



## MEMORANDUM

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TO: Community and Economic Development Committee

FROM: Matt Rehbein, Economic Development Specialist

DATE: June 16, 2016

RE: Letter of Intent for Southpoint Commerce Park

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The City has received a Letter of Intent (attached) from Commercial Horizons for development of a World Headquarters, Innovation Center and Pilot Plant for an undisclosed company to purchase Lots 12 and 13 of Plat 1 in the Southpoint Commerce Park (map attached).

The proposed purchase price is \$45,000 per acre which is the City's asking price for Plank Road frontage land in the Southpoint Commerce Park. The two parcels comprise 6.83 acres. Other requested terms, including the requested framework of the Development Agreement are also included in the Letter of Intent. As stated in the LOI, "this Letter of Intent shall not create a binding agreement and shall not be constructed as a contract for purchase and sale of property."

Lot 13 is not currently owned by the City. To facilitate this transaction, the City would have to repurchase Lot 13 under Section 13 of the Deed Restrictions and Covenants, Repurchase Rights. The estimated repurchase price, assuming an August 1, 2016 closing date, using the guidelines in the Deed Restrictions and Covenants is approximately \$152,749 (calculations attached).

Staff Recommendation:

CEDD be authorized to accept the basic terms of the Letter of Intent from Commercial Horizons dated June 7, 2016 and continue to negotiate terms toward offer to purchase and development agreement for subject parcel.

CEDD be authorized to proceed with the Repurchase of Lot 13, Plat 1, in the Southpoint Commerce Park under the terms outlined in Section 13 – Repurchase Rights.

## Matthew Rehbein

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**From:** Monica Stage  
**Sent:** Wednesday, June 08, 2016 8:56 AM  
**To:** Matthew Rehbein  
**Subject:** FW: Southpoint Commerce Park  
**Attachments:** LOI - City of Appleton.docx

**From:** Paul Klister [mailto:pkllster@commercialhorizons.com]  
**Sent:** Tuesday, June 07, 2016 8:21 PM  
**To:** Karen Harkness <Karen.Harkness@Appleton.org>; Monica Stage <Monica.Stage@appleton.org>; matt.rehbein@appleton.org  
**Cc:** Mike Lokensgard <mlokensg@gklaw.com>  
**Subject:** Southpoint Commerce Park

Hello all – please see revised LOI that changes our price per acre. Thank you, Paul



**Paul Klister | Principal**

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**P.O. Box 115 Appleton, WI 54912-0115**  
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**Mobile: (920) 428-7007**  
**pkllster@commercialhorizons.com**

June 7, 2016

City of Appleton  
Community & Economic Development  
Attn: Matt Rehbein  
100 N. Appleton Street  
Appleton, WI 54911

Re: LETTER OF INTENT for the Purchase and Sale of Real Property known as Lots 12 & 13 of the Southpoint Commerce Park, Appleton, WI (the "Property"), and Development Agreement.

Dear Mr. Rehbein:

We are pleased to present to you this Letter of Intent which sets forth the terms on which Commercial Horizons, Inc. (the "{Purchaser}") is willing to purchase lots 12 & 13 of the Southpoint commerce Park, Appleton, Wisconsin, from the City of Appleton ("Seller"). Said purchase is for the immediate development of the world Headquarters, Innovation Center and Pilot Plant for Company to be named at a later date ("Company").

Terms and conditions to be included in the Purchase and Sale Agreement include the following:

1. **Purchase Price:** \$307,350.00 (\$45,000.00 per acre for 6.83 acres).  
Purchase price would be paid as follows:
  - a. Earnest Money deposit of \$10,000.00 will be paid within 5 days of executed Purchase and Sale Agreement and held in Escrow at a Title Company agreed to by the parties.
  - b. Balance of purchase price to be paid by cash at the time of closing.
2. **Site Development:** Seller shall be responsible for the costs associated with the development of the Property including installation of adequate offsite storm water piping and/or storm water management basin and extension of utilities up to the property line. This offer is contingent upon the community development retention pond being adequate based on the final site design.
3. **Closing Date:** Closing shall take place on or before ten (10) days after:
  - i. Obtaining all necessary municipal approvals;
  - ii. Municipal approval of a Development Agreement between the parties.



4. **Inspection/due diligence period:** Purchaser shall have a 90 day inspection period from the time of the execution of the Purchase and Sale Agreement to complete all environmental, geotechnical, zoning, flood plain, title, and engineering reviews. Seller shall provide any and all information in its possession in a timely manner, including, but not limited to: all maps,, geotechnical and environmental reports; title. Purchaser shall be granted two (2) extension periods of 45 days each if unable to complete all due diligence.
5. **Title:** At closing marketable and insurable title to the Property shall be conveyed to Purchaser of Purchaser's designee by general warranty deed in fee simple absolute free, clear and unencumbered, subject only to easements of record, the leases to be approved by Purchaser during the Inspection period and Installments of real estate taxes a lien but not yet due and payable.
6. **Closing Costs:** Seller shall pay all state and local conveyance fees. Purchaser shall be responsible for recording costs of the deed and other documents that Purchaser requires be recorded.
7. **Real Estate Taxes:** Seller shall pay its prorated share of real estate taxes based on the prior year known property tax. Buyer shall receive a credit against the Purchase Price at closing.
8. **Commission:** Seller shall be responsible for a commission associated with this transaction equal to 8% of \$307,350.00 payable to Commercial Horizons, Inc. attn.: Mike Maedke.

#### DEVELOPMENT AGREEMENT

Company is an International, Innovator that has engaged Commercial Horizons, Inc. ("Developer") to assist in procuring a site and developing and leasing a new facility that will house its world headquarters. The development will include class "A" office space, laboratories and a pilot plant. Due to the unique nature of this facility, the cost and expense to develop and operate far exceed what the cost to develop a more customary office building. Thus, a substantial financial gap is created and but for, financial assistance to be provided by the City of Appleton, Company would not enter into a lease for the Project and Developer would not be able to proceed with the project.

1. **Developer Obligations:** Developer shall construct the Project in accordance with all applicable City zoning and building codes, ordinances and regulations. Developer warrants and represents to the City that the Project will contain at least 37,000 square feet of space and that the total

development costs expended on the Project (inclusive of personal property and equipment) will be approximately \$17,000,000.00.

2. **City Obligations:** Subject to mutually acceptable terms, covenants and conditions of a Development Agreement and applicable provisions of law, and as an inducement by the City of Appleton to Company and Developer to carry out the Project, the City of Appleton will pay to Company a development investment (the "Investment"). The principal amount of the Investment shall be the lesser of: (i) Three Million Seven Hundred Forty Thousand Dollars (\$3,740,000.00); or (ii) twenty two percent (22%) of the total equalized value of the real and personal property comprising the Project as of January 1 of the year in which the Project is first fully assessed - as such equalized value is determined by the Wisconsin Department of Revenue, minus the base value of the Property, as determined by the Wisconsin Department of Revenue. The Investment will be paid directly to Company in a manner to be negotiated and will include interest on the Investment at the rate of five percent (5%) per annum. Additionally, the City of Appleton will reinvest the amount of the purchase price of the land into the project.

This Letter of Intent shall not create a binding agreement and shall not be constructed as a contract for purchase and sale of Property. It is, however, an expression of certain terms and conditions to be included in the Purchase and Sale Agreement and Development Agreement. Upon receipt of a signed copy of this Letter of Intent, Purchaser shall instruct its legal counsel to prepare the Purchase and Sale Agreement. Seller and Purchaser shall work diligently and in good faith to enter into the Purchase and Sale Agreement within forty-five (45) days after the acceptance of this letter of intent by Seller.

If the terms of this Letter of Intent are acceptable, please sign and return to Paul Klister (Commercial Horizons, Inc.). Thank you.

AGREED TO BY PURCHASER:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

AGREED TO BY SELLER:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



**CALCULATION OF REPURCHASE PRICE PER DEED RESTRICTIONS FOR LOT 13, PLAT 1 SPCP**

Purchase Price	\$167,400.00
Sale Date	Oct. 20, 2008
Lot Size	3.72 Ac
Sum of original purchase price	\$167,400
Special Assesments (Add)	-
Unpaid Property Taxes (Deduct)	470
Pro-Rata Current yr. Property Taxes (Deduct)	2,196 *
Title Insurance Premium (Deduct)	93
RE Commission pd. At closing (Deduct)	13,392
Liens and encumbrances (Deduct)	**
Option Fee (Deduct)	-
ESTIMATED REPURCHASE PRICE TO SELLER PER DEED RESTRICTION LANGUAGE	\$151,249
Estimated Transaction Costs	1500
<b>TOTAL ESTIMATED COST</b>	<b>\$152,749</b>

\*Assumes close date Aug 1, 2016

\*\*Don't know liens/encumbrances