

**MINUTES**  
**Wyoming City Council**  
**September 21, 2020**

The Wyoming City Council met in regular session on September 21, 2020 at 7:00 p.m. via Zoom. The meeting was also presented live on Facebook due to COVID-19 precautions. Mayor Hoffmeister called the meeting to order. In attendance were:

Council Members:

Thaddeus Hoffmeister, Mayor  
Nancy Averett  
Al Delgado  
Zach Green  
Jeff LeRoy  
Jim O'Reilly  
Sarah Stankorb Taylor

Others:

Lynn Tetley, City Manager  
Emily Supinger, City Solicitor

**APPROVAL OF CONSENT AGENDA:**

Mr. Green moved to approve the Consent Agenda. Ms. Stankorb Taylor seconded the motion. There being no discussion, the motion to approve the following items on the Consent Agenda carried with all voting yes:

- August 17, 2020 City Council Meeting Minutes
- September 9, 2020 Special City Council Meeting Minutes

**SPECIAL REPORTS/MINUTES:**

Mr. O'Reilly reported that OKI has not met and First Suburbs will meet in two weeks.

**REPORTS OF STANDING COUNCIL COMMITTEES:**

No comments were received.

**CITIZEN PARTICIPATION:**

Ms. Valerie Barrett, 24 Allen Avenue addressed Council and read a letter into the record that she wrote:

"I am writing to you because I cannot fathom why the decision was made to relieve Laurie Rusnak of her job. The reason we have all heard is the very convenient COVID-19 excuse. However, I'm skeptical. Of course, everyone in the Recreation Department has less to do. The number of people using the facility is drastically reduced and the amount of sports teams are down. Everything. And yet, the only full time person let go is Laurie. Laurie Rusnak is a 15 year employee, community member, and someone who has poured her heart and soul into a job that brings our community joy, while also bringing us closer

together.

In case any of you don't know what Laurie has been up to, here are some of the events she has brought to our community: the Daddy Daughter Dance and the Son-Sational evening, which she joined resources with Springfield Township as a cost savings to us. Touch-a-Truck, Pre-school Plunge at the pool, which is a revenue generator; lunches for camp offerings from the concession stand, which also generates revenue. Lunch and concession stand cards for campers, also a revenue generator, Woofing it Up in Wyoming, All Kids Carnival, and the Dawg Days of Summer. Then she did events at the Civic Center, the Bourbon and Blues BBQ, Spike the Pike, Family Fun and Bowl, Open House Bowling Nights, and ongoing community events; the July 4 celebrations, Luau at the Pool, which increased revenues over the years, and retaining staff for summer camp. In the past, Mommy and Me for Tea, Kids Garage Sale, Haunted Trail, and Summer Camp-out, not to mention how many existing events she has enhanced and made better such as our Light Up Celebration, the downtown holiday festivities, Santa in the Gazebo, ice sculpting, and involving all the businesses at our Fall Festival, all the musical talents for the talent show, the kids events, the bouncy house, etc.

During COVID-19 the only income generated for the Recreation Department was through the Summer Camp that Laurie ran. Were there any sports? No. Were there any people coming to the Recreation Center? No. Yet the Sports Coordinator and the Front Desk Supervisor kept their jobs by being assigned other responsibilities. Laurie Rusnak has the knowledge, degree, and competence needed to do all and any job at the Recreation Center yet she was not given an opportunity to assume other tasks or perhaps go down to part time until events are rescheduled. She was not asked to try to plan COVID based events for our community. People are having these events of some sort of the gazebo regularly. None of these options were discussed with her; perhaps some of our other full time employees could have gone half part time while the workload is reduced and then things would have picked up. It is my understanding that only a portion of Laurie's salary comes out of our Recreation budget, which just makes less sense why this decision was made.

So my question to each of you is this, is this is the way our community, Wyoming, a city that prides itself on our sense of community, family, and family values, a community that is close-knit, caring, and a place everyone who lives here feels part of, is this how we treat a 15 year employee, a resident, and an integral part of our community recognized and loved by many? Is this what Wyoming is about? I am so disappointed and let down by this choice and I feel it was a choice, one that did not have to be made. And yes, I am a good friend of

Laurie's and I am blessed by that friendship and it also has nothing to do with the way I feel about the decision that was made on her behalf."

Mayor Hoffmeister thanked Ms. Barrett for her heartfelt and nice illustrative comments. Ms. Stankorb Taylor commented that Ms. Barrett's comments are not the only one that has been received. She knows that these types of decisions are difficult in any circumstance. They are ultimately not the decision of Council and she is unsure if the City Manager is in a position to discuss this topic. She stated that on a personal level, she was also heartbroken and she knows a lot of people that appreciate everything that Laurie has done and she thanked Ms. Barrett for speaking out.

Ms. Emily Supinger, City Solicitor, commented that it is not appropriate to discuss individual personnel matters during a City Council meeting however she understand the sentiment.

Mr. Joel Thurkill, 1256 Garden Circle, addressed Council regarding the armed robbery of four City employees on Springfield Pike on September 17, 2020. He asked what the City's policy is on Concealed Carry Permits as it has been brought to his attention that you cannot carry in the city limits. Ms. Tetley stated that Concealed Carry is allowed in the city limits in any place that concealed carry can legally occur. The employees, however, are not permitted to carry on duty even if they have a Concealed Carry Permit.

#### BUSINESS:

A. Report from the Historic Preservation Commission and Architectural Review Board on the Application for 129 Springfield Pike, an Individually Designated Historic Property, for the Proposed Two-Car Detached Garage Replacement Construction: Mr. Green presented the report to City Council. The request is to demolish the existing two-car garage and replace it with an enlarged two-car garage on the property at 129 Springfield Pike. The property consists of a two-story single-family home built in 1906 and is an individually designated historic property. The Inventory Form lists the style as American Foursquare and describes the structure as an excellent example of frame colonial revival. It was noted at the time of the inventory that the carriage house was no longer standing and there was a garage located at the back of the property.

The Historic Preservation Commission (HPC) and Architectural Review Board (ARB) recommend approval of the garage replacement construction as submitted, with the following three conditions of approval: 1) a survey must be submitted with the construction documents (this has been done), 2) the garage design will consider the gutters and downspouts to ensure storm water is controlled on the property, and 3) the light fixtures on the exterior of the garage be coach lights or similar fixture. Staff has worked with the

applicant to address these three conditions.

Mr. Delgado moved to adopt the report. Mr. O'Reilly seconded the motion. There being no comments or questions, the motion to adopt the Report from the Historic Preservation Commission and Architectural Review Board on the Application for 129 Springfield Pike, an Individually Designated Historic Property, for the Proposed Two-Car Detached Garage Replacement Construction carried with all voting yes.

B. Public Hearing on the Application for 129 Springfield Pike, an Individually Designated Historic Property, for the Proposed Two-Car Detached Garage Replacement Construction: Mayor Hoffmeister opened the public hearing. Having received no comments, the public hearing was closed.

C. Motion to Approve the Application for 129 Springfield Pike, an Individually Designated Historic Property, for the Proposed Two-Car Detached Garage Replacement Construction: Mr. Delgado moved to approve the application. Mr. O'Reilly seconded the motion. By roll call vote, the motion to approve the Application for 129 Springfield Pike, an Individually Designated Historic Property, for the Proposed Two-Car Detached Garage Replacement Construction carried with all voting yes.

D. Report from the Historic Preservation Commission and Architectural Review Board on the Request for 5 Clark Avenue, Located in the Village Historic District, for the Proposed One-Story Front Porch Replacement Construction: Mr. Green presented the report to Council: the request is to demolish the existing front porch and stoop, and replace it with the proposed one-story porch on the property at 5 Clark Avenue. The property consists of a two-story single-family home built in 1875 and is located in the Village Historic District. The style of home listed on the Inventory Form is Eastlake with a renovation. The property was considered contributing to the District at the time of designation. The property had a two-car garage and enclosed porch addition off the west side of the house in 1960, and had a two-story addition off the east side of the house prior to that. In 2013, the house changed in use from a two-family to a single-family dwelling. The proposed porch spans the front elevation to include the duplex addition to the east, where the stoop is currently.

The HPC and ARB recommend approval of the one-story front porch replacement construction as proposed, finding that the alteration request would meet the provisions of Section 1336.04(b)-(c).

Ms. Averett moved to adopt the report. Mr. Delgado seconded the motion. There being no comments or questions, the motion to adopt the Report from the Historic Preservation Commission and Architectural Review Board on the Request for 5 Clark Avenue, Located in the Village Historic District, for the Proposed One-Story Front Porch Replacement Construction carried with all voting yes.

E. Public Hearing on the Request for 5 Clark Avenue, Located in the Village Historic District, for the Proposed One-Story Front Porch Replacement Construction: Mayor Hoffmeister opened the public hearing. Having received no comments, the public hearing was closed.

F. Motion to Approve the Request for 5 Clark Avenue, Located in the Village Historic District, for the Proposed One-Story Front Porch Replacement Construction: Ms. Stankorb Taylor moved to approve the application. Mr. LeRoy seconded the motion. By roll call vote, the motion to approve the Application for the Request for 5 Clark Avenue, Located in the Village Historic District, for the Proposed One-Story Front Porch Replacement Construction carried with all voting yes.

G. Report from the Planning Commission on Proposed Amendments to the Planning and Zoning Code to Allow Transient Businesses and Food Trucks: Mr. Jon B. Boss, chair of the Planning Commission, presented the report to Council: our September 14, 2020 Memorandum confirms the Planning Commission's unanimous recommendation to City Council to amend Chapter 1188 and Section 1171.03 (g) of the Planning and Zoning Code in order to define, allow, and regulate transient businesses and food trucks in the City of Wyoming. Our recommended legislation also requires a change to Section 351.14 (a) of the Traffic Code, regarding how long a commercial vehicle may be parked on public streets. Our recommended changes do not, however, affect the operation of food trucks and other transient businesses that are sponsored by religious institutions, public schools, or the City of Wyoming, when related to special events such as festivals and similar activities – nor the operation of children's lemonade stands or similar activities.

Background:

City staff recognized that with the increased popularity of such mobile businesses – also referred to as transient businesses and food trucks - and with guidance from the 2018 Master Plan, it was now time to consider such operations, with of course, the proper restrictions.

As detailed in our Memorandum, Section 1171.03 (g) of the Planning & Zoning Code currently addresses such businesses by prohibiting them when not owned and operated by the primary business on the premises, or unless associated with a civic event.

Chapter 1188 currently addresses Outdoor Dining as a special use associated with a permanent place of business. We are proposing an expansion of Chapter 1188 to define both "Food Truck" and "Transient Business", and to allow such uses under a special permit with the specific conditions detailed in our Memorandum.

We anticipate that adoption of the recommended legislation will, as suggested in the 2018 Master Plan, spur economic development by encouraging a variety of businesses. Further, it responds to the desire expressed by residents during development of the 2018 Master Plan for more dining options, increased diversity, and number of businesses.

The Planning Commission believes that our recommended legislation supports the 2018 Master Plan by implementing strategies to:

- Emphasize neighborhood scale restaurant & retail uses, and
- Consider Zoning Code amendments that accommodate commercial & mixed uses.

Ms. Stankorb Taylor asked Ms. Tetley if she can estimate the number of food trucks or trucks like this that are linked to events in the past year or so as they seem to be very popular. Ms. Tetley stated that throughout the summer there have been food trucks parked near Village Green on Tuesdays and Fridays in addition to having trucks present at city events but she would estimate it to be over two dozen trucks. Ms. Stankorb Taylor commented that hearing Mr. Boss say that the food trucks help to bring in diverse businesses when there is only so much physical space is a very creative approach to doing that. She also clarified that this legislation does not apply to ice cream trucks because they are not parked at a specific location. Ms. Tetley confirmed this is correct and added that it is prohibited for ice cream trucks to drive from place to place when they are not associated with a specific event. Ms. Averett asked if ice cream trucks are banned from Wyoming. Ms. Tetley stated that ice cream trucks specifically are not but it is against the solicitation ordinance to drive around selling products from a moving vehicle.

Mr. LeRoy moved to adopt the Report. Mr. O'Reilly seconded the motion. There being no further comments or questions, the motion to adopt the Report from the Planning Commission on Proposed Amendments to the Planning and Zoning Code to Allow Transient Businesses and Food Trucks carried with all voting yes.

H. First Reading of the Ordinance Amending Chapter 1188 and Section 1171.03(g) of the Planning and Zoning Code Pertaining to Outdoor Dining, Transient Businesses, and Food Trucks: Mayor Hoffmeister noted this is the first reading of the Ordinance and set the public hearing and the second reading for the October 19, 2020 City Council meeting.

I. First Reading of the Ordinance Amending Section 351.14(a) of the Codified Ordinances of the City of Wyoming Pertaining to Restricted Parking for Certain Vehicles: Mayor Hoffmeister noted this is the first reading of the Ordinance and set the second reading for the October 19, 2020 City Council meeting.

J. Report from the Finance Committee on the Proposed Fees and Charges for 2021, on the Operating Philosophy and Financial Policy, on the Water Works Revenue Fund Operating Philosophy and Financial Policy, on the Investment Policy, and on the Debt

Policy: Mr. Delgado presented a verbal report to Council. The Finance Committee met on September 10, 2020 to review the policies and fees. Mr. Delgado reported that staff and committee members recommended no changes from 2020 on any of the policies. The Finance Committee reviewed the proposed 2021 Fee Schedule and there were no recommended changes by staff or Committee members. The Committee discussed the 2021 water rates after having received a five year projection from Mr. Caudill for the Water Fund. Last year, a 3% increase to the water rates was approved. The five year water budget projection calls for a 2% increase for 2021 and City staff is recommending this be adopted by the Finance Committee for adoption by City Council. The funding will provide cash for necessary infrastructure repairs in the water distribution system. Ms. Averett asked if the repairs are routine in nature. Mr. Delgado stated that they are. Mr. O'Reilly asked how our water rates compare to our surrounding communities. Ms. Tetley responded that our water rates are typically at the high end of the surrounding area, which has been the case for quite some time. The City conducts an analysis on an annual basis for this data. Mr. Delgado stated that although the water rates are monitored annually the City tries to maintain the rates at its lowest cost. Residents are saving more water and watering their lawns less than in previous years which has reduced the water revenue. As Council can see, the projection is a 3% increase and that is, in Mr. Delgado's opinion, after a long study done by Mr. Lippert and his staff. Ms. Averett asked how much a 3% increase to one's bill represent. Mr. Caudill explained that the proposal for next year is a 2.2% increase. The average bill for 2020 is \$135.91 which would increase to \$138.64 on a quarterly basis. Mr. Caudill added that a five year analysis on water consumption and production has been down in recent years. Expenses have been cut where they can and capital improvement/infrastructure maintenance needs have been delayed due to the decline in water revenues over the last several years. We will be reaching a point where we are able to start addressing some of the infrastructure upgrades and repairs.

Mr. O'Reilly moved to receive the report. Mr. Green seconded the motion. There being no questions or comments, the motion to Receive the Report from the Finance Committee on the Proposed Fees and Charges for 2021, on the Operating Philosophy and Financial Policy, on the Water Works Revenue Fund Operating Philosophy and Financial Policy, on the Investment Policy, and on the Debt Policy carried with all voting yes.

K. First Reading of the Ordinance Adopting the Revised Fees and Charges for 2021: Mayor Hoffmeister noted this was the first reading of the Ordinance and set the second reading and the public hearing for the October 19, 2020 City Council meeting.

L. First Reading of the Ordinance Appropriating Revenues Within Certain Funds, Transferring Revenues from Certain Funds, and Transferring Certain Funds Within Designated Accounts: Mr. Delgado moved to suspend the rules. Ms. Averett seconded the motion. There being no discussion, by roll call vote, the motion to suspend the rules carried with all voting yes.

Ms. Stankorb Taylor moved to adopt the Ordinance. Ms. Averett seconded the motion. There being no discussion, by roll call vote, the motion to adopt the Ordinance Appropriating Revenues Within Certain Funds, Transferring Revenues from Certain Funds, and Transferring Certain Funds Within Designated Accounts carried with all voting yes.

M. First Reading of the Ordinance Establishing Chapter 377 of the Codified Ordinances of the City of Wyoming Entitled "Golf Carts and Utility Vehicles": Ms. Stankorb Taylor asked for background on where the impetus for this Ordinance came from. Ms. Tetley reported that the request was submitted by several residents because other communities allow residents to drive golf carts and similar vehicles on city streets and we have had requests over time to allow this. She has asked the City Solicitor and Chief Herzog to look into the process further and they were able to consult the Ordinances of other communities and create a draft Ordinance of the same.

Chief Herzog explained that state law allows golf carts to be driven on public streets if the city has an Ordinance allowing them. Research was done to find the best way to keep the occupants as safe as possible. The goal would be to keep the golf carts off of Springfield Pike as much as possible however some residents would have to cross the Pike to get to the side streets to and from their residences. Drivers of golf carts must be a licensed driver. The golf carts would need to be permitted meaning they would have to get an inspection completed by the police department. Chief Herzog added that the police department would check to be sure the carts have turn signals, windshield wipers, seat belts, head lights, and tail lights. Once the safety inspection is completed the applicant would go to the BMV to obtain a license for the golf cart.

Mr. LeRoy asked if a golf cart driver has to have a special driver's license designation to drive a golf cart on a public road. Chief Herzog stated that only a valid driver's license is required. Chief Herzog added that the Village of Greenhills is our closest neighbor that allows golf carts; they currently have nine licensed carts in their community.

Ms. Averett asked who is driving the golf carts. Chief Herzog explained that he did not ask this question of Greenhills. Ms. Averett asked how fast golf carts can travel. Chief Herzog stated that the Ordinance limits the carts to 25 miles per hour which is the speed limit for vehicles as well.

Mr. O'Reilly asked if there would be any time limitations. He expressed concern about persons driving after dark and not being visible on the street to people behind them. Chief Herzog stated that there is currently no time limit set in the proposed Ordinance however the carts must have headlights, tail lights, and brake lights so they would be as visible as a vehicle at night if they were being driven at night.

Ms. Stankorb Taylor asked if the same rules for car safety seats for children would be required in a golf cart as they would in a vehicle. Ms. Supinger stated that if a child would be required to be in a safety seat in a vehicle they will not be able to ride in a golf cart on public roads. Ms. Stankorb Taylor speculated that children must be 13 years of age in order to be allowed to sit in the front seat of a car or a golf cart. Chief Herzog stated that there is no law stating at what age a person must be to be allowed to sit in a passenger seat of a vehicle, they simply must not still be in a car seat or booster seat.

Mr. LeRoy asked Chief Herzog for confirmation that the City does not currently have any Ordinance regulating golf carts and it never has. Chief Herzog confirmed this is correct. Ms. Supinger added that the law allowing golf carts on public roads is fairly new and so until an Ordinance is adopted golf carts are prohibited from public streets.

Mayor Hoffmeister asked Chief Herzog if someone driving a golf cart could be charged with OVI. Chief Herzog confirmed this is correct and added that golf cart drivers are held to the same restrictions as a motor vehicle driver in terms of driving while intoxicated as well as running stop signs and stop light violations. He added that the golf carts would be prohibited on public sidewalks and the hike/bike trail as well.

Mr. O'Reilly stated that he is not convinced there is a valid rationale for people to need to drive golf carts on the street.

Ms. Averett asked how many requests the city has received to allow them. Ms. Tetley stated that he has personally received three requests in the past several months. Chief Herzog stated that last year, there may have been three or four requests.

Mr. Green commented that it is his understanding that other communities are beginning to allow them. Chief Herzog stated that in addition to Greenhills currently allowing them, he believes Bethel and Montgomery are doing research as well or may already allow them.

Mr. Green inquired that if the Ordinance passes and within the next year or so, the privilege is abused and things get out of control, the Ordinance could be rescinded. Chief Herzog confirmed this is correct. Mr. Green stated that, in his opinion, he would like to try it out as he believes Wyoming is a place that people want to move here and stay and this sounds like an exciting new opportunity to attract new residents and others to visit. He expressed concerns with safety but believes his concerns would be worked through the system and if it doesn't work we can take it back.

Mr. O'Reilly commented that the first time there is an accident, City Council will be asked why it was allowed. Having three people ask for this is not a good rationale behind allowing it.

Ms. Stankorb Taylor commented that it would be helpful to get safety data from the other cities so that Council can hear more. Not having the safety of the shell of a vehicle surrounding the golf cart increases the risk of physical danger. She would prefer to receive more information as she would tend to agree with Mr. O'Reilly's concerns.

Ms. Averett stated that she would like to see more interest from the community other than three people. If there was a big push from community members for this she would want to hear from them.

Mr. LeRoy questioned if the golf carts would stay over to the side of the road like bicycles or would they be allowed to drive in the lane with other cars. Chief Herzog commented that because of the size of a golf cart, they would be in the lane of traffic and if one wanted to pass they would do so as if the driver were passing another vehicle.

Chief Herzog commented in response to Ms. Stankorb Taylor's concerns that if a person driving a golf cart were in an accident they obviously could sustain more injuries than someone driving a car however people riding bicycles on public streets have even less protection. Additionally, bicycle riders do not have to be licensed to be on the roadway but they are also considered a vehicle and are required to follow the rules of the road just like the driver of a vehicle would. Ms. Stankorb Taylor commented that bicyclist are required to wear helmets. Chief Herzog stated that helmets are not required by law and the city does not have an Ordinance requiring children or adults to wear helmets to ride bicycles.

Mayor Hoffmeister noted this is the first reading, the second reading will take place at the October 19, 2020 City Council meeting.

N. First Reading of the Ordinance Amending Section 505.18 of the Codified Ordinances of the City of Wyoming Pertaining to the Keeping of Bees: Ms. Averett asked for an explanation of the meaning of this Ordinance.

Ms. Tetley explained that a resident who applied for an Apiary permit does not meet the minimum required lot size and the City realized there was no mechanism in the current Ordinance allowing a resident to appeal a denial of a permit. This proposed legislation allows a resident to ask the Board of Zoning Appeals for a variance to the minimum lot requirement for bee keeping.

Mr. LeRoy asked how many beekeepers currently reside in the City. Ms. Tetley reported there are currently six active Apiary permits.

Ms. Averett asked if there is any reason to think one would need a larger lot to keep bees. Ms. Tetley stated that when the Ordinance was initially created there was concern expressed about residents being uneasy if their neighbor had a hive(s) and so the

minimum lot size was arbitrarily set to allow ample space away from the hive(s) but the decision was not based on any particular best practice. The person in question has a property that backs up to a green area so it is less of a concern however under the existing Ordinance the resident has no mechanism to appeal the decision.

Mr. Delgado commented that he believes that when the Ordinance was created an experienced beekeeper, who is also a resident, helped the City craft the Ordinance and helped us navigate through a universal practice of beekeeping including the square footage requirement for each hive. He asked Ms. Tetley and Mr. Boss if this is their understanding as well. Ms. Tetley stated that a local beekeeper provided input on the Ordinance and although bees need space, she believes that the space that was selected was considered ample. Additionally, if the Board of Zoning Appeals decides to approve it or not, there was no way for the resident to have any relief for that decision to deny the permit. The decision was made to revise the Ordinance to allow a resident to petition the Board of Zoning Appeals should an Apiary permit be denied.

Mayor Hoffmeister noted that the second reading of the Ordinance is set for the October 19, 2020 City Council meeting.

O. First Reading of the Ordinance Amending Section 121.01 of the Codified Ordinances of the City of Wyoming Pertaining to the Rules of Council: Mr. O'Reilly moved to amend the Ordinance with the deletion of the term "personhood" as the term "personhood" does not have a legitimate reason to be defined as an offence for which a person could be punished or sanctioned. Personhood is not elsewhere in our legislation and personhood is too vague. He will willing to adopt the rest of the amendments to the Ordinance without the term "personhood" included.

Ms. Supinger stated that the term was added to the Ordinance under the Council Decorum section of the Code and the goal of this section is to prohibit ad hominem attacks. The word "personhood" was selected because it spoke to a person's individual traits or attributes or characteristics using a very broad term. These are Council's rules and if Council does not approve the wording it can be stricken if it chooses to.

Mr. O'Reilly commented that following the word "personhood" in the Decorum section of the Ordinance indicates that Council members should work properly without disagreements or insults and he felt that "personhood" should not be used.

Mr. Green agreed and added that he would like to see a more clear definition of what that word actually stands for or in absence it should be stricken.

Ms. Averett stated that she does not understand Mr. O'Reilly's concerns. Mr. O'Reilly explained that he used to teach criminal law and he always emphasized to his students to

define what was being broken or what was being violated so that you could punish the person for breaking or violating. He does not believe that the term "personhood" carries enough general awareness among the public to be used as a basis for punishment. Further on in the same line of the Ordinance there are other things mention, such as insults and the like, which covers that kind of behavior.

Ms. Supinger read the sentence in question: "Disparaging comments about a specific member of Council's personhood, political affiliations, or matters of a personal nature shall be ruled out of order by the chair of the meeting". The word "personhood" could be stricken and could be read as: "Disparaging comments about a specific member of Council's political affiliations, or matters of a personal nature shall be ruled out of order by the chair of the meeting". She suggested that the word "personhood" could also be changed into some other word; it is up to Council to decide.

Ms. Averett asked Ms. Supinger what she was trying to say by using the word "personhood". Ms. Supinger stated that the goal was to avoid ad hominem attacks and to fully encompass that personal attacks about someone's individual character or attributes or traits are not allowed. She was trying to capture a broad spectrum and she believes that what Mr. O'Reilly is objecting to is how broad the term is.

Ms. Stankorb Taylor asked clarification if the terms could be used such as a person's individual character or attributes or traits, if this terminology would be specific enough.

Mr. O'Reilly suggested that the Ordinance be sent back to the drafters and ask that a new word be used to better define the purposes of punishment of the offence. Ms. Supinger stated that the term could just be stricken which would create clarity.

Mr. Delgado concurred that by striking the word, it provides clarity and he asked that she re-read the sentence for Council. Ms. Supinger read the revised sentence: "Disparaging comments about a specific member of Council's political affiliations, or matters of a personal nature shall be ruled out of order by the chair of the meeting". Mr. O'Reilly commented that this is entirely appropriate.

Mr. O'Reilly re-iterated his motion to amend the language in the proposed legislation to remove the word "personhood" in section (9) Decorum. Mr. Delgado seconded the motion. By voice vote, all Members voted yes, the motion carried.

After the vote was taken and the motion to amend was adopted, Ms. Stankorb Taylor asked Ms. Supinger clarification with regard to the way Committee of the Whole agendas are set. The ways she is reading it, the chair may solicit input from Council Members for items to be placed on the agenda and any three Council Members may compel an item be placed on the agenda. Currently, if any Council Members have anything they want to bring to the

group, they are able to put it on the agenda and it is talked about which seems collegial to her. She believes that this may complicate something that already works and she may be missing something.

Ms. Supinger explained that it is meant to be collegial and still intended to follow our normal practice. Council Members can still let the chair, et al, know that there is something you want placed on the agenda. The reason that three persons could compel somebody is if there is a genuine disagreement about whether or not something should be brought to the Committee of the Whole. Three Council Members would have the ability to add an agenda item to overrule the chair on that issue if it were to come to that. She does not imagine that this is something that would happen often. She does not anticipate any change as to how Council is adding items to the Committee of the Whole agenda today, but a process is getting set moving forward so that it becomes part of the Rules of Council.

Mr. LeRoy asked Ms. Supinger if she drafted the proposed Ordinance and she replied that she did. Mr. LeRoy asked Ms. Supinger if she was asked to do it and if so, who asked, and asked for the background of how the Rules were crafted. Ms. Supinger explained that there was some confusion over the summer at some meetings where people were asking direction on certain procedures and how committee meetings and Committee of the Whole meetings were set. Council's current Rules of Council had very little language on this. The idea was to expand on the current Rules of Council so that the procedures are in place and that Council has an understanding of what the procedures will be when it conducts committee meetings and when it conducts Committee of Whole meetings. Ms. Supinger explained that she and her firm represent many communities and there are many different versions of Rules of Council among them and so she used some of their examples to expand Wyoming's just a bit further. The proposed revisions were reviewed with the Law Committee after she identified areas where she had received questions from individual Council Members about procedure so that there could be something in writing and from the Law Committee it was advanced to full City Council.

Ms. Tetley added that Council had walked through the proposed changes at a Committee of the Whole where general direction was provided and she believed that Mr. LeRoy may have been absent at that meeting.

Ms. Averett asked questions relating to Section (f) General (5) Anonymous communications. Unsigned communications shall not be introduced to Council. She commented that a few weeks ago the Mayor received anonymous communication via email and she was the subject of the email, and she asked if this provision in the Ordinance means the email would not be forwarded to other Council Members. Ms. Supinger stated that in her opinion, anonymous communication is one that is sent to City Council and by not being accepted, it would not be part of any official minutes or the official record of Council. Ms. Averett asked if this means the email is simply deleted. Ms. Supinger explained that the

email would still be considered a public record but it would not be part of the official City Council meeting minutes. Many times when City Council receives written communications sometimes they are read into the Council meeting minutes or they are accepted by City Council formally. Something that is unsigned and anonymous would not be accepted in that manner.

Ms. Averett commented on Section (f) General (7) Appointment terms. She asked if the word "Councilmanic" is a misspelling or if this word has meaning. Ms. Supinger stated that this items was in the existing Rules of Council and she is not entirely sure of its meaning and would likely have used a different word. Mr. O'Reilly commented that he believes the word is an English phrase meaning related to councils and committees.

Ms. Averett commented on Section (f) (8) No City Endorsement, and stated that she understands its meaning but asked if it is too broad. Ms. Supinger explained that the idea behind this section is that Council Members should not represent themselves as speaking on behalf of City Council when they are not, or holding themselves out as having the City's endorsement on something when in fact it doesn't. Ms. Averett asked for clarification with regard to the Upcycle Day recently held in the community and asked if this is something that needed to go before City Council for endorsement first. Ms. Stankorb Taylor asked if individual Council Members are involved in community projects just as Upcycle Day or a JWC event the Members should not say that they are participating as a Member of Council but rather as an individual. Ms. Tetley clarified that this language is aimed at, for example, if a Council Members wanted to support a particular initiative at the state level, such as a House Bill, and they wrote to this legislature indicating that they are writing with the support of City Council, and did not receive direction from City Council to do that, this action would not be allowed, the person could only speak as an individual. She does not see this language extending to events and activities in the community because they are all City events in most cases.

Ms. Averett asked what happens when someone on City Council does not follow these rules. Ms. Averett explained that she is on the Public Safety Committee and it almost had a meeting over the summer in which she was not consulted on the agenda. She sees that this is supposed to be and wondered if there is any recourse. Ms. Supinger stated that City Council is a self-governing body so it decides its own rules or procedures. Typically, if there is an issue with a Council Member not following the Rules of Council that person can be subject to a public censure by the remaining Council Members. Obviously, the goal is to not get to that point. The goal is to have clear rules so that everyone understands what their obligations are to one another.

Mr. Hoffmeister noted this is the first reading and set the second reading for the October 19, 2020 City Council meeting.

## MISCELLANEOUS

Mr. O'Reilly expressed concern that the Ninth Circuit Court of Appeal's decision regarding the Federal Communications Commission's rules on the 5G electronic/internet. He asked the Administration to calculate the charges Wyoming should impose on the 5G telecom box installations, and what it would cost for a consultant to establish the recoverable costs which we then would charge to the telecom applicant. He asked the City to revisit its decision we made four years ago about what the City should charge for hosting and operating the 5G.

Ms. Supinger asked Mr. O'Reilly to confirm if she understands him correctly in that Ohio law has a cap on what the city can charge, it is written in the statute and the City of Wyoming is charging that cap currently. Mr. O'Reilly's suggestion is based on the Ninth District Court of Appeals finding that a higher fee does not violate the FCC regulations, then whether the Ohio legislators would revisit that issue and allow communities to charge amounts higher than the current cap to change the law. Mr. O'Reilly stated that in practical terms, this is correct and in practical political terms they are a wholly owned subsidiary of the utility and he does not expect the legislature to make changes but he would rather the City have a point of view about whether the 5G safety and costs issues have been adequately considered since the FCC rules are on the books and now may be revised, he would like to have that discussion.

Mr. Delgado commented that Saturday night the business district was very busy with live music and was nice to see people out and having a good time. Blocking off a section of Crescent Avenue between Gabby's and the Meat Market created a great area for folks to congregate and have a bite to eat. Everyone appeared to be socially distancing and masking themselves. He saw people driving, parking, and walking to the area to participate. It seemed to go beyond Wyoming's borders and appeared to be a great days for the businesses as well.

Ms. Stankorb Taylor thanked Mr. Delgado for his suggestion for Council to take its time in walking through the Junk Day issue. She believed he was right in having more time for education was great with that and with all of his support for members of the Environmental Stewardship Commission to come up with ways to help education the community to better divert waste we ended up having a week-long garbage holiday for everyone. The Facebook Freebox Admins hosted a free for all, which a lot of people participated in. We had Upcycle downtown the day before Junk Day with Patrick Walker from the Environmental Stewardship Commission spearheading the event and pulled in partners that participated for free to collect recyclable items instead of sending them to the landfill. She would like to have the ESC come to Council and give a report once Terry Huxel receives the final numbers on this year's junk day totals. She reported that 14.5 tons of junk

was diverted from the landfill on Upcycle Day. She believes the Upcycle Day event was a great fit for our community and moves us steps forward for sustainability efforts. Additionally, she thanked the community members for reaching out to Lynn and the Wyoming Kindness Connection to help the house fire victims on East Charlotte Avenue. The Wyoming Recreation Foundation has placed a link on its website for people to donate funds to help the victims. She thanked everyone that has been pitching in and wished the best for the families affected by the fire.

Mr. Green echoed Ms. Stankorb Taylors' comments regarding Upcycle Day. Having lived here for many years this is a first and was a very exciting way to help ensure less waste going to the landfill. He hopes that with more education this could be an annual event and we may not need a junk day in the future. He gave a special thank you to Wyoming Boy Scout Troop 221. He had an opportunity to speak to the troop in what was supposed to be a 15-20 minute discussion about community service and civic duty, and it turned into almost a 90 minute discussion. There were approximately 20-30 young men there and the questions they asked were tremendous and this gave him a lot of enlightenment to know that our future leaders are so engaged in the community.

Ms. Averett thanked Ms. Stankorb Taylor and Patrick Walker for their efforts on Upcycle Day. She rode around the City with Mr. Walker pick up junk from residents and hauling it back to the recycling providers. The traffic was heavy and appeared to be a very successful day. Many of the items leftover were items that Rumpke cannot take such as construction materials. There were professional scrappers driving around the community as well but some were searching for specific types of metals, etc. She believes that with more education to the residents on items that simply cannot throw out. Perhaps next year the event can be expanded to include sustainability vendors to teach people about recycling and sustainability, which is part of the Master Plan.

Mayor Hoffmeister asked everyone to be safe and to look out for their neighbors.

**EXCUSAL OF ABSENT MEMBERS:**

All members were present, there were none to excuse.

**EXECUTIVE SESSION:**

There were no items to discuss in Executive Session this evening.

**ADJOURN**

Mr. O'Reilly moved to adjourn the meeting. Ms. Stankorb Taylor seconded the motion. By voice vote, the motion to adjourn the meeting carried with all voting yes. The meeting adjourned at 8:23 p.m.

Respectfully submitted,

Debby Martin, Executive Assistant

Approved:

Karen Zeilman, Clerk of Council

Thaddeus Hoffmeister, Mayor

DRAFT

**RESOLUTION NO. \_\_\_\_ - 2020**

**RESOLUTION ACCEPTING THE AMOUNTS AND RATES  
AS DETERMINED BY THE BUDGET COMMISSION AND  
AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING  
THEM TO THE COUNTY AUDITOR**

**WHEREAS**, the City Council of the City of Wyoming, Ohio in accordance with the provisions of law has previously adopted a Tax Budget for the next succeeding fiscal year commencing January 1, 2021; and

**WHEREAS**, the Budget Commission of Hamilton County, Ohio has certified its action thereon to this Council together with an estimate by the County Auditor the rate of the rate of each tax necessary to be levied by this Council, and what part hereof is without, and what part within the ten mill tax limitation;

**THEREFORE, BE IT RESOLVED**, by the Council of the City of Wyoming, Hamilton, Ohio, that the amounts and rates as determined by the Budget Commission in its certification, be and the same are hereby accepted:

Amount Approved by Budget Commission Inside 10 Mill Limitation	Amount to be Derived From Levies Outside 10 Mill Limitation	County Auditor's Estimate of Tax Rate to be Levied	
		Inside 10 Mill Limit	Outside 10 Mill Limit
\$939,420	\$2,130,580	3.06	6.94

**AND BE IT FURTHER RESOLVED**, that the Clerk of this Council be, and is hereby directed to certify a copy of this Resolution to the County Auditor of said County.

**ADOPTED** by the Council of the City of Wyoming, Ohio this **19<sup>th</sup>** day of **OCTOBER, 2020**.

\_\_\_\_\_  
Thaddeus Hoffmeister, Mayor

ATTEST:

\_\_\_\_\_  
Clerk of Council

APPROVED AS TO FORM:

\_\_\_\_\_  
Emily Supinger., City Solicitor

RESOLUTION NO. \_\_\_\_\_ 2020

**RESOLUTION AUTHORIZING THE CITY MANAGER  
OF THE CITY OF WYOMING TO ENTER INTO A  
CONTRACT WITH RUMPKE WASTE, INC. FOR  
GARBAGE AND REFUSE REMOVAL**

**WHEREAS**, the City of Wyoming has advertised for bids for garbage removal and Rumpke Waste, Inc. is the lowest and best bidders for such garbage and refuse removal for a thirty-six month contract with two, one year options beginning January 1, 2016 as follows:

**Garbage and Refuse Removal (monthly unit cost for pickup, disposal, labor, material, and equipment):**

<u>Year</u>	
2021	\$11.25 per unit
2022	\$11.42 per unit
2023	\$11.59 per unit
Option year 1	\$11.76 per unit
Option year 2	\$11.94 per unit

**Curbside Recycling (monthly unit cost for collection of recyclables at curb in City provided bins):**

<u>Year</u>	
2021	\$4.15 per unit
2022	\$4.23 per unit
2023	\$4.32 per unit
Option year 1	\$4.40 per unit
Option year 2	\$4.49 per unit

**Yard Waste Pick Up Tickets:**

<u>Year</u>	
2021	\$2.50 per ticket
2022	\$2.50 per ticket
2023	\$2.50 per ticket
Option year 1	\$2.75 per ticket
Option year 2	\$2.75 per ticket

**Additional Services (Spring clean up, labor, and collection vehicle):**

The City elects to go with the Alternative Bid for Additional Services

<u>Year</u>	
2021	\$155.00 per hour
2022	\$155.00 per hour
2023	\$155.00 per hour
Option year 1	\$160.00 per hour
Option year 2	\$160.00 per hour

**Rear door pick up (monthly unit cost paid by the subscribers):**

<u>Year</u>	
2021	\$53.00 per month
2022	\$53.00 per month
2023	\$55.00 per month
Option year 1	\$55.00 per month
Option year 2	\$57.00 per month

**Container price schedule per schedule attached to Bid Proposal.**

**NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WYOMING, HAMILTON COUNTY, OHIO:**

**Section 1.** The City Manager be, and she hereby is authorized and directed to enter into a thirty-six month contract with two, one year options with Rumpke Waste, Inc. to provide the services as detailed above and all as more fully set out in the bid proposal submitted to the City of Wyoming, Ohio by Rumpke Waste, Inc., all in accordance with the specifications of the City of Wyoming.

**Section 2.** The City Manager is further authorized to exercise the alternative bid option for additional services as more fully set out in the bid proposal submitted to the City of Wyoming, Ohio by Rumpke Waste, Inc. should the City Manager determine it is most beneficial to the City to do so.

**ASSESSED IN THE COUNCIL CHAMBERS OF THE CITY OF WYOMING, OHIO,  
THIS 19th DAY OF OCTOBER, 2020.**

\_\_\_\_\_  
Thadeous Hofmiester, Mayor

ATTEST:

\_\_\_\_\_  
Clerk of Council

APPROVED AS TO FORM:

\_\_\_\_\_  
Emily Supinger, City Solicitor

**RESOLUTION NO. \_\_\_\_\_ - 2020**

**RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER  
INTO A 2020 CARES ACT LOCAL JURISDICTION AGREEMENT  
WITH THE BOARD OF COUNTY COMMISSIONERS,  
HAMILTON COUNTY, OHIO.**

**WHEREAS**, the Board of Commissioners of Hamilton County, Ohio (the “Board of Commissioners”) has allocated \$25,000,000 in CARES Act funding to municipalities and townships location within the geographical boundaries of Hamilton County for reimbursement of certain necessary expenditures incurred due to the COVID-19 public health emergency; and

**WHEREAS**, the Board of Commissioners has awarded the City of Wyoming \$129,353.00 from the CARES Act funding; and

**WHEREAS**, City Council desires to authorize the City Manager to execute a 2020 CARES Act Local Jurisdiction Agreement in order to secure the funding;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF COUNCIL OF THE CITY OF WYOMING, OHIO:**

**Section 1.** The City Manager is authorized and directed to execute a 2020 CARES Act Local Jurisdiction Agreement, a copy of which is attached hereto and incorporated herein by reference.

**PASSED IN THE COUNCIL CHAMBERS OF THE CITY OF WYOMING, OHIO THIS 19th DAY OF OCTOBER, 2020.**

\_\_\_\_\_  
Thaddeus Hoffmeister, Mayor

ATTEST:

\_\_\_\_\_  
Clerk of Council

APPROVED AS TO FORM:

\_\_\_\_\_  
Emily Supinger City Solicitor

**2020 CARES ACT  
LOCAL JURISDICTION AGREEMENT**

This Agreement is entered into on \_\_\_\_\_, 2020, by and between the Board of County Commissioners, Hamilton County, Ohio (“Board”) and The City of Wyoming (“Local Jurisdiction”), located at 800 Oak Avenue, Wyoming, Ohio, 45215, sometimes collectively referred to in this Agreement as “Parties.”

**WITNESSETH THAT:**

**WHEREAS**, in 2020, the United States began addressing problems and issues associated with the worldwide COVID-19 public health emergency (“Pandemic”); and

**WHEREAS**, in response to the economic fall-out caused by the Pandemic, the Federal Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) was passed establishing a \$150 billion Coronavirus Relief Fund to provide payments to State, Local and Tribal governments navigating the negative and devastating impacts of the Pandemic; and

**WHEREAS**, as a county with a population that exceeds 500,000, Hamilton County (“County”) is a unit of local government eligible for receipt of direct payment under the CARES Act, and as such received \$142 Million from the Coronavirus Relief Fund; and

**WHEREAS**, the Board passed a resolution on June 2, 2020 authorizing the County Administrator to appropriate and implement programming consistent with the County’s CARES Act Plan which included, among other priorities, assistance for municipalities and townships; such plan was amended by Board on July 30, 2020 and August 27, 2020; and,

**WHEREAS**, Board has allocated \$25,000,000 in CARES Act funding to municipalities and townships located within the geographical boundaries of County for reimbursement of certain necessary expenditures incurred due to the public health emergency with respect to the Pandemic; and

**WHEREAS**, Based upon the computation used in conjunction with County’s Undivided Local Government Fund, Board has calculated the maximum amount of CARES Act funding that Local Jurisdiction will be able to receive from Board for certain necessary expenditures incurred due to the public health emergency with respect to COVID-19 as \$129,353.00; and

**NOW THEREFORE**, in consideration of the mutual covenants by and between the Parties hereto, the Parties agree as follows:

1. Amount of Grant.  
Board hereby grants and awards to Local Jurisdiction, a municipality or township located within the geographical boundaries of County, an amount up to **\$129,353.00** (“Grant”).
  
2. Uses of Grant Funding.  
Grant funding shall only be used to reimburse necessary expenditures incurred by Local Jurisdiction due to the public health emergency with respect to COVID-19. Local Jurisdiction agrees that it will only submit for reimbursement those costs and expenses that comply with any Guidance, Frequently Asked Questions and Answers issued by the federal government or State of Ohio, which includes without limitation, U.S. Treasury, Office of Inspector General, the Ohio Auditor of State and the Ohio Office of Budget and Management. The receipt and review of documentation as well as the payment of Grant funding by Board to Local Jurisdiction shall in no way be construed as Board’s determination or approval of the eligibility of the expenses being reimbursed. In all cases and under all circumstances, Local Jurisdiction is ultimately responsible for the determination of the eligibility of expenses that it submits to the Board for reimbursement.
  
3. Applicable Time Periods.  
Funds provided for hereunder can only be used to reimburse eligible expenses incurred between March 1, 2020 through December 30, 2020, inclusive unless extended by written agreement of the Parties or otherwise terminated as provided herein. Any unused funding shall be forfeited by Local Jurisdiction.
  
4. Compliance with Program Criteria.  
Local Jurisdiction acknowledges and agrees that it will comply with the criteria and requirements set forth in the *LOCAL JURISDICTION ASSISTANCE PROGRAM OVERVIEW*, attached hereto and incorporated herein by reference, as Exhibit A.
  
5. Compliance with Applicable Law.  
Local Jurisdiction agrees to comply with all applicable federal, state, and local laws, rules, and regulations.

6. Ineligible Uses.

If at any time, it is determined that Grant funds have been used to reimburse ineligible costs or expenses of the Local Jurisdiction, all or part of the funding shall be immediately repaid to Board, upon demand. If there is any determination by the federal or state government (including without limitation, the Office of Inspector General or the Ohio Auditor of State) that any funds were expended by Local Jurisdiction in violation of the CARES Act requirements which results in a request for repayment of these funds, then Local Jurisdiction shall provide, upon demand, funds to the Board sufficient to meet any repayment request. If Local Jurisdiction fails to provide the required repayment, then the Board reserves the right to pursue all necessary legal means to recoup said funds. If Local Jurisdiction determines that any required repayment will be made from funds to be transferred by Board to Local Jurisdiction from the County Undivided Local Government Fund; Board agrees to cooperate with such process. This paragraph shall survive termination or expiration of this Agreement.

7. Classification of Grant Funds.

Funds provided through this Agreement are considered to be federal financial assistance subject to the Single Audit Act and the related provisions of the Uniform Guidance, 2 CFR 200.303 regarding internal controls, 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements. Local Jurisdiction agrees to remain in compliance with these provisions.

8. Accounting.

Local Jurisdiction shall establish internal controls, including a special revenue fund, to ensure that all required documentation required herein shall be easily accessible and understandable in the case of any audit or review.

9. Other Funding Sources.

Funds provided hereunder shall not be used for costs or expenses that are already being funded by any other federal, state, or local funding sources. Funding paid hereunder shall not supplant any other funding.

10. Reimbursement Requests.

a. Local Jurisdiction shall submit reimbursement request on the Reimbursement Application Form, a form of which is attached hereto and incorporated herein by reference or another form that may be agreed to by

the Parties. All reimbursement requests shall include all source documentation, including without limitation, invoices, packing slips, purchase orders, payroll records, and financial statements that evidence the requested reimbursement request. Reimbursement requests shall be received by Board on or before January 6, 2021. Notwithstanding the above, Local Jurisdiction is encouraged to submit any request for reimbursement as soon as practicable.

- b. If Local Jurisdiction requests reimbursement for public safety and public health payroll and personnel costs, Local Jurisdiction must submit all relevant payroll and personnel records/reports, that evidence the amount of payroll and personnel expenses being requested for reimbursement (e.g. position description, rate of pay, hours worked, and any required allocation of time). A Local Jurisdiction shall not include in any reimbursement request any separation payments (e.g. as sick, vacation and comp time), bonuses, payroll for administrative personnel, or any other payroll expense not permitted by federal law and federal or state guidance.

Any submitted request for reimbursement shall include a signed certification from the Chief Executive of the Local Jurisdiction that states that the payroll and personnel costs that are included as a part of the reimbursement request are in compliance with federal law and federal and state guidance.

11. Records and Record Retention.

Local Jurisdiction shall maintain all records, financial or otherwise, relating to the reimbursement of costs and expenses paid for through this Agreement for at least five (5) calendar years after final payment of CARES Funds is received by the Local Jurisdiction. In addition, Local Jurisdiction shall maintain documentation that supports the costs of and conclusions made with respect to the public safety and public health employees or personnel being substantially dedicated to mitigating or responding to COVID-19 health emergency.

Board shall at any reasonable time have the right of access to and review or audit any and all such records pertinent to this Agreement and that said records shall be maintained in a manner to facilitate such reviews and audits.

12. Termination by Local Jurisdiction.

Local Jurisdiction may, at any time, terminate this Agreement, in whole or in part, upon written notification to Board.

13. Compliance.

Local Jurisdiction certifies it is an equal opportunity employer and shall remain in compliance with state and federal civil rights and nondiscrimination laws and regulations including but not limited to Title VI, and Title VII of the Civil Rights Act of 1964 as amended, the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act, as amended, and the Ohio Civil Rights Law.

14. Complete Agreement.

This Agreement, including all exhibits, is the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous and contemporaneous written and oral agreements and communications relating to the subject matter of this Agreement.

15. Warranties/ Representations and Required Signature from Local Jurisdiction.

a. Local Jurisdiction warrants and represents that (i) it has the full and unrestricted right, power and authority to enter into this Agreement; (ii) it is duly organized and validly existing under the laws of the State of Ohio, and has all requisite legal power and authority to execute this Agreement and to carry out its terms, conditions and provisions; (iii) all required corporate action needed to authorize the execution, delivery and this Agreement and the transactions contemplated hereby have been taken and are in full force and effect; and (iv) this Agreement when duly executed and delivered and constitutes the valid, legal and binding obligation of Local Jurisdiction.

b. Local Jurisdiction shall sign and return this Agreement within thirty (30) days of receipt or may forfeit the funding allocation.

16. Counterparts.

This Agreement may be executed in counterparts. It is not necessary that the signature on behalf of each Party appear on each counterpart copy, so long as each party executes the Agreement. All counterparts of this Agreement collectively constitute a single agreement. County is authorized to combine each party's execution sheets into a single document. An electronic transmitted signature of this Agreement or any document, instrument or agreement hereinafter executed or given in connection with this Agreement shall be considered valid and binding upon the Parties as if an original.

**SIGNATURES**

**IN WITNESS WHEREOF**, this Agreement is effective upon the date of the last signature.

**THE CITY OF WYOMING**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

**BOARD OF COUNTY COMMISSIONERS, HAMILTON COUNTY, OHIO**

Signature: \_\_\_\_\_

Print Name: **Jeffrey W. Alutto**

Title: **County Administrator**

Date Signed: \_\_\_\_\_

**EXHIBIT A**  
*LOCAL JURISDICTION ASSISTANCE PROGRAM OVERVIEW*

**HAMILTON COUNTY, OHIO**  
**CARES ACT**  
**LOCAL JURISDICTION ASSISTANCE PROGRAM OVERVIEW**

The Board of County Commissioners, Hamilton County, Ohio (“Board”) recognizes that the 49 local political jurisdictions (“Local Jurisdiction(s)”) that are located within the geographical boundaries of Hamilton County have been impacted by the COVID-19 public health crisis. To assist in offsetting the resulting financial burden from COVID-19, the Board has allocated \$25 million of its CARES Act funding to provide direct financial assistance (“Program”) to the Local Jurisdictions (“CARES Funds” or “CARES Funding”). In determining the amount of funding to be allocated to each of the Local Jurisdictions, the Board used the County Undivided Local Government Fund formula.

**Permissible Uses of Funds**

The CARES Act provides that payments may only be used to cover costs that:

1. Are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19).
2. Were not accounted for in the Local Jurisdiction’s budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act). A cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget; *or* (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.
3. Were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

Local Jurisdiction will only submit for reimbursement those costs and expenses that comply with any Guidance, Frequently Asked Questions and Answers issued by the federal government or State of Ohio, which includes without limitation, U.S. Treasury, Office of Inspector General, the Ohio Auditor of State, and the Ohio Office of Budget and Management. Local Jurisdictions are cautioned that guidance changes frequently and later versions may become available.

### **Ineligible Uses of Funds**

If it is determined that CARES Funds have been used to reimburse ineligible costs or expenses of the Local Jurisdiction, all or part of the funding shall be immediately repaid to Board, upon demand.

### **Accessing Funds**

CARES Funds are available to Local Jurisdictions on a reimbursement basis only for those COVID-19 related costs that comply with federal and state guidance. While this guidance continues to evolve, if future guidance is modified in a manner that affects the permitted uses of funds, the Board may, at its discretion, use its best efforts to notify the Local Jurisdictions to make any necessary changes. In all cases and under all circumstances, Local Jurisdiction is ultimately responsible for the determination of the eligibility of expenses that it submits to the Board for reimbursement.

Local Jurisdictions must comply with the following in order to access CARES Funding through the Program:

1. Execute an agreement in a form satisfactory to the Board which sets forth Program requirements and eligible costs and expenses as outlined in U.S. Treasury guidance.
2. Establish internal controls, including setting up a Special Revenue Fund to separately track the receipt and expenditures of the CARES Funds.
3. Return the executed agreement to the Board along with any authorizing resolution of the Local Jurisdiction.
4. Submit a completed Reimbursement Request form for all reimbursement requests. Reimbursement is permitted for eligible expenses incurred between March, 1, 2020 and December 30, 2020. The Reimbursement Request form must be a form substantially similar to that set forth as Attachment A.
5. Comply with the reimbursement timeline set forth below:
  - A. Reimbursement requests can be submitted upon final execution of agreement.
  - B. Local Jurisdictions are encouraged to submit request for reimbursement as soon as practicable.

- C. Local Jurisdictions are encouraged to communicate to Hamilton County as soon as practicable if they will not be utilizing the full funding allocation.
  - D. Final Reimbursement request must be submitted by close of business on January 6, 2021.
6. Submit copies of all source documentation for eligible expenses at the time the reimbursement request is delivered to the Board. Source documentation includes, without limitation, invoices, packing slips, purchase orders, and financial records evidencing proof of payment. The receipt and review of documentation as well as the payment of CARES funding by Board to Local Jurisdiction shall in no way be construed as Board's determination or approval of the eligibility of the expenses being reimbursed.
7. A Local Jurisdiction that requests reimbursement for public safety or public health payroll costs must submit all relevant payroll and personnel records/reports that evidence the amount of payroll expenses and personnel expenses being requested for reimbursement (e.g. position description, rate of pay, hours worked, any required allocation of time). A Local Jurisdiction shall not include in any reimbursement request any separation payments (e.g. as sick, vacation and comp time), bonuses, payroll for administrative personnel, or any other payroll expense not permitted by federal law and federal or state guidance.

Any submitted request for reimbursement shall include a signed certification from the Chief Executive of the Local Jurisdiction that states that the payroll and personnel costs that are included as a part of the reimbursement request are in compliance with federal law and federal and state guidance.

8. Local Jurisdiction shall maintain all records, financial or otherwise, relating to the reimbursement of costs and expenses for at least five (5) calendar years after final payment of CARES Funds is received by the Local Jurisdiction. In addition, Local Jurisdiction shall maintain documentation that supports the costs of and conclusions made with respect to the public safety and public health employees or personnel being substantially dedicated to mitigating or responding to COVID-19 health emergency.

**Attachment A – Application for Reimbursement**



Date and Community Name

Date Submitted	<input type="text"/>			
Community Name	<input type="text"/>			
Community Address	<input type="text"/>	<input type="text"/>	Ohio	<input type="text"/>
	Street	City	State	Zip
Remit Address	<input type="text"/>	<input type="text"/>	Ohio	<input type="text"/>
	Street	City	State	Zip

Contact Information

Authorized Official (Chief Executive)	<input type="text"/>		
Authorized Official Email	<input type="text"/>		
Authorized Official Phone	<input type="text"/>		
Secondary Contact Name	<input type="text"/>		
Secondary Contact Email	<input type="text"/>		
Secondary Contact Phone	<input type="text"/>		<input type="text"/>



**HAMILTON COUNTY, OHIO  
CARES ACT  
LOCAL JURISDICTION ASSISTANCE PROGRAM OVERVIEW**

The Board of County Commissioners, Hamilton County, Ohio (“Board”) recognizes that the 49 local political jurisdictions (“Local Jurisdiction(s)”) that are located within the geographical boundaries of Hamilton County have been impacted by the COVID-19 public health crisis. To assist in offsetting the resulting financial burden from COVID-19, the Board has allocated \$25 million of its CARES Act funding to provide direct financial assistance (“Program”) to the Local Jurisdictions (“CARES Funds” or “CARES Funding”). In determining the amount of funding to be allocated to each of the Local Jurisdictions, the Board used the County Undivided Local Government Fund formula.

**Permissible Uses of Funds**

The CARES Act provides that payments may only be used to cover costs that:

1. Are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19).
2. Were not accounted for in the Local Jurisdiction’s budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act). A cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget; *or* (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.
3. Were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

Local Jurisdiction will only submit for reimbursement those costs and expenses that comply with any Guidance, Frequently Asked Questions and Answers issued by the federal government or State of Ohio, which includes without limitation, U.S. Treasury, Office of Inspector General, the Ohio Auditor of State, and the Ohio Office of Budget and Management. Local Jurisdictions are cautioned that guidance changes frequently and later versions may become available.

**Ineligible Uses of Funds**

If it is determined that CARES Funds have been used to reimburse ineligible costs or expenses of the Local Jurisdiction, all or part of the funding shall be immediately repaid to Board, upon demand.

**Accessing Funds**

CARES Funds are available to Local Jurisdictions on a reimbursement basis only for those COVID-19 related costs that comply with federal and state guidance. While this guidance continues to evolve, if future guidance is modified in a manner that affects the permitted uses of funds, the Board may, at its discretion, use its best efforts to notify the Local Jurisdictions to make any necessary changes. In all cases and under all circumstances, Local Jurisdiction is ultimately responsible for the determination of the eligibility of expenses that it submits to the Board for reimbursement.

Local Jurisdictions must comply with the following in order to access CARES Funding through the Program:

1. Execute an agreement in a form satisfactory to the Board which sets forth Program requirements and eligible costs and expenses as outlined in U.S. Treasury guidance.

2. Establish internal controls, including setting up a Special Revenue Fund to separately track the receipt and expenditures of the CARES Funds.
3. Return the executed agreement to the Board along with any authorizing resolution of the Local Jurisdiction.
4. Submit a completed Reimbursement Request form for all reimbursement requests. Reimbursement is permitted for eligible expenses incurred between March, 1, 2020 and December 30, 2020. The Reimbursement Request form must be a form substantially similar to that set forth as Attachment A.
5. Comply with the reimbursement timeline set forth below:
  - A. Reimbursement requests can be submitted upon final execution of agreement.
  - B. Local Jurisdictions are encouraged to submit request for reimbursement as soon as practicable.
  - C. Local Jurisdictions are encouraged to communicate to Hamilton County as soon as practicable if they will not be utilizing the full funding allocation.
  - D. Final Reimbursement request must be submitted by close of business on January 6, 2021.
6. Submit copies of all source documentation for eligible expenses at the time the reimbursement request is delivered to the Board. Source documentation includes, without limitation, invoices, packing slips, purchase orders, and financial records evidencing proof of payment. The receipt and review of documentation as well as the payment of CARES funding by Board to Local Jurisdiction shall in no way be construed as Board's determination or approval of the eligibility of the expenses being reimbursed.
7. A Local Jurisdiction that requests reimbursement for public safety or public health payroll costs must submit all relevant payroll and personnel records/reports that evidence the amount of payroll expenses and personnel expenses being requested for reimbursement (e.g. position description, rate of pay, hours worked, any required allocation of time). A Local Jurisdiction shall not include in any reimbursement request any separation payments (e.g. as sick, vacation and comp time), bonuses, payroll for administrative personnel, or any other payroll expense not permitted by federal law and federal or state guidance. Any submitted request for reimbursement shall include a signed certification from the Chief Executive of the Local Jurisdiction that states that the payroll and personnel costs that are included as a part of the reimbursement request are in compliance with federal law and federal and state guidance.
8. Local Jurisdiction shall maintain all records, financial or otherwise, relating to the reimbursement of costs and expenses for at least five (5) calendar years after final payment of CARES Funds is received by the Local Jurisdiction. In addition, Local Jurisdiction shall maintain documentation that supports the costs of and conclusions made with respect to the public safety and public health employees or personnel being substantially dedicated to mitigating or responding to COVID-19 health emergency.

RESOLUTION NO. \_\_\_\_\_-2020

**RESOLUTION AUTHORIZING THE CITY MANAGER TO  
ENTER INTO AN AGREEMENT WITH ALL GLASS I, LLC  
TO PROVIDE FOR A DONATION  
OF LAND TO THE CITY OF WYOMING**

**WHEREAS**, the City of Wyoming has negotiated with All Glass I, LLC to donate property owned by All Glass I, LLC to the City of Wyoming abutting the City of Wyoming's Recreation facility in Woodlawn, Ohio and located at 9884 Springfield Pike; and

**WHEREAS**, such agreement is attached hereto as Exhibit A.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WYOMING, HAMILTON COUNTY, OHIO:**

**Section 1.** The City Manager is hereby authorized to enter into the Donation Agreement with All Glass I, LLC in substantially the same form as attached hereto as Exhibit A and to take any and all necessary action to complete the transfer of said property to the City of Wyoming and the City Manager and is also directed to take any required action to accept this donation and to extend to All Glass I, LLC on behalf of the City of Wyoming its sincere thanks for this donation.

**PASSED IN THE COUNCIL CHAMBERS OF THE CITY OF WYOMING, OHIO,  
THIS 19th DAY OCTOBER, 2020.**

\_\_\_\_\_  
Thaddeus Hoffmeister, Mayor

ATTEST:

\_\_\_\_\_  
Clerk of Council

APPROVED AS TO FORM:

\_\_\_\_\_  
Emily Supinger, City Solicitor

## DONATION AGREEMENT

THIS DONATION AGREEMENT (this “Agreement”) is made as of the \_\_\_\_ day of October, 2020, (hereinafter the “Date of this Agreement”) by ALL GLASS I, LLC, an Ohio limited liability company (“Donor”), and the CITY OF WYOMING, an Ohio municipal corporation (“Donee”).

1. Property. In consideration of the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both parties, Donor agrees to donate and convey to Donee, and Donee agrees to receive from Donor, pursuant and subject to the terms and conditions contained in this Agreement, a portion of the land and improvements commonly known as 9884 Springfield Pike, Woodlawn, Ohio and being more particularly depicted on Exhibit “A” attached hereto and incorporated herein, together with all appurtenant rights, privileges and easements appurtenant to or otherwise necessary for the use and enjoyment of the land (collectively the “Property”). Said Property is donated in “AS IS, WHERE IS” condition with Donee accepting the property with any and all known and unknown faults.

2. Value. The Donee has or will engage an Appraiser to determine the fair market value of the Property (“Value”) in order to establish a value of the Property to be donated to Donee. In an effort to reasonably assist Donor in achieving this objective, Donee shall promptly sign the tax forms once provided by Donor, e.g. Form 8283 or others as may be necessary to acknowledge this charitable donation. Donee in no way represents, suggests, warrants, or guarantees that Donor will receive any tax deduction for such donation which shall be Donor’s sole responsibility to investigate and effectuate.

3. Conveyance. At the Closing, Donor shall deliver to Donee a duly executed and acknowledged general warranty deed (the “Deed”), with release of dower, if and to the extent necessary, conveying to Donee recordable, marketable, and indefeasible title to the Property in fee simple, free and clear of all liens and encumbrances, of record and in fact, subject only to (a) public utility easements of record as of the date of this Agreement; (b) installments of real estate taxes which are a lien upon the Property, but are not yet due and payable; and (c) permitted encumbrances acknowledged by the parties, including that certain Easement for Parking Purposes that is more particularly described in that certain Quit Claim Deed recorded January 23, 2020 at Official Record Book 14089, Page 1104 of the Hamilton County, Ohio Recorder’s Office Records (“Parking Easement”).

4. Inspection. Donor shall make the Property available for inspection by Donee, its agents and employees, for a period of sixty (60) days from the Date of this Agreement (the “Inspection Period”) in which to inspect the Property for all purposes whatsoever, including, but not limited to, determination of the condition (environmental or otherwise), accessibility, state of repair and suitability of the Property for the purpose for which it is being acquired at Donee’s sole expense, and the physical inspection and investigation of the Property and the circumstances surrounding the Property as Donee deems appropriate.

5. Time Period for Satisfying or Waiving Conditions. Donee shall have the right

to terminate this Agreement for any reason or no reason at any time prior to the expiration of the Inspection Period, at Donee's sole option, by written notice of such termination to Donor.

6. Donor Deliveries. Within ten (10) business days after the Date of this Agreement, Donor shall provide to Donee copies of all records, reports and other documents pertaining to the Property which are owned or held by Donor and/or in Donor's possession or reasonable control including, without limitation, all surveys, environmental reports, title commitments or policies, leases, and documents affecting title to the Property or the use of the Property, site engineering plans, and all contracts affecting the Property.

7. Occupancy. The Property shall be vacant and subject to no leases at the time of Closing, except for the Parking Easement. Donor shall be responsible for the cost of any and all utilities, renter's insurance, and other expenses incurred by Donor for all periods of time up to the time of Closing.

8. Closing; Possession. The parties hereto agree to close the donation transfer contemplated by this Agreement (herein "Closing") on or before the 31st day of December, 2020. Subject to Section 3 hereof, Donor shall deliver exclusive possession of the Property to Donee upon the conclusion of the Closing, and execute and deliver such other documents or instruments as may be reasonably required by Donee, or required by other provisions of this Agreement, or reasonably necessary to effectuate the Closing, including, without limitation, a standard title affidavit which will cause the title company to remove its standard exceptions from the title policy to be issued, a federal income tax affidavit and a closing statement. Donee shall execute and deliver such other documents or instruments as may reasonably be required by Donor to effectuate the Closing, including without limitation, a closing statement, all documents necessary to effectuate the charitable donation by Donor and any and all documents necessary to effectuate the charitable donation of this Donation Agreement.

9. Sign Easement. Notwithstanding anything in this Agreement to the contrary, Donor and Donee shall enter into a mutually acceptable perpetual, non-exclusive sign easement agreement at Closing with respect to the Donor's existing sign located on the Property ("Sign Easement"). The Sign Easement shall be recorded at Closing at Donee's expense after the Deed is recorded.

10. Agreements, Representations and Warranties of Donor. Donor represents, warrants and covenants to Donee as to the following matters and shall be deemed to remake all of the following representations, warranties, and covenants as of the date of Closing. The truth and accuracy of all of the following representations, warranties and covenants shall be conditions precedent to Donee's obligation to close under this Agreement, and all such representations, warranties and covenants shall survive the Closing. Donor agrees to indemnify and hold harmless Donee from and against any and all liabilities arising out of any of these representations or warranties being untrue or the breach of any of the covenants, which agreement shall survive the termination or expiration of this Agreement or the Closing.

(a) Validity of Agreement. The entering into of this Agreement and the

consummation of the transfer of the Property will not require Donor to obtain (either before or after the Closing) any consent, license, permit, waiver, approval, authorization or any other action of, by or with respect to any non-governmental or governmental person or entity.

(b) Legal Proceedings. There is not pending or, to the best of Donor's knowledge, threatened, litigation, eminent domain proceeding, arbitration, administrative action or examination, claim or demand whatsoever relating to the Property.

(c) Transfer of Property. Prior to Closing, Donor shall not lease, encumber, or transfer all or any part of the Property, and at Closing, Donor shall cause all mortgages and other monetary liens and encumbrances to be satisfied and released. Donor warrants that, except for this Agreement and except as specifically permitted hereunder, there are and during the term hereof will be no purchase contracts, options, additional leases or any other agreements of any kind, oral or written, formal or informal, recorded or unrecorded, whereby any person or entity other than Donor will have acquired or will have any basis to assert any right, title or interest in, or right to possession, use, enjoyment or proceeds of any part or all of the Property.

(d) Hazardous Wastes. To Donor's actual knowledge, Donor has not engaged in any activity which has caused the Property or any part thereof to be contaminated by (and as of the Closing Date will not be contaminated or threatened) nor has the Property been threatened with contamination from outside sources by, any chemical, material or substance to which exposure is prohibited, limited or regulated by any federal, state, county, local or regional authority of which is known to pose a hazard to health and safety and that the Property has never been used for a landfill or dump site, for storage of hazardous substances or by a manufacturer of any product or for any other industrial use, nor has Donor received any notice, written or otherwise, from any governmental agency alleging such contamination, nor does Donor have any knowledge that the Property is or may be so contaminated. To Donor's actual knowledge, there are no underground storage tanks located on or under the Property.

(e) Utility Bills. All utility bills relating to the Property must be current at time of Closing.

(f) Donor Authority. The execution and delivery of this Agreement by Donor, the execution and delivery of every other document and instrument delivered pursuant to this Agreement by or on behalf of Donor, and the consummation of the transactions contemplated by this Agreement, have been duly authorized and validly executed and delivered by Donor, and will not (a) constitute or result in the breach of or default under any oral or written agreement to which Donor is a party or which affect the Property; (b) constitute or result in a violation of any order, decree or injunction with respect to which Donor and/or the Property is bound; (c) cause or entitle any party to have a right to accelerate or declare a default under any oral or written agreement to which Donor is a party or which affects the Property; and/or (d) violate any provision of any municipal, state or federal law, statutory or otherwise, to which Donor or the Property may be subject.

(g) FIRPTA. Donor is not a foreign person within the meaning of Section

1445 of the Internal Revenue Code of 1990, as amended.

11. Remedies. If Donor fails or refuses to comply with the terms of this Agreement or otherwise defaults under this Agreement, Donee may pursue any legal or equitable rights and remedies available to Donee, including without limitation, if the same occurs prior to Closing, the right to terminate this Agreement and to collect from Donor an amount equal to the reasonable out of pocket expenses incurred by Donee in its due diligence efforts related to the Property. If Donee fails or refuses to comply with the terms of this Agreement or otherwise defaults under this Agreement, Donor may pursue any legal or equitable rights and remedies available to Donor, including, without limitation, if the same occurs prior to closing, the right to terminate this Agreement and collect from Donee an amount equal to the reasonable out-of-pocket expenses incurred by Donor in its negotiation of this Agreement and performance of its obligations hereunder.

12. Notices. All notices required or permitted by this Agreement shall be in writing, and shall be deemed properly delivered when and if hand delivered or deposited in the United States mail, postage prepaid, certified or registered mail, return receipt requested, or deposited with Federal Express or any other nationally recognized overnight courier service addressed to the parties hereto at their respective addresses set forth below or as they may hereafter specify by written notice delivered in accordance herewith or if sent by facsimile (followed with hard copies to be sent by overnight courier service or by mail in the above described methods).

Donee: The City of Wyoming  
Attention: Lynn Tetley, City Manager  
800 Oak Avenue  
Wyoming, Ohio 45215  
Phone: 513-821-7600

Copy to: Strauss Troy Co., LPA  
Attn: Emily T. Supinger, Esq.  
150 E. Fourth Street, Suite 400  
Cincinnati, Ohio 45202

Donor: All Glass I, LLC  
5416 State Route 132  
Morrow, Ohio 45152  
Phone: 513- 383-8459

Copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. Expenses. Donor shall pay for any transfer taxes or fees in connection with the transfer of the Property, the cost to prepare the Deed, and recording fees for any required releases or mortgage terminations. Donee shall pay any survey costs, the title insurance premium,

inspection costs and all other recording charges. Each party shall pay for its own legal and accounting fees and other expenses in connection with this Agreement and the sale and transfer of the Property. Each party shall share equally in the expense of any closing or escrow fee by the settlement agent.

14. Prorations. Real estate taxes, installments of assessments, and other operating expenses shall be prorated as of the Closing with the Donor providing Donee with a credit for real estate taxes and assessments that, as of the applicable date of Closing, are a lien against the Property being conveyed, but are not yet due and payable. Donee shall pay all taxes, installments of assessments, and operating expenses with respect to the Property that become due and payable after the date of Closing. For purposes of prorations, Donor shall be treated as the owner of the Property on the date of Closing. The latest available tax duplicate shall be used for the purpose of prorating real estate taxes and assessments as of the applicable date of Closing.

15. Contingencies. This Agreement is specifically contingent upon the following:

- (a) Donee's City Council approving and authorizing and entering into this Donation Agreement on or before the 31st day of October, 2020.
- (b) Donee shall have obtained, at its own expense, the approval of all applicable public or governmental authorities to subdivide the parcel of real estate of which the Property is a part such that only the Property shall be donated to Donee and the remainder of the parcel shall remain owned by Donor. Donor shall, at no expense to Donor, cooperate with Donee in obtaining the approval to subdivide the Property and shall sign such applications as applicant thereunder as is customarily and reasonably required by the applicable governmental authorities.
- (c) Donee shall have entered into a maintenance agreement with all beneficiaries of the Parking Easement regarding the Parking Easement that is satisfactory to Donee in Donee's sole discretion and that shall be effective as of the date of Closing.

16. Possession. Possession of the Property shall be provided to Donee after the Effective Date at no cost to Donee. Donee shall be permitted to commence any construction that Donee desires to commence in order to prepare the Property for Donee's intended use after providing Donor with at least five (5) days prior written notice to Donor.

17. No Brokers. Donor and Donee acknowledge, warrant, and represent to each other that no real estate broker or agent has been involved in this Agreement or the donation of the Property, and that neither party shall have an obligation to pay a real estate commission to any agent. Donor shall indemnify and hold Donee harmless from and against the claims of any broker(s) or agent(s) claiming a commission by, transfer, or under either party. This Section shall survive the Closing.

18. Miscellaneous.

(a) Entire Agreement; Binding Effect. This Agreement and the Exhibits attached hereto constitute the entire agreement between the parties and supersede all prior understandings, if any. Any subsequent conditions, representations, warranties or agreement shall not be valid and binding upon the parties unless in writing, signed by both parties. This Agreement shall be binding on and inure to the benefit of the parties and their respective heirs, successors and assigns. Donor agrees that Donee may assign this Agreement in whole or in part to any third party and that Donor's consent shall not be required for any such assignment.

(b) Time is of the Essence. Time is of the essence of this Agreement. Anywhere a day certain is stated for payment or for performance of any obligation, the day certain so stated enters into and becomes a part of the consideration for this Agreement. If any date set forth in this Agreement shall fall on, or any time period set forth in this Agreement shall expire on, a day which is a Saturday, Sunday, federal or state holiday, or other non-business day, such date shall automatically be extended to, and the expiration of such time period shall automatically to be extended to, the next day which is not a Saturday, Sunday, federal or state holiday or other non-business day.

(c) Counterparts; Facsimile/Electronic Mail. This Agreement may be executed via facsimile or email (PDF) and in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute but one and the same instrument.

(d) Rule of Construction. This Agreement shall be construed without regard to the rule that ambiguities in a document are to be construed against the drafter.

(e) Survival. Except as otherwise expressly provided herein, no term, provision, condition, obligation, representation or warranty set forth herein shall survive the Closing or earlier termination of this Agreement.

(f) Waiver. No claim of waiver, consent, or acquiescence with respect to any provision of this Agreement shall be made against any party hereto except on the basis of a written instrument executed by or on behalf of such party.

[SIGNATURE PAGE TO FOLLOW]

14136578\_3

[SIGNATURE PAGE TO DONATION AGREEMENT]

Executed and delivered as of the first date above written.

DONEE:

THE CITY OF WYOMING, an Ohio municipal corporation

By \_\_\_\_\_  
Lynn Tetley, City Manager

DONOR:

ALL GLASS I, LLC, an Ohio limited liability company

By \_\_\_\_\_  
Its \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Emily T. Supinger  
City Solicitor

**EXHIBIT "A"**