

RESOLUTION NO. 89-2024

Introduced by Sam Artino

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LETTER OF INTENT BETWEEN THE CITY OF HURON AND TRIBAN INVESTMENT, LLC RELATING TO DEVELOPMENT OF THE FORMER CONAGRA SITE.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

SECTION 1. The Huron City Council authorizes the City Manager to execute a Letter of Intent between Triban Investment, LLC and the City of Huron relating to the development of the former ConAgra property, said Letter of Intent to be substantially in the form of Exhibit "A" attached hereto and made a part hereof.


SECTION 2: That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the Council and that all deliberations of this Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements, including O.R.C. §121.22 of the Revised Code.

SECTION 3: This Resolution shall be in full force and effect from and immediately following its adoption.

ATTEST:


Clerk of Council

ADOPTED: **26 NOV 2024**


Monty Tapp, Mayor



November 19, 2024

Mr. Matthew D. Lasko
City Manager
City of Huron
417 Main Street
Huron, Ohio 44839

Re: Non-Binding Letter of Intent ("LOI") by and among the City of Huron ("Seller"), Triban Investment, LLC. ("Developer" or "Buyer"), for Sale and Development of the "ConAgra Site" (known as Erie County Permanent Parcel No Erie County Permanent Parcel Number 42-61270.001 ["Real Estate"])(the "Project")

On behalf of Developer, I am pleased to present this non-binding Letter of Intent ("LOI") to purchase the above-captioned real estate of Seller under the following terms and conditions

Non-Binding LOI: This LOI is intended to memorialize the general non-binding agreement of the Parties hereto with respect to the Project, and to ensure a general conceptual agreement on future rights, duties, and obligations of the parties that may be memorialized in one or more binding and more definitive agreements.

Seawall Rehabilitation: The City will undertake all costs and expenses associated with the construction of a rehabilitated seawall on the North, East, and pre-existing West side wall of the Real Estate to look generally the same at the West side of the property. Once completed, the City will maintain (if needed) the newly constructed seawall(s) for 5 years from the date of completion, and, thereafter, the Buyer and the neighborhood homeowners association ("HOA") shall be exclusively responsible for all further seawall-related maintenance, repair, and replacement obligations without qualification, and the relevant HOA Declarations shall conspicuously memorialize this responsibility. The parties acknowledge and agree that a prudent reserve seawall maintenance account shall be established and managed by the HOA as part of the HOA fees commencing from the sale of the first unit for maintenance, repair, and replacements to the seawall from and after the 5th annual anniversary of the first unit sold and transferred. The parties acknowledge and agree that the City's rehabilitation of the seawall may occur concurrently with construction and development of the Project.

Real Estate Purchase: The Parties shall endeavor to enter into a Real Estate Purchase Agreement and Escrow Instructions ("REK") whereby the City will sell the Real Estate to Buyer for \$750,000.00 (the "Purchase Price"). Of the Purchase Price, \$250,000 in cash or readily available United States funds will be paid to the City at time of Closing of the REK, and Buyer shall execute a Promissory Note ("Note") and Mortgage ("Mortgage") to the City at Closing. The placement of excavation equipment on site prior to Closing, if at all, shall be at the sole discretion of the City. The Mortgage shall encumber all of the Real Estate and shall secure performance of Buyer in ensuring the City is paid \$10,000 per unit at the closing for each unit sold; the remaining \$500,000 shall be paid on the first 50 units sold. The Note and Mortgage shall be subordinated only to Buyer's primary institutional lender but no other debt.

The REK shall permit two hundred seventy (270) days for Buyer's due diligence to evaluate the site and Project in general for all things that may be of concern to Buyer, including but not limited to environmental matters, site conditions, financing, zoning, title and submerged land lease matters, compliance with all Ohio Department of Natural Resources requirements (if any), all permit requirements, soil compaction and

stability, easements, availability of utilities, and all other things that may be required by Buyer or Buyer's lender.

Notwithstanding any contrary provision of this LOI, the Real Estate shall be sold to Buyer in its present **"AS IS, WHERE IS, WITH ALL FAULTS"** condition, and the City shall have no obligation or responsibility to improve, remedy, or pay the cost of any pre-development work that may be required to ensure the Real Estate is suitable for Buyer's intended use save and excepting matters pertaining to the seawall. Further, Hartung Title Agency, Inc., shall be escrow agent and title company for the Project (to the point of sale of units to the public, at which time a unit owner and/or KHOV may choose their respective title company(ies) of choice).

Development Agreement: During the due diligence period, the City and Buyer shall negotiate a Development Agreement that shall be entered into as of the Closing of the REK and that shall provide certain terms, including but not limited to:

1. Developer shall procure and provide written proof of institutional debt or financial capacity to self-fund the Project that is satisfactory to the City and sufficient to commence and complete the Project.
2. Developer will ensure public access exists around the West, North and East sides of the Real Estate a perpetual, non-exclusive easement.
3. Developer shall procure required performance bonding and construction financing to perform and pay for construction of all infrastructure (excluding the seawall) to make the site developable, including but not limited to roadways and utilities (both offsite and onsite) to City's satisfaction.
4. Any roadway developed on the Property shall remain private and shall not be dedicated to public use but shall allow general access to vehicles and pedestrians by way of perpetual access easement granted to the City.
5. The public shall be granted pedestrian and vehicular access on the perimeter and roadway (by way of platted easement and recorded perpetual, non-exclusive easement) to be maintained, repaired, and replaced by the developer (and HOA post-cessation of construction).
 - o City agrees to maintain insurance on the public access space.
6. Developer shall enter into a written agreement with K. Hovnanian Homes ("KHOV") to build, as close as reasonably possible, that which was presented to the City in 2024 in terms of unit type, and unit count – subject to modest changes based on developer preference, planning commission feedback, and site considerations that may arise during due diligence. The "builders agreement" with KHOV shall identify the City as a third-party beneficiary of the agreement, and shall require the City to informally participate in the selection and approve any subsequent builder(s) in the event KHOV is no longer building on site, regardless of reason.
7. Any and all Planning Commission and Design Review Committee conditions and requirements shall be memorialized in any Permit(s) issued by the City, and non-compliance with same may result in on or more citations and/or stop work orders being issued until compliance is achieved.
8. All project-related plans shall be approved by the City in writing and in advance.
9. All HOA documents shall be reviewed and approved by the City to ensure the HOA maintains exclusive responsibility for seawall maintenance, replacement, and repair after the 5-year post-completion period expires, and to ensure the HOA is required to maintain all storm-water and drainage-related facilities and infrastructure, including any and all effluent pumping offsite.
10. Developer shall reimburse City for engineering costs incurred by the City relating to the Project, including but not limited to review of all site documents, PUD documents, HOA documents, plans, specs, Easement, etc., which amounts shall be paid to the City prior to issuance of one or more building permits.
11. Developer will use its best commercial efforts to build and find an operator for a restaurant or eatery on site.

12. Developer shall construct and permit the HOA to manage a multi-slip marina on the East side of the property.
13. The Developer shall be responsible for all permitting required for the project, including ensuring Ohio Department of Natural Resources is engaged to ensure they are aware of the Project.
14. The Developer shall commence construction for the Project promptly after receiving all necessary local, State, and Federal approvals (as applicable), and shall continue diligently and in earnest to complete the necessary improvements and infrastructure to permit ongoing Project-related construction.

Closing: Buyer desires to close within 30 days from completion of the due diligence period, unless otherwise mutually agreed to by the Parties.

Confidentiality: Buyer shall make no public statements nor issue any press releases nor make public announcements until after Closing unless otherwise agreed in writing and in advance by and between the Parties.

City Approval as a Condition Precedent: Notwithstanding any contrary provision of this LOI, Huron City Council must approve the Project and all and all documents entered into as a condition precedent to the Parties obligation to perform under said agreement(s).

More Definitive Agreement: This non-binding LOI is a mere expression of the Parties aspirational goals, and only one or more definitive agreements, when fully executed, shall create binding one or more obligations on the Parties. Neither this LOI nor any one or more of the more definitive agreements may be assigned by Developer, in whole or in part, without the prior written consent of Huron, which consent maybe withheld in the City's sole and absolute discretion.

Brokers: Buyer has not utilized the services of a real estate agent or broker, and Buyer shall defend, indemnify, and hold harmless the City for any claims of real estate agents or broker relating to the project.

Provided the Real Estate is acceptable to Buyer, the terms and conditions described herein shall constitute the major provisions of a mutually acceptable Purchase Agreement; provided, however, that Buyer and Seller acknowledge that this non-binding LOI is not a Purchase Agreement, and that it is intended solely as a basis for further discussion of the terms of a possible Purchase Agreement.

Assuming a transaction is reached by the Parties to permit Buyer to acquire the Real Estate (as determined by Buyer, in Buyer's sole and absolute discretion), Buyer agrees that all press releases, notices, and other information disseminated by Buyer and/or through third parties (at Buyer's direction) shall be mutually developed and/or approved by the Parties.


A Purchase Agreement shall be subject to Buyer's and Seller's approval, and only a fully-executed Purchase Agreement shall constitute a binding and enforceable commitment by Buyer and Seller to purchase the Real Estate. Seller shall acknowledge approval of this LOI by signing below and returning same to the Buyer.

THIS SPACE LEFT INTENTIONALLY BLANK

Sincerely,

BUYER:

Triban Investment, LLC.

By:  dotloop verified
12/04/24 11:35 AM EST
WS7R-LIHS-OAQJ-HWBA
Bojan Knez, President and CEO


Address: 7555 Fredle Ave.
Painesville, Ohio 44077

Date: _____

APPROVED BY:

SELLER:

City of Huron

By: 
Matthew D. Lasko, City Manager

Date: 12/02/2024