

SUPERIOR METROPOLITAN DISTRICT NO. 1
RESOLUTION NO. SMD#1 - 2
SERIES 2019

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SUPERIOR METROPOLITAN DISTRICT NO.1 APPROVING A PURCHASE AND SALE AGREEMENT FOR THE PURCHASE OF THE RIDGE II PROPERTY FROM VESTED HOLDINGS, LLC, FOR THE AMOUNT OF \$700,000

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SUPERIOR METROPOLITAN DISTRICT NO. 1 AS FOLLOWS:

Section 1. The Purchase and Sale Agreement between Superior Metropolitan District No. 1 and Vested Holdings, LLC, for the purchase of the real property known as the Ridge II Property and more particularly described in the Purchase and Sale Agreement, for the amount of \$700,000, is hereby approved in substantially the form as attached hereto, subject to final approval by the District's General Counsel. Upon such approval, the District Board President is authorized to execute all documents necessary for the closing of the purchase.

ADOPTED this 11th day of March, 2019.

Clint Folsom

Clint Folsom, President

ATTEST:

SEAL

Phyllis Hardin
Phyllis Hardin, Secretary

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (the "Agreement") is made and entered into as of this 11th day of March, 2019 (the "Effective Date"), by and between the SUPERIOR METROPOLITAN DISTRICT NO. 1, a Colorado special district with an address of 124 East Coal Creek Drive, Superior, Colorado 80027 (the "District"), and Vested Holdings LLC, a Colorado limited liability company with an address of 11791 Quay Street, Broomfield, Colorado 80020 ("Seller") (each a "Party" and collectively the "Parties").

WHEREAS, Seller owns the real property more particularly described as Lot 1, Superior Park Professional Center, County of Boulder, State of Colorado (the "Property"); and

WHEREAS, the District wishes to purchase the Property from Seller and Seller wishes to sell the Property to the District, 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. Seller agrees to convey, sell, transfer and assign to the District, and the District agrees to purchase from Seller, on the terms and conditions of this Agreement, the Property, all improvements thereon and any appurtenant rights now owned by the District.
2. Purchase Price. The Purchase Price to be paid by the District for the Property is \$700,000, to be paid by the District at closing in funds which comply with applicable Colorado law, including electronic transfer funds, certified check and cashier's check, as directed by Seller.
3. Closing. The closing will occur at a mutually agreeable location. The date of closing shall be on or before March 15, 2019. The Parties shall pay their respective closing costs and all other items required to be paid at closing, except as otherwise provided herein. The Parties shall sign and complete all customary or required documents at or before closing.
4. Possession. Possession of the Property shall be delivered to the District at closing.
5. Seller's Deliverables. On or prior to closing, Seller shall deliver to the District a general warranty deed duly executed and acknowledged by Seller, conveying title to the Property to the District, and such other instruments of transfer, certificates and additional documents as may be required hereunder or reasonably required by the District.
6. District's Deliverables. On or prior to closing, the District shall deliver to Seller the Purchase Price and such other documents as may be required hereunder or reasonably required by Seller.
7. Seller's Representations and Warranties. Seller 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 Seller's knowledge.
 - a. There is no action, suit or proceeding pending, or to the best of Seller's knowledge threatened, against or otherwise affecting Seller or the Property in any court of law or equity, or

before any governmental authority, in which an adverse decision might materially impair Seller'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. Seller has not received any notice of any violations of any applicable law related to the Property.

e. Seller is not aware of any special assessments to be levied against the property after its acquisition by the District.

f. Seller shall give the District prompt written notice if any of these representations or warranties are no longer true or correct in any material manner.

8. Condition of Property. The District understands that it is purchasing the Property in its existing condition, "as is". Except for those warranties expressly set forth herein, Seller 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, Seller acknowledges and agrees that neither Seller nor anyone acting for or on behalf of Seller 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.

9. Remedies.

a. Seller's Remedies. If the closing does not occur by reason of a breach of the District, Seller shall have the right to terminate this Agreement and neither Party shall have any further obligation hereunder. Termination of this Agreement shall be Seller's exclusive remedy.

b. District's Remedies. If the closing does not occur by reason of a breach of Seller, and the District has complied with the terms of this Agreement, the District may terminate this Agreement by written notice to Seller. In addition, the District shall have all remedies available at law or equity for such breach, including specific performance.

10. Charitable Contribution. The Parties recognize that Seller is making a bargain sale to the Town and part of the sale may qualify as a charitable contribution under applicable tax laws. Seller retained a certified commercial appraiser, Gregory M. Owen (Colorado Certified General Appraiser No. CG01327640) of EquiReal Appraisal Services, 1425 Sierra Drive, Boulder, Colorado 80302, for the purpose of determining the fair market value of the Property on the date of the sale, and based on the opinion of the certified appraiser, the fair market value of the Property is \$1,500,000. Notwithstanding the foregoing, the Town makes no representations as to the value of the Property or the tax consequences of the sale of the Property.

11. 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.

c. 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.

d. 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.

e. 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.

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

g. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the District 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.

h. Governmental Immunity. The District 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 District and its officers, attorneys or employees.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

SUPERIOR METROPOLITAN
DISTRICT NO. 1



Clint Folsom, President



VESTED HOLDINGS LLC



Lawrence J. Abrams, Managing Member

STATE OF COLORADO)
) ss.
COUNTY OF Broomfield)

The foregoing instrument was subscribed, sworn to and acknowledged before me this ___ day of March, 2019, by Lawrence J. Abrams as Managing Member of Vested Holdings LLC.

My commission expires:

(S E A L)


Notary Public