



City of Appleton

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

Meeting Agenda - Final Community & Economic Development Committee

Wednesday, February 6, 2019

6:15 PM

Council Chambers, 6th Floor

SPECIAL

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

[19-0088](#) CEDC Minutes from 11-28-18

Attachments: [CEDC Minutes 11-28-18.pdf](#)

4. Public Hearings/Appearances

5. Action Items

[19-0089](#) Request to approve the Development Agreement between the City of Appleton and Gabriel Lofts, LLC in Tax Increment Financing District No. 11

Attachments: [Memo Recommend Gabriel Lofts LLC Dev Agrmt.pdf](#)

[Gabriels - Dev Agrm - City - Clean - 01-28-2019.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 Karen Harkness, Director, Community and Economic Development Department at 920-832-6468.

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



City of Appleton

100 North Appleton Street
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Meeting Minutes - Final Community & Economic Development Committee

Wednesday, November 28, 2018

4:30 PM

Council Chambers, 6th Floor

1. Call meeting to order

Meeting called to order at 4:30 p.m.

2. Roll call of membership

Present: 4 - Coenen, Reed, Alderperson Baker and Alderperson Dvorachek

Excused: 1 - Alderperson Plank

Others present:

Alderperson Kyle Lobner, District #13

Julie Lopas, St. Bernadette, 2331 E. Lourdes Drive

Jerry Lopas, St. Bernadette, 2331 E. Lourdes Drive

Jody Lueck, St. Bernadette, 2331 E. Lourdes Drive

Peter Thillman, Fox Cities Regional Partnership, 125 N. Superior Street

Kathi Seifert, 3091 Fox Run

Becky Bartoszek, Fox Cities Chamber, 125 N. Superior Street

Chip Wood, Rebuilding Together Fox Valley

Beth Schnorr, Harbor House

3. Approval of minutes from previous meeting

[18-1532](#)

CEDC Minutes from 10-10-18

Attachments: [CEDC Minutes 10-10-18.pdf](#)

Alderperson Baker moved, seconded by Reed, that the Minutes be approved.

Roll Call. Motion carried by the following vote:

Aye: 4 - Coenen, Reed, Alderperson Baker and Alderperson Dvorachek

Excused: 1 - Alderperson Plank

4. Public Hearings/Appearances

5. Action Items

[18-1650](#)

Request to approve 2019-2020PY Community Development Block Grant (CDBG) Community Partner Allocation Recommendations

Attachments: [Alloc Recs Memo to CEDC 11-28-18.pdf](#)
[2019 CDBG Simple Summary of Recommendations.pdf](#)
[2019 CDBG Community Partner Recommendations.pdf](#)
[2019 CDBG Advisory Board Membership.pdf](#)
[CDBG Policy Adopted July 2015.pdf](#)

Alderson Baker moved, seconded by Alderson Dvorachek, that the Report Action Item be recommended for approval. Roll Call. Motion carried by the following vote:

Aye: 4 - Coenen, Reed, Alderson Baker and Alderson Dvorachek

Excused: 1 - Alderson Plank

[18-1533](#)

Request to counter the Offer to Purchase of Lot 17, Southpoint Commerce Park, Plat 2 from New Morning Coffee Roasters, Inc. at a purchase price of \$168,400 (\$40,000 per acre), comprised of approximately 4.21 acres; and, contingent upon acceptance of that counter-offer, staff is then authorized to negotiate and execute a development or like agreement providing City investment in the project of up to 50% of the land purchase amount (50% of \$168,400 = \$84,200)

Attachments: [Memo on Offer to Purchase Lot 17 Southpoint Commerce.pdf](#)
[New Morning Coffee Roasters_OTP_Lot 17 Southpoint Plat 2.pdf](#)
[Map Lot 17 Southpoint Commerce Park Plat 2.pdf](#)

Alderson Baker moved, seconded by Reed, that the Report Action Item be recommended for approval. Roll Call. Motion carried by the following vote:

Aye: 4 - Coenen, Reed, Alderson Baker and Alderson Dvorachek

Excused: 1 - Alderson Plank

[18-1534](#)

The Community and Economic Development Committee may go into closed session pursuant to State Statute §19.85(1)(e) for the purpose of discussing real estate negotiations regarding the potential sale of Lot 17 in the Southpoint Commerce Park, Plat 2 and then reconvene into open session

The Committee did not go into closed session.

[18-1666](#)

Request to consider reallocation or refund of the \$25,000 from the 2018 budget to fund the Fox Cities Regional Partnership program, Talent Upload, which was cancelled

Attachments: [Memo to CEDC Talent Upload Support 2018_Nov.28.18.pdf](#)
[Talent Upload Funds 2018 Attachments.pdf](#)
[Fox Cities Regional Partnership PowerPoint Presentation.pdf](#)

Aldersperson Dvorachek moved, seconded by Coenen, that the Report Action Item be held until the December 12 CEDC meeting. Roll Call. Motion failed by the following vote: Aye: 2 - Dvorachek and Coenen, Nay: 2 - Baker and Reed

Clarification on the motion to approve: The recommendation is to approve reallocation of the funds to other programming within the Fox Cities Regional Partnership, not refund.

Aldersperson Dvorachek moved, seconded by Reed, that the Report Action Item be recommended for approval. Roll Call. Motion carried by the following vote:

Aye: 4 - Coenen, Reed, Aldersperson Baker and Aldersperson Dvorachek

Excused: 1 - Aldersperson Plank

6. Information Items

[18-1651](#)

Contract with Ehlers to prepare project plan amendments to Tax Incremental Financing (TIF) Districts #3 and #11 in an amount not to exceed \$16,650

Attachments: [Ehlers Amend TIDs 3 and 11 Memo.pdf](#)
[Appleton ProjectDisclosure 2019 TID No. 3 and 11 Territory Amendments.pdf](#)
[Map of TIFs 3, 11, 12.pdf](#)
[ProcurementandContractManagementPolicy_SoleSource.pdf](#)

This item was presented.

7. Adjournment

Aldersperson Baker moved, seconded by Reed, that the meeting be adjourned at 5:23 p.m. Roll Call. Motion carried by the following vote:

Aye: 4 - Coenen, Reed, Aldersperson Baker and Aldersperson Dvorachek

Excused: 1 - Aldersperson Plank



MEMO

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

TO: Community & Economic Development Committee
CC: Director Harkness, Director Saucerman, Deputy City Attorney Behrens
FROM: Monica Stage, Deputy Director
DATE: January 23, 2019
RE: Request Approval of the Development Agreement between the City of Appleton and Gabriel Lofts, LLC in TIF District #11

Tax Increment Financing District Number 11 (TIF District #11) was created by the City of Appleton in August 2017 under the authority provided by Wisconsin Statute Section 66.1105 "Tax Increment Law" to eliminate blight and stimulate the redevelopment of this urban corridor. TIF District #11 was created as a "Blighted District" based upon the finding that at least 50%, by area of the real property within the District, is blighted within the meaning of Wisconsin Statute Section 66.1105 and 66.1333.

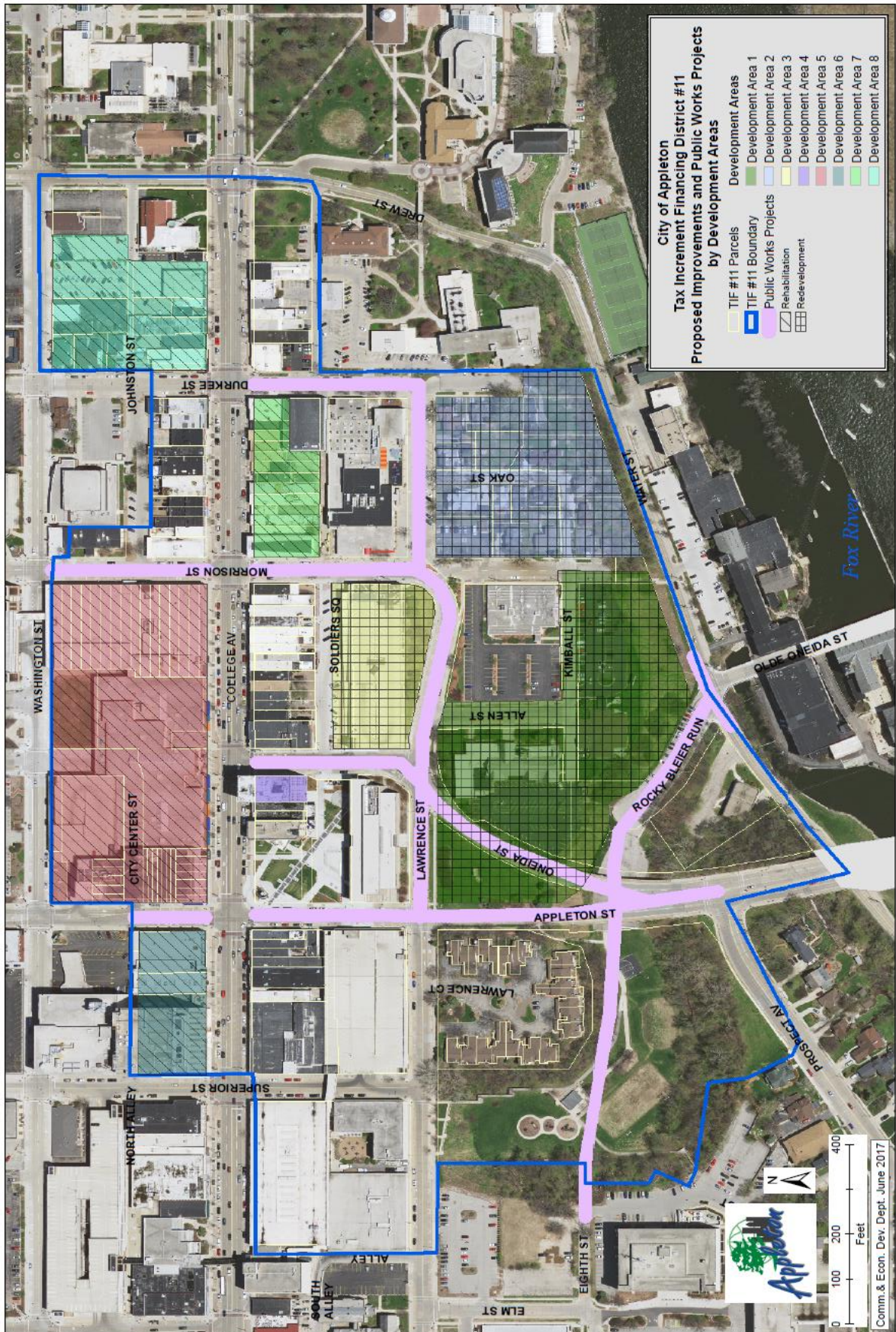
TIF District #11 is located along East College Avenue from approximately Drew Street to just west of Superior Street, south to Water Street and north to E. Washington Street. A map of TIF District #11 is included on the following page.

Gabriel Lofts, LLC has requested assistance to support the rehabilitation of the historic building at 201 East College Avenue, in addition to the demolition and reconstruction of the buildings at 207-209 East College Avenue; to create a cohesive mixed-used development with approximately twenty-one (21) residential units, first floor commercial space and parking. A conceptual site plan is included as Exhibit B of the Development Agreement.

Based on the analysis of current value of the property, projected value of the property and review of proposed expenses, TIF District #11 could make available the lesser of: i) \$900,000 or ii) twenty-one percent (21%) of the Tax Increment Value as of January 1, 2023, plus interest thereon to support the rehabilitation and construction work for Gabriel Lofts, LLC. The TIF investment would be payable over the next approximately 20 years based on the increased property tax payments with payments terminating when the Contribution is paid in full or August 15, 2039, whichever occurs first.

Staff Recommendation:

The Development Agreement between the City of Appleton and Gabriel Lofts, LLC BE APPROVED.



TAX INCREMENT DISTRICT NO. 11 DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is dated as of the ___ day of February, 2019, by and among Gabriel Lofts, LLC, a Wisconsin 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 at 201 E. College Avenue (Parcel 31-2-0031-00), 207 E. College Avenue (Parcel 31-2-0030-00) and 209 E. College Avenue (Parcel 31-2-0031-00), Appleton, WI more particularly described in Exhibit A, attached hereto (collectively 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 a mixed-use project containing approximately 21 residential apartments as well as ground floor retail and/or office space (the "Project") that, among other things, includes rehabilitation of a historic commercial building as well as new construction. 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 February ____, 2019 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 \$643,800. The Developer estimates the project will create up to an additional \$4,000,000 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's Project 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 the clearing, grading and redevelopment 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.

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 apartments within the Project (hereafter "completion")) the City will provide payments to Developer solely from 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) \$900,000; or ii) twenty-one percent (21%) of the Tax Increment Value as of January 1, 2023, 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. 4.2

2.3.3 Interest on the Contribution shall begin to accrue upon completion of the Project. The interest rate on the Contribution shall be the 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) five percent (5%).

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; 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 shall have occurred:

4.1.1 The Project's completion.

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

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

4.2.2 The statutory life of the District expires (in September 2044).

4.2.3 Developer fails to complete the Project on or before December 31, 2022, subject to extension for Force Majeure.

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
Attention: 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:

Gabriel Lofts, LLC
c/o Mr. Paul Klister
100 West Lawrence Street, Suite 214
Appleton, WI 54911

With a copy to:

Bruce T. Block, Esq.
Reinhart Boerner Van Deuren s.c.
1000 North Water Street, Suite 1700
Milwaukee, WI 53202

ARTICLE VII ASSIGNMENT

7.1 No party to this Agreement may assign any of its interest or obligations hereunder without first obtaining the written consent of the other party.

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: _____
Timothy M. Hanna, Mayor

ATTEST:

By: _____
Kami L. Lynch, City Clerk

STATE OF WISCONSIN)
 : ss.
OUTAGAMIE COUNTY)

Personally came before me this ____ day of _____, 2019, Timothy M. Hanna, 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: _____
Notary Public, State of Wisconsin
My commission is/expires: _____

APPROVED AS TO FORM:

James P. Walsh, City Attorney
Gabriels – Dev Agrm – City - Clean – 01-28-2019
Dated Updated: January 28, 2019
By: Christopher R. Behrens
City Law A18-0905

DEVELOPER:

Gabriel Lofts, LLC

By: _____
_____, Principal

STATE OF WISCONSIN)
 : ss.
OUTAGAMIE COUNTY)

Personally came before me this ____ day of _____, 2019,
_____, Principal, to me known to be the person who executed the
foregoing instrument and acknowledged the same in the capacity and for the purposes therein
intended.

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

SCHEDULE OF EXHIBITS

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

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

All of Lots Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), and Fifteen (15) in Block Three (3), APPLETON PLAT (AKA 2nd Ward Plat), City of Appleton, Outagamie County, Wisconsin, according to the recorded Assessor's Map of said City.
Tax Key Nos. 31-2-0029-00, 31-2-0030-00, 31-2-0031-00

EXHIBIT B

PROPOSED IMPROVEMENTS

The project budget is \$5,400,000 and is depicted as follows:

