

AGREEMENT

STATE OF NORTH DAKOTA

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 31<sup>st</sup> day of January,  
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 State of North Dakota,  
represented by the Highway Corridor Board, acting by and through its Highway  
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 1 (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 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 660 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 North Dakota 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:

Section I.

1. Definitions

A. 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, 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 600 feet from and beyond the edge of such activity. In addition, lands on the opposite side of the highway to the extent of the same dimensions will be considered as an unzoned commercial or industrial area provided those lands on such opposite side are not deemed scenic or as having aesthetic value. In the event the area on the opposite side of the highway is deemed scenic, then only the side of the highway having a commercial activity located thereon will be said to be unzoned commercial or industrial for the purpose of this Agreement.

All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing and landscaped areas of the commercial or industrial activities not from the property lines of the activities, and shall be along or

parallel to the edge of the pavement  
of the highway.

- E. National System of Interstate and  
Defense Highways and Interstate System  
means the system 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 information 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 advertising message or normal maintenance or repair of a sign structure.

K. Maintain means to allow to exist.

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. Visible means that the advertising copy or informative contents are capable of being seen without visual aid by a person of normal visual acuity.

Section II. Scope of Agreement

This agreement shall apply to the following areas:

A. 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 North Dakota in which outdoor advertising signs may be visible from the main-traveled way of either or both of said systems.

Section 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:

A. In zoned commercial and

industrial areas, the State may notify 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 consistent with the intent of the Highway Beautification Act of 1965 and with customary use. In such areas, the size, lighting, and spacing requirements set forth below shall not 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. The maximum size limitations shall apply to each side of the sign structure; and signs may be placed back-to-back, side-by-side, or in V-type construction with not more than two displays to each facing, and such sign structure shall be considered as one sign.

#### 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 expressways on the Federal-aid primary system.

a. No two structures shall be spaced less than 500 feet apart.

b. Outside of incorporated cities, no structure may be located adjacent to or within 500 feet of an interchange, intersection at grade, or safety rest area. Said 500 feet to be 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-expressway Federal-aid primary highways.

a. Outside of incorporated cities - no two structures shall be spaced less than 300 feet apart.

b. Inside of incorporated 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.

At any time that a bona fide county or local zoning authority adopts regulations which include the size, lighting, and spacing of outdoor advertising, the State may so notify the Administrator and control of outdoor advertising in the commercial or industrial zones within the

geographical jurisdiction of said authority will transfer to subsection A of this section.

Section IV. Interpretation

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

The provisions contained herein pertaining to the size, lighting, and spacing of outdoor advertising signs permitted in zoned and unzoned commercial and industrial areas shall apply only to those signs erected subsequent to the effective date of this agreement except for those signs erected within 6 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 within 30 days following such effective date.

In the event the provisions of the Highway Beautification Act of 1965 are

amended by subsequent action of Congress  
or the State legislation is amended, the  
parties reserve the right to re-negotiate  
this agreement or to modify it to conform  
with any amendment.

Section V. Effective Date

This agreement shall have an effective  
date of January 19 - 10:45 AM - 72

IN WITNESS WHEREOF the parties hereto  
have executed this agreement as of \_\_\_\_\_

JAN 31 1972

State of North Dakota

By Walter R. Lysoe  
(Title)

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION

By JC Turner  
Federal Highway Administrator