

A G R E E M E N T

FOR CARRYING OUT NATIONAL POLICY RELATIVE TO CONTROL  
OF OUTDOOR ADVERTISING IN AREAS ADJACENT TO THE NATIONAL  
SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS AND THE  
FEDERAL-AID PRIMARY SYSTEM.

THIS AGREEMENT made and entered into this 29<sup>th</sup> day of October, 1968, by and between the United States of America represented by the Secretary of Transportation acting by and through the Federal Highway Administrator, hereinafter referred to as the "Administrator" and the State of Nebraska hereinafter referred to as the "State" through its Department of Roads, hereinafter referred to as "Department", by the State Engineer. Witnesseth:

WHEREAS, Congress has declared that Outdoor Advertising in areas adjacent to the Interstate and Federal-aid Primary Systems should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel and preserve natural beauty; and

WHEREAS, Section 131 (d) of Title 23, United States Code authorizes the Secretary of Transportation to enter into agreements with the several states to determine the size, lighting, and spacing of signs, displays, and devices, consistent with customary use, which may be erected and maintained within 660 feet of the nearest edge of the right-of-way within areas zoned industrial or commercial under authority of State Law or in unzoned commercial or industrial areas, also to be determined by agreement, PROVIDED that whenever a bona fide State, county or local zoning authority has made a determination of customary use, as to size, lighting and spacing, such determination may be accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority, and

WHEREAS, the purpose of said agreement is to promote the reasonable, orderly, and effective display of outdoor advertising while remaining consistent with the National policy to protect the public investment in the Interstate and Federal-aid Primary highways, to promote the safety and recreational value of public travel and to preserve natural beauty, and

WHEREAS, Section 39-1305, R.R.S. 1943 authorizes the Department to enter contracts necessary to cooperate with the United States Government in

matters relating to the cooperative construction or improvement of the State Highway System, for which federal funds or aid are secured; and

WHEREAS, Section 131 (b) of Title 23, United States Code provides that Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System, and the primary system of outdoor advertising signs, displays and devices which are within six hundred and sixty feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under Section 104 of Title 23, United States Code until such time as such State shall provide for such effective control; and

WHEREAS, the State of Nebraska desires to implement and carry out the provisions of Section 131 of Title 23, United States Code, and the National policy in order to remain eligible to receive the full amount of all Federal-aid highway funds apportioned to such state on or after January 1, 1968, under Section 104 of Title 23, United States Code; and

WHEREAS, the Department and the Federal Highway Administrator entered into an agreement on June 15, 1961, whereby the State agreed to control the erection and maintenance of outdoor advertising signs, displays and devices in areas adjacent to the National System of Interstate and Defense Highways in accordance with the provisions of Section 131 of Title 23, United States Code, and the National standards as in effect on June 30, 1965; and

WHEREAS, Section 131 (j) of Title 23, United States Code, provides that a State shall be entitled to receive the bonus payments as set forth in said agreement provided the State maintains the control required under such agreement.

WHEREAS, the State of Nebraska desires to implement and carry out these provisions in order to remain eligible to receive payment of the one half of one percent increase in the Federal share payable on account of any project on the Interstate System within the State.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. Definitions

- A. The term "Act" means Section 131 of Title 23, United States Code (1965) commonly referred to as Title I of the Highway Beautification Act of 1965.

- B. Commercial or industrial activities for purposes of unzoned industrial and commercial areas means those activities generally recognized as commercial or industrial by zoning authorities in this State, except that none of the following activities shall be considered commercial or industrial:
1. Outdoor advertising structures.
  2. General agricultural, forestry, ranching, grazing, farming and related activities, including but not limited to, wayside fresh produce stands.
  3. Activities normally or regularly in operation less than three months of the year.
  4. Activities conducted in a building principally used as a residence.
  5. Railroad tracks and minor sidings.
  6. Activities more than 660 feet from the nearest edge of the right-of-way.
- C. Unzoned commercial or industrial area means all areas within 660 feet of the nearest edge of the right-of-way of the Interstate and Federal-aid Primary systems which are not zoned by State or local law, regulation or ordinance and on which there is located one or more permanent structures devoted to a business or industrial activity or on which a commercial or industrial activity is conducted, whether or not a permanent structure is located thereon, the area between said activity and the highway, and the area along the highway extending outward 600 feet from and beyond each edge of such activity, and in the case of the primary may include the unzoned lands on both sides of such road or highway to the extent of the same dimensions; provided those lands on the opposite side of the highway are not deemed scenic or having aesthetic value as determined by the Nebraska Department of Roads.
- In determining such an area measurements shall be made from the furthest or outermost edges of the regularly used area of the commercial or industrial activity, structures, normal points of ingress and egress, parking lots, storage and processing areas constituting an integral part of such commercial or industrial activity.
- D. Zoned commercial or industrial areas mean those areas within 660 feet of the nearest edge of the right-of-way of the Interstate and Primary Systems zoned by State or local authorities for industrial

or commercial activities.

- E. National System of Interstate and Defense Highways and Interstate System means the system presently defined in and designated pursuant to subsection (d) of Section 103 of Title 23, United States Code.
- F. Federal-aid primary highway means any highway within that portion of the State Highway System as designated, or as may hereafter be so designated by the State, which has been approved by the Secretary of Transportation pursuant to subsection (b) of Section 103 of Title 23, United States Code.
- G. Traveled way means the portion of a roadway for the movement of vehicles, exclusive of shoulders.
- H. Main-traveled way means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.
- I. Sign means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard or other thing, whether placed individually or on a V-type, back-to-back or double-faced display, designed, intended or used to advertise or inform, any part of the advertising, or informative contents of which is visible from any place on the main-traveled way of the Interstate or Federal-aid Primary Highway Systems.
- J. Erect means to construct, build, raise, assemble, place, affix attach, create, paint, draw or in any other way bring into being or establish, but it shall not include any of the foregoing activities when performed as an incident to the change of an advertising message or the customary maintenance of the sign structure.
- K. Maintain means to allow to exist.

## II. Scope of Agreement

This Agreement shall apply to the following areas:

- A. All zoned commercial or industrial areas within the boundaries of incorporated municipalities, as those boundaries existed on September 21, 1959, and all other areas where the land use as of September 21,

1959, was clearly established by State law as industrial or commercial and which are within 660 feet of the nearest edge of the right-of-way of any portion of the Interstate System within the State of Nebraska in which outdoor advertising signs, displays, and devices may be visible from the main-traveled way of said system.

- B. All zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way of the Interstate System, within the State of Nebraska constructed upon right-of-way, any part of the width of which was acquired on or before July 1, 1956, in which outdoor advertising signs, displays and devices may be visible from the main-traveled way of the system.
- C. All zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way of all portions of the Federal-aid Primary System within the State of Nebraska in which outdoor advertising signs, displays and devices may be visible from the main-traveled way of said system.

### III. State Control

The State hereby agrees that, in all areas within the scope of this agreement, the State shall effectively control, or cause to be controlled, the erection and maintenance of outdoor advertising signs, displays, and devices erected subsequent to the date this agreement becomes binding or those which may be erected within six months after the effective date of this agreement in zoned or unzoned commercial or industrial areas, on land leased prior to such effective date, provided that a copy of such lease be filed with the State Highway Department prior to such effective date, other than directional and official signs, those advertising sale or lease of the property on which they are located, or activities conducted thereon, in accordance with the following criteria:

- A. Whenever a bona fide state, county, or local zoning authority has made a determination of customary use, as to size, lighting and spacing such determination may be accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority.
- B. In all other controlled commercial and industrial areas, the criteria set forth below shall apply:

#### SIZE OF SIGNS

1. The maximum area for any advertising sign shall be 1,000 square feet, including border and trim, but excluding ornamental base or apron and other structured members.
2. None of the provisions of this agreement shall prevent the erection of a double-faced back-to-back, side-by-side or V-type construction with a maximum of two displays per facing with the maximum area of 1,000 square feet allowed for each facing and such sign structure shall be considered as one sign.
3. Within incorporated cities the erection and maintenance at specified locations of signs larger in area than above provided may be permitted if a sign of such larger area is in accord with customary use as to size, lighting and spacing as provided in Section III A.

#### SPACING OF SIGNS

1. Signs shall not be erected or maintained in such a manner as to obscure, or otherwise physically interfere with an official traffic sign, signal or device, or in such manner as to obstruct or physically interfere with a driver's view of approaching merging or intersection traffic;
2. Signs shall not be erected or maintained which do not comply with all applicable county or municipal codes and ordinances, including but not limited to zoning, building and signs, codes, as locally interpreted, applied and enforced; and
3. Signs shall not be erected or maintained closer to another sign facing in the same direction than the following prescribed distances. These spacing provisions do not apply to signs separated by a building or structure in such a manner that only one sign located within the prescribed spacing is visible from the highway at any one time.
  - (a). Signs along the Interstate highways shall not be erected or maintained in any place where they are visible from the main-traveled way of the National System of Interstate and Defense highways, closer to another sign facing in the same direction than 500 feet outside in-



corporated cities and villages, and 250 feet inside incorporated cities and villages. Outside of incorporated cities and villages no sign may be located within interchange areas and within 500 feet of the point where traffic enters or leaves the main traveled way (measured along the Interstate from the sign to the nearest widening constructed for the purpose of acceleration or deceleration of traffic movement to or from the main traveled way.)

- (b). The number of signs facing in the same direction along Federal-aid Primary highways within zoned or unzoned commercial or industrial areas within the corporate limits of a municipality shall not exceed the length of area measured along the centerlines of the highway divided by 100 feet, providing that no structures shall be spaced less than 50 feet apart, and no signs shall be permitted within 50 feet of the nearest edge of an intersecting road, street or highway.
- (c). The number of signs facing in the same direction along Federal-aid Primary highways within zoned or unzoned commercial or industrial areas outside the corporate limits of a municipality shall not exceed the length of the area measured along the centerline of the highway divided by 250 feet, providing that no structures shall be spaced less than 150 feet apart, and no signs shall be permitted within one hundred feet of the nearest edge of an intersecting road, street or highway.

EXPLANATORY NOTES . . . . .

1. Directional, official, sale and "on premise" signs as defined in Section 131 (c) of Title 23, United States Code, shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.
2. The minimum distance between sign structures shall be measured along the nearest edge of the pavement between points directly opposite the signs.

## LIGHTING

Signs may be illuminated, subject to the following restrictions:

1. Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather or similar information.
2. Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the Interstate or Federal-aid primary highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.
3. No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.
4. All such lighting shall be subject to any other provisions relating to lighting of signs presently applicable to all highways under the jurisdiction of the State.

### C. GENERAL

The following signs shall not be permitted:

1. Signs advertising an activity that is illegal under State or Federal law.
2. Signs that are not clean and in substantial good repair.
3. Signs that are not securely affixed to a substantial structure.
4. Signs which attempt or appear to attempt to direct the movement of traffic or which obscure, interfere with the effectiveness of, imitate or resemble any official traffic sign, signal or device.
5. Signs which prevent the driver of a vehicle from having a clear and unobstructed view of official signs and approaching, intersecting or merging traffic.
6. Signs erected or maintained upon trees or painted or drawn upon rocks or other natural features.

It is understood and agreed between the parties that when highways or portions thereof are added to the Interstate or the Primary Highway System,



standards contained in this agreement shall apply only to signs erected in commercial and industrial areas subsequent to the date such highways are added to the system.

IV. Interpretation

The provisions contained herein shall constitute the acceptable standards for effective control of signs, displays, and devices within the scope of this agreement.

Nothing contained herein shall be construed to abrogate any statutory or regulatory provisions, or prohibit the State from exercising a greater degree of control of outdoor advertising than that required or contemplated by the Act or from adopting standards which are more restrictive in controlling outdoor advertising than the provisions of this agreement if so authorized by the State Legislature.

Standards and criteria contained herein shall apply to signs erected subsequent to the effective date of the State's Agreement as set forth in Section III. Signs in zoned and unzoned commercial or industrial areas lawfully in existence, as of the date this agreement becomes binding, shall be allowed to remain and continue in place even if non-conforming.

In the event the provisions of the Highway Beautification Act of 1965 are amended by subsequent action of Congress, the parties reserve the right to renegotiate this agreement or to modify it to conform with any amendment.

It is understood and agreed between the parties that no sign, display, or device shall be required to be removed under this agreement if the Federal share of the just compensation to be paid upon removal of such sign, display, or device is not available to make such payment.

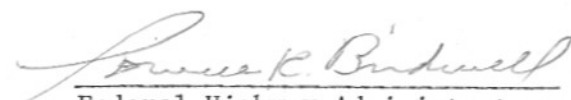
V. Effective Date

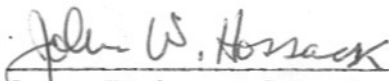
This Agreement shall become effective and binding upon both parties hereto when the Agreement has been ratified, or enabling legislation passed, by an appropriate act of the Legislature of the State of Nebraska at the 1969 Legislative Session.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above set forth.

UNITED STATES OF AMERICA

STATE OF NEBRASKA

  
Federal Highway Administrator  
Department of Transportation

  
State Engineer, Department of Roads