



## WEBSTER CENTRAL SCHOOL DISTRICT

**Carmen Gumina**

*Superintendent*

Carm\_Gumina@webstercsd.org

(585) 216-0001

**Colleen Armstrong**

Executive Director of Special Education

Colleen\_Armstrong@webstercsd.org

(585) 216-0073

**Erin Land**

Director of Elementary Education

Erin\_Land@webstercsd.org

(585) 216-0111

**Brian M. Neena**

*Deputy Superintendent and*

*Assistant Superintendent for Instruction*

Brian\_Neenan@webstercsd.org

(585) 216-0024

**David Swinson**

*Assistant Superintendent for Administration*

*and Human Resources*

David\_Swinson@webstercsd.org

(585) 216-0011

**Brian Freeman**

Assistant Superintendent for Business

Brian\_Freeman@webstercsd.org

(585) 216-0017

To: Carmen Gumina, Superintendent

From: Brian Freeman, Assistant Superintendent for Business

Re: Technology Lease Approval

Cc: Board of Education

Date: 1/7/2019

Attached you will find the resolution to approve the 2019-20 technology lease. This will be the first renewal of the program the district began 3 summers ago. All originally leased Chromebooks and Ipads will be refreshed with updated models this August. In addition, there will be other technology needs added to the lease such as dell boards, video monitors, and computer monitors. The lease will be for three years and will be handled through our partners at Monroe 1 BOCES to maximize our state aid for the program. The terms and conditions are attached for your information as well. The total cost becomes aidable for the district. On a year to year basis this will continue to generate a consistent budget amount and aid returned to the district on the revenue side.

If you have any additional questions, please do not hesitate to ask. Thank you.

## **SCHEDULE A**

### **Monroe #1 BOCES**

Dear Mr. Gumina,

This letter of intent will confirm our understanding of the principal terms of the proposed Installment Purchase (the "Purchase") of the equipment described below (the "Equipment") by Monroe #1 BOCES ("BOCES") for Webster CSD (the "District") use as part of a cooperative service provided by BOCES. This letter of intent will also evidence the intention of BOCES and the District to proceed to complete the discussions, approvals and other actions necessary to complete the installment purchase arrangement.

The principal terms, to be more fully set forth in a definitive agreement (the "Installment Purchase Agreement"), will include the following:

**Equipment to be Purchased:**

The purchase will be structured as an installment purchase by BOCES. The District understands that the Equipment will at all times be owned by BOCES, but will be available for use by the District.

**Representations and Warranties:**

BOCES will not make any warranties, representations or guarantees with respect to the Equipment including, for example, a representation that the Equipment will meet the District's required specifications or that the Equipment is suitable to address the needs of the District.

**No Liabilities Assumed by BOCES:**

If the Equipment fails to meet the required specifications or fails to address the needs of the District, BOCES shall have no liability or responsibility to the District. BOCES shall make no commitment to provide services in connection with the Equipment, unless the District enters into a separate services agreement with BOCES.

**District Approval:**

As a condition to the Purchase, the District's board of education must adopt a resolution in the form previously provided to the District and, in addition, execute and deliver to BOCES the Installment Purchase Agreement in the form previously provided to the District.

**Purchase:**

Once the District has provided BOCES with a certified copy of the resolution of the District's board of education, BOCES will confirm the terms of the financing (i.e., the interest rate and repayment term) and the cost of the Equipment, and secure the District's written approval of the financing and cost of the Equipment. At that point the District must execute and deliver to BOCES the Installment Purchase Agreement.

**Purchase Price:**

The District will reimburse BOCES for the following costs related to the Purchase: (i) the cost of the Equipment; (ii) the costs associated with the financing of the Equipment including, but not limited to, any interest.

**Payment:**

BOCES will issue invoices to the District for all installments due under the installment purchase of the Equipment. The invoice will be issued to the District once BOCES is invoiced by the financing company.

**Equipment Maintenance:**

The District will maintain and repair the Equipment at its sole expense

**Indemnification:**

The District will indemnify and hold BOCES harmless from all claims, damage, liability and expense, including reasonable legal fees and court costs, arising from or in any way connected with the Purchase.

The purchase is subject to the execution and delivery of the Installment Purchase Agreement and such other agreements as are necessary and appropriate. Prior to execution and delivery of the Installment Purchase Agreement, the District may elect, for any reason, not to proceed. It is anticipated that BOCES will acquire the Equipment through a supplier or financial institution ("Seller") pursuant to applicable provisions of the New York State General Municipal Law, Education Law and regulations contained at 8 NYCRR Part 170.3(f). The Installment Purchase Agreement entered into between BOCES and Seller (the "Master Agreement") shall contain finalized principal and interest payment figures, which may be higher or lower depending upon interest rate fluctuations and other conditions imposed by the Seller. The District hereby agrees to reimburse BOCES for all adjusted costs and expenses contained within the Master Agreement pursuant to the provisions of this Agreement.

Kindly sign and return the enclosed copy of the Letter of Intent to indicate that it correctly sets forth the principal terms relating to the BOCES service described above.

Very truly yours,

MONROE #1 BOCES

\_\_\_\_\_, District Superintendent  
Daniel T. White  
Monroe #1 BOCES

Accepted and Agreed to:

by: \_\_\_\_\_, Superintendent  
Carmen Gumina  
Webster Central School District

**EQUIPMENT DESCRIPTION:**

**Dell Chrome 5190 2 in 1, Intel Celeron, 4 GB, 32 GB HD  
A7611038 Chrome Education**

**Dell Interactive Conference Room 70 Monitor**

**iPad Wi-Fi 32GB - Space Gray (10-pack) with information:**

**Line 1: Property of Webster CSD**

**Line 2: If found call, 585-265-6400**

**UAG Rugged Case for iPad 9.7 (2017 5th Gen & 2018 6th Gen)**

**SCHEDULE B**

**WEBSTER CENTRAL SCHOOL DISTRICT**

**BOARD RESOLUTION**

**January 17, 2019**

**WHEREAS**, the **Webster Central School District** (the "District") desires to secure for its use the equipment listed below (the "Equipment") through a Monroe #1 BOCES cooperative service; and

**WHEREAS**, Monroe #1 BOCES is willing to arrange for the Installment Purchase Agreement of the Equipment and to provide the Equipment to the District as part of a Monroe #1 BOCES cooperative service.

**NOW, THEREFORE**, be it resolved as follows:

1. The District is authorized to enter into an agreement with Monroe #1 BOCES (the "Installment Purchase Agreement") under the terms of which: BOCES will purchase the Equipment; the District will be entitled to use the Equipment; and the District will be obligated to pay Monroe #1 BOCES for the use of the Equipment.
2. The District's superintendent is hereby authorized to approve the final form and terms of the Installment Purchase Agreement and to execute and deliver to Monroe #1 BOCES, on behalf of the District, the Installment Purchase Agreement and such other agreements, documents, certificates and instruments as the superintendent determines are necessary to secure the use of the Equipment, to fulfill the District's obligations under the terms of the Installment Purchase Agreement, and to address the terms and intent of this resolution.
3. This resolution shall take effect when adopted.

**DESCRIPTION OF EQUIPMENT**

**Dell Chrome 5190 2 in 1, Intel Celeron, 4 GB, 32 GB HD  
A7611038 Chrome Education  
Dell Interactive Conference Room 70 Monitor  
iPad Wi-Fi 32GB - Space Gray (10-pack) with information:  
Line 1: Property of Webster CSD  
Line 2: If found call, 585-265-6400  
UAG Rugged Case for iPad 9.7 (2017 5th Gen & 2018 6th Gen)**

**CERTIFICATION OF DISTRICT CLERK**

I, \_\_\_\_\_, District Clerk of the aforementioned School District, hereby certify that the above resolution was adopted by the required majority vote of the Board of Education at its meeting held on \_\_\_\_\_, 2017, and have attached a copy of such resolution.

\_\_\_\_\_  
District Clerk

\_\_\_\_\_  
Date

## SCHEDULE C

### MONROE #1 BOCES

#### INSTALLMENT PURCHASE AGREEMENT

The **WEBSTER CENTRAL SCHOOL DISTRICT** (the "District") has requested that **MONROE #1 BOCES** ("BOCES") purchase the equipment described below (the "Equipment") for the District's use. BOCES is willing to purchase the Equipment, under an Installment Purchase Agreement arrangement, from a financing company (the "Seller") and to allow the District to use the Equipment on the following terms and conditions. Accordingly, the parties agree as follows:

1. **Term of Agreement.** This Agreement will be effective at all times during which the District participates in the BOCES cooperative service under which the District is allowed to use the equipment.
2. **Use of Equipment.** BOCES will allow the District to use the Equipment provided that the District complies with the terms of this Agreement, and provided that the District participates in the BOCES cooperative service, which allows the District to use the Equipment.
3. **Price and Payment Terms.** As consideration for the use of the Equipment, the District will pay BOCES an amount equal to the cost of the Equipment and financing costs incurred by BOCES to secure the purchase of the Equipment. The District will pay BOCES those amounts at such time and such installment payments described as follows:

#### Price and Payment Terms

Annual Plan Cost for 3 year term:      \$1,389,291.91

### Estimated Payment Schedule\*

<u>Payment</u>	<u>Amount</u>	<u>Due Date</u>
1 Annual Payment	\$1,389,291.91	06/01/2019
1 Annual Payment	\$1,389,291.91	06/01/2020
1 Annual Payment	\$1,389,291.91	06/01/2021

- **The parties hereto acknowledge that BOCES shall acquire the Equipment through Seller pursuant to applicable provisions of The New York General Municipal Law, Education Law and regulations contained at 8 NYCRR Part 170.3(f). The installment purchase agreement entered into between BOCES and Seller (the “Master Agreement”) shall contain finalized principal and interest payment figures, which may be higher or lower depending upon interest rate fluctuation and other conditions imposed by the Seller. The District hereby agrees to reimburse BOCES for all adjusted costs and expenses contained within the Master Agreement pursuant to the provisions of this Agreement.**
4. **Taxes and Charges.** The District will pay to BOCES all license fees, assessments and charges, and any sales, use, property, excise and other taxes now or hereinafter imposed by any governmental body or agency upon the Equipment or the use thereof, which may be charged to BOCES by Seller, other than taxes on or measured by the net income of Seller.
  5. **Equipment Maintenance.** The District will use the Equipment in a careful and proper manner and in a manner that is in compliance with all applicable laws and regulations. The District will, at its sole cost and expense, maintain the Equipment and keep the Equipment in good repair, condition and working order. The District will not do or permit anything to be done whereby any part of the Equipment will be physically damaged or destroyed.
  6. **Location of the Equipment.** The Equipment will be located on the District’s property in the building described below. BOCES shall have the right to enter upon the District’s property to inspect the Equipment and observe its use during normal business hours. Waiver of liability or other restrictions shall not be imposed by the District as a site access requirement.
  7. **Insurance.** BOCES will maintain fire and casualty insurance on the Equipment.



8. **Alterations.** Without the prior written consent of BOCES, the District shall not make any alterations, modifications or attachments to the Equipment which could damage the Equipment, affect the proper operation of the Equipment, void any manufacturer's warranty, or which cannot be removed without materially damaging the functional capabilities or economic value of the Equipment.
9. **Risk of Loss.** The District assumes all risk of loss or damage to the Equipment upon delivery of the Equipment. In the event of loss or damage, the District shall nevertheless continue to make the installment payments due under this Agreement and repair or replace the Equipment as appropriate.
10. **Representation.** The District warrants and represents that: it is authorized to enter into this Installment Purchase Agreement; that this Agreement is valid and binding upon the District and enforceable against the District in accordance with its terms, except as may be limited by bankruptcy or insolvency laws or the discretion of a court granting equitable remedies; and the Equipment is essential to the District's proper and efficient economic operation and that the functions performed by the Equipment could not be transferred to other equipment available for use by the District. The District further warrants and represents that it has made sufficient appropriations or has other funds available to pay the first installment due under this Agreement.
11. **Disclaimer of Warranties.** The District has selected both the Equipment and the manufacturer or other supplier of the Equipment. **BOCES HAS NOT MADE AND DOES NOT MAKE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE FITNESS, CONDITION, MERCHANTABILITY, DESIGN OR OPERATION OF THE EQUIPMENT, ITS FITNESS FOR ANY PARTICULAR PURPOSE, OR THE QUALITY OR CAPACITY OF THE MATERIALS IN THE EQUIPMENT OR WORKMANSHIP IN THE EQUIPMENT.** If the Equipment is not properly installed, does not operate as represented or warranted by the manufacturer or supplier thereof, or is unsatisfactory for any reason, the District shall make any claim on account thereof solely against such manufacturer or supplier and shall, nevertheless, continue to pay all installment payments due under this Agreement without any abatement or offset whatsoever. BOCES will assign to the District, solely for the purpose of making and prosecuting any such claim, all of the rights which BOCES has against such manufacturer or supplier for breach of warranty or other representation respecting the Equipment to the extent the same are assignable.
12. **Assignment.** The District will not lease, sublicense, license or otherwise encumber or allow a lien or encumbrance upon or against any interest in this Agreement or the Equipment, or remove the Equipment from its place of

installation without BOCES prior written consent, which shall not be unreasonably withheld.

13. **Hold Harmless.** The District shall indemnify and hold BOCES harmless, at all times during and after the term of this Agreement, from all claims, actions, proceedings, expenses, damage or liabilities including, without limitation, reasonable attorneys fees, arising from or in any way connected with the Equipment, including, without limitation, the District's selection, delivery, possession, use, operation or return of the Equipment, except for claims arising from the negligence or willful misconduct of BOCES.
14. **Acceptance.** If BOCES so requests, the District shall furnish BOCES with a written statement acknowledging receipt of the Equipment in good condition and repair and accepting the Equipment as satisfactory in all respects for the purposes of this Agreement.
15. **Title to the Equipment.** Title to the Equipment shall at all times be held by BOCES.
16. **Default.** Each of the following shall constitute an event of default under this Agreement:
  - a. The District shall fail to make any installment payment or pay any other sum when due or shall fail to perform or observe any other term, condition or covenant of this Agreement and such failure shall continue unremedied for a period of 15 days after notice thereof from BOCES to the District;
  - b. Proceedings under any bankruptcy, insolvency or similar legislation shall be instituted against the District, or a receiver or similar officer shall be appointed for the District or any of its property, and such proceedings or appointments shall not be vacated or fully stayed within 30 days after the institution or occurrence thereof;
  - c. The District shall make an assignment for the benefit of creditors, a bulk transfer, or institute proceedings under any bankruptcy, insolvency or similar legislation or admit in writing its inability to pay its debts generally as they become due;
  - d. Any warranty or representation made by the District is found to be incorrect or misleading in any material respect on the date made; or
  - e. An attachment, levy or execution is threatened or levied upon or against the Equipment.

17. **Remedies.** Upon the occurrence of any event of default, BOCES may exercise any one or more of the following remedies as BOCES, in its sole discretion, shall elect:

- a. Declare all payments due or to become due during the fiscal year (i.e., July 1<sup>st</sup> through June 30<sup>th</sup>) in effect when the default occurs to be immediately due and payable, whereupon the same shall become immediately due and payable;
- b. Proceed by appropriate court action, either at law or in equity, to enforce performance by the District of the applicable covenants of this Agreement;
- c. Cause the District, at its expense, to promptly return the Equipment to the possession of BOCES, or BOCES may enter the District's premises where the Equipment is located and take possession of or disable any part or all of the Equipment without any court order or other process of law and without liability for any damage occasioned by taking possession;
- d. Collect from the District as damages any damages that BOCES is obligated to pay to the Seller as a result of the District's default; and
- e. Collect from the District damages resulting from the District's breach of this Agreement, which damages include, but are not limited to, any cost incurred by BOCES to remove the Equipment from the District, and reasonable attorney's fees incurred by BOCES to enforce its rights under the terms of this Agreement.

18. **Termination on Account of Default.** On the occurrence of any event of default, BOCES may terminate this Agreement. However, termination shall not relieve the District of its obligations under the terms of this Agreement while the Equipment remains in the District's possession, nor shall termination deprive BOCES of its remedies set forth in paragraph 17 of this Agreement.

19. **Miscellaneous.** The following provisions shall apply to this Agreement.

- a. The paragraph headings contained in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning, or be taken as an interpretation of any provision of this Agreement.
- b. Several copies of this Agreement may be executed by the parties, each of which shall be deemed an original for all purposes, and all of which together shall constitute but one and the same instrument.
- c. In the event any term or condition of this Agreement should be breached by either party and thereafter waived by the other party, then such waiver shall be limited to the particular breach so waived and shall not be

deemed to waive any other breach either prior or subsequent to the breach so waived.

- d. If the consent of either party is required for whatever reason under the terms of this Agreement, such consent shall not be unreasonably withheld.
  - e. If the District shall fail to perform any of its obligations set forth in this Agreement, then BOCES, in addition to all of its rights and obligations set forth in this Agreement, may perform the obligation of the District, but shall not be obligated to do so, at the cost and expense of the District.
  - f. The District shall execute or provide, as requested by BOCES, such other documents and information as are reasonably necessary with respect to the transactions contemplated by this Agreement.
20. **Notices.** Any notice or other communication which is required to be given under the terms of his Agreement shall be in writing and shall be delivered personally, or sent by registered mail, or by certified mail return receipt requested. Any notice which is mailed shall be deemed to have been given on the third day after the day of mailing (not counting the day mailed), irrespective of the date of receipt. Notices may be signed and given by the attorney for the party sending the notice. A new address may be designated by notice.
21. **Construction.** All understandings and agreements previously made by and between the parties are merged in this Agreement, which alone fully and completely expresses their agreement. This Agreement may not be changed, terminated, nor any of its provisions modified or waived, except in writing signed by all of the parties to this Agreement.
22. **Applicable Law; Jurisdiction; Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of New York without regard to its principles of conflicts of law. The County of Monroe in the State of New York is hereby designated as the exclusive forum for any action or proceeding arising from or in any way connected to this Agreement, and the parties hereby expressly consent to the personal jurisdiction of the state or federal courts in this forum.
23. **Binding Effect.** This Agreement shall be binding upon and will inure to the benefit of the parties, their legal representatives, transferees, successors and assigns.

**IN WITNESS WHEREOF**, we have signed this Installment Purchase Agreement.

**MONROE #1 BOCES**

By: \_\_\_\_\_  
Daniel T. White  
Monroe #1 BOCES  
District Superintendent

By: \_\_\_\_\_  
Carmen Gumina  
Webster Central School District  
Superintendent

**DESCRIPTION OF EQUIPMENT:**

**Dell Chrome 5190 2 in 1, Intel Celeron, 4 GB, 32 GB HD  
A7611038 Chrome Education**

**Dell Interactive Conference Room 70 Monitor**

**iPad Wi-Fi 32GB - Space Gray (10-pack) with information:**

**Line 1: Property of Webster CSD**

**Line 2: If found call, 585-265-6400**

**UAG Rugged Case for iPad 9.7 (2017 5th Gen & 2018 6th Gen)**