

DEVELOPMENT AGREEMENT

TAX INCREMENT DISTRICT NO. 11 (Development Area #1)

THIS DEVELOPMENT AGREEMENT is dated as of the 19 day of December, 2017 by and between **BLUFF SITE DEVELOPMENT, LLC**, a Wisconsin limited liability company (the "Developer"), **U.S. VENTURE, INC.**, a Wisconsin corporation (the "USV"), and **CITY OF APPLETON**, a Wisconsin municipal corporation (the "City").

RECITALS:

City, Developer and USV acknowledge the following:

A. On August 2, 2017, the City created Tax Increment District No. 11 (the "District") pursuant to Section 66.1105, Wis. Stat. (the "Tax Increment Law") and approved a plan for the redevelopment of the District (the Project Plan"), which Project Plan set forth in the City's Master Development Plan for the district, and which Project Plan is depicted on Exhibit A.

B. On August 9, 2017, the Joint Review Board approved the creation of the District and the adoption of the Project Plan.

C. Developer is proposing to redevelop a portion of area of the District identified as "Development Area #1".

D. Consistent with the Project Plan, USV and Developer intend to undertake the following that will increase its value and provide other tangible benefits to the surrounding neighborhoods and to the City as a whole:

1. A new corporate headquarters for U.S. Venture, Inc. with a projected value of \$49.5 Million to be located on or near the parcel formerly occupied by Michiels Fox Banquet Rivertyme Catering. The initial site map for the development is attached hereto as Exhibit B; however, the USV may add additional property, remove property and/or reconfigure the property and in such event USV shall update said Exhibit.
2. The new office building will consist of multiple floors, above a multi-level underground parking garage.
3. USV shall own the office building, and the City will own the underground parking garage. Ownership will be in the form of a condominium consisting of two units. Bluff Site Development, LLC, a Wisconsin limited liability ("Developer") will convey one unit (the "Office Unit") to USV, and the other unit (the "Parking Unit") to the City. Upon the creation of the

condominium, Developer shall convey the Office Unit to USV. Upon issuance of an occupancy permit, Developer shall convey the Parking Unit to the City.

4. USV will own as part of the Office Unit all of the land and area outside of the buildings as depicted on Exhibit B. The public will not be allowed access to the property depicted on Exhibit B as that will be private property owned exclusively by USV. USV shall grant reasonable easements to the City and Developer during construction.
5. USV shall grant the City a permanent easement for public access to the Parking Unit at designated entrances, as mutually agreed upon by USV and the City. The layout will be addressed in the parking plans, and the entrances will be at locations substantially similar to Exhibit C attached hereto.
6. The estimated cost of the Parking Unit as of the date of the signing of this Development Agreement is \$25 Million. The Developer, USV and the City acknowledge that the construction of the Parking Unit will require substantial financial resources. The Parties further acknowledge that at the time of entry into this Development Agreement, the engineering necessary to establish a final cost for the Parking Unit has not been completed. Developer, USV and City will use its best efforts to work to ensure the project does not exceed \$25 Million.

E. The City desires to encourage economic development including the elimination of slum and blight, expand its tax base, and create new jobs within the City, the District and the Property. The City finds that the development of the Property as described above 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 serve a public purpose in accordance with state and local law.

F. The project would not occur without the use of Tax Incremental Financing and for the fact that USV has been granted tax credits pursuant to Section 238.399 of the Wisconsin Statue from the Wisconsin Economic Development Corporation (“WEDC”) in the amount of \$20,000,000, subject to the terms and conditions of said agreement between the WEDC and USV.

G. The total acreage for the development will be 4.24 acres, as further described on Exhibit B attached hereto. The Property is located within the boundaries of the District.

H. The Project Plan includes parcels of real property owned by Developer located in the City and described on Exhibit B on the Site Plan, attached hereto (the “Project Area” or “Project”), consisting of the following:

1. A substantial portion of the former Michiels Fox Banquet Rivertyme Catering located at 111 Kimball Street.
2. A smaller portion of the former Trinity Lutheran Church located at 209 Allen Street, Appleton.

I. In addition, the Project Area includes City Parcel No. 31-2-0152-00, 229 South Morrison Street, Appleton.

J. This Agreement shall be subject to, and contingent upon, the Appleton Common Council's review and approval on December 19, 2017.

K. The parties agree that this Agreement and any obligations of the parties for the Project Area shall be null and void if:

1. Any party determines in its sole discretion that the net City Investment that the USV expects to receive from the City will be reduced because of any local, state or federal taxation.
2. USV determines in its sole discretion that the net incentive monies or credits that USV expects to receive from the WEDC will be reduced because of any local, state or federal taxation.

L. USV and Developer have approved this Agreement and the representatives have the authority to execute this Agreement on behalf of the respective entities.

M. 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.

ARTICLE 1 PURPOSE

1.1 Purpose of Agreement. The Parties have agreed upon a general plan for redevelopment of the Property. The purpose of this Agreement is to formalize and record the understandings and undertakings of the parties and to provide a framework within which the redevelopment of the Property will take place.

ARTICLE 2 DESCRIPTION OF PROJECT AREA

2.1 The Development Area depicted on Exhibit A will be redeveloped and improved with site improvements as generally depicted on the attached Exhibit B.

- 2.2 The Development Area is zoned CBD Central Business District and R3 Multi-family District and the Project Area shall be consistent with that zoning designation under the Zoning Code.
- 2.3 Upon the creation of the condominium, Developer will convey the Office Unit to the USV.
- 2.4 A two (2) unit condominium will be created, consisting of the Office Unit and the Parking Unit. All land and area outside of the buildings, including any developable air rights above the Parking Unit, will be part of the Office Unit.
- 2.5 Each of USV and the City will be solely responsible for the cost of maintaining, repairing and replacing its own Unit.
- 2.6 The unit owners will share in the costs to operate, maintain, repair and replace any condominium common elements. The condominium documents will contain provisions relating to the design, construction, operation, and maintenance of the Parking Unit, including:
 - Design of the Parking Unit, especially any elements of the Parking Unit, which may be above grade.
 - Maintenance, cleaning, and repair schedules.
 - Access control and security requirements.
- 2.7 The Condominium Association will hire a consultant to inspect the ramp and ensure structural integrity every third year and the City will make all ramp repairs within the time frame recommended by the consultant.
- 2.8 Governance of the condominium will be by an association of its owners.
- 2.9 Walker Parking Consultants shall be retained by the Developer to assist in design of the parking structure. Additionally, the City desires to have Developer use the same architect and construction manager for the Parking Unit and Office Unit, which is understood to be Hoffman Planning, Design and Construction. Hoffman will be retained by USV and Developer.
- 2.10 The City, USV and Developer shall cooperate in any efforts to secure other governmental funding sources for the Project Area.

**ARTICLE 3
UNDERTAKINGS OF THE CITY**

The City agrees that it shall:

- 3.1 The City has created the District and shall appropriate sufficient funds for the performance of the City's obligations under this Agreement.
- 3.2 The City shall cooperate with USV and Developer throughout the implementation of the Project Plan and shall promptly review and/or process all submissions and applications in accordance with applicable City ordinances.
- 3.3 The City will provide payments to USV and Developer as reimbursement for a portion of their developer cost, as provided in this Agreement.
- 3.4 The City, USV and Developer agree that there will be no reimbursement for any activities prior to the creation of the District. USV and Developer shall submit to the City's Director of Finance a summary of Developer Costs on a periodic basis as the development progresses.
- 3.5 The City will provide an investment to USV (the "City Investment") in the amount of \$8,000,000. The timing of City Investment payment will coincide with attainment of the occupancy permit for the Office Unit.
- 3.6 The purchase price payable by USV to the Developer for the Office Unit (including the real estate for any green space and surface parking surrounding the Office Unit) as defined in Exhibit B shall be zero dollars (\$0.00).
- 3.7 Developer will retain ownership of the Parking Unit until conveyance to the City. Upon issuance of the occupancy permit, Developer will convey the Parking Unit to the City and the City shall reimburse the Developer the purchase price. The purchase price payable by the City to Developer will be an amount necessary to reimburse Developer for only all directly attributable costs incurred by Developer for the Parking Unit, prior to its conveyance of the Unit to the City, including, but not limited to: property acquisition costs; demolition costs; site engineering costs; environmental costs; utilities; holding costs; closing costs; attorneys' fees and all other professional fees; development fees; financing fees; interest expense; property management fees and associated costs; insurance; property taxes; costs associated with the condominiumization of the property; permits and fees; design and engineering fees; construction management fees; construction costs; and all other costs associated with placing the land in a condition required to convey condominium units to USV and the City.

- 3.8 The City shall provide 1,000 parking stalls to USV on the area depicted on Exhibit B, or on the area immediately adjacent to the east or west of Exhibit B. The City shall provide at least 625 underground stalls at time of Office Unit completion. The plans for the additional parking shall be subject to USV's approval, not to be unreasonably withheld, conditioned or delayed.
- 3.9 USV's parking shall be segregated via signage or some other method reasonably acceptable to USV. USV and the City will explore physically segregating the USV's parking (e.g., by gates, separate parking levels, etc.) during the Parking Unit design process. Segregated parking shall occur during normal USV business hours.
- 3.10 USV shall be guaranteed parking stalls at a permanent discounted rate currently of at least 10% below Council adopted permit rate per the City of Appleton Parking Permit Contract Pricing Policy. Annually USV shall purchase at least 300 parking permits. USV will have the right to periodically purchase additional permits.
- 3.11 Working proactively and collaboratively, the City represents and warrants that, on or before 3 years from the date of the signing of this Development Agreement, USV, or its assign, shall be the fee simple owner of the property located at 229 South Morrison Street, City Parcel No. 31-2-0152-00, and that any structures or improvements on the property will be razed and returned to a natural state, at the sole cost of the City or its designee. USV agrees to accept the property in an "AS-IS" condition.
- 3.12 The Plans for the Parking Unit shall be subject to USV's approval, not to be unreasonably withheld, conditioned or delayed.
- 3.13 The plans (with respect to quality and complimentary architectural style and building materials to the USV's building) and uses for the surrounding development area depicted on Exhibit B shall also be subject to USV's approval, not to be unreasonably withheld, conditioned or delayed.
- 3.14 The City shall vacate any streets and utility or other easements as necessary or advantageous for the Project Area (with the scope and extent of any vacations to be discussed and agreed to by USV and the City).
- 3.15 The City shall construct a controlled intersection at South Oneida Street and Lawrence Street at the Project Area entrance as detailed in the Downtown Mobility Study. Oneida Street extended shall be accomplished in accordance with the Downtown Mobility Study.
- 3.16 The City shall install all infrastructure necessary for USV and Developer to commence construction of the Project Area; the detailed list of infrastructure shall be mutually agreed to by USV and the City during the design process.

- 3.17 The City shall recommend approval for all necessary rezoning, permits, site plans and other Project plans necessary for the construction of the Project Area in accordance to Federal, State and local rules and regulations.
- 3.18 The City will use its best efforts to make the new address of the Office Unit to be: One Better Way, Appleton, Wisconsin.
- 3.19 USV shall have a right of first refusal to purchase the Parking Unit in the event that the City ever intends to sell the Parking Unit. In the event the City sells the Parking Unit to a third party, then such new owner shall be required to continue to provide the City discounted parking rates to USV.

**ARTICLE 4
UNDERTAKINGS OF THE DEVELOPER**

The Developer agrees that it shall:

- 4.1 Construct the Parking Unit.
- 4.2 Initiate, or cause to be initiated by third parties, the Parking Unit and complete the same in accordance with the Zoning Code and all other applicable City building codes, fire codes, ordinances and regulations.
- 4.3 Obtain all required permits.
- 4.4 Construct the parking structure complying with all State of Wisconsin and City of Appleton bidding requirements for public construction.
- 4.5 Retain Walker Parking Consultants for design of the parking structure and use Hoffman Planning, Design and Construction as project architect and construction manager for the Parking Unit. No construction work shall be performed by the construction manager. Project shall follow all applicable State and City stormwater laws, regulations and ordinances.
- 4.6 The Developer agrees that the Property shall not be sold to, leased or used by any party in a manner to permit discrimination or restriction on the basis of race, creed ethnic origin or identity, color, gender, religion, marital status, age (except as allowed as part of a senior housing development), handicap, or national origin and that construction, redevelopment, improvement, and operation of the Project shall be in compliance with all applicable laws, ordinances and regulations relating to any of the foregoing.

- 4.7 The purchase price payable by USV to the Developer for the Office Unit (including the real estate for any green space and surface parking surrounding the Office Unit) as defined in Exhibit B shall be zero.

ARTICLE 5 UNDERTAKINGS OF USV

- 5.1 USV will construct only the Office Unit (including the real estate for any green space and surface parking surrounding the Office Unit).
- 5.2 USV will guarantee an annual property tax payment from the development of \$1,157,750, the amount based upon a projected value of \$49.5 Million, the valuation will be determined based on then current version of the State of Wisconsin Assessor's Manual, which may include personal property, land acquisition costs and all other development costs times the current tax rate ("Guarantee Increment"). This is a minimum valuation guaranty to ensure that the Project Area generates tax increment sufficient to fund the City Investment. Commencing on the tax year after USV takes occupancy and continuing until the District is terminated ("Guarantee Period"), if for any year the Value Increment of the Project Area for such year ("Actual Increment") is less than the Guaranteed Increment, then USV shall pay to the City an amount equal to the difference between the Guaranteed Increment and Actual Increment for such year multiplied by the City's applicable mill rate for such year ("Guaranteed Payment").
- 5.3 USV will use Hoffman Planning, Design and Construction as project architect and construction manager for the Office Unit. No construction work shall be performed by the construction manager. Project Area shall follow all applicable State and City stormwater laws, regulations and ordinances.
- 5.4 USV shall dedicate the north twenty feet (20') of the proposed property for the reconstruction of Lawrence Street in accordance with the City of Appleton's Downtown Mobility Study, as indicated on the map attached as Exhibit D.
- 5.5 Any easements necessary for underground utilities shall be provided by US Venture, as mutually agreed between the parties.

ARTICLE 6 TAX STATUS

- 6.1 As long as the District is in existence, the Project including the land and all buildings and improvements thereon shall be owned and taxable for real estate tax, special assessment purposes and personal property taxes. The City may waive the above restriction upon execution of a payment in lieu of taxes (PILOT) agreement, in a form

acceptable to the City, made between the City and the owner or lessee of the applicable portion of the Property.

**ARTICLE 7
NO PARTNERSHIP OR VENTURE**

- 7.1 USV and Developer, and their affiliates and successors, and their 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 USV or Developer or any contractor or subcontractor employed by them in the construction of the Project.

**ARTICLE 8
CONFLICT OF INTEREST**

- 8.1 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 9
WRITTEN NOTICES**

- 9.1 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: Karen E. Harkness

With a copy to:

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

DEVELOPER:

Bluff Site Development, LLC
Attn: John E. Pfefferle
200 East Washington Street
Suite 2A
Appleton, WI 54911

AND

U.S. Venture, Inc.
Attn: John A. Schmidt
425 Better Way
Appleton, WI 54915

With a copy to:
U.S. Venture, Inc.
Attn: Elyse Mollner Stackhouse, General Counsel
425 Better Way
Appleton, WI 54915

**ARTICLE 10
ASSIGNMENT**

10.1 No party to this Agreement may assign any of its interest or obligations hereunder without first obtaining the written consent of all other parties except as otherwise provided for in this Agreement. Notwithstanding the foregoing, USV or Developer may assign its rights and obligations under this Agreement, in whole or in part, to a successor owner of any portion of the Property. In addition, Developer may assign its rights under this Agreement to any lender providing financing for any portion of the Project and shall notify the City of any such assignment. The City shall not be bound to any such assignment until it has received written notice, including whether the Agreement has been assigned in whole or in part, the portion of the Property affected and which rights and obligations have been assigned. USV and Developer may assign its rights and obligations hereunder without corresponding assignment of its right to collect the Contribution.

SIGNATURES BEGIN ON THE FOLLOWING PAGE

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

CITY OF APPLETON:

By: *[Signature]*
Timothy M. Hanna, Mayor

ATTEST:

By: *[Signature]*
Kami Lynch, City Clerk

STATE OF WISCONSIN)
 : ss.
OUTAGAMIE COUNTY)

Personally came before me this 19th day of December, 2017, Timothy M. Hanna, Mayor and Kami 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: James P. Griesbach
Notary Public, State of Wisconsin
My commission is/expires 12/15/2021



APPROVED AS TO FORM:

[Signature]
James P. Walsh, City Attorney

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

DEVELOPER:

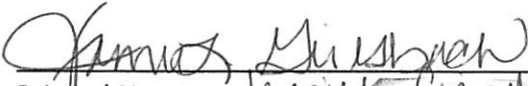
BLUFF SITE DEVELOPMENT, LLC

By: 
John E. Pfefferle, Managing Member

By: 
Paul Hoffman, Member

STATE OF WISCONSIN)
 : ss.
OUTAGAMIE COUNTY)

Personally came before me this 19 day of December, 2017, John E. Pfefferle and Paul Hoffman, 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: Jamie P. Griesbach
Notary Public, State of Wisconsin
My commission is/ expires 11/11/2018



[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

U.S. VENTURE, INC.

By: John A. Schmidt
John A. Schmidt, President

STATE OF WISCONSIN)
 : ss.
OUTAGAMIE COUNTY)

Personally came before me this 19 day of December, 2017, John Schmidt, 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.

Jamie L. Griesbach
Printed Name: Jamie L. Griesbach
Notary Public, State of Wisconsin
My commission is/ expires: 11/1/2020



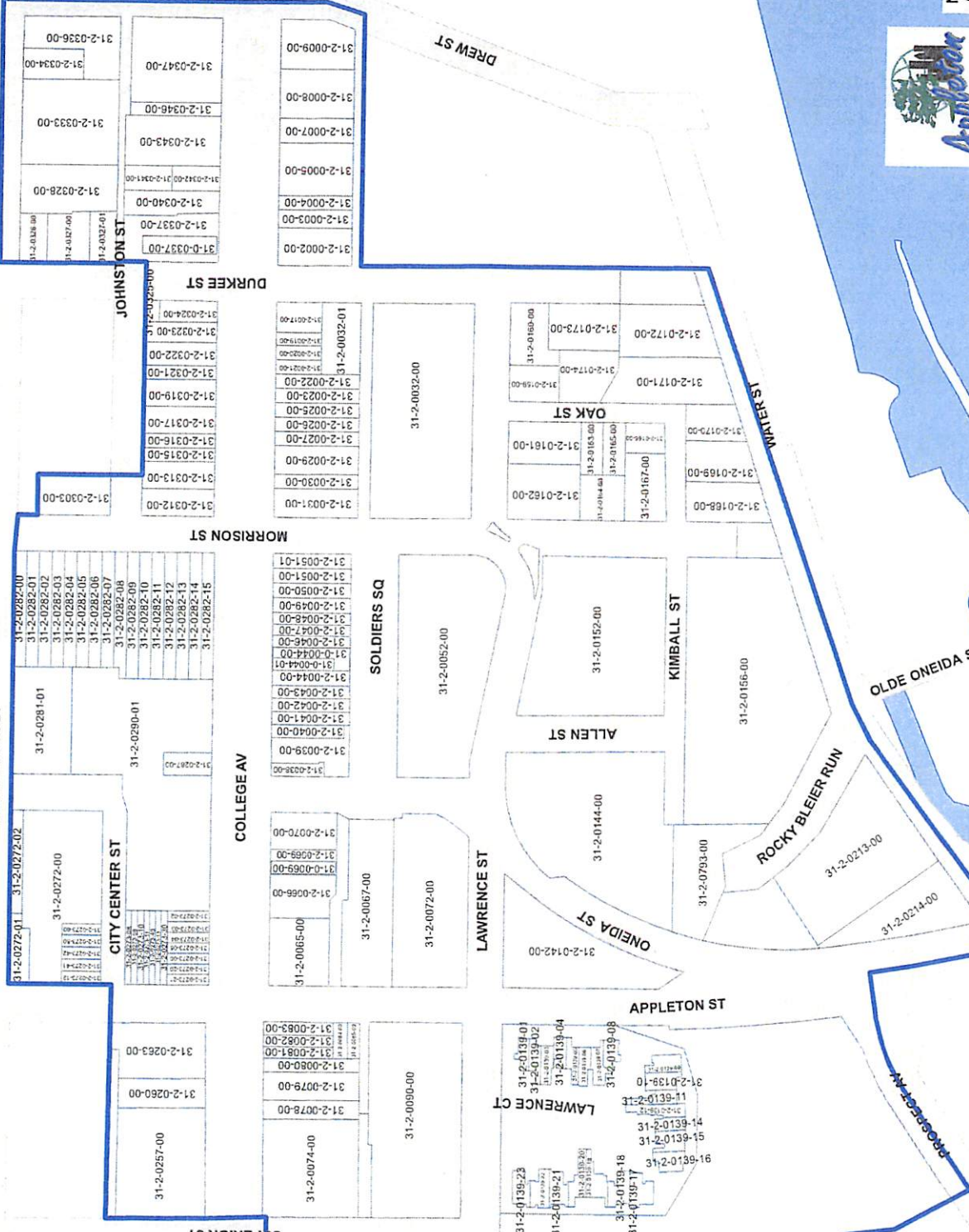
EXHIBIT A

City created Tax Increment District No. 11

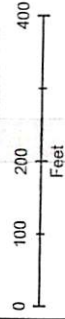
See attached.



Fox River



City of Appleton
 Tax Incremental Financing District #11
 TIF #11
 TIF #11 Parcels



Comm. & Econ. Dev. Dept. June 2017

EXHIBIT B

Initial Site Map of US Venture Project Area and Surrounding Development

See attached.

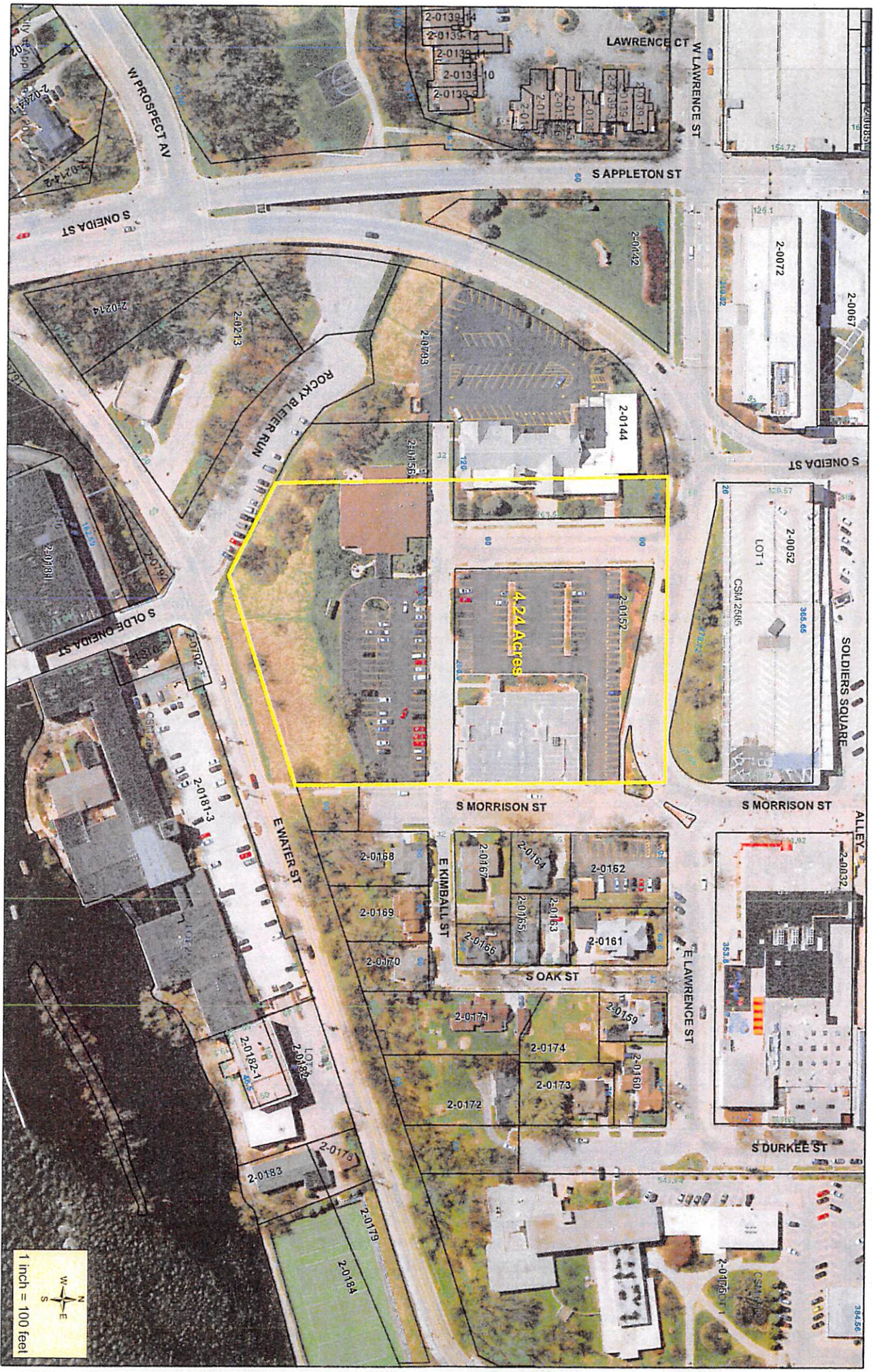


EXHIBIT C

Map Showing Parking Entrances

See attached.



PARKING STRUCTURE CONCEPT
APPLETON, WISCONSIN

**Option 17 Kimball
 Street Level**

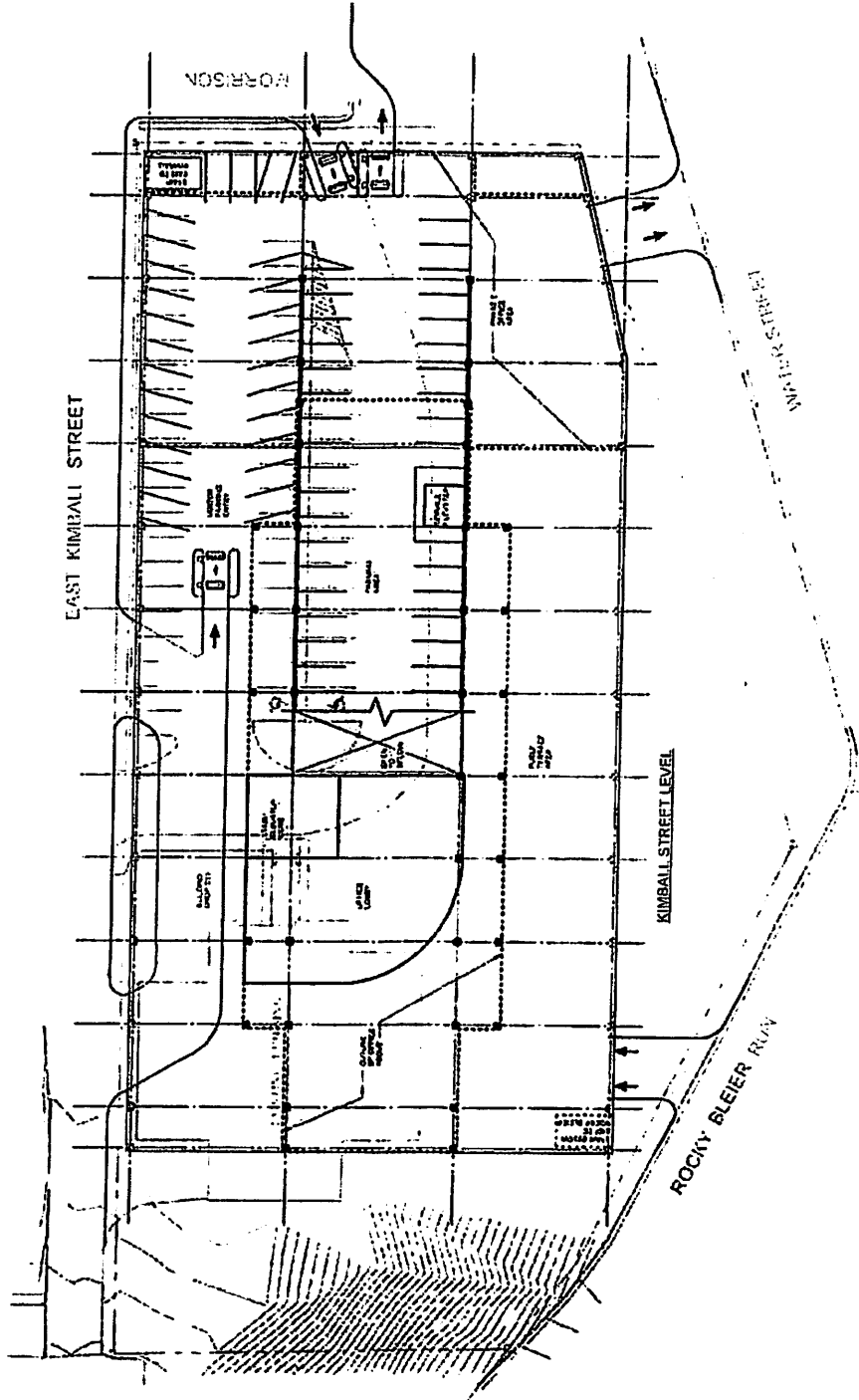
CAR INDICATION		ACCESSIBLE	TOTAL
LEVEL	STANDARD	3	81
KIMBALL	129	0	129
P3	100	4	104
P4	100	4	104
P4	100	4	104
TOTALS	743	16	759

200X35 SF 759 STALLS = 343 SPYRALL

LEGEND

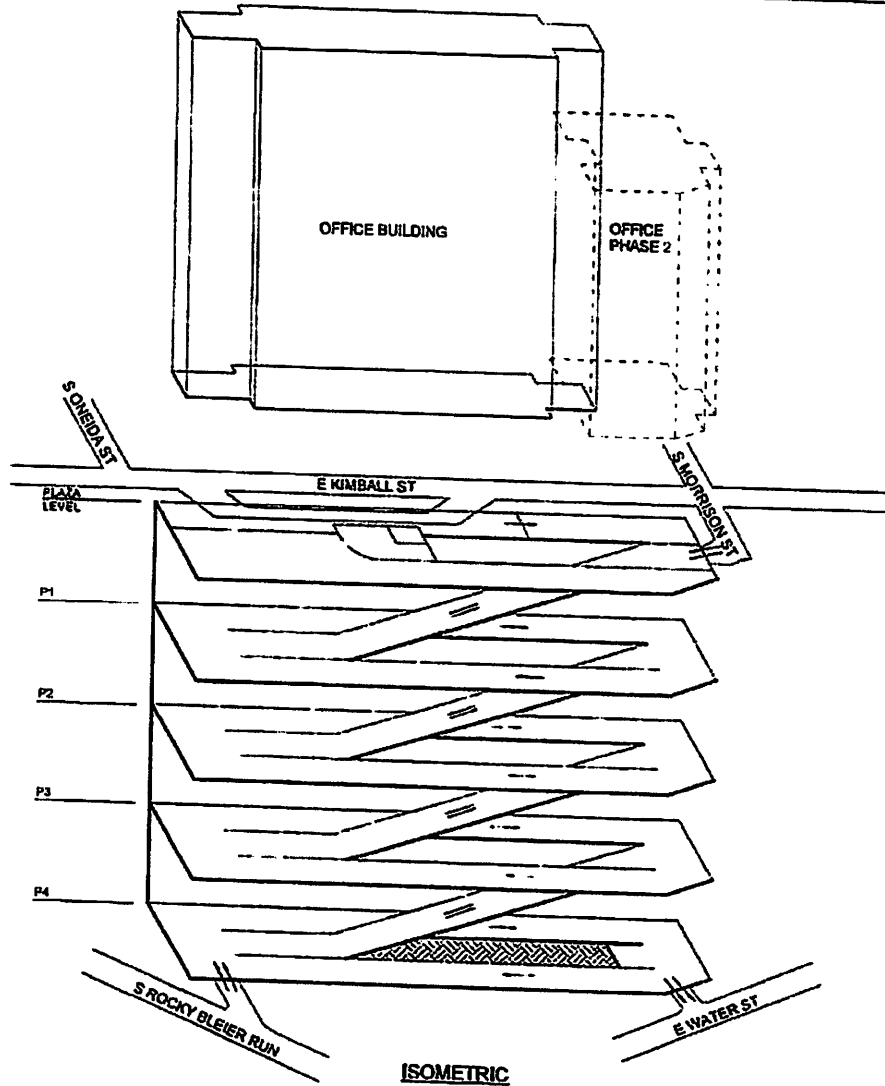


AG-205
PLAN



AUGUST 23, 2017

**PARKING STRUCTURE CONCEPT
APPLETON, WISCONSIN**



Option 17 Isometric

LEGEND



AG-206

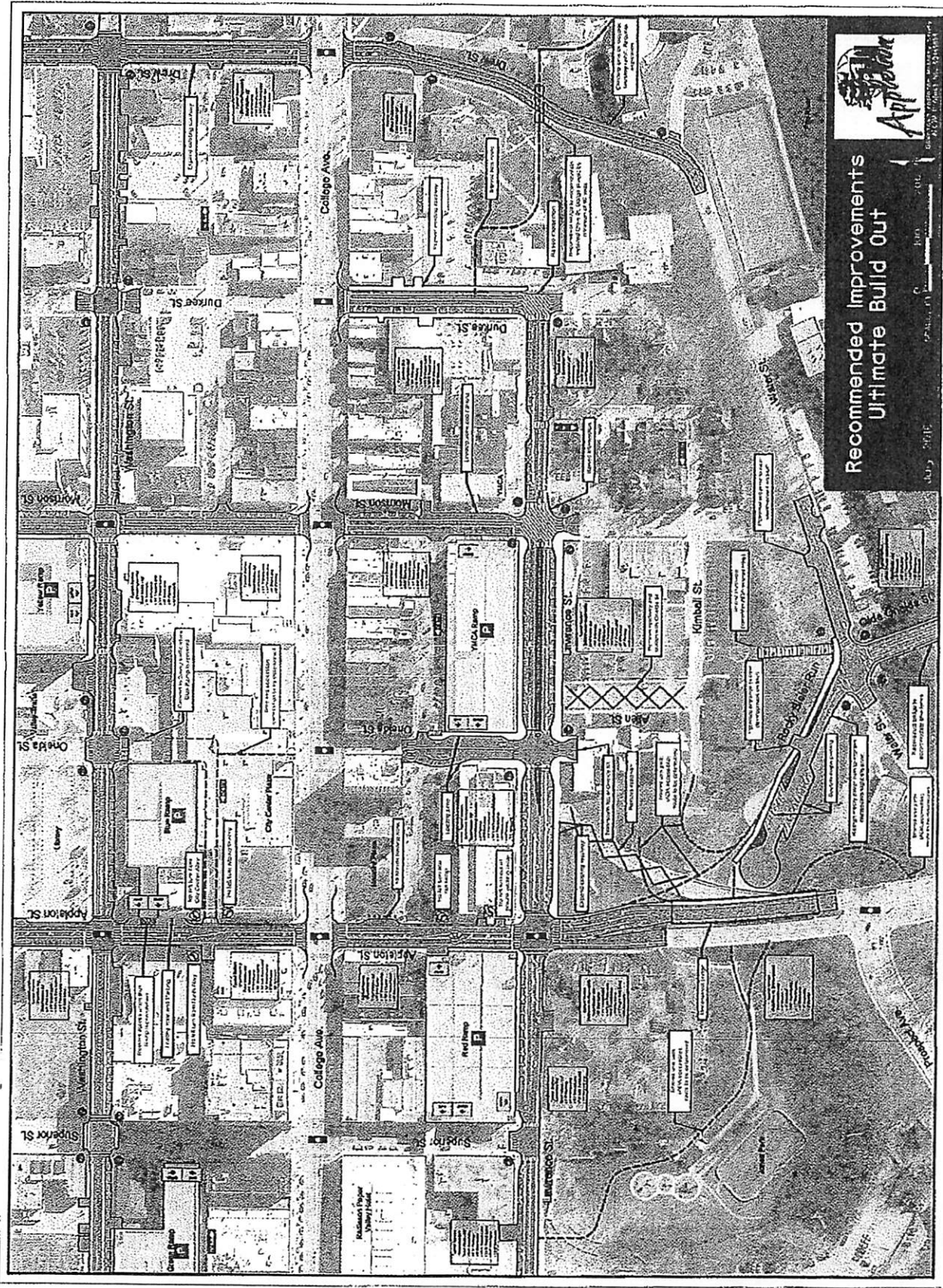
14-112

AUGUST 23, 2017

EXHIBIT D

Reconstruction of Lawrence Street - City of Appleton's Downtown Mobility Study

See attached.



**Recommended Improvements
Ultimate Build Out**

July 2011
 1/2" = 100'
 0 10 20 30 40 50 60 70 80 90 100
 Feet