



**Meeting Agenda - Final**  
**Community & Economic Development Committee**

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Wednesday, March 8, 2023

4:30 PM

Council Chambers, 6th Floor

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1. Call meeting to order
2. Roll call of membership
3. Approval of minutes from previous meeting

[23-0208](#) CEDC Minutes from 1-11-23

**Attachments:** [CEDC Minutes 1-11-23.pdf](#)

**4. Public Hearings/Apearances**

**5. Action Items**

[23-0209](#) Request to approve staff entering a written agreement with Urbane 115, LLC, pursuant to Section 4.1.1 of the Development Agreement (Phase I), to extend the completion date to November 30, 2023 and grant staff authority to administratively approve an additional six (6) month extension to May 31, 2024, if warranted, for a mixed-use development located on the southeast corner of E. Washington Street and S. Oneida Street (Tax Id #31-2-0281-01) in Tax Increment Financing District No. 11

**Attachments:** [Urbane 115 LLC Ph 1 DA Extension of Terms Memo to CEDC 3-8-23.pdf](#)  
[Request from Merge-Urbane 115 for Phase 1 Completion Extension.pdf](#)  
[1st Amendment to Merge-Urbane 115 Development Agreement Recorded\\_Ph 1](#)  
[Merge Conway TIF #11 Development Agreement Recorded Ph 1.pdf](#)

[23-0210](#) Request to approve an agreement between the City of Appleton and Urbane 115 LLC to memorialize responsibilities for the Community Development Investment (CDI) grant awarded by the Wisconsin Economic Development Corporation (WEDC) for the redevelopment located at 115 E. Washington Street (Tax Id #31-2-0281-01)

**Attachments:** [Urbane 115 LLC CDI Grant Agreement Memo to CEDC 3-8-23.pdf](#)  
[CDI Grant Administration Agrm-Urbane 115+City of Appleton.pdf](#)  
[Contract for Execution-CDI Grant-WEDC+City of Appleton.pdf](#)  
[WEDC CDI Grant Urbane 115 LLC Memo to CEDC 9-28-22.pdf](#)  
[Resolution #2022-07 WEDC CDI Grant Urbane 115 LLC SIGNED.pdf](#)

[23-0211](#)

Request to approve the City of Appleton increase its current selling prices for business/industrial park land and hold option fees as described in the attached documents

**Attachments:** [Business-Industrial Park Land Value Memo to CEDC 3-8-23.pdf](#)

[Exhibit A-Ind Land Sales Comparison.pdf](#)

[Exhibit B-Ind Land Sales Ask Price Comparison.pdf](#)

[Southpoint Commerce Park Map 2-23.pdf](#)

## 6. Information Items

## 7. Adjournment

*Notice is hereby given that a quorum of the Common Council may be present during this meeting, although no Council action will be taken.*

*Any questions about items on this meeting are to be directed to Kara Homan, Director, Community and Economic Development Department at 920-832-6468.*

*Reasonable Accommodations for Persons with Disabilities will be made upon Request and if Feasible.*

*\*We are currently experiencing intermittent issues/outages with our audio/video equipment. Meeting live streams and recordings are operational but unreliable at times. This is due to delays in receiving necessary system hardware components. We continue to look for solutions in the interim and we hope to have these issues resolved soon.*



# City of Appleton

100 North Appleton Street  
Appleton, WI 54911-4799  
www.appleton.org

## Meeting Minutes - Final Community & Economic Development Committee

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Wednesday, January 11, 2023

4:30 PM

Council Chambers, 6th Floor

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1. Call meeting to order

Chair Alfheim called the meeting to order at 4:30 p.m.

2. Roll call of membership

**Present:** 4 - Thao, Alfheim, Wolff and Del Toro

**Excused:** 1 - Jones

*Others present:*

*Aldersperson Brad Firkus, District #3*

*Aldersperson Denise Fenton, District #6*

*Aldersperson Sheri Hartzheim, District #13*

*Sao Vang*

*Lily Hietpas, Student*

*Carson Hehli, Student*

*Alex Sherwood, Student*

*Nate Tuombly, Student*

*Joe Carew, Student*

3. Approval of minutes from previous meeting

[23-0005](#)

CEDC Minutes from 12-21-22

**Attachments:** [CEDC Minutes 12-21-22.pdf](#)

**Wolff moved, seconded by Del Toro, that the Minutes be approved. Roll Call.**

**Motion carried by the following vote:**

**Aye:** 4 - Thao, Alfheim, Wolff and Del Toro

**Excused:** 1 - Jones

4. Public Hearings/Appearances

5. Action Items

[23-0006](#)

Request to amend the Development Agreement (Phase II) with Merge LLC extending the purchase date from February 16, 2023 to September 29, 2023 for a mixed-use development located on the southeast corner of W. Washington Street and N. Appleton Street (Tax Id #31-2-0272-00) in Tax Increment Financing District No. 11

**Attachments:** [Merge Ph II DA 1st Amendment Memo to CEDC 1-11-23.pdf](#)  
[Request from Merge LLC to Amend Dev Agrm.pdf](#)  
[Merge Ph II Recorded Dev Agrm.pdf](#)

**Wolff moved, seconded by Del Toro, that the Report Action Item be recommended for approval. Roll Call. Motion carried by the following vote:**

**Aye:** 4 - Thao, Alfheim, Wolff and Del Toro

**Excused:** 1 - Jones

[23-0007](#)

Request to approve the Development Agreement with Oshkosh Investment LLC and Lofgren Properties 6 LLC for improvements to the property located at 200 W. College Avenue (Tax Id #31-2-0263-00) (Chase Bank building) in Tax Increment Financing District No. 11

**Attachments:** [Oshkosh Investment-Lofgren Properties 6 LLC DA Memo to CEDC 1-11-23.pdf](#)  
[1046 - Oshkosh-Lofgren - Dev Agrm - 01-04-2023.pdf](#)

**Wolff moved, seconded by Thao, that the Report Action Item be recommended for approval. Roll Call. Motion carried by the following vote:**

**Aye:** 4 - Thao, Alfheim, Wolff and Del Toro

**Excused:** 1 - Jones

## 6. Information Items

[23-0008](#)

Annual Updates to the Housing Affordability Report and the Housing Fee Report

**Attachments:** [StaffMemo\\_HousingAffordability&FeeReports2021\\_For01-11-23.pdf](#)  
[AppletonHousingAffordabilityReport2021\\_For01-11-23.pdf](#)  
[AppletonHousingFeeReport2021\\_For01-11-23.pdf](#)

This item was presented and discussed.

## 7. Adjournment

**Wolff moved, seconded by Del Toro, that the meeting be adjourned at 4:52 p.m. Roll Call. Motion carried by the following vote:**

**Aye:** 4 - Thao, Alfheim, Wolff and Del Toro

Excused: 1 - Jones



# MEMORANDUM

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“...meeting community needs...enhancing quality of life.”

TO: Community & Economic Development Committee (CEDC)

FROM: Matt Rehbein, Economic Development Specialist

DATE: March 8, 2023

RE: Extension of Terms for Development Agreement between Urbane 115, LLC and City of Appleton in TIF #11 (Phase I)

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The City of Appleton has received a request from Urbane 115, LLC for an extension of terms to the Development Agreement dated September 9, 2021 and amended November 22, 2022.

Section 4.1.1 calls for completion of the project by May 31, 2023. The original Development Agreement anticipated six (6) month extensions. Developer is seeking an extension of twelve (12) months to Section 4.1.1. While they do not anticipate requiring that much time, they have experienced supply chain delays on building materials for other projects and want to avoid having to amend the Development Agreement yet again. This request does not adjust the requirement for Developer to attain assessed value of at least \$8,050,000 by January 1, 2025 as called for in Section 4.1.2.

Developer has been working in good faith to complete this project and meet the terms of the original agreement. Since any TIF support is contingent on the creation of new increment, there is no cost to the City in awarding these extensions.

**Staff Recommendation:**

Staff entering a written agreement with Urbane 115, LLC, pursuant to Section 4.1.1 of the Development Agreement to extend the completion date to November 30, 2023 and grant staff authority to administratively approve an additional six (6) month extension to May 31, 2024 if warranted **BE APPROVED.**

## Brenda Broeske

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**From:** Brent Dahlstrom <brent@mergeurbandevelopment.com>  
**Sent:** Wednesday, February 8, 2023 11:42 AM  
**To:** Matthew Rehbein; Kara J. Homan; Joy Hannemann  
**Subject:** Phase 1 Completion Extension Request

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Kara and Matthew,

Merge is excited with the current progress on Phase 1. We have completed the precast and are now framing the building through the winter months. We are currently on pace to have the building fully complete and ready to be occupied by the end of 2023.

Our current development agreement calls for a completion before May 31st of 2023. This date will not be able to be achieved. We would like to formally request a 1 year extension. We do not believe we will need the full year but we have had two projects recently that had 4-6 month delays at the end of the project due to certain electrical supplies not being available. Although we have those supplies ordered and currently scheduled to be here on time for this project, there continues to be supply chain issues that come up with various trades. We would rather request more time than we believe would be needed. In this way we would not need to come back again if we had an unforeseen delay.

Thank you for your consideration and continued partnership.

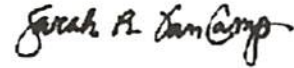
Sincerely,

Brent Dahlstrom

Attention: This message was sent from a source external to the City of Appleton. Please use caution when opening attachments or clicking links.

**FIRST AMENDMENT TO  
TAX INCREMENT DISTRICT NO. 11  
DEVELOPMENT AGREEMENT**

Document #: **2284127**  
Date: **12-02-2022** Time: **11:51 AM**  
Pages: **18** Fee: **\$30.00**  
County: **OUTAGAMIE COUNTY** State: **WI**



**SARAH R VAN CAMP, REGISTER OF DEEDS**  
Return via MAIL (REGULAR)  
APPLETON, CITY OF

Record and return to:  
City of Appleton | City Attorney's Office  
100 North Appleton Street  
Appleton, WI 54911-4799

Tax Key No. 31-2-0281-01





**FIRST AMENDMENT TO  
TAX INCREMENT DISTRICT NO. 11  
DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (the "Agreement") is dated as of the 22 day of NOVEMBER, 2022, by and among URBANE 115 LLC a Delaware limited liability company ("Developer") and the City of Appleton, a Wisconsin municipal corporation (the "City").

Notwithstanding the provisions of the Development Agreement entered into by and between the City and Developer dated September 9, 2021 and recorded by the Outagamie County Register of Deeds on September 17, 2021 as Document No. 2247803, said Agreement is hereby amended to read as follows:

**RECITALS**

Developer and the City acknowledge the following:

A. On September 9, 2022 the City and Merge LLC entered into a Development Agreement. Subsequently, Merge, LLC assigned the Development Agreement to Urbane 115, LLC, a Delaware limited liability company. The Assignment and Assumption of Tax Increment District No. 11 Development Agreement was recorded on September 22, 2022 as Document No. 2279457 in Outagamie County.

B. Developer has acquired the real property located on the southeast corner of E. Washington St. and S. Oneida St., (Parcel 31-2-0281-01) Appleton, WI more particularly described in Exhibit A, attached hereto (hereafter the "Property").

C. The Property is located within the City in Tax Increment District #11 (the "District") which was created in 2017 pursuant to Section 66.1105, Wis. Stats. along with a plan for the redevelopment of the District (the "District Plan") that provides for, among other things, the financial assistance set forth in this Agreement.

D. Subject to obtaining the financial assistance set forth herein, Developer has proposed improvements to the Property to create approximately one floor of commercial/retail space and four floors consisting of approximately fifty-six (56) market rate living units offering studio and one bedrooms with approximate square footage ranging from 385 to 720 per unit (the "Project"). All references to the Project include the Property.

E. The City has determined that the Project will spur economic development, expand the City's tax base and create new jobs; that such financial assistance is a Project Cost under the Tax Incremental Law; that the amount of financial assistance provided pursuant to this Agreement is the amount necessary to induce development of the Project; and, that the Project will not proceed without the financial assistance set forth in this Agreement.

F. Subject to obtaining financial assistance as set forth herein, Developer intends to undertake a redevelopment of the property that will increase the value of the Property and provide other tangible benefits to the surrounding neighborhoods and to the City as a whole, consistent with the District Plan. The City finds that this redevelopment of the Property and the fulfillment,

generally, of the terms and conditions of this Agreement are in the vital and best interests of the City and its residents and serves a public purpose in accordance with state and local law.

G. The City, pursuant to Common Council Action dated November 2, 2022 has approved this Agreement and authorized the execution of this Agreement by the proper City officers on the City's behalf.

H. The Developer has approved this Agreement and authorized the appropriate officers to execute this Agreement on the Developer's behalf.

I. The base value of the Property for purposes of this Agreement, including calculating increment generated by the Project, is Zero Dollars (\$0). The Developer estimates the project will create up to an additional Eight Million Fifty Thousand Dollars (\$8,050,000) in incremental value.

J. All terms that are capitalized but not defined in this Agreement and that are defined under the Tax Increment Law shall have the definitions assigned to such terms by the Tax Increment Law.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the Recitals and the promises and undertakings set forth herein, the parties mutually agree and covenant as follows:

### **ARTICLE I UNDERTAKINGS OF THE DEVELOPER**

1.1 Developer's Project is the first of two phases, is currently known as "URBANE" and shall include improvements to, and development of, the Property as set forth in Exhibit B that will result in an increase in the Property's assessed value. All aspects of the Project shall be in accordance with all applicable City zoning and building codes, ordinances and regulations.

1.2 Project Costs shall include, without limitation, costs incurred after approval of this agreement for the construction of improvements (including infrastructure improvements), environmental remediation costs, demolition, interior remodeling and development of the project.

1.3 Developer warrants and represents to the City that but for the assistance provided by the City under Article II, herein, Developer would not be able to proceed with the Project.

1.4 Developer and City acknowledge that several of the specific undertakings of the parties may require approvals from directors, boards or the City Council as applicable. The parties' agreements are conditioned upon the obtaining of all such approvals in the manner required by law. The parties cannot assure that all such approvals will be obtained; however, they agree to use their best good faith efforts to obtain them on a timely basis.

### **ARTICLE II UNDERTAKINGS OF THE CITY**

2.1 The City shall appropriate sufficient funds for the performance of the City's obligations under this Agreement.

2.2 City shall cooperate with Developer throughout the Project and shall promptly review and/or process all submissions and applications in accordance with applicable City ordinances. In addition, the City agrees to work collaboratively with Developer in Developer's pursuit of various grant or similar funding opportunities.

2.3 Subject to all of the terms, covenants and conditions of this Agreement and applicable provisions of law, and as an inducement by the City to Developer to carry out the Project, upon completion of the Project (which shall be defined as issuance of occupancy permits for all floors of the Project (hereafter "completion")) the City will provide payments to Developer solely from the future Tax Increments (derived from both real and personal property) to assist with Developer's Project Costs. The City's total payment of Tax Increment Revenue to the Developer shall not exceed the lesser of i) \$1,610,000 or ii) Twenty percent (20%) of the Tax Increment Value as of January 1, 2024, plus interest thereon (the "Contribution").

The Contribution will be paid to Developer as follows:

2.3.1 As the sole source for payment of the Contribution, the City agrees to pay the Developer an amount equal to ninety percent (90%) of the Tax Increment Revenue attributable to, and actually received from, the Property during the calendar year.

2.3.2 Payments under this Agreement shall be due in annual installments on August 15 of the calendar year following the first tax year after completion of the Project and continuing on each August 15 thereafter for a period of time described in Sec. 4.3.

2.3.3 Interest on the Contribution shall begin to accrue upon completion of the Project. The interest rate on the Contribution shall be lesser of 1) the interest rate paid by the Developer to the primary lender for the Project, as evidenced by the note indicating the loan amount; or, 2) six percent (6%).

2.3.4 The Contribution shall be a special and limited obligation of the City and not a general obligation. Payments shall first apply to accrued interest and then to the principal balance of the Contribution. Unpaid interest in any year shall be added to the principal balance of the Contribution and accrue interest. The City may prepay the Contribution, in its sole discretion, at any time, with no prepayment penalty.

2.4 This Agreement fully evidences the City's obligation to pay the Contribution. No separate instrument will be prepared to evidence the City's obligation to pay the Contribution. The Contribution shall not be included in the computation of the City's statutory debt limitation because the Contribution is limited and conditional and no taxes will be levied or pledged for its payment. Nothing in this Agreement shall be deemed to change the nature of the City's obligation from a limited and conditional obligation to a general obligation.

2.5 The City covenants to Developer that until the Contribution plus interest thereon has been paid in full, the City shall not close the District prior to its statutory expiration date.

2.6 The City shall, upon Developer's request, provide to Developer an accounting of the status of the District including, but not limited to, the outstanding principal balance of the Contribution and annual Tax Increments received from the District.

2.7 Developer hereby acknowledges that, as a result of the special and limited nature of the City's obligation to pay the Contribution, Developer's recovery of the full amount of the

Contribution depends on factors including, but not limited to, future mill rates, changes in the assessed value of the Property, the failure of the Property to generate the Tax Increments at the rate expected by Developer, reduction in Tax Increments caused by revenue-sharing, changes in the Tax Increment Law, and other factors beyond the City's and/or Developer's control.

### ARTICLE III PAYMENT OF TAXES

3.1 As long as the District is in existence, the Property and all buildings and improvements thereon shall be owned and taxable for real estate tax and special assessment purposes. The City may waive any or all of the restrictions upon execution of a payment in lieu of taxes (PILOT) agreement on a form acceptable to the City.

3.2 Throughout the duration of this agreement, all ad valorem property taxes properly assessed against the Property will be paid timely and in full.

3.3 In the event that any property owned by Developer within the District becomes exempt from ad valorem property taxes during the life of the District, then for the remaining life of the District, the Developer will make (or cause to be made) annual payments in lieu of taxes in amounts equal to what the ad valorem property taxes would have been for such other property had it not been exempt. If the Developer conveys the Property within the District to any party (related or unrelated), the terms of such sale shall impose as a covenant upon all successor owners of the property the foregoing obligation for payments in lieu of taxes during the life of the District. The City shall be a beneficiary of such covenant and entitled to enforce same against the successor owners.

### ARTICLE IV CONDITIONS TO PAYMENT; REPURCHASE OF PROPERTY; TERMINATION OF AGREEMENT

4.1 The City shall have no obligation to pay any portion of the Contribution to Developer unless and until all of the following conditions shall have been met:

4.1.1 The Project's completion on or before May 31, 2023 subject to reasonable extensions, not to exceed six (6) months each, for Force Majeure which shall include, but not be limited to, any delays caused by pandemic or other acts beyond the reasonable control of the Developer. Such extensions shall be by mutual written agreement and, in considering any requested extension, the City and Developer agree that each will act in good faith, cooperate in expeditious and timely approvals, and said extensions shall not be unreasonably withheld, conditioned or delayed by City.

4.1.2 The Property's assessed value is no less than Eight Million Fifty Thousand Dollars (\$8,050,000) on or after January 1, 2025.

4.2 The City was induced to sell the real property described in Exhibit A to Developer based on Developer's proposed Project and construction of the same according to the terms of this Agreement. As such, the City shall retain and the Developer shall grant the City a right to repurchase the real property (hereafter "repurchase options"). This repurchase option shall be subject to the following:

4.2.1 The City's repurchase right shall terminate upon Developer obtaining approved buildings plans and a building permit for improvements to the real property consistent with the Project as described in this Agreement, and, commencement of the Project's construction.

4.2.2 The City shall refrain from executing the repurchase right if Developer is making reasonable timely progress toward commencement of the Project's construction in accordance with the terms of the Agreement.

4.2.3 The City shall provide Developer thirty (30) day's written notice of its intent to repurchase the Property unless Developer waives said notice. Thereafter Developer shall execute all necessary documents and transfer the Property's unencumbered title to the City. In exchange, the City shall pay Developer \$283,000 (or the actual amount paid by Developer to the City) less \$1,000 per calendar month calculated from the first day of the month after this Agreement is executed through the date of sale. The City and Developer agree that each will act in good faith to facilitate a timely repurchase if the City exercises its repurchase right.

4.3 This Agreement, and the City's obligation to make, or continue, any payments of the Contribution, shall terminate when any of the following shall have occurred:

4.3.1 The conditions in Section 4.1 are not met.

4.3.2 The Contribution is paid in full or August 15, 2045, whichever occurs first.

#### ARTICLE V CONFLICT OF INTEREST

5.1 No member, officer or employee of the City, during his/her tenure or for one year thereafter, will have or shall have had any interest, direct or indirect, in this Agreement or any proceeds thereof.

#### ARTICLE VI WRITTEN NOTICES

6.1 Any written notice required under this Agreement shall be sent to the following individuals:

**FOR THE CITY:**

City of Appleton  
Community and Economic Development Department  
100 North Appleton Street  
Appleton, WI 54911-4799  
Attn: Director

With a copy to:

City of Appleton  
City Attorney's Office  
100 North Appleton Street  
Appleton, WI 54911-4799  
Attn: City Attorney

FOR DEVELOPER:

Urbane 115 LLC  
25 West Main Street, Suite 500  
Madison, WI 53718  
Email: [info@mergeurbandevlopment.com](mailto:info@mergeurbandevlopment.com)

With a copy to:

Squire Patton & Boggs  
Attn: Steven F. Mount  
41 South High Street, Suite 2000  
Columbus, OH 43215  
Email: [steven.mount@squirepb.com](mailto:steven.mount@squirepb.com)

#### ARTICLE VII ASSIGNMENT

7.1 Terms of this Agreement are not transferrable or assignable. No party to this Agreement may assign any of its interest or obligations hereunder without first obtaining the written consent of all other parties.

#### ARTICLE VIII NO PARTNERSHIP OR VENTURE

8.1 Developer and its contractors or subcontractors shall be solely responsible for the completion of the Project. Nothing contained in this Agreement shall create or effect any partnership, venture or relationship between the City and Developer or any contractor or subcontractor employed by Developer in the construction of the Project.

#### ARTICLE IX MISCELLANEOUS

9.1 Under no circumstances shall any officer, official, director, member, manager, commissioner, agent, or employee of City or Developer have any personal liability arising out of this Agreement, and no party shall seek or claim any such personal liability.

9.2 The laws of the State of Wisconsin shall govern this Agreement.

9.3 This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

9.4 No modification, alteration, or amendment of this Agreement shall be binding upon any party until such modification, alteration, or amendment is reduced to writing and executed by all parties to this Agreement.

9.5 Any captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any of the provisions of this Agreement.


9.6 If any provisions of this Agreement shall be held or deemed to be inoperative or unenforceable as applied in any particular case in any jurisdiction because it conflicts with any other provision or provisions of this Agreement or any constitution or statute or rule of public

policy, or for any other reason, then such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. To the maximum extent possible, this Agreement shall be construed in a manner consistent with the powers of the City, including but not limited to, the City's powers under the Blight Elimination and Slum Clearance Law and the Tax Increment Law, to achieve its intended purpose. Reference is made to Section 66.1333(17) of the Wisconsin Statutes and Chapter 105, Laws of 1975 § 4, which provide that the Blight Elimination and Slum Clearance Law and the Tax Increment Law should be construed liberally to effectuate their purposes.

[Signatures on following pages]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

CITY OF APPLETON:

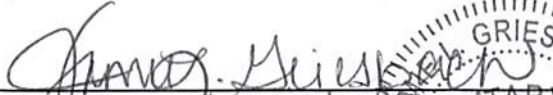

By:   
Jacob A. Woodford, Mayor

ATTEST:

By:   
Kami L. Lynch, City Clerk


STATE OF WISCONSIN     )  
  : ss.  
OUTAGAMIE COUNTY     )

Personally came before me this 18 day of November, 2022, Jacob A. Woodford, Mayor and Kami L. Lynch, City Clerk, of the City of Appleton respectively, to me known to be the persons who executed the foregoing instrument and acknowledged the same in the capacity and for the purposes therein intended.

  
Printed Name: Jamill Griesbach  
Notary Public, State of Wisconsin  
My commission expires: 11-11-2025  


**PROVISION HAS BEEN MADE TO PAY FOR OBLIGATIONS INCURRED PURSUANT TO THIS AGREEMENT:**

  
Jeri A. Ohman, Finance Director

**APPROVED AS TO FORM:**  
  
Christopher R. Behrens, City Attorney  
[Amendment] Dated: October 20, 2022  
By: Matt Rehbein | Amanda Abshire  
City Law A21-0312



DEVELOPER:

Urbane 115 LLC

By: [Signature]  
Printed Name: Brent Dahlstrom  
Title: managemember

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF Iowa )  
 : ss.  
Black Hawk COUNTY )

Personally came, before me this 7th day of November, 2022,  
Brent Dahlstrom, \_\_\_\_\_, \_\_\_\_\_ each  
a member of the LLC, to me known to be the persons who executed the foregoing instrument and  
acknowledged the same in the capacity and for the purposes therein intended.



[Signature]  
Printed Name: Jill Kraayenbrink  
Notary Public, State of Iowa  
My commission is/expires: July 29, 2025

## SCHEDULE OF EXHIBITS

- A. Legal Description of Property
- B. Proposed Improvements

**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTY**

The North 97.17 feet of Lots One (1) and Two (2) and the North 97.17 feet of the West 30 feet of Lot Three (3), Block Twenty-eight (28), Appleton Plat, City of Appleton, County of Outagamie, State of Wisconsin, according to the recorded assessor's map of said city.

**APN: 312028101**

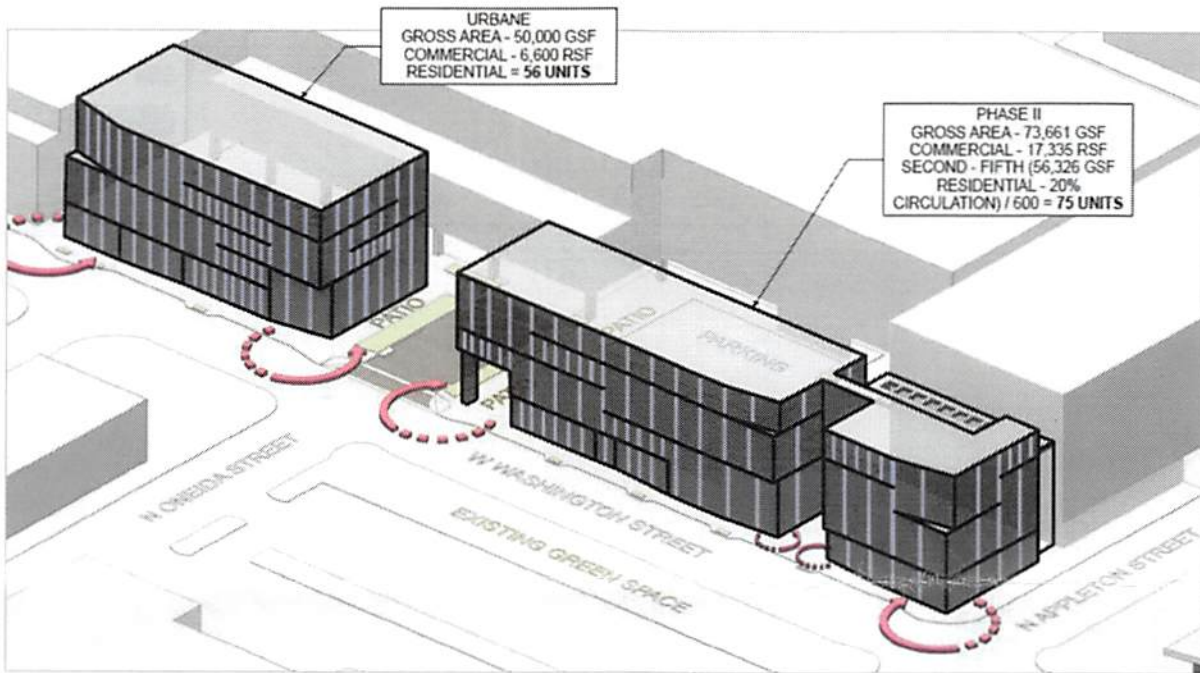
**Property Address: 103 East Washington Street  
Appleton, WI 54911**

**EXHIBIT B**  
**PROPOSED IMPROVEMENTS**

**(Copy of Plans/Design docs follow)**

# APPLETON MIXED-USE

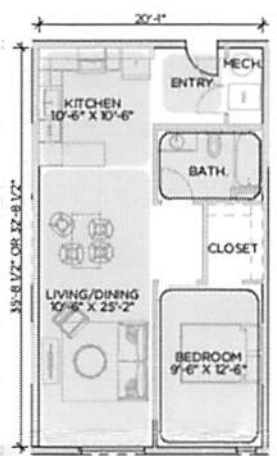
## CONCEPT DIAGRAM



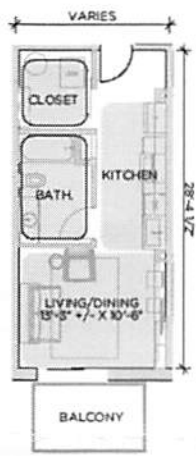
# APPLETON MIXED-USE

## TYPICAL UNIT DIAGRAM

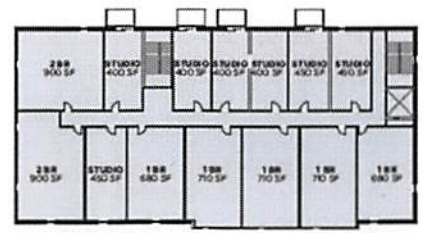
- ONE BEDROOM**
- Walk-in closet
  - Full kitchen
  - Washer + dryer
  - Bedroom with natural lighting
  - Living and dining space
- STUDIO UNITS**
- Living room and dining area
  - Built-in Murphy bed and sofa
  - Ample cook and prep areas
  - Built-in media center and desk work surface
  - Dedicated laundry and closet space



1 BEDROOM TYPICAL PLAN  
1/8" = 1' 0"



STUDIO TYPICAL PLAN  
1/8" = 1' 0"



LEVEL 2-5 TYPICAL PLAN  
1/32" = 1' 0"

# APPLETON MIXED-USE

## MICRO RETAIL



- FEATURES**
- 14' Min. Ceiling Heights
  - Shared Restrooms
  - Storefront
  - 500 SQ FT



**ON17SHOT**  
ARCHITECTURE

**MERGE**  
URBAN DEVELOPMENT GROUP

2020.09.25

# APPLETON MIXED-USE

VIGNETTE



ONISHOT  
ARCHITECTURE



2020.09.25



# APPLETON MIXED-USE

## VIGNETTE



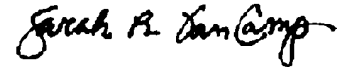
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2020.09.25

TAX INCREMENT DISTRICT NO. 11  
DEVELOPMENT AGREEMENT

Document #: **2247803**  
Date: **09-17-2021** Time: **10:37 AM**  
Pages: **18** Fee: **\$30.00**  
County: **OUTAGAMIE COUNTY** State: **WI**



**SARAH R VAN CAMP, REGISTER OF DEEDS**  
Return via **MAIL (REGULAR)**  
**APPLETON, CITY OF**

Record and return to:  
City of Appleton – City Attorney’s Office  
100 North Appleton Street  
Appleton, WI 54911-4799

**ENVELOPE**

18

Tax Key No: 31-2-0281-01

**TAX INCREMENT DISTRICT NO. 11  
DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT (the "Agreement") is dated as of the 9 day of September, 2021, by and among Merge LLC, an Iowa limited liability company ("Developer") and the City of Appleton, a Wisconsin municipal corporation (the "City").

**RECITALS**

Developer and the City acknowledge the following:

A. Developer owns or will acquire the real property located on the southeast corner of E. Washington St. and S. Oneida St., (Parcel 31-2-0281-01) Appleton, WI more particularly described in Exhibit A, attached hereto (hereafter the "Property").

B. The Property is located within the City in Tax Increment District #11 (the "District") which was created in 2017 pursuant to Section 66.1105, Wis. Stats. along with a plan for the redevelopment of the District (the "District Plan") that provides for, among other things, the financial assistance set forth in this Agreement.

C. Subject to obtaining the financial assistance set forth herein, Developer has proposed improvements to the Property to create approximately one floor of commercial/retail space and four floors consisting of approximately fifty-six (56) market rate living units offering studio and one bedrooms with approximate square footage ranging from 385 to 720 per unit (the "Project"). All references to the Project include the Property.

D. The City has determined that the Project will spur economic development, expand the City's tax base and create new jobs; that such financial assistance is a Project Cost under the Tax Incremental Law; that the amount of financial assistance provided pursuant to this Agreement is the amount necessary to induce development of the Project; and, that the Project will not proceed without the financial assistance set forth in this Agreement.

E. Subject to obtaining financial assistance as set forth herein, Developer intends to undertake a redevelopment of the property that will increase the value of the Property and provide other tangible benefits to the surrounding neighborhoods and to the City as a whole, consistent with the District Plan. The City finds that this redevelopment of the Property and the fulfillment, generally, of the terms and conditions of this Agreement are in the vital and best interests of the City and its residents and serves a public purpose in accordance with state and local law.

F. The City, pursuant to Common Council Action dated August 18, 2021 has approved this Agreement and authorized the execution of this Agreement by the proper City officers on the City's behalf.

G. The Developer has approved this Agreement and authorized the appropriate officers to execute this Agreement on the Developer's behalf.

H. The base value of the Property for purposes of this Agreement, including calculating increment generated by the Project, is Zero Dollars (\$0). The Developer estimates the project will create up to an additional Seven Million Seven Hundred Thousand Dollars (\$7,700,000) in incremental value.

I. All terms that are capitalized but not defined in this Agreement and that are defined under the Tax Increment Law shall have the definitions assigned to such terms by the Tax Increment Law.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the Recitals and the promises and undertakings set forth herein, the parties mutually agree and covenant as follows:

### **ARTICLE I UNDERTAKINGS OF THE DEVELOPER**

1.1 Developer shall purchase the property for \$283,000 from the City within 30 days of execution of this agreement. Said sale of Property to Developer is contingent upon Developer fulfilling the terms and conditions of this Agreement and the City shall retain a right to repurchase the Property as more particularly set forth in Article IV.

1.2 Developer's Project is the first of two phases, is currently known as "URBANE" and shall include improvements to, and development of, the Property as set forth in Exhibit B that will result in an increase in the Property's assessed value. All aspects of the Project shall be in accordance with all applicable City zoning and building codes, ordinances and regulations.

1.3 Project Costs shall include, without limitation, costs incurred after approval of this agreement for the construction of improvements (including infrastructure improvements), environmental remediation costs, demolition, interior remodeling and development of the project.

1.4 Developer warrants and represents to the City that but for the assistance provided by the City under Article II, herein, Developer would not be able to proceed with the Project.

1.5 Developer and City acknowledge that several of the specific undertakings of the parties may require approvals from directors, boards or the City Council as applicable. The parties' agreements are conditioned upon the obtaining of all such approvals in the manner required by law. The parties cannot assure that all such approvals will be obtained; however, they agree to use their best good faith efforts to obtain them on a timely basis.

### **ARTICLE II UNDERTAKINGS OF THE CITY**

2.1 The City shall appropriate sufficient funds for the performance of the City's obligations under this Agreement.

2.2 City shall cooperate with Developer throughout the Project and shall promptly review and/or process all submissions and applications in accordance with applicable City ordinances. In addition, the City agrees to work collaboratively with Developer in Developer's pursuit of various grant or similar funding opportunities.

2.3 Subject to all of the terms, covenants and conditions of this Agreement and applicable provisions of law, and as an inducement by the City to Developer to carry out the Project, upon completion of the Project (which shall be defined as issuance of occupancy permits for all floors of the Project (hereafter "completion")) the City will provide payments to Developer solely from the future Tax Increments (derived from both real and personal property) to assist with

Developer's Project Costs. The City's total payment of Tax Increment Revenue to the Developer shall not exceed the lesser of i) \$1,386,000 or ii) Eighteen percent (18%) of the Tax Increment Value as of January 1, 2024, plus interest thereon (the "Contribution").

The Contribution will be paid to Developer as follows:

2.3.1 As the sole source for payment of the Contribution, the City agrees to pay the Developer an amount equal to ninety percent (90%) of the Tax Increment Revenue attributable to, and actually received from, the Property during the calendar year.

2.3.2 Payments under this Agreement shall be due in annual installments on August 15 of the calendar year following the first tax year after completion of the Project and continuing on each August 15 thereafter for a period of time described in Sec. 4.3.

2.3.3 Interest on the Contribution shall begin to accrue upon completion of the Project. The interest rate on the Contribution shall be lesser of 1) the interest rate paid by the Developer to the primary lender for the Project, as evidenced by the note indicating the loan amount; or, 2) four percent (4%).

2.3.4 The Contribution shall be a special and limited obligation of the City and not a general obligation. Payments shall first apply to accrued interest and then to the principal balance of the Contribution. Unpaid interest in any year shall be added to the principal balance of the Contribution and accrue interest. The City may prepay the Contribution, in its sole discretion, at any time, with no prepayment penalty.

2.4 This Agreement fully evidences the City's obligation to pay the Contribution. No separate instrument will be prepared to evidence the City's obligation to pay the Contribution. The Contribution shall not be included in the computation of the City's statutory debt limitation because the Contribution is limited and conditional and no taxes will be levied or pledged for its payment. Nothing in this Agreement shall be deemed to change the nature of the City's obligation from a limited and conditional obligation to a general obligation.

2.5 The City covenants to Developer that until the Contribution plus interest thereon has been paid in full, the City shall not close the District prior to its statutory expiration date.

2.6 The City shall, upon Developer's request, provide to Developer an accounting of the status of the District including, but not limited to, the outstanding principal balance of the Contribution and annual Tax Increments received from the District.

2.7 Developer hereby acknowledges that, as a result of the special and limited nature of the City's obligation to pay the Contribution, Developer's recovery of the full amount of the Contribution depends on factors including, but not limited to, future mill rates, changes in the assessed value of the Property, the failure of the Property to generate the Tax Increments at the rate expected by Developer, reduction in Tax Increments caused by revenue-sharing, changes in the Tax Increment Law, and other factors beyond the City's and/or Developer's control.

### ARTICLE III PAYMENT OF TAXES

3.1 As long as the District is in existence, the Property and all buildings and improvements thereon shall be owned and taxable for real estate tax and special assessment

purposes. The City may waive any or all of the restrictions upon execution of a payment in lieu of taxes (PILOT) agreement on a form acceptable to the City.

3.2 Throughout the duration of this agreement, all ad valorem property taxes properly assessed against the Property will be paid timely and in full.

3.3 In the event that any property owned by Developer within the District becomes exempt from ad valorem property taxes during the life of the District, then for the remaining life of the District, the Developer will make (or cause to be made) annual payments in lieu of taxes in amounts equal to what the ad valorem property taxes would have been for such other property had it not been exempt. If the Developer conveys the Property within the District to any party (related or unrelated), the terms of such sale shall impose as a covenant upon all successor owners of the property the foregoing obligation for payments in lieu of taxes during the life of the District. The City shall be a beneficiary of such covenant and entitled to enforce same against the successor owners.

#### ARTICLE IV CONDITIONS TO PAYMENT; REPURCHASE OF PROPERTY; TERMINATION OF AGREEMENT

4.1 The City shall have no obligation to pay any portion of the Contribution to Developer unless and until all of the following conditions shall have been met:

4.1.1 The Project's completion on or before May 31, 2023 subject to reasonable extensions, not to exceed six (6) months each, for Force Majeure which shall include, but not be limited to, any delays caused by pandemic or other acts beyond the reasonable control of the Developer. Such extensions shall be by mutual written agreement and, in considering any requested extension, the City and Developer agree that each will act in good faith, cooperate in expeditious and timely approvals, and said extensions shall not be unreasonably withheld, conditioned or delayed by City.

4.1.2 The Property's assessed value is no less than Seven Million Seven Hundred Thousand Dollars (\$7,700,000) on or after January 1, 2025.

4.2 The City was induced to sell the real property described in Exhibit A to Developer based on Developer's proposed Project and construction of the same according to the terms of this Agreement. As such, the City shall retain and the Developer shall grant the City a right to repurchase the real property (hereafter "repurchase options"). This repurchase option shall be subject to the following:

4.2.1 The City's repurchase right shall terminate upon Developer obtaining approved buildings plans and a building permit for improvements to the real property consistent with the Project as described in this Agreement, and, commencement of the Project's construction.

4.2.2 The City shall refrain from executing the repurchase right if Developer is making reasonable timely progress toward commencement of the Project's construction in accordance with the terms of the Agreement.

4.2.3 The City shall provide Developer thirty (30) day's written notice of its intent to repurchase the Property unless Developer waives said notice. Thereafter Developer

shall execute all necessary documents and transfer the Property's unencumbered title to the City. In exchange, the City shall pay Developer \$283,000 (or the actual amount paid by Developer to the City) less \$1,000 per calendar month calculated from the first day of the month after this Agreement is executed through the date of sale. The City and Developer agree that each will act in good faith to facilitate a timely repurchase if the City exercises its repurchase right.

4.3 This Agreement, and the City's obligation to make, or continue, any payments of the Contribution, shall terminate when any of the following shall have occurred:

4.3.1 The conditions in Section 4.1 are not met.

4.3.2 The Contribution is paid in full or August 15, 2039, whichever occurs first.

#### ARTICLE V CONFLICT OF INTEREST

5.1 No member, officer or employee of the City, during his/her tenure or for one year thereafter, will have or shall have had any interest, direct or indirect, in this Agreement or any proceeds thereof.

#### ARTICLE VI WRITTEN NOTICES

6.1 Any written notice required under this Agreement shall be sent to the following individuals:

FOR THE CITY:

City of Appleton  
Community and Economic Development Department  
100 North Appleton Street  
Appleton, WI 54911-4799  
Attn: Director

With a copy to:

City of Appleton  
City Attorney's Office  
100 North Appleton Street  
Appleton, WI 54911-4799  
Attn: City Attorney

FOR DEVELOPER:

Merge LLC  
25 West Main Street, Suite 500  
Madison, WI 53718  
Email: [info@mergeurbandevlopment.com](mailto:info@mergeurbandevlopment.com)

With a copy to:

Squire Patton & Boggs  
Attn: Steven F. Mount  
41 South High Street, Suite 2000  
Columbus, OH 43215  
Email: [steven.mount@squirepb.com](mailto:steven.mount@squirepb.com)

## ARTICLE VII ASSIGNMENT

7.1 Terms of this Agreement are not transferrable or assignable. No party to this Agreement may assign any of its interest or obligations hereunder without first obtaining the written consent of all other parties.

## ARTICLE VIII NO PARTNERSHIP OR VENTURE

8.1 Developer and its contractors or subcontractors shall be solely responsible for the completion of the Project. Nothing contained in this Agreement shall create or effect any partnership, venture or relationship between the City and Developer or any contractor or subcontractor employed by Developer in the construction of the Project.

## ARTICLE IX MISCELLANEOUS

9.1 Under no circumstances shall any officer, official, director, member, manager, commissioner, agent, or employee of City or Developer have any personal liability arising out of this Agreement, and no party shall seek or claim any such personal liability.

9.2 The laws of the State of Wisconsin shall govern this Agreement.

9.3 This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

9.4 No modification, alteration, or amendment of this Agreement shall be binding upon any party until such modification, alteration, or amendment is reduced to writing and executed by all parties to this Agreement.

9.5 Any captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any of the provisions of this Agreement.

9.6 If any provisions of this Agreement shall be held or deemed to be inoperative or unenforceable as applied in any particular case in any jurisdiction because it conflicts with any other provision or provisions of this Agreement or any constitution or statute or rule of public policy, or for any other reason, then such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. To the maximum extent possible, this Agreement shall be construed in a manner consistent with the powers of the City, including but not limited to, the City's powers under the Blight Elimination and Slum Clearance Law and the Tax Increment Law, to achieve its intended purpose. Reference is made to Section 66.1333(17) of the Wisconsin Statutes and



Chapter 105, Laws of 1975 § 4, which provide that the Blight Elimination and Slum Clearance Law and the Tax Increment Law should be construed liberally to effectuate their purposes.

[Signatures on following pages]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

CITY OF APPLETON:

By: [Signature]  
Jacob A. Woodford, Mayor

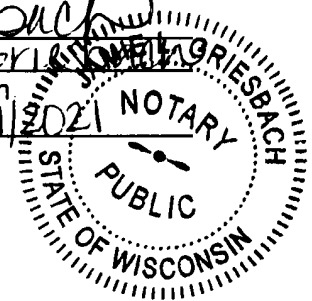
ATTEST:

By: [Signature]  
Kami L. Lynch, City Clerk

STATE OF WISCONSIN     )  
  : ss.  
OUTAGAMIE COUNTY     )

Personally came before me this 9 day of September, 2021, Jacob A. Woodford, Mayor and Kami L. Lynch, City Clerk, of the City of Appleton respectively, to me known to be the persons who executed the foregoing instrument and acknowledged the same in the capacity and for the purposes therein intended.

[Signature]  
Printed Name: Jamill Griesbach  
Notary Public, State of Wisconsin  
My commission  expires: 11/11/2021



**PROVISION HAS BEEN MADE TO PAY FOR OBLIGATIONS INCURRED PURSUANT TO THIS AGREEMENT:**

[Signature]  
Anthony Saucerman, Finance Director

**APPROVED AS TO FORM:**

[Signature]  
Christopher R. Behrens, City Attorney  
Dated: August 19, 2021  
By: Christopher R. Behrens  
City Law A21-0312

DEVELOPER:

Merge LLC

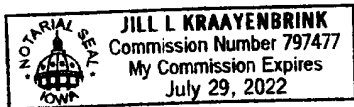
By: [Signature]  
Printed Name: Brent Dahlstrom  
Title: Manager

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF Iowa )  
: ss.  
Black Hawk COUNTY )

Personally came, before me this 31<sup>st</sup> day of August, 2021,  
Brent Dahlstrom, \_\_\_\_\_, \_\_\_\_\_ each  
a member of the LLC, to me known to be the persons who executed the foregoing instrument and  
acknowledged the same in the capacity and for the purposes therein intended.



[Signature]  
Printed Name: Jill Kraayenbrink  
Notary Public, State of Iowa  
My commission is/expires: July 29, 2022

## SCHEDULE OF EXHIBITS

- A. Legal Description of Property
- B. Proposed Improvements

**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTY**

The North 97.17 feet of Lots One (1) and Two (2) and the North 97.17 feet of the West 30 feet of Lot Three (3), Block Twenty-eight (28), Appleton Plat, City of Appleton, County of Outagamie, State of Wisconsin, according to the recorded assessor's map of said city.

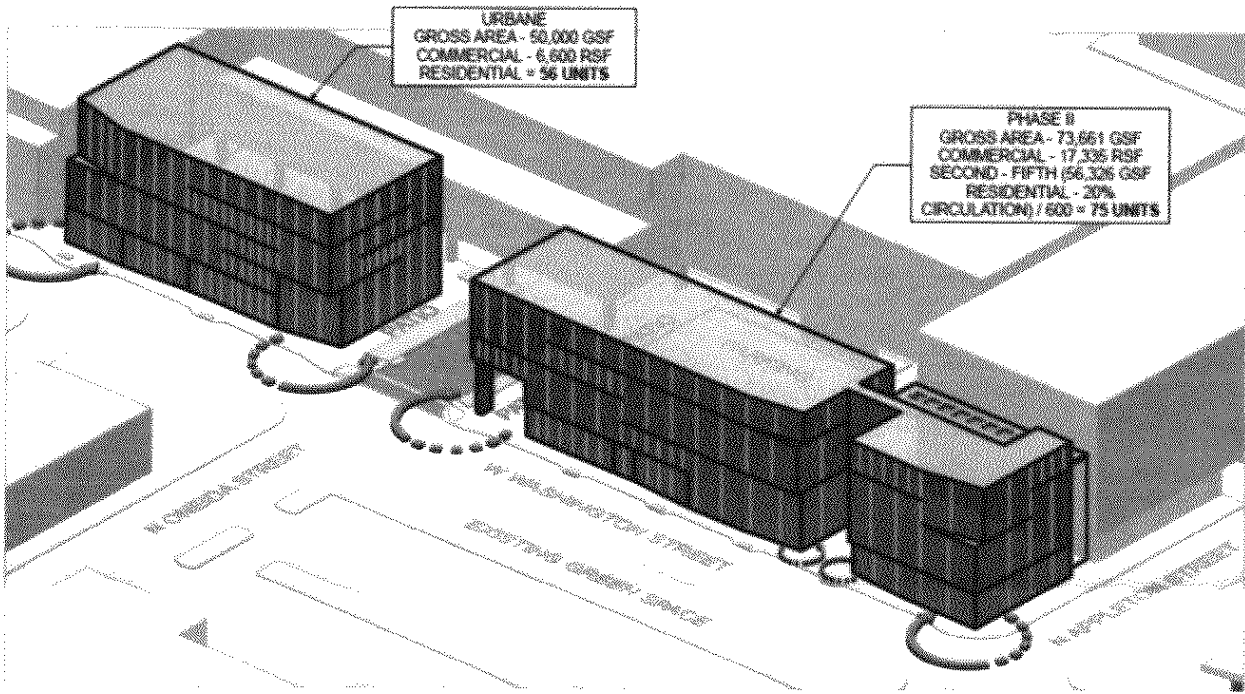
APN: 312028101

Property Address: 103 East Washington Street  
Appleton, WI 54911

**EXHIBIT B**  
**PROPOSED IMPROVEMENTS**

**(Copy of Plans/Design docs follow)**

# APPLETON MIXED USE 3D FPD DIAGRAM

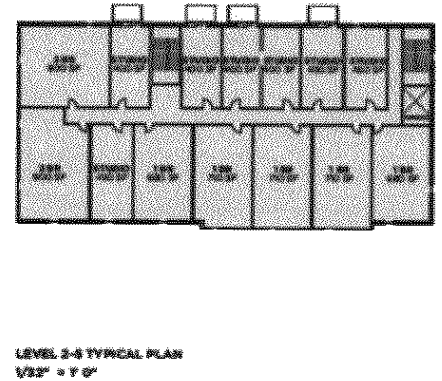
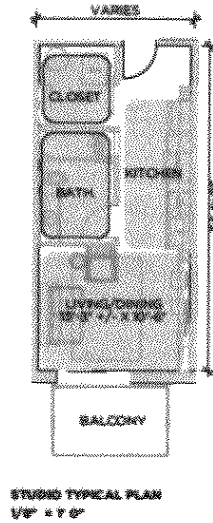
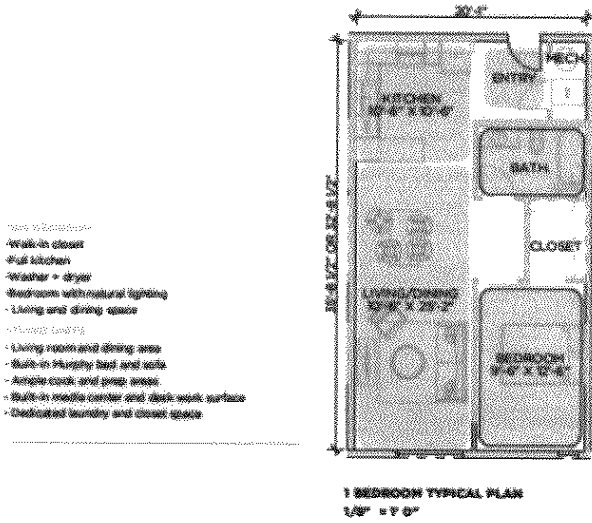


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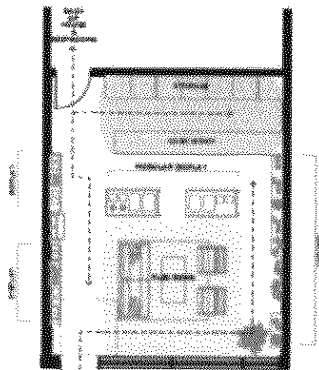
2020.06.05

# APPLETON MIXED-USE TYPICAL UNIT DIAGRAM





# APPLETON MIXED USE FOR RETAIL



## FEATURES

- 10 ft. ceiling heights
- Opened floorplans
- Hardwood
- 200 sq ft



**ONITSHOT**  
A 501-C-3 CORPORATION



2020-09-09

# APPLETON MIXED USE CONCEPT



**ONITSHOT**  
ARCHITECTURE



**MERGE**  
REAL ESTATE DEVELOPMENT GROUP

2020 08 25

# APPLETON MIXED-USE SKETCH



**DNITSHOT**  
ARCHITECTURE

 **MERGE**  
URBAN DEVELOPMENT GROUP

2020 04 28



# MEMORANDUM

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TO: Community and Economic Development Committee (CEDC)

FROM: Matt Rehbein, Economic Development Specialist

DATE: March 8, 2023

RE: CDI Grant Agreement – Merge, LLC (Urbane 115, LLC)

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Council approved a Resolution for the submittal of a Wisconsin Economic Development Corporation (WEDC) Community Development Investment (CDI) grant application on October 5, 2022 to support development by Merge Urban Development at 115 E. Washington Street.

Urbane 115 will be a 5-story mixed-use building. The project is located in the City of Appleton's Downtown, near College Avenue, City Center, and the Fox Cities Performing Arts Center. The project includes 56 residential units, a mix of furnished studios, studios, one-bedroom units, and two-bedroom units. There will be 6,129 square feet of leasable commercial space on the first floor, which is designed to be divisible. Construction is underway.

Since approval of the application in October, the application has been submitted and the CDI grant was awarded to the City to support this project (draft agreement attached). Prior to signing the agreement with WEDC, the City will need to sign an agreement with the Developer outlining how grant funds will be disbursed and ensure compliance with all other grant requirements.

**Staff Recommendation:**

An agreement to memorialize responsibilities of the City and Urbane 115 for the CDI grant **BE APPROVED.**

# AGREEMENT

WHEREAS, Urbane 115, LLC referred to as "Urbane 115" have a desire to redevelop the property located on the southeast corner of E. Washington St. and S. Oneida St. and encompassing the Tax Key Number 31-2-0281-01 located in the City of Appleton ("the Property") as shown on the attached Exhibit "A" to this Agreement; and

WHEREAS, Urbane 115, LLC will be building a mixed-use commercial and residential development; and

WHEREAS, the City of Appleton (the "City") desires to work with Urbane 115, LLC to facilitate the redevelopment of the Property; and

WHEREAS, it is desirable to prepare and submit an application for a Wisconsin Economic Development Corporation (WEDC) Community Development Investment Grant Program to assist with certain of the extraordinary costs associated with the redevelopment of the Property.

NOW, THEREFORE, the City of Appleton, hereinafter referred to as the "City", and Urbane 115, LLC hereinafter referred to as "Urbane 115", agree as follows:

1. The City shall submit an application for a WEDC Community Development Investment Grant to assist with the redevelopment of the Property. The application shall be for the purposes identified in and substantially in the same form as the attached Exhibit B to this Agreement.

2. The City shall be responsible to complete all necessary requirements in relation to this WEDC Community Development Investment Grant, if awarded.

3. Urbane 115 shall be responsible for obtaining all required permits and approvals for all work to be performed on the Property in relation to this Agreement and the WEDC Community Development Investment grant, if awarded, including but not limited to permits and approvals from other state and federal agencies.

4. Urbane 115 shall be responsible for the Match Investment identified in the WEDC Community Development Investment grant application and directly pay for all project costs including but not limited to any permit or approval costs and fees, and any contractors' fees and consultants' fees, relating to the performance of responsibilities under the WEDC Community Development Investment grant, if awarded.

5. Urbane 115 shall use WEDC Community Development Investment grant funds under the terms of the activities outlined in Exhibit B. Failure to use the WEDC Community Development Investment funds on the terms of Exhibit B will result in payment requests being denied.

6. Urbane 115 shall submit to the City payment requests with all necessary supporting documentation to allow the City to request reimbursement under the terms of the WEDC Community Development Investment grant.

7. The City will make no more than two requests for reimbursements to WEDC. Requests will be made at approximately 50% of construction being completed and 100% of construction completed.

8. Urbane 115 shall comply with the requirements listed in the agreement between the WEDC and the City.

9. Urbane 115 shall fully and completely cooperate with the City, the City's attorneys, the City's Auditors or other representative of the City (collectively, the "City") in connection with any internal or governmental Audit, with respect to matters relating to this Agreement. Such cooperation may include, but shall not be limited to, responding to requests for documents and/or other records, and making Contractor's employees available to the City (or their respective attorneys or auditors) upon reasonable notice for: (i) interviews, factual investigations, and providing declarations or affidavits that provide truthful information in connection with any Audit; (ii) volunteering to the City all pertinent information related to any Litigation or Audit; and (iii) providing information and legal representations to auditors in a form and within a timeframe requested.

10. The agreement between Urbane 115 and the City shall expire once the project is completed and upon completion of the grant requirements.

11. Subject to any limitations contained in Sec 893.80 and any similar statute, of the Wisconsin Statutes, the City agrees to hold Urbane 115, its officers, officials, employees, and agents harmless from any and all liability, including claims, demands, losses, costs, damages, and expenses of every kind and description (including death), or damages to person or property arising out of the terms of this Agreement where such liability is founded upon or grows out of the acts of omission of any City's officers, employees, or agents while acting within the scope of their employment.

Urbane 115 agree to hold the City, its officers, officials, employees, and agents harmless from any and all liability, including claims, demands, losses, costs, damages, and expenses of every kind and description (including death), or damages to person or property arising out of the terms of this Agreement where such liability is founded upon or grows out of the acts of omission of any Urbane 115's officers, employees, or agents while acting within the scope of their employment.

Nothing in this Agreement is intended as a waiver of the City's right or opportunity to rely upon the governmental limitations and immunities contained within Wisconsin law. Municipal immunities and limitations include, but are not limited to, Sections 345.05, 893.80, and 893.83, Wisconsin Statutes. Such damage limits, caps and

immunities are intended to be preserved and are incorporated into this agreement and shall govern all disputes, contractual or otherwise, as they apply to the parties and their agents, officers, and employees.

The intention of this paragraph is that each party shall be responsible for its own actions and inactions related to this Agreement.

Notwithstanding any other provision of this Agreement, it is further agreed that to the fullest extent permitted by law Urbane 115 shall indemnify and hold harmless the City, its employees, agents, contractors and consultants from and against all claims, damages, losses and expenses, direct and indirect, or consequential damages, including but not limited to attorneys' fees and all Court, arbitration or other dispute resolution costs, arising out of, resulting from, or related to the presence and/or involvement of hazardous substances or constituents, including hazardous waste, at or contiguous to the project site or contained in samples collected by or received by the City or its contractors and/or consultants from the site. This indemnification extends to claims against the City or any of its employees, agents, contractors or consultants which arise out of, are related to, or are based upon, the disposal, discharge, escape, release, spillage or saturation of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, gases or any other material, irritant, contaminant or pollution in or into the atmosphere, or on, onto, upon, in or into the surface or subsurface of soil, water or watercourses, objects, or any tangible or intangible matter, whether such event or circumstance is sudden or not. Nothing in this paragraph is intended to indemnify, or shall be construed as indemnifying the City, its employees, agents, contractors or consultants with respect to claims, losses, expenses or damages to the extent caused by the City or its employees', agents', contractors' or consultants' own negligent acts or omissions.

12. This Agreement shall be construed under the laws of the State of Wisconsin. In the event of any dispute between parties, the venue shall be Outagamie County, Wisconsin.

13. This Agreement, and all other documents or instruments that may be required by this Agreement, may be executed in several counterparts, each of which shall be deemed an original, but all of which shall constitute the same instrument.

IN WITNESS WHEREOF, the City of Appleton, Wisconsin, and Urbane 115 have respectively caused this Agreement to be duly executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

SIGNATURES BEGIN ON THE FOLLOWING PAGE

**Urbane 115 Urban Development Group**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF WISCONSIN                    )  
  : ss.  
\_\_\_\_\_ COUNTY )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023,  
the above-named \_\_\_\_\_ and \_\_\_\_\_  
to me known to be the persons who executed the foregoing instrument and  
acknowledged same as and for said corporation, by its authority.

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission is/expires: \_\_\_\_\_

SIGNATURES CONTINUE ON THE FOLLOWING PAGE



CITY OF APPLETON

By: \_\_\_\_\_  
Jacob A. Woodford, Mayor

By: \_\_\_\_\_  
Kami Lynch, City Clerk

Approved as to form:

\_\_\_\_\_  
Christopher R. Behrens, City Attorney  
CityLaw: A21-0312

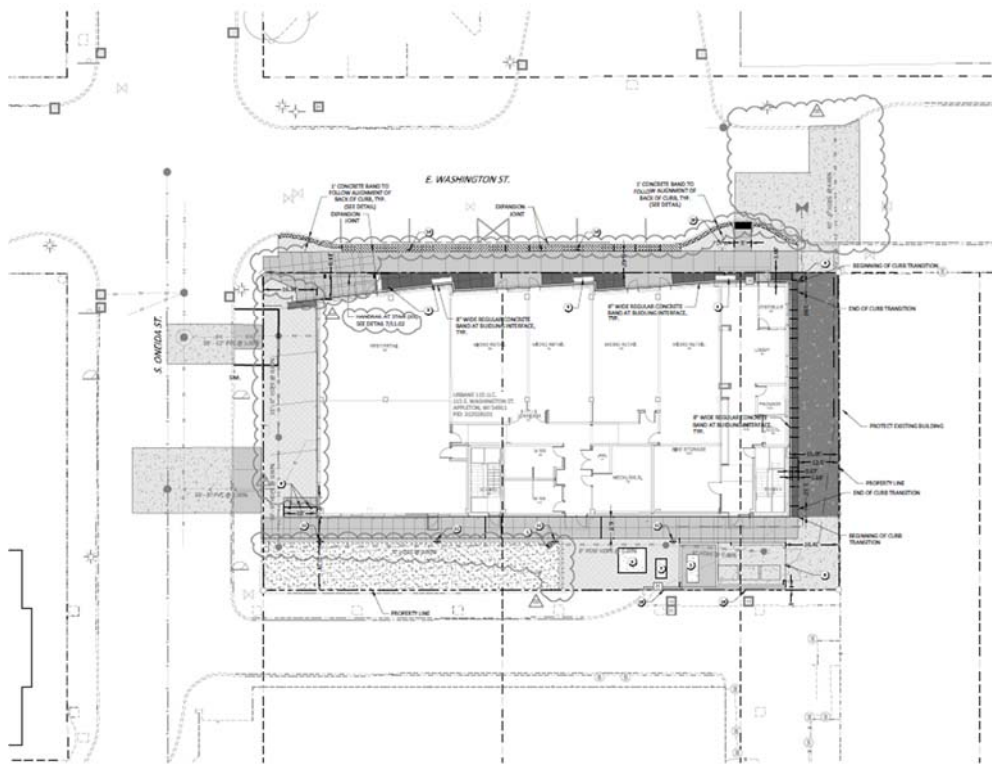
\_\_\_\_\_  
Jeri A. Ohman, Finance Director

STATE OF WISCONSIN )  
  : ss.  
OUTAGAMIE COUNTY )

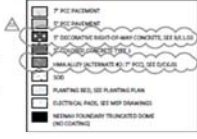
Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023, the above-named Jacob A. Woodford, Mayor; Kami Lynch, City Clerk; Christopher R. Behrens, City Attorney; and Jeri A. Ohman, Finance Director of the City of Appleton, to me known to be the persons who executed the foregoing instrument and acknowledged same as and for said Corporation, by its authority.

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission is/expires: \_\_\_\_\_

# EXHIBIT A



### HATCH LEGEND



### COLORED CONCRETE TYPE 1 NOTES:

1. INDICATE SUPPLEMENTAL COLOR CONCRETE BY:
  - SHR CONSTRUCTION
  - SEE CONSTRUCTION
  - KEY COLOR CODE
  - PROFESSIONAL OR BLEN
  - PAINTING AND/OR
  - GRASS
2. TYPE 1 TO BE SELECTED BY ARCHITECT FROM MANUFACTURER'S STANDARD COLORS
3. CONTRACTOR TO OBTAIN PHYSICAL SAMPLES OF THE MANUFACTURER'S STANDARD COLORS FOR SELECTION BY THE ARCHITECT

### SITE LAYOUT KEYNOTES:

- 1 NOT IN CONTRACT
- 2 GENERATOR & P&E PAUL, SEE MEP DRAWINGS
- 3 NOT IN CONTRACT
- 4 TRANSFORMER & P&E PAUL, SEE MEP DRAWINGS
- 5 NOT IN CONTRACT
- 6 PLANTING SOIL, SEE LANDSCAPE DETAILS
- 7 B&E PAUL, SEE LANDSCAPE DETAILS
- 8 TRANSPORTATION CABINET & P&E PAUL, SEE MEP DRAWINGS
- 9 TRASH ENCLOSURE, SEE ARCHITECTURAL SHEETS
- 10 THICKENED SOLE FOR MAIN CRAWL, SEE CIVIL NOTES
- 11 NOT IN CONTRACT
- 12 EXISTING PAUL, SEE MEP DRAWINGS
- 13 NOT IN CONTRACT
- 14 EXISTING PAUL, SEE MEP DRAWINGS
- 15 COORDINATE THE LOT TO ENVIRONMENTAL AS REQUIRED FOR CONSTRUCTION
- 16 EXISTING PAUL, SEE MEP DRAWINGS
- 17 COORDINATE THE LOT TO ENVIRONMENTAL AS REQUIRED FOR CONSTRUCTION
- 18 NOT IN CONTRACT
- 19 8\"/>

**GNITSHOT**  
ARCHITECTURE  
1115 E. WASHINGTON ST.  
APPLETON, WI 54911

**BOLTON & MENK**  
ENGINEERS

**URBANE APPLETON**  
1115 E. WASHINGTON ST.  
APPLETON, WI 54911

NO.	DATE	DESCRIPTION
1	08/14/2020	ISSUED FOR PERMIT
2	08/14/2020	ISSUED FOR PERMIT
3	08/14/2020	ISSUED FOR PERMIT
4	08/14/2020	ISSUED FOR PERMIT
5	08/14/2020	ISSUED FOR PERMIT

LAYOUT PLAN  
**C3.01**

**EXHIBIT B**

**(Original Application to be added)**

**COMMUNITY DEVELOPMENT INVESTMENT GRANT AGREEMENT  
BETWEEN  
THE WISCONSIN ECONOMIC DEVELOPMENT CORPORATION  
AND  
CITY OF APPLETON**

This Agreement is entered into pursuant to Chapter 238 of the Wisconsin Statutes between the Wisconsin Economic Development Corporation (“WEDC”), a public body corporate and politic authorized to grant funds for the purpose of economic development pursuant to Chapter 238 of the Wisconsin Statutes, and City of Appleton (“Recipient”). Certain capitalized terms are defined in Section 1 of the Agreement.

**WITNESSETH**

**WHEREAS**, the Recipient has submitted an Application to WEDC, requesting funds from WEDC’s Community Development Investment Grant Program (“CDI Funds”);

**WHEREAS**, WEDC has determined that the Recipient is an eligible recipient of CDI Funds; and

**WHEREAS**, in reliance upon the Application, WEDC has approved the Recipient for up to Two Hundred Fifty Thousand Dollars (\$250,000) in CDI Funds.

**NOW, THEREFORE**, for valid consideration, the receipt of which is hereby acknowledged, and in consideration for the promises and covenants in this Agreement, WEDC and the Recipient agree as follows:

**1. Definitions.** For purposes of this Agreement, the following terms shall have the following meanings:

(a) “Agreement” means this agreement, to include all documents required to be delivered contemporaneously with the execution and delivery of this Agreement, and the attached Exhibits, together with any future amendments executed in compliance with Section 21 of this Agreement.

(b) “Application” means the materials submitted by the Recipient to WEDC relating to this allocation of CDI Funds.

(c) “CDI Funds” means the grant monies the Recipient is eligible to receive from WEDC’s Community Development Investment grant program in accordance with this Agreement.

(d) “Effective Date” means the date on which this Agreement is fully executed by both parties.

(e) “Eligible Project Costs” means costs for which CDI Funds and Matching Funds may be used, as outlined in Section 3(b) of this Agreement, which the Recipient incurs between the Project Start Date and Project End Date.

(f) “Ineligible Costs” means costs for which CDI Funds and Matching Funds may not be used, means costs incurred prior to the Project Start Date; costs for acquisition; costs related to grant applications or bid preparation; costs which may be covered by other grant or statutory programs; permits; Phase I and II environmental studies; Lien claims of the Department of Natural Resources and Environmental Protection Agency; performance and payment bonds; contingencies; developer fees; insurance premiums; supplies and the purchase of moveable equipment; signage (unless required by federal, state or local law including applicable building and/or fire code(s) and advertising; financing fees, interest payments, or the assumption of debt; relocation fees; accounting, legal, appraisal, and architectural fees; mergers and acquisitions; project administration fees, including costs associated with WEDC compliance reporting, schedules of expenditures, and payment requests.

(g) “Leverage” means all funding provided for the Project other than CDI Funds, including Matching Funds.

(h) “Matching Funds” means non-WEDC funds secured by the Recipient to meet the match requirement of CDI Funds under this Agreement. Eligible Matching Funds must be incurred between the Project Start Date and Project End Date. In order to receive the full amount of CDI Funds contemplated under this Agreement, Matching Funds must be at least Two Hundred Fifty Thousand Dollars (\$250,000). No more than Fifty Percent (50%) of the Matching Funds may consist of other state and/or federal grants. Matching Funds must be cash and may not be in-kind.

(i) “Program Guidelines” means the WEDC approved rules and eligibility requirements for the Community Development Investment grant program in force as of the Effective Date.

(j) “Project” means the Recipient assisting in the construction of Urbane 115, a mixed-use building, in accordance with the Application and the terms of this Agreement.

(k) “Project End Date” means December 31, 2025, the date by which the Project will be complete and the last day which the Recipient may incur costs against CDI Funds and Matching Funds.

(l) “Project Location” means the site or sites at which the Project will take place, specifically 115 East Washington Street, Appleton, Wisconsin.

(m) “Project Start Date” means November 21, 2022, the date on which the Project begins and the Recipient may start incurring costs against CDI Funds and Matching Funds.

(n) “Recipient” means City of Appleton.

(o) “WEDC” means the Wisconsin Economic Development Corporation, together with its successors and assigns.

**2. CDI Funds.** Subject to the terms and conditions set forth in this Agreement, Program Guidelines, and in Wisconsin law, WEDC shall provide to the Recipient a grant of up to Two Hundred Fifty Thousand Dollars (\$250,000) in CDI Funds.

**3. Recipient’s Obligations.** The Recipient will or will ensure that:

(a) The Project is completed as it is contemplated in the Application and in accordance with the terms of this Agreement.

(b) CDI Funds and Matching Funds are used for Eligible Project Costs, incurred between the Project Start Date and Project End Date, as outlined in the following budget:

USES		SOURCES			TOTAL
Budget Code	Eligible Project Costs	CDI Funds	Public Funds	Private Funds	
0190	Demolition/Site Clearance	\$0	\$0	\$23,000	\$23,000
0237	Site Preparation	\$0	\$0	\$296,897	\$296,897
0200	Construction	\$250,000	\$309,198	\$10,412,179	\$10,971,377
0415	Infrastructure	\$0	\$0	\$119,455	\$119,455
<b>TOTAL</b>		<b>\$250,000</b>	<b>\$309,198</b>	<b>\$10,851,531</b>	<b>\$11,410,729</b>

(i) Eligible Project Costs to be applied to CDI Funds for construction include specifically construction of new mixed-use building, including all building systems.

(ii) Eligible Project Costs to be applied to Matching Funds for demolition/site clearance include specifically clearance of any existing materials or structure on project site.

(iii) Eligible Project Costs to be applied to Matching Funds for site preparation include specifically preparation of site for new building construction.

(iv) Eligible Project Costs to be applied to Matching Funds for construction include specifically construction of new mixed-use building, including all building systems.

(v) Eligible Project Costs to be applied to Matching Funds for infrastructure include specifically sewer lines and water mains.

(c) CDI Funds or Matching Funds are not used for Ineligible Costs.

(d) Matching Funds from non-WEDC sources are secured sufficient to achieve the match requirement of the CDI Funds under this Agreement. Matching Funds must equal at least Two Hundred Fifty Thousand Dollars (\$250,000) in order for the Recipient to obtain the maximum amount of the CDI Funds, and must be documented prior to the final reimbursement.

(e) WEDC’s participation in the Project is acknowledged in any signage at the Project Location and any planning and feasibility documents related to the Project.

(f) Reports are provided to WEDC as further described in Section 5 of this Agreement, in such form as required by WEDC.

**4. Release of Funds.** WEDC will release the CDI Funds contemplated by this Agreement to the Recipient on a disbursement basis. The Recipient may request CDI Funds in up to Three (3) disbursements and each disbursement will be contingent on the following:

(a) The Recipient submitting to WEDC a request for payment of funds in such form as required by WEDC, a sample of which is attached to this Agreement as Exhibit A.

(b) Recipient creating a Bill.com account unless Recipient has an existing account with Bill.com. Instructions for creating a Bill.com account will be provided by WEDC under separate cover. Recipient shall provide their Payment Network ID to WEDC with each request for payment.

(c) The Recipient submitting to WEDC a summary report of the Eligible Project Costs incurred against both the CDI Funds and Matching Funds. The amount of Matching Funds incurred for any request must be in an amount pro rata with the amount incurred against the CDI Funds being requested.

(d) The Recipient submitting to WEDC documentation evidencing that the Eligible Project Costs incurred at the Project Location against both the CDI Funds and the Matching Funds covered by the request have been purchased or will be purchased through an invoice, receipt, registration form, or other third-party documentation that contains the following information:

- (i) Vendor name and contact information;
- (ii) Description of the item(s) purchased;
- (iii) Cost of purchase;
- (iv) Date of purchase (invoice date or date received, not date ordered unless it is the same); and
- (v) Project Location.

(e) The Recipient being in compliance with this Agreement, and with any other agreements by and between the Recipient and WEDC.

(f) The Recipient requesting all CDI Funds no later than February 28, 2026.

**5. Reporting.** The Recipient shall provide reports and information to WEDC according to the following requirements:

(a) Performance reports, due according to the Schedule of Reporting set forth in Section 5(b) below, in such form as required by WEDC. The report shall include information required by WEDC to determine Project performance which shall include, at a minimum, a financial overview and narrative summary on the progress of the Project to date, Project expenditures, and the Recipient's progress on achieving the goals related to the following Project-specific metrics:

<b>Metric</b>	<b>Goal*</b>
Taxable Property Value	\$7,700,000
Capital Investment	\$11,693,279
Leverage – Total	\$13,910,000

\*These goals represent anticipated Project outcomes and failure to achieve these goals will not constitute an Event of Default, unless they are noted as a requirement elsewhere in the Agreement.

(b) Schedule of Reporting:

PERIOD COVERED	DOCUMENTATION	DUE DATE
See Section 6 Below	Schedule of Expenditures	See Section 6 Below
November 21, 2022- November 30, 2023	Performance Report	February 1, 2024
November 21, 2022 – November 30, 2024	Performance Report	February 1, 2025
November 21, 2022-December 31, 2025	Performance Report	March 1, 2026

(c) Within Thirty (30) days, notify WEDC in writing of any event or occurrence that may adversely impact the completion of the Project as represented in the Application. Adverse impacts include, but are not limited to, lawsuits, regulatory intervention, and inadequate capital to complete the Project.

**6. Schedule of Expenditures.** Consistent with Wis. Stat. § 238.03(3)(a), the Recipient must submit to WEDC, within 120 days after the end of the Recipient’s fiscal year in which any grant or loan funds were expended, a schedule of expenditures of the grant or loan funds, including expenditures of any matching cash or in-kind match, signed by the director or principal officer of the recipient to attest to the accuracy of the schedule of expenditures. The Recipient shall engage an independent certified public accountant to perform procedures, approved by WEDC and consistent with applicable professional standards of the American Institute of Certified Public Accountants, to determine whether the grant or loan funds and any matching cash or in-kind match were expended in accordance with the grant or loan contract. The Recipient must make available for inspection the documents supporting the schedule of expenditures.

**7. Event of Default.** The occurrence of any one or more of the following events shall constitute an “Event of Default” for the purposes of this Agreement:

(a) The Recipient ceases the Project within Five (5) years of the Effective Date of this Agreement and commences substantially the same economic activity outside of Wisconsin.

(b) The Recipient supplies false or misleading information to WEDC in connection with this Agreement, without providing a satisfactory explanation, in WEDC’s sole discretion, for the false or misleading information.

(c) The Recipient fails to comply with or perform, in any material respect, any of its obligations under this Agreement, without providing a satisfactory explanation, in WEDC’s sole discretion, for the noncompliance.



(d) The Recipient is in default under any other agreement between WEDC and the Recipient.

## **8. Remedies in Event of Default.**

(a) Upon the occurrence of any Event of Default, WEDC shall send a written notice of default to the Recipient, setting forth with reasonable specificity the nature of the default. If the Recipient fails to cure any such Event of Default to the reasonable satisfaction of WEDC within Thirty (30) calendar days, WEDC may extend the cure period if WEDC determines, in its sole discretion, that the Recipient has begun to cure the Event of Default and diligently pursues such cure, or, without further written notice to the Recipient, declare the Recipient in default. The cure period shall in no event be extended more than Ninety (90) days. In the Event of Default, WEDC shall terminate the Agreement and recover from the Recipient:

(i) One Hundred Percent (100%) of the funds disbursed to the Recipient under this Agreement;

(ii) All court costs and attorneys' fees incurred by WEDC in terminating this Agreement and recovering the amounts owed by the Recipient under this provision; and

(iii) A financial penalty of up to One Percent (1%) of the CDI Funds.

(b) These amounts shall be paid to WEDC within Thirty (30) calendar days of demand by WEDC hereunder. If the Recipient fails to pay these amounts to WEDC as and when due, the Recipient will be liable for the full unpaid balance plus interest at the annual rate of up to Twelve Percent (12%) from the date of the notice of Event of Default.

(c) Upon an Event of Default, WEDC shall, without further notice, withhold remaining disbursements of the CDI Funds.

**9. Recipient's Warranties and Representations.** In addition to the other provisions of this Agreement, the Recipient hereby warrants and represents to the best of its knowledge that as of the Effective Date and as long as Recipient has obligations under of this Agreement:

(a) The Recipient is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to it, the violation of which would have a material adverse effect on the Recipient's ability to perform its obligations under this Agreement or to otherwise engage in its business.

(b) The Recipient is not in default under the terms of any loan, lease or financing agreements with any creditor where such default would have a material adverse effect on the Recipient's ability to fulfill its obligations under this Agreement.

(c) The financial statements and other information provided by the Recipient to WEDC are complete and accurate in accordance in all material respects with Generally Accepted Accounting Principles where applicable and have been relied on by WEDC in deciding whether to enter into this Agreement with the Recipient.

(d) There are no actions, suits or proceedings, whether litigation, arbitration, or administrative, pending or threatened against or affecting the Recipient or the Project which, if adversely determined, would individually or in the aggregate materially impair the ability of the Recipient to perform any of its obligations under this Agreement or adversely affect the financial condition or the assets of the Recipient.

(e) The Recipient is unaware of any conditions which could subject it to any damages, penalties or clean-up costs under any federal or state environmental laws which would have a material adverse effect on the Recipient's ability to comply with this Agreement.

(f) The Recipient has, or will acquire before commencing any work for which they are required, all necessary permits, licenses, certificates or other approval, governmental or otherwise, necessary to operate its business and own and operate its assets, all of which are in full force and effect and not subject to proceedings to revoke, suspend, forfeit or modify.

(g) The Recipient has filed when due all federal and state income and other tax returns required to be filed by the Recipient and has paid all taxes shown thereon to be due. The Recipient has no knowledge of any uncompleted audit of the returns or assessment of additional taxes thereon.

(h) The Recipient and the undersigned officer thereof has all necessary or requisite power and authority to execute and deliver this Agreement.

(i) The execution and delivery by the Recipient of this Agreement has been duly authorized by all necessary action of the Recipient and no other proceedings on the part of the Recipient are necessary to authorize this Agreement or to consummate the transactions contemplated hereby.

(j) The Recipient has available or has the capacity to secure funds necessary to cover, as and when incurred, the costs and expenditures necessary for the completion of the Project, as identified in the Application and this Agreement.

(k) The Recipient is not making these representations and warranties specifically based upon information furnished by WEDC.

(l) These warranties and representations herein are true and accurate as of the Effective Date of this Agreement, and shall survive the execution thereof.

(m) The information disclosed to WEDC in the course of WEDC's evaluation of the Recipient's eligibility for the Program does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein, taken as a whole and in light of the circumstances under which they were made, not misleading.

**10. Wisconsin Public Records Law.** The Recipient understands that this Agreement and other materials submitted to WEDC may constitute public records subject to disclosure under Wisconsin's Public Records Law, Wis. Stats. §§ 19.31-.39, and any successor statutes and regulations.

## **11. Additional Requirements.**

(a) Project Records and Financial Records. The Recipient shall prepare, keep and maintain such records as may be reasonably required by WEDC to validate the Recipient's performance under this Agreement, whether held by the Recipient or by a third-party conducting Project-related activities on behalf of the Recipient, and the performance reports provided to WEDC. All of the Recipient's financial records shall be complete and accurate, and prepared, kept, and maintained in accordance with Generally Accepted Accounting Principles. The Recipient shall provide such records to WEDC during the term of this Agreement as may be requested by WEDC. Such materials shall be retained by the Recipient for a period of at least Three (3) years after March 1, 2026.

(b) Inspection.

(i) WEDC and its respective agents, shall, upon Forty-Eight (48) hours advance written notice to the Recipient, have the right to enter the Recipient's premises, during normal business hours, to inspect the Recipient's operations documentation relating to this Agreement, provided, however, that such access does not unreasonably disrupt the normal operations of the Recipient.

(ii) The Recipient shall produce for inspection, examination, auditing and copying, upon reasonable advance notice, any and all records which relate to this Agreement, whether held by the Recipient or by a third-party conducting Project-related activities on behalf of the Recipient.

(iii) WEDC reserves the right to conduct physical site visits of the Project during the term of this Agreement.

(c) Authorization to Receive Confidential Information. The Recipient hereby authorizes WEDC to request and receive confidential information that the Recipient has submitted to, including any adjustments to such information by, the Wisconsin Department of Revenue ("DOR") and the Wisconsin Department of Workforce Development ("DWD"), and to use such information solely for the purposes of assessing the Recipient's performance for the duration of the Project and ensuring that WEDC is properly administering or evaluating economic development programs. With regard to the information contained in the DWD unemployment insurance files, WEDC may access the following for the Eight (8) most recent quarters: the quarterly gross wages paid to the Recipient's employees; the monthly employee count; and the Recipient's FEIN, NAICS code, and legal and trade names. The Recipient also authorizes WEDC to share information submitted to WEDC by the Recipient with the DOR and DWD and to redisclose to the public the information received from the DOR and DWD used to evaluate the Recipient's performance under their specific economic development program and the impact of WEDC economic development programs. Records exempted from the public records law by Wis. Stat. § 19.36(1) will be handled by WEDC in accordance with that law.

(d) Consolidation or Merger. During the term of this Agreement, the Recipient shall provide written notice to WEDC within Thirty (30) days of any consolidation or merger with or into any other unrelated corporation or business entity.

(e) Public Announcement. The Recipient agrees to cooperate with WEDC in making a public announcement of this Agreement.

(f) Insurance. The Recipient covenants that it will maintain insurance in such amounts and against such liabilities and hazards as customarily is maintained by other companies operating similar businesses.

(g) Online Portal and Document Delivery. Recipient agrees to respond timely to any invitation sent by WEDC to create an online account for use with WEDC's online customer portal ("Portal"). Upon opening the account, Recipient hereby agrees to use the Portal to submit any required performance reports, schedule of expenditures and supporting documentation, unless WEDC directs otherwise. Recipient further agrees to identify appropriate assigned users, duly authorized by Recipient, to serve as contacts, to execute necessary documents, and to support specific tasks Recipient must complete in the Portal. WEDC may, in its sole discretion, rely on any document, performance report, schedule of expenditures, financial statement, tax return, agreement or other communication ("Document") physically delivered to WEDC by mail, hand delivery, delivery service, email, facsimile, the Portal or other electronic means which WEDC in good faith believes was sent by Recipient or any representatives or employees of Recipient. WEDC may treat any Document as genuine and authorized to the same extent as if it was an original document validly executed or authenticated as genuine by Recipient. WEDC may from time to time in its sole discretion reject any such Document and require a signed original or require Recipient to provide acceptable authentication of any such Document before accepting or relying on the same. Recipient understands and acknowledges that there is a risk that Documents sent by electronic means may be viewed or received by unauthorized persons and Recipient agrees by sending Documents by electronic means that Recipient shall be deemed to have accepted this risk and the consequences of any such unauthorized disclosure. Recipient also agrees to create an account with Bill.com and provide a Payment Network ID in order to receive any payments from WEDC. Recipient accepts any risk associated with creating an account with Bill.com and releases WEDC from any liability related thereto.

**12. Conflicts.** In the event of any conflict between the provisions of this Agreement and any accompanying documents, the terms of this Agreement control.

**13. Choice of Law. THIS AGREEMENT AND ALL MATTERS RELATING TO IT OR ARISING FROM IT – WHETHER SOUNDING IN CONTRACT LAW OR OTHERWISE – SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED PURSUANT TO, THE LAWS OF THE STATE OF WISCONSIN.**

**14. Venue, Jurisdiction.** Any judicial action relating to the construction, interpretation, or enforcement of this Agreement, or the recovery of any principal, accrued interest, court costs, attorneys' fees and other amounts owed hereunder, shall be brought and venued in the U.S. District Court for the Western District of Wisconsin or the Dane County Circuit Court in Madison, Wisconsin. **EACH PARTY HEREBY CONSENTS AND AGREES TO JURISDICTION IN THOSE WISCONSIN COURTS, AND WAIVES ANY DEFENSES OR OBJECTIONS THAT IT MAY HAVE ON PERSONAL JURISDICTION, IMPROPER VENUE OR FORUM NON CONVENIENS.**

**15. Waiver of Right to Jury Trial. EACH PARTY WAIVES ITS RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY JUDICIAL ACTION OR PROCEEDING THAT MAY ARISE BY AND BETWEEN WEDC AND THE RECIPIENT CONCERNING OR RELATING TO THE CONSTRUCTION, INTERPRETATION OR ENFORCEMENT OF THIS AGREEMENT, OR THE RECOVERY OF ANY PRINCIPAL, ACCRUED**

**INTEREST, COURT COSTS, ATTORNEYS' FEES AND OTHER AMOUNTS THAT MAY BE OWED BY THE RECIPIENT HEREUNDER. THIS JURY TRIAL WAIVER CONSTITUTES A SUBSTANTIAL CONSIDERATION FOR AND INDUCEMENT TO THE PARTIES TO ENTER INTO THIS AGREEMENT.**

**16. Limitation of Liability.** RECIPIENT HEREBY WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER FROM WEDC ANY SPECIAL, EXEMPLARY, PUNITIVE, CONSEQUENTIAL, OR DAMAGES OF ANY OTHER NATURE OTHER THAN ACTUAL DAMAGES INCURRED OR SUFFERED BY RECIPIENT.

**17. Severability.** If any provision of this Agreement is held invalid or unenforceable by any Governmental Body of competent jurisdiction, such invalidity or unenforceability shall not invalidate the entire Agreement. Instead, this Agreement shall be construed as if it did not contain the particular provision or provisions held to be invalid or unenforceable, and an equitable adjustment shall be made and necessary provisions added so as to give effect to the intention of the parties as expressed in this Agreement at the time of the execution of this Agreement and of any amendments to this Agreement. In furtherance of and not in limitation of the foregoing, the parties expressly stipulate that this Agreement shall be construed in a manner that renders its provisions valid and enforceable to the maximum extent (not exceeding its express terms) possible under applicable law. "Governmental Body" means any federal, state, local, municipal, foreign or other government; courts, arbitration commission, governmental or quasi-governmental authority of any nature; or an official of any of the foregoing.

**18. WEDC is Not a Joint Venturer or Partner.** WEDC shall not, under any circumstances, be considered or represented to be a partner or joint venturer of the Recipient or any beneficiary thereof.

**19. Captions.** The captions in this Agreement are for convenience of reference only and shall not define or limit any of the terms and conditions set forth herein.

**20. No Waiver.** No failure or delay on the part of WEDC in exercising any power or right under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any such power or right preclude any other exercise of any other power or right.

**21. Entire Agreement.** This Agreement embodies the entire agreement of the parties concerning WEDC's and the Recipient's obligations related to the subject of this Agreement. This Agreement may not be amended, modified or altered except in writing signed by the Recipient and WEDC. This Agreement supersedes all prior agreements and understandings between the parties related to the subject matter of this agreement.

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, WEDC and the Recipient have executed and delivered this Agreement effective the date set forth next to WEDC’s signature below.

**WISCONSIN ECONOMIC DEVELOPMENT CORPORATION**

By: \_\_\_\_\_ Date \_\_\_\_\_  
Melissa L. Hughes,  
Secretary and CEO

**CITY OF APPLETON**

By: \_\_\_\_\_ Date \_\_\_\_\_  
Jake Woodford,  
Mayor

Notices to the Recipient hereunder shall be in writing and shall be deemed to have been given: (i) at the time it is sent, as recorded by the WEDC’s system, when sent by electronic mail during a business day or, if sent after the close of normal business hours on a business day or sent on a non-business day, at the start of normal business hours on the next business day or (ii) Three (3) Business Days after deposit in the United States mail, certified and with proper postage prepaid, addressed as follows:

City of Appleton  
100 N. Appleton St.  
Appleton, WI 54911  
Attn: Chris Behrens  
Email: [chris.behrens@appleton.org](mailto:chris.behrens@appleton.org)

Notices to WEDC hereunder shall be in writing and shall be deemed to have been given: (i) at the time it is sent, as recorded by Recipient’s system, when sent by electronic mail during a business day or, if sent after the close of normal business hours on a business day or sent on a non-business day, at the start of normal business hours on the next business day or (ii) Three (3) Business Days after deposit in the United States mail, certified and with proper postage prepaid, addressed as follows:

Wisconsin Economic Development  
Corporation  
Division of Credit & Risk  
P.O. Box 1687  
Madison, WI 53701  
Attn: Community Development Investment  
Contract # CDI FY23-53405  
Email: [legal@wedc.org](mailto:legal@wedc.org)

**EXHIBIT A  
REQUEST FOR WEDC PAYMENT**

Award Number: CDIFY23-53405		Rep:	Recipient: City of Appleton
FEIN #	Bill.com Payment Network ID (PNI):		Request Number:
Program: Community Development Investment			Award Type: Grant
Funding Period Covered by this Request From: _____ To _____			

**PROJECT EXPENSES INCURRED/PAID DURING THIS PERIOD (see attachment)**

Budget Code	Description Line Item	WEDC Funding This Period	+	Matching Funding This Period	=	Total This Period
0190	Demolition/Site Clearance					
0237	Site Preparation					
0200	Construction					
0415	Infrastructure					
<b>TOTAL:</b>						

- Check here if this is the Final Request for Payment. If there is a balance remaining on the Project it may be lapsed.

**PAYMENT/PROJECT EXPENSE/MATCH DESCRIPTION** - Disbursement

Prior to the release of funds, the following requirements must be met (to be initialed by WEDC staff):

- Recipient creating a Bill.com account unless Recipient has an existing account with Bill.com. Instructions for creating a Bill.com account will be provided by WEDC under separate cover. Recipient shall provide their Payment Network ID to WEDC with each request for payment. \_\_\_\_\_
- The Recipient submitting to WEDC a summary report of the Eligible Project Costs incurred against both the CDI Funds and Matching Funds. The amount of Matching Funds incurred for any request must be in an amount pro rata with the amount incurred against the CDI Funds being requested. \_\_\_\_\_
- The Recipient submitting to WEDC documentation evidencing that the Eligible Project Costs incurred at the Project Location against both the CDI Funds and Matching Funds covered by the disbursement request have been purchased or will be purchased through an invoice, receipt, registration form, or other third-party documentation that contains the following information: Vendor name and contact information; Description of the item(s) purchased; Cost of purchase; Date of purchase (invoice date or date received, not date ordered unless it is the same). \_\_\_\_\_
  - Recipient is not required to submit proof of purchase documentation (invoice, receipt, registration form, or other third-party documentation) for Matching Funds above \$250,000 or CDI Funds above \$250,000.
- The Recipient being in compliance with this Agreement, and with any other agreements by and between the Recipient and WEDC. \_\_\_\_\_
- The Recipient requesting all CDI Funds no later than February 28, 2026. \_\_\_\_\_

I hereby certify that the expenses reported on this form are in accordance with the terms of the Agreement and that complete and accurate records are being kept to substantiate such expenses.

\_\_\_\_\_  
**Authorized Recipient Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
WEDC Division VP or Designee

\_\_\_\_\_  
Date

\_\_\_\_\_  
WEDC Servicing

\_\_\_\_\_  
Date

\_\_\_\_\_  
WEDC Controller or Finance Department

\_\_\_\_\_  
Date

Retain a copy of the completed form for your records and email a copy of the original and documentation to:  
[disbursements@wedc.org](mailto:disbursements@wedc.org). The hard copy may be required to be sent upon request.





*"...meeting community needs...enhancing quality of life."*

# MEMORANDUM

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TO: Community and Economic Development Committee (CEDC)  
FROM: Karen Harkness, Director of Community & Economic Development  
DATE: September 28, 2022  
RE: CDI Grant Application to WEDC – Merge Urban Development

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Staff is proposing to submit a Community Development Investment (CDI) grant application to Wisconsin Economic Development Corporation (WEDC) on behalf of and in collaboration with the owners of Merge Urban Development. This grant is designed to support private investment in new construction projects. The grant amount shall not exceed \$250,000, and the funds will be used for redeveloping a parcel within the downtown area. The project is known as Urbane115. The CDI grant does require a 1:1 match, and the developer's investment would count towards this match.

Urbane115 will be a 5-story mixed-use building on a vacant site at 115 E. Washington Street. The project is located in the City of Appleton's downtown, near College Avenue, City Center, and the Fox Cities Performing Arts Center. The project includes 56 residential units, a mix of: furnished studios, studios, one-bedroom units, and two-bedroom units. There will be 6,129 square feet of leasable commercial space on the first floor, which is designed to be divisible. The total project cost is \$12+ million. The project site is located in Outagamie County – Census Tract 55087010100 – a federally-designated Qualified Opportunity Zone.

In 2019, the City of Appleton began working with Merge Urban Development Group, the developer of Urbane115, to identify a project site for a mixed-use development that would aid in filling the City's gap in housing and respond to the City's Comprehensive & Downtown Plans. The development agreement was executed in August 2021, and the site was acquired shortly thereafter.

If awarded the grant, an agreement with the developer will need to be approved by Common Council at a future meeting which will outline how the grant funds will be disbursed and other WEDC grant requirements that need to be followed by the City and the property owners.

Please feel free to contact me at 920-832-6468 with any questions, or by email at [karen.harkness@appleton.org](mailto:karen.harkness@appleton.org).

## **Staff Recommendation:**

The submission of the WEDC CDI grant applications **BE APPROVED** and the City accept the WEDC CDI grant funds should they be awarded.

**Resolution No. 2022-07**

**AUTHORIZING THE SUBMISSION OF A WISCONSIN ECONOMIC DEVELOPMENT CORPORATION  
GRANT APPLICATION FOR THE COMMUNITY DEVELOPMENT INVESTMENT GRANT PROGRAM  
ON BEHALF OF MERGE URBAN DEVELOPMENT GROUP; ACCEPT FUNDS**

INITIATED BY: CITY OF APPLETON COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT

WHEREAS, the Wisconsin Economic Development Corporation (WEDC) has grant funds available for projects to support local initiatives with a downtown emphasis by providing financial incentives for projects that are downtown community driven; and

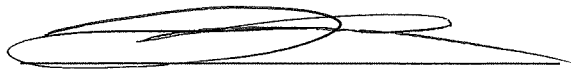
WHEREAS, local municipalities are an eligible applicant and can apply for said grant funds; and

WHEREAS, the City of Appleton is applying for said grant funds for the proposed mixed-use project at 115 East Washington Street to offset costs incurred by the private developer.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Appleton that the proper City officials are hereby authorized to submit a Community Development Investment grant application to Wisconsin Economic Development Corporation to obtain funds for said purpose.

BE IT FURTHER RESOLVED that if said grant funds are awarded, the proper City officials are hereby authorized and directed to accept said funds, pursuant to the terms of the grant application, and to execute any and all documents and assurances which may be required for purposes of same.

Adopted this 5th day of October, 2022.



Jacob A. Woodford, Mayor



Attest: Kami Lynch, City Clerk



# MEMORANDUM

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TO: Community and Economic Development Committee (CEDC)

FROM: Matt Rehbein, Economic Development Specialist

DATE: March 8, 2023

RE: Business/Industrial Park Land Sale and Option Prices

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Staff completes an annual review of the selling price of land in the City's business/industrial parks to see how competitive Appleton is with surrounding communities. Currently, the selling price of land in the City of Appleton's Southpoint Commerce Park is \$40,000.00/acre. The City has no remaining parcels for sale in the Northeast Business Park (NEBP).

There are currently 3 lots that are privately held and not developed in the Northeast Business Park subject to the City's right to repurchase. Privately owned, undeveloped lots are flagged in the City's AS400 system, and notification is given on the real estate inquiry form to ensure the City's right to repurchase is triggered as appropriate.

In the Southpoint Commerce Park, there are 21 fully improved lots available, of which 5 are under contract with F Street Development. The total inventory not under contract is approximately 51 acres. In 2022, 3.25 acres were sold to Farrell Investments and 2.16 acres were sold to Romenesko Developments (details in attached Industrial Land Sales Comparison – Exhibit A). Construction of a 250,000 square foot distribution warehouse was started by F Street in 2022, and Farrell Investments is expanding their existing facility. The City has an additional approximately 100 acres in Southpoint that are undeveloped that will yield approximately 80 developable acres. All available lots in the Southpoint Commerce Park are served by regional stormwater detention, and a wetland delineation was completed in 2020. See attached map for the available lots in Southpoint.

In order to ascertain how competitive Appleton is with neighboring communities, staff prepared an Industrial Land Asking Price Comparison (Exhibit B). Data was gathered from: direct contact with sellers, CoStar (which is a commercial real estate listing and comparable data service), and the Wisconsin Department of Revenue. There are additional lots marketed as available for industrial in the Fox Cities, but many of those could also be commercial which commands a much higher price and are not good comparables. All referenced industrial lots are broken down into one of three categories:

- 1) Municipally owned lots available for sale.
- 2) Privately owned lots available for sale.
- 3) Recent sales comparison.

In determining the sale price of lots, staff considers several factors, including the City's investment in creating the business park, cost to develop at these locations, competitive lot pricing, and uses of the property. It should also be noted that land pricing is but one component of actual "cost" when a business is considering a purchase in a business/industrial park. Infrastructure, access, availability of TIF financing and other incentives are all factored in.

Site selectors and businesses seeking new locations have shared with staff that the ability to respond quickly and creatively is crucial to landing deals. This has proved true for all recent transactions. Each company is going to have different priorities, beyond land price alone, such as infrastructure, approval process, timing, TIF contributions, etc. Effective January 1, 2023, TIF #6 is no longer on the tax roll. Staff is in the process of finalizing documentation for the closure of TIF #6 with the State of Wisconsin. This further increases the importance for the City to be in a position to act quickly and decisively when transactions come forward to ensure we secure sales in the business/industrial parks. We have been successful in doing this with all sale transactions over the past few years. In 2023, we still need to be responsive, but with a tightening market, we may not need to be as generous on financial incentives.

The industrial market for lease and purchase space has been tightening up over the past few years, creating a scarcity of large and small industrial space. As a result, we have seen increased activity in the Southpoint Commerce Park (both contracts and inquiries). This has generated greater interest in "speculative" building and, in turn, more inquiries about optioning land. In 2020, Council approved an option fee of 2% of the purchase price per year for parcels in excess of 5 acres. The option fee for lots less than 5 acres remains at 1% of the purchase price per year. This helps protect the City's inventory of marketable parcels while preserving the smaller users' ability to ensure they have control of their expansion space.

Additionally, when a real estate broker has been involved in the sale of a parcel in Southpoint, the City has historically paid a commission of eight percent (8%) of the sale price to procuring broker. This is the market rate for commissions on land sales and helps attract/retain the assistance of real estate brokers.

Based on this analysis, staff would recommend the City increase its current selling price to \$43,000 for business/industrial park land and option fees as outlined below. This puts Appleton in the middle range with regard to land prices.

**Staff Recommendation:**

*The City of Appleton increase selling prices for business/industrial park land as follows:*

***Southpoint Commerce Park***

*All lots - \$43,000/Acre*

*The City of Appleton hold option fees to reflect 1% of the purchase price annually for lots of 5 or less acres and 2% of the purchase price annually for lots greater than 5 acres. The City continue to pay a commission of eight percent (8%) of the sale price when licensed broker is procuring cause for a transaction.*

*Note: Land prices are for fully improved lots and include the cost of concrete pavement.*

**EXHIBIT A**

**2010-2022 INDUSTRIAL LAND SALES COMPARISON (Municipal & Private Sales)**

<i>Location</i>	<i>Sale Price</i>	<i>Size (In Acres)</i>	<i>Price/Acre</i>	<i>Sale Date</i>	
E Glendale (NEBP)	\$235,000	7.92	\$29,672	Nov-22	Partially usable (Wetlands)
Consolidated Ct., Grand Chute	\$525,000	5.35	\$98,131	Aug-22	Southwest Park
1401 E Evergreen, Grand Chute	\$715,000	17.59	\$40,648	May-22	
Southpoint (Appleton)	\$130,000	3.25	\$40,000	May-22	Farrell Investments
Southpoint (Appleton)	\$86,400	2.17	\$39,816	Apr-22	Romenesko Developments, Inc.
Southpoint (Appleton)	\$1,339,120	35.23	\$38,011	Dec-21	F Street Development (Phase II)
Southpoint (Appleton)	\$555,180	14.61	\$38,000	Sep-20	F Street Development (Phase I)
2433 Airport Park Dr. Greenville	\$108,000	2.62	\$41,221	Aug-20	Red Top Cab Co.
NEBP (Appleton)	\$57,600	1.44	\$40,000	Jul-20	S&D Masonry
892 Cold Spring Rd. Fox Crossing	\$129,000	3.5	\$36,857	Jan-20	Keeney Properties LLC
Southpoint (Appleton)	\$144,072	3.48	\$41,400	Oct-19	Custom Offsets
Southpoint (Appleton)	\$130,000	3.25	\$40,000	Nov-19	Messenger Property Management
Southpoint (Appleton)	\$168,400	4.21	\$40,000	May-19	New Morning Coffee Roasters
Greenville Dr. Greenville	\$1,109,920	32.3	\$34,362	Jul-19	Burns & McDonnell
Randolph Dr. Kaukauna	\$152,000	4	\$38,000	2019	Velocity Water Works
Evergreen Dr. Little Chute	\$1,100,000	20	\$55,000	Jan-19	Faith Technologies
Southpoint (Appleton)	\$511,000	14.6	\$35,000	Sep-18	Becknell Industrial
7241 Cty Rd. BB Neenah	\$679,000	41.54	\$35,000	Jun-18	
Oak Grove Rd. Prosperity Ctr., Kaukauna	\$186,200	4.90	\$38,000	Sep-17	Lot 6
Oak Grove Rd. Prosperity Ctr., Kaukauna	\$117,800	3.10	\$38,000	Sep-17	Lot 8
Oak Grove Rd. Prosperity Ctr., Kaukauna	\$117,040	3.08	\$38,000	Sep-17	Lot 9
CB & Rockwood Ln., Neenah (Town of)	\$208,623	10.60	\$19,681	Sep-17	Stuff-N-Storage (A-2 General Farming zoning)
Endeavor Dr., Appleton (SPCP)	\$132,000	3.30	\$40,000	Aug-17	Manda Panda Properties
Endeavor Dr., Appleton (SPCP)	\$150,300	3.34	\$45,000	Aug-17	Alco Tech
Integrity Way, Grand Chute	\$83,000	2.72	\$30,503	Jan-17	
Plank Rd. & Eisenhower, Appleton (SPCP)	\$329,400	7.32	\$45,000	Sep-16	Encapsys
Kaukauna Ind. Park	\$79,800	2.10	\$38,000	May-16	NorthStar Coop
Capitol Dr., Appleton (NEBP)	\$75,950	2.17	\$35,000	Mar-16	Romenesko Developments, Inc.
Goodland/Conkey, Appleton (NEBP)	\$100,000	2.69	\$37,175	Dec-15	Quantum Healthcare
Kaukauna Ind. Park	\$228,000	6.00	\$38,000	Jul-15	Polyflex
Capitol Dr., Appleton (NEBP)	\$155,750	4.45	\$35,000	May-15	RP5, LLC
Goodland Dr., Appleton (NEBP)	\$115,200	2.88	\$40,000	Apr-15	Farrell Investments
Lakeland Dr., Appleton (SPCP)	\$58,000	1.37	\$42,336	Sep-13	Flair

\*SPCP=Southpoint Commerce Park

\*\*NEBP=Northeast Business Park

Sources:

*Seller Contact  
CoStar  
WI Dept. of Revenue*

**EXHIBIT B****INDUSTRIAL LAND ASKING PRICE COMPARISON****Municipally Owned Land Asking Price Comparison**

<i>Municipality</i>	<i>Ask Price/Acre</i>	<i>Regional Stormwater</i>	<i>Concrete Streets</i>	<i>Utilities</i>	<i>Incentives</i>
Appleton	\$40,000	Y	Y	Y	N/A
Neenah	\$35,000	Y	Y	Y	TIF/Land grant
Kaukauna	\$34,000 to \$50,000	Y	Y	Y	Redevelopment Authority loans

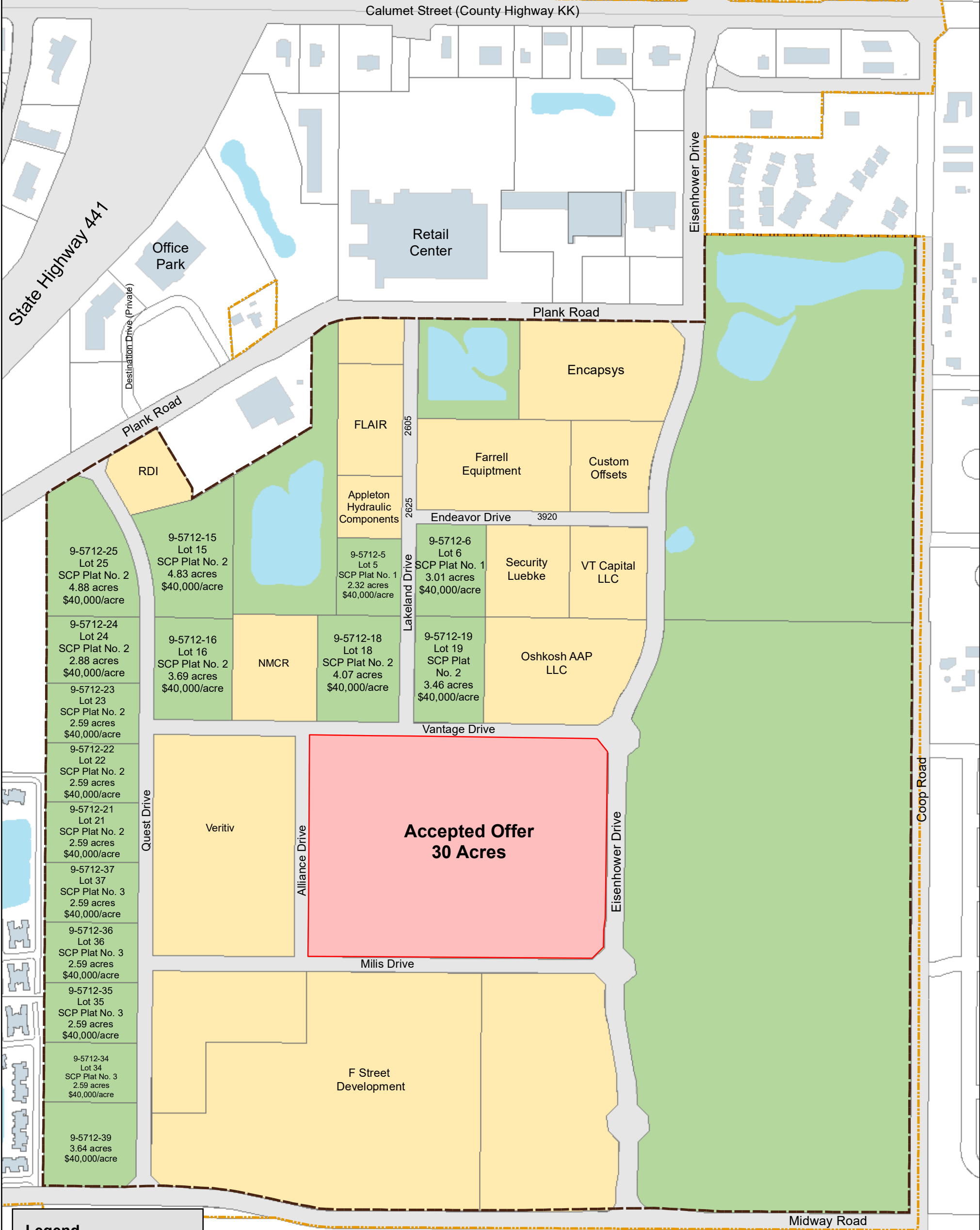
**Privately Owned Land Asking Price Comparison (Over 10 acres, per CoStar listings)**

<i>Municipality of Private Property</i>	<i>Ask Price/Acre</i>	<i>Largest Contiguous Lot (In Acres)</i>	<i>Location</i>	<i>Notes</i>
Grand Chute	\$49,500	16.00	McCarthy Rd.	Divisible/Sewer and water at lot line
Little Chute	\$57,143	21.00	4001 Freedom Rd.	Water/Sewer/Gas across road
Grand Chute	\$61,990	31.86	Consolidated Ct.	Usability limited
Fox Crossing	\$48,500	41.54	7241 Cty. Rd. BB	Municipal utilities available

Sources:

*Seller Contact*  
*CoStar*  
*WI Dept. of Revenue*

# Southpoint Commerce Park Appleton, Wisconsin



**Legend**

- Accepted Offer
- City Limits
- Park Boundary
- For Sale (City Owned)
- Privately Owned Parcels

