Special City Council & Joint Meeting of Johnstown-Monroe Board of Education Meeting
Monday, February 10, 2025 - 5:00 PM
AGENDA

1. Opening of Meeting
2. Board of Education Call to Order & Roll Call
3. BOE Executive Session: Consideration of the purchase of property for public purposes
4. City Council Call to Order & Roll Call
5. Invocation by City Representative
6. Pledge of Allegiance
7. Approval of City Council Agenda
8. Approval of BOE Agenda
9. Citizen comments on matters not on the agenda
10. City of Johnstown Consideration of entering into a lease and purchase contract
11. City Executive Session to consider the sale of property
12. Public Hearings of Legislation
    a. **RESOLUTION 2025-07** A RESOLUTION AMENDING THE EXHIBITS TO RESOLUTION 2025-04
13. BOE Action on Resolution 25-02-024 Real Estate Purchase Agreement and Lease Agreement of City Property
14. Adjournment of Special City Council

Next Regular Council Meeting February 18, 2025

City of Johnstown
Administrative Offices
www.johnstownohio.org

CITY OF JOHNSTOWN

599 S. Main Street
Johnstown, Ohio 43031
Telephone: 740-967-3177

RESOLUTION 2025-07

A RESOLUTION AMENDING THE EXHIBITS TO RESOLUTION 2025-04

WHEREAS, the City of Johnstown and the Johnstown Monroe Local School District have undergone a joint review of facilities and have a plan for shared administrative office space as well as additional practice facilities for school athletics; and

WHEREAS, out of the review of the city and school district current property and facility assets, it has been determined that the sale of the city administrative building is in the best interest of both parties, allowing fiscal flexibility for the city to pursue a more suitable administrative site in the future while still maintaining operations at its current site for fifteen years and allowing the school district to maintain its goal of a one campus model; and

WHEREAS, the city finds it necessary to modify the exhibits for Resolution 2025-04; and

NOW, THEREFORE, Be it resolved by the City of Johnstown:

SECTION 1. That the City Manager is hereby authorized to enter into a contract with Johnstown-Monroe Local School District in substantially the same form as shown in exhibits attached.

SECTION 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council and that meetings of any of its committees that resulted in such formal action were meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code and the Charter of the CITY OF JOHNSTOWN.

Date of Introduction/Public Hearing/Vote: February 10, 2025

By:__________________

____
Mayor Donald Barnard

ATTEST TO:

____
Teresa Monroe, Clerk of Council

APPROVED AS TO FORM:

____
Yazan Ashrawi, Law Director

LEASE

THIS LEASE AGREEMENT (this "Lease"), entered into this ___ day of _______________, 2025, between the JOHNSTOWN-MONROE LOCAL SCHOOL DISTRICT BOARD OF EDUCATION (hereinafter called "Lessor"), and the CITY OF JOHNSTOWN, OHIO (hereinafter called "Lessee").

PREMISES: Lessor, in consideration of the rents and the performance of the covenants and agreements hereinafter provided for, to be paid and performed by Lessee, hereby leases to Lessee the following described premises, being situated in the State of Ohio, County of Licking, and more particularly described as follows:

> Approximately 8,663 square feet of the property known as the "Johnstown Council Chambers" and located at 599 South Main Street in Johnstown, Ohio and the exterior garage space located on the northwest corner of the property (provided such 8,663 square feet does not include the garage space). Additionally, Lessor and Lessee shall jointly share the approximately 3,450 square foot space that is currently utilized as the Council Chambers room. (collectively, the "Premises").

The square footage provided to Lessee in this Section is based on a total building square footage of 15,830. If the total building square footage is more or less, the Parties will meet and discuss whether a modification to this Section is necessary.

TERM: The term for this Lease Agreement shall be Five (5) years commencing on [DATE] and terminating on [DATE]. Lessee shall have the right to renew this lease agreement for one additional three (3) year term. In no event shall the total lease term, including renewals, extend beyond eight (8) years from the date the initial term of this lease began. Lessee's right to renew shall be exercised by the Lessee serving written notice thereof, at least 180 days before the expiration of the term, on the Lessor personally or by mailing said notice to Lessor by certified mail; provided further that said renewal may be exercised if, and only if the Lessee is not in default in payment of rent or in any other of the terms, covenants and provisions of this Lease.

Notwithstanding anything herein to the contrary, Lessor reserves the right to terminate the lease agreement, upon: (a) Lessor's reasonable determination that the Premises are needed for school purposes; and (b) if Lessor provides an alternative facility of equal or similar quality to Lessee, consisting of the same square footage or more, upon the same terms and conditions as this Lease.

RENT: Lessee agrees to pay to the Lessor a yearly rent and yearly CAM charge (collectively "Rent") for the Premises for and during the term of this Lease, in accordance with the following schedule:

For years one through five of this Lease, Lessee shall pay the following amounts to Lessor:

Yearly Rent	Yearly CAM Charge Per Square Foot	Total Yearly Payment
Year 1: $1.00	[$3.00]	[$31,164.00]
Year 2: $1.00	[$3.25]	[$33,761.00]
Year 3: $1.00	[$3.50]	[$36,358.00]
Year 4: $1.00	[$3.75]	[$38,955.00]
Year 5: $1.00	[$4.00]	[$41,552.00]

Should Lessee elect to renew this Lease for an additional three-year term, as applicable Lessee shall be entitled to renew this Lease for yearly rent and yearly CAM charges as follows:

Year 6: $1.00	[$4.25]	[$44,149.00]
Year 7: $1.00	[$4.50]	[$46,746.00]
Year 8: $1.00	[$4.75]	[$49,343.00]

During any Lease extension or renewal, all other terms and conditions of this Lease shall remain unchanged unless otherwise modified in writing and agreed upon by both parties.

If, in any given lease year, Lessor incurs reasonably necessary Common Area Maintenance Costs (as defined below) exceeding $63,320.00 (the "CAM Threshold," which CAM Threshold shall increase during any renewal term by the same percentage as any increase in CAM charges as set forth in the foregoing paragraph), and Lessor provides Lessee with receipts for such Common Area Maintenance Costs evidencing the same, Lessee shall be responsible for Sixty-Five Percent (65%) of the charges exceeding the CAM Threshold. However, any individual excess charges of $10,000 or more, which are related to repairs or replacements of specific items, shall be amortized over the useful life of the item being repaired or replaced. Lessee shall only be responsible for its percentage payment of such amortized costs on a yearly basis for such years during which the Lessee continues to lease the Premises under the terms of this Lease and shall have no continuing liability thereafter.

Notwithstanding anything herein to the contrary, Lessor shall not be responsible for any repairs or maintenance of the garage located on the northwest corner of the Premises; all such responsibility shall rest with Lessee.

Said Rent shall be paid on the second day of each year by check to Lessor. Any Rent payment received after the 10th day of the year will be subject to a Three Hundred Dollar ($300) late charge. If Rent payments are mailed, the date of receipt by Lessor will determine the date of payment. If any check for Rent is returned to Lessor for insufficient funds or other reasons, the

Three Hundred Dollar ($300) late charge will be added to that payment as well as any additional charges that Lessor incurs as a result of said check.

In addition to Rent, Lessee shall pay a pro-rata share of the utility charges for the Premises, based on the areas Lessee occupies hereunder as follows:

> Sixty-Five Percent (65%) of the total utility bills for the Premises shall be paid by Lessee, and One Hundred Percent (100%) of the total utility bills specifically attributable to the garage on the northwest corner of the property shall be paid by Lessee.

The utility expenses contemplated herein shall include electric, natural gas, water, sewer, trash, and exterminator services. Should either party desire additional utilities (including but not limited to internet service), that party shall pay the full cost of such utility.

NO LESSOR'S WORK. Lessee accepts the Leased Premises 'AS IS', 'WHERE IS" and "WITH ALL FAULTS", and Lessor shall not have any obligation to construct any improvements, alterations or additions to the Premises. Notwithstanding the foregoing, Lessor may construct improvements, alterations, or additions to the portion of the Premises occupied by Lessor.

LESSEE'S WORK. All work to make the Leased Premises ready for Lessee's use on or after the Term commences is to be performed by Lessee at its expense (hereinafter referred to as "Lessee's Work"). All work done by Lessee shall be at the Lessee's risk. All Lessee's Work shall be subject to Lessor's prior written approval, which shall not be unreasonably withheld, conditioned, or delayed, and shall be in accordance with good construction practices, applicable laws and all applicable regulations.

USAGE: The leased Premises shall be used only as administrative offices for Lessee. Lessee shall not use or occupy any of the said Premises for any purpose contrary to law or the rules or regulations of any public authority, including zoning restrictions, or in any manner so as to increase the cost of hazard insurance or maintenance.

SECURITY SYSTEM: Lessor is not responsible for providing any security system or fire alarms which shall be the sole responsibility of Lessee as to installation, maintenance and all costs incurred for installation and maintenance.

PARKING AREA: During the term of this Lease and any extension thereof, Lessee and Lessee's customers, employees, and invitees, shall have the right and license to use of the parking areas, driveways, service driveways, and sidewalks which shall be provided by the Lessor and shall remain under Lessor's control.

PERSONAL PROPERTY: Lessee assumes all risk of damage to or destruction, loss, or pilferage of personal property, including without limitation, vandalism, within the Premises or loss suffered by Lessee's business resulting from any cause whatsoever, except Lessor's negligence.

LESSEE'S REPAIRS: Lessee acknowledges that for its portion of the Premises (except for the garage located on the northwest corner of the property), including heating system, electrical system, plumbing, air conditioning, hot water tank, floor covering, doors, door hardware, windows and the interior of Premises, will be, as of the date Rent commences to accrue hereunder, under the mutual possession and control of Lessee and Lessor and Lessee agrees to assist in the cost of regular service and upkeep of the same to keep it in good order, repair, maintenance and operation and agrees to promptly pay half of the total cost, required to repair or replace any major mechanical systems, including the HVAC system, plumbing, or electrical. Should Lessor and Lessee disagree as to whether repair or replacement of a major mechanical system should be performed, Lessor and Lessee will mutually select a qualified third party, who will provide an opinion as to repair or replacement which Lessor and Lessee will follow. Should Lessee not wish to share in the cost of repair or replacement, Lessee may terminate this Lease by providing thirty (30) days advance written notice to Lessor.

Except for the garage located on the northwest corner of the property, Lessor shall be responsible for providing janitorial services for the Premises, removal of trash and the removal of snow, ice and debris from the doorways and sidewalks, maintaining the lawn and landscaping, maintaining and repairing the structural portions of the Premises and buildings thereon, including the foundation, exterior walls, roof, and load-bearing structural columns and beams, and maintaining and repairing the common areas, including, without limitation, the parking lot. For purposes of this Lease, all Lessor's expenses pursuant to this paragraph shall be deemed "Common Area Maintenance Costs."

Lessee is to be responsible to Lessor for any and all damages or destruction to property inside Lessee's portion of the Leased Premises, due to any burglary, vandalism, excluding acts of God, which may occur. It is also understood that Lessee will have ample burglary and liability insurance to cover any such incidents. In the event of such occurrence, said property is to be restored to original condition by Lessee.

INSURANCE: Lessee shall maintain during the term of this Lease or any extension thereof, in full force and effect, public liability insurance for its own protection and for the protection of Lessor against injuries, accidents or causes of action of every nature and kind whatsoever which are normally covered by "owner-lessee" liability insurance that may arise from the use and occupation of, in and about the Premises, by Lessee. Insurance shall be with limits of not less than $2,000,000.00 for each injury to one person, $2,000,000.00 for each injury to more than one person, and $5,000,000.00 for property damage. Lessor and Lessee shall be named as insured in the policies or certificates of such coverage. Such policy or policies shall bear an endorsement to the effect that the insurer shall not cancel or modify the same without at least fifteen (15) days prior written notice to the Lessor.

ALTERATIONS: Lessee will not make alterations or additions to any part of the Premises without prior written consent of Lessor, which shall not be unreasonably withheld, conditioned, or delayed. All such alterations and additions shall be made in accordance with all applicable laws and regulations, and permits therefore from all public authorities, as required, will be obtained and paid for by Lessee. All such changes shall remain for the benefit of the Lessor unless otherwise provided in the written consent. Lessee further agrees to pay for all alterations and/or additions.

FIRE INSURANCE: Lessor agrees to carry on and maintain fire and extended coverage insurance, on the buildings (excluding the garage on the northwest corner of the property) of which the Premises are a part, in an amount of at least 100% of their insurable value. Should the Premises be rendered wholly untenable, all Rent for this period shall completely abate. Should the Premises be rendered untenable in part only and the remaining part is suitable for the conduct of Lessee's business, then the rental shall abate proportionately based upon the USABLE space available to Lessee for the conduct of business, until repair, restoration or replacement is completed at Lessor's sole discretion. If the Premises are rendered untenable, in excess of fifty (50%) percent, Lessee or Lessor, at the end of ninety (90) days, shall have the option to cancel this Lease. Rent abatement is not available to Lessee if the damage is the result of the intentional acts or gross negligence of Lessee, its employees, agents, invitees, licensees or contractors.

DEFAULT: Should Lessee fail to pay the Rent or other payments required of Lessee hereunder or any part thereof, for a period of ten (10) days after payment shall be due, or should Lessee fail to perform or observe any other agreements, covenant or condition on Lessee's part to be performed or observed and fail to cure such failure within thirty (30) days after notice from Lessor specifying the failure, or should this leasehold become subject to execution, attachment or other process of law, or should the Premises be vacated, abandoned or business operations of Lessee cease for a period exceeding seven (7) days (excluding holiday breaks, casualty, or force majeure), or should Lessee fail to move into or take possession of Premises and open for business within thirty (30) days after Lessor shall deliver possession thereof to Lessee, or should Lessee make an assignment for benefit of creditors, file a voluntary petition in bankruptcy or for an Arrangement or Reorganization or suffer an involuntary petition to be filed against Lessee or suffer a receiver or trustee to be appointed for Lessee, or permit Lessee's fixtures or other legal process, in all or either of such events a breach of this lease shall have occurred, and should such breach be other than for payment of money and continue for thirty (30) days thereafter, then Lessor, in addition to any other remedies available, shall have the immediate right to enter and repossess the Premises by force, summary or dispossess proceedings, or otherwise, and remove therefrom all occupants and take and store any property at the cost of and for the account of Lessee, without becoming liable to prosecution or damages therefor, may seize and hold Lessee's fixtures as its own property, and thereupon all rights of Lessee and obligations of Lessor to Lessee hereunder shall cease but Lessee shall remain liable for the Rent, less any net amount realized by Lessor from re-renting the Premises, and such liability for Rent shall continue each month for the remainder of the term. At any time thereafter, Lessor may terminate this lease by a declaration to that effect. Notwithstanding anything in this Lease to the contrary, upon any event of default, Lessor shall use commercially reasonable efforts to mitigate its damages.

SIGNAGE: All Lessee's signage is subject to Lessor's written approval, which shall not be unreasonably withheld, conditioned, or delayed. Prior to installation or modification of any and all signage, Lessee shall submit all sign graphics and specifications to Lessor for Lessor's approval. Lessee shall maintain all approved signage in good condition and repair at all times. Lessee, in addition to obtaining Lessor's approval, shall insure that all signage conforms to all applicable governmental ordinances and regulations relating to signage.

COMMISSIONS: Lessor and Lessee agree and represent to each other that there shall be no real estate commission or other fee owed to any individual in connection with this Lease or any renewal of this Lease.

QUIET ENJOYMENT: Lessor agrees that if Lessee shall pay the Rent herein reserved and shall perform and observe all the covenants and conditions of this Lease or any renewal thereof, Lessee shall have the peaceable and quiet enjoyment and possession of the Premises without hindrance by Lessor, except for matters herein specifically provided.

SURRENDER: When the tenancy herein created terminates, Lessee agrees to surrender the Premises to Lessor in the same or better condition than existed when Lessee entered possession, wear and tear excepted. Lessee also agrees to forward all keys for the Premises to Lessor.

ASSIGNMENT/SUBLET: Lessee shall not sublet or assign this Lease without Lessor's prior written consent.

ACCESS TO PREMISES: During the last six (6) months of the term or at any time that said lease is being terminated for any reason, the Lessor or its agents may have free access to the Premises at all reasonable times for the purpose of exhibiting the Premises. Lessor shall provide Lessee with at least twenty-four (24) hours' notice prior to such exhibition.

Sixty (60) days prior to the termination of the lease term, Lessor may exhibit a sign in window for re-renting purposes.

HOLDING OVER: Any holding over by the Lessee or any assignee or sublessee beyond the expiration of the specified term shall give rise to tenancy from month-to-month. Rent for any holdover period shall be 125% of the Rent due for the last year of the expired term (pro-rated on a monthly basis).

NON-WAIVER: Any payment of Rent and receipt by Lessor shall only be construed as being on account of the earliest stipulated unpaid Rent irrespective of endorsements or statements on or accompanying the same. The waiver of any covenant or condition or the acquiesced breach thereof shall not be taken to constitute a waiver of any subsequent breach of such covenant or condition nor to justify or authorize the non-observance of the same or of any other covenant or condition hereof. The acceptance of Rent by the Lessor at any time when the Lessee is in default under any covenant or condition hereof shall not be construed as a waiver of such default.

NOTICES: Whenever notice, consent or a demand is required or desired to be given, the same shall be given in writing, sent by registered or certified mail (return receipt requested) addressed to the other party at the address first hereinabove specified or at such other address as may be specified from time to time in writing and mailed in like manner by either party to the other.

BINDING EFFECT: This lease and all rights hereunder shall inure to the benefit of and be binding upon their heirs, legal representatives, successors and assigns.

ENTIRE AGREEMENT: This lease, exhibits and riders, if any, attached hereto, sets forth all the covenants, promises, agreements, conditions and understandings between Lessor and Lessee concerning the Premises. No subsequent alteration, amendment, change or addition to the lease shall be binding upon Lessor or Lessee unless reduced to writing and signed by both parties.

<u>CITY RIGHT TO VACATE</u>: At any time during the term of the Lease or any renewal thereof, the Lessee shall have the right, in its sole discretion and without penalty, to vacate all or a portion of the Premises or terminate this Lease. Upon the occurrence of a partial vacation of the Premises, the parties shall execute an addendum to this Lease, which shall prorate: (i) the yearly CAM charge/total yearly payment in proportion to the square footage occupied by the Lessee thereafter, (ii) the Lessee's responsibility with regard to payment of Common Area Maintenance Charges in excess of the CAM Threshold in proportion to the square footage occupied by the Lessee thereafter, and (iii) the Lessee's share of the utility charges for the Premises in proportion to the square footage occupied by the Lessee thereafter. Should the Lessee vacate the entire premises, the Lessee will also vacate the garage located on the NW corner of the premises.

[*no further text appears on this page; signatures on following pages*]

IN TESTIMONY WHEREOF, the parties have executed the foregoing Lease on the date specified above.

LESSOR:	LESSEE:
JOHNSTOWN-MONROE LOCAL SCHOOL DISTRICT BOARD OF EDUCATION	CITY OF JOHNSTOWN, OHIO
By:________________________________ ________________________, President	By: ________________________________ ________________________________
By:________________________________ ________________________, Treasurer	By: ________________________________ ________________________________

STATE OF OHIO

COUNTY OF_______________, SS:

Before me, a Notary Public, in and for said County, personally appeared the above-named LESSOR, JOHNSTOWN-MONROE LOCAL SCHOOL DISTRICT BOARD OF EDUCATION, by _______________, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at

Johnstown, Ohio, this ______ day of ______________________, 2025.

____
Notary Public

STATE OF OHIO

COUNTY OF_______________, SS:

Before me, a Notary Public, in and for said County, personally appeared the above-named LESSOR, JOHNSTOWN-MONROE LOCAL SCHOOL DISTRICT BOARD OF EDUCATION, by _______________, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Johnstown, Ohio, this ______ day of ______________________, 2025.

____
Notary Public

STATE OF OHIO

COUNTY OF_______________, SS:

Before me, a Notary Public, in and for said County, personally appeared the above-named LESSEE, CITY OF JOHNSON, OHIO, by _______________, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at

Johnstown, Ohio, this ______ day of ______________________, 2025.

____

Notary Public

STATE OF OHIO

COUNTY OF_______________, SS:

Before me, a Notary Public, in and for said County, personally appeared the above-named LESSEE, CITY OF JOHNSON, OHIO, by _______________, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at

Johnstown, Ohio, this ______ day of ______________________, 2025.

____

Notary Public

0130654.0623330 4898-2675-7392v5

REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT is made and entered into on the date of the last signature below ("Effective Date"). This Agreement is made and entered into by and between THE JOHNSTOWN-MONROE LOCAL SCHOOL DISTRICT BOARD OF EDUCATION ("BUYER"), and THE CITY OF JOHNSTOWN, OHIO ("SELLER", and together with BUYER, the "Parties").

1. PURCHASE AND SALE. SELLER agrees to sell and convey, and the BUYER agrees to purchase and pay for, subject to the terms, conditions and provisions of this Agreement, the following described real property, together with all improvements and fixtures thereon, all personal property situated thereon on the date of closing, rights of SELLER in and to any adjacent streets, alleys and rights of way, all appurtenances, easements and rights of way, and all other rights benefiting the real property commonly referred to as the Johnstown Council Chambers, located at 599 South Main Street, Johnstown, Ohio 43031, and more fully described as follows (collectively the "Premises"):

[PROPERTY DESCRIPTION]

(SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF)

2. PURCHASE PRICE. The purchase price for the Premises shall be equal to **One Million, Two Hundred Thousand Dollars ($1,200,000)**, payable at the time of delivery of the deed described in Section 4 hereof.

3. POSSESSION. SELLER shall deliver possession of the premises to the BUYER at the time of delivery of the deed described in Section 4 hereof, free from all leases, licenses, concessions, tenancies, and occupancies, except as set forth herein.

   Notwithstanding the foregoing, this transaction is contingent upon BUYER and SELLER simultaneously executing at the time of closing, the lease attached hereto as EXHIBIT B ("City Lease").

4. DEED. SELLER shall convey the Premises to the BUYER by a transferable and recordable limited warranty deed, conveying good and marketable title in fee simple, free, and clear from all defects, liens, mortgages, leases, encumbrances, easements, restrictions, reservations, conditions, agreements, and encroachments, except those leases disclosed in Section 15 and Permitted Encumbrances set forth in Section 5.

   The BUYER shall pay all transfer and conveyance taxes and fees, if any. Any and all easements and other rights benefiting the Premises shall be assigned by SELLER to the BUYER by appropriate transferable and recordable instruments.

5. EVIDENCE OF TITLE. At least ten (10) business days prior to closing, SELLER shall deliver to the BUYER from a title insurance company ("Title Company") reasonably acceptable to the BUYER, a commitment to issue an American Land Title Association Owner's Title Insurance Policy in accordance with the most recent ALTA Form, in an

amount equal to the purchase price, showing good and marketable title to the Premises, and committing to insure fee simple title in the BUYER free and clear of the standard printed exceptions contained in Schedule B, including exceptions for surveys if the Premises is surveyed pursuant to Section 14, and free and clear of all liens and encumbrances except Permitted Encumbrances which may be:

A) Real estate taxes which are a lien but not yet due and payable; and

B) Utility easements of record provided said easements of record do not materially and adversely impact the intended use of the Premises by the BUYER.

At closing and at the time of recording of the deed, the BUYER shall be provided with an endorsement to the title commitment updating the commitment to the time of closing and recording of the deed, showing no change in the state of title to the Premises and containing a binding commitment to issue a final policy to the BUYER consistent with this Agreement.

The SELLER shall pay for the costs of the title commitments and any desired endorsements, premiums for final owner's policy title insurance, and search fees or title examination fees and any closing fees charged by the Title Company in connection with the closing.

If the title commitment or any endorsement or any other title evidence obtained shows that SELLER does not have good and marketable title to the Premises and/or shows any exceptions to title other than the Permitted Encumbrances, and if SELLER is unable to correct or remove such exceptions by commercially reasonable efforts within ten (10) days after receiving notice thereof, the BUYER may within ten (10) days of the expiration of such ten days take any one or more of the following actions: (a) waive such defects, or exceptions in writing and proceed with the transaction; (b) by written notice to SELLER, give SELLER an additional thirty (30) days to correct or remove such exceptions to title; or (c) terminate this Agreement by giving written notice to SELLER.

If the BUYER elects (c) above, or if the BUYER elects (b) above and SELLER fails to correct such defect or remove such exceptions with such additional thirty (30) day period and such failure is not waived by the BUYER, then this Agreement shall terminate, and SELLER and the BUYER shall be relieved and discharged from all obligations each has to the other.

Notwithstanding anything to the contrary herein, BUYER shall have the right to terminate this Agreement in the event BUYER is unable to obtain title insurance and any desired endorsements covering any and all on or off-record risks as BUYER may determine in its sole discretion.

6. INSPECTION, TESTS AND APPROVALS. SELLER grants to the BUYER the right and permission, at any time after the Effective Date and from time to time thereafter for a period of thirty (30) days, to enter upon the Premises to inspect, appraise and make surveys of the

Premises and to make borings, soil bearings and other tests to determine the suitability of the Premises for the Board of Education's intended use and such other tests as necessary to make an environmental audit of the Premises. The BUYER will notify SELLER of any issues that arise during inspection and testing within ten (10) days of discovery. (No such examinations will be deemed to constitute a waiver or relinquishment on the part of the BUYER of its rights to rely on the covenants, representations, warranties, or agreements made by SELLER). Should the BUYER notify SELLER of any issues that arise during inspection and testing, SELLER shall have the option to either remedy the issues requested by the BUYER or terminate this Agreement.

The BUYER shall also have the right, at any time after the Effective Date and from time to time thereafter for a period of thirty (30) days, or longer if necessary, to: (a) confirm the availability and adequacy of the BUYER'S right to timely connect to all necessary utilities for the BUYER'S intended use of the Premises; (b) verify the BUYER'S ability to timely obtain all necessary approvals, licenses and permits that enable the BUYER to occupy, build upon, and use the Premises for the BUYER'S intended use at a cost deemed acceptable to the BUYER (including securing any zoning change or other approvals) that the BUYER deems necessary, in its sole discretion, in order to use the Premises for the BUYER'S intended use. Should the BUYER determine, in its sole discretion, that the Premises are defective and/or not suitable for its intended use, the BUYER may terminate this Agreement by notifying SELLER, in writing, at the address set forth below at any time prior to the date of closing.

If BUYER desires to undertake any invasive testing of the Premises, it shall provide a scope of work and obtain SELLER'S prior approval, which approval shall not be unreasonably withheld. If BUYER undertakes any invasive testing after the scope of work has been approved by SELLER, BUYER shall restore the Premises substantially to its original condition if any alterations are caused by such entry. BUYER shall also pay for any costs or fees Buyer incurs as a result of the acts of BUYER or its agents, affiliates, employees or contractors in connection with BUYER'S inspections of the Premises, which obligation shall survive the termination or closing of this Agreement for a period of six (6) months. Prior to entering the Premises, BUYER shall provide SELLER with an insurance accord evidencing insurance coverage held by BUYER, or each contractor or subcontractor performing inspections on BUYER'S behalf, that cannot be canceled without thirty (30) days prior notice to the SELLER providing commercial general liability insurance in an amount not less than One Million Dollars ($1,000,000.00) per occurrence, with the accord naming SELLER as an additional insured.

7. <u>SELLER'S ASSISTANCE.</u> From time to time at the request of the BUYER, up to the closing, and without further consideration, SELLER shall execute and deliver, and/or join with the BUYER in executing and delivering such applications for licenses, variance, zoning changes, approvals, permits and consents from governmental bodies, utility companies, financial institutions, and other entities and shall supply such information, execute such forms and take such actions as the BUYER may reasonably request in order to proceed with the BUYER'S intended use of the Premises; provided, however, that SELLER shall not be required to incur any expenses or liabilities in connection with these

matters. SELLER may not file an objection to, or oppose, the BUYER'S intended use of the Premises.

8. <u>TAXES.</u> At or prior to the closing, SELLER shall pay or cause to be paid all delinquent taxes, including penalties and interest, to the date of delivery of the deed and all assessments, both current and reassessed, which are a lien on the Premises on the date of delivery of the deed, provided that BUYER shall be responsible for real estate taxes and assessments not yet due and payable as of the closing. Any assessments which are then known and due and payable, including assessments which are payable in installments, shall be paid in full by SELLER at or prior to the closing.

   At or prior to the closing, SELLER shall pay or credit on the purchase price all unpaid real estate taxes for years preceding the date of delivery of the deed, and shall credit to the BUYER a portion of real estate taxes for the year in which the deed is delivered, prorated through the date of delivery of the deed, and the amount of any agricultural tax savings accrued as of the closing date which would be subject to recoupment if the Premises were converted to a non-agricultural use (whether or not such conversion actually occurs). The proration of such taxes shall be based upon a 365-day year and upon the most recently available tax rate and valuation and the amounts so computed. The Parties agree that such proration is not final, and that upon receipt of the final actual tax bills, including any subsequent tax bills resulting from service payments, or revaluations as a result of Board of Revision proceedings and/or CAUV recoupment, the Parties shall (i) re-calculate the tax prorations and the amounts owed by SELLER and the BUYER and (ii) make any adjustments to such amounts owed, as set forth herein in the agreement based upon the period of the respective Parties ownership of the Premises.

9. <u>TIME IS OF THE ESSENCE.</u> TIME IS OF THE ESSENCE UNDER THIS AGREEMENT.

10. <u>INSURANCE; DAMAGE OR DESTRUCTION OF THE PREMISES.</u> SELLER shall between the date of this Agreement and the date title closes, maintain the Premises in ordinary repair and shall not permit waste. Risk of loss to the Premises and improvements thereon, shall be borne by SELLER until closing, provided that if any property covered by this contract shall be substantially damaged or destroyed before this transaction is closed, the BUYER may rescind this Agreement, and thereby release all Parties from liability hereunder by giving written notice of the rescission to SELLER within ten (10) days after the BUYER has received from SELLER written notice of such damage or destruction, and the right to rescind. The BUYER'S failure to notify SELLER shall constitute an election to proceed with the transaction and the BUYER shall be entitled to any insurance proceeds received by SELLER from the destruction of the Premises.

11. <u>SELLER'S REPRESENTATIONS.</u> In addition to the other representations and warranties of SELLER as set forth in the Agreement, SELLER represents and warrants that:

    A) To SELLER'S actual knowledge, SELLER has not been notified within the period of two (2) years immediately preceding the Effective Date of contemplated improvements to the Premises by public authority, the costs of which are to be assessed as special taxes or assessments against the Premises in the future;

B) To SELLER'S actual knowledge, SELLER has received no notice from any governmental entity of any existing condition in any of the buildings or structures located on the Premises which would constitute a violation of the building code or similar state or local statues and regulations;

C) To SELLER'S actual knowledge, there is no bankruptcy proceeding involving either SELLER or the Premises;

D) SELLER has never been and is not now under any legal disability;

E) To SELLER'S actual knowledge, the rights of tenants pursuant to any leases in the Premises, if any, have been fully disclosed to BUYER, and SELLER shall not sell, convey, or lease the Premises, or any portion of it, to anyone between the Effective Date and the date of closing;

F) To the best of SELLER'S knowledge, SELLER represents and warrants the following:

   i. SELLER has received no notice within the period of two (2) years immediately preceding the Effective Date of any pending claim, lawsuit, agency proceeding, or other legal, quasi-legal or administrative challenge concerning the Premises, the operation of the Premises or any condition existing thereon.

   ii. SELLER has received no notice of any complaints or other proceedings pending regarding valuation of the Premises for general real estate taxes.

G) To SELLER'S actual knowledge, SELLER has provided the BUYER with any environmental, soil, or other studies previously conducted on the Premises in SELLER'S possession and control; and

H) To SELLER'S actual knowledge, the execution and delivery of this Agreement by SELLER, and the consummation of the transaction contemplated by this Agreement have been duly authorized by SELLER, SELLER has the authority to execute and deliver this Agreement, and this Agreement will not constitute or result in the breach or default under any written agreement to which SELLER is a party or which affects the Premises.

SELLER covenants that the foregoing representations and warranties shall remain true as of the date of closing of the purchase and sale of the Premises, that the same shall survive the closing for a period of six (6) months, and none of the same shall be merged with the title conveyed to the BUYER, and, if requested by the BUYER, SELLER shall deliver to the BUYER at closing an affidavit reaffirming such representations and warranties; provided, however that, the BUYER'S failure to request such affidavit shall not adversely affect the making and giving of these representations and warranties, their survival of the closing for said six (6) month period, or any rights or causes of action which the BUYER might have as a result of any representation or warranty being false.

Except as specifically set forth in this Agreement, BUYER acknowledges that the Premises are being purchased and will be conveyed "as is" with all faults and defects, whether patent or latent, as of the date of closing. There have been no representations, warranties, guarantees, statements or information, express or implied, pertaining to the Premises, its condition, or any other matters whatsoever, made to or furnished to BUYER by SELLER or any agent or employee of SELLER, except as specifically set forth in this Agreement.

12. CONTINGENCIES. This Agreement and the BUYER'S obligation to close the transaction described herein and to pay the purchase price are contingent upon the following:

A) Environmental Inspection. The BUYER may, prior to closing, obtain, at its sole cost, a report, "environmental survey," by a qualified consultant concerning the presence of any contamination of the Premises by "Hazardous Materials," which means any substance:

i. the presence of which requires investigation or remediation under any federal, state or local statute, regulation, ordinance, order, action, policy or common law; or

ii. which is or becomes defined as a "hazardous waste," "hazardous substance," pollutant or contaminant under any federal, state or local statute, regulation, rule or ordinance or amendments thereto including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.) and/or the Resource Conservation and Recovery Act (U.S.C. Section 6901 et seq.); or

iii. which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the State of Ohio or any political subdivision thereof; or

iv. the presence of which on the Premises causes or threatens to cause a nuisance upon the Premises or to adjacent properties or poses or threatens to pose a hazard to the health or safety of persons on or about the Premises; or

v. the presence of which on adjacent properties could constitute a trespass; or

vi. without limitation, which contains gasoline, diesel fuel or other petroleum hydrocarbons; or

vii. without limitation, which contains polychlorinated biphenyls (PCBs), asbestos or urea formaldehyde foam insulation; or

viii. without limitation, which limits the ability of the BUYER, in its sole discretion, to utilize the Premises for the BUYER'S intended use.

SELLER will cooperate with the BUYER or its consultant and supply such historical and operational information in SELLER'S possession and control as may be reasonably requested by the consultants, including without limitation any environmental studies or reports prepared by or furnished to the SELLER regarding the Premises.

If the environmental survey reveals the presence of Hazardous Materials on the Premises the BUYER may elect to terminate this agreement with neither party having any further liability or obligation to the other.

B) Other Inspections. Satisfactory completion prior to closing, in the BUYER'S sole discretion, of the Inspections, Tests and Approvals set forth in Section 6 of this Agreement.

13. CLOSING. This Agreement shall be performed and the transactions contemplated hereby shall be closed on a date and at a time and place in Licking County, Ohio, to be mutually agreed upon by SELLER and the BUYER; provided that the date for closing shall not be later than forty-five (45) days of the date the last party executes this Agreement, unless otherwise agreed to in writing between the SELLER and the BUYER or unless the BUYER, in its sole discretion, sets a later closing date to enable it to complete its due diligence on the Premises or unless SELLER requests additional time to remedy an issue that arises during the due diligence period; provided, however, under no circumstance shall any such closing date set by BUYER and/or SELLER pursuant to the foregoing be later than six (6) months after the Effective Date.

14. SURVEYS. No later than forty (40) days after the Effective Date, SELLER shall deliver to the BUYER and the title company, a legal description meeting the requirements of Licking County for purposes of recording the deed. The BUYER will pay the cost of the legal description (and any related survey) at Closing.

15. LEASEHOLD ESTATES.

A) SELLER, upon acceptance of this Agreement shall attach hereto a complete and correct list, to the best of SELLER'S actual knowledge, of all leases, tenancies, licenses, and other rights of occupancy or use for any portion of the Premises in effect on the date of SELLER'S execution of this Agreement including any of an executory nature, (all of said leases, tenancies, licenses and other rights being herein collectively referred to as Tenant Leases) setting forth, with respect to each of the Tenant Leases:

i. the type of space covered thereby;

ii. the date thereof;
iii. the term thereof;
iv. renewal options, if any;
v. the rents and other charges payable thereunder;
vi. any rents or other charges in arrears or prepaid thereunder and the period for which such rents and other charges are in arrears or have been prepaid;
vii. the amount of the security deposit thereunder; and
viii. the utilities that are furnished as part of the rent.

B) SELLER makes the following representations to the best of SELLER'S actual knowledge, each of which shall survive delivery of the deed for a period of six (6) months:

i. The leases and tenancies described in the list attached hereto constitute all of the leases and tenancies covering or affecting the Premises.
ii. The leases and tenancies are in full force and effect and have not been modified, except to the extent that such modifications are disclosed by SELLER.
iii. None of the tenants in the Premises have been given any concessions or considerations for the rental of any space except as otherwise indicated in the leases, and, except as otherwise indicated in the leases, no tenants are entitled hereafter to any concessions, rebates, allowances, or free rent for any period after the closing hereunder.
iv. No option to renew a lease or to purchase the Premises exists otherwise than as indicated by the leases.

C) In the event there is any claim by a tenant regarding a rent overcharge or failure to provide services, SELLER shall remain obligated through the date of the closing and shall pay for any such claims.

D) All securities held by SELLER pursuant to leases shall be transferred to the BUYER on, or as of, the closing, and all leases shall be assigned to and assumed by the BUYER at closing.

E) SELLER shall not modify any existing lease without the BUYER'S consent.

16. SUCCESSORS AND ASSIGNS. This Agreement and the matters contained herein shall inure to the benefit and be binding upon the respective successors and assigns of SELLER and the BUYER.

17. ASSIGNMENT. This Agreement is not assignable by either party without the written consent of the other. Any assignment permitted shall not release the assignor from its obligations to perform in accordance with the terms hereof.

18. NOTICES. All notices which are required for either party to serve upon the other shall be effectively served if personally delivered or sent by certified mail, return receipt requested,

and addressed as follows:

If to the BUYER:	Johnstown-Monroe Local School District c/o Superintendent 85 W. Douglas Street Johnstown, Ohio 43031
If to SELLER:	City of Johnstown, Ohio 599 South Main Street Johnstown, Ohio 43031
With a copy to:	Frost Brown Todd LLP 10 W. Broad St., Suite 2300 Columbus, Ohio 43215 Attention: Yazan Ashrawi

Either party may, from time to time by written notice given to the other party, specify a new address to which any such notice shall thereafter be sent.

19. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio. Exclusive jurisdiction and venue shall be Licking County, Ohio.

20. REMEDIES CUMULATIVE. All rights and remedies of the BUYER and of SELLER enumerated in this Agreement shall be cumulative and, except as specifically contemplated otherwise by this Agreement, none shall exclude any other right or remedy allowed at law or in equity and said rights or remedies may be exercised and enforced concurrently. No waiver by the BUYER or by SELLER of any covenant or condition or the breach of any covenant or condition of this Agreement to be kept or performed by the other party shall constitute a waiver by the waiving party of any subsequent breach of such covenant or condition or authorize the breach or nonobservance on any other occasion of the same or any other covenant or condition of this Agreement.

21. DUPLICATE ORIGINALS. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be a duplicate original, but all of which, taken together, shall constitute a single instrument.

22. HEADINGS. The captions and headings contained in the Agreement are included only for convenience of reference and do not define, limit, explain or modify this Agreement or its interpretation, construction or meaning and are in no way to be construed as part of this Agreement.

23. SEVERABILITY. If any provision of this Agreement or the application of any provision to any person or to any circumstance shall be determined to be invalid or unenforceable, then such determination shall not affect any other provision of this Agreement or the application of such provision to any other person or circumstance, all of which other

provisions shall remain in full force and effect, and it is the intention of the BUYER and SELLER that if any provision of the Agreement is susceptible of two or more constructions, one of which would render the provision enforceable and the other or others of which would render the provision unenforceable, then the provision shall have the meaning which renders it enforceable.

24. NUMBER AND GENDER. When used in this Agreement, the singular number and neuter gender of each personal pronoun shall be construed to mean such number and gender as the context, circumstances or its antecedent may require.

25. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the BUYER and SELLER with respect to the subject matter hereof, and this Agreement supersedes all prior and contemporaneous agreements between the BUYER and SELLER in connection with the subject matter hereof. No officer, employee or other servant or agent of SELLER or the BUYER is authorized to make any representation, warranty or other promise not contained in this Agreement. No change, termination or attempted waiver of any of the provisions of this Agreement shall be binding upon SELLER or the BUYER unless in writing and signed by the party affected.

26. SIGNATURES. Only manual or electronic signatures on contract documents, transmitted in original or facsimile (which includes photocopies, faxes, PDF, and scanned documents sent by any method) shall be valid for purposes of this Agreement and any amendments or any notices to be delivered in connection with this Agreement. Only original, manual signed documents shall be valid for deeds or other documents to be delivered at closing.

27. MUTUAL DRAFTING. Each party acknowledges that it has had an opportunity to review and revise this Agreement and that the normal rule of construction to the effect that ambiguities in an agreement are to be resolved against the drafting party shall not apply to the interpretation of this Agreement.

[*no further text appears on this page; signatures on following page*]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized representatives as of the last date of last signature set forth below.

BUYER

JOHNSTOWN-MONROE LOCAL SCHOOL DISTRICT
BOARD OF EDUCATION

Executed this instrument this ______ day of _________________, 20___:

By: ____________________________________
Tim Swauger, President

By: ____________________________________
Felicia Drummey, Treasurer

SELLER

CITY OF JOHNSTOWN, OHIO

Executed this instrument this ______ day of _________________, 20___:

____
_______________________, President, City Council

Approved as to form:

By: ____________________
Name: __________________
Title: ___________________

EXHIBIT A

[PROPERTY LEGAL DESCRIPTION]

EXHIBIT B

[FORM OF LEASE AGREEMENT]

0130654.0623330 4907-1505-2555v5