

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 INTER-STATE AND DEFENSE HIGHWAYS AND THE FEDERAL-AID PRIMARY SYSTEM

THIS AGREEMENT made and entered into this 13th day of MAY, 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 New York, represented by the Department of Transportation acting by and through its Commissioner, 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, 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 85 of the New York State Highway Law authorizes the Commissioner of Transportation to perform and do such other and further acts not specifically provided in Article four of the Highway Law as may be necessary to comply with the Federal-aid Highway Acts and the rules and regulations promulgated thereunder; 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 New York 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; and

WHEREAS, the former Superintendent of Public Works of the State of New York and the Federal Highway Administrator entered into an agreement signed on June 12, 1961, by the Superintendent and on June 19, 1961, by the Federal Highway Administrator, 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 the agreement provided the State maintains the control required under such agreement or the control required by the Section whichever control is stricter; and

WHEREAS, the State of New York desires to implement and carry out the stricter 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. The 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 entered into November 7, 1967, 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 York, represented by the Department of Transportation acting by and through its Commissioner is hereby abrogated.

II. 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 commercial or industrial areas mean 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. 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 more than 660 feet from the nearest edge of the right-of-way.
6. Activities conducted in a building principally used as a residence.
7. Railroad tracks and minor sidings.

C. Zoned commercial or industrial areas mean those areas which are zoned for business, industry, commerce, or trade pursuant to a State or local zoning ordinance or regulation.

D. Unzoned commercial or industrial areas mean those areas 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 commercial or industrial activity or on which a commercial or industrial activity is actually conducted, whether or not a permanent

structure is located thereon, and the area along the highway extending outward 700 feet from and beyond the edge of such activity. Each side of the highway will be considered separately in applying this definition.

All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the commercial or industrial activities, not from the property lines of the activities, and shall be along or parallel to the edge or pavement of the highway.

E. National System of Interstate and Defense Highways and Interstate System mean 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

which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any highway.

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 advertising message or normal maintenance of a sign or sign structure.

K. Maintain includes to change the advertising message, to repair and replace component parts, and to perform other acts as an incident to the upkeep of a sign.

L. Safety rest area means an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control, for the convenience of the traveling public.

M. Information center means an area or site established and maintained at a safety rest area for the purpose of informing the public of places of interest within the State and providing such other information as the State may consider desirable.

### III. Scope of Agreement

This agreement shall apply to the following areas:

(1) All commercial or industrial zones 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 New York in which the

outdoor advertising signs, displays, and devices may be visible from the main traveled way of said system.

(2) All zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way of the Interstate System, except those areas adjacent to portions of the Interstate System which are constructed on right-of-way, the entire width of which has been acquired after July 1, 1956, in which outdoor advertising signs, displays, and devices may be visible from the main traveled way of the system.

(3) 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 New York in which outdoor advertising signs, displays, and devices may be visible from the main traveled way of said system.

#### IV. 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:

A. 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 regulations which are enforced with respect to the size, lighting and spacing of outdoor advertising

signs, displays and devices. In such areas, the size, lighting and spacing requirements set forth below shall not apply. For the purposes of this subparagraph A, requirements as to the number or total size of signs, displays or devices permitted on a single plot or parcel of land will be considered to be a spacing requirement.

B. In all other zoned and unzoned commercial and industrial areas, the criteria set forth below shall apply.

#### SIZE OF SIGNS

1. The maximum area for any one sign shall be 1,200 square feet with a maximum height of 30 feet and maximum length of 60 feet, inclusive of any border and trim but excluding the base or apron, supports and other structural members.
2. The area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire sign.
3. A sign structure may contain one or two signs per facing and may be placed double-faced, back to back or V-Type.
4. Signs which exceed 325 square feet in area may not be double faced (abutting and facing the same direction).

#### SPACING OF SIGNS

1. Interstate and Federal-aid Primary Highways
  - a. Signs may not be located in such a manner as to obscure, or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device, obstruct or physically interfere with the driver's view of approaching, merging, or intersecting traffic.
2. Interstate Highways and Controlled Access Highways on the Federal-aid Primary System
  - a. No two structures shall be spaced less than 500 feet apart.
  - b. Outside of villages and cities, no structure may be located within 500 feet of an interchange, intersection at grade, safety rest area or information center (measured along the Interstate or freeway from the beginning or ending



of pavement widening at the exit from or entrance to the main traveled way.)

3. Non-Controlled Access Federal-aid Primary Highways
  - a. Outside of villages and cities - no two structures shall be spaced less than 300 feet apart.
  - b. Within villages and cities - no two structures shall be spaced less than 100 feet apart.
4. The above spacing-between-structures provisions do not apply to structures separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distances is visible from the highway at any one time.
5. Explanatory Notes
  - a. Official and "on premise" signs, as defined in Section 131(c) of Title 23, United States Code, and structures that are not lawfully maintained shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.
  - b. The minimum distance between structures shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and shall apply only to structures located on the same side of the highway.

#### 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 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.

C. The State and local political subdivisions 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 subdivisions in this regard will be accepted for the purposes of this agreement. At any time that a political subdivision adopts regulations which include the size, lighting and spacing of outdoor advertising the State may so certify to the Administrator and control of outdoor advertising in commercial or industrial areas will transfer to subsection A of this section.

V. Interpretation

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

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 if so authorized by the State Legislature.

In controlling outdoor advertising adjacent to Interstate and Federal-aid primary highways pursuant to the Highway Beautification Act of 1965 and this agreement, the State shall not be required to remove or cause to be removed any sign advertising any natural wonders or scenic or historical attractions until a reasonable length of time

subsequent to the promulgation of national standards for such signs pursuant to Section 131(c) of Title 23, United States Code.


In the event the provisions of the Highway Beautification Act of 1965 are amended by subsequent action of Congress or the New York enabling legislation is amended, the parties reserve the right to re-negotiate this agreement or to modify it to conform with any amendment, subject to the approval of an appropriate Act of the New York State Legislature.

VI. Effective Date

This Agreement shall have an effective date of June 1, 1968, and shall become binding on both parties hereto when the Agreement has been ratified by an appropriate Act of the New York State Legislature at the 1968 Legislative Session.

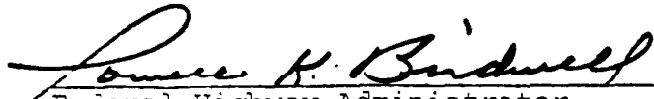
IN WITNESS WHEREOF the parties hereto have executed this Agreement as of MAY 13, 1968.

STATE OF NEW YORK  
DEPARTMENT OF TRANSPORTATION

  
Commissioner of Transportation

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UNITED STATES OF AMERICA

  
Federal Highway Administrator