



**City Council Questions and Answers for  
Thursday, August 06, 2015**

These questions and answers are related to the  
Austin City Council meeting that will convene at 10:00 AM on  
Thursday, August 06, 2015 at Austin City Hall  
301 W. Second Street, Austin, TX



**Mayor Steve Adler**  
**Mayor Pro Tem Kathie Tovo, District 9**  
**Council Member Ora Houston, District 1**  
**Council Member Delia Garza, District 2**  
**Council Member Sabino Pío Renteria, District 3**  
**Council Member Gregorio Casar, District 4**  
**Council Member Ann Kitchen, District 5**  
**Council Member Don Zimmerman, District 6**  
**Council Member Leslie Pool, District 7**  
**Council Member Ellen Troxclair, District 8**  
**Council Member Sheri Gallo, District 10**

*The City Council Questions and Answers Report was derived from a need to provide City Council Members an opportunity to solicit clarifying information from City Departments as it relates to requests for council action. After a City Council Regular Meeting agenda has been published, Council Members will have the opportunity to ask questions of departments via the City Manager's Agenda Office. This process continues until 5:00 p.m. the Tuesday before the Council meeting. The final report is distributed at noon to City Council the Wednesday before the council meeting.*

## **QUESTIONS FROM COUNCIL**

1. Agenda Items # 3 and # 24: Approve an ordinance amending the Fiscal Year 2014-2015 Wildland Conservation Fund Operating Budget (Ordinance No. 20140908-001) to increase appropriations by \$196,420 and decrease the ending balance by the same amount for the purchase of real estate for the Balcones Canyonlands Preserve. # 24: Authorize negotiation and execution of all documents and instruments necessary or desirable to purchase in fee simple two tracts of land, totaling approximately 10.099 acres, in Travis County, Texas, located at 11101 and 11105 Zimmerman Lane from Joseph F. Lucas for the Balcones Canyonland Preserve in an amount not to exceed \$400,000 (District 6).
  - a. QUESTION: 1) Who did the appraisal for the property? 2) What is the justification/method to come up with a \$400,000 valuation? 3) What is the property valued at on TCAD for 2015? 4) How much in property taxes will be taken off the rolls if the city purchases this property? 5) What is the justification for having the city purchase this property (please expand more than just the 5 sentences in the Additional Backup Information)? 6) Had the city tried to purchase this property in the past? COUNCIL MEMBER ZIMMERMAN'S OFFICE
  - b. ANSWER: 1) Atrium Real Estate Services. 2) The Independent Third-Party appraisal done by Atrium Real Estate Services used a sales comparison approach to compare similar properties that have sold in the market. The approximate 10 acres is comprised of two 5 acre tracts (11101 and 11105 Zimmerman Lane). The highest and best use as determined in the appraisal is residential, due to the SF-3 single family residential zoning and surrounding areas. Zimmerman Lane is a two-lane, asphalt paved residential street that dead ends into the property. 3) The 2015 assessed market value for 11101 Zimmerman Lane is \$45,000 and the 2015 assessed market value for 11105 Zimmerman Lane is \$45,000. 4) The 2015 property taxes for 11101 Zimmerman Lane is \$1,201.37 and the 2015 property taxes for 11105 Zimmerman Lane is \$1,201.37. 5) A Memo to Mayor and Council explaining the need for this acquisition was distributed on August 3rd and will be posted as late backup to this item. As background, on May 2, 1996 Travis County and the City of Austin entered into an Interlocal Cooperation Agreement to create the Balcones Canyonlands Conservation Plan (BCCP). This is the first

regional, multi-species Habitat Conservation Plan in the country. The BCCP was established to provide for conservation of eight endangered species and twenty-seven species of concern, and to promote continued economic development in Austin and Travis County. The regional partnership also includes the City of Sunset Valley, Travis Audubon Society, Lower Colorado River Authority, the Nature Conservancy of Texas and several private preserve owners. The BCCP Partners have established the majority of the Balcones Canyonlands Preserve, protecting and managing 30,540 acres in addition to forty-eight of the sixty-two caves required to be protected by the BCCP federal permit. The Balcones Canyonlands Preserve system not only provides habitat and protection for these rare and endangered species, but also provides important air quality, water quality, and open space benefits to communities in Central Texas. There are a few key areas where land acquisitions are still needed to complete the preserve system. This transaction is in one of those areas. The acquisition funds are paid by private development and are designated to be used for acquisition of preserve land and other preserve needs. 6) No.

- c. QUESTION: 1) Could staff provide a more detailed explanation of the funding source? It would be helpful to understand how the payment for mitigation credits is helping to fund this acquisition? 2) Are there any City funds being used to purchase the tract? If so, what is the revenue source?  
COUNCIL MEMBER TROXCLAIR'S OFFICE
- d. ANSWER: The Balcones Canyonlands Preserve (BCP) was established to serve as mitigation for endangered species habitat lost through development. The Balcones Canyonlands Conservation Plan (HCP) and its federal permit provide that the mitigation can be used by the City and County as permit holders to mitigate for Public Service CIP projects (roads, water lines, power lines,...). The HCP and permit also allow the permit holders to sell mitigation credits to private property owners who wish to participate in BCCP in order to comply with the endangered species act as they develop their private property. BCCP participation is voluntary, however, it provides private property owners with a fast, cost effective and certain process they can use to comply with the Act. This was the local solution to the listing of two song birds in the late 1980's and early 1990's that caused the development economy in Austin to grind to a halt. This process usually takes 4 to 8 weeks and costs between \$5500.00 per acre to \$2750.00 per acre depending upon the type of habitat being mitigated. Whereas, property owners can also simply go to U.S. Fish and Wildlife Service and acquire their own permit under the Act. This process has been said to take a minimum of two years with cost beginning at \$2 million. The process can sometimes drag out indefinitely for years and costs escalate accordingly. May property owners still chose to acquire their own permit, especially owners of very large development tracts. When the permit holders sell mitigation credits to private property owners and to public service infrastructure owners who are not associated with the BCCP permit holders, the City and County split the revenues equally. The HCP and Federal permit both require that the revenues from participation sales be used

specifically for preserve land acquisition and other BCP related purposes. The City's share of revenues are deposited in a specific interest bearing bank account dedicated to the BCP and the HCP/Permit required purposes. Over the last decade the City's participation revenues have ranged between a few hundred thousand dollars to \$2+ million annually depending upon the real estate market and the business decisions of individual developers. These revenues are the source of funding for RCA's 3 and 24. There are no other public funds being used for these items.

- e. QUESTION: 1) Please provide a map indicating 11101 and 11105 Zimmerman Lane (Lucas Tract) and how it relates to other BCP parcels. 2) Please provide additional details on how this purchase meets our BCP (US Fish and Wildlife) permit goals. G. Meszaros' memo (July 31, 2015) states that BCP Partners have already reached the total number of acres required but, "there are specific configuration requirements regarding different macro-sites or management units that must still be met, including those within the Bull Creek macro-site". Please further describe how this specific tract helps BCP Partners to meet this component of the permit. COUNCIL MEMBER POOL'S OFFICE
- f. ANSWER: 1) See attached map depicting the Lucas Tract along with adjacent BCP Tracts. 2) First and most importantly, the Lucas Tract eliminates a small inholding inside the boundary of City and other BCP properties on the upper Bull Creek Macrosite. While ten acres seems insignificant, keep in mind that this tract is immediately adjacent to the former WTP4 site (now known as the Sam Hamilton Reserve). Because this particular area is so environmentally sensitive, City Council spent \$50 Million around 2005 to find a new less sensitive site for WTP4. In 2009 the City also bought the Gaas Tract on Zimmerman Lane, a mirror image of the Lucas Tract, for the same price as Lucas today. The vicinity around Lucas includes high quality golden-cheeked warbler habitat, some black capped vireo habitat and federally designated Critical Habitat for Jollyville Plateau salamanders. The Lucas tract itself includes warbler and salamander habitat. Should the City not purchase this tract, it could be developed with existing entitlements and result in degradation of the investments the City has already made for the invaluable habitat adjacent to this property. Regarding BCCP Compliance, this effort will provide additional support to complete the Bull Creek Macrosite. While the HCP requires that the overall preserve size include a minimum of 30,428 acres, it also requires very specific configuration requirements for each macrosite. These include a minimum size for the macrosite, minimum preserve dimensions, and a maximum edge-to-area ratio. Currently, the Bull Creek Macrosite meets none of these requirements. This acquisition is with the designated Preserve Acquisition area for the Bull Creek Macrosite, it brings BCCP 10 acres closer to the minimum preserve acreage for the Macrosite, and it addresses configuration requirements for the macrosite.
- g. QUESTION: 1) Is the property being purchased via ROW or voluntary sale? 2) Where exactly is the property located in conjunction to the BCCP and

privately owned lands? 3) Can you provide a map of BCCP lands that include which areas are BCCP and which are privately owned? 4) The two maps are not identifying Lucas in the same location. The larger scale map has Lucas on one side of 620 while the other map shows Lucas near WTP4. Can you identify/verify which area we are purchasing? 5) Please show those plots on a map please so that we can better understand proximity. COUNCIL MEMBER GALLO'S OFFICE

h. ANSWER: 1) From a willing seller who offered the property to us. 2) See attached map (map 1). 3) See attached map (map 2) The parcels for Travis County are a bit outdated, but nothing near the Lucas Purchase. 4) Please see the legend on the BCP Parcel map (Map 2). The Lucas tract west of RR620 is a BCP tract belonging to Travis County they purchased it ~ 2007. Tracts often get named based upon the seller's name. In this case, Mr. Lucas has sold multiple tracts to BCP: mostly to Travis Co. The tract in question is circled on the 2011 map. Note that it was then, and still is private property and is depicted as such on any map provided for these items. 5) See attached maps (Map 3 and 4).

2. Agenda Item #7: Authorize the use of the Competitive Sealed Proposal method for construction improvements to the Oakwood Cemetery Chapel.

a. 1) What types of "programming opportunities including educational programming and heritage tourism" are anticipated? 2) Are there any laws that limit what programming/activities can be done on public cemeteries? 3) If so, what are those limitations? COUNCIL MEMBER ZIMMERMAN'S OFFICE

b. ANSWER: 1) Oakwood Cemetery, established in 1839, is the city's oldest municipal cemetery and is a City of Austin Historic Landmark. Educational programming and heritage tourism, such as historic tours, is already taking place in the cemetery. There are community members and those that live in the surrounding neighborhood who come to Oakwood Cemetery to take part in activities such as genealogy research, photography, painting, birdwatching and walking. The chapel project will serve to support the activities that are already taking place. Save Austin's Cemeteries is a nonprofit that is dedicated to preserve historic cemeteries in Austin and conducts educational events and tours on a regular basis. Further, PARD's History, Arts and Nature Division has expressed interest in working with the Cemetery Division to expand further programming and educational opportunities to benefit the citizens of Austin. 2) The Legal Department is preparing a response that will be sent to Council separately. 3) The Legal Department is preparing a response that will be sent to Council separately.

c. QUESTION: 1) If the "Construction Manager at Risk" happens to be approved, can the legal department provide assurance that the manager would in fact be at risk (and not the City)? 2) What kind of risk does the City bear with the Competitive Sealed Proposal option? COUNCIL MEMBER POOL'S OFFICE

- d. ANSWER: The referenced Item 7 is a Recommendation for Council Action that, if approved, allows for the utilization of the Competitive Sealed Proposal contracting and procurement method. This method allows the City to select a contractor to perform construction services based on the best value to the City of Austin as evaluated against the established evaluation criteria, which includes price. Competitive Sealed Proposal contract terms and conditions are the same as traditional Invitation for Bid construction contracts, so this minimizes risk to the City. The vast majority of our construction contracts are awarded via an Invitation for Bid method. Invitation for Bid projects are awarded to the contractor that submitted the lowest responsive and responsible bid. Specifically, risk to the City for Competitive Sealed Proposals is minimized due to the fact that contractors are submitting proposed pricing on 100% complete design and construction documents. Additionally, the CSP method allows the City to negotiate with the contractor prior to contract execution while the IFB method does not. Competitive Sealed Proposal and Construction Manager at Risk (CMR) are two separate methodologies and are not used concurrently. The Oakwood Cemetery Chapel is requesting to use the Competitive Sealed Proposal method. For additional information, see the attached memo.
- 3. Agenda Item # 9: Authorize award and execution of a construction contract with TEXAS GAS SERVICE to relocate an existing 8-inch high pressure gas main located on East Parmer Lane at the Harris Branch Creek Crossing for a total contract amount not to exceed \$350,000. ( Notes: The contract will be awarded as a sole source and is exempt from City Code Chapter 2-9A Minority Owned and Women Owned Business Enterprise Procurement Program. )
    - a. QUESTION: The RCA says that the relocation is necessary because “it was discovered that the gas line was not originally built in the location identified by Texas Gas.” If the gas line had been in the original location, would it have been an obstruction to the water main project? COUNCIL MEMBER TROXCLAIR'S OFFICE
    - b. ANSWER: No. the engineer designed the new water line around the gas main.
- 4. Agenda Item # 33: Authorize negotiation and execution of a 24-month contract with SMART CHARGE RESIDENTIAL INC., for the maintenance and repair of current and future electric vehicle charging stations located in the Austin Energy service area, in an amount not to exceed \$180,000, with two 12-month extension options in an amount not to exceed \$90,000 per extension option, for a total contract amount not to exceed \$360,000. ( Notes: This contract will be awarded in compliance with City Code Chapter 2-9C Minority Owned and Women Owned Business Enterprise Procurement Program. No subcontracting opportunities were identified; therefore, no goals were established for this solicitation. )
    - a. QUESTION: 1) Is there any revenue generated from these charging stations?

2) For the charging stations owned by commercial hosts, are there agreements or contracts in place that determines which costs Austin Energy will cover and which costs the private host will cover for maintenance and operations?

COUNCIL MEMBER TROXCLAIR'S OFFICE

- b. ANSWER: 1) Yes, revenue collected from electric vehicle (EV) charges total approximately \$858,450/year. Revenue from PUBLIC charging stations comes from 791 Plug-in EVerywhere members who pay a flat fee of \$25 for 6 months and from credit card payments at charging stations (a flat fee of \$2/hour for 3.3 to 6.6kWh, depending on the vehicle type). However, we estimate that 85% of all charging is done at HOME, at our existing tiered rates, behind customer meters. This represents a revenue stream of approximately \$400/year per EV or \$800,000/year due to more people buying and leasing EVs. EV "adoption" has been increasing 100-300% per year since 2011. Currently, we have over 2,000 EVs in Austin Energy's service territory. In 2011, there were 300. In summary, the breakdown of revenue from PUBLIC charging stations is:  
Plug-in EVerywhere members (791 members) = \$39,550/year, Credit Card Payments = \$18,911/year, Total = \$58,450/year, Add \$800,000/year from HOME charging, Grand Total = \$858,450. 2) Charging stations located on private property will be maintained and repaired by the property owner. Such property owners may purchase maintenance and repair services under this contract or use another contractor of their choice.

5. Agenda Item # 37: Approve a resolution authorizing the negotiation and execution of Amendment No. 2 to the Advance Funding Agreement between the City and the Texas Department of Transportation in the amount not to exceed \$500,000 for intersection improvements to the IH 35 Northbound Frontage Road from 53rd Street to Barbara Jordan Boulevard.

- a. QUESTION: Backup for item # 37 indicates this resolution authorizes an amendment No. 2 to the Advance Funding Agreement that was approved by Council on January 27, 2011. It provides for an additional amount not to exceed \$500,000 in response to change orders incurred by TxDOT during construction. Backup further indicates "AFA Amendment No. 2 would not be executed until after construction is complete and TxDOT has completed its post construction audit to determine final costs owed by the City". If the amendment No. 2 is not to be executed until after completion of construction and post construction audit, why is the resolution being brought to Council now and not later after the post audit determines the final cost? If the resolution is approved at Council is it possible an amendment No. 3 will be needed to reconcile costs beyond the \$500,000 of amendment No. 2?  
COUNCIL MEMBER KITCHEN'S OFFICE

- b. ANSWER: The AFA requires the City to acknowledge all change orders before they are executed between TxDOT and their contractor. To date, the change order and contract total meets the prior authorization approved by Council. This RCA and resolution intends to get additional authorization from

Council prior to committing City funds, similar to a normal contract procedures and prevent a ratification of the AFA at a later date. The proposed \$500k is a best estimate to cover most if not all anticipated costs to date. It is possible that once TxDOT completes its audit, an Amendment # 3 may be required if final costs exceed this \$500k.

6. Agenda Items # 38, # 39 and # 40: Approve an ordinance amending City Code Section 12-4-64 (D) to establish a maximum speed limit of 40 miles per hour on Staked Plains Drive from Lakeline Boulevard to Avery Ranch Boulevard. 39: Approve an ordinance amending City Code Section 12-4-64 (D) to establish a maximum speed limit of 40 miles per hour on The Lakes Boulevard from IH 35 (North) East Frontage to the Austin city limit and 0.23 miles north of Howard Lane to the Austin city limit. 40: Approve an ordinance amending Section 12-4-64 (D) of the City Code to establish a 40 mph speed limit on North Lamar Boulevard from Parmer Lane to IH 35.
  - a. QUESTION: It states in back-up documents (letters to TXDOT and memos from our Traffic Engineering Division, "the amendments made in this ordinance are based on the results of a traffic engineering investigation, or "speed study". It appears some additional consideration is given to number of crashes, the type of development along the roadways, and access to the roadways. Given Vision Zero goals and recommendations to lower speed limits throughout the City, please describe how much weight is given to speed studies (averaging existing speeds) versus other factors such as safety, and reduction of congestion. COUNCIL MEMBER POOL'S OFFICE
  - b. ANSWER: Speed limits are established to inform motorists, who may be unfamiliar with a particular road, of the speed considered reasonable by a majority of drivers on that road. Texas law requires that a traffic engineering investigation (speed study) be performed in accordance with the procedures specified in the Texas Procedures for Establishing Speed Zones (2006) to determine the posted speed limit. The 85th percentile speed, measured during a speed study on the roadway, is used to set speed limit. This is the speed at which 85% of the motorists are driving at or below. The 85th percentile speed along with road features such as surface width and type, surrounding land use, and crash history are taken into consideration before establishing a speed limit. However, per state law, the posted speed limit should be within 5 mph of the 85th percentile speed. In the 1970's, there were a number of cities in Texas that set up speed traps, where they would arbitrarily set low speed limits to write more tickets. Locally, Schertz was famous for writing tickets for people driving on Interstate 35. The state legislature acted to lessen the possibility of speed traps being set up through dictating that speed limits could only be changed through an engineering process. Research has shown that arbitrarily lowering speed limits does not affect actual speeds since drivers select their speeds according to their own sense of comfort and safety. In addition, posting speed limits more than 5 mph below the 85th percentile speed does not reduce crashes and has an adverse effect on driver compliance. We have been successful with changing the way people drive local streets




through the introduction of traffic calming devices, with vertical displacement devices having the greatest impact on fast driving.


7. Agenda Item # 43: Approve a resolution relating to the location of Fun Fun Fun Fest on Auditorium Shores. (SPONSOR: Council Member Gregorio Casar CO 1: Mayor Steve Adler CO 2: Mayor Pro Tem Kathie Tovo CO 3: Council Member Leslie Pool)
  - a. QUESTION: 1) Does this resolution set a precedent for usage of dedicated public parkland for commercial events? 2) What's the status of the Parkland Events Taskforce? COUNCIL MEMBER HOUSTON'S OFFICE
  - b. ANSWER: 1) This resolution as staff understands it, directs staff to enter into negotiations with Fun Fun Fun Festival (FFF) to safely accommodate the logistical requirements of their 2015 festival, at the Vic Mathias Shores (AKA: Auditorium Shores), while ensuring that there remains public access to an off-leash dog area, trail access and access the shores (water). FFF has hosted festivals within the city's park system for well over 9 years. November 2015 will mark the 10 year hosting this event, 4 of these years have been hosted at Vic Mathias Shores. Current event management on parkland allows for the rental of venues through an event application process and contract, for the purpose of hosting public and private (or ticketed) events that serve a park and recreational purpose. Individuals, groups or organizations, non-profit or otherwise may request the use of parkland. The Council adopted fee schedule dictates applicable fees for park use including a fee per day, set up/take down fee per day, maintenance fee, electricity, damage deposit fee, and the fee per ticket sold. The fee schedule applies across the board, and therefore does not distinguish a fee structure for not-for-profit and commercial events. Fun Fun Fun Fest is a Transmission Events Production. Transmission Events is located at 902 East 5th St., Austin Texas. According to the Texas Secretary of State, this entity is a Domestic Limited Liability Company (LLC). The official company name is Transmission Entertainment, LLC. On a related note, the following detailed information is provided in response to your June 23, 2015 question, during the Special Called Council Meeting, on the question of total fees owed by FFF: PARD Fees: The rental fees for 2015 are currently \$35,560. In addition, \$1 /ticket per person per day per \$50 of ticket value is due after the event. This ticket remittance fee goes into park maintenance. Transportation Fees: In addition, the festival will pay street closure permit fees. Although the Riverside west-end closure, scope and times are not finalized yet pending the festival completing its plan for City review, the fees are similar to 2014. \$250.00 - Application Fee, \$674.00 - Safety Inspection Fee, \$1500.00 - Traffic Control Plan, \$2550.00 - Permit Fee, \$2000.00- Deposit (Refundable). APD Fees: The festival will also pay for APD Special Events to staff the barricades on Riverside, officers and barricades to protect the Bouldin Neighborhood from event parking, and Austin Center for Events required staffing resulting from planning meetings to ease the impact on the Opera and/or Settlement Home. Fire and EMS Fees: The festival pays regular permit fees for AFD inspections on site, and any required standby time. In

addition, the festival contracts for private medical coverage approved by EMS.  
2) On March 5, 2015 Austin City Council created the Parkland Events Task Force (item 25), with a draft report required back to City Council on June 5, 2015. A quorum of the body has been appointed and the body will begin meeting later this month.

8. Agenda Item # 71: Conduct a public hearing and consider an ordinance regarding floodplain variances for the construction of a new single family residence at 6109 Oakclaire Drive, which is located partially in the 25-year and 100-year floodplains of the Gaines Creek, a tributary of Barton Creek (District 8).
  - a. QUESTION: How many flood complaints have come from this neighborhood in the last 10 years? COUNCIL MEMBER TROXCLAIR'S OFFICE
  - b. ANSWER: The Watershed Protection Department has received 51 flooding complaints over the last 10 years from this neighborhood (Oak Park) and the adjacent neighborhood to the east (Oak Acres).

#### **END OF REPORT - ATTACHMENTS TO FOLLOW**

 *The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.*

 *For assistance, please call 512-974-2210 or TTY users route through 711.*

# Balcones Canyonlands Preserve

## Tracts in the Vicinity of the Lucas Tract



All BCP Tracts

General Ownership

City of Austin

LCRA

Potential Future Preserve

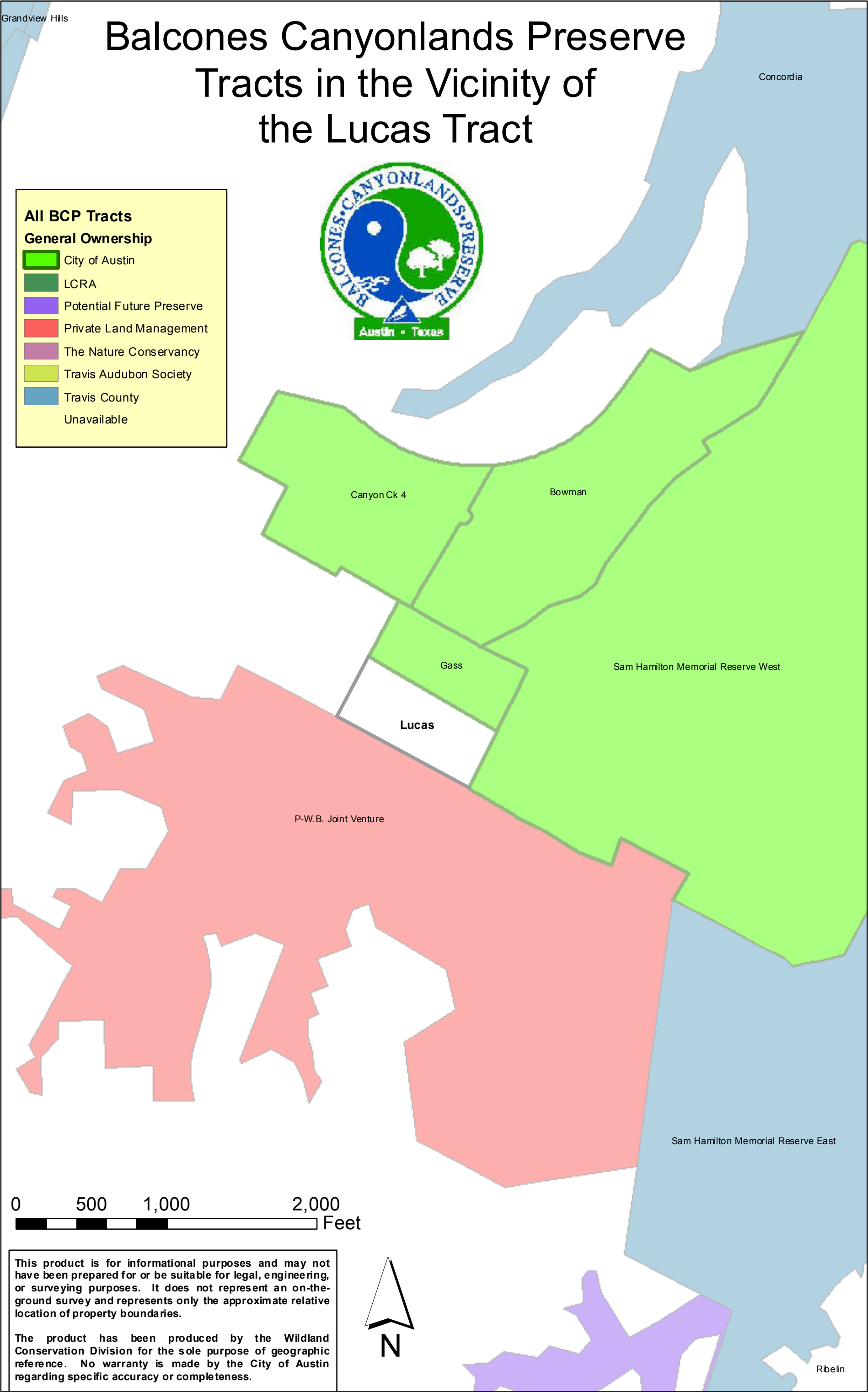
Private Land Management

The Nature Conservancy

Travis Audubon Society

Travis County

Unavailable











Proposed Acquisition - Lucas Tract



City of Austin Balcones Canyonland Preserves



620

ZIMMERMAN

Balcones Canyonland  
Preserves

FOUR POINTS

RIVERPLACE

Bull Creek

2222



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Grandview Hills

# Balcones Canyonlands Preserve

## Tracts in the Vicinity of the Lucas Tract



All BCP Tracts

General Ownership

City of Austin

LCRA

Potential Future Preserve

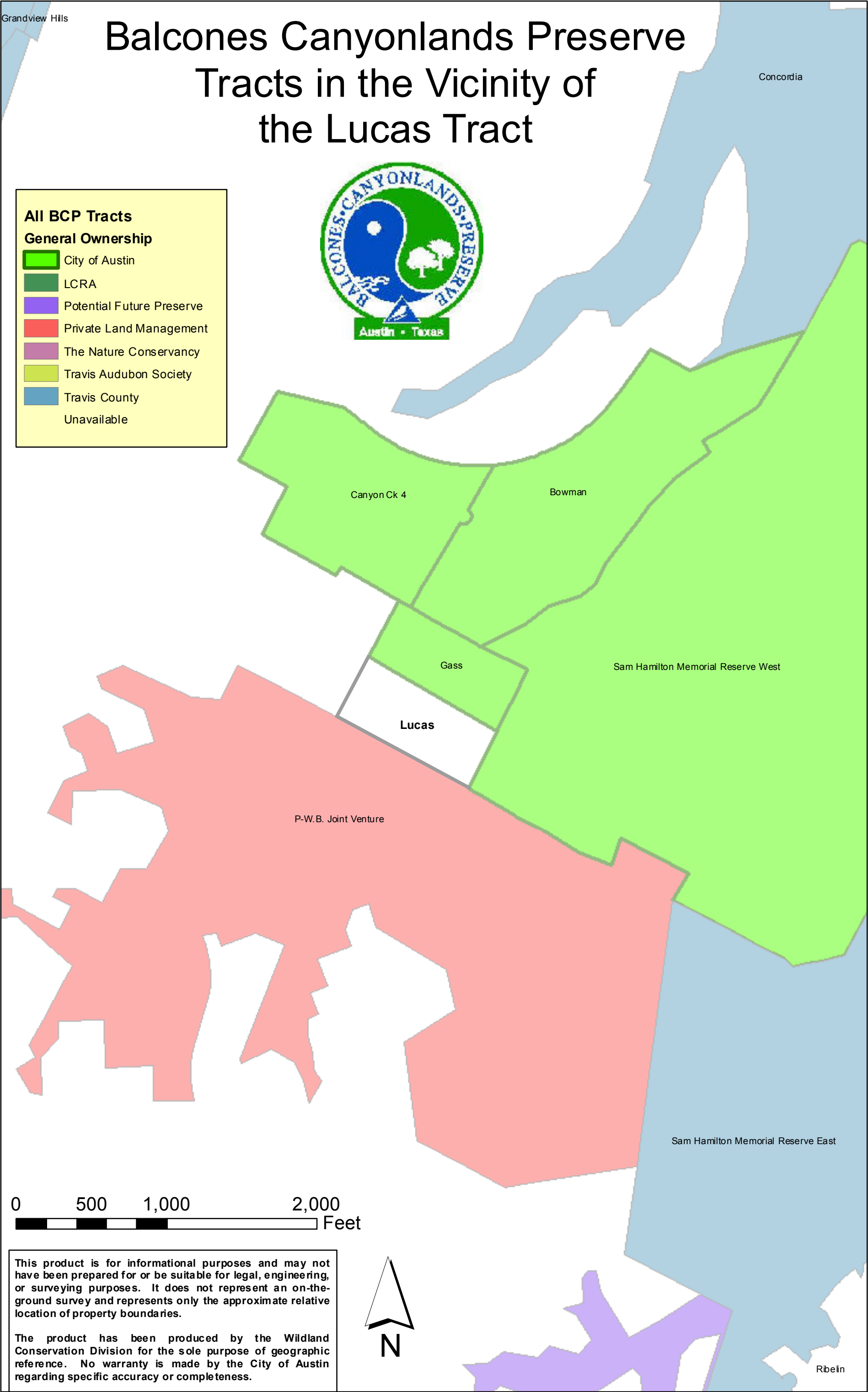
Private Land Management

The Nature Conservancy

Travis Audubon Society

Travis County

Unavailable

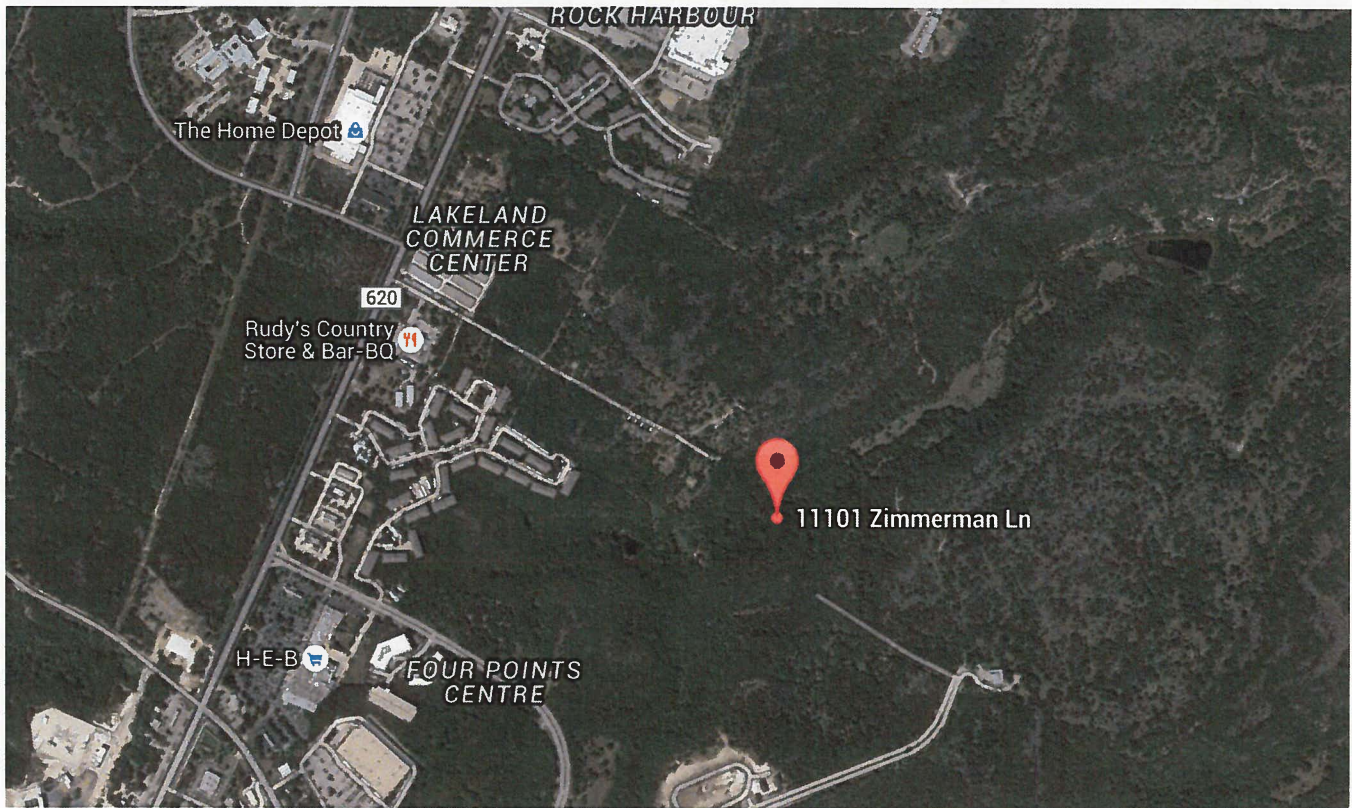




**11101 Zimmerman Ln**

11101 Zimmerman Ln, Austin, TX 78726

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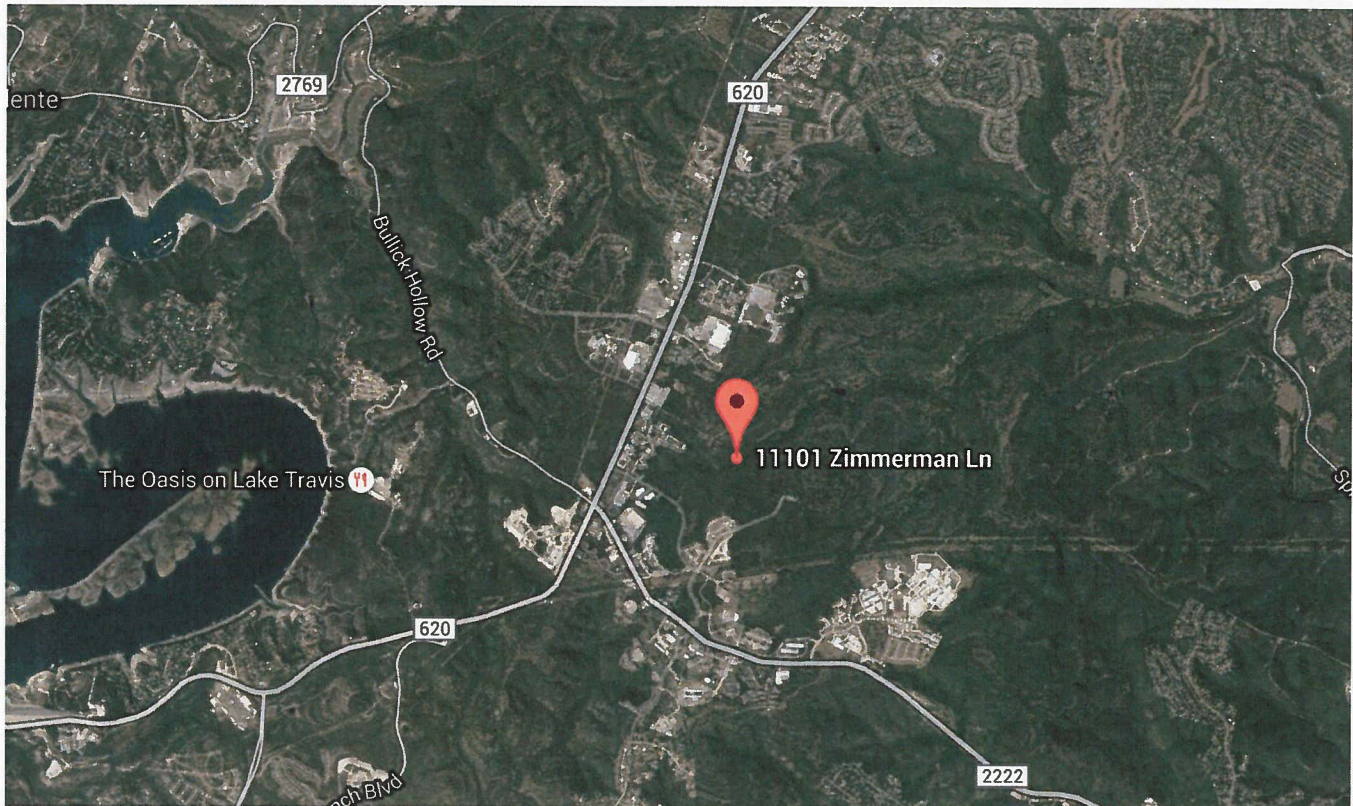




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11101 Zimmerman Ln, Austin, TX 78726

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# Balcones Canyonlands Preserve

## Tracts in the Vicinity of the Lucas Tract

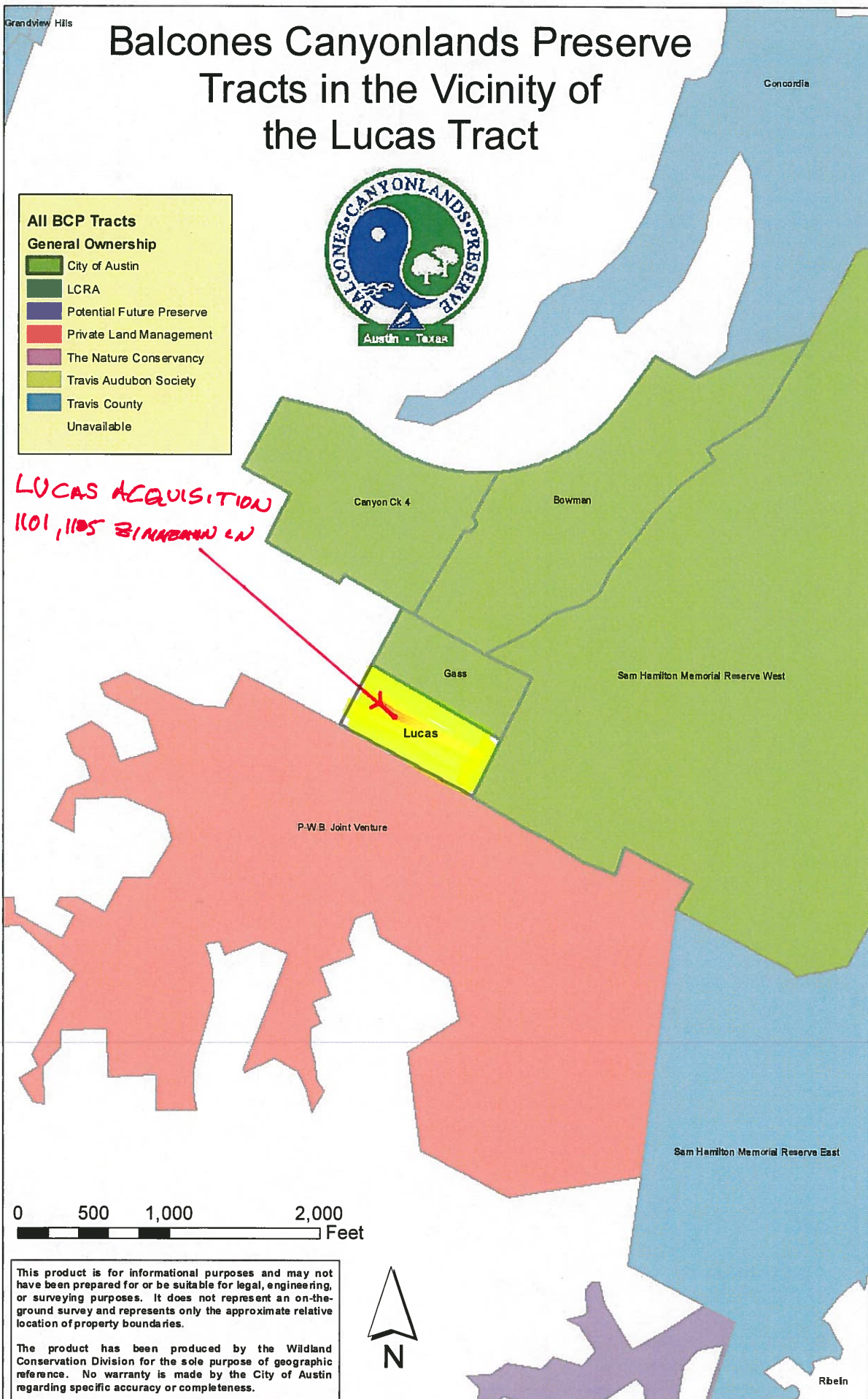


### All BCP Tracts

#### General Ownership

- City of Austin
- LCRA
- Potential Future Preserve
- Private Land Management
- The Nature Conservancy
- Travis Audubon Society
- Travis County
- Unavailable

**LUCAS ACQUISITION**  
1101, 1105 BIRKENHEAD LN



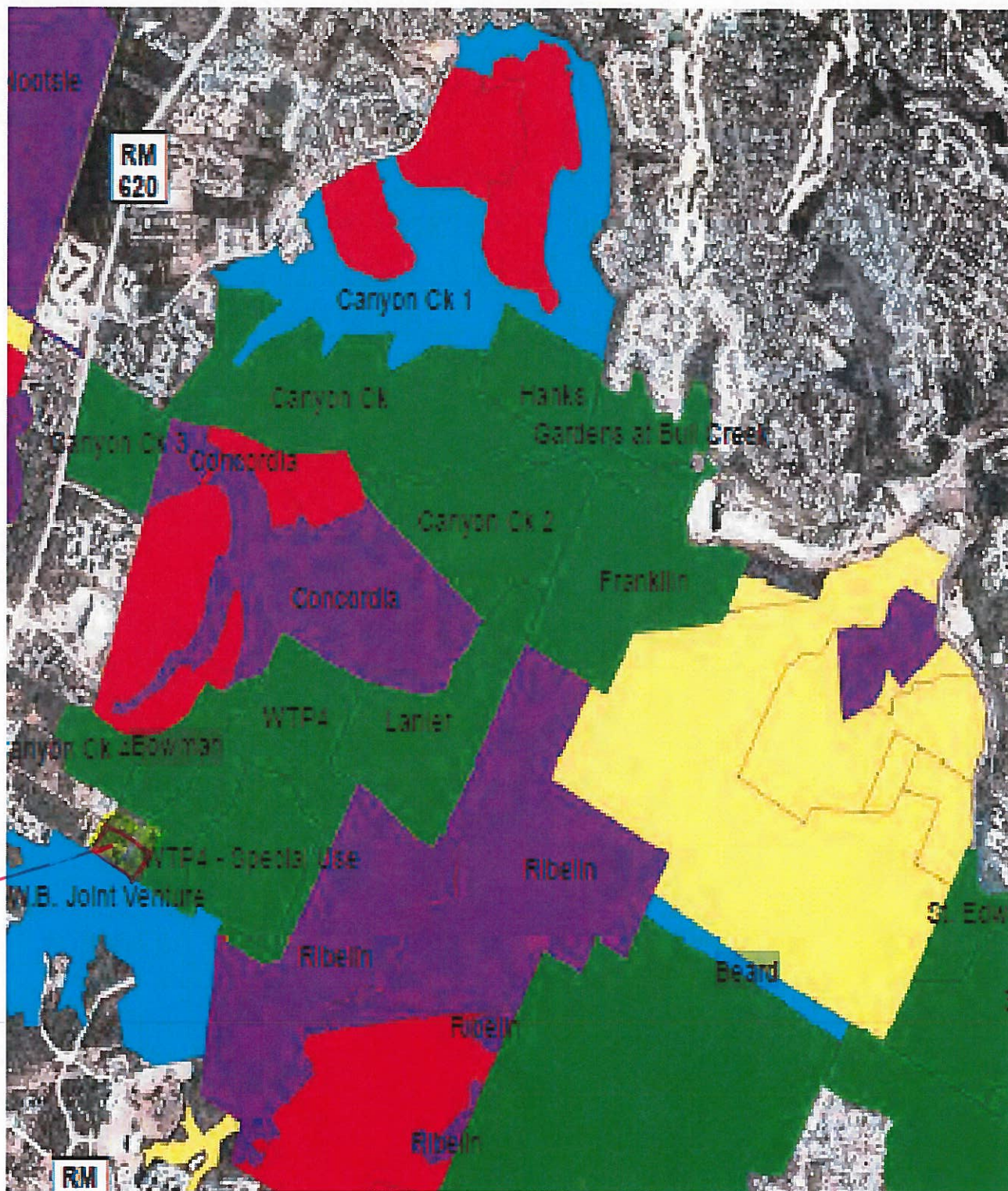
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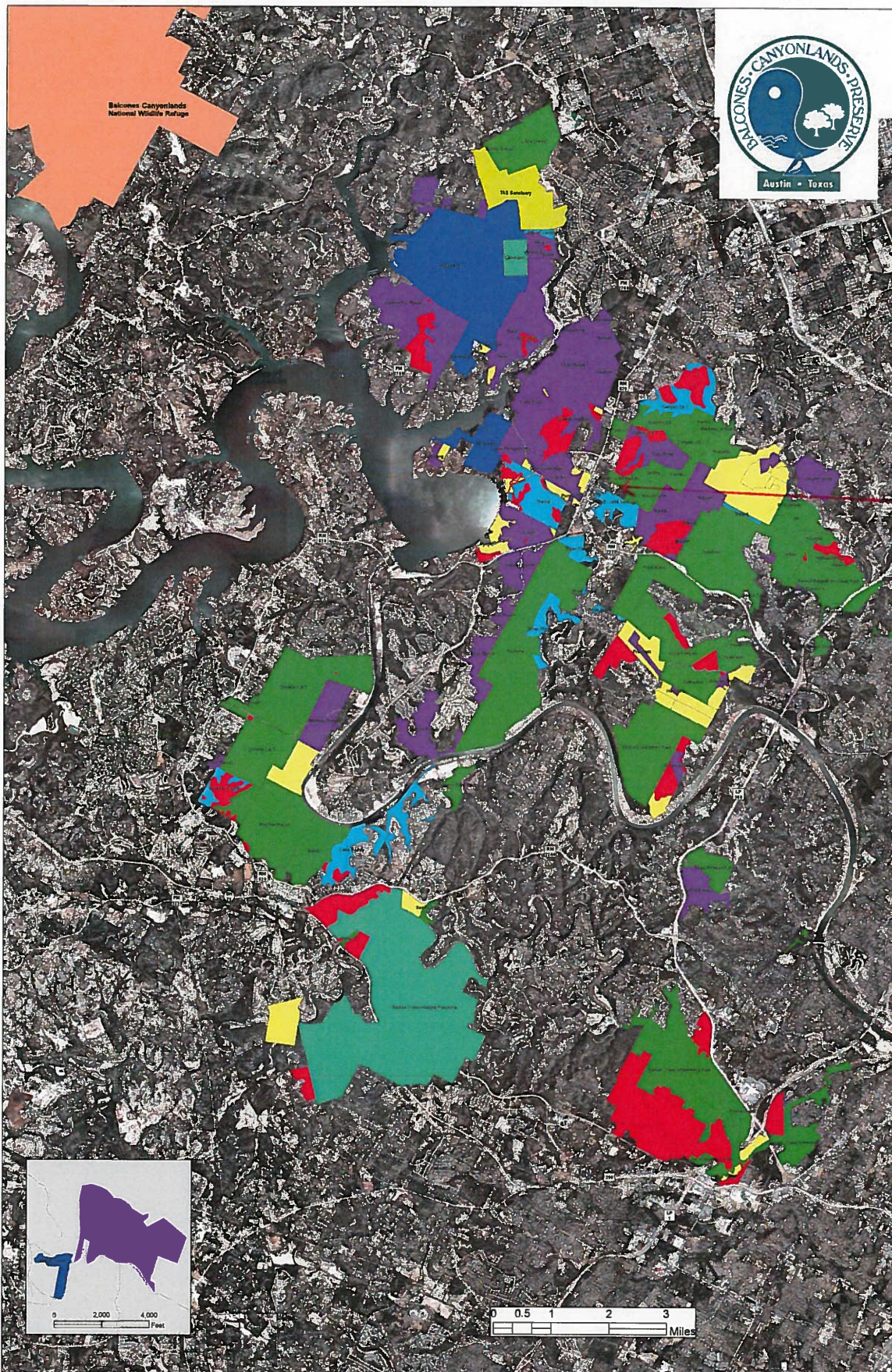






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| <span style="color: green;">■</span> City of Austin        | <span style="color: yellow;">■</span> Travis Audubon Society         |
| <span style="color: purple;">■</span> Travis County        | <span style="color: cyan;">■</span> Private Land Management          |
| <span style="color: blue;">■</span> LCRA                   | <span style="color: lightyellow;">■</span> Potential Future Preserve |
| <span style="color: teal;">■</span> The Nature Conservancy | <span style="color: red;">■</span> Unavailable                       |

## Balcones Canyonlands Preserve System Travis County, Texas








## MEMORANDUM

**TO:** Mayor and Council

**FROM:** Rosie Truelove, Director, Contract Management Department 

**CC:** Marc A. Ott, City Manager  
Elaine Hart, Chief Financial Officer

**DATE:** February 23, 2015

**SUBJECT:** Alternative Delivery Methods in the City of Austin for Capital Improvement Projects

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At the February 26, 2015 Council Meeting, the Contract Management Department will be requesting the Council's approval of an agenda item that authorizes the use of the Construction Manager-at-Risk method of contracting for construction of a new Parking Garage with Administration Offices Project at Austin-Bergstrom International Airport. The purpose of this memo is to provide information on Alternative Delivery Methods in general and Construction Manager at Risk in particular, and the context in which we use them for construction work in the City of Austin.

Local Government Code Chapter 252 outlines competitive sealed bidding procedures for municipal expenditures exceeding \$50,000. This method is used for most construction projects and award is based on the lowest responsive and responsible bidder. It is commonly known as the "Low Bid" method. Government Code 2269 provides alternate methodologies for procuring construction services which may provide a better value to the City than the low bid or competitive bidding method. For these alternate methodologies, award is based on an evaluated process that includes an array of criteria including price. Statute allows for 5 methodologies, 4 of which are actively used by the City of Austin. They are listed here and described in more detail in the attached document: Competitive Sealed Proposal, Construction Manager-at-Risk, Design-Build (for Building), Design-Build Civil Works, and Job Order Contracting.

Alternative delivery methods for construction and construction related services have been available for use by Texas local governments since 2001. Alternative contracting methods have an advantage over traditional competitive sealed bidding in that key considerations, other than price only, are evaluated. The current criteria requests information related to a contractor's past experience and reputation, including the experience and reputation of its key personnel; the

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contractor's business practices as it relates to the use of small and minority subcontractors; the contractor's sustainability practices; the capacity and capability of the contractor to perform the services in the timeframe required; the contractor's safety record and program; and the contractor's technical expertise.

Use of alternative contracting methods for the City's Capital Improvements Program has been on the rise since 2008 and these methodologies have been successfully used for some of our larger capital projects. For example, the Construction Manager-at-Risk method was recently used to construct Water Treatment Plant 4 and in 2003, Austin City Hall. It is also the contracting method for the New Central Library and Related Improvements project that is currently underway. Some previous projects completed by Competitive Sealed Proposal include the African American Cultural Center and the Holly Street Power Plant Decommissioning. The Design-Build method of contracting was used to design and construct the Asian American Resources Center, and is currently being used for the Austin Bergstrom International Airport East Infill Improvements. Job Order Contracting is used for work at a variety of City facilities across the organization.

In closing, alternative delivery methods of contracting serve a valuable purpose in implementing the City's capital improvements program when schedules, flexibility, innovation, and collaboration are critical. As required by state law, staff will seek Council's approval and endorsement when it is determined that an alternative delivery method of contracting for a capital improvement project offers a better value than the traditional competitive sealed bidding method.

I am available to discuss this further if you have questions or need additional information. Thank you.

## **Alternative Delivery Methods in the City of Austin**

### **Summary of Options**

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#### **Low Bid or Competitive Sealed Bidding:**

Low bid is the standard process used to contract for construction services for City of Austin projects. Construction documents are prepared by either an architect or engineer, depending on the nature of the project. These services are contracted for through a Qualifications-Based Selection process lead by the Contract Management Department (CMD) or are performed by engineering teams internal to the City of Austin. When the construction documents are 100% complete, CMD issues a solicitation for the services of a general contractor. Contractors submit a competitive sealed bid and award is made based on the lowest responsive and responsible bidder. Each construction project is reviewed by the Small and Minority Business Resources Department (SMBR) to establish MBE/WBE goals and the contractor must submit a compliance plan that is compliant through meeting the goals or by documenting Good Faith Efforts to be awarded the contract.

#### **Overview of Alternative Delivery:**

Government Code Chapter 2269 details the allowable methods including prescribed processes for each. The primary difference between alternate delivery methods and the traditional competitive sealed bidding method is that selection and award of a contracting firm is based on the proposal that offers the “best value” to the City. Weighted evaluation criteria such as price, experience, reputation, safety record, key personnel experience, financial capability, and other relevant factors are published in the Request for Qualifications or Proposals and a City staffed evaluation panel, composed of technical experts, scores and ranks the proposals. Best value determination is achieved through evaluation and ranking of responses to the Request for Qualifications or Proposals.

Early in the City’s capital planning process, many factors are considered in determining the best most effective method for accomplishing the work. No single project delivery method is appropriate for every project and staff performs a thorough analysis of each project prior to recommendation of a delivery method or requesting the authorization for an alternate methodology from Council as required by State statute.

The alternative contracting methods used in the City are:

#### **COMPETITIVE SEALED PROPOSALS (CSP)**

CSP is the solicitation process most like Competitive Sealed Bidding. Design work is completed by an architect/engineer secured through a Qualifications-Based Selection process to ensure independence. Separately, the City issues a CSP solicitation to hire a contractor to perform a specific scope of work. CSP is a good methodology to use when work requires specific expertise and/or specific or specialized technical experience. Contractors propose on 100% completed construction documents. MBE/WBE goals are established and compliance with the MBE/WBE Procurement Program is required through meeting the goals or documenting Good Faith Efforts. A diverse City-staffed Evaluation Panel, comprised of technical experts, reviews, scores, and ranks proposals against criteria established and published with the solicitation. Council’s authorization is requested to negotiate and execute an agreement with the highest ranked proposer.

#### **CONSTRUCTION MANAGER-AT-RISK (CMAR)**

The CMAR methodology is best for large complex construction projects when preconstruction phase services are needed during the architectural/engineering phase. A Request for



Qualifications is issued for the Architect/Engineer separately from the CMAR solicitation through a Qualifications-Based Selection process to ensure independence. This methodology allows construction to start before design documents are 100% complete.

A CMAR solicitation is a 2-Step Process consisting of Request for Qualifications (step 1) and Request for Proposals and Interviews (step 2). A diverse City-staffed Evaluation Panel, comprised of technical experts, reviews, scores, and shortlists firms eligible to proceed to step 2 and following interviews, a highest-ranked firm is selected. Council's authorization is requested to negotiate and execute an agreement with the highest ranked Construction Manager for Preconstruction Phase Services only. The Construction Manager's Preconstruction Phase activities typically start when Design Services begin.

When Design is sufficiently complete and prior to Construction Phase, MBE/WBE goals are established based on identified construction trades. The CMAR contracts directly with subcontractors and suppliers with the City's overview and approval. The contract is an "open book" which allows the City to more closely monitor costs. This methodology helps to ensure that a collaborative relationship exists with the Architect/Engineer, City, and Construction Manager. The Construction Manager submits a Guaranteed Maximum Price Proposal and staff requests Council's approval to negotiate and execute a Guaranteed Maximum Price Proposal Amendment. Once that Amendment is executed, construction can begin and the Construction Manager assumes the risk for ensuring work is completed within the negotiated Guaranteed Maximum Price.

#### DESIGN-BUILD (D-B)

Design-Build is a project delivery method where a single firm (or joint venture) is hired to provide both design and construction services. D-B is best for large complex projects with schedule constraints. Because a single legal entity is responsible for both design and construction services there tend to be fewer change orders during construction. This process is used in the City primarily for facility work or improvements to real property.

A D-B solicitation is a 2-Step Process consisting of Request for Qualifications (step 1) and Request for Additional Information and Interviews (step 2). A diverse City-staffed Evaluation Panel, comprised of technical experts, reviews, scores, and shortlists Design-Builders eligible to proceed to step 2 and following interviews, a highest-ranked Design-Builder is selected. Council's authorization is requested to negotiate and execute an agreement with the highest ranked Design-Builder to begin Design Phase services. MBE/WBE goals are initially established for the Design Phase services only. When Design is sufficiently complete and prior to Construction Phase, MBE/WBE goals are established based on identified construction trades. The Design-Builder submits a Guaranteed Maximum Price Proposal for the Construction Phase and staff requests Council's approval to negotiate and execute a Guaranteed Maximum Price Proposal Amendment. Once that Amendment is executed, construction can begin.

#### DESIGN-BUILD CIVIL WORKS (D-B CV)

Design-Build for Civil Works is a project delivery method where a single firm (or joint venture) is hired to provide both design and construction services for projects defined as "Civil works projects" which includes roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water distribution and wastewater conveyance facilities, desalination projects, wharves, docks, airport runways and taxiways, storm drainage and flood control projects or transit projects.

D-B Civil Works is best for large complex projects with schedule constraints although there are legal limitations on the number of project per fiscal year that can be accomplished. To date, the City has not utilized this delivery method. The current process as prescribed by law consists of a very lengthy solicitation process due to the evaluation and assessment of technical and cost proposal. For instance, the submission of technical proposals during the solicitation process is 180 days. Additionally, the statute calls for payment of a stipend by the governmental entity for technical proposals.

A D-B solicitation is a 2-Step Process consisting of Request for Qualifications (step 1) and Request for Technical and Price Proposals (step 2). A diverse City-staffed Evaluation Panel, comprised of technical experts, reviews, scores, and shortlists Design-Builders eligible to proceed to step 2 and following interviews, a highest-ranked Design-Builder is selected. Council's authorization is requested to negotiate and execute an agreement with the highest ranked Design-Builder to begin Design Phase services. MBE/WBE goals are initially established for the Design Phase services only. Prior to Construction Phase, MBE/WBE goals are established based on identified construction trades. The Design-Builder submits a Guaranteed Maximum Price Proposal for the Construction Phase and staff requests Council's approval to negotiate and execute a Guaranteed Maximum Price Proposal Amendment. Once that Amendment is executed, construction can begin.

#### JOB ORDER CONTRACTING (JOC)

JOC is a methodology designed to expedite minor construction, repairs or renovations to existing City facilities. Job Order Contractors are selected using the Competitive Sealed Proposal Method. This is the only methodology which allows the City to execute a contract with multiple Contractors based on a single step solicitation. JOC pricing is based on established unit prices plus Contractor's coefficient which covers the Contractors overhead and profit. A key feature of JOC is that as scopes of work are identified, work assignments are rotated among the JOC Contractors.

When a JOC is solicited, project scopes of work are not yet identified. Proposals are evaluated on qualifications, experience and coefficient price proposal. MBE/WBE goals are established by SMBR. A diverse City-staffed Evaluation Panel, comprised of technical experts, reviews, scores, and ranks proposals and staff requests Council's authorization to negotiate and execute an agreement with the highest ranked proposers. Job Order Assignments are made on a rotation-type basis dependent upon scopes materializing and availability of funding. If a specific Job Order Assignment is expected to exceed \$500,000, Council authorization is sought prior to assignment in accordance with statute.



