

## GATEWAY MONUMENT MAINTENANCE AGREEMENT WITHIN STATE HIGHWAY RIGHT OF WAY ON ROUTE 50 WITHIN THE COUNTY OF EL DORADO

THIS AGREEMENT is made effective this 11th day of September, 20 18, by and between the State of California, acting by and through the Department of Transportation, hereinafter referred to as "STATE" and the County of El Dorado hereinafter referred to as "COUNTY" and collectively referred to as "PARTIES".

### SECTION I

#### RECITALS

1. The Community Economic Development Association of Pollock Pines "CEDAPP" desires to place a Pollock Pines Gateway Monument including support posts, herein referred to as "MONUMENT", within the STATE right of way on US Route 50, as shown in Exhibit "A", attached to and made a part of this agreement.
2. COUNTY desires to assist CEDAPP in their efforts to place the MONUMENT, and act as an intermediary between STATE and CEDAPP for the purposes of the placement and maintenance of the MONUMENT.
3. COUNTY does not desire to assume undue obligations, costs, or liability for the MONUMENT, and desires to allocate its respective obligations, costs, and liability incurred by entering into this Agreement to CEDAPP.
4. COUNTY desires, upon execution of this agreement, simultaneously, or at a later date, to enter into a maintenance agreement between COUNTY and CEDAPP to allocate its respective obligations relative to the placement and maintenance of the MONUMENT.
5. PARTIES desire to work together to allocate their respective obligations relative to newly constructed or revised improvement within STATE's right of way by Encroachment Permit Number 0318-NGM0916.
6. This Agreement addresses COUNTY responsibility for the gateway monument and its support posts (collectively the "MONUMENT") placed within State Highway right of way on US Route 50, as shown on Exhibit "A", attached to and made a part of this Agreement.

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

### SECTION II

#### AGREEMENT

1. In consideration of the mutual covenants and promises herein contained, COUNTY and STATE agree as follows:

- 1.1. PARTIES have agreed to an allocation of maintenance responsibilities that includes, but is not limited to, inspection, providing emergency repair, replacement, and maintenance, (collectively hereinafter "MAINTAIN/MAINTENANCE") of MONUMENT as shown on said Exhibit "A".
  - 1.2. When a future improvement associated with the MONUMENT is constructed and/or a minor revision has been effected with STATE's consent or initiation within the limits of the STATE's right of way herein described which affects PARTIES' division of maintenance responsibility as described herein, PARTIES will agree upon and execute a new dated and revised Exhibit "A" which will be made a part hereof and will thereafter supersede the attached original Exhibit "A" to thereafter become a part of this Agreement. The new exhibit can be executed only upon written consent of the PARTIES hereto acting by and through their authorized representatives. No formal amendment to this Agreement will be required. Any changes to the terms and conditions of this Agreement shall be made by a formal amendment.
2. COUNTY agrees, at COUNTY expense, to do the following:
- 2.1. COUNTY may install, or contract authorizing a licensed contractor with appropriate class of license in the State of California to install, and thereafter will MAINTAIN MONUMENT conforming to those plans and specifications (PS&E) pre-approved by STATE.
  - 2.2. The degree or extent of maintenance work to be performed, and the standards therefore, shall be in accordance with the provisions of Section 27 of the Streets and Highways Code and the then current edition of the State Maintenance Manual.
  - 2.3. COUNTY shall submit the final form of the PS&E, prepared, stamped and signed by a licensed engineer, for MONUMENT to STATE's District Permit Engineer for review and approval and will obtain and have in place a valid necessary encroachment permit prior to the start of any work within STATE's right of way. All proposed MONUMENT must meet STATE's applicable standards.
  - 2.4. COUNTY shall ensure that MONUMENT are provided with adequate scheduled routine MAINTENANCE necessary to MAINTAIN a neat and attractive appearance.
  - 2.5. An Encroachment Permit rider may be required for any changes to the scope of work allowed by this Agreement prior to the start of any work within STATE's right of way. Changes to the scope of work include, but are not limited to changes in the size, shape, color, pattern, materials, locations, supporting posts, lighting, and wording of MONUMENT.

- 2.6. COUNTY shall be required to obtain an encroachment permit for any repair work and changes to the scope of work allowed by this Agreement prior to the start of any work within STATE's right of way.
- 2.7. COUNTY and COUNTY contractors shall be required to obtain an Encroachment Permit prior to the start of any work within STATE's right of way.
- 2.8. To remove MONUMENT and restore STATE owned areas to a safe and operable condition acceptable to STATE in the event this Agreement is terminated as set forth herein.
- 2.9. To furnish electricity and MAINTAIN lighting system and controls for MONUMENT.
- 2.10. To inspect MONUMENT on a regular monthly or weekly basis to ensure the safe operation and condition of the MONUMENT.
- 2.11. To expeditiously MAINTAIN, replace, repair or remove from service any MONUMENT component that has become unsafe or unsightly.
- 2.12. To MAINTAIN MONUMENT within the Agreement limits of the STATE highway right of way, as shown on Exhibit "A". MAINTENANCE includes, but is not limited to, restoration work to maintain the integrity of the approved MONUMENT, and the removal of dirt, debris, graffiti, advertising, weeds, and any deleterious item or material on or about MONUMENT in an expeditious manner.
- 2.13. Graffiti removal shall conform to current Department policies and guidelines, which require prompt removal of offensive messages and timely removal of graffiti.
- 2.14. Maintenance practices shall protect air and water quality as required by law.
- 2.15. To allow random inspection of MONUMENT by a STATE representative.
- 2.16. To keep the entire MONUMENT area policed and free of litter and deleterious material.
- 2.17. To remove MONUMENT, whenever, in the opinion of STATE, that it creates a safety or operational concern due to deterioration or inadequate maintenance. In the event COUNTY fails to maintain, repair, rehabilitate, or remove MONUMENT in a timely manner, STATE may remove MONUMENT sixty (60) days following written notification to COUNTY, and STATE will bill COUNTY for all costs associated with the removal and restoration of STATE owned area to its original condition.
- 2.18. All work by or on behalf of COUNTY will be done at no cost to STATE.

3. STATE agrees to do the following:

- 3.1. May provide COUNTY with timely written notice of unsatisfactory conditions that require correction by the COUNTY. However, the non-receipt of notice does not excuse COUNTY from maintenance responsibilities assumed under this Agreement.
- 3.2. Issue encroachment permits to COUNTY and COUNTY contractors at no cost to them.
- 3.3. STATE reserves the right to remove MONUMENT due to construction, rehabilitation, or other necessary activities affecting the transportation facilities without any obligation, compensation to, or approval of COUNTY. STATE will provide a sixty (60) day written notice to COUNTY of its intent to remove MONUMENT to allow for timely removal and salvage by COUNTY.
- 3.4. STATE reserves the right to remove MONUMENT or alter parts that present an immediate safety hazard to the public without delay or advanced notification to COUNTY.

4. LEGAL RELATIONS AND RESPONSIBILITIES:

- 4.1. Nothing within the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not party to this Agreement, or affect the legal liability of either PARTY to this Agreement by imposing any standard of care respecting the design, construction and maintenance of these STATE highway improvements or COUNTY facilities different from the standard of care imposed by law.
- 4.2. If during the term of this Agreement, COUNTY or its authorized representative should cease to MAINTAIN the MONUMENT to the satisfaction of STATE as provided by this Agreement, STATE may either undertake to perform that MAINTENANCE on behalf of COUNTY at COUNTY's expense or direct COUNTY to remove or itself remove MONUMENT at COUNTY's sole expense and restore STATE's right of way to its prior or a safe operable condition. COUNTY hereby agrees to pay said STATE expenses, within thirty (30) days of receipt of billing by STATE. However, prior to STATE performing any MAINTENANCE or removing MONUMENT, STATE will provide written notice to COUNTY to cure the default and COUNTY will have thirty (30) days within which to affect that cure.
- 4.3. Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by COUNTY under or in connection with any work, authority or jurisdiction arising under this Agreement. It is understood and agreed that

COUNTY shall fully defend, indemnify and save harmless STATE and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by COUNTY under this Agreement.

5. PREVAILING WAGES:

- 5.1. Labor Code Compliance- If the work performed on this Project is done under contract and falls within the Labor Code section 1720(a)(1) definition of a "public work" in that it is construction, alteration, demolition, installation, or repair; or maintenance work under Labor Code section 1771. COUNTY must conform to the provisions of Labor Code sections 1720 through 1815, and all applicable provisions of California Code of Regulations found in Title 8, Chapter 8, Subchapter 3, articles 1-7. COUNTY agrees to include prevailing wage requirements in its contracts for public work. Work performed by COUNTY'S own forces is exempt from the Labor Code's Prevailing Wage requirements.
- 5.2. Requirements in Subcontracts - COUNTY shall require its contractors to include prevailing wage requirements in all subcontracts funded by this Agreement when the work to be performed by the subcontractor is a "public work" as defined in Labor Code Section 1720(a)(1) and Labor Code Section 1771. Subcontracts shall include all prevailing wage requirements set forth in COUNTY's contracts.

6. INSURANCE :

- 6.1. SELF-INSURED - COUNTY is self-insured. COUNTY agrees to deliver evidence of self-insured coverage providing general liability insurance, coverage of bodily injury liability and property damage liability, naming the STATE, its officers, agents and employees as the additional insured in an amount of \$1 million per occurrence and \$2 million in aggregate. Coverage shall be evidenced by a certificate of insurance in a form satisfactory to the STATE that shall be delivered to the STATE with a signed copy of this Agreement in a form satisfactory to STATE, along with a signed copy of the Agreement.
- 6.2. SELF-INSURED using Contractor - If the work performed on this Project is done under contract COUNTY shall require its contractors to maintain in force, during the term of this agreement, a policy of general liability insurance, including coverage of bodily injury liability and property damage liability, naming the STATE, its officers, agents and employees as the additional insured in an amount of \$1 million per occurrence and \$2 million

in aggregate. Coverage shall be evidenced by a certificate of insurance in a form satisfactory to the STATE that shall be delivered to the STATE with a signed copy of this Agreement.

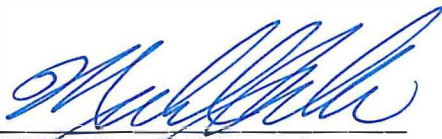
- 7. TERMINATION - This Agreement may be terminated by timely mutual written consent by PARTIES or by STATE for cause or convenience. COUNTY's failure to comply with the provisions of this Agreement may be grounds for a Notice of Termination by STATE.
- 8. TERM OF AGREEMENT -This Agreement shall become effective on the date first shown on its face sheet and shall remain in full force and effect until amended or terminated as described in Article 7 above.

PARTIES are empowered by Streets and Highways Code Section 114 & 130 to enter into this Agreement and have delegated to the undersigned the authority to execute this Agreement on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this Agreement.

IN WITNESS WHEREOF, the PARTIES hereto have set their hands and seals the day and year first above written.

THE COUNTY OF EL DORADO

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION

By:   
Chair, Board of Supervisors  
BOS 6/5/2018

LAURIE BERMAN  
Director of Transportation

ATTEST:

By:   
County Clerk

By:   
Amarjeet S. Benipal, District 3 Director

As to Form and Procedure:

By:   
County Attorney



GATEWAY MONUMENT - MAINTENANCE AGREEMENT WITH EL DORADO COUNTY

EXHIBIT "A"

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LOCATION MAP

ENCROACHMENT PERMIT # 0318-NGM0916  
ED 50 PM 30.38



GATEWAY MONUMENT - MAINTENANCE AGREEMENT WITH EL DORADO COUNTY

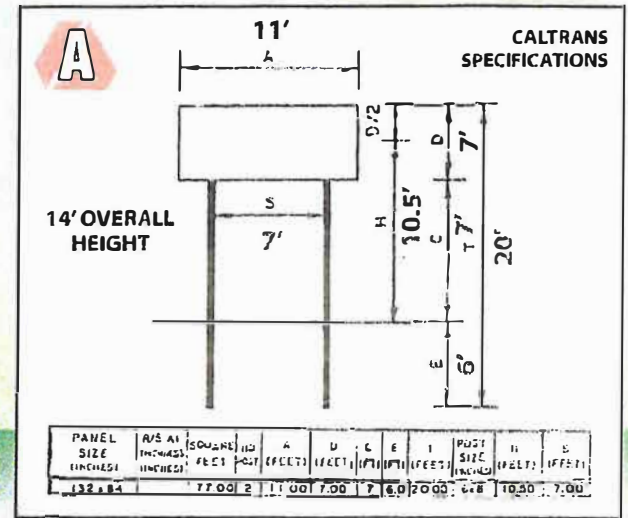
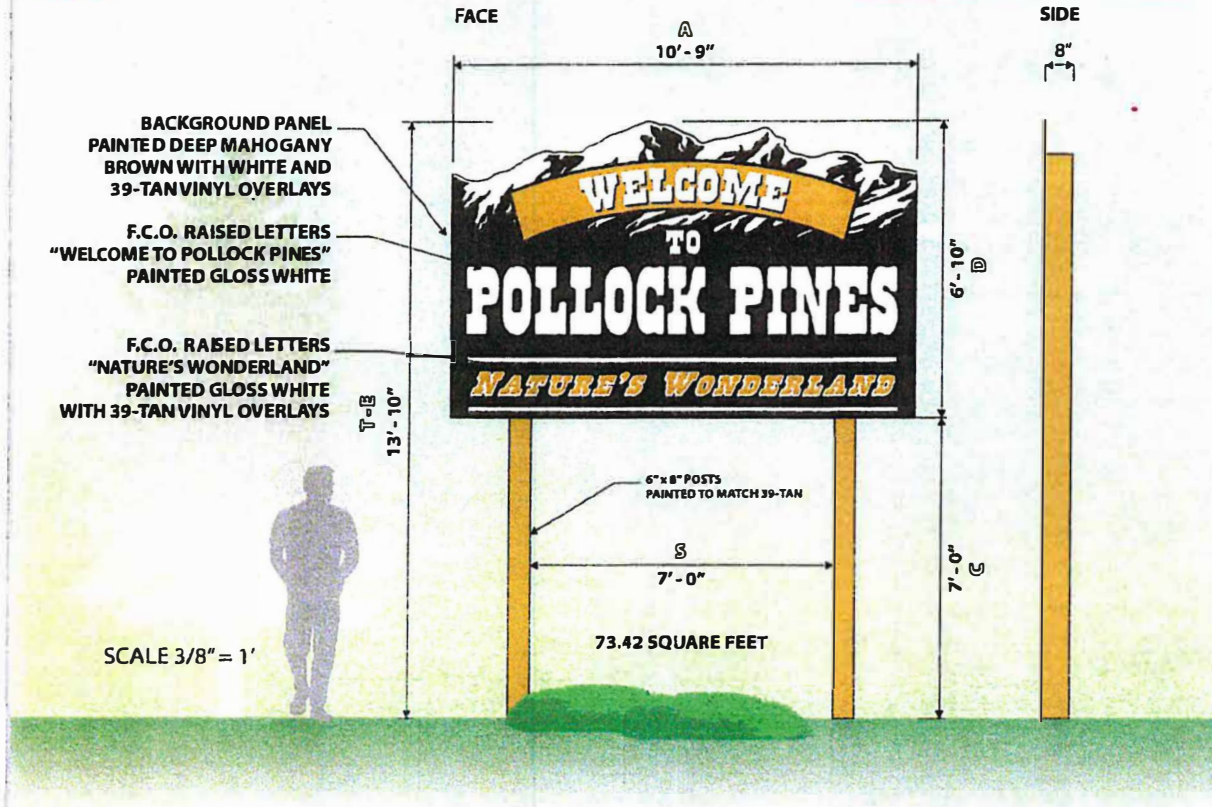
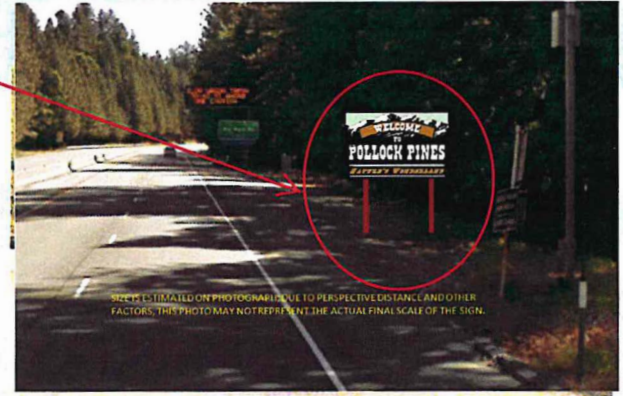
EXHIBIT "A"

PAGE 2 OF 2

CEDAPP  
POLLOCK PINES, CA

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TO BE MAINTAINED  
BY COUNTY AT  
COUNTY EXPENSE



ENCROACHMENT PERMIT # 0318-NGM0916  
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