

City of Albuquerque



Film and Photography Location License Agreement

Do not alter this agreement. If you wish to negotiate different terms or language, place those requested changes in the Special Provision Addendum for review.

City of Albuquerque Film Office
One Civic Plaza, Room 11110
Albuquerque, NM 87102
www.filmABQ.com

City of Albuquerque



Film and Photography Location License Agreement

This Film and Photography Location License Agreement ("License" or "Agreement") is made and entered into by _____ Company (Producer), a film Producer, as Licensee, and City of Albuquerque (City) as grantor, effective on the date of the last party to sign.

Section 1. Recitals. Producer desires to conduct commercial filming or photography ("Project") at a location owned by the City. The City desires to permit Producer to use the Location for the Project, upon the terms and conditions stated in this Agreement. In consideration of the covenants and consideration herein contained, the Parties agree as follows.

Section 2. License and Agreement. City hereby grants to Producer permission to use the Location described in the Summary Sheet attached as Part A to this Agreement solely for the purpose of filming the Project on the Film Dates as described on Part A, and for no other purpose, and the Parties hereby agree to be bound by all requirements of Part B "General Conditions" of this Agreement.

Section 3. Special Provisions. Any provisions which change or are in addition to the General Conditions must be noted on the Summary Sheet and set forth in Part C, "Special Provisions," of this Agreement. If Special Provisions are provided in Part C, the Parties hereby agree to be bound by all requirements of Part C.

Section 4. Incorporation of Parts A, B, and C. Parts A and B are attached hereto and incorporated herein as though set forth in full. If noted on the Summary Sheet, Part C is attached hereto and incorporated herein as though set forth in full.

Section 5. Approval of Agreement. This Agreement shall not become effective or binding until signed by the City's authorized representative.

IN WITNESS WHEREOF, the Parties have signed this Agreement on the dates set forth below.

<p>CITY OF ALBUQUERQUE A New Mexico Municipal Corporation</p> <p>By _____ City of Albuquerque Film Liaison Date: _____</p> <p>Approved:</p> <p>_____ Department Director Date: _____</p>	<p>PRODUCER: (PRINT NAME)</p> <p>By _____ Title: _____ Date: _____</p>
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Part A to FILM and PHOTOGRAPHY LOCATION LICENSE AGREEMENT



SUMMARY SHEET

TO BE COMPLETED BY PRODUCER	TIME AND DATE OF ACCESS TO LOCATION:
APPLICATION DATE:	Start date and time:
CORPORATE PARENT COMPANY:	End date and time:
	Total days location will be used:
	Please Attach Detailed Filming Schedule.
DOING BUSINESS AS: (PRODUCTION COMPANY)	TO BE COMPLETED BY CITY
	ACCESS AND LICENSE FEE:
PRODUCTION COMPANY ADDRESS:	To be paid prior to start date by check payable to the Owner Department and mailed or delivered to the Film Office at the address below.
AUTHORIZED REPRESENTATIVE: Name: Title:	CITY CONTACT ADDRESS: City of Albuquerque Film Office 1 Civic Plaza – Rm. 11110 Albuquerque, New Mexico 87102 e-mail: cwells@cabq.gov
PRODUCTION OFFICE PHONE NUMBER:	
LOCAL CONTACT NAME:	SPECIAL PROVISIONS (negotiated between parties and made part of the agreement) If applicable, use Part C.
LOCAL CONTACT PHONE(1)	C. -Special Site Provisions (y or n)
LOCAL CONTACT PHONE(2) (CELLULAR)	App. I - Acknowledgement and Release (y or n)
	App. II - Restoration Assurances (y or n)
	App. III - Security Deposit and Bonds (y or n)
	Other _____ (y or n)
E-MAIL CONTACT (OWNER DEPARTMENT:
OTHER LOCAL CONTACT INFORMATION	Extension beyond initial days: (only if facility is available)
	Additional fee for extension:
PROJECT: (current or working title, advertisement, commercial, a television program, a motion picture or movie or a series of still shots for commercial purposes)	
LOCATION:	

Part A to FILM and PHOTOGRAPHY LOCATION LICENSE AGREEMENT

Part B to FILM and PHOTOGRAPHY LOCATION LICENSE AGREEMENT



GENERAL CONDITIONS

Do not alter these General Conditions. If you wish to negotiate different terms or language, place those requested changes in Part C, Special Provisions for review.

Producer, as Licensee, and City of Albuquerque (City) as grantor, pursuant to the Film and Photography Location License Agreement in which this Part B is incorporated, agree to the following General Conditions.

1. CONDITIONS PRECEDENT TO GRANT OF LICENSE: Prior to the Start Date, Producer shall provide to the City, for its review and approval, a detailed Filming Schedule, to be delivered as indicated on the Summary Sheet.

2. GRANT OF LICENSE:

- a. The License Agreement grants to Producer permission to use the Location solely for the purpose of the Project and for no other purpose.
- b. Except as provided in the Special Provisions, such use is non-exclusive.
- c. Producer may depict the Location as Producer chooses, using actual names, signs or features on the Location. For distinct or trademarked locations, the Special Provisions to this Agreement, if any, may require that the Producer recognize that filming and photography of these locations are to be used only for the Project that is the subject of this License Agreement. Nothing in this License Agreement shall be considered a waiver or assignment by the City of any of its rights of trademark in its goods, services or institutions.
- d. This License Agreement does not purport to grant permission to Producer to film or photograph individuals, whether members of the public or employees of the City who may be present on the Location, without obtaining each such person's prior written consent.

3. TIME & DATE OF ACCESS: The permission granted in this License Agreement shall commence and end as set forth in the Summary Sheet. The City has no obligation to extend the License beyond the End Date, as the City may have other commitments with respect to the Location.

4. FEES AND CHARGES:

- a. **Access and License Fee:** In consideration of the license granted in this License Agreement, Producer shall, prior to the Start Date, pay to the City an Access and License Fee as set forth in the Summary Sheet.
- b. **Personnel:** The City shall determine in good faith the number and kinds of personnel necessary for the protection of the general public and City property at the Location. Licensee shall reimburse City for the time any City employees spend on any activity relating to the activities permitted hereunder based upon the current compensation rate of such employee. Producer shall provide and bear the cost of providing all personnel deemed necessary by City.
- c. **Extended Term:** If the City, at its sole discretion, agrees to extend the term of Producer's license to the Location beyond the original End Date, Producer shall promptly pay the Access and License Fee for the additional dates to the City.

5. ALTERATIONS TO LOCATION: Producer agrees that it will not change, alter or rearrange any furnishings, structures, and equipment on the Location without the City's prior written permission on a Restoration Assurances form to be included with the Special Provisions to this Agreement.

6. COMPLIANCE, CARE, AND CONTROL IN USE OF LOCATION:

- a. **All Laws:** In performing under this License Agreement, Producer shall at all times comply with all applicable state, local and federal laws, rules and regulations and orders ("Laws"), whether adopted before or after this License Agreement becomes effective. Each person exercising any rights hereunder shall comply with all such Laws.

- b. Producer acknowledges that certain film locations may have unique requirements related to the compliance, care and control of the location while Producer is using the location. The unique requirements, if any, shall be addressed in the Special Provisions to this Agreement.
- c. Producer shall return and restore all City property to its original condition, and/or repair it, if necessary.

7. LICENSEE'S INSPECTION: Producer acknowledges and agrees that it has examined the Location and has determined by its own independent evaluation that the Location, including its surface and subsurface, is suitable and usable for the purposes, uses and activities intended by Producer. Producer acknowledges that the City has made no representation, warranty or guaranty, express or implied, that the Location now or hereafter is suitable or usable for the purposes or uses which Producer intends to make of the Location.

8. UTILITIES: The City makes no representations, promises or assurances and undertakes no obligations to supply utilities or infrastructure appropriate for utilities to the Location.

9. RIGHT TO TERMINATE: Notwithstanding any provision contained herein, City or its authorized representative may terminate this License Agreement at any time by giving at least thirty (30) days' notice in writing, to Producer. Producer's obligations and liability to City shall survive termination. Unless waived in writing by City, Producer shall restore the Location to its condition at the commencement hereof.

10. NO KICKBACKS FOR USE: The parties affirm that neither the City nor Producer nor anyone acting for either party gave or agreed to give anything of value to any City employee or representative or to any member of the production staff, anyone associated with the Project, or any representative of Producer, or any television station or network for mentioning or displaying the name of City as a shooting location on the Location.

11. CREDITS. The Producer may acknowledge the cooperation and assistance of the City of Albuquerque in its published credits. Any identification of the Location which Producer may furnish shall be at Producer's sole discretion.

12. INDEMNIFICATION: Producer shall indemnify and hold harmless City from and against any and all liabilities, damages and claims of third parties arising from Producer's use hereunder of the Location. This indemnification includes, but is not limited to, defending, indemnifying and saving harmless the City and its officers, agents and employees from and against all suits, actions or claims of any character brought because of any injury, including death, or damage received or sustained by any person, persons, or property arising out of Producer's or Producer's invitees, agents, employees, contractors and subleases use of or activities on the Location or any improvements on the Location, or arising out of improvements on the Location, or by reason of any act or omission, neglect or misconduct of Producer or of Producer's agents, contractors, employees, invitees or subleases. This indemnity provision will apply equally to injuries to Producer's employees occurring on the Location. The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this License Agreement. All property, facilities and improvements of Producer that may be placed in or upon the Location will be done at the sole risk of Producer. The City will not be liable for any damage to property of the Producer or improvements on the Location arising from, or for any damage to the property of the Producer for any cause such as, but not limited to fire, water, flood, wind, vandalism, theft, larceny or burglary, other than due to the gross negligence or willful misconduct of City.

13. INSURANCE:

- a. **General.** Prior to the beginning of and throughout the operation of this Agreement, Producer shall, at its sole cost and expense, maintain insurance in conformance with the requirements set forth within this Section. Producer will use insurance companies authorized to do business in the State of New Mexico and with a minimum A.M. Best rating of A-VII, covering all operations under this Agreement, whether performed by it or its agents. All coverage afforded shall be primary and non-contributory with respect to Producer's operations. Policies of insurance shall be procured for all insurance required and coverage limits of such policies of insurance shall not be reduced or replaced in part or in whole by self-insurance, including self-insurance retention amounts. Various types of required insurance may be written in one or more policies.
- b. **Additional Insured.** With respect to all coverage required other than workers' compensation, the City, its officials, officers, agents, employees and volunteers shall be named as additional insureds by way of an endorsement or blanket additional insured provision.
- c. **Insurance Certificates.** Before the Start Date Producer shall furnish to the City a certificate or certificates in form satisfactory to the City showing that it has complied with this Section. Acceptance of the Certificates of Insurance by the City shall not relieve Producer of any of the insurance requirements set forth herein, nor decrease the liability of Producer.
- d. **Notice.** Producer agrees to provide written notice to the City of any material changes in coverage including cancellation and non-renewal as soon as possible.
- e. **Minimum Insurance.** The insurance requirements of this Agreement shall be the greater of (1) the minimum coverage limits specified in this Agreement, or (2) the broader coverage and maximum limits of

coverage of any insurance policy or proceeds available to the named insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required here. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover Producer's exposure under this Agreement.

- f. **Waiver of Subrogation.** Producer and its insurers must waive any rights of subrogation against the City, its officials, officers, agents, employees and volunteers, and Producer shall defend and pay any damages as a result of failure to provide the waiver(s) of insurance from the insurance carrier(s).
- g. **Kinds and Amounts of Insurance.** Kinds and amounts of insurance required are as follows:

(1) **Commercial General Liability Insurance** using Insurance Services Office ("ISO") Commercial General Liability Coverage Form CG 00 01, with an edition date prior to 2004, or the exact equivalent. Limits shall be no less than:

\$1,000,000	Per Occurrence for bodily injury, property damage, and personal and advertising injury
\$ 5,000	Medical Payments
\$1,000,000	Policy Aggregate

The policy of insurance shall be written on an occurrence basis and must include coverage for all operations performed for the City by Producer and contractual liability coverage shall specifically insure the hold harmless provisions of this Agreement. A severability of interest provision must apply for all additional insureds, ensuring that Producer's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability.

(2) **Business Auto Coverage** using ISO Business Auto Coverage Form CA 00 01 including owned, non-owned, and hired autos or the exact equivalent. Limits shall be no less than \$1,000,000 per accident combined single limit. If Producer or Producer's employees will use personal autos in any way under this Agreement, Producer shall obtain evidence of personal auto liability for each such person. A severability of interest provision must apply for all additional insureds, ensuring that Producer's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability.

(3) **Workers' Compensation Insurance** using a state-approved form providing statutory limits in accordance with the provisions of the Workers' Compensation Act of the State of New Mexico and with Employer's Liability limits of no less than \$1,000,000 per accident for all covered losses.

14. NO PARTNERSHIP OR AGENCY. Nothing contained in this Agreement is intended or shall be construed in any respect to create or establish any relationship other than that of owner and licensee, and nothing herein shall be construed to establish any partnership, joint venture or association or to make Producer the general representative or agent of City for any purpose whatsoever.

15. DISCRIMINATION PROHIBITED: In the operation and use of the Location, Producer shall comply with the Federal Civil Rights Act of 1964 and Title VII of the Act, the Albuquerque Human Rights Ordinance, the New Mexico Human Rights Act, and the Americans with Disabilities Act of 1990. Producer agrees to be responsible for knowing all applicable requirements of these laws, and to defend, indemnify and hold harmless the City, its officials, agents and employees from and against any and all claims, actions, suits or proceedings of any kind brought against said parties as a result of any acts or omissions of Producer or its agents in violation of these laws.

16. WAIVER OF DEFAULT: No failure by the City to insist upon the strict performance of any term, condition, or covenant of this License Agreement or to exercise any right or remedy available on the breach thereof, and no acceptance of full or partial rent during the continuance of any breach will constitute a waiver of any breach or of any term, condition, or covenant. No obligation of this License Agreement that Producer is required to perform and no breach thereof, will be waived, altered, or modified, except by written instrument executed by the City.

17. LIMITATION OF REMEDIES. Except as otherwise provided in this agreement, the Parties' sole remedy for a breach of any of their obligations hereunder shall be an action at law for actual damages and/or termination of the License Agreement as set forth in Section 9 herein. In no event shall the Parties or their successors and assigns seek or be entitled to injunctive or other equitable relief in connection with the filming product or the advertising, marketing, promotion, merchandising, distribution or other exploitation of the filming product, or any part thereof, nor shall City have the right to interfere with Producer's unrestricted exploitation of the filming product under any circumstance. Neither Party shall be liable to the other or any third party for any indirect damages, incidental or consequential damages, special damages, exemplary or punitive damages or lost profits, and each party shall bear its own costs and attorneys' fees in any action arising from breach of this Agreement. Producer agrees that in the event of partial or total termination or cancellation of this License Agreement by Producer, or Licensee's non-use of such facilities, Producer shall pay City, upon City's sole discretion and demand, as stipulated damages, the full amount of the Access and License Fee set forth in the Summary Sheet.

18. NOTICES: All notices required by this Agreement to be given any party shall be deemed to have been fully delivered, given, made, or sent when made in writing and deposited in the United States mail, certified, with postage prepaid thereon, and addressed as indicated on the Summary Sheet to Producer's Authorized Representative, or to the Albuquerque Film Office. Notice may also be made by e-mail as indicated on the Summary Sheet, if receipt of the transmission is confirmed by the receiver.

19. BINDING EFFECT AND EFFECTIVE DATE: This License Agreement will not be binding upon the parties until approved and signed by the City Film Liaison. Once this License Agreement is made, the covenants, terms and conditions of this License Agreement will be binding upon and inure to the benefit of the parties, their successors, assigns, subtenants and subleases. The effective date of this License Agreement is the date on which this License Agreement is approved by the Director of the Department whose property is being utilized as the Location.

20. ENTIRE AGREEMENT AND MODIFICATION: This License Agreement and any Addenda, contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith. This License Agreement shall not be modified without the prior written consent of the parties hereto.

21. GOVERNING LAW: This License Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of New Mexico, and the laws, rules and regulations of the City of Albuquerque, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New Mexico or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New Mexico.

22. FORUM SELECTION: Any cause of action, claim, suit, demand, or other case or controversy arising from or related to this License Agreement shall only be brought in the Second Judicial District Court located in Bernalillo County, New Mexico Albuquerque, New Mexico. The parties irrevocably admit themselves to, and consent to, the jurisdiction of said court. The provisions of this section shall survive the termination of this License Agreement.

END of PART B

Part C to FILM and PHOTOGRAPHY LOCATION LICENSE AGREEMENT



SPECIAL PROVISIONS

**FILM LOCATION LICENSE AGREEMENT – PART C APPENDIX I
ACKNOWLEDGMENT AND RELEASE AFTER RETURN OF LOCATION TO CITY**

PROPERTY OWNER; CITY OF ALBUQUERQUE (City)

PRODUCER/PRODUCTION COMPANY:

ADDRESS:

RE: _____ the PROJECT)

ACKNOWLEDGMENT:

The City hereby acknowledges that, with respect to the Location property referred to in the FILM LOCATION LICENSE AGREEMENT between Producer and City dated _____, ("License Agreement").

- (a) The Location property has been returned to the City in substantially the same condition as it was prior to Producer's use thereof;
- (b) All payments required under the License Agreement have been paid;
- (c) No additional restoration work is required in connection with the Location property;
- (d) The City, and any individual who entered the Location property at the invitation or on behalf of the City suffered no personal loss or damage in connection with the use of the Location property by Producer; and
- (e) Producer has no other responsibilities in connection with the Location property other than to continue to hold the City harmless from any and all third-party suits, claims or loss or liability resulting from Producer's use of the Location property subject to the terms and conditions of the License Agreement.

RELEASE:

Other than Producer's hold harmless obligations referenced above, the City hereby releases and forever discharges Producer, its parent subsidiary, affiliated and associated companies and its and their officers, employees, representatives, and agents, and their successors and assigns of and from any and all claims, debts, demands, liabilities, obligations, costs, expenses, damages, actions and causes of action of whatsoever kind or nature, whether known or unknown, which the City has ever had, now has or which the City or any of its successors or assigns hereafter can, shall or may have against Producer based on or arising out of, relating to or in connection with the License Agreement.

This Release to be signed by City of Albuquerque representative only upon the Producer's completion of all obligations hereunder, whether major or minor, including but not limited to payment of all fees, repairs, and surrender of the location.

**CITY OF ALBUQUERQUE
A New Mexico Municipal Corporation**

Recommended:

Film Officer

Date: _____

DEPARTMENT CONTROLLING LOCATION

Department Director

Date: _____

**FILM LOCATION LICENSE AGREEMENT – PART C APPENDIX II
APPROVAL OF ALTERATIONS TO FILMING LOCATION
AND RESTORATION ASSURANCES.**

PROPERTY OWNER; CITY OF ALBUQUERQUE (City)

PRODUCER/PRODUCTION COMPANY:

ADDRESS:

RE: _____ the PROJECT)

FILMING LOCATION: (exact description where alterations will occur)

Producer has made it known to City that certain alterations are foreseen in Producer's use of the location which is the subject of this Agreement. The alterations are enumerated and described below in paragraph A. Producer must not make any alterations not described below.

City agrees to the alterations to the location as described in Paragraph A as long as the alterations in Paragraph A will be remediated as described in Paragraph B. Paragraph B sets forth the minimum remediation of alterations and does not waive the Producer's responsibility to restore the filming location in full to its original condition, unless provided for by the City in Paragraph B below.

A. Producer will make the following alterations to the filming location:

B. Producer with remediate alterations as follows:

Initials.

**Producer
Film Office
Department**