

AGREEMENT

TO CONTROL 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 20<sup>th</sup> day of April, 1972, 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 Iowa State Highway Commission, hereinafter referred to as the State. 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 to 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 adjacent to the Interstate and Federal-aid primary systems which are zoned industrial or commercial under authority of state law or in unzoned commercial or industrial areas, also to be determined by agreement; and

WHEREAS, Section 306B.7, section 307.7, section 313.67 of the 1971 Code of Iowa, as amended, and House File 734 as enacted by the 64th. General Assembly, Second Session of the Iowa Legislature authorizes the Iowa State Highway Commission to enter into an agreement with the Federal Government with respect to the regulation and control of outdoor advertising; and

WHEREAS, the purpose of said agreement is to promote the public safety, health, welfare, convenience, and enjoyment of public travel, to protect the public investment in public highways and to preserve and enhance the scenic beauty of lands bordering public highways.

WHEREAS, THE State of Iowa desires to implement and carry out the provisions of Section 131, 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 to be appropriated

to such state in accordance with Section 104 of Title 23, United States Code as is and may be amended; and

WHEREAS, the State of Iowa and the Federal Highway Administrator entered into an agreement dated May 31, 1965, 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, the State of Iowa desires to implement and carry out the stricter provisions in order to remain eligible to receive payment of the one-half of one per cent increase in the Federal share payable on account of any project on the Interstate System within the State; and

WHEREAS, the State of Iowa and the Federal Highway Administrator entered into another agreement dated May 29, 1968 to control outdoor advertising in areas adjacent to the National System of Interstate and Defense Highways and the Federal-aid Primary System predicated on enactment of state legislation necessary to carry out the intent of Section 131 of Title 23, United States Code; and

WHEREAS, the 64th. General Assembly, Second Session of the State of Iowa has enacted such legislation and the Administrator and the State now desire to supersede and replace the May 29th. 1968 agreement for clarity and conformity.

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

1. The May 29, 1968 agreement is hereby superseded and replaced in its entirety by this agreement.

2. Definitions

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

B. Interstate Highway includes "Interstate Road" and "Interstate System" and means any highway of the primary system at any time officially designated as a part of the National System of Interstate and Defense Highways and approved by the appropriate authority of the Federal Government.

C. Primary Highways includes Federal-aid primary system and means that portion of connected main highways as officially designated, or as may hereafter be so designated by the State of Iowa and approved by the appropriate authority of the Federal Government.

D. Freeway Primary Highways means those primary highways which have been constructed as a fully access controlled facility with no access to the facility except at established interchanges.

E. Main-traveled Way means the portion of the roadway for movement of vehicles on which through traffic is carried exclusive of shoulders and auxiliary lanes. In the case of a divided highway, the main-traveled way includes each of the separated roadways for traffic in opposite directions, exclusive of frontage roads, turning roadways, or parking areas.

F. Advertising Device includes any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or any other device designed, intended, or used to advertise or give information in the nature of advertising, and having the capacity of being visible from the traveled portion of any interstate or primary highway.

G. Structure means any sign supporting device including but not limited to buildings.

H. Erect means to construct, reconstruct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish; however, it shall not include any of the foregoing activities when performed incidental to the customary maintenance of an advertising device.

I. Maintain means to allow to exist in a state of good repair but not to include reconstruction.

J. Reconstruction means any repair to the extent of sixty percent or more of the replacement cost of the structure, excluding buildings.

K. Visible means capable of being read or comprehended without visual aid by a person of normal visual acuity.

L. Adjacent area means an area which is contiguous to and within six hundred and sixty feet of the nearest edge of the right-of-way of any interstate, freeway primary, or primary highway.

M. Information Center means a site, either with or without structures or buildings, established and maintained at a rest area for the purpose of providing information of specific interest to the traveling public consisting of information about public places for outdoor recreation, camping, lodging, eating, and gas and associated services which businesses shall be in continuous operation sixteen hours per day, seven days per week, with telephone and restroom facilities, motor fuel, oil, and water, including trade names.

N. Rest Area means an area or site established and maintained within the right-of-way of an interstate, freeway primary, or primary highway under supervision and control of the State for the safety, recreation, and convenience of the traveling public.

O. Commercial or industrial zone means those areas zoned commercial or industrial under authority of a law, regulation, or ordinance of the State of Iowa, its subdivisions, or a municipality. The action of the state and local political subdivisions in this regard will be accepted for the purpose of this agreement.

P. Unzoned Commercial or Industrial Area means those areas not zoned by state or local law, regulation, or ordinance, which are occupied by one or more commercial or industrial activities, and the land along the interstate highways and primary highways for a distance of 750 feet immediately adjacent to the activities. All measurements shall be from the outer edge of the regularly used buildings, parking lots, storage, or processing areas of the activities and shall be parallel to the edge of the pavement of the highway. Measurements shall not be from the property line of the activities unless that property line coincides with the limits of the activities. Unzoned commercial or industrial areas shall not include land on the opposite side of the highway from the commercial or industrial activities.

Q. Commercial or Industrial Activities means those activities generally recognized as commercial or industrial by zoning authorities in Iowa except that none of the following activities shall be considered commercial or industrial:

1. Outdoor advertising structures.
2. Agricultural, forestry, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.
3. Activities in operation less than three months per year.
4. Activities conducted in a building principally used as a residence.
5. Railroad tracks and minor spurs.
6. Activities more than 660 feet from the nearest edge of the right-of-way of Interstate and primary highways.
7. Activities which have been used in defining and delineating an unzoned area but which has since been discontinued or abandoned.
8. Residential housing developments.
9. Mobile home parks.
10. Institutions of learning.
11. State, county and charitable institutions.
12. State and county conservator and recreation areas, public parks, forests, playgrounds, or other areas of historic interest or areas designated as scenic beautifications areas by appropriate State or Federal authority.

3. Scope of Agreement:

This Agreement shall apply to the following areas:

A. All areas zoned commercial or industrial after September 21, 1959<sup>9</sup>, outside the boundaries of incorporated municipalities as those boundaries existed on September 21, 1959, and all unzoned commercial or industrial areas within 660 feet of the nearest edge of the right-of-way of all portions of the Interstate System within the State of Iowa in which signs may be visible from the main-traveled way of said system.

B. All areas zoned commercial or industrial 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 within 660 feet of the nearest edge of the right-of-way of all portions of the Interstate System within the State of Iowa in which signs may be visible from the main-traveled way of said 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 Iowa in which signs may be visible from the main-traveled way of said System.

4. State Control:

A. The State hereby agrees that in all areas under Category A of the Scope of Agreement only the following signs shall be permitted to be erected and maintained:

1. Signs advertising the sale or lease of the property on which they are located and signs advertising activities conducted on the property on which they are located to the extent that such signs are consistent with the bonus agreement and the National Standards as in effect on June 30, 1965;
2. Class 3 and Class 4 signs as defined in, and to the extent that such signs are consistent with the bonus agreement and the National Standards as in effect on June 30, 1965;
3. Directional or other official signs and notices which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historic attractions which are required or authorized by law to the extent that such signs are consistent with the National Standards promulgated pursuant to Section 131(c) of Title 23, United States Code (1965). However, the erection and maintenance of directional and other official signs and notices which also qualify as Class 3 or Class 4 signs shall be controlled in accordance with the provisions of paragraph A(2) of this section.

R. The State hereby further agrees that in all areas under categories B and C of the Scope of Agreement, to effectively control or cause to be controlled, the erection and maintenance of signs other than those advertising the sale or lease of the property on which they are located or activities conducted thereon, in accordance with the following criteria:

1. In zoned commercial and industrial areas, the State may certify to the Administrator as notice of effective control that there has been established within such areas zoning which regulates the size, lighting, and spacing of signs consistent with the purpose of the Highway Beautification Act of 1965 and with customary use.
2. In all other zoned and unzoned commercial and industrial areas, the criteria set forth below shall apply, except in the case of bonus Interstate highways, the State shall maintain the controls required by the agreement of May 31, 1965, whichever is stricter.
3. Advertising devices located within the adjacent area of interstate highways and freeway primary highways shall not be erected or maintained closer to another advertising device facing in the same direction than five hundred feet outside of cities and towns, and within two hundred fifty feet if inside of cities and towns. An

advertising device may not be located within two hundred fifty feet of an interchange, or rest area. The measurement shall be from the nearest widening constructed for the purpose of acceleration or deceleration of traffic movement to or from the main-traveled way to the advertising device.

4. Advertising devices located within the adjacent area of Federal-aid primary highways shall not be erected or maintained closer to another advertising device facing in the same direction than one hundred feet if inside the corporate limits of a municipality. No advertising device other than as excepted or permitted by paragraphs 6, 7, or 8 below, shall be located within the triangular area formed by the line connecting two points each fifty feet back from the point where the street right-of-way lines of the main-traveled way and the intersecting street meet, or would meet, if extended.

5. Advertising devices located within the adjacent area of Federal-aid primary highways shall not be erected or maintained closer to another advertising device facing in the same direction than three hundred feet if outside the corporate limits of a municipality. No advertising device, other than those excepted or permitted by paragraphs 6, 7, or 8 below, shall be located within the triangular area formed by a line connecting two points each one hundred feet back from the point where the street right-of-way lines of the main-traveled way and the intersecting street meet, or would meet, if extended.

6. The distance spacing measurements fixed by paragraphs 4, and 5 of this section shall not apply to advertising devices which are separated by a building in such a manner that only one advertising device located within the minimum spacing distance is visible from a highway at any one time.

7. Within a triangular area, as defined by paragraphs 4 and 5 of this section, occupied by a building or structure, no advertising device shall be erected or maintained closer to the intersection than the building or structure itself, except that a wall advertising device may be attached to said building or structure not to protrude more than twelve inches.

8. Official advertising devices and advertising devices concerning the sale or lease of the property or activities conducted upon the property as specified by section 131(c), of Title 23, United States Code, shall not be taken into consideration in determining compliance with spacing requirements.

9. The minimum distance between two advertising devices facing the same direction shall apply without regard to the side of the highway on which the advertising devices may be located and shall be measured along the center line of the highway between points directly opposite the advertising devices.

10. Advertising devices shall not be erected, maintained or illuminated:

- a. In a manner to obscure or otherwise physically interfere with an official traffic sign, signal, or device, or to obstruct or physically interfere with any driver's view of approaching, merging, or intersecting traffic.

b. Unless effectively shielded to prevent light from being directed at any portion of the traveled highway with such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle.

c. Which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights, except those giving public service information such as, but not limited to time date, temperature, weather, news and similar information.

d. Which imitate or resemble an official sign or signal or device or which are erected or maintained within or closer than three hundred feet from scenic areas, as defined and determined by the State, or which are located or maintained upon trees, or painted or drawn upon rocks or natural features, or which are structurally unsafe or in substantial disrepair.

e. Which exceed one thousand two hundred square feet in area or in the case of a back-to-back or V-type advertising device, with a maximum of two facings per advertising device, seven hundred fifty square feet in area, including border and trim but excluding base or apron, support and other structural members.

f. Which do not comply with all applicable state or local laws, regulations and ordinances, including but not limited to zoning, building, and sign codes as locally interpreted and applied and enforced, or which violate Chapter 319, Code of Iowa 1971, as amended; however nothing in this agreement shall prevent or restrict county or local zoning authorities from making a determination of customary use concerning size, lighting, and spacing of advertising devices in zoned commercial or industrial adjacent areas, and such determinations will be accepted in lieu of the criteria set forth in this agreement. The criteria of this agreement shall not prevent or restrict county or local zoning authorities within their respective jurisdictions from establishing standards imposing controls stricter than those required by this agreement.

g. The standards contained in this section pertaining to size, lighting, and spacing shall not apply to advertising devices erected or maintained within six hundred sixty feet of the right-of-way of those portions of the interstate highway system exempted from control under Chapter 306B of the Code of Iowa, 1971 as amended, nor to advertising devices erected and maintained within adjacent areas along primary highways within zoned and unzoned commercial and industrial areas, unless said advertising devices were erected subsequent to the effective date of House File 734 as enacted by the 64th. General Assembly, Second Session of the State of Iowa.

C. When highways, or portions thereof, are added to the Interstate and to the primary highway systems, standards contained in this agreement shall apply only to signs erected within areas under categories B and C of the Scope of Agreement subsequent to the date that such highways are added to the system. Notwithstanding anything contained in the preceding portion of this section, should any activity which has been used in defining and delineating an unzoned commercial or industrial area



after the effective date of this agreement be abandoned, the unzoned area shall be redefined and redelineated based on the remaining activity. Any signs located within the former unzoned commercial or industrial area, but located outside said area, based upon its new dimensions, shall be nonconforming.

5. Renegotiation

a. In the event the provisions of the Act are amended by subsequent action of Congress, the State may maintain effective control consistent with this agreement or may maintain that control established by congressional amendments, whichever control is less restrictive. In the event of the occurrence of such action by Congress, the parties reserve the right to renegotiate this agreement or to modify it to conform with the same.

6. Interpretation

a. The provisions contained herein constitute control consistent with customary use within the State.

b. Pursuant to Section 131(n) of Title 23, United States Code, in controlling advertising devices eligible for the Federal share of "just compensation", the State shall not be required to acquire or remove any such device unless the State has received notification from the Administrator that the Federal share of "just compensation" to be paid is immediately available to contribute to the cost of acquisition or removal.

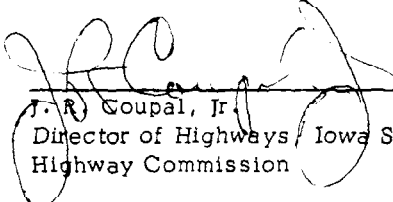
7. Effective Date

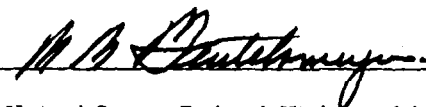
This Agreement shall have an effective date of July 1, 1972.

IN WITNESS HEREOF the parties hereto have executed this Agreement.

DATE April 30 1972

DATE APR 20 1972

  
\_\_\_\_\_  
J. R. Goupal, Jr.  
Director of Highways, Iowa State  
Highway Commission

  
\_\_\_\_\_  
Dep. United States Federal Highway Administrator;  
Department of Transportation