

**AGENDA
FERRIS CITY COUNCIL MEETING
CITY OF FERRIS
A GENERAL LAW MUNICIPAL CORPORATION OF THE
STATE OF TEXAS, ELLIS COUNTY
AT THE
COUNCIL CHAMBERS OF CITY HALL
215 W. SIXTH STREET, FERRIS, TEXAS 75125
7:00 P.M. MONDAY, JUNE 6, 2011**

NOTICE IS HEREBY GIVEN THAT THE CITY COUNCIL OF THE CITY OF FERRIS WILL MEET IN REGULAR SESSION AT 7:00 P.M. ON THE 6th DAY OF JUNE 2011 AT ITS REGULAR MEETING PLACE AT 215 W. SIXTH STREET, FERRIS, TEXAS FOR THE PURPOSE OF CONSIDERING:

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
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INVOCATION

COUNCIL BUSINESS

- | | | |
|----|--|------|
| 1. | Call to order. | None |
| 2. | Roll call to determine the presence of a quorum. | 1 |

APPROVAL OF MINUTES

- | | | |
|----|---|---|
| 3. | Consider approval of meeting minutes for the regular City Council meeting of May 16, 2011 and the called meeting of May 19, 2011. | 2 |
|----|---|---|

APPROVAL OF EXPENDITURES

4. Consider ratification of expenditures for period ending May 20, 2011. Sep. Cov.

COUNCIL BUSINESS

5. Swearing in of new City Council members. No Backup
6. Election of a Mayor Pro Tem. 7

PUBLIC HEARING

7. Open Public Hearing. 8
8. Conduct Public Hearing regarding the declaration of a reinvestment zone. 8
9. Close Public Hearing. No Backup

ORDINANCES AND RESOLUTIONS

10. Consideration and action as may be necessary regarding Ordinance No. O-11-717 declaring a tax abatement reinvestment zone. 8

NEW BUSINESS

11. Discussion, consideration, and action as may be appropriate regarding entering into a contract with Landscapes Unlimited for the construction of two baseball fields. 17
12. Adjourn. None
-

Executive Session Reservation

The City Council reserves the right to convene into an Executive Session (closed to the public) as authorized by Section 551.071(2) of the TEXAS GOVERNMENT CODE, for the purpose of seeking confidential legal advice from the City Attorney on any agenda item listed herein.

Disability Assistance and Accommodation

Persons with disabilities who plan to attend this meeting and who may need assistance should contact the City Secretary at (972) 544-2110 two working days prior to the meeting so that appropriate arrangements can be made.

I, PAT BRADLEY, HEREBY CERTIFY
THE FOREGOING NOTICE WAS
POSTED ON OR BEFORE THE 3rd DAY
OF JUNE 2011 BY 5:00 P.M.

PAT BRADLEY
CITY SECRETARY

City Council Meeting Attendance Record - FY 2010-2011

CITY COUNCIL		Oct.		Nov.		Dec.	Jan.		Feb.			Mar.		Apr.		May			June		July		Aug.		Sep.	
Title	Name	4	18	1	15	6	3	18	7	7	22	7	21	4	18	2	16	19	6	20	5	18	1	15	6	19
Mayor	Rick Barrett	P	A	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A								
Ald. PL. 1	James Starr	P	P	P	P	P	P	P	P	P	A	P	P	P	P	P	P	P								
Ald. PL. 2	Billy D. Dunn	P	P	P	P	P	P	P	A	P	P	P	P	P	P	P	P	P								
Ald. PL. 3	Bill Pardue	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P								
Ald. PL. 4	Gary Ross	P	P	P	P	P	P	A	P	P	P	P	P	A	P	P	P	P								
Ald. PL. 5	Carol Wright	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P								
Total:		6	5	6	6	6	6	5	5	6	5	6	6	5	6	6	6	5								

Mayor Pro-Tem

CITY STAFF		Oct.		Nov.		Dec.	Jan.		Feb.			Mar.		Apr.		May			June		Jul.		Aug.		Sep.	
Title	Name	4	18	1	15	6	3	18	7	7	22	7	21	4	18	2	16	19	6	20	5	18	1	15	6	19
City Mgr.	Eric Strong	P	P	P	A	P	P	P	P	P	P	P	P	P	P	P	P	P								
City Sec.	Pat Bradley	P	P	P	P	P	P	P	P	P	P	A	P	P	P	P	P	P								
Fin. Dir.	Melissa Garcia	P	P	P	P	P	P	P	A	P	P	P	P	P	P	P	P	A								
Chief/Pol.	Sam Love	P	P	P	P	P	P	P	A	P	P	P	P	P	P	P	P	P								
DPW	Charlie James	P	P	P	P	P	P	P	A	P	P	P	P	P	P	P	P	A								
Fire Chief	Eddie Duran	P	P	P	P	P	P	P	A	P	P	P	A	P	P	P	P	A								
Main St.	Chuck Dart	A	A	A	P	A	A	P	A	P	A	A	P	P	A	P	P	A								
Lib. Dir.	Kathy Harrington	P	P	P	P	A	P	P	A	P	P	P	P	P	P	P	A	A								
CBO	Tim Rawlings	P	P	P	P	P	P	P	A	P	P	P	P	P	P	A	P	A								
I. T.	Doug Childers	P	P	P	P	P	P	P	A	P	P	P	P	P	P	P	P	A								
City Atty	Mark Goldstucker	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A								
	Other Rep.	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A								
Total:		9	9	9	9	8	9	10	2	10	9	8	9	10	9	9	9	3								

Mayor, "Will the City Secretary call the roll?"

The City Secretary calls each Member's position and name.

They respond if they are present.

City Secretary, "Mayor, a quorum is present."

- P Present
- A Absent
- R Resigned
- D Deceased
- E End of Term

**STATE OF TEXAS
COUNTY OF ELLIS**

**THE FERRIS CITY COUNCIL MET IN A REGULAR SESSION,
MAY 16, 2011 AT 7:00 P.M. IN THE COUNCIL CHAMBERS
LOCATED AT 100 TOWN PLAZA, FERRIS, TEXAS.**

MEMBERS PRESENT

Rick Barrett, Mayor
Bill Pardue, Mayor Pro Tem
Jim Starr, Alderman Place #1
Billy Dunn, Alderman Place #2
Gary Ross, Alderman Place #4
Carol Wright, Alderman Place #5

STAFF PRESENT

Eric Strong, City Manager
Pat Bradley, City Secretary
Melissa Garcia, Finance Dir.
Chuck Dart, ECD/Main St. Dir.
Charlie James, Public Works Dir.
Tim Rawlings, Chief Bldg. Official
Sam Love, Police Chief
Eddie Duran, Fire Chief
Doug Childers, IT

MEMBERS ABSENT

STAFF ABSENT

Mark Goldstucker, City Attorney
Kathy Harrington, Librarian

INVOCATION

The invocation was given by Doug Childers.

COUNCIL BUSINESS

1. Call to Order.

Mayor Barrett called the meeting to order at 7:00 pm.

2. Roll Call to determine the presence of a quorum.

City Secretary Bradley called roll and determined that a quorum was present.

APPROVAL OF MINUTES

- 3. Consider approval of meeting minutes for the regular City Council meeting of May 2, 2011.**

Mayor Pro Tem Pardue moved to approve the City Council meeting minutes of May 2, 2011. Seconded by Alderman Starr. For: Unanimous. Motion carried 5-0-0.

APPROVAL OF EXPENDITURES

- 4. Consider ratification of expenditures for periods ending May 6, 2011.**

Alderman Dunn moved to approve the expenditures for period ending May 6, 2011. Seconded by Alderman Wright. For: Unanimous. Motion carried 5-0-0.

ORDINANCES AND RESOLUTIONS

- 5. Consideration and action as may be necessary regarding Resolution R-11-119 opposing legislation that would increase fees imposed by the State of Texas Comptroller of Public Accounts for the collection of sales tax.**

Alderman Dunn moved to approve Resolution R-11-119. Seconded by Mayor Pro Tem Pardue. For: Unanimous. Motion carried 5-0-0.

- 6. Consideration and action as may be necessary regarding Ordinance No. O-11-716 amending Ordinance O-09-683 by amending Section 8(B) and adding Section 8(C), providing for winter averaging on sewer rates for multi-family users, providing for a severability clause.**

Mayor Pro Tem Pardue moved to approve Ordinance No. O-11-716 amending Ordinance O-09-683. Seconded by Alderman Ross. For: Unanimous. Motion carried 5-0-0.

NEW BUSINESS

- 7. Discussion, consideration, and- action as may be appropriate regarding the award of bid for used vehicle and sale of city equipment..**

Alderman Dunn moved to accept the bid of \$2000 for the 2005 Crown Victoria Ford made by the FISD. Seconded by Mayor Pro Tem Pardue. For: Unanimous. Motion carried 5-0-0.

8. Discussion, consideration, and action as may be appropriate regarding entering into an agreement with CodeRed for emergency notification calling system.

Alderman Dunn moved to approve an agreement with CodeRed as the emergency notification system for the City. Seconded by Alderman Starr. For: Unanimous. Motion carried 5-0-0.

9. Adjourn.

With no further business to come before the Council, Mayor Pro Tem Pardue moved to adjourn the meeting. Seconded by Alderman Dunn. For: Unanimous. Motion carried 5-0-0. Mayor Barrett adjourned the meeting at 7:30 pm.

APPROVED THIS THE 6th DAY OF JUNE, 2011.

Richard M. Barrett, Mayor

ATTEST:

APPROVED AS TO FORM:

Pat Bradley, City Secretary

Mark Goldstucker, City Attorney

**STATE OF TEXAS
COUNTY OF ELLIS**

**THE FERRIS CITY COUNCIL MET IN A REGULAR SESSION,
MAY 19, 2011 AT 3:00 P.M. IN THE COUNCIL CHAMBERS
LOCATED AT 100 TOWN PLAZA, FERRIS, TEXAS.**

MEMBERS PRESENT

Bill Pardue, Mayor Pro Tem
Jim Starr, Alderman Place #1
Billy Dunn, Alderman Place #2
Gary Ross, Alderman Place #4
Carol Wright, Alderman Place #5

STAFF PRESENT

Eric Strong, City Manager
Pat Bradley, City Secretary
Sam Love, Police Chief

MEMBERS ABSENT

Rick Barrett, Mayor

STAFF ABSENT

Mark Goldstucker, City Attorney
Chuck Dart, ECD/Main St. Dir.
Melissa Garcia, Finance Dir.
Charlie James, Public Works Dir.
Eddie Duran, Fire Chief
Kathy Harrington, Librarian
Tim Rawlings, Chief Bldg. Official
Doug Childers, IT

INVOCATION

The invocation was given by Alderman Jim Starr.

COUNCIL BUSINESS

1. Call to Order.

Mayor Pro Tem Pardue called the meeting to order at 3:02 pm.

2. Roll Call to determine the presence of a quorum.

City Secretary Bradley called roll and determined that a quorum was present.

3. Canvass votes for the City of Ferris General Election, May 14, 2011.

Mayor Pro Tem Pardue and the Council inspected the election tally sheets and canvassed the votes.

4. Mayor Pro Tem to issue Certificates of Election to newly elected Aldermen.

Mayor Pro Tem Pardue presented Jay Walsh, Micheal Driggars and Carol Wright Certificates of Election.

RESOLUTION

5. Consider and approve Resolution No. R-11-120 declaring results of May 14, 2011 General Election.

Alderman Dunn moved to approve Resolution No. R-11-120. Seconded by Alderman Starr. For: Unanimous. Motion carried 4-0-0.

6. Adjourn.

With no further business to come before the Council, Alderman Ross moved to adjourn the meeting. Seconded by Alderman Wright. For: Unanimous. Motion carried 4-0-0. Mayor Pro Tem Pardue adjourned the meeting at 3:10 pm.

APPROVED THIS THE 6th DAY OF JUNE, 2011.

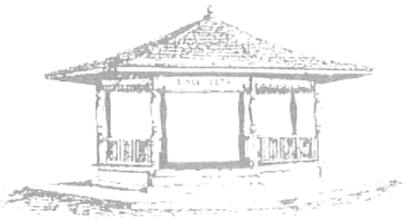
Bill Pardue, Mayor Pro Tem

ATTEST:

APPROVED AS TO FORM:

Pat Bradley, City Secretary

Mark Goldstucker, City Attorney



MEMORANDUM

DATE: June 6, 2011
FROM: City Manager
TO: Mayor and City Council

SUBJECT: Mayor Pro Tem

Each year following the election, it is up to the new City Council to elect a Mayor Pro Tem. The only rules are that it must be a current City Council Member. I will ask the Mayor to lead the discussion on this item as you select a new Mayor Pro Tem.



MEMORANDUM

DATE: June 6, 2011
FROM: City Manager
TO: Mayor and City Council

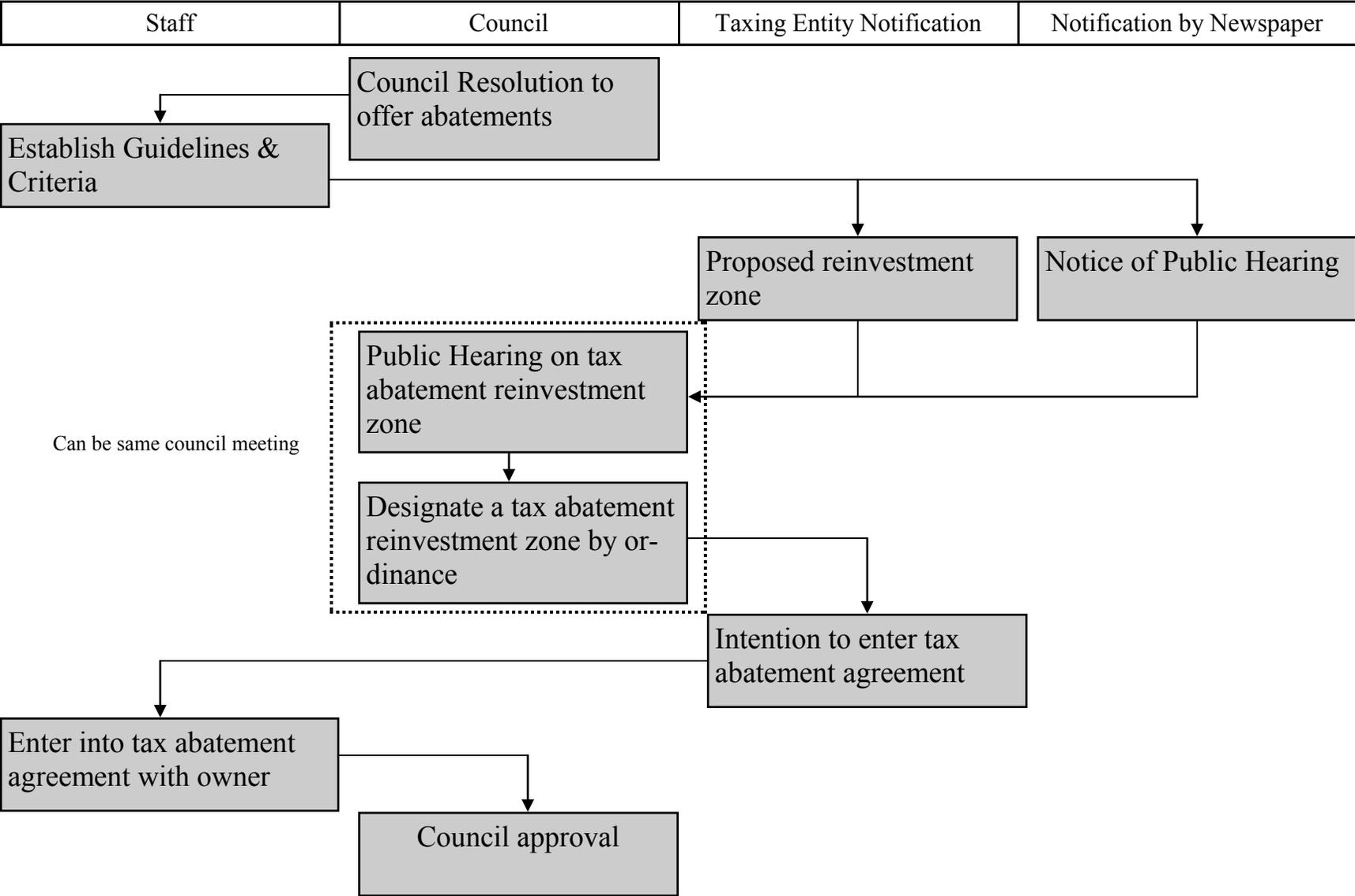
SUBJECT: Tax Reinvestment Abatement Zone

We have recently gone through the process of updating our Economic Development Policy in an attempt to be more competitive in attracting business. We have a business that is interested in building a 10,000 square foot retail strip center on the west side of the Family Dollar on FM 664.

In order to eventually consider granting this business a tax abatement for the project, we need to first have a public hearing and declare the tract of land where they want to build as a tax abatement reinvestment zone.

It is my recommendation that this ordinance be approved. If the builder follows through and builds, it would add a significant value to our taxable valuation. This has the potential to be a very encouraging thing for the City.

Tax Abatement Process



ORDINANCE NO. O-11-717

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FERRIS, TEXAS, DESIGNATING A CERTAIN AREA AS TAX ABATEMENT REINVESTMENT ZONE NO. 1 FOR COMMERCIAL-INDUSTRIAL TAX ABATEMENT, WITHIN THE CITY OF FERRIS, ELLIS COUNTY, TEXAS; ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the City Council of the City of Ferris, Texas (hereinafter referred to as the “City”) desires to promote the development or redevelopment of a certain contiguous geographic area within the City of Ferris, Texas, by the creation of a reinvestment zone for commercial-industrial tax abatement, as authorized by chapter 312 of the Texas Tax Code, as amended; and

WHEREAS, a public hearing before the City Council of the City of Ferris, Texas, was scheduled and held at 7:00 p.m. on the 6th day of June, 2011, such date being at least seven (7) days after the date of publication of the notice of such public hearing, pursuant to Section 312.201(d) of the Texas Tax Code, as amended; and

WHEREAS, the City Council of the City of Ferris, Texas, held such public hearing after publishing notice of such public hearing, and giving written notice to all taxing units overlapping the territory inside the proposed tax abatement reinvestment zone; and

WHEREAS, the City at such public hearing invited any interested person, or his attorney, to appear and contend for or against the creation of the tax abatement reinvestment zone, the boundaries of the proposed tax abatement reinvestment zone, whether all or part of the territory should be included in such proposed reinvestment zone, and the concept of tax abatement.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FERRIS, TEXAS, THAT:

Section 1. FINDINGS INCORPORATED

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. DEFINITIONS

The following words shall have the following meanings when used in this Ordinance.

- (a) **Improvements.** The word “Improvements” means any activity at the location, including but not limited to new construction.

- (b) **Taxable Real Property.** The words “Taxable Real Property” shall be as defined in the Texas Tax Code, and shall not include Personalty as defined in said Texas Tax Code.
- (c) **Base Year.** The words “Base Year” mean for determining increased value shall be the Taxable Real Property value on real property assessed the year in which the tax abatement agreement is executed or commences as provided by section 312.007 of the Texas Tax Code.
- (d) **Personalty.** The word “Personalty” means the taxable tangible personal property located on the Taxable Real Property other than tangible personal property that was located on the Real Property at any time before the period covered by this Agreement, including inventory and supplies, and which is otherwise consistent with section 312.204(a) of the Texas Tax Code, as amended.

Section 3. FINDINGS AND DETERMINATIONS

The City of Ferris, Texas, after conducting such public hearings and having heard such evidence and testimony has made the following findings and determinations based upon the testimony presented:

- (a) That a public hearing on the adoption of the tax abatement reinvestment zone has been properly called, held and conducted, and that notices of such hearings have been published at least seven (7) days before the hearing in a newspaper of general circulation within the City of Ferris, Texas, and mailed to all property taxing units overlapping the territory inside the proposed tax abatement reinvestment zone at least seven (7) days prior to the public hearing; and
- (b) That the boundaries of the tax abatement reinvestment zone should be the areas as described and depicted in *Exhibit A*, which is attached hereto and incorporated herein for all purposes; and
- (c) That creation of the tax abatement reinvestment zone for commercial-industrial tax abatement with boundaries as described in *Exhibit A* will result in benefits to the City of Ferris, Texas, and to the land included within the zone, and the Improvements sought are feasible and practical; and
- (d) That the tax abatement reinvestment zone as defined in *Exhibit A* meets the criteria for the creation of a tax abatement reinvestment zone as set forth in Section 312.202(a) of the Texas Tax Code, as amended, and in particular Section 312.202(a)(6) of the Texas Tax Code, in that it is “reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the City”; and

- (e) That the tax abatement reinvestment zone as defined in *Exhibit A* meets the criteria for the creation of a reinvestment zone as set forth in the City of Ferris, Texas, Tax Abatement Policy Guidelines and Criteria.

Section 4. ZONE DESIGNATION

Pursuant to Section 312.201 of the Texas Tax Code, as amended, the City of Ferris, Texas, hereby creates a tax abatement reinvestment zone for commercial-industrial tax abatement encompassing only the area described and/or depicted in *Exhibit A*, and such tax abatement reinvestment zone is hereby designated and shall hereafter be designated as “**Reinvestment Zone No. 1, City of Ferris, Texas.**”

Section 5. EFFECTIVE DATE OF THE ZONE

The tax abatement reinvestment zone shall take effect immediately upon passage of this Ordinance. Reinvestment Zone No.1, City of Ferris, Texas, is effective for five (5) years and may be renewed for periods not to exceed five (5) years. The expiration of the designation of the tax abatement reinvestment zone does not affect an existing tax abatement agreement.

Section 6. CONDITIONS FOR APPLICATION FOR TAX ABATEMENT

To be considered for execution of a tax abatement agreement, the commercial-industrial project shall:

- (a) Be located wholly within the tax abatement reinvestment zone as depicted in *Exhibit A* of this Ordinance.
- (b) Construct or improve a retail building (including fixtures and equipment) 8,000 square feet in size or larger; and or locate Personalty within the tax abatement reinvestment zone, which has a rendered value with Ellis County Central Appraisal District of a value of not less than \$1,000,000.00.
- (c) Not include property that is owned or leased by a member of the City Council of the City of Ferris, Texas, or by a member of the Planning and Zoning Commission of the City of Ferris, Texas.
- (d) Conform to the requirements of the City’s Zoning Ordinance and all other applicable laws and regulations.
- (e) Have and maintain all land located within the designated zone, appraised at market value for tax purposes.

Section 7. TERMS OF EXEMPTION

A written tax abatement agreement with any property owner located within the tax abatement reinvestment zone or lessee of real property within the tax abatement reinvestment zone shall provide the terms regarding duration of exemption, and share of eligible Taxable Real Property and Personalty value from taxation as shown below:

- (a) **Duration of exemption:** Ten (10) consecutive tax years beginning with and including the January 1, 2011, assessment date; or the first year of tax abatement shall be the first tax year that begins after the issuance of the certificate of occupancy for the Taxable Real Property and for ten (10) consecutive tax years thereafter, pursuant to section 312.007 of the Texas Tax Code, as amended.

- (b) **Share of taxes abated:** Not to exceed one hundred percent (100%) for the ten (10) consecutive year period, on total value of appraised real property and or Personalty which is located on the tax abatement reinvestment zone.

Section 8. CRITERIA FOR WRITTEN AGREEMENTS

Written tax abatement agreements under Section 312.205 of the Texas Tax Code, as amended, must include provisions for:

- (a) Listing the kind, number and location of all proposed Improvements of the property.

- (b) Access to and inspection of property by municipal employees to ensure that the Improvements or repairs are made according to the specification and conditions of the agreements.

- (c) Limiting the use of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect.

- (d) Recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the Improvements as provided by the agreement.

In addition, a tax abatement agreement with the property owner or lessee of real property must contain a provision addressing the employment of undocumented workers. The property owner or lessee of real property is required to certify that he or she does not and will not knowingly employ undocumented workers in accordance with Chapter 2264 of the Texas Government Code, as amended. Further, if during the term of the tax abatement agreement, the property owner or lessee of real property is convicted of a violation under 8 U.S.C. § 1324a(f), the property owner or lessee of real property shall repay the amount of the public subsidy provided under the tax abatement agreement plus interest, at the rate of eight percent (8%), not later than the 120th day after the date the City of Ferris, Texas, notifies the property owner or lessee of real property of the violation.

Section 9. SEVERABILITY CLAUSE

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 10. REPEALER CLAUSE

Any provision of any prior ordinance of the City whether codified or uncodified, which are in conflict with any provision of this Ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City whether codified or uncodified, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section 11. EFFECTIVE DATE

This Ordinance shall become effective immediately upon its passage.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Ferris, Texas, on this the 6th day of June, 2011.

APPROVED:

Richard M. Barrett, Mayor

ATTEST:

Patricia Bradley, City Secretary

APPROVED AS TO FORM:

Mark E. Goldstucker, City Attorney

Exhibit A

**Legal Description
Reinvestment Zone No. 1,
City of Ferris, Ellis County, Texas**

TRACT 2:

PART of the Mason Phelps Survey, Abstract No. 824, situated in the City of Ferris, in Ellis County, Texas, embracing a portion of a tract of land described as Tract 1 in the deed to Ferris Development, Ltd. recorded in Volume 1941, Page 1354 of the Deed Records of Ellis County, Texas, embracing all of Lot 4 of Ferris Retail Development Addition, an addition to the City of Ferris, Ellis County, Texas as shown on the plat recorded in Instrument No. 1012134 of the Plat Records of Ellis County, Texas, and being more particularly described as follows:

COMMENCING at a 5/8 inch iron rod with cap stamped "R.P.L.S. 5430" set in the south line of F.M. 664, a 120 feet wide right of way, for the northwest corner of said Tract 1 and the northeast corner of Lot 1, Block A of Shaw Creek Ranch Phase 1A Addition, an addition to the City of Ferris, Ellis County, Texas as shown on the plat recorded in Cabinet G, Slide 294 of said Plat Records;

THENCE South 71 degrees 57 minutes 25 seconds East, along the southwest line of said F.M. 664 and the northeast line of said Tract 1, a distance of 785.66 to a 5/8 inch iron rod found for a corner of said Tract 1 and the northwest corner of a tract of land described in the deed to Sand Dollar, L.L.C. recorded in Volume 2203, Page 2175 of said Deed Records;

THENCE South 71 degrees 57 minutes 25 seconds East, along the southwest line of said F.M. 664 and the northeast line of said Sand Dollar, L.L.C. tract, a distance of 150.00 feet to a "X" cut found for the northeast corner of said Sand Dollar, L.L.C. tract, an ell corner of said Tract 1, and the POINT OF BEGINNING of the herein described tract;

THENCE South 71 degrees 57 minutes 25 seconds East, along the southwest line of said F.M. 664 and the northeast line of said Tract 1, a distance of 200.09 feet to a 5/8 inch iron rod found for corner;

THENCE South 02 degrees 17 minutes 36 seconds West, through the interior of said Tract 1, a distance of 278.51 feet to a 5/8 inch iron rod with cap stamped "R.P.L.S. 5430" set for corner;

THENCE North 87 degrees 28 minutes 23 seconds West, a distance of 287.03 feet to a 5/8 inch iron rod found for the southeast corner of said Sand Dollar, L.L.C. tract and an ell corner of said Tract 1;

THENCE North 18 degrees 11 minutes 25 seconds East, along the east line of said Sand Dollar, L.L.C. tract and the west line of said Tract 1, a distance of 344.84 feet to the POINT OF BEGINNING and containing 74,469 square feet or 1.710 acres of land.

Exhibit A
Map
Reinvestment Zone No. 1,
City of Ferris, Ellis County, Texas

Ellis CAD Property Search Map Search Map Administration Login

Property Search Results > Property ID 250721 EAST TEXAS PINNACLE PROPERTIES INC for Year 2011 New Search

Details **Map**

Property Details

Account
Property ID: 250721
Geo. ID: 29 3644.000.004.00.105
Type: Real
Legal Description: LOT 4 FERRIS RETAIL DEVELOPMENT 1.709 AC

Location
Address: FM 664 FERRIS, TX 75125
Neighborhood: Commercial
Mapco: 985-H
Jurisdictions: 070, 205, 328, 505, CAD, R70

Owner
Name: EAST TEXAS PINNACLE PROPERTIES INC
Address: 3600 OLD BULLARD RD STE 202
TYLER, TX 75701

Property
Appraised Value: \$111,670

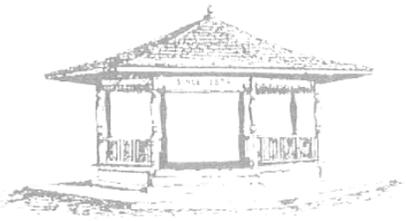
Map Layers

Radius Search

1: 1251 Zoom

Map showing property boundaries and parcel numbers. The target property 250721 is highlighted with a blue border. Other parcels shown include 188916, 163519, 56, 250720, 235409, 140289, 163473, and FM Rd 664.

Website version: 1.2.2.0 Database last updated on: 5/1/2011 8:32 PM © 2011 True Automation, Inc. All Rights Reserved. Privacy Notice



MEMORANDUM

DATE: June 6, 2011
FROM: City Manager
TO: Mayor and City Council

SUBJECT: Mutz Park Contract

We have done a lot of work on the baseball field project up to this point in trying to figure out what we can afford to do and how we go about doing it. A lot of the background work has been done by a company named Landscapes Unlimited.

When we were trying to figure out pricing, we got quotes from three different companies, and Landscapes was the most competitive. Ideally, we will be starting construction the week of June 13th, which will allow for enough grow-in time for the grass to be ready for next season.

It is my recommendation that we enter into this agreement with Landscapes Unlimited.

**CONTRACT FOR
CONSTRUCTION
OF
MUTZ PARK – PHASE I
BASEBALL FIELD IMPROVEMENTS**

CITY OF FERRIS



June 6th, 2011

CONSTRUCTION AGREEMENT

THE STATE OF TEXAS)
)
COUNTY OF ELLIS)

KNOW ALL MEN BY THESE PRESENTS:

This Construction Agreement (the "Agreement") is made by and between Landscapes Unlimited, LLC, a limited liability company, (the "Contractor") and the City of Ferris, Texas, a municipal corporation (the "Owner"). For and in consideration of the payment, agreements and conditions hereinafter mentioned, and under the conditions expressed in the bonds herein, Contractor hereby agrees to complete the construction and installation of improvements described as follows:

Mutz Park – Phase I Baseball Field Improvements

in the City of Ferris, Texas, and all extra work in connection therewith, and at his, her or their own proper cost and expense to furnish all superintendence, labor, insurance, equipment, tools and other accessories and services necessary to complete the said construction in accordance with all the Contract Documents, incorporated herein as if written word for word, and in accordance with the Plans, which include all maps, plats, blueprints, and other drawings and printed or written explanatory manner therefore, and the Final Project Development Program as approved by the City of Ferris or its consultant, Baker–Aicklen & Associates, Inc. ("Architect"), the payment and performance bonds hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire Contract.

A. Contract Documents and Order of Precedence

The Contract Documents shall consist of the following documents:

1. this Construction Agreement;
2. the Mutz Park – Phase I Baseball Field Improvements, Ferris, TX, Final Project Development Program, dated May 11, 2011 ("Final Project Development Program"), attached hereto as **EXHIBIT A** and incorporated herein;
3. the Payment Bond, attached hereto as **EXHIBIT B** and incorporated herein;
4. the Performance Bond, attached hereto as **EXHIBIT C** and incorporated herein;
and

5. any other materials distributed by the Owner that relate to the Project.

These Contract Documents are incorporated by reference into this Construction Agreement as if set out here in their entirety. The Contract Documents are intended to be complementary; what is called for by one document shall be as binding as if called for by all Contract Documents. It is specifically provided, however, that in the event of any inconsistency in the Contract Documents, the inconsistency shall be resolved by giving precedence to the Contract Documents in the order in which they are listed herein above.

B. Total of Payments Due Contractor

For performance of the Work in accordance with the Contract Documents, the Owner shall pay the Contractor in current funds an amount not to exceed **FIVE HUNDRED NINETY EIGHT THOUSAND SIX HUNDRED SEVENTY FIVE DOLLARS and NO CENTS (\$598,675.00)**.

C. Dates to Start and Complete Work

Contractor shall begin work within ten (10) calendar days after the execution of this Contract. All Work required under the Contract Documents shall be completed no later than October 31, 2011; provided, however, that the completion date shall be adjusted on a day-for-day basis for any delays in the commencement or progress of the Work not caused by Contractor, including, but not limited, to changes ordered in the Work, delays caused by Owner or other contractors, labor disputes or disruptions, fire, unusual delay in deliveries, adverse weather conditions, unavoidable casualties or any other causes beyond the Contractor's control.

Under this Construction Agreement, all references to "day" are to be considered "calendar days" unless noted otherwise.

D. CONTRACTOR'S INDEMNITY TO THE OWNER AND OTHERS

CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE OWNER, ITS CITY COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS FROM AND AGAINST ALL CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES OR SUITS, WHICH IN ANY WAY ARISE OUT OF, RELATE TO, OR RESULT FROM THE PERFORMANCE OF THE WORK AND ARE CAUSED BY THE INTENTIONAL ACTS OR NEGLIGENT ACTS OR OMISSIONS OF CONTRACTOR, ITS SUBCONTRACTORS, ANY OFFICERS, AGENTS OR EMPLOYEES OF EITHER CONTRACTOR OR ITS SUBCONTRACTORS, AND ANY OTHER THIRD PARTIES FOR WHOM OR WHICH CONTRACTOR IS LEGALLY RESPONSIBLE (THE "INDEMNIFIED ITEMS").

BY WAY OF EXAMPLE, THE INDEMNIFIED ITEMS MAY INCLUDE PERSONAL INJURY AND DEATH CLAIMS AND PROPERTY DAMAGE CLAIMS, INCLUDING THOSE FOR LOSS OF USE OF PROPERTY.

INDEMNIFIED ITEMS SHALL INCLUDE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS. INDEMNIFIED ITEMS SHALL ALSO INCLUDE ANY EXPENSES, INCLUDING ATTORNEYS' FEES AND EXPENSES, INCURRED BY AN INDEMNIFIED INDIVIDUAL OR ENTITY IN ATTEMPTING TO ENFORCE THIS INDEMNITY.

In its sole discretion, the Owner shall have the right to approve counsel to be retained by Contractor in fulfilling its obligation to defend and indemnify the Owner. Contractor shall retain approved counsel for the Owner within seven (7) business days after receiving written notice from the Owner that it is invoking its right to indemnification under this Construction Agreement. If Contractor does not retain counsel for the Owner within the required time, then the Owner shall have the right to retain counsel and the Contractor shall pay these attorneys' fees and expenses.

The Owner retains the right to provide and pay for any or all costs of defending indemnified items, but it shall not be required to do so. To the extent that Owner elects to provide and pay for any such costs, Contractor shall indemnify and reimburse Owner for such costs.

E. Insurance Requirements

1. Before commencing work, the Contractor shall, at its own expense, procure, pay for and maintain the following insurance coverage written by companies approved by the State of Texas and acceptable to the City of Ferris. The Contractor shall furnish to the City of Ferris City Manager certificates of insurance executed by the insurer or its authorized agent stating the type of coverages, limits of each such coverage, expiration dates and compliance with all applicable required provisions. Certificates shall reference the project/contract number and be addressed as follows:

City Manager
City of Ferris
100 Town Plaza
Ferris, Texas 75125

- (a) Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability, with minimum combined single limits of \$1,000,000 per-occurrence, \$1,000,000 Products/Completed Operations Aggregate and \$1,000,000 general aggregate. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis.
- (b) Workers' Compensation insurance with statutory limits; and Employers' Liability coverage with minimum limits for bodily injury: a) by accident, \$1,000,000 each accident, b) by disease, \$1,000,000 per employee with a per policy aggregate of \$1,000,000.

- (c) Business Automobile Liability insurance covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000 per occurrence.
 - (d) Umbrella or Excess Liability insurance with minimum limits of \$5,000,000 each occurrence and annual aggregate for bodily injury and property damage, that follows form and applies in excess of the above indicated primary coverage in subparagraphs 1, 2 and 3. The total limits required may be satisfied by any combination of primary, excess or umbrella liability insurance provided all policies comply with all requirements. The Contractor may maintain reasonable deductibles, subject to approval by the Owner.
 - (e) Builder's Risk Insurance, if required by Owner, the premium for which shall be reimbursed by Owner as a change order to the Construction Agreement. It shall provide All-Risk coverage including, but not limited to, Fire, Extended Coverage, Vandalism and Malicious Mischief, Flood (if located in a flood zone) and Theft in an amount equal to one hundred percent (100%) of the completed value of the project in question. The policy shall be written on a Completed Value Form, including materials delivered and labor performed for the Project. The policy shall be written jointly in the names of the Owner, Contractor and subcontractors as their interests may appear. The policy shall have endorsements as follows:
 - (1) This insurance shall be specific as to coverage and not contributing insurance with any permanent insurance maintained on the property.
 - (2) Loss, if any, shall be adjusted with and made payable to the Owner on behalf of all insureds as their interests may appear.
 - (f) Railroad Protective Liability Insurance is not required.
2. With reference to the foregoing required insurance, the Contractor shall endorse applicable insurance policies as follows:
- (a) A waiver of subrogation in favor of City of Ferris, its officials, employees, and officers shall be contained in the Workers' Compensation insurance policy.
 - (b) The City of Ferris, its officials, employees and officers shall be named as additional insureds on the Commercial General Liability policy, by using endorsement CG2026 or broader .
 - (c) All insurance policies shall be endorsed to the effect that City of Ferris will receive at least thirty (30) days-notice prior to cancellation, non-renewal, termination, or material change of the policies.

3. All insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by the A.M. BEST Company or equivalent.
4. With respect to Workers' Compensation insurance, the Contractor agrees to comply with all applicable provisions of 28 Tex. Admin Code § 110.110, "Reporting Requirements for Building or Construction Projects for Governmental Entities," as such provision may be amended, and as set forth in Paragraph F following.

F. Workers' Compensation Insurance Coverage

1. Definitions:

Certificate of coverage ("certificate")- A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the Contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

2. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.
3. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

4. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
5. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
 - (a) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - (b) no later than seven days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
6. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
7. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
8. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
9. The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:
 - (a) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - (b) provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - (c) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage

period shown on the current certificate of coverage ends during the duration of the project;

- (d) obtain from each other person with whom it contracts, and provide to the Contractor:
 - (1) a certificate of coverage, prior to the other person beginning work on the project; and
 - (2) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- (e) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
- (f) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
- (g) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

10. By signing this contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

11. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor which entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

G. Payment and Performance Bond

The Contractor shall procure and pay for payment and performance bonds applicable to the work in the amount of the total stipulated sum for the scope of work identified in the Final Project Development Program. The payment bond shall be issued in the form attached to this

Construction Agreement as Exhibits B & C. Other payment and performance bond forms shall not be accepted. Among other things, the bond shall apply to any work performed during the two-year warranty period after acceptance as described in this Construction Agreement.

The payment and performance bonds shall be issued by a corporate surety, acceptable to and approved by the City, authorized to do business in the State of Texas, pursuant to Chapter 2253 of the Texas Government Code. Further, the Contractor shall supply capital and surplus information concerning the surety and reinsurance information concerning the payment bond upon City request.

H. Progress Payments and Retainage

As it completes portions of the Work, the Contractor may request progress payments from the Owner based on Applications for Payment identifying the value of the Work properly completed the prior month. Progress payments shall be made by the Owner based on the Owner's approval of the value of the Work properly completed by the Contractor since the time the last progress payment was made. Owner shall also make payment for materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work

No progress payment shall be due to the Contractor until the Contractor furnishes to the Owner:

1. copies of documents reasonably necessary to aid the Owner in evaluating the value of Work properly completed;
2. full or partial releases of liens, including releases from subcontractors providing materials or delivery services relating to the Work, in a form acceptable to the Owner releasing all liens or claims relating to goods and services provided up to the date of the most recent previous progress payment; and
3. any other documents required under the Contract Documents.

Progress payments shall not be made more frequently than once every thirty (30) calendar days unless the Owner determines that more frequent payments are appropriate. Further, progress payments are to be based on estimates and these estimates are subject to correction through the adjustment of subsequent progress payments and the final payment to Contractor. If the Owner determines after final payment that it has overpaid the Contractor, then Contractor agrees to pay to the Owner the overpayment amount specified by the Owner within thirty (30) calendar days after it receives written demand from the Owner.

The fact that the Owner makes a progress payment shall not be deemed to be an admission by the Owner concerning the quantity, quality or sufficiency of the Contractor's work. Progress payments shall not be deemed to be acceptance of the Work nor shall a progress payment release the Contractor from any of its responsibilities under the Contract Documents.

After determining the amount of a progress payment to be made to the Contractor, the Owner shall withhold ten percent (10%) of the progress payment as retainage.

Retainage shall be withheld and may be paid to:

- a. ensure proper completion of the Work. The Owner may use retained funds to pay replacement or substitute contractors to complete unfinished or defective work;
- b. ensure timely completion of the Work. The Owner may use retained funds to pay liquidated damages; and
- c. provide an additional source of funds to pay claims for which the Owner is entitled to indemnification from Contractor under the Contract Documents.

Retained funds shall be held by the Owner in accounts that shall not bear interest. Retainage not otherwise withheld in accordance with the Contract Documents shall be returned to the Contractor as part of the final payment.

I. Withholding Payments to Contractor

The Owner may withhold payment of any disputed amount of any progress or final payment that would otherwise be due if the Owner determines, in its discretion, that the Work has not been performed in accordance with the Contract Documents. The Owner may use these funds to pay replacement or substitute contractors to complete unfinished or defective Work.

The Owner may withhold payment of some or all of any progress or final payment that would otherwise be due if the Owner determines, in its discretion, that it is necessary and proper to provide an additional source of funds to pay claims for which the Owner is entitled to indemnification from Contractor under the Contract Documents.

Amounts withheld under this section shall be in addition to any retainage.

J. Acceptance of the Work

When the Work is completed, the Contractor shall request that the Owner perform a final inspection. The Owner, or, at the request of Owner, the Architect shall inspect the Work. If the Owner or Architect determines that the Work has been completed in accordance with the Contract Documents, it shall issue a written notice of acceptance of the Work. If the Owner or Architect determines that the Work has not been completed in accordance with the Contract Documents, then Owner or Architect shall provide the Contractor with a verbal or written list of items to be completed before another final inspection shall be scheduled.

It is specifically provided that Work shall be deemed accepted on the date specified in the Owner's written notice of acceptance of the Work. The Work shall not be deemed to be accepted based on "substantial completion" of the Work, or for any reason other than the Owner's written Notice of Acceptance. Further, the issuance of a certificate of occupancy for all or any part of the Work shall not constitute a Notice of Acceptance for that Work.

In its discretion, the Owner may issue a Notice of Acceptance covering only a portion of the Work. In this event, the notice shall state specifically what portion of the Work is accepted.

K. Final Payment

After all Work required under the Contract Documents has been completed, inspected, and accepted, the City shall calculate the final payment amount promptly after necessary measurements and computations are made. The final payment amount shall be calculated to:

1. include the estimate of the value of Work properly completed since the date of the most recent previous progress payment;
2. correct prior progress payments; and
3. include retainage or other amounts previously withheld that are to be returned to Contractor, if any.

Final payment to the Contractor shall not be due until the Contractor provides original full releases of liens from the Contractor and its subcontractors, or other evidence satisfactory to the Owner to show that all sums due for labor, services, and materials furnished for or used in connection with the Work have been paid or shall be paid with the final payment. To ensure this result, Contractor consents to the issuance of the final payment in the form of joint checks made payable to Contractor and others. The Owner may, but is not obligated to issue final payment using joint checks.

Final payment to the Contractor shall not be due until the Contractor has supplied to the Owner original copies of all documents that the Owner determines are reasonably necessary to ensure both that the final payment amount is properly calculated and that the Owner has satisfied its obligation to administer the Construction Agreement in accordance with applicable law. The following documents shall, at a minimum, be required to be submitted prior to final payment being due: redline as-built construction plans; consent of surety to final payment; and, final change order(s). "Redline as-built construction plans" shall include, but are not limited to markups for change orders, field revisions, and quantity overruns as applicable. The list of documents contained in this provision is not an exhaustive and exclusive list for every project performed pursuant to these Contract Documents and Contractor shall provide such other and further documents as may be requested and required by the Owner to close out a particular project.

Subject to the requirements of the Contract Documents, the Owner shall pay the Final Payment within thirty (30) calendar days after the date specified in the Notice of Acceptance. This provision shall apply only after all Work called for by the Contract Documents has been accepted.

L. Contractor's Warranty

For a one-year period after the date specified in a written notice of acceptance of Work, Contractor shall provide and pay for all labor and materials that the Owner determines are

necessary to correct all defects in the Work arising because of defective materials or workmanship supplied or provided by Contractor or any subcontractor.

Forty-five (45) to sixty (60) calendar days before the end of the one-year warranty period, the Owner may make a warranty inspection of the Work. The Owner shall notify the Contractor of the date and time of this inspection so that a Contractor representative may be present. After the warranty inspection, and before the end of the one-year warranty period, the Owner shall mail to the Contractor a written notice that specifies the defects in the Work that are to be corrected.

The Contractor shall begin the remedial work within ten (10) calendar days after receiving the written notice from the City. If the Contractor does not begin the remedial work timely or prosecute it diligently, then the Owner may pay for necessary labor and materials to effect repairs and these expenses shall be paid by the Contractor, the performance bond surety, or both.

If the Owner determines that an emergency affecting safety of persons or property, exists because of defective materials and workmanship, then the Owner may take steps to prevent the threatened damage, injury or loss, including making repairs. These steps may be taken without prior notice either to the Contractor or its surety. Expenses incurred by the Owner to alleviate the emergency shall be paid by the Contractor, the performance bond surety, or both.

Any Work performed by or for the Contractor to fulfill its warranty obligations shall be performed in accordance with the Contract Documents. By way of example only, this is to ensure that Work performed during the warranty period is performed with required insurance and the performance and payment bonds still in effect.

Work performed during the one-year warranty period shall itself be subject to a one-year warranty. This warranty shall be the same as described in this section.

The Owner may make as many warranty inspections as it deems appropriate.

M. Compliance with Laws

The Contractor shall be responsible for ensuring that it and any subcontractors performing any portion of the Work required under the Contract Documents comply with all applicable federal, state, county, and municipal laws, regulations, and rules that relate in any way to the performance and completion of the Work. This provision applies whether or not a legal requirement is described or referred to in the Contract Documents.

Ancillary/Integral Professional Services: In selecting an engineer, land surveyor, or other professional to provide professional services, if any, that are required by the Contract Documents, Contractor shall not do so on the basis of competitive bids but shall make such selection on the basis of demonstrated competence and qualifications to perform the services in the manner provided by Section 2254.004 of the Texas Government Code and shall so certify to the City the Contractor's agreement to comply with this provision with Contractor's bid.

N. Other Items

The Contractor shall sign the Construction Agreement, and deliver signed payment and performance bonds and proper insurance policy endorsements (and/or other evidence of coverage) within ten (10) calendar days after the Owner makes available to the Contractor copies of the Contract Documents for signature. Three (3) copies of the Contract Documents shall be signed by an authorized representative of the Contractor and returned to the City.

The Construction Agreement "effective date" shall be the date on which the City Manager or his designee has signed the Construction Agreement. It is expressly provided, however, that the City Council delegates the authority to the City Manager or his designee to rescind the Contract award to Contractor at any time before the Owner delivers to the Contractor a copy of this Construction Agreement that bears the signature of the City Manager or his authorized designee. The purpose of this provision is to ensure:

1. that Contractor timely delivers to the Owner all bonds and insurance documents;
2. that the Owner retains the discretion not to proceed if the City Manager or his designee determines that the Contractor cannot perform all of its obligations under the Contract Documents.

THE CONTRACTOR AGREES THAT IT SHALL HAVE NO CLAIM OR CAUSE OF ACTION OF ANY KIND AGAINST OWNER, INCLUDING A CLAIM FOR BREACH OF CONTRACT, NOR SHALL THE OWNER BE REQUIRED TO PERFORM UNDER THE CONTRACT DOCUMENTS, UNTIL THE DATE THE OWNER DELIVERS TO THE CONTRACTOR A COPY OF THE CONSTRUCTION AGREEMENT BEARING THE SIGNATURES JUST SPECIFIED.

The Contract Documents shall be construed and interpreted by applying Texas law. Exclusive venue for any litigation concerning the Contract Documents shall be Ellis County, Texas.

Although the Construction Agreement has been drafted by the Owner, should any portion of the Construction Agreement be disputed, the Owner and Contractor agree that it shall not be construed more favorably for either party.

The Contract Documents are binding upon the Owner and Contractor and shall insure to their benefit and as well as that of their respective successors and assigns.

Owner may order changes in the Work within the general scope of this Construction Agreement consisting of additions, deletions or other revisions, the compensation to Contractor and the completion dates being adjusted accordingly. Such changes in the Work shall be authorized by written change order signed by Owner and Contractor. If the Owner requests additions to the Work, it will be performed at a predetermined fixed fee or on a time and material basis as mutually agreed by the parties

Contractor and Owner waive any and all claims against each other for consequential damages arising out of or relating to this Construction Agreement or the Work, including, but not

limited to, losses of use, profits, business, reputation or financing. This mutual waiver is applicable, without limitation, to all consequential damages due to delay by either party, nonpayment by Owner, defective construction or non-conforming Work by Contractor, and either party's termination of the Construction Agreement. This waiver shall survive the expiration or earlier termination of this Construction Agreement.

If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the compensation to Contractor and time for completion of the Work shall be equitably adjusted.

Owner will compensate Contractor for any reconstruction work necessary due to infrastructure or site development by Owner or others that impacts the Work under the Construction Agreement. In the event that re-work of items performed by the Contractor is necessary, or special working conditions are required to work around existing or installed infrastructure, Contractor shall be compensated for such additional Work.

CONTRACTOR: _____ CITY OF FERRIS, TEXAS _____

By: _____

By: Eric Strong

Title: _____

Title: City Manager

Date: _____

Date: _____

Address: _____

Phone: _____
Fax: _____

Address: 100 Town Plaza
Ferris, Texas 75125

Phone: (972) 544 - 2110
Fax: (972) 544 - 8259

ATTEST:

Patricia Bradley
City Secretary

EXHIBIT A

MUTZ PARK – PHASE I BASEBALL FIELD IMPROVEMENTS
FERRIS, TEXAS
FINAL PROJECT DEVELOPMENT PROGRAM
dated May 11, 2011

EXHIBIT B

Payment Bond

CONSTRUCTION PAYMENT BOND

STATE OF TEXAS)
)
COUNTY OF COLLIN)

KNOW ALL MEN BY THESE PRESENTS: That Landscapes Unlimited, LLC, whose address is Attn: _____, 1201 Aries Drive, Lincoln, Nebraska, 68512, hereinafter called Principal, and _____, a corporation organized and existing under the laws of the State of _____, and fully licensed to transact business in the State of Texas, as Surety, are held and firmly bound unto the **CITY OF FERRIS**, a Type A general law municipality organized and existing under the laws of the State of Texas, hereinafter called "Owner", and unto all persons, firms, and corporations who may furnish materials for, or perform labor upon the building or improvements hereinafter referred to in the penal sum of **FIVE HUNDRED NINETY EIGHT THOUSAND SIX HUNDRED SEVENTY FIVE DOLLARS and NO CENTS (\$598,675.00)** in lawful money of the United States, to be paid in Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents. The penal sum of this Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement, which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement, which reduces the Contract price, decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract with the City of Ferris, the Owner, dated on or about the _____ day of _____, A.D. 2011, a copy of which is attached hereto and made a part hereof, to furnish all materials, equipment, labor, supervision, and other accessories necessary for the construction of:

Mutz Park – Phase I Baseball Fields Improvements

NOW THEREFORE, if the Principal shall well, truly and faithfully perform its duties and make prompt payment to all persons, firms, subcontractors, corporations and claimants supplying labor and/or material in the prosecution of the Work provided for in the above-referenced Contract and any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modification to the Surety is hereby expressly waived, then this obligation shall be void; otherwise it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action were filed on this Bond, exclusive venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the Work performed thereunder, or the Plans, Final Project Development Program, Specifications, Drawings, etc., accompanying the same, shall in anywise affect its obligation on

this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder.

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Ellis County or Dallas County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

IN WITNESS WHEREOF, this instrument is executed in six copies, each one of which shall be deemed an original, this, the _____ day of _____, 2011.

PRINCIPAL: _____

BY: _____
Name

ATTEST:

TITLE: _____

SURETY: _____

BY: _____
Name

ATTEST:

TITLE: _____

The Resident Agent of the Surety in Ellis County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME: _____

STREET ADDRESS: _____

CITY, STATE, ZIP: _____

NOTE: Date on **Page 1** of Performance Bond must be **same date as Contract**. Date on **Page 2** of Performance Bond must be **after date of Contract**. If Resident Agent is not a corporation, give a person's name.

EXHIBIT C

Construction Performance Bond

CONSTRUCTION PERFORMANCE BOND

STATE OF TEXAS)
)
COUNTY OF COLLIN)

KNOW ALL MEN BY THESE PRESENTS: That Landscapes Unlimited, LLC, whose address is Attn: _____, 1201 Aries Drive, Lincoln, Nebraska, 68512, hereinafter called Principal, and _____, a corporation organized and existing under the laws of the State of _____, and fully licensed to transact business in the State of Texas, as Surety, are held and firmly bound unto the **CITY OF FERRIS**, a Type A general law municipality organized and existing under the laws of the State of Texas, hereinafter called "Beneficiary", in the penal sum of **FIVE HUNDRED NINETY EIGHT THOUSAND SIX HUNDRED SEVENTY FIVE DOLLARS and NO CENTS (\$598,675.00) plus fifteen percent (15%) of the stated penal sum** as an additional sum of money representing additional court expenses, attorneys' fees, and liquidated damages arising out of or connected with the below identified Contract in lawful money of the United States, to be paid in Ellis County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents. The penal sum of this Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement, which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement, which reduces the Contract price, decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract with the City of Ferris, the Beneficiary, dated on or about the _____ day of _____, A.D. 2011, a copy of which is attached hereto and made a part hereof, to furnish all materials, equipment, labor, supervision, and other accessories necessary for the construction of:

Mutz Park – Phase I Baseball Fields Improvements

in the City of Ferris, Texas, as more particularly described and designated in the above-referenced contract such contract being incorporated herein and made a part hereof as fully and to the same extent as if written herein word for word.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform and fulfill all of the undertakings, covenants, terms, conditions and agreements of said Contract in accordance with the Plans, Specifications and Contract Documents during the original term thereof and any extension thereof which may be granted by the Beneficiary, with or without notice to the Surety, and during the life of any guaranty or warranty required under this Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived; and, if the Principal shall repair and/or replace all defects due to faulty materials and workmanship that appear within a period of one (1) year from the date of final completion and final acceptance of the Work by Owner; and, if the

Principal shall fully indemnify and save harmless the Beneficiary from and against all costs and damages which Beneficiary may suffer by reason of failure to so perform herein and shall fully reimburse and repay Beneficiary all outlay and expense which the Beneficiary may incur in making good any default or deficiency, then this obligation shall be void; otherwise, it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action were filed on this Bond, exclusive Venue shall lie in Ellis County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the Plans, Final Project Development Program, Specifications and Drawings, etc., accompanying the same shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work or to the Specifications.

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Ellis County or Dallas County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

IN WITNESS WHEREOF, this instrument is executed in six copies, each one of which shall be deemed an original, this, the _____ day of _____, 2011.

PRINCIPAL: _____

BY: _____
Name

ATTEST:

TITLE: _____

SURETY: _____

BY: _____
Name

ATTEST:

TITLE: _____

The Resident Agent of the Surety in Ellis County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME: _____
STREET ADDRESS: _____
CITY, STATE, ZIP: _____

NOTE: Date on **Page 1** of Performance Bond must be **same date as Contract**. Date on **Page 2** of Performance Bond must be **after date of Contract**. If Resident Agent is not a corporation, give a person's name.

MUTZ PARK – PHASE I
BASEBALL FIELD IMPROVEMENTS
FERRIS, TX

FINAL

PROJECT DEVELOPMENT PROGRAM

May 11, 2011

Presented to:



100 Town Plaza
Ferris, TX 75125
(972) 544-2110

Prepared by:
Landscapes Unlimited, LLC
1201 Aries Drive
Lincoln, Nebraska 685120



Mutz Park – Phase I
Final Project Development Program

It is understood by all parties that all information contained herein is confidential information and is intended only for the use of the individual or entity named herein. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this information is strictly prohibited.

Quality Standard

City of Ferris, Texas and Landscapes Unlimited, LLC (LU) agrees that the final product of this project will be characterized as a public park, with individual characteristics as describe below. Mutz Park is a project of significant scope and expectations. Program components below will be designed to provide optimum turf conditions, public and player experience. Mutz Park will consist of two baseball /softball fields.

Budgetary Statement

Mutz Park will be delivered to the Owner on a mutually agreed basis. In the program elements below, it is anticipated that the units and quantities specified will differ from those actually installed and produced on site. In a cooperative spirit and teamwork attitude, the project team of Owner, Designer, Consultant and Contractor shall work closely together to implement a scope that delivers to the quality and budget expectations of the Owner. If there are any fluctuations in commodity pricing during this project it will be incorporated into the STIPULATED SUM on a cost only basis. If the price fluctuations can not be appropriately incorporated into the STIPULATED SUM then the STIPULATED SUM can be adjusted on a mutually agreeable basis.

It is assumed at this time that the pricing included here in is based on the project being delivered on The Interlocal Purchasing System (TIPS). The pricing includes the administrative fees for this system.

In the event that the scope is reduced throughout the course of construction, savings will accrue, then the Owner shall have the option of 1) installing additional components or adding quality upgrades, or 2) take a credit to the Contract for this cost savings.

In the event that the scope of the work increases, Owner shall either 1) work with Contractor to value engineer the remaining items of work to absorb any cost over-runs, or 2) the Owner may elect to authorize a change to Contract for this additional scope.

It is understood at this time the overall plan for Phase I of the improvements to Mutz parks includes renovation of the two baseball/softball fields, parking, public access, along with site amenities as defined here within.

Mutz Park – Phase I
Preliminary Project Development Program

Mutz Field Complex Project Description

Project Preparation

\$83,500

◆ ***Professional Services***

- > Service items to be provided by the City:
 - Master planning
 - Civil Engineering
 - Environmental feasibility and studies
 - Potable water service
 - Sanitary sewer service
 - Electrical primary power design and transformer location
 - Storm drainage plan
 - Portland Concrete Cement design plan and specifications
 - A.D.A. plan and considerations
 - Traffic studies, parking and all road adjustment plans
 - Site description and survey control points for property boundaries
 - Erosion Control Plan
 - Site grading plan
- > An allowance has been established for professional services to include:
 - Irrigation design
- > A rigorous and continuous quality control testing process of all applicable processes is included through accredited testing agencies.
- > Any other consultancies or services that may become necessary under this project may be incorporated into this program.
- > The Interlocal Purchasing System (TIPS) fees and administration have been included.

◆ ***Mobilization & Site Expenses***

- > Normal mobilization requirements of all labor, equipment and materials. A single mobilization in and out has been assumed.
- > All necessary permits, licenses, fee, etc... to be obtained by Owner prior to the start of construction.
- > Performance and Payment Bond costs are included in this Program
- > Program assumes that this project is tax exempt. Sales Tax or Texas Renovation Tax is not included in this program.
- > Temporary construction utilities and yard set-up will be provided on site by the owner.
- > All insurance, general conditions, site facilities, office expense, overhead and other project administration costs are included. Owner will be named as an additional insured under LU's General Liability policy during this project.

◆ ***General Conditions***

- > Includes cost items such as housing, on-site construction office and its related operating expenses, gasoline, storage trailer rentals, and some minor miscellaneous accounts for equipment, labor & materials.

◆ ***Construction Management & On-Site Supervision***

- > Includes all on-site supervision, their fees and related expenses.
- > All project management fees and related expenses included.
- > Schedule management and budget tracking is included.

◆ ***Layout/Staking***

- > Owner will be responsible for locating/providing needed benchmarks: existing utility locations prior to the start of construction; boundary lines; property lines; any mitigation or wetland areas.
- > Includes Landscapes Unlimited, LLC laying out the baseball / softball fields, disturbance limits, clearing limits, and grading limits.

Mutz Park – Phase I
Preliminary Project Development Program

Erosion Control **\$5,800**

- ◆ **Construction Entrances**
 - > The construction of entrance is based on a 50' x 20' entrance with filter fabric installed on the sub grade and 1 inch to 3 inch aggregate installed to an 12 inch depth.
 - Material & Quantity Assumptions**
 - 1 Each Construction Entrance
 - 50 Tons Gravel - Includes Waste and Compaction
 - 1,000 SF Filter Fabric - Includes Waste and Overlap
- ◆ **Silt fence Installation**
 - > Silt fence installation is based on standard filter fabric silt fence with wood posts.
 - Material & Quantity Assumptions**
 - 500 LF Silt Fence - Includes Waste and Overlap
- ◆ **Erosion Control Maintenance**
 - > Implementation of the Storm Water Pollution Prevention Plan has been included.
 - > Erosion control maintenance is based on maintaining and repairing the erosion control structures and removal of sediment around erosion control structures on-site. This applies to only the structures installed by Landscapes Unlimited, listed in this program.
 - > This program assumes the field maintenance staff will remove all erosion control structures, since they typically can not be removed until the turf has been established and Landscapes Unlimited, LLC will have demobilized by that time.

Site Preparation **\$10,000**

- ◆ **Site Clearing & Demolition**
 - > Program includes demolition of existing baseball / softball fields and all chain link fence(s) and batting cage.
 - > Program assumes that all overhead electrical will be disconnected and removed by Owner
 - > Program does not assume any abatement of hazardous materials

Earthwork **\$14,500**

- ◆ **Topsoil Management**
 - > Program include topsoil management of the on site topsoil. It is assumed that the material on site will be sufficient for all the turf areas.
 - > This program does not include the use or purchase of any additional topsoil from off site.
- ◆ **Earthwork**
 - > Program assumes that each field will be cut/ fill balanced within itself, to a +/- tolerance of one tenth of a foot (0.1'), in order to achieve positive drainage with-in the fences of each field. This includes both the infield and outfield areas.
 - > Existing infield mix will be cored out and incorporated into the grading areas. Hauling existing infield mix off-site is not included in this program.
 - > Includes all of the cuts and fills in the graded areas to a +/-0.1' tolerance for baseball/softball fields construction and a +/-0.5' tolerance for disturbed areas outside the baseball/softball fields.
 - > Any material that cannot be productively ripped with a John Deere 650 size dozer will be considered rock excavation. Rock excavation will be performed on a T&M basis, or at a negotiated unit price.
 - > This program assumes that no dewatering will be required for this phase of work or for any other phase of work.
 - > Import or export of earthwork material to or from this site is not included. It is assumed that the grading can be adjusted on site to make a cut/fill balance.
 - > This program includes a non-structural compaction of the proposed sub-grades in all grassed areas.
 - Quantity Assumptions**
 - 265,457 SF of disturbance area for Earthwork
 - 3,600 Cubic Yards of Cut/Fill on the entire site

Mutz Park – Phase I
Preliminary Project Development Program

Site Utilities **\$ N/A**

◆ *Electrical*

- > It is assumed that the on-site electric is suitable for new Sports Field Lighting.

Site Drainage **\$ N/A**

Irrigation System **\$82,200**

◆ *Irrigation System Allowance*

- > The irrigation is an allowance based off of typical sports field installations
- > The irrigation is based on the two existing baseball/softball fields and the “common area” between the two fields and adjacent to the fields and E. 10th Street.
- > Assumes the proposed irrigation system will be tapped into to the existing 6” city water source in the general vicinity of the existing stub up outside the outfield fence of the existing field.
- > Irrigation controller to be located in the existing concession building storeroom.
- > Proper backflow device will be installed per State of Texas Irrigation Laws.
- > Program assumes that the existing water pressure will not be suitable for the proposed irrigation system. Program does include an allowance for the booster pump needs at this time.
- > All other areas outside of the fields of play will be un-irrigated.
- > Rock in irrigation excavations shall be defined as material that cannot be efficiently excavated with an 860 Case Trencher or equal. This program assumes that trench spoils will be suitable backfill & bedding. Mining, importing or screening of backfill or bedding material is not included.
- > Lateral cover to be 18” - 24”
- > Mainline cover to be 24”-36”
- > Meter will be provided by the city and installation by LU
- > It is assumed that all fees for the taps to the water source will be waived.

Athletic Field Construction **\$227,500**

◆ *Baseball/Softball Fields Construction*

- > Baseball/Softball Field Construction is based on: field dimensions of 290’ foul lines and 300’ to center field with 25’ to the backstops from home plate. Topsoil re-spread as specified in the Earthwork section.
- > Finish Grades of the proposed fields will be laser leveled.
- > Two baseball fields construction includes:
 - Field layout and configuration per drawing provided
 - All fencing layout per drawing provided.
 - Fencing per submittal to include:
 - Chain link Backstop 20’ tall from shade structure to shade structure and 16’ tall to the dugouts and 25’ feet from home plate.
 - Dugouts to be a chain link fence enclosure with a 4” concrete slab (30’ x 8’). This includes a metal roof shade structure.
 - The remaining fencing is to be 6’ tall on the sidelines and outfield arch with no wind screen.
 - A 12” wide x 4” thick concrete mow curb under all fencing included.
 - Infield construction to be built for an 80’ base 54’ pitching rubber and an 80’ arch.
 - No pitching mound to be built, so that the pitching distance can be adjusted.
 - Infield construction to be all “infield clay” at a depth of 4 inches supplied locally.
 - Diamond Pro Infield Conditioner to be installed per manufacturer’s specifications.

◆ *Baseball Field Equipment*

- > Bases, pitching rubber, home plate, and foul poles to be installed per city directions.
- > Player benches in dugouts will be salvaged and reused in the new dug outs.
- > The existing scoreboards will remain in place.

Mutz Park – Phase I
Preliminary Project Development Program

Finish Grading **\$1,500**

◆ **Seedbed Prep**

- > This includes the final clean-up / seedbed prep with tractors and hand labor. Includes all field tie-ins and checking for positive drainage prior to grassing of all disturbed areas.

Grassing **\$60,500**

◆ **Fertilizer Allowance**

- > An allowance for all fertilizer has been included. When the actual topsoil is identified, proper testing can be done and a defined fertilizer program can be established and priced out at that time.

◆ **Grassing**

- > Baseball playing areas inside the fence will be planted with locally grown soil base 419 Sod.
- > All remaining disturbed areas will be hydro-seeded with Common Bermuda at 100# / Acre. 5 Acres of Disturbed Areas have been assumed.

Gravel Parking Lot **\$35,000**

- > Approximately 23,500 square foot parking lot to be located north of complex across existing road.
- > Based on installation of a crushed aggregate material with a geotextile fabric on existing sub-grade, to a compacted depth of 4".
- > No curb and/or gutter has been included
- > Four spaces of concrete handicap parking has been included with wheel stops.
- > Existing telephone poles with the sports field lighting on them now will be used for a perimeter/bumpers. No new wheel stops have been included

Concrete Flatwork **\$34,975**

- > Installation of 10,325 square feet of concrete flatwork and walkways per Rough Grading plan provided
- > Based on installation of 4" thick 3000 PSI concrete, with #4 rebar 24" On Center each way on top of 2" thick cushion sand layer.
- > Sub-grade of the concrete flatwork areas will be native soil compacted and proof rolled for approval.
- > Does not include the removal or additional treatment of any unsuitable materials.

Miscellaneous

◆ **Main Entry, Perimeter Fence and Gates** **\$10,000**

- > Program includes a continuation of the 6' chain link fence from field to field to the proposed main entry area.
- > A \$10,000 allowance has been included for the main entry area to account for the ornamental gate, sign, brick work and paver details.

◆ **Shade Structure and Bleachers** **\$33,200**

- > Program includes a 20' deep and 30' wide metal shade structure adjacent to the dugout areas on each field. It is assumed that these structures will be a mono-slope type standing seam roof that will be 14' tall in the front and 12' tall in the back.
- > This also includes a portable type, 50 seat capacity, aluminum bleacher provided and installed at each of the shade structure area.

◆ **Clarifications**

- > This program does not include any grow in items. It is assumed that this will be a drop seed contract. All watering, maintenance, and maturation of the facility will be the responsibility of the Owner.
- > All pricing for this project is based upon current commodity pricing in effect as of 5/11/11. Any fluctuations in pricing or supply that increases or decreases project costs will be passed onto the owner.
- > No vertical structures are included in this program at this time other than the shade structures

- for the bleachers and dugouts.
 - > Warning tracks at the baseball fields have not been included.
 - > No other landscape materials or planting have been included in the base number.
 - > We have not included any additional soil stabilization, such as lime or imported materials to the native soils for the parking lot or paved areas.
 - > We have not included any additional signage for the facility.
 - > It is assumed at this time that The Interlocal Purchasing System will be use for the project delivery. The subsequent administrative fees have been included.
- ◆ ***Duration & Schedule***
- > The detailed execution and construction schedule will be provided upon determination of all the scope of work.

The Stipulated Sum for the scope as discussed above is:
\$ 598,675.00