

TEXAS PARKS AND WILDLIFE DEPARTMENT

LOCAL PARK GRANT PROGRAM – PROJECT AGREEMENT

Project Sponsor and Name: LEANDER Lakewood Community Park

Project Number: 50-000452

Project Period: TPWD Approval Date to January 31, 2018

Total Project Cost: \$ 800,00.00

Approved State Funds: \$ 400,000.00

* * *

PROJECT DESCRIPTION (SCOPE):

The City of Leander will acquire 125.49 acres by donation and develop Lakewood Community Park to include: concrete trail, baseball backstops, earthen nature trail, nature area kiosk, picnic pavilions, picnic tables, benches, canoe/kayak pier, fishing pier, and project signs.

Leander Lakewood Community Park is located in the Southeast portion of the City, east of 183A and south of East Crystal Falls Parkway in Williamson County, Texas.

Review of a predictive habitat model for the federally and state-listed endangered Golden-cheeked Warbler (*Setophaga chrysoparia*) (Diamond, 2007) indicates that suitable habitat for the Golden-cheeked Warbler may be present within and adjacent to the project area. Prior to any vegetation clearing, a survey for Golden-cheeked Warbler habitat must occur.

Retaining existing native vegetation, understory vegetation and minimizing soil erosion must be done to the extent possible. Please also refer to **General Comments 3, 4, and 5** of attached Resource Memo, regarding landscaping, revegetation, vegetation removal, and soil erosion for the proposed project.

In order to avoid potential impacts to nesting birds, minimize vegetation clearing to the greatest extent practicable. However, if clearing must occur, any necessary vegetation clearing must be done outside of the April 1-July 15 migratory bird nesting season in order to comply with the Migratory Bird Treaty Act. (MBTA). Contractors must be made aware of the potential of encountering migratory birds on the proposed project site and be instructed to avoid negatively impacting them. If vegetation clearing must occur during the nesting season, a nest survey must be conducted by a qualified individual(s) (e. g. regional wildlife biologist, environmental consulting firm) prior to commencing work. If active nests are observed, a 150-foot buffer of vegetation must remain around the nests until the young have fledged or the nest is abandoned.

Trails and structures built along creek banks and lake shores must be set back far enough that they do not cause or exacerbate erosion of the banks, either from construction activities or long-term use; refer to **General Comment 1** of attached Resource Memo.

The proposed project is located within Karst Zone 3 which includes areas having a low probability of containing suitable habitat for federally-listed karst invertebrate species. The U.S. Fish and Wildlife Service (USFWS) karst invertebrate survey requirements recommend on-the-ground surveys for projects located in Karst Zone 3 to determine if karst features containing endangered invertebrates are likely to occur. The USFWS Section 10(a)(1)(A) Karst Invertebrate Survey Requirements Survey Protocol may be found on-line at http://www.fws.gov/southwest/es/Documents/R2ES/Karst_Survey_Procedures_20140508.pdf. If not done to date, a karst feature survey must be performed by a qualified individual(s) in accordance with USFWS karst survey protocols to determine if caves or karst features and/or endangered cave invertebrate species may be present and affected by the project.

If caves or karst features are found on the project site, no work should take place within 50 meters of these features. Maintaining native vegetation in areas containing karst features is important. Surface vegetation

provides nutrients to the cave ecosystem directly through plant material being washed into the karst feature with water and indirectly by providing habitat and food for the animal communities that contribute nutrients to the karst ecosystem (such as cave crickets, small mammals, and other vertebrates). A healthy vegetative community also protects the karst environment from contaminants and may also help control the spread of exotic species such as red imported fire ants. Loss of the vegetation community could lead to nutrient depletion. Maintaining native surface vegetation in the vicinity of karst features can also help minimize temperature fluctuations, maintain moisture regimes, reduce potential for contamination, and reduce sedimentation from soil erosion.

Additional habitat related comments offer advice that may further reduce or avoid adverse impacts by implementing the appropriate actions in the General Comments and Controlled Plants documents within the attached resource Memo.

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

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

* * *

TEXAS PARKS AND WILDLIFE DEPARTMENT

by



Tim Hogsett, Director, Recreation Grants Branch
Name and Title

4-8-15

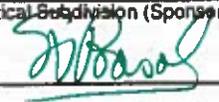
TPWD Approval Date

SAM Date N/a DFR 4/1/15

CITY OF LEANDER

Political Subdivision (Sponsor)

by

 5/8/15

Stephen Bosak, Parks & Recreation Director
Name and Title

GENERAL PROVISIONS

TEXAS RECREATION & PARKS ACCOUNT PROGRAM PROJECT AGREEMENT

(Revised February 2004)

Part I - Definitions

- A. The term 'Department' as used herein means the Texas Parks & Wildlife Department or any representative delegated authority to act on behalf of the Department.
- B. The term 'Project' as used herein means a single project which is the subject of this project agreement.
- C. The term "Sponsor" as used herein means the political subdivision which is party to the project agreement.
- D. The term 'TRPA' as used herein means the Texas Recreation & Parks Account Program.
- E. The term 'LWCF' as used herein means the Land and Water Conservation Fund Program.
- F. The term 'Procedural Guide' as used herein means the Procedural Guide for application to the Texas Recreation & Parks Account Program or the Land and Water Conservation Fund Program.
- G. The term 'TRPA Manual' as used herein refers to the rules and regulations adopted by the Parks and Wildlife Commission for administration of the TRPA and LWCF programs.

Part II - Continuing Assurances

- A. The parties to the project agreement specifically recognize that the Texas Recreation & Parks Account assistance project creates an obligation to maintain the property described in the project agreement consistent with the Texas Recreation & Parks Account Procedural Guide, and the following requirements:
- B. The sponsor agrees that the property described in the project agreement and in the dated project boundary map made part of that agreement is being acquired or developed with TRPA or LWCF assistance, and that it shall not be converted to other than public recreation use but shall be maintained in public recreation in perpetuity or for the term of the lease in the case of leased property.
- C. The sponsor agrees that the benefit to be derived by the State of Texas from the full compliance by the sponsor with the terms of this agreement is the preservation, protection, and the net increase in the quality of public recreation facilities and resources which are available to the people of the State, and such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished by the State by way of assistance under the terms of this agreement.
- D. The sponsor agrees that the property and facilities described in the project agreement shall be operated and maintained as prescribed by the Retention, Operation & Maintenance Responsibilities guidelines of the Procedural Guide.
- E. The sponsor agrees that a permanent record shall be kept and available for public inspection to the effect that the property described in the scope of the project agreement, and the dated project boundary map made part of that agreement, has been acquired or developed with TRPA or LWCF assistance and that it cannot be converted to other than public recreation use.
- F. Nondiscrimination
The sponsor shall comply with Title VI of the Civil Rights Act of 1964, which in part,
 - 1. prohibits discriminatory employment practices resulting in unequal treatment of persons who are or should be benefitting from the grant-aided facility.
 - 2. prohibits discriminating against any person on the basis of residence.

Part III - Project Assurances

- A. **Applicable Circulars**
The State shall comply with applicable regulations, policies, guidelines and requirements including State Uniform Grant and Contract Management Act of 1981 (Revised 2/22/90), Federal Office of Management and Budget Circulars A-102 (Uniform administration requirements for grants-in-aid to State and Local governments), OMB A-87 (Cost principles applicable to grants and contracts with State and Local governments), and TRACS (Texas Review and Comment System) as they relate to the application, acceptance and use of State funds for grant assisted projects. It is the responsibility of the grant sponsor to have an A-133 Single Audit done annually for the project when the sponsor receives \$300,000.00 or more in grant reimbursement per fiscal year. A copy of this audit will be furnished the Department within 30 days after completion of the sponsor's fiscal year audit.
- B. **Project Application**
 - 1. The Application for State Assistance bearing the same project name as the agreement and associated documents is by this reference made a part of the agreement.
 - 2. The sponsor possesses legal authority to apply for the grant and to finance and construct the proposed facilities. A resolution or similar action has been duly adopted or passed authorizing the filing of the application, including all

understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the sponsor to act in connection with the application and to provide such additional information as may be required.

3. The sponsor has the ability and intention to finance the non-State share of the costs for the project. Sufficient funds will be available to assure effective operation and maintenance of the facilities acquired or developed by the project.

C. Project Execution

1. The project period shall begin with the date of approval of the project agreement or the effective date of a waiver of retroactivity and shall terminate at the end of the stated or amended project period unless the project is completed or terminated sooner, in which event the project period shall end on the date of completion or termination.
2. The sponsor will cause work on the project to be commenced within a reasonable time after receipt of notification that funds have been approved and assure that the project will be prosecuted to completion with reasonable diligence.
3. The sponsor will require the facility to be designed to comply with the minimum requirements for accessibility for the handicapped in conformance with the Texas Architectural Barriers Act (Article 9102 - Texas Civil Statutes), and the Americans with Disabilities Act of 1990 (PL 101-336). The sponsor will be responsible for conducting inspections to ensure compliance with these specifications by the contractor.
4. The sponsor shall secure completion of the work in accordance with approved construction plans and specifications, and shall secure compliance with all Federal, State, and local laws and regulations.
5. In the event the project covered by the project agreement cannot be completed in accordance with the plans and specifications for the project, the sponsor shall bring the project to the point of recreational usefulness agreed upon by the sponsor and the Department.
6. The sponsor will provide for and maintain competent and adequate architectural engineering supervision and inspection at the construction site to ensure that the completed work conforms with the approved plans and specifications.
7. The sponsor shall furnish quarterly progress status reports to the Department beginning with the date of Parks & Wildlife Commission approval.
8. The sponsor will comply with the provisions of: Executive Order 11988, relating to evaluation of flood hazards; Executive Order 11298, relating to the prevention, control, and abatement of water pollution; Executive Order 11990, relating to the protection of wetlands; and the Flood Disaster Protection Act of 1973 (P.L. 93-234) 87 Stat. 675.
9. The sponsor will assist the Department in its compliance with the Texas Antiquities Code (Revised 9/1/87) by
 - (a) consulting with the Texas Historical Commission on the conduct of investigations, as necessary, to identify properties listed in or eligible for listing as State Archeological Landmarks, and to notify the Department of the existence of any such properties, and by
 - (b) complying with all requirements established by the Department to avoid or mitigate adverse effects upon such properties.

D. Construction

Construction for by the sponsor shall meet the following requirements:

1. Contracts for construction in excess of \$25,000 shall be awarded through a process of competitive bidding involving formal advertising, with adequate purchase description, sealed bids, and public openings. Copies of all advertisements, bids and a copy of the contract shall be provided the Department.
2. The sponsor shall inform all bidders on contracts for construction that TRPA or LWCF funds are being used to assist in construction.
3. Written change orders shall be issued for all necessary changes in the facility being constructed. Such change orders shall be submitted to the Department for review and, if approved, shall be made a part of the project file and should be kept available for audit.
4. The sponsor shall incorporate, or cause to be incorporated, into all construction contracts the following provisions:

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

"(a) The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, gender, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, gender or national origin."

"(b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, or national origin."

"(c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the contractor's commitments under Section 202 of Executive Order No.

11246, as amended (3 CFR 169 (1974), and shall post copies of notices in conspicuous places available to employees and applicants for employment."

"(d) The contractor will comply with all provisions of Executive order No. 11246, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor."

"(e) The contractor will furnish all information and reports required by Executive Order No. 11246, as amended, and by the rules, regulations, and order of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders."

"(f) In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246, as amended, or by rule, regulations, or order of the Secretary of Labor, or as otherwise provided by law."

"(g) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contract will take such action with respect to any subcontract or purchase order as the contracting agency may direct as means of enforcing such provisions, including sanctions for noncompliance: >>Provided, however>>, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

E. Conflict of Interests

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

F. Project Costs

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

G. Project Administration

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

H. Retention and Custodial Requirements for Records

1. Financial records, supporting documents, statistical records, and all other records pertinent to this grant shall be retained for a period of three years after final payment; except the records shall be retained beyond the three-year period if audit findings have not been resolved.
2. The retention period starts from the date of the final expenditures report for the project.
3. Microfilm copies are authorized in lieu of original records.
4. The National Park Service, the Department, State Comptroller of Public Accounts, State Auditors Office, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the sponsor which are pertinent to a specific project for the purpose of making audits, examinations, excerpts and transcripts.

I. Project Termination

1. The Department may temporarily suspend TRPA or LWCF assistance under the project pending corrective action by the sponsor or pending a decision to terminate the grant by the Department.
2. The sponsor may unilaterally terminate the project at any time prior to the first payment on the project. After the initial payment, the project may be terminated, modified, or amended by the sponsor only by mutual agreement with the Department.
3. The Department may terminate the project in whole, or in part, at any time before the date of completion, whenever it is determined that the sponsor has failed to comply with the conditions of the grant. The Department will promptly notify the sponsor in writing of the determination and the reasons for termination, together with the effective date. Payments made to the sponsor or recoveries by the Department under projects terminated for cause shall be in accord with the legal rights and liabilities of the parties.
4. The Department or sponsor may terminate grants in whole, or in part, at any time before the date of completion, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the

further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portions to be terminated. The sponsor shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Department may allow full credit to the sponsor for the State share of the non-cancelable obligations, property incurred by the sponsor, pending written receipt of the determination and the reasons for termination, together with the effective date. Payments made to the sponsor or recoveries by the Department under projects terminated for cause shall be in accord with the legal rights and liabilities of the parties.

5. Termination either for cause or for convenience requires that the project in question be brought to a state of recreational usefulness agreed upon by the sponsor and the Department, or that all funds provided by the Department be returned.

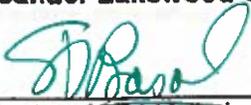
J. Noncompliance

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

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

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

Leander Lakewood Community Park, Project Number 50-000452



Signature of Official Authorized in Resolution

STEPHEN BOSAK, PARKS AND RECREATION DIRECTOR

Name and Title

5/8/15

Date

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

This is to certify that a permanent record shall be kept in the **CITY OF LEANDER** public property records and be made available for public inspection to the effect that the property described in the scope of the Project Agreement for **LEANDER Lakewood Community Park, Project Number 50-000452**, and the dated project boundary map made part of that Agreement, has been acquired or developed with Texas Recreation and Parks Account assistance and that it cannot be converted to other than public recreation use without the written approval of the Texas Parks and Wildlife Department.

CITY OF LEANDER

Political Subdivision

By



Stephen Bosak, Parks and Recreation Director

Name and Title



Date

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

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

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

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

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

SUMMARY OF GUIDELINES (Continued)

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

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

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

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

* * * * *

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

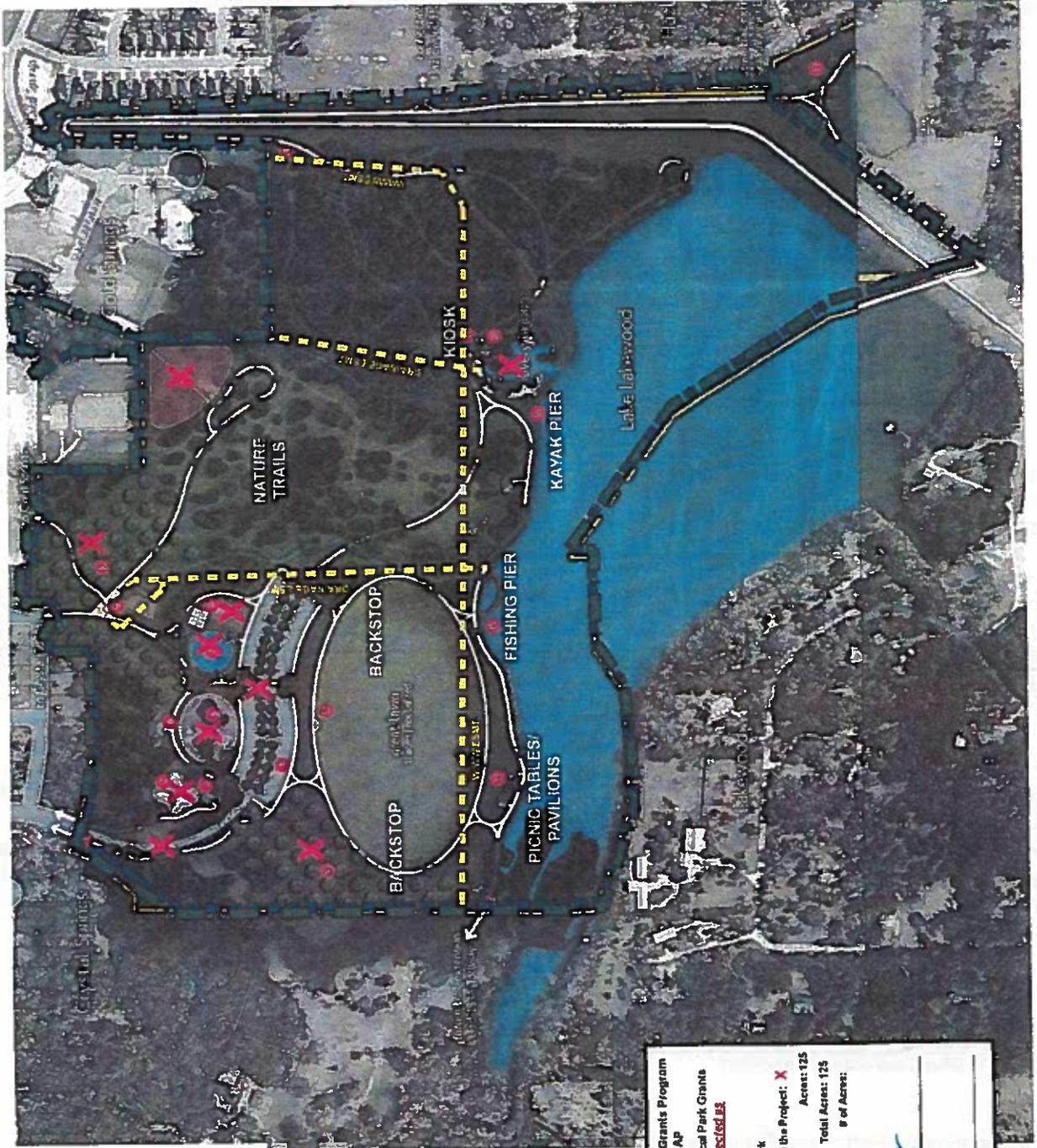


Signature of Official Authorized in Resolution

5/8/15
Date

Stephen Bosak, Parks and Recreation Director
Name and Title

Leander Lakewood Community Park - 50-000452
Project Name and Number



Texas Parks & Wildlife Department - Local Park Grants Program
OFFICIAL PROJECT BOUNDARY MAP
 This project has been funded through the TPWD Local Park Grants Program. Land identified on this official map is **dedicated** **to** **public use**.

Project Name: LEANDER LAKWOOD COMMUNITY PARK
 Project # 99-006432
 Acquisition Boundary: ----- Acres: 125
 Project Boundary: - - - - - Total Acres: 125
 Dedicated Open Space/Natural Area: _____ # of Acres:
 Dedic. to: _____
 Tin Hedges (Dedicated to Park Use) _____
 Signature: *[Handwritten Signature]* 4/6/15
 Singleton Park, Parks & Recreation Director: *[Handwritten Signature]* 5/8/15
 Signature Title: _____