

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

AGENDA DATE: November 7, 2023
PUBLIC HEARING DATE: N/A

CONTACT PERSON(S) NAME AND PHONE NUMBER: Philip F. Etiwe, (915) 212-1553
Armida Martinez, (915) 212-1605

DISTRICT(S) AFFECTED: District 8

STRATEGIC GOAL: #4 Enhance El Paso's quality of life through recreational, cultural and educational environments

SUBGOAL: 4.2 Create innovative recreational, educational and cultural programs

SUBJECT:

That the closure of rights-of-way within the City of El Paso for WinterFest Opening Day from Saturday, November 18, 2023 6:00 a.m. to 3:00 a.m. on Sunday, November 19, 2023, serves a public purpose of providing cultural and recreational activities for the residents and visitors of the City of El Paso, and in accordance with 43 TAC, Section 22.12, the City Manager be authorized to sign an Agreement For The Temporary Closure of State Right Of Way (Form TEA 30A) by and between the City of El Paso and the State of Texas, acting by and through the Texas Department of Transportation, for the temporary closure and use of State owned and operated street (s) in excess of four hours for portions of Mesa St. between Franklin Ave. and Texas Ave. upon the issuance of required permits from the City of El Paso and substantial conformity to the finalized TEA30 agreement between the City of El Paso and State of Texas Department of Transportation. (CSEV23-00124)

BACKGROUND / DISCUSSION:

EVENT NAME: WinterFest Opening Day
PERMIT CASE NUMBER: CSEV23-00124
EVENT DATE/HOURS: Saturday, November 18, 2023 at 4:00 p.m. to 11:00 p.m.
TRAFFIC CONTROL: Saturday, November 19, 2023 at 6:00 a.m. to 3:00 a.m.
STATE ROW IN USE: Mesa St. between Franklin Ave. and Texas Ave.
APPLICANT: The City of El Paso Parks and Recreation

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES ___ NO

PRIMARY DEPARTMENT: Planning & Inspections, Planning Division

SECONDARY DEPARTMENT: N/A

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

DEPARTMENT HEAD:

Philip Etiwe

RESOLUTION

WHEREAS, WinterFest Opening Day (hereinafter referred to as “Grantee”) has submitted an application for a Special Event Permit as per Chapter 13.38 (Special Events) of the El Paso City Code, for the use and closure of rights-of-way within the City of El Paso’s (hereinafter referred to as “the City”) for the WinterFest Opening Day from Saturday, November 18, 2023, 6:00 a.m. to 3:00 a.m. on Sunday, November 19, 2023, (hereinafter referred to as the “Event”); and

WHEREAS, The Event will utilize both City and State rights-of-way: and

WHEREAS, The City of El Paso (hereinafter referred to as the “City”) has found the Event serves a public purpose; and

WHEREAS, The State of Texas (hereinafter referred to as the “State”) owns and operates a system of highways for public use and benefit, including Mesa St. between Franklin Ave. and Texas Ave. within El Paso, Texas; and

WHEREAS, 43 TAC, Section 22.12 establishes the rules and procedures for the temporary closure of portions of the State Highway System for periods of time exceeding four hours; and

WHEREAS, the State in recognition of the public purpose for the Event, provides a means of cooperating with the City for the temporary closure of State right-of-way, provided the closure is in accordance with the requirements of 43 TAC, Section 22.12 and the City enters into an Agreement for the Temporary Closure of State Right-of-Way for the Event (Form TEA 30A).

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

That the closure of rights-of-way within the City of El Paso for the WinterFest Opening Day from Saturday, November 18, 2023 6:00 a.m. to 3:00 a.m. on Sunday, November 19, 2023, serves a public purpose of providing cultural and recreational activities for the residents and visitors of the City of El Paso, and in accordance with 43 TAC, Section 22.12, the City Manager be authorized to sign an Agreement For The Temporary Closure of State Right Of Way (Form TEA 30A) by and between the City of El Paso and the State of Texas, acting by and through the Texas Department of Transportation, for the temporary closure and use of State owned and operated street (s) in excess of four hours for portions of Mesa St. between Franklin Ave. and Texas Ave. upon the issuance of required permits from the City of El Paso and substantial conformity to the finalized TEA30 agreement between the City of El Paso and State of Texas Department of Transportation.

(Signatures being on the following page)

APPROVED this _____ day of _____, 2023.

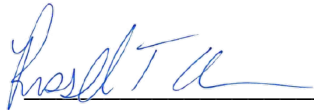
CITY OF EL PASO:

Oscar Leaser, Mayor

ATTEST:

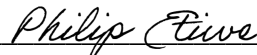
Laura D. Prine,
City Clerk

APPROVED AS TO FORM:



Russell T. Abeln
Senior Assistant City Attorney

APPROVED AS TO CONTENT:



Philip F. Etiwe, Director
Planning & Inspections Department

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

**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 El Paso, a municipal corporation, acting by and through its duly authorized officers, hereinafter called the “local government.”

W I T N E S S E T H

WHEREAS, the State owns and operates a system of highways for public use and benefit, including Mesa St. between Franklin Ave. and Texas Ave. , in El Paso, County; and

WHEREAS, the local government has requested the temporary closure of Mesa St. between Franklin Ave. Texas Ave. , for the purpose of allowing the WinterFest Opening Day, from 06:00 a.m. on Saturday, November 18, 2023, to 3:00 a.m. on Sunday, November 19, 2023 as 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 7th day of November 2023, the El Paso City Council passed a Resolution, 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 and a location map is attached hereto as “**Exhibit C,**” and incorporated as if fully set forth herein.

Article 3. OPERATIONS OF THE EVENT

A. The local government shall assume all costs for the operations associated with the Event, including 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 signage.

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 signage plans; traffic enforcement plans, and; all other plans deemed necessary by the State. The State may require that any traffic control plan 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:
City of El Paso Attn: Cary Westin Interim City Manager 300 N. Campbell- City 1, 2 nd Floor El Paso, Texas 79901	Texas Department of Transportation Attn: Tomas Trevino, P.E. El Paso District Engineer 13301 Gateway West El Paso, Texas 79928-5410

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 EL PASO

Executed on behalf of the local government by:

Cary Westin
Interim City Manager

Date_____

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Russell Abeln

Russell T. Abeln
Senior Assistant City Attorney

Philip F. Etiwe

Philip F. Etiwe, Director
Planning and Inspections Department

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_____
Tomas Trevino, P.E.,
El Paso District Engineer

Date_____



City of El Paso

Streets and Maintenance

Traffic Control Permit



Site Address: 114 W MILLS AVE, EL PASO, TEXAS 79901

Permit No: **EPTC23-04217**

Issued: **10/19/2023**

Expires: **11/19/2023**

Applicant EL PASO PARKS & RECREATION NICOLAS VALDES 801 S TEXAS AVE EL PASO, TEXAS 79905	Phone Number Applicant: (915) 212-2156 valdesnx@elpasotexas.gov Barricade: (915) 921-0300 adam@tcs-ep.com	Barricade Company TRAFFIC CONTROL SPECIALIST (TCS) ADAM MIJARES 3120 TRAWOOD DR STE F EL PASO, TEXAS 79936
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WORK AUTHORIZED: 2023 EL PASO WINTERFEST TREE LIGHTING & OPENING DAY PRESENTED BY COEP PARKS & RECREATION, SITE INCLUDES MERCHANDISE BOOTHS, VIP TENTS, FOOD TRUCKS, MAIN STAGE, DECKS, PORTABLE SANITATION UNITS, & EVENT SEATING. EVENT AREA WILL BE INSTALLED ON THE ROADWAY AREA ALONG N MESA ST, E MAIN ST, N OREGON ST, & W MILLS AVE FOR A CITY SPECIAL EVENT. TCS PROVIDING TRAFFIC CONTROL DEVICES & SITE MAINTENANCE, SATURDAY 11/18/2023 6:00AM - SUNDAY 11/19/2023 3:00AM ONLY. EVENT SCHEDULED FOR SATURDAY 11/18/2023 4:00PM-11:00PM.

TYPE OF TRAFFIC CONTROL SET UP: 1 DAY EVENT: PARTIAL ROAD CLOSURES W/ DETOURS & ARROWBOARDS, CROSSWALK & SIDEWALK CLOSURES W/ PEDESTRIAN DETOURS ALONG MINOR & MULTI-LANE ROADWAYS & SIGNALIZED INTERSECTIONS

Start Date: 11/18/2023

Expiration Date: 11/19/2023

Length of Term: Short

Closure Times: **Sat 6:00am - Sun 3:00am**
(No Early Set Up or Late Pick Up)

*** NOTICE ***

1. THIS PERMIT IS ISSUED IN ACCORDANCE WITH PROVISIONS OF CHAPTER 12.30 OF THE MUNICIPAL CODE AND CURRENT EDITION OF CHAPTER SIX OF THE TEXAS MANUAL OF UNIFORMED TRAFFIC CONTROL DEVICES AND THE APPLICANT, IN ACCEPTING IT, OBLIGATES THEM TO COMPLY FULLY WITH ALL THE PROVISIONS OF THE MUNICIPAL CODE.
2. THIS TRAFFIC CONTROL PERMIT AND APPROVED TRAFFIC CONTROL PLAN, OR A COPY THEREOF, SHALL BE KEPT ON THE JOB SITE UNTIL COMPLETION OF THE PROJECT.
3. I HEREBY ACKNOWLEDGE THAT I HAVE READ THIS PERMIT AND STATE THAT THE ABOVE INFORMATION IS CORRECT, AND AGREE TO COMPLY WITH ALL CITY, STATE AND FEDERAL LAWS REGULATING ACTIVITIES COVERED BY THIS PERMIT.

City Traffic Engineer

Contractor's, Owner's or Agent's Signature






Issued By David A. Zamora

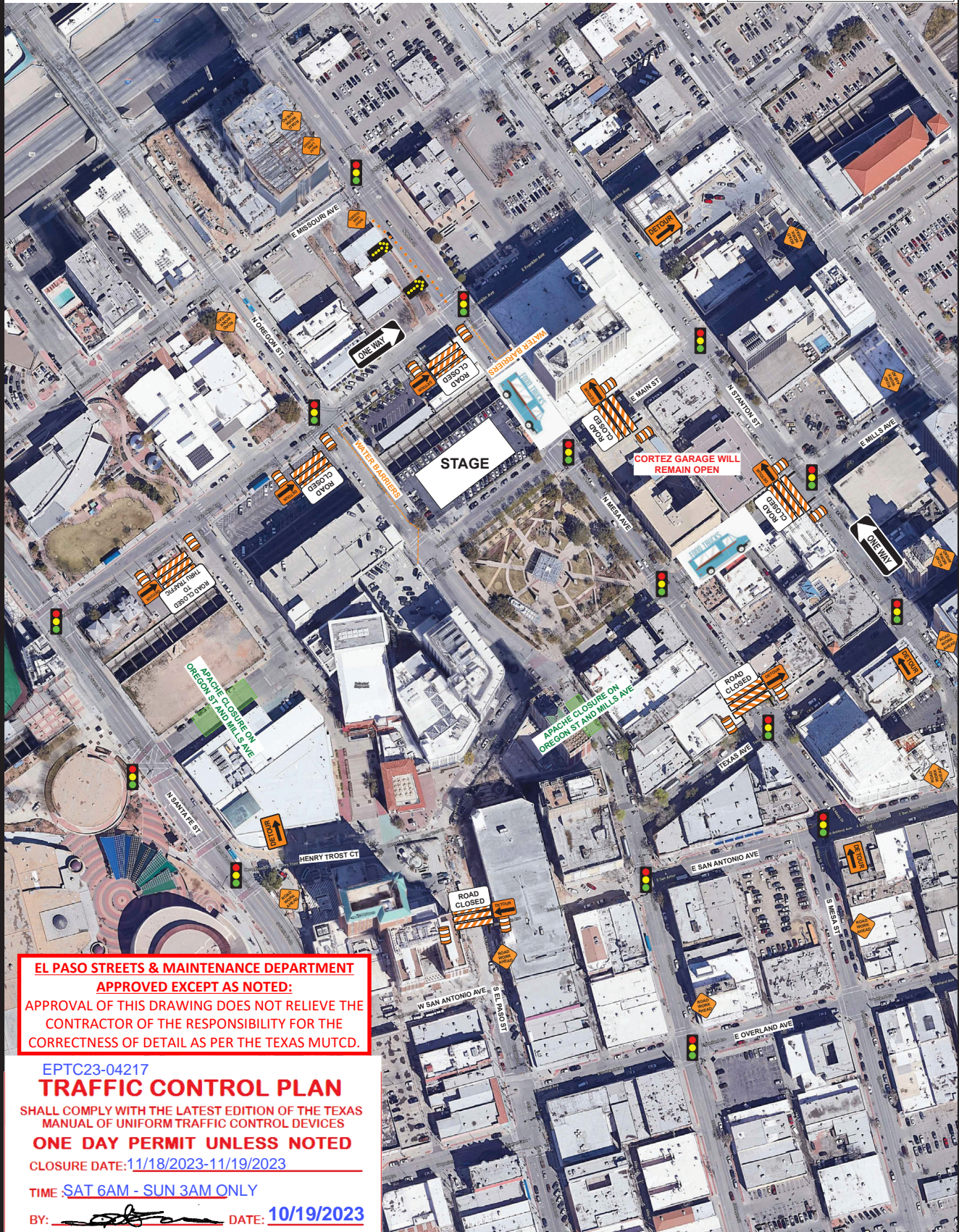


Date: 11-18-23 Author: TCS ADAM MIJARES 915-216-7296 Project: CITY OF EL PASO WINTER FEST OPENING DAY CLOSURES 6AM-3AM

Comments:
INSTALLING MULTIPLE STREET CLOSURES W/ DETOUR ROUTES FOR 2023 WINTERFEST OPENING DAY SPECIAL EVENT.
ALL OPERATIONS WILL BE COORDINATED W/ EXISTING INSTALLATIONS PRIOR TO EVENT DATE.



-  14 TYPE 3'S (x2 or x3)
-  60 BARRELS
-  2 AAROW BOARDS
-  80 WATER BARRIERS
-  15 ADVANCE WARNING SIGNS WITH SIGNS STANDS



EL PASO STREETS & MAINTENANCE DEPARTMENT

APPROVED EXCEPT AS NOTED:

APPROVAL OF THIS DRAWING DOES NOT RELIEVE THE CONTRACTOR OF THE RESPONSIBILITY FOR THE CORRECTNESS OF DETAIL AS PER THE TEXAS MUTCD.

EPTC23-04217

TRAFFIC CONTROL PLAN

SHALL COMPLY WITH THE LATEST EDITION OF THE TEXAS MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES

ONE DAY PERMIT UNLESS NOTED

CLOSURE DATE: 11/18/2023-11/19/2023

TIME: SAT 6AM - SUN 3AM ONLY

BY:  DATE: 10/19/2023

CITY OF EL PASO STREETS AND MAINTENANCE

NOTES:

- The Traffic Control Procedure Shown is Appropriate Only for Low Volume, Low Speed Facilities, Such as Local Residential Streets.
- Flashing Warning Lights & Retro-reflective Strips Will Be Used for Night Time Barricading.
- Additional CW20-5R Signs and/or Barrels May Be Needed for High Volume, High Speed Urban Streets.
- All Traffic Control Devices Shall Be In Conformance to the Texas Manual on Uniform Traffic Control Devices (TMUTCD).
- **Flagmen Must be Present on Each Construction Site Anytime Equipment is Being Operated on or is Impeding Into Roadway or Sidewalk Area.**
- Sidewalks to be Closed Per Approved Methods Anytime Work is Impeding Into or Over the Travel Path.
- All Traffic Control Devices Shall Be Maintained In Conformance to the Texas Manual on Uniform Traffic Control Devices (TMUTCD).
- Additional Service Plan to be in Place for Response to Inclement Weather Conditions.