

AGREEMENT

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 18th day
of November, 1971, by and between THE UNITED STATES
OF AMERICA, represented by the Secretary of Transportation, acting
by and through the FEDERAL HIGHWAY ADMINISTRATOR, and the STATE OF
NEW MEXICO, represented by the STATE HIGHWAY COMMISSION, acting
by and through its Chairman, 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 agree-
ment 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 indus-
trial or commercial under authority of state law or in unzoned
commercial or industrial areas, also to be determined by agreement;
and

WHEREAS, Section 55-11-11(B), N.M.S.A., 1953 Comp., Chapter
65, Section 11, Laws of 1966, authorizes the 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 reasonable, orderly, and effective display of outdoor advertising while remaining consistent with the national and state policy to protect the public investment in the Interstate and Federal-aid primary highways and to promote public safety, health, welfare, convenience and enjoyment of public travel and to preserve and enhance the scenic beauty of lands bordering public highways; and

WHEREAS, the State of New Mexico 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 to be apportioned to such state on or after January 1, 1968, under Section 104 of Title 23, United States Code.

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 1 of the Highway Beautification Act of 1965.
- B. Commercial or industrial activities, for purposes of the unzoned commercial or industrial area definition, shall mean those activities generally recognized as commercial or industrial by zoning authorities in New Mexico, except that none of the following shall be considered commercial or industrial activities:
 1. Outdoor advertising structures;
 2. Agricultural, forestry, ranching, grazing, farming,

- and related activities, including, but not limited to, wayside fresh produce stands;
3. Transient or temporary activities;
 4. Activities not visible from the main traveled way;
 5. Activities conducted in a building principally used as a residence;
 6. Railroad tracks and minor sidings;
 7. Activities located in their entirety more than 660 feet from the nearest edge of the right of way.

Should any commercial or industrial activity, which has been used in defining or delineating an unzoned area, cease to operate for six (6) continuous months and is thereafter removed, the unzoned areas shall be redefined or redelineated based on the remaining activities. Any signs located within the former unzoned area but located outside the unzoned area, based on its new dimensions, shall become nonconforming.

- C. Zoned commercial or industrial areas mean those areas which are reserved for business, commerce, trade, manufacturing or industry pursuant to a state or local ordinance or regulation.

The state and local political subdivision shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes and the action of the state and local political subdivision in this regard will be accepted for the purposes of this agreement.

- D. Unzoned commercial or industrial area means:
Any unzoned lands upon which there is located a commercial

or industrial activity whether or not a permanent structure is located thereon and the area along the highway extending outward 1000 feet from and beyond the edge of such commercial or industrial activity, on the same side of the highway as the activity is located.

All measurements shall be from the outer edge of the regularly used buildings, parking lots, storage or processing areas of the activities, and not from the property line of the activity unless the property line and the outer edge of the buildings, parking lots, storage or processing areas of the activities should coincide. Such measurements shall be along or parallel to the edge of pavement of the highway.

- E. National system of Interstate and defense highways and Interstate systems mean the system presently defined in Subsection (d) of Section 103 of Title 23, United States Code.
- F. Traveled way means the portion of a roadway for the movement of vehicles exclusive of shoulders.
- G. 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.
- H. Outdoor advertising means any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard or other thing which is 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 primary systems.

- I. Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

II. Scope of Agreement:

This Agreement shall apply to 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 Interstate and primary systems within the State of New Mexico in which outdoor advertising signs, displays, and devices may be visible from the main traveled way of said systems.

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 effective date of this Agreement 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:

GENERAL: The following signs shall not be permitted:

1. Signs which imitate or resemble any official traffic sign, signal, or device.
2. Signs which are erected or maintained upon

trees or painted or drawn upon rocks or other natural features.

3. Signs which are structurally unsafe or in disrepair as determined by the State Highway Engineer.

SIZE OF SIGNS:

1. The maximum area of any advertisement shall be 1200 square feet with a maximum length of advertisement of 60 feet and maximum height of advertisement of 25 feet inclusive of border and trim, but exclusive of ornamental base or apron support.
2. The areas shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof which will encompass the entire advertising.
3. Two advertising displays, not exceeding 350 square feet each, may be erected in a facing.
4. A sign structure may contain up to four sign panels, with not more than two panels facing in one direction.

SPACING OF SIGNS:

1. Interstate and Primary Highways.
 - a. Signs may not be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching,

merging, or intersecting traffic.

- b. No sign structure shall be placed within 500 feet from another sign structure on the same side of any portion of an Interstate highway or a primary highway which is a limited access highway. No sign structure shall be placed within 500 feet of an interchange, or an intersection at grade, or a safety roadside rest area on any portion of an Interstate highway or a primary highway which is a limited access highway. Said 500 feet to be measured along the Interstate or limited access primary highway from the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way if that portion of the Interstate or primary highway is located outside the limits of an incorporated city. No sign structure shall be placed within 300 feet from another sign structure on the same side of any portion of a primary highway which is not a limited access highway if that portion of the primary highway is located outside the limits of an incorporated city. No sign structure shall be placed within 100 feet from another sign structure on the same side of any portion of a primary highway which is not a limited access highway if

that portion of the primary highway is located inside the limits of an incorporated city. But this subdivision shall not apply to advertising displays which are separated by a building or other obstruction in such a manner that only one display located within the minimum spacing distances set forth herein is visible from the highway at any one time. This subdivision shall not prevent the erection of double-faced, back-to-back, or V-type advertising displays, with a maximum of two signs per facing.

c. Explanatory Notes:

- (1) Official and "on premise" signs, as defined in Section 131(c) of Title 23, U.S.C., shall not be counted nor shall measurements be made from them for purposes of determining compliance with the 500, 300, or 100-foot requirements.
- (2) The minimum distance between signs of 500, 300, and 100 feet 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 to prevent beams or rays of light from being directed at any portion of the traveled way of the Interstate or primary highways and 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 of New Mexico.

IV. Nothing herein to the contrary withstanding, the State shall not be obligated to remove or cause the removal of any signs which advertise or relate to tourist-oriented facilities or businesses unless and until the Highway Beautification Commission established by the Federal-Aid Highway Act of 1970 presents its report to the Congress of the United States, such report is acted upon by said Congress, and thereafter the removal of some or all of said signs is required by the Federal Highway Beautification Act of 1965 or other federal law then controlling. However, if such report

is not presented to Congress and acted upon within three years from the date hereof, then this paragraph IV shall be subject to renegotiation by the parties hereto.

V. Interpretation:

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

The standards herein contained pertaining to the size, shape, description, lighting, and spacing of outdoor advertising signs permitted in commercial or industrial zones and areas shall apply only to those signs erected subsequent to the effective date of these regulations and shall not apply to those signs erected within 6 months after the effective date of these regulations under a lease dated prior to the effective date of these regulations and filed with the State Highway Commission.

Nothing contained herein shall be construed to abrogate 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.

Notwithstanding any other provision of this Agreement, upon amendment or repeal of Section 131 of Title 23, U.S.C. or the state law enacted pursuant thereto, or upon mutual agreement of the parties based upon a decision of a court of competent jurisdiction or by a ruling of the Attorney General of the State that the State is without legal authority to perform any obligation assumed hereunder, this Agreement shall be null and void.

This Agreement may be renegotiated every three years or

