



**PENNSYLVANIA HIGHLANDS COMMUNITY COLLEGE**  
**BOARD OF TRUSTEES SPECIAL MEETING**  
**January 19 – 6:30 PM**  
**via Zoom**  
**Agenda**

**Mission Statement**

Pennsylvania Highlands Community College provides its students with affordable opportunities to gain the knowledge and skills they need to be successful in their work, in their day-to-day lives, and in their pursuit of life-long learning in a supportive, student-oriented environment.

**CALL TO ORDER**

- Roll Call

**CHAIRPERSON'S REPORT**

**PUBLIC COMMENT**

**FINANCE & FACILITIES COMMITTEE**

- \* Purchase of Leased Facility (FF 1001-2021) (action)

**REPORTS/COMMENTS FROM BOARD MEMBERS**

**EXECUTIVE SESSION**

*Board members in executive sessions may discuss the employment, compensation, discipline, performance or dismissal of specific employees of the College; collective bargaining; active or pending litigation; purchase or lease of property; information that is considered confidential under the law; matters of academic admission or standing; or public safety issues if disclosure of the information would reasonably jeopardize public safety or preparedness.*

**ADJOURN**

- \* *Materials Included in board packet*

**Vision Statement**

Pennsylvania Highlands Community College will be a dominant higher education provider in west central Pennsylvania – a catalyst for regional renewal – positioning our graduates to be recognized as highly competent, exceptional members of the community and workforce.

## AGREEMENT OF SALE

MADE THIS, \_\_\_\_\_ day of January, 2021 (the “Effective Date”),

BY AND BETWEEN THE

**Richland School District**, with address of One Academic Drive, Suite 200, Johnstown, PA 15904, hereinafter referred to as “Seller”,

AND

**Pennsylvania Highlands Community College**, with an address of 101 Community College Way, Johnstown, PA 15904, hereinafter referred to as “Buyer”.

**WHEREAS**, the Seller and Buyer shall set forth herein the terms and conditions upon which the Buyer shall purchase the Property (described below);

In consideration of the mutual covenants and agreements herein contained, and intending to be legally bound, the parties hereto agree as follows:

### ARTICLE I

#### The Property

1.01. Description of the Property. The property that is the subject of this Agreement (the “Property”) is that certain parcel(s) or tract(s) of land located in Richland Township, Cambria County, Pennsylvania, with the proposed boundaries of the Property to be formally created through subdivision (as set forth herein) and which is approximately highlighted by the thicker blue line on Exhibit A, attached hereto and made a part hereof, any and all personal property situate on or about the Property, together with all improvements erected thereon, and all easements, hereditaments and rights of way appurtenant thereto, and together with all of Seller’s right, title, and interest in all leases and in any lands lying within the right of way of any abutting roadways.

## ARTICLE II

### Terms and Settlement

2.01. Sale and Purchase of Property. On the date hereinafter set forth for Settlement, Seller agrees to sell and convey the Property to Buyer and Buyer agrees to purchase the Property subject to the terms of this Agreement.

2.02 Purchase Price. The aggregate purchase price for the Property (the "Purchase Price") shall be **Six Million and 00/100 Dollars (\$6,000,000.00)**. The balance of the Purchase Price less the amounts previously paid pursuant to section 2.03 below shall be paid in immediately available funds at Settlement (as hereinafter defined). Notwithstanding the foregoing, Seller is willing to finance twenty percent (20%) of the Purchase Price amortized over a period of ten (10) years at four (4.0%) percent interest, adjusted after the fifth year to a rate which is one (1%) percent over the Wall Street Journal Prime Rate on the fifth (5<sup>th</sup>) anniversary date of the Note, provided however, said interest rate shall not exceed four (4.0%) percent. This loan shall be secured by a second mortgage on the Property. Buyer may utilize this Seller financing arrangement.

2.03. Respecting Deposits, Refunds.

A. The sum of **Twenty-Five Thousand Dollars (\$25,000.00)** (the "Deposit Amount") shall be paid this date to Leventry, Haschak & Rodkey, LLC, counsel for Seller. The Deposit Amount shall be applied toward the Purchase Price. The deposit shall be non-refundable except as expressly provided herein.

B. Notwithstanding the foregoing, Buyer shall have until April 15, 2021 (the "Study Period") to conduct due diligence including such tests, inspections and investigations as

Buyer deems appropriate. Buyer may terminate this Agreement at any time during the Study Period at which time the entire Deposit Amount shall be returned to Buyer less any amounts paid by Seller for engineering, legal, surveyor, and/or filing fees associated with Seller obtaining subdivision, provided such amount shall not exceed \$10,000, approval per Section 2.10 herein.

2.04. Settlement. Settlement hereunder, subject to satisfaction (or a waiver where permitted) of the conditions required of Seller or Buyer hereunder, if any, shall be held within thirty (30) days following Richland Township subdivision approval. Settlement shall be held at the offices of Leventry, Haschak & Rodkey, LLC.

A. Seller's Deliveries. At the Closing, Seller shall deliver or cause to be delivered to Buyer (or its nominee), at Seller's sole expense, each of the following items:

(i) A special warranty deed, conveying good and marketable fee simple title, subject only to the Permitted Exceptions, in proper form for recording, (ii) a Bill of Sale in the form attached hereto as Exhibit B;

(ii) An original or certified copies of the Lease;

(iii) All keys, if any, in Seller's possession or control to all locks on the Property improvements;

(iv) Originals, of any contracts being assigned to Buyer, if originals are not in Seller's possession or control, certified copies thereof;

(v) Such evidence or documents as may be reasonably required by the Title Company or Buyer relating to: (i) mechanics' or materialmen's liens; (ii) parties in possession; (iii) the status and capacity of Seller and the authority of the person or persons who are executing the various documents on behalf of Seller in connection with the sale of the Property; and (iv) a gap indemnity affidavit;

(vi) Such other documents as are consistent with the terms of this Agreement and reasonably required to close the transaction contemplated hereby.

**B.**            Buyer's Deliveries. At the Closing, Buyer shall deliver the following items:

(i) Immediately available federal funds sufficient to pay the purchase price (less the deposit) and Buyer's share of all escrow costs and closing expenses;

(ii) Duly executed and acknowledged originals of the Bill of Sale and the Closing statement;

(iii) Duly executed Promissory Mortgage Note and Mortgage if Buyer elects to utilize Seller's 20% owner financing option.

(iv) Such evidence or documents as may reasonably be required by the Title Company evidencing the status and capacity of Buyer and the authority of the person or persons who are executing the various documents on behalf of Buyer in connection with the purchase of the Property; and

(v) Such other documents as are consistent with the terms of this Agreement and reasonably required to close the transaction contemplated hereby.

2.05. Title, Failure of Title.

A. The Property is to be conveyed free and clear of all tenancies, liens, restrictions, encumbrances, charges, security interests, and easements of every kind, excepting only the following: (i) real estate taxes not yet due, (ii) existing ordinances, (iii) privileges or rights of public utility or service companies of record, (iv) the East Hills Recreation lease (previously assigned to Buyer with a term remaining not to exceed three (3) years from the date of closing, with no tenant renewal options (the "Lease")), and (v) public and private rights in and to that portion of the Property, if any, located within the bed of any public road, otherwise good and marketable fee simple title to the Property shall be conveyed by a special warranty deed subject only to the foregoing and such as will be insured by any ALTA Title Insurance Company member at its regular rates. At Settlement, Seller shall deliver to Buyer's title company such affidavits and documents as are customarily delivered in the jurisdiction where the Property is located in order to enable Buyer to obtain a title insurance policy in accordance with this section.

B. Seller agrees that it will not encumber, transfer, pledge, or grant any additional legal or equitable interest in the Property, or any part thereof, to any third party during the term of this Agreement without the express written consent of Buyer.

C. Title . Promptly upon execution of this Agreement, however no later than five (5) business days subsequent to the Effective Date, (a) Buyer shall order a title commitment or pro forma title policy (the "Title Commitment") for the Real Property and in Buyer's discretion a Survey, it being understood Seller will provide Buyer any and all available survey information in connection with the subdivision process being pursued by Seller in connection with this Agreement. Buyer shall provide Seller, within Ten (10) days receipt of the Title Commitment written notice that sets forth any objections that Buyer has to title or survey matters affecting the Property and disclosed on the Title Commitment or the Survey (the "Buyer Title Objections"). Those title matters not objected to by the Buyer shall be referred to as "Permitted Exceptions". Seller shall use reasonable efforts to cure the Buyer Title Objections before the Closing. If, despite such reasonable efforts, Seller is unable to cure the Buyer Title Objections by the Closing Date, Buyer shall have the option (in its sole discretion) of either (y) accepting the title as it then is or (z) terminating this Agreement, in which event the Deposit shall immediately be returned to Buyer, this Agreement shall terminate and Buyer and Seller shall have no further obligations or liabilities hereunder. Notwithstanding anything in this Agreement to the contrary, all Voluntary Liens will be satisfied by Seller on or prior to the Closing Date or, if not so satisfied, shall be satisfied at Closing out of the proceeds otherwise payable to Seller, and Buyer shall have no obligation to give Seller any notice of objection with respect to any Voluntary Liens. Voluntary Liens shall mean any of the following encumbrances on the Property or any

portion thereof: (a) any mortgage or deed of trust granted or assumed by Seller; (b) any mechanic's or materialmen's lien; (c) any lien for unpaid taxes, assessments, utility, water, sewer or other governmental charges; and (d) any other lien or encumbrance granted, assumed or suffered by Seller and securing the repayment of money or other claims made against Seller

2.06. Mineral, Oil and Gas Rights. The conveyance of the Property shall include all of Seller's right, title, and interest in all mineral, oil and gas rights, if any.

2.07. Possession. Possession of the Property is to be delivered by special warranty deed at the day and time of settlement. The Property shall be delivered free and clear of all tenancies and rights of occupancy, except for the existing leases with Buyer and East Hills Recreation previously assigned to Buyer by that certain Assignment of Lease Agreement dated February 24, 2014 whereas Buyer assumed all responsibilities as landlord under said lease. This lease has to be modified so the Term of the East Hills Recreation lease will not exceed three (3) years from the date of closing.

2.08. Assessments, Notices. Seller covenants and represents to Buyer, as of the date of this Agreement, that no notice has been served upon the Seller for assessments for public improvements against the Property which remain unpaid and no notice or order by any governmental or other public authority has been served upon the Seller, unless otherwise specified herein, which (i) relate to violations of housing, building, safety, fire or other applicable ordinances which remain uncorrected, (ii) require the performance of any work or the making of any repairs or alterations in the Property or in the streets bounding thereon, (iii) order the construction, repair, or alteration of any public improvements on or about the Property or the



streets bounding thereon which may be or might become a lien on the Property, or (iv) relating to violations concerning the conduct of mining on or under the surface of the Property.

2.09. Destruction or Condemnation Any destruction by casualty or condemnation for any public or quasi-public purpose or use by any competent authority in appropriate proceedings or by any right of eminent domain of all or any part of the Property, between the date of this Agreement and the date of settlement hereunder, shall, at the written election of either party, cause a termination of this Agreement. In the event of any such termination, the Deposit Amount paid shall be returned to Buyer. If neither party shall elect to terminate, Seller shall convey title to Buyer in exchange for the Purchase Price, and Buyer will be entitled to receive all insurance proceeds or proceeds of such taking or condemnation, and in that event, Seller will take all action necessary to assign its entire interest in any such proceeds to Buyer.

2.10. Zoning and Subdivision. Seller represents that the Property is presently classified as R-1 under the applicable Zoning Ordinance. The operation of a school within the R-1 zone is a permitted use. Seller, at its cost, shall apply and pursue in a diligent and commercially reasonable expeditious manner, to Richland Township for subdivision and consolidation of the Property in the approximate locations set forth on Exhibit A. Buyer agrees to cooperate in said subdivision process as necessary. The subdivision plan shall not be recorded unless and until Settlement occurs or is about to occur. Seller shall provide reasonable updates upon request regarding the subdivision application process and authorize Seller's civil engineer and/or surveyor to provide, upon Buyer's commercially reasonable request, information regarding the subdivision process as well documents or information relevant to Buyer's title and survey due diligence. Buyer shall be responsible for any additional engineer or survey related costs arising

directly as a result of Buyer's request to Seller's civil engineer and/or surveyor. Buyer will include Seller on all written or electronic communications to Seller's civil engineer or surveyor.

2.11. Reciprocal Easement Agreement. The parties, prior to settlement, shall negotiate a reasonable Reciprocal Easement Agreement to be recorded at Settlement regarding the parties' various rights and obligations in the roadways, parking lots, etc. on the Seller's remaining property and the Property. Seller has agreed to grant a non-exclusive perpetual easement over Community College Way and Academic Avenue to Seller. Buyer has agreed to grant to Seller a non-exclusive perpetual easement over Community College Way, a non-exclusive parking easement over the parking lot closest to the football stadium (located on the north side of Community College Way) (the "Football Side Parking Lot"), and a drainage easement for any water runoff currently being directed into the stormwater basin located on the southwest corner of the Property, provided however, such drainage easement shall not permit additional drainage or stormwater runoff resulting from the actions of Seller or successor owners of all or portions of Seller's property beyond that contributed by Seller as of the execution date of this Agreement. Buyer shall be responsible for repairing, maintaining and snowplowing the Football Side Parking Lot subject to the terms of the Reciprocal Easement Agreement.

2.12. Apportionments, Expenses.

A. All county, township, equipment and school district real estate taxes, and all water and sewer rentals, if any, for the current terms in which settlement takes place shall be apportioned pro rata between Seller and Buyer as of the date of settlement, without discount or penalty and on the basis of the fiscal year of the authority or other person levying the same.

B. All realty transfer taxes imposed by any governmental authority on the conveyance of the Property by the deed contemplated hereby shall be shared equally between Buyer and Seller. In the event one party is exempt from said realty transfer taxes, then the other party shall be responsible for all said realty transfer taxes.

C. Each party will pay all of its own expenses incurred in connection with this Agreement and the transactions contemplated hereby, including, without limiting the generality of the foregoing, (i) all costs and expenses stated herein to be borne by a party, (ii) all accounting, legal and appraisal fees and settlement charges, and (iii) Seller shall pay for engineering, legal, and surveying costs associated with the subdivision (subject to reimbursement pursuant to Section 2.03(B) herein). Buyer, in addition to its other expenses, shall pay for all title insurance premiums (including premiums, if any, for affirmative insurance against unfiled mechanic's or municipal liens). Seller shall pay for the preparation of the deed and Buyer shall pay for its recording. All charges and other fees payable by Buyer in connection with the securing of any mortgage financing for the purchase contemplated hereby shall be the responsibility of Buyer.

2.13. Recording and Use of Agreement. A memorandum of this Agreement may be recorded by Buyer in the office for the recording of deeds, or in any other office or place of public record, but only if necessary to establish equitable title for the purposes of permitting. Buyer shall have the right to submit a copy of this Agreement with any financing institution(s) to the extent required or desirable to permit Buyer to obtain financing for its purchase of the Property and to its consultants, attorneys, brokers, engineers, tenants, and appraisers. Buyer shall have the right to submit a copy of this Agreement with any governmental or quasi-governmental

body, agency, department or board to the extent necessary or desirable to permit Buyer to secure any permit or approval necessary for Buyer's intended use of the property.

2.14 Seller's Representations and Warranties. Seller represents to Buyer that:

A. Capacity. Seller is a school district in the Commonwealth of Pennsylvania. Seller has the power and authority to execute and deliver this Agreement, to consummate the transactions contemplated hereby and to perform its obligations hereunder. The execution of this Agreement and the consummation of the transactions contemplated hereby have been approved in accordance with applicable law and are subject to the provisions of Section 2.18 below;

B. Non-Foreign Status. Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code;

C. Agreements and Leases. There are no leases or agreements in effect relating to the occupancy or sale of any portion of the Property by or to any other person or entity, except for the East Hills Recreation lease (previously assigned by Buyer) scheduled to terminate within three (3) years of the Closing date and the lease between Seller and Buyer for the remainder of the Property, and no other person or entity has the right to use any portion of the Property;

D. Litigation. There are no condemnation or eminent domain proceedings, nor litigation of any kind pending or, to Seller's knowledge, contemplated against the Property, any part thereof or any existing access to the Property and the Seller has received no notice of the desire of any public authority or other entity to use the Property or any part thereof; and

E. Environmental. To Seller's knowledge the Property including, without limitation, its soil and groundwater condition, is not in violation of any law relating to industrial hygiene, environmental conditions, hazardous waste or toxic materials. Seller further represents and warrants that during the period of Seller's ownership, neither Seller nor, to Seller's knowledge, any third party has used, manufactured, stored or disposed of, on, under or about the Property or transported to or from the Property, any hazardous materials or wastes, toxic materials or wastes, PCBs, or other similar materials or wastes.

F. Taxes. As of the date of this Agreement and the date of Settlement, there are, and will be, no unpaid taxes due the Commonwealth of Pennsylvania by Seller.

G. Compliance with Laws. To the best of Seller's knowledge, the Property is in compliance with all applicable laws, rules, regulations and ordinances and there are no, threatened, judicial or administrative proceedings or investigations affecting or relating to the use, operation or ownership of the Property.

All representations, warranties and covenants of Seller set forth in this Section 2.14 of the Agreement or in any document or certificate delivered by Seller in connection herewith shall survive the Closing for a period of six (6) months, and no action or proceeding thereon shall be valid or enforceable, at law or in equity, unless within such time, written notice thereof is given to the Seller.

## 2.15 Termination and Default

A. Termination without Default. If the sale of the Property is not consummated because of the failure of any condition precedent to Buyer's obligations expressly set forth in this Agreement or for any other reason except a default by Buyer in its obligation to purchase the Property in

accordance with the provisions of this Agreement (which shall be governed by Section 2.15 B) or any default by Seller of its obligations under this Agreement (which shall be governed by Section 2.15 C), the Deposit, subject to an offset for subdivision expenses incurred by the Seller as specifically provided for in this Agreement, shall promptly be returned to Buyer and neither Party shall have any further obligations hereunder.

B. Provided that Buyer has not previously terminated this Agreement, if Buyer shall default in its obligations hereunder, Seller may retain the Deposit Amount as full and complete liquidated damages as Seller's sole and exclusive right and remedy hereunder. Seller and Buyer agree that actual damages would be difficult to ascertain and that the above amounts constitute a fair and reasonable estimate of, and bears a reasonable relationship to the damages that would be suffered by Seller.

C. In the event that Seller shall default in its obligations hereunder or in the event that any representation or warranty made by Seller shall be materially false the Buyer shall be entitled to the following: (i) seek specific performance, (ii) terminate this Agreement and demand the return of the Deposit Amounts, and/or (iii) institute any action available to Buyer at law or in equity against Seller to recover actual costs incurred by Buyer in performing its due diligence, reasonable attorney's fees and expenses and court costs.

2.16. Right of First Refusal to Purchase and Sale of the Property. For so long as Buyer (or a successor entity to Buyer resulting from a merger, consolidation or similar entity transaction), owns the Property it shall provide Seller a first right of refusal to purchase the Property upon the receipt of a third party offer for the purchase of the Property that Buyer intends to accept. In the event that Buyer receives a third-party offer for the Property it intends

to accept ("Third-Party Offer"), it shall provide to Seller the proposed purchase price and all economic terms ("Third-Party Purchase Price"). Seller will have forty-five (45) days after delivery of the Buyer Third-Party Offer to accept the Third Party Offer Purchase price by written notice to Buyer (any failure of Seller to deliver timely written notice accepting the Third-Party Offer will be deemed to be a rejection by Seller thereof). If Seller has accepted the Buyer Third-Party Offer, then Buyer and Seller, each acting in a commercially reasonable and good faith manner, will negotiate and enter into an agreeable Purchase and Sale Agreement having the economic and other terms and conditions set forth in the Third-Party Offer and other commercially reasonable terms and conditions consistent with the Third-Party Offer, within forty-five (45) business days after Buyer's receipt of Seller's written notice of acceptance, provided that where necessary because Seller is a public body Buyer will make reasonable modifications to the Purchase and Sale Agreement in order to permit Seller to comply with applicable law. If an Agreeable Purchase and Sale Agreement is not entered into by the parties within such forty-five (45) day period, and so long as Buyer has negotiated with Seller in regard thereto in a commercially reasonable and good faith manner, Buyer shall be free to sell the Property to the third-party making the Third Party Offer in accordance with the Third-Party Offer. It is further agreed if Buyer fails to enter into a Purchase and Sale Agreement pursuant to the Third Party Offer the Right of First Refusal provision provided for in this Section 2.16 shall once again apply with respect to future third party offers to purchase the Property received by the Buyer.

In the event Buyer has chosen not to pursue a third party offer to purchase the Property but rather approaches Seller regarding their interest in purchasing the Property the parties agree to pursue the following non-binding process to establish a potential purchase price. In the event Seller expresses an indication of interest to purchase the Property after Buyers inquiry as to Seller's potential interest then the parties shall determine a non-binding purchase price in accordance with the appraisal process provided herein and make a final determination as to Seller's intent to purchase within a period of ninety (90) days of Buyer's written notice to Seller if its interest in selling the Property (the "Offer Period"). The purchase price for said offer shall be determined by appraisal as provided below (the "Purchase Price") prior to expiration of the Offer Period. Each party shall hire a certified commercial real estate appraiser, at their own cost, to appraise the Property. If the appraisals are ten percent (10%) or less apart in value, the purchase price shall be the average of the two appraisals. In the event the appraisals are more than ten percent (10%) apart in value, the two (2) appraisers shall jointly choose a third appraiser to conduct its own appraisal on the Property to be completed during the Offer Period. The purchase price shall then be the average of the two (2) appraisals closest in value to each other. The parties shall split the cost of the third appraiser. Either Buyer or Seller may reject the Purchase Price whereupon neither party shall have an obligation to proceed with the purchase and sale of the Property. In the event there is a mutual agreement to proceed with the purchase and sale of the Property for the Purchase Price then within forty-five (45) days of the Purchase Price being established pursuant to the appraisal process Buyer and Seller, each acting in a commercially reasonable and good faith manner, will negotiate and enter into an mutually agreeable Purchase and Sale Agreement. While the Buyer herein has the right to withdrawal its



offer to sell to Seller after receipt of the appraisal value, if Buyer elects to sale or transfer the Property it must do so following the Right of First Refusal process outlined above or sell the Property to Seller for the price established per the appraisal process. Buyer also may not transfer the Property to any third person, except to successor entities of Buyer resulting from a merger, consolidation or similar entity transaction, without consideration unless Buyer first offers the Property to Seller at the appraisal valuation.

2.17. Deed Restrictions. The special warranty deed from Seller to Buyer for this transaction shall include a statement indicating Buyer's deed is subject to the restrictive covenant that Buyer must first offer the Property to the Seller in accordance with the terms set forth in Section 2.16 prior to offering the Property for sale or transfer to other parties.

In the special warranty deed, Seller and Buyer agree to include the following use restrictions: The Property shall not be used as a charter school, cyber school, drug and/or alcohol rehabilitation center, juvenile center, jail and/or prison, any pornographic use (including but not limited to an adult bookstore), bar, and/or restaurant, provided however Buyer, its successors, assigns and subsequent Property owners shall be permitted to whether through a third party operator, the Property occupant's staff or students to provide food services to the Property occupants staff, students or outside third parties provided such food services are incidental to the primary purpose of the property owner. Food Services shall include cafeteria or restaurant style type dine in services, take out service and catering. Incidental food services shall mean food services intended as an amenity to occupants of the Property, however also available to the general public. Seller shall have the right to specifically enforce these restrictions and to obtain injunctive relief to stop such use.

2.18. Pennsylvania School Code. Under 24 P.S. §7-707(7.1) of the Pennsylvania School Code, the sale of real estate to a non-profit organization is considered exempt from the requirement placed on the Seller to obtain court approval to sell real estate. If, for any reason, it is determined that this sale does not satisfy this requirement, Seller will need to obtain court approval of the sale. In that event, Settlement hereunder shall be reasonably extended in order to permit court approval to be acquired.

### ARTICLE III

3.1. Conditions Precedent to Closing. In addition to any other conditions precedent in favor of Buyer set forth elsewhere in this Agreement, Buyer's obligations under this Agreement are subject to the timely fulfillment of the conditions set forth in this Section 3.1 on or before the Closing Date, or such earlier date as is set forth below. Each condition may be waived in whole or in part only by written notice of such waiver from Buyer to Seller.

(a) Seller shall have performed and complied in all material respects with all of the terms of this Agreement to be performed and complied with by Seller prior to or at the Closing;

(b) On the Closing Date, the Seller Representations shall be true and correct;

(c) Buyer shall have received an fully executed Lease amendment modifying the Lease to provide for an expiration date, with no Lease renewal options, later than the last date of the thirty sixth (36) full calendar month occurring after the date of Closing;

(d) the parties shall have reached agreement upon a mutually agreeable Reciprocal Easement Agreement to be recorded immediately subsequent to recording of the Property transfer Deed;

(e) On the Closing Date, title to the Property shall be conveyed to Buyer subject only to the Permitted Exceptions and the Title Company shall issue to Buyer an extended coverage owner's title insurance policy in the amount of the Purchase Price, together with the lender required endorsements, insuring good and indefeasible fee simple title to the Property in Buyer, subject only to the Permitted Exceptions and the standard printed exceptions, except that: (i) the exceptions for mechanic's liens; (ii) the survey exception shall be limited to Permitted Exceptions; (iii) the exception relating to ad valorem taxes shall relate only to taxes owing for the year of closing and subsequent years; and (iv) the parties-in-possession exception shall be deleted except as to the Tenant, as tenant only, as provided for in the Lease;

f. Buyer shall have obtained financing satisfactory to Buyer necessary to facilitate Buyer's purchase of the Property.

In the event any of the foregoing conditions precedent to Buyer's obligation to complete Closing are not satisfied in a material extent, prior to or at the Closing, and provided Seller has been given reasonable notice and opportunity to cure such condition where Seller is the cause for such Condition Precedent failure, Buyer shall have the right to terminate this Agreement by written notice to Seller on or after to the Closing Date until such failure is cured. Upon such termination Buyer shall be returned its deposit, provided however where such termination is the

result of Article 3.1(f) Seller shall return Buyer's deposit less any amounts paid by Seller for engineering, legal, surveyor, and/or filing fees associated with Seller obtaining subdivision, provided such amount shall not exceed \$10,000, approval per Section 2.10 herein.

## ARTICLE IV

### Miscellaneous

4.01. Easements and Restrictions. The Seller is not aware of any easements, rights of way, or use restrictions affecting the Property other than utility and access easements of record.

4.02. Assignability. Neither party shall assign this Agreement without the express written consent of the other party.

4.03. Tender. Formal tender of an executed deed and purchase money is hereby waived; but nothing herein shall be deemed a waiver of the obligations of Seller to execute, acknowledge, and deliver the deed or the concurrent obligation of Buyer to pay the balance of the Purchase Price.

4.04. Time is of the Essence. All times, wherever specified herein, are of the essence of this Agreement.

4.05. Notices. All notices, demands, waivers, and other communications required or permitted by this Agreement shall be in writing (whether or not a writing is expressly required hereby) and shall be deemed to have been given if and when personally delivered or sent by overnight courier to the addresses set forth below:

To Seller:                      Richland School District  
   Attn: Arnold Nadonley, Superintendent  
   One Academic Drive, Suite 200  
   Johnstown, PA 15904

With copy to: Timothy C. Leventry, Esquire  
Leventry, Haschak & Rodkey, LLC  
1397 Eisenhower Boulevard  
Richland Square III, Suite 202  
Johnstown, PA 15904

To Buyer: Pennsylvania Highlands Community College  
Attn: Steve Nunez, President  
101 Community College Way  
Johnstown, PA 15904

With copy to: Lawrence J. Maiello, Esquire  
Maiello Brungo & Maiello, LLP  
Southside Works  
424 South 27<sup>th</sup> Street, #210  
Pittsburgh, PA 15203

4.06. Survival of Representations and Warranties. All representations and warranties of Seller, including without limitation those set forth in Section 2.14 above, shall survive closing and delivery and recording of the deed, and shall not merge with the deed.

4.07. Brokers. The parties each represent and warrant that no broker or real estate agent is entitled to a commission as a result of the transactions contemplated hereby.

4.08. Access to Premises. Buyer shall make the Property, together with reasonable access thereto, available to Seller and Seller's authorized agents and surveyors during normal business hours following the date hereof and until termination of this Agreement or a settlement hereunder (whichever shall first occur), all for the purpose of enabling Seller to complete the subdivision contemplated herein. Since Buyer is currently in possession of the majority of the Property, Buyer has the ability to perform and conduct all tests and inspections Buyer deems necessary. The costs of all of the tests and inspections shall be borne by Buyer, and if a settlement hereunder shall not occur, Buyer forthwith shall restore the Property to the same

condition as on the date of this Agreement. The work so to be performed by reason thereof, shall be at the sole risk and expense of Buyer.

4.09. Governing Laws, Parties at Interest. This Agreement shall be governed by Pennsylvania Law and shall bind and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns.

4.10. Headings. The headings preceding the text of the articles and sections hereof are inserted solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

4.11. Execution and Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together constitute one and the same instrument.

4.12. Cooperation. Seller and Buyer agree to cooperate with each other in obtaining any permits, approvals, or subdivision for the Property, including executing and providing information for any applications.

4.13 Entire Agreement, Amendment. This Agreement, and any Exhibits hereto, set forth all of the promises, covenants, agreements, conditions and undertakings between the parties hereto with respect to the subject matter hereof, and supersede all prior and contemporaneous agreements and understandings, inducements, or conditions, express or implied, oral or written, except as contained herein. This Agreement may not be changed orally but only by an agreement in writing, duly executed by or on behalf of the party against whom enforcement of any waiver, change, modification, consent, or discharge is sought.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed on the respective dates specified below.

Signed and acknowledged in the presence of:

\_\_\_\_\_  
Board Secretary

**SELLER:**  
**Richland School District**

By: \_\_\_\_\_

Name: Raymond McCombie

Title: Board President

Date: \_\_\_\_\_

**BUYER:**  
**Pennsylvania Highlands  
Community College**

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

EXHIBIT A

[Attach Map]





50-009-100,004

50-009-100,006

50-010-152,003

50-010-200,000

50-010-411,003

50-070-108,000

50-070-114,000

50-070-112,000

50-056-212,000

50-056-211,000

50-056-210,000

50-056-209,000

50-056-310,000

50-056-308,000

50-056-412,000

50-056-410,000

50-056-409,000

50-056-416,000

50-056-417,000

50-056-418,000

50-056-420,000

50-056-421,000

50-056-422,000

50-056-509,000

50-056-508,000

50-056-507,000

50-056-506,000

50-056-510,000

50-056-509,000

50-010-411,000

50-010-205,000

50-010-411,003

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**EXHIBIT B**

**BILL OF SALE AND GENERAL ASSIGNMENT**

**BILL OF SALE, BLANKET CONVEYANCE  
AND ASSIGNMENT**

This Bill of Sale, Blanket Conveyance and Assignment (this "Assignment") is executed by \_\_\_\_\_, a \_\_\_\_\_ ("Assignor") to and for the benefit of \_\_\_\_\_, a \_\_\_\_\_ ("Assignee").

**RECITALS**

**WHEREAS**, concurrently herewith Assignor is conveying to Assignee by [Special Warranty] Deed of even date herewith that certain real property (the "Property") more particularly described on Exhibit A attached hereto and incorporated herein for all purposes; and

**WHEREAS**, in connection with the conveyance of the Property, Assignor intends to sell, assign and convey unto Assignee the Assigned Properties (defined below).

**NOW, THEREFORE**, in consideration of the foregoing and Ten and No/100 Dollars (\$10.00) and other good and valuable consideration in hand paid by Assignee to Assignor, the receipt and sufficiency of which are hereby acknowledged and confessed by Assignor, Assignor and Assignee hereby act and agree as follows:

1. **Conveyance**. Assignor does hereby **ASSIGN, TRANSFER, CONVEY, SET OVER** and **DELIVER** to Assignee, its successors and assigns, the following properties (collectively, the "Assigned Properties"):

(a) Any and all personal property, equipment, appliances, furniture, furnishings, building materials, improvements, including without limitation, all heating, air conditioning, plumbing, lighting, communications, elevators, building operating systems and other personalty of whatever kind or character owned by Assignor situate on or about the Property, (collectively, the "Personalty").

2. **Further Assurances**. The parties agree to take all such further actions and execute, acknowledge and deliver all such further documents that are reasonably necessary or useful in carrying out the purposes of this Assignment.

3. **Mutual Indemnification**. Assignor shall indemnify and hold Assignee, its successors and assigns, harmless from and against any and all unpaid balances owed by Assignor and arising and accruing prior to the date hereof with respect to any and all of the Assigned Properties, and from and against any and all damages, claims, costs (including reasonable attorney's fees), expenses and causes of action which may arise and accrue from or under the Assigned Properties or any of them and that are attributable to Assignor during periods of time prior to the date hereof, regardless of when same are discovered or asserted. Assignee shall indemnify and hold Assignor harmless from and against any and all unpaid balances owed by Assignee and arising and accruing on or after the date hereof with respect to any and all of the Assigned Properties, and from and against any and all damages, claims, costs (including

reasonable attorney's fees), expenses and causes of action which may arise and accrue from or under the Assigned Properties or any of them and that are attributable to periods of time on or after the date hereof, regardless of when same are discovered or asserted.

4. **Counterparts; Successors and Assigns; Authority.** This Assignment may be executed in any number of counterparts, and each counterpart hereof shall be deemed to be an original instrument, but all such counterparts shall constitute but one instrument. This Assignment shall bind and inure to the benefit of Assignor and Assignee and their respective successors and assigns. Each of Assignor and Assignee represents and warrants to the other that it is fully empowered and authorized to execute and deliver this Assignment, and the individuals signing this Assignment each represent and warrant that he or she is fully empowered and authorized to do so.

[The balance of this page is intentionally left blank]

IN WITNESS WHEREOF, this Assignment is executed as of this \_\_\_\_ day of \_\_\_\_\_, 2021.

**ASSIGNOR:**

By: \_\_\_\_\_,  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ASSIGNEE:**

By: \_\_\_\_\_,  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_