

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (the "Agreement") is made and entered into as of this 3RD day of August, 2018 (the "Effective Date"), by and between the TOWN OF SUPERIOR COLORADO, a Colorado municipal corporation with an address of 124 East Coal Creek Drive, Superior, Colorado 80027 (the "Town"), and LIVEWELL Foundation, a Colorado Non-profit with an address of 528 Zircon Way Superior, CO 80027 ("Purchaser") (each a "Party" and collectively the "Parties").

WHEREAS, the Town owns the real property more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, the Town wishes to sell the Property to Purchaser and Purchaser wishes to purchase the Property from the Town, on the terms set forth in this Agreement.

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Conveyance. The Town agrees to convey, sell, transfer and assign to Purchaser, and Purchaser agrees to purchase from the Town, on the terms and conditions of this Agreement, the Property, all improvements thereon and any appurtenant rights now owned by the Town.
2. Purchaser's Plan and Proposal. See **Exhibit B**.
3. Purchase Price. The Purchase Price to be paid by Purchaser to the Town for the sale and conveyance of the Property is **\$1,623,588**, to be paid by the Purchaser at closing in funds which comply with applicable Colorado law, including electronic transfer funds, certified check and cashier's check, as directed by the Town.

Per Town Manager Matt Magley's ranges of sales price:

Unimproved land no zoning - \$1.13 to \$1.95 per square feet

Unimproved land zoned - \$1.78 to \$2.47 per square feet

Taking the high end of \$2.47 per square feet, see calculation below:

15.09 acres x 43560 sqft = 657320.40 sqft

\$2.47 per sqft x 657320.4 = **\$1,623,581.388**

3.1 Counteroffer. In the event the Town disagrees with the Purchaser's offer, the Purchaser is expecting the Town to come up with a Counteroffer.

4. Evaluation Period. Purchaser shall have the period commencing on the Effective Date and continuing for Two years or 730 days thereafter (the "Evaluation Period") in which to determine whether the Property is satisfactory for Purchaser's proposed use, in Purchaser's sole and absolute discretion.

Per Town Manager Matt Magley's answers to potential Zoning and Speed Limit changes:

No zoning change required. Town 15 Property is currently owned by the Town and can be used for Public/ Government/ Community oriented development, including school.

No Speed Limit change required due to the current round-about on McCaslin and Coalton. Speed Limit at the round-about is already at 15 MPH.

Purchaser is hereby stating clearly that the Purchaser's proposed use is to build Bright Gen Innovation Campus. See Section 2. Purchaser's Plan and Proposal.

a. Within 10 days after the Effective Date, the Town shall deliver to Purchaser a commitment (the "Title Commitment") for an ALTA owner's coverage title insurance policy on the Property, issued by the Title Company, in the amount of the Purchase Price, together with copies of all items referred to therein, covering title to the Property on or after the Effective Date.

b. Within 20 days after the Effective Date, the Town shall deliver to Purchaser a copy of an ALTA/ACSM survey of the Property (the "Survey"). The Survey shall include the following items from Table A of the ALTA/ACSM Survey Requirements: 1-11 and 13-16 and otherwise in a form sufficient to enable the Title Company to delete the standard exceptions from the Title Policy. The surveyor shall certify on the Survey as to the total acreage of the Property to the nearest one-hundredth of an acre.

c. Within 10 days after the Effective Date, the Town shall make available to Purchaser for inspection and copying all reports and other documents in the Town's possession or under its control which affect the value of the Property or otherwise relate to the Property, except any such document which is confidential or proprietary to a third party including without limitation environmental reports, soil reports, engineering drawings, utility plans, road plans easements, rights of way, signage licenses and easements.

d. If, after review of the matters submitted pursuant to this Section 3 and inspection of the Property through both the Evaluation and Entitlement Periods, Purchaser determines in its sole discretion that the Property is unsatisfactory for Purchaser's desired purposes in any respect, Purchaser may terminate this Agreement by written notice delivered to the Town and the Title Company within the Entitlement Period. Upon delivery of such notice, this Agreement shall terminate, and the Parties shall be released from all further obligations hereunder.

5. Entitlement Period. Purchaser shall have 365 days from expiration of the Evaluation Period to obtain all necessary approval for entitlements that Purchaser deems necessary for its intended use of the Property. If Purchaser is unable to obtain all necessary approval for entitlements that Purchaser deems necessary for its intended use of the Property, Purchaser shall have the right to terminate this Agreement.

6. Title Matters.

a. Purchaser shall be entitled to object to any matters shown in the Title Commitment or the Survey by a written notice of objections delivered to the Town within 30 days of Purchaser's receipt of the Title Commitment, the Survey and related documents. The

Town may, but is not required to, respond to Purchaser's objections in writing within 30 days, proposing to take actions to satisfy any or all of such objections or declining to take action to satisfy any of such objections.

b. Purchaser may waive or approve a title objection by providing written notice of the waiver or approval prior to the end of the Evaluation Period. If Purchaser fails to deliver a notice of objections to the Town prior to the end of the Evaluation Period, then Purchaser shall be deemed to have waived objection to all matters shown or noted on the Survey or appearing as exceptions to title on the Title Commitment, and all such matters shall be deemed to be "Permitted Exceptions."

c. If the Town declines to satisfy any of Purchaser's stated objections and Purchaser does not terminate this Agreement at the end of the Evaluation Period, any matters previously listed in a notice of objections to title hereunder and not removed or otherwise eliminated shall also be deemed to be Permitted Exceptions.

7. Inspection. Purchaser and its employees, designated agents, representatives, consultants, prospective lenders and tenants, and independent contractors will have the right to enter the Property and other common areas of the Property for the purposes of preparing, conducting and performing surveys, site plans, inspections, environmental reports, studies, testing and other similar matters. Purchaser shall be responsible for all costs of such investigations and inspection, and shall not allow any mechanics liens to be placed against the Property as a result of Purchaser's access, entry or inspections.

8. Closing. The closing will occur at the office of the Title Company, or at such other mutually agreeable location. Subject to Section 13 below, the date of closing shall be 30 days after Purchaser waives its rights under the Entitlement Period, or by mutual agreement, at a later or earlier date. The Town and Purchaser shall pay their respective closing costs and all other items required to be paid at closing, except as otherwise provided herein. The Town and Purchaser shall sign and complete all customary or required documents at or before closing.

9. Possession. Possession of the Property shall be delivered to Purchaser at closing.

10. Town's Deliverables. On or prior to closing, the Town shall deliver to Purchaser a special warranty deed duly executed and acknowledged by the Town, conveying title to the Property to Purchaser, and such other instruments of transfer, certificates and additional documents as may be required hereunder or reasonably required by Purchaser or the Title Company, subject only to the Permitted Exceptions.

11. Purchaser's Deliverables. On or prior to closing, Purchaser shall deliver to the Town the Purchase Price and other funds required to be paid or provided by Purchaser under this Agreement, and such other documents as may be required hereunder or reasonably required by the Town or the Title Company.

In the event the Town declines Option C (see. Exhibit C), then the Purchaser shall execute the Purchaser's Deliverables listed above.

In the event the Town agrees to execute Option C (see. Exhibit C), then the Purchaser shall execute the Terms and Conditions listed below, under Option C (see. Exhibit C).

12. Town's Representations and Warranties. The Town hereby represents and warrants that the following statements are now, and will be as of the closing date, true and correct, to the best of the Town's knowledge.

a. There is no action, suit or proceeding pending, or to the best of the Town's knowledge threatened, against or otherwise affecting the Town or the Property in any court of law or equity, or before any governmental authority, in which an adverse decision might materially impair the Town's ability to perform its obligations under this Agreement.

b. There is no pending or threatened condemnation or similar proceeding affecting the Property.

c. The Property is being sold free and clear of all service contracts, agreements, leases and other occupancy rights.

d. The Town has not received any notice of any violations of any applicable law related to the Property.

e. The Town is not aware of any special assessments to be levied against the property after its acquisition by Purchaser.

f. There are no pending contracts and no competitive bids on the Property. In the event that there are or will be competitive bids, the Town agrees to implement a fair and transparent bidding process with only comparable non-profit and school campus oriented bids.

Right of First Refusal. In the event of a competitive bid from another comparable non-profit and school campus, the Purchaser has the Right of First Refusal to counter another bid.

g. The Town shall give Purchaser prompt written notice if any of the representations or warranties made by Town in this Agreement are no longer true or correct in any material manner.

13. Condition of Property.

a. Except as provided herein, Purchaser understands that it is purchasing the Property in its existing condition, "as is". Except for those warranties expressly set forth herein, the Town makes no warranties, representations or guarantees, either express or implied, of any kind, nature or type whatsoever. Without limiting the generality of the preceding sentence, Purchaser acknowledges and agrees that neither the Town nor anyone acting for or on behalf of the Town makes or has made any statements, promises, warranties or representations, either express or implied, with respect to the absence or presence of any hazardous substance, material or condition affecting the Property, the soil condition, geologic condition or other physical aspect of the Property or the accuracy or completeness of any reports or information pertaining to such matters.

b. Notwithstanding anything contained herein to the contrary, the Town shall, prior to Closing and at its sole cost and expense, manage and relocate the existing storm water system and detention pond such that all storm water systems or detention/retention areas that serve any real property other than the Property will be located offsite of the Property; provided that the Town's relocation obligation shall not include adding any fill to the Property once the storm water system and detention pond have been removed. Purchaser and the Town shall reasonably agree upon any plans and specifications in connection with the relocation of the storm water system and the Closing hereunder shall be, if required, delayed until such date of completion of the relocation.

14. Remedies.

a. Town's Remedies. If the closing does not occur by reason of a breach of the Purchaser, the Town shall have the right to terminate this Agreement and neither Party shall have any further obligation hereunder.

b. Purchaser's Remedies. If the closing does not occur by reason of a breach of the Town, and Purchaser has complied with the terms of this Agreement, Purchaser may terminate this Agreement by written notice to the Town and the Title Company. Purchaser shall have all remedies available at law or equity for such breach, excluding, unless specifically provided by applicable laws, the remedy of specific performance.

15. Miscellaneous.

a. Entire Agreement. This Agreement contains the entire agreement of the Parties. There are no other agreements, oral or written, and this Agreement can be amended only by written agreement signed by the Parties.

b. Agreement Binding; Assignment. This Agreement, and the terms, covenants, and conditions herein contained, shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and assigns of the Parties. Purchaser shall have the right to assign this Agreement without the Town's consent to an entity affiliated with or formed by one or more principals of Purchaser.

c. Non-Profit Status. Due to the nature of the sale and the Purchase Price being structured as Non-profit economic model, the Purchaser hereby states and agrees that the proposed ownership status of the Property shall remain under non-profit status.

d. For-profit Economic Model. Any time after Closing, in the event that the Purchaser changes its Non-profit status into For-profit status, the Purchaser agrees to pay the Town additional monetary amount for the Property recalculated based on the For-profit economic model and based on the time of purchase or Closing date. Mutually discussed, negotiated, and agreed upon by the parties.

e. Right of First Refusal. Any time after Closing, in the event that the Purchaser becomes insolvent or non-operational, the Purchaser agrees to give the Town the Right of First Refusal to purchase back the Property at the same exact Purchase Price of **\$1,623,588**.

f. Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the party at the address set forth on the first page of this Agreement.

g. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Boulder County, Colorado.

h. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

i. Third Parties. There are no intended third-party beneficiaries to this Agreement.

j. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

k. Governmental Immunity. The Town and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities or protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

IN WITNESS WHEREOF, the Town and Purchaser have executed this Agreement as of the Effective Date.

TOWN OF SUPERIOR, COLORADO

Clint Folsom, Mayor

ATTEST:

Phyllis L. Hardin, Town Clerk-Treasurer

LIVEWELL Foundation



Jack Chang, Executive Director

STATE OF Colorado)
)
COUNTY OF Boulder) ss.

The foregoing instrument was acknowledged before me this 1st day of August, 2018, by Jack Chang, as Executive Director of Livewell Foundation

JODI L. SALAMAN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20124053218
My Commission Expires Aug 16, 2020

My Commission expires:


Notary Public

EXHIBIT A
Legal Description

TRACT A ROCK CREEK RANCH FLG 15

EXHIBIT B

Purchaser's Plan and Proposal

Our mission is to provide an optimal and personalized learning environment to better prepare all our children to be College, Career, and Life Ready!

Only non-profit operations and activities will be conducted in our Bright Gen Innovation Campus on the Property (Town 15).

1. Summit Academy Charter High School.

Standalone 70,000 Square Feet building named Building A.

600 students will directly benefit from the onsite classroom learning environment.

125+ students from Superior will directly benefit through Open Enrollment.

There is a potential of even more students from Superior being enrolled to Summit Academy through "Geographic Preference" to be approved by BVSD BOE.

2. An Assessment Center to provide literacy, mathematics, TAG, and evidence-based social-emotional assessments for all students, especially students with learning differences.

Integrated into a 70,000 Square Feet building named Building B.

An estimated 1500 dyslexic students per year in BVSD alone will directly benefit from our literacy assessment center.

An estimated 5000 to 7000 dyslexic students from BVSD alone will indirectly benefited from our Bright Gen Innovation Campus.

While statistics may vary between schools and communities, more than 30 percent of high school students say they engage in high-risk behaviors, such as substance use, sex, bullying, violence and even suicide attempts.

An estimated 10,000+ middle school and high school students from BVSD including students from Superior will indirectly benefited from our Bright Gen Innovation Campus' Social-Emotional Assessment Center. This is part of our Social-Emotional Learning and Development initiative throughout BVSD schools.

3. Professional Development Center to provide proper training and certification for Special Ed teachers. Our mission is to properly support the 15-20% dyslexic student population who has been underserved by BVSD.

Integrated into a 70,000 Square Feet building named Building B.

Aside from benefiting the 5000 to 7000 dyslexic student population in BVSD, we are also encouraging, educating, and empowering 1000+ teachers to become Special Ed. Teachers to properly support the 5000 to 7000 dyslexic student population in BVSD.

4. A small classroom size dyslexic school, only as needed. Currently, the 15-20% dyslexic student population is not being properly assessed and served by BVSD.

Integrated into a 70,000 Square Feet building named Building B.

5. Social entrepreneurship and incubator space for all middle school and high school students in Superior. This is critical-thinking and problem-solving project based learning for all students, separate from Summit Academy, and provide through our Bright Gen innovation campus. This is synergistic to Summit academy's social entrepreneurship curriculum.

Integrated into a 70,000 Square Feet building named Building B.

An estimated 2000 to 3000 students from Superior and Louisville alone will directly benefit from our Bright Gen Innovation Campus.

An estimated 15,000 to 20,000 students from BVSD alone will indirectly benefit from our Bright Gen Innovation Campus

6. The Superior Community Center and Library in a separate building from Summit Academy.

Integrated into a 70,000 Square Feet building named Building B.

An estimated 4000 to 10,000 residents from Superior will directly benefit from the 20,000 to 40,000 square feet facility dedicated solely to Superior Residents.

Residents requested and CAPS Committee recommended amenities, activities and programs. Not to mention the synergy and benefits of being within our Bright Gen Innovation Campus.

See. **Exhibit C** – Option C. for detail.

7. Global Online Education Platform.

So many people preach about equality in education, but they don't practice it. What is true equality in education? Well... let's start by looking at the word equality and do this. E-Quality! First, we must provide our children with quality education, top notch curriculum, quality teaching material, quality and experienced teachers, and quality learning environment.

Second, we must implement the E in E-Quality. E for electronically. Digital format and online. Without the physical constraint of a physical classroom, students can gain greater access to quality curriculums and quality instructors from anywhere around the World.

As part of Bright Gen's E-Quality in Education initiative, we estimated 3.4% of the BVSD high school students who are homeschooled will be directly benefited from our Bright Gen Global Online Education Platform. That's almost 400 high school students in BVSD alone.

An estimated 1000+ high school students who are homeschooled in the combined neighboring districts of JeffCo, St. Vrain, and BVSD will indirectly benefit from Bright Gen Global Online Education Platform.

An estimated 500+ high school students per year who reside in Superior and Louisville, who choose to open enrolled out of our neighborhood high school will directly benefit from our Bright Gen Global Online Education Platform.

An estimated 50,000+ middle school and high school students in the combined neighboring districts of JeffCo, St. Vrain, and BVSD will indirectly benefit from Bright Gen Global Online Education Platform.

Millions of middle school and high school students nationwide and around the World will indirectly benefit from Bright Gen Global Online Education Platform through equal access to quality education.

Our mission is to focus on our vision of education that reflects the needs of the whole child; one that encourages all stakeholders to embrace and embed academic excellence, S.T.E.A.M-focused, social-responsibility, social-emotional learning, mindfulness, social-connectedness, and global-connectedness into every community, every classroom, and every student. This is essential as we prepare all our children for the careers of tomorrow and to work together to give all our children the chance to have successful and healthy lives.

EXHIBIT C

Option C

Superior Community Center and Library

The Purchaser is fully aware of the history of the Property (Town 15). There have been numerous discussions and recommendations from the Town's Committees and Town residents to build the Superior Community Center and Library on the Property (Town 15). The Purchaser fully understands that those discussions and recommendations took place prior to the Purchaser's vision and plan to build Bright Gen Innovation Campus. Therefore, the Purchaser fully respects those recommendations and wishes to collaborate with the Town to make the Superior Community Center and Library on the Property (Town 15), a reality.

The Purchaser agrees to front the costs for building the Superior Community Center and Library (SCCL) on the Property (Town 15). The Purchaser's proposal is to integrate the Superior Community Center and Library into Building B as described in Section 2. Purchaser's Plan and Proposal. Also see Exhibit B.

Based on the numerous discussions and recommendations from the Town's Committees and Town residents, the Purchaser is fully aware of the space recommended for the SCCL to be between 20,000 to 40,000 square feet.

Assuming that the estimated construction costs is around \$300 per square feet. \$300 multiply by 40,000 square feet equals \$12 million.

\$12 million deducted by the Purchase Price of \$1,623,588.00 equals \$10,376,412.00.

Since the Purchaser intends to own the Property and as well as the Building B, the Purchaser hereby proposes the Town to sign a minimum of twenty (20) years lease agreement with the Purchaser for the 40,000 square feet of space in Building B that will be dedicated solely to the Town residents for the SCCL.

\$25 per square feet multiply by 40,000 square feet equals \$1 million per year.

Note that all numbers and calculations are only estimates. The Purchaser will work with the Town, its Committees, and Town residents to come up with the specific amenities, activities, and programs needed by the Town residents. Then, based on the specific amenities, activities, and programs needed by the Town residents, the stakeholders can help come up with the specific space needed for the SCCL.

While Building B will be a 70,000 square feet facility, the Purchaser will allow the Town to sign a Flexible-Space twenty (20) years lease agreement based on the actual usage by the Town residents. Whereas the actual usage will be monitor on an annual basis to help the Town to better controls its lease and spending. This way, the Town can determine and decide to lease only

20,000 square feet or 40,000 square feet per year, with a minimum of 20,000 square feet and a maximum of 40,000 square feet.

Advantages of collaborating with the Purchaser on building the Superior Community Center and Library on the Property (Town 15):

- Zero upfront cost
- No compound interest to pay
- No bond issuance
- No added tax burden to tax payer
- No rush to get on the November 2018 Ballot nor any ballot.
- No risk - lease agreement
- Priority access and dedicated space solely to Superior residents.
- Residents requested and CAPS Committee recommended amenities, activities and programs.
- Expandable and down-sizable space. Annual review of actual usage.
- No overbuilding
- No overspending
- Cost-effective and favorable to the Town.
- Fiscally responsible and financially accountable governance