Agreement shall be made in accordance with Section 10 hereof. The Service shall encourage individuals, corporations, governmental, and other interested parties wishing to assist with Conservation Actions for the Species to contribute funds to the Foundation for such purposes. Conservation Credits may be used for mitigation of impacts to Species and their habitats only within the Service Area. Impacts occurring outside the Service Area can be mitigated through the use of Conservation Credits only with the prior written approval of the Service. The number and type of Conservation Credits created under this Agreement, through implementation of Conservation Actions, shall to be set forth and established as follows:

**DRAFT****7.1 Conservation Credit Categories**

Conservation Credits created under this Agreement shall be based on the types of Conservation Actions undertaken by the Foundation. The types of Conservation Credits available under this Agreement shall include: (1) Habitat Credits; (2) Management Credits; (3) General Credits, and (4) Program Credits. Habitat Credits are defined as a category of Conservation Credits based on Conservation Actions that fund and/or directly implement karst preserve acquisition (through fee title, conservation easement, or other legal mechanism). Management Credits are defined as a category of Conservation Credits based on Conservation Actions that provide long-term operation, management, and maintenance of karst preserves or other karst areas currently preserved, but lacking an established operations, management, and adaptive management program. General Credits are defined as a category of Conservation Credits based on Conservation Actions designed to promote scientific study and public education. Program Credits are defined as a category of Conservation Credits based on Conservation Actions that fund environmental survey reports, constraint maps, and agreements pursuant to this Agreement.

**a. HABITAT CREDITS**

Habitat Credits shall be determined by the quality of the karst preserves acquired by the Foundation. Each karst preserve acquired by the Foundation shall be placed into one of three separate "biological value" categories based on the biological significance of the karst preserve to the Species and their habitats. The three biological values categories shall include: High quality karst preserves; Moderate quality karst preserves; and Low quality karst preserves. Each karst preserve acquisition entitles the Foundation to a specific number of Conservation Credits based on the biological value of the karst preserve so acquired. The number of Habitat Credits conveyed to the Foundation shall be determined as follows:

| <b>Quality of Karst Preserve Acquired</b> | <b>Number of Conservation Credits Earned</b> |
|---|--|
| Low Quality                               | 3  |
| Moderate Quality                          | 6  |
| High Quality                              | 10   |

**b. MANAGEMENT CREDITS**

Management Credits conveyed to the Foundation shall be determined by the amount of money contributed by the Foundation that provides long-term operation, management, and maintenance of karst preserves or other karst areas currently preserved, but lacking an established operations, management, and

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adaptive management program. For every \$10,000.00 given by the Foundation for such purposes, the Foundation shall be entitled to one (1) Management Credit.

c. GENERAL CREDITS

General Credits conveyed to the Foundation shall be determined by the amount of money contributed by the Foundation designated to promote scientific study and public education. For every \$10,000.00 given by the Foundation for such purposes, the Foundation shall be entitled to one (1) General Credit.

d. PROGRAM CREDITS

Program Credits conveyed to the Foundation shall be determined by the amount of money spent by the Foundation in developing and implementing this Agreement through environmental survey reports, constraint maps, and agreements. For every \$2,000.00 spent by the Foundation for such purposes, the Foundation shall be entitled to one (1) Program Credit.

## 7.2 Impact Categories

In general it is anticipated that the Service will evaluate the number of Conservation Credits appropriate to mitigate impacts to one or more of the Species based on the type and magnitude of impacts. Project impacts can be categorized as: (1) indirect, low magnitude; (2) indirect, moderate magnitude; (3) indirect, high magnitude; and (4) direct. [categorization of indirect impacts to be inserted] Direct impacts mean impacts that result in the total destruction of an identified cave or karst feature.

## 7.3 Impact Compensation

The following matrix represents the general relationship between the magnitude of project impacts to the Species and their habitats and the number and types of Conservation Credits required for such impacts. Habitat Credit values are based on the biological values described in Section 7.1 above. For purposes of this Agreement, one (1) Management Credit equals \$10,000.00, one (1) General Credit equals \$10,000.00, and one (1) Program Credit equals \$2,000.00. To determine the number and types of Conservation Credits required for a particular project impact, locate in the table below the impact category that best describes the project impact based on the impact category descriptions in Section 7.2 above. Once an impact category has been located, determine the total number of Conservation Credits required for the specified impact category by calculating the number of Conservation Credits under each of the four types of Conservation Credits.

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For example, by using the table below, Credit Purchaser Pat determines that her project will have an indirect, high magnitude impact on a moderate quality karst feature. Indirect, high magnitude impacts to moderate quality karst features require the purchase of 5 Habitat Credits, 4 Management Credits, 4 General Credits, and 3 Program Credits. Pat calculates that 5 Habitat Credits will cost X, 4 Management Credits will cost \$40,000.00, 4 General Credits will cost \$40,000.00, and 3 Program Credits will cost \$6,000.00. Therefore, under this Agreement, Pat can expect to pay \$86,000.00 + X for the Conservation Credits required to mitigate her project's indirect, high magnitude impact to a karst feature.

|  | Habitat Credits | Management Credits | General Credits | Program Credits |
|--|-----------------|--------------------|-----------------|-----------------|
| <b>Indirect Impact, Low Magnitude</b>      |                 |                    |                 |                 |
| Low Quality                                | 0               | 1                  | 1               | 0               |
| Moderate Quality                           | 0               | 2                  | 2               | 1               |
| High Quality                               | 0               | 4                  | 3               | 2               |
| <b>Indirect Impact, Moderate Magnitude</b> |                 |                    |                 |                 |
| Low Quality                                | 1               | 1                  | 1               | 0               |
| Moderate Quality                           | 1               | 3                  | 3               | 2               |
| High Quality                               | 1               | 5                  | 4               | 3               |
| <b>Indirect Impact, High Magnitude</b>     |                 |                    |                 |                 |
| Low Quality                                | 5               | 1                  | 1               | 0               |
| Moderate Quality                           | 5               | 4                  | 4               | 3               |
| High Quality                               | 5               | 6                  | 5               | 4               |
| <b>Direct Impact</b>                       |                 |                    |                 |                 |
| Low Quality                                | 10              | 1                  | 1               | 0               |
| Moderate Quality                           | 10              | 5                  | 5               | 4               |
| High Quality                               | 10              | 7                  | 6               | 5               |

**8.0 CERTAIN OBLIGATIONS OF THE PARTIES****8.1 Service Obligations**

The Service will:

- a. Appoint an individual, the Project Officer, who will represent the Service in carrying out its obligations under this Agreement.

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- b. Coordinate and cooperate with the Foundation regarding determining and implementing specific Conservation Actions to be undertaken.
- c. Work with the Foundation to assure proper coordination with other appropriate federal and state agencies, including without limitation the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, the Texas Natural Resources Conservation Commission, and the Texas Parks and Wildlife Department.
- d. Subject to Congressional appropriations, continue to support Species recovery objectives.

**8.2 Foundation Obligations**

The Foundation will:

- a. Appoint an individual, the Project Officer, who will represent the Foundation in carrying out its obligations under the Agreement.
- b. Establish a restricted account for the Fund and be responsible for the acceptance and management of the Fund. The Foundation will ensure accurate and complete accounting and documentation for all activities related to the Fund.
- c. Utilize the Fund for Conservation Actions in accordance with this Agreement.

**9.0 FINANCIAL ADMINISTRATION**

The Foundation will have primary responsibility for administering the Fund. Contributions and payments to the Fund will be held and used to pay the expenses of the Foundation and to implement Conservation Actions. The Foundation will utilize the Fund for all reasonable and actual expenses incurred in connection with the satisfaction of its obligations under this Agreement.

**10.0 AMENDMENT AND TERMINATION**

Amendments to this Agreement may be proposed by either Party in writing but shall not become effective until being reduced to a written instrument and being signed by the duly authorized representative of each Party.

This Agreement may be terminated by any Party upon 30 days written notice to the other

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Party, provided however, that the Parties' respective agreements and obligations relative to Conservation Actions previously undertaken shall survive the termination of this Agreement and will remain binding upon the Parties hereto in accordance with this Agreement and any further agreements specific to such Conservation Actions.

**11.0 NOTICES AND PROJECT OFFICERS**

For purposes of this Agreement, the following individuals shall be the Project Officers for this Agreement. Notices to be given hereunder shall be made in writing and may be given by delivering the same in person, by mail, or by telecopy (facsimile). Notices shall be effective only if and when received at the address of the party to be notified.

**If to the Service:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

U.S. Fish and Wildlife Service  
Austin Ecological Service Field Office  
10711 Burnet Road, Suite 200  
Austin, TX 78758  
(512) 490-0057  
Fax (512) 490-0974

**If to the Foundation:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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Please indicate your acceptance of the terms of this Agreement as outlined herein by signing two originals of this Agreement and returning one to the Foundation.

AGREED AND ACCEPTED AS OF THE DATES HEREOF

U.S. Fish and Wildlife Service

Foundation

By: \_\_\_\_\_  
David C. Frederick

By: \_\_\_\_\_  
???

Title: Supervisor, Austin Office, USFWS

Title:

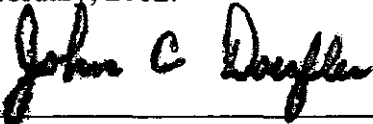
Date: \_\_\_\_\_

Date:

*Copies of "Williamson County Road Bond Program, Status of Karst Conservation Fund" and "Williamson County, Texas Updated Capital Improvement Program Scenarios" are available for inspection in the County Clerk's office during normal business hours.*

**COMMISSIONERS' COURT ADJOURNED AT 3:00 P.M. ON TUESDAY, FEBRUARY 19, 2002.**

THE FOREGOING MINUTES recorded on Minutes Pages 1 through 286, inclusive had at a Special Session of Commissioners' Court of Williamson County, Texas, having been read are hereby approved this 26th day of February, 2002.



John C. Doerfler, County Judge

ATTEST: Nancy E. Rister, Clerk County Court & Ex-officio Clerk,  
Commissioners' Court, Williamson County, Texas

By:   
Deputy Clerk