

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

**DEPARTMENT:** Development Services Department  
**AGENDA DATE:** Introduction 05-25-07; Public Hearing 06-05-07  
**CONTACT PERSON/PHONE:** Esther Guerrero, Planner – 541-4720  
**DISTRICT (S) AFFECTED:** #8

**SUBJECT:**

An Ordinance granting a Special Privilege to Regent Communications-El Paso to temporarily close a portion of Santa Fe Street between Franklin Avenue and San Antonio Avenue; San Francisco Avenue (Trolley Lane) between Santa Fe Street and El Paso Street; Durango Street (access road abutting Convention Center) between San Francisco Avenue and San Antonio Avenue; and Main Drive between Santa Fe Street and El Paso Street on Friday, June 29, 2007 through Monday, July 2, 2007 for the El Paso Downtown Street Festival. (Fee: \$225.00, SPL07-00004, 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:**

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) \_\_\_\_\_ **FINANCE:** (if required) \_\_\_\_\_

**DEPARTMENT HEAD:** Kelly Carpenter

**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

07 MAY 15 AM 9:28

**AN ORDINANCE GRANTING A SPECIAL PRIVILEGE TO REGENT COMMUNICATIONS-EL PASO TO TEMPORARILY CLOSE A PORTION OF SANTA FE STREET BETWEEN FRANKLIN AVENUE AND SAN ANTONIO AVENUE; SAN FRANCISCO AVENUE (TROLLEY LANE) BETWEEN SANTA FE STREET AND EL PASO STREET; DURANGO STREET (ACCESS ROAD ABUTTING CONVENTION CENTER) BETWEEN SAN FRANCISCO AVENUE AND SAN ANTONIO AVENUE; AND MAIN DRIVE BETWEEN SANTA FE STREET AND EL PASO STREET ON FRIDAY, JUNE 29, 2007 THROUGH MONDAY, JULY 2, 2007 FOR THE EL PASO DOWNTOWN STREET FESTIVAL.**

**WHEREAS,** REGENT COMMUNICATIONS-EL PASO (hereinafter referred to as "Grantee") is sponsoring the El Paso Downtown Street Festival (hereinafter referred to as "Event"), on Saturday, June 30, 2007 and Sunday, July 1, 2007; and

**WHEREAS,** the Grantee is requesting the use and closure of portions of public rights-of-way from Friday, June 29, 2007, through Monday, July 2, 2007, in conjunction with the proposed Event;

**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 portions of the following public rights-of-way as shown within the attached and incorporated Exhibit "A" and hereinafter referred to as "Premises" for the Event from 6:00 a.m. on Friday, June 29, 2007, to 6:00 a.m. Monday, July 2, 2007:

Santa Fe Street between Franklin Avenue and San Antonio Avenue; San Francisco Avenue (Trolley Lane) between Santa Fe Street and El Paso Street; Durango Street (access road abutting Convention Center) between San Francisco Avenue and San Antonio Avenue; and Main Drive between Santa Fe Street and El Paso Street;

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 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 by June 1, 2007. The City Engineering Department-Traffic Division on or before June 8, 2007 shall approve the 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 June 15, 2007. Failure to submit, obtain the approval, and distribute the approved detailed traffic control plan as herein provided shall result in an automatic termination of this Special Privilege. Grantee shall coordinate the temporary street closure with the Engineering-Traffic Division as well as the Texas Department of Transportation (TXDOT) to ensure that no problems exist between the temporary street closure and any street construction activity scheduled for the Downtown Area during that time.

3. Grantee shall keep open a twenty (20) foot wide traffic lane for emergency vehicle access on all temporarily closed streets and an unobstructed vertical clearance of no 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 the City Departments of 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.

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. In addition, Grantee shall complete all of the following:

a. Provide on or before May 1, 2007, satisfactory written proof to the Development Services Department/Planning Division that the property owners and tenants within and adjacent to the Premises have no adverse objections to the temporary closing;

CITY CLERK DEPT.

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 Event 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 Event. 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;

e. No equipment, tables, booths, electrical lines, or other structures shall be placed within fifteen (15) feet of any connections to sprinkler systems and water hydrants and water valves and sanitary sewer manholes on or near the Premises; and

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.

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

11. As consideration for this Special Privilege, Grantee shall pay to the City the sum of Seventy Five and No/100ths Dollars (\$75.00) per day for the total sum of Two Hundred Twenty Five and No/100ths Dollars (\$225.00) for closure of the public rights-of-way, 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/Planning Division 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.

07 MAY 15 AM 9:29  
CITY CLERK DEPT.

The fee payment shall be exclusive of and in addition to all costs of obtaining required permits, plans and other approvals as 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. **INSURANCE AND INDEMNIFICATION PROVISIONS.** Grantee acknowledges that its request to use the public right of way is solely for its benefit and not a use which benefits the City taxpayers as a whole. As a result, Grantee agrees to provide the following as a condition of its use of the public right of way:

- a. **LIABILITY INSURANCE:** Grantee shall provide public liability insurance for personal injuries and death growing out of any one 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 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 accident or other cause. Because the granting of this special privilege is solely for the benefit of Grantee and recognizing that the City taxpayers should not incur any costs associated with Grantee's enjoyment of this Special Privilege, Grantee is required to purchase liability insurance on behalf of the City or, alternatively, may name the City as an additional insured on the policy of general liability insurance referenced above. Such insurance shall provide coverage for any alleged acts or omissions of the City, its agents, employees or independent contractors, alleged or asserted by any individual, in connection with the performance of this agreement. Grantee shall maintain said insurance with a solvent insurance company authorized to do business in Texas. The policy shall provide that the insurer will defend against all claims and lawsuits which arise and will pay any final judgment of a court of competent jurisdiction against the City, its officers, agents, servants or employees and

CITY CLERK DEPT.  
07MAY 15 AM 9:29

Grantee, its officers, agents, servants or employees. No special privilege license shall be granted by City Council until Grantee files a copy of the policy or certificate of liability insurance as herein set forth with the City Clerk, the City Attorney's Office, and the Development Services Department. Such policy or certificate shall provide that the insurance cannot be canceled or the amount of coverage changed without ten (10) days prior written notice to the City Clerk. Failure to keep the policy in full force and effect throughout the term of the Special Privilege shall be grounds for cancellation of this Special Privilege.

- b. **INDEMNITY:** As a condition of the granting of a Special Privilege, Grantee or its insurer will INDEMNIFY, DEFEND AND HOLD the City, its officers, agents and employees, HARMLESS FOR AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, LIABILITY, DAMAGES OR EXPENSE, (INCLUDING BUT NOT LIMITED TO ATTORNEY FEES AND COSTS) FOR ANY DAMAGE TO OR LOSS OF ANY PROPERTY, OR ANY ILLNESS, INJURY, PHYSICAL OR MENTAL IMPAIRMENT, LOSS OF SERVICES, OR DEATH TO ANY PERSON ARISING OUT OF OR RELATED TO THIS AGREEMENT. Without modifying the conditions of preserving, asserting or enforcing any legal liability against the City as required by the City Charter or any law, the City will promptly forward to Grantee every demand, notice, summons or other process received by the City in any claim or legal proceeding contemplated herein. Grantee will 1) investigate or cause the investigation of accidents or occurrences involving such injuries or damages; 2) negotiate or cause to be negotiated the claim as Grantee may deem expedient; and 3) defend or cause to be defended on behalf of the City all suits for damages even if groundless, false or fraudulent, brought because of such injuries or damages. Grantee will pay all judgments in actions defended by Grantee pursuant to this section along with all attorneys' fees and costs incurred by the City including interest accruing to the date of payment by Grantee, and

CITY CLERK DEPT.  
07MAY 15 AM 9:29

**premiums on any appeal bonds. The City, at its election will have the right to participate in any such negotiations or legal proceedings to the extent of its interest. The City will not be responsible for any loss of or damage to Grantee's property from any cause.**

14. Grantee shall, prior to execution of this Special Privilege by the El Paso City Council, provide public liability insurance for personal injuries and death growing out of any one (1) accident or other cause in a minimum amount of Two Hundred Fifty Thousand and No/100ths Dollars (\$250,000.00) per person, and Five Hundred Thousand and No/100ths 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/100ths 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's. Grantee shall file a copy of the policy or certificate of insurance with the City Clerk, the Development Services Department/Planning Division and the City Attorney prior to City Council enactment of the Special Privilege.

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

16. This Special Privilege shall not take effect unless Grantee files its written acceptance with the City Clerk. 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 \_\_\_\_\_, 2007.**

***SIGNATURES ON FOLLOWING PAGE***

07 MAY 15 AM 9:29  
CITY CLERK DEPT.

THE CITY OF EL PASO

ATTEST:

\_\_\_\_\_  
John F. Cook  
Mayor

\_\_\_\_\_  
Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Lupe Cuellar  
Assistant City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Kimberly Forsyth, Senior Planner  
Development Services Department

ACCEPTANCE

The above instrument, with all conditions thereof, is hereby accepted this 14 day of May, 2007.

GRANTEE:

REGENT COMMUNICATIONS, INC.

By: \_\_\_\_\_

Gina Roe-Davis / Event Director  
(printed name/title)

ACKNOWLEDGMENT

THE STATE OF TEXAS )  
)  
COUNTY OF EL PASO )

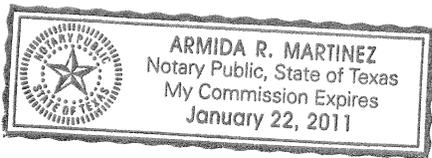
This instrument is acknowledged before me on this 14 day of May, 2007, by as Director on behalf of REGENT COMMUNICATIONS, INC. Grantee.

My Commission Expires:

\_\_\_\_\_  
Notary Public, State of Texas Signature

Notary's Printed or Typed Name:

ARMIDA R. MARTINEZ



07 MAY 15 AM 9:29

CITY CLERK DEPT.

## **GENERAL INFORMATION:**

**SUBJECT:** Special Privilege SPL07-00004)

This Special Privilege will permit the temporary closure of portions of Santa Fe Street, Main Drive, San Francisco Avenue (Trolley Lane) and Durango Street for the El Paso Downtown Street Festival.

The event will be held on Saturday, June 30, 2007 and Sunday, July 1, 2007.

Street closure will begin at 6:00 a.m. on Friday, June 29, 2007 through 6:00 a.m. on Monday, July 2, 2007.

Entertainment will include a sound stage with live music; food, beverage and retail vendors; firework display; and other event festivities.

All points of access to the event will be closed off with fencing for crowd control and security personnel will be furnished.

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 and proposed use diagram;
- 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;
- Coordinate with the El Paso Police Department on appropriate number of security personnel;
- Coordinate with Solid Waste Management on appropriate number of dumpsters;
- Coordinate with Development Services on number of required sanitary portables and any other applicable permits;
- Coordinate with the Health Department on vendor applications and inspections;
- Vending areas restricted within 15' of water hydrants, sanitary sewer manholes and other such structures;
- Provide a twenty (20) foot wide traffic lane for emergency vehicle access on all temporarily closed streets;
- Coordinate with the Fire Department if proposing firework displays; and
- Providing liability insurance.

## Location Map



## Aerial

