

CITY OF EL PASO, TEXAS  
DEPARTMENT HEAD'S SUMMARY REQUEST FOR COUNCIL ACTION (RCA)

**DEPARTMENT:** Parks and Recreation Department

**AGENDA DATE:** October 25, 2011

**CONTACT PERSON/PHONE:** Nanette Smejkal

**DISTRICT(S) AFFECTED:** 8

**SUBJECT:**

**APPROVE** a resolution authorizing that the city park, San Jacinto Plaza, remain open from one a.m. to six a.m. from the date the resolution is approved through November 13, 2011.

**BACKGROUND / DISCUSSION:**

A member of the public ("applicant") requested that the city park located at 111 E. Mills Avenue for the purpose of "Occupy El Paso" demonstration. Applicant agrees to abide by the terms of use.

The City Council is conducting a hearing on an ordinance amending City Code Section 13.24.040 to provide for Council Authorization to authorize that city parks remain open past the hours of closure by approval of a resolution.

**PRIOR COUNCIL ACTION:**

Prior to approving this resolution, the City Council will conduct the hearing mentioned above.

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

N/A

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

**DEPARTMENT HEAD:**

\_\_\_\_\_  
(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

*Information copy to appropriate Deputy City Manager*

CITY CLERK DEPT.  
2011 OCT 18 PM 5:55

**RESOLUTION**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That San Jacinto Plaza shall remain open from one a.m. to six a.m. from the date this Resolution is approved through November 13, 2011.

PASSED AND APPROVED this 25<sup>th</sup> day of October, 2011.

CITY OF EL PASO

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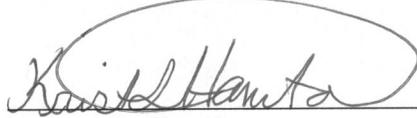
John F. Cook  
Mayor

ATTEST:

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Richarda Duffy Momsen  
City Clerk

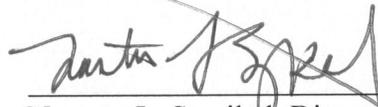
APPROVED AS TO FORM:



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Kristen L. Hamilton  
Assistant City Attorney

APPROVED AS TO CONTENT:



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Nanette L. Smejkal, Director  
Parks and Recreation Department

Permit Contract

Help

Permit #6909, Approved  
Oct 13, 2011 3:21 PM

City of El Paso - Admin  
2 Civic Center Plaza  
6th Floor  
El Paso, TX 79901  
Phone: (915) 541-4331  
FAX: (915) 541-4355  
Email: parksandrec@elpasotexas.gov



Anessa Anchondo Rivera  
8944 Sandhill Ct  
El Paso, TX 79907

Customer Type: Standard  
Prepared By: wil0602

Customer ID: 72105  
Home: (915) 694-3695

Charges	Taxes	Discounts	Total Charges	Total Payments	Refunds	Balance
\$0	\$0	\$0	\$0	\$0	\$0	\$0

RESERVATIONS

Event	Resource	Center	Notes
Occupy El Paso Type: Shelter / Reserve / Plaza / Pavilion Rental Attend/Qty: 300	San Jacinto Plaza	Shelters, Plazas, Pavilions, Rose Garden & Reserves 2 Civic Center Plaza 6th Floor El Paso, TX, US 79901 (915) 541-4331	--

Day	Days Requested	Date	Event Begins	Duration	Event Ends
Monday		Oct 17, 2011	12:00 PM	24 hours	Oct 18, 2011 at 12:00 PM
Tuesday		Oct 18, 2011	12:00 PM	24 hours	Oct 19, 2011 at 12:00 PM
Wednesday		Oct 19, 2011	12:00 PM	24 hours	Oct 20, 2011 at 12:00 PM
Thursday		Oct 20, 2011	12:00 PM	24 hours	Oct 21, 2011 at 12:00 PM
Friday		Oct 21, 2011	12:00 PM	24 hours	Oct 22, 2011 at 12:00 PM
Saturday		Oct 22, 2011	12:00 PM	24 hours	Oct 23, 2011 at 12:00 PM
Sunday		Oct 23, 2011	12:00 PM	24 hours	Oct 24, 2011 at 12:00 PM
Monday		Oct 24, 2011	12:00 PM	24 hours	Oct 25, 2011 at 12:00 PM
Tuesday		Oct 25, 2011	12:00 PM	24 hours	Oct 26, 2011 at 12:00 PM
Wednesday		Oct 26, 2011	12:00 PM	24 hours	Oct 27, 2011 at 12:00 PM
Thursday		Oct 27, 2011	12:00 PM	24 hours	Oct 28, 2011 at 12:00 PM
Friday		Oct 28, 2011	12:00 PM	24 hours	Oct 29, 2011 at 12:00 PM
Tuesday		Nov 1, 2011	12:00 PM	24 hours	Nov 2, 2011 at 12:00 PM
Wednesday		Nov 2, 2011	12:00 PM	24 hours	Nov 3, 2011 at 12:00 PM
Thursday		Nov 3, 2011	12:00 PM	24 hours	Nov 4, 2011 at 12:00 PM
Friday		Nov 4, 2011	12:00 PM	24 hours	Nov 5, 2011 at 12:00 PM
Saturday		Nov 5, 2011	12:00 PM	24 hours	Nov 6, 2011 at 11:00 AM
Sunday		Nov 6, 2011	12:00 PM	24 hours	Nov 7, 2011 at 12:00 PM
Monday		Nov 7, 2011	12:00 PM	24 hours	Nov 8, 2011 at 12:00 PM
Tuesday		Nov 8, 2011	12:00 PM	24 hours	Nov 9, 2011 at 12:00 PM
Wednesday		Nov 9, 2011	12:00 PM	24 hours	Nov 10, 2011 at 12:00 PM
Thursday		Nov 10, 2011	12:00 PM	24 hours	Nov 11, 2011 at 12:00 PM
Friday		Nov 11, 2011	12:00 PM	24 hours	Nov 12, 2011 at 12:00 PM
Saturday		Nov 12, 2011	12:00 PM	24 hours	Nov 13, 2011 at 12:00 PM

Question Answer

What is the purpose of your event? Other  
 Please specify: Occupy El Paso - Rally (Demonstration)  
 Do you need extra time to setup? No  
 Will you be having a jumping balloon? No  
 Will you have amplification/music at your event? No  
 Will you be collecting money at your event? (Donations, Admissions, Entry Fees, Tickets) No

*Per C.M. this permit is subject to CC ratification on 10/25/11. If not approved permit will be pulled. Any damages to City property will result in permit being pulled.*  
*J. Flores 10/13/11*

Summary

Total Number of Dates: 24  
 Total Time: 576 hours

This is a non exclusive permit. No Alcohol nor glass containers permitted. No Amplification. Authorized overnight/camping. Permitted: small generator, 1-2 portable restrooms/(applicant cost), 2 tents (up to 10 x 10), no staking. Camping tents permitted (no staking). Initials CC. Other authorized POCs: Guillermo Morales 915.269.3880; Joseph Flores 915.820.1768

DISCLAIMERS

\*\*\*\*\*CONDITIONS OF USE \*\*\*\*\*

1. The permittee shall comply with all instructions and rules and with all applicable laws and ordinances.
2. The permittee shall, immediately upon the conclusion of the event, clean and remove all litter and debris left on the park and sidewalks used by participants and spectators.
3. City parks are closed to the public every night between 10:00pm - 6:00 am (Municipal Code 13.24.040)
4. No person shall camp in any city park or playground (Municipal Code 13.24.070)
5. No vehicles are allowed into or onto park areas (Municipal Code 13.24.090)
6. No person shall throw or deposit litter in any park except in public receptacles. Where public receptacles are not provided, all waste shall be carried away from the park by the person responsible for its presence and properly disposed of. (Municipal Code 9.04.340)
7. Every person having custody of any dog(s) must have means of control by a secure leash or by some other equivalent means of direct physical control. (Municipal Code 7.12.010)
8. It is unlawful for any person owning an animal to permit the animal to defecate upon the city's public property unless the person immediately removes the feces and properly disposes of it. In addition, it is unlawful for any person to walk an animal on the city's public property without carrying at all times a suitable container or other instrument for the removal and disposal of animal feces. (Municipal Code 7.08.010)
9. Destruction or damage of trees is prohibited. (Municipal Code 9.11.010)
10. Charitable solicitations must be in compliance with Municipal Code 5.24
11. No person shall possess or consume an alcoholic beverage in any city park (except as provided in Municipal Code 13.24.130)
12. Glass containers are prohibited (Municipal Code 13.24.190)
13. City not liable for inclement weather. No Refunds.
14. Emergency numbers for Parks and Recreation Department:  
Weekday Mon-Fri 7:00AM - 3:30PM (915) 621-6821 After Hours and Weekends: (915) 546-5473 (Answering Service)For: Electrical/Irrigation. For Security (915) 771-8530

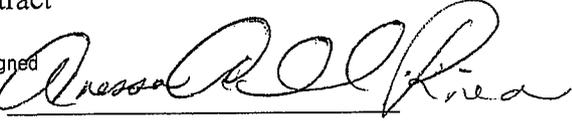
WAIVERS

Indemnification Policy

Due Date: Oct 17, 2011

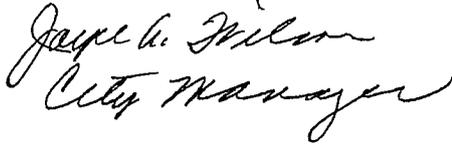
1. AMUSEMENT DEVICES. Moonwalks, jumping balloons, dragons, dunking booths, or similar apparatus must be provided by a rental company that has been recommended by the City of El Paso Parks & Recreation Department. Rental company must have proof of liability insurance, which names the City of El Paso Parks & Recreation Department in the insurance as an additionally insured (amount of coverage should be \$500,000/person, \$1,000,000/occurrence public liability and \$10,000 property damage covering the facility and premises for the duration of the rental agreement).
2. COMPLIANCE WITH LAWS. Renter will comply with all laws, ordinances and regulations adopted or established by federal, state or local government agencies or bodies; and by all facility rules and regulations as provided by City, and Applicant will require that all his agents and employees, and all persons entering the facility likewise so comply.
3. INTELLECTUAL PROPERTY. Renter will assume all costs arising from the use of patented, trademarked, franchised or copyrighted music, materials, devices, processes or dramatic rights used in connection with the use of the facility.
6. INDEMNIFICATION. Renter shall indemnify and hold the City harmless against any and all claims, demands, damages, costs, and expenses, including investigation expenses and reasonable attorney fees for the defense of such claims and demands, arising out of or attributed directly, or indirectly to the conduct, acts or omission of Renter, its invitees, agents, contractors, employees, subtenants, concessionaire or licensees, or anyone entering on City property during the time the facility is used under this agreement. Renter further agrees to indemnify, defend and hold harmless City from any claims or costs, including legal fees, which might arise from use of any patented, trademarked, franchise or copyrighted music, devices, processes or dramatic rights used in connection with the event.  
  
Renter further expressly agrees to indemnify the City from any and all claims arising, in whole or in part, from the conduct, acts, or omissions of the City.
7. ATTORNEY FEES. Should it be necessary for the City to employ any attorney to defend the City from any claims, or to enforce any provisions of this agreement, the Renter agrees to pay all reasonable costs, damages and expenses, including attorney fees incurred in connection with the City's defense or enforcement efforts.
8. GOVERNMENT FUNCTION. The Renter expressly agrees that, in all things relating to this agreement, the City is performing a governmental function, as defined by the Texas Tort Claims Act. The Renter further expressly agrees that every act or omission of the City which in any way pertains to or arises out of this agreement, falls within the definition of governmental function.
9. EXCLUSION OF INCIDENTAL AND CONSEQUENCES DAMAGES. Independent of, severable from, and to be enforced independently of any other enforceable or unenforceable provision of this agreement, THE CITY OF EL PASO WILL NOT BE LIABLE TO APPLICANT (NOR TO ANY PERSON CLAIMING RIGHTS DERIVED FROM THE RENTER'S RIGHTS) FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND including lost profits, loss of business or other economic damage, and further including injury to property, mental anguish and emotional distress. AS A RESULT OF BREACH OF ANY TERM OF THIS AGREEMENT, REGARDLESS OF WHETHER THE CITY OF EL PASO WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF.
10. MAXIMUM AGGREGATE LIABILITY. Independent of, severable from, and to be enforced independently of any other enforceable or unenforceable provision of this agreement, IN NO EVENT SHALL THE CITY OF EL PASO'S AGGREGATE LIABILITY TO APPLICANT (INCLUDING LIABILITY TO ANY PERSON OR PERSONS WHOSE CLAIM OR CLAIMS ARE BASED ON OR DERIVED FROM A RIGHT OR RIGHTS CLAIMED BY APPLICANT), WITH RESPECT TO ANY AND ALL CLAIMS AT ANY AND ALL TIMES ARISING FROM OR RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, IN CONTRACT, TORT, OR OTHERWISE, EXCEED THE AMOUNT OF CONSIDERATION ACTUALLY PAID BY THE RENTER TO THE CITY UNDER THE TERMS OF THIS AGREEMENT.
11. INTENTIONAL RISK ALLOCATION. Renter and City acknowledge that the provisions of this agreement were negotiated to reflect an informed, voluntary allocation between them of all risks (both known and unknown) associated with the transactions associated with this agreement. The disclaimers and limitations in this agreement are intended to limit the circumstances of liability. The remedy limitations, and the limitations of liability, are separately intended to limit the forms of relief available to the parties.
12. INTERPRETATION. All matters relating to this agreement shall be decided by the Director of Parks and Recreation, in the exercise of his/her sole discretion. The Director's determinations regarding the interpretation and application of the provisions of this agreement are final and binding of the Renter, his agents and employees, and all persons entering on City property.

Waiver Signed

Signature: 

Terms & Conditions: This agreement, when signed by the applicant and a representative of the El Paso Parks and Recreation Dept, constitutes a contractual agreement binding both parties to certain obligations. The applicant agrees to observe and obey all El Paso Parks and Recreation Dept rules and regulations. In addition, it shall be the responsibility of the applicant to pay the required fee at the time of reservation. Balance due must be paid before the scheduled event. El Paso Parks and Recreation Dept agrees to maintain the facility and to assure that the facility is prepared properly for the agreed-upon event.

Approved:

  
City Manager

(Subject to City Council  
Ratification on Oct 25, 2011)