

STATE OF TEXAS §

COUNTY OF STEPHENS §

**AGREEMENT FOR THE TEMPORARY CLOSURE  
OF STATE 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 the City of Breckenridge, a municipal corporation, acting by and through its duly authorized officers, hereinafter called the "local government."

**WITNESSETH**

WHEREAS, the State owns and operates a system of highways for public use and benefit, including US Hwy 180 & 183, in Stephens County; and

WHEREAS, the local government has requested the temporary closure of US Hwy 180 & US Hwy 183 (Waller & Breckenridge Ave) for the purpose of 2021 Christmas Parade, from Dec 8 6:30 to Dec 9 1:15 PM described in the attached "Exhibit A," hereinafter identified as the "Event;" and

WHEREAS, the Event will be located within the local government's incorporated area; and

WHEREAS, the State, in recognition of the public purpose of the Event, wishes to cooperate with the City so long as the safety and convenience of the traveling public is ensured and that the closure of the State's right of way will be performed within the State's requirements; and

WHEREAS, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the \_\_\_\_\_ City Council passed Resolution / Ordinance No. \_\_\_\_\_, attached hereto and identified as "Exhibit B," establishing that the Event serves a public purpose and authorizing the local government to enter into this agreement with the State; and

WHEREAS, 43 TAC, Section 22.12 establishes the rules and procedures for the temporary closure of a segment of the State highway system; and

WHEREAS, this agreement has been developed in accordance with the rules and procedures of 43 TAC, Section 22.12;

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:

**A G R E E M E N T**

**Article 1. CONTRACT PERIOD**

This agreement becomes effective upon final execution by the State and shall terminate upon completion of the Event or unless terminated or modified as hereinafter provided.

**Article 2. EVENT DESCRIPTION**

The physical description of the limits of the Event, including county names and highway numbers, the number of lanes the highway has and the number of lanes to be used, the proposed schedule of start and stop times and dates at each location, a brief description of the proposed activities involved, approximate number of people attending the Event, the number and types of animals and equipment, planned physical modifications of any man-made or natural features in or adjacent to the right of way involved shall be attached hereto along with a location map and identified as "Exhibit C."

**Article 3. OPERATIONS OF THE EVENT**

- A. The local government shall assume all costs for the operations associated with the Event, to include but not limited to, plan development, materials, labor, public notification, providing protective barriers and barricades, protection of highway traffic and highway facilities, and all traffic control and temporary signing.
- B. The local government shall submit to the State for review and approval the construction plans, if construction or modifications to the State's right of way is required, the traffic control and signing plans, traffic enforcement plans, and all other plans deemed necessary by the State. The State may require that any traffic control plans of sufficient complexity be signed, sealed and dated by a registered professional engineer. The traffic control plan shall be in accordance with the latest edition of the Texas Manual on Uniform Traffic Control Devices. All temporary traffic control devices used on state highway right of way must be included in the State's Compliant Work Zone Traffic Control Devices List. The State reserves the right to inspect the implementation of the traffic control plan and if it is found to be inadequate, the local government will bring the traffic control into compliance with the originally submitted plan, upon written notice from the State 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.
- C. The local government 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, it will contact the State for consultation no less than 10 workdays prior to the closure.
- D. The local government will complete all revisions to the traffic control plan as requested by the State within the required timeframe or that the agreement will be terminated upon written notice from the State to the local government. The local government 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.
- E. The local government will not initiate closure prior to 24 hours before the scheduled Event and all barriers and barricades will be removed and the highway reopened to traffic within 24 hours after the completion of the Event.
- F. The local government will provide adequate enforcement personnel to prevent vehicles from stopping and parking along the main lanes of highway right of way and otherwise prevent interference with the main lane traffic by both vehicles and pedestrians. The local government will prepare a traffic enforcement plan, to be approved by the State in writing at least 48 hours prior to the scheduled Event. Additionally, the local government shall provide to the State a letter of certification from the law enforcement agency that will be providing traffic control for the Event, certifying that they agree with the enforcement plan and will be able to meet its requirements.
- G. The local government hereby assures the State that there will be appropriate passage

allowance for emergency vehicle travel and adequate access for abutting property owners during construction and closure of the highway facility. These allowances and accesses will be included in the local government's traffic control plan.

H. The local government will avoid or minimize damage, and will, at its own expense, restore or repair damage occurring outside the State's right of way and restore or repair the State's right of way, including, but not limited to, roadway and drainage structures, signs, overhead signs, pavement markings, traffic signals, power poles and pavement, etc. to a condition equal to that existing before the closure, and, to the extent practicable, restore the natural and cultural environment in accordance with federal and state law, including landscape and historical features.

#### **Article 4. OWNERSHIP OF DOCUMENTS**

Upon completion or termination of this agreement, all documents prepared by the local government will remain the property of the local government. All data prepared under this agreement shall be made available to the State without restriction or limitation on their further use. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

#### **Article 5. TERMINATION**

A. This agreement may be terminated by any of the following conditions:

- (1) By mutual written agreement and consent of both parties.
- (2) By the State upon determination that use of the State's right of way is not feasible or is not in the best interest of the State and the traveling public.
- (3) By either party, upon the failure of the other party to fulfill the obligations as set forth herein.
- (4) By satisfactory completion of all services and obligations as set forth herein.

B. The termination of this agreement shall extinguish all rights, duties, obligations, and liabilities of the State and local government under this agreement. If the potential termination of this agreement is due to the failure of the local government to fulfill its contractual obligations as set forth herein, the State will notify the local government that possible breach of contract has occurred. The local government must remedy the breach as outlined by the State within ten (10) days from receipt of the State's notification. In the event the local government does not remedy the breach to the satisfaction of the State, the local government shall be liable to the State for the costs of remedying the breach and any additional costs occasioned by the State.

#### **Article 6. DISPUTES**

Should disputes arise as to the parties' responsibilities or additional work under this agreement, the State's decision shall be final and binding.

#### **Article 7. RESPONSIBILITIES OF THE PARTIES**

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

#### **Article 8. INSURANCE**

A. Prior to beginning any work upon the State's right of way, the local government and/or its contractors shall furnish to the State a completed "Certificate of Insurance" (TxDOT Form 1560, latest edition) and shall maintain the insurance in full force and effect during the period

that the local government and/or its contractors are encroaching upon the State right of way.

B. In the event the local government is a self-insured entity, the local government shall provide the State proof of its self-insurance. The local government agrees to pay any and all claims and damages that may occur during the period of this closing of the highway in accordance with the terms of this agreement.

**Article 9. AMENDMENTS**

Any changes in the time frame, character, agreement provisions or obligations of the parties hereto shall be enacted by written amendment executed by both the local government and the State.

**Article 10. COMPLIANCE WITH LAWS**

The local government shall comply with all applicable federal, state and local environmental laws, regulations, ordinances and any conditions or restrictions required by the State to protect the natural environment and cultural resources of the State's right of way.

**Article 11. LEGAL CONSTRUCTION**

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 12. NOTICES**

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

Local Government:	State:
<u>City of Breckenridge</u> <u>10541 Rose Ave.</u> <u>Breckenridge, TX 76424</u>	Texas Department of Transportation <u>2495 US Hwy 183N</u> <u>Brownwood, TX 76802</u>

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change to the other in the manner provided herein.

**Article 13. SOLE AGREEMENT**

This agreement constitutes the sole and only agreement between the parties hereto and supersedes any prior understandings or written or oral agreements respecting the within subject matter.

IN TESTIMONY WHEREOF, the parties hereto have caused these presents to be executed in duplicate counterparts.

THE CITY OF Breckenridge

Executed on behalf of the local government by:

Agreement No. \_\_\_\_\_

By \_\_\_\_\_ Date \_\_\_\_\_  
City Official

Typed or Printed Name and Title \_\_\_\_\_  
\_\_\_\_\_

**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 \_\_\_\_\_ Date \_\_\_\_\_  
District Engineer

Agreement No. \_\_\_\_\_

**Exhibit A**

*See attached*

Exhibit A

CITY OF BRECKENRIDGE, TEXAS

STEPHENS COUNTY US HWY 180

NUMBER OF LANES: 4

DATE: December 8, 2021

TIME 6:30 PM

Estimated Attendance: 500-800

Equipment involved will include, but not limited to the following:

- Tractor and pickup drawn floats with trailers
- Horse drawn wagons
- Mounted horse riding groups
- Marching Bands
- Dance Groups
- New and Antique automobiles
- Motorcycles
- Fire, Police & EMS vehicles
- Buses

Agreement No. \_\_\_\_\_

**Exhibit B**

*Reattached*



Exhibit B





# EXHIBIT C CERTIFICATE OF INSURANCE

Form 1580  
(Rev. 07/12)  
Previous editions of this form may not be used.  
Page 1 of 2

Agents should complete the form providing all requested information then either fax or mail this form directly to the address listed on page two of this form. Copies of endorsements listed below are not required as attachments to this certificate.

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not confer any rights or obligations other than the rights and obligations conveyed by the policies referenced on this certificate. The terms of the policies referenced in this certificate control over the terms of the certificate.

Insured: Breckenridge Chamber of Commerce  
Street/Mailing Address: P.O. Box 1446  
City/State/Zip: Breckenridge Texas 76424  
Phone Number: (254) 559 2301

### WORKERS' COMPENSATION INSURANCE COVERAGE: Endorsed with a Waiver of Subrogation in favor of TxDOT.

Carrier Name:			Carrier Phone #: ( ) -	
Address:			City, State, Zip:	
Type of Insurance	Policy Number	Effective Date	Expiration Date	Limits of Liability:
Workers' Compensation				Not Less Than: Statutory - Texas

### COMMERCIAL GENERAL LIABILITY INSURANCE:

Carrier Name: <u>United States Liability Ins. Co</u>			Carrier Phone #: <u>888 523-5545</u>	
Address: <u>1190 Devon Park Drive</u>			City, State, Zip: <u>Wayne, PA 19087</u>	
Type of Insurance:	Policy Number:	Effective Date:	Expiration Date:	Limits of Liability:
Commercial General Liability Insurance	<u>NBP1556218c</u>	<u>01/01/2021</u>	<u>01/01/2022</u>	Not Less Than: <u>1 MIL/2 MIL Agg.</u> \$ 600,000 each occurrence

### BUSINESS AUTOMOBILE POLICY:

Carrier Name:			Carrier Phone #: ( ) -	
Address:			City, State, Zip:	
Type of Insurance:	Policy Number:	Effective Date:	Expiration Date:	Limits of Liability:
Business Automobile Policy				Not Less Than: \$ 600,000 combined single limit

### UMBRELLA POLICY (if applicable):

Carrier Name:			Carrier Phone #: ( ) -	
Address:			City, State, Zip:	
Type of Insurance:	Policy Number:	Effective Date:	Expiration Date:	Limits of Liability:
Umbrella Policy				

Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

THIS IS TO CERTIFY to the Texas Department of Transportation acting on behalf of the State of Texas that the insurance policies named are in full force and effect. If this form is sent by facsimile machine (fax), the sender adopts the document received by TxDOT as a duplicate original and adopts the signature produced by the receiving fax machine as the sender's original signature.

Agency Name: Wallace Insurance Agency Address: 126 N Walker St. Breckenridge, TX 76424 City, State, Zip Code: 76424  
 Authorized Agent's Phone Number: 254 559-5477 Authorized Agent Original Signature: [Signature] Date: 9/22/2021

The Texas Department of Transportation maintains the information collected through this form. With few exceptions, you are entitled on request to be informed about the information that we collect about you. Under §552.021 and 552.023 of the Texas Government Code, you also are entitled to receive and review the information. Under §559.004 of the Government Code, you are also entitled to have us correct information about you that is incorrect.

Fax completed form to: 512/416-2536

**NOTES TO AGENTS:**

Agents must provide all requested information then either fax or mail this form directly to the address listed below.

Pre-printed limits are the minimum required; if higher limits are provided by the policy, enter the higher limit amount and strike-through or cross-out the pre-printed limit.

**To avoid work suspension**, an updated insurance form must reach the address listed below **one business day** prior to the expiration date. **Insurance must be in force in order to perform any work.**

**Binder numbers are not acceptable for policy numbers.**

The certificate of insurance, once on file with the department, is adequate for subsequent department contracts provided adequate coverage is still in effect. Do not refer to specific projects/contracts on this form.

List the contractor's legal company name, including the DBA (doing business as) name as the insured. If a staff leasing service is providing insurance to the contractor/client company, list the staff leasing service as the insured and show the contractor/client company in parenthesis.

The TxDOT certificate of insurance form is the only acceptable proof of insurance for department contracts.

List the contractor's legal company name, including the DBA (doing business as) name as the insured or list both the contractor and staff leasing service as insured when a staff leasing service is providing insurance.

Over-stamping and/or over-typing entries on the certificate of insurance are not acceptable if such entries change the provisions of the certificate in any manner.

This form may be reproduced.

**DO NOT COMPLETE THIS FORM UNLESS THE WORKERS' COMPENSATION POLICY IS ENDORSED WITH A WAIVER OF SUBROGATION IN FAVOR OF TXDOT.**

The **SIGNATURE** of the agent is required.

**CERTIFICATE OF INSURANCE REQUIREMENTS:**

**WORKERS' COMPENSATION INSURANCE:**

The contractor is required to have Workers' Compensation Insurance if the contractor has any employees including relatives.

The word **STATUTORY**, under limits of liability, means that the insurer would pay benefits allowed under the Texas Workers' Compensation Law.

**GROUP HEALTH** or **ACCIDENT INSURANCE** is not an acceptable substitute for Workers' Compensation.

**COMMERCIAL GENERAL LIABILITY INSURANCE:**

**MANUFACTURERS'** or **CONTRACTOR LIABILITY INSURANCE** is not an acceptable substitute for Comprehensive General Liability Insurance or Commercial General Liability Insurance.

**BUSINESS AUTOMOBILE POLICY:**

If coverages are specified separately, they must be at least these amounts:

Bodily Injury	\$500,000 each occurrence
	\$100,000 each occurrence
Property Damage	\$100,000 for aggregate

**PRIVATE AUTOMOBILE LIABILITY INSURANCE** is not an acceptable substitute for a Business Automobile Policy.

**MAIL ALL CERTIFICATES TO:**

Texas Department of Transportation  
CST – Contract Processing Unit (RA/200 – 1st Fl.)  
125 E. 11th Street  
Austin, TX 78701-2483  
512/416-2540 (Voice), 512/416-2536 (Fax)