

City of Niles, Ohio

SPONSORED BY: FINANCE
AUTHORIZED BY: CANTOLA

DRAFT NO. 143-20

ORDINANCE NO. _____

AN ORDINANCE UPDATING COMPENSATION SOURCES ONLY FOR THE POSITIONS OF MAYOR, PRESIDENT OF COUNCIL, WARD COUNCIL MEMBERS AND COUNCIL MEMBERS AT LARGE, THE LAW DIRECTOR, THE AUDITOR AND THE TREASURER FOR 2021; AND, DECLARING AN EMERGENCY

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

SECTION ONE: That the annual salary of the Mayor commencing January 1, 2021 shall be \$70,085.00 plus hospitalization and the source of compensation shall be: *GF 60%; Water 6%; Light 23%; Sewer 11%*.

SECTION TWO: That the annual salary of the President of Council commencing January 1, 2021 shall be \$8431.00 and the source of compensation shall be: *GF 61%; Water 13%; Light 13%; Sewer 13%*.

SECTION THREE: That the annual salary of the Ward Council Members and Council Members-at-Large commencing January 1, 2021 shall be \$8085.00 and the source of compensation shall be: *GF 61%; Water 13%; Light 13%; Sewer 13%*.

SECTION FOUR: That the annual salary of the Auditor commencing January 1, 2021 shall be \$65,500.00 plus hospitalization and the source of compensation shall be: *GF 50%; Water 12%; Light 27%; Sewer 11%*

SECTION FIVE: That the annual salary of the Law Director commencing January 1, 2021 shall be \$43,500.00 plus hospitalization and the source of compensation shall be: *GF 61%; Water 13%; Light 13%; Sewer 13%*.

SECTION SIX: That the annual salary of the Treasurer commencing January 1, 2021 shall be \$15,000.00 and the source of compensation shall be: *GF 29%; Water 15%; Light 46%; Sewer 10%*.

SECTION SEVEN: that Ordinance No. 74-17 is hereby repealed, effective January 1, 2021 to reflect the new compensation source percentages.

SECTION EIGHT: 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 so compensation can be paid for the calendar year 2021 and to be in effect prior to the 2021 first pay period. 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 _____, 2020 and signed by me as such Mayor on the _____ day of _____, 2020.

MAYOR

City of Niles, Ohio

SPONSORED BY: FINANCE COMMITTEE
AUTHORIZED BY: CANTOLA

DRAFT NO. 144-20

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 34-19, KNOWN AS THE AUTHORIZED STRENGTH ORDINANCE, AND DECLARING AN EMERGENCY

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

SECTION ONE: Council hereby authorizes the authorized strength positions and compensations sources, **EFFECTIVE 01/01/2021** as attached hereto.

SECTION TWO: This Ordinance repeals all previously existing authorized strength ordinances and any other ordinances regarding compensation sources or pay rates in conflict with this Ordinance.

SECTION THREE: 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 prior to the effective dates. As such an emergency measure this Ordinance shall take effect upon passage by Council and approval by the Mayor.

PRESIDENT OF COUNCIL

PASSED: _____

ATTEST: _____
CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the _____ day of _____, 2020 and signed by me as such Mayor on the _____ day of _____, 2020.

MAYOR

City of Niles, Ohio

SPONSORED BY: FINANCE COMMITTEE
AUTHORIZED BY: ALL MEMBERS

DRAFT NO. 145-20

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE MAYOR AND THE SAFETY DIRECTOR TO ENTER INTO AN AGREEMENT WITH THE BOARD OF COUNTY COMMISSIONERS FOR INDIGENT LEGAL SERVICES; AND DECLARING AN EMERGENCY

WHEREAS, the City of Niles has a responsibility under the laws of the State of Ohio and the Constitution of the United States of America to provide legal counsel to indigent persons charged with serious offenses and “jailable” offenses in its municipal court; and,

WHEREAS, in furtherance of the fulfillment of this responsibility, the City desires that legal services be provided by the public defender’s office of Trumbull County to indigent persons who are charged with violations of the City’s ordinances; and,

WHEREAS, the City’s current contract for such representation by the public defender’s office will expire December 31, 2020.

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

SECTION 1: That the Mayor and Safety Director are hereby authorized to enter into an Agreement with the Trumbull County Commissioners for the provision of legal representation for all indigent defendants charged under the City’s ordinances where there is a possibility of incarceration. The agreement shall commence January 1, 2021 and end on December 31, 2021 for the cost of Seven Thousand Three Hundred Seventy-five Dollars (\$7,375.00).

SECTION 2: That Council further authorizes the cost for these services be designated in the budget for the year 2021.

SECTION 3: That this Ordinance is hereby declared to be an emergency measure in the interest of the public health, safety and welfare to allow for a new agreement to be executed pursuant to law to assure that said new agreement will be effective on January 1, 2021. As such an emergency measure, this Ordinance shall become effective 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 _____, 2020 and signed by me as such Mayor on the ____ day of _____, 2020.

MAYOR

**AGREEMENT FOR INDIGENT DEFENSE SERVICES
IN MUNICIPAL COURT
(Public Defender)**

This Agreement is entered into by and between the Trumbull County Commissioners, with a mailing address of 160 High Street N.W., (hereinafter referred to as the "COUNTY"), and the city of Niles, with a mailing address of 34 West State Street, Niles, Ohio 44446 (hereinafter referred to as the "CITY").

WHEREAS, the CITY recognizes its responsibility under the laws of the State of Ohio and of the United States of America to provide legal counsel to indigent persons charged with a violation of a City ordinance for which the penalty or any possible adjudication includes the potential loss of liberty.

WHEREAS, Trumbull County has adopted a program whereby the County Commissioners have contracted with the State to provide indigent defense services in the County of Trumbull.

WHEREAS, the County Commissioners pursuant to Ohio Revised Code §120.14 and §120.16 may enter into a contract with a municipal corporation whereby the County provides legal representation to indigent adults and juveniles charged with a violation of an ordinance of a municipal corporation for which the penalty or possible adjudication includes the potential loss of liberty and under which the municipal corporation shall pay the COUNTY for these services.

WHEREAS, these contracts must contain terms in conformance with Ohio Administrative Code 120-1-09 and the parties must follow the Ohio Public Defender Commission standards and guidelines and the COUNTY Maximum Fee Schedule for Appointed Counsel, in conflict situations, in order for the COUNTY to obtain reimbursement for indigent defense costs pursuant to Ohio Revised Code §120.18, §120.33 and §120.35.

WHEREAS, this Agreement has been authorized by the CITY by Res. /Ord. # _____, passed by the _____ CITY Council on _____ and by Resolution # _____, passed by the Board of Commissioners of Trumbull County on _____.

NOW THEREFORE, the parties do mutually agree to bind themselves as follows:

1. REPRESENTATION

- 1.1 The COUNTY, on behalf of the CITY, agrees to provide legal representation in Niles Municipal Court on or after the commencement date and during the term of this agreement in cases where the defendant is indigent and charged with any violation of a CITY ordinance and for which the penalty or any possible adjudication includes the potential loss of liberty.
- 1.2 Indigency shall be determined in accordance with the standards of indigency and other rules and guidelines established by the Ohio Public Defender's Commission and the State Public Defender, pursuant to Ohio Revised Code §120.03 and Ohio Administrative Code §120-1-03.
In addition to indigency determination, all rules, standards and guidelines issued by the office of the Ohio Public Defender and Ohio Public Defender Commission shall be followed.
- 1.3 A major purpose of this agreement is to enable the COUNTY and CITY to obtain partial reimbursement of its costs to have the State Public Defender or appointed counsel in conflict situations, provide legal representation in the Niles Municipal Court for indigent adults charged with any violation of a CITY ordinance for which the penalty or any possible adjudication includes the potential loss of liberty. Any question regarding terms or performance of this agreement should be resolved in favor of obtaining this result.

2. COMPENSATION

- 2.1 The sum of _____ Dollars (\$ _____) which shall constitute full and complete payment for all the Public Defender counsel services during the term of this agreement.
- 2.2 The sum shall be paid in annual/quarterly/monthly payments of \$ _____ dollars on the following dates: _____.
- 2.3 Amounts paid by the Municipality for representation of such indigent persons, whether by a contractual amount of fee schedule, shall not exceed the fee schedule in effect and adopted by the County Commissioners.

3. DURATION OF CONTRACT and TERMINATION

- 3.1 The term of this agreement shall be for one year, from January 1, 2021 to December 31, 2021. *This contract may be renewed for an additional one year term, i.e.: 2022, upon proper resolution of each entity agreeing to the one year extension and proper appropriation of funding for the new year. Copies of the resolutions are to be sent to the Ohio Public Defender, 250 East Broad Street, Suite 1400, Columbus, Ohio 43215).*
- 3.2 If COUNTY or CITY shall fail to fulfill in a reasonable, timely and proper manner its obligations under this agreement or if either party shall substantially violate any of the covenants, agreements or stipulations of this agreement, then the aggrieved party shall hereupon have the right to terminate this agreement by giving written notice to the other party of such termination and specifying an effective date thereof, which shall be at least thirty (30) days after such notice. Termination by either party shall not constitute a waiver of any other right or remedy it may have in law or in equity for breach of this agreement by the other party.
- 3.3 Written notice shall be considered furnished when it is sent by Certified Mail; return receipt requested or is hand delivered.
- 3.4 This agreement is automatically canceled, without requirement of notice, if any payment required by Section 2.2 of this agreement is not made within _____ business days of the date on which it is due.

4. TERMS OF AGREEMENT

- 4.1 Indigency and client eligibility for representation under this agreement shall be determined under the terms of Ohio Revised Code Section 120.05 and the Ohio Administrative Code.
- 4.2 There shall be no discrimination against any employee who is employed in the work covered by this agreement or against any application for such employment because of the race, color, religion, sex, age, handicap or national origin. This provision shall apply to, but not be limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, raises of pay or other forms of compensation, and selection for training, including apprenticeship. The COUNTY shall insert a similar provision in any subcontract for services covered by this agreement.
- 4.3 No personnel of the parties or member of the governing body of any locality or other public official or employee of any such locality in which, or relating to which, the work under this Agreement is being carried out, and who exercises any functions or responsibilities in connection with the review or approval of the understanding or carrying out of any such work, shall, prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of said work.

4.4 The COUNTY and CITY certify that all applicable parties listed in Division (I)(3) or (J)(3) of O.R.C. 3517.13 are in full compliance with Divisions (I)(1) and (J)(1) of O.R.C. 3517.13, or are executed, relative to campaign contributions.

5. MODIFICATION

5.1 This contract may not be amended orally.

5.2. This contract may be amended only by written addendum, signed and executed by the parties named herein, or their successors.

IN WITNESS WHEREOF, the parties have hereunto set their hands.

CITY OF NILES

Steven Mientkiewicz Date
Mayor

George Kaniclides Date
Director of Public Safety

TRUMBULL COUNTY COMMISSIONERS

Frank Fuda Date
County Commissioner

Daniel Polivka Date
County Commissioner

Mauro Cantalamessa Date
County Commissioner

Approved by:

Timothy Young Date
Ohio Public Defender

City of Niles, Ohio

SPONSORED BY: FINANCE AND UTILITIES
AUTHORIZED BY: CANTOLA AND SMITH

DRAFT NO. 146-20

ORDINANCE NO. _____

AN ORDINANCE CREATING A NEW CAPITAL PROJECTS FUND, FUND 407 SEWER CAPITAL IMPROVEMENTS FOR PURPOSES OF INFRASTRUCTURE 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, Sewer Infrastructure; and

WHEREAS, this ordinance will provide funding to be accumulated to contribute to the purchase of sewer infrastructure 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 407 Sewer Capital Improvements.

SECTION 2: The source of funds for the Fund 407 Sewer Capital Improvements shall be the General Fund.

SECTION 3: The fund shall continue until such time as there is an accumulation of funds sufficient for purchase of needed Sewer infrastructure in the City or for economic development or substantially similar fixed assets as decided by City Council.

SECTION 4: 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 Sewer Capital Projects 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 _____, 2020 and signed by me as such Mayor on the _____ day of _____, 2020.

MAYOR

City of Niles, Ohio

SPONSORED BY: FINANCE AND UTILITIES
AUTHORIZED BY: CANTOLA AND SMITH

DRAFT NO. 147-20

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING BUDGET TRANSFER TO SEWER CAPITAL PROJECTS FUND 407, AND DECLARING AN EMERGENCY

Whereas, City Council created the Sewer Capital Projects Fund 407; and,

Whereas, City Council desires to appropriate funding for the Sewer Capital Projects Fund 407.

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

SECTION 1: City Council authorizes Budget transfer of Eighty-Thousand (\$80,000) dollars from Sewer Miscellaneous Account 503-5353-57050 to the Sewer Transfer Account 503-5353-59000.

SECTION 2: City Council authorizes cash transfer of Eighty-Thousand (\$80,000.00) from Sewer Transfer Account 503-5353-59000 to the Sewer Capital Projects Fund 407.

SECTION 3: This Ordinance is hereby declared to be an emergency measure in the interest of the public health, safety, and welfare for the reason that the appropriation is necessary prior to the new calendar year. As such an emergency measure, this Ordinance shall take effect immediately upon passage by Council and approval by the Mayor.

PASSED: _____

PRESIDENT OF COUNCIL

ATTEST: _____

CLERK OF COUNCIL

Received by the Mayor of the City of Niles this _____ day of _____, 2020,
and approved by me as such Mayor this _____ day of _____, 2020.

MAYOR

City of Niles, Ohio

SPONSORED BY: FINANCE COMMITTEE
AUTHORIZED BY: CANTOLA

DRAFT NO. 148-20

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 39-17, PROVIDING CERTAIN BENEFITS FOR NON-UNION, FULL-TIME EMPLOYEES; AND DECLARING AN EMERGENCY

Whereas, the City has previously provided certain benefits for completing AED and CPR or First Aid training certifications and Drug and Alcohol Supervision Training (hereafter Certifications and Training) to non-union, full-time of the City; and,

Whereas, non-union full-time employees of the City will no longer receive a direct lump sum four-hundred dollar (\$400.00) payment for completing the Certifications and Training; and,

Whereas, as of 1/1/2021 the bonus is no longer in effect but is reflected in the wages in the authorized strength; and,

Whereas, non-union employees of the City are still required to receive the annual Certifications and Training.

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

SECTION 1: Effective January 1, 2021 any non-elected, non-union, full-time employee who completes the Certifications and Training scheduled and authorized by the Mayor and/or Service Director, will no longer receive direct compensation in the amount of four-hundred dollars (\$400.00).

SECTION 2: That the direct compensation previously received by the non-union full-time employees will now be part of the wage compensation increasing the hourly rate by .48 cents (forty-eight).

SECTION 3: That the non-union part time employees are still required to receive the annual Certifications and Training.

SECTION 4: This ordinance is hereby declared an emergency measure in the interest of the public health, safety, and welfare, for the reason that Council desires to have this legislation effective as soon as possible so that wages may be adjusted for the new calendar year. 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 _____, 2020 and signed by me as such Mayor on this _____ day of _____, 2020.

MAYOR

City of Niles, Ohio

SPONSORED BY: FINANCE COMMITTEE
AUTHORIZED BY: CANTOLA

DRAFT NO. 149-20

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING GENERAL FUND BUDGET TRANSFERS ; AND,
DECLARING AN EMERGENCY

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

SECTION 1: That Council hereby authorizes the following transfers:

Appropriation Budget Transfers		
GENERAL FUND 101 (TRANSFER)		
Account Number	Description	+/- Appropriation
101-1005-57010	Misc. Refunds	\$60.00
101-1005-56800	Contracted Labor	(\$60.00)
101-1007-52050	Workmen's Comp	\$160.00
101-1007-52500	FICA	\$5.00
101-1007-53980	Contracted Labor	(\$165.00)
101-1030-51010	Wages	\$600.00
101-1090-57050	Miscellaneous	(\$600.00)

SECTION 2: This Ordinance 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 immediately needed for City financial obligations. As such an emergency measure, this Ordinance shall take effect immediately upon passage by Council and approval by the Mayor.

PASSED: _____

PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

Received by the Mayor of the City of Niles this _____ day of _____, 2020,
and approved by me as such Mayor this _____ day of _____, 2020.

MAYOR

City of Niles

SPONSORED BY: FINANCE
AUTHORIZED BY: CANTOLA

DRAFT NO. 150-20

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE TRANSFER OF FUNDS FROM THE WATER DEPARTMENT TO THE GENERAL FUND FOR LOAN REPAYMENT

WHEREAS, On July 7, 2004, the General Fund loan \$1,599,623 (\$1,400,000 in principal and \$199,623 in interest) to retire a note of the water fund. The Water Fund paid \$165,000 of principal on this note.

WHEREAS, the original repayment schedule from the Water Fund to the General Fund was to be fully repaid over an eleven year period beginning in July of 2005, due to financial constraints in the Water Fund the repayment did not occur.

WHEREAS, the current receivable balance in the General Fund for this loan is \$959,775 and there is a corresponding payable entry in the Water Fund.

WHEREAS, the Water Fund resumed repayment of this Loan in December of 2019.

WHEREAS, Council authorizes a partial repayment of the loan in the amount of \$160,000.00.

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

SECTION 1: That Council hereby approves a partial repayment of the loan transferring \$160,000 from the Water Fund 501 to the General Fund 101.

SECTION 2: This Ordinance is hereby declared to be an emergency measure in the interests of the public health, safety, and welfare, for the reason that the fund shall be transferred prior to the start of the Fiscal Year on January 1, 2021. 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

Received by the Mayor of the City of Niles this _____ day of _____, 2020,
and approved by me as such Mayor this _____ day of _____, 2020.

Mayor

City of Niles

SPONSORED BY: FINANCE COMMITTEE
AUTHORIZED BY: CANTOLA

DRAFT NO. 151-20

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE APPROPRIATION OF FUNDS FROM VARIOUS FUNDS FOR THE PURPOSE OF THE 2020 BOND ISSUANCE AND RETIRING THE 2011 BOND ISSUANCE AND DECLARING AN EMERGENCY.

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

SECTION 1: Council hereby authorizes the following appropriations from various funds for the purpose of the 2020 bond issuance and the retiring the 2011 Bond Issuance:

APPROPRIATION FROM UNAPPROPRIATED FUNDS		
Police & Fire 1% Fund		
Account Number	Description	Appropriation
217-1715-56300	Equipment Purchase	\$600,000.00
217-1715-59260	Bond Issuance Costs	\$7,686
TOTAL POLICE & FIRE 1% FUND		\$607,686
Park Fund 221		
Account Number	Description	Appropriation
221-2121-59250	Payment to Bond Escrow Agent	\$2,030,995
221-2121-59260	Bond Issuance Costs	\$17,821
TOTAL PARK FUND		\$2,048,816
Street Fund 223		
Account Number	Description	Appropriation
223-2323-56300	Equipment Purchase	\$270,000.00
223-2323-59260	Bond Issuance Costs	\$3,458.00
TOTAL STREET FUND		\$273,458.00
Water Fund 501		
Account Number	Description	Appropriation
501-5151-59250	Payment to Bond Escrow Agent	\$702,069
501-5151-59260	Bond Issuance Costs	\$7,829
501-5151-56300	Equipment Purchase	\$130,000
TOTAL WATER FUND		\$839,898.00
Sewer Fund 503		
Account Number	Description	Appropriation
503-5353-59250	Payment to Bond Escrow Agent	\$1,960,783
503-5353-59260	Bond Issuance Costs	\$17,205
TOTAL SEWER FUND		\$1,977,988.00

SECTION 2: This Ordinance is hereby declared to be an emergency measure in the interest of the public health, safety, and welfare for purposes of the 2020 Bond Issuance and 2011 Bond Retirement. As such an emergency measure, this Ordinance shall take effect upon passage by Council and approval by the Mayor.

PRESIDENT OF COUNCIL

PASSED: _____

ATTEST: _____
CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the _____ day of _____, 2020 and signed by me as such Mayor this _____ day of _____, 2020.

MAYOR

City of Niles, Ohio

SPONSORED BY: FINANCE
AUTHORIZED BY: CANTOLA

DRAFT NO. 152-20

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING YEAR END CASH TRANSFERS; AND,
DECLARING AN EMERGENCY

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

SECTION 1: Authorizing the cash transfer of One Million Seven Hundred Five Thousand Five Hundred Ninety dollar and 05/100 cents (\$1,705,590.05) 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	\$45,000.00
FUND 216	Fire Pension	\$45,000.00
FUND 217	Police & Fire 1%	\$1,100,000.00
FUND 221	Park	\$250,000.00
FUND 255	Cemetery	\$25,000.00
FUND 401	Capital Projects	\$60,590.05
FUND 404	Fire Truck Replacement	\$80,000.00
FUND 405	Park Capital Improvements	\$50,000.00
FUND 406	Police Capital Improvements	\$50,000.00
		\$1,705,590.05

SECTION 2: This Ordinance 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 pursuant to Ohio Revised Code. 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 _____, 2020 and signed by me as such Mayor on this _____ day of _____, 2020.

_____ MAYOR

City of Niles, Ohio

SPONSORED BY: FINANCE
AUTHORIZED BY: CANTOLA

DRAFT NO. 153-20

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING APPROPRIATIONS FROM UNAPPROPRIATED FUNDS TO PAYROLL CLEARING FUND 665; AND, DECLARING AN EMERGENCY

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

SECTION 1: Authorizing the following appropriation of Three Hundred Fifty Thousand dollars and 00/100 cents (\$350,000.00).:

APPROPRIATION FROM UNAPPROPRIATED FUNDS		
PAYROLL CLEARING FUND 665		
Account Number	Description	Appropriation
665-6565-50001	Net Payroll Expense	\$250,000.00
665-6565-50002	Payroll Deduction Expense	\$100,000.00
TOTAL PAYROLL CLEARING FUND		\$350,000.00

SECTION 2: This Ordinance is hereby declared to be an emergency measure in the interest of the public health, safety, and welfare for the reason that this appropriation is required prior to the next calendar year. 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 _____, 2020 and signed by me as such Mayor on this ____ day of _____, 2020.

MAYOR

City of Niles, Ohio

SPONSORED BY: FINANCE AND SAFETY
AUTHORIZED BY: CANTOLA AND MARCHESE

DRAFT NO. 154-20

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING APPROPRIATIONS FROM UNAPPROPRIATED GENERAL FUND FOR PURPOSES OF PURCHASING THE FIRE TRUCK; AND, DECLARING AN EMERGENCY

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

SECTION 1: City Council authorizes appropriation of 61,000 from General fund 101 to the General Fund Transfer Account 101-1090-59000.

SECTION 2: City Council authorizes cash transfer of 61,000 from General Fund Transfer Account 101-1090-59000 to the Police & Fire 1% Fund 217.

SECTION 3: City Council authorizes appropriation of 61,000 from Police & Fire 1% Fund 217 to the Fire Equipment purchases account 217-1715-56300.

SECTION 4: This Ordinance is hereby declared to be an emergency measure in the interest of the public health, safety, and welfare for the reason that this appropriation is required in order to purchase the fire truck. 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 _____, 2020 and signed by me as such Mayor on this _____ day of _____, 2020.

MAYOR

City of Niles, Ohio

SPONSORED BY: SAFETY
AUTHORIZED BY: MARCHESE

DRAFT NO. 155-20

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING THE DONATION FROM THE NILES FOP FOR THE PURPOSE OF PURCHASING A POLICE VEHICLE AND APPROPRIATING THE DONATION FUNDS IN ORDER TO PURCHASE THE VEHICLE; AND, DECLARING AN EMERGENCY

WHEREAS, Our Lady of Mt. Carmel donated Ten Thousand dollars and 00/100 cents (\$10,000.00) to the Niles FOP for purposes of purchasing a police vehicle; and,

WHEREAS, the Niles FOP is donating the Ten Thousand Dollars and 00/100 cent (\$10,000.00) to the City of Niles for the purchase of a police vehicle; and,

WHEREAS, Council desires to accept the donation and appropriate the funds to the necessary accounts in order to purchase the intended vehicle.

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

SECTION ONE: Council hereby accepts from the Niles FOP the Ten Thousand dollar and 00/100 (\$10,000) cents donation for purposes of purchasing a police vehicle

SECTION TWO: Council authorizes appropriation from the Unappropriated Police and Fire 1% Fund 217 to the Police Equipment purchases account 217-1710-56300 in the amount of Ten Thousand Dollars and 00/100 cent (\$10,000.00).

SECTION THREE: This ordinance is hereby declared to be an emergency measure in the interests of the public health, safety, and welfare, and to assure that this donation can be utilized at the earliest possible date. 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 _____, 2020 and signed by me as such Mayor this _____ day of _____, 2020.

MAYOR

City of Niles, Ohio

SPONSORED BY: UTILITIES AND FINANCE
AUTHORIZED BY: SMITH AND CANTOLA

DRAFT NO. 156-20

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE PURCHASE OF A NEW CAT 420 IT THROUGH THE STATE PURCHASING PROGRAM; AND, DECLARING AN EMERGENCY

WHEREAS, the City attempted to competitively bid the purchase of this equipment and received no bids, and,

WHEREAS, the City located through Sourcewell State Purchasing program the attached quote for a new CAT 420 IT, and,

WHEREAS, Council approval is required for the purchase.

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

SECTION 1: Council hereby authorizes the purchase of a new CAT 420 IT through the Sourcewell State Purchasing Program or as otherwise authorized by law.

SECTION 2: This Ordinance is hereby declared to be an emergency measure in the interest of the public health, safety, and welfare, for the reason that purchase of this equipment is needed as soon as possible. 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 _____, 2020 and signed by me as such Mayor this _____ day of _____, 2020.

MAYOR

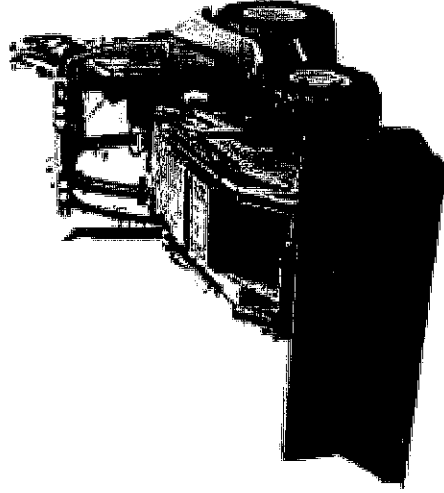


Quote 212276-01

December 11, 2020

CITY OF NILES

34 W STATE ST
NILES, Ohio 44446-5036



David Liste,

Thank you for your interest in Ohio CAT and Caterpillar products for your business needs. This quotation is valid for 30 days.

One (1) New Caterpillar Model: **420 Backhoe** with all standard equipment in addition to the additional specifications listed below:

STOCK NUMBER: **SERIAL NUMBER:** **YEAR:** **SMU:**

STANDARD EQUIPMENT

BOOMS, STICKS, AND LINKAGES -BACKHOE – 14'4" Center pivot backhoe –4.3 Meters -- Boom and swing transport locks -- Pilot operated backhoe and -electro hydraulic stabilizer controls -- Street type stabilizer shoes -- Anti-drift hydraulics (boom, stick, -and E-stick) -- Cat Cushion Swing(tm) system -LOADER -- Single Tilt Loader -- Lift cylinder brace -- Self-leveling loader with single -lever control -- Return-to-dig -(automatic bucket positioner) -- Transmission neutralizer switch -- Bucket level indicator -

POWERTRAIN -- Water separator -- Thermal starting aid system -- Dry type axial seal air cleaner with -integral precleaner -- Automatic dust ejection system -- Filter condition indicator -- Hydraulically boosted multi-plate -wet disk brake with dual pedals & -interlock -- Differential lock -- Torque converter -- Transmission-four speed manual shift -- Neutral safety switch -- Spin-on filters for -Fuel -Engine oil -Transmission oil -- Outboard Planetary Rear Axles -- Diesel particulate filter -- Hydrostatic power steering

HYDRAULICS -- Pilot hoe and mechanical loader -controls -- Load sensing, variable flow system -with 43 gpm (162 L/min) axial piston -pump -- 6 micron hydraulic filter -- Caterpillar XT-3 hose -- Hydraulic oil cooler -- Pilot control shutoff switch -- Flow-sharing hydraulic valves -- Hydraulic suction strainer -

ELECTRICAL -- 12 volt electrical start -- Horn, front and rear -- Backup alarm -- Hazard flashers/turn signals -- Halogen head lights (2) -- Halogen rear flood lights (2) -- Stop and tail lights -- Audible system fault alarm -- Key start/stop system -- 850 CCA maintenance free battery -- Battery disconnect switch -- External Power Receptacle (12v) -- Diagnostic ports for engine and -machine Electronic Control Modules

OPERATOR ENVIRONMENT -- Interior rearview mirror -- ROPS canopy, Rear Fenders -- 2-inch (50mm) retractable seat belt -- Tilt steering column -- Steering knob -- Hand and foot throttle -- Automatic Engine Speed Control -- One Touch Low Idle -- Floor mat and Coat Strap -- Lockable storage area -- Air suspension seat -

FLUIDS -- Antifreeze - Extended Life Coolant --20F (-30C)

OTHER STANDARD EQUIPMENT -- Standard Storage Box -- Transport tie-down points -- Ground line fill fuel tank with -42.3 gal (160L) capacity & 5 gal (19L) -diesel exhaust fluid -- Rubber impact strips on radiator-guard -- CD-ROM Parts Manual -- Safety Manual -- Operations and Maintenance Manual -- Lockable hood -- Tire Valve Stem Protection

MACHINE SPECIFICATIONS

420 07A BACKHOE LOADER CFG2	542-7992
STICK, EXTENDABLE, 14FT	543-4284
PT, 4WD/2WS, POWERSHIFT	544-1066
ENGINE, 74.5KW, C3.6 DITA, T4F	541-9540
HYD, MP, 6FCN/8BNK, ST, QC	554-4188
CAB, DELUXE	544-0883
DISPLAY, STANDARD	545-5047
WORKLIGHTS (8) HALOGEN LAMPS	491-6734
SEAT, DELUXE FABRIC	573-4524
BELT, SEAT, 2" SUSPENSION	206-1747
AIR CONDITIONER, T4F	542-7810
PRODUCT LINK, CELLULAR, PLE643	560-6797
TIRES, 340 80R18/500 70R24, MX	533-0479
COUNTERWEIGHT, 1015 LBS	337-9696
STABILIZER PADS, FLIP-OVER	9R-6007
BUCKET-HD, 24", 6.2 FT3	219-3387
COUPLER, PG, HYD.D.LOCK,BHL	485-5303
RIDE CONTROL	551-6453
COUPLING,QD,THREADED WITH CAPS	456-3390
LINES, COMBINED AUX, E-STICK	548-1231
LINES BOOM, HBCV	578-0794
BEACON, MAGNETIC MOUNT, STROBE	433-0154
RADIO, FM BLUETOOTH	540-2298
FAN	387-6682
BATTERY, HEAVY DUTY	516-5913
COLD WEATHER PACKAGE, 120V	551-6940
AUTO-UP STABILIZERS	567-5090
PLATE GROUP - BOOM WEAR	423-7607
GUARD, STABILIZER	353-1389
FENDERS, FRONT 4WD	563-6098
MIRRORS, EXTERNAL, BOTH SIDES	382-2499
LINES,HYD CPLR 14FT EXT PILOT	555-2396
PINS, SPARE	318-9902
HAMMER, B8S, BHL	532-9300
BUCKET-MP, 1.3 YD3, IT	216-8810
CUTTING EDGE, TWO PIECE	9R-5321
SHIPPING/STORAGE PROTECTION	461-6839
RUST PREVENTATIVE APPLICATOR	462-1033
BUCKET-HD, 18", 4.2 CFT	219-3386

WARRANTY

Standard Warranty:

12 Month/unlimited hours Full Machine. All standard warranties include travel time & mileage for first twelve months. Scheduled Oil sampling is required during entire warranty period.

Extended Coverage:

420-48 MO/5000 HR POWERTRAIN + HYDRAULICS + TECH (Tier 4)

F.O.B./TERMS: Ohio CAT

PAYMENT TERMS

List Price: \$179,232.00 – 2021 CAT Pricing

Less: (Sourcewell Discount – Member ID# 18151 City of Niles – 22% - \$39,431.04)
Less: (Ohio CAT – Winter Inv. Reduction Discount – 8% - \$14,338.56)

Selling Price: \$125,462.40

Machine Prep: \$2,000.00

Full Machine Warranty – 1 Year: \$980.00

Ext. Warranty – 4 Years: \$1,580.00

Balance: \$130,022.40

Accepted By: _____

Print Name: _____

Signature: _____

Date: _____

Regards,

Andrew Smith
Machine Sales Representative
Ohio CAT
asmith@ohiocat.com
330-442-0374

City of Niles, Ohio

SPONSORED BY: PUBLIC GROUNDS
AUTHORIZED BY: SOLLITTO

DRAFT NO. 157-20

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING PHILLIPS/SEKANICK ARCHITECTS, INC. TO ISSUE REQUESTS FOR BIDS FOR INTERIOR REPAIRS AND RENOVATIONS OF THE CITY OF NILES ADMINISTRATION BUILDING; AND DECLARING AN EMERGENCY

WHEREAS, Council previously approved a plan for repairs to City owned Buildings; and

WHEREAS, the City desires to move to the next phase of the plan for renovations and repairs to the City of Niles Administration Building; and

WHEREAS, the firm of Phillips/Sekanick Architects, Inc. will issue requests for bids for completion of the necessary repairs and renovations.

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

SECTION 1: Council hereby authorizes the firm of Phillips/Sekanick Architects, Inc., to issue bids for completion of the necessary interior repairs and renovations of the City of Niles Administration building.

SECTION 2: This Resolution is hereby declared to be an emergency measure in the interest of the public health, safety, and welfare, and to allow the City of Niles to move forward with the next phase of the renovation project at the earliest possible date. 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 _____, 2020 and signed by me as such Mayor on the _____ day of _____, 2020.

MAYOR

Niles Municipal Building - Interior Renovation
34 W. State St.
Niles, OH 44446

prepared by Phillips|Sekanick
 December 2, 2020

DESCRIPTION	Q05E
Exterior Improvements	
Entry Canopy Recladding	\$ 8,000.00
East Railing Replacement	\$ 1,100.00
Subtotal Exterior Improvements	\$ 9,100.00

Basement	
Demolition	\$ 500.00
Walls	\$ 8,500.00
Doors/Frames/Basic Hardware	\$ 2,500.00
Flooring	\$ 9,600.00
Ceiling Repair/Replacement	\$ 1,800.00
Restroom Renovation	\$ 16,100.00
LED Lights	\$ 6,700.00
Subtotal Basement	\$ 45,700.00

First Floor	
Demolition	\$ 3,600.00
Walls	\$ 14,900.00
Doors/Frames/Basic Hardware	\$ 18,500.00
Flooring	\$ 8,800.00
Ceiling Repair/Replacement	\$ 2,900.00
Restroom	\$ 14,500.00
LED Lights	\$ 14,500.00
Subtotal First Floor	\$ 77,700.00

Second Floor	
Demolition	\$ 3,000.00
Walls	\$ 24,300.00
Doors/Frames/Basic Hardware	\$ 9,900.00
Flooring	\$ 11,700.00
Ceiling Repair/Replacement	\$ 8,200.00
Restroom	\$ 14,500.00
LED Lights	\$ 11,300.00
Subtotal Second Floor	\$ 82,900.00

Renovation Subtotal	\$ 215,400.00
Allowance and Contingency	
Basement Water Issue Allowance	\$ 15,000.00
Contingency	\$ 18,000.00
Allowance and Contingency Subtotal	\$ 33,000.00

Renovation Total	\$ 248,400.00
Electronic Door Locks	
Electronic Door Locks - Basement (8)	\$ 28,600.00
Electronic Door Locks - First Floor (15)	\$ 53,625.00
Electronic Door Locks - Second Floor (19)	\$ 67,925.00
	\$ 150,150.00

Grand Total	\$ 398,550.00
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Does not include adding floor drains in Electrical Ware Room
 Does not include replacing any mechanical units

City of Niles, Ohio

SPONSORED BY: UTILITIES AND TECHNOLOGY
AUTHORIZED BY: SMITH AND MCNAUGHTON

DRAFT NO. 158-20

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR OR HIS DESIGNATED REPRESENTATIVE TO ENTER INTO A SERVICE CONTRACT WITH NECO TO REPLACE RF OUTSIDE TRANSMITTERS AND PROCODER REGISTERS AND, DECLARING AN EMERGENCY

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

SECTION 1: That the Service Director is hereby authorized to enter into a service contract with NECO (see attached) for Professional Services to replace existing water meters that have not been able to be read by the City of Niles and to replace the following:

1. 1,000 RF Outside Transmitters (no inside access necessary)
2. 978 ProCoder Registers (inside access is necessary)

SECTION 2: That this Ordinance is hereby declared to be an emergency measure in the interest of the public health, safety, and welfare and to allow engagement to begin as soon as possible. As such an emergency measure, this Ordinance shall take effect upon passage by Council and approval by the Mayor. If not so passed as an emergency measure, it shall become effective at the earliest date allowed by law.

PASSED: _____

PRESIDENT OF COUNCIL

ATTEST: _____

CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the _____ day of _____, 2020 and signed by me as such Mayor on the _____ day of _____, 2020.

MAYOR



11082 Southland Road
Cincinnati, OH 45240
(513) 851-8008
Fax (513) 851-8009

Scope of Work – Water Meter and Reading System

City of Niles intends to enter into a Service Contract and replace the following:

1,000 RF outside Transmitters (no inside access necessary)

978 ProCoder Registers (inside access is necessary)

as a targeted approach to repair the existing meters that have not able to be read by the City.

The intent is to replace the existing R450 RF Transmitter and replace with a R900 RF Transmitter. The R900 RF transmitter can be read both by Mobile and Fixed Network transmission. The technology improves the ability to collect reading in difficult locations where Fixed RF reception may be difficult to receive.

Product Pricing Program subject the Neptune Technology Group approval. Pricing may change.

Safety is important:

COVID 19 Precautions

NECO and the City of Niles have a high priority for safety all everyone involved with this project. If you or someone in your home is under quarantine for COVID 19 and are unable to schedule a time for installation, you are asked to contact the City of Niles and notify them accordingly.

Both NECO and the City of Niles will follow federal, state and local guidelines regarding COVID 19. All of our policies and procedures comply with the Center for Disease Control and Ohio Department Health guidelines and recommendations. If the County is in either Red or Purple, we reserve the right to cease installation for inside locations.

Residents are asked to maintain social distancing when the NECO installer completes the installation.

If you have any questions or concerns regarding COVID 19 and this project, you are asked to contact the City of Niles.

Customer Notification:

(For 978 - Register Inside replacement access locations only)

The City requires at least three contact attempts to be made for **all inside** installations. These include 3 attempts by the contractor:

Initial letter from the City (on City letterhead)

Up to Two(2) letters to schedule install attempt by Contractor NECO; at least one week apart

A final door hanger from the Contractor NECO as final attempt

After these attempts have been completed, the Contractor will then submit a list of non-responsive customers to the City along with documentation of the dates of the attempted contacts. The City will then intervene to schedule the installation.

Pit mounted meters will not require an appointment. The customer will be notified that the water will be shut off the water before the replacement is begun.

Installation Details:



NECO
Smart Solutions. Water Powered

11082 Southland Road
Cincinnati, OH 45240
(513) 851-8008
Fax (513) 851-8009

The following summary describes the general steps of the installation work to be done. The actual work may differ from this description, and will not be limited to these actions:

- Replace old non-working register with new register to existing RF Transmitter unit
- Use existing wiring or new wiring from the meter to the location of the RF Transmitter unit
- Test installation with Manufacturer's recommended verification process
- Clean work area
- Complete paperwork
- Inform homeowner of actions
- Complete workorder to City

(When completing the installation, it is a normal practice inform the customer about details in the completed installation.)

Any additional work requested by the Water Department will be performed on a negotiated time and material basis.

Other Services

- In the intent to replace non-working register
- 1 If the wiring requires to be replaced, additional charges will be added \$ 25.00
- 1 if both register and RF transmitter needs to be replaced, Additional labor charges may be necessary to complete both repairs \$ 95.00

Approval

City of Niles

Date

Date

NECO

Name _____

Name

City of Niles, Ohio

SPONSORED BY SAFETY
AUTHORIZED BY: MARCHESE

DRAFT NO. 159-20

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE SAFETY DIRECTOR/OR HIS DESIGNATED REPRESENTATIVE TO ENTER INTO A CONTRACT WITH FINLEY FIRE EQUIPMENT FOR THE PURCHASE OF A NEW FIRE TRUCK, AND DECLARING AN EMERGENCY

WHEREAS, requests for bids for the New Fire Truck were advertised pursuant to the Ohio Revised Code;

WHEREAS, the total amount of the New Fire Truck is Six Hundred Sixty Thousand and Nine Hundred and Thirty-Five Dollars and 00/100 (\$660,935.00).

WHEREAS, the Safety Director and/or his designated representative, is authorized to contract on behalf of the City of Niles with Finley Fire Equipment as the lowest and best bidder.

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

SECTION 1: Council hereby authorizes the Safety Director and/or his designated representative to contract with Finley Fire Equipment as the lowest and best bidder for the New Fire Truck.

SECTION 2: This Ordinance is declared to be an emergency measure in the interest of the public health, safety, and welfare and to effectuate the purchase as soon as possible. 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 _____, 2020 and signed by me as such Mayor on this _____ day of _____, 2020.

MAYOR

City of Niles, Ohio

SPONSORED BY: UTILITIES AND SAFETY
AUTHORIZED BY: SMITH AND MARCHESE

DRAFT NO. 160-20

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR OR HIS DESIGNATED REPRESENTATIVE TO ENTER INTO A PROFESSIONAL SERVICE CONTRACT WITH PRIME AE GROUP FOR TRAFFIC SIGNAL STUDIES AND, DECLARING AN EMERGENCY

Whereas, grants through Eastgate Regional Council of Governments and Ohio Department of Transportation are available from the Congestion Mitigation/Air Quality Fund, and

Whereas, in order to apply for these funds, the City of Niles must submit studies that document existing traffic signal information and potential improvements.

Whereas, Prime AE group provided the attached proposals for four studies at Ninety Thousand dollars and 00/100 cents (\$90,000.00)

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

SECTION 1: That the Service Director or his designated representative is hereby authorized to enter into a professional service contract with Prime AE Group to complete the necessary studies in order to apply for the grant funds.

SECTION 2: That this Ordinance is hereby declared to be an emergency measure in the interest of the public health, safety, and welfare and to allow engagement to begin as soon as possible in order to expedite grant application process. As such an emergency measure, this Ordinance shall take effect upon passage by Council and approval by the Mayor. If not so passed as an emergency measure, it shall become effective at the earliest date allowed by law.

PASSED: _____

_____ PRESIDENT OF COUNCIL

ATTEST: _____

CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the _____ day of _____, 2020 and signed by me as such Mayor on the _____ day of _____, 2020.

_____ MAYOR

October 6, 2020

Mr. Kevin Robertson
Project Manager / Public Utilities & Infrastructure Coordinator
Department of Engineering
City of Niles
34 West State Street
Niles, Ohio 44446

**Subject: Proposal for Professional Engineering Services
Corridor Study
U.S. 422 (North Road to Niles Vienna Road)**

Dear Mr. Robertson,

PRIME AE Group (PRIME) is pleased to submit this proposal to provide professional engineering services to the City of Niles. The purpose of this study is to document existing traffic signal information as well as crash patterns and safety analysis which can be used to apply for one or both of the following funding sources:

- Congestion Mitigation/Air Quality (CMAQ) through the Eastgate Regional Council of Governments,
- Safety Funding through the Ohio Department of Transportation (ODOT).

As you are aware, we have met with Eastgate and reviewed their funding submittal requirements in preparation to submit for funding in the Spring/Summer of 2021. ODOT accepts Safety Funding applications twice per year, once on April 30th and the other on September 30th. We will prepare to submit the safety study portion to meet the Spring of 2021 deadline. The Scope of Services below outlines the requirements and PRIME's approach to conducting the analysis. A Fee Proposal and Schedule is provided following the Scope of Services.

SCOPE OF SERVICES

The following Scope has been divided into two section: CMAQ and Safety Funding.

Study Area – The study area for this project will encompass the following intersections and roadway segments along U.S. 422:

1. North Road
2. West Call Center
3. Eastwood Mall - West
4. Gypsy Lane
5. Eastwood Mall - East
6. Best Buy
7. Johnny Cake Road
8. Niles Cortland Road
9. Niles Vienna Road

CMAQ Application

1. Traffic Counts - Our traffic counters will mobilize to the various intersections and collect detailed turning movement traffic counts for at least 12 hours on a typical day. Although the COVID pandemic has influenced traffic volume throughout the State of Ohio, ODOT now has determined that traffic has normalized and are accepting new counts.



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www.primeeng.com

2. Existing Corridor Geometrics – PRIME will prepare an existing conditions diagram that will identify current intersection layouts, lane assignment, spacing, signage and pavement markings for use in conducting signal warrants, capacity analysis and corridor operation.
3. Signal Warrants - Following completion of the traffic counts, we will establish existing (2020) traffic volumes for each intersection and perform a signal warrant analysis on each. The results of that analysis will be submitted to the City for information and approval. The signal warrant studies will be conducted using information provided in the latest version of the Ohio Manual of Uniform Traffic Control Devices (OMUTCD).
4. Inventory of Existing Traffic Control Equipment, Signal Head Arrangement, Signing and Striping, and Signal Timing - An inventory of existing traffic signal appurtenances will be conducted in this phase of the project. In conducting this effort, PRIME will require the services of City staff to gain access to the controller cabinets. That information will be compiled in a computerized inventory using Excel, or other spreadsheet formats required by the City. Photographs of each intersection and controller will be taken at that time for inclusion in the report.
5. Speed and Delay Travel Study – PRIME will conduct real time speed and delay studies on the corridor using Tru Traffic, which is a GPS-based in-car data collection software program used to accurately measure actual corridor travel time. The results of these studies will be used to support funding applications.
6. Traffic Signal Operation Analysis - Once design traffic has been established, PRIME will conduct peak-hour capacity analyses at each intersection, using both existing and optimal signal phasing and timings. The Highway Capacity Software (HCS) will be utilized in this effort.
7. Interconnection and Networking Analysis - Using the design year traffic volumes established in the previous task, PRIME will conduct an arterial analysis of the system to establish optimal signal timings and offsets. Several different model runs will be conducted to assure optimal results. In conducting this effort, PRIME proposes to utilize the SYNCHRO analysis program, which is a powerful systems analysis tool approved by ODOT for use in projects such as this. As part of this task, recommendations for signal equipment, detection and interconnection will be provided.
8. Existing and Future Conditions Report - As the final product of this project stage, an electronic report will be prepared for submittal to the City and/or other agencies. This report will include all the information collected in the previous tasks. An estimate of probable construction cost also will be included in this report.

Safety Funding Application

1. Existing Conditions - Similar to the CMAQ application, an existing conditions diagram will be prepared using observations from field notes, site photos and Google Maps to determine characteristics influential to safety such as lane widths, speed limits, pavement/pavement marking conditions, lighting, etc. This information plays a crucial role in the safety analysis as it will be used to develop the Potential for Safety Improvement or PSI.
2. Crash Data Collection – Applicable crash data from the most recent three years will be collected from ODOT's GIS Crash Analysis Tool (GCAT) which will be used in completing the safety analysis. From the data, PRIME will develop a collision diagram to better demonstrate high crash locations and any crash patterns present along the corridor or at specific intersections.



3. Crash Analysis – PRIME will utilize the data collected to perform a safety analysis utilizing ODOT's Economic Crash Analysis Tool (ECAT). This analysis considers the historical crash data, site-specific characteristics, and similar site crash history to produce the PSI. A summary of the relevant crash patterns and statistics will also be provided.
4. ODOT Meeting and Coordination – PRIME will meet with the ODOT District 4 Safety Engineer to discuss the corridor regarding crash patterns, traffic conditions and overall corridor safety along with any potential safety-related improvements suggested by ODOT.
5. Identification and Analysis of Countermeasures – The results of the ECAT analysis will aid in the determination of the safest and most cost-effective countermeasures. PRIME will develop several of these proposed countermeasures. Once they have been identified, they will be evaluated and summarized for their effectiveness in mitigating any of the discovered crash issues. A cost-benefit analysis will also be performed to weigh the actual costs of the countermeasure to its expected impact on the safety of the segment or intersection.
6. Recommendation and Prioritization – With the results of the countermeasure evaluations, PRIME will determine and recommend the best and most cost-effective action to help mitigate any of the crash patterns identified. Several recommendations, i.e. short and long term, may be made depending on the location and severity of the crashes. A proposed conditions diagram may also be developed.
7. Safety Study Report – The content and findings listed above will be gathered and summarized in a final report to be used in the Safety Funding submission. This report will identify and contain all data and analysis required by ODOT for an application of this type.
8. Funding Assistance – PRIME will assist the City in applying for construction funding by preparing funding applications, making presentations to funding authorities and coordinating interagency communications for both CM/AQ and Safety funds.

SCHEDULE

PRIME will complete the study in time to make submission to Eastgate and ODOT for funding.

COMPENSATION AND PAYMENT

PRIME shall be paid a Lump Sum Fee of Thirty Thousand dollars (\$30,000.00) to complete the Scope of Services outlined in this proposal. You will be invoiced monthly on a percentage completion basis.

TERMS AND CONDITIONS

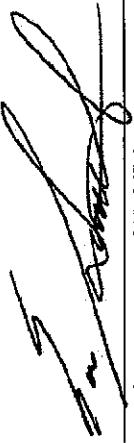
If you agree with the proposal and the attached Terms and Conditions, please indicate so by signing below. Should you have any questions, or wish to modify any of the contents herein, please mark accordingly and return at your earliest convenience.



CONCLUSION

Thank you for this opportunity to serve you on this important project. Should you have any questions regarding this matter, please do not hesitate to call at 330.730.3095.

Respectfully,
PRIME AE Group, Inc.



Eric Smith, PE, PTOE, MBA
Vice President-Traffic Engineering

Approved by:

Kevin Robertson
Project Manager / Public Utilities & Infrastructure
Coordinator



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www.primeeng.com



**PRIME AE Group, Inc.
Traffic Engineering Services
Standard Terms & Conditions**

1. **General.** These Standard Terms & Conditions, together with the accompanying proposal, constitute the full and complete Agreement between PRIME AE Group, Inc. (and its affiliates and subsidiaries) ("PRIME AE") and the entity or person to whom the proposal is addressed ("Client") to perform basic or additional services as set forth in the proposal. PRIME AE and Client may be referred to collectively herein as "the parties", and any one of them may be referred to as "a party". The technical and pricing information in the proposal is the confidential and proprietary property of PRIME AE and shall not be disclosed or made available to third parties without the written consent of PRIME AE. Unless otherwise specified in the proposal, the proposal fees and schedule constitute PRIME AE's best estimate of the charges and time required to complete the project. As the project progresses, site conditions, changes in the law, or other unknown facts or events may dictate revisions in scope and fee. PRIME AE will inform Client of such situations so that proposal revisions can be accomplished. The parties agree to negotiate such revisions in good faith.

2. **Performance of Services.** PRIME AE's services will be performed in accordance with generally accepted practices and ordinary skill and care of engineers providing similar services at the same time, in the same locale, and under like circumstances. Client agrees that PRIME AE has been engaged to provide professional services only, and that PRIME AE does not owe a fiduciary duty or responsibility to Client. There are no intended third-party beneficiaries to this Agreement. No other warranty, express or implied, is included or intended by the Agreement. PRIME AE is an independent contractor and nothing in this Agreement shall be construed to create a partnership, joint venture, or create a relationship of employer/employee or principal/agent between PRIME AE and Client or its subcontractors or consultants. PRIME AE does not represent or warrant that any permit or approval will be issued by any governmental body in view of the complexity and the frequent changes in applicable rules and regulations and interpretations by authorities.

3. **Modification.** This Agreement may be changed, amended, added to, superseded, or waived only if both parties specifically agree in writing to such amendment of the Agreement. In the event of any inconsistency between these Standard Terms & Conditions and any proposal, contract, purchase order, requisition, notice to proceed, or like document, these Standard Terms & Conditions shall govern.

4. **Compensation.** Client shall pay PRIME AE pursuant to the rates and charges set forth in the proposal. Invoices will be submitted periodically (customarily on a monthly basis), and terms are net cash, due and payable upon receipt of invoice. Client shall notify PRIME AE in writing of any disputed amount within fifteen (15) days from date of the invoice, give reasons for the objection, and promptly pay the undisputed amount within thirty (30) days.

5. **Insurance.** PRIME AE will maintain workers' compensation insurance as required under the laws of the state in which the services will be performed. PRIME AE agrees to purchase at its own expense, Comprehensive General Liability insurance with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate for bodily injury, including death and property damage; Professional Liability insurance in the amount of \$1,000,000 per claim and in the aggregate; Automobile Liability insurance with a combined single of \$1,000,000 per occurrence; and will, upon request, furnish insurance certificates to Client reflecting PRIME AE's standard coverage and providing thirty (30) days prior written notice in the event of cancellation or material change in coverage. PRIME AE agrees to purchase whatever additional insurance is requested by Client (presuming such insurance is available, from carriers acceptable to PRIME AE) provided Client reimburses the premiums for additional insurance.

6. **Force Majeure.** Except for Client's obligation to pay for services rendered by PRIME AE, including those of its subcontractors, consultants and vendors, no liability will attach to either party from delay in performance or nonperformance caused by circumstances or events beyond the reasonable control of the party affected, including, but not limited to, acts of God, disease, epidemic, pandemic, quarantine, acts of government (foreign or domestic), fire, flood, unanticipated site, building or subsurface conditions, regulatory permitting, terrorism, explosion, war, request or intervention of a government authority (foreign or domestic), court order (whether at law or in equity), labor relations, accidents, delays or inability to obtain materials, equipment, fuel or transportation.

7. **Mutual Waiver of Consequential Damages.** Neither Client nor PRIME AE, nor their affiliates or subsidiaries, nor the officers, directors, agents, employees, or their subcontractors, consultants, or vendors, shall be liable to the other, third parties, or shall make any claim for any incidental, indirect, special, collateral, exemplary, punitive or consequential damages arising out of, or connected in any way to the services or this Agreement. Consequential



**PRIME AE Group, Inc.
Traffic Engineering Services
Standard Terms & Conditions**

damages include, but is not limited to, damages related to loss of use, loss of profits, loss of income, loss of reputation, unrealized savings or diminution of property value and shall apply to any cause of action.

8. Reliance. PRIME AE shall be entitled to rely, without liability, on the accuracy and completeness of any and all information provided by Client, Client's employees, representatives, agents, independent contractors, construction managers, consultants and contractors, and information from public records, without the need for independent verification.

9. Suspension of Services and Termination. PRIME AE may terminate this Agreement immediately upon giving Client a written notice of termination upon occurrence of any of the following: (a) an event of Force Majeure has been continuing during more than sixty (60) days or (b) prevented, hindered, or delayed performance due to disease, epidemic, pandemic, quarantine, acts of government (foreign or domestic). Suspension or termination shall be by written notice effective seven (7) days after receipt by the receiving party. Client agrees to compensate PRIME AE for all services performed and commitments made prior to the effective date of the suspension or termination, together with reimbursable expenses including those of subcontractors, subconsultants and vendors. In the event of suspension of services or termination by Client, PRIME AE shall have no liability to Client or others. Client agrees to indemnify and hold PRIME AE harmless from any claim or liability resulting from such suspension or termination.

10. Opinion of Probable Costs. When required as part of its services, PRIME AE will furnish opinions of probable cost, but does not guarantee the accuracy of such estimates. Opinions of probable cost, financial evaluations, feasibility studies, economic analyses of alternate solutions, and utilitarian considerations of operations and maintenance costs prepared by PRIME AE hereunder will be made on the basis of PRIME AE's experience and qualifications and will represent PRIME AE's judgment as an experienced and qualified design professional. However, users of the probable cost opinions must recognize that PRIME AE does not have control over the cost of labor, material, equipment, or services furnished by others or over market conditions or contractors' methods of determining prices or performing the services.

11. Limitation of Liability. PRIME AE's total liability, in the aggregate, of PRIME AE, its' officers, directors, employees, agents, and consultants to Client and anyone

claiming by, through or under Client, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to PRIME AE's services, the project or this Agreement, from any cause or causes whatsoever, including but not limited to, negligence, errors, omissions, strict liability or contract, shall be limited to an amount of \$50,000 or PRIME AE's fee, whichever is greater.

12. Dispute Resolution. If a dispute arises out of this Agreement, the parties will attempt in good faith to resolve the dispute through negotiation. Client and PRIME AE agree to submit all claims and disputes arising out of this Agreement to non-binding mediation with a mutually agreed upon mediator. The parties agree that they will participate in the mediation in good faith, that they will share equally in its costs, and that neither party will commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session.

13. Precedence. These Standard Terms & Conditions shall take precedence over any inconsistent or contradictory provisions contained in, or referenced by, any proposal, contract, purchase order, requisition, notice to proceed, or similar or like document.

14. Severability. If any of these standard terms & conditions are finally determined to be invalid or unenforceable in whole or in part, the remaining provisions shall remain in full force and effect and be binding upon the parties. The parties agree to reform these Standard Terms & Conditions to replace any such invalid or unenforceable provision with a valid and enforceable provision that comes as close as possible to the intention of the stricken provision.

15. Survival. These Standard Terms & Conditions shall survive the completion of PRIME AE's services on the project and the termination of services for any cause.

16. Governing Law. The laws of the state in which the project is located shall govern the validity and interpretation of this Agreement.

17. Assignment. No assignments by Client of this Agreement or of any monies due or to become due hereunder shall be binding upon PRIME AE until PRIME AE's written consent thereto is obtained. Any assignment by Client to anyone of any right under this Agreement without the written consent of PRIME AE shall be null and void and without effect.



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October 6, 2020

Mr. Kevin Robertson
Project Manager / Public Utilities & Infrastructure Coordinator
Department of Engineering
City of Niles
34 West State Street
Niles, Ohio 44446

**Subject: Proposal for Professional Engineering Services
Traffic Signal Study
S.R. 46 (Niles Cortland Road)**

Dear Mr. Robertson,

PRIME AE Group (PRIME) is pleased to submit this proposal to provide professional engineering services to the City of Niles. The purpose of this study is to document existing traffic signal information and potential improvements for use in applying for Congestion Mitigation/Air Quality (CMAQ) funds through the Eastgate Regional Council of Governments (Eastgate) and Ohio Department of Transportation (ODOT). As you are aware, we have met with Eastgate and reviewed their funding submittal requirements in preparation to submit for funding in the Spring/Summer of 2021. The Scope of Services below outlines those requirements and PRIME's approach to conducting the analysis. A Fee Proposal and Schedule is provided following the Scope of Services.

SCOPE OF SERVICES

Upon authorization to proceed, PRIME will begin work on the following items:

1. Study Area – The study area for this project will encompass the following intersections and roadway segments along Main Street:
 1. E. Federal Street
 2. Washington Avenue
 3. Vienna Road
 4. Fire Station
 5. Andrea Boulevard
2. Traffic Counts - Our traffic counters will mobilize to the various intersections and collect detailed turning movement traffic counts for at least 12 hours on a typical day. Although the COVID pandemic has influenced traffic volume throughout the State of Ohio, ODOT now has determined that traffic has normalized and are accepting new counts.
3. Existing Corridor Geometrics – PRIME will prepare an existing conditions graphic that will identify current intersection layout, lane assignment, spacing, signage and pavement markings for use in conducting signal warrants, capacity analysis and corridor operation. Crash data also will be gathered from ODOT's GCAT system to help identify any high crash locations and perform signal warrants.
4. Signal Warrants - Following completion of the traffic counts, we will establish existing (2020) traffic volumes for each intersection and perform a signal warrant analysis on each. The results of that analysis will be submitted to the City for information and approval. The signal warrant studies will be conducted using information provided in the latest version of the Ohio Manual of Uniform Traffic Control Devices (OMUTCD).



5. Inventory of Existing Traffic Control Equipment, Signal Head Arrangement, Signing and Striping, and Signal Timing - An inventory of existing traffic signal appurtenances will be conducted in this phase of the project. In conducting this effort, PRIME will require the services of City staff to gain access to the controller cabinets. That information will be compiled in a computerized inventory using Excel, or other spreadsheet formats required by the City. Photographs of each intersection and controller will be taken at that time for inclusion in the report.
6. Speed and Delay Travel Study – PRIME will conduct real time speed and delay studies on the corridor using Tru Traffic, which is a GPS-based in-car data collection software program used to accurately measure actual corridor travel time. The results of these studies will be used to support funding applications.
7. Traffic Signal Operation Analysis - Once design traffic has been established, PRIME will conduct peak-hour capacity analyses at each intersection, using both existing and optimal signal phasing and timings. The Highway Capacity Software (HCS) or will be utilized in this effort.
8. Interconnection and Networking Analysis - Using the design year traffic volumes established in the previous task, PRIME will conduct an arterial analysis of the system to establish optimal signal timings and offsets. Several different computer runs will be conducted to assure optimal results. In conducting this effort, PRIME proposes to utilize the SYNCHRO analysis program, which is a powerful systems analysis tool approved by ODOT for use in projects such as this. As part of this task, recommendations for signal equipment, detection and interconnection will be provided.
9. Existing and Future Conditions Report - As the final product of this project stage, an electronic report will be prepared for submittal to the City and/or other agencies. This report will include all the information collected in the previous tasks. An estimate of probable construction cost also will be included in this report.
10. Funding Assistance – PRIME will assist the City in applying for construction funding by preparing funding applications, making presentations to funding authorities and coordinating interagency communications.

SCHEDULE

PRIME will complete the study in time to make submission to Eastgate for funding.

COMPENSATION AND PAYMENT

PRIME shall be paid a Lump Sum Fee of Twenty Thousand dollars (\$20,000.00) to complete the Scope of Services outlined in this proposal. You will be invoiced monthly on a percentage completion basis.

TERMS AND CONDITIONS

If you agree with the proposal and the attached Terms and Conditions, please indicate so by signing below. Should you have any questions, or wish to modify any of the contents herein, please mark accordingly and return at your earliest convenience.



CONCLUSION

Thank you for this opportunity to serve you on this important project. Should you have any questions regarding this matter, please do not hesitate to call at 330.730.3095.

Respectfully,
PRIME AE Group, Inc.



Eric Smith, PE, PTOE, MBA
Vice President-Traffic Engineering

Approved by:

Kevin Robertson
Project Manager / Public Utilities & Infrastructure
Coordinator



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**PRIME AE Group, Inc.
Traffic Engineering Services
Standard Terms & Conditions**

1. **General.** These Standard Terms & Conditions, together with the accompanying proposal, constitute the full and complete Agreement between PRIME AE Group, Inc. (and its affiliates and subsidiaries) ("PRIME AE") and the entity or person to whom the proposal is addressed ("Client") to perform basic or additional services as set forth in the proposal. PRIME AE and Client may be referred to collectively herein as "the parties", and any one of them may be referred to as "a party". The technical and pricing information in the proposal is the confidential and proprietary property of PRIME AE and shall not be disclosed or made available to third parties without the written consent of PRIME AE. Unless otherwise specified in the proposal, the proposal fees and schedule constitute PRIME AE's best estimate of the charges and time required to complete the project. As the project progresses, site conditions, changes in the law, or other unknown facts or events may dictate revisions in scope and fee. PRIME AE will inform Client of such situations so that proposal revisions can be accomplished. The parties agree to negotiate such revisions in good faith.

2. **Performance of Services.** PRIME AE's services will be performed in accordance with generally accepted practices and ordinary skill and care of engineers providing similar services at the same time, in the same locale, and under like circumstances. Client agrees that PRIME AE has been engaged to provide professional services only, and that PRIME AE does not owe a fiduciary duty or responsibility to Client. There are no intended third-party beneficiaries to this Agreement. No other warranty, express or implied, is included or intended by the Agreement. PRIME AE is an independent contractor and nothing in this Agreement shall be construed to create a partnership, joint venture, or create a relationship of employer/employee or principal/agent between PRIME AE and Client or its subcontractors or consultants. PRIME AE does not represent or warrant that any permit or approval will be issued by any governmental body in view of the complexity and the frequent changes in applicable rules and regulations and interpretations by authorities.

3. **Modification.** This Agreement may be changed, amended, added to, superseded, or waived only if both parties specifically agree in writing to such amendment of the Agreement. In the event of any inconsistency between these Standard Terms & Conditions and any proposal, contract, purchase order, requisition, notice to proceed, or like document, these Standard Terms & Conditions shall govern.
4. **Compensation.** Client shall pay PRIME AE pursuant to the rates and charges set forth in the proposal. Invoices will be submitted periodically (customarily on a monthly basis), and terms are net cash, due and payable upon receipt of invoice. Client shall notify PRIME AE in writing of any disputed amount within fifteen (15) days from date of the invoice, give reasons for the objection, and promptly pay the undisputed amount within thirty (30) days.

5. **Insurance.** PRIME AE will maintain workers' compensation insurance as required under the laws of the state in which the services will be performed. PRIME AE agrees to purchase at its own expense, Comprehensive General Liability insurance with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate for bodily injury, including death and property damage; Professional Liability insurance in the amount of \$1,000,000 per claim and in the aggregate; Automobile Liability insurance with a combined single of \$1,000,000 per occurrence; and will, upon request, furnish insurance certificates to Client reflecting PRIME AE's standard coverage and providing thirty (30) days prior written notice in the event of cancellation or material change in coverage. PRIME AE agrees to purchase whatever additional insurance is requested by Client (presuming such insurance is available, from carriers acceptable to PRIME AE) provided Client reimburses the premiums for additional insurance.

6. **Force Majeure.** Except for Client's obligation to pay for services rendered by PRIME AE, including those of its subcontractors, subconsultants and vendors, no liability will attach to either party from delay in performance or nonperformance caused by circumstances or events beyond the reasonable control of the party affected, including, but not limited to, acts of God, disease, epidemic, pandemic, quarantine, acts of government (foreign or domestic), fire, flood, unanticipated site, building or subsurface conditions, regulatory permitting, terrorism, explosion, war, request or intervention of a government authority (foreign or domestic), court order (whether at law or in equity), labor relations, accidents, delays or inability to obtain materials, equipment, fuel or transportation.

7. **Mutual Waiver of Consequential Damages.** Neither Client nor PRIME AE, nor their affiliates or subsidiaries, nor the officers, directors, agents, employees, or their subcontractors, subconsultants, or vendors, shall be liable to the other, third parties, or shall make any claim for any incidental, indirect, special, collateral, exemplary, punitive or consequential damages arising out of, or connected in any way to the services or this Agreement. Consequential



**PRIME AE Group, Inc.
Traffic Engineering Services
Standard Terms & Conditions**

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8. Reliance. PRIME AE shall be entitled to rely, without liability, on the accuracy and completeness of any and all information provided by Client, Client's employees, representatives, agents, independent contractors, construction managers, consultants and contractors, and information from public records, without the need for independent verification.

9. Suspension of Services and Termination. PRIME AE may terminate this Agreement immediately upon giving Client a written notice of termination upon occurrence of any of the following: (a) an event of Force Majeure has been continuing during more than sixty (60) days or (b) prevented, hindered, or delayed performance due to disease, epidemic, pandemic, quarantine, acts of government (foreign or domestic). Suspension or termination shall be by written notice effective seven (7) days after receipt by the receiving party. Client agrees to compensate PRIME AE for all services performed and commitments made prior to the effective date of the suspension or termination, together with reimbursable expenses including those of subcontractors, subconsultants and vendors. In the event of suspension of services or termination by Client, PRIME AE shall have no liability to Client or others. Client agrees to indemnify and hold PRIME AE harmless from any claim or liability resulting from such suspension or termination.

10. Opinion of Probable Costs. When required as part of its services, PRIME AE will furnish opinions of probable cost, but does not guarantee the accuracy of such estimates. Opinions of probable cost, financial evaluations, feasibility studies, economic analyses of alternate solutions, and utilitarian considerations of operations and maintenance costs prepared by PRIME AE hereunder will be made on the basis of PRIME AE's experience and qualifications and will represent PRIME AE's judgment as an experienced and qualified design professional. However, users of the probable cost opinions must recognize that PRIME AE does not have control over the cost of labor, material, equipment, or services furnished by others or over market conditions or contractors' methods of determining prices or performing the services.

11. Limitation of Liability. PRIME AE's total liability, in the aggregate, of PRIME AE, its' officers, directors, employees, agents, and consultants to Client and anyone

claiming by, through or under Client, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to PRIME AE's services, the project or this Agreement, from any cause or causes whatsoever, including but not limited to, negligence, errors, omissions, strict liability or contract, shall be limited to an amount of \$50,000 or PRIME AE's fee, whichever is greater.

12. Dispute Resolution. If a dispute arises out of this Agreement, the parties will attempt in good faith to resolve the dispute through negotiation. Client and PRIME AE agree to submit all claims and disputes arising out of this Agreement to non-binding mediation with a mutually agreed upon mediator. The parties agree that they will participate in the mediation in good faith, that they will share equally in its costs, and that neither party will commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session.

13. Precedence. These Standard Terms & Conditions shall take precedence over any inconsistent or contradictory provisions contained in, or referenced by, any proposal, contract, purchase order, requisition, notice to proceed, or similar or like document.

14. Severability. If any of these standard terms & conditions are finally determined to be invalid or unenforceable in whole or in part, the remaining provisions shall remain in full force and effect and be binding upon the parties. The parties agree to reform these Standard Terms & Conditions to replace any such invalid or unenforceable provision with a valid and enforceable provision that comes as close as possible to the intention of the stricken provision.

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16. Governing Law. The laws of the state in which the project is located shall govern the validity and interpretation of this Agreement.

17. Assignment. No assignments by Client of this Agreement or of any monies due or to become due hereunder shall be binding upon PRIME AE until PRIME AE's written consent thereto is obtained. Any assignment by Client to anyone of any right under this Agreement without the written consent of PRIME AE shall be null and void and without effect.



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October 6, 2020

Mr. Kevin Robertson
Project Manager / Public Utilities & Infrastructure Coordinator
Department of Engineering
City of Niles
34 West State Street
Niles, Ohio 44446

**Subject: Proposal for Professional Engineering Services
Traffic Signal Study
SR 46 / SR 169 (Main Street)**

Dear Mr. Robertson,

PRIME AE Group (PRIME) is pleased to submit this proposal to provide professional engineering services to the City of Niles. The purpose of this study is to document existing traffic signal information and potential improvements for use in applying for Congestion Mitigation/Air Quality (CMAQ) funds through the Eastgate Regional Council of Governments (Eastgate) and Ohio Department of Transportation (ODOT). As you are aware, we have met with Eastgate and reviewed their funding submittal requirements in preparation to submit for funding in the Spring/Summer of 2021. The Scope of Services below outlines those requirements and PRIME's approach to conducting the analysis. A Fee Proposal and Schedule is provided following the Scope of Services.

SCOPE OF SERVICES

Upon authorization to proceed, PRIME will begin work on the following items:

1. Study Area – The study area for this project will encompass the following intersections and roadway segments along Main Street:
 - 1.1. State Street
 - 1.2. Park Avenue
 - 1.3. Church Street
 - 1.4. Robbins Avenue
 - 1.5. Maple Street
 - 1.6. Federal Street
 - 1.7. North Road
2. Traffic Counts - Our traffic counters will mobilize to the various intersections and collect detailed turning movement traffic counts for at least 12 hours on a typical day. Although the COVID pandemic has influenced traffic volume throughout the State of Ohio, ODOT now has determined that traffic has normalized and are accepting new counts.
3. Existing Corridor Geometrics – PRIME will prepare an existing conditions graphic that will identify current intersection layout, lane assignment, spacing, signage and pavement markings for use in conducting signal warrants, capacity analysis and corridor operation. Crash data also will be gathered from ODOT's GCAT system to help identify any high crash locations and perform signal warrants.
4. Signal Warrants - Following completion of the traffic counts, we will establish existing (2020) traffic volumes for each intersection and perform a signal warrant analysis on each. The results of that analysis will be submitted to



the City for information and approval. The signal warrant studies will be conducted using information provided in the latest version of the Ohio Manual of Uniform Traffic Control Devices (OMUTCD).

5. Inventory of Existing Traffic Control Equipment, Signal Head Arrangement, Signing and Striping, and Signal Timing - An inventory of existing traffic signal appurtenances will be conducted in this phase of the project. In conducting this effort, PRIME will require the services of City staff to gain access to the controller cabinets. That information will be compiled in a computerized inventory using Excel, or other spreadsheet formats required by the City. Photographs of each intersection and controller will be taken at that time for inclusion in the report.
6. Speed and Delay Travel Study -- PRIME will conduct real time speed and delay studies on the corridor using Tru Traffic, which is a GPS-based in-car data collection software program used to accurately measure actual corridor travel time. The results of these studies will be used to support funding applications.
7. Traffic Signal Operation Analysis - Once design traffic has been established, PRIME will conduct peak-hour capacity analyses at each intersection, using both existing and optimal signal phasing and timings. The Highway Capacity Software (HCS) or will be utilized in this effort.
8. Interconnection and Networking Analysis - Using the design year traffic volumes established in the previous task, PRIME will conduct an arterial analysis of the system to establish optimal signal timings and offsets. Several different computer runs will be conducted to assure optimal results. In conducting this effort, PRIME proposes to utilize the SYNCHRO analysis program, which is a powerful systems analysis tool approved by ODOT for use in projects such as this. As part of this task, recommendations for signal equipment, detection and interconnection will be provided.
9. Existing and Future Conditions Report - As the final product of this project stage, an electronic report will be prepared for submittal to the City and/or other agencies. This report will include all the information collected in the previous tasks. An estimate of probable construction cost also will be included in this report.
10. Funding Assistance -- PRIME will assist the City in applying for construction funding by preparing funding applications, making presentations to funding authorities and coordinating interagency communications.

SCHEDULE

PRIME will complete the study in time to make submission to Eastgate for funding.

COMPENSATION AND PAYMENT

PRIME shall be paid a Lump Sum Fee of Twenty Thousand dollars (\$20,000.00) to complete the Scope of Services outlined in this proposal. You will be invoiced monthly on a percentage completion basis.

TERMS AND CONDITIONS

If you agree with the proposal and the attached Terms and Conditions, please indicate so by signing below. Should you have any questions, or wish to modify any of the contents herein, please mark accordingly and return at your earliest convenience.



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CONCLUSION

Thank you for this opportunity to serve you on this important project. Should you have any questions regarding this matter, please do not hesitate to call at 330.730.3095.

Respectfully,
PRIME AE Group, Inc.



Eric Smith, PE, PTOE, MBA
Vice President-Traffic Engineering

Approved by:

Kevin Robertson
Project Manager / Public Utilities & Infrastructure
Coordinator



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**PRIME AE Group, Inc.
Traffic Engineering Services
Standard Terms & Conditions**

1. **General.** These Standard Terms & Conditions, together with the accompanying proposal, constitute the full and complete Agreement between PRIME AE Group, Inc. (and its affiliates and subsidiaries) ("PRIME AE") and the entity or person to whom the proposal is addressed ("Client") to perform basic or additional services as set forth in the proposal. PRIME AE and Client may be referred to collectively herein as "the parties", and any one of them may be referred to as "a party". The technical and pricing information in the proposal is the confidential and proprietary property of PRIME AE and shall not be disclosed or made available to third parties without the written consent of PRIME AE. Unless otherwise specified in the proposal, the proposal fees and schedule constitute PRIME AE's best estimate of the charges and time required to complete the project. As the project progresses, site conditions, changes in the law, or other unknown facts or events may dictate revisions in scope and fee. PRIME AE will inform Client of such situations so that proposal revisions can be accomplished. The parties agree to negotiate such revisions in good faith.

2. **Performance of Services.** PRIME AE's services will be performed in accordance with generally accepted practices and ordinary skill and care of engineers providing similar services at the same time, in the same locale, and under like circumstances. Client agrees that PRIME AE has been engaged to provide professional services only, and that PRIME AE does not owe a fiduciary duty or responsibility to Client. There are no intended third-party beneficiaries to this Agreement. No other warranty, express or implied, is included or intended by the Agreement. PRIME AE is an independent contractor and nothing in this Agreement shall be construed to create a partnership, joint venture, or create a relationship of employer/employee or principal/agent between PRIME AE and Client or its subcontractors or consultants. PRIME AE does not represent or warrant that any permit or approval will be issued by any governmental body in view of the complexity and the frequent changes in applicable rules and regulations and interpretations by authorities.

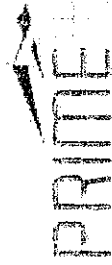
3. **Modification.** This Agreement may be changed, amended, added to, superseded, or waived only if both parties specifically agree in writing to such amendment of the Agreement. In the event of any inconsistency between these Standard Terms & Conditions and any proposal, contract, purchase order, requisition, notice to proceed, or like document, these Standard Terms & Conditions shall govern.

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5. **Insurance.** PRIME AE will maintain workers' compensation insurance as required under the laws of the state in which the services will be performed. PRIME AE agrees to purchase at its own expense, Comprehensive General Liability insurance with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate for bodily injury, including death and property damage; Professional Liability insurance in the amount of \$1,000,000 per claim and in the aggregate; Automobile Liability insurance with a combined single of \$1,000,000 per occurrence; and will, upon request, furnish insurance certificates to Client reflecting PRIME AE's standard coverage and providing thirty (30) days prior written notice in the event of cancellation or material change in coverage. PRIME AE agrees to purchase whatever additional insurance is requested by Client (presuming such insurance is available, from carriers acceptable to PRIME AE) provided Client reimburses the premiums for additional insurance.

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7. **Mutual Waiver of Consequential Damages.** Neither Client nor PRIME AE, nor their affiliates or subsidiaries, nor the officers, directors, agents, employees, or their subcontractors, subconsultants, or vendors, shall be liable to the other, third parties, or shall make any claim for any incidental, indirect, special, collateral, exemplary, punitive or consequential damages arising out of, or connected in any way to the services or this Agreement. Consequential



**PRIME AE Group, Inc.
Traffic Engineering Services
Standard Terms & Conditions**

damages include, but is not limited to, damages related to loss of use, loss of profits, loss of income, loss of reputation, unrealized savings or diminution of property value and shall apply to any cause of action.

8. Reliance. PRIME AE shall be entitled to rely, without liability, on the accuracy and completeness of any and all information provided by Client, Client's employees, representatives, agents, independent contractors, construction managers, consultants and contractors, and information from public records, without the need for independent verification.

9. Suspension of Services and Termination. PRIME AE may terminate this Agreement immediately upon giving Client a written notice of termination upon occurrence of any of the following: (a) an event of Force Majeure has been continuing during more than sixty (60) days or (b) prevented, hindered, or delayed performance due to disease, epidemic, pandemic, quarantine, acts of government (foreign or domestic). Suspension or termination shall be by written notice effective seven (7) days after receipt by the receiving party. Client agrees to compensate PRIME AE for all services performed and commitments made prior to the effective date of the suspension or termination, together with reimbursable expenses including those of subcontractors, subconsultants and vendors. In the event of suspension of services or termination by Client, PRIME AE shall have no liability to Client or others. Client agrees to indemnify and hold PRIME AE harmless from any claim or liability resulting from such suspension or termination.

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11. Limitation of Liability. PRIME AE's total liability, in the aggregate, of PRIME AE, its' officers, directors, employees, agents, and consultants to Client and anyone

claiming by, through or under Client, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to PRIME AE's services, the project or this Agreement, from any cause or causes whatsoever, including but not limited to, negligence, errors, omissions, strict liability or contract, shall be limited to an amount of \$50,000 or PRIME AE's fee, whichever is greater.

12. Dispute Resolution. If a dispute arises out of this Agreement, the parties will attempt in good faith to resolve the dispute through negotiation. Client and PRIME AE agree to submit all claims and disputes arising out of this Agreement to non-binding mediation with a mutually agreed upon mediator. The parties agree that they will participate in the mediation in good faith, that they will share equally in its costs, and that neither party will commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session.

13. Precedence. These Standard Terms & Conditions shall take precedence over any inconsistent or contradictory provisions contained in, or referenced by, any proposal, contract, purchase order, requisition, notice to proceed, or similar or like document.

14. Severability. If any of these standard terms & conditions are finally determined to be invalid or unenforceable in whole or in part, the remaining provisions shall remain in full force and effect and be binding upon the parties. The parties agree to reform these Standard Terms & Conditions to replace any such invalid or unenforceable provision with a valid and enforceable provision that comes as close as possible to the intention of the stricken provision.

15. Survival. These Standard Terms & Conditions shall survive the completion of PRIME AE's services on the project and the termination of services for any cause.

16. Governing Law. The laws of the state in which the project is located shall govern the validity and interpretation of this Agreement.

17. Assignment. No assignments by Client of this Agreement or of any monies due or to become due hereunder shall be binding upon PRIME AE until PRIME AE's written consent thereto is obtained. Any assignment by Client to anyone of any right under this Agreement without the written consent of PRIME AE shall be null and void and without effect.



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FORM 1

Page 2 - Rev. 03/12/2020

October 6, 2020

Mr. Kevin Robertson
Project Manager / Public Utilities & Infrastructure Coordinator
Department of Engineering
City of Niles
34 West State Street
Niles, Ohio 44446

**Subject: Proposal for Professional Engineering Services
Traffic Signal Study
SR 169 (Robbins Avenue)**

PRIME AE Group (PRIME) is pleased to submit this proposal to provide professional engineering services to the City of Niles. The purpose of this study is to document existing traffic signal information and potential improvements for use in applying for Congestion Mitigation/Air Quality (CMAQ) funds through the Eastgate Regional Council of Governments (Eastgate) and Ohio Department of Transportation (ODOT). As you are aware, we have met with Eastgate and reviewed their funding submittal requirements in preparation to submit for funding in the Spring/Summer of 2021. The Scope of Services below outlines those requirements and PRIME's approach to conducting the analysis. A Fee Proposal and Schedule is provided following the Scope of Services.

SCOPE OF SERVICES

Upon authorization to proceed, PRIME will begin work on the following items:

1. Study Area – The study area for this project will encompass the following intersections and roadway segments along Main Street:
 - 1.1. S.R. 46 (Vienna Avenue)
 - 1.2. Cedar Avenue
 - 1.3. Summit Avenue / Hogarth Avenue
 - 1.4. Rhodes Avenue
 - 1.5. Carnegie Avenue

2. Traffic Counts - Our traffic counters will mobilize to the various intersections and collect detailed turning movement traffic counts for at least 12 hours on a typical day. Although the COVID pandemic has influenced traffic volume throughout the State of Ohio, ODOT now has determined that traffic has normalized and are accepting new counts.

3. Existing Corridor Geometrics – PRIME will prepare an existing conditions graphic that will identify current intersection layout, lane assignment, spacing, signage and pavement markings for use in conducting signal warrants, capacity analysis and corridor operation. Crash data also will be gathered from ODOT's GCAT system to help identify any high crash locations and perform signal warrants.

4. Signal Warrants - Following completion of the traffic counts, we will establish existing (2020) traffic volumes for each intersection and perform a signal warrant analysis on each. The results of that analysis will be submitted to the City for information and approval. The signal warrant studies will be conducted using information provided in the latest version of the Ohio Manual of Uniform Traffic Control Devices (OMUTCD).



5. Inventory of Existing Traffic Control Equipment, Signal Head Arrangement, Signing and Striping, and Signal Timing - An inventory of existing traffic signal appurtenances will be conducted in this phase of the project. In conducting this effort, PRIME will require the services of City staff to gain access to the controller cabinets. That information will be compiled in a computerized inventory using Excel, or other spreadsheet formats required by the City. Photographs of each intersection and controller will be taken at that time for inclusion in the report.
6. Speed and Delay Travel Study – PRIME will conduct real time speed and delay studies on the corridor using Tru Traffic, which is a GPS-based in-car data collection software program used to accurately measure actual corridor travel time. The results of these studies will be used to support funding applications.
7. Traffic Signal Operation Analysis - Once design traffic has been established, PRIME will conduct peak-hour capacity analyses at each intersection, using both existing and optimal signal phasing and timings. The Highway Capacity Software (HCS) or will be utilized in this effort.
8. Interconnection and Networking Analysis - Using the design year traffic volumes established in the previous task, PRIME will conduct an arterial analysis of the system to establish optimal signal timings and offsets. Several different computer runs will be conducted to assure optimal results. In conducting this effort, PRIME proposes to utilize the SYNCHRO analysis program, which is a powerful systems analysis tool approved by ODOT for use in projects such as this. As part of this task, recommendations for signal equipment, detection and interconnection will be provided.
9. Existing and Future Conditions Report - As the final product of this project stage, an electronic report will be prepared for submittal to the City and/or other agencies. This report will include all the information collected in the previous tasks. An estimate of probable construction cost also will be included in this report.
10. Funding Assistance – PRIME will assist the City in applying for construction funding by preparing funding applications, making presentations to funding authorities and coordinating interagency communications.

SCHEDULE

PRIME will complete the study in time to make submission to Eastgate for funding.

COMPENSATION AND PAYMENT

PRIME shall be paid a Lump Sum Fee of Twenty Thousand dollars (\$20,000.00) to complete the Scope of Services outlined in this proposal. You will be invoiced monthly on a percentage completion basis.

TERMS AND CONDITIONS

If you agree with the proposal and the attached Terms and Conditions, please indicate so by signing below. Should you have any questions, or wish to modify any of the contents herein, please mark accordingly and return at your earliest convenience.



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CONCLUSION

Thank you for this opportunity to serve you on this important project. Should you have any questions regarding this matter, please do not hesitate to call at 330.730.3095.

Respectfully,
PRIME AE Group, Inc.



Eric Smith, PE, PTOE, MBA
Vice President-Traffic Engineering

Approved by:

Kevin Robertson
Project Manager / Public Utilities & Infrastructure
Coordinator



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PRIME AE Group, Inc.
Traffic Engineering Services
Standard Terms & Conditions

1. **General.** These Standard Terms & Conditions, together with the accompanying proposal, constitute the full and complete Agreement between PRIME AE Group, Inc. (and its affiliates and subsidiaries) ("PRIME AE") and the entity or person to whom the proposal is addressed ("Client") to perform basic or additional services as set forth in the proposal. PRIME AE and Client may be referred to collectively herein as "the parties", and any one of them may be referred to as "a party". The technical and pricing information in the proposal is the confidential and proprietary property of PRIME AE and shall not be disclosed or made available to third parties without the written consent of PRIME AE. Unless otherwise specified in the proposal, the proposal fees and schedule constitute PRIME AE's best estimate of the charges and time required to complete the project. As the project progresses, site conditions, changes in the law, or other unknown facts or events may dictate revisions in scope and fee. PRIME AE will inform Client of such situations so that proposal revisions can be accomplished. The parties agree to negotiate such revisions in good faith.
2. **Performance of Services.** PRIME AE's services will be performed in accordance with generally accepted practices and ordinary skill and care of engineers providing similar services at the same time, in the same locale, and under like circumstances. Client agrees that PRIME AE has been engaged to provide professional services only, and that PRIME AE does not owe a fiduciary duty or responsibility to Client. There are no intended third-party beneficiaries to this Agreement. No other warranty, express or implied, is included or intended by the Agreement. PRIME AE is an independent contractor and nothing in this Agreement shall be construed to create a partnership, joint venture, or create a relationship of employer/employee or principal/agent between PRIME AE and Client or its subcontractors or consultants. PRIME AE does not represent or warrant that any permit or approval will be issued by any governmental body in view of the complexity and the frequent changes in applicable rules and regulations and interpretations by authorities.
3. **Modification.** This Agreement may be changed, amended, added to, superseded, or waived only if both parties specifically agree in writing to such amendment of the Agreement. In the event of any inconsistency between these Standard Terms & Conditions and any proposal, contract, purchase order, requisition, notice to proceed, or like document, these Standard Terms & Conditions shall govern.
4. **Compensation.** Client shall pay PRIME AE pursuant to the rates and charges set forth in the proposal. Invoices will be submitted periodically (customarily on a monthly basis), and terms are net cash, due and payable upon receipt of invoice. Client shall notify PRIME AE in writing of any disputed amount within fifteen (15) days from date of the invoice, give reasons for the objection, and promptly pay the undisputed amount within thirty (30) days.
5. **Insurance.** PRIME AE will maintain workers' compensation insurance as required under the laws of the state in which the services will be performed. PRIME AE agrees to purchase at its own expense, Comprehensive General Liability insurance with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate for bodily injury, including death and property damage; Professional Liability insurance in the amount of \$1,000,000 per claim and in the aggregate; Automobile Liability insurance with a combined single of \$1,000,000 per occurrence; and will, upon request, furnish insurance certificates to Client reflecting PRIME AE's standard coverage and providing thirty (30) days prior written notice in the event of cancellation or material change in coverage. PRIME AE agrees to purchase whatever additional insurance is requested by Client (presuming such insurance is available, from carriers acceptable to PRIME AE) provided Client reimburses the premiums for additional insurance.
6. **Force Majeure.** Except for Client's obligation to pay for services rendered by PRIME AE, including those of its' subcontractors, subconsultants and vendors, no liability will attach to either party from delay in performance or nonperformance caused by circumstances or events beyond the reasonable control of the party affected, including, but not limited to, acts of God, disease, epidemic, pandemic, quarantine, acts of government (foreign or domestic), fire, flood, unanticipated site, building or subsurface conditions, regulatory permitting, terrorism, explosion, war, request or intervention of a government authority (foreign or domestic), court order (whether at law or in equity), labor relations, accidents, delays or inability to obtain materials, equipment, fuel or transportation.
7. **Mutual Waiver of Consequential Damages.** Neither Client nor PRIME AE, nor their affiliates or subsidiaries, nor the officers, directors, agents, employees, or their subcontractors, subconsultants, or vendors, shall be liable to the other, third parties, or shall make any claim for any incidental, indirect, special, collateral, exemplary, punitive or consequential damages arising out of, or connected in any way to the services or this Agreement. Consequential



**PRIME AE Group, Inc.
Traffic Engineering Services
Standard Terms & Conditions**

damages include, but is not limited to, damages related to loss of use, loss of profits, loss of income, loss of reputation, unrealized savings or diminution of property value and shall apply to any cause of action.

8. **Reliance.** PRIME AE shall be entitled to rely, without liability, on the accuracy and completeness of any and all information provided by Client, Client's employees, representatives, agents, independent contractors, construction managers, consultants and contractors, and information from public records, without the need for independent verification.

9. **Suspension of Services and Termination.** PRIME AE may terminate this Agreement immediately upon giving Client a written notice of termination upon occurrence of any of the following: (a) an event of Force Majeure has been continuing during more than sixty (60) days or (b) prevented, hindered, or delayed performance due to disease, epidemic, pandemic, quarantine, acts of government (foreign or domestic). Suspension or termination shall be by written notice effective seven (7) days after receipt by the receiving party. Client agrees to compensate PRIME AE for all services performed and commitments made prior to the effective date of the suspension or termination, together with reimbursable expenses including those of subcontractors, subconsultants and vendors. In the event of suspension of services or termination by Client, PRIME AE shall have no liability to Client or others. Client agrees to indemnify and hold PRIME AE harmless from any claim or liability resulting from such suspension or termination.

10. **Opinion of Probable Costs.** When required as part of its services, PRIME AE will furnish opinions of probable cost, but does not guarantee the accuracy of such estimates. Opinions of probable cost, financial evaluations, feasibility studies, economic analyses of alternate solutions, and utilitarian considerations of operations and maintenance costs prepared by PRIME AE hereunder will be made on the basis of PRIME AE's experience and qualifications and will represent PRIME AE's judgment as an experienced and qualified design professional. However, users of the probable cost opinions must recognize that PRIME AE does not have control over the cost of labor, material, equipment, or services furnished by others or over market conditions or contractors' methods of determining prices or performing the services.

11. **Limitation of Liability.** PRIME AE's total liability, in the aggregate, of PRIME AE, its' officers, directors, employees, agents, and consultants to Client and anyone

claiming by, through or under Client, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to PRIME AE's services, the project or this Agreement, from any cause or causes whatsoever, including but not limited to, negligence, errors, omissions, strict liability or contract, shall be limited to an amount of \$50,000 or PRIME AE's fee, whichever is greater.

12. **Dispute Resolution.** If a dispute arises out of this Agreement, the parties will attempt in good faith to resolve the dispute through negotiation. Client and PRIME AE agree to submit all claims and disputes arising out of this Agreement to non-binding mediation with a mutually agreed upon mediator. The parties agree that they will participate in the mediation in good faith, that they will share equally in its costs, and that neither party will commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session.

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14. **Severability.** If any of these standard terms & conditions are finally determined to be invalid or unenforceable in whole or in part, the remaining provisions shall remain in full force and effect and be binding upon the parties. The parties agree to reform these Standard Terms & Conditions to replace any such invalid or unenforceable provision with a valid and enforceable provision that comes as close as possible to the intention of the stricken provision.

15. **Survival.** These Standard Terms & Conditions shall survive the completion of PRIME AE's services on the project and the termination of services for any cause.

16. **Governing Law.** The laws of the state in which the project is located shall govern the validity and interpretation of this Agreement.

17. **Assignment.** No assignments by Client of this Agreement or of any monies due or to become due hereunder shall be binding upon PRIME AE until PRIME AE's written consent thereto is obtained. Any assignment by Client to anyone of any right under this Agreement without the written consent of PRIME AE shall be null and void and without effect.



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City of Niles, Ohio

SPONSORED BY: FINANCE COMMITTEE
AUTHORIZED BY: ALL MEMBERS

DRAFT NO. 161-20

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE TRANSFER OF MONIES FROM VARIOUS ACCOUNTS TO THE UNCLAIMED FUND 663 AS SEVERAL CHECKS REMAIN UNCASHED FOR MORE THAN ONE HUNDRED AND EIGHTY DAYS (180), AND, DECLARING AN EMERGENCY

Whereas, the Treasurer identified numerous stale checks that remain uncashed for more than six months; and,

Whereas, the amount of the checks uncashed is Forty-Nine Thousand Nine Hundred Thirty-Two dollars and 42/100 cents (\$49,932.42) from various City funds; and,

Whereas, the Ohio Revised Code 9.39 requires unclaimed funds to be held in a Trust Fund until claimed by the owner. If the monies remain unclaimed for five years, then the money shall revert into the General Fund; and,

Whereas, Council desires to authorize transfer of the unclaimed funds in the Unclaimed Fund 663 Trust Fund.

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

SECTION 1: That Council hereby authorizes the transfer of the sum of Forty-Nine Thousand Nine Hundred Thirty-Two dollars and 42/100 cents (\$49,932.42) from various City funds to the Unclaimed Fund 663.

SECTION 2: That Council directs that prior to the expiration of the five-year period listed in ORC 9.39, that the Treasury Department use best efforts to notify the owners of the funds that monies owed to them from the City remain unclaimed.

SECTION 3: That this Ordinance is hereby declared to be an emergency measure in the interests of the public health, safety, and welfare, so that the City may comply with the Ohio Revised Code 9.39. 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

Received by the Mayor of the City of Niles this _____ day of _____, 2020,
and approved by me as such Mayor this _____ day of _____, 2020.

Mayor