

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Development Services/Planning Division
AGENDA DATE: Introduction 04-25-06; Public Hearing 05-09-06
CONTACT PERSON/PHONE: Esther Guerrero, Planner – 541-4720
DISTRICT(S) AFFECTED: #8

SUBJECT:

An Ordinance granting a Special Privilege to O.P.E.P. Incorporated to temporarily close a portion of Ochoa Street between First Avenue and Paisano Drive for various block parties on the following dates: May 28, 2006; June 25, 2006; July 2, 2006; September 3, 2006; and October 31, 2006. (Fee: \$687.50, SP-06004, District 8)

BACKGROUND / DISCUSSION:

See attached information.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

The Development Coordinating Committee (DCC) unanimously recommended approval on 04-12-06.

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: George Sarmiento

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

GENERAL INFORMATION:

SUBJECT: Special Privilege SP-06004

This Special Privilege will permit the temporary closure of a portion of public right-of-way along Ochoa Street between First Avenue and Paisano Drive for various block parties being held on May 28 and 29, 2006 from 5:00 p.m. to 4:00 a.m.; June 25 and 26, 2006 from 1:00 p.m. to 3:00 a.m.; July 2 and 3, 2006 from 5:00 p.m. to 3:0 a.m.; September 3 & 4, 2006 from 5:00 p.m. to 3:00 a.m.; and October 31 and November 1, 2006 from 5:00 p.m. to 4:00 a.m.

Entertainment will include live music, food, beverage and other event festivities.

As consideration for this Special Privilege License the applicant shall provide prior to City Council action the following:

- Submittal of a detailed traffic control plan to the City Engineering Department-Traffic Division no later than May 12, 2006 and distribution of the approved plan to the City Departments of Police, Fire and Sun Metro no later than May 19, 2006;
- Applicant shall temporarily close premises by using the materials and methods approved by the City Engineering Department-Traffic Division;
- Provide written letters of support of proposed use of public right-of-way from abutting property owners;
- Provide appropriate number of security personnel;
- Provide a twenty (20) foot wide traffic lane for emergency vehicle access on all temporarily closed streets; and
- Coordinate with any applicable City Departments, state or federal agencies to obtain any necessary permits and approvals required for the Events or proposed use of the Premises, including but not limited to, sound amplification and the sale of alcoholic beverages; and
- Providing liability insurance.

ORDINANCE NO. _____

AN ORDINANCE GRANTING A SPECIAL PRIVILEGE TO O.P.E.P. INCORPORATED TO TEMPORARILY CLOSE A PORTION OF OCHOA STREET BETWEEN FIRST AVENUE AND PAISANO DRIVE FOR VARIOUS BLOCK PARTIES ON THE FOLLOWING DATES: MAY 28, 2006; JUNE 25, 2006; JULY 2, 2006; SEPTEMBER 3, 2006; AND OCTOBER 31, 2006.

WHEREAS, O.P.E.P Incorporated (hereinafter referred to as "Grantee") is sponsoring various block parties" (hereinafter referred to as "Event") on Sunday, May 28, 2006; Sunday, June 25, 2006; Sunday, July 2, 2006; Sunday, September 3, 2006; and Tuesday, October 31, 2006, and is requesting the use and closure of a portion of public right-of-way in conjunction with the proposed Events.

WHEREAS, the City has reviewed the application and finds that it will not harm the public with the temporary closure of right-of-way subject to the following terms and conditions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Grantee is hereby granted a Special Privilege to temporarily close a portion of the following public right-of-way, as shown within the attached and incorporated Exhibit "A" and hereinafter referred to as "Premises":

Ochoa Street between First Avenue and Paisano Drive from 5:00 p.m. on Sunday, May 28, 2006 through 4:00 a.m. on Monday, May 29, 2006; from 1:00 p.m. on Sunday June 25, 2006 through 3:00 a.m. on Monday, June 26, 2006; from 5:00 p.m. on Sunday, July 2, 2006 through 3:00 a.m. on Monday, July 3, 2006; from 5:00 p.m. on Sunday, September 3, 2006 through 3:00 a.m. on Monday, September 4, 2006; from 5:00 p.m. on Tuesday, October 31, 2006 through 4:00 a.m. on Wednesday, November 1, 2006 for various block parties.

The grant of this Special Privilege is subject to the following conditions:

1. Grantee shall pay for all costs associated with the temporary closing of the Premises. The Premises shall be temporarily closed, by using the materials and methods approved by the City Engineering Department-Traffic Division as outlined in Paragraph 2 of this Special Privilege.

2. Grantee shall submit a detailed traffic control plan to the City Engineering Department-Traffic Division no later than May 5, 2006. The City Engineering Department-Traffic Division on or before May 12, 2006, shall approve, or approve with modification, the submitted detailed traffic control plan. Grantee shall submit copies of the approved detailed traffic control plan to the City Departments of Police, Fire and Sun Metro no later than May 19, 2006. Failure to submit, obtain the approval, or distribute the approved detailed traffic control plan as herein provided shall result in an automatic termination of this Special Privilege.

3. Grantee shall keep open a twenty (20) foot wide traffic lane for emergency vehicle access on all temporarily closed streets and a vertical clearance of not less than thirteen (13) feet six (6) inches. Grantee acknowledges that the temporarily closed Premises must be opened for use by emergency vehicles upon demand by City Police and Fire personnel. Grantee shall ensure that no structures shall be placed within fifteen (15) feet of any fire hydrant, nor directly over any water valve or sanitary sewer manhole in the Premises. In addition, should the City of El Paso for any reason decide that portions of the Premises that have been temporarily closed must be reopened, the Grantee, at no cost to the City, shall immediately after notice from the City Engineering Department-Traffic Division, reopen for public use the temporarily closed Premises.

4. Grantee shall be permitted to use the Premises for the Event purposes, including but not limited to all of the following: food and retail vending, entertainment staging, booths, event displays, public gathering areas (table and seating), and other festival-related activities.

5. Grantee shall not use any portions of other City public rights-of-way or City-owned property, without the express written consent of the City or an official authorized to grant such approval.

6. The City assumes no responsibility for maintenance of the Premises during the temporary closing by the Grantee.

7. The Premises shall be used by the Grantee solely for the Event purposes.

8. As an express condition of this Special Privilege, Grantee shall meet and coordinate emergency access for the Event, including but not limited to, first-aid stations,

emergency response, and manned security, with the City Departments of Fire and Police prior to start of event. In addition, Grantee shall complete all of the following:

- a. Provide satisfactory written proof to the Development Services Department, prior to passage of this ordinance, that the property owners and tenants within and adjacent to the Premises have no objections to the temporary closing;
- b. Obtain any permission, permit, license or lease to utilize any portion of City facilities used in connection with the Event prior to the use of the Premises;
- c. Coordinate with any applicable City Departments, state or federal agencies to obtain any necessary permits and approvals required for the Events or proposed use of the Premises, including but not limited to, sound amplification and the sale of alcoholic beverages;
- d. Provide sufficient refuse containers within the Premises for the litter generated by participants and patrons of the Events. After the Event has ended, Grantee, at no cost to the City, shall clean up all litter and debris within the Premises, leaving the public rights-of-way in a clean and orderly condition; and
- e. No equipment, tables, booths, electrical lines, or other structures shall be placed within fifteen (15) feet of any connections to sprinkler systems, water hydrants, water valves, and sanitary sewer manholes on or near the Premises;
- f. No equipment, tables, booths, electrical lines, or other structures shall be placed in such a manner that access is obstructed to any entrance or exit of any adjacent business. Such businesses, at all times, shall retain lawful ingress and egress.

9. The Grantee assumes full responsibility for the planning, coordination, management and production of the Event. Nothing contained herein shall be construed as creating the relationship of employer and employee or principal and agent between the City and the Grantee, and the Grantee shall be deemed at all times to be an independent contractor. The grant of this Special Privilege shall in no way be construed as co-sponsorship of the Event.

10. Grantee expressly agrees that should any improvements, within the Premises, including but not limited to landscape planters, plants, street paving, or traffic identification signs and devices, be destroyed or damaged during the Events, Grantee

shall replace or repair such improvements at Grantee's sole expense, and at no cost to the City, regardless of cause.

11. As consideration for this Special Privilege, Grantee shall pay the City a sum of One Hundred Thirty-Seven and 50/100 Dollars (\$137.50) per event, for a total sum of Six Hundred Eighty Seven and 50/100 Dollars (\$687.50), which shall be due prior to the execution of this Special Privilege by the El Paso City Council. The advance payment shall be in the form of a cashier's check delivered to the office of the Development Services Department for remittance to the office of the City Comptroller. If the Special Privilege is disapproved by the City Council, the office of the City Comptroller shall make a full refund of the payment within fifteen (15) days of the denial action.

The fee payment shall be exclusive of and in addition to all costs of obtaining required permits, plans and other approvals necessary to conform to all other applicable ordinances and regulations.

12. Upon termination of this Special Privilege, the grant hereof shall cease, any property of the Grantee situated upon the Premises shall be removed by the Grantee without cost or expense to the City, and the Premises shall be restored to its original condition.

13. Grantee agrees to indemnify and hold the City harmless from any claims for injury, death, loss or damage of any kind or character, and by whomsoever suffered or asserted, occasioned by or in connection with the temporary closing of the Premises by Grantee, its agents, servants or employees or any organizations contracted by the Grantee either while the Event is in progress or as the result of the temporary closing of the Premises.

Grantee shall, prior to execution of this Special Privilege by the El Paso City Council, provide public liability insurance for personal injuries and death arising from any one (1) accident or other cause in a minimum amount of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) per person, and Five Hundred Thousand and No/100 Dollars (\$500,000.00) for two (2) or more persons in any one (1) accident, and, in addition, shall provide property damage liability insurance in a minimum sum of One Hundred Thousand and No/100 Dollars (\$100,000.00) for property damage growing out

of any one (1) accident or other cause. These amounts are not a limitation upon the Grantee's agreement to indemnify and hold the City harmless.

Grantee shall procure said insurance with a solvent insurance company authorized to do business in Texas. All policies shall name the City of El Paso, its officers, agents, servants and employees as additional insured. Grantee shall file a copy of the policy or certificate of insurance with the City Clerk, the Development Services Department and the City Attorney prior to City Council enactment of the Special Privilege.

14. This Special Privilege is subject to the governmental powers of the City.

15. This Special Privilege shall not take effect unless Grantee files its written acceptance with the City Clerk and Development Services Department prior to City Council action. If Grantee accepts the terms and conditions of this Special Privilege as a corporation, each of the persons accepting on behalf of Grantee warrants to City that Grantee is a duly authorized and existing corporation, that Grantee is qualified to do business in the State of Texas, that Grantee has full right and authority to accept the terms and conditions of this Special Privilege and that each and every person signing on behalf of Grantee is authorized to do so. Upon the City's request, Grantee shall provide evidence satisfactory to the City confirming these representations.

PASSED AND APPROVED this ____ day of _____, 2006.

THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

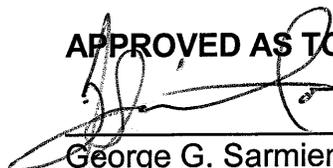
Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:



Carolyn J. Crosby
Assistant City Attorney

APPROVED AS TO CONTENT:



George G. Sarmiento, AICP, Deputy
Director/Development Services

(Signatures continue on following page)

ACCEPTANCE

The above instrument, with all conditions thereof, is hereby accepted this 17 day of April, 2006.

GRANTEE:

O.P.E.P. INCORPORATED

By: Mark Adkins

MARK ADKINS OWNER
(printed name/title)

ACKNOWLEDGMENT

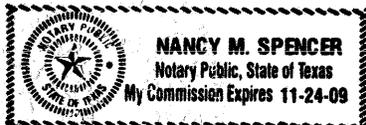
THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument is acknowledged before me on this 17th day of April, 2006, by Mark Adkins as owner, on behalf of O.P.E.P. Incorporated (Grantee).

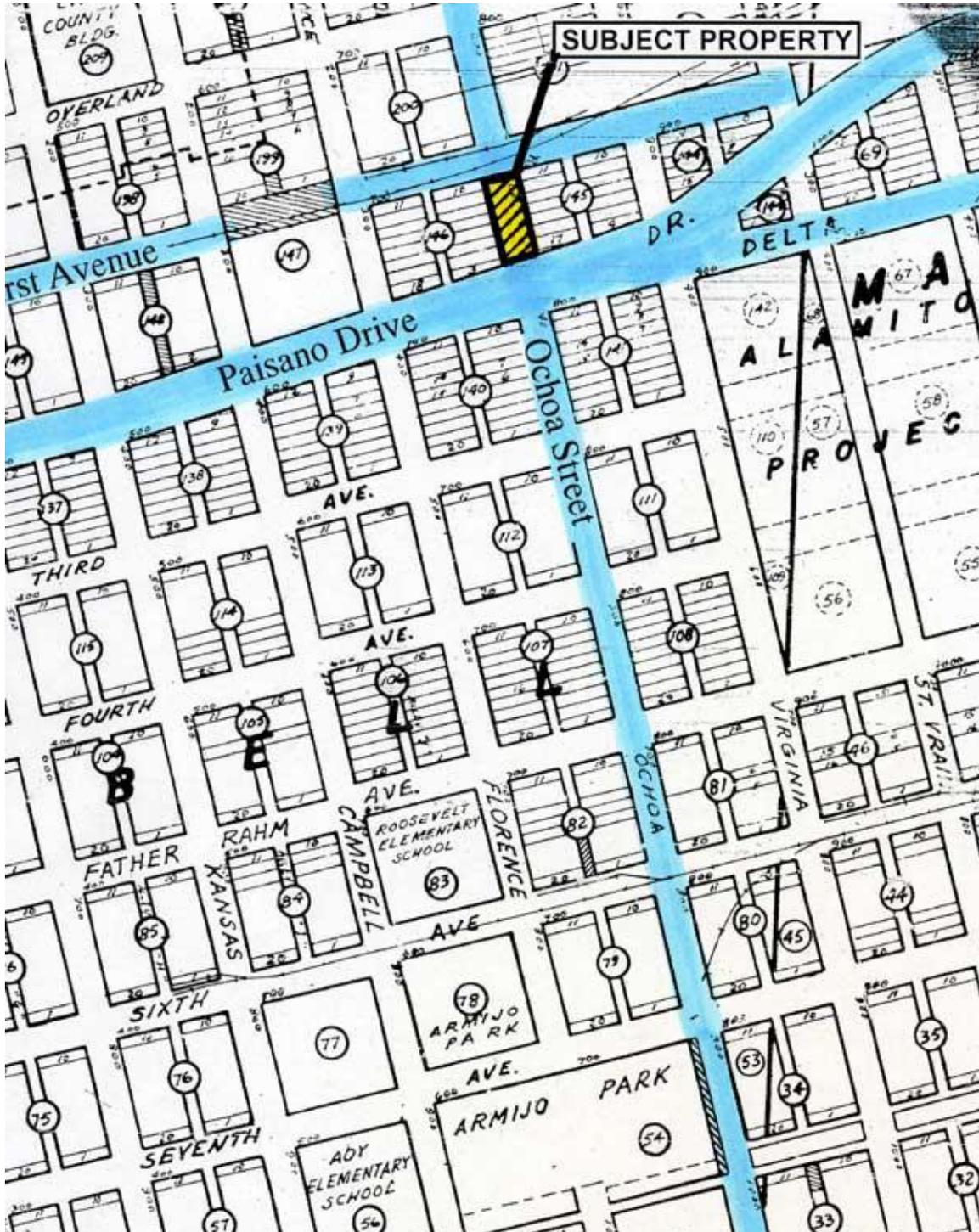
Notary Public, State of Texas
Nancy M Spencer

Notary's Printed or Typed Name:
Nancy M Spencer

My Commission Expires:
11-24-09



LOCATION MAP



AERIAL

