

# RECORD OF RESOLUTIONS

Resolution No. 30-2021

Passed: September 14, 2021

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE CINCINNATI URBAN DESIGN & ARCHITECTURE STUDIO, LLC FOR PROFESSIONAL SERVICES TO PREPARE THE WESTERN LAKES MASTER PLAN.**

**WHEREAS**, the *West Carrollton Sustainable Comprehensive Plan* as well as its predecessor *West Carrollton 2010* both identified three significant land use areas in the city which need further review and study, one of these areas being 1,595 acres of land west of the Great Miami River which was annexed in the early 1980's; and

**WHEREAS**, the prior Comprehensive Plan stated that "*extensive discussion may be needed in determining the most appropriate use for this area*", and the current Comprehensive Plan states that "*the existing quarry...has the potential...of providing both environmental and aesthetic value to sites developed in the area. Environmental applications could...even contribute to an eco-park. Aesthetically the quarry could provide a visual and park atmosphere...A study of the use of the quarry for environmental and aesthetic uses should be completed.*" The plan also recommends that "*At some point property currently operated by Barrett Paving may become more valuable as recreational land. Ponds on the property and the river corridor should be studied as potential amenities that could raise the economic value of development applications.*"; and

**WHEREAS**, in 2018 the City commissioned a land use market assessment of this area to address the question of whether residential development is feasible from a market standpoint in this part of the city, and the conclusion of the study was that this area is not suitable for residential or mixed-use development and that the best market potential for land in this area is for agricultural and recreational uses; and

**WHEREAS**, a complementary zoning and land use assessment of this area was also conducted by OHM Advisors in 2018 which noted that the current M-2 zoning appeared to be reasonable, but M-3 zoning which would permit resource and mineral extraction would not be advisable unless remediation criteria could be required to revert the land to a more usable state following the mining and extraction operation, and suggested that the LD Limited Development District should be considered if the city is interested in promoting recreational uses; and

**WHEREAS**, as an outgrowth of the Comprehensive Plan and the recommendations of these prior studies, staff is seeking to prepare a master plan to create a single unified planned recreation destination asset from all properties which have been, are being, or may be used for resource and mineral extraction, and to identify any complementary economic development opportunities; and

**WHEREAS**, in June staff issued a Request for Qualifications (RFQ) inviting consultants to submit letters of interest and qualifications for professional planning services to guide City officials in preparing a future master plan and a conceptual-level preliminary cost

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estimate for full build-out, in order to inform future planning and budgeting decisions for improvements necessary to implement the plan; and after reviewing ten submissions and interviewing five candidates, based on the strength of the proposal and a fee amount within budget staff recommends entering into an agreement with the Cincinnati Urban Design & Architecture Studio, LLC consulting team for professional planning services for this project; and

**WHEREAS**, the attached Agreement for Limited Professional Services has been reviewed, modified, and approved by the Miami Valley Risk Management Association and the City's Law Director; and

**WHEREAS**, it is the desire of the City Council to authorize the City Manager to enter into an agreement with the Cincinnati Urban Design & Architecture Studio, LLC consulting team for the purpose of preparing the Western Lakes Master Plan.

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WEST CARROLLTON, MONTGOMERY COUNTY, OHIO:**

**Section I.** That the City Manager is hereby authorized to enter into an agreement with the Cincinnati Urban Design & Architecture Studio, LLC for the purpose of preparing the Western Lakes Master Plan in accordance with the Agreement for Limited Professional Services attached hereto and made part of this resolution.

**Section II.** That it is hereby found and determined that all formal actions of City Council concerning and relating to the adoption of this resolution were adopted in an open meeting of this Council, and all deliberations of this City Council and/or any committees that resulted in formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section III.** That this Resolution shall take effect from and after the date of its passage, the earliest period allowed by law.

Passed: September 14, 2021

Attest: Tom Ruff  
Clerk of Council

[Signature]  
Mayor

Effective Date: September 14, 2021

## Agreement for Limited Professional Services

**Date:** 15 September, 2021

**Client:**

Gregory S. Gaines, AICP, MCRP  
Director of Planning & Community Development, City of West Carrollton  
300 East Central Avenue  
West Carrollton, Ohio 45449  
Phone: 937-859-5184  
Email: [ggaines@westcarrollton.org](mailto:ggaines@westcarrollton.org)

**Project:**

Western Lakes Master Plan

**Project Location:**

West Carrollton, Ohio (see Exhibit C – Location Map)

**Scope of Professional Services:**

See attached Exhibit A – "Scope of Professional Services as included in Statement of Qualifications"

**Fee:**

Stipulated "Lump" Sum: \$60,000.00 base fee  
Reimbursable Expenses: \$2500.00 (not to exceed)

**Payment Schedule:**

See Exhibit B – Payment Schedule

**Agreed to by the Following:**

**Client:**

\_\_\_\_\_  
(signature)

Date of Acceptance: \_\_\_\_\_

Gregory Gaines, AICP, MCRP  
Director of Planning & Community Dev.  
City of West Carrollton

**Architect:**



Jeffrey C. Raser, AIA, NCARB  
Member, Cincinnati Urban Design  
and Architecture Studio, LLC

## **TERMS, CONDITIONS and UNDERSTANDINGS**

Cincinnati Urban Design and Architecture Studio, LLC (dba: CUDA Studio) ("Architect") and its sub-consultants as listed in the Scope of Professional Services (together the "Planning Team") will perform the services outlined in this Agreement under the following terms and conditions. Unless specifically agreed to in writing by both Architect and Client, all applicable Terms and Conditions below shall apply in addition to those contained in the Scope of Professional Services. Conflicting terms and conditions contained in Client's standard contract forms or purchase orders do not apply unless expressly accepted by Architect in writing.

### **Fee - Hourly**

If unforeseen additional services are agreed to and contracted as an hourly rate fee, Client shall pay Architect's actual charges computed as the product of hours worked and hourly rates. The Architect may revise its hourly charges from time to time, but no more often than once every 12 months, and not within 12 months of the Acceptance Date of this agreement.

### **Fee – Stipulated "Lump" Sum**

Client shall pay Architect's charges per the pay schedule attached.

### **Reimbursable Expenses**

Reimbursable expenses are in addition to the Fee and include costs incurred by Architect for items which are necessary for the performance of the services and preparation of deliverables – not including Architect's charges for time spent performing the services. Client shall pay for reimbursable expenses at rate 1.10 times the Architect's cost.

### **Invoicing and Payment**

Architect shall submit Invoices to Client per the Payment Schedule which are due net 30 days. Invoices not paid within 30 days may be considered past due, and Architect may terminate further services, without waiving any claim or right against Client, and without any liability to the Client. Client shall pay a service charge for past due amounts at 1.5% per month (or the maximum amount permitted by law if less than 1.5% per month) of the unpaid balance. Client shall pay collection costs, including attorney and collection fees, if an account has any balance unpaid 90 days after it was invoiced to the Client.

### **Access to Site**

Unless otherwise stated, Architect shall have access to the site for activities necessary for the performance of the services.

### **Standard of Care**

In providing services under this Agreement, the Architect will endeavor to perform in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Architect will perform its services as expeditiously as is consistent with professional skill and care and the orderly progress of Architect's part of the Project. Regardless of any other term or condition of this Agreement, Architect makes no express or implied warranty of any sort. All warranties, including warranty of merchantability or warranty of fitness for a particular purpose, are expressly disclaimed.

### **Indemnifications**

The Architect agrees, to the fullest extent permitted by law, to indemnify and hold the Client harmless from damage, liability or cost to the extent caused by the Architect's negligent acts, errors or omissions and those of anyone for whom they are legally liable, and arising from the project that is the subject of this Agreement. Architect is not obligated to indemnify the Client in any manner whatsoever for the Client's own negligence.

### **Opinions of Probable Cost**

Any statements of estimated construction costs furnished by Architect represent its judgment as professionals familiar with the construction industry. Architect exercises no control over the cost of the Work. Architect cannot and does not guarantee that the total cost will not vary from its opinions of probable cost.

### **Hidden Conditions**

A condition is hidden if concealed by existing conditions or is not capable of investigation by reasonable visual observation. If Architect has reason to believe that such a hidden condition may exist, the Client shall authorize and pay for all costs associated with the investigation of such a condition. If (1) the Client fails to authorize such investigation after due notification, or (2) Architect

has no reason to believe that such a hidden condition exists, Architect shall not be responsible for either the hidden condition or any resulting damages to persons or property.

#### **Interpretation of Architect's Documents**

Misinterpretations during construction of any documents prepared by Architect may lead to errors and subsequent damage. If Architect is not contracted to interpret design intent during construction, or if Architect is so contracted but any work is performed without seeking Architect's interpretation, the Client agrees to indemnify and hold harmless Architect against claims, damages, awards and costs of defense arising out of the performance of such work.

#### **Construction Activities**

Neither Architect's services included in this Agreement nor the presence of Architect or its employees and consultants at a construction/project site shall relieve any construction contractor of its obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending and coordinating the Work in accordance with the contract documents and any health or safety precautions required by any regulatory agency. The Client agrees that the Architect and its personnel have no authority to exercise any control over any construction contractor or its employees in connection with the Work or any health or safety programs or procedures. The Architect shall not be responsible for the acts or omissions of any person performing any construction work or for instructions given by the Client or its representatives to anyone performing any construction work, nor for construction means and methods or jobsite safety.

#### **Hazardous Materials**

Unless otherwise specifically stated as a part of Architect's services, Architect shall have no responsibility for the discovery, presence, handling, removal, disposal or exposure of persons to hazardous materials of any form.

#### **Risk Allocation**

In recognition of the relative risks and benefits of the Project to both the Client and Architect, the Client agrees, to the fullest extent permitted by law, to limit Architect's total liability to the Client, for any and all damages or claim expenses (including reasonable attorney's fees) arising out of this Agreement, from any and all causes, to the available proceeds of insurance required by this Agreement.

#### **Insurance**

Architect shall procure and maintain for the duration of the contract, at its sole expense, Professional Liability (errors and omissions) insurance appropriate to the Architect's profession, with limits no less than \$1,000,000 per claim, \$2,000,000 aggregate.

#### *Claims Made Policies:*

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided **for at least three (3) years after completion of the contract work.**
3. If coverage is canceled or non-renewed, and not **replaced with another claims-made policy form with a Retroactive Date** prior to the contract effective date, the Architect must purchase "extended reporting" coverage for a minimum of **three (3) years** after completion of contract work.

#### *Verification of Coverage:*

Architect shall furnish the Client with a certificate(s) of insurance evidencing coverages required herein before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Architect's obligation to provide them. The Client reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

#### *Sub-consultants:*

Architect shall require and verify that all sub-consultants maintain insurance meeting all the requirements stated herein.

**Disputes**

Any claim or dispute between the Client and Architect shall be submitted to non-binding mediation, subject to the parties agreeing to a mediator(s). Unless otherwise specified, the laws of the principal place of business of Architect shall govern this Agreement.

**Termination of Services**

The Agreement may be terminated upon 10 days written notice by either party should the other fail to perform the obligations of the Agreement. In the event of termination Client shall pay Architect for all services rendered and reimbursable expenses incurred to the day of termination, as well as reasonable termination expenses.

**Ownership of Documents and Electronic Files**

All documents or electronic files produced by Architect under this Agreement are Instruments of Service and shall remain the intellectual property of the Architect and may not be used by this Client for any other purpose without the written consent of Architect. Electronic files and other work product are furnished for the convenience and use of the Client. The Client or other parties may not rely on the accuracy or completeness of Architect's electronic files. Also, any use or reuse is at Client's sole risk and without liability or legal exposure to Architect. The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Architect from any and all claims, damages, losses and expenses, including attorney's fees arising out of, or resulting from, its use of Architect's electronic files. These files may contain preliminary information or electronic drawing elements that are hidden from view. The display and plotting of information in these files under Client's control is at Client's risk. Architect makes no warranties of merchantability and fitness for any particular purpose.

**Entire Agreement**

This Agreement constitutes the entire Agreement between the parties and these Terms and Conditions may only be amended by written agreement of both parties. Should any portion of this Agreement be found to be illegal or unenforceable, such portion shall be deleted and the balance shall remain in effect.

**END TERMS AND CONDITIONS**

# **EXHIBIT A**

## **SCOPE OF PROFESSIONAL SERVICES AS INCLUDED IN STATEMENT OF QUALIFICATIONS**

### **Consultant Team**

CUDA Studio, LLC will be the lead consultant for the Planning Team. CUDA Studio will provide project management, urban design, and engagement services. CUDA Studio has one office. It is located at:

1127 Halpin Avenue  
Cincinnati, Ohio 45208  
513-919-7316

The project manager for the Western Lakes Master Plan will be Jeff Raser of CUDA Studio whose email address is: [jraser@cudastudio.com](mailto:jraser@cudastudio.com)

The other three consultant firms are:

- Human Nature – Landscape Architects and Planners
- Urban Fast Forward – Economic Development and Real Estate
- AECOM – Civil Engineering, Multi-modal Transportation, Mineral Extraction and Reclamation

### **Project Understanding and Approach**

#### ***Recommended Planning Process – List of Steps:***

- Kick-off Meeting and Site Visit
- Gather Additional Data & Prepare Existing Conditions Analysis
- Identify and Recruit Key Stakeholders
- Prepare Conceptual Ideas
- Brainstorm Session
- Refinement of Preferred Ideas
- Review Session
- Create Draft Master Plan
- City Council / Planning Commission Work Session
- Finalization
- Public Presentation for Approval

#### ***Description of Steps***

##### ***Kick-off Meeting and Site Visit***

In this meeting we'll refine the planning process, affirm the goals and objectives of the master plan, review the background of the subject and surrounding properties and assets, discuss civic / cultural temperament, government operations, local economic goals, identify key stakeholders, and review potential challenges. We'll also visit the site as well surrounding areas (we would like to do this with staff as well).

### **Gather Additional Data & Prepare Existing Conditions Analysis**

We've visited the Western Lakes sites and read the RFQ carefully. We've also read other documents such as the West Carrollton Sustainable Comprehensive Plan and the Bicycle Friendly Community Action Plan. During this step the Planning Team will review other data which is already available such as demographic and economic data and zoning districts. We do not anticipate generating new studies or reports for this step.

The Planning Team will create an Existing Conditions Analysis. This analysis will use readily available information, visual assessment (as much as allowed by access to the sites) and interviews with key stakeholders. The Existing Conditions Analysis will not be an exhaustive study and will not contain reports such as: soil / hazardous materials investigations, geotechnical evaluations, traffic studies, etc.

### **Identify and Recruit Key Stakeholders**

City staff and the Planning Team will identify and contact key individuals who may play a role in the master planning process. These roles may include becoming a member of the Panel of Experts, or providing other advice and assistance such as background information on property, identification of points of contention, assistance with future implementation, or helping in other ways.

### **Prepare Conceptual Ideas**

The Planning Team will assemble a fairly broad spectrum of ideas for park, recreational, educational, entertainment, and cultural uses. We will assemble photos and other graphic representations of these amenities, and will compose a visual presentation. These ideas are in preparation for the Brainstorming session with the Panel of Experts.

### **Brainstorming Session**

The Planning Team will present to, and solicit from, the Panel of Experts both the Existing Conditions Analysis and a broad range of ideas for park and recreational uses. This session is meant to encourage innovative thinking about what uses, facilities, and programming could be established on and near the Western Lakes sites.

In addition to city officials and property owners, the Panel of Experts could include people with knowledge of regional tourism, entertainment, education, agriculture, ecological environment, finance, as well as various types of recreation. The Panel of Experts may eventually become the most ardent supporters of the master plan which will help during later phases of the effort. Some may even become future partners in the endeavor.

Presumably the Panel of Experts will bring aspirational yet realistic experiences, ideas, and opinions which will help frame future opportunities. Such ideas may include not only what recreation amenities can be built, but also ownership and management structures, financial mechanisms, monetization opportunities, entertainment and tourism possibilities, or other ideas that may not be obvious at first glance.

### **Refinement of Preferred Ideas into the Schematic Draft Master Plan**

The Planning Team will meet with city staff to review input from the Brainstorm Session. We'll then take the best ideas from the brainstorming session and refine them. We will

research suggestions, analyze possible specific locations within the site, and review ownership & management structures. The Planning Team will also consider other experts or partners who should be consulted.

The Planning Team will create sketches of multiple site planning options and review the set of ideas with city staff. We will also compose and assemble other graphics to reflect park and recreation amenities as they may be constructed on site in the future to create the Schematic Draft Master Plan.

### **Review Session**

The Expert Panel will meet with the Planning Team and city staff to review the Schematic Draft Master Plan. This will include the preferred set of ideas, site plan options, and other information such as potential ownership / management structures, financing, and phasing.

Using feedback from the Review Session, the Planning Team will revise the preferred set of ideas. The Schematic Draft Master Plan which will be posted on-line will include at least one site plan showing all of the utilized sites (and surrounding areas to show context) indicating what facilities and amenities could be located in certain places. The Schematic Draft Master Plan will also have graphics which indicate the range and types of recreation amenities which are envisioned.

### **Create Draft Master Plan**

The Planning Team will meet with city staff to review input from the Expert Panel Review Session and the On-Line Survey. We'll then make necessary adjustments to the master plan components and create the Draft Master Plan (we prefer to keep the word "draft" in master plans which have not yet received approval, or at least substantial input, from elected officials).

The Draft Master Plan will have site planning showing preferred locations for the amenities and facilities, as well as graphic images (photographs and/or renderings) of each primary facility and amenity, possible economic benefits, potential programming ideas, preliminary cost estimates, and phasing.

The Draft Master Plan may also have components pertaining to property acquisition, financing options, ownership and management structures, and other background information. Because these are strategic elements which might have private or confidential information, the City may or may not decide to include all or some of them in what is presented to the public.

### **City Council / Planning Commission Work Session**

The Planning Team will present the Draft Master Plan at a joint session of the West Carrollton City Council and Planning Commission. The discussion will highlight site plan and amenity elements, economic information (both potential costs and benefits), and potential phasing. The Work Session may also include a discussion of strategic information such as ownership / management structures, property acquisition, and financing options.

**Finalization**

The Planning Team will meet with city staff to review the input from the City Council / Planning Commission Work Session. We'll revise the Draft Master Plan as necessary to finalize the Western Lakes Master Plan.

**Public Presentation for Approval**

The Planning Team will present the final draft of the Western Lakes Master Plan to sessions of the West Carrollton City Council and Planning Commission (one each).

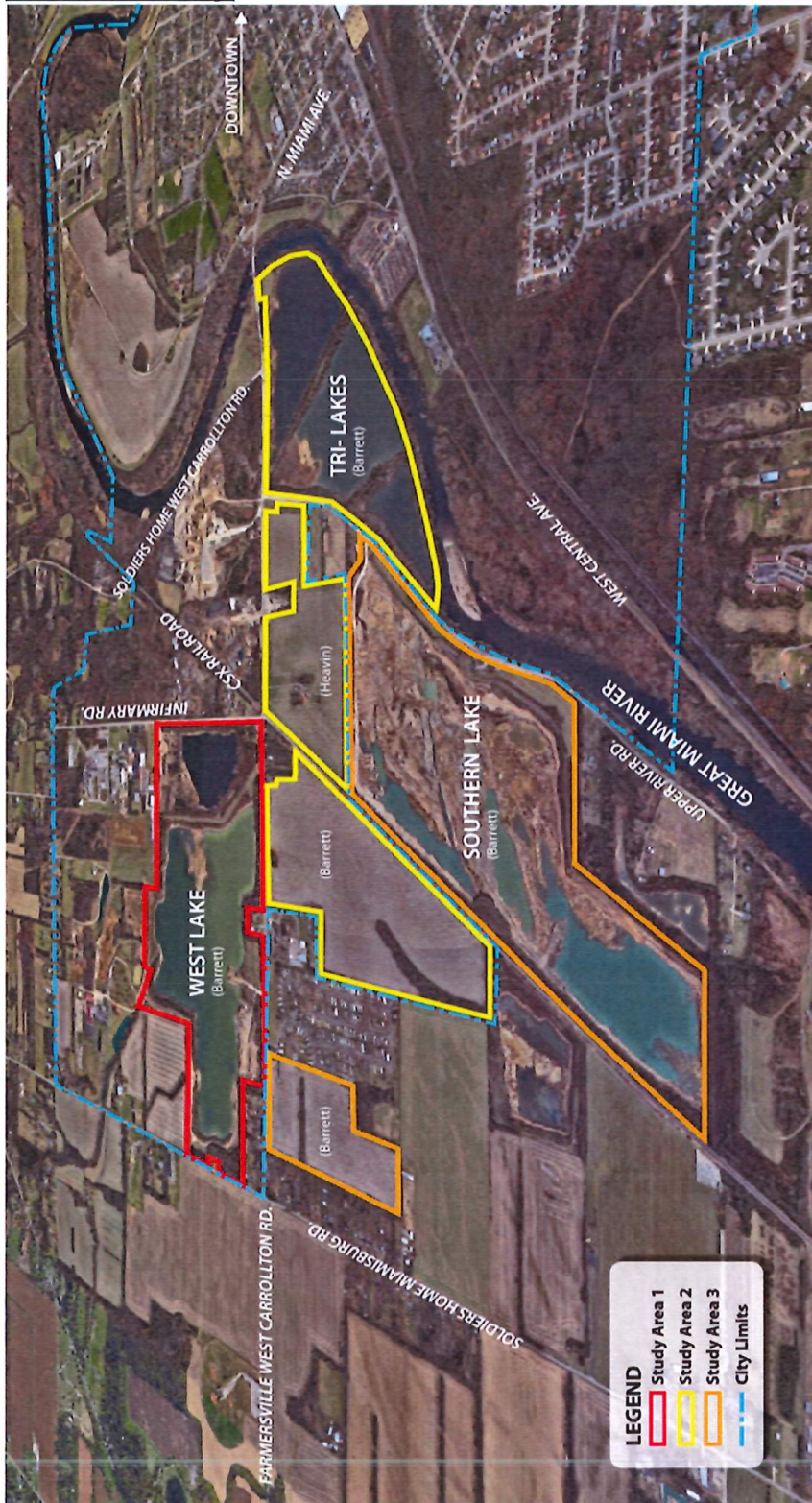
**Additional Services**

Other additional services which are unforeseen as of the date of execution of this contract can be added if agreed to in writing by both parties. Such additional services shall be agreed to as an Amendment to this Contract.

**Exhibit B:**  
**Payment Schedule**

	<b>STEPS OF SERVICE</b>			
	Kick-Off & Site Visit; Gather Data & Existing Conditions Analysis	Recruit Stakeholders; Prepare Concepts; Brainstorm Session	Refinement of Ideas; Review Session	Draft master plan; City Council session; Finalization; Public presentation
Portion of Fee:	\$15,000	\$15,000	\$15,000	\$15,000
Reimb. Expns.:	As needed	As needed	As needed	As needed

## Exhibit C: Location Map



# City of West Carrollton, Ohio

EXHIBIT 1

West Lake  
Barrett

Barrett

Barrett

Heavin

Heavin

Tri-Lakes  
Barrett

Southern Lake  
Barrett

Barrett



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