

## RECORD OF RESOLUTIONS

Resolution No. 25-2022

Passed: July 26, 2022

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH JT DEVELOPMENT CONSULTING, LLC FOR DEVELOPMENT CONSULTING SERVICES FOR THE PERIOD OF JULY 1, 2022 THROUGH DECEMBER 31, 2022 IN AN AMOUNT NOT TO EXCEED \$18,000.00 DOLLARS.**

WHEREAS, the City of West Carrollton desires to secure professional services to work in collaboration with the Economic Development Director to provide, consultation, advice, analysis and financial modeling of the mixed-use development of various properties along the riverfront and adjacent to the West Carrollton I-75 interchange, Exit 47 and the development of the Whitewater Park and recreation amenities located at the South Montgomery low dam and surrounding areas; and

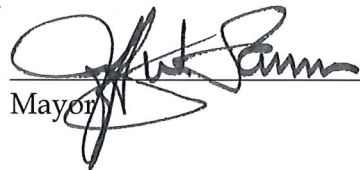
WHEREAS, JT Development Consulting LLC is uniquely qualified, experienced and willing to perform aforementioned service for the sole and exclusive benefit of the City of West Carrollton; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WEST CARROLLTON, OHIO, THAT:

Section 1: The City Manager is authorized to enter into a development consulting agreement with JY Development Consulting for development consulting services for the period of July 1, 2022 through December 31, 2022 for an amount not to exceed \$18,000.00 dollars.

Section 4: This resolution shall be in full force and effect from and after its date of passage.

Passed: July 26, 2022

  
Mayor

Attest:   
Clerk of Council

Effective Date: July 26, 2022

## **Exhibit A - Scope of Work**

The Consultant will work in collaboration with, and at the direction of, the Economic Development Director to provide consultation, advice, and analysis on the mixed-use development of various properties along the riverfront and adjacent to the West Carrollton I-75 interchange, Exit 47 and the development of a Whitewater Park and recreation amenities located at the South Montgomery low dam and surrounding area.

The Consultant's activities will include but not be limited to the following:

1. Assistance with the development of a financing and implementation plan for the proposed Whitewater Park and adjacent amenities located along the riverfront area and at the South Montgomery Dam.
  - a. Coordination with McLaughlin Whitewater for the Phase I feasibility analysis and cost estimates and the Phase II initial 30% design activities.
  - b. Coordination, advocacy, and technical assistance in the application and securing of local, state, and federal funding.
2. Assistance and coordination with Woodard Development, LLC and Dillin, LLC in the development of the Project Master Plan and implementation of the Development Services Agreement for the I-75 Interchange and riverfront development area.
3. Assistance and coordination with local, state, and federal grant applications and advocacy for funding of the Whitewater Park and development infrastructure.
4. Review and analysis of developer financing models and proposals associated with the implementation of the Development Services Agreement.

The Consultant will be available as needed to make presentations and attend meetings and work sessions with City staff and City Council.

## **Exhibit B – Compensation for Services**

The Consultant shall be paid the mutually agreed retainer of \$3,000 per month for services. It is anticipated that the consultant's services will not exceed 15 hours of consulting services per month.

The Consultant shall invoice the City for the services provided under the mutually agreed retainer at the end of each month. The invoice shall include an activity summary of the hours and activities of the Consultant during each month billed.

Consulting services will be accounted for in 15-minute increments.

Invoices from the Consultant shall be sent to Mr. Michael J. Lucking, Economic Development Director, City of West Carrollton, Ohio. The City shall pay the Consultant within thirty (30) days after receipt of the Consultant's invoice.

## **JT DEVELOPMENT CONSULTING, LLC CONSULTING SERVICES AGREEMENT**

**THIS CONSULTING SERVICES AGREEMENT** (the "Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in West Carrollton, Ohio, by and between the City of West Carrollton, Ohio, an Ohio municipal corporation, located at 300 East Central Avenue, West Carrollton, Ohio 45449, (the "City") and JT Development Consulting, LLC, located at 6574 Stillcrest Way, Dayton, Ohio 45414, (the "Consultant").

### **WITNESSETH**

**WHEREAS**, the City desires to secure the professional services and expertise of the Consultant to perform the services described in this Consulting Services Agreement; and

**WHEREAS**, the Consultant is uniquely qualified, experienced, and willing to perform the said services for the sole benefit of the City.

**NOW, THEREFORE**, for and in consideration of the mutual promises, covenants, and agreements hereinafter set forth, the parties to this Agreement, with the intent to be legally bound, hereby agree as follows:

### **ARTICLE ONE: SCOPE OF WORK**

1.1 At the direction of the City or the City's duly authorized representative, the Consultant agrees to perform the services specified in the Scope of Work attached hereto and incorporated herein as Exhibit A.

1.2 The Consultant agrees that any information provided to the City or analysis conducted by them concerning the operations, finances, or other business affairs of the City in performance of the Scope of Work shall be confidential and that the Consultant shall not disclose any such information to any other persons, firms, organizations or third parties. All reports or analysis produced by the Consultant in performance of the Scope of Work shall be the property of the City.

### **ARTICLE TWO: COMPENSATION**

2.1 The Consultant shall be compensated for their services rendered to or on behalf of the City in accordance with the Compensation for Services attached hereto and incorporated herein as Exhibit B.

2.2 The Consultant does not anticipate any travel or other reimbursable expenses to be incurred in the performance of the Scope of Work. Should the City determine that out-of-town travel, lodging, meals, or other reimbursable expenses are required of the Consultant in the

performance of the Scope of Work, the City shall reimburse the Consultant for those expenses. The Consultant shall provide the City with written documentation for any travel or related reimbursable expenses incurred in the performance of the Scope of Work.

### **ARTICLE THREE: TERM**

3.1 The term of this Agreement shall be from July 1, 2022, and shall terminate on December 31, 2022, unless terminated in accordance with Article Eight.

### **ARTICLE FOUR: CONFLICT OF INTEREST**

4.1 This Agreement in no way precludes, prevents, or restricts the Consultant from obtaining and working under an additional contractual agreement(s) with other parties aside from the City, provided that the contracted work in no way impedes the Consultant's ability to perform the services required under this Agreement. The Consultant warrants and represents that as of the effective date of this Agreement, they have no interest in nor shall acquire any interest, direct or indirect, in any agreement which will impede their ability to perform the required services under this Agreement and that the Consultant shall devote the time and professional services necessary to render the services hereunder in a professional and workmanlike manner.

### **ARTICLE FIVE: ASSIGNMENT**

5.1 The parties expressly agree that this Agreement may not be transferred or assigned in whole or in part without the written approval of all parties.

### **ARTICLE SIX: GOVERNING LAW**

6.1 This Agreement and any modifications, amendments, or alterations, shall be governed, construed, and enforced in and under the laws of the State of Ohio.

### **ARTICLE SEVEN: INTEGRATION, MODIFICATION AND SEVERABILITY**

7.1 This instrument embodies the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either written or oral, between the parties to this Agreement. This Agreement shall not be modified in any manner except by an instrument, in writing, executed by the parties to this Agreement. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of the Agreement or application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

## **ARTICLE EIGHT: TERMINATION**

8.1 If a party (the "Defaulting Party") is in material breach of or default under this Agreement, and the Defaulting Party does not remedy that breach or default within thirty (30) calendar days after receipt from the other party of written notice of that breach or default, the other party shall after the expiration of the such thirty (30) calendar day remedy period have the right to terminate this Agreement effective immediately upon written notice to the Defaulting Party.

8.2 The parties may terminate this Agreement prior to the December 31, 2022, termination date in Article 2 by an instrument, in writing, executed by the parties to the Agreement.

## **ARTICLE NINE: COMPLIANCE**

9.1 The Consultant, at their respective sole cost and expense, shall comply with all applicable Federal, State, and local laws, rules, and regulations in the performance of the services authorized by this Agreement.

## **ARTICLE TEN: NON-DISCRIMINATION**

10.1 The Consultant shall comply with the applicable provisions of all Federal, State, and local laws, rules, and regulations regarding employment, including but not limited to, those sections related to discrimination.

## **ARTICLE ELEVEN: RELATIONSHIP**

11.1 The Consultant is an independent contractor in the performance of the services hereunder and shall not be considered, or permitted to be, deemed agents or employees of the City. The Consultant shall comply with all Federal, State, and local laws, rules, and regulations regarding their status as an independent contractor.

## **ARTICLE TWELVE: NOTICES**

12.1 Any notice required or authorized to be given when mailed, shall be by certified or registered mail, postage prepaid, to the parties as follows:

To the City:

Michel J. Lucking, Economic Development Director  
City of West Carrollton  
300 East Central Avenue  
West Carrollton, Ohio 45449

To the Consultant:

Mr. Joseph P. Tuss, Owner  
JT Development Consulting, LLC  
6574 Stillcrest Way  
Dayton, Ohio 45414

#### **ARTICLE THIRTEEN: HEADINGS**

13.1 The Articles in the Agreement are inserted for the convenience of organization and reference and are not intended to affect the interpretation or construction of the terms of this Agreement.

#### **ARTICLE FOURTEEN: WAIVER**

14.1 Any forbearance or delays on the part of the parties in enforcing any provision of this Agreement or any rights of the parties hereunder shall not be construed as a waiver of such provision or of a right to enforce the same in the future unless waived by the waiving party in writing.

#### **ARTICLE FIFTEEN: SURVIVORSHIP**

15.1 The provisions of Article Six through Twelve, inclusive, shall survive termination of the Agreement, or any portion thereof.

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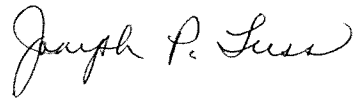
IN WITNESS WHEREOF, the parties have hereunto set their hands this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed and acknowledged in the presence of:

\_\_\_\_\_  
Witness

By: \_\_\_\_\_

Its: \_\_\_\_\_



\_\_\_\_\_  
Joseph P. Tuss, Owner  
JT Development Consulting, LLC