

**INTERGOVERNMENTAL AGREEMENT
FOR DEVELOPMENT AND LEASE OF PROPERTY
BETWEEN West-MEC AND
THE CITY OF PEORIA**

THIS INTERGOVERNMENTAL AGREEMENT (the “**Agreement**”) is made as of this ____ day of _____, 2025 by and between WESTERN MARICOPA EDUCATION CENTER CAREER AND TECHNICAL DISTRICT, a political subdivision of the State of Arizona (“**West-MEC**”), and the CITY OF PEORIA, a political subdivision of the State of Arizona, and/or assignee (“**City**”). West-MEC and the City may herein be referred to collectively as the “**Parties**” or individually as a “**Party**”.

RECITALS

- A. The City is in the process of acquiring a vacant parcel of land¹ located in FIVE North at Vistancia at Westward Skies Rd and Espial Rd. (the “**Parcel**”) See Exhibit A.
- B. West-MEC is a public school district that serves more than 37,000 students from 48 public high schools in the northern and western cities of the Phoenix metropolitan area by providing innovative Career and Technical Education (“**CTE**”) programs.
- C. The Parties agree that, upon completing the acquisition of the Parcel, the City will lease approximately a seven (7) acre portion of the Parcel to West-MEC (the “**Property**”) according to the terms of a ground lease including an option to purchase the Property (the “**Lease**”), the form of which is attached as Exhibit B. West-MEC will then develop a CTE Campus on the Property including, without limitation, any buildings, structures, improvements, and other related facilities (the “**Project**”) according to the terms of this Agreement and the Lease.
- D. The Project will consist of multiple buildings and related facilities suited for CTE programming, administrative facilities, surface parking lot, and ancillary requirements.
- E. The Parties acknowledge that West-MEC intends to acquire approval from its Board of Directors (the “**Board**”), to fund the Lease, develop the Project, and potentially purchase the Property through bond funding to be approved in an upcoming election. If the bond election is not timely approved neither Party will be obligated to proceed, and all agreements shall be terminated without further obligation except as required by this Agreement.
- F. The City is committed to promoting the health, safety, and welfare of its residents by fostering sustainable economic growth and improving the quality of life through strategic development, as empowered by A.R.S. §§9-461, et seq.

¹ See Peoria City Council Resolution 2025-91, approved on August 28, 2025, authorizing the City Manager to execute an Exchange Agreement and Joint Escrow Instructions with Amkor Technology Arizona, Inc.

- G. Both West-MEC and the City acknowledge and agree that the strategic development of the Property as described in this Agreement presents a unique opportunity to promote the health, safety, and welfare of Peoria residents.
- H. This Agreement is entered into pursuant to the A.R.S. §11-952, which authorizes public agencies (including cities, towns, school districts, and any other political subdivisions of the State of Arizona) to cooperate and contract with each other for their mutual benefit and the public good. West-MEC is authorized to enter into this Agreement pursuant to A.R.S. §§15-342(9), 15-342(10) and 15-342(17). The City is authorized by the Peoria City Charter, Art. 1, Sec. 3(15) and A.R.S. § 9-240(B)(12). Both parties are authorized to enter into Intergovernmental Agreements pursuant to A.R.S. § 11-952.
- I. West-MEC has preliminarily determined to its satisfaction, subject to West-MEC's right to conduct its due diligence investigation: (i) the suitability of the Property for the Project; and (ii) the Project's viability (including without limitation, market demand, site utilization, estimated development costs, and operating pro formas).
- J. The purpose of this Agreement is to establish the parameters and requirements for the development of the Property as a CTE campus and to describe each Party's responsibilities related to the construction, funding, designing, permitting, engineering, installation, and construction of a CTE campus.

AGREEMENT

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties incorporate and agree to the foregoing Recitals, and further covenant and agree as follows:

1. **Definitions.** In this Agreement, unless a different meaning clearly appears from the context:

“**Agreement**” means this Agreement, as amended and restated or supplemented in writing from time to time, and includes all exhibits and schedules hereto. References to Sections or Exhibits are references to such items in this Agreement unless expressly stated otherwise.

“**Applicable Laws**” means the federal, state, county, and local laws (statutory and common law), ordinances, rules, regulations, permit requirements, and other requirements and official policies of the City, as they may be adopted, implemented or amended from time to time, which apply to the development of the Project as of the date of any application or submission.

“**A.R.S.**” means Arizona Revised Statutes as now or later enacted or amended.

“**Board**” means as defined in Recital E.

“**City**” means the Party designated as the City on the first page of this Agreement.

“**City Approvals**” means approval by the appropriate City department, administrator, or body for each Project related activity.

“**Completion of Construction**” means as defined in Subsection 4.7.

“**Construction Indemnity**” means as defined in Subsection 12.1.

“**CTE**” means as defined in Recital B.

“**Delay Notice Deadline**” means as defined in Section 10.

“**Draft Site Plan**” means as defined in Subsection 4.7.

“**Effective Date**” means as defined in Section 2.

“**Event of Default**” means as defined in Section 8.

“**Force Majeure**” or “**Force Majeure Events**” means as defined in Section 10.

“**Lease**” means as defined in Recital C the form of which is attached as Exhibit B.

“**Mandatory Charges**” means a fee or charge which the Peoria City Attorney has determined that the City is required to charge West-MEC pursuant to any Applicable Law, agreement, contract, bond indenture, or other legal obligation, and for which West-MEC is not exempt pursuant to A.R.S 9-500.18. Mandatory Charges may be modified by City from time to time upon written Notice to West-MEC. Such modifications shall only apply prospectively to project elements for which an application is filed with the City after the effective date of the modified charges.

“**Master Development Plan**” means as defined in Subsection 4.7.

“**Notice**” or “**Notify**” means as defined in Subsection 12.5.

“**Parcel**” means as defined in Recital A.

“**Party**” or “**Parties**” means as defined on Page 1.

“**Phasing Schedule**” means as defined in Subsection 4.7.

“**Project**” means as defined in Recital C.

“**Property**” means as defined in Recital C.

“**Term**” means the period beginning on the Effective Date and continuing until the earliest of: (i) ten (10) years from the Effective Date, (ii) West-MEC's failure to secure bond funding for the Project as outlined in Section 4.3, (iii) the full execution of a written purchase agreement for the Property between West-MEC and the City pursuant to the purchase option in the Lease, (iv) written Notice by West-MEC to the City of its election to terminate the Agreement or the Lease on or before 360 days after the Effective Date if West-MEC determines in its sole and reasonable discretion that the Property is not suitable or viable for development of the Project or (v) termination due to an event of default as provided in this Agreement.

“**West-MEC**” means the Party designated as West-MEC on the first page of this Agreement.

2. Effective Date and Term of Agreement. The Effective Date of this Agreement shall for all purposes be the date of the signature of the last Party to sign this Agreement after approval by the City Council and Board. The terms, conditions, and provisions of this Agreement shall remain in effect and continue until the earliest of: (i) ten (10) years from the Effective Date, (ii) West-MEC's failure to secure bond funding for the Project as outlined in Subsection 4.3, (iii) the full execution of a written purchase agreement for the Property between West-MEC and the City pursuant to the purchase option in the Lease, (iv) written Notice by West-MEC to the City of West-MEC's election to terminate the Agreement or the Lease on or before 360 days after the Effective Date if West-MEC determines in its sole and reasonable discretion that the Property is not suitable or viable for development of the Project, or (v) termination of this Agreement or the Lease due to an event of default as provided in this Agreement or the Lease. Upon termination, this Agreement shall be of no further force or effect, except for those provisions expressly stated to survive termination.

3. City Undertakings. The City agrees to undertake the following:

3.1 Re-plat: Re-Plat 56-acre parcel (APN 510-08-951) located at Westward Skies Rd and Espial Rd to form a 7-acre parcel to be leased to West-MEC by December 31, 2025.

3.2 Lease. Lease the Property to West-MEC pursuant to the terms of the Lease, the form of which is attached as Exhibit B.

3.3 Plan Review and Permitting: Timely review and respond to West-MEC's applications for plan review and permits.

3.4 Certificate of Occupancy: Upon development of the Project according to this Agreement, issue a certificate of occupancy to West-MEC.

3.5 Fees. Waive all fees and charges except for Mandatory Charges.

4. **West-MEC Undertakings.** West-MEC agrees to undertake the following:

4.1 Land Acquisition. West-MEC agrees to lease the Property pursuant to and subject to the terms and conditions of the Lease.

4.2 Board Approval. West-MEC agrees to acquire full Project approval from its Board for the Project including approval to seek bond funding for the Project in the November 2025 election.

4.3 Funding. West-MEC agrees to acquire funding to fully fund the development of the Project through bond funding to be approved in the November 2025 election.

4.4 Improvement. In accordance with this Agreement and the Lease, West-MEC, at its sole cost and expense, will design and construct the Project upon the Property to be used as a CTE campus. West-MEC agrees that design, development, and construction of the Project shall comply with the terms of this Agreement and any amendments thereto, the Lease, City of Peoria Engineering Standards, and all Applicable Laws (except for those which West-MEC is exempt pursuant to A.R.S. 9-500.18).

4.5 Programs. West-MEC will offer one or more medical programs, which may include but not limited to Nursing Services, Medical Assisting, Pharmacy Science, or Medical Laboratory Science.

4.6 Mandatory Charges. West-MEC shall timely pay all Mandatory Charges imposed by the City.

4.7 Timely Response. During the project review process, West-MEC shall make reasonable efforts to respond to City comments and make corrections to the site plans, permits, or construction documents submittals, within thirty (30) days of the City's request for such.

4.8 Development of the Property. At such time West-MEC is ready to proceed with the Project, it shall submit its draft site plans ("**Draft Site Plan**"), proposed phasing schedule ("**Phasing Schedule**") and its final development plans ("**Master Development Plan**") to the City for its review and approval. The Master Development Plan shall not require the City to expend any funds, incur any liability, or lose title to any property. West-MEC will then use commercially reasonable efforts to design, fully construct, and receive a certificate of occupancy for the Project (the "**Completion of Construction**") on a pace that permits full opening and student enrollment on a pace that permits full opening and student enrollment by **July 202***.

West-MEC will fully open and operate the CTE facility beginning in the 202*/202* academic year.

- 4.9 West-MEC shall cause construction of the work set forth in the Master Development Plan and in good faith execute same to completion as expeditiously as reasonably practicable and in accordance with, this Agreement, the Lease, City Approvals, and all Applicable Laws.
- 4.10 During the course of such construction the City shall have the right, but not the obligation, to periodically enter the Property to review the work being performed, to discuss the scope, nature, and progress of such work with West-MEC's employees, agents, contractors, subcontractors, engineers and architects, and to review plans, specifications, and drawings relating to such work.

5. Performance Extensions. From time to time following the Effective Date, West-MEC and City (acting through its City Manager or the City Manager's designee) may, by mutual written agreement, refine and revise any date, milestone, or deadline herein as may be necessary to accommodate any factors, events, or occurrences. The City Council authorizes its City Manager (or the City Manager's designee), in the City Manager's administrative capacity, to agree to any such extension that the City Manager deems necessary to carry out the intent and purpose of this Agreement.

6. Construction Criteria.

- 6.1 All construction performed, or caused to be performed, by West-MEC shall be in accordance with all Applicable Laws, City of Peoria Engineering Standards, City Approvals, the Lease, this Agreement, the applicable provisions of the insurance requirements in Exhibit D, and the Master Development Plan to the extent allowed by A.R.S 9-500.18.
- 6.2 Once West-MEC begins construction of any improvement located on the Property, West-MEC shall diligently prosecute such construction to completion.
- 6.3 All structures, buildings, improvements, alterations, and additions whatsoever to the Property, shall remain on the Property and become the property of City at the termination or earlier termination of this Agreement, unless the Property is acquired by West-MEC Pursuant the Lease.
- 6.4 The entire cost and expense of construction of the Project on the Property shall be borne and paid by West-MEC.

7. Indemnification. During the Term of this agreement, indemnification shall be as described in Section 12 of the Lease.

8. Default. If either Party fails to meet, perform, or satisfy any obligation pursuant to this Agreement and such failure continues for sixty (60) days following written Notice from the other Party, subject to Force Majeure Events (defined below), such failure will be an event of default hereunder (“**Event of Default**”); provided, however, that if such failure is not susceptible of cure within sixty (60) days, it shall not be an Event of Default if the breaching Party (i) promptly notifies the non-breaching Party of the need for greater than sixty (60) days to cure and (ii) commences to cure such failure and thereafter prosecutes diligently such cure to completion, subject to Force Majeure Events.

9. Remedies. Whenever any Event of Default occurs and is not cured by the defaulting Party in accordance with this Agreement, the other Party may take any of one or more of the following actions:

9.1 **Remedies of City.** City’s remedies for an uncured Event of Default by West-MEC shall be all remedies available at law or in equity, including, without limitation, any of the following:

9.1.1 If an uncured Event of Default by West-MEC occurs prior to Completion of Construction as required by the terms of this Agreement, City may terminate this Agreement.

9.1.2 In the event West-MEC fails to develop the Project according to the deadlines provided in Section 4 (as such deadline may be extended by mutual agreement pursuant to Section 5 or due to Force Majeure pursuant to Section 11) and such Default is not cured within any applicable cure period, then, upon written demand from the City, West-MEC shall surrender the Property to the City, free and clear of all liens and other encumbrances not acceptable to the City. Any liens created against the Property by West-MEC shall be the responsibility of West-MEC and shall be paid by West-MEC. Nothing herein shall prevent the City at its option from seeking declaratory, injunctive, special action, or other similar relief, requiring West-MEC to undertake, and to fully and timely perform its obligations under this Agreement, including, but not limited to, injunctive relief to address a public safety concern, or to enjoin any construction or activity undertaken by West-MEC which is not in accordance with the terms of this Agreement and the Lease.

9.1.3 Notwithstanding the foregoing, the City may, at any time, seek special action or similar relief (including mandamus, injunction, or otherwise) to require West-MEC to complete, address, or cease any construction or activity not in accordance with the terms of this Agreement or the Lease.

9.1.4 Notwithstanding the foregoing, West-MEC shall be liable, and City may recover from West-MEC, its actual damages for any unrepaired

damage to any City facilities or real property caused by West-MEC's action taken pursuant to this Agreement or the Lease.

9.1.5 Notwithstanding the foregoing, City at any time may seek indemnity (including but not limited to an action for damages) arising under West-MEC's obligations of indemnity.

9.1.6 Notwithstanding the foregoing, City at any time may enforce its rights given under any bond or similar financial assurance given or provided by or for the benefit of West-MEC pursuant to this Agreement or the Lease.

9.2 Remedies of West-MEC. West-MEC's exclusive remedies for an uncured Event of Default by City will consist of and will be limited to a special action or other similar relief (whether characterized as mandamus, injunction, or otherwise) requiring City to undertake and fully and timely to perform its obligations under this Agreement and the Lease and the right to seek and recover actual damages.

10. Force Majeure Event. For the purposes of any of the provisions of this Agreement, neither Party, shall be considered in breach of, or default in, its obligations under this Agreement as a result of the enforced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, acts of God (such as unusually severe weather), acts of the public enemy (including, without limitation, terrorist acts), fires, floods, epidemics, pandemics, or quarantine or "shelter in place" orders or restrictions imposed by an applicable governmental authority due to such pandemic or epidemic, strikes, riots, lockouts, freight embargoes, failure or disruption of utilities or critical electronic systems, unforeseen environmental or archaeological conditions requiring investigation/mitigation by Applicable Laws, or failure by the other Party to perform its obligations within the time periods provided herein (each, a "**Force Majeure Event**"). In the event of the occurrence of a delay due to any Force Majeure Event, the time or times for performance of the obligation of West-MEC or the City, as the case may be, shall be extended for the period of the delay caused by such Force Majeure Event, but only if performance is delayed as the result of such Force Majeure Event. The Party requesting an extension for a Force Majeure Event shall provide written Notice thereof within thirty (30) days following the date such Party knows (or in the exercise of reasonable diligence should have known) of the Force Majeure Event (the "**Delay Notice Deadline**"). If a Party fails to give Notice of a Force Majeure Event by the Delay Notice Deadline, the period by which the applicable time or times for performance is extended shall be reduced on a day for day basis by the number of days following the Delay Notice Deadline that such Notice is provided. By way of example, if West-MEC becomes aware of a Force Majeure Event on June 1 but does not provide Notice of the same to City until June 15, the extension for such Force Majeure Event shall be reduced by fifteen (15) days. A Party shall only receive an extension for the actual period of a Force Majeure Delay (less any reduction provided for in the preceding sentence).

11. Insurance. At all times West-MEC shall ensure that all insurance policies are maintained in effect according to the insurance requirements contained in Exhibit D.

12. General Provisions.

- 12.1 Governing Law; Choice of Forum. This Agreement shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the internal, substantive laws of the State of Arizona (without reference to conflict of law principles). The Parties wish to confer jurisdiction, to the extent possible, upon the Superior Court of Maricopa County for the purpose of coordinating and centralizing any required judicial administration of this Agreement. Accordingly, any action brought to interpret, enforce, or construe any provision of this Agreement shall be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Maricopa. The Parties irrevocably consent to the exclusive jurisdiction and venue in such court for such purposes and agree not to seek transfer or removal of any action commenced in accordance with the terms of this Subsection 12.1. The Parties expressly waive trial by jury in any action, proceeding or counterclaim brought by either of them against the other, on any matter whatsoever arising out of or any way connected with this Agreement or their relationship arising hereunder.
- 12.2 Severability. The City and West-MEC each intend that the execution, delivery, and performance of this Agreement followings all Applicable Laws. However, in the unlikely event that any provision of this Agreement is declared void or unenforceable (or is construed as requiring the City or West-MEC to do any act in violation of any Applicable Laws, constitutional provision, law, regulation, City Code, or City Charter), such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements) provide essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. The Parties further agree, in such circumstances, to do all acts and to execute all amendments, instruments, and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.
- 12.3 No Partnership. Nothing herein shall be deemed or construed by the Parties or by any third-party as creating the relationship of principal and agent, employer and employee, master and servant, owner and contractor, sharecropper, partnership, or joint venture between the Parties.
- 12.4 Waiver Limited. The various rights and remedies herein contained shall not be considered as exclusive of any other right or remedy of such Party but shall be construed as cumulative and shall be in addition to every other remedy now or hereafter existing at law, in equity, or by statute. No delay or omission by either Party in exercising any right or power accruing upon

non-compliance or failure to perform by the other Party under any of the provisions of this Lease shall impair any such right or power or be construed to be a waiver thereof. A waiver by either Party of any of the covenants or conditions to be performed by the other Party shall be in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought, and any such waiver shall not be construed as a waiver of any succeeding breach or non-performance of the same or other covenants and conditions hereof.

12.5 Notice. Except as otherwise required by law, any notice required or permitted under this Agreement (each, a “**Notice**” or when used as a verb “**Notify**”) shall be in writing and shall be given by (i) personal delivery, (ii) deposit in the United States certified, registered or express mail, return receipt requested, postage prepaid, addressed to the Parties at their respective addresses set forth below, or at such other address as a Party may designate in writing pursuant to the terms of this Subsection 12.5, or (iii) any nationally recognized express or overnight delivery service (e.g. Federal Express or UPS), delivery charges prepaid, for next business day delivery:

If to City: City of Peoria
8401 West Monroe Street
Peoria, Arizona 85345
Attn: Deputy City Manager
Email: inetengineering@peoriaaz.gov

With a copy to: City of Peoria
8401 West Monroe Street
Peoria, Arizona 85345
Attn: City Attorney
Email: cityattorney@peoriaaz.gov

If to West-MEC: West-MEC
5487 North 99th Avenue
Glendale, AZ 85305
Attn: Superintendent

With a copy to: Udall Shumway
1138 N. Alma School Rd.
Mesa, AZ 85201
Attn: Curtis Chipman, Esq.

Any Notice sent by United States Postal Service certified, registered, or express mail shall be deemed to be effective on the earlier of the actual delivery, or three (3) business days after deposit in a post office operated by the United States Postal Service. Any Notice sent by a recognized national

overnight delivery service shall be deemed effective one (1) business day after deposit with such service. Any Notice personally delivered or delivered through a same-day delivery/courier service shall be deemed effective upon its receipt or refusal to accept receipt by the addressee. Notices transmitted digitally or electronically or by facsimile may be offered as a courtesy, but do not constitute Notice for the purposes of this Subsection 12.5. Notwithstanding the foregoing, no payment shall be deemed to be made until actually received in good and available funds by the intended payee. Any Party may designate a different person or entity or change the place to which any Notice shall be given as herein provided.

- 12.6 Attorneys' Fees and Costs Between the Parties. If legal action is brought by a Party because of a breach of this Agreement or to enforce a provision of this Agreement, the prevailing Party is entitled to reasonable attorney fees and costs as determined by the court or other decision maker.
- 12.7 Construction. The terms and provisions of this Agreement represent the results of negotiations between the Parties, each of which has been represented by counsel of its own choosing, and neither of which has acted under any duress or compulsion, whether legal, economic, or otherwise. Consequently, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and the Parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Agreement that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party who prepared or whose attorney prepared the executed Agreement or any earlier draft of the same. In this Agreement the masculine gender includes the feminine and neuter, and the singular number includes the plural, whenever the context so requires. Captions at the beginning of each section of this Lease are for reference only and will in no way define or interpret any provision hereof.
- 12.8 Runs with Land. Each and all of the obligations, covenants, conditions and restrictions of this Agreement shall be deemed as running with the land and shall inure to the benefit of and be binding upon and enforceable against, as the case may require, the successors and assigns of the City and, the successors and assigns of West-MEC.
- 12.9 Recitals and Exhibits. Without limiting the provisions of this Agreement, the Parties agree that all references to this Agreement include all exhibits designated in and attached to this Agreement, such exhibits being incorporated into and made an integral part of this Agreement for all purposes. The Recitals set forth on Page 1 of this Agreement are incorporated herein as though fully set forth. The section headings contained in this Agreement are for convenience in reference only and are

not intended to define or limit the scope of any provision of this Agreement. Captions at the beginning of each section of this Agreement are for reference only and will in no way define or interpret any provision hereof.

- 12.10 Integration. This Agreement, including all exhibits, and attachments along with any contemporaneous agreements, represents the entire understanding between the Parties regarding its subject matter. There are no covenants, promises, agreements, conditions, or understandings, either oral or written, between the Parties other than as set forth therein. This Agreement supersedes all prior agreements, whether written or oral, related to the subject matter, including, without limitation, the LOI dated November 15, 2024. This Agreement shall be interpreted as a whole, in accordance with its fair meaning, and without bias toward the drafting Party. Each Party has reviewed and had the opportunity to consult legal counsel regarding this Agreement.
- 12.11 Further Assurances and Documents. Each Party agrees to perform such other and further acts and to promptly execute and deliver such additional agreements, documents, affidavits, certifications, acknowledgments, and instruments as any other Party may reasonably require to consummate, evidence, confirm, or carry out the matters contemplated by this Agreement or confirm the status of: (a) this Agreement as in full force and effect; and (b) the performance of the obligations hereunder at any time during its Term.
- 12.12 Time is of the Essence; Days. If the last day of any time period stated in this Agreement or the date on which any obligation to be performed under this Agreement shall fall on a Friday, Saturday, Sunday, or legal holiday, then the duration of such time period or the date of performance, as applicable, shall be extended so that it shall end on the next succeeding day which is not a Friday, Saturday, Sunday, or legal holiday. Time is of the essence in the performance of all obligations under this Agreement. Failure to meet any deadlines or timeframes specified herein shall constitute a material breach of this Agreement.
- 12.13 Consents and Approvals. Wherever this Agreement requires or permits the consent or approval of a Party to any act, document, use, or other matter, such consent or approval shall be given or denied by such Party in its reasonable discretion, unless this Agreement expressly provides otherwise. Wherever the City's consent is required to be given in this Agreement, such consent will be the consent of the City Manager (or his/her designee), without the requirement of prior approval from the City Council, unless such approval is required by Applicable Law, City policy, or is recommended by the City Manager.

- 12.14 Correction of Technical or Typographical Errors. If, by reason of inadvertence, and contrary to the intention of the Parties, errors are made in this Agreement in the legal descriptions or the references thereto or within any exhibit with respect to the legal descriptions, in the boundaries of any Parcel in any map or drawing which is an exhibit, or in the typing of this Agreement or any of its exhibits or any other similar matters, the Parties by mutual agreement may correct such error by memorandum executed by them without the necessity of amendment of this Agreement.
- 12.15 Runs With Land; Inurement. This Agreement shall run with the land and be binding upon, and inure to the benefit of, the Parties and their respective heirs, successors, representatives, and assigns. Wherever the term “Party” or the name of any particular Party is used in this Agreement such term shall include any such Party’s successors and assigns. Neither Party shall assign its interest in this Agreement without the prior written consent of the other Party. The promises, covenants, conditions, and restrictions in this Agreement create equitable servitudes upon every portion of the Property in favor of the City. These promises, covenants, conditions, and restrictions run with the land and shall be prior, superior, and non-subordinated to all encumbrances placed against the Property after this Agreement is recorded.
- 12.16 Recordation. Within ten (10) days after this Agreement has been approved by the City and executed by the Parties, the City shall cause this Agreement to be recorded in the Official Records of Maricopa County, Arizona.
- 12.17 Amendment. From time to time, West-MEC and City (acting through its City Manager or the City Manager’s designee) may, by mutual written agreement, refine, amend, revise, change, or correct any part of this Agreement as the City and West-MEC deem necessary or preferable. The City Council authorizes its City Manager (or the City Manager’s designee), in the City Manager’s administrative capacity, to take any action that the City Manager deems necessary to carry out the intent and purpose of this Agreement, including without limitation to: complete all transactions contemplated within this Agreement, execute amendments to this Agreement, and execute any other documents related to this Agreement. Except as otherwise expressly provided for in this Agreement, no change or addition shall be made to this Agreement except by written amendment executed by the City and West-MEC. Within ten (10) days after any amendment to this Agreement, such amendment shall be recorded in the Official Records of Maricopa County, Arizona.
- 12.18 Good Faith of Parties. Except where any matter is expressly stated to be in the sole discretion of a Party, in performance of this Agreement or in considering any requested extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, or capriciously

and will not unreasonably withhold, delay, or condition any requested approval, acknowledgment, or consent.

- 12.19 Non-liability of Officials and Employees. Notwithstanding any other language in this Agreement or the Lease, no City Council Member, officer, director, trustee, partner, principal, member, employee, agent, affiliate, official, representative, agent, attorney, or employee of a Party shall be personally liable the other Party, or to any successor in interest to such other Party, in any way whatsoever including without limitation in the event of Default, for any amount that may become due to a Party, or with respect to any obligation of a Party under the terms of this Agreement or the Lease.
- 12.20 City Council Action. This Agreement does not bind the City Council or remove its independent authority to make determinations related to formal action of the City Council in any way. Notwithstanding any language in this Agreement or related documents, this Agreement does not require the City to take any action that the City Attorney or City Manager, in either's sole discretion, determines should first be approved by vote of the City Council. Such action will only proceed if the City Council has formally voted to approve it, and such approval is no longer subject to the referendum.
- 12.21 No Third-Party Beneficiaries. No person or entity shall be a third-party beneficiary to this Agreement nor have any right or cause of action hereunder. City shall have no liability to any third party for approval of plans, West-MEC's acts, West-MEC's failure to comply with the provisions of this Agreement, or otherwise because of the existence of this Agreement.
- 12.22 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall be deemed to be one and the same instrument. Electronic signatures are acceptable as original signatures.
- 12.23 Termination. In the event of any termination of this Agreement, the Lease including without limitation any purchase option shall be terminated concurrently and, the Parties shall have no obligations to each other except for any obligations that are stated to survive termination of this Agreement or the Lease.
- 12.24 Cancellation for Non-Appropriation. The Parties recognize that this Agreement depends upon the availability of appropriated funds and nothing in this Agreement shall bind the City to expenditures more than funds appropriated and allotted for the purposes outlined in this Agreement. If the City Council fails to appropriate the necessary funds, or if the appropriation for this Agreement is reduced, either Party may reduce the scope of this Agreement if appropriate or cancel this Agreement without further duty or obligation.

- 12.25 Federal Funds. Each Party to this Agreement warrants that neither it nor any contractor or vendor under contract with the Party to provide goods or services toward the accomplishment of the objectives of this Agreement is suspended or debarred by any federal agency which has provided funding that will be used in the Project described in this Agreement.
- 12.26 Arizona Law Provisions. To the extent required by Arizona State law:
- 12.26.1 No member, official, or employee of the City shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to this Agreement, that is prohibited by law. This Agreement shall be subject to cancellation pursuant to the provisions of A.R.S. § 38-511 relating to conflicts of interest.
- 12.26.2 West-MEC certifies that it is not currently engaged in and agrees for the duration of this Agreement that it will not engage in a “boycott,” as that term is defined in § 35-393, Arizona Revised Statutes, of Israel.
- 12.26.3 To the extent applicable under A.R.S. § 41-4401, each Party warrants compliance with all federal immigration laws and regulations that relate to their employees and contractors and their compliance with the E-Verify requirements under A.R.S. § 23-214(A). The failure by West-MEC to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City. Each Party retains the legal right to inspect the papers of any contractor or subcontractor employee who works on the contract to ensure that the contractor or subcontractor is complying with this warranty. Nothing in this Agreement shall make any contractor or subcontractor an agent or employee of the Parties.
- 12.26.4 To the extent applicable under A.R.S. § 35-394, West-MEC hereby certifies it does not currently, and for the duration of this Agreement shall not use: (a) the forced labor of ethnic Uyghurs in the People’s Republic of China, (b) any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China, and (c) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China.
- 12.26.5 The Parties agree to be bound by applicable State and federal law governing Equal Employment Opportunity, Non-Discrimination, and Disabilities, including Arizona Executive Order No. 2009-09.

12.26.6 In accordance with Arizona Revised Statutes § 11-952 (D), attached to and incorporated in this Agreement is the written determination of each Party's legal counsel that the Parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

**[REMAINDER OF PAGE INTENTIONALLY BLANK;
SIGNATURES PAGES FOLLOW]**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

West-MEC:

By: _____
_____,
Its _____

I have reviewed the above referenced Intergovernmental Agreement between West-MEC, and the City of Peoria, an agreement between public agencies, which has been reviewed pursuant to A.R.S. §§11-951 through 11-954 and A.R.S. §48-572, and declare this Agreement to be in proper form and within the powers and authority granted to West-MEC under the laws of the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than West-MEC, to enter said Agreement.

Approved as to Form:

By: _____

Date: _____

CITY:
City of Peoria, a political subdivision of the State of
Arizona

By: _____
Name: Henry Darwin
Title: City Manager

ATTEST:

By: _____
Agnes Goodwine, City Clerk

I have reviewed the above referenced Intergovernmental Agreement between West-MEC, acting by and through, and the City of Peoria, an agreement between public agencies, which has been reviewed pursuant to A.R.S. §§11-951 through 11-954 and A.R.S. §48-572, and declare this Agreement to be in proper form and within the powers and authority granted to the City of Peoria under the laws of the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the City of Peoria or its agencies, to enter said Agreement.

Approved as to Form:

By: _____
Emily Jurmu, City Attorney

Date: _____

LIST OF EXHIBITS

Exhibit A – Legal Description of Property

Exhibit B – Form of Ground Lease

Exhibit C – Preliminary Site Plan

Exhibit D – Insurance Requirements

EXHIBIT A

Legal Description of Property

“Forthcoming”

EXHIBIT B

Form of Ground Lease

GROUND LEASE

between **CITY OF PEORIA**,
an Arizona municipal corporation, as Lessor
and
West-MEC,
A political subdivision of the State of Arizona, as Lessee

Date: _____, 20____

LEASE

THIS LEASE (the “**Lease**”) is made and entered into as of this _____ day of _____, 20____ (the “**Effective Date**”), by and between CITY OF PEORIA, an Arizona municipal corporation (“**Lessor**”), and WESTERN MARICOPA EDUCATION CENTER CAREER AND TECHNICAL DISTRICT No. 402, a political subdivision of the State of Arizona (“**Lessee**”), collectively referred to as the “**Parties**” and individually as “**Party**.” The Parties agree as follows:

RECITALS:

- A. Lessor is the owner of certain real property located ****(add address)**** (Assessor Parcel Number: *****_**_*****), in Peoria, Arizona; and legally described in Exhibit A attached hereto, (the “**Demised Premises**”).
- B. Lessor desires to lease the Demised Premises to Lessee and Lessee desires to lease the Demised Premises from Lessor on the terms set forth herein. Lessee will then develop a Career and Technical Education (“**CTE**”) Campus on the Demised Premises (the “**Project**”) according to the terms of that certain Intergovernmental Agreement (**LCON_____**) dated _____, **2025** governing the Project, (together with any modifications, amendments, restatements, and supplements thereto, and as amended from time to time herein referred to as the “**IGA**”), no other use.
- C. Lessee acknowledges that Lessor would not agree to lease the Demised Premises to Lessee but for Lessee’s expertise in the development and operation of similar projects and Lessee’s commitment to develop the Project pursuant to the terms of the IGA and this Lease.
- D. Lessor, in accordance with Article I, Section 3(1) of the Peoria City Charter, is authorized to lease real property, and Lessor’s City Council has considered and approved the terms authorized by this Lease, and the direct consideration Lessor will receive.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and representations contained herein, the Parties agree that Lessor leases to Lessee and Lessee leases from Lessor the Demised Premises according to the terms as follows:

- 1. DEFINITIONS.** All capitalized terms not defined herein have the meaning given in the IGA. In the event of any conflict between the language in the body of this Lease and the IGA, the IGA will govern. In the event any term is not defined in the IGA but is defined in this Lease, the term should have the meaning as defined in this Lease.

“**Additional Charges**” means as defined in Subsection 3.2.

“**Purchase Appraisal**” means as defined in Subsection 22.2.

“**Assignment**” means as defined in Subsection 15.1.

“**Applicable Laws**” means as defined in Section 8.

“**Base Rent**” means as defined in Subsection 3.1.

“**Capital Improvement**” means as defined in Section 14.

“**Closing**” means as defined in Subsection 22.1.

“**Commencement Date**” means as defined in Section 2.

“**CTE**” means as defined in Recital B.

“**Demised Premises**” means as defined in Recital A.

“**Effective Date**” means as defined in Page 1.

“**Environmental Laws**” means as defined in Subsection 12.4.

“**Expiration Date**” means as defined in Section 2.

“**Hazardous Materials**” means as defined in Subsection 12.4.

“**IGA**” means as defined in Recital B.

“**Improvements**” means as defined in Section 4.

“**Lease**” means as defined in Page 1.

“**Lease Term**” means as defined in Section 2.

“**Lessors**” or “**Lessee**” means as defined in Page 1.

“**Lessor Indemnified Parties**” means as defined in Section 12.

“**Notice**” or “**Notify**” means as defined in Paragraph 24.7(a).

“**Notice of Sale**” means as defined in Section 23.

“**Option Notice**” means as defined in Subsection 22.1

“**Option Period**” means as defined in Subsection 22.1

“**Parties**” or “**Party**” means as defined in Page 1.

“**Permitted Use**” means as defined in Subsection 5.1.

“**Project**” means as defined in Recital B.

“**Purchase Notice**” means as defined in Section 23.

“**Purchase Option**” means as defined in Section 22.

“**Purchase Price**” means as defined in Subsection 22.2.

“**Refusal Period**” means as defined in Section 23.

“**Release**” means as defined in Subsection 12.4.

“**Special Warranty Deed**” means as defined in Subsection 22.3.

“**Successor Owner**” means as defined in Section 23.

2. **LEASE TERM.** This Lease shall commence (the “**Commencement Date**”) on the Effective Date and shall continue until the tenth 10th anniversary of the Commencement Date (the “**Expiration Date**”), subject to earlier termination as provided in Section 2 of the IGA. The period between the Commencement Date and the Expiration Date shall be the “**Lease Term**”. If Lessee has not provided Lesser the Option Notice at least one hundred eighty (180) days prior to the Expiration Date, pursuant to Section 22 of this Lease, then upon expiration of the Lesse Term, Lessee will turn ownership of all improvements thereon free and clear of all liens, mortgages, and any third-party claims thereon.

3. **RENT.**

3.1 **Base Rent.** From and after the Commencement Date, during the first three (3) years of the Lease Term, the annual rent shall be Three Hundred Thousand Dollars (\$300,000). Thereafter, the rental rate shall be adjusted upward at the rate of two and one-half percent (2.5%) every year for the remainder of the Lease Term (“**Base Rent**”). The Base Rent for Year 1 shall be due within thirty (30) days after the Effective Date and then on the Anniversary Date of the Effective Date for each year thereafter during the Lease Term. If the Lease terminates pursuant to Section 2(ii) or 2(iii) of the IGA, the City shall refund West-MEC a portion of the Base Rent pro-rata in the case of a termination under Section 2(ii) of the IGA and in the case of Section 2(iii) of the IGA, apply any unearned amount of the Base Rent towards the purchase price of the Demised Premises at closing.

3.2 **Net Lease; Additional Charges.** This is an absolute net lease. Notwithstanding any language to the contrary in this Lease or in the IGA, so long as the City of Peoria shall remain the Lessor, it is the intention of the Parties hereto that that Lessor shall receive the rents herein reserved and all sums which shall or may become payable hereunder by Lessee free from all taxes, charges, expenses, damages, and deductions of every kind or sort whatsoever and that Lessee shall and will and hereby expressly agrees to pay

all such sums which, except for the execution and delivery of this Lease, would have been chargeable against the Demised Premises and payable by Lessor. Accordingly, all costs associated with the Demised Premises will pass to the Lessee including, but not limited to the cost of utilities, insurance, operating expenses, maintenance and repairs, and all other sums owed by Lessee to Lessor or to any third parties by Lessee or Lessor on behalf of Lessee, together with every fine, penalty, interest, and cost which may be added, and amounts that Lessee is required to pay or discharge pursuant to this Lease (the “**Additional Charges**”). All Additional Charges are in addition to the Base Rent. Additional Charges shall be immediately due and owing from Lessee to Lessor. Interest shall accrue on the unpaid amount at the rate of ten percent (10%) per annum or the maximum rate allowed by applicable law, whichever is lower, from the due date until the Additional Charges and associated interest is repaid. Interest shall be calculated on a daily basis and compounded monthly.

3.3 All payments due to Lessor shall be paid at the address set forth in Subsection 24.6 below. Acceptance of any payment by Lessor shall not be deemed a waiver of any sort including without limitation waiver of any Default Event, any failure of Lessee to abide by any term of this Lease or the IGA, nor of any right or remedy available to Lessor under this Lease, at law or in equity. Nothing provided in this Subsection 3.3 shall be inconsistent with or alter Lessee's obligations as otherwise provided in this Lease with regard to any increase in taxes from those that would be owed as long as the City of Peoria remains the Lessor to those which would otherwise be owed if the City of Peoria transfers ownership of the real property included within the Demised Premises.

3.4 Interest and Late Charges. If any payment due Lessor is not received by the tenth (10th) calendar day after the due date, or if any check or other form of payment not honored, Lessee shall pay Lessor a late charge equal to ten percent (10%) of the past due amount which will be an Additional Charge. Acceptance of any Additional Charge shall not constitute a waiver of any sort nor prevent Lessor from exercising any other rights or remedies available to Lessor under this Lease, at law or in equity.

3.5 Utilities. Lessee shall pay before delinquency all charges and assessments for utility services provided to the Demised Premises, including, without limitation, electricity, gas, water, telephone, fiber, and television/cable/satellite service. If Lessor pays the cost of any utility service to the Demised Premises, Lessee shall reimburse Lessor such amount within thirty (30) days after the date of a notice or invoice from Lessor demanding the same such amount shall be an Additional Charge. Lessor shall not be liable for damages or otherwise for any failure or interruption of any utility service being provided to the Demised Premises and Lessee waives any and all claims Lessee may otherwise have against Lessor as a result of such failure or

interruption. No such failure or interruption shall be deemed an eviction of Lessee, nor entitle Lessee to terminate this Lease, or discontinue or abate the payment of any Rent due hereunder.

3.6 Should Lessee fail or refuse to pay any charge to any entity related to the Demised Premises when due and payable as provided herein, any lien or claim related to the Demised Premises, or any charge or demand which Lessee has agreed to pay under this Lease or the IGA, or should Lessee fail to perform any other obligation imposed upon Lessee under this Lease or the IGA, and if after thirty (30) days' Notice from Lessor to Lessee, Lessee shall fail or refuse to pay and discharge or perform the same, then Lessor in its sole discretion may, but is not obligated to, pay any such charge, settle or discharge any action therefor or judgment thereon, or perform any such obligation. All costs, expenses, attorney's fees, and other sums incurred or paid by Lessor in connection with such failure or refusal are Additional Charges.

4. IMPROVEMENTS. Lessee shall construct improvements, including but not limited to, the construction of a CTE campus upon the Demised Premises (the "**Improvements**") according to terms of the IGA. Under no circumstances shall Lessee be permitted to develop any improvement including a building or similar structure on the Demised Premises without the prior written approval of Lessor.

5. USE, NUISANCE AND RESTRICTIONS.

5.1 Use and Possession of Demised Premises. Lessee shall use the Demised Premises solely for the construction thereon of the Improvements and subsequent use of constructing and operating a CTE Campus with all reasonably related structures and improvements, and other legal uses related thereto (as described in Recital C) of the IGA (the "**Permitted Use**") and no other use. During the Lease Term, Lessee shall continuously use and maintain the Demised Premises in good condition, free and clear of liens, subject to the terms and conditions of this Lease. Lessee shall not suffer or permit the Demised Premises or any portion thereof, to be used in such manner so as to impair Lessor's rights, title, or interests in and to the Demised Premises under this Lease.

5.2 Restricted Uses. Without enlarging or modifying the Permitted Use as set forth in Section 5.1, Lessee shall not commit, suffer, nor allow any of the following on the Demised Premises, without the prior written consent of Lessor, which may be granted or withheld in Lessor's sole and absolute discretion: (i) any waste, loss, or damage to the Demised Premises; (ii) any public or private nuisance; (iii) placement of any debris, refuse, or trash on the Demised Premises; (iv) any subletting; or (v) any conduct or condition which, in Lessor's reasonable opinion, is illegal, obscene, morally offensive, or harmful to the health, safety, or welfare of the residents of the City of Peoria not otherwise expressly mentioned above.

5.3 No Right to Sublet. Lessee shall not sublet any Improvements or any portion of the Demised Premises without the prior written consent of Lessor and then only pursuant to a written sublease approved by Lessor in writing.

6. OPERATING COVENANT. Lessee covenants and agrees that during the term of this Lease, it will continuously and without interruption, operate and conduct within the Demised Premises, a CTE Campus and all reasonably related structures and improvements, and other legal uses related thereto, except on holidays, traditional times when school is not in session, or while the Demised Premises are untenable by reason of fire or other casualty, other Force Majeure Event, or by any act of Lessor (the "**Operating Covenant**"). Lessee shall fully utilize the Demised Premises for its business and shall at all times during normal business hours keep and maintain upon the Demised Premises competent personnel and trade fixtures to service and supply ordinary demands and requirements of its students. If Lessee fails to comply with the Operating Covenant for more than thirty (30) continuous days, or any sixty (60) days total, within any period of twelve (12) consecutive months, such failure within said period shall be deemed to be a non-curable default and Lessor shall be entitled to immediate possession of the Demised Premises and the Purchase Option (defined below) shall terminate.

7. RESERVED.

8. COMPLIANCE WITH APPLICABLE LAWS. Lessee shall comply with any and all Applicable Laws. "**Applicable Laws**" means all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, resolutions, regulations, permits, licenses, authorizations, directions, and requirements of any agreements with any governments or their departments, commissions, boards, courts, authorities, agencies, officials and officers, including, without limitation, Environmental Laws (as defined below), which now or at any time hereafter may be applicable to the Demised Premises or any part thereof. Lessee shall promptly submit to Lessor copies of all documents and correspondence made by Lessee to any governmental authority, or given by any governmental authority or person to Lessee pursuant to any Applicable Laws.

9. CONDITION OF THE DEMISED PREMISES. Lessee represents to Lessor that Lessee has inspected the Demised Premises prior to the execution and delivery of this Lease and has found the same to be satisfactory for all intended purposes and uses and **LESSEE ACCEPTS THE DEMISED PREMISES IN "AS IS," "WHERE IS" CONDITION AND "WITH ALL FAULTS."** LESSEE HEREBY WAIVES ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE CONDITION, USE, QUALITY, FITNESS, OR ADEQUACY OF THE DEMISED PREMISES INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE.

10. LIENS. Lessee shall not take any action or enter into any contract that would encumber or affect the title or rights of Lessor in the Demised Premises in any way. Lessee shall keep the Demised Premises free from any liens arising out of any work performed, materials

furnished, or obligations incurred by or for Lessee. Lessee shall have no authority to do any act or make any contract which may create or be the basis for any lien, mortgage, or other encumbrance upon any interest of Lessor in the Demised Premises. Should Lessee cause any construction, alterations, rebuilding, restorations, replacements, changes, additions, improvements, or repairs to be made on the Demised Premises, or cause any labor to be performed or material to be furnished thereon, therein, or thereto, neither Lessor nor the real property included within the Demised Premises shall under any circumstances be liable for the payment of any expense incurred or for the value of any work done or material furnished to the Demised Premises, and Lessee shall be solely and wholly responsible to contractors, laborers, and materialmen performing such labor and furnishing such material. If, because of any error, act, or omission (or alleged error, act, or omission) of either Lessee or Lessor, any mechanic's, materialmen's, or other liens, charge, or order for the payment of money shall be filed or recorded against the real property included within the Demised Premises or against Lessor (whether or not such lien, charge, or order is valid or enforceable as such), Lessee shall be liable for such and shall, at its own expense, either cause the same to be discharged of record pursuant to A.R.S. § 33-1004, or otherwise cause such discharge, within thirty (30) days after Notice requesting such discharge. Notwithstanding anything to the contrary contained in this Lease, if Lessee shall in good faith contest the validity of any such lien, claim or demand, then Lessee shall, at its expense, defend itself and Lessor against the same and shall pay and satisfy any adverse judgment that may be rendered thereon before the enforcement thereof against Lessor or the Demised Premises. No such liens shall impact Lessor's title to the Property and will be junior to any of Lessor's on the Demised Premises and Improvements. To the fullest extent allowed by law, Lessee hereby indemnifies, holds harmless and agrees to defend Lessor for, from, and against any and all liability, loss, damage, costs, attorneys' fees, and all other expenses on account of claims of lien of laborers or materialmen or others for work performed or materials or supplies furnished to or for Lessee or persons claiming under Lessee. If Lessee shall be in default in paying any charge for which a bond or other lien claim has been filed and shall not have given Lessor security to protect the Demised Premises and Lessor, then Lessor may, but shall not be obligated to, pay the claim. The total amount of the claim, together with any costs, expenses, attorney's fees, and other sums incurred or paid by Lessor in connection therewith, shall be immediately due and payable from Lessee to Lessor as Additional Charges.

11. SURRENDER. If this Lease has not been extended and Lessee has not exercised the Purchase Option described in Section 22, Lessee shall, upon the Expiration Date or earlier termination of this Lease, peacefully surrender the Demised Premises and Improvements to Lessor. Lessee agrees that any property remaining on the Demised Premises after the expiration of the Lease Term or the earlier termination of this Lease shall be the property of Lessor.

12. INDEMNIFICATION. To the fullest extent permitted by law, Lessee agrees to indemnify, defend (with counsel approved in writing by Lessor), and hold harmless Lessor and its agents, representatives, officers, directors, volunteers, elected and appointed officials, and employees (collectively, the "**Lessor Indemnified Parties**") from and against any and all claims, actions, damages (including consequential and punitive

damages), liabilities, losses, fines, penalties, judgments, costs, and expenses (including reasonable attorneys' fees, consultants' fees, and investigative costs) of any kind, arising directly or indirectly from or in connection with: (i) Any act, omission, or negligence of Lessee, its employees, agents, contractors, licensees, invitees, or other persons acting on Lessee's behalf. (ii) Lessee's use, occupancy, or activities conducted on or about the Demised Premises, including any construction, improvements, or alterations performed by or on behalf of Lessee. (iii) Any violation of applicable laws, ordinances, or regulations by Lessee or its employees, agents, contractors, or invitees. (iv) Any breach by Lessee of its representations, warranties, covenants, or obligations under this Lease. (v) Any damage, liability, or loss suffered by adjoining or neighboring property owners or occupants caused by Lessee's activities on or about the Demised Premises. This indemnity includes, without limitation, claims arising during or after the Lease Term and applies regardless of whether the Lessor Indemnified Parties are partially negligent, provided that the claims do not result solely from the gross negligence or willful misconduct of the Lessor Indemnified Parties. Lessee's indemnity obligations under this Section 12 shall survive the expiration or earlier termination of this Lease.

12.1 Construction Indemnification. Whenever any construction occurs on the Demised Premises Lessee will pay, defend, indemnify, and hold harmless City and its agents, representatives, officers, volunteers, directors, elected and appointed officials, and employees from and against all claims, demands, fines, penalties, costs, expenses, damages, losses, obligations, judgments, liabilities, and suits (including attorneys' fees, experts' fees, and court costs associated with such matters; all of the foregoing, collectively, "**Construction Claims**") that arise in whole or in part from, or relating to, West-MEC's design, construction, and structural engineering acts or omissions related in any way to, of, or in connection with, any element of construction of the Project (including, but not limited to, land used for construction staging pursuant to temporary construction easements), and all subsequent design, construction, engineering, and other work by or on behalf of West-MEC in connection with construction of the Project (collectively, the "**Construction Indemnity**"). Such Construction Indemnity shall survive the expiration or earlier termination of this Lease. The indemnification set forth in this Subsection 12.1 shall not apply to the extent such claims arise from or relate solely to the grossly negligent or intentional acts of the City. If the City or its City Council members, officers and employees are made defendant(s) in any action, suit or proceeding brought by a third party by reason of any of the occurrences described in this Subsection 12.1, West-MEC shall at its own expense: (i) resist and defend such action suit or proceeding or cause the same to be resisted and defended by counsel designated by West-MEC and reasonably approved by the City; and (ii) if any such action, suit or proceeding results in a final judgment against the indemnified party, West-MEC promptly shall satisfy and discharge such judgment or shall cause such judgment to be promptly satisfied and discharged.

12.2 Liability Waiver. Lessor shall not be liable for any loss, damage, or injury of any kind whatsoever to Lessee, Lessee's employees, guests, invitees, or any other persons resulting from the use, condition, or state of the Demised Premises or any Improvements thereon, except to the extent caused solely by the gross negligence or willful misconduct of Lessor, its agents, or employees.

12.3 Release. To the fullest extent permitted by law, Lessee assumes all risk of damage, injury, or loss to any person or property occurring in, on, or about the Demised Premises from any cause whatsoever, including Lessee's failure to repair or maintain the Demised Premises as required by this Lease. Lessee hereby releases and discharges Lessor Indemnified Parties from any liability for such damage, injury, or loss and waives any rights of recovery against Lessor for damages or losses covered by Lessee's insurance policies, with Lessee ensuring that its insurers waive subrogation rights against Lessor. Lessor shall not be liable for any loss, injury, death, or damage (including consequential damages) to persons, property, or business resulting from theft; acts of God; public enemy; injunctions; riots; strikes; insurrections; war; court orders; governmental actions; pandemics; fire; explosion; structural collapse; falling objects; weather conditions (including rain, snow, or ice); or leaks, breakages, or obstructions of any kind in or about the Demised Premises. Lessee further assumes all liability for Hazardous Materials introduced onto the Demised Premises and any resulting claims or damages according to Subsection 12.4 of this Lease. This release shall not apply to losses, injuries, or damages caused solely by the gross negligence or willful misconduct of Lessor Indemnified Parties. The obligations and waivers set forth in this Subsection 12.3 shall survive the expiration or earlier termination of this Lease.

12.4 Hazardous Materials. Lessee covenants that Lessee and anyone acting by, through, or under Lessee, will not, through its acts or omissions, cause or permit any Hazardous Materials (as defined below) to be placed, held, located, Released (as defined below), or disposed of on, under or at the Demised Premises in violation of Environmental Laws (as defined below). Lessee shall indemnify, defend and hold Lessor harmless for, from, and against any and all claims, judgments, damages, penalties, fines, liabilities, losses, obligations, suits, costs, taxes, charges, and disbursements which arise during or after the Lease Term as a result of the presence, generation, Release (as defined below), use, storage, or discharge of any Hazardous Materials on the Demised Premises in violation of this Subsection 12.4. This indemnification of Lessor by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, State, or local governmental agency or political subdivision because of Hazardous Materials caused or permitted by Lessee to be present in the soil or groundwater on, in, or under the Demised Premises. The indemnity, hold harmless and other obligations of Lessee under this Subsection 12.4 shall survive the termination or expiration of this Lease

and the IGA. The term “**Hazardous Materials**” shall mean any substance or material that is defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous waste,” “acutely hazardous wastes,” “restricted hazardous waste,” “toxic substances,” or “known to cause cancer or reproductive toxicity” (or words of similar import), petroleum products (including crude oil or any fraction thereof) or any other chemical, substance or material which is prohibited, limited or regulated under any federal, State or local law, ordinance, regulation, order, permit, license, decree, common law, or treaty now or hereafter in force regulating, relating to, or imposing liability or standards concerning materials or substances known or suspected to be toxic or hazardous to health and safety, the environment or natural resources (“**Environmental Laws**”). “**Release**” means any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, presence, dumping, migrating on or from the Demised Premises or adjacent property, or disposing of Hazardous Materials into the environment.

12.5 Release of Hazardous Materials. In the event of a Release of Hazardous Materials on or into the Demised Premises, **Lessee must immediately provide Notice to Lessor of such.** If a Release of Hazardous Materials results from the actions or omissions of Lessee, Lessee shall, at its sole cost and expense, comply with all Environmental Laws to remedy the situation, including, without limitation, promptly conducting a site assessment, taking immediate action required for containment of the Release, and preparing and implementing a plan for the clean-up and remediation of the Release. Lessee shall properly dispose of any Hazardous Materials in accordance with all Environmental Laws. Lessee’s obligations under this Subsection 12.5 shall survive the expiration or termination of this Lease and the IGA.

13. LESSEE INSURANCE. Lessee shall at all times after the Commencement Date, ensure that all insurance policies are maintained in effect according to the terms described in Exhibit D.

13.1 Prior to the Commencement Date, Lessee shall deliver to Lessor Certificates of insurance evidencing all of the coverages required in Exhibit E and shall cause renewal certificates of insurance to be delivered to Lessor at least thirty (30) days prior to the expiration dates of the respective policies. Such certificates shall also provide that Lessor will receive written notice at least ten (10) days prior to any cancellation, non-renewal, or reduction in coverage.

13.2 Lessee further covenants and agrees to increase the required insurance hereunder to such additional commercially reasonable and available amounts as Lessor may from time to time require within thirty (30) days of Notice of such requirement from Lessor.

13.3 In the event of loss or destruction under any such policy or policies, Lessee shall promptly proceed with the repair and restoration of the damaged or destroyed Improvements in accordance with and subject to the provisions of this Lease. The insurance proceeds shall, be paid to Lessee and thereafter held in trust by a bank or title company designated by Lessor and approved by Lessee, to be paid out upon architect's certificates and contractors', subcontractors' and materialmen's waivers of lien for the cost and expense of repairing or restoring the Improvements damaged or destroyed; provided, however, that in the event that such insurance proceeds shall be insufficient to pay fully the cost of completion of such repair or restoration, Lessee shall have deposited with the Escrowee the balance of such costs before any such repair and restoration are commenced so that it shall appear to the satisfaction of Lessor that the amount of insurance money in the hands of said Escrowee shall at all times be sufficient to pay for the completion of said repairs or restoration free and clear of liens. Upon the completion of said repair or restoration, free and clear of all liens, any surplus of insurance monies shall be paid to Lessee, provided that Lessee is not then in Default under this Lease or the IGA. In the event that this Lease shall have been terminated for any Default of Lessee under any of the terms and provisions contained in this Lease, all insurance proceeds in the hands of said Escrowee, and all claims against insurers shall be and become the absolute property of Lessor.

14. RESTORATION. If, during the Term hereof, any building or Improvements constructed by Lessee on the Demised Premises, or any part thereof, shall be damaged or destroyed, Lessee shall, at its sole cost and expense, repair or if damaged to such an extent that it must be replaced, such repair or replacement will be deemed a “**Capital Improvement.**” Lessee shall make Capital Improvements as close as possible to the original plans and subject to all Applicable Laws and City Approvals unless approved in writing by Lessor or exempt under any Applicable Law. Capital Improvements shall be done in accordance with the requirements of this Lease and the IGA. Capital Improvements shall be commenced within one hundred fifty (150) days after the damage or destruction occurs, and completed with commercially reasonable due diligence, but not longer than eighteen (18) months after such work is commenced except with the written permission of Lessor which will not be unreasonably withheld. All insurance proceeds (but not rental interruption insurance proceeds) and relevant government aid collected for such damage or destruction shall be applied to the cost of such repairs or restoration.

15. ASSIGNMENT AND SUBLETTING.

15.1 Transfers Require Lessor Consent. Lessee shall not sell, assign, encumber, mortgage, pledge, or otherwise transfer or hypothecate all or any part of the Demised Premises, the Improvements, or Lessee's leasehold estate hereunder (each such act is referred to as an "**Assignment**") without Lessor's prior written consent. **Lessee shall not** sublet all or any part of the Demised Premises or the Improvements without Lessor's prior written consent and only

through a written sublease approved by Lessor. Lessor may grant or deny consent under this Subsection 15.1 in Lessor's sole discretion.

15.2 Lessee's Liability. Notwithstanding any language herein, in any sublease, or any other agreement between Lessor and Lessee, Lessee will continue to be liable for all obligations of Lessee under this Lease. Lessor's consent to any sublease will never relieve Lessee or any successor of Lessee from any obligation including without limitation Lessee's obligation to obtain Lessor's express written consent to any other sublease.

16. DEFAULT BY LESSEE.

16.1 Lessee's Default. The occurrence of any one or more of the following events shall constitute a default and material breach of this Lease by Lessee (to the maximum extent allowed by law, any notice provided pursuant to this Subsection 16.1 shall be in lieu of and not in addition to any notice required by any law):

- (a) Failure to timely pay any Rent, Additional Charges, or any payment including without limitation payments to any third-party required by this Lease, if such failure continues for ten (10) days following receipt of Notice of such failure from Lessor to Lessee;
- (b) Use of the Demised Premises for any use except the Permitted Use;
- (c) Failure to promptly and fully perform any other covenant, condition, or agreement contained in this Lease or the IGA should such failure continue for thirty (30) days after written notice thereof from Lessor to Lessee; provided, however, Lessee shall have an additional sixty (60) days to cure if the failure to perform is such that it cannot reasonably be cured within thirty (30) days and Lessee commences to cure within said thirty (30)-day period and diligently pursues such cure to completion;
- (d) Lessee causing or permitting to be caused a violation of any Applicable Law on the Demised Premises.
- (e) Any event:
 - (i) causing Lessee's assets to be placed in the hands of a receiver or trustee for a period in excess of thirty (30) days;
 - (ii) making an assignment for the benefit of creditors;
 - (iii) instituting any proceedings under any bankruptcy act wherein Lessee seeks to be adjudicated bankrupt, to be discharged of its debts, or to effect a plan of liquidation, extension, or reorganization;

- (iv) under any bankruptcy act initiating or filing any involuntary proceeding against Lessee that is not dismissed within sixty (60) days;
- (v) of Lessee becoming insolvent; or,
- (vi) initiating or filing proceedings seeking to execute, levy against, or attach fifty percent (50%) or more of Lessee's assets that is not dismissed within thirty (30) days.

16.2 In the event of Lessee's default hereunder, Lessor may (but is not obligated to) choose to: (i) perform such obligations on behalf of Lessee, whereupon Lessee shall reimburse Lessor for all costs incurred as Additional Charges within ten (10) days after Notice of such demand (except as otherwise provided with respect to Capital Improvements); (ii) terminate this Lease and any related options with Notice to Lessee; and/or (iii) pursue any and all remedies available at law or in equity, including injunctive relief. All sums, costs, and expenses so paid or expended by the Lessor, including, without limitation, reasonable attorneys' fees and expenses, incurred by the Lessor in connection with action under this Subsection 16.2, shall accrue interest thereon at the default rate of ten percent (10%) per annum from the date on which Lessor made such payment or incurred such costs and expenses, and shall be paid by the Lessee to the Lessor on Notice of demand.

17. QUIET ENJOYMENT. Lessee upon fully keeping, observing, and performing all the terms, covenants, agreements, provisions, conditions, and limitations of this Lease and the IGA, shall quietly have and enjoy the Demised Premises during the Lease Term without hindrance or molestation by Lessor or anyone lawfully claiming by or through Lessor.

18. MAINTENANCE OF DEMISED PREMISES. Lessor shall not be obligated to make any repairs, alterations, additions or Improvements in or to or upon the Demised Premises, beyond those agreed and stated in this Lease, or any structure or other Improvement that thereafter may be constructed or installed thereon, but Lessee shall, at all times during the full Term of this Lease and at its sole cost and expense, keep and maintain all buildings, structures and other Improvements on said Demised Premises, if any and all equipment and fixtures appurtenant thereto, in good order and repair, and the whole of the Demised Premises and said premises free of weeds and rubbish and in a clean, sanitary and neat condition, and in good state of painting, decoration and landscaping and Lessee shall construct, maintain and repair all facilities and other improvements which may be required at any time by law upon or adjoin or in connection with or for the use of the Demised Premises or any part thereof, and Lessee shall make any and all additions to or alternations in any buildings and structures on said Demised Premises which may be required, and shall otherwise observe and comply with, any and all public laws, ordinances and regulations for the time being applicable to said premises, and Lessee agrees to indemnify and save harmless the Lessor pursuant to Section 12 of this Lease.

19. TERMINATION. This Lease shall terminate on the first to occur of (a) the Expiration Date; (b) Notice to Lessee pursuant to 16.2(ii) or (c) completion of Lessee's purchase of

the Demised Premises in accordance with Section 22. In the event of any termination of this Lease, the Purchase Option and the IGA shall be terminated concurrently and, the Parties shall have no obligations to each other except for any obligations that are stated to survive termination of this Lease. In the event of any termination of this Lease, the Parties shall have no obligations to each other except for any obligations that are stated to survive termination of this Lease.

20. RIGHT OF ENTRY. In addition to its rights otherwise provided in this Lease, Lessor reserves and shall at any and all reasonable times have the right to enter the Demised Premises to inspect the same, perform tests and studies, remediate Hazardous Materials, to submit the Demised Premises to prospective partners, purchasers, lenders, or lessees, and to post notices, all without abatement of Rent. Lessee, on behalf of itself and Lessee's Agents, hereby waives any claim for damages for any injury or inconvenience to or interference with Lessee's business, any loss of occupancy or quiet enjoyment of the Demised Premises, and any other loss occasioned by Lessor's entry as provided in this Section 20. Lessee shall permit Lessor to place upon the Demised Premises signs advertising the Demised Premises for sale or lease together with such promotional signage as Lessor may desire.

21. NO RECOURSE. Notwithstanding anything herein to the contrary, Lessee agrees that any claim against Lessor shall be limited to the real property and improvements located within or on the Demised Premises. Lessee hereby waives its rights to make any claim or demand against any other property or assets of Lessor unrelated to the Demised Premises.

22. OPTION TO PURCHASE. Provided Lessee is not then in default under the IGA or this Lease, Lessor hereby grants to Lessee a non-transferable option to purchase the Demised Premises ("**Purchase Option**"), according to the terms and conditions hereinafter set forth.

22.1 Option Period. The Purchase Option granted herein shall become effective upon the Commencement Date, and Lessee shall have the right to exercise the Purchase Option hereunder by delivering Notice of exercise (the "**Option Notice**") to Lessor at any time up to one hundred eighty (180) days prior to the expiration of the initial Lease Term or prior to any other termination of this Lease ("**Option Period**"). The Option Notice shall set forth a date for conveyance of the Demised Premises pursuant to the Option (the "**Closing**"), which date shall be no later than the last day of the Lease Term. The purchase agreement shall incorporate the terms described in the purchase provisions contained in Exhibit B and any other relevant provisions agreed to in writing by the Parties. The Purchase Option will terminate upon the earlier of the expiration of the Lease Term or any other termination of this Lease. In no event will the Purchase Option extend beyond the Lease Term.

22.2 Purchase Price. The "**Purchase Price**" for the Demised Premises shall be the then current fair market value as determined by an appraiser mutually agreed to by the Parties, at Lessee's expense (the "**Purchase Appraisal**"), minus the total amount of rent actually paid by Lessee under this Agreement.

Upon completion of the Appraisal, the Parties shall promptly review the Appraisal and advise within thirty (30) days whether the proposed Purchase Price is acceptable, with such approval not to be unreasonably withheld, conditioned, or delayed. If the Parties mutually agree, the appraised value shall be the Purchase Price. If either Party objects to the price determined by the Appraisal, by providing Notice within thirty (30) days, the Parties shall meet and confer within ten (10) days following said Notice in an effort to agree on the Purchase Price. If the Parties are unable to agree on the Purchase Price within thirty (30) days following said Notice, then the Purchase Price, shall be determined by a single appraiser who is a member of the American Institute of Real Estate Appraisers (or if it shall not then be in existence, a member of the most nearly comparable organization) who is licensed by the State of Arizona and has a minimum of five (5) years' experience in the Phoenix Metropolitan Area, and who is not affiliated with either Party. If the Parties are unable to agree on a single appraiser within forty-five (45) days following issuance of said Notice, either Party may request that the presiding judge of the Maricopa County Superior Court select an appraiser having the qualifications set forth above. The appraiser shall then have thirty (30) days following selection to notify the Parties in writing of its determination of the Purchase Price. Neither Party shall have any *ex parte* communication with the appraiser, but each Party may submit to the appraiser no later than ten (10) days following his/her selection a memorandum supporting such Party's opinion as to the fair market value of the Demised Premises. This appraiser's determination of the Purchase Price shall then be binding on both Parties as the Purchase Price and each Party shall pay one-half (1/2) of this appraiser's fee. Once the Purchase Price has been determined, Parties will proceed to effect the transaction in a way that is consistent with the custom of local commercial real estate transactions, and upon forms mutually agreed to, such agreement is not to be unreasonably withheld, conditioned, or delayed, and in accordance with the purchase provisions described in this Subsection 22.2.

22.3 Conveyance of Title and Delivery of Possession. Lessor and Lessee agree to perform all acts and execute all documents necessary for conveyance in sufficient time for the Demised Premises and Improvements thereon (including all of Lessor's interest in this Lease) to be conveyed to Lessee, within ninety (90) days after delivery of the Option Notice, but in no event later than the expiration of the Term. Lessor's entire interest in the Demised Premises and Improvements thereon shall be conveyed by special warranty deed, in the form attached hereto as Exhibit C (the "**Special Warranty Deed**"). Upon delivery of the Special Warranty Deed by Lessor to Lessee, this Lease shall terminate. The Parties shall thereafter execute and deliver one to the other any and all necessary documents to evidence the termination of the Lease. The Demised Premises shall be conveyed in an "as is" condition, with no warranty, express or implied, by Lessor as to the physical condition of the soil, its geology, the condition of the improvements, or the presence of faults, Hazardous Materials, or other substances known or unknown to Lessor. All expenses in connection

with conveyance of the Demised Premises to Lessee, including, but not limited to, title insurance (except Lessor to pay for standard owner's policy of title insurance coverage), recordation, notary fees, and all other closing costs, shall be paid by Lessee. Possession shall be delivered to Lessee concurrently with the conveyance of title.

22.4 Assignment Prohibited. Lessee may not sell, assign, convey, or transfer the Purchase Option. Any sale, assignment, conveyance, or transfer of the Purchase Option made, attempted, or suffered, by operation of law or otherwise, without prior written consent of the Lessor, shall render the Purchase Option and all related rights terminated and of no further force or effect.

23. CONVEYANCE BY LESSOR. Should the Lease continue after the Purchase Option has expired, and in the event that Lessor thereafter intends to list or market for sale, or otherwise intends to sell, convey, or dispose of the Demised Premises, Lessor shall have the Demised Property appraised and provide Lessee Notice of such intent and the appraisal value ("**Notice of Sale**"). Lessee shall have first right to purchase the Demised Premises at the appraised value subject to any other terms and conditions the Lessor determines in its sole discretion. Should Lessee then elect to purchase the Demise Premises pursuant to this Section 23, Lessee must provide Notice of Lessee's election (the "**Purchase Notice**") within ninety (90) days of the Notice of Sale (the "**Refusal Period**"). If after Lessor has delivered the Purchase Notice, Lessee Notifies Lessor during the Refusal Period that Lessee elects not to purchase the Demised Premises or Lessee fails to provide a Purchase Notice within the Refusal Period, then upon the expiration of the Refusal Period, any and all obligations to offer the Demised Premises to Lessee under this Lease shall terminate and will no longer be of any force or effect. Thereafter, Lessor may solicit and accept any offer to purchase or otherwise transfer, sell, convey, or dispose of the Demised Premises in any manner and upon any terms whatsoever and upon said transfer, sale, conveyance, or disposal, Lessor shall thereupon be released from all liabilities and obligations imposed upon Lessor under this Lease, except those specifically stated to survive such transfer, whereafter such liabilities and obligations shall be binding solely on the new owner of the Demised Premises (the "**Successor Owner**"), the Successor Owner shall be deemed to have assumed Lessor's remaining obligations under this Lease. If Lessee does not proceed to purchase the Demised Premises, and Lessor proceeds to transfer, sell, convey, or dispose of the Demised Premises to a Successor Owner, Lessee may, within ninety (90) days after said transfer of ownership, provide written notice to the Successor Owner of Lessee's intent to terminate this Lease. In such event, Lessee shall have twelve (12) months from the date of said written notice to vacate the Demise Premises and terminate this Lease. During said twelve (12) month period, all other terms and conditions of this Lease shall remain in effect and be binding on the Successor Owner.

24. MISCELLANEOUS PROVISIONS.

24.1 Governing Law; Choice of Forum. This Lease shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the

internal, substantive laws of the State of Arizona (without reference to conflict of law principles). The Parties wish to confer jurisdiction, to the extent possible, upon the Superior Court of Maricopa County for the purpose of coordinating and centralizing any required judicial administration of this Lease. Accordingly, any action brought to interpret, enforce, or construe any provision of this Lease shall be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Maricopa. The Parties irrevocably consent to the exclusive jurisdiction and venue in such court for such purposes and agree not to seek transfer or removal of any action commenced in accordance with the terms of this Subsection 24.1. The Parties expressly waive trial by jury in any action, proceeding, or counterclaim brought by either of them against the other, on any matter whatsoever arising out of or any way connected with this Lease or their relationship arising hereunder. Claims by Lessee shall comply with time periods and all other requirements of Lessor's claims procedures from time to time.

24.2 Authority. Each individual executing this Lease on behalf of Lessee hereby warrants and represents that he is duly authorized to execute this Lease on behalf of Lessee.

24.3 Severability. The Lessor and Lessee each intend that the execution, delivery, and performance of this Lease follows all Applicable Laws. However, in the unlikely event that any provision of this Lease is declared void or unenforceable (or is construed as requiring any Party to do any act in violation of any Applicable Laws, constitutional provision, law, regulation, Peoria City code, or the Peoria City Charter), such provision shall be deemed severed from this Lease and this Lease shall otherwise remain in full force and effect; provided that this Lease shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements) provide essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. The Parties further agree, in such circumstances, to do all acts and to execute all amendments, instruments, and consents necessary to accomplish and to give effect to the purposes of this Lease, as reformed.

24.4 No Partnership. Nothing herein shall be deemed or construed by the Parties or by any third-party as creating the relationship of principal and agent, employer and employee, master and servant, owner and contractor, sharecropper, partnership, or joint venture between the Parties, it is understood and agreed that no provision herein, nor any acts of the Parties, shall be deemed to create any relationship between the Parties other than the relationship of lessor and lessee.

24.5 Waiver Limited. The various rights and remedies herein contained shall not be considered as exclusive of any other right or remedy of such Party but shall be construed as cumulative and shall be in addition to every other remedy

now or hereafter existing at law, in equity, or by statute. No delay or omission by either Party in exercising any right or power accruing upon non-compliance or failure to perform by the other Party under any of the provisions of this Lease shall impair any such right or power or be construed to be a waiver thereof. A waiver by either Party of any of the covenants or conditions to be performed by the other Party shall be in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought, and any such waiver shall not be construed as a waiver of any succeeding breach or non-performance of the same or other covenants and conditions hereof.

24.6 Notices.

(a) Except as otherwise required by law, any notice required or permitted under this Lease (each, a “**Notice**” or when used as a verb “**Notify**”) shall be in writing and shall be given by (i) personal delivery, (ii) deposit in the United States certified, registered or express mail, return receipt requested, postage prepaid, addressed to the Parties at their respective addresses set forth below, or at such other address as a Party may designate in writing pursuant to the terms of this Paragraph 24.6(a), or (iii) any nationally recognized express or overnight delivery service (e.g. Federal Express or UPS), delivery charges prepaid, for next business day delivery:

If to Lessor:

Lessor of Peoria
8401 West Monroe Street
Peoria, Arizona 85345
Attn: Deputy City Manager
Email: inetengineering@peoriaaz.gov

With a copy to:

Lessor of Peoria
8401 West Monroe Street
Peoria, Arizona 85345
Attn: Lessor Attorney
Email: cityattorney@peoriaaz.gov

If to Lessee:

West-MEC
5487 North 99th Avenue
Glendale, AZ 85305
Attn: Superintendent

With a copy to:

Udall Shumway
1138 N. Alma School Rd.
Mesa, AZ 85201
Attn: Curtis Chipman, Esq.

(b) **Effective Date of Notices.** Any Notice sent by United States Postal Service certified, registered, or express mail shall be deemed to be effective on the earlier of the actual delivery, or three (3) business days after deposit in a post office operated by the United States Postal Service. Any Notice sent by a recognized national overnight delivery service shall be deemed effective one (1) business day after deposit with such service. Any Notice personally delivered or delivered through a same-day delivery/courier service shall be deemed effective upon its receipt or refusal to accept receipt by the addressee. Notices transmitted digitally or electronically or by facsimile may be offered as a courtesy, but do not constitute “Notice” for the purposes of this Paragraph 24.6(b). Notwithstanding the foregoing, no payment shall be deemed to be made until actually received in good and available funds by the intended payee. Any Party may designate a different person or entity or change the place to which any Notice shall be given as herein provided.

(c) **Payments.** Payments shall be made and delivered in the same manner as Notices and shall be effective at the same time that a Notice would be deemed effective under Paragraph 24.6(a).

24.7 Attorneys’ Fees and Costs Between the Parties. If legal action is brought by a Party because of a breach of this Lease or to enforce a provision of this Lease, the prevailing Party is entitled to reasonable attorney fees and costs as determined by the court or other decision maker.

24.8 Construction. The terms and provisions of this Lease represent the results of negotiations between the Parties, each of which has been represented by counsel of its own choosing, and neither of which has acted under any duress or compulsion, whether legal, economic, or otherwise. Consequently, the terms and provisions of this Lease shall be interpreted and construed in accordance with their usual and customary meanings, and the Parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Lease that ambiguous or conflicting terms or provisions contained in this Lease shall be interpreted or construed against the Party who prepared or whose attorney prepared the executed Lease or any earlier draft of the same. If Lessee consists of more than one person, the covenants and obligations of Lessee hereunder shall be the joint and several covenants and obligations of such persons. In this Lease the masculine gender includes the feminine and neuter, and the singular number includes the plural, whenever the context so requires. Captions at the beginning of each section of this Lease are for reference only and will in no way define or interpret any provision hereof.

24.9 Recitals and Exhibits. Without limiting the provisions of this Lease, the Parties agree that all references to this Lease include all exhibits designated in and attached to this Lease, such exhibits being incorporated into and made an integral part of this Lease for all purposes. The Recitals set forth on Page 2 of this Lease are incorporated herein as though fully set forth. The section headings contained in this Lease are for convenience in reference only and are not intended to define or limit the scope of any provision of this Lease. Captions at the beginning of each section of this Lease are for reference only and will in no way define or interpret any provision hereof.

24.10 Integration. This Lease, including all exhibits, and attachments along with any contemporaneous agreements, represents the entire understanding between the Parties regarding its subject matter. There are no covenants, promises, agreements, conditions, or understandings, either oral or written, between the Parties other than as set forth therein. This Lease supersedes all prior agreements, whether written or oral, related to the subject matter, including, without limitation, the **LOI dated (month) (day), (year)****. This Lease shall be interpreted as a whole, in accordance with its fair meaning, and without bias toward the drafting Party. Each Party has reviewed and had the opportunity to consult legal counsel regarding this Lease.

24.11 Further Assurances and Documents. Each Party agrees to perform such other and further acts and to promptly execute and deliver such additional agreements, documents, affidavits, certifications, acknowledgments, and instruments as any other Party may reasonably require to consummate, evidence, confirm, or carry out the matters contemplated by this Lease or confirm the status of: (a) this Lease as in full force and effect; and (b) the performance of the obligations hereunder at any time during its Term.

24.12 Time is of the Essence; Days. Time is of the essence in the performance of all obligations under this Lease. Failure to meet any deadlines or timeframes specified herein shall constitute a material breach of this Lease. If the last day of any time period stated in this Lease or the date on which any obligation to be performed under this Lease shall fall on a Friday, Saturday, Sunday, or legal holiday, then the duration of such time period or the date of performance, as applicable, shall be extended so that it shall end on the next succeeding day which is not a Friday, Saturday, Sunday, or legal holiday.

24.13 Consents and Approvals. Wherever this Lease requires or permits the consent or approval of a Party to any act, document, use, or other matter, such consent or approval shall be given or denied by such Party in its reasonable discretion, unless this Lease expressly provides otherwise. Wherever the Lessor's consent is required to be given in this Lease, such consent will be the consent of the City Manager (or his/her designee), without the requirement of the prior approval of the City Council unless required by Applicable Law,

Lessor, any City policy, or if such approval is recommended or desired by the City Manager.

24.14 Correction of Technical or Typographical Errors. If, by reason of inadvertence, and contrary to the intention of the Parties, errors are made in this Lease in the legal descriptions or the references thereto or within any exhibit with respect to the legal descriptions, in the boundaries of any Parcel in any map or drawing which is an exhibit, or in the typing of this Lease or any of its exhibits or any other similar matters, the Parties by mutual agreement may correct such error by memorandum executed by them without the necessity of amendment of this Lease.

24.15 Inurement. Wherever the term “Party” or the name of any particular Party is used in this Lease such term shall include any such Party’s successors and assigns. Neither Party shall assign its interest in this Lease without the prior written consent of the other Party. The promises, covenants, conditions, and restrictions in this Lease create equitable servitudes upon every portion of the Property in favor of the Lessor. These promises, covenants, conditions, and restrictions run with the land and shall be prior, superior, and non-subordinated to any and all encumbrances placed against the Property after a memorandum of Lease is recorded. Subject to the provisions hereof with respect to assignment, all of the rights and obligations of the Parties under this Lease shall be binding upon and inure to the benefit of the respective heirs, executors, and permitted successors and assigns of Lessor and Lessee.

24.16 Covenants and Conditions. Each and every provision of this Lease to be performed by Lessee shall be deemed both a covenant and condition. The Parties agree that each provision set forth herein, pursuant to which Lessee is required to pay Rent shall be and is a covenant of Lessee independent of any other term, condition, or covenant contained in this Lease. Lessee shall not be entitled to offset the claimed amount of damages against any Rent or other payments due hereunder, it is expressly agreed that such covenant to pay such an amount shall be independent of any obligation of Lessor hereunder. All payments to be made by Lessee hereunder shall, unless otherwise expressly provided, be paid to Lessor without notice or demand and without adjustment, deduction, or setoff, in lawful money of the United States.

24.17 Recordation. Within ten (10) days after this Lease has been approved by the Lessor and executed by the Parties, the Lessor shall cause a memorandum of this Lease to be recorded in the Official Records of Maricopa County, Arizona the form of which is attached as Exhibit C.

24.18 Amendment. From time to time, Lessee and Lessor (acting through its City Manager or the City Manager’s designee) may, by mutual written agreement, refine, amend, revise, change, or correct any part of this Lease as the Lessor and Lessee deem necessary or preferable. The City Council authorizes its City

Manager (or the City Manager's designee), in the City Manager's administrative capacity, to take any action that the City Manager deems necessary to carry out the intent and purpose of this Lease, including without limitation to: complete all transactions contemplated within this Lease, execute amendments to this Lease, and execute any other documents related to this Lease. Except as otherwise expressly provided for in this Lease, no change, or addition shall be made to this Lease except by written amendment executed by the Lessor and Lessee.

24.19 Good Faith of Parties. Except where any matter is expressly stated to be in the sole discretion of a Party, in performance of this Lease or in considering any requested extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, or capriciously and will not unreasonably withhold, delay, or condition any requested approval, acknowledgment, or consent.

24.20 Non-liability of Officials and Employees. Notwithstanding any other language in this Lease, no City Council Member, officer, director, trustee, partner, principal, member, employee, agent, affiliate, official, representative, agent, attorney, or employee of a Party shall be personally liable the other Party, or to any successor in interest to such other Party, in any way whatsoever including without limitation in the event of Default, for any amount that may become due to a Party, or with respect to any obligation of a Party under the terms of this Lease.

24.21 City Council Action. This Lease does not bind the City Council or remove its independent authority to make determinations related to formal action of the City Council in any way. Notwithstanding any language in this Lease or related documents, this Lease does not require the Lessor to take any action that the City Attorney or City Manager, in either's sole discretion, determines should first be approved by vote of the City Council. Such action will only proceed if and when the City Council has formally voted to approve it, and such approval is no longer subject to referendum.

24.22 No Third-Party Beneficiaries. No person or entity shall be a third-party beneficiary to this Lease nor have any right or cause of action hereunder. Lessor shall have no liability to any third party for approval of plans, Lessee's acts, Lessee's failure to comply with the provisions of this Lease, or otherwise as a result of the existence of this Lease.

24.23 Counterparts. This Lease may be executed in counterparts, each of which shall be deemed an original and all of which together shall be deemed to be one and the same instrument. Electronic signatures are acceptable as original signatures.

24.24 Cancellation for Non-Appropriation. The Parties recognize that this Lease depends upon the availability of appropriated funds and nothing in this Lease shall bind the Lessor to expenditures in excess of funds appropriated and allotted for the purposes outlined in this Lease. If the City Council fails to appropriate the necessary funds, or if the appropriation for this Lease is reduced, either Party may reduce the scope of this Lease if appropriate or cancel this Lease without further duty or obligation.

24.25 Federal Funds. Each Party to this Lease warrants that neither it nor any contractor or vendor under contract with the Party to provide goods or services toward the accomplishment of the objectives of this Lease is suspended or debarred by any federal agency which has provided funding that will be used in the Project described in this Lease.

24.26 Arizona Law Provisions. To the extent required by Arizona State law:

- (a) No member, official, or employee of Lessor shall have any direct or indirect interest in this Lease, nor participate in any decision relating to this Lease, that is prohibited by law. This Lease shall be subject to cancellation pursuant to the provisions of A.R.S. § 38-511 relating to conflicts of interest.
- (b) Lessee certifies that it is not currently engaged in, and agrees for the duration of this Lease that it will not engage in a “boycott,” as that term is defined in § 35-393, Arizona Revised Statutes, of Israel.
- (c) To the extent applicable under A.R.S. § 41-4401, each Party warrants compliance with all federal immigration laws and regulations that relate to their employees and contractors and their compliance with the E-Verify requirements under A.R.S. § 23-214(A). The failure by Lessee to comply with such warranty shall be deemed a material breach of this Lease and may result in the termination of this Lease by the Lessor. Each Party retains the legal right to inspect the papers of any contractor or subcontractor employee who works on the contract to ensure that the contractor or subcontractor is complying with this warranty. Nothing in this Lease shall make any contractor or subcontractor an agent or employee of the Parties.
- (d) To the extent applicable under A.R.S. § 35-394, Lessee hereby certifies it does not currently, and for the duration of this Lease shall not use: (a) the forced labor of ethnic Uyghurs in the People’s Republic of China, (b) any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China, and (c) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China.

- (e) The Parties agree to be bound by applicable State and federal law governing Equal Employment Opportunity, Non-Discrimination, and Disabilities, including Arizona Executive Order No. 2009-09.

**[REMAINDER OF PAGE INTENTIONALLY BLANK;
SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, the Parties have executed this Lease on the date(s) written below.

Lessor:

CITY OF PEORIA, an Arizona municipal corporation

By: _____
Henry Darwin, City Manager

Date: _____

ATTEST:

Agnes Goodwine, City Clerk

Date: _____

APPROVED AS TO FORM:

Emily Jurmu, City Attorney

Date: _____

Lessee:

West-MEC, a political subdivision of the State of Arizona

By: _____

_____,
Its

Date: _____

STATE OF ARIZONA
County of Maricopa

On this _____ day of _____, 2025, before me personally appeared _____ the _____ of West-MEC, a political subdivision of the State of Arizona, for and on behalf thereof, whose identity was proven to me on the basis of satisfactory evidence to be the person who he or she claims to be and acknowledged that he or she signed the above/attached document.

Notary Public

List of Exhibits to Exhibit B

Exhibit A – Legal Description

Exhibit B – Form of Purchase Provisions

Exhibit C – Form of Special Warranty Deed

Exhibit D – Form of Memorandum of Lease

Exhibit E – Insurance Requirements

EXHIBIT A

Legal Description

“Forthcoming”

EXHIBIT B

Form of Purchase Provisions

1. Subject to the provisions of the IGA, and Section 22 of the Lease, Lessee holds a non-transferable Purchase Option to purchase the Demised Premises.

2. In the event Lessee exercises the Purchase Option, such purchase shall be as described in Section 22 of the Lease, and shall be free and clear of all liens and encumbrances subject to the following permitted exceptions:
 - A. Water rights, claims, or title to water, whether or not shown by the public record.
 - B. Non-delinquent real estate taxes.
 - C. All title exceptions and matters in effect as of the Effective Date of this Lease.
 - D. Any further title exceptions approved by Lessee in writing.
 - E. The printed exceptions and exclusions applicable to an ALTA 2006 extended coverage owner's policy of title insurance contained in the title policy issued at close of escrow.

3. Concurrent with its delivery to Lessor of an Option Notice, as provided in Section 22 of this Lease, Lessee shall submit to Lessor an executed set of escrow instructions to effect Lessee's purchase of the Demised Premises. Such instructions shall provide, in addition to provisions common to customary escrow instructions: (1) for a closing date not later than ninety (90) days following delivery of an Option Notice; (2) for an allocation of escrow fees, recording fees, and title insurance fees in the manner that is customary in Maricopa County, Arizona; (3) that no brokerage commissions shall be payable by Lessor or Lessee to anyone; (4) for conveyance of the Demised Premises by special warranty deed; and (5) the execution by Lessor of an owner's affidavit in a form and content sufficient for the issuance of extended coverage title insurance without exception for parties in possession or mechanics', materialmen's or professional service liens. Lessor shall be charged in the escrow for a standard owner's policy of title insurance insuring Lessee's title to the Demised Premises; Lessee shall be charged in the escrow for the cost of extended coverage and the cost of any endorsements requested by Lessor. Lessor promptly shall execute the escrow instructions along with the special warranty deed and shall deliver them to the escrow agent identified in the escrow instructions pending the close of escrow. At any time prior to delivery of the Option Notice, Lessee may request that a title company of its choosing prepare a commitment for title insurance for the Demised Premises and Lessor expressly consents thereto.

4. If Lessee fails to submit the escrow instructions or to close the escrow within the requisite ninety (90) days as provided in Paragraph 3 above, then Lessor may issue Notice of such failure to Lessee, and if the failure is not cured within five (5) days, then, as the sole consequence to Lessee of such failure, the Purchase Option shall terminate in its entirety and thereafter shall have no further force or effect for any purpose.

5. Each party shall bear its own attorneys' fees and costs incurred in connection with the purchase transaction.

6. Payment of the amount due at close of escrow to Seller shall be made through escrow by wire transfer of immediately available federal funds (United States dollars). Lessee may satisfy any monetary encumbrances that affect title to the Demise Premises and that are not Permitted Exceptions out of the proceeds otherwise due Lessor at the close of escrow.

7. The Property shall convey by special warranty deed the form of which is attached as Schedule A to the Form of Purchase Provisions.

EXHIBIT C
Form of Special Warranty Deed

EXEMPT FROM AFFIDAVIT AND FEES PURSUANT TO A.R.S. § 11-1134, A.3.

SPECIAL WARRANTY DEED

For the consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration received, CITY OF PEORIA, an Arizona municipal corporation (“**Grantor**”), does hereby grant and convey to WESTERN MARICOPA EDUCATION CENTER CAREER AND TECHNICAL DISTRICT No. 402, a political subdivision of the State of Arizona (“**Grantee**”), the following described real property (the “**Real Property**”) situated in Maricopa County, Arizona:

SEE EXHIBIT “A” ATTACHED HERETO AND BY THIS
REFERENCE MADE A PART HEREOF

TOGETHER WITH, all buildings, structures and improvements located on the Real Property, including, without limitation, to the extent owned by Grantor: (i) all irrigation ditches, gates, valves, pumps, tanks, and wells; (ii) all appurtenances, hereditaments, easements, rights-of-way, reversions, remainders, development rights, and air rights; (iii) all oil, gas, and mineral rights not previously reserved; (iv) any rights of Grantor to any adjoining strips or gores of property and any land lying within the bed of any adjoining street, alley, right-of-way, or waterway; and (v) any other rights or privileges appurtenant to such Real Property or used in connection therewith.

SUBJECT TO: current real property taxes and other assessments not yet due and payable; patent reservations; and all easements, rights of way, covenants, conditions, restrictions, declarations, and other matters as may appear of record, and all matters that an accurate survey of the Real Property would disclose, and the applicable zoning and use laws and regulations affecting the Real Property.

AND Grantor hereby binds itself to warrant and defend the title to the Real Property against all of the acts of Grantor and no other, subject to the matters above set forth.

DATED this _____ day of _____, 20__.

[Signature Page Follows]

DATE: _____

GRANTOR:

CITY OF PEORIA,
an Arizona municipal corporation

By: _____
Henry Darwin, City Manager

ATTEST:

Agnes Goodwine, City Clerk

APPROVED AS TO FORM:

Emily Jurmu, City Attorney

EXHIBIT D
FORM OF MEMORANDUM OF LEASE

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE shall evidence that there is in existence a Lease as hereinafter described. It is executed by the parties hereto for recording purposes only as to the Lease hereinafter described, and it is not intended and shall not modify, amend, supersede, or otherwise affect the terms and provisions of said Lease.

1. Name of Document: GROUND LEASE between the CITY OF PEORIA, an Arizona municipal corporation, as Lessor and West-MEC, political subdivision of the State of Arizona, as Lessee.
2. Name of Lessor: THE CITY OF PEORIA, an Arizona municipal corporation
3. Name of Lessee: West-MEC, a political subdivision of the State of Arizona
4. Address of Lessor: OFFICE OF THE CITY ATTORNEY
8401 W. Monroe, Suite 340
Peoria, Arizona 85345
5. Address of Lessee: 5487 North 99th Avenue
Glendale, AZ 85305
6. Effective Date of Lease:
7. Duration: Ten (10) years or the execution of the purchase option by Lessee
8. Extension: None.
9. Demised Premises: The real property located ****
10. Use Restrictions: Constructing and operating a CTE Campus with all reasonably related structures and improvements, and other legal uses related thereto.
11. Purchase Option: Lessee has the option to purchase the Demised Premises during the Lease Term pursuant to the terms in Section 22 of the Ground Lease, with any rent paid by Lessee to be applied toward the Purchase Price.

A copy of the Ground Lease is on file with Lessor and Lessee at their respective addresses set forth above.

EXHIBIT E
AMOUNTS AND TYPES OF INSURANCE COVERAGE

Upon execution of the Lease and throughout the entire Lease Term, Lessee will maintain the amounts and types of insurance described below. Whenever any construction is conducted on the Demised Premises Lessee shall cause its contractors and subcontractors to continuously maintain such coverage in accordance with the following:

- A. Commercial General Liability Insurance coverage including premises, operations, products, completed operations, and contractual liability coverage in an amount no less than \$2,500,000 per occurrence, \$2,500,000 personal injury and advertising injury, \$5,000,000 Products and Completed Operations Aggregate and \$5,000,000 General Aggregate. The preferred form is CG0001. Coverage shall include:
 - a. Waiver of Subrogation to Lessor, and its agents, representatives, officers, volunteers, directors, elected and appointed officials, and employees.
 - b. Policy to include liability arising out of subcontractors.
 - c. Deletion of any limitation or exclusion on coverage for bodily injury or property damage arising out of subsidence or soil or earth movement.
 - d. A provision that the insurance company has a duty to defend all insureds under the policy and a provision that defense costs are paid in addition to and do not deplete any of the policy limits.
 - e. Provision that insurance policy shall be primary and noncontributory.
 - f. At Lessee's election, the insurance required by this Section A may be provided under a blanket policy subject to Lessor's written approval.
- B. Comprehensive automobile liability insurance, including coverage for the ownership, maintenance, and operation of any automobile equipment owned, hired, or non-owned, which is assigned to or used by the contractors in the performance of work on, or services provided to, the Demised Premises, in an amount not less than \$1,000,000.00 combined single limit per accident.
- C. Workers Compensation Insurance to cover statutory limits of Workers Compensation Laws of the state in which the work is being performed and state employee is hired. Workers Compensation coverage shall extend to any individual, including Lessor's agents, representatives, officers, volunteers, directors, elected and appointed officials, and employees who will be performing the work under this agreement regardless of any ability under state law to reject workers' compensation coverage. This insurance shall include Employer's Liability insurance with a limit of no less than \$1,000,000 for each occurrence. This insurance shall include a Waiver of Subrogation Endorsement waiving the carrier's right of subrogation to Lessor its agents, representatives, officers,

volunteers, directors, elected and appointed officials, and employees. If any class of employees engaged in the Work is not protected by the Workers Compensation statute, subcontractor shall provide special insurance for the protection of such employees not otherwise protected, which is similar to the coverage required above and otherwise complies with the requirements of this Exhibit E.

- D. During construction. The following insurance shall be maintained in effect from the start of any construction activities on or involving the Demised Premises and shall continue uninterrupted until the earliest of the completion of the Project and issuance of a certificate of occupancy, or termination of the construction contract.
- a. Course of Construction insurance (also known as Builder's Risk insurance) covering the full insurable value of the property, including all materials, equipment, supplies, and work in progress at the construction site. The policy shall provide "all-risk" coverage, including protection against loss or damage caused by fire, theft, vandalism, collapse, and any other risks typically covered under such policies. The coverage must include any materials or equipment stored off-site or in transit intended for the project. The policy shall cover the cost of removing debris, including demolition as may be legally necessary by the operation of any law, ordinance, or regulation, and for loss or damage to any owned, borrowed, leased, or rented capital equipment, tools, including tools of their agents and employees, staging towers and forms, and property of the City held in their care, custody and/or control. Such policy shall name the City as additional insureds.
 - b. Lessee shall ensure any contractors and sub-contractors performing work on, or providing services to, the Demised Premises shall maintain Errors & Omissions coverage in an amount not less than \$1,000,000.00 combined single limit per occurrence and not less than \$2,500,000.00 general aggregate.
- E. "All-risk" property insurance covering damage or loss resulting from any casualty, fire, vandalism, malicious mischief, theft, water damage (including sprinkler leakage and bursting pipes), explosion, and other casualties or causes. The coverage shall be in an amount no less than one hundred percent (100%) of the replacement cost and cover i.) all buildings and improvements, including any improvements made by the Lessee to the property; and ii.) all trade fixtures, equipment, and other personal property located in or on the Demised Premises at any time.
- F. Lessor's and contractor's protective liability insurance with limits of not less than \$1,000,000.00 combined single limit per occurrence and not less than \$5,000,000.00 general aggregate as will insure Lessor as named insured against any and all claims for bodily injury, including death resulting therefrom, personal injury, or damage to the property of others, arising from or in any way connected to the Demised Premises.
- G. If Lessee becomes aware that construction activities on or involving the Demised Premises may result in environmental hazards, including but not limited to pollution, contamination, or the use or introduction of hazardous materials on or onto the Demised

Premises, West-MEC shall ensure that all relevant contractor or subcontractor maintain Contractor's Pollution Liability Insurance. Such insurance shall cover claims for bodily injury, property damage, and environmental cleanup costs arising from such incidents during the construction process on or affecting the Demised Premises. The policy shall provide "all-risk" coverage, including third-party claims for damages or injury caused by the release or discharge of pollutants, hazardous materials, or contaminants into the air, land, or water. The policy shall also include coverage for the cost of remediation or cleanup of environmental hazards resulting from the construction activities on the Demised Premises. The minimum limits of liability shall be \$1,000,000 per occurrence and \$2,500,000 in the aggregate. The City remains in effect until the Completion of Construction and issuance of the certificate of occupancy for the Demised Premises.

The following general requirements shall apply to all insurance policies described in this Exhibit E:

- A. All liability insurance policies, except professional liability and workers compensation insurance, shall be written on an occurrence basis.
- B. All insurance policies required hereunder except Workers Compensation shall: (i) name Lessor and its agents, representatives, officers, volunteers, directors, elected and appointed officials, and employees as "additional insured" utilizing an ISO endorsement form CG2010 (11/85) (if available and, if not available, the current standard form of such endorsement(s) providing coverage for both ongoing and completed operations) Additional Insured - Lessors, Lessees, or Lessees (Form B); (ii) be issued by an insurer and shall be in a form approved by Lessor; and (iii) provide that such policies shall not be canceled or not renewed, nor shall any material change be made to the policy without at least thirty (30) days prior written notice to Lessor.
- C. The liability insurance policies shall provide that such insurance shall be primary on a non-contributory basis.
- D. All insurers providing the coverage specified in this Exhibit E shall be written by insurance companies with an A.M. Best's Key Rating Guide of A- [minus] or better.
- E. Lessee shall require its subcontractors to provide Lessee with certificates evidencing the insurance coverage required by this Exhibit E in the certificate form included in this Exhibit E, prior to the commencement of any activity or operation which could give rise to a loss to be covered by such insurance. Lessee shall also require replacement certificates be sent to Lessee, as policies are renewed, replaced, or modified.
- F. Commercial General Liability Insurance (for Products and Completed Operations) and Contractor's Pollution Liability Insurance (if necessary) are each to be maintained for ten (10) years following final completion of any construction.
- G. No exclusion or limitations shall apply to the additional insureds which do not apply to the named insured.

H. Lessee agrees and shall cause its contractors to agree to provide Lessor with certified copies of all of said contractors' insurance policies covering the Demised Premises upon Lessor's request.

The above-referenced waivers of liability and subrogation shall not apply to Lessor's grossly negligent or intentional acts but shall be applicable to any negligence imputed to Lessor and its agents, representatives, officers, volunteers, directors, elected and appointed officials, and employees by operation of law as a result of the action or non-action of Lessee, its contractors, or sub-contractors and their respective insurers for work performed on, or services provided to or on, the Demised Premises.

EXHIBIT C

Preliminary Site Plan

“Forthcoming”

EXHIBIT D
AMOUNTS AND TYPES OF INSURANCE COVERAGE

Upon execution of the Lease and throughout the entire Lease Term, Lessee will maintain the amounts and types of insurance described below. Whenever any construction is conducted on the Demised Premises Lessee shall cause its contractors and subcontractors to continuously maintain such coverage in accordance with the following:

- H. Commercial General Liability Insurance coverage including premises, operations, products, completed operations, and contractual liability coverage in an amount no less than \$2,500,000 per occurrence, \$2,500,000 personal injury and advertising injury, \$5,000,000 Products and Completed Operations Aggregate and \$5,000,000 General Aggregate. The preferred form is CG0001. Coverage shall include:
 - a. Waiver of Subrogation to Lessor, and its agents, representatives, officers, volunteers, directors, elected and appointed officials, and employees.
 - b. Policy to include liability arising out of subcontractors.
 - c. Deletion of any limitation or exclusion on coverage for bodily injury or property damage arising out of subsidence or soil or earth movement.
 - d. A provision that the insurance company has a duty to defend all insureds under the policy and a provision that defense costs are paid in addition to and do not deplete any of the policy limits.
 - e. Provision that insurance policy shall be primary and noncontributory.
 - f. At Lessee's election, the insurance required by this Section A may be provided under a blanket policy subject to Lessor's written approval.
- I. Comprehensive automobile liability insurance, including coverage for the ownership, maintenance, and operation of any automobile equipment owned, hired, or non-owned, which is assigned to or used by the contractors in the performance of work on, or services provided to, the Demised Premises, in an amount not less than \$1,000,000.00 combined single limit per accident.
- J. Workers Compensation Insurance to cover statutory limits of Workers Compensation Laws of the state in which the work is being performed and state employee is hired. Workers Compensation coverage shall extend to any individual, including Lessor's agents, representatives, officers, volunteers, directors, elected and appointed officials, and employees who will be performing the work under this agreement regardless of any ability under state law to reject workers' compensation coverage. This insurance shall include Employer's Liability insurance with a limit of no less than \$1,000,000 for each occurrence. This insurance shall include a Waiver of Subrogation Endorsement

waiving the carrier's right of subrogation to Lessor its agents, representatives, officers, volunteers, directors, elected and appointed officials, and employees. If any class of employees engaged in the Work is not protected by the Workers Compensation statute, subcontractor shall provide special insurance for the protection of such employees not otherwise protected, which is similar to the coverage required above and otherwise complies with the requirements of this Exhibit E.

- K. During construction. The following insurance shall be maintained in effect from the start of any construction activities on or involving the Demised Premises and shall continue uninterrupted until the earliest of the completion of the Project and issuance of a certificate of occupancy, or termination of the construction contract.
- a. Course of Construction insurance (also known as Builder's Risk insurance) covering the full insurable value of the property, including all materials, equipment, supplies, and work in progress at the construction site. The policy shall provide "all-risk" coverage, including protection against loss or damage caused by fire, theft, vandalism, collapse, and any other risks typically covered under such policies. The coverage must include any materials or equipment stored off-site or in transit intended for the project. The policy shall cover the cost of removing debris, including demolition as may be legally necessary by the operation of any law, ordinance, or regulation, and for loss or damage to any owned, borrowed, leased, or rented capital equipment, tools, including tools of their agents and employees, staging towers and forms, and property of the City held in their care, custody and/or control. Such policy shall name the City as additional insureds.
 - b. Lessee shall ensure any contractors and sub-contractors performing work on, or providing services to, the Demised Premises shall maintain Errors & Omissions coverage in an amount not less than \$1,000,000.00 combined single limit per occurrence and not less than \$2,500,000.00 general aggregate.
- L. "All-risk" property insurance covering damage or loss resulting from any casualty, fire, vandalism, malicious mischief, theft, water damage (including sprinkler leakage and bursting pipes), explosion, and other casualties or causes. The coverage shall be in an amount no less than one hundred percent (100%) of the replacement cost and cover i.) all buildings and improvements, including any improvements made by the Lessee to the property; and ii.) all trade fixtures, equipment, and other personal property located in or on the Demised Premises at any time.
- M. Lessor's and contractor's protective liability insurance with limits of not less than \$1,000,000.00 combined single limit per occurrence and not less than \$5,000,000.00 general aggregate as will insure Lessor as named insured against any and all claims for bodily injury, including death resulting therefrom, personal injury, or damage to the property of others, arising from or in any way connected to the Demised Premises.
- N. If Lessee becomes aware that construction activities on or involving the Demised Premises may result in environmental hazards, including but not limited to pollution,

contamination, or the use or introduction of hazardous materials on or onto the Demised Premises, West-MEC shall ensure that all relevant contractor or subcontractor maintain Contractor's Pollution Liability Insurance. Such insurance shall cover claims for bodily injury, property damage, and environmental cleanup costs arising from such incidents during the construction process on or affecting the Demised Premises. The policy shall provide "all-risk" coverage, including third-party claims for damages or injury caused by the release or discharge of pollutants, hazardous materials, or contaminants into the air, land, or water. The policy shall also include coverage for the cost of remediation or cleanup of environmental hazards resulting from the construction activities on the Demised Premises. The minimum limits of liability shall be \$1,000,000 per occurrence and \$2,500,000 in the aggregate. The City remains in effect until the Completion of Construction and issuance of the certificate of occupancy for the Demised Premises.

The following general requirements shall apply to all insurance policies described in this Exhibit E:

- I. All liability insurance policies, except professional liability and workers compensation insurance, shall be written on an occurrence basis.
- J. All insurance policies required hereunder except Workers Compensation shall: (i) name Lessor and its agents, representatives, officers, volunteers, directors, elected and appointed officials, and employees as "additional insured" utilizing an ISO endorsement form CG2010 (11/85) (if available and, if not available, the current standard form of such endorsement(s) providing coverage for both ongoing and completed operations) Additional Insured - Lessors, Lessees, or Lessees (Form B); (ii) be issued by an insurer and shall be in a form approved by Lessor; and (iii) provide that such policies shall not be canceled or not renewed, nor shall any material change be made to the policy without at least thirty (30) days prior written notice to Lessor.
- K. The liability insurance policies shall provide that such insurance shall be primary on a non-contributory basis.
- L. All insurers providing the coverage specified in this Exhibit E shall be written by insurance companies with an A.M. Best's Key Rating Guide of A- [minus] or better.
- M. Lessee shall require its subcontractors to provide Lessee with certificates evidencing the insurance coverage required by this Exhibit E in the certificate form included in this Exhibit E, prior to the commencement of any activity or operation which could give rise to a loss to be covered by such insurance. Lessee shall also require replacement certificates be sent to Lessee, as policies are renewed, replaced, or modified.
- N. Commercial General Liability Insurance (for Products and Completed Operations) and Contractor's Pollution Liability Insurance (if necessary) are each to be maintained for ten (10) years following final completion of any construction.

- O. No exclusion or limitations shall apply to the additional insureds which do not apply to the named insured.
- P. Lessee agrees and shall cause its contractors to agree to provide Lessor with certified copies of all of said contractors' insurance policies covering the Demised Premises upon Lessor's request.

The above-referenced waivers of liability and subrogation shall not apply to Lessor's grossly negligent or intentional acts but shall be applicable to any negligence imputed to Lessor and its agents, representatives, officers, volunteers, directors, elected and appointed officials, and employees by operation of law as a result of the action or non-action of Lessee, its contractors, or sub-contractors and their respective insurers for work performed on, or services provided to or on, the Demised Premises.

