

BIG BEND FILM COMMISSION

TxDOT Highway Filming Permit Requirements & Forms

Requests for photo and film shoots on TxDOT right-of-way in Brewster, Jeff Davis, and Presidio Counties should be submitted to Christian A. Wong, Engineering Assistant II. His email address is shown below.

Attached is the latest “TEA 28 Film/Video Agreement” (2017) form for your reference.

The required attachments are:

- TEA 28 Film/Video Agreement
- Attachment A: Description of Activities and Production Stop and Start Date(s) and Times
- Attachment B: Local authority(ies) concurrence, if applicable
- Attachment C: Traffic Control Plan, if applicable
- Attachment D: Certification of Insurance – Form 1560

If you have any questions, please do not hesitate to call or email:

Christian A. Wong
Engineering Assistant II
El Paso District Maintenance
13301 Gateway Boulevard West
El Paso, TX 79928
Office: (915) 790-4250
Christian.Wong@txdot.gov

Best of Luck on Your Shoot!

John Green
Executive Director, BBFC

STATE OF TEXAS §

COUNTY OF TRAVIS §

**AGREEMENT FOR
FILM/VIDEO PRODUCTION ON
STATE HIGHWAY RIGHT OF WAY**

THIS AGREEMENT, is made by and between the State of Texas, acting by and through the Texas Department of Transportation hereinafter called the "State", and _____, hereinafter referred to as the "Requestor".

WITNESSETH

WHEREAS, the State owns and operates a system of highways for public use and benefit; and

WHEREAS, the Requestor has requested permission from the State to use State highway facilities and their adjacent right of way, hereinafter referred to as State Property, principally in the County of _____ and at locations as more fully described in the Description of Activities and Production Stop and Start Date and Times - Attachment A, which is attached hereto and made a part of this Agreement, for the purpose of a film/video related production; and

WHEREAS, in accordance with Government Code, Chapter 485, it is the policy of the State to cooperate with the Office of the Governor's Music, Film, Television, and Multimedia Office to the greatest extent possible to fully implement the state's goal of promoting the development of music, film, television, and multimedia industries in Texas; and

WHEREAS, this Agreement is intended to encourage and facilitate access to State highway facilities and their adjacent right of way for the promotion of that goal while preserving the safety and convenience of the traveling public and the integrity of state highway facilities and right of way; and

WHEREAS, 43 Texas Administrative Code, Section 22.13, Film and Video Productions establishes the rules and procedures for promoting this industry; and

WHEREAS, this Agreement has been developed in accordance with the rules and procedures of 43 Texas Administrative Code, Section 22.13;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and Agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

AGREEMENT

Article 1. The Requestor's description of the location of the State property to be used, the times and dates of use, and the activities, including the placement of people and equipment that will be placed on the State property is attached in writing as Attachment A and is hereby made a part of this Agreement.

Article 2. It is expressly understood that the State does not purport hereby to grant any right, claim, title, or easement in or upon this State property. Furthermore, approval of this Agreement by the State does not constitute approval by any other Texas State Agency. This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until the Project is completed or unless terminated as provided by this contract.

Article 3. The Requestor agrees to indemnify and save harmless the State, its officers, its agents, contractors, and employees from all suits, actions, or claims and from all liability and damages for any and all injuries or damages sustained by any person or property as a consequence of the above referenced activity and any related activity by the Requestor and from any claims or amounts arising or recovered under the "Workers' Compensation Laws;" Civil Practice & Remedies Code Section 101.021, and Section 101.051; or any other laws.

Article 4. The Requestor shall further indemnify the State and accept responsibility for all damages or injury to property of any character occurring during the prosecution of the activity resulting from any act, omission, neglect or misconduct on the part of the Requestor in the manner or method of executing the activity. The Requestor assumes all costs associated with or because of this Agreement.

Article 5. The State, having the legal right to occupy State property, is not responsible or liable for damages to the Requestor's property or operations. The Requestor's attention is directed to the fact that utility installations owned by others exist in the State property. The Requestor shall save harmless the State from any and all suits or claims resulting from damage to any utility installation due to the above referenced activity.

Article 6. The Requestor will avoid or minimize damage on or outside the State property. The Requestor will, at its own expense, restore or repair damage occurring on or outside State property, including but not limited to roadway and drainage structure, overhead signs, signs, traffic signals, pavement markings, pavement, etc., to a condition equal to that existing before the production, and restore the natural and cultural environment in accordance with federal and state laws, including landscape and historical features.

Article 7. Any costs incurred by the State for repairs to the State property, for the removal of debris, or for any other necessary restoration work as a result of the activity will be billed to the Requestor at cost. The Requestor shall make full and complete payment to the State within thirty (30) days from receipt of State's written notification.

Article 8. The Requestor's performance shall be in compliance with all federal, state and local laws, ordinances, and regulations including but not limited to:

- ◆ the Endangered Species Act of 1973, 16 USC Section 1531 et seq., and the regulations there under as amended;
- ◆ the Texas Department of Transportation (TxDOT) erosion and sedimentation control standards and TxDOT Vegetation and Management Standards, which may in any way regulate or control the activity; and
- ◆ all state and federal environmental laws and any conditions required by the State to protect the environment.

Article 9. If any action of the Requestor occurs within the limits of an incorporated area, the Requestor shall obtain written approval, a permit, or appropriate documentation from such authority(ies), and attach said approval to this Agreement as Attachment B, which is hereby made a part of this Agreement.

Article 10. It is mutually agreed and understood that if the above referenced section of the State property is to be partially or totally temporarily closed, it will be closed in accordance with the "Traffic

Control Plan” attached as Attachment C and hereby made a part of this Agreement. The Traffic Control Plan shall be provided by the Requestor, at no cost to the State, and approved by the State, and shall be in accordance with the Texas Manual on Uniform Traffic Control Devices, latest edition. Any temporary traffic control devices must be included in the department’s Compliant Work Zone Traffic Control Device List. The State may require that any traffic control plans of sufficient complexity be signed, sealed, and dated by a registered professional engineer. The Requestor hereby agrees to accept full responsibility for the complete planning, design and implementation of the Traffic Control Plan. This plan will include a traffic enforcement plan, including a letter by mail or facsimile from the local law enforcement agency that will be providing the traffic control for the event or a contact name and telephone number of the responsible law enforcement agency. Law enforcement will be present at all times during the closure unless stated otherwise in the Traffic Control Plan.

The State reserves the right to inspect the implementation of the traffic control plan and if the traffic control plan is found to be inadequate, the responsible party will bring the traffic control into compliance with the originally submitted plan, upon written notice from the department noting the required changes, prior to the event. The State may request changes to the traffic control plan in order to ensure public safety due to changing or unforeseen circumstances regarding the closure. The Requestor will complete all revisions to the traffic control plan as requested by the State within the required timeframe or the agreement will be terminated upon written notice from the State to the Requestor.

Article 11. The Requestor agrees to accept full responsibility for coordinating and making arrangements with the local law enforcement personnel to provide adequate and safe traffic control during the above referenced activity at no cost to the State. The Requestor will ensure that the appropriate law enforcement agency has reviewed the traffic control for the closures and that the agency has deemed them to be adequate. If the law enforcement agency is unsure as to the adequacy of the traffic control plan, it will contact the State for consultation no less than 10 workdays prior to the closure.

Article 12. The Requestor will follow any and all traffic control requirements that the local law enforcement personnel or the State may require, such as but not limited to:

- a) If the use of the State property is creating a traffic hazard, it will be re-opened to traffic. If necessary, the activity will be rescheduled to another time which is agreeable to the State, the Requestor, and the local law enforcement personnel.
- b) The Requestor hereby agrees to immediately reopen any partially or totally closed State property to emergency vehicles, law enforcement personnel, or others in case of emergency.
- c) The Requestor hereby agrees that any failure to cooperate with the State may constitute reckless endangerment of the public and that the Texas Department of Public Safety may be notified of the situation as soon as possible for the appropriate action, and failing to follow the traffic control plan or State instructions may result in a denial of future use of the right of way for three years.
- d) The requestor hereby agrees that the convenience of abutting property owners and residents will be adequately protected, and adequate access for such persons to their property will be assured.

Article 13. The Requestor has provided the State with “Certificate of Insurance - Form No. 1560,” latest revision, covering the insurance limits for the duration of the activity. Such Certificate of Insurance is attached as Attachment D and is hereby made a part of this Agreement.

Article 14. This Agreement shall terminate on the final date of the Requestor's use of State Property as specified in Attachment A - Description of Activities and Production Stop and Start Date and Times, unless terminated by:

- ◆ Mutual agreement and written consent of both parties,
- ◆ The State upon written notice to the Requestor as consequence of the Requestor's failure to perform the responsibilities set forth herein (the State may grant allowances for circumstances beyond the control of the Requestor),
- ◆ the State for reasons of its own and not subject to mutual consent of the Requestor upon not less than fifteen (15) days written notice to the Requestor, or
- ◆ By satisfactory completion of the Requestor's temporary use of the State property.

The termination of this Agreement and payment of any amount in settlement as prescribed herein shall extinguish all rights, duties, and obligations of the State and the Requestor. Prior to termination of this Agreement, the Requestor shall vacate the State property and restore it to the original condition in a manner described herein.

Article 15. Any changes in the time frame, character, or responsibilities of the parties shall be enacted by a written amendment executed by the State and the Requestor.

Article 16. Should disputes arise between the parties regarding the obligations and responsibilities established herein, the State's decision shall be final and binding.

Article 17. In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Article 18. This Agreement constitutes the sole and only Agreement between the parties hereto and supersedes any prior understandings and/or written or oral Agreements between the State and the Requestor respecting the within subject matter.

All notices to either party by the other required under this Agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid addressed to such party at the following addresses:

For the State:	For the Requestor:
Attn: <u>Omar Madrid, P.E.</u> (name)	Attn: _____ (name)
<u>Maintenance Management</u> (office)	_____ (office)
<u>13301 Gateway Blvd. West</u> (street address)	_____ (street address)
<u>El Paso, Texas 79928</u> (city / state / zip)	_____ (city / state / zip)
<u>(915) 790-4331</u> (telephone number)	_____ (telephone number)
<u>omar.madrid@txdot.gov</u> (e-mail optional)	_____ (e-mail optional)

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that such notices shall be delivered personally or by certified U.S. mail and such request shall be honored and carried out by the other party.

Article 19. The undersigned for the Requestor represents and warrants that they are an officer of the Requestor for which they have executed this Agreement and that they have the full and complete authority to enter into this Agreement on behalf of the Requestor.

IN TESTIMONY WHEREOF, the parties hereto have caused these presents to be executed on the dates shown below stated.

REQUESTOR NAME

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: _____
(Signature)

Name: _____
(Typed)

By: _____
District Engineer

_____ El Paso _____ District

(Title)

Date: _____

Date: _____

LIST OF ATTACHMENTS

Attachment	Description
A	Description of Activities and Production Stop and Start Date and Times
B	Local authority(ies) concurrence, if applicable
C	Traffic Control Plan, if applicable
D	Certification of Insurance – Form 1560

**Attachment A -
Description of Activities and
Production Stop and Start Date and Times**

DESCRIPTION OF ACTIVITY (including placement of people & equipment)	Location			Start and Stop Dates and Times <u>Including Site Restoration</u>
	County Name	Highway Number	Description of physical location	
1				
2				
3				
4				

**Local Authority(ies) Concurrence
If Applicable - Attachment B**

**Traffic Control Plan
If Applicable – Attachment C**

Attachment D

Certificate of Insurance – Form 1560

The current Certificate of Insurance Form 1560-CS must be completed and attached to the agreement. The form can be found on the Contract Services Crossroads site.