

City of Niles, Ohio

SPONSORED BY: FINANCE
AUTHORIZED BY: SMITH

DRAFT NO.181 -19

ORDINANCE NO. _____

AN ORDINANCE CREATING A NEW CAPITAL PROJECTS FUND, FUND 405 POLICE CAPITAL IMPROVEMENTS AND DECLARING AN EMERGENCY

WHEREAS, Ohio Revised Code Section 5705.13 authorizes the establishment of a capital projects fund for the purpose of accumulating resources for the acquisition, construction, or improvement of fixed assets; and

WHEREAS, “fixed assets” include, but not limited to, MARCS Radios; and

WHEREAS, this ordinance will provide funding to be accumulated to contribute to the purchase of future MARC radios or substantially similar fixed assets; and

WHEREAS, provided Ohio Revised Code Section 5705.13 is complied with, this fund does not need approval by the Auditor of the State.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF NILES, STATE OF OHIO:

SECTION 1: There is hereby created a new capital projects fund, Fund 405 Police Capital Improvements.

SECTION 2: The source of funds for the Fund 405 Police Capital Improvements shall be the General Fund.

SECTION 3: The fund shall continue until such time as there is accumulation of funds in a sufficient amount to purchase replacement MARCS radios or substantially similar fixed assets as needed by the City of Niles Police Department.

SECTION 4: The fund shall continue until replacement MARCS radios or substantially similar fixed assets are purchased by the City of Niles Police Department and may be renewed by council to allow for the continued purchase of replacement MARCS radios and other fixed assets as needed.

SECTION 5: This ordinance is hereby declared an emergency measure in the interest of the public health, safety and welfare for the reason that the funds need to be transferred into the Police Capital Improvements fund prior to the year’s end.

PASSED: _____

PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the _____ day of _____, 2019 and signed by me as such Mayor on the _____ day of _____, 2019.

MAYOR

City of Niles, Ohio

SPONSORED BY: FINANCE
AUTHORIZED BY: SMITH

DRAFT NO.182 -19

ORDINANCE NO. _____

AN ORDINANCE CREATING A NEW CAPITAL PROJECTS FUND, FUND 406 PARK CAPITAL IMPROVEMENTS AND DECLARING AN EMERGENCY

WHEREAS, Ohio Revised Code Section 5705.13 authorizes the establishment of a capital projects fund for the purpose of accumulating resources for the acquisition, construction, or improvement of fixed assets; and

WHEREAS, “fixed assets” include, but are not limited to, Multiuse Indoor Sports Turf; and

WHEREAS, this ordinance will provide funding to be accumulated to contribute to the purchase of future replacement Multiuse Indoor Sports Turf or substantially similar fixed assets; and

WHEREAS, provided Ohio Revised Code Section 5705.13 is complied with, this fund does not need approved by the Auditor of the State.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF NILES, STATE OF OHIO:

SECTION 1: There is hereby created a new capital projects fund, Fund 406 Park Capital Improvements.

SECTION 2: The source of funds for the Fund 406 Park Capital Improvements shall be the General Fund.

SECTION 3: The fund shall continue until such time as there is accumulation of funds in a sufficient amount to purchase replacement Multiuse Indoor Sports Turf or substantially similar fixed assets as needed by the Niles Park and Wellness Center.

SECTION 4: The fund shall continue until replacement Multiuse Indoor Sports Turf or substantially similar fixed assets are purchased by the Niles Park and Wellness Center and may be renewed by council to allow for the continued purchase of replacement Multiuse Indoor Sports Turf and other substantially similar fixed assets as needed.

SECTION 5: This ordinance is hereby declared an emergency measure in the interest of the public health, safety and welfare for the reason that the funds need to be transferred into the Park Capital Improvements fund prior to the year’s end.

PASSED: _____

PRESIDENT OF COUNCIL

ATTEST: _____

CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the _____ day of _____, 2019 and signed by me as such Mayor on the _____ day of _____, 2019.

MAYOR

City of Niles, Ohio

SPONSORED BY: FINANCE
AUTHORIZED BY: SMITH

DRAFT NO. 183-19

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE UNAPPROPRIATED WWTP DESIGN and IMPROVEMENT FUND 403 TO THE WWTP DESIGN & IMPROVEMENT CONSULTANT FEES ACCOUNT; AND, DECLARING AN EMERGENCY

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NILES, STATE OF OHIO:

SECTION 1: Council hereby authorizes the appropriation from the Unappropriated WWTP Design & Improvement Fund 403 to the following fund account:

WWTP DESIGN & IMPROVEMENT FUND 403		
403-4848-53700	CONSULTANT FEES	\$19,646.00
TOTAL APPROPRIATION		\$19,646.00

SECTION 2: This Resolution is hereby declared to be an emergency measure in the interest of the public health, safety and welfare. As such an emergency measure, this Resolution shall take effect upon passage by Council and approval by the Mayor.

PASSED: _____

PRESIDENT OF COUNCIL

ATTEST: _____

CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the ____ day of _____, 2019 and signed by me as such Mayor this ____ day of _____, 2019.

MAYOR

City of Niles

SPONSORED BY: FINANCE COMMITTEE
AUTHORIZED BY: SMITH

DRAFT NO. 184-19

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE APPROPRIATION BUDGET TRANSFERS FROM VARIOUS ACCOUNTS TO THE FOLLOWING FUND ACCOUNTS; AND, DECLARING AN EMERGENCY

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NILES, STATE OF OHIO:

SECTION 1: Council hereby authorizes the appropriation from the Unappropriated Funds to the following fund accounts:

- Appropriation Budget Line Item Transfer from various accounts

Appropriation Budget Transfers		
GENERAL FUND 101 (TRANSFER)		
Account Number	Description	+/- Appropriation
101-1001-51010	Wages	\$400.00
101-1001-53980	Contracted Labor	(\$400.00)
101-1002-51010	Wages	\$1,100.00
101-1002-52300	Hospitalization	(\$400.00)
101-1002-53410	Postage	(\$200.00)
101-1002-53450	Educational	(\$500.00)
101-1004-51010	Wages	\$1,000.00
101-1004-53980	Contracted Labor	(\$1,000.00)
101-1030-51010	Wages	\$500.00
101-1030-52200	PERS	(\$200.00)
101-1030-54010	Office Supplies	(\$300.00)
COMPUTER FUND 219 (TRANSFER)		
219-1919-51010	Wages	\$12,000.00
219-1919-53980	Contracted Labor	(\$12,000.00)
PARK FUND 221 (TRANSFER)		
221-2121-51010	Wages	\$12,000.00
221-2121-53980	Contracted Labor	(\$12,000.00)
SEWER FUND 503 (TRANSFER)		
503-5353-51010	Wages	\$60,000.00
503-5353-52200	PERS	(\$50,000.00)
503-5353-52300	Hospitalization	(\$10,000.00)

SECTION 2: This Resolution is hereby declared to be an emergency measure in the interest of the public health, safety and welfare. As such an emergency measure, this Resolution shall take effect upon passage by Council and approval by the Mayor.

PASSED: _____

PRESIDENT OF COUNCIL

ATTEST: _____

CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the _____ day of _____, 2019 and signed by me as such Mayor this _____ day of _____, 2019.

MAYOR

City of Niles

SPONSORED BY: FINANCE COMMITTEE
AUTHORIZED BY: SMITH

DRAFT NO. 185-19

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FOLLOWING APPROPRIATION FROM VARIOUS FUNDS TO THE FOLLOWING FUND ACCOUNTS; AND, DECLARING AN EMERGENCY

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NILES, STATE OF OHIO:

SECTION 1: Council hereby authorizes the appropriation from the following various Funds:

APPROPRIATION FROM UNAPPROPRIATED FUNDS		
GENERAL FUND 101		
Account Number	Description	Appropriation
101-1050-51010	Wages	\$26,000.00
101-1060-51010	Wages	\$1,500.00
101-1060-52200	PERS	\$325.00
TOTAL GENERAL FUND		\$27,825.00
POLICE & FIRE 1% FUND 217		
217-1710-51010	Wages	\$70,000.00
217-1710-52300		\$10,000.00
TOTAL POLICE & FIRE 1% FUND		\$80,000.00
STREET FUND 223		
223-2323-51010	Wages	\$65,000.00
TOTAL STREET FUND		\$65,000.00
PROBATION FUND 266		
266-6666-51010	Wages	\$5,500.00
TOTAL PROBATION FUND		\$5,500.00
WATER FUND 266		
501-5151-51010	Wages	\$50,000.00
TOTAL WATER FUND		\$50,000.00
PAYROLL CLEARING FUND 665		
665-6565-50001	Net Payroll Expense	\$500,000.00
665-6565-50002	Payroll Deduction Expense	\$500,000.00
TOTAL PAYROLL CLEARING FUND		\$1,000,000.00

SECTION 2: This Resolution is hereby declared to be an emergency measure in the interest of the public health, safety and welfare. As such an emergency measure, this Resolution shall take effect upon passage by Council and approval by the Mayor.

PASSED: _____

ATTEST: _____

PRESIDENT OF COUNCIL

CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the _____ day of _____, 2019 and signed by me as such Mayor this _____ day of _____, 2019.

MAYOR

City of Niles, Ohio

SPONSORED BY: FINANCE COMMITTEE
AUTHORIZED BY: SMITH

DRAFT NO. 186-19

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING MONTHLY CASH TRANSFERS; AND,
DECLARING AN EMERGENCY

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NILES, STATE OF OHIO:

SECTION 1: Authorizing the cash transfer of Two Million, Six Hundred Fifty One Thousand, Seven Hundred Seventy-Six Dollars and 64/100 Dollars (\$2,651,776.64) from the General Fund Account Transfer Account, No. 101-1090-59000 to the following Funds:

Monthly Cash Transfers	
From General Fund TRANSFER Account 101-1090-59000 To:	
FUND 215	Police Pension \$80,000.00
FUND 216	Fire Pension \$80,000.00
FUND 217	Police & Fire 1% \$1,500,000.00
FUND 221	Park \$285,000.00
FUND 255	Cemetery \$30,000.00
FUND 401	Capital Projects \$496,776.64
FUND 404	Fire Truck Replacement \$80,000.00
FUND 405	Park Capital Improvements \$50,000.00
FUND 406	Police Capital Improvements \$50,000.00
\$2,651,776.64	

SECTION 2: This Resolution is hereby declared to be an emergency measure in the interest of the public health, safety and welfare for the reason that these funds are to be transferred on a regular basis. As such an emergency measure, this Resolution shall take effect immediately upon passage by Council and approval by the Mayor.

PASSED: _____

PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the _____ day of _____, 2019 and signed by me as such Mayor on this _____ day of _____, 2019.

MAYOR

City of Niles, Ohio

SPONSORED BY: Neighborhood Stabilization, Community Development DRAFT NO. 187-19
& Annexation Committee
AUTHORIZED BY: Profato

ORDINANCE NO. _____

CREATING A RESIDENTIAL TAX INCREMENT FINANCING INCENTIVE DISTRICT ENCOMPASSING CERTAIN PARCELS OF REAL PROPERTY; DECLARING IMPROVEMENTS TO THE PARCELS WITHIN THE INCENTIVE DISTRICT TO BE A PUBLIC PURPOSE AND EXEMPT FROM REAL PROPERTY TAXATION; REQUIRING THE OWNERS OF THOSE PARCELS TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF THOSE SERVICE PAYMENTS; SPECIFYING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS TO BE MADE THAT DIRECTLY BENEFIT OR SERVE PARCELS IN THE INCENTIVE DISTRICT; APPROVING AND AUTHORIZING THE EXECUTION OF A TAX INCREMENT FINANCING AGREEMENT

WHEREAS, Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code (collectively, the "TIF Statutes") authorize this Council, by ordinance, to create an incentive district within the corporate boundaries of the City of Niles, Ohio (the "City"), and declare the improvement to each parcel of real property located within the incentive district to be a public purpose and exempt from taxation, require the owner of each parcel to make service payments in lieu of taxes, establish a municipal public improvement tax increment equivalent fund for the deposit of those service payments, and specify public infrastructure improvements made, to be made or in the process of being made that directly benefit or serve, or that once made will directly benefit or serve, parcels in the incentive district; and

WHEREAS, this Council has determined to create the Niles City Residential Incentive District, a residential incentive district (the "Incentive District"), the boundaries of which will be coextensive with the boundaries of, and will include, the parcels of real property specifically identified and depicted in Exhibit A attached hereto (with each of those parcels referred to herein individually as a "Parcel" and collectively as the "Parcels"); and

WHEREAS, the City anticipates that approximately 30 new single-family homes will be constructed within the Incentive District (collectively, the "Project"). The Project will be two phases. Phase I will be the construction of 12 units. The infrastructure improvements for Phase I were completed and finalized on or about March 1, 2019. Phase II will construct an additional 18 units. Phase II anticipates additional infrastructure improvements. Each newly constructed unit and improved parcel will constitute a separate District Parcel Incentive. The parties will enter a separate agreement for any additional infrastructure improvements for Phase II of the project.

WHEREAS, by Resolution , this Council approved a Final Development Plan and Zoning Map Amendment with respect to the Incentive District (the "Economic Development Plan"); and

WHEREAS, the engineer for the City has certified to this Council that (i) the Incentive District is less than 300 acres in size and enclosed by a contiguous boundary, and (ii) the public infrastructure serving the Incentive District is inadequate to meet the development needs of the Incentive District as evidenced by the Economic Development Plan; and

WHEREAS, this Council has determined to provide for the construction of public infrastructure improvements described in Exhibit B attached hereto (the "Public Infrastructure Improvements"), as further provided in the Tax Increment Financing Agreement authorized herein, which Public Infrastructure Improvements, once made, will directly benefit or serve the Parcels; and

WHEREAS, notice of this proposed ordinance has been delivered to the Board of Education of Niles City School District in accordance with and within the time period prescribed in Section 5709.83 of the Ohio Revised Code.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NILES, OHIO, THAT:

Section 1. Incentive District Projects: Creation of Incentive District. This Council finds and determines that the Project will place additional demand on the Public Infrastructure Improvements. Pursuant to the TIF Statutes, this Council creates the Incentive District, the boundaries of which is coextensive with the boundaries of, and includes, the Parcels specifically identified and depicted in Exhibit A.

Section 2. Public Infrastructure Improvements. This Council designates the Public Infrastructure Improvements described in Exhibit B attached hereto, and any other public infrastructure improvements hereafter designated by ordinance as public infrastructure improvements, as public infrastructure improvements made, to be made or in the process of being made by the City that directly benefit or serve, or that once made will directly benefit or serve, parcels in the Incentive District.

Section 3. Authorization of Tax Exemption: Life of Incentive District. Pursuant to and in accordance with the provisions of Section 5709.40(C) of the Ohio Revised Code, this Council declares that seventy-five percent (75%) of the increase in assessed value of each Parcel subsequent to the effective date of this ordinance (which increase in assessed value is hereinafter referred to as the "Improvement," as defined in Section 5709.40(A) of the Ohio Revised Code) is a public purpose and exempt from taxation for a period coextensive with the life of the Incentive District, which life commences with the first tax year that begins after the effective date of this ordinance and in which an Improvement attributable to a new structure would first appear on the tax list and duplicate of real and public utility property for any Parcel within the Incentive District were it not for the exemption granted in this ordinance and ends on the earlier of (a) ten (10) years after such completed improvement for each parcel or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Statutes.

The Council hereby determines that it is in the best interests of the City, in lieu of passing a separate ordinance applicable to each Parcel under Section 5709.40 of the Revised Code, to combine all of those separate ordinances into this single consolidated tax increment financing ordinance to provide for the financing of the Public Infrastructure Improvements directly benefitting the Property. Consistent with this determination, this Ordinance shall be applied and interpreted to apply to the Improvements to each Parcel as if applicable only to that Parcel and otherwise will be implemented in the manner provided herein and in the TIF Agreement.

Section 4. Service Payments and Property Tax Rollback Payments. Pursuant to Section 5709.42 of the Ohio Revised Code, this Council directs and requires the owner of each Parcel to make annual service payments in lieu of taxes with respect to the Improvement allocable thereto to the Trumbull County Treasurer (the "County Treasurer") on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest at the then current rate established under Sections 323.121 and 5703.47 of the Ohio Revised Code (collectively, the "Service Payments"), will be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement if it were not subject to the exemption granted in this ordinance. The Service Payments, and any other payments with respect to each Improvement that are received by the County Treasurer in connection with the reduction required by Sections 319.302, 321.24, 323.152 and 323.156 of the Ohio Revised Code, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the "Property Tax Rollback Payments"), will be allocated and distributed in accordance with Section 6 of this ordinance.

Section 5. Tax Increment Equivalent Fund. This Council establishes, pursuant to and in accordance with the provisions of Section 5709.43 of the Ohio Revised Code, the City of Niles North Carnegie Public Improvement Tax Increment Equivalent Fund (the "TIF Fund"), into which the County Treasurer will deposit the Service Payments and Property Tax Rollback Payments collected with respect to the Parcels and not required to be distributed to the Niles City School District pursuant to Section 6 of this ordinance. The TIF Fund will be maintained in the custody of the City. The City may use amounts deposited into the TIF Fund only for the purposes authorized in the TIF Statutes and this ordinance. The TIF Fund will exist so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund will be dissolved and any surplus

funds remaining therein transferred to the City's General Fund, all in accordance with Section 5709.43 of the Ohio Revised Code.

Section 6. Distribution of Funds. Pursuant to the TIF Statutes, the County Treasurer is requested to distribute the Service Payments and the Property Tax Rollback Payments as follows:

- (i) to the Niles City School District, an amount equal to the amount the Niles City School District would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to the Property located within the Niles City School District's boundaries if the Improvement had not been exempt from taxation pursuant to this Ordinance; and
- (ii) to the City, for further deposit into TIF Fund for payment of costs of the Public Infrastructure Improvements, including debt service on any securities issued to finance those costs.
- (iii) the City agrees to reimburse the Company as provided for under the Tax Incremental Financing Agreement attached hereto.

Section 7. Tax Increment Financing Agreement. The form of Tax Increment Financing Agreement (the "TIF Agreement") presently on file with the Clerk of Council is hereby approved and authorized with changes and completions thereto that are not inconsistent with this ordinance, not substantially adverse to the City and approved by the Mayor and the Law Director. The Mayor, for and in the name of the City, is hereby authorized to execute and deliver the TIF Agreement in substantially that form along with any changes or completions thereto, provided that the approval of such changes and completions thereto by the Mayor, and the character of those changes and completions as not being substantially adverse to the City, will be evidenced conclusively by the Mayor's execution thereof.

Section 8. Further Authorizations. This Council authorizes and directs the Mayor, the Auditor, the Law Director, the Clerk of Council or other appropriate officers of the City to make such arrangements as are necessary and proper for collection of the Service Payments from the owner of each Parcel. This Council further authorizes and directs those officers or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this ordinance and the TIF Agreement.

Section 9. Open Meetings. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this ordinance were *taken* in an open meeting of this Council and any of its committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Ohio Revised Code.

Section 10. Effective Date. This ordinance shall take effect and be in full force and effect from and after the earliest time permitted by law.

SECTION _____ : This ordinance is hereby declared to be an emergency measure in the interests of the public health, safety and welfare for the reason that it is necessary to be in effect _____ . As such an emergency measure, this Ordinance shall take effect upon passage by Council and approval by the Mayor.

PASSED: _____ PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the _____ day of _____, 2019 and signed by me as such Mayor on the _____ day of _____, 2019.

MAYOR

ATTEST

Giovanne Merlo, Auditor

APPROVED AS TO FORM

Philip Zuzolo, Law Director

ORDINANCE 04-2016
(Continued)

EXHIBIT A

IDENTIFICATION AND MAP OF THE PARCELS

The outlined area on the following map specifically identifies and depicts the Parcels and the boundaries of the Incentive District, and constitutes part of this Exhibit A. The tax parcel numbers are:

25-003501
25-901093
25-118851

as of September 22, 2019, and are included for ease of reference only.

ORDINANCE 04-2016
(Continued)

EXHIBIT B

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements consist of any "public infrastructure improvement" defined under Section 5709.40(A)(7) of the Ohio Revised Code and that directly benefits or serves parcels in the Incentive District and specifically include, but are not limited to, the "Public Infrastructure Improvements" described in the TIF Agreement (as may be amended from time to time) and any of the following improvements that will benefit or serve parcels in the Incentive District and all related costs of those permanent improvements (including, but not limited to, those costs listed in Section 133.15(B) of the Ohio Revised Code):

- **Roadways.** Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto;
- **Streetscape/Landscape.** Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto, including, but not limited to streetscape improvements in conjunction with and along the roadway improvements described in "Roadways" above;
- **Water/Sewer.** Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto, including without limitation the following:
- **Stormwater.** Construction, reconstruction and installation of stormwater and flood remediation projects and facilities, including such projects and facilities on private property when determined to be necessary for public health, safety and welfare, including without limitation the following:

ORDINANCE 04-2016
(Continued)

- **Real Estate.** Acquisition of real estate or interests in real estate (including easements) (a) necessary to accomplish any of the foregoing improvements or (b) in aid of industry, commerce, distribution or research; and
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction and installation of the foregoing improvements and real estate.

Pursuant to the terms and conditions of the TIF Agreement, the Company shall construct certain of these Public Infrastructure Improvements (hereinafter referred to as the "JRD Holdings Public Infrastructure Improvements"). The JRD Holdings Public Infrastructure Improvements specifically include the improvements described below and all related costs of those permanent improvements (including, but not limited to, those costs listed in O.R.C. Section 133.1S(B)):

TAX INCREMENT FINANCING AGREEMENT

This TAX INCREMENT FINANCING AGREEMENT (this "Agreement"), is made and entered into as of this _____ day of _____, 2019 (the "Effective Date"), by and between the CITY OF NILES, OHIO (the "City"), a political subdivision duly organized and validly existing under the constitution and the laws of the State of Ohio (the "State"), and JRD Holdings Partnership, an Ohio Partnership (the "Company").

WITNESSETH:

WHEREAS, the Company has acquired or will acquire certain real property located within the City, a depiction of which is attached hereto as Exhibit A (with each parcel as now or hereafter configured, a "Parcel," and collectively, the "District") for the purpose of constructing approximately 30 single-family homes in two Phases. Phase I will be 12 Units. Phase II will be an additional 18 units. The Company and City agree that to enter into a separate agreement prior to the commencement of any additional public infrastructure improvements in Phase II of the project. The final development plan was approved by City Ordinance _____, passed _____ (the "Project"); and

WHEREAS, in order to successfully develop the District, it is necessary to construct or to cause to be constructed certain public infrastructure improvements as described in Section 4 and in Exhibit B attached hereto (with the improvements identified therein being referred to herein as the "Public Infrastructure Improvements"), which the City and the Company agree will benefit or serve the District; and

WHEREAS, the City, by its Ordinance No. _____, passed _____, 2019 (the "TIF Ordinance"), has declared that Seventy-five (75%) of the increase in the assessed value of each Parcel within the District subsequent to the effective date of the TIF Ordinance (such increase, as further defined in O.R.C. Section 5709.40 and the TIF Ordinance, is hereinafter referred to as the "Improvement,") is a public purpose and is exempt from taxation for a period commencing with the first tax year that begins after the effective date of the TIF Ordinance and in which an Improvement due to the construction of a new structure on each parcel and/or hereafter configured parcels first appears on the tax list and duplicate of real and public utility property for each Parcel (approximately 30 in total, 12 units in Phase I and 18 Units in Phase II) and ending on the earlier of (a) ten (10) years after such commencement for each separately improved parcel, or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of O.R.C. Sections 5709.40, 5709.42 and 5709.43 and the TIF Ordinance (the "TIF Exemption"); and

WHEREAS, the City has determined that it is necessary and appropriate and in the best interest of the City to provide for the current owner of each Parcel (initially the Company) and any future owners of each Parcel (with the Company and each such future owner referred to herein individually as an "Owner" and collectively as the "Owners") to make annual service payments in lieu of taxes with respect to any Improvement allocable thereto (the "Service Payments") to the Trumbull County Treasurer (the "County Treasurer"), which Service Payments will be used, in part, to reimburse Owner for Costs of Public Infrastructure Improvements actually incurred as defined herein, all pursuant to and in accordance with O.R.C. Sections 5709.40, 5709.42 and 5709.43 (collectively, the "TIF Statutes"), the TIF Ordinance, and this Agreement; and

NOW, THEREFORE, in consideration of the premises and covenants contained herein and to induce the Company to proceed with the construction of the Company Public Infrastructure Improvements, the parties agree to the foregoing and as follows:

Section 1. Obligation to Make Service Payments.

(a) Service Payments. Each Owner hereby agrees to make the Service Payments due during its period of ownership of one or more Parcels, all pursuant to and in accordance with the requirements of the TIF Statutes, the TIF Ordinance, the provisions of Ohio law relating to real property tax collection, and any subsequent amendments or supplements thereto. Service Payments will be made semiannually to the County Treasurer (or to the County Treasurer's designated agent for collection of the Service Payments) on or before the final dates for payment of real property taxes for the Parcels in the District, until expiration of the TIF Exemption. Any late payments will bear penalties and interest at the then current rate established under O.R.C. Sections 323.121 and 5703.47 or any successor provisions thereto, as the same may be amended from time to time. Service Payments will be made in accordance with the requirements of the TIF Statutes and the TIF Ordinance and, for each Parcel, will be in the same amount as the real property taxes that would have been charged and payable against the Improvement to that Parcel (after credit for any other payments received by the City under O.R.C. Sections 319.302, 321.24, 323.152 and 323.156, or any successor provisions thereto, as the same may be amended from time to time, with such payments referred to herein as the "Property Tax Rollback Payments") if it were not exempt from taxation pursuant to the TIF Exemption, including any penalties and interest. The City and each Owner agree that the North Carnegie Municipal Public Improvement Tax Increment Equivalent Fund referred to in Section 5 of the TIF Ordinance (the "TIF Fund") will receive all Service Payments and Property Tax Rollback Payments made with respect to the Improvement to each Parcel that are payable to the City, together with any investment earnings on money in that TIF Fund.

(b) Priority of Lien. The Company acknowledges, for itself and any and all future Owners, that the provisions of O.R.C. Section 5709.91, which specify that the Service Payments for each Parcel will be treated in the same manner as taxes for all purposes of the lien described in O.R.C. Section 323.11, including, but not limited to, the priority of the lien and the collection of Service Payments, will apply to this Agreement and to the Parcels in the District and any improvements thereon.

(c) Failure to Make Payments. Should any Owner fail to make any payment required hereunder, that Owner shall pay, in addition to the Service Payments it is required to pay hereunder, such amount as is required to reimburse the City for any and all reasonably and actually incurred costs, expenses and amounts (including reasonable attorneys' fees) required by the City to enforce the provisions of this Agreement against that Owner.

(d) Recordation. Having obtained legal ownership of the real property located within the District, the Company shall, at its sole cost and expense, cause this Agreement to be recorded in the Trumbull County, Ohio real property records for each Parcel in the District, it being understood and agreed that the lien of this Agreement shall, in accordance with O.R.C. Section 323.11 and O.R.C. Section 5709.91, be prior to any mortgage, assignment, lease or other conveyance by the Owners of any of their part or interest in the Parcels within the District, and prior to any security instrument encumbering all or any part of or interest in the Parcels within the District; provided, however, that nothing contained in this Agreement shall be construed to permit acceleration of the Service Payments beyond the current year that such Service Payments are due. During the Term of this Agreement, the Owners shall cause all instruments of conveyance of any of their interest in all or any portion of the Parcels within the District, and of any improvements thereto, to subsequent mortgagees, lessees, lienholders, successors, assigns or transferees, to be made expressly subordinate and subject to this Agreement unless such interest is subordinate to this Agreement by operation of O.R.C. Section 5709.91. It is intended and agreed, and it shall be so provided by each Owner in any future deed conveying a Parcel or any part thereof, that the covenants provided in this Agreement shall be covenants running with the land and that they shall, in any event and without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity for the benefit and in favor of and enforceable by the City and the Company whether or not this Agreement remains in effect or whether or not such provision is included by the Owner in any succeeding deed to subsequent Owners. It is further intended and agreed that these agreements and covenants shall remain in effect for the full period of the TIF Exemption permitted in accordance with the requirements of the TIF Statutes and the TIF Ordinance enacted pursuant thereto. Each Owner shall only be responsible for making Service Payments that become due and payable during the period of that Owner's ownership of all or any portion of any Parcels within the District and only with respect to the portion of a Parcel within the District owned by the Owner. Upon satisfaction of each Owner's obligations under this Agreement and termination of the obligations of the Owners to make the Service Payments, the City shall, upon the request of an Owner, execute an instrument in recordable form evidencing such termination and releasing the covenants running with the land set forth in the deed.

Section 2. Establishment of a TIF Fund by the City: Distribution of Funds. The City agrees that it shall establish the TIF Fund as a deposit fund to be held in the custody of the City for the sole purpose of receiving the Service Payments made from the Owners to the County Treasurer and payable to the City. The parties also agree that the County may also be designated to maintain and service the TIF Fund account. Upon distribution of the Service Payments to the City, those Service Payments shall be deposited to the TIF Fund. Subject to the further provisions of Section 8 of this Agreement, amounts on deposit in the TIF Fund shall be used as follows: (i) *first*, to the extent available, to reimburse the Company for costs of the JRD Holdings Public Infrastructure Improvements (as defined herein), until the Reimbursement Amount (as defined herein) of \$336,110.00 is fully reimbursed for Phase I and any additional infrastructure improvements for Phase II subject to future agreement between the City and the Company; and (ii) *second*, to the City, to pay for or reimburse the City for costs of any City-constructed Public Infrastructure Improvements; and (iii) third, for any other purpose permitted under the TIF Statutes and the TIF Ordinance, as each may be amended from time to time.

Section 3. Exemption Applications, Withdrawal, Maintenance and Notice. The Company, or the Owner if the Company no longer owns the real property for which the TIF Exemption is being applied, shall prepare, execute and file such applications, documents and other information with the appropriate officials of the State, the City or other public bodies as may be required to effect the TIF Exemption. The City, the Company, and the Owners shall cooperate with one another in such preparation and filing, including, without limitation, by executing such applications and documents as may be appropriate in obtaining such exemption. The City, the Company, and the Owners agree to perform those acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain the TIF Exemption, and collect the Service Payments, including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with the TIF Exemption or the Service Payments. Each Owner agrees to appoint the Company as its agent and representative and shall grant a power of attorney to the Company for the purpose of filing any Ohio DTE Form 24 exemption application forms or successor forms or replacement forms necessary to claim the TIF Exemption. The City shall cause notice to be recorded and prepared in accordance with the provisions of O.R.C. Section 5709.91(C)(1) at the County Recorder of Trumbull County, Ohio.

Section 4. Reimbursement for Costs of JRD Holdings Public Infrastructure Improvements. As described on Exhibit B, certain of the Public Infrastructure Improvements will be constructed by the Company including, without limitation: (i) open spaces to be transferred to the City, (ii) public roads constructed to serve the Project, and associated intersection improvements, (iv) rights-of-way to be transferred to the City, (iii) sewer infrastructure, (iv) storm water infrastructure, and (vii) water infrastructure. The foregoing Company-constructed Improvements are referred to herein as the "JRD Holdings Public Infrastructure Improvements." For purposes of this Agreement, costs of the JRD Holdings Public Infrastructure Improvements eligible for reimbursement (the "Costs") include the actual costs of the JRD Holdings Public Infrastructure Improvements and all the items of "costs of permanent improvements" set forth in O.R.C. Section 133.15(B) and incurred by the Company directly or indirectly with respect to the JRD Holdings Public Infrastructure Improvements. By the TIF Ordinance and by this Agreement, the City has designated all of the JRD Holdings Public Infrastructure Improvements as "public infrastructure improvements" as defined in O.R.C. Section 5709.40(A){7} that benefit or serve the District.

The City and the Company agree that Costs of JRD Holdings Public Infrastructure Improvements shall be paid and reimbursed as follows:

- (a) All Costs of JRD Holdings Public Infrastructure Improvements will initially be paid by the Company; and

(b) A portion of the Costs of the JRD Holdings Public Infrastructure Improvements equal to the Reimbursement Amount will be reimbursed from the TIF Fund as provided in this Agreement.

The City and the Company agree that the amount of the Costs of the JRD Holdings Public Infrastructure Improvements for which the Company shall be entitled to reimbursement (the "Reimbursement Amount") is a negotiated amount and is offered by the City to the Company in consideration of the Company's overall investment in the Project. The Reimbursement Amount shall be up to \$336,110.00. The City shall not be responsible for reimbursement to the Company for any amounts related to the project and the JRD Holdings Public Infrastructure Improvements in excess of the Reimbursement Amount from the TIF Fund or otherwise.

Except as otherwise provided herein and subject to the limits described above, the City shall pay all monies on deposit in the TIF Fund to or as directed by the Company on the first business day following each May 31 and November 30 (each, a "Payment Date") until the Costs have been paid in full. Payments for the portion of Costs of the JRD Holdings Public Infrastructure Improvements will be made beginning with the first Payment Date following the satisfaction of the conditions of Section 5 hereof. Subsequent to submission of the first Written Requisition by the Company and contingent upon the City having received funds in the TIF Fund, the City shall pay to Company, within thirty (30) business days following the City's approval of a Written Requisition as provided in Section 5 hereof, the lesser of (i) the approved Costs of the JRD Holdings Public Infrastructure Improvements shown in the Written Requisition, or (ii) the funds in the TIF Fund available to reimburse the Company at that time in accordance with this paragraph. Should insufficient funds be available to reimburse the Company exist in the TIF Fund at the time of the City's approval of a Written Requisition, then the City shall maintain a record of such unreimbursed amounts, and the City shall pay to Company such amounts within thirty (30) business days after such funds are available in the TIF Fund. The City shall continue to use all Service Payments received by the City from the Trumbull County Auditor and deposited in the TIF Fund to pay the Company until the Reimbursement Amount is paid in full. Upon the payment in full of the Reimbursement Amount and the satisfaction of all amounts due to the Company pursuant to this Agreement, the City may use any monies remaining on deposit in the TIF Fund in accordance with law. The City shall submit to the Company an accounting or record of all amounts paid out of the TIF Fund and all payments made to the Company out of the TIF Fund upon request.

Notwithstanding any other provision of this Agreement, the City's payment obligations hereunder are limited to the monies in the TIF Fund and do not constitute an indebtedness of the City within the provisions and limitations of the laws and the Constitution of the State of Ohio, and the Company does not have the right to have taxes or excises levied by the City for the payment of the Costs and interest thereon.

Section 5. Approval of Costs of JRD Holdings Public Infrastructure Improvements. The City shall reimburse to the Company the actual Costs of the JRD Holdings Public Infrastructure Improvements incurred by or on behalf of the Company according to one or more written requisitions submitted by the Company to the City in substantially in the form attached as Exhibit C (a "Written Requisition"). Except as otherwise provided in an agreement entered into between the Company and the City under Section 14 hereof, the Company may submit up to four (4) Written Requisitions per calendar year. The City's obligation to make payments to the

Company for Costs of the JRD Holdings Public Infrastructure Improvements shall commence with respect to a particular Cost of JRD Holdings Public Infrastructure Improvements when the City approves a Written Requisition for such Cost. The City shall approve a Written Requisition if the following conditions have been met:

- (a) The Company has provided to the City a Written Requisition substantially in the form attached hereto as Exhibit C and the City's Auditor has determined that the amounts on that Written Requisition are properly payable under the TIF Ordinance and this Agreement, which approval shall not be unreasonably withheld; and
- (b) The work associated with the Written Requisition has been done in material conformance with all City-approved specifications and plans for that work, as determined by the City Engineer or other designated agent of the City.

The Company may request a written determination from the City in advance of incurring any expenditure for any JRD Holdings Public Infrastructure Improvements that, upon making those expenditures and documenting those expenditures to the reasonable satisfaction of the City, those expenditures will be properly payable under the TIF Ordinance and this Agreement. Any request made pursuant to this provision shall not be unreasonably denied by the City, and the City shall make a determination on each request within fifteen (15) business days of receiving that request. The City shall not reject any portion of the Costs of JRD Holdings Public Infrastructure Improvements identified on a Written Requisition on the basis that those Costs are not properly payable under the TIF Ordinance and this Agreement if the City has made a prior written determination that those Costs are properly payable pursuant to this provision. The Auditor shall act for the City under this paragraph.

Section 6. City Covenant Not to Divert TIF Funds. The City covenants that it will not agree or consent to any amendment, modification or change to the TIF Ordinance or this Agreement without the prior written approval of the Company until the Reimbursement Amount has been paid in full to the Company. Any change to the provisions of Section 4 hereof or to the distribution of Service Payments deposited in the TIF Fund shall be approved by the Company and the City in an amendment to this Agreement.

Section 7. Certain Representations and Warranties of City. The City represents and warrants as of the date of delivery of this Agreement that:

- (a) It is a municipal corporation and political subdivision duly organized and validly existing under the Constitution and laws of the State of Ohio.
- (b) It will have duly accomplished all conditions necessary to be accomplished by it prior to the execution and delivery of this Agreement and to constitute this Agreement as a valid and binding obligation of the City enforceable in accordance with its terms.
- (c) It is not in violation of or in conflict with any provision of the laws of the State or of the United States of America applicable to the City that would impair its ability to observe and perform its covenants, agreements and obligations under this Agreement, nor will its execution, delivery and performance of this Agreement (i) result in such a violation or conflict or (ii) conflict with or result in any breach of any provisions of

any other agreement or instrument to which the City is a party or by which it may be bound.

(d) It has and will have full power and authority (a) to execute, deliver, observe and perform this Agreement and all other instruments and documents executed and delivered by it in connection herewith and (b) to enter into, observe and perform the transactions contemplated by this Agreement and those other instruments and documents.

(e) It has or will have duly authorized the execution, delivery, observance and performance of this Agreement.

(f) The TIF Ordinance has been duly passed by the City, has not been amended, modified or repealed, and is in full force and effect.

(g) It will deposit into the TIF Fund all Service Payments received by it and all Property Tax Rollback Payments made with respect to the Parcels in the District and any investment earnings on that money or other amounts held in the TIF Fund.

(h) It will not amend, modify or repeal the TIF Ordinance in any way or pass any other legislation or take any action that would affect the amount of Service Payments and Property Tax Rollback Payments deposited into the TIF Fund except as approved by the Company or required by law.

(i) It will not transfer, encumber, spend or use any monies on deposit in the TIF Fund other than as provided in this Agreement.

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

Section 8. Certain Representations and Warranties of the Company. The Company hereby represents and warrants as of the date of delivery of this Agreement that:

(a) It (i) is a corporation duly organized, validly existing and in full force and effect under the laws of the State of Ohio, and (ii) has all requisite power and authority and all necessary licenses and permits to own and operate its properties and to carry on its business as now being conducted and as presently proposed to be conducted.

(b) It has the authority and power to execute and deliver this Agreement, perform its obligations hereunder and construct or cause to be constructed the Improvements, and it has duly executed and delivered this Agreement. The Company is a party to a written contract to purchase the real property that is located within the District, and such written contract remains effective on the date of this Agreement.

(c) The execution and delivery by it of this Agreement and the compliance by it with all of the provisions hereof (i) will not conflict with or result in any breach of any of the provisions of, or constitute a default under, any agreement, its articles of organization or operating agreement, or other instrument to which it is a party or by which it may be bound, or any license, judgment, decree, law, statute, order, rule or regulation of any court

or governmental agency or body having jurisdiction over it or any of its activities or properties, and (ii) have been duly authorized by all necessary action on its part.

(d) There are no actions, suits, proceedings, inquiries or investigations pending, or to its knowledge threatened, against or affecting it in any court or before any governmental authority or arbitration board or tribunal that challenges the validity or enforceability of, or seeks to enjoin performance of, this Agreement or the construction of the Improvements, or if successful would materially impair its ability to perform its obligations under this Agreement or to construct or cause to be constructed the Improvements.

(e) It is in compliance with State of Ohio campaign financing laws contained in O.R.C. Chapter 3517 and is not subject to an unresolved finding for recovery issued by the Auditor of State as described in O.R.C. Section 9.24.

Section 9. Provision of Information. The Company, as Owner, agrees for itself and each successive Owner to (i) cooperate in all reasonable ways with, and provide necessary and reasonable information to, the designated tax incentive review council to enable that tax incentive review council to review and determine annually during the term of this Agreement the compliance of the Owners with the terms of this Agreement; and (ii) to cooperate in all reasonable ways with, and provide necessary and reasonable information to the City to enable the City to submit the status report required by O.R.C. Section 5709.40(1) to the Director of the Ohio Development Services Agency on or before March 31 of each year.

Section 10. Nondiscriminatory Hiring Policy. The Company and the Owners agree to comply with the City's nondiscriminatory hiring policy adopted pursuant to O.R.C. Section 5709.832 to ensure that recipients of tax exemptions practice nondiscriminatory hiring in their operations. The City will provide a copy of that policy and any updates to that policy to the Company and each Owner upon request. In furtherance of that policy, the Company agrees that it will not deny any individual employment solely on the basis of race, religion, sex, disability, color, national origin or ancestry.

Section 11. Prevailing Wage. The Company and the City acknowledge and agree that the construction of JRD Holdings Public Infrastructure Improvements owned or to be owned by the City or another "public authority" (as defined in O.R.C. Section 4115.03(A)) and paid for or reimbursed with Service Payments disbursed to the Company out of the TIF Fund for Phase I in an amount of \$336,100.00 were completed prior to any agreement between the City and Company and therefore are exempt from the prevailing wage requirements of O.R.C. Chapter 4115. Company and City acknowledge and agree that any additional Public Infrastructure Improvements, including any Public Infrastructure Improvements for Phase II, and all wages paid to laborers and mechanics employed to construct such additional JRD Public Infrastructure Improvements must be paid at not less than the prevailing rates of wages of laborers and mechanics for the classes of work called for by such JRD Holdings Public Infrastructure Improvements, which wages must be determined in accordance with the requirements of that Chapter 4115. The City and the Company have or will comply, and the Company has or will require compliance by all contractors working on any future JRD Holdings Public Infrastructure Improvements owned or to be owned by the City or another public authority and paid for or reimbursed with Service Payments disbursed to the Company out of the TIF Fund, with all

applicable requirements of that Chapter 4115, including, without limitation, (i) obtaining the determination required by that Chapter 4115 of the prevailing rates of wages to be paid for all classes of work called for by such JRD Holdings Public Infrastructure Improvements, (ii) obtaining the designation of a prevailing wage coordinator for such JRD Holdings Public Infrastructure Improvements, and (iii) ensuring that all subcontractors receive notification of changes in prevailing wage rates as required by that Chapter 4115.

Section 12. Estoppel Certificate. Within thirty (30) days after a request from the Company or any Owner of a Parcel, the City will execute and deliver to the Company or Owner or any proposed purchaser, mortgagee or lessee of that Parcel, a certificate stating that, with respect to that Parcel, if the same is true: (i) this Agreement is in full force and effect; (ii) the requesting Company or Owner is not in default under any of the terms, covenants or conditions of this Agreement, or, if the Company or Owner is in default, specifying such default; and (iii) such other matters as the Company or Owner reasonably requests.

Section 13. Notices. Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents or approvals given, required or permitted to be given hereunder must be in writing and will be deemed sufficiently given if actually received or if hand-delivered or sent by recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the other party at the address set forth in this Agreement or any addendum to or counterpart of this Agreement, or to such other address as the recipient has previously notified the sender of in writing, and will be deemed received upon actual receipt, unless sent by certified mail, in which event such notice will be deemed to have been received when the return receipt is signed or refused. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications must be sent. The present addresses of the parties follow:

- (a) To the City: City of Niles
34 W State St
Niles Oh 44446
Attention: Law Director
- (b) To the Company: JRD Holdings Partnership
304 Vienna Ave
Niles Oh 44446

Section 14. Successors; Assignment; Amendments; City Consents. This Agreement is binding upon the parties hereto and their successors and assigns. The City and the Company may only assign this Agreement with the consent of the other, which consent shall not be unreasonably withheld; provided, however, that the Company may, without the consent of the City, assign its rights under this Agreement for the purpose of obtaining financing (including any refinancing) for the North Carnegie Public Infrastructure Improvements or the Improvements, as long as such an assignment provides that the Company remain liable for all its obligations under this Agreement, and the City will cooperate with any reasonable assignment request in connection with that financing (or refinancing). The City agrees upon request in connection with that financing (or refinancing) to consent to any assignment by the Company of the Company's right to receive payment from the TIF Fund under the terms of this Agreement. Nothing in this Agreement prevents an Owner from transferring any or all of its interest in one or more Parcels to another person or entity. This Agreement may only be amended by written instrument executed by all parties to this Agreement. Any consent of the City to be given under this Agreement may be given by the Auditor and must be given in writing.

Section 15. Extent of Covenants; No Personal Liability. All covenants, stipulations, obligations and agreements of the parties contained in this Agreement are effective and enforceable to the extent authorized and permitted by applicable law. The obligations of the City may be enforced to the extent permitted by law by mandamus or any suit or proceeding in law or equity. No such covenant, stipulation, obligation or agreement will be deemed a covenant, stipulation, obligation or agreement of any present or future member, officer, agent or employee of any of the parties hereto in their individual capacity. Neither the City, the members of the City Council nor any City official executing this Agreement, or any individual person executing this Agreement on behalf of the Company, will be liable personally by reason of the covenants, stipulations, obligations or agreements of the City or the Company contained in this Agreement. The obligation to perform and observe the agreements contained herein on the part of the Company shall be binding and enforceable by the City against the Company with respect to (and only to) the Company's interest in its portion of the Parcels and the Improvement, or any parts thereof or any interest therein.

Section 16. Events of Default and Remedies.

- (a) Any one or more of the following constitutes an "Event of Default" under this Agreement:
- (i) The City fails to make any payment punctually and as required under this Agreement;
 - (ii) The Company or the City fails to perform or observe any material obligation punctually and as due under this Agreement, provided that if a Force Majeure (as such term is defined below) event causes the failure, the Company or City may receive an additional period of time as is reasonably necessary to perform or observe the material obligation in light of the event if it notifies the other of the potential event and the extent of the delay promptly after becoming aware of the event;

- (iii) The Company or the City makes a representation or warranty in this Agreement that is materially false or misleading at the time it is made;
- (iv) The Company files a petition for the appointment of a receiver or a trustee with respect to it or any of its property;
- (v) The Company makes a general assignment for the benefit of creditors;
- (vi) A court enters an order for relief pursuant to any Chapter of Title 11 of the U.S. Code, as the same may be amended from time to time, with the Company as debtor; or
- (vii) The Company files an insolvency proceeding with respect to itself or any proceeding with respect to itself for compromise, adjustment or other relief under the laws of any country or state relating to the relief of debtors.

As used in this Section, "Force Majeure" means any event that is not within the control of a party or its affiliates, employees, contractors, subcontractors or material suppliers that delays performance of any obligation under this Agreement including, but not limited to, the following acts: acts of God; fires; epidemics; landslides; floods; strikes; lockouts or other industrial disturbances; acts of public enemies; acts or orders of any kind of any governmental authority; insurrections; riots; civil disturbances; arrests; explosions; breakage or malfunctions of or accidents to machinery, transmission pipes or canals; partial or entire failures of utilities; shortages of labor, materials, supplies or transportation; lightning, earthquakes, hurricanes, tornadoes, storms or droughts; periods of unusually inclement weather or excessive precipitation; or orders or restraints of any kind of the government of the United States or of the State (and in the case of a Force Majeure claim by the Company, the City or any departments, agencies, political subdivisions or officials that are not in response to a violation of law or regulations). However, the inability of the City to make any payment required under this Agreement and the inability of the Company to obtain financing for its obligations hereunder are excluded from being a Force Majeure event.

- (b) General Right to Cure. In the event of any Event of Default in or breach of this Agreement, or any of its terms or conditions, by any party hereto, the defaulting party will, upon written notice from the other, proceed, as soon as reasonably possible, to cure or remedy such Event of Default or breach, and, in any event, within thirty (30) days after receipt of such notice. In the event such Event of Default or breach is of such nature that it cannot be cured or remedied within said thirty (30) day period, then in such event the defaulting party will upon written notice from the other commence its actions to cure or remedy said breach within said thirty (30) day period, and proceed diligently thereafter to cure or remedy said breach.
- (c) Remedies. If a defaulting party fails to cure any Event of Default pursuant to paragraph (b) of this Section, a party may institute such proceedings against the defaulting party as may be necessary or desirable in its opinion to cure and remedy such default or breach. Such remedies include, but are not limited to: (i) instituting proceedings to compel specific performance by the defaulting party, (ii) suspending or terminating the obligations of the non-defaulting party under this Agreement, provided the aggrieved party must provide thirty (30) days' notice of any termination to the defaulting party and provided further that the aggrieved party must rescind the termination notice and not

terminate the Agreement if the defaulting party cures all Events of Default within a reasonable time thereafter, and (iii) any other rights and remedies available at law, in equity or otherwise to collect all amounts then becoming due or to enforce the performance of any obligation under this Agreement. The obligations of the City may be enforced to the extent permitted by law by mandamus or any suit or proceeding in law or equity.

Section 17. Mutual Dependency and Severability. All material rights and duties contained in this Agreement are mutually interdependent and one cannot exist independent of another; provided, that if any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision was not contained herein. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible that is and will be legal, valid and enforceable.

Section 18. Separate Counterparts: Captions. This Agreement may be executed by the parties hereto in one or more counterparts or duplicate signature pages, each of which when so executed and delivered will be an original, with the same force and effect as if all required signatures were contained in a single original instrument. Any one or more of such counterparts or duplicate signature pages may be removed from any one or more original copies of this Agreement and annexed to other counterparts or duplicate signature pages to form a completely executed original instrument. Captions have been provided herein for the convenience of the reader and shall not affect the construction of this Agreement.

Section 19. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the matters covered herein and supersedes prior agreements and understandings between the parties.

Section 20. Governing Law and Choice of Forum. This Agreement will be governed by and construed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question among the City, its employees, contractors, subcontractors and agents, and the Company, its employees, contractors, subcontractors and agents arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within the County of Trumbull, State of Ohio.

Section 21. Additional Documents. The City, the Company and their respective successors, assigns and transferees agree to execute any further agreements, documents, or instruments as may be reasonably necessary to fully effectuate the purpose and intent of this Agreement.

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

CITY OF NILES

By: _____

Printed: _____

Title: _____

Approved as to Form:

Law Director City of
Niles

JRD HOLDINGS PARTNERSHIP

By: _____

Printed: _____

Title: _____

AUDITOR'S CERTIFICATE

As Auditor for the City of Niles, I hereby certify that funds sufficient to meet the obligations of the City under the foregoing Agreement have been lawfully appropriated for the purposes thereof and are available in the treasury, and/or upon implementation of the processes under O.R.C. Sections 5709.40, 5709.42 and 5709.43, are in the process of collection to the credit of an appropriate fund, free from any previous encumbrance. This Certificate is given in compliance with O.R.C. Sections 5705.41 and 5705.44.

Dated: October __, 2019

City of Niles, Ohio Auditor

EXHIBIT A
MAP OF TIF DISTRICT

9982200v2

A-1

EXHIBIT B

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements consist of any "public infrastructure improvement" defined under Section 5709.40(A)(7) of the Ohio Revised Code and that directly benefits or serves parcels in the District and any of the following improvements that will benefit or serve parcels in the District and all related costs of those permanent improvements (including, but not limited to, those costs listed in Section 133.15(B) of the Ohio Revised Code):

- **Roadways.** Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto;
- **Streetscape/Landscape.** Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto, including, but not limited to streetscape improvements in conjunction with and along the roadway improvements described in "Roadways" above;
- **Water/Sewer.** Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto, including without limitation the following:
- **Stormwater.** Construction, reconstruction and installation of stormwater and flood remediation projects and facilities, including such projects and facilities on private property when determined to be necessary for public health, safety and welfare, including without limitation the following:

- **Real Estate.** Acquisition of real estate or interests in real estate (including easements) (a) necessary to accomplish any of the foregoing improvements or (b) in aid of industry, commerce, distribution or research; and
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction and installation of the foregoing improvements and real estate.

Pursuant to the terms and conditions of this TIF Agreement, the Company has constructed or shall construct certain of these Public Infrastructure Improvements (hereinafter referred to as the "JRD Holdings Public Infrastructure Improvements"). The JRD Holdings Public Infrastructure Improvements specifically include the improvements described below and all related costs of those permanent improvements (including, but not limited to, those costs listed in O.R.C. Section 133.15(B)): [list the improvements made that provide benefit to the district; since it has been constructed already, you may attach the plans that were approved and then inspect in relation to those plans]

EXHIBIT C

FORM OF WRITTEN REQUISITION

(For Costs of JRD Public Infrastructure Improvements)

To: The City of Niles, Ohio

Attention: Auditor City of Niles, Ohio

Subject: Request for Reimbursement for Costs of JRD Holdings Public Infrastructure Improvements pursuant to the terms of the Tax Increment Financing Agreement dated _____, 2019 (the "Agreement"), by and between the CITY OF NILES, OHIO, and JRD HOLDINGS PARTNERSHIP (the "Company").

You are hereby requested to approve the amount of \$ _____ as Costs of JRD Holdings Public Infrastructure Improvements for the purposes set forth in Item I attached hereto. Unless otherwise defined herein, all capitalized terms set forth but not defined in this Written Requisition have the respective meanings assigned to them in the Agreement.

The undersigned authorized representative of the Company does hereby certify on behalf of the Company that:

- (i) I have read the Agreement and definitions relating thereto and have reviewed appropriate records and documents relating to the matters covered by this Written Requisition;
- (ii) The disbursement herein requested is for an obligation properly incurred, is a proper charge as a Cost of JRD Holdings Public Infrastructure Improvements (as defined in the Agreement), and has not been the basis of any previous reimbursement request;
- (iii) The Company is in material compliance with all provisions and requirements of the Agreement;
- (iv) The reimbursement requested hereby does not include any amount which is being retained under any holdbacks or retainages provided for in any applicable agreement;
- (v) The Company has, or the appropriate parties on the Company's behalf has, asserted its entitlement to all available manufacturer's warranties to date upon acquisition of possession of or title to the JRD Holdings Public Infrastructure Improvements or any part thereof which warranties have vested in the Company;

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EXECUTED this ___ day of _____, 20 .

By: _____

Printed: _____

Title: _____

ITEM I

Requisition No. _____ for the Costs of JRD Holdings Public Infrastructure

Improvements Pay to _____

Amount \$ _____

For Account of:
Account Number:
Wiring Instructions:

For the purpose of reimbursing the following payments previously paid by the Company for the Costs of JRD Holdings Public Infrastructure Improvements:

	Name of Vendor	Service Rendered	Time Period	Cost of Service Rendered
1.				
2.				

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