

RECORD OF RESOLUTIONS

Resolution No. 36-2025

Passed: August 12 2025

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO THE WESTERN LAKES DEVELOPMENT AGREEMENT

Whereas, the City of West Carrollton, Ohio (the "City") engaged in a planning effort along Farmersville West Carrollton Road as part of a planning project known as the Western Lakes Master Plan, which was adopted on September 24, 2024; and

Whereas, the Western Lakes Master Plan established the Western Lakes Recreational District applicable to approximately 575 acres of land located west of the Great Miami River, of which Barrett Paving Materials, Inc. is the primary owner; and

Whereas, the City desires to enter into a development agreement with Barrett Paving Materials, Inc. as a public-private partnership which will enhance the City's economic, civic, and recreational opportunities.

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

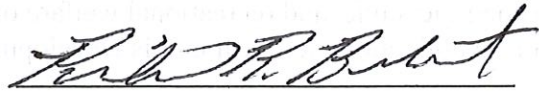
Section 1: The City Manager is hereby authorized to execute the Development Agreement with Barrett Paving Materials, Inc. in substantially the form as attached hereto and made a part hereof; with any changes or amendments thereto not inconsistent with this Resolution and said changes or amendments will not alter the material terms of the Agreement nor adversely impact the City as determined by the Law Director of the City and which are approved by the City Manager.

Section 2: The City Manager, or her designee, is further authorized to do all things necessary to comply with the terms and conditions of said Agreement.

Section 3: It is found and determined that all formal actions of the City Council relating to the adoption of this resolution were in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

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

Passed: August 12, 2025


Mayor

Attest: Samantha Morgan
Assistant Clerk of Council

Effective Date: 8-12-2025

WESTERN LAKES DEVELOPMENT AGREEMENT

THIS WESTERN LAKES DEVELOPMENT AGREEMENT (the "Development Agreement") by and between the **CITY OF WEST CARROLLTON, OHIO** ("City"), a municipal corporation organized and existing under the constitution and the laws of the State of Ohio, and **BARRETT PAVING MATERIALS INC.** ("Barrett") as of the Effective Date (defined below).

WHEREAS, West Carrollton's Sustainable Comprehensive Plan has most recently been amended on September 24, 2024 by West Carrollton City Council adopting the Western Lakes Master Plan and in so doing creating the Western Lakes Recreational District applicable to approximately 575 acres located in West Carrollton, west of the Great Miami River (the "Western Lakes Master Plan") in recognition of the existing topography and current land uses being primarily existing Lakes (as defined below) and surrounding undeveloped property, created by Gravel extraction and the possibility of additional Gravel extraction, and additional Lakes making the area in question ideally positioned as a recreational, family oriented, regional destination, creating significant economic development opportunities for the City and;

WHEREAS, Barrett is the owner of the vast majority of the acreage in the Western Lakes Recreational District as depicted in the attached Exhibit 1 ("Barrett Property") and believes that engagement and participation with the City in the pursuit of the City's vision, expressed in the Western Lakes Master Plan, presents a unique and exciting opportunity for Barrett and the City to engage in a public/private partnership which will enhance the City's employment opportunities, and improve the economic, civic and recreational welfare of the City and its residents as a great place to live, work and play; and

WHEREAS, Barrett is willing to invest and perform certain obligations as set forth in this Development Agreement in order to further the development of the Western Lakes Recreational District, to create jobs and employment opportunities, to improve the economic, civic, and recreational welfare of the people of the City, and provide a unique model for Gravel extraction practices within similarly situated communities; and

WHEREAS, as an impetus for the development and investment in the Western Lakes Recreational District and to create jobs and employment opportunities and to improve the economic, civic, and recreational welfare of the people of the City, the City has agreed to perform those obligations set forth in this Development Agreement.

NOW, THEREFORE, in consideration of the interests of the public health, safety, and welfare of the citizens of the City, as well as the covenants and mutual obligations contained herein, and other good and valuable consideration, the receipt and sufficiency of which are unconditionally acknowledged, the parties agree as follows:

ARTICLE 1. GENERAL

- 1.1 This Development Agreement is submitted to the City in accordance with the Western Lakes Master Plan. It is designed to define and implement the Western Lakes Master Plan by the creation of the Western Lake Recreational District Project in the furtherance of the health, welfare and benefit of the City.
- 1.2 Definitions:
- 1.2.1 The “*Comprehensive Plan*” means the West Carrollton Sustainable Comprehensive Land Use Plan for the City of West Carrollton as amended by Ordinance Number 3778, dated September 10, 2024 adopting the Western Lakes Master Plan.
- 1.2.2 “*Barrett Property*” means that property owned by Barrett within the Western Lakes Recreational District depicted on **Exhibit 1**.
- 1.2.3 The “*CUDA Plan*” means the *Cincinnati Urban Design & Architecture Studio Plan*”
- 1.2.4 “*Effective Date*” means the date this Agreement has been approved by Resolution of the City Council.
- 1.2.5 “*Extraction Fee*” means that fee to be paid by Barrett to the City for each ton of Gravel extracted and sold from any Extraction Fee Acreage owned by Barrett.
- 1.2.6 “*Extraction Fee Acreage*” means that acreage in the City, located within the Western Lakes Recreational District, that has been 1) rezoned by the City to permit Gravel extraction located within the Western Lakes Recreational District; 2) received specific site plan approval from the City for Gravel extraction and 3) any permits required from the City.
- 1.2.7 “*Gravel*” means any processed Gravel material removed from Extraction Fee Acreage and sold by Barrett (excluding any recycled material).
- 1.2.8 “*Lakes*” means the Lakes that currently exist, are created by future extraction activity, or are contained in ground annexed by the City within the Western Lakes Recreational District.
- 1.2.9 “*PUD*” means the new zoning classification applicable to the Western Lakes Recreational District in accord with PUD requirements specified in sections 154.10.701 to 154.10.706 of the West Carrollton Zoning Code. The PUD zoning classification will allow for Gravel extraction subject to obtaining Specific Site Plan Approval for Gravel extraction by Barrett from the Western Lakes Recreational District of which the Barrett Property is a part. The PUD Zoning classification will include resource and mineral (Gravel) extraction as a conditionally approved use which may be approved by the West Carrollton Planning Commission.
- 1.2.10 “*Reclamation Process*” means that process approved by the State of Ohio for reclamation of Extraction Fee Acreage to commence as provided for in the Surface Mining Permit and Reclamation Plan.

- 1.2.11 “*Site Plan*” means any plan herein after approved by the City of West Carrollton Planning Commission for Gravel extraction within the Western Lake Recreational District and as provided for in the PUD Rezoning and Specific Site Plan Approval by the West Carrollton Planning Commission.
- 1.2.12 “*Surface Mining Permit and Reclamation Plan*” means the permit issued by the State of Ohio allowing for the mining and reclamation of the Extraction Fee Acreage within the Western Lake Recreational District.
- 1.2.13 “*Tri Lakes 1, 2 & 3*” means those already existing Lakes within the West Lakes Recreational District identified on **Exhibit 1**.
- 1.2.14 “*Western Lakes Recreational District*” means that area defined within the Western Lakes Master Plan as shown on **Exhibit 1**.

ARTICLE 2. CITY PARTICIPATION:

- 2.1 City Right to Acquire Tri-Lake 1. Upon request by the City, Barrett will convey to the City at no cost ownership of the first of the Tri-Lakes (“Tri-Lake 1”) immediately adjacent to the Farmersville/West Carrollton Road and the Great Miami River (as depicted on **Exhibit 1**) to be used by the City for any designated public purpose to include a public park. It is expected the City will perform its own due diligence prior to exercising this right to acquire of Tri-Lake 1. Should the City exercise its right to acquire Tri-Lake 1 for whatever designated public purpose it determines, at closing of the conveyance to the City, Barrett shall contribute \$100,000 in cash and/or in-kind services to be used by the City towards the development of Tri-Lake 1 for its designated public purpose. For a period of five (5) years from the date of the acquisition of Tri-Lake 1 by the City, Barrett shall mow all of the grass it currently mows in the area encompassing all of the Tri-Lakes. After this five (5) year period, Barrett’s obligations with regard to Tri-Lake 1 shall cease, and Barrett shall only be responsible for mowing and collection of roadside litter on Tri-Lake 2 and Tri-Lake 3 (both located as depicted in **Exhibit 1**) including the land mass running between Tri-Lake 1 and Tri-Lake 2. Mowing the balance of Tri-Lake 1 shall become the responsibility of the City.

ARTICLE 3. BARRETT PARTICIPATION:

- 3.1 Rezoning in Western Lake Recreational District. Within the Western Lakes Recreational District there is undeveloped land that contains Gravel deposits. Barrett intends to pursue the extraction of Gravel. Barrett recognizes that the current zoning covering the Western Lakes Recreational District will need to be modified in order to permit Gravel extraction. Barrett will file a rezoning application seeking a change of zoning of the Western Lake Recreational District to PUD under the West Carrollton Zoning Code. If approved by the West Carrollton City Council, the PUD will allow for application to the Planning Commission for Specific Site Plan Approval for Gravel extraction by Barrett from the Barrett Property depicted in **Exhibit 1** identified as “Properties to be Mined.” Specific Site Plan approval by the West Carrollton Planning Commission is required before Gravel

extraction can commence from the Extraction Fee Acreage. The Specific Site Plan shall include the Surface Mining Permit and Reclamation Plan as a condition of approval. The approved rezoning and Site Plan will be consistent with and in accord with the requirements set forth in the Western Lakes Master Plan. Because the Lakes are an integral part of and the main attracting feature of the Western Lakes Master Plan, the parties, subject to the approval of the West Carrollton Planning Commission as part of the Specific Site Plan Approval process, will make every effort to develop set back requirements that allow development as close as reasonably possible to the Lakes and as close as reasonably possible to the Farmersville/West Carrollton Road to maximize the amount of developable land.

Extraction Fee. The Western Lakes Master Plan outlines several funding source options for development including an option to use extraction fees. Assuming Barrett obtains a Specific Site Plan approval to extract Gravel in accord with the PUD Zoning from the Extraction Fee Acreage, Barrett shall pay an Extraction Fee of 72.5 cents per ton of processed Gravel materials extracted and sold as more fully set forth in **Exhibit 3A** and **3B**. The Extraction Fee per ton shall increase three percent (3%) each year. The 3% annual increase is a fixed annual increase, not tied to the market. Barrett estimates selling 350,000 tons +/- of Gravel product in any given year. Based on geological studies, borings, site investigations and estimated market conditions Barrett estimates that exhaustion of Gravel reserves using current extraction methods will occur in approximately twenty (20) years +/-.

3.2 City Opportunities for Barrett Property

a) Right to Acquire Tri-Lake 2 and Tri-Lake 3. Barrett shall convey to the City the Right of First Refusal and Right to Acquire ownership of Tri-Lake 2 and Tri-Lake 3 at such time as either or both are no longer needed by Barrett Paving for its Gravel extraction operation. Barrett makes the same commitment to mowing set forth in Section 2.1 above for Tri-Lake 1, for Tri-Lake 2 and Tri-Lake 3. Barrett shall notify the City in advance of when Barrett is in a position to convey either or both Tri-Lakes 2 and/or 3 to the City.

b) Parcels 1 through 3. Barrett shall grant the City certain rights with regard to the Parcels depicted on **Exhibit 2-A** for either use by the City or for resale by the City to third parties for development. A summary of the rights to be granted by Barrett to the City is set forth on **Exhibit 2-B**. These rights will not come into effect until successful completion of the activities outlined in Section 3.1.

3.3 Parcel Owned by Miami Conservancy District. Barrett shall work with the City to obtain access to or ownership of that parcel of ground owned by the Miami Conservancy District on the north side of the Farmersville/West Carrollton Road bridge and on the west side of the Great Miami River which may be used to provide access to Tri-Lake 1 (**See Exhibit 1**).

- 3.4 Mining Permits. Barrett shall obtain and implement a Surface Mining Permit and Reclamation Plan that will include pertinent portions of this Development Agreement. Note, a Surface Mining Permit and Reclamation Plan is required by Ohio Law and is issued by the State of Ohio.
- 3.5 Tax Credit Matters. Barrett shall cooperate with the City in creating one or more TIF District(s), other forms of tax credit financing arrangements, or other forms of financing arrangements requiring participation by Barrett as long as the same do not obligate Barrett to any monetary commitments other than reasonable administrative costs incurred in creating such arrangements.
- 3.6 Wetlands. Barrett and the City shall cooperate between and among themselves in the implementation of any state or federal programs applicable to remediation or mitigation of any wetlands that might exist on the Barrett Property including any and all rights under the Clean Water Act or any other state or federal program now in existence or to come into existence that would be applicable to the Barrett Property such as, without limitation, participation in the Wetland Mitigation Bank Program and/or the In-Lieu Fee Program, which shall be in the sole discretion of Barrett.
- 3.7 Annexation of Miami Twp. Property. If requested by the City, Barrett will pursue with the City the annexation of those properties owned by Barrett or hereinafter acquired by Barrett located within the Western Lakes Recreational District, but in Miami Township, Montgomery County, Ohio, including without limitation the Southern Lake and the 38 +/- acres Parcel (**Exhibit 2A**). If such annexation does occur with regard to any of the above referenced properties, the same shall concurrently be rezoned by the City so that upon completion of the annexation the annexed property zoning shall correspond with the then current PUD zoning for the Western Lake Recreational District. In the event of successful annexation, and rezoning, Barrett reserves the right to file for Specific Site Plan Approval for Gravel extraction under the PUD for any of said properties.
- 3.8 For tax purposes any and all properties donated to or otherwise transferred to the City by Barrett in fulfilling its obligations hereunder shall be priced at its Fair Market Value as determined by Barrett at the time of transfer. If the City acquires property(s) from Barrett at less than its Fair Market Value any tax consequences created by such transfer shall accrue to Barrett.

ARTICLE IV. REPRESENTATIONS AND WARRANTIES:

- 4.1 City represents and warrants that:
- 4.1.1 It is a municipal corporation duly organized and validly existing under the Constitution and applicable laws of the State of Ohio (the "State") and its Charter.
- 4.1.2 To the best of its knowledge, it is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to

City which would impair its ability to carry out its obligations contained in this Agreement.

4.1.3 It is legally empowered by City Council to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. Execution, delivery and performance does not and will not violate or conflict with any provision of law applicable to City, including its Charter, and does not and will not conflict with or result in a default under any agreement or instrument to which City is a party or by which it is bound wherein a violation, conflict or default would materially and adversely affect the City's ability to carry out its obligations under this Agreement.

4.1.4 This Agreement has, by proper action, being Resolution _____, dated _____, 2025, been duly authorized, executed and delivered by City and all steps necessary to be taken by City have been taken to constitute this Agreement, and the covenants and agreements of City contemplated herein are valid and binding obligations of City, enforceable in accordance with their terms, except as limited by applicable relief, liquidation, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, reorganization or similar laws affecting the rights or remedies of creditors generally, as in effect from time to time.

4.1.5 There is no litigation pending or to its knowledge threatened against or by the City wherein an unfavorable ruling or decision would materially adversely affect the City's ability to carry out its obligations under this Agreement.

4.2 Barrett represents and warrants that:

4.2.1 It is a for profit Corporation duly organized and validly existing under the applicable laws of the State of Delaware.

4.2.2 To the best of its knowledge, it is not in violation of or in conflict with any provisions of the laws of the City, State or of the United States of America applicable to Barrett which would impair its ability to carry out its obligations contained in this Agreement.

4.2.3 It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. Execution, delivery and performance do not and will not violate or conflict with any provision of law applicable to Barrett, and do not and will not conflict with or result in a default under any agreement or instrument to which Barrett is a party or by which it is bound. To the best of its knowledge, neither the execution and delivery of this Agreement, nor consummation of any of the transactions herein or therein contemplated nor compliance with the terms and provisions hereof or thereof will contravene the organizational documents of Barrett, nor any laws to which Barrett is subject, or any judgment, decree, license, order or permit applicable to Barrett, or will conflict with or be inconsistent with, or result in any breach of any of the terms of the covenants, conditions or provisions of, or constitute a default under, or

result in the creation or imposition of a lien upon any of the property or assets of Barrett, pursuant to the terms of, any indenture, mortgage, deed of trust, agreement or other instrument to which Barrett, is a party or by which Barrett is bound, or to which Barrett is subject.

- 4.2.4 This Agreement has, by proper action, been duly authorized, executed and delivered by Barrett and all steps necessary to be taken by Barrett have been taken to constitute this Agreement, and the covenants and agreements of Barrett contemplated herein are valid and binding obligations of Barrett, enforceable in accordance with their terms, except as limited by applicable relief, liquidation, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, reorganization or similar laws affecting the rights or remedies of creditors generally, as in effect from time to time.
- 4.2.5 The individual executing this Agreement on behalf of Barrett has been duly authorized to act for and to bind that Party to its terms. No consent, authorization, approval, order or other action by, and no notice to or filing with, any court or governmental authority or regulatory body or third party, is required for the execution, delivery and performance by Barrett of this Agreement.
- 4.2.6 There is no litigation pending or to Barrett's knowledge threatened against or by Barrett wherein an unfavorable ruling or decision would materially adversely affect Barrett's ability to carry out its obligations under this Agreement.
- 4.2.7 The terms and conditions herein shall be made a part of and thereby binding on any party to a sale, merger, transfer or acquisition of any kind of Barrett's property and/or the mining/extraction operation as described herein.

ARTICLE V. GENERAL PROVISIONS:

- 5.1 GOVERNING LAW. This Agreement shall be governed by the laws of the State of Ohio or applicable federal law. All claims, counterclaims, disputes and other matters in question between any of the parties and their respective agents, and employees, arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction in Montgomery County, Ohio.
- 5.2 BREACH AND REMEDIES. In addition to any other remedies for breach set forth in specific Articles of this Agreement, in the event of a breach of this Agreement, or any of its terms or conditions, by either party hereto, or any successor to such party, such party (or successor) shall, upon written notice to the other, proceed promptly to cure or remedy such breach, and, in any event, within thirty (30) days after receipt of such notice, which period may be extended if the breaching party is making reasonable progress to cure or remedy the breach. In case such action is not taken within such time or not diligently pursued, or the default or breach shall not be cured or remedied within such time, the party asserting the breach may institute such proceedings at law or in equity as may be necessary or desirable in its opinion to remedy such breach, including, but not limited to, proceedings

to compel specific performance by the party in default or breach of its obligations, or proceedings to recover damages suffered as a result of such default. Pursuant of any of the remedies in this Section shall not preclude pursuit of any of the other remedies herein provided, or any other remedies provided by law or equity, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any damages accruing to a party by reason of the violation of any of the other party's obligations hereunder. Forbearance by a party to enforce one or more of the remedies herein provided upon the occurrence of an event of default shall not be construed to constitute a waiver of such default. The defaulting party shall be liable for all direct costs and damages, including without limitation reasonable attorneys' fees, suffered or incurred by the non-defaulting party because of the other party's default under this Agreement.

5.3 COMPLETE AGREEMENT. This Agreement is the complete and exclusive statement of the agreement between the parties, and supersedes all prior written, oral, express or implied proposals, negotiations, discussions, agreements, representations and other communications between the parties with respect to this subject matter.

5.4 ADDITIONAL DOCUMENTATION. The parties shall execute such additional documentation as reasonably may be required to effectuate this Agreement.

5.5 TITLES AND CAPTIONS. The captions of the various sections and articles of this Agreement are not part of the context hereof and are only guides to assist in locating such sections and articles and shall be ignored in construing this Agreement.

5.6 SURVIVAL. The representations, warranties, and agreements set forth herein shall survive the Closing or termination of this Agreement.

5.7 TIME IS OF THE ESSENCE. Time is of the essence in the performance of all obligations of the parties under this Agreement.

5.8 COMPUTATION OF TIME. For purposes of computing any time requirements under this Agreement, the term "days" shall mean all calendar days, including Saturdays, Sundays and legal holidays. All time requirements shall be measured by excluding the actual effective date or day of receipt of notice of the applicable time and including the last day of the applicable time. In the event the final date of any period which is set out in any provision of this Agreement falls on a Saturday, Sunday, or legal holiday, in such event, such period shall be extended to the next regular business day.

5.9 RELATIONSHIP OF PARTIES. The relationship of Barrett to the City established by this Agreement shall be that of an independent contractor only, and in no event shall Barrett or any of its employees, agents or subcontractors be deemed an employee, servant or agent of the City.

5.10 NO BROKERS. Both parties represent and warrant to each other that there are no brokers, realtors, or agents involved in this transaction that would be entitled to a fee or commission because of the execution or performance of this Agreement. The City and Barrett agree to indemnify and hold each other harmless from all claims for any such fees or commissions.

- 5.11 AMENDMENTS. This Agreement shall not be amended or modified, and no provision shall be waived, unless in writing and signed by both parties.
- 5.12 ASSIGNMENT. Barrett shall have the right to assign all or components of this Agreement to a third party or parties.
- 5.13 BINDING EFFECT; NO PERSONAL LIABILITY. This Agreement shall be binding upon and inure to the benefit of the parties to this Agreement, and their respective heirs, beneficiaries, executors, administrators, personal legal representatives, successors and permitted assigns. All covenants, obligations and agreements of the City, Barrett, and future assignees contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation, or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent, or officer, or employee of the City in other than their personal capacity or of any individual person who is an officer, member, director, or shareholder, or employee of Barrett or other owner other than in their capacity as an officer, member, director, shareholder, or employee, and neither the members of the City Council nor any City official executing this Agreement, or any individual person executing this Agreement on behalf of Barrett, shall be liable personally by reason of the covenants, obligations or agreements of the City or Barrett contained in this Agreement.
- 5.14 NO THIRD-PARTY BENEFICIARIES. This Agreement is intended solely for the benefit of Barrett and the City and shall not be construed as vesting in any other person or entity any legal or equitable rights or interests, whether under a theory of third-party beneficiary.
- 5.15 CONSTRUCTION AND INTERPRETATION. For purposes of construction and interpretation of this Agreement, no party shall be deemed to be the exclusive draftsman, and this Agreement shall not be interpreted or construed in favor of or against any party. Words in the singular shall include the plural, and vice versa, and words in the masculine shall include the feminine and/or neuter, and vice versa, where the context so requires for a reasonable interpretation of this Agreement.
- 5.16 MATERIAL TERMS. All the promises, agreements, representations and warranties made by any party are material Terms and Conditions of this Agreement.
- 5.17 PARTIAL INVALIDITY. If any provision of this Agreement, or its application to any person or circumstance, is held to be void, voidable or invalid to any extent, then the remainder of this Agreement or the application of the provision to persons or circumstances other than those to which it is held void, voidable or invalid, shall not be affected, and each remaining provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 5.18 COUNTERPARTS; COPIES. This Agreement may be executed by the parties in several counterparts which when taken together shall be deemed to be one original, and/or may be executed in multiple copies, each of which shall be deemed an original. All true and accurate copies of this fully executed Agreement shall be valid and binding evidence of the

Agreement of the parties, whether the document and/or any or all the signatures are reproductions of an original by photocopy, telecopier transmission, or other method commonly accepted as accurate.

5.19 NOTICES. All notices, demands and other communications under this Agreement shall be in writing, and delivered in person, or mailed by certified mail, return receipt requested, postage prepaid or by national express delivery service (such as Federal Express). In the alternative, notices may be delivered by telecopier or email, with confirmation of the original sent by ordinary mail. Notices shall be deemed to have been delivered on the date the party to be notified first receives the notice. All notices shall be addressed to the parties as follows, which may be changed only by written notice given to the other party:

If to Barrett:

Barrett Paving Materials, Inc.
Attn: Rod Russell
8590 Bilstein Blvd.
Hamilton, Ohio 45015

With a copy to:

Meghan Burke, Esq.
Colas, Inc.
73 Headquarters Plaza
Morristown New Jersey 07960

And a copy to:

Alan Schaeffer, Esq.
Pickrel, Schaeffer & Ebeling, LLC
40 N. Main Street, 2700 Stratacache Tower
Dayton, Ohio 45423-2700

If to City:

City of West Carrollton, Ohio
Attn: Amber Holloway, City Manager
300 East Central Ave.
West Carrollton, Ohio 45449
T: (937) 748-4343
F: (937) 748-0815
chris@cityofspringboro.com

With a copy to:

Lori Denlinger, Esq.
City Attorney
300 East Central Ave
West Carrollton, Ohio 45449

5.20 CONSENT TO JURISDICTION. Any litigation arising out of or in any way related to this Agreement shall be instituted by the complaining party and adjudicated in the Common Pleas Court of the County where the Property is located unless removed to federal court. If such litigation is removed to federal court, the parties agree that such litigation shall be adjudicated in the Southern District of Ohio at Dayton of the federal court system. All parties to this Agreement consent to the personal jurisdiction of and venue in those courts.

In no event shall any party to this Agreement contest the personal jurisdiction of those courts over it or the venue of those courts with respect to any claims or disputes.

- 5.21 **TERMINATION.** The parties understand that the full realization of the development opportunities for the Western Lakes Recreational District is a long-term process. Nevertheless, the parties agree that if any of the rights and obligations of either or both parties here under remain unfulfilled two years after the Reclamation Process is triggered or 20 years from the date of issuance of a Surface Mining Permit by the State of Ohio, whichever is longer (“End Date”) the parties shall engage in good faith negotiations to set a time and method by which completion of the terms and conditions of this Agreement shall be fulfilled. If the parties cannot come to agreement within six months from the End Date this Agreement shall remain in effect for two years from the End Date after which the Agreement shall automatically terminate, and the parties will have no further obligations here under.

ARTICLE VI. CONTINGENCIES:

- 6.1 Performance by the City and Barrett of the terms and conditions of this Development Agreement are contingent upon the completion of various administrative processes in some cases initiated by the City and in some cases initiated by Barrett with the end result being that the City and Barrett have completed all legal requirements: (1) to amend the West Carrollton Sustainable Comprehensive Land Use Plan of the City to include elements of the CUDA Plan; (2) to rezone the Barrett property to the appropriate PUD zoning classification; (3) to obtain approval of a Specific Site Plan under the approved PUD zoning that enables Gravel extraction from portions of the Barrett Property. Notwithstanding any other provision hereof to the contrary, failure of the parties to obtain completion of all of the above actions after good faith efforts by both parties have been made by the first day of April, 2026 or nine (9) months after the Effective Date of this Development Agreement whichever is longer shall, at the election of Barrett, automatically terminate and to the extent that any but not all of the above actions have been completed, those completed actions shall automatically become null and void, and both parties shall take whatever actions are necessary to document the removal of such completed actions from the public record.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the City and Barrett have caused this Agreement to be executed in their respective names by their duly authorized officers, as of the Effective Date hereinabove written.

**CITY OF
WEST CARROLLTON, OHIO**

By: _____
Amber Holloway, City Manager

BARRETT PAVING MATERIALS INC

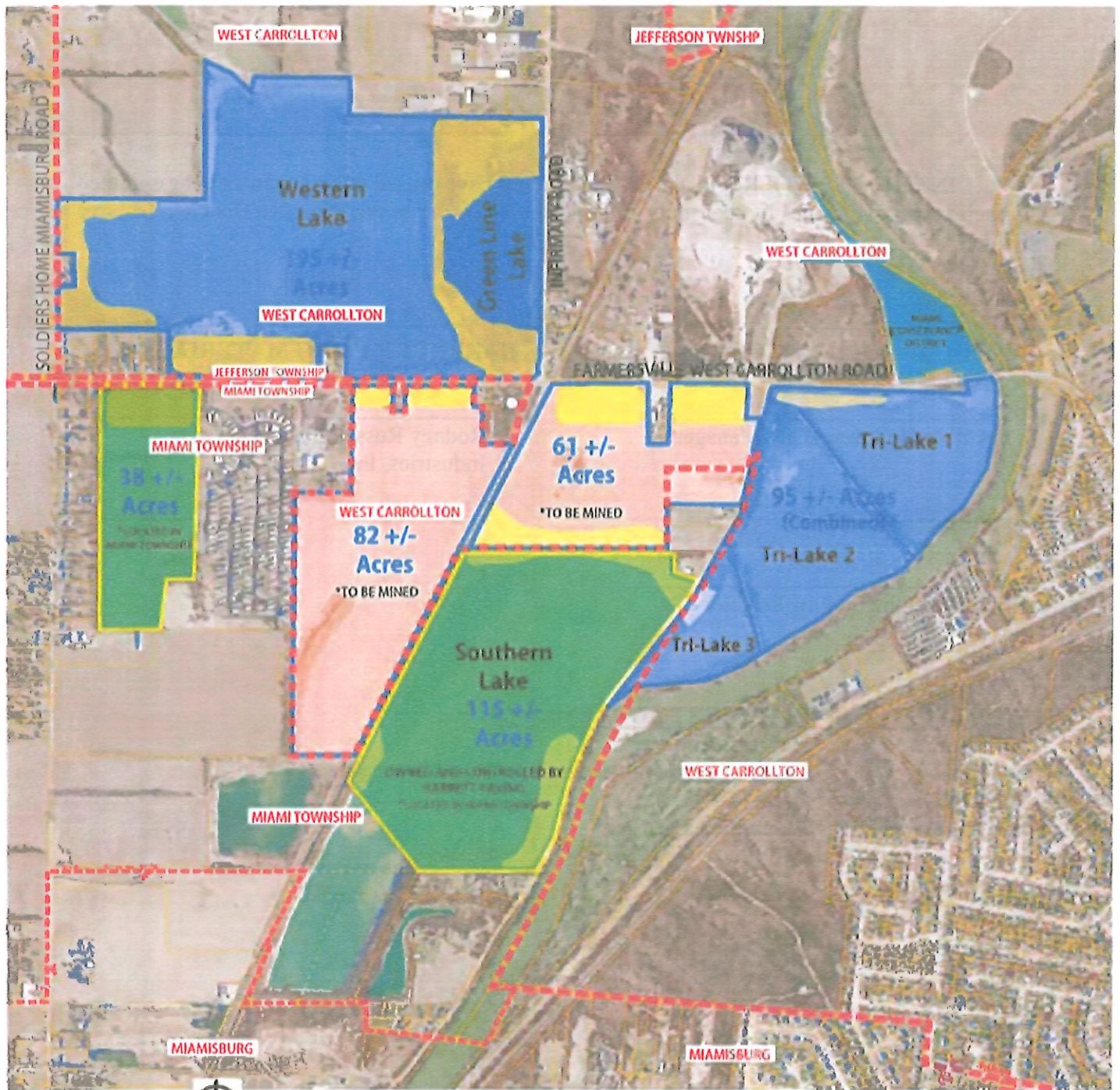
By: _____
Rodney Russell, President Barrett
Industries, Inc.

Approved as to Form:

By: _____
Lori Denlinger, Law Director

EXHIBITS TO DEVELOPMENT AGREEMENT:

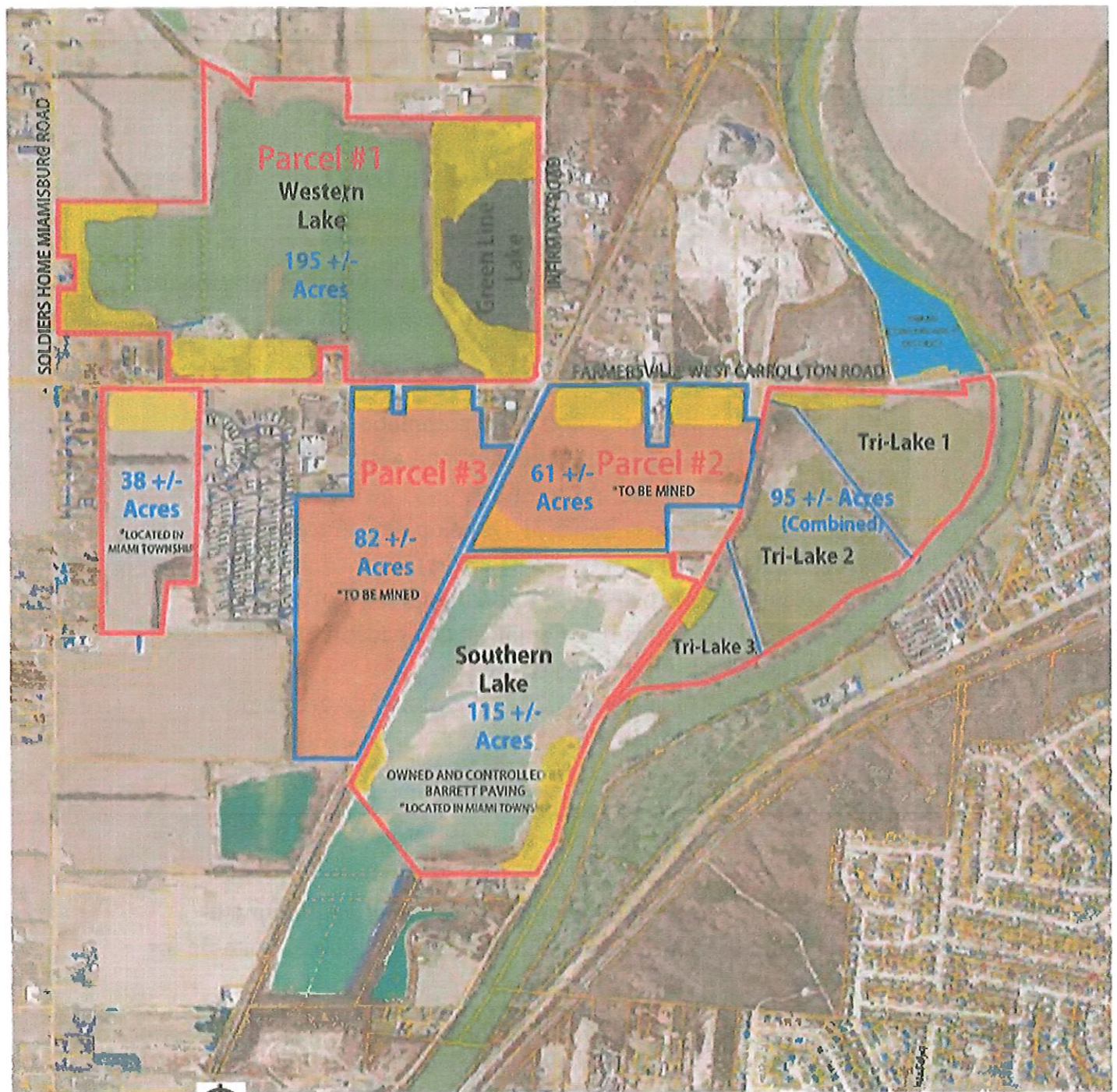
Exhibit 1	Barrett Property
Exhibit 2-A	Right of First Refusal and the Right to Acquire
Exhibit 2-B	Price
Exhibit 3A and 3B	Extraction Fee



April 22, 2025

- ALREADY MINED, OWNED OR CONTROLLED BY BARRETT WITHIN WEST CARROLLTON (AS OF 1/1/25)
- PROPERTIES TO BE MINED WITHIN WEST CARROLLTON OWNED OR CONTROLLED BY BARRETT (AS OF 1/1/25)
- TO BE RECLAIMED/RESERVED FOR FUTURE DEVELOPMENT (RECREATIONAL AND OTHER USES) AFTER MINERAL EXTRACTION
- MIAMI TOWNSHIP
- MIAMI CONSERVANCY DISTRICT
- CORPORATION LINES

EXHIBIT 1



April 22, 2025

- PUD REZONING PLAN AREA
- TO BE REZONED FOR MINERAL EXTRACTION
- TO BE RECLAIMED/RESERVED FOR FUTURE DEVELOPMENT (RECREATIONAL AND OTHER USES) AFTER MINERAL EXTRACTION
- MIAMI CONSERVANCY DISTRICT

EXHIBIT 2-A

EXHIBIT 2-B

City Opportunities for Parcels Shown on Exhibit 2-A:

1. Right to Acquire* and Right of First Refusal

a. Parcel 1 (Western Lake Property/Green Line Lake- 195+/-acres)

- i. Acquisition Cost- \$2,780 per acre
- ii. Must be acquired in its entirety**
- iii. Existing Lease subject to one (1) year notice of termination
- iv. Length of Grant: 20 years from date of Specific Site Plan Approval.

b. Parcel 2 (Heavin Property- +/-61 acres)

- i. Acquisition Cost- \$0.00 upon completion of all mining operations and full reclamation and acceptable by ODNR
- ii. Must be acquired in its entirety*
- iii. Length of Grant: See 5.21 Development Agreement

c. Parcel 3 (Hewitt Property- +/-81 acres)

- i. Acquisition Cost- \$0.00 upon completion of all mining operations and full reclamation and acceptable by ODNR
- ii. Must be acquired in its entirety*
- iii. Length of Grant: See 5.21 Development Agreement

2. Right of First Refusal

a. Southern Lake- +/-115 acres

*Acquisition rights are subject to and may only be exercised following a determination by Barrett, in its sole discretion, that the Parcels are suitable for development.

**Barrett will consider City requests to subdivide a Parcel but has no obligation to grant such request.

EXHIBIT 3A

Barrett shall pay an Extraction Fee for processed Gravel material, excluding any recycled materials, of \$0.725 a ton of Gravel sold over the scale. Barrett estimates selling 350,000 tons +/- of Gravel product in any given year. Barrett estimates a life for the Gravel product of approximately twenty years. If the Approximate Volume Sold is more than estimated in any one year the Extraction Fee will be greater than estimated and vice versa if the Approximate Volume Sold is less than estimated the Extraction Fee will be less. Note however the formula calls for an annual increase in the Extraction Fee of 3% each year over the previous year unit price so that even if the Approximate Volume Sold decreases in any given year the payout, because of the 3% annual increase, may not be diminished. See 3.1.

EXHIBIT 3-B

West Carrollton Sand & Gravel Extraction Fee Schedule

Year	Approximate Volume	Extraction Fee Per Unit Sold		Annual Inflation Increase	
1	350,000	\$	0.725	\$253,750.00	
2	350,000	\$	0.747	\$261,362.50	3%
3	350,000	\$	0.769	\$269,203.38	3%
4	350,000	\$	0.792	\$277,279.48	3%
5	350,000	\$	0.816	\$285,597.86	3%
6	350,000	\$	0.840	\$294,165.80	3%
7	350,000	\$	0.866	\$302,990.77	3%
8	350,000	\$	0.892	\$312,080.49	3%
9	350,000	\$	0.918	\$321,442.91	3%
10	350,000	\$	0.946	\$331,086.20	3%
11	350,000	\$	0.974	\$341,018.78	3%
12	350,000	\$	1.004	\$351,249.34	3%
13	350,000	\$	1.034	\$361,786.83	3%
14	350,000	\$	1.065	\$372,640.43	3%
15	350,000	\$	1.097	\$383,819.64	3%
16	350,000	\$	1.130	\$395,334.23	3%
17	350,000	\$	1.163	\$407,194.26	3%
18	350,000	\$	1.198	\$419,410.09	3%
19	350,000	\$	1.234	\$431,992.39	3%
20	350,000	\$	1.271	\$444,952.16	3%
	7,000,000	\$	0.974	\$6,818,357.53	

Note: These volumes are approximate and could be subject to change based on several factors.