

## **OFFICE LEASE**

THIS LEASE is made and effective as of March 13, 2019 by and between 975 Morningstar LLC (“Landlord”) and the Tuolumne County Transportation Council, a California joint powers authority (“Tenant”). This Lease is made with reference to the following facts:

- A. Landlord is the owner of that certain real property located at 975 Morning Star Dr., Ste. A, Sonora, California (“Property”).
- B. Tenant desires to lease from Landlord that portion of the Property described as 975 Morning Star Dr., Ste. A consisting of 2,056 rentable square feet, together with the non-exclusive right to utilize common interior building areas and improvements, landscaping, parking areas, drives and other related common improvements (collectively, “Leased Premises”).
- C. Landlord is willing to lease the Leased Premises to Tenant on the terms and conditions set forth below.

Therefore, the parties hereby agree as follows:

### **ARTICLE I TERM**

SECTION 1.01. **LEASED PREMISES**: Landlord hereby leases the Leased Premises to Tenant on the terms and conditions set forth in this Lease. The Leased Premises shall be delivered to Tenant in their existing condition except for the improvements being made by Landlord as detailed in Exhibit A, and Tenant accepts the Leased Premises as being in the condition in which Landlord is obligated to deliver the Leased Premises. Tenant shall pay its share of the improvements as detailed in Exhibit A within thirty (30) days of receipt of an invoice from Landlord.

SECTION 1.02. **TERM; POSSESSION**: The term of this Lease shall be for a period of 60 months commencing May 1, 2019 (“Commencement Date”) and continuing until April 30, 2024 unless sooner terminated as provided herein. Tenant shall be entitled to possession of the Leased Premises on the Commencement Date. In the event the improvements set forth in Exhibit A are not complete by the Commencement Date through no fault of Landlord, the parties agree to extend the Commencement Date, not to exceed 30 days, with a commensurate proration of First Rent & Payment.

SECTION 1.03. **OPTION TO EXTEND TERM**: Upon notice to Landlord, given at least 6 months prior to the expiration date of the Lease, this Lease shall be renewed for a 60-month period on the same terms and conditions. This Lease may be renewed one time.

SECTION 1.04. **HOLDING OVER**: Any holding over shall be on a month-to-month tenancy at the then rental price, and all other provisions of this Lease shall remain in full force and effect on a month-to-month tenancy unless and until either party gives thirty

(30) days' written notice to the other, and Tenant's tenancy shall terminate thirty (30) days following the last day of the month in which such notice is given.

## **ARTICLE II RENT**

SECTION 2.01. **BASE RENT; DEPOSIT:** Tenant shall pay to Landlord for the use and occupancy of the Leased Premises during the term of this Lease a security deposit in the sum of \$2,467.00 upon execution of this Lease. The Base Rent shall be payable on the first day of each and every calendar month. Rent for any period during the term hereof which is for less than one month shall be prorated according to the then current monthly rental, based upon a 30 day month.

Year 1	\$1.20 per square foot	Monthly: \$2,467.00 Yearly: \$29,604.00
Year 2	\$1.23 per square foot	Monthly: \$2,540.00 Yearly: \$30,480.00
Year 3	\$1.26 per square foot	Monthly: \$2,601.00 Yearly: \$31,222.00
Year 4	\$1.29 per square foot	Monthly: \$2,664.00 Yearly: \$31,966.00
Year 5	\$1.32 per square foot	Monthly: \$2,726.00 Yearly: \$32,710.00

SECTION 2.02. **UTILITIES & MAINTENANCE:** Landlord should be responsible for landscape maintenance, exterior pest control and trash hauling. Tenant to reimburse Landlord for water and sewer cost associated with the Leased Premises on a monthly basis. Water and sewer will remain in Landlord's name. Tenant to be responsible to switch and maintain the cost for electrical, propane, telephone, internet and any other utilities associated with Tenant's operation of business.

SECTION 2.03. **PAST DUE RENT:** If Tenant fails to pay any rent or other payments due the Landlord when due and payable, such unpaid amounts shall bear interest at the higher of 10 percent per annum or the maximum lawful rate from the due date thereof to the date of payment. In addition to such interest, if Tenant shall fail to pay any monthly installment of rent by the 15<sup>th</sup> day of the month in which such monthly installment is due, a late charge of \$50 shall become immediately due and payable.

## **ARTICLE III REPAIRS AND MAINTENANCE**

SECTION 3.01. **REPAIRS BY LANDLORD:** Landlord shall at all times maintain the roof and outside portion of the building in which the Leased Premises are located, as well as all driveways, parking areas and landscaping located on the Property. Landlord shall, at Landlord's own cost, promptly make repairs to areas of water intrusion and replace any building materials that show signs of current or previous water intrusion. Landlord will be responsible for the structural portions of the building and basic plumbing, electrical,

mechanical and heating, ventilating and air conditioning systems therein, except such repairs made necessary by the willful or negligent acts of Tenant or any other person using the Leased Premises with the consent of Tenant, in which case Tenant shall make the necessary repairs at its sole cost and expense. Except as expressly set forth in this Lease, Landlord shall have no obligation and has made no promise to alter, remodel, improve, repair, decorate, or paint the Leased Premises or any part of them. Landlord has made no representations regarding the condition of the Leased Premises or the Property except as specifically set forth in the Lease.

SECTION 3.02. TENANT REPAIRS: At all times during the term of this Lease Tenant shall, at its own cost and expense, maintain the interior of the Leased Premises, which includes having a service contract for the maintenance of the HVAC system.

SECTION 3.03. TENANT TO MAKE NO ALTERATIONS: Tenant shall not make or permit any other person to make any alterations to the Leased Premises (including any improvement thereon or facility appurtenant thereto), without the advance written consent of Landlord, which consent shall not be unreasonably withheld. The installation of furnishings, fixtures, equipment or decorative improvements which do not affect the systems or structure of the building in which the Leased Premises are located shall not be considered alterations. Upon the expiration or earlier termination of this Lease, all fixtures made or placed in or on the Leased Premises by Tenant or any other person (excluding furniture, trade fixtures pictures, clocks, computers, art, diplomas or other similar items owned by Tenants), shall remain on the Leased Premises and become the property of Landlord. Notwithstanding the foregoing, Landlord may, on expiration or sooner termination of this Lease, require Tenant at Tenant's sole cost and expense to remove any alterations, additions, improvements, or trade fixtures placed on the Leased Premises by Tenant or any other person (such as furniture, trade fixtures pictures, clocks, computers, art, diplomas or other similar items owned by Tenant) may, subject to Section 3.05, be removed as long as such removal does not damage the Lease Premises. Tenant shall pay prior to delinquency all taxes assessed against or levied on trade fixtures, furnishings, equipment and other personal property of Tenant contained in the Leased Premises or elsewhere. Tenant shall cause such trade fixtures, furnishings, equipment and other personal property to be assessed and billed separately from the Property.

SECTION 3.04. LANDLORD'S RIGHT OF INSPECTION: Landlord or Landlord's duly authorized agent may enter the Leased Premises at any reasonable time(s) during the term of this Lease (or any renewal or extension thereof) to determine whether Tenant is complying with the terms and conditions of this Lease or to perform any other acts authorized by this Lease to be performed by Landlord or reasonably necessary to protect Landlord's rights. To that end, Tenant shall provide Landlord with a key with which to unlock any doors on the Leased Premises excluding Tenant's vaults, safes, confidential records, and similar areas designated as secure areas in writing by Tenant. When practical, Landlord or Landlord's agent shall provide Tenant with 24 hours notice prior to entering the Leased Premises. Landlord shall endeavor to conduct the inspection while Tenant is present, and shall minimize the interference with Tenant's daily business.

**SECTION 3.05. SURRENDER OF PREMISES:** On the expiration or sooner termination of this Lease, Tenant shall promptly surrender possession of the Leased Premises to Landlord in the same or as good a condition as the Leased Premises existed on the commencement date, reasonable wear and tear and damage to the Leased Premises by fire, earthquake, or acts of God or the elements excepted.

**SECTION 3.06. LIENS:** Tenant shall keep the Leased Premises and the Property free from any liens arising out of any work performed, materials furnished or obligations incurred by Tenant. Landlord may post or cause to be posted on the Leased Premises any notices that may be provided by law or that Landlord may deem proper for the protection of Landlord, the Leased Premises and the Property from such liens.

**SECTION 3.07. ADA:** Landlord represents that the Leased Premises are compliant with the Americans with Disabilities Act (42 USC sec. 12101) and its related regulations, and the Fair Employment and Housing Act (Gov. Code section 12940), and Title 24 of the California Code of Regulations. Landlord's obligation as set forth in Section 4.03 herein shall include the obligation to indemnify, defend, and hold Tenant harmless from any and all claims or actions arising from violations of the Americans with Disabilities Act or the Fair Employment and Housing Act.

**SECTION 3.08. CASp REPORT.** For purposes of this Section, "Leased Premises" is limited to the building on the Property. As required by California Civil Code section 1938, Landlord represents that the Leased Premises has not undergone inspection by a Certified Access Specialist (CASp). A CASp can inspect the Leased Premises and determine whether the Leased Premises complies with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the Leased Premises, the Landlord may not prohibit the Tenant from obtaining a CASp inspection of the Leased Premises for the occupancy or potential occupancy of the Tenant, if requested by the Tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Leased Premises.

**SECTION 3.09. PREVAILING WAGES:** Landlord shall and shall require any party performing any work that constitutes a public works project as defined by California law including, but not limited to, construction, improvement, demolition, alteration, renovation, or repair of a publicly leased or operated building or structure, to comply with all provisions of California law regarding construction that constitutes a public works project. Any agreement between Landlord and a third party for work that constitutes a public works project shall include the following provision:

Contractor shall pay, and shall require any subcontractor to pay, not less than the specified prevailing rates of per diem wages to all laborers, workers, and mechanics employed by them in the execution of this Contract in accordance with the provisions of Article 2 (commencing with section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code. Copies of

the prevailing rate of per diem wages are available from the California Department of Industrial Relations' Internet web site at <http://www.dir.ca.gov>. Contractor shall also pay, and shall require each subcontractor to pay, travel and subsistence payments to each laborer, worker, and mechanic needed to execute the work.

By this notice, Landlord is also informed that Public Contract Code section 22002 applies to work performed pursuant to this Lease. In addition to any other indemnification provision of this Lease, Landlord shall indemnify and hold Tenant harmless from and defend Tenant against any and all claims of liability for any failure by Landlord arising in part or in whole from Landlord's or its agents, contractors, or employees' failure to comply with the duties proscribed by this section.

#### **ARTICLE IV USE OF PREMISES**

SECTION 4.01. USE OF PREMISES: The Leased Premises shall be used principally as a business office. Tenant shall not use or permit the use of the Leased Premises for any other substantially different purpose without the advance written consent of Landlord, which consent shall not be unreasonably withheld. Tenant shall not do or permit anything to be done in or about the Leased Premises which will in any way obstruct or interfere with rights of other tenants or occupants of the building in which the Leased Premises are located on the Property, or injure or annoy them, or use or allow the Leased Premises to be used for any improper, immoral, unlawful or objectionable purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Property, including the Leased Premises. Tenant shall not commit or suffer to be committed any waste in or upon the Leased Premises or the Property.

SECTION 4.02. COMPLIANCE WITH LAW: Tenant shall not use or allow the use of the Leased Premises for any purpose in violation of any law or ordinance. Tenant shall maintain the Leased Premises in a clean and sanitary manner and shall act reasonably in complying with all statutes, rules, regulations and ordinances governing the use of the Leased Premises and/or Tenant's operations therein, including without limitation any reasonable rules imposed by Landlord from time to time.

SECTION 4.03. INDEMNIFICATION: Tenant shall indemnify, defend and hold Landlord, the Leased Premises and Landlord's property free and harmless from any and all claims, demands, actions, causes of action, costs, (including reasonable attorneys' fees and costs) and liability for any injury, death, or damage to any person or property occurring in or on the Leased Premises when such injury, death or damage is caused in part or in whole by the neglect, fault or omission of any duty with respect to the same by Tenant, its agents, contractors, or employees. If an action or proceeding is brought against Landlord by reason of any such claim, Tenant, upon notice from Landlord, shall defend the same at Tenant's expense provided, however, that Tenant shall not be required to defend nor be liable for damage, injury, or death occasioned by the active or passive

negligence or intentional acts of Landlord or its agents, contractors, or employees. Landlord shall provide notice to Tenant within 10 days of receipt or notice of any claim.

Landlord shall indemnify, defend, save, protect and hold harmless Tenant, its elected and appointed officials, officers, employees, agents and volunteers (collectively, "Tenant") from any and all demands, losses, claims, costs, suits, liabilities and expenses for any damage, injury or death (collectively, "Liability") arising directly or indirectly from or connected with this Lease and/or the Tenant's occupancy/use of the Leased Premises which is caused, or claimed or alleged to be caused, in whole or in part, by the negligence or willful misconduct of Landlord, its officers, employees, agents, contractors, consultants, or any person under its direction or control and shall make good to and reimburse Tenant for any expenditures, including reasonable attorney's fees, the Tenant may make by reason of such matters and, if requested by Tenant, shall defend any such suits at the sole cost and expense of Landlord. Landlord's obligations under this section shall exist regardless of concurrent negligence or willful misconduct on the part of the Tenant or any other person; provided, however, that Landlord shall not be required to indemnify Tenant for the proportion of Liability a court determines is attributable to the negligence or willful misconduct of the Tenant.

If such indemnification becomes necessary, the Counsel for the Tenant shall have the absolute right and discretion to approve or disapprove of any and all counsel employed to defend the Tenant. This indemnification clause shall survive the termination or expiration of this Lease.

## **ARTICLE V INSURANCE AND UTILITIES**

SECTION 5.01. **PERSONAL PROPERTY INSURANCE**: At all times during the term of this Lease (including any renewals or extensions thereof) Tenant, at Tenant's own expense, shall maintain an insurance policy for the personal property owned by Tenant. Said policy shall cover the loss of Tenant's personal property due to fire, vandalism and/or theft and shall be in an amount sufficient to compensate Tenant for the loss thereof.

SECTION 5.02. **LIABILITY INSURANCE**: At least 10 days prior to Tenant's occupancy of the Leased Premises, Tenant shall, at Tenant's own cost and expense, secure and maintain a broad form of comprehensive coverage insurance policy or public liability insurance policy, issued by an insurance company acceptable to Landlord, insuring Tenant and Landlord against loss or liability caused by or connected with Tenant's occupation and use of the Leased Premises. Such policies shall provide for coverage in amounts not less than \$1,000,000 for injury to or death of any one person in any one accident, happening or event, and at least \$200,000 for damage to or destruction of any property of others. Tenant shall keep and maintain such policy in effect during the entire term of this Lease and any renewals or extensions thereof.

SECTION 5.03. **NOTICE OF CANCELLATION**: Each policy of insurance procured by Tenant pursuant to Sections 5.01 and 5.02 above shall expressly name Landlord as an

“Additional Insured” and shall include a provision that Landlord be notified at least 10 days in advance of any cancellations of such policy.

SECTION 5.04. DEPOSIT OF INSURANCE POLICIES WITH LANDLORD: Within 30 days of issuance or renewal of any insurance policy required by this Lease, including fire and liability insurance policies, Tenant shall cause a duplicate copy of such policy (or policies) or a certificate evidencing such policy (or policies) to be provided to Landlord.

SECTION 5.05. UTILITIES: During the term of this Lease (including all renewals or extensions thereof) Tenant shall pay for all LP gas, electricity, telephone. Tenant shall contract for such services or utilities in Tenant’s own name and shall protect Landlord and the Leased Premises from any charges for such services or utilities.

## **ARTICLE VI DESTRUCTION OF PREMISES**

SECTION 6.01. DESTRUCTION OF PREMISES: If the Leased Premises shall be wholly destroyed or so damaged as to be wholly untenantable from any cause whatsoever, this Lease shall immediately terminate and Tenant shall thereupon be relieved of all obligations imposed by this Lease. Further, provided that Tenant has fully complied with the terms and conditions of this Lease, Landlord shall pay to Tenant the amount of any unearned rental and the amount of the Deposit. In the event the Leased Premises shall be partially destroyed by fire, earthquake, or acts of God, Landlord shall forthwith repair same, if such repairs can be made under the laws and regulations of any governmental authority having jurisdiction over the Leased Premises, within 90 days after the date of the partial destruction or, if such repairs cannot be completed within 90 days after the date of partial destruction and shall be diligently pursued thereafter. Landlord shall give Tenant written notice of Landlord’s intent to repair the Lease Premises within 10 days of the destruction of the Leased Premises. The repaired Leased Premises shall be restored to Tenant in the same condition as originally delivered to the Tenant, including improvements which have been made thereto by the Tenant. If such repairs cannot be made within the above period, this Lease may be terminated at the option of either party. Landlord shall not be liable for any loss of business, inconvenience or annoyance from any repair or restoration of any portion of the Leased Premises or the Property as a result of any damage from fire or other casualty.

SECTION 6.02. CONDEMNATION: If substantially all of the Leased Premises shall be taken for public or quasi-public use by any public or quasi-public authority under the power of eminent domain, then the terms of this Lease shall terminate as of the date possession is taken by such authority and the rent shall be paid up to such date with a proportionate refund by the Landlord to Tenant of any rent paid in advance for the period following such date. As between Landlord and Tenant, Tenant shall not be entitled to any condemnation proceeds.

## **ARTICLE VII DEFAULT**

SECTION 7.01. **DEFAULT; REMEDIES**: Tenant shall be in default under this Lease in the event Tenant fails to pay the Base Rent or any additional rent or other charges provided for in this Lease and such payment is not made within 15 days after written notice to Tenant to pay or if Tenant fails to faithfully perform or observe any of the other terms, conditions or covenants of this Lease. Tenant shall also be in default under this Lease upon the occurrence of any of the following: (I) abandonment of the Leased Premises; (ii) the filing of a voluntary petition of bankruptcy or for reorganization or composition under the federal Bankruptcy Act; (iii) Tenant shall be finally adjudicated involuntarily bankrupt; (iv) Tenant shall make a general assignment for the benefit of creditors; or (v) if a receiver or trustee for the benefit of creditors be appointed to hold, possess or control the Tenant's interest in the Lease or the Leased Premises. In the event of a default under this Lease by Tenant, Landlord, in addition to any other rights or remedies it may have by law, equity, statute or otherwise, shall have the remedies described in California Civil Code Section 1951.4 (landlord may continue lease in effect after Tenant's breach and abandonment and recover rent as it becomes due, if tenant has right to sublet or assign, subject only to reasonable limitations) and Section 1951.2 of the California Civil Code. No reentry or taking possession of the Leased Premises by Landlord shall be construed as an election by Landlord to terminate this Lease, unless a written notice of such intention is given by Landlord, or unless the termination thereof be decreed by a court of competent jurisdiction.

## **ARTICLE VIII MISCELLANEOUS**

SECTION 8.01. **ASSIGNMENT OF LEASE AND SUBLETTING**: Tenant shall not assign its interest, or any of it, in this Lease or sublease the Leased Premises or any portion thereof without the advance written consent of Landlord. Notwithstanding any such assignment or sublease, in no event shall Tenant be released from its obligations and duties under this Lease unless Landlord consents in writing, to such a release, which consent shall not be unreasonably withheld.

SECTION 8.02. **SUCCESSORS AND ASSIGNS**: Subject to Section 8.01 above, this Lease and the terms, covenants and conditions hereof apply to and are binding on the heirs, successors, executors, administrators and assigns of the parties hereto.

SECTION 8.03. **EFFECT OF WAIVER**: Landlord's waiver of breach of one term, covenant or condition of this Lease is not a waiver of breach of others, nor of subsequent breach of the one waived.

SECTION 8.04. **ATTORNEY'S FEES**: In the event Landlord shall bring an action against Tenant, or Tenant shall bring an action against Landlord, to enforce the payment of any rent hereunder or to enforce any of the terms, conditions or covenants hereof or commence a summary action under the unlawful detainer laws of the State of California, the non-prevailing party agrees to pay to the prevailing party all reasonable attorney's fees expended by prevailing party therein, which fees shall be fixed by the court and



made a part of the judgment in any such action. Any dispute arising hereunder or relating to this Lease shall be litigated in the State of California and venue shall lie in the County of Tuolumne.

SECTION 8.05. NOTICES: Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Lease or by law to be served on or given to either party hereto by the other party hereto shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom it is directed, or to any managing employee or officer of such party or, in lieu of such personal service, when deposited in the United States mail, first class postage prepaid, addressed to Tenant and Landlord at the address set forth below:

LANDLORD:

975 Morningstar LLC  
1724 South 6<sup>th</sup> Street  
Los Banos, CA 93635  
Phone: (209) 826-5413

TENANT:

Tuolumne County Transportation Council  
ATTN: Executive Director  
975 Morningstar Dr., Ste. B  
Sonora, CA 95370  
Phone: (209) 533-5603  
Fax: (209) 533-5698

With Copy to:

County Counsel  
2 South Green Street  
Sonora, CA 95370  
Fax: 209-533-5593

Either party, Landlord or Tenant, may change their address for purposes of this section by giving written notice of such change to the other party in the manner provided in this Section.

SECTION 8.06. TIME: Time is of the essence of this Lease.

SECTION 8.07. ESTOPPEL CERTIFICATES: At Landlord's request, Tenant shall execute, acknowledge and deliver to Landlord a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect), (ii) the amount of any security deposit retained by Landlord, (iii) the date to which the Base Rent and other additional rent and charges payable under this Lease have been paid, and (iv) acknowledging that there are not to Tenant's knowledge, any uncured

defaults if any are claimed. Any such statement may conclusively relied upon by a prospective purchaser or lender interested in the Property. Tenant's failure to deliver such a statement within five business days of Landlord's request shall be a material breach of this Lease. If Landlord desires to finance, refinance or sell the Property, Tenant shall deliver to any lender or purchaser designated by Landlord such financial statement of Tenant as may be reasonably required by such lender or purchaser.

*[signatures follow on next page]*

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date first above written.

LANDLORD  <hr/>	TUOLUMNE COUNTY TRANSPORTATION COUNCIL  <hr/>
By: Alan Sagouspe	By: Michael Ayala, Chair
	Approved as to legal form: COUNTY COUNSEL  <hr/> By: Carlyn M. Drivdahl Deputy County Counsel

## Exhibit A

Improvement Request	Cost	Responsibility
1. Carpet	8,700.00	Owner
2. Painting inside	2,800.00	Owner
3. Cleaning inside and outside	600.00	Owner
4. Outside sitting area	1,400.00	Tenant
5. T-bar ceiling	1,260.00	Tenant
6. Wall framing, sheetrock and texture (labor and materials)	8,620.00	Tenant
7. Electrical wiring and lights	3,100.00	Tenant
8. Double doors for conference room	2,500.00	Tenant
9. Supervision and overhead	3,850.00	
	42% <1,617.00>	Owner
	58% <2,233.00>	Tenant
10. Permits & Fees, Insurance	4,000.00	
	42% <1,680.00>	Owner
	58% <2,320.00>	Tenant
<b>Total Cost:</b>	<b>36,830.00</b>	
<b>Owner Responsibility</b>	<b>15,397.00</b>	
<b>Tenant Responsibility</b>	<b>21,433.00</b>	