



MEETING MINUTES

September 14, 2023

Special Seabrook City Council & Joint Meeting with Open Space and Trails Committee

Mayor Thom Kolupski called the Seabrook Council Meeting to order at 7:00 p.m. in the Seabrook Public Works Training Facility. Present were City Councilmembers Jackie Rasco, Rob Hefner, Tom Tollett, Buddy Hammann, Michael Giangrosso and Joe Machol. Mayor Thom Kolupski declared a quorum and pledges were conducted.

1. Invitation to Address Council

The following citizens gave public comments:

NAME	ADDRESS	TOPIC
Rhonda Thompson	1505 Park Drive	Carothers Coastal Gardens dirt work contract

2. Joint Meeting of City Council and Open Space and Trails Committee

2.1 Hear presentation on the Capital Improvement Program (CIP) CIP #P20 Carothers Gardens East Tract and Purchasing Policy on matters relating to Request for Proposals (RFPs).

Committee member Jesse Jones presented and other Committee members present clarified Mr. Jones was not speaking as the only authority on the subject. He stated the Committee was not consulted at all stages of the project. City Manager Gayle Cook also presented. See attachment A. Alex Scanion of Norex Engineering answered questions from the Committee and Council members. Committee members and Council members discussed the drainage and the RFP process.

2.2 Hear presentation and discuss and consider any actions related to RFP 2023-23, Carothers Grading and Drainage.

Motion: To rescind the bid for the Carothers Gardens project

Made By: Councilmember Hammann

Seconded By: Councilmember Machol

Vote: **Motion carried** unanimously by all present.

Motion: To terminate the contract with D. Wagner Construction for the Carothers grading and drainage project for convenience.

Made By: Councilmember Hammann

Seconded By: Councilmember Machol

Vote: **Motion carried** unanimously by all present.

3. Closed Executive Session

3.1 Section 551.071

Conduct a Closed Executive Session to consult with City Attorney to seek or receive legal advice regarding pending or contemplated litigation, a settlement offer, or on a matter in



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which the duty of the Attorney to the City under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act.
Contract associated with Carothers Coastal Gardens

3.2 Section 551.072

Conduct a Closed Executive Session to discuss or deliberate the purchase, exchange, lease, or value of real property.

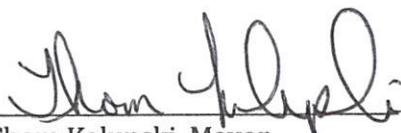
Mayor and Council decided no Executive Session was needed after the discussions.

4. Open Session

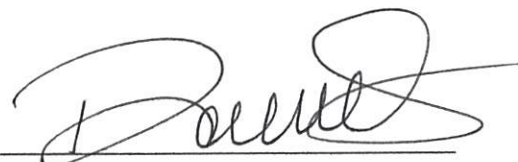
4.1 Consider and take all appropriate action on any matters related to contract(s) with Carothers Coastal Gardens.

Upon discussion, City staff was asked by Council to meet again prior to initiating an RFP process for the Carothers Coastal Gardens.

Council was adjourned at 8:48 pm.

APPROVED: 
Thom Kolupski, Mayor

DATE: 11-20-23

ATTEST: 
Rachel Lewis City Secretary

Joint Meeting

SEABROOK CITY COUNCIL AND OPEN SPACE AND TRAILS COMMITTEE



September 14, 2023



Item 2.1

Hear presentation on the Capital Improvement Program (CIP) CIP #P20 Carothers Gardens East Tract and Purchasing Policy on matters relating to Request for Proposals (RFPs).

PURCHASING LAWS

- **CITY OF SEABROOK CITY CHARTER SEC 5.09**
- **CITY OF SEABROOK ORDINANCES**
- **CITY OF SEABROOK PURCHASING POLICY**
- **TEXAS GOVERNMENT CODE § 2253**
- **IN SOME CASES, OTHER STATE AND FEDERAL LAWS (ALL LANGUAGE IN TEMPLATE)**

2023

- Over 13 RFPs produced, released and considered by Council for award

Full
Request
for
Proposal
(RFP)

33 pages

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FORMS:

VENDOR INFORMATION FORM
BIDDER QUESTIONNAIRE AND QUALIFICATIONS
BID FORM
COST SHEET
EXCEPTIONS TO SPECIFICATIONS
HB 89 VERIFICATION FORM
CONFLICT OF INTEREST QUESTIONNAIRE

ATTACHMENTS:

1. Plans
2. City Standard Specifications and Details
3. Survey SWG file
4. Surface XML file

City of Seabrook RFP Timeline

<u>EVENT</u>	<u>DATE</u>
Issuance of RFP	07/27/2023
Published	07/27/2023 08/03/2023
Optional Pre-Bid Meeting (2:00 PM)	08/10/2023
Bid Due Date (11:00 AM)	08/17/2023
Bid Opening (11:00 AM)	08/17/2023

Checklist of Documents to Return in Sealed Bid

- _____ Vendor Information Form
- _____ Bidder Questionnaire and Qualifications
- _____ Bid Form
- _____ Cost Sheet
- _____ Exceptions to Specifications
- _____ Bid Bond- 5% of total amount bid
- _____ Certificate of Insurance
- _____ Notarized Texas Ethics Commission Certification Form 1295
- _____ House Bill 89 Verification Form

Scope of Work

- Council Priorities
- Master Plans
- Infrastructure Needs



**Input to
build
Scope**

Staff

Final RFP Document

- Legal references
- Finalize criteria
- Award Process
- Timeline
- Checklist
- Pre-bid reference
- Plans

Examples

**Bid Document
Completed by
Staff**

Wastewater Treatment Plant



Pine Gully Pier

Public Safety Facility

EMS Expansion

Mobilization

Clearing and Grubbing (disposal of material off site)

On-site Soil Excavation, Relocation, Compaction and Grading per Plan (includes swale and trail grading)

Off-site Soil Excavation, Relocation, Compaction and Grading per plan (includes swale and trail grading); woodbridge replaced by HDPE

Tree Protection

12"HDPE pipe to replace wood bridges

SWPPP and measures

Hydromulch

EITALE			WAGNER			GW PHILLIPS		
QTY	PER UNIT	TOTAL	QTY	PER UNIT	TOTAL	QTY	PER UNIT	TOTAL
1	3600	\$3,600.00	1	20000	\$20,000.00	1	22000	\$22,000.00
1944	DID NOT BID	DID NOT BID	1944	6	\$11,664.00	1944	80	\$155,520.00
752.25	52	\$39,117.00	752.25	60	\$45,135.00	752.25	45	\$33,851.25
1875.95	DID NOT BID	DID NOT BID	1875.95	75	\$140,696.25	1875.95	45	\$84,417.75
16	200	\$3,200.00	16	200	\$3,200.00	16	300	\$4,800.00
80	35	\$2,800.00	80	20	\$1,600.00	80	120	\$9,600.00
1	DID NOT BID	DID NOT BID	1	10300	\$10,300.00	1	2500	\$2,500.00
2.41	1200	\$2,892.00	2.41	4500	\$10,845.00	2.41	3500	\$8,435.00
		\$51,609.00			\$243,440.25			\$321,124.00



Item 2.2

Hear presentation and discuss and consider any actions related to RFP 2023-23, Carothers Grading and Drainage.

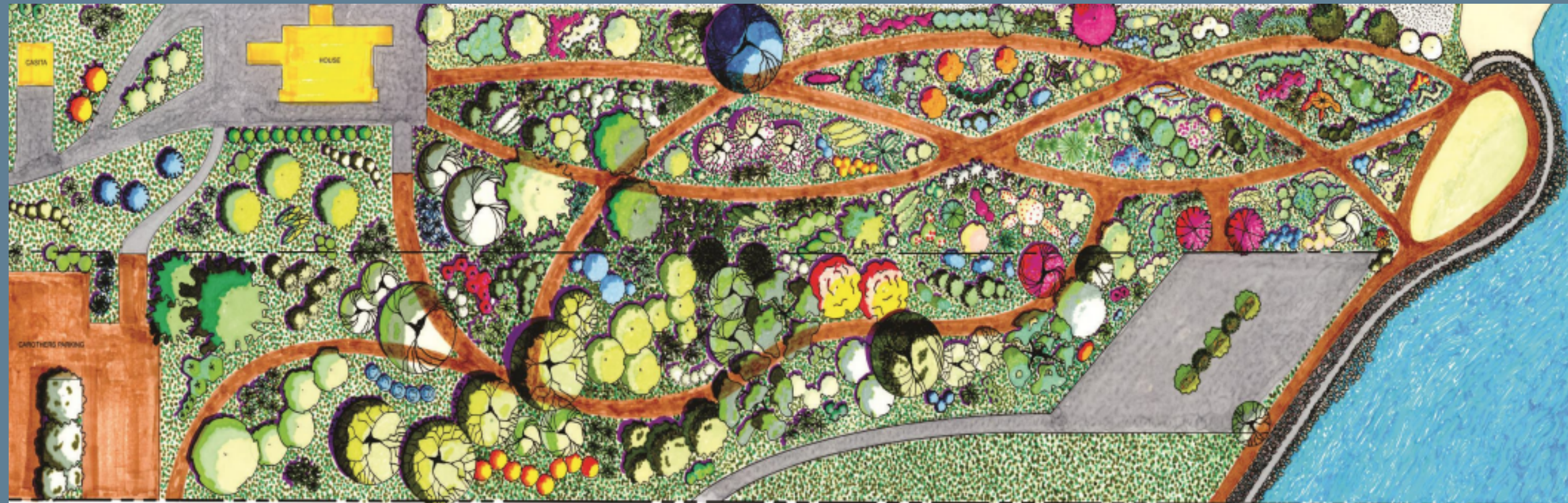


Recap

1. City Council Meeting September 5, 2023
 - a. Bid Award to D. Wagner Construction
\$243,440.25
2. Special Meeting requested to reconsider
the bid award



TASK FORCE II



Background

City Council at the October 18th, 2022 Council Meeting provided direction to City Staff to proceed with the design and planning of the project with the intent of expending the insurance proceeds from the Carothers Structure.

To date the following has been completed:

1. Fence Constructed as Directed by City Council.
Expended: \$17,800.00
2. Casita Repairs.
Expended: \$303.40 (AC Repair)
3. Dead Tree Removal.
Expended: \$9,000.00
4. Engineered Drainage Plan, Trail Design, Planting Berm Design.
Expended: \$18,550.00

Items Not Included in Current Contract

1. The overlay of granite material on the trails.
(Current Design Provides for Grass Trails)
1. Any planting of plants or trees within the planting Berms.
2. The installation of the electrical service and supply outlets.
3. The installation of the Irrigation System.
4. Construction of Structure to House a Future Learning Center.
5. Construction of Observation Viewing Decks.



Input - OST Committee

1/5/2023 - OST Meeting

1/12/2023 - OST Meeting - Met at Casita

2/2/2023 - OST Meeting

3/3/2023 - OST Meeting

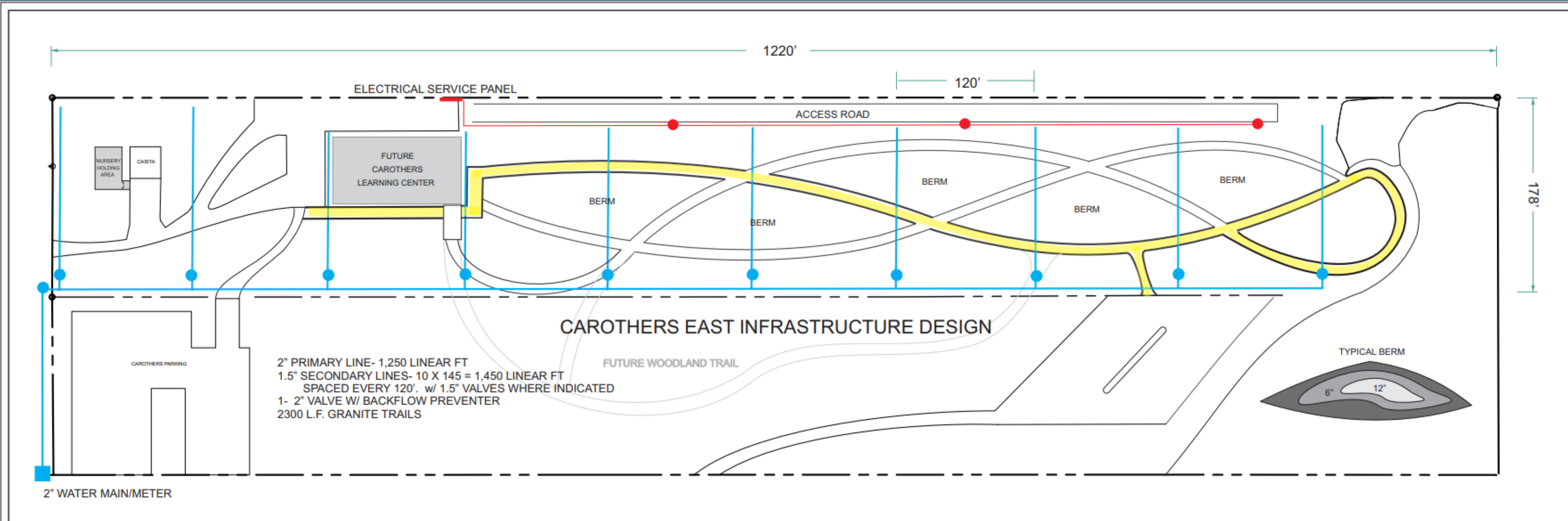
4/6/2023 - OST Meeting

6/1/2023 - OST Meeting (Drainage Report Reviewed)

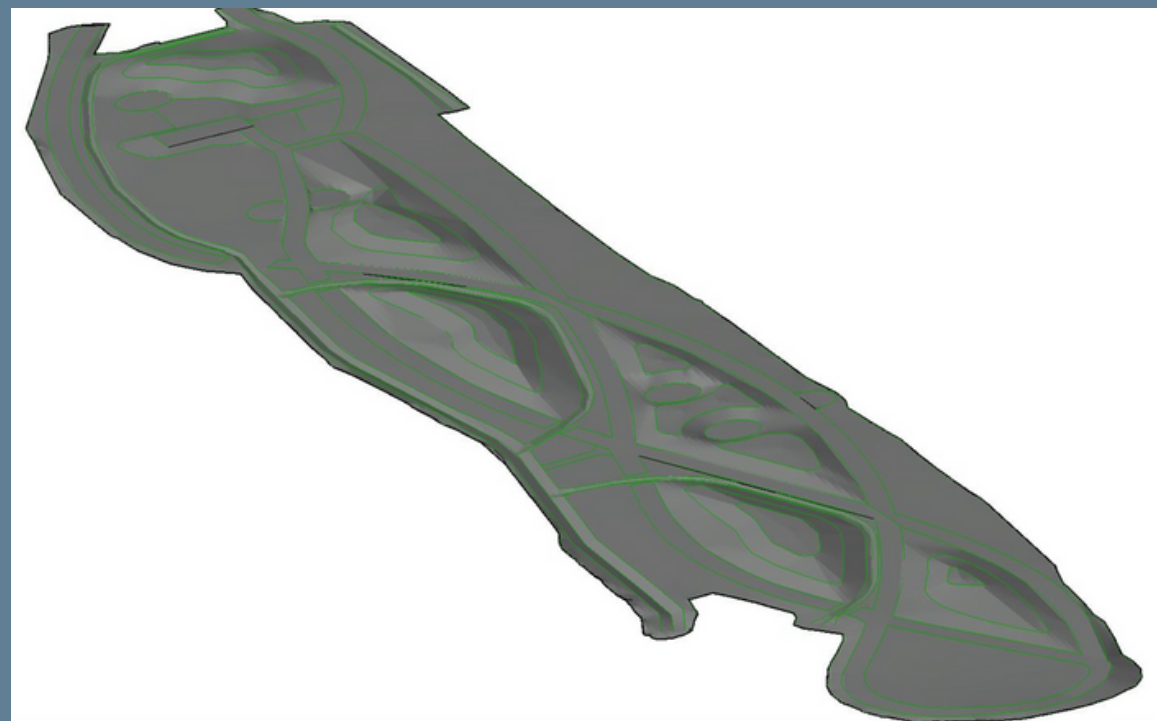
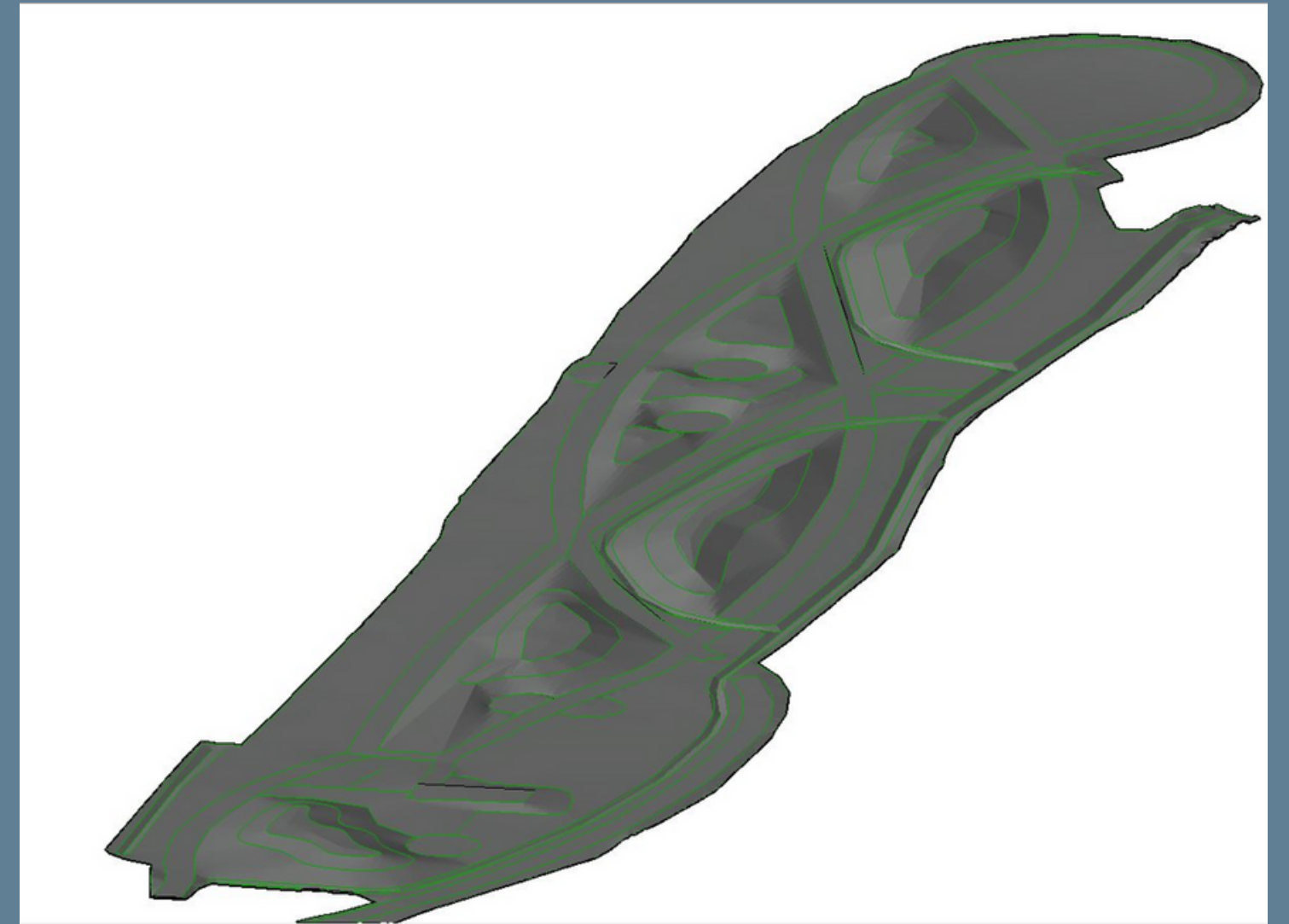
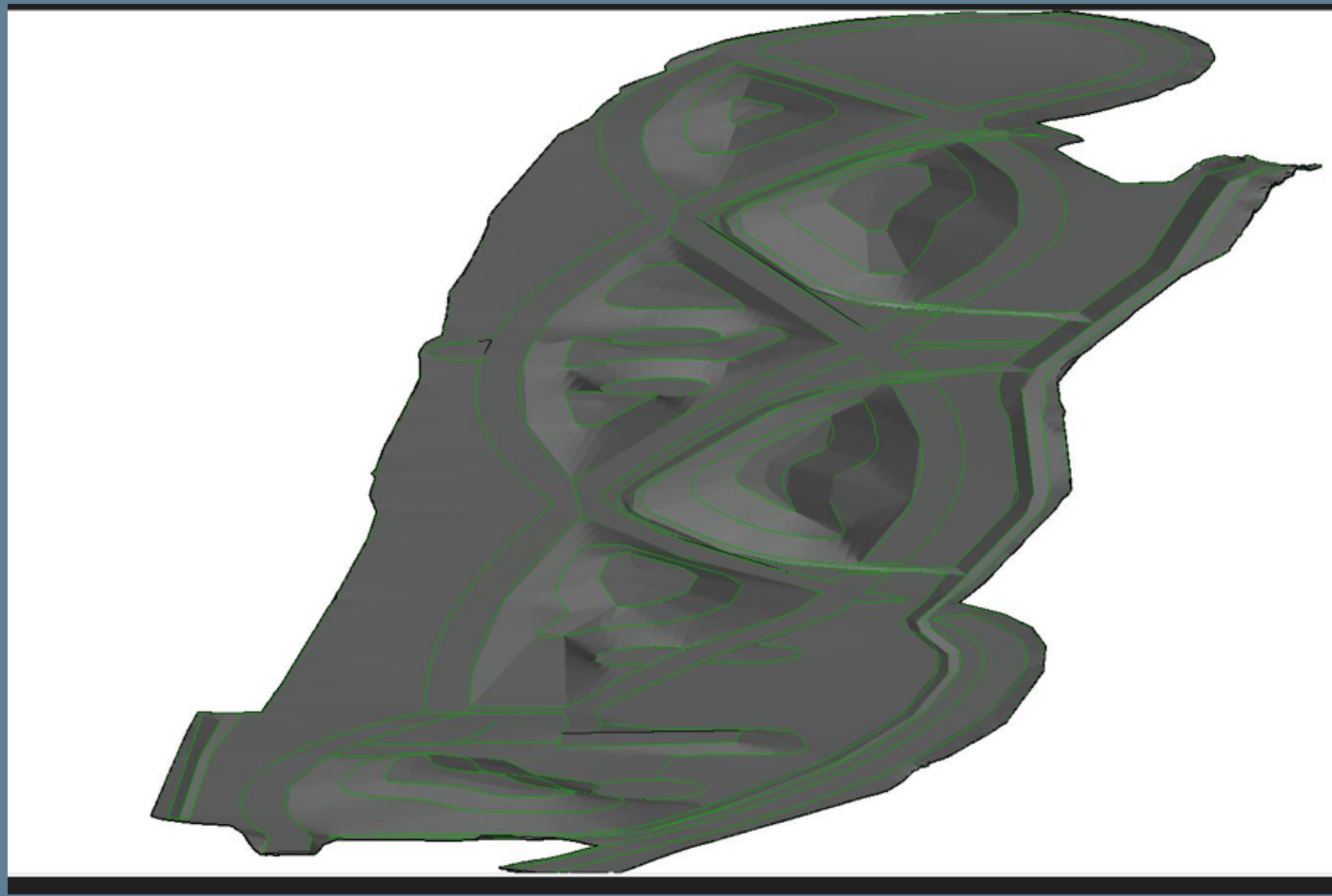


From Concept to Design

Committee Input







3D Imaging

USE OF INSURANCE PROCEEDS

- Both the land and the building were purchased with bond proceeds from the City's General Obligation Bonds, Series 2008 (the "Series 2008 Bonds"), which were refunded by the City's General Obligation **Refunding** Bonds, Series 2017 (**the "Series 2017 Bonds"**).
- **The Series 2017 Bonds have an arbitrage yield of 1.959683% and are still outstanding. The original par amount of the Series 2017 Bonds was \$5.365 MM. Insurance proceeds the City received was around \$250,000, most of which remains unspent.**
- **For federal tax purposes the insurance proceeds are treated as if they are proceeds of the Series 2017 Bonds which refunded the original Series 2008 Bonds.** Therefore, the insurance proceeds and any earnings thereon need to be spent on the same purposes for which the Series 2008 Bonds were authorized. In this case, the Series 2008 Bonds were authorized for the acquisition, construction and improvement of City parks, among other purposes. Accordingly, the insurance proceeds may be spent on any capital expenditures associated with the acquisition, construction and improvement of City parks, and the use of the insurance proceeds to finance additional park improvements is a permitted use.

USE OF INSURANCE PROCEEDS

- There is not a certain date for spending funds because the City is obligated **under federal tax law to exercise due diligence to spend the proceeds**. The insurance proceeds in the eye of the federal government (IRS) are not seen as a separate deposit but funds left in a bond issuance from Series 2017 Bonds.
- Also, we note that, as we discussed, the insurance proceeds have been invested in TexPool and have been **earning interest** at a rate in excess of the arbitrage yield on the Series 2017 Bonds for several years now.
- An arbitrage calculation can be requested.

Thank you

①

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To Council Members, City Staff, and Open Space Committee members

We are all eager for Carothers Gardens to be an asset the whole community can take pride in and enjoy, without any undue burden for Staff or for the City budget. Following are four perspectives. In no particular order, that I hope may help get us to that point:

Maintenance must be financially feasible

Using a 501c(3) seems risky

Perfect can be the enemy of good

Peace vs. Master Plan

Basically they are all perspectives suggesting that if we limit expectations to what residents have clearly shown us they favor, we are likelier to achieve positive outcomes.

Sally

Maintenance

My abiding concern throughout planning for Carothers Gardens has been ***feasibility of maintenance by City staff.***

I want to remind you that the City Manager appealed to Council and Open Space for remedies because Carothers Gardens was costing so much in lawn maintenance for wedding rentals.

She said mowing alone was costing \$240,000 per year.

That's \$20,000 per month, or \$666 per day.

I also want to remind you that when Seabrook residents voted to buy the Carothers property, most were not thinking about event rentals. They wanted the place to expand our beloved trails network.

Instead, for a long time, locked gates confronted them.

I submit that the idea of a significant revenue stream from event rentals was a nice thought, but was always over-ambitious.

And I fear that aiming now for a highly developed garden risks setting us up to be over-ambitious again.

We are all expected to live within our means—individuals, families, companies and cities.

A simpler garden with a simple trail layout perfectly answers what residents and visitors all love—what everyone loves—about the Seabrook trails: their naturalness.

Park users tell us in every opinion survey that they love our natural settings, and seeing the wildlife in those natural settings is a big part of the pleasure.

Natural settings are far cheaper than showy gardens to create and to maintain. Trash cans need emptying, gravel trails need periodic maintenance, and debris needs sometimes picking up after a storm. But natural parks have no intimidating annual or monthly expenses. They are a very good fit for a small city to maintain.

501c(3) Status question and caution

I wonder if we need some illumination from the City Attorney about this.

I beg your pardon if I have misunderstood, but it is my impression that some Council members expect and hope that the 501c(3) organization created for the Community Garden will also serve to raise funds and get grants for Carothers Coastal Gardens as a whole.

That is, some may be hoping that some costs at Carothers Gardens can be paid for by the 501c(3) and will thus not need to come out of the City budget for parks.

People with more 501c(3)-related experience than I have are telling me that we should beware of thinking this way. They say that according to IRS rules, the 501C(3) recently established for the Community Garden is a dedicated entity serving that cannot also be raising funds for another entity. Specifically:

“To be tax-exempt under section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for exempt purposes set forth in section 501(c)(3) . . .”

When perfect is the enemy of good

I want to note that our natural settings as enjoyed from the hike and bike trails are the *single most popular aspect of our parks in all opinion surveys* and in spontaneous feedback to city officials. Trails and green space are a big part of why people move to Seabrook. We on the Open Space Committee were excited when residents voted to purchase Carothers as greenspace to add to the city's beloved park system. But since then the trajectory at Carothers has been mixed.

Operating it as an event venue proved:

- * exciting and pleasing at first, but
- * problematic for city staff and expensive in garden maintenance
- * not a very good fit

Losing the house to ice damage proved:

- * a dismaying loss, but
- * an insurance payout followed
- * and this input created an opportunity

Drafting a master plan proved:

- * a chance to explore a range of options, and
- * resulted in a strong master plan, but also
- * brought in bids spanning a very wide range

Viewing this park more simply as an extension of the trail system can reduce mowing to minimum (trail edges, for neatness and safety). **Emphasizing use of mainly native trees and plants** (with showy flowering trees, and with prairie segments) can ensure that we serve the local wildlife people so enjoy seeing. Let's not allow perfection to be the enemy of good.

Peace vs. Master Plan

Size

I want to note that a master plan for a single park is arguably out of place in Seabrook. For perspective, I would like to point out that we have six parks that are very much larger than Carothers, and yet we have no individual master plans for any of the others. This is an example of what seems to me *over-ambitious* in the approach to Carothers. The six others are:

Wildlife	80 acres
Pine Gully	62
Meador Park	11.47
Friendship	9.9
Disc Golf	9.4
Brummerhop	7.2
Carothers	7.83 (incl. West Tract and Community Garden; East Tract only = approx. 5 acres)

Maintenance

Are we hearing complaints about the staff's maintenance burden at Wildlife Park? No. It's 17 times the size of Carothers, but mowing at Wildlife is trailside only, with periodic fix-up of gravel trails and bridges, or debris pick-up after a storm.

Are we hearing complaints about the staff's maintenance burden at Pine Gully Park?

No. It's 12 times the size of Carothers, but mowing at Pine Gully is the picnic ground and trailside only, with periodic fix-up of trails and boardwalk, debris pick-up after storms, and extra trash pick-up on holiday weekends.

Inclusion

It seems clear to me that our route to peace at Carothers is its long-term use as an extension of the natural-areas-and-trails-network that residents love so much. Including it with all the other parks in planning and budgeting, just as we already include it with them for maintenance, is our route to peaceful enjoyment of Carothers Gardens for the long future.