



City of Appleton

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

Meeting Agenda - Final Appleton Redevelopment Authority

Wednesday, May 22, 2019

9:00 AM

Council Chambers, 6th Floor

SPECIAL

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

[19-0713](#) ARA Minutes from 2-28-19

Attachments: [ARA Minutes 2-28-19.pdf](#)

4. Public Hearings/Appealances

5. Action Items

[19-0717](#) Rescind prior ARA action that approved funds (up to \$250,000) to facilitate a purchase of 320 E. College Avenue as the project plan as presented is no longer a viable option

Attachments: [Memo Recommend ARA Rescind Approved Funds for 320 E College Ave.pdf](#)
[ARA Minutes 2-28-19.pdf](#)
[Memo Recommend 320 E College Ave Dev Agrmt.pdf](#)
[320 East College LLC - Dev Agrm 5-16-19 Draft 1.pdf](#)

[19-0714](#) Confirm the following:
-Elect a Chair
-Elect a Vice-Chair
-Designate a Contact Person

6. Information Items

[19-0716](#) Set Meeting Date and Time

[19-0718](#)

Update on 222 N. Oneida Street

Attachments: [222 N Oneida Update Memo 5-16-19.pdf](#)[OMNNI Contract Memo 222 N Oneida 3-5-18.pdf](#)[OMNNI Site Investigation Proposal 222 N Oneida.pdf](#)[OMNNI Contract Amendment Memo 222 N Oneida 12-7-18.pdf](#)[OMNNI Amendment001 222 N Oneida.pdf](#)[Procurement+Contract Management Policy 10-7-15.pdf](#)[222 N Oneida Cost Estimates 4-23-19.pdf](#)[222 N Oneida Wells Map.pdf](#)

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.



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Meeting Minutes - Final Appleton Redevelopment Authority

Thursday, February 28, 2019

4:00 PM

Council Chambers, 6th Floor

SPECIAL

1. Call meeting to order

Meeting called to order at 4:00 p.m.

2. Roll call of membership

Present: 4 - Van Dyke, Downs, Fisher and Brokl

Excused: 3 - Higgins, Woodford and Alderperson Coenen

Others present:

Alderperson Vered Meltzer, District #2

Alderperson Kathleen Plank, District #7

3. Approval of minutes from previous meeting

[19-0242](#)

ARA Minutes from 12-12-18

Attachments: [ARA Minutes 12-12-18.pdf](#)

Van Dyke moved, seconded by Brokl, that the Minutes be approved. Roll Call.

Motion carried by the following vote:

Aye: 4 - Van Dyke, Downs, Fisher and Brokl

Excused: 3 - Higgins, Woodford and Alderperson Coenen

4. Public Hearings/Apearances

5. Action Items

[19-0243](#)

The Appleton Redevelopment Authority will go into closed session according to State Statute §19.85(1)(e) for the purpose of deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business whenever competitive or bargaining reasons require a closed session regarding certain real property located at 320 E. College Avenue and then reconvene into open session

Attachments: [Woodford Recusal 320 E College Ave.pdf](#)

The Appleton Redevelopment Authority went into Closed Session at 4:04 p.m.

Discussion was held.

Fisher moved, seconded by Brokl, to rise and report, returning into Open Session at 4:59 p.m. Roll Call. Motion carried by a vote of 4-0.

Fisher moved, seconded by Van Dyke, to convene in Closed Session. Roll Call. Motion carried by the following vote:

Aye: 4 - Van Dyke, Downs, Fisher and Brokl

Excused: 2 - Higgins and Alderperson Coenen

Recused: 1 - Woodford

[19-0262](#)

Consider investment of funds to facilitate purchase of 320 E. College Avenue

Attachments: [Woodford Recusal 320 E College Ave.pdf](#)

The motion to approve allows for ARA contribution up to \$250,000.

Fisher moved, seconded by Brokl, that the Report Action Item be approved. Roll Call. Motion carried by the following vote:

Aye: 4 - Van Dyke, Downs, Fisher and Brokl

Excused: 2 - Higgins and Alderperson Coenen

Recused: 1 - Woodford

[19-0244](#)

Request to approve one (1) vacated Hotelier Appointment and one (1) Community Member Re-Appointment to the ARA Exhibition Center Advisory Committee

Attachments: [ARA ECAdvCom Vacant Hotelier Appt & Comm Member Re-Appt Memo.pdf](#)
[ResignationfromARA-ECAdvisoryCommittee Stankowski 9-24-18.pdf](#)
[ARA Advisory Committee Creation Document-Approved by ARA-12-3-14.pdf](#)
[ARA Exhibition Center Advisory Committee 2016 Appointments-Feb 2019.pdf](#)

Fisher moved, seconded by Van Dyke, that the Report Action Item be approved. Roll Call. Motion carried by the following vote:

Aye: 4 - Van Dyke, Downs, Fisher and Brokl

Excused: 3 - Higgins, Woodford and Alderperson Coenen

6. Information Items

7. Adjournment

Fisher moved, seconded by Van Dyke, that the meeting be adjourned at 5:05 p.m. Roll Call. Motion carried by the following vote:

Aye: 4 - Van Dyke, Downs, Fisher and Brokl

Excused: 3 - Higgins, Woodford and Alderperson Coenen



MEMO

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

TO: Appleton Redevelopment Authority (ARA)
CC: Deputy Director Stage, Director Saucerman, Deputy City Attorney Behrens
FROM: Karen Harkness, Director
DATE: May 17, 2019
RE: Update on the 320 East College, LLC in TIF District #11

On February 28, 2019, ARA voted to consider investment of funds to facilitate the purchase of 320 E. College Avenue in order to support a mixed-use development, which would support the City of Appleton Comprehensive Plan's goal of increasing the quantity and variety of housing product offered in the Central Business District.

Since that vote, the project plan as presented is no longer a viable option and, as such, ARA investment of funds is no longer an efficient and effective option.

Tadych Investment Partners, LLC (TIP), the Developer, has since re-worked the entire project including financing structure, number of units, surface parking and conventional financing. This new project model best fits a pay as you go TIF. A Development Agreement between the City of Appleton and the developer is an action item on the Community and Economic Development Committee (CEDC) Agenda this week. CEDC will make a recommendation to the Council.

The Development Agreement is attached to your ARA Agenda as reference but requires no action from ARA.

Staff Recommendation:

ARA rescind the previously approved funds (up to \$250,000) to facilitate a purchase of 320 E. College Avenue as the project plan as presented is no longer a viable option.



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Excused: 3 - Higgins, Woodford and Alderperson Coenen



MEMO

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

TO: Community & Economic Development Committee
CC: Deputy Director Stage, Director Saucerman, Deputy City Attorney Behrens
FROM: Karen Harkness, Director
DATE: May 15, 2019
RE: Request Approval of the Development Agreement between the City of Appleton and 320 East College, 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.

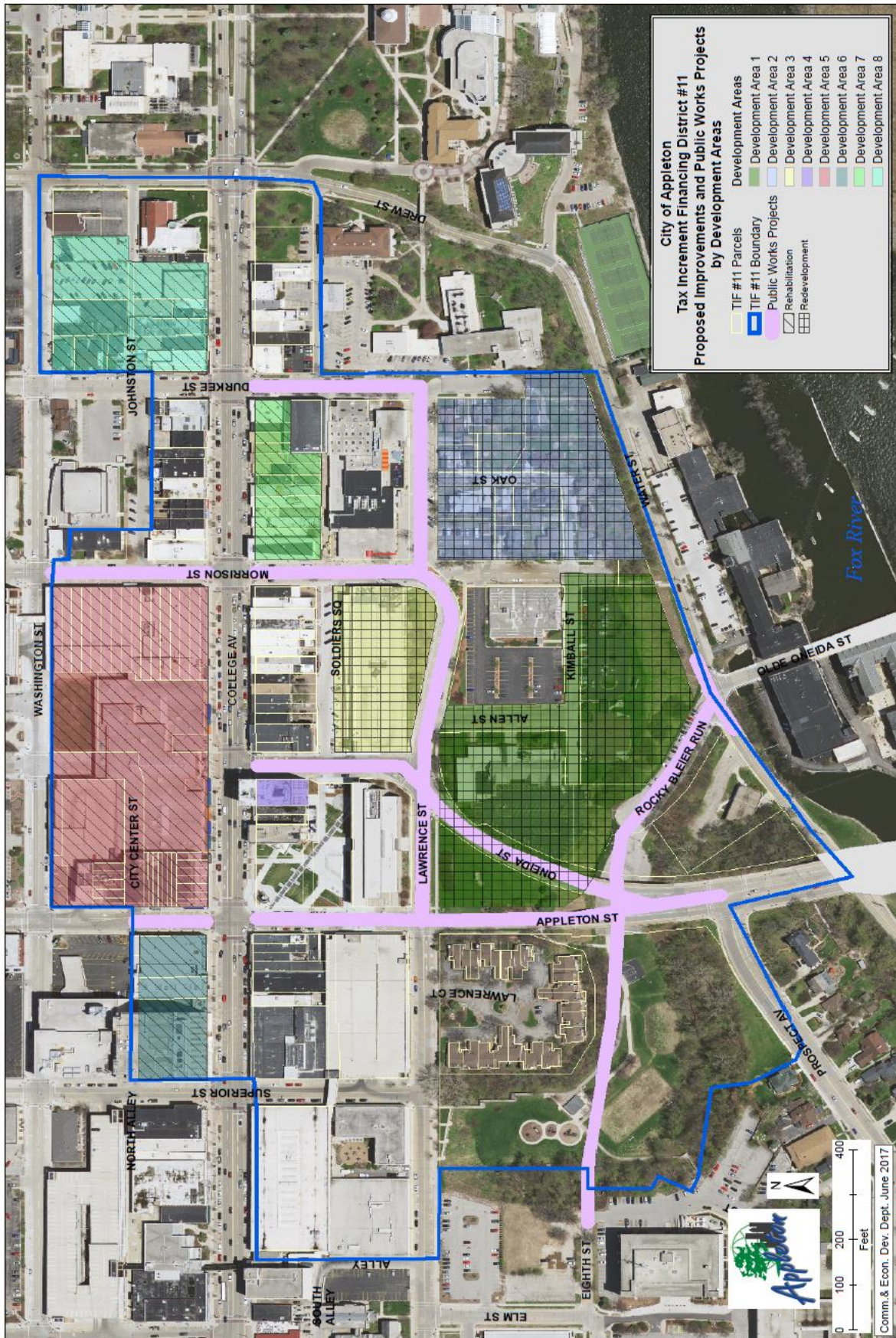
Tadych Investment Partners, LLC (TIP), on behalf of 320 East College LLC, is requesting assistance to support a 28 unit multi-family building with 2,600 square feet of commercial/retail space fronting College Avenue and 30 surface parking stalls on the back side of the site. A concept of proposed improvements is included as Exhibit B of the Development Agreement.

320 E. College Avenue is currently owned by Lawrence University and is used for storage. This development will focus on efficient unit layouts and offer another opportunity for residential living in our Central Business District. This project is targeted to support the City's goal of increasing the quantity and variety of housing product offered in downtown Appleton.

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 twenty percent (20%) of the Tax Increment Value as of January 1, 2023, plus interest thereon to support the construction work for 320 East College LLC. The TIF investment would be payable over the next approximately 13 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 320 E. College Ave., LLC. BE APPROVED.



TAX INCREMENT DISTRICT NO. 11 DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is dated as of the ____ day of June, 2019, by and among 320 East College 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 320 E. College Avenue (Parcel 31-2-0343-00), 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 new construction to the Property to create a mixed-use project containing approximately 28 residential apartments as well as approximately 2600 square feet of commercial space (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 [REDACTED], 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 \$278,900. The Developer estimates the project will create up to an additional \$5,021,100 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 and commercial space within the Project (hereafter "Completion" or "Complete") 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 twenty percent (20%) 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 each calendar year.

2.3.2 Payments under this Agreement shall be due in annual installments on August 15 of each 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:

320 East College, LLC
c/o Jason Tadych
Tadych Investment Partners, LLC
102 N. Broadway, Suite 101
De Pere, WI 54115

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
Date Updated: May 16, 2019
By: Christopher R. Behrens
City Law A19-0311

DEVELOPER:

320 East College, LLC

By: _____
Jason Tadych, Manager

STATE OF WISCONSIN)
 : ss.
OUTAGAMIE COUNTY)

Personally came before me this ____ day of _____, 2019, Jason Tadych, Manager, 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

DRAFT

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

*UPDATED LEGAL FOR 320 E. COLLEGE PARCEL TO BE PROVIDED WHEN AVAILABLE
AND PRIOR TO EXECUTION BY PARTIES.*

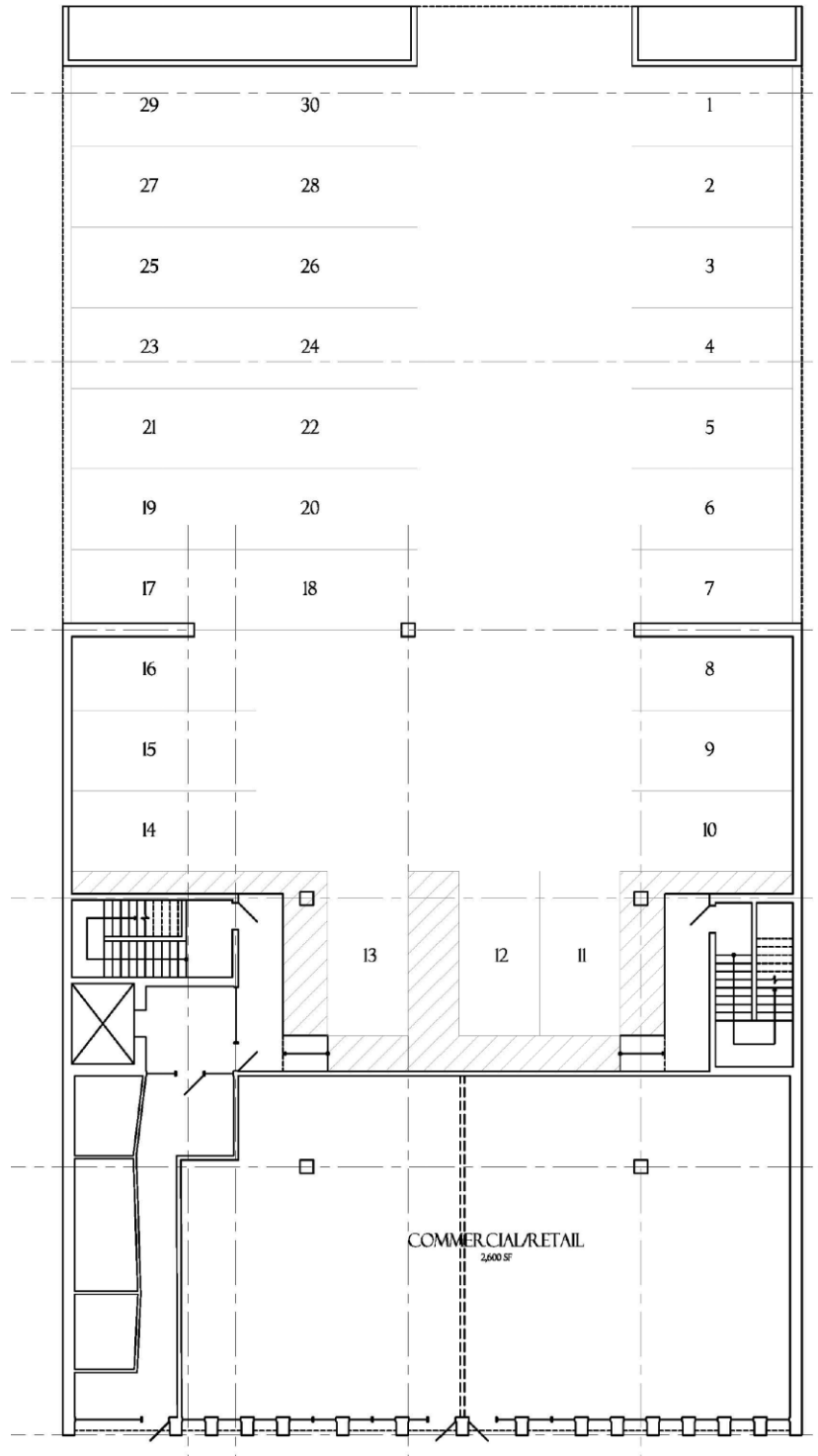
City of Appleton, Outagamie County, Wisconsin, according to the recorded Assessor's Map of said City.

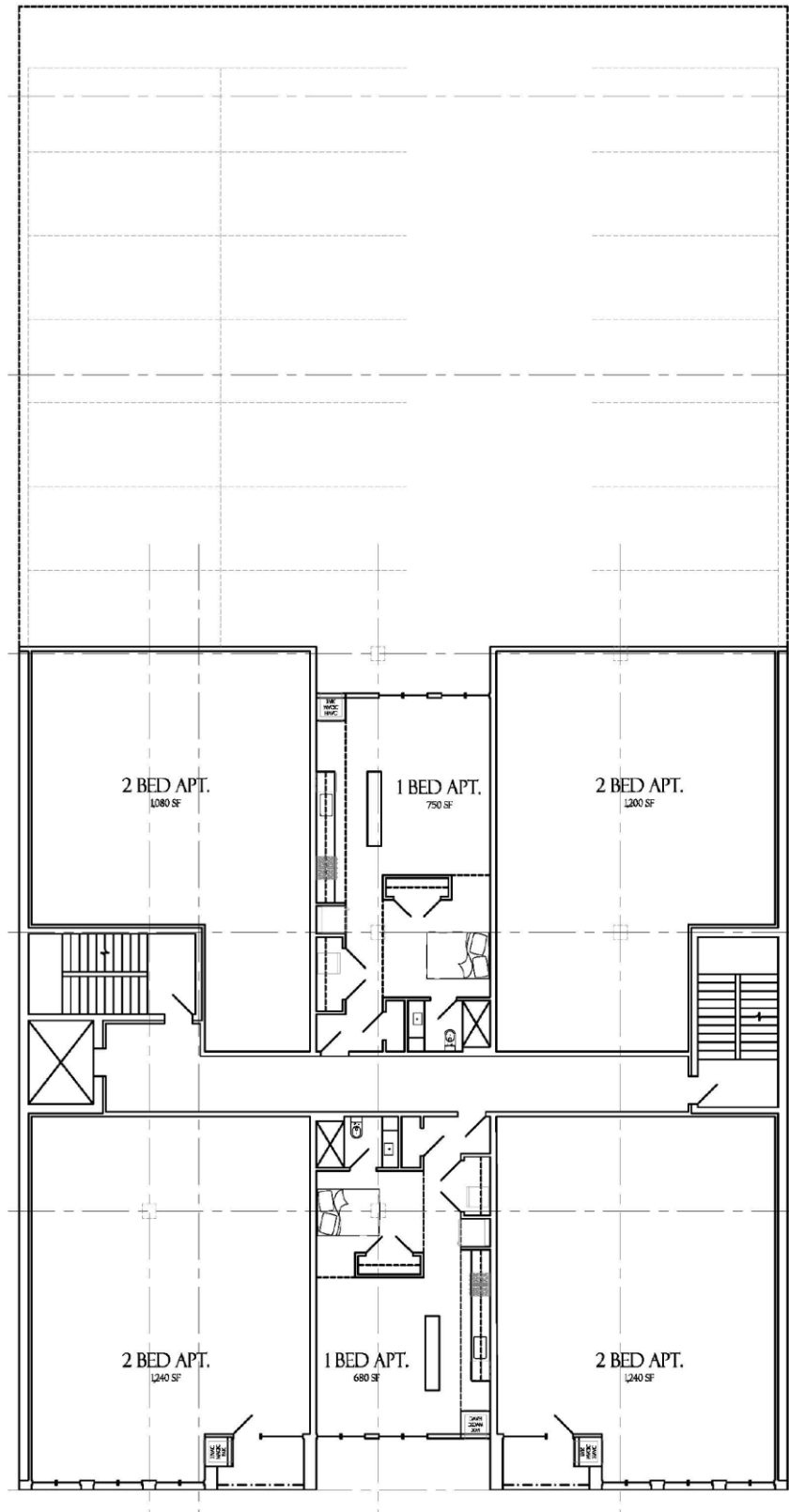
Tax Key No. 31-2-0343-00

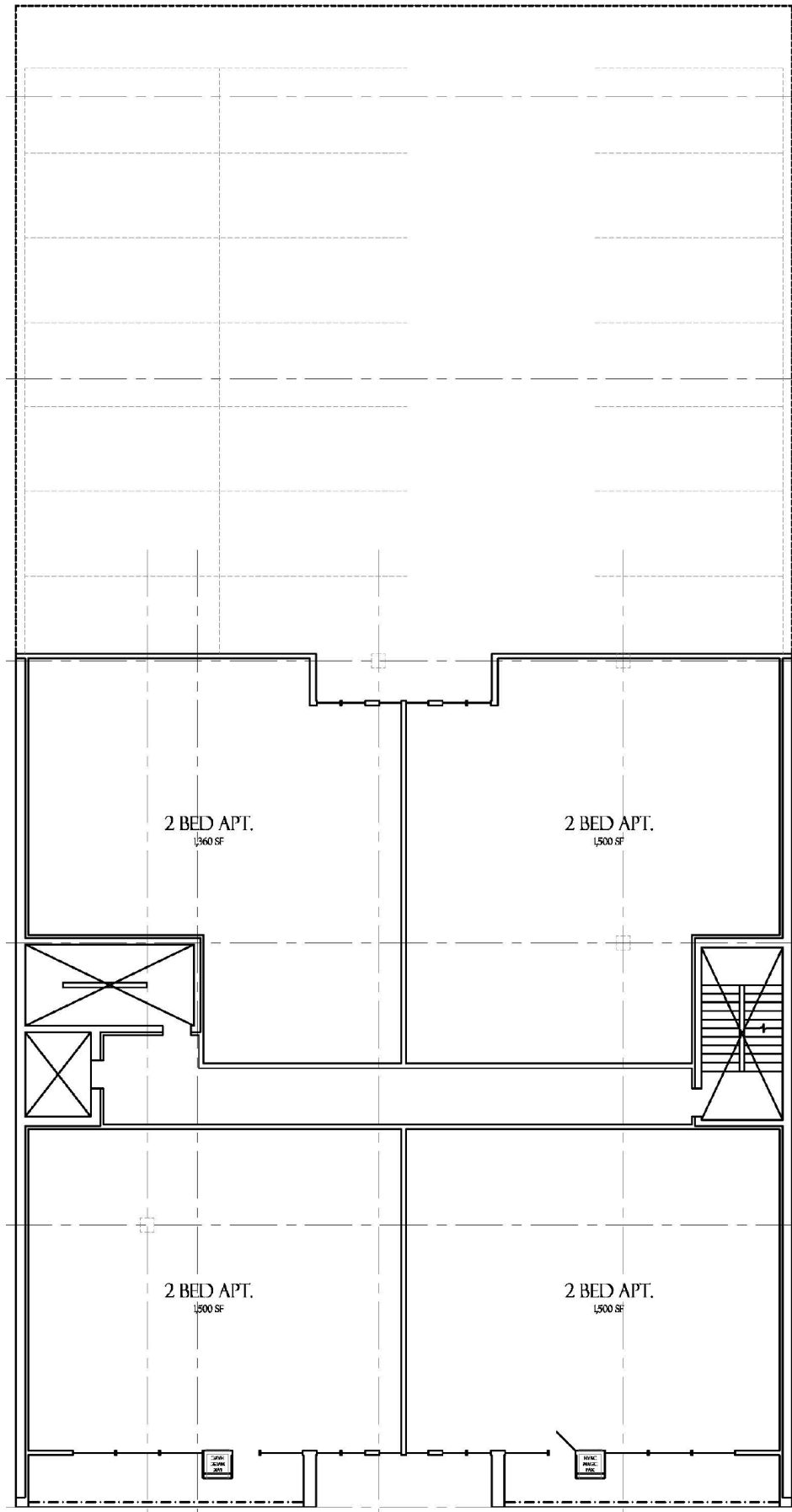
EXHIBIT B

PROPOSED IMPROVEMENTS

The project budget is \$7,000,000 and is depicted as follows:









MEMORANDUM

TO: Appleton Redevelopment Authority

FROM: Matt Rehbein, Economic Development Specialist

DATE: May 16, 2019

RE: Update on Site Investigation and Remedial Activities at 222 N. Oneida Street
Appleton, WI

The Appleton Redevelopment Authority (ARA) acquired the property located at 222 N. Oneida Street in Appleton, WI on December 21, 2017. As part of the due diligence, a Phase I and Phase II environmental report was completed by OMNNI Associates. As required by law, OMNNI notified the Wisconsin Department of Natural Resources of findings of exceedances for PAH and VOC levels in the soils. ARA received a "Responsible Party" letter from the DNR on January 24, 2018 outlining the responsibilities as owner of a contaminated parcel. ARA approved a contract with OMNNI Associates authorizing spending up to \$25,260.40 on March 14, 2018 (memo and contract attached), and authorized spending up to an additional \$14,835 in a contract amendment approved December 7, 2018 (memo and contract attached). To date, \$26,214 has been spent (project cost breakdown attached).

Per the amended contract, three (3) additional test wells were established to identify end points of the contamination (map attached). Delineation of the extent of the 1,2-DCE (Dichloroethane) was identified, which is the objective we were going for. However, in sampling the furthest north well (the back of curb on E. Franklin Street) an enforcement standard exceedance for benzene was identified. The exceedance came in at 6.3 parts per billion (ppb), and the limit is 5.0 parts per billion. OMNNI suggests obtaining one more round of groundwater samples in the second quarter to see if benzene is still present in the well. There has not been a benzene issue at the site previously, nor has it been identified in the other wells previously. OMNNI is verifying this approach is acceptable to the DNR.

The results of the next round of sampling will dictate the next steps to be taken. If the benzene comes in below the 5.0 ppb, the request for closure can be submitted. If the benzene results are in excess of the 5.0 ppb, the DNR would require further investigation. If that is the case, ARA may want to take advantage of the LGU Status to let the site sit for a bit (year or so) and resample in the future unless immediate plans for re-use are identified.



MEMORANDUM

TO: Appleton Redevelopment Authority

FROM: Matt Rehbein, Economic Development Specialist

DATE: March 5, 2018

RE: OMNNI Associates, Inc. Contract for Site Investigation and Remedial Activities at 222 N. Oneida Street in Appleton, WI

The Appleton Redevelopment Authority (ARA) acquired the property located at 222 N. Oneida Street in Appleton on December 21, 2017. As part of the due diligence, a Phase I and Phase II environmental report was completed by OMNNI Associates, Inc. As required by law, OMNNI notified the Wisconsin Department of Natural Resources of findings of exceedances for polycyclic aromatic hydrocarbons (PAHs) and volatile organic compounds (VOCs) in the soils. ARA received a "Responsible Party" letter from the DNR on January 24, 2018 outlining the responsibilities as owner of a contaminated parcel.

Staff asked OMNNI to prepare a proposal to assist with any further site investigation, remedial activities and guidance through the demolition of the structure on the property (attached).

The City's Procurement & Contract Management Policy (attached) requires soliciting competitive proposals/quotes for professional services [Sec. IV.C.(3)]. The City has already solicited competitive proposals for a Master Contract which is currently held with OMNNI Associates, Inc. Because the total cost of this project is anticipated to be over \$25,000, staff is seeking authority to proceed with the proposed contract.

Staff Recommendation:

Award site investigation and remedial activities proposal for 222 N. Oneida Street to OMNNI Associates, Inc. in the amount of \$22,964.00 with a 10% contingency of \$2,296.40 for a project total not to exceed \$25,260.40 **BE APPROVED.**

February 14, 2018

Matthew Rehbein
Economic Development
City of Appleton
100 North Appleton Street
Appleton, WI 54911-4799

Re: Proposed Site Investigation and Remedial Activities at the 222 N. Oneida Street property in Appleton, WI.

Dear Mr. Rehbein:

Thank you for the opportunity to present this proposal and cost estimate to provide a site investigation and remedial activities for the 222 N. Oneida Street property. This proposal is intended to present a work scope and cost estimate for our services.

PROJECT INFORMATION

Previously OMNni Associates conducted a Phase I environmental site assessment (ESA) of the property at 222 N. Oneida Street, Appleton, WI to identify potential areas of contamination from current or previous uses of the property. The Phase I ESA identified a potential for underground storage tanks to still be present on the property as well as a concern for contamination associated with those underground storage tanks.

A Phase II ESA was also conducted at the property to determine if the tanks remain or if there was any contamination as a result of the prior history of the property. It was discovered that the property had multiple exceedances in soil and groundwater for their respective limits. It was recommended at that time that a notification of release be completed.

OMNni proposes to conduct a site investigation to define the extent of the contamination and assist with remedial actions during the demolition at the property in order for the City of Appleton to pursue beneficial reuse of the property.

PROPOSED SCOPE OF WORK

We propose the following scope of work:

1. Obtain bids from geoprobe contractors and select suitable contractor to perform activities.
2. Create a site work plan and submit the plan to the DNR.
3. Submit previously obtained analytical data to licensed landfill to obtain approval for the disposal of the impacted material that will be removed from the site. It is anticipated that the soil will go to Outagamie County Landfill or Waste Management's Whitelaw facility.

4. Develop a health and safety plan for OMNNI staff who will be on site for the remedial activities.
5. Assist the City of Appleton with their request for quote (RFQ) for the demolition and excavation related to the property.
6. Provide direction to the contractor to dig up to five test pits and give direction if the soil needs to be disposed of, due to contamination.
7. OMNNI will be on site during the excavation of the parking lot area to document soil conditions and assist with delivery of waste manifests to the contractor. Additionally, OMNNI will be available on an "On-Call" basis for the building demolition if any contamination is identified within or below the building footprint.
8. Obtain confirmatory soil samples at the base of the excavated soil for VOCs and/or PAHs depending on the location, and deliver to a certified laboratory for analysis.
9. Once site activities allow, OMNNI will coordinate the installation of two NR 141 groundwater monitoring wells to a depth of 15 feet. Wells will be placed in the vicinity of TW09 and TW06. These wells will be developed and sampled for volatile organic compounds (VOCs) and polycyclic aromatic hydrocarbons (PAHs).
10. Abandon the remaining temporary wells on site in compliance with DNR requirements.
11. Evaluate data collected and prepare a site investigation report including OMNNI's interpretation of information gathered. The report would include a summary of all of the efforts to date at the site, the degree and extent of contamination, and would present recommendations to the DNR based upon the data collected.

NOT INCLUDED IN THIS SCOPE OF WORK

The following items are not included within this agreement, but are available at the request of the client. Consultant will not proceed with additional work without verbal or written confirmation from client.

1. Applicable DNR review fees. A site investigation review fee is anticipated to be \$1,500, plus additional applicable site closure review fee which could be an additional \$1,050 plus any continuing obligation fees listed within NR 749.
2. Any additional sampling beyond two rounds of groundwater sampling and all laboratory samples are based on a standard turn around.
3. Site closure documentation preparation and submittal is not part of this current scope of work, but is anticipated to be approximately \$5,000. However, this is variable as it is dependent on the results of the site investigation.
4. No landfill tipping fees are part of this scope of work.

5. This scope does not address any sampling that may be needed as a result of importing fill into the site.

CITY'S RESPONSIBILITY

Our proposal assumes the City will provide the following services:

1. Provide access to the subject property.

PROPOSED SCHEDULE

The proposed schedule for the work would be as follows:

- We understand that the City of Appleton is in the process of submitting an RFQ for the demolition of the building to take place before May 1, 2018. OMNNI would be able to start work on the project and work concurrently with the building demolition activities.
- It is OMNNI's intent to submit the site investigation report within 30 days of obtaining the results from the groundwater wells. The groundwater wells are anticipated to be installed after major demolition activities have been finished.

COST ESTIMATE

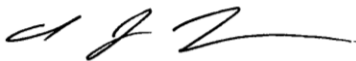
Our cost estimate is based on assumed time-and-materials requirements, and our existing fee schedule with the City for our consulting costs. Costs for geoprobe contractors, lab fees, and landfill administrative fees will be billed out at actual costs. The cost estimates are as follows: consulting fees of \$18,864, geoprobe subcontractor fees of \$2,600, landfill administrative fee of \$175, and environmental laboratory fees of \$1,325. The overall estimated costs including subcontractor fees is \$22,964.

CONDITIONS

Upon acceptance of this proposal, OMNNI Associates would begin this project under our existing 2018 Contaminated Soils & Materials Testing contract.

If you have any questions regarding this proposal, please do not hesitate to contact me. Your signature below will authorize us to proceed.

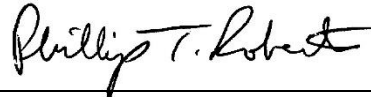
Sincerely,
OMNNI Associates, Inc.



Christopher J. Rogers P.G.
Hydrogeologist / Project Manager

City of Appleton
(Client)

OMNNI Associates, Inc.
(Consultant)



Matthew Rehbein
Economic Development Specialist

Phillip T. Roberts, P.E.
Engineering Services Manager

Date: _____

February 14, 2018 _____



MEMORANDUM

TO: Appleton Redevelopment Authority

FROM: Matt Rehbein, Economic Development Specialist

DATE: December 7, 2018

RE: OMNNI Associates, Inc. Contract Amendment for Site Investigation and Remedial Activities at 222 N. Oneida Street in Appleton, WI

The Appleton Redevelopment Authority (ARA) acquired the property located at 222 N. Oneida Street in Appleton on December 21, 2017. As part of the due diligence, a Phase I and Phase II environmental report was completed by OMNNI Associates, Inc. As required by law, OMNNI notified the Wisconsin Department of Natural Resources of findings of exceedances for polycyclic aromatic hydrocarbons (PAHs) and volatile organic compounds (VOCs) in the soils. ARA received a "Responsible Party" letter from the DNR on January 24, 2018 outlining the responsibilities as owner of a contaminated parcel. ARA approved a contract with OMNNI Associates, Inc. authorizing spending up to \$25,260.40 on March 14, 2018 (memo and contract attached). To date, \$21,908 has been spent.

Based upon additional contamination and further information identified during completion of this work, three (3) additional test wells are recommended to try to establish end points of the contamination and to allow for closure of the site. Staff asked OMNNI to prepare a contract amendment for drilling and testing of these wells. Work identified in the original proposal, but not included since it was difficult to accurately predict at the beginning of the project, is included in this request.

The anticipated cost for the three (3) test wells with sampling is \$4,000, the total of DNR fees is estimated at \$2,900, and other OMNNI work to prepare the closure request is \$6,000, for a total cost of \$12,900.

The City's Procurement & Contract Management Policy (attached) requires soliciting competitive proposals/quotes for professional services [Sec. IV.C.(3)]. The City has already solicited competitive proposals for a Master Contract which is currently held with OMNNI Associates, Inc. Because the total cost of this project is anticipated to be over \$25,000, staff is seeking authority to proceed with the proposed amendment.

Staff Recommendation:

Staff is authorized to amend the contract incorporating the scope of services proposed by OMNNI Associates, Inc. in the Amendment dated December 6, 2018 for an amount not to exceed \$14,835 (\$12,900 + 15% contingency of \$1,935) **BE APPROVED.**

AMENDMENT TO AGREEMENT

This Amendment, Number 001, to the AGREEMENT FOR CONSULTING SERVICES, dated March 22, 2018 (the Agreement), between Appleton Redevelopment Authority (Client) and [OMNNI Associates, Inc.](#) (Consultant) is made effective as of the 6th day of December ,2018.

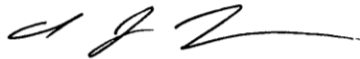
1. Consultant shall perform the following Services:

Based on groundwater results at the 222 N. Oneida Street project site during the site investigation, the Department of Natural Resources is requesting three additional groundwater wells to be installed and sampled. These costs are in addition to the original agreement and are depicted below. Additionally, the costs associated with site closure (if favorable groundwater results are attained from sampling the new wells) are also depicted below.

- Develop and submit a work plan to the Department of Natural Resources to install three new monitoring wells;
 - Mobilize to the site, drill, and conduct one round of groundwater sampling for three monitoring wells;
 - Deliver samples to Synergy laboratory for analysis;
 - Document and interpret results and package together with the Site Investigation Report currently being developed;
 - Applicable DNR review fees. A site investigation review fee is anticipated to be \$1,500 (if required), plus additional applicable site closure review fee and groundwater database fee of \$1,400;
 - Site closure documentation preparation and submittal (if groundwater sampling results of new wells are below Wisconsin Enforcement Standards).
2. In conjunction with the performance of the foregoing Services, Consultant shall provide the following submittals/deliverables (Documents) to Client:
- Results and interpretation shall be documented in the Site Investigation Report;
 - If results of groundwater sampling are below Wisconsin Enforcement Standards, a request for closure will be prepared as part of the deliverables.
3. Consultant shall perform the Services and deliver the related Documents (if any) according to the following schedule:
- It is anticipated Drilling to be scheduled in early 2019.
4. In return for the performance of the foregoing obligations, Client shall pay to Consultant the amount of \$12,900 of which \$2,900 are DNR fees, payable according to the following terms:
- Standard Terms and Conditions are outlined in the existing 2018 Contaminated Soils & Materials Testing contract for the City of Appleton.
5. Except to the extent modified herein, all terms and conditions of the Agreement shall continue in full force and effect.

If you have any questions regarding this proposal, please do not hesitate to contact me. Your signature below will authorize us to proceed.

Sincerely,
OMNNI Associates, Inc.



Christopher J. Rogers P.G.
Hydrogeologist / Project Manager

CLIENT:
Appleton Redevelopment Authority

By: _____
(Signature)

Name: Karen Harkness
(Type or Print)

Title: Executive Director

Date: _____

CONSULTANT:
OMNNI Associates

By: Phillip T. Roberts
(Signature)

Name: Phillip T. Roberts, P.E.
(Type or Print)

Title: Engineering Services Manager

Date: 12/6/18

EXHIBIT A

CITY OF APPLETON POLICY		TITLE: PROCUREMENT AND CONTRACT MANAGEMENT POLICY	
ISSUE DATE: 09/01/10	LAST UPDATE: 10/07/15	SECTION: Finance	FILE NAME:
POLICY SOURCE: Finance Department			TOTAL PAGES: 18
Reviewed by Attorney's Office Date: 09/10/15	Finance Committee Approval Date: 08/25/10 Date: 08/08/12 Date: 09/26/12 Date: 09/22/15	Council Approval Date: 09/01/10 Date: 08/15/12 Date: 10/03/12 Date: 10/07/15	

I. PURPOSE

Procurement Policy – To allow the City to acquire, on a competitive basis, all goods and services at the best value possible and to operate in a manner that maximizes the effectiveness and efficiency of services provided by and for the City.

Contract Management Policy – To allow for the City to manage all contracts, and change orders associated with all contracts, in a manner that maximizes the effectiveness and efficiency of those contracts and change orders while ensuring adequate internal controls are followed.

II. POLICY

This policy establishes a Purchasing Office, Purchasing Manager and a contract management process. The Purchasing Office will have the responsibility to institute and maintain an effective and economical program for the purchase of goods and services. The Purchasing Manager, acting as a representative of the Mayor and reporting to the Finance Director, will ensure the proper and efficient administration of this program, and monitor compliance with these procedures, rules and regulations throughout City operations.

The purpose of the purchasing program is to enable departments to acquire needed equipment, materials, supplies and services of suitable quality for the purpose intended from the lowest priced responsible and responsive bidder while enhancing competition and providing fair opportunity and equitable treatment for all vendors.

This will be accomplished by utilizing a combined effort between City departments and the Purchasing Office. The Purchasing Office will concentrate efforts on standardizing and centralizing purchases of common use items among all departments while enlisting individual departments' expertise in purchasing specialized items unique to their departments. When purchasing these specialized items, the individual department becomes responsible for ensuring that the provisions of this policy are followed.

The policy pertains to all agencies, departments or offices of the City and, when applicable unless otherwise provided by statute, those committees, boards or commissions which manage or operate other City properties, installations or activities.

Failure to comply with this policy may result in loss of individual purchasing authority and/or disciplinary action up to and including discharge.

III. DEFINITIONS

Auction Administrator. An individual assigned by the City to assist departments in selecting an auction type and venue, establish procedures and responsibilities, and conduct online auctions for the sale of surplus supplies or equipment.

Bid. A formal price solicited from a vendor for a good or service. Bids are required to conform to specific terms and well defined specifications contained in the solicitation documents. A sealed written bid is required with public notice setting a specific time and place to open all bids received for any project defined as public construction.

Change Order. Change Order is defined as any increase or decrease in an approved contract amount or time necessary to complete the approved project.

City. The City of Appleton, WI.

Contract Amendment. A change in the contract scope which results in a change in the amount payable to the contractor/consultant/vendor, either increasing or decreasing the amount due.

Committee of Jurisdiction. A sub-committee of the Appleton Common Council with authority to hear and act upon a particular scope of subject matter.

Contract. An agreement between two (2) or more parties to do something or provide specific goods or services.

Contract Cost. Total cost of a contract, whether for one or more years.

Contract with Contingency. This is a contract entered into for a specific dollar amount for a specific scope of work. A contingency amount is approved at the time of the contract approval with the contingency amount set aside for unforeseen conditions or design shortfalls identified after a construction project begins.

Contractual Services. Includes, but may not be limited to: telephone, gas, water, electric light, power and heating services; towel and cleaning services; leases for grounds, buildings, equipment, office or other space required by the user department; and the rental, repair or maintenance of equipment, machinery or other property owned by the City.

Council. The Common Council of the City of Appleton.

Critical timing issues. Critical timing issues are those where a decision must be made on a timely basis to avoid sources of significant costs.

Department. All agencies, departments or offices of the City and, when applicable unless otherwise provided by statute, those committees, boards or commissions which manage or operate other City properties, installations or activities.

Invitation for Bid (IFB). The documents used to solicit bids from vendors.

Lump Sum Contract. A contract entered into for a specific dollar amount which will be paid for all of the work required by the contract, regardless of the actual costs incurred. A contract amendment will only be considered when there is either an increase or decrease in the scope of work required.

Procurement Card. A credit card issued by the City to an employee for the purpose of facilitating primarily low-cost purchases and to reduce associated administration.

Professional Services. Services, the value of which are substantially measured by the professional competence of the persons performing them and which are not susceptible to realistic competition by cost alone. Such services include, but shall not be limited to those customarily rendered by architects, engineers, surveyors, real estate appraisers, certified public accountants, attorneys, financial advisors, medical and social service providers, computer software applications, systems development/implementation, management and other consultants, promotional programs such as marketing and advertising, and such other specific services as determined by the Mayor or his/her designee.

Project Upgrade. A project upgrade is considered to be either a new item not necessary to the functioning of the project or a significant change in quality.

Proposal. A plan received from a vendor and the related cost of implementing the plan. Proposals are usually requested when the specifications or scope of the services needed cannot be adequately prepared to provide all prospective vendors a complete and accurate description of the work to be performed. Vendors are asked to propose their best solution to the needs defined in the solicitation. Proposals are often requested when soliciting costs for professional services, high-tech equipment, other specialized equipment and research and development expenditures.

Public Construction. Substantial repairs, remodeling, construction or other changes to any City-owned land or building (Wisconsin Statute §62.15).

Quotation. An informal type of bid received from a vendor offering to sell a product or service. The quotation will contain specified pricing, terms and conditions of sale. The quotation may be either in writing (including a price list or catalog) or verbal, depending upon the dollar value as outlined in IV.C (2) (3).

Request for Proposal (RFP). All documents, whether attached or incorporated by reference, used for soliciting proposals for professional services.

Request for Qualifications (RFQ). All documents, whether attached or incorporated by reference, used for soliciting statements of qualification for professional services.

Request for Quotations (RFQ). A written request for informal bids or quotes.

Service. The furnishing of labor, time or effort by a contractor, usually not involving the delivery of specific goods or products other than usual reports, materials or drawings which are the end result of and incidental to the required performance.

Unit Price Contract. A contract in which a fixed sum is paid for each completed unit of work.

IV. PROCEDURES

A. PURCHASING MANUAL

The Purchasing Manager shall prepare and maintain a Purchasing Manual setting forth the authorized purchasing procedures and the rules and regulations in connection therewith which shall be approved by Council.

B. DEPARTMENT SPECIFIC PURCHASES

In order to take advantage of the technical expertise within the various City departments, department personnel will have the authority to purchase specialized items unique to their operations. The Purchasing Office will be available to serve in an advisory capacity. However, if the department wishes, the responsibility for the purchase of these specialized items may be turned over to the Purchasing Office. Certain departments employ individuals whose duties include routine purchasing of non-specialized goods and services. These individuals retain such authority at the discretion of the Finance Director, and shall execute their purchasing responsibilities in accordance with all provisions of this policy and under the general oversight of the Purchasing Office. The individual coordinating the purchase will be responsible for ensuring that all provisions of the Procurement Policy are followed. Upon request of the Purchasing Manager, departments will furnish copies of quotes and other documentation to show compliance with the procurement policy.

C. PURCHASING AND CONTRACTING LEVELS

Purchases of and contracts for supplies, materials, equipment and contractual services shall be based on competitive bids/quotations whenever practical subject to the following spending guidelines. However, for all purchases the Purchasing

Manager reserves the right to coordinate the purchase of like items where such purchase is beneficial and practical to the City.

- (1) *Purchases up to \$ 2,000* may be made based on the best judgment of the department making the purchase, except as section IV.D applies. However, it is recommended to seek competition for these purchases for the lowest prices within the parameters of quality and delivery. Accordingly, whenever making a purchase under \$2,000 the department is encouraged to seek competition from as many sources *as reasonable* to assure best price and delivery.
- (2) *Purchases of \$ 2,000 or more but less than \$ 7,500* require the solicitation of two (2) or more quotes, which may be written or verbal, but documented in either case. When verbal quotes are received, all pertinent details of the quote should be documented in writing by the department and retained on file.
- (3) *Purchases of \$ 7,500 or more* require that a minimum of three (3) written quotations be solicited. Additionally, any new contracts or agreements for services or equipment with an anticipated contract cost of \$ 25,000 or more require the recommendation of the Committee of Jurisdiction and the approval of the Common Council prior to execution. New contracts or agreements shall be defined as those which:
 - a. are for services or equipment procured on a special or one-time basis; or
 - b. are *not* for the renewal or reaward of existing, previously approved and budgeted, ongoing operational requirements (i.e., existing maintenance agreements, fuel, salt); or
 - c. are not defined by either (a) or (b), but have an anticipated total contract cost in excess of \$100,000 (i.e., janitorial services, uniforms, etc.)
- (4) *Public Construction Projects.* In accordance with Wisconsin Statute §62.15, all such projects for which the cost is expected to be greater than \$25,000 must be competitively bid. The City Attorney's Office will determine the applicability of this statute to individual projects.

The bidding and awarding processes are detailed in Wisconsin Statute §66.0901. All public works bids and staff recommendations shall be submitted through the Finance Committee for Common Council approval.

D. STANDARD CONTRACTS

When the Purchasing Manager has standardized the purchasing of a good or service and has issued standard purchase orders or contracts for these goods or services, such goods or services shall be purchased from the agreed upon vendor for the length of the agreement. Exceptions will be made only when the requisition clearly states the reason for which the standard item is unacceptable.

E. COOPERATIVE PURCHASING

The Purchasing Manager and other authorized City personnel shall have authority to join with other units of government, with quasi-government agencies funded in whole or in part by the City, and with other purchasing associations in cooperative purchasing plans when the best interest of the City would be served.

Competitively bid cooperative purchasing contracts onto which the City "piggybacks" must contain language specifically allowing participation by other government agencies. They are considered to have met competitive requirements, and no additional quotes are necessary. Additionally, if identical products can be obtained at a lower price than current cooperative purchasing contracts, no additional quotes are required.

F. PURCHASING FROM GOVERNMENT UNITS

Materials, supplies, machinery and equipment offered for sale by the federal or state government or by any municipality may be purchased without bids at prices to be agreed upon between the Purchasing Manager and the respective department for which the item is to be acquired. Expert assistance for appraisal of such items may be employed at the discretion of the Purchasing Manager.

G. SOLE SOURCE

Purchases of goods or services under \$25,000 may be made without competition when it is agreed in advance between the department and the Purchasing Office that there is a valid reason to purchase from one source or that only one source is available.

For sole source purchases over \$2,000 but less than \$7,500, the department shall obtain verbal approval from the Purchasing Office, and document the reasons and agreement at the department level. The Purchasing Manager may suggest or assist in locating additional competitive sources.

- (1) For sole source purchases over \$7,500 but less than \$25,000, a written justification shall be forwarded to the Purchasing Manager, who will either concur with the sole source or assist in locating additional competitive sources.

- (2) Any sole source purchase of \$25,000 or more must have a recommendation by the Committee of Jurisdiction and an approval of the Common Council.
- (3) The use of the sole source exception to the competitive bidding process will expire on an annual basis.
- (4) A sole source purchase may be allowed when a needed item becomes available on a one-time basis at an "exceptionally advantageous" price. The buyer must be able to show that the purchase price of the item presents a unique and temporary opportunity for significant savings relative to its market value. Examples include auctions, used equipment offerings, liquidations, etc. Approval procedures G.(1) through G.(3) above still apply.

H. EMERGENCY PURCHASES

Any City department or agency may purchase in the open market, without filing a requisition or estimate, or receiving competitive bids, any supplies, materials or equipment for immediate delivery to meet emergencies arising from unforeseen causes. The following situations constitute an emergency under this provision of the policy:

- (1) Any situation in which there exists immediate and substantial danger to the health, life or property of any person or any situation in which there exists potential for increased damage to City property if the situation is not immediately remedied;
- (2) Any situation where the normal operation of any City department or Agency is seriously impaired or is in jeopardy of being seriously impaired; or
- (3) When the Mayor's Office declares an emergency.

I. PURCHASE OF RECYCLED MATERIALS

The Purchasing Manager will ensure that the average recycled content of all paper purchased by the City measured as a proportion, by weight, of the fiber content of all paper products purchased in the year is not less than those percentages specified in Wisconsin Statute §66.0131(3)(a)(2).

J. PURCHASE ORDERS

Purchase orders should be issued for all purchases of goods and services unless such payment is covered by an existing contract or other agreement. However,

purchase orders should not be issued when a City issued procurement card is used to facilitate the purchase.

K. PROCUREMENT CARDS

A City issued procurement card should be used whenever practicable for purchases of low dollar items (\$1,000 or less) in accordance with the limitations imposed on the cardholder and following the City's procurement card use policies. Authorized transactions greater than \$1,000 are still subject to the quote requirements of this policy. See the City of Appleton Procurement Card Policy for complete rules of use.

L. SERIAL CONTRACTING

No contract or purchase shall be subdivided to avoid the requirements of this policy. Serial contracting is the practice of issuing a series of purchase orders to the same vendor for the same commodity or service in any 90-day period in order to avoid the requirements of the Procurement Policy.

M. APPROPRIATIONS

All purchases shall be made in accordance with the appropriations (budgets) that have been approved by the Council for the operation of the respective City departments. The responsibility for not exceeding existing appropriations rests with the department head making the requisitions or purchases. Contracts or agreements extending beyond one year should contain language allowing for termination in the event funding is not appropriated in subsequent fiscal years.

N. LOWEST RESPONSIBLE BIDDER AND BEST VALUE CONCEPT

All open market orders or contracts shall be awarded to the lowest priced responsible bidder taking into consideration the following factors: the qualities of the articles to be supplied; conformity with specifications; product compatibility; maintenance costs; vendor support after the purchase, and delivery terms. Where appropriate, life cycle costing or TCO (total cost of ownership) concepts should be used to determine and evaluate cost components beyond the base purchase price.

If two or more qualified bids are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to the local bidder. Where this is not practical, the contract will be awarded to one of the bidders by drawing lots in public.

O. CONTRACT APPROVAL

Contract recommendation by Committee and approval by Council shall be approved with the following language:

Lump sum or unit price contract:

Award "Project Name" to "Vendor" in an amount not to exceed \$XX,XXX.XX.

Contract with contingency:

Award "Project Name" to "Vendor Name" in the amount of \$XXX,XXX with a XX% contingency of \$XX,XXX for a project total not to exceed \$XXX,XXX.

P. CHANGE ORDER PROCEDURE

Change orders to contracts shall be governed by this procedure, unless an exception to the procedure has been previously approved by Council. This procedure may be modified by the Common Council and Committee of Jurisdiction for larger Public Construction contracts. Under no circumstances shall a change order be split to fall within a desired category. Where feasible, critical timing issues may be addressed by scheduling a special committee meeting. Emergency actions affecting the health or safety of the community will be addressed in accordance with the existing emergency policy.

(1) EXPLANATION

- a. All Change Order approval requests will include a brief description of the change being made and the reason supporting the need for the change.

(2) CHANGE ORDER APPROVAL

- a. For projects with a contracted cost less than \$500,000, Change Orders of less than \$15,000 within contingency may be approved by the department head, and the item brought to the Committee of Jurisdiction as an informational item prior to issuing final payment.
- b. On projects with a contracted amount of \$500,000 or greater, Change Orders for less than \$50,000 within contingency, may be approved by the department head. The Change Order shall be reported out to the Committee of Jurisdiction as an informational item at its next regularly scheduled meeting or within thirty (30) days, whichever is sooner. Additionally, a project summary detailing the total cost of the project,

including Change Orders, shall be reported as an informational item to the Committee of Jurisdiction prior to issuing final payment.

- c. All Change Orders not included in either of the paragraphs above must be recommended by the Committee of Jurisdiction and approved by the City Council prior to the contractor being authorized to begin work.
- d. If approval of the Change Order results in the contract amount exceeding the remaining contingency and/or the project budget, recommendation of the contract amendment must be obtained from the Finance Committee, Committee of Jurisdiction, and approved by the Common Council prior to beginning any work under the Change Order.
- e. If, in the determination of the Mayor, the work called for under a proposed Change Order is a Critical Timing situation, the Change Order may be authorized by the Mayor, in consultation with Department Head and Director of Finance. Any such approval shall be reported to the Common Council as an informational item at its next regularly scheduled meeting or within thirty (30) days, whichever is sooner.

(3) REPORTING

- a. Change orders required to be recommended by Committee and approved by Council shall be submitted to Committee with the following language:

Change Order within contingency:

Approve Change Order # X to contract XXXXXX for "Project Name" to increase (decrease) for "description of why" in the amount of \$XX,XXX resulting in a(n) decrease (increase) to contingency from \$XX,XXX to \$XX,XXX. No change to overall contract amount.

Change Order outside of contingency:

Approve Amendment and Change Order # X to contract XXXXXX for "Project Name" to increase for "description of why" in the amount of \$XX,XXX resulting in a(n) decrease (increase) to contingency from \$XX,XXX to \$XX,XXX. Overall contract increased from \$XXX,XXX to \$XXX,XXX. (THIS MAY REQUIRE A BUDGET ADJUSTMENT IF

PROJECT BUDGET IS EXCEEDED – IF BUDGET ADJUSTMENT REQUIRED, IT MUST ALSO BE CONTINGENT UPON FINANCE COMMITTEE APPROVAL OF FUNDING.)

- (4) Change Orders not required to be recommended by Committee and approved by Council shall be reported out informationally to the Committee of Jurisdiction prior to the Finance Department issuing final payment.

Q. PROCUREMENT OF SERVICES

Whenever practical, the purchase of all services should be based on competitive bids/quotations/proposals subject to the spending guidelines noted in Procedure IV(C) of this policy. This includes, but is not limited to, the following categories of services:

Professional Services. Consulting and expert services provided by an organization or individual.

Contractor Services. The furnishing of labor, time or effort by a contractor, usually not involving the delivery of specific goods or products other than those that are the end result of and incidental to the required performance.

Client Services. Those services provided directly to individuals on behalf of the City.

Construction Services. Services provided in the construction of roads, buildings or other infrastructure.

Technology Services. Services provided in the design, development, installation, and/or operation or maintenance of automated computer systems, including hardware and software.

If it is estimated that the service being solicited has a total cost of over \$ 25,000 and the value of the service is substantially measured by the professional competence of the providers rather than cost alone, it is recommended that a Request for Proposal (RFP) or Request for Qualifications (RFQ) be used to solicit vendor responses. The Purchasing Office is available to assist in these situations.

Exceptions to competition for procurement of services shall only be made in accordance with the City's Sole Source policy (see section IV.G.).

R. PROHIBITED BUSINESS TRANSACTIONS

- (1) Employees are not allowed to participate directly or indirectly in a purchase when the employee, or a member of the employee's family, has a financial interest in the purchase or the employee, or a member of the employee's family, is negotiating or has an arrangement concerning prospective employment with the supplier.
- (2) Purchases for services or goods should not be made from employees of the City unless the employee can be considered an independent contractor as defined by the Internal Revenue Service.
- (3) Employees of the City are not allowed to use City negotiated discounts or the City's tax exempt status to purchase goods or services for their own personal use or gain. Employee discount programs offered by vendors may be used by employees only when the discount is available to all City employees regardless of position, and is also offered to other organizations or companies of similar size.
- (4) The City of Appleton Code of Conduct Policy shall be referenced regarding receipt of gifts. Employees who receive offers of gifts or other improper attempts to influence purchasing decisions should report this to their supervisor and/or the Purchasing Manager, who will in turn consult with the City Attorney's Office to determine the appropriate course of action.

S. SURPLUS OR OBSOLETE SUPPLIES OR EQUIPMENT

Disposal of City-owned supplies or equipment that are no longer required or serving a useful purpose shall be handled in a manner that is:

- economically feasible;
- in compliance with all applicable laws, regulations and policies;
- environmentally responsible; and
- deemed to be in the best interest of the City.

Departments should contact the Purchasing Manager for assistance in determining the most appropriate and beneficial method of disposal. There are several approved methods for disposal of surplus, including:

- 1) A live auction conducted by the City or other government agency;
- 2) Internet-based auctions or selling tools (i.e., eBay);
- 3) Sale to the general public via advertised, sealed bidding;
- 4) Trade-in on new supplies or equipment;
- 5) Transfer to another City department;
- 6) Direct sale to an interested firm or individual;

- 7) Donation to approved non-profit organizations;
- 8) Sale, trade, transfer or donation to an outside publicly funded agency;
- 9) Recycling and/or sale as scrap;
- 10) Discarding as trash; and
- 11) Other methods which may be recommended on a case by case basis by the Finance Committee and approved by the Common Council, or the Library Board.

Which method of disposal is most appropriate will depend upon several factors, including:

- The condition, location and physical characteristics of the item(s);
- The amount of time, effort, administration and expense required for the method relative to the potential value received;
- The public benefits and/or liabilities associated with the method.

The City will assign one or more Auction Administrators to facilitate sale by auction when appropriate. He or she shall assist departments in selecting an auction type and venue, establish procedures and responsibilities and conduct online auctions.

Disposing of items or groups of items with an estimated value of \$500 or more using methods other than 1 through 5 in the approved methods list above shall require a recommendation of the Finance Committee and approval by the Common Council. Exception: method #6 (direct sale) may be used at the discretion of the Department, with agreement of the Purchasing Manager, on direct sale of items up to \$2500 to an interested firm or individual, when it is determined that one or more of the following is true:

- the item is so specialized that broader interest is unlikely;
- due diligence in locating other interested parties has been done;
- a pending offer for the item is deemed so advantageous that the City's best interest is only served by its timely acceptance.

For items or groups of items with an estimated value of less than \$50, departments may, at their discretion, utilize any of the approved methods listed, provided the disposal meets the general criteria listed at the beginning of this section. For estimated values over \$50, departments should contact the Purchasing Manager for assistance in determining the most appropriate and beneficial method of disposal.

All proceeds received from the sale of City surplus property shall be reported and delivered to the Accounting Manager of the Finance Department for deposit and application to the proper account(s).

City owned supplies or equipment shall not be taken by, given to, or sold to City employees except by public auction or competitive bidding, regardless of their apparent value or condition, unless a specific exception is granted by the Common Council.

T. INSURANCE REQUIREMENTS

A vendor's Certificate of Insurance is required in conjunction with many contracts for services or goods. A valid certificate must be received and approved by the Risk Management office prior to executing or beginning performance under the contract. Employees can check if a vendor has a Certificate of Insurance on file by accessing the Metafile system. Additionally, employees should consult with Risk Management when developing RFPs and IFBs to determine the appropriate levels of insurance and include the requirements as part of the solicitation documents.

U. OPEN RECORDS/PUBLIC INFORMATION

With few exceptions, records related to governmental purchasing are subject to public access under Wisconsin's Open Records Law. This includes, but is not limited to, quotes, bids, proposals, purchase orders and related correspondence. While employees may ask that open records requests be made in writing, the requestor is not required to do so.

- (1) When conducting public bid openings, the names of the bidders and certain bid details, including price shall be read aloud. In the case of proposal (RFP) openings, only the names of the proposers shall be read aloud. In either case, copies of the bids or proposals are not made available, nor is inspection of the documents permitted, until contract award has been submitted for recommendation to the Committee of Jurisdiction.
- (2) Vendors requesting confidentiality of their quotes, bids, proposals or portions thereof must identify the confidential materials as such and state the specific, legitimate reason(s), i.e., trade secret, propriety customer list.
- (3) Questions regarding compliance with an open records request should be referred to the City Attorney's Office. Also consult the City of Appleton Public Records Policy for more detail.

V. INFORMATION TECHNOLOGY RELATED EQUIPMENT AND SUPPLIES

In order to ensure compatibility and maintain standards for the City's information systems, all purchases of information technology equipment, supplies and

services must be initiated by and acquired through the Information Technology (IT) Department. This includes, but is not limited to, computers, software, printers, copiers, inks, toners, repair parts, support and maintenance services, telephone equipment, scanners or any peripheral device which interfaces with any part of the City's information systems. IT staff should be the primary vendor point of contact for all information technology needs. In turn, the IT Department is responsible for adhering to the provisions of this policy when conducting such procurement activities.

W. VALLEY TRANSIT

Procurement activities by or for Valley Transit are subject to the provisions of the Federal Transit Administration "Appendix A of Procurement Policies." A current version of this Appendix is available upon request to Valley Transit Administrative Services. The Appendix and its certifications, affidavits, and other requirements must be incorporated into all formal solicitation documents when the procurement is funded in whole or in part with federal monies. In addition, agencies issuing paratransit service contracts through Valley Transit will complete a procurement checklist, attach the appropriate documentation and submit it to the Valley Transit General Manager or his/her designee for review to ensure federal compliance.

X. LOCAL PROCUREMENT

Since there are often cost and service related advantages associated with buying from local sources, the Common Council has adopted the following resolution:

"Resolved, that where not prohibited by law, the City of Appleton include in the evaluations of all bids, proposals and quotations for goods and/or services (except public construction) where the value of such goods or services is expected to exceed \$5,000, evaluation criteria which favorably and accurately assess the relevant cost and service advantages of procurement from local sources. Where point based systems are used for proposal evaluation and award, the points available for this purpose shall be determined prior to proposal opening and shall not exceed 5% of the total points available."

The Purchasing Manager is available to assist departments in applying this policy resolution to specific procurement situations. Note regarding Valley Transit: The Federal Transit Administration has ruled that this resolution is a prohibited geographical preference which may not be applied when the procurement will be funded in whole or in part with federal monies.

Y. OWNER DIRECT PURCHASING

Owner direct purchasing refers to a tax exempt entity (City) directly buying and furnishing materials, equipment or components of a construction project to the contractor in order to save the sales tax that contractor normally would have paid

and included in their bid. While this method can be advantageous in certain cases, it also can be administratively complex and present risks that could offset the intended savings. Generally, owner direct purchasing should only be considered when:

- (1) The estimated sales tax savings exceeds \$1,000;
- (2) The item(s) to be directly purchased can be easily identified, quantified and separated from the bill of materials;
- (3) The original bid request documents, contractor's bid, and the resulting contract specifically provide for the direct purchase; and
- (4) Established administrative procedures are followed in the execution of the direct purchase. Contact the Purchasing Manager to obtain a copy of the procedures. The City Attorney's Office should be consulted on any legal questions or issues that could potentially impact the process.

The owner direct purchasing process does not relieve the City from other applicable requirements of the Procurement Policy; for example, documentation of quotes or bids for the item(s) purchased, sole source justification, Common Council approval, etc., as well as compliance with State Statutes regarding public construction projects.

Z. ENVIRONMENTALLY PREFERABLE PROCUREMENT

The City of Appleton recognizes that it is a large consumer of goods and services. All of its purchases have an environmental impact resulting from the combined effects of a product's manufacture, use and disposition. By including environmental considerations in purchasing decisions, along with traditional concerns of price, performance and availability, the City will remain fiscally responsible while promoting practices that improve public health and safety, reduce pollution, conserve natural resources, and reward manufacturers and vendors that reduce the adverse environmental impact of their production and distribution systems.

"Environmentally preferable" goods and services have reduced adverse effects on human health and the environment when compared with competing products and services that serve the same purpose. This comparison considers all phases of the product's life cycle, including raw materials, manufacturing, packaging, distribution, operation, maintenance and disposal, including potential for reuse or ability to be recycled.

When determining whether a product is environmentally preferable, buyers should consider attributes including, but not necessarily limited to, the following:

Bio based	Biodegradable
Carcinogen-free	Chlorofluorocarbon (CFC) –free
Compostable	Durable
Energy or fuel efficient	Heavy metal free (i.e., no lead, mercury, cadmium)
Less hazardous	Locally manufactured (less transportation)
Organic	Low-toxicity
Recycled content	Low volatile organic compound (VOC) content
Reduced packaging	Not persistent, bio-accumulative toxic (PBT)
Reduced greenhouse gas emissions	Refurbished
Reusable	Upgradeable
Multi-use	Water efficient
Certified (i.e., Green Seal, EcoLogo, Energy Star, EPEAT).	

Nothing in this policy shall be construed as requiring a buyer to procure products that do not perform adequately for their intended use, that exclude adequate competition, or are not available at a competitive price or in a reasonable period of time. However, when substantive, measurable environmental advantages can be identified for a product, any associated cost savings over the life cycle of the product should be considered when evaluating price.

AA. DOCUMENT RETENTION

Procurement-related documents shall be retained by the originating department as follows:

Bids, proposals and quotations (successful) –
Seven (7) years from contract expiration

Bids, proposals and quotations (unsuccessful) –
Two (2) years from award of contract

Purchase orders and related requisitions and invoices –
Seven (7) years from date of completion

Procurement card purchase receipts, statements and related documents –
Seven (7) years from date of transaction

Ref: Appleton Municipal Code Sec. 2-1(a)(8)

BB. BONDING AND LEGAL REVIEW

- (1) The Purchasing Office along with the City Attorney's Office shall have the authority to require a performance bond or other similar

instrument of surety in such amount as is reasonably necessary to protect the best interest of the City before entering into a contract.

- (2) Contracts must be approved as to form and sufficiency by the Office of the City Attorney, and routed for signatures in accordance with the City of Appleton Contract Routing procedure, as follows:

- a) City Attorney
- b) Mayor
- c) Finance Director
- d) HR/Risk (review insurance requirements)
- e) City Clerk (filing of one original document)

CC. PAYMENTS IN ADVANCE

The City's policy is to avoid making advance (down) payments whenever practicable, except under certain conditions and with proper approval. When a vendor insists upon advance payment(s) prior to shipment or performance, the department shall submit a written request to the Finance Director or designee, including the amount requested, and the reason(s) why the purchase from the requesting vendor is necessary. The Finance Department will investigate and advise whether the payment may be made, taking into account any factors which may impact the City's financial interest.

222 N. Oneida Cost Estimates

Purpose	Estimate	Source	Amount Paid	Date	Account Used
Purchase	250,000	OTP	250,000	12/21/2017	5500.6803 Sub 1616
Phase I	2,400	OMNNI	2,400	10/12/2017	5500.6803 Sub 1616
Phase II	15,371	OMNNI	10,710	12/14/2017	5500.6803 Sub 1616
Remediation Activities	22,964	OMNNI	1,853	6/14/2018	5500.6803 Sub 1616
			9,976	7/24/2018	5500.6803 Sub 1616
			6,296	8/20/2018	5500.6803 Sub 1616
			1,632	9/17/2018	5500.6803 Sub 1616
			1,280	10/12/2018	5500.6803 Sub 1616
			871	12/3/2018	
	12,900	OMNNI Amend	12-12-18		
			1,965	3/4/2019	5500.680300
			2,341	4/23/2019	5500.680300
Demo	57,694	GFT	57,694	6/18/2018	5500.6803 Sub 1616
Soils Transport/Fill	15,225	GFT	41,304	6/18/2018	5500.6803 Sub 1616
Tipping Fees*	24,400	Waste Mgmt.	100	6/14/2018	5500.6803 Sub 1616
			54,415	6/26/2018	5500.6803 Sub 1616
Pre-Demo Environmental	3,665	Eagle	4,040	2/27/2018	5500.6803 Sub 1616
Abatement	20,000	AAR	19,730	4/30/2018	5500.6803 Sub 1616
Gas Disconnect	500		1,132	5/7/2018	5500.6803 Sub 1616
Electrical Disconnect	500		0		N/A
DNR Review Fees	2,900	OMNNI (Est.)			
	\$428,519		\$467,739		

(This is the amt. pd., but check is different due to cl. costs)

Remaining Authorized to Spend
\$18,187.40 12/12/2018
\$1,965.00 3/4/2019 Inv.
\$2,341.00 4/23/2019

\$13,881.40 Remaining 4/23/2019

*To Waste Management Whitelaw Facility

ARA Balance Dec. 12, 2018 116,356.78
3,352.40 Remaining OMNNI Contract approved March 14, 2018
14,835.00 Remaining OMNNI Contract Amendment approved Dec. 12, 2018
98,169.38 Estimated ARA Balance at project end

Property Boundary

Parcels

Monitoring Wells (2018)

Monitoring Wells (2019)



Project Manager:	JCW
Project Engineer:	CJR
Drawn By:	CJR
Checked By:	
Date:	4/25/2019

222 N ONEIDA STREET INVESTIGATION
DETAILED SITE MAP

Omni

ASSOCIATES

ONE SYSTEMS DRIVE
APPLETON, WI 54914

PHONE (920) 735-6900
FAX (920) 830-6100

SCALE:
1" = 10'
PROJECT NO.
N2214K18
FIGURE NO.
2