

City of Niles, Ohio

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

DRAFT NO. 58-24

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR TO ADVERTISE FOR BIDS AND ENTER INTO CONTRACT FOR THE NILES VIENNA/WARREN AVENUE MILL AND FILL PROJECT; AND, DECLARING AN EMERGENCY

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

SECTION ONE: That the Service Director of the City of Niles is hereby authorized to advertise for bids and enter into contract for the Niles Vienna/Warren Avenue Mill and Fill Project.

SECTION TWO: This Ordinance is hereby declared an emergency measure in the interest of the public health, safety and welfare, and to allow for improvements to the roadway 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.

PASSED: _____

PRESIDENT OF COUNCIL

ATTEST: _____

CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the ____ day of _____, 2024 and signed by me as such Mayor on this ____ day of _____, 2024.

MAYOR

City of Niles, Ohio

SPONSORED BY: SAFETY
AUTHORIZED BY: SHEELY

DRAFT NO. 59-24

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE PURCHASE OF NEW POLICE CRUISER MOBILE DATA TERMINAL (MDT) REPLACEMENTS THROUGH THE STATE OF OHIO COOPERATIVE PURCHASING PROGRAM FOR THE 2024 CALENDAR YEAR; AND, DECLARING AN EMERGENCY

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

SECTION 1: Council hereby authorizes the purchase of new police cruiser MDT replacements through the State of Ohio Cooperative Purchasing Program for the 2024 calendar year or otherwise as permitted by law.

SECTION 2: This Ordinance is hereby declared to be an emergency measure in the interest of the public health, safety, and welfare, for the reason that new police cruiser MDTs can be purchased at the earliest possible date. As such an emergency measure, this Ordinance shall take effect upon passage by Council and approval by the Mayor.

PASSED: _____

PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the _____ day of _____, 2024 and signed by me as such Mayor this _____ day of _____, 2024.

MAYOR

City of Niles, Ohio

SPONSORED BY: PUBLIC GROUNDS
AUTHORIZED BY: SOLLITTO

DRAFT NO. 60-24

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR TO EXECUTE AN EASEMENT AGREEMENT WITH GEARMAR PROPERTIES, INC; AND, DECLARING AN EMERGENCY

WHEREAS, there are utility lines for water and power that were previously installed on this property;

WHEREAS, there are currently no written agreements regarding the power and water lines on this property;

WHEREAS, council authorizes the service director to execute the attached easement agreement subject to approval from the law department.

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

SECTION 1: That the Service Director shall be, and hereby is, authorized and empowered to execute the attached easement agreement subject to approval from the law department.

SECTION 2: This Ordinance is hereby declared to be an emergency measure in the interests of the public health, safety and welfare, for the reason the utility lines are already located on the property. As such an emergency measure, this Ordinance shall take effect upon passage by Council and approval by the Mayor.

PASSED: _____

PRESIDENT OF COUNCIL

ATTEST: _____

CLERK OF COUNCIL

Received by the Mayor of the City of Niles this _____ day of _____, 2024, and approved by me as such Mayor this _____ day of _____, 2024.

MAYOR

TEMPORARY UTILITY EASEMENT

THIS TEMPORARY UTILITY EASEMENT (“Agreement”) is made of the ___ day of _____ 2024, between Gearmar Properties, Inc., an Ohio Corporation (hereinafter called “Grantor”) and City of Niles, Ohio (hereinafter collectively called “Grantee”).

W I T N E S S E T H:

The said Grantor, for and in consideration of One Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant to Grantee, its successors and assigns, a temporary non-exclusive easement (the “Temporary Utility Easement”) to enter upon the Land (as defined below) owned by Grantor, when reasonably necessary, to use, operate, maintain and patrol the Grantee’s existing electric lines, water lines, meters, fixtures, and appurtenances thereto, above and beneath the surface of the Land (the “Utilities”) approximately depicted on Exhibit A-1 attached hereto (the “Temporary Easement Area”) on that certain strip of land (the “Land”) located in Weathersfield Township, Trumbull County, Ohio, more particularly described on Exhibit A-2 attached hereto.

THIS AGREEMENT IS MADE SUBJECT TO THE FOLLOWING TERMS:

1. Grantee’s Obligations - Temporary Utility Easement.
 - a) Grantee shall maintain its Utilities and the Temporary Easement Area in good condition and repair and comply with any and all applicable federal, state and local laws, rules, regulations, statutes, codes, orders and ordinances, including, but not limited to, those governing the prevention, abatement and elimination of pollution and/or protection of the environment and the employment of its workers.
 - b) Grantee shall secure, maintain and comply with all required licenses, permits and certificates relating to, or otherwise necessary or appropriate for, the construction, installation, repair, replacement and maintenance of Grantee’s Utilities.

- c) Grantee shall maintain at all times, at Grantee's sole cost and expense, general commercial liability and property damage insurance policies in amounts reasonably acceptable to Grantor covering claims for personal injury, death or property damage occurring upon, in or about the Land in connection with Grantee's, its employees', contractors' and agents' use and operation of the Temporary Utility Easement.
- d) In exercising any of the rights granted herein, the Grantee will not materially interfere with the normal use of the Land and Grantor's development and business operations thereon and will, at its sole cost and expense and with due diligence and weather permitting, restore the Land to its condition immediately prior to the exercise of any such right, including, but not limited to, the replacement of any sod, landscaping, paving or other improvements that existed within the disturbed area.
- e) ~~The Grantee will indemnify and hold harmless the Grantor from any claims for damages or injuries arising out of or connected directly or indirectly with the use by the Grantee of the Temporary Utility Easement.~~
- f) ~~The Grantee shall only cut, trim or clear trees and brush that is necessary to prevent interfere with the construction, operation or maintenance of the Utilities.~~
- g) ~~Grantee shall not assign or transfer, in whole or in part, this Agreement or any of its interest in and to the Temporary Easement to any party without the prior written consent of Grantor which consent may be withheld in Grantor's sole discretion.~~
- h) ~~g) The Grantor shall have the right to use and enjoy fully said Land subject to the Temporary Utility Easement rights hereby granted, including the right to grant additional easement rights.~~

2. Grantor's Right to Relocate Utilities. The Grantor, upon providing thirty (30) days advance written notice to Grantee, shall have the right to coordinate with Grantee an agreement to excavate, remove, relocate and re-install the Utilities to the perimeter of the Land or to another location on the Land (the "Relocation Area") that does not interfere with Grantor's intended use and/or development of the Land, acceptable to Grantor in Grantor's sole discretion. Except for the costs of Grantee's attorney's fees, which shall be at Grantee's sole cost and expense, Grantor shall pay for all costs of excavation, removal, relocation and re-installation of the Utilities to the Relocation Area.

3. Grantor and Grantee Obligations to Amend This Agreement. Upon determination of the Relocation Area for the Utilities and the creation of the legal description applicable thereto, Grantor and Grantee agree to amend this Agreement in the following manner: (i) expressly release and terminate the Temporary Easement Area for the Utilities, (ii) document the relocation of the Utilities in the Relocation Area and attach the legal description applicable thereto, and (iii) document a permanent easement for the Utilities in the Relocation Area. The Temporary Utility

Easement and the Temporary Easement Area shall terminate automatically upon the completion of the relocation of the Utilities to the Relocation Area.

4. Successors and Assigns. The covenants, conditions, and restrictions hereunder shall create mutual benefits and servitudes running with the Land. This Agreement shall bind and inure to the benefit of the parties hereto, their respective heirs, representatives, lessees, successors and assigns.
5. Notices. Any notice required to be delivered under the provisions of this Agreement shall be in writing and shall be deemed to have been properly delivered when either delivered personally, via e-mail, sent by overnight courier or mailed by certified U.S. Mail, return receipt requested, postpaid, in either event, to the addresses below.

If to Grantor: Gearmar Properties, Inc.

Attention: _____
Email: _____

If to Grantee: City of Niles

Attention: _____
Email: _____

6. Governing Law. This instrument shall be governed by and construed in accordance with the laws of the State of Ohio.
7. Effective Date. This Agreement shall become effective upon its recordation in the Office of the Fiscal Officer of Trumbull County, Ohio.
8. Counterparts. This Agreement may be executed in two or more counterparts, each of which need not contain the signatures of more than one party, but all of which, taken together, shall constitute one and the same instrument.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

GRANTOR:

Gearmar Properties, Inc.,
an Ohio corporation

By: _____
Name: Dean Gearhart
Title: President

STATE OF OHIO
COUNTY OF TRUMBULL

The foregoing instrument was acknowledged before me this _____ day of _____, 2024 by Dean Gearhart as President of Gearmar Properties, Inc. on behalf of the Corporation. This is an acknowledgment certificate. No oath or affirmation was administered to the signer with regard to the notarial act.

_____, Notary Public
_____, County,
My Commission Expires: _____

GRANTEE:

City of Niles,
an Ohio _____

By: _____
Name: _____
Title: _____

STATE OF OHIO
COUNTY OF TRUMBULL

The foregoing instrument was acknowledged before me this _____ day of _____, 2024 by _____ as _____ of City of Niles on behalf of the City. This is an acknowledgment certificate. No oath or affirmation was administered to the signer with regard to the notarial act.

_____, Notary Public
_____, County,
My Commission Expires: _____

Drafted by and when recorded return to:
Thomas C. Nader, Esq.
Nader and Nader
7011 East Market Street
Warren, OH 44484

Exhibit A-1

Depiction of Temporary Easement Area and Approximate Location of Existing Utilities

See attached.

Exhibit A-2

Legal Description of Land

To be supplemented.