

City of Niles, Ohio

SPONSORED BY: FINANCE COMMITTEE
AUTHORIZED BY: CANTOLA

DRAFT NO. 109-20

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING BUDGET TRANSFERS FROM THE FOLLOWING SEWER FUNDS ACCOUNT 5430 OPERATIONAL SUPPLIES TO THE CONTRACTED LABOR ACCOUNT 5398; 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 for the purpose of sludge hauling and other items.

SECTION 2: This Ordinance is hereby declared to be an emergency measure in the interest of the public health, safety, and welfare as the funds are needed in order to engage the contracted labor. As such an emergency measure, this Ordinance shall take effect immediately upon passage by Council and approval by the Mayor.

Appropriation Budget Transfers		
SEWER FUND 503 (TRANSFER)		
Account Number	Description	+/- Appropriation
503-5353-53980	Contracted Labor	\$36,000.00
503-5353-54300	Operational Supplies	(\$36,000.00)

PASSED: _____

ATTEST: _____
CLERK OF COUNCIL

PRESIDENT 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

BURGESS & NIPLÉ

Akron Centre Plaza | 50 South Main Street | Suite 600 | Akron, OH 44308 | 330.376.5778

Mr. Andy Catanzarite
Water & Wastewater Superintendent
City of Niles
34 West State Street
Niles, OH 44446

Re: Proposal for Professional Services
Dizzy Bridge Sanitary Sewer

October 13, 2020

Dear Mr. Catanzarite:

Burgess & Niple (B&N) is pleased to respond to the City of Niles' (Client's) request for professional services for the referenced project.

PROJECT UNDERSTANDING

The Client currently has an existing 12-inch sanitary sewer that is supported via the Dizzy Bridge structure which spans between southeast corner of the Arlington Arms Apartments and Stepney Street. The sewer is currently suspected to be leaking and requires rehabilitation in order to satisfy OEPA direction to address the issue.

Additionally, the City desires to identify options for abandoning the Dizzy Bridge and sewer, which would require redirecting flow away from the bridge and to an adjacent sanitary sewer collection service area.

This proposal would address these objectives and provide a conceptual path to plan and begin design of the improvements required to abandon the Dizzy Bridge and sanitary sewer.

SEWER REHABILITATION - SCOPE OF SERVICES

1. Review existing drawings and information as made available by the Client.
2. Coordinate with sewer inspection/cleaning subcontractor to perform PACP CCTV inspection, and cleaning as necessary, to inspect the sewer and document observable deficiencies. B&N will provide an on-site representative to observe and manage the inspection and cleaning. An inspection log and electronic file of the CCTV will be provided. The inspection data will be reviewed by PACP personnel. B&N will subcontract with the consultant. Total subcontractor cost will not exceed \$7,000. B&N will review and discuss the result of the inspection with the Client.
3. Assuming the sewer is able to be cleaned and inspected and it is determined that CIPP lining of the sewer is feasible, B&N will obtain three contractor quotes to have the sewer rehabilitated via cured-in-place-pipe (CIPP) lining. The quotes will be provided and discussed with the Client. It will be the responsibility of the Client to enter into an agreement with a contractor to have the sewer CIPP lined, air tested, and post lining CCTV inspected.

B&N
burgessniple.com

4. Provide an on-site representative to observe and document the CIPP lining and subsequent air testing of the sewer.
5. Provide assistance to the Client to coordinate with the apartment and resident to facilitate access to the upstream and downstream manholes as required for inspection, cleaning, and CIPP lining of the sewer.

FEASIBILITY REPORT - SCOPE OF SERVICES

6. Perform two days of field investigation of adjacent sanitary collection service areas in order to determine the feasibility of redirecting flow from the Dizzy Bridge sewer.
7. Provide a letter feasibility report which discusses conceptual options, planning level costs, exhibits, and recommendations for improvements to redirect flow from the Dizzy Bridge sewer to an adjacent sanitary collection service area and to abandon the sewer and bridge structure. The report will be reviewed and discussed with the Client.

SERVICES TO BE PROVIDED BY THE CLIENT

It is agreed the Client will provide B&N all available information, including record plans, drawings, exhibits, data, and engineering reports insofar as they are available or may be secured by the Client.

If the Client will assist in obtaining and providing access to project areas.

COMPENSATION

The scope of services defined herein shall be performed for the not-to-exceed fees, based on authorization to proceed being received by November 20, 2020. Please check your selection of services below:

- Sewer Rehabilitation (Scope Items 1-5) \$18,500
- Feasibility Report (Scope Items 6-7) \$10,400

Invoices will be monthly based on hourly rates plus reimbursable expenses and are due upon receipt.

ADDITIONAL SERVICES

Items identified as being outside the scope or beyond the effort outlined herein shall be deemed as an additional service and can be provided under a separate scope, fee, and authorization.



TERMS AND CONDITIONS

Terms and Conditions are attached to this proposal as Attachment A. Attachment A shall be incorporated into this proposal as if written herein and will become part of the Agreement when fully executed.


SIGNATURES

If you are in accord with the terms of this proposal, please acknowledge by signing below and returning one executed original for our files or a purchase order authorizing B&N to begin work on this project. B&N appreciates this opportunity to assist the City of Niles and awaits your authorization to proceed.

Sincerely,

BURGESS & NIPLE, INC.

CITY OF NILES



Timothy M. Antos, PE
Project Manager

Title



Daniel R. Johnson, PE
Vice President

Date

FINANCIAL OFFICER CERTIFICATION

I hereby certify the availability of funds for the above work.

TMA

Enclosure

copy: File

Finance Director



Attachment A Terms and Conditions

1. Attachment. These Terms and Conditions are attached to and are part of the proposal, and will become part of the Agreement when fully executed.
2. Changes to Agreement. Services beyond those stated herein can be provided by B&N upon written authorization of an additional fee and associated scope of services.
3. Dispute Resolution. B&N and Client agree that they shall diligently pursue resolution of all disagreements within 45 days of either party's written notice prior to exercising their rights under law.
4. Force Majeure. Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence.
5. Applicable Law. This Agreement shall be governed by the laws of Ohio. All disputes arising between the parties resulting in the filing of litigation shall be brought in state courts.
6. Severability. If any of the provisions of this Agreement shall be finally determined to be invalid or unenforceable in whole or in part, the remaining provisions hereof shall remain in full force and effect, and be binding upon the parties hereto. The parties agree to reform this Agreement 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.
7. Notices. Any notice or communication required by this Agreement shall be deemed sufficiently given if in writing and when delivered personally or 48 hours after deposit with the U.S. Postal Service as registered or certified mail, postage prepaid, and addressed as follows:

President
Burgess & Niple, Inc.
5085 Reed Road
Columbus, OH 43220

- Client shall give prompt, written notice to B&N whenever Client observes or otherwise becomes aware of: any development that affects the scope or time of performance of B&N's services; the presence at the site of any constituent of concern; or any relevant, material defect or nonconformance in (a) B&N's services; (b) the work, (c) the performance of any Contractor, or (d) Client's performance of its responsibilities under this Agreement.
8. Standard of Care. Services provided under this Agreement shall be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.
9. Technical Accuracy. Client shall not be responsible for discovering deficiencies in the technical accuracy of B&N's services. B&N shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Client-furnished information.
10. B&N shall not be required to sign any document, no matter by whom requested, that would result in B&N having to certify, guarantee, or warrant the existence of conditions whose existence B&N cannot ascertain. Client agrees not to make resolution of any dispute with B&N or payment of any amount due to B&N in any way contingent upon B&N signing any such document.
11. Project Delivery. In the event B&N completes the scope of services and the product of those services is ready for delivery, and the Client has unpaid invoices more than 120 days from the invoice date; project delivery shall be delayed by B&N until such time as the unpaid invoices and interest are current per the terms of this Agreement. The Client waives any and all claims against B&N for any such suspension.

Attachment A

Terms and Conditions

12. Independent Contractor. It is expressly understood and agreed that in the performance of their services under this Agreement, B&N shall not be considered an agent, i.e., an employee of the Client, but shall be considered an independent contractor.
 13. Compliance with Laws. B&N agrees to comply with applicable laws, rules, regulations, codes, ordinances and standards in force.
 14. Schedule. The schedule shall be as stated in the proposal.
 15. Suspension and Termination. In the event that a project is suspended or terminated by either party for either cause or convenience, an effective date of termination shall be agreed upon to allow B&N to demobilize personnel and equipment, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed tasks, and to assemble project materials in an orderly file. In the event of any termination, B&N will be entitled to invoice Client and receive full payment for all services performed or furnished through the effective date of termination. Client, at his sole risk, shall have the limited right to the use of documents.
 16. Opinions of Cost. When included in B&N's scope of services, opinions or estimates of probable construction cost are prepared on the basis of B&N's experience and qualifications and represent B&N's judgment as a professional generally familiar with the industry. However, since B&N has no control over the cost of labor, materials, equipment or services furnished by others, over contractors' methods of determining prices, or over competitive bidding or market conditions, B&N cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from B&N's opinions or estimates of probable construction cost.

If the lowest bona fide proposal or bid exceeds the established construction cost limit, Client shall (a) give written approval to increase such construction cost limit, or (b) authorize negotiating or rebidding the project within a reasonable time, or (c) cooperate in revising the project's scope, extent, or character to the extent consistent with the project's requirements and with sound engineering practices. In the case of (c), B&N shall modify the construction contract documents as necessary to bring the construction cost within the construction cost limit. Client shall pay B&N's cost and profit to provide such modification services, including the costs of the services of its subconsultants, all overhead expenses reasonably related thereto, and reimbursable expenses. The providing of such services will be the limit of B&N's responsibility in this regard and, having done so, B&N shall be entitled to payment for services and expenses in accordance with this Agreement and will not otherwise be liable for damages attributable to the lowest bona fide proposal or bid exceeding the established construction cost limit.
 17. Limitation of Liability. To the fullest extent permitted by laws and regulations, and not withholding any other provision of this Agreement, Client agrees that the total liability, in the aggregate, of B&N and B&N's officers, directors, members, partners, agents, employees, and subconsultants, to the Client, its subsidiary and/or affiliated companies and their respective officers, directors, employees, agents, and anyone claiming by, through, or under Client for any and all injuries, claims, losses, expenses, damages whatsoever arising out of, resulting from or in any way relating to B&N's services, this Agreement or any Addenda, from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied of B&N or B&N's officers, directors, members, partners, agents, employees, or subconsultants, shall be limited to the total amount of compensation received by B&N.
 18. Indemnification. B&N agrees, to the fullest extent permitted by law, to indemnify and hold harmless Client, its officers, directors and employees, against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs recoverable under applicable law, to the extent caused by B&N's negligent acts, errors or omissions in the performance of professional services under this Agreement and those of its subconsultants or anyone for whom B&N is legally liable.

The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless B&N, its officers, directors, employees and subconsultants, against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Client's negligent acts, errors or omissions and those of its contractors, subcontractors or consultants, or anyone for whom the Client is legally liable and arising from the project that is the subject of the Agreement.
- Neither the Client nor B&N shall be obligated to indemnify the other party in any manner whatsoever for the other party's negligence.

Attachment A

Terms and Conditions

19. Resident Project Representative. Nothing in this proposal, with respect to the furnishing of resident project representation, shall be construed to make B&N responsible for, nor to have control of, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the work; nor to make B&N responsible for the Contractor's failure to carry out the work in accordance with the Contract Documents; nor to confer responsibility upon B&N for any acts or omissions of the Contractor, Subcontractor, or others performing the work.
20. Services During Construction. Nothing in this proposal, with respect to the furnishing of services during construction, shall be construed to make B&N responsible for, nor to have control of, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the work; nor to make B&N responsible for the Contractor's failure to carry out the work in accordance with the Contract Documents; nor to confer responsibility upon B&N for any acts or omissions of the Contractor, Subcontractor, or others performing the work.
21. Construction Services without Project Representation. If B&N's services under this Agreement do not include Resident Project Representation, B&N shall have no responsibility for construction observation and review, and all other necessary construction-phase engineering and professional services, including the application and interpretation of the contract documents that arise from construction observation and review. The Client waives any claims against B&N that may be connected in any way thereto.
22. Design without Construction Services. If B&N's services under this Agreement do not include construction phase services or review of Contractor's performance, or any other construction phase services, then B&N's services under this Agreement shall be deemed complete no later than the end of bidding. B&N shall have no design or shop drawing review obligations during construction. The Client assumes all responsibility for the application and interpretation of the contract documents, contract administration, construction observation and review, and all other necessary construction phase engineering and professional services. The Client waives any claims against B&N that may be connected in any way thereto.
23. Ownership of Documents. All documents prepared or furnished by B&N to this Agreement are instruments of B&N's professional service, and B&N shall retain an ownership and property interest therein. B&N grants Client a license to use instruments of B&N's professional service for the purpose of constructing, occupying, and maintaining the Project. Reuse or modification of any such documents by Client, without B&N's written permission, shall be at Client's sole risk, and Client agrees to indemnify and hold B&N harmless from all claims, damages, and expenses, including attorneys' fees, arising out of such reuse by Client or by others acting through Client.
24. Insurance. B&N will maintain insurance coverage throughout the time of this Agreement. Certificates of Insurance will be provided upon request.
25. Payments to B&N. Invoices will be prepared monthly, or as agreed upon in the proposal, with payment due upon receipt. Any amounts due B&N past 30 days will be increased at the rate of 1 percent per month, beginning on the 31st day. The interest charges due, shall be additional fee unless otherwise agreed upon in writing.
26. B&N may, after giving 7 days' written notice to Client, suspend services under this Agreement until Client has paid in full all amounts due for services, expenses, and other related charges. Client waives any and all claims against B&N for any such suspension.
27. Attorney Fees. Should there be any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorney fees from the other party. The party that is awarded a net recovery against the other party shall be deemed the substantially prevailing party unless such other party has previously made a bona fide offer of payment in settlement and the amount of recovery is the same or less than the amount offered in a settlement. Reasonable attorney fees may be recovered regardless of the forum in which the dispute is heard, including an appeal.
28. Successors. B&N and the Client are hereby bound, and the successors, executors, administrators, and legal representatives of Client and B&N are hereby bound to the other party in this Agreement and to the successors, executors, administrators, and legal representatives of such other party, in respect of all covenants, contracts, and obligations of this Agreement.

City of Niles, Ohio

SPONSORED BY: UTILITIES
AUTHORIZED BY: SMITH

DRAFT NO. 110-20

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR OR HIS DESIGNATED REPRESENTATIVE TO ENTER INTO CONTRACT WITH BURGESS & NIPLE FOR PROFESSIONAL ENGINEERING SERVICES IN RELATION TO THE "DIZZY BRIDGE" SANITARY SEWER 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 contract with Burgess & Niple for the Professional Engineering Services as an emergency direct hire in relation to the "Dizzy Bridge" Sanitary Sewer.

SECTION 2: That this Ordinance is hereby declared to be an emergency measure in the interest of the public health, safety, and welfare in order to comply with EPA notice of violation. 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

City of Niles, Ohio

SPONSORED BY: IMPROVEMENTS
AUTHORIZED BY: LASTIC

DRAFT NO. 111-20

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR OR HIS DESIGNATED REPRESENTATIVE TO ENTER INTO CONTRACT WITH DUKES 360 FOR PROFESSIONAL SERVICES RELATED TO "DRAGON DRIVE" SEWER STORM AND SANITARY STUDY 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 contract with Dukes 360 for Professional Services related to "Dragon Drive" Sewer Storm and Sanitary Study.

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.

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



09 / 25 / 2020

Andy Catanzarite
City of Niles
34 West State Street
Niles, OH 44446

PROJECT NAME: Dukes 360 Program

Dear Andy,

Duke's Root Control is pleased to submit this proposal to City of Niles for the Dukes 360 Program project. All details regarding this project are contained within the pages of this proposal and include sample deliverables, scope of service descriptions, and pricing.

This proposal is being submitted based on interpretations made from the study maps or information we have been provided. Please review for accuracy.

Thank you for your consideration and the opportunity to illustrate our services. Please do not hesitate to contact me with any questions regarding this proposal.

Sincerely,
Duke's Root Control

Bob Humm

Bob Humm, Jr.
Ohio Valley Regional Manager
(614) 354-3927
bob@dukes.com

Investment

The prices quoted herein will remain in effect for the length of this contract, unless changes are agreed upon in writing by both parties. Services will be billed half at project initiation and remainder upon completion of final deliverables.

TYPE OF SERVICE	Price	Unit	QTY	Subtotal
Duke 360 P Program				
1. Precision i&i Microdetection to determine line segment i&i contribution 2. Acoustic pipeline inspection to identify and prioritize collection pipeline maintenance programs 3. Digital Manhole inspection and repair recommendations 4. Sewer smoke testing to identify public and private system defects Executive summary and findings reports, all data delivered electronically via GIS, PDF and CSV formats	\$23,270.00	LS	1	\$23,270.00
Optional: GIS Platform 1 Year unlimited license hosting fee	\$5,000.00		1	\$5,000.00
				\$23,270.00

iTracker Micro Detection - Scope of Services

Process

1. Receive and upload current GIS / GDB files per the included data requisition guide
2. Determine location to place initial iTracker units based on flow data obtained from maps or GIS files to properly canvass the study area.
3. Provide client link to view or approve locations for units
4. Access manholes and install iTracker units in accordance with manufacturer recommended installation procedures
5. Upon 1" or greater rain event, or 60 days, whichever occurs first, Dukes will remove and upload data from iTracker units. Rain data will be determined by an average of two of the following means: (1) Weatherunderground.com/NOAA weather service data; (2) rain data captured by Utility rain gauges; (3) deployment of ISCO digital rain gauge deployed centered in the study area. Multiple rain gauges may be deployed at the discretion of Duke's if found to be beneficial to the study data.
6. Maintain iTracker units by replacing batteries or units as required
7. Review, analyze and report data from test period per the sample deliverables
8. Review all data with client on a monthly basis (or otherwise agreed time period based on substantial rain event referenced above) and again at the end of the study period to identify areas of the system prone to elevated levels of inflow or infiltration during and after rain events

Responsibilities of Dukes

1. Provide all necessary crew and equipment to complete the project
2. Require and enforce that all staff wear proper identification and PPE including, but not limited to hi-vis vests.
3. Ensure that all vehicles are properly marked and have adequate safety lighting
4. Act in a polite, professional manner at all times and especially when dealing with the public
5. Report any severe observations to the point person from the client's office assigned to this project.

Responsibilities of Client

1. Provide contractor with all electronic data to successfully complete the project (see data requirements page)
2. Assist contractor with public issues or concerns
3. Agree to promptly review and advise contractor on any changes to location of iTracker units if client is participating in the iTracker placement process
4. Assist contractor with location and access of buried or surcharged manhole structures that have been deemed optimal locations for iTracker placement
5. Assist Dukes with traffic control to ensure a safe installation of units.

SL RAT - Scope of Services

Process
<ol style="list-style-type: none"> 1. Making every reasonable effort to access each manhole, complete field survey by installing transmitter and receiver between each pipeline segment in the test area. 2. Collect score of pipe segment and record it into our GIS tool 3. Upload data to server and audit for errors. Any errors are recontacted and communicated to field staff to retest the line segment. 4. Provide .CSV and .SHP export data files for pipeline segments 5. Provide executive summary report identifying all pipes and their corresponding scores 6. Update GIS client portal system in real time to display completed, surcharged, or missing structures.

Optional Services
<p>Snapping Pipeline Segments When included in proposal, snap pipeline segments to adjoining manholes with the SL RAT score</p> <p>GPS Coordinates / Geodatabase deliverable When included in proposal, contractor to shoot each asset using Trimble GNSS R2 receiver with centimeter accuracy with data correction services. Exceptions to centimeter accuracy might occur based on tree cover or other satellite obstruction. Contractor will make every possible effort to ensure centimeter accuracy is achieved for each asset. All data will be delivered via Geodatabase format including updating the client's existing attribute table and linking the SL RAT scores to the pipeline segment</p> <p>Integration into Client Asset Management or Work Order System When included in proposal, and when available, consultant to work with utility to define scores and populate those into client's work order management system for cleaning or further CCTV review.</p>

Responsibilities of Consultant	Responsibilities of Client
<ol style="list-style-type: none"> 1. Provide all necessary crew and equipment to complete the project 2. Require and enforce that all staff wear proper identification and PPE including, but not limited to hi-vis vests, 3. Ensure that all vehicles are properly marked and have adequate safety lighting 4. Act in a polite, professional manner at all times and especially when dealing with the public 5. Report any severe observations to the point person from the client's office assigned to this project. 	<ol style="list-style-type: none"> 1. Provide contractor with all electronic data to successfully complete the project (see data requirements page) 2. Assist contractor with public issues or concerns 3. Assist with locating or exposing "cannot locate" or "cannot access" structures. 4. Provide point of contact for project. 5. Make every possible effort to ensure that the survey map is current and accurate and that manhole lids are accessible so that project can be completed in designated time frame.

Manhole Inspections - Scope of Services

Process (All Levels of Service)

1. Making every reasonable effort to access each manhole, complete field televising using a digital manhole camera system (Panoramo 360 SI) at all times possible. Upon occasion, access with the camera system will not be possible due to terrain, resident access issues or location. At those times, crews will use a digital pole camera to obtain video files. Verify all field measurements with survey stick, pipe diameter verification tool and tap measure.
2. Contractor to provide all equipment and personnel as required to complete inspections, including at least (1) NASSCO certified inspector onsite during inspections per camera truck.
3. Provide all data in Access (NASSCO export DB) and .CSV / Excel format. Provide all digital scan files (.IPF file extension) as well as the free required view software to view the IPF files. Provide all PDF reports including appropriate attribute information collected per level of inspection detailed below. Provide access to these files via FTP or web link and provide them via USB external hard drive when requested.
4. Update GIS client portal system in real time to display completed, surcharged, or missing structures.

Level 1 MACP Inspection Specifics

Complete inspection using Panoramo 360 SI digital scanning camera equipment to perform full Level 1 MACP inspections including "non-entry" observations such as Cover, Frame, Chimney, Wall, Bench & Invert condition (Pass/Fail), confirmation of location, type of structure and evidence of surcharge and all other Level 1 MACP fields. Any additional fields not listed on the MACP Level 1 can be added as required by the client with advanced notice prior to start of project (additional fees may apply).

Level 2 MACP Inspection Specifics

Complete inspection using Panoramo 360 SI digital scanning camera equipment to perform full Level 2 MACP inspections including "remote entry" observations including all Level 1 MACP fields as well as all Cover dimensions (diameter, surface bearing, condition, lid type); Frame dimensions (all measurements, condition, inflow); Cover Insert (yes/no, condition); Frame Adj Ring (yes/no, height, condition); Chimney (yes/no, material, condition, depth); Cone (yes/no, type, material, condition, depth); Wall/Barrel (type, material, condition, depth); Bench (yes/no, type, material, condition, lining); Channel/Invert (yes/no, type, material, condition, lining); Pipe (All Rim-to-Invert dimensions for each pipe, pipe size/shape, condition, and material). Any additional fields not listed on the MACP Level 2 can be added as required by the client with advanced notice prior to start of project (additional fees may apply).

Manhole Inspections Scope of Services (continued)

Optional Services

Repair Recommendations (Executive Dashboard Program)

When included in proposal, repair recommendations for each manhole will be provided. The means in which this data will be delivered will be via Excel VBA driven spreadsheet program and will include the Asset ID#, Severity Rating (0 = good condition – no I/I and/or no structural defect or repair that should be considered as preventative or made within 7-10 years; 1 = fair condition – light I/I and/or structural defect that should be repaired within 5-7 years; 2 = moderate severity – regular flowing I/I and/or structural repair that should be made within 1-3 years; 3 = severe condition – heavy I/I and/or severe structural defect that should be repaired immediate to 1 year), Type of Repair by category (e.g. grout, curtain grout, chimney seal, lining, inside drop, bench rehab or replacement, etc), estimated budget price for repair and notes on condition or repair. All data from the original survey will be presented in drill down format through our Executive Dashboard Program.

GPS Coordinates / Geodatabase deliverable

When included in proposal, contractor to shoot each asset using Trimble GNSS R2 receiver with sub-foot accuracy with data correction services. Exceptions to sub-foot accuracy might occur based on tree cover or other satellite obstruction. Contractor will make every possible effort to ensure sub-foot accuracy is achieved for each asset. All data will be delivered via Geodatabase format including updating the client's existing attribute table and linking PDF reports to the asset (if requested).

Integration Into Client Asset Management or Work Order System

When included in proposal, and when available, consultant to work with utility to define repair types and populate those into client's work order management system.

Responsibilities of Consultant	Responsibilities of Client
<ol style="list-style-type: none"> 1. Provide all necessary crew and equipment to complete the project 2. Require and enforce that all staff wear proper identification and PPE including, but not limited to hi-vis vests. 3. Ensure that all vehicles are properly marked and have adequate safety lighting 4. Act in a polite, professional manner at all times and especially when dealing with the public 5. Report any severe observations to the point person from the client's office assigned to this project. 	<ol style="list-style-type: none"> 1. Provide contractor with all electronic data to successfully complete the project (see data requirements page) 2. Assist contractor with public issues or concerns 3. Assist with locating or exposing "cannot locate" or "cannot access" structures. 4. Provide point of contact for project. 5. Make every possible effort to ensure that the survey map is current and accurate and that manhole lids are accessible so that project can be completed in designated time frame.

Smoke Testing - Scope of Services

Process

1. Receive and upload current GIS files for subject area
2. Perform smoke testing in accordance with the NASSCO performance specification guideline
3. Split up map and designate daily target areas. Approximate footage per day is 8,000LF - 10,000LF
4. Use two blowers, and a crew of 4-5 operators, with at least one operator on the job that is NASSCO certified for Manholes, Pipelines and Laterals with no more than 1,000LF segments tested at a time.
5. Temporarily plug or bypass necessary manholes to test segment area
6. During test, survey area by walking on resident property and observing proper venting, defects with laterals and clean outs and pipeline defects including storm basins. Walking through resident front and rear yards is required to properly canvass the subject area.
7. Identify all defects with white marking paint and/or flags for each observation. Pictures or videos will be taken for each observation and recorded in the database. Pictures will include unique defect ID, intensity of smoke observed, closest address of defect and shall be accompanied by a close up picture of the defect and a perspective photo of the location.
8. Record all defects in database format (.csv / .xls) and include .pdf reports in electronic, or upon request, paper format. Defect information in the database shall include: Date, Weather, Crew, Setup Number, Blower MH#1, Blower MH#2 (if applicable), manholes impacted by survey, Defect ID#, Type of Defect, Intensity of Defect, Observation Notes and Pictures/Videos. Customization of fields and attribute values available upon request (possible extra fee may apply – see quotation for any additional fees).
9. Upload all final data into interactive executive dashboard program. This program allows for custom filtering and printing of defects (see deliverables samples)

Optional Service

GPS coordinates (centimeter accuracy with data correction services where available) and upon request and included in the scope of services proposal. If GPS is included in project, deliverables to include: GIS .GDB Geodatabase file of defect layer including pictures of defect tagged to Defect ID and PDF report link.

Integration Into Client Asset Management or Work Order System

When included in proposal, and when available, consultant to work with utility to define repair types and populate those into client's work order management system.

Smoke Testing - Scope of Services (continued)

<p>Notification Services and Scope</p>	<p>Notification is the key to success with smoke testing. Allow us to handle the resident and utility notification so that everyone is in the know. Here is our process:</p> <ol style="list-style-type: none"> 1. Provide sample public notification letters, social media copy and website copy. Provide access to our PSA video on smoke testing. 2. Provide notification to Police & Fire departments including sample of resident door tag, SDS sheet for the smoke, contact information for our field supervisor and call center team and provide them with a map of the area broken down by day. 3. Collect contact email addresses and send out daily notification emails with area for testing, and previous day resident issues (if any) 4. Establish call center for resident questions. Provide 24 hour mailbox to leave message and respond to calls next business day. Record all customer interactions in our GIS tool for final deliverable export to client. 5. Print and post door tags in designated area 2-3 days in advance of smoke testing (weekends included in day count). Remove any door tags still on doors after test in the area has been completed. 6. Post signs in the test area the morning of the smoke test. Place signs in obvious places such as the entrance and exit of neighborhoods and move signs around the test area so that the program is obvious to the residents in the area.
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Responsibilities of Consultant	Responsibilities of Client
<ol style="list-style-type: none"> 1. Provide all necessary crew and equipment to complete the project 2. Require and enforce that all staff wear proper identification and PPE including, but not limited to hi-vis vests. 3. Ensure that all vehicles are properly marked and have adequate safety lighting 4. Act in a polite, professional manner at all times and especially when dealing with the public 5. Report any severe observations to the point person from the client's office assigned to this project. 	<ol style="list-style-type: none"> 1. Provide contractor with all electronic data to successfully complete the project (see data requirements page) 2. Assist contractor with public issues or concerns 3. Acknowledge that consultant will not enter any resident home with concerns from smoke testing. Consultant will refer resident to contact point of contact at utility. Utility staff does not need to be present during test but person should be available to contact in case of resident issue. 4. Provide consultant with any informational pieces to leave with resident explaining process and remedies to defects noted on property (sample template provided upon request)

CONTRACT NUMBER

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this 25th day of September, 2020, by and between City of Niles, OH ("Customer") and Duke's Root Control, Inc., a New York corporation ("Consultant"). Customer and Consultant may be referred to singularly as "Party" and collectively as "Parties".

RECITALS

WHEREAS, the Customer desires to have certain services and tasks performed by Consultant; and

WHEREAS, Consultant desires to perform such services and tasks for the Customer

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, the parties hereto agree as follows:

1. SCOPE OF SERVICES

Consultant will perform for the Customer the services set forth on **Exhibit A - List of Services and Fee Schedule** attached hereto and made a part hereof ("Services"). The Consultant represents and warrants that it has pre-qualified the services to be provided under this Agreement. The Consultant further represents and warrants that the services the Consultant preforms pursuant to this Agreement will be done in accordance with the Codes, Amendments and Ordinances of the Municipality and State where the work is being performed.

2. CHANGES IN COST AND SERVICES

The Services and charges for such Services as set forth on Exhibit A hereto may only be changed or amended by mutual written and signed agreement of the Parties stating with specificity the change in Services and cost.

3. FEES

The fees for Services are as set forth on **Exhibit A - List of Services and Fee Schedule ("Fees")**. The total Fees shall not exceed Twenty three thousand, two hundred seventy and 00/100 Dollars (\$23,270.00). Unless there is a change in cost and services event as described in paragraph 2.

4. PAYMENT

Consultant will invoice the Customer for Services on a monthly basis, and each invoice shall include supporting documentation. Payment for invoiced Services is due to the Consultant within forty-five (45) days of the invoice date. The Customer may within seven (7) days of the invoice date by written notice to Consultant dispute an invoice, or any part thereof, and request additional information with respect to such disputed part, provided that such notice state with specificity the nature of the dispute and the additional information requested. Unless the Consultant receives such notice within the 7 day period, the invoice will be deemed accepted by the Customer and shall be paid in full as required under this Section 4. In the event of a dispute concerning an invoice, the Customer will pay the undisputed amount within forty-

five (45) days of the date of the invoice. The Parties will use their best efforts to reach an amicable resolution as to the disputed part of the invoice within the forty-five (45) days of the invoice date, and if resolved or partially resolved, the Customer shall then be obligated to pay the Consultant the undisputed amount within the earlier of ten (10) days from the date the dispute is resolved or fifty-five days after the date of invoice.

5. TERM

The term of this Agreement shall commence on the date of execution on this Agreement and shall terminate on March 31, 2021, unless extended by mutual signed written agreement of the Parties.

6. TERMINATION

Termination of this Agreement may happen under one of the following circumstances:

A. Either Party may terminate this Agreement for convenience at any time, with at least thirty (30) day advance written notice to the other Party. Consultant shall be paid all Fees for Services rendered up through and including the termination date.

Notwithstanding the foregoing, if the non-breaching Party elects, in its sole discretion, to permit the breaching Party to cure the breach or failure to perform, the non-breaching Party shall provide the breaching Party by email transmission with a Notice of Breach, stating in detail the nature of the breach or failure to perform. The breaching party shall have fifteen (15) days to cure the breach or otherwise perform as required. If the breach or failure to perform is not cured within 15 days after the email transmission, the non-breaching Party may immediately, by written notice to the breaching party, terminate this Agreement.

Within fifteen days of termination of this Agreement, Consultant will account for and dispose of it in a manner directed by the Customer any Customer property in its possession.

7. INDEPENDENT CONTRACTOR RELATIONSHIP

The Parties acknowledge and agree that the Services performed by Consultant, its employees, agents or sub-contractors shall be as an independent contractor and that nothing in this Agreement shall be deemed to constitute a partnership, joint venture, agency relationship or otherwise between the parties.

8. MUNICIPAL OBLIGATIONS

The property and/or project where the Services are to be performed are listed on **Exhibit B – Property/Project** attached hereto and incorporated herein by reference. The Customer shall make provision for access to the property and/or project where the Services are to be performed, and any adjacent properties, if necessary for performing the Services. The Customer shall provide in a timely manner all data information, GIS/GPS points, plans, specifications and other documentation required by Consultant to perform Services.

9. INDEMNIFICATION

To the fullest extent permitted by law, Consultant shall be liable for and shall defend, save, indemnify, and hold harmless the Customer, its elected and appointment officials, employees and

volunteers and others working on behalf of the Customer, from and against any and all claims, demands, suits, costs (including reasonable legal costs), expenses, and liabilities by reason of personal injury, including bodily injury or death and/or property damage to the extent that any such injury, loss or damage is caused by the negligence or breach of duty of Consultant or any officer, employee, representative, or agent of Consultant arising out of or related to Consultant's performance of the Services. To the extent that the Consultant provides the defense for the Customer, the Consultant shall have the right to select counsel to defend the Customer in actions pertaining to this Section. Notwithstanding any provision of the Agreement to the contrary, Consultant shall not have the obligation to defend, indemnify or hold harmless Customer, and shall not be responsible or liable to Customer, for the negligence, actions or omissions of third parties not under Consultant's control, including without limitation for any injury to person or death, damage to property or delays in Consultant's performance. If either Party becomes aware of any incident likely to give rise to a claim under the above indemnities, it shall notify the other and both Parties shall cooperate fully in investigating the incident.

10. CONSEQUENTIAL DAMAGES

Notwithstanding any provision of this Agreement to the contrary, except with respect to Consultant's obligation to indemnify Customer pursuant to Section 9 of this Agreement by reason of personal injury, including bodily injury or death and/or property damage, in no event shall Consultant be liable for consequential, special, incidental, indirect, loss profit or loss of income damages.

11. ASSIGNMENT

Neither party shall assign all or part of the rights, duties, obligations, responsibilities, nor benefits set forth in this Agreement to another entity without written approval of both parties. Consultant is permitted to subcontract portions of the services to be provided but only after first notifying Customer of such intention and delivering an endorsement to subcontractor's general liability coverage naming the Customer, its officers, employees and agents as additional insured. Consultant remains responsible for any subcontractor's performance.

12. INSURANCE

During the pendency of this Agreement, at a minimum, the Consultant shall procure and maintain, and shall cause any subcontractor of the Consultant providing Services, to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the Customer. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

A. Worker's Compensation insurance to cover obligations imposed by applicable law for any employee of Consultant and any subcontractor engaged in the performance of work under this Agreement, and Employer's Liability insurance with minimum limits of one million dollars (\$1,000,000) bodily injury each accident, one million dollars (\$1,000,000) bodily injury by disease - policy limit, and one million dollars (\$1,000,000) bodily injury by disease - each employee. Evidence of qualified self-insured status may be substituted for the worker's compensation requirements of this paragraph.

B. Commercial general liability insurance with minimum combined single limits of one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, independent Consultant's, products, and completed operations. The Customer and the Customer's officers, employees, and consultants shall be named as additional insureds.

C. Prior to commencement of the Services, Consultant shall submit endorsements of insurance acceptable to the Customer.

13. OWNERSHIP OF DOCUMENTS

Provided that the Customer is not in breach and has performed as required under this Agreement and Consultant has been paid for the Services, the Customer shall own the work product and deliverables created by Consultant pursuant to this Agreement. All records, documents, notes, data and other materials required for or resulting from the performance of the Services hereunder shall not be used by the Consultant for any other purchase other than the performance of the Services hereunder without the express prior written consent of the Customer. Unless this Agreement is terminated for cause

14. SEVERABILITY

If any part of this Agreement shall be held to be invalid for any reason, the remainder of this Agreement shall be valid to the fullest extent permitted by law.

15. DISCRIMINATION

Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability or national origin.

16. SOLICITATION/HIRING OF CONSULTANT'S EMPLOYEES

The Customer acknowledges and agrees that Consultant has invested considerable time and resources in the development of its workforce. During the term of this Agreement and for one (1) year thereafter, Customer shall not solicit, recruit or hire, or attempt to solicit, recruit or hire, any employee or former employee of Consultant who provides Services to Customer pursuant to this Agreement ("Service Providers"), or who interacted with Customer in connection with the provision of such Services. The Parties agree that this provision is reasonable and necessary in order to preserve and protect Consultant's investment in the training of its employees, the stability of its workforce, and its ability to provide competitive programs in this market. If any provision of this section is found by a court or arbitrator to be overly broad, unreasonable in scope or otherwise unenforceable, the Parties agree that such court or arbitrator shall modify such provision to the minimum extent necessary to render this section enforceable. Customer acknowledges and agrees that a violation of this provision by the Customer could likely cause Consultant irreparable harm, and that damages at law may be inadequate, which may in addition to any other remedy to which Consultant may be entitled by law or in equity, entitle Consultant to seek injunctive relief.

17. NOTICES

Any notice under this Agreement shall be in writing and may be personally delivered, sent by recognized overnight carrier, sent pre-paid, certified mail, return receipt requested, proper postage prepaid, or by email, addressed as follows:

If to the Customer:	If to the Consultant:
	Ms. Michelle Harrod, Vice President Duke's Root Control, Inc. 1020 Hiawatha Blvd West Syracuse, NY 13204 michelle@dukes.com

Notice sent by personal delivery or recognized overnight carrier shall be deemed sufficient upon delivery, even if rejected. Notice by certified mail, return receipt requested, shall be deemed sufficient two (2) business days after being placed in the U.S. mail. Notice by email shall be deemed sufficient if sent on a business day during the hours of 8:00 a.m. and 6:00 p.m., Eastern time provided that upon request of the recipient, the sender provides written confirmation of the transmission. For purposes of this Agreement, business days shall be any day except Saturday, Sunday, Federal holidays, and any state holiday the Customer offices are closed.

18. DISPUTE RESOLUTION

In the event a dispute arises out of or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation, before resorting to litigation, or some other dispute resolution procedure.

19. GOVERNING LAW AND VENUE

This Agreement shall be construed under and governed by the laws of the State of New York without regard to principles of conflict of laws. Any suit or action arising out of or related to this Agreement shall be brought in the state or Federal courts having jurisdiction in the County of Onondaga, State of New York, and the Parties waive any objection to such venue.

20. COUNTERPARTS

This Agreement and any amendments may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. For purposes of executing this Agreement, scanned signatures shall be as valid as the original.

21. WAIVER

No failure or delay by any party in enforcing this Agreement or exercising any right, power, or privilege hereunder this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further enforcement of this Agreement or exercise such or other right, power, or privilege hereunder this Agreement

22. ENTIRE AGREEMENT

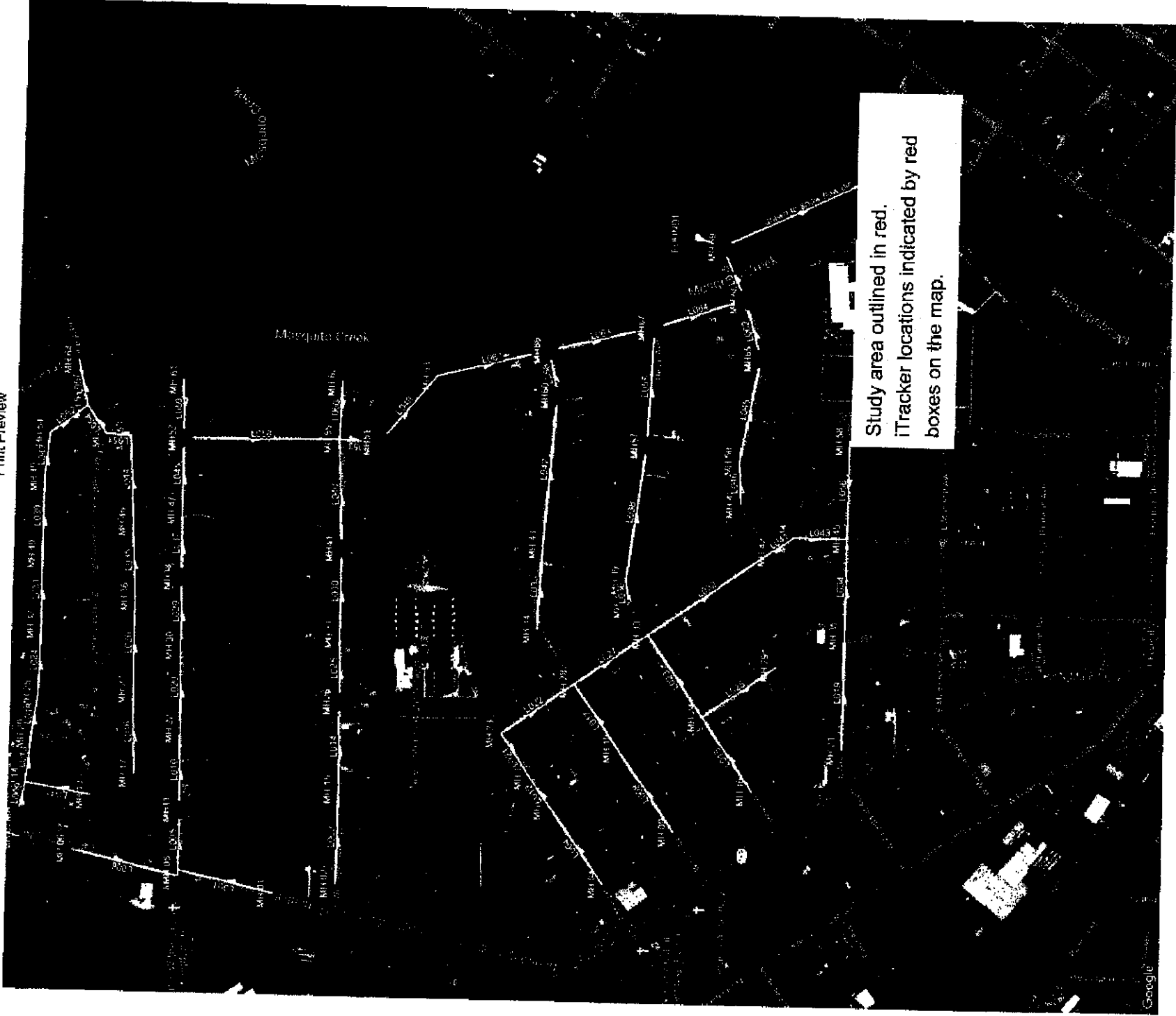
This Agreement, along with the attached exhibits, constitutes the complete, entire and final agreement of the Parties with respect to the subject matter hereof, and shall supersede any and all previous communications, representations, whether oral or written, with respect to the subject matter hereof.

IN WITNESS HEREOF, the undersigned have caused this Agreement to be executed in their respective names on the dates herein enumerated.

Duke's Root Control, Inc.

Name: _____
Title: _____
Date: _____

Name: Michelle Harrod
Title: Vice President
Date: September 25, 2020



City of Niles, Ohio

SPONSORED BY: COUNCIL AS A WHOLE
AUTHORIZED BY: ALL MEMBERS OF COUNCIL

DRAFT NO. 112-20

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$410,000 TO PAY COSTS OF ACQUIRING AND EQUIPPING VEHICLES FOR THE CITY'S SERVICE DEPARTMENTS, INCLUDING A STREET SWEEPER AND HOE RAM, INCLUDING ALL NECESSARY APPURTENANCES, AND DECLARING AN EMERGENCY.

WHEREAS, this Council has determined to issue bonds in the aggregate principal amount of \$410,000 (the Bonds) to provide funds necessary to acquire and equip vehicles for the City's Service Departments, including a street sweeper and hoe ram, including all necessary appurtenances (the Project) and to pay financing costs related to the issuance of the Bonds; and

WHEREAS, the Auditor as fiscal officer of this City has certified to this Council that the estimated life or period of usefulness of the Project is at least five years, and the estimated maximum maturity of bonds issued to pay costs of the Project is 10 years;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Niles, County of Trumbull, Ohio, that:

Section 1. Definitions and Interpretation. In addition to the words and terms elsewhere defined in this Ordinance, these words and phrases shall have the following meanings, unless the context or use clearly indicates another or different meaning or intent:

"Authorized Denominations" means (a) with respect to Current Interest Bonds, the denomination of \$5,000 or any integral multiple thereof, and (b) with respect to Capital Appreciation Bonds, the denomination equal to the principal amount that, when interest is accrued and compounded thereon on each Interest Accretion Date to the stated maturity of the Bonds, will equal a \$5,000 Maturity Amount or any integral multiple thereof.

"Bond proceedings" means, collectively, this Ordinance, the Certificate of Award, the Registrar Agreement and such other proceedings of the City, including the Bonds, that provide collectively for, among other things, the rights of holders and beneficial owners of the Bonds.

"Bond Register" means all books and records necessary for the registration, exchange and transfer of Bonds as provided in Section 5.

"Bond Registrar" shall have the meaning ascribed in Section 4.

"Bonds" means the Bonds authorized in Section 2.

"Book entry form" or "book entry system" means a form or system under which (a) the ownership of book entry interests in Bonds and the principal of and interest on the Bonds may be transferred only through a book entry, and (b) physical Bond certificates in fully registered form are issued by the City only to a Depository or its nominee as registered owner, with the physical Bond certificates deposited with and maintained in the custody of the Depository or its agent. The book entry maintained by others than the City or the Bond Registrar is the record that identifies the owners of book entry interests in those Bonds and that principal and interest.

"Capital Appreciation Bonds" means any Bonds specified as such in the Certificate of Award, maturing in the years, being in the principal amounts and having the Maturity Amounts set forth therein, and bearing interest accrued and compounded on each Interest Accretion Date and payable at maturity.

“Certificate of Award” means the certificate authorized by Section 6(a), to be signed by the Fiscal Officer, setting forth and specifying those terms or other matters pertaining to the Bonds and their issuance, sale and delivery as this Ordinance requires or authorizes to be set forth therein.

“Closing Date” means the date of physical delivery of, and payment of the purchase price for, the Bonds.

“Code” means the Internal Revenue Code of 1986, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section of the Code includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures, and determinations pertinent to that Section.

“Compound Accreted Amount” means, with respect to any Capital Appreciation Bond, the principal amount thereof plus interest accrued and compounded on each Interest Accretion Date to the date of maturity or other date of determination. The Compound Accreted Amount per \$5,000 Maturity Amount of the Capital Appreciation Bonds of each maturity and interest rate within a maturity as of each Interest Accretion Date shall be set forth in the Certificate of Award. The Compound Accreted Amount of any Capital Appreciation Bond as of any date other than an Interest Accretion Date is the sum of (a) the Compound Accreted Amount for such Bond on the immediately preceding Interest Accretion Date plus (b) the product obtained by multiplying (i) the difference obtained by subtracting (A) the Compound Accreted Amount of that Bond on the immediately preceding Interest Accretion Date from (B) the Compound Accreted Amount of that Bond on the immediately succeeding Interest Accretion Date, times (ii) the ratio of (C) the number of days from the immediately preceding Interest Accretion Date to the date of determination to (D) the total number of days from that immediately preceding Interest Accretion Date to the immediately succeeding Interest Accretion Date; provided, however, that in determining the Compound Accreted Amount of a Capital Appreciation Bond as of a date prior to the first Interest Accretion Date, the Closing Date shall be deemed to be the immediately preceding Interest Accretion Date and the principal amount of that Capital Appreciation Bond shall be deemed to be the Compound Accreted Amount on the Closing Date.

“Current Interest Bonds” means, collectively, the Serial Bonds and the Term Bonds, each as is specified as such in the Certificate of Award.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of book entry interests in Bonds or the principal of and interest on Bonds, and to effect transfers of Bonds, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“Executive” means the Mayor of the City.

“Fiscal Officer” means the Auditor of the City.

“Interest Accretion Dates” means, unless otherwise specified in the Certificate of Award, as to any Capital Appreciation Bonds, each June 1 and December 1, commencing June 1, 2021, in the years any Capital Appreciation Bonds are outstanding.

“Interest Payment Dates” means, unless otherwise specified in the Certificate of Award, (a) as to Current Interest Bonds, June 1 and December 1 of each year that the Current Interest Bonds are outstanding, commencing June 1, 2021, and (b) as to any Capital Appreciation Bonds, their respective maturity dates.

“Maturity Amount” means, with respect to a Capital Appreciation Bond, the principal and interest due and payable at the stated maturity of that Capital Appreciation Bond.

“Original Purchaser” means the purchaser of the Bonds designated by the Fiscal Officer in the Certificate of Award.

“Participant” means any participant contracting with a Depository under a book entry system and includes securities brokers and dealers, banks, and trust companies, and clearing corporations.

“Principal Payment Dates” means, unless otherwise specified in the Certificate of Award, December 1 in each of the years from and including 2021 to and including 2031; provided, that in no case shall the latest Principal Payment Date be later than the maximum maturity of the Bonds referred to in the preambles hereto.

“Registrar Agreement” means the Bond Registrar Agreement described in Section 4.

“Rule” means Rule 15c2-12 prescribed by the SEC pursuant to the Securities Exchange Act of 1934.

“Serial Bonds” means those Current Interest Bonds specified as such and maturing on the dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and not subject to mandatory sinking fund redemption.

“Term Bonds” means those Current Interest Bonds specified as such and maturing on the date or dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and subject to mandatory sinking fund redemption.

The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit, or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs, or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

Section 2. Authorized Principal Amount and Purpose: Application of Proceeds. This Council determines that it is necessary and in the best interest of the City to issue bonds of this City in one lot in the maximum principal amount of \$410,000 (the Bonds) to pay costs of the Project and the payment of expenses related to the issuance of the Bonds. The Bonds shall be issued pursuant to Chapter 133, Ohio Revised Code, and this Ordinance.

The aggregate principal amount of Bonds to be issued shall not exceed the amount authorized in this Section and shall be issued in an amount determined by the Fiscal Officer in the Certificate of Award to be the aggregate principal amount of Bonds required to be issued at this time for the purpose stated in this Section 2, taking into account estimated financing costs.

The proceeds from the sale of the Bonds, except any premium and accrued interest, shall be paid into the proper fund or funds and those proceeds are appropriated and shall be used for the purpose for which the Bonds are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

Section 3. Denominations; Dating; Principal and Interest Payment and Redemption Provisions. The Bonds shall be issued in one lot and only as fully registered bonds, in the Authorized Denominations, but in no case as to a particular maturity date exceeding the principal amount maturing on that date. The respective principal amounts of the Bonds to be issued as Current Interest Bonds and Capital Appreciation Bonds (if any Bonds are to be issued as Capital Appreciation Bonds) shall be specified by the Fiscal Officer in the Certificate of Award, having due regard to the best interest of and financial advantages to the City. The Current Interest Bonds shall be dated as provided in the Certificate of Award, provided that their dated date shall not be more than sixty (60) days prior to the Closing Date, and any Capital Appreciation Bonds shall be dated as of the Closing Date.

(a) Interest Rates, Interest Payment Dates and Maximum Net Interest Rate. The Current Interest Bonds shall bear interest at the rate or rates of interest per year (computed on the basis of a 360-day year consisting of twelve 30-day months), as shall be specified by the Fiscal Officer in the Certificate of Award. Interest on the Current Interest Bonds shall be payable on each Interest Payment Date until the principal amount has been paid or provided for. The Current Interest Bonds shall bear interest from the most recent date to which interest has been paid or provided for, if no interest has been paid or provided for, from their date.

Any Capital Appreciation Bonds shall bear interest from the Closing Date at the compounding rate or rates of interest per year (computed on the basis of a 360-day year consisting of twelve 30-day months), accrued and compounded on each Interest Accretion Date and payable at maturity, that will result in the aggregate Maturity Amounts payable at maturity, as shall be specified by the Fiscal Officer in the Certificate of Award. The total interest accrued on any Capital Appreciation Bond as of any particular date shall be an amount equal to the amount by which the Compound Accreted Amount of that Capital Appreciation Bond as of that date exceeds the principal amount of that Capital Appreciation Bond.

The true interest cost for the Bonds determined by taking into account the respective principal amounts of the Bonds and terms to maturity of the Bonds or redemption pursuant to Mandatory Sinking Fund Redemption Requirements (as hereinafter defined and described) of those principal amounts of Bonds that are Term Bonds shall not exceed 2.50% per year. Notwithstanding any provision in this Ordinance to the contrary, Bonds maturing on any one Principal Payment Date may bear different interest rates and may be issued separately as Current Interest Bonds and Capital Appreciation Bonds.

(b) Principal Payment Schedule. The Bonds shall mature or be payable pursuant to Mandatory Sinking Fund Redemption Requirements on the Principal Payment Dates and in principal amounts as shall be specified by the Fiscal Officer, subject to subsection (c) of this Section, in the Certificate of Award, consistent with the Fiscal Officer's determination of the best interest of and financial advantages to the City.

Consistent with the foregoing and in accordance with the Fiscal Officer's determination of the best interest of and financial advantages to the City, the Fiscal Officer shall specify in the Certificate of Award (i) the aggregate principal amount of Current Interest Bonds to be issued as Serial Bonds, the Principal Payment Dates on which those Bonds shall be stated to mature and the principal amount thereof that shall be stated to mature on each such Principal Payment Date, (ii) the aggregate principal amount of Current Interest Bonds to be issued as Term Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature, the principal amount thereof that shall be stated to mature on each such Principal Payment Date, the Principal Payment Date or Dates on which Term Bonds shall be subject to mandatory sinking fund redemption (Mandatory Redemption Dates) and the principal amount thereof that shall be payable on each Mandatory Redemption Date (Mandatory Sinking Fund Redemption Requirements), and (iii) the aggregate principal amount of any Bonds to be issued as Capital Appreciation Bonds and the corresponding aggregate Maturity Amount thereof, the Principal Payment Date or Dates on which those Bonds shall be stated to mature, and the principal amount and corresponding Maturity Amount thereof that shall be payable on each such Principal Payment Date.

(c) Conditions for Establishment of Interest Rates and Principal Payment Dates and Amounts. The rate or rates of interest per year to be borne by the Current Interest Bonds and the compounding rate or rates of interest per year to be borne by any Capital Appreciation Bonds, and the principal amount of Current Interest Bonds maturing or payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Principal Payment Date and the Maturity Amount of any Capital Appreciation Bonds payable on each Principal Payment Date (and allocated to each Project), shall be such that (i) the total principal and interest payments on the Bonds allocated to each Project in any fiscal year in which principal is payable is not more than three times the amount of those payments with respect to that portion in any other such fiscal year and (ii) the principal amount of the Bonds maturing or payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Principal Payment Date shall be such that the principal amount allocated to each Project shall be retired in full by the maximum maturity date for that portion of the principal amount.

(d) Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of and any premium on the Current Interest Bonds, and principal of and interest on any Capital Appreciation Bonds, shall be payable when due upon presentation and surrender of the Bonds at the office of the Bond Registrar designated in the Certificate of Award or, if not so designated, then at the principal corporate trust office of the Bond Registrar. Interest on a Current Interest Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person's address appearing, on the Bond Register at the close of business on the date provided in the Registrar Agreement. Notwithstanding the foregoing, if and so long as the Bonds are issued in a book entry system,

principal of and interest and any premium on the Bonds shall be payable in the manner provided in any agreement entered into by the Fiscal Officer, in the name and on behalf of the City, in connection with the book entry system.

(e) Redemption Provisions. Except as otherwise specified in the Certificate of Award, the Current Interest Bonds shall be subject to redemption prior to stated maturity as follows:

(i) Mandatory Sinking Fund Redemption of Term Bonds. If any of the Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory redemption in part by lot and be redeemed pursuant to mandatory sinking fund requirements, at a redemption price of 100% of the principal amount redeemed, plus accrued interest to the redemption date, on the applicable Mandatory Redemption Dates and in the principal amounts payable on those dates, for which provision is made in the Certificate of Award (such dates and amounts being the Mandatory Sinking Fund Redemption Requirements).

The aggregate of the moneys to be deposited with the Bond Registrar for payment of principal of and interest on any Term Bonds on each Mandatory Redemption Date shall include an amount sufficient to redeem on that date the principal amount of Term Bonds payable on that date pursuant to Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as provided below).

The City shall have the option to deliver to the Bond Registrar for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City, as specified by the Fiscal Officer, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. That option shall be exercised by the City on or before the 15th day preceding any Mandatory Redemption Date with respect to which the City wishes to obtain a credit, by furnishing the Bond Registrar a certificate, signed by the Fiscal Officer, setting forth the extent of the credit to be applied with respect to the then current or any subsequent Mandatory Sinking Fund Redemption Requirement for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate. If the certificate is not timely furnished to the Bond Registrar, the current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) shall not be reduced. A credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation), as specified by the Fiscal Officer, also shall be received by the City for any Term Bonds which prior thereto have been redeemed (other than through the operation of the applicable Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled by the Bond Registrar, to the extent not applied theretofore as a credit against any Mandatory Sinking Fund Redemption Requirement, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so redeemed or purchased and canceled.

Each Term Bond so delivered, or previously redeemed, or purchased and canceled, shall be credited by the Bond Registrar at 100% of the principal amount thereof against the then current or subsequent Mandatory Sinking Fund Redemption Requirements (and corresponding mandatory redemption obligations), as specified by the Fiscal Officer, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered, redeemed or purchased and canceled.

(ii) Optional Redemption. The Current Interest Bonds of the maturities and interest rates, if any, specified in the Certificate of Award shall be subject to redemption by and at the sole option of the City, in whole or in part in integral multiples of \$5,000, on the optional redemption dates and at the redemption prices (expressed as a percentage of the principal amount to be redeemed) specified by the Fiscal Officer in the Certificate of Award, plus accrued interest to the redemption date; provided that the redemption price for the earliest optional redemption date shall not be greater than 102%. The Fiscal Officer may determine in the Certificate of Award that it is in the best interests of the City for some or all of the Bonds not to be callable prior to their stated maturity.

If optional redemption of Term Bonds at a redemption price exceeding 100% of the principal amount to be redeemed is to take place as of any Mandatory Redemption Date applicable to those Term Bonds, the Term Bonds, or portions thereof, to be redeemed optionally shall be

selected by lot prior to the selection by lot of the Term Bonds of the same maturity to be redeemed on the same date by operation of the Mandatory Sinking Fund Redemption Requirements. Bonds to be redeemed pursuant to this paragraph shall be redeemed only upon written notice from the Fiscal Officer to the Bond Registrar, given upon the direction of this Council through a resolution or an ordinance. That notice shall specify the redemption date and the principal amount of each maturity of Bonds to be redeemed and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar.

(iii) Partial Redemption. If fewer than all of the outstanding Bonds are called for optional redemption at one time and Bonds of more than one maturity or interest rate within a maturity are then outstanding, the Bonds that are called shall be Bonds of the maturity or maturities and interest rate or rates selected by the City. If fewer than all of the Bonds of a single maturity and interest rate within that maturity are to be redeemed, the selection of Bonds of that maturity and interest rate within that maturity to be redeemed, or portions thereof in amounts of \$5,000 or any integral multiple thereof, shall be made by the Bond Registrar by lot in a manner determined by the Bond Registrar. In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then outstanding, each \$5,000 unit of principal thereof shall be treated as if it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of principal amount represented by a Bond are to be called for redemption, then, upon notice of redemption of a \$5,000 unit or units, the registered owner of that Bond shall surrender the Bond to the Bond Registrar (i) for payment of the redemption price of the \$5,000 unit or units of principal amount called for redemption (including, without limitation, the interest accrued to the date fixed for redemption and any premium), and (ii) for issuance, without charge to the registered owner, of a new Bond or Bonds of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(iv) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (A) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (B) the redemption price to be paid, (C) the date fixed for redemption, and (D) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing a copy of the redemption notice by first class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address then shown on the Bond Register maintained by the Bond Registrar. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond.

(v) Payment of Redeemed Bonds. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as provided above, there shall be deposited with the Bond Registrar on or prior to the redemption date, moneys that, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof, plus accrued interest to the redemption date, all of the redeemable Bonds for which notice of redemption has been given. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with accrued interest thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds, provided that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

(vi) Capital Appreciation Bonds. The Capital Appreciation Bonds, if any, are not subject to redemption prior to maturity.

(vii) Purchase in Lieu of Redemption. If and to the extent provided in the Certificate of Award, the City may have the option to purchase any Bond that is redeemable by optional redemption at a purchase price not less than the redemption price that would be payable if that Bond were called for optional redemption on the date of the proposed purchase. That election shall be exercised by written direction from the Fiscal Officer to the Bond Registrar given within the same time period specified for the City's giving notice of optional redemption of Bonds. That written direction shall identify the Bonds to be purchased by their maturity date and shall specify the principal amount of each maturity to be purchased in lieu of redemption. The purchase price of the Bonds to be purchased in lieu of redemption shall be equal to the principal of, any accrued but unpaid interest on, and any premium that would have been payable on the Bonds if the Bonds had been optionally redeemed instead of being purchased. Notice of the purchase of Bonds in lieu of redemption shall be given by the Bond Registrar to the owners of the Bonds in the same manner as notice of redemption is required by this Ordinance to be given. The Bond Registrar, as paying agent, shall not purchase Bonds if sufficient moneys have not been deposited with the Bond Registrar for the purpose. If fewer than all of the outstanding Bonds of a maturity are to be purchased in lieu of redemption, the selection of Bonds to be purchased shall be made in the same manner as is required by this Ordinance for the partial redemption of Bonds. On the date established for the purchase of any Bonds, the Registrar shall pay the purchase price to the registered owners against delivery and shall cause the purchased Bonds to be registered in the name as specified by the Fiscal Officer.

Section 4. Signing and Authentication of Bonds; Appointment of Bond Registrar. The Bonds shall be signed by the Fiscal Officer and the Executive, in the name of the City and in their official capacities, provided that either or both of those signatures may be a facsimile. The Bonds shall be issued in the Authorized Denominations and numbers as requested by the Original Purchaser and approved by the Fiscal Officer, shall be numbered as determined by the Fiscal Officer in order to distinguish each Bond from any other Bond and to distinguish the Current Interest Bonds from any Capital Appreciation Bonds, and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to the provisions of Ohio Revised Code Chapter 133, this Ordinance and the Certificate of Award.

As used herein, "Bond Registrar" means the person or entity appointed pursuant to this Section 4 as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds and until a successor Bond Registrar shall have become such and, thereafter, "Bond Registrar" shall mean the successor Bond Registrar. In the Certificate of Award, the Fiscal Officer shall appoint the initial Bond Registrar, who may be the Fiscal Officer; provided that, if the Bond Registrar is to be a bank or trust company: (a) the Fiscal Officer shall first determine that said bank or trust company will not endanger the funds or securities of the City; and (b) the Fiscal Officer shall sign and deliver, in the name and on behalf of the City, a Bond Registrar Agreement between the City and the Bond Registrar (the Registrar Agreement) after having obtained the approval of this Council of said Registrar Agreement; and (c) unless paid from other sources, the Fiscal Officer shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond proceedings unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed, and delivered under, and is entitled to the security and benefit of, the Bond proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Fiscal Officer on behalf of the City. The same person need not sign the certificate of authentication on all of the Bonds.

Section 5. Registration; Transfer and Exchange; Book Entry System.

(a) Bond Registrar. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep the Bond Register at the office satisfactory to the Fiscal Officer and the Bond Registrar. Subject to the provisions of Section 6, the person in whose

name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of the Bond proceedings. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

(b) Transfer and Exchange. Any Bond may be exchanged for Bonds of any Authorized Denomination upon presentation and surrender at the office of the Bond Registrar designated in the Certificate of Award or, if not so designated, then at the principal corporate trust office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the designated office of the Bond Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. Upon exchange or transfer the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any Authorized Denomination or Denominations requested by the owner equal in the aggregate to the unmatured principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign, and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of the Bond proceedings. The exchange or transfer shall be without charge to the owner, except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under the Bond proceedings as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15th day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing, or (ii) any Bond selected for redemption, in whole or in part.

(c) Book Entry System. Notwithstanding any other provisions of this Ordinance, if the Fiscal Officer determines in the Certificate of Award that it is in the best interest of and financially advantageous to the City, the Bonds may be issued in book entry form in accordance with the following provisions of this Section.

The Bonds may be issued to a Depository for use in a book entry system and, if and so long as a book entry system is utilized, (i) the Bonds may be issued in the form of a single, fully registered Bond representing each maturity and interest rate within a maturity and registered in the name of the Depository or its nominee, as registered owner, and deposited with and maintained in the custody of the Depository or its designated agent which may be the Bond Registrar; (ii) the book entry interest owners of Bonds in book entry form shall not have any right to receive Bonds in the form of physical securities or certificates; (iii) ownership of book entry interests in Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of book entry interests shall be made only by book entry by the Depository and its Participants; and (iv) the Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Bonds for use in a book entry system, the Fiscal Officer may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Fiscal Officer does not or is unable to do so, the Fiscal Officer, after making provision for notification of the book entry interest owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Bonds from the Depository, and shall cause Bond certificates in registered form to be authenticated by the Bond Registrar and delivered to the assigns of the Depository or its nominee,

all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Fiscal Officer is hereby authorized, to the extent necessary or required, to enter into any agreements, in the name and on behalf of the City, that the Fiscal Officer determines to be necessary in connection with a book entry system for the Bonds.

Section 6. Sale of the Bonds.

(a) Original Purchaser Designated in Certificate of Award. The Fiscal Officer is hereby authorized to solicit and receive proposals for the purchase of the Bonds. The Bonds shall be awarded and sold by the Fiscal Officer to the Original Purchaser designated in the Certificate of Award at a purchase price not less than 97% of the aggregate principal amount thereof, as shall be determined by the Fiscal Officer in the Certificate of Award, plus accrued interest on the Current Interest Bonds from their date to the Closing Date, and shall be awarded by the Fiscal Officer with and upon such other terms as are required or authorized by this Ordinance to be specified in the Certificate of Award, in accordance with law and the provisions of this Ordinance. The Fiscal Officer is authorized, if it is determined to be in the best interest of the City, to combine the issue of Bonds with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code in which case a single Certificate of Award may be utilized for the consolidated bond issue if appropriate and consistent with the terms of this Ordinance.

The Fiscal Officer shall sign and deliver the Certificate of Award and shall cause the Bonds to be prepared and signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price. The Executive, the Fiscal Officer, the City Treasurer, the City Director of Law, the Clerk of Council and other City officials, as appropriate, each are authorized to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance.

(b) Application for Rating or Bond Insurance. If, in the judgment of the Fiscal Officer, the filing of an application for (i) a rating on the Bonds by one or more nationally-recognized rating agencies, or (ii) a policy of insurance from a company or companies to better assure the payment of principal of and interest on the Bonds, is in the best interest of and financially advantageous to this City, the Fiscal Officer is authorized to prepare and submit those applications, to provide to each such agency or company such information as may be required for the purpose, and to provide further for the payment of the cost of obtaining each such rating or policy, to the extent not paid by the Original Purchaser in accordance with the Certificate of Award, from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose. The Fiscal Officer is hereby authorized, to the extent necessary or required, to enter into any agreements, in the name of and on behalf of the City, that the Fiscal Officer determines to be necessary in connection with the obtaining of that bond insurance. Any actions heretofore taken in conformance herewith are hereby ratified, confirmed and approved.

(c) Financing Costs. The expenditure of the amounts necessary to pay the costs of issuing and servicing the Bonds, printing and delivery of the Bonds, legal services including obtaining the approving legal opinion of bond counsel, any paying agent fees and expenses, the fees and expenses of financial advisors, rating agency fees and expenses, any fees or premiums relating to municipal bond insurance or other security arrangements determined necessary by the Fiscal Officer, and all other financing costs (as defined in Section 133.01 of the Ohio Revised Code) and costs incurred incidental to those purposes, to the extent not paid by the Original Purchaser in accordance with the Certificate of Award, is authorized and approved. All amounts necessary to pay those costs and fees are hereby appropriated from the proceeds of the Bonds, and as to future financing costs (as referenced in Section 133.01(K) of the Ohio Revised Code), the Bond Retirement Fund, and the Fiscal Officer is hereby authorized and directed to make appropriate certifications as to the availability of funds for those costs and fees, to the extent they shall be obligations of the City, as the amounts thereof become known and shall encumber those amounts immediately upon such certification, but not in excess of the appropriation made herein, and to issue an appropriate order for their timely payment as the same shall become due and payable.

Section 7. Provisions for Tax Levy. There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Bonds when and as the same fall due.

Nothing in this Section in any way diminishes the irrevocable pledge of the full faith and credit and revenues of the City to the prompt payment of the debt charges on the Bonds.

Section 8. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Code or (ii) be treated other than as obligations the interest on which is excluded from gross income under Section 103 of the Code applies, and (b) the interest on the Bonds will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The City hereby represents that the Outstanding Notes were designated or deemed designated as "qualified tax-exempt obligations" pursuant to Section 265(b)(3) of the Code. The City hereby covenants that it will redeem the Outstanding Notes from proceeds of, and within 90 days after issuance of, the Bonds, and represents that all other conditions are met for treating an amount of the Bonds not in excess of the amount of the Outstanding Notes as "qualified tax-exempt obligations" and as not to be taken into account under subparagraph (D) of Section 265(b)(3) of the Code, without necessity for further designation, by reason of subparagraph (D)(ii) of Section 265(b)(3) of the Code. Any amount of the Bonds in excess of the amount of the Outstanding Notes, determined in accordance with Section 265(b)(3) of the Code (the Designated Amount), is hereby designated as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code. In that connection, the City hereby represents and covenants that it, together with all its subordinate entities or entities that issue obligations on its behalf, or on behalf of which it issues obligations, in or during the calendar year in which the Bonds are issued, (i) have not issued and will not issue tax-exempt obligations designated as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code, including the Designated Amount of the Bonds, in an aggregate amount in excess of \$10,000,000, and (ii) have not issued, do not reasonably anticipate issuing, and will not issue, tax-exempt obligations (including the Designated Amount of the Bonds, but excluding obligations, other than qualified 501(c)(3) bonds as defined in Section 145 of the Code, that are private activity bonds as defined in Section 141 of the Code and excluding refunding obligations that are not advance refunding obligations as defined in Section 149(d)(5) of the Code) in an aggregate amount exceeding \$10,000,000, unless the City first obtains a written opinion of nationally recognized bond counsel that such designation or issuance, as applicable, will not adversely affect the status of the Bonds as "qualified tax-exempt obligations." Further, the City represents and covenants that, during any time or in any manner as might affect the status of the Bonds as "qualified tax-exempt obligations", it has not formed or participated in the formation of, or benefited from or availed itself of, any entity in order to avoid the purposes of subparagraph (C) or (D) of Section 265(b)(3) of the Code, and will not form, participate in the formation of, or benefit from or avail itself of, any such entity. The City further represents that the Bonds are not being issued as part of a direct or indirect composite issue that combines issues or lots of tax-exempt obligations of different issuers.

The Fiscal Officer, or any other officer of the City having responsibility for issuance of the Bonds is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Bonds as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in Section 148(f)(4)(C) or Section 265(b)(3) of the Code or available under Section 148 or Section 265 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Bonds.

Each covenant made in this section with respect to the Bonds is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Bonds (and, if different, the original issue and any refunding issues in a series of refundings), to the extent such compliance is necessary to assure exclusion of interest on the Bonds from gross income for federal income tax purposes, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this section to take with respect to the Bonds.

Section 9. Certification and Delivery of Ordinance and Certificate of Award. The Clerk of Council is directed to deliver a certified copy of this Ordinance and the Certificate of Award to the County Auditor of Trumbull County.

Section 10. Satisfaction of Conditions for Bond Issuance. This Council determines that all acts and conditions necessary to be performed by the City or to have been met precedent to and in the issuing of the Bonds in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 7) of the City are pledged for the timely payment of the debt charges on the Bonds; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds. The Council further finds and determines, and hereby represents and recites, that the provisions of the rules of this Council and its ordinances and resolutions have been fully complied with and that this Ordinance was passed in conformity therewith.

Section 11. Bond Counsel Services. The legal services of Squire Patton Boggs (US) LLP, as bond counsel are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Bonds and the rendering of the necessary legal opinions upon the delivery of the Bonds. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services, whether or not the Bonds are ever issued. The Fiscal Officer is authorized and directed, to the extent they are not paid by the Original Purchaser, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

Section 12. Financial Advisor Services. The services of Sudsina & Associates, LLC, as financial advisor, be and are hereby retained. The financial advisory services shall be in the nature of financial advice and recommendations in connection with the issuance and sale of the Bonds. In

rendering those financial advisory services, as an independent contractor, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those financial advisory services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those financial advisory services. The Fiscal Officer is authorized and directed, to the extent they are not paid by the Original Purchaser, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

Section 13. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 14. Effective Date. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Bonds in a timely fashion to make their proceeds available to enable the City to acquire the service vehicles and thereby improve and preserve the safety and welfare of the residents of the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____, 2020

PRESIDENT OF COUNCIL

ATTEST: _____
Clerk of Council

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

MAYOR

City of Niles, Ohio

SPONSORED BY: COUNCIL AS A WHOLE
AUTHORIZED BY: ALL MEMBERS OF COUNCIL

DRAFT NO. 113-20

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$610,000 TO PAY COSTS OF ACQUIRING AND EQUIPPING A FIRE TRUCK, INCLUDING ALL NECESSARY APPURTENANCES, AND DECLARING AN EMERGENCY.

WHEREAS, this Council has determined to issue bonds in the aggregate principal amount of \$610,000 (the Bonds) to provide funds necessary to acquire and equip a fire truck, including all necessary appurtenances (the Project) and to pay financing costs related to the issuance of the Bonds; and

WHEREAS, the Auditor as fiscal officer of this City has certified to this Council that the estimated life or period of usefulness of the Project is at least five years, and the estimated maximum maturity of bonds issued to pay costs of the Project is 10 years;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Niles, County of Trumbull, Ohio, that:

Section 1. Definitions and Interpretation. In addition to the words and terms elsewhere defined in this Ordinance, these words and phrases shall have the following meanings, unless the context or use clearly indicates another or different meaning or intent:

“Authorized Denominations” means (a) with respect to Current Interest Bonds, the denomination of \$5,000 or any integral multiple thereof, and (b) with respect to Capital Appreciation Bonds, the denomination equal to the principal amount that, when interest is accrued and compounded thereon on each Interest Accretion Date to the stated maturity of the Bonds, will equal a \$5,000 Maturity Amount or any integral multiple thereof.

“Bond proceedings” means, collectively, this Ordinance, the Certificate of Award, the Registrar Agreement and such other proceedings of the City, including the Bonds, that provide collectively for, among other things, the rights of holders and beneficial owners of the Bonds.

“Bond Register” means all books and records necessary for the registration, exchange and transfer of Bonds as provided in Section 5.

“Bond Registrar” shall have the meaning ascribed in Section 4.

“Bonds” means the Bonds authorized in Section 2.

“Book entry form” or “book entry system” means a form or system under which (a) the ownership of book entry interests in Bonds and the principal of and interest on the Bonds may be transferred only through a book entry, and (b) physical Bond certificates in fully registered form are issued by the City only to a Depository or its nominee as registered owner, with the physical Bond certificates deposited with and maintained in the custody of the Depository or its agent. The book entry maintained by others than the City or the Bond Registrar is the record that identifies the owners of book entry interests in those Bonds and that principal and interest.

“Capital Appreciation Bonds” means any Bonds specified as such in the Certificate of Award, maturing in the years, being in the principal amounts and having the Maturity Amounts set forth therein, and bearing interest accrued and compounded on each Interest Accretion Date and payable at maturity.

“Certificate of Award” means the certificate authorized by Section 6(a), to be signed by the Fiscal Officer, setting forth and specifying those terms or other matters pertaining to the Bonds and their issuance, sale and delivery as this Ordinance requires or authorizes to be set forth therein.

“Closing Date” means the date of physical delivery of, and payment of the purchase price for, the Bonds.

“Code” means the Internal Revenue Code of 1986, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section of the Code includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures, and determinations pertinent to that Section.

“Compound Accreted Amount” means, with respect to any Capital Appreciation Bond, the principal amount thereof plus interest accrued and compounded on each Interest Accretion Date to the date of maturity or other date of determination. The Compound Accreted Amount per \$5,000 Maturity Amount of the Capital Appreciation Bonds of each maturity and interest rate within a maturity as of each Interest Accretion Date shall be set forth in the Certificate of Award. The Compound Accreted Amount of any Capital Appreciation Bond as of any date other than an Interest Accretion Date is the sum of (a) the Compound Accreted Amount for such Bond on the immediately preceding Interest Accretion Date plus (b) the product obtained by multiplying (i) the difference obtained by subtracting (A) the Compound Accreted Amount of that Bond on the immediately preceding Interest Accretion Date from (B) the Compound Accreted Amount of that Bond on the immediately succeeding Interest Accretion Date, times (ii) the ratio of (C) the number of days from the immediately preceding Interest Accretion Date to the date of determination to (D) the total number of days from that immediately preceding Interest Accretion Date to the immediately succeeding Interest Accretion Date; provided, however, that in determining the Compound Accreted Amount of a Capital Appreciation Bond as of a date prior to the first Interest Accretion Date, the Closing Date shall be deemed to be the immediately preceding Interest Accretion Date and the principal amount of that Capital Appreciation Bond shall be deemed to be the Compound Accreted Amount on the Closing Date.

“Current Interest Bonds” means, collectively, the Serial Bonds and the Term Bonds, each as is specified as such in the Certificate of Award.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of book entry interests in Bonds or the principal of and interest on Bonds, and to effect transfers of Bonds, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“Executive” means the Mayor of the City.

“Fiscal Officer” means the Auditor of the City.

“Interest Accretion Dates” means, unless otherwise specified in the Certificate of Award, as to any Capital Appreciation Bonds, each June 1 and December 1, commencing June 1, 2021, in the years any Capital Appreciation Bonds are outstanding.

“Interest Payment Dates” means, unless otherwise specified in the Certificate of Award, (a) as to Current Interest Bonds, June 1 and December 1 of each year that the Current Interest Bonds are outstanding, commencing June 1, 2021, and (b) as to any Capital Appreciation Bonds, their respective maturity dates.

“Maturity Amount” means, with respect to a Capital Appreciation Bond, the principal and interest due and payable at the stated maturity of that Capital Appreciation Bond.

“Original Purchaser” means the purchaser of the Bonds designated by the Fiscal Officer in the Certificate of Award.

“Participant” means any participant contracting with a Depository under a book entry system and includes securities brokers and dealers, banks, and trust companies, and clearing corporations.

“Principal Payment Dates” means, unless otherwise specified in the Certificate of Award, December 1 in each of the years from and including 2021 to and including 2031; provided, that in no case shall the latest Principal Payment Date be later than the maximum maturity of the Bonds referred to in the preambles hereto.

“Registrar Agreement” means the Bond Registrar Agreement described in Section 4.

“Rule” means Rule 15c2-12 prescribed by the SEC pursuant to the Securities Exchange Act of 1934.

“Serial Bonds” means those Current Interest Bonds specified as such and maturing on the dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and not subject to mandatory sinking fund redemption.

“Term Bonds” means those Current Interest Bonds specified as such and maturing on the date or dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and subject to mandatory sinking fund redemption.

The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit, or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs, or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

Section 2. Authorized Principal Amount and Purpose; Application of Proceeds. This Council determines that it is necessary and in the best interest of the City to issue bonds of this City in one lot in the maximum principal amount of \$610,000 (the Bonds) to pay costs of the Project and the payment of expenses related to the issuance of the Bonds. The Bonds shall be issued pursuant to Chapter 133, Ohio Revised Code, and this Ordinance.

The aggregate principal amount of Bonds to be issued shall not exceed the amount authorized in this Section and shall be issued in an amount determined by the Fiscal Officer in the Certificate of Award to be the aggregate principal amount of Bonds required to be issued at this time for the purpose stated in this Section 2, taking into account estimated financing costs.

The proceeds from the sale of the Bonds, except any premium and accrued interest, shall be paid into the proper fund or funds and those proceeds are appropriated and shall be used for the purpose for which the Bonds are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

Section 3. Denominations; Dating; Principal and Interest Payment and Redemption Provisions. The Bonds shall be issued in one lot and only as fully registered bonds, in the Authorized Denominations, but in no case as to a particular maturity date exceeding the principal amount maturing on that date. The respective principal amounts of the Bonds to be issued as Current Interest Bonds and Capital Appreciation Bonds (if any Bonds are to be issued as Capital Appreciation Bonds) shall be specified by the Fiscal Officer in the Certificate of Award, having due regard to the best interest of and financial advantages to the City. The Current Interest Bonds shall be dated as provided in the Certificate of Award, provided that their dated date shall not be more than sixty (60) days prior to the Closing Date, and any Capital Appreciation Bonds shall be dated as of the Closing Date.

(a) Interest Rates, Interest Payment Dates and Maximum Net Interest Rate. The Current Interest Bonds shall bear interest at the rate or rates of interest per year (computed on the basis of a 360-day year consisting of twelve 30-day months), as shall be specified by the Fiscal Officer in the Certificate of Award. Interest on the Current Interest Bonds shall be payable on each Interest Payment Date until the principal amount has been paid or provided for. The Current Interest Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

Any Capital Appreciation Bonds shall bear interest from the Closing Date at the compounding rate or rates of interest per year (computed on the basis of a 360-day year consisting of twelve 30-day months), accrued and compounded on each Interest Accretion Date and payable at maturity, that will result in the aggregate Maturity Amounts payable at maturity, as shall be specified by the Fiscal Officer in the Certificate of Award. The total interest accrued on any Capital Appreciation Bond as of any particular date shall be an amount equal to the amount by which the Compound Accreted Amount of that Capital Appreciation Bond as of that date exceeds the principal amount of that Capital Appreciation Bond.

The true interest cost for the Bonds determined by taking into account the respective principal amounts of the Bonds and terms to maturity of the Bonds or redemption pursuant to Mandatory Sinking Fund Redemption Requirements (as hereinafter defined and described) of those principal amounts of Bonds that are Term Bonds shall not exceed 2.50% per year. Notwithstanding any provision in this Ordinance to the contrary, Bonds maturing on any one Principal Payment Date may bear different interest rates and may be issued separately as Current Interest Bonds and Capital Appreciation Bonds.

(b) Principal Payment Schedule. The Bonds shall mature or be payable pursuant to Mandatory Sinking Fund Redemption Requirements on the Principal Payment Dates and in principal amounts as shall be specified by the Fiscal Officer, subject to subsection (c) of this Section, in the Certificate of Award, consistent with the Fiscal Officer's determination of the best interest of and financial advantages to the City.

Consistent with the foregoing and in accordance with the Fiscal Officer's determination of the best interest of and financial advantages to the City, the Fiscal Officer shall specify in the Certificate of Award (i) the aggregate principal amount of Current Interest Bonds to be issued as Serial Bonds, the Principal Payment Dates on which those Bonds shall be stated to mature and the principal amount thereof that shall be stated to mature on each such Principal Payment Date, (ii) the aggregate principal amount of Current Interest Bonds to be issued as Term Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature, the principal amount thereof that shall be stated to mature on each such Principal Payment Date, the Principal Payment Date or Dates on which Term Bonds shall be subject to mandatory sinking fund redemption (Mandatory Redemption Dates) and the principal amount thereof that shall be payable on each Mandatory Redemption Date (Mandatory Sinking Fund Redemption Requirements), and (iii) the aggregate principal amount of any Bonds to be issued as Capital Appreciation Bonds and the corresponding aggregate Maturity Amount thereof, the Principal Payment Date or Dates on which those Bonds shall be stated to mature, and the principal amount and corresponding Maturity Amount thereof that shall be payable on each such Principal Payment Date.

(c) Conditions for Establishment of Interest Rates and Principal Payment Dates and Amounts. The rate or rates of interest per year to be borne by the Current Interest Bonds and the compounding rate or rates of interest per year to be borne by any Capital Appreciation Bonds, and the principal amount of Current Interest Bonds maturing or payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Principal Payment Date and the Maturity Amount of any Capital Appreciation Bonds payable on each Principal Payment Date (and allocated to each Project), shall be such that (i) the total principal and interest payments on the Bonds allocated to each Project in any fiscal year in which principal is payable is not more than three times the amount of those payments with respect to that portion in any other such fiscal year and (ii) the principal amount of the Bonds maturing or payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Principal Payment Date shall be such that the principal amount allocated to each Project shall be retired in full by the maximum maturity date for that portion of the principal amount.

(d) Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of and any premium on the Current Interest Bonds, and principal of and interest on any Capital Appreciation Bonds, shall be payable when due upon presentation and surrender of the Bonds at the office of the Bond Registrar designated in the Certificate of Award or, if not so designated, then at the principal corporate trust office of the Bond Registrar. Interest on a Current Interest Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person's address appearing, on the Bond Register at the close of business on the date provided in the Registrar Agreement. Notwithstanding the foregoing, if and so long as the Bonds are issued in a book entry system,

principal of and interest and any premium on the Bonds shall be payable in the manner provided in any agreement entered into by the Fiscal Officer, in the name and on behalf of the City, in connection with the book entry system.

(e) Redemption Provisions. Except as otherwise specified in the Certificate of Award, the Current Interest Bonds shall be subject to redemption prior to stated maturity as follows:

(i) Mandatory Sinking Fund Redemption of Term Bonds. If any of the Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory redemption in part by lot and be redeemed pursuant to mandatory sinking fund requirements, at a redemption price of 100% of the principal amount redeemed, plus accrued interest to the redemption date, on the applicable Mandatory Redemption Dates and in the principal amounts payable on those dates, for which provision is made in the Certificate of Award (such dates and amounts being the Mandatory Sinking Fund Redemption Requirements).

The aggregate of the moneys to be deposited with the Bond Registrar for payment of principal of and interest on any Term Bonds on each Mandatory Redemption Date shall include an amount sufficient to redeem on that date the principal amount of Term Bonds payable on that date pursuant to Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as provided below).

The City shall have the option to deliver to the Bond Registrar for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City, as specified by the Fiscal Officer, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. That option shall be exercised by the City on or before the 15th day preceding any Mandatory Redemption Date with respect to which the City wishes to obtain a credit, by furnishing the Bond Registrar a certificate, signed by the Fiscal Officer, setting forth the extent of the credit to be applied with respect to the then current or any subsequent Mandatory Sinking Fund Redemption Requirement for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate. If the certificate is not timely furnished to the Bond Registrar, the current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) shall not be reduced. A credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation), as specified by the Fiscal Officer, also shall be received by the City for any Term Bonds which prior thereto have been redeemed (other than through the operation of the applicable Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled by the Bond Registrar, to the extent not applied theretofore as a credit against any Mandatory Sinking Fund Redemption Requirement, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so redeemed or purchased and canceled.

Each Term Bond so delivered, or previously redeemed, or purchased and canceled, shall be credited by the Bond Registrar at 100% of the principal amount thereof against the then current or subsequent Mandatory Sinking Fund Redemption Requirements (and corresponding mandatory redemption obligations), as specified by the Fiscal Officer, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered, redeemed or purchased and canceled.

(ii) Optional Redemption. The Current Interest Bonds of the maturities and interest rates, if any, specified in the Certificate of Award shall be subject to redemption by and at the sole option of the City, in whole or in part in integral multiples of \$5,000, on the optional redemption dates and at the redemption prices (expressed as a percentage of the principal amount to be redeemed) specified by the Fiscal Officer in the Certificate of Award, plus accrued interest to the redemption date; provided that the redemption price for the earliest optional redemption date shall not be greater than 102%. The Fiscal Officer may determine in the Certificate of Award that it is in the best interests of the City for some or all of the Bonds not to be callable prior to their stated maturity.

If optional redemption of Term Bonds at a redemption price exceeding 100% of the principal amount to be redeemed is to take place as of any Mandatory Redemption Date applicable to those Term Bonds, the Term Bonds, or portions thereof, to be redeemed optionally shall be

selected by lot prior to the selection by lot of the Term Bonds of the same maturity to be redeemed on the same date by operation of the Mandatory Sinking Fund Redemption Requirements. Bonds to be redeemed pursuant to this paragraph shall be redeemed only upon written notice from the Fiscal Officer to the Bond Registrar, given upon the direction of this Council through a resolution or an ordinance. That notice shall specify the redemption date and the principal amount of each maturity of Bonds to be redeemed and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar.

(iii) Partial Redemption. If fewer than all of the outstanding Bonds are called for optional redemption at one time and Bonds of more than one maturity or interest rate within a maturity are then outstanding, the Bonds that are called shall be Bonds of the maturity or maturities and interest rate or rates selected by the City. If fewer than all of the Bonds of a single maturity and interest rate within that maturity are to be redeemed, the selection of Bonds of that maturity and interest rate within that maturity to be redeemed, or portions thereof in amounts of \$5,000 or any integral multiple thereof, shall be made by the Bond Registrar by lot in a manner determined by the Bond Registrar. In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then outstanding, each \$5,000 unit of principal thereof shall be treated as if it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of principal amount represented by a Bond are to be called for redemption, then, upon notice of redemption of a \$5,000 unit or units, the registered owner of that Bond shall surrender the Bond to the Bond Registrar (i) for payment of the redemption price of the \$5,000 unit or units of principal amount called for redemption (including, without limitation, the interest accrued to the date fixed for redemption and any premium), and (ii) for issuance, without charge to the registered owner, of a new Bond or Bonds of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(iv) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (A) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (B) the redemption price to be paid, (C) the date fixed for redemption, and (D) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing a copy of the redemption notice by first class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address then shown on the Bond Register maintained by the Bond Registrar. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond.

(v) Payment of Redeemed Bonds. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as provided above, there shall be deposited with the Bond Registrar on or prior to the redemption date, moneys that, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof, plus accrued interest to the redemption date, all of the redeemable Bonds for which notice of redemption has been given. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with accrued interest thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds, provided that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

(vi) Capital Appreciation Bonds. The Capital Appreciation Bonds, if any, are not subject to redemption prior to maturity.

(vii) Purchase in Lieu of Redemption. If and to the extent provided in the Certificate of Award, the City may have the option to purchase any Bond that is redeemable by optional redemption at a purchase price not less than the redemption price that would be payable if that Bond were called for optional redemption on the date of the proposed purchase. That election shall be exercised by written direction from the Fiscal Officer to the Bond Registrar given within the same time period specified for the City's giving notice of optional redemption of Bonds. That written direction shall identify the Bonds to be purchased by their maturity date and shall specify the principal amount of each maturity to be purchased in lieu of redemption. The purchase price of the Bonds to be purchased in lieu of redemption shall be equal to the principal of, any accrued but unpaid interest on, and any premium that would have been payable on the Bonds if the Bonds had been optionally redeemed instead of being purchased. Notice of the purchase of Bonds in lieu of redemption shall be given by the Bond Registrar to the owners of the Bonds in the same manner as notice of redemption is required by this Ordinance to be given. The Bond Registrar, as paying agent, shall not purchase Bonds if sufficient moneys have not been deposited with the Bond Registrar for the purpose. If fewer than all of the outstanding Bonds of a maturity are to be purchased in lieu of redemption, the selection of Bonds to be purchased shall be made in the same manner as is required by this Ordinance for the partial redemption of Bonds. On the date established for the purchase of any Bonds, the Registrar shall pay the purchase price to the registered owners against delivery and shall cause the purchased Bonds to be registered in the name as specified by the Fiscal Officer.

Section 4. Signing and Authentication of Bonds; Appointment of Bond Registrar. The Bonds shall be signed by the Fiscal Officer and the Executive, in the name of the City and in their official capacities, provided that either or both of those signatures may be a facsimile. The Bonds shall be issued in the Authorized Denominations and numbers as requested by the Original Purchaser and approved by the Fiscal Officer, shall be numbered as determined by the Fiscal Officer in order to distinguish each Bond from any other Bond and to distinguish the Current Interest Bonds from any Capital Appreciation Bonds, and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to the provisions of Ohio Revised Code Chapter 133, this Ordinance and the Certificate of Award.

As used herein, "Bond Registrar" means the person or entity appointed pursuant to this Section 4 as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds and until a successor Bond Registrar shall have become such and, thereafter, "Bond Registrar" shall mean the successor Bond Registrar. In the Certificate of Award, the Fiscal Officer shall appoint the initial Bond Registrar, who may be the Fiscal Officer; provided that, if the Bond Registrar is to be a bank or trust company: (a) the Fiscal Officer shall first determine that said bank or trust company will not endanger the funds or securities of the City; and (b) the Fiscal Officer shall sign and deliver, in the name and on behalf of the City, a Bond Registrar Agreement between the City and the Bond Registrar (the Registrar Agreement) after having obtained the approval of this Council of said Registrar Agreement; and (c) unless paid from other sources, the Fiscal Officer shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond proceedings unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed, and delivered under, and is entitled to the security and benefit of, the Bond proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Fiscal Officer on behalf of the City. The same person need not sign the certificate of authentication on all of the Bonds.

Section 5. Registration; Transfer and Exchange; Book Entry System.

(a) Bond Registrar. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep the Bond Register at the office satisfactory to the Fiscal Officer and the Bond Registrar. Subject to the provisions of Section 6, the person in whose

name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of the Bond proceedings. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

(b) Transfer and Exchange. Any Bond may be exchanged for Bonds of any Authorized Denomination upon presentation and surrender at the office of the Bond Registrar designated in the Certificate of Award or, if not so designated, then at the principal corporate trust office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the designated office of the Bond Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. Upon exchange or transfer the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any Authorized Denomination or Denominations requested by the owner equal in the aggregate to the unmatured principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign, and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of the Bond proceedings. The exchange or transfer shall be without charge to the owner, except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under the Bond proceedings as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15th day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing, or (ii) any Bond selected for redemption, in whole or in part.

(c) Book Entry System. Notwithstanding any other provisions of this Ordinance, if the Fiscal Officer determines in the Certificate of Award that it is in the best interest of and financially advantageous to the City, the Bonds may be issued in book entry form in accordance with the following provisions of this Section.

The Bonds may be issued to a Depository for use in a book entry system and, if and so long as a book entry system is utilized, (i) the Bonds may be issued in the form of a single, fully registered Bond representing each maturity and interest rate within a maturity and registered in the name of the Depository or its nominee, as registered owner, and deposited with and maintained in the custody of the Depository or its designated agent which may be the Bond Registrar; (ii) the book entry interest owners of Bonds in book entry form shall not have any right to receive Bonds in the form of physical securities or certificates; (iii) ownership of book entry interests in Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of book entry interests shall be made only by book entry by the Depository and its Participants; and (iv) the Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Bonds for use in a book entry system, the Fiscal Officer may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Fiscal Officer does not or is unable to do so, the Fiscal Officer, after making provision for notification of the book entry interest owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Bonds from the Depository, and shall cause Bond certificates in registered form to be authenticated by the Bond Registrar and delivered to the assigns of the Depository or its nominee,

all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Fiscal Officer is hereby authorized, to the extent necessary or required, to enter into any agreements, in the name and on behalf of the City, that the Fiscal Officer determines to be necessary in connection with a book entry system for the Bonds.

Section 6. Sale of the Bonds.

(a) Original Purchaser Designated in Certificate of Award. The Fiscal Officer is hereby authorized to solicit and receive proposals for the purchase of the Bonds. The Bonds shall be awarded and sold by the Fiscal Officer to the Original Purchaser designated in the Certificate of Award at a purchase price not less than 97% of the aggregate principal amount thereof, as shall be determined by the Fiscal Officer in the Certificate of Award, plus accrued interest on the Current Interest Bonds from their date to the Closing Date, and shall be awarded by the Fiscal Officer with and upon such other terms as are required or authorized by this Ordinance to be specified in the Certificate of Award, in accordance with law and the provisions of this Ordinance. The Fiscal Officer is authorized, if it is determined to be in the best interest of the City, to combine the issue of Bonds with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code in which case a single Certificate of Award may be utilized for the consolidated bond issue if appropriate and consistent with the terms of this Ordinance.

The Fiscal Officer shall sign and deliver the Certificate of Award and shall cause the Bonds to be prepared and signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price. The Executive, the Fiscal Officer, the City Treasurer, the City Director of Law, the Clerk of Council and other City officials, as appropriate, each are authorized to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance.

(b) Application for Rating or Bond Insurance. If, in the judgment of the Fiscal Officer, the filing of an application for (i) a rating on the Bonds by one or more nationally-recognized rating agencies, or (ii) a policy of insurance from a company or companies to better assure the payment of principal of and interest on the Bonds, is in the best interest of and financially advantageous to this City, the Fiscal Officer is authorized to prepare and submit those applications, and to provide to each such agency or company such information as may be required for the purpose, and to provide further for the payment of the cost of obtaining each such rating or policy, to the extent not paid by the Original Purchaser in accordance with the Certificate of Award, from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose. The Fiscal Officer is hereby authorized, to the extent necessary or required, to enter into any agreements, in the name of and on behalf of the City, that the Fiscal Officer determines to be necessary in connection with the obtaining of that bond insurance. Any actions heretofore taken in conformance herewith are hereby ratified, confirmed and approved.

(c) Financing Costs. The expenditure of the amounts necessary to pay the costs of issuing and servicing the Bonds, printing and delivery of the Bonds, legal services including obtaining the approving legal opinion of bond counsel, any paying agent fees and expenses, the fees and expenses of financial advisors, rating agency fees and expenses, any fees or premiums relating to municipal bond insurance or other security arrangements determined necessary by the Fiscal Officer, and all other financing costs (as defined in Section 133.01 of the Ohio Revised Code) and costs incurred incidental to those purposes, to the extent not paid by the Original Purchaser in accordance with the Certificate of Award, is authorized and approved. All amounts necessary to pay those costs and fees are hereby appropriated from the proceeds of the Bonds, and as to future financing costs (as referenced in Section 133.01(K) of the Ohio Revised Code), the Bond Retirement Fund, and the Fiscal Officer is hereby authorized and directed to make appropriate certifications as to the availability of funds for those costs and fees, to the extent they shall be obligations of the City, as the amounts thereof become known and shall encumber those amounts immediately upon such certification, but not in excess of the appropriation made herein, and to issue an appropriate order for their timely payment as the same shall become due and payable.

Section 7. Provisions for Tax Levy. There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Bonds when and as the same fall due.

Nothing in this Section in any way diminishes the irrevocable pledge of the full faith and credit and revenues of the City to the prompt payment of the debt charges on the Bonds.

Section 8. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Code or (ii) be treated other than as obligations the interest on which is excluded from gross income under Section 103 of the Code applies, and (b) the interest on the Bonds will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The City hereby represents that the Outstanding Notes were designated or deemed designated as "qualified tax-exempt obligations" pursuant to Section 265(b)(3) of the Code. The City hereby covenants that it will redeem the Outstanding Notes from proceeds of, and within 90 days after issuance of, the Bonds, and represents that all other conditions are met for treating an amount of the Bonds not in excess of the amount of the Outstanding Notes as "qualified tax-exempt obligations" and as not to be taken into account under subparagraph (D) of Section 265(b)(3) of the Code, without necessity for further designation, by reason of subparagraph (D)(ii) of Section 265(b)(3) of the Code. Any amount of the Bonds in excess of the amount of the Outstanding Notes, determined in accordance with Section 265(b)(3) of the Code (the Designated Amount), is hereby designated as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code. In that connection, the City hereby represents and covenants that it, together with all its subordinate entities or entities that issue obligations on its behalf, or on behalf of which it issues obligations, in or during the calendar year in which the Bonds are issued, (i) have not issued and will not issue tax-exempt obligations designated as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code, including the Designated Amount of the Bonds, in an aggregate amount in excess of \$10,000,000, and (ii) have not issued, do not reasonably anticipate issuing, and will not issue, tax-exempt obligations (including the Designated Amount of the Bonds, but excluding obligations, other than qualified 501(c)(3) bonds as defined in Section 145 of the Code, that are private activity bonds as defined in Section 141 of the Code and excluding refunding obligations that are not advance refunding obligations as defined in Section 149(d)(5) of the Code) in an aggregate amount exceeding \$10,000,000, unless the City first obtains a written opinion of nationally recognized bond counsel that such designation or issuance, as applicable, will not adversely affect the status of the Bonds as "qualified tax-exempt obligations." Further, the City represents and covenants that, during any time or in any manner as might affect the status of the Bonds as "qualified tax-exempt obligations", it has not formed or participated in the formation of, or benefited from or availed itself of, any entity in order to avoid the purposes of subparagraph (C) or (D) of Section 265(b)(3) of the Code, and will not form, participate in the formation of, or benefit from or avail itself of, any such entity. The City further represents that the Bonds are not being issued as part of a direct or indirect composite issue that combines issues or lots of tax-exempt obligations of different issuers.

The Fiscal Officer, or any other officer of the City having responsibility for issuance of the Bonds is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Bonds as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in Section 148(f)(4)(C) or Section 265(b)(3) of the Code or available under Section 148 or Section 265 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Bonds.

Each covenant made in this section with respect to the Bonds is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Bonds (and, if different, the original issue and any refunding issues in a series of refundings), to the extent such compliance is necessary to assure exclusion of interest on the Bonds from gross income for federal income tax purposes, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this section to take with respect to the Bonds.

Section 9. Certification and Delivery of Ordinance and Certificate of Award. The Clerk of Council is directed to deliver a certified copy of this Ordinance and the Certificate of Award to the County Auditor of Trumbull County.

Section 10. Satisfaction of Conditions for Bond Issuance. This Council determines that all acts and conditions necessary to be performed by the City or to have been met precedent to and in the issuing of the Bonds in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 7) of the City are pledged for the timely payment of the debt charges on the Bonds; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds. The Council further finds and determines, and hereby represents and recites, that the provisions of the rules of this Council and its ordinances and resolutions have been fully complied with and that this Ordinance was passed in conformity therewith.

Section 11. Bond Counsel Services. The legal services of Squire Patton Boggs (US) LLP, as bond counsel are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Bonds and the rendering of the necessary legal opinions upon the delivery of the Bonds. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services, whether or not the Bonds are ever issued. The Fiscal Officer is authorized and directed, to the extent they are not paid by the Original Purchaser, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

Section 12. Financial Advisor Services. The services of Sudsina & Associates, LLC, as financial advisor, be and are hereby retained. The financial advisory services shall be in the nature of financial advice and recommendations in connection with the issuance and sale of the Bonds. In

rendering those financial advisory services, as an independent contractor, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those financial advisory services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those financial advisory services. The Fiscal Officer is authorized and directed, to the extent they are not paid by the Original Purchaser, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

Section 13. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 14. Effective Date. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Bonds in a timely fashion to make their proceeds available to enable the City to acquire the fire truck and thereby improve and preserve the safety of the residents of the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____, 2020

PRESIDENT OF COUNCIL

ATTEST: _____
Clerk of Council

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

City of Niles, Ohio

SPONSORED BY: COUNCIL AS A WHOLE
AUTHORIZED BY: ALL MEMBERS OF COUNCIL

DRAFT NO. 114-20

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$4,745,000 FOR THE PURPOSE OF PAYING COSTS OF REFUNDING AT A LOWER INTEREST COST CERTAIN OF THE CITY'S OUTSTANDING VARIOUS PURPOSE IMPROVEMENT BONDS, SERIES 2011, DATED NOVEMBER 8, 2011, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant Ordinance No. 21-11, passed on August 24, 2011 (the Original Bond Legislation), there were issued \$7,500,000 Various Purpose Improvement Bonds, Series 2011 (the Series 2011 Bonds), dated November 8, 2011, for the purposes stated in Section 2, which bonds are currently outstanding in the aggregate principal amount of \$5,025,000 and will mature on December 1 in the years 2020 through 2031 (collectively, the Outstanding Bonds); and

WHEREAS, this Council finds and determines that it is necessary and in the best interest of the City to refund at a lower interest cost all or a portion of the Outstanding Bonds maturing on December 1 in the years 2021 through 2031 (the Refunded Bonds); and

WHEREAS, this Council finds and determines that it is necessary and in the best interest of the City to issue the Bonds described in Section 2 to provide funds sufficient for that purpose, including the payment of expenses properly allocable to that refunding and to the issuance of the Bonds; and

WHEREAS, the Auditor as fiscal officer of this City has certified to this Council that the estimated latest maturity date of bonds is December 31, 2031;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Niles, County of Trumbull, Ohio, that:

Section 1. Definitions and Interpretation. In addition to the words and terms elsewhere defined in this Ordinance, these words and phrases shall have the following meanings, unless the context or use clearly indicates another or different meaning or intent:

“Authorized Denominations” means (a) with respect to Current Interest Bonds, the denomination of \$5,000 or any integral multiple thereof, and (b) with respect to Capital Appreciation Bonds, the denomination equal to the principal amount that, when interest is accrued and compounded thereon on each Interest Accretion Date to the stated maturity of the Bonds, will equal a \$5,000 Maturity Amount or any integral multiple thereof.

“Bond proceedings” means, collectively, this Ordinance, the Certificate of Award, the Registrar Agreement and such other proceedings of the City, including the Bonds, that provide collectively for, among other things, the rights of holders and beneficial owners of the Bonds.

“Bond Register” means all books and records necessary for the registration, exchange and transfer of Bonds as provided in Section 5.

“Bond Registrar” shall have the meaning ascribed in Section 4.

“Bonds” means the Bonds authorized in Section 2.

“Book entry form” or “book entry system” means a form or system under which (a) the ownership of book entry interests in Bonds and the principal of and interest on the Bonds may be transferred only through a book entry, and (b) physical Bond certificates in fully registered form

are issued by the City only to a Depository or its nominee as registered owner, with the physical Bond certificates deposited with and maintained in the custody of the Depository or its agent. The book entry maintained by others than the City or the Bond Registrar is the record that identifies the owners of book entry interests in those Bonds and that principal and interest.

“Capital Appreciation Bonds” means any Bonds specified as such in the Certificate of Award, maturing in the years, being in the principal amounts and having the Maturity Amounts set forth therein, and bearing interest accrued and compounded on each Interest Accretion Date and payable at maturity.

“Certificate of Award” means the certificate authorized by Section 6(a), to be signed by the Fiscal Officer, setting forth and specifying those terms or other matters pertaining to the Bonds and their issuance, sale and delivery as this Ordinance requires or authorizes to be set forth therein.

“Closing Date” means the date of physical delivery of, and payment of the purchase price for, the Bonds.

“Code” means the Internal Revenue Code of 1986, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section of the Code includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures, and determinations pertinent to that Section.

“Compound Accreted Amount” means, with respect to any Capital Appreciation Bond, the principal amount thereof plus interest accrued and compounded on each Interest Accretion Date to the date of maturity or other date of determination. The Compound Accreted Amount per \$5,000 Maturity Amount of the Capital Appreciation Bonds of each maturity and interest rate within a maturity as of each Interest Accretion Date shall be set forth in the Certificate of Award. The Compound Accreted Amount of any Capital Appreciation Bond as of any date other than an Interest Accretion Date is the sum of (a) the Compound Accreted Amount for such Bond on the immediately preceding Interest Accretion Date plus (b) the product obtained by multiplying (i) the difference obtained by subtracting (A) the Compound Accreted Amount of that Bond on the immediately preceding Interest Accretion Date from (B) the Compound Accreted Amount of that Bond on the immediately succeeding Interest Accretion Date, times (ii) the ratio of (C) the number of days from the immediately preceding Interest Accretion Date to the date of determination to (D) the total number of days from that immediately preceding Interest Accretion Date to the immediately succeeding Interest Accretion Date; provided, however, that in determining the Compound Accreted Amount of a Capital Appreciation Bond as of a date prior to the first Interest Accretion Date, the Closing Date shall be deemed to be the immediately preceding Interest Accretion Date and the principal amount of that Capital Appreciation Bond shall be deemed to be the Compound Accreted Amount on the Closing Date.

“Current Interest Bonds” means, collectively, the Serial Bonds and the Term Bonds, each as is specified as such in the Certificate of Award.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of book entry interests in Bonds or the principal of and interest on Bonds, and to effect transfers of Bonds, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“Executive” means the Mayor of the City.

“Fiscal Officer” means the Auditor of the City.

“Interest Accretion Dates” means, unless otherwise specified in the Certificate of Award, as to any Capital Appreciation Bonds, each June 1 and December 1, commencing June 1, 2021, in the years any Capital Appreciation Bonds are outstanding.

“Interest Payment Dates” means, unless otherwise specified in the Certificate of Award, (a) as to Current Interest Bonds, June 1 and December 1 of each year that the Current Interest Bonds are outstanding, commencing June 1, 2021, and (b) as to any Capital Appreciation Bonds, their respective maturity dates.

“Maturity Amount” means, with respect to a Capital Appreciation Bond, the principal and interest due and payable at the stated maturity of that Capital Appreciation Bond.

“Original Purchaser” means the purchaser of the Bonds designated by the Fiscal Officer in the Certificate of Award.

“Participant” means any participant contracting with a Depository under a book entry system and includes securities brokers and dealers, banks, and trust companies, and clearing corporations.

“Principal Payment Dates” means, unless otherwise specified in the Certificate of Award, December 1 in each of the years from and including 2021 to and including 2031; provided, that in no case shall the latest Principal Payment Date be later than the maximum maturity of the Bonds referred to in the preambles hereto.

“Registrar Agreement” means the Bond Registrar Agreement described in Section 4.

“Rule” means Rule 15c2-12 prescribed by the SEC pursuant to the Securities Exchange Act of 1934.

“Serial Bonds” means those Current Interest Bonds specified as such and maturing on the dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and not subject to mandatory sinking fund redemption.

“Term Bonds” means those Current Interest Bonds specified as such and maturing on the date or dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and subject to mandatory sinking fund redemption.

The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit, or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs, or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

Section 2. Authorized Principal Amount and Purpose: Application of Proceeds. This Council determines that it is necessary and in the best interest of the City to issue bonds of this City in one lot in the maximum principal amount of \$4,745,000 (the Bonds) for the purpose of refunding at a lower interest cost certain of the City’s outstanding Various Purpose Improvement Bonds, Series 2011, dated November 8, 2011, which were issued to pay costs of (i) constructing, furnishing and equipping a multiuse indoor municipal recreation facility and the site thereof, (ii) improving the City’s water system by the construction of a pump station, waterlines and all necessary appurtenances, and (iii) improving the City’s sanitary sewer system, including all necessary appurtenances, including the payment of expenses related to the refunding of the Refunded Bonds and the issuance of the Bonds. The Bonds shall be issued pursuant to Chapter 133, Ohio Revised Code, and this Ordinance.

The aggregate principal amount of Bonds to be issued shall not exceed the amount authorized in this Section and shall be issued in an amount determined by the Fiscal Officer in the Certificate of Award to be the aggregate principal amount of Bonds required to be issued at this time for the purpose stated in this Section 2, taking into account estimated financing costs.

The proceeds from the sale of the Bonds, except any premium and accrued interest, shall be paid into the proper fund or funds and those proceeds are appropriated and shall be used for the purpose for which the Bonds are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

Section 3. Denominations; Dating; Principal and Interest Payment and Redemption Provisions. The Bonds shall be issued in one lot and only as fully registered bonds, in the Authorized Denominations, but in no case as to a particular maturity date exceeding the principal

amount maturing on that date. The respective principal amounts of the Bonds to be issued as Current Interest Bonds and Capital Appreciation Bonds (if any Bonds are to be issued as Capital Appreciation Bonds) shall be specified by the Fiscal Officer in the Certificate of Award, having due regard to the best interest of and financial advantages to the City. The Current Interest Bonds shall be dated as provided in the Certificate of Award, provided that their dated date shall not be more than sixty (60) days prior to the Closing Date, and any Capital Appreciation Bonds shall be dated as of the Closing Date.

(a) Interest Rates, Interest Payment Dates and Maximum Net Interest Rate. The Current Interest Bonds shall bear interest at the rate or rates of interest per year (computed on the basis of a 360-day year consisting of twelve 30-day months), as shall be specified by the Fiscal Officer in the Certificate of Award. Interest on the Current Interest Bonds shall be payable on each Interest Payment Date until the principal amount has been paid or provided for. The Current Interest Bonds shall bear interest from the most recent date to which interest has been paid or provided for, if no interest has been paid or provided for, from their date.

Any Capital Appreciation Bonds shall bear interest from the Closing Date at the compounding rate or rates of interest per year (computed on the basis of a 360-day year consisting of twelve 30-day months), accrued and compounded on each Interest Accretion Date and payable at maturity, that will result in the aggregate Maturity Amounts payable at maturity, as shall be specified by the Fiscal Officer in the Certificate of Award. The total interest accrued on any Capital Appreciation Bond as of any particular date shall be an amount equal to the amount by which the Compound Accreted Amount of that Capital Appreciation Bond as of that date exceeds the principal amount of that Capital Appreciation Bond.

The rate or rates of interest per year to be borne by any Bonds, and the principal amount of Bonds maturing on each Principal Payment Date, shall be such as to demonstrate net present value savings to the City due to the refunding of the Refunded Bonds, taking into account all expenses related to that refunding and issuance of the Bonds. Notwithstanding any provision in this Ordinance to the contrary, Bonds maturing on any one Principal Payment Date may bear different interest rates and may be issued separately as Current Interest Bonds and Capital Appreciation Bonds.

(b) Principal Payment Schedule. The Bonds shall mature or be payable pursuant to Mandatory Sinking Fund Redemption Requirements on the Principal Payment Dates and in principal amounts as shall be specified by the Fiscal Officer, subject to subsection (c) of this Section, in the Certificate of Award, consistent with the Fiscal Officer's determination of the best interest of and financial advantages to the City.

Consistent with the foregoing and in accordance with the Fiscal Officer's determination of the best interest of and financial advantages to the City, the Fiscal Officer shall specify in the Certificate of Award (i) the aggregate principal amount of Current Interest Bonds to be issued as Serial Bonds, the Principal Payment Dates on which those Bonds shall be stated to mature and the principal amount thereof that shall be stated to mature on each such Principal Payment Date, (ii) the aggregate principal amount of Current Interest Bonds to be issued as Term Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature, the principal amount thereof that shall be stated to mature on each such Principal Payment Date, the Principal Payment Date or Dates on which Term Bonds shall be subject to mandatory sinking fund redemption (Mandatory Redemption Dates) and the principal amount thereof that shall be payable on each (Mandatory Redemption Date (Mandatory Sinking Fund Redemption Requirements), and (iii) the aggregate principal amount of any Bonds to be issued as Capital Appreciation Bonds and the corresponding aggregate Maturity Amount thereof, the Principal Payment Date or Dates on which those Bonds shall be stated to mature, and the principal amount and corresponding Maturity Amount thereof that shall be payable on each such Principal Payment Date.

(c) Conditions for Establishment of Interest Rates and Principal Payment Dates and Amounts. The rate or rates of interest per year to be borne by the Current Interest Bonds and the compounding rate or rates of interest per year to be borne by any Capital Appreciation Bonds, and the principal amount of Current Interest Bonds maturing or payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Principal Payment Date and the Maturity Amount of any Capital Appreciation Bonds payable on each Principal Payment Date (and allocated to each Project), shall be such that (i) the total principal and interest payments on the Bonds allocated to each

Project in any fiscal year in which principal is payable is not more than three times the amount of those payments with respect to that portion in any other such fiscal year and (ii) the principal amount of the Bonds maturing or payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Principal Payment Date shall be such that the principal amount allocated to each Project shall be retired in full by the maximum maturity date for that portion of the principal amount.

(d) Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of and any premium on the Current Interest Bonds, and principal of and interest on any Capital Appreciation Bonds, shall be payable when due upon presentation and surrender of the Bonds at the office of the Bond Registrar designated in the Certificate of Award or, if not so designated, then at the principal corporate trust office of the Bond Registrar. Interest on a Current Interest Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person's address appearing on the Bond Register at the close of business on the date provided in the Registrar Agreement. Notwithstanding the foregoing, if and so long as the Bonds are issued in a book entry system, principal of and interest and any premium on the Bonds shall be payable in the manner provided in any agreement entered into by the Fiscal Officer, in the name and on behalf of the City, in connection with the book entry system.

(e) Redemption Provisions. Except as otherwise specified in the Certificate of Award, the Current Interest Bonds shall be subject to redemption prior to stated maturity as follows:

(i) Mandatory Sinking Fund Redemption of Term Bonds. If any of the Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory redemption in part by lot and be redeemed pursuant to mandatory sinking fund requirements, at a redemption price of 100% of the principal amount redeemed, plus accrued interest to the redemption date, on the applicable Mandatory Redemption Dates and in the principal amounts payable on those dates, for which provision is made in the Certificate of Award (such dates and amounts being the Mandatory Sinking Fund Redemption Requirements).

The aggregate of the moneys to be deposited with the Bond Registrar for payment of principal of and interest on any Term Bonds on each Mandatory Redemption Date shall include an amount sufficient to redeem on that date the principal amount of Term Bonds payable on that date pursuant to Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as provided below).

The City shall have the option to deliver to the Bond Registrar for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City, as specified by the Fiscal Officer, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. That option shall be exercised by the City on or before the 15th day preceding any Mandatory Redemption Date with respect to which the City wishes to obtain a credit, by furnishing the Bond Registrar a certificate, signed by the Fiscal Officer, setting forth the extent of the credit to be applied with respect to the then current or any subsequent Mandatory Sinking Fund Redemption Requirement for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate. If the certificate is not timely furnished to the Bond Registrar, the current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) shall not be reduced. A credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation), as specified by the Fiscal Officer, also shall be received by the City for any Term Bonds which prior thereto have been redeemed (other than through the operation of the applicable Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled by the Bond Registrar, to the extent not applied theretofore as a credit against any Mandatory Sinking Fund Redemption Requirement, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so redeemed or purchased and canceled.

Each Term Bond so delivered, or previously redeemed, or purchased and canceled, shall be credited by the Bond Registrar at 100% of the principal amount thereof against the then current or subsequent Mandatory Sinking Fund Redemption Requirements (and corresponding

mandatory redemption obligations), as specified by the Fiscal Officer, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered, redeemed or purchased and canceled.

(ii) Optional Redemption. The Current Interest Bonds of the maturities and interest rates, if any, specified in the Certificate of Award shall be subject to redemption by and at the sole option of the City, in whole or in part in integral multiples of \$5,000, on the optional redemption dates and at the redemption prices (expressed as a percentage of the principal amount to be redeemed) specified by the Fiscal Officer in the Certificate of Award, plus accrued interest to the redemption date; provided that the redemption price for the earliest optional redemption date shall not be greater than 102%. The Fiscal Officer may determine in the Certificate of Award that it is in the best interests of the City for some or all of the Bonds not to be callable prior to their stated maturity.

If optional redemption of Term Bonds at a redemption price exceeding 100% of the principal amount to be redeemed is to take place as of any Mandatory Redemption Date applicable to those Term Bonds, the Term Bonds, or portions thereof, to be redeemed optionally shall be selected by lot prior to the selection by lot of the Term Bonds of the same maturity to be redeemed on the same date by operation of the Mandatory Sinking Fund Redemption Requirements. Bonds to be redeemed pursuant to this paragraph shall be redeemed only upon written notice from the Fiscal Officer to the Bond Registrar, given upon the direction of this Council through a resolution or an ordinance. That notice shall specify the redemption date and the principal amount of each maturity of Bonds to be redeemed and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar.

(iii) Partial Redemption. If fewer than all of the outstanding Bonds are called for optional redemption at one time and Bonds of more than one maturity or interest rate within a maturity are then outstanding, the Bonds that are called shall be Bonds of the maturity or maturities and interest rate or rates selected by the City. If fewer than all of the Bonds of a single maturity and interest rate within that maturity are to be redeemed, the selection of Bonds of that maturity and interest rate within that maturity to be redeemed, or portions thereof in amounts of \$5,000 or any integral multiple thereof, shall be made by the Bond Registrar by lot in a manner determined by the Bond Registrar. In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then outstanding, each \$5,000 unit of principal thereof shall be treated as if it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of principal amount represented by a Bond are to be called for redemption, then, upon notice of redemption of a \$5,000 unit or units, the registered owner of that Bond shall surrender the Bond to the Bond Registrar (i) for payment of the redemption price of the \$5,000 unit or units of principal amount called for redemption (including, without limitation, the interest accrued to the date fixed for redemption and any premium), and (ii) for issuance, without charge to the registered owner, of a new Bond or Bonds of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(iv) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (A) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (B) the redemption price to be paid, (C) the date fixed for redemption, and (D) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing a copy of the redemption notice by first class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address then shown on the Bond Register maintained by the Bond Registrar. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond.

(v) Payment of Redeemed Bonds. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as provided above, there shall be deposited with the Bond Registrar on or prior to the redemption date, moneys that, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof, plus accrued interest to the redemption date, all of the redeemable Bonds for which notice of redemption has been given. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption

shall become due and payable on the redemption date, and, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with accrued interest thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds, provided that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

(vi) Capital Appreciation Bonds. The Capital Appreciation Bonds, if any, are not subject to redemption prior to maturity.

(vii) Purchase in Lieu of Redemption. If and to the extent provided in the Certificate of Award, the City may have the option to purchase any Bond that is redeemable by optional redemption at a purchase price not less than the redemption price that would be payable if that Bond were called for optional redemption on the date of the proposed purchase. That election shall be exercised by written direction from the Fiscal Officer to the Bond Registrar given within the same time period specified for the City's giving notice of optional redemption of Bonds. That written direction shall identify the Bonds to be purchased by their maturity date and shall specify the principal amount of each maturity to be purchased in lieu of redemption. The purchase price of the Bonds to be purchased in lieu of redemption shall be equal to the principal of, any accrued but unpaid interest on, and any premium that would have been payable on the Bonds if the Bonds had been optionally redeemed instead of being purchased. Notice of the purchase of Bonds in lieu of redemption shall be given by the Bond Registrar to the owners of the Bonds in the same manner as notice of redemption is required by this Ordinance to be given. The Bond Registrar, as paying agent, shall not purchase Bonds if sufficient moneys have not been deposited with the Bond Registrar for the purpose. If fewer than all of the outstanding Bonds of a maturity are to be purchased in lieu of redemption, the selection of Bonds to be purchased shall be made in the same manner as is required by this Ordinance for the partial redemption of Bonds. On the date established for the purchase of any Bonds, the Registrar shall pay the purchase price to the registered owners against delivery and shall cause the purchased Bonds to be registered in the name as specified by the Fiscal Officer.

Section 4. Signing and Authentication of Bonds; Appointment of Bond Registrar. The Bonds shall be signed by the Fiscal Officer and the Executive, in the name of the City and in their official capacities, provided that either or both of those signatures may be a facsimile. The Bonds shall be issued in the Authorized Denominations and numbers as requested by the Original Purchaser and approved by the Fiscal Officer, shall be numbered as determined by the Fiscal Officer in order to distinguish each Bond from any other Bond and to distinguish the Current Interest Bonds from any Capital Appreciation Bonds, and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to the provisions of Ohio Revised Code Chapter 133, this Ordinance and the Certificate of Award.

As used herein, "Bond Registrar" means the person or entity appointed pursuant to this Section 4 as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds and until a successor Bond Registrar shall have become such and, thereafter, "Bond Registrar" shall mean the successor Bond Registrar. In the Certificate of Award, the Fiscal Officer shall appoint the initial Bond Registrar, who may be the Fiscal Officer; provided that, if the Bond Registrar is to be a bank or trust company: (a) the Fiscal Officer shall first determine that said bank or trust company will not endanger the funds or securities of the City; and (b) the Fiscal Officer shall sign and deliver, in the name and on behalf of the City, a Bond Registrar Agreement between the City and the Bond Registrar (the Registrar Agreement) after having obtained the approval of this Council of said Registrar Agreement; and (c) unless paid from other sources, the Fiscal Officer shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond proceedings unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed, and delivered under, and is entitled to the security and benefit of, the Bond proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Fiscal Officer on behalf of the City. The same person need not sign the certificate of authentication on all of the Bonds.

Section 5. Registration; Transfer and Exchange; Book Entry System.

(a) Bond Registrar. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep the Bond Register at the office satisfactory to the Fiscal Officer and the Bond Registrar. Subject to the provisions of Section 6, the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of the Bond proceedings. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

(b) Transfer and Exchange. Any Bond may be exchanged for Bonds of any Authorized Denomination upon presentation and surrender at the office of the Bond Registrar designated in the Certificate of Award or, if not so designated, then at the principal corporate trust office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the designated office of the Bond Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. Upon exchange or transfer the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any Authorized Denomination or Denominations requested by the owner equal in the aggregate to the unmatured principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign, and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of the Bond proceedings. The exchange or transfer shall be without charge to the owner, except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under the Bond proceedings as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15th day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing, or (ii) any Bond selected for redemption, in whole or in part.

(c) Book Entry System. Notwithstanding any other provisions of this Ordinance, if the Fiscal Officer determines in the Certificate of Award that it is in the best interest of and financially advantageous to the City, the Bonds may be issued in book entry form in accordance with the following provisions of this Section.

The Bonds may be issued to a Depository for use in a book entry system and, if and so long as a book entry system is utilized, (i) the Bonds may be issued in the form of a single, fully registered Bond representing each maturity and interest rate within a maturity and registered in the name of the Depository or its nominee, as registered owner, and deposited with and maintained in

the custody of the Depository or its designated agent which may be the Bond Registrar; (ii) the book entry interest owners of Bonds in book entry form shall not have any right to receive Bonds in the form of physical securities or certificates; (iii) ownership of book entry interests in Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of book entry interests shall be made only by book entry by the Depository and its Participants; and (iv) the Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Bonds for use in a book entry system, the Fiscal Officer may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Fiscal Officer does not or is unable to do so, the Fiscal Officer, after making provision for notification of the book entry interest owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Bonds from the Depository, and shall cause Bond certificates in registered form to be authenticated by the Bond Registrar and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Fiscal Officer is hereby authorized, to the extent necessary or required, to enter into any agreements, in the name and on behalf of the City, that the Fiscal Officer determines to be necessary in connection with a book entry system for the Bonds.

Section 6. Sale of the Bonds.

(a) Original Purchaser Designated in Certificate of Award. The Fiscal Officer is hereby authorized to solicit and receive proposals for the purchase of the Bonds. The Bonds shall be awarded and sold by the Fiscal Officer to the Original Purchaser designated in the Certificate of Award at a purchase price not less than 97% of the aggregate principal amount thereof, as shall be determined by the Fiscal Officer in the Certificate of Award, plus accrued interest on the Current Interest Bonds from their date to the Closing Date, and shall be awarded by the Fiscal Officer with and upon such other terms as are required or authorized by this Ordinance to be specified in the Certificate of Award, in accordance with law and the provisions of this Ordinance. The Fiscal Officer is authorized, if it is determined to be in the best interest of the City, to combine the issue of Bonds with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code in which case a single Certificate of Award may be utilized for the consolidated bond issue if appropriate and consistent with the terms of this Ordinance.

The Fiscal Officer shall sign and deliver the Certificate of Award and shall cause the Bonds to be prepared and signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price. The Executive, the Fiscal Officer, the City Treasurer, the City Director of Law, the Clerk of Council and other City officials, as appropriate, each are authorized to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance.

(b) Application for Rating or Bond Insurance. If, in the judgment of the Fiscal Officer, the filing of an application for (i) a rating on the Bonds by one or more nationally-recognized rating agencies, or (ii) a policy of insurance from a company or companies to better assure the payment of principal of and interest on the Bonds, is in the best interest of and financially advantageous to this City, the Fiscal Officer is authorized to prepare and submit those applications, to provide to each such agency or company such information as may be required for the purpose, and to provide further for the payment of the cost of obtaining each such rating or policy, to the extent not paid by the Original Purchaser in accordance with the Certificate of Award, from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose. The Fiscal Officer is hereby authorized, to the extent necessary or required, to enter into any agreements, in the name of and on behalf of the City, that the Fiscal Officer determines to be necessary in connection with the obtaining of that bond insurance. Any actions heretofore taken in conformance herewith are hereby ratified, confirmed and approved.

(c) Financing Costs. The expenditure of the amounts necessary to pay the costs of issuing and servicing the Bonds, printing and delivery of the Bonds, legal services including obtaining the approving legal opinion of bond counsel, any paying agent fees and expenses, the fees and expenses of financial advisors, rating agency fees and expenses, any fees or premiums relating to municipal bond insurance or other security arrangements determined necessary by the Fiscal Officer, and all other financing costs (as defined in Section 133.01 of the Ohio Revised Code) and costs incurred incidental to those purposes, to the extent not paid by the Original Purchaser in accordance with the Certificate of Award, is authorized and approved. All amounts necessary to pay those costs and fees are hereby appropriated from the proceeds of the Bonds, and as to future financing costs (as referenced in Section 133.01(K) of the Ohio Revised Code), the Bond Retirement Fund, and the Fiscal Officer is hereby authorized and directed to make appropriate certifications as to the availability of funds for those costs and fees, to the extent they shall be obligations of the City, as the amounts thereof become known and shall encumber those amounts immediately upon such certification, but not in excess of the appropriation made herein, and to issue an appropriate order for their timely payment as the same shall become due and payable.

Section 7. Refunding; Call of Refunded Bonds. This Council determines that it is necessary and in the best interest of the City to refund the Refunded Bonds. The Fiscal Officer is authorized and directed to give to The Huntington National Bank, as the authenticating agent, bond registrar, transfer agent and paying agent for the Refunded Bonds, written notice of the call for redemption, and the Refunded Bonds shall be redeemed in accordance with the Original Bond Legislation. The City covenants for the benefit of the holders of the Refunded Bonds and of the Bonds, that it will at no time on or after the Closing Date take actions to modify or rescind that call for prior redemption, and that it will take, and will cause the bond registrar and paying agent for the Refunded Bonds to take, all steps required by the terms of the Refunded Bonds to make and perfect that call for prior redemption.

Section 8. Escrow Trustee. The Huntington National Bank is hereby appointed as the initial Escrow Trustee with respect to the refunding of the Refunded Bonds; provided, however, that the Fiscal Officer is authorized to appoint a different Escrow Trustee in the Certificate of Award after determining that such bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose. The Escrow Trustee is authorized and directed to cause notice of the refunding of the Refunded Bonds to be given in accordance with the Escrow Agreement. The Mayor and the Fiscal Officer shall sign and deliver, in the name and on behalf of the City, the Escrow Agreement between the City and the Escrow Trustee, in substantially the form as is now on file with the Clerk of Council. The Escrow Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Fiscal Officer on behalf of the City, all of which shall be conclusively evidenced by the signing of the Escrow Agreement or amendments thereto. The Fiscal Officer shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Escrow Agreement (including the fees and expenses of a mathematical verification agent to be appointed by the Fiscal Officer in the Certificate of Award), except to the extent paid or reimbursed by the Original Purchaser, from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

Section 9. Escrow Fund. There is created under the Escrow Agreement a trust fund designated the "City of Niles Series 2011 Bonds Escrow Fund" which shall be held and maintained by the Escrow Trustee in trust for the registered owners of the Refunded Bonds and is pledged for the payment of principal of and interest on the Refunded Bonds, all in accordance with the provisions of the Escrow Agreement. The Fiscal Officer is hereby authorized and directed to pay to the Escrow Trustee for deposit in the Escrow Fund (i) any funds on deposit in the Bond Retirement Fund for the payment of debt charges on the Refunded Bonds and (ii) all of the proceeds from the sale of the Bonds, except any accrued interest and any proceeds to be used for the payment of any expenses properly allocable to the refunding of the Refunded Bonds or the issuance of the Bonds as determined by the Fiscal Officer. Those funds are appropriated and shall be applied to pay principal of and interest on the Refunded Bonds, as provided in the Escrow Agreement.

The funds so deposited in the Escrow Fund shall be (a) held in cash to the extent that they are not needed to make the investments hereinafter described and (b) invested in direct obligations of, or obligations guaranteed as to payment by, the United States of America (within the meaning

of Section 133.34(D) of the Revised Code) that mature or are subject to redemption by and at the option of the holder, in amounts sufficient, together with any uninvested cash in the Escrow Fund but without further investment or reinvestment, for the payment of principal of and interest on the Refunded Bonds as provided in the Escrow Agreement.

If U.S. Treasury Securities – State and Local Government Series are to be purchased for the Escrow Fund, the Original Purchaser and the Escrow Trustee are hereby specifically authorized to file, on behalf of the City, subscriptions for the purchase and issuance of those U.S. Treasury Securities – State and Local Government Series. If, in the judgment of the Fiscal Officer, an open-market purchase of obligations described in (b) in the preceding paragraph for the Escrow Fund is in the best interest of and financially advantageous to the City, the Fiscal Officer or any other officer of the City, on behalf of the City and in the Fiscal Officer's official capacity, may purchase and deliver such obligations, engage the services of a municipal advisor, bidding agent or similar entity for the purpose of facilitating the bidding, purchase and delivery of such obligations for, and engage such services for such purpose, and provide further for the payment of the cost of obtaining such services, except to the extent paid by the Original Purchaser, from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose.

Section 10. Application of Proceeds. The proceeds from the sale of the Bonds (except any accrued interest and any proceeds to be used for the payment of any expenses properly allocable to the refunding of the Refunded Bonds or the issuance of the Bonds as determined by the Fiscal Officer) shall be paid into the Escrow Fund as provided in Section 9. Any proceeds to be used for the payment of any expenses properly allocable to the refunding of the Refunded Bonds or the issuance of the Bonds, as determined by the Fiscal Officer, shall be paid into the proper fund or funds. Any proceeds representing accrued interest shall be paid into the Bond Retirement Fund. The proceeds from the sale of the Bonds (except any accrued interest) are appropriated and shall be used for the purpose for which the Bonds are being issued.

Section 11 Provisions for Tax Levy. There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Bonds when and as the same fall due.

Nothing in this Section in any way diminishes the irrevocable pledge of the full faith and credit and revenues of the City to the prompt payment of the debt charges on the Bonds.

Section 12. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Code or (ii) be treated other than as obligations the interest on which is excluded from gross income under Section 103 of the Code applies, and (b) the interest on the Bonds will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The City hereby represents that the Outstanding Notes were designated or deemed designated as "qualified tax-exempt obligations" pursuant to Section 265(b)(3) of the Code. The City hereby covenants that it will redeem the Outstanding Notes from proceeds of, and within 90 days after issuance of, the Bonds, and represents that all other conditions are met for treating an amount of the Bonds not in excess of the amount of the Outstanding Notes as "qualified tax-exempt obligations" and as not to be taken into account under subparagraph (D) of Section 265(b)(3) of the Code, without necessity for further designation, by reason of subparagraph (D)(ii) of Section 265(b)(3) of the Code. Any amount of the Bonds in excess of the amount of the Outstanding Notes, determined in accordance with Section 265(b)(3) of the Code (the Designated Amount), is hereby designated as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code. In that connection, the City hereby represents and covenants that it, together with all its subordinate entities or entities that issue obligations on its behalf, or on behalf of which it issues obligations, in or during the calendar year in which the Bonds are issued, (i) have not issued and will not issue tax-exempt obligations designated as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code, including the Designated Amount of the Bonds, in an aggregate amount in excess of \$10,000,000, and (ii) have not issued, do not reasonably anticipate issuing, and will not issue, tax-exempt obligations (including the Designated Amount of the Bonds, but excluding obligations, other than qualified 501(c)(3) bonds as defined in Section 145 of the Code, that are private activity bonds as defined in Section 141 of the Code and excluding refunding obligations that are not advance refunding obligations as defined in Section 149(d)(5) of the Code) in an aggregate amount exceeding \$10,000,000, unless the City first obtains a written opinion of nationally recognized bond counsel that such designation or issuance, as applicable, will not adversely affect the status of the Bonds as "qualified tax-exempt obligations." Further, the City represents and covenants that, during any time or in any manner as might affect the status of the Bonds as "qualified tax-exempt obligations", it has not formed or participated in the formation of, or benefited from or availed itself of, any entity in order to avoid the purposes of subparagraph (C) or (D) of Section 265(b)(3) of the Code, and will not form, participate in the formation of, or benefit from or avail itself of, any such entity. The City further represents that the Bonds are not being issued as part of a direct or indirect composite issue that combines issues or lots of tax-exempt obligations of different issuers.

The Fiscal Officer, or any other officer of the City having responsibility for issuance of the Bonds is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Bonds as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in Section 148(f)(4)(C) or Section 265(b)(3) of the Code or available under Section 148 or Section 265 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Bonds.

Each covenant made in this section with respect to the Bonds is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Bonds (and, if different, the original issue and any refunding issues in a series of refundings), to the extent such compliance is necessary to assure exclusion of interest on the Bonds from gross income for federal income tax purposes, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this section to take with respect to the Bonds.

Section 13. Certification and Delivery of Ordinance and Certificate of Award. The Clerk of Council is directed to deliver a certified copy of this Ordinance and the Certificate of Award to the County Auditor of Trumbull County.

Section 14. Satisfaction of Conditions for Bond Issuance. This Council determines that all acts and conditions necessary to be performed by the City or to have been met precedent to and in the issuing of the Bonds in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 7) of the City are pledged for the timely payment of the debt charges on the Bonds; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds. The Council further finds and determines, and hereby represents and recites, that the provisions of the rules of this Council and its ordinances and resolutions have been fully complied with and that this Ordinance was passed in conformity therewith.

Section 15. Bond Counsel Services. The legal services of Squire Patton Boggs (US) LLP, as bond counsel are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Bonds and the rendering of the necessary legal opinions upon the delivery of the Bonds. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services, whether or not the Bonds are ever issued. The Fiscal Officer is authorized and directed, to the extent they are not paid by the Original Purchaser, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

Section 16. Financial Advisor Services. The services of Sudsina & Associates, LLC, as financial advisor, be and are hereby retained. The financial advisory services shall be in the nature of financial advice and recommendations in connection with the issuance and sale of the Bonds. In rendering those financial advisory services, as an independent contractor, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those financial advisory services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those financial advisory services. The Fiscal Officer is authorized and directed, to the extent they are not paid by the Original Purchaser, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

Section 17. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 18. Effective Date. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the further reason that this Ordinance is required to be immediately effective in order to enable the City to sell the Bonds, which is necessary to enable the City to refund at a lower interest cost the Refunded Bonds upon terms in the best interest of and advantageous to the City and thereby to achieve interest rate savings available under current favorable market conditions; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____, 2020

PRESIDENT OF COUNCIL

ATTEST: _____
Clerk of Council

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

MAYOR

City of Niles, Ohio

SPONSORED BY: COUNCIL AS A WHOLE
AUTHORIZED BY: COUNCIL AS A WHOLE

DRAFT NO. 115-20

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE SAFETY DIRECTOR TO ISSUE A REQUEST FOR PROPOSALS FOR THE PURCHASE OF A NEW FIRE TRUCK FOR THE CITY OF NILES AND, DECLARING AN EMERGENCY

WHEREAS, Council desires to authorize the Safety Director to issue a request for proposals to accomplish this requirement.

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

SECTION 1: Council hereby authorizes the Safety Director to issue a request for proposals to purchase a new fire truck for the City of Niles.

SECTION 2: This Resolution is declared to be an emergency measure in the interest of the public health, safety and welfare and to allow the Safety Director to issue a Request for Proposals to begin 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 this _____ day of _____, 2020.

MAYOR

City of Niles, Ohio

SPONSORED BY: COUNCIL AS A WHOLE
AUTHORIZED BY: COUNCIL AS A WHOLE

DRAFT NO. 116-20

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE SERVICE DIRECTOR TO ISSUE A REQUEST FOR PROPOSALS FOR THE PURCHASE OF A NEW STREET SWEEPER FOR THE CITY OF NILES AND, DECLARING AN EMERGENCY

WHEREAS, Council desires to authorize the Service Director to issue a request for proposals to accomplish this requirement.

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

SECTION 1: Council hereby authorizes the Service Director to issue a request for proposals to purchase a new Street Sweeper for the City of Niles.

SECTION 2: This Resolution is declared to be an emergency measure in the interest of the public health, safety and welfare and to allow the Service Director to issue a Request for Proposals to begin 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 this _____ day of _____, 2020.

MAYOR

City of Niles, Ohio

SPONSORED BY: COUNCIL AS A WHOLE
AUTHORIZED BY: COUNCIL AS A WHOLE

DRAFT NO. 117-20

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE SERVICE DIRECTOR TO ISSUE A REQUEST FOR PROPOSALS FOR THE PURCHASE OF A NEW RAM HOE FOR THE CITY OF NILES AND, DECLARING AN EMERGENCY

WHEREAS, Council desires to authorize the Service Director to issue a request for proposals to accomplish this requirement.

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

SECTION 1: Council hereby authorizes the Service Director to issue a request for proposals to purchase a new Ram Hoe for the City of Niles.

SECTION 2: This Resolution is declared to be an emergency measure in the interest of the public health, safety and welfare and to allow the Service Director to issue a Request for Proposals to begin 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 this _____ day of _____, 2020.

MAYOR

City of Niles

SPONSORED BY: FINANCE COMMITTEE
AUTHORIZED BY: CANTOLA

DRAFT NO. 118-20

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE CORONAVIRUS RELIEF FUND 220 FOR THE PURPOSE OF PURCHASING THE FOLLOWING ITEMS TO PREVENT FURTHER SPREAD OF COVID19 AND DECLARING AN EMERGENCY.

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

SECTION 1: Council hereby authorizes the appropriation in the approximate amount of One hundred Thirty Six Thousand Six Hundred and Forty-Nine Dollars and 16/100 (\$136,649.16) from the Coronavirus Relief Fund 220, not to exceed ten percent (10%) of the following listed estimated price:

1. Laptops -\$27,000.00
2. Mobile Vehicle PC Units-\$10,500.00
3. Video Intercom System for City Buildings \$5,200.00
4. Thermal Imaging Scanners for City Buildings-\$35,500.00
5. John Deere Gator with Sanitizing ability for the Wellness Center-\$13,000.00
6. Floor Scrubber and Sanitizing Machine for Wellness Center -\$10,200.00
7. Audio Visual and Conferencing Equipment City Wide-\$30,000.00
8. Hand Sanitizing Stations-\$5,249.16

CORONAVIRUS RELIEF FUND 220		
Fund Category	Category	+/- Appropriation
220-2020-56300	Equipment Purchases	\$28,449.16
220-2020-56800	Technology	\$108,200.00

SECTION 2: This Ordinance is hereby declared to be an emergency measure in the interest of the public health, safety, and welfare as necessary expenditures in response to the COVID 19 pandemic. 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: FINANCE COMMITTEES
AUTHORIZED BY: ALL MEMBERS

DRAFT NO. 119-20

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE APPROPRIATION FROM THE UNAPPROPRIATED WATER FUND 501 AND THE UNAPPROPRIATED SEWER FUND 503 TO THE WATER FUND TECHNOLOGY ACCOUNT 501-5151-56800 AND THE SEWER FUND TECHNOLOGY ACCOUNT 503-5353-56800 IN A TOTAL AMOUNT OF \$16,050.00 AND, DECLARING AN EMERGENCY

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

SECTION 1: Council hereby authorizes the appropriation of \$8025.00 from the Unappropriated Water Fund 501 to the Water Fund Technology account 501-5151-56800 for upgrade of software.

SECTION 2: Council authorizes the appropriation of \$8025.00 from the Unappropriated Sewer Fund 503 to the Sewer Fund Technology Account 503-5353-56800 for upgrade of software.

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 funds are needed to finalize the purchase of the upgraded software. 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

NECO

11082 Southland Rd.
Cincinnati, OH 45240

QUOTATION

To: City of Niles 34 West State Street Niles, OH 44446		Date: 8/1/2020		Net 30 days	
Stephene Ford 330 544-9000 sford@thecityofniles.com		Terms FOB		Destination	
		Expiration			
QTY	DESCRIPTION	Part #	Standard UNIT PRICE	Discounted Unit Price	TOTAL PRICE
	Neptune Reading Equipment Upgrade		1.8		
	Annual				
1	360 Advanced AMI Module Upgrade Subscription 9,000 services	13812-203	\$ 20,250.00	\$ 14,175.00	\$ 14,175.00
	OneTime				
1	360 Set-up (Advanced)	13812-002	\$ 4,062.50	\$ -	\$ -
1	On-site Training OneTime Charges	13812-005	\$ 1,875.00	\$ 1,875.00	\$ 1,875.00
	360 Initial Set-up Total				\$ 16,050.00
	Future Years - Annual SaaS Year 2				
1	360 Advanced AMI Module Upgrade Subscription		\$ 20,250.00	\$ 17,213.00	\$17,213.00
	Year 3				
1	360 Advanced AMI Module Upgrade Subscription		\$ 20,250.00	\$ 20,250.00	\$20,250.00