

# Land Conservation

# MENU

## MODEL PROJECTS

### Options & Opportunities

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# LAND CONSERVATION MENU

July 2019

(VERSION 4.2)

**The purpose of this document is to provide information useful to both public and private entities interested in taking action in pursuit of the Hill Country’s land protection needs. The Texas Hill Country, especially in the four eastern counties paralleling Interstate 35, is among the fastest growing region in the country. It is also the most resource rich and ecologically vulnerable. Land conversion in the four counties of Travis, Hays, Comal and Bexar counties is occurring at a staggering rate, and opportunities for land protection are fast dwindling. Negative impacts to our cherished landscapes, our water supply, our unique and abundant wildlife, and our public access to nature (in a state that is 95% privately owned) are real and growing. The time for action is now.**

## Disclaimer

We have done our best to provide true, accurate, comprehensive, and relevant information.

We take responsibility for any mistakes or missteps in the presentation of this information.

We did not intend for this Menu to be exhaustive, but rather selective in nature.

We consider this a “living document” that will be periodically updated with new information and improvements.

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# MODEL LAND CONSERVATION PROJECTS

## Bexar-Comal-Hays-Travis Counties

### Major Public-Private Partnerships

#### **Bracken Cave Preserve complex (San Antonio/Bexar/Comal County area)**

- \* Located in both Bexar and Comal Counties
- \* Roughly 5,000 acres of contiguous lands protected through a complex public-private partnership
- \* Includes and surrounds Bracken Bat Cave, home to the largest concentration of mammals known on Earth
- \* Lies entirely over the recharge zone of the Edwards Aquifer
- \* Contains prime habitat for the endangered Golden-cheeked Warbler
- \* “A perfect trifecta of conservation,” according to TNC
- \* Includes Bat Conservation International’s Bracken Cave Preserve, initially 697 acres purchased by BCI in 1991
- \* Includes TNC’s 1,244-acre Cibolo Bluffs Preserve, contiguous with Bracken Cave Preserve, created in 2011 in partnership with Bexar County and the United States Army (Camp Bullis), costing \$6.3 million (BC \$5M, DOD \$2M)
- \* Recent addition, in 2014, includes a 1,521-acre/\$20.5M land purchase (known as Crescent Hills Subdivision) adjacent to Bracken Cave funded by BCI (\$5M), TNC (\$5.5M) and COSA (\$5M in EAPP funds), with help from DOD, Bexar County, EAA, GSA (nonprofit land trust), and Forestar Real Estate Group (\$5M in “impervious cover credits”)
- \* Private donated CEs on adjacent lands (Wuest family and Forestar) added to the 5,000 acres of protected lands

#### **San Marcos “Loop & Check” Corridor & Trail (San Marcos/Hays County area)**

- \* Located in the City of San Marcos (COSM)
- \* Vision: to have a complete loop corridor of protected lands with a trail encircling the city
- \* Benefits include water quality and quantity protection, flood mitigation, and public recreation
- \* Public-private partnerships involving COSM, San Marcos River Foundation (SMRF), Great Springs Project (GSP), Texas Water Development Board (TWDB), Texas Parks & Wildlife Department (TPWD), Natural Resources Conservation Service (NRCS), The Conservation Fund (TCF), Trust for Public Land (TPL), private landowners, others
- \* Dreamcatcher Ranch, over 200 acres, drains towards Sink Creek and San Marcos Springs; NRCS provided 75% of CE purchase price (match required); TPWD Farm and Ranchland Conservation Program provided additional grant, along with private landowner donation, including Meadows Foundation and Guadalupe Blanco River Trust (GBRT)
- \* COSM with assistance from SMRF and GSP bought 250-acre Millican Tract using \$3.1M loan from EPA’s Clean Water State Revolving Fund (CWSRF), at 1.3% interest, with 45% forgiveness worth approx.\$1.3M; first CWSRF-funded “green project” in Texas
- \* SMRF with assistance from GSP bought 75-acre Geiger Tract with TCF bridge loan; private investor assumed loan; now securing CE on property
- \* TPL bought 102-acre Early Tract outright for \$1.27M; is helping COSM find grants to repay TPL in 3 installments
- \* Private investors brought together by GSP bought 103-acre Elsik tract for \$2.2M; exploring low impact conservation development for a model project for “impact investing”; will include trail connectivity for COSM’s Loop & Check system
- \* COSM and TPL acquired 5 tracts (Barker A, B-1 and B-2, as well as Wildenthal Phase II and III), amounting to a 492 acre addition to City’s Purgatory Creek Nature Preserve (PCNP); up from 463 ac for total 1,065 acre preserve; acquisitions valued at \$7.37M (avg \$14,972/ac); COSM cost was \$1.92M (\$3,916/ac), a 74% savings; TPL secured federal funding (USFWS Section 6 grants), foundation and private donor support, as well as land value gifts to COSM of \$325K; donated over \$370K in due diligence, staff time, project management

## **Balcones Canyonlands Preserve System (Austin/Travis County area)**

- \* Begun in late 1980's as a regional habitat conservation planning effort under the Endangered Species Act
- \* Roughly 31,780 acres in western Travis County protected since 1996 as the Balcones Canyonlands Preserve System
- \* BCP is managed according to the Balcones Canyonlands Conservation Plan, a regional habitat conservation plan for the Austin area permitted by USFWS in 1990
- \* BCP is jointly held by Travis County and the City of Austin, with cooperating partners that own and manage lands dedicated to the Preserve
- \* Cooperating partners include private landowners, LCRA, The Nature Conservancy, and Travis Audubon Society
- \* BCP is augmented by the 27,500-acre Balcones Canyonlands National Wildlife Refuge northwest of Austin, owned and managed by the US Fish & Wildlife Service (USFWS)
- \* City of Austin voters approved \$22 million in bonds in 1992 for sole purpose of acquiring land to protect water quality, protect 8 different endangered species, and provide open space for passive public use
- \* Travis County share of funding comes from a Tax Increment Finance (TIF) District that captures tax flow from increased land values on land near and adjacent to BCCP preserves

## **Government Canyon State Natural Area (San Antonio/Bexar County area)**

- \* A 12,224-acre State Natural Area in northwest San Antonio now owned and managed by Texas Parks & Wildlife
- \* Acquired and pieced together over many years, starting in the early 1990's through a citizen-driven process
- \* Acquisition partnership consisted of the EAA, SAWS, SARA (river authority), City of San Antonio (COSA), Bexar County (BC), Trust for Public Land (nonprofit, bridge funding), and the Government Canyon Natural History Association (nonprofit)
- \* Land was former site of San Antonio Ranch development that ended up in Resolution Trust Corporation (RTC)
- \* Land acquired at about 10 cents on the dollar from the RTC
- \* Benefits include protection of EA recharge zone, endangered species habitat, natural area for public access
- \* Opened in 2005 to the public as Government Canyon State Natural Area

## **#1 Out-of-State Model Project – New York City Watershed**

- \* one of the most extensive municipal water systems in the world
- \* meets the daily needs of 9 million residents and visitors
- \* well-protected wilderness watersheds mean New York's water treatment process is simpler than elsewhere
- \* protected watersheds provide clean water with minimal filtration required
- \* protected watersheds are also open to the public for outdoor recreation, hiking, biking, fishing, boating, etc.
- \* 95% of the total water supply is supplied by gravity
- \* other 5% is pumped to maintain pressure, especially in times of drought when reservoir levels are low
- \* City restricts development throughout its watershed
- \* one of its largest watershed protection programs is the Land Acquisition Program
- \* NYC Dept of Environmental Protection (DEP) has purchased, or protected with CE, 130,000+ acres since 1997
- \* Responsibility for NYC water supply is shared among three institutions:
  - NYC DEP operates and maintains the system and is responsible for investment planning
  - NYC Municipal Water Finance Authority raises debt financing to underwrite the system's costs; and
  - NYC Water Board, which sets rates and collects user payments

# FUNDING MECHANISMS

## Private Donations

### Individual Donations of Land and Money

- \* Individuals collectively give more money than foundations
- \* Individual private landowners donate land and conservation easements for generous tax benefits
- \* Private donation: Dangermond family donated \$130M to protect 24,000 acres in coastal California; they have challenged other tech leaders to do likewise
- \* Public officials can play a role in encouraging private individuals and landowners to donate for public good
- \* 2,193-acre Halifax Ranch near Kyle with more than two miles of Blanco River frontage is preserved from real estate development forever under a CE donated to Nature Conservancy (TNC) by its owners, the Johnson family
- \* Upriver from Halifax Ranch is another 340-acre property protected by CE donated by the Way family to TNC
- \* CE in Hays County often sell for about 40% of land's appraised value
- \* At a conservative estimate of \$10,000/acre, these easements are worth at least \$10 million
- \* In Comal County, Sharyn Wilson donated a CE on her historic ranch in Spring Branch to TNC in 3 installments of 350, 90 and 740 acres; ranch was sold to new owners; but CE "runs with the land," so it's protected forever

### Private Texas Foundations

- \* Texas Grants Resource Center, supported by UT, located in Austin, offers tremendous resources for grants
- \* Texas Environmental Grantmakers Group is another resource for finding foundations that support land conservation
- \* Well-established foundations that have supported significant land conservation initiatives include, among others:

Knobloch Foundation  
Meadows Foundation  
Cynthia and George Mitchell Foundation  
Moody Foundation  
Shield-Ayres Foundation

....and many others

## Bonds

### Revenue Bonds

#### City of Austin's Water Quality Protection Lands Program (WQPL) – initial funding

- \* Begun in 1998 using Revenue Bonds backed by water fees
- \* Program subsequently funded with GO Bonds (see below)
- \* Dedicated funds to protect land over recharge and contributing zones of the Barton Springs/Edwards Aquifer
- \* WQPL Mission: “to provide for the conservation and maintain the safety of part of the City’s water supply”
- \* WQPL Objective: “produce optimum level of clean, high quality water from project lands to recharge aquifer”
- \* Program lands provide water both to groundwater wells in Hays & Travis counties, and to Barton Springs
- \* Lands also represent some of the last wild places for wildlife and people

### General Obligation Bonds

#### City of Austin's Water Quality Protection Lands Program (WQPL) – ongoing funding

- \* See above Revenue Bonds for initial funding strategy
- \* WQPL program continued using General Obligation Bonds approved in 2000, 2006, and 2012
- \* GO bonds have provided dedicated funds for over 60% of total WQPL program land acquisitions to date
- \* About 28,000 total acres protected to date; almost 11,000 acres as FS acquisitions, 17,000 acres as CEs

#### City of San Antonio 2017-2021 GO Bond Program

##### Voters Approved:

- \* \$139 million for **drainage and flood control** (passed with 79% voter approval)
- \* \$187 million for **parks, recreation & open space** (passed with 70% voter approval)
- \* these bond funds for land conservation are in addition to EAPP funds generated by the 1/8 cent sales tax

#### City of Austin 2018 GO Bond Program

##### Voters Approved:

- \* \$149 million for **parks & recreation** (of which \$45 million is for new parkland acquisition); 81% voter approval
- \* \$184 million for **flood mitigation, open space and water quality protection lands** (of which \$72M for WQPL); passed with 84% voter approval
- \* Purpose of WQPL bonds: for land acquisition “to protect the quality and quantity of water in Austin’s aquifers, springs, greenbelts, and parks; mitigate flooding; and preserve open space in perpetuity”

#### City of New Braunfels 2019 GO Bond Program (Pending)

##### Voter Approval Pending in May 2019:

- \* Targeted \$120 million (none of which includes land protection/new parkland)

## Regional Habitat Conservation Plans (RHCP's)

RHCP, developed in accordance with the federal Endangered Species Act (ESA), represent opportunities to generate significant funds for land conservation to protect our springs, aquifers and wildlife habitat of the Edwards Aquifer region. Added benefits include watershed protection, flood mitigation, public recreation and access to natural areas, as well as a multitude of economic benefits of preserving green space in urban / exurban and rural areas.

Mitigation credits are purchased for land developed in endangered species habitat under the RHCP's "incidental take" permit. Mitigation funds are used to acquire endangered species preserve lands in prime habitat areas, which in central Texas, also protects the watersheds of the Edwards/Trinity Aquifers. Typically, a preserve of at least 500 acres is needed to create a habitat preserve ("mitigation bank"). Comal County currently lacks a protected preserve with at least 500 acres of ES habitat, although enough habitat exists in the county to create such a preserve. Due to the lack of a protected preserve, Comal County's limited RHCP mitigation dollars have so far been going to preserve land in Bandera County.

### Balcones Canyonlands Conservation Plan (BCCP, 1996)

- \* Plan Area: Travis County
- \* Plan Permittees: primary partners are City of Austin, Travis County
- \* Additional BCCP partners include USFWS, LCRA, TNC, TAS, private landowners
- \* Plan protects/covers GCW, BCV, and 6 karst invertebrates
- \* See more on BCCP in Model Conservation Projects section

### Hays County RHCP (Hays-RHCP, 2013)

- \* Plan Area: Hays County
- \* Plan Permittee: Hays County
- \* Plan protects/covers GCW, BCV, and incidentally, 56 rare and threatened species, including aquatic species

### Comal County RHCP (Comal-RHCP, 2015)

- \* Plan Area: Comal County
- \* Plan Permittee: Comal County
- \* 30-year plan protects GCW by preserving at least 6,500 acres of GCW habitat in exchange for 5,200 acres in GCW habitat loss; and at least 1,000 acres of BCV habitat in exchange for 1,000 acres of BCV habitat loss

### Edwards Aquifer HCP (EAHCP, 2015)

- \* Plan Area: multi-county area within jurisdiction of the EAA
- \* Plan Permittees: EAA, City of San Antonio/SAWS, New Braunfels, San Marcos, TSU
- \* Additional partners include GBRA, TPWD, USFWS
- \* HCP protects spring and aquifer-dwelling Fountain Darter, San Marcos Salamander, San Marcos Gambusia, Texas Blind Salamander, Peck's Cave Amphipod, Comal Springs Dryopid Beetle, Comal Springs Riffle Beetle and Texas Wild Rice
- \* Designed to protect species especially during times of severe drought
- \* Mechanisms of protection include habitat protection, spring flow protection, and supporting protections such as water quality and species monitoring, ecological modelling, applied research and establishment of refugia

### Southern Edwards Plateau RHCP (SEP-HCP, 2016)

- \* Plan Area: Bexar County, and surrounding 6-counties -- Bandera, Blanco, Comal, Kendall, Kerr, Medina Counties
- \* Plan Permittees: primary partners are City of San Antonio and Bexar County
- \* HCP protects/covers GCW, BCV, and 7 karst invertebrates
- \* At full implementation, the SEP-HCP preserve system would include: a minimum of 23,430 acres of GCW preserve lands; a minimum of 6,600 acres of BCV preserve lands; a minimum of 1,000 acres of preserve lands for the cave invertebrates



## Sales Tax

### San Antonio's Edwards Aquifer Protection Program (EAPP)

- \* Dedicated fund to protect land over the recharge and contributing zones of the Edwards Aquifer
- \* City of San Antonio dedicates 1/8 of a cent of sales tax revenue to create a land fund to protect water resources
- \* Begun 2000 with over 60% voter approval; renewed with strong voter support every five years since then
- \* Funds Raised: \$45M in 2000 (55% approval); \$90M in 2005 (55% approval); \$90M in 2010 (60% approval); \$90M in 2015 (78% approval); for a total of \$315 million to date
- \* Lands Protected: over 152,000 acres protected through conservation easements and fee simple acquisitions
- \* Initially Bexar County only; later included counties west of San Antonio over recharge/contributing zones

### San Antonio's Howard Peak Greenways System

- \* Network of 65 miles of hike & bike trails along San Antonio's waterways, essentially encircling the city
- \* Funded with 1/8 cent sales tax dedicated to the Howard H. Peak Greenway Trails System
- \* Begun in 2000 with over 60% voter approval; renewed with strong voter support in 2005, 2010, 2015
- \* Funds Raised: \$20M (2000); \$45M (2005, 2010, 2015) for a total of \$155 million to date
- \* Lands Protected/Trails Built: 1,450+ greenway acres protected; over 65 miles of multi-use & accessible trails

## Low-Interest Loans

### Clean Water State Revolving Fund – administered by TWDB (EPA funds)

- \* A federal-state partnership program providing communities with a permanent, independent source of low-cost financing for a wide range of water quality infrastructure projects, including “green projects”
- \* \$550M available annually for clean water projects in Texas including land conservation projects
- \* Currently 1.3% interest, up to 30-year repayment period, up to 45% loan forgiveness if eligible based on “green” and “disadvantaged” criteria

### Drinking Water State Revolving Fund –TWDB (EPA)

- \* \$250M available annually for water projects that facilitate compliance with drinking water standards
- \* Includes “green projects” and “source water protection projects”
- \* Below market fixed interest rates, up to 30-year repayment period, principal forgiveness for qualifying disadvantaged, green, urgent need projects, no maximum funding limit, multi-year commitments

## Grants (Publicly funded)

### Land and Water Conservation Fund (LWCF) – NPS (USDOJ)

- \* For 52 years, America's most important tool for meeting the nation's conservation and recreation needs
- \* LWCF comes from revenues paid to government from offshore oil and gas drilling, no taxpayer dollars
- \* Critical investment in quality of life, but also in American jobs
- \* Outdoor recreation, conservation activities contribute over \$1T annually to U.S. economy, creating 9.4 million jobs
- \* 52-year old LWCF expired September 30, 2018, and is now being considered by Congress for reauthorization

### Local Parks Grants – TPWD

- \* 5 individual programs that assist local governments (cities, counties, river authorities, MUDs, other special districts) with acquisition of public recreation areas
- \* 50% matching grants issued on a reimbursement basis
- \* Sites must be dedicated to parkland in perpetuity, be properly maintained and open to the public
- \* October 1 application deadline, online application via "Recreation Grants Online"
- \* Funds come from state sales tax on sporting goods, and some offshore gas royalties through the federal LWCF

### Recreational Trails Grants – TPWD – Federal Highway Administration (FHA)

- \* National Recreational Trails Fund is administered by TPWD for the Federal Highway Administration
- \* Funds come from a portion of federal gas taxes on fuel used in non-highway recreational vehicles
- \* Funds can be used for non-motorized recreational trails projects, including acquiring trail corridors

### Section 6 Competitive "Nontraditional" Grants – TPWD (USFWS)

- \* Federal Cooperative Endangered Species Conservation Fund provides Section 6 grants to state
- \* Administered in Texas by TPWD for USFWS
- \* Section 6 funds Habitat Conservation Plan Land Acquisition grants to acquire preserve lands under a permitted HCP (competition held at national level)
- \* Section 6 funds Recovery Land Acquisition grants to fund acquisition of critical habitat of endangered species
- \* To date, \$150M in federal funds have supported over 225 projects addressing high priority habitat protection
- \* Approximately 50,000 acres in Texas have been protected with fee acquisition or conservation easements

### Regional Conservation Partnership Program (RCPP) – NRCS (USDA)

- \* Coordinates NRCS and its partners, through contracts and agreements, to deliver conservation assistance to LOs
- \* Texas Hill Country Conservation Network (THCCN) received a \$5M through RCPP for parts of the Hill Country
- \* About \$1.5M of that is to acquire conservation easements to protect open land
- \* About \$2.5 M to help private LOs implement innovative land conservation strategies on their private land

### Cooperative Endangered Species Conservation Fund – USFWS (USDOJ)

- \* At least two different grant programs are funded through CESC to protect habitat of endangered species
- \* Recovery Land Acquisition Grant – acquisition of habitat in support of approved ES recovery plans
- \* Habitat Conservation Plan (HCP) Land Acquisition Grant – acquisition of land associated with approved HCPs
- \* Each grant program is slightly different, but each has a 25% local match for in-state projects

### Texas Farm & Ranch Lands Conservation Program – TPWD

- \* About \$2M for grants to acquire CEs on working lands with high value for water, fish and wildlife, and agricultural production, especially lands at risk of development
- \* Project selection and criteria include threat of development, cost effectiveness, watershed value, fish & wildlife value, contribution to conservation landscape, terms of conservation easement
- \* Since program inception in 2016, 14 projects have been approved protecting over 26,000 acres in perpetual CE's

## **Agricultural Conservation Easement Program (ACEP) –NRCS (USDA)**

\* Provides financial & technical assistance to help LOs and land trusts conserve agricultural lands and wetlands

## **Agricultural Land Easements (ALE) – NRCS (USDA)**

\* Provides assistance to state and local governments and NGOs to protect working ag lands, limit non-ag uses of land

## **Wetland Reserve Easements (WRE) – NRCS (USDA)**

\* Provides assistance to restore, protect, and enhance enrolled wetlands that provide habitat for fish & wildlife, including endangered species, and improve water quality

## **(Pending) Recovering America’s Wildlife Act – TPWD**

\* Pending legislation in U.S. Congress, HB 4647 and SB 3223

\* Designed to address financial needs of state fish and wildlife agencies

\* Would help keep species from facing costlier emergency conservation measures down the road

\* Provide \$1.3 billion in royalty funds for state fish and wildlife agencies’ wildlife action plans

\* Would leverage funds from state agencies & partner organizations to provide 25% non-federal matching funds

\* Would provide greater regulatory certainty for business and industry by conserving species, avoiding need to list ES

\* Would empower wildlife professionals to hold nation’s wildlife in public trust for future generations

\* Would provide state agencies ability to conserve wildlife populations in efficient, effective, cost-effective manner

## **Healthy Watersheds Consortium Grant (HWCG) – ENDOWMENT**

\* Grant program is a partnership of nonprofit U.S. Endowment for Forestry & Communities; EPA’s Office of Water’s Office of Wetlands, Oceans, and Watersheds; and USDA’s NRCS

\* Goal: to “accelerate strategic protection of healthy, freshwater ecosystems and their watersheds” with primary focus on prevention of deterioration in the watershed

\* Funds development of funding mechanisms, plans, or other strategies to implement large-scale watershed protection, source water protection, green infrastructure, or related landscape conservation objectives

\* Supports building sustainable organizational infrastructure, social support, and long-term funding commitments necessary to implement large-scale protection of healthy watersheds

\* Supports innovative or catalytic projects that may accelerate funding for or implementation of watershed protection efforts, or broadly advance this field of practice.

## **Surface Transportation Program (STP) -- AAMPO**

\* provides flexible funding available to states and localities for projects that preserve and improve conditions on roads but also hike and bike trails

## **Transportation Alternative Projects (TAP) – AAMPO**

\* Funds smaller-scale transportation projects such as pedestrian and bicycle facilities, recreational trails, safe routes to schools projects, and other community improvements such as historic preservation, vegetation management, environmental mitigation related to stormwater and habitat connectivity

## User Fees

### Water / Wastewater / Drainage Fees

- \* Could be revenue for bonds, or for payback of low interest loans such as Clean Water State Revolving Fund
- \* Incremental increases to water rates and/or drainage fees could create a dedicated land conservation fund
- \* Surcharge on monthly water bills (say, \$1-2 per customer) could yield very significant dollars for land protection
- \* Could fund “green infrastructure,” i.e., protect land in order to protect clean, abundant water and mitigate floods
- \* Could fund acquisition of CEs offering ratepayers “biggest bang for the buck” in water protection
- \* Could use funds to buy parcels deemed suitable for both water protection and public access to natural areas
- \* Austin’s WQPL program originated with 1998 Revenue Bonds paid for with water fees

### Impact Fees (such as Road and Development)

- \* Road impact fees generate dedicated funds for conservation of land to mitigate damage from road construction
- \* Development impact fees generate funds to protect land as mitigation for land lost to development

### Habitat Mitigation Fees

- \* See section on Habitat Conservation Plans for uses of mitigation fees for land conservation (habitat protection)

## Other Potential Funding Strategies

### “Impact Investments”

- \* Single major investor or group of investors take open land out of development market before it’s too late
- \* Wealthy individuals can park (invest) their money in land, a safe investment
- \* Investors create Income-Producing Low-Density Conservation Developments
- \* “Develop a little and preserve a lot,” just enough development to recoup their financial investment
- \* Investors realize modest financial returns with huge conservation (and psychological) returns
- \* Investors roll investment dollars into new conservation projects, in effect, creating a revolving fund

### Regional Tax Overlay or Similar District

- \* Idea to explore possibly in the next or future Legislative sessions
- \* Designate something like a San Antonio-Austin Corridor Overlay District for fast-urbanizing area west of I-35
- \* Overlay District could be authorized to assess limited tax or fees
- \* Small tax/fee shared broadly (4-counties) could create dedicated land conservation fund for eastern Hill Country
- \* Would be used to protect natural resources (land, water, wildlife) from intensely growing development pressures
- \* Protected lands would provide essential green space for appropriate public use, including offering transportation alternatives through a system of hike & bike trails
- \* Protected lands would stimulate and foster a sustainable economy based in part on eco-tourism
- \* Must be clearly defined to ensure that open space or other landscapes would be protected

### Documentary Stamp Tax

- \* Tax imposed on transfer of title of real property
- \* Usually an ad valorem tax based on value of property transferred
- \* All but 13 states have a “doc stamp tax”
- \* State statutes may or may not stipulate who (buyer or seller) is responsible for paying doc stamp tax
- \* Most statutes list cases where a transfer is exempt from taxation
- \* Requires state legislation; so far, there has been no support in Texas Legislature, despite several attempts
- \* National Association of Realtors® officially opposes real estate transfer taxes

# LAND PROTECTION METHODS

## Primary Methods:

### Fee Simple Acquisition (FS)

- \* Usually the purchase of land at full market value
- \* Ownership and responsibilities transfer completely to buyer
- \* Most straightforward land protection method
- \* Provides agency with full control over property
- \* Most expensive approach
- \* Buyer assumes full responsibility for care and management of property
- \* Loss of potential future property tax revenue when land is removed from tax rolls

### Conservation Easements (CE) -- #1 Tool

- \* Conservation easements are cheapest and most effective way for landowners to protect private land from future development while retaining private ownership
- \* CEs are voluntary legal agreements between landowners and land trusts or government agencies that permanently limit uses of land in order to protect its conservation values
- \* A CE usually involves donation (forfeiture) of development rights to a third party (nonprofit land trust, government agency) that will permanently protect land from development
- \* Landowners retain many of their rights, including right to own and use land, sell it and pass it on to their heirs
- \* CEs allow people to protect the land they love
- \* CEs are #1 one tool available for protecting privately owned land
- \* Under IRS rules, in order to obtain tax benefits from donations of CEs, CEs must provide public benefits, such as water quality, farm and ranch land preservation, scenic views, wildlife habitat, outdoor recreation, education, historic preservation
- \* While some CEs allow public access, many do not; landowners decide
- \* How a CE restricts private LO's property depends on conservation goals
- \* Interested LOs will work with a mutually selected land trust to negotiate terms right for them and the land
- \* LO might reserve right to build a home, or even subdivide land, so long as it doesn't interfere with conservation goals
- \* LO might decide to place all or only a part of the land under a protective easement
- \* Every CE is unique, though a few general rules are common to most: farming and ranching are usually permitted; development is almost always limited; surface mining is almost always off-limits

### Purchase of Development Rights (PDRs)

- \* Land protection programs offering viable financial options to interested landowners on a voluntary basis
- \* PDR program is essentially one in which CEs are purchased by land trusts or government agencies rather than donated by willing LOs
- \* Tax implications are different depending on whether development rights are purchased (PDR) or donated (CE)
- \* Landowner sells rights to develop his/her land to a local government or land trust
- \* Proven technique for local communities with strong support to acquire lands for preservation, e.g., Austin, San Antonio
- \* Owners who sell development rights receive income and continue use of their land, retaining all other rights
- \* Landowner's property taxes are typically reduced
- \* PDR programs can be expensive, but not as much as fee simple land acquisition
- \* Funding generated may not meet the need for conservation easement purchases
- \* Voluntary program means some resource areas may be lost

## Other Methods:

### **Bargain Sale**

- \* Land purchased at less than fair market value
- \* Difference between bargain sale price and fair market value is a donation
- \* Reduces acquisition costs
- \* Seller qualifies for tax benefits from charitable donation of land value
- \* Can be difficult and time-consuming to negotiate, and may still be costly

### **Installment Sale**

- \* Percentage of purchase price is deferred and paid over successive years
- \* Possible tax advantages for seller
- \* Can complicate buyer's budgeting and financing of acquisition

### **Right of First Refusal**

- \* Agreement giving agency option to match an offer and acquire property if landowner is approached by another buyer
- \* Agency can gain extra time to acquire funds for purchase
- \* Resource may be lost if offer can't be matched by conservation agency
- \* Some landowners are unwilling to enter into this kind of binding agreement

### **Undivided Interest**

- \* Several parties share ownership in a parcel of land, with each owner's interest extending over the entire parcel
- \* Changes to property cannot be made unless all owners agree
- \* Property management can be complicated.

### **Acquisition with Sale-back or Leaseback**

- \* Agency or private buyer acquires land, places protective restrictions on land with conservation value
- \* Buyer then resells or leases land lacking conservation value
- \* Proceeds from sale or lease can offset acquisition costs
- \* Preservation only occurs on portion of property with conservation values

### **Outright Donation**

- \* Owner grants full title and ownership to local government or conservation agency/land trust
- \* Resources acquired at very low costs to the agency
- \* Donor may qualify for income tax deductions, estate tax relief, and property tax breaks
- \* Receiving agency accepts responsibility and long-term costs of land management
- \* Stewardship endowments often required by land trusts may make donation cost prohibitive for landowner

### **Donation via Bequest**

- \* Land is donated to a conservation agency at the owner's death through a will
- \* Reduces estate taxes and may benefit heirs with reduced inheritance taxes
- \* Allows owner to retain full use and control over land while alive; ensures its protection after death
- \* Requires careful estate planning by the landowner

### **Donation with Reserved Life Estate**

- \* Owner retains rights to use all or part of donated land for his/her remaining lifetime and lifetimes of designated family
- \* Allows owner to continue living on and using property while ensuring the land's protection into the future
- \* Allows designation of family members to remain on land

## **Lease**

- \* An agreement between an agency and landowner to rent land in order to protect and manage sensitive resources
- \* Low cost approach to site protection
- \* Landowner receives income and retains control of property
- \* Provides an alternative for preservation minded landowners not ready to commit to sale of a CE
- \* Restrictions in lease direct activities of conservation agency on the land
- \* Non-permanent, short-term protection strategy

## **Intergovernmental Agreements/Partnership**

- \* Federal, state, and local agencies form joint partnerships to own and/or manage land
- \* Sharing responsibilities and costs of acquisition/management can protect larger, more expensive properties
- \* Can foster intergovernmental cooperation to preserve open space

## **Agency Transfer**

- \* Government transfers excess land to another agency to assume conservation management responsibilities
- \* Achieves land conservation and resource management with no acquisition costs

## **Land Exchange**

- \* Land is exchanged for another parcel that is more desirable for conservation
- \* Lower acquisition costs
- \* Scattered properties can be exchanged for a single, larger parcel

## **Nonprofit Acquisition and Conveyance to Public Agency**

- \* Nonprofit organization (land trust) buys land, resells it to a local government or other public agency
- \* Nonprofits can often move more quickly to purchase and hold land until the public agency is able to buy it
- \* Could reduce acquisition costs for public agency
- \* Usually, local government purchases land and assumes management responsibilities

## **Joint Venture Partnership**

- \* Strategy used by public agencies and private organizations to accomplish projects serving mutual goals
- \* Some government grant programs could be matched with both private contributions and public funds
- \* Partners share benefits, responsibilities, and costs of acquisition and management
- \* Creates a coalition of support for protecting land, water, wildlife for people
- \* Brings diverse sources of knowledge and expertise to solve resource protection issues
- \* Can make for more complicated decision-making and property management issues

## **Management Agreement**

- \* Agreement between landowner and conservation agency to manage property to achieve resource conservation goals
- \* Owner may be eligible for direct payments, cost-share assistance, or other technical assistance from the agency
- \* Management plan is developed based on owner's preservation aims
- \* Management Agreements are more easily terminated than leases, and are not permanent

## **Mutual Covenants**

- \* Agreement between adjoining landowners to control future land uses through mutually agreed upon restrictions
- \* Covenants can be enforced by any landowner(s) or future landowner(s) of involved properties
- \* Significant incentive to comply with restrictions, since all parties are aware of use controls
- \* Can reduce property taxes
- \* Loss in market value from mutual covenants does not qualify as a charitable deduction for income tax purposes

## **Transfer of Development Rights (TDRs)**

- \* Used to steer development toward areas where it is more appropriate and easier to serve
- \* Intent is to steer development away from environmentally sensitive areas towards higher density cities and towns
- \* City or county designates land areas as “sending zones” and “receiving zones”
- \* Those in sending zone can sell their right to others in receiving zone, or to third party who will buy land in receiving zone
- \* Those in receiving zones can buy additional development rights from those in the sending zones
- \* Potentially effective growth management tool
- \* Natural resources can be protected without huge capital expenditures
- \* Large tracts of protected land can be created in “sending” areas
- \* Can be difficult to establish and administer, requiring high level of City-County coordination and cooperation
- \* Requires state enabling legislation

**NOTE:** There are any number of regulatory solutions that promote conservation goals, however this document focuses on those readily implementable at the county level which result in direct acquisition of land or conservation easements.



# LAND MANAGEMENT

Protecting land from development is only part of the story. Managing the land to maximize its “ecosystem services” is another. “Ecosystem services” means “those benefits people obtain from ecosystems. These include:

provisioning services such as food and water;

regulating services such as regulation of floods, drought, land degradation, and disease;

supporting services such as soil formation and nutrient cycling; and

cultural services such as recreational, spiritual, religious and other non-material benefits.”

(definition from UN Environment: Millennium Ecosystem Assessment)

Specific benefits include:

Source water protection (quantity & quality)

Rainwater infiltration (water purification, aquifer recharge)

Soil deposition, nutrient cycling

Nature resiliency (especially in light of climate change)

Carbon sequestration

Clean air

Pollination

Food

Climate regulation

Flood regulation

Pest regulation

Energy

Educational opportunities

Public recreation opportunities

Public access to natural areas

Regardless of the tool or method used to secure protection of land, long term management must be taken into consideration in order to restore, if necessary, the ecological health of the land and maximize its highest function. Of course, with publicly accessible protected lands, there is also the people management piece and its attendant operation and management of (hopefully limited) facilities to service the visiting public.

With the outright acquisition of property, land management typically falls to the owner or co-owners, although management agreements with another non-owning party or parties can also be arranged.

With conservation easements, management is typically retained by the private landowner, although shared management with the partner land trust can also be negotiated in the terms of the conservation easement.

Either way, proper land management, or stewardship, is the end goal, has costs associated with it, and yet is essential to preservation of the natural resources for all its many benefits.

# LIST OF POTENTIAL PARTNERS

## GOVERNMENT

Alamo Area Metropolitan Planning Organization (AAMPO)  
City of New Braunfels (CONB)  
Comal County (CC)  
Comal-Trinity Groundwater Conservation District (CTGCD)  
Edwards Aquifer Authority (EAA)  
Environmental Protection Agency (EPA)  
Guadalupe-Blanco River Authority (GBRA)  
Headwaters at the Comal (HW-Comal / NBU)  
National Park Service (NPS / USDOJ)  
National Trust for Historic Preservation (NTHP)  
Natural Resource Conservation Service (NRCS / USDA)  
New Braunfels Economic Development Corporation (NBEDC, 4B)  
New Braunfels ISD (NBISD)  
New Braunfels Utilities (NBU)  
Rivers & Trails Conservation Assistance Program (RTCA / NPS)  
Texas A&M AgriLife Extension  
Texas Department of Transportation (TxDOT)  
Texas Historical Commission (THC)  
Texas Parks & Wildlife Department (TPWD)  
Texas Water Development Board (TWDB)  
U.S. Department of Agriculture (USDA)  
U.S. Fish & Wildlife Service (USFWS / USDOJ)  
U.S. Department of the Interior (USDOJ)

## NON-GOVERNMENT/LOCAL & REGIONAL

Bat Conservation International (BCI)  
Boy Scouts of America (BSA)  
Cibolo Nature Center (CNC)  
Comal County Conservation Alliance (CCCA)  
Comal Trails Alliance (CTA)  
Environmental Conservation Alliance (ECA)  
Friends of the Preservation of Historic Landa Park (FRIENDS)  
Great Springs Project (GSP)  
Greater Edwards Aquifer Alliance (GEAA)  
Hill Country Alliance (HCA)  
Indigenous Cultures Institute (ICI)  
Lady Bird Johnson Wildflower Center (LBJWC)  
Meadows Center for Water & the Environment (MEADOWS)  
National Fish & Wildlife Foundation (NFWF)  
Native Plant Society of Texas (NPSOT)  
San Marcos Greenbelt Alliance (SMGB)  
Save Our Springs Alliance (SOS)  
Texan by Nature (TBN)  
Texas Invaders (INVADERS)  
Texas Ornithological Society (TOS)  
Texas Society of Ecological Restoration (TxSER)  
Trinity University (TU)  
Witte Museum (WITTE)

## **LAND TRUSTS (LOCAL – REGIONAL – STATE)**

Cibolo Conservancy (CIBOLO)

Green Spaces Alliance (GSA)

Guadalupe-Blanco River Trust (GBRT)

Hill Country Conservancy (HCC)

Hill Country Land Trust (HCLT)

Land Trust Alliance (LTA)

Native Prairies Association of Texas (NPAT)

San Marcos River Foundation (SMRF)

Texas Agricultural Land Trust (TALT)

Texas Cave Management Association (TCMA)

Texas Land Conservancy (TLC)

Texas Land Trust Council (TLTC)

The Conservation Fund (TCF)

The Nature Conservancy of Texas (TNC)

Trust for Public Land (TPL)

Wimberley Valley Watershed Association (WVWA)

## LIST OF ACRONYMS USED

AAMPO	Alamo Area Metropolitan Planning Organization
ACEP	Agricultural Conservation Easement Program
ALE	Agricultural Land Easements
BC	Bexar County
BCCP	Balcones Canyonlands Conservation Plan
BCI	Bat Conservation International
BCNWR	Balcones Canyonlands National Wildlife Refuge
BCP	Balcones Canyonlands Preserve
BCI	Bat Conservation International
BCV	Black-capped Vireo
BSA	Boy Scouts of America
CC	Comal County
CCCA	Comal County Conservation Alliance
CE	Conservation Easement
CESCF	Cooperative Endangered Species Conservation Fund
CIBOLO	The Cibolo Conservancy
CNC	Cibolo Nature Center
COA	City of Austin
CONB	City of New Braunfels
COSA	City of San Antonio
COSM	City of San Marcos
CTA	Comal Trails Alliance
CTGCD	Comal-Trinity Groundwater Conservation District
CWSRF	Clean Water State Revolving Fund
DEP	Department of Environmental Protection (NYC)
DOD	U.S. Department of Defense
DWSRF	Drinking Water State Revolving Fund
EA	Edwards Aquifer
EAA	Edwards Aquifer Authority
EAHCP	Edwards Aquifer Habitat Conservation Plan
EAPP	Edwards Aquifer Protection Program (San Antonio)
ECA	Environmental Conservation Alliance
ENDOWMENT	U.S. Endowment for Forestry & Communities
EPA	Environmental Protection Agency
ESA	Endangered Species Act
FHWA	Federal Highway Administration
FRCP	Farm and Ranchland Conservation Program
FRIENDS	Friends of the Preservation of Historic Landa Park
FS	Fee Simple Acquisition
GBRA	Guadalupe-Blanco River Authority
GBRT	Guadalupe-Blanco River Trust
GCNHA	Government Canyon Natural History Association
GCSNA	Government Canyon State Natural Area
GCW	Golden-cheeked Warbler
GEAA	Greater Edwards Aquifer Authority
GO	General Obligation
GSA	Green Spaces Alliance

GSP	Great Springs Project
HC	Hays County
HCA	Hill Country Alliance
HCC	Hill Country Conservancy
HCLT	Hill Country Land Trust
HCP	Habitat Conservation Plan
HW-C	Headwaters at the Comal
ICI	Indigenous Cultures Institute
INVADERS	Texas Invaders
LAP	Land Acquisitions Program (NYC)
LBJWC	Lady Bird Johnson Wildflower Center
LCRA	Lower Colorado River Authority
LO	Landowner
LTA	Land Trust Alliance
LWCF	Land and Water Conservation Fund
MEADOWS	Meadows Center for Water & the Environment
MUD	Municipal Utility District
NBEDC	New Braunfels Economic Development Corporation
NBISD	New Braunfels ISD
NBU	New Braunfels Utilities
NFWF	National Fish & Wildlife Foundation
NPAT	Native Prairies Association of Texas
NPS	National Park Service
NPSOT	Native Plant Society of Texas
NRCS	Natural Resource Conservation Service
NTHP	National Trust for Historic Preservation
NYC	New York City
PDR	Purchase of Development Rights
PCNP	Purgatory Creek Natural Area
RAWA	Recovering America's Wildlife Act
RCPP	Regional Conservation Partnership Program
RHCP	Regional Habitat Conservation Plan
RTC	Resolution Trust Corporation
RTCA	Rivers & Trails Conservation Assistance Program
RTP	Recreational Trails Program
SARA	San Antonio River Authority
SAWS	San Antonio Water System
SEP-HCP	Southern Edwards Plateau-Habitat Conservation Plan
SMGB	San Marcos Greenbelt Alliance
SMRF	San Marcos River Foundation
SOS	Save Our Springs Alliance
STP	Surface Transportation Program
TALT	Texas Agricultural Land Trust
TAP	Transportation Alternatives Program
TAS	Travis Audubon Society
TBN	Texan By Nature
TC	Travis County
TCF	The Conservation Fund
TCMA	Texas Cave Management Association
TDR	Transfer of Development Rights
THC	Texas Historical Commission
THCCN	Texas Hill Country Conservation Network
TIF	Tax Increment Finance

TLC	Texas Land Conservancy
TLTC	Texas Land Trust Council
TNC	The Nature Conservancy of Texas
TOS	Texas Ornithological Society
TPL	Trust for Public Land
TPWD	Texas Parks & Wildlife Department
TSU	Texas State University
TU	Trinity University
TXDOT	Texas Department of Transportation
TXSER	Texas Society of Ecological Restoration
TWDB	Texas Water Development Board
USDA	U.S. Department of Agriculture
USDOI	U.S. Department of the Interior
USFWS	U.S. Fish & Wildlife Service
UT	University of Texas
WVWA	Wimberley Valley Watershed Association
WITTE	Witte Museum
WRE	Wetland Reserve Easement
WQPL	Water Quality Protection Lands (Austin)

For a more detailed look at:

## **PUBLICLY FUNDED LAND PROTECTION**

### **PARCEL-by-PARCEL LAND DATA**

**Bexar, Hays & Travis Counties**

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This protected land parcel database, in Excel spreadsheet format, was assembled by project participants using all publicly available information. It includes parcel name, acquisition type, acreage, cost, cost/acre, buyer, funding sources and partners, and related data. While only publicly available information was used, it may be deemed “sensitive” by some. Please use judiciously.

