

CITY OF
FOLSOM
DISTINCTIVE BY NATURE

**OPERATIONAL AGREEMENT
PARCEL 61 ELECTRONIC READERBOARD SIGN**

This Operational Agreement, for the Parcel 61 Electronic Readerboard Sign (“Agreement”), for reference dated _____, 2025, is made by and between the City of Folsom, a Municipal Corporation, hereinafter referred to as "City" and Eagle Commercial Properties, LLC (“Developer”).

WITNESSETH:

WHEREAS, the Planning Commission of the City of Folsom recommended to the City Council approval of the Folsom Plan Area Specific Plan Amendment for Electronic Readerboard Sign project (“Sign Project”) on November 15, 2023; and

WHEREAS, the City Council of the City of Folsom approved the Sign Project on January 9, 2024; and

WHEREAS, the Sign Project is to be located on Assessor’s Parcel Number 072-3190-052, also known as Parcel 61A-1, Folsom, CA 95630 located at the southwest corner of East Bidwell Street and Alder Creek Parkway and depicted on Exhibit “A” and described on Exhibit “B” attached hereto; and

WHEREAS, Condition No. 7 of the conditions of approval for the Sign Project requires Developer to enter into an operation, maintenance, and advertising agreement with the City; and

WHEREAS, City and Developer desire to enter into an operation, maintenance, and advertising agreement for the Parcel 61 Electronic Readerboard Sign (“Sign”) as well as define permissible off-site advertising on the Sign; and

WHEREAS, Developer intends to contract with a third-party sign operator with expertise

in the marketing and operation of the Sign (the “Sign Operator”); and

WHEREAS, Developer agrees to cause the Sign Operator to proactively seek Folsom-based businesses wishing to advertise on the Sign, and

WHEREAS, Developer agrees to cause the Sign Operator to focus off-site advertising on those businesses that are complementary to the Folsom Plan Area’s core businesses, and

WHEREAS, Developer agrees to restrict Adult-Related Businesses including Cannabis-Related Products and Businesses from advertising on the Sign; and

WHEREAS, the City will receive public benefits from the operation of the Sign.

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants, promises, and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, do hereby agree as follows:

I. Agreement

This Agreement is made with Developer, but all terms and conditions contained herein are fully applicable to any agents or contractors of Developer, including but not limited to, any of Developer’s Sign Operators, successors and assigns, and any person or entity responsible for the development, sale, and display of messages on the Sign.

II. Advertisement Scheduling

A. Developer, through its Sign Operator, shall display advertisements on the Sign according to the following time allocations:

%	Purpose
10	For City of Folsom public service messages and advertising, including Amber Alerts (1)
50-40	Reserved for Folsom Plan Area Businesses and Folsom Plan Area event advertising (2)
40-50	For off-site advertising, in order of priority for a) Folsom Based Businesses and Folsom based events located outside the Folsom Plan Area; and b) Third Parties Advertisers (2)

(1) Consistent with existing practices on other electronic signs within the City.

(2) Sliding scale depending on market conditions for Folsom Plan Area businesses, Folsom Plan Area events, and advertising sales.

B. Definitions:

1. “Business” means activities, services, products and goods sold, conducted, marketed, promoted or rendered, or otherwise made available to the public.
2. “City Messaging” means messages by the City that advertise City organized

events, programs, and activities, and City-sponsored events, including such events that are sponsored but not organized or operated by the City.

3. "Folsom Plan Area Business" means existing or future business uses located within the Folsom Plan Area Specific Plan. Folsom Plan Area Businesses may also be referred to herein as "Folsom Plan Area Customers."
4. "Folsom-Based Business" means existing or future business uses located within the City of Folsom but outside of the Folsom Plan Area Specific Plan. Folsom-Based Businesses may also be referred to herein as "Folsom-Based Business Customers."
5. "Third-Party Advertisers" or "Offsite Advertisers" means off-site advertisers that are not a party to this Agreement and are neither Folsom Plan Area Businesses nor Folsom-Based Businesses.
6. "Third-Party Advertising" or "Offsite Advertising" means off-site advertising by a Third-Party Advertiser and excludes Adult-related Businesses including Cannabis-Related Products and Businesses as further defined in Section IV.

D. Developer, through its Sign Operator, agrees to display "Amber Alert" messages as needed upon request by the City. The emergency messaging will take priority over the other messaging, as provided in the Outdoor Advertising Association of America (OAAA) standards. If any modification to the Sign is required to accommodate "Amber Alert" messages at any time of day or night, or if the Sign Operator charges Developer additional payments or fees of any nature associated with Amber Alert messages, such costs, if any, shall be the sole responsibility of Developer and shall not be factored into the revenue or expenses referenced in the following section. Amber Alert messages shall be counted towards the City's 10% of time on the Sign for City Messaging.

III. Revenue Sharing and Payment

A. Developer will contribute to the City ten percent (10%) of the net revenue from the sale of advertising time on the Sign. Net revenue is the gross advertising receipts for Folsom Based Businesses, Folsom based events located outside the Folsom Plan Area, and Third Party Advertisers, less advertising sales commissions, programming fees, and maintenance fees charged to the Developer for the operation of the Sign and any expenses incurred by the Developer in the direct marketing of advertising time to Folsom Based Businesses, Folsom based events located outside the Folsom Plan Area, and Third Parties Advertisers in compliance with this Agreement.

B. Developer shall submit advertising documentation and payment to City not more frequently than quarterly and not less frequently than semi-annually for City's share of advertising revenue for the preceding period. Together with such payments Developer shall submit documentation describing the advertising time share displayed, the total revenue received, and all

other associated costs, including advertising sales commissions and programming fees, maintenance fees paid in the operation of the Sign, and expenses incurred in direct marketing of advertising time on the Sign.

C. The City shall have the right to review all books and records kept by Developer and any Sign Operator or other agent contracted with Developer in connection with the operation and services performed under this Agreement.

D. Developer shall transmit documentation and payment required by this Agreement to City as follows:

Department of Finance, Revenue Division
City of Folsom
50 Natoma Street
Folsom, California 95630

IV. Third Party Advertising Content

A. “Third-Party Advertising” has the meaning assigned to it under Section II. Developer intends to focus Third-Party Advertising on those businesses complementary to the Folsom Plan Area’s core business, including, but not limited to, retail brands, restaurants, shops, professional service providers and professional offices, lending institutions, medical institutions, and other such businesses. Developer will proactively seek Folsom Based Businesses wishing to advertise on the Sign. Advertisements featuring out-of-town businesses and/or Third Party Advertisers should be infrequent enough to be considered incidental to the total advertising time capacity of the Sign.

B. The City and Developer acknowledge that the Sign is a private sign, and that the City does not dictate nor control the advertising content thereon. Developer agrees that it controls the advertising content on its private sign and further agrees, as additional consideration for this Agreement, not to advertise Adult-Related Businesses as defined in Folsom Municipal Code Section 17.24.010 or Commercial Cannabis-Related Products and Businesses (also known as commercial nonmedical marijuana uses) as defined in Folsom Municipal Code Section 17.113.020.A. on the Sign.

V. Conditional Use Permit

In addition to the terms contained herein, Developer is subject to all terms in the Conditional Use Permit (“CUP”) for operation of the Sign, and all future amendments thereto. Nothing in this Agreement shall be construed to limit the power, right, and authority of City and its governing bodies from granting, denying, or modifying the terms of the CUP or revoking or conditioning the CUP as otherwise permissible by law following the procedures in City Code and state law.

VI. Severability

If any provision of this Agreement is found illegal or unenforceable, the legality and enforceability of the other provisions of this Agreement will not be affected. Notwithstanding the foregoing, City and Developer expressly agree that if any provision of this Agreement is found illegal or unenforceable, City and Developer will negotiate a replacement section within a reasonable time of a final ruling declaring the provision illegal or unenforceable. In the event that the parties are unable to reach agreement on a replacement section within that time, the City may terminate this Agreement immediately.

VII. Term and Termination

City and Developer intend to continue this Agreement in perpetuity, commencing upon digital activation of the Sign, as long as the City allows and as long as Developer includes, advertising by Folsom Based Businesses, and Folsom based events located outside the Folsom Plan Area, and Third Party Advertisers on the Sign.

Nothing in this Agreement shall be construed to limit the power, right, and authority of the City from modifying the Folsom Plan Area Specific Plan relating to advertising by Folsom Based Businesses, Folsom based events located outside the Folsom Plan Area, or Third Party Advertisers on the Sign in any way, including but not limited to allowing or disallowing such advertising.

In the event that the City should exercise its power, right, and authority to modify the Folsom Plan Area Specific Plan in any manner that would restrict the ability to display advertising by Folsom Based Businesses, Folsom based events located outside the Folsom Plan Area, or Third Party Advertisers on the Sign, the City may immediately terminate this Agreement. This provision is to be broadly construed to assure the City retains all its power, right, and authority to enact ordinances and to terminate this Agreement without any risk of damages or liability to the Developer.

In the event this agreement is terminated, Developer expressly waives any claims or causes of action for damages of any kind associated with termination of this Agreement.

VIII. Good Faith Efforts and Dispute Resolution

The City and Developer will create a relationship committee that will meet no less than twice per year in order to review the operation of the Sign. Both parties will work in good faith to resolve any conflicts regarding this Agreement, the Sign operation and advertising content, including reasonable opportunity to cure any asserted default by either party.

IX. Governing Law and Venue

This Agreement and all matters relating to it shall be governed by the laws of the State of California. Any action brought relating to this Agreement shall be held exclusively in a state court in the County of Sacramento.

X. Amendments

This Agreement shall not be amended, modified, or otherwise changed unless in writing and signed by both parties hereto.

XI. Waiver

In the event that either party shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or any other covenant, condition or obligation. Waiver shall not be deemed effective until and unless signed by the waiving party.

XII. Entire Agreement

The Agreement constitutes the entire understanding and agreement of the parties and supersedes all previous and/or contemporaneous understanding or agreement between the parties with respect to all or any part of the subject matter hereof.

XII. Counterpart Execution

This Agreement may be executed in several counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument. Facsimile or e-mailed PDF signatures to this Agreement shall be binding upon the Parties.

END OF TEXT -SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed.

DEVELOPER:

Eagle Commercial Properties, LLC.

(If a corporation, must be signed by two officers of the corporation per Corporations Code section 313.)

Date

Tax I.D. Number

Signature

Signature

Jim Galovan

Print Name

Print Name

Title

Title

CITY OF FOLSOM, A Municipal Corporation:

Date

Bryan Whitemyer, City Manager

ATTEST:

FUNDING AVAILABLE:

Christa Freemantle, City Clerk Date

Stacey Tamagni, Finance Director Date

ORIGINAL APPROVED AS TO CONTENT:

ORIGINAL APPROVED AS TO FORM:

Pam Johns, Community Development Date
Director

Steven Wang, City Attorney Date

NOTICE: SIGNATURE(S) ON BEHALF OF DEVELOPER MUST BE NOTARIZED.

A certificate of acknowledgment in accordance with the provisions of California Civil Code section 1189 must be attached for each person executing this agreement on behalf of consultant.

This section provides, at part (b): "Any certificate of acknowledgment taken in another place shall be sufficient in this state if it is taken in accordance with the laws of the place where the acknowledgment is made."

EXHIBIT A

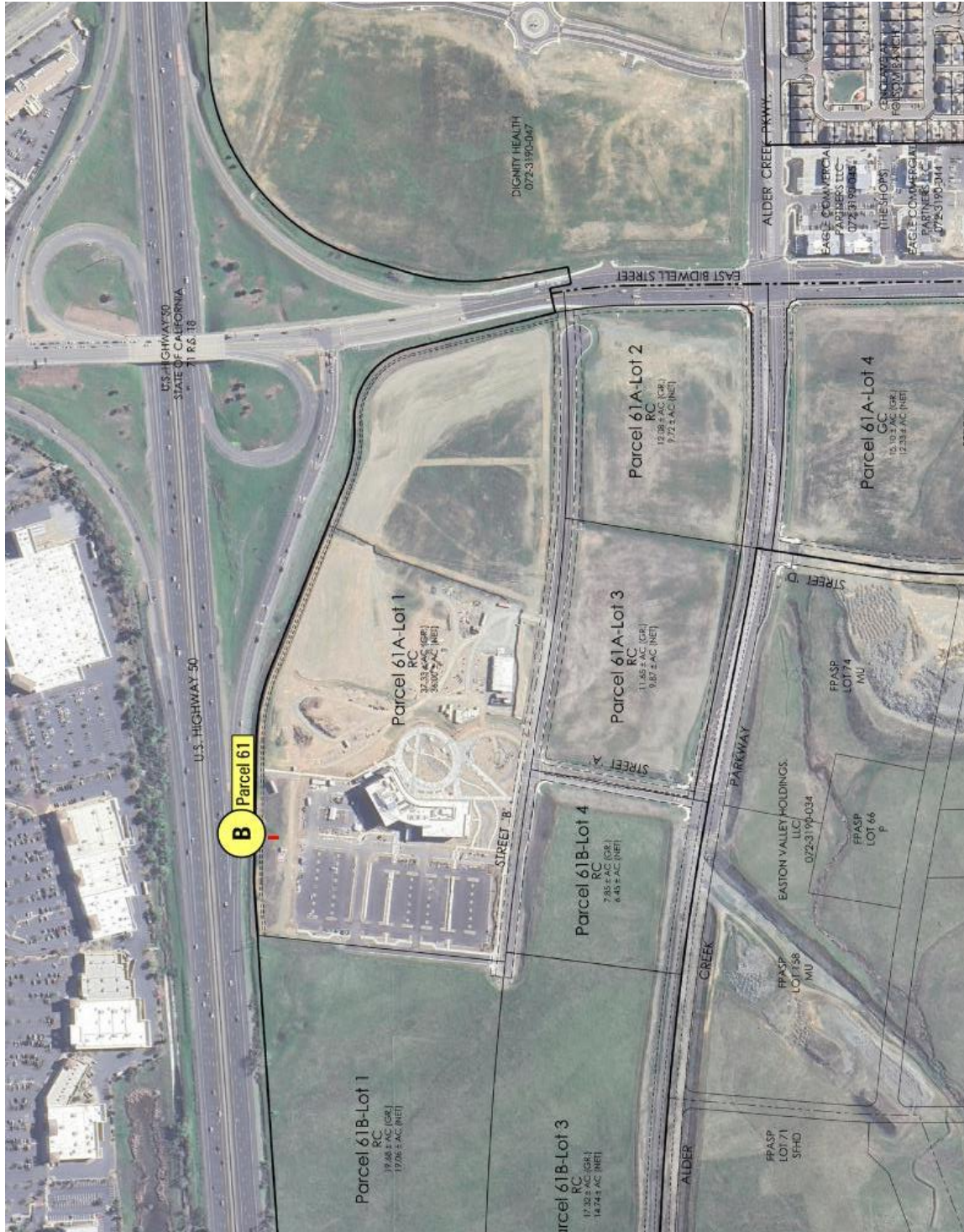


EXHIBIT B

LEGAL DESCRIPTION OF PROPERTY

Situated in the City of Folsom, County of Sacramento, State of California and more particularly described as follows:

Lot 1 as shown on that certain map entitled "PN 21-043 Parcel Map, Parcel 61" filed for record in the Office of the Recorder of the County of Sacramento, City of Folsom, State of California on October 12, 2021, in Book 245 of Parcel Maps, at Page 2, Sacramento County Records.

APN: 072-3190-030-0000 (a portion)